

MINUTES

Special Council Meeting

8 March 2016

To: The Mayor and Councillors

Here within are the Minutes of the Special Council meeting of the City of South Perth Council held Tuesday 8 March 2016 in City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth.



GEOFF GLASS
CHIEF EXECUTIVE OFFICER

11 March 2016



Our Guiding Values

Trust

Honesty and integrity

Respect

Acceptance and tolerance

Understanding

Caring and empathy

Teamwork

Leadership and commitment

Disclaimer

The City of South Perth disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence or the like is discussed or determined during this meeting, the City warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the City.

Further Information

The following information is available on the City's website.

- **Council Meeting Schedule**

Ordinary Council Meetings are held at 7.00pm in the Council Chamber at the South Perth Civic Centre on the fourth Tuesday of every month between February and November. Members of the public are encouraged to attend open meetings.

- **Minutes and Agendas**

As part of our commitment to transparent decision making, the City makes documents relating to meetings of Council and its Committees available to the public.

- **Meet Your Council**

The City of South Perth covers an area of around 19.9km² divided into four wards. Each ward is represented by two Councillors, presided over by a popularly elected Mayor. Councillor profiles provide contact details for each Elected Member.

www.southperth.wa.gov.au/Our-Council/

Contents

1. DECLARATION OF OPENING	4
2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER	4
2.1 AUDIO RECORDING OF THE COUNCIL MEETING	4
2.2 PUBLIC QUESTION TIME FORMS	4
3. ATTENDANCE	4
3.1 APOLOGIES	5
3.2 APPROVED LEAVE OF ABSENCE	5
4. DECLARATIONS OF INTEREST	5
5. PUBLIC QUESTION TIME	5
6. DEPUTATIONS	5
7. REPORTS	6
7.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES	6
7.3.1 Proposed 38 Storey Mixed Development on Lots 2 (86), 15 (88) and 16 (90) Mill Point Road, South Perth	6
7.3.2 Proposed Minor Amendment to Previously Approved Mixed Use Development within a 21 Storey Building. Lot 100 (No. 96) Mill Point Road, South Perth	8
8. CLOSURE	10
APPENDIX	11
RECORD OF VOTING	16
DISCLAIMER	17

Minutes

Minutes of the Special Council Meeting held in City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth at 7.00pm on Tuesday 8 March 2016.

1. DECLARATION OF OPENING

The Presiding Member opened the meeting at 7.02pm and welcomed everyone in attendance. She then acknowledged we are meeting on the lands of the Noongar/Bibbulmun people and that we honour them as the traditional custodians of this land.

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

2.1 AUDIO RECORDING OF THE COUNCIL MEETING

The Presiding Member reported that the meeting is being audio recorded in accordance with Council Policy P673 'Audio Recording of Council Meetings' and Clause 6.15 of the Standing Orders Local Law 2007 'Recording of Proceedings'.

She then gave her permission for the Administration to record proceedings of the Council meeting and requested that all electronic devices be turned off or on to silent.

2.2 PUBLIC QUESTION TIME FORMS

The Presiding Member advised the public gallery that Public Question Time forms are available on the Council's website or at the Civic Building Reception for members of the public who wish to submit a written question.

She stated that it is preferable that questions are received in advance of the Council meetings in order for the Administration to have time to prepare responses.

3. ATTENDANCE

Mayor Sue Doherty (Presiding Member)

Councillors

Jessica Black	Como Ward
Colin Cala	Manning Ward
Sharron Hawkins-Zeeb	Manning Ward
Travis Burrows	Mill Point Ward
Cheryle Irons	Moresby Ward
Ken Manolas	Mill Point Ward

Officers

Geoff Glass	Chief Executive Officer
Vicki Lummer	Director Development and Community Services
Mark Taylor	Director Infrastructure Services
Phil McQue	Manager Governance and Administration
Rod Bercov	Strategic Urban Planning Adviser
Rajiv Kapur	Manager Development Services
Sharron Kent	Governance Officer

Gallery

There were approximately eight (8) members of the public and no members of the media present.

3.1 APOLOGIES

Glenn Cridland Como Ward

3.2 APPROVED LEAVE OF ABSENCE

Fiona Reid Moresby Ward

4. DECLARATIONS OF INTEREST

Conflicts of Interest are dealt with in the Local Government Act, Rules of Conduct Regulations and the Administration Regulations as well as the City's Code of Conduct 2008. Members must declare to the Presiding Member any potential conflict of interest they have in a matter on the Council Agenda.

