

# NO. 114 (LOT 883) MATHESON ROAD APPLECROSS – PROPOSED 35 MULTIPLE DWELLINGS

## Form 1 – Responsible Authority Report (Regulation 12)

<b>DAP Name:</b>	Metro Inner South JDAP	
<b>Local Government Area:</b>	City of Melville	
<b>Applicant:</b>	Ms Liz Wong – Tuscom Subdivision Consultants Pty Ltd	
<b>Owner:</b>	SB & Sons Property Pty Ltd	
<b>Value of Development:</b>	\$8.5 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
<b>Responsible Authority:</b>	City of Melville	
<b>Authorising Officer:</b>	Steve Cope – Director Urban Planning	
<b>LG Reference:</b>	DAP-2020-5	
<b>DAP File No:</b>	DAP/20/01843	
<b>Application Received Date:</b>	18 August 2020	
<b>Report Due Date:</b>	12 November 2020	
<b>Application Statutory Process Timeframe:</b>	90 Days	
<b>Attachment(s):</b>	1. Development Plans (2a, 2b, 2c) and Elevations (2d) 2. Traffic Impact Statement 3. Design Review Panel Report 4. Waste Management Plan 5. Arboricultural Impact Assessment, dated 23 September 2020	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input checked="" type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

### Responsible Authority Recommendation

That the Metro Inner South JDAP resolves to:

- Refuse** DAP Application reference DAP/20/01843 and accompanying plans (Site Plan A0.01, Basement Plan A1.01, Ground Floor Plan A1.02, First Floor Plan A1.03, Second Floor Plan A1.04, Third Floor Plan A1.05, Landscaping Plans and Elevations) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Melville Local Planning Scheme No. 6, for the following reasons:

## Reasons

1. The proposed development does not satisfy the deemed to comply building height controls as specified in Clause 2.1.1 of *Local Planning Policy 1.9 Height of Buildings* or the Objectives of *Element 2.2 Building Height State Planning Policy 7.3 Residential Design Codes Volume 2* ; and
2. Having regard to *State Planning Policy 7.3 Residential Design Codes Volume 2 –Apartments*, the form and scale of the proposed development is inappropriate to the context and local character, is considered to result in unreasonable adverse internal and external amenity impacts and does not adequately satisfy the following Element Objectives:
  - a) *Element 2.2 Building Height* Element Objective O 2.2.1 as the proposal creates a bulk and scale that is inconsistent within the locality and adversely affects the amenity of the surrounding properties. The overall bulk and scale of the building is inappropriate to the future scale and character of the R40 area;
  - b) *Element 2.5 Plot Ratio* Element Objective O 2.5.1 as the plot ratio exceeds the Acceptable Outcome A 2.5.1 and presents an inappropriate bulk and scale outcome within a Residential R40 zone;
  - c) *Element 3.2 Orientation* Element Objective O 3.2.2, as the development exceeds the Acceptable Outcome A 3.2.3 and poses an adverse shadow impact and loss of solar access for the adjoining southern property;
  - d) *Element 3.3 Tree Canopy and Deep Soil Areas* Element Objectives O 3.3.1, O 3.3.2 and O 3.3.3 as the proposal has not satisfied the Acceptable Outcomes A 3.3.1 and A 3.3.2 with inadequate site planning being undertaken to maximise the retention of appropriate existing trees on-site and the provision of sufficient deep soil zones to promote tree growth;
  - e) *Element 3.4 Communal Open Space* Element Objective O 3.4.1 as insufficient information has been provided to demonstrate the quality of the communal open space area for the residents in addition to how landscaping, tree retention and deep soil areas could be maximised for use within communal open space;
  - f) *Element 3.5 Visual Privacy* Element Objective O 3.5.1 as insufficient information has been provided to demonstrate how the design of the building minimises direct overlooking onto the adjoining properties;
  - g) *Element 3.6 Public Domain Interface* Element Objective O 3.6.1 as the building provides a poor transition between the public and private realm due to the placement of the basement level car parking and difference of the building's ground floor level to the street levels;
  - h) *Element 3.7 Pedestrian Access and Entries* Element Objectives O 3.7.1 and O 3.7.2 as the main pedestrian entrance is not easy identifiable and not universally accessible. Additionally, the pedestrian entrance does not

provide a suitable connection to positively contribute to the public domain, resulting in a poor street presence;

