



State Administrative Tribunal Reconsideration

Responsible Authority Report (Regulation 12)

Property Location:	Nos. 10, 12 & 14 (Lots 311, 800 & 801) Forbes Road and Nos. 40A, 40B & 40C (Lots 802, 803 & 804) Kishorn Road, Applecross
Development Description:	20 Storey Mixed-Use Development comprising 97 Multiple Dwellings, 15 Short Stay Accommodation Units and 5 Non-Residential tenancies (Office, Restaurant, Shop and 2 Co-Working Spaces)
DAP Name:	Metro Central JDAP
Applicant:	McDonald Jones Architects
Owner:	Applecross Land Holdings Pty Ltd
Value of Development:	\$50 million
LG Reference:	DAP-2018-9
Responsible Authority:	City of Melville
Authorising Officer:	Steve Cope Director Urban Planning
DAP File No:	DAP/18/01534
Report Due Date:	20 June 2019 – Specified under State Administrative Tribunal (SAT) order
Application Received Date:	22 November 2018 (Original Submission) 31 May 2019 (Post SAT mediation)
Application Process Days:	21 days
Original RAR Attachment(s):	<ol style="list-style-type: none">1. Development Plans (dated 29 January & 21 February 2019)2. Sustainability Report (dated 21 November 2018)3. Wind Analysis Report (dated 18 September 2018)4. Landscape Report (dated 4 February 2019)5. Waste Management Plan (dated 30 January 2019)6. Transport Impact Statement (dated 15 February 2019)7. Acoustic Report (dated 5 September 2018)8. Planning Control Area 117 – Canning Highway between Riseley Street and Henley Street9. Applicant Response to Objections Received10. Canning Bridge Activity Centre Design Review Panel Meeting Minutes (August and December 2018)11. Canning Bridge Activity Centre Design Review Panel Meeting Comments on Subject Application

<p>Section 31 Reconsideration Attachment(s):</p>	<p>(February 2019)</p> <p>12. Design Report (McDonald Jones Architects) (dated 30 January 2019)</p> <p>13. Amenity Impact Statement (Tuscom Subdivision Consultants) (dated 30 January 2019)</p> <p>14. Minutes Metro Central JDAP Meeting and Responsible Authority Report 7 March 2019.</p> <p>15. Interface Analysis Report (dated 29 May 2019)</p> <p>16. Community Benefit Advice Report (dated 20 May 2019)</p> <p>17. Minutes City of Melville Special Meeting of Council 6 March 2019</p> <p>18. People Places Participation – A Strategic Community Plan for the City of Melville 2016-2026</p> <p>19. Mid View Perspectives.</p> <p>20. Commentary of City of Melville Manager Neighbourhood Development: Proposed Community Benefits.</p> <p>21. Draft Local Planning Policy 1.18.</p>
---------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Officer Recommendation:

That the Metro Central Joint Development Assessment Panel (JDAP), pursuant to Section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 59 of 2019, resolves to:

Reconsider its decision dated 20 March 2019 and **approve** DAP Application reference DAP/18/01534 and accompanying plans dated 21 February 2019 in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Melville Local Planning Scheme No. 6, subject to the following conditions:

Conditions

1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City of Melville or the Joint Development Assessment Panel.
2. Any development and works within Planning Control Area 117 – Canning Highway between Riseley Street and Henley Street, does not form part of this approval.
3. All stormwater generated on site is to be retained on site.
4. Prior to the commencement of development, Lots 311, 800 & 801 Forbes Road and Lots 802, 803 & 804 Kishorn Road, Applecross, shall be amalgamated and new certificate of title obtained for the amalgamated lots.

5. Any proposed fencing which is visible from a public realm is required to comply with Element 16 of the Canning Bridge Activity Centre Plan to the satisfaction of the City.
6. Prior to the initial occupation of the development, all vehicle and bicycle parking bays, manoeuvring areas and points of ingress and egress shall be provided in accordance with the approved plans, to the satisfaction of the City and shall be retained for the life of the development.
7. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.
8. The development shall be serviced by a concrete vehicle crossover with a maximum width of 6m and located a minimum of 2m away from the outside of the trunk of any street tree. The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications, to the satisfaction of the City.
9. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding street(s) or other buildings to the satisfaction of the City.
10. All external clothes drying facilities shall be screened from view of Forbes and Kishorn Roads to the satisfaction of the City.
11. Prior to the commencement of development, details of the exterior colours, materials and finishes are to be submitted to and approved in writing by the City. The development shall thereafter be constructed in accordance with those approved details.
12. In accordance with City of Melville Local Planning Policy *LPP 2.1 - Non-Residential Development*, the removal of, or permanent covering of shopfront windows and openings and the use of reflective or heavily tinted glazing at ground floor level is not permitted.
13. Prior to the commencement of development, a Green Façade Management Plan shall be submitted to and approved in writing by the City. This document shall incorporate but not be limited to the following items at minimum:
 - (a) Provide detailed elevations of the podium level to demonstrate the base architectural position of the green façade, in terms of materials and treatment;
 - (b) Details with regard to access and maintenance;
 - (c) The location, number and type of proposed plants;
 - (d) Description of the planting method and likely plant replacement regime;
 - (e) Fall back position if the green façade fails to establish or is not viable over the longer term; and
 - (f) Details of roles and responsibilities for ongoing maintenance.
14. Prior to the commencement of development, a detailed landscaping and reticulation plan for the subject site and road verges adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include details of (but not limited to):

- (a) The location, number and type of proposed trees and shrubs including planter size and planting density;
- (b) Any lawns to be established;
- (c) Any existing vegetation and/or landscaped areas to be retained; and
- (d) Any verge treatments.

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter for the life of the development, to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.

15. Prior to the initial occupation of the development, a revised Waste Management Plan shall be submitted to and approved in writing by the City. The Waste Management Plan shall be prepared in accordance with the City's Waste Management Guideline for New Developments. Once occupied, the development shall operate in accordance with the approved Waste Management Plan, to the ongoing satisfaction of the City.
16. The development shall operate in accordance with the recommendations set out in the Acoustic Report by Floth dated 5 September 2018 to the satisfaction of the City.
17. Prior to the commencement of development and in accordance with Local Planning Policy *LPP1.4 Provision of Art in Development Proposals* and Element 17 of the Canning Bridge Activity Centre Plan, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City. Alternatively, the public art contribution may be satisfied by a cash-in-lieu payment at the same rate, made prior to the commencement of works.
18. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
19. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of development. The Construction Management Plan shall detail how the construction of the development will be managed including the following:
 - public safety and site security;
 - hours of operation;
 - noise and vibration controls;
 - air and dust management;
 - stormwater, groundwater and sediment control;
 - waste and material disposal;

- Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
- the parking arrangements for contractors and sub-contractors;
- on-site delivery times and access arrangements;
- the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
- any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

20. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development.
21. Prior to the commencement of development, the street trees to be retained within the verge are to be protected through the installation of a Tree Protection Zone (TPZ). Each TPZ is to be installed as per Australian Standard AS4970-2009 and in accordance with the following criteria to the satisfaction of the City:
- A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
 - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
 - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
 - The following actions shall not be undertaken within any TPZ:
 - Storage of materials, equipment fuel, oil dumps or chemicals
 - Servicing and refuelling of equipment and vehicles
 - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
 - Open-cut trenching or excavation works (whether or not for laying of services)
 - Changes to the natural ground level of the verge
 - Location of any temporary buildings including portable toilets
 - The unauthorised entry by any person, vehicle or machinery
 - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.

Once erected to the required standard, the TPZ shall be maintained in good condition to the satisfaction of the City and may only be removed upon occupation of the development.

22. Prior to the commencement of development, detailed plans shall be submitted to and approved in writing by the City demonstrating the proposed car parking bays within the basement and the width and grades of the access ramp to the basement car park are designed in accordance to AS/NZS 2890.1:2004.

23. Prior to the commencement of development, a Management Plan for the control of deliveries to and from the site shall be submitted to and approved in writing by the City. The Management Plan shall be prepared to ensure that all service vehicles entering and exiting the site do so in forward motion. The development shall operate in accordance with the approved Management Plan for the lifetime of the development to the satisfaction of the City.
24. Prior to the commencement of development, a Road Safety Audit shall be submitted to and approved in writing by the City in accordance with the City's Road Safety Audit Policy.
25. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy LPP3.1 Residential Development, to the satisfaction of the City.
26. Prior to the commencement of development, detailed drawings shall be provided to and approved by the City, in relation to the proposed streetscape improvements not within Planning Control Area 117, including street furniture and landscaping.
27. Prior to the occupation of development, a signage strategy shall be submitted to and approved in writing by the City. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.
28. Prior to the commencement of development, a way-finding strategy shall be submitted to and approved in writing by the City. The approved strategy shall be implemented prior to initial occupation.
29. Prior to the occupation of development, the land affected by Planning Control Area 117 shall be ceded free of cost to the State of Western Australia for the purpose of upgrading Forbes Road.
30. Prior to commencement of the development, detailed fit out plans for the proposed community hall shall be submitted to and approved in writing by the City.
31. Subject to the other conditions of this approval, the community benefit items described by Advice Note (1), and as shown on the plans hereby approved must be provided and maintained throughout the life of the development by the owner (from time to time) of the land at Lots 311, 800 and 1061 (Nos. 10, 12 & 14) Forbes Road and Lots 802, 803 & 804 (Nos. 40A, 40B & 40C) Kishorn Road, Applecross. The obligation on the owner to maintain the community benefits will continue notwithstanding the Land may be subsequently subject to a strata title or other form of subdivision.
32. In order to secure the provision and ongoing maintenance of the community benefits, the owner of the Land must enter into a deed with the City of Melville (City). The deed:
 - (a) must be signed by the owner before any use authorised by this approval is commenced;
 - (b) is to be prepared by the City's solicitors on the City's instructions at the owner's cost;

- (c) allow where necessary for an absolute caveat to be lodged in favour of the City against the certificates of title ;
 - (d) shall make provision for the matters described in the following conditions; and
 - (e) shall include other provisions necessary or convenient for the purpose of ensuring the community benefits are provided and maintained.
33. The deed required by the proceeding condition shall include provisions which address:
- (a) the provision of the landscape treatments and end of trip facilities prior to the occupation of the development, and for those community benefits to thereafter be maintained to a standard satisfactory to the City by the owner (and future owners) for the life of the development. This may include (without limitation) things such as the provision of lighting, signage, painting and/or marking out as the case may be and, if required by the City, the requirement for the owner to obtain and maintain adequate public liability insurance and to indemnify the City against any claim connected with the use of these areas;
 - (b) the obligation for the owner, in the event the Land is the subject of a strata / survey strata subdivision, to ensure that the strata company adopts a bylaw by way of a management statement under section 5C of the Strata Titles Act, which provides for the strata company to be responsible for the ongoing maintenance of the community benefits, and for the public to be able to access and use any of the community benefits which are located on common property; and
 - (c) the need for the management statement required by the preceding paragraph to be expressed to require the consent of the City to any amendment or repeal of the management statement, pursuant to section 42(2d) of the Strata Titles Act.
34. In addition to the provisions in the preceding conditions, the deed between the owner and the City shall include provisions addressing the following matters relating to the provision and maintenance of the community benefit spaces as described in Advice Note (1) of this approval, and as outlined in the approved plans:
- (a) the community hall and co-working space areas may only be used for the purposes described in the development application, or for another purpose approved by the City which (in its absolute discretion) provides a similar and adequate community benefit;
 - (b) the community hall and co-working space areas may not be used or tenanted without the prior approval of the City;
 - (c) in the event the Land is the subject of a strata / survey strata subdivision that creates separate lots for the community facilities areas, a notification pursuant to section 70A of the Transfer of Land Act shall be registered against the certificate/s of title which describes the limitation on the use of those lots in terms satisfactory to the City;
 - (d) the requirement for the owner to use best endeavours to ensure that the community benefit spaces detailed by Advice Note 1 are always used during business hours for a community purpose approved by the City, and not left vacant or inoperative;
 - (e) that the City is not required to pay any 'start up' or ongoing costs with respect to the community facilities areas, except normal maintenance costs associated with the ownership of the community facilities areas; and

- (f) the management statement required by the preceding condition is to include provisions acceptable to the City with respect to the limitation on the use of the community facilities areas.
35. A 5 Star Green Star - Design & As Built certified rating (demonstrating 'Australian Excellence') must be achieved from the Green Building Council of Australia (GBCA) Prior to the commencement of development a Green Star Registration Certificate must be submitted to the City to confirm the intention to achieve an As Built rating. This should be supported by a project plan or similar confirmation document. Within 24 months of practical completion, As Built certification must be achieved, as per the Green Star – Design & As Built requirements, and evidence of this provided and approved in writing by the City.
36. Prior to commencement of the development, amended plans/details shall be submitted to and approved in writing by the City to demonstrate compliance with the recommendations of the Wind Analysis Report that was provided in support of the proposed application. The amended plans/details shall include drawings, specifications and detailed wind tunnel testing. Once approved, the agreed measures shall be implemented prior to initial occupation, and retained thereafter to the ongoing satisfaction of the City.
37. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.

Advice Notes

1. With respect to the Community Benefits related conditions listed above, the community benefits to be provided are as follows:
 - **Design comprising high quality active street frontages.** This space provided to the frontages of the development includes the provision of 151m of active frontage, 860m² of streetscape upgrades, 300m² of alfresco and public space, retention of 6 mature trees, 4 new street trees and verge plantings, planter boxes with seating, the covered pedestrian walkway through the site and recessed alfresco areas at the corner of Forbes and Kishorn Roads;
 - **Provision of public facilities** including 3 male and 3 female toilets, 2 universal toilets, 1 shower, 3 lockers and 5 bicycle racks;
 - **Provision of 199m² of publicly accessible garden space** by way of a community garden provided at the podium on Level 1, directly accessible via Forbes and Kishorn Roads, clearly visible and accessible from the street and inclusive of children's play equipment;
 - **Provision of 524m² of co-working space** on the ground floor and Level 1 to be used for community purposes along with a **225m² Community Hall** to comprise a sprung floor, kitchenette, universal toilet and storage room, accessed from Kishorn Road;
 - **15 short stay accommodation units** provided on Level 2, with 2 of the units being accessible for people with a disability; and

- **125m² of Planning Control Area 117 land to be ceded** free of charge to the State of Western Australia.

