



**MINUTES
OF THE
SPECIAL MEETING OF THE COUNCIL
HELD ON
THURSDAY 18 DECEMBER 2014
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 THURSDAY, 18 DECEMBER 2014.

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 & 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
Cr D Macphail, Cr R Aubrey
Cr C Robartson, Cr R Willis
Cr C Schuster, Cr N Pazolli
Cr Barton
Cr R Hill, Cr P Phelan

WARD

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 |
| Ms L Hartill | A/Director Community Development |
| Mr J Christie | Director Technical Services |
| Mr S Cope | Director Urban Planning |
| Mr L Hitchcock | Executive Manager Legal Services |
| Mr J Clark | Governance & Compliance Program Manager |
| Mr G Ponton (From 6.30pm to 8.02pm) | Manager Statutory Planning |
| Mr D Cracknell (From 6.30pm to 8.02pm) | Senior Strategic Urban/Property Planner |
| Mr N Fimmano | Governance & Property Officer |
| Ms R Davis | Minutes Secretary |

There were 4 members from the public and no member from the Press in the Public Gallery.

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

Nil

4.2 APPROVED LEAVE OF ABSENCE

Cr N Foxton – University Ward
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

NIL

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

P14/3582 – Mayor Aubrey – Proximity Interest

7.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

P14/3582 – Cr Aubrey – Interest under the Code of Conduct

8. APPLICATIONS FOR NEW LEAVES OF ABSENCE

At 6.35pm Cr Schuster moved, seconded Cr Robartson -

That the applications for new leaves of absence submitted by Cr Pazolli on 18 December 2014 be granted.

At 6.36pm the Mayor submitted the motion which was declared

CARRIED UNANIMOUSLY (11/0)

9. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

P14/3582 - Melville City Centre Redevelopment

10. PETITIONS

Nil

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER**Election of Presiding Member**

Mayor Aubrey had declared a proximity interest in Report P14/3582 and the Deputy Mayor Cr Foxtton had been granted a leave of absence for this meeting. The Council is required to choose a Presiding Member from those Councillors present in the Chamber.

Cr Phelan nominated Cr Reynolds.

No other nominations were received.

Cr Reynolds advised that he accepted the nomination as Presiding Member.

At 6.36pm Moved by Cr Macphail, Seconded by Cr Phelan -

That Cr Reynolds Preside in the absence of the Mayor and Deputy Mayor.

At 6.37 pm the Presiding Member submitted the motion, which was declared

CARRIED (11/0)

At 6.37pm Cr Reynolds assumed the chair.

At 6.37pm Mayor R Aubrey left the meeting and returned at 8.02pm.

Disclosure of Interest

| | |
|---------------------|--|
| Item No. | P14/3582 |
| Member | Mayor R Aubrey |
| Type of Interest | Proximity Interest |
| Nature of Interest | Ownership of a unit sited on a block opposite the subject land |
| Request | To leave the meeting |
| Decision of Council | Leave |

Disclosure of Interest

| | |
|---------------------|--------------------------------|
| Item No. | P14/3582 |
| Member | Cr R Aubrey |
| Type of Interest | Code of Conduct |
| Nature of Interest | Parents own property near site |
| Request | Not Applicable |
| Decision of Council | Not Applicable |

At 6.37pm Cr Aubrey moved, seconded Cr Macphail –

That the meeting go behind closed doors under clause 5.23(2)(e) to the public to permit discussion on Item P14/3582 Melville City Centre Redevelopment as the discussion will provide information that has a commercial value to a person.

At 6.37pm the Presiding Member submitted the motion, which was declared

CARRIED (10/0)

At 6.38pm Cr Schuster moved, seconded by Cr Willis -

That Standing Orders clause 9.5 be suspended to allow Elected Members to speak more than once.

At 6.38pm the Presiding Member submitted the motion, which was declared

CARRIED (10/0)

At 7.34pm Ms Davis left the meeting and returned at 7.36pm.

A briefing was heard from Mr S Nugent of AMP Capital and Mr S Marsden of Scentre Group from 6.40pm to 6.52pm.

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

| | |
|----------------------------|--|
| Ward | : City |
| Category | : Strategic |
| Application Number | : N/A |
| Property | : 10 Almondbury Road and 125-133 Riseley Street, Booragoon |
| Proposal | : Melville City Centre Redevelopment |
| Applicant | : City of Melville and AMP Capital Investors |
| Owner | : City of Melville and AMP Capital Investors |
| Disclosure of any Interest | : No Officer involved in the preparation of this report has a declarable interest in this matter. |
| Previous Items | : P13/3449 – Final Adoption of the Melville City Centre Structure Plan - Special Meeting of Council Wednesday, 9 December 2013 |
| Responsible Officer | : Gavin Ponton Manager Strategic Urban Planning |

AUTHORITY / DISCRETION

DEFINITION

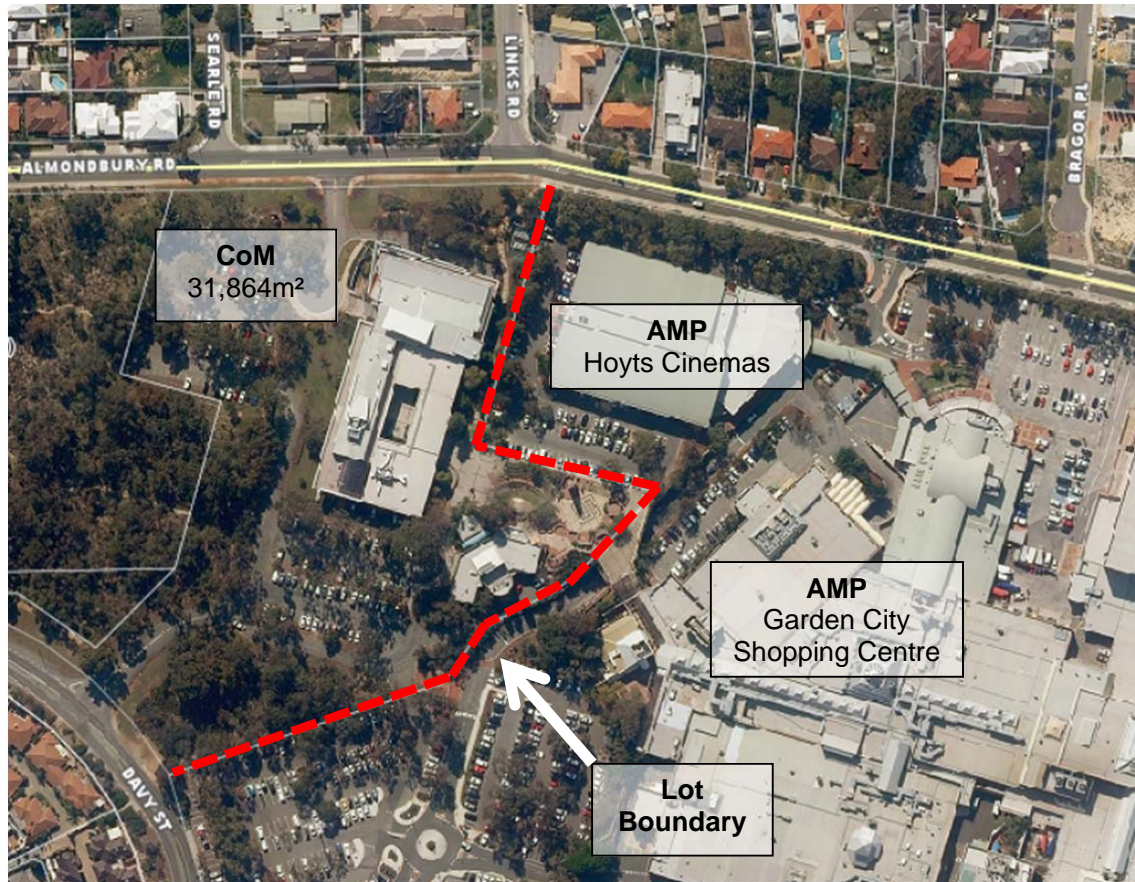
| | | |
|-------------------------------------|------------------|---|
| <input type="checkbox"/> | Advocacy | <i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i> |
| <input checked="" type="checkbox"/> | Executive | <i>The substantial 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 & 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 (e.g. 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> |

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The Melville City Centre Structure Plan envisages the creation of a vibrant, pedestrian-friendly, double-sided high street between the City's Civic Centre and the Garden City Shopping Centre.
- The existing lot boundary is irregular and should be realigned in order to facilitate the redevelopment of the new high street and surrounding buildings.
- The key starting point is a draft design concept plan for the high street. This draft plan will help inform a potential land transaction to realign the lot boundary and a future development application for the redevelopment of the Garden City Shopping Centre.
- It is recommended that Council:
 - - Support the principle of a "like for like" land swap of equal monetary value in order to realign the existing lot boundary and facilitate the development of the new High Street Precinct; and
 - - Authorise the Chief Executive Officer to progress the important next steps in the project, including finalising all relevant details, land valuations and undertaking the necessary legislative steps.
- Further briefings and reports will be provided for Council as the process progresses.

