

AGENDA

FOR THE

SPECIAL MEETING OF THE COUNCIL

TO BE HELD ON

TUESDAY 6 APRIL 2021

AT 6.00PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

Due to the State of Emergency declared in Western Australia, effective 16 March 2020 and the subsequent government directives with regard to public gatherings and physical distancing only a limited number of the public are able to physically attend this meeting.

This meeting will publically broadcast to the community and the minutes and the audio recording of the meeting will be available on the City's website as soon as practicable after the meeting to meet the requirements of Regulation 14E(3)(b)(i) and (ii) of the *Local Government (Administration) Regulations 1996*

Use this link to attend electronically, [Register for the Special Meeting of Council 6 April 2021](#)

The City of Melville acknowledges the Bibbulmun people as the Traditional Owners of the land on which the City stands today and pays its respect to the Whadjuk people, and Elders both past and present.

DISCLAIMER

PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the City must obtain, and should only rely on, written notice of the City's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the City on the operation of written law, or the performance of a function by the City, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the City. Any advice on a matter of law, or anything sought to be relied upon as representation by the City should be sought in writing and should make clear the purpose of the request.

In accordance with the Council Policy CP- 088 Creation, Access and Retention of Audio Recordings of the Public Meetings this meeting is electronically recorded. All recordings are retained as part of the City's records in accordance with the State Records Act 2000 and the General Disposal Authority for Local Government Records. The Audio Recording will be available within 10 days of the meeting and may be accessed at www.melvillecity.com.au/agendas in accordance with the provisions of the Policy.

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NOTICE OF MEETING

I respectfully bring to the attention of Elected Members that a Special Meeting of the Council will be held in the Council Chambers, Melville Civic Centre, 10 Almondbury Road, Booragoon, commencing at 6.00pm on **Tuesday 6 April 2021**, for the purpose of considering the following matters:

- P21/3914 – Seven Storey Mixed Use Development – Lot 565 (No.2) & Lot 566 (No.4) Kearns Crescent, Ardross
- Motion - Complaints Management – CEO (Cr Kepert)
- Motion - Organisational Cultural Change (Cr Kepert)
- Motion – Review of Council Policy CP-017 – Legal Representation Policy Elected Members and Employees (Cr Kepert)

The business paper for the Meeting is scheduled below and your attendance is requested.

Marten Tieleman
Chief Executive Officer

AGENDA

1. OFFICIAL OPENING

The Presiding Member will cause the Acknowledgement of Country to be read aloud by an Elected Member.

The Presiding Member will bring to the attention of the meeting:

- the Disclaimer that is on the front page of this;
- 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 Meeting Procedure Local Law to ensure the efficient, effective and orderly decision making within this forum.

2. PRESENT

3. IN ATTENDANCE

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE**4.1 APOLOGIES****4.2 APPROVED LEAVE OF ABSENCE****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.****5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ THE ELECTED MEMBERS BULLETIN.****6. QUESTION TIME****7. DEPUTATIONS****8. DECLARATIONS OF INTEREST**

The Members' and Officers' attention is drawn to the following provisions of the *Local Government Act 1995* regarding disclosures of interest;

8.1 FINANCIAL INTERESTS

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

8.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Councillors and staff are required, in addition to declaring any financial interest, to declare any interest arising from the City of Melville Code of Conduct that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making processes.

9. APPLICATIONS FOR NEW LEAVES OF ABSENCE**10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER

P21/3914 – SEVEN STOREY MIXED USE DEVELOPMENT – LOT 565 (NO.2) & LOT 566 (NO.4) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)

Ward : Central Ward
 Category : Operational
 Application Number : DAP-2021-1
 Property : No.2 (Lot 565) & No.4 (Lot 566) Kearns Crescent, Ardross
 Proposal : Proposed Mixed Use Development
 Applicant : N Silich - SPH Architecture and Interiors
 Owner : Mr J Bacich, J.Bacich Nominees Pty Ltd
 Southsea Securities Pty Ltd
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Responsible Officer : Peter Prendergast
 Manager Planning Services

AUTHORITY / DISCRETION

DEFINITION

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

P21/3914 – SEVEN STOREY MIXED USE DEVELOPMENT – LOT 565 (NO.2) & LOT 566 (NO.4) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- This Responsible Authority Report (RAR) is referred to Council for information in accordance with Local Planning Policy 1.1, having been called up by Cr Sandford and Cr Mair.
- Approval is sought for a 7 Storey Mixed Used Development at No. 2 (Lot 565) & No. 4 (Lot 566) Kearns Crescent, Ardross. The cost of the development is \$8.6 million and therefore, applicant has elected to have the development application determined by the Metro Inner-South Joint Development Assessment Panel (JDAP).
- The mixed use development comprises of 43 multiple dwellings and 3 ground floor commercial tenancies.
- The subject sites are zoned Centre C2 'RAC-0 under the provisions of the Riseley Centre Structure Plan.
- In the assessment of the proposed development the provisions of Local Planning Scheme No.6 (LPS6), the Riseley Activity Centre Structure Plan, State Planning Policy 7.3 – Residential Design Codes Volume 1 and a number of local planning polices, provide the key development controls for these sites.
- The Responsible Authority Report has been prepared by officers and is required to be submitted to the JDAP under the Planning and Development (Development Assessment Panel) Regulations 2011 on 9 March 2021.
- The proposal was the subject of public consultation in accordance with LPP 1.1: Planning Process and Decision Making.
- During the advertising period 4 individual written submissions were received – one submission of support and three expressing concerns.
- The recommendation of the RAR is that the JDAP approve the proposal for reasons outlined in the attached RAR report to the JDAP.
- A copy of the resolution of the Special Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.



Figure 1 – Aerial Photography

P21/3914 – SEVEN STOREY MIXED USE DEVELOPMENT – LOT 565 (NO.2) & LOT 566 (NO.4) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

| | | |
|------------|---|------------------|
| MRS Zoning | : | Urban |
| LPS Zoning | : | Centre C2 'RAC-0 |
| R-Code | : | N/A |
| Use Type | : | Mixed Use |
| Use Class | : | Permitted |

Site Details

| | | |
|--------------------------------------|---|---|
| Lot Area | : | No. 2 (Lot 565) Kearns Crescent – 635m ² No.4 (Lot 566) Kearns Crescent – 792m ² Total lot size: 1427m ² |
| Street Tree(s) | : | Yes |
| Street Furniture (drainage pits etc) | : | Yes |
| Site Details | : | Refer to Figure 1 above |

DETAIL

Development approval is sought from the Metro Inner-South Joint Development Assessment Panel (JDAP) for a seven storey mixed use development.

Refer to the attached [3914 Responsible Authority Report \(RAR\)](#) for details of the development proposed by this application.

[3914 Attachment 2 Cover Letter](#)

[3914 Attachment 3 Appendix B Waste Management Plan](#)

[3914 Attachment 4 Design Review Panel Meeting Minutes](#)

STAKEHOLDER ENGAGEMENT

Refer to the RAR attached to this report.

STATUTORY AND LEGAL IMPLICATIONS

The applicant has elected to have this development application determined by the JDAP. As required by the *Planning and Development (Development Assessment Panel) Regulations* the City has prepared a responsible authority report which outlines the relevant issues to assist the JDAP in making its determination.

P21/3914 – SEVEN STOREY MIXED USE DEVELOPMENT – LOT 565 (NO.2) & LOT 566 (NO.4) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

These are outlined in full within the RAR as attached to this report.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The recommendation of this report is for the Council to endorse the recommendation in the RAR for the JDAP to approve the application.

Council may resolve not to endorse the recommendation within the RAR, however reasons should be provided in the usual manner to inform the members of the JDAP.

The minutes of the Special Meeting of Council will be attached to the RAR and forwarded to the JDAP for its consideration.

Where Council wishes to provide a deputation to the JDAP in support of a resolution, a nominated person on behalf of Council may request to make a deputation at the JDAP meeting. The authorisation to grant a request to make a deputation rests with the Presiding Member of the JDAP.

OFFICER RECOMMENDATION (3914)**APPROVAL**

That the Council advise the Metro Inner-South Joint Development Assessment Panel that the Council of the City of Melville endorses the recommendation of the responsible authority report to approve the application for the proposed Seven Storey Mixed Use Development on Lot 565 (No. 2) & Lot 566 (No.4) Kearns Crescent, Ardross.

12. MOTIONS WITH NOTICE

12.1 Motion with Notice - Complaints Management - CEO

An Officer Advice Note has been provided for this Motion [Advice Note Motion 12_1](#)

The Council moves that all Elected Members receive a copy of any complaint made against the CEO once received by any party.

Reasons for the Motion with Notice as provided by Cr Kepert

At present the City of Melville has no clear process for dealing with complaints made against the CEO. The only reference is made under section 8.3 of the Code of Conduct (Employees):

“Where an employee or Elected Member believes that the Chief Executive Officer has failed to comply with the Code of Conduct, they should report the matter to the Mayor who will report the matter to the Governance Committee. The Council’s Governance Committee will be responsible for the investigation of allegations of breaches of the Code of Conduct by the Chief Executive Officer and must either:

- *investigate the alleged breach; or*
- *engage an independent person to investigate the allegation.”*

A number of complaints have recently been made against the CEO but Councillors have not been informed of their content. It is vital that all Councillors receive this information promptly so that they can carry out their duties in accordance with section 2.7(1) of the *Local Government Act 1995*:

2.7. Role of council

(1) The council —

- (a) governs the local government’s affairs; and
- (b) is responsible for the performance of the local government’s functions.

12.2 Motion with Notice - Organisational Cultural Change

An Officer Advice Note has been provided for this Motion [Advice Note Motion 12 2](#)

The Council directs the CEO to provide a shortlist of consultants specialising in organisational culture, organisational change & development for the selection by the Council at the March 2021 Ordinary Meeting of Council.

The consultants are required to possess suitable postgraduate qualifications from a major Western Australian university.

The consultant will be tasked with assisting the Council in overseeing cultural change in the City's administration with terms of reference to be determined by the Council.

The administration is precluded from issuing the consultant(s) any brief or term of reference.

Reasons for the Motion with Notice as provided by Cr Kepert

The Council has previously agreed to undergo organisational culture change but has not set clear directions for doing so. In recent months the Council has been engaging with a consultant selected by the administration that has been dealing with peripheral matters.

12.3 Motion with Notice - Review of Policy CP-017 - Legal Representation Policy Elected Members and Employees

An Officer Advice Note has been provided for this Motion [Advice Note Motion 12 3](#)

The Council will review CP-017 Legal Representation Policy Elected Members and Employees

Reasons for the Motion with Notice as provided by Cr Kepert

There has been much confusion as to the intended purpose of this policy and inconsistencies in its application.

13. CLOSURE