PRESENT: 
Cr H A Zelones JP Chairman
Cr P J Hart Deputy Chairman
Cr J Everts
Cr F R Green
Cr G M Hodges
Cr J Knezevich
Cr L Reynolds JP

APOLOGIES: Nil

OBSERVERS: Nil

IN ATTENDANCE: Mr R S Tame Chief Executive Officer
Mr I MacRae Executive Director Development Services
Mr I Townson Building Services Manager
Mr I Watt A/Health Services Manager
Mr L Fouché Planning Services Manager
Mr R Van Delft A/Senior Planning Officer
Ms N Cranfield Minute Secretary

Public 4
DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings was read by the Chairman.

DECLARATION OF MEMBER’S INTERESTS

Cr Zelones

Proposed Stables, Agistment, Horse Training & Riding School –  
Pt Lot 106 Wollaston Avenue, Brookdale  Page 55

Cr Reynolds

Proposed Stables, Agistment, Horse Training & Riding School –  
Pt Lot 106 Wollaston Avenue, Brookdale  Page 55

Cr Knezevich

Proposed Scheme Amendment –  
First Stage Urban Development in North Forrestdale  Page 89

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the Development Services Committee Meeting held on 8th September 2003, were confirmed.

MOVED Cr Hart
MOTION CARRIED (7/0)
**QUESTION TIME**

1. **Mr R Martin on behalf of Ms C Elrick - Lot 801 Mundanup Close, Kelmscott**

In regards to the item on the Agenda regarding the “Construction of residence with Zincalume roof, Lot 801 Mundanup Close, Kelmscott” would Council consider approving the use of Zincalume coated roofing material if appropriate screening vegetation was planted adjacent to the neighbouring boundary to assist with roof reflection issues?

*Chairman advised that the information regarding the additional vegetation would be taken into account when considering the development proposal as reported in this Agenda.*

2. **Ms C Elrick – Lot 801 Mundanup Close, Kelmscott**

In regards to the item on the Agenda regarding Lot 801 Mundanup Close, Kelmscott is Council aware that there are other properties in the surrounding area that also have Zincalume roof sheeting, and some at a much higher level?

*Chairman noted the observation raised by Ms C Elrick and advised that Council is aware of other properties with Zincalume roof sheeting in the surrounding area. Chairman advised that Council’s building requirements/guidelines address such issues.*

**ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.19/2003**

The following items were included for information in the “Development Services Strategy section” –

- Report on Outstanding Matters – Development Services Committee
- Health Services Manager’s Report for August 2003
- Correspondence re 2003 Meningococcal C Vaccine Program
- Planning Services Manager’s Report for August 2003
- ARA - Implementation Strategy for Sustainability Report
- Bush Fire Hazard Assessment Study for Town Planning Scheme No.4
- P.I.A. National Conference “Planning on the Edge”
- Heritage Council - Register of Heritage Places “Coles Shaft” & “Jarrah Tree”
- Heritage Council - Register of Heritage Places “Armadale District Hall”
- Community Heritage Advisory Committee Meeting - Minutes
- Town Planning Scheme No.2 - Amendment Action Table
- PAW Closure Report - significant actions during August 2003
- Subdivision Applications - Recommendation Table (Aug/Sept 2003)
- Compliance Officer’s Report for August 2003
- Monthly Admin Reports for August 2003
- Building Services Manager’s Report for August 2003
- Financial Statements for the period ending 31 August 2003

*Chairman highlighted the P.I.A. Conference “Planning on the Edge” scheduled for 22-26 February 2004 in Hobart Tasmania.*

*Committee noted the information and no additional items were raised for further report.*
DEVELOPMENT SERVICES COMMITTEE

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DEVELOPMENT SERVICES COMMITTEE

BUILDING
CONSTRUCTION OF RESIDENCE WITH A ZINCALUME ROOF – LOT 801 MUNDANUP CLOSE KELMSCOTT

WARD : KELMSCOTT
FILE REF : A167480
DATE : 2nd October 2003
REF : IT
RESPONSIBLE MANAGER : BSM
APPLICANT : Ms C Elrick
LAND OWNER : As above
SUBJECT LAND : Lot 801 (No.7) Mundanup Close, Kelmscott
Property size 745m²
Map 23-08
ZONING : Urban / Residential R15
MRS/TPS No.2

In Brief:-

- Application to construct a residence roofed in Zincalume materials.
- Recommendation that the request be refused on the basis of the likely adverse impact on the outdoor living area of an adjacent property of utilizing Zincalume materials.
- Committee additionally recommended that the Building Services Manager be given delegated authority to approve an amended application specifying the use of Galvanised materials, or materials of a lower reflectivity characteristic, subject to the planting of a suitable vegetation and to the satisfaction of the Building Services Manager.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.

Legislation Implications

Town Planning and Development Act 1928
Residential Design Codes

Council Policy / Local Law Implications

Nil.
SITE PLAN
LOT 801 MUNDANUP CLOSE, KELMSCOTT
**Budget / Financial Implications**

Nil.

**Consultation**

- A total of six adjacent residents where consulted with three responses being received, one objecting to the use of Zincalume roof on the basis of its effect on the environment and two responses not objecting to the proposal.

Refer to Confidential Attachment “B1” of the Agenda for location plan of respondents.

**DETAILS OF PROPOSAL**

An application has been received from Ms Elrick, the owner of Lot 801 requesting approval to have a residence constructed on her lot with a roof utilizing Zincalume materials. Ms Elrick states in her application, “Aesthetically, from seeing other properties in the locality I feel this (Zincalume) blends in well with the streetscape and gives the property an “Australian” feel.

**COMMENT**

Officers have visited the site and are of the view that the use of Zincalume roofing on the proposed residence is likely to have an adverse impact on adjacent properties due to the potential for glare on the properties immediately to the rear of the applicant’s lot. While all other homes in Mundanup Close, adjacent to Lot 801, are located lower down the scarp and won’t be affected by the proposal, officers are concerned that the use of Zincalume sheeting could focus glare into properties located in Nowra Place and directly behind the applicant’s lot. These properties are at approximately the same level as Lot 801 and would be affected by any glare being focussed from the roof.

**OPTIONS**

1. Not to approve the use of a Zincalume sheeted roof on the basis of its likely adverse impact on existing residences adjacent to the applicant’s lot.

2. Approve the application.

**CONCLUSION**

On the basis of the above report it is recommended that the application be refused because of the likely adverse impact on adjacent residents.
ELEVATION PLAN
LOT 801 MUNDANUP CLOSE, KELMSCOTT
The Building Services Manager advised Committee that he had undertaken further discussion with Ms Elrick (landowner) and Mr Martin (builder) with the intention of attempting to reach a negotiated outcome to all parties’ satisfaction.

Building Services Manager further advised Committee that Ms Elrick was prepared to substitute the use of Galvanised roof sheeting in lieu of Zincalume materials and was also prepared to plant a screen of vegetation adjacent to her neighbour’s property boundary to reduce the potential for a glare impact on their lot.

COMMITTEE agreed that a new Part (2) be added to the recommendation to approve the use of Galvanised materials, or materials of a lower reflectivity characteristic, subject to the planting of suitable vegetation to assist with screening and roof reflection issues and to the satisfaction of the Building Services Manager.

D172/10/03   RECOMMEND

1. That the application to construct a residence on Lot 801 Mundanup Close, Kelmscott with a roof sheeted with Zincalume coated steel roofing, be refused on the basis that it is considered that the roofing would have an adverse impact on adjacent properties.

2. That the Building Services Manager be given delegated authority to approve an amended application specifying the use of Galvanised materials, or materials of a lower reflectivity characteristic, subject to the planting of a suitable vegetation and to the satisfaction of the Building Services Manager.

MOVED Cr Reynolds
MOTION CARRIED (7/0)
COUNCILLORS’ ITEMS

Nil.
DEVELOPMENT SERVICES COMMITTEE

HEALTH
In Brief:-

- Council resolved on 18 August 2003 to advertise for public comment, in accordance with the provisions of the *Local Government Act 1995*, the proposed *City Of Armadale Environment, Animals and Nuisance Amendment Local Laws 2003* and *City Of Armadale Health Amendment Local Laws 2003*.
- Advertising has been completed and no comments have been received.
- Recommendation that the local laws be adopted.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Nil

**Legislation Implications**

Power to make local laws provided under the *Health Act 1911* and the *Local Government Act 1995*.

**Council Policy / Local Law Implications**

The *City of Armadale Environmental Health Plan 2003-8* includes an annual review, in July of each year, of local laws within the Health Department’s jurisdiction to ensure continuing relevance and consistency with other laws. Amendments are proposed to the *City of Armadale Health Local Laws 2002* and the *City of Armadale Environment, Animals and Nuisance Local Laws 2002*

**Budget / Financial Implications**

Provision has been made in the 2003-4 Budget for advertising of minor amendments.

**Consultation**

Coordinator Waste Services.
BACKGROUND

At its meeting of 18 August 2003 Council resolved to advertise for public comment, as required by the Local Government Act 1995, draft sets of Local Laws which would effect amendments to the City of Armadale Health Local Laws 2002 and the City of Armadale Environment, Animals & Nuisance Local Laws 2002. The proposed amendments to the former aimed to:

- Strengthen controls over the use of refuse receptacle; and
- Reflect the change of name of a State Government department

while those to the latter:

- More clearly define the term “poultry” to facilitate easier control; and
- Reflect the change of name of a State Government department.

Advertising has been completed and comments suggesting minor alterations to phrasing have been received from the Department of Local Government and Regional Development.

The draft of the Environment, Animals & Nuisance Amendment Local Laws for which adoption is recommended incorporates these suggestions, and differs slightly from that considered by Council in August in that a definition of “Birds” has been included and the heading to Division 3 has been changed from “Pigeons and Aviary Birds” to “Birds Generally”. The reason for these minor changes is to eliminate any doubt that provisions relating to birds (such as the control provisions in connection with noise) have application to those birds captured also by the “poultry” definition (such as peafowl).

D173/10/03 RECOMMEND

1. Pursuant to its powers under the Local Government Act 1995 and all other powers, the Council of the City of Armadale resolved on 20th October 2003 to make the following local laws:

   CITY OF ARMADALE ENVIRONMENT, ANIMALS AND NUISANCE AMENDMENT LOCAL LAWS 2003

   Citation

   1. These Local Laws may be cited as the City Of Armadale Environment, Animals and Nuisance Amendment Local Laws 2003.

   Principal Local Laws

   2. In these Local Laws, the City Of Armadale Environment, Animals And Nuisance Local Laws 2002 (published in Government Gazette (Special) No.36 of 1st March, 2002 and amended in Government Gazette 190 of 22nd Oct 2002) are referred to as the principal local laws.
Clause 3 amended

3. Clause 3 of the principal local laws is amended by:

   (a) inserting immediately after the definition of “bee hive” the definition “‘birds’ includes poultry”; and

   (b) deleting the definition of “poultry” and inserting in its place the words “‘poultry’ includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption”.

Division 3 amended

4. Division 3 of the principal local laws is amended by deleting from the heading the words “Pigeons and Aviary Birds” and replacing them with the words “Birds Generally”.

Clause 31 amended

5. Clause 31(d) of the principal local laws is amended by inserting immediately following the term “Sections 6.16 – 6.19” the words “of the”.

Clause 38 amended

6. Clause 38 of the principal local laws is amended by:

   (a) in subclause (1)(b), deleting “, including any rooster, peafowl, guinea fowl, turkey or goose”; and

   (b) in subclauses (2)(b) and (3)(b), deleting “, including any rooster, peafowl, guinea fowl, turkey or goose,”.

Clause 50 amended

7. Clause 50(1) of the principal local laws is amended by deleting the words “Environmental, Water and Catchment Protection” and inserting in their place the word “Environment”.

2. Pursuant to its powers under the Health Act 1911, the Local Government Act 1995 and all other powers, the Council of the City of Armadale resolved on 20th October 2003 to make the following Local Laws.
CITY OF ARMADALE HEALTH AMENDMENT LOCAL LAWS 2003.

Citation

1. These Local Laws may be cited as the City of Armadale Health Amendment Local Laws 2003.

Principal Local Laws

2. In these Local Laws, the City of Armadale Health Local Laws 2002 (published in the Government Gazette (Special) No.36 of 1st March, 2002 are referred to as the principal local laws.

Clause 3 amended

3. Clause 3 of the principal local laws is amended by, in the definition of “refuse disposal site”, deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.

Clause 26 amended

4. Clause 26 of the principal local laws is amended by:

(a) inserting immediately after paragraph (c) the following new paragraph:

“(d) before allowing vacation of or vacating any premises ensure that receptacles are empty and clean and –

(i) where the rear part of the premises is completely secured by any combination of fences, gates and buildings, ensure that the receptacles are stored within the rear of those premises; or

(ii) where the rear part of the premises is not so secured, provide at least 2 days notice of the intention to vacate the premises to the City”;

(b) renumbering previous paragraphs (d) and (e) to (e) and (f) respectively;
(c) deleting the words “by or due to negligence of the occupier” from paragraph (e) and inserting in their place “or contributed to by negligence of the owner or occupier, including any failure to comply with the requirements of this Clause.”

Clause 28 amended

5. Clause 28 of the principal local laws is amended by:

(a) deleting the word “and” appearing at the end of paragraph (e)(iii);

(b) deleting the full stop at the end of paragraph (f) and replacing it with a semi colon; and

(c) adding the following new paragraphs:

“(g) not deposit any material in any receptacle supplied by the Council or its contractor for use at premises other than those premises owned or occupied by him or her; and

(h) ensure that no material, other than materials specified by the Council or its contractor as acceptable for recycling purposes, is placed in a receptacle supplied by the Council or its contractor specifically for the deposit, collection and recycling of such materials.”

Clause 45 amended

6. Clause 45 (1)(a) and 45(2)(a) of the principal local laws are each amended by deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.

Clause 111 amended

7. Clause 111(1)(b) of the principal local laws is amended by deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.
Clause 117 amended

8. Clause 117(1) of the principal local laws is amended by deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.

Clause 125 amended

9. Clause 125(b) of the principal local laws is amended by deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.

Clause 129 amended

10. Clause 129(d) of the principal local laws is amended by deleting the comma and the words “Water and Catchment Protection” immediately following the word “Environment”.

* SPECIAL MAJORITY REQUIRED

MOVED Cr Zelones
MOTION CARRIED (7/0)

COUNCILLORS’ ITEMS

Nil.
CHANGE OF USE – FRENCH POLISHING BUSINESS, REAR LOT 20 (15) CHAMPION DRIVE, ARMADALE

WARD : WESTFIELD
FILE REF : A163216
DATE : 23 September 2003
REF : RVD
RESPONSIBLE MANAGER : PSM
APPLICANT : Kieth Moore
LAND OWNER : D & J O’Neil

SUBJECT LAND : Lot 20 (15) Champion Drive
Property size 1,500m²
Map 22-04 & 22-05

ZONING MRS/TPS No.2 : Industrial/ Front of lot R15, rear of lot where business proposed Light Industry

In Brief:-

- Application to establish a French Polishing business at rear of Lot 20 (15) Champion Drive.
- One submission received objecting to the proposal on the grounds that it is not compatible with adjacent premises. Considered that objection cannot be sustained.
- Recommend that the proposal be approved subject to conditions regarding landscaping of the parking area and installation of a spray booth.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

“Development – to balance the need of development with sustainable economic, social and environmental objectives”

Legislation Implications

Town Planning and Development Act 1928
Town Planning Scheme No.2
Explosives and dangerous goods (Dangerous goods handling and storage) Regulations 1992

Council Policy / Local Law Implications

Industrial Design Guidelines
VIEW FROM BATTLEAXE LEG FROM CHAMPION DRIVE

VIEW FROM REAR OF PREMISES

SITE PHOTOGRAPHS
LOT 20 CHAMPION DR, KELMSCOTT
DEVELOPMENT SERVICES
COMMITTEE MEETING - Development

Budget / Financial Implications
Nil

Consultation
- Development Control Unit
- Surrounding landholders

BACKGROUND
Since 1996 a range of uses have been approved for Lot 20 (15) Champion Drive including car detailing, an open display area for used car sales, a mechanical workshop and storage units.

An application for a change of use from storage units to French Polishing business has been received. The matter has been referred to Council for determination because a submission was received objecting to the proposal.

A site inspection of the premises on 23 September 2003 found the front wall missing from the premises, an addition at the rear of the building for which no record of an approval could be found, and an untidy arrangement of sheet metal (see photos). The applicant advised orally that the front wall was not being replaced in anticipation of approval for the French polishing business which would require the relocation of a large spray booth into the current unit.

DETAILS OF PROPOSAL
The applicant proposes establishing a French polishing business that would be relocated from Unit 5, 95 Champion Drive. The applicant notes that he is a sole trader working without any employees, he does not do or propose to do any manufacturing, and that he does not store large quantities of polish and paints preferring to order products as needed.

COMMENT
Development Control Unit

Subject to improved landscaping of the premises and action being taken to remove the unauthorised addition, the Development Control Unit did not raise any objections to the proposal.

Public submissions
Comment was sought from surrounding landholders by letter sent on 9 September 2003 with submissions closing on 29 September 2003.

Total number of responses received : 1
Number opposed : 1
Number in favour/ no objections : 0
Issues raised by the submissions are discussed below:

1. **We would like to remind Council of the horrific fire at No.13 which was caused by the ignition of flammable thinners fused for cleaning purposes at the Loris Truck Depot.**

   An inspection of the existing premises at Unit 5, 95 Champion Drive by a Council officer and discussion with the applicant found that the company uses “all purpose thinner” purchased in 60 litre drums on an as needs basis, and there would usually be less than 120 litres on-site. The chemical is stored in a locked storeroom when not in use, and two fire extinguishers are kept on-site. Used thinner is recycled.

   Assessment of the proposal using the Department of Minerals and Energy (now Department of Industry and Resources) Guidance Note S301 Rev 7 “Storage of Dangerous Goods Licensing and Exemptions”, indicates that the premises would not require a license under the Explosives and dangerous goods (Dangerous goods handling and storage) Regulations 1992.

   In contrast the fire at Loris Truck Depot carried quantities of dangerous goods that required licensing under the Regulations.

2. **The French polishing process involves removal of old paint by soaking items in caustic soda baths, which is highly toxic. The process also involves spray painting using volatile chemicals. It is quite unacceptable for health reasons to be living next door to a business carrying out this process.**

   The applicant has advised that he does not use caustic soda baths. Even if this was not the case, caustic soda can be easily contained on site and therefore does not represent a health risk to surrounding residents.

   The process does involve spray painting. However, the applicant advises that this work is undertaken in a spray booth which has a filter in it to absorb solvents and which has a 3m high flue above the roofline in order to disperse exhaust gasses. On this basis it is considered that the impacts from the proposal are not likely to be any worse than from adjoining properties, such as the fuel depot to the rear of the proposed premises. It is recommended that a condition requiring installation of the spray booth with an appropriate filter and flue be applied to ensure potential adverse impacts are managed.

**Analysis**

**Town Planning Scheme No.2 – land use, parking and landscaping**

French polishing falls within the definition of light industry under Town Planning Scheme No.2. Under Town Planning Scheme No.2, Light Industry means and industry:

a) *in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to or prejudicially affect the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise; and*
b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like service.

The premises in which the French polishing would occur are zoned Light Industry, and light industry is a permitted use in the zone.

Three car parking bays are required under the Scheme and eight or ten can be provided (depending of the car parking layout) in the 23m by 15m sealed area in front of the unit. The Scheme requires that “In all cases, parking areas shall be landscaped with shade trees”. Given that there is an excess of car parking spaces it is recommended that there be a requirement for shade trees to be located within the car parking area.

Other than replacing the façade of the building and demolition of the unauthorised addition, no additional development works are proposed.

Existing building

As noted above, the front of the current building has been removed and an inspection of the property has revealed that an unauthorised lean-to structure has been constructed to the rear (north-eastern side) of the property.

Repair of the front of the building can be dealt with through the building licence process.

The lean-to structure is currently in a dilapidated state and is compromising the required fire separation distance between the adjoining properties. This is a compliance issue and will be dealt with separately by officers.

Amenity

The main amenity issue relates to the potential for odours to emanate from the premises if the spray booth exhaust system is not maintained. This matter has been addressed in response to submissions.

Other amenity issues such as the appearance of the unit and the car park can be dealt with through the building licence and development approval conditions.

Options

1. Council could refuse the proposal on the basis the amenity of the area could be compromised by virtue of the emissions from the spray booth, and advise that the proposed use is more suited to the General Industry zone.

2. Council could approve the proposal, subject to conditions relating to landscaping and installation of a spray booth with an appropriate filtration system.
CONCLUSION

The proposal is expected to have few, if any, impacts on adjoining properties, and is considered appropriate for a light industrial zone. It is recommended that the proposal be approved.

D174/10/03 RECOMMEND

1. That Council approve the proposed French polishing business at the rear of Lot 20 (15) Champion Drive, subject to the following conditions:

   a) A Plan showing the proposed location, car park modifications and species of shade trees in the car parking area to be submitted and approved to the satisfaction the Executive Director Technical Services. The approved plan is to be implemented and shade trees maintained thereafter to the satisfaction of the Executive Director Technical Services.

   b) Installation of a spray booth with appropriate filtration of exhaust gasses and a flue to the satisfaction of the Executive Director Development Services.

2. That the applicant be advised that the existing lean-to structure on the north eastern side of the unit is an unauthorised structure that should be removed or made to comply with the provisions of the City’s Town Planning Scheme No.2 and the Local Government (Miscellaneous Provisions) Act 1960 and Building Code of Australia.

MOVED Cr Reynolds
MOTION CARRIED (7/0)
PROPOSED EXTENSION TO EXISTING CHILD MINDING CENTRE (APPEAL) –
LOT 5 (No.72) HOLDEN ROAD, ROLEYSTONE

WARD: ROLEYSTONE
FILE REF: A163446
DATE: 1 October 2003
REF: PRR
RESPONSIBLE MANAGER: PSM
APPLICANT: Netpoint Holding
LAND OWNER: P & C Goldsmith
SUBJECT LAND: Property size 1997m²
ZONING MRS/TPS No.2: Urban / Residential ‘R5’

In Brief:–
- Proposal is for an extension to the existing Child Minding Centre and an increase in the number of children from 30 to 60 on the subject site.
- Council resolved to refuse the application at its February 2003 round of meetings. The proposal is now the subject of the appeal process, and is currently undergoing mediation.
- The appellant has submitted additional supporting evidence from traffic and acoustic consultants as well as three alternative site plans.
- Recommend that Council advise the appellant and the Town Planning Appeal Tribunal that the concerns held have been addressed, and the development is supported subject to appropriate conditions.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications
Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications
Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications
4.3.15 - Child Care Centres Policy

Budget / Financial Implications
Substantive hearing would cost up to $80,000
SUPERSEDED - SITE PLAN
LOT 5 HOLDEN ROAD, ROLEYSTONE
Consultation

- Development Control Unit
- Council’s Health Department
- Council’s Technical Services Directorate
- Surrounding Landowners (three (3) objections)

BACKGROUND

At its meeting of 17 February 2003 Council resolved to refuse an application for an extension to the existing child minding centre on the subject site, and an increase in numbers from 30 to 60 children, as follows (D13/2/03):

“That Council refuse the application for an extension to the existing child minding centre and an increase in numbers from 30 to 60 children at Lot 5 (No.72) Holden Road, Roleystone on the grounds that it is not satisfied that the potential noise impact issue is addressed and the number of children proposed is unacceptable as outlined under Council’s Town Planning Scheme No.2 in the context of the generally low density residential area”.

Following Council’s refusal, the applicant subsequently lodged an appeal against the decision to the Town Planning Appeal Tribunal, which is currently subject to mediation.

DETAILS OF PROPOSAL

The appellant has submitted an acoustic report, a traffic impact study, landscaping details and a revised site plan. The revised site plan reflects updated setback measurements, an alternative parking layout and an extension to the outdoor play area. The changes to the play area were made on the advice of the licensing authority (Department for Community Development), which advised the appellant that the play area was not of a sufficient size. Accordingly, changes to the size of the play area led to alteration of the parking layout and the commissioning of a new site plan.

Other details pertaining to the application remain the same as the initial application. The appellant intends to increase the number of places available for children attending the centre from 30 to 60. To accommodate the extra children who would be attending, the applicant is proposing to add an 88m² addition to the existing brick and tile building, in materials to match the structure. The addition would be set back a distance of approximately 12m from the front boundary.

Operating hours would be from 7.00am to 6.00pm Monday to Friday, catering for zero (0) to six (6) year olds in long day care, and primary school aged children for before and after school and vacation care. Nine (9) staff would be employed at the centre and 15 parking bays would be located on site, two (2) more than the present situation.
AMENDED - SITE PLAN
LOT 5 HOLDEN ROAD, ROLEYSTONE
COMMENT

Development Control Unit (DCU)

At its meeting held on 9 October 2003, DCU recommended that the item be referred to Council to acknowledge the information submitted addresses the concerns held and that a Form 2 Planning Approval can be issued accordingly, subject to appropriate conditions.

ANALYSIS

Revised Plan Assessment

As with the initial application, the proposed development complies with Council’s setback and car parking requirements, as well as all other requirements of the Child Care Centres Policy (with the exception of Sections 2.1.3 and 2.6.3, which are no longer applied due to a previous ruling from the Town Planning Appeal Tribunal).

The application proposes to accommodate 60 children, which is in excess of the maximum prescribed number of 30 children under Town Planning Scheme No.2 (TPS No.2). However, Clause 7.6 provides for relaxation of TPS No.2 standards, providing the development is consistent with the orderly and proper planning of the locality.

The main areas of concern from the original objectors included noise and traffic issues, noise being raised by Council as a ground for refusal of the application. The appellant has submitted information outlining that these concerns are either not justified, or can be effectively managed. Officers’ comments will be noted in the following section in this regard.

Supporting Information Submitted by Appellant

In response to Council’s reasons for refusal, which were discussed in detail during mediation, the applicant has engaged consultants to prepare additional supporting information on matters of concern. The appellant has verbally indicated that they are willing to accommodate suggestions that would improve the existing situation on site. The findings of Council’s officers’ examination of the additional information are outlined below:

Acoustic Report

Council’s Health Department analysed the Acoustic Report prepared by Herring Storer Acoustics submitted by the appellant. In conducting an assessment of the data provided the following points were noted:

- Report appears to follow the requirements of the Environmental Protection (Noise) Regulations 1997 for assessing noise levels;
- Acoustic modelling has been undertaken to account for the proposed increase in numbers;
- Report states that noise from additional children will be no greater than existing levels and in fact should be lessened, due to the installation of new fencing;
SITE & ELEVATION PLAN
LOT 5 HOLDEN ROAD, ROLEYSTONE
The report states that compliance with the noise levels determined in the report is dependant upon installation of the fencing shown in figures 6.1 and 6.2;

A factor that the report has not considered is mechanical plant noise (i.e. air conditioning), acknowledging that the type of plant had not been selected at the time of the report. Careful selection and placement of the plant would not result in a significant difference to noise levels.

Therefore, the issue of noise can be addressed through suitable conditions regarding the construction of fencing and the location and type of mechanical plants should be included to ensure the development complies with the Environmental Protection (Noise) Regulations 1997. The appellant should also be advised of their obligations in this regard.

Traffic Impact Statement

Council’s Technical Services Directorate analysed the Traffic Impact Statement prepared by Transcore submitted by the appellant. In conducting an assessment of the data provided the following points were noted:

The statement indicates that the intersection of Holden and Heather Roads will continue to operate at a Level of Service A during peak periods, which is the best level of service achievable and as such the proposed development will not have a significant impact on traffic.

The Statement also indicates that the crossovers to the site would not have a detrimental impact upon the intersection of Holden and Heather Roads.

Improvements to the existing parking situation to accommodate the required 15 car parking bays on site are recommended as follows and should be demonstrated on a revised site plan where appropriate:

- Removal of the raised kerb along the driveway at the entry to the north car park and regrading of this area to match the levels of the drive and car park;
- Reconfiguring the layout of the parking bays to provide three (3) bays at the northern end of the central car park (as bay 13 is not viable) and three to four (3-4) bays at the southern end of the central car park (depending on available space after regrading). An additional car park may need to be provided in the southern car park by extending the car park to the south and splitting the disabled persons bay if only three (3) car parking bays can be achieved at the southern end of the central car park. The disabled persons bay could then be relocated to the northern end of the central car park.
- The central car park is to be marked ‘staff and disabled persons only’ as necessary dependant upon the previous point to reduce vehicle movement between car parks;
- Similarly, the northern car park is to be marked ‘staff only’; and,
- Provision of a pedestrian link (stairs or ramp) from the southern car park to the central car park, immediately adjacent to the building, so this car park is more convenient for dropping off and picking up children.
Landscape / Irrigation Plan

Council’s Parks and Reserves Department analysed the Landscape and Irrigation plans prepared by Hillingdale Nursery submitted by the appellant. In conducting an assessment of the data provided the following points were noted:

- The submitted plan does not conform to the minimum criteria necessary to make an informed assessment;
- The primary use of coniferous species is not recommended because plants of these genera are generally very slow growing and will take considerable time to form a significant screen, they are prone to attack from the fungal disease Seiridium unicorne and their exotic origins would not make them complimentary to the existing indigenous vegetation.
- Therefore, landscaping can be addressed through the inclusion of a suitable condition requiring the plans to be resubmitted to conform to the minimum requirements of the Parks and Reserves Department and to generally reflect Western Australian plant species.

SYNOPSIS

In initially refusing the application, Council was concerned that the numbers of children to be accommodated on the site could generate adverse impacts on surrounding properties in terms of excessive noise from children playing outdoors, in the context of a low density residential area. This was due in part to the need to be satisfied of the orderly and proper planning of the locality to vary the requirement for a maximum of 30 children under TPS No.2.

The main concerns raised by objectors during the advertising period related to noise and traffic impacts. The appellant has engaged professional consultants to prepare reports in the areas of noise and traffic movement/safety. This information has been subject to investigation by officers from Council’s Health Services, Technical Services and Planning Services Departments, with the outcome being that the proposal should result in an insignificant impact with respect to traffic and additionally, concerns with respect to noise may be avoided through conditions of approval, through design elements incorporated in the construction of the development, and through the enforcement of noise regulations.

It is noted that should Council determine that the above information is insufficient to address its concerns, the matter will be referred to a full hearing of the Town Planning Appeal Tribunal. At this point the City will have to demonstrate the validity of its case, with the opposing view to be presented by the appellant, and the final decision to be made by the Tribunal members. This stage of the process may require the City to engage legal representation, which will incur legal costs.

Given that the applicant has presented information that largely addresses Council’s reasons for refusal, the strength of its position on appeal to the Tribunal is considerably reduced. Council may consider it preferable to favourably reconsider the proposal and negotiate an agreeable outcome at the mediation stage, rather than have this ability restricted at a substantive Tribunal hearing.
OPTIONS

1. Council could resolve to advise the Town Planning Appeal Tribunal that the additional information submitted by the appellant with respect to noise impacts, car parking provision and traffic impact will satisfactorily address its concerns, subject to the imposition of appropriate conditions of development approval and that a Form 2 Planning Approval can be issued accordingly.

2. Council could resolve to advise the Town Planning Appeal Tribunal that the additional information does not satisfactorily address its concerns which resulted in the refusal of the application, and the matter is to be determined at a substantive hearing of the Town Planning Appeal Tribunal.

CONCLUSION

In conclusion, it is considered that the additional information provided by the applicant gives Council the ability to review its previous refusal of the proposal. The primary concern relating to the number of children with respect to the maximum specified within the Residential zone of TPS No.2 has not been addressed through a reduction in the number of children attending the child minding centre. However, the Council’s previous concern relating the scale of the proposal and the associated impacts with respect to noise and traffic has been subject to detailed investigation and analysis. Officers’ assessment indicates that the proposal may be satisfactorily accommodated within the proposed location, subject to the imposition of appropriate conditions of development approval to avoid adverse impacts resulting from the land use. Revised landscape and site plans will be necessary to finalise landscaping and the car park layout.

It is therefore recommended that the application be determined in accordance with Option 1.

D175/10/03 RECOMMEND

1. That the appellant and the Town Planning Appeal Tribunal be advised that Council is willing to consent to the issue of a Form 2 Planning Approval for the proposed extension to the existing child minding centre and an increase in numbers from 30 to 60 children at Lot 5 (No.72) Holden Road, subject to the following conditions:

   a) The submission of a revised landscape plan for all landscaped areas as indicated on the site plan to the satisfaction of the Executive Director Technical Services. Such plan to include plant species (predominantly West Australian natives), numbers, location, container size and method of irrigation of the landscaped areas. The landscape plan is to be approved and the landscaping installed and maintained thereafter, to the satisfaction of the said officer.

   b) A revised site plan is to be submitted indicating a revised layout to the existing car parking area to the satisfaction of the Executive Director Technical Services.
c) Fencing is to be constructed in accordance with the acoustic report prepared by Herring Storer Acoustics to the satisfaction of the Executive Director Development Services.

d) Location and type of mechanical plants for the development are to be to the satisfaction of the Executive Director Development Services.

e) The submission of a schedule of materials and colours for the development (including any fencing) to be approved by the Executive Director Development Services. The development is to be completed and maintained in accordance with the approved colour scheme to the satisfaction of the said officer.

f) Construction and drainage of car parking, driveway and crossovers and marking of internal car parking spaces to the satisfaction of the Executive Director Technical Services.

g) A management plan is to be submitted to the satisfaction of the Executive Director Development Services, addressing the supervision and number of children allowed in outside play areas at any one time. All external activities to be conducted in accordance with the approved management plan.

2. That the applicant be advised of the need to comply with the regulations of the Department for Community Development and Family and Children’s Services, as well as the “Environmental Protection (Noise) Regulations 1997” as necessary.

MOVED Cr Zelones
MOTION CARRIED (7/0)
**PROPOSED EXTENSIONS TO EXISTING WORKSHOP –**
**LOT 103 (NO.2) BROWNING ROAD, ARMADALE**

WARD : ARMADALE
FILE REF : A12835
DATE : 6 October 2003
REF : EP
RESPONSIBLE MANAGER : PSM
APPLICANT : Daly & Shaw
LAND OWNER : D & B Baily
SUBJECT LAND : Property size 1973m²
  Map 22-01
ZONING : Industry / General Industrial
MRS/TPS No.2

**In Brief:**
- Application for extensions (442m²) to the existing industrial building.
- The application does not comply with setback and landscaping provisions of the Town Planning Scheme No.2 and requirements of the Industrial Design Guidelines Policy.
- Recommend approval subject to appropriate conditions.

**Tabled Items**
Nil.

**Officer Interest Declaration**
Nil.

**Strategic Implications**
Development- To balance the needs of development with sustainable economic, social and environmental objectives.

**Legislation Implications**
Town Planning and Development Act 1928
Town Planning Scheme No.2 (TPS No.2)

**Council Policy / Local Law Implications**
4.3.12 Industrial Design Guidelines

**Budget / Financial Implications**
Nil.
SITE PLAN
LOT 103 BROWNING RD, ARMADALE
Consultation

- Development Control Unit (DCU)

BACKGROUND

The property supports a 142m² workshop constructed of zincalume material and a residence at the eastern end of the site with landscaping and on site parking. Given the development’s non-compliance with Town Planning Scheme No.2 provisions and requirements of the Industrial Design Guidelines the application is referred to Council for consideration.

DETAILS OF PROPOSAL

The proposal entails the following:

- Extending the existing workshop by an additional 442m² floor area;
- Construction of the new building in “Colorbond” material and the existing building to be painted in a colour to match the new building;
- A parapet wall to the erected along the northern boundary of the site;
- Six (6) parking bays on site including a disabled parking bay;
- Landscaping along both sides of the site abutting streets.

COMMENT

Development Control Unit (DCU)

DCU considered the application at its meeting on 25 September 2003 and recommended approval subject to the application complying with the Town Planning Scheme No.2 requirement and provisions of the Industrial Design Guidelines.

Analysis

Town Planning Scheme No.2 (TPS No.2)

The proposed development is a permissible (“P”) use under Town Planning Scheme No.2. However, given the application’s non-compliance relating to street setback and landscaping provisions of TPS No2, the matter is referred to Council for consideration.

Building Design

The Policy Statement for the “General Industry” zone in TPS No.2 partly states, “Although the prime purpose of the zone is one of accommodating industrial processes, it is recognised that the zone will represent a major workplace and accordingly, due regard shall be paid to providing for the amenity of the workforce by ensuring high standards of factory design and appearance, landscaping and provision of facilities”.

The City’s Industrial Design Guidelines Policy (The Policy) requires the facades of industrial buildings to be constructed of brick, masonry or concrete while the Policy Statement Objectives stipulates “buildings should achieve a high quality façade in relation to colour, tone and texture of materials, particularly where it is visible from the street”.

ELEVATION PLAN
LOT 103 BROWNING RD, ARMADALE
The proposed building extensions are not considered to have a high architectural standard to achieve the above objectives, given that it demonstrate blank “Colorbond” walls without any façade treatment on both sides fronting Browning and Byron Roads. (See elevation plans). However, the applicant argues that the existing brick house on the property could be considered as part of the development and incorporated as the required brick façade of the development. This argument is not considered acceptable given that the residence is completely removed from the proposed building and is a free standing building at the eastern end of the site.

**Boundary Setbacks**

Town Planning Scheme No.2 stipulates a 9 metre front setback and 3-metre setback for the side and rear boundaries. The proposal indicates an 8.3m metre front setback and a nil setback to the rear.

Notwithstanding the minimum setback provisions set out in TPS No.2, the Industrial Design Guidelines Policy states that Council may allow an averaging of the front setback of certain lots where it is considered to better accommodate car parking and servicing of premises. The proposed marginal reduction in the front setback is not considered a major issue given that the front setback would be utilised for car parking purposes with substantial landscaping along the perimeters.

A nil setback (a parapet wall) is proposed on the northern boundary. Under the Policy “parapet walls will be considered by Council if in its opinion the proposed development is of a high architectural standard, provides service access to the rear of the lot and complies with UBBL (BCA) requirements.”

As stated above, given the featureless architectural design of the entire building, mainly the sides fronting the streets, the applicant should be advised to redesign the development to achieve the City’s objectives in maintaining a high quality streetscape within the Industrial zone. Further, such re-designing would assist Council to consider the relaxation of the rear setback to allow the incorporation of a parapet wall into the building design as stated in the Policy Guidelines.

**Landscaping**

Council’s Town Planning Scheme No.2 stipulates a 2m wide landscaping strip requirement along the perimeter of a site abutting a street unless utilised by access crossovers. The Policy requires 8% of the total area (unless otherwise determined by Council) to soften hard building surfaces. It also specifies “Council may reduce the landscape requirement to 1m where the applicant is willing to undertake landscaping and reticulation of the verge area…”

The submitted plan indicates a 1m wide landscaping strip along the perimeters abutting Browning and Byron Roads. The applicant requests a relaxation of the above landscaping requirements of the TPS No.2 and the Policy.

The subject site is considered unique in terms of existing landscaping as both street perimeters are substantially vegetated with native trees / bushes providing adequate screening compared to a standard industrial site within this locality. As such it is considered that the existing landscaping situation warrants a variation to the requirement of a 2m wide landscaping strip and the 8% total landscaping area, to a 1m strip for this development.
Other requirements

Other requirements of the TPS No.2 and the Policy, such as side setbacks, parking provisions, vehicle access and fencing are considered to be satisfactory.

Options

1. Council approve the application as submitted subject to appropriate conditions.

2. Council approve the application subject to the design being modified to comply with the provisions of the TPS No.2 and the Industrial Design Guidelines Policy requirements relating to architectural designing of the façade of the building.

CONCLUSION

The architectural design of the proposed workshop extensions is not of a satisfactory standard and is not considered to contribute to enhancing the streetscape of this site at the corner of Browning and Byron Roads.

Apart from the design aspect, the application complies with the Town Planning Scheme No.2 and the Industrial Design Guidelines Policy requirements.

Option 2 is recommended.

COMMITTEE requested that the sewer also be connected to the existing system to the satisfaction of the Executive Director Technical Services. Accordingly, the words “and sewer” were added to Part (4) of the Recommendation.

COMMITTEE agreed that there should be a higher standard of design in this industrial area given the concessions requested by the applicant. Accordingly, Part (2) of the Recommendation was amended to substitute the word “and” for “or”.

D176/10/03 RECOMMEND

1. That Council determine the application for reduction of the 2m wide landscaping strip requirement to 1m, on sides of the property abutting the streets for Lot 103 (No.2) Browning Road, Armadale is in accordance with Clause 7.6 of Town Planning Scheme No.2 and approve relaxation of such standard.

2. Subject to revised elevation plans being submitted to demonstrate the proposed building façades being upgraded to include brick, masonry concrete architectural features (i.e. awnings, windows and trimmings) to comply with the objectives of the Town Planning Scheme No.2, and the Industrial Design Guidelines Policy requirements, the Executive Director Development Services be authorised to issue a Form-2 Planning Approval for the extension of the existing workshop on Lot 103 (No.2) Browning Road, Armadale subject to the following conditions:
a) Details of the colour schedule and building materials relative to the external appearance of the building to be submitted and approved by the Executive Director Development Services. The development to be completed and maintained in accordance with the approved schedule and to the satisfaction of the Executive Director Development Services.

b) The existing building and the proposed parapet wall of the extensions to be painted in a colour scheme to complement the colours of the proposed extensions to the satisfaction of the Executive Director Development Services and to be maintained thereafter to the satisfaction of the said officer.

3. All hard standing areas including car-parking areas, crossovers and driveway vehicle manoeuvring spaces shall be constructed, drained, sealed, kerbed, marked and continuously maintained in accordance with the approved site plan to the satisfaction of the Executive Director Technical Services.

4. Stormwater and sewer to be connected to the existing system to the satisfaction of the Executive Director Technical Services.

5. No storage of disused material on parking and manoeuvring areas.

MOVED Cr Everts
MOTION CARRIED (7/0)
PROPOSED GARAGE – LOT 114 (No.12) DARLING RANGE DRIVE, BEDFORDALE

WARD : ARMADALE
FILE REF : A232467
DATE : 2 October 2003
REF : JEH
RESPONSIBLE MANAGER : PSM
APPLICANT : Highline Building Construction
LAND OWNER : Simon & Leonie Thatcher
SUBJECT LAND : Property size 4233m²
Map 25.03
ZONING MRS/TPS No.2 : Rural / Special Use No.69

In Brief:-

- Proposal involves modification of development envelope and a garage located at 5.5m from an adjoining property boundary
- A Building Licence was issued which did not reflect the location of the garage as approved in a previous planning consent.
- Proposal advertised and adjoining landowner has submitted an objection to the garage location.
- Recommend that Council approve the application subject to appropriate conditions including the garage being located at least 6.5m from the adjoining property boundary.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Metropolitan Region Scheme
Town Planning Scheme No.2

Council Policy / Local Law Implications

Draft Policy “Approval Criteria – Outbuildings”
Policy 4.3.11 – “Establishment of variation of development envelope locations”
SITE PLAN
LOT 114 DARLING RANGE DR, BEDFORDALE
Budget / Financial Implications

Nil

Consultation

- Development Control Unit
- Adjoining landowner

BACKGROUND

A development application for a garage and associated development envelope modification was approved on 16 July 2003. The approval indicates the garage set back 9.5m and the development envelope set back 8m from the side boundary with Lot 115 (No.14) Darling Range Drive. Council’s building department subsequently issued a Building Licence for the garage, however the plans associated with the Building Licence indicate the garage set back 6.5m and the development envelope set back 5.5m from the side boundary with Lot 115 (No.14) Darling Range Drive.

