



## **Metro Central Joint Development Assessment Panel Minutes**

**Meeting Date and Time:** 24 April 2020; 9.30am  
**Meeting Number:** MCJDAP/397  
**Meeting Venue:** via electronic means

### **Attendance**

#### **DAP Members**

Ms Francesca Lefante (Presiding Member)  
Ms Lee O'Donohue (A/Deputy Presiding Member)  
Mr John Syme (A/Specialist Member)  
Cr Nicholas Pazolli (Local Government Member, City of Melville)  
Cr Steve Kepert (Local Government Member, City of Melville)

#### **Officers in attendance**

Mr Troy Cappellucci (City of Melville)  
Mr Peter Prendergast (City of Melville)

#### **Minute Secretary**

Ms Ashlee Kelly (DAP Secretariat)

#### **Applicants and Submitters**

Mr Nick Zboro (Mustera)  
Mr Kris Nolan (Urbis)  
Mr Ray Haeren (Urbis)  
Mr Mark Ciesielski (MJA Studio)  
Mr James Thompson (MJA Studio)  
Ms Belinda Moharich (Moharich and More)  
Mr Cameron Sobejko  
Mr Clive Ross

#### **Members of the Public / Media**

There were 11 members of the public in attendance.

### **1. Declaration of Opening**

The Presiding Member declared the meeting open at 9.38am on 24 April 2020 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.



Due to the conflict of interest of the Presiding Member and the conflict of interest of the Deputy Presiding Member, Ms Francesca Lefante has been appointed as Presiding Member for this meeting in accordance with regulation 27(3A) of the *Planning and Development (Development Assessment Panel) Regulations 2011*.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2017 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

The Presiding Member advised that in accordance with Section 5.16 of the DAP Standing Orders 2017 which states 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.', the meeting would not be recorded.

In response to the COVID-19 situation, this meeting was convened via teleconference. Members were reminded to announce their name and title prior to speaking.

## **2. Apologies**

Ms Megan Adair (Presiding Member)  
Ms Rachel Chapman (Deputy Presiding Member)  
Cr Matthew Woodall (Local Government Member, City of Melville)

## **3. Members on Leave of Absence**

Nil

## **4. Noting of Minutes**

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

## **5. Declaration of Due Consideration**

All members declared that they had duly considered the documents.

## **6. Disclosure of Interests**

DAP Member, Ms Rachel Chapman, declared an impartiality interest in item 10.1. Ms Rachel Chapman is a director and shareholder of Taylor Burrell Barnett who have been commissioned by the City of Melville to prepare a LPP relating to Bonus Building Height in the Canning Bridge Activity Centre Plan. The subject land is within the study area.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2017, the Presiding Member, Ms Megan Adair, determined that the member listed above, who had disclosed an impartiality interest, was not permitted to participate in the discussion and voting on the item.



DAP Member, Ms Megan Adair, declared an impartiality interest in item 10.1. Ms Megan Adair is a member of the SPC that considered an amendment by City of Melville to the Canning Bridge Activity Centre Plan. The amendment directly affects this subject property.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2017, the A/Deputy Presiding Member determined that the member listed above, who had disclosed an impartiality interest, was not permitted to participate in the discussion and voting on the item.

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Member, Cr Nicholas Pazolli, declared that he participated in a prior Council meeting in relation to the application at item 10.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Nicholas Pazolli acknowledged that he is not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before him, which will be considered on its planning merits.

In accordance with Section 2.4 of the DAP Code of Conduct 2017, DAP members had been invited to participate in a history briefing from the Presiding Member for the application at Item 8.1 prior to the DAP Meeting.

