



REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 29 NOVEMBER 2016

1. This Meeting makes Recommendations to the Manager Statutory Planning.
2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Peter Prendergast, Manager Statutory Planning. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: peter.prendergast@melville.wa.gov.au or Tel 9364 0626.
3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request must be received by the CEO by midday on the second Monday after the Friday publication of the Development Advisory Unit (DAU) minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests are subject to the discretion of the CEO, and must be received by him no later than midday on the second Monday after the Friday publication of the DAU minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

DISTRIBUTED: Friday 2 DECEMBER 2016

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 29 NOVEMBER 2016**

PRESENT

P Prendergast
M Scarfone
T Capobianco
M Cosson
J Wardell-Johnson

Manager Statutory Planning
Planning Services Coordinator
Manager Building Services
Senior Planning Officer
Senior Planning Officer

APOLOGIES

IN ATTENDANCE

OBSERVERS

DISCLOSURES OF INTEREST

DISCLOSURE OF FINANCIAL INTERESTS LOCAL GOVERNMENT ACT 1995

Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

Meeting to be informed of disclosures

S.5.66 If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

Disclosing members not to participate in meetings

S.5.67 A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

Please refer to your Handbook for definitions of interests and other detail.

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U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT 270 (21) KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mt Pleasant
 Category : Operational
 Application Number : DA-2016-1134
 Property : Lot 270 (21) Kishorn Road, Applecross
 Proposal : Four storey (with basement and roof terrace) development comprising 21 multiple dwellings
 Applicant : Yaran Property Group
 Owner : Kishorn 21 Pty Ltd
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : None applicable
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT 270 (21) KISHORN ROAD, APPLECROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- This planning application has been referred to the Development Advisory Unit for determination under the provisions of Clause 3.5.2(a)(ii) of Council Policy CP-056 'Planning Process and Decision Making' (CP-054).
- Development approval is sought for the construction of a four storey (with basement and roof terrace) development comprising 21 multiple dwellings at Lot 270 (21) Kishorn Road, Applecross.
- A separate but identical Development Application (DA) was considered in July 2016 by the Joint Development Assessment Panel (JDAP). This was an opt in DAP application, for which the City acted as Responsible Authority.
- The City assessed the proposed development and recommended to the JDAP that it be approved as the details of the proposal were fully compliant with the relevant provisions of Local Planning Scheme No. 6 (LPS6), the Canning Bridge Activity Centre Plan (CBACP) and Council policies.
- The JDAP refused to grant consent for the development at its meeting held on 21 September 2016.
- In response, the applicant has lodged an appeal against the JDAP refusal to the State Administrative Tribunal (SAT). In addition, the applicant has lodged a new and separate DA for the same development to the City, for which the City is the final decision maker.
- The details of the current subject DA are consistent with that previously recommended for approval to the JDAP. There are no changed policy circumstances, and on that basis it is recommended that the DA be approved subject to conditions.



Figure 1 – Aerial photography

**U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT
270 (21) KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)****BACKGROUND**

Prior to the City's consideration of the current subject DA, a DAP application for an identical development proposal on the site was submitted on 4 July 2016. This was classed as an opt-in DAP application. The application was assessed in accordance with provisions of LPS6, the CBACP and Council Policies and was considered to satisfy all relevant provisions.

The City's Responsible Authority Report presented to the Metro Central JDAP on 21 September 2016 recommended the application be approved subject to conditions. Despite the City's recommendation, the application was refused by the JDAP for the following reasons:

- 1. The proposal is considered to be inconsistent with the objectives of the Structure Plan.*
- 2. The building height of 5 storeys is inconsistent with height requirement at Element 3.*
- 3. The proposal is considered to be inconsistent with Element 2 which requires site planning should avoid buildings which are likely to create excessively bulky elements both within a development site and as it relates to the surrounding development.*
- 4. The proposal is inconsistent with Element 3 which requires that developments ensure that interfaces between zones are appropriately managed.*
- 5. Insufficient information was available regarding the noise of the car stacker system to be satisfied as to its operation and the potential impact on the locality.*

The applicant subsequently sought a review of this decision which is currently under consideration at the SAT. At the same time, the subject DA was lodged with the City.

The current DA is identical to that previously considered, but for the purposes of the Planning and Development Act 2005, it does constitute a new and separate chapter in the planning history of the subject site that is not fettered in any legal sense by the previous JDAP refusal for an identical development.

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: District Centre – Canning Bridge Centre
R-Code	: R-AC0
Use Type	: Residential (multiple dwellings)
Use Class	: Preferred use

Site Details

Lot Area	: 1012m ²
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: 2 to be retained 1 to be replaced
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Refer to figure 1 above

U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT 270 (21) KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

U16_0479 NOVEMBER 2016. A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday 2 December 2016.

STAKEHOLDER ENGAGEMENTPublic Consultation

Under the provisions of CP-054, a process of informal notification comprising letters to the owners/occupiers of adjoining residential properties, was undertaken. This process was followed on the basis that the development proposal is consistent in all respects with the provisions of the CBACP.

It is noted that the purpose of informal notification is to inform, not consult, and as such, submissions are not required.

II. OTHER AGENCIES / CONSULTANTSCanning Bridge Activity Centre Plan Design Review Panel

In dealing with the previous identical DAP application, the applicant engaged with the City's Canning Bridge Activity Centre Plan Design Review Panel (the Panel). The Panel considered the details of that DA on three occasions.

