

**MINUTES**

**OF THE**

**ORDINARY MEETING OF COUNCIL**

**HELD ON**

**11 DECEMBER 2012**

**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, 11 DECEMBER 2012.**

**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6:30pm. Mr Jeff Clark, Governance & Compliance Program Manager, read aloud the Disclaimer that is on the front page of these Minutes and then the Deputy Mayor, Cr Macphail, read aloud the following Affirmation of Civic Duty and Responsibility.

**Affirmation of Civic Duty and Responsibility**

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

**2. PRESENT**

His Worship the Mayor, Russell Aubrey

**COUNCILLORS**

Cr D Macphail (Deputy Mayor)  
Cr A Nicholson  
Cr C Robartson, Cr R Willis  
Cr N Pazolli, Cr P Reidy  
Cr S Taylor-Rees, Cr J Barton  
Cr R Hill, Cr R Kinnell  
Cr N Foxton, Cr M Reynolds

**WARD**

City  
City  
Bull Creek/Leeming  
Applecross/Mount Pleasant  
Bicton/Attadale  
Palmyra/Melville/Willagee  
University

**3. IN ATTENDANCE**

Dr S Silcox	Chief Executive Officer
Mr M Tieleman	Director Corporate Services
Ms C Young	Director Community Development
Mr J Christie	Director Technical Services
Mr S Cope	Director Urban Planning
Mr L Hitchcock	Executive Manager Legal Services
Mr P Prendergast	Manager Planning & Development Services
Mr G Ponton (From 6.42pm to 6.43pm)	Manager Strategic Urban Planning
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 two members of the public and one member from the Press in the Public Gallery.

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

Nil.

**4.2 APPROVED LEAVE OF ABSENCE**

Nil.

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

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

Nil.

**6. QUESTION TIME**

Nil.

**7. AWARDS AND PRESENTATIONS**

Nil.

**8. CONFIRMATION OF MINUTES****8.1 ORDINARY MEETING OF COUNCIL – 20 NOVEMBER 2012**  
**Min 20 November 2012****COUNCIL RESOLUTION**

At 6.38pm Cr Macphail moved, seconded Cr Willis -

**That the Minutes of the Ordinary Meeting of Council held on Tuesday, 20 November 2012, be confirmed as a true and accurate record.**

At 6.38pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)**

**8.2 NOTES OF AGENDA BRIEFING FORUM – 27 NOVEMBER 2012**  
**Notes 27 November 2012****COUNCIL RESOLUTION**

At 6.38pm Cr Robartson moved, seconded Cr Hill -

**That the Notes of the Agenda Briefing Forum held on Tuesday, 27 November 2012, be received.**

At 6.38pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)**

**9. DECLARATIONS OF INTEREST****9.1 FINANCIAL INTERESTS****9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

- T12/3325 - Cr Taylor-Rees – Interest Under the Code of Conduct

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

Nil.

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

- C12/5266 Confidential Item – Walter's River Café' – Request for Lease Fee Relief

The above matter is confidential in accordance with Section 5.23 (2) (e) of the Local Government Act 1995 relating to a matter that if disclosed would reveal information that has a commercial value to a person.

- P12/3362 Late & Confidential Item – Reconsideration of Three Storey Mixed-Use Development at Lot 276 (8) Bragor Place, Ardross

The above matter is confidential in accordance with Section 5.23 (2) (d) of the Local Government Act 1995 relating to a matter of legal advice obtained, or which may be obtained, by the local government.

**12. PETITIONS**

Nil.

**13. REPORTS OF THE CHIEF EXECUTIVE OFFICER****P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

Ward	:	University
Category	:	Strategic
Application Number	:	CPS 5 -67
Property	:	Portion of Lots 507, 510, 511, 512, 4083 and 52
Proposal	:	Initiation of Amendment No. 67 to amend CPS 5 by creating a “Development Zone” and applying that zone over the Mixed Use Precinct at Murdoch.
Applicant	:	Taylor Burrell Barnett Planning Consultants on behalf of Landcorp
Owner	:	State Government
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	P09/3087 Murdoch Activity Centre Mixed Use Precinct And Main Street Design Guidelines – Ordinary Council Meeting 18 August 2009 T10/317-Infrastructure Management Implications Murdoch Activity Centre – Ordinary Council Meeting 21 December 2010 P11/3271 – Murdoch Activity Centre – Interim Access and Parking Policy – Ordinary Council Meeting 15 November 2011 P12/3314 – Confidential Item – Draft Murdoch Specialised Activity Centre Structure Plan 19 June 2012 P12/3344 – Murdoch Activity centre Draft Structure Plan – Consultation Phase
Responsible Officer	:	Gavin Ponton Manager Strategic Planning

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

**AUTHORITY / DISCRETION**

**DEFINITION**

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



**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The Mixed Use Precinct at Murdoch, together with much of the south west quadrant of the Murdoch Activity Centre (MAC) is land reserved under the Metropolitan Region Scheme (MRS) for “Public Purposes”.
- Development within the Public Purpose Reserve is controlled by the MRS and determinations made by the Western Australian Planning Commission. The reserve status of the land under the MRS effectively overrides the provisions of Community Planning Scheme No. 5 (CPS5).
- Maintaining the reserved status of land within the Murdoch Activity Centre, particularly in areas intended to be developed for non government activities, presents a constraint to control and implementation of development.
- An amendment to the MRS has been initiated in relation to land the subject of the Landcorp Mixed Use Precinct. The amendment proposes zoning the land “Urban” under the MRS. Upon completion of the MAC a wider amendment is expected to further reduce the extent of “reserved” land and to consider designating portions of the MAC with a “Central City Area” zone under the MRS.
- Zoning of land under the MRS (as opposed to reservation) enables the land to also be designated a zone and planning controls under CPS5.
- Upon finalisation of the proposed MRS amendment to the Landcorp Mixed Use Precinct, the land will require identification of a suitable zone under CPS5.
- It has been proposed that the land be designated as a “Development Zone” under CPS5. Associated administrative amendments to CPS5 are also proposed to provide provisions to support the operation of a Development Zone, given that such a zone does not currently exist within CPS5
- A development zone is suited to areas such as the Mixed Use Precinct. The proposed development zone requires preparation and approval of a structure plan (by Council) prior to commencement of development. The structure plan approach enables detailed, flexible and outcome based approach towards development control on a precinct basis. The structure plan would address all usual elements of development control (setbacks, building height, parking landscaping, building design etc) and would ultimately becomes the statutory planning control for the subject area.
- The development zone approach is in keeping with that envisaged for statutory planning control in activity centres under draft Local Planning Scheme 6 (LPS6).
- The proposed amendment provides the administrative framework to accommodate “Development Zones” in CPS5. The detailed statutory controls will be developed through the preparation of a structure plan. The structure plan requires approval by Council and no development can take place until a suitable structure plan is in place.
- The proposed Scheme Amendment is recommended for initiation.

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**



Figure 1: Subject Land (blue border)

**BACKGROUND**

The Murdoch Specialised Activity Centre Structure Plan is currently out for public comment until 8 February 2013. This Structure Plan is also known as the MAC Part B Structure Plan. An earlier structure plan, the MAC Part A Structure Plan, which focused on the south west quadrant of MAC, was approved in June 2007. The principles of the MAC Part A Structure Plan are in keeping with the contents of the wider Murdoch Specialised Activity Centre Structure Plan (MAC Part B). Within this planning context, Landcorp have been progressing designs for the development of the Mixed Use Precinct (MUP), which comprises the land immediately to the south west of the Murdoch bus/rail station. An update on design and progress of this project was provided at the Elected Member Information Session (EMIS) held on 9 October 2012.

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The site of the MUP, together with much of the south west quadrant at the MAC is currently reserved under the MRS for Public Purposes. Development within the Public Purpose Reserve is controlled by the MRS and determinations made by the Western Australian Planning Commission (WAPC). The reserve status of the land under the MRS effectively overrides the provisions of CPS5.

Maintaining the reserved status of land within the Murdoch Activity Centre, particularly in areas intended to be developed for non government activities, presents a constraint to control and implementation of future development. Accordingly, an amendment to the MRS has been initiated in relation to land the subject of the Landcorp Mixed Use Precinct. The amendment proposes zoning the land “Urban” under the MRS. Upon completion of the MAC Structure Plan a wider amendment is expected to be progressed to further reduce the extent of “reserved” land and to consider designating portions of the MAC with a “Central City Area” zone under the MRS.

Zoning of land under the MRS (as opposed to reservation) enables the land to also be designated a zone and to be subject to planning controls under CPS5. Upon finalisation of the current MRS amendment to the MUP, the land will effectively become unzoned land under CPS5. Identification of a suitable zone and planning controls under CPS5 is therefore required.

**Scheme Provisions**

MRS Zoning	: Public Purposes Reserve
CPS5 Zoning	: MRS Reserve for Public Purposes
R-Code	: Not applicable
Use Type	: Not applicable
Use Class	: Not applicable

**Site Details**

Lot Area	: Approximately 9.5570 hectares
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Refer to aerial photo

**DETAIL**

Current amendments to the MRS involving the removal of the Public Purposes reservation at the Murdoch MUP will ultimately require the land to be allocated a zoning under the CPS5. The approach being proposed by Landcorp is to provide for the creation of a Development Zone within CPS5 and to allocate this zoning over the MUP site.

The Development Zone approach effectively provides a framework for land in key strategic precincts to be developed in accordance with an approved local structure plan. Details of the proposed Scheme Amendment are provided in the attached Amendment Report.

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**[P12/3355 Murdoch Mixed Use Precinct – Scheme Amendment Report](#)**

The proposed amendment establishes the administrative framework to support the operation of a Development Zone. Specific objectives are also identified for proposed Development Zone No. 1 which is to relate to the Murdoch MUP:

- (a) The use of land within the development zone make provision for mixed use including (but not limited to) retail, commercial, office, entertainment, residential, short stay, medical, civic and community uses;
- (b) The development of the Precinct is to be integrated with surrounding land uses and precincts.

Importantly, the proposed amendment establishes only the administrative foundation to allow for operation of the Development Zone. Statutory planning control within the Development Zone is determined by the provisions of a local structure plan and development may only be approved upon adoption of a suitable structure plan by Council and the WAPC.

The applicants advise that the required local structure plan is intended to be lodged in early 2013. Timing of the lodgement of the local structure plan and anticipated progress on the proposed amendment to CPS5 is intended to allow for approvals to align as closely as possible with the approval of the associated amendment to the MRS.

#### **PUBLIC CONSULTATION/COMMUNICATION**

Should Council resolve to initiate the Amendment, it will require formal advertising in accordance with the procedures outlined in WAPC Planning Bulletin No. 29.

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

There are no referrals to Government Agencies required prior to initiation of the Scheme Amendment. However, following initiation, the Amendment will require referral to the Environmental Protection Authority and WAPC prior to advertising.

#### **STATUTORY AND LEGAL IMPLICATIONS**

Part 5 of the *Planning and Development Act 2005* allows Council to initiate amendments to planning schemes. Once initiated, Council must advertise the Amendment, consider submissions received and forward the proposal to the Minister for Planning (the Minister) for determination.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications of note with this Amendment.



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**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risks or environmental management implications associated with this application.

**POLICY IMPLICATIONS**

None applicable to the proposed Amendment.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could choose to refuse to initiate the subject Amendment on the grounds that the proposal is not considered to be consistent with orderly and proper planning. Council could also choose to support an Amendment which allocated an existing CPS5 zone to the subject land. Such courses of action are not recommended in this case. Upon gazettal of the current MRS amendment for the Murdoch MUP, the subject land will become unzoned land in CPS5. This situation is not desirable from a planning control viewpoint. Consideration of applying an existing CPS5 zone over the subject land is also not recommended as existing zones are not well suited to the intended development of the MUP.

**COMMENT**

Anticipated development at the Murdoch Mixed Use Precinct is of scale and diversity well suited to control through a structure planning approach. This approach provides opportunity for control of development which is detailed, flexible and outcome based. Future structure plans would address all usual elements of development control (landuse, setbacks, building height, parking landscaping, building design etc), incorporate detailed design/built form guidelines and would include ability to achieve specific development outcomes on a site by site basis.

Importantly, the subject amendment provides only the administrative framework to accommodate “Development Zones” in CPS5. The preparation of the structure plans which will ultimately define the statutory controls within the “Development Zone” would occur separately. As outlined above preparation of structure plans would involve public consultation and approval by Council and no development can take place until a suitable structure plan is in place.

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## CONCLUSION

The proposed Amendment establishes the framework to control development within the Murdoch MUP via a statutory structure plan. No development is able to be commenced until such time as the Council and WAPC have approved the required structure plan. The approach provides the control, flexibility and detail required to achieve optimum built form outcomes in mixed use precincts such as the Murdoch MUP. The structure planning approach is also consistent with that proposed in the City’s draft LPS6 for the control of development within strategic activity centres. Initiation of the Amendment is recommended accordingly. For clarity, details of the proposed Amendment are documented in Attachment 2:

[P12/3355 Amendments to Scheme Map included within Amendment 67 to CPS5](#)

## OFFICER RECOMMENDATION (3355)

## INITIATION

At 6.40pm Cr Macphail moved, seconded Cr Foxton -

That the Council:

A Pursuant to Part 5 of the Planning and Development Act 2005, resolves to initiate Amendment No. 67 to Community Planning Scheme No. 5 as follows:

1. Creation of a new “Development Zone” and associated provisions in Part 4 of the Community Planning Scheme No. 5 by adding a new section 12 as follows:

### **12. DEVELOPMENT ZONE**

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

***Areas shown and designated as Development Zone are those areas deemed to require comprehensive structure planning in order to:***

- a) ***Co-ordinate subdivision and development in areas of urban growth; or***
- b) ***Facilitate redevelopment of existing urban areas.***

***In addition to the general provisions outlined below, specific provisions for each Development Zone are outlined within Schedule 5.***

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

***Where land is identified under the Scheme as a Development Zone, the Council may prepare or require that the owner or owners of the subject land prepare a Structure Plan.***

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*The Council is not to consider recommending subdivision or approve development of land within a Development Zone unless:*

- i. There is a Structure Plan for the area or for the relevant part of that area; or*
- ii. In the case of subdivision, the Council is satisfied that the proposed subdivision will not prejudice the specific purposes and requirements of the Development Zone.*

*With respect to assessment under point ii) above, where Council receives the referral of a subdivision application within a Development Zone prior to a Structure Plan coming into effect in relation to that land, the Council will assess the subdivision against the objectives of the specific Development Zone (Schedule 5) and the relevant standards outlined in Part 5.*

***Preparation of a Structure Plan***

*A structure plan drafted and submitted for approval under this Scheme is generally to accord with the prescribed format outlined by:*

- a) The Structure Plan Preparation Guidelines (as amended) or any other statute, planning policy or guideline endorsed by either by the Western Australian Planning Commission or the Council; and*
- b) State Planning Policy 4.2: Activity Centres for Perth and Peel (as amended) where the subject land is located within an identified Activity Centre area.*

***Application and Advertising Controls***

*A proposed Structure Plan prepared by an owner is to be submitted to the Council.*

*Within 7 days of preparing or receiving a Structure Plan which proposes the subdivision of land, the Council is to forward a copy of the proposed Structure Plan to the Western Australian Planning Commission (the Commission).*

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

*Within 60 days of preparing or receiving a proposed structure plan that conforms with the ‘Preparation of a Structure Plan’ provisions above the Council is to:*

- a) *Advertise, or require the owner who submitted the proposed Structure Plan to advertise, the proposed Structure Plan for public inspection by one or more of the following ways:
  - i. *Notice of the proposed Structure Plan published in a newspaper circulating in the Scheme area;*
  - ii. *A sign or signs displaying notice of the proposed Structure Plan to be erected in a conspicuous place or places in the Development Zone, or part of the Development Zone, to which the proposed Structure Plan applies; and**
- b) *Give notice, or require the owner who submitted the proposed Structure Plan to give notice, in writing to:
  - i. *All owners whose land is included in the proposed Structure Plan;*
  - ii. *All owners and occupiers who, in the opinion of the Council, are likely to be affected by the adoption of the proposed Structure Plan;*
  - iii. *Such public authorities and other persons as the Council nominates.**

*The advertisement and notice are to:*

- a) *Explain the scope and purpose of the proposed Structure Plan;*
- b) *Specify when and where the proposed Structure Plan may be inspected; and*
- c) *Invite submissions to the Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.*

**Council Adoption of a Structure Plan**



**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

*The Council is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:*

- a) adopt the proposed Structure Plan, with or without modifications; or*
- b) refuse to adopt the proposed Structure Plan and, where the proposed Structure Plan was submitted by an owner, give reasons for this to the owner.*

*In considering the adoption of a Structure Plan the Council is to have due regard to the comments and advice received from the Commission in relation to the proposed Structure Plan.*

*If the Commission requires modifications to the proposed Structure Plan, the Council is to consult with the Commission prior to making a determination on the adoption of a Structure Plan.*

*If the Council, after consultation with the Commission, is of the opinion that a modification to the proposed Structure Plan is substantial, the Council may:*

- a) re-advertise the proposed Structure Plan; or*
- b) require the owner who submitted the proposed Structure Plan to re-advertise the proposed Structure Plan;*

*and thereafter, the procedures set out in ‘Application and Advertising’ onwards are to apply.*

*If within the period 60 day period, or such further time as may be agreed in writing between the proponent who submitted the proposed Structure Plan and the Council, the Council has not made a determination on the adoption of a proposed Structure Plan, the Council is deemed to have refused to adopt the proposed Structure Plan.*

***Endorsement by Commission***

*If the proposed Structure Plan proposes the subdivision of land, then within 7 days of making its determination to adopt a Structure Plan, the Council is to forward the proposed Structure Plan to the Commission for its endorsement.*

*The Commission is to provide comments to the Council as to whether it is prepared to endorse the proposed Structure Plan with or without modifications.*

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*The Commission must provide its comments to the Council within 30 days of receiving the proposed Structure Plan.*

*As soon as practicable after receiving the proposed Structure Plan, the Commission is to determine whether to endorse the proposed Structure Plan.*

*The Commission is to notify the Council of its determination.*

**Notification of Structure Plan**

*As soon as practicable after adopting a proposed Structure Plan, and if endorsement by the Commission is required, as soon as practicable after being notified of the Commission’s decision, the Council is to forward a copy of the Structure Plan to:*

- a) any public authority or person that the Council thinks fit; and*
- b) where the Structure Plan was submitted by an owner, to the owner.*

**Operation of Structure Plan**

*A Structure Plan comes into effect:*

- a) where the Structure Plan proposes the subdivision of land, on the day on which it is endorsed by the Commission; or*
- b) on the day on which it is adopted by the Council in all other cases.*

*Any Structure Plan, Outline Development Plan, Detailed Area Plan, Subdivision Guide Plan or other similar plan duly approved and operative under the previous town planning scheme, is to have the full force and effect as if it were approved as a Structure Plan under this scheme.*

*If a provision of a Structure Plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency, with the exception of the application of Part 5 of the Scheme (General Development Requirements) which may be varied by explicit provision of a Structure Plan.*

