

**MINUTES  
OF THE  
ORDINARY MEETING OF COUNCIL  
HELD ON  
19 APRIL 2011  
AT 6.30PM IN THE COUNCIL CHAMBERS  
MELVILLE CIVIC CENTRE**

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**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON TUESDAY, 19 APRIL 2011.**

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**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6:30pm. Mr J Clark the Governance and Compliance Program Manager read aloud the Disclaimer and then His Worship the Mayor, Russell Aubrey, read aloud the Affirmation of Civic Duty and Responsibility.

**Affirmation of Civic Duty and Responsibility**

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

**2. PRESENT**

His Worship the Mayor, Russell Aubrey

**COUNCILLORS**

Cr M Reynolds (Deputy Mayor)  
Cr C Robartson, Cr R Subramaniam  
Cr N Pazolli, Cr P Reidy  
Cr A Nicholson, Cr A Cenivila  
Cr J Barton, Cr G Wieland  
Cr N Foxton

**WARD**

University  
Bull Creek/Leeming  
Applecross/Mount Pleasant  
City  
Bicton/Attadale  
University

**3. IN ATTENDANCE**

Mr J Christie	A/Chief Executive Officer
Mr M Tieleman	Director Corporate Services
Ms C Young	Director Community Development
Mr S Cope	Director Urban Planning
Mr P Kellick	A/Director Technical Services
Mr L Hitchcock	Executive Manager Legal Services
Mr P Prendergast	Manager Planning and Development Services
Mr B Kelly (From 8.05pm to 8.38pm)	Environmental Programs Coordinator
Mr B Taylor	Manager Information, Technology & Support
Mr J Clark	Governance & Compliance Program Manager
Ms D Beilby	Minute Secretary

At the commencement of the meeting there were six members of the public and one member from the Press in the Public Gallery.

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

**4.1 APOLOGIES**

Cr B Kinnell – Palmyra/Melville/Villagee Ward  
Dr S Silcox – Chief Executive Officer

**4.2 APPROVED LEAVE OF ABSENCE**

Cr C Halton – Palmyra/Melville/Villagee Ward

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

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

Nil.

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

Nil.

**6. QUESTION TIME****6.1 Mr E Nielsen, Booragoon**

*"Subject - Western Power's Proposed Network Expansion*

*Subsequent to questions raised at the last Ordinary Meeting of Council March 15, 2011 numerous attempts have been made, without success, to be informed about when the City will be meeting with Western Power in order to deal with the Councillor's decisions made at the Ordinary Meeting of Council October 19, 2010.*

**Question 1**

- 1. Will the City please advise when they will be meeting with Western Power, with whom and an outline of the City's proposed agenda.*

**Question 2**

- 2. If a meeting has already taken place please advise when it took place, with whom and matters discussed together with any outcomes and decisions made."*

**Response**

In response to both Parts 1 and 2 of the question, City officers met with Western Power representatives on Monday 11 April to prepare information in the form of Frequently Asked Questions for the City's website in response to community interest in the sub-station issues. The City was advised at the meeting that at this time Western Power is still considering all options. The City will continue to maintain contact with Western Power on this matter."

**6.2 Mrs Shackleton, Bicton****Question 1**

*"With reference to the Draft Telco Policy will there be inclusion for infrastructure to be placed on site (such as cherry picker) to give accurate visual indication to residents of visual impact in applications of phone towers."*

**Response**

The Manager Planning and Development Services responded by saying that there was no need to include reference to a cherry picker in the Policy. It would, however be within the City of Melville's control to require a cherry picker in the assessment of any application, if this was considered necessary at the time.

**6. *QUESTION TIME (CONTINUED)*****6.3 Ms S Taylor-Rees, Bicton**

*"In reference to the Draft of the Telecommunication Facilities and Communications Equipment under Policy Statement Telecommunication Facilities where located within proximity to residential properties and other sensitive land uses, such as schools and childrens facilities care must be taken to ensure facilities are well designed and sited to minimise visual impact."*

**Question 1**

*"Why are sensitive areas not included as having a presumption against telecommunication development?"*

**Response**

The Manager Planning and Development Services responded by saying It is not for the policy to dictate which areas can and cannot be selected for telecommunications development. The Policy merely sets out criteria against which the assessment of applications for telecommunications development will be made. This criteria is more exacting in relation to development proposals in locations that are deemed by the Policy, to be of special value.

**Question 2**

*"Why has photographic imaging and other methods to prove to Council no adverse amenity impacts will occur not been included in this draft as it is in the current policy."*

**Response**

The Manager Planning and Development Services responded by saying that reference to photographs and other imagery has not been included within the policy as such information can be requested by case officers at the time of assessment.

**6.4 Ms R Kerr, Mount Pleasant****Question 1**

*"Are all Councillors aware of:*

- *The vital importance of access to Public Open Space (POS) for the people of Mount Pleasant;*
- *That there is less than 4.8% POS in Mount Pleasant*
- *That the effect of the increased densities of Canning Bridge (CBV) will mean that there will only be 1.14m<sup>2</sup> of POS per person living in the area (and less including workers and visitors); and*
- *That 10% Cash-in-lieu of POS (Sections 155 of the Planning and Development Act 2005) for CBV can change the future for making a new park and a healthy future.*

**6. *QUESTION TIME (CONTINUED)***

Question 2

*Does the Mayor and Council affirm the commitment to access a healthy lifestyle for ratepayers including equitable access, where possible, to park areas for passive and active recreation?"*

Response

His Worship the Mayor responded to questions 1 and 2 by saying that all Councillors are aware of the points raised in the questions and that the point that should be taken is that the community is concerned about having a healthy lifestyle including access to areas for passive and active access to healthy lifestyle options.

**7. *AWARDS AND PRESENTATIONS***

Nil.

**8. *CONFIRMATION OF MINUTES***

**8.1    *ORDINARY MEETING OF COUNCIL – 15 MARCH 2011***  
**Min 15 March 2011**

**COUNCIL RESOLUTION**

At 6.44pm Cr Wieland moved, seconded Cr Reynolds –

**That the Minutes of the Ordinary Meeting of Council held on Tuesday, 15 March 2011, be confirmed as a true and accurate record.**

At 6.44pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**8.2    *NOTES OF AGENDA BRIEFING FORUM – 5 APRIL 2011***  
**Notes 5 April 2011**

**COUNCIL RESOLUTION**

At 6.45pm Cr Reidy moved, seconded Cr Subramaniam –

**That the Notes of Agenda Briefing Forum held on Tuesday, 5 April 2011, be received.**

At 6.45pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**8. CONFIRMATION OF MINUTES (CONTINUED)**

**8.3 GOVERNANCE COMMITTEE – 22 MARCH 2011**

**COUNCIL RESOLUTION**

At 6.45pm Cr Barton moved, seconded Cr Robartson –

**That the Minutes of the Governance Committee Meeting held on Tuesday 22 March 2011 be noted.**

**NB:**

**The Minutes of the Governance Committee held on 22 March 2011 were confirmed at the Governance Committee Meeting held on 14 April 2011.**

At 6.45pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**9. DECLARATIONS OF INTEREST**

**9.1 FINANCIAL INTERESTS**

- P11/3196 Cr Robartson
- Petition Cr Barton Telstra Mobile Base Station Point Walter Golf Course
- P11/3196 Cr Ceniviva
- P11/3202 Cr Pazolli
- Item 14.1 – The City's Wetlands Cr Nicholson
- Item 14.1 – The City's Wetlands Cr Pazolli
- Item 14.1 – The City's Wetlands Mr Tieleman

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

Nil.

**10. APPLICATIONS FOR NEW LEAVES OF ABSENCE**

- Cr Pazolli
- Cr Reidy
- Cr Robartson
- Cr Barton

At 6.47pm Cr Subramaniam moved, seconded Cr Ceniviva -

**That the application for new leave of absence submitted by Crs Pazolli, Reidy, Robartson and Barton on 19 April 2011 be granted.**

At 6.47pm the Mayor submitted the motion which was declared

**CARRIED (11/0)**

## **11. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

- P11/3192 Confidential Item – Disposal of Lot 9 Leach Highway and Lot 100 North Lake Road, Willagee
- P11/3202 Confidential Item – Purchase of Water Corporation Land Bounded by Clive Street, Baldwin Avenue and Ogilvie Road, Mount Pleasant

The above matters are confidential in accordance with Section 5.23 (c) & (h) of the Local Government Act 1995, and Local Government (Administration) Regulations 1996 Clause 4A relating to the sale or purchase of property.

## **12. PETITIONS**

### **12.1 Petition – Blend Café – 356 Marmion Street, Melville**

A petition signed by 263 residents and 54 non residents was received by the City of Melville on Wednesday 16 March 2011. The petition reads as follows -

*“We, the undersigned, all being Electors of the City of Melville, do humbly pray that Blend Café of 356 Marmion Street, Melville WA 6156 should be able to open both sides of its premises and be able to utilise all of its available dining space for all day trading on Sundays.”*

#### **COUNCIL RESOLUTION**

At 6.46pm Cr Reidy moved, seconded Cr Barton –

**That the petition bearing 317 signatures be noted.**

At 6.46pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

This petition was received a day late to be tabled at the March Council meeting. However, at that meeting, the Council resolved to allow Blend Cafe of 356 Marmion Street, Melville to open both sides of its premises for all day trading on Sundays.

**12. PETITIONS (CONTINUED)**

His Worship the Mayor advised that the following three petitions had been received since the publication of the Agenda and presented them to be tabled and considered.

**12.2 Petition – Proposed Telstra 46M High Impact Mobile Phone Tower at Point Walter****Disclosure of Interest**

Item No.	Petition
Elected Member/Officer	Cr J Barton
Type of Interest	Proximity Interest in Accordance with the Act (S5.60B)
Nature of Interest	Proximity Interest to Point Walter
Request	Stay and Observe
Decision of Council	Not Required

At 6.50pm Cr Barton, having declared an interest in this item, left the meeting.

A petition signed by 52 residents and 2 non residents was received by the City of Melville on Friday, 25 March 2011. The petition reads as follows:

*"We, the undersigned, all being members of Attadale Playgroup Inc., do humbly pray that approval for the proposed Telstra 46M High Impact Mobile Phone Tower be located at Point Walter be denied.*

*The location of this tower in an "A Class Reserve" will be less than 300M from our playgroup, a community sensitive location, and will greatly impact on the surrounding area and lead to loss of amenity for the community. Attadale Playgroup Inc. requests the City of Melville recognise our concerns and adopt a precautionary approach by refusing this development application and protecting our community open space at Point Walter."*

**COUNCIL RESOLUTION**

At 6.50pm Cr Wieland moved, seconded Cr Subramaniam –

**That the petition bearing 54 signatures be tabled, acknowledged and the lead petitioner be advised that the Telstra application to install a high impact mobile phone tower at Point Walter reserve had been withdrawn. This matter will be further dealt with in conjunction Item P11/3195 – Stage Three Review of Urban Planning Policies, on this Agenda. The recommendation for Item P11/3195 proposes advertising and review of submissions by the Council.**

At 6.50pm the Mayor submitted the motion, which was declared

**CARRIED (10/0)**

**12. PETITIONS (CONTINUED)**

12.3 Petition – Telstra Mobile Phone Base Station at Point Walter Golf Course

A petition signed by 4,198 residents and 305 non residents was received by the City of Melville on Friday, 25 March 2011. The petition reads as follows -

*"We, the undersigned, all being Electors of the City of Melville, do humbly pray that the City of Melville oppose the application for approval to commence development – Telstra Mobile Phone Base Station – Point Walter Golf Course – No. 1 (Lot 1 1241) Stock Road, Bicton WA 6157.*

*A monopole cell phone tower of 46M will dramatically impact on the aesthetic value of this A Class Reserve and is inconsistent with the character of the neighbourhood surrounding. It will impact on residents, schools, playgroups, golfers and the community as a whole. This is a community sensitive location in which a precautionary approach must be adopted. We request the City of Melville strongly object to this tower and protect against visual blight and damage to our community open space."*

**COUNCIL RESOLUTION**

At 6.50pm Cr Wieland moved, seconded Cr Reidy –

**That the petition bearing 4,503 signatures be tabled, acknowledged and the lead petitioner be advised that the Telstra application to install a high impact mobile phone tower at Point Walter reserve had been withdrawn. This matter will be further dealt with in conjunction Item P11/3195 – Stage Three Review of Urban Planning Policies, on this Agenda. The recommendation for Item P11/3195 proposes advertising and review of submissions by the Council.**

At 6.51pm the Mayor submitted the motion, which was declared

**CARRIED (10/0)**

At 6.52pm Cr Barton returned to the meeting

**12. PETITIONS (CONTINUED)****12.4 Petition – Change of Use –Jacs Café Pizzeria**

A petition signed by 21 residents and nine non residents was received by the City of Melville on Friday 8 April 2011. The petition reads as follows -

*"We, the undersigned, all being Electors of the City of Melville, do humbly pray that The Mayor and Councillors reject the application for planning Approval for a proposal submitted by Jacs Café and Pizzeria to change the use of its premises from a restaurant to a small bar because: Jacs already has 100% extended trading permit (liquor without a meal), which permits the serving of alcohol to customers even if they have not purchased a meal;*

- The presence of a bar of any kind in Applecross Village (Village) is not in keeping with the current atmosphere which is best suited for small shops, cafes and family orientated restaurants;*
- There are enough opportunities in the Village and elsewhere in Applecross to purchase and consume alcohol;*
- A small bar could lead to antisocial behaviour attributed to higher levels of intoxication resulting from alcohol intake without food; and*
- A potential increase in the number of patrons (given that the small bar licenses can have up to 120 people while Jacs currently seats 68 ) could contribute to increased demand for parking, increased noise levels and traffic in and out of the Village. These would have a negative impact on the neighbourhood's amenity".*

**COUNCIL RESOLUTION**

At 6.53pm Cr Reidy moved, seconded Cr Pazolli –

**That the petition bearing 30 signatures be tabled, acknowledged in writing to the lead petitioner. The lead petitioner be further advised that the matter is the subject of a development application which will be referred to the City of Melville Development Advisory Unit and may be the subject of a report to Council. The concerns raised in the petition will be considered when the development application is examined.**

At 6.53pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)****13. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

The Presiding Member advised Elected Members that when dealing with the following Reports they act in their Quasi-Judicial capacity which means that they are performing functions which involve the exercise of discretion and require a part of the decision making process be conducted in a Judicial Manner. The judicial character arises from the obligation to abide by the principles of natural justice. This on its part requires the application of the relevant facts to the appropriate statutory regime.

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
 (18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2010-1571  
 Property : Lot 4 (18) Duncraig Road, Applecross  
 Proposal : Two-Storey Single House with Undercroft  
 Applicant : J Buckley  
 Owner : Windstone Pty Ltd  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Development approval is sought for the construction of a two-storey single house with undercroft.
- The proposal includes a number of variations to the acceptable development provisions of the residential design codes (R-Codes) relating to boundary setbacks and privacy setbacks.
- In addition, the development also seeks approval for a variation to the maximum building height permitted under Part 4 of Community Planning Scheme No. 5 (CPS5).
- The latter requires the special majority approval of Council under the provisions of Clause 4.3 of the Scheme text.
- Both the R-Codes and CPS5 variations have been advertised to affected neighbours. No objections were received in response to the proposal.
- The R-Code variations are considered to satisfy the relative performance criteria or can otherwise be made to comply with it subject to the imposition of appropriate conditions.
- The variation sought to the maximum height provisions of CPS5 is considered acceptable in this case, as the general objectives of CPS5 are satisfied, as are the amenity provisions outlined in Clause 7.8. As such, the Special Majority approval of the proposal is recommended.
- The application was referred to the meeting of the Development Advisory Unit on 15 March 2011 and reported on 21 March 2011.
- The proposal is recommended for approval with conditions.



**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
 (18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

**BACKGROUND**

This application was referred to the Development Advisory Unit on the 15 March 2011 and reported on 21 March 2011. The item is referred to Council in accordance with Clause 2(1) (f) of Policy CP-06-PL-004: "Development Advisory Unit", given it requires a Special Majority decision relative to the proposed building height variation.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area – River Foreshore
R-Code	:	R12.5
Use Class	:	Residential
Use Permissibility	:	P - permitted

**Site Details**

Lot Area	:	1,712.40sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	1 x <i>Jacaranda Mimosifolia</i>
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo above

**DETAIL**

**Development Requirements**

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
<b>Rear Setback (north)</b>					
UC - Covered Terrace	7.5m	1.8m	<b>Does not comply</b>	MPDS	
UC - Pool Pump / Surge Tank	7.5m	3.5m	<b>Does not comply</b>	MPDS	
GF - Swimming Pool and Pool Terrace	7.5m	3.5m	<b>Does not comply</b>	MPDS	
<b>Side Setback (west)</b>					
UC - Terrace / Gym / Massage / Bath	2.0m	1.6m	<b>Does not comply</b>	MPDS	
GF - Pool Terrace	4.2m	1.6m	<b>Does not comply</b>	MPDS	
UF - Bed 4	3.5m	2.5m	<b>Does not comply</b>	MPDS	
UF - Entire Wall	4.1m	2.5m	<b>Does not comply</b>	MPDS	

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
 (18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

Side (south)					
UC - Surge Tank / Plant Room	3.8m	1.5m	<b>Does not comply</b>	MPDS	
GF - Swimming Pool	4.8m	1.5m	<b>Does not comply</b>	MPDS	
GF - Kitchen / Pantry / Stairs / Drying	3.5m	1.5m	<b>Does not comply</b>	MPDS	
UF - Terrace / Bed 1 / Ensuite / Dressing	4.0m	2.4m	<b>Does not comply</b>	MPDS	

(Note: UC – undercroft, GF – ground floor, UF – upper floor)

**Building Height**

Development Requirement	Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Building Height	8.0m (eaves)	10.5m	<b>Does not comply</b>	Council	
	10.5m (max)	10.5m	Complies	n/a	

**Privacy Setbacks**

Development Requirement	Required	Proposed	Comments	Delegation to approve variation	Plan Notation
Bed 4	4.5m	2.7m	<b>Does not comply</b>	MPDS	
Covered Terrace	7.5m	2.66m	<b>Does not comply</b>	MPDS	
Pool Terrace	7.5m	1.65m	<b>Does not comply</b>	MPDS	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variations to R-Codes / CPS5  
 Support/Object: Conditional support

	Summary of Submissions	Support / Objection	Officer's Comment	Action (Condition/ Uphold / Not Uphold)
1	No objection to variations subject to windows along the north-east elevation being obscured to 1650mm (minimum).	Support	The applicant has agreed to provide opaque glass of 1650mm high along the entire length of the gallery.	Uphold
2	We are in approval of plans.	Support	Noted.	Uphold
3	No comments.	Support	Noted.	Uphold

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****REFERRALS TO GOVERNMENT AGENCIES**

There were no Government referrals required in respect of this application.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse to grant approval for the development, or should it grant conditional approval, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no financial implications applicable.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no strategic or risk management implications applicable.

**POLICY IMPLICATIONS**

The proposal seeks to vary the building height provisions within Part 4 of CPS5 as guided by Council Policy 06-026: Height of Buildings.

Clause 9.6(f) of CPS5 stipulates that “...a Policy shall not absolutely bind the Council in respect of any application for planning approval, but the Council shall have due regard to the provisions of the Policy and shall be satisfied that the application is not prejudicial to the objectives of the Policy before making its decision”.

The objective of Policy 06-026 is “...to control the height of buildings”.

In this instance, the proposed height variation does not conflict with the purpose and intent of the policy and its general objectives. Further elaboration in respect of this point is provided elsewhere in this report.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council may refuse to grant consent, or it could recommend that the details of the proposal be modified to comply with the maximum heights provided for under CPS5 and Policy. This course of action is not recommended in this case however, as the impacts of the development are considered to be acceptable, notwithstanding the height variation sought.

At the request of the applicant, the decision reached by Council may be subject to review by the State Administrative Tribunal (SAT).

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****COMMENTS**

Planning approval is sought for the construction of a two-storey single house with undercroft.

The subject property is typical of those located along this part of Duncraig Road, it having a large lot area, with access to expansive river views, and being located on the ridge of an escarpment which runs in an east-west direction. As a result of the latter, the subject lot has a site level difference across it from north to south of approximately 9.0m, the bulk of which occurs within the rear-third of the site, the point at which the east west escarpment passes through it.

In view of the particular topographical characteristics of the lot, the proposed development results in a number of variations to the boundary and privacy development provisions of the R Codes, and a variation to the City's building height requirements, as follows:

**Rear Setback**

The proposal seeks a variation to both the 6.0m (R-Codes) and 7.5m (CPS5) rear setback requirements across the undercroft and ground floor components. The areas of variation primarily relate to the pool, pool terrace and associated equipment areas.

The variation has been assessed against the Performance Criteria of the R-Codes relating to boundary setbacks and is supported in this instance for the following reasons:

- The bulk of the building along the rear boundary will be softened with the use of landscape treatment within the 3.5m setback from the rear boundary;
- The impact of the variations towards the immediate neighbour at No. 29 The Strand will be minimal as the proposed development will abut a garage and driveway area on the ground floor, and the upper floor is setback 11.8m;
- The impact towards the adjoining properties to the north is minimal given that both properties (i.e. No. 27 The Strand and No. 20 Duncraig Road) have increased their own ground levels to effectively mirror that proposed by the subject development;
- Potential bulk impact to the north-western neighbour at No. 31 The Strand is mitigated due to the existence of dense vegetation between the two properties;
- Bulk impact is also minimised by virtue of the building design which incorporates two linear accommodation wings, each off-set from one-another, as opposed to the more traditional built form approach that typically results in the creation of a single structural mass;
- All adjoining properties maintain reasonable access to ventilation;
- Access to sunlight and daylight is not unduly affected by the setback variation. It is noted that overshadowing impact is well within acceptable limits being 16% to No. 16 Duncraig Road and 1.3% to 31 The Strand;
- The majority of existing properties along Duncraig Road have benefited from a reduced rear setback consistent with their need to provide significant retaining wall treatments due to the topography of the land;

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

- The amenity currently enjoyed by surrounding neighbours is maintained as result of the above; and,
- The adjoining residents have no objection to the rear setback variation.

**Side Setback (east)**

Boundary setback variations along the eastern boundary are sought relative to all three levels of the propose residence. With the exception of the undercroft covered terrace and pool terrace above, the variations only affect the adjoining resident at No. 20 Duncraig Road. Whilst there have been no objections submitted by the adjoining neighbours, it is still necessary to consider the variations relative to the Performance Criteria of the R-Codes. In this instance, the variation is supported for the following reasons:

- Bulk impact to the adjoining properties to the east is minimal given that both properties (i.e. No. 27 The Strand and No. 20 Duncraig Road) have increased their ground levels to mirror those of the proposed development;
- The bulk impact created by the reduced setback will have a very marginal impact when compared to the existing bulk impacts that exist by virtue of significant retaining walls, characteristic of the locality;
- The bulk impact to No. 20 Duncraig Road is considered to be minor given that:
  - The adjoining residence is sited approximately 700mm higher than that now proposed;
  - No. 20 Duncraig Road does not contain any major openings facing west. Whilst this residence is yet to be completed, it is anticipated that the common boundary will become a landscaped service corridor which will further mitigate any adverse bulk impacts; and,
  - Whilst a portion of the roof for the proposed residence is approximately 8.5m (maximum eave height), the roof in its entirety has minimal impact by virtue of its shallow pitch.
- The potential bulk impact of the east facing walls is minimised through articulation, the use of window openings of various sizes and shapes, and the proposed exterior finish comprising render, stone and timber;
- There is no overshadowing impact in this case as the walls are north-east facing; and,
- With the exception of the Bed 4 window (and pool terrace), privacy levels are within acceptable standards (refer to 'privacy setback' section below for further details).

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**Side Setback (west)

The western side setback variations relate to the exposed undercroft area, entire ground floor wall, and the upper floor wall from the terrace through to the dressing room. It is noted that the majority of the walls are generally compliant however, by virtue of the significant level difference across the rear third of the lot, the wall heights as measured at their maximum height result in the setback variation being sought.

All variations have been the subject of neighbour consultation with no representations received. Notwithstanding, it is still necessary to consider the variations relative to the Performance Criteria of the R-Codes. In this context, the following justification is provided:

- Privacy levels currently enjoyed by the adjoining residents at No. 16 Duncraig Road and No. 31 The Strand are not compromised by the proposed setback variations as there are no major openings which directly face either adjoining properties;
- Whilst privacy setbacks for the north-facing ground and upper floor terraces are non-compliant when measured on a horizontal plane, once the vertical height differences are taking into consideration, direct overlooking is minimised;
- The potential bulk impact towards the occupiers of No. 31 The Strand and No. 16 Duncraig Road is mitigated through the existing dense vegetation between the properties;
- The cumulative bulk impact of the undercroft and upper floor walls is considered acceptable on the basis that it is less than that which currently exists with the existing residence on the lot, which is of flat roof design and measures approximately 11.6m (top of roof/wall) in height;
- Adequate access to ventilation is not compromised for adjoining occupiers given the site level differences; and,
- As noted previously, access to sunlight and daylight is not unduly affected with the overshadowing impact being well within the acceptable limit being 16% towards No. 16 Duncraig Road and 1.3% towards No. 31 The Strand.

Visual Privacy

Three privacy setback variations in relation to the undercroft covered terrace, ground floor pool terrace and upper floor bed 4 major openings are proposed. In order to ensure all major openings satisfy the Acceptable Development Criteria of Clause 6.8.1(A1), a condition of approval is recommended to secure the suitable treatment of the window openings in accordance with Clause 6.8.1 (A1) of the R Codes.

In addition to the above, it is noted that the adjoining neighbour at No. 20 Duncraig Road requested that the east-facing gallery windows be made obscure to avoid any overlooking into a floor-to-ceiling window contained on their property. Whilst this gallery window is compliant with the privacy provisions of the R Codes, the applicant has indicated a willingness to fix obscure screening up to 1.65m along its entire length.

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**Building Height

The majority of the proposed development complies with the building height limits found within Part 4 of CPS5, as supported by Council Policy 06-026. By virtue of the very sloping topography of the site, a height variation for the northern most part of the proposed western accommodation wing is sought. This is depicted on Plan DA102 (refer to attachments), which shows that an 11.0m portion of the building has a height to eave above natural ground level of 10.5m, a variation of 2.5m.

It is noted that Council Policy 06-026 allows a 10% variation (8.8m eave height) to the eave height where the amenity of the adjoining properties is not adversely affected. Notwithstanding this, the proposed variation exceeds the 10% variation.

Given the topographical characteristics of the site, which place a particular constraint on its development, the applicant has requested that Council agree to a height variation in this instance.

The impact of the height variation has been the subject of careful consideration, and it is concluded that the proposal be supported as submitted for the following reasons:

- The portion of roof that exceeds the 8m eave height is a 11.0m length of roof, within a lot which measures 68.1m in depth;
- The bulk of the dwelling in its entirety is minimised by virtue of the low pitch of the roof and the design of the dwelling in two wings. Based on this design, the majority of the building falls within the maximum 10.5m ridge height, which is otherwise permitted;
- The proposed dwelling is notably lower in height in comparison to the existing residence on the site which stands approximately 11.6m in height, compared to a maximum of 10.5m for the proposed dwelling;
- The area of the roof which exceeds the permitted eave height is approximately 28sqm, of which the majority is contained centrally on the subject site and setback generously from the adjoining properties;
- The applicant states that the design objective (of the residence) is to provide a refined building with an elegant roofline, with a 'floating' low line roof aesthetic. There are three roof elements for the residence, each with a relatively low pitch, rectangular in plan and viewed as separate entities. This minimises the overall impact that the development has; and
- The roof structure which is the subject of the variation is setback approximately 12.0m from the rear boundary, which is significantly greater than that which would otherwise be acceptable at 7.5m.

