

**MINUTES**

**OF THE**

**SPECIAL MEETING OF COUNCIL**

**HELD ON**

**MONDAY, 13 MAY 2013**

**AT 6.30PM IN THE COUNCIL CHAMBERS**

**MELVILLE CIVIC CENTRE**

**DISCLAIMER**

**PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:**

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

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

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

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

## **CONTENTS PAGE**

<b>Item Description</b>	<b>Page Number</b>
<b>URBAN PLANNING</b>	
<b>P13/3394</b> Development Assessment Panel Application - Five Storey Mixed Use Development at Lot 802, (554-558) Canning Highway, Attadale	5



**MINUTES OF THE SPECIAL MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON MONDAY, 13 MAY 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, A/Manager Information, Technology and Support, 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 A Nicholson  
Cr R Willis  
Cr N Pazolli  
Cr J Barton, Cr S Taylor-Rees  
Cr N Foxton

**WARD**

City  
Bull Creek/Leeming  
Applecross/Mount Pleasant  
Bicton/Attadale  
University

**3. IN ATTENDANCE**

Mr M Tieleman	A/Chief Executive Officer
Mr S Cope	Director Urban Planning
Mr L Hitchcock	Executive Manager Legal Services
Mr P Prendergast	Manager Statutory Planning
Ms A Templeton	Senior Planning Officer
Mr J Clark	A/Manager Information, Technology and Support
Ms K Thornton	Corporate Administration Officer
Ms D Beilby	Minute Secretary

At the commencement of the meeting there were 12 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 R Hill – Palmyra/Melville/Willagee Ward  
Cr R Kinnell – Palmyra/Melville/Willagee Ward  
Cr P Reidy – Applecross/Mount Pleasant Ward  
Cr C Robartson – Bull Creek/Leeming Ward

**4.2 APPROVED LEAVE OF ABSENCE**

Cr D Macphail (Deputy Mayor) – City Ward  
Cr M Reynolds – University Ward

**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****6.1 Ms S Walters, Attadale**Question 1

*“The traffic report from Riley Consulting concerns access to and from Groves Avenue and Canning Highway. A major traffic congestion is on Lentona Street and Hislop Road. When considering this application, did the City of Melville undertake a traffic impact study on both of these very busy arterial roads which will be further impacted by this development and is a serious safety concern for the wider community?”*

Response

The Director Urban Planning responded by saying that the City of Melville had not undertaken a traffic impact study however had required the submission of a traffic impact assessment by a consultant on behalf of the applicant. That traffic impact assessment had been reviewed by the City’s officers and had been found to satisfactorily address the relevant traffic issues.

**6.2 Ms C Sheridan, Attadale**Question 1

*“Landscaping on Lot 802 at present is 4.13% with lease from Water Corporation helping to bring landscaping close to 25%. What happens after ten years if Water corporation don’t extend lease? Landscaping on site will be back to 4.13% well below the development requirement.”*

Response

The Executive Manager Legal Services responded by saying that the Agreement governing the landscaping proposed within the adjoining Water Corporation pump station/sump land (Lot 801), whilst for a nominal ten year period may be cancelled for various reasons by the licensor (the Water Corporation) with three months notice and cannot therefore be relied upon to provide landscaping certainty in perpetuity.

Question 2

*“What happens if major works need to take place on the Water Corporation site requiring landscaping to be ripped up. Who will replace and will there be a timeline to replace.”*

Response

Refer to response to Question 1 above.

**6. QUESTION TIME (Continued)****6.2 Ms C Sheridan, Attadale (Continued)**Question 3

*“With bin collection proposed to take place twice a week who will bear the cost of a second collection? Will this be charged to the complex or will it eventually be included in our rates? Even though there may be a collection in the vicinity there will be a cost to add a collection point.”*

Response

The Acting Chief Executive Officer responded by saying that the cost of additional bin collections would be met by the property owners.