## **7. Deputations and Presentations**

- 7.1** Mr Cameron Sobejko addressed the DAP against the application at Item 10.1 and responded to questions from the panel.
- 7.2** Mr Clive Ross addressed the DAP against the application at Item 10.1 and responded to questions from the panel.
- 7.3** Mr James Thompson (MJA Studios) addressed the DAP in support the application at Item 101 and responded to questions from the panel.
- 7.4** Mr Ray Haeren (Urbis) addressed the DAP in support the application at Item 101 and responded to questions from the panel.
- 7.5** Ms Belinda Moharich (Moharich and More) addressed the DAP in support the application at Item 101 and responded to questions from the panel.
- 7.6** The City of Melville Officers addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

## **8. Form 1 – Responsible Authority Reports – DAP Applications**

Nil

## **9. Form 2 – Responsible Authority Reports – Amending or cancelling DAP development approval**

Nil



## 10. Appeals to the State Administrative Tribunal

10.1 Property Location:	Nos. 10, 12 & 14 (Lots 311, 800 & 801) Forbes Road and Nos. 40A, 40B & 40C (Lots 802, 803 & 804) Kishorn Road, Applecross
Development Description:	13 Storey Mixed-Use Development comprising 57 Multiple Dwellings and 6 Non-Residential tenancies including 3 Commercial tenancies, a Café/Restaurant, a Co-Working Space and Community Centre)
Applicant:	McDonald Jones Architects
Owner:	Applecross Land Holdings Pty Ltd
Responsible Authority:	City of Melville
DAP File No:	DAP/18/01534

### REPORT RECOMMENDATION

**Moved by:** Ms Lee O'Donohue

**Seconded by:** Mr John Syme

That the Metro Central Joint Development Assessment Panel (JDAP), pursuant to Section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 59 of 2019, resolves to:

**Reconsider** its decision dated 30 October 2019 and **approve** DAP Application reference DAP/18/01534 and accompanying plans dated 12 March 2020 in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Melville Local Planning Scheme No. 6, subject to the following conditions:

#### Conditions

1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City of Melville or the Joint Development Assessment Panel.
2. Any development and works within Planning Control Area 117 – Canning Highway between Riseley Street and Henley Street, does not form part of this approval.
3. All stormwater generated on site is to be retained on site.
4. Prior to the commencement of development, Lots 311, 800 & 801 Forbes Road and Lots 802, 803 & 804 Kishorn Road, Applecross, shall be amalgamated and a new certificate of title obtained for the amalgamated lots.
5. Prior to the initial occupation of the development, all vehicle and bicycle parking bays, manoeuvring areas and points of ingress and egress shall be provided in accordance with the approved plans, to the satisfaction of the City and shall be retained for the life of the development.
6. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.



7. The development shall be serviced by a concrete vehicle crossover with a maximum width of 6m and located a minimum of 2m away from the outside of the trunk of any street tree. The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications, to the satisfaction of the City.
8. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding street(s) or other buildings to the satisfaction of the City.
9. Prior to the commencement of development, details of the exterior colours, materials and finishes are to be submitted to and approved in writing by the City. The development shall thereafter be constructed in accordance with those approved details.
10. In accordance with City of Melville Local Planning Policy *LPP 2.1 - Non-Residential Development*, the removal of, or permanent covering of shopfront windows and openings and the use of reflective or heavily tinted glazing at ground floor level is not permitted.
11. Prior to the commencement of development, a Landscape Management Plan shall be submitted to and approved in writing by the City. This document shall incorporate but not be limited to the following:
  - (a) Details with regard to access and maintenance;
  - (b) The location, number and type of proposed plants;
  - (c) Description of the planting method and likely plant replacement regime; and
  - (d) Details of roles and responsibilities for ongoing maintenance.
12. Prior to the commencement of development, a detailed landscaping, civil and reticulation plans for the subject site and road verges, including the proposed set down/pick up bay and footpaths adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include details of (but not limited to):
  - (a) The location, number and type of proposed trees and shrubs including planter size and planting density;
  - (b) Any lawns to be established;
  - (c) Any existing vegetation and/or landscaped areas to be retained; and
  - (d) Any verge treatments.

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter for the life of the development, to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.

Having regard to condition 2 any proposed landscaping works within the PC117 may require separate development approval from the Department of Planning Lands and Heritage prior to commencement.

13. The development shall operate in accordance with the recommendations set out in the Acoustic Report by Floth dated 5 September 2018 to the satisfaction of the City.



