

P21/3925 - TEN (10) MULTIPLE DWELLINGS – SECTION 31 RECONSIDERATION REQUEST - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mt Pleasant
 Category : Operational
 Application Number : DAP-2017-1238/C
 Property : No. 18A (Lot 899) and No. 18B (Lot 898)
 Tweeddale Road Applecross
 Proposal : Ten (10) Multiple Dwellings SAT S.31
 Reconsideration Request
 Applicant : Mr Michael Hotchkin, Hotchkin Hanley Lawyers
 Owner : Tjing Kiauw The, Phoebe Moi Ping The, John
 Anthony and Lory Anne Farac
 Disclosure of any Interest : No Officer involved in the preparation of this
 report has a declarable interest in this matter.
 Previous Items : P20/3865 – Ten (10) Multiple Dwellings Lots - 899
 and 898 (No. 18a And 18b) Tweeddale Road,
 Applecross – 14 July 2020 Special Meeting of the
 Council
 P20/3885 - Ten (10) Multiple Dwellings Lots - 899
 and 898 (No. 18a And 18b) Tweeddale Road,
 Applecross – 4 November 2020 Special Meeting
 of the Council
 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 checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

P21/3925 - TEN (10) MULTIPLE DWELLINGS – SECTION 31 RECONSIDERATION REQUEST - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- Development approval for ten (10) Multiple Dwellings on no. 18A (Lot 899) and No. 18B (Lot 898) Tweeddale Road Applecross was granted by the Joint Development Assessment Panel at its meeting held on 8 March 2018.
- In 2020, approval was sought to extend the period of time for the development to be substantially commenced. This application was refused by the JDAP in August 2020 on the grounds that changes had taken place to amend the setback requirements of the CBACP since the approval was issued.
- These changes essentially increased the setback requirements for new developments within the H4 area of the CBACP where they interface with land outside the CBACP, from 4m to 8m, applicable to the third and fourth storeys only.
- The development was originally approved with a 4m setback from the northern boundary across all floors, this being consistent with the setback requirements of the CBACP at the time the approval was given.
- As the applicant sought to extend the time within which the development should be substantially constructed, and given the setback changes that had occurred in respect of the CBACP, the City's Responsible Authority Report (RAR) to the JDAP recommended that the application for an extension of time be refused on the grounds that the setbacks proposed were inconsistent with the updated expectations of the CBACP
- The decision of the JDAP was to concur with the City's recommendation in its RAR, and the application for an extension of time was duly refused.
- The applicant sought a review of this decision through the State Administrative Tribunal process and the JDAP was subsequently invited to reconsider its decision on 17 November 2020. At this meeting the JDAP resolved to affirm its previous decision not to grant an extension of time.
- Following the November 2020 decision of the JDAP, this matter was listed for a final hearing by the State Administrative Tribunal. This hearing was to take place in May 2021. In late April the City received advice that the SAT had issued amended orders, inviting the respondent to reconsider its decision on or before 31 May 2021.
- The basis of this Section 31 reconsideration request to approve an extension of time for this development relates to amended plans which have been provided in support. These plans depict an increase to the setbacks of the third and fourth floors from 4m to 6m where the development interfaces with 15 Riverway on land which is located outside the CBACP area.
- The subject application therefore seeks approval for an extension of time to allow substantial commencement of the development to take place, subject to the consideration and approval of the amended plans.
- A RAR has been prepared which recommends that the JDAP affirm its previous decision and refuse to grant the extension of time request.
- A copy of the Council's resolution will be forwarded to the JDAP as an attachment to the RAR.

P21/3925 - TEN (10) MULTIPLE DWELLINGS – SECTION 31 RECONSIDERATION REQUEST - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)



BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential – Canning Bridge Activity Centre - H4
R-Code	: R-AC0
Use Type	: Multiple Dwelling
Use Class	: Preferred uses

Site Details

Lot Area	: 1157m ²
Street Tree(s)	: no
Street Furniture (drainage pits etc)	: no
Site Details	: See aerial photo above

P21/3925 - TEN (10) MULTIPLE DWELLINGS – SECTION 31 RECONSIDERATION REQUEST - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)

DETAIL

Development approval is sought from the Metro Central JDAP for a four storey (with undercroft parking and roof terrace) building comprising of 10 multiple dwellings.

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

[3925 Applicant Additional Information DA-2018 1238 App&Plans](#)

[3925 Amended Plans](#)

[3925 Responsible Authority Report 18A and 18B Tweeddale Road Multiple Dwellings](#)

STAKEHOLDER ENGAGEMENT

Refer to the RAR attached to this report.

STATUTORY AND LEGAL IMPLICATIONS

The application will be determined by the JDAP after due consideration of an RAR prepared by the City. Consideration of the application by the JDAP is a requirement of the SAT, who have issued Directions under Section 31 of the State Administrative Tribunal Act that the JDAP reconsider its previous decision to refuse to grant an extension of time request.

FINANCIAL IMPLICATIONS

None applicable.

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 Council to endorse the recommendation in the RAR for the JDAP to approve the application.

P21/3925 - TEN (10) MULTIPLE DWELLINGS – SECTION 31 RECONSIDERATION REQUEST - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)

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 (3925)**RECOMMEND REFUSAL**

That the Metro Central Joint Development Assessment Panel be advised that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to affirm the previous decision to refuse the application for an Extension Of Time for the proposed four storey (with undercroft parking and roof terrace) building comprising of 10 multiple dwellings located on Lots 899 and 898 (18A) & Lot 898 (18B) Tweeddale Rd, Applecross.