ATTENTION
These minutes are subject to confirmation.
Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the minutes of the following Ordinary Meeting of Council to ensure that there has not been a correction made to the resolution.

MINUTES AVAILABLE ON THE WEBSITE
www.swan.wa.gov.au
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PART A - OPENING PROCEDURES

1. OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor welcomed those present and opened the meeting at 5.30pm.

The Mayor acknowledged the traditional owners of the land, the Whadjuk people of the Noongar nation. We pay our respects to their elders both past and present.

2. DISCLAIMER (READ ALOUD BY PRESIDING MEMBER)

The City of Swan disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence, or the like is considered or determined during this meeting the City warns that neither the applicant nor any other person or body should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it or the refusal of the application has been issued by the City.

Conditions of Entry: No electronic, visual or audio recording or transmitting device or instrument is permitted to be used. A person who breaches this provision of the City of Swan Meeting Procedures Local Law 2015 will be required to immediately leave the premises.

3. ATTENDANCE AND APOLOGIES

Councillors:  Cr D Lucas        Mayor, Altone Ward (Presiding Member)
             Cr K Bailey       Deputy Mayor, Pearce Ward
             Cr A Kiely        Altone Ward
             Cr P Lyndon-James Altone Ward
             Cr M Elliott      Midland/Guildford Ward
             Cr I Johnson      Midland/Guildford Ward
             Cr C Scanlan      Midland/Guildford Ward
             Cr P Jones        Pearce Ward (from 5.31pm)
             Cr C McCullough   Pearce Ward
             Cr D McDonnell    Pearce Ward
             Cr R Henderson    Swan Valley/Gidgegannup Ward
             Cr C Zannino      Swan Valley/Gidgegannup Ward
             Cr M Haynes       Whiteman Ward
             Cr A Kovalevs     Whiteman Ward
             Cr J McNamara     Whiteman Ward
Cr Jones entered the Chamber at 5.31pm.

4. DECLARATIONS OF FINANCIAL AND PROXIMITY INTERESTS AND INTERESTS AFFECTING IMPARTIALITY

Cr Lyndon-James declared a proximity interest in Item 3.1 of Part B - Metropolitan Region Scheme Amendment 1329/57 (Henley Brook Urban Precinct) - City of Swan Submission by virtue of being an owner and a tenant of properties which adjoin the precinct.

Cr Scanlan declared an interest affecting impartiality in Item 3.6 of Part B - Change of Use from 'Office' to 'Restaurant' Lot 467 Terrace Road, Guildford (DA624-17) by virtue of residing on the same street as the property.

Cr Lyndon-James declared a financial interest in Item 3.10 of Part B - Development Assessment Panel Responsible Authority Report - Application for Tavern - Lots 11 (No.6791) and 22 (No.6841) West Swan Road, West Swan (DA675-17) by virtue of being a tenant of the properties.

Cr Henderson declared an interest affecting impartiality in Item C3.3 of Part C - The Growth Box, Malaga by virtue of being an ordinary member of the Malaga and Districts Business Association.
5. PUBLIC QUESTION TIME

Public question time commenced at 5.32pm.

5.1 ANSWERS TO QUESTIONS WHICH WERE TAKEN ON NOTICE

Nil

5.2 QUESTIONS RELATING TO REPORTS CONTAINED IN THE AGENDA

5.2.1 Questions of which due notice has been given

Nil

5.2.2 Questions without due notice

Nil

5.3 OTHER QUESTIONS

5.3.1 Questions of which notice has been given

Nil

5.3.2 Questions without due notice

5.3.2.1 Mr Patrick Irwin

Q1 In view of the Council’s apparent desire to sell off Midland Oval as a building site:

Can the Council advise whether similar proposals may apply to the following parks, listed below?

Can the Council advise or confirm whether these parks are public assets?

Are they registered Reserves?

Are their Titles held in Fee Simple?

Are they Crown Reserves?

Can these parks be sold off to private developers for building sites?

If certain parks are provided by developers are they dedicated to the public for all time?

Does the City have any plans or ability to sell off any of these parks or reserves in the future?
Will the City rezone any of these parks to Commercial deferred or other uses in the future?

Can the City advise the ratepayers of expenditure on the creation and maintenance of each of these parks, reserves or ovals over the last twenty or thirty years?

Aveley Central Park

Coolamon Oval (including Ellenbrook Dog Exercise Park)

Woodlake Park

Holdsworth Park (cnr of Holdsworth Avenue and Millhouse Road)

Woodlake Sportground (Bronzewing Avenue)

Oval on Flecker Promenade

Sandown Park (cnr Sandown Circle and Martingdale Avenue)

Brook Park

Tatton Park

Delaney Park

Trilogy Park (The Vines)

Corona Way Park (the Vines)

Chandon Way Park (The Vines)

Chardonnay Park (The Vines)

Classic Brut Park (The Vines)

Ailsa Park (The Vines)

Ellenbrook Town Park

Vaucluse Park

Anna Plains Park

Q2 In view of the Council’s desire to sell off Midland Oval as a development site can the Council please advise the total costs to ratepayers attributable to the relocation of the Midland Oval area?

Can the costs of these aspects re the above, over the last forty years be provided for:

Relocation of Midland Recreation Ground facilities to Swan Park, including the total costs of Swan Park in Middle Swan?

Consultation costs to ratepayers of ‘consultation’ including consultants and staff, over the last two years?
Total costs of ‘consultation’ including consultants and staff over the last forty years?

Total costs of all other consultants over the last forty years?

Total costs of the Commercialisation section, staff and consultants over the last ten years?

Total costs of land acquisitions over the last forty years?

The total costs of all activities over the last forty years associated with developing Midland Oval, the Recreation Ground Reserve, dedicated to the public for all time, as a private development site without the public permission, agreement or effective consultation?

A1-2 The A/CEO took the questions on notice and advised that some could be answered, some would be difficult to answer, some may need a freedom of information request and some were not possible to answer.

Q3 Is the Council aware of the report from Dr Linley Lutton on the proposed Midland Oval Redevelopment?

A3 The Mayor advised that he was not aware of it but requested that it be provided.

Public question time concluded at 5.37pm as there were no further questions.

5.3.2.1 Mr Bill Muir

Q1 In regard to Item 3.1 of Part B - Metropolitan Region Scheme Amendment 1329/57 (Henley Brook Urban Precinct) one Councillor has declared a conflict of interest, are there any other Councillors with a conflict of interest, specifically Cr Bailey?

A1 Cr Bailey advised that he considered that he has no conflict of interest in regard to the matter.

6. PUBLIC STATEMENT TIME

6.1 Mr Tim Clifford MLC stated that consultation for the Midland Oval Redevelopment Masterplan was not sufficient, the development was not wanted, does not make financial sense and results in the loss of the oval. Mr Clifford submitted approximately 1,000 signed postcards from residents who supported this view.

