

**MINUTES
OF THE
ORDINARY MEETING OF THE COUNCIL
TUESDAY, 20 JULY 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 were able to 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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In accordance with the Council Policy CP- 088 Creation, Access and Retention of Audio Recordings of the Public Meetings this meeting is electronically recorded. All recordings are retained as part of the City's records in accordance with the State Records Act 2000 and the General Disposal Authority for Local Government Records.

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

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1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm and invited Cr Katy Mair to read the Acknowledgement of Country and advised those present of the Disclaimer, the Affirmation of Civic Duty and Responsibility and the Audio Recording Advice.

Affirmation of Civic Duty and Responsibility

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

2. PRESENT

Mayor Honourable G Gear

COUNCILLORS

Cr J Barton (Deputy Mayor)
Cr G Barber
Cr D Macphail, Cr N Robins
Cr C Robartson, Cr M Woodall
Cr N Pazolli, Cr S Kepert
Cr K Mair (*Until 8:26pm*)
Cr M Sandford
Cr K Wheatland, Cr T Fitzgerald

WARD

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

3. IN ATTENDANCE

Mr M Tieleman	Chief Executive Officer
Ms C Young	Director Community Development
Mr S Cope	Director Urban Planning
Mr M McCarthy	Director Technical Services
Ms A Hill (<i>Until 8:02pm</i>)	Governance Project Officer
Mr P Prendergast (<i>Until 8:02pm</i>)	Manager Statutory Planning
Mr L Hitchcock	Executive Manager Governance and Legal Services
Ms C Newman	Governance Coordinator
Ms R Davis	Governance Officer

At the commencement of the meeting, there was one member of the public in the Council Chambers, 11 members of the public and one representative from the Press in attendance electronically.

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

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.**

- Cr Fitzgerald advised he was yet to read 17.1 Motion without Notice – Request for Extension – Comments on Roberts Hatch Day Review of the Canning Bridge Activity Centre Plan circulated late in the day.

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

- Nil.

6. QUESTION TIME**6.1 QUESTIONS WITH NOTICE****6.1.1 Ms F Kenny, Applecross**Question 1

What action has been taken by the administration to implement the council's decision to initiate amendments to Local Planning Scheme (LPS6) to alter the CBACP boundary at Helm Street?

Response

Local Planning Scheme No.6, Scheme Amendment No.9 to modify the southern boundary of the Canning Bridge Activity Centre Plan was endorsed by Council at its Ordinary Meeting of 18 May 2021.

The documentation for the scheme amendment was subsequently submitted to the Department of Planning Lands and Heritage (Western Australian Planning Commission -WAPC) on the 26 May 2021. Council will be advised once it is known when the matter is to be considered by the WAPC.

Question 2

What action has been taken by the administration to implement the Council's decisions to initiate amendments to LPS6 to implement the short stay objectives in LPP 1.21 which was adopted by Council on 18 May 2021? What is the time line for these amendments?

6.1.1 Questions Time, Ms F Kenny, Applecross, continued

Response

Local Planning Scheme No.6, Scheme Amendment No.11 - Short Term Accommodation was initiated by Council at its Ordinary Meeting of 18 May 2021. Public Consultation for this amendment commenced on Thursday 24 June and ends on Thursday 5 August 2021. Southern Boundary Amendment – This amendment has been with the Department of Planning Lands and Heritage for approximately four weeks. Whilst the timeframe for the progress of the amendment through the WAPC is outside of the City's control, it is estimated that the WAPC will consider this amendment within the next 4 to 8 weeks. Once a decision is made by the WAPC, the amendment would be forwarded to the Minister for Planning for determination.

Short Stay Accommodation Amendment - Following the engagement period, it is expected that the amendment would be further considered by Council at the September 2021 Ordinary Meeting of Council. Council's resolution will then be forwarded to WAPC for consideration. The WAPC would then forward a recommendation to the Minister for Planning for determination of the amendment. Timeframes for WAPC and Minister assessment are not known. As a guide the scheme amendment decision making process generally involves between 6 to 12 months.

Information on the amendment and how to lodge a submission on the amendment is available in the Melville talks section of the City's website.

6.1.2 Mr R Eaves, Bicton

In February 2019 Beach St Bicton residents were informed by a City contractor, Asphalttech, that work on a new footpath, new cross-overs, kerbs and road re-surfacing would commence within weeks. Later in 2019 the City's Mr McCarthy stated that the planned Beach Street work was approved by Council at a budgeted cost of circa \$ 50,000.

Question 3

- a. *Please confirm what the Council approved planned schedule and budget was for the Beach Street was at February 2019?*

Response

A schedule had not been decided on in February 2019 as the budget had not been approved. \$150,289 was allocated in the 2019/2020 budget.

Question 4

- b. *When was the Beach Street work fully completed; if not why not , what work is remaining and when will it be FULLY completed?*

Response

The path construction project was completed in early 2021. The City is still finalising a number of crossover connections in consultation with residents.

6.1.2 Question Time, Mr R Eaves, Bicton, continuedQuestion 5

- c. *Why is there still a significant tripping hazard present on the Beach St crossover of 28 Blackwall Reach Pde?*

Response

There is no tripping hazard in the path however the City is in negotiation with the resident to resolve the crossover issue.

Question 6

- d. *What is the total actual and forecast final cost vs the 2019 budget for the such as Beach Street work since the beginning of 2019, broken down to components including, design, community consultation, City officer time, traffic control, external contractors and re-work?*

Response

Current costs (as at June 2021) are:

Traffic Management Site-works	\$83,408.02
Footpaths	\$196,726.29
Miscellaneous	\$43,944.73
Design	\$42,033.85
Project Management	<u>\$27,991.32</u>
	\$394,104.21

The City had not anticipated the amount of work generated by the various petitions and ongoing consultation, there were significant additional costs incurred by the City.

Question 7

- e. *What has Council and/or Mr Tieleman and done, or will do, to substantially improve the City's performance in executing such simple routine infrastructure work?*

Response

The path construction project on Beach Street was complicated by the requirement to undertake further and more detailed design and negotiation with individual land owners in accordance with Council resolutions. The City is satisfied with its current Capital Works programs for paths and works closely with experienced contractors to deliver this work.

6.1.3 Mr R Eaves, Bicton

2. *In mid 2020 the City's Mr Hitchcock stated that the hazardous significant defects on the footpath around the Attadale primary school would be fixed within the financial year. The year has come to an end and the hazardous state of the Attadale Primary School remains unchanged.*

6.1.3 *Mr R Eaves, Bicton, continued*

Question 8

- a. *Why has this safety related work around the Attadale Primary school not been promptly addressed close to 12 months on?*

Response

The path along Arno Crescent is asset condition rated one which is near new. Calpin Crescent (with the exception of a small section where vehicles continue to drive over the path) and Wichmann Road were condition 3 Fair Average condition which is showing signs of wear but still functional.

The works on the corner of Wichmann Road and Arno Crescent have been undertaken last financial year to remove the trip hazard at the Telstra Pit.

Question 9

- b. *When will the City fix these hazards around the primary school, and what is the City's processes and past performance on fixing hazardous footpaths?*

Response

The path on Calpin Crescent is listed for renewal in the 2021-2022 footpath replacement program. The City is investigating footpath strengthening options for this path. Condition Audits are undertaken every 3 years and City staff and members of the public report faults which are recorded in the pathway system. Repairs are programmed according to priority.

Question 10

- c. *Exactly what has the City done to change it approach and processes in dealing with hazardous footpaths, as a result of the tragic death of Troy Connell, for which the hazardous state of the McKimmie Road Palmyra footpath was a contributing factor?*

Response

This matter is subject to a possible Coronial investigation and the City is awaiting a resolution. The City repaired the path immediately following notification of the incident.

Question 11

- d. *When did the City first become aware of the hazardous section of Mickimmie Rod footpath on which Mr Connell tragically died. When was the hazard finally fixed?*

Question 12

- e. *Exactly what were the finding, conclusions and recommendations from the City's internal investigations into any matters that flowed from Mr Connell's tragic death, and when will the City make that report available to Council and the public?*

6.1.3 *Question Time, Mr R Eaves, Bicton, continued*

Response to Questions 11 - 12

This matter is subject to a possible Coronial investigation and the City is awaiting a resolution.

6.1.4 Mr Vince and Ms L Nibali, Bicton

The City is well aware of the longstanding and persistent parking issues in Beach St Bicton that routinely breach the City's local laws:

Question 13

Why have City officers failed to return and address communication from residents on this issue within a reasonable time, if at all, despite the City's customer service charter and past promises to improve community consultation?

Response

On 18 May 2021 an e-mail was received from the resident enquiring why the City installs traffic counters when Beach Street was closed. A response was e-mailed on 18 May 2021 thanking Laura and advising her that a new traffic count will be conducted when the street is open.

On 25 February an e-mail was received from another resident requesting details of the site investigation. A response was e-mailed on 8 March 2021.

On 23 January 2021 an e-mail was received from the resident regarding parking on Beach St. A response was e-mailed on 29 January 2021.

Question 14

Why has the City not done anything to address these long standing parking issues?

Question 15

Why did the City reject suggestions for parking restrictions in the street.

Response to Questions 14 and 15

Site investigation didn't reveal or identify that the on road parking witnessed during the site investigation would result in safety risk or restrict access to properties.

Question 16

What was the objective for the City's recent installation traffic monitoring devices on Beach St?

Response

The City engages annually an external contractor to conduct traffic count on at least 350 sites throughout the City. The traffic count on Beach Street was part of the annual traffic count that the City undertakes through external consultant to update City's traffic data.

6.1.4 *Question Time, Mr Vince and Ms L Nibali, Bicton, continued*

Question 17

Why did the City install this traffic monitoring in winter, when the street was substantially blocked off for council works and with the knowledge that some of the offending vehicles were disabling the monitoring?

Response

On several occasions we have received through the contractors that the City engages that traffic counting either has been removed, or been cut or a car parked on top of the tube. These kind of incidents happen very regularly and the count get repeated either at the same location or at a different location.

Question 18

What were the Beach St traffic statistics, and when were they done, used to justify the installation of the footpath; how do the recent figures compare with the traffic data that was used to justify the footpath?

Response

The installation of a footpath on Beach Street was not directly based on traffic volume but to provide a natural catchment for people who wish to access the foreshore. This was on line with City's Strategic Community Plan for City of Melville: People, Places, Participation 2016 – 2026.

Question 19

Why didn't the City monitor Malsbury St traffic to get a more comprehensive view of traffic flow along the full length of Beach St?

Response

Malsbury Street was not included as part annual traffic count.

Question 20

What will the City do to address the persistent parking issues in order to protect the safety and amenity of our street?

Response

The Site investigation didn't reveal or identify that the on road parking witnessed during the site investigation would result in safety risk or restrict access to properties.

6.1.5 City of Melville Residents & Ratepayers Assoc. (Inc.)

We refer to the 8 July 2021 “LET’S KEEP IT CIVIL” article published in the Melville gazette in which acting CEO Mr Louis Hitchcock was quoted as saying, amongst other things, “the SAT case arose after the Department of Local Government directed Mr Tieleman to “report a non-compliance with an order”

At the 22 June SMC Mr Hitchcock stated in relation to these matters at circa 2:16 on “This is not an application by the City”, “the CEO has been directed by the Department”, “Cr Kepert says he has [complied with the order] and the City has no knowledge of that”, “there is no application” and “there is no question for sanction, nothing”:

Question 21

Who at the DLGSC directed the City to commence the SAT proceedings, when and under what statutory authority did the DLGSC make that quoted direction?

Question 22

Which City officer completed the SAT application and submitted it to SAT, and on what date was that application submitted? If not, why does the SAT public register show the City as the applicant, and how and in what form did the City initiate these SAT proceedings?

Question 23

What are the specific orders the City is seeking from SAT, is the City after further training, suspension and/or a penalty? So, if there is ‘no question for sanction, nothing’ then exactly why has the City initiated these SAT proceedings?

Question 24

How much has the City's already spent on this matter in terms of application fees, officer time, external lawyers and other costs. What is the estimated total cost and officer time if these SAT proceedings move to a final hearing?

Response to Questions 21 – 24

Other than to advise that the article referred to incorrectly referred to Mr. Hitchcock as the acting CEO, the City states that as this matter is the subject of a SAT matter no further response will be provided at this time.

6.1.5 *Question Time, City of Melville Residents & Ratepayers Assoc. (Inc.), continued*

Question 25

The “LET’S KEEP IT CIVIL” article reported a “City spokesman” said it was not going to immediately act on Council’s M21/5846 motion, that is denying Cr Kepert funds for legal representation to defend the City initiated SAT proceedings. Who was the “City spokesperson”, and who authorised that statement on behalf of Council? Under what statutory authorities did the “City spokesperson” publicly state that the City’s CEO was not going to comply with a Council motion to allow Cr Kepert immediate legal representation?

Question 26

Why is it that the City’s administration promptly provided funding for Mr Tieleman’s and Mr Hitchcock’s legal representation on recent matter and yet they are now obstruction Council approved funding for Cr Kepert’s legal representation for the City Administration’s SAT proceedings?

Response to Questions 25 and 26

A rescission motion has been received in relation to the Council resolution made at the Special Meeting of Council held 22 June 2021. The rescission motion is before Council for consideration later at this meeting. The Council decision will determine future action is taken in relation to this matter.

Question 27

When did the City advise Cr Kepert, or any other elected members for that matter, that it was going to and/or had initiated the SAT proceedings? Was Cr Kepert first notified of the SAT proceedings after the City had initiated them – yes or no ?

Question 28

Why did not a City officer simply actually ask Cr Kepert, at one of the City’s regular Council meeting if he had completed the training? Why is the City continuing with the SAT proceedings given Mr Hitchcock confirmed at the 22 June SMC that Kepert had verbally confirmed he had completed the training; does the City administration not trust Cr Kepert’s word?

Question 29

Which other Australian service providers, other than WALGA, provide in the specified training or the equivalent?

Response to Questions 27 – 29

Other than to advise that the article referred to incorrectly referred to Mr. Hitchcock as the acting CEO, the City states that as this matter is the subject of a SAT matter no further response will be provided at this time.

6.2 QUESTIONS WITHOUT NOTICE

Nil.

6.3 QUESTIONS TAKEN ON NOTICE

Ordinary Meeting of Council 15 June 2021

6.3.1 City of Melville Residents & Ratepayers Assoc. (Inc.)

Our question “CEO Marten Tieleman committed to publishing his KPIs at the February 2021 AGM of Electors; where can they be found on the City’s website and when were they put there?” answered in the 20 April 2021 OMC minutes we refer, and note the CEO’s performance indicators and measures were finally uploaded to the City’s website circa 8 June 2021.

Question 1

Why have only the last 5 out of 10 pages been provided?

Response

The pages 5 to 10 referred to in the question are the last 5 pages of the Performance Review report that contain the KPI’s which was agreed to be published.

Question 2

Why hasn’t Council included performance indicators to drive the Administration’s overheads down in order to reduce rate-rises pressure?

Question 3

Why hasn’t Council provided detail on the weighting of each of the circa 30 performance measures?

Question 4

Why isn’t there definitive quantitative measures for KPI 4.1 and 4.2. From our perspective we have seen no improvements in these areas?

Question 5

Where in the CEO performance rubric will his performance for the poor handling of such issues as the ‘Naked picture probe’, as highlighted below, be assessed?

Response to Questions 2 - 5

The Chief Executive Officer’s KPI’s are set and agreed by Council and the Chief Executive Officer.

Question 6

Why doesn’t Council provide a register of the progress Council resolutions on the City’s website so the public can also monitor performance in line with KPI 3.1 performance measures?

6.3.1 *Question Time, City of Melville Residents & Ratepayers Assoc. (Inc.), continued*

Response

Decisions of the Council are implemented by the Administration and the Council receives regular reporting on the status of the implementation of Council Resolutions.

Question 7

When will the July 2021 onward performance indicators be available?

Response

Performance indicator a reviewed as part of the CEO annual performance review. The July 2021 indicators have not yet been developed by the Council. The performance indicators form part of the CEO's Contract which is not a document that can be inspected by the public. It would be for the CEO to determine if he would continue to publish or make publicly available his KPI's.

6.3.2 City of Melville Residents & Ratepayers Assoc. (Inc.)

'City in naked picture probe', Melville Gazette 13 May 2021 page 10 we refer.

Question 8

Has Council apologised for the hurt and distress caused to the innocent young woman as a result of the City's administration distributing the intimate-image of her as a teenager to a number of City officers via the City's internal IT systems, if not why not?

Response

This private matter is not a matter that the City will be part of discussing in a public forum.

What is the total gross cost (spent and committed) on this incident, in terms of:

Question 9

a) *cost of the 'independent investigation', and who was that paid for that work?*

Question 10

b) *cost of legal representation for the civil action against CEO Tieleman?*

Question 11

c) *cost of other associated legal advice, and when was that advice obtained?*

Question 12

d) *cost of other external services used, and who was engaged and for what reason? and*

6.3.1 *Question Time, City of Melville Residents & Ratepayers Assoc. (Inc.), continued*

Question 13

e) *the indicative total number of hours City officers spent on dealing with this matter?*

Response to Questions 9 -13

The City does not provide public comment on the specifics of individual complaints, especially when, like this one, it deals with sensitive private matters.