**Inspection of Structure Plan**

*The Structure Plan and the Commission’s endorsement where required is to be kept at the Council’s administrative offices, and is to be made available for inspection by any member of the public during office hours.*

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

***Variation to Structure Plan***

***The Council may vary a Structure Plan:***

- a) if, in the opinion of the Council, the variation does not materially alter the intent of the Structure Plan;***
- b) otherwise, in accordance with the procedures set out in clause ‘Application and Advertising Controls’ above.***

***If the Council resolves to vary a Structure Plan, and the variation does not propose the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of the determination, for its information.***

***If the Council resolves to vary a Structure Plan, and the variation proposes the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of the determination for its endorsement.***

***As soon as practicable after receiving the copy of the variation referred to above, the Commission is to determine whether to endorse the proposed variation.***

***The Commission is to notify the Council of its determination.***

***A variation to a Structure Plan comes into effect:***

- a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission; or***
- b) otherwise, on the day on which the Council approved the variation.***

***Application for review***

***An owner who has submitted a proposed Structure Plan under clause 4.1 Section 12 may apply to the State Administrative Tribunal, under Part 14 of the Planning and Development Act, in respect of:***

- a) any failure of the Council to advertise, or require the owner to advertise, a proposed Structure Plan within the required time period stipulated in ‘Application and Advertising’ above;***
- b) any determination of the Council:***
  - i. to refuse to adopt a proposed Structure Plan (including a deemed refusal); or***
  - ii. to require modifications to a proposed Structure Plan that are unacceptable to that owner.***

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

*Structure Plans Proposed Before Introduction of Part 12 Provisions*

*Where a proposed Structure Plan is submitted to the Council before the introduction of Part 12 provisions to the Scheme, and the procedures described under Part 12 have been followed, it shall be endorsed as an operational structure plan upon introduction of Part 12 to the scheme without the requirement to further undertake the process described in Part 12.*

2. Amending the Community Planning Scheme No. 5 Scheme Map by including reference to a Development Zone in the Scheme Map Legend and zoning of the Murdoch Mixed Use Precinct (portions of Lots 507, 510, 511, 512, 4083 and 52) as “Development Zone” as outlined in Attachment 2 to Report P12/3355.
3. Introduction of a new “Schedule 6” in Community Planning Scheme No. 5 to apply to Development Zones and including specific provisions for the Murdoch Mixed Use Development Zone as follows:

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

*Schedule 6 – Development Zone*

<b>Development Zone</b>	<b>Description of Land Area</b>	<b>Special Provisions applicable to development and subdivision within the Development Zone</b>
<p><b>DZ1</b> <b>Murdoch Mixed Use Precinct</b></p>	<p>Part Lot 507, Part Lot 510, Part Lot 511, 512, Part Lot 4083, Part Lot 52 and Part of the Local Road Reserve (South Street) as depicted on the Scheme Maps.</p>	<p><b>Objectives:</b> The purpose and intent of the Murdoch Mixed Use Precinct is expressed in the following objectives to which the Council shall have regard when dealing with any proposed Structure Plan, subdivision or development within the Precinct:</p> <ul style="list-style-type: none"> <li>a) The use of land within the development zone make provision for mixed use including (but not limited to), retail, commercial, office, entertainment, residential, short stay, medical, civic and community uses;</li> <li>b) The development of the Precinct is to be integrated with surrounding land uses and precincts;</li> </ul> <p><b>Subdivision prior to the Adoption and Endorsement of a Structure Plan</b></p> <p>With respect to the requirement for the adoption and endorsement of a structure plan under clause 4.1 Section 12, the Council may support subdivision within the Precinct prior to the adoption or endorsement of a Structure Plan provided that:</p> <ul style="list-style-type: none"> <li>a) The proposed subdivision is not considered to prejudice the stated objectives of the Murdoch Mixed Use Precinct; and</li> <li>b) If a proposed Structure Plan for the Precinct has been lodged in accordance with clause 4.1 Section 12, the subdivision is generally in accordance with the provisions of that proposed Structure Plan.</li> </ul>

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

4. Addition of new interpretations within Schedule 1 of Community Planning Scheme No. 5 as follows:

*‘Proposed Structure Plan’ means a proposed structure plan, which may apply to either a local area or a district, that has been prepared in accordance with the provisions of clause 4.1 Section 12 (Preparation of a Structure Plan).*

*‘Structure Plan’ means a Proposed Structure Plan that has been approved by both the Commission and adopted by the local government under clause 4.1 Section 12 (Adoption of a Structure Plan).*

5. Amending the Use Class Table (Table 1) of Community Planning Scheme No.5 to incorporate a new column to the right of the column labelled Heathcote Heritage Precinct (HHP) as follows:

Development Zone (DZ)
Land use permissibility subject to an adopted and endorsed Structure Plan, unless otherwise agreed by Council.

- B Authorise His Worship the Mayor and the Chief Executive officer to endorse the Amendment Document.**
- C Request the Chief Executive Officer to 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*; and,
  - b) The Western Australian Planning Commission for information.
- D On receipt of advice form the Environmental Protection Authority under Section 48A of the Environmental Protection Act 1986 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 42 days.**

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

Amendment

At 6.40pm Cr Macphail, with agreement of the seconder Cr Foxton, agreed to incorporate the following amendment into the motion.

***That in part A(3) of the Officer Recommendation and in the Schedule 6 Development Zone table after the heading “Subdivision prior to the Adoption and Endorsement of a Structure Plan, subclause (b)” the following words be inserted.***

***“Protection of the Conservation Area***

***Any proposed Structure Plan for the precinct shall be required to include a suitable land use designation and associated statutory provisions which require the retention and ongoing protection of the vegetation on the Conservation Area (as identified in the Scheme Amendment Report).”***

At 6.42pm Mr Ponton entered the meeting.

At 6.43pm Mr Ponton returned to the Public Gallery.

Reasons for Amendment

The proposed scheme amendment to create a development zone for the Mixed Use Precinct at Murdoch establishes the framework to enable development control for the precinct to be achieved via the approval of detailed statutory structure plans. Within the proposed development zone is a conservation area, containing significant natural vegetation. The vegetation is subject to high level environmental protection through offset agreements made between the Health Department and the Federal Government and secured pursuant to the Environment Protection and Biodiversity Conservation Act (1999). These conditions require the Conservation Area to be retained, protected and managed in perpetuity.

The purpose of the proposed amendment to the recommendation, is to provide additional clarity that any future structure plan for the Mixed Use Precinct is to include suitable land use designations and associated statutory provisions that reflect the requirement for the Conservation Area to be protected and retained.



**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

**COUNCIL RESOLUTION (3355)**

**INITIATION**

At 6.43pm the Mayor submitted the substantive motion as amended –

**That the Council:**

**A Pursuant to Part 5 of the Planning and Development Act 2005, resolves to initiate Amendment No. 67 to Community Planning Scheme No. 5 as follows:**

- 1. Creation of a new “Development Zone” and associated provisions in Part 4 of the Community Planning Scheme No. 5 by adding a new section 12 as follows:**

**12. DEVELOPMENT ZONE**

**Statement of Intent**

**Areas shown and designated as Development Zone are those areas deemed to require comprehensive structure planning in order to:**

- a) Co-ordinate subdivision and development in areas of urban growth; or**
- b) Facilitate redevelopment of existing urban areas.**

**In addition to the general provisions outlined below, specific provisions for each Development Zone are outlined within Schedule 5.**

**Development Requirements**

**Where land is identified under the Scheme as a Development Zone, the Council may prepare or require that the owner or owners of the subject land prepare a Structure Plan.**

**The Council is not to consider recommending subdivision or approve development of land within a Development Zone unless:**

- i. There is a Structure Plan for the area or for the relevant part of that area; or**
- ii. In the case of subdivision, the Council is satisfied that the proposed subdivision will not prejudice the specific purposes and requirements of the Development Zone.**

**With respect to assessment under point ii) above, where Council receives the referral of a subdivision application within a Development Zone prior to a Structure Plan coming into effect in relation to that land, the Council will assess the subdivision against the objectives of the specific Development Zone (Schedule 5) and the relevant standards outlined in Part 5.**



**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

***Preparation of a Structure Plan***

***A structure plan drafted and submitted for approval under this Scheme is generally to accord with the prescribed format outlined by:***

- a) The Structure Plan Preparation Guidelines (as amended) or any other statute, planning policy or guideline endorsed by either by the Western Australian Planning Commission or the Council; and***
- b) State Planning Policy 4.2: Activity Centres for Perth and Peel (as amended) where the subject land is located within an identified Activity Centre area.***

***Application and Advertising Controls***

***A proposed Structure Plan prepared by an owner is to be submitted to the Council.***

***Within 7 days of preparing or receiving a Structure Plan which proposes the subdivision of land, the Council is to forward a copy of the proposed Structure Plan to the Western Australian Planning Commission (the Commission).***

***Within 60 days of preparing or receiving a proposed structure plan that conforms with the ‘Preparation of a Structure Plan’ provisions above the Council is to:***

- a) Advertise, or require the owner who submitted the proposed Structure Plan to advertise, the proposed Structure Plan for public inspection by one or more of the following ways:***
  - i. Notice of the proposed Structure Plan published in a newspaper circulating in the Scheme area;***
  - ii. A sign or signs displaying notice of the proposed Structure Plan to be erected in a conspicuous place or places in the Development Zone, or part of the Development Zone, to which the proposed Structure Plan applies; and***
- b) Give notice, or require the owner who submitted the proposed Structure Plan to given notice, in writing to:***
  - i. All owners whose land is included in the proposed Structure Plan;***
  - ii. All owners and occupiers who, in the opinion of the Council, are likely to be affected by the adoption of the proposed Structure Plan;***
  - iii. Such public authorities and other persons as the Council nominates.***

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

*The advertisement and notice are to:*

- a) Explain the scope and purpose of the proposed Structure Plan;*
- b) Specify when and where the proposed Structure Plan may be inspected; and*
- c) Invite submissions to the Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.*

***Council Adoption of a Structure Plan***

*The Council is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:*

- a) adopt the proposed Structure Plan, with or without modifications; or*
- b) refuse to adopt the proposed Structure Plan and, where the proposed Structure Plan was submitted by an owner, give reasons for this to the owner.*

*In considering the adoption of a Structure Plan the Council is to have due regard to the comments and advice received from the Commission in relation to the proposed Structure Plan.*

*If the Commission requires modifications to the proposed Structure Plan, the Council is to consult with the Commission prior to making a determination on the adoption of a Structure Plan.*

*If the Council, after consultation with the Commission, is of the opinion that a modification to the proposed Structure Plan is substantial, the Council may:*

- a) re-advertise the proposed Structure Plan; or*
- b) require the owner who submitted the proposed Structure Plan to re-advertise the proposed Structure Plan;*

*and thereafter, the procedures set out in ‘Application and Advertising’ onwards are to apply.*

*If within the period 60 day period, or such further time as may be agreed in writing between the proponent who submitted the proposed Structure Plan and the Council, the Council has not made a determination on the adoption of a proposed Structure Plan, the Council is deemed to have refused to adopt the proposed Structure Plan.*

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

***Endorsement by Commission***

***If the proposed Structure Plan proposes the subdivision of land, then within 7 days of making its determination to adopt a Structure Plan, the Council is to forward the proposed Structure Plan to the Commission for its endorsement.***

***The Commission is to provide comments to the Council as to whether it is prepared to endorse the proposed Structure Plan with or without modifications.***

***The Commission must provide its comments to the Council within 30 days of receiving the proposed Structure Plan.***

***As soon as practicable after receiving the proposed Structure Plan, the Commission is to determine whether to endorse the proposed Structure Plan.***

***The Commission is to notify the Council of its determination.***

***Notification of Structure Plan***

***As soon as practicable after adopting a proposed Structure Plan, and if endorsement by the Commission is required, as soon as practicable after being notified of the Commission's decision, the Council is to forward a copy of the Structure Plan to:***

- a) any public authority or person that the Council thinks fit; and***
- b) where the Structure Plan was submitted by an owner, to the owner.***

***Operation of Structure Plan***

***A Structure Plan comes into effect:***

- a) where the Structure Plan proposes the subdivision of land, on the day on which it is endorsed by the Commission; or***
- b) on the day on which it is adopted by the Council in all other cases.***

***Any Structure Plan, Outline Development Plan, Detailed Area Plan, Subdivision Guide Plan or other similar plan duly approved and operative under the previous town planning scheme, is to have the full force and effect as if it were approved as a Structure Plan under this scheme.***

***If a provision of a Structure Plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency, with the exception of the application of Part 5 of the Scheme (General Development Requirements) which may be varied by explicit provision of a Structure Plan.***

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

***Inspection of Structure Plan***

***The Structure Plan and the Commission’s endorsement where required is to be kept at the Council’s administrative offices, and is to be made available for inspection by any member of the public during office hours.***

***Variation to Structure Plan***

***The Council may vary a Structure Plan:***

- a) if, in the opinion of the Council, the variation does not materially alter the intent of the Structure Plan;***
- b) otherwise, in accordance with the procedures set out in clause ‘Application and Advertising Controls’ above.***

***If the Council resolves to vary a Structure Plan, and the variation does not propose the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of the determination, for its information.***

***If the Council resolves to vary a Structure Plan, and the variation proposes the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of the determination for its endorsement.***

***As soon as practicable after receiving the copy of the variation referred to above, the Commission is to determine whether to endorse the proposed variation.***

***The Commission is to notify the Council of its determination.***

***A variation to a Structure Plan comes into effect:***

- a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission; or***
- b) otherwise, on the day on which the Council approved the variation.***

***Application for review***

***An owner who has submitted a proposed Structure Plan under clause 4.1 Section 12 may apply to the State Administrative Tribunal, under Part 14 of the Planning and Development Act, in respect of:***

- a) any failure of the Council to advertise, or require the owner to advertise, a proposed Structure Plan within the required time period stipulated in ‘Application and Advertising’ above;***
- b) any determination of the Council:***
  - i. to refuse to adopt a proposed Structure Plan (including a deemed refusal); or***

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

- ii. to require modifications to a proposed Structure Plan that are unacceptable to that owner.*

*Structure Plans Proposed Before Introduction of Part 12 Provisions*

*Where a proposed Structure Plan is submitted to the Council before the introduction of Part 12 provisions to the Scheme, and the procedures described under Part 12 have been followed, it shall be endorsed as an operational structure plan upon introduction of Part 12 to the scheme without the requirement to further undertake the process described in Part 12.*

2. Amending the Community Planning Scheme No. 5 Scheme Map by including reference to a Development Zone in the Scheme Map Legend and zoning of the Murdoch Mixed Use Precinct (portions of Lots 507, 510, 511, 512, 4083 and 52) as “Development Zone” as outlined in Attachment 2 to Report P12/3355.
3. Introduction of a new “Schedule 6” in Community Planning Scheme No. 5 to apply to Development Zones and including specific provisions for the Murdoch Mixed Use Development Zone as follows:

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

**Schedule 6 – Development Zone**

<b>Development Zone</b>	<b>Description of Land Area</b>	<b>Special Provisions applicable to development and subdivision within the Development Zone</b>
<p><b>DZ1</b> <b>Murdoch Mixed Use Precinct</b></p>	<p>Part Lot 507, Part Lot 510, Part Lot 511, 512, Part Lot 4083, Part Lot 52 and Part of the Local Road Reserve (South Street) as depicted on the Scheme Maps.</p>	<p><b>Objectives:</b> The purpose and intent of the Murdoch Mixed Use Precinct is expressed in the following objectives to which the Council shall have regard when dealing with any proposed Structure Plan, subdivision or development within the Precinct:</p> <ul style="list-style-type: none"> <li>a) The use of land within the development zone make provision for mixed use including (but not limited to), retail, commercial, office, entertainment, residential, short stay, medical, civic and community uses;</li> <li>b) The development of the Precinct is to be integrated with surrounding land uses and precincts;</li> </ul> <p><b>Subdivision prior to the Adoption and Endorsement of a Structure Plan</b></p> <p>With respect to the requirement for the adoption and endorsement of a structure plan under clause 4.1 Section 12, the Council may support subdivision within the Precinct prior to the adoption or endorsement of a Structure Plan provided that:</p> <ul style="list-style-type: none"> <li>a) The proposed subdivision is not considered to prejudice the stated objectives of the Murdoch Mixed Use Precinct; and</li> <li>b) If a proposed Structure Plan for the Precinct has been lodged in accordance with clause 4.1 Section 12, the subdivision is generally in accordance with the provisions of that proposed Structure Plan.</li> </ul>

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

<i>Development Zone</i>	<i>Description of Land Area</i>	<i>Special Provisions applicable to development and subdivision within the Development Zone</i>
		<p><i>Protection of the Conservation Area</i></p> <p><i>Any proposed Structure Plan for the precinct shall be required to include a suitable land use designation and associated statutory provisions which require the retention and ongoing protection of the vegetation on the Conservation Area (as identified in the Scheme Amendment Report).</i></p>

4. Addition of new interpretations within Schedule 1 of Community Planning Scheme No. 5 as follows:

*‘Proposed Structure Plan’ means a proposed structure plan, which may apply to either a local area or a district, that has been prepared in accordance with the provisions of clause 4.1 Section 12 (Preparation of a Structure Plan).*

*‘Structure Plan’ means a Proposed Structure Plan that has been approved by both the Commission and adopted by the local government under clause 4.1 Section 12 (Adoption of a Structure Plan).*

5. Amending the Use Class Table (Table 1) of Community Planning Scheme No.5 to incorporate a new column to the right of the column labelled Heathcote Heritage Precinct (HHP) as follows:

<b>Development Zone (DZ)</b>
<b>Land use permissibility subject to an adopted and endorsed Structure Plan, unless otherwise agreed by Council.</b>

- B Authorise His Worship the Mayor and the Chief Executive officer to endorse the Amendment Document.**
- C Request the Chief Executive Officer to 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; and,**

**P12/3355 – INITIATION OF AMENDMENT NO. 67 TO COMMUNITY PLANNING SCHEME NO. 5 – ZONING OF THE MIXED USE PRECINCT AT MURDOCH ACTIVITY CENTRE AS “DEVELOPMENT ZONE” AND ASSOCIATED AMENDMENTS TO SCHEME TEXT (REC) (ATTACHMENT)**

**b) The Western Australian Planning Commission for information.**

**D On receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act 1986 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 42 days.**

At 6.43pm the Mayor declared the motion

**CARRIED (13/0)**



**P12/3356 - ADOPTION OF NON-RESIDENTIAL DEVELOPMENT POLICY FOR ADVERTISING (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Subject Index : Policy and Policy Development  
 Customer Index : City of Melville  
 Proposal : Adoption of Non-Residential Development policy for advertising  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Nil  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- The review of the suite of Urban Planning Council Policies undertaken in 2010-2011 identified a lack of policy guidance in respect of non-residential development proposals.
- This lack of policy guidance results in a lack of clarity on the part of developers as to the specific expectations of the City, which can in turn act to prejudice development outcomes.
- To address this matter, it is proposed that a Non-Residential Development Policy be adopted.
- A copy of this draft Non Residential Development Policy is attached, and it is recommended that the draft policy be endorsed for advertising in accordance with Clause 9.6 of Community Planning Scheme No. 5 (CPS5).

