

**MINUTES**

**OF THE**

**ORDINARY MEETING OF COUNCIL**

**HELD ON**

**TUESDAY 15 APRIL 2014**

**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, 15 APRIL 2014.**

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**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6:30pm. Mr J Clark, Governance and Compliance Program Manager, read aloud the Disclaimer that is on the front page of these Minutes and then His Worship the Mayor, R Aubrey, 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 M Reynolds (Deputy Mayor)  
Cr N Foxtan  
Cr D Macphail, Cr R Aubrey  
Cr C Robartson, Cr R Willis  
Cr C Schuster, Cr N Pazolli  
Cr J Barton  
Cr R Hill, Cr P Phelan

**WARD**

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

**3. IN ATTENDANCE**

Dr S Silcox	Chief Executive Officer
Mr M Tieleman	Director Corporate Services
Mr T Cahoon	A/Director Community Development
Ms K Brosztl	A/Director Technical Services
Mr S Cope	Director Urban Planning
Mr L Hitchcock	Executive Manager Legal Services
Mr P Prendergast (Until 8.24pm)	Manager Statutory Planning
Mr J Clark	Governance & Compliance Program Manager
Mr N Fimmano	Governance & Property Officer
Ms J Paparella	Minute Secretary

At the commencement of the meeting there were 9 members of the public and one member from the Press in the Public Gallery.

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

Ms Christine Young – Director Community Development  
Mr John Christie – Director Technical Services

**4.2 APPROVED LEAVE OF ABSENCE**

Cr S Taylor-Rees – Bicton/Attadale Ward

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

Nil

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

Nil

## 6. QUESTION TIME

### 6.1 – E Nicholson - Applecross

#### Question 1

*“Which form of community consultation, if any, and with which stakeholders, did the City undertake consultation prior to the application for a clearing permit being made on the west side of the lease of the blue gum tennis club? (apart from consulting with the blue gum tennis club)”*

#### Response

Officers have consulted with the Western Australian Department of Parks and Wildlife and the Western Australian Department of Environmental Regulation.

While feedback from Western Australian Department of Parks and Wildlife would indicate that a clearing permit is not likely to be required it was felt that by applying for a clearing permit would allow the appropriate departments to properly assess the request.

#### Question 2

*“As there has already been an application for a clearing permit submitted to the Department of Environmental Regulation, has the City of Melville received approval from the Booragoon and Blue Gum Lakes Friends’ Group for the lease extension (and Bush Forever Site instruction) to go ahead?”*

#### Response

Approval from a community group is not required to submit for a clearing permit? The City has met onsite with a representative from the friends of groups on the plan for a green keepers compound and will continue to consult regarding the rehabilitation plan for the degraded area if they want to have impute into this matter should it be approved.

#### Question 3

*“As Blue Gum Lake Reserve forms part of the Beeliam Regional Park, has the City of Melville consulted/told/advised the Beeliam Regional Park Advisory Committee regarding the planned western extension of the Blue Gum tennis club’s leased areas into Blue Gum Lake Reserve?”*

#### Response

Beeliam Regional Park Advisory Committee has not been consulted to date.

Question 4

*"I refer to the Bluegum Lake Reserve Strategic Management Plan 2012 which was commissioned by the City of Melville. In that document, the significance of Blue Gum Lake is spelt out. How does City of Melville justify the planned western extension of the blue gum tennis club's lease into a Bush Forever Site given the significance of Blue Gum Lake Reserve as detailed out in the above management plan?"*

Response

The Blue Gum Lake Reserve Strategic Management Plan 2012 takes into consideration the requirements of all users at the Blue Gum Reserve. This includes the Blue Gum Park Tennis Club that has been operating at its facility since 1986.

The justification of rehabilitating the degraded area is in providing an appropriate solution to the current conflict between the Bush for ever site and the operations of the Tennis Club.

Question 5

*"Blue Gum Tennis club planned extension into Bush Forever site; how will the City of Melville handle the required firebreak distance from the edge of the extension should the planned clearing and development be approved by the Department for Environment Regulation?"*

Response

The planned development has been submitted to the Department of Environmental Regulation for consideration of providing a clearing permit. Any impact the development would have on the bush forever site would be taken into consideration when a determination is made on the clearing permit application.

It is highly unlikely that any requirement of a firebreak would result in any clearing of bushland due to the size of the compound with in the already degraded area.

Question 6

*"What compensation/offset will be paid by the Blue Gum tennis club to Melville ratepayers for the land on the western side of the grass courts at Blue Gum Lake Reserve should the Department for Environment Regulation approve this intrusion into our Wetlands?"*

Response

The development at the Club will be fully funded by the club. The club would also be responsible for the costs of revegetating the degraded area.

Question 7

*“As a clearing permit has not been issued yet for the western side of the blue gum tennis courts expansion/intrusion into Blue Gum Lake Reserve, why has clearing already commenced and why is there a commercial size garbage bin and an earth-moving vehicle on the Bush Forever site?”*

Response

The operations of the Club since 1986 has required access to the tennis courts from the Western Boundary. This development will provide:

- a clearly delineated area that the club can use,
- a solution to the conflict of use in the current degraded area,
- a rehabilitation of native plants and fauna for the degraded area.

**6.2 – MA Oliver – Booragoon**Question 1

*“ The Blue Gum Park Tennis Club has encroached on the bush forever site in the blue gum reserve, leaving an area approximately 14m x34m devoid of vegetation. This encroachment is evident in aerial photos of site taken over the last 30-40 years, beginning when the club commenced operations.*

*Has there been in the past some formal agreement with the City of Melville permitting the tennis club to encroach the public land? If not, why has the club been permitted to damage public land with no repercussions? “Will the club be asked to make reparations for their encroachment?” Will they be required to fund repairs to the fragile reserve environment?”*

Response

The Chief Executive Officer advised that there was a formal agreement in relation to the area in dispute in the form of a lease, in fact, more area than that being asked for by the Club’s recent request. The Club had access to that area during the period 1986 - 2004.

The most recent lease does not specifically include the area and a research of Council records shows that this was an administrative error. In relation to the other two questions they have been answered in the response to the previous questions asked.

**7. AWARDS AND PRESENTATIONS**

Nil

**8. CONFIRMATION OF MINUTES****8.1 ORDINARY MEETING OF COUNCIL – 18 MARCH 2014**  
**Minutes 18 March 2014****COUNCIL RESOLUTION**

At 6.45pm Cr Macphail moved, seconded Cr Schuster –

**That the Minutes of the Ordinary Meeting of Council held on Tuesday, 18 March 2014, be confirmed as a true and accurate record.**

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

**CARRIED UNANIMOUSLY (12/0)**

**8.2 NOTES OF AGENDA BRIEFING FORUM – 1 APRIL 2014**  
**Notes 1 April 2014****COUNCIL RESOLUTION**

At 6.45pm Cr Schuster moved, seconded Cr Hill –

**That the Notes of the Agenda Briefing Forum held on Tuesday, 1 April 2014, be received.**

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

**CARRIED UNANIMOUSLY (12/0)**

**8.3 GOVERNANCE COMMITTEE – 9 APRIL 2014****COUNCIL RESOLUTION**

At 6.45pm Cr Schuster moved, seconded Cr Aubrey –

**That the Minutes of the Governance Committee Meeting held on Wednesday 9 April 2014 be noted.**

**NB:**

**Minutes to be confirmed at next Governance Committee Meeting.**

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

**CARRIED UNANIMOUSLY (12/0)**

**8.3 GOVERNANCE COMMITTEE – 14 APRIL 2014**

**To allow time for Elected Members to read the Minutes, this item was held over to later in the meeting.**

**COUNCIL RESOLUTION**

At 8.35pm Cr Robartson moved, seconded Cr Phelan –

**That the Minutes of the Governance Committee Meeting held on Monday, 14 April 2014 be noted.**

**NB:**

**Minutes to be confirmed at next Governance Committee Meeting.**

**Note: Confirmation of the Minutes was adjourned until the end of the meeting to give Elected Members time to read the minutes.**

At 8.35pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

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

- M14/5358 - Shayne Silcox – Chief Executive Officer – Financial Interest in accordance with the Act
- M14/5359 - Shayne Silcox – Chief Executive Officer – Financial Interest in accordance with the Act

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

- Notice of Motion – Blue Gum Park – Cr Schuster – interest under Code of Conduct

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

At 6.48pm Cr Robartson moved, seconded Cr Aubrey -

**That the applications for new leaves of absence submitted by Cr Barton, Cr Foxton, Cr Pazolli, Cr Willis on 15 April 2014 be granted.**

At 6.48pm the Mayor submitted the motion which was declared

**CARRIED (12/0)**

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

Item M14/5358 - City of Melville – Chief Executive Officer Performance Review

Item M14/5359 - City of Melville – Chief Executive Officer Performance Review

**12. PETITIONS**

Nil

**13. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

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

**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2013-1583  
 Property : Lot 102 (No. 33) Matheson Road, Applecross  
 Proposal : Retrospective planning approval for the construction of a domestic tennis court and associated site works  
 Applicant : R. Cao  
 Owner : Springtown Pty Ltd  
 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 Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Retrospective planning approval is sought for the construction of a domestic tennis court and associated site works at (No.33) Matheson Road, Applecross.
- The tennis court satisfies all of the relevant provisions of Community Planning Scheme No. 5 (CPS5) and Council Policy 061: Tennis Courts, however the associated site works do not satisfy the Deemed to Comply provisions of the Residential Design Codes (R-Codes).
- In accordance with Council Policy 061, the application was advertised to the surrounding property owners and occupiers and two objections were received. These submissions outline concerns with regard to fencing, the use of the tennis court and the development of the surrounding lots.
- The impacts resulting from the site works that have been undertaken to construct the tennis court are mitigated through the planting along the street boundary and the retaining walls being setback from both adjoining properties.
- The City's Development Advisory Unit (DAU) considered the application on 11 March 2014 and notwithstanding the objections received, recommended that the application be approved as it is considered to satisfy all of the relevant provisions within CPS5, the R-Codes and Council Policy.
- In accordance with CP-044: Development Advisory Unit, the Chief Executive Officer (CEO) approved a call up request from two Elected Members on the grounds that the landscaping is insufficient and the basketball hoops render the court unusable for tennis purposes. On this basis, the report is referred to Council for determination.



**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

## **BACKGROUND**

The City's Development Advisory Unit (DAU) considered the application on 11 March 2014 and notwithstanding the objections received, recommended that the application be approved, as the development is considered to satisfy all of the relevant provisions within CPS5, the R-Codes and Council Policy.

In accordance with CP-044: Development Advisory Unit, Councillor's Schuster and Pazolli requested on 24 March 2014, that the report be called up for consideration by Council for the following reasons:

*Under Clause 3(3) of Council Policy CP-044 we have some difficulty with the shielding vegetation provided at the road frontage of the tennis court. Also, the intrusion of basketball backboards and their supports makes the court effectively not usable for a game of tennis played to the rules.*

The CEO subsequently approved the call up request. On this basis, the report is now referred to Council for determination.

## **Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area Precinct
R-Code	:	R12.5
Use Type	:	Residential
Use Class	:	None applicable

## **Site Details**

Lot Area	:	598sqm
Retention of Existing Vegetation	:	None applicable
Street Tree(s)	:	None applicable
Street Furniture (drainage pits etc)	:	None applicable
Site Details	:	Refer to aerial photo above

[3487 Plans 33 Matheson Road Applecross](#)

## **DETAIL**

Retrospective planning approval is sought for the construction of a domestic tennis court, installation of transportable basketball hoops and associated site works at 33 Matheson Road, Applecross.

The tennis court is approximately 33m by 18m. The tennis court is a hard surface court covered with a blue synthetic material.

The fencing surrounding the tennis court is of open wire mesh with a maximum height of 2.7m along the street boundary and 3.6m along the other three sides.

Flood lighting has been installed within the tennis court on top of four light poles along the northern and southern sides of the court.

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Moveable basketball hoops and soccer goals are also situated within the tennis court area which are unfixed and can be moved around within the area.

Landscaping in the form of white standard roses have been planted along the northern side of the tennis court and bamboo has been planted along the street boundary.

Due to the topography of the site, site works have been undertaken and retaining walls have been constructed to create the flat tennis court area. The maximum height of the retaining wall is 1.1m above natural ground level in the northwest corner of the property.

**CPS5 and Policy Requirements**

The proposal satisfies all of the relevant provisions contained within CPS5, the R-Codes and Council Policy 061: Tennis Courts with the exception of those matters listed below:

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Site Works	Excavation or fill within 3m of the street boundary to be less than 0.5m	Excavation of up to 0.77m	Requires assessment against Design Principle 5.3.7 of R-Codes	Manager Statutory Planning (MSP)
	Excavation or fill within 1m of a lot boundary not to exceed 0.5m	Fill of up to 1.1m along the northern boundary	Requires assessment against Design Principle 5.3.7 of R-Codes	MSP

**STAKEHOLDER ENGAGEMENT**

**I COMMUNITY**

The adjoining properties to the north and south were consulted by the Applicant, and signed letters of no objection from both of these owners were submitted with the application. On this basis, the proposal was advertised to only the property directly across the road from the development site.

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	In accordance with Part 5 of CP-061: Tennis Courts
Support/Object:	Two Objections

**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1	<p>Concerned about the height of the tennis court fencing along the street as it does not contribute toward the existing character of the streetscape and the the R-Codes only allow 1.2m high fencing.</p>	Objection	<p>The height of the fencing is in accordance with Council Policy. To soften the impact of the fencing within the streetscape, planting has been provided along the street boundary.</p>	Not Uphold
	<p>The proposal does not ensure adequate open space is provided on site.</p>	Objection	<p>The tennis court constitutes open space for the purposes of the R-Codes definition.</p>	Not Uphold
	<p>The basketball hoops are not sympathetic to the scale of the street and surrounding buildings and create a multi sports area. It is not appropriate that any sport other than tennis should take place.</p>	Objection	<p>Both CPS5 and Council Policy only provide criteria for the assessment of tennis courts, notwithstanding, the use of the court area for other sports is not considered unreasonable. With the planting of the bamboo along the street boundary, the visual impacts of the hoops are mitigated.</p>	Not Uphold
	<p>Concerned about the ongoing development of the surrounding lots which are all owned by the same company.</p>	Objection	<p>The relevant planning and building approvals have been issued for the development that is occurring on the adjoining properties.</p>	Not Uphold

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2	The construction presents an unattractive street façade opposite the submitter's property affecting their amenity.	Objection	Since the receipt of this submission the City has liased with the Applicant to provide planting along the street boundary to further soften the impact of the fencing within the streetscape.	Not Uphold
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**II. OTHER AGENCIES/CONSULTANTS**

No consultation with other agencies / consultants is required.

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

No financial implications result for the City as a consequence of this proposal.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The proposal complies with Council Policy 061: Tennis Courts.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The application is recommended for approval for the reasons outlined in the Comment section below. Should the Council have an alternate view, the application could be refused, or alternatively, additional conditions may be imposed.

If the Council refuses to grant approval, or if any conditions of planning approval are imposed that the Applicant considers unreasonable, the Applicant can apply to have the decision of the Council reviewed by the State Administrative Tribunal (SAT).

**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**COMMENT**

As outlined above, Part 5 of CP-061: Tennis Courts required the advertising of the application to adjoining property owners and occupiers. The current policy requires this advertising to occur notwithstanding compliance with all of the policy provisions.

The Applicant provided comments of no objection from the adjoining property owners to the north and south as part of the application. On this basis, the application was advertised to the property directly across the road. As a result of this consultation, two submissions were received with the concerns outlined above. Notwithstanding, the objections received, the tennis court itself, satisfies all of the relevant provisions within CPS5, the R-Codes and CP-061: Tennis Courts.

*Site Works*

The site works associated with the construction of the tennis court however, do not satisfy the Deemed to Comply provisions of the R-Codes in relation to the extent of excavation that has been undertaken within 3m of the street boundary and the level of fill within the north-west corner of the property. On this basis, the site works require assessment against the applicable Design Principles which state:

- P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*
- P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.*

The land within the area is slopping down from east to west with a fall of approximately 2m across the subject site. The site works that have occurred to create the flat tennis court area are approximately equal in terms of both cut and fill. On this basis, the development is considered to respect the natural ground levels within the area.

The excavation that has occurred within the front portion of the property has enabled the fencing to be lower in height along the street boundary, thereby mitigating its impact within the streetscape.

The area of fill and retaining located within the north-western boundary is considered acceptable on the basis that it is located adjacent to the battleaxe access leg and truncation of the rear property which is not considered a sensitive space.

As a result of the above assessment, the proposal is considered to satisfy both Design Principles P7.1 and 7.2 above.

*Basketball Hoops*

As outlined above, two moveable basketball hoops are currently situated within the tennis court area.

CPS5 allows basketball hoops to be installed as-of-right provided they are: *'limited to one per property and not greater than the standard competition size and height'*.

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The hoop structures are consistent with the standard competition size and height. Notwithstanding, as two basketball hoops are located within the court area, planning approval is required for one of the two hoops.

In terms of the visual impact of the hoop structures, their impact is not significant, by virtue of the backboards being visually permeable, the overall design and the location within the court area.

It is noted however, that the use of the tennis court for basketball may result in a greater noise and amenity impact upon surrounding properties than the use of the court for tennis purposes only. A review of the *Environmental Protection (Noise) Regulations 1997* has found that there are noise restrictions on the use of land adjacent to 'noise sensitive premises' (such as residential properties) for basketball purposes, which limit the use to the following hours:

- 7am to 7pm Monday to Saturday, and
- 9am to 7pm on Sundays and Public Holidays

Accordingly, a condition of approval is recommended restricting the use of the court for basketball purposes to the abovementioned hours.

## **CONCLUSION**

Based on the above, the application satisfies the requirements of CPS5, the R-Codes and Council Policy 061: Tennis Courts. On this basis, the proposal is recommended for approval subject to conditions.

**P14/3487 - RETROSPECTIVE PLANNING APPROVAL FOR THE CONSTRUCTION OF A DOMESTIC TENNIS COURT, INSTALLATION OF MOVEABLE BASKETBALL HOOPS AND SITE WORKS AT LOT 102 (NO.33) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3487)**

**APPROVAL**

That the retrospective planning application for the construction of a domestic tennis court, installation of moveable basketball hoops and site works at Lot 102 (No.33) Matheson Road, Applecross be approved subject to the following conditions:

1. The tennis court is to be utilised for domestic purposes only unless further planning approval is granted.
2. Within 30 calendar days of the date of this approval, a time switch is to be included in the lighting circuit to ensure that floodlights are extinguished between the hours of 10pm and 7.30am. The time switch shall thereafter be maintained in perpetuity.
3. Within 30 calendar days of the date of this approval, written certification from a suitably qualified lighting consultant is to be submitted for the approval of the Manager Statutory Planning certifying that the tennis court flood lighting complies with the Australian Standard AS.4282 and Council Policy 061: Tennis Courts. Where any additional measures are required as a result of the report, these works are to be undertaken within 14 calendar days of the date of the report to the satisfaction of the Manager Statutory Planning.
4. The bamboo planting along the street boundary shall be maintained in perpetuity to the satisfaction of the Manager Statutory Planning.
5. All stormwater generated on site is to be retained on site.
6. Within 30 calendar days of the date of this approval, the southern side of the tennis court shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished ground level of the tennis court, or any other screening alternative that complies with the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.
7. The privacy screen along the southern boundary constitutes a dividing fence and does not form part of this approval. The dividing fence is governed under the Dividing Fences Act 1961 and it is the Applicant's responsibility that this is met.
8. The use of the court for basketball purposes is to be limited to 7am and 7pm Monday to Saturday, and 9am to 7pm on Sundays and Public Holidays.

**Advice Notes**

1. Any additional development which is not in accordance with the original application or conditions of approval will require further approval prior to construction.

At 6.49pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

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

**P14/3482 - REVIEW OF COUNCIL POLICY 051: TEMPORARY STRUCTURES (REC)  
(ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : None applicable  
 Property : None applicable  
 Proposal : Review of CP-051: Temporary Structures  
 Applicant : None applicable  
 Owner : None applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P10/3152 – Final Adoption of Advertised Planning Policies – Ordinary Meeting of Council 17 August 2010  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3482 - REVIEW OF COUNCIL POLICY 051: TEMPORARY STRUCTURES (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 and the Residential Design Codes.
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- Council policy CP-051 was last reviewed by Council on 17 August 2010 and is therefore due for review.
- The existing policy has been re-drafted to make the current policy easier to administer and to clarify its intent.
- The re-drafted policy now provides clear assessment criteria relating to the installation of temporary structures such as sea containers, demountable offices, portable toilets and the like. The policy has also been re-drafted to include different criteria relating to the location of the temporary structures, whether they are on private property or on property under the care and control of the City.
- It is recommended that Council adopt the re-drafted policy for the purposes of public consultation.

**BACKGROUND**

The definition of 'development' within the *Planning and Development Act 2005* includes:

*'any demolition, erection, construction, alteration of or addition to any building or structure on the land'.*

Accordingly, although sea containers, skip bins and portable toilets are unlikely to be classified as a 'building', they are 'structures' and therefore require approval unless otherwise exempt by CPS5.

Clause 7.1, 7.2 and 7.3 of CPS5 do not currently provide any exemptions for the installation of these structures.

The existing CP-051: Temporary Structures was originally adopted by the Planning and Development Services Committee in February 1992 and has since been reviewed in 2000 and 2010.

The objective of the existing policy states:

*To provide development standards for temporary structures.*

The existing policy is divided into two sections relating to temporary structures within residential living areas and those within non-residential areas, and includes provisions relating specifically to demountable houses and sea containers.

[3482 Temporary Structures Policy](#)

**P14/3482 - REVIEW OF COUNCIL POLICY 051: TEMPORARY STRUCTURES (REC)  
(ATTACHMENT)****DETAIL**

The application of the existing policy has proven to be difficult and a number of the existing provisions are not considered to have a planning purpose. On that basis, the policy has been re-drafted to provide clear assessment criteria relating to the installation of temporary structures either within private properties or on land under the care and control of the City.

The objective of the re-drafted policy now states:

*To allow the use of temporary structures for construction and storage purposes where they are located so to minimise the amenity and safety impacts upon adjoining properties and the surrounding area.*

In addition, the re-drafted policy now includes the following:

*Temporary structures on private properties*

- In place for less than 14 days – permitted without need for approval subject to criteria being met.
- In place for longer than 14 days associated with construction – approval required and acceptable subject to criteria being met.
- In place for longer than 14 days outside of a construction period – approval required and acceptable subject to criteria being met.

*Temporary structures on properties under the care and control of the City of Melville*

- Within the road reserve – approval required. Permitted only where no other option exists to position the structure within the property boundaries and subject to additional criteria being satisfied.
- Within reserves – approval required. Permitted only in conjunction with construction or temporary storage associated with the development or use of the reserve, subject to additional criteria being satisfied.

The re-drafted policy and the expanded assessment criteria will provide greater certainty for Applicants, Officers, Council and the community. Furthermore, safety related criteria, particularly in relation to traffic sightlines are emphasised.

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

Pursuant to Clause 9.6(b) of CPS5, should Council resolve to adopt the draft policy, it will be advertised via a notice in the local newspaper and on the City's website for a period of 21 days.

**P14/3482 - REVIEW OF COUNCIL POLICY 051: TEMPORARY STRUCTURES (REC)  
(ATTACHMENT)****II. 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 revised policy does not have regional significance, therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The regular review of the Council's policies improves their validity in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policy will carry similar weight to 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**

The proposed policy does not result in any strategic, risk or environmental management implications for the City.

**POLICY IMPLICATIONS**

Once adopted, the revised policy will provide a sound basis for the assessment and determination of planning applications within the City.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy, however this is not recommended.

The Council also has the ability to modify the policy prior to advertising.

**CONCLUSION**

The re-drafted policy is considered to be an improvement upon the existing policy through being clearer in its intent. In addition, the assessment criteria provided within the policy have been expanded upon and will provide greater consistency and certainty in decision making in relation to temporary structures.

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**P14/3482 - REVIEW OF COUNCIL POLICY 051: TEMPORARY STRUCTURES (REC)  
(ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3482)****ADOPTION****That the Council:**

- 1 Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 051: Temporary Structures for the purposes of public consultation for a period of no less than 21 calendar days.**
- 2 Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 051: Temporary Structures be approved under delegation by the Chief Executive Officer.**

At 6.49pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Property : Not applicable  
 Proposal : Review of Council Policy – 058: Flood and Security Lighting  
 Applicant : Not applicable  
 Owner : Not applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3188 - Final Adoption of Urban Planning Policies (Stage 2) - Ordinary Meeting of Council 15 March 2011  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 and the Residential Design Codes.
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- Council policy CP-058 was last reviewed by Council on 15 March 2011 is therefore due for review.
- The subject policy has been substantially reviewed to rely upon compliance with the relevant Australian Standard for all lighting proposals regardless of the location of the property.
- It is recommended that Council adopt the draft policy for the purpose of public consultation.

**BACKGROUND**

Council Policy – 058: Flood and Security Lighting was originally adopted by the Planning and Development Services Committee in March 1991. Since this time, the policy has been reviewed in November 2000 and March 2011.

The objective of the policy states:

*To control the impacts of outdoor flood and security lighting on the amenity of the surrounding area.*

The existing policy includes assessment criteria for the installation of flood and security lighting on non-residential properties and reserves.

**DETAIL**

The subject policy has been reviewed taking into account the low number of applications and complaints the City receives in relation to flood and security lighting.

Overall, it is considered that provided all flood and security lighting on private property is installed to comply with the relevant Australian Standard, and that flood lighting is turned off between the hours of 9pm and 6am daily where it is located adjoining residential properties, the lighting is deemed to be acceptable.

On that basis, the policy has been substantially reviewed and condensed to:

- Remove repetition,
- To permit installation of flood and security lighting where the relevant Australian Standard is satisfied and taking into account the amenity of any adjoining residential property, and
- To allow the City to request written confirmation of compliance with Australian Standards where necessary.
- To require planning approval for the installation of flood lighting on reserves.

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)****[3483 Flood and Security Lighting Policy](#)****STAKEHOLDER ENGAGEMENT****III. COMMUNITY**

Pursuant to Clause 9.6(b) of CPS5, should Council resolve to adopt the draft policy, it will be advertised via a notice in the local newspaper and on the City's website for a period of 21 days.

**IV. OTHER AGENCIES / CONSULTANTS**

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

**STATUTORY AND LEGAL IMPLICATIONS**

The regular review of the Council's policies improves their validity in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policy will carry similar weight to 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**

The proposed policy does not result in any strategic, risk or environmental management implications for the City.

**POLICY IMPLICATIONS**

Once adopted, the revised policy will provide a sound basis for the assessment and determination of planning applications within the City.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy, however this is not recommended as the current policy is repetitive and parts of the policy are unclear in their administration.

The Council also has the ability to modify the amended policy prior to advertising.

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)****CONCLUSION**

The revised policy is considered to apply a more straight forward approach, which removes the requirement to obtain planning approval for the installation of all flood and security lighting, whilst still maintaining the ability to enforce the relevant Australian Standard (where necessary).

**OFFICER RECOMMENDATION (3483)****ADOPTION**

At 6.51pm Cr Schuster moved, seconded Cr Robartson –

**That the Council:**

- 1 Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 058: Flood and Security Lighting for the purposes of public consultation for a period of no less than 21 calendar days.**
- 2 Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 058: Flood and Security Lighting be approved under delegation by the Chief Executive Officer.**

Amendment

***That the Officer Recommendation be amended by adding the following words after “period of no less than 21 calendar days”***

***“subject to the following amendments to the policy:”***

- (i) The following definitions be added to the ‘Definitions / Abbreviations Used in Policy’ section of the policy:***

***Flood lighting            A broad beam of artificial light used to illuminate an area for a continuous period of time.***

***Security lighting        A broad beam of artificial light activated by a motion sensor to illuminate an area for a temporary period of time.***

- (ii) Clause (1)(a) be amended to read:***

***(a) The lighting is installed to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting (as amended) and so that the light emissions are directed within the subject lot.***

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)**

***(iii) Clause (2)(a) be amended to read:***

***(a) The lighting is installed to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting (as amended) and so that the light emissions are directed within the subject lot.***

**REASONS:**

As requested by Elected Members at the Agenda Briefing Forum held 1 April 2014, definitions of flood and security lighting are now provided to differentiate between the two different types of lighting so to ensure that the intent of the following planning criteria is clear.

The amendments to Clauses (1)(a) and (2)(a) are recommended following another review of Australian Standard AS:4282-1997: Control of the obtrusive effects of outdoor lighting. This standard places an onus on the direction a light is orientated in mitigating the impacts upon adjoining properties.