6.3.3 City of Melville Residents & Ratepayers Assoc. (Inc.)

We refer 'Park facility serves twin role', Melville Gazette 10 June 2021 page 5 and the City's Todd Cahoon and Mick Doyle's February and March 2017 communication with the Dept. Local Government, Sports and Cultural Industries (DLGSC) in relation to the \$ 40,000 CSRFF grant (for projects under \$200,000) for these Bert Jeffery Park facilities (BJP), specifically Mr Doyle's 31 March 2017 letter to DLGSC with the CSRFF application that costed the amenity building at \$120,000 (ex GST) as reviewed and approved by the City's Executive Management Team at its 27 March 2017 meeting.

Question 14

When did Council decide the BJP facilities would be the ACC's 'club rooms'?

Response

There has been no Council decision that the amenities at Bert Jeffery Park would be the Applecross Cricket Club's club rooms. The amenity building at Bert Jeffery Park is not Applecross Cricket Club's club rooms. The building and amenities are available for the whole community.

What is the actual total gross final cost (spent and committed)(TFC) of the at BJP since 2016, including but not limited to:

Question 15

a) *community consultation (including community meetings?)*

Question 16

b) *reticulation installed?*

Question 17

c) *temporary toilet facilities?*

Question 18

d) *initial and detailed design?*

6.3.3 *Question Time, City of Melville Residents & Ratepayers Assoc. (Inc.), continued*

Question 19

e) *fees? And*

Question 20

f) *total final cost of the facility paid.*

Response to Questions 15 - 20

Irrigation System:	\$129,252
Water Services and meter:	\$32,654
Temporary Toilets:	\$26,325
Amenity Building, accessible paths and associated headworks Inclusive of all professional fees including design, superintendency and project management total cost	\$550,693

The actual amenities building was in the vicinity of \$260,000 of the \$550,693.

Question 21

What were the reasons there were was a significant change in initial costs and execution schedule put to Council in 2016/2017 and the TFC and the expected delivery date?

Response

The initial CSRFF application was for a universal access toilet, small kitchenette and an auxiliary room, with the 2 change rooms being a second stage. The civil works and other headworks required were significantly more than first estimated. The preliminary investigation conducted for the CSRFF application was insufficient.

Subsequent project development highlighted realistic costs which were presented to council as a part of the Annual Budget and Mid-Year review in 2019/2020.

Question 22

What has and/or will Council change so that a disastrous cost and schedule blow-out does not ever occur in the delivery of such a community development again?

Response

The cost for the delivery of the amenity building project is within 2% of the adopted budgets. Projects identified for CSRFF funding applications are submitted following an adopted budget being approved by council. The project at Bert Jeffery Park resulted in a cost effective building, appropriately sized for the community activities on the reserve.

Motion

At 6:36pm Cr Kepert moved, seconded Cr Pazolli –

That in accordance with clause 9.18 of the *City of Melville Meeting Procedures Local Law 2017* specific words be recorded in the minutes.

At 6:36pm, the Mayor declared the motion

LOST (4/9)

Yes	4	Cr Mair, Cr Sandford, Cr Kepert, Cr Pazolli
No	9	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Woodall, Cr Robins, Cr Fitzgerald, Mayor Gear

7. AWARDS AND PRESENTATIONS

Nil.

8. CONFIRMATION OF MINUTES

**8.1 ORDINARY MEETING OF THE COUNCIL – 15 JUNE 2021
Minutes 15 June 2021**

COUNCIL RESOLUTION

At 6:37pm Cr Barton moved, seconded Cr Macphail –

That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 15 June 2021 be confirmed as a true and accurate record.

At 6:39pm, 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 NOTES OF AGENDA BRIEFING FORUM – 13 JULY 2021
[Notes 13 July 2021](#)

COUNCIL RESOLUTION

At 6:42pm Cr Macphail moved, seconded Cr Wheatland –

That the Notes of Agenda Briefing Forum held on Tuesday, 13 July 2021, be received.

At 6:43pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

8.3 SPECIAL MEETING OF THE COUNCIL – 8 JUNE 2021
[Minutes 8 June 2021](#)

COUNCIL RESOLUTION

At 6:43pm Cr Woodall moved, seconded Cr Mair –

That the Minutes of the Special Meeting of the Council held on Tuesday, 8 June 2021 be confirmed as a true and accurate record.

At 6:43pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

8.4 SPECIAL MEETING OF THE COUNCIL – 22 JUNE 2021
[Minutes 22 June 2021](#)

COUNCIL RESOLUTION

At 6:43pm Cr Robartson moved, seconded Cr Barton –

That the Minutes of the Special Meeting of the Council held on Tuesday, 22 June 2021 be confirmed as a true and accurate record.

At 6:48pm, 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

9. DECLARATIONS OF INTEREST

9.1 FINANCIAL INTERESTS

- Cr Mair – 17.1 Motion without Notice – Request for Extension – Comments on Roberts Hatch Day Review of the Canning Bridge Activity Centre Plan. Financial Interest.
- Cr Wheatland – M21/5847 – Request to Attend 2021 WALGA Convention. Financial Interest.
- Cr Sandford – M21/5845 Review of Dog Exercise Areas – Report of Public Submissions. Proximity Interest.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Mr Tieleman – M21/5850 - Planning for CEO Performance Review 1 July 2020 to 30 June 2021. Impartiality Interest Under the Code of Conduct Employees
- Cr Kepert – T21/3930 Petition for Upgrades to Park Infrastructure at Herb Naphally Reserve, Myaree. Interest under the Code of Conduct.
- Cr Kepert - M21/5844 – Proposed Dog Local Law 2021 – Report of Public Submissions. Interest under the Code of Conduct.
- Cr Kepert - M21/5845 Review of Dog Exercise Areas – Report of Public Submissions. Interest under the Code of Conduct.
- Cr Kepert - M21/5000 – Common Seal Register. Interest under the Code of Conduct.
- Cr Kepert - C21/6000 – Investment Statements May 2021. Interest under the Code of Conduct.
- Cr Kepert - C21/6001 – Schedule of Accounts Paid May 2021. Interest under the Code of Conduct.
- Cr Kepert - C21/6002 – Statements of Financial Activity for May 2021. Interest under the Code of Conduct.
- Cr Kepert - T21/3938 – Pre-Qualified Panel for the Supply of Road Works. Interest under the Code of Conduct.
- Cr Kepert - P21/3939 – Late Item – Proposed Child Care Centre Premises No. 15 Willcock Street, Ardross. Interest under the Code of Conduct.
- Cr Kepert – 16.1 Rescission Motion – Elected Member Legal Representation. Interest under the Code of Conduct.
- Cr Sandford - 16.1 Rescission Motion – Elected Member Legal Representation. Interest under the Code of Conduct.
- Cr Mair – 16.1 Rescission Motion – Elected Member Legal Representation. Interest under the Code of Conduct.
- Cr Woodall - P21/3939 – Late Item – Proposed Child Care Centre Premises No. 15 Willcock Street, Ardross. Interest under the Code of Conduct.

At 6:57pm the Council unanimously consented to Cr Sandford's request to stay and discuss Item M21/5845 Review of Dog Exercise Areas – Report of Public Submissions - and leave the meeting during the vote.

At 7:11pm Cr Barber left the meeting and returned at 7:13pm.

10. DEPUTATIONS

Nil.

11. APPLICATIONS FOR NEW LEAVES OF ABSENCE**COUNCIL RESOLUTION**

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

That the application for a new leaves of absence submitted by Cr Mair, Cr Macphail and Cr Sandford on 20 July 2021 be granted.

At 7:14pm, 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 items with confidential attachments to be discussed behind closed doors.

- M21/5850 – Planning for CEO Performance Review - 17 March to 30 June 2021.
- T21/3938 – Pre-Qualified Panel for the Supply of Road Works.
- Motion 16.1 – Rescission Motion – Elected Member Legal Representation.

13. PETITIONS

Nil.

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Property	:	Not applicable
Proposal	:	Review of Local Planning Policy 3.1 Residential Development
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 P11/3248 Final Adoption Urban Planning Policies – Residential Development Policy – 20 September 2011 Item P13/3438 Amendment to Council Policy 078 Residential Development 19 November 2013 Item P16/3718 - Review of Planning Policies – 20 September 2016 Ordinary Meeting of Council. Item P16/3728 Review of Council Policy CP-078 – 15 November 2016 Ordinary Meeting of Council.
Responsible Officer	:	Peter Prendergast Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

**P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND
LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- In May 2020, the Western Australian Planning Commission began a review of Volume 1 State Planning Policy 7.3 Residential Design Codes (the R-Codes).
- The review was initiated as part of the State Government's planning reform agenda and in response to the COVID-19 Pandemic. The focus of the interim review was to remove the need for development approval where there was little to no value add, simplifying planning provisions and addressing common design issues.
- The key amendments to the R-Codes include;
 - Some simplification of the boundary setback requirements;
 - The inclusion of additional design requirements for carports, ancillary dwellings and front fencing;
 - Additional landscaping requirements including the need to provide a minimum number of trees and a tree planting area.
- The provisions of the R-Codes allow local government to prepare local planning policies which amend the deemed to comply provisions of the R-Codes.
- Local Planning Policy LPP 3.1 (LPP3.1) provides amendments to the R-Code deemed to comply provisions as they apply to the City of Melville. This LPP now requires amendment to reflect the changes to the R-Codes. These changes are largely administrative and do not change the overall objectives or scope of the Policy. The proposed changes to LPP 3.1 also result in a need to amend LPP 1.17 Additional Development Exemptions.
- The changes are minor in nature and as such it is recommended that they are adopted without advertising as permitted by the Planning and Development (Local Planning Schemes) Regulations 2015. A notice to advise the public of the changes to the local planning policies will be published in the local newspaper and on the City's website.

BACKGROUND

The City of Melville has maintained a Residential Development policy in its current format since 2011 and has reviewed this periodically in response to changes to the planning framework, including the R-Codes. The policy modifies a number of the deemed to comply provisions of the R-Codes to ensure that development is of a high quality, taking into account the character and amenity of residential areas, and those specific to certain aspects of residential development in the City of Melville.

During 2020 in response to the state of emergency brought about by COVID-19, the State Government initiated a range of planning reform measures aimed at stimulating the economy by making it easier for people to make minor changes to their homes or businesses.

As a part of this planning reform, an interim review of the R-Codes has been undertaken and the update version of the R-Codes will be gazetted on 2 July 2021. The focus of this review was:

1. *Addressing provisions that commonly trigger development applications for single houses and additions to single houses, where there is little or no value in undertaking this additional layer of assessment;*
2. *Simplifying provisions to enable more consistent interpretation and streamlined assessment;*
3. *Amending provisions to address common design and development issues that have led to some local governments adopting supplementary local planning policies to address those issues.*

P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

More information regarding the R-Codes interim review is available on the Department of Planning, Lands and Heritage website.

Given that the R-Codes have been modified it is necessary to update LPP3.1. The proposed changes to LPP 3.1 will also require a change to LPP 1.17 Additional Development Exemptions. Both of these changes are minor and can be accommodated without advertising.

Scheme Provisions

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

Site Details

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

DETAIL

Local Planning Policy 3.1 Residential Development is currently operating well, allowing for good design outcomes. As such it proposed to retain the policy's key provisions with minor changes to reflect the new wording in the R-Codes. It is also proposed to insert a provision relating to outbuildings and to delete the outbuilding section of 1.17.

The key changes to the document are as follows:

1. Updated scope;
2. Updated policy clauses to reflect the wording in the amended R-Codes;
3. Deletion of clauses relating to garage width and street trees as these are adequately addressed in the R-Codes.
4. Addition of a clause relating to Outbuildings.
5. Removal of reference to clauses in State Planning Policy 7.3 Residential Design Codes Volume 2.

A version of the policy with the tracked changes is attached to demonstrate the extent of the modification. While the changes look substantial, the key aspects of the original policy have been retained. For example, the emphasis of the policy on the development of corner lots, and the desire that development on such lots is designed and sited to address both street frontages is retained, as is the need to retain more generous setbacks on the secondary street and incorporate visually permeable fencing to both street frontages.

Further detail is provided in the commentary below:

**P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND
LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**Setback of buildings, garages and carports

As part of the interim review it was identified that structures such as porches, balconies and verandahs can have a positive impact on the street providing increased residential amenity and visual interest. It was identified that the current R-Codes were overly restrictive in terms of the design of these spaces and this limited their use. The updated R-Codes, allows for these structures to project forward of the building line, without the need to provide compensating space, as was the previous requirement.

In addition to the above, it was also recognised that carports have less building bulk than garages and also allow for high levels of visual surveillance to the street. The updated R-Codes allow for carports forward of the building line subject to meeting certain design requirements.

LPP 3.1 has generally been updated to reflect these changes however it is noted that the policy maintains a need for garages to be setback 3.0 metres from the secondary street and clarifies the need for carports on the secondary street to be designed to be compatible with the dwelling. This is considered to be consistent with the policy objectives of reducing the impact of car parking on the street and ensuring development makes a positive contribution to existing streetscapes.

Garage width

The garage width provisions contained in Clause 3 – C2.2 were designed to provide applicants and owners with certainty with regard to how a lot between 10.5 metres and 12 metres in width could be developed with a double garage. While these provisions were useful, the majority of new side by side lots developed in the City of Melville are 10 metres wide or less meaning that those provisions do not apply and can only be referred to as a part of a performance assessment of a proposal.

The amended R-Codes are clearer in terms of the expectation for garage width, stating that a garage should only take up 50% of the frontage on a single storey dwelling and up to 60% for a two storey dwelling. Any proposal which does not meet this development standard will be required to be considered against the relevant design principles. It is also noted that the deemed to comply provisions of the R-Codes require high levels of street surveillance through the provision of a clearly defined entrance and habitable rooms facing the street.

The City has the ability to positively impact on the design outcomes of dwellings through the DA process. It is therefore proposed that the City align itself with the R-Codes in this regard and to delete the existing policy provision contained within LPP 3.1.

Street Trees

Clause 5.3.5 Vehicular access states that driveways shall be:

- Located so as to avoid street trees, or where this is unavoidable, the street trees replaced at the applicant's expense or replanting arrangements to be approved by the decision maker.

**P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND
LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**

Where a proposed development impacts a street tree, a development application will now be required to be lodged with the City and assessed against the design principles. Alternatively, amended plans may be provided which remove this conflict.

In view of these changes to the R Codes, it is unnecessary to maintain this clause in the City's policy.

Outbuildings

The amended R-Codes, contain deemed to comply provisions for small and large outbuildings. Clause 7.3.1 has also been amended to allow a local government to modify these deemed to comply provisions by way of a local planning policy. As part of this review it is recommended that an outbuilding clause be added to LPP3.1 with minor changes to the deemed to comply provision in relation to wall height and boundary wall. These provisions are similar to those that already exist in LPP1.17 Exemptions Policy and as such the outbuildings clause in the exemptions policy is proposed to be deleted.

LPP1.17 Exemptions Policy allows for Outbuildings to be located on the boundary subject to meeting the boundary wall requirements of LPP 3.1. This policy provision has been in place for a number of years and is a practical approach, allowing a landowner to make effective use of their property without having a negative impact on the amenity of adjoining properties. It also consistent with recent State Government initiatives to remove the need for development approval for small residential projects.

The amended R-Codes allow for small outbuildings with a wall and ridge height 2.7 metres to be located on the boundary. Where this occurs, the outbuilding boundary wall does not contribute to the total amount of boundary wall permitted for the site. For larger outbuildings the amended R-Codes require buildings to be setback from the boundary and also set out a maximum wall height of 2.4 metres. These provisions are considered to be contradictory, indicating that an outbuilding on the boundary to 2.7 metres in height has an acceptable amenity impact on the adjoining landowners in some circumstances but not in others. To resolve this issue it is proposed to amend the large and multiple outbuildings deemed to comply provisions in the following manner.

Sub-Clause (ii) set back in accordance with Table 2A or comply with the boundary wall provisions of the policy.

Sub-Clause (iii) does not exceed a wall height of 2.7m

As noted above allowing outbuildings on the boundary results in a more effective use of space and reflect the existing exemption LPP1.17. The amended wall height reflects the wall heights allowable for small outbuildings and as such results in improved consistency.

STAKEHOLDER ENGAGEMENT

Advertising Required:	N/A
Neighbour's Comment Supplied:	N/A
Reason:	N/A
Support/Object:	N/A

**P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND
LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)****I. COMMUNITY**

The *Regulations* came into effect on 19 October 2015. Clause 5 of Schedule 2 of the Regulations contains requirements for amending a local planning policy. In accordance with subclause 5(2) the local government may amend a local planning policy without advertising if in the opinion of the local government the proposed changes are minor in nature. In this instance the changes to the policy are of an administrative nature to reflect the current statutory planning framework and advertising of the amended policy is not required.

A notice of the revised policy will be published in the local newspaper and on the City's website if it is adopted by Council.