**P12/3356 - ADOPTION OF NON-RESIDENTIAL DEVELOPMENT POLICY FOR ADVERTISING (REC) (ATTACHMENT)****BACKGROUND**

Upon the completion of the Urban Planning Policy review it was identified that the City currently lacks guidance to assist in the assessment of non-residential development.

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

**DETAIL**

It is proposed to adopt the draft Non-Residential Development Policy for advertising pursuant to Clause 9.6 of CPS5.

[3356 Non Residential Development Policy Final for Advertising](#)

**PUBLIC CONSULTATION/COMMUNICATION**

Public consultation is required for all planning policies which are non-operational in nature in accordance with Clause 9.6 of CPS5. Should Council resolve to adopt the draft Non-Residential Development Policy, it will be advertised via a notice in a newspaper circulating within the District and on the City's website.

**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 policy does not have regional significance therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The advertising, and later the final adoption, of the proposed Non-Residential Development Policy pursuant to Clause 9.6 of CPS5 will enable the City to assess and require compliance with the provisions outlined within the policy. Once finally adopted by Council, the policy will 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.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**P12/3356 - ADOPTION OF NON-RESIDENTIAL DEVELOPMENT POLICY FOR ADVERTISING (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

The proposed policy will overcome a current deficit in the City's Planning Policy Framework.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could elect not to adopt the proposed policy for public consultation. The implication of this action is that the City will remain without relevant policy guidance, and development outcomes may be prejudiced as a result.

Council has the ability to modify the draft policy prior to advertising.

**COMMENT**

When the review of the Council's suite of planning policies was completed in 2010-2011, it was identified that the City lacks planning policy guidance in respect of non residential development proposals. This gap in the City's Planning Policy Framework can result in ignorance and/or confusion on the part of developers, and can prejudice built form outcomes. In addition a lack of guidance can contribute to delays in the development assessment process.

As a result, it is proposed that Council adopt the draft Non-Residential Development Policy for advertising. The draft policy includes provisions in respect of:

- Building design
- Land use
- Safety, Security and Anti-Social Behaviour
- Landscaping
- Visual Privacy
- Vehicle Access, Loading and Parking
- Plant
- Waste
- Site Works

The City currently has a Residential Development Policy which, in conjunction with CPS5, the Residential Design Codes (R-Codes) and other applicable Council policies, provides an adequate assessment framework against which both applicants and officers can assess the benefits, or otherwise, of a development as proposed.

The proposed Non-Residential Development Policy will perform a similar function when it too is deployed and used as an assessment tool alongside the provisions of CPS5, the R-Codes (for mixed use developments) and other applicable Council policies.

The intent of the draft policy is to encourage the development of buildings and spaces which interact with the public domain and minimise the impacts upon both the streetscape and adjoining properties. Good building design is promoted so to ensure that developments enhance the character and amenity of the surrounding area rather than detracting from it.

**P12/3356 - ADOPTION OF NON-RESIDENTIAL DEVELOPMENT POLICY FOR ADVERTISING (REC) (ATTACHMENT)****CONCLUSION**

It is considered that the proposed policy will provide greater certainty to both applicants and the Council in the assessment of non-residential development proposals and will encourage improved built form across the City, maintaining and enhancing both character and amenity in the process.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3356)****ADOPTION**

**That the Council, pursuant to Clause 9.6(b) of Community Planning Scheme No 5, resolve to adopt the draft Non-Residential Development Policy [3356 Non Residential Development Policy Final for Advertising](#) for public comment via notice in a local newspaper for a period of 21 days.**

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

**CARRIED EN BLOC (13/0)**

**P12/3357 REVIEW OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES  
(REC) (ATTACHMENT)**

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
Customer Index	:	City of Melville
Proposal	:	Review of Council Policy CP – 045: Exhibition / Display Homes Policy
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Nil
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Council Policy CP – 045: Exhibition / Display Homes was last reviewed more than two years ago on 17 August 2010 and is therefore due for a further review.
- Minor modifications have been undertaken to the policy, however in response to discussions held with a number of housing developers who construct Exhibition / Display Homes, it was identified that the practice of permitting approval for a period of 12 months is too limiting, particularly in view of the time it takes to actually construct a display home. In view of this, the policy has been amended to extend the approval period for such developments to 24 months. This time period corresponds to the average life span of a display home.
- It is recommended that Council adopt the draft amended policy for advertising.

**P12/3357 REVIEW OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES  
(REC) (ATTACHMENT)****BACKGROUND**

Planning policies supplement Community Planning Scheme No. 5 (CPS5) provisions and the requirements of the Residential Design Codes (R-Codes). CPS5 allows Council to prepare and adopt planning policies and undertake regular policy reviews.

Council Policy CP – 45: Exhibition / Display Homes was last reviewed by Council on 17 August 2010.

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

[3357 Exhibition Display Homes Policy New Version](#)

**DETAIL**

It is proposed to adopt the revised Exhibition/Display Homes Policy for advertising, pursuant to Clause 9.6 of CPS5.

**PUBLIC CONSULTATION/COMMUNICATION**

In accordance with Clause 9.6 of CPS5, public consultation is a requirement for the introduction of new, or amended, non operational planning policies. Should Council resolve to adopt the amended policy, it will therefore be advertised via a notice in a newspaper circulating within the District and on the City's website.

**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 amended policy does not have regional significance therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The advertising, and later the final adoption, of the amended policy pursuant to Clause 9.6 of CPS5 will enable the City to assess and require compliance with the provisions outlined within the policy.

The application of planning policies provides a sound basis for planning decision making, legitimising such decisions in a clear and unambiguous way. Planning policies that are of sound content and adopted in accordance with CPS5 provisions, enjoy the same status in the eyes of the State Administrative Tribunal as the actual Scheme provisions.

**P12/3357 REVIEW OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES  
(REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

At present, at the conclusion of the 12 month approval period, the Exhibition / Display Home owner is required to submit an application to extend the approval period further. The application fee for such renewals is \$139. The City receives such a low number of these applications each year, that the loss of these application fees will be insignificant, particularly given the costs incurred by the City in determining such renewal applications exceed that of the applicable renewal fee.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

Once advertised and adopted, the policy will provide a sound basis for planning decisions and improve the validity of planning decisions.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could elect not to adopt the amended policy for public consultation and continue to rely upon the existing policy. This is not recommended as the amended policy reflects an updated position which responds to the needs of the housing industry.

It is noted that Council has the ability to modify the amended policy prior to advertising.

**COMMENT**

Modifications are proposed to Council Policy CP-045: Exhibition / Display Homes.

The main change proposed to the policy is to extend the existing 12 month approval period to 24 months. This proposed amendment is in response to discussions held with a number of house building companies who construct Exhibition / Display Homes, who indicated that the existing 12 month approval period is onerous, especially given the time it takes to actually construct and fit out such display homes.

Where it takes eight months to construct and furnish the dwelling, there is only four months remaining to operate the property as an exhibition or display home before seeking a further approval from Council. The sentiments expressed by the industry are considered valid and it is noted that for these developments the City often extends the approval period by an additional 12 months, at which time the dwellings are then permanently occupied.

As a response, the policy has been amended to extend the approval period to 24 months. This time period corresponds to the average life span of a display home, however the policy still allows Council to extend the time period further upon application where additional time may be necessary.

**P12/3357 REVIEW OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES  
(REC) (ATTACHMENT)**

The remainder of the changes to the policy are minor and are limited to formatting and clarifying the existing provisions. In addition, an additional provision relating to signage has also been incorporated.

**CONCLUSION**

It is considered that the amended policy will be more responsive to the known needs of the house builders, and the changes proposed to amend the validity period of any planning approval issued can be readily accommodated without detriment to residential amenity.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3357)****ADOPTION**

**That Council, pursuant to Clause 9.6(b) of Community Planning Scheme No. 5, resolve to adopt the amended Exhibition / Display Homes Policy [3357 Exhibition Display Homes Policy New Version](#) for public comment via notice in a local newspaper for a period of 21 days.**

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

**CARRIED EN BLOC (13/0)**



**P12/3358 REVOCATION OF COUNCIL POLICY CP-047: SUBDIVISION AND DEVELOPMENT ADJOINING HIGHWAYS, MAJOR ROADS AND PUBLIC OPEN SPACE (REC)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Subject Index : Policy and Policy Development  
 Customer Index : City of Melville  
 Proposal : Revocation of Council Policy CP-047: Subdivision and Development Adjoining Highways, Major Roads and Public Open Space  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Nil  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
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**P12/3358 REVOCATION OF COUNCIL POLICY CP-047: SUBDIVISION AND DEVELOPMENT ADJOINING HIGHWAYS, MAJOR ROADS AND PUBLIC OPEN SPACE (REC)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Council Policy CP-047: Subdivision and Development Adjoining Highways, Major Roads and Public Open Space was last reviewed by Council more than two years ago on 17 August 2010, and is therefore due for a further review.
- In reviewing the City's planning policy documentation, an important starting point is to question whether there remains a need for the policy, and if there is, consider whether the content of the policy requires updating or revising.
- In the case of the subject policy, it is considered that there is no such need to retain the policy as the City as responsible Local Government, is not the determining planning authority when it comes to applications for subdivision approval. Secondly, the Western Australian Planning Commission's (WAPC), who are the relevant determining planning authority in respect of applications for subdivision approval, have their own set of criteria contained within a WAPC Development Control Policy, the specific provisions of which are used to inform the City's interaction with the subdivision approval process.
- In addition, it is noted that the assessment criteria contained within the City's Policy effectively reiterates that contained by the WAPC Development Control Policy.
- As there is no need to duplicate the advice contained within the WAPC Policy, it is recommended that pursuant to Clause 9.6 of CPS5, the policy be revoked.

**BACKGROUND**

Council Policy CP-047: Subdivision and Development Adjoining Highways, Major Roads and Public Open Space was last reviewed by Council on 17 August 2010.

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

**DETAIL**

It is proposed to revoke Council Policy CP-047: Subdivision and Development Adjoining Highways, Major Roads and Public Open Space pursuant to Clause 9.6 of CPS5.

**PUBLIC CONSULTATION/COMMUNICATION**

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.

**P12/3358 REVOCATION OF COUNCIL POLICY CP-047: SUBDIVISION AND DEVELOPMENT ADJOINING HIGHWAYS, MAJOR ROADS AND PUBLIC OPEN SPACE  
(REC)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Clause 9.6(b)(ii) of CPS5 requires Council to advise the WAPC of any policy proposal which affects the interests of the WAPC. The proposed policy does not have regional significance therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The existing policy essentially reiterates what is already stated within the WAPC Development Control Policy 2.2: Residential Subdivision. Therefore its revocation will not result in any policy deficiency.

**FINANCIAL IMPLICATIONS**

There are no financial implications which result from this report other than advertising costs.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The revocation of this policy will not result in a policy deficiency as existing Development Control policies of the WAPC can be relied upon in its place.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could elect not to revoke the existing policy, however this is not recommended as the policy effectively duplicates the content of the WAPC Development Control Policy and therefore is not required.

**COMMENT**

The existing policy is considered to be surplus to the requirements of the City as its content is effectively a duplication of that prescribed by the WAPC Development Control Policies 2.2: "Residential Subdivision", and 2.6: "Residential Road Planning". These provisions are administered by the WAPC who, as the responsible determining authority for subdivision development matters in the State of Western Australia, are required to ensure that subdivision proposals are compliant when judged against the criteria contained therein.

**P12/3358 REVOCATION OF COUNCIL POLICY CP-047: SUBDIVISION AND DEVELOPMENT ADJOINING HIGHWAYS, MAJOR ROADS AND PUBLIC OPEN SPACE (REC)**

When dealing with applications for subdivision approval, Local Governments, such as the City of Melville, have a statutory role to fulfil as consultee only. However, the content of the WAPC Development Control Policies 2.2: “Residential Subdivision” and 2.6: “Residential Road Planning” is equally applicable to the consideration undertaken by the Local Government in their role as consultee, as it is for the WAPC in their role as determining authority.

It is also noted that there are no longer any major land parcels located on highways or major roads within the City for which the provisions of the policy would apply. Any large scale development proposal would continue to be assessed at the Development Application stage, at which time the City’s development requirements in respect of tree planting and retention, access, servicing, and fencing, would be addressed. Alternatively, for large scale development proposals, a Structure Plan could be prepared, at which time specific site related development requirements can be imposed. In that respect, it is noted that in preparing Structure Plans, regard must be had to the WAPC Development Control Policies previously referred to, as well as any other relevant Australian Standard.

For these reasons, it is recommended that the policy be revoked.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3358)****REVOKE**

- A That Council, pursuant to Clause 9.6(e) of Community Planning Scheme No. 5, resolve to place a notification in a local newspaper to advise that Council Policy CP-047: Subdivision and Development Adjoining Highways, Major Roads and Public Open Space has been revoked.**

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

**CARRIED EN BLOC (13/0)**

**P12/3359 REVOCATION OF COUNCIL POLICY CP-046: RESERVED LAND AND FREEHOLD COUNCIL LAND (REC)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Subject Index : Policy and Policy Development  
 Customer Index : City of Melville  
 Proposal : Revocation of Council Policy CP-046: Reserved Land and Freehold Council Land  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Nil  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
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**P12/3359 REVOCATION OF COUNCIL POLICY CP-046: RESERVED LAND AND FREEHOLD COUNCIL LAND (REC)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Council Policy CP-046: Reserved Land and Freehold Council Land was last reviewed by Council more than two years ago on 17 August 2010, and is therefore due for a further review.
- In reviewing the City's planning policy documentation, an important starting point is to question whether there remains a need for the policy, and if such a need remains, consider whether the content of the policy requires updating or revising.
- In the case of the subject policy, it is considered that there is no such need to retain it as its content is focused on the internal procedures followed by the City in respect of the development of reserved and/or freehold Council owned land, as opposed to being criteria based and used to inform the development application process associated with the development of such lands.
- In addition, the policy has not been updated to reflect the Western Australian Planning Commission's (WAPC) Planning Bulletin 94: Approval Requirements for Public Works and Development by Public Authorities.
- It is considered that the provisions contained within the policy would be best captured within a new or updated Directorate Procedure, the content of which would be made available to all staff through the City's Business Management System (BMS).
- It is therefore recommended that the subject policy be revoked.

**BACKGROUND**

Council Policy CP-046: Reserved Land and Freehold Council Land was last reviewed by Council on 17 August 2010.

The purpose of the Policy is "to *guide the control of development on reserved land and freehold Council land*".

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

**DETAIL**

It is proposed to revoke Council Policy CP-046: Reserved Land and Freehold Council Land pursuant to Clause 9.6 of CPS5.

**P12/3359 REVOCATION OF COUNCIL POLICY CP-046: RESERVED LAND AND FREEHOLD COUNCIL LAND (REC)****PUBLIC CONSULTATION/COMMUNICATION**

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 that Council advise the WAPC of any policy proposal which affects the interests of the WAPC. The proposed policy does not have regional significance therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The existing policy was adopted as a statutory planning policy pursuant to Clause 9.6 of CPS5. As the content of the policy is entirely procedural, its revocation will not result in any policy deficiency.

**FINANCIAL IMPLICATIONS**

There are no financial implications which result from this report other than advertising costs.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The revocation of this policy will not result in a policy deficiency as existing Development Control Policies of the WAPC can be relied upon in its place.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could elect not to revoke the existing policy, although as the policy is not relied upon in a planning sense to assist in the determination of development proposals, that course of action is not recommended.



**P12/3359 REVOCATION OF COUNCIL POLICY CP-046: RESERVED LAND AND FREEHOLD COUNCIL LAND (REC)****COMMENT**

Council Policy CP-046: Reserved Land and Freehold Council Land was last reviewed by Council more than two years ago on 17 August 2010. The policy is therefore due for a further review.

In summary, this policy states that:

- The City can prepare and adopt concept and management plans for the use of reserved land.
- A complete development application is to be submitted for the development of reserved land not vested in the Council.
- Council applications for the development of Council vested reserved land are to be signed by the Chief Executive Officer (CEO).
- Applications by the Crown or other statutory authority are to be referred to Council for determination.
- The CEO can sign the application form for applications made by third parties on land vested in Council or under the care of Council in order to facilitate the formal planning assessment process. Where the CEO considers the application may be of public interest he may refer the application to Council for consideration.
- The CEO signing an application form does not bind the Council to endorse the application.

In reviewing the policy, it is clear that its focus is purely procedural, as opposed to being criteria based and designed to inform the development assessment process relative to reserved or Council owned freehold land.

In view of this, it is recommended that the policy be revoked pursuant to Clause 9.6 of CPS5, noting that the provisions contained within it will be encompassed within a new or revised Directorate Procedure, the content of which will be made available to all staff through the City's Business Management System (BMS).

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3359)****REVOKE**

**That Council, pursuant to Clause 9.6(e) of Community Planning Scheme No. 5, resolve to place a notification in a local newspaper to advise that Council Policy CP-046: Reserved Land and Freehold Council Land has been revoked.**

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

**CARRIED EN BLOC (13/0)**

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

Disclosure of Interest

Item No.	T12/3325
Member	Cr S Taylor-Rees
Type of Interest	Interest Under the Code of Conduct
Nature of Interest	Owner of Dinghy on foreshore
Request	Stay, Discuss & Vote
Decision of Council	Not Applicable

Ward	: All
Category	: Operational
Subject Index	: Environmental Management
Customer Index	: Swan River Trust
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item T06/2003 - Boat Tenders on Foreshore Area of the July 2006 Ordinary Meeting of Council
Works Programme	: 2012/2013
Funding	: \$20,000
Responsible Officer	: Jeff Bird Manager Parks and Environment

**AUTHORITY / DISCRETION**

**DEFINITION**

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<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>
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**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Dinghy storage along the river foreshore has been a matter of debate for many years, including the passing of Council Resolution T06/2003 – Boat Tenders on Foreshore in 2006 supporting the control and management of storage. The subsequent implementation of the management and storage system and policy was delayed as the Swan River Trust (SRT) would not issue a permit for such structures on the foreshore until further research and surveys were undertaken by the Trust as part of their upcoming Dinghy Management Policy.
- The SRT released *Policy SRT/D26 Dinghy Management Along the Swan Canning Riverpark Shoreline* on 13 September 2010. The Policy generally prohibits dinghy storage unless the dinghy is stored in a suitable management system and installed and maintained by the land manager. Dinghy management can range from total prohibition of dinghy storage, to the provision of designated storage facilities at designated locations.
- Dinghies have been stored and secured in an ad-hoc manner along various sections of the Swan and Canning River foreshore within the City of Melville for many years with little or no management.
- Dinghy storage impacts in various ways including visual pollution, limiting access and degradation of foreshore vegetation and habitat.
- As a result of these impacts it is recommended that dinghy storage be prohibited along the City of Melville Swan and Canning River foreshores.
- It is proposed to allow sufficient time to communicate this proposed prohibition and that this will be phased in with all dinghies to be removed by 1 July 2014.
- The proposal for dinghy management throughout the City will be a staged approach to prohibiting dinghy storage along all foreshore areas within the City. Initially there will be temporary storage areas identified along the Bicton and Canning Beach foreshores, with the intent to revoke these areas completely by 30 June 2014.
- In the interim period before the total prohibition of dinghy storage along the City of Melville Swan and Canning River foreshore, infrastructure and signage will be installed to improve dinghy launching facilities and delineate designated dinghy launch areas.

**BACKGROUND**

The storage of private dinghies or similar watercraft (kayaks, small sail boats, canoes etc) is primarily associated with the need for easy access to larger moored vessels. Moorings are leased by the Department of Transport to private individuals and, in some areas of the river this has resulted in dinghies being placed on the adjacent foreshore to allow access to the larger moored vessel. Privately owned dinghies or similar watercraft are also stored on the foreshore for the purpose of general recreation.

Following community complaints and internal recommendations in 2005, the City began exploring the options for management and storage of dinghies on the river foreshore. Item [T06 2003 Boat Tenders on Foreshore1\(2\)](#) which forms an attachment to this report was presented to Council on 4 July 2006 and Council resolved as follows:

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

At the 18 July 2006 meeting the following recommendations were adopted by Council:

- “1. That Plan number 1185-06e and 1186-06e being the Dinghy Storage Facility Designs be adopted.
2. That Plan number 433a4-06e being the location of the dinghy storage facilities on Blackwall Reach be adopted.
3. That local residents be informed of the designs and locations of intended tender dinghy storage facilities.
4. That a Policy and a Local Law be developed to administer the storage of tender dinghies on the foreshore.
5. That the Ministers for the Department of Planning and Infrastructure and the Department of Environment be requested to consider a whole of government approach to facilitate a review of the number of moorings in the river adjacent to the Bicton/Blackwall Reach Foreshore.
6. That due to the sensitive environmental nature of general amenity concerns pertaining to the area, the current plan is capped and no further expansion of dinghy storage facilities in the Bicton/Blackwall Reach foreshore area be considered.

*Footnote: That the Local Laws be promulgated before implementation of the policies and storage facilities.*

*The Mayor submitted the substantive motion which was declared CARRIED (8/4)*

Plans were developed for storage racks and an application was made to the SRT for approval of the plan. At the time, the SRT had no formal instrument or policy that controlled dinghy storage on the foreshore and was therefore reluctant to approve the City of Melville system. As such, the management and storage system was put on hold until the SRT developed such a policy.

In September 2010, the SRT released [SRT Policy D26 Dinghy Management](#) which forms an attachment to this Item and formally outlines the position regarding storage of dinghies on the river foreshore and requires land managers to determine a suitable management approach (ranging from total prohibition of dinghy storage, to the provision of formalised storage facilities in designated locations).

The removal of dinghies from the foreshore will;

- Mitigate environmental impacts on the foreshore
- Provide greater access to adjacent parks in particular those located in Bicton
- Remove public liability issues associated with dinghies being located within Public Open Space
- Allow habitat restoration programs to be implemented along the Riparian zone of the foreshore.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

Storage of dinghies on the river foreshore is already prohibited under various State Regulations. Section 117 of *the Swan and Canning Rivers Management Act 2006* authorises the SRT to confiscate abandoned, derelict or dangerous property along the shoreline. The *Swan and Canning Rivers Management Regulations 2007* also make it an offence to do anything that is likely to cause damage to the riverbank and damage or destroy shoreline vegetation, all of which is caused in some areas by the storage of dinghies and associated foot traffic onto the foreshore.

The City recommenced exploring the development of a management and storage system in late 2010 with the intention of implementing the system in the 2011/2012 financial year.

A number of options for dinghy storage were considered, ranging from areas with bollards for chaining dinghies to designated storage facilities. SRT staff met with City staff on several occasions regarding the project, most recently on 24 February 2012 and 9 May 2012 and proposals were made to the SRT regarding these storage options, however no agreement has been reached on locations or methods for storage in the proposed areas.

The cost and administration of these storage options also posed a problem for the City, as the budget allocation associated with the program was insufficient to implement the proposals.

The SRT has advised that there is an expectation that the City make a decision as soon as possible in order for the SRT to enact *Policy SRT/D26 Dinghy Management along the Swan Canning Riverpark* and allow removal of dinghies not complying with this policy or Council policy.

**DETAIL**Current Dinghy Locations and Situation

Extensive surveys and assessments have been conducted over the past 2-3 years to determine the actual usage and demand for dinghy storage along the Swan and Canning foreshore and the public's perception of the issue. Surveys and assessments have been conducted by the SRT and the City in conjunction with the Department of Transport. The Department of Transport are the responsible authority for boat moorings on the river and as such have a direct impact on the locations where dinghies are stored. Detailed discussion and results from these surveys are included in the [Dinghy Management Discussion Paper SRT April 2010](#) which forms an attachment to this Item.

The policy position is that dinghies left on the shoreline outside of a managed system will be removed. Dinghy storage will be considered only where alternate approaches are not possible and only where dinghies are stored in an approved managed system as designated by the relevant foreshore land manager.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

The main points of the policy state that:

*“Dinghy storage in the Swan Canning Riverpark may be considered in circumstances where:*

- *There are limited opportunities to provide alternate systems such as dinghy launching facilities;*
- *They are in an approved storage system managed by land owners;*
- *They are identified in a manner consistent with the Navigable Waters Regulations Part VA;*
- *They do not cause environmental damage;*
- *They are not the predominant use on the shoreline; and*
- *They do not limit access between the river reserve and public open space.”*

Aerial photography (February 2011) shows approximately 110 dinghies stored along the Bicton foreshore and a visual inspection (May 2012) indicated approximately 133 dinghies along the Bicton foreshore. Of those, four were assessed as ‘beyond repair’ (holes in hull, missing sections, severe cracks), and 17 were assessed as clearly ‘not in use’ (rusted locks, covered in vegetation). There were also 23 additional dinghies assessed as potentially ‘not in use’ as determined by their general appearance, overgrown vegetation and lack of clear markings.

Photos provided in [3325 Dinghy Photos](#) show examples of those dinghies identified along the Bicton foreshore that are believed to be no longer in use or damaged beyond repair.

Table 1 below details current mooring locations, dinghy numbers, nearby parking and launch facilities. This table illustrates that the highest concentration of dinghies is along the Bicton foreshore and this area is of the highest concern in regard to the detrimental impacts of dinghies being stored on the foreshore. A map indicating where the Bicton dinghy mooring owners reside forms an attachment to this Item [Bicton Dinghy Mooring owners mapped](#) and indicates that 75 residents in the City of Melville have moorings on the Swan River at Bicton.

The launch facilities adjacent to each mooring area are generally comparable in each location. The high concentration of dinghies and number of moorings on the Bicton foreshore are addressed in the recommendations of this report and the intent is to invest further in the upgrade of dinghy launch facilities at this location. The Bicton foreshore will receive additional infrastructure, signage and fencing to improve dinghy launch capacity, whilst the other three foreshore locations adjacent to moorings will receive signage and fencing to delineate dinghy launching areas.



**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

Table 1. Moorings and Dinghy Locations and Totals for City of Melville – May 2012

Location	No. of Moorings	No. of Dinghies	Parking Adjacent	Launch Facilities
Bicton	201	133	30 bays (Kent St) 30 bays (Bicton Baths) 32 bays (Quarantine Park) 20 spaces (verge parking, Quarantine Park)	2 x Jetties + various beach access points
Canning Beach Rd	51	10	45 bays	Raffles Jetty + small beach access
Esplanade	40	0	70 bays	Small Jetty + limited beach access (+ Deep Water Pt)
Bullcreek	124	3	35 bays (not including Canning side)	Large Jetty + small beach access

Given the high number of dinghies located along Bicton foreshore, the report primarily focuses on this area.

Proposed Management Solution

The proposal for dinghy management throughout the City will be a staged approach to prohibiting dinghy storage along all foreshore areas. Initially there will be temporary storage areas identified along the Bicton and Canning Beach foreshores, with the intent to revoke these areas completely by 30 June 2014.

The specific control measures and implementation process for the prohibition and phased removal of all dinghies along the foreshore include:

- Dinghies that are clearly identified as being damaged beyond repair or no longer in use will be prioritised for removal. This will include a process of attempting to identify the dinghy owner and requesting removal in the first instance. If the owner cannot be identified, the City in conjunction with the SRT will remove the dinghy and arrange for its disposal in accordance with relevant legislation and policy regarding abandoned property.
- The phased prohibition of dinghy storage will be promoted and advertised extensively through public media and via direct notification to affected residents and dinghy owners. One of the key messages of this promotion will be to encourage dinghy owners to remove their dinghies sooner rather than later and commence to take steps to plan for the full prohibition which will begin on 1 July 2014.
- During the transition period towards the complete prohibition, the City will install fencing and/or signage along certain areas of the river foreshore to delineate specific areas where dinghy storage is no longer permitted. This will enable the commencement of restoration and rehabilitation of highly degraded areas in particular around the stormwater drain outlets and steep embankments along the Bicton foreshore. Owners of dinghies located in these areas will be notified and requested to remove their dinghy or place it at an alternative location approved by the City until the full prohibition commences.



**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

- A project will commence immediately to address minor improvements to dinghy launching facilities along the Bicton foreshore. Capital funding is already secured in the 2012/2013 budget to commence the design and preliminary phases of this project and additional grant funding support will be sought from the Department of Transport via the Recreational Boating Facilities Scheme for these works. The City will work closely with dinghy owners to ensure the best solution in terms of launch facilities is reached.

The intention would be for these works to be completed by June 2014.

**PUBLIC CONSULTATION/COMMUNICATION**

Given the legislative and policy requirements regarding storage of dinghies on the foreshore with respect to the SRT's obligations, there is limited opportunity for alternative solutions to be explored through stakeholder consultation. However, over the past 2 – 3 years, the SRT, Department of Transport and the City have worked collectively in order to determine public demand and opinion regarding dinghy storage along the river foreshore.

Listed below are the key activities undertaken in regard to surveying and public consultation.

- 2006: City of Melville survey (77 responses)
- June 2009: SRT Foreshore Dinghy Research Program (including foreshore user surveys, dinghy owner surveys and boat mooring owner surveys)
- April - July 2010: Public invitation to comment on Dinghy Management along the Swan Canning Riverpark shoreline – Discussion Paper and Draft Policy(SRT) including media statements and online requests for comments

Summary of 2006 Survey

Mooring owners (residing both in the City of Melville and across Perth) were asked if they wanted dinghy storage facilities along the Bicton foreshore; 95 responses were received

- A total of 47 Yes responses were received from Melville residents and 38 Yes responses were received from mooring owners who reside in outside of COM.
- A total of six No responses were received from Melville residents and four No responses were received from mooring owners who reside in outside of COM.

Summary of June 2009 Survey

- In the Bicton foreshore area the prohibition of dinghy storage on the foreshore is OPPOSED by all user groups, with between 60% (foreshore users) and 70% (foreshore residents) either opposed or strongly opposed to the idea.
- Unlike the Bicton foreshore, dinghy storage along the Bull Creek foreshore within the City of Canning is currently prohibited and is SUPPORTED, with 80% of Bull Creek foreshore residents and 83% of Bull Creek foreshore users either supporting or strongly supporting the policy.

April – July 2010: Public invitation to comment on Dinghy Management along the Swan Canning Riverpark shoreline – Discussion Paper and Draft Policy (SRT).

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

The level of consultation up to this point has been one of consult; however the proposed management approach requires the City to inform the community of the decision through various media, site meetings, information sessions, mail outs and web based information.

Residents and dinghy owners along the Bicton foreshore are likely to be dissatisfied with the proposed prohibition of dinghy storage in this area. Previous consultation and surveying has indicated that the majority of foreshore users, dinghy owners and residents near Bicton foreshore do not consider that dinghy storage is an issue and are not supportive of the prohibition of dinghy storage. However discussions with the local community group BEAG (Bicton Environmental Action Group) have indicated the group fully supports the removal of dinghies so as to facilitate the implementation of further foreshore restoration projects in the Bicton area. Feedback from the group indicates BEAG's previous foreshore restoration efforts have been damaged through the storage and accessing of dinghies.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Extensive consultation over a number of years has been undertaken with the SRT and Department of Transport.

The SRT expects that the City finalise the decision on dinghy management to enable the *Policy SRT/D26 Dinghy Management along the Swan Canning Riverpark* to be acted upon. The SRT have been consulted directly on the proposed management decision and have agreed to provide assistance in ongoing management and compliance requirements of the policy.

Consultation has been conducted with 16 other local governments that border the Swan and Canning Rivers (June 2012). Of the 16 local governments consulted, only one indicated a similar issue with dinghy storage management (City of Fremantle) and the other 15 councils did not consider dinghy storage to be a significant issue on their foreshore. None of the local governments consulted currently have a formal policy regarding dinghy storage on foreshore areas. The City of Canning, in its *Watercourse Reserves Management Strategies 2006*, encourages the removal of watercraft from the river foreshore reserve and the City also provides several dinghy launch facilities along its foreshore.

The Western Australian Local Government Association (WALGA) were also consulted regarding this issue, in particular the Swan Canning Policy Forum. WALGA do not currently have a defined policy position regarding dinghy management on the river foreshore.

**STATUTORY AND LEGAL IMPLICATIONS**

*SRT Policy SRT/D26 Dinghy Management Along the Swan Canning Riverpark* provides the statutory basis for the requirement for the City to implement a management system for dinghies or consider removal of dinghies from areas with high environmental values or where local governments are not able to provide a storage system.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

**FINANCIAL IMPLICATIONS**

The amount of \$20,000 has been allocated in the 2012/2013 capital works budget for implementation of minor capital works if required.

Ongoing operational costs for implementing a complete prohibition on dinghy storage will increase slightly in the first 12 months in order to ensure compliance if Council resolves to implement total prohibition. Following years will result in a minor operational cost to enforce compliance with the prohibition, however the SRT can assist in this regard and these costs are assessed as being minimal and can be absorbed into existing budgets.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
As a result of implementing a prohibition on dinghy storage, there is a risk of negative public opinion and dissatisfaction with the City.	Moderate consequences which are likely, resulting in a <b>High</b> level of risk (reputational)	Implement clear media plan to explain reasons for the decision, including public meeting, online information and personal letters to mooring owners and residents.
As a result of not prohibiting dinghy storage, there is a risk of continued environmental degradation of foreshore areas.	Moderate consequences which are likely, resulting in a <b>High</b> level of risk	Begin where possible to fence off vegetation and remove unused or damaged dinghies from foreshore areas.

**POLICY IMPLICATIONS**

Policy No. CP- 030 - Environmental Policy commits the City to managing the protection and enhancement of biodiversity and the creation of a sustainable urban environment. The proposed approach to dinghy management falls within this criteria and will not require any amendments to this policy.

The SRT *Policy SRT/D26 Dinghy Management Along the Swan Canning Riverpark* provides the legal basis for prohibiting dinghies from the foreshore, therefore there is no requirement for the City to implement a separate policy relating to this issue.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)****ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The alternative option available to prohibiting dinghy storage on the foreshore is to implement a self managed designated storage system. This management approach would entail identifying specific areas along the foreshore where dinghy storage would be permitted, whilst imposing prohibition on all other areas of the foreshore. The key components to implementing this system include:

- Producing a clear policy regarding the storage areas, requirements of dinghy owners, selection and management of storage areas and implementation;
- Advertising and public awareness campaign regarding the policy;
- Installation of fencing and signage in selected storage areas to delineate the specific locations and storage guidelines;
- Provision of storage space for approximately 65 dinghies on the Bicton foreshore and 10 dinghies on the Canning Beach foreshore. The space provided will only be available to mooring owners who require a dinghy to access their larger vessel and strict conditions will apply to the storage of dinghies. This option would need to operate on a ballot system or similar as the available storage space would not be sufficient to service the current number of moorings;
- Removing non-complying dinghies and reinstating some areas of foreshore grassland and native vegetation.

If an alternative storage and management solution is provided, greater costs will be incurred during implementation and ongoing management of the system. Any storage system will incur additional infrastructure costs (fencing, storage posts / rails), ongoing maintenance of infrastructure and additional signage.

Any alternative management system will also incur additional costs in regard to administration of the system including registration system maintenance, invoicing and payment processing, waitlist management etc. Additional costs will also be incurred through a greater level of compliance requirements and ongoing enforcement of storage areas and management of non-complying dinghies.

**CONCLUSION**

The issue of dinghy storage in some select areas along the foreshore has been ongoing for many years. There is no established legal right for private dinghies to be stored indefinitely on the river foreshore. The City is required to implement a management approach in order to adequately address the negative impacts arising from dinghies stored along the river foreshore.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

The proposed management approach is to formally endorse the prohibition of all dinghy storage along the river foreshore from 1 July 2014 and for this prohibition to be phased in leading up to this date. This approach will provide the following benefits:

- Enhancement and protection of foreshore areas including regeneration of native vegetation and habitat;
- Ability to implement erosion protection and restoration measures in currently degraded areas;
- Further provision of passive recreational space and amenity along some areas of the foreshore for the benefit of all foreshore users;
- Financial and resource savings through the reduction of environmentally damaging activities; and
- Financial and resource savings impacted by potential ongoing costs from managing storage and additional infrastructure.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3325)  
ABSOLUTE MAJORITY APPROVAL**

A Notice of Rescission Motion containing 1/3 of the number of offices of members of the Council, in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996, was received from the Director Technical Services. The Members who signed the notice were: Cr Reynolds, Cr Macphail, Cr Hill, Cr Robartson and Cr Foxtan.

Reasons for Rescission Motion

In 2006 plans were developed for storage racks and an application was made to the Swan River Trust (SRT) for approval of the plan. At the time, the SRT had no formal instrument or policy that controlled dinghy storage on the foreshore and was therefore reluctant to approve the City of Melville system. As such, the management and storage system was put on hold until the SRT developed such a policy.

In September 2010, the SRT released Policy D26 Dinghy Management which formally outlined its position regarding storage of dinghies on the river. As a result the City's 2006 design did not comply with the SRT Policy therefore the City had to investigate alternate options.

The *Swan and Canning Rivers Management Regulations 2007* also make it an offence to do anything that is likely to cause damage to the riverbank and damage or destroy shoreline vegetation. As a result of this the City is obligated to minimise or eliminate the impacts caused by Dinghy's.

In addition there has been a steady increase in Dinghy numbers along the foreshore which has extended the areas on the foreshore subject to damage caused by Dinghy's and associated activity.

The cost and administration that would be required to manage the 2006 storage option has also increased and would pose a significant issue for the City in terms of increased costs and staff resources required.