**COUNCIL RESOLUTION (3483)****APPROVAL**

At 6.51pm the Mayor submitted the substantive motion as amended –

**That the Council:**

- 1 Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 058: Flood and Security Lighting for the purposes of public consultation for a period of no less than 21 calendar days**

***“subject to the following amendments to the policy:”***

- (i) The following definitions be added to the ‘Definitions / Abbreviations Used in Policy’ section of the policy:***

***Flood lighting            A broad beam of artificial light used to illuminate an area for a continuous period of time.***

***Security lighting        A broad beam of artificial light activated by a motion sensor to illuminate an area for a temporary period of time.***

- (ii) Clause (1)(a) be amended to read:***

***(b) The lighting is installed to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting (as amended) and so that the light emissions are directed within the subject lot.***

**P14/3483 - REVIEW OF COUNCIL POLICY – 058: FLOOD AND SECURITY LIGHTING  
(REC) (ATTACHMENT)**

*(iii) Clause (2)(a) be amended to read:*

*(b) The lighting is installed to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting (as amended) and so that the light emissions are directed within the subject lot.*

- 2 Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 058: Flood and Security Lighting be approved under delegation by the Chief Executive Officer.**

At 6.51pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (12/0)**

**P14/3484 – REVIEW OF COUNCIL POLICY 066: HEIGHT OF BUILDINGS (REC)  
(ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Property : Not applicable  
 Proposal : Review of CP-066: Height of Buildings  
 Applicant : Not applicable  
 Owner : Not applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3225 - Final Adoption of Urban Planning Policies (Stage 3 Review) – Ordinary Meeting of Council 19 July 2011  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3484 – REVIEW OF COUNCIL POLICY 066: HEIGHT OF BUILDINGS (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- Council policy 066: Height of Buildings was last reviewed by Council in July 2011. The policy is therefore due for review.
- This policy acts purely as an interpretation document for the measurement of the building heights specified within CPS5 for both residential and non-residential development.
- The policy has proved to be useful in this respect, and as such only minor changes are proposed. The intent of the policy will remain the same.
- It is recommended that Council adopt the amended policy for the purposes of public consultation.

**BACKGROUND**

The subject policy was originally adopted by the Planning and Development Services Committee in October 1999. Since this time, the policy has been reviewed in 2000, 2002, 2005 and 2011.

The objective of the policy states:

*To provide guidance regarding the interpretation and application of building height controls throughout the City, in order to ensure that the height of buildings is consistent with the desired character of the locality, in the interests of residential and visual amenity.*

In respect of residential development, the height of buildings is controlled via the heights prescribed within CPS5. In this case, the policy is to be read in conjunction with CPS5, however where further clarification is required, the R-Codes provisions are taken into account.

For non-residential development, reliance rests solely with the provisions of CPS5, which specifies maximum building height controls in the precinct pages in Part 4, as well as through the provisions of Clauses 5.11 and 5.12.

Overall, the policy sets out the approach that is taken by the City in the measurement of building height, and includes guidance in respect of natural ground level and the differentiated approach to eave and wall height dependent on the style and design of the built form being proposed.

**P14/3484 – REVIEW OF COUNCIL POLICY 066: HEIGHT OF BUILDINGS (REC)  
(ATTACHMENT)****DETAIL**

Council policy CP-066: Height of Buildings acts purely as an interpretation document for the measurement of the building heights specified within CPS5 for both residential and non-residential development. In particular, the policy clarifies:

- The precise way that building height is measured relative to natural ground level.
- The maximum height applicable for developments with flat or concealed roofs. CPS5 being silent on this issue.
- What is considered to be a minor projection permitted above the CPS5 height limits.

The subject policy works well in its role as an interpretation document and provides certainty for both developers and the City. Consequently, only minor changes are proposed to the policy as follows:

**[3484 Height of Buildings Policy](#)**

- In accordance with a corporate and standardised approach, the Background section of the report is now included in the Policy Scope section.
- The definition of 'Building Height' has been modified to be consistent with the new definition provided within the R-Codes released in August 2013. The change does not alter the assessment of building height, but is more concise and clearer.
- Clarification consistent with CP-087: Non-Residential Development that the principle of equal cut and fill will be applied across sloping sites to limit the impact of height upon adjoining neighbours.
- Minor wording and formatting changes.

**STAKEHOLDER ENGAGEMENT****V. COMMUNITY**

Pursuant to Clause 9.6(b) of CPS5, should Council resolve to adopt the draft policy, it will be advertised via a notice in the local newspaper and on the City's website for a period of 21 days.

**VI. 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 modifications do not have regional significance, therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The regular review of the Council's policies improves their validity in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policy will carry similar weight to CPS5.

**P14/3484 – REVIEW OF COUNCIL POLICY 066: HEIGHT OF BUILDINGS (REC)  
(ATTACHMENT)****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**

The proposed policy does not result in any strategic, risk or environmental management implications for the City.

**POLICY IMPLICATIONS**

Once adopted, the revised policy will continue to provide a sound basis for the assessment and determination of planning applications.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy however this is not recommended.

The Council also has the ability to modify the amended policy prior to advertising.

**CONCLUSION**

The existing policy provides an interpretation role of the measurement of building height and works well. Consequently, only minor changes are proposed and the overall intent of the policy is to remain as existing.

It is recommended that the Council adopt the amended policy for the purposes of public consultation.

**P14/3484 – REVIEW OF COUNCIL POLICY 066: HEIGHT OF BUILDINGS (REC)  
(ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3484)****ADOPTION****That the Council:**

- 1 Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 066: Height of Buildings for the purposes of public consultation for a period of no less than 21 calendar days.**
- 3 Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 066: Height of Buildings be approved under delegation by the Chief Executive Officer.**

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

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**P14/3485 - REVIEW OF COUNCIL POLICY - 069: ARCHITECTURAL AND URBAN DESIGN ADVISORY PANEL (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Property : None applicable  
 Proposal : Review of CP-069: Architectural and Urban Design Advisory Panel  
 Applicant : None applicable  
 Owner : None applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3246 – Final Adoption Urban Planning Policies Stage 4 - Ordinary Meeting of Council 20 September 2011  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3485 - REVIEW OF COUNCIL POLICY - 069: ARCHITECTURAL AND URBAN DESIGN ADVISORY PANEL (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- Council policy 069: Architectural and Urban Design Advisory Panel was last reviewed by Council in September 2011, consequently the policy is due for review.
- Minor modifications are proposed to the policy to provide further guidance in relation to the assessment of specific development applications and planning documents.
- It is recommended that the Council adopt the amended policy for the purposes of public consultation.

**BACKGROUND**

The subject policy was originally adopted by the Development and Neighbourhood Amenity Committee in March 2003 and has since been reviewed in 2011.

The policy administers the operation of the City's Architectural and Urban Design Advisory Panel (the Panel). The Panel provides an advisory function for the assessment of certain development applications and other planning documents.

The Panel currently operates on an infrequent basis, only sitting when the City is in receipt of development applications which meet the pre determined criteria for referral to the Panel. Recently, the majority of matters referred to the Panel have related to Development Assessment Panel applications.

**DETAIL**

The current operation of the Panel, which has evolved over time, differs slightly from what is stated within the existing policy. On this basis, minor modifications to the policy are proposed as follows:

- A new objective is provided within the amended policy to outline the objective of the policy, rather than the objective of the Panel. The existing objectives are now included within the Policy Scope section.
- Development Assessment Panel (DAP) applications, where representations from third parties are received opposing the particular development, and where those representations are soundly based on relevant planning grounds, have been added to the list of applications which require referral to the Panel.

**P14/3485 - REVIEW OF COUNCIL POLICY - 069: ARCHITECTURAL AND URBAN DESIGN ADVISORY PANEL (REC) (ATTACHMENT)**

- The requirement for the Panel to meet monthly has been removed from the draft policy. At present, the City does not receive sufficient numbers of relevant applications to warrant such a monthly panel meeting. In practice, since the inception of the Panel in 2011, an average of four meetings has been held each year. Consequently, the Panel is held only when the City is in receipt of applications requiring referral.  
[3485 Architectural and Urban Design Advisory Panel Policy 069](#)
- The designation of Primary and Deputy members of the Panel has also been removed from the policy as practice has shown that such labels are not required for the effective functioning of the Panel.
- The policy currently states that the notes from the Panel meetings are to be included within the Elected Members Bulletin. This process is not considered necessary for the following reasons:
  - In isolation from a broader understanding of what is proposed by a particular Development Application, the panel meeting notes alone would not provide Elected Members with useful information.
  - The notes of the Panel are incorporated within the report submitted to Council, or in the case of DAP applications, the Responsible Authority Report.
  - Referral to the Panel will generally result in the need for amended plans, which will subsequently be the subject of further assessment. The Panel stage is therefore seen to be one of the numerous stages in the complete assessment process.
- The requirement to recover fees from Applicants has also been removed from the policy. Upon review of this requirement, it has been determined that the application fees that are paid to the City for the types of applications which require referral to the Panel, effectively cover the costs associated with the operation of the Panel.
- Minor wording changes to update terminology and position titles.

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

Pursuant to Clause 9.6(b) of CPS5, should Council resolve to adopt the draft policy, it will be advertised via a notice in the local newspaper and on the City's website for a period of 21 days.

**II. 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 modifications do not have regional significance, therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The regular review of the Council's policies improves their validity in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policy will carry similar weight to CPS5.

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**P14/3485 - REVIEW OF COUNCIL POLICY - 069: ARCHITECTURAL AND URBAN DESIGN ADVISORY PANEL (REC) (ATTACHMENT)****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**

The proposed policy does not result in any strategic, risk or environmental management implications for the Council.

**POLICY IMPLICATIONS**

Once adopted, the revised policy will continue to provide a sound basis for the assessment and determination of planning applications.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy however this is not recommended.

The Council also has the ability to modify the amended policy prior to advertising.

**CONCLUSION**

The minor modifications to the policy provide further guidance in relation to the assessment of specific development applications and planning documents.

It is recommended that the Council adopt the amended policy for the purposes of public consultation.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3485)****ADOPTION****That the Council:**

- 1 Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 069: Architectural and Urban Design Advisory Panel for the purposes of public consultation for a period of no less than 21 calendar days.**
- 2 Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 069: Architectural and Urban Design Advisory Panel be approved under delegation by the Chief Executive Officer.**

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

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**P14/3486 - REVIEW OF COUNCIL POLICY 061: TENNIS COURTS (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Property : Not applicable  
 Proposal : CP-061: Tennis Courts  
 Applicant : Not applicable  
 Owner : Not applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3188 – Final Adoption of Urban Planning Policies (Stage 2) - Ordinary Meeting of Council 15 March 2011  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P14/3486 - REVIEW OF COUNCIL POLICY 061: TENNIS COURTS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- Planning policies provide a sound basis for planning decision making and improve the validity of decisions made. Provided policies are of sound basis, their status is akin to that of CPS5 provisions, particularly when relied upon at the State Administrative Tribunal.
- Council policy CP-061 was last reviewed by Council on 15 March 2011 and is therefore due for a further review.
- This matter was referred to the Ordinary Meeting of Council of 18 March 2014, at which time consideration was deferred to the 15 April 2014 meeting.
- This policy has been revised to incorporate additional provisions relating to solid fencing, landscaping and the use of the court for other sporting codes. In addition, a change to the policy is also proposed to require advertising only where provisions within the policy are not satisfied or where flood lighting is proposed until 10pm.
- It is recommended that the Council adopt the revised policy for the purposes of public consultation.

**BACKGROUND**

Clause 7.1 and 7.2 of CPS5 state that planning approval for 'any domestic tennis court' is required.

*CP-061: Tennis Courts*

This policy was originally adopted in March 1991 by the Planning and Development Services Committee. Since this time, the policy has been reviewed in June 2000, February 2001 and March 2011.

The objective of the policy is:

*'To control the impacts of tennis court developments in or adjacent to residential areas.'*

**DETAIL**

The policy currently contains reference to the following matters:

- Occupancy
- Fencing
- Applications
- Lighting
- Advertising

**[3486 CP 061 Tennis Courts Policy](#)**

This broad content is generally retained with minor modification as follows:

**P14/3486 - REVIEW OF COUNCIL POLICY 061: TENNIS COURTS (REC) (ATTACHMENT)***Fencing*

At present, the policy stipulates maximum fence heights (3.66m for hard courts and 3.05m for grass courts), however the policy does not state whether the fencing should be visually permeable or of solid construction.

Concern is raised in this respect as a solid fence to a height of more than 3.0m could have adverse visual impacts on the streetscape, and be of detriment to residential amenity levels.

To limit such adverse impacts, additional criteria are added to limit the extent of solid fencing within the front setback area, or where it is proposed to be located within 1m of a neighbouring residential property boundary.

*Landscaping*

Clause 3 has been added to the policy to advise Applicants that where tennis courts are proposed adjacent to street boundaries, landscaping may be required to soften the impact of the tennis court fencing within the streetscape. This is sometimes necessary in instances where the adjoining street trees do not provide adequate screening, or where a tennis court is located on a corner property and is highly visible.

*Use*

Clause 5 has also been added to the existing policy to outline that the use of tennis courts for other sporting codes is permissible, provided the requirements of Schedule 5 of CPS5 are adhered to. Where the requirements of Schedule 5 are not satisfied, additional planning approval is required.

In addition, a reference to the *Environmental Protection (Noise) Regulations 1997* has been included within the policy to advise Applicants that the use of the tennis court is subject to noise restrictions.

*Advertising*

The current policy requires that where evidence of consultation with neighbouring property owners is not included with an application, the City will undertake public consultation in accordance with Clause 7.5 of CPS5. This requirement refers irrespective of whether the proposal complies with the policy or not.

It is proposed to amend the policy to only require advertising where discretion is sought in respect of particular policy provisions, or where the use of flood lighting is proposed to be extended from 9pm to 10pm.

It is considered prudent that the Policy be updated in this way as there is little benefit in real terms in advertising an otherwise compliant proposal. To do so can be seen to raise third party expectations into concluding that if objections are lodged, the City has the ability to refuse an application. In the case of a Tennis Court development proposal that is otherwise compliant with the requirements of the City's Tennis Court Policy, such would not be the case.

In addition to the above, the policy has been re-formatted and the Applications and Advertising sections combined.

**P14/3486 - REVIEW OF COUNCIL POLICY 061: TENNIS COURTS (REC) (ATTACHMENT)****PUBLIC CONSULTATION/COMMUNICATION**

Pursuant to Clause 9.6(b) of CPS5, should Council resolve to adopt the draft policy, it will be advertised via a notice in the local newspaper and on the City's website for a period of 21 days.

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

**STATUTORY AND LEGAL IMPLICATIONS**

The regular review of Council's policies improves their validity in review situations by the State Administrative Tribunal. Once finally adopted by Council, the reviewed policy will carry similar weight to 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**

The proposed policy does not result in any strategic, risk or environmental management implications for the City.

**POLICY IMPLICATIONS**

Once adopted, the revised policy will provide a sound basis for the assessment and determination of planning applications within the City.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy, however this is not recommended.

The Council also has the ability to modify the policy prior to advertising.

**P14/3486 - REVIEW OF COUNCIL POLICY 061: TENNIS COURTS (REC) (ATTACHMENT)****CONCLUSION**

The proposed modifications are considered to improve the policy through addressing potential impacts of solid fencing around tennis courts. The process will also be improved through seeking neighbours comments only where they will contribute to the process.