14. Prior to the initial occupation of the development, a revised Waste Management Plan shall be submitted to and approved in writing by the City. The Waste Management Plan shall be prepared in accordance with the revised Local Planning Policy LPP1.3 Waste and recyclables collection for multiple dwellings, mixed use development and non-residential development. An amended application for Development Approval may be required. Once occupied, the development shall operate in accordance with the approved Waste Management Plan, to the ongoing satisfaction of the City.
15. Prior to the commencement of development and in accordance with Local Planning Policy *LPP1.4 Provision of Art in Development Proposals* and Element 17 of the Canning Bridge Activity Centre Plan, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City. Alternatively, the public art contribution may be satisfied by a cash-in-lieu payment at the same rate, made prior to the commencement of works.
16. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
17. No less than 30 days prior to the commencement of development, a Construction Management Plan shall be prepared and provided to the City for consideration and approval. The Construction Management Plan shall detail how the construction of the development will be managed, and shall include, but not be limited to, the following:
  - public safety and site security;
  - hours of operation;
  - noise and vibration controls;
  - air and dust management;
  - stormwater, groundwater and sediment control;
  - waste and material disposal;
  - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
  - the parking arrangements for contractors and sub-contractors;
  - on-site delivery times and access arrangements;
  - the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
  - any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.



18. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting shall be provided such that the light source does not compromise safety and/or amenity.
19. Prior to the commencement of development, the street trees to be retained within the verge are to be protected through the installation of a Tree Protection Zone (TPZ). Each TPZ is to be installed as per Australian Standard AS4970-2009 and in accordance with the following criteria to the satisfaction of the City:
- A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
  - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
  - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
  - The following actions shall not be undertaken within any TPZ:
    - Storage of materials, equipment fuel, oil dumps or chemicals
    - Servicing and refuelling of equipment and vehicles
    - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
    - Open-cut trenching or excavation works (whether or not for laying of services)
    - Changes to the natural ground level of the verge
    - Location of any temporary buildings including portable toilets
    - The unauthorised entry by any person, vehicle or machinery
  - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.

Once erected to the required standard, the TPZ shall be maintained in good condition to the satisfaction of the City and may only be removed upon completion of the construction phase.

20. Prior to the initial occupation of the development, all parking bays, manoeuvring areas, driveways and points of ingress and egress shall be provided in accordance with the approved plans to the satisfaction of the City. The bays shall thereafter be retained for the life of the development.
21. Prior to the commencement of development, a Management Plan for the control of deliveries to and from the site shall be submitted to and approved in writing by the City. The Management Plan shall be prepared to ensure that all service vehicles entering and exiting the site do so in forward motion. The development shall operate in accordance with the approved Management Plan for the lifetime of the development to the satisfaction of the City.
22. Prior to the commencement of development, a Road Safety Audit shall be submitted to and approved in writing by the City in accordance with the City's Road Safety Audit Policy. Recommendations of the RSA to be incorporated into the design to the satisfaction of the City.





23. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy LPP3.1 Residential Development, to the satisfaction of the City.
24. Prior to the commencement of development, detailed drawings shall be provided to and approved by the City, in relation to the proposed streetscape improvements not within Planning Control Area 117, including street furniture and landscaping.
25. Prior to the occupation of development, a signage strategy shall be submitted to and approved in writing by the City. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.
26. Prior to the commencement of development, a way-finding strategy shall be submitted to and approved in writing by the City. The approved strategy shall be implemented prior to initial occupation.
27. Prior to commencement of the development, detailed fit out plans for the proposed community centre shall be submitted to and approved in writing by the City.
28. Subject to the other conditions of this approval, the community benefit items described by Advice Note (1), and as shown on the plans hereby approved must be provided and maintained throughout the life of the development by the owner (from time to time) of the land at Lots 311, 800 and 1061 (Nos. 10, 12 & 14) Forbes Road and Lots 802, 803 & 804 (Nos. 40A, 40B & 40C) Kishorn Road, Applecross. The obligation on the owner to maintain the community benefits will continue notwithstanding the Land may be subsequently subject to a strata title or other form of subdivision.
29. In order to secure the provision and ongoing maintenance of the community benefits, the owner of the Land must enter into a deed with the City of Melville (City). The deed:
  - (a) must be signed by the owner before any use authorised by this approval is commenced;
  - (b) is to be prepared by the City's solicitors on the City's instructions at the owner's cost;
  - (c) allow where necessary for an absolute caveat to be lodged in favour of the City against the certificates of title;
  - (d) shall make provision for the matters described in the following conditions; and
  - (e) shall include other provisions necessary or convenient for the purpose of ensuring the community benefits are provided, managed and maintained.





