

MINUTES

OF THE

SPECIAL MEETING OF COUNCIL

HELD ON

9 AUGUST 2011

AT 6.30PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

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MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON TUESDAY, 9 AUGUST 2011.

1. OFFICIAL OPENING

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

Affirmation of Civic Duty and Responsibility

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

2. PRESENT

His Worship the Mayor, Russell Aubrey

COUNCILLORS

Cr R Subramaniam, Cr C Robartson
Cr N Pazolli, Cr P Reidy
Cr A Nicholson, Cr A Cenviva
Cr J Barton, Cr G Wieland
Cr C Halton, Cr B Kinnell
Cr N Foxtan,

WARD

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

3. IN ATTENDANCE

| | |
|----------------|--|
| Dr S Silcox | Chief Executive Officer |
| Mr M Tieleman | Director Corporate Services |
| Ms C Young | Director Community Development |
| Mr S Cope | Director Urban Planning |
| Mr J Christie | Director Technical Services |
| Mr L Hitchcock | Executive Manager Legal Services |
| Mr G Ponton | Manager Strategic Urban Planning |
| Mr M Spencer | Senior Strategic Urban Planner |
| Mr J Clark | Governance & Compliance Program Manager |
| Mr B Taylor | Manager Information, Technology & Support |
| Ms C Rourke | Minute Secretary |

At the commencement of the meeting there were five members of the public and no members from the Press in the Public Gallery.

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

Cr M Reynolds University

4.2 APPROVED LEAVE OF ABSENCE

Nil

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

Nil

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

Nil

6. QUESTION TIME

Nil

7. DECLARATIONS OF INTEREST**7.1 FINANCIAL INTERESTS**

Nil

7.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Nil

8. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Nil

9. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

The Presiding Member advised the meeting that it should be noted that in accordance with Section 5.23(2) (e) of the Local Government Act 1995 any discussion on the attachments regarding item **P11/3236 – Adoption of Proposed Local Planning Scheme No. 6 and the Local Planning Strategy and to seek the Consent From the West Australian Planning Commission for the Scheme to be Advertised**, would need to be discussed confidentially behind closed doors.

10. REPORTS OF THE CHIEF EXECUTIVE OFFICER

P11/3236 - ADOPTION OF PROPOSED LOCAL PLANNING SCHEME NO. 6 AND THE LOCAL PLANNING STRATEGY AND TO SEEK THE CONSENT FROM THE WESTERN AUSTRALIAN PLANNING COMMISSION FOR THE LOCAL PLANING SCHEME NO. 6 TO BE ADVERTISED (REC) (CONFIDENTIAL ATTACHMENTS)

Ward : All
 Category : Strategic
 Application Number : N/A
 Subject Index : Proposed Local Planning Strategy/Scheme
 Customer Index : Department of Planning
 Property : N/A
 Proposal : Proposed Local Planning Scheme No 6
 Applicant : City of Melville
 Owner : N/A
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item P11/3211 of the Ordinary Meeting of Council 17 May 2011 - Preparation of Local Planning Scheme No 6 for the City of Melville
 Responsible Officer : Gavin Ponton
 Manager Strategic Urban Planning