**OFFICER RECOMMENDATION (3486)****ADOPTION**

At 6.54pm Cr Robartson moved, seconded Cr Schuster –

**That the Council:**

1. Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 061: Tennis Courts for the purposes of public consultation for a period of no less than 21 calendar days.
2. Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 061: Tennis Courts be taken under delegation to the Chief Executive Officer.

Amendment

*That the Officer Recommendation be amended by adding the following words after “period of no less than 21 calendar days”*

*“subject to the following amendments to the policy:”*

*(i) Clause 4.2 be amended to read:*

*A timer is to be installed in the lighting circuit to ensure that all floodlights are extinguished between the hours of 9pm and 7am.*

*(ii) Clause 5.2 be amended to read:*

*The use of a tennis court for any purpose is to comply with the Environmental Protection (Noise) Regulations 1997.*

**The mover and seconder agreed to incorporate the amendment in the motion.**

**COUNCIL RESOLUTION (3486)****ADOPTION**

At 6.55pm the Mayor submitted the substantive motion as amended –

**That the Council:**

1. **Resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the amended Council Policy 061: Tennis Courts for the purposes of public consultation for a period of no less than 21 calendar days.**

*“subject to the following amendments to the policy:”*

- (i) Clause 4.2 be amended to read:*

*A timer is to be installed in the lighting circuit to ensure that all floodlights are extinguished between the hours of 9pm and 7am.*

- (ii) Clause 5.2 be amended to read:*

*The use of a tennis court for any purpose is to comply with the Environmental Protection (Noise) Regulations 1997.*

2. **Where no submissions in objection are received in response to the consultation undertaken, the final adoption of Council Policy 061: Tennis Courts be taken under delegation to the Chief Executive Officer.**

At 6.55pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (12/0)**

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (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	:	Bruce Taylor – Acting Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- This report presents the investment statements for the period ending 28 February 2014 and recommends that the information detailed in the report be noted.
- The low 'Cash' rate and legislative restrictions, continues to result in low returns being achieved on the City's investment earnings.
- Piper Alderman has prepared and lodged the City's final Proof of Debt claim for Collateralised Debt Obligations (CDO) losses incurred.

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (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 28 February 2014 are shown in the tables below.

<b>CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2014</b>					
<b>SUMMARY BY FUND</b>	<b>PURCHASE PRICE \$</b>	<b>MANAGEMENT VALUE AT 30/06/2009 \$</b>	<b>ESTIMATED CURRENT MARKET VALUE \$</b>	<b>BOOK PROFIT/(LOSS) \$</b>	<b>BOOK PROFIT/(LOSS) %</b>
MUNICIPAL	\$ 44,161,262	\$ 44,161,262	\$ 44,161,262	\$ -	0.00%
RESERVE	\$ 69,137,972	\$ 66,220,210	\$ 67,154,852	\$ 934,642	1.35%
TRUST	\$ 390,234	\$ 390,234	\$ 390,234	\$ -	0.00%
CRF	\$ 200,388	\$ 200,388	\$ 200,388	\$ -	0.00%
	<b>\$ 113,889,857</b>	<b>\$ 110,972,095</b>	<b>\$ 111,906,737</b>	<b>\$ 934,642</b>	<b>0.82%</b>
<b>SUMMARY BY INVESTMENT TYPE</b>	<b>PURCHASE PRICE \$</b>	<b>MANAGEMENT VALUE AT 30/06/2009 \$</b>	<b>ESTIMATED CURRENT MARKET VALUE \$</b>	<b>BOOK PROFIT/(LOSS) \$</b>	<b>BOOK PROFIT/(LOSS) %</b>
CDO	\$ 3,000,000	\$ 82,238	\$ 1,016,880	\$ 934,642	31.15%
BOND	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	0.00%
FRN	\$ -	\$ -	\$ -	\$ -	0.00%
FRTD	\$ -	\$ -	\$ -	\$ -	0.00%
TERM DEPOSIT	\$ 105,807,712	\$ 105,807,712	\$ 105,807,712	\$ -	0.00%
11AM	\$ 2,851,500	\$ 2,851,500	\$ 2,851,500	\$ -	0.00%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 113,889,857</b>	<b>\$ 110,972,095</b>	<b>\$ 111,906,737</b>	<b>\$ 934,642</b>	<b>0.82%</b>
<b>SUMMARY BY CREDIT RATING</b>	<b>PURCHASE PRICE \$</b>	<b>MANAGEMENT VALUE AT 30/06/2009 \$</b>	<b>ESTIMATED CURRENT MARKET VALUE \$</b>	<b>BOOK PROFIT/(LOSS) \$</b>	<b>BOOK PROFIT/(LOSS) %</b>
AA	\$ 8,500,000	\$ 8,500,000	\$ 8,500,000	\$ -	0.00%
AA-	\$ 65,259,212	\$ 65,259,212	\$ 65,259,212	\$ -	0.00%
A+	\$ 18,000,000	\$ 18,000,000	\$ 18,000,000	\$ -	0.00%
A	\$ 3,900,000	\$ 3,900,000	\$ 3,900,000	\$ -	0.00%
A-	\$ 15,000,000	\$ 15,000,000	\$ 15,000,000	\$ -	0.00%
BBB+	\$ -	\$ -	\$ -	\$ -	0.00%
NR	\$ 3,000,000	\$ 82,238	\$ 1,016,880	\$ 934,642	31.15%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 113,889,857</b>	<b>\$ 110,972,095</b>	<b>\$ 111,906,737</b>	<b>\$ 934,642</b>	<b>0.82%</b>

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)**

The following statements detail the investments held by the City for the period ending 28 February 2014. Marketable investments are shown at their current estimated market value.

STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2014									
INSTITUTION / INVESTMENT	RISK of IMPAIRMENT	INVESTMENT TYPE	Current Interest Rate %	S & P RATING	FACE VALUE \$	BOOK VALUE AT 30/6/2009 \$	CURRENT EST MARKET VALUE \$	INVESTMENT GAIN / (LOSS) SINCE 30/06/09 \$	MATURITY DATE
BANKWEST (11AM)	Very Low	11AM	2.75%	AA-	\$1,322	\$1,322	\$1,322	\$0	On call
WESTPAC (MAXI DIRECT)	Very Low	11AM	2.50%	AA-	\$2,850,000	\$2,850,000	\$2,850,000	\$0	On call
WESTPAC (MAXI BONUS 1)	Very Low	11AM	2.85%	AA-	\$70	\$70	\$70	\$0	On call
WESTPAC (MAXI BONUS 2)	Very Low	11AM	2.85%	AA-	\$108	\$108	\$108	\$0	On call
					<b>\$2,851,500</b>	<b>\$2,851,500</b>	<b>\$2,851,500</b>	<b>\$0</b>	
BANK OF QUEENSLAND (TERM)	Very Low	TERM	Various	A-	\$3,500,000	\$3,500,000	\$3,500,000	\$0	Various
BENDIGO AND ADELAIDE BANK (TERM)	Very Low	TERM	Various	A-	\$4,100,000	\$4,100,000	\$4,100,000	\$0	Various
CITIBANK (TERM)	Very Low	TERM	Various	AA-	\$15,320,384	\$15,320,384	\$15,320,384	\$0	Various
AMP BANK (TERM)	Very Low	TERM	Various	A+	\$13,800,000	\$13,800,000	\$13,800,000	\$0	Various
ING BANK (TERM)	Very Low	TERM	Various	A-	\$7,400,000	\$7,400,000	\$7,400,000	\$0	Various
MACQUARIE BANK (TERM)	Very Low	TERM	3.80%	A	\$3,900,000	\$3,900,000	\$3,900,000	\$0	Various
NAB (TERM)	Very Low	TERM	Various	AA-	\$22,287,328	\$22,287,328	\$22,287,328	\$0	Various
RABODIRECT (TERM)	Very Low	TERM	Various	AA	\$6,500,000	\$6,500,000	\$6,500,000	\$0	Various
ST GEORGE BANK (TERM)	Very Low	TERM	Various	AA-	\$12,200,000	\$12,200,000	\$12,200,000	\$0	Various
SUNCORP METWAY LTD (TERM)	Very Low	TERM	Various	A+	\$4,200,000	\$4,200,000	\$4,200,000	\$0	Various
WESTPAC (TERM)	Very Low	TERM	Various	AA-	\$12,600,000	\$12,600,000	\$12,600,000	\$0	Various
					<b>\$105,807,712</b>	<b>\$105,807,712</b>	<b>\$105,807,712</b>	<b>\$0</b>	
COMMONWEALTH BANK (RETAIL BOND)	Very Low	BOND	3.63%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	20-Dec-15
					<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>	
CORSAIR (CAYMAN) KAKADU	Very High	CDO	3.95%	NR	\$1,500,000	\$72,363	\$402,000	\$329,637	20-Mar-14
MANAGED ACES CLASS 1A PARKES	Very High	CDO	4.24%	NR	\$1,050,000	\$9,874	\$299,880	\$290,006	20-Jun-15
BERYL FINANCE GLOBAL BANK NOTE 2	Early Term.	CDO	0.00%	NR	\$450,000	\$1	\$315,000	\$314,999	20-Sep-14
					<b>\$3,000,000</b>	<b>\$82,238</b>	<b>\$1,016,880</b>	<b>\$934,642</b>	
UNITS IN LOCAL GOVT HOUSE	NA	NA	NA	NA	\$230,645	\$230,645	\$230,645	\$0	NA
<b>TOTAL FUNDS INVESTED</b>					<b>\$113,889,857</b>	<b>\$110,972,095</b>	<b>\$111,906,737</b>	<b>\$934,642</b>	

**CREDIT RISK COMPARISON**

CREDIT RISK	PURCHASE PRICE \$	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % AMOUNT IN TOTAL PORTFOLIO	Comments
AA	\$8,500,000	\$8,500,000	8%	80%	
AA-	\$65,259,212	\$65,259,212	58%	80%	
A+	\$18,000,000	\$18,000,000	16%	50%	
A	\$3,900,000	\$3,900,000	3%	50%	
A-	\$15,000,000	\$15,000,000	13%	50%	
BBB+	\$0	\$0	0%	20%	
NR	\$3,000,000	\$1,016,880	1%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT: HOUSE	\$230,645	\$230,645	0%	0.1%	Council Decision
<b>TOTAL</b>	<b>113,889,857</b>	<b>111,906,737</b>	<b>100%</b>		

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (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-	-	0.00%	0.00%	20%	
AMP BANK (TERM)	TERM	A+	13,800,000	12.33%	12.33%	15%	
BANKWEST (11AM)	11AM	AA-	1,322	0.00%		20%	
BANKWEST (TERM)	TERM	AA-	-	0.00%	0.00%	20%	
BANK OF QUEENSLAND (TERM)	TERM	A-	3,500,000	3.13%		15%	
BANK OF QUEENSLAND (FLOAT RATE TD)	FRTD	A-	-	0.00%	3.13%	15%	
BENDIGO AND ADELAIDE BANK (TERM)	TERM	A-	4,100,000	3.66%	3.66%	15%	
CITIBANK (TERM)	TERM	AA-	15,320,384	13.69%	13.69%	20%	
COMMONWEALTH BANK (COVERED BOND)	BOND	AAA	-	0.00%		20%	
COMMONWEALTH BANK (RETAIL BOND)	BOND	AA	2,000,000	1.79%		20%	
COMMONWEALTH BANK (FRN)	FRN	AA	-	0.00%	1.79%	20%	
ING BANK (TERM)	TERM	A-	7,400,000	6.61%		15%	
ING BANK (FLOAT RATE TD)	FRTD	A	-	0.00%	6.61%	15%	
MACQUARIE BANK (TERM)	TERM	A	3,900,000	3.49%	3.49%	15%	
NAB (TERM)	TERM	AA-	22,287,328	19.92%		20%	
NAB (FRN)	FRN	AA-	-	0.00%	19.92%	20%	
RABODIRECT (TERM)	TERM	AA	6,500,000	5.81%	5.81%	15%	
ST GEORGE BANK (TERM)	TERM	AA-	12,200,000	10.90%	10.90%	20%	
SUNCORP METWAY LTD (TERM)	TERM	A+	4,200,000	3.75%	3.75%	15%	
WESTPAC (MAXI BONUS 1)	11AM	AA-	70	0.00%		20%	
WESTPAC (MAXI BONUS 2)	11AM	AA-	108	0.00%		20%	
WESTPAC (MAXI DIRECT)	11AM	AA-	2,850,000	2.55%		20%	
WESTPAC (TERM)	TERM	AA-	12,600,000	11.26%	13.81%	20%	
CDO - Various	CDO		1,016,880	0.91%	0.91%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT HOUSE	NA	NA	230,645	0.21%	0.21%		
			<b>111,906,737</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	44,320,851	100%	100%	
	<b>44,320,851</b>	<b>100%</b>		
RESERVE FUNDS				
< 1 year	64,854,972	97%	100%	
< 2 years	2,299,880	3%	80%	Purchased Prior To Policy Change
< 3 years	-	0%	80%	
< 4 years	-	0%	40%	
< 5 years	-	0%	40%	
> 5 years	-	0%	20%	
	<b>67,154,852</b>	<b>100%</b>		

Monthly valuations for the month of February for CDOs shown are based on valuations as at 30 November 2013. When compared to the valuations used as at 30 June 2009, valuations show that CDOs have increased in value by \$934,642.

The last remaining Lehman Brothers arranged CDO with a face value of \$450,000 is close to settlement and is expected to pay out its full value plus interest.

The Corsair Cayman Kakadu CDO and the MAS Parkes 1A CDO have suffered an erosion of credit support and therefore underlying principal of 8.6% and 41.9% respectively. Subsequent to month end the Kakadu CDO reached maturity on 20 March 2013 and repaid \$1,371,023 compared to its purchase price of \$1.5 million, book value of \$72,363 and last market value of \$402,000. Both CDOs continue to pay interest at a reduced rate depending on the extent of the principal loss incurred. 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 28 February 2014 were:

- Face Value	\$ 2,550,000
- Written Down (Book) Value (30 June 2009)	\$ 82,237
- Estimated Market Value (28 February 2014)	\$ 701,880

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)**

**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.

**The City'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 8.6% (\$0.129 million) of principal occurred. Repaid \$1,371,023 at maturity date.
<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.