30. The deed required by the proceeding condition shall include provisions which address:
- (a) the provision of the landscape treatments and end of trip facilities prior to the occupation of the development, and for those community benefits to thereafter be maintained to a standard satisfactory to the City by the owner (and future owners) for the life of the development. This may include (without limitation) the provision of lighting, signage, painting and/or marking out and, if required by the City, the requirement for the owner to obtain and maintain adequate public liability insurance and to indemnify the City against any claim connected with the use of these areas;
  - (b) the obligation for the owner, in the event the Land is the subject of a strata / survey strata subdivision, to ensure that the strata company adopts a bylaw by way of a management statement under section 5C of the Strata Titles Act, which provides for the strata company to be responsible for the ongoing maintenance of the community benefits, and for the public to be able to access and use any of the community benefits which are located on common property; and
  - (c) the need for the management statement required by the preceding paragraph to be expressed to require the consent of the City to any amendment or repeal of the management statement, pursuant to section 42(2d) of the Strata Titles Act.
31. In addition to the provisions in the preceding conditions, the deed between the owner and the City shall include provisions addressing the following matters relating to the provision, management and maintenance of the community benefit spaces as described in Advice Note (1) of this approval, and as outlined in the approved plans:
- (a) the community centre and co-working space areas may only be used for the purposes described in the development application, or for another purpose approved by the City which (in its absolute discretion) provides a similar or alternative adequate community benefit;
  - (b) the community centre and co-working space areas may not be used or tenanted without the prior approval of the City;
  - (c) in the event the Land is the subject of a strata / survey strata subdivision that creates separate lots for the community facilities areas, a notification pursuant to section 70A of the Transfer of Land Act shall be registered against the certificate/s of title which describes the limitation on the use of those lots in terms satisfactory to the City;
  - (d) the requirement for the owner to use best endeavours to ensure that the community benefit spaces detailed by Advice Note 1 are always used during business hours for a community purpose approved by the City, and not left vacant or inoperative;
  - (e) that the City is not required to pay any 'start up' or ongoing costs with respect to the community facilities areas, except normal maintenance costs associated with the ownership of the community facilities areas;
  - (f) access to the public community spaces within the building; and
  - (g) the management statement required by the preceding condition is to include provisions acceptable to the City with respect to the limitation on the use of the community facilities areas.



32. A 5 Star Green Star - Design & As Built certified rating (demonstrating 'Australian Excellence') must be achieved from the Green Building Council of Australia (GBCA) Prior to the commencement of development a Green Star Registration Certificate must be submitted to the City to confirm the intention to achieve an As Built rating. This should be supported by a project plan or similar confirmation document. Within 24 months of practical completion, As Built certification must be achieved, as per the Green Star – Design & As Built requirements, and evidence of this provided and approved in writing by the City.
33. Prior to commencement of the development, amended plans/details shall be submitted to and approved in writing by the City to demonstrate compliance with the recommendations of the Wind Analysis Report that was provided in support of the proposed application. The amended plans/details shall include drawings, specifications and detailed wind tunnel testing. Once approved, the agreed measures shall be implemented prior to initial occupation, and retained thereafter to the ongoing satisfaction of the City.
34. The three commercial tenancies are approved to be used for either one of the following land uses:
  - Restaurant;
  - Small Bar;
  - Office;
  - Shop;
  - Tourist Accommodation;
  - Reception Centre;
  - Retail;
  - Educational Establishment; or
  - Civic Uses.

An amended application for Development Approval may be required for any future change of use to one of the commercial tenancies to a land use not specified above, to the satisfaction of the City.

35. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.