Aerial View of Site



P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)**BACKGROUND**

The City owns Lot 52, 10 Almondbury Road, Booragoon in freehold title, which includes the Civic Centre and Civic Square Library. The lot has 31,864m² and is zoned 'City Centre' in Community Planning Scheme No. 5 (CPS5) with no maximum residential density.

The Melville City Centre Structure Plan was adopted by Council at a Special Meeting held on Wednesday, 9 December 2013. The Western Australian Planning Commission (WAPC) adopted the Structure Plan on Tuesday, 22 April 2014.

The Melville City Centre Structure Plan provides the vision for the redevelopment of the city centre and the relevant development requirements. The zonings recommended by the adopted Structure Plan are currently being progressed through Scheme Amendment 76 to CPS 5. The public advertising of Amendment 76 finishes on Tuesday, 23 December 2014 and no objections have been received to date.

The Structure Plan provides for a new High Street and high quality public spaces to be created between the existing Garden City Shopping Centre and Civic Centre. The new High Street Precinct is expected to be a vibrant, pleasant and commercially successful place.

The Structure Plan also provides for the city centre to be the central point for the surrounding area and a key social and community hub.

The Council considered a report on a new Library and Cultural Facility at its meeting held on Tuesday, 9 December 2014. The report sought Council support to investigate the opportunities of increased services and functions within the proposed new facility. The investigations will help form a business case on the future facility to best meet the needs of the City of Melville community now and into the future.

Scheme Provisions

| | |
|--------------|---------------|
| MRS Zoning | : Urban |
| CPS 5 Zoning | : City Centre |
| R-Code | : N/A |
| Use Type | : N/A |
| Use Class | : N/A |

Site Details

| | |
|--------------------------------------|------------------------|
| Lot Area | : 31,864m ² |
| Street Tree(s) | : N/A |
| Street Furniture (drainage pits etc) | : N/A |
| Site Details | : N/A |

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)**DETAIL**

The City has been in discussions with AMP Capital Investors (AMP) about the future development of the proposed High Street Precinct and a possible land transaction to facilitate redevelopment of the area. The possible land transaction would realign the existing lot boundaries, which would otherwise constrain redevelopment.

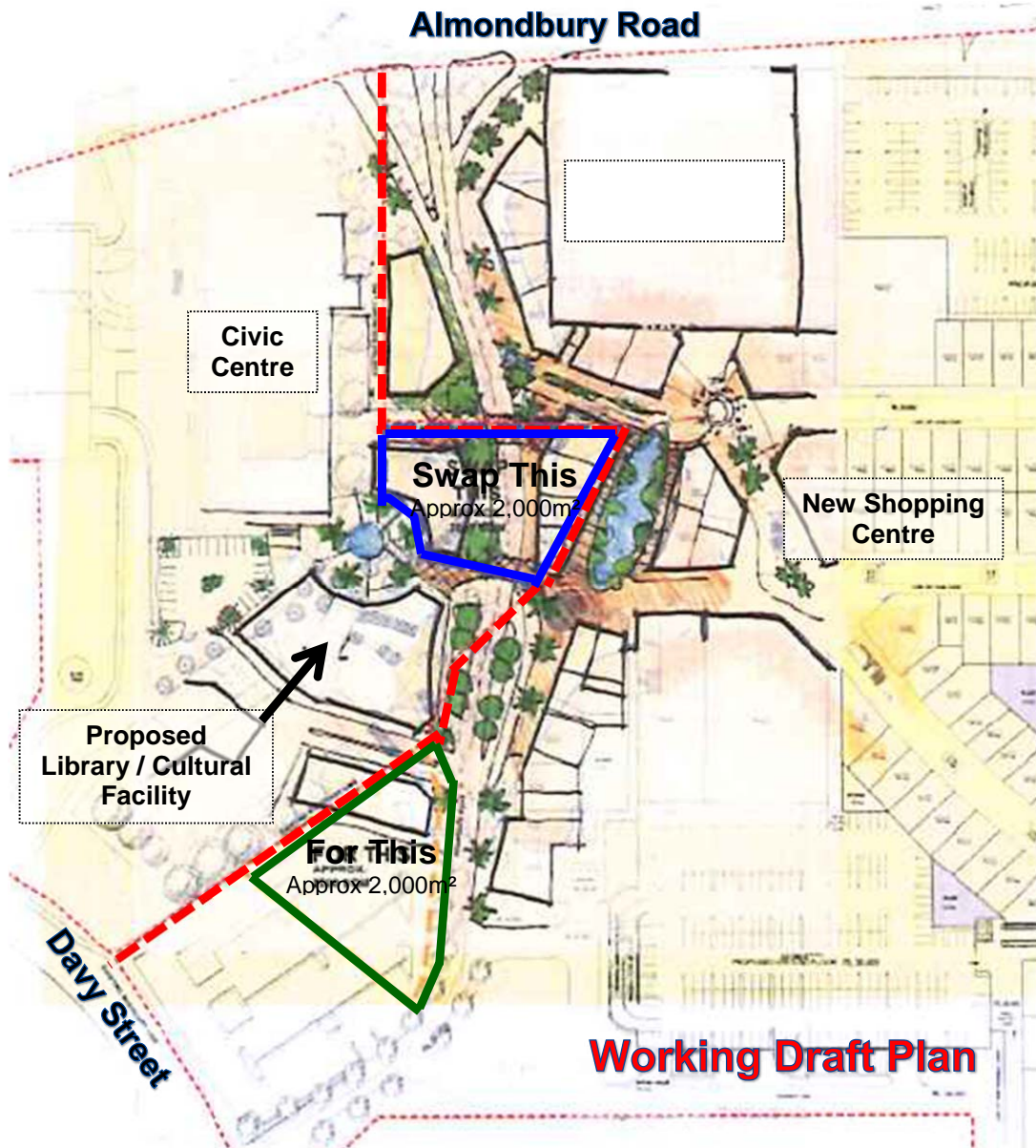
The key starting point is to establish a design concept plan for the High Street Precinct. The concept plan will inform any future land transaction/boundary realignment and form the basis for a future development application for the expansion of the shopping centre (expected to be lodged with the City in the first half of 2015).