The Presiding Member noted that a Declaration of Interest had been received from:

- Cr Jessica Black in relation to Agenda Items 7.3.1 and 7.3.2.

The Presiding Member advised that in accordance with the *Local Government (Rules of Conduct) Regulations 2007* these declarations would be read out immediately before the Items are discussed.

5. PUBLIC QUESTION TIME

Public Question Time is operated in accordance with Local Government Act Regulations.

The Presiding Member advised the meeting that questions are to be in writing and questions received prior to this meeting would be answered tonight, if possible, or alternatively may be taken on notice.

The Presiding Member then opened Public Question Time at 7.07pm.

Written questions were received without notice at the meeting from:

- Terry Hogan of 73 Mill Point Road, South Perth
- Harry Anstey of 21 River View Street, South Perth

A table of questions and answers provided can be found in the **Appendix**.

The Presiding Member closed Public Question Time at 7.18pm.

6. DEPUTATIONS

A formal process where members of the community may, with prior permission, address Council on Agenda items where they have a direct interest

Nil.

At this stage Councillor Jessica Black declared an Interest in Items 7.3.1 and 7.3.2:

"I wish to declare a financial interest in Agenda Items 7.3.1 Proposed 38 Storey Mixed Development on Lots 2 (No. 86), 15 (No. 88) and 16 (No. 90) Mill Point Road, South Perth and 7.3.2 Proposed Minor Amendment to Previously Approved Mixed Use Development with a 21 Storey Building. Lot 100 (No. 96) Mill Point Road, South Perth on the Council Agenda for the Special Council Meeting of Tuesday, 8 March 2016.

I declare that I am an employee of TPG Town Planning, Urban Design and Heritage, who are the Applicants for these developments.

It is my intention to vacate the Council Chamber before the Items are discussed."

Councillor Jessica Black vacated the Chamber at 7.19pm and did not return.

7. REPORTS

7.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

7.3.1 Proposed 38 Storey Mixed Development on Lots 2 (86), 15 (88) and 16 (90) Mill Point Road, South Perth

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	TPG Town Planning, Urban Design and Heritage
File Ref:	D-16-18059
Lodgement Date:	10 November 2015
Date:	8 March 2016
Author:	Peter Ng, Senior Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

Summary

The Form 1 Responsible Authority Report (RAR) for a planning application for a proposed Thirty Eight Storey Mixed Development, located at Lots 2 (86), 15 (88) and 16 (90) Mill Point Road, South Perth, is attached for Council to consider, prior to determination by the Metro Central Joint Development Assessment Panel (Metro Central JDAP).

Officer Recommendation AND COUNCIL DECISION

Moved Councillor Sharron Hawkins-Zeeb

Seconded: Mayor Sue Doherty

That Council notes the Responsible Authority Report prepared for the Metro Central Joint Development Assessment Panel regarding the proposed Thirty Eight Storey Mixed Development, located at Lots 2 (86), 15 (88) and 16 (90) Mill Point Road, South Perth.

CARRIED (5/1)

Background

In accordance with the Council resolution in August 2015, the RAR is attached for Council to consider. The Metro Central JDAP meeting is tentatively scheduled for Monday 14 March 2016 at 2.00pm at the City of South Perth (Council Chambers).

Comment

Comments are provided in the RAR in relation to Scheme and Policy requirements.

Financial Implications

Nil.

Strategic Implications

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2015-2025 which is expressed in the following terms:

Accommodate the needs of a diverse and growing population.

Attachments

- 7.3.1 (a): Responsible Authority Report
- 7.3.1 (b): Attachment 1 - Plans of the Proposal
- 7.3.1 (c): Attachment 2 - Applicant Supporting Report
- 7.3.1 (d): Attachment 2a - Applicant Supporting Report
- 7.3.1 (e): Attachment 3 - Site Photographs
- 7.3.1 (f): Attachment 4 - Engineering Infrastructure Comments
- 7.3.1 (g): Attachment 4a - Engineering Infrastructure Comments
- 7.3.1 (h): Attachment 5 - Environmental Health Services Comments
- 7.3.1 (i): Attachment 6 - Department of Parks & Wildlife Comments
- 7.3.1 (j): Attachment 7 - Neighbour's Submissions .

7.3.2 Proposed Minor Amendment to Previously Approved Mixed Use Development within a 21 Storey Building. Lot 100 (No. 96) Mill Point Road, South Perth

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	TPG Town Planning, Urban Design and Heritage
File Ref:	D-16-17891
Lodgement Date:	3/03/2016
Date:	8 March 2016
Author:	Erik Dybdahl, Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Places -- Develop, plan and facilitate vibrant and sustainable community and commercial places
Council Strategy:	4.1 Develop and facilitate activity centres and community hubs that offer a safe, diverse and vibrant mix of uses.