- i) *Element 3.8 Vehicle Access* Element Objective O 3.8.1 as the development does not provide a sufficient basement level driveway gradient which complies with the *Australian Standards AS2890.01 – Parking facilities Part 1: Off-street car parking*. The driveway gradient has not provided safe vehicle access and egress;
- j) *Element 4.1 Solar and Daylight Access* Element Objective O 4.1.2 as the proposal has not appropriately demonstrated that optimal daylight access to habitable rooms and primary private open spaces at the winter solstice has been provided. Additionally, the unit 6 study is without a major opening and units 7, 19 and 31 do not achieve sufficient access to natural light;
- k) *Element 4.2 Natural Ventilation* Element Objective O 4.2.1 as insufficient information has been provided to demonstrate each unit is appropriately cross-ventilated;
- l) *Element 4.5 Circulation and Common Spaces* Element Objective O 4.5.2 as the circulation and common spaces are not designed to maximise opportunities for social interaction between residents;
- m) *Element 4.6 Storage* Element Objective O 4.6.1 as units 3, 8-13, 20-25 and 32-35 are not provided with a functional and accessible storeroom, being located within the basement and behind car parking bays;
- n) *Element 4.7 Managing the Impact of Noise* Element Objective O 4.7.1 as insufficient information has been provided to demonstrate the management of noise impacts between units and neighbouring properties;
- o) *Element 4.10 Façade Design* Element Objective O 4.10.1 as insufficient information has been provided to demonstrate how the building has been designed to respect and reference the character of the local area;
- p) *Element 4.16 Water Management and Conservation* Element Objective O 4.16.1 as insufficient information has been provided to demonstrate measures for minimising water consumption;
- q) *Element 4.17 Waste Management* Element Objectives O 4.17.1 and O 4.17.2 as the Waste Management Plan has not adequately demonstrated the waste storage facilities provided for are sufficient. Additionally, the width of the bin store is not convenient for the use of residents; and
- r) *Element 4.18 Utilities* Element Objective O 4.18.1 as insufficient information has been provided regarding location of all utilities, plant equipment, distribution boxes, power and water meters.

## Reasons for Responsible Authority Recommendation

State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments (the R-Codes) provides the primary built form controls for multiple dwellings. The policy is performance-based, broken up into different design elements including, but not limited to building height, plot ratio and provision of deep soil areas. For each design element there are element objectives that are required to be met, in addition to the overall policy objectives. A development that does not satisfy these element objectives is not considered to meet the requirements and consequently should not be supported.

In the City's view, the proposal does not satisfy the relevant element objectives and overall intent of SPP 7.3. The development will have a detrimental impact on the amenity of the streetscape and the surrounding properties. The matter in relation to the unsatisfactory elements of the proposal against SPP7.3 is discussed in the body of this report.

In light of the above, it is recommended that the JDAP refuse the Form 1 application subject to the reasons detailed above.

### Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban
Local Planning Scheme	City of Melville Local Planning Scheme No. 6
Local Planning Scheme - Zone/Reserve	N/A
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Multiple Dwellings – Permitted Use
Lot Size:	2072m <sup>2</sup>
Existing Land Use:	Single House (to be demolished)
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

### Proposal:

The application proposes the demolition of an existing single house to accommodate 35 multiple dwellings. The proposed building comprises of the following:

- A basement level car park accommodating 50 onsite parking bays, inclusive of seven visitor bays, storerooms and plant equipment;
- A total of 10 units on the ground floor, each serviced with a private courtyard;
- A total of 12 units each on the first and second floors, each serviced with a private balcony area; and
- One penthouse unit on the third floor, with a communal rooftop area.

In addition to the above, the proposal incorporates a dwelling mix as detailed below:

- 11 one-bedroom, one-bathroom apartments;
- 20 two-bedroom, two-bathroom apartments;
- Three three-bedroom, two-bathroom apartments; and
- One five-bedroom, four-bathroom apartment (Penthouse unit).

Proposed Land Use	Multiple Dwellings
Proposed Net Lettable Area	N/A
Proposed No. Storeys	Four (excludes basement level as basement >50% below natural ground level)
Proposed No. Dwellings	35 Multiple Dwellings

#### **Background:**

Lot 883 (114) Matheson Road, Applecross (subject site) is bound by Matheson Road to the west, Lots 1-6 (116) Matheson Road and Lots 1-7 (11) Macleod Road consisting of double-storey grouped dwellings to the north and east respectively, and Lot 882 (112) Matheson Road to the south which consists of an existing dwelling. To note, Lot 882 (112) Matheson Road has been approved for the construction of a three-storey building comprising of 12 multiple dwellings (reference: DAP/17/01177) however, no plans for construction has yet been approved.

On 11 September 2020, the City requested further information from the applicant regarding several design changes and technical reports. On 9 October 2020, the applicant advised that no amended drawings or additional information will be provided to the City during the assessment phase of this application.



Figure 1 - Aerial photograph of subject site.