Although the garage has not yet been constructed, the applicant has advised that the intended location of the garage and development envelope is as indicated on the Building Licence. A Building Licence is required by law to be consistent with the planning consent. To avoid a discrepancy between the location of the garage and development envelope on the planning approval and that indicated on the Building Licence, the applicant was requested to submit a new development application with a site plan demonstrating a location of the garage consistent with that indicated on the Building Licence. Subsequently, on 20 August 2003 the applicant submitted a new development application.

DETAILS OF PROPOSAL

The applicant proposes the construction of a 6m x 7.5m garage (45m²), with a wall height of 2.7m. The proposed garage is to be constructed of “Colorbond” sheeting in “Manor Red” colour. It is proposed by the applicant that the garage and development envelope be set back 5.5m from the side property boundary with Lot 115 (No.14) Darling Range Drive and 11m from the rear property boundary.

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 2 October 2003 recommended that the application be referred to Council for approval, subject to the location of the garage being a minimum of 6.5m from the side boundary with Lot 115 Darling Range Drive as indicated on the previously issued Building Licence.
ELEVATION PLAN
LOT 114 DARLING RANGE DR, BEDFORDALE
Estate Developer

The estate developer has expressed a preference for the garage and building envelope to be located at least 8m from the side property boundary. The estate developer endorsed the plans associated with the previous application for the garage setback at 9.5m and the development envelope at 8m from the side property boundary, subject to the garage having a maximum overall height of 4m and a roof pitch of 19 degrees.

Surrounding Landowners

The application was referred to one adjoining landowner for a period of 14 days. The adjoining landowner submitted a written objection during this period. The issues raised are addressed in the Analysis section of this report. Refer to Confidential Attachment “B2” of the Agenda for location plan of respondent.

ANALYSIS

Response to submission

1. The garage will be too close to the property boundary and will obstruct forest views.

   It is expected that the potential impact on forest views as a result of the proposed location of the garage is marginal in comparison to the potential impact on views if the garage was to be located in accordance with the previous planning approval. The garage and development envelope are proposed to be set back 5.5m from the property boundary representing a difference from the previous approval of 4m for the garage and 2.5m for the development envelope. In both instances the impact on views is expected to be minor and is not considered to compromise the character and amenity of a rural / residential area.

2. In keeping with the Estate covenants the garage should be a minimum of 8 metres from any boundary.

   The Estate Developer controls Estate Covenants. Whilst development envelopes at Churchman Brook Estate are generally at least 8m from property boundaries there is no stipulation for a minimum setback within the Estate Covenants. An applicant may apply to Council to modify an existing development envelope in accordance with the provisions of the City of Armadale Town Planning Scheme No.2.

Policy 4.3.11 – “Establishment of variation of development envelope locations”

Development at Churchman Brook Estate is required to be contained within approved development envelopes. Development Envelopes at Churchman Brook Estate are generally located at least 8m from side property boundaries, though a significant number are located at 6m and a small number at less than 5m from side property boundaries.

In support of the proposed garage the applicant has reasoned that to locate the garage at 5.5m from the side property boundary will enable the retention of existing vegetation and trees within the existing development envelope. In addition, the location of the garage as proposed will allow easy vehicle access through a gate already located adjacent to the front of the house.
Council’s Policy 4.3.11 – “Establishment of variation of development envelope locations” has as one of its principal objectives the protection of significant vegetation. A site inspection of the property has revealed that there are only small shrubs and bushes within the development envelope and that it is unlikely that significant vegetation would need to be removed as a result of locating the garage at 9.5m in accordance with the previously approved planning application. Similarly, the location of the garage at 5.5m from the side property boundary will not result in the removal of any significant vegetation.

The extension of the development envelope and proposed location of the garage is consistent with Council’s policy in that no significant vegetation will need to be removed. The applicant has indicated however that vehicle access to the garage would be obtained through an existing gate at the side of the property. As clearing for access to the garage may impact on existing trees located outside of the development envelope, it is recommended that a condition of approval be imposed requiring the applicant to retain trees where possible and submission of a plan to indicate the location of the proposed access and any trees to be removed.

The proposed location of the garage and development envelope generally complies with Council’s Policy in other respects, however if the garage was to be located at 5.5m from the side property boundary, this would not be consistent with the 6.5m setback previously approved on the Building Licence. In addition the earthworks for the garage would extend outside of the proposed development envelope. It is therefore recommended that the garage be set back 6.5m to allow earthworks to be accommodated within the proposed development envelope.

Visual Amenity

It is considered that the proposed garage will have minimal impact on the visual amenity of the area. The dimensions and colours of the garage are acceptable. The location of the garage at 5.5m from the side boundary instead of the previously approved 9.5m will result in some impact on the neighbour’s view from their ‘outdoor living’ area, however the small scale of the proposed garage will have a relatively minor impact on their amenity. Screening of the garage with native plants and trees will soften the impact of the garage on the neighbouring property. Should Council approved the proposed garage it is recommended that a condition requiring the submission of a landscape plan to demonstrate screening of the garage be imposed.

Outbuildings Policy

The proposed garage complies with Council’s “Outbuildings Policy” in all respects.

OPTIONS

1. Approve the application subject to the proposed garage being located at 6.5m from the side property boundary and the development envelope being extended to 5.5m from the property boundary to accommodate earthworks.

2. Approve the application as proposed, with the development envelope and garage located at 5.5m from the side property boundary. It should be noted with this option that earthworks are likely to extend beyond the development envelope.

3. Approve the garage at a location within the existing approved development envelope being no closer than 8m from the side boundary with the adjoining property.
CONCLUSION

In conclusion, it is considered that the location of the garage should be consistent with the Building Licence already issued by Council. The proposed location of the garage and envelope at 5.5m from the adjoining property boundary is inconsistent with the Building Licence issued and earthworks associated with the garage will extend beyond the development envelope. The garage is relatively small in terms of bulk and scale and in comparison to other outbuildings in the vicinity. If the garage is located at 6.5m and the development envelope at 5.5m from the adjoining property boundary, the expected impact on the neighbour’s amenity is anticipated to be minimal and manageable through appropriate conditions, and earthworks associated with the garage will be fully contained within the proposed amended development envelope. Given the above, it is recommended that Council approve the application in accordance with Option 1 subject to appropriate conditions.

COMMITTEE was of the view that the proposed location of the garage and envelope at 5.5m from the adjoining property boundary was acceptable as the garage is relatively small in terms of bulk and scale.

Accordingly, Part (1) of the Recommendation was altered to reflect a minimum of 5.5m set back from the side property boundary.

D177/10/03 RECOMMEND

That Council approve the application for a garage and development envelope modification at Lot 114 Darling Range Drive, Bedfordale subject to the following conditions:

1. Submission of an amended site plan to the satisfaction of the Executive Director Development Services indicating the location of the garage at a minimum of 5.5m from the side property boundary with Lot 115 Darling Range Drive. The site plan to also indicate proposed vehicular access to the garage and any trees to be removed.

2. A schedule providing details of the colour scheme and building materials relative to the external appearance of the garage to be submitted and approved by the Executive Director Development Services. The development to be completed and maintained in accordance with the approved schedule to the satisfaction of the Executive Director Development Services.

3. A landscape plan is to be submitted to the satisfaction of the Executive Director Development Services to demonstrate screening of the garage from Lot 115 Darling Range Drive. Landscaping to be installed and continuously maintained thereafter, in accordance with the approved landscape plan.

MOVED Cr Green
MOTION CARRIED (7/0)
Crs Reynolds and Zelones disclosed that as members on the Armadale Redevelopment Authority Board they had an association with this project. As a consequence, they advised that there may be a perception on the basis of their disclosed non-financial interests that their impartiality may be affected but declared that they would set aside that association, consider the matter on its merits and vote accordingly.

PROPOSED STABLES, AGISTMENT, HORSE TRAINING AND RIDING SCHOOL – PT LOT 106 WOLLASTON AVENUE, BROOKDALE

WARD: FORREST
FILE REF: A237160
DATE: 6 October 2003
REF: JEH
RESPONSIBLE MANAGER: PSM
APPLICANT: Neil Ross Architect
LAND OWNER: Ketelsen Enterprises Pty Ltd
SUBJECT LAND: Property size 17.7243 ha
Map 20.02
ZONING: MRS/TPS No.2 Urban Deferred / General Rural

In Brief:-
- Council received application for stables, agistment and riding area on 15th August 2003.
- Proposal could be considered as a “Use Not Listed”.
- Advertising of the proposal resulted in four submissions including two letters providing comment, one letter of objection and one letter of no objection.
- Comments from the Armadale Redevelopment Authority recommend refusal of the application on basis that it may prejudice long term planning and development of the area.
- Recommend that Council approve the application subject to appropriate conditions.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications
Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications
Town Planning and Development Act 1928
Metropolitan Region Scheme
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2
SITE PLAN
PT LOT 106 WOLLASTON AVE, BROOKDALE
Council Policy / Local Law Implications

City of Armadale Health Local Laws 2002
City of Armadale Environment, Animals and Nuisance Local Laws 2002
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan

Budget / Financial Implications

Nil.

Consultation

- Development Control Unit
- Surrounding landowners
- Armadale Redevelopment Authority

BACKGROUND

On 15th August 2003 Council received an application for Horse Agistment, Stables and a riding area on the subject property.

As the proposal constitutes a “Use Not Listed” in the use class table of the “General Rural” zone under Council’s Town Panning Scheme No.2 the application has been referred to Council for determination.

EXISTING SITUATION

The subject lot is relatively flat and consists of a number of irrigated fenced paddocks currently used for horse agistment. An avenue of trees runs down the centre of the property and several trees are also located in existing paddocks. There are no structures on the property with the exception of two small horse shelters/sheds. A creek / drain traverses the northern portion of the lot.

DETAILS OF PROPOSAL

The applicant proposes the construction of a stables / arena structure, set back 45m from Wollaston Avenue. The proposed building is 60m long and 37.5m wide and consists primarily of 32 stables and a 60m x 21m show arena. The proposed structure also incorporates toilets / change area, lockers, feed store, office, and terraced seating for 30 spectators. It is proposed to be clad in “stone” coloured “Colorbond”, and otherwise finished with dark grey paint. A parking area to accommodate 48 cars and 17 horse floats is proposed adjacent to the stables / arena.

The plans indicate new trees to be planted and a single entry/exit driveway fronting Wollaston Avenue with a one-directional counter-clockwise traffic flow. Access/service driveways are also proposed to a number of paddocks. The plans also indicate a proposed residence located 24.5m from Wollaston Avenue and adjacent to the proposed entry/exit point. All of the proposed development appears to be on the northern half of the property (fronting Wollaston Avenue), with the southern half (fronting Forrest Road) being retained for paddocks in their current form.
The applicant proposes a training centre for show horse rather than a riding school. Lessons will be available to those people who have their horses at the establishment. It is proposed that there will be 30 permanent horses on the subject lot (20 of which will be stabled). There will also be 15 temporary horses of which 7 will be stabled and 8 kept in agistment paddocks. It is proposed that the property will be open from 9am until 7pm, with entry at other times by prior appointment only. It is expected that approximately 20 people per day including staff will attend the property when it is operating at full capacity.

COMMENT

Surrounding Landowners

The proposal was referred to fifteen (15) surrounding landowners for comment for a period of two (2) weeks. During this period, four submissions were received consisting of two letters providing general comments and questions, one letter objecting to the proposal, and one letter of no objection. The issues raised are addressed in the Analysis section of this report. Refer to Confidential Attachment “B3” of the Agenda for location plan of respondents.

Development Control Unit (DCU)

At its meeting held on 25 September 2003, DCU recommended that the application be referred to Council for approval, subject to appropriate conditions.

Armadale Redevelopment Authority

The Brookdale area has been noted as a potential management area for the Armadale Redevelopment Authority (ARA) and the proposal was therefore referred to them for comment. Advice received from the ARA is detailed in the Analysis section of this report.

ANALYSIS

Public Submissions

The issues raised by surrounding landowners are analysed as follows:

1. The proposal will result in an increase of traffic to Wollaston Avenue therefore access should be restricted to Forrest Road.

The applicant has stated that approximately 20 people per day including staff will be attending the property during any one day when the area is operating at full capacity. Deliveries will be once a fortnight for incidental items and monthly for horse feeding supplies. It is expected that the increase in traffic volume to Wollaston Avenue generated by visitors and deliveries will not adversely impact on the amenity or character of the area and that restricting access to Forrest Road on this basis alone is not warranted.
2. Vehicles have limited vision when emerging from Wollaston Avenue to turn left or right onto Forrest Road. This is a particular concern with horse floats. Access should therefore be restricted to Forrest Road.

Council’s Technical Services Directorate has advised that due to the limited sight distance (for the speed limit) along Forrest Road at the intersection with Wollaston Avenue, the applicant should relocate vehicle (crossover) access to Forrest Road at approximately 180m from the south-western property boundary.

3. Location of the main entrance will be a traffic hazard as it is too close to the bend on Wollaston Avenue.

Council’s Technical Services Directorate recommends that the main entrance / exit point be located on Forrest Road.

4. The location of main entrance is nearly opposite a neighbour’s driveway.

The proposed main entrance/exit is an acceptable 35m away from the nearest existing driveway, however Council’s Technical Services Directorate recommends that the main entrance / exit point be located on Forrest Road.

5. We are concerned about the quantity of surface runoff resulting from the construction of the car parking area and buildings.

Council’s Technical Services Directorate has advised that stormwater will need to be managed appropriately and that if the parking area is left uncurbed the run-off should not pose a problem.

6. Easement adjacent to the property regularly floods in winter and can cause flooding on the road and property.

Council’s Technical Services Directorate has advised that this concern is not relevant to the current application.

7. We hope that the septic system will not affect our drinking water, as there is no mains water in the area.

A separate approval for any septic system associated with the development may be granted by the City which will be assessed by Council’s Health Department in accordance with the ‘Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974’. Section 49, Part (b) of the Regulations requires septic systems to be located at least 30m from any underground source of water intended for consumption by humans.

8. Concerns relating to noise levels from traffic and events run at the centre.

Noise emanating from traffic or the proposed facility is not expected to reach unacceptable levels. In the unlikely event that noise is considered excessive, action may be taken by Council to ensure that noise levels comply with the Environmental Protection (Noise) Regulations 1997.
9. There is already an agistment complex on part of the subject lot.

The subject lot is currently used for agistment, however there are no structures on the property besides two small horse shelters/sheds for which approval has been granted. The current proposal nevertheless needs to be considered on its merit.

Town Planning Scheme No.2

The subject lot is currently zoned “General Rural” under the City of Armadale Town Planning Scheme No.2, and “Urban Deferred” under the Metropolitan Region Scheme. Within the “General Rural” zone “Stables” are a discretionary (“AA”) use. The agistment and training of horses may be considered under the definition of “Rural Use” which is a permitted use within the “General Rural” zone. Although the proposal may be considered to constitute “Stables” and a “Rural Use”, the proposal more closely falls within the definition of “Equestrian Activity” which is interpreted as follows:

“Land or buildings used for the showing, competition or training of horses and includes a riding school”.

Council could consider the proposal as a “Use Not Listed” under the scheme, since “Equestrian Activity” is not mentioned in the “General Rural” zone development table of Town Planning Scheme No.2.

Clause 3.4 of Town Planning Scheme No.2 provides that if a proposed use is not mentioned in the list of use classes or is not included in the general terms of any of the use classes in the development table, it is prohibited unless permitted by subsequent provisions of the scheme.

The second part of clause 3.4 reads as follows:

‘Upon application for planning consent to it the Council may:

1) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or

2) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2.’

The General Rural Policy Statement in Town Planning Scheme No.2 states that the zone is intended for rural uses where they do not constitute a nuisance and that “…where compatible such uses promoting tourism, recreation and entertainment where it does not impact on the amenity of surrounding properties may be permitted’.

The proposal is considered to be consistent with the intent of the policy statement of the “General Rural” zone, and subject to appropriate conditions being imposed will not adversely impact on the amenity of surrounding properties.
Armadale Redevelopment Authority

The proposal was referred to the Armadale Redevelopment Authority (ARA) for consideration and comment.

The ARA have advised the City of Armadale that

i) in respect of the intended planning control and redevelopment area incorporation, the ARA will be pursuing the urbanisation of the area and that the intensification of rural use of the land as proposed will hinder that process;

ii) the proposed development, if implemented, may come under land use management pressure as a result of urbanisation, potentially undermining the proponent’s anticipated investment;

and recommends

iii) that the applicant be advised by the City of Armadale that the ARA is pursuing the incorporation of the Brookdale area (including the subject land) within the redevelopment area;

iv) the proposal be refused as approval at this time may prejudice long term planning and development of the area.

The Armadale Redevelopment Authority’s comments and recommendations are analysed as follows:

There is some potential for the proposal if approved and implemented to hinder the future process of urbanisation in the area due to the financial investment in the proposal and the potential undermining of that investment if the land was to be developed for urban uses. It is noted that the ARA recommends that the applicant be advised of their intention to incorporate the Brookdale area (including the subject land) within the redevelopment area. However, due consideration is also given to the fact that re-zoning of the area has not yet occurred and the proposal would result in a land use that is generally compatible and consistent with the current zoning of the land under City of Armadale Town Planning Scheme No.2.

The rural land use elements of the proposal (such as the agistment and training of horses) are not considered to compromise long term planning for the area. Numerous properties in the immediate vicinity are used for rural uses including horse agistment (although generally on a smaller scale). Such uses could be considered to be transitional uses that could be easily relocated to appropriately zoned land should the area be rezoned to permit urban development. In the event that the owner is unwilling to relocate the operation under such circumstances it is not considered to be incompatible with or pose any adverse impacts to future urban areas should they be developed adjacent to or on other parts of the subject lot. The stables and arena complex are also potentially a recreation resource for future urban communities in the Brookdale area.

Given the above, the proposal is not considered to prejudice the long term planning and development of the area to the extent that refusal of the application is warranted.
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan ("District Structure Plan")

The subject lot is located within the study area of the District Structure Plan which was adopted by the Western Australian Planning Commission to guide the future development of the area. It provides a starting point for consideration of future re-zoning within the area. Within the District Structure Plan the lot is identified as ‘Urban’ and ‘Open Space (including drainage corridors)’.

The layout of the proposal indicates some regard for the District Structure Plan in that parts of the driveways mirror the road layout and the stables / arena structure is located within an open space corridor that separates two urban areas.

Environmental Management

Agriculture Western Australia’s ‘Stocking Rate Guidelines for Rural Small Holdings’ provides a guide for the number of horses that can be accommodated on a piece of pasture all year round with minor additional feed and without causing environmental degradation. Soil types indicate that the subject lot is capable of accommodating approximately 30 horses in accordance with the Stocking Rate Guidelines. When management procedures are taken into account, the Stocking Rate Guidelines indicate that the number of horses on a property can be increased.

The applicant proposes that 30 permanent and 15 temporary horses be kept on the property. A management plan has been submitted which adequately addresses issues such as pasture management, manure collection and disposal, dust suppression and other environmental issues. Given the management procedures proposed, the proposed number of horses to be accommodated on site is considered acceptable.

A watercourse / drain from Eighth Road runs across the northern portion of the subject lot and connects with the Wungong River. To minimise nutrient export it is recommended as a condition of approval if granted, that the paddock plan be modified to exclude grazing 10m either side of the drain / creek that runs through the property. Much of the Brookdale area is prone to seasonal waterlogging. As such it is recommended that the applicant be advised that the more intensive smaller paddocks be located on the higher parts of the lot.

Visual Amenity

The proposed land use is not expected to have an adverse impact on the visual amenity of the area. The proposed stables / arena building is expected to be visually dominant due to its size, however the proposed 45m setback distance will reduced its impact.

In order to further minimise potential adverse impacts of the structure on the visual amenity of the area it is recommended that conditions be imposed requiring the building to be constructed in a colour scheme compatible with the rural character of the area and that a landscape plan be submitted to demonstrate screening of the structure from public visible areas.
Aboriginal Heritage

Aboriginal sites have been identified within the Brookdale area generally and within the immediate vicinity of the subject lot. It is recommended that the applicant be advised of the possibility of an aboriginal site/s on the subject lot and that the Department of Indigenous Affairs be contacted for further information. It is the responsibility of the owner to liaise with the Department of Indigenous affairs to determine if any action is necessary in this regard.

OPTIONS

1. Council may approve the application as a “Use Not Listed” in accordance with Clause 3.4 of Town Planning Scheme No.2, with appropriate conditions on the grounds that the proposal is consistent with the objectives and purpose of the “General Rural” zone, and is not considered to adversely impact on the current or future character and amenity of the surrounding area.

2. Council may refuse the application if it is of the view that the proposal is not consistent with the objectives and purpose of the “General Rural” zone and is therefore not permitted, and it considers the proposal would prejudice the long term planning and development of the area.