Environmental Health Services Advice Notes

2. Prior to the commencement of development, an Acoustic Report shall be submitted to demonstrate that noise from all mechanical services and commercial uses (eg. café) that are associated with this development is capable of complying with the 'Assigned Noise Levels' contained in the *Environmental Protection (Noise) Regulations 1997* when the noise is received at a residential premises associated with this development and any neighbouring residential premises to the satisfaction of the City. Once approved, the development shall operate in accordance with the recommendations set out in the report to the satisfaction of the City.

Technical Services Advice Notes

3. The City's Technical Services Department provide the following comments:
 - The width and cross-section of the proposed access ramps to the car parking areas needs to be provided detailing the length and the grades of the ramps. Also height clearance at the entry to the basement needs to be shown. The head clearances are required to comply with s5.3 and Figure 5.3 of Australian Standard AS//NZS 2890.1, and the width of the proposed ramps is required to comply with AS//NZS 2890.1:2004 section 2.5.2 (ii); and
 - The width of blind aisle extensions is required to comply with s2.4.2 of blind aisle extensions. The applicant is also required to show that adequate vertical and horizontal clearances are available for the car stackers.

Background

History of Application

The Responsible Authority Report (RAR) and Minutes of the Metro Central JDAP meeting held on the 7 March 2019 (application refused) provides the history of this application (Attachment 14). In summary:

- On 7 March 2019, the Metro Central JDAP considered the subject development proposal and refused the application based on the following reasons:
 - “1. *The height of the proposed development is not supported having regard to the “Bonus Provisions” requirements (Elements 21 and 22) of the Canning Bridge Activity Centre Plan, whereby it has not, in the view of the panel, been demonstrated that the community benefit proposed is sufficient to warrant approval of a 100% bonus in the number of storeys permitted as of right in the M10 zone of the Kintail Quarter of the Canning Bridge Activity Centre Plan.*
 2. *The subject site borders the H4 zone, and it is considered by the panel that a twenty-storey building in this location (adjacent to buildings of four storeys or less) cannot be justified by the level of community benefit proposed. The panel is of the view that approval of*

this development would undermine the building hierarchy envisaged by the Canning Bridge Activity Centre Plan.”

State Administrative Tribunal Appeal

On 15 March 2019, the applicant lodged an appeal to the State Administrative Tribunal (SAT) against the JDAP refusal. An initial Directions Hearing was vacated and the matter was referred to mediation on 30 April 2019 where the relevant parties discussed the reasons for refusal of the subject application from the 7 March 2019 Metro Central JDAP meeting. Consequently, the SAT issued the following Order:

- “1. *The applicant is to provide additional information as discussed at the mediation to the respondent by 21 May 2019.*
2. *The matter is listed for mediation on 27 May 2019 at 2pm at 565 Hay Street, Perth, Western Australia.*
3. *Relevant officers of the City of Melville and Cr N Robbins are invited to attend the mediation on 27 May 2019.”*

At the 27 May 2019 mediation, the applicant presented two reports, an Interface Analysis Report (Attachment 15) and a Community Benefit Analysis Report (Attachment 16) for discussion in response to the reasons for refusal of the subject application. At the conclusion of the second mediation, the SAT issued the following Order:

- “1. *The applicant is to provide additional information to the respondent by close of business on 29 May 2019.*
2. *Pursuant to s31 of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision on or before 2 July 2019.*
3. *The matter is listed for directions hearing on 26 July 2019 at 9.30am at 565 Hay Street, Perth.”*

Details: outline of development application

Zoning	MRS:	Urban
	TPS:	District Centre – Canning Bridge Activity Centre
Use Class:		Residential (Multiple Dwellings) Restaurant Shop Office Short Stay Accommodation – Unlisted
Strategy Policy:		Canning Bridge Activity Centre Plan
Development Scheme:		Local Planning Scheme No.6
Lot Size:		2023m ² Lot 311 – 1012 m ² Lot 800 – 193 m ² Lot 801 – 212 m ² Lot 802 - 202 m ²

	Lot 803 – 202m ² Lot 804 – 202m ²
Existing Land Use:	Residential – Lot 311 Vacant – Lots 800, 801, 802, 803 & 804

Development approval is sought for a 20 storey mixed-use development comprising 97 multiple dwellings, 15 short stay accommodation units, two co-working community spaces comprising 524m² and three commercial tenancies comprising 324m² of net lettable area. Two of the commercial tenancies Restaurant (food & beverage) and Shop (retail) are proposed to be located on the ground floor with an Office tenancy on Level 1. The three commercial tenancies are preferred land uses as listed by Element 1 of the Canning Bridge Activity Centre Plan (CBACP).

The two community spaces are provided on both the ground floor and level 1, within the podium. These spaces have been designed to ensure they can adapt to a range of uses over time. The podium comprises two levels including one of the two community co-working spaces, 199m² of public open space and 15 short stay accommodation units solely on level 2. A single tower element comprising seventeen storeys is proposed above the podium level. This contains the proposed 97 multiple dwellings, communal recreational facilities and a rooftop garden on the top floor with associated cooling tower and services.

In accordance with the CBACP, the development incorporates main street design principles with portions of nil setbacks to Forbes Road and Kishorn Road. Ground floor to the podium levels incorporates various design elements in order to achieve an active streetscape and pedestrian-focused environment. A single point of vehicle access is provided via a 6m crossover off Kishorn Road, on the eastern portion of the site. Car parking is provided within the basement levels, screened from view of the street.

Every third floor has a sky garden (six in total, totalling 364m²) shared by the multiple dwellings which will facilitate a sense of community within the building. The ground to podium facades are expressed as a planted façade that connects the existing street trees on both street frontages to the vertical gardens and trellises proposed, with stepped planters that enhance the corner and provide additional tree planting opportunities. Publicly accessible stairs are provided from both Kishorn Road and Forbes Place, and these allow access to the podium level and to the various community benefit uses that are proposed to be located there.

The design of the tower element is such that three semi distinct areas result on each of the apartment levels, with a design suggestive of three “Jacaranda petals”, reflective of the jacaranda trees that are common features of Applecross streets. This approach to the design of the tower serves to reduce its impact within the streetscape.

The development is considered to be consistent with the objectives, goals, guidelines and vision statement contained in the CBACP. The development proposes exemplary design, high levels of sustainability and proposes a high level of community benefit. By incorporating these features into the design, the building is considered worthy of support having regard to the relevant development controls contained in Elements 1-22 of the CBACP and as such is recommended for approval.

Site Context

The site comprises six lots with a total land parcel of 2023m² with dual street frontage to both Forbes Road and Kishorn Road as shown in Figure 1 below. The site is located within the M10 Mixed Use zone and is within the Kintail Quarter of the Canning Bridge Activity Centre Plan (CBACP) as shown in Figure 2 below.

The location is well serviced by public transport being within 200m of high-frequency public transport along Canning Highway and in close proximity to the Canning Bridge train and bus transfer station which is approximately 1000 metres to the west. In addition to good transport links, the subject site has high levels of amenity, as a result of its location close to the Swan and Canning Rivers, as well as entertainment options and employment opportunities.

The application site is level across all six lots and currently houses a residential development in the form of a separate single storey dwelling at No. 10 Forbes Road, with the other five lots being vacant (see Figure 1).



Figure 1: Aerial Map of Subject Site

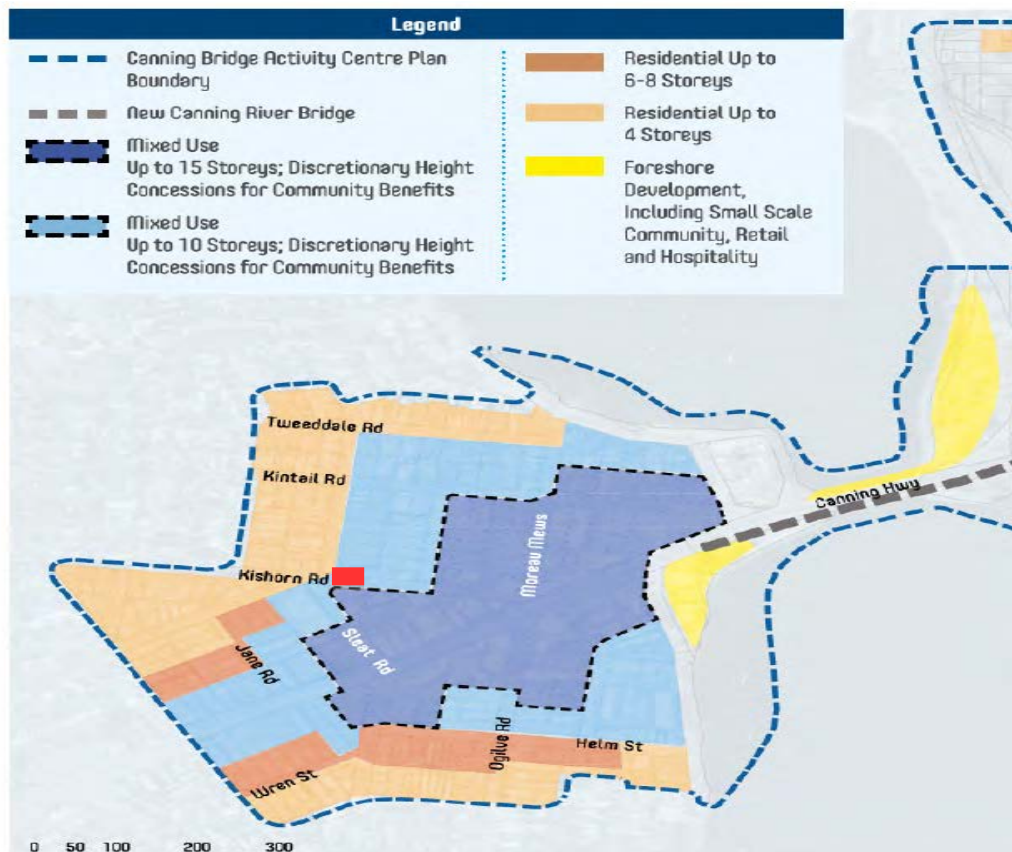


Figure 2: Extract of CBACP shows the application site (marked in red) being located within the M10 mixed-use zone

Legislation & policy:

Legislation

- Planning and Development Act 2005
- City of Melville Local Planning Scheme No. 6 (LPS6)
- Canning Bridge Activity Centre Plan
- State Administrative Tribunal Act 2004

State Government Policies

- SPP3: Urban Growth and Development
- SPP4.2: Activity Centres for Perth and Peel

Local Policies

- CP-029: Street Tree Policy
- LPP1.1: Planning Process and Decision Making
- LPP1.3: Waste and Recyclables Collection for Multiple Dwellings, Mixed Use and Non- Residential Developments
- LPP1.4: Provisions of Public Art in Development Proposals
- LPP1.6: Car parking and Access
- LPP1.8: Crime Prevention Through Environmental Design of Buildings Policy

- LPP1.10: Amenity

State Planning Policy 4.2 - Activity Centres for Perth and Peel

Under the provisions of State Planning Policy 4.2 (SPP4.2), Canning Bridge is classed as a District Centre. District Centres should develop into areas of diversity and intense activity, with a wide range of land uses including retail, commercial, entertainment and higher density development, in order to provide local employment opportunities, create a more compact and dense urban form and reduce travel demand.

City of Melville Local Planning Scheme No 6

Under the provisions of Local Planning Scheme No. 6 (LPS6), the site is within a Centre Zone C2. This is consistent with the status of Canning Bridge as a District Centre in SPP 4.2. Development controls for the Centre C2 zone are contained within the CBACP.

State Administrative Tribunal Act 2004

Section 31(1) of the *State Administrative Tribunal Act 2004* provides for the SAT to invite the decision-maker to reconsider their decision. The current RAR provides the basis on which the JDAP may reconsider its 20 March 2019 decision.

Section 31 (2) of the *State Administrative Tribunal Act 2004* allows JDAP to affirm the 20 March 2019 decision, or vary the decision or set aside the decision and substitute a new decision.

Canning Bridge Activity Centre Plan

Canning Bridge is designated as a District Centre under the provisions of State Planning Policy 4.2 'Activity Centres for Perth and Peel'. It has high levels of amenity and excellent access to public transport. In order to ensure future development of the area takes advantage of these characteristics, the preparation of the Canning Bridge Activity Centre Plan (CBACP) was jointly overseen by the City of Melville and the City of South Perth in conjunction with State Government planning and transport agencies. The CBACP was adopted by the WAPC in April 2016.

The vision, objectives and goals of the CBACP promote intense development which provides quality architecture and excellent pedestrian environment at an intensity which promotes local employment and encourages the use of public transport. The CBACP presents a vision for the area which is significantly different from the existing built form. It considers that exemplary design quality and best practice technology are keys to the successful growth of the area into 'a world class place – a place which matches its truly world class physical location.

Under the provisions of the CBACP, the application site is located within the M10 zone of the Kintail Quarter, where an as of right building height of 10 storeys applies, and where consideration of additional building height may be approved where the relevant Desired Outcomes of all Elements are met or exceeded and subject to the delivery of exemplary design and significant community benefit, as required by the criteria outlined in Elements 21 and 22. Within the CBACP, and subject to the relevant Desired Outcomes of all Elements being met and delivery of the

requirements set by Elements 21 and 22, there is no maximum building height limit in the M10 zone.

Local Planning Strategy

The City Of Melville Local Planning Strategy promotes the intensification of development in Activity Centres and along key transport corridors. This strategy will enable the City to meet its projected population and employment growth targets with limited impact on the more suburban areas of the City.

City of Melville Draft Local Planning Policy 1.18 – Canning Bridge Activity Centre Plan (Bonus Building Height Provisions)

Local Planning Policy 1.18 – Canning Bridge Activity Centre Plan – Bonus Building Height Provisions (LPP1.18) (Attachment 21) was prepared in response to Council resolutions from the 20 November 2018 Ordinary Meeting of Council, in order to provide additional clarity in relation to the application of discretion in relation to the building height provisions of the CBACP. A local planning policy is required to be consistent with the provisions of the CBACP and may elaborate on or provide additional clarification with respect to controls within the CBACP. Additional controls such as the introduction of height limits would be beyond the scope of a local planning policy. Additional controls, like height limits, would require preparation and consideration of an amendment to the CBACP itself.

On the basis that a local planning policy may seek to provide additional clarity on the intent of the CBACP with respect to built form and the relationship between the merit of community benefits/bonus items provided and the awarding of additional building height, LPP1.18 was prepared. The Council at its meeting on 19 March 2019 considered the draft LPP1.18 and resolved to proceed with the Policy to enable advertising for public comment.

As a result of the consultation, the City proposed minor modifications to the Policy in response to the advertising period in relation to staging of developments and delivery of benefits, references to lot size requirements for developments above the threshold height and treatment of road widening areas on roads other than Canning Highway.

The proposed LPP1.18 would provide additional clarity on the intended built form outcomes anticipated by the CBACP and the relationship between the merit of community benefits/bonus items and the awarding of additional building height. Preparation of LPP1.18 included exploration of a number of initiatives to provide a high level of guidance to the exercise of discretion in relation to awarding of building height. The content within the Policy is required to maintain consistency with the higher order planning instrument being the CBACP. Legal advice has informed the content of the Policy to ensure it is workable having regard to the direction and content of the CBACP.

The Draft Policy was referred to the Ordinary Meeting of the Council held 18 June 2019, at which consideration of the policy was deferred for consideration at the August 2019 Ordinary Council Meeting. The policy remains in draft form, and is not adopted..

Planning Control Area 117

As outlined in Figure 3 below, a portion of the site is within Planning Control Area 117 (PCA 117) – Canning Highway between Riseley Street and Henley Street (Attachment 7). As part of this application, no development is proposed within PCA 117; therefore, no determination from the Western Australian Planning Commission (WAPC) is required.

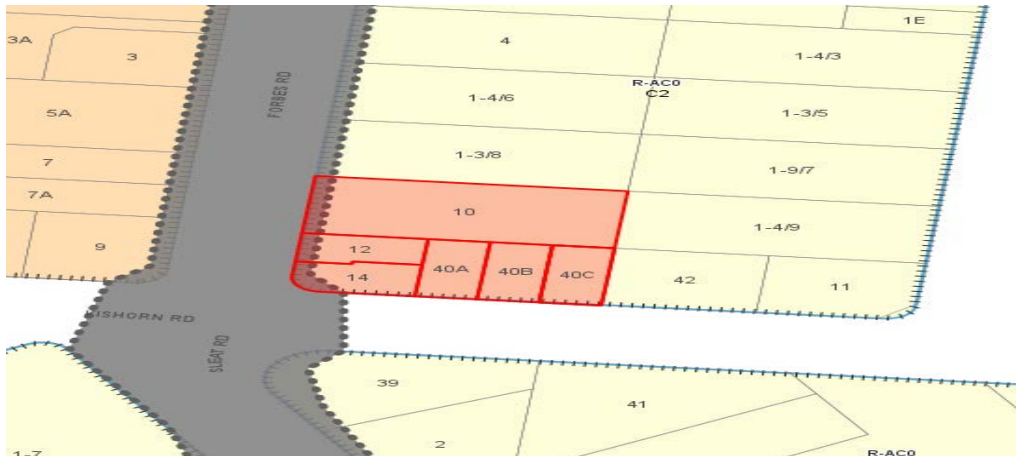


Figure 3 Portion of the subject site within Planning Control Area 117 – Canning Highway between Riseley Street and Henley Street (marked in Grey) Consultation:

Public Consultation

The original development application was the subject of formal consultation undertaken in accordance with the provisions of Local Planning Policy *LPP1.1 Planning Process and Decision Making*.

The formal consultation process included the following measures:

- Letters issued to owners and occupiers of lots directly adjacent to the subject site, lots directly opposite the site on Forbes Road as well as lots that fall within the shadow that would be cast by the proposed development;
- Two signs located on the street frontages of Forbes Road and Kishorn Road of the subject site; and
- Plans for the proposal and all relevant information uploaded to the City’s website.

In response to the formal consultation undertaken at that time, 209 submissions were received, with five in support and 204 opposing the development.

As the development plans which are the subject of this Section 31 reconsideration report have not been amended from the initial application, the application was not readvertised. The submissions raised as a part of the original application remain valid and are summarised below. An officer comment is also provided.

Summary of Submissions

Nature of Concern	Officer Comment
-------------------	-----------------

Lot size below the minimum of 2000m ²	The minimum lot size is met. The subject site is 2023m ² . An area of land located within PCA 117 (125m ²) is proposed to be ceded to the State. The actual area of land for ceding is included within the total lot area calculation for the purposes of this assessment.
No exemplary design sign off has been obtained from the City's Design Review Panel	The design review process concluded on 6 February 2019, and the proposed development is cited as being of Exemplary Design (See Attachment 11).
Density double what is allowed	There are no specific density targets applicable within the CBACP.
Building height, scale and integration with other zones inappropriate	Assessment is required against the relevant Desired Outcomes of all Elements (Elements 1 – 20) and Elements 21 and 22 of the CBACP in relation to the additional height sought. Refer to Officer Comment's section below. In addition an "Interface Analysis" has been provided in support of the application.
The proportion of community benefits to height bonus not sufficient	Assessment is required against Element 22 of the CBACP in relation to the additional height sought based on community considerations. Refer to Officer Comment's section below.
Traffic generation and impacts on surrounding areas	A Traffic Impact Statement (TIS) has been submitted in support of the development. The TIS has been reviewed by officers from the City's Technical Services team. In traffic terms, no objections are raised in principle to the development taking place in accordance with the plans as proposed. The TIS considers the intersection at the corner of Forbes and Kishorn Roads will function at an acceptable level of service when the development is operational.
Insufficient car parking	The proposed number of car parking bays meets the requirements for car parking of Element 18 of the CBACP. Refer to Officer Comment's section below.
Tree protection	Trees within the verges of both street frontages are being retained and will be protected during the construction phase. Additional street tree planting is also proposed as indicated on the proposed landscaping plans (See Attachment 4).
Unclear on how community benefits proposed will be beneficial	Community benefits are provided in accordance with the requirements of Element 22. Refer to Officer Comment's section below for further information and an assessment against Element 22.
Wind Impacts	The wind analysis report (See Attachment 3) outlines a number of treatments which would enable suitable wind conditions to occur on-site.
Waste management on-site	The proposed chute system services residential apartments only, requiring 8 bins. As outlined in the Waste Management Report (WMP) (See Attachment 5), based on the estimate generation rates for residential apartments, it is estimated that no more than one 660L refuse bin and one 660L recyclables bin would require swapping each day, compliant with requirements. Waste will be managed in accordance with the WMP as a

	condition of development approval.
Loss of amenity	The proposal is considered to comply with all desired outcomes in Elements 1-20 of the CBACP and has achieved 'exemplary' design status from the City's Canning Bridge Design Review Panel (DRP). Further detailed comment on this aspect of the development is provided within the Officer Comments section below.
Shadow impacts	The Applicant has suitably demonstrated that consideration of solar access for adjoining properties has been applied in the design of the proposal. Refer to Officer Comment's section below in relation to Element 21.4.1 of the CBACP.
Property devaluation	This is not a material consideration for planning purposes.

Special Council Meeting

In accordance with the City of Melville Local Planning Policy *LPP1.1 Planning Process and Decision Making*, the RAR for the initial development application was referred (for consideration and information) to the Special Meeting of Council held on 6 March 2019 (Attachment 17). At that meeting the Council resolved to reject the recommendation of the RAR which recommended the approval of the development application for the following reasons:

1. *The proposed development is inconsistent with the hierarchical structure envisaged in the Canning Bridge Activity Centre Plan.*
2. *The bonus height benefits sought are considered to be disproportionately large for the community benefits offered.*
3. *Proposed development is on the border of the H4 zone, the increase from 4 stories to 20 stories, not a gradual transition from lower to higher density and has a direct impact on the abutting residents.*
4. *Impact of over shadowing caused by the additional height in areas outside the Canning Bridge Activity Centre Plan.*
5. *Growing community concerns about the application of bonus heights."*

Given there is no change to the development proposal, Elected Members have been kept informed of the subject Section 31 DA, but the RAR will not be referred back to Council for its consideration.

Consultation with other Agencies or Consultants

Canning Bridge Design Review Panel

The Design Review Panel (DRP) was established by the Cities of Melville and South Perth in conjunction with the Office of the Government Architect in accordance with the requirements of the CBACP and to ensure development within the CBACP is of high quality. The establishment and ongoing operation of the DRP is consistent with the recommendations for Design Review as outlined by SPP 7.0.

All major development proposals within the CBACP area are presented to the DRP for their design consideration and input. The input of the DRP is particularly important in the case of planning applications for development for which additional building height is sought in accordance with Elements 21 and 22 of the CBACP. In these cases, where additional height above the associated ten or fifteen storeys is sought, it is a requirement of the CBACP that the design of such a development is considered to be "exemplary" in the opinion of the DRP.

In the subject case, the applicant commenced pre-application discussions with the City of Melville in June 2018. The details of the proposed development were referred to the DRP at the pre-application stage on one occasion, August 2018 (Attachment 10A), and subsequently on two further occasions, December 2018 (Attachment 10B) and February 2019 (Attachment 11) during the formal consideration of the development after lodgement.

The Design Review process has resulted in changes and refinements in response to the comments raised by the DRP as the planning assessment and design review process has moved forward. The applicant has responded positively to the design feedback provided by the panel on each occasion and the outcome of the process followed is now a development proposal where the DRP panel was unanimous in its decision to qualify the design as being "exemplary" in accordance with the requirements of Element 21 of the Structure Plan. The DRP went beyond this in stating that:

"the design quality with the subject development sets a new benchmark for quality design, certainly in Perth and WA, but most likely in Australia".

Further commentary in relation to the design quality of the proposed development and the role of the DRP is provided elsewhere in this RAR.

Given no change to the plans have been made as part of the Section 31 reconsideration, the application has not been referred back to the DRP for their consideration.

City of Melville Cross Functional Consideration of Community Benefit

An internal cross functional community benefit panel was established by the City to ensure cross functional consideration by the City in its assessment of development proposals which seek additional height against the provisions of Element 22 of the CBACP. This panel also takes into consideration that the particular community spaces proposed to be provided in response to Clause 22.1.7 are spaces for which there is a known community demand.

The panel met on two occasions to discuss the subject DA. A number of recommendations were made after the initial meeting, specifically to require the following:

- The provision of a sprung floor to the Community Hall on Level 1. This will allow for dancing, yoga classes etc., and will encourage diversity of community use;
- The provision of wc facilities to Level 1 of the podium; and
- The ceding of the land (125sqm) located within PCA 117 (Forbes Road).

In response, the applicant agreed to:

- Provide the sprung floor;
- Provide a universal toilet with storage area adjacent to the community hall; and
- Cede the 125m² of land within PCA 117 free of charge to the State.

The second panel meeting considered in more detail the extent to which the community benefits proposed satisfied the proportionality requirements of Element 22 of the Activity Centre Plan.

The panel considered at length the various community benefits that are proposed in this case, and concluded that subject to the additional two amendments outlined below, that: the development satisfactorily met the requirements of Element 22.

- The community hall with sprung floor (Element 22.1.1) being increased in size to 225sqm and provided with kitchen, toilet and storage facilities, and
- The short stay accommodation (Element 22.1.8) being designed to accommodate a minimum of 2 units for use by mobility impaired.

In considering the development proposal, the panel noted that the proposal provides seven community benefits through six sub-elements of Element 22 of the CBACP which are in proportion to the additional height being sought. The applicant subsequently provided amended development plans to address the two additional modifications required (See Attachment 1).

Given no change to the plans have been made as part of the Section 31 reconsideration, the application has not been referred back to the City's cross functional community benefit panel for their consideration.

It is the opinion of the City as Responsible Authority for the assessment and recommendation of the subject development application, that a robust and detailed process has been followed in respect of the assessment of community benefit, the conclusion of which was that community benefit proposed is in proportion to the additional building height sought.

Planning assessment:

The development controls for this site are contained within the CBACP.

In view of the bonus height sought, assessment is required against the relevant Desired Outcomes of all Elements and Elements 21 and 22 of the CBACP. This assessment is detailed in the Officer Comments section below.

The proposal has been assessed against, and is considered to satisfy the relevant provisions contained within Elements 1-20 of the CBACP with the exception of the following elements:

Element	Deemed to Comply	Proposed	Officer Comment
Element 1. Dwelling Diversity	Minimum 40% two bedroom dwellings.	35.7% two bedroom dwellings.	See planning assessment below.

Element 4. Street Setbacks	4.3 – All development within the M10 Zone in Q1 and Q2 shall have a minimum 1.5 metre setback and maximum 3 metre setback to street boundaries.	Nil setbacks on the ground floor, Level 1 and Level 2 to Kishorn Road.	See planning assessment below.
Element 18. Car Parking (Non Residential)	18.4 – Car parking for non-residential development in Q1 and Q2 shall be not less than one bay per 50m ² of net lettable area and not more than one bay per 25m ² of net lettable area.	7 car parking bays are proposed for the 15 x Short Stay Accommodation units in lieu of the required minimum of 13, maximum of 26.	See planning assessment below.

Officer Comments

Dwelling Diversity

The number of two-bedroom units does not meet the minimum 40% required under Cl.1.13 of the CBACP (minimum dwelling diversity). The proposed development for 97 multiple dwellings includes only 36 two bedroom apartments in lieu of 39 (i.e. 35.7%). Despite this, the 4.3% shortfall is considered justified because the development still provides a mix and variety of dwelling types ranging from 1-4 bedrooms, consistent with the associated Desired Outcomes.

In addition, the reduced number of two-bedroom units is considered to be compensated for partly by other developments recently approved within the Kintail Quarter of CBACP which have provided more two-bedroom units than required by the CBACP.

Street Setbacks

Clause 4.3 of the CBACP requires developments within the M10 Zones in Q1 and Q2 to be setback a minimum of 1.5m from the street and a maximum of 3m. The proposed development is setback in accordance with the maximum of 3m on all levels however the minimum setback is varied to Kishorn Road on the ground floor, level 1 and level 2 as nil setbacks are proposed. The variations are considered acceptable against the Desired Outcomes of Element 4 because:

- The setback incursions are in response to the unique architectural form which provides an attractive facade to Kishorn Road. The architectural form has a significant contribution to the street character and creates a pedestrian-friendly environment;
- The setback area is articulated via the inclusion of sufficient landscaping and varied setbacks on the ground floor, level 1 and level 2 (Figure 4);

- As evident in the figures below (Figures 5-7), all incursions have been compensated for by an area greater than the incursion itself, relative to an area equal to or greater than the setback behind the setback line;
- The ground floor is predominantly clear glazed allowing surveillance at street level; and
- The extensive use of landscaping within the ground to podium level, combined with the building form creates a transition between the subject M10 precinct and the M15 to the south of Kishorn Road.



Figure 4: Articulated Elevation on Kishorn Road

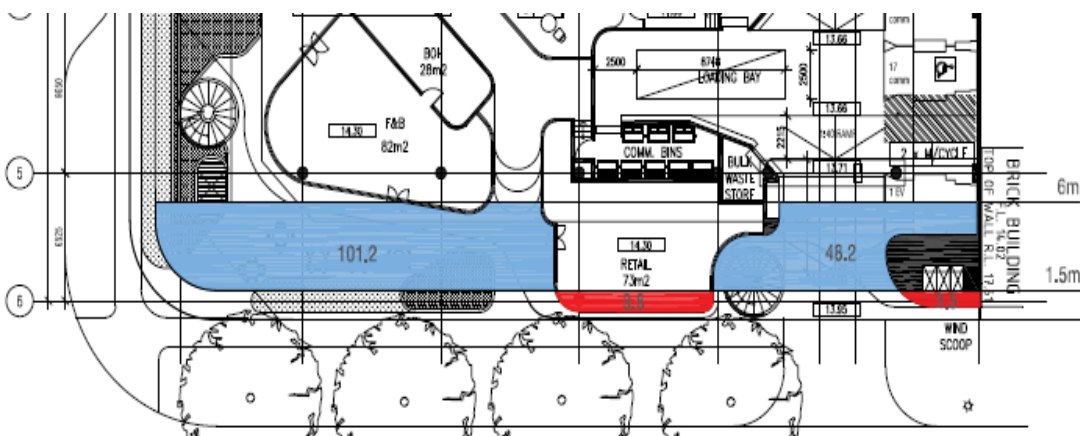


Figure 5: Kishorn Road (Ground Floor) Setback Encroachments in Red and open (compensating) area in Blue at 6m setback

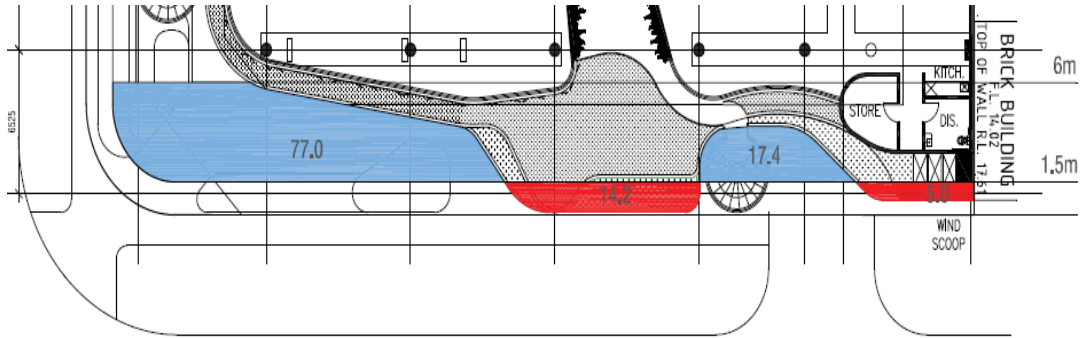


Figure 6: Kishorn Road (Level 1) Setback Encroachments in Red and open (compensating) area in Blue at 6m setback

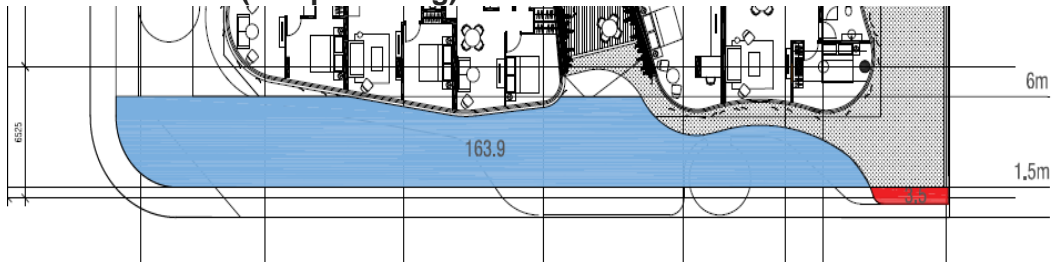


Figure 7: Kishorn Road (Level 2) Setback Encroachments in Red and open (compensating) area in Blue at 6m setback

Car Parking (Short Stay Accommodation)

Clause 18.4 of the CBACP requires that non-residential developments in Q1 and Q2 shall provide car parking at a rate not less than one bay per 50m² of net lettable area and not more than one bay per 25m² of net lettable. The proposed fifteen short stay accommodation units have been allocated 7 car parking bays on-site as shown in Figure 8 below.

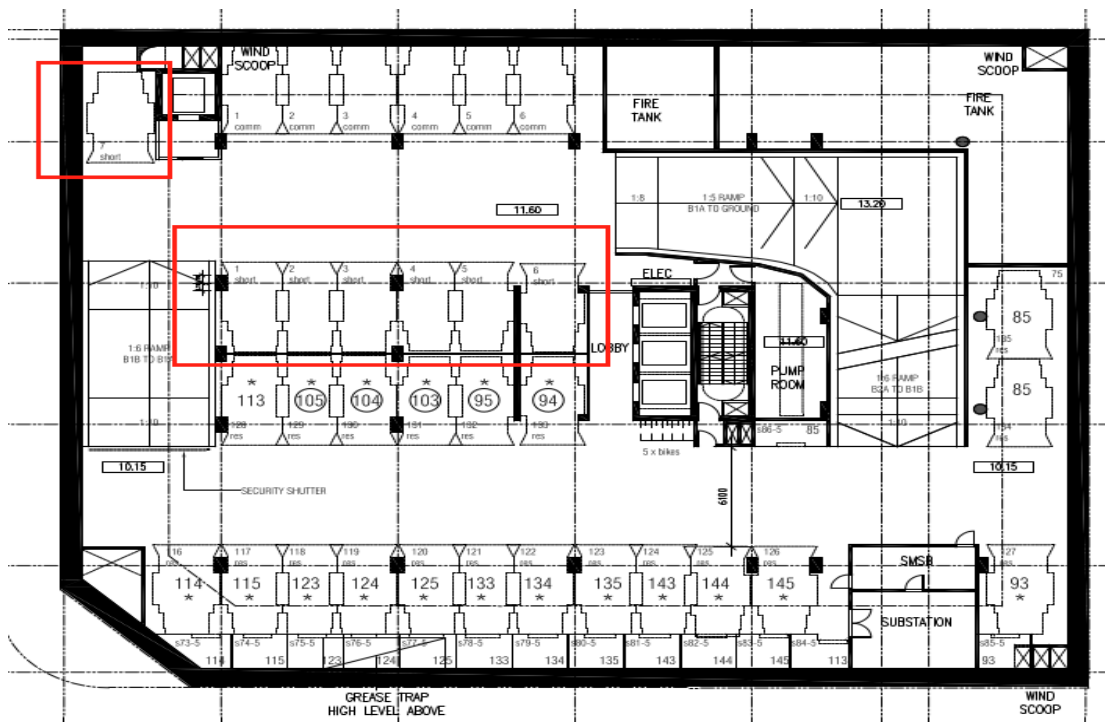


Figure 8: Basement Level 1 with the location of 7 dedicated short stay accommodation car parking bays highlighted in Red

Given the total net lettable area on Level 2 for the short stay accommodation units is 628m², this would require a minimum of 13 car parking bays, with a maximum of 26. As a shortfall of 6 car parking bays is proposed, an assessment against the Desired Outcomes of Element 18 of the CBACP is required. The reduction in the number of car parking bays provided for the fifteen short stay accommodation units is considered acceptable because:

- An overall CBACP Desired Outcome for Element 18 is to balance private vehicle travel with alternative transport. Applying the same requirements as residential or commercial, as per Clauses 18.3 & 18.4 of the CBACP would be onerous as short-stay residents are unlikely to have their own vehicle. Applying the residential or commercial rate of the CBACP is considered to be onerous in light of the nature and operational characteristics of these types of uses. The majority of users of short-term accommodation units do not have their own vehicles and are typically reliant on other alternative modes of transport (taxi or similar);
- The subject site is within close proximity to ample public transport services. These include a bus stop (high-frequency route) along Canning Highway and the Canning Bridge train and bus transfer station which provides guests staying at the short stay accommodation units an alternative mode of transportation;
- The subject site is well connected to pedestrian footpaths and provides safe access to and from the site for pedestrians and cyclists. The development provides more than the required number of bicycle bays and end of trip facilities which will provide an alternative mode of transport to motor vehicles for guests; and
- Reciprocity with proposed commercial car parking bays. The proposed development has 17 commercial bays (17 required as per Clause 18.4 of the CBACP) and an oversupply of residential bays, maximum required of 135, 138 proposed. Reciprocity of the commercial bays is available as the 2 x co-working spaces; commercial office tenancy on Level 1 and 2 ground floor commercial tenancies (retail and food) will be limited to operational periods of 9am to 5pm. As such, there may be up to 17 bays available during the peak periods (i.e. late afternoon/evening) for the short-term accommodation use when guests will be returning to their accommodation.

Building Height

In order to access the bonus height provisions of the CBACP, it is necessary to demonstrate that the Desired Outcomes of all Elements are met or exceeded. The CBACP states in the preamble to Elements 21 and 22 (Bonus Provisions P40) as follows;

“For properties within the M15 or M10 Zone consideration of greater height than permitted in Element 3 may be approved where the relevant Desired Outcomes of all Elements are met or exceeded and where exemplary design is proposed in the opinion of the Design Advisory Group and where the development includes the provision of a significant benefit to the community”..... .and

“Applicants shall respond to the requirements of Element 21 and Element 22 to be eligible for bonus provisions.”

The Desired Outcomes of Element 3 'Heights' states:

“To ensure that building heights are consistent with the desired scale and built form of the centre and to ensure that the interface between Zones is appropriately managed and the amenity of property both within and adjacent to the CBACP is adequately considered”

“Applicants are encouraged to provide variation in scale, bulk and form along the streetscape.....”

“Where an applicant proposes heights greater than those identified in these requirements the applicant may choose to have the development assessed against the requirements of Elements 21 and 22.....”

As reported in the previous RAR in respect to the Desired Outcomes of Element 3, it is noted that the interface between the subject site and its neighbours, is managed via the exemplary design of the building. The proposed building is set back appropriately to ensure that it relates well to the lot on which it is located, and to neighbouring properties. The proposed building demonstrates high levels of architectural articulation including a three storey podium. The podium is varied in terms of height and setbacks and is designed to deliver a human scale interface to the street. The tower element is setback from the podium edge to ensure that within the streetscape at the human scale, the podium will be the buildings defining feature. The development will be landscaped to a high standard, with evidence of vertical greening throughout all levels, and landscaped planting to the ground floor and adjoining streetscape including street tree retention and additional street tree planting. The proposed building is positioned to minimise overshadowing to adjoining properties, and the applicant has demonstrated that the impacts are minimised.

The variation to the streetscape envisaged by the Desired Outcomes will be achieved once other lots within the street are developed in accordance with the CBACP guidelines. The subject development is the first development to be proposed within this particular part of the CBACP area. The expectation of the Desired Objective to deliver variety in scale bulk and form remains to be achieved, and is a matter for future development proposals.

As part of the SAT process, the applicants prepared an Interface Analysis Report (Attachment 15) to respond to refusal reason 2 of the Metro Central JDAP meeting 7 March 2019 which was as follows:

“2. The subject site borders the H4 zone, and it is considered by the panel that a twenty-storey building in this location (adjacent to buildings of four storeys or less) cannot be justified by the level of community benefit proposed. The panel is of the view that approval of this development would undermine the building hierarchy envisaged by the Canning Bridge Activity Centre Plan.”

The Interface Analysis Report assesses the subject development in relation to the additional height being sought through focusing on the design interface (M15 zone to the south of Kishorn Road and H4 zone to the west of Forbes Road) and whether the additional height is appropriate given the sites context, specifically in terms of visual impact, design excellence and height transition.

The amenity of adjacent properties in respect to visual impact was afforded strong consideration as part of the subject proposal. The proposed development, is designed to incorporate a curved built form with a varied setbacks to the podium level and the tower element above. This results in an articulated and less bulky outcome than an alternative development with consistent setbacks would. The combination of the varied setbacks combined with architectural treatments such as vertical gardens at every third level, use of a podium with considerable landscaping, inclusion of a void on the top third of the building and articulation of the vertical facades breaks the building mass into a variety of segments and manages building bulk impacts. The podium landscaping including the community garden serve to further soften the appearance of the building, ensuring that a positive street interface results. As indicated by the Interface Analysis Report, the first 6 floors of the building are considered to have the most impact on the H4 zone on the west side of Forbes Road and the pedestrian environment that will result within the adjacent streetscape to Forbes Road.

It is considered that there are no adverse amenity impacts towards adjoining properties as a result of development in terms of building bulk, setbacks and solar access. These matters were considered by the applicant and the City as a part of the of the Design Review process.

In terms of design excellence, the Design Review Panel consider the proposed development to have achieved 'exemplary design' status, noting that the architecture in this case was 'world class'. As noted in the Interface Analysis Report (Attachment 15), development incentives for good design attract developers focussed on better built outcomes. It is considered that the subject development will establish a new benchmark for mixed use development buildings and encourage better design within the CBACP as future projects seek to obtain exemplary design status.

The interface of the proposed development with the H4 zone is assisted by the H4 zone being located on the western side of Forbes Road. This provides both a physical and visual separation. The street layout, vegetation and topography all assist in softening this interface and reducing the visual impact by providing a visual separation for existing properties to the west (in the H4 zone) of the subject site.

The local examples of height transition identified in the Interface Analysis Report (Attachment 15) demonstrate that such transitions are not uncommon and that differing zone interfaces are able to be managed without causing amenity impacts. The subject development, through its articulated Forbes Road elevation with varying setbacks that are tapered into the site, provides for a significant separation distance from the H4 zone to the west.

In addition to the above, *State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments*, under Element 2.7 – Building Separation, outlines that if a building is over 9 storeys in height that a separation distance to adjoining property boundaries shall be 12 metres. The subject development is setback a minimum of 5 metres from Forbes Road above the fourth floor with the ground floor and podium levels having articulated setbacks. All development within the H4 zone shall have a minimum 3 metre setback to street boundaries. The Forbes Road road reserve is 20 metres. Therefore, the separation distance between the subject development and a development on the directly opposite site to the west, in the H4 zone, measured from the outer face of building elements, is 28 metres. A sufficient space between buildings in the adjoining H4 zone is provided and as a result, ensures residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook are addressed appropriately.

For the reasons outlined above, the development is considered to satisfy the Desired Outcome of Element 3 of the CBACP in relation to its height.

In respect of Elements 21 and 22, the applicant does seek additional building height in accordance with the requirements of Elements 21 and 22. The degree to which the proposed development satisfies those requirements is considered below.

Element 21 – Development Bonus Based on Design Considerations

Element	Requirement	Responsible Officer Comment
21.1	Exemplary design is proposed in the opinion of the DRP	Exemplary design sign off has been achieved in the opinion of the DRP. Refer below.
21.3	Minimum site area of 2,000m ²	<p>The site area is 2023m² which includes 125m² within PCA117.</p> <p>Element 22.1.10 of the CBACP implies that where the development is located adjacent to Canning Highway and where road widening is required, land required for road widening is not included when calculating site area under Elements 2.2, 2.3, 21.2 and 21.3 unless the applicant proposes to cede it free of cost. The City considers that the ceding of land for road widening other than where it is located adjacent to Canning Highway as required explicitly by Clause 21.1.10, can be considered as a community benefit for the purposes of the Activity Centre Plan (refer commentary on Element 22.1.10 below).</p> <p>The applicant has confirmed the 125m² of PCA117 will be ceded free of cost to the state. Accordingly the land ceded is considered to be included within the total lot area calculation for the purposes of this assessment. On that basis, the minimum site area of 2000m² is achieved.</p>
21.4.1	Development has been designed with regard for solar access for adjacent properties.	<p>Due to the location and orientation of the lot, the majority of shadow in mid-winter falls over the road and existing properties on the southern side of Kishorn Road as shown in Figure 9 below.</p> <p>These lots do not contain residential developments (all commercial) and are not orientated to benefit from their northern aspect.</p>

		<p>The office building on the corner of Sleat and Kishorn Roads (No. 1-7 Sleat Road, Applecross) contains solar collectors as shown in Figures 9 and 10 below. However, only for a small period at winter solstice would that site be overshadowed as Figure 10 demonstrates. For the remainder of the year, no overshadowing from the subject development would impact that site.</p> <p>In terms of future development of the immediately southern lots on Kishorn Road affected by solar access, these are within the M15 precinct. If these lots are amalgamated to form the required 2600m² as per Element 21.2 of the CBACP, redevelopment within that area could potentially be at a height similar to or greater than the subject proposal and designed accordingly.</p>
21.4.2	Development demonstrates achieving a minimum 5 Star Green Star design rating under the Green Building Council of Australia.	<p>The applicant has indicated that they will achieve the required 5-star green star rating. This will form a condition of planning approval.</p> <p>Communal lobby areas in towers often don't have access to light and are rarely naturally vented so significant energy is wasted heating them in summer in the early morning and cooling in winter in the late afternoon. The proposed development allows three points of daylight to the floorplate to the lobby areas, as well as three points of venting via mechanically operated louvres which will remain open unless in fire mode.</p> <p>The development proposes 5703m² of total planting (inclusive of balconies), which is 3680m² more than the minimum (2023m²) required in Clause 10.3 of the CBACP.</p> <p>The above outlines that the development provides additional sustainability principles which exceed 5-star green star.</p>
21.4.3	A traffic statement is submitted showing the additional floor space will not	The TIS and associated SIDRA analysis of the intersection of Forbes and Kishorn Roads submitted in support of

	unduly impact on the surrounding centre.	the development demonstrate that the surrounding road network can accommodate the addition of 97 dwellings, 15 short stay accommodation units and the proposed commercial tenancies, as agreed after review by the City's own Traffic Engineers.
21.4.4	Development includes the provision of infrastructure which supports area-wide resource efficiency.	<p>Three-vent points are proposed to the communal lobby areas. This will ensure that significant energy is not wasted in the heating or cooling of these areas. A greywater reuse system is proposed which will reduce water consumption for all communal landscaped areas, whilst Photo Voltaic cells are proposed on the rooftop to reduce reliance on the existing power network. In addition, sufficient public end of trip facilities are provided which will promote alternative modes of transport to and from the subject site. These measures will be enforced via a condition of planning approval.</p> <p>The development also demonstrates that it will exceed the 5 Star Green Star rating which reduces the overall need for development-wide infrastructure.</p>
21.4.5	Development demonstrates mitigation of the urban heat island effects through the provision and maintenance of landscaping.	<p>5703m² of total landscaping will be provided (horizontal and vertical), which will more than mitigate for any general loss of trees and vegetation on the existing site.</p> <p>The development provides significant landscaping at all levels of the building as shown in Figure 11 below. At almost 70% the total vertical landscaping area for the site substantially exceeds the 25% requirement of the recently released DesignWA Apartment Design Policy (proposed 1410.66m² which equates to 69.7%). The development provides deep soil planting zones for the establishment of mature trees at the podium level and 6 x sky gardens (3 per floor above the podium).</p> <p>It is noted that the DRP commended the proposed landscaping as part of their overall consideration of the development.</p>

	<p>A landscaping condition is proposed to be applied to ensure ongoing maintenance over the lifetime of the development.</p>
--	------------------------------------------------------------------------------------------------------------------------------



Figure 9: Overshadowing at winter solstice from the subject site

June 21
7:21 - 11:13am



Figure 10: Shadow diagram indicating the time period overshadowing onto 1-7 Sleaf Road, Applecross, would occur at winter solstice



Figure 11: Artist perspective of proposed development showing extent of landscaping

As stated in the Canning Bridge Design Review Panel section of the report above, the application has been through an extensive and rigorous design review process. The applicant has responded positively to the feedback provided by the DRP, and in addition, has responded positively to concerns raised by the City throughout the assessment process.

The following extract from the notes of the February 2019 DRP meeting outlines the reasons why the proposal is considered to be exemplary in nature.

“The proponent is commended for a positive and collaborative approach with DRP resulting in genuine improvements to the design proposal.

It is the view of the Panel that the Proponent has achieved an exemplary design outcome.

The project has achieved an exemplary outcome through a series of design initiatives and approaches listed, but not limited to, those described below:

- *A design narrative that seeks to embed the project in its cultural, historical and local context.*
- *An activated and engaged ground plane along with an inhabited and activated podium both of which enhances the streetscape and is arranged within required setbacks.*

- *A mix of uses, accessible by the public, in the podium for a co-work, commercial and community space.*
- *Service and vehicular entries have been minimised and car parking has been concealed underground to allow the ground plane to support and facilitate the pedestrian experience.*
- *Extensive landscaping at the ground as well as throughout the structure, including vertical landscape has resulted in greenery equivalent to 148% of the site area.*
- *Well planned and diverse range of apartments with very high levels of cross ventilation.*
- *Provision of rooftop garden and playground.*
- *Positive sustainable design initiatives including greywater re-use.*

The applicant has responded to the most recent DRP comments by re-locating podium car bays back into the basement, allocating co-work and community space back into the podium and providing intuitive and legible community access.

The resulting outcome is an elegant series of interconnecting towers pulled apart to enhance solar access and cross ventilation to apartments and lobbies. Resulting voids and aerial sky gardens become platforms for supporting green landscape and providing amenity for the building occupants as well as visual interest”.

The information provided above demonstrates that the proposed development clearly meets the minimum requirements of Element 21.

Element 22 – Development bonus based on community considerations

Where additional height is being sought Element 22 of the CBACP requires community benefit to be provided. This community benefit must be provided in proportion to the additional development being proposed and via delivery of at least four of the benefits listed in the Activity Centre Plan.

As previously stated elsewhere in this RAR, when assessing the merit of community benefit proposals in the context of Element 22, the City adopts a cross-functional approach to ensure that:

1. The community benefits proposed are consistent with, and relevant to, those listed under Element 22, and
2. The community benefits proposed are provided in proportion to the additional building height proposed.

As a result of the SAT process, the applicant has prepared a Community Benefit Advice report (Attachment 16) in response to the following refusal reason issued at the 7 March 2019 Metro Central JDAP meeting:

- “1. *The height of the proposed development is not supported having regard to the “Bonus Provisions” requirements (Elements 21 and 22) of the Canning Bridge Activity Centre Plan, whereby it has not, in the view of the panel, been demonstrated that the community benefit proposed is sufficient to warrant approval of a 100% bonus in the number of storeys permitted as of right in the M10 zone of the Kintail Quarter of the Canning Bridge Activity Centre Plan.”*

The report identifies that:

- There is a demonstrated need and benefit associated with the proposed community facility (225m² community hall on podium level 1) and specific additional uses in the form of co-working spaces, short stay accommodation units and urban amenities;
- The location is suitable for the proposed community benefit uses based on exposure, access, market factors and movements;
- The City has been engaged in the scale, form and positioning of associated facilities within the CBACP area; and
- The population growth, demographic and social trends which will inform future need and use justify the proposed uses subject of this application.

The range and quantity of community benefits proposed, along with the current and emerging needs for the specific community benefits within the CBACP for this subject application are summarised as follows:

Element	Requirement	Provided
22.1.1	Design comprising high-quality active street frontages, furniture and landscaping which contribute to the character of the centre and are kept and maintained by agreement with the owners and/or strata company of the building in perpetuity.	<p>On the ground floor, the open public thoroughfare and active commercial frontages both within the site itself and at the street frontages contribute towards creating a quality pedestrian experience.</p> <p>Whilst the primary entrance is via Forbes Road, both street frontages are designed with high-quality active street frontages, street furniture and landscaping as considered by the Canning Bridge DRP. As shown in Figures 12 and 13 below, the nature of the street frontages has been improved as a result of the DRP process.</p> <p>860m² of streetscape upgrades, retention of 6 mature trees, 4 new street trees and verge plantings, stepped planter boxes with seating, covered walkway including through site pedestrian passage and recessed alfresco areas at the corner are provided.</p> <p>The ground and podium level connects to the existing street trees on both frontages to the vertical gardens proposed resulting in an active street</p>

		<p>interface.</p> <p>The landscaping plan and building design take into account the Canning Bridge Streetscape Master Plan and future improvements to Kintail and Forbes Road.</p> <p>The building proposes a mix of uses including non-residential within the ground and podium levels by way of commercial tenancies, co-working spaces and a community hall which will help to further activate the area. In addition, the development provides a well-planned walking environment around and within the subject site.</p> <p>As identified in the Community Needs Assessment Report (Attachment 16) there is an expected need for the following range of facilities within the CBACP in the short and medium term:</p> <ul style="list-style-type: none"> - Health Services; - Personal Services; - Business Services; and - Restaurants. <p>The subject application proposes two (2) commercial tenancies on the ground floor in the form of a restaurant and retail outlet, along with a commercial tenancy on Level 1 of the podium.</p> <p>In terms of the restaurant proposed at the corner of Forbes and Kishorn Roads, food catering outside take-away and fast food is limited in the CBACP.</p> <p>Personal services are also limited in the area, with only hair and select fitness options available.</p> <p>The proposed ground floor</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>restaurant and retail tenancy will support increased resident needs in the area and will activate the street frontages.</p> <p>While not all of these uses are identified as community benefits the activation that results is a recognised benefit as per Clause 22.1.2.</p> <p>Implementation and maintenance of the landscaping and street furniture will be enforced via a condition of approval.</p>
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

LANDSCAPE PLAN

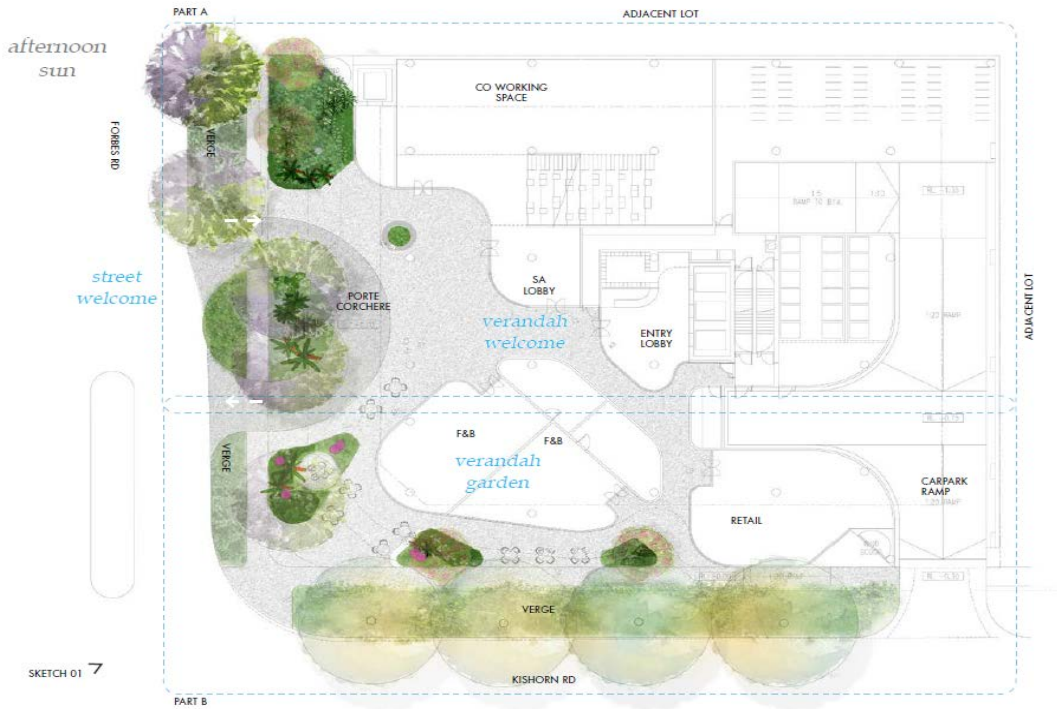


Figure 12: Original landscaping plan presented at August Canning Bridge Design Review Panel Meeting



Figure 13: Current landscaping plan showing retention of 6 mature trees, 4 new street trees (including one in verge), verge planting and planter boxes with seating

<p>22.1.2</p>	<p>Provision of landscaped spaces and/or other facilities accessible to the public such as rooftop and/or podium level gardens and/or incidental recreation spaces and/or equipment and entertainment facilities such as rooftop cinema.</p>	<p>Extensive landscaping at ground level is proposed in amongst active commercial uses. A 199m² community garden on level 1 is provided along with 584m² of public open space which is directly accessible from Forbes and Kishorn Roads via a set of spiral stairs on both street frontages as well as from the lift and co-working space on level 1.</p> <p>As shown in Figures 14 and 15 below, through the DRP process, the plans have been modified to provide dual access to the community garden which is visible and accessible from both street frontages. This was not originally provided for.</p>
---------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>Children’s play equipment is to be provided in this space which integrates well with the adjoining community spaces described in Element 22.1.7 below.</p> <p>Details of the landscaping and management of this space to be required as a condition of approval.</p> <p>A need for green space to cater for socialisation and outdoor exercise has been identified within the CBACP as there is limited public open space, civic squares and parks.</p> <p>The community garden on Level 1 of the podium, which is accessible to the public, provides a new recreation space within the CBACP area. Increased development is expected as a result of the CBACP, therefore driving population growth. The community garden is therefore considered a beneficial community benefit in that will provide an alternative recreational/gathering space which will be needed to accommodate the growing population in the area.</p> <p>The provision of this space will provide an outdoor play option at the podium level, ideal for the general public who are not accustomed to having access to a private high rise landscaped space. This facility is not available elsewhere within the locality and will provide the</p>
--	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>general public access to vistas which are generally only available to landowners from the private domain. As such, it is considered that the proposal sets a new benchmark in relation to inclusivity and community benefits.</p>
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

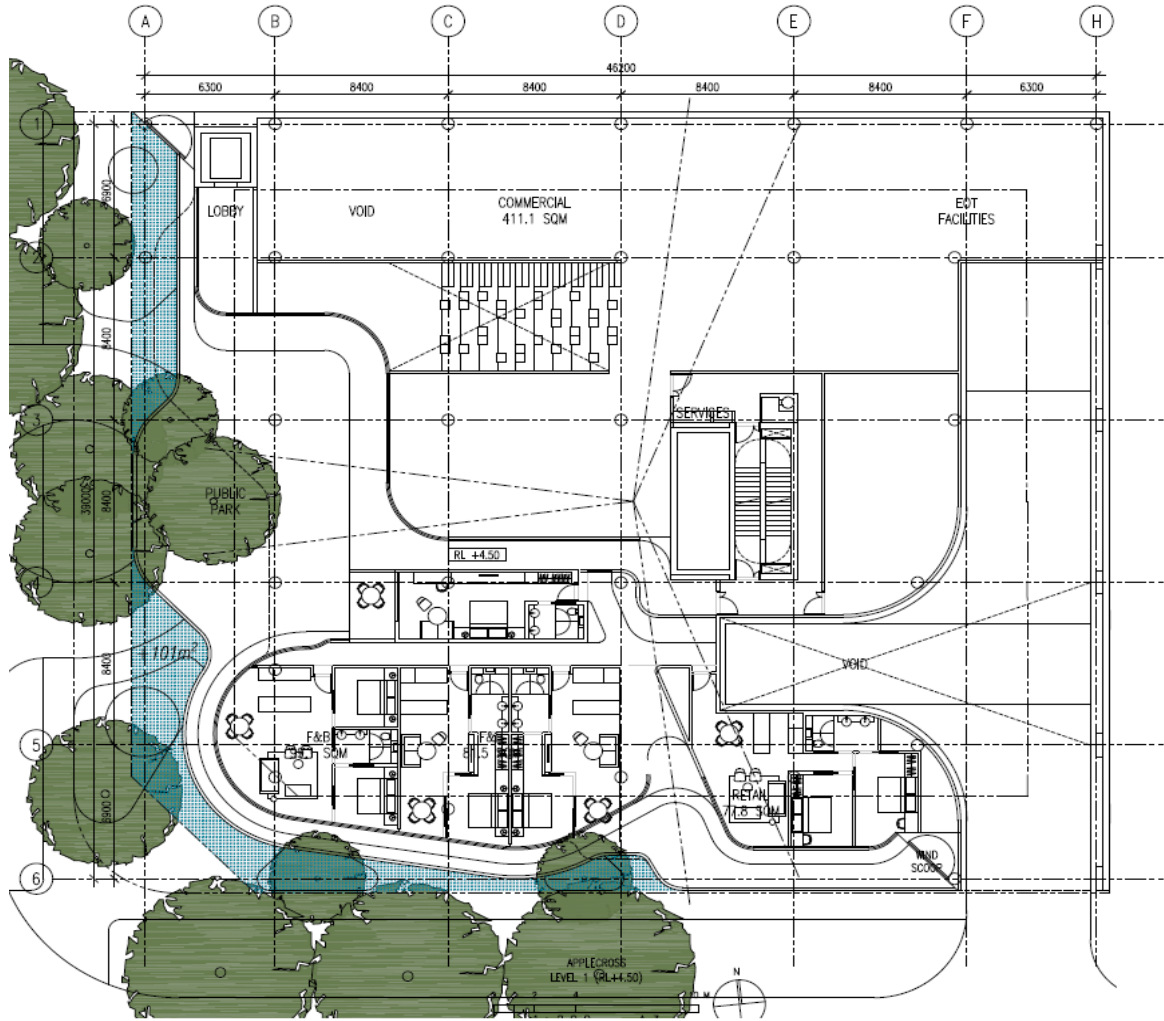


Figure 14: Originally proposed level 1 of podium presented at August 2018 Canning Bridge Design Review Panel Meeting with no staircase to the community garden from the ground floor to draw people up to this space

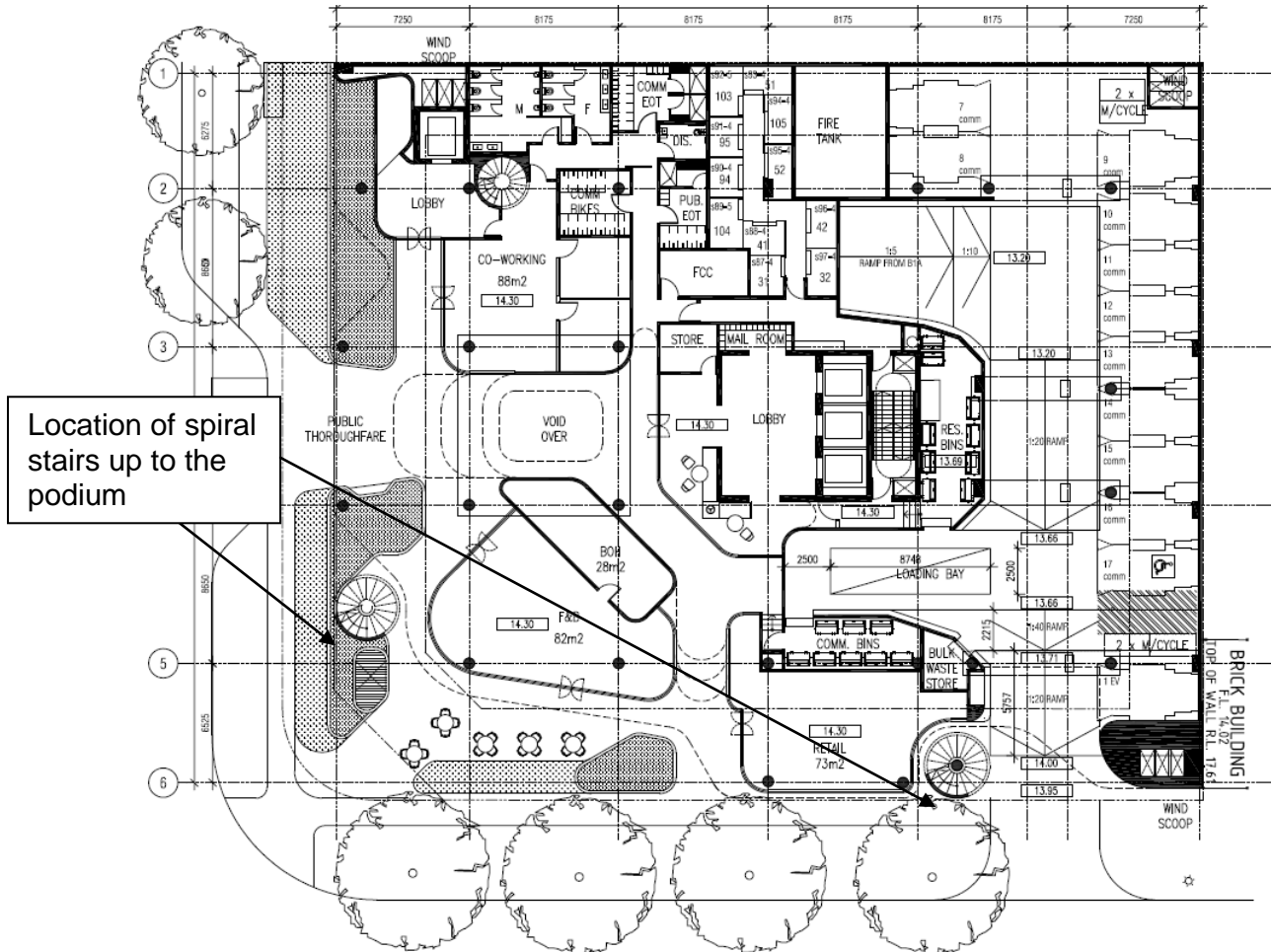


Figure 15: Current ground floor plan with two spiral staircases from both Forbes and Kishorn Roads up to the first level of the podium

<p>22.1.3</p>	<p>Provision of public facilities such as toilets, showers and sheltered bike storage.</p>	<p>Public end-of-trip facilities are provided on the ground floor. These are separate to and in addition to those facilities provided for commercial tenancy staff and visitors. The facilities have increased on the ground floor as depicted by Figures 16 and 17 below. On Level 1, due to the inclusion of the community hall, a universal toilet not previously provided has also now been incorporated into the development.</p> <p>The publicly accessible facilities include:</p>
---------------	--------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> • 3 x male toilets; • 3 x female toilets; • 1 x universal toilet; and • Public end of trip facilities comprising: <ul style="list-style-type: none"> ○ 1 x shower ○ 3 x lockers ○ 5 x bicycle racks. <p><u>Level 1</u></p> <ul style="list-style-type: none"> • 1 x Universal toilet. <p>As outlined under Element 22.1.2, significant levels of infill development are expected to lead to an increased population within the CBACP. In addition, with increased commercial and recreational spaces being provided as part of new developments, this will attract visitors to the area who will need public facilities such as toilets, showers and sheltered bike storage.</p> <p>The Community Needs Assessment (Attachment 16) also indicates an ageing demographic for the CBACP area. Aged persons by their very nature require good access to facilities such as this. Currently, the only public toilets available within the CBACP area are located at the Caltex Service Station at No. 918 Canning Highway, Applecross. Therefore, public facilities proposed as part of this development are deemed a worthy community benefit.</p>
--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>The design of the building ensures these facilities are clearly visible and accessible for members of the public from the main lobby. Details of the management of these spaces are to be conditioned.</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