**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. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

Ward : Bicton/Attadale  
 Category : Operational  
 Application Number : DA-2012-1127  
 Property : Lot 802 (554-558) Canning Highway, Attadale  
 Proposal : Five Storey Mixed Use Development  
 Applicant : Gavin Construction  
 Owner : Gavin Construction  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P05/3043 – Amended Plans for Proposed Three Storey Office at Lot 802 (554-558) Canning Highway, Attadale – Development and Neighbourhood Amenity Committee 8 November 2005.  
 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 checked="" type="checkbox"/>	<b>Executive</b>	<b><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></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE  
(REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- Planning approval is sought from the Joint Metro Central Development Assessment Panel (JDAP) to construct a five storey mixed use development at 554-558 Canning Highway, Attadale.
- The application by virtue of its estimated cost of development is an optional JDAP application which was submitted to the City on 25 September 2012.
- The proposed development was the subject of a previous Responsible Authority Report (RAR) report and JDAP meeting on 28 February 2012. The recommendation of the previous RAR report was to refuse the development application due to the bulk and scale of the proposed development and its resulting impacts upon the streetscape and adjoining property to the west.
- The JDAP at its meeting of 28 February 2012 resolved to defer consideration of the application to allow the matters raised in the Officer's report to be addressed by the Applicant; further negotiations to take place between the City and the Applicant; and to allow the JDAP to consider late correspondence received from the applicant and Main Roads WA.
- As a result of further discussions between the City and the Applicant, the Applicant has submitted revised plans which have addressed the concerns outlined in the previous RAR report in relation to bulk and scale and the impacts upon the adjoining property to the west.
- 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 14 May 2013.
- Prior to the re-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 approve the application subject to conditions.
- A copy of the minutes of the Special Meeting of Council will be forwarded to the JDAP together with the RAR.

**BACKGROUND**

The subject lot (refer Figure 1) was historically part of a larger lot utilised by the Water Corporation as a pump station and sump. The pump station which existed centrally on the property was demolished in 2003 and the property subdivided to create Lot 801 (554A-558A Canning Highway) and the subject site: Lot 802 (554-558 Canning Highway). The Water Corporation has retained ownership of Lot 801.

Planning approval was granted on 21 December 2004 for the construction of a two storey office development on the subject site. This Planning approval was subsequently amended on 28 March 2006 to incorporate an undercroft car park level which resulted in the proposal becoming three-storey. The resultant approved development included a plot ratio of 1,299sqm (0.68), an eave height of 9.7m and a maximum height of 11.6m. This approval has since lapsed.



**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

The current application was considered by the Metro Central Joint Development Assessment Panel (JDAP) at its meeting of 28 February 2013. At this meeting the JDAP resolved to defer consideration of the application to allow:

- The matters raised in the Officer's report to be addressed by the Applicant;
- Further negotiations to take place between the City and the Applicant; and,
- The consideration of the late correspondence by JDAP Members.

The City requested an Extension of Time from the DAP Secretariat on 24 April 2013 to delay the delivery of the Responsible Authority Report (RAR) due to be submitted 30 April 2013 for the JDAP meeting on 9 May 2013. This extension was granted with the RAR now due to be submitted on 14 May 2013.

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: Commercial Centre Frame – CCF
R-Code	: R25/50
Use Type	: Residential and Office
Use Class	: Residential – D use – discretionary use Office - S use – discretionary use following advertising in accordance with Clause 7.5 of CPS5

**Site Details**

Lot Area	: 1,904m <sup>2</sup>
Street Tree(s)	: Existing street trees along Groves Avenue – to be retained
Street Furniture (drainage pits etc)	: Bus stop adjacent to the site on Canning Highway – to be retained
Site Details	: See aerial photo above

[3394 Lot 802 554 Canning Highway Traffic Review Report 12 October -2012](#)

[3394 Main Roads Comments 554 556 Canning Highway Attadale](#)

[3394 554 Canning Highway Elevation Plans](#)

[3394 554 Canning Highway 700 Traffic Statement Addendum 3 May 2013](#)

**DETAIL**

Planning approval is sought for the construction of a five-storey mixed use building comprising one ground floor Office tenancy and 34 Residential apartments within the four floors above.

The proposal consists of a total of 80sqm of office space and 2,649sqm of residential floor space comprising 34 units. A communal amenities area for tenants of the building is also proposed within the first floor, which includes a gym, recreation area, alfresco, deck and pool.

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE  
(REC) (CONFIDENTIAL ATTACHMENT)**

A total of 41 off street car parking bays are proposed, including one disabled bay, two office bays, eight visitor bays and 30 residential bays (22 of these being in the form of two car stackers). All bays are accessed via Groves Avenue.

A bicycle parking area for up to 16 bicycles is proposed to be provided within the undercroft car park area. End-of-trip facilities for office patrons are provided within the first floor amenities area.

Landscaping is proposed within the front setback area. In addition, substantial landscaping within the adjoining Water Corporation pump station / sump land (Lot 801) is detailed on the proposed plans.

**PUBLIC CONSULTATION/COMMUNICATION**

Detailed in RAR attached.

[3394\\_554\\_Canning\\_Highway\\_DAP\\_RAR](#)

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Detailed in RAR attached.

**STATUTORY AND LEGAL IMPLICATIONS**

Legal opinion was sought on the issue of density, in particular the relationship between the provisions of CPS 5 and Part 7 of the Residential Design Codes.

This opinion has not yet been received however, verbal contact with the City's solicitors have indicated that at this stage of their research an answer still appears inconclusive.

An assessment by Planning Officers has therefore been undertaken taking relevant planning issues into consideration including what has been promoted as the intent by the WAPC in providing for the provisions of Part 7 of the R Codes. Part 7 contains indicative development parameters for underlying residential codings but does not include minimum or average areas of site per dwelling as are specified in Part 6 of the R Codes. In that regard, it is understood that the intention of the introduction of Part 7 of the R Codes was to encourage the development of multiple dwellings as an alternative to the dominance of grouped housing development. It is understood that the introduction of Part 7 was also designed to address issues of housing affordability and diversity, on the basis that neither were delivered with a reliance on grouped dwelling developments.

It is considered reasonable to assume that the introduction of Part 7 of the R Codes in November 2010 was in itself designed to create a point of difference between it and the existing Part 6 provisions. To impose the dwelling density restrictions contained in Part 6 on Part 7 development proposals would effectively conflict with the purpose and intent of the introduction of Part 7.

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

**FINANCIAL IMPLICATIONS**

There are no financial implications applicable for Council as a result of this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

*Directions 2031* is a high level spatial framework strategy that establishes a vision for future growth of the metropolitan Perth and Peel region and provides a framework to guide the detailed planning and delivery of housing, infrastructure and services necessary to accommodate a range of growth scenarios. The final report was released by the Western Australian Planning Commission on 30 August 2010.

State Planning Policy 4.2 contains a hierarchy of Activity Centres and incorporates performance targets for Activity Centres including Neighbourhood Centres. Hislop Road is a Neighbourhood Centre.

The City's Corporate Plan 2012 -2016 incorporates a number of Key Actions 2012/13 onward including finalisation of the draft Local Planning Strategy and Local Planning Scheme 6 to provide clear long term strategic direction in land use planning in response to demographic trends and State Government planning policy. A further action is to manage population growth impacts by considering the options for increasing residential density at transit oriented development nodes, activity centres and along major public transport routes.

**POLICY IMPLICATIONS**

The proposal satisfies all of the relevant provisions contained within Council Policy with the exception of Council Policy-066: Height of Buildings Policy. This is addressed within the RAR.

The City's draft Non-Residential Development and Provision of Art in Development Proposals policies have been taken into account in the assessment of the subject application. Both of these policies have been advertised and are therefore considered to be seriously entertained planning documents.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

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

Council may resolve to not endorse the recommendation within the RAR however should provide reasons 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.

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

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.

**CONCLUSION**

As it is considered that the proposal can be developed on the subject site without prejudice to the relevant provision of CPS5, the R-Codes or Council Policy and without resulting in any significant impacts upon the amenity of the surrounding area, it is recommended that the application be endorsed for conditional approval of the JDAP.

At 6.44pm Cr Willis moved, seconded Cr Taylor-Rees -

**That Standing Orders Clause 9.5 be suspended allowing Elected Members permission to speak more than once.**

At 6.44pm the Mayor submitted the motion, which was declared

**CARRIED (7/0)**

At 7.24pm Cr Willis moved, seconded Cr Taylor-Rees -

**That Standing Orders be resumed.**

At 7.24pm the Mayor submitted the motion, which was declared

**CARRIED (7/0)**

**OFFICER RECOMMENDATION (3394)**

**RECOMMEND APPROVAL**

That the Council advise the Joint Metro Central Development Assessment Panel that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report 3394 554 Canning Highway DAP RAR to approve the application for a proposed Five Storey Mixed Use Development at Lot 802 (554-558) Canning Highway, Attadale subject to conditions detailed in the Responsible Authority Report.

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

**REJECT AND REPLACE**

At 7.25pm Cr Pazolli moved, seconded Cr Barton -

**That the Council requests the Metro Central Joint Development Assessment Panel to:**

- 1 Refuse DAP Application reference (12/01137) and accompanying plans (A02 REV:G, A08-A14 REV:A and Art Installation Elevation REV:A) for the following reasons:**
  - (a) The proposed development is not in the interest of orderly and proper planning for the locality and it fails to deliver on the guidelines contained within Clause 7.8 of the City of Melville Community Planning Scheme No. 5.**
  - (b) The proposal does not satisfy Performance Criteria 7.1.1 and 7.1.2 of the Residential Design codes.**

Amendment

At 8.00pm Cr Pazolli with agreement from the seconder, Cr Barton, agreed to incorporate the following Officer Amendment in the Reject and Replace Motion -

- 2 That in the Responsible Authority Report table headed “Public Consultation”, the words in the Issue Table at the section noted as “Privacy”, the Officer Comment be amended by deleting the words “Acceptable Development provisions within” and inserting the words “Performance Criteria requirements of” and after the words “visual privacy” inserting the words “(refer ‘Planning Assessment’ section for further details)”**

**P13/3394 – DEVELOPMENT ASSESSMENT PANEL APPLICATION – FIVE STOREY MIXED USE DEVELOPMENT AT LOT 802 (554-558) CANNING HIGHWAY, ATTADALE (REC) (CONFIDENTIAL ATTACHMENT)**

**COUNCIL RESOLUTION (3394)**

**REFUSAL**

At 8.04pm the Mayor submitted the substantive motion as amended –

**That the Council requests the Metro Central Joint Development Assessment Panel to:**

- 1 Refuse DAP Application reference (12/01137) and accompanying plans (A02 REV:G, A08-A14 REV:A and Art Installation Elevation REV:A) for the following reasons:**
  - (a) The proposed development is not in the interest of orderly and proper planning for the locality and it fails to deliver on the guidelines contained within Clause 7.8 of the City of Melville Community Planning Scheme No. 5.**
  - (b) The proposal does not satisfy Performance Criteria 7.1.1 and 7.1.2 of the Residential Design codes.**
- 2 That in the Responsible Authority Report table headed “Public Consultation”, the words in the Issue Table at the section noted as “Privacy”, the Officer Comment be amended by deleting the words “Acceptable Development provisions within” and inserting the words “Performance Criteria requirements of” and after the words “visual privacy” inserting the words “(refer ‘Planning Assessment’ section for further details)”**

At 8.04pm the Mayor declared the motion

**CARRIED (6/1)**

Reasons for Reject and Replace

Cr Pazolli provided the following reasons in support of the Reject and Replace Motion -

1. 7.1.1: The high density development of this building (equivalent to a development in excess of R100 high density) is of a bulk and scale inconsistent with the medium density R50 zoning assigned to this lot in Community Planning Scheme No. 5 and inconsistent with the future desired built form for this locality as detailed in CPS No. 5.
2. 7.1.2: Building height is inconsistent with the desired height of buildings in the locality as specified in community Planning Scheme No. 5 and is significantly higher than any other building in this locality.
3. The Agreement governing the landscaping proposed within the adjoining Water Corporation pump station/sump land (Lot 801), whilst for a nominal ten year period may be cancelled for various reasons by the licensor (the Water Corporation) with three months notice and cannot therefore be relied upon to provide landscaping certainty in perpetuity.

**11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**12. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**

Nil.

**13. CLOSURE**

There being no further business to discuss the Presiding Member declared the meeting closed at 8.06pm.