CONCLUSION

The agistment and training of horses may be considered under the definition of “Rural Use” which is a permitted use within the “General Rural” zone. The proposal more closely falls within the definition of “Equestrian Activity” which is a “Use Not Listed” in the development table of the “General Rural” zone. The proposal is considered to be consistent with the intent of the policy statement of the “General Rural” zone, and subject to appropriate conditions being imposed will not adversely impact on the amenity of surrounding properties.

Environmental management issues have been adequately addressed through the submission of a management plan submitted by the applicant, which if implemented will minimise the potential for any adverse environmental impacts. The proposal is compatible with current land uses in the area and is not considered to be incompatible with possible future urban development in the vicinity. In this regard, it is recommended that Council adopt Option 1 above and approve the application subject to appropriate conditions.
D178/10/03  RECOMMEND

1. That Council determines the application as a “Use Not Listed” in accordance with Clause 3.4 of Town Planning Scheme No.2.

2. That Council approve the application for Stables, Agistment, Horse Training and Riding School at Pt Lot 106 Wollaston Avenue, Brookdale subject to the following conditions:

   a) Details of the colour scheme and building materials relative to the external appearance of the buildings to be submitted and approved by the Executive Director Development Services. The colour scheme is to demonstrate that the external appearance of the proposed stables / arena structure is compatible with the rural landscape. The development is to be completed and maintained in accordance with the approved schedule to the satisfaction of the Executive Director Development Services.

   b) Submission of a landscape plan to demonstrate planting on site with local native species for the purpose of visually screening and softening the impact of the stables / arena structure from public visible areas. Landscaping to be installed and continuously maintained thereafter, in accordance with the approved landscape plan.

   c) The main entrance / exit to the establishment is to be located along Forrest Road to the satisfaction of the Executive Director Technical Services.

   d) Driveway, crossover, parking and vehicle parking areas shall be constructed and continuously maintained to the satisfaction of the Executive Director Technical Services.

   e) Storm water design is to be to water sensitive design principles to the satisfaction of the Executive Director Technical Services.

   f) Compliance with the approved management plan the satisfaction of the Executive Director Development Services.

   g) Grazing is to be excluded within 10m of the creek / drain that flows from Eighth Road to Wungong River and traverses a northern portion of the subject lot. A revised site plan is to be submitted to the satisfaction of the Executive Director Development Services to indicate the modified paddock layout.
3. That the applicant be advised that:

   a) Compliance with City of Armadale Health Local Laws 2002 is required.

   b) Compliance with City of Armadale Environment, Animals and Nuisance Local Laws 2002 is required.

   c) Compliance with Environmental Protection (Noise) Regulations 1997 is required.

   d) The area is prone to seasonal waterlogging and more intensive smaller paddocks should be located on the higher portions of the lot.

   e) Aboriginal site/s may be located on the subject lot. The owner should contact the Department of Indigenous Affairs for further information.

   f) The Armadale Redevelopment Authority is pursuing the incorporation of the Brookdale area (including the subject land) within their redevelopment area.

4. That the Armadale Redevelopment Authority be advised that its comments and recommendations have been carefully considered. However, in consideration of the existing zoning, compatibility of the proposal with current land uses and expected future land uses, and the limited capital investment in the subject lot, approval of the proposal in this instance is considered appropriate.

MOVED Cr Knezevich
MOTION CARRIED (7/0)
APPLICATION FOR APPROVAL TO CONDUCT A HOME OCCUPATION FOR WHOLESALE FLORIST AT LOT 488 (15) HERON COURT, WESTFIELD

WARD : WESTFIELD
FILE REF : A138283
DATE : 30 September 2003
REF : YP
RESPONSIBLE MANAGER : PSM
APPLICANT : Mrs S Smith
LAND OWNERS : S Horne
SUBJECT LAND : Lot 488 (15) Heron Court
Property size 670m²
Map 21-06
ZONING MRS/TPS No.2 : Urban / Residential R 15

In Brief:
- Application for Home Occupation approval to conduct a Wholesale Florist from a residential property.
- Proposal advertised to the immediate landowners for comment. Two objections received.
- Recommendation for approval, subject to conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Promote employment and residential growth, encouraging the economic wellbeing of the community.

Legislation Implications

Town Planning & Development Act 1928
Town Planning Scheme No.2.
Environmental Protection Act 1986

Council Policy / Local Law Implications

Council’s Home Occupation Policy 4.4.7.
Environmental Protection (Noise) Regulations 1977
Budget / Financial Implications

Nil.

Consultation

- Surrounding neighbours.
- Health Services Department.

DETAILS OF PROPOSAL

An application has been received that proposes to conduct a Wholesale Florist. The business involves the applicant constructing floral arrangements to be sold at shopping centres within the metropolitan area.

The hours of business are from 7.00am to 3.00pm Mondays to Fridays only. No weekend work is involved. There will be no customers attending the premises. Stock, such as flowers and sundries will be stored in the cool room located in the backyard behind the garage.

COMMENT

The application was assessed in terms of Council’s Home Occupation Policy and scored 17 on the compatibility scale. A score of 20 and above requires a report to be submitted to Council. Although the application scored favourably, objections were received as a result of advertising the proposal.

Results of advertising

In accordance with Council Policy the proposal was advertised for a period of two weeks. Eight (8) neighbouring property owners were requested to comment on the proposal. Two responses were received;

No. objecting to the proposal: Two (2)
No. not objecting to the proposal: Nil (0)

Refer to Confidential Attachment “B4” of the Agenda for location plan of respondents.

Analysis

The application was assessed against the Town Planning Scheme provisions and complied with all the assessment criteria. The only issue to be addressed is the noise of the generator to the cool room.

The generator from the cool room is located approximately 2m from the adjoining residence. There is a discernable humming noise exhibited by the generator however, the applicant has encased the generator within an uninsulated box. Council officers from both the Planning and Health Departments have visited the subject premises and conducted an assessment of the operation of the cool room to ascertain the impact the generator may possibly have on neighbouring properties.
The Health Department’s conclusion to the assessment was “the readings at the time of inspection indicated the noise from the cool room would comply with the Environmental Protection (Noise) Regulations 1977 for daytime use (from 7am - 7pm) only. The applicant would have to demonstrate further acoustic attenuation procedures to ensure compliance with nighttime use”. The applicant has stated that she will only use the cool room during the daytime hours Monday to Friday as the cool room is sealed and will hold the cool temperatures over night.

**Resumé of Objections**

1. **The increase in traffic and commercial activities will cause problems.**
   
   The applicant has stated that there will be no customers attending the premises and as such will not cause any increase in traffic volumes.

2. **The possibility of noise emanating from the cool room.**
   
   The generator does exhibit a discernable humming noise, however Council’s Health Department is satisfied that this can be managed appropriately to comply with Environmental Protection (Noise) Regulations 1977.

3. **The properties surrounding the residence will be devalued.**
   
   No information has been presented to sustain or dismiss this claim.

4. **It will affect the tone and amenity of the area.**
   
   There is no evidence to suggest that the business will adversely affect the amenity of the area.

**Options**

1. Council may refuse the application due to concerns regarding the adverse impact that the proposal may have on the amenity to the neighbourhood.

2. Council may approve the application, subject to the conditions contained in the Home Occupation provisions of Council’s Town Planning Scheme No.2 on the grounds that the business complies with the criteria set down for Home Occupations in the Scheme. Council could impose an additional condition stating that the cool room can only be in operation if the provisions of the Environmental Protection (Noise) Regulations are complied with.

**CONCLUSION**

Council should be aware that Home Occupation Approvals are renewed annually and the Form 2 Approval contains an ‘Advice to Applicants’ note stating (among other things) that if, in the opinion of Council, a nuisance or annoyance to the owners or occupiers of land in the neighbourhood is caused, Council may revoke or refuse to renew its approval.
On the basis of the above, it is recommended that Council approve the application in accordance with Option 2.

**D179/10/03 RECOMMEND**

1. That Council approve the application for a Home Occupation to conduct a Wholesale Florist at Lot 488 (15) Heron Court, Westfield, subject to the conditions contained in the Home Occupation provisions of Town Planning Scheme No.2, such that the “Home Occupation”:

   a) does not entail employment of any person not a member of the occupier’s household;
   
   b) will not cause injury to or adversely affect the amenity of the neighbourhood;
   
   c) does not occupy an area greater than 20m²;
   
   d) does not display a sign exceeding 0.2m² in area;
   
   e) does not entail the retail sale, display or hire of goods of any nature;
   
   f) in relation to vehicles and parking, will not result in the requirement of a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volumes in the neighbourhood and does not involve the presence, use or calling of a vehicle more than 2 tonne tare weight and does not include the provision for the fuelling, repair or maintenance of motor vehicles; and
   
   g) does not involve the use of essential services of greater capacity than normally required in the zone.
   
   h) The cool room is permitted to operate providing that it complies with the provisions of the Environmental Protection (Noise) Regulations 1977.

2. That the applicant and respondent be advised of Council’s determination.

MOVED Cr Reynolds
MOTION CARRIED (7/0)
POLICY – PEDESTRIAN ACCESS WAYS

WARD: ALL
FILE REF: WAY/1
DATE: 26 September 2003
REF: MF
RESPONSIBLE MANAGER: PSM

In Brief:

- Council resolved on 20 January 2003 that a comprehensive policy be developed on how to deal with pedestrian access ways where closure is not supported by Council or refused by the West Australian Planning Commission.
- A Policy already exists that embraces a majority of the items listed in Council’s resolution of 20 January 2003.
- Recommend that Council resolve not to alter the status quo on the grounds that the existing policy adequately addresses the matters listed in Council’s resolution of 20 January 2003.
- Committee recommended that the report regarding PAW Policy on how to maintain pedestrian access ways where closure is not supported by Council or refused by the Western Australian Planning Commission be recommitted.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications

Social Infrastructure – “facilitate initiatives to improve the safety and security of the community.”

Legislation Implications


Council Policy / Local Law Implications

Technical Services - Policy No.2.1.55 – Public Access Ways – Management.

Budget / Financial Implications

Parks & Reserves Department have a PAW maintenance budget allocation for 2003/2004 of $25,462.00. However, if Council resolves to include “the repairs and maintenance of existing walls and fencing materials”, the financial implications may be considerable and also likely to escalate over a period of time.

The supply, installation and maintenance of bins in pedestrian access ways is likely to cost approximately $500.00 per annum.
Consultation

- Technical Services Directorate
  - Manager Technical Services
  - Manager Engineering Services
  - Manager Property Services
  - Manager Parks

BACKGROUND

At its meeting of 20 January 2003, Council resolved (D10/1/03):

*That the Development Services Directorate liaise with the Technical Services Directorate Officers in developing a comprehensive policy on how to maintain pedestrian access ways where closure is not supported by Council or refused by the Western Australian Planning Commission for reasons of permeability/walkability to neighbourhoods and which includes the routine maintenance of the PAW, including:*

- The repairs and maintenance of existing walls and fencing materials;
- The regular painting and/or removal of graffiti;
- The maintenance and/or replacement of the PAW surface materials;
- Additional and/or replacement of security inspections of the PAW;
- Installation of rubbish bins if PAW is close to shopping centres and schools.

The Western Australian Planning Commission (WAPC) has recently released a Planning Bulletin (PB No.57 of May 2003) providing clearer guidelines for closure of PAWs and the planning issues that need to be considered.

DETAILS OF PROPOSAL

Council seeks to establish a comprehensive policy framework to enable consideration of situations where either Council has resolved not to close a pedestrian access way (PAW) because of strong community objections or the Department for Planning and Infrastructure (DPI) has objected to the closure for reasons of accessibility to schools, shops, reserves and other community facilities.

COMMENT


Council adopted this Policy and related “Management Practice’ Eng 7 – Public Access Ways – Management” at its Meeting on 4 March 2003 (C6/2/03) by resolving that where Council by prior resolution has refused to close a Public Access Way it accepts responsibility to:

1. Remove or otherwise cover up graffiti on both fencing and footpaths within the PAW.
2. Where feasible install lighting at the ends of the PAW.
3. Establish a twice a year maintenance programme that is to include the collection and removal of rubbish, mowing and edging of grass, spraying of herbicide, tree pruning and sweeping of the path on a regular basis.

4. Arrange to treat any ant infestation / repairs to path and bollards.

5. Install and empty rubbish bins at the entrance of the PAW where the access way leads onto a park or reserve.

6. Provide full width paving in PAWs up to 3.0 metres wide; and 2.0 metres wide paving in access ways wider that 3.0 metres.

The Executive Director – Technical Services has advised that the following matters also require consideration in terms of Capital and Maintenance costs:

- Wall / Fence construction (as per example of Willowmead Way/Westfield Road).
- Security lighting and impact on amenity.
- Full width paving / concrete.
- Frequent inspection costs and frequency of inspections (as for transport corridors)
- Other high use requirements.
- Crewing / contract implications.

The Manager Parks has advised that the current maintenance programme includes mowing, brush cutting, spraying (herbicide), sweeping/blowing pathways, rubbish removal and pruning overhanging vegetation. This programme is carried out three times a year during the months of September – October / January – February / May – June.

The Manager Waste Services has indicated a cost of approximately $500.00 per annum to install and empty rubbish bins (including any maintenance due to vandalism).

**Analysis**

The following responses are made to the matters listed in Council’s resolution of 20 January 2003:

- **The repairs and maintenance of existing walls and fencing materials;**

  **Response:**

  Section 14 of The Dividing Fences Act 1961 states that “when a dividing fence is in need of repair the owners of land on either side of the fence are liable, subject to the provisions of section 15, to join in or contribute in equal proportions to the repair of the fence”.

  For the purposes of the Act, ‘owner’ does not include any trustees or other persons in whom land is vested as a public reserve, public park or such other public purposes as may be prescribed, or a person who has the care, control and management of a public reserve, public park or land used for such other public purposes as may be prescribed.
Council, as a public body, is therefore exempt from liability to contribute to the repairs and/or maintenance of private fences abutting pedestrian access ways.

It is therefore suggested that “the repairs and maintenance of existing walls and fencing materials” should not be included in the Policy for the reason that such inclusion is likely to have far reaching consequences for Council in terms of the escalating costs that are likely to be incurred with the possibility that these situations may become the norm rather than the exception. The Dividing Fences Act 1961 has been enacted to protect Local Councils and other public bodies and the inclusion of repairs and maintenance of private fencing in the Policy will contradict the provisions of this legislation. However, this would not preclude Council from undertaking such repairs in special cases.

With regard to the PAW in Willowmead Way / Westfield Road, special circumstances, including the following, prompted Council’s decision to decline closure and resolve to install twin side fencing:

- Council initially agreed to close the PAW in 1991 but resolved to decline the closure request following extensive community consultation, including receipt of a petition containing 141 signatures opposing closure.
- This PAW is an important link between a residential cell, a shopping centre and an adjacent school.
- The amount of graffiti / vandalism was considered to be excessively high.
- A further request to close the PAW in 1997 was similarly declined but resulted in Council’s resolution to include an appropriate amount for consideration in the 1998/99 Draft Budget deliberations for the provision of side fencing in this PAW.

- **The regular painting and/or removal of graffiti.**

  Response:

  Regular painting is not recommended for inclusion in the Policy for the same reasons as outlined above. The removal of graffiti is already included in item 1 of the existing Management Practice and is being carried out as part of the maintenance programme.

- **The maintenance and/or replacement of the PAW surface materials.**

  Response:

  Item 6 of the Management Practice provides for a full width paving in PAWs up to 3 metres wide and 2 metre wide paving in access ways wider than 3 metres.

- **Additional and/or replacement of PAW lighting.**

  Response:

  The lighting aspect is included in item 2 of the Management Practice which states that where feasible install lighting at ends of the PAW.
• **Regular maintenance/security inspections of the PAW.**

  Response:

  The regular maintenance aspect is mentioned in item 3 of the Management Practice. Regular maintenance is being carried out in accordance with a periodic maintenance programme.

• **Installation of rubbish bins if PAW is close to shopping centres and schools.**

  Response:

  This matter is referred to in item 5 of the Management Practice which states ‘install and empty rubbish bins at the entrance of the PAW where the access way leads onto a park or reserve’.

**OPTIONS**

1. Resolve to rescind the existing Policy and Management Practice and adopt a new policy embracing the matters listed in Council’s recommendation.

2. Resolve not to alter the status quo on the grounds that the existing policy adequately addresses the matters listed in Council’s resolution of 20 January 2003.

**CONCLUSION**

The existing Policy adequately addresses the matters listed by Council in its resolution of 20 January 2003, apart from that relating to the repairs and maintenance of existing walls and fencing materials and the regular painting of private fencing. It is suggested that the repairs, maintenance and painting of private fences should not be included in the Policy because this will not only contradict the provisions of the Dividing Fences Act 1961 (enacted to protect local councils and other public bodies) but will also have far reaching consequences for Council in terms of escalating costs. If this provision is included in the Policy, any refusal to close a PAW either by Council or the Department for Planning and Infrastructure may mean that a resident applying for closure may automatically get a new fence. For these reasons, it is suggested that situations such as the PAW at Willowmead Way / Westfield Road should be treated on their merits.
Officer’s report recommends –

That Council resolve to note that as the matters referred to in Council’s resolution of 20 January 2003 are adequately addressed in the existing Policy Eng 7 and Management Practice Eng 7 there is no need to develop a comprehensive policy on how to maintain pedestrian access ways where closure is not supported by Council or refused by the Western Australian Planning Commission.

COMMITTEE requested that the report be recommitted on the basis that a firmer position be brought forward indicating that there would be a works commitment, with financial implications, consequent upon decisions not to close pedestrian access ways.

D180/10/03 RECOMMEND

That the report regarding PAW Policy on how to maintain pedestrian access ways where closure is not supported by Council or refused by the Western Australian Planning Commission be recommitted.

MOVED Cr Reynolds
MOTION CARRIED (7/0)
PROPOSED REVISED SUBDIVISION GUIDE PLAN – GRONO ROAD, BEDFORDALE (CHURCHMAN BROOK ESTATE)

WARD : ARMADALE
FILE REF : A235738 & SCH/2/092
DATE : 17 September 2003
REF : RVD
RESPONSIBLE MANAGER : PSM
APPLICANT : Taylor Burrell Barnett
LAND OWNER : A, R & J Paton
SUBJECT LAND : Lot 9011 Waterwheel Rd North Map 25.02
ZONING MRS/TPS No.2 : Rural/ Special Use No.69

In Brief:-
- Developers of Churchman Brook Estate propose an amendment to the Subdivision Guide Plan by changing the southern intersection of Grono Rd and Darling Range Drive from a standard T-Junction to create a cul-de-sac head in the public open space with single lane access to a standard T-Junction with Darling Range Drive.
- Consultation with owners of Grono Road yielded three letters of support for the proposal.
- The proposal does not offer traffic management/ pedestrian or public open space benefits.
- Recommend that Council not endorse the revised Subdivision Guide Plan and advice submitters of the grounds for Council’s decision.

Tabled Items
Nil

Officer Interest Declaration
Nil

Strategic Implications
Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications
Town Planning Scheme No.2
Town Planning and Development Act 1928

Council Policy / Local Law Implications
Nil

Budget / Financial Implications
Nil
Consultation

- Development Control Unit
- Residents of Grono Road were consulted through a letter sent on 15th September 2003. Submissions closed on 29th September 2003.

BACKGROUND

Under the Special Use zone No.69 subdivision and development at Churchman Brook Estate must be generally in accordance with a Subdivision Guide Plan. A Subdivision Guide Plan has been approved and was last amended in March 2002 to accommodate a proposed shop.

In 2001 Council received a petition signed by 12 residents of Grono Road requesting that Grono Road be turned into a cul-de-sac. The residents were advised it would be appropriate to discuss the matter with the developers of Churchman Brook Estate, with a view to the developers submitting a revised Subdivision Guide Plan that responds to their request. In March 2002 Council responded to a request from the estate developers to amend the Subdivision Guide Plan and resolved:

That Council resolve to advertise the proposed modification to the endorsed Subdivision Guide Plan, to alter the proposed intersection of Grono Road and Darling Range Drive to restrict access to service and emergency vehicles, to residents within the estate who may be potentially affected prior to making a final determination on the matter.

DETAILS OF PROPOSAL

The applicant proposes to amend the Subdivision Guide Plan by changing the southern intersection of Grono Rd and Darling Range Drive from a standard T-Junction to Grono Road having a cul-de-sac head in the public open space, then a road reserve with single lane access to a standard T-Junction with Darling Range Drive (see plan). This arrangement has been promoted as providing better access across the public open space whilst maintaining access for emergency vehicles.

The approved Subdivision Guide Plan has the southern end of Grono Road as a through road to Darling Range Drive without a cul-de-sac head in the public open space.

COMMENT

Development Control Unit

The Development Control Unit recommended that the proposal not be approved because the proposal does not have any benefits in terms of traffic management, pedestrian access or improving public open space. The rationale for this recommendation appears under the “Analysis” section of this item.

Submissions on proposed modification

| Total number of responses received | 3 |
| Number opposed                   | 0 |
| Number in favour/ no objections  | 3 |
AMENDMENT TO SUBDIVISION GUIDE PLAN
CHURCHMAN BROOK ESTATE
Issues raised by the submissions are discussed below:

1. **It would preserve public open space for residents and wildlife.**

   The proposal increases the area of public open space that becomes road reserve because a wider road reserve is needed to accommodate the cul-de-sac head.

2. **It would increase safety for the residents and ensure a more peaceful environment in which to live.**

   As noted in the Technical Services Directorate Comments under the analysis section below there is negligible increase in safety because traffic is already slow near the intersection and with an average of one car per eight minutes between 7am to 6pm there is ample opportunity for pedestrians to cross the road. As the proposal does not close Grono Road, no change is expected in the level of traffic.