II. OTHER AGENCIES / CONSULTANTS

Clause 4(4) of Schedule 2 of the Regulations requires that Council advise the Western Australian Planning Commission (WAPC) if it is of the opinion that it is inconsistent with any State Planning Policy.

The proposed changes bring LPP 3.1 into line with the recent changes made to the R-Codes. The changes to the R-Codes were advertised to various stakeholders for comment in 2020 by the Department of Planning, Lands and Heritage.

Given the above, the WAPC is not required to be consulted.

STATUTORY AND LEGAL IMPLICATIONS

No statutory or legal implications have been identified as a part of this review.

FINANCIAL IMPLICATIONS

There are no financial implications identified in relation to this policy change.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

The local planning policies which are the subject of this report have been reviewed to ensure they remain consistent with the current planning framework. This review will ensure these continue provide a sound basis for the assessment and determination of planning applications.

COMMENT

State Planning Policy 7.3 Residential Design Codes has recently been reviewed by the State Government and was gazetted on 2 July 2021. LPP 3.1 Residential Development and LPP1.17 Additional Development Exemptions have been reviewed taking into account the changes to the R-Codes.

LPP 3.1 assists the City to deliver quality development outcomes and as such only a minor review of this policy is required.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council may choose not to amend the policy however this is not recommended as it may lead to inconsistency between the R-Codes and the City's Local Planning frameworks. Council may also choose to make further changes to the proposed policy however this may result in the need for the policy to be advertised to the general public and the WAPC.

CONCLUSION

It is proposed to amend LPP 3.1 Residential Development and LPP 1.17 Additional Development Exemptions without advertising, as these are minor changes consistent with the recent review of the State Planning Policy 7.3 Residential Design Codes. LPP 3.1 retains key development controls relating to streetscapes which will continue to deliver on high quality residential development across the City.

The adopted changes would be advertised in the local newspaper and on the City's website following the Council decision as required by the Regulations.

P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**OFFICER RECOMMENDATION (3934)****APPROVAL**

At 7:15pm Cr Mair moved, Seconded Cr Macphail –

That the Council:

1. pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 3.1 Residential Development and Local Planning Policy 1.17 Additional Development Exemptions as detailed below in the attachment.
2. endorses the publication of a notification of the changes in the local newspaper and on the City's website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.

Attachments:

[3934 LPP3.1 Residential Development Policy \(June 2021\)](#)

[3934 LPP 1.17 Additional Development Exemptions \(June 2021\)](#)

At 7:16pm Cr Wheatland left the meeting and returned at 7:22pm.

At 7:22pm, during discussion and debate, the mover and seconder agreed to insert the words "for 45 days" after "public advertising."

Amendment**COUNCIL RESOLUTION**

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

1. Insert a new item 1:

"1. requests that the Chief Executive Officer arranges for the public advertising for 45 days for comment of the amended Local Planning Policy 3.1 Residential Development and should there be any comments provide a subsequent report to Council or if there are no comments then pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 3.1 Residential Development as detailed below in the attachment."

2. In existing Item 1, delete the words; "Local Planning Policy 3.1 Residential Development and"; then renumber existing items 1 & 2 to 2 & 3 respectively.

At 7:25pm, the Mayor declared the amendment

CARRIED UNANIMOUSLY (13/0)

P21/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**Reasons as provided by Cr Pazolli**

Whilst LPP 1.17 was last reviewed by Council in March of this year, LPP 3.1 was last reviewed by Council in November 2016. Given the content & size of the LPP 3.1 policy (7 pages) it would be prudent to allow the opportunity for any public comment on the proposed changes or on the content of the policy.

The amendment allows for the public advertising of the changes and if there are any comments then to have a subsequent report to Council. If there are no comments then the amendment allows the adoption of the proposed changes to the LPP without having to come back to Council.

Substantive Motion as Amended**COUNCIL RESOLUTION**

At 7:15pm Cr Mair moved, seconded Cr Macphail –

That the Council:

- 1. requests that the Chief Executive Officer arranges for the public advertising for comment of the amended Local Planning Policy 3.1 Residential Development and should there be any comments provide a subsequent report to Council or if there are no comments then pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 3.1 Residential Development as detailed below in the attachment.**
- 2. pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 1.17 Additional Development Exemptions as detailed below in the attachment.**
- 3. endorses the publication of a notification of the changes in the local newspaper and on the City's website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.**

At 7:25pm, the Mayor declared the substantive motion

CARRIED UNANIMOUSLY (13/0)

Attachments:

[3934 LPP3.1 Residential Development Policy \(June 2021\)](#)

[3934 LPP 1.17 Additional Development Exemptions \(June 2021\)](#)

Disclosure of Interest

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

T21/3930 - PETITION FOR UPGRADES TO PARK INFRASTRUCTURE AT HERB NAPTHALLY RESERVE, MYAREE (REC)

Ward : Central
 Category : Operational
 Subject Index : Petitions
 Customer Index : Herb Naphthally Reserve
 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 : Capital Works 2021/2022
 Funding : \$100,000
 Responsible Officer : Jeffrey Bird
 Manager Natural Areas & Parks

AUTHORITY / DISCRETION

DEFINITION

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

T21/3930 - PETITION FOR UPGRADES TO PARK INFRASTRUCTURE AT HERB NAPTHALLY RESERVE, MYAREE (REC)**KEY ISSUES / SUMMARY**

- A petition with 49 signatures was received by the City requesting upgrades to Herb Naphthally Reserve, Myaree in particular improvements to the turf, play equipment and sand softfall.
- The petition was presented at the Ordinary Meeting of Council 20 April 2021 in which Council requested a report to be prepared on this matter.
- Herb Naphthally Reserve is a grassed local park consisting of a playground, barbeque, seating and a number of large trees.
- Capital Works in the park are scheduled for 2021-2022 which will address the majority of the concerns raised in the petition.
- The Officer recommendation is to progress with the scheduled playground, irrigation upgrades and minor works in 2021-2022.

BACKGROUND

A petition signed by 48 residents and one non-resident of the City of Melville was received on 16 April 2021 and reads as follows:

“We the local residents of Myaree, petition the City of Melville to re-landscape and replace the playground equipment at Herb Naphthally Reserve. Specifically re-turf the reserve with new grass and update degrading play equipment and sand.”

At the Ordinary Meeting of Council on 20 April 2021, Council resolved that the petition bearing 48 signatures of residents and one non-resident be acknowledged and that a report be prepared.

The lead petitioner was informed of the outcome of the 20 April 2021 meeting and advised that a report on the request will be presented to Council in July 2021.

DETAIL

Herb Naphthally Reserve, Myaree is a local park set aside primarily to provide space for informal play, physical activity, relaxation and social interaction. The park has a number of assets such as irrigated turf, established trees, a playground, barbeque, seating areas and functions as an area for flood control for the wider stormwater catchment area.

The City, as part of its asset renewal program, was scheduled to undertake upgrades to the playground and the irrigation system at Herb Naphthally Reserve as part of the 2021-2022 Capital Works Program.

T21/3930 - PETITION FOR UPGRADES TO PARK INFRASTRUCTURE AT HERB NAPTHALLY RESERVE, MYAREE (REC)

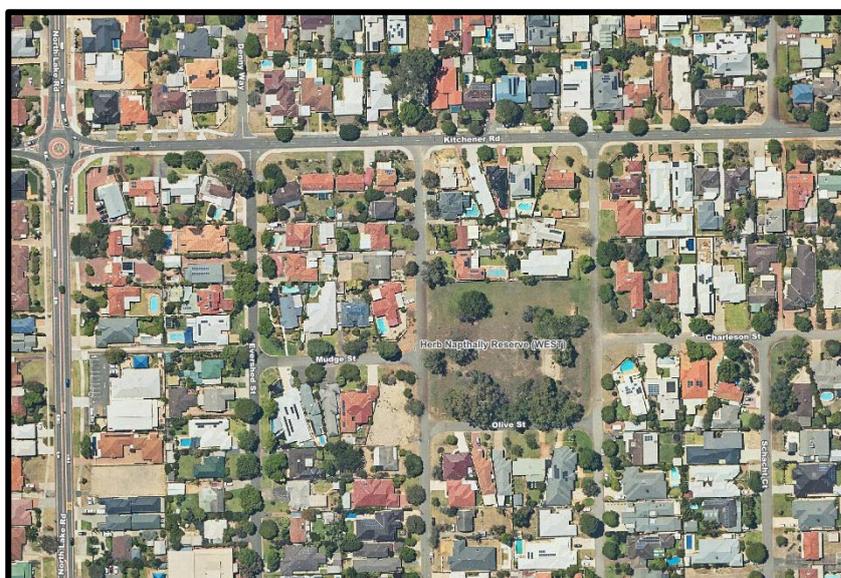
The playground will be upgraded in consultation with the local community on the style of play equipment and final design. This consultation process, run through Melville Talks, has been in place for the past year and has proved successful in gaining community input and ownership toward the end product. The remaining park infrastructure, such as the seating and barbecue, are considered to be in good condition and no further works to these assets are proposed as part of the works.

The Irrigation Capital Works Program has scheduled the replacement of the existing irrigation system at Herb Naphthally Park with a new system which will improve the effectiveness and efficiency of water distribution in the park.

The petition specifically mentions the re-turfing of the park. The City's approach in managing this aspect of the request will be achieved through the improved application of water which will significantly enhance the quality of existing turf through consistent watering patterns. In addition, fertiliser applications and soil improvement agents will be provided to further support quality turf establishment across the majority of the park without the need for re-turfing. In areas where the turf is severely degraded and does not respond to improved watering and fertiliser regimes, roll on turf or seeding of the area will be considered.

When the City upgrades irrigation systems, opportunities to incorporate landscape improvements are also considered. For example the City recently upgraded Sid Eaton Park in Alfred Cove which resulted in larger areas of mulch with improved gardens through the planting of shrubs and trees. Similar opportunities will be investigated as part of the design for Herb Naphthally Park.

It should be noted that the southern side of this park is used for stormwater drainage purposes. There are a number of small swales in place to slow the flow of water when it exits the drain into the park during rain events. As a consequence, there are limited opportunities to modify this area without significant investment in modifying the drainage system. There may be some minor works to delineate the area however the works will not involve major drainage upgrades.



Herb Naphthally Park and surrounding streets

T21/3930 - PETITION FOR UPGRADES TO PARK INFRASTRUCTURE AT HERB NAPTHALLY RESERVE, MYAREE (REC)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Apart from those involved in the petition, there has been no community consultation in the development of this report, noting that the City will undertake community consultation as part of the playground upgrade in accordance with current practice.

II. OTHER AGENCIES / CONSULTANTS

There were no other agencies or external consultants used in the preparation of this report.

STATUTORY AND LEGAL IMPLICATIONS

There are no statutory or legal implications related to this report.

FINANCIAL IMPLICATIONS

The playground upgrade is estimated to be \$40,000 and is allocated in the 2021-2022 Capital Works Program - Playground Renewal.

The irrigation upgrade is estimated to cost \$65,000 which includes the installation of a bore, pipe system and electrical cabinet as part of the 2021-2022 Capital Works Program - Irrigation Renewal.

Any minor landscape modification such as mulching or formalising garden beds is allocated in the 2021-2022 Capital Works Program - Landscape Renewal. It is anticipated that the landscape renewal works costs will be relatively minor.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
Risk of not meeting community expectation by not supporting the petition for upgrades at Herb Naphthally Reserve.	Minor consequences which are possible, resulting in a Medium level of risk	Implement Capital Works Program as scheduled

POLICY IMPLICATIONS

There are no Policy implications in relation to this item.

T21/3930 - PETITION FOR UPGRADES TO PARK INFRASTRUCTURE AT HERB NAPTHALLY RESERVE, MYAREE (REC)**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council could decide to not progress with the scheduled Capital Works Program however, as the program is generally based on asset renewal and useful life expectancy, any delay may compromise the integrity of the existing infrastructure in particular non-compliance in terms of safety requirements. In addition the community would be disappointed scheduled upgrades to the park would be postponed or cancelled.

CONCLUSION

Herb Naphthally is a local park in a fair condition but is still functional with some assets showing signs of wear and likely to have been a main driver in the City receiving the petition from the community.

The two main assets within the park, being the irrigation system and the playground, are due for renewal in the 2021-2022 financial year.

As the City had planned for these upgrades as part of the 2021-2022 Capital Works Program, it is the officer's recommendation to proceed with these works. It is anticipated that these works once implemented will be a major improvement to the park and meet community needs for upgrades.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3930)**APPROVAL**

At 7:26pm Cr Sandford moved, Seconded Cr Mair –

That the Council:

- 1. Endorses the Officer's recommendation to progress with the 2021-2022 Capital Works Program following the receipt of a petition requesting upgrades to park infrastructure at Herb Naphthally Reserve.**
- 2. Requests that the Chief Executive Officer advises the lead petitioner of this decision in writing.**

At 7:26pm, the Mayor declared the motion

CARRIED (12/0)

At 7:26pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

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

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)**

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. No other officer involved in the preparation of this report has a declarable interest in this matter.
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, 19 April 2016 Item M16/5497 – Conclusion of Local Law Review 2016 – Ordinary Meeting of Council, 16 August 2016. Item M20/5793 – Dog Local Law and Dog Exercise Areas: Public Consultation – Ordinary Meeting of Council, 8 and 9 December 2020.
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Anne Hill Governance Project Officer

M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)

AUTHORITY / DISCRETION

DEFINITION

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

- In December 2020 the Council resolved that the *City of Melville Dog Local Law 2005* be replaced and authorised the Chief Executive Officer to commence the public consultation process on a new Dog Local Law in accordance with the *Local Government Act 1995*.
- Local public notice was given on 21 January 2021 and public comment was invited until 15 March 2021.
- 4 public submissions were received on the proposed new *City of Melville Dog Local Law 2021*, with comments also received from the Department of Local Government, Sport and Cultural Industries.
- The draft local law has been revised to reflect submissions, Departmental comments, and changes to State legislation.
- The revised version of the proposed local law is not considered to be significantly different to what was proposed in the local public notice, and Council is advised to make the *City of Melville Dog Local Law 2021*.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)****BACKGROUND**

In December 2020, Council resolved to repeal and replace the [City of Melville Dog Local Law 2005](#). The Chief Executive Officer was authorised to commence the necessary processes to achieve this, as specified in the *Local Government Act 1995* (Local Government Act).

The **purpose** of the *City of Melville Dog Local Law 2021* is to provide for those matters in the *Dog Act 1976* (Dog Act) that may be dealt with under local laws.

The **effect** of the *City of Melville Dog Local Law 2021* is to:

- (a) Provide for the operation of a pound and charges to be levied under section 29(4) of the Dog Act; and
- (b) Specify the fencing requirements for the keeping of dogs; and
- (c) Specify the number of dogs that may be kept in or at a premises; and
- (d) Make provision for the licensing of kennel establishments; and
- (e) State the objection and appeal rights available against certain decisions of the City under the local law; and
- (f) Provide for the enforcement of this local law.

Local public notice of the proposed *City of Melville Dog Local Law 2021* was given in accordance with s.3.12(3)(a) of the Local Government Act:

- on the City's *Melville Talks* web page,
- in the *Melville Gazette*,
- in the *Melville Matters* e-newsletter,
- on the City's Facebook page, and
- on noticeboards in the City's libraries and the Civic Centre.

A copy of the proposed local law was given to the Minister consistent with s.3.12(3)(b) of the Local Government Act.

The public comment period opened on 21 January 2021 and closed on 15 March 2021.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)****DETAIL****1. Key differences between the existing Dog Local Law 2005 and the proposed Dog Local Law 2021****1.1 Objection and review rights**

The *Dog Local Law 2005* does not make reference to objection and review rights in relation to City decisions under the local law. The Joint Standing Committee on Delegated Legislation has stated its position that local laws must make reference to such rights and an appropriate clause has been inserted in the *Dog Local Law 2021*.

1.2 Exemption to the limitation on the number of dogs kept

A mechanism is provided for a person to apply for an exemption under s.26(3) of the Dog Act to the specified limit on the number of dogs that may be kept at a premises.

1.3 Penalties

Penalties have been removed from the local law where a breach of the local law is also a breach of the Dog Act, and where the Dog Act or *Dog Regulations 2013* already specify the relevant penalties.

1.4 Removal of Part 5

Part 5 of the Dog Local Law 2005 dealt with dog exercise areas, areas restricted to on-leash access only and areas in which dogs are prohibited. These matters are now dealt with under section 31 of the Dog Act and Part 5 and the related Schedules 4 and 5 are redundant.

1.5 Other issues

Definitions and certain provisions have been amended or deleted to be consistent with, or to avoid duplication with, current State legislation. Internal inconsistencies in style, outdated and unclear language, and missing headings have been corrected, and the application of the local law clearly specified to assist comprehension and avoid misinterpretation.

On the recommendation of the Department, defined terms have been emphasised in the text of the local law.

2. Public submissions on the proposed Dog Local Law 2021

Four public submissions were received on the proposed *Dog Local Law 2021*, with comments also provided by the Department of Local Government, Sport and Cultural Industries at the request of the Minister. In accordance with s.3.12(4) of the Local Government Act, these submissions and comments have been considered, and are summarised in [5844 1 Summary of Submissions Dog Local Law](#)

The proposed *Dog Local Law 2021* has been revised following the receipt of public submissions and Departmental comments as follows:

2.1 Part 5 – Dogs in Public Places

As a result of amendments to section 31 of the Dog Act in 2013, local governments may specify a public place, or class of public place, under the care, control or management of the local government:

- where dogs are prohibited totally at all times or at specified times, or
- to be a dog exercise area.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)**

In both cases, local public notice of the local government's intent must be given at least 28 days before the decision and the decision must be by absolute majority.

In July 2014, Council under section 31 of the Dog Act carried a motion by absolute majority decision restating the provisions in the *Dog Local Law 2005* relating to dog exercise areas, areas where dogs must be kept leashed and areas where dogs are prohibited. This resolution had the effect of maintaining the arrangements provided for in the *Dog Local Law 2005*. A copy of this resolution appears in [5844 2 Extract Minutes OMC 15 July 2014](#)

Part 5 of the 2005 local law had been revised in the proposed *Dog Local Law 2021* to reflect section 31 of the Dog Act, but the Department has advised that Part 5 is redundant and it has been removed. While the Council resolution of July 2014 made reference to Schedules 4 and 5 of the *Dog Local Law 2005*, the contents of the schedules were replicated in the resolution and the references are redundant.

One submitter highlighted that the current identification of all public places as dog exercise areas unless specified otherwise, is too broad and is not based on the suitability of those places for off-leash exercise. This concern is addressed separately in the report on the review of dog exercise areas.

2.2 Penalties

Under section 3.10 of the Local Government Act, local governments may provide for maximum penalties of \$5,000 for a contravention of a local law.

The proposed *Dog Local Law 2021* imposed a penalty of up to \$2,000 if prosecuted, or a modified penalty of \$200 imposed through an infringement notice, for allowing a dog to excrete in a public place. These were consistent with the penalties for contravention of provisions of the Dog Act and the *Dog Regulations 2013*.

The majority of submitters to the proposed *Dog Local Law 2021* suggested that the proposed penalty would be too high and argued it should be left at \$1,000 penalty and \$100 modified penalty, as in the existing *Dog Local Law 2005*.

In practice, the City is rarely able to enforce this clause of the local law because of the difficulty in establishing the facts. Any deterrent effect is likely to be due to the existence of a penalty at all, rather than the size of the penalty. The proposed local law has therefore been revised to provide for a penalty of \$1,000 (on prosecution) and modified penalty of \$100 (by infringement notice).

One submitter also pointed out that the offence should be for failure to remove excrement deposited by a dog for which the person is responsible, rather than for allowing a dog to excrete, which is not something the owner can control. The proposed local law has been revised to restate the offence more logically as suggested.

2.3 Minor drafting matters

The Department of Local Government, Sport and Cultural Industries suggested changes to clauses 2.3, 3.1 and 4.14 to comply with recommendations made by the Joint Standing Committee on Delegated Legislation with respect to similar local laws, and to differentiate more clearly between matters dealt with under the local law and matters covered by the Dog Act.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)**

The Department and one submitter also made editorial suggestions to ensure consistency with current drafting standards. All suggested changes have been made in the revised proposed local law.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

Community stakeholder engagement on the proposed Dog Local Law 2021 was undertaken in accordance with section 3.12 of the Local Government Act, which requires a minimum six-week public consultation period. Public submissions were invited by local public notice in accordance with section 1.7 of the Local Government Act on 21 January 2021 and closed on 15 March 2021.

Four submissions were received from members of the public, and are summarised in [5844 1 Summary of Submissions Dog Local Law](#)

II. OTHER AGENCIES / CONSULTANTS

Section 3.12(b) of the Local Government Act requires provision of the proposed local law to the Minister(s) administering the Acts under which the local laws are proposed to be made. In this case, the administration of the Dog Act is within the portfolio of the Minister for Local Government. The Minister referred the proposed local law to the Department of Local Government, Sport and Cultural Industries, which submitted comments as discussed above.

STATUTORY AND LEGAL IMPLICATIONS

In making a local law a local government must follow the procedure described in section 3.12 of the Local Government Act, in the sequence in which it is described.

The City has complied with sections 3.12(2) and 3.12(3). This report relates to section 3.12(4), which states:

- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

* Absolute majority required.

The revisions proposed as a result of the public consultation process are not considered to have resulted in the local law becoming significantly different from what was proposed.

If Council resolves by absolute majority to make the *City of Melville Dog Local Law 2021*, then it will come into operation 14 days after publication in the *Government Gazette*.

Following publication, under s.3.12 of the Local Government Act, the City must give a copy to the Minister, give local public notice of the published local law, including publishing it on the City's website, and submit it to the Joint Standing Committee on Delegated Legislation.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)**

The making of the *City of Melville Dog Local Law 2021* will not affect the current status of dog access in any public places under the care, control and maintenance of the City, because such matters may no longer be specified under local laws. That status was determined under section 31 of the Dog Act in July 2014, and these matters are the subject of a separate report of the review of dog exercise areas.

FINANCIAL IMPLICATIONS

There are no significant financial implications arising from the recommendations of this report. Minor costs will be incurred in publishing the local law in the *Government Gazette*. These costs will be met under the existing budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

Risk Statement & Consequence	Level of Risk	Risk Treatment
Redundant and/or outdated local laws cause confusion and do not meet their intended purpose	Medium consequences which are unlikely, resulting in a low level of risk.	Review, amend or repeal local laws regularly to ensure they continue to be relevant and effective.
The Joint Standing Committee on Delegated Legislation may determine that the City of Melville Dog Local Law 2021 differs from the proposed local law as advertised.	Minor consequences which are unlikely, resulting in a low level of risk.	Clarify the reasons for the revisions in the explanatory memorandum to the Joint Standing Committee on Delegated Legislation, and explain that they do not significantly change the effect of the local law.

POLICY IMPLICATIONS

There are no strategic policy implications associated with this item.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could choose not to make the *City of Melville Dog Local Law 2021*. This would mean that the existing *City of Melville Dog Local Law 2005* would continue to operate, to the extent that it is consistent with State law, but the matters described above would not be addressed.

The Council may determine that the attached *City of Melville Dog Local Law 2021* is significantly different from the proposed local law advertised for public comment and resolve to recommence the public consultation process under section 3.13 of the Local Government Act. This would delay the reforms to the local law by approximately 4 months.

**M21/5844 – PROPOSED DOG LOCAL LAW 2021 – REPORT OF PUBLIC SUBMISSIONS
(AMREC) (ATTACHMENTS)****CONCLUSION**

Council is asked to consider the submissions made on the proposed *City of Melville Dog Local Law 2021*, determine that it is not significantly from what was proposed when local public notice was given and make the *City of Melville Dog Local Law 2021* as it appears in [5844 3 City of Melville Dog Local Law 2021](#)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5844) ABSOLUTE MAJORITY

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

That the Council:

- 1) **Resolves to make the City of Melville Dog Local Law 2021 [5844 3 City of Melville Dog Local Law 2021](#) and**
- 2) **Authorises the Chief Executive Officer, in accordance with section 3.12 of the *Local Government Act 1995*, to:**
 - a) **Publish the *City of Melville Dog Local Law 2021* in the *Government Gazette*; and**
 - b) **Give a copy of the local law to the Minister for Local Government; and**
 - c) **Give local public notice of the publication of the local law; and**
 - d) **In accordance with the Minister’s directions, provide a copy of the local law and required explanatory material to the Joint Standing Committee on Delegated Legislation in the Western Australian Parliament.**

At 7:29pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (12/0)

At 7:29pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

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

An Officer amendment was provided on this matter.

[Proposed Amendment M21/5845 Review of Dog Exercise Areas Report of Submissions](#)

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

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. One officer has a proximity interest with respect to Tompkins Park Reserve.
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, 19 April 2016. Item M16/5497 – Conclusion of Local Law Review 2016 – Ordinary Meeting of Council, 16 August 2016. Item M20/5793 – Dog Local Law and Dog Exercise Areas: Public Consultation – Ordinary Meeting of Council, 8 and 9 December 2020.
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Anne Hill Governance Project Officer

M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

- 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 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.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)****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.

The City of Melville has historically taken the approach that all public places under the care, control or management of the City should be dog exercise areas, other than specified places (or classes of places) classified as “restricted” (dogs must be leashed in accordance with section 31(1) of the Dog Act) or where dogs are prohibited.

This was initially accomplished through Part 5 and Schedules 4 and 5 of the *Dog Local Law 2005*. In July 2014, the City’s position was confirmed by absolute majority decision of Council (Attachment 1) under section 31 of the Dog Act after the Dog Act was amended. This amendment changed the mechanism for specifying dog-prohibited places and dog exercise areas from local laws to absolute majority resolution of Council.

In 2020, City 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.

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. This consultation occurred in parallel with the public comment period on the proposed new *Dog Local Law 2021*, which is the subject of a separate report.

DETAIL**1. Current position**

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).

In July 2014, in response to amendments to the Dog Act the Council, by absolute majority decision under section 31(3A) of the Dog Act reaffirmed its previous policy that all public places under the care, control or management of the City are dog exercise areas, unless that public place:

- (a) is a prohibited place as described in the resolution;
- (b) is being used for an organised function or event attended by people;
- (c) is land which has been set apart as a children’s playground;
- (d) is a thoroughfare or pathway;
- (e) is an area under which dogs must be under control as described in the resolution.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

The City manages 202 parks and reserves, the great majority of which permit dogs to be exercised off-leash under the default categorisation. The lists of specified places where dogs are prohibited or must be kept on a leash are published on the [“Dog Ownership Rules and Management”](#) page on the City’s website. The current dog access status of the City’s parks and reserves is also shown in [5845 2 City of Melville Dog Areas Map](#) form attached to this report and on the City’s [website](#) and in the public [“Your Dog” brochure](#).

The prohibited places specified by the July 2014 resolution are:

- (a) A public building;
- (b) Shop or business premises, other than a shop or business premises where dogs are sold or treated for illness or injury;
- (c) An area set aside by a wall, fence, sandpit or other softfall surface as a children’s playground and;
- (d) In all the areas prescribed in Schedule 4 (*of the Dog Local Law 2005*).

The areas specified in Schedule 4 of the *Dog Local Law 2005* were replicated in the resolution and this reference is therefore redundant. The Dog Act no longer gives local governments the power to prohibit dogs in public places that are not under the care, control or maintenance of the local government, so the reference to shops and business premises is not valid.

The resolution also specified areas in which dogs must be under control (leashed or tethered as required by s.31(1) of the Dog Act), replicating the list of areas that existed in Schedule 5 of the *Dog Local Law 2005*.

In most cases, individual parks were not assessed for their suitability as dog exercise areas prior to the general specification that gave them this status.

The City’s Ranger Services assessed 43 of the City’s parks for their suitability for their current form of dog access, based on observation, change in usage patterns, and feedback from park users. A recommendation was made for each park on whether to retain the current access level for dogs or change it, with stated reasons, and public comment was invited on these recommendations.

2. Results of public engagement process

Seventy-eight public submissions were received on the review of dog access to parks, with several submitters commenting on multiple parks. People also submitted general comments or concerns about dog activity in parks. A summary of the views expressed in the submissions is attached to this report. [5845 3 Review of Dog Exercise Areas Summary of Submissions](#) A comparison of public views against the officer recommendations in relation to individual parks is also attached. [5854 4 Review of Dog Exercise Areas Summary by Parks](#)

No comment was received on the officers’ recommendations for 27 parks, but comment was received relating to 6 parks that had not been included in the initial analysis.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

The views expressed were diverse, but key issues related to:

1. *Conflict between the activities of dogs/dog owners and other park users*

Reported conflicts related to issues of safety (dog aggression, and collisions and falls caused by dogs), discomfort for people anxious about dogs, and concerns about health and amenity, especially associated with dog excrement. Failure of owners to remove their dogs' excrement on sporting fields was raised as a specific concern.

Some people reported instances of aggression and harassment between dog owners and other park users over dog behaviour.

Attention was drawn to the inherent conflict between the City's actions in designing parks and park features specifically to attract families with very young children, and then permitting unleashed dogs in those parks, which was seen as discouraging such families from using them.

Of the comments received for 6 parks not included in the published list, all of which are currently off-leash areas, 5 requested that dogs be restricted to on-leash only in all or part of the parks to allow families with very young children to enjoy the parks safely.

Some people pointed to the dangers of dogs on paths to cyclists and pedestrians. Although dogs are required to be leashed on paths, unleashed dogs run on to paths in dog exercise areas, and even leashed dogs can obstruct paths when the dog and its owner are on opposite sides of the path. Some submitters asked for physical separation such as fences between dogs and path users.

2. *Support for retaining or extending dog exercise areas*

There was significant support for at least part of Tompkins Park to be designated as a dog exercise area at certain times or other than when sporting events are underway.

There was opposition to the proposal to remove the status of dog exercise area from Three Bears Park, with submitters arguing that the location and semi-fenced nature of this park make it ideal for off-leash exercise and that incompatible use, such as BBQs, is relatively infrequent.

3. *River access for dogs to swim*

There was significant support for additional areas for dogs to have access to the river to swim, particularly at a place along the Bicton foreshore, with some local submitters pointing out that the Swan River Trust has stated it has no objections to dogs swimming in the river. The City has jurisdiction only above the mean high water mark, but currently dogs are prohibited between the path and that point.

4. *Enforcement of local law and Dog Act*

Dissatisfaction was expressed at perceived inadequate ranger presence in parks or enforcement of current rules, especially relating to poorly controlled off-leash dogs and failure of dog owners to remove their dogs' excrement.

M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)

3. Proposed actions

3.1 Places where the assessment recommended no change to dog access, and no public comment was received

Table 1 – Dog access status of assessed parks and reserves where no change is proposed.

Park/reserve	Current classification	Recommendation
Alfred Cove Nature Reserve	Prohibited	No change
Bateman Park (part)	Prohibited	No change
Bosworth Park	Prohibited	No change
Burke Drive Foreshore	Prohibited	No change
Moss Park	Prohibited	No change
Oz Park	Prohibited	No change
Point Dundas	Prohibited	No change
Ross Park	Prohibited	No change
Thomas Middleton Park	Prohibited	No change
Blue Gum Reserve	Restricted to on-leash	No change
Booragoon Lake Reserve	Restricted to on-leash	No change
Carawatha Park	Restricted to on-leash	No change
Civic Centre	Restricted to on-leash	No change
Ern Stapleton Reserve	Restricted to on-leash	No change
Foreshore Flannagan Rd to Canning Bridge, and Queens Rd to Cranford Ave	Restricted to on-leash	No change
Foss Street Park	Restricted to on-leash	No change
Four Seasons Park	Restricted to on-leash	No change
Harry Sandon Park	Restricted to on-leash	No change
Wal Hughes Reserve	Restricted to on-leash	No change
Wireless Hill Park	Restricted to on-leash	No change
Bateman Park (part)	Dog exercise area	No change
Len Shearer Reserve (when no sport underway)	Dog exercise area	No change
Ratcliffe Park	Dog exercise area	No change

(Note that dogs must be leashed when on paths even in dog exercise areas, and if indicated by on-site signs, leashed dogs may be allowed to walk on paths through some parks where they are otherwise prohibited.)

Council is advised to accept the officers' recommendations to retain the current status of the parks and reserves listed in Table 1 above.

3.2 Parks and reserves where assessment recommended specifying a currently restricted park or reserve as a dog exercise area.

Rangers assessed a number of parks and reserves that are currently either prohibited to dogs or require dogs to be kept on a leash, and in some cases have recommended that part or all of those areas be specified as dog exercise areas, including some large sporting reserves when the areas are not being used for sport or other events. Public comment on these recommendations was mixed as shown below.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

Table 2 – Parks and reserves that are not currently dog exercise areas but are recommended to be specified as dog exercise areas.

Park	Current status	Recommendation as advertised	Support for dog exercise area	Support for only part of the area or time restrictions	Oppose dog exercise area
Melville Reserve	On-leash	Dog exercise area	1		1
Tompkins Park Reserve	On-leash	Dog exercise area except during sporting events	18	4	3
Joan Williams Park	On-leash	Dog exercise area	No comment received		
Marmion Reserve	On-leash	Dog exercise area on eastern part of the reserve	No comment received		

Respecting the concerns expressed in relation to making the whole of Tompkins Park Reserve dog exercise areas, the eastern part of Tompkins Park Reserve is suggested to be excluded from the dog exercise area specification to provide for park users who do not wish to interact with unleashed dogs. The Melville Reserve sports oval is considered suitable as a dog exercise area, but dogs should be leashed in the carpark and skatepark. Dogs are required to be leashed on paths throughout the City.

Council is advised to:

- 1. Accept the officers' recommendations to specify as dog exercise areas except for during sporting events:**
 - a. Joan Williams Park;**
 - b. the part of Marmion Reserve east of the carpark and path bordering the lake;**
 - c. Tompkins Park Reserve, west of the mid-point between Francis Road and Cantray Avenue;**
 - d. Melville Reserve sports oval and surrounds, excluding the carpark and skatepark.**

3.3 Parks and reserves that are currently specified as dog exercise areas, but are unsuitable for this purpose.

In their initial assessment, officers determined that a number of parks and reserves currently classified as dog exercise areas are unsuitable for that purpose due to size, conflicts between the needs of different park users or environmental sensitivity.

Requests were received from several submitters in relation to dog exercise areas not included in the original assessment asking the City to remove the dog exercise area specification from all or part of the park or reserve because of conflicts with vulnerable park users such as small children, mobility-impaired people, people who feel unsafe interacting with unleashed dogs or owners of anxious/reactive dogs. In all cases, alternative off-leash exercise areas exist in reasonable proximity.

M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)

Table 3 – Parks and reserves that are currently dog exercise areas but are considered unsuitable for this classification.

Park	Current status	Recommendation as advertised	Support for making area on-leash only	Support for cancelling dog exercise area status for only part of park or making time restrictions	Oppose making area on-leash only
George Humes Park	Dog exercise area	Cancel dog exercise area status	No comment received		
William Reynolds Park	Dog exercise area	Cancel dog exercise area status	No comment received		
Robert Crawford Reserve	Dog exercise area	Cancel dog exercise area status			1
Three Bears Park	Dog exercise area	Cancel dog exercise area status		1	7
Alan Edwards Reserve	Dog exercise area	<i>Not included in first assessment</i>	2		
Hill Park	Dog exercise area	<i>Not included in first assessment</i>	1		
John Creaney Reserve	Dog exercise area	<i>Not included in first assessment</i>		1	
Juett Park	Dog exercise area	<i>Not included in first assessment</i>	1		
Ogilvie Road Reserve	Dog exercise area	<i>Not included in first assessment</i>	1		

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
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These comments have highlighted the disadvantages of the City's historical approach of specifying that all public places are dog exercise areas unless specified by exception, where the individual parks and reserves have not been rigorously assessed for suitability as dog exercise areas.

Officers have assessed the parks identified by submitters as unsuitable for off-leash exercise, and support the removal of dog exercise area status for Hill Park and Juett Park. Dogs will be able to access these parks on-leash in accordance with the Dog Act.

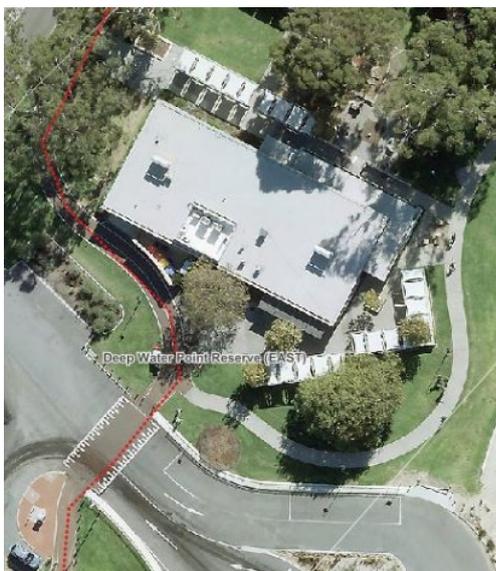
Alan Edwards Reserve, John Creaney Reserve and Ogilvie Road Reserve are of adequate size for off-leash exercise, but options will be investigated to meet the needs of users who want to enjoy parts of the reserves without unwanted contact with unleashed dogs.

Robert Crawford Reserve is a very restricted space with a central footpath bordered by narrow bush areas. It is not suitable as a dog exercise area.

Three Bears Park is reasonably small, has three internal paths and a gazebo/BBQ area. However, it is partially fenced and there was considerable opposition to removing off-leash access. Further investigation is indicated.

Council is advised to:

- 1. Cancel the dog exercise area status of Juett Park, Hill Park, and Robert Crawford Reserve.**
- 2. Support an extensive assessment of each remaining existing dog exercise area against standard criteria and the needs of the users of those parks and reserves, to determine whether they are suitable for their existing purpose or whether part of all of the current dog exercise areas should have that classification rescinded.**

3.4 Specific issues**3.4.1 Deep Water Point**

Deep Water Point Reserve is a place in which dogs are prohibited totally, although they may be walked on-leash on paths. The City has the power to prohibit dogs only in public places that are under its own care, control or maintenance. The creation of the lease for the Dome Café removed the leased area from the care, control and maintenance of the City and thus excised that area from the dog-prohibited area.

This creates an anomaly in that leashed dogs are allowed in the carpark, on paths and in the *al fresco* area, but are not permitted to traverse the grassed area between them. The current prohibition places people in contravention of the law when they walk their leashed dogs between the carpark or path and the café, but enforcement of the prohibition in this limited area does not deliver any public benefit.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

The published recommendation was for leashed dogs to be permitted in the area between the carpark and the Dome Café *al fresco* area. This recognises current common practice and removes the anomaly. One submission opposed this recommendation and the other pointed out the need for clear signage if it were to be implemented.

Council is advised to excise 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, from the specification of “place in which dogs are prohibited totally”.

3.4.2 Dog swim areas

Several requests were received for a dog swim area in Bicton, with an area along Blackwall Reach Parade, between Beach Street and Kent Street (excluding the Kent Street foreshore), being specifically suggested.

The City has jurisdiction only above the mean high water mark. The Swan River Trust and the Department of Biodiversity, Conservation and Attractions have jurisdiction beyond that point and do not prohibit dogs swimming in the river.

The accessible foreshore areas along that stretch of the river are relatively small, and the beach areas opposite Kent Street and Beach Street particularly are subject to significant human use. Dogs are permitted to walk on-leash along the path on the river side of Blackwall Reach Parade, and it is clear that despite the rules, people do take their dogs on to the beach areas. The City does not have the resources to strictly enforce the prohibition. Specifying a location in this vicinity where dogs may access the river will reduce the incentive for people to take their dogs to swim in areas more intensively used by people.

It is suggested that the City undertake a trial allowing dogs to access the river at the small beach near Crewe Street in the Kent Street direction (see below). This area is clear of waterside vegetation and attracts fewer people than the beaches near either Kent Street or Beach Street.



A well-publicised trial over the 2021/22 summer would reveal whether this would result in significant conflicts between users or attract irresponsible use. The Council may then decide whether to permanently specify this location as a dog exercise area.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

Council is advised to specify an area (see above) between the river side of the path along Blackwall Reach Parade near Crewe Street and the mean high water mark as a dog exercise area in order to allow a trial of dog access to the river in this location.

Requests were also made for dog swim areas and a dog exercise area along the Lucky Bay foreshore between Point Dundas and Conon Road. This area is too considered too small for off-leash exercise and is subject to significant human use. It is relatively close to the existing dog swim area.

3.4.3 Point Walter Reserve

Several submissions requested that leashed dogs be permitted on paths in this area, where they are currently prohibited at all times. Others complained that dog walkers are contravening the rules against dogs, including allowing their dogs off-leash, and that there was insufficient enforcement.

This is an A-class reserve and dogs are not permitted because of the environmental sensitivity of the area. Rangers patrol the reserve regularly, but individual incidents need to be reported by the public so that they can be investigated. No change is recommended for this area.

Council is advised to retain the Point Walter Reserve as a place where dogs are prohibited totally, including on paths.

3.4.4 Jeff Joseph Reserve

Officers recommended that the non-foreshore parts of the reserve be removed from the specification of “dogs prohibited totally” so that dogs may be walked on-leash away from paths in the areas that are not environmentally sensitive.

Several submissions requested that this area be specified as an off-leash dog exercise area, possibly restricted to certain times of the day during summer, but time-based restrictions are difficult to enforce effectively.

Some submissions requested dog access to the river in the reserve. Dogs are prohibited from the foreshore area here to protect an environmentally sensitive ecosystem. There is an existing dog swim area at the eastern end of the reserve.

Council is advised to support the officers’ recommendation to remove the specification of “dogs prohibited totally” from the non-foreshore parts of Jeff Joseph Reserve only.

3.4.5 Fencing

Some submitters suggested fences be erected to separate unleashed dogs from other park users, especially on paths. This suggestion was also made by some Elected Members. While this approach would reduce conflict between users with and without dogs, it would involve substantial cost and likely be opposed by some park users.

Previous public consultation on a fenced dog park at Attadale revealed significant opposition. The City is constructing its first fenced dog play area at Piney Lakes, and feedback from users will be helpful in deciding whether to plan more such areas.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)****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 comment period opened on 21 January 2021 and closed on 15 March 2021, and members of the public were encouraged not to restrict their comments only to the officer's recommendations.

Seventy-eight public submissions were received and are discussed above. A summary of the views expressed in the submissions is discussed above and attached to this report, as is a summary by park comparing submitted views against the published recommendations.

[5845 3 Review of Dog Exercise Areas Summary of Submissions](#)

[5854 4 Review of Dog Exercise Areas Summary by Parks](#)

II. OTHER AGENCIES / CONSULTANTS

Other agencies and consultants were not engaged during this public consultation process. However, State agencies with regulatory responsibility over the Swan and Canning Rivers and environmentally sensitive areas will be consulted should consideration be given to extending dog access to such areas.

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.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

Dog exercise areas and places in which dogs are prohibited are no longer matters that may be dealt with under the local law and the new *Dog Local Law 2021* therefore does not make reference to them.

The absolute majority decision made by Council in July 2014 specifying places where dogs are prohibited and dog exercise areas made reference to clause 5.2 and Schedules 4 and 5 of the existing *Dog Local Law 2005*, which was not amended to reflect the changes to the Dog Act that rendered those provisions inoperable. These references were redundant because the contents of those parts of the local law were replicated in the resolution.

[5845 1 Extract Minutes OMC 15 July 2014](#)

All necessary information is contained within the resolution and the repeal of the *Dog Local Law 2005*, and absence of those provisions in the new *Dog Local Law 2021* will not affect the validity of the resolution.

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.

This means that should the Council support the recommendations of officers concerning the specifying of dog exercise areas, the formal decision (by absolute majority) cannot be practically made until 28 days after local public notice of the intent to specify has been given.

It is considered good practice that if certain conditions must be met to make a decision, then the same conditions should apply to reversing that decision. This means that any decision to cancel the specification of a place as a dog exercise area, or a place where dogs are prohibited totally, should also be made by absolute majority, with a minimum of 28 days public notice of the intent.

The electoral cycle and caretaker requirements may affect the practical timeframe for these decisions. Notice cannot be given in time for a decision at the August Ordinary Meeting of Council and the September meeting is likely to fall within the caretaker period.

FINANCIAL IMPLICATIONS

Minor expenses apply to giving local public notice of the intent to specify, or rescind the specification of, dog exercise areas and places where dogs are prohibited.

Additional signage and public information will be required to ensure all users of parks and reserves are aware of the changes before and after the decisions are made.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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.

M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)

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 through multiple channels 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.

Risk Statement & Consequence	Level of Risk	Risk Treatment
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.

POLICY IMPLICATIONS

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.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council may decide to approve no change to current dog access status in the City's parks and reserves. This will not address the concerns that have been raised through the public consultation process or observed by rangers in undertaking their duties.

If Council chooses to accept some of the recommendations and reject others, the implications will vary depending on the individual decisions.

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)****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 City has historically permitted dogs to exercise off-leash in all the City's parks and reserves other where it has specified that they are prohibited or must be kept leashed. This has led to the City having many small dog exercise areas where some park users feel that they are unable to fully enjoy the amenities because of unwanted close contact with unleashed dogs that are not well controlled by their owners.

Council is advised to make determinations as described in this report to retain or change the status of certain parks for the reasons given, and to note that conflicting public views justify a more detailed investigation of the City's existing dog exercise areas before a final decision is made.

Local public notice of intent must be given at least 28 days before Council makes a decision to specify a dog exercise area or a place in which dogs are prohibited, or to cancel such specifications.

At 7:29pm, the Mayor advised that officers had provided an officer amendment to the recommendation and that the amended officer recommendation would be considered.

At 7:31pm, having declaring an interest and prior to the vote, Cr Sandford left the meeting.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5845)**APPROVAL**

At 7:31pm Cr Macphail moved, seconded Cr Woodall –

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.**

**M21/5845 – REVIEW OF DOG EXERCISE AREAS – REPORT OF PUBLIC SUBMISSIONS
(ATTACHMENTS)**

- 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 263m² 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.
 - 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.

At 7:31pm, the Mayor declared the motion

CARRIED (11/0)

At 7:31pm Cr Kepert abstained from voting on the matter.

Cr Sandford returned to the meeting at 7:31pm.

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the Code of Conduct
 Nature of Interest I do not possess the information I require to make an informed decision
 Request Stay and Discuss
 Decision Leave Stay and 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	<i>For the Council/Committee to note.</i>

M21/5000 – COMMON SEAL REGISTER (REC)

KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied for the period from 18 May 2021 up to and including 16 June 2021 for the Council's noting.

BACKGROUND

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

DETAIL

Register Reference	Parties	Description	ECM Reference
CS2173	City of Melville and the Western Australian Planning Commission	Local Planning Scheme No.6 - Amendment No.7 Report. The Minister of Planning has directed the City to delete the conditions column of amended table 4. (This condition requested that larger format land uses be allocated to the rear of the site and that a local development plan may be required to ensure land uses fronting Leach Highway maintain a scale and character consistent with the local centre zone.)	6269454
CS2174	City of Melville and Department of Transport (Property Service Manager)	Updated terms and conditions following an application to modify Rockwood Jetty (demolish old and build a new jetty)	6284039
CS2175	City of Melville and the Western Australian Planning Commission	Local Planning Scheme No.6 - Amendment No.9 Report. To initiate the scheme amendment to modify the southern boundary of the Canning Bridge Activity Centre Plan.	5996235
CS2177	City of Melville and Landgate	Notification Section 70A of the Transfer of Land Act 1893 – Certificate of Title 15 (Lot 617) Corbett Way, Booragoon – Subdivision Referral. Transport Noise Notification.	DA-2019-495
CS2178	City of Melville and Residential Building WA	Notification Section 70A of the Transfer of Land Act 1893 – 473E Canning Highway, Melville – Two Storey Dwelling. Transport Noise Notification.	DA-2020-1581
CS2179	City of Melville and the Western Australian Planning Commission	Notification Section 70A of the Transfer of Land Act 1893 – 3 Wheyland Street, Willagee – Subdivision Clearance. Transport Noise Notification.	DA-2021-559

M21/5000 – COMMON SEAL REGISTER (REC)**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.

M21/5000 – COMMON SEAL REGISTER (REC)**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 18 May 2021 up to and including 16 June 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 18 May 2021 up to and including 16 June 2021.

At 9:37pm, the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

At 9:37pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

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

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

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

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

C21/6000 - INVESTMENT STATEMENTS FOR 31 MAY 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 May 2021.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 MAY 2021		
SUMMARY BY FUND		
Municipal		\$38,389,348
Reserve		\$146,968,253
Trust		\$-
Citizen Relief		\$217,779
TOTAL		\$185,575,379
SUMMARY BY INVESTMENT TYPE		
11AM		\$13,154,907
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$147,820,473
TOTAL		\$185,575,379
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$138,074,664
A Category (A+ to A-)	A+	\$10,000,716
	A	
	A-	
BBB+ Category	BBB+	\$37,500,000
TOTAL		\$185,575,379

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

Exposure to an individual institution is limited according to Council policy and in May 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	2.96%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 26,000,000	14.01%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 11,500,000	6.20%	15.00%	✓
CBA	AA-	AA Category	\$ 40,000,000	21.55%	30.00%	✓
Macquarie	A+	A Category	\$ 7,000,716	3.77%	25.00%	✓
NAB	AA-	AA Category	\$ 35,833,104	19.31%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 3,000,000	1.62%	25.00%	✓
Westpac	AA-	AA Category	\$ 56,741,560	30.58%	30.00%	✗
TOTAL			\$ 185,575,379	100%		

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

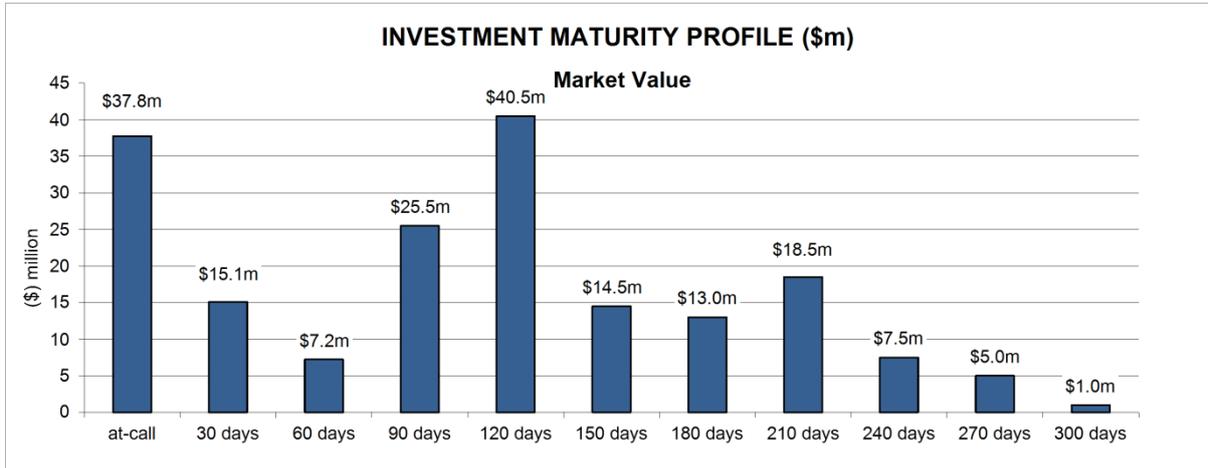
The City's investments were invested within the limits allowed within each category rating for May 2021 except Westpac Bank which exceeded the policy limit for individual financial institute by 0.58%. The City has withdrawn the investments upon maturity for the City's cash flow needs and a lower than expected investment balance which resulted in the exceeding of the policy limit by \$1M. This will be corrected in June 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-)	\$ 138,074,664	74%	80%	✓
A Category (A+ to A-)	\$ 10,000,716	5%	50%	✓
BBB+ Category	\$ 37,500,000	20%	25%	✓
TOTAL	\$ 185,575,379	100%		

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

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

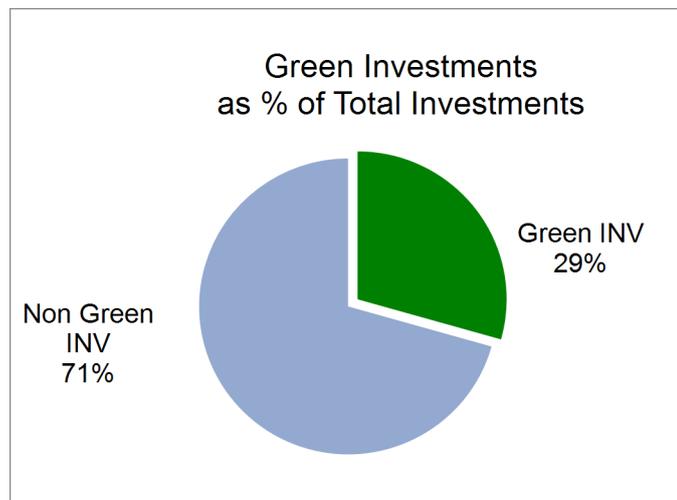
The below graph summarises the maturity profile of the City’s investments at market value as at 31 May 2021. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the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



The total investment prior to February included the Local Government House Trust. On the advice of the Western Australian Local Government Association (WALGA), this balance is now held within the City’s Asset Register.

“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 May 2021 was \$54,500,000 or 29% of total investment holdings being in non-fossil fuels institutions, compared to \$54,500,000 (28%) in April 2021. The total investments holding for May and April were \$185,575,379 and \$194,674,857 respectively.



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

Green Investment with financial institutions			
Institution	Credit Rating	Credit Rating Category	Funds held at period end
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 11,500,000
CBA	AA-	AA Category	\$ 40,000,000
Suncorp	A+	A Category	\$ 3,000,000
TOTAL			\$ 54,500,000

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

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

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

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

FINANCIAL IMPLICATIONS

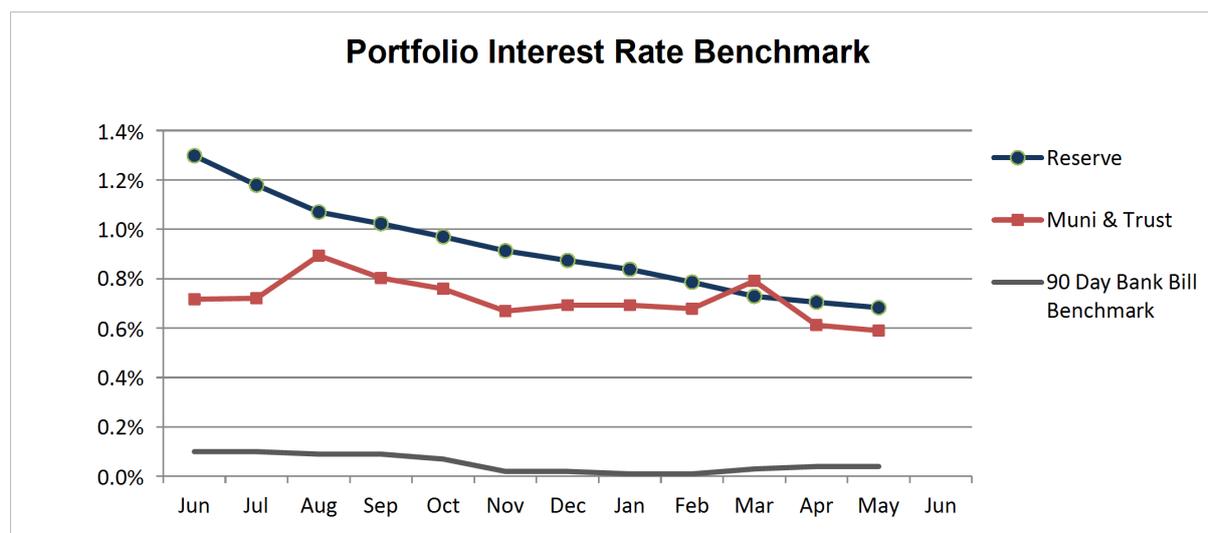
For the period ending 31 May 2021:

- Investment earnings on Municipal and Trust Funds were \$199,405 against a year to date budget of \$246,125 representing a negative variance of \$46,721.

The weighted average interest rate for Municipal and Trust Fund investments as at 31 May 2021 was 0.59% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.04%.

- Investment earnings on Reserve accounts were \$1,233,007 against a year to date budget of \$1,156,250 representing a positive variance of \$76,757. The variance is a result of larger reserve balances than anticipated.

The weighted average interest rate for Reserve account investments as at 31 May 2021 was 0.68% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.04%.



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 MAY 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 0.59% to 0.68% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.04%.

29% 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 28% in April 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 May 2021.

At 9:37pm, the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

At 9:37pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

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

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

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

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

C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR MAY 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 May including Payment Register numbers, Cheques: 794-795, Electronic Funds Transfers batches: 703-707, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 30 July 2021.

A total of \$9,916,769 direct creditor payments were paid during the month, of which, 12% of payments were paid to suppliers located within the City of Melville and 18% to suppliers within the South West Group, compared to 29% and 35% of total of \$6,383,443 direct creditor payments made over April 2021 respectively. The biggest payment of \$1,834,748 made during the month was the regulatory fees and government charges to the Department of Fire and Emergency Services. Approximately 96% of supplier invoices are paid within 30 days of receipt of the invoices.

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

SCHEDULE OF PAYMENTS MADE		
MAY 2021		
<i>Payments made under Delegated Authority DA-035</i>		
MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
Cheques	Chq Payment Register No. 794 and 795	\$14,192.87
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	\$0.00
Electronic Funds Transfers	EFT Payment Register No. 703,705 and 707	\$9,607,360.21
	EFT Payment on Restricted Funds Register No. 107, 704 and 706	\$187,153.39
	Less Cancelled EFTs	(\$282.69)
		\$9,808,423.78
Direct Debits	Bank Fees	\$11,043.86
	Ampol Fuel	\$78,725.31
Direct Payments		\$18,576.76
	Total Direct Creditor Payments	\$9,916,769.71
Payroll	Total Pay 23 and 24	\$3,597,400.65
	Total Payroll	\$3,597,400.65
Cards	Corporate Cards	\$17,669.99
	Purchase Cards	\$61,459.79
	American Express	\$2,528.82
	Total Card Payments	\$81,658.60
Total Direct Creditor Payments from Municipal Account		\$13,595,828.96

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

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS			
<i>Interfund Transfers</i>			
Loan			\$0.00
Citizen Relief Trust			\$0.00
Citizen Relief Operating			\$0.00
Municipal			(\$9,857,340.70)
Reserve			\$9,857,340.70
Trust			\$0.00
<i>Total Interfund Transfers</i>			\$0.00
<i>New Municipal Investments</i>			
Westpac Bank	3/05/2021		\$800,000.00
Westpac Bank	7/05/2021		\$500,000.00
Westpac Bank	18/05/2021		\$1,200,000.00
Westpac Bank	19/05/2021		\$500,000.00
Westpac Bank	20/05/2021		\$2,100,000.00
Westpac Bank	26/05/2021		\$1,100,000.00
Westpac Bank	27/05/2021		\$2,800,000.00
Westpac Bank	28/05/2021		\$1,700,000.00
<i>Total New Investments</i>			\$10,700,000.00
Grand Total			\$24,295,828.96

Details of the payments are shown in attachment [6001 Payment Details May 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 MAY 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 \$24,295,828.96.

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

At 9:37pm, the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

At 9:37pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

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

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 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"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 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 May 2021 and recommends that they be noted by the Council.
- The variances for the month of 31 May 2021 and recommends that they be noted by the Council.
- The Budget amendments required for the month of 31 May 2021 and recommends that they be adopted by Absolute Majority decision of the Council.

BACKGROUND

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

OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION

- The Municipal cash balance at the end of the month is \$38.4m. This reflects that the City has a positive financial position to meet its obligations.
- There was no change in investment holdings in reserve accounts, compared to the reserve investment holding of \$147m in May 2021. 79% of the City's investment holdings are held in reserve accounts which are restricted to the defined purpose for which the reserve account was established.
- The Green investment in authorised banking institutions as at 31 May 2021 was \$54,500,000 or 29% of total investment holdings, compared to \$54,500,000 (28%) in April 2021.
- During May, budget amendments were made to reflect reallocation of funds, additional expenditure funded by new grant income and changes to budgets of capital works projects and the corresponding impact on the reserve funding for those projects.
- Rates raised year to date were \$81,424,176 with a positive variance of \$43,945 compared to the year to date annual budget of \$81,380,231. Rates collection progress for May is at 93.2% which is below the month end target of 93.6%.
- Total debtor collections for May equalled \$1,282,689. The year to date total outstanding debtors (including all rates and sundry debtors) is \$8,847,641. The YTD cash collection of \$109,582,092 from total debtors is lower than the cash collection of \$123,851,113 during the same period in the previous year. The rates raised in 2020-21 were lower due to COVID -19 concessions; hence the amount collected is also lower.
- Total waivers under the Community Stimulus Package adopted by Council on 9 April 2020, is \$1,021,464 over multiple financial years. There were no new waivers during May 2021.

C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 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 Program
Provides details on the Program classifications.
3. Rate Setting Statement by Sub-Program
Provides further breakdown on the Program classifications.

Variations

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

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

Revenue

Rates raised as at May were \$81,424,176, compared to a year to date budget of \$81,380,231. The positive variance of \$43,945 is made up of minor variations.

Rates Collection

SUMMARY OF RATE DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	9,142,487	9,142,487	0%	6,607,681	38%
Debtors Raised	102,327,864	102,186,992	0%	116,209,018	-12%
Payments Received	(103,612,939)	(102,670,621)	1%	(112,284,237)	-8%
Closing Balance	7,857,412	8,658,857	-9%	10,532,462	-25%

Total rate debtor collections for the month equalled \$942,318.

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

Sundry Debtor Movement

SUMMARY OF SUNDRY DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	1,238,865	1,238,865	0%	432,873	186%
Invoices Raised	5,703,088	5,295,544	8%	7,642,095	-25%
Receipts	(5,969,153)	(5,628,782)	6%	(6,830,417)	-13%
Prepayments	17,429	19,193	-9%	32,399	-46%
Closing Balance	990,229	924,821	7%	1,276,950	-22%

Sundry debtor balances increased by \$65,408 over the course of May from \$924,821 to \$990,229 of which the total 90 day sundry debtors over \$1,000 for the month is \$288,115, representing 29% of total sundry debtors.

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for May 2021.

Budget Amendments

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

There were two debts written off for the month of May 2021.

\$3,829.50 was written off for historic waste charges due to changes in charges with no notice given to the customer.

\$363.60 was written off for waste services as repeated attempts to contact the debtor were unsuccessful.

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

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

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

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;

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

- (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*
- (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
- (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in 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 May 2021](#): Notes on Statement of Variances in excess of \$50,000 by Sub-Program.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

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

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 May 2021.

**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 May 2021 as detailed in the following attachments:**

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

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

At 9:37pm, the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

At 9:37pm Cr Keperst abstained from voting on the matter.

LATE ITEM M21/5847 - REQUEST TO ATTEND WALGA 2021 CONVENTION (REC)

Disclosure of Interest

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

Member Cr K Wheatland
 Type of Interest Financial Interest
 Nature of Interest Seeking Payment to attend the WALGA Conference
 Request Leave
 Decision Leave Leave

At 7:32pm, having declared an interest, Cr Wheatland left the meeting.

Ward : All
 Category : Policy
 Subject Index : Elected Members Workshop
 Customer Index : Western Australian Local Government Association
 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 : Bruce Taylor
 Manager Governance and Property

AUTHORITY / DISCRETION

DEFINITION

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

M21/5847 - REQUEST TO ATTEND WALGA 2021 CONVENTION (REC)**KEY ISSUES / SUMMARY**

- A request has been received from an Elected Member to attend the Western Australian Local Government Association Convention to be held 19 to 21 September 2021.
- In accordance with Council Policy CP-092 Elected Member Professional Development, Elected Members wishing to attend a conference after 30 June in the year the Elected Member's term of office ends, approval from the Council must be sought to attend.

BACKGROUND

The City of Melville is a member of the Western Australian Local Government Association (WALGA). Elected Members and staff of the City of Melville are invited to attend the annual WALGA Convention.

DETAIL

The WALGA Convention will be held at Crown Perth on Monday, 20 to Tuesday, 21 September 2021 with the Opening Welcome Reception being held on the evening of Sunday, 19 September 2021.

Councillor Karen Wheatland has requested to attend the WALGA Convention, however Cr Wheatland's term will conclude in October 2021.

In accordance with Council Policy CP-092:

"5.1 Prior approval must be obtained from the Council

- *For attendance and Conferences/Training/Seminars after 30 June in the year an Elected Member's term of office ends."*

In support of her request to attend the conference, Cr Wheatland has advised she is the Chairperson of the Australian Local Government Women's Association Committee (WA Branch) which will hold their Annual General Meeting, a breakfast and will host a stall at the Convention.

Cr Wheatland has also advised that she is prepared to pay for the conference attendance and for the expenditure to be reimbursed to her should she be re-elected as a Councillor at the October 2021 local government elections.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

No engagement with the City's community is required for this report.

II. OTHER AGENCIES / CONSULTANTS

No engagement with other agencies or consultants is required for this report.

M21/5847 - REQUEST TO ATTEND WALGA 2021 CONVENTION (REC)**STATUTORY AND LEGAL IMPLICATIONS**

There are no statutory or legal implications.

FINANCIAL IMPLICATIONS

There is funding provided in the 2020/2021 budget in the Elected Members Corporate Training Budget.

According to Council Policy CP-092 Elected Members Professional Development:

“2. ELECTED MEMBER TRAINING AND DEVELOPMENT FROM CORPORATE FUNDS

To assist Elected Members to perform their duties efficiently and effectively, the following training and development opportunities will be provided to Elected Members from the Elected Members Corporate Training budget:

- *Attendance at the Annual Western Australian Local Government Association conference and/or Annual General Meeting.”*

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

Council Policies CP-092 Elected Member Professional Development and CP-105 Caretaker Policy apply to this request and it is for the Council to make determination on Cr Wheatland’s request.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to not approve the Elected Members attendance to the WALGA Convention and consequently, the Councillor may elect to make payment as an individual. The Elected Member is still able to attend the WALGA Convention, as per Council Policy CP-105 Caretaker Policy section 5.1

5 ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS**5.1 Public Events Hosted by External Bodies**

Elected Members may continue to attend events and functions hosted by external bodies during the Local Government Caretaker Period.

M21/5847 - REQUEST TO ATTEND WALGA 2021 CONVENTION (REC)

CONCLUSION

Cr Wheatland is also the Chairperson of the ALGWA Committee which will hold their AGM at the WALGA Convention. Councillor Karen Wheatlands' term on the Council will conclude one month after the attendance of the WALGA Convention.

OFFICER RECOMMENDATION (5847)

REFUSAL

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

That the Council:

- 1. Not support paying Cr Wheatland's conference attendance fees for her to attend the Western Australian Local Government Association 2021 Convention to be held from Sunday 19 to Tuesday, 21 September 2021 due to the timing of the October 2021 Local Government Election.**
- 2. Should Cr Wheatland attend the Western Australian Local Government Association WA Convention and be successful in being re-elected in October 2021 the Council will reimburse from the Elected Member Corporate Training Budget any conference attendance fees paid by Cr Wheatland.**

Procedural Motion

COUNCIL RESOLUTION

At 7:36pm Cr Sandford moved, Seconded Cr Macphail –

That the Motion be Put.

At 7:36pm, the Mayor declared the motion

CARRIED (8/4)

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

M21/5847 - REQUEST TO ATTEND WALGA 2021 CONVENTION (REC)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5847)

REFUSAL

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

That the Council:

- 1. Not support paying Cr Wheatland’s conference attendance fees for her to attend the Western Australian Local Government Association 2021 Convention to be held from Sunday 19 to Tuesday, 21 September 2021 due to the timing of the October 2021 Local Government Election.**
- 2. Should Cr Wheatland attend the Western Australian Local Government Association WA Convention and be successful in being re-elected in October 2021 the Council will reimburse from the Elected Member Corporate Training Budget any conference attendance fees paid by Cr Wheatland.**

At 7:39pm, the Mayor declared the motion

CARRIED (8/4)

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

At 7:41pm Cr Wheatland returned to the meeting.

