

# CITY OF ARMADALE

## MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 11<sup>TH</sup> NOVEMBER 2002, AT 7:00 PM.

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**PRESENT:** Cr H A Zelones JP Chairman  
Cr R R Fletcher (Deputy for Cr F R Green)  
Cr G M Hodges  
Cr J Everts  
Cr J Knezevich  
Cr L Reynolds JP  
Cr R C Stubbs AM

**APOLOGIES:** Cr F R Green (Leave of Absence)

**OBSERVERS:** Cr D L Hopper JP

**IN ATTENDANCE:** Mr R S Tame Chief Executive Officer  
Mr I MacRae Executive Director Development Services  
Mr J H A Adderley Executive Director Development Services  
Mr L Fouché Planning Services Manager  
Mr I Townson Building Services Manager  
Mr I Watt Acting Health Services Manager  
Ms N Cranfield Minute Secretary

Public 3

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***DISCLAIMER***

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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***

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Nil.

***QUESTION TIME***

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Nil.

***CONFIRMATION OF MINUTES***

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**RESOLVED**

Minutes of the Development Services Committee Meeting held on 14<sup>th</sup> October 2002, were confirmed.

MOVED Cr Knezevich  
MOTION CARRIED (7/0)

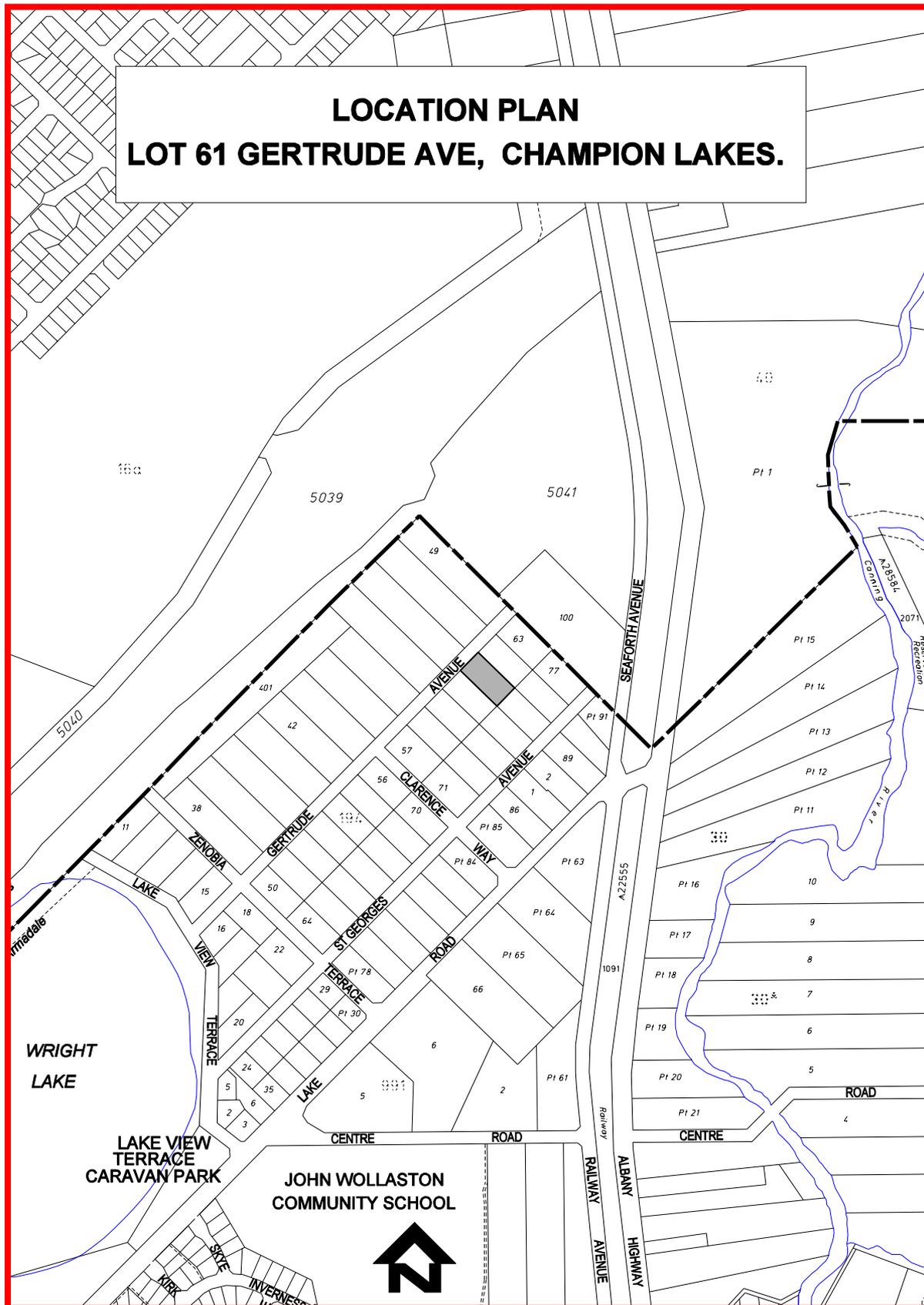
***ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.21/2002***

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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 September 2002
- ◆ Environmental Officer’s Quarterly Report – June to August 2002
- ◆ Planning Services Manager’s Report for September 2002
- ◆ PAW Closure Report – significant actions during September 2002
- ◆ Compliance Officer’s Report for the month of September 2002
- ◆ Town Planning Scheme No.2 & No.3 – Amendment Table
- ◆ Subdivision Applications – Recommendation Table
- ◆ Monthly Admin Reports for September 2002
- ◆ Minutes – Community Heritage Advisory Committee – 20/6/2002
- ◆ Minutes – Community Heritage Advisory Committee – 22/8/2002
- ◆ McLeods – Environmental Planning Law – Bulletin
- ◆ Financial Statements for the period ending 30<sup>th</sup> September 2002

*Committee noted the information and no items were raised for further report.*



***PROPOSED GARAGE / STORAGE SHED –  
LOT 61 (No.27) GERTRUDE AVE, CHAMPION LAKES***

WARD : WESTFIELD  
FILE REF : A81850  
DATE : 30 October 2002  
REF : JEH  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Avalon Sheds and  
Stables  
LAND OWNER : N & P Haring  
SUBJECT LAND : Property size 3238m<sup>2</sup>  
Map 22 – 09  
ZONING : Rural / Rural 'E'  
MRS/TPS No.2

**In Brief:-**

- Application is to construct a 100m<sup>2</sup> 'Colorbond' garage / storage shed.
- The proposed outbuilding does not comply with the required primary street setbacks, and the requirements of Council's 'Outbuildings Policy'.
- The application is considered to detract from the existing streetscape and amenity of the area.
- Recommended for approval subject to appropriate conditions (including the relocation of the proposed structure).

**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**

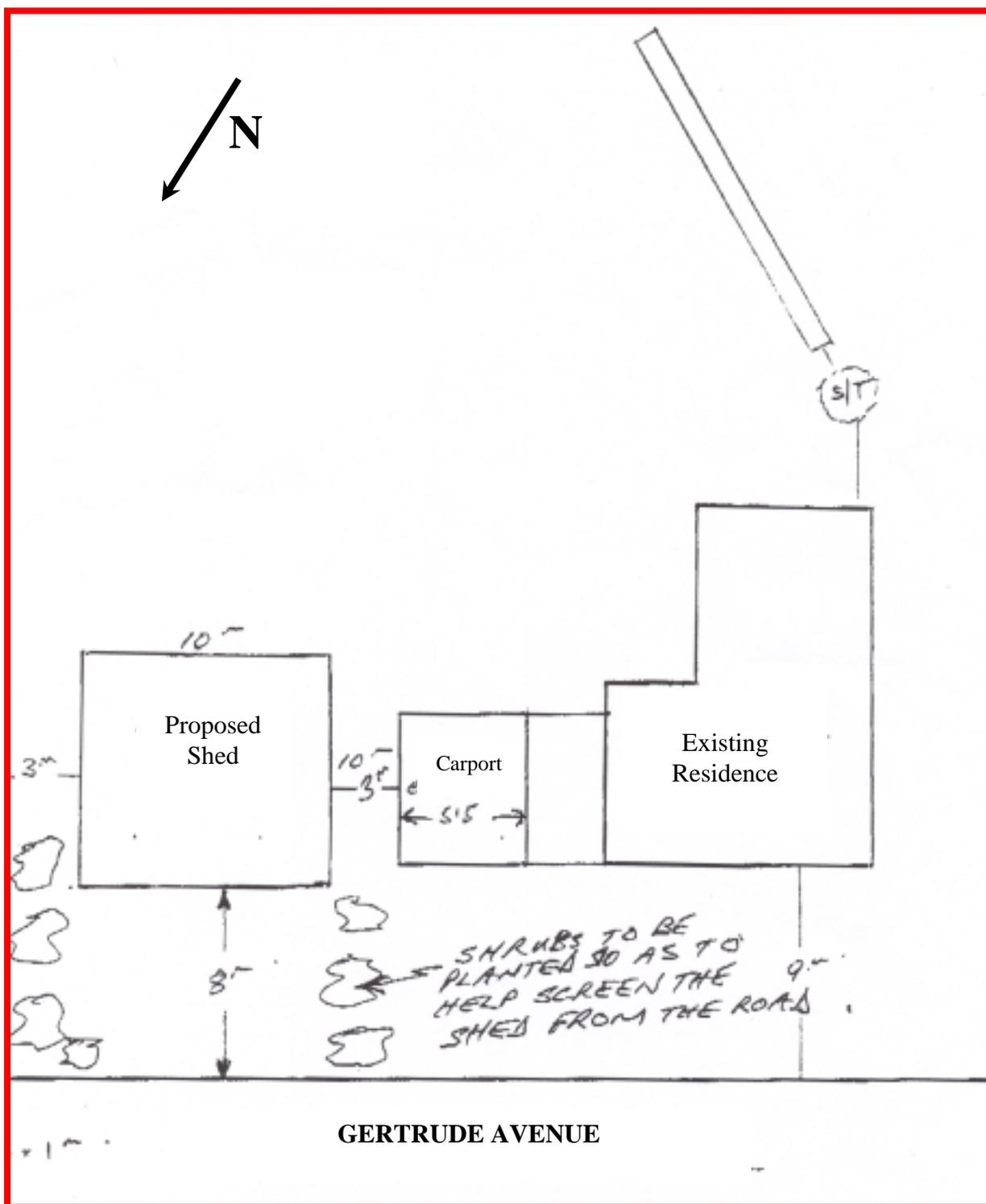
Town Planning & Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

4.3.7 Setback Variation Rural and General Rural zone  
4.5.20 Outbuildings in Residential and Rural Areas

**Budget / Financial Implications**

Nil.



SITE PLAN  
LOT 61 GERTRUDE AVE, CHAMPION LAKES

### **Consultation**

- ◆ Surrounding Landowners
- ◆ Development Control Unit (DCU)

### **BACKGROUND**

Council received the application on 16 September 2002 to erect a garage / storage shed at the subject property.

Since the proposal does not comply with Council's Policy 4.3.7- Setback Variations Rural and General Rural zone, the application has been referred to Council for determination.

### **EXISTING SITUATION**

Existing improvements on the property include a brick and tile house set back 9m from the Gertrude Avenue boundary. There is also an existing outbuilding of approximately 55m<sup>2</sup> in poor condition located behind the house, and a bore water stained "Colorbond" and Zinalume garage of approximately 24m<sup>2</sup> located entirely within the front setback. These existing outbuildings are to be demolished. There are a number of trees on the property, located primarily behind the existing residence and outbuilding, and close to the rear property boundary.

### **DETAILS OF PROPOSAL**

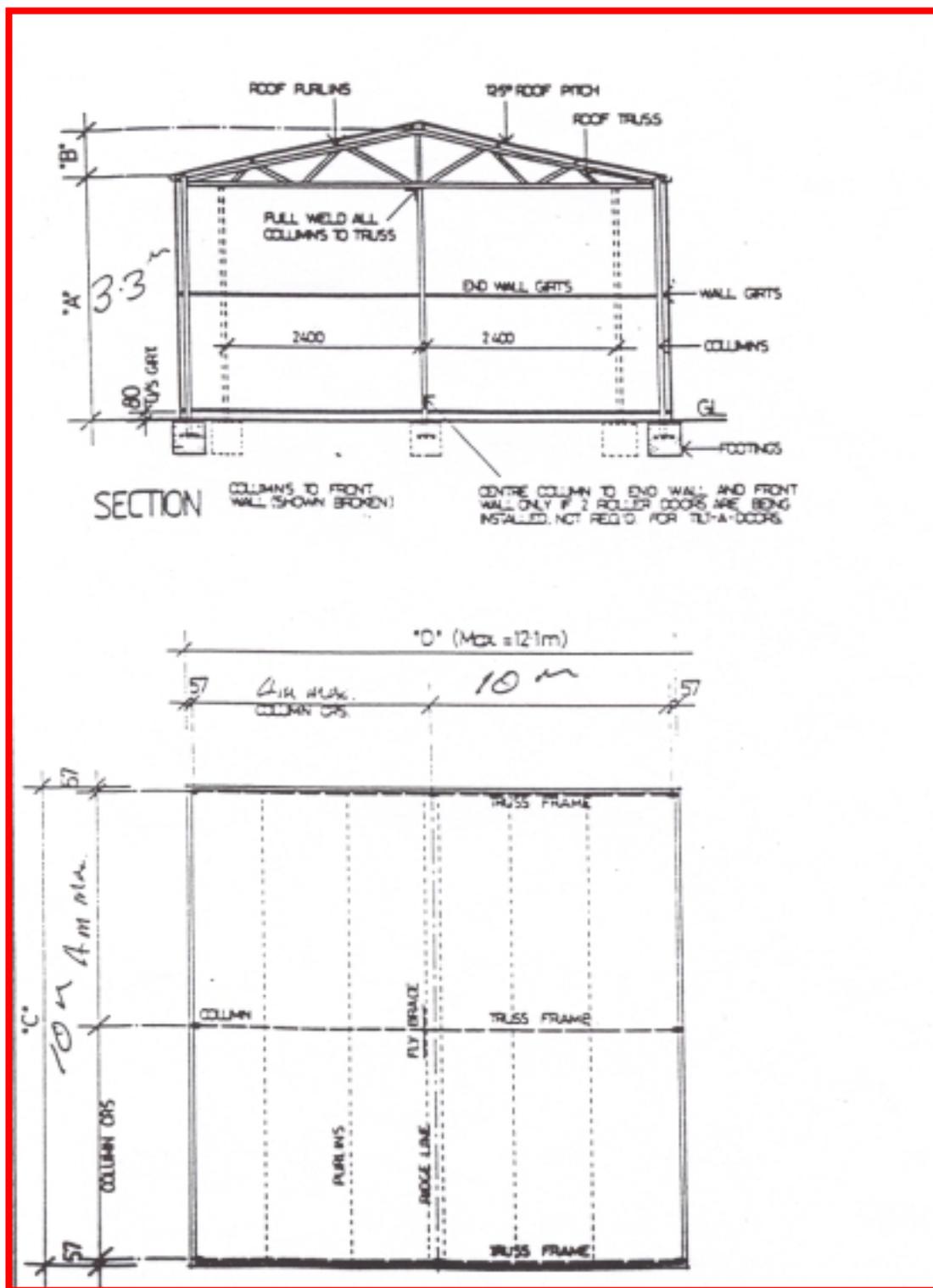
Details pertaining to the application include the following:

- ◆ Erection of a "Colorbond" garage / storage shed 10m in length, and 10m in width, with a total floor area of 100m<sup>2</sup>. The total height consists of a 3.3m wall height, 4.3m ridge height and a roof pitch of 12.5 degrees.
- ◆ The shed will be set back 8m from the Gertrude Ave boundary, 3m from the side boundary with Lot 32 (No.29) Gertrude Ave and 3m from the existing residence.
- ◆ The proposed garage / shed is steel framed and 'Colorbond' clad in 'Rivergum' colour.
- ◆ Shrubs are to be planted to help screen the shed from the road.
- ◆ The applicant has advised that two existing outbuilding on the site are to be demolished.

### **COMMENT**

#### ***Surrounding Landowners***

The applicant submitted a letter of no objections to the proposal signed by three surrounding landowners.



