Form No. 4
[Regs. 16(1) and 20(2).]

Town Planning and Development Act 1928

TO: The Chief Executive Officer of the City of Melville

SUBMISSION ON
LOCAL PLANNING SCHEME No. 6
and
LOCAL PLANNING STRATEGY

Name Aileen Elizabeth Hulbert

SUBJECT OF SUBMISSION
As owner of property and as a private citizen

ADDRESS OF PROPERTY AFFECTED BY SCHEME
94 Kitchener Road, near Cottrill Street

SUBMISSION

As a long-standing resident and ratepayer of the City of Melville (25 years plus), and as a resident directly negatively impacted by the decision on 10 March 2014 by the Metro Central JDAP to approve an R100+ development on the R40-coded site at 94 Kitchener Road, Alfred Cove, despite it twice being recommended for refusal in the Council's own Responsible Authority Reports, I have reviewed the draft Local Planning Scheme No.6 (LPS6) and the associated Local Planning Strategy with great interest. Following this clear slap in the face received by the City from the Metro Central JDAP, our principal concern was to see what changes had been incorporated into the LPS6 to combat the recurrence of such appalling planning decisions in our community, what protections had been considered, and what measures were being put forward to curb the future abuse of discretionary powers by JDAP panels to override both residents' views and the recommendations of the professionals working at the City's Planning Office.

As you might imagine, I am greatly disappointed with what I have read. There is clearly no protection afforded by any clause in this draft CPS6 against such decisions being made again in the same way in future.

Despite the apparent "special case" clause (5A.1.2 (b) (i)) regarding the site at 94 Kitchener Road, the discretionary powers afforded under Clause 5.5 (and indeed as afforded in Part 2 of the Residential Design Codes document) will continue to undermine any certainty that the building parameters stated in Clause 5A.1.2(b)(i) or the extended list of criteria in Clause 10.2 will be respected. In a word, the principal issue of unfettered discretionary powers has not been addressed.

It would seem that the simplest way to address this issue would be for the Council to impose a restriction on where multi-unit developments could be built, as have certain other councils – notably the City of Stirling – where they have sought, I understand, to restrict such developments to sites zoned R60 and above.

This however does not, in itself, address the fundamental problem of unfettered use of discretionary powers by an unaccountable panel system, such as the JDAPs. I would therefore like to suggest the following as a way the Council may protect both its own integrity and the interests of the residents it represents:

1. Insert a clause that specifically relates to the Multi-Unit Housing Code, indicating that, in the City of Melville, multi-unit developments will be restricted to sites which meet all the following criteria (in addition to those already in place):

    a. The site in question is on a high-density transit corridor, as indicated on the Local Planning Strategy (2012-2031) map of the city (Local Planning Strategy P.37);
    b. The site is coded R40 or above;
    c. No variation to the "Deemed-to-Comply" Requirements applicable to the site's R-Code will be allowable where the majority of neighbouring (i.e. bordering or opposite) built sites are zoned at a lower R-Code than the site in question

2. In addition to Point 1 above, Clause 5.5 should include an additional statement that the exercising of discretionary powers to vary the designated R-Code "Deemed-to-Comply" requirements be limited to variations of no greater than one R-Code above that of the site in question. For example, an R40 zoned site would allow the decision-maker the discretionary powers to approve a non-compliant development only if its non-compliance fell somewhere between the R40 "Deemed-to-Comply" requirements and those applicable to an R50 zoning. This discretionary power to vary would, of course, be ruled out under the provision of Point 1 (c) above.

3. Where any use of discretionary power is exercised to approve a variation to the "Deemed-to-Comply" Requirements (as set out in Points 1 and 2 above), the decision-maker is to provide a full, written justification of the decision to the owners of the neighbouring sites.

The reinstating of the relevance of the Deemed-to-Comply Requirements of the R-Codes is a crucial step in re-establishing public confidence in the planning system. As things stand, they can clearly be swept away with impunity under the provisions of Part 2 of the R-Codes and the unaccountable application of so-called "Design Principles". I believe that the above suggestions will go some way towards redressing this imbalance.

The unedifying blame game that occurred following the 94 Kitchener Road decision clearly showed that no one was prepared to take responsibility for it. The JDAP openly blamed the Council's planning scheme; the Council said it was the JDAP's fault, and could do nothing about it. The decision engendered a year's worth of community upset which created a high level of distrust in both Council and WAPC procedures; this distrust remains palpable to this day. Indeed, the

community were forced to take our case to the State Parliament, where it is still fighting for a satisfactory explanation.

I believe the measures suggested above would clearly place any such future decisions indisputably at the door of the JDAP panellists, and help to restore public faith in our local government's determination to protect ratepayers.

Regards

Aileen Hulbert

Date 11/01/15 Signature Aileen E. Hulbert