On this basis the height variation proposed is supported.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****CONCLUSION**

It is considered that the development, subject to the imposition of appropriate conditions, satisfies the provisions and requirements of CPS5 and the R-Codes. Accordingly, it is recommended that the conditional approval be granted.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3193)  
SPECIAL MAJORITY APPROVAL**

At 6.54pm Cr Reynolds moved, seconded Cr Reidy –

**That the application for a two-storey single house with undercroft at Lot 4 (18) Duncraig Road, Applecross be approved by a Special Majority decision of the Council subject to the following Special and Standard Conditions:**

- 1. All stormwater generated on site is to be retained on site. Details of the drainage system are to be submitted prior to the issue of a building licence.**
- 2. Prior to initial occupation, the NORTH side of the UNDERCROFT COVERED TERRACE, as marked in 'RED' on the plans hereby approved, must have installed fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of Clause 6.8.1 (A1) of the Residential Design Codes of Western Australia. The screening measures must thereafter be retained in perpetuity, to the ongoing satisfaction of the Manager Planning and Development Services.**
- 3. Prior to initial occupation, the EASTERN side of the GROUND FLOOR POOL TERRACE, as marked in 'RED' on the plans hereby approved, must have installed fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of Clause 6.8.1 (A1) of the Residential Design Codes of Western Australia. The screening measures must thereafter be retained in perpetuity, to the ongoing satisfaction of the Manager Planning and Development Services.**
- 4. Prior to initial occupation, the window of the UPPER FLOOR BED 4 as marked in 'RED' on the plans hereby approved, must have installed fixed obscure glazing to a minimum height of 1.65 metres above the finished floor level; or a minimum sill height of 1.6 metres above the finished floor level; or an obscure awning type window; or any other alternative that complies with the purpose and intent of Clause 6.8.1 (A1) of the Residential Design Codes of Western Australia. The screening measures must thereafter be retained in perpetuity, to the ongoing satisfaction of the Manager Planning and Development Services.**
- 5. A 1.8 metre high fence must be provided from the highest retained ground level unless otherwise agreed upon between adjoining neighbour/s. All fencing to be provided in accordance with the Dividing Fences Act and be constructed as a minimum standard of fibre cement.**

**P11/3193 - PROPOSED TWO-STOREY SINGLE HOUSE WITH UNDERCROFT AT LOT 4  
(18) DUNCRAIG ROAD, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

6. Prior to first occupation, the external face of the parapet wall(s) on the boundary is to be finished to an equivalent standard of finish and colour of the dwelling (or fence) on the adjoining property to the satisfaction of the Manager Planning and Development Services.
7. In accordance with the provisions of Council Policy "Highly Reflective Roofing Materials", the materials proposed for use on the development hereby approved must not be highly reflective. The use of Zincalume, white or surfmist coloured metal roofing may only be permitted through the grant of a separate planning approval.
8. Prior to first occupation, all unused crossover(s) are to be removed and the kerbing and road verge reinstated at the owners full cost. All work undertaken to be to the satisfaction of the Manager Planning and Development Services.
9. The construction of retaining walls must not exceed the heights specified on the plans hereby approved, unless otherwise approved by Council.
10. Ground levels may not be changed other than approved as part of this approval.

**ADVICE NOTES:**

11. The applicant be advised that although the EAST facing UPPER FLOOR GALLERY window setback 1.4 metres complies with the Residential Design Codes (2010), it is recommended that the window be screened to eliminate any overlooking into the eastern neighbour's property in an attempt to maintain a sociable relationship with this neighbour. Please note that this is only a recommendation and is not a condition of approval.
12. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.
13. The applicant be advised that specific approval must be obtained for any street tree removal. Should the applicant propose to obtain permission for the removal of any street trees, an application should be made to the City. The planning approval hereby granted assumes there will be no street tree removal.

At 6.54pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
 MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : Palmyra/Melville/Villagee  
 Category : Operational  
 Application Number : DA-2010-1566  
 Property : 23A Holman Street, Melville WA  
 Proposal : Two Storey Single Dwelling  
 Applicant : Lorimer Homes Pty Ltd  
 Owner : Mr M T Kim and Mrs T G Kim  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought for the construction of a two-storey single house on a battle-axe lot.
- The lot is located within the Living Area Precinct – Melville ML1. Community Planning Scheme No. 5 (CPS5) contains provisions for development on battle-axe lots within this precinct. The application does not satisfy the battle-axe provisions relating to upper floor area and setbacks and as such, requires a Special Majority decision of the Council to approve.
- The proposal is fully compliant with the Acceptable Development provisions of the Residential Design Codes (R-Codes).
- The proposed dwelling will not result in any significant adverse impacts upon the amenity of occupiers of neighbouring residential properties.
- Variations to the battle-axe provisions in CPS5 require a Special Majority decision of Council.
- The application was considered by the Development Assessment Unit (DAU) on 8 March 2011, which recommended that Council grant conditional approval.



**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)****BACKGROUND**

The subject lot is located within the 'Living Area – Melville 1 ML1' Precinct. Community Planning Scheme No. 5 (CPS5) contains battle-axe development requirements for the development of battle-axe lots within this precinct which include restrictions on plot ratio, floor area and setbacks above that specified in the R-Codes.

Council has previously approved a number of developments with variations to the abovementioned CPS5 development requirements where they were in compliance with the Acceptable Development and/or Performance Criteria of the R-Codes.

Council resolved in November 2010 to initiate Amendment 60 to CPS5 to delete the battle-axe development provisions within the Precincts for the following reasons:

- The R-Codes, coupled with the amenity provisions contained within Clause 7.8 of CPS5, provide the necessary controls to manage the impacts of two storey (or more) development on battle-axe lots.
- The provisions apply to two storey development on battle-axe lots, but do not apply to two storey developments on rear survey strata lots. This creates an anomaly.

At this meeting, Council also resolved to revoke the Living Area Precinct policies applicable to Attadale and Applecross which contained battle-axe lot provisions.

This application was referred to the Development Advisory Unit on 8 March 2011 which recommended that the application be approved subject to conditions. Variations to the battle-axe provisions within CPS5 require a Special Majority decision of Council.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area – ML1
R-Code	:	R20
Use Type	:	Residential
Use Class	:	'P' - Permitted

**Site Details**

Lot Area	:	508sqm
Retention of Existing Vegetation	:	No existing vegetation on site
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo above

**3198 Site & Elevation Plans Lot 1 23A Holman Street Melville**

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
 MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)**

**DETAIL**

**Development Requirements**

**CPS5 Battle-Axe Development Provisions**

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>	<b>Plan Notation</b>
First Floor area	30% of the ground floor area (48m <sup>2</sup> )	75% (120m <sup>2</sup> )	<b>Does not comply</b>	Council	
Side & Rear Setback for First Floor	4.0m	3.5m (North) 3.0m (West) 2.1–3.2m (south)	<b>Does not comply</b>	Council	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to CPS5  
 Support/Object: 1 objection

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/ Objection</b>	<b>Officer's Comment</b>	<b>Action (Uphold / Not Uphold)</b>
25 Holman St, Melville	Balcony overlooking pool area.	Objection	The balcony complies with the Acceptable Development criteria of the R-Codes relating to boundary setbacks and visual privacy.	Not Uphold
	Upper floor area does not conform to clause (2) of compliance with R-Codes	Objection	The proposal complies with all of the relevant provisions contained within the R-Codes.	Not Uphold
	Alignment of dividing fence between the two properties (23-25) is of concern.	Concern	Dividing fences are governed under the Dividing Fences Act and are not addressed via the planning approval process.	Not Uphold

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No referrals to government agencies were required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for planning approval; the applicant will have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risks or environmental management implications. The recommendation is consistent with a number of similar applications that the Council has approved in the past and is also consistent with the Council's decision to initiate an Amendment to CPS5 to remove from the Scheme the battle-axe lot development provisions.

**POLICY IMPLICATIONS**

There are no applicable policies relating to this development.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application requires a Special Majority decision of the Council to determine. The Development Advisory Unit (DAU) recommendation is for Council to approve.

This application may be refused by Council, however such a decision is not recommended as the application is considered to satisfy the relevant Acceptable Development provisions and Performance Criteria of the R-Codes and Clause 7.8 of CPS5.

Furthermore, as outlined above, the Council has approved other developments with similar CPS5 variations relative to battle-axe lot development and has initiated Amendment 60 to CPS5 to delete these provisions.

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)****COMMENT**

The proposal satisfies all of the relevant provisions within CPS5, the R-Codes and Council policy with the exception of those matters addressed below.

**Upper Floor – Northern Setback**

CPS5 requires the upper floor level to be setback a minimum of 4m from the side and rear boundaries. The proposed setback of the northern elevation is 3.5m.

The bulk and scale of the proposed dwelling is consistent with other two storey developments in the surrounding area. Additionally, due to the site orientation, the proposed reduced setback will not have a significant impact upon access to sunlight and ventilation to the adjoining property. The upper floor level does not contain any major openings along its northern elevation and this therefore maintains the privacy between the two properties.

It is noted that under the R-Codes the upper floor level is only required to be setback 2.6m from the northern boundary, whereas the proposal is setback 3.5m. In view of this, the setback variation is supported.

**Upper Floor – Southern Setback**

CPS5 requires a 4m minimum setback of the side and rear elevations of the upper floor. The proposed setback to the southern boundary is between 2.0 and 3.1m.

As outlined above, the 4m setback requirement is based upon the CPS5 battle-axe lot requirements. Under the R-Codes, the proposed upper floor level is required to be setback between 1.2 and 1.5m from the southern boundary. The proposed development therefore meets those requirements.

The bulk and scale of the proposed dwelling is consistent with other two storey developments in the surrounding area. The proposed articulation of the elevation is considered to mitigate its bulk impact on the adjoining property.

With respect to overshadowing, it is noted that the proposal satisfies the Acceptable Development criteria of the R-Codes relating to overshadowing and will only result in 13.6% overshadowing of the adjoining lot to the south.

The upper floor level does not contain any major openings along its southern elevation, and as such privacy levels between the two properties, are maintained.

Based on the above, the setback variation is supported.

**Upper Floor – Western Setback**

CPS5 requires the upper floor level to be setback a minimum of 4m from the side and rear boundaries. The proposed setback of the western elevation is 3m.

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)**

The adjoining western site is occupied by the Attadale Telephone Exchange building. Notwithstanding this, the bulk and scale of the proposed dwelling is consistent with other two storey developments in the surrounding area. The proposal will not adversely impact the adjoining site's access to sunlight and the proposal satisfies the Acceptable Development criteria of the R-Codes relating to visual privacy.

Under the R-Codes, the proposal is only required to be setback 1.6m from the western boundary, whereas the proposal is setback 3.0m. As outlined above, these provisions would not be applicable if the subject site benefited from a survey strata title.

In view of this, the setback variation is supported.

**Upper Floor Area**

CPS5 restricts the floor area of any dwelling above ground floor to 30% of the gross floor area. The proposed upper floor area equates to 75% of the ground floor area.

The R-Codes do not stipulate a maximum plot ratio or a restriction on the upper floor area for dwellings within the R20 density. The building bulk for two storey developments within this density under the R-Codes is controlled via other mechanisms such as boundary setbacks, open space, building height and overshadowing.

As with the rear setback requirements addressed above, the restrictions on plot ratio and floor area which are over and above the R-Codes requirements are only of relevance as the site is a rear battle-axe lot. These restrictions would not apply to a development on a rear survey strata.

It should be noted that the proposed dwelling satisfies the CPS5 plot ratio restriction of 0.4 which is a measure of the total floor area of the dwelling. The proposed dwelling is designed so to have a relatively small ground floor area compared to that which is allowed by the R-Code requirements relating to open space. This small ground floor level results in a large variation to the area of the upper floor. Notwithstanding, the bulk of the building overall is relatively modest.

Overall, the size and bulk of the proposed dwelling is consistent with that anticipated by CPS5, there being a number of buildings of a similar scale within the surrounding area. The proposal is supported on that basis.

**Clause 7.8 of CPS5 Considerations**

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**P11/3198 - TWO-STOREY SINGLE DWELLING ON LOT 1 (23A) HOLMAN STREET,  
MELVILLE (SMREC) (CONFIDENTIAL ATTACHMENT)****CONCLUSION**

It is considered that the application suitably addresses the provisions and requirements of CPS5 and the Residential Design Codes. Notwithstanding the non-compliance with the Precinct requirements for battle-axe developments, the proposal is considered to be consistent with previous determinations made by Council on similar proposals within the City and the Council's resolution to initiate Amendment 60. Accordingly, it is recommended that the application to be referred to Council for conditional approval by a Special Majority decision in accordance with Cl. 4.3 of CPS5.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3198)  
SPECIAL MAJORITY APPROVAL**

At 6.55pm Cr Nicholson moved, seconded Cr Barton –

**That the application for a two-storey single dwelling at Lot 1 (23A) Holman Street, Melville pursuant to Clause 4.3 of Community Planning Scheme No. 5 be approved by Special Majority decision of the Council subject to the following conditions:**

1. All stormwater generated on site is to be retained on site.
2. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist coloured metal roofing may only be permitted through separate planning consent).
3. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.

**ADVICE NOTES:**

4. The construction of retaining walls are not to exceed the heights specified on the approved plans unless otherwise approved by Council. Details, signed by a practicing Structural Engineer must be submitted for approval at the time of submitting a Building Licence Application.
5. Ground levels may not be changed other than approved as part of this approval.

At 6.56pm Cr Reynolds left the meeting

At 6.56pm the Mayor submitted the motion, which was declared

**CARRIED (10/0)**

**P11/3199-TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
 PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : Palmyra/Melville/Villagee  
 Category : Operational  
 Application Number : DA-2010-1236  
 Property : 76B Aurelian Street, Palmyra WA  
 Proposal : Two Storey Single Dwelling  
 Applicant : Mr S B J Sinnamon  
 Owner : Mrs F S Sinnamon and Mr S B J Sinnamon  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought for the construction of a two-storey single house on a battle-axe lot.
- The lot is located within the Living Area Precinct – Palmyra 1. Community Planning Scheme No. 5 (CPS5) contains provisions for development on battle-axe lots within this precinct. The application does not satisfy the battle-axe provisions relating to plot ratio, floor area and setbacks and as such, requires a Special Majority decision of the Council to approve.
- The application complies with the Acceptable Development criteria of the Residential Design Codes (R-Codes) with the exception of boundary setbacks however this is considered to satisfy the Performance Criteria.
- The proposed dwelling is not anticipated to result in any significant adverse impacts upon the amenity of the surrounding residential properties.
- Variations to the battle-axe provisions in CPS5 require a Special Majority decision of Council.
- The application was considered by the Development Assessment Unit (DAU) on 1 March 2011 which has recommended that Council approve the proposal subject to conditions.



**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)****BACKGROUND**

The subject lot is located within the 'Living Area – Palmyra 1 P1' Precinct. Community Planning Scheme No. 5 (CPS5) contains battle-axe development requirements for the development of battle-axe lots within this precinct which include restrictions on plot ratio, floor area and setbacks above that specified in the R-Codes.

Council has previously approved a number of developments with variations to the abovementioned CPS5 development requirements where they were in compliance with the Acceptable Development and/or Performance Criteria of the R-Codes.

Council resolved in November 2010 to initiate Amendment 60 to CPS5 to delete the battle-axe development provisions within the Precincts for the following reasons:

- The R-Codes, coupled with the amenity provisions contained within Clause 7.8 of CPS5, provide the necessary controls to manage the impacts of two storey (or more) development on battle-axe lots.
- The provisions apply to two storey development on battle-axe lots however does not apply to two storey developments on rear survey strata lots which creates an anomaly.

At this meeting, Council also resolved to revoke the Living Area Precinct policies applicable to Attadale and Applecross which contained battle-axe lot provisions.

This application was referred to the Development Advisory Unit on 1 March 2011 which has recommended that the application be approved subject to conditions. Variations to the battle-axe provisions within CPS5 require a Special Majority decision of Council.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area – P1
R-Code	:	R20
Use Class	:	Residential
Use Permissibility	:	'P' - Permitted

**Site Details**

Lot Area	:	540 sqm
Retention of Existing Vegetation	:	n/a
Street Tree(s)	:	n/a
Street Furniture (drainage pits etc)	:	n/a
Site Details	:	Refer to photo above

**3199 Site & Elevation Plan Lot 2 76B Aurelian Street Palmyra**

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**DETAIL**

**CPS5 Battle-Axe Development Provisions**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Max Plot Ratio 0.4	180sqm	227sqm	<b>Does not comply</b>	Council	
First Floor area	30% of GFA (82m <sup>2</sup> )	35.47% (95m <sup>2</sup> )	<b>Does not comply</b>	Council	
Side & Rear Setback for First Floor	4.0m	1.5m (south)	<b>Does not comply</b>	Council	
Rear Ground Floor Setback	3.0m (min) 6.0m (avg)	1.50m (min) 1.50m (avg)	<b>Does not comply</b>	Council	

**Setbacks: R-Codes**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
<b>Side (West)</b>					
GF – Games / Alfresco	1.5m	1.440m	Very minor variation.	Council	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to R-Codes and CPS No. 5  
 Support/Object: 1 objection

Affected Property	Summary of Submission	Support/ Objection	Officer's Comment	Action (Condition / Uphold / Not Uphold)
1.	Fence leaning due to trees along the rear boundary line	Concern	Noted.	Not Uphold

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No referrals to government agencies were required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for planning approval; the applicant will have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risks or environmental management implications. The recommendation is consistent with a number of similar applications that the Council has approved in the past and is also consistent with the Council's decision to initiate an Amendment to CPS5 to remove the development on battle-axe lot provisions.

**POLICY IMPLICATIONS**

There are no applicable policies relating to this development.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application requires a Special Majority decision of the Council to determine. The Development Advisory Unit (DAU) recommendation is for Council to approve.

This application may be refused by Council however such a decision is not recommended as the application is considered to satisfy the relevant Acceptable Development provisions and Performance Criteria of the R-Codes and Clause 7.8 of CPS5.

Furthermore, as outlined above, the Council has approved other developments with similar CPS5 variations relative to battle-axe lot development and has initiated Amendment 60 to CPS5 to delete these provisions.

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**COMMENTS**

The proposed development satisfies the relevant provisions within CPS5 and the R-Codes with the exception of those matters assessed below:

Buildings Setback from the Boundary

*Ground Floor - Rear (Southern) Setback*

CPS5 requires a 3m minimum setback, with an average setback of 6m to the rear (southern) boundary. The proposed ground floor level setback to the southern boundary is 1.5m (minimum and average). The ground floor wall measures approximately 15m in length and is less than 3.5m in height.

Notwithstanding the CPS5 battle-axe development requirements, the proposal satisfies the R-Codes Acceptable Development setback requirement of 1.5m. Should the proposed dwelling be proposed on a rear survey strata lot rather than a battle-axe lot, the proposal would comply. It is only the land title classification which brings this matter into noncompliance.

The purpose and intent of rear setback requirements is to provide for private open space on development sites and suitable setbacks to adjacent properties in order to reduce issues associated with building bulk. In this regard, the proposed outdoor living area is to be located on the north side of the dwelling which is consistent with good sustainability design principles.

The setback variation to the ground floor level is not anticipated to result in any undue adverse amenity or building bulk impact on the adjoining neighbour as much of the wall will be screened by the existing 1.8m fence. The proposed reduced setback to the ground floor will similarly not have a significant impact upon access to sunlight and ventilation for occupiers of the adjoining property to the south. The portion of wall relating to the reduced setback contains major openings however the dividing fence will maintain the privacy between the two properties.

Based on the above the ground floor level setback variation to the southern boundary is supported.

*Ground floor - Western Setback*

The Acceptable Development criteria of the R-Codes require a 1.5m setback for the ground floor level from the western boundary, however a setback of 1.440m is proposed.

The scale of this setback variation is considered to be minor and will not result in any undue adverse impacts upon the amenity of the occupiers of the adjoining property. Furthermore, due to the site orientation, there will be no adverse significant impact upon access to sunlight and ventilation towards the adjoining property to the west.

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

In addition to the above, the building bulk of the proposed western elevation is mitigated through the location of the existing 1.8m dividing fence along the side boundary. The portion of wall relating to the reduced setback contains no major openings and as such privacy between the two properties is maintained.

Accordingly, it is considered that the proposed development satisfies the Performance Criteria of the R-Codes relating to boundary setbacks.

*Upper Floor – Southern Setback*

CPS5 requires a 4m minimum setback of the side and rear elevations of the upper floor. The proposal satisfies this requirement with the exception of the southern elevation which is proposed to have a setback of 2.7m.

As with the ground floor setback variation above, it is noted that the proposed southern setback satisfies the Acceptable Development provisions of the R-Codes, it is only the land title classification which brings this matter into non-compliance with the CPS5 development requirements relevant to battle-axe lots. Under the R-Code provisions, the proposed upper floor level is required to be setback 1.5m from the southern boundary, whereas the proposal in this case is setback 2.7m.

The bulk and scale of the proposed dwelling is consistent with other two storey developments in the surrounding area. As outlined above, should the proposed dwelling have been proposed on a rear survey strata lot instead of a rear battle-axe lot, the proposal would comply. For this reason, the proposed building bulk is considered acceptable notwithstanding the setback variation.

The upper floor level does not contain any major openings along its southern elevation and therefore maintains the privacy between the two properties. The proposal also satisfies the Acceptable Development criteria of the R-Codes relating to overshadowing and will only result in 4% overshadowing of the adjoining lot.

Based on the above, the setback variation is supported.

Plot Ratio and Floor Area

CPS5 restricts the plot ratio of two storey developments on battle-axe lots to 0.4 of the effective lot area and the floor area of any dwelling above ground floor to 30% of the gross floor area. A plot ratio of 0.5 is proposed and the upper floor area equating to 35% of the gross floor area.

The R-Codes do not stipulate a maximum plot ratio or a restriction on the upper floor area for dwellings within the R20 density. The building bulk for two storey developments within this density under the R-Codes is controlled via other mechanisms such as boundary setbacks, open space, building height and overshadowing.

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)**

As with the rear setback requirements addressed above, the restrictions on plot ratio and floor area which are over and above the R-Codes requirements are of relevance as the site is a rear battle-axe lot. These restrictions would not apply to a development on a rear survey strata.

The proposed size of the dwelling and bulk associated with this is considered to be consistent with the objectives of CPS5 as it is similar to other dwellings within the local area. For this reason the proposal will not result in any undue detrimental amenity impacts.

**Clause 7.8 of CPS5 Considerations**

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**CONCLUSION**

It is considered that the application suitably addresses the provisions and requirements of CPS5 and the Residential Design Codes. Notwithstanding the non-compliance with the Precinct requirements for battle-axe developments, the proposal is considered to be consistent with previous determinations made by Council on similar proposals within the City, and is consistent with the Council's resolution to initiate Amendment 60 of CPS5. Accordingly, it is recommended that the application to be referred to Council for conditional approval by a Special Majority decision in accordance with Cl. 4.3 of CPS5.

**P11/3199 - TWO-STOREY SINGLE DWELLING ON LOT 2 (76B) AURELIAN STREET,  
PALMYRA (SMREC) (CONFIDENTIAL ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3199)**  
**SPECIAL MAJORITY APPROVAL**

At 6.56pm Cr Reidy moved, seconded Cr Barton –

**That the application for a two-storey single house on Lot 2 (76B) Aurelian Street, Palmyra pursuant to Clause 4.3 of Community Planning Scheme No. 5 be approved by a Special Majority of the Council subject to the following conditions:**

**SPECIAL CONDITIONS:**

- 1) Prior to the initial occupation of the development hereby approved, the external face of the parapet wall(s) to the boundary is to be finished to an equivalent standard of finish and colour of the dwelling (or fence) on the adjoining property to the satisfaction of the Manager Planning and Development Services.
- 2) All Stormwater and drainage run off to be contained on site.
- 3) Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist coloured metal roofing may only be permitted through separate planning consent).

**ADVICE NOTES:**

- 4) During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.
- 5) The construction of retaining walls not to exceed the heights specified on the approved plans unless otherwise approved by Council. Details, signed by a practicing Structural Engineer must be submitted for approval at the time of submitting a Building Licence Application.
- 6) Ground levels may not be changed other than approved as part of this approval.

At 6.56pm the Mayor submitted the motion, which was declared

**CARRIED BY SPECIAL MAJORITY(10/0)**

**P11/3200 - PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**

Ward : Bicton/Attadale  
 Category : Operational  
 Application Number : DA-2010-787  
 Property : Lot 73 (58) Harris Street, Bicton WA  
 Proposal : Ancillary Accommodation  
 Applicant : Mr T P McGellin  
 Owner : Mr T P McGellin  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3200 - PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**

## KEY ISSUES / SUMMARY

- Planning approval is sought for the construction of a two storey structure, proposed to be used as ancillary accommodation, at 58 Harris Street, Bicton.
- The proposed ancillary accommodation is sited within the rear garden area.
- The proposed development satisfies the Acceptable Development provisions of the Residential Design Codes (R-Codes) with the exception of floor area and privacy.
- The application has been advertised to surrounding land owners with three objections being received. The objections mainly relate to visual privacy, building bulk and overdevelopment of the site.
- A condition of approval is recommended to require compliance with the Acceptable Development criteria of the R-Codes relating to visual privacy.
- Otherwise, the proposed development satisfies the Performance Criteria of the R-Codes relating to ancillary accommodation subject to a condition requiring the finished floor level to be dropped by 500mm.
- The proposal was considered by the Development Advisory Unit on 22 February 2011 and recommended for conditional approval, however the application was 'called up' for consideration of the Council at the request of Cr Barton, due to concerns relating to visual privacy.
- The application is recommended for conditional approval.



**P11/3200 - PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)****BACKGROUND**

The subject area is located directly opposite Bicton Primary School and within walking distance of Melville Plaza Shopping Centre. The ground level within the site rises approximately three metres from front to rear.

The details of the current proposal were considered by the Development Advisory Unit at its meeting held on 22 February 2011, which recommended the conditional planning approval of the development. Notwithstanding this, the matter has now been called up for Council consideration at the request of Cr Barton, who has expressed concern on the following grounds:

- *"Privacy. One of the adjoining property owners pointed out that not only will the balcony overlook and affect privacy adversely (which is avoided by the current DAU recommendation) but also the loft window will have the same effect, and this does not appear to have been addressed. The neighbour actually provided a solution: that the loft window and balcony should face the original building on 58 Harris Rd, and this suggestion does not appear to have been considered", and.*
- *"Occupancy of ancillary accommodation. Although in principle occupancy by non-family members can be prevented by a requirement on the Certificate of Title, this can only be achieved by effective monitoring and policing, and is not possible in practice. Considering the current concerns of the adjoining neighbour, this can readily lead to disputes occupying the time and energy of councillors and officers. In particular, we already have variations on what is planned. The Applicant told Council that 'he intends to occupy the proposed dwelling to provide assistance to his aging parents', but apparently told one of the objectors that the dwelling is for 'a carer' for the elderly residents of the original house. If the latter is the case, the opportunity for future conflict is clear."*

In response to this call up request, it is noted that there are two window openings within the upper floor level (loft level) of the proposed ancillary accommodation. One of these opens out onto the balcony, and is compliant with the privacy setback requirements. The other is a minor opening to the proposed ensuite bathroom, which by definition cannot prejudice the levels of privacy enjoyed by occupiers of any neighbouring properties. In any event, the ensuite window is proposed to be glazed using obscure glass.

The occupation of the ancillary accommodation will be restricted to family members only. A condition that requires the applicant to secure a notification on the Certificate of Title to that end is recommended in accordance with the City's standard practice.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R17.5
Use Type	:	Residential
Use Class	:	P-Use – use is permitted

**P11/3200- PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**

**Site Details**

Lot Area	:	839sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	Refer to photo above

[\*\*3200 Photos Lot 73 58 Harris Street Bicton\*\*](#)  
[\*\*3200 Site Plan Lot 73 58 Harris Street Bicton\*\*](#)

**DETAIL**

**Development Requirements**

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>	<b>Plan Notation</b>
Floor area	60sqm	120sqm	<b>Does not Comply</b>	MPDS	
Balcony Cone of Vision	7.5m	5.7m (north) 3.6m (east)	<b>Does not Comply</b>	MPDS	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required:	Informal advertising in accordance with the R-Codes
Neighbour's Comment Supplied:	Yes
Reason:	Non-compliance with the Acceptable Development provisions of the R-Codes
Support/Object:	Two objections and one stating no objection

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/ Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition / Uphold / Not Uphold)</b>
60 Harris Street	Concerned the ancillary accommodation will have an adverse impact upon privacy.	Objection	A condition is recommended to require the balcony is modified or screened. In that way it will satisfy the Acceptable Development criteria relating to visual privacy.	Condition

**P11/3200- PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
 HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**

7 Fifth Street	The two storey building creates an imposing and unattractive structure. The floor levels should be lowered to reduce the overall impact of the dwelling.		Impacts of bulk are considered in the Comment section below. A condition of approval is however recommended to require the floor level be dropped by 0.5m to alleviate impacts of bulk on adjoining properties.	Condition
	There is nothing that will prevent the owners from renting out the dwelling, increasing traffic, noise and reducing amenity and therefore resale value of their home.		A standard condition is recommended which limits occupation of the ancillary accommodation to family members from the main residence only. This includes a notification on the Certificate of Title.	Condition
	The dwelling will remove the existing vistas to the south west of their property.		The proposal is compliant with height and setback requirements.	Not uphold

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No referrals to external agencies are required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the City resolve to refuse the proposal, the application may be the subject of review at the State Administrative Tribunal.

