

**MINUTES**

**OF THE**

**SPECIAL MEETING OF THE COUNCIL**

**HELD ON**

**WEDNESDAY, 4 NOVEMBER 2020**

**AT 6:30PM 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 was 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*

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## **CONTENTS PAGE**

	<b>Item Description</b>	<b>Page Number</b>
<b>P20/3885</b>	Ten (10) Multiple Dwellings – Extension of Time - Lots 899 and 898 (No. 18A And 18B) Tweeddale Road, Applecross	5
<b>P20/3886</b>	Thirty Five (35) Multiple Dwellings – Lots 883 (No. 114) Matheson Road, Applecross	10



**MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6:30PM ON WEDNESDAY 4 NOVEMBER 2020.**

**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm. Mr M McCarthy, Director Technical Services, read aloud the Disclaimer that is on the front page of these Minutes and then Mayor, Honourable George Gear, read aloud the following Affirmation of Civic Duty and Responsibility.

**Affirmation of Civic Duty and Responsibility**

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Meeting Procedures Local Law to ensure the efficient, effective and orderly decision making within this forum.

Mayor Honourable George Gear advised that Cr Robins was in attendance electronically with his approval.

**COUNCIL RESOLUTION**

At 6:32pm Cr Barber moved, seconded Cr Barton –

**That the application for new leave of absence submitted by Cr Wheatland on 4 November 2020 be granted.**

At 6:32pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (9/0)**

**2. PRESENT**

Mayor Honourable G Gear

**COUNCILLORS**

Cr J Barton (Deputy Mayor)  
Cr G Barber  
Cr N Pazolli, Cr S Kepert  
Cr N Robins  
Cr D Macphail  
Cr K Mair, Cr M Sandford  
Cr T Fitzgerald

**WARD**

Bicton – Attadale – Alfred Cove  
Bicton – Attadale – Alfred Cove  
Applecross – Mount Pleasant  
Bateman – Kardinya – Murdoch (electronic attendance)  
Bateman – Kardinya - Murdoch  
Central  
Palmyra – Melville - Willagee

**3. IN ATTENDANCE**

Mr M Tieleman  
Mr S Cope  
Mr M McCarthy  
Mr P Prendergast  
Mr M Scarfone  
Ms C Newman

Chief Executive Officer  
Director Urban Planning  
Director Technical Services  
Manager Statutory Planning  
Planning Services Coordinator  
Governance Coordinator

At the commencement of the meeting, there were 3 members of the public in the Council Chambers and 1 member of the public and no representative from the Press in attendance electronically.

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

Cr C Robartson	Bull Creek - Leeming
Ms C Young	Director Community Development
Mr A Ferris	Director Corporate Services

**4.2 APPROVED LEAVE OF ABSENCE**

Cr K Wheatland	Palmyra – Melville - Willagee
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**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ THE ELECTED MEMBERS BULLETIN.**

Nil.

**6. QUESTION TIME**

Nil.

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

Nil.

**7.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

- Cr Pazolli – P20/3885 – Ten Multiple Dwellings – Extension of Time – Lots 899 and 898 (No. 18A and 18B) Tweeddale Road, Applecross. Interest under the Code of Conduct.
- Cr Kepert – P20/3885 – Ten Multiple Dwellings – Extension of Time – Lots 899 and 898 (No. 18A and 18B) Tweeddale Road, Applecross. Interest under the Code of Conduct.
- Cr Pazolli – P20/3886 – Thirty Five (35) Multiple Dwellings – Lots 883 (No. 114) Matheson Road, Applecross. Interest under the Code of Conduct.
- Cr Kepert – P20/3886 – Thirty Five (35) Multiple Dwellings – Lots 883 (No. 114) Matheson Road, Applecross. Interest under the Code of Conduct.

**8. DEPUTATIONS****8.1 Mr A Meshkin of Applecross**

Item P20/3885 – Ten Multiple Dwellings – Extension of Time – Lots 899 and 898 (No. 18A and 18B) Tweeddale Road, Applecross

**9. APPLICATIONS FOR NEW LEAVES OF ABSENCE**

Item brought forward.  
See page 2.

**10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

Disclosure of Interest

Member	Cr Pazolli
Type of Interest	Interest under the Code
Nature of Interest	Member of the JDAP that will be the decision making for this Development Application
Request	Stay, discuss and vote
Decision of Council	Stay, discuss and vote

Member	Cr Kepert
Type of Interest	Interest under the Code
Nature of Interest	Considered development application concerning same lot at JDAP
Request	Stay, discuss and vote
Decision of Council	Stay, discuss and vote

At 6:34pm Mr Meshkin entered the Chambers for the purpose of making a deputation on Item P20/3885 – Ten (10) Multiple Dwellings – Extension of Time – Lots 899 and 898 (No 18A and 18B) Tweeddale Road, Applecross which concluded at 6:44pm. Mr Meshkin departed the Chambers at 6:51pm.