ELEVATION PLAN  
LOT 61 GERTRUDE AVE, CHAMPION LAKES

### ***Development Control Unit (DCU)***

DCU at its meeting held on 5 November 2002 recommended that the application be approved based on the following reasons:

- ◆ The setback of the proposed garage is generally consistent with setbacks of existing buildings on the same side of Gertrude Ave.
- ◆ The proposal replaces two old sheds with a new one.
- ◆ Letters of ‘No Objection’ have been received from surrounding landowners.

### **Analysis**

#### ***Town Planning Scheme No.2***

Under Town Planning Scheme No.2 the required primary street setback for the Rural zone is 15 metres. The land is zoned Rural E, which stipulates a minimum lot size of 1 ha. The size of the lots on the south side of Gertrude Avenue, including the subject property are generally between 3000m<sup>2</sup> and 4000m<sup>2</sup>.

#### ***Policy on ‘Setback Variation- Rural and General Rural Zone’***

The subject lot is 40.23 metres in width and 80.47 metres in depth. The ‘Setback Variation’ Policy states that, where the effective width of the lot is less than 50m, the City Planner (Planning Services Manager) is authorised to approve development applications having a minimum side setback as prescribed under Table 2 of the R-Codes. Given the lot configuration being less than 50m in effective width, the proposed side setback variation from property boundaries can be addressed under the provisions of Council’s Policy on ‘Setback Variation Rural and General Rural Zone’. The R-Codes require a minimum 1.5 metre side setback in this instance, and the applicant has provided a 3 metre side setback for the proposed outbuilding.

Where the effective depth of the lot is greater than 50 metres, the ‘Setback Variation’ Policy requires variations from the 15 metre front setback requirement to be referred to Council for deliberation. As observed during a site inspection, the existing residence is set back 9 metres from the boundary with Gertrude Ave, and the proposed garage/shed is to be set back 8 metres. Whilst this setback is generally consistent with the front setback of residential buildings in adjoining lots, there are no sheds of a similar size with comparable setbacks.

#### ***Council’s Outbuilding Policy***

The floor area of the proposed garage/shed is 100m<sup>2</sup>. The aggregate floor area of the existing outbuildings is approximately 79m<sup>2</sup>. The maximum aggregate floor area allowable under Council’s ‘Outbuilding Policy’ is 115m<sup>2</sup> for the site. The applicant has advised that two existing outbuildings will be demolished to conform with the requirements of this policy. The 100m<sup>2</sup> floor area of the proposed garage therefore represents a net increase of 21m<sup>2</sup> over the floor area of the existing outbuildings, and is within the maximum aggregate floor area allowable under Council’s ‘Outbuilding Policy’. The Outbuilding policy does not stipulate maximum heights for outbuildings in the Rural Zone, however the height of the proposed garage/storage shed is generally consistent with the maximum wall height of 3m, and the maximum overall height of 4m as prescribed for residential areas.



EXISTING RESIDENCE & SHED  
LOT 61 GERTRUDE AVE, CHAMPION LAKES

In justifying the size of the proposed outbuilding the applicant asserts that the building is required for a number of purposes that may include storage of personal items, D.I.Y home use, and use as a garage. It is also submitted that the structure will be screened as much as possible with shrubs, planted to minimise public view from the street, and will therefore not have any adverse amenity impact.

The ‘Outbuildings Policy’ states that an outbuilding should not be located forward of the required primary street boundary setback unless it is constructed of materials that match the main dwelling. The main dwelling is red/brown brick with a light coloured tiled roof. The proposed “Colorbond” outbuilding is “Rivergum” (Green) in colour and is not considered to match the main dwelling in terms of materials and colours used. The applicant argues that the proposed ‘Rivergum’ (green) colour of the garage/shed will be less conspicuous than a red/brown colour since it will contrast less with the shrubs to be planted and surrounding trees.

The objective of the ‘Outbuilding Policy’ is to ensure that outbuildings are designed, sited and constructed in a manner to be sympathetic in scale and construction with the streetscape and not detract from the amenity of the area. There are a number of sheds and outbuildings in the area which are visible from the street, however none of them are as big as the proposed garage/shed. It is considered that the scale of the proposed garage/shed in relation to the existing dwelling and streetscape is disproportionate and would detract from the amenity of the area.

The proposed garage/ storage shed is set back 8 metres from the Gertrude Avenue boundary. The applicant states that an electrical cable running to the bore, and a sprinkler system are located immediately behind the proposed outbuilding, creating additional difficulty and expense in locating the building at a 9 metre setback in line with the existing residence. However, there are opportunities to locate the outbuilding in an alternative location on the property, ensuring compliance with the required 15 metre setback. In consideration of the scale of the proposed outbuilding and the proposed materials and colours to be used, an alternative location, such as behind the house (in the location of the existing shed) will provide greater opportunities for screening, and will minimise negative impacts on the amenity of the area.

### **Options**

1. Approve the application as proposed.
2. Approve the application subject to the proposed outbuilding being constructed in an alternative location that complies with minimum setback requirements and permits more appropriate screening.
3. Refuse the application based on the proposal does not comply with the required primary street setbacks prescribed under Council’s Town Planning Scheme No.2.

## CONCLUSION

Given the scale of the proposed garage/shed in relation to the existing residence and existing streetscape, and the proposed colours and materials to be used, it is considered that the proposal will have significant impact in terms of streetscape and rural amenity.

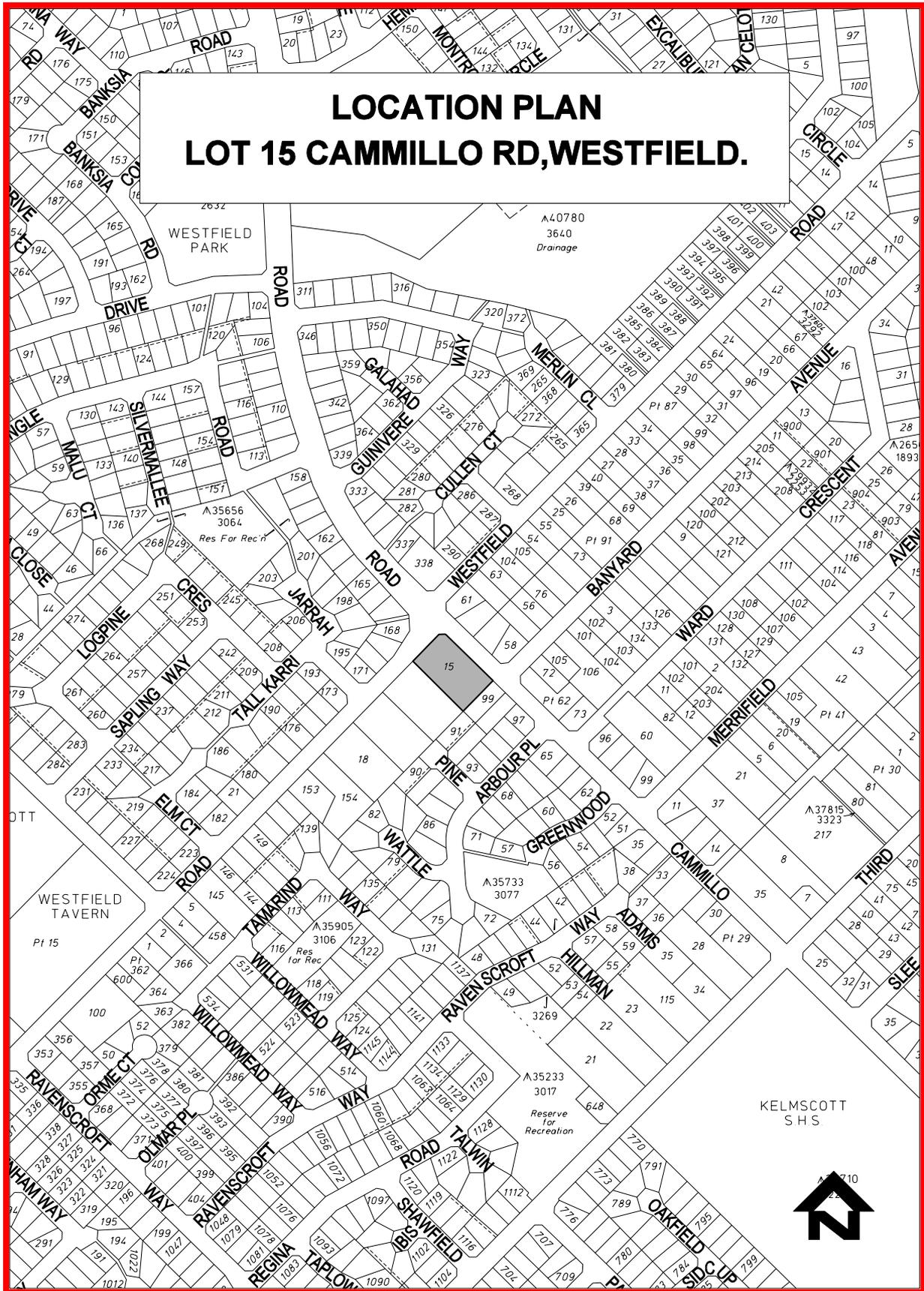
It is recommended that option No.2 be adopted.

## D202/02            RECOMMEND

**That Council approve the application to erect a garage/shed at Lot 61 (No.27) Gertrude Ave, Champion Lakes subject to conditions including the following principal requirements: -**

- ♦ **The proposed outbuilding to be constructed in an alternative location that complies with the required minimum 15 metre front setback requirement and permits more appropriate screening.**
- ♦ **The two existing outbuildings to be demolished to comply with the maximum aggregate floor area requirements of the ‘Outbuildings Policy’.**
- ♦ **Details of the proposed colour scheme and building materials relative to the external appearance of the outbuilding to be submitted and approved by the Council (PSM). The development to be maintained in accordance with the approved schedule.**

MOVED Cr Stubbs  
MOTION CARRIED (7/0)



***PROPOSED CHILD MINDING CENTRE – LOT 15 CAMMILLO ROAD, KELMSCOTT***

WARD : WESTFIELD  
FILE REF : A110756  
DATE : 30 October 2002  
REF : PRR  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Roberts Day Group  
LAND OWNER : Mr D Jones  
SUBJECT LAND : Property size 4029m<sup>2</sup>  
Map 22-07  
ZONING : Urban / Residential 'R15'  
MRS/TPS No.2

**In Brief:-**

- Proposal is for the development of a child minding centre for 99 children on the subject site.
- Council resolved to refuse the application at its July 2002 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 noise consultants and three alternative site plans. The number of children has not varied from the original proposal.
- Recommend that Council advise the appellant and the Town Planning Appeal Tribunal that, subject to the receipt of a satisfactory traffic impact assessment. 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”.

Social Infrastructure – “To have in place the range of services to enhance the well being and safety of the community”.

**Legislation Implications**

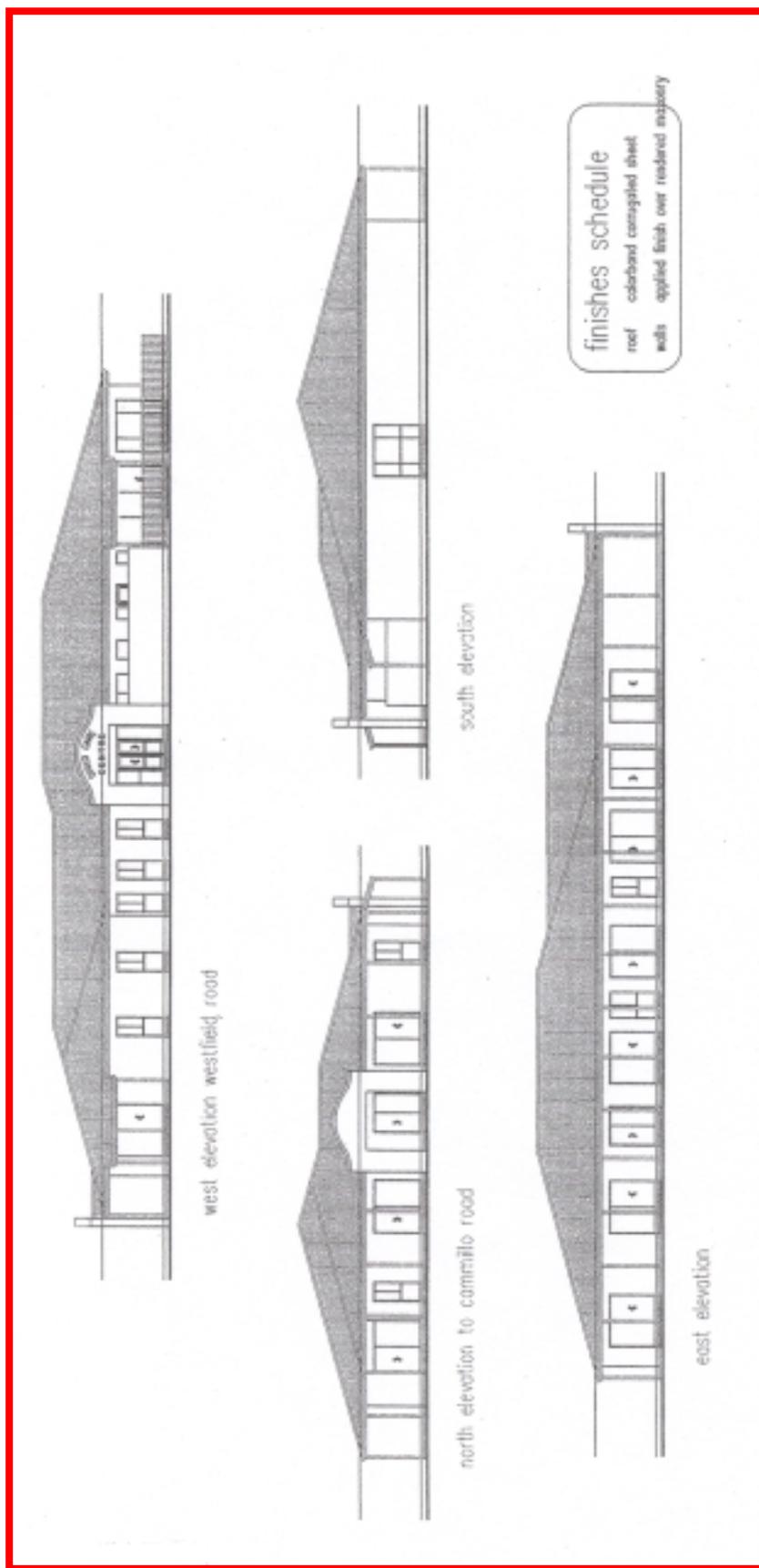
Town Planning and Development Act 1928

Town Planning Scheme No.2

Community Services (Child Care) Regulations 1988

**Council Policy / Local Law Implications**

4.3.15 Child Care Centres Policy



ELEVATION PLAN  
LOT 15 CAMMILLO ROAD, KELMSCOTT

### **Budget / Financial Implications**

Potential legal costs involved in defending Council's refusal in the Town Planning Appeal Tribunal (a minimum of \$20,000 for this appeal and the appeal on Lot 14 Caroline Street, Mount Nasura). Given the unpredictable nature of appeals, no specific allocation is made to accommodate such eventualities in the budget.

### **Consultation**

- ◆ Development Control Unit;
- ◆ Council's Acting Health Services Manager;
- ◆ Council's Manager Technical Services.

### **BACKGROUND**

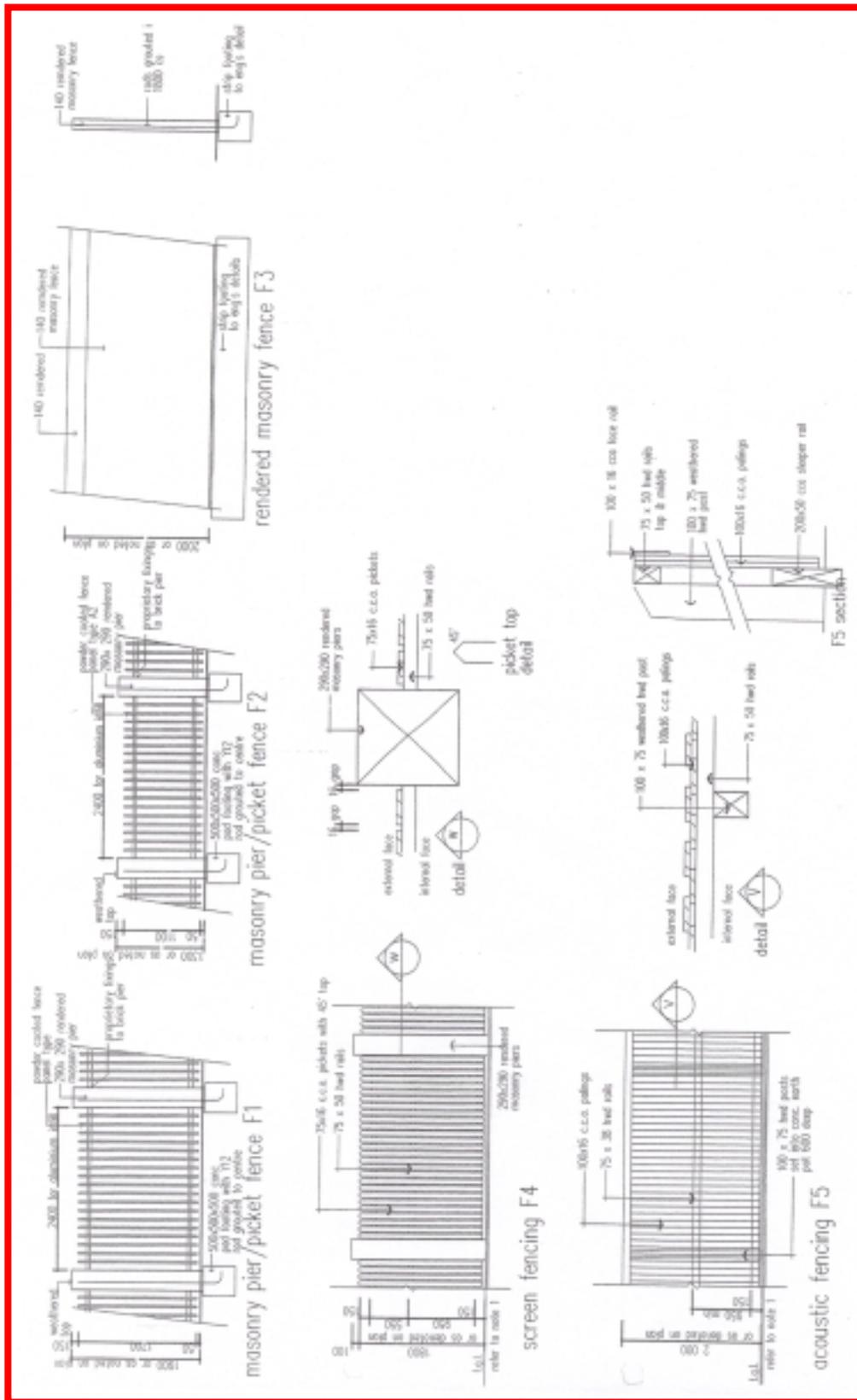
At its meeting of 15 July 2002 Council resolved to refuse the application for a child minding centre for 99 children at Lot 15 Cammillo Road as follows (D107/02):

1. *That Council refuse the application for a child minding centre for 99 children at Lot 15 Cammillo Road, on the following grounds:*
  - ◆ *The proposal is of a scale substantially in excess of that contemplated by the City's Town Planning Scheme and is deemed incompatible with the prevailing residential land use of the area.*
  - ◆ *The proposal does not comply with Town Planning Scheme provisions relating to the maximum number of children to be accommodated in the Centre.*
  - ◆ *The proposal does not adequately demonstrate that car parking and noise attenuation measures are adequate in respect to the safety and amenity of the site and its surroundings.*
  - ◆ *The location of the facility adjoins a busy "roundabout" intersection which gives rise to concerns as to traffic safety.*
2. *That officers liaise with the applicant with a view to identifying a possible alternative site to accommodate a Child Minding Centre of the scale anticipated.*

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. The City's Planning Services Manager also met with the applicant to consider alternative sites within the municipality, which could accommodate a child care centre which addresses the concerns identified by Council, however the applicant did not consider the alternative sites to be suitable.

### **DETAILS OF PROPOSAL**

The appellant has submitted three alternative designs in terms of the property layout to address Council's concerns with regard to traffic and noise. The revised designs centre around the relocation of the centre and its associated parking. This in turn has a direct bearing on the traffic and noise issues, and acoustic experts and traffic engineers have analysed these elements.



FENCING PLAN  
LOT 15 CAMMILLO ROAD, KELMSCOTT

The child minding centre details remain as outlined in the July 2002 report:

- ◆ Catering for 99 children of up to five years of age, staffed by 16 qualified and government accredited personnel.
- ◆ Operating hours would be from 7.00am to 6.00pm, Monday to Friday, 52 weeks a year, with the exception of public holidays.
- ◆ A range of programs and services including, but not limited to, the following:
  - Development programs (eg. music programs, dancing lessons, excursions etc);
  - Holiday care and community involvement;
  - Child care ranging from long day care, to after school and holiday care for older children;
  - Before / after school pick up service;
  - Information on child care issues; and
  - Centres planned to suit the needs and interests of small children, including computers in the pre-school class.

## COMMENT

### *Development Control Unit (DCU)*

At its meeting held on 5 November 2002, DCU recommended that Council advise the appellant that the application can be reconsidered, as the potential impacts to noise, car parking and traffic resulting from the scale of the proposal can be satisfactorily addressed through appropriate conditions of approval.

## ANALYSIS

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

A 'Child Minding Centre' is a discretionary "SA" use in the Residential zone under TPS No.2. The application proposes to accommodate 99 children, which is in excess of the maximum prescribed number of 30 children under TPS No.2. This was one of Council's reasons for refusing the proposal in July 2002. The revised details do not include a reduction in the number of children for the centre.

### *Revised Plans Submitted by Appellant*

In response to Council's reasons for refusal, the applicant has designed a number of alternative site layouts for the proposed Child Minding Centre. The revised plans are outlined as follows:

#### *Revised Plan No.1*

The first revised plan is identical to that submitted originally, with one exception – the traffic flow through the car park has been reversed. This allows a greater distance between the roundabout and the crossover from which traffic will leave the site on to Westfield Road and reduces the likelihood of accidents or vehicle traffic conflict.



*Revised Plan No.2*

The second revised plan depicts a shift in the overall development eight (8) metres to the south-east and retains the original traffic flow through the car park. This reduces the size of the area of land being withheld for future subdivision, moves the crossover from which traffic will leave the site on to Cammillo Road further from the roundabout, and slightly alters the area affected by noise from the outdoor playscape.

*Revised Plan No.3*

The third revised plan depicts a shift in the overall development 19.5m to the south-east. This removes the possibility of subdividing a lot from the south-east end of the property, moves the exit crossover yet further down Cammillo Road and again alters the area affected by noise from the outdoor playscape, through the altered location of the playscape.

***Revised Plan Assessment***

It is duly noted that, as with the initial application, the proposed development complies with Council's setback and car parking requirements. It should nevertheless be noted that ten (10) submissions were received with regard to the proposal originally, consisting of nine (9) objections and one (1) letter of conditional support. The main areas of concern included noise and traffic issues, which were raised by Council as grounds for refusal of the application.

The changes to the site layout as outlined above have direct bearing on Council's concerns regarding traffic and noise emissions. Reports associated with these concerns have been provided to further justify the proposed changes. Officers from Council assessed these reports, and their comments are noted in the following section.

With respect to the revised plans, the preferred option is revised plan number three, which allows sufficient room for additional overflow parking, and landscaping suitable to aid in noise attenuation. It also enables the crossovers to be located a greater distance from the intersection of Cammillo and Westfield Roads. It is recommended that Council utilise this plan for the basis of further negotiations at mediation.

In doing so, conditions of approval including the provision of a 5m landscaping buffer to the south-eastern property boundary in place of the 1.5m buffer indicated, (to further assist noise attenuation), as well as the submission of a comprehensive landscaping plan and a schedule of materials and colours should be included.

***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 findings of these reports are detailed below:



### *Noise Analysis*

Council's Acting Health Services Manager examined the acoustic report submitted by Herring Storer Acoustics. In conducting an assessment of the data provided the following points were noted:

- ◆ The noise from children playing outside will be within acceptable limits if the number of children playing outside at any one time does not exceed 20;
- ◆ The noise from mechanical services can be addressed at the building stage;
- ◆ Controlling the number of children playing at the child care centre once an approval has been issued can be problematic;
- ◆ Council's Health Department can control noise issues through the *Environmental Protection (Noise) Regulations 1997*.

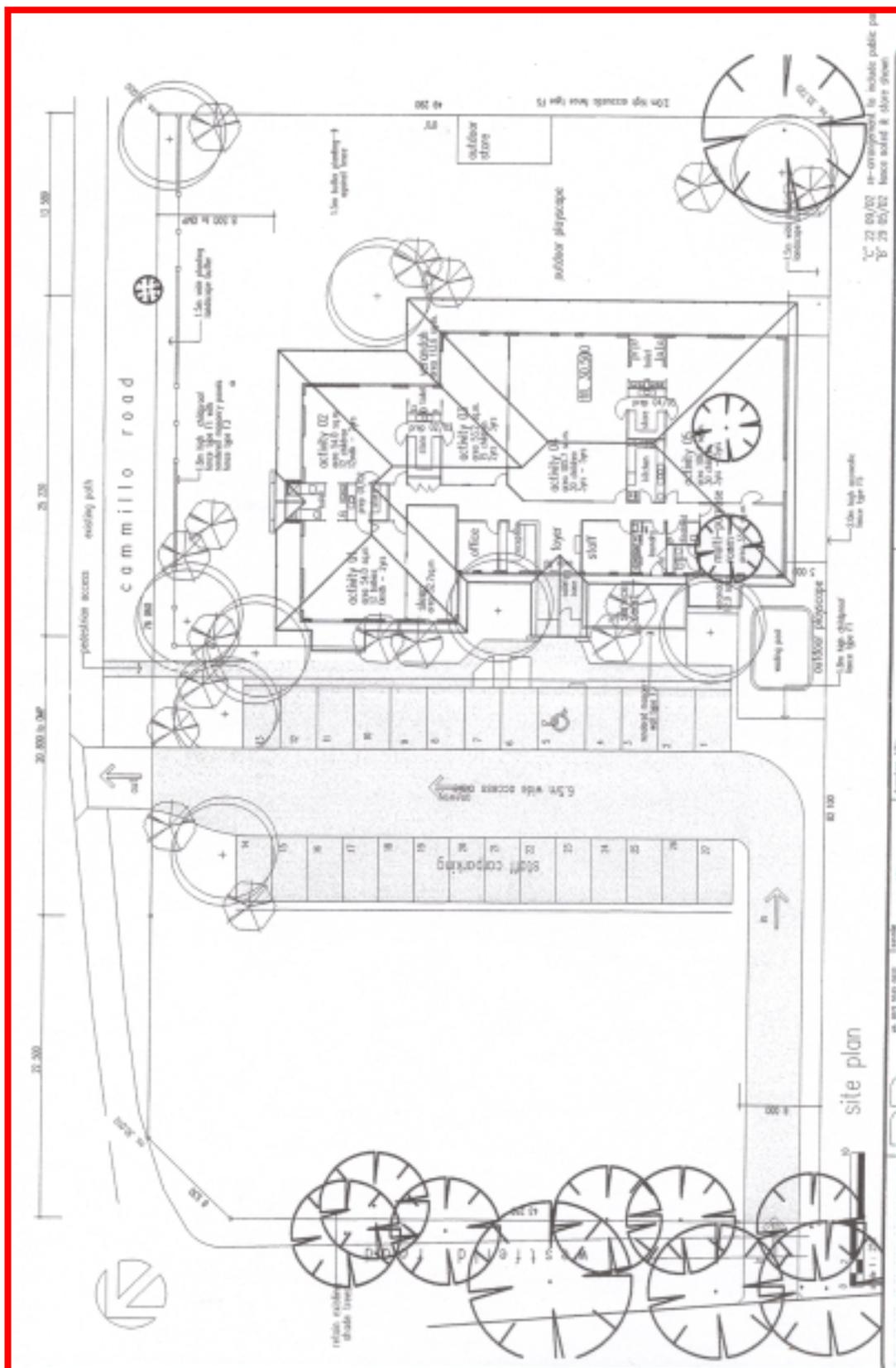
In order to assess the noise levels of children playing at the proposed child care centres, sound levels were taken from a similar existing centre. With these measurements acoustic modelling was undertaken. This is the most accurate way of determining likely sound levels from the proposed child care centres.

Based upon the above, it is considered that the potential for noise concerns resulting from the child care centre could be controlled through appropriate conditions of planning approval which relate to the management of the centre, and to noise attenuation measures in the development of the centre such as masonry walls and landscaping to reduce noise impacts.

### *Traffic Analysis*

Council's Manager Technical Services examined the traffic impact statement submitted by Transcore Pty Ltd. In conducting an assessment of the data provided the following points were noted:

- ◆ Six accidents over the last five years at the intersection of Cammillo and Westfield Roads could justify the intersection as a 'black spot', and as such concerns with regard to traffic and safety may be justified. These accidents were not considered by the report.
- ◆ Calculations for traffic flow have not been based on the most recent data available. Whilst the numbers taken from Main Roads Western Australia do not account for as many vehicles as Council's latest figures, it remains likely that the additional traffic volume created by the development will be manageable.
- ◆ Parking calculations based on a child minding centre in Midvale have admittedly been taken on a day the centre did not operate to full capacity, and therefore the availability of parking bays may be of concern.



REVISED SITE & FLOOR PLAN - 3  
LOT 15 CAMMILLO ROAD, KELMSCOTT

The traffic concerns noted mean that it is not possible to fully analyse the situation at this time. The Manager Technical Services has therefore requested that Transcore re-calculate their figures taking the above into account. The new information will be presented to Council at the Committee Meeting if available. Council's recommendation if the revised plan is considered appropriate, should include provision for any road upgrading / signage / access restrictions that may arise from the revised traffic impact assessment.

### *Parking Analysis*

The traffic study also incorporates an analysis of car parking demands anticipated within the development, based upon Council's Scheme provisions and an assessment of parking demands at an existing child minding centre.

Council's Child Care Centres Policy specifies a parking provision of 1 bay for each 5 children or one bay for each 10 children plus 1 bay for each staff member, whichever is the greater. As the centre is proposed to cater for 99 children with 16 staff, this represents a parking requirement of 26 parking bays. The proposed provision of 27 parking bays therefore exceeds the maximum requirement of the policy.

To investigate the adequacy of the parking provision of the proposed centre, parking utilisation counts at the Midvale Child Minding Centre were analysed. This centre caters for 86 children and approximately 20 staff members, with 35 bays provided on site. Council's Policy would require the provision of 29 bays for a centre of this scale. The site was surveyed on Thursday, 12<sup>th</sup> September between 7.00am – 10.00am and 3.00pm – 6.00pm. The results of the survey indicate that the maximum usage occurred between 9.00am - 9.30am, with a total of 24 bays occupied. The peak period in the afternoon occurred between 3.00pm – 5.00pm, with between 19 and 22 bays occupied during this time.

The data of the Midvale centre was nevertheless admittedly derived from a day where the centre did not operate to full capacity. Given the Midvale centre would require 29 bays under the requirements of Council's Policy, and yet has 35 parking bays available, most of which would probably be utilised on a busy day, it is expected that a greater number of bays than Council's Policy requires will be necessary for the proposed centre on Cammillo Road. The provision of additional overflow bays and / or a set down – pick up area would address this concern. Additionally, the crossovers, driveways and parking should be constructed and marked to the satisfaction of Council.

### **SYNOPSIS**

Council's previous resolution D107/02 to refuse the proposed child care centre was due to concerns that the proposal was of a larger scale than that originally contemplated by the Town Planning Scheme (ie 30 children maximum). Consequently, Council was concerned that the numbers of children to be accommodated on the site could generate adverse impacts on surrounding properties with reference to car parking and excessive noise from children playing outdoors.

The main concerns raised by objectors during the advertising period related to noise, car parking provision and traffic impacts. Following discussion of Council's reasons for refusal during mediation, the appellant has engaged professional consultants to investigate the potential for adverse impacts to the surrounding locality as a result of the proposal, in the areas of noise, car parking 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 acceptable impacts with respect to traffic and car parking. In addition, 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 should be 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 will require the City to engage legal representation, which will incur unbudgeted legal costs.

Given that the applicant has presented information and officered compromise alternative site plans which largely address Council's reasons for refusal, the strength of its position on appeal to the Tribunal is reduced to a degree. Council must evaluate the matter carefully, and consider the option to negotiate an agreeable outcome at the mediation stage.

## **OPTIONS**

1. Council could resolve 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.
2. Council could resolve that the additional information does not satisfactorily address its concerns which resulted in the refusal of the application, at which point it is likely that the matter will be determined at a 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 concerns relating to the number of children with respect to the maximum specified within the Residential zone of Town Planning Scheme No.2, have not been addressed through a reduction in the number of children attending the child minding centre. However, its previous concern relating the scale of the proposal and the associated impacts with respect to noise and car parking has been subject to detailed investigation and analysis, with the outcome being that the proposal redesign 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. A revised traffic impact assessment is however expected to confirm traffic modelling information for the site.

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

*Chairman reported on discussions conducted between proponents, himself, Ward Members and staff with respect to the proposed Child Minding Centres for Cammillo Road, Kelmscott and Caroline Street, Mt Nasura.*

*Discussion ensued in relation to the Cammillo Road proposal with views expressed by Committee Members in relation to:-*

- ◆ *The appropriateness or otherwise of the scale of the development considering the proposed capacity of 99 children substantially exceeds the limit of 30 prescribed under Council's Town Planning Scheme.*
- ◆ *The modified site layout which improves traffic access and egress characteristics.*
- ◆ *The appropriateness or otherwise of the location selected which coincides with a busy intersection on the corner of Cammillo and Westfield Roads.*

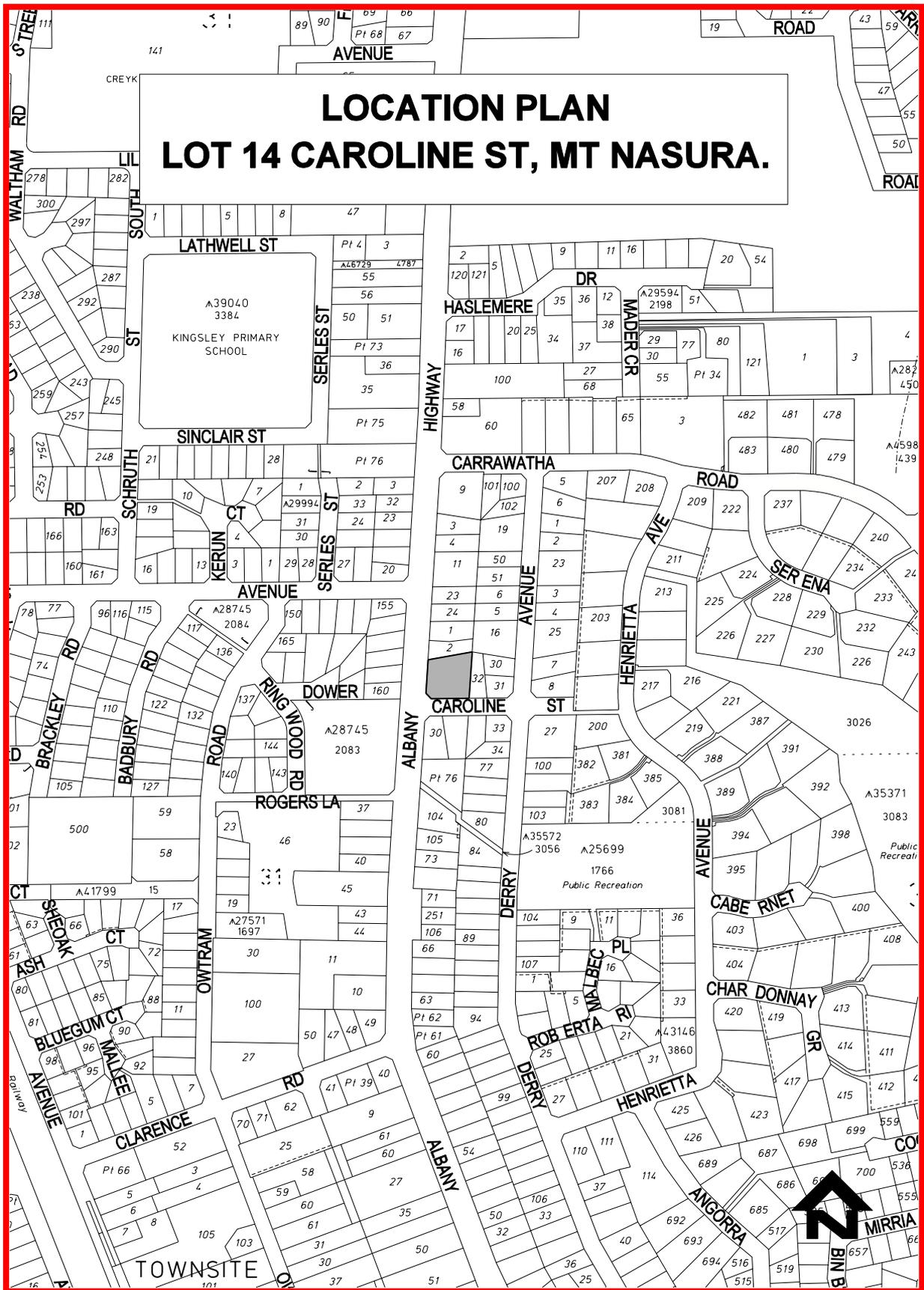
*On balance, having regard to further discussion on the aspects, Committee was of the majority view that the officer's recommendation hereunder was appropriate.*

**D203/02            RECOMMEND**

- 1. That Council acknowledge that revised plan number three (3) for the proposed Child Minding Centre on Lot 15 (No.155) Cammillo Road, Kelmscott provides a more acceptable development outcome for the site in comparison to the plans previously considered.**
- 2. That Council advise the appellant and the Town Planning Appeal Tribunal that, subject to the receipt of a satisfactory traffic impact assessment, the concerns held have been addressed, and the development is supported subject to the following principal requirements:**
  - ◆ **The building and fenced play areas to be designed and constructed utilising appropriately effective acoustic measures and materials to minimise noise nuisance to adjoining residential areas.**
  - ◆ **A five (5) metre landscape buffer to be provided adjacent to the south-eastern property boundary in place of the 1.5m buffer indicated on revised plan three (3).**
  - ◆ **The submission of a comprehensive landscape plan is required. The landscape plan is to include plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained thereafter to the satisfaction of Council.**
  - ◆ **The submission of a schedule of materials and colours for the development (including any fencing) to be approved by Council. The development is to be completed and maintained in accordance with the approved colour scheme to the satisfaction of Council.**

- ♦ **Road upgrading/signage/access restrictions to the satisfaction of Council.**
  - ♦ **Construction of car parking, driveway and crossovers and marking of internal car parking spaces to the satisfaction of Council.**
  - ♦ **Sufficient overflow car parking bays and / or a set down pick up area to be provided to the satisfaction of Council.**
- 3. The applicant be advised that compliance with the “Environmental Protection (Noise) Regulations 1997” is required.**

MOVED Cr Reynolds  
MOTION CARRIED (4/3)



***PROPOSED CHILD MINDING CENTRE –  
LOT 14 (NO.2) CAROLINE STREET, MOUNT NASURA***

WARD : ARMADALE  
FILE REF : A3777  
DATE : 31 October 2002  
REF : JRH  
RESPONSIBLE MANAGER : PSM  
APPLICANT : Roberts Day Group  
LAND OWNER : ABC Child Care  
SUBJECT LAND : Property size 2491m<sup>2</sup>  
Map 23.04  
ZONING : Urban / Residential R15  
MRS/TPS No.2

**In Brief:-**

- Proposal is for the development of a child minding centre for 71 children on the subject site.
- Council recommended the application be refused at its July 2002 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 noise consultants. The number of children has not varied from the original proposal.
- Recommend that Council consider the additional information and resolve to advise the appellant and the Town Planning Appeal Tribunal that the additional information does not address Council's previous concerns with respect to traffic management and car parking.
- *Committee recommended that the application be recommitted pending receipt of further information from proponents in respect to a traffic impact assessment.*

**Tabled Items**

Nil

**Officer Interest Declaration**

Nil

**Strategic Implications**

Social Infrastructure – “to have in place the range of services to enhance the well being and safety of the community”.

Development – “to meet the needs of development with sustainable economic, social and environmental objectives”.

**Legislation Implications**

Town Planning and Development Act 1928 (as amended)

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

Community Services (Child Care) Regulations 1988

**Council Policy / Local Law Implications**

Development Services Planning Policy 4.3.15 – Child Care Centres Policy

Development Services Planning Policy 4.3.2 - Highway Development Policy



### **Budget / Financial Implications**

Potential legal costs involved in defending Council's refusal in the Town Planning Appeal Tribunal (a minimum of \$20,000 for this appeal and the appeal on Lot 15 Cammillo Road, Westfield). Given the unpredictable nature of appeals, no specific allocation is made to accommodate such eventualities in the Budget.

### **Consultation**

- ◆ Development Control Unit
- ◆ Council's Acting Health Services Manager
- ◆ Council's Manager Technical Services

### **DETAILS OF PROPOSAL**

At its meeting of 15 July 2002 Council resolved to refuse the application for a child minding centre for 71 children at Lot 14 (No.2) Caroline Street, Mount Nasura as follows (D106/02):

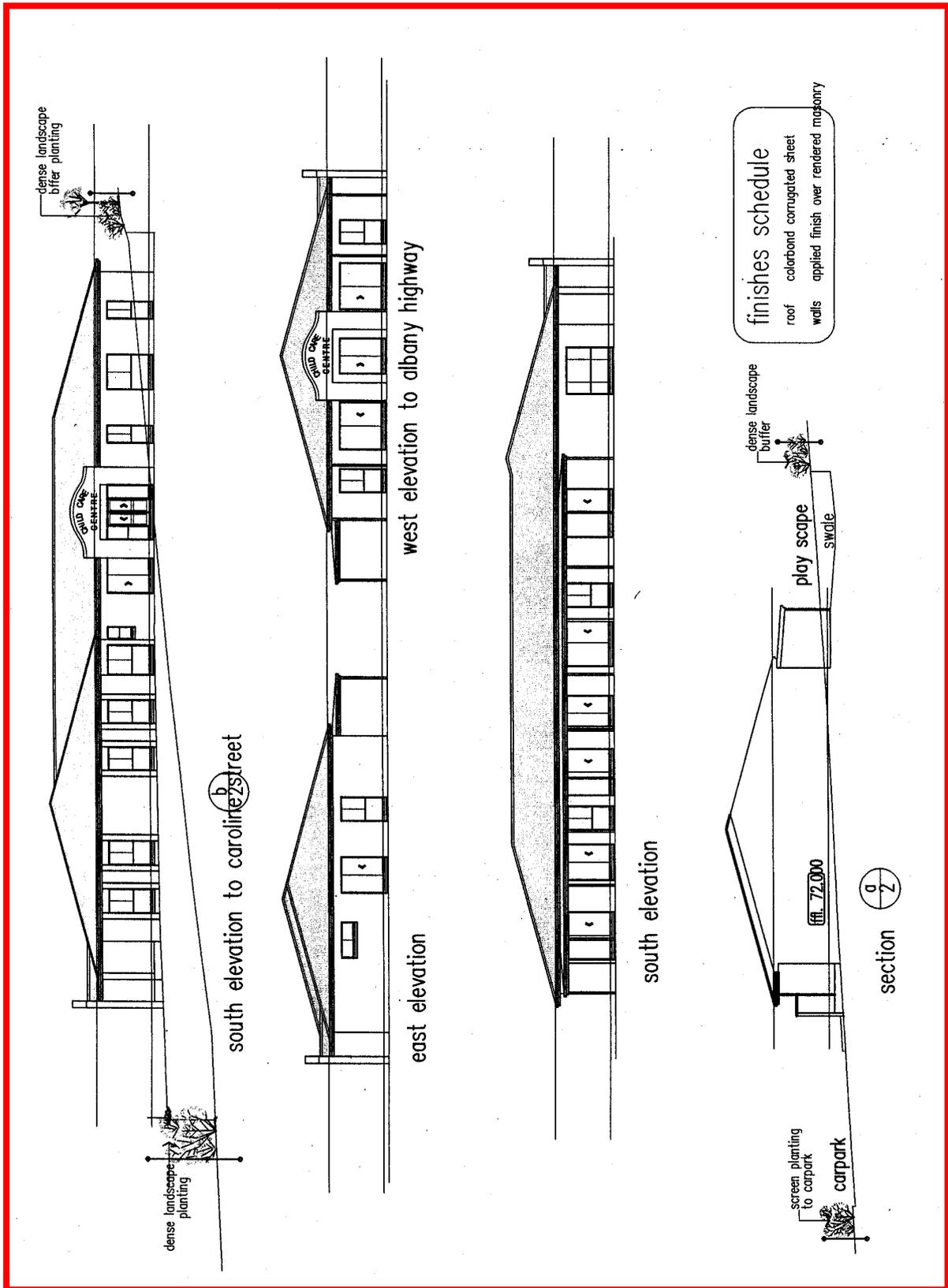
1. *That Council refuse the application for a Child Minding Centre for up to 71 children at Lot 14 Caroline Street, Mount Nasura, on the following grounds:*
  - ◆ *The proposal is of a scale substantially in excess of that contemplated by the City's Town Planning Scheme and is deemed incompatible with the prevailing residential land use of the area.*
  - ◆ *The proposal does not comply with Town Planning Scheme provisions relating to the maximum number of children to be accommodated in the Centre.*
  - ◆ *The proposal does not comply with Town Planning Scheme setback standards.*
  - ◆ *The proposal does not adequately demonstrate that car parking and noise attenuation measures are adequate in respect to the safety and amenity of the site and its surroundings.*
2. *That officers liaise with the applicant with a view to identifying a possible alternative site to accommodate a Child Minding Centre of the scale anticipated.*

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. The City's Planning Services Manager also met with the applicant to consider alternative sites within the municipality, which could accommodate a child care centre which addresses the concerns identified by Council, however the applicant did not consider the alternative sites to be suitable.

### **DETAILS OF PROPOSAL**

The details of the proposed child care centre remain identical to that considered by Council at its July 2002 meeting:

- ◆ Number of children – maximum of 71 (up to 5 years).
- ◆ Number of staff – 12 (Staff are qualified in Childhood Education and undertake further 'in house' training at the ABC Early Childhood Training College.)
- ◆ Hours of operation – 7am to 6pm Monday to Friday.



ELEVATION PLAN  
LOT 14 CAROLINE STREET, MT NASURA

- ◆ Access proposed off Caroline Street with no access to Albany Highway.
- ◆ The proposed centre is an ABC Learning Centre which provides high quality, affordable early childhood care and education with a range of programs and services including the following:
  - Development programs (eg. music programs, dancing lessons, excursions etc).
  - Holiday care and community involvement.
  - Child care ranging from long day care, to after school and holiday care for older children.
  - Before / after school pick up service.
  - Information on child care issues.
  - Centres planned to suit the needs and interests of small children, including computers in the pre-school class.
- ◆ The proposed building design is based on a design formula established by ABC.

## COMMENT

### *Development Control Unit (DCU)*

At its meeting held on 5 November 2002, DCU resolved to recommend that Council advise the appellant and the Town Planning Appeal Tribunal that the additional information submitted by the appellant with respect to car parking arrangements and traffic impact will not satisfactorily address the concerns of Council.

## ANALYSIS

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

A 'Child Minding Centre' is a discretionary (SA) use in the Residential zone under TPS No.2. The application proposes to accommodate 71 children, which is in excess of the maximum prescribed number of 30 children under TPS No.2. This was one of Council's reasons for refusing the proposal in July 2002. The revised details have not sought a reduction in the number of children for the centre.

## ADDITIONAL INFORMATION SUBMITTED BY THE 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 findings of these reports are detailed below:

### *Noise Analysis*

Council's Acting Health Services Manager examined the acoustic report submitted by Herring Storer Acoustics. In conducting an assessment of the data provided the following points were noted:

- ◆ The noise from children playing outside will be within acceptable limits if the number of children playing outside at any one time does not exceed 20.
- ◆ The noise from mechanical services can be addressed at the building stage.

- ◆ Controlling the number of children playing at the child care centre once an approval has been issued can be problematic.
- ◆ Council's Health Department can control noise issues through the *Environmental Protection (Noise) Regulations 1997*.

In order to assess the noise levels of children playing at the proposed child care centres, sound levels were taken from a similar existing centre. With these measurements acoustic modelling was undertaken. This is the most accurate way of determining likely sound levels from the proposed child care centres.

Based upon the above, it is considered that the potential for noise concerns resulting from the child care centre could be controlled through appropriate conditions of planning approval which relate to the management of the centre, and to noise attenuation measures in the development of the centre such as masonry walls and landscaping to reduce noise impacts.