**FINANCIAL IMPLICATIONS**

There are no financial implications relating to this proposal.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risks or environmental management implications.

**P11/3200- PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)****POLICY IMPLICATIONS**

There are no policy implications as a result of this development

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is recommended for approval under delegation through the DAU process. Should Elected Members, or interested third parties have an alternative view, the DAU 'call-up' procedures provide opportunity to call the matter up for formal Council consideration.

**COMMENTS**

As outlined above, it is proposed to construct a two-storey ancillary accommodation dwelling at 58 Harris Street, Bicton.

The proposal satisfies all of the relevant requirements set out within CPS5, the R-Codes and Council policies with the exception of those matters assessed below.

**Floor Area**

The Acceptable Development provisions relating to Ancillary Accommodation allow a maximum floor area of 60sqm whereas a floor area of 120sqm is proposed.

The proposed ancillary accommodation will contain a single car garage, utility area, living room and kitchen on the ground floor and one bedroom and a bathroom on the upper floor. The small habitable area of the dwelling is considered to limit the accommodation of the dwelling to one or two people.

The Applicant has stated that he intends to occupy the proposed dwelling to provide assistance to his aging parents. A condition of approval is recommended to ensure that only family members of the primary residence occupy the ancillary accommodation. This condition includes a requirement that a notification as such be imposed on the Certificate of Title. This is accepted standard practice in such cases.

The proposal is set back sufficiently from boundaries to satisfy the Acceptable Development provisions relating to setbacks. Furthermore, the proposal satisfies the height provisions set out within CPS5. Notwithstanding, due to the sloping nature of the site and the proposed two storey construction, a condition of approval is recommended to reduce the floor level of the dwelling by 0.5m to ameliorate the bulk of the building when viewed from the adjoining properties.

Overall, the proposal is considered to satisfy the Performance Criteria of the R-Codes relating to ancillary accommodation.

**P11/3200- PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)****Privacy**

A balcony is proposed along the northern side of the upper floor level accessed via the bedroom. However the balcony does not satisfy the Acceptable Development provisions of the R-Codes relating to visual privacy towards the adjoining properties to the north and east.

The balcony would allow views over the rear garden areas of the eastern and northern adjoining properties, contrary to the Performance Criteria. The provision of screening, or another measure to alter the balcony, will bring it into compliance. As such a condition of approval is recommended to require the balcony be altered or screened in accordance with the Acceptable Development provisions of the R-Codes.

**Clause 7.8 of CPS5 Considerations**

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**CONCLUSION**

It is considered that the application (subject to appropriate conditions) suitably addresses the provisions and requirements of CPS5 and the R-Codes. Accordingly, it is recommended that the application be approved, subject to the imposition of conditions as outlined.

**P11/3200- PROPOSED TWO STOREY ANCILLARY ACCOMMODATION ON LOT 73 (58)  
HARRIS STREET, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**

At 6.57pm Cr Reynolds returned to the meeting

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3200) APPROVAL**

**A) That the proposed two-storey ancillary accommodation unit on Lot 73 (58) Harris Street, Bicton be approved subject to the following conditions:**

1. **Prior to initial occupation of the ancillary accommodation, the northern and eastern elevations of the balcony, as marked in "RED" on the floor and elevation plans hereby approved must have installed fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of Clause 6.8.1 (A1) of the Residential Design Codes of Western Australia. The screening measures must thereafter be retained in perpetuity, to the ongoing satisfaction of the Manager Planning and Development Services.**
2. **The finished floor level of the ancillary accommodation is to be set at 500mm below that indicated on the plans hereby approved. Amended plans to this effect must be submitted to, and approved by the City, prior to the issue of a Building Licence.**
3. **A notification under section 70A of the Transfer of Land Act 1893 is to be prepared and lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot prior to commencement of the development. This notification is to read as follows:**

***"The occupation of the ancillary accommodation is limited to family members of the occupants of the main dwelling".***

**The notification is to be prepared by the City with any legal or other fees being at the owner's expense.**

4. **All Stormwater and drainage run off to be contained on site.**
5. **Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).**
6. **Ground levels may not be changed other than approved as part of this approval.**

**B) That the affected adjoining landowners be advised in writing of A) above.**

At 7.00pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (11/0)**

The Presiding Member advised Elected Members that the Meeting was now moving out of the Quasi-Judicial phase.

**P11/3194 – FINAL ADOPTION OF AMENDMENT NO 58 TO COMMUNITY PLANNING SCHEME NO. 5 – APPLICATION OF PRECINCT ZONINGS AND DENSITY CODINGS TO UNDESIGNATED (UNZONED AND UNRESERVED) LAND RESULTING FROM METROPOLITAN REGION SCHEME AMENDMENT NO. 1100/33 – PORTION OF FORMER CANNING HIGHWAY RESERVATION BETWEEN PETRA STREET AND CANNING BRIDGE (REC) (ATTACHMENT)**

Ward	:	Bicton – Attadale, Applecross – Mt Pleasant
Category	:	Strategic
Application Number	:	CPS5-58
Subject Index	:	Scheme Amendment 58
Customer Index	:	City of Melville
Property	:	Land along Canning Highway between Petra Street and Canning Bridge
Proposal	:	Amend Community Planning Scheme No 5 (CPS No. 5) from undesignated land to zoned land to reflect adjoining Precincts
Applicant	:	City of Melville
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item P10/3113, Ordinary Meeting of Council, 16 February 2010
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when 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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3194 – FINAL ADOPTION OF AMENDMENT NO 58 TO COMMUNITY PLANNING SCHEME NO. 5 – APPLICATION OF PRECINCT ZONINGS AND DENSITY CODINGS TO UNDESIGNATED (UNZONED AND UNRESERVED) LAND RESULTING FROM METROPOLITAN REGION SCHEME AMENDMENT NO. 1100/33 – PORTION OF FORMER CANNING HIGHWAY RESERVATION BETWEEN PETRA STREET AND CANNING BRIDGE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Metropolitan Region Scheme (MRS) Amendment No. 1100/33 for Canning Highway between Petra Street and Canning Bridge was gazetted on 11 December 2009.
- A portion of the land previously reserved as Primary Regional Roads Reservation for Canning Highway has now been rezoned under the MRS as 'Urban'.
- Due to the MRS amendment the subject land is currently unzoned and unreserved under Community Planning Scheme No. 5 (CPS5).
- Under the *Planning and Development Act 2005* the City is required to apply an appropriate zoning to the land in question.
- Council at its Ordinary Meeting of 16 February 2010 resolved to initiate the Amendment to extend the existing adjoining precinct zonings onto the said land.
- Details of the Amendment were subsequently advertised for a period of 42 days. No submissions were received.
- As such, authorisation for the final adoption of the Scheme Amendment is now sought.

**BACKGROUND**

MRS Amendment No. 1100/33 for Canning Highway between Petra Street and Canning Bridge was gazetted on 11 December 2009. This MRS amendment removed the Canning Highway Primary Regional Roads Reservation from the properties abutting Canning Highway between Petra Street and Canning Bridge, and rezoned the land as 'Urban'.

This MRS amendment resulted in the subject land becoming unzoned and unreserved under CPS5. In view of this, the City is required to amend CPS5, and apply an appropriate precinct zoning to it.

Council at its Ordinary Meeting of 16 February 2010 resolved to initiate an Amendment to CPS5 to extend the existing adjoining precinct zonings onto the unzoned land.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Nil
R-Code	:	N/A
Use Type	:	N/A
Use Class	:	N/A

**Site Details**

Lot Area	:	N/A
Retention of Existing Vegetation	:	N/A
Street Tree(s)	:	N/A
Street Furniture (drainage pits etc)	:	N/A

**P11/3194 – FINAL ADOPTION OF AMENDMENT NO 58 TO COMMUNITY PLANNING SCHEME NO. 5 – APPLICATION OF PRECINCT ZONINGS AND DENSITY CODINGS TO UNDESIGNATED (UNZONED AND UNRESERVED) LAND RESULTING FROM METROPOLITAN REGION SCHEME AMENDMENT NO. 1100/33 – PORTION OF FORMER CANNING HIGHWAY RESERVATION BETWEEN PETRA STREET AND CANNING BRIDGE (REC) (ATTACHMENT)**

[3194 Amendment Map 1 Final Adoption Of Amendment No 58 To Community Planning Scheme No 5](#)

[3194 Amendment Map 2 Final Adoption Of Amendment No 58 To Community Planning Scheme No 5](#)

[3194 Amendment Map No 3 Final Adoption Of Amendment No 58 To Community Planning Scheme No 5](#)

## **DETAIL**

The Amendment relates to land parcels which front Canning Highway, between Petra Street and Canning Bridge. These parcels previously comprised part of the Canning Highway Primary Regional Roads Reservation.

The majority of the land the subject of this Amendment refers to small areas of existing properties. The remainder of these properties are already zoned and have prescribed density codes under CPS5. For consistency, it is proposed to extend the existing Precinct zonings and density coding's onto the unzoned portions.

Where whole properties are unzoned and unreserved as a result of the MRS Amendment, it is proposed to apply the precinct zoning which is applicable to any adjoining lot.

Where the adjoining lot is reserved under CPS5 for the purposes of Local Open Space, it is proposed to extend this reservation over the presently unzoned land.

## **PUBLIC CONSULTATION/COMMUNICATION**

The proposed Amendment was advertised in the Melville Times between 18 January 2011 and 2 March 2011. No submissions were received in response to this consultation exercise.

## **CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

As required by Part 5 of the *Planning and Development Act 2005*, the Amendment was referred to the Environmental Protection Authority (EPA) prior to its advertisement. The EPA responded on 29 December 2009 to confirm that the Amendment did not need to be assessed under the *Environmental Protection Act 1986*, and they did not need to make any further comments or recommendations relating to it.

**P11/3194 – FINAL ADOPTION OF AMENDMENT NO 58 TO COMMUNITY PLANNING SCHEME NO. 5 – APPLICATION OF PRECINCT ZONINGS AND DENSITY CODINGS TO UNDESIGNATED (UNZONED AND UNRESERVED) LAND RESULTING FROM METROPOLITAN REGION SCHEME AMENDMENT NO. 1100/33 – PORTION OF FORMER CANNING HIGHWAY RESERVATION BETWEEN PETRA STREET AND CANNING BRIDGE (REC) (ATTACHMENT)**

### **STATUTORY AND LEGAL IMPLICATIONS**

Pursuant to Part 5 of the *Planning and Development Act 2005*, should Council resolve to adopt the proposed Amendment, the proposed Amendment is to be forwarded to the Hon. Minister for Planning for determination.

The Council's decision to adopt or not adopt the subject Amendment is final and no appeal rights exist.

It should be noted that until a zoning is applied to the subject land under CPS5, legal advice confirms that developments may be determined by Council under delegation of the Western Australian Planning Commission taking into account provisions of CPS5.

### **FINANCIAL IMPLICATIONS**

There are no financial implications for this proposal.

### **STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Section 124 of the *Planning and Development Act 2005* requires Council to amend its Local Planning Scheme so that it is consistent with and will not impede the implementation of the MRS.

There are no strategic, risk and environmental management implications for this proposal.

### **POLICY IMPLICATIONS**

If the Amendment receives final approval from the Hon. Minister any future planning applications will be assessed against the relevant provisions of CPS5 and Council policy.

### **ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could choose to apply alternative Precinct zonings to that proposed; however this is not recommended as it would result in some properties encompassing more than one zoning, and zonings along portions of Canning Highway being inconsistent with one another.

**P11/3194 – FINAL ADOPTION OF AMENDMENT NO 58 TO COMMUNITY PLANNING SCHEME NO. 5 – APPLICATION OF PRECINCT ZONINGS AND DENSITY CODINGS TO UNDESIGNATED (UNZONED AND UNRESERVED) LAND RESULTING FROM METROPOLITAN REGION SCHEME AMENDMENT NO. 1100/33 – PORTION OF FORMER CANNING HIGHWAY RESERVATION BETWEEN PETRA STREET AND CANNING BRIDGE (REC) (ATTACHMENT)**

### COMMENTS

The need for the Council to introduce the subject Scheme Amendment is linked specifically to the previous Amendment to the MRS.

As the bulk of the properties that are affected by this change are modest in area, it was considered appropriate to extend the existing Precinct zonings of any adjoining lot portion onto them. This will ensure that lots encompass only one Precinct zoning.

For those that comprise whole lots, it is proposed to apply the Precinct zoning and density coding of that apply to existing adjoining lots.

This will deliver consistency if and when the land parcels are developed in the future.

### CONCLUSION

It is recommended that Council adopt the proposed Amendment to CPS5 to extend the existing Precinct zonings, reservations and density codings onto the presently unzoned and unreserved land that was the subject of the MRS Scheme Amendment 1100/33.

### **OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3194)      FINAL ADOPTION**

**That pursuant to Part 5 of the *Planning and Development Act 2005*, the Council resolve to adopt Amendment No. 58 to Community Planning Scheme No. 5 for final approval and without modification as follows:**

- 1. Extending the adjacent Precinct Zonings, Reservations and Density Codings to the currently undesignated (unzoned and unreserved) land within Community Planning Scheme No. 5 which resulted from Metropolitan Region Scheme Amendment No. 1100/33 – portion of former Canning Highway Reservation between Petra Street and Canning Bridge.**
- 2. That His Worship the Mayor and the Chief Executive Officer be authorised to execute the Amendment document and have the Common Seal affixed.**
- 3. That the Amendment documentation, including the comments received from the Environmental Protection Authority, be forwarded to the Minister for Planning, Culture and the Arts, Environment and Youth for final approval.**

At 7.00pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (11/0)**

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

Ward	:	All
Category	:	Operational
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
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	:	<p>Item C10/5106 Ordinary Meeting of Council held 20 April 2010 – Review of Urban Planning Policies 2010</p> <p>Item P10/3152 Ordinary Meeting of Council held 17 August 2010 – Adoption of Advertised Urban Planning Policies</p> <p>Item P10/3178 Special Meeting of Council held 9 November 2010 – Second Stage Review of Urban Planning Policies,</p> <p>Item P11/3188 Ordinary Meeting of Council held 15 March 2011 – Final Adoption of Urban Planning Policies (Stage 2)</p>
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

## **AUTHORITY / DISCRETION**

## **DEFINITION**

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

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- This report relates to the third stage of the Urban Planning Policy Review.
- It is proposed to initiate three new planning policies: Amenity; Crime Prevention Through Environmental Design; and Telecommunications Facilities and Communications Equipment.
- The existing Height of Buildings policy has been modified.
- Seven existing policies are proposed to be revoked: PL-06-030 Lofts; PL-06-022 Strata Title Fence Requirements; PL-06-018 Outbuildings and Habitable Rooms; PL-06-019 Pergolas; PL-06-035 Aesthetics; PL-28-003 Development of Telecommunication Tower and Associated Infrastructure; and PL-06-002 Communications Equipment. These policies are proposed to be revoked in accordance with Clause 9.6(e) of CPS5.
- It is recommended that the three new policies, and the revised Height of Buildings Policy be advertised for public comment in accordance with Clause 9.6(b) of CPS5 for a period of 21 days, and that notice that the seven other policies have been revoked be advertised in the local press.

**BACKGROUND**

CPS5 allows Council to prepare and adopt planning policies to supplement CPS5 provisions and the requirements of the R-Codes.

Planning policies which address technical planning issues need to be adopted under CPS5 and require formal advertising for public comment for 21 days. Following consultation, the policies need to be adopted by the Council.

Council initiated the first stage of a review of the existing urban planning policies on 20 April 2010 and following a 21 day consultation period, resolved on 17 August 2010 to adopt the advertised policies (with minor modifications).

Council initiated the second stage of the Urban Policy Review on 9 November 2010 and following the 21 day advertising period, resolved on 15 March 2011 to adopt the advertised policies with the exception of the Crime Prevention Through Environmental Design Policy which was to be deferred at the request of Council Officers to be included within the third stage of the review.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)****DETAIL**Community Planning Scheme No. 5 Requirements

Clause 9.6(g) of CPS5 requires Council to review planning policies adopted under CPS5 on an annual basis. Since the gazettal of CPS5 in 1999, various policies have been adopted and up to three reviews (of some policies) have taken place.

Whilst annual reviews have not always been undertaken in accordance with CPS5, legal advice indicates that the non reviewed policies remain applicable, although the weight that can be attached to them in the decision making process, including that associated with an appeal to the State Administrative Tribunal, may be reduced.

Residential Design Code (R-Code) Requirements

The Residential Design Codes contain provisions which deal with the adoption of Local Planning Policies as follows:

*“5.1 Local planning policies consistent with codes*

*Subject to 5.3, a local planning policy that affects residential development shall be consistent with the provisions of the codes and may not provide for greater or lesser requirements than the codes unless expressly permitted under the codes.*

*5.2 Pre-existing local planning policies*

*If a properly adopted local planning policy which came into effect prior to the gazettal of the R-Codes is inconsistent with the R-Codes, the R-Codes prevail over the policy to the extent of the inconsistency.*

*5.3 Scope of local planning policies*

*5.3.1 Local planning policies may contain provisions that:*

*a) vary or replace the following acceptable development provisions set out in the codes:*

*streetscape (design element 6.2 A1-A6);  
building design (design element 6.2 A7-A9);  
boundary walls (design element 6.3 A2);  
site works (design element 6.6 A1.4);  
building height (design element 6.7 A1);  
external fixtures (design element 6.10 A2.3-A2.54);  
special purpose dwelling requirements or aged or dependent person's dwelling) part 7.1.2 A2 ii);  
mixed use development (part 7.2) and  
inner city housing (part 7.3); or*

*b) augment the codes by providing additional performance criteria and acceptable development provisions for any aspect of residential development that is not provided for in the codes.*

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

5.3.2 *Despite clause 5.3.1, a council may, with the approval of the WAPC, vary any other acceptable development provisions within the codes by means of a local planning policy where it can be demonstrated to the satisfaction of the WAPC that there is a need specific to a particular region that warrants such a variation.”*

**Policy Review**

This report outlines the introduction of three new Council Planning Policies, as well as modifications to an existing policy, and the revocation of seven more. Details of the proposed changes together with comments on each referred to elsewhere in this report. (Refer to comments section) Copies of the four draft policies proposed for advertising, as well as those proposed to be revoked, are included as attachments to this report.

**PUBLIC CONSULTATION**

Public consultation is required for all Council Non-Statutory Planning Policies which are non-operational in nature in accordance with Clause 9.6 of CPS5.

Pursuant to Clause 9.6(b) of CPS5, once Council prepares and adopts a draft policy a notice is to be published in a local newspaper to allow for submissions to be made for a period of 21 days.

Clause 9.6(e) of CPS5 states that where Council resolves to revoke an existing policy a formal notice of revocation is to be displayed in a local newspaper.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Clause 9.6(b) (ii) of CPS5 requires Council to advise the Western Australian Planning Commission (WAPC) of any policy proposal which affects the interests of the WAPC. The proposed policies and modification do not have regional significance, therefore the WAPC need not be consulted in this regard.

**STATUTORY AND LEGAL IMPLICATIONS**

The review of Council's policies will improve the validity of the policies in review situations by the State Administrative Tribunal. Once finally adopted by Council, the reviewed policies in effect carry the power and weight of CPS5.

**FINANCIAL IMPLICATIONS**

There are no financial implications which result from this report other than advertising costs for consultation and adoption purposes.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The implication of this and subsequent reports relating to the Policy Review is that Council will have a revised set of Planning and Building Policies to firmly guide future development in the City.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could elect not to adopt the proposed Policy changes and initiatives for public consultation or modify the presented Policies.

Council may also resolve not to revoke the subject Policies proposed for revocation.

It is inappropriate not to review the Policies as their relevance in the consideration of development matters would be further diminished over time.

**COMMENTS**

The current Stage of the Urban Planning Policy Review concludes with the introduction of three new policies, one modified policy and seven revocations as follows:

New Policies

Crime Prevention Through Environmental Design (CPTED) Policy

This Policy initiative was originally included and advertised as part of Stage 2 of the Policy review. However, upon further review of the policy, it was considered too lengthy and non prescriptive.

As a result, the Policy has been further revised as part of the Stage 3 review and now includes provisions which only relate to the assessment of developments on residential and non-residential properties. The new Policy is more prescriptive which will provide both Applicants and Council Officers with clear provisions as to what is acceptable.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

The Policy still builds upon the WAPC designing out crime guidelines, outlining provisions related to passive surveillance, graffiti, fencing and built form design requirements.

**Amenity**

This policy initiative builds upon the provisions contained within Clause 7.8 of CPS5 pertaining to the assessment of the potential impacts developments have on both adjoining properties and the surrounding area. This policy incorporates and builds upon the provisions contained within the existing PL-06-035 Aesthetics Policy. The Aesthetics Policy is proposed to be revoked as part of the Stage 3 Policy review.

All planning applications require an assessment of the potential amenity impacts arising from a proposed development. In particular, a number of Performance Criteria within the Residential Design Codes (R-Codes) require the assessment of amenity in relation to the impacts of a proposed departure from the Acceptable Development criteria. In addition, Clause 7.8 of CPS5 includes a more general consideration of amenity which all development applications must satisfy if they are to be approved.

The proposed policy outlines that where departures from the Acceptable Development criteria of the R-Codes are proposed, or in cases of variations to the provisions contained within CPS5 or Council policies, the City may require the Applicant to provide written justification in the form of an Amenity Impact Statement.

The Policy also provides criteria to guide Applicants and Council Officers as to what is important when an assessment of potential amenity impact is undertaken.

**Telecommunications Facilities and Communications Equipment**

At present there are two telecommunications related policies, PL-28-003 "Development of Telecommunication Tower and Associated Infrastructure", and PL-06-002 "Communications Equipment".

The "Development of Telecommunication Tower and Associated Infrastructure" Policy was introduced in conjunction with a Telco Strategy Plan dated July 2002. This Strategy informed the Policy provisions, which at that time favoured the nomination of specific sites throughout the City, deemed to be suitable locations for Telecommunications Development. This included preferred sites at Point Walter Golf Course, Wireless Hill Park, Melville Glades Golf Course, and Kwinana Freeway/Leach Highway, Kwinana Freeway/South Street Road Reserves.

The Policy direction advocated at that time predated the introduction of State Planning Policy 5.2 "Telecommunications Infrastructure", and the subsequent "Guidelines for the Location, Siting and Design of Telecommunications Infrastructure". The guidelines were introduced to complement the State Policy, and together they provide a generic criterion based Policy framework to assist in the assessment and determination of applications for telecommunications development throughout the State.

Whilst it was intended that the Telco Strategy adopted by the Council at that time would be relevant for a 5 year period, the introduction of State Planning Policy and Guidance effectively superseded the Council adopted Telecommunications Strategy.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

Under the current Policy review it is proposed to revoke Councils existing telecommunications policy documents, and replace them with one Policy which is designed to build upon the State Policy and Guidelines previously referred to. This new Policy is designed to reflect the concerns of the community and in its desire to ensure that significant and important areas of Public Open Space have sufficient protection from the adverse impacts of telecommunications development proposals.

This community concern has been evident in recent months as a result of an application for telecommunications development in the Point Walter Reserve. The potential impacts of that proposal galvanised the efforts of a local residents group based in the Bicton area, and highlighted to the City the strength of concern regarding the potential impacts of that particular telecommunications installation. As well as forging renewed links between that part of the community, and the City's Administration, the concerns expressed highlighted the need to review the City's Telecommunications Policy as a matter of urgency, to ensure that the City can effectively defend the integrity of such areas, when they are threatened by the adverse impacts of telecommunications development proposals.

Whilst the application for the telecommunications facility in that particular case was withdrawn before final determination took place, the experience has served to remind that the City cannot exercise control over the number of planning applications submitted for telecommunications development approval, nor can it dictate the location of such developments, or their particular size, or design. The City is duty bound to deal with all such applications, irrespective of their likely impacts.

The experience with the Point Walter proposal also serves as a reminder to the community that the City is not the determining authority for applications for telecommunications development where such development is proposed on land reserved under the MRS. In such cases the City has a consultative role to play, and makes a recommendation of support or non support only to the WAPC in respect of any development proposed.

In view of this, it is important therefore that the criteria advocated by the City in its assessment and consideration of telecommunications development proposals is embodied within a Policy such as is proposed, as in doing so, the City will be in a better position to defend itself, and its residents, from the adverse impacts of such proposals as and when they arise.

Two petitions have been received in response to the proposal at Point Walter, a report on which will be submitted to Council following the advertising of the new Telecommunications Policy, along with any further submissions received.

It is noted that under the *Telecommunications Act 1997*, the installation of certain low-impact facilities which are listed within the *Telecommunications (Low Impact Facilities) Determination 1997*, are exempt from the requirement to obtain planning approval. The proposed Policy will apply to those installations that are not classed as "low impact facilities", and it states that the preferred location for such new telecommunications development would be on existing sites and/or installations, where co-location can take place.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

Where this cannot be achieved, the Policy outlines a range of criteria that should be used by Telecommunications Operators at the site selection stage and by Officers of the City at the planning application assessment stage. These criteria require that telecommunications development should be:

- Located within non residential precincts as defined by CPS5.
- Located a suitable distance away from residential properties and other sensitive land uses, such as schools and children's day care facilities;
- Designed integrally with buildings;
- Be sited and designed to minimise any adverse visual amenity impacts; and
- Be designed and sited to encourage and enable site sharing and co-location.

The Policy also provides criteria relating to the acceptable location of communications equipment on buildings such as television aerials, and satellite dishes. This aims to restrict the number of pieces of apparatus, and control the siting of it, in the interests of visual amenity. The policy emphasises the importance of assessing the impacts of telecommunications development proposals where they are proposed in areas of special landscape value, or on areas which exhibit strong natural conservation attributes.

*Modified Policy*Height of Buildings

This Policy clarifies the Council's requirements in respect of building height, providing additional guidelines for use by officers and developers in interpreting those Scheme requirements. The Policy applies to all buildings within the City.

As the current policy duplicates issues addressed by CPS5, and as some of the matters currently contained within the Height of Buildings Policy are proposed to be included within the new Amenity Policy, an overhaul of the Policy is recommended.

To that end, and in lieu of advice recently received from Architects and Designers participating in an Architectural Advisory Panel on behalf of the City, the opportunity is taken to clarify the intentions of the Council in respect of maximum building height. This clarification is considered necessary due to the growing prominence of non traditional contemporary building styles incorporating flat or skillion concealed roofs, with no defined eave.

Whilst CPS5 prescribes a maximum eave height and a maximum overall height for buildings, it does not provide a maximum wall height for developments that do not have a pitched roof, such as developments with concealed roofs or skillion type roofs. In order to rectify this situation, and introduce consistency with the building height standards advocated by the R Codes, it is proposed to introduce a maximum wall height provision for buildings that are designed without a defined eave and/or traditional pitched roof with ridge. This new concealed wall height will be set at 9.0m, 1.0m above that allowed to eave height. The 1.0m difference is sufficient to allow the concealment of the flat or skillion roof behind the wall, in the interests of building design and visual amenity.

The current policy allows a 10% variation to eave height at the Chief Executive Officer's discretion where no adverse impact on the amenity of surrounding properties will occur. It is proposed to delete this provision as it is considered that the assessment of any height variation, irrespective of its scale, should be assessed on its merits.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)***Revoked Policies*

It is proposed to revoke the following existing policies:

PL-28-003 Development of Telecommunication Tower and Associated Infrastructure

As outlined above, it is proposed to revoke this Policy and replace with the new CP-58 Telecommunications Facilities and Communications Equipment policy.

PL-06-002 Communications Equipment

As outlined above, it is proposed to also revoke this Policy and replace with the new CP-58 Telecommunications Facilities and Communications Equipment policy.

