

**M23/5953 – MOTIONS CARRIED AT THE GENERAL MEETING OF ELECTORS HELD  
6 FEBRUARY 2023 (REC)**

Ward	: All
Category	: Operational
Subject Index	: Council Administration – Annual General Meeting
Customer Index	: Elected Members
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Not Applicable
Works Programme	: Not Applicable
Funding	: No specific funding has been provided in the current budget to implement the motions that were supported and the General Meeting off Electors, should the Council adopt any of those motions.
Responsible Officer	: Marten Tieleman Chief Executive Officer

**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>

**KEY ISSUES / SUMMARY**

- The City of Melville General Meeting of Electors (GME) was held on Monday, 6 February 2023, for the community to receive the Community Annual Report 2021-2022 for the year ended 30 June 2022 and discuss any items of general business.
- Four motions were submitted by the community prior to the meeting, all of which were supported by those in attendance.
- In this report Officers have provided comment on the motions and presented recommendations for the consideration of the Council.

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### **BACKGROUND**

Section 5.27 of the *Local Government Act 1995* requires that:

- “(1) A general meeting of the electors of a district is to be held once every financial year.*
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) The matters to be discussed at general electors’ meeting are to be those prescribed.”*

The *Local Government (Administration) Regulations 1996 – Regulation 15 Matters to be discussed at general meeting*, prescribes that:

*“For the purposes of section 5.27(3), the matters to be discussed at a general electors meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.”*

The Community Annual Report 2021-2022 was presented to, and accepted by the Council at the Ordinary Meeting held 13 December 2022 (Item M22/5946).

### **DETAIL**

At the commencement of the Annual General Meeting of Electors, 27 Electors of the City of Melville were in attendance in the Conference Room and 24 members of the public were in attendance via live-stream and one member of the press online.

All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable —

- (a) at the first ordinary council meeting after that meeting; or
- (b) at a special meeting called for that purpose, whichever happens first.

If at a meeting of the Council, a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

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Four motions were presented to the meeting and endorsed by the community.

These supported motions are now presented for the Council to consider as follows:

**GME MOTION 1**

**That the Council discontinue installation of “semi-mountable kerb” and revert back to “barrier kerb”, as with its flat top and defined edge the barrier kerb is a safer option for all pedestrians rather than the wider, higher, sloping, semi-mountable kerb.**

Officer Comment

There are a wide variety of kerb profiles available in road design such as barrier, semi mountable and mountable kerbing. The City chooses kerb type on a case by case basis and uses all kerb types in road design as is appropriate. The City will be guided by Main Roads WA, Austroads and WALGA design guidelines and consider relevant standards such as AS1428.1 (2021) Design for Access and Mobility.

It would create undesirable design constraints and be inconsistent with industry practice to completely stop installing a particular kerb type which is recommended for use in many situations. It could also reduce the safety level of some designs.

There is no safety or crash data to support barrier kerbs being safer than semi-mountable kerbs for pedestrians. In fact, since July 2015 the City has recorded 753 insurance claim incidents, with 56 incidents (7.4%) related to trips on footpaths and no incidents (0%) from trips related to kerbs. There were 11 incidents (1.4%) related to vehicles hitting kerbs recorded during the above period.