AMP lodged the concept plan shown on the next page on Tuesday, 9 December 2014. The key points in the concept plan are:

- An active, double-sided high street is the most important outcome sought by both parties. The high street environment would be pedestrian friendly and have slow vehicle speeds
- The shopping centre would have retail, café and restaurant uses fronting the street, along with two major entrances to the centre and the entrance to the new cinema
- AMP would have two major tenancies on the west side of the street. This is positive and will help deliver the double-sided high street in Stage 1 of the development
- Rather than having one piazza area as originally envisaged, the configuration of the buildings would help form a range of different public spaces
- The proposed Library and Cultural Facility would be located to the south of the Civic Centre, with a major entrance close to the high street. It would also front a new street to be built on the City's land
- The new street would assist with the future redevelopment/lease/sale of the City's land to the south of the Civic Centre

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

Draft High Street Precinct Design Concept Plan



Notes:

- Design concept plan requires further refinement through discussions between both parties
- This is a high level concept for proposed land swap. Exact boundaries, land valuation and land areas are to be further investigated and detailed in the next steps in the process
- The guiding principle is a “like for like” land swap of equal value
- If both parcels of land have an equal value per square metre, the land swap would be equal in area
- If both parcels of land have different values per square metre, the land swap would involve different land areas in order to achieve a \$0 balance on the transaction
- Also refer to Attachment 1

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

The City is not required to formally endorse the draft design concept plan. It is a precursor to the future development application to be lodged by AMP and the basis of a potential land transaction. Notwithstanding, the City's officers broadly support the proposed concept plan. However refinements to the plan will still be required through further discussions with AMP.

Proposed Land Transaction

The existing lot boundary between the City's land and AMP land is irregular and would make it difficult to develop the High Street Precinct. It is considered that a realignment of the current lot boundary is necessary.

The City has three options under Section 3.58 of the *Local Government Act 1995* (Act) for the disposition of land, which are:

1. To the highest bidder at public auction (Section 3.58 (2)(a));
2. Via a public tender process (Section 3.58 (2)(b)); or
3. Via Local Public Notice (Section 3.58 (3)).

All the potential land transaction and development options have been considered by the City and its specialist property consultant, NS Projects. In this case, the adjoining landowner (AMP) is really the only external party in a position to develop the High Street Precinct in accordance with the requirements of the Structure Plan. It is not recommended that the City consider disposition via public auction or public tender. It is considered that disposition via Local Public Notice is the preferred option for the City in this situation.

