

MINUTES

OF THE

SPECIAL MEETING OF THE COUNCIL

HELD ON

6.00PM, TUESDAY 25 MAY 2021

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 were able to physically attend this meeting.

This meeting was publically broadcast to the community and the minutes and the audio recording of the meeting 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*.

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.

Unfortunately due to a hardware failure the Audio Recording is not available for this meeting.

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MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6:00PM ON 25 MAY 2021.

1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:00pm and advised that the meeting was being held for the purpose of considering:

- Item P21/3926 – Proposed Use Not Listed Holiday Apartment Lots 1, 2 & 3 (No 8) Macrae Road, Applecross.
- Item P21/3927 – Proposed Use Not Listed Holiday Apartment Lot 270 (No 21) Kishorn Road, Applecross.

and advised those present of the Disclaimer that is on the front page of these Minutes, the Affirmation of Civic Duty and Responsibility and that this meeting is being recorded and invited Cr Tomas Fitzgerald to read the Acknowledgement of Country.

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

2. PRESENT

Mayor Honourable G Gear

COUNCILLORS

WARD

Cr J Barton (Deputy Mayor)

Bicton – Attadale – Alfred Cove

Cr G Barber

Bicton – Attadale – Alfred Cove

Cr N Robins, Cr D Macphail

Bateman – Kardinya - Murdoch

Cr C Robartson

Bull Creek - Leeming

Cr S Kepert, Cr N Pazolli

Applecross – Mount Pleasant

Cr K Mair, Cr M Sandford

Central

Cr K Wheatland, Cr T Fitzgerald

Palmyra – Melville – Willagee

3. IN ATTENDANCE

Mr M Tieleman

Chief Executive Officer

Mr S Cope

Director Urban Planning

Mr P Prendergast

Manager Statutory Urban Planning

Ms C Newman

Governance Coordinator

Ms J Head

Governance Officer

At the commencement of the meeting, there were 5 members of the public in the Council Chambers, two members of the public in attendance electronically and no representatives from the Press.

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

Mr M McCarthy	Director Technical Services
Mr A Ferris	Director Corporate Services
Ms C Young	Director Community Development
Mr S Cope	Director Urban Planning
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property

4.2 APPROVED LEAVE OF ABSENCE

Nil.

**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

Nil.

8. DEPUTATIONS**8.1 Mrs F Kenny and Mr D Kenny**

- Item P21/3926 – Proposed Use Not Listed Holiday Apartments Lots 1, 2, & 3 (No 8) Macrae Road, Applecross

8.2 Mr B McCarthy representing Planning Horizons

- Item P21/3926 – Proposed Use Not Listed Holiday Apartments Lots 1, 2, & 3 (No 8) Macrae Road, Applecross
- Item P21/3927 – Proposed Use Not Listed Holiday Apartment Lot 270 (No 21) Kishorn Road, Applecross

8.3 Mr Gorjy and Mr Underwood representing Planning Solutions

- Item P21/3926 – Proposed Use Not Listed Holiday Apartments Lots 1, 2, & 3 (No 8) Macrae Road, Applecross
- Item P21/3927 – Proposed Use Not Listed Holiday Apartment Lot 270 (No 21) Kishorn Road, Applecross

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

See page 4.

10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

11 REPORTS OF THE CHIEF EXECUTIVE OFFICER

At 6:05pm Mr McCarthy entered the Chambers for the purpose of making a deputation in relation to

- Item P21/3926 – Proposed Use Not Listed Holiday Apartment Lots 1, 2 & 3 (No 8) Macrae Road, Applecross.
- Item P21/3927 – Proposed Use Not Listed Holiday Apartment Lot 270 (No 21) Kishorn Road, Applecross.

The presentation concluded at 6:13pm.

At 6:30pm Mr McCarthy departed the Council Chambers.

9. APPLICATIONS FOR NEW LEAVES OF ABSENCE

At 6:30pm Cr Macphail moved, seconded Cr Barton –

That the application for a new leave of absence submitted by Cr Mair and Cr Kepert on 25 May 2021 be granted.

At 6:30pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 6:30pm Mrs Kenny and Mr Kenny entered the Chambers for the purpose of making a deputation in relation to Item P21/3926 – Proposed Use Not Listed Holiday Apartment Lots 1, 2 & 3 (No 8) Macrae Road, Applecross. The presentation concluded at 6:51pm. At 7:02pm Mrs Kenny and Mr Kenny departed the Council Chambers.

[3926 Presentation Mr & Mrs Kenny Short Stay Accommodation 8 Macrae Road & 21 Kishorn Road](#)

At 6:55pm Cr Barber left the meeting and returned at 6:57pm.

At 6:55pm Cr Wheatland left the meeting and returned at 6:56pm.