PL-06-030 Lofts

This Policy relates to the definition of a loft relative to the assessment of height in storeys. The height requirements in CPS5 are stipulated in metres rather than storeys therefore this policy is not considered to be of relevance to the assessment of planning applications.

Notwithstanding the above, where a development satisfies the height provisions in CPS5, the roof space may be utilised as habitable space subject to compliance with other related provisions such as visual privacy. The assessment of lofts is therefore considered to be adequately covered within the existing provisions of CPS5 and the R-Codes.

PL-06-019 Pergolas

This existing Policy sets out the setback and size requirements for pergolas. Under the R-Codes, pergolas are defined as unroofed open-framed structures and differ from patios or alfresco areas which are roofed.

Pergolas are not included within the definition of a 'Building' under the R-Codes and therefore are not required to be setback from boundaries. Councils do not have the ability to vary or replace the R-Codes Acceptable Development criteria relating to boundary setbacks. Furthermore, the R-Codes provisions in respect of open space, plot ratio and overshadowing are not relevant in the assessment of pergolas due to the unroofed nature of such structures.

The Policy does not provide any additional development criteria by which such applications should be determined. As such its revocation is recommended.

PL-06-022 Strata Title Fence Requirements

This Policy pertains to the requirement to fence external lot boundaries. Boundary fencing other than fencing forward of the front setback line is governed under the *Dividing Fences Act 1961* taking guidance from the City's Local Law relating to Fences. This policy is therefore surplus to requirements, and should be revoked on that basis.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)****PL-06-018 Outbuildings and Habitable Rooms**

This Policy requires the incorporation of a condition stating “Not to be used for habitable purposes – outbuilding only” on building licences for detached outbuildings.

This policy does not differentiate between detached buildings such as granny flats or studios which are designed and intended for habitable purposes as opposed to detached buildings such as sheds. Where detached buildings are designed in accordance with the relevant provisions of CPS5, the R-Codes and the Building Code to allow for habitation, this condition should not be imposed. Notwithstanding, where detached buildings are proposed which are not capable of habitation under the Building Code for reasons such as inadequate ventilation and ceiling height, the Building Code allows the imposition of the abovementioned condition without the need to rely on this policy. Consequently, there is no need for the Policy which should be revoked.

**PL-06-035 Aesthetics**

This existing Policy provides guidance as to the assessment of development aesthetics. The Policy is un-prescriptive and vague, referring to matters that are more appropriately addressed elsewhere including within CPS5, the R-Codes and the proposed Amenity Policy.

**CONCLUSION**

In view of the foregoing, and in accordance with the comprehensive Planning and Building Policy Review process currently being followed, it is recommended that:

- 1 The new Policies proposed in respect of Crime Prevention Through Environmental Design (CPTED), Amenity and Telecommunications Facilities and Communications Equipment, and the modified policy for Height of Buildings, be advertised for a period of 21 days in accordance with Clause 9.6(b) of CPS5.
- 2 That a notice be placed in a local newspaper to advise of the revocation of the following Policies: PL-28-003 Development of Telecommunication Tower and Associated Infrastructure; PL-06-002 Communications Equipment; PL-06-030 Lofts; PL-06-019 Pergolas; PL-06-022 Strata Title Fence Requirements, PL-06-018 Outbuildings and Habitable Rooms and PL-06-035 Aesthetics in accordance with Clause 9.6(e) of CPS5.

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

**OFFICER RECOMMENDATION (3195)**

**APPROVAL**

At 7.01pm Cr Reidy moved, seconded Cr Subramaniam –

**A** That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the following Draft Council Policies for public consultation for a period of 21 days:

- (i) Crime Prevention Through Environmental Design  
3195 Crime Prevention Through Environmental Design Policy
- (ii) Amenity  
3195 Amenity Policy 1
- (iii) Telecommunications Facilities and Communications Equipment  
3195 Telecommunications Facilities and Communications Equipment
- (iv) Height of Buildings  
3195 Height of Buildings Policy

**B** That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notice in a local newspaper to advise that the following Policies have been revoked from (date):

- (i) PL-28-003 Development of Telecommunication Tower and Associated Infrastructure  
3195 28 PI 003 Development Of Telecommunication Towers and Associated Infrastructure
- (ii) PL-06-002 Communications Equipment  
3195 06 PI 002 Communications Equipment
- (iii) PL-06-030 Lofts  
3195 06 PI 030 Lofts
- (iv) PL-06-019 Pergolas  
3195 06 PI 019 Pergolas
- (v) PL-06-022 Strata Title Fence Requirements  
3195 06 PI 022 Strata Title Fence Requirements
- (vi) PL-06-018 Outbuildings and Habitable Rooms  
3195 06 PI 018 Outbuildings and Habitable Rooms
- (vii) PL-06-035 Aesthetics  
3195 06 PI 035 Aesthetics

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

Amendment 1

At 7.02pm Cr Ceniviva moved, seconded Cr Robartson -

**That item “A (ii) Amenity” be deleted and the remaining items in this section be renumbered.**

**That an additional Part “C” be added to the Officer Recommendation to read:**

**C      *That the draft Amenity policy be deferred for consideration at a later meeting of the Council.***

At 7.03pm the Mayor submitted the amendment, which was declared

**CARRIED (11/0)**

Amendment 2

At 7.04pm Cr Barton moved, seconded Cr Wieland -

That Part A of the Officer Recommendation be amended as follows –

**A      That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the following Draft Council Policies (as amended) for public consultation for a period of 21 days:**

**(iii)    Telecommunications Facilities and Communications Equipment (as amended)**

***with the insertion of a further clause –***

***"13. Notification to Councillors***

***All applications for the installation of telecommunication towers upon receipt are to be brought to the attention of Elected Members."***

At 7.09pm the Mayor submitted the amendment, which was declared

**CARRIED (11/0)**

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

**COUNCIL RESOLUTION (3195)**

**APPROVAL**

At 7.09pm the Mayor submitted the substantive motion as amended -

**A** **That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the following Draft Council Policies (as amended) for public consultation for a period of 21 days:**

- (i) Crime Prevention Through Environmental Design**  
[3195 Crime Prevention Through Environmental Design Policy](#)
- (ii) Telecommunications Facilities and Communications Equipment (as amended)**

*with the insertion of a further clause –*

**"13. Notification to Councillors**

*All applications for the installation of telecommunication towers upon receipt are to be brought to the attention of Elected Members."*

[3195 Telecommunications Facilities and Communications Equipment](#)

- (iii) Height of Buildings**  
[3195 Height of Buildings Policy](#)

**B** **That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notice in a local newspaper to advise that the following Policies have been revoked from (date):**

- (i) PL-28-003 Development of Telecommunication Tower and Associated Infrastructure**  
[3195 28 PI 003 Development Of Telecommunication Towers and Associated Infrastructure](#)
- (ii) PL-06-002 Communications Equipment**  
[3195 06 PI 002 Communications Equipment](#)
- (iii) PL-06-030 Lofts**  
[3195 06 PI 030 Lofts](#)
- (iv) PL-06-019 Pergolas**  
[3195 06 PI 019 Pergolas](#)
- (v) PL-06-022 Strata Title Fence Requirements**  
[3195 06 PI 022 Strata Title Fence Requirements](#)
- (vi) PL-06-018 Outbuildings and Habitable Rooms**  
[3195 06 PI 018 Outbuildings and Habitable Rooms](#)

**P11/3195 - STAGE THREE REVIEW OF URBAN PLANNING POLICIES (REC)  
(ATTACHMENT)**

(vii) **PL-06-035 Aesthetics**  
3195 06 PI 035 Aesthetics

**C** *That the draft Amenity policy be deferred for consideration at a later meeting of the Council.*

At 7.09pm the Mayor declared the motion

**CARRIED (11/0)**

**P11/3196 - RE-INITIATION OF AMENDMENT NO. 47 TO COMMUNITY PLANNING SCHEME NO. 5 – MODIFICATION OF THE MYAREE MIXED BUSINESS FRAME AND PRECINCT BY ADDITION OF NEW ZONES, PRECINCTS, DEVELOPMENT REQUIREMENTS, DEFINITIONS AND MODIFICATION TO THE USE CLASS TABLE (REC) (ATTACHMENT)**

Disclosure of Interest

Item No.	P11/3196
Elected Member/Officer	Cr A Ceniviva
Type of Interest	Proximity Interest in Accordance with the Act (S5.60B)
Nature of Interest	Owns land in Myaree
Request	Leave
Decision of Council	Not Required

Disclosure of Interest

Item No.	P11/3196
Elected Member/Officer	Cr C Robartson
Type of Interest	Financial Interest in Accordance with the Act (S5.60B)
Nature of Interest	Elected Member on the South Metropolitan Regional Council (SMRC) which has an office within this precinct
Request	Leave
Decision of Council	Not Required

At 7.12pm Cr Ceniviva, having declared an interest in this item, left the meeting.

At 7.12pm Cr Robartson, having declared an interest in this item, left the meeting.

Ward	:	Palmyra/Melville/Villagee, City
Category	:	Strategic
Application Number	:	CPS No 5 - 47
Property	:	Various
Proposal	:	City of Melville Community Planning Scheme No. 5 – Scheme Amendment No. 47. To amend CPS5 to provide for the redevelopment of the Myaree Mixed Business Frame and Precinct by the addition of new zones, precincts, development requirements, definitions and modification to the use class table.
Applicant	:	City of Melville
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services
Previous Items	:	P06/5000 - Initiation of Amendment No 47: Development & Neighbourhood Amenity Committee 14 February 2006 P07/5005 – Finalisation of Amendment 47: Ordinary Meeting of Council 19 June 2007

**P11/3196 - RE-INITIATION OF AMENDMENT NO. 47 TO COMMUNITY PLANNING SCHEME NO. 5 – MODIFICATION OF THE MYAREE MIXED BUSINESS FRAME AND PRECINCT BY ADDITION OF NEW ZONES, PRECINCTS, DEVELOPMENT REQUIREMENTS, DEFINITIONS AND MODIFICATION TO THE USE CLASS TABLE (REC) (ATTACHMENT)**

**AUTHORITY / DISCRETION**

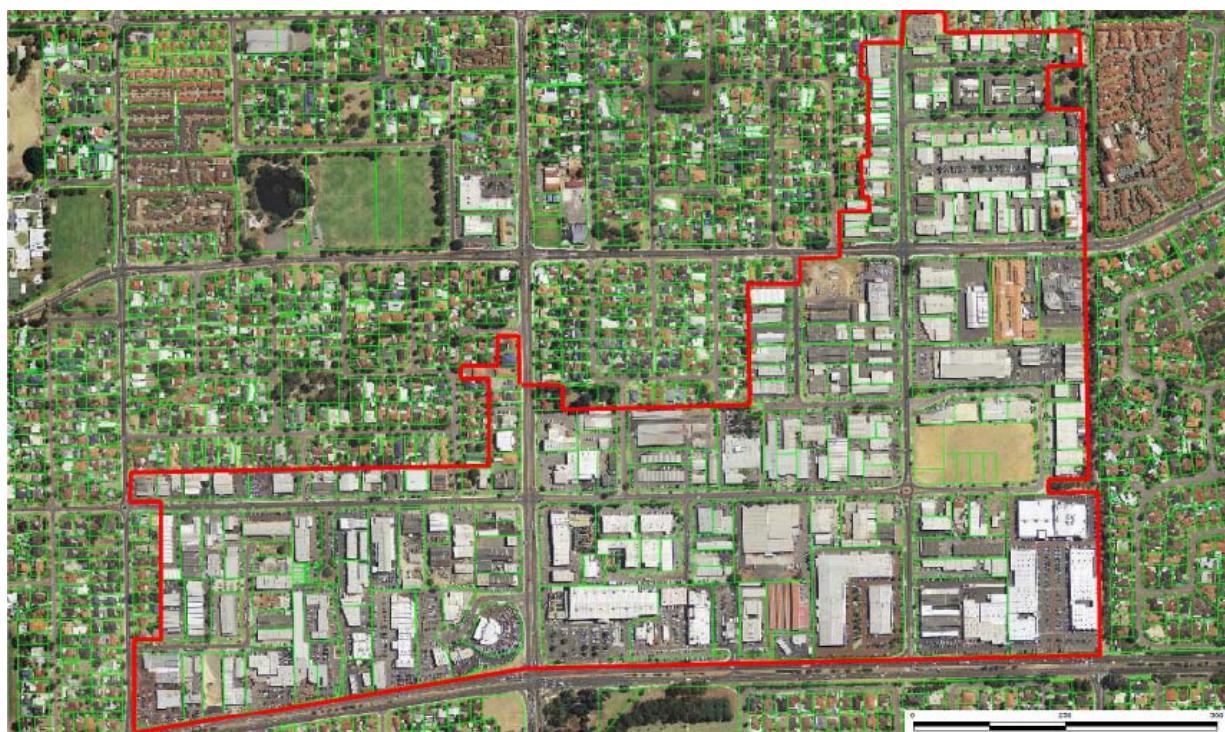
**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when 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	<b><i>includes adopting local laws, town planning schemes &amp; policies.</i></b>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3196 - RE-INITIATION OF AMENDMENT NO. 47 TO COMMUNITY PLANNING SCHEME NO. 5 – MODIFICATION OF THE MYAREE MIXED BUSINESS FRAME AND PRECINCT BY ADDITION OF NEW ZONES, PRECINCTS, DEVELOPMENT REQUIREMENTS, DEFINITIONS AND MODIFICATION TO THE USE CLASS TABLE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- It is proposed to amend the City of Melville Community Planning Scheme No. 5 (CPS5) to allow for the redevelopment of the Myaree Mixed Business Frame and Precinct by amending the current zoning and introducing new precinct and development requirements and definitions.
- This amendment was initially advertised in late 2006 and 41 submissions were received inclusive of a petition containing 21 signatures.
- The Amendment was modified, finalised and adopted by Council on 19 June 2007 and subsequently forwarded for finalisation and gazettal by the Minister for Planning, Culture and the Arts, Environment and Youth ('the Minister').
- The Minister refused to grant final approval to the Amendment on the basis that the majority of the sites contained within it are classified 'Industrial' under the provisions of the Metropolitan Region Scheme and that the proposed rezoning would undermine the existing function and integrity of the light and service industrial area which performs a vital function in the regional context.
- The Minister however stated that the Amendment could be supported subject to a number of modifications and subject to those modifications being advertised for public comment.
- This report presents a modified proposal in light of the Minister's recommendations.
- It is recommended that the Amendment be endorsed and be advertised for public comment in accordance with the *Town Planning Regulations 1967* for not less than 42-days.
- This issues raised by this item were the subject of an Elected Members Information Session (EMIS) held on the 8 March 2011.



**P11/3196 - RE-INITIATION OF AMENDMENT NO. 47 TO COMMUNITY PLANNING SCHEME NO. 5 – MODIFICATION OF THE MYAREE MIXED BUSINESS FRAME AND PRECINCT BY ADDITION OF NEW ZONES, PRECINCTS, DEVELOPMENT REQUIREMENTS, DEFINITIONS AND MODIFICATION TO THE USE CLASS TABLE (REC) (ATTACHMENT)**

## **BACKGROUND**

### Amendment History

Amendment 47 to CPS5 was finalised for adoption by Council at its Ordinary Meeting held on 19 June 2007. This resolution was adopted by Council after advertising but not before a number of modifications being incorporated within the final documentation in response to submissions received at that time.

The Amendment was then forwarded to the Minister for gazettal. The Minister refused to endorse the Scheme Amendment on the basis that:

*“...the majority of the site is classified as “Industrial” zone under the Metropolitan Region Scheme and that the proposed rezoning will undermine the existing function and integrity of this light and service industrial area which performs a vital function in the regional context”.*

In the Minister’s correspondence dated 18 February 2009, Council was advised that whilst the Minister was not prepared to support the Amendment in its current form, an amended proposal may be considered, subject to it addressing the following objectives:

- (i) *The revised amendment should reduce the proportion of proposed ‘Mixed Use’ zone, which is distributed too broadly across the site. This would result in a more coherent and orderly consolidation of retail development, subject to appropriate justification of any additional retail floorspace;*
- (ii) *The overall range of land-uses in the ‘Mixed Use’ precinct should be reduced, including the removal of Office Uses (except where office uses are incidental to another primary use) and Residential Uses. It is recognised that discretion currently exists for Residential Uses to be developed within the Mixed Use precinct, and as such it is suggested that residential development be restricted to the outer edge of the amendment area to minimise the potential for land-use conflict. Existing residential uses fronting Marmion Street can be accommodated, as can residential uses which are incidental such as caretaker’s accommodation.*
- (iii) *The Scheme Amendment should provide greater protection to the function and integrity of the majority of the precinct as a light and service industrial area. The locality is well established and operates well within the urban context under its ‘Mixed Business’ zoning and should be protected in its current form for the long term; and,*
- (iv) *It must be justified in the context of the City’s Local Commercial Strategy and the Western Australian Planning Commission’s Draft Revised Metropolitan Centres Strategy.*

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The Scheme Amendment has been rewritten to accommodate these objectives, the details of which are now presented to Council for consideration and re-initiation. The details of the revised Scheme Amendment will, subject to Council resolution, be the subject of further public consultation.

**Note:** Elected Members are advised that background information on the Amendment as previously presented can be found on the Minutes of Ordinary Meeting of Council of 19 June 2007 (refer link on the cover page).

**Elected Members Information Session (EMIS)**

This item was the subject of an EMIS held on 8 March 2011. At the EMIS, a concern was raised with regard to land use permissibility for lots contained within the 'Mixed Business Frame' Precinct and their relationship (and subsequent impact) with adjoining residential uses. Specifically, it was suggested that the 'Mixed Business Frame' Precinct should be limited to 'Office' uses only in order to protect adjoining residential amenity levels.

Based on the feedback received, further revisions have been made to the amendment. Further detail of these revisions is provided in this report. (Refer to 'comments' section)

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	:	Industry
Current CPS5 Zoning	:	"Mixed Business Precinct", "Mixed Business Frame" and "MY1 – Myaree Living Area" precincts
R-Code	:	R20/R25 & R20
Use Type	:	Various
Use Class	:	Various

**Site Details**

Lot Area	:	Approximately 98.5 ha
Retention of Existing Vegetation	:	NA
Street Tree(s)	:	There are existing street trees in the locality
Street Furniture (drainage pits etc)	:	There is existing infrastructure in the locality

**3196 Amendment 47 Map Reinitiation Of Amendment No 47 To Community Planning Scheme No 5**

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**DETAIL**

Amendment No. 47 seeks to amend CPS5 to reflect the changing nature of land-use in the Myaree locality of the City, and to recognise the growing importance of this area as an "Activity Centre" as defined by Network City. In this regard, the Amendment will recognise the range of facilities and services available from the area, which includes retail, living, entertainment, higher education and specialised medical.

In considering the suggestions forwarded by the Minister, it is now proposed to retain the existing 'Mixed Business' and 'Mixed Business Frame' Precinct areas and to supplement these with the introduction of two 'Community Centre' Precincts, each with associated additional development requirements.

This means that rather than applying four new precincts to coincide with the existing land uses in these areas as was previously proposed; a more broad brush approach is now proposed to maintain the service and industrial function of the area whilst limiting the areas where non-service and industrial land uses can be located. This simplified approach will capture the difference that exists in land use terms between the two Community Centre Precincts, (defined by the uses contained within them) and the remainder of the Mixed Business Precinct.

The objectives of Amendment 47 are as follows:

1. To protect the amenity of existing residential uses in the adjoining Living Area Precinct and generally restrict residential uses within the Amendment area to the outer flanks, within the 'Mixed Business Frame' Precinct.
2. To encourage a range of land uses that supply goods and services to the businesses and residences of the City of Melville and adjoining regional areas.
3. To encourage a variety of employment opportunities within the precinct.
4. To encourage quality urban design within the precinct both for building developments and resultant streetscapes.
5. To encourage sustainable developments and compatibility between land uses.
6. To assist in the relocation of any general or heavy industrial uses to more appropriate industrial locations such as O'Connor or Spearwood.
7. To comply with Network City objectives.

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**PUBLIC CONSULTATION/COMMUNICATION**

It is recommended that Council endorse the Amendment to allow advertising to proceed in accordance with the *Town Planning Regulations 1967* for a period not less than 42 days as requested by the Minister.

Note: Details of submissions received as part of the previous Amendment version can be reviewed under Minutes of the Ordinary Meeting of Council dated 19 June 2007.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The previous Amendment proposal was referred to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2005*. The EPA previously advised that the proposed Amendment does not require assessment under Part IV Division 3 of the *Environmental Protection Act 1986* and that it is not necessary to provide any advice or recommendations. Referral of the amended proposal back to the EPA is therefore not necessary.

A number of government agencies affected by the proposed Amendment were previously consulted in accordance with Section 83 of the *Planning and Development Act 2005* as follows:

<b>Agency</b>	<b>Summary of Submission</b>	<b>Support / Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition / Uphold / Not Uphold)</b>
Water Corporation	Water and waste water reticulation may need to be upgraded to facilitate future demand resulting from the amendment. Further investigations will be required to determine the level of upgrade required as development occurs. Upgrades are to be funded by developers.	Comment only	Noted	Uphold

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Western Power	No objections subject to any changes to the existing power system being the responsibility of individual developers.	Support	Noted	Uphold
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The referral of the modified Amendment to these external agencies is not considered necessary.

### **STATUTORY AND LEGAL IMPLICATIONS**

Part 5 of the *Planning and Development Act 2005* allows the Council to initiate Amendments to a Town Planning Scheme. Once initiated, the Council must advertise the Amendment, consider submissions and forward the proposal to the Minister for determination. The final decision in respect of the proposed amendment to a Town Planning Scheme ultimately rests with the Minister. However, at this stage, the Council has the discretion to initiate the Amendment, propose an alternative Amendment or refuse to initiate the Amendment.

### **FINANCIAL IMPLICATIONS**

There are no direct financial implications which will result from this Amendment other than a potential improvement in the land values and related rates revenue resulting from redevelopment and general amenity improvements within the area.

### **STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

#### Risk Management Implications

There are no risk management implications for Council to consider as part of this proposal.

#### Strategic Management Implications

The Amendment as presented has been modified to allow for an easy transition from CPS5 to the future Local Planning Scheme No. 6. As such, there are no strategic management implications envisaged.

#### Environmental Management Implications

There are no environmental management implications for Council to consider as part of this application.

### **POLICY IMPLICATIONS**

There are no policy implications for Council to consider as part of this proposal.

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### **ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could choose not to initiate an Amendment, however this would be inconsistent with Council's previous decisions to initiate and finalise the same Amendment, albeit in a form inconsistent with the Minister's objectives for the locality.

Council could resolve not to proceed with the re-initiation of this Scheme Amendment, although this course of action is not recommended as a failure to address the land use issues identified would be of potential detriment to the future development of the area.

### **COMMENTS**

As stated, it is recommended that Council re-initiate Scheme Amendment 47, amended to incorporate the Minister's suggestions (summarised) as follows:

i) *Reduce the proportion of 'Mixed Use' zoning as it is distributed too broadly across the site. Provide a more coherent and orderly consolidation of retail development, subject to appropriate justification of any additional retail floorspace.*

It is now proposed that the City does not proceed with the four new Precinct definitions of 'Highway Commercial', 'Service Commercial', 'Mixed Use' and 'Mixed Use Frame' as proposed by the Scheme Amendment as initially drafted. Instead, it is proposed that the existing 'Mixed Business' and 'Mixed Business Frame' Precincts which cover the majority of the Amendment area be retained, and supplemented by the addition of two areas to be redefined as 'Community Centre' (MC – Myaree Centre) Precinct.

The inclusion of the Community Centre precincts will cater for the consolidated retail development in the two existing retail hubs located off Marshall Road and Hulme Court. Precinct Development requirements are also proposed for the new 'Community Centre' (MC - Myaree Centre) Precinct and these will be inserted into Part 4.1 of CPS5 as follows:

#### **5. COMMUNITY CENTRE PRECINCT**

##### **MC – MYAREE CENTRE**

###### **Statement of Intent**

Primarily commercial including offices, shops, lunch bars, food/beverage production and restaurants/cafes but may include medium density residential to take advantage of facilities. May include educational establishments, garden centres, large format retail and medical centres provided they are built in accordance with any applicable Scheme and/or Policy provision,

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**Development Requirements**

R Code R20, however where connection to sewer is available R25 in accordance with Clauses 5.1, 5.2.

Minimum Lot Area  
 - Residential As per R-Codes  
 - Non-residential As per Western Australian Planning Commission Development Control Policy 4.1

Maximum Plot Ratio (Non-residential) Total plot ratio standard is 1.0, subject to any relevant Local Planning Policy.

*Note: The achievable maximum plot ratio floorspace will depend on the type and mix of uses, the form of building and the resultant requirement and design of car parking. With a mix of shops, offices and other uses, based on shared use of car parking, it should be possible to develop up to the maximum plot ratio. However, with shops alone, the achievable plot ratio may be limited. Shopping floorspace will also be limited in accordance with the Local Commercial Strategy.*

Setbacks (a) Where there is a Centre Plan for the site, which has been approved by the Council, in accordance with that Plan.  
 (b) In the absence of an approved Centre Plan, front setbacks are to be as determined by Council, generally based on 'main-street' design principles where appropriate.  
 (c) Other boundary setbacks may be reduced to nil, subject to any requirements for access provided that, where the boundary adjoins residential development, the setback is to accord with the standards applicable to such adjacent land under the relevant R-Coding.

*Note: An approved Centre Plan for the site is given recognition as a Local Planning Policy under Clause 9.6. Variations from the Centre Plan may be approved in accordance with clause 5.5, while amendments to the Plan may be made in accordance with the provisions of clause 9.6(d).*

Minimum Landscaping  
 - Residential As per R-Codes  
 - Non-residential 10% of site area and in accordance with Clause 5.9, providing that this may be reduced to 5% where the verge is landscaped, reticulated and maintained to the specification and satisfaction of the City of Melville.

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Maximum Building height	Building height standard is 10.5 metres. Where the site adjoins residential development, building height is to be limited as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.
Minimum Car Parking	
- Residential	As per R-Codes
- Non-residential	Numbers of bays shall be determined by the Council, in accordance with Clause 5.8 and having regard to Council Policy.
Bicycle facilities	End-of-trip bicycle facilities may be required having regard to relevant local planning policy.
<i>Note: End-of-trip bicycle facilities for Local Centres will be at the discretion of Council, and may vary depending on the size and composition of the particular centre and the nature of the development in respect of which the requirement is to be applied.</i>	
Retail Floor Space	<ul style="list-style-type: none"> <li>(a) Retail shopping floorspace should not exceed that identified for the relevant centre in the Local Commercial Strategy, which has been approved by the Council;</li> <li>(b) Floorspace other than retail may be approved at the discretion of the Council, having regard to relevant planning policy and co-locational benefits.</li> <li>(c) Individual office tenancies should generally not exceed 150 square metres NLA, in order to provide for a diversity of businesses and avoid domination by large establishments more appropriately located within District Centres.</li> </ul>
<i>Note: Floorspace allocated a mix of land uses can improve local employment self-sufficiency and provide a more vibrant mix of uses. Such development can also make use of facilities in respect of which there may be spare capacity outside peak shopping times, e.g. car parking.</i>	
Advertising Control	Tower and roof signs are generally not supported. At the discretion of Council other signs may be approved in accordance with the Signs, Hoardings and Billposting by-laws, as specified in Clause 5.10.
Additional Requirements	Having regard to Council Policy.

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The above development provisions are intended to ensure coherent and orderly consolidation of future retail development within the proposed 'Community Centre' (MC) Precinct; whilst legitimising the existing unauthorised retail uses which already exist within the two areas. The development provisions also maintain a retail hierarchy between the Community Centre Precincts and the higher-order zones such as District Centre or the City Centre Precincts, which are more suitable for intensive/large retail and office establishments.