The preferred method is via an exchange of land to an equal financial value (i.e. land swap). The proposed land swap would be based on the following important principles:

- The City must fulfil *Local Government Act 1995* requirements for any land transaction (further discussed below)
- The two parties would enter into a "like for like" land swap of equal value (but not necessarily equal land area depending on land valuations)
- A sworn valuation of the subject land will be required as per the Act. Both parties would engage land valuers to help establish a valuation per square metre for the parcels of land to be exchanged. If there is a difference in value between the parcels, the exchange would be based on an equivalent monetary value rather than equivalent land sizes
- The land swap may be in the order of 2,000m². The City's consultant on this project appraised the land in the city centre as being worth approximately \$2,000 per square metre. This would mean that the value of the potential land transaction would be circa \$4 million
- A land transaction as proposed above would not require a Business Plan process in accordance with Section 3.59 of the Act, as the value of the transaction would be below the relevant threshold (approximately \$8 million in the case of the City)
- A Land Swap Agreement would need to be considered in conjunction with a binding Heads of Agreement to provide the key details of a future detailed Development Agreement. This is important from the City's perspective in order to achieve the required outcomes for the High Street Precinct

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)Commercial Opportunities for the City

The proposed concept plan provides for a range of commercial and revenue generating opportunities for the City, including:

Library and Cultural Facility

- Café/retail fronting the High Street (potentially funded by the City, on CoM land, managed by third party)
- Secondary retail/office on the southern side of the new facility (potentially funded by the City, on CoM land, managed by third party)

Future Development Sites

The concept plan provides for potentially three future development sites on the City's land, which could be developed, leased or sold by the City through separate future projects/processes. These opportunities can be further investigated in the future through detailed studies plus future Council reports and briefings.

Community Benefits

The potential land swap would help provide the following community benefits:

- Facilitate the redevelopment of the new High Street Precinct, including shops, cafes and restaurants
- The High Street Precinct would be an active and pedestrian-friendly place and include high quality landscaping and public spaces
- The high street would be built and maintained by AMP, which would be a considerable saving for ratepayers
- The demolition of the existing Civic Square Library will require a replacement building. AMP would be required to substantially contribute to the development of a new Library and Cultural Facility which is currently being investigated (as per the report to the Council's Ordinary Meeting held on 9 December 2014)

[3582 Attachment 1 Potential Land Swap in Melville City Centre](#)Process and Next Steps

A detailed Process Map is provided in Attachment 2. This provides a broad overview of the process to be followed, key steps and decision points. Council decisions will be required at key "decision gates". This report requests that Council provide authorisation to proceed at Decision Gate 2.

[3582 Attachment 2 Potential Melville City Centre Land Disposition Process Map](#)**STAKEHOLDER ENGAGEMENT**

| | |
|-------------------------------|---|
| Advertising Required: | Yes – proposed as per Section 3.58 (3) of the Act |
| Neighbour's Comment Supplied: | N/A at this stage |
| Reason: | N/A at this stage |
| Support/Object: | N/A at this stage |

I. COMMUNITY

The City's 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.

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

In this case, public advertising would be required as per the Local Public Notice requirements of the Act for no less than 14 days. The advertising would be regarding the potential land transaction, not the concept plan. Detailed development ideas/issues would be considered in future through the development application process.

II. OTHER AGENCIES / CONSULTANTS

No engagement is required with external agencies or consultants as part of the Local Public Notice process.

STATUTORY AND LEGAL IMPLICATIONS

The City has legislative requirements to meet in addition to standard property practices. As mentioned above, the preferred option is for the Council to consider the disposition of the land via a Land Swap in accordance with a Local Public Notice process.

Section 3.58 (3) of the Act states that:

“A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property:

(a) it gives local public notice of the proposed disposition –

- (i) describing the property concerned; and*
- (ii) giving details of the proposed disposition; and*
- (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.”

The key points to be aware of are:

- The Council cannot agree to dispose of the property until the legislative requirements are fulfilled
- The Council needs to formally consider any submissions made during the public advertising period prior to any decision being made

The overall process is provided for the Council's information in Attachment 2.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this process. Whilst the value of the potential land swap may be in the order of \$4 million, the “like for like” land swap would result in a \$0 balance.

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risks or environmental management implications as a result of this report.

POLICY IMPLICATIONS

There are no policy implications as a result of this report.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council may decide not to proceed to the next steps in the process. However this would delay the process.

CONCLUSION

No decisions on the potential land transaction should be made at this point of the process in accordance with the requirements of the *Local Government Act 1995*.

However, it is requested that the Council consider support for the principle of a “like for like” land swap of equal monetary value in order to realign the existing lot boundary and facilitate the development of the new high street precinct.

It is recommended that the Council authorise the Chief Executive Officer to proceed with the next steps in the process, which include

- Negotiate with AMP Capital Investors on the final details of the potential land transaction (exact lot boundaries, land area etc)
- Prepare a background Business Case for the potential land transaction
- Obtain a valuation of the land involved in the potential land transaction as required by Section 3.58 (4) (c) (i) of the *Local Government Act 1995*
- Prepare and publicly advertise a Local Public Notice in accordance with Section 3.58 (3) and (4) of the Act

A further report will be presented for the Council’s consideration following the conclusion of the above-mentioned steps and before entering in to any agreement with any other party.

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

At 7.27pm Cr Aubrey moved, seconded Cr Willis –

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

At 7.27pm the Presiding Member submitted the motion, which was declared
CARRIED UNANIMOUSLY (10/0)

At 7.49pm Cr Schuster moved, seconded by Cr Willis -

That Standing Orders be reinstated.

At 7.49pm the Presiding Member submitted the motion, which was declared
CARRIED UNANIMOUSLY (10/0)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3582) APPROVAL

At 7.50pm Cr Macphail moved, seconded Cr Willis –

That the Council:

- 1. Note the Potential Land Disposition Process Map as provided in Attachment 2.**
- 2. Note the draft Design Concept Plan submitted by AMP Capital Investors for the Melville City Centre High Street Precinct, which is to be further refined in discussion with the City's officers prior to a development application for the redevelopment of Garden City Shopping Centre being lodged.**
- 3. Support the principle of a "like for like" land swap of equal monetary value in order to realign the existing lot boundary and facilitate the development of the new Melville City Centre High Street Precinct approximately along the lines of the plan provided in Attachment 1 marked "X", with the intention of having a zero monetary balance upon settlement.**
- 4. Authorise the Chief Executive Officer to:**
 - a. Negotiate with AMP Capital Investors on the final details of the potential land transaction (exact lot boundaries, land area etc)**
 - b. Prepare a background Business Case for the potential land transaction**
 - c. Obtain a valuation of the land involved in the potential land transaction as required by Section 3.58 (4) (c) (i) of the *Local Government Act 1995***
 - d. Prepare and publicly advertise a Local Public Notice in accordance with Section 3.58 (3) and (4) of the *Local Government Act 1995* for the land swap**
- 5. Note that a further report will be presented for the Council's consideration following the conclusion of the above-mentioned steps and before entering in to any final agreement with any other party for the dispossession of the City owned land as depicted on "X".**

At 8.02pm the Presiding Member submitted the motion, which was declared

CARRIED UNANIMOUSLY (10/0)

P14/3582 - MELVILLE CITY CENTRE REDEVELOPMENT (REC) (ATTACHMENT)

| Vote Result Summary | |
|----------------------------|----|
| Yes | 10 |
| No | 0 |

| Vote Result Detailed | |
|-----------------------------|-----|
| Cr Aubrey | Yes |
| Cr Barton | Yes |
| Cr Hill | Yes |
| Cr Macphail | Yes |
| Cr Pazolli | Yes |
| Cr Phelan | Yes |
| Cr Reynolds | Yes |
| Cr Robartson | Yes |
| Cr Schuster | Yes |
| Cr Willis | Yes |

At 8.02pm Mayor R Aubrey returned to the meeting.

At 8.02pm Cr Reynolds left the meeting and returned at 8.05pm

CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC) (ATTACHMENT)

Ward : All
 Category : Strategic
 Subject Index : Disability Services – Access and Inclusion Plan
 Customer Index : Insurance Commission of WA
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : None
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Leanne Hartill
 Manager Neighbourhood Development

AUTHORITY / DISCRETION

DEFINITION

| | | |
|-------------------------------------|-----------------|---|
| <input checked="" 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 & 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> |

**CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC)
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Government of Western Australia has released a Green Paper outlining options to add no-fault catastrophic injury cover to Western Australian's (WA's) Compulsory Third Party (CTP) insurance scheme.
- The current scheme is an 'at-fault' scheme. This means that if you are injured, in order to make a successful claim, fault needs to be identified on the part of a driver of a WA registered motor vehicle. Passengers may also make claims.
- Importantly, drivers who are entirely at fault are **not able to claim** for injuries to themselves from an accident.
- The key policy objective of the State Government is to ensure that all people catastrophically injured in motor vehicle accidents in WA are provided with **reasonable and necessary** support. The State Government has provided in-principle support for the introduction of a no-fault catastrophic CTP insurance scheme.
- The Green Paper seeks to inform the community about the proposed changes and seek community feedback.
- This item recommends supporting this initiative and supports Option 2 over the suggested Options 1 or 3 outlined in the Green paper as it provides for the greatest level of support and access to reasonable and necessary support to individuals who suffer catastrophic injuries regardless of being at fault.