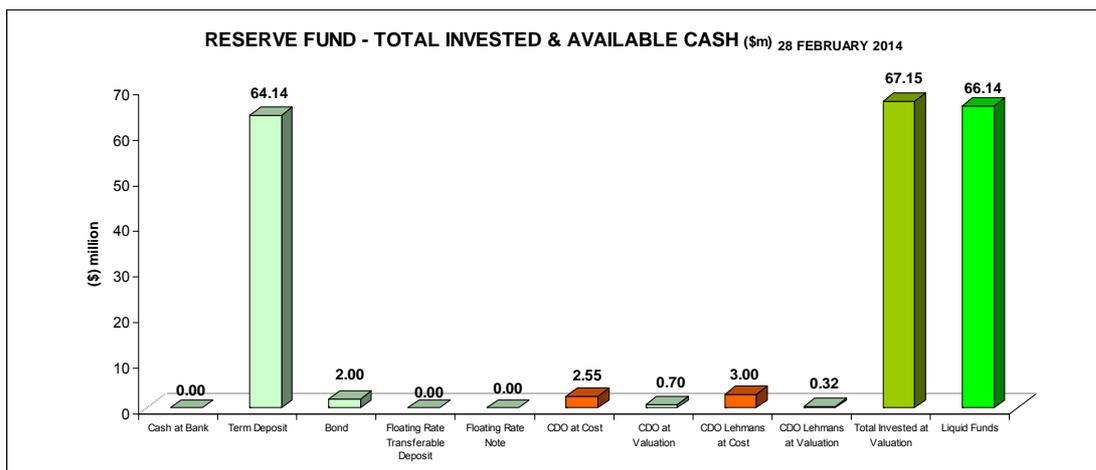
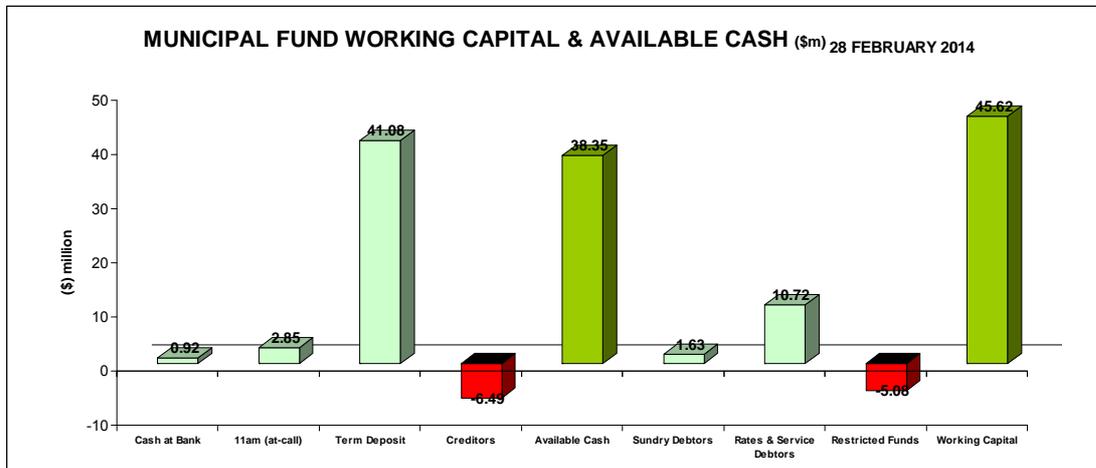
**Terminated Lehman Brothers Arranged CDO Investments:**

<b>Beryl Finance Global Bank Note 2</b> <b>\$450,000 Terminated</b> <b>Maturing 20/9/14</b>	<b>Nil credit events:</b>	1	N/A	Terminated due to Lehman bankruptcy – In the process of being unwound and the Trustee disposing of the collateral.
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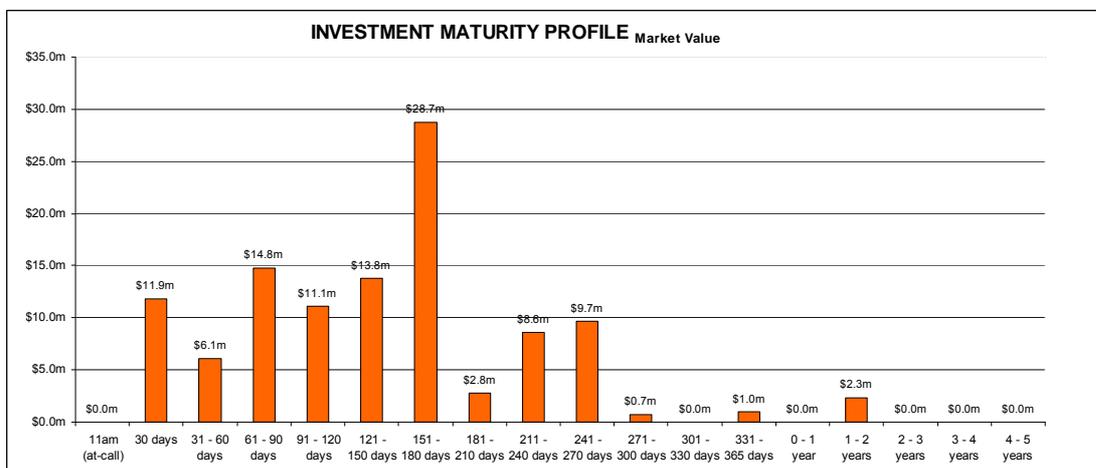
C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)

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 28 February 2014.



The graph below summarise the maturity profile of the City's investments at market value as at 28 February 2014.



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**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

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.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**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. Johnson Winter and Slattery (JWS) was successful in seeking an early termination of four of the City's Lehman arranged CDOs, so that on 26 February 2013 the City gained access to the collateral representing the City's original investments which are held by Trustees for the Lehman Brothers arranged CDOs.

In conjunction with approximately 71 local government authorities, charities and other entities, (The Applicants) the City of Melville engaged litigation funder IMF (Australia) Ltd. to seek recovery of losses from Lehman Brothers Australia (LBA) in the Supreme Court of Australia.

On 21 September 2012, Federal Court of Australia Justice Rares delivered his findings. In summary, "His Honour found that LBA, in selling and advising on sales of certain investment products to the Applicants, acted in breach of contracts it had with the Applicants, engaged in misleading or deceptive conduct, was negligent and was in breach of its fiduciary duties as a financial adviser to the Applicants". For these reasons, LBA was found to be liable to compensate the Applicants for their losses incurred as a result of their investments.

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)**

On 3 and 21 December 2012 and 25 March 2013, Justice Rares made the Common Issues Orders (which determine a number of common questions and answers binding on the Applicants, LBA and Group Members). On 25 March 2013, Justice Rares granted the Declaratory Relief declaring, amongst other things, the amounts for which the Applicants are entitled to be admitted to prove in the liquidation of LBA.

On 25 March 2013, the Court also granted leave for LBA to appeal in respect of certain of the Common Issues Orders and some aspects of the Declaratory Relief. The Liquidators (PPB Advisory) have filed LBA's appeal in both respects.

Whilst the decisions taken by the various courts have been positive for the litigants, the legal process is lengthy.

Lehman Brothers USA through purchase of Lehman Brothers Asia has established themselves as a creditor with sufficient voting rights to control any Scheme of Arrangement with creditors.

On 31 October 2013, an "Insurance Only" Scheme giving access to the professional indemnity insurance proceeds for the benefit of former clients of LBA who suffered losses, was approved by the Federal Court of Australia and will now be actioned by the Liquidators according to the terms of the Scheme. The funds received from the insurers will be held in a "Scheme Fund", for distribution to the Scheme Creditors (but not to other creditors of LBA).

Piper Alderman has prepared the City of Melville's final Proof of Debt claim which was lodged with the liquidators in February.

No accurate estimates of the proceeds, which will be received from any of the distributions that will eventually be made to the City, can be made at this time.

**FINANCIAL IMPLICATIONS**

For the period ending 28 February 2014:

- Investment earnings on Municipal and Trust Funds were \$964,531 against a budget of \$947,333 representing a \$17,198 positive variance.
- Investment earnings on Reserve accounts were \$2,045,776 against a budget of \$1,533,333. This represents a \$512,443 positive variance and is due to the higher level of Reserve account balances than anticipated at budget preparation time.

Due to the continued low 'Cash' rate and the legislative restrictions that have been placed by State Government, the City's revenue earned from investment earnings is expected to remain at current levels in the foreseeable future.

The City's last remaining Lehman Brothers arranged CDO with a face value of \$450,000 is in the process of being unwound. Whilst the process has been delayed by other actions taken by Lehman Brothers USA, indications are that the City will be repaid the \$450,000 plus some interest.

**C14/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2014 (REC)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

The risk of capital loss associated with \$1.05 million of the City's last legacy CDO investment is extreme. The risk of capital loss with the balance of the City's investment portfolio is low. The interest rate risk is high due to the short-term nature of the City's investments and the inability due to legislative restrictions to lock into longer dated investments which attract higher interest rates.

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

**POLICY IMPLICATIONS**

Council Policy CP-009 – Investment of Funds.

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

The investment report highlights that, except for the remaining legacy CDO investment of 2007, the City's investment portfolio is invested in highly secure investments that are returning low but market competitive investment returns. These returns are commensurate with the low level of risk of the portfolio.

Future investment earnings are expected to continue to remain low due to interest rates continuing to be low and legislative restrictions on the maximum terms of investment options available to the City.

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

**That the Investment Report for the month of February 2014 be noted.**

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

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**C14/6001 – SCHEDULE OF ACCOUNTS PAID FOR FEBRUARY 2014 (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 : 2013/2014 Budget  
 Responsible Officer : Bruce Taylor – Acting Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**C14/6001 – SCHEDULE OF ACCOUNTS PAID FOR FEBRUARY 2014 (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

This report presents the details of payments made under delegated authority to suppliers for the month of February 2014 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.

**C14/6001 – SCHEDULE OF ACCOUNTS PAID FOR FEBRUARY 2014 (REC)**  
**(ATTACHMENT)**

**DETAIL**

The Schedule of Accounts Paid for the month ending 28 February 2014 ([6001 February 2014](#)), including Payment Registers numbers, Cheques 399 to 401 and Electronic Funds Transfers batches 325 to 326 was distributed to the Members of Council on 28 March 2014.

Payments in excess of \$25,000 for the month of February 2014 are detailed as follows:

<b>Supplier Name</b>	<b>Remittance Number</b>	<b>Remittance Details</b>	<b>Amount</b>
Asphaltech Pty Ltd	E038188	Road resurfacing at Dickenson Way and Connelly Way	\$414,609.47
Brandconnect Australia	Chq 056993	Promotional packs for new Lifestyle Service members	\$34,985.50
Broadway Marine Constructions	E038197	Demolition and replacement of Deep Water Point jetty	\$120,989.05
Complete Tyre Solutions	E037947 & E038138	Tyre renewal	\$28,928.90
CPD Group	E038037	Building refurbishment at Wireless Hill	\$66,660.00
Cummins Engine Co Pty Ltd	E038001 & E038192	Replaced engine in waste truck	\$35,791.92
Downer EDI Works Pty Ltd	E037973 & E038160	Road resurfacing, Civil works at Farrington Road and kerbing at Burke Drive	\$179,757.49
Dowsing Concrete	E038042	Concrete works	\$60,550.60
Fire & Emergency Services Authority WA	E037991	ESL remittance for January	\$932,643.86
JMG Air Conditioning & Electrical Services	E037989 & E038179	Service and repairs to air conditioners	\$27,172.13
MacDonald Johnston Pty Ltd	E037869 & E038063	Service and repairs to waste trucks	\$27,586.72
Natural Area Management & Services	E038035 & E038224	Beach access steps to Point Walter Reserve and progress claim 14 for Point Walter restoration project	\$45,195.55
Rhysco Electrical Services	E037968 & E038156	Electrical services	\$36,716.36
Robinson Buildtech	E037873 & E038070	Building maintenance	\$40,684.63
Southern Metropolitan Regional Council	E038133	MSW gate fees 1/1/14 – 15/1/14, WCF member contributions for December and pull up banners for weekly recycling	\$231,890.80
Spectrum Servicing Pty Ltd T/A Spectrum Fire & Security	E037977 & E038164	Service and testing of emergency evacuation systems	\$34,227.63
Synergy	E037888 & E038082	Electricity charges	\$293,953.50
Technology One Ltd	E038043 & E038230	Consultancy fees	\$29,590.00
Total Eden	E037910 & E038110	Reticulation and irrigation parts	\$71,001.13
T-Quip Turf Equipment Solutions	E037874 & E038072	Purchase of 6 Toro Groundmaster	\$173,158.85
Tree Planting & Watering	E037997 & E038185	Street tree watering	\$59,830.76
Water Corporation	Chq's 056963 & 057076	Water charges	\$33,067.27

**C14/6001 – SCHEDULE OF ACCOUNTS PAID FOR FEBRUARY 2014 (REC)  
(ATTACHMENT)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. 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 adopted Budget as amended by any subsequent Budget reviews.

**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.

**C14/6001 – SCHEDULE OF ACCOUNTS PAID FOR FEBRUARY 2014 (REC)  
(ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6001)****NOTING**

**That the Schedule of Accounts paid for the month ending 28 February as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 February 2014](#) be noted.**

At 6.57pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

This report presents:

- The Statements of Financial Activity for the period ending 28 February 2014 and recommends that they be noted by the Council.
- The variances for the month of February 2014 and recommends that they be noted by the Council.
- The mid year budget review will be processed in March 2014 and this will address the majority of the variances identified below.

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)**
**BACKGROUND**

The Statements of Financial Activity for the period ending 28 February 2014 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 ending 28 February 2014, net operating positive variances of \$4,748,949 and net capital positive variances of \$12,929,871 were recorded.

**Variances**

A summary of variances and comments are provided in attachment [6002H February 2014](#).

CITY OF MELVILLE RATE SETTING STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2014							
	February Actual \$	YTD Rev. Budget \$	YTD Actual \$	Variance \$	Variance %	Annual Budget \$	Annual Rev. Budget \$
<b>Revenues</b>							
Governance	109,346	1,111,871	1,407,109	295,238	27%	1,561,852	1,728,074
General Purpose Funding	753,125	6,052,037	6,485,477	433,440	7%	8,731,000	7,978,119
Law, Order, Public Safety	18,757	2,508,758	2,706,264	197,506	8%	2,575,492	2,661,859
Education & Welfare	48,033	230,242	285,800	55,558	24%	326,927	356,652
Recreation and Culture	651,653	6,619,273	6,738,844	119,571	2%	9,700,557	9,995,127
Transport	150,287	3,050,007	2,851,137	(198,870)	-7%	5,478,318	5,210,937
Other Property and Services	(1,276,647)	2,459,227	186,063	(2,273,164)	-92%	401,476	2,180,023
	531,093	39,080,012	37,695,529	(3,657,647)	-4%	46,106,554	47,434,113
<b>Expenses</b>							
Governance	(584,028)	(8,422,513)	(7,558,346)	864,167	-10%	(11,760,677)	(11,417,357)
General Purpose Funding	(20,039)	(2,120,101)	(2,030,818)	89,283	-4%	(2,208,200)	(2,417,415)
Law, Order, Public Safety	(282,045)	(2,583,908)	(2,418,549)	165,359	-6%	(3,900,624)	(3,911,366)
Education & Welfare	(442,200)	(3,781,625)	(3,517,117)	264,507	-7%	(5,473,488)	(5,624,160)
Community Amenities	(1,285,337)	(12,842,781)	(13,100,474)	(257,693)	2%	(19,616,325)	(20,085,954)
Recreation and Culture	(2,290,333)	(19,730,606)	(18,370,596)	1,360,011	-7%	(28,262,846)	(28,592,346)
Transport	(701,959)	(7,023,285)	(5,970,093)	1,053,192	-15%	(10,248,296)	(10,249,405)
Other Property and Services	(579,149)	(5,401,719)	(5,302,706)	99,014	-2%	(11,028,916)	(10,085,548)
	(6,251,562)	(62,658,053)	(58,974,813)	5,231,547	-6%	(93,615,109)	(93,496,659)

**Revenue**

\$56.040m in Rates was raised to 28 February 2014. This is compared with a year to date budget of \$56.030m, resulting in a positive variance of \$10K.

