

MINUTES

OF THE

SPECIAL MEETING OF COUNCIL

HELD ON

WEDNESDAY 28 AUGUST 2013

AT 6.30PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

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MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON WEDNESDAY, 28 AUGUST 2013.

1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6.30pm. Mr J Clark, Governance & Compliance Program Manager read aloud the Disclaimer that is on the front page of these Minutes and then His Worship the Mayor, R Aubrey, read aloud the following Affirmation of Civic Duty and Responsibility.

Affirmation of Civic Duty and Responsibility

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

2. PRESENT

His Worship the Mayor R Aubrey

COUNCILLORS

Cr D Macphail

Cr A Nicholson

Cr R Willis

Cr R Hill, Cr R Kinnell

Cr N Pazolli, Cr P Reidy

Cr J Barton, Cr S Taylor-Rees

WARD

Deputy Mayor

City

Bull Creek/Leeming

Palmyra/Melville/Willagee

Applecross/Mount Pleasant

Bicton/Attadale

3. IN ATTENDANCE

Dr S Silcox	Chief Executive Officer
Mr J Christie	Director Technical Services
Mr S Cope	Director Urban Planning
Mrs A Templeton	Planning Services Coordinator
Mr J Clark	Governance & Compliance Program Manager
Mr N Fimmano	Governance & Property Officer
Ms S Tranchita	Minute Secretary

At the commencement of the meeting there were 43 members of the public and no members from the Press in the Public Gallery.

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

Cr Reynolds– University Ward
Cr Foxtton – University Ward
Cr Robartson – Bull Creek/Leeming Ward

4.2 APPROVED LEAVE OF ABSENCE

Nil

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)
AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN
DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE
BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ
THE ELECTED MEMBERS BULLETIN.**

Nil.

6. QUESTION TIME

Mr G Pearson, Myaree

Question 1

The Independent Peer Review comments in the RAR (Page 11) that “The locality within which 94 Kitchener Road is situated is suburban, rather than urban in character.” However, the site itself is apparently considered to be “urban”, under MRS zoning, as per Page 2 of the RAR. Is this “urban” zoning correct, and if so, how has this occurred when it is surrounded on all sides by a “suburban” low- density area?

Response

The Metropolitan Region Scheme (MRS) provides an underlying zoning for all land within the Perth Metropolitan Area.

The MRS zoning of the subject site and surrounding area is ‘Urban’. The ‘Urban’ zoning is effectively utilised for all land outside of designated City Centre Areas which are not zoned for Industrial, Rural, Public Purposes or Parks and Recreation.

In addition to the MRS zoning, the City of Melville Community Planning Scheme No. 5 provides another layer of zoning which is intended to reflect the nature and density of each area within the City. As such, the predominantly low density suburban residential area surrounding 94 Kitchener Road is zoned Living Area R20.

Accordingly, the MRS zoning of the site is correct.

Question 2

The Lot Size indicated on Page 2 of the RAR indicates the size is 6142 sq m. All previous correspondence and information from other sources, including Landgate, appears to indicate it is 6053 sq m. Could this be checked and amended as necessary before going to the JDAP?

Response

This is an administrative error. The land area of the subject site is approximately 6052m². The RAR will be amended accordingly prior to submission to the JDAP.

Question 3

The RAR states different figures for the number of submissions in the two rounds of consultation compared to those previously stated by the Council. That is, for the first consultation, 64 in the RAR instead of 65 as stated previously; and for the second consultation, 51 in the RAR instead of 58 as stated previously. What are the actual figures and can these be corrected?

Response

The correct figures are those outlined within the RAR.

Question 4

The RAR makes mention of the first petition of 492 signatures, and the petition lodged to call the Special Electors' Meeting. However, the RAR fails to mention the petition of 533 signatures lodged on 15 July as part of the second consultation period. Could this omission please be rectified by adding this to the information on Page 13 of the report?

Response

This information can be included within the RAR prior to submission to the JDAP.

Question 5

In the Table on Page 7 of the RAR, referring to changes between Development Proposal 1 and Development Proposal 2, the Officer Comment column indicates that "No change has been made to the overall height of the building." This is incorrect, as the height in fact was increased from 13.56 m to 13.75 m, as stated in the Council's letters to residents. Could this please be amended as necessary before going to the JDAP?

Response

The plans which were the subject of the first consultation period had a maximum height of 13.56m.

The plans which were the subject of the second consultation period were incorrectly assessed as having a maximum height of 13.75m and this 13.75m figure was used in the letters sent to the surrounding property owners as part of the advertising process.

