

1. [Mr Tieleman is recommending Council accepts his Item C22/5940 motions on 15 November](#), ie:
 - 1 Note the actions taken in relation to implementing the Council resolution - Item C21/5865 – Selection of Site Surveyor for 18A and 18B Tweeddale Road, Applecross from the 12 October 2021 Ordinary Meeting of Council.
 - 2 Advise the lead petitioner that a Surveyor Report does not exist and cannot be presented to the November 2022 Ordinary Meeting of Council for decision and releasing of the survey results and the report to the public.
 - 3 Directs the CEO to ensure that a site survey reflecting the approved ground levels in accordance with the 2008 subdivision approval be included in any Building Permit application and assessment process, in relation to any proposed building works at 18A /18B Tweeddale Road, Applecross.
2. Council should reject motions 1 and 2 and replace it with motions directing Mr Tieleman to complete the level survey and reports as initially directed by Council, without further delay, and to investigate and report to Council on all other non-compliances that have been identified at 18 Tweeddale Rd, including apparent planning non-compliance with the boundary fences; the ground level build-up on the road verges, and the unauthorised ground level build-up against the boundary walls.
3. Mr Tieleman’s report is inaccurate, inadequate, or misleading on our assessment and it should be rejected. It seems Mr Tieleman is not interested in properly dealing with planning and building complaints, properly enforcing planning, and building laws, or protecting the rights of the innocent neighbours. We are happy to be publicly corrected if our views as expressed below are wrong.
4. There is a long history on non-compliances at this property, starting with the 2008 retrospective approvals and as outlined in Attachments 7 to 11. Council should seize this opportunity to send clear messages to:
 - a) **developers** and those that may want to flout the laws and do unauthorised work, and
 - b) **to the community and the neighbours** to let them know that Council cares.
5. Let’s not forget the City’s missions and values are listed on the front of the meeting agenda and say:

Our Mission - To provide good governance and quality services for the City of Melville community.
Our Values

Excellence	- Striving for the best possible outcomes
Participation	- Involving, collaborating, and partnering
Integrity	- Acting with honesty, openness and with good intent
Caring	- Demonstrating empathy, kindness and genuine concern
6. We are reminded of [Mayor Gear’s 2018 “Living the Lie” – Local Government governance article when we read this report](#). Mayor Gear called out the City about the “sham” reports it produced then. We are now calling out Mr Tieleman’s current report as a “sham” as well. Nothing has changed. Mayor Gear and other Elected Members should not let this “sham” report past.

We are flabbergasted with this “sham” report particularly given Mr Tieleman’s other item M22/5927 on the agenda commenting on the Weir Legal and Consulting Report on her investigation of other similar longstanding planning and building complaints and all the other information and evidence provided on this matter, see Attachment 10 by way of an example. Bronwyn Weir’s report has found it has been found that the City has acted unreasonably and unacceptably, been slow and wrong many times, and failed to deal properly with customer complaints.

[Mr Tieleman has recognised the City's significant shortcomings in his scant M22/5927 Executive summary of Bronwyn Weir's report.](#)

7. Bronwyn Weir recently told many at the October WALGA Annual Conference that local government building departments:
- Lack of 'independent', 'public interest' decision making in system
 - Lack of effective, proactive oversight by state government regulators
 - Lack of accountability from local government for discharging their functions

We presume Bronwyn's comments were based on, in whole or part on, her experience with the City.
Council should be embarrassed by Bronwyn's public comments.

The City's failures to properly deal with the many complaints about 18 Tweeddale Road over many years appears to have similar hallmarks to the complaints Bronwyn reviewed.

Claims City can't access the land for inspection

8. Mr Tieleman seems to have provided some inaccurate or very misleading advice to Council. For example, in the transcript of Council's 23 November 2021 EMES (Attachment 1), Mr Tieleman told Council:
- "The City would have difficulty entering the property and getting approval from SAT. The City has requested permission from the owner to access the property and been declined"
 - "The building works must be finished before it can be inspected"
 - "We do not have the mentioned trigger points."

Mr Tieleman should be explaining the basis for these statements, we believe them to be manifestly wrong. Council, and the community should demand accurate, complete, and considered advice from the City's Chief Executive Officer always. This hasn't happened and should not be tolerated.

9. Mr Tieleman states in his report "**without being able to gain access to the site a survey can't be undertaken**".
10. **We don't believe Mr Tieleman.** City officers were seen on 25 October 2022 in plain sight at mid-day on 18 Tweeddale Rd land clambering over the ground that had been built up above approved levels, and clambering over the boundary walls and inspecting them, as shown in Attachment 2.

Surely the City officers, whilst there, could have taken the land surveyor there as well to do the level survey at the same time. Who are those officers and exactly what were they doing on 25 October?

Mr Tieleman must explain his apparent hypocrisy to Council and the community. Why have we been repeatedly and wilfully told for so long that the City could not get on the land to do inspections.

11. We don't believe this is the first time the City's administration has misled Council and the community on such matters. [For example, in the 17 August 2021 P21/3936 report to Council Peter Prendergast reported:](#) "The matter was investigated, found to be true, associated compliance action was taken and **the material was ultimately removed by 17 February 2021**. Upon removal, the compliance matter was closed.", as shown in Attachment 3.

Yet the photos in:

- Attachment 5 show the extent of the earthworks completed in March 2020, which gives a good indication of the extend of unauthorised earthworks work and ground level build-up that we complained to Mr Tieleman about in October 2020, Attachment 8.

- Attachment 4 clearly shows the fact that there remains significant unauthorised soil build-up on the site, which is quite visible, including the 0.6 m of soil built-up against the norther boundary wall.

Peter Prendergast was not accurate when he said all on the material had been removed.

12. The City seems to have overlooked or ignored the other apparent non-compliances we have detailed in Attachment 4. That is, the boundary walls do not appear to comply with the 2008 planning approval, and the ground +600 mm ground level build up against the substantial boundary dividing wall was put there without the express consent of the adjoining neighbours in contravention of section 79 of the Building Act, which will likely cause damage to the wall over time.

Section 79 Building Act contravention

13. The contravention of section 79 of the Building Act was raised by Councillor Margaret Sandford with Mr Tieleman at the 23 November 2021 EMES, Attachment 1. Councillor Sandford stated: "Under the building legislation as long as an authorised officer has been delegated to inspect the property, we have pretty broad authority to act. Under section 79 the CEO has trigger points to access property".

Mr Tieleman has not addressed this issue ins his report and we have not seen any other discussion on it, despite our communications to the City on it. Mr Tieleman should address Councillor Sandford's section 79 in his public report; we also would like to know his position on it.

14. Council has the powers and duties under the Building Act which it delegates to Mr Tieleman. Council seemingly has not done enough to ensure Mr Tieleman properly complies with the State Governments Building Act objectives, [particularly Part 6: work affecting other land, which includes section 79.](#) Item M22 / 5927 – Weir Legal and Consulting Report confirms Mr Tieleman's responses to planning and building complaints has been unreasonable and unacceptable. This is no different in our view.
15. [The Hon. Simon O'Brien's April 2011 address to Parliament summarised the governments objectives for the Building Act, including comments on the importance of the role of Local Governments to ensure that adjoining neighbours 'castles' are afforded some protections "when a builder does the wrong thing"; as is what has repeatedly happened at 18 Tweeddale Rd in this case.](#)

"The Building Bill [Building Act] will clarify issues related to construction on boundaries that have caused anxiety and uncertainty for many years. The Dividing Fences Act provides a mechanism for seeking a contribution to the cost of building or maintaining a dividing fence but does not specify construction standards or processes. The bill has been drafted to align with that act and reinforce the principle that a person's home is their castle, and that other people must get permission to intrude, be they workmen seeking easy access to work on a neighbour's building or encroachment on the building itself. If permission is refused, a builder can seek a court order to get access, but cannot just march in. There are clear rules dealing with removal of fences, protection of adjoining buildings during construction, jointly owned walls, and quality of construction along boundary lines. Local governments are given effective powers to intervene when a builder does the wrong thing.

"The bill [Building Act] continues the role of local governments and other permit authorities in enforcing compliance with building standards and processes. A local government will monitor building activity in its area and can give notices requiring owners to improve, obtain approval for, or demolish unsafe or unauthorised buildings. The permit authority for a building will be able\ to inspect at any time and require compliance with certified plans. The bill [Building Act] provides a range of enforcement options, including infringement notices, improvement notices and prosecution for noncompliance. If dangerous situations are not being dealt with, the permit authority can take action itself and recover the costs from the owner or builder. "

16. Mr Tieleman has seemingly failed to meet these State Government objectives with respect to 18 Tweeddale Rd. Council should exercise its powers to ensure Mr Tieleman complies with the State Government's objectives at 18 Tweeddale Road by getting on an protecting the neighbours by doing the level and producing the report as Council directed initially.
17. Bronwyn Weirs recommendations associated with in Item M22/5927 of this same meeting; specifically indicates the City has previously failed to properly enforce the BA-20/BA-20A compliance; this is 18 Tweeddale Rd yet another example. **Nothing has changed.**
18. Mr Tieleman, so it seems, has the duty, powers and triggers needed to get onto 18 Tweeddale Rd to undertake the ground levels surveys under both the Planning and Development Act and the Building Act, which have very similar provisions with respect to powers of entry, compliance, and enforcement.
19. Let's look at section 79 of the Building Act as just one example. Section 79 says:

"A person responsible for **work** must ensure that the **work** does not affect the structural, waterproofing, or noise insulation capacity of a party wall, **a substantial dividing fence, or a boundary retaining wall** that protects land beyond the boundaries of the works land —

- (a) unless each owner of the land that shares the party wall or the dividing fence, or that is protected by the boundary retaining wall, consents to the work being done, and the work is done in accordance with the consent; or

...

Penalty: a fine of \$ 25,000"

Work is defined for the purposes of Part 6 Work Affecting Other Land in s 75 as:

"work means —(a) building work; or(b) demolition work; or (c) the changing of ground levels of land to an extent that could adversely affect other land;"

From the photos in Attachment 4 and 5 it should be clear that ground level has been changed on the 18 Tweeddale Rd side of the northern boundary wall, and that such a built up could adversely affect the wall causing it to fail into the adjoining properties; whose owners have NEVER been presented with a BA-20/BA-20A and have not consented. We very much doubt the boundary wall in the pictures was designed to retaining that extra level of dirt.

Council, and Mr Tieleman, have the "trigger" to exercise Council's compliance and enforcement powers. Firstly, Council, and Mr Tieleman, have the power to enter to undertake inspections, in this case with a licenced land surveyor to complete the ground level survey. Council, through Mr Tieleman can get a warrant and Police assistance to enter, if necessary.

51. states:

unauthorised work means work —

- (a) that was done without an authority under a written law that was required by the written law applicable at the time the work was done; or
- (b) that did not comply with an authority under a written law that was in effect in respect of the work;

94. terms used

compliance purposes means any one or more of the following —

- (a) monitoring whether a provision of this Act has been, or is being, complied with;
- (b) investigating a suspected contravention of a provision of this Act;

100. Entry powers

- (1) For compliance purposes an authorised person may at any reasonable time enter and remain on the following places —

(d) a place at which the authorised person has reasonable cause to believe that a breach of a provision of this Act has occurred, is occurring or is likely to occur;

103. Use of force and assistance

- (1) An authorised person may use assistance and force that is reasonably necessary in the circumstances when exercising a power under this Act but cannot use force against a person.
- (3) An authorised person may request a police officer or other person to assist the authorised person in exercising powers under this Act.
- (5) While a person is assisting an authorised person at the request of the authorised person and in accordance with this Act, the person —
 - (a) has the same powers; and
 - (b) is subject to the same responsibilities; and
 - (c) has the same protection from liability, as in like circumstances would be conferred or imposed on the authorised person under this Act.

106. Entry warrant to enter place

- (1) An authorised person may apply to a JP for an entry warrant authorising the entry of a place for a compliance purpose.

20. Mr Tieleman is clearly aware of the Building Act provisions, and the equivalent in the Planning and Development Act given the City's officers 25 October 2022 site inspection. Council should direct Mr Tieleman explain to it and the community why Mr Tieleman has repeatedly asserted he can't access the land to complete the level survey as directed.