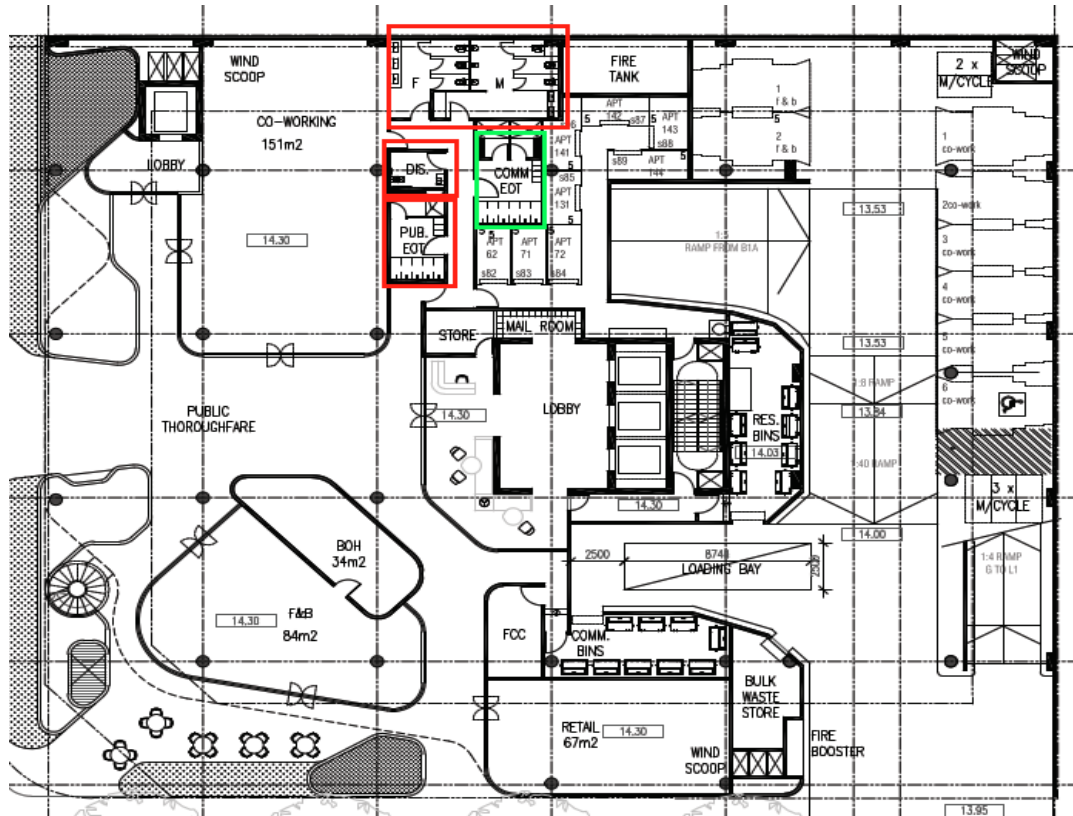


Figure 16: Ground floor plan presented at December Canning Bridge Design Review Panel Meeting with the public end of trip facilities marked in red, with the commercial end of trip facilities marked in green

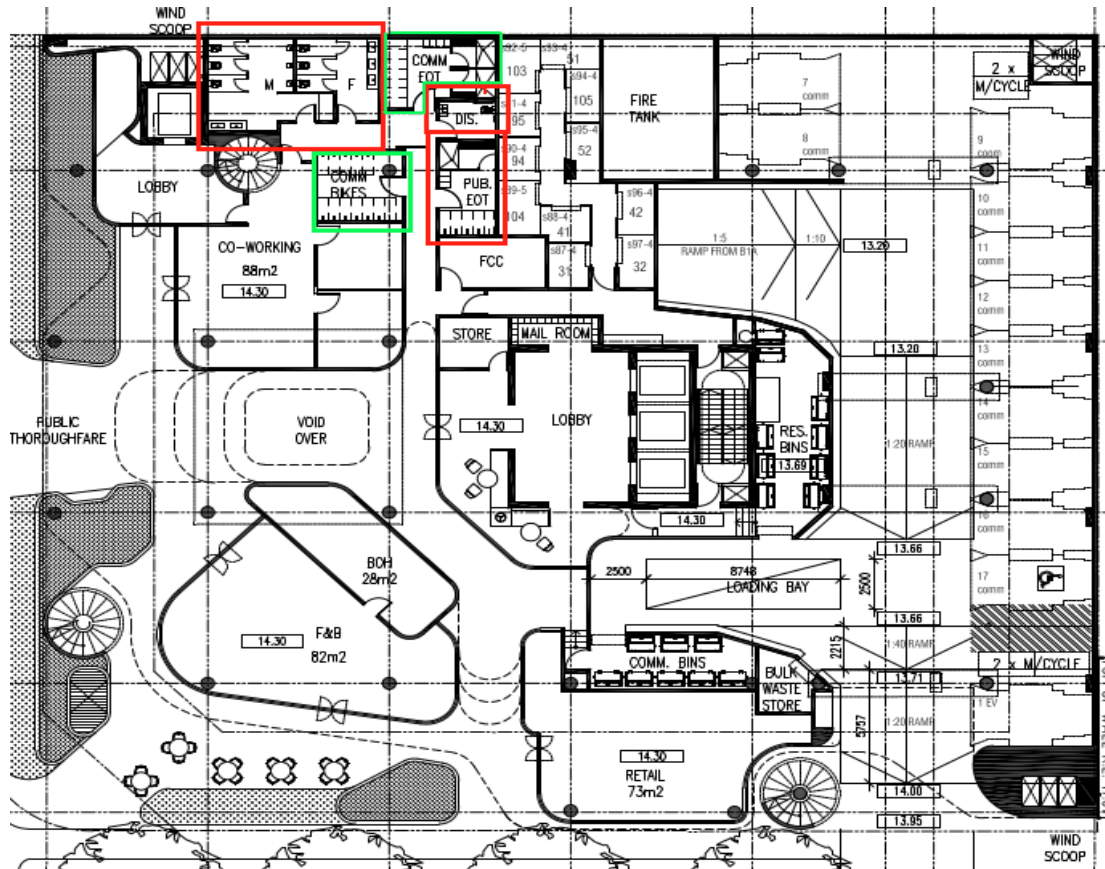


Figure 17: Current ground floor plan with public facilities comprising 3 male and 3 female toilets, 1 universal toilet and end of trip facilities comprising 1 shower, 3 lockers and 5 bicycle racks as marked in red, with the commercial end of trip facilities marked in green

<p>22.1.7</p>	<p>Provision of community, communal and/or commercial facilities.</p>	<p>The development incorporates a 225m² community hall on podium level 1, accessed by pedestrians via spiral stairs on Kishorn Road. As shown in Figures 18 and 19 below, the plans have been amended to address recommendations raised by the DRP in relation to the development initially having car parking provided on level 1 and instead allocating more prime podium space to the Applecross community. The plans have been amended to relocate car parking on level 1 to an additional basement level and as a result, provide additional co-working</p>
---------------	-----------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>space on this level including the provision of a community hall.</p> <p>The 225m² community hall will increase the community interaction and amenity of the podium. The community hall will be a flexible space with a sprung floor that will encourage and enhance public events, seminars and education along with providing kitchenette and storage facilities which enable it to be used for a variety of purposes.</p> <p>Within the CBACP area, there are currently two local community facilities (Applecross District Hall and Swan River Rowing Club). The Applecross District Hall, also known as Tivoli Theatre, is fully utilised with prop making, rehearsals and shows throughout the weekdays and weekends. While the Swan River Rowing Club's hire facility has limited ability to cater to other community uses due to affordability and a lack of available in-building facilities.</p> <p>In addition, the Community Needs Assessment (Attachment 16) outlines that there are limited local community facilities within close proximity to the CBACP area and only one local government community facility within close proximity at Heathcote Reserve.</p> <p>Given the increased and diverse population that will</p>
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>result within the CBACP area, a dedicated multi-purpose space is deemed a necessary community benefit. The proposed community hall, with its sprung floor and flexible space will be able to accommodate the varying age cohorts and needs of the area.</p> <p>In addition, 526m² (88m² ground floor and 436m² Level 1) of co-working space is provided on the ground and first floor levels. These spaces are an alternative to the traditional office lease and provide flexible benefits such as a sense of community, flexibility, the potential for collaboration and networking, and are creative and unique spaces to work in.</p> <p>As outlined within the Community Needs Assessment (Attachment 16) there are currently limited options for co-working spaces within the CBACP area despite its existing office based employment, high level of residents with employment and proximity to Perth CBD.</p> <p>Co-working spaces can assist in addressing many of the reported problems of working from home such as social isolation, lack of collaboration, equipment availability and workplace atmosphere.</p> <p>The proposed 526m² of co-working space provided on the ground and first</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>floor levels caters for this community need by providing spaces which can be used by local freelancers living within or close proximity to the CBACP area as well as small businesses who may wish to locate in the area.</p> <p>The garden landscaping on Level 1 has also been significantly increased, further integrating the building on this level into its surrounding environment, much more effectively than was possible with the previous podium level parking provided.</p> <p>The development proposes 2 community benefits (community hall and co-working spaces) for this one element which are of an exceptional scale and quality as outlined by the DRP when endorsing their support of the development as an exemplary design outcome.</p> <p>Easement for access and details of the management of the community hall and co-working spaces are to be conditioned.</p>
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

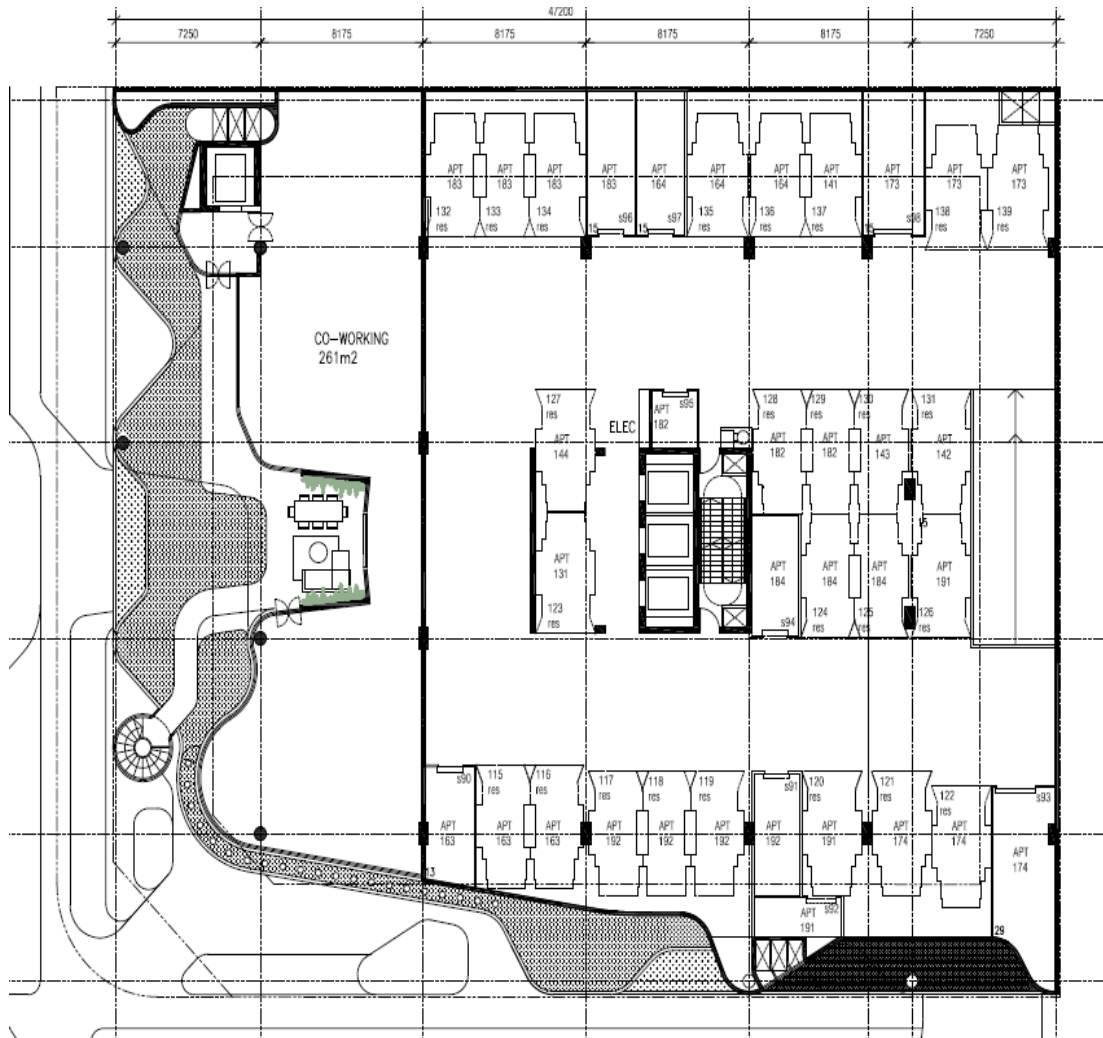


Figure 18: Floor plan for Level 1 of podium presented at December Canning Bridge Design Review Panel Meeting with car parking and 261m² of co-working space

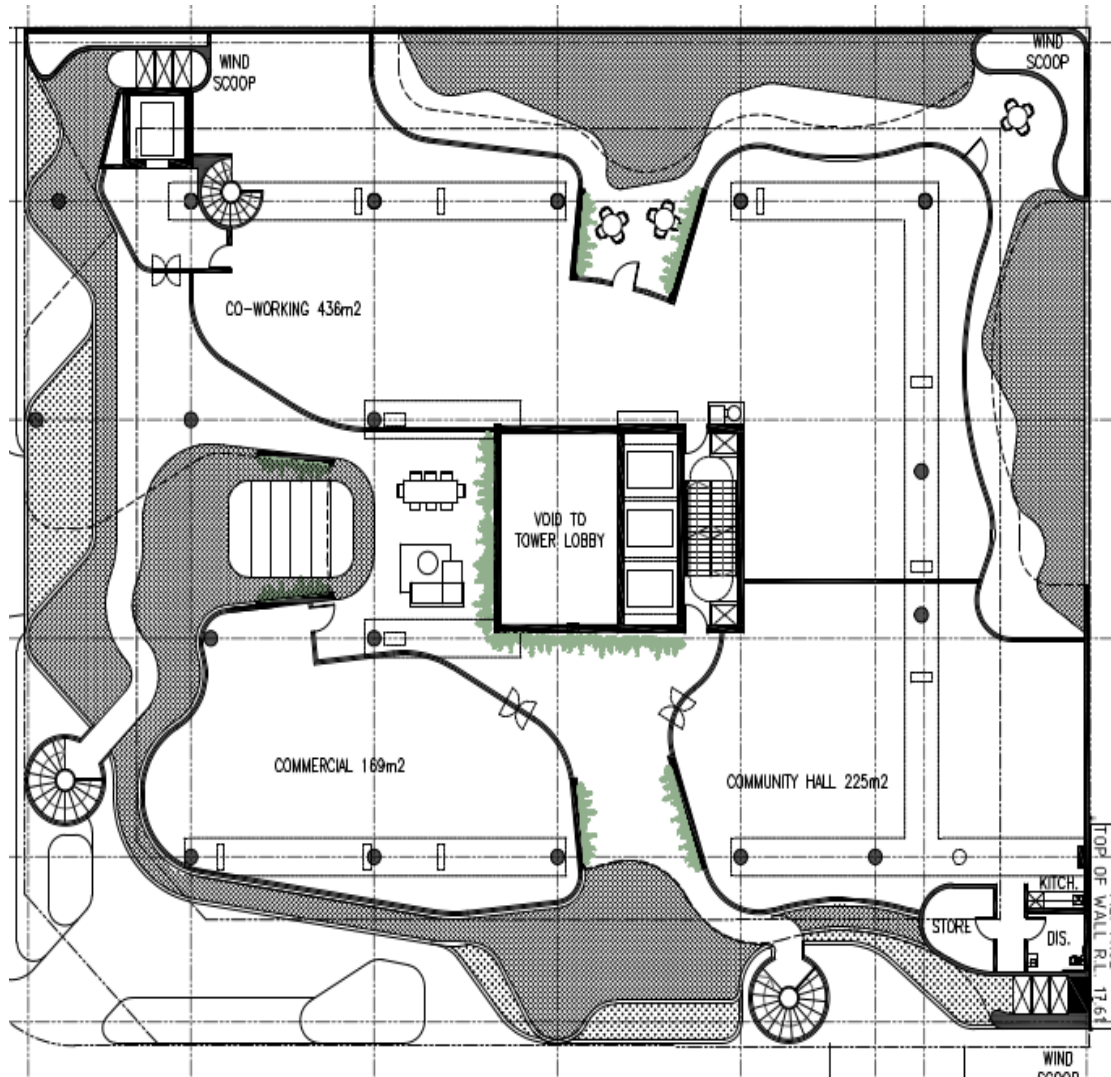


Figure 19: Current plans for Level 1 of Podium with car parking removed and a 225m² Community Hall provided along with a commercial tenancy and the co-working space increased to 436m²

<p>22.1.8</p>	<p>The development comprises a hotel.</p>	<p>This inclusion of this clause is intended to facilitate a diverse range of accommodation options in the CBACP precinct, not just a hotel offer.</p> <p>The development proposes 15 short stay accommodation units on Level 2 comprising 5 x studio, 5 x 1 bedroom and 5 x 2 bedroom units.</p> <p>At present there are limited options for short stay apartment style accommodation in the</p>
---------------	-------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>Applecross area, with equally limited options throughout the City of Melville. The only offering in the form of short stay accommodation in the CBACP area is the Canning Bridge Auto Lodge.</p> <p>In the context of the current proposal, the accommodation offered will be of serviced apartment style, with reception facilities available as a hotel would. This is not Airbnb accommodation, rather this is designed to be a quality high standard accommodation offer. As such the provision of this style of short stay accommodation is considered to be consistent with Clause 22.1.8. It is noted that legal advice obtained by the City indicates that the 'due regard' nature of the CBACP lends support for the provision of any type of short term accommodation to be considered in the same vein as a hotel, as the desired outcome of the CBACP is met.</p> <p>In order to cater for those with a disability, as part of the City's Cross Functional Community Benefit meeting it was recommended that a minimum of 2 of the units be modified to be designed to be accessible for those with a disability. The applicants responded by amending the plans to provide 2 units designed</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		to cater for people with disabilities as shown in Figure 20 below.
--	--	--------------------------------------------------------------------



Figure 20: Proposed Level 2 with 15 short stay accommodation units comprising 5 x studio, 5 x 1 bedroom and 5 x 2 bedroom units. 2 units now provided as dible accessible units as marked in red

22.1.10	Where the development is located adjacent to Canning Highway and where road widening is required; the applicant proposes to cede land free of charge to the State of Western Australia for the purposes of road widening. In such a case, the area ceded will be included in the total area calculations for the purpose of Clause 2.2 and 2.3 and/or Clause 21.2 and 21.3.	The application proposes to cede approximately 125m ² of land required for road widening within PCA 117, adjacent to Forbes Road, free of charge to the State of Western Australia as shown in Figure 21 below. The City considers that the ceding of land for road widening other than where it is located adjacent to Canning Highway as required explicitly by
---------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>Clause 21.1.10, can be considered as a community benefit for the purposes of the Activity Centre Plan. Legal advice obtained by the City supports this view.</p> <p>Schedule 2, Clause 43(1) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> states that:</p> <p><i>'A decision-maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to but is not bound by (emphasis added), the activity centre plan when deciding the application'.</i></p> <p>The ceding of land along Forbes Road within PCA 117 for road widening is considered acceptable as the purpose of PCA 117 is to protect the land required for future road upgrading of Canning Highway to ensure that Canning Highway operates effectively in the long term and continues to provide the regional road functionality that is needed to support the overall development and viability of the centres that it connects such as Fremantle, Perth and Canning Bridge.</p>
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

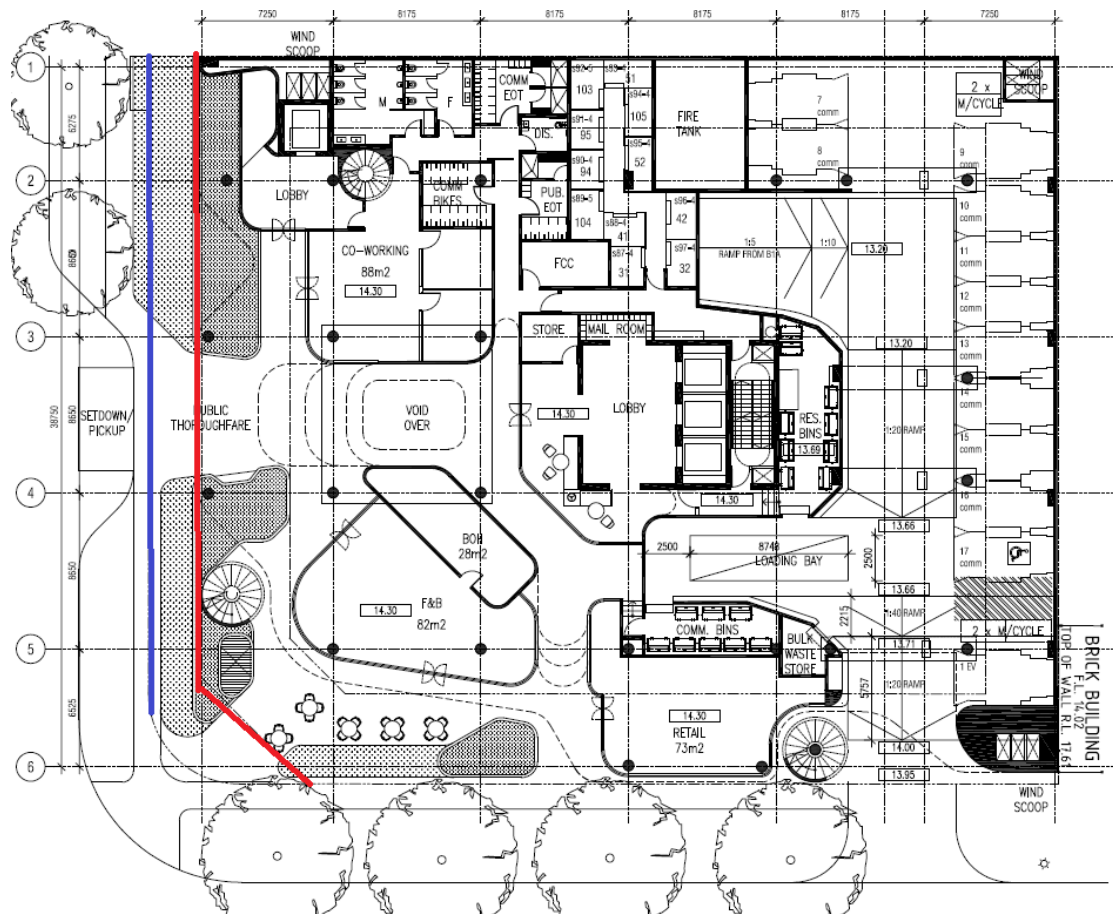


Figure 21: Ground floor plan showing Planning Control Area 117 is to the west of the red line along Forbes Road, with the blue line representing the lot boundary line

The proposed community benefits were considered by the City of Melville internal Cross Functional Community Benefit Group on the 29 January and 18 February 2019, which noted that a total of 7 separate community benefits over 6 elements were proposed. On the whole, it was concluded that the community benefit provided subject to some minor changes which the applicants have now incorporated into the development, both in terms of the variety, quantity and quality, meet with the requirements established by Element 22, and are provided in proportion to the development height bonus being sought.

Alternate Recommendation:

May be requested in accordance with Regulation 13.

Council Recommendation:

For the purposes of this Section 31 Reconsideration, the resolution of Council from the Special Council Meeting of 6 March 2019 remains. As explained elsewhere in this report, the additional reports (Attachments 15 & 16) prepared by the applicants brought about by the mediation process at the SAT have not resulted in the height of

the building being modified, which remains at 20 storeys. In which case the concerns expressed by the Council in respect of the proposed building height remain.

Conclusion:

The SAT Mediation process and subsequent SAT Orders provided the applicant with an opportunity to provide additional information to demonstrate the suitability of the proposal in this location within the CBACP. It is noted that the ability for an applicant to demonstrate how a taller building may be accommodated on a site is a defining feature of the Activity Centre Plan, there being no maximum designated building height limit in the M10 and M15 core areas of the Activity Centre Precinct.

The previous RAR recommended that approval for the development should be granted on the basis that the proposal satisfied the requirements outlined by the Activity Centre Plan for the bonus height sought. The additional information provided as a result of the SAT mediation process serves to reinforce this position.

The Interface Analysis report (Attachment 15) demonstrates in more detail how the proposed development at 20 storeys can be accommodated without prejudice to adverse amenity impacts, and without prejudice to the proposed hierarchy of building heights envisaged by the Activity Centre Plan.

The Forbes residences: Community Benefit Advice report (Attachment 16) provided the applicant with the opportunity to consider in greater detail how both the quantity and quality of the community benefits that are proposed to be delivered by this development do satisfy the requirements of Element 22 of the Activity Centre Plan. To achieve this, the applicant engaged with officers of the City to gain a more detailed understanding of the City's strategic community aspirations for the Canning Bridge Activity Centre Plan precinct, and the broader community aspirations as expressed in the City's Strategic Community Plan. Further commentary specific to the delivery of community benefits is provided by the City's Manager of Neighbourhood Development as Attachment 20 to this RAR.

The work undertaken by the applicant recognises that the community within the plan area is one that is evolving as development in accordance with the Activity Centre Plan takes place, and new members of the community move into the area. In that vein it is necessary to plan for a community that doesn't exist at present. The report analysed the demographic data, the availability of existing community facilities provided by the City, considered the broader needs of the evolving community for urban amenities and services, benchmarked that need, and suggested how the subject site might best accommodate community facilities and urban services.

It is considered that the community benefits proposed in this case do warrant the height proposed by the development, and the proposed development is recommended for approval on that basis.

It is noted that within the CBACP area, the opportunity for achieving bonus height is closely aligned to a combination of achieving excellent design outcomes, including stringent sustainable design requirements, and the provision of a high level of community benefit. It follows therefore that developments for which bonus height is sought will deliver outcomes that exceed those likely to be delivered by development proposals for which no bonus height is sought. This is a key and defining feature of the CBACP, whereby the opportunity exists to achieve outstanding development outcomes, including the additional benefits of the delivery of meaningful community

benefits, in return for bonus height being achieved. The delivery of such developments is a defining aspiration of the CBACP and is the main point of difference between the CBACP and other Activity Centre Plans.

The subject development is recommended for approval on the basis that it is considered to be consistent with the provisions of the CBACP, and exceptional in terms of design quality and level of community benefit proposed. The submissions received in response to the development application are noted, but are not considered material to outweigh the approval of the development. It is therefore recommended that conditional planning approval is granted.