Summary

At its August 2015 Council meeting, Council adopted a motion in relation to the Joint Development Assessment Panel (JDAP) meetings that Responsible Authority Reports (RARs) be presented to Council to consider the development proposals. As such, Council is to review the RAR for the proposed DAP form 2 minor amendment application in relation to minor amendments to the Previously Approved Mixed Use Development within a 21 Storey Building at Lot 100 (No. 96) Mill Point Road, South Perth.

Officer Recommendation AND COUNCIL DECISION

Moved Councillor Sharron Hawkins-Zeeb

Seconded: Councillor Travis Burrows

That Council notes the Responsible Authority Report prepared for the Metro Central Joint Development Assessment Panel regarding the proposed Minor Amendments to the Previously Approved Mixed Use Development within a 21 Storey Building at Lot 100 (No. 96) Mill Point Road, South Perth.

CARRIED (4/2)

Comment

In accordance with the Council resolution in August 2015, the final revision of Officer's RAR is attached for Council to consider. The JDAP meeting for the determination of this application is scheduled to occur on the 14th of March 2016. The time and location of the meeting shall be 2:00PM and the City of South Perth Council Chambers.

All attachments referred to in the RAR also form attachments to this report.

Policy and Legislative Implications

All policy and legislative impacts have been discussed in detail within the attached RAR, Please refer to **Attachment (a)** of this report.

7.3.2 Proposed Minor Amendment to Previously Approved Mixed Use Development within a 21 Storey Building. Lot 100 (No. 96) Mill Point Road, South Perth

Strategic Implications

This matter relates to Strategic Direction 4 “Places” identified within Council’s Strategic Plan 2015-2025 which is expressed in the following terms:

‘Develop, plan and facilitate vibrant and sustainable community and commercial places’.

Attachments

- 7.3.2 (a):** RAR - 3rd March - Amendment to Approved 21 storey Mixed Use Development - Lot 100 (No. 96) Mill Point Road South Perth
- 7.3.2 (b):** Approved Development Plans - Proposed Amendments to Mixed Development - Lot 100 (No. 96) Mill Point Road, South Perth
- 7.3.2 (c):** TPS6 Schedule I Definitions
- 7.3.2 (d):** Applicant Support for Proposed Land Uses .

8. CLOSURE

The Presiding Member thanked everyone for their attendance and closed the meeting at 7.25pm.

APPENDIX

5. PUBLIC QUESTION TIME: Special Council Meeting – 8 March 2016

Terry Hogan of 73 Mill Point Road, South Perth Received at the meeting: 8 March 2016	Response provided by: Vicki Lummer, Director Development and Community Services
<p>1. In the Responsible Authority Report (RAR) for 86-90 Mill Point Road (MPR) it says that Council notified the people in 73 MPR. I live in this building and I cannot find one person in that building who received such a letter. Are you continuing to send notifications to Strata Managers?</p>	<p>The City sent out 483 consultation notices which were sent to all of the owners in the units, not just the strata managers. The City has these letters in our records system, including the letter sent to Mr Hogan's address. Letters were sent on 10 November 2015.</p>
<p>2. Why was this Development Application (DA) for 86-90 MPR not included with the other mega towers on the "Have Your Say" site or in the list of DAs out for comments? At JDAP today the comment was made that only 2 people objected – it is appalling that people not knowing about something can be taken as acceptance!</p>	<p>It cannot be said that people did not know as literally hundreds of letters were sent out. The DA for 86-90 MPR was on the website where normal development application plans were able to be viewed. The City was not using the "Have Your Say" at this stage (November 2015) for larger developments in the precinct.</p>
<p>3. Given that Council is well aware that residents on the Peninsula are extremely concerned about mega towners like this one in MPR wouldn't you consider it reasonable to notify all of in the street – seeing that we will be the ones suffering the traffic chaos and shadowing.</p>	<p>The extent of the advertising has been agreed previously by Council so is in accordance with that agreement.</p>
<p>4. In light of these facts WILL COUNCIL NOW WITHDRAW this RAR from the JDAP meeting and send this proposal back out for comments to ensure that affected neighbours are notified as is the statutory requirement?</p>	<p>The City has to follow the JDAP application process and is only allowed to have extension of time for JDAP applications in conjunction with the applicant (ie. they have to agree). We do not have the ability to withdraw the RAR as it is already on the DAP website. Even if we were able to withdraw we would not be able to get an extension of time.</p>
<p>5. I understand that at the JDAP meeting today – the inclusion of Serviced Apartments in the non-residential component was accepted by Council and JDAP – this is in direct conflict with our legal advice <i>and we think it only appropriate that given we ratepayers paid for it – we should be able to view the advice given to Council on this subject.</i> <i>[officers clarified what legal advice was being sought - residency and short term occupancy]</i></p>	<p><i>Question Taken on Notice</i></p> <p>Table I of the City's Town Planning Scheme classifies "Tourist Accommodation" as a non-residential use.</p> <p>The legal advice will not be released on the grounds of legal professional privilege, however the City has and will use relevant excerpts of this advice where considered appropriate for public release.</p>