Motion 3 – future building permit conditions

21. We agree in principle to with motion 3, but only as an addition to Council addressing all the 18 Tweeddale Rd non-compliances; including the:

- Unauthorised ground level build-up on the verges and against the boundary walls.
- Apparent planning non-compliances with the boundary walls.
- Unauthorised storage of excess soil on the site, the cause of the significant ground level build-up. We are not aware of any current planning approvals to allow for the site to be used to store sand.

22. However, we suggest consideration be given to also include in the Building Permits conditions the requirement for the developer to provide an inspection certificate to the satisfaction of the City to confirm the ground floor finished floor level compliance once the first footings or slabs have been formed up and immediately prior to the pouring of any concrete.

23. The issue of developers and builders increasing ground levels to secure beneficial aspects, such as view, to the detriment of neighbours is sadly not uncommon and has been going on for years. [We found \[2006\] WASAT 373 Kallidis vs City of Melville to be an insightful example of such an instance where the innocent neighbours', a longstanding Bicton family the Peterson's, where significantly impacted by the Point Walter Road, Bicton development](#) next door to them that was built up that was built-up above the approved levels. The Peterson's went through hell to protect their 'castle'.

24. We also suggest Council consider developing and implementing a Building Policy to provide further guidance to the CEO in relation to the community's expectations of Council's planning and building compliance and enforcement functions; that could include inspection requirements for ground floor finished floor levels as outline above for specified types of developments.

25. Please contact us on 0474 851 248 if you have any questions or think we have omitted or misrepresented anything material.

Attachments

1. 23 November 2021 - Council EMES Transcript – 18 A & B Tweeddale Rd CEO's incorrect statements
2. 25 October 2022 - City of Melville site inspection – with access to land – boundary walls
3. City 20 January 2021 compliance letter and 17 August 2021 Report to Council – everything is fine, compliance matter was closed
4. Slides illustrating unauthorised ground level changes and DA-2008-1557 wall non-compliances
5. March 2020 unauthorised earthworks at 18 Tweeddale Rd, Applecross
6. DA-2008-1557 plans provided by City officers in their 17 August 2021 Report to Council
7. City of Melville Residents and Ratepayers Assoc. September 2022 social media post – CEO Tieleman still has not undertaken site survey of 18 Tweeddale Rd, Applecross
8. City of Melville Residents and Ratepayers Assoc. 15 October 2020 compliant to City's CEO Marten about unauthorised ground level build up
9. City of Melville Residents and Ratepayers Assoc. 3 September 2022 email to City's Council post emails from City's CEO Marten Tieleman, Steve Cope and Peter Prendergast, who it seems "do not wish to properly address the community's longstanding concerns and complaints and are not fully committed their planning and building compliance duties and functions." As Mr Cope said, "the closing out of the Council motion are now considered to be concluded."
10. Notes from 13 April 2020 with Mayor George Gear, CEO Marten Tieleman, Councillors Steve Kepert and Nic Pazolli, Steve Cope and Peter Prendergast. Tieleman agreed to investigate.
11. TIMELINE of key events – 2007 from demolition of old dwelling

Tuesday, 23 November 2021

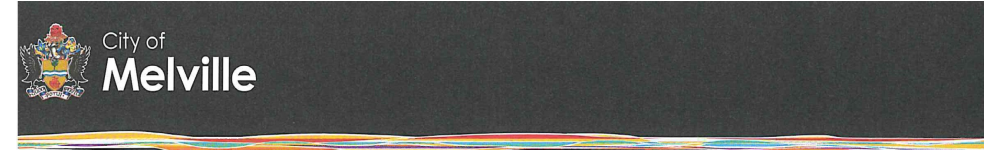
Council Chamber at 6:00pm

6.2.3	Selection of Site Surveyor for 18A and 18B Tweeddale Road, Applecross	
	Bruce Taylor	Manager Governance & Property
<p>A scope of works based on the Council resolution of October 2021 was developed and the request for quote was advertised to the seven suppliers on the WALGA Panel on 1 November 2021. Submission of quotes closed on 12 November 2021 and resulted in no quotations being received. This action in effect concludes the Council resolution.</p> <p>To progress the matter the scope was amended to delete the requirement for a Statutory Declaration to be provided. The requirement that the Final Site Survey Report be made available by the City to the public on completion of the works remained.</p> <p>The RFQ was sent to two surveyors that has recently undertaken work of the City but have had no involvement with the Tweeddale Road property.</p> <p>To date one quote has been received with the following notation, should access to the site not be obtained.</p> <p><i>"If we have no access to the site then we can only do laser pickup from the verge and this may be restricted to the west side. On the east side there appears to be no visibility due to the building on the adjacent lot. There is no visibility at the rear. This might be of limited use to you and is <u>probably not worth doing</u>.</i></p> <p><i>Please note that if anyone proposes a DA they will have to do a new 'feature survey' and this will show all the relevant details including retaining wall RLs. They should ensure any such survey is in Australian Height Datum because the 2008 survey was in that system."</i></p>		
<p>Q – Cr Sandford: I think we are sick of this item; the Council have continued to delay this.</p> <p>Cr Robins and Macphail intervened and stated their disagreement.</p> <p>Cr Sandford: Under the building legislation as long as an authorised officer has been delegated to inspect the property we have pretty broad authority to act. Under Section 79 the CEO has trigger points to access property.</p> <p>CEO: The City do not wish to “drag this out” as stated by Cr Sandford. The City would have difficulty entering the property and getting approval from SAT. The City has requested permission from the owner to access the property and been declined.</p> <p>Q - Cr Sandford: How is their decline not a trigger point for the CEO to direct an officer to enter the property as stated in Section 79. Surely we have the ability to clarify if the levels meet the requirements. Why can't the CEO accept we have trigger points to inspect?</p> <p>A - CEO: The development has to occur with the approved levels, the development has not started yet.</p> <p>Cr Sandford interrupted and the Mayor ordered Cr Sandford to let the CEO finish.</p> <p>A - CEO: The building works must be finished before it can be inspected.</p> <p>MG: The City received legal opinion on whether we can access the site.</p> <p>CEO: There is no blocking of views; there is nothing at the moment the Council can take action on. We do not have the mentioned trigger points.</p> <p>Cr Woodall requested Council move on to the next item and recommended any further discussion be with officers.</p> <p>Mayor: City does not need this information nor did the City request it. This came from the residents who requested the City get this information. This may be crossing the line between Council and policy. Beach St footpath project is an example that had a great cost to the City. Let Administration follow procedure. Levels have already been set and approved and once development is complete, that is what the City will compare this to.</p> <p>What we should do as Elected Members is not cross that line. Let administration get on with it. As an example the Minister of Immigration can pass for someone to enter the country but he never does.</p> <p>Cr Macphail: This is Australia not North Korea</p> <p>Cr Ross: I find that offensive and racist. Please revoke the statement.</p> <p>Cr Macphail: I don't wish to defend this Council on a Tracey Grimshaw - A Current Affair episode.</p>		

25 October 2022 City of Melville site inspection



**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)**



Throughout the period 2009-present day, the City's records indicate there was one single example where material was brought onto the site and stored in a single mound. This occurred in late 2020, and in accordance with the City's Planning Compliance process, the matter was investigated, found to be true, associated compliance action was taken, and the material was ultimately removed by 17 February 2021. Upon removal, the compliance matter was closed. Please refer to Photographs 1, 2 3 and 4 below which provide evidence of the mound, and its subsequent removal.

20 January 2021
Enquiries: Riaz Shahani – 08 9364 0640
Our Reference: COMPLP-2020-179



APPLECROSS WA 6153

Dear Mr & Mrs Farac

**PLANNING AND DEVELOPMENT ACT 2005 - ALLEGED UNAUTHORISED USE AT 18B
TWEEDDALE ROAD, APPLECROSS**

I refer to the City's letter dated 24 November 2020, requesting to remove the materials from the site or lodge an application to the City to retain the materials within 28 days from the date of that letter.

A site inspection of the abovementioned property carried out on 19 January 2021 and a review of Council's records, has determined that the above request has not been complied with.

Please undertake the requested works or submit an application for Retrospective Development Approval to retain the materials within 14 days of the date of this letter. Failure to comply within this timeframe will result in legal action.

Complete applications for retrospective development approval can be made via the City's Online Services at www.melvillecity.com.au. The City of Melville Development Application Form and Information Requirement Sheet are available to download from the City's website.

Your prompt attention to this matter would be appreciated.

If you require any further information or clarification regarding this matter, please do not hesitate to contact the undersigned on [REDACTED] or via email on [REDACTED]

Yours sincerely



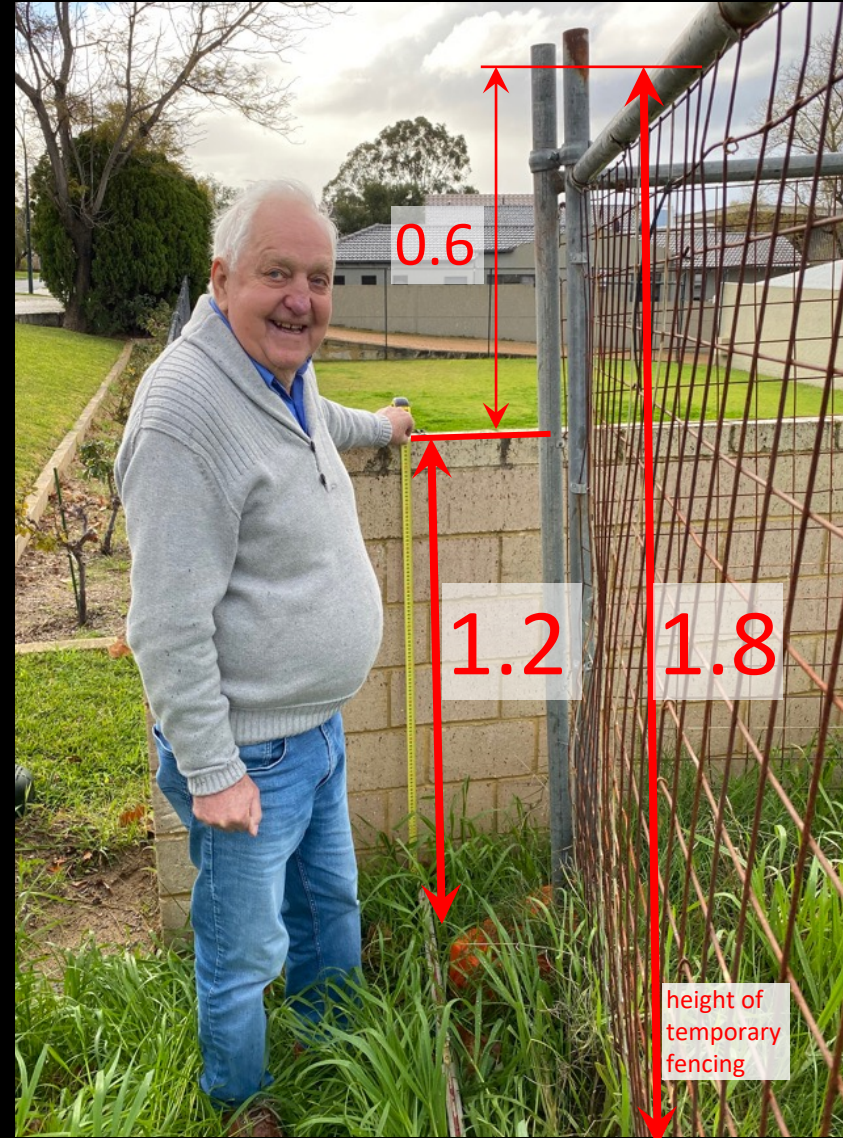
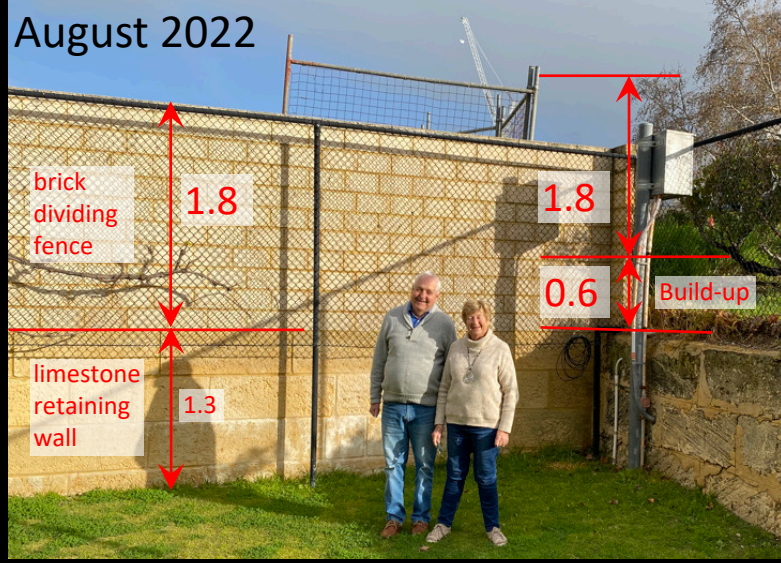
**RIAZ SHAHANI
PLANNING COMPLIANCE OFFICER**



Photograph 1: Unauthorised material on site, November 2020

18_(A&B) Tweeddale Rd Applecross

building non-compliance, unauthorised site works?



17 AUGUST 2021 report to Council vs now

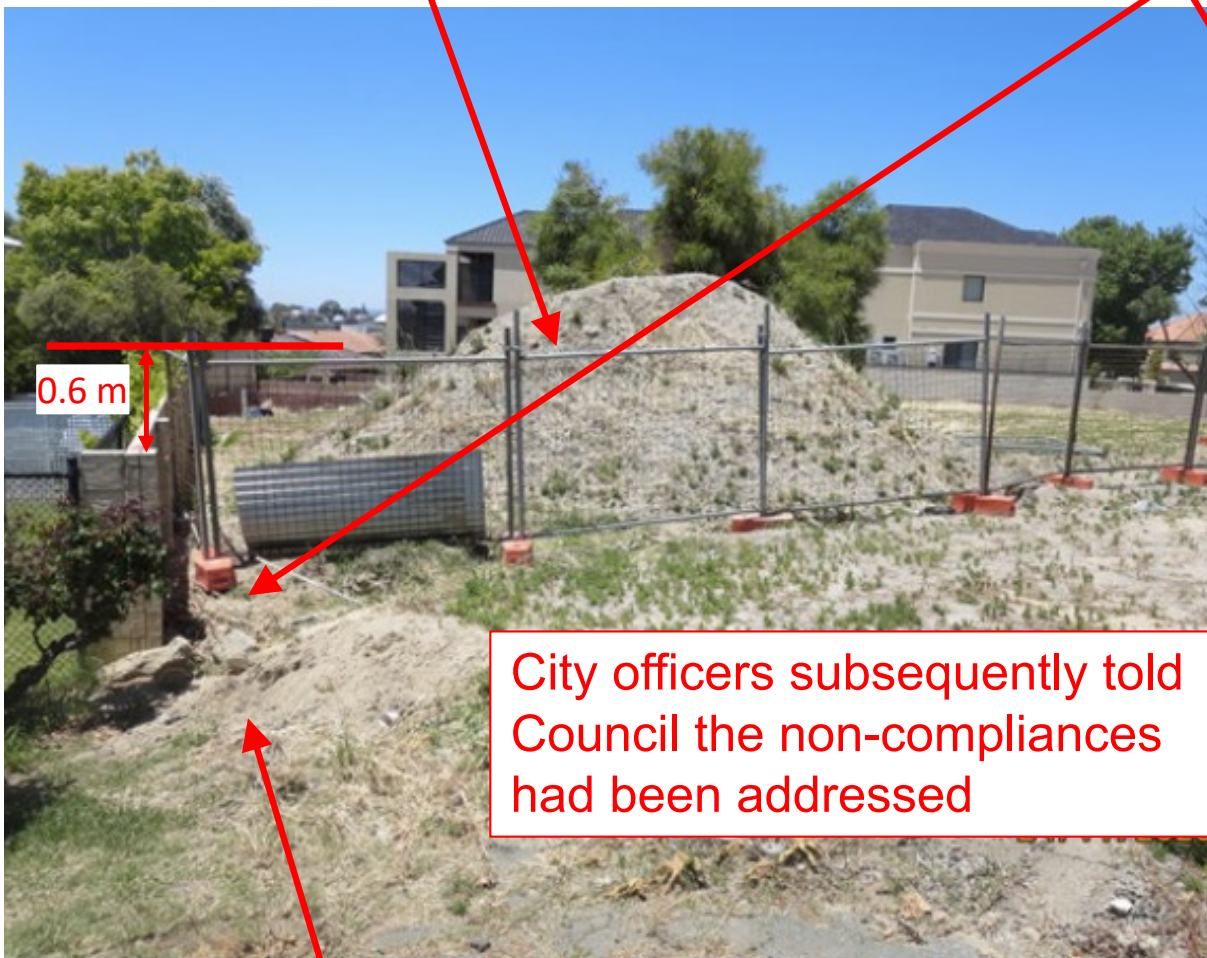
P21/3936 – Review of Compliance and Enforcement Actions – 18A
and 18 B Tweeddale Road, Applecross

9 August 2022

Photo of adversely affected neighbours

Pile of sand removed

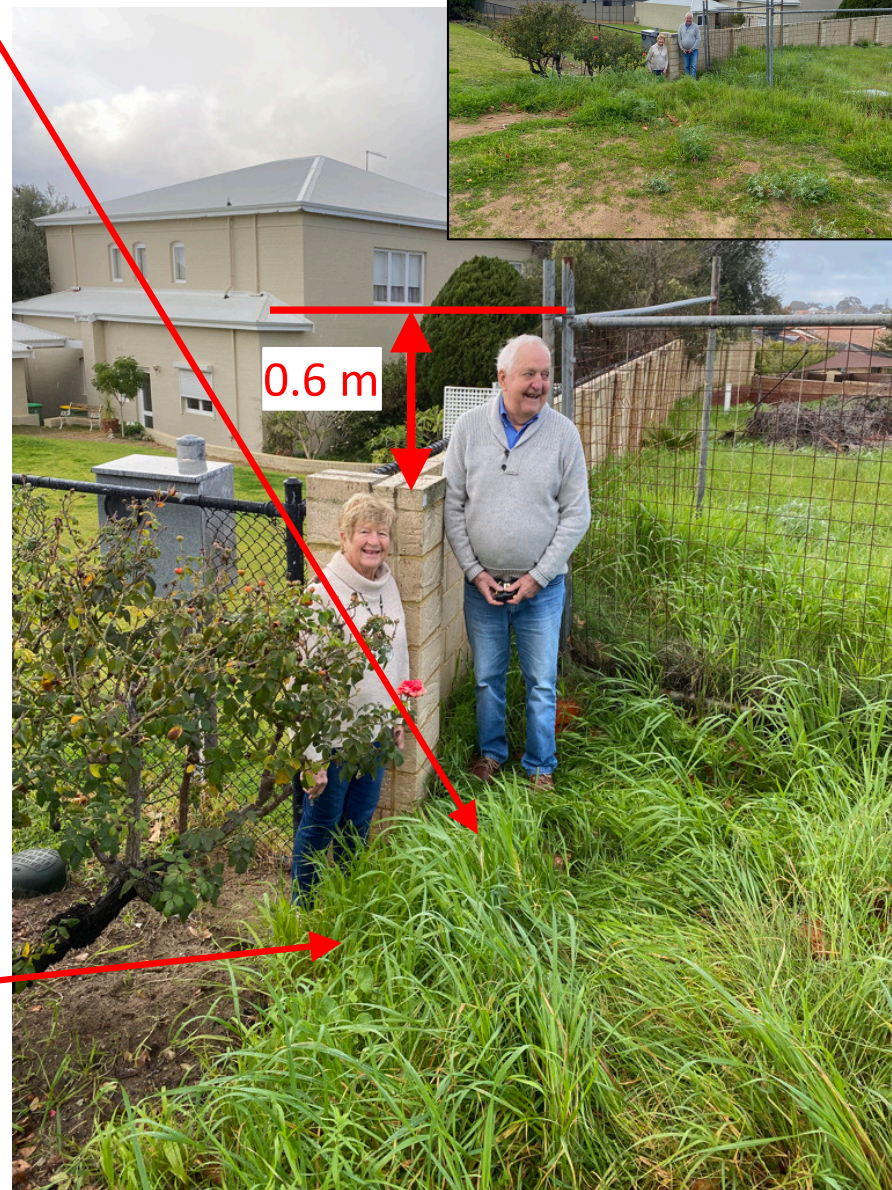
But unauthorised fill not removed



City officers subsequently told Council the non-compliances had been addressed

Photograph 2: Unauthorised material on site, November 2020

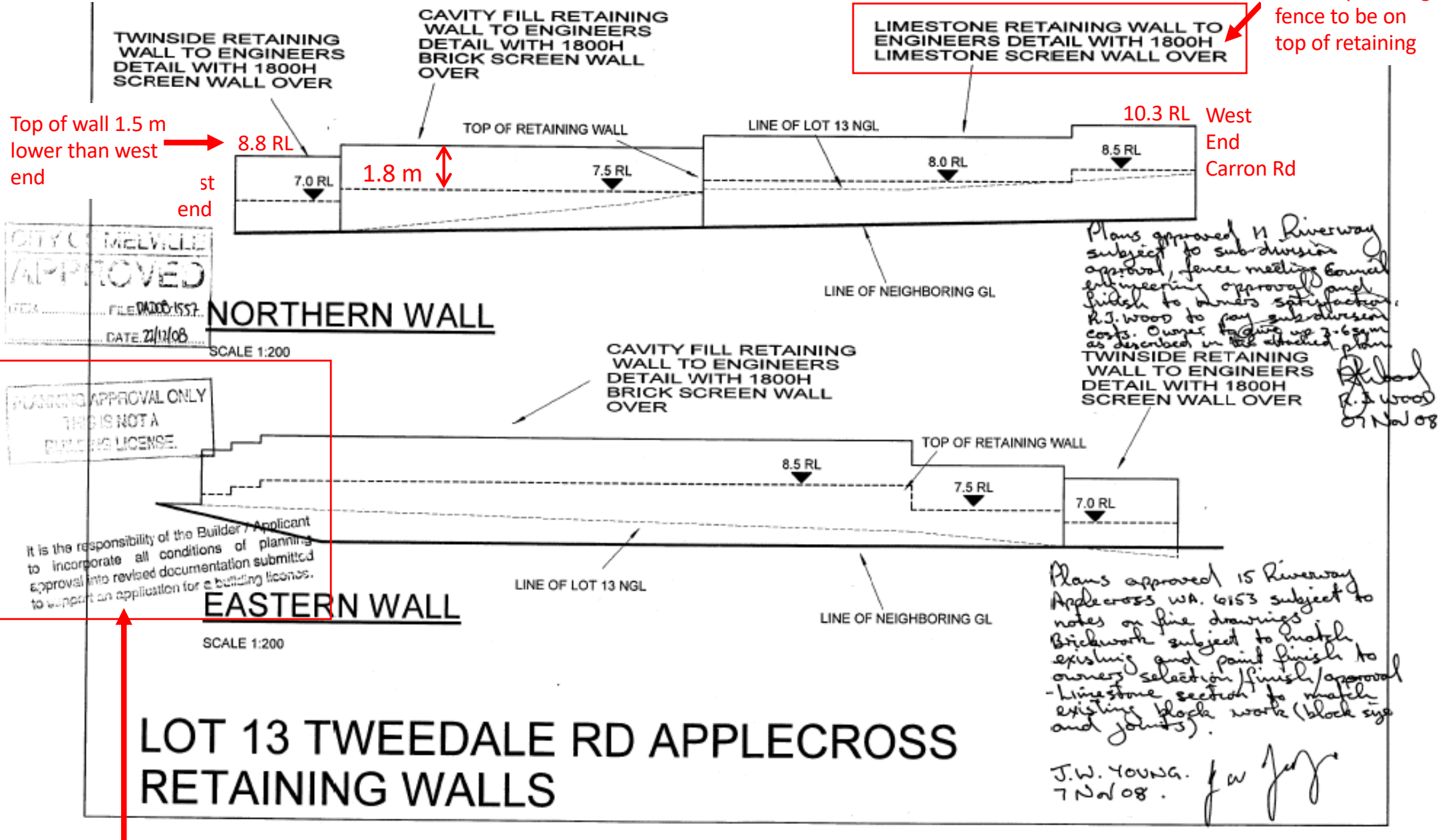
Verge levels visibly raised even now



2008 Nov - retrospective planning approval only DA-2008-1557

Attachment 4.3

1.8 m boundary masonry dividing fence to be on top of retaining

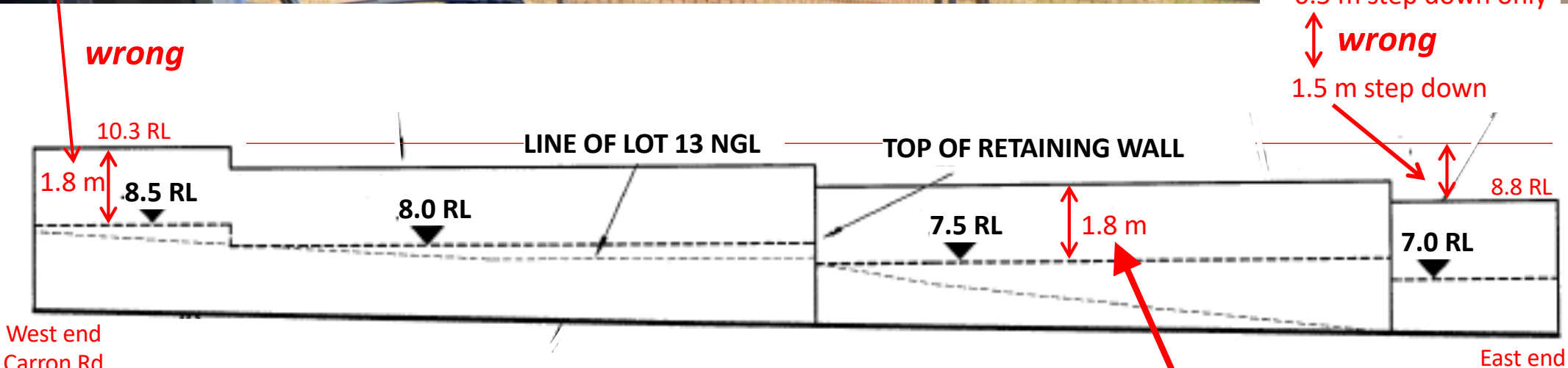


Been no mention of the building license (s) required to build the boundary retaining and dividing walls. To date have been unable to locate any record of an building approvals that had been issued. If no building approval has been issued, then the walls and earthworks remains un-authorised

2021 Dec – Northern dividing wall non-complaint with DA-2008-1557

Boundary wall up to 1.0 m higher than approved

Google maps street view



West end
Carron Rd

East end

City of Melville DA-2008-1557 (retrospective approval November 2008)

1.8 m high boundary dividing wall on top of retaining wall

2012-August

Slope down from verge to base of wall

Appears top of masonry dividing wall 1.8 m above ground level

Significant soil brought to site

Unapproved obstruction of thoroughfare



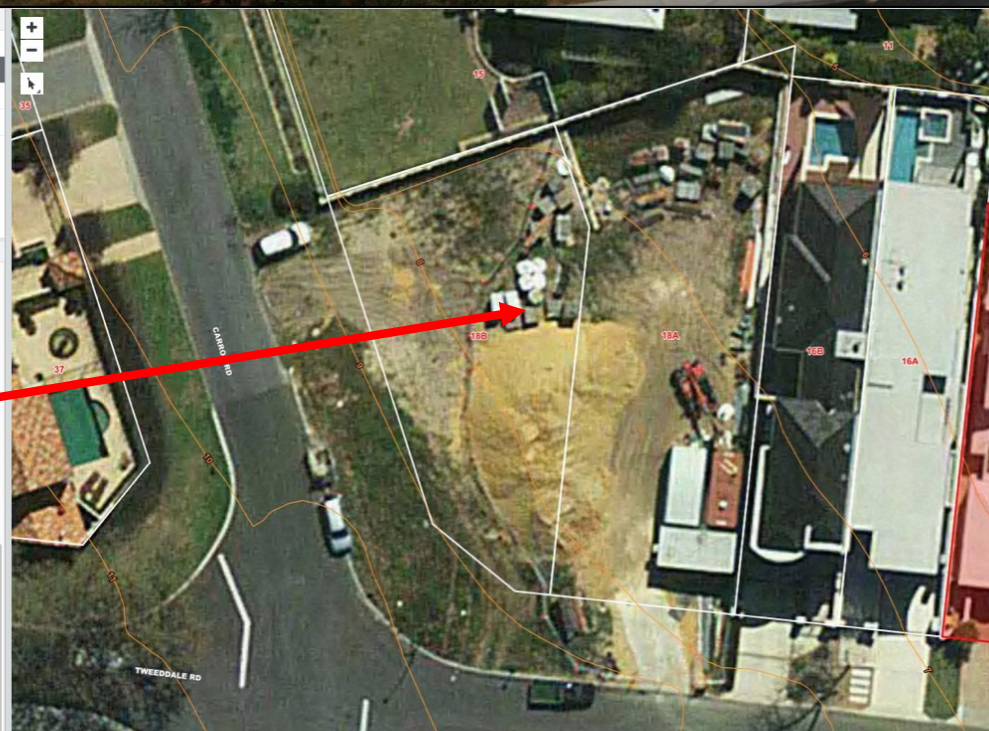
DA-2012-505 for use of 18A for Temporary Structures - Storage Unit, Lunch Hut and Site office did not include sand. The permitted use spilt over to 18B (the western block)

MODULES

- Properties
- Aerial Photo
- Planning and Zoning (LP56)
- Access Information

LAYERS

- 2016 Aerial Photo (November)
- 2016 Aerial Photo (August)
- 2016 Aerial Photo (June)
- 2016 Aerial Photo (February)
- 2015 Aerial Photo (November)
- 2015 Aerial Photo (September)
- 2015 Aerial Photo (May)
- 2015 Aerial Photo (February)
- 2014 Aerial Photo (August)
- 2014 Aerial Photo (May)
- 2014 Aerial Photo (February)
- 2013 Aerial Photo (September)
- 2013 Aerial Photo (January)
- 2012 Aerial Photo (August)
- 2012 Aerial Photo (March)
- 2011 Aerial Photo (February)

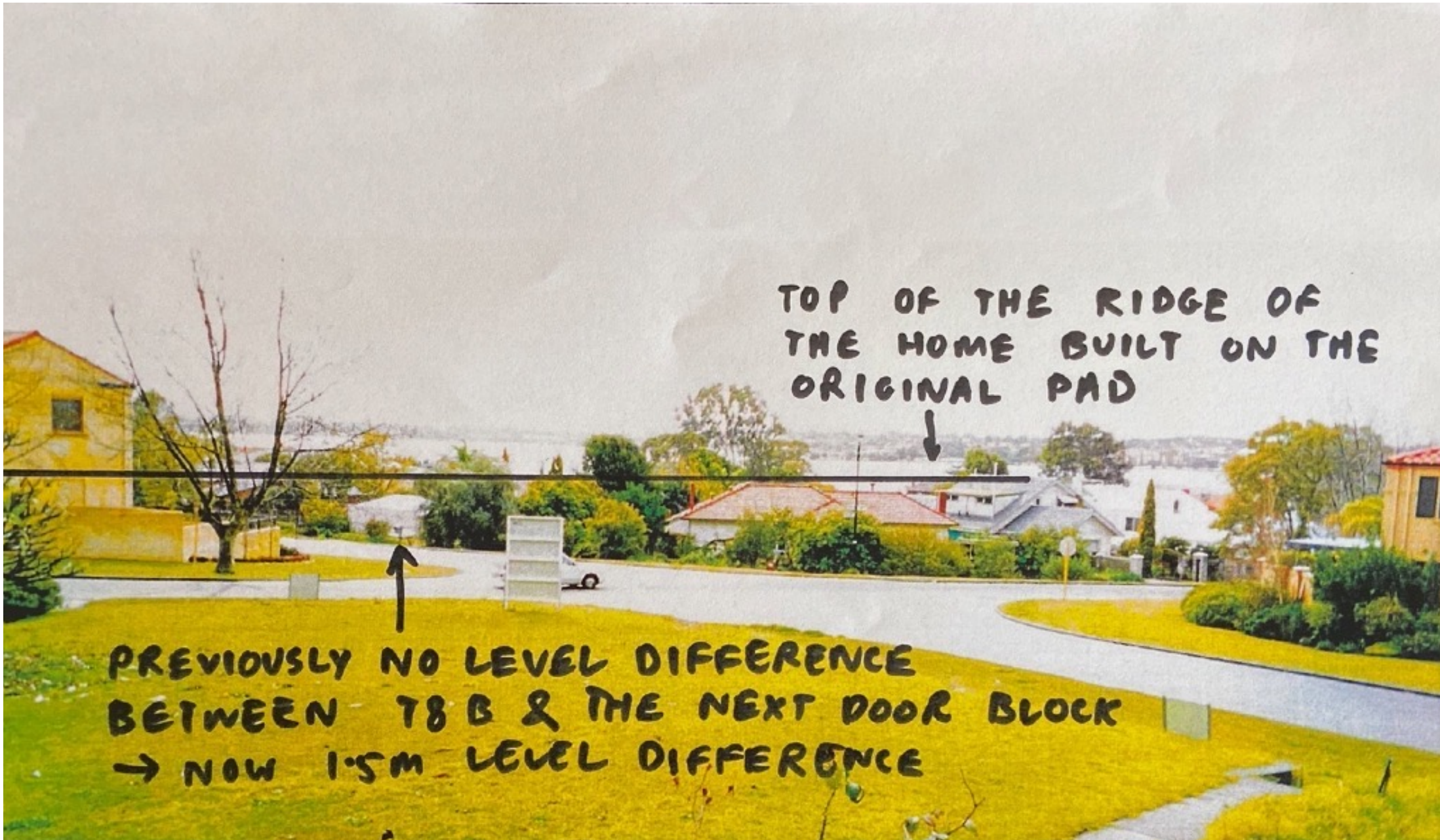


DA-2010-1361/A	10/05/2012	WA 6153 45B Kintail Road, Applecross, WA 6153	Certificate DOLI Development Application	Amendment To Two Storey Single Dwelling
DA-2012-505	10/05/2012	18A Tweeddale Road, Applecross, WA 6153	Development Application	Temporary Structures - Storage Unit, Lunch Hut And Site Office
-2012-806	9/05/2012	772 Canning Highway, Applecross, WA 6153	Land Information Certificate DOLI	Lic
-2012-807	9/05/2012	68 Tweeddale Road,	Land Information	Lic

2009-November



18 Tweeddale Road circa 1991.. can see why the current owner would want to lift the site ground level?



18 TWEEDDALE RD, APPLECROSS - UNAUTHORISED FILL – 6-7 LARGE SAND MOUNDS DEPOSITED & ADDED TO THE GROUND LEVEL OF THE SITE, MARCH 2020

Unauthorised site work – from March 2020



A) Photo_Unauthorised Fill_13 March 2020_11.45 AM_1rst sand mound added
1rst sound mound added



B) Video Still_Unauthorised Fill_13 March 2020
1rst sound mound levelled



C) Video Still_Unauthorised Fill_13 March 2020
1rst sound mound levelled



D) Photo_Unauthorised Fill_14 March 2020_8 AM
Raised levels & tyre marks



E) Photo_Unauthorised Fill_16 March 2020_10.50 AM
2nd sound mound added & levelled



F) Photo_Unauthorised Fill_16 March 2020_10.55
3rd sound mound added & levelled

Unauthorised site work – from March 2020



G) Photo_Unauthorised Fill_16 March 2020_12.30 PM

2-3 more (4th, 5th & 6th) mounds of sand added & levelled



H) Photo_Unauthorised Fill_16 March 2020

2-3 more mounds of sand added & levelled



I) Photo_Unauthorised Fill_16 March 2020_3.15 PM

1 sand mound left standing



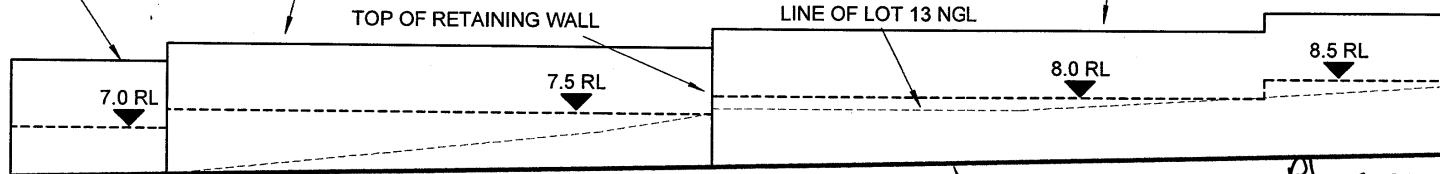
J) Photo_Unauthorised Fill_16 March 2020_3.15 PM

1 sand mound left standing

TWINSIDE RETAINING WALL TO ENGINEERS DETAIL WITH 1800H SCREEN WALL OVER

CAVITY FILL RETAINING WALL TO ENGINEERS DETAIL WITH 1800H BRICK SCREEN WALL OVER

LIMESTONE RETAINING WALL TO ENGINEERS DETAIL WITH 1800H LIMESTONE SCREEN WALL OVER



CITY OF MELVILLE
APPROVED
 FILE NO. 1557
 DATE 21/12/08

NORTHERN WALL

SCALE 1:200

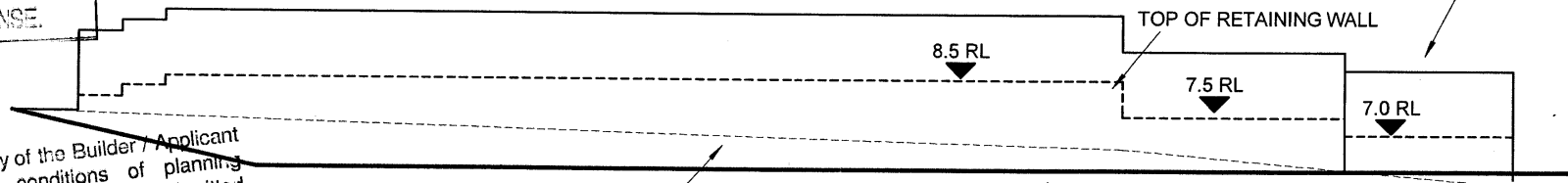
Plans approved 11 Riverway subject to subdivision approval, fence meeting Council engineering approval and finish to owners satisfaction. R.J. Wood to pay subdivision costs. Owner to give up 2.6sqm as described in the attached plan.