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

At 6.45pm Cr Robartson moved, seconded Cr Reynolds -

**That the Council:**

1. **By Absolute Majority Decision revoke the previous motion T06/2003 - Boat Tenders on Foreshore Area from Ordinary meeting of Council held 18 July 2006 that being:**

- “1. That Plan number 1185-06e and 1186-06e being the Dinghy Storage Facility Designs be adopted.*
- 2. That Plan number 433a4-06e being the location of the dinghy storage facilities on Blackwall Reach be adopted.*
- 3. That local residents be informed of the designs and locations of intended tender dinghy storage facilities.*
- 4. That a Policy and a Local Law be developed to administer the storage of tender dinghies on the foreshore.*
- 5. That the Ministers for the Department of Planning and Infrastructure and the Department of Environment be requested to consider a whole of government approach to facilitate a review of the number of moorings in the river adjacent to the Bicton/Blackwall Reach Foreshore.*
- 6. That due to the sensitive environmental nature of general amenity concerns pertaining to the area, the current plan is capped and no further expansion of dinghy storage facilities in the Bicton/Blackwall Reach foreshore area be considered.*

*Footnote: That the Local Laws be promulgated before implementation of the policies and storage facilities.”*

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

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

At 6.46pm Cr Macphail moved, seconded Cr Robartson -

**That the Council:**

2. **Prohibit the storage of dinghies, (as defined in the Swan River Trust Policy SRT/D26 Dinghy Management along the Swan Canning Riverpark) along all foreshore areas under the jurisdiction of the City of Melville and that this prohibition be phased in with complete removal of all dinghies achieved by 30 June 2014 and the total prohibition of dinghies commencing from 1 July 2014.**
3. **Implement an interim program of dinghy storage in designated areas leading up to the prohibition and that signage, fencing and infrastructure be installed on the Bicton Foreshore and Canning Beach Road to help improve dinghy launching facilities.**

**T12/3325 – DINGHY MANAGEMENT ALONG SWAN AND CANNING RIVER  
FORESHORE (AMREC) (ATTACHMENT)**

- 4. Request the Chief Executive Officer to ensure that Council Officers work closely with dinghy owners to ensure that the best solution for launch facilities is achieved.**

At 7.05pm the Mayor submitted the motion, which was declared

**CARRIED (9/4)**

**Cr Macphail requested that the votes be recorded –**

**For: Mayor R Aubrey, Cr Foxtton, Cr Hill, Cr Kinnell, Cr Macphail, Cr Reidy,  
Cr Reynolds, Cr Robartson, Cr Willis.**

**Against: Cr Barton, Cr Nicholson, Cr Pazolli, Cr Taylor-Rees.**



**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)**

Ward	:	All
Category	:	Strategic
Subject Index	:	Financial Sustainability – Long Term Financial Planning Budgeting – Estimates Budgeting – Forward Works Programme
Customer Index	:	Impacts on all Ratepayers of the City of Melville
Disclosure of any Interest	:	The responsible officer and Elected Members are property owners/ratepayers in the City of Melville however this is an exempt interest in accordance with Section 5.63 (1) (a) & (b) of the Local Government Act 1995
Previous Items	:	Not Applicable
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Marten Tieleman Director Corporate Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

The purpose of this Report is to present the Long Term Financial Plan (2013/14 to 2022/23) (The Plan) for consideration and adoption by Council.

**BACKGROUND**

In late 2010, the Minister for Local Government introduced regulations which established new requirements for the Plan for the Future under the Local Government Act 1995. Under these regulations, all local governments in Western Australia are required to adopt a Strategic Community Plan and a Corporate Business Plan by 30 June 2013. The Long Term Financial Plan in [Attachment 6051 Long Term Financial Plan](#) is seen as an important informing strategy along with Workforce Plans, Asset Management Plans etc. The Department of Local Government prepared the 'Integrated Planning and Reporting – Framework and Guidelines' (The Framework) to assist local governments achieve the outcomes prescribed in the new legislation. It is acknowledged that the Framework does not intend to require a single methodology to be applied to all local governments but rather address the minimum requirements.

The Long Term Financial Planning Framework and Guidelines suggest the plan should be a high level document that can easily be understood by the community, but supported by detailed working schedules. At a minimum it is suggested that the 10 year financial forecasts should comprise of:

- Forecast income statement
- Statement of cash flows
- Rate setting statement
- Statement of financial position
- Equity statement

With the statements to be supported by:

- Details of assumptions
- Projected income and expenditure
- Key performance indicators
- Scenario/sensitivity analysis
- Major capital works schedules
- Risk assessments of major projects

The Framework states a desktop review of the Strategic Community Plan should be undertaken every two years and a full review conducted every four years. Whilst the Long Term Financial Plan needs to be reviewed in conjunction with the Strategic Community Plan, the City will review the Long Term Financial Model and its assumptions, on which the Plan is based, at each Budget cycle.

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)****DETAIL**

The City has had a Long Term Financial Model for a number of years and this has formed the basis of the Long Term Financial Plan. The development of the model was a detailed iterative process and will be refined over the longer term ensuring relevance of assumptions etc. The base data for the model is the 2012/2013 Adopted Annual Budget, with ten year projections to 2022/2023. The Model has been structured in such a way to allow long term data to be reported in a variety of formats. There is the capability to report down to the Directorate and Service Area level and this will provide us with a valuable tool when preparing future Annual Budgets. As part of the 2013/2014 Budget process, budget responsible officers will be required to explain any variations to the long term data.

The Long Term Financial Model uses a combination of long run averages from relevant indices published by the Australian Bureau of Statistics (ABS) and other agencies, historical trends derived from the City's records and long term plans (including the City's Asset Management Plans) to help forecast income and expenditure for the next ten years. The Executive Management Team, Operational Management Team, key officers from across the organisation and finance staff, all had valuable input into the preparation of the financial model. Two strategic planning sessions have previously been held with Elected Members outlining the model and assumptions as well as a number of presentations and workshops, with the most recent being the combined session with the Corporate Plan discussion.

The balancing of the Long Term Financial Model was a difficult task, with many competing priorities. In essence, the aim has always been to maintain current service levels at community expected levels, including the proper maintenance of our asset base, with a minimal impact to Rates. Due to an ever changing environment, economically and otherwise, long range forecasts are difficult to predict. However, the data provides us with an indicative tool of the City's long term financial sustainability and a means to centrally capture the future financial needs of the City. Whilst the Plan contains Rate increase forecasts, more accurate figures will still, as always, be calculated as part of the Annual Budget process.

The Long Term Financial Plan is the first of its kind for the City and it will continue to evolve with time. The Model itself has already evolved greatly since its inception and this will continue as our planning processes continue to be enhanced and benchmarked. The Long Term Financial Model will be reviewed annually at the completion of the Annual Budget process, with adjustments made accordingly.

**PUBLIC CONSULTATION/COMMUNICATION**

Not Applicable

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not Applicable

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

Section 5.56 of the Local Government Act 1995 refers to planning for the future:

“5.56. Planning for the Future:

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans are made under subsection (1) are in accordance with any regulations made about planning for the future of the district”.

Division 3 of the Local Government (Administration) Regulations 1996 outlines the minimum requirements for the preparation of the Strategic Community Plan and the Corporate Business Plan. The Long Term Financial Plan is an informing strategy designed to inform the Corporate Business Plan to activate Strategic Community Plan priorities.

Section 1.3(3) of the Local Government Act:

“In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.”

**FINANCIAL IMPLICATIONS**

There are no specific financial implications of adopting this Plan as it is an indicative tool only for the next 10 years, with more accurate forecasts to be calculated and adopted during the Annual Budget process. The Plan contains details of specific assumptions and financial impacts of those assumptions.

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
The Plan contains assumptions that may prove to be inaccurate over the long term resulting in projections not reflecting reality and potential to affect long term decision making.	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk.	The Plan/Model will be reviewed annually at the completion of the Annual Budget process and updated when informing plans are themselves updated (e.g. Asset Management Plans) and adjustments made accordingly to keep the Plan updated and relevant.
The Long Term Financial Model on which the Plan is based contains inconsistencies.	Moderate consequences which are unlikely, resulting in a <b>Medium</b> level of risk.	The Model is balanced to the Annual Budget and loaded into the Financial Ledgers and reconciled. During this process the Management reporting structure is reconciled to the Statutory reporting structure. As the Annual Budget is used as the basis for the Plan the budget process will identify any inconsistencies in data or projections on an annual basis. The Model will be subjected to an independent audit at an appropriate time.

**POLICY IMPLICATIONS**

The Long Term Financial Plan has been developed with reference to the following policies:

1. CP-008: Financial Sustainability - Forward Planning and Funding Allocation
2. CP-024: Asset Financing and Borrowings
3. CP-025: Accounting
4. CP-031: Asset Management
5. CP-038: Discretionary Services Policy

However, a variation from policy CP-025 has occurred with respect to interest earned on Reserve funding. A 50% share of the interest earned on the balance of the Land and Property Reserve is being used to assist in the funding of general municipal expenditure.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not Applicable

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)****CONCLUSION**

The Long Term Financial Plan has been developed to not only meet legislative requirements, in terms of being an informing strategy for the Strategic Community Plan and a Corporate Business Plan, but more importantly to ensure decisions are made with careful consideration of the implications to the financial sustainability of the City. This is the first iteration of a Long Term Financial Plan and it will be subject to continuous improvement in keeping with the City's focus on business excellence principles and providing best value to ratepayers.

**OFFICER RECOMMENDATION (6051)****ABSOLUTE MAJORITY APPROVAL**

At 7.07pm Cr Kinnell moved, seconded Cr Robartson -

**That the Council by Absolute Majority decision adopt the Long Term Financial Plan (2013/14 to 2022/23) for the City of Melville as outlined in attachment 6051 Long Term Financial Plan,**

Procedural Motion

At 7.16pm Cr Pazolli moved, seconded Cr Nicholson -

***That the Long Term Financial Plan be recommitted to a future meeting of Council to allow further consideration of the Plan.***

At 7.30pm the Mayor submitted the motion, which was declared

**LOST (4/9)**

**Cr Macphail requested that the votes be recorded –**

**For: Cr Barton, Cr Nicholson, Cr Pazolli, Cr Taylor-Rees.**

**Against: Mayor R Aubrey, Cr Foxtton, Cr Hill, Cr Kinnell, Cr Macphail, Cr Reidy, Cr Reynolds, Cr Robartson, Cr Willis.**

At 7.40pm Cr Robartson left the meeting and returned at 7.41pm.

At 7.46pm Cr Taylor-Rees left the meeting and returned at 7.48pm.

**C12/6051 – LONG TERM FINANCIAL PLAN (AMREC) (ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6051)  
ABSOLUTE MAJORITY APPROVAL**

At 7.51pm the Mayor submitted the Officer Recommendation –

**That the Council by Absolute Majority decision adopt the Long Term Financial Plan (2013/14 to 2022/23) for the City of Melville as outlined in attachment [6051 Long Term Financial Plan](#).**

At 7.51pm the Mayor declared the motion **CARRIED BY ABSOLUTE MAJORITY (11/2)**

**Cr Macphail requested that the votes be recorded –**

**For: Mayor R Aubrey, Cr Barton, Cr Foxton, Cr Hill, Cr Kinnell, Cr Macphail,  
Cr Reidy, Cr Reynolds, Cr Robartson, Cr Taylor-Rees, Cr Willis.  
Against: Cr Nicholson, Cr Pazolli.**

At 7.52pm Cr Foxton left the meeting



**C12/5000 – COMMON SEAL REGISTER (REC)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
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**KEY ISSUES / SUMMARY**

- This report details the documents to which the City of Melville Common Seal has been applied for the period from 22 October 2012 up to and including 12 November 2012 and recommends that the information be noted.

**C12/5000 – COMMON SEAL REGISTER (REC)**

**BACKGROUND**

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

**DETAIL**

<b>Register Reference</b>	<b>Party</b>	<b>Description</b>	<b>File Reference</b>
734	Deed of Indemnification for Road Encroachment - 25 Foss Street Palmyra	Deed to satisfy planning approval condition for development encroaching into the road reserve	2845395
735	Deed of Indemnity & Partial Surrender of Easement	Drainage & Legal Matters - Deed of Indemnity for Building over Drainage Easement: 15A Hutchings Way, Kardinya	2721084
739	Ardross West Underground Power Project	Draft Agreement	2766377
740	Attadale North Underground Power Project	Draft Agreement	2766361

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**C12/5000 – COMMON SEAL REGISTER (REC)****STATUTORY AND LEGAL IMPLICATIONS**

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

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

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

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

(a) *the mayor or president; and*

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

**FINANCIAL IMPLICATIONS**

Not applicable.

**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 from 22 October 2012 up to and including 12 November 2012, be noted.**

At 7.52pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C12/6000 - INVESTMENT STATEMENTS (REC)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- This report presents the investment statements for the month of October 2012 and recommends that the information detailed in the report be noted.
- The Reserve Bank of Australia (RBA) 'Cash' rate cuts continues to have an impact on the City's investment earnings.
- Monthly valuations for Collateralised Debt Obligations (CDOs) shown for October 2012 are based on valuations obtained from CPG Research and Advisory as at 31 October 2012. When compared to the valuations used as at 30 June 2012 CDOs have increased in value by \$3,394,815.

**C12/6000 - 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 Policy CP-009 - Investment of Funds, with the objective of maximising returns whilst maintaining low levels of credit risk exposure.

**DETAIL**

Summary details of investments held as at 31 October 2012 are shown in the tables below.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 OCTOBER 2012					
SUMMARY BY FUND	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
MUNICIPAL	\$ 54,427,180	\$ 54,427,180	\$ 54,427,180	\$ -	0.00%
RESERVE	\$ 56,234,757	\$ 48,477,342	\$ 51,872,157	\$ 3,394,815	6.04%
TRUST	\$ 472,723	\$ 472,723	\$ 472,723	\$ -	0.00%
CRF	\$ 189,399	\$ 189,399	\$ 189,399	\$ -	0.00%
	<b>\$ 111,324,060</b>	<b>\$ 103,566,645</b>	<b>\$ 106,961,460</b>	<b>\$ 3,394,815</b>	<b>3.05%</b>
SUMMARY BY INVESTMENT TYPE	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
ADI	\$ -	\$ -	\$ -	\$ -	0.00%
CDO	\$ 7,850,000	\$ 92,585	\$ 3,487,400	\$ 3,394,815	43.25%
BOND	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	0.00%
FRN	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000	\$ -	0.00%
FRTD	\$ 3,500,000	\$ 3,500,000	\$ 3,500,000	\$ -	0.00%
TERM DEPOSIT	\$ 93,077,019	\$ 93,077,019	\$ 93,077,019	\$ -	0.00%
11AM	\$ 666,396	\$ 666,396	\$ 666,396	\$ -	0.00%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 111,324,060</b>	<b>\$ 103,566,645</b>	<b>\$ 106,961,460</b>	<b>\$ 3,394,815</b>	<b>3.05%</b>
SUMMARY BY CREDIT RATING	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
AA	\$ 6,000,000	\$ 6,000,000	\$ 6,000,000	\$ -	0.00%
AA-	\$ 70,043,415	\$ 70,043,415	\$ 70,043,415	\$ -	0.00%
A+	\$ 7,600,000	\$ 7,600,000	\$ 7,600,000	\$ -	0.00%
A	\$ 10,300,000	\$ 10,300,000	\$ 10,300,000	\$ -	0.00%
A-	\$ 7,300,000	\$ 7,300,000	\$ 7,300,000	\$ -	0.00%
BBB+	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	0.00%
CCC	\$ -	\$ -	\$ -	\$ -	0.00%
CCC-	\$ -	\$ -	\$ -	\$ -	0.00%
NR	\$ 7,850,000	\$ 92,585	\$ 3,487,400	\$ 3,394,815	43.25%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 111,324,060</b>	<b>\$ 103,566,645</b>	<b>\$ 106,961,460</b>	<b>\$ 3,394,815</b>	<b>3.05%</b>

**C12/6000 - INVESTMENT STATEMENTS (REC)**

The following statements detail the investments held by the City for the period ending 31 October 2012. Marketable investments are shown at their current estimated market value.

STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 OCTOBER 2012									
INSTITUTION / INVESTMENT	RISK of IMPAIRMENT	INVESTMENT TYPE	Current Interest Rate %	S & P RATING	FACE VALUE \$	BOOK VALUE AT 30/6/2012 \$	CURRENT EST MARKET VALUE \$	INVESTMENT GAIN / (LOSS) SINCE 30/06/12 \$	MATURITY DATE
BANKWEST (11AM)	Very Low	11AM	3.50%	AA-	\$510,678	\$510,678	\$510,678	\$0	On call
WESTPAC (MAXI DIRECT)	Very Low	11AM	3.75%	AA-	\$150,000	\$150,000	\$150,000	\$0	On call
WESTPAC (MAXI BONUS 1)	Very Low	11AM	4.10%	AA-	\$2,859	\$2,859	\$2,859	\$0	On call
WESTPAC (MAXI BONUS 2)	Very Low	11AM	4.10%	AA-	\$2,859	\$2,859	\$2,859	\$0	On call
					<b>\$666,396</b>	<b>\$666,396</b>	<b>\$666,396</b>	<b>\$0</b>	
ANZ BANK (TERM)	Very Low	TERM	4.32%	AA-	\$5,700,000	\$5,700,000	\$5,700,000	\$0	21-Jan-13
BANKWEST (TERM)	Very Low	TERM	Various	AA-	\$13,677,019	\$13,677,019	\$13,677,019	\$0	Various
BENDIGO AND ADELAIDE BANK (TERM)	Very Low	TERM	5.00%	A-	\$7,300,000	\$7,300,000	\$7,300,000	\$0	5-Nov-12
COMMONWEALTH BANK (TERM)	Very Low	TERM	Various	AA-	\$8,000,000	\$8,000,000	\$8,000,000	\$0	Various
ING BANK (TERM)	Very Low	TERM	Various	A	\$7,900,000	\$7,900,000	\$7,900,000	\$0	Various
MACQUARIE BANK (TERM)	Very Low	TERM	Various	A	\$900,000	\$900,000	\$900,000	\$0	Various
NAB (TERM)	Very Low	TERM	Various	AA-	\$11,500,000	\$11,500,000	\$11,500,000	\$0	Various
RABODIRECT (TERM)	Very Low	TERM	4.90%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	4-Apr-13
ST GEORGE BANK (TERM)	Very Low	TERM	Various	AA-	\$16,000,000	\$16,000,000	\$16,000,000	\$0	Various
SUNCORP METWAY LTD (TERM)	Very Low	TERM	Various	A+	\$7,600,000	\$7,600,000	\$7,600,000	\$0	Various
WESTPAC (TERM)	Very Low	TERM	Various	AA-	\$12,500,000	\$12,500,000	\$12,500,000	\$0	Various
					<b>\$93,077,019</b>	<b>\$93,077,019</b>	<b>\$93,077,019</b>	<b>\$0</b>	
BANK OF QUEENSLAND (FLOAT RATE TD)	Very Low	FRTD	4.87%	BBB+	\$2,000,000	\$2,000,000	\$2,000,000	\$0	30-Sep-13
ING BANK (FLOAT RATE TD)	Very Low	FRTD	5.13%	A	\$1,500,000	\$1,500,000	\$1,500,000	\$0	10-Sep-13
					<b>\$3,500,000</b>	<b>\$3,500,000</b>	<b>\$3,500,000</b>	<b>\$0</b>	
COMMONWEALTH BANK (RETAIL BOND)	Very Low	BOND	4.56%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	20-Dec-15
COMMONWEALTH BANK (FRN)	Very Low	FRN	4.76%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	2-Aug-16
NAB (FRN)	Very Low	FRN	4.55%	AA-	\$2,000,000	\$2,000,000	\$2,000,000	\$0	21-Jun-16
					<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$0</b>	
CORSAIR (CAYMAN) KAKADU	Very High	CDO	0.00%	NR	\$1,500,000	\$72,363	\$346,350	\$273,987	20-Mar-14
MANAGED ACES CLASS 1A PARKES	Very High	CDO	0.00%	NR	\$1,050,000	\$9,874	\$1,050	-\$8,824	20-Jun-15
BERYL FINANCE GLOBAL BANK NOTE	Early Term.	CDO	0.00%	NR	\$2,000,000	\$1	\$1,400,000	\$1,399,999	20-Sep-14
BERYL FINANCE GLOBAL BANK NOTE 2	Early Term.	CDO	0.00%	NR	\$450,000	\$1	\$315,000	\$314,999	20-Sep-14
ZIRCON FINANCE COOLANGATTA	Early Term.	CDO	0.00%	NR	\$1,500,000	\$8,746	\$750,000	\$741,254	20-Sep-14
ZIRCON FINANCE MERIMBULA	Early Term.	CDO	0.00%	NR	\$500,000	\$1,599	\$250,000	\$248,401	20-Jun-13
ZIRCON FINANCE MIAMI	Early Term.	CDO	0.00%	NR	\$850,000	\$1	\$425,000	\$424,999	20-Mar-17
					<b>\$7,850,000</b>	<b>\$92,585</b>	<b>\$3,487,400</b>	<b>\$3,394,815</b>	
UNITS IN LOCAL GOVT HOUSE	N/A	UNITS	N/A	N/A	\$230,645	\$230,645	\$230,645	\$0	N/A
<b>TOTAL FUNDS INVESTED</b>					<b>\$111,324,060</b>	<b>\$103,566,645</b>	<b>\$106,961,460</b>	<b>\$3,394,815</b>	

**CREDIT RISK COMPARISON**

CREDIT RISK	PURCHASE PRICE \$	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % AMOUNT IN TOTAL PORTFOLIO	Comments
AA	\$6,000,000	\$6,000,000	6%	80%	
AA-	\$70,043,415	\$70,043,415	65%	80%	
A+	\$7,600,000	\$7,600,000	7%	50%	
A	\$10,300,000	\$10,300,000	10%	50%	
A-	\$7,300,000	\$7,300,000	7%	50%	
BBB+	\$2,000,000	\$2,000,000	2%	20%	
NR	\$7,850,000	\$3,487,400	3%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT: HOUSE	\$230,645	\$230,645	0%	0.1%	Council Decision
<b>TOTAL</b>	<b>111,324,060</b>	<b>106,961,460</b>	<b>100%</b>		

**C12/6000 - 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
ANZ BANK (TERM)	TERM	AA-	5,700,000	5.33%	5.33%	20%	
BANKWEST (11AM)	11AM	AA-	510,678	0.48%		20%	
BANKWEST (TERM)	TERM	AA-	13,677,019	12.79%	13.26%	20%	
BANK OF QUEENSLAND (FLOAT RATE TD)	FRTD	BBB+	2,000,000	1.87%	1.87%	10%	
BENDIGO AND ADELAIDE BANK (TERM)	TERM	A-	7,300,000	6.82%	6.82%	15%	
COMMONWEALTH BANK (TERM)	TERM	AA-	8,000,000	7.48%		20%	
COMMONWEALTH BANK (RETAIL BOND)	BOND	AA	2,000,000	1.87%		20%	
COMMONWEALTH BANK (FRN)	FRN	AA	2,000,000	1.87%	11.22%	20%	
ING BANK (TERM)	TERM	A	7,900,000	7.39%		15%	
ING BANK (FLOAT RATE TD)	FRTD	A	1,500,000	1.40%	8.79%	15%	
MACQUARIE BANK (TERM)	TERM	A	900,000	0.84%	0.84%	15%	
NAB (FRN)	FRN	AA-	2,000,000	1.87%		20%	
NAB (TERM)	TERM	AA-	11,500,000	10.75%	12.62%	20%	
RABODIRECT (TERM)	TERM	AA	2,000,000	1.87%	1.87%	15%	
ST GEORGE BANK (TERM)	TERM	AA-	16,000,000	14.96%	14.96%	20%	
SUNCORP METWAY LTD (TERM)	TERM	A+	7,600,000	7.11%	7.11%	15%	
WESTPAC (MAXI BONUS 1)	11AM	AA-	2,859	0.00%		20%	
WESTPAC (MAXI BONUS 2)	11AM	AA-	2,859	0.00%		20%	
WESTPAC (MAXI DIRECT)	11AM	AA-	150,000	0.14%		20%	
WESTPAC (TERM)	TERM	AA-	12,500,000	11.69%	11.83%	20%	
CDO - Various	CDO		3,487,400	3.26%	3.26%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT HOUSE	UNITS	N/A	230,645	0.22%	0.22%		
			<b>106,961,460</b>	<b>100%</b>	<b>100%</b>		

**MATURITY COMPARISON**

TERM to MATURITY	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % IN ANY ONE YEAR	Comments
MUNICIPAL & TRUST FUNDS				
< 1 year	54,669,258	100%	100%	
	<b>54,669,258</b>	<b>100%</b>		
RESERVE FUNDS				
< 1 year	42,634,757	82%	100%	
< 2 years	2,811,350	5%	80%	
< 3 years	1,050	0%	80%	
< 4 years	6,000,000	12%	40%	
< 5 years	425,000	1%	40%	
> 5 years	-	0%	20%	
	<b>51,872,157</b>	<b>100%</b>		

Due to the continuing volatility in credit markets worldwide, the risks associated with the City's investment portfolio in CDOs remains elevated.

Monthly valuations for CDOs shown for October are based on valuations obtained from CPG Research and Advisory (CPG) as at 31 October 2012 who in turn have obtained them from the arranging banks. When compared to the valuations used as at 30 June 2012, valuations obtained from CPG as at 31 October 2012 show that CDOs have increased in value by \$3,394,815.

Former Lehman Brothers arranged CDOs have experienced an increase in trading level indications, as heightened investor expectations of a favourable ruling in the courts grows, which would result in an early termination and the City gaining access to the collateral representing the City's original investments which are held by the Trustees. It is noted that favourable rulings increase the prospects of a favourable negotiated outcome along the lines of the Mahogany CDOs. This is still under legal proceedings in the United States (US) and United Kingdom (UK) Courts and negotiations between the Lehman estate and the Belmont Group's lawyers. The City in conjunction with CPG will monitor and report on the developments. The values of Lehman Brothers arranged CDOs held as at 31 October 2012 were:

- Face Value	\$ 5,300,000
- Written Down (Book) Value (30 June 2012)	\$ 10,347
- Estimated Market Value (31 October 2012)	\$ 3,140,000



**C12/6000 - INVESTMENT STATEMENTS (REC)**

The Corsair Kakadu CDO continues to pay coupon payments based on the full face value whilst the MAS Parkes 1A CDO has suffered an erosion of credit support and therefore underlying principal and pays interest at a reduced rate depending on the extent of the principal loss experienced. The City has earned approximately \$5 million from CDO investments since 1 July 2007.

The remaining values of non Lehman Brothers arranged CDOs held as at 31 October 2012 were:

- Face Value	\$ 2,550,000
- Written Down (Book) Value (30 June 2012)	\$ 82,237
- Estimated Market Value (31 October 2012)	\$ 347,400

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

**Credit Ratings and Credit Events**

Twenty two credit events impacting the City's CDO investments have now been recorded to date. The Companies involved are ResCap, PMI Group, 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.

**Council's Remaining CDO Investments:**

<b>CDO Name Arranger Face Value &amp; Maturity Date</b>	<b>No. of Credit Events</b>	<b>Remaining Credit Support before <b>FIRST</b> Loss of Principal</b>	<b>Remaining Credit Support before <b>TOTAL</b> Loss of Principal</b>	<b>Comments</b>
<b>Corsair Cayman Kakadu</b> Arranger: J.P. Morgan Australia <b>\$1.5 million</b> <b>Maturing 20/3/14</b>	<b>12 credit events:</b> ResCap, AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, Kaupthing, CIT Group, Anglo Irish Bank & PMI Group	-0.1	1.8	Partial loss 10.6% (\$0.159 million) of principal has occurred. Very high likelihood of total default.
<b>Managed Aces Class Parkes 1A</b> Arranger: Morgan Stanley <b>\$1.05 million</b> <b>Maturing 20/6/15</b>	<b>10 credit events:</b> ResCap, AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, CIT Group & PMI Group.	-0.8	1.1	Partial loss 41.9% (\$0.44 million) of principal has occurred. Very high likelihood of total default.

**C12/6000 - INVESTMENT STATEMENTS (REC)**

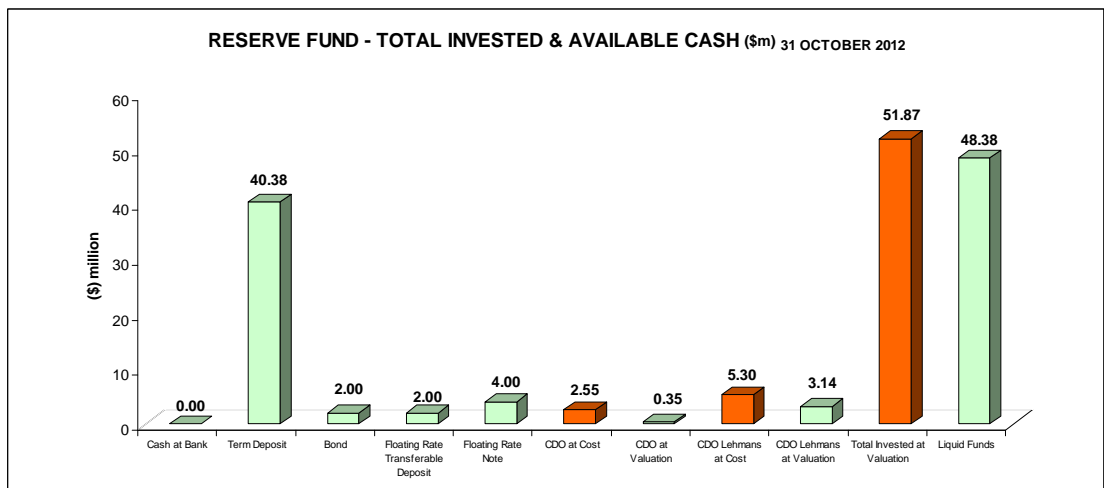
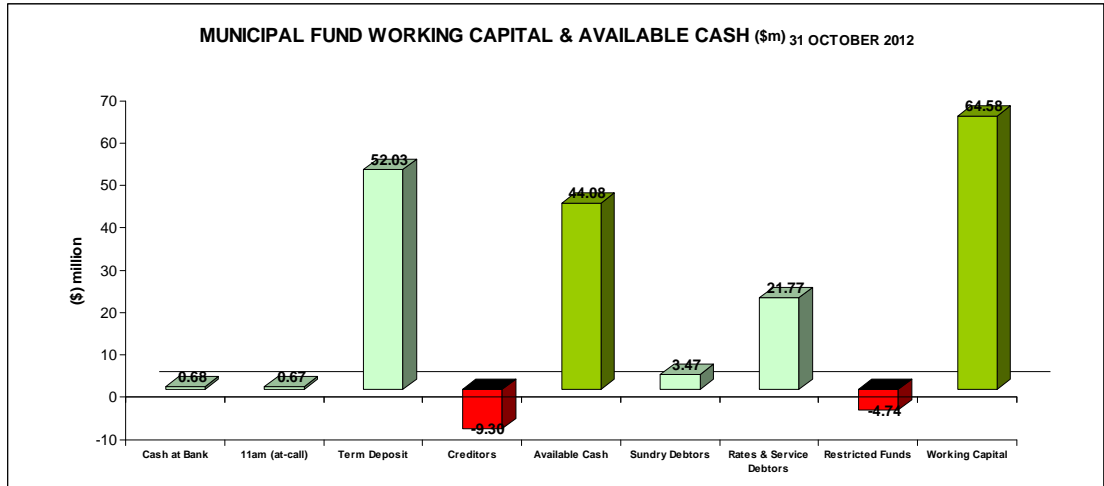
**Terminated Lehman Brothers Arranged CDO Investments:**

<b>CDO Name Face Value &amp; Maturity Date</b>	<b>No. of Credit Events</b>	<b>Remaining Credit Support before <b>FIRST</b> Loss of Principal</b>	<b>Remaining Credit Support before <b>TOTAL</b> Loss of Principal</b>	<b>Comments</b>
<b>Beryl Finance Global Bank Note \$2.45 million Terminated (20/9/14)</b>	<b>Nil credit events:</b>	1	N/A	Terminated due to Lehman bankruptcy – In legal dispute re collateral. However, a suitable settlement is being pursued.
<b>Zircon Finance Coolangatta \$1.50 million Terminated (20/9/14)</b>	<b>8.0 credit events:</b> Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	4.7	6.5	
<b>Zircon Finance Merimbula A \$0.50 million Terminated (20/6/13)</b>	<b>8.0 credit events:</b> Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	2.9	3.7	
<b>Zircon Finance Miami \$0.85 million Terminated (20/3/17)</b>	<b>7.0 credit events:</b> Ambac Assurance, Aiful, Thomson, Freddie Mac, Fannie Mae, Abitibi & CIT Group.	8.4	10.1	

**C12/6000 - INVESTMENT STATEMENTS (REC)**

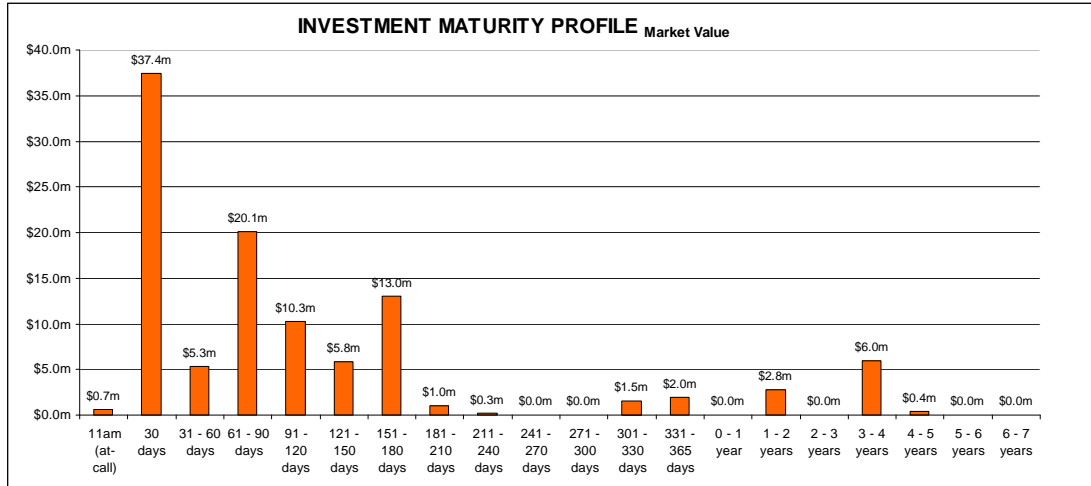
**Net Funds Held**

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, at 31 October 2012.



**C12/6000 - INVESTMENT STATEMENTS (REC)**

The graph below summarise the maturity profile of the City's investments at market value as at 31 October 2012.



**PUBLIC CONSULTATION/COMMUNICATION**

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

In addition the City'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**

City officers are in regular contact with the City's investment advisors, CPG Research and Advisory.

**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 the City gains access to the more valuable collateral representing the City's original investments which are held by Trustees for the Lehman Brothers arranged CDOs.

**C12/6000 - INVESTMENT STATEMENTS (REC)**

In conjunction with approximately 71 other corporations and local government authorities the City of Melville has engaged litigation funder IMF Australia to seek recovery of 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. A decision was handed down on the 21 September 2012 in favour of the City and 71 others against Lehman Brother's Australia.

A stand-off is taking place between the UK and US courts as to which countries laws should be applied in respect of the Lehman Brothers arranged CDOs, which are the subject of early termination. Lehman Brothers was unsuccessful in its appeal to the current UK judgement in favour of investors to the Supreme Court of England and Wales. This is the highest possible court in the UK and the decision during the year brought finality to the legal process in that jurisdiction. It is likely however that the legal process will continue for at least another year as the US Bankruptcy Court judgement is almost certain to be appealed.

**FINANCIAL IMPLICATIONS**

For the period ending 31 October 2012, interest earned on:

- Municipal and Trust Funds was \$614,319 against a budget of \$973,943. This represents a \$359,625 negative variance. The full year investment earnings budget for Municipal Funds is \$2.325 million. It is now apparent that this budget will not be achieved and this negative variance will be adjusted at mid year budget review .
- Reserve Funds was \$999,260.41 against a budget of \$698,871. This represents a \$300,389 positive variance. The full year investment earnings budget for Reserve Accounts is \$2.1 million.

The City's revenue from investment earnings is expected to decrease and not meet budget in the foreseeable future, as the RBA continues to cut the 'Cash' rate and the new restrictions that have been placed by regulation that limits the type of investments in which the City is permitted to invest. As stated above the amount of Municipal and Trust investment earnings will be revised downwards at the next mid-year budget review.

Due to Lehman Brothers entering into Chapter 11 bankruptcy proceedings, the City has not received interest payments on the \$5.3 million face value of Lehman Brothers arranged CDOs. At this time it is understood that interest on the underlying collateral is being retained by the Trustee who has taken control of that collateral and whether or not it will eventually be received by the City will depend on the outcomes of legal action or negotiated settlement agreements.

**C12/6000 - INVESTMENT STATEMENTS (REC)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Council's Investment of Funds policy is constructed to minimise credit risk through investing in highly rated securities and diversification. The policy also incorporates mechanisms that protect the City's investments from undue volatility risk as well as the risk to reputation as a result of investments that may be perceived as unsuitable by the Community.

Due to continuing credit market volatility the risks associated with the City's investment portfolio in CDOs is high. Whilst the City continues to earn and be paid interest from its two remaining non Lehman Brothers 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 the Council's investment policy.

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.

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

**POLICY IMPLICATIONS**

Council Policy CP-009 – Investment of Funds.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

The investment report highlights that, except for the legacy CDO investments of 2007, the City's investment portfolio is invested in highly secure investments and is returning market competitive investment returns commensurate with the level of risk of the portfolio. It highlights however that Municipal Fund earnings are currently and expected to continue to be below the budget due to reduced interest rates and investment opportunities. The remaining legacy CDO investments are being closely monitored by officers in conjunction with the City's investment advisors.

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

**That the Investment Report for the month of October 2012 be noted.**

At 7.52pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C12/6001 – SCHEDULE OF ACCOUNTS FOR OCTOBER 2012 (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 : 2012/2013 Budget  
 Responsible Officer : Khris Yeoh  
 Senior Financial Accountant

**AUTHORITY / DISCRETION**

**DEFINITION**

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



**C12/6001 – SCHEDULE OF ACCOUNTS FOR OCTOBER 2012 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

This report presents details of the payments made under delegated authority to suppliers for the month of October 2012 and recommends that the Schedule of Accounts be noted.

**BACKGROUND**

Delegated Authority DA-035 has been granted to the Chief Executive Officer to make payments from the Municipal and Trust Funds. This authority has then been on-delegated to the Director Corporate Services. In accordance with Regulation 13.2 and 13.3 of the Local Government (Financial Management) Regulations 1996, where this power has been delegated, a list of payments for each month is to be compiled and presented to 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 month ending 31 October 2012 ([6001 October 2012](#)), including Payment Registers numbers, Cheques **316** to **319** and Electronic Funds Transfers **265** to **269** were distributed to the Members of Council on the 23 November 2012.

**C12/6001 – SCHEDULE OF ACCOUNTS FOR OCTOBER 2012 (REC) (ATTACHMENT)**

Payments in excess of \$25,000 for the month of October 2012, are detailed as follows:

<b>Supplier Name</b>	<b>Remittance Number</b>	<b>Remittance Details</b>	<b>Amount</b>
Beacon Equipment	E031420 & E031594	Arboriculture equipment	\$29,369.49
City of Cockburn	E031229 & E031456	Tip fees for August & September 2012	\$221,605.28
CPD Group	E031435	Building maintenance	\$26,290.00
Dickies Tree Service	E031230 & E031458	Tree lopping services	\$126,511.10
Downer EDI Works Pty Ltd	E031559	Road resurfacing	\$243,021.72
Dowsing Concrete	E031443 & E031616	Concrete works	\$100,867.00
Fire & Emergency Services Authority WA	E031397	ESL remittance for September	\$707,619.22
Flexi Staff	E031260 & E031480	Temporary employment	\$102,173.30
GHD Pty Ltd	E031364	Canning Bridge structure plan & ground water investigation at John Connell Reserve	\$118,395.75
Greenspan – MCE	E031265 & E031484	Irrigation controllers	\$29,917.25
Hydroquip Pumps	E031267 & E031486	Servicing to bore pumps	\$36,918.20
JMG Air Conditioning & Electrical Services	E031394 & E031574	Air conditioning services	\$44,401.50
LGIS Liability	E031485	Insurance	\$646,359.22
MacDonald Johnston Engineering	E031237 & E031461	Engineering equipment	\$28,439.09
Melville Toyota	E031293	Purchase of Toyota Kluger Wagon	\$52,625.82
Natural Area Management & Services	E031433 & E031612	Point Walter restoration project	\$136,420.79
Phase 3 Landscape Construction Pty Ltd	E031578	Progress claim 3 for Wireless Hill landscaping works	\$197,972.08
Prestige Honda	E031413	Purchase of Honda Accord Sedan	\$42,063.90
Rhysco Electrical Services	E031361 & E031551	Electrical maintenance	\$42,661.08
Robinson Buildtech	E031242 & E031466	Building maintenance	\$53,584.09
Southern Metropolitan Regional Council	E031319 & E031535	MSW gate fees for September, green waste gate fees for September and recyclable fees for September	\$602,838.18
Synergy	Chq's 050871 & 051022	Electricity supply	\$126,236.71
Titan Ford	E031279 & E031497	Purchase of 2 Ford PX Ranger, 2 Ford Falcon FG MK11 Ute and Ford Focus Sedan	\$147,668.44
Tree Amigos Tree Surgeons	E031547	Tree lopping services	\$54,926.62
Veraison Enterprises Pty Ltd	E031549	Leadership course	\$34,166.00
West Coast Turf	E031489	Turf laying	\$27,808.00
Western Educting Service	E031295 & E031509	Industrial cleaning	\$30,668.00

**C12/6001 – SCHEDULE OF ACCOUNTS FOR OCTOBER 2012 (REC) (ATTACHMENT)****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 2012/2013 Budget.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

Not applicable.

**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 month ending 31 October 2012, as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 October 2012](#) be noted.**

At 7.52pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC) (ATTACHMENTS)**

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

**KEY ISSUES / SUMMARY**

- This report presents the Financial Statements for the financial year to date ending 31 October 2012 and recommends that they be noted by the Council.
- This report presents the budget amendments for the month of October and recommends that they be adopted by Absolute Majority decision of the Council.
- This report presents the variances for the month of October and recommends that they be noted by the Council.

**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC) (ATTACHMENTS)**

**BACKGROUND**

The Financial Statements for the financial year to date ending 31 October 2012 have been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996.

**DETAIL**

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

For the period 1 July 2012 to 31 October 2012, a net operating positive variance of \$6,019,734 and a net capital positive variance of \$484,371 were recorded.

**Variances**

A summary of variances and comments are provided in attachment [6002H October 2012](#).

CITY OF MELVILLE RATE SETTING STATEMENT FOR THE PERIOD ENDED 31 OCTOBER 2012								
	October Actual \$	YTD Rev. Budget \$	YTD Actual \$	Variance \$	Variance %	Annual Budget \$	Annual Rev. Budget \$	Current Commitments \$
<b>Revenues</b>								
Governance	643,952	436,390	1,062,663	626,273	144%	1,309,100	1,309,100	(576)
General Purpose Funding	427,145	8,762,023	8,853,933	91,910	1%	13,844,420	13,844,420	-
Community Amenities	54,816	15,720,800	15,665,548	(55,252)	0%	16,669,400	16,669,400	-
Recreation and Culture	915,206	3,103,769	3,169,938	66,169	2%	8,840,659	9,050,669	-
Transport	140,534	4,050,409	3,041,147	(1,009,262)	-25%	4,897,541	5,109,070	-
	2,297,209	35,310,670	34,988,971	(363,635)	-1%	48,956,270	49,761,081	4,674
<b>Expenses</b>								
Governance	(1,578,705)	(6,123,445)	(5,221,725)	901,721	-15%	(16,062,578)	(16,258,331)	(819,734)
General Purpose Funding	(1,035,345)	(3,613,318)	(2,053,911)	1,559,407	-43%	(6,575,980)	(6,575,980)	(68,760)
Law, Order, Public Safety	(282,644)	(1,201,562)	(1,092,966)	108,596	-9%	(3,723,487)	(3,774,123)	(63,461)
Education & Welfare	(469,840)	(1,883,459)	(1,760,074)	123,385	-7%	(5,463,762)	(5,583,302)	(160,278)
Community Amenities	(1,378,236)	(6,835,240)	(5,844,745)	990,495	-14%	(19,172,687)	(19,791,341)	(598,802)
Recreation and Culture	(2,397,524)	(9,191,324)	(8,322,825)	868,499	-9%	(26,840,555)	(27,082,856)	(1,454,085)
Transport	(789,040)	(3,313,444)	(2,637,723)	675,721	-20%	(9,897,362)	(9,803,647)	(511,734)
Economic Services	(48,375)	(48,054)	(124,110)	(76,056)	158%	(106,161)	(116,161)	(63,635)
Other Property and Services	(224,572)	(1,923,830)	(1,670,588)	253,243	-13%	(3,193,363)	(3,297,226)	(254,843)
	(8,282,487)	(34,499,721)	(29,051,527)	8,129,343	-16%	(92,121,666)	(93,339,143)	(4,022,330)

**Revenue**

\$52.3m in Rates was raised to 31 October 2012. This is compared with a year to date budget of \$52.4m, resulting in a small negative variance of \$17,875.

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

Not applicable.

**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC) (ATTACHMENTS)**

**Budget Amendments**

Details of Budget Amendments requested for the month of October 2012 are shown in attachment [6002J October 2012](#). These amendments have been carried out to reflect the appropriate responsible officers and the correction of account numbers.

**Rates Collections and Debtors**

Details of Rates and Sundry Debtors are shown in attachments 6002L, 6002M and 6002N.

Rates, Refuse & Fire and Emergency Service Authority payments totalling \$10,069,542 were collected over the course of the month. Rates collection progress for the month of October was 0.4% below target. As at 31 October 2012, 72.6% of 2012/2013 rates had been collected which compares unfavourably to the 73% collected this same time last year.

Total sundry debtor balances decreased by \$40,942 over the course of the month. The 90+ day's debtor balance decreased by \$853.00.

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

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

One debt write off was authorised by the Director Corporate Services under delegated authority in the month of October 2012, for an amount of \$2,145 in regard to Metropolitan Tree Services for the illegal dumping of waste. The City's debt collectors have tried without success to recover the amount and have advised that given the size of the debt, it is uneconomical to undertake further legal action.

The following attachments form part of the Attachments to the Agenda.

DESCRIPTION	LINK
Rate Setting Statement – October 2012	<a href="#">6002A October 2012</a>
Statement of Financial Activity – October 2012	<a href="#">6002B October 2012</a>
Representation of Net Working Capital – October 2012	<a href="#">6002E October 2012</a>
Reconciliation of Net Working Capital – October 2012	<a href="#">6002F October 2012</a>
Notes on Rate Setting Statements reporting on variances of 10% or greater – October 2012	<a href="#">6002H October 2012</a>
Details of Budget Amendments requested – October 2012	<a href="#">6002J October 2012</a>
Summary of Rates Debtors – October 2012	<a href="#">6002L October 2012</a>
Graph Showing Rates Collections – October 2012	<a href="#">6002M October 2012</a>
Summary of General Debtors aged 90 Days Old or Greater – October 2012	<a href="#">6002N October 2012</a>

**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC) (ATTACHMENTS)****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 Management) Regulation 1996 Part 4 – Financial Reports Regulation 34 requires that:

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

*(1A) In this regulation — **committed assets** means revenue unspent but set aside under the annual budget for a specific purpose.*

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

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

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

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

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

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

*(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
- (b) recorded in the minutes of the meeting at which it is presented.*



**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC) (ATTACHMENTS)**

*(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

The variance adopted by the Council at its Special meeting held on 26 June 2012 to adopt the 2012/2013 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**

Variances are dealt with in attachment 6002H (Notes on Operating Statements reporting on variances of 10% or greater).

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no identifiable strategic, risk and environmental management implications arising from this report.

**POLICY IMPLICATIONS**

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

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 31 October 2012.

**C12/6002 – FINANCIAL STATEMENTS FOR OCTOBER 2012 (AMREC)  
(ATTACHMENTS)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)  
ABSOLUTE MAJORITY APPROVAL**

At 7.53pm Cr Willis moved, seconded Cr Robartson -

**That the Council:**

- Note the Rate Setting Statement and Statements of Financial Activity for the financial year ending 31 October 2012 as detailed in the following attachments:**

<b>DESCRIPTION</b>	<b>LINK</b>
<b>Rate Setting Statement – October 2012</b>	<a href="#"><u>6002A October 2012</u></a>
<b>Statement of Financial Activity – October 2012</b>	<a href="#"><u>6002B October 2012</u></a>
<b>Representation of Net Working Capital – October 2012</b>	<a href="#"><u>6002E October 2012</u></a>
<b>Reconciliation of Net Working Capital – October 2012</b>	<a href="#"><u>6002F October 2012</u></a>
<b>Notes on Rate Setting Statements reporting on variances of 10% or greater – October 2012</b>	<a href="#"><u>6002H October 2012</u></a>
<b>Details of Budget Amendments requested – October 2012</b>	<a href="#"><u>6002J October 2012</u></a>
<b>Summary of Rates Debtors – October 2012</b>	<a href="#"><u>6002L October 2012</u></a>
<b>Graph Showing Rates Collections – October 2012</b>	<a href="#"><u>6002M October 2012</u></a>
<b>Summary of General Debtors aged 90 Days Old or Greater – October 2012</b>	<a href="#"><u>6002N October 2012</u></a>

- Adopt by Absolute Majority Decision the budget amendments, as listed in the Budget Amendment Reports for October 2012, as detailed in attachment [6002J October 2012](#).**

At 7.53pm the Mayor submitted the motion, which was declared

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

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

Ward : All  
 Category : Strategic  
 Subject Index : Regional Resource Recovery Centre  
 Waste  
 Customer Index : Southern Metropolitan Regional Council  
 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 : Operating Waste Budget  
 Responsible Officer : John Christie  
 Director Technical Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)****KEY ISSUES / SUMMARY**

- The Southern Metropolitan Regional Council (SMRC) has indicated that it will have difficulty in meeting a number of conditions associated with its amended operating licence for the Waste Composting Facility (WCF) as imposed by the Department of Environment and Conservation (DEC).
- As a result, the SMRC has requested all Project Participants confirm their ongoing financial assistance during any period of voluntary closure of the WCF and the Green Waste Facility (GWF).
- The City has an obligation under the Establishment Agreement to provide financial contributions to the operating costs of the Regional Resource Recovery Centre (RRRC).
- The SMRC have proposed that the financial assistance be paid by way of the adopted WCF and GWF gate fees.
- Any closure of the WCF will result in the City disposing of its Municipal Solid Waste (MSW) in landfill.
- It is recommended that the City continues to provide the necessary financial assistance to the SMRC during any period of voluntary closure of the WCF and offsite processing of the green waste to cover their fixed cost obligations.
- As a result of the withdrawal of the Cities of Canning and Rockingham from the Southern Metropolitan Regional Council an immediate review of the Establishment Agreement and the Project Participants' Agreement is required.
- It is recommended that the Chief Executive Officer write to the remaining SMRC Member Councils seeking their agreement to undertake a review of the Establishment Agreement and the Project Participants' Agreement
- It is also recommended that subject to the remaining SMRC Member Councils' agreement and in accordance with section 3.65 (1) of the Local Government Act 1995, that the CEO write to the Minister for Local Government informing him of the intention to review the Establishment Agreement of the SMRC.

**BACKGROUND**

The DEC issued an amended operating licence for the SMRC's Regional Resource Recovery Centre in May 2012. The amended operating licence relates specifically to the Waste Composting Facility and the Green Waste Facility and has a number of conditions. Of these conditions, three have specific deadlines as follows:

*“Condition 17(b) – Install and commission, by 15 December 2012 a wet scrubbing system (humidifier) for Bio-filters 1 and 2 and designed to achieve not less than 85% humidity.*

*Condition 17(c) – The licensee shall cease accepting waste for composting at the premises should the wet scrubbing or gas scrubbing system, not be installed by 15 December 2012.*

*Condition 17(d) – Subsequent to condition 17(c), the licensee shall only commence the reacceptance of putrescible waste at the premises for composting when the wet scrubbing or gas scrubbing system, referred to in 17(b), has been installed.*

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

*Condition 46 – Suspend shredding of green waste between 15 December and 31 March each year. “*

**DETAIL****Funding Request**

The SMRC have identified that the installation of the wet scrubbing or gas scrubbing system is currently behind schedule and it is anticipated that the installation will not be complete by the deadline of 15 December 2012. As such the SMRC have requested ongoing financial support from the Project Participants during any period of temporary suspension of receiving waste.

With regard to green waste, the SMRC have obtained tenders for offsite processing of green waste and are prepared to award the tender subject to Member Council's agreeing to provide financial support during any period of voluntary closure.

The SMRC are proposing that Project Participants continue to pay the adopted 2012/2013 GWF gate fee of \$70.97 per tonne, excluding GST during the offsite processing, which will enable the SMRC to maintain cash flow for its fixed cost obligations. The SMRC will then pay the contractor directly for all offsite processing which is expected to be less than the adopted gate fee for green waste processing. Project Participants will be required to submit weighbridge documentation to verify green waste tonnages processed to the SMRC.

With regard to MSW and the WCF, the SMRC are proposing that when directed to not deliver putrescible waste to the facility, Project Participants may dispose of waste at a landfill site of their choosing, with the Project Participants paying the landfill gate fee directly to the landfill operator. The difference between the landfill gate fee and the SMRC gate fee is to be paid to the SMRC, to maintain cash flow for its fixed cost obligations. The adopted 2012/2013 WCF gate fee is \$205.37 per tonne, excluding GST.

It is important to note that this request is outside of the Project Participants' Agreement, and the agreement appears to be silent on how Project Participants contribute to an operating loss.

The Establishment Agreement of the SMRC clearly defines the purpose of the Regional Local Government. Clause 4 states as follows:

*“Regional Purpose*

*The regional purpose for which the Regional Local Government is established are:*

- (a) To plan, coordinate and implement the removal, processing and disposal of waste for the benefit of the communities of the Participants.”*

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

Clause 5 states as follows:

*“Objectives*

*The objectives of the Regional Local Government shall be:*

- (a) *Without loss being incurred by the Regional Local Government, to carry out the Regional Purposes so that services and facilities are provided to the consumer at a reasonable cost with due regard for community needs.”*

It is clear that should the SMRC fail to comply with the conditions of the amended operating licence by 15 December 2012, then the WCF will have to cease processing waste. As such the SMRC will not be in a position to completely fulfil the requirements of the “Regional Purpose” as defined in the Establishment Agreement.

The intent of Clause 5 states that the Regional Local Government should not incur a loss, albeit that the “Regional Purpose” will be compromised with regard to the non processing of green waste and putrescible waste at the WCF.

Officers are of the opinion that despite the fact that the “Regional Purpose” will not be completely fulfilled if the SMRC fails to comply with the conditions of the amended operating licence by 15 December 2012, the City should continue to provide the financial assistance required to meet all fixed costs as requested.

The date of 15 December 2012 appears to be unachievable and the SMRC are duty bound to notify the DEC that they will fail to meet the conditions of the amended operating licence. The SMRC have estimated that the system should be installed by mid January 2013.

It is clear that should the City not provide the financial assistance as requested and the SMRC does not have a revenue stream, then the SMRC will become technically insolvent.

It is therefore recommended that the City continues to provide financial assistance to the SMRC should the WCF cease receiving putrescible waste and also when the green waste is processed offsite.

**Establishment Agreement and Project Participants Agreement**

The Council will be aware that the City of Canning and more recently the City of Rockingham have withdrawn from the SMRC.

As a result of their withdrawal and the associated financial implications, there is an immediate need for both the Establishment Agreement and the Project Participants' Agreement to be reviewed and for Member Councils to determine the future requirements and direction of the SMRC.

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

The Establishment Agreement of the SMRC at Clause 14.3 Time (footnote) states that:

*“Amendment of Establishment Agreement*

1. *The Participants may amend this Establishment Agreement by agreement made with the Minister’s approval – see section 3.65 91) of the Act.”*

Section 3.65 (1) of the Local Government Act 1995 states as follows:

*“3.65. Amendment of establishment agreement*

- (1) *The participants may amend the establishment agreement for a regional local government by agreement made with the Minister’s approval, and a reference in this Division to the establishment agreement includes a reference to the establishment agreement as so amended.”*

It is therefore recommended that the Chief Executive Officer write to the remaining SMRC Member Councils (the Cities of Cockburn, Fremantle and Kwinana and the Town of East Fremantle) requesting their agreement for a review of the Establishment Agreement and the Project Participants’ Agreement of the Southern Metropolitan Regional Council.