At 7:02pm Mr Gorjy and Mr Underwood entered the Chambers for the purpose of making a deputation in relation to

- Item P21/3926 – Proposed Use Not Listed Holiday Apartment Lots 1, 2 & 3 (No 8) Macrae Road, Applecross.
- Item P21/3927 – Proposed Use Not Listed Holiday Apartment Lot 270 (No 21) Kishorn Road, Applecross.

The presentation concluded at 7:18pm. At 7:36pm Mr Gorjy and Mr Underwood departed the Council Chambers.

At 7:14pm Mr Prendergast left the meeting and returned at 7:16pm.

At 7:36pm Cr Pazolli left the meeting and returned at 7:38pm.

At 7:37pm Mr Cope and Mr Prendergast responded to questions in relation to Item P21/3926 – Proposed Use Not Listed Holiday Apartment Lots 1, 2 & 3 (No 8) Macrae Road, Applecross.

At 7:53pm Cr Barton left the meeting and returned at 7:56pm.

**P21/3926 – PROPOSED USE NOT LISTED HOLIDAY APARTMENT LOTS 1, 2 & 3 (NO.8)
MACRAE ROAD, APPLECROSS (REC) (ATTACHMENT)**

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DAP-2016-1467/E
 Property : Lots 1, 2 & 3 (No.8) Macrae Road, Applecross
 WA 6153
 Proposal : Holiday Apartments
 Applicant : Mr S Walsh – Planning Solutions
 Owner : Macrae 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>

**P21/3926 – PROPOSED USE NOT LISTED HOLIDAY APARTMENT LOTS 1, 2 & 3 (NO.8)
MACRAE ROAD, APPLECROSS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- This RAR is referred to Council for information after being called up in accordance with the call up provisions of Local Planning Policy 1.1, Planning Process and Decision Making.
- Approval is sought to amend the current development approval to allow for apartment owners the option to rent the apartments out as holiday apartments at 8 Macrae Road, Applecross. The original application was determined by JDAP therefore the applicant has elected to have the amended development application also determined by JDAP.
- The subject site is zoned Centre C2 'RAC-0 under the provisions of the Canning Bridge Structure Plan.
- In the assessment of the proposed development the provisions of Local Planning Scheme No.6 (LPS6), the Canning Bridge Structure Plan, and Local Planning Policy 1.21 Short Stay Accommodation, provide the key development controls for these sites.
- 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 9 June 2021.
- The proposal was the subject of public consultation in accordance with LPP 1.1: Planning Process and Decision Making.
- During the advertising period 19 individual written submissions were received expressing concerns.
- The recommendation of the RAR is that the JDAP refuse 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.

**P21/3926 – PROPOSED USE NOT LISTED HOLIDAY APARTMENT LOTS 1, 2 & 3 (NO.8)
MACRAE ROAD, APPLECROSS (REC) (ATTACHMENT)**



Figure 1: Aerial photograph of subject site

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Centre C2 'RAC-0
R-Code	: N/A
Use Type	: Residential
Use Class	: Use Not Listed

Site Details

Lot Area	: 1353sqm
Street Tree(s)	: N/A
Street Furniture (drainage pits etc)	: N/A
Site Details	: Refer to Figure 1 above

[3926 Management Plan Site Plan](#)

**P21/3926 – PROPOSED USE NOT LISTED HOLIDAY APARTMENT LOTS 1, 2 & 3 (NO.8)
MACRAE ROAD, APPLECROSS (REC) (ATTACHMENT)****DETAIL**

Development approval is sought from the Metro Inner-South JDAP to allow apartments to be used as Holiday Apartments.

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

[3926 Responsible Authority Report \(RAR\)](#)

[3926 LPP 1.21 Short Stay Accommodation](#)

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

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.

**P21/3926 – PROPOSED USE NOT LISTED HOLIDAY APARTMENT LOTS 1, 2 & 3 (NO.8)
MACRAE ROAD, APPLCROSS (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 AND COUNCIL RESOLUTION (3926) REFUSAL

At 8:03pm Cr Fitzgerald moved, seconded Cr Macphail –

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 refuse the application for the proposed holiday apartment use on Lots 1, 2 & 3 (No.8) Macrae Road, Applecross.

At 8:21pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 8:09pm Cr Kepert foreshadowed a Reject and Replace motion to refuse the application and to include further information associated with the refusal.

At 8:13pm Cr Barber left the meeting and returned at 8:15pm.

At 8:16pm Cr Robartson left the meeting and returned at 8:18pm.

**P21/3927 - PROPOSED USE NOT LISTED 'HOLIDAY APARTMENTS' LOT 270 (NO.21)
KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DAP-2016-733/E
 Property : Lot 270 (21) Kishorn Road, Applecross
 Proposal : Use Not Listed Holiday Apartments'
 Applicant : Planning Solutions
 Owner : Kishorn 21 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 : Mr Steve Cope Director Urban 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 (eg 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>

**P21/3927 - PROPOSED USE NOT LISTED 'HOLIDAY APARTMENTS' LOT 270 (NO.21)
KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- This RAR is referred to Council for information after being called up in accordance with the call up provisions of Local Planning Policy 1.1, Planning Process and Decision Making.
- Development Approval was granted for a four storey multiple dwelling development with undercroft parking and roof top terrace on Lot 270 (21) Kishorn Road, Applecross by the Metro Central JDAP on the 21 September 2016 DAP/16/01071 (DA-2016-733).
- Approval is now sought to amend the current development approval to allow apartment owners the option to use apartments as short term accommodation Holiday Apartments.
- The original application was determined by JDAP and the applicant has elected to have the amended development application also determined by JDAP.
- The subject site is zoned Centre C2 'RAC-0 under the provisions of the Canning Bridge Activity Centre Plan (CBACP).
- In the assessment of the proposed development the provisions of Local Planning Scheme No.6 (LPS6), the CBACP, and Local Planning Policy 1.21 Short Stay Accommodation, provide the key development controls.
- 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 9 June 2021.
- The proposal was the subject of public consultation in accordance with LPP 1.1: Planning Process and Decision Making.
- During the advertising period 17 individual written submissions were received expressing concerns.
- The recommendation of the RAR is that the JDAP refuse 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.

**P21/3927 - PROPOSED USE NOT LISTED 'HOLIDAY APARTMENTS' LOT 270 (NO.21)
KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**

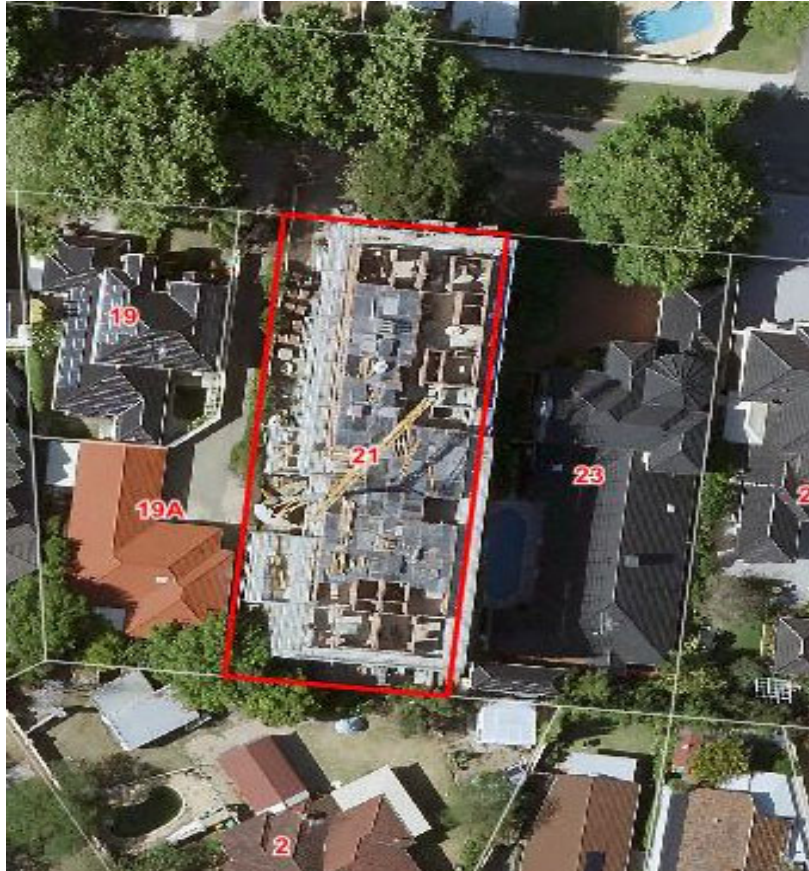


Figure 1: Aerial photograph of subject site

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Centre C2 'RAC-0
R-Code	: N/A
Use Type	: Residential
Use Class	: Use Not Listed 'Holiday Apartment

Site Details

Lot Area	: 1012sqm
Street Tree(s)	: N/A
Street Furniture (drainage pits etc)	: N/A
Site Details	: Refer to Figure 1 above

[3927 Management Plan and Site Plan](#)

**P21/3927 - PROPOSED USE NOT LISTED 'HOLIDAY APARTMENTS' LOT 270 (NO.21)
KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)****DETAIL**

Development approval is sought from the Metro Inner-South JDAP to allow the approved apartments on 21 Kishorn Road to be used as Holiday Apartments.

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

[3927 Responsible Authority Report \(RAR\)](#)

[3927 LPP 1.21 Short Stay Accommodation](#)

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

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.

**P21/3927 - PROPOSED USE NOT LISTED 'HOLIDAY APARTMENTS' LOT 270 (NO.21)
KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**

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 AND COUNCIL RESOLUTION (3927) REFUSAL

At 8:21pm Cr Fitzgerald moved, seconded Cr Wheatland –

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 refuse the application for the proposed holiday apartments use on Lot 270 (No. 21) Kishorn Road, Applecross.

At 8:24pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

13. CLOSURE

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 8:24pm.