TWINSIDE RETAINING WALL TO ENGINEERS DETAIL WITH 1800H SCREEN WALL OVER

R.J. Wood
 07 Nov 08.

PLANNING APPROVAL ONLY
 THIS IS NOT A
 BUILDING LICENSE.

CAVITY FILL RETAINING WALL TO ENGINEERS DETAIL WITH 1800H BRICK SCREEN WALL OVER



EASTERN WALL

SCALE 1:200

Plans approved 15 Riverway Applecross WA. 6153 subject to notes on fine drawings. Brickwork subject to match existing and paint finish to owners selection/finish/approval. Limestone section to match existing block work (block size and joints).

J.W. Young.
 7 Nov 08.

J.W. Young

It is the responsibility of the Builder / Applicant to incorporate all conditions of planning approval into revised documentation submitted to support an application for a building licence.

LOT 13 TWEEDALE RD APPLECROSS RETAINING WALLS

BUILDING COPY

RECEIVED
 14 NOV 2008
 BY: _____

THIS PLAN IS SUBJECT TO COUNCIL / W.A.P.C. APPROVAL

THIS PLAN IS PREPARED FOR SUBMISSION TO DEPARTMENT OF ENVIRONMENTAL AND SUBDIVISION CONSULTANTS P/L. ALL DIMENSIONS AND AREAS SHOWN ARE APPROXIMATE AND SUBJECT TO VARIATION.

TWINSIDE RETAINING WALL TO ENGINEERS DETAIL WITH 1800H SCREEN WALL OVER

CAVITY FILL RETAINING WALL TO ENGINEERS DETAIL WITH 1800H BRICK SCREEN WALL OVER

LIMESTONE RETAINING WALL TO ENGINEERS DETAIL WITH 1800H LIMESTONE SCREEN WALL OVER

LOT 58

3.61m² Top@7.00

Pad RL 7.0

LOT 4 Top@7.50

Top@8.00 Existing Ret Wall Ht

Top@8.50 Base @ 8.00 200 Above Existing Ret Wall

20.28 (39.49)

Pad RL 8.00

Pad RL 7.5

CAVITY FILL RETAINING WALL TO ENGINEERS DETAIL WITH 1800H BRICK SCREEN WALL OVER

Top@7.50

Top@7.50

CAVITY FILL RETAINING WALL TO ENGINEERS DETAIL WITH 1800H BRICK SCREEN WALL OVER

Top@8.50

LOT 810

PROPOSED LOT 898 556m² PROPOSED LOT 898 601m² 5/Storey Brick & tile

EXISTING HOUSE TO BE DEMOLISHED FFL @ 8.56

Pad RL 8.55

Pad RL 8.55

TO BE DEMOLISHED

CITY OF MELVILLE APPROVED FILE NO. 1557 DATE 22/12/08

PLANNING APPROVAL ONLY THIS IS NOT A BUILDING LICENSE.

It is the responsibility of the Builder / Applicant to incorporate all conditions of planning approval into revised documentation submitted to support an application for a building licence.

Total Area 1157m² *TOTAL SITE CLEAR

TWEEDDALE ROAD

Riverway Appcross. R. J. Wood 7 Nov

FEATURE SURVEY OF LOT 13(18) TWEEDDALE ROAD APPECROSS CLIENT: DATE: 04/04/2007

SCALE: 1:200 DIAGRAM:18433 C/T: 1218/463 LOCAL AUTHORITY: CITY OF MELVILLE DATUM: AHD

TUSCOM SUBDIVISION CONSULTANTS PTY. LTD. (JAMES TEOH 93168388)

Site survey only location of boundary pegs or fence in relation to the boundary is not guaranteed

BUILDING COPY

RECEIVED

14 NOV 2008

BY:



Attachment 7.1



City of Melville Residents and Ratepayers Assoc Inc.

City of Melville Residents and Ratepayers Association Inc.

[View full profile](#)



City of Melville Residents and Ratepayers Assoc Inc. • You

City of Melville Residents and Ratepayers Association Inc.

3w •

MELVILLE CEO Marten Tieleman not fulfilling lawful COUNCIL DIRECTIONS for a site survey.

On 17 August 2021 the City of Melville Council passed motions calling on CEO Tieleman to engage an independent surveyor to measure the ground levels at 18 A&B Tweeddale Rd Applecross.

It is now a year on and CEO Tieleman still has not fulfilled those directions from Council.

At recent June and July Council meetings various questions were put regarding the lack of progress on the site survey at Tweeddale Rd. July questions, along with responses are not in the Council minutes as CEO Tieleman side-stepped that obligation by responding privately.

CEO Tieleman's arguments for not fulfilling Council's directions are along the lines of:

1. A visual inspection by City officers of the site indicates the fill on site generally aligns with previous approved levels.
2. The property owner will not allow the surveyor on the site.
3. He cannot find a surveyor and get them on to the site to do the survey.
4. There is no building application or approval for the Tweeddale Rd property and no building compliance matter for the City to access the land to undertake a survey.

CEO Tieleman sees no issue because CEO Tieleman refuses to acknowledge that there may be an unauthorised increase in ground level.

Yet it is obvious from a simple visual inspection. It is even obvious from the photos that there has been a 0.6 m soil against the 18 Tweeddale Rd side of the brick dividing fence, being clearly not designed nor allowed for.

This indicates breaches of the Building Act; where are the approvals (s 9); where are the signed consents (BA20/BA20A) from the adjoining property owners for increased ground levels and the 0.6 m soil built up against their brick dividing fences (s 79).

It is obvious to most that there is an unapproved 0.6m build up against a dividing fence yet it appears that CEO Tieleman 'can't see' it.

Moreover, from the City's past experiences CEO Tieleman should be aware that the City is perfectly able to get a warrant for City officers and a land surveyor to enter the land (s 103 & 106 of Building Act) to do the ground level survey and other required inspections.

Also, from the City's past experiences CEO Tieleman should be aware that he (and Council) can order the unauthorised fill be removed and the ground level be returned to its natural levels and even take prosecution action in the absence of any building application or approvals.

Mr Tieleman should simply be getting on with fulfilling Council's motions and have the level survey at Tweeddale Rd done with no further obfuscation, excuses or delays.

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Unauthorised building work? - 18 Tweeddale Road Applecross

City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Thu 15/10/2020 4:29 PM

To: Marten Tieleman <Marten.Tieleman@melville.wa.gov.au>

Cc: Steve Cope <Steve.Cope@melville.wa.gov.au>; Cr Steve Kepert <steve.kepert@melville.wa.gov.au>; Cr Nicholas Pazolli <nicholas.pazolli@melville.wa.gov.au>

Dear Mr Tieleman,

We refer to the building work clearly underway and the temporary fencing around the verge as the attached photo shows.



The Building Act 2011 defines building work as:

- (a) the construction, erection, assembly or placement of a building or an incidental structure; or
- (b) the renovation, alteration, extension, improvement or repair of a building or an incidental structure;
- or
- (c) the assembly, reassembly or securing of a relocated building or a relocated incidental structure; or
- (d) the changing of ground levels of land for the purposes of work of a kind mentioned in paragraph (a), (b) or (c) to an extent that could adversely affect land beyond its boundaries; or
- (e) site work on any land for the purposes of, or required because of, work of a kind mentioned in —
 - (i) paragraph (a), (b), (c) or (d); or
 - (ii) paragraph (a) or (b) of the definition of demolition work; or

We have checked the City's [on-line planning and building registers](#) and can't find any current development, building or verge approvals for this site; recognising a building permit is most likely required for the building work depicted. We have observed that in similar circumstances the City

has issued building permits for early site works only, such as BA-2019-1781 for forward work - earthworks only to create building foundations

Presumably any building permits will include conditions for HSE requirements such as dust control that may become a bigger issue as summer approaches.

We note that the City's planning and building registers on the City's website, whilst improved are not as easy to locate as they were and the pre 2018 registers appear to have been removed.

Could you please confirm:

- Is the City aware of the building work underway at 18 Tweeddale Road, and if so since when.
- Has the City issued approvals for the development, building work and the verge use, if so when.
- What will the City do if the building work and verge use have not been approved; recognising a) undertaking building work without approvals, particularly by a registered builder, is a serious breach of the Building Act, and b) the City is accountable for building compliance and enforcement as the permit authority.
- When the City will restore the historical planning and building registers to its web-site.

Yours sincerely

Committee

City of Melville Residents and Ratepayers Association (Inc.)

www.facebook.com/MelvilleResidentsRatepayersAssoc

<https://au.linkedin.com/in/melvilleresidentsratepayers>

<https://twitter.com/MRatepayers>

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City of Melville - Petition - Council 21 October 2021 motion and planning and building compliance performance - 18 A & B Tweeddale Rd Applecross

City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Sat 3/09/2022 4:47 PM

To: Mayor George Gear <george.gear@melville.wa.gov.au>; deputy Mayor Tomas Fitzgerald <tomas.fitzgerald@melville.wa.gov.au>; Cr Clive Ross <clive.ross@melville.wa.gov.au>; Cr Margaret Sandford <margaret.sandford@melville.wa.gov.au>; Cr Nicholas Pazolli <nicholas.pazolli@melville.wa.gov.au>; Cr Katy Mair <katy.mair@melville.wa.gov.au>; Cr Nicole Robins <nicole.robins@melville.wa.gov.au>; Marten Tieleman <marten.tieleman@melville.wa.gov.au>; Cr Jennifer Spanbroek <jennifer.spanbroek@melville.wa.gov.au>; Cr Karen Wheatland <karen.wheatland@melville.wa.gov.au>; Cr Glynis Barber <glynis.barber@melville.wa.gov.au>; Cr Jane Edinger <jane.edinger@melville.wa.gov.au>; Cr Matthew Woodall <matthew.woodall@melville.wa.gov.au>; Cr Katy Mair <katy.mair@melville.wa.gov.au>

Cc: Minister Carey <minister.carey@dpc.wa.gov.au>; Minister Cook <minister.cook@dpc.wa.gov.au>; Kim Giddens (MLA, Bateman) <kim.giddens@mp.wa.gov.au>; erin.gauntlett@dlgsc.wa.gov.au <erin.gauntlett@dlgsc.wa.gov.au>; Kristin.Berger@dmirs.wa.gov.au <Kristin.Berger@dmirs.wa.gov.au>; Good Governance DLGSC <goodgovernance@dlgsc.wa.gov.au>; 'ABDOOLAKHAN, Saj' <saj.khan@dmirs.wa.gov.au>; caroline.spencer@audit.wa.gov.au <caroline.spencer@audit.wa.gov.au>; Steve Cope <Steve.Cope@melville.wa.gov.au>; peter.prendergast@melville.wa.gov.au <Peter.Prendergast@melville.wa.gov.au>; Governance <Governance@melville.wa.gov.au>

📎 2 attachments (1 MB)

Neighbour petition and Minutes-OMC-12-October-2021-2 18 Tweeddale Rd Applecross Site Survey Motion.pdf; 20201015 City Tieleman unauthorised building work at 18 Tweedale Rd Applecross (SEND).pdf;

Council and Mr Tieleman,

In response to our 28 August email to Mr Marten Tieleman (below) we received the following emails from Mr Peter Prendergast (30 August) and Mr Steve Cope (1 September).

Mr Prendergast's scant email does not adequately and properly answer our 16 August questions and Mr Steve Cope's email say;

"The City's response to the Council motion regarding the perceived levels at 18a and b Tweeddale Road has been provided to Elected Members from the CEO, and matters associated with the closing out of the Council motion are now considered to be concluded",

suggesting Council has decided to, in effect, rescind its 21 October 2021 motion based on a completed report from the CEO. We have been unable to find any record of Council's decision or reports to which Mr Cope alludes.

Discontent still remains between the community and the City officers about the unauthorised dumping of fill and the resulting ground level at 18 A and B Tweeddale Road Applecross, despite all of the evidence provided to the City over the years, including that what was personally provided to Mr Marten Tieleman even before oy October 2020 complaint (attached) and more recently the photos provided that shows [around 0.6 m unauthorised ground build-up against the substantial dividing fence in breach of the Building Act that is adversely affecting the elderly long term residents.](#)

It appears that Mr Tieleman, Mr Cope and Mr Prendergast do not wish to properly address the community's longstanding concerns and complaints, and are not fully committed their planning and building compliance duties and functions.

The simplest way to resolve these longstanding matters is to have a properly qualified person assess the ground levels; we do not believe the City has this capability.

That is, Mr Tieleman should just get on and comply with Council's 21 October 2021 motion requiring him to engage an independent licenced land surveyor in to determine the current ground levels relative to the natural ground levels at 18 A and 18 B Tweeddale Road Applecross.

Please accept the attached Petition, with a copy of the 21 October 2021 motion, to be presented to Council for a decision at the next Ordinary Meeting of Council. The full Petition will be forwarded to the City's governance team shortly.

Yours sincerely

Committee

From: Steve Cope <Steve.Cope@melville.wa.gov.au>
Sent: Thursday, 1 September 2022 6:23 PM
To: melville.residents@outlook.com <melville.residents@outlook.com>
Cc: Rayleen Ferguson <Rayleen.Ferguson@melville.wa.gov.au>
Subject: Questions regarding 18 Tweeddale Road, Applecross

Dear Melville Residents and Ratepayers Association

Reference is made to the email received on 28 August 2022 from Melville Residents and Ratepayers Association.

In response to your email correspondence, please note the following:

- The City's response to the Council motion regarding the perceived levels at 18a and b Tweeddale Road has been provided to Elected Members from the CEO, and matters associated with the closing out of the Council motion are now considered to be concluded.
- Your previous email dated 16 August was responded to by Mr Prendergast on 30 August. Apologies if the timeliness of the City's response failed to meet the City's customer service standards.
- The survey plans provided in support of the DA-2008-1557 set the post subdivision levels on the site at the then 18 Tweeddale Road, in accordance with the requirements of the previous subdivision approval. The City has no reason to be concerned about the standard of these plans which are considered sufficient for the purposes outlined.
- Your reference to the report of the CCC is noted.
- The position of the administration in respect of the levels on the site is clearly outlined in previous reports to Ordinary Meetings of Council, in respect of which the matter of levels, real and perceived, were addressed.
- In respect of the sale of 18 Tweeddale Road properties, the City can confirm that there are no outstanding compliance matters that affect the properties, nor any future owners.
- In respect of the proposed vehicle access ramps to the approved development, the developer will be required to satisfy the conditions of planning approval in respect of the ramps prior to construction.

ramps, prior to construction.

- The City has responded to this questions previously. The actions taken in relation to the October 2021 resolution were advised in the minutes of the June 2022 Ordinary Council Meeting – Refer 6.4.3 Question 4.

Yours faithfully

Steve Cope

Director Urban Planning

Steve.Cope@melville.wa.gov.au

Phone: (08) [9364 0985](tel:93640985)

Mobile: [0418 946 721](tel:0418946721)

www.melvillecity.com.au

From:Peter Prendergast <Peter.Prendergast@melville.wa.gov.au>

Sent:Tuesday, 30 August 2022 5:25 PM

To:City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Subject:RE: City's compliance activities - 18 Tweeddale Rd Applecross - unauthorised site works/ground level build-up

To whom it may concern:

In response to your email correspondence of 16 August 2022, please refer to your initial email below and note associated responses to the questions posed.

Regards

Peter Prendergast

Manager Statutory Planning

Peter.Prendergast@melville.wa.gov.au

Phone: (08) [9364 0626](tel:93640626)

From:City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Sent:Tuesday, 16 August 2022 7:20 AM

To:Peter Prendergast <Peter.Prendergast@melville.wa.gov.au>

Cc:Cr Clive Ross <Clive.Ross@melville.wa.gov.au>; Cr Nicholas Pazolli

<Nicholas.Pazolli@melville.wa.gov.au>; Marten Tieleman

<Marten.Tieleman@melville.wa.gov.au>; Steve Cope <Steve.Cope@melville.wa.gov.au>; Cr

Katy Mair <Katy.Mair@melville.wa.gov.au>; Cr Margaret Sandford

<Margaret.Sandford@melville.wa.gov.au>; Riaz Shahani <Riaz.Shahani@melville.wa.gov.au>;

Central-email.CMRRA <Central-email.CMRRA.Residents@melville.wa.gov.au>

Subject:City's compliance activities - 18 Tweeddale Rd Applecross - unauthorised site

works/ground level build-up

Mr Prendergast,

We refer to the current situation at 18 Tweeddale Rd Applecross that is causing detriment to adjoining property owners as described on [LinkedIn](#) and [Facebook](#)

Attached is our 13 October 2020 compliant to the CEO, and copies of the City's 24

November 2020 and 20 January 2021.

We would like you to confirm,

1. Under what statutory authority the 2 compliance letters were sent, and why that authority, and the respondents review rights, were not outlined in the letter. **Note that compliance letter 1 specifically refers to a Council resolution to seek compliance. In addition, the Planning and Development (Local Planning Schemes) Regulations 2015, Part 10, provides the statutory authority for compliance.**
2. What were the dates of the inspections undertaken in response to our October 2020 complaint (other than the 24 November 2020 and 19 January 2021 highlighted in the letters). Who did them and using what method. We are particularly interested in the date of the last inspection where it was determined that there was no longer any unauthorised ground level build-up, obstruction of the public thoroughfare, and sea container storage. **The site was inspected on a number of occasions by various City Officers, including on the dates referred to. These visits are in person inspections using common eyesight. The final inspection took place on 17/2/2021.**
3. What were the dates of any other 'compliance letter' exchanged between the property owners. **None apply.**
4. Did the property owners apply for retrospective approvals. **No.**
5. Why is there is still an unauthorised build-up of soil (circa 0.6 m) up against the substantial brick dividing fence, that suggests a soil build up across the block. **The City does not share this view and advises the MRRA to read associated reports to the Ordinary Meeting of Council.**

Yours sincerely

Committee

City of Melville Residents and Ratepayers Association

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<https://twitter.com/MRatepayers>

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From: City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Sent: Sunday, 28 August 2022 10:49 AM

To: Marten Tieleman <Marten.Tieleman@melville.wa.gov.au>

Cc: Minister Carey <minister.carey@dpc.wa.gov.au>; Minister Cook <minister.cook@dpc.wa.gov.au>; Kim Giddens (MLA, Bateman) <kim.giddens@mp.wa.gov.au>; erin.gauntlett@dlgsc.wa.gov.au <erin.gauntlett@dlgsc.wa.gov.au>; Kristin.Berger@dmirs.wa.gov.au <Kristin.Berger@dmirs.wa.gov.au>; Good Governance DLGSC <goodgovernance@dlgsc.wa.gov.au>; caroline.spencer@audit.wa.gov.au <caroline.spencer@audit.wa.gov.au>; Sharyn.O'Neill@psc.wa.gov.au <Sharyn.O'Neill@psc.wa.gov.au>; Saj <saj.khan@dmirs.wa.gov.au>; Mayor George Gear <george.gear@melville.wa.gov.au>; deputy Mayor Tomas Fitzgerald <tomas.fitzgerald@melville.wa.gov.au>; Cr Nicholas Pazolli <nicholas.pazolli@melville.wa.gov.au>; Cr Duncan Macphail <duncan.macphail@melville.wa.gov.au>; Cr Nicole Robins <nicole.robins@melville.wa.gov.au>

<andrea.macphail@melville.wa.gov.au>; Cr Nicole Hobbs <nicole.hobbs@melville.wa.gov.au>; Cr Matthew Woodall <matthew.woodall@melville.wa.gov.au>; Cr Clive Ross <clive.ross@melville.wa.gov.au>; Cr Glynis Barber <glynis.barber@melville.wa.gov.au>; Cr Katy Mair <katy.mair@melville.wa.gov.au>; Cr Margaret Sandford <margaret.sandford@melville.wa.gov.au>; Cr Jane Edinger <jane.edinger@melville.wa.gov.au>; Cr Jennifer Spanbroek <jennifer.spanbroek@melville.wa.gov.au>; Cr Karen Wheatland <karen.wheatland@melville.wa.gov.au>

Subject: City of Melville's planning and building compliance performance - 18 Tweeddale Rd Applecross - BA20/BA20A consents/unauthorised site works/ground level build-up/basements/ramps

Mr Tieleman,

It has been about 1 year since the City of Melville Council directed the CEO to undertake a level survey on 18 Tweeddale Road Applecross properties, as a result of many, many complaints over the years. To date we are not aware that these simple Council motions have been complied with. We are aware that you and other City officers have been throwing up all sorts of questionable excuses as to why the City has not done it.

Mr Peter Prendergast, a City officer involved in our complaints and these issues, has failed to even acknowledge our 16 August email to him, as given below, over 10 days on. Such a lack of transparency and engagement only serves breed further suspicions.

[You and City officers appear to have no concern about the adjoining property owners' interests being adversely affected; something that appears all too common at the City.](#)

We remain deeply troubled over the City's continued lack of transparency and action over these matters, particularly given the City repeatedly refers back to an April 2007 survey produced by **Mr James Teoh of Tuscom Subdivision Consultants** in connection with the City's approval DA-2008-1557 (attached). From what we have seen we do not believe that survey was properly certified as should be required in accordance with Licensed Surveyors (Guidance of Surveyors) Regulations 1961. Please correct us if we are wrong.

We are sure you are aware that [Mr Teoh was investigated by the CCC, and was a subject of the CCC's 18 June 2009 "Report on the Investigation of Alleged Misconduct by Employees of Landgate as a result of Associations with External Clients Involved in The Property Development Industry"](#) (attached).

The report made numerous comments about Mr Teoh, including:

[22] In a telephone conversation on 14 August 2007 between Mr Poulton and Mr Teoh, the former again referred to "our rewards scheme". When Mr Teoh said "... the quicker you work, the more you get. Is that what it is?" Mr Poulton said that was right.

[25] There are strict requirements that details of the lots, illustrated buildings and all other relevant information on a lodged strata plan must be correct. They must be certified correct by a licensed surveyor. In relation to Tuscom that was Mr Teoh. Whilst minor errors may be corrected by Landgate examining officers, more significant ones should not be. The plans may have to be withdrawn, corrected and resubmitted (with another fee) and the dealing may be "stopped". This causes delay and further expense—which can be significant.

[26] On 29 August 2007 Mr Teoh telephoned Mr Croasdale at his work and asked for his help with the plans for the Capital Square Development. He said it would be "more of a cashy sort of thing later on". Mr Croasdale agreed. They arranged for the plans and documents to be delivered to Mr Croasdale at Landgate. That was done. Later, on 6 September 2007 Mr Croasdale went to the Tuscom offices after work, where he gave detailed advice to Mr Teoh about the drawings and plans to be lodged. He received at least \$100 worth of alcohol gift vouchers for this.

[40] The Commission was also advised that other staff had brought the matter to Mr Cribb's attention and that Mr Pallotta recalled that Mr Hawser had received a separate envelope which he had left in his desk drawer. Information received by the Commission indicated that this envelope had been received from Mr Hoot Khoon (James) Teoh.