**11 REPORTS OF THE CHIEF EXECUTIVE OFFICER**

**P20/3885 - TEN (10) MULTIPLE DWELLINGS – EXTENSION OF TIME - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

Ward	: Applecross/Mt Pleasant
Category	: Operational
Application Number	: DAP-2017-1238/A
Property	: No. 18A (Lot 899) and No. 18B (Lot 898) Tweeddale Road Applecross
Proposal	: Ten (10) Multiple Dwellings
Applicant	: Mr M Hotchkin, Hotchkin Hanley Lawyers
Owner	: Tjhing 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	: Nil.
Responsible Officer	: Peter Prendergast Manager Statutory Planning

**P20/3885 - TEN (10) MULTIPLE DWELLINGS – EXTENSION OF TIME - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

**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"/>	<b>Executive</b>	<b><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></b>
<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 type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**KEY ISSUES / SUMMARY**

- Approval was sought for an amendment to the development approval DAP/17/01320 (DA-2017-1238 & DA-2017-1238/A) determined by the Metro Central JDAP at its meeting held 8 March 2018, to extend the period within which the approved development is substantially commenced for an additional 3 years.
- The Special Meeting of Council held 14 July 2020 resolved the following; *“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 refuse the application for the Extension Of Time for the proposed four storey (with undercroft parking and roof terrace) building comprising of 10 multiple dwellings located on L899 (18A) & L898 (18B) Tweeddale Rd, Applecross, subject to conditions.”*
- The application was considered by the Metro Inner-South JDAP at its meeting held on 3 August 2020, where in accordance with the provisions of the City of Melville Local Planning Scheme No.6, it was resolved to refuse the Extension of Time Request.
- Subsequently, an application was made to the State Administrative Tribunal for review of the decision of the JDAP. The associated SAT mediation was held on 21 September 2020 requiring the submission of additional information by the applicant and the JDAP being invited to reconsider its decision on 17 November 2020.
- The additional information submitted by the applicant includes the recognition of the introduction of Covid – 19 exemptions; a timeline of the applicant's efforts to progress the planning approval; and details of costs associated with progressing the development proposal.
- Council officers have completed the Responsible Authority Report (RAR) which is required to be submitted to the JDAP under the Planning and Development (Development Assessment Panel) Regulations 2011 on 5 November 2020.
- The recommendation of the RAR is that the JDAP affirm its decision of 3 August 2020 and refuse the extension of time request.
- A copy of the resolution of the Special Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.

**P20/3885 - TEN (10) MULTIPLE DWELLINGS – EXTENSION OF TIME - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPECROSS (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 <sup>2</sup>
Street Tree(s)	:	no
Street Furniture (drainage pits etc)	:	no
Site Details	:	See aerial photo above

**P20/3885 - TEN (10) MULTIPLE DWELLINGS – EXTENSION OF TIME - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPECROSS (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.

[3885 18 Tweeddale RAR SAT Reconsideration](#)

[3885 Applicant Additional Information](#)

[3885 Determination No. 18A \(Lot 899\) and No. 18B \(Lot 898\) Tweeddale Road, Applecross](#)

**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.

**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**

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.

**P20/3885 - TEN (10) MULTIPLE DWELLINGS – EXTENSION OF TIME - LOTS 899 AND 898 (NO. 18A AND 18B) TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

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 (3885)****RECOMMEND REFUSAL**

At 7:03pm Cr Pazolli moved, seconded Cr Kepert –

**That the Council directs the Chief Executive Officer to advise the Metro Central Joint Development Assessment Panel 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 the Extension Of Time for the proposed four storey (with undercroft parking and roof terrace) building comprising of 10 multiple dwellings located on L899 (18A) & L898 (18B) Tweeddale Road, Applecross, subject to conditions.**

At 7:04pm the mover and seconder consented to administrative changes to the Officer Recommendation.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3885)****RECOMMEND REFUSAL**

At 7:03pm Cr Pazolli moved, seconded Cr Kepert –

**That the Council directs the Chief Executive Officer to 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 affirm the previous decision to refuse the application for the Extension Of Time for the proposed four storey (with undercroft parking and roof terrace) building comprising of 10 multiple dwellings located on L899 (18A) & L898 (18B) Tweeddale Road, Applecross.**

At 7:09pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (9/0)****COUNCIL RESOLUTION**

At 7:13pm Cr Sandford moved, seconded Cr Kepert –

**That in the event that the Metro Inner-South Joint Development Assessment Panel refuses the application by the applicant for an extension of time for a proposed four storey building at 18A and 18B Tweeddale Road, Applecross, the Council directs the Chief Executive Officer to take compliance action, as soon as is reasonably practicable, to have the unauthorised fill placed on the site removed, to ensure the land is returned to its natural ground level, and to keep the neighbours informed as to progress.**

At 7:14pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (9/0)**

Disclosure of Interest

Member : Cr Pazolli  
 Type of Interest : Interest under the Code  
 Nature of Interest : Member of the JDAP that will be the decision making for this Development Application  
 Request : Stay, discuss and vote  
 Decision of Council : Stay, discuss and vote

Member : Cr Kepert  
 Type of Interest : Interest under the Code  
 Nature of Interest : Proxy delegate at JDAP  
 Request : Stay, discuss and vote  
 Decision of Council : Stay, discuss and vote

**P20/3886 – THIRTY FIVE (35) MULTIPLE DWELLINGS – LOTS 883 (NO. 114) MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DAP-2020-5  
 Property : No. 114 (Lot 883) Matheson Road, Applecross  
 Proposal : Thirty Five (35) Multiple Dwellings  
 Applicant : Ms L Wong – Tuscom Subdivision Consultants Pty Ltd  
 Owner : SB & Sons Property Pty Ltd  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Nil.  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	<b>Executive</b>	<b><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></b>
<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 type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**P20/3886 – THIRTY FIVE (35) MULTIPLE DWELLINGS – LOTS 883 (NO. 114)  
MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Approval is sought for thirty-five multiple dwellings at 114 Matheson Road, Applecross. The cost of the development is \$8,500,000 and therefore, applicant has elected to have the development application determined by the JDAP.
- The subject site is zoned 'Residential' with a density coding of R40 under the provisions of Local Planning Scheme No.6 (LPS6). State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments (R-Codes) approved by the WAPC in May 2018 provides the key development controls for this site. The adjoining properties to the north, south and east are zoned Residential R40 whilst the properties west of Matheson Road are zoned Residential R12.5.
- The Responsible Authority Report (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 on 12 November 2020.
- The proposal was the subject of public consultation in accordance with LPP 1.1: *Planning Process and Decision Making* as the proposal is classified as a Major Development.
- During the advertising period 226 written submissions were received – one submission of support and 225 comments of objection.
- The recommendation of the RAR is that the JDAP refuse the proposal for several reasons pertaining to the City's Height of Buildings Local Planning Policy and several element objectives of the R-Codes.
- A copy of the resolution of the Special Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.



**P20/3886 – THIRTY FIVE (35) MULTIPLE DWELLINGS – LOTS 883 (NO. 114)  
MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R40
Use Type	:	Multiple Dwelling
Use Class	:	Preferred uses

**Site Details**

Lot Area	:	2072m <sup>2</sup>
Street Tree(s)	:	Yes, proposed to be removed
Street Furniture (drainage pits etc)	:	No
Site Details	:	See aerial photo above

**DETAIL**

Development approval is sought from the Metro Inner-South JDAP for a four storey (with undercroft parking and roof terrace) building comprising of 35 multiple dwellings.

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

[3886 Responsible Authority Report](#)

[3886 Attachment 1 - Development Plans](#)

[3886 Attachment 2 - Transport Impact Statement](#)

[3886 Attachment 3 - Design Review Panel Report](#)

[3886 Attachment 4 - Waste Management Plan](#)

[3886 Attachment 5 - Arboricultural Impact Assessment](#)

**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.

**P20/3886 – THIRTY FIVE (35) MULTIPLE DWELLINGS – LOTS 883 (NO. 114)  
MATHESON ROAD, APPLECROSS (REC) (ATTACHMENT)****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 refuse 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 the 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 AND COUNCIL RESOLUTION (3886)  
RECOMMEND REFUSAL**

At 7:15pm Cr Kepert moved, seconded Cr Pazolli –

**That the Council directs the Chief Executive Officer to 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 refuse the application for the proposed four storey (with undercroft parking and roof terrace) building comprising of 35 multiple dwellings located on Lot 883 (No. 114) Matheson Road, Applecross, subject to reasons.**

At 7:23pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (9/0)**

**12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

**13. CLOSURE**

There being no further business to discuss, Mayor Honourable George Gear confirmed Cr Robins was still in attendance electronically and declared the meeting closed at 7:24pm.