Disclosure of Interest

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

LATE ITEM T21/3938 - PRE-QUALIFIED PANEL FOR THE SUPPLY OF ROAD WORKS FOR A TWO YEAR TERM WITH OPTION PERIODS (REC) (CONFIDENTIAL ATTACHMENT)

Ward : All
 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 : Not Applicable
 Works Programme : Road Capital Programme
 Funding : Approximately \$6,000,000 per year but subject to change
 Responsible Officer : Kimberly Brosztl - Manager Engineering

AUTHORITY / DISCRETION

DEFINITION

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

T21/3938 - PRE-QUALIFIED PANEL FOR THE SUPPLY OF ROAD WORKS FOR A TWO YEAR TERM WITH OPTION PERIODS (REC) (CONFIDENTIAL ATTACHMENT)**KEY ISSUES / SUMMARY**

To recommend the acceptance of the applications as contained in the confidential attachment T21/3938 P202103 Contract and Tender Advisory Unit Minutes.

BACKGROUND

The City is seeking to establish a suitably qualified and experienced Panel of Pre-qualified Suppliers to assist the City with the supply of road works as part of the Road Rehabilitation Program **and** Road Resurfacing Program. The City intends to split the Panel into two categories with suppliers able to express an interest to be on one or more of the categories.

The City intends to appoint up to three Pre-qualified Suppliers to each category of the Panel with the potential for some Pre-qualified Suppliers to be appointed to both categories. The Panel Terms are valid for an initial term of two years with three additional 12 months option periods, which will be exercised at the sole discretion of the City.

The Road Rehabilitation Program is estimated at approximately \$3,500,000 per year and the Road Resurfacing Program is estimated at approximately \$2,500,000 per year but the City does not guarantee the amount of work available through this Panel. The City will designate, at its own discretion, if a road is categorised as Road Rehabilitation, Road Resurfacing or belongs to another category.

Works as part of the Road Rehabilitation program may include:

- Undertaking Profiling Work
- Laying and Supplying of Hot and Cold Mix Asphalt
- Minor drainage work
- Kerbing work
- Concrete work
- Reinstatement work
- Traffic Management required to carry out works under this Panel
- Bitumen Seal work
- Pavement Reconstruction
- Temporary Line Marking and Line Spotting
- 12 month Defects Liability Period for any or all works

Works as part of the Road Resurfacing program may include:

- Undertaking Profiling Work* (Optional)
- Laying and Supplying of Hot and Cold Mix Asphalt
- Traffic Management required to carry out works under this Panel* (Optional)
- Bitumen Seal work
- Minor Pavement Reconstruction
- Temporary Line Marking and Line Spotting
- 12 month Defects Liability Period for any or all works

** The City reserves the right to engage contractors outside of this Panel for those items.*

Works not associated with the annual Road Rehabilitation or Road Resurfacing Program may be undertaken outside of this Panel at the sole discretion of the City.

T21/3938 - PRE-QUALIFIED PANEL FOR THE SUPPLY OF ROAD WORKS FOR A TWO YEAR TERM WITH OPTION PERIODS (REC) (CONFIDENTIAL ATTACHMENT)

Unless directed otherwise by the City's Representative, new road construction, stabilisation and specialised road construction is excluded from the Panel. Where stabilisation or specialised road construction works are required, all resurfacing/rehabilitation works on that road may be excluded from the Panel at the City's sole discretion.

This Panel does not preclude the City from conducting road works utilising its own resources.

DETAIL

Qualitative scores were achieved by joint agreement of the evaluation panel members at the evaluation meeting after each panel member had scored the submission individually. The City set five qualitative criteria for this Request, being:

- Demonstrated Experience;
- Capacity to Deliver;
- Management Systems;
- Sustainable Procurement; and
- Methodology.

Respondents' price schedules were evaluated using scenarios derived from two previous Road Resurfacing projects and two previous Road Rehabilitation projects.

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) 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.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

No stakeholder engagement has been required or undertaken for this panel.

II. OTHER AGENCIES / CONSULTANTS

No external agencies or consultants were required or engaged for this panel.

STATUTORY AND LEGAL IMPLICATIONS

Local Government (Functions and General) Regulations 1996 24AB "A local government may establish a panel of pre-qualified suppliers to supply particular goods or services to the local government".

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

T21/3938 - PRE-QUALIFIED PANEL FOR THE SUPPLY OF ROAD WORKS FOR A TWO YEAR TERM WITH OPTION PERIODS (REC) (CONFIDENTIAL ATTACHMENT)**FINANCIAL IMPLICATIONS**

Approximately \$6,000,000 per year but subject to change.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The provision of these services has no major strategic implications.

All recommended Respondents have offered alternatives to reduce the environmental impact of road works but it is partly up to the City to specify those alternatives when designing road works.

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The City could advertise road projects individually; however this would likely result in delays in the yearly road program as well as a missed opportunity to improve working relations with suppliers.

CONCLUSION

The CTAU is satisfied that the recommended Applicants have demonstrated that they have the required demonstrated experience, necessary capacity to deliver, appropriate management systems, have implemented some sustainable procurement initiatives and follow a methodology in line with the City's expectations. The recommended Applicants have a high qualitative score and offer the lowest price of the shortlisted submissions therefore they offer the best value for money.

T21/3938 - PRE-QUALIFIED PANEL FOR THE SUPPLY OF ROAD WORKS FOR A TWO YEAR TERM WITH OPTION PERIODS (REC) (CONFIDENTIAL ATTACHMENT)**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3938)****APPROVAL**

At 7:41pm Cr Barton Moved, Seconded Cr Pazolli –

That the Council:

- 1. Accepts the recommendation as contained in the Confidential Attachment – T21/3938 P202103 Contract and Tender Advisory Unit Minutes.**
- 2. Upon resolving the recommendation, directs that the successful Respondents' names be inserted in the minutes below this point 2:**

Category 1: Road Resurfacing

Asphaltech Pty Ltd	ABN 26 064 520 869
Fulton Hogan Industries Pty Ltd	ABN 54 000 538 689
ROADS 2000 Pty Ltd	ABN 77 081 677 778

Category 2: Road Rehabilitation

Asphaltech Pty Ltd	ABN 26 064 520 869
Fulton Hogan Industries Pty Ltd	ABN 54 000 538 689
ROADS 2000 PTY LTD	ABN 77 081 677 778

At 7:41pm, the Mayor declared the motion

CARRIED (12/0)

At 7:41pm Cr Kepert abstained from voting on the matter.

*At 7:42pm Cr Woodall left the meeting and returned at 7:45pm.**At 7:43pm Cr Barton left the meeting and returned at 7:46pm.*

At 7:44pm, in accordance with section 10.2(1)(c) of the *City of Meeting Procedures Local Law 2017* Cr Fitzgerald raised a point of order in relation to Cr Kepert abstaining from voting being a violation of s.5.21(2) of the *Local Government Act 1995* and requested the Mayor declare Cr Kepert's conduct in not voting as being out of order.

At 7:46pm, in accordance with section 10.5 of the *City of Meeting Procedures Local Law 2017*, the Mayor declared that Cr Kepert's refusal to vote as required by s.5.21(2) of the *Local Government Act 1995*, as being out of order.

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (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 the information I require to make an informed decision
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Member Cr M Woodall
 Type of Interest Interest under the Code of Conduct
 Nature of Interest Member of the JDAP Panel that will consider this Item
 Request Leave
 Decision Leave Leave

At 7:47pm having declared an interest, Cr Woodall left the meeting.

Ward : Central Ward
 Category : Operational
 Application Number : DAP-2021-6
 Property : No. 15 (Lot 557) Willcock Street, Ardross
 Proposal : Proposed Child Care Centre Premises
 Applicant : David Mariona, Harley Dykstra Pty Ltd
 Owner : Gama Holdings Pty Ltd
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Responsible Officer : Mark Scarfone
 Acting Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- This Responsible Authority Report (RAR) is referred to the Council for information in accordance with Local Planning Policy 1.1, having been called up by Cr Sandford.
- Approval is sought for a child care centre premises at No. 15 (Lot 557) Willcock Street, Ardross. The cost of the development is \$2.03 million and therefore, the applicant has opted-in for the application to be determined by the Metro Inner South Joint Development Assessment Panel.
- The application is for the demolition of the existing development on site and the construction of a two storey Child Care Centre Premises located at 15 Willcock Street, Ardross.
- The building is designed, with a landscaped verge area, nil setbacks to the street and side boundaries and vehicle access from Petrossian Lane at the rear as per the development controls set out in the Riseley Activity Centre Structure Plan
- The centre will include three indoor activity rooms and two outdoor play areas provided along with facilities and amenities for the building;
- The Child Care Centre has been designed to accommodate 62 children and 10 staff members of the following age demographics;
 - 12 places for children aged 0-2 years;
 - 20 places for children aged 2-3 years; and
 - 30 places for children aged 3-5 years.
- The operating hours of the centre are between 6:30 am and 6:30 pm Monday to Friday, with no outdoor play before 7:00 am.
- 11 on-site car bays (including one ACROD bay) have been provided. Four of these bays are reserved for staff and the remaining seven for visitors.
- The proposed development has been assessed against the provisions of Local Planning Scheme No.6 (LPS6), Local Planning Policy 1.12 Child Minding Centres and Family Day Care (LPP1.12), as well as a number of local and state planning policies.
- The RAR has been prepared by officers and is required to be submitted to the JDAP under the *Planning and Development (Development Assessment Panel) Regulations 2011* by midday 22 July 2021.
- The proposal was the subject of public consultation in accordance with LPP 1.1: Planning Process and Decision Making.
- During the advertising period 22 individual written submissions were received – all expressing concerns.
- The recommendation of the RAR is that the JDAP approve the proposal subject to planning conditions outlined in the attached RAR report to the JDAP.
- A copy of the Council resolution will be forwarded to the JDAP as an attachment to the RAR.

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (REC) (ATTACHMENT)



Figure 1 - Aerial photograph of subject site.

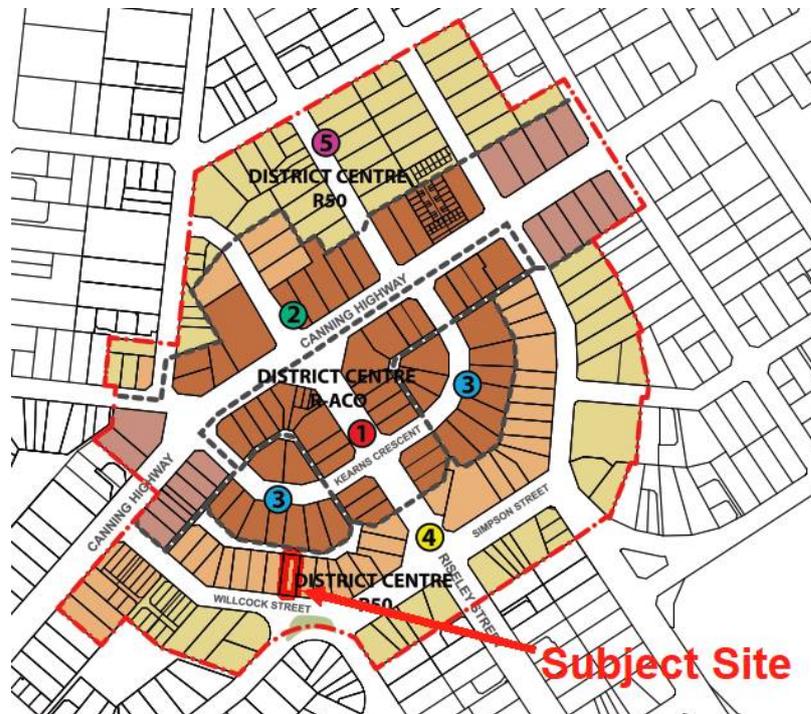


Figure 2 – Riseley Centre Structure Plan Precinct Map.

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Centre C2 'RAC-0'
Structure Plan Zoning	:	Riseley Centre Structure Plan 'Precinct 4' Transitional Frame
R-Code	:	N/A
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	647sqm
Street Tree(s)	:	Two verge trees, one to be retained, the other removed and replaced as per the City's <i>CP-029 Tree Policy</i>
Street Furniture (drainage pits etc)	:	Footpath
Site Details	:	Refer to Figure 1 above

DETAIL

Development approval is sought from the Metro Inner-South JDAP for a two-storey Child Care Centre Premises.

Refer to the attached RAR for details of the development proposed by this application.

[3939 Responsible Authority Report 15 Willcock Street Ardross](#)

[3939 Attachment 1 Planning Report](#)

[3939 Attachment 2 Development Plans](#)

[3939 Attachment 3 Transport Impact Statement](#)

[3939 Attachment 4 SPP 5.4 Acoustic Report](#)

[3939 Attachment 5 Mechanical Plant Noise and Outdoor Play Areas Acoustics Report](#)

[3939 Attachment 6 Design Review Statement](#)

[3939 Attachment 7 Waste Management Plan](#)

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (REC) (ATTACHMENT)**STAKEHOLDER ENGAGEMENT**

Refer to the RAR attached to this report.

STATUTORY AND LEGAL IMPLICATIONS

The cost of the development requires that it be determined by the JDAP. As required by the *Planning and Development (Development Assessment Panel) Regulations* the City has prepared a responsible authority report which outlines the relevant issues to assist the JDAP in making its determination.

FINANCIAL IMPLICATIONS

None applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

Policy implications are outlined within the RAR attached to this report.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The recommendation of this report is for Council to endorse the recommendation in the RAR for the JDAP to approve the application.

Council may resolve not to endorse the recommendation within the RAR, however reasons should be provided in the usual manner to inform the members of the JDAP.

The minutes of the Council decision and reasons in support of that decision will be attached to the RAR and forwarded to the JDAP for its consideration.

Where Council wishes to provide a deputation to the JDAP in support of a resolution, a nominated Elected Member on behalf of Council may request to make a deputation at the JDAP meeting. The authorisation to grant a request to make a deputation rests with the Presiding Member of the JDAP.

P21/3939 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 15 (LOT 557) WILLCOCK STREET, ARDROSS (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (3939)

At 7:47pm Cr Macphail Moved, Seconded Cr Robartson –

That the Metro Inner-South Joint Development Assessment Panel be advised that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to APPROVE the application for the proposed Child Care Centre Premises at No. 15 (Lot 557) Willcock Street, Ardross.

At 7:59pm, the Mayor declared the motion

LOST (5/6)

Yes	5	Cr Robartson, Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail
No	6	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Mayor Gear

At 7:59pm Cr Kepert abstained from voting on the Item.

At 7:48pm Ms Davis left the meeting and returned at 7:49pm.

Reasons as provided by Councillor Sandford

- Location of Child Care Centre – Appropriate location of a child care centre is crucial in meeting the needs of children and their families. It is also crucial in limiting the impact a child care centre may have on surrounding activities and vice versa.
- This may be achieved by locating child care centres on sites that are of sufficient size and dimension to accommodate the development without affecting the amenity of the area.
- Child care centres generally would not be suitable where access is from a local access street which may impact on the amenity of the area due to traffic and parking
- Site Characteristics – Sites selected for child care centres should be sufficient size and accommodate the development including all buildings, parking for staff and parents. Site in a residential area should be of regular shape and greater than 1000sqm – the child care centre is proposed at 647sqm.
- A child care centre should be approved only if it can be demonstrated that it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for children and families using the centre, or for pedestrians or road users.
- The WAPC is of the view that there may be a need to show that the development will not have an adverse impact on the amenity of the area or the level of service to the community by similar existing or approved facilities. There are already about five childcare centres in the vicinity.
- The applicant may be asked to provide further information in regard to the level of existing services in the locality, proximity to other centres, population catchments for the new centre and the number of primary schools and kindergartens.

At 8:02pm Cr Woodall returned to the meeting.

At 8:02pm Mr Prendergast left the meeting and did not return.

At 8:02pm Ms Hill left the meeting and did not return.