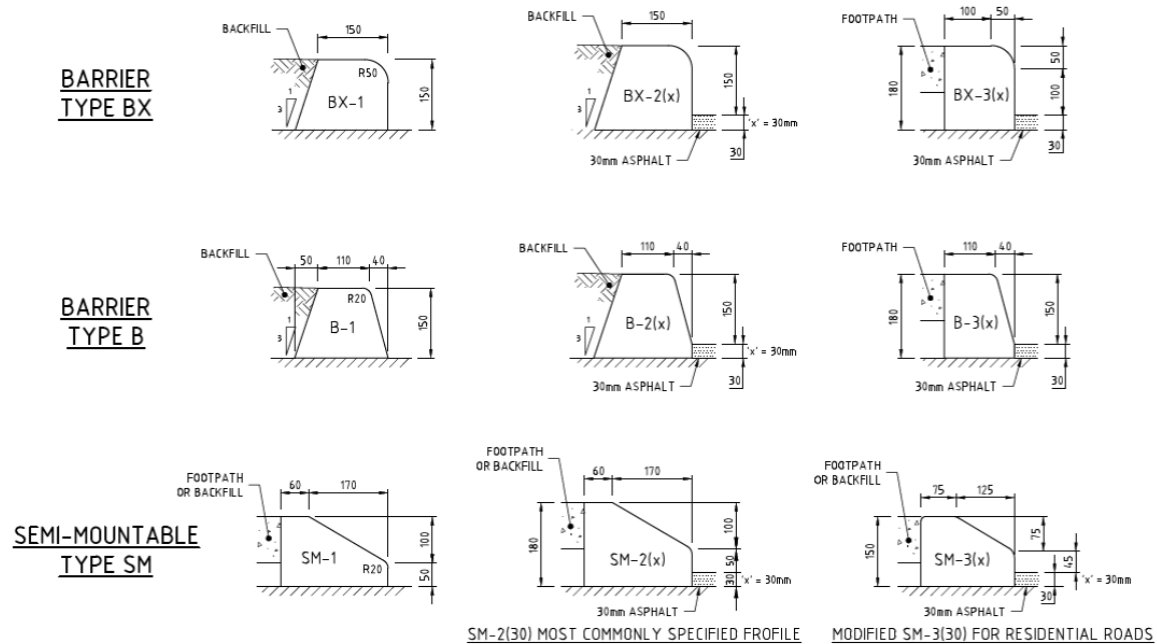
Barrier kerb is suggested by Main Roads WA (MRWA) in their Guideline “Design of Kerbing” for ‘Built up areas adjacent to footpaths with considerable pedestrian traffic, shared use paths and also at bus bays’. The City does generally use barrier kerbing when there is considerable pedestrian traffic, however there are not many areas which meet this criteria. The guideline also notes that ‘Semi-mountable kerbing may also be used along pedestrian and cycle paths’. Therefore, the City is meeting MRWA guidelines when using semi-mountable kerbing.

‘AustRoads Guide to Road Design Part 6A – Paths for walking and cycling’ does not include any recommendations on what profile kerb should be used adjacent to paths apart from noting that semi-mountable can be installed to separate pedestrian paths from cycle paths. There is a small section of general guidance on the types of kerbing used in various roads in ‘Austroads Guide to Road Design Part 3 – Geometric Design’ however it also notes that reference should be made to local guidelines as there is variability in kerb profiles in different regions. Therefore, the AustRoads guidelines are followed by the City. As noted previously different factors need to be looked at on a case-by-case basis when selecting a kerb type.

As well as Austroads Guidelines the City designs its footpaths to meet AS1428.1:2021 Design for Access and Mobility where possible. There is no recommendation in this standard on roadside kerb type. It should be noted that neither barrier kerbing or semi-mountable or even most mountable kerbs would be classed as accessible according to the standard. This is why the City installs pedestrian ramps which do meet the standard in safe and convenient locations for all people to use to cross a road.

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The kerb profile diagram taken from a City drawing in the submission is misleading to use when comparing size of the semi-mountable kerb and barrier kerb. The original full precast barrier kerb height of 170mm was not shown as, due to a number of road resurfacings, the height had been reduced. Therefore, only the kerbing above the road surface is showing. The latest standard in barrier kerbing is the same height as semi-mountable. Please see some examples below of the City's standard kerbs.



The City has a suite of kerb mould types it utilises for its road projects. These kerb types vary in shape and size to suit different environments. The most common kerb used for road rehabilitation on local access roads is the SM3. This kerb type reduces the impact to existing crossovers and verges. The semi-mountable is also generally a little wider to cater for the chamfer and provide more stability. If regularly hit, barrier kerbing is more likely to become unstable and break away from position.

The traditional precast concrete kerb shown in the submission as a comparison to semi-mountable is not used anymore as it presents a number of health and safety issues in particular manual handling. Metropolitan local Governments have been using in situ concrete kerbs for over 40 years.

Existing precast barrier kerbs are being replaced where they have reached the end of their useful lives. This includes lack of kerb face resulting from subsidence, extensive chipping and fracturing, a number of resurfacings and loss of drainage channel control. When the precast kerb was in new condition the kerb face would have been in the order of 170mm which is higher than all the Semi-Mountable kerb moulds.

The City does not always replace kerbing when road resurfacing unless it has reached the end of its useful life or there is a specific design reason to adjust. Where possible the road will be milled out and asphalt replaced to meet the existing levels.

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Semi-mountable kerbing is often chosen for the following reasons:

- It is generally more stable and durable than barrier kerbing
- It clearly delineates the edge of the road
- Semi-mountable kerbing allows an errant driver to recover more easily if struck by a vehicle. Semi-mountable kerbing is prioritised at intersections / roundabouts, medians and islands for this reason. It is in the interest of path users that an errant driver can correct their mistake without losing control
- It is high enough to discourage entry onto the verge but unlike barrier kerbing it is forgiving enough not to cause a vehicle to lose control should it hit the kerb
- The non-intimidating nature of semi-mountable kerbs also helps drivers to pull closer to the kerb on embayed parking
- The semi-mountable kerb has also proved to be safer for cyclist and bike users when riding close to the edge to the road. The chamfered edge prevents the cyclist pedals and bikers' feet from clipping the kerb resulting in them losing control.

As previously noted, different factors apply to the choice of kerbing in different situations and designers need the full range of kerb options to make the best decision.

Local Governments in the Metropolitan area use similar kerb types as the City of Melville on their roads including the installation of semi-mountable kerbing on local roads when replacing kerbs, particularly in the older suburbs. Many of the newer suburbs use mountable kerbing on local access roads even when adjacent to paths along the kerb.

### Reason for Recommendation

The reasons for the recommendation are all noted in the above comment. It would create undesirable design constraints and be inconsistent with industry practice to completely stop installing a particular kerb type which is recommended for use in many situations.

The City is organising an information session for Elected Members on this subject in March 2023. External agencies such as MRWA and WALGA will be invited to give an independent viewpoint. The Mover of the motion will be invited to the session and can further discuss his issues.

## **GME MOTION 2**

**That this meeting has no confidence in the strategic planning and statutory planning functions at the City of Melville.**

### Officer Comment

Local governments are responsible for planning their local communities by ensuring appropriate planning controls exist for land use and development. To do this, the Council is required to prepare instruments such as a Local Planning Strategy, a Local Planning Scheme, Activity Centre Plans, Precinct Plans and Local Planning Policies. These instruments define the planning function of the City by establishing the statutory framework which is then used to determine development applications and guide strategic planning decisions.

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The relevant decision maker, being Council, Development Assessment Panel, officer or other agency, will be bound to determine applications based on the applicable planning framework.

The Local Planning Strategy, Activity Centre Plans and Precincts Plans are approved by the Western Australian Planning Commission, based on recommendations provided by the Council. The Local Planning Scheme and any amendments to the Scheme are required to conform with the State Planning Regulations and State Planning Policy. The Council's role is to provide recommendations with regard to Local Planning Schemes and amendments to Schemes, with final determination made by the Minister for Planning. Local Planning Policies are required to be consistent with the Local Planning Scheme and State Planning Policy. Development assessment is also bound by a range of other State legislative controls including the Residential Design Codes. As a Central Sub Region Local Government, the Council's planning framework will be required to have regard to specific State Government objectives for the inner metropolitan area.

Council's Local Planning Strategy is approved and up to date and Local Planning Scheme 6 has only recently entered its first five-year review period. These approved documents provide the current foundation to the strategic and statutory planning framework for the City. In December 2021, the Council resolved to endorse the Local Planning Strategy and the City's Activity Centre Plans as operating satisfactorily. Notwithstanding this endorsement, the planning framework includes opportunity and requirement for regular review of its components. The review opportunities seek to maintain confidence in the planning functions and acknowledge that circumstances, expectations, and views of different stakeholders are subject to change. The review processes enable investigation of potential responses to local issues whilst maintaining regard to requirements of State objectives and legislation. It is noted that Council is actively reviewing its planning functions and has recently initiated its five yearly review of the Local Planning Scheme. A review of the Canning Bridge Activity Centre Plan has also been undertaken with a draft Plan to be considered by Council in early 2023. The review has been undertaken by independent planning consultants and informed by stakeholder engagement. Other Activity Centre Plans are scheduled for review in the coming years. This review program for the City's planning framework provides opportunity for Council to explore its planning functions and to seek to influence changes to the desired planning of the local community.

The resolution is noted. Council is advised the ongoing review of the planning framework, including the current review of Local Planning Scheme 6, provides opportunity for Council to seek to influence changes to the current strategic and statutory planning framework under which the City operates.

**Reason for Recommendation**

The Council has the opportunity and requirement to review its planning functions. Review of strategic objectives and priorities will be reflected in potential modifications to development controls, which in turn will guide the determination of development proposals. Review processes can explore local issues however will be required to maintain regard to the State planning objectives and legislation. Current review processes including that for Local Planning Scheme 6 and the Canning Bridge Activity Centre Plan provide opportunity for Council to seek modification to current provisions with a view to enhancing confidence in the local planning functions.

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**GME MOTION 3**

**The Electors ask Council to implement a Privacy policy, in line with the principles set out by the Australian Human Rights Commission, Australia's Privacy Act 1998 (sic) (Cth) and other legislation, to ensure the City takes all reasonable steps to protect the public's rights to privacy. The Policy must ensure sufficient controls are introduced to prevent the recurrence of incidents such as; the unlawful or unnecessary publication or release of residents' personal information or the Administrations' monitoring of communications between residents and Elected Members.**

Officer Comment

The drafting of a Council Policy, in conjunction with other proposed legislative changes and the City's other information management activities associated with the City's digital transformation strategy is being designed to modernise practice and information accessibility. Relevant recent considerations include:

- Open by Design – The FOI Act and Information Release in WA. This guidance was released by the Office of the Information Commissioner in September 2022;
- Privacy and Responsible Information Sharing proposed Western Australian State Legislation.

Once further clarity on the proposed legislation is available a report to Council encompassing any recommendation for a Privacy Policy along with other necessary frameworks and strategies will be provided.

Reason for Recommendation

In line with the resolution a review of all relevant legislation which includes the *Australian Privacy Principles Guidelines Privacy Act 1988*, *Local Government Act 1995*, *Building Act 2011*, and the *Freedom of Information Act 1992* etc is required, to determine if a Privacy Policy is required and to its content.

Desktop research of any other Local Government Privacy Policies would also be undertaken, and a report presented to a future meeting of the Council.

**GME MOTION 4**

**The Electors ask Council to develop and implement Complaints and Investigations policies, procedures, and other capabilities, in consultation with the community, to empower Council to accept, and/or investigate independent of the Administration, resolve and monitor and publicly report on all complaints against the Administration and the CEO in an efficient and timely manner.**



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### Officer Comment

The City is currently reviewing the management of complaints under legislation, including the referral of matters to external oversight bodies and those where employee contracts apply, to provide a clear, process-based framework that ensures the efficient:

- submission of complaints; and
- triaged into appropriate channels; and
- effective management to enable appropriate reporting and provide value add data.

Opportunities for the Council to independently manage/investigate complaints require further research to ensure compliance with legislation.

The proposed Local Government Reforms provide for a range of functions for dealing with complaints associated with a local government and these proposed functions may require consideration in the development of any policies and procedures.

### Reason for the Recommendation

The drafting of policies and procedures outlined in Motion 4 from the AGM will need to be researched and give consideration to:

- all relevant legislation and employee contracts
- current best practice in reporting of complaints at state and federal levels of government
- the integration with the City's current Complaints Handling Policy and the Customer First Charter, standards and approach
- the integration with external oversight bodies.

Research is required to be able to present a report to the Council with guidance on the options for undertaking the actions outlined in the motion.

## **STAKEHOLDER ENGAGEMENT**

### **I. COMMUNITY**

The date, time, location, and purpose of the General Meeting of Electors was advertised in the local newspapers, on the City of Melville website and on City of Melville noticeboards at the Civic Centre, Libraries and Recreation Centres in accordance with the requirements of the Local Government Act. Additional social media advertising was also undertaken.

The advertising and holding of the General Meeting of Electors gave members of the community the opportunity to participate in the discussion, question time and voting on the motions.

There has been no specific consultation or engagement with the Community in preparing this report.

### **II. OTHER AGENCIES / CONSULTANTS**

At this point in time legal advice has not been sought regarding these motions.



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### **STATUTORY AND LEGAL IMPLICATIONS**

Relevant statutory and legal implications need to be considered in relation to each separate motion presented and supported at the General Meeting of Electors. Legislation relevant to each respective motion is included in the Officer Comment.

### **FINANCIAL IMPLICATIONS**

No funding has been provided in the current year budget to implement or undertake any actions in relation to the motions carried. Funding requirements maybe required depending on the Council resolution in relation to each motion.

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

Strategic and risk implications will need be considered depending on the Council resolution in relation to each motion.

There is a risk of dissatisfaction among some members of the community, should the Council not support the motions carried at the electors meeting. There is a risk of the Council acting beyond its legal authority should the Council support motions for which the Local Government does not have power. The officer comments and rationale and the recommendations presented may assist to mitigate this risk.

### **POLICY IMPLICATIONS**

There are no policy implications or proposed changes to policy relating to the motions supported at the General Meeting of Electors. Two new policies were proposed in the GME motions.

### **ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Four motions were supported at the meeting. Various options are available in respect to some of the options however, no alternative options are proposed by the administration in relation to the motions carried at the General Meeting of Electors.

### **CONCLUSION**

This report considers the motions presented and supported at the Annual Electors Meeting and provides officer comment and recommendation in relation to each motion.

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**OFFICER RECOMMENDATION (5953-1)**

**APPROVAL**

**GME MOTION 1**

That the Council note Motion 1 carried at the Annual Electors Meeting held 6 February 2023, relating to the City discontinuing the installation of “semi-mountable kerb” and reverting back to “barrier kerb”, and the mover of the motion be acknowledged for his continuing interest in road safety issues and that he be advised of the City’s considerations when deciding on the installation of kerbing as noted in this report and that he be invited to attend a proposed briefing the City is arranging with the relevant agencies regarding this matter.

**OFFICER RECOMMENDATION (5953-2)**

**APPROVAL**

**GME MOTION 2**

That the Council note:

- a) Motion 2 as carried at the Annual Electors Meeting held 6 February 2023, relating to having no confidence in the strategic planning and statutory planning functions at the City; and
- b) that the strategic planning functions and statutory planning decision making functions of the City are determined by the adopted local planning framework and that the Council has opportunity to seek to influence that framework through its ongoing review, including the current review of the Canning Bridge Activity Centre Plan and Local Planning Scheme 6.

**OFFICER RECOMMENDATION (5953-3)**

**APPROVAL**

**GME MOTION 3**

That the Council note Motion 3 as carried at the Annual Electors Meeting held 6 February 2023, relating to the City developing a Privacy Policy and that the CEO present a report on the options for the development of a draft Privacy Policy for the consideration of the Council.

**OFFICER RECOMMENDATION (5953-4)**

**APPROVAL**

**GME MOTION 4**

That the Council note Motion 4 as carried at the Annual Electors Meeting held 6 February 2023, relating to the Council developing and implementing Complaints and Investigations Policies, and that the CEO present a report to the Council considering the options for the development of a policies and procedures for the management and investigation of complaints by the Council.