**Harry Anstey of 21 River View Street, South Perth
Received at the meeting: 8 March 2016**

**Responses provided by: Vicki Lummer, Director
Development and Community Services and Geoff Glass, CEO**

[Preamble] The previous response to the question about the Traffic Study of the Station Precinct was not very clear or specific. With the impending infill at Canning Bridge and Canning Highway can Council advise the overall picture:

1. Which roads & streets traffic flow are being assessed, in which Precincts?

Question Taken on Notice

All roads within the South Perth Station Precinct are being assessed with the major focus on Mends Street, Mill Point Road, Labouchere Road and the associated intersections that provide vehicular access to the surrounding local road network.

The City is also in the process of extending its existing traffic model of the Precinct to include an area that incorporates all roads (excluding MRWA owned and operated Canning Hwy) within the area bounded by South Terrace, Labouchere Road, Thelma Street, Canning Highway, Way Road and Mill Point Road.

2. Which areas will be assessed for parking availability and development impact?

Question Taken on Notice

While the previous answer concentrates on traffic flows through the area, distinct from this parking within the City of South Perth will be managed into the future through the development of individual "Parking Precinct Plans" for approximately 14 specified zones.

The first Parking Plan to be completed is for the "South Perth Station Precinct" and to assist in this process the City over the last few years has routinely collected area wide parking data in this zone. This and future data collection will provide the basis for the development of a robust parking plan that will allow Officers to continually assess the overall parking situation and plan accordingly.

<p>3. When will the results be available for resident review?</p>	<p><i>Question Taken on Notice</i></p> <p>The updated GHD report is due for completion in early April and will be made available for review via the City's web-site shortly thereafter.</p>
<p>4. What community consultation is envisaged from the information and report?</p>	<p><i>Question Taken on Notice</i></p> <p>The GHD report is effectively a planning tool for future that identifies recommended improvements to the road network. Therefore while general feedback will be received upon its release a series of more extensive community engagements will be carried out as individual upgrades to the road network are formally committed to and subsequently progressed.</p> <p>It is intended that the "Parking Plan" for the South Perth Station Precinct will be completed this calendar year and this process will incorporate a broad reaching community engagement component.</p>
<p><i>[Preamble] I have previously expressed my concern to the CEO about the VALUE of responses provided concerning the definition of parking requirements. Yet again today at the JDAP meeting for 19 Labouchere Rd the RAR noted the Applicant had used 2.5m width for both residential and non-residential spaces, contrary to the requirements of TPS6 and Policy. (Only 1 disabled bay was assigned for a total requirement of 80 bays for the café/commercial, serviced apartments and residential units.).</i></p> <p><i>In this case the non-residential bays were for Serviced Apartments, whose vehicles (apparently) require wider bays (2.6m) compared with residential (car) bays which only required a 2.5 m width. The impact of width potentially requires a re-design of the 80 on-site parking bays.</i></p>	
<p>5. Surely this confirms to council that the issue raised and the need for a specific minimum width to be defined as suggested, preferably in the TPS and not the Policy P350.3? Mr Glass please advise.</p>	<p><i>Question Taken on Notice</i></p> <p>Responses were provided in emails dated 1 and 9 March 2016 directly to Mr Anstey on this matter.</p> <p>As advised at that time ever since Town Planning Scheme No. 2 came into operation in 1972, the successive district Schemes have all prescribed the minimum length and width of car parking bays. No Scheme has ever included different parking bay dimensions for people with disabilities, commercial vehicles, or bicycles.</p> <p>For normal car parking bays, AS2890.1 specifies a minimum 2.4 metre width for unobstructed bays plus an additional 600mm width where both sides of a bay are obstructed. Within AS2890.1, Figure 5.2</p>