LATE ITEM M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021 (REC) (CONFIDENTIAL ATTACHMENT)

Disclosure of Interest

Member	Mr Marten Tieleman
Type of Interest	Interest under the Code of Conduct Employees
Nature of Interest	I am the CEO
Request	Stay and observe
Decision Leave	Stay and observe

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	:	Item M21/5812 Chief Executive Officer Performance Review - Ordinary Meeting of Council 16 February 2021 Item M21/5824 Late Item - Chief Executive Officer Performance Criteria and Key Performance Indicators - Ordinary Meeting of Council - 16 March 2021
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Dean McAuliffe Manager People Services

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL 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 type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- In accordance with the Council resolution (Item C18/5655 – Chief Executive Officer Recruitment – Special meeting of Council 12 November 2018) a five year contract with the Chief Executive Officer (CEO) was entered into which became effective from 20 November 2018.
- In keeping with the requirements of the *Local Government Act 1995* the CEO's contract contains a requirement for an annual review, and there are elements of the employment contract which specify some elements that must occur.
- The annual CEO performance review process is ultimately the determination of the Council. The operational management of the process is through the direction of the Mayor, on behalf of Council and the Governance Committee. The Governance Committee has been determined by the Council to be the reviewers of the CEO performance.
- It has been for the Governance Committee to discuss the CEO's performance, future expectations, performance criteria, performance development plan and review the salary package, for recommendation to the Council.
- Each year a defined process that has been developed by the Administration is reviewed by the Committee and adopted by the Council, incorporates a proposed performance survey to be completed by Elected Members.
- The 2020 review for the 20 November 2019 to 30 June 2020 was concluded in February 2021.
- At the March 2021 Ordinary Meeting of Council the Council endorsed the Performance Indicators for the review period 17 March 2021 – 30 June 2021 and that the next CEO performance review to commence by 01 August 2021 and be completed by September 2021 Ordinary Meeting of Council.
- The current review period is 1 July 2020 to 30 July 2021 during which two different sets of performance indicators apply:
 - 01 July 2020 to 16 March 2021
 - 17 March 2021 to 30 June 2021
- The Council is required to consider the CEO performance against both sets of KPI's that span the performance period 01 July 2020 to 30 June 2021.
- In order to meet the September 2021 timeline a process has been developed and presented to undertake this three month (17 March to 30 June 2021) review.

BACKGROUND

The CEO was appointed on 20 November 2018. The *Local Government Act 1995* requires that the Council review the CEO's performance at least once a year in relation to every year of employment.

At a Special Meeting of Council held 11 February 2020 it was resolved:

“That the Council commence the process for the review of the Chief Executive Officer Performance, Performance Criteria and Remuneration Review for the period up to 30 June 2020 and then annually on that date thereafter. Any remuneration amendments are to take effect from 20 November of that same year.”

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL ATTACHMENT)**

This resolution was to align with the end of the financial year and annual reporting period, the adoption of the budget and so that future reviews will be completed by the outgoing Council and not be undertaken by newly Elected Members after biennial October elections.

The Local Government Act requires that a review be conducted “at least once a year in relation to every year of employment” so the current review will need to be concluded by December 2021 at the latest.

The 2020 review that was for the period 20 November 2019 to 30 June 2020 was concluded by the Council at the 16 February 2021 Council meeting. At the 16 March 2021 meeting the performance indicators were reviewed with new indicators being adopted. This being the case, two sets of performance indicators, one set for the period 1 July 2020 to 16 March 2021 and another set for the 17 March 2021 to 30 June 2021 will apply.

At the March 2021 Ordinary Meeting of Council (Item M21/5824) the Council also resolved that the next performance review commence by 01 August 2021 and be completed by the September 2021 Ordinary Meeting of Council.

DETAIL

The operational management of the CEO review process is through the direction of the Mayor, on behalf of Council and the Governance Committee, and is supported administratively by the People Services Manager, who acts under the Mayor’s guidance. The overall process is ultimately determined by the Council.

In order to meet the September timeline a process has been developed and presented to undertake the twelve month review. It is recommended that the Council consider re-appointing the previous consultant, and use a survey tool previously approved by the Council, to conduct the current review. Discussion has been held with the Mayor on modifying the current process so that Elected Members can have individual or group discussions with the CEO.

Performance indicators to be used for the next 12 month review period (1 July 2021 to 30 June 2022) will also need to be considered, set and agreed. It is recommended that at the conclusion of this review process the Council advertise for consultants to assist with the development of performance indicators for the next review, and undertake the next review. Until the new performance indicators are agreed and set, the current performance indicators and criteria remain in place.

Further it should be noted that the prescribed timeframe for this review also coincides with the activation of the Caretaker Period that is invoked by Council Policy CP-105 - Election Caretaker Period. The Caretaker period will commence on 9 September 2021.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

The annual CEO performance review process is the determination of the Council and community consultation is not required.

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL ATTACHMENT)**

II. OTHER AGENCIES / CONSULTANTS

There is no requirement for engagement with other agencies or consultants.

STATUTORY AND LEGAL IMPLICATIONS

Section 5.16(1) of the *Local Government Act 1995*, states that "Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation" (Absolute Majority required)

Section 5.23 (2)(a) 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 5.38 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.

FINANCIAL IMPLICATIONS

Costs will be incurred for the consultant to undertake the scope of work as described in the proposed review process.

The fee for the Performance Review Consultant is provided for each year in the budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The risk management implications of non-compliance with processes and legislative requirements may leave the City open to challenge on decisions or processes. There are no Environmental Management Implications in this report.

Risk Statement & Consequence	Level of Risk	Risk Treatment
The milestone dates to complete the CEO performance review are critical dates not met.	Low	Develop and endorse a process for the conduct of the CEO performance review
That the performance criteria for the next twelve months are determined.	Low	Define process that includes this stage.

POLICY IMPLICATIONS

Not applicable.

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as the requirements for a performance review are mandatory.

CONCLUSION

The CEO performance review process provides feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarifies future expectations, which are to be reflected in the performance criteria of the Chief Executive Officer's Contract and the Performance Development Plan.

An outcome of the process is resolution by the Council in relation to the Performance Criteria, Performance Development Plan and Salary Review for the Chief Executive Officer.

It is recommended that the simplified process, the same survey tool used in the last review and the same consultant be appointed to conduct this 1 July 2020 to 30 June 2021 review.

The Chief Executive Officer Performance Review process was distributed to Elected Members under confidential cover on 16 July 2021.

OFFICER RECOMMENDATION (5850)**APPROVAL**

At 8:04pm Cr Fitzgerald moved, Seconded Cr Barton –

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.**

**M21/5850 - PLANNING FOR CEO PERFORMANCE REVIEW 1 JULY 2020 TO 30 JUNE 2021
(REC) (CONFIDENTIAL ATTACHMENT)**

At 8:04pm during discussion and debate, the mover and the seconder consented to include point 5 to the officer recommendation as follows:

“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.”

COUNCIL RESOLUTION

At 8:04pm Cr Fitzgerald moved, Seconded Cr Barton –

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”.

At 8:08pm, the Mayor declared the Substantive Motion

CARRIED UNANIMOUSLY (13/0)

15. EN BLOC ITEMS**COUNCIL RESOLUTION**

At 9:36pm Cr Barton moved, seconded Cr Barber –

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

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

At 9:37pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (12/0)

At 9:37pm Cr Kepert abstained from voting on the matter.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**16.1 Rescission Motion – Request for Legal Assistance – Elected Member**Disclosure of Interest

Member	Cr S Kepert
Type of Interest	Interest under the Code of Conduct
Nature of Interest	I am an Elected Councillor of the City of Melville and am required to adhere to the Local Government Act 1995, associated Regulations and the <i>City of Melville Meeting Procedures Local Law 2017</i> .
Request	Stay and Discuss
Decision Leave	Stay and Discuss
Member	Cr K Mair
Type of Interest	Interest under the Code of Conduct
Nature of Interest	I am an Elected Councillor of the City of Melville and am required to adhere to the Local Government Act 1995, <i>City of Melville Meeting Procedures Local Law 2017</i> .
Request	Stay and Discuss
Decision Leave	Stay and Discuss
Member	Cr M Sandford
Type of Interest	Interest under the Code of Conduct
Nature of Interest	At the time the Rescission motion had been moved I believe action had been taken to implement the decision and Cr Kepert had engaged a solicitor prior to the motion.
Request	Stay and Discuss
Decision Leave	Stay and Discuss

Motion

That the Council rescind the decision of item M21/5846 - Request for Legal Assistance - Elected Member made at the Special Meeting of Council on the 22nd June 2021, to be considered at the Ordinary Meeting of Council on 20 July 2021 or such earlier special meeting on a date to be determined by the Mayor.

Procedural Motion

At 8:09pm Cr Fitzgerald moved, seconded Cr Pazolli –

That in accordance with clause 19.3(1) of the *City of Melville Meeting Procedures Local Law 2017*, the application of Part 18 of the Local Law be suspended.

At 8:20pm during discussion and debate, elected members requested the addition of “.4” after “the application of Part 18.” The mover and seconder consented to the change.

At 8:26pm Cr Sandford left the meeting.

At 8:26pm Cr Mair left the meeting and did not return.

16.1 Rescission Motion – Request for Legal Assistance – Elected Member

Procedural Motion

COUNCIL RESOLUTION

At 8.09pm Cr Fitzgerald moved, seconded Cr Pazolli –

That the Council

Under 19.3(1) of the *City of Melville Meeting Procedures Local Law 2017* that the operation suspends the application of Part 18.4 only of the *City of Melville Meeting Procedures Local Law 2017*

At 8:28pm, the Mayor declared the motion

CARRIED (9/2)

Yes	9	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Woodall, Cr Pazolli, Cr Fitzgerald, Mayor Gear
No	2	Cr Robins, Cr Kepert

Reasons for the motion as provided by Cr Fitzgerald

To ensure that there is procedural capacity to deal with the Rescission Motion.

Procedural Motion

At 8:28pm Cr Robins moved, Seconded Cr Woodall –

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

At 8:30pm, the Mayor declared the motion

LOST (5/6)

Yes	5	Cr Robartson, Cr Barton, Cr Woodall, Cr Robins, Cr Pazolli
No	6	Cr Macphail, Cr Barber, Cr Wheatland, Cr Kepert, Cr Fitzgerald, Mayor Gear

16.1 Rescission Motion – Request for Legal Assistance – Elected Member

Procedural Motion

COUNCIL RESOLUTION

At 8:35pm Cr Woodall moved, seconded Cr Pazolli –

That the meeting be adjourned to allow Elected Members to view a legal opinion obtained in relation to this matter.

At 8:35pm, the Mayor declared the motion

CARRIED (10/1)

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

At 8:36pm the Mayor adjourned the meeting.

At 8:53pm the Mayor resumed the meeting.

Motion

At 8:57pm Cr Wheatland moved, seconded Cr Robins –

That the Council rescind the decision of item M21/5846 - Request for Legal Assistance - Elected Member made at the Special Meeting of Council on the 22nd June 2021, to be considered at the Ordinary Meeting of Council on 20 July 2021 or such earlier special meeting on a date to be determined by the Mayor.

At 8:57pm Cr Kepert requested that it be recorded in the minutes, that his request to make a deputation on Item 16.1 Rescission Motion – Request for Legal Assistance – Elected Member, had been declined by the Mayor. The Mayor consented to the request.

Motion of Dissent

At 9:01pm, in accordance clause 10.5(3) of the *City of Melville Meeting Procedures Local Law 2017*, Cr Kepert moved a motion of dissent in relation to the Mayor's ruling against a point of order that comments made by an Elected Members were false and misleading.

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

At 9:03pm, the Mayor declared the motion

LOST (1/10)

16.1 Rescission Motion – Request for Legal Assistance – Elected Member

Motion

At 8:57pm Cr Wheatland moved, seconded Cr Robins –

That the Council rescind the decision of item M21/5846 - Request for Legal Assistance - Elected Member made at the Special Meeting of Council on the 22nd June 2021, to be considered at the Ordinary Meeting of Council on 20 July 2021 or such earlier special meeting on a date to be determined by the Mayor.

Procedural Motion

At 9:05pm Cr Barton moved, seconded Cr Robartson –

That the Motion be Put.

At 9:06pm, the Mayor declared the motion

LOST (4/7)

Yes	4	Cr Robartson, Cr June Barton, Cr Wheatland, Mayor Gear
No	7	Cr Macphail, Cr Barber, Cr Woodall, Cr Robins, Cr Kepert, Cr Fitzgerald, Cr Pazolli

At 9:13pm Cr Kepert left the meeting and returned at 9:26pm.

At 9:27pm Cr Kepert left the meeting and did not return.

Motion

COUNCIL RESOLUTION

At 8:57pm Cr Wheatland moved, seconded Cr Robins –

That the Council rescind the decision of item M21/5846 - Request for Legal Assistance - Elected Member made at the Special Meeting of Council on the 22nd June 2021, to be considered at the Ordinary Meeting of Council on 20 July 2021 or such earlier special meeting on a date to be determined by the Mayor.

At 9:28pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (8/2)

Yes	8	Cr Robartson, Cr Macphail, Cr Barton, Cr Wheatland, Cr Woodall, Cr Robins, Cr Fitzgerald, Mayor Gear
No	2	Cr Barber, Cr Pazolli

At 9:28pm Cr Sandford returned to the meeting.

16.1 Rescission Motion – Request for Legal Assistance – Elected Member**Reasons as provided by Cr Wheatland**

The reason that this has come to Council is that it was brought upon by a breach by Councillor Steve Kepert, ('Councillor'), and was ruled to undertake training as a part of the breach.

[2019] WASAT 78 ordered the 'Councillor' to undertake training as a result of a complaint made against him by a resident from the City of Melville.

The Order that was made was;

THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

- 1. Within 4 months of the date of this Order, Councillor Steve Kepert, a Councillor for the City of Melville, shall undertake:*
 - 1. the training course for Elected Members "Serving on Council" provided by WA Local Government Association (WALGA) for a period of no less than 7 and a half hours;*
 - or*
 - 2. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a period of not less than 7 and a half hours.*

Therefore it is not the City's responsibility to prove that the 'Councillor' has done the training, it is the responsibility of the 'Councillor' to produce evidence that he has complied with this order. This is the issue at hand and this is critical to the noncompliance by the 'Councillor' and the requirement for the City to report this legally.

This request to access Legal Representation, through this policy is a bad decision and is a frivolous usage of ratepayers' money.

The timeline has been outlined in the report attached to this item, shows multiple requests by the City's Officers to seek evidence of the training that was ordered to be undertaken, with no response from the 'Councillor' to prove this training has been completed. I believe that this is evidence that the City has done more than enough to seek the confirmation of the orders as detailed by the Local Government Standards Panel.

The listing of this failure to comply with the State Administrative Tribunal (SAT) decision is compulsory as a part of the failure to comply with the original minor breach.

The decision passed on the 22nd June Special Meeting to grant access to the Policy of up to \$10000 of ratepayers money is an extremely bad decision, when the proof could just be supplied by the 'Councillor' to stop this whole process from happening.

I believe the 'Councillor' needs to prove either that he has or hasn't done the training and not take the hard earned money of residents and ratepayers that are doing it tough during these COVID times.

17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCILDisclosure of Interest

Member	Cr K Mair
Type of Interest	Financial Interest
Nature of Interest	I am the Director of a company that owns land in the CBACP Area.
Request	Leave
Decision Leave	Leave

17.1 Motion without Notice – Request for Extension – Comments on Roberts Hatch Day Review of the Canning Bridge Activity Centre Plan**Procedural Motion****COUNCIL RESOLUTION**

At 9:28pm Cr Wheatland moved, seconded Cr Barton –

That Cr Sandford be permitted to present to the Council a Motion Without Notice relating to Motion Request for Extension – Comments on Roberts Hatch Day Review of the Canning Bridge Activity Centre Plan

At 9:28pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

Motion**COUNCIL RESOLUTION**

At 9:28pm Cr Sandford moved, seconded Cr Pazolli –

That the Council:

- 1. Note the 9 July 2021 receipt of the draft modifications to the Canning Bridge Activity Centre Plan from the independent consultant Hatch Roberts Day.**
- 2. Acknowledge the need for additional time to review the document inclusive of Officers comments in order to provide feedback on the draft Canning Bridge Activity Centre Plan.**
- 3. Direct the Chief Executive Officer to obtain additional detail from Hatch Roberts Day to assist the assessment of the draft document including:**
 - (a) A version of the draft document which clearly indicates which content is new/proposed as well as any existing content proposed to be deleted.**
 - (b) A comparison of outcomes of proposed provisions in comparison to the current CBACP (for example height, built form, yield and community benefits) from a sample of existing M15, M10, H8 and H4 developments, as well as future likely developments such as the former Canning Bridge Senior Citizens site and a site within the M15 core area north of Canning Highway.**
- 4. Note the need for a further 14 day Elected Member feedback period following the distribution of all of the additional information requested in point 3.**
- 5. Request a further Elected Member Information Session / Workshop feedback during the additional feedback period proposed point 4.**

At 9:36pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

17.1 Motion without Notice – Request for Extension – Comments on Roberts Hatch Day Review of the Canning Bridge Activity Centre Plan**Reasons for the Motion without Notice as provided by Cr Sandford**

Independent consultant Hatch Roberts Day has completed a draft of proposed modifications to the Canning Bridge Activity Centre Plan. The draft CBACP was circulated to Elected Members on 9 July 2021. The document includes officer comment on the content of the document and how it responds to the project brief and it appears that review of the document has identified a number of areas requiring additional attention, including a need for greater justification in support of the proposed content.

To assist Elected Members with fully comprehending the nature and effect of the review, a comparison document showing tracked changes or a table of major changes would be beneficial along with a further workshop with Hatch Roberts Day. Elected Members would be further assisted by preparation of a comparison of the likely effect of the draft amended changes on a sample of existing M15, M10, H8 & H4 developments as well as a couple of future likely developments (eg the former Canning Bridge Senior Citizens development, and a site within the M15 core area north of Canning Hwy, Applecross).

18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

19. CLOSURE

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 9:37pm.