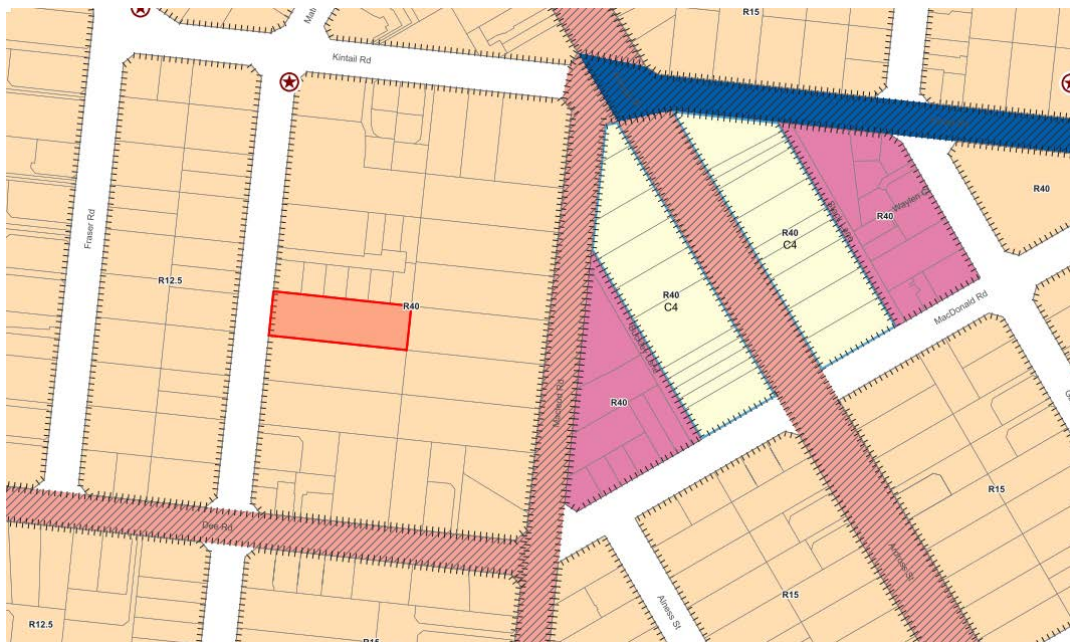


Figure 2 – Local Planning Scheme No. 6

## Legislation and Policy:

### Legislation

- Planning & Development Act 2005
- Metropolitan Region Scheme (MRS)
- Planning & Development (Local Planning Schemes) Regulations 2015
- City of Melville Local Planning Scheme No. 6

### State Government Policies

- SPP3.0: Urban Growth and Settlement
- SPP7.0: Design of the Built Environment
- SPP7.3: Residential Design Codes Volume 2 (Apartments)

### Local Policies

- CP-029: Street Tree Policy
- LPP1.1: Planning Process and Decision Making
- LPP1.2: Architectural and Urban Design Advisory Panel
- LPP1.3: Waste and Recyclables Collection for Multiple Dwellings, Mixed Use and Non-Residential Developments
- LPP 1.5: Energy Efficiency in Building Design
- LPP1.8: Crime Prevention Through Environmental Design of Buildings Policy
- LPP1.9: Height of Buildings
- LPP1.10: Amenity

### **Consultation:**

#### Public Consultation

In accordance with *Local Planning Policy 1.1 - Planning Process and Decision Making* (LPP1.1), the application was advertised for a period of 21 days commencing 14 September 2020 and concluding 5 October 2020. Consultation was undertaken via written correspondence to the owners/occupiers of the adjoining properties, an advertising sign on site and publication of the development plans and supporting documents on the City's online engagement portal 'Melville Talks'.

Comment was sought on the proposed development relating to discretions sought after for building height, plot ratio and shadowing from the proposed development.

A total of 226 submissions were received during the advertising period – 225 comments objecting to the proposal and one submission in support. A summary of the concerns raised, along with the officer's comments, is tabled below:

<b>Issue Raised</b>	<b>Officer comments</b>
Overdevelopment of site (building height and plot ratio primary controls).	Comments are noted and discussed in detail below.
Traffic congestion.	The applicant provided a Traffic Impact Statement (TIS) in support of the development proposal (refer Attachment 2). The TIS has been reviewed by the City's Traffic Engineers and is supported on the grounds that the road capacity of Matheson Road can accommodate a further 20-30 vehicle trips during peak hours and a daily volume between 100-150 trips.
Insufficient onsite parking for residents and visitors.	The acceptable outcomes of the R-Codes require a minimum 47 on-site car parking bays for 11 one-bedroom apartments and 24 two-bedroom apartments. (Total 41 resident and six visitor parking bays).

	<p>The proposal provides a total of 42 resident bays and seven visitor bays, which meets the acceptable outcomes of the R-Codes and is supported.</p> <p>Notwithstanding the above, it is noted that there are concerns with the design of the basement level driveway gradient and the inaccessibility of storerooms behind car parking bays. Any changes to these two elements may have a direct impact on the amount of car parking spaces provided for within the basement.</p>
Context/location of development.	Comments are noted and discussed in detail below.
Loss of privacy and amenity impacts.	Comments are noted and discussed in detail below.
Loss of mature vegetation on site.	Comments are noted and discussed in detail below.
Development should be limited to eight units (townhouses/grouped dwellings).	<p>The proposal is for multiple dwellings (apartments) within an R40 residential zone and therefore, the application is assessed against SPP7.3 Volume 2. The minimum and average lot size requirements are applicable for single houses or grouped dwelling development subject to Volume 1 of State Planning Policy 7.3 – Residential Design Codes. It is acknowledged that this site has a potential to be developed for seven to eight grouped dwellings based upon the minimum and average lot size requirements however, there are no set lot size requirements for the construction of apartments specified within the R-Codes.</p>

#### Referrals/consultation with Government/Service Agencies

Not applicable.

#### Design Review Panel Advice

The application was presented to the City of Melville Design Review Panel (DRP) on 2 September 2020. To note, there was no review by the DRP prior to lodgement of this application.

At its meeting, the DRP identified the following weaknesses of the proposal:

- The removal of existing vegetation and the lack of providing meaningful on-site landscaping and vegetation;
- Poor functionality and build quality for the apartments including small window openings to habitable rooms;
- Amenity of the apartments being compromised by a lack of natural light, view and meaningful habitable rooms.
- Poor legibility of the building as the pedestrian entry is not welcoming and the undercroft basement entry is a dominant element on the streetscape; and



- Insufficient detail regarding the functionality of the communal open space and location abutting services and plant equipment.

No amendments have been made to the development plans to address the concerns raised by the DRP.

A copy of the DRP Report is included as Attachment 3.

### Advice

#### *City of Melville Internal Referrals*

The assessment process undertaken included referrals to several internal departments. Concerns from various departments were raised with specific elements of the proposal as detailed below:

The City's Health Services Unit requested an Acoustic Report to demonstrate how the operation of the mechanical plant equipment will comply with the *Environmental Protection (Noise) Regulations 1997*. Additionally, a Lighting Plan prepared by a suitably qualified lighting consultant was also requested to demonstrate how lighting spill onto adjoining properties would be addressed.

The City's Civil Engineer's reviewed the TIS provided and the ingress/egress elements of the proposal in accordance with the *Australian Standards AS2890.01 – Parking facilities Part 1: Off-street car parking* (AS2890.01) with particular concern to the basement level driveway gradient which is too steep and does not allow for a smooth and safe transition. This results in non-functional and an unsafe vehicle ingress/egress access point.

The Waste Management Plan (WMP, Attachment 4) was reviewed by the City's Waste Services team and was deemed insufficient. The WMP does not adequately demonstrate how three bins (per unit) will be stored within the narrow bin storage area, how bulk rubbish will be collected and if there is sufficient room on the verge to accommodate bin collection for 35 multiple dwellings.

In light of the concerns raised above, the applicant did not provide any technical documentation (i.e. Acoustic Report and Lighting Plan) or amendments to the development plans to address these concerns.

### **Planning Assessment:**

The proposal has been assessed against the provisions of LPS6, the R-Codes and LPP1.9. The following matters have been identified as the key concerns of the proposal:

- Building height;
- Plot ratio;
- Tree canopy, deep soil areas and landscaping;
- Public domain interface;
- Pedestrians access and entries; and
- Vehicle access.

The following matters have also been identified as areas of concern, but have not been discussed in further detail in the report.

- Orientation;
- Communal open space;
- Visual privacy;
- Solar and daylight access;
- Natural ventilation;
- Circulation and common spaces;
- Storage;
- Managing the impact of noise;
- Façade design;
- Water management and conservation;
- Waste management; and
- Utilities.

#### Local Planning Policy 1.9 Heights of Buildings

The City's *Local Planning Policy 1.9 Heights of Buildings* (LPP1.9) policy prevails over the primary height controls of the R-Codes. Accordingly, the development has been assessed against the relevant provisions of LPP1.9 as tabled below:

Provision	Requirement	Proposal	Assessment
2.1.1 Permitted building height for General residential and Mixed Use zone	External Wall (Concealed Roof): maximum height 9.0 metres.	4 storeys with basement level parking. Maximum recorded height at 13.4 metres from ground level to top of Penthouse roof.	Further detail of this element is discussed within the body of this report.
R12.5 - R40	Overall: maximum 10.5 metres.		

#### State Planning Policy 7.3: Residential Design Codes Volume 2 (Apartments)

As detailed above, SPP7.3 provides the primary built form controls for multiple dwellings in residential areas coded R40 or above. The policy is performance-based, broken up into different design elements (for example building height, visual privacy, solar access) which are required to be assessed against their relevant element objectives.

To assist in guiding the assessment against the element objectives, acceptable outcomes and design guidance is provided in SPP7.3. These are more specific measurable requirements for each design element. SPP7.3 makes it clear that these acceptable outcomes and design guidance are not a 'deemed-to-comply' pathway and while meeting the acceptable outcomes is likely to achieve the element objectives, a proposal may still satisfy the objectives via alternative methods.

