

MINUTES.

Special Council Meeting

19 December 2017

Mayor and Councillors

Here within are the Minutes of the Special Council Meeting of the City of South Perth Council held Tuesday 19 December 2017 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth.



GEOFF GLASS
CHIEF EXECUTIVE OFFICER

20 December 2017

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/

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Special Council Meeting - Minutes

Minutes of the Special Council Meeting held in City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth at 6.00pm on Tuesday 19 December 2017.

1. DECLARATION OF OPENING

The Presiding Member opened the meeting at 6.02pm and welcomed everyone in attendance. He 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 STANDING ORDERS LOCAL LAW 2007

This meeting is held in accordance with the City's Standing Orders Local Law which provides rules and guidelines that apply to the conduct of meetings.

2.2 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 'Recording of Proceedings'.

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

3. ATTENDANCE

Councillors

Councillor Glenn Cridland	Como Ward (Presiding Member)
Councillor Blake D'Souza	Manning Ward
Councillor Colin Cala	Manning Ward
Councillor Greg Milner	Moresby Ward
Councillor Cheryle Irons	Mill Point Ward
Councillor Ken Manolas	Mill Point Ward

Officers

Mr Geoff Glass	Chief Executive Officer
Mr Colin Cameron	Director Corporate Services
Ms Vicki Lummer	Director Development and Community Services
Mr Bruce Moorman	Acting Director Infrastructure Services
Mr Phil McQue	Manager Governance and Marketing
Mr Cameron Howell	Planning Officer
Ms Christine Lovett	Governance Officer

Gallery

There were 11 members of the public and no member of the press present.

3.1 APOLOGIES

Nil

3.2 APPROVED LEAVE OF ABSENCE

Mayor Sue Doherty	Mayor
Councillor Tracie McDougall	Como Ward
Councillor Travis Burrows	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. 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 no Declarations of Interest had been received.

5. DEPUTATIONS

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

A deputation was heard from Mr Graham Kew at the Special Council Meeting of 19 December 2017.

6. PUBLIC QUESTION TIME

6.1 PUBLIC QUESTION TIME: 19 DECEMBER 2017

Public Question Time is operated in accordance with Local Government Act Regulations and the City's Standing Orders Local Law.

The Presiding Member advised the meeting that questions are to be in writing and submitted 24 hours prior to the meeting. Forms are available on the City's website and at the City's Reception. Questions can also be submitted electronically via the City's website. Questions received 24 hours prior to the meeting would be dealt with first. Questions received less than 24 hours prior to the meeting would be taken on notice and the response provided in the Agenda of the next month's Council meeting.

The Presiding Member then opened Public Question Time at 6.19pm

Written questions were received prior to the meeting from:

- Ms Carol Roe of Abjornson Street, Manning

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

The Presiding Member then closed Public Question Time at 6.29pm.

7. REPORTS

7.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

7.3.1 Proposed Extension of Validity of Approval for Como Hotel Redevelopment. Lots 888 & 889, No. 243 Canning Highway, South Perth

Location:	Lots 888 & 889 No. 243 Canning Highway, South Perth
Ward:	Como Ward
Applicant:	Squire Patton Boggs AU
File Reference:	D-17-106461
DA Lodgement Date:	20 October 2017
Meeting Date:	19 December 2017
Author(s):	Cameron Howell, Senior Statutory Planning Officer
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

Summary

The Responsible Authority Report (RAR) for the proposed extension of validity of development approval for the Como Hotel redevelopment at Lots 888 & 889, No. 243 Canning Highway, South Perth, is attached for Council to consider, prior to determination by the Metro Central Joint Development Assessment Panel (Metro Central JDAP).

Officer Recommendation

Moved: Councillor Greg Milner
Seconded: Councillor Cheryle Irons

That Council supports the Responsible Authority Report prepared for the Metro Central Joint Development Assessment Panel regarding the proposed extension of validity of development approval for the Como Hotel redevelopment at Lots 888 & 889, No. 243 Canning Highway, South Perth.

Carried (6/0)

1. Comment

As requested by Council, the RAR is attached for Council to consider. The Metro Central JDAP meeting is scheduled to be held on Wednesday 20 December 2017 in the South Perth Council Chambers, starting at 2.00pm.

2. Policy and Legislative Implications

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

3. Financial Implications

Nil.

4. Strategic Implications

This matter relates to Strategic Direction 3 “Environment (built and natural)” identified within Council’s Strategic Community Plan 2017-2027 which is expressed in the following terms: 3.2B Sustainable Built Form - Promote and facilitate contemporary sustainable buildings and land use.

Attachments

- 7.3.1 (a):** Responsible Authority Report (RAR) - DAP/14/00542 | 11.2014.252.5
- 7.3.1 (b):** RAR Attachment 1 - Original Determination Notices and Approved Plans (17 April 2015 & 13 August 2015)
- 7.3.1 (c):** RAR Attachment 2 - Applicant's Planning Report
- 7.3.1 (d):** RAR Attachment 3 - Main Roads WA Comments
- 7.3.1 (e):** RAR Attachment 4 - Public Consultation and Submissions

8. CLOSURE

The Presiding Member thanked everyone for their attendance and closed the meeting at 6.38pm.