BACKGROUND

WA has had a CTP motor vehicle insurance scheme in place since 1947. This 'at-fault' scheme means that if someone is injured, in order to make a successful insurance claim, fault needs to be identified on part of a driver of a WA registered motor vehicle. Passengers in vehicles, pedestrians and cyclists can also claim against an at-fault driver. Currently, drivers who are entirely at fault are not able to claim for injuries to themselves from a crash. The current annual cost of the CTP scheme is \$291 for a family car and is lower than elsewhere in Australia.

There has been debate in recent years in favour of introducing a no-fault insurance scheme to provide care and support for people who suffer injuries. This includes a recommendation by the Commonwealth Government's Productivity Commission which has recommended that a no-fault CTP should be introduced in all States and Territories.

DETAIL

Catastrophic injuries are severe and permanent injuries. Examples provided in the Green Paper include spinal cord injuries, traumatic brain injuries, multiple amputations, severe burns or permanent traumatic blindness.

**CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO
WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC)
(ATTACHMENT)**

The Green Paper (attached) outlines that:

- An annual estimate of catastrophic injuries in WA each year is 92 people. 48 are able to claim compensation while the remaining 44 rely on support available through Government funded services, personal accident, superannuation or income protection insurance, families and friends.
- While the Green Paper does not specifically mention local government - residents of Melville in this position would likely use Council services and supports to participate fully in their local community, access employment and social supports.
- Supporting this scheme would mean that any City of Melville residents would be able to access support and care through this CTP scheme placing less strain on limited resources.

[8065 Green Paper - Options to add No-Fault Catastrophic Injury Cover to Western Australia's Compulsory Third Party Insurance Scheme](#)

Three options are presented in the Green Paper:

Option 1:

No change. This is not a preferred position.

Option 2:

Introduce a no-fault catastrophic insurance scheme for all people. The additional cost is \$109 per family car. Although this includes the greatest level of coverage and inclusion for people injured regardless of fault, this option does limit individual legal rights to access common law rights to lump sum settlements. However, it provides for a more streamlined and equitable system of insurance coverage. For this reason, this is the preferred option.

Option 3:

Introduce a no-fault catastrophic insurance scheme only for the estimated 44 estimated injured people each year that do not receive compensation from the existing scheme. The additional cost is \$101 per family car. While this option may have some benefits in relation to cost, it does not fully cover individuals who are at fault. If individuals are at partial fault, their lump sum payment may be reduced by the extent of their contributory negligence. Those who are fully at fault would only have eligibility for 'reasonable and necessary supports' on an 'as you go' basis and there would be no entitlement to lump sum compensation.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

No community engagement has occurred with this item; however this is a broad issue that may have a significant impact on residents in the City of Melville.

CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

WA operates a common law based CTP insurance scheme. These proposed changes have legal implications as there may be impacts under the preferred Option 2 on an individual's further common law rights to compensation as outlined in the Green Paper. Further detailed legal advice should be sought to ascertain specific legal implications.

FINANCIAL IMPLICATIONS

The proposal does not have a direct financial impact on the City of Melville. The Green Paper relates specifically to family use vehicles. There are however costs that will need to be considered by individuals in relation to the proposed changes. Option 2 which is preferred will include an additional premium of \$109 per family car. Supporting the proposal may mean that any affected City of Melville residents are in a position to access funds through the CTP scheme.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

| Risk Statement | Level of Risk | Risk Mitigation Strategy |
|---|--|---|
| Criticism of Council by the community and negative reputational damage as a result of not taking opportunities to advocate for positive community outcomes. | Minor consequences which are likely, resulting in a Medium level of risk. | Provide documented support on behalf of the community to influence government decision making that will benefit not only City of Melville citizens, but the community at large. |
| Criticism of Council by the community and negative reputational damage as a result of supporting additional costs for community members. | Minor consequences which are likely, resulting in a Medium level of risk. | Support to option 1 which is no change. |

**CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO
WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC)
(ATTACHMENT)**

From a social justice perspective there are benefits in supporting the change to a CTP 'no fault' scheme. This is because it:

- Indicates greater benefits to more people who may suffer catastrophic injuries. These types of injuries and disabilities will likely impact on an affected person's quality of life, capacity to participate fully in activities and general wellbeing. This will also impact on service and other needs to ensure adequate management of the injuries/disabilities and to allow for full participation.
- The current scheme is discussed in the Green Paper and indicates that the current disadvantage to the system is that individuals may find themselves in a severe or permanent state of disability without the means for reasonable and adequate supports.