To support this stance, the definition of 'Showroom' within CPS5 is to be modified and a new use class definition for 'Large Format Retail' introduced. These definitions are proposed as follows (It is noted that the definitions above have been derived from State Planning Policy 4.2 - Activity Centres for Perth and Peel):

- **"showroom"** means large premises used to display or retail:
  - automotive parts and accessories
  - home entertainment goods
  - camping and recreation equipment
  - household appliances
  - electrical light fittings
  - office equipment supplies
  - animal and pet supplies
  - party supplies
  - floor coverings
  - swimming pools and supplies
  - furnishings, bedding and manchester
  - hardware
  - furniture
  - garden supplies
  - or goods of a bulky nature that require a large area for handling, display or storage; or direct vehicle access to the site of the premises by the public for the purpose of loading goods into a vehicle after purchase or hire.
- **"large format retail"** means a retail outlet with a net lettable area (NLA) equal to or greater than 1,000m<sup>2</sup> used for the sale and display of a single class of specialty goods limited to one of the following:
  - (a) homewares, or
  - (b) textiles, art and craft supplies, or
  - (c) children's toys and play equipment, or
  - (d) sporting goods and equipment, or
  - (e) specialty goods used in the course of business or employment, and may include incidental sale and display or goods directly associated with the particular class of goods within the same premises;

In addition to the above, modifications to Table 1: Use Class Table within CPS5 are proposed as detailed under Table 1 below.

Note: Permissibility for other land uses within the 'Community Centre' (MC – Myaree Centre) Precinct shall be consistent with that provided for under the 'Community Centre' (CCR) Precinct.

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Table 1 – Proposed Use Class Table (extract)

Uses/Precincts	Living Areas	City Centre (CC)	District Centre (DC)	Community Centre (CCR)	Community Centre (MC)	Commercial Centre Frames (various)	Mixed Business (MB)	Mixed Business Frame (MBF)	Industry (I)	Leeming Development Precinct (DP)*	Heathcote Heritage Precinct (HHP)
<b>Large Format Retail</b>	X	P	P	X	D	X	X/D <sup>1</sup>	X	X	X	X
Showroom	X	D	D	X	X	X	P	P	D	X	X
Residential	P	D	D	D	D	D	X	D	X	X	I
Garden Centre	X	P	P	P	P	P	P	D	X	X	X
Showroom	X	D	D	X	X	X	P	D	D	X	X
Veterinary Clinic	X	P	P	P	P	S	P	D	P	X	X

1. *Large Format Retail is an 'X' use in the Mixed Business Zone except for those sites which have frontage to Leach Highway, in which case the land use is classified as a 'D' use.*

ii) *The overall range of land-uses in the 'Mixed Use' precinct should be reduced, including the removal of Office Uses (except where office uses are incidental to another primary use) and Residential Uses. It is recognised that discretion currently exists for Residential Uses to be developed within the Mixed Use precinct, however it is suggested that residential development be restricted to the outer edge of the amendment area to minimise the potential for land-use conflict. The existing residential use fronting Marmion Street should be accommodated for, as should incidental residential uses such as caretaker's accommodation.*

Under the revised Amendment proposal, 'Office' uses will be restricted to the 'Mixed Business Frame' and 'Community Centre' Precincts only. This does not significantly change what is currently permissible under CPS5, with the exception that the 'Mixed Business Frame' Precinct is to be expanded to include 495 and 497 Marmion Street, 71 Norma Road (existing Department of Community Services) and a band of properties parallel to McCoy Street which directly abut residential properties to the north (refer to amendment map 47 for further detail).

The 'Office' land use will remain an 'X' use within the 'Mixed Business' Precinct, unless incidental to a predominant use. This will prevent the spread of Office development into the precinct to the detriment of its primary light and service industry function.

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Since inception there has been only one example of residential development occurring within this 'Mixed Business' Precinct. Given this fact, it is proposed that 'Residential' land use becomes an 'X' – use, within the 'Mixed Business' Precinct (i.e. a use not permitted). This will ensure that the light and service industrial land use character of the precinct will continue to dominate in accordance with the Ministers objectives.

These changes are consistent with the Minister's recommendation to limit residential and office uses to the periphery of the scheme amendment area, within the Mixed Business Frame precinct.

*iii) The Scheme Amendment should provide greater protection to the function and integrity of the majority of the precinct as a light and service industrial area. The locality is well established and operates well within the urban context under its 'Mixed Business' zoning and should be protected in its current form for the long term;*

As stated, it is proposed to retain the existing 'Mixed Business' and 'Mixed Business Frame' Precincts over the majority of the area. This will provide the protection for the existing light and service industry uses sought by the Minister in his comments submitted to the City.

*iv) It must be justified in the context of the City's Local Commercial Strategy and the Western Australian Planning Commission's Draft Revised Metropolitan Centres Strategy.*

The Draft Local Commercial Strategy identifies Myaree as an industrial area under transformation to a mixed business area. The Scheme Amendment acknowledges this transformation by improving the flexibility of land uses that can occur within the area. This is achieved through the revised 'Showroom' definition proposed, and the new definition of 'Large Format Retail', both of which more accurately reflect contemporary market trends in retail development. Notwithstanding this greater flexibility, the retail hierarchy of the City is protected via land use planning controls delivered generally through the CPS.

It is noted that since consideration of the original Amendment by Council and receipt of the Minister's comments, State Planning Policy 4.2 – Activity Centres Policy has been gazetted (31 August 2010) replacing the Metropolitan Centres Policy. The proposed Amendment 47 is consistent with this new Activity Centres Policy in that it will maintain a lower order retail function for Myaree, allowing centres such as Booragoon (Secondary Centre) and Canning Bridge, Bull Creek, Melville, Riseley Street and Petra Street (District Centres) to continue operating at their higher order level.

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The proposed 'Community Centre' (MC) Precinct and associated development requirements is also considered to be consistent with the Clause 5.6.2 of the Activity Centres Policy which states:

*Shops and office development should only be permitted on land zoned industrial under region and local planning schemes where:*

- *Shops provide a local convenience service predominantly for people employed in the locality and are confined to a local centre; and*
- *Offices are ancillary to the predominant industrial use of the premises or are confined to a local or small-scale centre that services industrial developments.*

As detailed under i) above, Amendment 47 is considered to satisfy Clause 5.6.2.

**Elected Members Information Session**

As stated concerns were raised at the EMIS of 2 March 2011 regarding the permissibility of land uses contained within the 'Mixed Business Frame' Precinct given they abut residential development. The concerns derive from recent applications where commercial proposals on lots zoned 'Mixed Business Frame' Precinct propose to abut residential properties. Such applications are often controversial by their very nature, and although generally permissible under the current scheme provisions, Members were keen that the opportunity be taken to remove the potential for such land use conflicts in the future.

In this regard, it was specifically suggested that the 'Mixed Business Frame' Precinct should be limited to 'Office' uses only in order to protect adjoining residential amenity levels. In considering such a proposal, it is noted that over 50% of lots zoned 'Mixed Business Frame' Precinct are subject to an underlying Metropolitan Region Scheme (MRS) zoning of 'Industrial'. As such, in limiting the land use of these lots to 'Office' only would be contrary to the Minister's request to maintain the light and service industrial function of the locality. Consequently, it is unlikely that the Minister would be supportive of such a change to limit land use permissibility.

Notwithstanding the above, there is considered to be some scope to further control land use within the Mixed Business Frame in an attempt to avoid land use conflict. This is proposed to be achieved through modifying those land uses of a light or service industrial nature which are currently 'P' – permitted uses to 'D' – discretionary uses within Table 1 of CPS5. This change is proposed to the 'Garden Centre', 'Showroom' and 'Veterinary Clinic' uses as these uses have the potential to conflict most with existing residential land uses. Consequently, Council would be able to exercise its discretion in considering applications for these types of land uses taking into account the potential impact on the adjoining properties, and deal with each proposal on its merits.

No changes are proposed to other existing land use permissibility contained within Table 1 of CPS5 for the Mixed Business Frame Precinct as they are either already designated as 'D' – discretionary, 'X' – not permitted or 'S' – discretionary uses, or are 'P' – permitted uses which are deemed to have minimal risk of land-use conflict.

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### **CONCLUSION**

It is concluded that Scheme Amendment No 47 as is now proposed, meets the objectives outlined by the Minister in response to the text as previously proposed, and will provide the City with an effective mechanism for controlling the competing and often conflicting demands for land use in the area in the future. As such it is recommended that Council re-initiate the Amendment and authorise formal advertising to be undertaken.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3196) APPROVAL**

At 7.12pm Cr Subramaniam moved, seconded Cr Barton –

- A. That pursuant to Part 5 Section 75 of the *Planning and Development Act 2005*, the Council resolve to initiate Amendment No. 47 to Community Planning Scheme No. 5.**
- B. That His Worship the Mayor and the Chief Executive Officer be authorised to endorse the Amendment document.**
- C. That the City of Melville forward a copy of the Amendment documentation to:**
  - a) The Western Australian Planning Commission for information.**
- D. That pursuant to Part 5 Section 75 of the *Planning and Development Act 2005*, the City of Melville Community Planning Scheme No. 5 be amended as detailed below:**
  - a) Amending Part 4 of Community Planning Scheme No. 5 by adding the following new Precinct – ‘Community Centre’ (MC – Myaree Centre) Precinct and associated Precinct Development requirements:**

#### **5. COMMUNITY CENTRE PRECINCT**

##### **MC – MYAREE CENTRE**

###### **Statement of Intent**

Primarily commercial including offices, shops, lunch bars, food/beverage production and restaurants/cafes but may include medium density residential to take advantage of facilities. May include educational establishments, garden centres, large format retail and medical centres provided they are built in accordance with any applicable Scheme and/or Policy provision.

###### **Development Requirements**

<b>R Code</b>	<b>R20, however where connection to sewer is available R25 in accordance with Clauses 5.1, 5.2.</b>
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**P11/3196 - RE-INITIATION OF AMENDMENT NO. 47 TO COMMUNITY PLANNING SCHEME NO. 5 – MODIFICATION OF THE MYAREE MIXED BUSINESS FRAME AND PRECINCT BY ADDITION OF NEW ZONES, PRECINCTS, DEVELOPMENT REQUIREMENTS, DEFINITIONS AND MODIFICATION TO THE USE CLASS TABLE (REC) (ATTACHMENT)**

**Minimum Lot Area**

- Residential	As per R-Codes
- Non-residential	As per Western Australian Planning Commission Development Control Policy 4.1

**Maximum Plot Ratio**

(non-residential) Total plot ratio standard is 1.0, subject to any relevant Local Planning Policy.

*Note: The achievable maximum plot ratio floorspace will depend on the type and mix of uses, the form of building and the resultant requirement and design of car parking. With a mix of shops, offices and other uses, based on shared use of car parking, it should be possible to develop up to the maximum plot ratio. However, with shops alone, the achievable plot ratio may be limited. Shopping floorspace will also be limited in accordance with the Local Commercial Strategy.*

**Setbacks**

- (a) Where there is a Centre Plan for the site, which has been approved by the Council, in accordance with that Plan.
- (b) In the absence of an approved Centre Plan, front setbacks are to be as determined by Council, generally based on 'main-street' design principles where appropriate.
- (c) Other boundary setbacks may be reduced to nil, subject to any requirements for access provided that, where the boundary adjoins residential development, the setback is to accord with the standards applicable to such adjacent land under the relevant R-Coding.

*Note: An approved Centre Plan for the site is given recognition as a Local Planning Policy under Clause 9.6. Variations from the Centre Plan may be approved in accordance with clause 5.5, while amendments to the Plan may be made in accordance with the provisions of clause 9.6(d).*

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**Minimum Landscaping**

- Residential
- Non-residential

As per R-Codes

10% of site area and in accordance with Clause 5.9, providing that this may be reduced to 5% where the verge is landscaped, reticulated and maintained to the specification and satisfaction of the City of Melville.

**Maximum Building height**

Building height standard is 10.5 metres. Where the site adjoins residential development, building height is to be limited as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.

**Minimum Car Parking**

- Residential
- Non-residential

As per R-Codes

Numbers of bays shall be determined by the Council, in accordance with Clause 5.8 and having regard to Council Policy.

**Bicycle facilities**

End-of-trip bicycle facilities may be required having regard to relevant local planning policy.

**Note:** *End-of-trip bicycle facilities for Local Centres will be at the discretion of Council, and may vary depending on the size and composition of the particular centre and the nature of the development in respect of which the requirement is to be applied.*

**Retail Floor Space**

- (a) Retail shopping floorspace should not exceed that identified for the relevant centre in the Local Commercial Strategy, which has been approved by the Council;
- (b) Floorspace other than retail may be approved at the discretion of the Council, having regard to relevant planning policy and co-locational benefits.

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(c) Individual office tenancies should generally not exceed 150 square metres NLA, in order to provide for a diversity of businesses and avoid domination by large establishments more appropriately located within District Centres.

*Note: Floorspace allocated a mix of land uses can improve local employment self-sufficiency and provide a more vibrant mix of uses. Such development can also make use of facilities in respect of which there may be spare capacity outside peak shopping times, e.g. car parking.*

**Advertising Control**

Tower and roof signs are generally not supported. At the discretion of Council other signs may be approved in accordance with the Signs, Hoardings and Billposting by-laws, as specified in Clause 5.10.

**Additional Requirements**

Having regard to Council Policy.

b) Inclusion of a new Precinct under 'Community Centre Precincts' in Clause 4.1 (5) of the City of Melville Community Planning Scheme No. 5 as follows:

**MC Myaree Centre**

E. Amend Table 1: Use Class Table to reflect the new 'Community Centre' (MC) Precinct, 'Large Format Retail' use class and amended permissibility's relating to the 'Showroom', 'Residential', 'Garden Centre' and 'Veterinary Clinic' use classes as follows:

**Note: Permissibility for other land uses not listed below within the 'Community Centre' (MC) Precinct shall be consistent with that provided for under the 'Community Centre' (CCR) Precinct.**

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Uses/Precincts	Living Areas	City Centre (CC)	District Centre (DC)	Community Centre (CCR)	Community Centre (MC)	Commercial Centre Frames (various)	Mixed Business (MB)	Mixed Business Frame (MBF)	Industry (I)	Leeming Development Precinct (DP)*	Heathcote Heritage Precinct (HHP)
Large Format Retail	X	P	P	X	D	X	X/D <sup>1</sup>	X	X	X	X
Showroom	X	D	D	X	X	X	P	P	D	X	X
Residential	P	D	D	D	D	D	X	D	X	X	I
Garden Centre	X	P	P	P	P	P	P	D	X	X	X
Showroom	X	D	D	X	X	X	P	D	D	X	X
Veterinary Clinic	X	P	P	P	P	S	P	D	P	X	X

1. *Large Format Retail is an 'X' use in the Mixed Business Zone except for those sites which have frontage to Leach Highway, where the use class is a 'D' use.*

G. Add the following definitions to Schedule 1: Interpretations.

- “Showroom” means large premises used to display or retail:
  - automotive parts and accessories
  - home entertainment goods
  - camping and recreation equipment
  - household appliances
  - electrical light fittings
  - office equipment supplies
  - animal and pet supplies
  - party supplies
  - floor coverings
  - swimming pools and supplies
  - furnishings, bedding and manchester
  - hardware
  - furniture
  - garden supplies
  - or goods of a bulky nature that require a large area for handling, display or storage; or direct vehicle access to the site of the premises by the public for the purpose of loading goods into a vehicle after purchase or hire.

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- “Large format retail” means a retail outlet with a net lettable area (NLA) equal to or greater than 1,000m<sup>2</sup> used for the sale and display of a single class of specialty goods limited to one of the following:
  - (a) homewares, or
  - (b) textiles, art and craft supplies, or
  - (c) children’s toys and play equipment, or
  - (d) sporting goods and equipment, or
  - (e) specialty goods used in the course of business or employment, and may include incidental sale and display or goods directly associated with the particular class of goods within the same premises.

**H) Amend the scheme map by:**

- (i) Scheme map legend by adding the Community Centre’ (MC) Precinct.
- (ii) Rezone lots adjoining Marshall Road (as shown on the scheme amendment map number 47) from ‘Mixed Business’ to ‘Community Centre (MC)’ Precinct.

Rezone lots adjoining Hulme Court (as shown on the scheme amendment map number 47) from ‘Mixed Business’ to ‘Community Centre (MC)’ Precinct.

<b>Rezone</b>	Lot 105 (497) Marmion Street, Booragoon; Lot 104 (495) Marmion Street, Booragoon; Lot 2 (3) Aldous Place, Booragoon; Lot 312 (9) Aldous Place, Booragoon; Lot 1 (11) Aldous Place, Booragoon; Lot 2 (13-17) Aldous Place, Booragoon; Lot 888 (71) Norma Road, Myaree; Lot 42 (106) North Lake Road, Myaree; Lot 43 (104) North Lake Road, Myaree;
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from ‘Mixed Business’ to ‘Mixed Business Frame’ Precinct.

**I) The Amendment be advertised in accordance with the Town Planning Regulations for not less than forty-two days.**

At 7.12pm the Mayor submitted the motion, which was declared

**CARRIED (9/0)**

At 7.13pm Cr Robertson and Cr Ceniviva returned to the meeting.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

Ward	:	All
Category	:	Strategic
Application Number	:	CPS5-61
Property	:	All
Proposal	:	Deletion of Clause 5.6: Home Occupations and inclusion of Home Office, Home Occupation and Home Business as land use classes in CPS5
Applicant	:	City of Melville
Owner	:	Not applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services
Previous Items	:	Not applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when 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	<b><i>includes adopting local laws, town planning schemes &amp; policies.</i></b>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

**KEY ISSUES / SUMMARY**

- At present, under Clause 5.6 of the Community Planning Scheme No. 5 (CPS5), Home Occupations are treated as licenses which require the issue of an annual renewal.
- The current process requires that all Home Occupation Licences are renewed every 12 months.
- This 12 month time limit on the approval of home occupations is considered onerous as the majority of home occupations involve low impact activities, which have a negligible impact on the amenity of occupiers of neighbouring properties.
- The administrative burden associated with the 12 month renewals process is considerable, and the benefits that accrue from having the 12 month renewal regime in place are questionable given their very low key nature.
- In order that this administrative burden is set aside, whilst ensuring that the amenity impacts of Home Occupation proposals are managed in accordance with Scheme requirements, it is proposed to introduce the Home Business, Home Occupation and Home Office land uses into CPS5. This will result in Home Businesses and Home Occupations requiring planning approval, and remove the need for them to be the subject of an annual licence renewal.
- This requires a Scheme Amendment to CPS5.
- The City will retain its ability to manage and control the impacts that may arise from Home Occupation developments in the same way that it does for any other type of development proposal.
- This is achieved using a thorough and comprehensive assessment approach, backed by an existing framework of Policy and guidelines as provided by CPS5, Council Policies, and State Planning Policies and Guidance.
- The City can impose conditions on any planning approval to regulate how land is used, and how uses operate. In practice such conditions are generally tailored to suit individual circumstances, and applied to planning approvals accordingly.
- Where the impact of a proposed home based business is uncertain, the City can maintain control by imposing a time limit on the validity of any consent issued. In that way the controls available under the present 12 month licence regime are effectively replicated, but in a much more focused and cost effective way..
- It is recommended that the City initiate this Scheme Amendment to CPS5 to delete Clause 5.6 and introduce Home Business, Home Occupation and Home Office land uses into CPS5.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)****BACKGROUND**

A Home Occupation is a business operated from a residential property where the property is also utilised as the primary residence for the person who operates the business.

At present there are 114 approved home occupations being operated within the City of Melville, ranging from hairdressers, physiotherapists, lawn mowing services, cake baking and piano lessons to name but few.

Under Clause 5.6 of CPS5, all home occupations are required to obtain approval prior to commencement. Home Occupations are granted as licenses under CPS5 rather than planning approvals as they require annual renewals.

At its meeting on 17 March 2009, Council resolved to adopt Scheme Amendment 55. This Amendment relates to the introduction of provisions into CPS5 to prevent the operation of Sexual Services businesses as Home Occupations. This Amendment has been forwarded to the Hon. Minister for approval however to date has not been determined.

Associated with this, the Council, at its meeting of 15 March 2011, resolved to adopt an amended Council policy: "Home Occupations Relative to Sexual Services Businesses". This policy exists to provide an interim approach to the control of such activities in the City, pending the finalization of Scheme Amendment 55, which at present rests with the Minister.

**Scheme Provisions**

MRS Zoning	: Not applicable
CPS 5 Zoning	: Not applicable
R-Code	: Various
Use Type	: Not applicable
Use Class	: Not applicable

Clause 5.6: Home Occupations within CPS5 currently states as follows:

*To preserve the amenity of residential precincts:*

- (a) *no home occupation may be commenced, established, advertised or undertaken from a residential lot or address unless such use has been approved by the Council;*
- (b) *any home occupation shall be a use carried out by an occupier of land and shall not be transferable to any subsequent owner of the land;*
- (c) *approval for the establishment of a home occupation shall be for a maximum period of twelve (12) months only and the applicant is to seek renewals thereafter to effect the continuance of the home occupation;*
- (d) *if in the opinion of the Council, a home occupation is causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood the Council may revoke its approval;*

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OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

(e) *the Council may only grant approval for a home occupation where:*

- (i) *that occupation consists of the establishment and conduct of a business/office or consulting room, provided that the Council shall not grant approval to any uses of retail sale, hiring or display of goods of any nature, manufacturing or production of goods, where adverse amenity impacts are likely to occur;*
- (ii) *it does not entail more than one (1) customer or client at any one time other than those members of the immediate family to travel to and from the premises in relation to the business. The Council may grant approval for a home occupation where it does not entail more than three (3) customers. The Council may permit greater than three (3) customers under an absolute majority decision provided that it is satisfied the increase will have no detrimental effect on the locality.*
- (iii) *It does not create injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water or waste products;*
- (iv) *It does not entail the employment of any person not a member of the occupier family, unless the Council grants special approval;*
- (v) *It does not occupy an area greater than thirty eight (38) square metres;*
- (vi) *It does not require the provision of any essential service of a greater capacity than normally required for the permitted use of the lot;*
- (vii) *It is restricted in advertisement to signs in accordance with Clause 5.10; and*
- (viii) *It requires the provision of one on-site parking bay for the client/customer in addition to the domestic requirements on site, such parking bay to be accommodated to the satisfaction of the Council and not disrupting the access of domestic vehicles.*

(f) *Notwithstanding any other provisions of this clause 5.6, approval is not required from the Council where:*

- (i) *the home occupation comprises a business office no greater than 38 square metres;*
- (ii) *no clients, customers or staff other than the occupier family travel to the premises;*
- (iii) *there is no advertising sign on site larger than 0.2 square metres; and*
- (iv) *the home occupation does not prejudicially affect the amenity of the neighbourhood.*

**Site Details**

Lot Area	: Not applicable
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Not applicable

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NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)****STATUTORY AND LEGAL IMPLICATIONS**

Part 5 of the Planning and Development Act 2005 allows Council to initiate amendments to Town Planning Schemes. Once initiated, Council must refer the Amendment to the Environmental Protection Authority (EPA) and the Department for Planning. Following receipt of advice from the EPA, the City advertises the Amendment, considers any submissions received and forwards the proposal to the Honourable Minister for Planning, Culture and the Arts, Environment and Youth for determination.

The decision from Council on whether or not to initiate the subject Amendment is final and no appeal rights exist. Council may choose to initiate the Amendment, propose an alternative Amendment or refuse to initiate it.

**FINANCIAL IMPLICATIONS**

The 2010/2011 fee schedule sets out a \$203 home occupation application fee and a \$67 annual renewal fee. The \$203 application fee will not change as a result of the proposed Scheme Amendment, however there will no longer be a requirement for an annual renewal.

This loss of the annual renewal fee would have an impact upon the Urban Planning budget, however it is considered that this loss of income will be offset by a reduction in the amount of Officer time spent on the renewal process which can be utilised to increase customer service outcomes within the Planning department.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

This proposed amendment to CPS5 would standardise the approach adopted by the City in its consideration and determination of applications for Home Occupation approval, and bring it in line with the Department of Planning's Model Scheme Text.

**POLICY IMPLICATIONS**

Following initiation of the Amendment, advertising should provide an indication of the community's expectations with regard to the operation of home occupations within the City of Melville. The process involved in the consultation and final adoption of the amendment measures will be open and transparent.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could choose not to initiate the Amendment, however it is recommended that the Amendment be initiated as other measures are available under CPS5 to mitigate the potential adverse effects of the operation of a home occupation and the large amount of officer time currently required for the monitoring, reminder and assessment of the annual renewals.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)****COMMENTS**

As outlined above, Home Occupations are not treated as planning applications for the purposes of Clause 7.1 of CPS5, but instead are treated as an application for a Licence in accordance with the provisions of Clause 5.6 of CPS5. As Licences, they require an annual renewal.

The requirement to obtain an annual renewal is considered to be onerous, as the majority of home occupations involve low impact activities, which have a negligible impact on the amenity of occupiers of neighbouring properties.

The administrative burden associated with the 12 month renewals process is however considerable and the benefits that accrue from having the 12 month renewal regime in place are questionable given the very low key nature of the actual Home Occupation activities.

At present, staff within the Planning and Building Team administer and monitor the expiry period of each of the 114 home occupation approvals that exist across the City. Prior to the expiry of the 12 month approval, a letter is sent to remind the Applicant of the expiry of their Home Occupation licence, and advising that an application for renewal should be submitted.

If the renewal application is submitted prior to the expiry date, the Home Occupation approval is reviewed and a renewal letter is sent out to the Applicant. If the renewal application is not submitted prior to the expiry date, which is often the case, a second letter is sent informing the Applicant that their home occupation has expired, and advising that if the Home Occupation activity is proposed to continue, a new application for it should be submitted to the City for its consideration and approval. If there is no response to that letter, it is assumed that the Home Occupation activity is ceased, and a visit to the premises is necessary to confirm that is the case. If the visit confirms that the activities associated with the Home Occupation continue without the benefit of Home Occupation approval, compliance action can be initiated.

As is evident, the whole process regarding the renewal process is time consuming and burdensome, and it delivers limited benefit to the City.

The current renewal application fee for a Home Occupation (restricted by the Department of Planning) is \$67. This is modest, and not reflective of the time and effort that is spent by the City in administering the renewal process associated with it.

For this reason, and given the negligible impacts generally associated with Home Occupation activities per se, approval of the Council is sought to introduce a Scheme Amendment to the provisions of CPS5 to delete Clause 5.6: Home Occupations, and introduce the Home Business, Home Occupation and Home Office land uses within it. In doing so, home based businesses will require planning approval pursuant to Clause 7.1 of CPS5, as opposed to a Licence approval, as is the case at present.

The administration, management, and policing of home based businesses will continue to take place to the same extent as it is at present. Controls will not be weakened in any way, as the ability to impose limitations on the longevity of planning approvals in individual cases is assured via the imposition of standard planning conditions. These can be applied by the City to any planning approval so issued.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

The proposed changes to CPS5 are as follows:

(1) Inclusion of 'Home Office', 'Home Occupation' and 'Home Business' within Table 1: Use Class Table as follows:

	Living Areas	City Centre	District Centres	Community Centres	Commercial Centre Frames	Mixed Business	Mixed Business Fane	Industry	Leeming Development Precinct	Heathcote Heritage Precinct
Home Business	S	S	S	S	S	X	S	X	X	S
Home Occupation	D	D	D	D	D	X	D	X	X	D
Home Office	P	P	P	P	P	P	P	P	P	P

Note: The above symbols have the following meaning within CPS5:

- P use permitted
- D use not permitted unless the Council exercises discretion and grants planning approval
- S use not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d),
- X use not permitted

(2) Inclusion of definitions of 'Home Business', 'Home Occupation' and 'Home Office' within Schedule 1: Interpretations, as follows:

**Home Business** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight;
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone; and
- (g) does not consist of the establishment and conduct of a Sexual Service Business.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

**Home Occupation** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles;
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone; and
- (h) does not consist of the establishment and conduct of a Sexual Service Business.

**Home office** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not –

- (a) entail clients, customers or staff travelling to and from the dwelling;
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling; and
- (d) does not consist of the establishment and conduct of a Sexual Service Business.