	<p>“Design Envelope Around Parked Vehicle to be Kept Clear of Columns, Walls and Obstructions” sets out detailed requirements in this regard.</p> <p>Policy P350.3 will be advertised in due course, if Council resolves to support the proposed changes to the policy. At that time Mr Anstey is encouraged to submit his comments on the policy review.</p>
<p><i>[Preamble] Today’s JDAP meeting considered a 53% shortfall in land was a “minor” issue when considering the relevance of SDA allowances for height, plot ratio, etc. despite the council Officer’s recommendation supported by both councillor panel members. The lack of Council’s legal interpretation of the Supreme Court decision would appear to allow the bush lawyers on the panel to run riot with their own “interpretations”!</i></p>	
<p>6. Has Council obtained its own legal opinion on Justice Chaney’s VARIOUS explanations with regard to 74 Mill Point Road?</p>	<p><i>Question Taken on Notice</i></p> <p>The City has recently received legal advice in regards to the Supreme Court decision Regarding Lots 7-20 Mill Point Road, South Perth.</p>
<p>7. Is so, why are these not quoted in the RAR decisions?</p>	<p><i>Question Taken on Notice</i></p> <p>This advice will now be used in officers’ assessment of applications and where necessary used in RARs. For your information this decision is used in the RAR for DAP applications DAP/15/00931 and DAP/15/00940.</p>
<p>8. When will they be released?</p>	<p><i>Question Taken on Notice</i></p> <p>Taken on The legal advice will not be released on the grounds of legal professional privilege, however the City has and will use relevant excerpts of this advice where considered appropriate for public release.</p>

[Preamble] Given today's JDAP decision concerning TPS6, the requirement for 1,700m2 land area for SDA eligibility not critical, over ruling of the Officer's Recommendation to Refuse the Labouchere Road Development application, the amazing number of exceptional developments the DAC have approved for additional allowances and the various Planning contradictions, it would seem the State Government has now achieved its Amalgamation objective of rendering this City's Town Planning function irrelevant. Today's deliberations are consistent with that of other reviewing parties, including Supreme Court, where the clarity of the City of South Perth Planning Amendments to its TPS, their guidance and Recommendations have been a concern and generally resulted in favour of the big Developer.

9. So, isn't Council wasting ratepayer's money by maintaining a Planning Department?

Question Taken on Notice

The City has a statutory obligation to provide Town Planning Services in accordance with its Town Planning Scheme. In that service its obligations are to the entire City of South Perth and it undertakes processing, consultation, assessment, reporting and determination of approximately 600 development applications per year and up to 1000 building licenses per year. JDAP applications number less than 20 per year, although they are complex in their assessment and consultation requirements.

10. If Council does not agree, when how will ratepayers be assured that the Department is providing cost effective service and advice?

Question Taken on Notice

The City has a requirement and does employ employee qualified and experienced practitioners to give professional advice to residents, builders, developers and the elected Council.

[Preamble] The JDAP today applied a condition whereby a serviced apartment within the development for a charity group, in perpetuity as the "Community" benefit associated with the SDA allowance.

11. Will Council amend its current Serviced Apartment Policy to enable a charity group to use their serviced apartment very day of the year and not limit it to a maximum of 6m per year?

Question Taken on Notice

The serviced apartment policy states that the apartment may not be occupied by a tenant for more than 6 months. The charity group mentioned in the condition will have to comply with this requirement when they allow families to use the premises.

RECORD OF VOTING

8/03/2016 7:21:53 PM

7.3.1 Proposed 38 Storey Mixed Development on Lots 2 (86), 15 (88) and 16 (90) Mill Point Road, South Perth

Motion Passed 5/1

Yes: Cr Travis Burrows, Cr Cheryle Irons, Cr Ken Manolas, , Cr Sharron Hawkins-Zeeb, Cr Colin Cala

No: Mayor Sue Doherty

Absent: Cr Fiona Reid, Cr Glenn Cridland, Cr Jessica Black

8/03/2016 7:21:53 PM

7.3.2 Proposed Minor Amendment to Previously Approved Mixed Use Development within a 21 Storey Building. Lot 100 (No. 96) Mill Point Road, South Perth

Motion Passed 4/2

Yes: Cr Travis Burrows, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

No: Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Fiona Reid, Cr Glenn Cridland, Cr Jessica Black

DISCLAIMER

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate. Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

These Minutes were confirmed at a meeting on Tuesday 22 March 2016.

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed