



MINUTES

OF THE

SPECIAL MEETING OF THE COUNCIL

HELD ON

TUESDAY, 14 MARCH 2017

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

	Item Description	Page Number
URBAN PLANNING		
P17/3746	Development Assessment Panel - Two Storey (With Basement) Commercial Development Incorporating Shops, Medical Centre and Office At Lots 368 & 369 (855 – 857) Canning Highway, Applecross and Lots 3, 8-12 & 372 (37- 41) Reynolds Road, Mount Pleasant	7



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 TUESDAY, 21 FEBRUARY 2017.

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/Executive Manager Legal Services, 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

Deputy Mayor Cr R Aubrey
Cr T Barling, Cr N Foxton
Cr D Macphail
Cr C Robartson, Cr M Woodall
Cr J Barton, Cr G Wieland
Cr P Phelan,
Cr N Pazolli, Cr C Schuster

WARD

City
University
City
Bull Creek/Leeming
Bicton/Attadale
Palmyra/Melville/Willagee
Applecross/Mount Pleasant

3. IN ATTENDANCE

Dr S Silcox
Mr M Tieleman
Ms C Young
Mr J Christie
Mr S Cope
Mr J Clark
Mr P Prendergast
Ms K Brosztl
Ms J Wardell-Johnson
Mr M Scarfone
Ms C Newman

Chief Executive Officer
Director Corporate Services
Director Community Development
Director Technical Services
Director Urban Planning
A/Executive Manager Legal Services
Manager Statutory Planning
Manager Engineering
Senior Planning Officer
Planning Services Coordinator
A/Governance and Compliance Program
Manager/ Minute Secretary

At the commencement of the meeting there were 37 members of the public and one member from the Press in the Public Gallery.

At 6.33pm Cr Schuster left the meeting, and returned at 6.34pm.

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

4.1 APOLOGIES

Cr L O'Malley Palmyra/Melville/Willagee

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

Nil.

7. DECLARATIONS OF INTEREST

7.1 FINANCIAL INTERESTS

- Item P17/3746 Cr N Pazolli
- Item P17/3746 Cr J Barton

7.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Item P17/3746 Cr M Woodall Interest under the Code
- Item 917/3746 Cr T Barling Interest under the Code
- Item P17/3746 Cr R Aubrey Interest under the Code
- Item P17/3746 Cr C Schuster Interest under the Code
- Item P17/3746 Cr N Foxtan Interest under the Code

8. GRIEVANCE BY ELECTED MEMBER

Cr Schuster raised a grievance concerning correspondence from an unknown party received on 13 March 2017, by himself and three other Elected Members. He advised that the matter had been reported to the Police.

9. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Nil

10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

Disclosure of Interest

Item No. P17/3746
 Member Cr C Schuster
 Type of Interest Interest under the Code
 Nature of Interest Member of Metro Central JDAP who will consider this matter on 27 March 2017
 Request Leave
 Decision of Council Leave

Item No. P17/3746
 Member Cr N Foxton
 Type of Interest Interest under the Code
 Nature of Interest Member of Metro Central JDAP, who will consider this matter on 27 March 2017
 Request Leave
 Decision of Council Leave

Item No. P17/3746
 Member Cr N Pazolli
 Type of Interest Financial
 Nature of Interest Superannuation fund holds shares in Woolworths
 Request Leave
 Decision of Council Leave

Item No. P17/3746
 Member Cr J Barton
 Type of Interest Financial
 Nature of Interest Superannuation fund holds shares in Woolworths
 Request Leave
 Decision of Council Leave

Item No. P17/3746
 Member Cr R Aubrey
 Type of Interest Impartiality
 Nature of Interest Deputy JDAP member
 Request Stay, Discuss and Vote
 Decision of Council Stay, Discuss and Vote

Item No. P17/3746
 Member Cr M Woodall
 Type of Interest Interest under the Code
 Nature of Interest Deputy JDAP member
 Request Stay, Discuss and Vote
 Decision of Council Stay, Discuss and Vote

Item No. P17/3746
 Member Cr T Barling
 Type of Interest Interest under the code
 Nature of Interest Deputy JDAP member
 Request Stay, Discuss and Vote
 Decision of Council Stay, Discuss and Vote

*At 6.47pm Cr Foxton declared an interest in the matter and left the meeting.
At 6.47pm Cr Pazolli declared an interest in the matter and left the meeting.
At 6.47pm Cr Schuster declared an interest in the matter and left the meeting.
At 6.47pm Cr Barton declared an interest in the matter and left the meeting.*

10. DEPUTATIONS

- P17/3746 - Mr Kris Nolan & Mr Jonathan Riley on behalf of Woolworths from 6.47pm until 7.16pm.
- The Manager Statutory Planning, Mr P Prendergast in conjunction with Ms J Wardell-Johnson, Senior Planning Officer and Ms K Brosztl, Manager Engineering presented to the meeting from 7.16pm until 8.07pm.