The City has assessed the development against the relevant acceptable outcomes ('A') and element objectives ('O') of SPP7.3. The issues identified within the assessment against the relevant acceptable outcomes and/or elements objectives are tabled below:

Provision	Requirement	Proposal	Assessment
Element 2.5: Plot Ratio	O 2.5.1 R40: maximum plot ratio of 0.6 (1243.2m <sup>2</sup> ).	1.44 (2,988m <sup>2</sup> ).	Further detail of this element is discussed within the body of this report.
Element 3.2: Orientation	A 3.2.3 Maximum 35% Shadow cast on adjoining lots (725.2m <sup>2</sup> ).	47% (974.2m <sup>2</sup> ).	The extent of shadow cast is resultant from the increased building height and contiguous building setback along the southern boundary. Further detail of the building height is discussed within the body of this report.
Element 3.3: Tree Canopy and Deep Soil Areas	<p>A 3.3.1, A 3.3.2 Retention of existing trees on the site that are: healthy specimens with ongoing viability and/or not listed on a State or local area weed register and/or with a height of at least 4m and/or trunk diameter of at least 160mm, measured 1m from the ground and/or average canopy diameter of at least 4m.</p> <p>AO 3.3.4 Minimum 10% of deep soil areas proposed (7% if existing trees are retained) = 207.1m<sup>2</sup>.</p> <p>One large tree and three medium tree; OR Two large trees and small trees to suit.</p>	<p>No trees being retained on site.</p> <p>8.17% (169.4m<sup>2</sup>).</p> <p>No large trees proposed on</p>	Further detail of this element is discussed within the body of this report.

		site.	
Element 3.4: Communal Open Space	O 3.4.1 Areas set aside for communal open space which enhances resident amenity and opportunities for landscaping, tree retention and deep soil areas.	Rooftop communal area with insufficient detail provided regarding useability and landscaping.	The City requested further information from the applicant regarding the functionality of the communal roof space. No information or amended plans were provided in response to this element.
Element 3.5: Visual Privacy	O 3.5.1 Windows and balconies to be oriented and designed with minimal direct overlooking onto adjoining properties. Use of screening and obscured glazing is discouraged.	Insufficient detail provided on development plans to determine if habitable rooms and major openings are obscured/glazed.	The City requested further information from the applicant regarding treatments of windows and windows directly facing adjoining properties. No information or amended plans were provided in response to this element.
Element 3.6: Public Domain Interface	O 3.6.1 The transition between the private and public domain enhances the privacy and safety of residents.	The central location of the basement entry does not enhance the amenity of the development or enhance the privacy and safety of residents.	Further detail of this element is discussed within the body of this report.
Element 3.7: Pedestrian Access and Entries	O 3.7.1 Entries and pathways are universally accessible, easy to identify and safe for residents and visitors.  O 3.7.2 Entries to the development connect to and address the public domain with an attractive street presence.	The main entry into the building is not easily identifiable.  The ramp access into the building dominates the façade as viewed from the	Further detail of this element is discussed within the body of this report.

		street.	
Element 3.8: Vehicle Access	O 3.8.1 Safe access and egress for vehicles provided ensuring no conflict with pedestrians, cyclists and other vehicles.	The ramp access does not comply with the AS2890.01 regarding gradients.	Further detail of this element is discussed within the body of this report.
Element 4.1: Solar and Daylight Access	O 4.1.2 All windows are designed and positioned to optimise daylight access for habitable rooms.	Unit 6 Study room without a major opening.  Units 7, 19 and 31 do not achieve sufficient access to natural light (not northern oriented).	The design of the units to maximise solar and daylight access into the units has not been sufficiently addressed.
Element 4.2: Natural Ventilation	O 4.2.1 Individual dwellings area designed to optimise natural ventilation of habitable rooms.	Insufficient information has been provided to demonstrate each unit is appropriately cross-ventilated.	The design of the units to maximise natural ventilation has not been sufficiently addressed.
Element 4.5: Circulation and Common Spaces	O 4.5.2 Circulation and common spaces provide good amenity and support opportunities for social interaction between residents.	The corridors on the southern side of the building are narrow and provide several nooks which create an unsafe environment through concealment and entrapment	The design of the corridors has not been designed in a positive manner to promote good amenity and interaction between residents.
Element 4.6: Storage	O. 4.6.1 Well-designed, functional and conveniently located storage provided for each dwelling.	Stores 3, 8-13, 20-25 and 32-35 are located in the basement behind several car parking bays. The lifts within the basement are located behind bays no. 31-32 and are not easily accessible for residents.	The layout of the storerooms within the basement level, behind the car parking bays is insufficient. The placement of storerooms in the basement level is not convenient or accessible for residents.

Element 4.7: Managing the impact of noise	O 4.7.1 Siting and layout of development minimises impact of external noise sources.	No information provided to demonstrate management of noise impacts.	An Acoustic Report was requested from the applicant. These documents were not provided in response to addressing this element.
Element 4.10 Façade design	O 4.10.1 Building façades incorporate proportions, materials and design elements that respect and reference the character of the local area.	Insufficient information provided to demonstrate how the building is designed to fit within the local area.	The City's DRP requested the applicant provide further information and studies to demonstrate context and character. No information or amended plans were provided in response to this element.
Element 4.16 Water management and conservation	O 4.16.1 Minimise potable water consumption throughout the development.	Insufficient information provided to demonstrate measures for minimising water consumption.	The City requested the applicant provide further information on the type of measures for reducing water consumption. No information or amended plans were provided in response to this element.
Element 4.17 Waste management	<p>O 4.17.1 Waste storage facilities minimise negative impacts on the streetscape, building entries and the amenity of residents.</p> <p>O 4.17.2 Waste to landfill is minimised by providing safe and convenient bins and information for the separation and recycling of waste.</p>	<p>The Waste Management Plan has not adequately demonstrated the waste storage facilities provided for are sufficient.</p> <p>The narrow width of the bin store will not be convenient for the use of residents.</p>	The City requested the applicant amend the WMP and provide further information. No amended WMP was provided in response to this element.

Element 4.18 Utilities	<p>O 4.18.1 The site is serviced with power, water, gas (where available), wastewater, fire services and telecommunications/ broadband services that are fit for purpose and meet current performance and access requirements of service providers.</p> <p>O 4.18.2 All utilities are located such that they are accessible for maintenance and do not restrict safe movement of vehicles or pedestrians.</p>	Insufficient information provided regarding location of all utilities, plant equipment, distribution boxes, power and water meters.	The City requested the applicant provide further information on utilities. No information or amended plans were provided in response to this element.
---------------------------	---	---	---

#### Building Height

The building height of the development has been assessed against the provisions of LPP1.9 and SPP7.3. An important differentiation to make between these policies is that the City's LPP1.9 refers to a maximum building height based on measurements in metres, whereas SPP7.3 refers to a maximum storey height, irrespective of metric measurements. Notwithstanding the discrepancy, SPP7.3 allows for local planning instruments such as LPP1.9 to vary the primary controls and therefore, the planning requirements of LPP1.9 prevail noting that the element objectives of SPP7.3 are also to be applied as part of the assessment of the proposal.

During community consultation, concerns were raised regarding the excessive building height of the development against the R40 development requirements. Clause 2.1.1 of LPP1.9 lists a maximum 9.0 metre maximum height for a concealed roof design and a maximum 10.5 metre overall height for developments with a pitched roof design.

The policy objective of the City's LPP 1.9 is:

*"To provide guidance regarding the interpretation and application of building height controls throughout the City, in order to ensure that the height of buildings is consistent with the desired character of the locality".*

As stated above, the primary controls of SPP7.3 have been varied through LPP1.9 however, the element objectives of clause 2.2 of SPP7.3 remain relevant. These element objectives state:

- “O 2.2.1 The height of development responds to the desired future scale and character of the street and local area, including existing buildings that are unlikely to change.*
- O 2.2.2 The height of buildings within a development responds to changes in topography.*
- O 2.2.3 Development incorporates articulated roof design and/or roof top communal open space where appropriate.*
- O 2.2.4 The height of development recognises the need for daylight and solar access to adjoining and nearby residential development, communal open space and in some cases, public spaces.”*

The building is designed with a concealed roof and proposes a maximum height of 13.4 metres as measured to the top of the penthouse roof from the immediate ground level below. This is 4.4 metres higher than the concealed roof requirements and 2.9 metres higher than the permitted overall height under LPP1.9.

Given the immediate area comprises of a range of buildings between one and three storeys, the four-storey height of the proposed building will have a detrimental impact on the adjoining properties is not consistent with the existing and desired streetscape of Matheson Road. The overall height of the building results in excessive overshadowing of the site to the south and the bulk of the building is undesirable. Further the raised ground floor level of the building results in a poor streetscape interface and is considered to be detrimental to the current and desired streetscape character.

Given the above, the development has not sufficiently addressed the element objectives pertaining to building height and is not supported by the City.





Figure 3 - View of existing dwellings along Matheson Road (coded R12.5).



Figure 4 - View of existing dwellings on 112 Matheson Road, north of subject site. Dwellings maintain a two to three storey height, with the ground floor at grade.



Figure 5 - View of a nine unit apartment building on 118 Matheson Road, north of subject site. Dwellings maintain a three storey height, with the ground floor at grade.

### Plot Ratio

Plot ratio is the method of establishing an allowable volume of development within the building envelope. The intent of the plot ratio area is to allow for development within a building envelope whilst allowing for the building envelope to respond to contextual and orientation factors.

The element objectives of Clause 2.5 Plot Ratio states:

*“O 2.5.1 The overall bulk and scale of development is appropriate for the existing or planned character of the area.”*

During community consultation, concerns were raised regarding the plot ratio requirements being exceeded. The acceptable outcomes stipulate a plot ratio of 0.6 applies for R40 coded lots which, for this development equates to 1243.2m<sup>2</sup>. The proposed plot ratio area for this development equates to 1.44 (2,989m<sup>2</sup>) which is 1,744.8m<sup>2</sup> or 0.84 over the plot ratio limit under the acceptable outcomes. The proposed plot ratio area of 1.44 is closer aligned to a high-density urban residential building..

The planning guidance under clause 2.5 of SPP7.3 recognises plot ratio must provide an overall bulk and scale of development that is coordinated with other elements of the policy pertaining to building heights, depths, setbacks and the provision of deep soil areas.

It is contended that the overall bulk and scale of the development is inappropriate for a well-established residential area which transitions from R12.5 on the western side of Matheson Road to R40. The proposed building envelope exceeds the permitted

height controls and utilises the minimum side and rear building setbacks to the full extent which results in a building which is bulky when viewed from the street and the adjoining properties. In turn, the total floor area has greatly impacted the ability to provide for sufficient deep soil areas and utilities for the units.

It should be noted in the case of *Kemstone Investments Pty Ltd v City of Joondalup [2020 WASAT 115]*, the State Administrative Tribunal considered a proposal for six multiple dwellings with a plot ratio calculation consistent with the acceptable outcomes. Notwithstanding, the SAT considered the built form compromised the site's ability to provide sufficient deep soil areas and was therefore considered unacceptable. In this regard, the City considers developments subject to assessment under SPP 7.3 must give due consideration to deep soil areas and landscaping early on in the design stages and site planning and must not be dealt with as a design afterthought.

A 'building first' approach has been undertaken and is evident that little to no consideration has been given for the design of the overall built form within the context of the streetscape, nor with any regard to the provision of suitable deep soil areas.

Given the above, the development has not sufficiently addressed the element objectives pertaining to plot ratio and is not supported by the City.

#### Tree Canopy and Deep Soil Areas

A deep soil area is an area of soil that is free of built structure and has sufficient area and depth to support tree growth and infiltrate rainwater. SPP 7.3 states early site planning is important to co-locate deep soil areas with existing trees on and adjacent to the site, and in locations best suited to the development of a viable tree canopy and landscaping. Early consideration of deep soil areas and landscaping design is imperative to the overall built form fabric of the development.

The element objectives of Clause 3.3 Tree canopy and deep soil areas states:

- "O 3.3.1 Site planning maximises retention of existing healthy and appropriate and protects the viability of adjoining trees.*
- O 3.3.2 Adequate measures are taken to improve tree canopy (long term) or to offset reduction of tree canopy from pre-development condition.*
- O 3.3.3 Development includes deep soil areas, or other infrastructure to support planting on structures, with sufficient area and volume to sustain healthy plant and tree growth."*

During the consultation phase, concerns were raised with regards to a loss of canopy cover and existing vegetation on site. The acceptable outcomes stipulate deep soil areas should occupy 10% of the site for (207.2m<sup>2</sup>) or 7% if existing trees are retained (145m<sup>2</sup>). No existing trees are proposed to be retained on site and the applicant proposes the removal of the City's street tree within the verge area, which is not supported by the City. On this basis, a minimum 10% requirement is applies. The resulting deep soil areas are to be landscaped with an appropriate combination of large medium and small trees. The proposed development provides approximately



8.2% (169.4m<sup>2</sup>) of the site as deep soil area, within the front and rear setback areas, with medium trees and small trees proposed within these areas. This combination of trees does not meet the acceptable outcomes of the R-Codes.

In addition to the the above, the deep soil areas are proposed between the building setback areas and are squeezed between the dividing fences and building envelope. This inhibits the trees' ability for suitable canopy cover and to offset the reduction of tree canopy from pre-development levels

The acceptable outcomes of SPP 7.3 require an arboricultural report be submitted to removal any existing healthy trees with a height of at least 4 metres, and/or trunk diameter of 0.16 metres, and/or average canopy diameter of at least 4 metres. The report is then required to identify and provide rationale for the removal of any trees which satisfy any of the aforementioned criteria.

The applicant has provided an Arboricultural Impact Assessment (AIA), dated 23 September 2020 (refer Attachment 5) to support the removal of all existing trees on site. The report has assessed the tree retention values based upon the health, structure, physical dimensions, age class, life expectancy, location and environmental amenity/significance. A total of 24 trees were located within the development zone of the proposal and were assessed against these elements, including the City's verge tree.

The intent of the acceptable outcomes under SPP 7.3 is to ensure early planning and consideration for retention of trees on site is supported through an arboricultural assessment, which in turn should inform how the building should be designed to respond to existing vegetation worthy of retention on site.

Importantly, the AIA has assessed the retention values of the trees based upon how these trees are impacting on the building, rather than how the building should be designed to accommodate for these trees without impact on the tree health and other characteristics.

It is important to note the AIA was provided to the City on 24 September 2020, during the assessment phase of the proposal and not at lodgement of the application. Given the importance of early site planning for deep soil areas, it is evident that the consideration of retaining trees and deep soil areas was an after-thought in the design phase of the building. This contradicts the intent and overall objectives of SPP7.3 for early site analysis and investigation.