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

Not applicable for February 2014

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)**

**Budget Amendments**

Except for depreciation adjustments there were no other budget amendments made in the month of February 2014, as the mid year budget review is still in progress and will be finalised in March 2014.

**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 & Underground Power payments totalling \$3,332,411 were collected over the course of the month. Rates collection progress for the month of February was 1% above target. As at 28 February 2014, 89% of 2013/2014 rates had been collected. This is 0.3% higher than collected for the same time last year.

Total sundry debtor balances decreased by \$336,982 over the course of the month. The 90+ day's debtor balance increased by \$472.

**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 for \$161.65 was written off under delegated authority in the month of February 2014, for uncollectible rates as the previous owner was unable to be contacted.

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

DESCRIPTION	LINK
Rate Setting Statement February 2014	<a href="#">6002A February 2014</a>
Statement of Financial Activity – February 2014	<a href="#">6002B February 2014</a>
Representation of Net Working Capital – February 2014	<a href="#">6002E February 2014</a>
Reconciliation of Net Working Capital – February 2014	<a href="#">6002F February 2014</a>
Notes on Rate Setting Statement reporting on variances of 10% or greater – February 2014	<a href="#">6002H February 2014</a>
Details of Budget Amendments requested – February 2014	<a href="#">N/A</a>
Summary of Rates Debtors – February 2014	<a href="#">6002L February 2014</a>
Graph Showing Rates Collections – February 2014	<a href="#">6002M February 2014</a>
Summary of General Debtors aged 90 Days Old or Greater – February 2014	<a href="#">6002N February 2014</a>

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

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

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

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

(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.

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)**

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

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

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

The variance adopted by the Council at its Special meeting held on 26 June 2013 to adopt the 2013/2014 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 February 2014](#) (Notes on Rate Setting Statement 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 Statements of Financial Activity as presented to the Council and the reporting of significant variances is undertaken in accordance with the Council's Accounting Policy CP-025.

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 28 February 2014.

**C14/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR FEBRUARY 2014 (REC)  
(ATTACHMENTS)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)**

**NOTING**

**That the Council:**

**Note the Rate Setting Statement and Statements of Financial Activity for the month ending 28 February 2014 as detailed in the following attachments:**

<b>DESCRIPTION</b>	<b>LINK</b>
Rate Setting Statement February 2014	<a href="#">6002A February 2014</a>
Statement of Financial Activity – February 2014	<a href="#">6002B February 2014</a>
Representation of Net Working Capital – February 2014	<a href="#">6002E February 2014</a>
Reconciliation of Net Working Capital – February 2014	<a href="#">6002F February 2014</a>
Notes on Rate Setting Statement reporting on variances of 10% or greater – February 2014	<a href="#">6002H February 2014</a>
Details of Budget Amendments requested – February 2014	<a href="#">N/A</a>
Summary of Rates Debtors – February 2014	<a href="#">6002L February 2014</a>
Graph Showing Rates Collections – February 2014	<a href="#">6002M February 2014</a>
Summary of General Debtors aged 90 Days Old or Greater – February 2014	<a href="#">6002N February 2014</a>

At 6.57pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

**T14/3489 – PROVISION OF ELECTRICITY TO THE CITY OF MELVILLE FACILITIES  
(CO05/14) (AMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : All  
 Category : Operational  
 Subject Index : Tenders  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : NA.  
 Waste Programme : NA  
 Funding : 2013/2014 Operational budgets  
 Responsible Officer : Paul Kellick  
 Manager Asset Management

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**T14/3489 – PROVISION OF ELECTRICITY TO CITY OF MELVILLE FACILITIES (CO05/14)  
(AMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- To recommend acceptance of a contract for the supply of electricity, for a two year period, to 18 City of Melville facilities that have a contestable energy supply.

**BACKGROUND**

Quotes were called through WALGA's Preferred Supply Contract CO14-11, Energy - Contestable Energy and Related Services.

The facilities with contestable supplies are shown below.

No.	Facility
1	Melville Reserve
2	Leeming Recreation Centre
3	Leeming Sports Association
4	Melville Aquatic Centre
5	Kardinya Community Hall, Football Club, Carpark, Playcentre
6	Melville Civic Centre
7	Piney Lakes pumps, EEC, and Juett Park, Sinclair Crescent, Winthrop (Piney Lakes Res - Pump)
8	Heathcote site services
9	Wireless Hill Reserve
10	Bluegum Community Centre
11	Bull Creek Library and Hall
12	Pt Walter Golf
13	Telstra Tower Supply
14	Stock Road Senior Citizen's Centre
15	Len Shearer Clubhouse & Lights
16	Point Walter Golf Bore Meter
17	Operation Centre, Bramanti Rd
18	Bicton Water Polo Club

**Price Schedule**

The Price Schedule forms part of the Attachments to the Agenda, which was distributed to the Members of the Contract and Tender Advisory Unit on Wednesday 2 April 2014 and distributed to Elected Members on Friday 4 April 2014 under confidential cover.

**T14/3489 – PROVISION OF ELECTRICITY TO CITY OF MELVILLE FACILITIES (CO05/14)  
(AMREC) (CONFIDENTIAL ATTACHMENT)**

**Quote Evaluation Process**

The request for quotation was issued through WALGA's e-quote system to four suppliers; Synergy, Alinta Gas, Perth Energy and Landfill Gas & Power.

Each offer was assessed using the following selection criteria and weightings:

<b>Criteria</b>	<b>Weighting</b>
Terms and conditions of supply contract	20%
Quoted price	80%

The 'terms and conditions' criteria was scored out of five for each quote and pricing was scored using the price weighting percentage method above.

The Evaluation Panel members consisted of the Manager Asset Management, the Facilities and Asset Coordinator and the Senior Financial Accountant.

A price schedule was included that required the following information for all 18 sites:

- On-peak price (c/kWh)
- Off peak price (c/kWh)
- Supply charge (\$/day)
- Other charges
- On peak percentage
- Off peak percentage
- Estimates total annual consumption
- Annual cost (estimate)

Estimates of total annual consumption, on peak percentage and off peak percentage were obtained from the City's current supplier Synergy as consent was given by the City as part of the RFQ process. This range of pricing information was required so the City could understand the pricing structure of each submission and compare them methodically.

**Terms and conditions of supply contract**

The relative advantages and disadvantages of the supply contracts were assessed and scored based on the following ratings.

<b>Assessment Rating</b>	<b>Score</b>
Highly advantageous to the City	5
Moderately advantageous to the City	4
Average	3
Moderately advantageous to the supplier	2
Highly advantageous to the supplier	1

**T14/3489 – PROVISION OF ELECTRICITY TO CITY OF MELVILLE FACILITIES (CO05/14)  
(AMREC) (CONFIDENTIAL ATTACHMENT)****Quoted price**

The request for quotation document included a price schedule which all suppliers were asked to complete. The price schedules for the two conforming submissions form part of the confidential attachments to the Agenda.

The Evaluation Criteria Sheet is included as part of the summary price schedule and forms part of the Attachments to the Agenda which were distributed to the Members of the Contract and Tender Advisory Unit on Wednesday 2 April 2014 and distributed to Elected Members on Friday 4 April 2014 under confidential cover.

**DETAIL**

The City's current electricity supply contract with Synergy ends at the end of May 2014 and although we retain an option of renewing the contract, it is considered prudent to 'test the (electricity) market' at least every 5 years to ensure value for money is maximised. The term of the contract is two years.

In February 2014, Quotes were sought through WALGA's Preferred Supply Contract CO14-11 Energy - Contestable Energy and Related Services. Four suppliers were invited; Synergy, Alinta Gas, Perth Energy and Landfill Gas & Power, and all responded.

**Panel Discussion and Conclusion**

The submissions were firstly assessed in terms of compliance with the quote specification. The panel assessed the submissions and found two of them, Perth Energy and Landfill Gas and Power, to be non-compliant.

Perth Energy had not completed the price schedule correctly and included a 'minimum annual consumption' contrary to the terms of the RFQ.

Landfill Gas and Power had not completed the price schedule correctly and did not include a supply contract to review.

**Comparing the Offers**

Both conforming submissions had very similar pricing, only varying by a margin of 0.9% per annum (\$10,780) and subsequently achieved similar scores against the price criteria.

The terms and conditions of the Synergy contract were assessed as being straight forward, easy to understand with all potential charges being outlined clearly. Alinta terms and conditions were less clear and included a number of additional charges that resulted in a lower qualitative score.

Considering both quantitative and qualitative scoring, Synergy score higher overall and is the preferred supplier as a result.

Pricing and qualitative scores are included as a confidential attachment.

**T14/3489 – PROVISION OF ELECTRICITY TO CITY OF MELVILLE FACILITIES (CO05/14)  
(AMREC) (CONFIDENTIAL ATTACHMENT)****STAKEHOLDER ENGAGEMENT****VII. COMMUNITY**

{The Stakeholder Engagement Policy CP-002 – outlines the different levels of public consultation and communication required depending on complexity, risk, political sensitivity and the impact on the community}.

1. No external engagement has been carried out because there will be no change to levels of service provision.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 3.57 11 (2) of the Local Government Act 1995 states that *“Tenders do not have to be publically invited according to the requirements of this Division if – (b) the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA.”*

**FINANCIAL IMPLICATIONS**

The budget for provision of electricity to ‘contestable’ City facilities is approved annually in existing operational budgets totaling approximately \$1.3 million.

Carbon pricing was included in both conforming submissions and Synergy confirmed that should the Carbon tax be repealed, they will remove this charge.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

This report is consistent with the City’s Corporate Plan’s Key Result Area of Business Excellence including the implementation of strong financial management and cost control.

**Risk Management Implications**

The provision of electricity to City of Melville facilities will allow the City to continue to provide services to its community and presents no risk.

**POLICY IMPLICATIONS**

Procurement of Goods and Services Policy CP-023

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Alternate options include choosing another supplier which is not recommended as the recommended supplier presents best value for money.

Not procuring electricity is not an option.

**T14/3489 – PROVISION OF ELECTRICITY TO CITY OF MELVILLE FACILITIES (CO05/14)  
(AMREC) (CONFIDENTIAL ATTACHMENT)****CONCLUSION**

The evaluation panel recommends that the offer from Synergy provided the best value for money and be accepted.

The Council is required to consider this tender and the recommendation from the Contract and Tender Advisory Unit because the value of the contract exceeds the \$500,000 limit delegated to the Chief Executive Officer under Delegated Authority DA-027.

**EVALUATION PANEL RECOMMENDATION (CO05/14)****APPROVAL**

**That the submission by Synergy for the provision of electricity to City of Melville facilities, for a two year period, procured through WALGA's Preferred Supply Contract CO14-11, Energy-Contestable Energy and Related Services, be accepted as the most advantageous.**

**CONTRACT AND TENDER ADVISORY UNIT RECOMMENDATION (CO05/14) & COUNCIL RESOLUTION (3489)****ABSOLUTE MAJORITY APPROVAL**

At 6.58pm Cr Schuster moved, seconded Cr Reynolds –

**That the Council by absolute majority decision accepts:**

**That the submission by Synergy for the provision of electricity to City of Melville facilities, for a two year period, procured through WALGA's Preferred Supply Contract CO14-11, Energy-Contestable Energy and Related Services, be accepted as the most advantageous.**

At 6.58pm the Mayor submitted the motion, which was declared

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

**M14/5360 – RECORDING OF MEETINGS (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Subject Index : Policy and Policy Development  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : C12/5254 – Recording Council Meetings – Ordinary Meeting of the Council – October 2012  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Jeff Clark  
 Governance and Compliance Program Manager

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

**M14/5359 – RECORDING OF MEETINGS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- This report is to introduce a new Council Policy on Recording of Meetings for the consideration of the Council.
- The new Policy is constrained by legislative obligations and seeks to provide a direction to ensure the City observes all legislative requirements.
- The draft Policy is recommended to the Council for adoption.

**BACKGROUND**

The Council resolved in October 2012 to request the Chief Executive Officer to:

*“further investigate appropriate audio equipment and electronic voting solutions and associated costs, to replace the current microphone system in the Council Chambers and submit a capital budget request as part of the City’s 2012-2013 budget review deliberations.*

*Resolves that following the purchase of an electronic voting system all votes by Elected Members and the respective names and manner of voting be recorded and included in the minutes.”*

The investigation and subsequent purchase of audio recording equipment and an electronic voting system has been made and installed in the Council Chamber.

**DETAIL**

The Council Resolution requirement has been met. The matter of use of recordings of the Ordinary Meetings of the Council, Agenda Briefing Forums and Special Meetings of the Council was intended to occur for the purposes noted below taken from the August 2012 Ordinary Meeting of the Council reasons for a Notice of Motion.

*“For greater clarity; better governance; that ratepayers and others will be able to access the recording (subject to a Council Policy) to confirm voting and better understand the reasoning behind Council decision making and the extent of analysis and debate which goes into agenda items prior to voting.*

*Audio recording will also make it easier for the City’s administrative staff to prepare the Council’s written minutes.”*

The draft Council Policy has been prepared to provide direction to the Chief Executive Officer concerning any request for access to the recordings of the Ordinary Meetings of the Council, Agenda Briefing Forums and Special Meetings of the Council. The use of all recordings for preparation of either Minutes of Council Meetings or Notes of Agenda Briefing Forums is intended to take precedence over any requests for access by other persons due to the time constraints to prepare and publish Minutes and Notes.

The draft Policy advises that the Policy objectives are to ensure the accurate preparation of the Minutes and enunciate a process to provide access to the recorded proceedings of Meetings.

**M14/5359 – RECORDING OF MEETINGS (REC) (ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

**VIII. COMMUNITY**

There has not been consultation conducted with the Community as this is a matter for the Council to decide.

**IX. OTHER AGENCIES / CONSULTANTS**

No other agencies or consultants have contributed to this policy.