(3) Include 'Home Office' within Clause 7.3: Exclusions of CPS5 as follows:

- (k) a 'Home Office'

The above proposed changes to CPS5 will mean that applications for home based businesses, including Home Businesses and Home Occupations will require development approval. Under the proposed Clause 7.3(k), Home Offices will not require planning approval as per the existing Clause 5.6(f) of CPS5.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

The proposed changes to CPS5 will not alter the assessment and control of the effects of home based businesses. Where Council grants approval for the establishment of a Home Occupation or a Home Business, conditions of approval can still be imposed to mitigate the potential impact of these businesses upon the surrounding properties. The standard conditions of Planning Approval the City could impose include the following:

- *Planning approval for Home Occupation/Home Business is issued only to the Applicant to which the approval is granted and is not transferable to another person or property.*
- *The Home Occupation/Home Business is to be undertaken in accordance with the provisions and definition set out within the City of Melville's Community Planning Scheme No. 5 to the satisfaction of the Manager Planning and Development Services.*
- *The Home Business is not to employ more than two people not members of the occupier's household.*
- *The Home Occupation is not to occupy an area of greater than 20m<sup>2</sup>.*
- *The Home Business is not to occupy an area of greater than 50m<sup>2</sup>.*
- *The Home Business/Home Occupation is not to involve the retail sale, display or hire of goods of any nature.*
- *The Home Occupation is not to employ any person not a member of the occupier's household.*
- *No sign of greater than 0.2m<sup>2</sup> is to be displayed at the premises.*
- *A maximum of (insert number here) clients per day are permitted to visit the property in accordance with the Applicants submission. A record book of the number of clients visiting the property is to be kept on-site at any time available for inspection.*
- *All materials and/or equipment used in relation to the Home Occupation/Home Business being stored within the residence, shed or rear yard screened from view of adjoining properties and the street.*

Whilst annual renewals would no longer be required under the proposed changes to CPS5, Council could, for applications where the potential impacts are uncertain, grant approval for a temporary period only under the existing Clause 7.12(c). At the end of this period a further application for planning approval would be required. The temporary period referred to need not be as long as 12 months. Depending on the level of uncertainty surrounding any given proposal, approval could be granted for a matter of months, as opposed to one year. In this way it could be argued that the changes proposed to be introduced by the Scheme Amendment now proposed will actually provide the City with a greater level of control in its efforts to manage the impacts of competing land use activities.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

Furthermore, planning approvals for Home Occupations, Home Businesses and Home Offices are only granted to the Applicant. These planning approvals are not transferable to future tenants or owners of the property, as is the case with other land use categories.

The above proposed changes to CPS5 will supersede the previously adopted Amendment 55 which sought to amend Clause 5.6 of CPS5 to exclude the establishment and operation of Sexual Service businesses as Home Occupations. Amendment 61 proposes to delete Clause 5.6 of CPS5 in its entirety; however the proposed definitions of Home Business, Home Occupation and Home Office now expressly state that Sexual Services Businesses cannot be approved as a Home Business, Home Occupation or Home Office. Amendment 61 is therefore consistent with the intent of Amendment 55, and it will still prohibit Sexual Services Businesses being undertaken within the Living Areas Precincts of the City.

Should the proposed Scheme Amendment No 61 be endorsed by the Council, and ultimately adopted, a letter will be sent to the Hon. Minister requesting that Amendment 61 supersede Amendment 55. In the interim, Council Policy: "Home Occupations Relative to Sexual Services Businesses" provides the City with the ability to control such businesses.

**CONCLUSION**

It is recommended that Clause 5.6 of CPS5 be deleted and that the Home Business, Home Occupation and Home Office land uses be incorporated into CPS5 for the following reasons:

- The 12 month time limit on the approval of home occupations is considered onerous for the majority of home occupation businesses. Most home occupations are for small scale, low impact businesses which are capable of approval subject to conditions without a need for the approval to be renewed every year;
- The annual renewal of home occupation approvals is a time consuming task which delivers little benefit to the City;
- Where necessary, the City has the ability to include a condition of approval specifying that approval is granted for a temporary period only; and
- The proposed changes will make CPS5 consistent with the Model Scheme Text.

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3197)**

**APPROVAL**

1. That pursuant to Part 5 of the Planning and Development Act 2005, Council resolve to initiate Amendment No 61 to Community Planning Scheme No 5 by:

(A) Deleting clause 5.6: home occupations;

(B) Inserting 'home business', 'home occupation' and 'home office' land use classes into Table 1: Use Class Table as follows:

	<i>Living Areas</i>	<i>City Centre</i>	<i>District Centres</i>	<i>Community Centres</i>	<i>Commercial Centre Frames</i>	<i>Mixed Business</i>	<i>Mixed Business Fame</i>	<i>Industry</i>	<i>Leeming Development Precinct</i>	<i>Heathcote Heritage Precinct</i>
<i>Home Business</i>	<i>S</i>	<i>S</i>	<i>S</i>	<i>S</i>	<i>S</i>	<i>X</i>	<i>S</i>	<i>X</i>	<i>X</i>	<i>S</i>
<i>Home Occupation</i>	<i>D</i>	<i>D</i>	<i>D</i>	<i>D</i>	<i>D</i>	<i>X</i>	<i>D</i>	<i>X</i>	<i>X</i>	<i>D</i>
<i>Home Office</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>

Note: The above symbols have the following meaning within CPS5:

*P* use permitted

*D* use not permitted unless the Council exercises discretion and grants planning approval

*S* use not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d),

*X* use not permitted

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

**(C) Inserting the definitions of 'home business', 'home occupation' and 'home office' within Schedule 1: Interpretations as follows:**

***'Home Business' means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –***

- (a) does not employ more than two people not members of the occupier's household;***
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;***
- (c) does not occupy an area greater than 50 square metres;***
- (d) does not involve the retail sale, display or hire of goods of any nature;***
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight;***
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone; and***
- (g) does not consist of the establishment and conduct of a Sexual Service Business.***

***'Home Occupation' means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –***

- (a) does not employ any person not a member of the occupier's household;***
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;***
- (c) does not occupy an area greater than 20 square metres;***
- (d) does not display a sign exceeding 0.2 square metres;***
- (e) does not involve the retail sale, display or hire of goods of any nature;***
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles;***
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone; and***
- (h) does not consist of the establishment and conduct of a Sexual Service Business.***

***'Home office' means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not –***

- (a) entail clients, customers or staff travelling to and from the dwelling;***
- (b) involve any advertising signs on the premises; or***
- (c) require any external change to the appearance of the dwelling; and***
- (d) does not consist of the establishment and conduct of a Sexual Service Business.***

**P11/3197 - PROPOSED AMENDMENT NO 61 TO COMMUNITY PLANNING SCHEME  
NO 5 – DELETION OF CLAUSE 5.6: HOME OCCUPATIONS AND INCLUSION OF HOME  
OFFICE, HOME OCCUPATION AND HOME BUSINESS AS LAND USE CLASSES (REC)**

**(D) Inserting sub-clause (k) into Clause 7.3: Exclusions as follows:**

**(k) a 'Home Office'**

- 2. That his Worship the Mayor and the Chief Executive Officer be authorised to endorse the amendment document.**
- 3. That the City of Melville forward a copy of the Amendment documentation to:**
  - A) The Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.**
  - B) The Department for Planning for information.**
- 4. That on receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act indicating that the Amendment need not be subject to an environmental assessment, the amendment be advertised in accordance with the Town Planning Regulations for not less than forty-two (42) days.**

At 7.14pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (11/0)**

**T11/3203 - NOTING OF THE NATURAL AREAS ASSET MANAGEMENT PLAN (NAAMP) (REC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Environmental Management
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Not Applicable
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Ian Davis Manager Parks and Environment

## **AUTHORITY / DISCRETION**

## DEFINITION

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

**T11/3203 - NOTING OF THE NATURAL AREAS ASSET MANAGEMENT PLAN (NAAMP)  
(REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Natural Area Asset Management Plan (NAAMP) provides the context, technical and policy framework for the management of natural area reserves within the City of Melville.
- The NAAMP establishes a risk based framework for managing biodiversity on the scale of reserves, sites within reserves and individual species.
- The document is intended to have a life of 10 years and will be the principle guiding document in the City's approach to managing the 55 natural area reserves.
- Amendments and updates to the detail of the document may be required within the next 10 years, eg, changes to legislation or updates to flora and fauna inventories.
- Although the NAAMP is an operational document, it is being presented to Council for noting given the environmental significance of the natural area reserves and the level of community interest in these matters.

**BACKGROUND**

The City has 210 parks and reserves, featuring a total of 18.1 km of foreshore comprising 600 hectares of public open space and 260 hectares of bushland.

Previously the City developed management plans for individual bushland reserves and these plans included all available contextual and management information.

Management plans have been developed for 15 individual reserves (and small groups of reserves) using this methodology, leaving approximately 36 reserves with no management plan or consistent, documented approach to management. This arrangement has resulted in:

- repetition of common information (e.g. climate);
- inconsistencies in common information between plans (e.g. due to the evolution of best practice, policy and legislation between preparation of individual plans);
- inconsistencies in format and content; and
- management recommendations being formulated at the scale of individual reserves rather than strategically across many reserves.

**The NAAMP 3203 Natural Areas Asset Management Plan 2011 Annex A**

offers a more comprehensive, strategic approach to developing management plans and actions across all natural areas. Existing management plans will remain in place however will be progressively replaced over time, using the NAAMP framework.

**3203 Natural Areas Asset Management Plan 2011 Maps**

The City has previously prioritised bushland reserves using a prioritisation matrix developed in 2001. The NAAMP replaces this prioritisation process by allocating certain asset values and potential threats against those values in order to prioritise reserves and subsequent resource allocation.

**T11/3203 - NOTING OF THE NATURAL AREAS ASSET MANAGEMENT PLAN (NAAMP)  
(REC) (ATTACHMENT)****DETAIL**

The objective of the NAAMP is to establish a consistent, holistic planning methodology that:

- achieves and maintains a cohesive approach to managing natural areas across the organisation;
- creates uniformity through the planning process, yet allows for flexibility to manage specific issues where necessary;
- aligns the management planning process with Community outcomes, the Corporate Plan and the budget process;
- allows for more efficient resource allocation and prioritisation of budgets and resources; and
- integrates with current systems e.g. the Environmental Management System and Interplan, etc.

The scope of the NAAMP includes the 55 reserves managed by the City.

These reserves range in size from less than one hectare, up to 50 hectares, and with the exception of Ken Hurst Park are all located in residential areas.

Several of the reserves (e.g. William Reynolds Park and Red Gum Park) that are managed by the City as natural areas are highly modified and whilst containing some scattered remnant individual native plants that do not meet either of the following definitions:

- **Natural Area**  
naturally vegetated areas or non-vegetated areas such as water bodies (generally rivers, lakes and estuaries), bare ground (generally sand or mud) and rock outcrops (Environmental Protection Authority, Guidance Statement No. 10 2006)
- **Bushland**  
land on which there is vegetation which is either a remainder of the natural vegetation, or if altered, is still representative of the structure and floristics of the natural vegetation, and provides the necessary habitat for native fauna (Government of Western Australia, Bush Forever Volume 2, Directory of Bush Forever Sites 2000).

Most foreshore reserves have been excluded from the NAAMP as they will be managed under a separate foreshore management Plan document (yet to be developed).

**T11/3203 - NOTING OF THE NATURAL AREAS ASSET MANAGEMENT PLAN (NAAMP)  
(REC) (ATTACHMENT)****PUBLIC CONSULTATION/COMMUNICATION**

The NAAMP was presented for information at a public information session on 13 December 2010, held at Piney Lakes Environmental Education Centre. All community contacts were notified about the presentation via email, including specific 'Friends of' groups, Neighbourhood Development Officers and other interest groups (such as South East Regional Centre for Urban Landcare). Ten members of the public attended the information session (including two Elected Members). The general response to the NAAMP was very positive and several queries were addressed in the session.

The draft NAAMP was made publically available on the City of Melville website.

As a result of the community information session and advertisement of the NAAMP through the City's website, four written submissions were received from the public. The submissions and responses are summarised in the attached spreadsheet and copies of the individual response letters are also attached.

[3203 Letter Murdoch Branch Wildflower Society of WA NAAMP](#)

[3203 Letter Beeliar Regional Park Community Advisory Committee NAAMP](#)

[3203 Letter Friends of Wireless Hill Park NAAMP](#)

[3203 Letter Swan Estuary Reserves Action Group NAAMP](#)

[3203 NAAMP Community Submissions and Responses Summary 2011](#)

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The NAAMP was developed by the City of Melville Environmental Team, in consultation with Woodgis Environmental Assessment and Management consultants. The Department of Environment and Conservation and the Department of Indigenous Affairs were contacted to obtain information and advice on natural area assets within the City.

**STATUTORY AND LEGAL IMPLICATIONS**

The NAAMP outlines in detail the specific statutory and legal obligations of the City in regards to natural area management and environmental protection. The NAAMP will enable the City to adequately address these requirements in a strategic and thorough manner.

**FINANCIAL IMPLICATIONS**

There are no direct financial implications in noting the NAAMP. The NAAMP will however directly guide the development of future specific reserve management plans, which will in turn drive the budgetary requests applicable to natural area management. All financial implications and associated budget requests will be made through the annual budget process.

**T11/3203 - NOTING OF THE NATURAL AREAS ASSET MANAGEMENT PLAN (NAAMP)  
(REC) (ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
Continuing non-strategic approach to natural area management may result in non-conformance with statutory or other legal requirements as listed in the NAAMP document	Moderate consequences which are possible, resulting in a <b>HIGH</b> level of risk.	The development of NAAMP and continued adherence to the framework set out in the document will reduce the likelihood of non-conformance. Ensure that the NAAMP is integrated into Business Management System processes and procedures to reduce the likelihood of non-conformance.

**POLICY IMPLICATIONS**

There are no policy implications relating to the NAAMP. The NAAMP itself directly addresses and supports CP-030 Environmental Policy regarding the City's commitment to the '*protection and enhancement of biodiversity*'.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

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

**CONCLUSION**

The NAAMP represents a step forward in the continual improvement of managing our natural areas throughout the City. The document allows for an adaptive, comprehensive and strategic approach, focused on the fundamental principle of protection and enhancement of biodiversity.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3203) NOTING**

**That the Council notes the Natural Areas Asset Management Plan  
3203 Natural Areas Asset Management Plan 2011 Annex A  
3203 Natural Areas Asset Management Plan 2011 Maps as a plan that will contribute to the maintenance and enhancement of biodiversity for the preservation of our natural flora and fauna.**

At 7.14pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (11/0)**

**C11/5000 – COMMON SEAL REGISTER (REC)**

Ward	:	All
Category	:	Operational
Subject Index	:	Common Seal Register
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 Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bruce Taylor - Manager Information, Technology & Support

**AUTHORITY / DISCRETION**
**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when 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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied and recommends that the information be noted.

**C11/5000 – COMMON SEAL REGISTER (REC)****BACKGROUND**

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

**DETAIL**

Register Reference	Party	Description	File Reference
498	City of Melville & Melville Cares Incorporated	Melville Cares Incorporated Management Licence Renewal	2086028
510	City of Melville & P E Boteler	Notification Under Section 70A Ancillary Accommodation Lot 48 (48) Dean Street Bateman	2421551

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 2.5(2) of the Local Government Act 1995.

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

Section 9.49. Documents, how authenticated.

*A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.*

**FINANCIAL IMPLICATIONS**

Not applicable.

## C11/5000 – COMMON SEAL REGISTER (REC)

## STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Not applicable.

## POLICY IMPLICATIONS

Not applicable.

## ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

## CONCLUSION

This is a standard report for Elected Members information.

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

**That the action of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville, be noted.**

At 7.14pm the Mayor submitted the motion, which was declared

## **CARRIED EN BLOC (11/0)**

**C11/6000 - INVESTMENT STATEMENTS (REC)**

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Investments and Statements
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	:	Khris Yeoh - Senior Financial Accountant

**AUTHORITY / DISCRETION**
**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- This report presents the investment statements for the month of February 2011 and recommends that the information detailed in the attachments be noted.
- No new credit events were recorded in relation to Council's Collateralised Debt Obligation (CDO) investments in February 2011.
- When compared to the valuations used as at 30 June 2010, valuations obtained from Denison Financial Advisory as at 28 February 2011 show that:
  - Authorised Deposit-taking Institutions (ADIs) have increased in value by \$98K.
  - CDOs have increased in value by \$3.33m.

**C11/6000 - INVESTMENT STATEMENTS (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's Investment of Funds Policy CP-009, with the objective of maximising returns whilst maintaining low levels of credit risk exposure.

**DETAIL**

Summary details of investments held at 28 February 2011 are shown in the table below.

**CITY OF MELVILLE  
STATEMENT OF INVESTMENTS  
FOR THE PERIOD ENDING 28 FEBRUARY 2011**

SUMMARY BY FUND	PURCHASE PRICE \$	ESTIMATED BOOK VALUE 30/06/2010 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
MUNICIPAL	\$ 44,562,257	\$ 44,562,257	\$ 44,562,257	\$ -	0.00%
RESERVE	\$ 42,797,583	\$ 24,616,326	\$ 28,048,916	\$ 3,432,590	8.02%
TRUST	\$ 504,947	\$ 504,947	\$ 504,947	\$ -	0.00%
CRF	\$ 175,988	\$ 175,988	\$ 175,988	\$ -	0.00%
	<b>\$ 88,040,775</b>	<b>\$ 69,859,518</b>	<b>\$ 73,292,108</b>	<b>\$ 3,432,590</b>	<b>3.90%</b>

SUMMARY BY FUND	PURCHASE PRICE \$	ESTIMATED BOOK VALUE 30/06/2010 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
ADI	\$ 5,000,000	\$ 4,830,905	\$ 4,928,895	\$ 97,990	1.96%
CDO	\$ 19,720,000	\$ 1,707,838	\$ 5,042,438	\$ 3,334,600	16.91%
BOND	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	0.00%
TERM DEPOSIT	\$ 59,162,543	\$ 59,162,543	\$ 59,162,543	\$ -	0.00%
11AM	\$ 1,927,587	\$ 1,927,587	\$ 1,927,587	\$ -	0.00%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 88,040,775</b>	<b>\$ 69,859,518</b>	<b>\$ 73,292,108</b>	<b>\$ 3,432,590</b>	<b>3.90%</b>

SUMMARY BY FUND	PURCHASE PRICE \$	ESTIMATED BOOK VALUE 30/06/2010 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
AA	\$ 21,489,675	\$ 21,489,675	\$ 21,489,675	\$ -	0.00%
AA-	\$ 34,300,455	\$ 34,282,725	\$ 34,291,515	\$ 8,790	0.03%
A+	\$ 5,300,000	\$ 5,300,000	\$ 5,300,000	\$ -	0.00%
A	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	\$ -	0.00%
A-	\$ 2,500,000	\$ 2,379,555	\$ 2,449,945	\$ 70,390	2.82%
BBB+	\$ 1,000,000	\$ 983,880	\$ 992,390	\$ 8,510	0.85%
CCC	\$ 1,500,000	\$ 76,950	\$ 703,350	\$ 626,400	41.76%
CCC-	\$ 3,600,000	\$ 376,140	\$ 1,021,500	\$ 645,360	17.93%
NR	\$ 15,120,000	\$ 1,739,948	\$ 3,813,088	\$ 2,073,140	13.71%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 88,040,775</b>	<b>\$ 69,859,518</b>	<b>\$ 73,292,108</b>	<b>\$ 3,432,590</b>	<b>3.90%</b>

**C11/6000 - INVESTMENT STATEMENTS (REC)**

The following statements detail the investments held by the City. Marketable investments are shown at their estimated market value (Estimated Market Value).

 CITY OF MELVILLE  
STATEMENT OF INVESTMENTS  
FOR THE PERIOD ENDING 28 FEBRUARY 2011

INSTITUTION / INVESTMENT	RISK of IMPAIRMENT	INVESTMENT TYPE	Current Interest Rate %	S & P RATING	PROPORTION	MAX. PER INSTITUTION	FACE VALUE \$	BOOK VALUE AT 30/6/2010 \$	CURRENT MARKET VALUE \$	EST. GAIN / (LOSS) SINCE 30/6/10 \$
BANKWEST (11AM)		11AM	4.70%	AA	2%	20%	\$1,327,132	\$1,327,132	\$1,327,132	\$0
WESTPAC (MAXI DIRECT)		11AM	4.80%	AA-	1%	20%	\$600,000	\$600,000	\$600,000	\$0
WESTPAC (MAXI BONUS 1)		11AM	5.20%	AA-	0%	20%	\$455	\$455	\$455	\$0
WESTPAC (MAXI BONUS 2)		11AM	5.20%	AA-	0%	20%	\$0	\$0	\$0	\$0
							<b>\$1,927,587</b>	<b>\$1,927,587</b>	<b>\$1,927,587</b>	<b>\$0</b>
BANKWEST (TERM)		TERM	5.85%	AA	8%	20%	\$7,162,543	\$7,162,543	\$7,162,543	\$0
COMMONWEALTH BANK (TERM)		TERM	5.69%	AA	12%	20%	\$11,000,000	\$11,000,000	\$11,000,000	\$0
SUNCORP METWAY LTD (TERM)		TERM	6.25%	A+	6%	20%	\$5,300,000	\$5,300,000	\$5,300,000	\$0
ING BANK		TERM	6.21%	A	3%	20%	\$3,000,000	\$3,000,000	\$3,000,000	\$0
NAB		TERM	6.09%	AA	15%	20%	\$13,500,000	\$13,500,000	\$13,500,000	\$0
ST GEORGE BANK (TERM)		TERM	5.79%	AA-	10%	20%	\$8,400,000	\$8,400,000	\$8,400,000	\$0
WESTPAC (TERM)		TERM	6.26%	AA-	12%	20%	\$10,800,000	\$10,800,000	\$10,800,000	\$0
							<b>\$59,162,543</b>	<b>\$59,162,543</b>	<b>\$59,162,543</b>	<b>\$0</b>
COMMONWEALTH BANK (BOND)		BOND	6.00%	AA	2%	20%	\$2,000,000	\$2,000,000	\$2,000,000	\$0
							<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>
ADELAIDE BANK	Very Low	ADI	5.37%	BBB+	1%	10%	\$1,000,000	\$983,880	\$992,390	\$8,510
ELDERS RURAL BANK	Very Low	ADI	5.67%	BBB	1%	0%	\$500,000	\$485,200	\$495,500	\$10,300
MACQUARIE BANK	Very Low	ADI	5.32%	A-	2%	15%	\$1,500,000	\$1,410,105	\$1,458,675	\$48,570
SUNCORP METWAY LTD	Very Low	ADI	5.33%	A-	1%	15%	\$1,000,000	\$969,450	\$991,270	\$21,820
WESTPAC BANK	Very Low	ADI	5.19%	AA-	1%	20%	\$1,000,000	\$982,270	\$991,060	\$8,790
APHEX (GLENELG)	High	CDO	6.70%	NR	2%	0%	\$2,000,000	\$125,600	\$540,000	\$414,400
BERYL FINANCE GLOBAL BANK NOTE	Early Term.	CDO	0.00%	NR	2%	0%	\$2,000,000	\$1	\$0	<b>-\$1</b>
BERYL FINANCE GLOBAL BANK NOTE 2	Early Term.	CDO	0.00%	NR	1%	0%	\$450,000	\$1	\$0	<b>-\$1</b>
CORSAIR (CAYMAN) KAKADU	High	CDO	6.35%	CCC	2%	0%	\$1,500,000	\$76,950	\$703,350	\$626,400
CORSAIR (CAYMAN) TORQUAY	Very High	CDO	6.55%	NR	2%	0%	\$1,885,000	\$23,000	\$264,843	\$241,843
ETHICAL LIMITED GREEN	High	CDO	5.95%	NR	1%	0%	\$1,000,000	\$11,000	\$33,500	\$322,500
HELUM CAPITAL (ESPERANCE)	High	CDO	6.65%	CCC-	2%	0%	\$1,800,000	\$355,140	\$1,021,500	\$666,360
HELUM CAPITAL (SCARBOROUGH)	High	CDO	6.83%	CCC-	2%	0%	\$1,800,000	\$21,000	\$0	<b>-\$21,000</b>
MAGNOLIA FLINDERS	Moderate	CDO	6.45%	NR	2%	20%	\$2,000,000	\$988,139	\$1,730,000	\$741,861
MANAGED ACES CLASS 11A PARKES	Very High	CDO	8.25%	NR	1%	0%	\$1,000,000	\$3,000	\$15,000	\$12,000
MANAGED ACES CLASS 1A PARKES	High	CDO	6.58%	NR	1%	0%	\$1,050,000	\$10,500	\$119,700	\$109,200
OMEGA CAPITAL CLASS A HENLEY	Moderate	CDO	5.80%	NR	0%	0%	\$385,000	\$82,506	\$314,545	\$232,039
ZIRCON FINANCE COOLANGATTA	Early Term.	CDO	0.00%	NR	2%	0%	\$1,500,000	\$9,300	\$0	<b>-\$9,300</b>
ZIRCON FINANCE MERIMBULA	Early Term.	CDO	0.00%	NR	1%	0%	\$500,000	\$1,700	\$0	<b>-\$1,700</b>
ZIRCON FINANCE MIAMI	Early Term.	CDO	0.00%	NR	1%	0%	\$850,000	\$1	\$0	<b>-\$1</b>
							<b>\$24,720,000</b>	<b>\$6,538,743</b>	<b>\$9,971,333</b>	<b>\$3,432,590</b>
UNITS IN LOCAL GOVT HOUSE		UNITS	0.00%				\$230,645	\$230,645	\$230,645	\$0
<b>TOTAL FUNDS INVESTED</b>					<b>100%</b>		<b>\$88,040,775</b>	<b>\$69,859,518</b>	<b>\$73,292,108</b>	<b>\$3,432,590</b>

**DIVERSIFICATION / CREDIT RISK COMPARISON**

CREDIT RISK	PURCHASE PRICE \$		CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % AMOUNT IN TOTAL PORTFOLIO	Comments
AA		\$34,989,675		48%	80%	
AA-		\$20,800,455		28%	80%	
A+		\$5,300,000		7%	50%	
A		\$3,000,000		4%	50%	
A-		\$2,500,000		3%	50%	
BBB+		\$1,000,000		1%	20%	
BBB		\$500,000		1%	0%	Purchased Prior To Policy Change
CCC		\$1,500,000		1%	0%	
CCC-		\$3,600,000		1%	0%	
NR		\$14,620,000		5%		
UNITS IN LOCAL GOVT: HOUSE		\$230,645		0%	0.1%	Council Decision
<b>TOTAL</b>		<b>88,040,775</b>		<b>73,292,108</b>	<b>100%</b>	

## C11/6000 - INVESTMENT STATEMENTS (REC)

## DIVERSIFICATION RISK

INSTITUTION	INVESTMENT TYPE	S & P RATING	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	INSTITUTION PROPORTION	MAX. % WITH ANY ONE INSTITUTION	Comments
BANKWEST (11AM)	11AM	AA	1,327,132	1.81%		20%	
BANKWEST (TERM)	TERM	AA	7,162,543	9.77%	11.58%	20%	
COMMONWEALTH BANK (TERM)	TERM	AA	11,000,000	15.01%		20%	
COMMONWEALTH BANK (BOND)	BOND	AA	2,000,000	2.73%	17.74%	20%	
MACQUARIE BANK	ADI	A-	1,458,675	1.99%		15%	
MACQUARIE BANK (TERM)	TERM	AAA	-	0.00%	1.99%	20%	
NAB	TERM	AA	13,500,000	18.42%	18.42%	20%	
ING BANK	TERM	A	3,000,000	4.09%	4.09%	20%	
ST GEORGE BANK (TERM)	TERM	AA-	8,400,000	11.46%	11.46%	20%	
WESTPAC (MAXI BONUS 1)	11AM	AA-	455	0.00%		20%	
WESTPAC (MAXI BONUS 2)	11AM	AA-	-	0.00%		20%	
WESTPAC (MAXI DIRECT)	11AM	AA-	600,000	0.82%		20%	
WESTPAC (TERM)	TERM	AA-	10,800,000	14.74%		20%	
WESTPAC BANK	ADI	AA	991,060	1.35%	16.91%	20%	
ADELAIDE BANK	ADI	BBB+	992,390	1.35%	1.35%	10%	
ELDERS RURAL BANK	ADI	BBB	495,500	0.68%	0.68%	10%	
SUNCORP METWAY LTD (TERM)	TERM	A+	5,300,000	7.23%		15%	
SUNCORP METWAY LTD	ADI	A-	991,270	1.35%	8.58%	15%	
CDO - Various	CDO		5,042,438	6.88%	6.88%		
UNITS IN LOCAL GOVT HOUSE	UNITS		230,645	0.31%	0.31%	100%	
			\$73,292,108	100%	100%		

## MATURITY COMPARISON

TERM to MATURITY	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % IN ANY ONE YEAR	Comments
MUNICIPAL & TRUST FUNDS				
< 1 year	42,836,559	96%	100%	
< 2 years	-	0%	10%	
< 3 years	-	0%	10%	
< 4 years	-	0%	0%	
< 5 years	2,000,000	4%	0%	
> 5 years	-	0%	0%	
	44,836,559	100%		CBA Retail Bond
RESERVE FUNDS				
< 1 year	18,077,583	64%	100%	
< 2 years	3,036,935	11%	80%	
< 3 years	1,286,343	5%	80%	
< 4 years	1,576,850	6%	40%	
< 5 years	134,700	0%	40%	
> 5 years	3,936,505	14%	20%	Purchased Prior To Policy Change
	28,048,916	100%		

**C11/6000 - INVESTMENT STATEMENTS (REC)**

The values ascribed to Authorised Deposit Taking Institutions (ADIs) by Council's independent financial advisers are based on current market evidence. Positive improvements in the market since 30 June 2010 are evident by an increase in market valuations. These valuations assume that the City will be required to sell these investments prior to maturity. The City is however a holder to maturity of these investments as there is no need to sell ADIs. There is therefore no reason to expect that any losses will be incurred. Recent repurchases by the issuing banks at their full value supports this view. The City expects that further ADIs will be repurchased by the issuing banks as they reach their call dates over the next 18 months. Since 30 June 2009 \$12,500,000 worth of ADIs have been repurchased by the issuing banks. These had been written down in previous financial years, to a book value of \$12,288,900. A book profit of \$211,100 has therefore been realised.