[55] The company Tuscom Subdivision Consultants Pty Ltd is solely directed by Mr Teoh. Originally registered in 1990, the business employs approximately 11 staff and provides planning, surveying and administrative organisation for subdivisions of properties.

[56] Prior to establishing this business Mr Teoh was previously employed by the Lands and Surveys Department (now know as Landgate) between 1982 and 1989. Mr Teoh is a licenced surveyor who holds directorships of various companies involved in property development.

[72] The cards purported to have been purchased by Mr Teoh were purchased from the Booragoon Liquorland store on 14 May 2007. Commission inquiries established that the cards were purchased using an American Express credit card linked to an account in the name of Ms Sau Thean Chiew. Ms Chiew is Mr Teoh's wife. Additionally, a Fly Buys reward card in the name of Teoh was used with the transaction.

[95] Mr Teoh and Mr Croasdale met outside of Landgate, in relation to a surveying project that Mr Teoh had been awarded for the proposed Capital Square Development in Perth. The purpose was so that Mr Croasdale could provide direct and detailed assistance to Mr Teoh in the preparation of application documents in respect of that development. In return for that assistance Mr Teoh gave him (at least) \$100 worth of gift vouchers for the purchase of alcohol.

[96] As previously stated all strata plans that are lodged with Landgate are required to be lodged by a licensed surveyor. Surveyors in Western Australia are licensed under the provisions of the Licensed Surveyors Act 1909 ("the Surveyors Act"), and must hold a practising certificate under the Surveyors Act.

[98] All strata plans lodged with Landgate are lodged with a Certificate of Licensed Surveyor that is required to be signed by the surveyor. This form, known as a "Form 5", certifies that in respect to a lodged strata plan, the lots, illustrated buildings and all other relevant information are correct, as required by the Strata Titles Act 1985.

[99] Each page of the lodged plan bears the surveyor's signature further certifying that the plan is accurate and correct, pursuant to the Licensed Surveyors (Guidance of Surveyors) Regulations 1961.

[100] The Land Surveyors Licensing Board (LSLB) of Western Australia has set

guidelines in relation to any errors that may be contained in the lodged plans, and the actions that may be taken. These range from minor changes being made by examining staff, through to a charge being brought against a surveyor by the Board.

[103] Although a licensed surveyor, Landgate managerial staff informed Commission investigators that Mr Teoh appeared to be using Landgate staff as a method of “quality assurance” in an effort to correct any errors in work lodged by his company.

Further, we have had some indicative work undertaken that utilise data from Nearmap.

Whilst we recognise this data is far from perfect, the message is simple: there has been significant fill added to the site relative to the natural ground level, around 1 m over the selected profile as attached. [This is visible from simple inspection of past photos and the existing circa 0.6 m of fill build up along the substantial dividing fence along the northern boundary, all without the adjoining property owners' consents.](#)

[You should be aware that the 18 Tweeddale Road properties are on the market.](#) We would hate to see any new owners be lumbered with these ongoing compliance issues. We believe the City has the powers and duty to act to protect consumers in such instances by promptly and properly resolving any compliance issues it is aware of.

We ask you to, in the interest of full transparency, accountability and consumer protection:

1. Explain why Mr Prendergast failed to even acknowledge our 16 August email to him (below), something that falls outside of the City's Customer Service Standards.
2. Explain why the City has failed to take action from complaints about breaches of the Building Act, [including the ground level build-up against the substantial dividing fence without the Part 6 consents from the adjoining property owners.](#)
3. Ensure we get full and properly answers to our questions put to Mr Prendergast on 16 August.
4. Explain what the City is doing to address the alleged planning and building non-compliances associated with the basement and exist ramps of the proposed developments at 18 Tweeddale Road, that are consistent with the many other similar non-compliances at other such development in the City.
5. Outline exactly what controls the City has in place to ensure [the type of corruption outlined in the CCC's report](#), and any other inappropriate collusion and conduct between City offices, and those involved in the Property Development Industry, absolutely does not happen at the City. When was the last time these controls were thoroughly risk assessed and audited by external experts.
6. Outline the City's plan and schedule to properly deal with the yet to be actioned 2021 Council motions related to these 18 Tweeddale Road Applecross complaints and issues.

Yours sincerely

Committee

From: City of Melville Residents and Ratepayers Assoc. <melville.residents@outlook.com>

Sent: Tuesday, 16 August 2022 7:19 AM

To: peter.prendergast@melville.wa.gov.au <Peter.Prendergast@melville.wa.gov.au>

Cc: Cr Clive Ross <clive.ross@melville.wa.gov.au>; Cr Nicholas Pazolli <nicholas.pazolli@melville.wa.gov.au>; Marten Tieleman <Marten.Tieleman@melville.wa.gov.au>; Steve Cope <Steve.Cope@melville.wa.gov.au>; Cr Katy Mair <katy.mair@melville.wa.gov.au>; Cr Margaret Sandford <margaret.sandford@melville.wa.gov.au>; Riaz.Shahani@melville.wa.gov.au <Riaz.Shahani@melville.wa.gov.au>

Subject: City's compliance activities - 18 Tweeddale Rd Applecross - unauthorised site works/ground level build-up

Mr Prendergast,

We refer to the current situation at 18 Tweeddale Rd Applecross that is causing detriment to adjoining property owners as described on [Linkedin](#) and [Facebook](#)

Attached is our 13 October 2020 compliant to the CEO, and copies of the City's 24 November 2020 and 20 January 2021.

We would like you to confirm,

1. Under what statutory authority the 2 compliance letters were sent, and why that authority, and the respondents review rights, were not outlined in the letter.
2. What were the dates of the inspections undertaken in response to our October 2020 complaint (other than the 24 November 2020 and 19 January 2021 highlighted in the letters). Who did them and using what method. We are particularly interested in the date of the last inspection where it was determined that there was no longer any unauthorised ground level build-up, obstruction of the public thoroughfare, and sea container storage.
3. What were the dates of any other 'compliance letter' exchanged between the property owners.
4. Did the property owners apply for retrospective approvals.
5. Why is there is still an unauthorised build-up of soil (circa 0.6 m) up against the substantial brick dividing fence, that suggests a soil build up across the block.

Yours sincerely

Committee

City of Melville Residents and Ratepayers Association

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Zoom Meeting- The Neighbours of 18 Tweeddale Rd Applecross with the Melville CEO Mr. Marten Tieleman, Mayor Gear, Councillors Pazolli & Kepert, The Head of Statutory Planning Peter Prendergast and Head of Urban Planning Stephen Cope- 13 April 2020

- 18 A & B Tweeddale Rd has been the subject of a lot of controversy over the last 10 years & a lot of frustration amongst its surrounding neighbours, to the point where 2 families sold their neighbouring properties at a loss & left because of what's happened here.
- We thought as our latest CEO & Mayor we should share with you, our Ward Councillors & Planning leaders the effects of what types of things have been going on in the neighbourhood and also share our frustration with the representatives of the Planning Department to see if there is some way our experience can be avoided in the future.

History of the 18 Tweeddale Rd site development proposal process

- Between 2007, 2008 & 2012 there was up to 3m height worth of sand added to the sloping site level by the developer which would add an extra level of city views for his development. There were several problems with this:
 - 1) This extra level would block the existing river views of 3 of the houses on the other side of the road & the sand level is piled up to the top of the neighbouring fences.
 - 2) The extent of the fill far exceeded the R-Code allowances of the time, which predated The Canning Bridge Precinct Plan, passed in early 2016.
 - 3) An agreement signed by 2 of the neighbours (the Youngs & the Woods) for the developer in 2008 in order to build the retaining walls required to raise the sand level, as it currently exists in the council archives, has their caveat omitted. The developer obtained approvals from 2 of the adjacent neighbour's approvals on the condition that only a single 3 storey house would be built on the entire site. The developer apparently then erased this caveat, submitted the remaining agreement to the planning department, added the extensive fill, and subdivided & sold half of the property. The effected neighbour consultation excluded the 3 neighbours across the road which would have their views obstructed due to the development building height facilitated by the fill.
- Once the developer submitted plans for the second time & the neighbours were notified about the proposal (we weren't notified the first time) we presented our concerns about the ground level & the proposal, to the council's Agenda Briefing Forum on the 3 February 2015, a Special Meeting of Councillors onsite on 15 February 2015 & a Full Council Meeting on 17 February 2015.
- This extent of the fill was denied by the responsible Planning Officer during the site meeting on 15 February 2015 & in these 2 council meetings, despite the fact that we had presented the original site survey produced by the property developer himself in 2007, together with the builder's retaining wall sectional drawings. We were also concerned to note that one planning officer Mr. Shigeyoshi- that had originally responded to our concern letter regarding the fill dismissing our concern that the fill was illegal in December 2009- had since left his job at the council & was officially representing the developer during the onsite council meeting. Furthermore, we were alarmed to learn that in that in December that same year 2009, the property developer was investigated for misconduct through paying Landgate Officers by the Crime & Corruption Commission, as it is stated on the public records.

- All records of the 18 Tweeddale Rd site levels prior to 2007 also disappeared from the council archives. We were told by the Planning Officer at the Ground Floor front desk that they had perished in a fire in the council basement when we went to lodge an FOI request with the Planning Department. This was reaffirmed by the responsible Planning Officer & the previous CEO Dr Silcox during both of the council meetings. 8 of the 13 councillors voted against us in the 2 meetings, denying our explanation of the fill.
- When the developer's latest proposal for the site again came before the council during the Council Meeting on 16 February 2016, the responsible Planning Officer said, when he was called to the stand, that he had a 1974 Water Corp site plan which showed the finished floor level of the house previously existing on property was consistent with that shown on the property developer's site survey plan. When he was questioned about where the drawing had appeared from, given that he had said that there had been a fire in the council basement, he said that he had found it in a fire-proof cabinet. Nobody asked him to produce the drawing, so again the same 8 councillors voted against us in favour of the developer's proposal.
- In late 2017, following the newly approved Canning Bridge Activity Centre Plan, the developer had submitted a new development proposal. This proposal was for a 6 storey development (officially a 4 storey apartment building plus a basement & a large roof terrace access structure), which had 6 major non-compliant items including infringements on setbacks, overall height, ground finished floor levels, percentile affordable living requirements & basement level heights. The new proposal included, presumably following the advice of the Melville Planning officers, elevations of the retaining walls built in 2007 & the original site levels, both with the stamps of approval of the Planning Department officers dating back to 2008. The fill was therefore being openly admitted; evidence of its approval by the "delegated local authority" (the Melville Planning Department) thus paralysed any argument against it.
- During a subsequent Special Meeting of the Council on 23 January, 2018 where we made a deputised presentation voicing our concerns that once again the developer was seeking further exemptions on his previous approval, the responsible Planning Officer affirmed the position that the fill had been added & it had been "retrospectively approved" over the Planning Department's original approval from 2008, so it was no longer a subject of debate.
- There was a final JDAP meeting on the matter, and despite our planning barrister Peter Ward's unbiased investigation of the proposal which showed that it was unlawful on all 6 counts, all 5 JDAP members supported the responsible Planning Officer's arguments. The responsible Planning Officer stated during this meeting that the proposal was "compliant", even though there was 6 points of non-compliance as outlined by the barrister.

All in all, we believe there were 10 points of procedural unfairness during the meeting, which we documented & signed.

Prior to the meeting the responsible Planning Officer stood behind the Head Adjudicator's booth for about 10 minutes, where they were whispering with each other, we assumed regarding our case.

Probably the most alarming incident during this meeting was: when asked if the WA Planning Commission had approved the fill, the Responsible Planning Officer presented 1 sheet of paper, as opposed to the 4 on council records, presumably page 3 where Approval Conditions 1-5 are listed, but excluding page 4 where it says:

The applicant is advised that Condition No. 7 should not be construed as approval to fill the subject land to the levels depicted on the submitted plan of subdivision. The applicant is advised to liaise with the City of Melville regarding development of dwellings that will provide for the protection of amenity of surrounding residences.

We requested to the JDAP Chairman to allow us to present the relevant complete document, but he quite aggressively told us twice to stand down.

We were also disappointed during this meeting to see that the 2 Melville Councillors Barling & Robbins, residing on the panel at the time, supported the developer despite its 6 non-compliant points, one of them stating that “this is the type of development we want to see in the City of Melville”, then going on to reject another development proposal because it was non-compliant on 2 points.