6.2 Ms Jennifer Catalano made a statement in regard to conduct at the 17 January 2018 Council meeting.

6.3 Ms Francesca Irwin stated that she collected 200 signatures (postcards). The preference is that 2.7ha of green landscaped space be provided as part of the Midland Oval redevelopment.

6.4 Mr Patrick Irwin stated that a report by Dr Linley Lutton concluded that the Midland Oval Redevelopment Masterplan was fundamentally flawed.
6.5 Mr Graham Harris stated that he was proud of efforts the City has taken in the development of Midland and talk of the Midland Oval redevelopment has gone on long enough and the City needs to get on with the development.

7. **PETITIONS**

Nil

8. **DEPUTATIONS**

Nil

9. **ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION**

It has been a busy and productive start to the year and we have a lot to look forward to in the coming months.

On Australia Day, the City of Swan welcomed 53 new Australian citizens, from countries including Ireland, Nepal, South Africa, France, Kenya, Sri Lanka and the Seychelles. It is quite remarkable that our residents were born in 161 different countries – that equates to 82.5 per cent of all the countries in the world today.

On February 23, our award-winning Swan Valley Visitor Centre will be proudly flying the flag for WA at the prestigious Qantas Australian Tourism Awards. We wish them all the best.

The City’s very own all-ages festival, HyperFest, will return to Midland Oval on Saturday, February 24. Last year’s festival was a huge success and we’re looking forward to this year’s event being even bigger and better.

We are very excited and proud to be welcoming the Commonwealth Games Queen’s Baton Relay to Midland and Guildford on Monday, February 26. The Baton will travel 233,000 kilometres over 338 days through every Commonwealth nation and territory on its way to the 2018 Commonwealth Games Opening Ceremony on the Gold Coast on April 4.

You may remember the City also hosted the Queen’s Baton Relay in 2006 in the lead-up to the Melbourne Commonwealth Games. During that Relay, the Baton visited Moorditj Noongar Community College and was carried by bicycle around several laps of the Midvale Speed Dome by 1966 Commonwealth Games cyclist Phillip Bristow-Stagg.

I encourage you to come along and cheer and wave as the Baton makes its way through our City.
10. MEMBERS' QUESTIONS

10.1 ANSWERS TO QUESTIONS WHICH WERE TAKEN ON NOTICE

Nil

10.2 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

10.3 QUESTIONS OF WHICH DUE NOTICE HAS NOT BEEN GIVEN

10.3.1 Cr Johnson

Q1 Can the City advise if Main Roads has any plans to improve the cycle path in the City of Swan’s section from Guildford to Perth along Great Eastern Highway?

A1 The A/CEO advised that the City was not aware of any plans.
11. LEAVE OF ABSENCE

RESOLVED UNANIMOUSLY that the following Councillors be granted leave of absence for the period requested:

Cr Scanlan
Midland/Guildford Ward 13 April 2018 to 22 April 2018 (inclusive)

(Cr Elliott – Cr Kovalevs)
12. CONFIRMATION OF MINUTES

12.1 Confirmation of Minutes of Ordinary Meeting of Council held on 17 January 2018.

RESOLVED UNANIMOUSLY that the Minutes of the Ordinary Meeting of Council held on 17 January 2018 be confirmed.

(Cr McCullough – Cr Jones)
13. ANY BUSINESS LEFT OVER FROM PREVIOUS MEETING

13.1 PROPOSED SINGLE DWELLING - LOT 62 (NO.550) RAILWAY PARADE, BASKERVILLE (DA658-13/A)

This matter was deferred to the Ordinary Meeting of Council to be held on 18 October 2017 at the Ordinary Meeting of Council held on 2 August 2017 to allow the opportunity for the Swan Valley/Gidgegannup Ward Councillors to meet with the applicant and to further consult with the Public Transport Authority.

A meeting of parties in relation to this application is to be scheduled and a report to Council will be submitted following that meeting.

13.2 NEAVES ROAD REGIONAL ROAD STUDY

This matter was deferred at the Ordinary Meeting of Council held on 30 August 2017 to allow for further enquiry into the objections and to investigate if there are any potential treatments available to address the objections, as the proposal will have a significant impact on some properties.

RESOLVED UNANIMOUSLY:

1) Note the information provided for Items 13.1 and 13.2.

   (Cr Henderson - Cr Elliott)
13.3 HOMELESSNESS IN THE CITY OF SWAN

Ward: (All Wards) (Lifespan Services)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Community Wellbeing)

RECOMMENDATION

That the Council resolve to:

1) Endorse the recommendations for short term responses to address homelessness and street presence.

2) Endorse the development of a cross-functional working group to deliver recommendations for medium term responses.

3) Endorse the continued monitoring of homelessness within the City of Swan.

4) Request a further report be provided to Council prior to any specific budget being allocated to any proposed City actions.

MOTION that the Council resolve to adopt the staff recommendation.

(Cr Kovalevs - Cr McCullough)

RESOLVED UNANIMOUSLY TO:

1) Endorse the recommendations for short term responses to address homelessness and street presence.

2) Endorse the development of a cross-functional working group to deliver recommendations for medium term responses.

3) Endorse the continued monitoring of homelessness within the City of Swan.

4) Request a further report be provided to Council prior to any specific budget being allocated to any proposed City actions.
PART B - REPORTS

1. CORPORATE PLANNING AND POLICY

1.1 ADOPTION OF POL-LP-1-12 PUBLIC OPEN SPACE AND COMMUNITY BUILDINGS

Ward: (All Wards) (Asset Management)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Operations)

RECOMMENDATION

That the Council resolve to:

1) Adopt POL-LP-1-12 Public Open Space and Community Buildings and publish notice of the policy in a newspaper circulating in the Local Planning Scheme area.

2) Repeal Interim Policy POL-C-112 Public Open Space Residential Areas.

CARRIED
2. COMMUNITY PLANNING AND DEVELOPMENT

Nil
3. STATUTORY PLANNING

3.1 METROPOLITAN REGION SCHEME AMENDMENT 1329/57 (HENLEY BROOK URBAN PRECINCT) - CITY OF SWAN SUBMISSION

Ward: (Whiteman Ward) (Strategic Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

Cr Lyndon-James declared a proximity interest in Item 3.1 of Part B - Metropolitan Region Scheme Amendment 1329/57 (Henley Brook Urban Precinct) - City of Swan Submission by virtue of being an owner and a tenant of properties which adjoin the precinct.

Cr Lyndon-James left the Chamber at 5.53pm and did not speak or otherwise participate in the decision making process.

RECOMMENDATION

That the Council resolve to:

1) Advise the Western Australian Planning Commission that it does not support the proposal to amend the subject land from the Rural zone to the Urban zone in the Metropolitan Region Scheme for the reasons outlined in 2 and 5 below.

2) Advise the Western Australian Planning Commission that the City recommends an Urban Deferred zone instead, which requires that the following outstanding matters (as per the Draft Guidelines for Lifting Urban Deferment (Aug 2017) be addressed in a district level structure plan prior to allowing the lifting of urban deferment under the Metropolitan Region Scheme:

   a. agreement between the developers and service providers with regard to the staging and financing of services; (More certainty regarding how non-potable water will be secured is required (including early consultation with groundwater licence holders) for Public Open Space irrigation purposes), and the need for community infrastructure and how it’s provision will be coordinated and funded);

   b. planning is sufficiently advanced to depict an acceptable overall design to guide future development; (There is no concept design/layout that provides future guidance for development available as part of the MRS proposal);

   c. the proposed urban development represents a logical progression of development (as the final North-East Sub-Regional Planning Framework is yet to be released, it is uncertain whether the proposal would represent a logical progression in terms of timing and staging of development);
d. **regional requirements (such as regional roads, open space and public purposes) have been satisfied or provision made for them**; (Resulting from Main Road’s latest preference for roundabouts, the current MRS alignment and associated reservation of Henley Brook Avenue will have to be modified as it was designed to accommodate signalised intersections. This modified alignment will directly impact the outline of the area proposed to be zoned Urban under this proposal); and

e. **any constraints to urban development, including in relation to environmental, hazard and risk issues, can be satisfactorily addressed**; (The impact of the Dampier to Bunbury Natural Gas Pipeline and the Parmelia Mainline, high pressure gas mains on the overall design on a district level, land available for development and dwelling yields in the area to be addressed).

3) Request that as per the WAPC’s recent approach in Bullsbrook, the preparation of a district level structure plan that identifies how infrastructure can be provided in a coordinated manner, be required prior to the lifting of urban deferment.

4) Note that the City would not be in favour of a concurrent local planning scheme amendment.

5) Emphasise that this resolution was made with due consideration of the highly fragmented nature of ownership of the subject land, with no indication of the mandate of landowners in support of the proposal, and the risks associated therewith for the City as administrator of future cost sharing mechanisms.

**MOTION** that the Council resolve to:

1) Advise the West Australian Planning Commission (WAPC) that it supports the Metropolitan Region Scheme Amendment (1329/57) proposal to include the Henley Brook Urban Precinct in the “Urban” zone under the Metropolitan Region Scheme (MRS).

2) Support the rezoning of the land under the City’s Local Planning Scheme No.17 concurrent with any MRS amendment as provided by Section 126(3) of the Planning and Development Act 2005.

3) Advise the Western Australian Planning Commission that it does not support the formal lodgement of any subsequent structure plan for the lands prior to the finalisation of the MRS/LPS amendment process for the following reason:

   (i) The area comprises numerous individual land parcels and it will require time for the City to make adequate arrangements with the proponents, which may likely be a Development Contribution Plan, for effective and equitable provision of the shared infrastructure that will be required for the orderly and comprehensive development of the land.

4) Reason for changing the officer’s recommendation:

   a) Supporting the Urban zoning rather than Urban Deferred will allow the development proposal to progress more quickly through the planning process;
b) This approach will allow the City to work with the applicant and landowners to:

i. address the outstanding matters discussed in the Council Report, and

ii. identify shared infrastructure and its cost

in conjunction with the applicant’s preparation of a structure plan, whilst the local planning scheme amendment/s is progressed through the Planning System.

(Cr Henderson – Cr Bailey)

RESOLVED UNANIMOUSLY TO:

1) Advise the West Australian Planning Commission (WAPC) that it supports the Metropolitan Region Scheme Amendment (1329/57) proposal to include the Henley Brook Urban Precinct in the “Urban” zone under the Metropolitan Region Scheme (MRS).

2) Support the rezoning of the land under the City’s Local Planning Scheme No.17 concurrent with any MRS amendment as provided by Section 126(3) of the Planning and Development Act 2005.

3) Advise the Western Australian Planning Commission that it does not support the formal lodgement of any subsequent structure plan for the lands prior to the finalisation of the MRS/LPS amendment process for the following reason:

(i) The area comprises numerous individual land parcels and it will require time for the City to make adequate arrangements with the proponents, which may likely be a Development Contribution Plan, for effective and equitable provision of the shared infrastructure that will be required for the orderly and comprehensive development of the land.

4) Reason for changing the officer’s recommendation:

a) Supporting the Urban zoning rather than Urban Deferred will allow the development proposal to progress more quickly through the planning process;

b) This approach will allow the City to work with the applicant and landowners to:

i. address the outstanding matters discussed in the Council Report, and

ii. identify shared infrastructure and its cost

in conjunction with the applicant’s preparation of a structure plan, whilst the local planning scheme amendment/s is progressed through the Planning System.

Cr Lyndon-James entered the Chamber at 5.57pm.
3.2 ADOPTION OF AMENDMENT NO.147 TO LOCAL PLANNING SCHEME NO.17 TO EXEMPT CERTAIN DWELLING AND ADDITIONS WITHIN SPECIAL USE ZONE NO.24 ROSEHILL WATERS ESTATE - WEST PARADE, SOUTH GUILDFORD

Ward: (Midland/Guildford Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Adopt Amendment No.147 to Local Planning Scheme No.17 without modification.

2) Forward the amendment documentation and schedule of submissions to the Western Australian Planning Commission with the request that the Hon. Minister for Planning grant approval to the amendment and its gazettal.

3) Advise the applicant and those that lodged a submission of Council’s decision.

CARRIED
3.3 STATE ADMINISTRATIVE TRIBUNAL - RECONSIDERATION OF PROPOSED CLEARING OF NATIVE VEGETATION - LOT 4800 MOSELEY DRIVE, THE VINES (DA225-17)

Ward: (Swan Valley/Gidgegannup Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Grant approval for the proposed Clearing of Vegetation on Lot 4800 Moseley Drive, The Vines, subject to the following conditions:

1. This approval is for the clearing of vegetation as depicted on the approved plan.

2. Four (4) pylon signs visible from the road reserve and clearly notifying the public that a Catholic primary school is planned to be established on the land shall be erected and maintained on the lot by the landowner in the locations as depicted on the approved plan. The signs shall remain on the lot until an approved development is substantially commenced on the land, or otherwise in the event that the lot is sold.

3. Prior to the commencement of the approved works on the lot the landowner shall prepare, and have approved by the City, a Dust Management Plan. The Dust Management Plan shall outline measures to stabilise soil on the lot and to prevent erosion and dust blowing at all times, and shall include appropriate measures to be implemented by the landowner within a specified time and manner in the event that sand or dust is blown or drifts from the lot.

4. The cleared areas on the lot shall be maintained in a low fuel state to the satisfaction of the City.

5. Felled vegetation and other dead material, and debris shall be removed from the lot at the conclusion of clearing works.

6. If the clearing works cause any obstruction, alteration or interference with a natural flow of surface water to the detriment of surrounding land, then the landowner shall rectify the cause of such obstruction, alteration or interference to the satisfaction of the City.

7. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.

ADVICE NOTES: Standard advice notes apply.
2) Advise the applicant/owner of the resolution of Council and the relevant advice notes pertaining to the approval.