### Advice Notes

1. With respect to the Community Benefits related conditions listed above, the community benefits to be provided are as follows:
  - **Design comprising high quality active street frontages** designed in accordance with the approved plans and subject to the detailed engineering and landscaping plans referenced in the above conditions.
  - **Provision of publicly accessible garden spaces** on the ground floor and at the podium on Level 1, directly accessible via spiral stairs from Kishorn Road, clearly visible and accessible from the street;
  - **Provision of public toilets, bicycle storage and end of trip facilities provided** for as shown on the approved plan and accessible from the community amenity space on Level 1; and
  - **Provision of 147m<sup>2</sup> of co-working space** on Level 1 to be used for community purposes along with a **120m<sup>2</sup> Community Centre** to comprise a



sprung floor, **kitchenette**, storage spaces and universal toilet, with associated garden and break out spaces accessed from Kishorn Road.

2. The City is responsible for the allocation of street numbers in accordance with AS/NZS 4819:2011 Geographic Information – Rural and Urban Addressing. The applicant/owner is encouraged to liaise with the City for the provision of appropriate street numbers prior to the completion of works.

### **Environmental Health Services Advice Notes**

3. Prior to the commencement of development, an Acoustic Report shall be submitted to demonstrate that noise from all mechanical services and commercial uses that are associated with this development is capable of complying with the 'Assigned Noise Levels' contained in the *Environmental Protection (Noise) Regulations 1997* when the noise is received at a residential premises associated with this development and any neighbouring residential premises to the satisfaction of the City. Once approved, the development shall operate in accordance with the recommendations set out in the report to the satisfaction of the City.

### **AMENDING MOTION 1**

**Moved by:** Ms Lee O'Donohue

**Seconded by:** Mr John Syme

The following amendments were made en bloc:

- (i) That condition 4 be amended to read as follows:

*Prior to ~~the commencement of development~~ an application for a certificate of occupancy being issued, Lots 311, 800 & 801 Forbes Road and Lots 802, 803 & 804 Kishorn Road, Applecross, shall be amalgamated and a new certificate of title obtained for the amalgamated lots.*

**REASON:** Condition 4 has been modified to ensure that the commencement of development is not hindered by the process of amalgamating the lots and issuing new certificates, particularly as this process can take several months to finalise.

- (ii) That condition 5 be deleted and the remaining conditions be renumbered accordingly.

**REASON:** Condition 5 is a duplicate of Condition 20 and therefore is redundant.

**The Amending Motion was put and CARRIED (3/2).**

For: Ms Francesca Lefante  
Ms Lee O'Donohue  
Mr John Syme

Against: Cr Nicholas Pazolli  
Cr Steve Kepert



## REPORT RECOMMENDATION (AS AMENDED)

That the Metro Central Joint Development Assessment Panel (JDAP), pursuant to Section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 59 of 2019, resolves to:

**Reconsider** its decision dated 30 October 2019 and **approve** DAP Application reference DAP/18/01534 and accompanying plans dated 12 March 2020 in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Melville Local Planning Scheme No. 6, subject to the following conditions:

### Conditions

1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City of Melville or the Joint Development Assessment Panel.
2. Any development and works within Planning Control Area 117 – Canning Highway between Riseley Street and Henley Street, does not form part of this approval.
3. All stormwater generated on site is to be retained on site.
4. Prior to an application for a certificate of occupancy being issued, Lots 311, 800 & 801 Forbes Road and Lots 802, 803 & 804 Kishorn Road, Applecross, shall be amalgamated and a new certificate of title obtained for the amalgamated lots.
5. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.
6. The development shall be serviced by a concrete vehicle crossover with a maximum width of 6m and located a minimum of 2m away from the outside of the trunk of any street tree. The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications, to the satisfaction of the City.
7. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding street(s) or other buildings to the satisfaction of the City.
8. Prior to the commencement of development, details of the exterior colours, materials and finishes are to be submitted to and approved in writing by the City. The development shall thereafter be constructed in accordance with those approved details.
9. In accordance with City of Melville Local Planning Policy *LPP 2.1 - Non-Residential Development*, the removal of, or permanent covering of shopfront windows and openings and the use of reflective or heavily tinted glazing at ground floor level is not permitted.



10. Prior to the commencement of development, a Landscape Management Plan shall be submitted to and approved in writing by the City. This document shall incorporate but not be limited to the following:
  - (a) Details with regard to access and maintenance;
  - (b) The location, number and type of proposed plants;
  - (c) Description of the planting method and likely plant replacement regime; and
  - (d) Details of roles and responsibilities for ongoing maintenance.
  