*At 7.16pm Cr Macphail left the meeting and returned at 7.17pm.
At 7.21pm Mr M Tieleman left the meeting and returned at 7.25pm*

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPLECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

Ward	:	Applecross/Mt Pleasant
Category	:	Operational
Application Number	:	DA-2016-1080
Property	:	Lots 368 & 369 (855 – 857) Canning Highway, Applecross and Lots 3, 8-12 & 372 (37-41) Reynolds Road, Mount Pleasant
Proposal	:	Two Storey (With Basement) Commercial Development Incorporating Shops, Medical Centre And Office
Applicant	:	Urbis Pty Ltd
Owner	:	G A MacKenzie M A Dillon D W Speak K W Brotherson
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Nil.
Responsible Officer	:	Peter Prendergast Manager Statutory Planning

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

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>

KEY ISSUES / SUMMARY

- Planning approval is sought from the Metro Central Joint Development Assessment Panel (JDAP) to construct a two storey (with basement) commercial development that incorporates Shop uses, Medical Centre and Office tenancies at 855-857 Canning Highway Applecross and 37-41 Reynolds Road, Mount Pleasant.
- The application by virtue of its cost of development is a mandatory JDAP application which was submitted to the City on 30 September 2016.
- A Special Meeting of Electors (SME) took place on 12 December 2016 to discuss the issues raised by the development proposal.
- The motions carried at the SME were the subject of Council resolution at the Ordinary Council Meeting of 21 February 2017.
- The details of the proposed development have been assessed by the Statutory Planning Team of the City, and 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 17 March 2017, has been finalised.
- In accordance with Clause 3.7.6 of Local Planning Policy LPP1.1 'Planning Process and Decision Making' the RAR is referred to the Council for information and consideration at the request of elected members on the grounds that the application has been the subject of public consultation and submissions in opposition have been received.
- The recommendation of the RAR is that the JDAP approve the application.
- In accordance with Clause 3.7.7 of LPP1.1 a copy of the resolution of the Special Meeting of Council will be forwarded to the JDAP as an attachment to the RAR.

**P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT)
COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND
OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPLECROSS AND
LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC)
(ATTACHMENT)**



[3746 Responsible Authority Report \(RAR\) 855 Canning Highway Applecross](#)

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

BACKGROUND

Special Meeting of Electors

Under the provisions of the Local Government Act 1995, a Special Meeting of Electors was called in respect of the development application. This meeting took place on 12 December 2016. The motions that were carried at that meeting were as follows:

1. We the electors request the Council should recommend the Joint Development Assessment Panel refusal of this development application based on the implications of traffic generated and setback issues.
2. We the electors request the Council make a submission to the Joint Development Assessment Panel that this development application be rejected.
3. We the electors request that Councillors reconsider the consultation process around major Joint Development Assessment Panel developments.
4. We the electors request that the Council recommend to the Joint Development Assessment Panel that this development proposal be refused as it fails to protect the amenity of the existing community under clause 67 of Planning Development Regulations 2015.

At the Ordinary Council Meeting held on 21 February 2017, the Council resolved as follows:

That the Council;

- 1 Notes Motion 1 of the Special Meeting of Electors held on 12 December 2016 and will consider the Responsible Authority Report to be submitted by the City of Melville to the Metro Joint Central Development Assessment Panel on the development application for a Two Storey (with Basement) Commercial Development Incorporating Shops, Medical Centre and Office at 855-857 Canning Highway and 37-39 Reynolds Road Mt Pleasant, when the Responsible Authority Report has been prepared and referred to the Council.
- 2 Will consider the electors' request to provide a submission to the Joint Development Assessment Panel to reject the application when reviewing the Responsible Authority Report.
- 3 Notes the electors' request to reconsider the consultation process and advises that the Council Local Planning Policy LPP1.1 : Planning Process and Decision Making Policy will be subject to a report to be provided to the February 2017 Ordinary Meeting of the Council.
- 4 Notes the electors' request that the Council recommends to the Metro Joint Central Development Assessment Panel that the development proposal be refused on amenity grounds and considers this request when reviewing the Responsible Authority Report.
- 5 Requests Chief Executive Officer to advise the movers of the Motions at the Special Meeting of Electors in writing of the Council's resolutions.

**P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT)
COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND
OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPLECROSS AND
LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC)
(ATTACHMENT)**

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Centre C4
R-Code	: R60
Use Type	: Medical Centre, Shop & Office
Use Class	: Medical Centre – Discretionary Shop & Office - Permitted

Site Details

Lot Area	: 5,520m ²
Street Tree(s)	: None
Street Furniture (drainage pits etc)	: Bus stop shelter (to remain) Light pole (to be relocated) Traffic signals corner Canning Highway & Reynolds Crossovers (to removed)
Site Details	: See aerial photo above

DETAIL

Development approval is sought from the Metro Central JDAP for a two storey (with basement) commercial development comprising Medical Centre, Office and Shop tenancies.

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

STAKEHOLDER ENGAGEMENT

Refer to the RAR attached to this report.

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 the responsible authority to which a DAP application is made, to provide a report to the Development Assessment Panel.

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

None applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are not considered to be strategic, risk or environmental management implications associated with this application other than the matters addressed in this report and the RAR attached to this report.

POLICY IMPLICATIONS

These are outlined in full within the RAR as attached to this report.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

The Council may resolve not to endorse the recommendation within the RAR, however should the Council choose to do so, reasons should be provided to inform the members of the JDAP.

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

Where the Council wishes to provide a deputation to the JDAP in support of a 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 rests with the Presiding Member of the JDAP.

OFFICER RECOMMENDATION (3746)

APPROVAL

At 8.09pm Cr Wieland moved, seconded Cr Macphail –

That the Metro Central Joint Development Assessment Panel be advised that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to approve the application for the proposed two storey (with basement) commercial development at Lots 368 & 369 (855 – 857) Canning Highway, Applecross and Lots 3, 8-12 & 372 (37-41) Reynolds Road, Mount Pleasant, subject to conditions.

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPLECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

Amendment 1

At 8.16pm Cr Woodall moved, seconded Cr Aubrey the following amendment:

That the Main Roads Western Australia letter of 22 February 2017 “Lots 368 and 369 Canning Highway and 37 – 79 (Strata Plan 12373) Reynolds Road and Lot 372 Reynolds Road Mount Pleasant be tabled and included as part of the Responsible Authority Report to JDAP.

At 8.16pm the Mayor submitted the motions, which was declared

CARRIED UNANIMOUSLY (8/0)

Reason for Amendment 1

The correspondence from Main Roads Western Australia was tabled at the meeting and relevant to the decision making process.

Amendment 2

At 8.20pm Cr Robartson moved, seconded Cr Aubrey the following amendment:

The City recommends that the JDAP amend Condition 22 of the Responsible Authority Report to include the following after “... in writing by the City.”

“Verifying that no significant reduction in the level of service will result on the Local Road network and in particular Reynolds Road.”

At 8.19pm the Mayor submitted the amendment, which was declared

CARRIED UNANIMOUSLY (8/0)

Reason for Amendment 2

The Director Technical Services provided the following information in support of the Amendment 2

The correspondence from Main Roads Western Australia, did not take into consideration the construction of the right-turn pocket.

P17/3746 - DEVELOPMENT ASSESSMENT PANEL - TWO STOREY (WITH BASEMENT) COMMERCIAL DEVELOPMENT INCORPORATING SHOPS, MEDICAL CENTRE AND OFFICE AT LOTS 368 & 369 (855 – 857) CANNING HIGHWAY, APPECROSS AND LOTS 3, 8-12 & 372 (37- 41) REYNOLDS ROAD, MOUNT PLEASANT (REC) (ATTACHMENT)

COUNCIL RESOLUTION (3746)

APPROVAL

That the Council:

- 1. Advises the Metro Central Joint Development Assessment Panel that the Council of the City of Melville endorses the recommendation of the Responsible Authority Report to approve the application for the proposed two storey (with basement) commercial development at Lots 368 & 369 (855 – 857) Canning Highway, Applecross and Lots 3, 8-12 & 372 (37-41) Reynolds Road, Mount Pleasant, subject to conditions.**
- 2. Requests that the Main Roads Western Australia letter of 22 February 2017 “Lots 368 and 369 Canning Highway and 37 – 79 (Strata Plan 12373) Reynolds Road and Lot 372 Reynolds Road Mount Pleasant” be included as part of the Responsible Authority Report to JDAP.**
- 3. Recommends that the JDAP amend Condition 22 of the Responsible Authority Report to include the following after “... in writing by the City.”**

“Verifying that no significant reduction in the level of service will result on the Local Road network and in particular Reynolds Road.”

At 8.20pm the Mayor submitted the motion, which was declared

CARRIED (5/4)

NOTE: Due to an equality of votes at the Special Meeting of Council, the Mayor exercised his right to cast a second vote to reach a decision in this matter (Section 5.21(3) of the *Local Government Act 1995*).

Vote Result Summary	
Yes	4
No	4

Vote Result Detailed	
Cr Aubrey	Yes
Cr Macphail	Yes
Cr Wieland	Yes
Mayor Aubrey	Yes
Cr Barling	No
Cr Phelan	No
Cr Robartson	No
Cr Woodall	No

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

13. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Nil.

14. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

15. CLOSURE

There being no further business to discuss, his Worship the Mayor declared the meeting closed at 8.22pm.