**STATUTORY AND LEGAL IMPLICATIONS**

The *Freedom of Information Act 1992*, the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* are referenced in the draft Policy. The provisions of the *Freedom of Information Act 1992* provide criteria concerning the availability of some information relating to individuals. The *Local Government Act 1995* has deemed certain information to be confidential and that information cannot be disclosed while it remains classified as confidential.

**FINANCIAL IMPLICATIONS**

The financial implications are unknown at this time as the City does not have experience of the number of enquiries for access or supervised listening to recordings. This information will be provided to Elected Members when collated.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic or environmental management implications in this report. To deal with risk implications, the City will conduct a comprehensive review of any recording prior to making the recording available to applicants to ensure the City's obligations under the *Freedom of Information Act 1992*, *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* are met. The obligation to remove material that may be deemed defamatory will be managed by the review process. The City will hold copyright on the recordings and consequently, any publishing of recorded or transcribed material will be a breach of copyright.

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
That confidential or defamatory material is accessed by a person either listening or receiving an electronic copy of recordings of meetings.	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk	Training staff to identify material that confidential and possibly defamatory to ensure the material is removed or redacted.

**M14/5359 – RECORDING OF MEETINGS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

There is no other policy that relates to this matter.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The alternative options are to make recordings available immediately to people who request a copy but the City's obligations under the *Freedom of Information Act 1992*, *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* may be breached without a comprehensive review of the recording prior to release. This alternative is not recommended.

**CONCLUSION**

The City now has the ability to record meetings and requires a Council Policy to manage access to all recordings. The Policy must observe all legislative obligations and provide direction to the Chief Executive Officer in the management of all recorded material. The draft policy is considered to meet these requirements and is recommended for approval.

At 7.09pm Todd Cahoon left the meeting and returned at 7.12 pm.

At 7.25pm Cr Aubrey left the meeting and returned at 7.27pm.

At 7.29pm Cr Macphail left the meeting and returned at 7.32pm.

At 7.36pm Cr Phelan left the meeting and returned at 7.38pm.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5360)****APPROVAL**

At 6.58pm Cr Robartson moved, seconded Cr Willis –

**That the Council adopt the new Council Policy – Recording of Meetings  
[5360 CP 088 Recording of Meetings](#)**

**RECOMMITAL**

At 7.09pm Cr Reynolds moved, seconded Cr Macphail –

That the item Council Policy – Recording of Meetings be recommitted to the May 2014 Meeting of the Council.

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

**LOST (5/7)**

**M14/5359 – RECORDING OF MEETINGS (REC) (ATTACHMENT)**

<b>Vote Result Detailed</b>	
Cr Aubrey	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Reynolds	Yes
Mayor Aubrey	Yes
Cr Barton	No
Cr Foxtton	No
Cr Hill	No
Cr Pazolli	No
Cr Robartson	No
Cr Schuster	No
Cr Willis	No

**Amendment**

At 7.26pm Cr Reynolds moved, seconded Cr Macphail –

That the Council Policy – Recording of Meetings be amended in the last paragraph of the section under ‘**Access to Recordings**’ as follows:

**The Chief Executive Officer is to advise all Elected Members immediately of each application received to access the record of proceedings as well as the purpose for accessing the recording and include in the next Elected Members Bulletin. The record of proceedings is not to be shared with third parties.**

At 7.48pm the Mayor submitted the amendment, which was declared.

**CARRIED (11/1)**

<b>Vote Result Detailed</b>	
Cr Aubrey	Yes
Cr Barton	Yes
Cr Foxtton	Yes
Cr Hill	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Reynolds	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Willis	Yes
Mayor Aubrey	Yes
Cr Pazolli	No

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

**CARRIED UNANIMOUSLY (12/0)**

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****14.1 Improvements to the City's Bulk Waste Verge Collections**

5. This motion addresses the bulk waste collection because it seems to me to be both an opportunity for improvement at very modest cost, while at the same time this collection is perhaps out of step with the City's otherwise strong emphasis on and financial contribution to, recycling through the weekly recycling bin collection. This collection system seems to be strongly supported by the City's community, based on our customer surveys and participation rates;
6. In the verge bulk waste collections there are many items capable of being re-used and recycled, even after the informal collectors have visited. Generally it seems that mattresses, steel and e-waste (TVs, computers, screens and ancillary equipment) are all present in sufficient volume so as to make collection for recycling viable, before the City's truck arrives to collect the residual material for landfill disposal;
7. I am aware that there are many private companies in the metropolitan area that deal in recovery and recycling of these materials and more (for example the City of Cockburn has a contract to collect mattresses from their bulk waste left on verges for which they pay the collector \$5 per mattress) so the market for this sort of activity does exist;
8. My proposition is that the City could seek quotes from relevant contractors to travel the streets a day or two in advance of our collection trucks and be approved to sort through the bulk waste left on verges to, as a minimum remove the mattresses, e waste and useful steel from the verges. The City would pay for this under a system that could be decided on economic efficiency once the quotes are received (ie consider how the potential collectors think it could be funded) and of course the eventual contractors would have to be able to demonstrate their capacity for the material to be recycled (and be open to inspection) and not simply dumped elsewhere;
9. The costing of this is difficult to assess until it has been undertaken once, but based on other similar schemes I believe the total cost would be no more than \$30,000 per year in total. There will of course also be cost offsets through reduced landfill gate fees (which are based on tonnes delivered) and a reduced number of trips to the landfill, but I do not believe there is any way to reliably assess these savings until one full round of collections has been done (mattresses in particular are very costly to transport because of the air space they take up inside the compactor truck); and,
10. I would appreciate your consideration of this proposal. For a cost that I believe would be less than \$1 annually per ratepayer the City could improve this service and enhance our contribution to recycling and resource efficiency.

**14.1 Improvements to the City's Bulk Waste Verge Collections**

At 8.21pm Cr Schuster moved, seconded Cr Willis –

**That the Council requests the Chief Executive Officer to:**

- 1. Consider improvements to the City's bulk waste collections from street verges, so as to allow appropriate materials to be collected for recycling and re-use from the materials left out for collection by residents and ratepayers, before the City's collection system removes the remaining waste for landfill disposal; and,**
- 2. To consider if limited improvements can be implemented for the 2014/2015 waste collection periods and if so include an appropriate allowance, to fund these improvements, in the 2014/2015 budget for approval by the Council.**
- 3. Advise the Council what improvements may be undertaken and provide costings of the identified improvements for the 2014/2015 City budget.**

At 8.28pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY EN BLOC (12/0)**

Reasons for Motion

Cr Schuster provided the following reasons for the motion.

1. The City of Melville has long supported its residents and ratepayers by providing several green waste verge collections per year, as well as one bulk waste (commonly called "junk") collection annually. The evidence, based on levels of participation across the City, and the amount of material collected, is that these processes are valued by many residents and ratepayers of the City;
2. The green waste collections are currently (and have been for many years) delivered to the Southern Metropolitan Regional Council's (SMRC) green waste processing facility at Canning Vale. The City pays the gate fee and the SMRC then processes the green waste by chipping it and sells the resultant material by tender into the Western Australian soil amendment products industry –the material is then sold into the retail and commercial markets as a component of various mulches and/or composts;
3. Currently the bulk waste collections are collected in the City's compactor trucks and transported to landfills (most recently the City of Cockburn landfill in Henderson) for disposal –the City pays for the transport and landfill gate fee. We are all aware that there is some informal recycling and re-use activity by private individuals in the days between waste being left on the verge and when it is collected by the City, which allows for useful goods to be reused as well as reducing the ultimate cost to the City because it reduces the volume of waste collected. The community seems to accept this as being reasonable, save for some "collectors" who choose the early morning hours to sort through the waste on the verge;
4. Consequently the City itself has no opportunity to reuse or recycle any of the material it collects, although I am aware that at the landfill some of the collected materials (mainly mattresses) are "scavenged" and collected by a mattress recycler who strips out the metal and other useful materials from the mattresses for resale;

## 14.2 Blue Gum Park Tennis Club - Lease Determination

### Disclosure of Interest

Item No.	Blue Gum Park Tennis Club - Lease Determination
Member	Cr Schuster
Type of Interest	Interest under Code of Conduct
Request	Stay
Decision of Council	Not Required

At 8.06pm Cr Reynolds left the meeting and returned at 8.08pm.

At 7.55pm Cr Barton moved, seconded Cr Pazolli –

**That the Council requests the Chief Executive Officer to refer the submission by the Blue Gum Park Tennis Club for a modification of their lease, which includes an extension of their lease boundary to the west of the grass courts to accommodate a shed and storage compound, to the Council for determination.**

### Reasons for Motion

Cr Barton provided the following reasons in support of the motion.

1. The area being considered for the construction of a shed and storage compound is a part of the Blue Gum Reserve, listed as Bush Forever Location 228. The Bush Forever policy is to ensure bushland protection and management issues are appropriately addressed and integrated with broader land use planning and decision-making.
2. Development in Bush Forever sites is required to be consistent with Bush Forever policies, and shed and storage compound are likely to be less consistent than other possible developments.
3. As such a development in a Bush Forever location raises issues beyond those of most other club lease requests, it is appropriate that the submission of the Blue Gum Park Tennis Club be investigated in detail and brought to the Council for determination, rather than being decided on delegated authority.
4. If this submission were approved without an appropriate policy in place it could be interpreted as a precedent that could cause future problems for Council.

**14.2 Blue Gum Park Tennis Club - Lease Determination**

At 7.57pm Cr Schuster moved, seconded Cr Barton –

**That the existing words of the Notice of Motion be labelled A.; and,  
B. This referral is to be made to the May 2014 meeting of the Council if at all possible.**

At 8.19pm the Mayor submitted the motion, which was declared

**CARRIED (7/5)**

Vote Result Detailed	
Cr Barton	Yes
Cr Foxtton	Yes
CR Hill	Yes
Cr Pazolli	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Willis	Yes
Cr Aubrey	No
Cr Macphail	No
Cr P Phelan	No
Cr Reynolds	No
Mayor Aubrey	No

At 8.19pm Cr Macphail took exception of the words “should be open rather than Council sweeping it under the carpet” spoken by Cr Barton and asked for it to be recorded in the minutes.

**COUNCIL RESOLUTION**

**That the Council -**

- A) Requests the Chief Executive Officer to refer the submission by the Blue Gum Park Tennis Club for a modification of their lease, which includes an extension of their lease boundary to the west of the grass courts to accommodate a shed and storage compound, to the Council for determination.**
- B) This referral is to be made to the May 2014 meeting of the Council if at all possible.**

At 8.19pm the Mayor submitted substantive motion as amended which was declared

**CARRIED (12/0)**

Vote Result Detailed	
Cr Aubrey	Yes
Cr Barton	Yes
Cr Foxtton	Yes
Cr Hill	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Pazolli	Yes
Cr Reynolds	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Willis	Yes
Mayor Aubrey	Yes

**15. EN BLOC ITEMS**

At 8.28pm Cr Schuster moved, seconded Cr Reynolds –

**That the recommendations for items P14/3487, P14/3482, P14/3484, P14/3485, P14/3486, C14/6000, C14/6001 and C14/6002 be carried En Bloc.**

**CARRIED UNANIMOUSLY (12/0)**

Vote Result Detailed	
Cr Aubrey	Yes
Cr Barton	Yes
Cr Foxtton	Yes
Cr Hill	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Pazolli	Yes
Cr Reynolds	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Willis	Yes
Mayor Aubrey	Yes

**MEETING CLOSED TO THE PUBLIC**

At 8.30pm Cr Willis moved, seconded Cr Reynolds –

**That the meeting be closed to the public to permit discussion on confidential matters (Item M14/5358 & M14/5359 which relates to the Chief Executive Officer Performance Review in accordance with Section 5.23 (2) (a) of the Local Government Act 1995.**

At 8.30pm the Mayor submitted the motion, which we declared.

**CARRIED UNANIMOUSLY (12/0)**

Vote Result Detailed	
Cr Aubrey	Yes
Cr Barton	Yes
Cr Foxtton	Yes
Cr Hill	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Pazolli	Yes
Cr Reynolds	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Willis	Yes
Mayor Aubrey	Yes

At 8.31pm Dr Silcox left the meeting.

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

Disclosure of Interest

Item No. M14/5359  
 Member Dr S Silcox  
 Type of Interest Financial Interest in Accordance with the Act  
 Nature of Interest CEO of City of Melville – may be an impact on Salary  
 Request Leave  
 Decision of Council Not Required

Ward : All  
 Category : Operational  
 Subject Index : Personnel file  
 Customer Index : Personnel file  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : M14/5354 – City of Melville – Chief Executive Officer Performance Review – Governance Committee 12 March 2014  
 M14/5342 – City of Melville – Chief Executive Officer Performance Review – Council 18 February 2014  
 Works Programme : Not applicable  
 Funding : Not applicable  
 Responsible Officer : Kylie Johnson  
 Executive Manager Organisational Development

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****KEY ISSUES / SUMMARY**

- The Governance Committee has been determined through Council to be the reviewers of the Chief Executive Officer (CEO) performance.
- The Governance Committee will discuss the CEO performance, future expectations and performance criteria, performance development and review the salary package, for recommendation to the Council.
- A defined process is followed for the CEO performance review, as detailed in the agenda item.

**BACKGROUND**

On 20 March 2008 Dr Shayne Silcox commenced in the role of Chief Executive Officer (CEO) at the City of Melville. In 2011 a new five year contract was adopted by Council. That contract is due to expire 20 March 2016; and discussions on renewal of the contract must occur no later than 20 June 2015. Clause 7 of the CEO contract advises that there is to be a Performance Review every 12 months, and the last performance review was finalised in June 2013.

A Performance Review Consultant, Ms Helen Hardcastle from Learning Horizons, has been engaged by the City of Melville to facilitate the discussions between Council and the Chief Executive Officer during the Performance and Remuneration Review process. This has included opportunities for all Elected Members to meet individually with the Consultant and discuss survey feedback.

**DETAIL**

The review process endorsed by Council on 19 March 2013 is included as attachment [5359 Chief Executive Officer Performance Review](#), which details estimated dates. As indicated in the process the Governance Committee are to discuss the CEO performance, future expectations, performance criteria, performance development, and review the salary package, for recommendation to the Council.

The role of the Performance Review Consultant is to assist in discussions between Elected Members, His Worship the Mayor and the CEO in all aspects of the performance and development discussion and future performance criteria, as well as the salary package review.

A confidential copy of the CEO Performance Review – Consultant Report (Confidential Attachment A) was distributed to Elected Members on Friday 4 April 2014 under confidential cover. The Performance Report from the CEO (Confidential Attachment B) was distributed to Elected Members on 21 March 2014.

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

The process for the Governance meeting is as follows:

<i>Action</i>	<i>Purpose</i>	<i>CEO involvement</i>
1. Discussion between Ms Helen Hardcastle and Governance Committee relating to the report from the Performance Review Consultant on survey results, potential changes to performance criteria and relevant remuneration data which forms Confidential Attachment A.	Clarify key comments to be delivered to the CEO on behalf of the Elected Members including -past performance -future performance criteria -performance development	CEO not present
2. CEO to provide comment on performance and future priorities	Discussion on the CEO's Performance Review document which is confidential Attachment B and CEO to detail his perspective of his and the organisation's performance and future priorities	CEO to be present
3. Feedback to CEO from Governance Committee on performance	Ensure CEO understands views of Elected Members on performance and priorities, with reference to the survey response report, which is within confidential Attachment A	CEO to be present
4. Discussion of current performance criteria which are detailed in Attachment A	To ensure contract performance criteria reflect expected desired outcomes	CEO to be present
5. Discussion of performance development plan	To ensure performance development areas are discussed. It is noted the Mayor is authorised to approve professional development for the CEO, as specified in the contract of employment.	CEO to be present
6. Remuneration discussion	Review of salary level – refer to confidential Attachment A.	CEO not present

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

No external public consultation has been carried out for this report or survey.

**II. OTHER AGENCIES / CONSULTANTS**

There has been no liaison with any other agencies or Consultants beyond Learning Horizons.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.38 of the *Local Government Act 1995* states the requirement to review a CEO's performance at least once a year in relation to every year of employment.

Section 5.23 (2) of the *Local Government Act 1995* states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

Section 5.39 (7) of the *Local Government Act 1995* requires a report from the Salaries and Allowances Tribunal with a recommendation as to the remuneration to be paid or provided to a CEO to be taken in to account by the local government before entering into, or renewing a contract of employment with a CEO. Although this section of the Local Government Act 1995 does not include salary reviews this information has been included in the comparative salary data for consideration by the Council when assessing salary.

**FINANCIAL IMPLICATIONS**

The fee for the Performance Review Consultant has been included in the 2013/2014 Operational Budget. Any change to the salary package of the CEO will be reflected in the Operational Budget for 2014/2015.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Risk Statement	Level of Risk	Risk Mitigation Strategy
That the performance criteria for the next twelve months are not determined	<b>Low</b>	Defined process that includes this stage

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****POLICY IMPLICATIONS**

Not applicable

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

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

**CONCLUSION**

The purpose of the Governance Committee Meeting is to provide recommendations to Council in relation to the Performance and Salary Review for the Chief Executive Officer.

Specifically the Governance Committee is to provide feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarify expectations, which are to be reflected in the Chief Executive Officer Contract performance criteria.

The review of current contract performance criteria is an important opportunity for the Council and the Chief Executive Officer to clarify expectations and desired outcomes to be achieved. The current performance criteria may not be reflecting current priorities and should be an important aspect of this review process.

Note: The Governance Committee met on Wednesday 9 April 2014 and requested the Performance Review Consultant to amend the Performance Criteria for the Chief Executive Officer to include suggested amendments discussed at this meeting. The draft amended Performance Criteria will be presented for consideration at a Governance Committee Meeting to be held on Monday 14 April 2014 at 5pm.

**M14/5359 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5359)****APPROVAL**

At 8.39pm Cr Schuster moved, seconded Cr Robartson –

- 1 That the Performance Criteria for the Chief Executive Officer be amended as recommended by the Governance Committee meeting of 14 April 2014, to reflect agreed changes, and the revised criteria be provided under confidential cover to the Council as an attachment entitled “Amended Performance Criteria 2014”, be approved.**
- 2 That the Chief Executive Officer be requested to advise the Council of a means to provide a staff salary structure that:**
  - a. Is competitive with metropolitan local governments;**
  - b. Takes account of the effect on the City of Melville annual budget; and**
  - c. Recommend an implementation timeframe.**

Amendment

At 8.43 Cr Pazolli moved, seconded Cr Barton -

**That the Chief Executive Officers Performance Criteria be amended by the deletion of all words at point 3 d) that follow the word “Reserves”.**

At 8.43pm the Mayor submitted the motion, which was declared

**LOST (2/10)**

For: Mayor Aubrey, Cr Aubrey, Cr Foxton, Cr Hill, Cr Macphail, Cr Phelan, Cr Reynolds, Cr Robartson, Cr Schuster, Cr Willis  
Against: Cr Barton & Cr Pazolli

At 8.51pm the Mayor submitted the substantive motion -

- 1 That the Performance Criteria for the Chief Executive Officer be amended as recommended by the Governance Committee meeting of 14 April 2014, to reflect agreed changes, and the revised criteria be provided under confidential cover to the Council as an attachment entitled “Amended Performance Criteria 2014”, be approved.**
- 2 That the Chief Executive Officer be requested to advise the Council of a means to provide a staff salary structure that:**
  - a. Is competitive with metropolitan local governments;**
  - b. Takes account of the effect on the City of Melville annual budget; and**
  - c. Recommend an implementation timeframe.**

At 8.51pm the Mayor declared the substantive motion

**CARRIED UNANIMOUSLY (12/0)**

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

Disclosure of Interest

Item No.	M14/5358
Member	Dr S Silcox
Type of Interest	Financial Interest in Accordance with the Act
Nature of Interest	CEO of City of Melville – may be an impact on Salary
Request	Leave
Decision of Council	Not Required
Ward	: All
Category	: Operational
Subject Index	: Personnel file
Customer Index	: Personnel file
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: M14/5354 – City of Melville – Chief Executive Officer Performance Review – Governance Committee 12 March 2014 M14/5342 – City of Melville – Chief Executive Officer Performance Review – Council 18 February 2014
Works Programme	: Not applicable
Funding	: Not applicable
Responsible Officer	: Kylie Johnson Executive Manager Organisational Development

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
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<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****KEY ISSUES / SUMMARY**

- The Governance Committee has been determined through Council to be the reviewers of the Chief Executive Officer (CEO) performance.
- The Governance Committee will discuss the CEO performance, future expectations and performance criteria, performance development and review the salary package, for recommendation to the Council.
- A defined process is followed for the CEO performance review, as detailed in the agenda item.

**BACKGROUND**

On 20 March 2008 Dr Shayne Silcox commenced in the role of Chief Executive Officer (CEO) at the City of Melville. In 2011 a new five year contract was adopted by Council. That contract is due to expire 20 March 2016; and discussions on renewal of the contract must occur no later than 20 June 2015. Clause 7 of the CEO contract advises that there is to be a Performance Review every 12 months, and the last performance review was finalised in June 2013.

A Performance Review Consultant, Ms Helen Hardcastle from Learning Horizons, has been engaged by the City of Melville to facilitate the discussions between Council and the Chief Executive Officer during the Performance and Remuneration Review process. This has included opportunities for all Elected Members to meet individually with the Consultant and discuss survey feedback.

**DETAIL**

The review process endorsed by Council on 19 March 2013 is included as attachment [5358 Chief Executive Officer Performance Review](#), which details estimated dates. As indicated in the process the Governance Committee are to discuss the CEO performance, future expectations, performance criteria, performance development, and review the salary package, for recommendation to the Council.

The role of the Performance Review Consultant is to assist in discussions between Elected Members, His Worship the Mayor and the CEO in all aspects of the performance and development discussion and future performance criteria, as well as the salary package review.

A confidential copy of the CEO Performance Review – Consultant Report (Confidential Attachment A) was distributed to Elected Members on Friday 4 April 2014 under confidential cover. The Performance Report from the CEO (Confidential Attachment B) was distributed to Elected Members on 21 March 2014.

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

The process for the Governance meeting is as follows:

<i>Action</i>	<i>Purpose</i>	<i>CEO involvement</i>
7. Discussion between Ms Helen Hardcastle and Governance Committee relating to the report from the Performance Review Consultant on survey results, potential changes to performance criteria and relevant remuneration data which forms Confidential Attachment A.	Clarify key comments to be delivered to the CEO on behalf of the Elected Members including -past performance -future performance criteria -performance development	CEO not present
8. CEO to provide comment on performance and future priorities	Discussion on the CEO's Performance Review document which is confidential Attachment B and CEO to detail his perspective of his and the organisation's performance and future priorities	CEO to be present
9. Feedback to CEO from Governance Committee on performance	Ensure CEO understands views of Elected Members on performance and priorities, with reference to the survey response report, which is within confidential Attachment A	CEO to be present
10. Discussion of current performance criteria which are detailed in Attachment A	To ensure contract performance criteria reflect expected desired outcomes	CEO to be present
11. Discussion of performance development plan	To ensure performance development areas are discussed. It is noted the Mayor is authorised to approve professional development for the CEO, as specified in the contract of employment.	CEO to be present
12. Remuneration discussion	Review of salary level – refer to confidential Attachment A.	CEO not present

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

**STAKEHOLDER ENGAGEMENT**

**III. COMMUNITY**

No external public consultation has been carried out for this report or survey.

**IV. OTHER AGENCIES / CONSULTANTS**

There has been no liaison with any other agencies or Consultants beyond Learning Horizons.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.38 of the *Local Government Act 1995* states the requirement to review a CEO's performance at least once a year in relation to every year of employment.

Section 5.23 (2) of the *Local Government Act 1995* states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

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**FINANCIAL IMPLICATIONS**

The fee for the Performance Review Consultant has been included in the 2013/2014 Operational Budget. Any change to the salary package of the CEO will be reflected in the Operational Budget for 2014/2015.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Risk Statement	Level of Risk	Risk Mitigation Strategy
That the performance criteria for the next twelve months are not determined	<b>Low</b>	Defined process that includes this stage

**POLICY IMPLICATIONS**

Not applicable

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****ALTERNATE OPTIONS & THEIR IMPLICATIONS**

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

**CONCLUSION**

The purpose of the Governance Committee Meeting is to provide recommendations to Council in relation to the Performance and Salary Review for the Chief Executive Officer.

Specifically the Governance Committee is to provide feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarify expectations, which are to be reflected in the Chief Executive Officer Contract performance criteria.

The review of current contract performance criteria is an important opportunity for the Council and the Chief Executive Officer to clarify expectations and desired outcomes to be achieved. The current performance criteria may not be reflecting current priorities and should be an important aspect of this review process.

**COMMITTEE RECOMMENDATION (5358)****APPROVAL**

At 8.52pm Cr Reynolds moved, seconded Cr Foxtan –

1. That the Performance Criteria for the Chief Executive Officer be amended as recommended by the Governance Committee, to reflect agreed changes, and the revised criteria be provided under confidential cover to the Council as an attachment entitled “Amended Performance Criteria 2014”, be approved.
2. That the base salary component for the Chief Executive Officer be amended as recommended by the Governance Committee and the revised base salary change be provided under confidential cover to the Council as an attachment entitled “Salary Recommendation 2014” for approval, to take effect from 20 March 2014.
3. That Council undertake discussion with the Chief Executive Officer regarding entering into a contract for a further five years as recommended by the Governance Committee to take effect from 20 March 2014.
4. That the Chief Executive Officer be requested to advise the Council of a means to provide a staff salary structure that is competitive with metropolitan local governments.

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)****COUNCIL RESOLUTION (5358)****(APPROVAL)**

At 8.41 pm the Mayor called for a Mover and Seconder of Committee Recommendations 1 and 2 –

At 8.41pm Cr Schuster moved, seconded Cr Robartson –

1. That the Performance Criteria for the Chief Executive Officer be amended as recommended by the Governance Committee, to reflect agreed changes, and the revised criteria be provided under confidential cover to the Council as an attachment entitled “Amended Performance Criteria 2014”, be approved.
2. That the base salary component for the Chief Executive Officer be amended as recommended by the Governance Committee and the revised base salary change be provided under confidential cover to the Council as an attachment entitled “Salary Recommendation 2014” for approval, to take effect from 20 March 2014.

**Amendment 1**

At 8.56pm Cr Pazolli moved, seconded Cr Barton –

**That the base salary component of the CEO increase noted in Confidential Attachment Salary Recommendation be amended as resolved by the Council.**

At 9.03pm the Mayor submitted the motion, which was declared

**LOST (2/10)**

For: Cr Barton, Cr Pazolli

Against: Mayor Aubrey, Cr Aubrey, Cr Foxtan, Cr Hill, Cr Macphail, Cr Phelan, Cr Reynolds, Cr Robartson, Cr Schuster, Cr Willis

At 9.04pm the Mayor submitted Committee Recommendations 1 and 2 -

1. That the Performance Criteria for the Chief Executive Officer be amended as recommended by the Governance Committee, to reflect agreed changes, and the revised criteria be provided under confidential cover to the Council as an attachment entitled “Amended Performance Criteria 2014”, be approved.
2. That the base salary component for the Chief Executive Officer be amended as recommended by the Governance Committee and the revised base salary change be provided under confidential cover to the Council as an attachment entitled “Salary Recommendation 2014” for approval, to take effect from 20 March 2014.

At 9.04pm the Mayor declared the substantive motion for Recommendations 1 and 2,

**CARRIED (11/1)**

For: Mayor Aubrey, Cr Aubrey, Cr Barton, Cr Foxtan, Cr Hill, Cr Macphail, Cr Phelan, Cr Reynolds, Cr Robartson, Cr Schuster, Cr Willis

Against: Cr Pazolli

**M14/5358 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENTS)**

At 9.05pm Cr Schuster moved, seconded Cr Willis–

- 3 That Council undertake discussion with the Chief Executive Officer regarding entering into a contract for a further five years as recommended by the Governance Committee to take effect from 20 March 2014.**

Corrections as per Council Resolution Item M16/5472 Ordinary Meeting of Council 19 April 2016.  
Amendment

At 9.15pm Cr Pazolli moved -

**That at point 3 of the Committee Recommendation, the word "five" be deleted and replaced with the word "three" and the words after "three" be deleted.**

**The Amendment lapsed for want of a seconder.**

At 9.16pm, Cr Pazolli took exception to Cr Phelan's use of the words "pretty bloody good" in reference to the Chief Executive Officer's performance and contribution to the City of Melville and requested the words be recorded in the minutes.

At 9.05pm Cr Willis moved, seconded Cr Robartson–

- 4. That the Chief Executive Officer be requested to advise the Council of a means to provide a staff salary structure that is competitive with metropolitan local governments.**

At 9.21pm the Mayor submitted the motion, which was declared

**CARRIED (11/1)**

For: Mayor Aubrey, Cr Aubrey, Cr Barton, Cr Foxton, Cr Hill, Cr Macphail, Cr Phelan, Cr Reynolds, Cr Robartson, Cr Schuster, Cr Willis

Against: Cr Pazolli

At 9.22pm Cr Schuster moved, seconded Cr Aubrey–

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

At 9.22pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

No Members of the Public or Media returned to the meeting.

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

Nil

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

M14/5358 – City Of Melville – Chief Executive Officer Performance Review

M14/5359 – City Of Melville – Chief Executive Officer Performance Review

**18. CLOSURE**

There being no further business to discuss the Mayor declared the meeting closed at 9.25pm