Overall, the AIA identifies a total of six trees which hold a moderate retention value. The AIA recommends that these are removed as they are located within the development footprint. It is contended that this inverse approach of 'building-first' has not given due consideration to the existing trees on site.

In light of the above, the City considers inadequate measures have been undertaken to demonstrate the site planning has maximises the retention of existing healthy trees or consideration given to promote and improve long term tree canopy or deep soil planting. The proposal has not adequately demonstrated compliance with the relevant element objectives and is not supported.

Public domain interface, Pedestrians access, vehicle access and entries.

SPP7.3 recognises the interface between buildings and the public domain is important in contributing to the quality and character of the street. SPP7.3 recognises these three elements are interrelated and should be considered holistically in their design to achieve a high quality interface with the street. The design of the main building entries and access ways provides the key connection between the public and private realm and therefore, they should be easy to find, while being well integrated into the overall design of the development and the streetscape.

Furthermore, vehicle access points should be well-designed with a focus on safety and functionality for users. Poorly considered vehicle access may compromise the safety of pedestrians, residents and traffic, as well as having a detrimental effect on the appearance and amenity of the streetscape.

The relevant element objectives for the following clauses of SPP7.3 states:

*Clause 3.6 Public Domain Interface*

- “O 3.6.1 The transition between the private and public domain enhances the privacy and safety of residents.*
- O 3.6.2 Street facing development and landscape design retains and enhances the amenity and safety of the adjoining public domain, including the provision of shade.*

*Clause 3.7 Pedestrians Access and Entries*

- O 3.7.1 Entries and pathways are universally accessible, easy to identify and safe for residents and visitors.*
- O 3.7.2 Entries to the development connect to and address the public domain with an attractive street presence.*

*Clause 3.8 Vehicle Access*

- O 3.8.1 Vehicle access points are designed and located to provide safe access and egress for vehicles and to avoid conflict with pedestrians, cyclists and other vehicles.*
- O 3.8.2 Vehicle access points are designed and located to reduce visual impact on the streetscape.”*

During the consultation phase, concerns were raised with regards to the overall building height and scale of the development on the public realm, the lack of legibility the main pedestrian entrance and the basement level gradient not complying with the relevant Australian Standards AS2890.01. Put simply the ramp to the basement level is too steep and does not allow for vehicles to enter and exit the site in a safe manner.

The acceptable outcomes recommend that both pedestrian and vehicle access points should be identifiable from the street, with a preference for pedestrian entrance ways to be legible and more defined than the vehicle access point. Vehicle access points are then to be designed and considered in a location where the access point remains legible but is positioned where the vehicle entry point does not detract away from the main pedestrian entrance and/or façade of the building.

Other acceptable outcomes to consider as part of positive building interfaces include ground floor dwellings fronting a street to provide direct access by way of a private terrace, balcony or courtyard and ensuring a change between the ground floor building levels to street levels should not exceed 1.2 metres in height.

As seen in the perspective image of figure 6, the development proposes a 6.0 metre wide crossover in the centreline of the site which leads into the basement level of the building. The main pedestrian entrance of the building is setback 7.5 metres from the front boundary and located immediately right of the basement level, screened by the first floor overhang of the building and bin storage areas. The floor level of this pedestrian entrance is raised 1.2 metres above the street level and is accessible via a staircase only, meaning there is no immediate universal access provided (the universal access pedestrian ramp is provided on the far southern side of the development and is concealed from the main frontage of the building).

Given the above, the City does not support the design of the pedestrian and vehicle access points. The placement of the basement in the centre of the site has a resultant impact on the legibility of the main pedestrian entrance and subsequently provides a poor visual outlook and transition on the street. Furthermore, the steep basement gradient and non-compliance with the AS2890.01 demonstrates that the proposal has not promoted the safety of residents and users accessing the basement level.

Further, the amenity of Unit 1 as a ground floor unit is compromised as the basement has raised the ground floor level resulting in no direct access of Unit 1 to the street. Headlight glare from vehicles entering the basement level will spill into bedrooms 2 and 3 which were identified as key concerns from the City's DRP.

In light of the above, the City considers the proposal does not provide a sufficient building interface nor pedestrian entrance due to the direct impacts resultant from the placement of the basement levels. The proposal has not adequately demonstrated compliance with the relevant element objectives and is not supported.



Figure 6 - Perspective view of the proposal.

### **Conclusion:**

The proposal has been assessed against the requirements of SPP7.3 and the City's local planning policies. There are significant concerns associated with the proposal pertaining to exceeding primary building height and plot ratio controls for R40 coded lots. The applicant has not sufficiently demonstrated that approval should be given for the development exceeding the building height and plot ratio controls nor, compliance with several element objectives expressed above. It is evident the proposal demonstrates overdevelopment on the site with little to no regard given to the requirements of SPP7.3, the local planning framework or the impacts of the building within the surrounding area. As such, the application is recommended for refusal for reasons detailed above.