Should the remaining Member Councils agree to the review, then a formal request be made to the Minister for Local Government (the Minister) for his approval in accordance with the Establishment Agreement and Section 3.65 (1) of the Local Government Act 1995.

**PUBLIC CONSULTATION/COMMUNICATION**

There has been no public consultation undertaken with regard to this report.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The SMRC and the Project Participants are continuing to meet with the State Government Officials of the DEC.

RRRC Project Participants have met to discuss the implications of the request for financial support and to determine the appropriate course of action.



**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)****STATUTORY AND LEGAL IMPLICATIONS**

The City has a statutory and legal obligation as a result of being a participant in and signatory to the:

1. *Establishment Agreement of the Southern Metropolitan Regional Council, dated 22 January 1998; and by being a participant and signatory to the:*
2. *Project Participants' Agreement, Regional Resource Recovery Centre Project of the Southern Metropolitan Regional Council, dated 12 April 1999.*

Both of these agreements clearly outline the obligations of the City with regard to commitment to the SMRC and the RRRC Project Participants' Agreement.

**FINANCIAL IMPLICATIONS**

It is not envisaged that the ongoing financial assistance and the gate fees associated with landfill or green waste processing would exceed the current waste budget adopted by Council, therefore it is not expected that there would be any adverse financial implications. During the period of diversions however there will be an increase in the costs of employee and vehicle operating costs due to the extra distance to travel to the waste disposal facility.

The SMRC's proposal would have no impact on the current waste budget as the City has budgeted for the full GWF and WCF gate fee and the City would only be paying the balance to the SMRC after deducting the landfill gate fee.

At this stage it is not possible to determine what financial implications may result should the remaining SMRC Member Councils agree to request a review of the Establishment Agreement and the Project Participants' Agreement of the Southern Metropolitan Regional Council.

Should the remaining Member Councils agree to a review and this is approved by the Minister, then a further report to Council may be required to endorse any additional funding requirements. Alternatively, this may be addressed as part of the 2013/2014 annual budget process depending on the timing of the review.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There is the potential for an adverse public reaction to the City disposing of waste to landfill as a result of the SMRC being unable to comply with the conditions of the amended operating licence. However this is unavoidable as landfill disposal is currently the only viable option available.

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

It is also considered appropriate to undertake a review of the Establishment Agreement and Project Participants' Agreement as a result of the endorsement of the City's Corporate Plan which had the following action included at the Ordinary Meeting of Council on 20 November 2012:

*“Develop strategies to mitigate the financial risk resulting from Council's involvement in the SMRC.”*

A review of the Establishment Agreement and the Project Participants' Agreement will ensure the future viability and direction of the SMRC and Waste Disposal is considered and that this is provided in the most appropriate manner, with particular attention to reducing the City's financial risk profile.

**POLICY IMPLICATIONS**

Any period of diversions from the RRRC will have an impact on the environment and during a period of diversion the following policies will be impacted upon.

CP- 030 - Environmental Policy  
CP- 036 - Waste Minimisation Policy

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could request that the calculation of the City's portion of the ongoing operating expenses be calculated on population figures, however from discussion with the other remaining SMRC Member Councils and the SMRC, this is not their preferred method of calculating contributions to an operating loss. If Council did request the ongoing financial assistance to the SMRC be calculated on population, this could result in a lower contribution than the current gate fee proposal.

The Project Participants' Agreement appears to be silent on how contributions to an operating loss are calculated, however the proposal as it stands, is consistent with how this was calculated previously when the WCF was instructed to cease receiving waste as a result of the DEC amended licence on 14 April 2012.

Council could resolve to not provide the financial assistance required. This would result in the SMRC becoming insolvent and has serious financial implications for the SMRC and the other SMRC Member Councils. The City has a legal obligation to contribute to the SMRC and the withholding of financial assistance is not recommended.

There are no alternative options presented with regard to the need to review the Establishment Agreement and the Project Participants' Agreement of the SMRC.

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)****CONCLUSION**

While it is unfortunate that the SMRC appears to be unable to comply with the conditions of the amended operating licence, the conditions placed on them by the DEC have been extremely tight with regard to timeframes. The SMRC has been working relentlessly in an attempt to achieve the conditions and have to date made excellent progress. It is envisaged that the WCF will be operational by mid January 2013.

It is critical that the City continues to provide the financial assistance requested by the SMRC and that the method of payment be based on the actual disposal tonnages at landfill and the difference between the landfill gate fee and the adopted 2012/2013 SMRC WCF and GWF gate fees.

It is therefore recommended that the City continues to provide the necessary financial assistance to ensure the SMRC meets its fixed cost obligations during any period of voluntary closure as the SRMC endeavours to comply with the amended operating licence conditions imposed by the DEC.

As a result of the withdrawal of the City of Canning and the City of Rockingham and the ongoing financial implications to the remaining SMRC Member Councils, it is considered essential that a review of the Establishment Agreement and the Project Participants' Agreement be undertaken to determine the future requirements of the SMRC Member Councils and the direction of the Southern Metropolitan Regional Council.

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3360)****ABSOLUTE MAJORITY**

On request from an Elected Member the Mayor advised that Officer Recommendation 1 and 2 would be put to the vote separately.

At 7.53pm Cr Robartson moved, seconded Cr Reidy -

**That Council:**

- 1. Continues to provide financial assistance to the Southern Metropolitan Regional Council based on the actual disposal tonnages of Municipal Solid Waste at landfill and the difference between the landfill gate fee and the adopted 2012/2013 Southern Metropolitan Regional Council's Waste Composting Facility gate fee during any period of voluntary closure.**
- 2. Continues to provide financial assistance to the Southern Metropolitan Regional Council based on the actual disposal tonnages of Green Waste processed off site and the difference between the tendered rate and the adopted 2012/2013 Southern Metropolitan Regional Council's Green Waste Facility gate fee during the period 15 December 2012 and 31 March 2013.**

At 7.53pm Cr Foxtton returned to the meeting.

At 7.53pm Dr Silcox left the meeting and returned at 7.55pm.

At 8.07pm Cr Reynolds left the meeting and returned at 8.09pm.

At 8.12pm Cr Pazolli left the meeting and returned at 8.15pm.

At 8.49pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (10/3)**

**His Worship the Mayor requested that the votes be recorded –**

**For: Mayor R Aubrey, Cr Barton, Cr Foxtton, Cr Hill, Cr Kinnell, Cr Macphail, Cr Reidy, Cr Reynolds, Cr Robartson, Cr Willis**

**Against: Cr Nicholson, Cr Pazolli, Cr Taylor-Rees.**

- 3. Requests the Chief Executive Officer to write to the remaining Southern Metropolitan Regional Council Members requesting their support to undertake a review of the Establishment Agreement and the Project Participants' Agreement of the Southern Metropolitan Regional Council.**
- 4. Subject to the support of the Southern Metropolitan Regional Council Members, requests the Chief Executive Officer to write to the Minister for Local Government informing him of the intention to review the Establishment Agreement of the Southern Metropolitan Regional Council in accordance with Clause 3.65 (1) of the Local Government Act 1995.**

**LATE ITEM - T12/3360 – SOUTHERN METROPOLITAN REGIONAL COUNCIL FUNDING REQUEST – WASTE COMPOSTING FACILITY CLOSURE AND GREEN WASTE PROCESSING (AMREC)**

- 5. Requests the Chief Executive Officer, that at the conclusion of the review of the Establishment Agreement and the Project Participants' Agreement of the Southern Metropolitan Regional Council, that both agreements be presented to Council for endorsement.**
- 6. Requests that following the endorsement of the Establishment Agreement of the Southern Metropolitan Regional Council by Council it be forwarded to the Minister for Local Government for approval.**

At 8.50pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)**

Ward : Not applicable  
 Category : Strategic  
 Subject Index : Southern Metropolitan Regional Council  
 Customer Index : City of Rockingham  
 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 : John Christie  
 Director Technical Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)****KEY ISSUES / SUMMARY**

- The City of Rockingham gave notice of its intention to withdraw from the Southern Metropolitan Regional Council (SMRC) on 27 April 2011, resulting in an effective withdrawal date of 30 June 2012.
- As a result of the notice of withdrawal the SMRC prepared Amended Business Plans for the projects that the City of Rockingham is a participant.
- The SMRC has now completed the final notional winding up calculations and has reported that the City of Rockingham's liability based on proportional entitlement or liability for each Project.
- The City of Rockingham has paid the outstanding liabilities to the SMRC.
- As there is no longer an obligation for the City of Rockingham to pay any further loan repayments under the Project Agreement, it is recommended that the Council resolve to consent and instruct the SMRC to issue a new share percentage to the WATC as part of the withdrawal process.

**BACKGROUND**

The City of Melville is a participant in the SMRC which is a statutory local government authority for providing environmentally sustainable waste management solutions for the communities of Cockburn, East Fremantle, Fremantle, Kwinana, Melville and Rockingham

The City of Rockingham gave notice of its intention to withdraw from the SMRC on 27 April 2011, resulting in an effective withdrawal date of 30 June 2012.

The Establishment Agreement of the SMRC at Clause 8.10 and 8.11 outlines the requirements for any Project Participant who wishes to withdraw from a Project.

Clauses 8.10 and 8.11 of the Establishment Agreement state as follows:

*"8.10 Withdrawal from Project*

*A Project Participant may at any time give notice of its intention to withdraw from a Project.*

*8.11 When Withdrawal to Take Effect*

*The withdrawal of a Project participant shall take effect*

- (a) from the end of the financial year after the financial year in which notice under clause 8.10 has been given by the Project Participant to the Regional Local Government, or*
- (b) on any earlier date agreed by the project Participants.*



**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)**

In addition to the above, Clause 11.3 Establishment Agreement of the SMRC states:

*“11.3 Entitlement or Liability of Withdrawing Project Participant*

*As soon as practicable after the withdrawal of a Participant takes effect, the Regional Local Government shall:*

- (a) distribute to the Participant an amount equal to the proceeds and any surplus funds which would have been payable if the Regional Local Government was wound up; or*
- (b) be entitled to recover from the Participant an amount equal to the liability or debt which would be payable by the Participant if the Regional Local Government was wound up.”*

As a result of the notice of withdrawal the SMRC prepared Amended Business Plans for the projects that the City of Rockingham is a participant.

**DETAIL**

The SMRC has now completed the final notional winding up calculations and has reported that the City of Rockingham’s liability based on proportional entitlement or liability for each Project is as follows.

<b>Table 1</b>	<b>Liability Final</b>
Existing Undertakings	\$121,830
Office Project	\$65,292
Total	\$187,122

The Existing Undertakings include expenses towards the administration, research and education functions of the SMRC and have been calculated on the basis of a notional winding up of these functions as at 30 June 2012 and therefore Rockingham’s liability is 25.6%. The City of Rockingham is a Participant in the Office Project and in accordance with the Agreement it has a proportionate liability of 26.8%.

The Office Project has a loan with the Western Australian Treasury Corporation (WATC). The loan agreement requires continuing participants to give consent to allow withdrawing participants to retire from their obligations to pay the debt.

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

**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)**

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

**Impact of Rockingham's withdrawal on loan liability proportions**

	Previous		FY13		Revised	
	%	\$	%	\$	%	\$
Cockburn	24.30%	437,338	94,003	35.43%	637,700	
East Fremantle	2.18%	39,322	7,751	2.92%	52,581	
Fremantle	8.10%	145,854	29,383	11.07%	199,329	
Kwinana	7.57%	136,235	30,433	11.47%	206,452	
Melville	30.34%	546,160	103,767	39.11%	703,937	
Rockingham	27.51%	495,093		0.00%	-	
<b>Total</b>	<b>100.00%</b>	<b>1,800,000</b>	<b>265,337</b>	<b>100.0%</b>	<b>1,800,000</b>	

*NB The figures shown above have been subject to rounding*

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

**PUBLIC CONSULTATION/COMMUNICATION**

No public consultation has been undertaken.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Consultation has been undertaken with the remaining SMRC Member Councils and the SMRC.

**STATUTORY AND LEGAL IMPLICATIONS**

There are no statutory or legal implications associated with this report

**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)**
**FINANCIAL IMPLICATIONS**

The withdrawal of the City of Rockingham will result in the following percentage change for the SMRC Member Councils.

Participants	Impact of Rockingham's withdrawal on continuing participants' proportions									
	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21
Canning										
Cockburn	24.3%	35.4%	35.3%	35.5%	35.7%	35.8%	35.9%	35.9%	36.0%	36.3%
East Fremantle	2.2%	2.9%	2.7%	2.6%	2.6%	2.5%	2.5%	2.5%	2.4%	2.4%
Fremantle	8.1%	11.1%	10.6%	10.5%	10.4%	10.3%	10.2%	10.1%	10.1%	10.0%
Kwinana	7.6%	11.5%	13.1%	13.7%	14.1%	14.7%	15.2%	15.7%	16.2%	16.2%
Melville	30.3%	39.1%	38.2%	37.7%	37.1%	36.6%	36.2%	35.7%	35.3%	35.1%
Rockingham	27.5%									
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

*NB The figures shown above have been subject to rounding*

The withdrawal of the City of Rockingham will result in the following amendments to the contributions of the SMRC Member Councils.

Contributions Participants	Dollar Impact of Rockingham's withdrawal on continuing participants' proportions									
	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21
Cockburn	30,642	40,159	35,197	36,221	37,334	38,364	39,510	40,775	42,162	43,939
East Fremantle	2,755	3,311	2,694	2,700	2,710	2,732	2,760	2,794	2,834	2,897
Fremantle	10,219	12,553	10,615	10,734	10,871	11,056	11,269	11,510	11,779	12,150
Kwinana	9,545	13,001	13,108	13,919	14,764	15,769	16,783	17,836	18,953	19,548
Melville	38,266	44,330	38,073	38,394	38,780	39,265	39,846	40,519	41,283	42,393
Rockingham	34,688									
Total	126,115	113,353	99,688	101,967	104,459	107,186	110,169	113,434	117,010	120,926

*NB The figures shown above have been subject to rounding*

Based on the estimated amended business plan for the office project, the annual financial impact on the City will be minimal as shown in the 10 year forecast table above.

This is because the annual calculation for percentage share based on population shows the City's share decreasing, while other SMRC Members population growth increases, as well as a decrease in loan interest.

The City's 2012/2013 contribution was not increased as estimated in the amended business plan as the SMRC absorbed any financial impact for the FY12/13 contributions by reducing its expenses in its existing undertakings.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**LATE ITEM - T12/3361 - CITY OF ROCKINGHAM WITHDRAWAL FROM SOUTHERN METROPOLITAN REGIONAL COUNCIL (REC)****POLICY IMPLICATIONS**

There are no policy implications associated with this report

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

There are no alternative options presented.

**CONCLUSION**

While it is disappointing to have the City of Rockingham withdraw from the Southern Metropolitan Regional Council, the City have Rockingham have done so in accordance with the Establishment Agreement of the Southern Metropolitan Regional Council and have settled all outstanding liabilities associated with the notional winding up detailed above.

It is recommended that the Council consents to the City of Rockingham being retired from its obligations associated with the SMRC.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3361)****APPROVAL****That the Council:**

- 1) **Consents to the City of Rockingham being retired from its obligations under the \$2 million secured lending facility (known as the Office Project Loan) between the Western Australian Treasury Corporation, the participants and the Southern Metropolitan Regional Council from 31 December 2012.**
- 2) **Requests the Southern Metropolitan Regional Council to submit a revised Exhibit "B" Certificate to the Western Australian Treasury Corporation as required under the terms and conditions of the loan agreements specified in (1) above indicating the new percentages of the debt being apportioned to the remaining participants following the withdrawal of the City of Rockingham effective 31 December 2012.**

At 8.50pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****15. EN BLOC ITEMS**

At 8.50pm Cr Willis moved, seconded Cr Macphail -

**That the recommendations for items P12/3356, P12/3357, P12/3358, P12/3359, C12/5000, C12/6000, C12/6001 and T12/3361 be carried En Bloc.**

At 8.50pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)**

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

Nil.

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

At 8.51pm Cr Robartson moved, seconded Cr Reynolds –

**That the meeting be closed to the public to permit discussion on a confidential matter, Confidential Item C12/5266 – Walter’s River Café’ – Request for Lease Fee Relief covered under Section 5.23 (2) (e) of the Local Government Act 1995 relating to a matter that if disclosed would reveal information that has a commercial value to a person Confidential Item P12/3362 – Reconsideration of Three Storey Mixed-Use Development at Lot 276 (8) Bragor Place, Ardross covered under Section 5.23 (2) (d) of the Local Government Act 1995 relating to a matter of legal advice obtained, or which may be obtained, by the local government.**

At 8.51pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)**

At 8.51pm His Worship the Mayor adjourned the meeting for a comfort break.

At 8.56pm the meeting recommenced.

**CONFIDENTIAL ITEM - C12/5266 - WALTER’S RIVER CAFÉ – REQUEST FOR LEASE FEE RELIEF (AMREC)**

At 8.57pm Cr Barton moved, seconded Cr Taylor-Rees -

**That the Council approve by Absolute Majority the Officer Recommendation contained in the Confidential Item C12/5266 – Walter’s River Café’ – Request for Lease Fee Relief.**

At 9.11pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**LATE & CONFIDENTIAL ITEM P12/3362 – RECONSIDERATION OF THREE-STOREY MIXED-USE DEVELOPMENT AT LOT 276 (8) BRAGOR PLACE, ARDROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

At 9.15pm Cr Pazolli moved, seconded Cr Reidy -

**That the Council approve by Special Majority the Officer Recommendation contained in the Confidential Item P12/3362 – Reconsideration of Three-Storey Mixed-Use Development at Lot 276 (8) Bragor Place, Ardross.**

At 9.21pm the Mayor submitted the motion, which was declared  
**CARRIED BY SPECIAL MAJORITY (13/0)**

At 9.21pm Cr Kinnell moved, seconded Cr Robartson -

**That the meeting come out from behind closed doors and the public be invited back into the meeting.**

At 9.21pm the Mayor submitted the motion, which was declared  
**CARRIED (13/0)**

No members of the public returned to the meeting.

**CORRECTION TO ITEM C12/6052 – CITY OF MELVILLE ANNUAL FINANCIAL STATEMENTS FOR 2011/12**

The Mayor gave leave for the Director of Corporate Services to table and discuss a Memorandum concerning Item C12/6052.

The Director Corporate Services tabled a memorandum outlining a correction to Item C12/6052 - City of Melville Annual Financial Statements for 2011/2012 that was presented to the Financial Management, Audit, Risk & Compliance Committee Meeting on 12 November 2012 and the Ordinary Meeting of Council on 20 November 2012. The memorandum will be included in these minutes and annotated in the November 2012 Minute Book.

**Closing Funds (Surplus) Arising From the 2011/2012 Financial Year**

**18. CLOSURE**

There being no further business to discuss His Worship the Mayor declared the meeting closed at 9.29pm.