The Design Review process was therefore a robust one which delivered a number of design improvements to the development. The development as recommended for approval by the RAR of the City to the JDAP panel constituted a quality design outcome for the development, which was also fully consistent with the objectives of the CBACP. highlighted a number of deficiencies and opportunities for design improvement, all of which have been well received by the applicant. The most recent rendition of plans has incorporated the comments of the Design Review Panel (DRP), and the design of the development as now proposed is considered to represent an outcome which meets the DRP recommendations.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for development approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications for the City relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no strategic, risk or environmental management implications with this application.

U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT 270 (21) KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

The proposal satisfies all of the relevant provisions of Council's policies.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

This application is proposed to be approved under delegation through the DAU process.

Provisions for the potential call up of DAU applications for consideration by Council are outlined in CP-054 (Clause 3.5.4 (a) (i)).

COMMENT

The proposal has been assessed against, and is considered to satisfy the relevant provisions contained within LPS6, the CBACP and Council Policies.

The development is located within the H4 area of the CBACP. It comprises a four storey structure to a maximum height of 16m, which has been designed to accommodate car parking and car park stackers at the ground floor level, screened from the street by the main building entrance and ground floor apartments. Car parking provision is fully compliant with the Design Requirements of Element 18 of the CBACP.

The double height car stackers result in a generous floor to ceiling height on the ground floor, which in turn enables the provision of a mezzanine level within those apartments, and an over height entrance feature. The double storey entrance feature provides a high quality entry statement towards the street frontage.

The proposed mezzanines have been assessed in accordance with definitions contained within the CBACP, which specifically excludes a mezzanine from the definition of 'storey'. In addition, legal advice has been sought by the City to determine whether its interpretation of the CBACP provisions and definitions, relative to the inclusion of mezzanines, is correct in this instance.

The legal advice concludes that the mezzanines proposed to be included within the proposed development do not constitute a storey for the purposes of the CBACP. On that basis, the height of the proposed building is consistent with the Design Requirements of Element 3 of the CBACP.

The upper floor levels are designed to provide appropriate apartment layouts, which will ensure high levels of residential amenity for occupiers. Each apartment is provided with an appropriately sized outdoor living space, with access to natural light and ventilation. The proposed building is setback from lot boundaries in accordance with the Design Requirements of Elements 4 and 5 of the CBACP.

The external appearance of the development is well considered, with appropriate levels of articulation achieved. The roof space is proposed to be utilised as a communal outdoor living space, with dedicated facilities for occupiers, and appropriate shade structures provided. The use of the roof space as such is consistent with the provisions of the CBACP, and

U16/0479 PROPOSED FOUR STOREY MULTIPLE DWELLING DEVELOPMENT AT LOT 270 (21) KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

complies with the Design Requirements of building height as outlined by Element 3, and Open Space and landscaping, as outlined by Element 10.

CONCLUSION

The development in this case is designed to meet the requirements of LPS6, the CBACP and Council policies. On that basis, it is recommended that conditional planning approval be granted.

OFFICER RECOMMENDATION (INSERT ITEM NUMBER)**APPROVAL**

1. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.
2. All stormwater generated on site is to be retained on site.
3. Prior to the installation of the car park stacker system, information shall be provided to the City to demonstrate that the stackers operate without detriment to residential amenity, particularly in respect of noise.
4. Prior to the initial occupation of the development, bicycle parking facilities for 21 bicycles shall be provided in accordance with Australian Standard AS 2890.3 to the satisfaction of the City. The facilities shall thereafter be retained for the life of the development.
5. 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.
6. The development shall be serviced by a concrete or brick paved vehicle crossover with a minimum width of 6m and located a minimum of 1.5m 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.
7. Fencing and all structures within the front setback area are to comply with Council Policy CP-078 Residential Development to the satisfaction of the City
8. 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) to the satisfaction of the City.
9. Prior to the commencement of works, the street tree/s 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:

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- 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.

10. All external clothes drying facilities shall be screened from view of the primary and secondary street to the satisfaction of the City.
11. Prior to the commencement of works, a detailed landscaping and reticulation plan for the subject site and the road verge 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;
 - (d) Any verge treatments; and
 - (e) The landscaping treatment to be applied to the drive way access leg boundary

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 to the satisfaction of the City. Any species which fail to

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establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.

12. Prior to the initial occupation of the development, a Waste Management Plan shall be prepared in accordance with Council Policy – Waste and Recyclables Collection for Multiple Dwellings, Mixed Use Developments and Non-Residential Developments and submitted in writing for the approval of the Manager Statutory Planning. Once approved, the development is to be constructed and operated in accordance with the Waste Management Plan to the satisfaction of the City.
13. Prior to the commencement of works, details of the exterior colours, materials and finishes are to be submitted to and approved in writing by the City. Once approved, the development is to be constructed in accordance with those details.
14. No development (including fencing, letter boxes or any other structure) or landscaping over 0.6m in height is to be located within the 1.5m x 1.5m sightline truncation where the vehicle access point meets the road reserve.
15. Prior to the initial occupation of the development, the surface finish of the boundary wall(s) are to be finished externally to the same standard as the rest of the development to the satisfaction of the City.
16. 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.
17. 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 works. 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.

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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 must not obstruct vehicle sight lines Temporary structures are to be removed prior to initial occupation of the development.
19. Prior to the commencement of works, a scheme for the provision of Public Art 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 provided in accordance with Council Policy – 085: Provision of Art in Development Proposals and the Canning Bridge Structure Plan prior to the initial occupation 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.