3. **The change was requested in a letter signed by all residents sent to the developers.**

   Noted. Council has regard to a range of information including residents’ wishes and advice from its officers in formulating a decision.

4. **Locked boom gates should be located at either end of the 2.8m wide paved access to prevent access by non-emergency vehicles.**

   Locked boom gates would prevent easy egress by residents in case of a fire, and is therefore not supported.

*Department for Planning and Infrastructure*

The applicant has advised orally that recent correspondence from the Department for Planning and Infrastructure indicated that the Department does not support the proposed modification to the Subdivision Guide Plan.

*Analysis*

**Technical Services Directorate Comments**

The proposal to narrow the carriageway to one lane as shown will not reduce the amount of traffic either leaving or entering Grono Road from Darling Range Drive without a physical barrier such as a gate.

There is no justification for a road closure based on traffic volumes in the street. On the accepted value of 9-10 vehicles per day for each residential lot, there would be a maximum total traffic flow of 160 vehicles per day. As there is no obvious advantage in traffic using either end of Grono Road, one could expect approximately 80 vehicles per day at each end.
Between 7am to 6pm there may be:

\[
\text{11 hours x 60 mins} \div 80 \text{ vehicle movements} = 8 \text{ min / vehicle}
\]

That is there would be an average gap between vehicle movements of approximately eight minutes.

From these figures it is clear that reducing the road to one lane is not likely to affect its use as the likelihood of vehicles meeting at the restriction is very low.

Closing the road will obviously double the amount of traffic at the eastern end.

The proposed device (assuming closure is not the objective) will not serve as a traffic management device as vehicles approaching this location from the north are already decelerating to enter the T-junction or travelling slowly having just come out of the same junction.

Reducing the road to one lane or closing it will not improve pedestrian access to the public open space because of the low speed environment and low traffic volumes.

**Planning principles and public open space**

Current planning principles favour permeable connected neighbourhoods with design to enhance pedestrian access. The design proposed keeps Grono Road open so does not affect permeability or connectivity. As noted in the Technical Services Directorate Comments above, there is little if any benefit for pedestrians.

The main destination of residents within the estate would be out of the estate in either a north or south direction, or to the shops that are most efficiently reached by travelling south. The proposal has no significant positive impact on traffic movement because Grono Road would still connect to Darling Range Drive.

The area of public open space affected by road reserve would increase as a result of the cul-de-sac head.

**Options**

1. Council could refuse to endorse the proposed modification to the Subdivision Guide Plan.

2. Council could decide to support amending the Subdivision Guide Plan. If this option is chosen, Council should endorse the plan and forwarded it to the Western Australian Planning Commission for its adoption.
CONCLUSION

The perceived benefits of the proposal are not supported by technical merit. On average vehicles will pass through the intersection once every eight minutes between 7am to 6pm, vehicle speeds should be low near the intersection and the proposal will not change the amount of traffic passing through the intersection. Therefore the proposal will not provide benefits to pedestrians or wildlife. The proposal does not have planning benefits and increases the area of road reserve is the public open space. Therefore it is recommended that Council not endorse the proposed amendment to the Subdivision Guide Plan.

D181/10/03 RECOMMEND

1. That Council not endorse the proposed amendment to the Subdivision Guide Plan for Churchman Brook Estate.

2. That submitters be advised of the grounds for Council’s decision.

MOVED Cr Green
MOTION CARRIED (7/0)
Cr Knezevich declared an interest in this item on the basis that he is a member of the Immunogenetics Research Foundation Inc. (Board representing C.Y. O’Connor ERADE Village) and left the meeting at 8.09pm.

**PROPOSED SCHEME AMENDMENT – FIRST STAGE URBAN DEVELOPMENT IN NORTH FORRESTDALE**

**WARD**: FORREST

**FILE REF**: PSC/36

**DATE**: 3 OCTOBER 2003

**REF**: JR

**RESPONSIBLE MANAGER**: EDDS

**APPLICANT**: Joint rezoning proposal from: Development Planning Strategies; Chappel Lambert & Associates; Roberts Day Group; Dykstra & Associates

**LAND OWNER**: Various

**SUBJECT LAND**: 455ha

**ZONING MRS/TPS No.2**: MRS – RURAL (subject to current amendment to Urban/Urban Deferred) TPS No.2 – General Rural and unzoned road reserve.

**In Brief**: - Proposal to initiate rezoning Amendment No.190 to TPS No.2 prepared by several development groups working together through the North Forrestdale Planning Steering Group coordinated by the City.

- Amendment No.190 introduces a new “Urban Development” zone, which will facilitate an orderly planning process and complement the Model Scheme Text for Development Areas/ Development Contribution areas recently gazetted under Amendment No.157.

- The Scheme provisions require a Local Structure Plan to be prepared for the north Forrestdale first stage, prior to subdivision. The Structure Plan will address detailed urban water management and environmental issues for the locality.

- Recommend that Council initiate Amendment No.190 referring it to the EPA and seeking WAPC permission to advertise it for public comment.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

**Strategic Plan**

Long Term Strategic Planning:
1.4 Complete the Structure Plans for Brookdale and Forrestdale, focussing on provision of high quality residential development.
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan (WAPC)

The SRFBW District Structure Plan (DSP) provides a broad framework for future urban development of large areas of Forrestdale, Brookdale and Wungong and based on the principles of the WAPC’s Liveable Neighbourhoods Policy. As some of the land is constrained by water management issues, including high groundwater tables, wetlands and potential for nutrient exports and flooding, the Water and Rivers Commission (WRC) prepared an Urban Water Management Strategy to provide guidance on water sensitive urban design and the best management practices, which should be incorporated into the statutory landuse and subdivision planning for the area.

Legislation Implications

- Environmental Protection Act 1986
- Planning Legislation Amendment Act 1996
- Environmental Protection and Biodiversity Act (Commonwealth) 1999 - Forrestdale Lake is subject to the international Ramsar Convention
- Environmental Protection (Swan – Canning Rivers) Policy (EPP)
- Draft Riverplan: (Comprehensive Management Plan and Implementation Strategy for the Swan-Canning Rivers EPP)
- Environmental Protection Policy for Lakes
- Local Government Act 1995
- Town Planning and Development Act 1927
- Metropolitan Region Town Planning Scheme Act 1959
- Metropolitan Region Town Planning Scheme
- Town Planning Scheme No.2

Council Policy / Local Law Implications

- Water Sensitive Design Policy
- Draft TPS No.4 – has been forwarded to the WAPC for approval to advertise, and under standard practices, concurrent rezoning proposals under TPS No.2 will be progressed through separate Scheme Amendment processes of assessment and public review before being incorporated into the new Scheme 4 at the appropriate time, which depending on timing may be either prior to advertising Scheme 4 or prior to the final adoption of the new Scheme.

Budget / Financial Implications

Nil implications for the rezoning proposal. However, subsequent development pursuant to the rezoning has a potential for enlarging the rating base of the City in the north Forrestdale area, while also posing potential for additional costs associated with the local government administered services and infrastructure provided as part of the local governance of the area. Financial implications of urban development in north Forrestdale will therefore need to be assessed during the Scheme Amendment and local structure planning processes for the current landholdings, particularly for urban water management matters such as community education, street-sweeping, Public Open Space and drainage maintenance.
Consultation

Consultation with:

- Water & Rivers Commission (WRC), Water Corporation (WC), Environmental Protection Authority (EPA), Western Australian Planning Commission (WAPC) (on preparing the UWMS and the MOU);
- Developers planners through the north Forrestdale First Stage Planning Steering Group;
- Department of Environment Protection (DEP), DPI (Department of Planning & Infrastructure) and Education Department of WA, on the rezoning and concept plan;
- Manager Technical Services and Environmental Planner.

BACKGROUND

New urban areas in Brookdale and north Forrestdale

In June 2002, Council affirmed its position in respect to the two future urban areas of Brookdale and north Forrestdale, as a position of providing “a level playing field” for developers in both Brookdale and north Forrestdale to proceed with their plans (CS58/02). In regard to Brookdale, Council recently indicated its support for an Armadale Redevelopment Authority planning initiative (September 2003 Chief Executive Officer's report) and in October 2002, Council supported Peet and Co’s then intention to proceed with a Structure Plan for the Brookdale–west area (D186/02).

Brookdale is more advanced in respect to zonings, it having large areas of both Urban and Urban Deferred zone in place in the MRS, in addition to significant areas already zoned Residential under TPS No.2. Nevertheless, the location of north Forrestdale adjacent to the rapidly urbanising areas of Canning Vale and Southern River indicates the potential for lots in the area to have immediate market appeal. The background experience in land development contained within the development groups currently advancing their rezoning plans with the environmental and servicing agencies and the City is a positive feature of the proposed Amendment No.190.

Planning Steering Group for First Stage of Urban zoning in north Forrestdale

Following the release of the District Structure Plan in 2001, several developer groups approached the City for support for new Urban zoning in north Forrestdale. Council established the primary parameters for land to be included in the first stage of urban zoning, as being land which was represented by experienced planning and project management teams who could demonstrate significant work-in-hand in regard to researching the suitability of their landholdings for Urban zoning. Landholdings capable of forming a contiguous single planning unit with logically defined boundaries were also parameters for inclusion in the first stage. A Planning Steering Group was hence established to coordinate the planning efforts of the four development groups who satisfactorily demonstrated the merits of their inclusion in the first stage of Urban zoning.
INDICATIVE STAGING PLAN
URBAN DEVELOPMENT IN NORTH FORRESTDALE
PLAN (1)
The Steering Group has provided a forum for the planners representing the first stage developers to undertake the research, planning and assessment work required to introduce urban zonings. The effective coordination provided by the Steering Group, in cooperation with state agencies such as the DEP, DPI and Education Department has resulted in the first MRS rezoning, which is currently being advertised for public comment until 14th November (Council supported MRS Amendment No.1072/33 in September 2003 (D164/9/03; D182/01; D92/02)).

The “Indicative Staging Plan – Urban Development in North Forrestdale” (Plan 1) identifies potential stages for owners to pursue rezoning amendments and local structure plans. These areas are identified as future urban areas on the District Structure Plan and landowners who intend to pursue the future urban development options identified, will accordingly have to undertake the research and prepare separate development concepts in order to seek a similar zoning status to that currently proposed for the first stage.

The area subject to current rezoning Amendment No.190 is indicated as local structure plan area “SP2” in the “Indicative Staging Plan – Urban Development in North Forrestdale”. The “SP2” is mostly subject to the MRS Amendment No.1072/33 current being advertised, except for a small portion comprising the ERADE Village site, which has already been zoned Urban in the MRS under the previous Amendment No.1028/33.

The areas “SP South”, “SP East” and “SP Kennel” will remain under the existing rural zonings in both the MRS and TPS No.2 in the interim, until any separate rezoning applications, which may be subsequently lodged by the relevant landowners, are gazetted.

The area “SP1” is an exception to the mostly rural zonings in north Forrestdale, as this site was zoned to Urban in the MRS many years before the DSP and hence planning is far more advanced and currently subject to Amendment and structure planning processes No.186 and No.187 under Council’s TPS No.2.

The Local Structure Plan Areas identified on the Indicative Staging Plan provide discrete planning units, in which it is possible for landowners to approach structure planning process, in a staged manner. A landowner in the “SP East” precinct and immediately adjacent to the “SP2” first stage, has had some correspondence with the City and been provided with advice on the District Structure Plan, UWMS and local TPS rezoning processes, however, he has also advised the City that he has no immediate intention to pursue an urban zoning for the “SP East” precinct.

Memorandum of Understanding on Urban Water Management

Following the 2002 finalisation of the Urban Water Management Strategy by the WRC, Council endorsed a Memorandum of Understanding (MOU) to be entered into with the Water Corporation, Water and Rivers Commission, Environmental Protection Authority and Western Australian Planning Commission (D129/7/03). The MOU aims to establish mutual-cooperation between the above agencies, in dealing with development of the area and enabling more detailed urban water management planning under guidance of the Water Corporation.
NORTH FORRESTDALE
TOWN PLANNING SCHEME AMENDMENT (No.190)

EXTRACT OF ENVIRONMENTAL ASSESSMENT

4. SUMMARY

This environmental assessment describes the factors that require consideration in the development of the proposed North Forrestdale Urban Area, along the latest strategies for minimising the deleterious impacts of these factors.

The main environmental factors associated with the Proposed Urban Area are as follows:

- Urban development in the vicinity of the poultry sheds at the junction of Nicholson and Hale Roads is unlikely to pose a constraint as it is envisaged that the sheds will be removed and the land on which they occur will be rezoned “urban” in the near future. However, in the interim a legal agreement will be obtained from the current landowner to confirm that operation will not re-commence. This agreement will be obtained prior to the finalisation of the MRS Amendment.

- The issue of noise and acceptable buffers associated with the dog kennels adjacent to Ranford Rd in the northern portion of the proposed urban area is currently being assessed by the EPA. It is anticipated that the EPA will allow (with Memorials on Titles) for the urbanisation of land within the generic 500m buffer.

- Water quality – this is probably the most important factor associated with the proposed urbanisation of the project area. By adopting the principles outlined in the UWMS and the WSUD, in addition to implementation of the Water Cycle Plan being prepared by Water Corporation under the Memorandum of Understanding (MOU), it is envisaged that the potential for deterioration of the water quality can be ameliorated.

- Three Conservation Category and several Multiple Use wetlands are currently mapped as occurring within the proposed development area. The ecological values of the CCWs will be maintained through appropriate design and implementation of specific management measures.

- The better quality wetlands are proposed for retention within Public Open Space (CCW’s) and as part of the stormwater management system (MUW’s).

- Most of the area has been cleared for agricultural purposes. Some native vegetation remains, and although no sites of regionally significant vegetation (ie. No Bush Forever Sites) occur within the area, several immediately adjoin it. Future urbanisation in these areas will need to incorporate appropriate interfaces between these Bush Forever sites and urban areas.

All environmental issues associated with the proposed North Forrestdale Urban Area have either already been addressed or will be addressed as appropriate in association with the planning processes being implemented through the Scheme Amendment and during the local structure plan stage and under the implementation of the UWMS, its MOU and Water Cycle Plan.
It is understood that all agencies other than the Water Corporation, have confirmed their endorsement of the MOU and that the Water Corporation is likely to also endorse the MOU pending negotiation of details for preparing the Water Cycle Plan with the other agencies. The Water Cycle Plan will be developed in conjunction with the Cities of Armadale and Gosnells, together with the Water and Rivers Commission, Environmental Protection Authority and Western Australian Planning Commission.

Points 1 to 3 of the City’s endorsement of the MOU will be facilitated by the Scheme provisions and the staged structure planning process proposed under the Amendment No.190. Under the MOU the City of Armadale will:

1. Exercise its statutory decision making authority having regard to the intent and recommendations of UWMS and current best management practice.
2. Encourage innovation in urban design and public open space to meet the intent and recommendations of the UWMS and current best management practice.
3. Encourage a staged approach to development so that later stages of development can be modified, if necessary, in response to water quality monitoring results.

Points 4 to 6 of the MOU, will be addressed in the “Water Cycle Plan” currently being prepared by the Water Corp. These points attest that the City of Armadale will:

1. Liaise closely with the other parties during the preparation of the “Water Cycle Plan”.
2. Liaise closely with the other parties in the planning, approving and implementing of infrastructure related to urban water management.
3. Carry out its roles and responsibilities according to the agreed “Water Cycle Plan”.

DETAILS OF PROPOSAL

The applicants propose to facilitate the sustainable development of the first stage urban development by introducing Rezoning Amendment No.190 to TPS No.2 to zone the land from General Rural to Urban Development.

The Amendment is accompanied by an Environmental Assessment prepared by ATA Environmental on behalf of the applicants. Under the Planning Legislation Amendment Act of 1996, the City of Armadale is the “Responsible Authority” for ensuring proper environmental outcomes resulting from rezoning processes and hence has to determine the acceptability of environmental assessments. A summary of ATA’s Environmental Assessment is provided in the report, as amended to accord with the City’s requirements. The Environmental Assessment will require approval and clearance by the EPA, prior to the Rezoning Amendment being advertised for public comment.
DEVELOPMENT AREA / DEVELOPMENT CONTRIBUTION AREA
NORTH FORRESTDALE SCHEME AMENDMENT
Amendment No.190

Amendment No.190 has a number of elements including:

- Introducing a new zone – the “Urban Development zone” into TPS No.2;
- Rezoning the land included in the North Forrestdale First Stage to “Urban Development zone”;
- Defining the land included in the First Stage Urban zone as a 'Development Area/Development Contribution Area' on the Scheme maps,
- Including the adjacent ERADE Village land in the 'Development Area/Development Contribution Area' on the Scheme maps (this site is subject to Scheme Amendment No.185 to zone as “Special Use – Education, Research and Development and Employment Village and Village Centre” however, does not have the Development Area/Development Contribution Area designation;
- Introducing Scheme provisions into the Schedule 1 relating to Special Control Areas, to address criteria and specific requirements, which the North Forrestdale Urban Structure Plan and Development Contribution Plan will have to address prior to subdivision being supported by the City.

Landuses

Amendment No.190 proposes to control landuse and development standards through the classification of land as reserves, zones, R Codes and precincts on the Local Structure Plan. The City is then required to have regard to these land classifications when recommending subdivision or approving development. This allows the planning of the area to be undertaken with a degree of flexibility, which should make for a more efficient process capable of responding to contemporary changes in market demand or public policy, as the development of the estate proceeds. Where no Structure Plan or suitable landuse classification exists, development and standards will remain at the discretion of Council in a similar fashion to the current “use not listed” arrangements under TPS No.2.

The North Forrestdale First Stage Concept Plan describes the intended generic landuses including, a major village commercial centre and five smaller local centres, 3 primary school sites and 1 private school site (existing), in addition to the larger POS sites intended for active recreation and drainage corridors. The Urban Concept Plan signals the generic layout intended to be formalised within the statutory Local Structure Plan, which will have to be prepared under the provisions of clause 5.8 and Schedule 1 of the Scheme, prior to subdivision and development.

COMMENT

Like Brookdale, the urban development of north Forrestdale will require negotiations to be completed between the land developers, the City of Armadale and the respective state servicing agencies, particularly in respect to the costs of establishing, monitoring and maintaining public facilities and infrastructure and in carrying out community education programmes. These matters and the roles and responsibilities of the respective parties for the implementation of the UWMS, will need to be clarified and agreed as the statutory approval processes being recommended proceed through the various threshold steps.
AMENDED - NORTH FORRESTDALE URBAN CONCEPT PLAN
PLAN (2)
Desirable development outcomes for the first stage north Forrestdale are envisaged as being achieved through the Amendment No.190 Scheme provisions and local Structure Plan processes. Guidelines anticipated to be defined under the Water Corporation’s Water Cycle Plan, which will be prepared concurrently with Amendment No.190, will also provide additional mechanisms and guidance for implementation of the UWMS.

**Analysis**

*Urban Water Management Study – MOU and Water Cycle Plan*

The proposed first stage of urban development in north Forrestdale is within the area covered by the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan’s Urban Water Management Strategy (UWMS) and hence the Water Corporation’s Water Cycle Plan. DEP officers have indicated that the EPA would be generally supportive of Scheme Amendments which accord with the directions established by the DSP and UWMS proceeding through the statutory assessment procedures, provided Scheme Amendments proceed concurrently with the finalisation of the MOU and Water Cycle Plan processes.

This Scheme Amendment No.190 and related Structure Planning processes are the principle statutory planning tools available for implementation of UWMS. Under the provisions in Schedule 1, an urban Structure Plan has to be prepared prior to subdivision and development. The urban Structure Plan also has to address and make recommendations to implement the UWMS and carry out surveys for a range of environmental factors. These results will determine the detailed structure and layout of urban landuses, including residential, shopping, school, parks and drainage and the road network.

The inclusion of the ERADE Village (previously zoned to Urban in the MRS under 1028/33) and subject to separate Amendment No.185 in the ‘Development Area/Development Contribution Area’ on the Scheme maps, will assist the process for comprehensive structure planning and infrastructure cost sharing, across the various developments.

The non-statutory **North Forrestdale First Stage Concept Plan (Plan 2)**, submitted in support of the Amendment documentation is generally consistent with the strategic District Structure Plan. The three new primary schools shown on the Concept Plan, in addition to primary and secondary schools already existing in the wider locality, will accommodate the educational needs of children living within the initial stages of development. Further school site requirements for adjacent Structure Planning Areas will need to be addressed if and when Structure Plans are prepared for urban residential development for those areas.

Amendment No.190 is also consistent with the new provisions for Development Contribution Plans and Local Structure Plans Gazetted in Amendment No.157 (D329/00) on 5th September 2003. These new and improved provisions provide a means to identify Development Contribution Areas and Development Areas on the Scheme Maps, and require that Development Contribution Plans and Local Structure Plan be subsequently prepared and adopted by Council and the WAPC, prior to approvals being granted for subdivision and development.
The progression of the first stage local Scheme Amendment through the advertising and assessment processes, will be concurrent with the City and Water Corp working together with the state environmental and servicing agencies, in order to finalise the Water Cycle Plan to address urban water management planning for the area.

The principles for urban water management and roles and responsibilities allocated to the various agencies in the Water Cycle Plan can then be reflected into the formal Local Structure Plan for the first stage urban development and subsequently advertised for public comment. Once adopted by Council and the WAPC, the Structure Plan will give statutory support to the objectives of the DSP and the UWMS in accordance with the Amendment provisions, which have been designed to ensure sustainable urban development of north Forrestdale.