Supporting full access is consistent with City of Melville's broad vision of participation and community wellbeing. This would be best realised through supporting Option 2 as indicated in the Green Paper.

Reasons why Option 2 is preferable over Option 3:

- Benefits are outlined in the paper on possible advantages/disadvantages of the various proposed models. One key advantage of Option 2 is that delays are removed by having a 'no fault' system. This is an important component to effective social justice outcomes. Having access to services, support and medical assistance particularly for such a significantly serious injury/disability would be hampered by requiring potentially elongated and lengthy claim applications. In the meantime, residents may look to their local council for supports that they might otherwise receive through this scheme.
- A no fault system also ensures a greater access of support services to more people. The current estimate of 44 individuals who miss out on these supports is significant given the level of support and assistance they will require for the rest of their lives through their community.
- Significant injuries not only affect the individual, but require services and support from not only the government and medical community but also local government.

POLICY IMPLICATIONS

Supporting this proposal is in line with community aspirations, particularly supporting community wellbeing identified in the City's Strategic Community Plan. By supporting this proposal for change, the Council will support and give effect to the general objectives under the strategic community plan. This is particularly that the community is active and healthy, and that there is greater inclusion and accessibility in the community. Relevant Council policies and endorsed plans include the following attachments:

CP-040 - Public Health and Wellbeing Policy
CP-084 - Disability Access and Inclusion Policy
Disability Access and Inclusion Plan 2012-2017
A Strategic Community Plan for City of Melville: People, Places, Participation 2012 – 2022

**CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO
WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC)
(ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The alternative would be for the Council to support Option 1 or 3. Option 1 advocates for no change. Option 3 provides supports to individuals who are at-fault by considering their contributory negligence.

Option 3 provides more freedom of choice for individuals as entitlements are paid in lump sum and individuals can self-direct those funds to the support that they, their family or trustee determines is right for them. Option 2 reduces this capacity as it removes the payment of lump sum.

Should the freedom of choice of individuals to receive lump sum payments be considered a significantly important one, Option 3 may be preferred. From a social justice perspective and on balance, it is preferable to have a compensation scheme available to the highest number of individuals as possible and to ensure coverage and protections are available in a quick and efficient manner. It is therefore recommended that Option 2 is preferred.

CONCLUSION

The current CTP scheme is discussed in the Green Paper attached and indicates that the current disadvantage to the system is that individuals may find themselves in a severe or permanent state of disability without the means for reasonable and adequate supports. Supporting full access is consistent with City of Melville's broad vision of participation and community wellbeing. This would be best realised through supporting Option 2 as indicated in the Green Paper and demonstrate the Council's commitment to facilitating the greatest level of support and assistance to individuals who may face catastrophic injuries.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (8065)**APPROVAL**

At 8.03pm Cr Schuster moved, seconded Cr Robartson –

That the Council:

1. Supports the proposal by the State Government to include a no-fault Compulsory Third Party insurance scheme.
2. Supports Option 2 as the option that best supports and protects as many individuals as possible who may suffer catastrophic injuries regardless of fault.
3. Request the Chief Executive Officer lodge a submission on behalf of the City to the Insurance Commission of Western Australia indicating Council's support for Option 2.

**CD14/8065 - OPTIONS TO ADD NO-FAULT CATASTROPHIC INJURY COVER TO
WESTERN AUSTRALIA'S COMPULSORY THIRD PARTY INSURANCE SCHEME (REC)
(ATTACHMENT)**

At 8.06pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (11/0)

| Vote Result Summary | |
|----------------------------|----|
| Yes | 11 |
| No | 0 |

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

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

NIL

At 8.08pm Cr Pazolli left the meeting, and returned at 8.10pm.

12. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Cr Schuster gave notice that he would move a Motion with Notice at the February 2015 Ordinary Meeting of the Council. The Motion will be worded in the context of;

That the City of Melville convey its appreciation to the Federal Minister of Finance and the Honourable Premier of Western Australia and the Honourable Minister of Transport of Western Australia for the decision to implement the Roe 8 Highway development.

13. CLOSURE

The Chief Executive Officer thanked the Councillors, and thanked the Directors, Managers and staff for their continued work and support over the year.

There being no further business to discuss the Mayor declared the meeting closed at 8.14pm.