3) Advise all those who made a submission of the Council's decision accordingly.

**MOTION** that the Council resolve to:

1) Adopt the staff recommendation with the inclusion of the following additional Conditions:

   8. Prior to commencement of the approved works the applicant/owner is to submit to the satisfaction of the Chief Executive Officer a Landscaping Plan for the provision of a landscaping strip along the full length of the subject lot abutting Althrop Way.

   9. The landscaping as per the approved Landscaping Plan is to be installed by the owner and maintained thereafter to the satisfaction of the Chief Executive Officer.

   10. Prior to commencement of the approved works the applicant/owner is to:

       i. undertake a fauna survey of the subject lot to identify any fauna habitat in those areas of vegetation designated to be cleared; and

       ii. make arrangements for the relocation of any such identified fauna to an alternative location to the satisfaction of the Chief Executive Officer.

2) The City is to performance manage the conditions set out in this resolution on an annual basis to ensure compliance.

3) Record the reason for changing the staff recommendation is to include as Conditions undertakings given by the applicant at the State Administrative Tribunal mediation.

   (Cr McDonnell - Cr Zannino)
RESOLVED UNANIMOUSLY TO:

1) Adopt the staff recommendation with the inclusion of the following additional Conditions:

8. Prior to commencement of the approved works the applicant/owner is to submit to the satisfaction of the Chief Executive Officer a Landscaping Plan for the provision of a landscaping strip along the full length of the subject lot abutting Althrop Way.

9. The landscaping as per the approved Landscaping Plan is to be installed by the owner and maintained thereafter to the satisfaction of the Chief Executive Officer.

10. Prior to commencement of the approved works the applicant/owner is to:

   i. undertake a fauna survey of the subject lot to identify any fauna habitat in those areas of vegetation designated to be cleared; and

   ii. make arrangements for the relocation of any such identified fauna to an alternative location to the satisfaction of the Chief Executive Officer.

2) The City is to performance manage the conditions set out in this resolution on an annual basis to ensure compliance.

3) Record the reason for changing the staff recommendation is to include as Conditions undertakings given by the applicant at the State Administrative Tribunal mediation.
3.4 DEVELOPMENT ASSESSMENT PANEL RESPONSIBLE AUTHORITY REPORT - APPLICATION FOR PROPOSED EIGHT STOREY MULTIPLE USE DEVELOPMENT - LOT 4 THE AVENUE, MIDLAND (DA701-17)

Ward: (Midland/Guildford Ward) (Business and Tourism Services)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Endorse the Responsible Authority Report (RAR) prepared by TPG+Place Match to the Metro East Joint Development Assessment Panel.

MOTION that the Council resolve to:

1) Endorse the Responsible Authority Report (RAR) prepared by TPG+Place Match to the Metro East Joint Development Assessment Panel, with the following recommended changes to the conditions:

   a. Recommend that the DAP append the following text to Condition 21 – “The noise management plan to include control of the internal and external impacts of noise from the roof terrace.”

   b. Recommend that the DAP Delete Condition 24 (and renumber Condition 25).

   c. Recommend that an additional condition be added – “That the windows be fitted with child proof locks.”

2) Record the reason for the Council changes to the RAR recommendations:

   a. Roof terraces are a potential source of noise nuisance to residential homes immediately below the roof terrace and to any surrounding homes.

   b. There is no need for privacy screens on the balconies as there is no overlooking and it is important for children living in these flats to be able to look into long distance to develop their eyesight.

   c. Child proof window locks are needed for safety reasons and are now mandatory in other states.

   (Cr Johnson – Cr Lyndon-James)
RESOLVED UNANIMOUSLY TO:

1) Endorse the Responsible Authority Report (RAR) prepared by TPG+Place Match to the Metro East Joint Development Assessment Panel, with the following recommended changes to the conditions:

   a. Recommend that the DAP append the following text to Condition 21 – “The noise management plan to include control of the internal and external impacts of noise from the roof terrace.”

   b. Recommend that the DAP Delete Condition 24 (and renumber Condition 25).

   c. Recommend that an additional condition be added – “That the windows be fitted with child proof locks.”

2) Record the reason for the Council changes to the RAR recommendations:

   a. Roof terraces are a potential source of noise nuisance to residential homes immediately below the roof terrace and to any surrounding homes.

   b. There is no need for privacy screens on the balconies as there is no overlooking and it is important for children living in these flats to be able to look into long distance to develop their eyesight.

   c. Child proof window locks are needed for safety reasons and are now mandatory in other states.
3.5 EXTENSION OF TIME - SHOPPING CENTRE - LOTS 2 & 3 (NO.S 154 & 150) COAST ROAD & LOT 23 (NO. 200) ARTHUR STREET, DAYTON (DA462/2013/B)

Ward: (Altone Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Pursuant to cl.68 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015 approve the proposed modification to DA-462/2013 (extension of term of approval for a shopping centre) at Lots 2 and 3 (No's 154 and 150) Coast Road Dayton and Lot 23 (No. 200) Arthur Street Dayton for two (2) years until 14 February 2020.

2) All other conditions and advise notes and all stamped approved plans of the previous planning approval remain valid and applicable.

3) Advise the applicant/owner of the resolution of Council and relevant advice notes pertaining to the approval.

CARRIED
3.6 CHANGE OF USE FROM 'OFFICE' TO 'RESTAURANT' LOT 467 TERRACE ROAD, GUILDFORD (DA624-17)

Ward: (Midland/Guildford Ward) (Statutory Planning)

Disclosure of Interest: Nil.

Authorised Officer: (Executive Manager Planning and Development)

Cr Scanlan declared an interest affecting impartiality in Item 3.6 of Part B - Change of Use from 'Office' to 'Restaurant' Lot 467 Terrace Road, Guildford (DA624-17) by virtue of residing on the same street as the property.

RECOMMENDATION

That the Council resolve to:

1) To approve the application for Change of Use (Office to Restaurant) & Alfresco dining at Lot 467 (No. 110) Terrace Road, Guildford subject to the following conditions and Advice Notes:

   1. This approval is for a change of use of ground floor Tenancy C1 from "Office" to "Restaurant" as defined in the City’s Local Planning Scheme No. 17 and the subject tenancy may not be used for any other use without the prior approval of the City.

   2. This approval is for alfresco dining and incidental site works inclusive of works in the road reserve as illustrated on the approved plans.

   3. The Alfresco Dining Area is limited to the following hours of operation, unless with the further prior approval of the City:

      a) Monday to Friday: 6:00am to 5:00pm; and

      b) Saturday and Sunday: 7:00am to 1:00pm.

   4. The Restaurant is limited to a maximum occupancy of sixteen (16) person(s), with a maximum of ten persons permitted within the occupancy (including employees) at any one time and a maximum of six persons permitted within the alfresco dining area.

   5. A 0.5m wide extension to the existing footpath within the adjoining road reserve is to be designed and built in accordance with the City’s specifications and standards using like for like paving materials to the existing pavement. Detailed plans are to be submitted for approval, and installed in accordance with the approval plans at the landowner/applicants cost, prior to the occupancy of the building.

   6. A maximum of six (6) chairs and four (4) tables are permitted within the alfresco dining area. The tables and chairs are to be arranged to minimise obstruction of the existing footpath to the satisfaction of the City of Swan.
7. Prior to occupancy in accordance with this approval, the landowner/applicant is to comply with the City of Swans Vehicle Parking Standards (POL-TP-129) as follows:

The landowner/applicant shall fulfil this requirement by:

a) Providing 1 parking bay on the subject lot 2.5m x 5.5m.

b) Paying the City of Swan a cash-in-lieu contribution to compensate the parking shortfall for 3 parking facilities on site. Payment is to be made prior to occupancy.

8. Refuse bin areas adequate to service the development shall be provided to the satisfaction of the City’s Principal Environmental Health Officer before the development is occupied or used.

9. The development must be connected to the Water Corporations Sewer where available.

10. A plan or description of all signs for the proposed development shall be submitted and approved by the City of Swan as a separate development application.

11. Prior to the occupancy of the ‘Restaurant’ development and alfresco dining within the road reserve abutting Lot 467 (No. 110) Terrace Road, Guildford (“the land”) the owner of the Land shall enter into a deed of agreement with the City of Swan (“the City”) whereby the owner:

a) Indemnifies the City against any loss or damage caused to any road reserve or other property of the City or to any person or property of any person arising out of the construction of the development or the use of the road reserve in connection with the development;

b) Agrees to take out and maintain a policy of public liability insurance with a reputable insurer in an amount satisfactory to the City to insure the City and the owner against all claims for loss of damage or injury occurring to any road reserve or property of the City of any person or property of any person as a result of the construction of the development or in respect of the use of the road reserve in connection with the development; and

c) Agrees to maintain the development at its cost.

The agreement shall be prepared by the City’s solicitors to the satisfaction of the City and enable the City to lodge an absolute caveat over the land. The owner shall be responsible to pay all costs associated with the City’s solicitor’s costs of and incidental to the preparation of (including all drafts) and stamping of the agreement and the lodgement of the absolute caveat.

12. The owner shall maintain at its cost the development constructed on the road reserve to the satisfaction of the City and in accordance with the provisions of Regulation 17 of the Local Government (Uniform Provisions) Regulations 1996 (As amended from time to time).

13. No Chairs, tables or other obstructions to pedestrian movement shall be located outside the approved alfresco seating area as illustrated on the approved plans.
14. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.’

ADVICE NOTES: Standard advice notes apply.

2) Advise the applicant/owner of the Resolution of Council and relevant advice notes pertaining to the approval.

**MOTION** that the Council resolve to:

1) Refuse the application for Change of Use (Office to Restaurant) & Alfresco dining at Lot 467 (No. 110) Terrace Road, Guildford Record for the following reason:

1. The development has already been provided a 2.5 car parking concession at approval and the size and set up of the office is not suitable in design and scale to support a restaurant.

   (Cr Kiely -)

**MOTION LAPSED** due to the lack of a seconder.

**MOTION** that the Council resolve to adopt the staff recommendation.

   (Cr Bailey – Cr Lyndon-James)

**RESOLVED UNANIMOUSLY TO:**

1) To approve the application for Change of Use (Office to Restaurant) & Alfresco dining at Lot 467 (No. 110) Terrace Road, Guildford subject to the following conditions and Advice Notes:

1. This approval is for a change of use of ground floor Tenancy C1 from “Office” to “Restaurant” as defined in the City’s Local Planning Scheme No. 17 and the subject tenancy may not be used for any other use without the prior approval of the City.

2. This approval is for alfresco dining and incidental site works inclusive of works in the road reserve as illustrated on the approved plans.

3. The Alfresco Dining Area is limited to the following hours of operation, unless with the further prior approval of the City:

   a) Monday to Friday: 6:00am to 5:00pm; and
   
   b) Saturday and Sunday: 7:00am to 1:00pm.
4. The Restaurant is limited to a maximum occupancy of sixteen (16) person(s), with a maximum of ten persons permitted within the occupancy (including employees) at any one time and a maximum of six persons permitted within the alfresco dining area.

5. A 0.5m wide extension to the existing footpath within the adjoining road reserve is to be designed and built in accordance with the City’s specifications and standards using like for like paving materials to the existing pavement. Detailed plans are to be submitted for approval, and installed in accordance with the approval plans at the landowner/applicants cost, prior to the occupancy of the building.

6. A maximum of six (6) chairs and four (4) tables are permitted within the alfresco dining area. The tables and chairs are to be arranged to minimise obstruction of the existing footpath to the satisfaction of the City of Swan.

7. Prior to occupancy in accordance with this approval, the landowner/applicant is to comply with the City of Swans Vehicle Parking Standards (POL-TP-129) as follows:

The landowner/applicant shall fulfil this requirement by:

a) Providing 1 parking bays on the subject lot 2.5m 5.5m.

b) Paying the City of Swan a cash-in-lieu contribution to compensate the parking shortfall for 3 parking facilities on site. Payment is to be made prior to occupancy.

8. Refuse bin areas adequate to service the development shall be provided to the satisfaction of the City’s Principal Environmental Health Officer before the development is occupied or used.

9. The development must be connected to the Water Corporations Sewer where available.

10. A plan or description of all signs for the proposed development shall be submitted and approved by the City of Swan as a separate development application.

11. Prior to the occupancy of the ‘Restaurant’ development and alfresco dining within the road reserve abutting Lot 467 (No. 110) Terrace Road, Guildford (“the land“) the owner of the Land shall enter into a deed of agreement with the City of Swan (“the City”) whereby the owner:

a) Indemnifies the City against any loss or damage caused to any road reserve or other property of the City or to any person or property of any person arising out of the construction of the development or the use of the road reserve in connection with the development;

b) Agrees to take out and maintain a policy of public liability insurance with a reputable insurer in an amount satisfactory to the City to insure the City and the owner against all claims for loss of damage or injury occurring to any road reserve or property of the City of any person or property of any person as a result of the construction of the development or in respect of the use of the road reserve in connection with the development; and
c) Agrees to maintain the development at its cost.

The agreement shall be prepared by the City’s solicitors to the satisfaction of the City and enable the City to lodge an absolute caveat over the land. The owner shall be responsible to pay all costs associated with the City’s solicitor’s costs of and incidental to the preparation of (including all drafts) and stamping of the agreement and the lodgement of the absolute caveat.

12. The owner shall maintain at its cost the development constructed on the road reserve to the satisfaction of the City and in accordance with the provisions of Regulation 17 of the Local Government (Uniform Provisions) Regulations 1996 (As amended from time to time).

13. No Chairs, tables or other obstructions to pedestrian movement shall be located outside the approved alfresco seating area as illustrated on the approved plans.

14. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.’

ADVICE NOTES: Standard advice notes apply.

2) Advise the applicant/owner of the Resolution of Council and relevant advice notes pertaining to the approval.
3.7 PROPOSED THIRD PARTY SIGNAGE - LOT 115 (NO. 14) WOOLLcott AVENUE, HENLEY BROOK (DA610-17)

Ward: (Swan Valley/Gidgegannup Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Refuse the ‘Third Party Signage’ on Lot 115 (No.14) Woolcott Avenue, Henley Brook under Local Planning Scheme No.17 for the following reason:
   1. The nature and size of the proposed signage is considered to detrimentally impact the rural character of the locality.

2) Recommend to the Western Australian Planning Commission that the signage at Lot 115 (No.14) Woolcott Avenue, Henley Brook be refused under the Metropolitan Region Scheme.

3) Advise the applicant/owner of the resolution of Council.

4) Advise those that lodged a submission of the Council’s decision accordingly

CARRIED
3.8 PROPOSED THIRD PARTY SIGNAGE - LOT 3 (NO. 4811) WEST SWAN ROAD, WEST SWAN (DA618-17)

Ward: (Swan Valley/Gidgegannup Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Refuse the proposed ‘Third Party Signage’ on Lot 3 (No.4811) West Swan Road, West Swan for the following reason:
   1. The nature and size of the proposed signage is considered to detrimentally impact the rural character of the locality.

2) Recommend to the Western Australian Planning Commission that the Signage at Lot 3 (No. 4811) West Swan Road, West Swan be refused under the Metropolitan Region Scheme.

3) Advise the applicant/owner of the resolution of Council accordingly.

4) Advise those that lodged a submission of the Council’s decision accordingly.

CARRIED
3.9 PROPOSED TAVERN - LOT 11 (NO.518) GREAT NORTHERN HIGHWAY, MIDDLE SWAN (DA599-17)

Ward: (Swan Valley/Gidgegannup Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

RECOMMENDATION

That the Council resolve to:

1) Grant approval for a 'Tavern' application at Lot 11 (No.518) Great Northern Highway subject to the following conditions:

1. This approval is for a 'Tavern' as defined in the City of Swan Local Planning Scheme No. 17 and the subject land may not be used for any other use without the prior approval of the City.

2. The maximum number of patrons permitted on the licensed premises at any one time is 170.

3. Prior to any commencement of the use of the premises as a “Tavern” the applicants are to submit for the approval of the Chief Executive Officer a Landscaping Plan for the proposed grape vine trellis treatment for the frontage of the lot to Great Northern Highway.

4. Prior to any commencement of the use of the premises as a “Tavern” the landscaping treatment the subject of Condition 3 is to be planted to the satisfaction of the Chief Executive Officer and maintained thereafter.

5. Vehicle access onto the site shall be via George Road only.

6. All stormwater produced on the site shall be contained on the site to the satisfaction of the Council.

2) Advise those that lodged a submission of the Council's decision accordingly.

CARRIED
Ordinary Meeting of Council  
14 February 2018

3.10 DEVELOPMENT ASSESSMENT PANEL RESPONSIBLE AUTHORITY REPORT - APPLICATION FOR TAVERN - LOTS 11 (NO.6741) AND 22 (NO.6841) WEST SWAN ROAD, WEST SWAN (DA675-17)

Ward: (Swan Valley/Gidgegannup Ward) (Strategic Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

Cr Lyndon-James declared a financial interest in Item 3.10 of Part B - Development Assessment Panel Responsible Authority Report - Application for Tavern - Lots 11 (No.6791) and 22 (No.6841) West Swan Road, West Swan (DA675-17) by virtue of being a tenant of the properties.

Cr Lyndon-James left the Chamber at 6.02pm and did not speak or otherwise participate in the decision making process.

RECOMMENDATION

That the Council resolve to:

1) Endorse the staff recommendation in the Responsible Authority Report to the Metro-east Joint Development Assessment Panel pertaining to the application for a “Tavern” – Lots 11 (No.6741) and 22 (No.6841) West Swan Road, West Swan.

MOTION that the Council resolve to:

1) Advise the Metro-east Development Assessment Panel that the Council of the City of Swan recommends that the application for a Tavern at Lots 11 (No.6791) and 22 (No.6841) West Swan Road, West Swan be refused for the following reasons:

   1. The application is considered to be inconsistent with objective d) of the Swan Valley Rural zone - being the objectives for Area B of the Swan Valley Planning Act 1995, specifically;

      a. The proposed tavern does not entail the protection of viticulture; and

      b. The proposed tavern is not considered to be compatible with the rural character of the locality.

2) Council endorse the Swan Valley Planning Committee resolution which resolved to recommend the application be refused on the grounds of inconsistency with the objectives for Area B under the Swan Valley Planning Act 1995.

   (Cr Zannino – Cr Kiely)
RESOLVED UNANIMOUSLY TO:

1) Advise the Metro-east Development Assessment Panel that the Council of the City of Swan recommends that the application for a Tavern at Lots 11 (No. 6791) and 22 (No. 6841) West Swan Road, West Swan be refused for the following reasons:

   1. The application is considered to be inconsistent with objective d) of the Swan Valley Rural zone - being the objectives for Area B of the Swan Valley Planning Act 1995, specifically;

      a. The proposed tavern does not entail the protection of viticulture; and

      b. The proposed tavern is not considered to be compatible with the rural character of the locality.

2) Council endorse the Swan Valley Planning Committee resolution which resolved to recommend the application be refused on the grounds of inconsistency with the objectives for Area B under the Swan Valley Planning Act 1995.

Cr Lyndon James entered the Chamber at 6.05pm.
4. OPERATIONAL MATTERS

Nil
5. FINANCIAL AND LEGAL MATTERS

5.1 LIST OF ACCOUNTS PAID - DECEMBER 2017

Ward: (All Wards) (Financial Services and Rates)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Stakeholder Relations)

RECOMMENDATION

That the Council resolve to:

1) Note the Chief Executive Officer’s list of accounts paid under delegated authority for December 2017, in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

CARRIED
5.2  FINANCIAL MANAGEMENT REPORT - DECEMBER 2017

Ward: (All Wards)  (Financial Services and Rates)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Stakeholder Relations)

RECOMMENDATION

That the Council resolve to:

1) Note the financial statements and report for the month ended 31 December 2017 in accordance with regulation 34(1) of the Local Government (Financial Management) Regulations 1996.

CARRIED
5.3 BUDGET ADJUSTMENTS 2017/2018 - JANUARY 2018

Ward: (All Wards) (Financial Services and Rates)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Stakeholder Relations)

RECOMMENDATION

That the Council resolve to:

1) Approve the adjustments to the 2017/2018 City Budget as detailed in this report and attachment, in accordance with section 6.8(1) of the Local Government Act 1995.

CARRIED
6. GOVERNANCE

6.1 DRAFT SUBMISSION - LOCAL GOVERNMENT ACT 1995 REVIEW

Ward: (No Wards) (Governance)

Disclosure of Interest: Nil

Authorised Officer: (Chief Executive Officer)

RECOMMENDATION

That the Council resolve to:

1) Endorse the attached City of Swan submission relating to Phase 1 of the Local Government Act review.

2) Authorise City staff to provide the submission to the Department of Local Government by the deadline of 9 March 2018.

MOTION that the Council resolve to:

1) Endorse the attached City of Swan submission relating to Phase 1 of the Local Government Act review with the following changes:
   
a. For question 11, delete the word 'mandatory' and in its place insert the words 'strongly encourage'.

b. For question 15, delete the officer's comment.

c. For question 109, delete the officer's comment in regard to an annual general meeting of electors and in its place insert the comment "The annual general meeting of electors should remain a requirement under the Local Government Act 1995."

2) Authorise City staff to provide the submission as amended to the Department of Local Government by the deadline of 9 March 2018.

3) Record the reason for changing the recommendation is to amend the City's submission to reflect that:

   1. Training should be strongly encouraged for Councillors in order to improve their ability to serve their community however it should not be mandatory, and

   2. The annual general meeting of electors should remain a requirement.

   (Cr Kovalevs – Cr Johnson)
RESOLVED UNANIMOUSLY TO:

1) Endorse the attached City of Swan submission relating to Phase 1 of the Local Government Act review with the following changes:

   a. For question 11, delete the word 'mandatory' and in its place insert the words 'strongly encourage'.

   b. For question 15, delete the officer's comment.

   c. For question 109, delete the officer's comment in regard to an annual general meeting of electors and in its place insert the comment 'The annual general meeting of electors should remain a requirement under the Local Government Act 1995.'

2) Authorise City staff to provide the submission as amended to the Department of Local Government by the deadline of 9 March 2018.

3) Record the reason for changing the recommendation is to amend the City's submission to reflect that:

   1. Training should be strongly encouraged for Councillors in order to improve their ability to serve their community however it should not be mandatory, and

   2. The annual general meeting of electors should remain a requirement.
7. REPORTS OF THE CHIEF EXECUTIVE OFFICER

Nil
8. **ADOPTION OF THOSE RECOMMENDATIONS CONTAINED IN ITEMS NOT WITHDRAWN**

**RESOLVED UNANIMOUSLY** that the reports of Council in Part B of the Agenda not withdrawn be received and the recommendations therein adopted:

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(Cr Haynes - Cr Bailey)
9. URGENT BUSINESS

Nil
CITY of SWAN

ORDINARY COUNCIL
MEETING

PART C

OTHER BUSINESS
AND CLOSING PROCEDURES

14 FEBRUARY 2018
PART C - OTHER BUSINESS AND CLOSING PROCEDURES

1. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

C1.1 CR MCDONNELL

That a report be prepared to Council outlining options available to incentivise business and property owners in the Midland area to improve the façade and street frontages of commercial, retail, light industrial and mixed developments in and around the Midland CBD.

OFFICERS COMMENT

The City’s Strategic Planning business unit can research and prepare a discussion paper to identify options available to incentivise business and property owners in and around the Midland CBD area to improve the façade and street frontages of commercial, retail, light industrial and mixed developments. The discussion paper can consider what has been done in the past in the area, relevant case studies in other Australian CBDs and can identify what future options may be available. It can also differentiate between approaches towards new developments, public areas under control of the City and privately owned existing buildings. The report can be prepared internally, with specialist external advice sought if deemed necessary. Considering staff resourcing and current work programs, it is anticipated that the discussion paper can be ready for consideration during the fourth quarter of 2018.

Cr McDonnell advised that he withdrew the notice of motion.
C1.2 CR JOHNSON

Request the CEO to arrange a half day study tour on a suitable day prior to the ordinary meeting of Council of 14 March 2018 for Councillors to visit some central public open spaces in Directions 2031 Strategic Metropolitan Centres selected from:

- Central Park in the City of Joonadalup
- Esplanade Park in the City of Fremantle
- Civic Centre Park in the City of Canning
- Civic Gardens and Herdsman Lake in the City of Stirling
- Minnawarra Park in the City of Armadale
- City of Bayswater Civic Centre

The purpose of the study tour is to compare the Midland Strategic Metropolitan Centre public open space with that of other Directions 2031 strategic metropolitan centres.

OFFICERS COMMENT

Strategic Metropolitan Centres are multi-purpose centres that provide a mix of retail, office, community, entertainment, residential and employment activities, and are well serviced by high frequency public transport. These centres are also strategic infill locations to meet the Directions 2031 and Beyond (Directions 2031) infill target.

City staff can schedule and prepare an itinerary for a half day tour to visit a selection of Strategic Metropolitan Centres. Sites visited will include some of the sites proposed in the notice of motion. Sites where relevant authorities are planning for City Centre development will also be included within the itinerary.

Dependent upon numbers, the cost of this tour would be up to $1,000.

This tour can be scheduled on a weekday of the week commencing 26 February or 5 March.
MOTION that the Council resolve to:

1) Request the CEO to arrange a half day study tour on a suitable day prior to the ordinary meeting of Council of 14 March 2018 for Councillors to visit some central public open spaces in Directions 2031 Strategic Metropolitan Centres selected from:

- Central Park in the City of Joonadalup
- Esplanade Park in the City of Fremantle
- Civic Centre Park in the City of Canning
- Civic Gardens and Herdsman Lake in the City of Stirling
- Minnawarra Park in the City of Armadale
- City of Bayswater Civic Centre

(Cr Johnson – Cr Scanlan)

RESOLVED UNANIMOUSLY TO:

1) Request the CEO to arrange a half day study tour on a suitable day prior to the ordinary meeting of Council of 14 March 2018 for Councillors to visit some central public open spaces in Directions 2031 Strategic Metropolitan Centres selected from:

- Central Park in the City of Joonadalup
- Esplanade Park in the City of Fremantle
- Civic Centre Park in the City of Canning
- Civic Gardens and Herdsman Lake in the City of Stirling
- Minnawarra Park in the City of Armadale
- City of Bayswater Civic Centre
C1.3 CR JOHNSON

That the Council resolve to request the CEO to prepare a report, to the Ordinary Council Meeting of 9 May 2018 with options and a recommendation to return the Metropolitan Redevelopment Authority controlled Tuohy Gardens in Midland to use as a green public open space.

The reason for the motion is that Tuohy gardens has been boarded up for many years and is unsightly and could potentially be returned to use as an attractive public open space in central Midland.

OFFICERS COMMENT

Tuohy Gardens is under the planning authority of the Metropolitan Redevelopment Authority (MRA) and subject to the Midland Redevelopment Authority Scheme. The City has no jurisdiction over the land holding, including land use. City Staff have previously made enquiries with the MRA regarding the future use of the site and the verbal advice received was that there is no current plan.

MOTION that the Council resolve to:

1) Request the CEO to prepare a report, to the Ordinary Council Meeting of 9 May 2018 with options and a recommendation to return the Metropolitan Redevelopment Authority controlled Tuohy Gardens in Midland to use as a green public open space.

(Cr Johnson – Cr McDonnell)

RESOLVED UNANIMOUSLY TO:

1) Request the CEO to prepare a report, to the Ordinary Council Meeting of 9 May 2018 with options and a recommendation to return the Metropolitan Redevelopment Authority controlled Tuohy Gardens in Midland to use as a green public open space.
C1.4 CR JOHNSON

Request the CEO to prepare a brief report, to the Ordinary Council Meeting of 14 March 2018 that explains the history of the Midland Oval land title starting with how it came to be in the possession of the Helena Vale Roads Board (the City’s predecessor in title), from January 1900 to the present day, including:

- the history of the land title,
- any caveats on the land title at any point in time,
- any trusts, charitable or otherwise that may have been established by the Helena Vale Roads Board or its successors in title
- the history of the zoning of the site,
- the actual use of the site,
- how it was that this recreation ground did not get established as a Crown Reserve,
- The minutes of the Helena Vale Roads Board meeting that took title to the land from William Byers Wood,
- The reason why the land was transferred from William Byers Wood to the Helena Vale Roads Board, and
- The opinion of ex Attorney-General Septimus Burt, c1899 that the Midland Oval was “dedicated to the Public for all time”.

The purpose of this report is to establish if the City has a right to use the Midland Oval for redevelopment purposes.

OFFICERS COMMENT

The CEO can prepare a report if Council resolves that it is required.
MOTION that the Council resolve to:

1) Request the CEO to prepare a brief report, to the Ordinary Council Meeting of 14 March 2018 that explains the history of the Midland Oval land title starting with how it came to be in the possession of the Helena Vale Roads Board (the City’s predecessor in title), from January 1900 to the present day, including:

- the history of the land title,
- any caveats on the land title at any point in time,
- any trusts, charitable or otherwise that may have been established by the Helena Vale Roads Board or its successors in title
- the history of the zoning of the site,
- the actual use of the site,
- how it was that this recreation ground did not get established as a Crown Reserve,
- The minutes of the Helena Vale Roads Board meeting that took title to the land from William Byers Wood,
- The reason why the land was transferred from William Byers Wood to the Helena Vale Roads Board, and
- The opinion of ex Attorney-General Septimus Burt, c1899 that the Midland Oval was “dedicated to the Public for all time”.

(Cr Johnson – Cr Kiely)

MOTION WAS PUT TO THE VOTE AND LOST (5/10)

For: Crs Johnson, Kiely, Kovalevs, Lyndon-James and Scanlan

Against: Crs Bailey, Elliott, Haynes, Henderson, Jones, Lucas, McCullough, McDonnell, McNamara and Zannino
2. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING IF GIVEN DURING THE MEETING

C2.1 CR MCNAMARA

That the City investigates changes to its wards and representation structure, more specifically, Whiteman Ward.

C2.2 CR HENDERSON

Consider an amendment to Local Planning Scheme No.17 to remove the requirement for Commercial and Industrial properties to submit a Development Application to install solar panels on roofs.

C2.3 CR ZANNINO

That Council adopts the Swan Valley Interim Planning Policy.

C2.4 CR BAILEY

Request the CEO develop a plan to deliver a civic building on Midland Oval as a standalone project and not as part of the delivery of the Midland Oval Redevelopment Masterplan.
3. **CONFIDENTIAL ITEMS**

**RESOLVED UNANIMOUSLY** that the Council meet behind closed doors, having regard to the provisions of s.5.23(2) of the Local Government Act 1995.

(Cr Haynes – Cr Kovalevs)

All members of the public and media left the Chamber at 6.42pm and did not return.

**C3.1 REVIEW OF THE CITY’S INFRINGEMENT WITHDRAWAL GUIDELINES - COMMUNITY SAFETY**

**Ward:** (All Wards) (Community Safety)

**Disclosure of Interest:** Nil

**Authorised Officer:** (Executive Manager Community Wellbeing)

**REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with section 5.23(2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

(f) a matter that if disclosed, could be reasonably expected to -

(i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigation or dealing with any contravention or possible contravention of the law;

(ii) endanger the security of the local government’s property; or

(iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety

**RECOMMENDATION**

That the Council resolve to:

1) Endorse the attached Community Safety Guideline – “Assessing Requests for the Withdrawal of Infringement Notices”, version 2.0; and

2) Endorse the guideline to be treated as confidential.

**CARRIED**
C3.2 INTERIM ELLENBROOK COMMUNITY SUPPORT SERVICE SPACE

Ward: (Pearce Ward) (Lifespan Services)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Community Wellbeing)

REASON FOR CONFIDENTIALITY

This report is CONFIDENTIAL in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

RECOMMENDATION

That the Council resolve to:

1) Authorise the City of Swan CEO to enter into a lease for Unit 6/38 Main Street, Ellenbrook for a period of five (5) years.

2) Endorse the premises to be fitted out for the delivery of the Interim Community Support Service Space for the purpose of providing accommodation for Youth and Community Support Services at 38 Main Street, Ellenbrook.

3) Note a budget adjustment of $190,000 for capital and fit out costs associated with the facility for 2017/18 will be conducted via the standard budget adjustment report to Council.

4) Endorse the inclusion of $57,500 in the 2018/19 draft budget for operating expenses.

CARRIED
C3.3 THE GROWTH BOX, MALAGA

Ward: (Whiteman Ward) (Business and Tourism Services)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning and Development)

Cr Henderson declared an interest affecting impartiality in Item C3.3 of Part C - The Growth Box, Malaga by virtue of being an ordinary member of the Malaga and Districts Business Association.

REASON FOR CONFIDENTIALITY

This report is CONFIDENTIAL in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

RESOLVED UNANIMOUSLY TO:

1) Provide financial assistance to The Growth Box for rental lease and variable outgoings through operating funds until the end of the current financial year (4 months) to a maximum of $37,200.

2) Defer consideration of the provision of financial assistance for the 2018/2019 financial year (8 months) to allow:

   1. The CEO to arrange for the accounts of The Growth Box to be audited by the City of Swan, and

   2. An acquittal of funds, in accordance with the Memorandum of Understanding between the City and The Growth Box, and

   3. Information pertaining to the current and potential leases.
4. ADOPTION OF THOSE RECOMMENDATIONS CONTAINED IN ITEMS NOT WITHDRAWN

RESOLVED UNANIMOUSLY that the reports of Council in Part C of the Agenda not withdrawn be received and the recommendations therein adopted:

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(Cr Jones – Cr Johnson)

RESOLVED UNANIMOUSLY that the Council no longer meet behind closed doors.

(Cr Kovalevs – Cr Zannino)

5. CLOSURE

There being no further business, the Presiding Member, Cr Lucas, thanked those present for their attendance and declared the meeting closed at 6.44pm.