### ***Traffic Analysis***

Council's Manager Technical Services examined the traffic impact statement submitted by Transcore Pty Ltd. In conducting an assessment of the data provided the following points were noted:

- ◆ The intersection of Albany Highway and Caroline Street is a T-junction with a median opening on Albany Highway. This median opening does not incorporate a deceleration lane for vehicles travelling north on Albany Highway to turn right into Caroline Street, which results in a low number of traffic movements in this direction.
- ◆ If the development were to proceed in accordance with this application, traffic volumes on Caroline Street would double from 75 vehicles between 8.00am – 9.00am and 3.30pm – 4.30pm to approximately 158, which is a high proportional increase and coincides with normal peak traffic flows.
- ◆ This increase could adversely affect the safety of the intersection, and any increase in right hand turn traffic from Albany Highway to Caroline Street should be discouraged. Figures in the report indicate that this manoeuvre could increase from 1 per hour to 12 – 15 per hour during peak times. It is possible that some drivers of vehicles wishing to turn right would continue north and use Carawatha Avenue (which incorporates a deceleration lane) and then access Caroline Street via Derry Avenue.
- ◆ The traffic study does not take into account the number of accidents which have occurred at this intersection. Six accidents have occurred in the last 5 years, of which 5 were rear end collisions.

Whilst the traffic study proposes that vehicles are more likely to access the site via Carawatha Avenue (which has a deceleration lane) and Derry Avenue, in practice this will lengthen the travelling times which would discourage patrons from following this route. Council will not be able to prevent patrons accessing the centre from the Albany Highway/Caroline Street intersection, without making substantial modifications to the design of the intersection.

During the assessment of the proposal, comments on the application were sought from Main Roads Western Australia. The authority advised at the time that it had no plans to construct a deceleration lane or undertake any upgrading works at this intersection. Subsequent discussions with MRWA have indicated however that they have not been aware of the results of the traffic study, which may possibly alter their original comments. A copy of the report has now been forwarded to the authority for their consideration, with a request that comments be received prior to the full Council meeting.

### *Parking Analysis*

The traffic study also incorporates an analysis of car parking demands anticipated within the development, based upon Council's Scheme provisions and an assessment of parking demands at an existing child minding centre.

Council's Child Care Centres Policy specifies a parking provision of 1 bay for each 5 children or one bay for each 10 children plus 1 bay for each staff member, whichever is the greater. As the centre is proposed to cater for 71 children with 12 staff, this represents a parking requirement of 14 and 19 parking bays respectively. The proposed provision of 20 parking bays exceeds the maximum requirement of the policy, but will result in only 8 bays being available to parents accessing the centre. This appears to be insufficient given the number of children which the centre will be catering for, and especially in view of the limited land area available which constrains opportunities for further expansion of the car park.

To investigate the adequacy of the parking provision of the proposed centre, parking utilisation counts at the Midvale Child Minding Centre were analysed. This centre caters for 86 children and approximately 20 staff members, with 35 bays provided on site. Council's Policy would require the provision of 29 bays for a centre of this scale. The site was surveyed on Thursday, 12<sup>th</sup> September between 7.00am – 10.00am and 3.00pm – 6.00pm. The results of the survey indicate that the maximum usage occurred between 9.00am - 9.30am, with a total of 24 bays occupied. The peak period in the afternoon occurred between 3.00pm – 5.00pm, with between 19 and 22 bays occupied during this time.

It must be noted however, that the Midvale Child Care Centre was not operating at full capacity when the parking analysis was conducted. On the day of the analysis, there were a total of 64 children and 20 staff members on site. Based upon this ratio, a total of 31 bays would be utilised at the centre, which is in excess of the parking provision incorporated within Council's Child Care Centres Policy. It should also be noted that the parking analysis represents an investigation of one centre on one day, and no additional details are provided with respect to the centre such as the location of the centre in relation to public transport routes, centres of employment, or schools, which will affect the nature of child care in the locality and how parents access the centre.

The parking analysis does not consider the accessibility of the car parking area and the robustness of the design in avoiding parking and vehicle conflicts. The proposed car parking area has a single crossover to Caroline Street, located approximately 30 metres from the Albany Highway intersection. The proposed levels of the car park will make it difficult for motorists to see whether bays are available until they have entered the car park.

In the event that bays are full, vehicles must turn around within the car park or reverse onto Caroline Street, of which both options are undesirable in the existing traffic situation and will be worsened by other patrons wishing to access the site. Patrons may ultimately park along the verges of Caroline Street, which would affect sight lines and the safety of motorists and patrons in this location.

Given the above, it is considered that the proposed parking study does not satisfactorily address Council's previous concerns in refusing the proposal.

## **SYNOPSIS**

The City is not necessarily opposed to the land use of a child care centre on the subject site. Council's previous resolution D106/02 to refuse the proposed child care centre was due to concerns that the proposal was of a larger scale than that originally contemplated by the Town Planning Scheme (exceeding the TPS No.2 maximum of 30 children for centres within the 'Residential' zone). Consequently, the number of children and staff to be accommodated on the site, being 71 and 12 respectively, would generate adverse impacts to the surrounding locality on issues such as car parking, traffic impacts and excessive noise from children playing outdoors.

The main concerns raised by objectors during the advertising period related to noise, car parking provision and traffic impacts. Following commencement of the appeal, an adjoining neighbour has requested involvement in the appeal as a third party, representing himself as a property owner on Derry Avenue, and several other property owners on Caroline Street. This involvement in the appeal has not been formalised at this stage, though both the appellant and the City's officers have not raised objection to their involvement in the mediation process.

Following discussion of Council's reasons for refusal during mediation, the appellant has engaged professional consultants to investigate the potential for adverse impacts to the surrounding locality as a result of the proposal, in the areas of noise, car parking 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 additional information does not satisfactorily address Council's previous concerns with respect to traffic and car parking. The proposed car parking design, and its location on the corner of Albany Highway where a deceleration lane does not exist for northbound vehicles turning right into the development, does not facilitate safe access/egress and car parking within the development, which will adversely affect the residential amenity of surrounding properties, and the safety of motorist on Albany Highway and Caroline Street.

It should be 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. This stage of the process will require the City to engage legal representation, which will incur unbudgeted costs for this appeal.

Following analysis of the submitted details, it is considered that the analysis does not provide Council with a sufficient basis to alter its previous refusal to the proposal.

## OPTIONS

1. Council could resolve that the additional information does not satisfactorily address its concerns which resulted in the refusal of the application. (The matter will be determined at a hearing of the Town Planning Appeal Tribunal).
2. Council could resolve 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.

## CONCLUSION

In conclusion, it is considered that the additional information provided by the applicant with respect to car parking and traffic impact does not provide Council with a sufficient basis to review its previous refusal of the proposal. The potential impact with respect to noise generated by children playing outdoors may be addressed through conditions of approval and through management of the operation, to limit the numbers of children playing outside at any one time.

The assessment of information on traffic and car parking in relation to the proposal have been subject to detailed investigation and analysis, with the outcome being that the proposed car parking and access arrangements will affect the safety of motorists on Albany Highway and Caroline Street, and will affect the residential amenity of properties on Caroline Street.

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

### *Officer's report recommends –*

That Council resolve to advise the appellant and the Town Planning Appeal Tribunal that the additional information submitted by the appellant with respect to car parking arrangements and traffic impact does not satisfactorily address its concerns with respect to the proposed Child Care Centre on Lot 14 (2) Caroline Street, Mt Nasura.

*Planning Services Manager reported on discussions with proponent in relation to traffic impact assessment of the site and indicated that further investigation was being conducted which will enable Council to better assess its position in relation to Caroline Street Child Care Centre.*

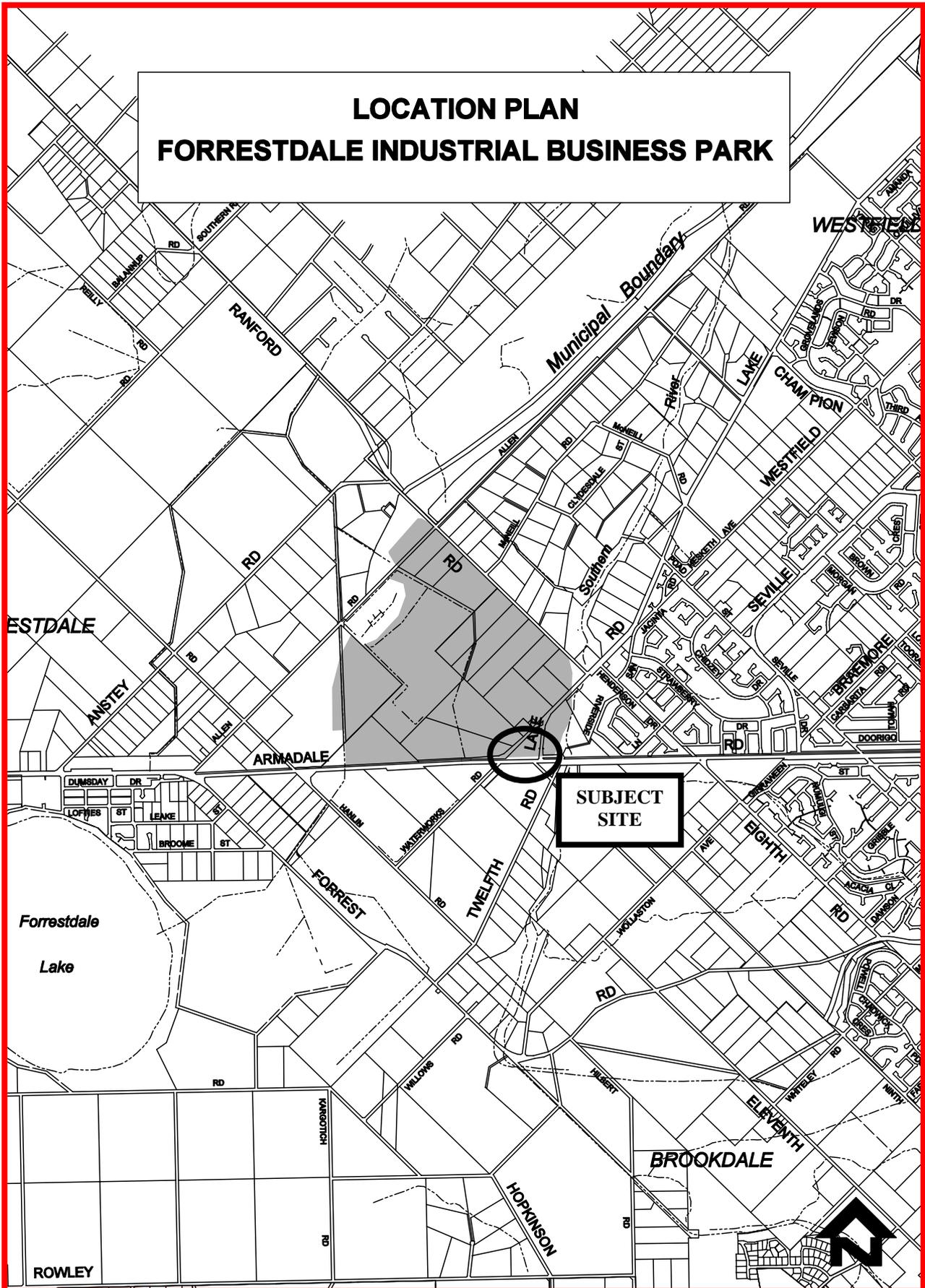
## D204/02

## RECOMMEND

1. **That the matter of the proposed Child Care Centre on Lot 14 (2) Caroline Street, Mt Nasura be recommitted pending receipt of further information from proponents in respect to a traffic impact assessment.**
2. **That Council advise the Town Planning Appeals Tribunal of the mutually agreed arrangement between the proponent and Council to provide further advice as to the Council's position following completion of a comprehensive traffic impact assessment.**

MOVED Cr Fletcher  
MOTION CARRIED (7/0)

**LOCATION PLAN  
FORRESTDALE INDUSTRIAL BUSINESS PARK**



***FORRESTDALE INDUSTRIAL BUSINESS PARK – REQUEST FOR CITY TO PURCHASE LOT & RELATED CLAIM FOR INJURIOUS AFFECTION OF LAND - LOT 14 (No.15) BRIGADE ROAD FORRESTDALE***

WARD : FORREST  
FILE REF : SCH/2/148  
DATE : 1<sup>st</sup> November 2002  
REF : JR  
RESPONSIBLE MANAGER : PSM  
APPLICANT : B & M Lockwood  
LAND OWNER : B & M Lockwood  
SUBJECT LAND : Property size 1.7054ha  
Map 20.03  
ZONING : Industry (MRS)  
MRS/TPS No.2 Industrial Business  
Development Zone  
(TPS No.2)

**In Brief:**

- The landowners have lodged a formal claim of compensation against the City for an “Injurious Affection” under the Town Planning and Development Act 1928 and request that the City consider purchasing Lot 14 Brigade Road as compensation for the impacts perceived from planning for the Forrestdale Industrial Business Park
- Recommendation to advise the landowners that there is no evidence of “Injurious Affection” to the property and accordingly that Council decline the offer to purchase Lot 14 and provide the landowners with a copy of the independent Valuation Report.
- Recommendation to advise the Armadale Redevelopment Authority of the landowners desire to sell the property for their consideration.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Long Term Strategic Planning:

Item 1.3 Complete the preliminary planning requirement for the Forrestdale Business Park

**Legislation Implications**

Town Planning and Development Act 1928

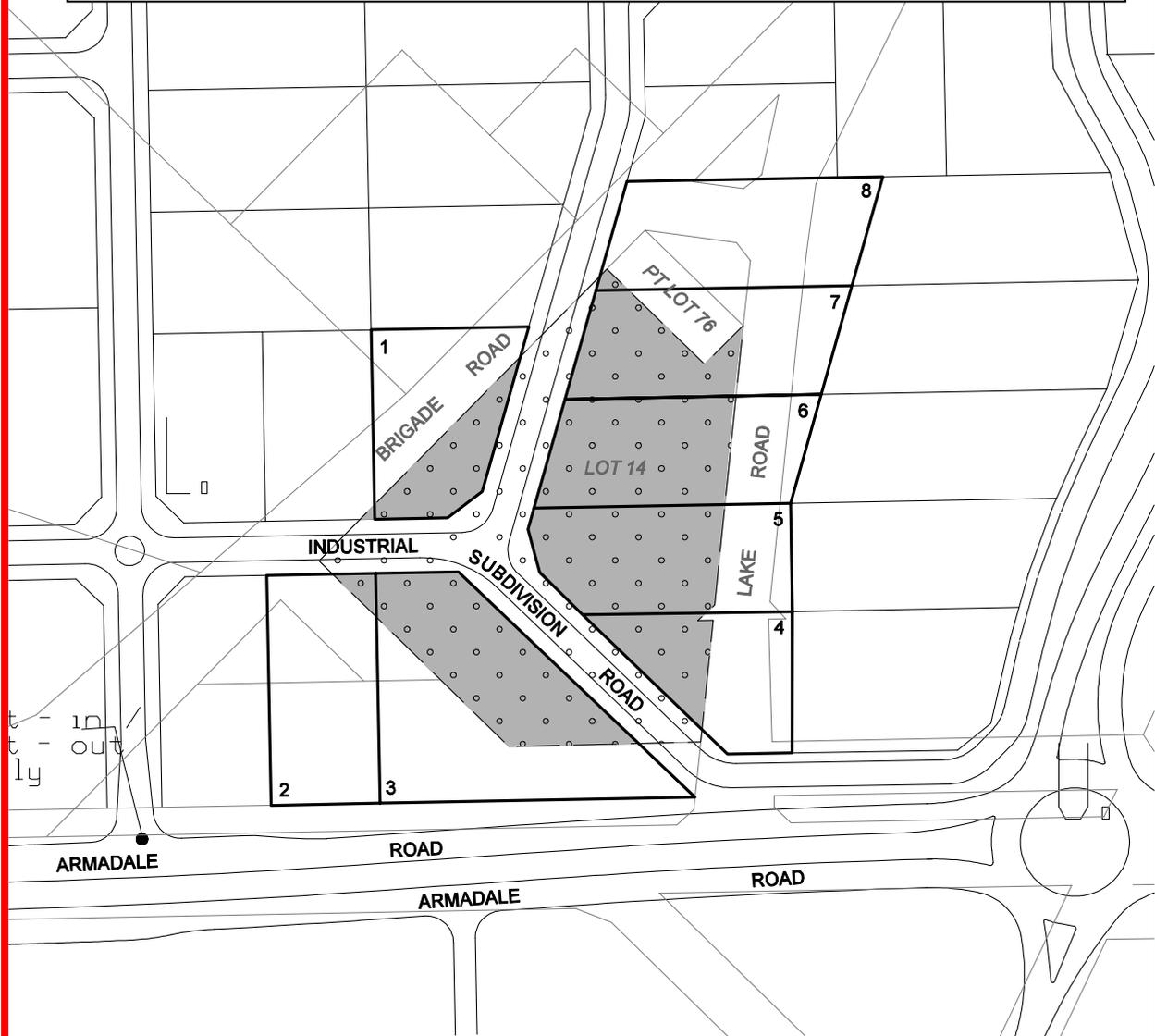
Local Government Act 1995

Commercial Arbitration Act 1985

Armadale Redevelopment Act 2001

Metropolitan Region Scheme Act 1959 and MRS

# OVERLAY OF STRUCTURE PLAN INDUSTRIAL LOTS FORRESTDALE INDUSTRIAL BUSINESS PARK



CURRENT LOT 14



INCORPORATION INTO FUTURE INDUSTRIAL LOTS AFTER LAND ASSEMBLY AND SUBDIVISION



COMPLETE INDUSTRIAL LOTS AFTER SUBDIVISION



METRES

### **Council Policy / Local Law Implications**

- ◆ Draft Local structure plan and Draft Planning Policy for the Development Area identified for the Forrestdale Industrial Business Park.
- ◆ Draft TPS No.2 Amendment No.168 to TPS No.2 – Development Contributions Plan - Forrestdale Industrial Business.
- ◆ Planning approval powers for subdivisions and development in the Forrestdale Industrial Business Park will be transferred to the Armadale Redevelopment Authority upon the gazettal of an “interim” Redevelopment Scheme by ARA, which is anticipated to come into force during 2003.

### **Budget / Financial Implications**

Nil in the event that the City does not purchase Lot 14 Brigade Road. In the event that Council determined to purchase the property, acquisition could be funded from General Revenue, a treasury loan, the “Land Acquisition Reserve Account” or some combination of these avenues.

The current General Revenue Budget has not specifically identified this proposal. Alternatively, acquisition could be funded by raising a loan from state Treasury or funded partly by a loan, with the balance of the cost funded from the “Land Acquisition Reserve Account”. The latter account has some funds available for general land acquisitions, however, insufficient funds to cover the full acquisition costs.

If loan funds were used to purchase the property, then loan servicing payments would also need to be included in the next Development Services Budget. The amount of the loan repayments, which would be needed to acquire the property, is currently being obtained from the department of State Treasury (note that in the absence of a legal basis for a successful claim of “injurious affection”, the costs of the land transaction to purchase Lot 14 would be born by the City and could not be attributed to the Development Contribution Plan for the Industrial Park).

### **Consultation**

- ◆ Council’s solicitors Minter Ellison were consulted in respect to legal issues;
- ◆ DTZ Australia were consulted in respect to valuation issues;
- ◆ Consultation with Project Co-ordinator Planning consultants Taylor Burrell with respect planning issues relevant to the estate structure plan
- ◆ Consultation with City of Armadale Project Manager and Technical Services Directorate in respect to estate planning;
- ◆ Consultation with Mr and Mrs Lockwood in respect to their current claim, administrative updates and reporting to Council (ongoing liaison during the course of the lengthy planning process through letters, telephone and meetings and together with all landowners within the estate boundaries Mr and Mrs Lockwood have also received the estate Newsletter mail-outs).
- ◆ Consultation with the ARA in respect to the proposed assumption of general planning powers for the Forrestdale Industrial Business Park and infrastructure issues.

## **BACKGROUND**

Lot 14 Brigade Road is currently developed for and located among properties used for similar rural-residential land uses. However, the area in which it is located is earmarked by recent rezoning for future changes to industrial types of land use. The Forrestdale Industrial Business Park has been formulated and planned as an individual developer driven estate, with minimum involvement of public agencies. Accordingly the City of Armadale is not actively seeking to acquire land within the estate.

Lot 14 Brigade Road is located to the immediate south of Pt Lot 76 Brigade Road. Pt Lot 76 Brigade Road was purchased by the City in recognition that the Lot had an extremely limited development potential for industrial purposes (due to its small size) and hence had negligible value in terms of an industrial development site. These circumstances necessitated the withdrawal of the property from sale when the draft structure plan was released to the public in 1998. Pt Lot 76 Brigade Road is very a small lot of 1012m<sup>2</sup> and is much smaller than any other lot within the area proposed for the Forrestdale Industrial Business Park - for comparison purposes Lot 14 Brigade Road is 17,054 m<sup>2</sup> which is approximately sixteen (16) times as large as Pt Lot 76 Brigade Road.

The subject land was rezoned from Rural to Industry under the MRS in November 1996 (MRS 979/33). It was subsequently rezoned under TPS No.2 from Rural D to Industrial Business Development Zone in March 2001 (Amendment No.148).

In May 2001, at the landowner's request, a meeting was held with officers whereupon the landowners were advised of the current status of planning for the estate. General matters regarding the future industrial development of the estate were also discussed including the current status and uncertainties surrounding the timing of industrial subdivision development.

Previously the Lockwoods have made submissions in respect to several statutory planning processes related to the Forrestdale Industrial Business Park including:

- ◆ Amendment No.148 (Rezoning and draft structure plan for the Forrestdale Industrial Business Park);
- ◆ Amendment No.168 (Development Contributions Plan for the Forrestdale Industrial Business Park).

## **DETAILS OF PROPOSAL**

In September 2001 correspondence was received from the landowners as follows:

*“We hereby submit a claim for compensation in the amount of \$375, 000 for the effects of Injurious Affection which will be suffered by our property by Amendment No.148 to the City of Armadale Town Planning Scheme No.2. The Scheme has impacted on our property in a manner, which seriously reduces the value of the real estate and our residential enjoyment. We are unable financially to take part in this scheme (refer our letter dated 29/01/01)\* and with this “Blight” over property the resale value is greatly affected. We look to you for assistance and compensation to enable us to move forward elsewhere as we are locked into a situation not of our making”. (\* Submission on the Amendment No.168).*

The Lockwood's Claim is for compensation totalling \$375 000 being the sum they would expect for outright purchase of the property by the City. They state that:

*“Included in the negotiable asking price of \$375,000 is an amount for Injurious Affection of \$170 000 and \$20 000 to cover Consequential Losses/Costs/Expenses/Disturbance”.*

The Lockwood's further state that :

*“Due to the extent our land is detrimentally affected by rezoning Amendment No.148 and the subsequent Development Contributions Plan Amendment No.168 plus the Draft Structure Plan (still to be finalized) we ask that Council consider purchase of our property.*

*The current Draft Structure Plan leaves us in an untenable position denuding the value of our land taking away the possibility of our obtaining a buyer on the open market. We wish to continue our rural/residential lifestyle and look forward to your help with this matter.*

*Should Council agree to purchase we feel sure that Lot 14 with the adjacent Lake/Brigade Roads and your cost recovery mechanisms you would safeguard any capital outlay on our property.”*

## COMMENT

Mr and Mrs B & M Lockwood have been resident owner occupiers of the property for over 20 years. They are not developers and as pensioners do not wish or have the means to develop their land for industrial purposes.

As the owners of the land they feel they have been caught up in the wider planning process the Forrestdale Industrial Business Park. These include a zoning change, a structure plan and a Development Contributions Plan for future industrial development over an area, which includes their property at Lot 14 Brigade Road Forrestdale. They also feel handicapped and “in limbo” as a consequence of the uncertainty surrounding the timing of development of the Forrestdale Industrial Business Park. The landowners state that *“the current Draft Structure Plan leaves us in an untenable position” ... “taking away the possibility of our obtaining a buyer on the open market”.*

It is not known whether the owners currently have the property on the market or have chosen to approach the City in the first instance. A purchaser of the property would enable the owners to re-locate and re-establish their lifestyle in an area not subject to the perceived uncertainty of the Industrial Park, and where they would be able to live in a rural lifestyle in conformity with the relevant Town Planning Scheme.

Given the new industrial zoning of the formerly rural-residential zoned property, it would be reasonable to conclude that the current market for the sale of the property would be largely confined to prospective industrial developers or investors.

### ***Legal Aspects of “Injurious Affection”***

Minter Ellison’s legal opinion that injurious affection can only apply where the use of the land is for a public purpose, indicates a claim for compensation against the City of Armadale would not succeed, for the reason that the zoned use of Lot 14 Brigade Road is not for a public purpose, rather it is for the purpose of private industrial development. The legal opinion *is elaborated in the supplementary confidential report in Attachment “B1” of the Agenda*).

### ***Right of Non-Conforming Use***

Since the zoning of Lot 14 Brigade Road changed to Industrial Business Development Zone upon the Gazettal of Amendment No.148, the current use of the property as a rural-residential smallholding enjoys a legal right of “Non-Conforming Use” under Town Planning Scheme No.2. Part 6 of the Scheme provides that a Non-Conforming Use is permitted to remain until such time it is discontinued for a period of six months or more, whereupon the future use of the property shall be required to be in accordance with the current zoning of the land.

### ***DTZ Australia Valuation Report***

A Valuation report prepared by DTZ Australia holds that the market value of Lot 14 Brigade Road Forrestdale was considerably less than the asking price for sale of the property (Valuation dated 25<sup>th</sup> January 2002). The Valuation report is *elaborated in the supplementary confidential report in Attachment “B1”*.

### ***Structure Plan***

The current revision of the draft structure plan and an overlay plan of how the new lots would be produced from parts of Lot 14 and adjacent landholdings is provided *overleaf* (the revised draft structure plan is shortly to be circulated to all landowners together with a report on the modifications to plan, prior to its subsequent consideration by Council for formal adoption and referral to the WAPC).

The draft structure plan indicates potential for development of Lot 14 to ultimately form part of eight (8) new industrial lots. However, the pattern of future industrial lots that would be produced from the subdivision of Lot 14 is fragmented and reliant on development in conjunction with adjoining properties. While not shown on the current draft structure plan, the existing dwelling house and outbuildings would not be likely to remain if the land was subdivided for industry unless the landowners submitted a detailed subdivision plan, which provided an alternative road structure design that met the objectives of the structure plan, particularly its aims for equity and access.

It has been necessary to prepare a structure plan for all the land within the proposed industrial estate, including Lot 14, notwithstanding that the current landowners may not choose to subdivide the land and may choose to remain in rural-residential occupation of the land into the longer term and for the foreseeable future. Adopting a structure plan that addresses all the land in the estate including Lot 14, will continue to protect the future subdivision potential of all the land over the longer term and through the successions of ownership that are possible over the life of the industrial zoning of the land.

The structure plan indicates the subdivision development of Lot 14 to create new marketable industrial lots would require amalgamations or acquisitions of adjoining properties or devested road reserves in order to produce new whole industrial lots for the land market (under current policies of the Department of Land Administration (DOLA) ownership of Lot 14 may entail an opportunity to acquire further vacant crown land, redundant road reserves or future closed roads, thereby assembling a more usable land holding in terms of its potential for future industrial development).

The basic premise of planning for the estate in terms of its private economics, is that the various costs of development (including the equitably apportioned common infrastructure costs under the Amendment No.168 Development Contribution Plan) should be offset by the benefit of greater land development opportunities provided by the new zoning.

There appears to be two main options available to Council in dealing with the landowner's request that the City purchase their land.

### ***Option 1***

Council enter into negotiations to purchase Lot 14 Brigade Road Forrestdale at a fair and reasonable price. However, the asking price currently indicated is excessive in relation to the independent valuation obtained for the property and hence, adding this property to the City's landholdings by acquisition at the current asking price, would not be consistent with sound financial management of the City's resources.

It is acknowledged that such an acquisition would assist the current landowners in their desire to relocate and additionally, the City could then make the site available for land-assembly and industrial development, at the earliest possible time. However, the land transaction and ongoing land holding costs would nevertheless introduce a cost burden on the City, with no guarantees as to ultimate return on the investment from the industrial development. The risks stem from both the timing of the return and its financial benefit as an investment.

### ***Option 2***

Council decline the landowners request to purchase Lot 14 Brigade Road Forrestdale, for the reason that the indicated asking price exceeds its valuation and the landowners have alternative options available to them, either to remain in rural residential occupation of the land should they choose, or placing the land on the open market for potential purchase by third parties (the development of the land for industrial purposes allowed by current zoning would remain a third and longer term option).

Council could also refer the matter to the Armadale Redevelopment Authority as that authority may be prepared to consider strategic land acquisitions in the estate and will soon take on the responsibility for administration and statutory control of the estate development.

## **CONCLUSION**

The owner's feelings of being caught up in the wider planning process the Forrestdale Industrial Business Park are acknowledged, however, legal advice does not indicate any basis for Injurious Affection claims against the City. Independent valuation evidence provides a current market value for the property, which is significantly less than the current price being asked for the property by the landowners.

Nevertheless, Council is open to consider the Lockwood's request that the City purchase the property. This would address the landowners feelings of grievance that they are being personally disadvantaged as a result of planning for the Forrestdale Industrial Business Park making the property difficult to sell. Under this scenario, the acquisition would produce a landholding with a better prospect for industrial development than either of the lots would if held individually (ie a two-lot amalgamation with the abutting Pt Lot 76, which was previously acquired by the City).

It should be noted however, that the resultant parcel would still require amalgamation with other adjacent land prior to subdivision into industrial lots capable of being put on the market or developed for industrial development purposes and that acquisition and landholding costs would have to be met by the City.

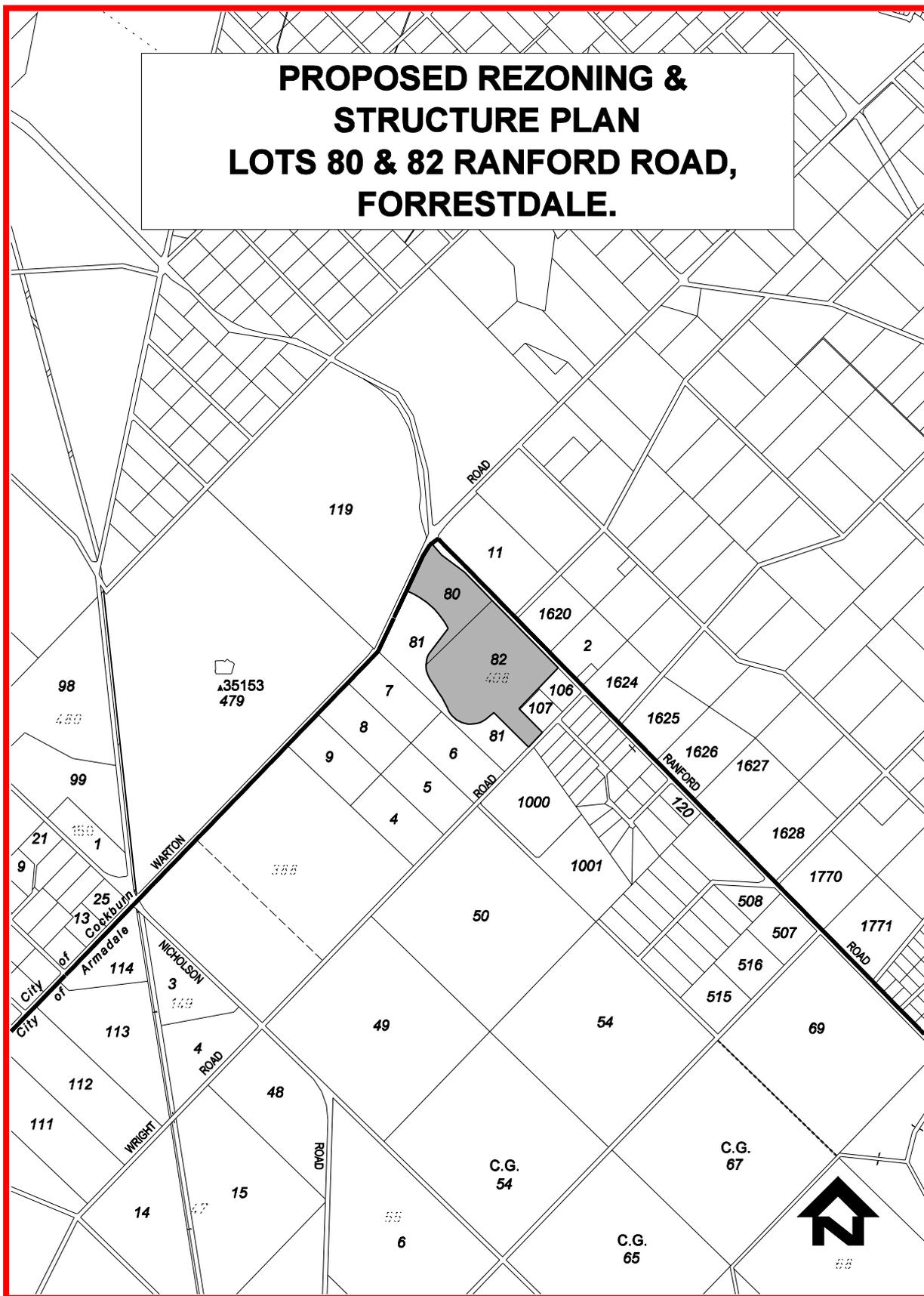
On balance it is considered that purchase of the property at the price at which it is offered, could not be supported by the best interests of the City. Accordingly, it is recommended that the offer be declined and the landowners be appraised of the legal, property market and financial management criteria upon which this determination has been based.

**D205/02            RECOMMEND**

- 1.    That Council having received legal opinion advise Mr and Mrs Lockwood that there are no grounds for a claim for injurious affection against the City of Armadale.**
- 2.    That Council advise Mr and Mrs Lockwood that it declines to accept the unsolicited offer for the City to purchase Lot 14 Brigade Road Forrestdale.**
- 3.    That Council advise Mr and Mrs Lockwood that the price at which the property is offered is substantially above the independent market valuation for Lot 14 Brigade Road, a copy of the valuation report to be provided to the landowners for information.**
- 4.    That Council advise the Armadale Redevelopment Authority of the landowners desire to sell Lot 14 Brigade Road as the ARA is the planning authority which will have responsibility for implementation of the estate following gazettal of the (interim) Armadale Redevelopment Scheme.**

MOVED Cr Knezevich  
MOTION CARRIED (7/0)

**PROPOSED REZONING &  
STRUCTURE PLAN  
LOTS 80 & 82 RANFORD ROAD,  
FORRESTDALE.**



***PROPOSED SCHEME AMENDMENT AND STRUCTURE PLAN –  
LOTS 80 & 82 RANFORD ROAD, FORRESTDAL***

WARD : FORREST  
FILE REF : A239687  
DATE : 25 October 2002  
REF : JRH  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Allerding Burgess  
LAND OWNER : Dept. of Housing & Works  
SUBJECT LAND : Lots 80 & 82 Ranford Road,  
Forrestdale  
Property size 30.27ha total  
Maps 17:08 & 18:08  
ZONING : Urban  
MRS/TPS No.2 Rural – Kennels

**In Brief:-**

- Applicant proposes a Scheme Amendment and Structure Plan over the subject lots, to facilitate the subdivision of land for Residential and commercial purposes.
- Proposal is generally consistent with the Urban zoning of the land under the Metropolitan Region Scheme, and with the recommendations of the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan.
- Recommend that the proposed Scheme Amendment be initiated, but that the Structure Plan be recommitted to a later meeting of Council following referral to the City of Gosnells, and receipt of additional information.

**Tabled Items**

Nil.

**Officer Interest Declaration**

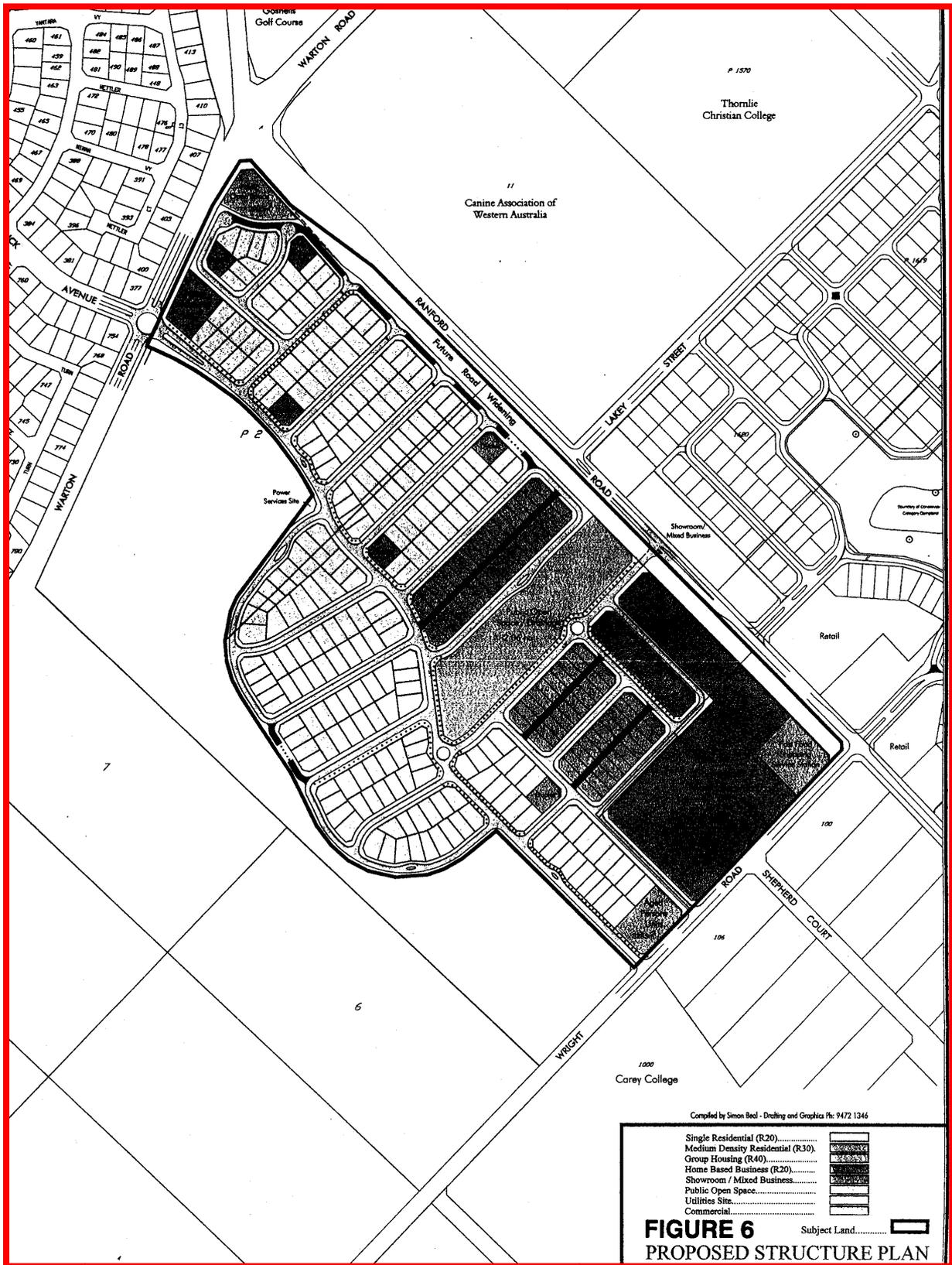
Nil.

**Strategic Implications**

1. Long Term Strategic Planning - Promote employment and residential growth, encouraging the economic well-being of the community.
- 1.4 Complete the structure plans for Brookdale and Forrestdale, focusing on provision of high quality residential development.

**Legislation Implications**

Legislation requires the local Town Planning Scheme No.2 to be in conformity with the Metropolitan Region Scheme.  
Town Planning Scheme No.2.  
Town Planning & Development Act 1928  
Environmental Protection Act and Regulations 1986



PROPOSED STRUCTURE PLAN  
 LOTS 80 & 82 RANFORD ROAD, FORRESTDAL

### **Council Policy / Local Law Implications**

Southern River/Forrestdale/Brookdale/Wungong District Structure Plan.  
Health Local Laws 2002

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Council's Strategic Planner
- ◆ Council's Environmental Officer
- ◆ Council's Technical Services Directorate

### **BACKGROUND**

The subject Lots 80 & 82 Ranford Road were previously part of a larger landholding previously known as Lots 2 and 3 Ranford Road. The Metropolitan Region Scheme Amendment No.938/33 included Lots 2 and 3, and rezoned the lots from 'Rural' to 'Urban' in 1996. The City was not supportive of this rezoning at the time as it was isolated from other residential neighbourhoods, was adjacent to a kennel zone, poultry farm and Canine Association facility, and no strategy or structure plan had been prepared to demonstrate the suitability of urban development in this location.

Despite these concerns, Council recognised its obligations under the Metropolitan Region Scheme to bring its Town Planning Scheme (TPS) into conformity with the urban zoning of the site. Consequently, Council initiated Amendment No.126 to TPS No.2, consisting of the rezoning of Lots 2 and 3 Ranford Road, Forrestdale from 'Rural – Kennels' to 'Residential – Development Area', at its November 1995 round of meetings (D470/95). This amendment was advertised for public comment but was not adopted by Council at its February 1997 meeting (D69/97) for numerous reasons including concerns with the potential impact on water quality in the region resulting from the proposal, the existence of regionally significant bushland within the lots which should be retained for conservation purposes, and the potential for lots within the subject site to be adversely affected by surrounding kennels and poultry farms.

Amendment No.126 was forwarded to the Western Australian Planning Commission but has not been determined at this time. In response to the concerns identified during the amendment, LandStart as owners of the subject lots commissioned ATA Environmental to complete an environmental assessment, which found that Lot 2 and a small portion of Lot 3 were identified as being regionally significant under Bush Forever (Site 253). A Negotiated Planning Solution (NPS) was reached between LandStart and the Bush Forever office in 1999, which resulted in the portions of Lots 2 and 3 which were of conservation value, being created as Lot 81 for incorporation within the adjacent Regional Reserve for Recreation. The balance of Lots 2 & 3 became Lots 80 & 82, which are now the subject of the proposed rezoning.

In the intervening period, a District Structure Plan covering the localities of Southern River, Forrestdale, Brookdale and Wungong was also completed, which provides for the urbanisation of existing rural land in this location over the next 10 to 20 years.

## **DETAILS OF PROPOSAL**

The applicant proposes to rezone Lots 80 and 82 Ranford Road, Forrestdale from ‘Rural - Kennels’ to ‘Residential – Development Area’. The proposed rezoning will permit the subdivision and development of the first stages of residential lots within the Forrestdale locality.

A Structure Plan has been included in support of the application, which also includes the adjoining Lots 106 and 107 Wright Road, Forrestdale. This plan details the proposed subdivision form within the application area, and the development of the portion of the Village Centre over Lots 106 and 107.

## **COMMENT**

### ***Southern River/Forrestdale/Brookdale/Wungong District Structure Plan***

The subject site is located on the western boundary of the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan (District Structure Plan). The District Structure Plan provides a structured form for urban development and related uses such as retail centres, road networks, community facilities and environmentally sensitive areas.

The District Structure Plan indicates the establishment of the Village Centre at the intersection of Wright Road and Ranford Road as identified in the proposed Structure Plan over Lots 106 and 107, with the inclusion of a walkable catchment around the centre for residential development which includes Lots 80 and 82. The location of the site adjacent to existing urban development within Canning Vale, and to the south of the residential development currently underway in Southern River, represents the orderly expansion of the development front occurring to the west of the locality.

### ***Urban Water Management Strategy***

The Urban Water Management Strategy (UWMS) has been prepared by the Water & Rivers Commission, to provide guidance on Water Sensitive Urban Design and best management practices, which are to be incorporated into land use and subdivision planning within the District Structure Plan. It is currently being assessed by the EPA, Western Australian Planning Commission and the affected local governments of Armadale and Gosnells for consideration of adoption and application to the planning process, and is anticipated to be finalised within the next few months.

The EPA has noted that it will not support the initiation of any new MRS Amendments within the District Structure Planning area until the UWMS has been completed. Given that the MRS Amendment affecting the Scheme Amendment application area is anticipated to be finalised within the next few months, this should not affect Council’s initiation to the proposal. The UWMS should be finalised prior to Council’s consideration of final adoption of the proposed Amendment, which would permit modifications to the Amendment to comply with the completed UWMS, should changes be required.

### ***Environmental Issues***

An environmental assessment for Lots 80 & 82 has been completed by ATA Environmental. The report notes that native vegetation remains over 90% of the lots, consisting largely of banksia woodland with an understorey of dense shrubs. A dampland or seasonally waterlogged basin is located to the south-east of the site, which is contained in Bush Forever Site 253 with a management category of 'Conservation'. This portion is vegetated with Paperbark, woodland species and shrubs with a sparse understorey.

This vegetation is generally in excellent condition, with a degraded portion in the centre of the site. Parts of the site have been cleared and degraded due to weed invasion and improved access for people and vehicles. A botanical survey indicates that the site does not support any species of Declared Rare Flora or any Threatened Ecological Community. Native vegetation within the original Lots 2 & 3 which was worthy of conservation has been recognised and set aside within the adjoining Lot 81 as part of the Negotiated Planning Solution (NPS) through the Bush Forever process.

The NPS was supported by the Bush Forever officers as it created an additional wildlife habitat and buffer to the EPP wetland situated immediately south-west of the site, retained a Conservation Category Wetland within the southern corner of the land, and good quality vegetation characteristic of the Southern River Complex. In addition, it provided the opportunity to manage the entire Bush Forever site No.253 as one large area of native vegetation.

The environmental assessment has determined that the majority of the site is generally suitable for urban development, provided that the proposed lots are sewered and that stormwater is planned using water sensitive design guidelines. However, the low-lying swampy ground in the northern corner and along the north-eastern boundary of the site have a low capability due to high water tables, which will require filling to an appropriate level.

### ***Impacts From Adjoining Kennel Properties***

The majority of the proposed lots within the subject Lots 80 & 82 are located approximately 170 metres away from established kennel properties on the eastern side of Wright Road. At present there are 21 licensed kennels/properties in the Rural-Kennels zone with some kennels having the capacity to house up to 48 dogs. If rezoning occurs, careful planning will be required to address nuisance and pollution issues namely, noise (*Environmental Protection Act 1986 and Regulations*) and odour (*Health Act 1911 and Health Local Laws 2002*).

The applicant's submission in support of the proposed rezoning acknowledges noise pollution issues and states the impact of the adjacent Kennel Precinct will lessen over time, as this area is included within the District Structure Plan as future urban development. Whilst the Rural - Kennels zoned land to the east of the application area will ultimately be rezoned for urban purposes as identified within the District Structure Plan, the existing approved kennels may continue to operate within the provisions of the TPS No.2 relating to Non-Conforming Use Rights. Given this situation, the consideration of urban development proposals surrounding the kennel operations must be based upon the kennels' continued operation in the medium to long term.

A ‘Noise Impact Assessment’ prepared by project consultants Herring Storer Acoustics commissioned by the applicant states that the impact of the existing kennel precinct on the development of the subject land for residential purposes is negligible. The Noise Impact Assessment identifies an area of the proposed estate which will be marginally affected by the existing kennel noise. This represents a buffer distance of 250 metres from Wright Road. The area identified in the proposal as being impacted upon by the Kennel Zone is to be developed in the last stage of the project’s construction. Planned in this area is a Village Shopping Centre and Service Station (Lot 106), Showroom and Mixed Business (Lot 107), Home Based Business, Aged Persons Units and Residential lots (Lot 82).

According to the noise impact assessment, dog barking will exceed regulatory levels in this location. Options discussed for the areas affected include creating a buffer zone using less sensitive premises close to the kennels or ‘quiet’ house design principles. Land to the north of Ranford Road within the City of Gosnells has already been rezoned for residential purposes, with residential lots currently under construction. In consideration of this matter, the City of Gosnells followed advice from the Department of Environmental Protection and required a 500 metre non-noise-sensitive buffer around the Southern River Kennel Zone fronting Ranford Road. A special control area between 500 metres to 1 kilometre of the kennel zone was also imposed, where Memorials on the Certificates of Title of all lots within the special control area advises prospective purchasers of the potential for noise nuisance.

With respect to the potential for adverse impacts due to odours, Council’s Environmental Health Officers conduct regular inspections of licensed kennel operations, and advise that the management practices of the kennels include the periodic removal of wastes and washing down of the kennels significantly reduces the impact of odours. This buffer distance should also be sufficient to ensure that properties are not affected by odours emanating from the kennel properties.