The Local Structure Plan and subsequent detailed planning assessment should ensure appropriate infrastructure technologies and “Best Management Practices” are implemented as part of the statutory approvals. This should include regulation of “soft” infrastructures such as community education, in addition to provision for ongoing maintenance and remedial action contingencies should post-development monitoring indicate such requirement.

The statutory processes put in place by Scheme provisions and conditions of approval, should manage the implementation and funding of appropriate infrastructure performance. In addition to the statutory processes, many of these issues applying specifically to management of stormwater water quality and quantity and open space drainage corridors, will also be addressed in the Water Cycle Plan, which is to be prepared by the Water Corp in conjunction with the City under the MOU agreement for the UWMS. The Water Cycle Plan may invoke new institutional arrangements or make recommendations for including in the standard structure planning and subdivision processes.

**Options**

1. That Council initiate Amendment No.190 to seek approval to advertise a local rezoning and Scheme provisions to provide for the sustainable urban development of a new community in north Forrestdale. This Option will allow the statutory process, which can be lengthy, to commence while the developers carry on with more research on infrastructure issues and the City works with the Water Corporation and the other agencies to prepare a Water Cycle Plan. The City’s adoption and recommendation for final approval of Amendment No.190 should be conditional on these matters, and hence provide Council with controls over the planning process.

2. That Council decline to initiate Amendment No.190 until the current MRS zoning Amendment No.1072/33 process has been gazetted in 9 to 12 months time. This option risks setting back the planning process thereby delaying commencement of the development date. Accordingly the wider benefits potentially available to the City through a successful new urban residential community being established in north Forrestdale may also be delayed.
CONCLUSION

The development of a new urban residential community in north Forrestdale provides the City with an opportunity to establish a new image for the City of Armadale as a place of quality housing in close proximity to the successful Ranford, Boardwalk and Sanctuary Waters estates. The north Forrestdale developments would be located with easy access to the full suite of urban services, social and economic opportunities and in close proximity to a number of established estates already renowned for their high market appeal and rapid levels of housing construction.

Accordingly it is recommended that the amendment be initiated in accordance with Option 1. The Scheme provisions and structure planning process included in Amendment No.190 provide the basis for more detailed planning specifically through a North Forrestdale statutory Local Structure Plan. The Amendment proposal meets requirements for seeking approval to advertise from the EPA and the WAPC.

Executive Director Development Services tabled amended Concept Plan illustrating variation to road structure.

D182/10/03 RECOMMEND

1. That pursuant to Section 7 of the Town Planning & Development Act 1928 (as amended), Council initiate an amendment to Town Planning Scheme No.2 by:

A. Creating an 'Urban Development' Zone as detailed below:

(i) Amending Clause 3.1 Zones to include a new zone identified as follows:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>SUB-CATEGORY</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Urban Development</td>
</tr>
</tbody>
</table>

(ii) Introducing a new Clause 5.15

"5.15 URBAN DEVELOPMENT ZONE

5.15.1 The objectives of the Urban Development Zone are to:

1. Designate land for future urban development;

2. Provide for the orderly planning of large areas of land for residential and associated purposes through a comprehensive structure planning process; and

3. Enable planning to be flexible and responsive to changing circumstances throughout the developmental stages of the area."
4. To promote the sustainable development of new urban communities in accordance with the social, environmental and economic goals of the City of Armadale.

5.15.2 Subdivision and development within the Urban Development Zone shall occur in accordance with the provisions of Clauses 5.8 and 5.9 of the Scheme.

5.15.3 The permissibility of uses in the Urban Development Zone subject to subclause 5.15.1 shall be determined in accordance with the relevant Structure Plan prepared in accordance with Clause 5.8 of the Scheme."

(iii) Inserting a new development table "Table 12.1" as follows:

**TABLE 12.1**

<table>
<thead>
<tr>
<th>ZONE:</th>
<th>URBAN DEVELOPMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>POLICY STATEMENT:</td>
<td>The Urban Development Zone is intended to provide for future residential and urban related development in accordance with a Structure Plan prepared in accordance with Clause 5.8 of the Scheme.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use Classes Code</th>
<th>Min. Lot Area</th>
<th>Minimum Boundary Setbacks</th>
<th>Minimum Car Parking Spaces</th>
<th>Minimum Landscaping</th>
<th>Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Front</td>
<td>Rear</td>
<td>Sides</td>
<td></td>
</tr>
</tbody>
</table>

Development and Subdivision within the Urban Development Zone should generally be in accordance with the approved Structure Plan. Where no Structure Plan exists the specific uses and development standards will be at the discretion of Council.

B. Identifying the zone on the Town Planning Scheme No.2 maps by a medium brown colour.

C. Rezoning Lots 46, 49, 14, Pt 388, 1000, 1001, Lot 50 and portion of Lot 45 Wright Road, Lots 4, 6, 15, 48, 13 and a portion of Lots 2 & 3 Nicholson Road, and portion of Lots 10, 111, 112, 113, 114 and 143 Warton Road Forrestdale from 'General Rural' in addition to portions of the unzoned Wright, Keane and Reilly Roads, to 'Urban Development'.

D. Defining the area comprising the above lots, and the addition to the portions of Lot 114 Warton Road and Lot 3 Nicholson Road proposed as “Special Use – Education, Research and Development and Employment Village and Village Centre” under current Scheme Amendment No.185, as a 'Development Area/Development Contribution Area' on the Scheme map.
E. Amending the Scheme Maps accordingly.

F. Amending Schedule 1 – Provisions relating to Special Control Areas – to include the following:


1. Urban development shall occur in accordance with a North Forrestdale Urban Structure Plan to be prepared pursuant to the provisions outlined in Clauses 5.8 and taking effect upon adoption by both Council and the Western Australian Planning Commission;

2. The North Forrestdale Urban Structure Plan shall incorporate assessments and recommend management responses to the satisfaction of the City of Armadale for key environmental planning factors identified as follows:

   (i) The urban water management outcomes recommended in the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan - Urban Water Management Strategy;

   (ii) Surveys of existing flora and fauna, heritage sites, conservation category wetlands, land contamination, sources of noise or odour impacts on development, permissibility of the urban land uses proposed to be established upon implementation of urban development and interfaces to adjacent conservation areas.

3. All landowners within the North Forrestdale Urban Development Residential Precinct shall make a proportional contribution to the costs of infrastructure in accordance with Clause 5.9 Development Contribution Areas.

4. The Development Contribution Plan shall address items of Infrastructure required to support urban development under the Commission's policies, however notwithstanding, where an Owner has made other arrangements satisfactory to the City of Armadale for the Owners contributions towards Infrastructure and Administrative Costs, the City may support subdivision or approve development.

5. The Development Contribution Plan Administrative Costs may incorporate the costs of independent assessment of the Structure Plan and key environmental planning factors that may be required to be undertaken by Council.”
2. That the applicants be advised that information to be submitted prior to Council’s further consideration of the rezoning Amendment for final approval should include:

- Detailed proposals for provision of infrastructure in the area;
- Proposals for implementation and funding of the Urban Water Management Strategy recommendations through the statutory approvals processes, including community education programmes and services such as street-sweeping, on-going infrastructure maintenance and water monitoring arrangements.

3. That Council further resolves:

a) To seek consent from the Western Australian Planning Commission to advertise the proposed District Scheme Amendment for public comment concurrently with the MRS Amendment, and refer the proposal to the Environmental Protection Authority for environmental assessment, prior to advertising the proposal in accordance with the Town Planning Regulations 1967 (as amended);

b) To advertise the proposal in accordance with the Town Planning Regulations 1967 (as amended), including referral to the Environmental Protection Authority;

c) That the Executive Director Development Services be delegated authority to prepare Scheme Amendment and Environmental Review documentation in accordance with this resolution and subsequent recommendations received from the Environmental Protection Authority, upon referral.

4. That the Mayor and Chief Executive Officer be authorised to execute the Amendment documents.

MOVED Cr Zelones
MOTION CARRIED (6/0)

Meeting adjourned at 8:23pm.
Meeting reconvened at 8:29pm.
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COMMERCIAL VEHICLE PARKING – LOT 122 (32) RUBIDA RISE, ROLEYSTONE

WARD : ROLEYSTONE
FILE REF : A236429
DATE : 26 August 2003
REF : YP
RESPONSIBLE MANAGER : PSM
APPLICANT : B Hooper
LANDOWNER : B Hooper
SUBJECT LAND : Lot 122 Rubida Rise, Roleystone
               Property size 2001m²;
               Map 26.09
ZONING : Urban/Residential
MRS / TPS No.2: Development Area

In Brief:-
- Application to park a 7.3 tonne truck on the property.
- Advertising resulted in eleven submissions with 10 objections received.
- Recommendation to refuse application.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications
To balance the needs of development with suitable economic, social and environmental objectives.

Legislation Implications
Town Planning & Development Act 1928
Environmental Protection Act 1986
Environmental Protection (Noise) Regulations 1977

Council Policy / Local Law Implications
Council Policy 4.4.6 Commercial Vehicle Parking
Environment, Animals and Nuisance Local Laws 2002
Budget / Financial Implications

Nil.

Consultation

- Property owners in the immediate vicinity of the subject site consulted by applicant and by Council.
- Technical Services Directorate.
- Health Services Department.

BACKGROUND

An application for approval to park a commercial vehicle, which generally satisfies the Town Planning Scheme criteria, has been received. Clause 4.4.6 of Council’s Commercial Vehicle Parking Policy requires that an application be advertised to adjoining/surrounding landowners for a period of not less than 2 weeks. Seven surrounding landowners were canvassed for their opinion with seven responses being received and an additional four submissions from nearby properties.

DETAILS OF PROPOSAL

The applicant proposes to park a 7.3 tonne Scania truck on the premises. The vehicle is 4m in length and 4.2m in height and is parked at the side of the house behind gates. The application states that the vehicle is to be parked on the property from 6pm until 7am Monday to Friday, 6pm Friday to 7am Monday, 24 hours on Public Holidays and three weeks annual leave per year.

Results of Advertising

| Number objecting to the proposal | 10 |
| Number not objecting to the proposal | 1 |

Refer to Confidential Attachment “B5” of the Agenda for location plan of respondents.

Resume of Objections

1. Noise. The vehicle leaves the premises in the early hours of the morning and interrupts sleep and disrupts the routine of young children.

   The Scheme requires that any noise created by the vehicle shall not exceed the standards for the relevant area set out in the “Noise Provisions of the Environmental Protection Act 1986”. Also Council’s Environment, Animals and Nuisance Local Laws 2002 prohibit the starting of a truck in a residential area between the hours of 10pm and 7am Monday to Saturday and not before 9am on a Sunday.

   The hours of departure and return as indicated in the application are within office hours and within the Local Laws provisions.
2. *Commercial vehicles create an Industrial area and approval would encourage proliferation.*

Two submissions made the point that the area is zoned residential and not industrial. It would appear that commercial vehicles are perceived by submitters to be closely associated with industrial areas and therefore adversely affect residential zones. Each application to park a commercial vehicle is subjected to identical scrutiny, is viewed on its merits and is open to all affected residents to comment on. The argument that a pseudo Industrial area will be created or that vehicle proliferation will occur is not supported as approvals are strictly controlled.

3. *Traffic conflict in terms of the roads and their residential design characteristics.*

Council’s Technical Services Directorate advise that the roads in the vicinity are not designed for easy access and egress into the cul de sac. At the entrance to Rubida Rise cul de sac is a traffic island that would eventually disintegrate due to the continual manoeuvring of the truck into and out of the cul de sac. However, it is a public road which all licensed vehicles have a right to use.

4. *Property Values Being Reduced.*

There has not been any evidence presented to substantiate the claim that the parking of commercial vehicles on property has a detrimental effect on property value.

5. *Affect on young Children playing in the cul de sac.*

As the area has no footpaths, the concerns for the safety of young children playing in the cul de sac are understandable. With the vehicle of such a size coming and going each day there is the potential for the vehicle to create a hazard to residents, however the road rules would have to be adhered to by all road users.

6. *Noisy and unsightly maintenance of the vehicle.*

Within the general provisions of the Town Planning Scheme 2, conditions are imposed for the parking of commercial vehicles in residential zones. The provisions state “that maintenance to be limited to oil and grease and change of wheels and tyres; no panel beating, spray painting or removal of body or engine parts; maintenance only permitted between the hours of 8.00am and 8.00pm Monday to Friday and 9.00am and 6.00pm Saturday and Sunday”. Given the restricted maintenance permitted, the impact of maintenance on the vehicle will be limited.
7. **The disruption to the peace and tranquillity.**

The residents of the area have a right to expect the quiet enjoyment of their property. With commercial vehicle parking, in proximity to their homes, it is conceivable that there could be an increase in the level of noise over and above that currently experienced by the residents. However, the applicant has indicated that vehicle movement would not include weekends and the access and egress of the truck is within normal commuting hours.

**COMMENT**

The specifications of the truck comply with the commercial vehicle parking provisions of the Town Planning Scheme, however the results of the advertising drew adverse response from residents in proximity to the subject site. The residents expressed the opinion that the commercial vehicle is likely to be detrimental to the amenity of their neighbourhood.

Technical Services advise “vehicles with a turning circle greater than a car cannot negotiate the more than 90 degree turn required to pass around the island”. “Waste vehicles have to drive over the island but as this is only once a week this does not pose a problem, however approving access to a prime mover which drive over it twice a day is not acceptable as this will cause damage to the kerbing and brick paving”.

The Rubida Rise road reserve is only 14m in width as opposed to the normal 20m-width road reserve. This essentially allows for two standard vehicles (cars) to pass each other on a 5.5 m wide section of road. The subject vehicle, due to its dimensions, has the potential to create a traffic hazard in the cul de sac.

Matters to be considered by Council under the General Provisions of the scheme, include the nature of the roads giving access to the land. The nature of the subject road is such that it is narrower than the usual 20m wide road reserves and the usual 7m width of road. The Technical Services Directorate have advised that there could be a number of traffic conflicts in terms of the roads and their residential design characteristics.

**OPTIONS**

1. Given that vehicle specifications comply with the Scheme provisions Council could approve the application. Should the applicant fail to comply with the provisions of the Scheme or substantiated complaints are received, Council has the discretion to revoke the approval or decline the annual renewal.

2. Council could decline the application due to the adverse effect the subject vehicle will place on the roads due to their residential design characteristics. In conjunction with a consideration for the opposition to the proposal by neighbouring residents, that have expressed the opinion the commercial vehicle is likely to be detrimental to the amenity of the area.
CONCLUSION

Council’s Town Planning Scheme makes provision for Commercial vehicle parking within residential areas, and the vehicle in question complies with the provisions of the Town Planning Scheme.

Taking into consideration the advice from the Technical Services Directorate, it would appear that there could be a number of traffic conflicts in terms of the roads and their residential design characteristics that are likely to have an adverse affect on road safety within the neighbourhood.

The results of advertising drew a considerable number of adverse responses from residents in proximity to the subject site. On balance it is recommended that Council refuse the application.

D183/10/03 RECOMMEND

That Council refuse the application to park a 7.3 tonne truck commercial vehicle registration number HOT 113P at Lot 122 (32) Rubida Rise, Roleystone on the grounds that:

a) The vehicle is likely to have a detrimental impact on the road kerbing and brick paving and create a traffic hazard in the cul de sac and,

b) The vehicle parking is considered to detrimentally impact on the amenity of the locality.

MOVED Cr Hart
MOTION CARRIED (6/0)
ATTENDANCE BY ELECTED MEMBERS AT PLANNING INSTITUTE AUSTRALIA (WA) ANNUAL STATE CONFERENCE – 5th TO 7th NOVEMBER 2003

WARD : ALL
FILE REF : CRS/4
DATE : 30 September 2003
REF : HC
RESPONSIBLE MANAGER : PSM

In Brief:-

- Planning Institute Australia (WA) is holding its Annual State Conference at the Mandurah Performing Arts Centre from 5th to 7th November 2003.
- Matters to be covered should be of benefit to Councillors and of interest in the Armadale context.
- Recommend that Councillor/s be nominated to attend.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

To foster an effective professional environment and administration of the City’s services and encourage innovation and creativity in meeting the needs of the community.

Legislation Implications

Nil.

Council Policy / Local Law Implications

Council Policy ADM 3 – Conferences, Seminars and Training.

Budget / Financial Implications

Conference - $445 for PIA members, $495 for non-members
One Day Attendance - $250
Optional Sessions - Canal Tour - $10
- Bus/Walking Tour - $10

Consultation

Nil.
DETAILS OF CONFERENCE

The Planning Institute Australia (PIA) WA Division is holding its Annual State Conference, entitled “Fractures and Fragments”, at the Mandurah Performing Arts Centre from Wednesday, 5 November to Friday 7 November 2003. (A copy of the Conference brochure is at Attachment “A1” of the Agenda).

The conference will be opened on the Thursday morning by the Hon Alannah MacTiernan, Minister for Planning and Infrastructure. Speakers include:

- Dr Ian Alexander (Community activist, focusing on social planning and environmental issues. He has previously been a planning consultant, academic and writer, and a local and State politician);
- Steve Woodland (Design Director for Cox Howlett and Bailey Woodland), Architects and Planners);
- Patric de Villiers (Principal of Urbanizma, involved in urban design, strategic and transport planning);
- Bruce Atkinson (Principal of the Atkinson Group, retail and marketing consultants);
- Garry Middle (PhD Student at Curtin University of Technology and previously Manager of the Environmental Planning Branch at the Department of Environmental Protection and then Manager, Strategic Planning and Environment at the City of Rockingham);
- Mike Day (Director, Roberts Day Town Planning and Design);
- Ian Ker (Principal Planner/ Economist ARRB Transport Research);
- Professor Patrick Troy (Emeritus Professor and Visiting Fellow in the Centre for Resource and Environmental Studies at the Australian National University etc);
- Ross Holt (Chief Executive Officer of Landcorp);

The subjects to be addressed include:

- Water Corporation Keynote Address – The Public Interest in Planning
- Landcorp Initiatives
- Contemporary New Town Design
- Place of Identity
- A Review of Urban Planning
- Strategic Visioning Through Scenario Planning
- Gordon Stephenson Lecture (by Dr Ian Alexander) Beyond Stephenson: Perth’s Road to Nowhere
- From Land Use to Appraisal and Back Again
- WA Young Planners Exposé
- Success in a Changing Marketplace
- Water Smart Development
CONCLUSION

Officers from the Planning Department will be attending the PIA WA State Conference. The conference should be an informative and interesting gathering that will deal with many issues that are relevant to the City. The item is raised for information for any Councillors who may wish to nominate to attend.

D184/10/03 RECOMMEND

That there be no nomination from the Development Services Committee members to attend the Planning Institute Australia WA 2003 Annual State Conference and that the matter be referred to full Council in the event that any member wishes to be nominated.

MOVED Cr Zelones
MOTION CARRIED (6/0)
DEVELOPMENT SERVICES 13TH OCTOBER 2003
COMMITTEE MEETING – Miscellaneous

*DELEGATION TO DETERMINE IF A “USE NOT LISTED” IS CONSISTENT WITH THE OBJECTIVES AND PURPOSE OF A ZONE

WARD : ALL
FILE REF : PCY/2
DATE : 4 August 2003
REF : PRR
RESPONSIBLE MANAGER : PSM

In Brief:-
- The City receives applications for various land uses that are not listed within specific zonings, or the entirety of, the Town Planning Schemes.
- The Council must determine whether these uses are acceptable in terms of the zoning they are situated in.
- Recommend that delegated authority be granted to the Executive Director Development Services / Planning Services Manager to determine if a “Use Not Listed” is consistent with the objectives and purpose of a zone.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications
Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications
Town Planning and Development Act 1928
Town Planning Regulations 1967
Town Planning Schemes No.2 and No.3

Council Policy / Local Law Implications
Nil.

Budget / Financial Implications
Nil.

Consultation
Development Services Directorate
BACKGROUND

The City occasionally receives applications for uses that are not considered by the provisions of Town Planning Schemes No.2 and No.3 (TPS No.2 and No.3). Such a use is termed a ‘Use Not Listed’ and is subject to an additional step in the approval / refusal process. Council should first determine whether the use could be considered within the zone or not. If so, Officers would then undertake the usual assessment, including public advertising, before referring a report to Council for a final decision.

This means the timeframe for these particular applications would need to encompass two Council meetings and could realistically extend beyond the statutory timeframe specified within TPS No.2 and No.3, upon which some of the Planning Departments’ Key Performance Indicators are based. To date, the Planning Department has referred reports for such applications to Council at the end of the process with a two part resolution, the first part asking Council to determine whether the use was consistent with the zone and the second part recommending conditions of approval or grounds for refusal. Whilst reducing the timeframe of the application as a result, this procedure is technically inconsistent with the wording of the Town Planning Scheme. Advertising is to follow the determination of a use as a ‘Use Not Listed’.

DETAILS OF PROPOSAL

In the interests of efficiency, it is proposed that Council provide delegation to the Executive Director Development Services and / or the Planning Services Manager to determine whether a proposed use may be considered a ‘Use Not Listed’ should it fall within the explanations outlined by TPS No.2 and No3. This would mean the application would then only be referred to Council for a decision regarding approval or refusal of the proposed use.

ANALYSIS

Town Planning Scheme Provisions

Powers of Delegation

Clauses 7.10 and 11.14 of TPS No.2 and No.3 respectively provide for Council to delegate to an officer of the Council the authority to determine an application for development approval or planning consent.

‘Use Not Listed’

A ‘Use Not Listed’ is explained in Town Planning Scheme No.2 (TPS No.2) as follows: “if a particular use or purpose is not mentioned in the list of use classes or is not included in the general terms of any of the use classes in the Development Table”.
Similarly, Town Planning Scheme No.3 explains a ‘Use Not Listed’ as follows: “if a use of land for a particular purpose is not specifically mentioned in the “Use Classes” column of the Zoning Table and cannot be reasonably be determined as falling within the list of definitions under “Interpretation” at Clause 1.8”.