- Next, we wrote a complaint letter to the Department of Local Government with a case history & after one year their auditor Ron Murphy sent us a letter saying that he couldn't see any breaches of the Local Government Act in our case, despite us giving several instances of document omissions.

Most recently:

- We've had a relapse of the moving site level problem again, where it's crept up about 2 m on the higher end of the site. The builders have commenced site works on the site, cutting sand for the basement & using it to boost the ground levels more. Additionally, between 6-7 truckloads of off-site sand have also been brought to the site, as well as fill cut from the site, as shown in the attached photos.
- The developer has commenced advanced site works, erected a street boundary fence & a large onsite construction shed, all without a Planning Approval or a Building License. Given the site history, we are concerned that planning officers may have given him the proceed with any encroachments of the current building codes as he pleases, guaranteeing that more “retrospective approval” will follow. This way neighbour consultation regarding non-compliant items can be stamped out. The developer applied for amendments 6 months after the JDAP approval in March 2018- the amendments took 6 months to approve- usually they only take 2 months, and we have not been given access to what these amendments are at the Planning Department front desk.

Some humble requests for the consideration of the CEO & the City:

(a) We humbly request a serious investigation into what has happened in the history of this case, starting with an unbiased & transparent investigation of the ground level manipulation which has been going on on-site for the last 13 years. We believe the full council meetings which were conducted on this matter with the previous council & the JDAP meetings considering this matter were hampered by a lack of transparency to the detriment of ratepayers. We can provide records of these meetings & evidence that the fill & the approvals for the fill onsite were obtained illegally. **We would like the levels to be restored to their original 2007 levels.**

(b) In order to restore our confidence in the Planning Department, **we would like to see that what is approved & built actually complies with the Canning Bridge Area Plan**, and if it breaches any of the requirements of the plan which we believe will denigrate our existing amenities & property prices we request that neighbour comments be taken into account- not invited as a display of democratic rate payer rights then completely ignored, which has been the pattern over the last 10 years with the previous administration. Justifying the approval of non-compliant proposals through “performance” seems self-contradictory to us.

(c) **All of the surrounding neighbours of 18 Tweeddale Rd. would like to know what is going to be built on the site**, especially considering that we have been voicing our concerns about transparency & compromised ratepayers' rights over the last 10 years.

(d) **A serious review of "retrospective approvals"**, which appear like mechanisms for whereby developers are given the green light to override current planning laws to maximise their profits, while sidestepping potential complaints from ratepayers, who would otherwise be entitled to have their rights & welfare considered.

- Because of the feelings that still exist because of the development, we believe the community was deprived of a reasonable hearing through the process of this application being approved.
- Along the way there has been a dilemma of disconnect that the community has felt particularly amongst people close to the site. There is a serious frustration that community members weren't given a fair hearing & a fair outcome which would acknowledge their interests as well as the interests of the developer.
- What we should be able to reflect on these management issues so they can be harnessed and driven into new processes so the community may be included in these processes.

Our Course of Complaints (Deputised Presentations at the City of Melville etc)

3 February 2015- Agenda Briefing Forum

12 February 2015- Special Meeting of Councillors onsite

17 February 2015- Council Meeting

2 Feb 2016- Ordinary Meeting of the Council: Council Agenda Briefing Meeting- 6.30 pm

16 Feb 2016- Council Meeting

17 Dec 2017- letter & email to Minister for Local Government, Mr. Templeman. On 27 Dec 2017- he referred us to the Minister of Planning Ms Saffioti

23 January 2018- Deputised Presentation, Special Meeting of the Council- 6.30 pm

JDAP 1- February 2018

31 February- We met David McFerran from Ms Saffioti's office

JDAP 2- March 2018

3 April 2018- letter & email to the Public Sector Commission- Minor Misconduct

4 October 2019- Department of Local Government- complaint letter & email to Ron Murphy

TIMELINE: 18 A & B Tweeddale Rd, Applecross unauthorised work, ground level changes, non-compliances

This draft timeline is based material available to the best of our ability.

2007: Old dwelling demolished on 18 Tweeddale Rd Applecross.

- a. The developer submitted a **subdivision application to the WAPC** for 18 Tweeddale Rd Applecross. We have been unable to locate a properly certified land level survey by a licensed surveyor.
- b. The **WAPC granted a conditional approval**, subject to consent by “affected neighbours”.
- c. **2007- 2012: up to 3m height worth of sand was added** to the sloping site creating a horizontal site.
- d. Several unauthorised large truckloads of sand deposited onto the site (see photos).
- e. **The CCC investigated the 18 Tweeddale Rd surveyor / developer James Teoh**, for bribing Landgate officers, raising concerns over the quality of his work. The CCC report was published in June 2009.

November 2008: Consents were obtained from 2 affected neighbours,

- a. However, a caveat was added onto the survey plan of the site, stipulating that there would only be a single dwelling built on the property.
- b. **3 large truckloads of sand** are added to the site.

December 2008: City planning officers issued a retrospective planning approval

- a. DA20081557 for boundary retaining & dividing walls along the Northern & Eastern boundaries.
- b. The approved plans were not certified by a licensed land surveyor as required by legislation.
- c. The approved plans clearly stated that they were a Planning Approval only & were not a Building License, highlighting that it was the Builder’s responsibility to provide documentation in support of an application for a Building License. We have seen no evidence of a Building License ever being issued.
- d. DA20081557 showed that the approved ground level was to the top of the retaining wall with a 1.8 m screen dividing wall on top of it.
- e. City officers have not referred to any building approvals as part of their Council reports

2012: Developer submits plans

- a. Developer submits plans for a 3 storey apartment building to the Melville Council, which rejects the proposal. Neighbours were not notified.
- b. **The developer applies to SAT**, which invites the Melville Council to reconsider the application & the Council subsequently issues the developer a Planning Approval for the 3 storey apartment building proposal.
- c. At least 1 more unauthorised large truckload of sand deposited onto the site (see photos).

2015: The previous DA expires

- a. the developer submits another proposal for 18 Tweeddale Rd.
- b. **2 February 2015:** Neighbours submit concerns regarding the raised ground level & the otherwise non-compliant proposal to the Council Agenda Briefing Forum.
- c. **12 February 2015:** Special Elected Members Meeting onsite to consider sand levels.
- d. **16 February 2015:** Neighbours present a deputised presentation at the Ordinary Meeting of the Council.

2016 circa: Canning Bridge Activity Centre Plan implemented by the Melville Council.

- a. **16 February 2016:** Developer submits new plans for a development proposal for 18 A Tweeddale Rd.
- b. The ground levels are extensively debated by affected neighbours & the planning officers at the Council Meeting.

TIMELINE: 18 A & B Tweeddale Rd, Applecross unauthorised work, ground level changes, non-compliances

2017-18 Around November: Developer submits a new development proposal

- a. November 2017 circa Developer submits a new development proposal for a grossly non-compliant 6 storey development for 18 A & B Tweeddale Rd.
- b. **17 December 2017:** Neighbours send a letter & email to Minister for Local Government, Mr. Templeman outlining apparent malperformance of planning officers in relation to 18 Tweeddale Rd Applecross.
- c. **23 January 2018:** Neighbours make a deputised presentation at a Special Meeting of the Council.
- d. **February 2018: JDAP 1 (reconvened).**
- e. **31 February 2018:** David McFerran from Ms Saffioti's office met with us, but indicated that "nothing could be done" regarding the planning transgressions & apparent officer malperformance on Tweeddale Rd.
- f. **March 2018 JDAP 2** approves developer's non-compliant scheme.
- g. **April 2018:** JDAP supports planning officer recommendation that the proposal was "compliant" despite 6 major compliances. Neighbours document 10 points of procedural unfairness (including misrepresentation of WAPC documents) during the meeting.
- h. **3 April 2018:** Neighbours send a letter & email to the Public Sector Commission citing Minor Misconduct of the responsible Melville planning officer during the JDAP case (apparent misrepresentation of WAPC documents).

2019-2020 Developer seeks planning approval amendments, more sand arrives & neighbours complain to DLGSC & MRRA complains to City of Melville CEO

- a. **September 2019 circa**, the developer applied to the City of Melville for amendments to the JDAP approval.
- b. **4 October 2019: Neighbours sent complaint letter to the Department of Local Government** regarding the 18 Tweeddale Rd case.
- c. **March 2020 circa:** Melville planning officers approve the developer's proposed amendments.
- d. **March 2020:** the JDAP approved DA from 2018 lapses due to no registered building activity onsite.
- e. **13- 16 March 2020:** Neighbours filmed & photographed 6-7 large truckloads of sand being added to the site, without a planning approval or building license.
- f. **May 2020: Zoom Meeting regarding unauthorised fill held with Melville Mayor, CEO, Head of Statutory Planning, Head of Urban Planning, 2 Applecross Ward Councillors & 8 neighbours.** CEO pledges to investigate "any evidence of corruption".
- g. **May 2020- January 2021: Neighbours email CEO 8 times** with additional information & enquiries regarding the progress of the matter, but receive no response.
- h. **July 2020:** Developer applies to Council for a 3 year time extension on the lapsed DA from 2018.
- i. **14 July 2020: Special Meeting of the Council.** The Young's planning barrister Matthew Pudovskis presents a deputised presentation to the Council regarding the unlawful status of land manipulation onsite. The Council & the planning officers vote against a DA time extension.
- j. **July 2020:** Developer appeals the Council decision to the JDAP.
- k. **3 August 2020- JDAP 1 rejects the DA time extension** request on grounds of non-compliance.
- l. **September 2020 SAT-** Affected neighbours the Youngs (15 Riverway Applecross) are admitted into the SAT proceedings.
- m. **October 2020 circa: Neighbours received a letter** from Ron Murphy (who was the investigator for the sham 2017-2019 Authorised Inquiry into City of Melville) stating that he couldn't see any breaches of the Local Government Act in our case, despite us giving several instances of tampered documents.
- n. **October 2020 City of Melville Residents & Ratepayers Association complain to CEO** Marten Tieleman about the unauthorised building work/earthwork on the site.

TIMELINE: 18 A & B Tweeddale Rd, Applecross unauthorised work, ground level changes, non-compliances

- o. **4 November 2020: Special Meeting of the Council.** The Council unanimously votes to direct the CEO to remove any unauthorised fill from 18 A & B Tweeddale Rd. Planning Officers dispatch 2 letters asking the developer to remove any authorised fill **from 18 B only**.
- p. **17 November 2020- JDAP 2 rejects the DA time extension request** on grounds of non-compliance.
- q. **27 November 2020- SAT proceedings continue.**
- r. **19 February 2021: SAT final hearing.** The Presiding SAT Member apparently **incorrectly cites Australian case law** in support of his decision to approve the DA time extension request.

2021+ More unauthorise fill and lack of compliance action by the City of Melville officers and CEO

- a. **March 2021:** on the final day in the permissible months given to the developer to remove unauthorised sand, he apparently removes 1 out of 7 large truckloads of sand from the site.
- b. **Council Meeting 18 May 2021: Deputised neighbour presentation to the Council,** stating that the majority of the sand has not been removed from the site. Planning officers recommend a report be written, stating that this report will take 2 months.
- c. **19 May 2021: JDAP 3 approves the DA time extension request, but for 2 instead of the 3 requested years.** Despite previously rejecting the proposal on grounds of non-compliance, 2 of the panel members “change their minds” without any plausible explanation, thereby swinging the vote in the developer’s favour.
- d. **15 June 2021:** Mayor obstructs further conversation on the unauthorised fill matter before the Council, stating that it is **“a waste of time”**.
- e. **Council Meeting 14 September 2021.**
- f. **Council Meeting 21 September 2021.**
- g. **17 August 2021: Ordinary Meeting of the Council.** 2 deputised presentations to the Council providing 8 pieces of photo & video evidence of the unauthorised fill added to the site in March 2020. Site level report is produced by planning officers stating that there is no fill added to the site. Council directs the CEO to commission an independent site surveyor to produce a contour survey of the site.
- h. The Administration reports that surveyors were not interested, as they are unable to access the fenced off site.
- i. **April 2022:** Developer adds more sand to the site. Around 30 sandbags remain substituting the verge kerb.
- j. **September 2022:** Given reluctance of Mayor to allow discussion on the matter, a petition & **written submission is made to Council Briefing Forum** including photos clearly showing extent of fill.
- k. Officers recommend writing another report on the alleged existence of unauthorised fill onsite, due in November.