11. Prior to the commencement of development, a detailed landscaping, civil and reticulation plans for the subject site and road verges, including the proposed set down/pick up bay and footpaths adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include details of (but not limited to):
  - (a) The location, number and type of proposed trees and shrubs including planter size and planting density;
  - (b) Any lawns to be established;
  - (c) Any existing vegetation and/or landscaped areas to be retained; and
  - (d) Any verge treatments.

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter for the life of the development, to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.

Having regard to condition 2 any proposed landscaping works within the PC117 may require separate development approval from the Department of Planning Lands and Heritage prior to commencement.

12. The development shall operate in accordance with the recommendations set out in the Acoustic Report by Floth dated 5 September 2018 to the satisfaction of the City.
  
13. Prior to the initial occupation of the development, a revised Waste Management Plan shall be submitted to and approved in writing by the City. The Waste Management Plan shall be prepared in accordance with the revised Local Planning Policy LPP1.3 Waste and recyclables collection for multiple dwellings, mixed use development and non-residential development. An amended application for Development Approval may be required. Once occupied, the development shall operate in accordance with the approved Waste Management Plan, to the ongoing satisfaction of the City.
  
14. Prior to the commencement of development and in accordance with Local Planning Policy *LPP1.4 Provision of Art in Development Proposals* and Element 17 of the Canning Bridge Activity Centre Plan, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City. Alternatively, the public art contribution may be satisfied by a cash-in-lieu payment at the same rate, made prior to the commencement of works.



15. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
16. No less than 30 days prior to the commencement of development, a Construction Management Plan shall be prepared and provided to the City for consideration and approval. The Construction Management Plan shall detail how the construction of the development will be managed, and shall include, but not be limited to, the following:
  - public safety and site security;
  - hours of operation;
  - noise and vibration controls;
  - air and dust management;
  - stormwater, groundwater and sediment control;
  - waste and material disposal;
  - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
  - the parking arrangements for contractors and sub-contractors;
  - on-site delivery times and access arrangements;
  - the storage of materials and equipment on site (no storage of materials on the verge will be permitted); and
  - any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

17. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting shall be provided such that the light source does not compromise safety and/or amenity.
18. Prior to the commencement of development, the street trees to be retained within the verge are to be protected through the installation of a Tree Protection Zone (TPZ). Each TPZ is to be installed as per Australian Standard AS4970-2009 and in accordance with the following criteria to the satisfaction of the City:
  - A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
  - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
  - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
  - The following actions shall not be undertaken within any TPZ:
    - Storage of materials, equipment fuel, oil dumps or chemicals
    - Servicing and refuelling of equipment and vehicles
    - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
    - Open-cut trenching or excavation works (whether or not for laying of





- services)
  - Changes to the natural ground level of the verge
  - Location of any temporary buildings including portable toilets
  - The unauthorised entry by any person, vehicle or machinery
- No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.

Once erected to the required standard, the TPZ shall be maintained in good condition to the satisfaction of the City and may only be removed upon completion of the construction phase.

19. Prior to the initial occupation of the development, all parking bays, manoeuvring areas, driveways and points of ingress and egress shall be provided in accordance with the approved plans to the satisfaction of the City. The bays shall thereafter be retained for the life of the development.
20. Prior to the commencement of development, a Management Plan for the control of deliveries to and from the site shall be submitted to and approved in writing by the City. The Management Plan shall be prepared to ensure that all service vehicles entering and exiting the site do so in forward motion. The development shall operate in accordance with the approved Management Plan for the lifetime of the development to the satisfaction of the City.
21. Prior to the commencement of development, a Road Safety Audit shall be submitted to and approved in writing by the City in accordance with the City's Road Safety Audit Policy. Recommendations of the RSA to be incorporated into the design to the satisfaction of the City.
22. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy LPP3.1 Residential Development, to the satisfaction of the City.
23. Prior to the commencement of development, detailed drawings shall be provided to and approved by the City, in relation to the proposed streetscape improvements not within Planning Control Area 117, including street furniture and landscaping.
24. Prior to the occupation of development, a signage strategy shall be submitted to and approved in writing by the City. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.
25. Prior to the commencement of development, a way-finding strategy shall be submitted to and approved in writing by the City. The approved strategy shall be implemented prior to initial occupation.
26. Prior to commencement of the development, detailed fit out plans for the proposed community centre shall be submitted to and approved in writing by the City.





27. Subject to the other conditions of this approval, the community benefit items described by Advice Note (1), and as shown on the plans hereby approved must be provided and maintained throughout the life of the development by the owner (from time to time) of the land at Lots 311, 800 and 1061 (Nos. 10, 12 & 14) Forbes Road and Lots 802, 803 & 804 (Nos. 40A, 40B & 40C) Kishorn Road, Applecross. The obligation on the owner to maintain the community benefits will continue notwithstanding the Land may be subsequently subject to a strata title or other form of subdivision.
28. In order to secure the provision and ongoing maintenance of the community benefits, the owner of the Land must enter into a deed with the City of Melville (City). The deed:
- (a) must be signed by the owner before any use authorised by this approval is commenced;
  - (b) is to be prepared by the City's solicitors on the City's instructions at the owner's cost;
  - (c) allow where necessary for an absolute caveat to be lodged in favour of the City against the certificates of title;
  - (d) shall make provision for the matters described in the following conditions; and
  - (e) shall include other provisions necessary or convenient for the purpose of ensuring the community benefits are provided, managed and maintained.
29. The deed required by the proceeding condition shall include provisions which address:
- (a) the provision of the landscape treatments and end of trip facilities prior to the occupation of the development, and for those community benefits to thereafter be maintained to a standard satisfactory to the City by the owner (and future owners) for the life of the development. This may include (without limitation) the provision of lighting, signage, painting and/or marking out and, if required by the City, the requirement for the owner to obtain and maintain adequate public liability insurance and to indemnify the City against any claim connected with the use of these areas;
  - (b) the obligation for the owner, in the event the Land is the subject of a strata / survey strata subdivision, to ensure that the strata company adopts a bylaw by way of a management statement under section 5C of the Strata Titles Act, which provides for the strata company to be responsible for the ongoing maintenance of the community benefits, and for the public to be able to access and use any of the community benefits which are located on common property; and
  - (c) the need for the management statement required by the preceding paragraph to be expressed to require the consent of the City to any amendment or repeal of the management statement, pursuant to section 42(2d) of the Strata Titles Act.



30. In addition to the provisions in the preceding conditions, the deed between the owner and the City shall include provisions addressing the following matters relating to the provision, management and maintenance of the community benefit spaces as described in Advice Note (1) of this approval, and as outlined in the approved plans:
- (a) the community centre and co-working space areas may only be used for the purposes described in the development application, or for another purpose approved by the City which (in its absolute discretion) provides a similar or alternative adequate community benefit;
  - (b) the community centre and co-working space areas may not be used or tenanted without the prior approval of the City;
  - (c) in the event the Land is the subject of a strata / survey strata subdivision that creates separate lots for the community facilities areas, a notification pursuant to section 70A of the Transfer of Land Act shall be registered against the certificate/s of title which describes the limitation on the use of those lots in terms satisfactory to the City;
  - (d) the requirement for the owner to use best endeavours to ensure that the community benefit spaces detailed by Advice Note 1 are always used during business hours for a community purpose approved by the City, and not left vacant or inoperative;
  - (e) that the City is not required to pay any 'start up' or ongoing costs with respect to the community facilities areas, except normal maintenance costs associated with the ownership of the community facilities areas;
  - (f) access to the public community spaces within the building; and
  - (g) the management statement required by the preceding condition is to include provisions acceptable to the City with respect to the limitation on the use of the community facilities areas.
31. A 5 Star Green Star - Design & As Built certified rating (demonstrating 'Australian Excellence') must be achieved from the Green Building Council of Australia (GBCA) Prior to the commencement of development a Green Star Registration Certificate must be submitted to the City to confirm the intention to achieve an As Built rating. This should be supported by a project plan or similar confirmation document. Within 24 months of practical completion, As Built certification must be achieved, as per the Green Star – Design & As Built requirements, and evidence of this provided and approved in writing by the City.
32. Prior to commencement of the development, amended plans/details shall be submitted to and approved in writing by the City to demonstrate compliance with the recommendations of the Wind Analysis Report that was provided in support of the proposed application. The amended plans/details shall include drawings, specifications and detailed wind tunnel testing. Once approved, the agreed measures shall be implemented prior to initial occupation, and retained thereafter to the ongoing satisfaction of the City.



33. The three commercial tenancies are approved to be used for either one of the following land uses:
- Restaurant;
  - Small Bar;
  - Office;
  - Shop;
  - Tourist Accommodation;
  - Reception Centre;
  - Retail;
  - Educational Establishment; or
  - Civic Uses.

An amended application for Development Approval may be required for any future change of use to one of the commercial tenancies to a land use not specified above, to the satisfaction of the City.

35. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.

#### **Advice Notes**

1. With respect to the Community Benefits related conditions listed above, the community benefits to be provided are as follows:
  - **Design comprising high quality active street frontages** designed in accordance with the approved plans and subject to the detailed engineering and landscaping plans referenced in the above conditions.
  - **Provision of publicly accessible garden spaces** on the ground floor and at the podium on Level 1, directly accessible via spiral stairs from Kishorn Road, clearly visible and accessible from the street;
  - **Provision of public toilets, bicycle storage and end of trip facilities provided** for as shown on the approved plan and accessible from the community amenity space on Level 1; and
  - **Provision of 147m<sup>2</sup> of co-working space** on Level 1 to be used for community purposes along with a **120m<sup>2</sup> Community Centre** to comprise a sprung floor, **kitchenette**, storage spaces and universal toilet, with associated garden and break out spaces accessed from Kishorn Road.
2. The City is responsible for the allocation of street numbers in accordance with AS/NZS 4819:2011 Geographic Information – Rural and Urban Addressing. The applicant/owner is encouraged to liaise with the City for the provision of appropriate street numbers prior to the completion of works.



**Environmental Health Services Advice Notes**

3. Prior to the commencement of development, an Acoustic Report shall be submitted to demonstrate that noise from all mechanical services and commercial uses that are associated with this development is capable of complying with the 'Assigned Noise Levels' contained in the *Environmental Protection (Noise) Regulations 1997* when the noise is received at a residential premises associated with this development and any neighbouring residential premises to the satisfaction of the City. Once approved, the development shall operate in accordance with the recommendations set out in the report to the satisfaction of the City.

**The Report Recommendation (as amended) was put and CARRIED (3/2)**

For: Ms Francesca Lefante  
Ms Lee O'Donohue  
Mr John Syme

Against: Cr Nicholas Pazolli  
Cr Steve Kepert

**REASON:** The majority of the panel supported the proposal on the basis that it is consistent with the objectives and guidelines of the Canning Bridge Activity Centre Plan. The podium design responds positively to the site's context with the active streetscape, pedestrian environment, landscaping and setbacks achieving an appropriate interface with the lower intensity to the west. The incorporation of a mezzanine level on the fourth floor is considered to satisfy CBACP amendments.

The panel considered the design exemplary and innovative as indicated by the Design Review Panel through the incorporation of 3 tower elements setback from the podium levels. The additional building height bonus of 3 storeys sought was supported and considered proportionate to the amount, size, location and variety of community benefit spaces are appropriate and achieved the requirements of Element 22,

The Presiding Member noted the following State Administrative Tribunal Applications -

Current SAT Applications		
LG Name	Property Location	Application Description
City of Melville	Nos. 10, 12 & 14 (Lots 311, 800 & 801) Forbes Road and Nos. 40A, 40B & 40C (Lots 802, 803 & 804) Kishorn Road, Applecross	20 Storey Mixed-Use Development comprising 97 Multiple Dwellings, 15 Short Stay Accommodation Units and 5 Non-Residential tenancies (Office, Restaurant, Shop and 2 Co-Working Spaces)
City of South Perth	Lots 2-20 (72-74) Mill Point Road, South Perth	36 Level (118.2m) Mixed Use Development
City of Belmont	Lot 20 (10) Hendra Street, Cloverdale	14 Multiple Dwellings



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## 11. General Business / Meeting Close

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2017 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

There being no further business, the Presiding Member declared the meeting closed at 12.17pm.