Due to the absence of an active market for CDOs and the ongoing uncertainty in financial markets, the City adopted a very conservative approach when valuing its CDOs for year end reporting purposes.

Monthly valuations shown for 28 February 2011 were provided by Council's independent financial adviser Denison Financial Advisory. This supports the current positive improvements in the market, evident by the increase in valuations of Council ADIs and CDOs investments. When compared to the valuations used as at 30 June 2010, valuations obtained from Denison as at 28 February 2011 show that:

- ADIs have increased in value by \$97,990.
- CDOs have increased in value by \$3.33 million.

All other non Lehman Brothers arranged CDOs continue to pay coupon payments (albeit some at reduced levels due to the erosion of credit support and therefore underlying capital) and this is expected to continue. Based on independent advice from a number of sources, the City's policy has been to continue to hold these investments to maturity unless opportunities to sell at realistic values are presented. No realistic offers have been received to date.

It should be noted that the CDOs are structured in such a manner so as to provide for a level of defaults of a number of the entities referenced by the CDOs before there is loss of value at maturity of the CDOs themselves. In light of the extreme downturn experienced in many world economies the risk of defaults of corporations referenced by CDOs owned by the City, has increased significantly.

Further investment in CDOs is specifically excluded under the City's current Investment Policy.

**C11/6000 - INVESTMENT STATEMENTS (REC)****Credit Ratings and Credit Events**

There were no credit events in February that affected Council's CDO investments.

Twenty credit events impacting Council's CDO investments have now been recorded to date. The Companies involved are AMBAC Financial, Takefuji, AMBAC Assurance, AIFUL, Tribune, Thomson, Financial Guaranty Insurance Company (FGIC), XL Capital Assurance, Bank TuranAlem, Idearc, Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), Lehman Brothers, WaMu, Glitnir, Kaupthing, Landsbanki, Chemtura, Abitibi and CIT Group. This has resulted in a loss of \$3.486m to date, as detailed below:

- The total loss (\$1.5m) of the Starts Cayman Blue Gum CDO with a face value of \$1.5m.
- The partial loss (\$0.924m) of the Corsair Cayman Torquay CDO with a face value of \$1.885m.
- The partial loss (\$0.592m) of the Helium Capital Scarborough CDO with a face value of \$1.8m.
- The partial loss (\$0.47m) of the Managed Aces Class Parkes IIA CDO with a face value of \$1.0m.

A portion (approximately \$1.5m as at 30 June 2010) of the Risk Management Reserve was created to fund losses arising from Council's investment activities. Where losses exceed the available funds, these will be prorated and deducted across Council's other Reserve Funds excluding the Leave Entitlement and the remainder of the Risk Management Reserve. These Reserve funds are restricted to the payment of employee entitlements and contingent Workers Compensation Insurance Claims.

The impact of these credit events on each of Council's CDOs is shown below.

## C11/6000 - INVESTMENT STATEMENTS (REC)

CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before <b>FIRST</b> Loss of Principal	Remaining Credit Support before <b>TOTAL</b> Loss of Principal	Comments
<b>Aphex Glenelg</b> Arranger: Nomura International <b>\$2.0m</b>	<b>6 credit events:</b> Takefuji, AIFUL, Tribune, Thomson, Lehman's, Landsbanki & CIT Group.	3	3.8	
<b>Beryl Finance</b> <b>Global Bank</b> <b>Note</b> Arranger: Lehman Brothers <b>\$2.45m</b>	<b>Nil credit events:</b>	1	N/A	Being terminated due to trustee taking control of underlying security.
<b>Corsair Cayman</b> <b>Kakadu</b> Arranger: J.P. Morgan Australia <b>\$1.5m</b>	<b>9 credit events:</b> AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, Kaupthing & CIT Group.	3	5	
<b>Corsair Cayman</b> <b>Torquay</b> Arranger: J.P. Morgan Australia <b>\$1.885m</b>	<b>8.5 credit events:</b> AMBAC Assurance, AIFUL, XL Capital Assurance, Idearc, Freddie Mac, Lehman, WaMu, Glitnir, Kaupthing & CIT Group.	0 (-0.39)	1	Partial loss (49%) of principal has occurred. Very high likelihood of total default.
<b>Ethical Limited</b> <b>Green</b> Arranger: J.P. Morgan Australia <b>\$1.0m</b>	<b>7.5 credit events:</b> AMBAC Assurance, AIFUL, XL Capital Assurance, Idearc, Lehman's, WaMu, Glitnir, Kaupthing & CIT Group.	0.6	1.9	High likelihood of total default.
<b>Helium Capital</b> <b>Esperance</b> Arranger: Merrill Lynch International <b>\$1.80m</b>	<b>2.5 credit events:</b> Idearc, Tribune, Thomson, Lehman's & CIT Group.	1.5	3.2	

## C11/6000 - INVESTMENT STATEMENTS (REC)

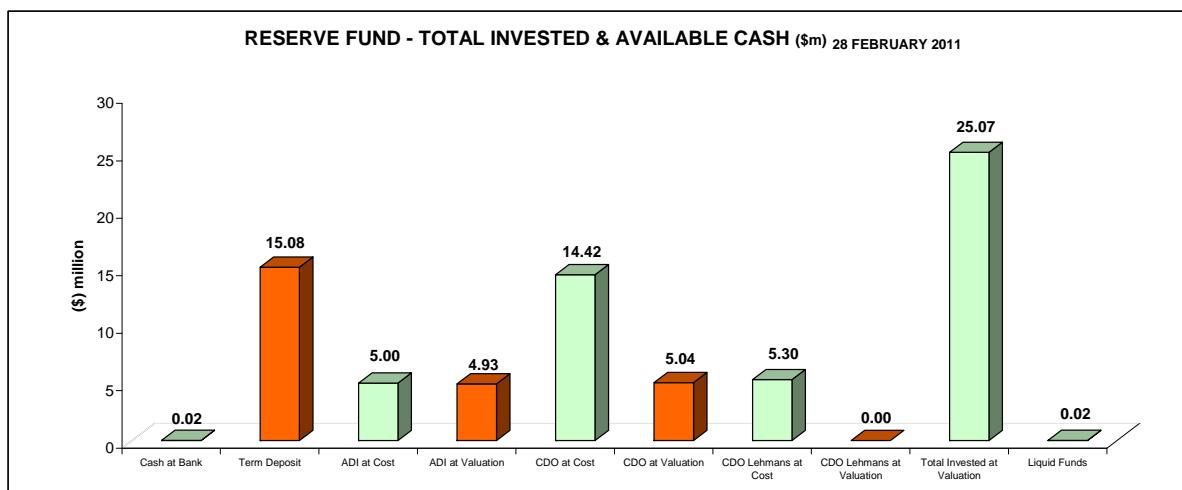
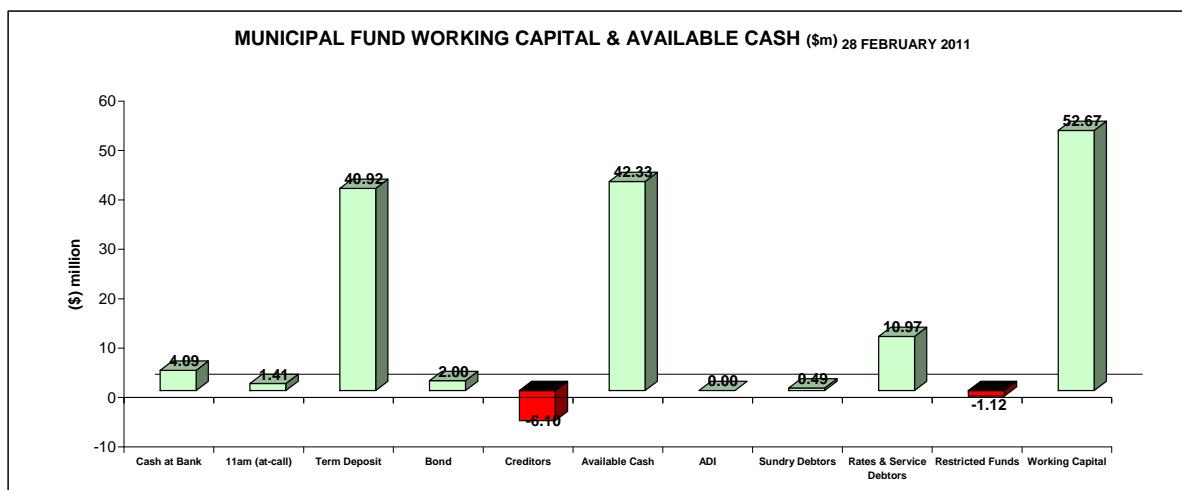
CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before <b>FIRST</b> Loss of Principal	Remaining Credit Support before <b>TOTAL</b> Loss of Principal	Comments
<b>Helium Capital Scarborough</b> Arranger: Merrill Lynch <b>\$1.8m</b>	<b>7.0 credit events:</b> AMBAC Financial, AIFUL, Idearc, Freddie Mac, Fannie Mae, Tribune, Lehman's, Kaupthing & Landsbanki.	-0.5	1	Partial loss (32.9%) of principal has occurred. Very High likelihood of total default.
<b>Magnolia Flinders</b> Arranger: Credit Suisse First Boston <b>\$2.0m</b>	<b>Nil CDO defaults:</b>	N/A	N/A	A "CDO- squared" of four individual standard CDOs.
<b>Managed Aces Class Parkes 1A</b> Arranger: Morgan Stanley <b>\$1.05m</b>	<b>8.0 credit events:</b> AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu & CIT Group.	1	3	High likelihood of total default.
<b>Managed Aces Class Parkes 11A</b> Arranger: Morgan Stanley <b>\$1.0m</b>	<b>9.0 credit events:</b> AMBAC Assurance, AIFUL, FGIC, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu & CIT Group.	0 (-0.5)	1	Partial loss (47%) of principal has occurred. Very high likelihood of total default.
<b>Omega Capital Class A Henley</b> Arranger: BNP Paribas <b>\$0.385m</b>	<b>6.0 credit events:</b> AMBAC Assurance, Freddie Mac, Fannie Mae, Thomson, Lehman's & CIT Group.	5	5.9	
<b>Starts Cayman Blue Gum</b> Arranger: HSBC Bank USA <b>\$1.50m</b>	<b>10.0 credit events:</b> AMBAC Financial, Bank TuranAlem, Freddie Mac, Fannie Mae, Lehman's, WaMu, Glitnir, Kaupthing, Landsbanki & CIT Group.	Defaulted	Defaulted	Total loss of principal and investment CDO has defaulted.

## C11/6000 - INVESTMENT STATEMENTS (REC)

CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before <b>FIRST</b> Loss of Principal	Remaining Credit Support before <b>TOTAL</b> Loss of Principal	Comments
<b>Zircon Finance Coolangatta</b> Arranger: Lehman Brothers <b>\$1.50m</b>	<b>8.0 credit events:</b> Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	4.7	6.5	Being terminated due to trustee taking control of underlying security.
<b>Zircon Finance Merimbula A</b> Arranger: Lehman Brothers <b>\$0.50m</b>	<b>8.0 credit events:</b> Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	2.9	3.7	Being terminated due to trustee taking control of underlying security.
<b>Zircon Finance Miami</b> Arranger: Lehman Brothers <b>\$0.85m</b>	<b>7.0 credit events:</b> Ambac Assurance, Aiful, Thomson, Freddie Mac, Fannie Mae, Abitibi & CIT Group.	8.4	10.1	Being terminated due to trustee taking control of underlying security.

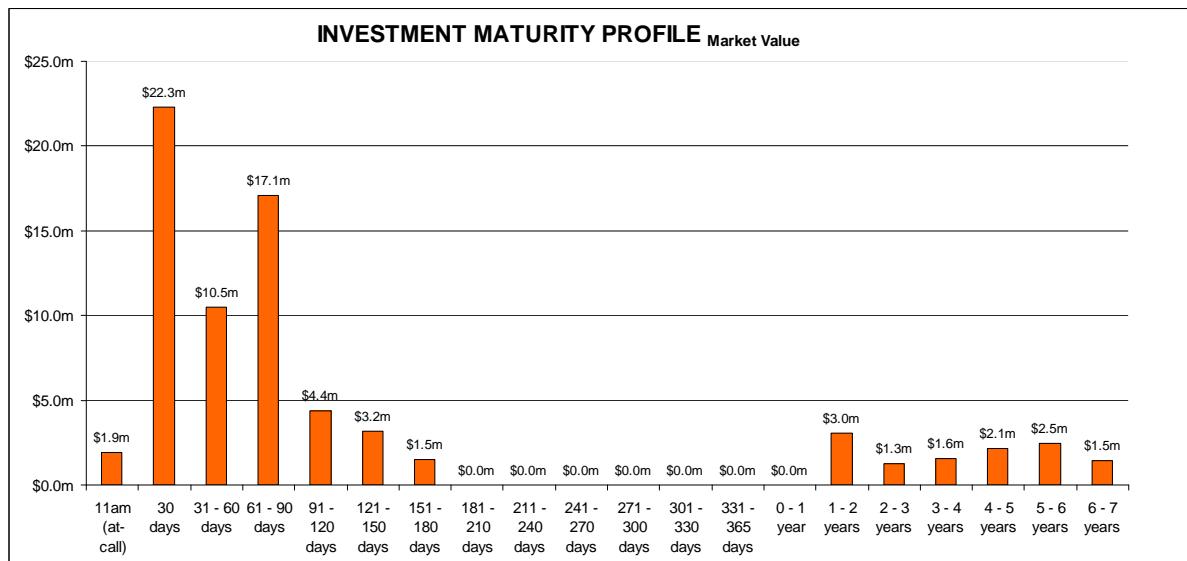
**C11/6000 - INVESTMENT STATEMENTS (REC)**
**Net Funds Held**

The graphs below summarise the Municipal Fund working capital and available cash and the funds held in the Reserve Fund at purchase price and last valuation, for February 2011.



## C11/6000 - INVESTMENT STATEMENTS (REC)

The graph below summarise the maturity profile of Council's investments at market value as at 28 February 2011.



## PUBLIC CONSULTATION/COMMUNICATION

This report is available to the public on Council's web-site and hard copies of this agenda and attachments are available for viewing at Council's five public libraries.

In addition Council's bi-monthly newsletter, Mosaic, has contained several articles that highlight this issue. Numerous press articles have also been published on this topic.

## CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Denison Financial Advisory, the City's current investment Advisor, has reviewed the current investment portfolio and we will be working with them to review the City's investment strategy going forward.

CPG (formerly Grove) Research and Advisory, the City's former investment advisor also reviewed the current investment portfolio.

In 2007 Price Waterhouse Coopers (PWC) were engaged to provide advice in regards to the appropriateness of the City's investment strategy in light of the recent volatility in the credit markets. Following the receipt of their report and further clarification, a revised investment policy was adopted.

The Department of Local Government and Regional Development issued Investment Policy Guidelines during 2008, well after the global financial crisis, and Council's investment policy has been amended to give effect to the guidelines.

**C11/6000 - INVESTMENT STATEMENTS (REC)****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)

The legal firm Piper Alderman have been engaged to seek recovery of any losses that may eventually be realised and to seek early termination of the Lehman arranged CDOs, so that Council gains access to the more valuable collateral representing Council's original investments which are held by Trustees for the Lehman Brothers arranged CDOs.

In conjunction with approximately 72 other corporations and local government authorities the City of Melville has engaged litigation funder IMF Australia to seek recovery of book losses from Lehman Brothers Australia. Whilst the decisions taken by the various courts have been positive for the City the legal process is lengthy and it will still be some time before certainty is achieved.

Legal actions are taking place between the United Kingdom (UK) and United States (US) courts as to whose laws should be applied in respect of the Lehman Brothers arranged CDOs, which is subject of an early termination. Lehman Brothers was successful in gaining the right to appeal the current UK judgement in favour of investors to the Supreme Court of England and Wales. This is the highest possible court whose decision will bring finality to the legal process in the UK. A hearing date has been set down for March 2011, one month in the future. It is therefore likely that the legal process will continue for at least another year as the US court has not yet issued its first judgement, which is almost certain to be appealed.

**FINANCIAL IMPLICATIONS**

For the financial year ending 28 February 2011, interest earned on the Municipal and Trust Funds was \$1,847,537 against a budget of \$1,013,667. This represents a \$833,870 positive variance. Reserve Fund interest earned for the year ending 28 February 2011 was \$1,310,196 against a budget of \$533,333. This represents a positive variance of \$776,862.

Investment earnings received in respect to CDO investments since 1 July 2007 has been \$3.85m and \$2.77m in respect to ADIs.

In light of positive movements in interest rates, Council has revised its investment earnings upwards for the 2010/11 mid year budget review. The new investment earnings budget for Municipal and Trust funds are \$2.2m and Reserve Funds are \$1.5m.

In accordance with Council's revised Investment Policy any surplus investment returns derived, as a result of investing in ADIs & CDOs when compared to Bank Bills or Term Deposits, will be transferred to the Risk Management Reserve.

Due to Lehman Brothers entering into Chapter 11 bankruptcy proceedings, the City has not received interest payments on the \$5.3m face value of Lehman Brothers arranged CDOs. At this time we understand that interest on the underlying collateral is being retained by the trustee who has taken control of that collateral.

**C11/6000 - INVESTMENT STATEMENTS (REC)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Council's investment policy was constructed to minimise credit risk through investing in highly rated securities and diversification. The policy also incorporates mechanisms that protect Council'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.

No other identifiable strategic, risk and environmental management implications.

Due to the continuing credit market concerns, the risks associated with Council's investment portfolio also increased to levels which are of concern. Whilst Council continues to earn and be paid interest from its non Lehman arranged CDOs, the reassessment by the major rating agencies of their credit risk models used to assess the credit ratings associated with CDO portfolios, has resulted in significant downgrading of CDO investments to credit rating levels that do not meet Council's investment policy.

Due however to the lack of an active market for CDOs, these investments must continue to be held.

The risk of loss due to the default of some of the CDOs is very high whilst the risk of loss due to the default of deposits with banks or ADIs is considered extremely low.

In response to the current market conditions, funds are currently being invested for short periods and/or only with highly credit rated Australian banking institutions.

**POLICY IMPLICATIONS**

Council Policy CP-009 – Investment of Funds.

The Investment Policy was reviewed and readopted at the Ordinary Meeting of Council held on 15 December 2009 and is considered to represent a low risk approach to investing.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

Whilst the situation regarding the CDO investments remains tenuous with the loss of one and the partial default of three other Council's CDO investments, the full impact of the book value devaluation of these investments was accounted for in the previous financial years. Due to the return to more normal credit market conditions, no further material devaluations are expected over the course of the current and future financial years.

As a result of improved book value of previously written down investments, continuing cost savings/efficiencies, alternative revenue generation projects and the strong investment returns that have been realised over the past years, the value of Council's Reserve funds have been restored to in excess of pre global financial crisis levels.

C11/6000 - INVESTMENT STATEMENTS (REC)

Council officers in conjunction with Denison's will continue to monitor and report on a monthly basis, the situation regarding CDO investments. Based on independent advice from Denison's, the City's policy is to continue to hold these investments to maturity unless opportunities to sell at realistic values are presented. No realistic offers have been received to date.

The City also expects that the remainder of the ADIs will be repurchased by the issuing banks as they reach their call dates over the next 18 months.

## OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6000)

## NOTING

**That the Investment Report for the month of February 2011 be noted.**

At 7.14pm the Mayor submitted the motion, which was declared

## **CARRIED EN BLOC (11/0)**

**C11/6001 – SCHEDULE OF ACCOUNTS (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	:	2010/2011 Budget
Responsible Officer	:	Khris Yeoh Senior Financial Accountant

**AUTHORITY / DISCRETION**
**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when 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 Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**KEY ISSUES / SUMMARY**

This report presents details of the payments made to suppliers for the provision of goods and services for the month of February 2011 and recommends that the Schedule of Accounts be noted.

**C11/6001 – SCHEDULE OF ACCOUNTS (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 Administration) Regulations 1996, where this power has been delegated, a list of payments for each month is to be compiled and presented to 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 for the period ending 28 February 2011, **6001 February 2011** including Payment Registers numbers Cheques **211 to 215** and Electronic Funds Transfers **188 to 190** were distributed to the Members of Council on 17 April 2011.

Payments in excess of \$25,000 in the month are as follows:-

Supplier Name	Remittance Number	Remittance Details	Amount
Calibre Coatings Pty Ltd	E023248 & E023049	Repair & Paint Ceilings at Various Reserve Buildings	\$38,348.20
City of Cockburn	E023210	Tip Fees for January 2011	\$50,439.24
David Gray & Company Pty Ltd	E022997	360 Litre Recycling Bins	\$78,429.90
Dickies Tree Service	E022995 & E023213	Tree Lopping Services	\$102,953.00
Dowsing Concrete	E023208, E023183 & E023330	Concrete Works	\$240,350.29
Earthcare Australia Pty Ltd	E023110	Works to date for Melville Parklands	\$ 58,380.61
Fire & Emergency Services Authority WA	E023138	ESL Remittance for January 2011	\$890,636.11
Flexi Staff	E023232 & E023021	Staff Hire	\$ 57,235.70
Glad Commercial Cleaning	Chq 042315 & 042471	Cleaning Services	\$ 28,141.95
I.D Informed Decisions	E023181	Subscription Fees to Economy ID	\$ 39,820.00
Interflow	Chq 042476	Progress Claim 1 Stormwater Damage Rehabilitation	\$ 59,812.68
Melville Toyota	E023060	Toyota Hilux Crew Cabs	\$ 65,831.68
Mountway Melville Hyundai	Chq's 042220 & 042395	Hyundai Santa	\$ 40,869.28
Opus International Consultants (PCA) Pty Ltd	Chq 042474	Consultancy for Road Inspections	\$ 44,704.00
Perth Engineering & Maintenance WA Pty Ltd	E023080	Verge Modifications	\$215,969.20
Robinson Buildtech	E023222 & E023006	Various Building Maintenance Jobs	\$ 34,916.62

**C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)**

Supplier Name	Remittance Number	Remittance Details	Amount
Roofing 2000	E023090	Roof Restoration	\$ 41,800.00
E & MJ Rosher Pty Ltd	E023050	Afron PA 650 Elevated Work Platform	\$ 88,469.15
Southern Metropolitan Regional Council	E023092 & E023275	Greenwaste Gate Fees for January 2011 & MSW Disposal at SMRC for December 2010 & January 2011	\$563,400.12
Synergy	Chq 042399 & 042221	Electricity Supply	\$1,437,027.65
Total Eden	E023249 & E023055	Watering System Services	\$ 29,053.09
Western Australia Local Government Association	E023278	Market Force Advertising for January 2011	\$ 28,894.64
Western Power	Chq 042397 & 042276	Electricity Supply	\$806,667.00

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

This report meets the requirements of the Local Government (Financial Management) Regulations 1996 Regulation 11 - Payment of Accounts, Regulation 12 - List of Creditors and Regulation 13 - Payments from the Trust Fund and the Municipal Fund.

**FINANCIAL IMPLICATIONS**

Expenditures were provided for in the 2010/2011 Budget.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

No other identifiable strategic, risk and environmental management implications.

**C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

Procurement of and payment for products and services is conducted in accordance with Council Policy CP-023 Procurement of Goods and Services.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a regular monthly report for Elected Members information.

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

**That the Schedule of Accounts for the period ended 28 February 2011 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment 6001 February 2011 be noted.**

At 7.15pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (11/0)**

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)**

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	:	Khris Yeoh - Senior Financial Accountant

**AUTHORITY / DISCRETION**
**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
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**KEY ISSUES / SUMMARY**

- This report presents the financial statements for the period ending February 2011 and recommends that they be noted by Council.
- This report also presents the debts that have been written off by Council staff under delegated authority in February 2011.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)**
**BACKGROUND**

The Financial Statements for the periods ending February 2011 have been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996 as amended.

**DETAIL**

The attached reports have been prepared in compliance with the requirements of the legislation and Council policy.

To the end of February 2011, a net operating positive variance of \$8.29m was recorded. A net positive variance of \$2.51m was recorded against capital. A mid year budget review has taken place and was presented to Council. This identified material permanent variances to the adopted budget for income and expenditure. These changes will be reflected in the accounts from March 2011 onwards.

**Variances**

An analysis of the significant variances is included below.

	February Actual \$	YTD Budget \$	YTD Actual \$	Current Commitments \$	Variance \$	Variance %	Annual Budget \$	Annual Revised Bud. \$
<b>Revenues</b>								
Governance	138,290	960,187	1,059,985	(510)	99,287	10%	1,380,850	1,422,137
General Purpose Funding	845,836	3,703,915	5,588,952	-	1,885,037	51%	5,479,500	5,479,500
Community Amenities	116,486	14,639,717	14,892,277	-	252,561	2%	14,910,850	14,910,850
Transport	119,628	4,178,331	4,286,756	-	108,425	3%	5,578,277	5,721,277
Other Property and Services	612,595	815,060	1,106,660	-	291,599	36%	483,487	483,487
	2,452,601	32,827,683	35,434,307	(2,303)	2,604,321	8%	39,722,733	40,015,776
<b>Expenses</b>								
Governance	(987,900)	(10,644,548)	(9,373,432)	(471,860)	799,256	-12%	(15,011,328)	(15,108,243)
General Purpose Funding	(820,452)	(4,925,250)	(3,124,804)	(880,831)	919,615	-37%	(5,025,000)	(5,025,000)
Law, Order, Public Safety	(279,384)	(2,351,314)	(2,131,978)	(21,652)	197,684	-9%	(3,497,119)	(3,565,717)
Health	(74,781)	(655,749)	(552,347)	(16,110)	87,293	-16%	(912,131)	(965,721)
Education & Welfare	(416,782)	(3,906,177)	(3,333,200)	(143,832)	429,144	-15%	(5,854,237)	(5,854,237)
Community Amenities	(1,129,923)	(12,043,641)	(10,033,310)	(684,037)	1,326,294	-17%	(17,809,560)	(17,876,560)
Recreation and Culture	(1,927,255)	(16,446,028)	(14,956,321)	(728,198)	761,509	-9%	(24,325,221)	(24,543,143)
Transport	(703,787)	(6,354,616)	(5,065,584)	(469,883)	819,148	-20%	(9,478,996)	(9,498,996)
	(6,381,947)	(59,754,745)	(50,905,078)	(3,553,303)	5,296,363	-15%	(85,123,815)	(85,647,840)

**Revenue**

\$51.53m in Rates have been raised to 28 February 2011. This is compared with a year to date budget of \$51.29m, resulting in a positive variance of \$0.24m.

- Governance: 10% positive variance, due to higher insurance recoups and incorrect phasing for the Emergency Services Levy fee income
- General Purpose Funding: 51% positive variance, due to increases in investment earnings and rates instalment interests.
- Community Amenities: 2% positive variance, due to increases in building licence fees.
- Transport: 3% positive variance, due mainly to increases in grant funding from various road projects.
- Other Property & Services: 36% positive variance, due to incorrect phasing on Fleet disposals.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)****Expenditure**

- Governance: 12% positive variance, due mainly to lower depreciation amounts.
- General Purpose Funding: 37% positive variance, due to incorrectly phased expenditure for the Attadale South Underground Power project.
- Law, Order, Public Safety: 9% positive variance, due to lower costs in various projects.
- Health: 16% positive variance, due mainly to lower costs in the Inspections and Binge Drinking Awareness projects.
- Education & Welfare: 15% positive variance, due mainly to lower employee costs in Community Development projects.
- Community Amenities: 17% positive variance, due to incorrectly phased expenditure for the SMRC, lower costs in Waste services and various other Strategic Urban Planning projects.
- Recreation & Culture: 9% positive variance, due to lower costs in Point Walter Golf and Reserve and Vandalism & Graffiti project.
- Transport: 20% positive variance, due to lower costs in Street Tree Pruning, Footpath Maintenance, Road Maintenance and various other projects.

**Budget Amendments**

Details of Budget Amendments requested during the month of February 2011 are shown in attachment [6002J February 2011](#). Minor amendments were done to the Road Resurfacing budget to consolidate the number of cost centres.

**Rates Collections and Debtors**

Details of Rates and Sundry debtors are shown in attachment 6002L, 6002M and 6002N.

Rates, Refuse & FESA revenues increased by \$63k and payments totalling \$1.56 million were received over the course of the month. The fourth rate instalment notices was issued in February 2011. Rate collection progress for February was 0.8% below target.

The sundry debtors balance decreased by \$290k over the course of the month. The 90+ day's debtor balance decreased \$32k.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)**

The following attachments form part of the Attachments to the Agenda.

DESCRIPTION	LINK
Statement of Financial Activity – February 2011	<a href="#"><u>6002A February 2011</u></a>
Operating Statements by Program – February 2011	<a href="#"><u>6002B February 2011</u></a>
Representation of Working Capital – February 2011	<a href="#"><u>6002E February 2011</u></a>
Reconciliation of Net Working Capital – February 2011	<a href="#"><u>6002F February 2011</u></a>
Notes on Operating Statements reporting on variances of 10% or greater – February 2011	<a href="#"><u>6002H February 2011</u></a>
Details of Budget Amendments requested – February 2011	<a href="#"><u>6002J February 2011</u></a>
Summary of Rates debtors – February 2011	<a href="#"><u>6002L February 2011</u></a>
Graph showing Rates collections – February 2011	<a href="#"><u>6002M February 2011</u></a>
Summary of general debtors aged 90 days old or greater – February 2011	<a href="#"><u>6002N February 2011</u></a>
Detail of Debts Written Off for the Month – February 2011	<a href="#"><u>6002O February 2011</u></a>

**GRANTING OF CONCESSION OR WRITING OFF DEBTS OWED TO COUNCIL**

Delegation DA-032 empowers the Chief Executive Officer (CEO) to grant concessions and rates off monies owing to the City to a limit of \$10,000 for any one item. The CEO has partially on-delegated this to the Director Corporate Services to write off debts or grant concessions to a value of \$5,000. The delegation is conditioned on the basis that a quarterly report detailing any debts written off is to be submitted to Council.

The following category (Rejected Rebates) of debt was written off in February 2011, to the value of \$17,468. They were irrecoverable due to the death or an inability to locate the original owner of the property as the property has since been sold.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)****PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH 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 Regulations) 1996 Part 4 – Financial Reports Regulation 34 of the Local Government (Financial Management) Regulations 1996 as amended in March 2005, requires that:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of the month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing-
  - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
  - (b) an explanation of each of the material variances referred to in sub-regulation (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;
  - (b) by program; or
  - (c) by business unit.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)**

(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be-

- (a) presented to Council-
  - (i) at the next ordinary meeting of Council following the end of the month to which the statement relates; or
  - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of Council after that meeting;
- 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 AAS 5, to be used in statements of financial activity for reporting material variances.

The variance adopted by Council at its meeting held on 22 June 2010, which also adopted the 2010/11 Budget, was 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**

A mid year budget review has taken place whereby Budget responsible officers were given the opportunity to review their operations and identify material permanent positive or negative variances like savings or operational efficiencies and increases in income or increases in expenditures. These changes will be reflected in the accounts from March 2011 onwards.

There were very minor amendments made to the 2010/2011 Budget in February as a result of the mid year budget review.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

No identifiable strategic, risk and environmental management implications.

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**C11/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2011 (AMREC) (ATTACHMENT)**
**CONCLUSION**

The attached reports reflect a positive financial position of the City of Melville for February 2011.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)**
**ABSOLUTE MAJORITY**

At 7.15pm Cr Ceniviva moved, seconded Cr Foxton –

1. **That the Statements of Financial Activity and the Operating Statements for the period ending February 2011 as detailed in the following attachments be noted:**

DESCRIPTION	LINK
Statement Of Financial Activity – February 2011	<a href="#">6002A February 2011</a>
Operating Statements By Program – February 2011	<a href="#">6002B February 2011</a>
Representation Of Working Capital – February 2011	<a href="#">6002E February 2011</a>
Reconciliation Of Net Working Capital – February 2011	<a href="#">6002F February 2011</a>
Notes On Operating Statements Reporting On Variances Of 10% Or Greater – February 2011	<a href="#">6002H February 2011</a>
Details of Budget Amendments requested – February 2011	<a href="#">6002J February 2011</a>
Summary Of Rates Debtors – February 2011	<a href="#">6002L February 2011</a>
Graph Showing Rates Collections – February 2011	<a href="#">6002M February 2011</a>
Summary Of General Debtors Aged 90 Days Old Or Greater – February 2011	<a href="#">6002N February 2011</a>
Detail of Debts Written Off – February 2011	<a href="#">6002O February 2011</a>

2. **That by Absolute Majority Decision the budget amendments, as listed in the Budget Amendment Reports for February 2011, as detailed in attachment [6002J February 2011](#), be adopted.**

At 7.15pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY  
(11/0)**

**LATE ITEM P11/3205 - NOMINATION OF CITY OF MELVILLE LOCAL GOVERNMENT  
MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)**

Ward	:	All
Category	:	Operational
Application Number	:	Not applicable
Subject Index	:	Development Assessment Panels
Customer Index	:	Department for Planning
Property	:	Not applicable
Proposal	:	Nomination of Local Government Members for Development Assessment Panels
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	:	Not applicable
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
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<input type="checkbox"/>	Quasi-Judicial	<i>when 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>

**KEY ISSUES / SUMMARY**

- Development Assessment Panels (DAPs) are to commence on 1 July 2011.
- The City of Melville is to be part of the Joint DAP with Bassendean, Bayswater, Belmont, Canning, South Perth and Victoria Park.
- Training will be provided to members by the Department of Planning prior to the operation of the DAPs.
- It is recommended that Council nominate two DAP members and one deputy DAP member and these nominations be forwarded to the Minister for Planning.

**LATE ITEM P11/3205 - NOMINATION OF CITY OF MELVILLE LOCAL GOVERNMENT  
MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)****BACKGROUND**

The *Approval and Related Reforms (No. 4) (Planning) Act 2010* was passed by Parliament in August 2010 which allows the commencement of DAPs in WA.

DAPs are to be independent decision making bodies comprised of technical experts and elected local government representatives.

DAPs are to commence on 1 July 2011 and 15 DAPs are to be established in WA. Melville is to be part of a joint DAP called the Metro Central JDAP along with the local governments of Bassendean, Bayswater, Belmont, Canning, South Perth and Victoria Park.

The Department for Planning anticipates that there will be approximately 140 DAP applications each year in WA and that DAPs will meet on a monthly basis.

**DETAIL**

Each DAP is to contain a total of five members. Of the five members, three are to be Specialist members which are to have suitable qualifications and experience in development related professions such as architecture, town planning, urban design. The Presiding Member will be selected from one of the Specialist members.

The remaining two members of the DAP are to be local government representatives which are to be nominated by the local government from the pool of Elected Members.

In nominating the local government DAP members, the Department for Planning has stated that two DAP members and one deputy DAP member are to be nominated. The deputy DAP member will be called upon if an issue of a quorum arises or when a local government DAP member is unable to act due to illness, absence or other cause.

The Minister will appoint the local government representatives in accordance with the local government's nomination.

All DAP members are appointed for a two year term and at the expiration of this term the application and nomination process will be undertaken again. Members who previously sat on DAPs will be eligible to be appointed for a further term.

DAP members cannot sit on a DAP until they have completed the training sessions provided by the Department for Planning. Details of the training sessions have not yet been released.

It is recommended that Council nominate two DAP members and one deputy DAP member.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising of the DAP local government nominations is not required under the *Development Assessment Regulations 2011*.

**LATE ITEM P11/3205 - NOMINATION OF CITY OF MELVILLE LOCAL GOVERNMENT  
MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with external agencies is required.

**STATUTORY AND LEGAL IMPLICATIONS**

DAPs are to make decisions based upon the existing planning framework of the municipality within which the application site is located.

Where an application to review a decision made by a DAP is lodged with the State Administrative Tribunal (SAT) members of the DAP who made the decision may be called upon to represent the DAP at the SAT.

**FINANCIAL IMPLICATIONS**

The sitting fee for local government DAP members determining applications is \$400. Local government DAP members will also be paid \$400 upon the completion of the required training and \$400 where they attend proceedings at the SAT in relation to a DAP decision.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The Minister for Planning must remove a DAP member if they cease to hold a position or qualification which made them eligible to sit as a DAP member.

DAP members are bound by similar requirements regarding behaviour and conflict of interest as Elected Members are, such as:

- Declare direct or indirect interest in a matter
- Not to disclose or make improper use of information acquired as a member
- Not accepting "prohibited" gifts
- Comply with the Code of Conduct
- Not to make any statement regarding the competence or honesty of a local government employee or public sector employee.

**POLICY IMPLICATIONS**

There is no Council Policy that relates to the nomination of DAP members.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Should Council fail to nominate three representatives, the Minister for Planning has the power to appoint community representatives to represent Melville on the DAP. The community representatives would be selected from residents within the local government area who are considered to have relevant knowledge or experience which will enable them to represent the interests of their local community. The implications of this option is that the City of Melville and its interests will not be represented in the determination of applications by the DAP.

**LATE ITEM P11/3205 - NOMINATION OF CITY OF MELVILLE LOCAL GOVERNMENT  
MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)**

A DAP member may resign from office at any time by forwarding a written resignation to the Minister for Planning. The Minister can also grant a leave of absence to a DAP member.

**CONCLUSION**

It is recommended that Council nominate two DAP members and one deputy DAP member.

At 7.16pm the Mayor advised that a nomination in writing had been received from Cr Halton prior to the meeting and invited further nominations for the role as local government member on Development Assessment Panels. Cr Pazolli and Cr Foxton had also nominated for the role. There being three nominations for the two positions of DAP members, a poll, in accordance with the Local Government (Constitutional Regulations) 1998 Part 3., was undertaken.

At 7.18pm Mr Kellick left the meeting and returned at 7.20pm  
At 7.20pm Crs Nicholson, Wieland and Pazolli left the meeting

At 7.20pm the Mayor advised that Cr Halton and Cr Foxton were elected as members.

At 7.20pm the Mayor called for nominations for the role of local government deputy member on DAP. Cr Reynolds and Cr Pazolli nominated for the role. There being two nominations for the deputy DAP member, a poll, in accordance with the Local Government (Constitutional Regulations) 1998 Part 3, was undertaken.

At 7.21 Cr Reidy left the meeting  
At 7.21pm Crs Nicholson, Wieland and Pazolli returned to the meeting  
At 7.22pm Cr Reidy returned to the meeting

At 7.26pm the Mayor advised that Cr Pazolli had been elected as deputy member.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3205)****APPROVAL**

At 7.27pm Cr Subramaniam moved, seconded Cr Barton

- A      That the Council nominate Cr Halton and Cr Foxton to represent the City of Melville as Local Government Development Assessment Panel members.**
- B      That the Council nominate Cr Pazolli to represent the City of Melville as a Deputy Local Government Development Assessment Panel member.**
- C      That the nominations be forwarded in writing to the Minister for Planning.**

At 7.28pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****14.1 The City's Wetlands**Disclosure of Interest

Item No.	14.1 – The City's Wetlands
Elected Member/Officer	Cr E Nicholson
Type of Interest	Proximity Interest in Accordance with the Act (S5.60B)
Nature of Interest	Resides across the road from Booragoon Lake
Request	Stay and Discuss
Decision of Council	Stay and Discuss

At 7.29pm having declared an interest in this item, left the meeting.

Disclosure of Interest

Item No.	14.1 – The City's Wetlands
Elected Member/Officer	Cr N Pazolli
Type of Interest	Proximity Interest in Accordance with the Act (S5.60B)
Nature of Interest	Has joint ownership of a family property with Cr Nicholson
Request	Stay , Discuss and Vote
Decision of Council	Stay and Discuss

At 7.31pm Cr Pazolli having declared an interest in this item, left the meeting.

Disclosure of Interest

Item No.	14.1 – The City's Wetlands
Elected Member/Officer	Mr M Tieleman
Type of Interest	Proximity Interest in Accordance with the Act (S5.60B)
Nature of Interest	Property owner of property opposite Blue Gum Lake
Request	Leave
Decision of Council	Not Required

At 7.31pm Mr M Tieleman having declared an interest in this item, left the meeting.

At 7.32pm Mr J Christie left the meeting and returned at 7.34pm

At 7.34pm Cr Robartson moved, seconded Cr Barton –

**That in accordance with Section 5.68 (1) of the Local Government Act 1995 Cr Nicholson be allowed to stay and discuss.**

At 7.35pm the Mayor submitted the motion, which was declared

**CARRIED (8/1)**

At 7.35pm Cr Robartson moved, seconded Cr Barton –

**That in accordance with Section 5.68 (1) of the Local Government Act 1995 Cr Pazolli be allowed to stay, discuss and vote.**

At 7.35pm the Mayor submitted the motion, which was declared

**LOST (4/5)**

#### **14.1 The City's Wetlands (Continued)**

At 7.37pm Cr Robartson moved, seconded Cr Foxton –

**That in accordance with Section 5.68 (1) of the Local Government Act 1995 Cr Pazolli be allowed to stay and discuss.**

At 7.38pm the Mayor submitted the motion, which was declared

**CARRIED (9/0)**

At 7.39pm Cr Nicholson and Cr Pazolli returned to the meeting.

The Presiding Member invited Cr Robartson to speak on the motion that he had presented regarding the City's Wetlands.

##### Reasons for Notice of Motion

The Wetlands have degenerated to the extent that they no longer support our native flora and fauna. Cr Robartson understands the Wetlands can never be brought back to their original state, but Cr Robartson believed we owe it to future generations to rehabilitate the Wetlands.

Booragoon Lake is a nationally accredited Wetland area under the Directory of important Wetlands in Australia. Blue Gum & Booragoon Lakes are also declared as "Bush Forever" sites and very high value heritage sites.

Hence the sites are required

- To be protected from development
- Are to remain as bushland/wetlands
- Are not allowed to be degraded

Cr Robartson believed that the Council had a responsibility to not just maintain the Wetlands but to improve them. This report will hopefully be the first step in implementing rehabilitation of our Wetlands.

##### **RECOMMENDATION**

##### **APPROVAL**

At 7.40pm Cr Robartson moved, seconded Cr Reidy -

1. **That a report be prepared by Council staff and presented to the Council by 15 July 2011 on what the City of Melville needs to do to advance work being done on the Council's Wetlands in accordance with existing management plans together with costings of the said work.**
2. **In addition, a plan together with costings to source water to partially fill in the City of Melville's Wetland area being Booragoon & Blue Gum Lakes in the summer/dry months.**
3. **That as these are bush forever sites, enquiries be made of the State Government and other agencies if financial assistance is available for any identified remediation of these vital wetlands.**

#### **14.1 The City's Wetlands (Continued)**

##### Amendment 1

At 7.51pm Cr Reynolds moved, seconded Cr Foxton -

**That Part 2 of the Recommendation be deleted.**

At 8.05pm Mr B Kelly entered the meeting

At 8.22pm the Mayor submitted the amendment which was declared

**CARRIED (6/3)**

Cr Nicholson and Cr Pazolli did not vote.

##### Amendment 2

At 8.23pm Cr Subramaniam moved, seconded Cr Ceniviva -

**That Part 1 of the Recommendation be amended by deleting the words “15 July 2011”, and by deleting the word “costings” and replacing with the words “the sum”.**

At 8.26pm Mr Kelly returned to the public gallery

At 8.27 Mayor submitted the amendment which was declared

**CARRIED (7/2)**

Cr Nicholson and Cr Pazolli did not vote.

#### **COUNCIL RESOLUTION**

At 8.29 the Mayor submitted the substantive motion as amended –

Mr B Kelly entered the meeting at 8.31pm

- 1. That a report be prepared by Council staff and presented to the Council on what the City of Melville needs to do to advance work being done on the Council's Wetlands in accordance with existing management plans together with the sum of the said work.**
- 2 That as these are bush forever sites, enquiries be made of the State Government and other agencies if financial assistance is available for any identified remediation of these vital wetlands.**

At 8.32pm the Mayor declared the motion

**CARRIED (7/2)**

Cr Nicholson and Cr Pazolli did not vote.

## **15. EN BLOC ITEMS**

At 8.37 pm Cr Reidy moved, seconded Cr Foxton -

**That the recommendations for, P11/3194, P11/3197, P11/3200, T11/3203, C11/5000, C11/6000 and C11/6001 be carried En Bloc.**

At 8.37pm the Mayor submitted the motion which was declared **CARRIED (11/0)**

At 8.38pm Mr B Kelly and Cr Reynolds left the meeting.

At 8.38pm Mr M Tieleman returned to the meeting.

## **16. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**

### **16.1 Review of Waste Disposal Options**

At 8.41pm Cr Subramaniam moved, seconded Cr Wieland -

**That the Motion Without Notice relating to the Review of Waste Disposal Options be received.**

At 8.41pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (11/0)**

Cr Subramaniam raised the following in relation to a review of Waste Disposal Options.

The cost of disposing of Waste at the Southern Metropolitan Regional Council's (SMRC) Regional Resource Recovery Centre (RRRC) waste composting facility at Canning Vale is currently \$182.75 per tonne ex GST and the draft budget parameters for 2011/2012 show a proposed increase of 6% to \$193.75 per tonne ex GST.

The proposed member gate fee for 2011/2012 for the, yet to be reconstructed, Materials Recovery Facility (MRF) is \$82.00 per tonne ex GST. The proposed member gate fee for the Greenwaste facility for 2011/2012 is \$67.20 per tonne compared to \$64.60 per tonne in the current year.

The cost of disposal of waste at the City of Rockingham's landfill facility is understood to be approximately \$86.50 per tonne, including the State Government's \$28 per tonne landfill levy.

With respect to the cost of disposal of recycling materials it is understood that there may be an opportunity for more competitive disposal rates to be obtained from private industry providers.

In order to ascertain whether or not the net environmental benefits associated with disposal of the City's municipal waste at the RRRC's composting facility outweighs the additional costs associated with doing so, it is considered that a report examining these issues would be beneficial.

**16.1 Review of Waste Disposal Options (Continued)**

The Director of Technical Services has advised that a comprehensive report would take approximately three months to prepare from the date of commissioning and that an appropriately qualified officer is available to do so, albeit that the officer would be required to be relieved of their day to day duties and may require some external consultancy advice re environmental aspects of a report.

At 8.42pm Pazolli moved, seconded Cr Robartson -

**COUNCIL RESOLUTION**

**That the Chief Executive Officer prepare a report that examines the total costs, risks and environmental outcomes of undertaking municipal waste disposal and recyclables at the Southern Metropolitan Regional Council's Regional Resource Recovery Centre versus other disposal mechanisms currently available to the City.**

At 8.48pm the Mayor submitted the motion, which was declared **CARRIED (11/0)**

At 8.49pm Mr L Hitchcock left the meeting and returned at 8.54pm

Reasons**17. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

At 9.00pm Cr Wieland moved, seconded Cr Subramaniam –

**That the meeting be closed to the public to permit discussion on Item P11/3192 - Disposal of Lot 9 Leach Highway and Lot 100 North Lake Road, Willagee, and Item P11/3202 - Purchase of Water Corporation Land Bounded by Clive Street, Baldwin Avenue and Ogilvie Road, Mount Pleasant covered under Section 5.23 (c) & (h) of the Local Government Act 1995, and Local Government (Administration) Regulations 1996 Clause 4A relating to the sale or purchase of property.**

At 9.00pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

At 9.01pm one member of the press and one member of the public left the meeting.

**CONFIDENTIAL ITEM - P11/3192 - DISPOSAL OF LOT 9 LEACH HIGHWAY AND LOT 100 NORTH LAKE ROAD, WILLAGEE (REC)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3192) APPROVAL**

At 9.00pm Cr Ceniviva moved, seconded Cr Robartson -

**That the Council with respect to the sale of Lot 100 North Lake Road, Willagee, Certificate of Title 1926/967 and Lot 9 Leach Highway, Willagee, Certificate of Title 1243/663 resolves to:**

- 1. Accept the offer, in the form of the Counter Offer as submitted by the Chief Executive Officer to the Buyer, the Commissioners of the Presbyterian Church in WA, for an amount of \$3,550,000 plus GST.**
- 2. Cause advertising to be undertaken in accordance with Section 3.58 of the Local Government Act 1995 advising of City's intent to dispose of these properties in accordance with the counter offer as submitted.**
- 3. Authorise the Chief Executive Officer and His Worship the Mayor to sign, under the City's Common Seal, all necessary sale documentation.**

At 9.00pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

**CONFIDENTIAL ITEM P11/3202 - PURCHASE OF WATER CORPORATION LAND  
BOUNDED BY CLIVE STREET, BALDWIN AVENUE AND OGILVIE ROAD  
MT PLEASANT (REC) (CONFIDENTIAL ATTACHMENT)****Disclosure of Interest**

Item No.	P11/3202
Elected Member/Officer	Cr N Pazolli
Type of Interest	Interest Under the Code of Conduct
Nature of Interest	Resides approximately 150 metres from subject properties
Request	Stay, Discuss and Vote
Decision of Council	Not Required

**OFFICER RECOMMENDATION (3202)****APPROVAL**

At 9.01pm Cr Wieland moved, seconded Cr Subramaniam -

**That the Council;**

**In respect to the following properties:**

- Lot 18 (70) Ogilvie Road, Mt Pleasant being Certificate of Title Volume 1279 Folio 199
- Lot 9 (72) Ogilvie Road, Mt Pleasant being Certificate of Title Volume 1225 Folio 836, and
- Lot 10 (3 Clive Street, Mt Pleasant being Certificate of Title Volume 1225 Folio 837 -

1. Resolves to consider the acquisition of these properties for the purposes of public open space provision in the Mount Pleasant.
2. Authorises the Chief Executive Officer (or his nominee/s) to enter into negotiations with the Water Corporation of Western Australia and the Minister for Water and Environment in order to acquire these properties.
3. Request that the matter be presented to the Council for final approval following any such negotiations taking place.

**In respect to the future acquisition of public open space;**

4. Acknowledges that due to financial limitations the City will not be able to acquire sufficient properties in the district to result in a 10% public open space provision in each cell as identified by the Public Open Space Strategy.
5. Resolves to limit its total expenditure on the acquisition and development of such properties to the amount available in the Public Open Space Reserve including the current 1% of rates set aside each year for this purpose and notes that the cost of acquisition may be required to be met by loan funds with the Public Open Space Reserve being used to fund interest and principal repayments with such loans being limited to a ten year term to enable other purchase opportunities in other suburbs of the City to be met in a timely manner.

**CONFIDENTIAL ITEM P11/3202 - PURCHASE OF WATER CORPORATION LAND  
BOUNDED BY CLIVE STREET, BALDWIN AVENUE AND OGILVIE ROAD  
MT PLEASANT (REC) (CONFIDENTIAL ATTACHMENT)**

6. Resolves to make only one acquisition (as funds allow) in each suburb identified as being deficient in public open space, in accordance with the prevailing Public Open Space Strategy, without having first acquired a property or properties in all other suburbs identified as being open space deficient.
7. Requests the Chief Executive Officer to determine an appropriate priority list for those areas requiring additional public open space in accordance with the Public Open Space Strategy.
8. Requests Dr Janet Woppard MLA, Member for Alfred Cove, to make representations on the City's behalf to the State Government with respect to securing the former Water Corporation Treatment Plant land at a discounted price.

Amendment 1

At 9.02pm Cr Reynolds moved, seconded Cr Foxton -

That Parts 1, 2 and 3 of the Officer Recommendation be amended as follows and the Part 8 be deleted -

1. Resolves to consider the acquisition of these or other properties for the purposes of public open space provision.
2. Authorises the Chief Executive Officer (or his nominee/s) to enter into negotiations with the Water Corporation of Western Australia and the Minister for Water and Environment.
3. Request that the matter be presented to the Council for further consideration following any negotiations taking place.

And delete Point 8.

At 9.24pm the Mayor submitted the amendment, which was declared

**LOST (2/9)**

**CONFIDENTIAL ITEM P11/3202 - PURCHASE OF WATER CORPORATION LAND  
BOUNDED BY CLIVE STREET, BALDWIN AVENUE AND OGILVIE ROAD  
MT PLEASANT (REC) (CONFIDENTIAL ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3202)****APPROVAL**

At 9.25pm Wieland moved, seconded Cr Subramaniam -

That the Council;

**In respect to the following properties:**

- Lot 18 (70) Ogilvie Road, Mt Pleasant being Certificate of Title Volume 1279 Folio 199
- Lot 9 (72) Ogilvie Road, Mt Pleasant being Certificate of Title Volume 1225 Folio 836, and
- Lot 10 (3 Clive Street, Mt Pleasant being Certificate of Title Volume 1225 Folio 837 -

1. **Resolves to consider the acquisition of these properties for the purposes of public open space provision in the Mount Pleasant.**
2. **Authorises the Chief Executive Officer (or his nominee/s) to enter into negotiations with the Water Corporation of Western Australia and the Minister for Water and Environment in order to acquire these properties.**
3. **Request that the matter be presented to the Council for final approval following any such negotiations taking place.**

**In respect to the future acquisition of public open space;**

4. **Acknowledges that due to financial limitations the City will not be able to acquire sufficient properties in the district to result in a 10% public open space provision in each cell as identified by the Public Open Space Strategy.**
5. **Resolves to limit its total expenditure on the acquisition and development of such properties to the amount available in the Public Open Space Reserve including the current 1% of rates set aside each year for this purpose and notes that the cost of acquisition may be required to be met by loan funds with the Public Open Space Reserve being used to fund interest and principal repayments with such loans being limited to a ten year term to enable other purchase opportunities in other suburbs of the City to be met in a timely manner.**
6. **Resolves to make only one acquisition (as funds allow) in each suburb identified as being deficient in public open space, in accordance with the prevailing Public Open Space Strategy, without having first acquired a property or properties in all other suburbs identified as being open space deficient.**
7. **Requests the Chief Executive Officer to determine an appropriate priority list for those areas requiring additional public open space in accordance with the Public Open Space Strategy.**

**CONFIDENTIAL ITEM P11/3202 - PURCHASE OF WATER CORPORATION LAND  
BOUNDED BY CLIVE STREET, BALDWIN AVENUE AND OGILVIE ROAD  
MT PLEASANT (REC) (CONFIDENTIAL ATTACHMENT)**

**8. Requests Dr Janet Woppard MLA, Member for Alfred Cove, to make representations on the City's behalf to the State Government with respect to securing the former Water Corporation Treatment Plant land at a discounted price.**

At 9.29pm the Mayor submitted the motion, which was declared

**CARRIED (9/2)**

At 9.30pm Cr Reidy moved, seconded Cr Foxton –

**That the meeting come out from behind closed doors and the public be invited back into the meeting.**

At 9.30pm the Mayor submitted the motion, which was declared

**CARRIED (11/0)**

At 9.30pm one member of the public and no members from the media returned to the meeting and His Worship the Mayor advised the public of the resolutions from the items being discussed behind closed doors.

**18. CLOSURE**

There being no further business to discuss, His Worship the Mayor declared the meeting closed at 9.30pm.