

# **MINUTES**

## **SPECIAL MEETING OF THE COUNCIL**

**6.00PM TUESDAY, 7 JUNE 2022**

Held in the Council Chambers, Melville Civic Centre  
10 Almondbury Road, Booragoon

**Marten Tieleman**  
**Chief Executive Officer**

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.

**Minutes to be confirmed at the next Ordinary Council Meeting**

These minutes are hereby confirmed as true and accurate

Mayor Gear \_\_\_\_\_

Date \_\_\_\_\_



City of  
**Melville**

## Message from the Mayor

I pledge to the ratepayers and citizens of the City of Melville that the elected council and the administration will work effectively together to deliver the best policies, services and communication that we can.

Decisions that we make on behalf of our residents will be guided by our Strategic Community Plan and our Corporate Business Plan. At all times we will seek to engage directly and through our media and mailouts to find out what is important to our community. It is your views and priorities that will guide our decisions.

## Our Vision

Engaging with our diverse community to achieve an inclusive, vibrant and sustainable future.

## 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

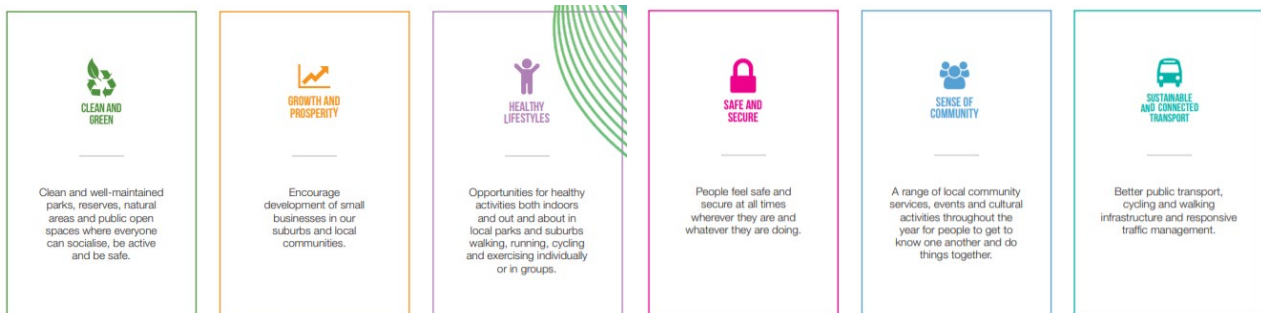
Involving, collaborating and partnering

### Integrity

Acting with honesty, openness and with good intent

### Caring

Demonstrating empathy, kindness and genuine concern



## **Disclaimer**

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Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the City must obtain, and should only rely on, written notice of the City's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the City on the operation of written law, or the performance of a function by the City, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the City. Any advice on a matter of law, or anything sought to be relied upon as representation by the City should be sought in writing and should make clear the purpose of the request.

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### REPORTS FROM COMMITTEES

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Nil.

### REPORTS

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#### Urban Planning

P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and  
No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19) 8

### MOTIONS

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#### With Previous Notice

Nil.

#### Without Previous Notice

Nil.

### MATTERS FOR WHICH THE MEETING WAS CLOSED

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Nil.

## 1 OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm and invited Cr Karen Wheatland to read the Acknowledgement of Country and advised those present of the Disclaimer, the Affirmation of Civic Duty and Responsibility and the Audio Recording Advice.

### **Affirmation of Civic Duty and Responsibility**

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

## 2 ATTENDANCE AND APOLOGIES

### In Attendance

Mayor Honourable G Gear

### Councillors

Cr T Fitzgerald (until 7:42pm)  
(Deputy Mayor)  
Cr K Wheatland  
Cr N Pazolli (until 6:31pm)  
Cr C Ross  
Cr D Macphail  
Cr N Robins  
Cr G Barber  
Cr M Woodall (until 6:12pm)  
Cr J Spanbroek  
Cr M Sanford  
Cr K Mair

### Ward

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

### Officers

Mr M Tieleman  
Mr S Cope  
Mr A Ferris  
Mr M McCarthy  
Mr P Prendergast  
Mr B Taylor  
Mr A Quintiliani  
Ms C Newman  
Ms R Davis  
Chief Executive Officer  
Director Urban Planning  
Director Corporate Services  
Director Environment and Infrastructure  
Manager Statutory Planning  
Manager Governance and Property (electronic attendance)  
Planning Officer  
Governance Coordinator  
Governance Officer (electronic attendance)

At the commencement of the meeting:

Public Gallery	19
Electronic	0
Press	0

Dr Jags Krishana MLA Member for Riverton

## Apologies

Cr J Edinger – Bicton-Attadale-Alfred Cove Ward

## On Approved Leave of Absence

Nil.

## 3 DECLARATIONS BY MEMBERS

### 3.1 Declarations by Members who have not read and given due consideration to all matters contained in the business papers presented before the Meeting.

Nil.

### 3.2 Declarations by Members Who Have Received and Not Read the Elected Members Bulletin.

Nil.

## 4 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

### Approved Deputations:

- Mr B Toms of Bull Creek – Item P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19)
- Ms T Belcher and Ms S Hunt representing Leeming Child Care Centre – Item P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19)

### Approved Written Submissions:

- Mr M Fitzgibbon of Melville [written submission dated 3 June 2022](#) – Item P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19)

## 5 DISCLOSURES OF INTEREST

### 5.1 Financial or Proximity Interests

Under sections 5.60A and/or 5.60B of the *Local Government Act 1995*

### 5.2 Disclosure of Interest That May Cause a Conflict

Under *22 Local Government (Model Code of Conduct) Regulations 2021* or a City of Melville Code of Conduct

- Cr M Woodall – Item P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19)
- Cr N Pazolli – Item P22/3987 Proposed Child Care Centre Premises – No. 1 (Lot No. 3) Dirk Hartog Road and No. 2 (Lot No. 4) Bass Road Bull Creek (DAP-2021-19)

## 6 PUBLIC QUESTION TIME

### 6.1 Questions Received with Notice

Nil.

### 6.2 Questions at the Meeting

Q1 Mr Stuart Ball of Bull Creek

*Our many concerns is the traffic safety impact on this particular location – the application by the proponent is based upon 2020 traffic flows. Why have the 2021 traffic statistics (not) been used when in that year there were 2 accidents in the area?*

#### Response

The Director Urban Planning responded that the development application has been accompanied by a traffic impact assessment which has been considered by the City and reviewed City's Traffic Engineering personnel who have deemed it to be satisfactory.

Q2 Mr M Rowles of Bull Creek

*Giving due consideration to the submissions received and petition (as per RAR p7 dot point 12) and comparable developments in other districts will the Council not endorse the recommendation in the RAR as per Alternate Options and their Implications para 2?*

#### Response

The CEO responded that this is a decision for the Council tonight.

## 7 AWARDS AND PRESENTATIONS

Nil.

## 8 APPLICATIONS FOR NEW LEAVES OF ABSENCE

### **COUNCIL RESOLUTION**

At 6:11pm Cr Sandford moved, seconded Cr Robins –

**That the application for a new leave of absence submitted by Cr Woodall on 7 June 2022 be granted.**

At 6:11pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (12/0)**

## 9 NEW BUSINESS OF AN URGENT NATURE

Nil.

## 10 IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

## 11 REPORTS

### Disclosure of Interest

Member	Cr Pazolli
Type of Interest	Interest under the Code of Conduct
Nature of Interest	DAP panel member that will be a decision maker for this development application.
Request	Stay, Discuss and Vote
Decision Leave	Stay, Discuss and Vote

Member	Cr Woodall
Type of Interest	Interest under the Code of Conduct
Nature of Interest	Member of the JDAP that will consider this item.
Request	Leave
Decision Leave	Leave

*At 6:12pm having declared an interest in this item, Cr Woodall electronically disconnected from the meeting and did not return.*

At 6:12pm Mr Toms of Bull Creek commenced a deputation.

### **Procedural Motion**

#### **COUNCIL RESOLUTION**

At 6:23pm Cr Spanbroek moved, seconded Cr Wheatland –

**That Mr Toms be granted a further 5 minutes to speak to his deputation.**

At 6:23pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

At 6:27pm, Mr Toms concluded his deputation. [Deputation Presentation P22/3987 – Mr B Toms](#).  
At 6:32pm Mr Toms returned to the Public Gallery.

*At 6:31pm Cr Pazolli electronically disconnected from the meeting and did not return.*

At 6:32pm the Mayor acknowledged the attendance of Dr Jags Krishana MLA Member for Riverton at the meeting.

At 6:33pm Ms Belcher and Ms Hunt representing Leeming Child Care Centre commenced a deputation, which concluded at 6:45pm. [Information Tabled P22/3987 – Ms Belcher and Ms Hunt](#). At 6:52pm Ms Belcher and Ms Hunt returned to the Public Gallery.

At 6:53pm the Mr Prendergast, Manager Statutory Planning, and Mr Quintiliani, Planning Officer, entered the meeting for the purpose of answering questions.

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

Ward : Bull Creek - Leeming  
 Category : Operational  
 Application Number : DAP-2021-19  
 Property : No. 1 (Lot No. 3) Dirk Hartog Road & No. 2 (Lot No. 4) Bass Road, Bull Creek  
 Proposal : Proposed Child Care Centre Premises  
 Applicant : Alan Stewart, Stewart Urban Planning  
 Owner : Nathan John Gorman  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Item 13.2 Petition – Opposition to Child Care Centre, Corner Bass/Benningfield Roads, Bull Creek - Ordinary Meeting of the Council on 15 March 2022  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

**KEY ISSUES / SUMMARY**

- This Responsible Authority Report (RAR) is referred to Council for information in accordance with Local Planning Policy 1.1, having been called up by Cr Spanbroek.
- Approval is sought for a Child Care Centre premises at No. 1 (Lot 3) Dirk Hartog Road and No. 2 (Lot 4) Bass Road, Bull Creek. The cost of the development is \$2.3 million and the applicant has opted-in for the application to be determined by the Metro Inner South Joint Development Assessment Panel.
- The application is for the demolition of the existing development on site and the construction of a two storey Child Care Centre Premises.
- The building is proposed to be two storeys in height and will comprise of 240m<sup>2</sup> of indoor play area, 489m<sup>2</sup> of outdoor play area and other amenities associated with the delivery of child care such as a reception area, staff rooms and a kitchen.
- The Child Care Centre has been designed to accommodate 66 children and 11 staff members of the following age demographics;
  - 8 places for children aged 0-2 years;
  - 10 places for children aged 2-3 years; and
  - 48 places for children aged 3-5 years.
- Landscaping, including the retention of an existing tree on site is also proposed as part of the development.
- The operating hours of the centre are between 6:30 am and 6:30 pm Monday to Friday.
- 13 on-site car bays (including one ACROD bay) and five bicycle bays have been provided.
- The proposed development has been assessed against the provisions of Local Planning Scheme No.6 (LPS6), Local Planning Policy 1.12 Child Minding Centres and Family Day Cares (LPP1.12), as well as a number of local and state planning policies.
- The RAR has been prepared by officers and is required to be submitted to the JDAP under the *Planning and Development (Development Assessment Panel) Regulations 2011* by midday 8 June 2022.
- The proposal was the subject of public consultation in accordance with LPP 1.1: Planning Process and Decision Making.
- During the advertising period 160 individual written submissions were received – 141 objecting to the proposal and 19 comments in support. A petition with 221 signatures objecting to the proposed development was received by the Council at its Ordinary Meeting held on 15 March 2022.
- The recommendation of the RAR is that the JDAP conditionally approve the proposed development.
- A copy of the resolution of the Ordinary Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
Structure Plan Zoning	: N/A
R-Code	: R20
Use Type	: Child Care Premises
Use Class	: 'A' Use

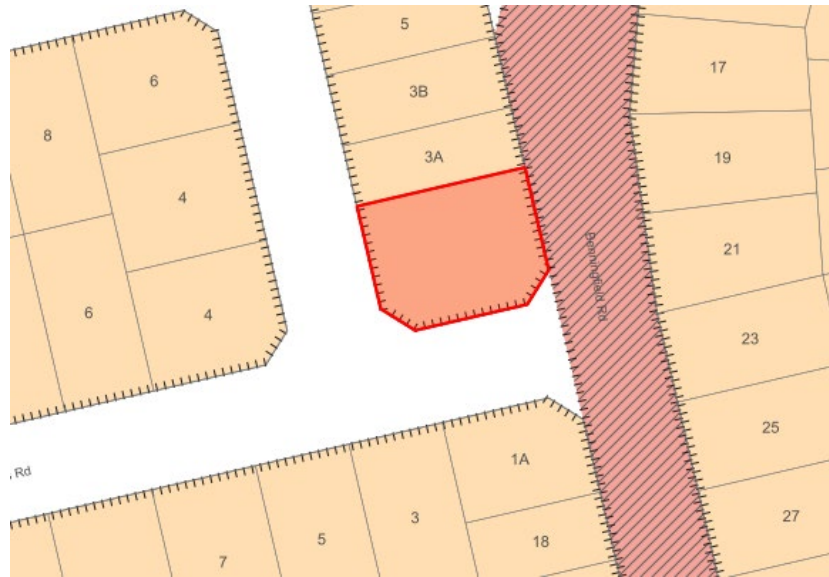
**Site Details**

Lot Area	: 983.00sqm
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: Footpath on Bass Road and Benningfield Road
Site Details	: Refer to Figure 1 above



**Figure 1: Aerial Image of the subject site**

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**



**Figure 2: Zoning Map of the subject site.**

**DETAIL**

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

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

[DAP Responsible Authority Report Final \(RAR\)](#)

[P22/3987 Attachment 1 Town Planning Report](#)

[P22/3987 Attachment 2 Town Planning Report](#)

[P22/3987 Attachment 3 Development Plans](#)

[P22/3987 Attachment 4 Landscape Plan](#)

[P22/3987 Attachment 5 Traffic Impact Statement](#)

[P22/3987 Attachment 6 Acoustic Assessment](#)

[P22/3897 Attachment 7 Operational Management Plan](#)

[P22/3987 Attachment 8 Sustainable Design Report](#)

[P22/3987 Attachment 9 Waste Management Plan](#)

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

**STAKEHOLDER ENGAGEMENT**

Refer to the RAR attached to this report.

**STATUTORY AND LEGAL IMPLICATIONS**

The cost of the development requires that it be determined by the JDAP. As required by the *Planning and Development (Development Assessment Panel) Regulations* the City has prepared a responsible authority report which outlines the relevant issues to assist the JDAP in making its determination.

**FINANCIAL IMPLICATIONS**

None applicable.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The recommendation of this report is for Council to endorse the recommendation in the RAR for the JDAP to approve the application.

Council may resolve not to endorse the recommendation within the RAR on the basis that the proposed development will introduce a commercial land use within a residential context, and that may be of detriment to residential amenity.

The minutes of the Ordinary Meeting of Council will be attached to the RAR and forwarded to the JDAP for its consideration.

Where Council wishes to provide a deputation to the JDAP in support of a resolution, a nominated Elected Member on behalf of Council may request to make a deputation at the JDAP meeting. The authorisation to grant a request to make a deputation rests with the Presiding Member of the JDAP.

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

**OFFICER RECOMMENDATION (3987)**

**APPROVAL**

At 7:20pm Cr Fitzgerald moved, seconded Cr Macphail –

**That the Council:**

- 1 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 APPROVE the application for the proposed Child Care Centre Premises at No. 1 (Lot 3) Dirk Hartog Road and No. 2 (Lot 4) Bass Road, Bull Creek.**
- 2 Direct the CEO to advise the lead petitioner of the Council decision.**

At 7.26pm during the discussion and debate the mover and the seconder accepted the following changes to the officer recommendation:

- That the following be added to the end of point one  
“subject to
  - a) The recommendation set out in the Noise Assessment prepared by ND Engineering are to be implemented and adhered to for the duration of the occupancy or use of the development, unless otherwise approved by the City of Melville
  - b) A noise report (including ground truthing noise emissions) is to be submitted by an accredited consultant, within 3 months of the development commencing that confirms noise from the development complies with the Environmental protection (Noise) Regulations 1997, to the satisfaction of the City. This report shall be at the applicants cost.”
- That a new point 2 be included as follows:  
“2. Alter the approved hours of operation to 7am to 6:30pm.”
- That the current number 2, be renumbered number 3.

*At 7:36pm Mr Ferris left the meeting and returned at 7:41pm.*

**P22/3987 – PROPOSED CHILD CARE CENTRE PREMISES – NO. 1 (LOT NO. 3) DIRK HARTOG ROAD AND NO. 2 (LOT NO. 4) BASS ROAD, BULL CREEK (REC) (ATTACHMENTS)**

**Officer Recommendation as Amended**

At 7:20pm Cr Fitzgerald moved, seconded Cr Macphail –

**That the Council:**

- 1 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 APPROVE the application for the proposed Child Care Centre Premises at No. 1 (Lot 3) Dirk Hartog Road and No. 2 (Lot 4) Bass Road, Bull Creek, subject to:**
  - a) The recommendation set out in the Noise Assessment prepared by ND Engineering are to be implemented and adhered to for the duration of the occupancy or use of the development, unless otherwise approved by the City of Melville**
  - b) A noise report (including ground truthing noise emissions) is to be submitted by an accredited consultant, within 3 months of the development commencing that confirms noise from the development complies with the Environmental protection (Noise) Regulations 1997, to the satisfaction of the City. This report shall be at the applicants cost.**
- 2. Alter the approved hours of operation to 7am to 6:30pm**
- 3 Direct the CEO to advise the lead petitioner of the Council decision.**

At 7:41pm, the Mayor declared the motion

**LOST (3/7)**

<b>Yes</b>	3	Cr Macphail, Cr Fitzgerald, Cr Wheatland
<b>No</b>	7	Cr Ross, Cr Barber, Cr Spanbroek, Cr Mair, Cr Sandford, Cr Robins, Mayor Gear

**Reasons for the decision as provided by the Council**

1. The proposed development:
  - is not consistent with Local Planning Scheme 6 and the City of Melville Local Planning Strategy which aims to limit the introduction of commercial land uses in suburban residential settings.
  - is not serviced by footpaths dual use paths and public transport
  - does not provide adequate area for play space and parking.
2. The play equipment on the upper floor will increase noise in excess of the model level by 10 dBA from 45 – 50 to 55 – 60 dBA.
3. Concern that the site does not have sufficient space to accommodate appropriate waste receptacles.
4. The proposed development will, by virtue of its size and scale, result in an adverse impact on the residential amenity of the locality.

*At 7:42pm Cr Fitzgerald electronically disconnected from the meeting and did not return.*

*At 7:47pm Cr Robins left the meeting and returned at 7:48pm.*

**8 MOTIONS WITH PREVIOUS NOTICE**

Nil.

**9 CLOSURE**

There being no further business to be discussed, the Mayor thanked Dr Jags Krishana MLA for his attendance and interest in this matter, confirmed that Cr Wheatland was in attendance electronically, and declared the meeting closed at 7:51pm.