Clauses 3.4 and 3.3 of TPS No.2 and No.3 respectively outline the procedure described in the Background section and are the subject of this delegation request.

**Zoning Purpose and Objectives**

The purpose of a zoning is relatively straightforward as the title of the zoning generally reflects the type of land use expected in the area. The Objectives of a zone (or Policy Statement in TPS No.2) outline more specific criteria to guide officers regarding the intention for development within each zone. For example, the ‘General Rural’ zone in TPS No.2 has the following Policy Statement:

“Zone intended for the conservation of natural resources, the maintenance of an open, broad acre rural character, the fostering of rural uses and rural industries in circumstances where they do not constitute a nuisance. Where compatible, such uses promoting tourism, recreation and entertainment where it does not impact upon the amenity of surrounding properties may be permitted. Apart from subdivision which will, in Council’s opinion, assist in achieving the objectives of the zone, subdivision will not be recommended by Council”.

With the details of the application and these Objectives and Policy Statements for guidance, officers should be able to make an informed decision on whether an application for a ‘Use Not Listed’ should be considered in the zone or not.

**Determination of Applications**

Determination of applications for a ‘Use Not Listed’ would remain the responsibility of Council. This report seeks delegation for Clauses 3.4 and 3.3 of TPS No.2 and No.3 respectively, to allow the Executive Director Development Services and / or the Planning Services Manager to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of the zoning in which the subject site is situated. This would eliminate the need for an initial report to Council and would reduce processing time of applications.

**OPTIONS**

1. Council may grant delegated authority to the Executive Director Development Services / Planning Services Manager to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of the zoning in which the subject site is situated, in accordance with Clauses 3.4 and 3.3 of TPS No.2 and No.3 respectively.

2. Council could maintain the current process under TPS No.2 and No.3, which requires it to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of the zoning in which the subject site is situated and whether or not the application is to be approved or refused, in two separate Council meetings.
CONCLUSION

With Council ultimately deciding whether an application for a ‘Use Not Listed’ should be approved or refused, it would be in the interest of efficiency to grant delegation to officers to determine if a proposed use is consistent with the objectives and purpose of a zone. Officers can assess the details that will be submitted regarding the proposal against the information available in TPS No.2 and No.3 to determine the appropriateness of a ‘Use Not Listed’. Council’s time may then be spent on more complicated matters. It is therefore believed that the delegation request should be approved in accordance with Option 1.

D185/10/03 RECOMMEND

1. That Council grant delegated authority, in accordance with Clauses 7.10 and 11.14 of Town Planning Schemes No.2 and No.3 respectively, to the Executive Director Development Services and the Planning Services Manager, to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of the zoning in which the subject site is situated.

2. That the following Delegation of Authority be added to Council’s Delegation of Authority Register:

   Authority to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of a zone.

   The Executive Director Development Services and / or Planning Services Manager is delegated authority to determine if a ‘Use Not Listed’ is consistent with the objectives and purpose of the zoning in which the subject site is situated, in accordance with Clauses 3.4 and 3.3 of Town Planning Schemes No.2 and No.3 respectively.

   Note - Where in the opinion of the Executive Director Development Services / Planning Services Manager a “Use Not Listed” is considered not to be consistent with the objectives and purpose of the zoning in which the subject site is situated, the application is to be referred to Council for determination.

* ABSOLUTE MAJORITY REQUIRED

MOVED Cr Reynolds
MOTION CARRIED (6/0)
DIALOGUE WITH THE CITY

WARD : ALL
FILE REF : DEV/1
DATE : 2 October 2003
REF : IM
RESPONSIBLE MANAGER : EDDS

In Brief:-
The Dialogue with the City Consultation Forum was held on 13 September 2003 when over 1100 people attended a day long process to discuss:

- the things about Perth worth keeping;
- the things about Perth that need to be changed;
- the growth scenario most appropriate for the future development of Perth.

Recommend that Council note the report on the Dialogue with the City held on 13 September 2003.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications

There could be strategic implications to the way development occurs and planning proceeds arising from the initiatives resulting from the Dialogue with the City.

Legislation Implications

Metropolitan Region Scheme
Town Planning Schemes 2 and 3.

Council Policy / Local Law Implications

No immediate implications – but it is possible that the Dialogue with the City will lead to policy initiatives from State government that local governments will be obliged to comply with.

Budget / Financial Implications

Nil.

BACKGROUND

Over the past few years the Western Australian Planning Commission have released a number of discussion papers on Future Perth. These papers have been intended to inform readers of the way in which Perth should be planned over the next 30 years. However, the papers have not achieved the desired focus or brought a new plan into fruition. The Dialogue with the City could be seen as a mechanism to heighten awareness and raise the profile of the new regional plan.
At its meeting of 18 August 2003 Council received a report on the Dialogue with the City Community Consultation Forum and resolved not to nominate a member to attend. However, the report noted that the Executive Director Development Services had attended the filming of a one hour TV program that was subsequently aired on 31st August and that the Executive Director Development Services would attend the Community Consultation Forum on 13 September 2003.

**DIALOGUE WITH THE CITY COMMUNITY CONSULTATION FORUM**

The Community Consultation Forum was held in the Fremantle Passenger Terminal and was attended by 1100 Western Australians.

The event was opened by Premier Geoff Gallop and Minister Alannah MacTiernan who endorsed the commitment to a consultative approach to planning.

Two international speakers presented their views regarding Perth and planning its future. Professor David Begg from the UK noted that he found Perth to be the only city in his experience that was car orientated but pleasant at the same time. However, he urged that the city could be more pleasant if we used more public transport. John Fregonese from the USA repeated the message on public transport and assured the audience that major community planning exercises were appropriate approaches to regional plan reviews as they had worked for Portland, Austin, Chicago and Southern California.

The forum incorporated two main sessions. Firstly the morning session involved group discussion using networked computers. The computers positioned at each table allowed discussion and issues to be recorded and compiled in real time. A set of common themes that were agreeable to delegates were then formed and displayed on large screens, enabling delegates to discuss the ideas and opinions presented by others. The focus of discussion was what made, and how to make, Perth the World’s most liveable city.

According to the Minister’s press statement released immediately after the Forum, the outcome was that participants wanted:

- concentrations around improved public transport routes;
- distinctive urban villages;
- the retention of the “WA lifestyle”;
- freedom of choice and the suburban backyard; and
- greater diversity in housing types supported by mixed use and higher density in some areas.

*The general conclusions have been graphed as illustrated on the next page. This is followed by a summary of the conclusions drawn from the second session, the planning game based on the four scenarios designed around the form and direction of metropolitan growth over the next 30 years.*
MAKING PERTH THE WORLD’S MOST LIVEABLE CITY

To make Perth the world’s most liveable city by 2030, the delegates agreed that some aspects should be kept while others needed to be changed.

Delegates widely agreed that the following aspects are worth keeping.

**TOP FIVE ASPECTS TO KEEP**

- **ENVIRONMENT** - Green, clean environment - access for all to open spaces, rivers, forests, beaches (32.3%)
- **INTEGRATED TRANSPORT PLANNING** - ease of movement and lifestyle opportunities (14.9%)
- **LOCAL CENTRES** - mixed use, vibrant, proximity of services (eg: Subiaco) (12.9%)
- **LIFESTYLES** - high quality, freedom of choice, laid back “Aussieness”, mixed communities (9.1%)
- **PROTECT GROUND WATER CATCHMENT** - clear focused directed decision making (6.7%)

Delegates also agreed that there are ways that we can improve our city for future generations, but in order to achieve this we must change the following aspects.

**TOP FIVE ASPECTS TO CHANGE**

- **TRANSPORT** - alternatives to cars, public - reliable, frequent, separate people and freight (26.2%)
- **RESOURCES** - better water use, better energy efficiency, more alternative energy (17.1%)
- **ENVIRONMENT** - cleaner, protect natural resources, more green space (13.2%)
- **NO SPRAWL** - introduce growth boundaries, better use of available space (13.0%)
- **HOUSING, ARCHITECTURE & DESIGN** - greater diversity and choice, bolder design, increased density and mixed use areas, better street-scaping (8.2%)
THE PLANNING SCENARIOS – DELEGATES’ VIEW

The latter part of the forum involved playing a planning game, similar to that used in the regional planning workshops held across the USA by Fregonese Calthorpe Associates. The Perth game included delegates choosing the type of scenario they would most like Government to use to manage the future population, employment, transport and housing requirements of Perth, Murray and Mandurah. Each scenario had different economic, environmental and social impacts.

As shown by the graph below, about 35 per cent of delegates supported the Connected Network planning scenario, demonstrating a strong desire to create and connect vibrant urban villages to promote a sense of local community spirit. Few people supported the continued sprawl of our city. Indeed, more than 70 per cent of delegates showed support for an urban growth boundary, as has been adopted by Melbourne and Adelaide.

Delegates were also asked to identify elements of each of the four scenarios that they believed would help make Perth the world’s most liveable city. The following is a summary of the most commonly held elements.

CONNECTED NETWORK

- Local community spirit and employment opportunities near residences.
- Localised services – high level access to entertainment, sport and recreation.
- Access and mobility, reduced pressure on transport and freight.
- Variety and better housing types.

The most common words used by delegates were:

Transport; community; access; employment; local; node; urban; centre; public; village; walk.
MULTI CENTRED CITY

- Environment – retains open space, people’s needs above cars.
- Limit sprawl – supports local communities, focused transport systems.
- Employment – concentrated and localised, encourages business.
- Energy efficient – reduced pollution.

The most commonly used words by delegates were:

Centre; transport; employment; region; housing; rail; diverse; space; community; mix.

COMPACT CITY

- Limits growth – protects environment outside boundary from growth.
- City – more vibrant, exciting, cultural/social focus.
- (Public) transport – promotes use of public transport, cheaper infrastructure, reduced car use.
- More sense of community.

The most commonly used words by delegates were:

Transport; infrastructure; reduce; car; urban sprawl; environment; centre.

DISPERSED CITY

- Private space and openness, more public open space.
- Potential to retain bushland and green space.
- Most choices – lot sizes and lifestyle.
- Caters for existing preferences and values “Great Aussie Dream”.

The most common words used were:

Space; lifestyle; open; bushland; rural; choice; private; large; afford.
COMMENT

Inevitably with events such as this where participants are required to give up their Saturday, it can be faulted as not providing a true cross-section of the community, however, it achieved its purpose in gaining attention.

It could also be questioned how the significant costs associated with bringing so many people together along with 400 facilitators at one time to progress something as complex as a regional plan could be justified. The answer appeared to be derived from the USA where similar events have been run. In particular 4,500 people got together to assess the six design proposals for the twin towers site in New York and threw out the lot. The argument was put that while you can ignore ten or twenty meetings of 100 people, you can’t ignore a gathering of over thousand people.

In the limited time available it was appropriate to focus on a limited number of scenarios. However these were necessarily simplified and incomplete. Moreover, the information describing each scenario could be seen as biased in favour of the consolidated urban form and against the more dispersed city which was somewhat inaccurately presented as the past practice.

Participants were expected to form an opinion about the merit of an Urban Growth Boundary with little understanding of whether it would have any negative impacts on house prices or how it really operates elsewhere. Subsequent reports indicated that 70% of delegates wanted the government to set an urban growth boundary. Where this figure came from is not clear as delegates were not asked to individually vote on this. It should be noted that the concept as used in the USA is somewhat akin to the requirement under the Metropolitan Region Scheme for land to be rezoned from rural to urban only after careful evaluation of housing demand.

Participants appeared to be more passionate about maintaining their treasured lifestyle than they were about seriously taking steps to change it. This suggests a cautionary approach to any radical policy that would threaten the continuance of the Western Australian lifestyle.

The scenarios most suiting the City of Armadale would appear to be either the Multi Centred City or the Connected Network. These would see less emphasis on the inner areas while allowing for the focusing of services in regional locations.

The next steps in the process will be:

- A Steering Group will utilise the results of the Forum to devise objectives for Government to assist Perth to become the world’s more liveable city. (The published summary report indicates that “representatives from local government who were at the forum will be involved to ensure local government is an integral part of the planning process.”)
- The objectives will be submitted to the Minister for Planning and Infrastructure for consideration.
Guidelines will be submitted to the WAPC as input to their policies and strategic plan.

Once endorsed local and state planning authorities could apply the guidelines and policies to future projects and developments.

Local and state government may need to amend schemes, policies and possibly legislation to implement the guidelines.

CONCLUSION

The Dialogue with the City was a major event attended by 1100 people with the objective of providing direction to the future planning of the metropolitan region. It is possible that the outcome of the event will be various initiatives to modify the direction of urban growth, in particular to encourage transit-orientated development and a more consolidated urban form. While some caution needs to be exercised in extrapolating the results of a one day workshop to a blueprint for the future planning of the Perth region, the event was ambitious and succeeded in drawing out discussion on important planning issues.

D186/10/03 RECOMMEND

That Council note the report on the Dialogue with the City held on 13 September 2003.

MOVED Cr Zelones
MOTION CARRIED (6/0)
**KEEPING OF FARM ANIMALS – LOT 4 (250) ANSTEY ROAD, FORRESTDALE**

WARD : FORRESTDALE
FILE REF : A186581
DATE : 23 September 2003
REF : RVD
RESPONSIBLE MANAGER : PSM
APPLICANT : B & C Sorgiovanni
LAND OWNER : B & C Sorgiovanni
SUBJECT LAND : Property size 5.6482ha
Map 19-05
ZONING MRS/TPS No.2 : Rural/ Rural C

**In Brief:**
- Application to keep farm animals at Lot 4 (250) Anstey Rd, Forrestdale.
- Consultation with surrounding landholders yielded only one letter of no objection from the Water Corporation.
- Keeping of one pig could be considered as a Rural Use under Town Planning Scheme No.2.
- Recommend that the keeping of cattle, sheep and one pig be approved subject to stocking rates not exceeding 98 Dry Sheep Equivalent as this concurs with Department of Agriculture stocking rate recommendations.

**Tabled Items**
Nil.

**Officer Interest Declaration**
Nil.

(The applicant’s son is an employee of the City of Armadale. He has acted on behalf of the applicants in providing information about the proposal when requested by staff and has conveyed information about Council’s legislative framework and progress of the application to the applicants.)

**Strategic Implications**

Development “To balance the needs of development with sustainable economic, social and environmental objectives”.

**Legislation Implications**

Town Planning and Development Act 1928
Town Planning Scheme No.2
City of Armadale Environment, Animals and Nuisance Local Laws 2002
City of Armadale Health Local Laws 2002

**Council Policy / Local Law Implications**
Nil.
Budget / Financial Implications

Nil.

Consultation

- Surrounding landholders including the Water Corporation
- Development Control Unit

BACKGROUND

In February 2003, the City’s Compliance Officer wrote to the owners of the subject land observing that several unauthorised uses appeared to be taking place on the property. In response to this letter a development application was lodged on 24 March 2003 for the keeping of farm animals including one or two pigs. The applicant has since orally advised that approval is now being only sought for one pig. Processing of the development application commenced on 27 August 2003 following payment of the application fee.

Other compliance matters are being dealt with separately.

DETAILS OF PROPOSAL

The applicant requests permission to keep approximately 20 cattle, 15 sheep and one pig on the property. The stock would be lot fed with grain from troughs and be provided with hay. The pig would be kept in a yard that is shifted around Paddock 3.

COMMENT

Development Control Unit

The Development Control Unit drew attention to the City of Armadale Environment, Animals and Nuisance Local Laws 2002 relating to the keeping of pigs in the rural zone, noting that the keeping of one pig would be acceptable.

The Environmental Planner noted that a feedlot would not be acceptable because of the potential for nutrient rich runoff to flow along drains and into the Southern River/ Canning River. However, stocking in accordance with Department of Agriculture Stocking Rate Guidelines for Rural Small Holdings would be acceptable.

Public submissions

Adjoining landholders were notified of the proposal on 2 September 2003 and provided with the opportunity to comment until 22 September 2003. The only submission received was from the Water Corporation which has no objections to the proposal.
Analysis

Town Planning Scheme No.2, City of Armadale Environment, Animals and Nuisance Local Laws 2002 and City of Armadale Health Local Laws

Under Town Planning Scheme No.2, “Rural Use” includes agriculture and grazing but specifically excludes piggeries. The keeping of farm animals is a Rural Use.

The subject land is zoned Rural C and Rural Use is a use not permitted within the zone unless the Council has exercised its discretion by granting planning approval.

Under the City of Armadale Health Local Laws 2002 a piggery constitutes the keeping of one or more pigs “for purposes of trade”. Piggeries are considered a “Rural Industry”. Under Town Planning Scheme No.2, Rural Industry is a use that is not permitted in the Rural C zone that covers the subject land.

Under Clause 35 (2) of the City of Armadale Environment, Animals and Nuisance Local Laws 2002 the “owner or occupier of premises in a rural zone shall not keep more than one pig other than on premises registered as a piggery pursuant to the provisions of the Health Act 1911 except with the express written approval of Council”.

It is therefore considered that in this instance the keeping of one pig should be considered as agriculture rather than as a piggery, and therefore as a “Rural Use” under Town Planning Scheme No.2.

City of Armadale Rural Strategy

Lot 4 (250) Anstey Road lies in the Forrestdale Rural Planning Area. Grazing (on most soils) is listed as a “Desirable/Conditional Land Use” whilst stock holding yards, which would include feed lotting of stock is listed as an “Undesirable Land Use”. Management controls for the precinct include controlling stock to maintain permanent pasture, revegetation and minimisation of fertiliser application.

Southern River/Forrestdale/Brookdale/Wungong District Structure Plan

Lot 4 (250) Anstey Road is proposed to remain rural in the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan. The plan proposes industrial land to the west, an open space drainage corridor to the north and east, and more rural land to the south. This proposal is considered to be consistent with the District Structure Plan.

Stocking rate guidelines to prevent adverse environmental impacts

The Department of Agriculture Stocking Rate Guidelines for Rural Small Holdings identify stocking rates for the soil type on this property as six Dry Sheep Equivalent (DSE) per hectare for non-irrigated pasture and 20 DSE per hectare for irrigated pasture.

Based on the area proposed to be irrigated, the property can support 98 DSE.
The table below, reproduced from the Department of Agriculture Stocking Rate Guidelines for Rural Small Holdings, equates various livestock to their equivalent DSE.

<table>
<thead>
<tr>
<th>Type of livestock</th>
<th>Dry sheep equivalent (DSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheep</td>
<td></td>
</tr>
<tr>
<td>50kg Wether, ewe</td>
<td>1.0</td>
</tr>
<tr>
<td>40-45kg Lambing ewe (ewe and lamb)</td>
<td>1.5</td>
</tr>
<tr>
<td>75kg Rams</td>
<td>1.5</td>
</tr>
<tr>
<td>Cattle</td>
<td></td>
</tr>
<tr>
<td>425kg Milking cow</td>
<td>10.0</td>
</tr>
<tr>
<td>425kg Dry cows, yearling, steer or heifer</td>
<td>8.0</td>
</tr>
<tr>
<td>300kg Yearling, heifer</td>
<td>6.0</td>
</tr>
<tr>
<td>200kg Smaller cattle (Dexter, Lowline)</td>
<td>4.0</td>
</tr>
<tr>
<td>750kg Bull, cow with calf</td>
<td>15.0</td>
</tr>
<tr>
<td>Cow with young calf</td>
<td>10.0</td>
</tr>
</tbody>
</table>

Based on the above table, the proposal to keep 20 cattle and 15 sheep could result in a total grazing rate of between 135 to 322 DSE, depending on the type of sheep or cattle, which exceeds the capacity of the property.

The grazing rate would change as stock are changed or breed. Therefore it is recommended that approval be granted for the property to be stocked to a maximum of 98 DSE, and that the applicants attention be drawn to provision 5.9.7 of Town Planning Scheme No.2 which provides for Council to order a reduction in the number of stock if the land is grazed so topsoil is exposed.

Requiring the stocking rate to be a maximum of 98 DSE is expected to ensure other environmental aspects such as nutrient loss to the nearby drain are not at unacceptable levels.

If the proposal is approved, the applicant will be provided with a copy of the table showing type of livestock and Dry Sheep Equivalent from the Department of Agriculture Stocking Rate Guidelines for Rural Small Holdings.

**Potential adverse impacts from the keeping of a pig**

The potential adverse impacts from the keeping of one pig are considered to be minimal. The current proposal proposes that the pig be moved around the paddock central to the property along Anstey Road in a mobile pen.

The City of Armadale Environment, Animals and Nuisance Local Laws 2002 specifies that farm animals are not to be kept within 15m of another dwelling, lot or premises where food is prepared for sale. The applicant should be advised that compliance with the City’s local laws is required.
Options

1. Council could approve the keeping of farm animals at the Department of Agriculture’s recommended stocking rates (i.e. 98 DSE for Lot 4 (250 Anstey Road) and the keeping of one pig.

2. Council could approve the keeping of farm animals but not the pig at Lot 4 (250) Anstey Road, Forrestdale on the basis that keeping of one pig is a Rural Use under Town Planning Scheme No.2.

CONCLUSION

It is considered that the keeping of farm animals to the equivalent of 98 DSE and one pig is unlikely to adversely affect the amenity of the area. Therefore it is recommended that Council exercise its discretion and approve the proposal.

D187/10/03  RECOMMEND

1. That Council determine that the keeping of cattle, sheep and one pig is a Rural Use under Town Planning Scheme No.2 and approve the use at Lot 4 (250) Anstey Road, Forrestdale subject to the following condition:
   a) the stocking rate of farm animals on the property is not to exceed 98 Dry Sheep Equivalent.

2. That the applicant be advised of the requirement to comply with:
   a) the City of Armadale Environment, Animals and Nuisance Local Laws 2002; and
   b) Provision 5.9.7 of Town Planning Scheme No.2 that requires management of the land to prevent loss of topsoil.

MOVED Cr Hart
MOTION CARRIED (6/0)
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REQUEST TO PURCHASE PORTION OF RESERVE 14217 FLETCHER PARK, WUNGONG

WARD : ARMADALE
FILE REF : A178443
DATE : 1 October 2003
REF : HC
RESPONSIBLE MANAGER : PSM
APPLICANT : A Moor and D Meakins, & W Pickering
LAND OWNER : Crown, vested in the City of Armadale
SUBJECT LAND : Reserve 14217 (Fletcher Park) Wungong
               Property size 19.1204ha
               Map 22.39
ZONING MRS/TPS No.2 : Rural / Parks & Recreation (Local)

In Brief:-

- Council supported requests to purchase portion of Fletcher Park and asked that the matter be progressed by advertising.
- Two responses received from private individuals (one negative, one positive).
- DPI Land Asset Management Services (prev DOLA) advises that any funds from sale will be retained by State Government.
- DPI advises rezoning of the land is required prior to its support of the sale.
- Recommend that the portion of land in Reserve 14217, Fletcher Park, proposed to be sold by Council at its meeting of 16 June 2003, be rezoned to “Rural Living 2” in the review of Town Planning Scheme No.4 prior to progressing the sale to the applicants and any costs of the future subdivision and sale are to be borne by the applicants.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

To enhance the qualities and benefits of our natural and built environments.

Legislation Implications

Town Planning and Development Act 1928.
Metropolitan Region Town Planning Scheme Act 1959.
Metropolitan Region Scheme.
Town Planning Scheme No.2.

Council Policy / Local Law Implications

Nil.
Budget / Financial Implications

Rezoning - Advertising for rezoning - $850.00. Officer time - $3,000.
No income from sale accruing to POS Trust Fund
Lease agreement legal fees $1500. Valuation $900.00.
Income from lease at commercial rates accruing to the Property Leases and Rentals account.

Consultation

Nil.

BACKGROUND

The applicants are seeking to purchase or lease portions of Reserve 14217 Fletcher Park immediately to the rear of their properties on Mitchell Street, Wungong.

At its meeting of 16 June 2003 Council resolved that subject to the finalisation of boundaries:

1. Council support the request by Mr Pickering to purchase the portion of Reserve 14217 Fletcher Park, Wungong, immediately south of Lot 151 (No.53) Mitchell Street, Wungong to a point level with the boundary between Lot 7 (No.45) Mitchell Street and Lot 1 (No.46) Eleventh Road, Wungong.

2. Council support the request by Mr Meakins and Ms Moor to purchase the portion of Reserve 14217 Fletcher Park, Wungong, immediately south of Lot 150 (No.51) Mitchell Street, Wungong to a point level with the boundary between Lot 7 (No.45) Mitchell Street and Lot 1 (No.46) Eleventh Road, Wungong.

3. The matter be progressed by advertising in the local newspapers, a sign on the Reserve and letters to surrounding owners.

4. That the Pony Club be advised of Council’s support for the sale of the above land.

RESPONSE TO ADVERTISING

Advertising by newspaper, letter and sign has been undertaken. Two responses were received from residents. One was a letter of wholehearted support from a nearby landowner. The other, from a Bedfordale resident, suggested that a comprehensive flora census and environmental study be undertaken and published prior to further consideration of sale. He suggested that the sale would set a precedent that would make it difficult to refuse the sale of reserved land in other areas.

It could be noted that the area in question has been previously cleared, apart from a stand of Red gums and Grass Trees in one corner. Otherwise the predominant flora appears to be Paterson’s curse. The City’s Environmental Officer, as previously reported, has examined the area and has raised no objection to its sale or lease.
Response from Department of Planning and Infrastructure Land Asset Management Services (Previously DOLA Function)

Prior to considering the proposal to dispose of the property, the Land Asset Management Branch require the following information:

i) Copies of clearances from the servicing authorities – AlintaGas, Telstra, Water Corporation and Western Power;
ii) In principle approval from the WA Planning Commission;
iii) A Statutory Declaration from Council that the subject land is not included in any lease granted by the City of Armadale;
iv) The applicant agreeing to meet all costs associated with the purchase and amalgamation.

They note that the proceeds from the sale of the land will be retained by their agency.

Response from Department of Planning and Infrastructure (DPI)

The DPI advises that the Western Australian Planning Commission (WAPC) does not support the creation of lots with multiple zoning. It recommends that a TPS amendment be initiated to zone the land consistent with the zoning of Lots 150 and 151. The amendment would provide the appropriate process for planning justification for the proposed disposal and amalgamation to be fully explained and assessed and for the public to participate in the decision making process. The Minister for Planning and Infrastructure would then be able to consider the planning merit and public submissions for the proposal.

COMMENT

Analysis

It appears that the proposed sale of portion of Reserve 14217 cannot be successfully progressed through the government agencies until a rezoning has been undertaken. Rezoning of the land as a separate action will potentially cost in advertising and officer time in the vicinity of $4,000.

Alternatively, consideration could be given to including the rezoning as part of the Town Planning Scheme review. This will ensure it receives further public scrutiny but without the added cost structure.

It is also to be noted that there will be no benefit to the City accruing from a sale should it be ultimately successful. The land was not reserved under Section 20A of the Town Planning and Development Act 1928 where a sale can accrue to Council’s Public Open Space Trust Funds. In this instance the land falls under Section 10 (5) of the Land Administration Act 1997 where any proceeds received by the Minister are to be credited to the State Government’s Consolidated Fund.

Leasing the portion of land to the applicants may therefore be worthy of further consideration. This could be undertaken without the need for rezoning the land and Council would retain the ultimate control thereof. The applicants have indicated they intend to control the land in an environmentally sensitive manner and any lease agreement could ensure that this was carried out in an appropriate manner.
**Options**

There appear to be four options for consideration:

1. Decline to further support the sale or lease of the land in question.

2. Support the future sale of the land and undertake to initiate an amendment to the Town Planning Scheme to rezone the land in question from “Parks & Recreation (Local)” to “Rural E”.

3. Support the future sale of the land and undertake to rezone that portion of Fletcher Park during the Town Planning scheme review process.

4. Consider negotiating the lease of the portion of Fletcher Park sought by the applicants.

**CONCLUSION**

Council has already resolved to progress a possible sale of the relevant portion of Fletcher Park. The WAPC will not support the creation of lots with multiple zoning so an amendment to the relevant portion of Fletcher Park is required. It is suggested that though no monetary gain will accumulate to Council, option 3, changing the zoning of that portion of Fletcher Park being undertaken in conjunction with the current Town Planning Scheme Review, is worthy of consideration.

**D188/10/03 RECOMMEND**

1. That the portion of land in Reserve 14217, Fletcher Park, proposed to be sold by Council at its meeting of 16 June 2003, be rezoned to “Rural Living 2” in the review of Town Planning Scheme No.4 prior to progressing the sale to the applicants.

2. That any costs of the future subdivision and sale of the land are to be borne by the applicants.

3. That the applicants and submitters be advised of (1) and (2) above.

MOVED Cr Green
MOTION CARRIED (6/0)

*Chief Executive Officer left the meeting at 8.37pm.*
REVIEW OF TOWN PLANNING SCHEME PROVISIONS RELATING TO CHILD MINDING CENTRES

WARD : ALL
FILE REF : 
DATE : 25 August 2003
REF : GIW/EDDS
RESPONSIBLE MANAGER : PSM
APPLICANT : N/A
LAND OWNER : N/A
SUBJECT LAND : N/A
ZONING MRS/TPS No.2 : Urban / Residential

In Brief:
- Report reviews Town Planning Scheme provisions relating to Child Minding Centres.
- Eight (8) applications involving child minding centres have been received since November 2002.
- Recommend that Council note the recent Town Planning Tribunal’s decision regarding Child Minding Centres and not, at this time, initiate amendments to Town Planning Scheme No.2 and No.3 to expressly prohibit larger child minding facilities within the Residential zone.

Tabled Items
Nil.

Officer Interest Declaration
Nil.

Strategic Implications
Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications
- Town Planning & Development Act 1928
- Metropolitan Region Scheme Act 1959
- Metropolitan Region Scheme
- Town Planning Scheme No.2
- Environmental Protection Act 1986
- Environmental Protection (Noise) Regulations 1997

Council Policy / Local Law Implications
Child Care Centres Policy 4.3.15
Budget / Financial Implications

There have been costs associated with recent appeals regarding Child Minding Centres. Notably the City expended $80,000 contesting the appeal involving the proposed centre at Caroline Street.

Consultation

Nil

INTRODUCTION

The purpose of this report is to outline recent Tribunal decisions relating to Child Minding Centres, review the current Town Planning Scheme No.2 provisions relating to Child Minding Centres and to examine various options available to Council with respect to restricting the scale of such developments within residential areas, limit the influx of such applications, and reducing the instances of lengthy / costly appeals.

BACKGROUND

Several applications have been made recently for child minding centres. Council has received eight applications since November 2002, including the following:

Summary of Child Minding Centre Applications subject to appeal

1. Corner of Ottaway Street and Albany Highway, Kelmscott (Lot 1 Ottaway Street)

   The Town Planning Appeal Tribunal upheld an appeal against Council’s refusal of this application for 50 children. The Tribunal determined that “need” / “competition” is not considered a valid Planning argument to refuse an application and was satisfied that the potential noise and traffic impacts would not adversely impact on the amenity.

2. Corner Westfield and Cammillo Roads, Kelmscott (Lot 15 Cammillo Road)

   Council issued an approval for this centre to accommodate 99 children through the mediation process of the Town Planning Appeal Tribunal after an appeal was submitted against Council’s initial refusal concerning potential impacts of traffic and noise. The applicant submitted an acoustic report and traffic study during mediation that resolved these concerns.

3. Corner Caroline Street and Albany Highway, Mount Nasura (Lot 14 Caroline Street)

   The Town Planning Appeal Tribunal upheld an appeal against Council’s refusal of this application for 71 children on grounds mainly concerning potential impacts of traffic and road safety at the intersection of Albany Highway and Caroline Street. The Tribunal determined that the proposed development would not increase the risk of traffic accidents to an unacceptable level. The Tribunal decision on this application is examined further in the “Case Study” section of this report below.
4. **Corner Holden and Heather Roads, Roleystone**

This existing centre applied for an extension and an increase in numbers from 30 to 60 children, which was refused by Council on grounds concerning potential impacts of traffic and noise. This proposal is currently the subject of the Town Planning Appeal Tribunal’s mediation process.

**Other Centres Approved by Council**

5. **Corner Forrest and Seventh Roads, Armadale**

Council approved this centre to accommodate 85 children subject to standard conditions.

6. **Corner Poad Street and Seville Drive, Seville Grove (Lot 501 Seville Road)**

Council approved this centre to accommodate 60 children subject to standard conditions.

**Current Applications**

7. **Corner Westfield Road and Starlight Pass (Pt Lot 28 Westfield Road)**

This proposed centre to accommodate 90 children is currently being assessed by Council Officers.

8. **Corner of Ottaway Street and Albany Highway, Kelmscott (Lot 1 Ottaway Street)**

*This is a revised application to increase the number of children from 50 to 75 and is currently being assessed by Council Officers.*

**COMMENT**

**Town Planning Scheme No.2**

A Child Minding Centre is classified as the following under Town Planning Scheme No.2:

- Discretionary “SA” use (advertising required) within the “Residential” and “Rural” zones;
- Discretionary “AA” use within the Industrial Business Development” zone;
- Permitted “P” use within the “Shopping” and “Office” zone
- A maximum number of 30 children and minimum lot area of 800m² also applies to child minding centre developments within the “Residential” zone (Table 1.2), however, these provisions can be relaxed at the discretion of Council under Clause 7.6 ‘Relaxation of Standards’ under TPS No.2.
Clause 7.6 “Relaxation of Standards” of TPS No.2 enables Council to grant planning consent to a development that does not comply with the development standards of the Scheme if it is satisfied that:

a) If approval were granted, the development would be consistent with the orderly and proper planning of the locality and the preservation of amenities of the locality; and;

b) The non-compliance will not have an adverse effect upon the occupiers or users of the development or the property in or inhabitants of the locality or the likely future development of the locality; granting planning consent to the development subject to any conditions the Council thinks fit notwithstanding the non-compliance with the Scheme.

Under Town Planning Scheme No.3 Child Minding Centres are discretionary within all zones, however there are no criteria specified relating to the number of children or minimum lot area.

**Child Minding Centres Policy 4.3.15**

Policy 4.3.15 is supplementary to the requirements of TPS No.2 and No.3 and provides a guide only to the assessment of child minding centres. The policy outlines preferred location, site characteristics, car parking, building design and site layout, hours of operation and community consultation procedures for such proposals.

Council has also approved an amended Draft Child Care Centres Policy to be advertised under TPS No.4 that specifies a recommended lot size as follows:

“Applicants are encouraged to consider sites of 1400m² in the residential and rural zones...Where the applicant is seeking a relaxation of the Scheme requirement of maximum 30 children, a 3000m² site area is preferred.”

**Analysis**

**Case Study: Outcome of Town Planning Appeals Tribunal Decision on Caroline Street Child Minding Centre.**

Council refused an application for a child minding centre to accommodate 71 children at the corner of Caroline Street and Albany Highway in July 2002.

The Tribunal subsequently determined that the proposed child minding centre would not compromise the amenity of the surrounding residential locality on the following grounds:

- **Noise.** Based on findings of the submitted acoustic report and evidence provided by the proponent with respect to management practices of outdoor play activities, the Tribunal determined that nearby residences would not be adversely affected by noise generated by the proposed centre. The acoustic report confirmed that the anticipated noise levels would comply with the Environmental Protection (Noise) Regulations 1997 and that noise levels from passing traffic on Albany Highway exceeded the levels likely to be generated by the centre.
• **Traffic and road safety.** The Tribunal determined that the proposed development would not increase the risk of traffic accidents to an unacceptable level. It was a matter of judgement whether the increased accidents resulting from the centre were unacceptable.

• **Safety of outdoor play area.** An issue was raised during the hearing with regard to the potential for vehicles to crash through into the outdoor play area endangering children. The Tribunal was satisfied that this concern could be addressed as the appellant agreed to install / construct an appropriate crash barrier.

• **Number of children exceeds Scheme requirement.** The Tribunal determined that the intent of Clause 7.6 of TPS No.2 has been satisfied and therefore the limit of 30 children referred to in Table 1.2 should be relaxed accordingly.

**Discussion of Options**

**Established vs New Residential Areas**

All applications received to date are located within existing built-up areas. It is reasonable to expect that community objection to such applications will be greater in built-up areas as opposed to newer residential areas given the following:

• There is likely to be a higher demand for child care centres within newly created areas given the higher proportion of younger families;

• Residents in well established areas are less likely to accept changes to their surroundings compared to residents within newer areas where changes are more likely to occur until the area has fully developed;

• Developers have an opportunity to earmark suitable sites within new residential areas and therefore residents are more likely to be aware of such potential sites.

Council has expressed concern that child Minding centres have recently increased in size and could result in some compromise to the residential amenity of the areas in which they are located. It could be presumed that the original limit of 30 children within the Scheme was included because beyond this figure the use should be elsewhere. While applicants have argued successfully to the Tribunal that the 30 children limit was merely a standard that could be varied under Clause 7.6 like all other standards in the scheme, this may not have been Council’s original intent. It may now be timely to amend the scheme provisions to place it beyond doubt that large child minding centres should be restricted to commercial zones and the like.

It could be argued that small child minding centres are more compatible with residential areas and that larger centres take on more of a commercial character for which suitable zones exist.
Other arguments have also been mounted, such as the more homely nature of smaller centres, the more personalized care children receive and the fact that the community is already well served by a network of smaller centres. However, these arguments are either subjective or anti-competitive. They are not strong planning arguments.

There are arguments against initiating an amendment to limit large child minding centres from residential zones including:

- In view of the fact that the City is already well served by large centres, there may not be a significant need for applications of this scale in the future;

- Future operators would feel aggrieved by not being afforded similar opportunities to those provided in the past. It is possible that existing small centres will attempt to expand to compete with the new centres and a scheme amendment could prevent this;

- There is a view that the introduction of larger centres are purely a matter of competition, that this is healthy and will provide Armadale residents with a higher quality and more affordable service either from the larger centres or from the older centres being forced to upgrade to compete;

- There are other uses similar to large child minding centres that are accepted in residential areas, such as schools and churches, that are dealt with on the basis of actual impacts rather than the rigid application of number of attendees;

- Any restriction based purely on the number of children would be necessarily arbitrary. While the impacts of child minding centres can be scientifically assessed (in terms of noise and traffic) and measures taken to manage any impacts, the imposition of limits on numbers irrespective of site size, building features and management regime would be arbitrary and inflexible;

- The initiation of an amendment to limit larger centres would be likely to precipitate an influx of applications from existing and prospective child minding centre operators intent on applying for increases in the number of children prior to the amendment coming into effect. It would be expected that such an amendment would take at least a year to finalise.

While there are more arguments against amending the scheme to limit the size of child minding centres within residential zones than there are arguments in favour, if the Council was of the mind to do so, it could initiate such an amendment. Once such an amendment to the scheme was finalized the Tribunal would have no authority to consider an appeal against a Council refusal of a child minding facility that does not meet the specified criteria regarding the allowable number of children simply because the Council would have no discretionary power to approve such an application in the first instance.
Option 1

1. Initiate a text amendment to Clause 7.6 of TPS No.2 by including the words “child minding centre” to read as follows:

“If development other than a residential development or child minding centre in the Residential zone, the subject of an application for planning consent does not comply with a standard or requirement prescribed by the scheme applicable thereto the Council may if it is satisfied…”

This option provides Council with no discretion to vary the development standards of Table 1.2 (such as setback, minimum lot area or maximum 30 number of children) for child minding centre developments within the residential zone. An applicant has no grounds of appeal where Council does not exercise its discretionary powers under the Scheme.

A major disadvantage of this option is that it offers no flexibility for Council to vary from the scheme provisions under any circumstances. In particular, a prescribed limit on the number of children may unfairly restrict the feasibility of centres and provides no opportunity for the applicant to demonstrate the individual merits of a development proposal.

It should be noted that the current scheme provision is limited to a maximum of 30 children, however most existing and approved centres to date accommodate a range of between 50 and 99 children. Limiting the scale (number of children) is considered to be too restrictive and does not take into account site specific conditions such as lot size, traffic noise, management of the child minding centre, location and noise attenuation measures. In addition, there is no equivalent provision under Town Planning Scheme No.3 suggesting that for consistency a more substantial amendment would be required to TPS No.3.

Option 2

2. Initiate a text amendment to Table 1.2 of TPS No.2 to define Child Minding Centres as an “X” use- a use not permitted within residential zone.

This option could be argued against on the grounds that the majority of child minding centres are situated within the residential zone in close proximity to their catchment areas and it is not proven that child minding centres are detrimental to the amenity of residential areas. This option would confine such uses to the “Industrial Business Development”, “Shopping” and “Office” zones.

Option 3

3. Not to initiate a Scheme amendment. This would result in applications being determined on individual merit in the context of existing scheme and policy requirements, and the relaxation of standards in circumstances where the applicant can demonstrate that the development proposal does not compromise the amenity of the locality.
CONCLUSION

The City has received a number of proposals to establish large child minding centres in recent years and despite Council’s concerns all applications have been approved after satisfying planning requirements. Whilst it could be argued that large centres would be more appropriate within non-residential zones, it is difficult to sustain this argument in the context of the way in which other non-residential land uses are dealt with.

It could also be argued that the number of centres approved to date form a relatively even distribution throughout the City and therefore the likelihood of Council receiving an influx of such applications is now minimal. In addition, market forces will inevitable limit the number (demand and supply) and distribution of child minding centres. In this regard, it is recommended that each application continue to be assessed on its individual merit in the context of the existing scheme / policy requirements and recent Town Planning Appeal Tribunal decisions as per Option 3 above.

D189/10/03 RECOMMEND

That Council note the recent Town Planning Tribunal’s decision regarding Child Minding Centres and not, at this time, initiate amendments to Town Planning Scheme No.2 and No.3 to expressly prohibit larger child care facilities within the residential area.

MOVED Cr Zelones
MOTION CARRIED (7/0)

Chief Executive Officer returned to the meeting at 8.40pm.

Cr Knezevich returned to the meeting at 8.41pm.
**REDEVELOPMENT OF ROLEYSTONE SHOPPING CENTRE**

The matter of the integration of the Roleystone Hall with the proposed redevelopment of the Shopping Centre and opportunities to create a village centre was referred to Development Services Committee by Council at its meeting of 6th October 2003, on request by Councillor Hart.

Executive Director Development Services advised that a Development Application had been received, the advertising period is now closed and that a report will be submitted to the November round of meetings. A meeting with the Shopping Centre owner is also intended to discuss the proposed development.

Cr Hart reported on the opportunity to link Roleystone Hall with the Shopping Centre development to create a village centre.

Cr Reynolds advised that discussions with the local community members and the Local Member of Roleystone suggested that a village centre would be a desirable facility in this area.
EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORTS

The Executive Director updated the Committee on the following matters:-

- Champion Lakes Development – lodgement of injunction
- New Appointment – Environmental Officer

MEETING DECLARED CLOSED AT 9.07 PM