AUTHORITY / DISCRETION

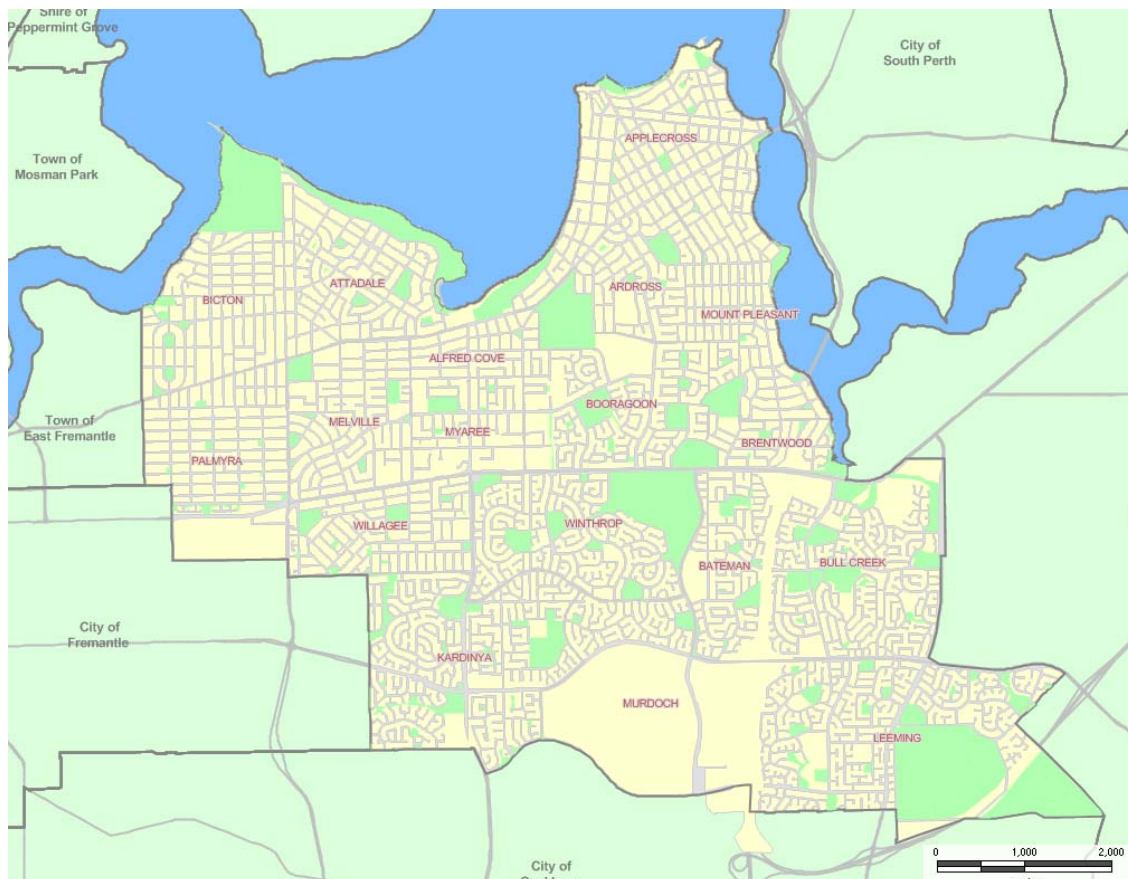
DEFINITION

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

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KEY ISSUES / SUMMARY

- The City of Melville Community Planning Scheme No 5 (CPS5) was gazetted in 1999.
- Legislation requires commencement of a review of a Scheme every 5 years.
- Although the current review of the CPS5 had originally begun as a 'consolidation' it has developed into the preparation of a new Scheme (Local Planning Scheme No. 6) (LPS6)
- The Council resolved to prepare a new Scheme (LPS6) in May 2011.
- The Local Planning Strategy which is an adjunct to part of the Local Planning Scheme, shows the areas of focus for increased density and concentration in order to accommodate the anticipated increase of 11,000 new dwellings within the City as proposed in Directions 2031 and Beyond.
- The New Scheme will be referred to as LPS6
- The general aims of the Draft LPS6 are to maintain and improve the quality of life and services for the residents and ratepayers of the City.
- The Draft LPS6 is broken into 11 parts and 11 schedules generally in accordance with the State Government's Model Scheme Text. (MST)
- The gazettal of the Scheme (LPS6) - review of the Scheme is a top ten priority of the City of Melville's Plan for the Future.
- Council adoption of the Draft Scheme (LPS6) for the purposes of public advertising will trigger the next phase of the process, which is to forward the new Scheme to the Environmental Protection Authority (EPA) for assessment and forwarding to the Western Australian Planning Commission requesting permission to advertise.



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BACKGROUND

City of Melville CPS5 was gazetted in 1999. A review of the Scheme in 2005 resulted in the introduction of some policy changes to assist with the interpretation of the CPS5

The City of Melville's Plan for the future 2008- 2012 lists gazettal of Local Planning Scheme No.6 – review of the Scheme (CPS5) as one of the top 10 priorities.

The process of review of the CPS5 had originally begun as a “consolidation” of the existing Scheme. It has become clear in reviewing the CPS5 that the process of changing the Scheme to reflect the new Model Scheme Text that was introduced in December 2005, is in itself justification for a new scheme to be prepared rather than a consolidation.

Council resolved to prepare a new Scheme in May 2011. The presentation of this Scheme (draft LPS6) to Council follows from that formal Council resolution.

The aim of the Model Scheme Text (MST) is to standardise the format of local planning schemes to provide for uniformity of structure and text between different schemes. The CPS5 was prepared prior to the Model Scheme Text format being adopted and accordingly does not follow the new format.

A Local Planning Scheme reflects the Local Planning Strategy which is presented to the Council concurrently with this Scheme. The Local Planning Strategy was the result of several years of public consultation, workshops, studies and submissions. The process began with the Melville Visions – a ‘Dialogue with the City’ process in 2006/7. The document built on the information received from the community during this period as well as information from the Community Plan. Further community workshops have been held through the neighbourhood planning network as well as workshops and meetings with key stakeholders including Council staff and Elected Members. The Draft Local Planning Strategy was distributed to Elected Members on Friday 5 August 2011 under confidential cover.

The Draft Local Planning Strategy was formally advertised in 2008 with neighbourhood workshops held throughout the City and has been presented to Elected Member Information Sessions in 2009; however the Strategy has not been formally adopted. The Local Planning Strategy can be advertised as part of the Local Planning Scheme as per the Town Planning Regulations 1967 (Regulation 12A and 12 B).

The current review of CPS5 resulted in the drafting of LPS6 in the format required by the MST.

The Draft Local Planning Scheme 6 (LPS6) was distributed to Elected Members on Friday 5 August 2011 under confidential cover.

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The specific purposes of draft LPS6 as described in the Scheme document is to

- (a) set out the Council's planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in Schedule 7 of the Planning and Development Act.

The general aims of the draft LPS6 are to maintain and improve the quality of life and services for the residents and ratepayers of the City of Melville. To achieve this and having regard to available options for development and conservation, the Scheme is the primary statutory instrument for coordinating and controlling land use, as well as implementing the strategic objectives of the Council.

1.6.2 The specific aims of the draft LPS6 in relation to the various aspects of the City and its development are —

- (a) Development and Population
 - (i) To enhance the character and amenity of existing residential areas;
 - (ii) To promote a high standard of residential development and greater housing choice;
 - (iii) To integrate planning for land use and transport to achieve sustainable urban development;
 - (iv) To accommodate a sustainable and diverse mix of people, cultures, ages and lifestyles.
- (b) Environment and Heritage
 - (i) To ensure urban form and development contribute to sustainability (economic, social and environmental), promote efficient resource use and minimisation of energy and waste;
 - (ii) To protect significant natural landscapes and remnant vegetation;
 - (iii) To protect and conserve the City's significant built heritage and Aboriginal cultural heritage;
 - (iv) To promote a safe, secure and healthy environment for the community.

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- (c) Open Space and Recreation
 - (i) To enhance existing public open space and extend such space in appropriate locations;
 - (ii) To provide a variety of safe, natural and structured opportunities for recreation.

- (d) Economy
 - (i) To nurture existing and encourage new and diverse industries and businesses to provide greater local economic stability and a range of employment opportunities;
 - (ii) To encourage a variety of both retail convenience and comparison centres and office developments in appropriate locations across the city;
 - (iii) To encourage the Melville City Centre to grow and evolve into a centre with a multitude of high order commercial, office, civic and entertainment land uses and activities servicing the municipality and the region;
 - (iv) To develop diverse and attractive local centres that provide a community focus for neighbourhood areas.

- (e) Community
 - (i) To ensure the community has access to an adequate range of services and facilities to meet their needs;
 - (ii) To ensure development promotes a sense of community and encourages participation in community life;
 - (iii) To ensure all development complements and contributes to the communities desired identity and character for the City of Melville;
 - (iv) To facilitate and encourage effective public involvement in issues of significance to the character, amenity and environmental attributes of the City.

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- (f) Transport and Infrastructure
- (i) To promote management of regional traffic that contributes positively to the community and landscape and minimises the impact of regional traffic movements;
 - (ii) To encourage the reduction in reliance on, and impact of, private motor vehicle usage;
 - (iii) To reduce the demand for, and balance the provision of parking in commercial centres and encourage use of public transport;
 - (iv) To promote and enhance the pedestrian and cycling transport modes;
 - (v) To achieve an efficient and equitable relationship between land uses and available utility services;
 - (vi) To promote a high level of amenity and environmental quality in the supply of required utility services;
 - (vii) To promote the compatible use of land surrounding essential infrastructure;
 - (viii) To promote sustainable transport options.

The Scheme is broken up into eleven (11) parts plus eleven (11) schedules generally in accordance with the Model Scheme Text, namely

Part 1: Preliminary

Deals with the aims and purpose of the scheme and the technical information relating to the scheme's area of coverage and relationship with other schemes and strategies.

Part 2: Local Planning Policy Framework

Explains with how the scheme fits into the local planning framework

Part 3: Reserves

Spells out the definition of reserves and the use and development of reserves.

Part 4: Zones

Defines the objectives of the zones and looks at the use of land including additional, restricted and non conforming uses.

Part 5: General Development Requirements

Deals with the general development requirements that apply to all of the scheme zones.

Part 5A: Zone-Specific Development Requirements

Deals with the development requirements that are specific to each zone.

Part 6: Special Control Areas

(There are no Special Control Areas currently proposed apart from strategic development areas which are dealt with in Part 6A and Development Contribution areas which are dealt with in Part 6B.)

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Part 6A: Strategic Development Areas

Deals with the development requirements and implications for the six strategic development areas.

Part 6B: Development Contribution Areas

Deals with the development requirements and implications for the development contribution areas.

Part 7: Heritage Protection and Tree Preservation

Deals with heritage and significant trees.

Part 8: Development of Land

Deals with the requirements for planning approval prior to developing land except as otherwise provided in the scheme.

Part 9: Applications for Planning Approval

Provides details of the form of application for development and advertising requirements.

Part 10: Procedure for Dealing with Applications

Provides information on the matters to be considered and the processes in dealing with applications.

Part 11: Enforcement and Administration

Provides information on the powers of the Council and officers in relation to implementing the scheme, maintenance of property and advertisements, and compliance.

Schedules

The eleven schedules provide:

1. Definitions
 - 1A General definitions
 - 1B Land use definitions
2. Additional Uses
3. Restricted Uses
4. Special Use Zones
- 5A. Advertisements Exempt from Planning Approval
- 5B. Exempted Incidental Development
6. Form of Application for Planning Approval
7. Additional Information Required for Advertisements
8. Notice of Application to Use and/or Develop Land
9. Notice of Determination of Application for Planning Approval
10. Environmental Conditions
11. Development Contribution Plans

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DETAIL

The major changes to CPS5 which are proposed as part of the preparation of draft LPS6 include but are not limited to -

- Local Planning Strategy (replaces Scheme Report but has on-going application as a strategic plan) (Attached).
- Change in name to Local Planning Scheme No 6 (in accordance with new terminology under Planning and Development Act).
- Re-formatting of Scheme text in accordance with Model Scheme Text.
- Standardisation of the use classes and definitions as per MST.
- Removal of Precincts in favour of zones and density codings.
- Inclusion of provisions relating to Strategic Development Areas.
- Inclusion of provisions relating to Development Contribution Plans.
- Some additional modifications to general development requirements.
- Some additional revisions to zone-based development requirements.
- Zone names (some changes)
 - Living areas to be renamed Residential.
 - Commercial Centre Frames to be renamed Centre Frame.
 - Community Centre to be renamed Local Centre.
- Reduction of the area of the Commercial Frames whilst retaining the residential density. (Refer to Confidential Attachments).
- Changes to zoning and density coding (Refer to Confidential Attachments)

There are six areas set aside in the draft LPS6 as Strategic Development Areas. These are areas that either have current studies being undertaken or it is intended to undertake studies of the areas within the next five years. Until such time as these strategic studies are completed it is proposed that the current Scheme (CPS5) conditions will prevail. It is intended that the structure plans that result from the studies into these areas will be introduced to the LPS6.

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PUBLIC CONSULTATION/COMMUNICATION

The community consultation leading up to this iteration of the Local Planning Scheme (draft LPS6) has been extensive. 'Melville Visions' was a broad and dynamic consultative process that included:

- Secondary school art / logo competition;
- Focus Group meetings;
- Interviews with key stakeholders;
- Community forum;
- Community survey;
- Interactive website;
- Public displays and advertising.

Melville Visions involved over 9,400 residents and stakeholders and was the largest Community consultation exercise undertaken by the City of Melville.

This was followed by the development of the Community Plan which was advertised for public comment. Engagement with the community also involved focus groups and community meetings to review the Community Plan.

The third stage of the process was to create a Local Planning Strategy from the thoughts and aspirations collected from these two previous phases of the process. Other studies that were undertaken to feed into the Local Planning Strategy included the Commercial Strategy, the heritage review, the public open space strategy review, and a housing opportunity analysis.

The Draft Local Planning Strategy was advertised for public comment in late 2008. A series of neighbourhood workshops were held to discuss the Strategy and engage with the community in enhancing the draft document. The content of the Local Planning Strategy has informed the preparation of draft LPS6.

The draft LPS6, if endorsed by Council, will be forwarded to the Western Australian Planning Commission requesting Ministerial for consent to advertise. The Department of Planning will assess the Scheme (draft LPS6) and liaise with the City of Melville regarding any issues or modifications that may be required prior to advertising. A report by the Department of Planning will be forwarded to the Western Australian Planning Commission who will then consider it and pass a recommendation to the Minister for Planning. The Minister will convey any modifications that may need to be considered prior to advertising or his consent to advertise. The draft Scheme (LPS6) is also required to be concurrently forwarded to the Environmental Protection Authority prior to advertising. The Environmental Protection Authority may request modifications to the Scheme or additional environmental investigations prior to commencement of public advertising.

Modifications to the draft LPS6 sought by either the Minister for Planning or the Environmental Protection Authority will be presented to Council for consideration.

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On receipt of consent from the Minister for Planning and the Environmental Protection Authority, the City is to advertise the Scheme (draft LPS6) for a minimum of 90 days with notices in the newspapers and Government Gazette, together with referral to servicing authorities. As well as the minimum legislative requirements, it is proposed that stakeholders will be engaged through workshops, brochures, media releases, mail outs, public displays, electronic notifications and submissions and other means designed to ensure the maximum number of people are aware of the scheme and are able to comment on it. A communication/engagement strategy will be prepared to maximise the engagement with the community.

Upon completion of advertising, details of submissions received will be presented to Council together with any proposed modifications to the draft LPS6. Council may then choose to adopt the draft LPS6 for final approval or to undertake further advertising of any proposed modifications. On adopting the LPS6 for final approval it is again forwarded to the Minister for Planning for consideration. The Minister may grant final approval to the LPS6, refuse the Scheme or seek further modification or further public advertising.

STATUTORY AND LEGAL IMPLICATIONS

The Local Planning Scheme is the principal statutory instrument for implementing the strategic directions of the Local Planning Strategy and achieving the local government's aims and objectives with respect to the development of the municipal area. Local Planning Schemes are made under part 5 of the Planning and Development Act 2005 which sets out the general objects of Schemes, the matters which may be addressed in Schemes and the requirements for review of Schemes. The Planning and Development Act also provides for regulations governing the procedure for preparation and approval of Local Planning Schemes and general provisions which will have application as if part of the Scheme.

Those clauses of the draft LPS6 that differed from CPS5 and the Model Scheme Text have been reviewed by the City of Melville's legal advisers to ensure there were no significant issues. Comments regarding the legal implications were provided by the City's legal advisers and this resulted in either adjustments to the draft LPS6 to reflect this advice or notes made to ensure that the issues were raised with the Department of Planning during the next phase of the process.

FINANCIAL IMPLICATIONS

Funding is allocated in the 2011/2012 budget to engage with the community and proceed with the ongoing process of finalising LPS6.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There has been a change in State planning policy with Network City and subsequent Directions 2031 and beyond, being introduced since CPS5 was gazetted. The targets of increased population that have been set could be achieved through scheme amendments; however the process of preparation of a new scheme will provide a better platform with which to implement the intentions of the Local Planning Strategy.

Environmental Policy CP-030 outlines the City of Melville's commitment to the protection and enhancement of biodiversity and the creation of a sustainable urban environment. The draft LPS6 addresses the impact of growth on the environment and provides encouragement to sustainable development within the City.

On receipt of the draft LPS6 and draft Local Planning Strategy, the Western Australian Planning Commission can take one of three options;

1. Reject the draft LPS6 and direct the City to prepare a new Scheme;
2. Request modifications to the draft LPS6 prior to advertising;
3. Permit the draft LPS6 to be advertised in its present form for public comment.

The Environmental Protection Agency will also assess the draft LPS6 prior to it being advertised. Whilst not anticipated, there is a possibility that the Environmental Protection Authority may require substantial modifications on environmental grounds. It is noted that the preparation of the Local Planning Strategy and draft LPS6 have had regard to environmental considerations.

POLICY IMPLICATIONS

1. The City of Melville's Plan for the Future 2008 - 2012 lists the gazettal of LPS6 as a top ten priority under the Environmental Key Result Area.
2. The components of the Local Planning Strategy, which influence the draft LPS6, encompass all four Key Result areas.
3. Any local planning policy must be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Council may choose not to support the present draft of the Local Planning Strategy and/or the draft LPS6. It should be noted however, that these are draft documents only which are being considered for endorsement for advertising in order to engage the community further in the process of refining and finalising the Local Planning Strategy and LPS6

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CONCLUSION

The process to review the CPS5 has been underway for several years now. It has become clear in reviewing CPS5 that the process of changing the Scheme to reflect the Model Scheme Text is in itself justification for a new Scheme (LPS6) to be prepared.

The Local Planning Strategy will guide the planning for the City of Melville for the next 15 years and the LPS6 will implement the vision of the Strategy over the next 5 years.

Adoption of the draft LPS6 and the associated Local Planning Strategy will enable the draft LPS6 to be forwarded to the Western Australian Planning Commission and the Environmental Protection Authority with a request for consent to advertise.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3236)

APPROVAL

At 6.41pm Cr Robartson moved, seconded Cr Ceniviva -

- 1. That the Council adopt, for the purpose of public advertising, the Draft Local Planning Strategy for the City of Melville and forward to WAPC for certification in accordance with Town Planning Regulations 1967**
- 2. That the Council adopt, for the purpose of public advertising for public inspection, the Draft Local Planning Scheme No. 6 consisting of:**
 - o Scheme Text;**
 - o Scheme Maps;**
- 3. That the Draft Local Planning Scheme No. 6 be forwarded to the Environmental Protection Authority for assessment prior to commencing advertising for public inspection in accordance with the provisions of the *Planning and Development Act 2005*.**
- 4. That the Draft Local Planning Scheme No. 6 be forwarded to the Western Australian Planning Commission for consent for advertising for public inspection in accordance with the provisions of the *Planning and Development Act 2005*.**
- 5. That the Attachments to this report including the Draft Local Planning Strategy, Draft Local Planning Scheme Text and Draft Local Planning Scheme Maps remain confidential until the commencement of the proposed advertising for public inspection.**

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

CARRIED (12/0)

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Nil

13. CLOSURE

There being no further business to discuss, His Worship the Mayor declared the meeting closed at 6.55pm.