Upon further assessment of the revised plans, the maximum height of the proposed development was assessed as being 13.6m. The 4cm increase in the maximum height was not considered significant enough to include within the Table on Page 7 of the RAR.

Question 6

On Page 7 of the RAR, there is a reference to sets of stairs "for each block". As the elevations clearly show that the building consists of one single, undivided apartment building, could you please clarify what is actually meant by "each block"?

Response

The design of the building is broken up into five almost identical 'blocks', which if approved could be developed in stages.

Question 7

On Page 15, the RAR states: "The proposed embayed parking bays within the road reserve are supported on the basis that they will act to slow traffic along Kitchener Road." However, with speeds along Kitchener reported as being at 64kph for 85% of the time (when the speed limit is actually 50kph), is it not just as likely that cars pulling out of street-parking bays will in fact increase the likelihood of road accidents?

Response

The use of on-street parking, traffic islands and vegetation within the road reserve are often utilised as mechanisms by Traffic Engineers to slow traffic down as they act as passive traffic calming devices.

Question 8

On Page 18, the RAR states that the proposed height of the building is 13.6m. This is incorrect; it is 13.75m. Could this error be amended?

Response

13.6m is the correct assessment of the maximum height of the proposed development. Consequently, no amendment to the RAR is required.

Question 9

Also on Page 18, the RAR states that "the CPS5 provides the ability to vary the height requirement." According to CPS5 clauses 4.2 (d) (iv) and 4.3, however, this can only occur with a Special Majority vote from the Council. As no such Special Majority vote has occurred in this case, and as the JDAP may not be aware of this provision in the Scheme, could the statement in the RAR please be appropriately amended to reflect this?

Response

The City has previously received advice on this matter from the Department of Planning. The Department of Planning states that no Special Majority vote is applicable to the JDAP in accordance with the DAP Standing Orders and DAP Regulations.

Ms M Hansen, Myaree

Question 1

The Independent Peer Review states in the RAR on P 11 that “the surrounding neighbourhood is likely to retain a similar character to what currently exists”, and notes that the only change expected is “more 2 storey buildings”. Given that this in fact equates to “more of the same”, the Planning Assessment on P 19 of the RAR that the locality ‘could be said to be experiencing some transition and likely to experience further transition in the future’ is clearly overstating the case. To capture the essence of the Independent Peer Review statement and to ensure the JDAP is not given the impression that any noteworthy transition is occurring, could the Planning Assessment statement perhaps be amended to read: “the locality may be said to be experiencing no significant transition and likely to experience little significant change in the future”?

Response

Some redevelopment of existing properties within Alfred Cove is presently occurring and it is considered that due to the age of a large proportion of the properties, redevelopment will continue to occur. No amendment to the RAR is therefore considered necessary.

Question 2

The figure of 450 vehicular movements is mentioned twice in the RAR when the Traffic Assessment clearly states “505 vehicular movements”. A search of the Traffic Assessment shows the figure 450 does not appear anywhere in it. Could this error please be amended in the RAR?

Response

The figure of 450 vehicular movements was provided by the City’s Technical Services and was therefore relied upon.

Question 3

*On Page 21, the RAR states that “Figure 2 shows the existence of multiple bus stops **just outside of a 250m** walking catchment of the site.” This statement is ambiguous as it could suggest multiple bus routes instead of multiple stops for only two bus routes (501 and 881) on Marmion Street. In addition to this, according to the Site Context information provided on Page 4 of the RAR, “the Kitchener Road site is 325 metres north of Marmion Street”.*

As such, the bus stops cannot be said to be “just outside” of a 250m walking catchment. Walking from the site on Kitchener Road, the closest of them is a further 75 metres beyond this. Could this statement therefore be amended to remove the ambiguity of the original statement and reflect these facts?

Response

It is considered that the map within the RAR adequately portrays the location of the bus stops in relation to a 250m walking catchment.

The reference to the subject site being located 325m to the north of Marmion Street is factual.

Question 4

On Page 22, the RAR states: "The proposed embayed parking bays ... are considered to improve the streetscape of the area." Could you please confirm that it is the considered opinion of the Planning Office that the removal of mature trees and replacing them with parked cars is an improvement to the streetscape?

Response

Of the three existing street trees located adjacent to the subject site, only one is proposed to be removed by the Applicant. Its removal is supported by the City's Parks Services provided the Applicant complies with the City's Street Tree policy which requires provision of an additional two trees in lieu of the one being removed.

In addition, the Applicant proposes to plant a further six trees within the road reserve which, in conjunction with the proposed embayed parking, is considered to improve the streetscape of Kitchener Road.

Question 5

On Page 23, the RAR refers to "bin storage areas being located within each of the five stages". Could you please clarify what the "five stages" refers to?

Response

The design of the building is broken up into five almost identical 'blocks', which if approved could be developed in stages.

Question 6

*On Page 12, the Independent Peer Review indicates that a floor above two storeys should be "set back to minimise perceived scale from the footpath in front of the building." It also indicates on the same page that this additional height also **"needs to be set back from adjacent lots to prevent new development visually overwhelming and potentially overshadowing the neighbouring development."** This second statement is not reiterated in the Planning Assessment comments on Page 24. Could this omission be amended to allow for the DAP's fuller understanding?*

Response

It is considered that the additional height is adequately setback from the neighbouring lots to the south as the setbacks to the southern boundary are significantly more than required by the Residential Design Codes. For this reason, this is not included as a reason for the proposal to be recommended for refusal.

Question 7

On Page 15, there is a suggestion in the Officer's Comments column that the estimated additional vehicular trips "are anticipated to only result in a minor impact upon the existing road network." How can the review of the Traffic Impact Assessment Report conducted by the Council's Technical Services assume that there will be "only a minor impact" to traffic on Cottrill Street, when they themselves state that they have no traffic count for Cottrill Street?

Response

Notwithstanding that the City has no traffic count data for Cottrill Street; the City's Technical Services are still familiar with Cottrill Street and its operating capacity. On the basis of this knowledge, the additional 450 vehicular movements is not anticipated to have a significant impact upon the functioning of the road.

Question 8

Will the Council accept the Developer's use of existing landscaping on adjoining properties as a means to reduce the impacts of overlooking and privacy? Is it not the Developers responsibility to build these elements into the design of the development at the time of the application to ensure that these elements are compliant and controlled?

Response

The proposal satisfies the Deemed to Comply provisions of the R-Codes relating to visual privacy. As such, the design of the development in relation to visual privacy complies. The existence of landscaping on adjoining properties may provide additional privacy to adjoining properties above and beyond the R-Code requirements; however this is not taken into account in the assessment of the development against the Deemed to Comply provisions of the R-Codes.

7. DECLARATIONS OF INTEREST**7.1 FINANCIAL INTERESTS**

Nil.

7.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Nil

8. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Nil.

9. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

10. DEPUTATIONS

- P13/3423 – Mr H Shigeyoshi - deputising on behalf of the applicant

A deputation was heard from Mr H Sihigeyoshi on behalf of the applicant, Tuscom & Associated Pty Ltd from 6.52pm followed by questions until 7.25pm.

11. PRESENTATION

A presentation by Mr S Cope, Director Urban Planning and Ms A Templeton, Planning Services Co-ordinator on the application was heard from 7.27pm followed by questions until 7.48pm.

12. REPORTS OF THE CHIEF EXECUTIVE OFFICER

Nil

At 7.25pm Cr Macphail left the meeting and returned at 7.26pm

P13/3423 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FOUR STOREY RESIDENTIAL DEVELOPMENT AT LOT 10 (NO. 94) KITCHENER ROAD, ALFRED COVE (REC) (CONFIDENTIAL ATTACHMENT)

Ward : City
 Category : Operational
 Application Number : DA-2013-149
 Property : Lot 10 (No. 94) Kitchener Road, Alfred Cove
 Proposal : Four Storey Residential Development
 Applicant : Tuscom & Associated Pty Ltd
 Owner : TTO Pty Ltd
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : P11/3277 – Ordinary Meeting of Council – 20 December 2011
 P12/3305 – Ordinary Meeting of Council – 15 May 2012
 Responsible Officer : Steve Cope
 Director Urban Planning

AUTHORITY / DISCRETION

DEFINITION

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

**P13/3423 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FOUR STOREY RESIDENTIAL DEVELOPMENT AT LOT 10 (NO. 94) KITCHENER ROAD, ALFRED COVE
(REC) (CONFIDENTIAL ATTACHMENT)**

KEY ISSUES / SUMMARY

- Planning approval is sought from the Metro Central Joint Development Assessment Panel (JDAP) to construct a four storey residential development at 94 Kitchener Road, Alfred Cove.
- The application by virtue of its cost of development is a mandatory JDAP application which was submitted to the City on 7 February 2013.
- Council officers have completed the Responsible Authority Report (RAR) which is required to be submitted to the JDAP under the Planning and Development (Development Assessment Panel) Regulations 2011 on 30 August 2013.
- Prior to the consideration of the application by the JDAP, the RAR is referred to Council for its consideration and endorsement.
- The recommendation of the RAR is that the JDAP refuse the application.
- A copy of the minutes of the Special Meeting of Council will be forwarded to the JDAP together with the RAR.



BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area
R-Code	: R40
Use Type	: Residential
Use Class	: Permitted

**P13/3423 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FOUR STOREY RESIDENTIAL DEVELOPMENT AT LOT 10 (NO. 94) KITCHENER ROAD, ALFRED COVE
(REC) (CONFIDENTIAL ATTACHMENT)**

Site Details

Lot Area : 6,142m²
Street Tree(s) : Yes, one proposed to be removed
Street Furniture (drainage pits etc) : None applicable
Site Details : See aerial photo above

[3423 Amended Plans 19 June 2013](#)

[3423 Amenity Impact Statement](#)

[3423 Minutes Ordinary Meeting of Council 20 August 2013a](#)

[3423 Minutes Special Meeting of Electors 5 August 2013](#)

[3423 Perspectives 1 to 5](#)

[3423 Transport Impact Statement](#)

[3423 Responsible Authority Report \(RAR\)](#)

DETAIL

Development approval is sought to construct a four storey residential development, consisting of 87 multiple dwellings broken up into five separate modules. The proposed building is designed as follows:

Ground Floor

One, single bedroom dwelling
Four, two bedroom dwellings
140 resident/visitor car parking bays
14 on-street parallel embayed parking bays
One on-street loading bay
Six new street trees
Store rooms and bin store areas.
Vehicular access is limited to one crossover off Cottrill Street

First Floor

Six, single bedroom dwellings
15, two bedroom dwellings
Ten, three bedroom dwellings
Landscaped internal courtyards

Second Floor

One, single bedroom dwelling
12, two bedroom dwellings
16, three bedroom dwellings

Third Floor

13 single bedroom dwellings
Nine, three bedroom dwellings
One internal landscaped courtyard

**P13/3423 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FOUR STOREY
RESIDENTIAL DEVELOPMENT AT LOT 10 (NO. 94) KITCHENER ROAD, ALFRED COVE
(REC) (CONFIDENTIAL ATTACHMENT)**

PUBLIC CONSULTATION/COMMUNICATION

Detailed in the RAR attached.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Detailed in the RAR attached.

STATUTORY AND LEGAL IMPLICATIONS

The City is not the determining authority for the application. The Planning and Development (Development Assessment Panel) Regulations require the City, as a responsible authority to which a DAP application is made, to give a report to the Development Assessment Panel.

FINANCIAL IMPLICATIONS

None applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

Detailed in the RAR. attached

ALTERNATE OPTIONS & THEIR IMPLICATIONS

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

Council may resolve to not endorse the recommendation within the RAR, however reasons should be provided in the usual manner to inform the members of the JDAP.

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

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

P13/3423 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FOUR STOREY RESIDENTIAL DEVELOPMENT AT LOT 10 (NO. 94) KITCHENER ROAD, ALFRED COVE (REC) (CONFIDENTIAL ATTACHMENT)**CONCLUSION**

The revisions to the design of the proposed development are considered to have enhanced the proposal however there remain concerns about the bulk impact of the proposal and it is considered that further modifications are warranted to make the development proposal acceptable. By zoning the site R40 in contrast to the surrounding R 20 coding the City did not expect development of the site to be of the same intensity but the intent of CPS5 and the R-Codes is that compatibility be achieved between the adjoining but differently coded areas. It is noted that there is not objection in principle to variation to height or plot ratio but in this case the extent of variation produces a building of a scale which is considered to be out of context with the surrounding locality. On that basis the proposed development could not be said to be consistent with Clauses 4.2 and 7.8 of CPS5 or the Design Principles of Clause 6.1 of the R-Codes and due to the scope of the modifications considered necessary it is considered that it would not be realistic to seek to cover these with conditions therefore it is recommended that the development application be refused

OFFICER RECOMMENDATION (3423)**RECOMMEND REFUSAL**

At 8.05pm moved Cr Macphail, seconded Cr Nicholson

- 1. That the Council advise the Metro Central Joint Development Assessment Panel that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to refuse the application for the proposed four storey residential development at Lot 10 (94) Kitchener Road, Alfred Cove.**
- 2. That the Metro Central Joint Development Assessment Panel is requested by the Director Urban Planning to allow the Striker Balance Community Action Group to present to the Metro Central Joint Development Assessment Panel their power point presentation attached to the Responsible Authority Report**

(10/0)

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

13. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Nil.

14. CLOSURE

There being no further business to discuss the Mayor declared the meeting closed at 8.10pm.