9. RECORD OF VOTING

7.3.1 Proposed Extension of Validity of Approval for Como Hotel
Redevelopment. Lots 888 & 889, No. 243 Canning Highway, South Perth

For: Cr Glen Cridland, Cr Colin Cala, Cr Blake D'Souza, Cr Ken Manolas, Cr Cheryle Irons, Cr Greg Milner

Absent: Mayor Sue Doherty, Cr Travis Burrows, Cr Tracie McDougall

APPENDIX

5.1 PUBLIC QUESTION TIME – 19 DECEMBER 2017

1. Ms Carol Roe of 16 Abjornson Street, Manning Received 16 December 2017	Response provided by: Ms Vicki Lummer, Director Development and Community Services
<p><i>Preamble: When is a hotel a tavern? When it's The Como. When is a bottle shop not a liquor store? When it's next to the Como Tavern.</i></p> <p><i>On page 9 of the RAR, past applications refer the existing BWS building and to the proposed Dan Murphy's building as a SHOP trading as a bottle shop /liquor store. But they are not liquor stores as defined in the Model Scheme Text.</i></p> <p><i>The latter defines Bulky Goods Showroom as a land use that requires a large area for the handling, display and storage of the goods and vehicular access is required to the premises for the purpose of collection of purchased goods.</i></p> <p><i>Outside the Dan Murphy's Hyde Park Store on 24 Oct 2017, I witnessed a forklift being used to offload pallets from a long truck. Each pallet was laden with a high bulky package of cartons of packaged liquor encased in plastic wrapping. I think that very few customers would carry their packaged liquor home on foot or by bus given its notoriety as a destination store.</i></p> <p><i>State Planning Policy 4.2 Activity Centres for Perth and Peel (section 5.6.1 <u>Bulky goods retailing and mixed business</u> states that: <u>The encroachment of bulky goods retail into residential and industrial zones should be avoided.</u></i></p> <p><i>Furthermore, locating such development in an ad hoc manner or as ribbon development along regional roads is discouraged. Bulky goods retail should be developed with access and urban design controls so as not to interfere with traffic flow and safety, or detract from the amenity of public transport or the locality.</i></p>	
1. Does the application for a Dan Murphy's Bottle Shop fit the land use (large) shop or bulky goods showroom?	Reference in the Responsible Authority Report (page 9) that you have mentioned is in regard to the previous determinations in 2014 and 2015, both of which were prior to the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> . The regulations brought in the Deemed Provisions including the definitions you refer to. Hence the definitions were not in the City's scheme at that time. <p>The <i>Dan Murphy's</i> component of the proposed Como Hotel redevelopment is not a 'bulky goods showroom', as per the definition in Schedule 1 'Model provisions for</p>

	<p>local planning schemes' of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. The Responsible Authority Report prepared by the City for the proposed extension of validity of the approved Como Hotel redevelopment provides further comment on the defined land use of the <i>Dan Murphy's</i> building.</p>
<p>2. Why does the RAR state on page 16 : In the event that the Development Assessment Panel considers approving (the application)... when the Instrument of Delegation makes it clear that given the opposition of MRWA to the proposal, the DAP's delegated jurisdiction reverts to the WAPC to determine the application under the MRS.</p>	<p>In accordance with the <i>Planning and Development (Development Assessment Panels) Regulations 2011</i>, a Development Assessment Panel (DAP) determines DAP applications as if the DAP were the responsible authority i.e. local government or the Western Australian Planning Commission (WAPC), as applicable.</p> <p>In relation to the application for the proposed extension of validity of the approved Como Hotel redevelopment, the City's recommendation is consistent with the Main Roads WA referral comments. Accordingly, under the WAPC's delegation to local governments (2017/02), this application does not need to be referred to the WAPC and hence the WAPC, or an officer of the Department of Planning, Lands and Heritage (DPLH) under delegated authority, does not need to prepare a Responsible Authority Report (RAR) or a recommendation for DAP's consideration.</p> <p>The City has clarified the requirements of this situation with DPLH and has been advised that the DAP can resolve to approve the proposed extension of validity without a WAPC/DPLH RAR or recommendation being prepared.</p>
<p><i>Preamble: Having been a research and statistics officer, some aspects of the reports from various sources that I've read for the purpose of writing submissions to the Liquor Commission and MCJDAP bother me including information that is inadequate, has been overlooked and sometimes contrived. In this instance, my focus is on the RAR where I note State Planning Policies: Nil although SPP 5.1 Regional Roads (Vehicular Access) is mentioned nearby.</i></p>	
<p>3. Is the "Nil: in reaction to the Supreme Court decision of 11 May 2016 when the City's application for a judicial review (in relation to the Canning Hwy crossover arguing that the MCJDAP has not properly considered that State Planning Policy in its decision), was unsuccessful and was dismissed? Also, what is the impact of that Court decision in relation to other development applications along</p>	<p>This application relates to a request to extend the validity of the previously approved application and as such does not require a reassessment of the previously approved proposal. Therefore an assessment against SPP 5.1 does not need to be undertaken for the purposes of this application.</p> <p>The Supreme Court decision relates specifically to the subject application and the</p>

Canning Hwy like the Farmer Jacks that was the subject of a Special Electors Meeting last evening?

process undertaken by the JDAP in considering and approving the application. The decision of the Supreme Court in regards to this application therefore does not have bearing on the assessment and consideration of any other development applications.

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 the Ordinary Council Meeting on: .

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed