

**AGENDA**

**FOR THE**

**SPECIAL MEETING OF THE COUNCIL**

**TO BE HELD ON**

**TUESDAY 27 JULY 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 be 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 the Council 27 July 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:**

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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 <https://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, 27 July 2021 for the purpose of considering the following matter:

- P21/3941 – DAP Call Up – Proposed Child Care Centre Premises – No. 79 (Lot 6) and No. 81 (Lot 7) Leach Highway, Willagee

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

**Marten Tieleman**  
Chief Executive Officer

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## AGENDA

### 1. OFFICIAL OPENING

The Presiding Member will cause the Disclaimer that is on the front page of this Agenda to be read aloud by the Governance and Compliance Advisor. The Presiding Member will cause the following Affirmation of Civic Duty and Responsibility to be read aloud by an Elected Member.

**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 Procedures 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**

Cr K Mair – Central Ward  
Cr M Sandford – Central Ward  
Cr D Macphail – Bateman-Kardinya-Murdoch 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.****5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ THE ELECTED MEMBERS BULLETIN.****6. QUESTION TIME****7. DECLARATIONS OF INTEREST**

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

**7.1 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.

**7.2 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.

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

**10. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

**P21/3941 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 79 (LOT 6) AND NO. 81 (LOT 7) LEACH HIGHWAY, WILLAGEE (REC) (ATTACHMENT)**

Ward : Palmyra – Melville – Willagee Ward  
 Category : Operational  
 Application Number : DAP-2021-4  
 Property : No. 79 (Lot 6) and No. 81 (Lot 7) Leach Highway, Willagee  
 Proposal : Child Care Centre Premises  
 Applicant : Planning Solutions (Aust) Pty Ltd  
 Owner : Mr J K S Leung and Ms C C Yau and Ms M Hadinoto  
 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 Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3941 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 79 (LOT 6) AND NO. 81 (LOT 7) LEACH HIGHWAY, WILLAGEE (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Responsible Authority Report (RAR) is referred to Council for information in accordance with *Local Planning Policy 1.1 – Planning Process and Decision Making (LPP1.1)*, having been called up by Cr Wheatland;
- Approval is sought for a child care centre premises at No. 79 (Lot 6) and No. 81 (Lot 7) Leach Highway, Willagee. The cost of the development is \$2.05 million and therefore, the applicant has opted-in for the application to be determined by the Metro Inner South Joint Development Assessment Panel;
- The application is for the demolition of the existing buildings on site and the construction of a single storey Child Care Centre located at 79 and 81 Leach Highway, Willagee. The key aspects of the proposal are summarised as follows:
  - Vehicle access is from Webber Street, with car parking, landscaping and a bin store in the front setback. A consolidated play area is provided adjacent to Leach Highway, screened by a 2.4 metre high boundary fence. Due to the topography of the site the building is approximately 1.2 metres below the Leach Highway verge level in some areas.
  - The building will be single storey in height and comprise of five indoor activity rooms and two outdoor play areas, and facilities and amenities associated with the Child Care Centre use;
  - The Child Care Centre has been designed to accommodate 86 children and 14 staff members of the following age demographics;
    - 12 places for children aged 0-2 years;
    - 30 places for children aged 2-3 years; and
    - 44 places for children aged 3-5 years.
  - The operating hours of the centre are between 6:30 am and 6:30 pm Monday to Friday, with no outdoor play before 7:00 am and not operating on weekends; and
  - 17 on-site car bays (including one ACROD bay) have been provided. Seven of these bays are reserved for staff and the remaining 10 for visitors;
- The proposed development has been assessed against the provisions of *Local Planning Scheme No.6 (LPS6)*, *Local Planning Policy 1.12 Child Minding Centres and Family Day Care (LPP1.12)*, as well as a number of local and state planning policies;
- The RAR has been prepared by officers and is required to be submitted to the JDAP under the *Planning and Development (Development Assessment Panel) Regulations 2011* by midday 30 July 2021;
- The proposal was the subject of public consultation in accordance with LPP 1.1;
- During the advertising period 14 individual written submissions were received – 11 objecting to the proposal and 3 submissions in support and providing general commentary on the development;
- The recommendation of the RAR is that the JDAP refuse the proposal subject to several reasons for refusal outlined in the attached RAR report to the JDAP;
- A copy of the resolution of the Ordinary Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.

**P21/3941 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 79 (LOT 6) AND NO. 81 (LOT 7) LEACH HIGHWAY, WILLAGEE (REC) (ATTACHMENT)**



Figure 1 - Aerial photograph of subject site.

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R20/R60
Use Type	: Child Care Premises
Use Class	: A

**Site Details**

Lot Area	: 1801sqm
Street Tree(s)	: No verge trees
Street Furniture (drainage pits etc)	: Footpath
Site Details	: Refer to Figure 1 above

**DETAIL**

Development approval is sought from the Metro Inner-South JDAP for a single storey Child Care Centre Premises.

Refer to the attached RAR for details of the development proposed by this application.

P21/3941 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 79 (LOT 6) AND NO. 81 (LOT 7) LEACH HIGHWAY, WILLAGEE (REC) (ATTACHMENT)

[Responsible Authority Report 79 & 81 Leach Highway, Willagee](#)

[Attachment 1 – Town Planning Report \(April 2021\)](#)

[Attachment 2 – Applicant Response to Further Information Request \(June 2021\)](#)

[Attachment 3 – Development Plans \(June 2021\)](#)

[Attachment 4 – Acoustic Noise Assessment \(April 2021\)](#)

[Attachment 5 – Revised Acoustic Technical Assessment \(June 2021\)](#)

[Attachment 6 – Waste Management Plan \(June 2021\)](#)

[Attachment 7 – Main Roads WA Correspondence \(May 2021\)](#)

[Attachment 8 – Traffic Impact Statement \(April 2021\)](#)

[Attachment 9 - Notice of Motion LPP1.12 \(April 2021\)](#)

## **STAKEHOLDER ENGAGEMENT**

Refer to the RAR attached to this report.

## **STATUTORY AND LEGAL IMPLICATIONS**

The cost of the development requires that it be 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.

## **FINANCIAL IMPLICATIONS**

None applicable.

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

There are not considered to be strategic, risk or environmental management implications associated with this application.

## **POLICY IMPLICATIONS**

Policy implications are outlined within the RAR attached to this report.

**P21/3941 – DAP CALL UP – PROPOSED CHILD CARE CENTRE PREMISES – NO. 79 (LOT 6) AND NO. 81 (LOT 7) LEACH HIGHWAY, WILLAGEE (REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The recommendation of this report is for 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 Ordinary 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 Elected Member 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 (3941)****REFUSAL**

**That the Metro Inner-South Joint Development Assessment Panel be advised that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to REFUSE the application for the proposed Child Care Centre Premises at No. 79 (Lot 6) and No. 81 (Lot 7) Leach Highway, Willagee.**

- 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
  
- 12. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**
  
- 13. CLOSURE**