The imposition of a buffer is consistent with Council’s approach to other instances where development has potential to be adversely affected by surrounding activities such as poultry farms (Amendment 143) and orchards (Amendment 173). The analysis indicates that a 250 metre buffer distance should be imposed, but this has not been subject to review by the Department of Environmental Protection. Given this situation, it is considered that the proposed rezoning may proceed, on the basis that residential lots are not to be created within 250 metres of the adjoining Rural - Kennels zone, and that residential lots located between 250 metres and 1 kilometre from the zone shall incorporate a Memorial advising prospective purchasers of the potential for negative impacts. This minimum 250 metre buffer will be reconsidered by Council as part of its final adoption of the Scheme Amendment.

### ***Proposed Structure Plan***

A Structure Plan has been included in support of the application, which details the proposed subdivision form within the Residential Development Area on Lots 80 & 82, and the commercial development proposed on Lots 106 & 107. Lots 106 & 107 were originally included within the proposal to demonstrate compatibility and proposed linkages between the two landholdings.

However since the proposal was submitted, a separate application proposing the rezoning of Lots 106 & 107 under the MRS and TPS No.2, which is anticipated to be presented to Council for consideration at its December 2002 round of meetings. Consequently, the Structure Plan should be modified to remove the proposed development on Lots 106 & 107, and also to identify the lots affected by the required kennel buffer zone in accordance with previous advice within this report.

The proposed Structure Plan is generally consistent with the development form proposed within the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan. However, it should be noted that the subject lot is has frontage to the City's common municipal boundary with the City of Gosnells, to the north-west and north-east of the site. Whilst the City's officers have had preliminary discussions with officers from the City of Gosnells on matters relating to the Structure Plan, no formal comments have been sought from the authority at this stage. There are several matters which would benefit from such further discussion, such as the compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells, and the arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.

In light of the above, it is recommended that the proposed Structure Plan be recommitted to Council, following referral of the proposal to the City of Gosnells and satisfactory resolution of the above matters.

### **Analysis**

The proposed rezoning generally accords with the intentions of the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan. Council's endorsement to the Scheme Amendment would facilitate one of the first stages of urban subdivision and development within the City, as outlined in the District Structure Plan.

The site represents a logical pattern of expansion from the existing urban development to the north-west, and its location adjacent to approved residential and commercial development within the City of Gosnells will assist in permitting the early development of commercial facilities and creating an impressive entry statement to the City.

### **Options**

With respect to the proposed Scheme Amendment, Council may resolve to proceed with the proposal in accordance with the following options:

1. Resolve to initiate the proposed Scheme Amendment, as the proposal is consistent with the Urban zoning of the site under the Metropolitan Region Scheme, the development form proposed within the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan, and represents a logical expansion of urban development from the north-west of the site;
2. Resolve not to initiate the proposed Scheme Amendment, due to concerns with the possible adverse impacts to the proposed lots due to the existing kennel operations to the south-east of the application area.

With respect to the proposed Structure Plan, Council may resolve to proceed with the proposal in accordance with the following options:

3. Resolve to adopt the proposed Structure Plan for public advertising, subject to modifications to remove Lots 106 & 107 Ranford Road from the application area, and to identify the required kennels buffer zone. (Contingent upon initiation of the proposed Scheme Amendment);
4. Resolve to recommit the proposed Structure Plan to a later meeting of Council, following referral of the proposal to the City of Gosnells, and satisfactory resolution of the compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells, and the arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.

## **CONCLUSION**

In light of the above, it is considered appropriate for Council to initiate the Scheme Amendment, to progress the urban development of Forrestdale as outlined in the District Structure Plan. Initiation of the rezoning meets Council's obligations under the Metropolitan Region Town Planning Scheme Act (1959), and represents one of the first stages of development within the Forrestdale urban area.

It is therefore recommended that Council proceed with the proposed Scheme Amendment in accordance with Option 1.

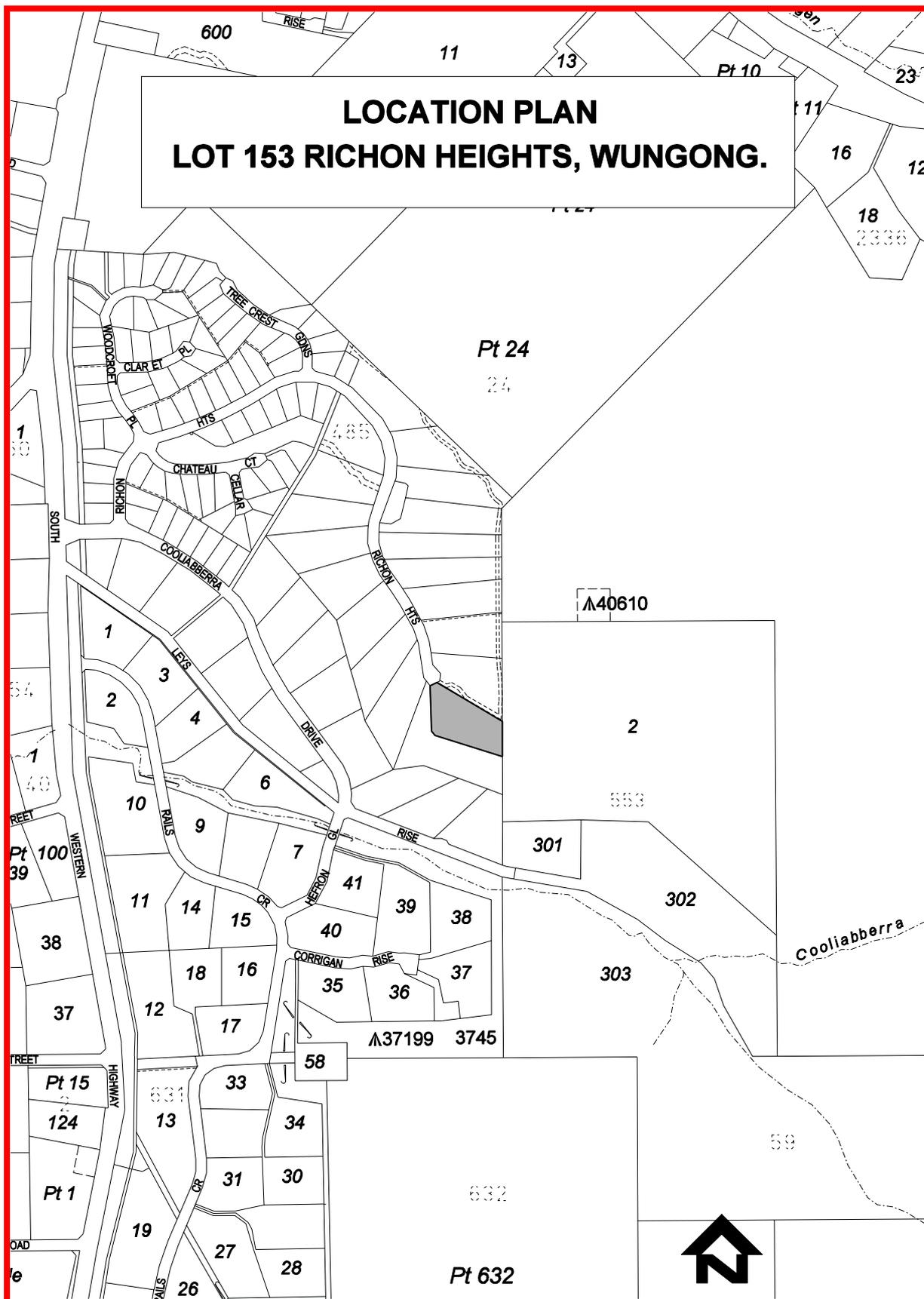
The proposed Structure Plan is sufficient to permit consideration of the Scheme Amendment at this stage, but requires referral to the City of Gosnells for formal consideration prior to adoption. This would also permit the satisfactory resolution of matters such as the compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells, and the arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.

It is therefore recommended that Council proceed with the proposed Structure Plan in accordance with Option 4 above.

**D206/02                      RECOMMEND**

- 1. That pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended) Council initiate a Scheme Amendment to Town Planning Scheme No.2, by:-**
  - a) rezoning Lots 80 and 82 Ranford Road, Forrestdale from “Rural - Kennels” to “Residential - Development Area” and “Showroom”;**
  - b) amending the Scheme maps accordingly;**
  
- 2. That Council further resolves:**
  - a) that the Scheme Amendment is consistent with those purposes for which Schemes may be made in accordance with the First Schedule of the Town Planning and Development Act (1928) and therefore will proceed directly to advertising;**
  - b) to advertise the proposal in accordance with the Town Planning Regulations 1967 (as amended) including referral to the Environmental Protection Authority for environmental assessment; and**
  - c) to forward a copy of the amendment to the Western Australian Planning Commission for information.**
  
- 3. That the Mayor and Chief Executive Officer be authorised to execute Amendment documents.**
  
- 4. That the proposed Structure Plan be recommitted to a later meeting of Council, following referral of the proposal to the City of Gosnells, and satisfactory resolution of the following matters:**
  - a) The compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells; and**
  - b) the arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.**

MOVED Cr Knezevich  
MOTION CARRIED (7/0)



***PROPOSED RESIDENCE AND VARIATION TO DEVELOPMENT ENVELOPE –  
LOT 153 (No.52) RICHON HEIGHTS, WUNGONG***

WARD : ARMADALE  
FILE REF : A229892  
DATE : 4 November 2002  
REF : PRR / EDDS  
RESPONSIBLE : PSM / EDDS  
MANAGER  
APPLICANT : Digby Cullen Architect  
LAND OWNER : D McCaffrey & C Hardy  
SUBJECT LAND : Property size 1.0738ha  
Map 23.40  
ZONING : Rural / Rural 'E1'  
MRS/TPS No.2

**In Brief:-**

- Council received application for a single residence with Zincalume roofing material and an associated development envelope modification on 13 August 2002.
- Letters of no objection from the adjoining properties have been received.
- Recommend that Council approve the application for a single residence with and an associated development envelope modification, on the condition the roofing material is changed to a material / colour that Council considers non-reflective.

**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**

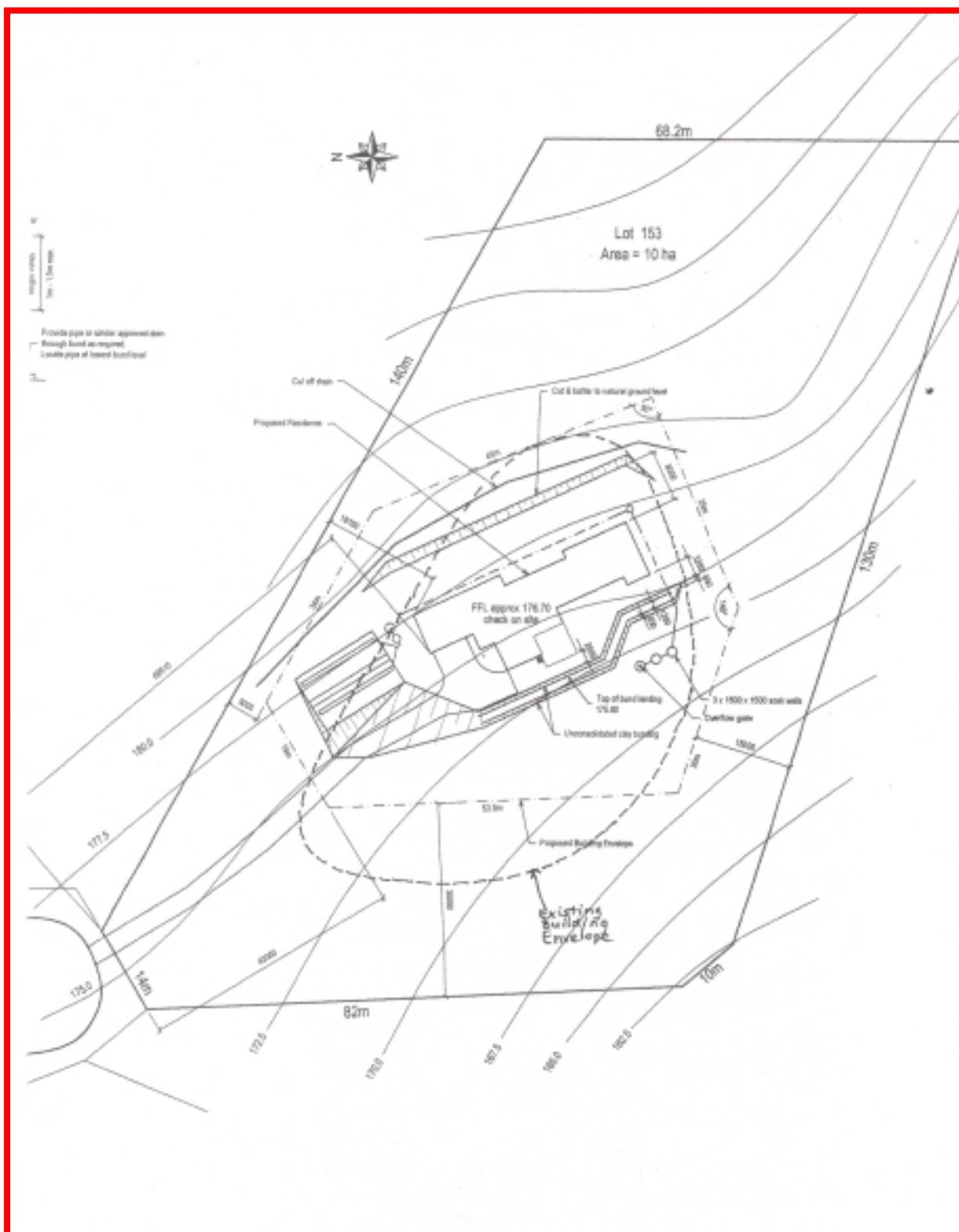
Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Policy 4.3.11 – Establishment of Variation of Development Envelope Locations  
Rural Strategy

**Budget / Financial Implications**

Nil.



SITE PLAN  
LOT 153 RICHON HEIGHTS, WUNGONG

### **Consultation**

- ◆ Development Control Unit
- ◆ Applicant submitted letters of no objection from adjoining landowners

### **BACKGROUND**

Council received the application for a single residence with Zincalume roofing on Lot 153 Richon Heights, Wungong on 13 August 2002. The matter has been referred to Council for determination.

### **DETAILS OF PROPOSAL**

The applicant proposes to develop a 263m<sup>2</sup> (307m<sup>2</sup> with carport) single storey residence on the subject property. The residence would utilise Zincalume roofing material.

The long axis of the proposed residence is orientated north-north-west by south-south-east on the property, so the majority of the Zincalume roof falls approximately north-east and south-west. The proposed residence would be 18m from the northern property boundary, 29m from the southern property boundary, 50m from the western property boundary and 59m from the eastern property boundary. These dimensions place the development within a modified development envelope, which is being considered concurrently with the proposal for the single residence.

### **COMMENT**

#### ***Development Control Unit (DCU)***

At its meeting held on 5 November 2002, DCU supported the proposal and recommended that the item be referred to Council for approval.

It is noted that the proposal was not advertised for comment, as the applicant obtained letters of no objection from adjoining property owners which were included with the application. It was considered that these were the properties that would most likely be affected by the potentially reflective material.

### **ANALYSIS**

#### ***Council's Rural Strategy***

It is noted that the Darling Scarp is considered as a landscape quality area in Council's Rural Strategy. The area around the subject lot in particular is considered a Prime Landscape Quality Area. This requires Council to have due regard for the impact on the landscape and the visual quality of the area when assessing all applications. Concerns have been raised in this regard as to the 'long view'. It has been noted that the Zincalume material may be visible from areas on the coastal plain, and as such could be considered to have an adverse impact on the landscape quality of the Darling Scarp.



ELEVATION PLAN  
LOT 153 RICHON HEIGHTS, WUNGONG

### ***Location and Orientation***

The subject lot is located within a Rural E1 zone at the end of Richon Heights in Wungong. It is noted that Zinalume is more likely to be considered favourably in Rural areas than Residential areas for three main reasons. Rural blocks are in the majority larger than residential blocks, which means that there is a greater choice of location for development, there is a greater likelihood of natural screening vegetation and the appearance of building bulk is lessened.

In residential areas these elements are less likely to be contributing factors, as the potential is reduced for reflective material to be suitably located and screened by the landscape, resulting in potentially more prominent structures.

The two surrounding properties most likely to be able to see the potentially reflective roofing are those to the immediate north and south, and these are the properties that have no concern with the chosen material. Other surrounding properties are sited such that the topography of the area negates the potential for viewing of the Zinalume material with the land sloping away steeply on the western side of Richon Heights. It is relevant to note that this includes the residential area further down Richon Heights, which will not have a line of sight to the proposed residence.

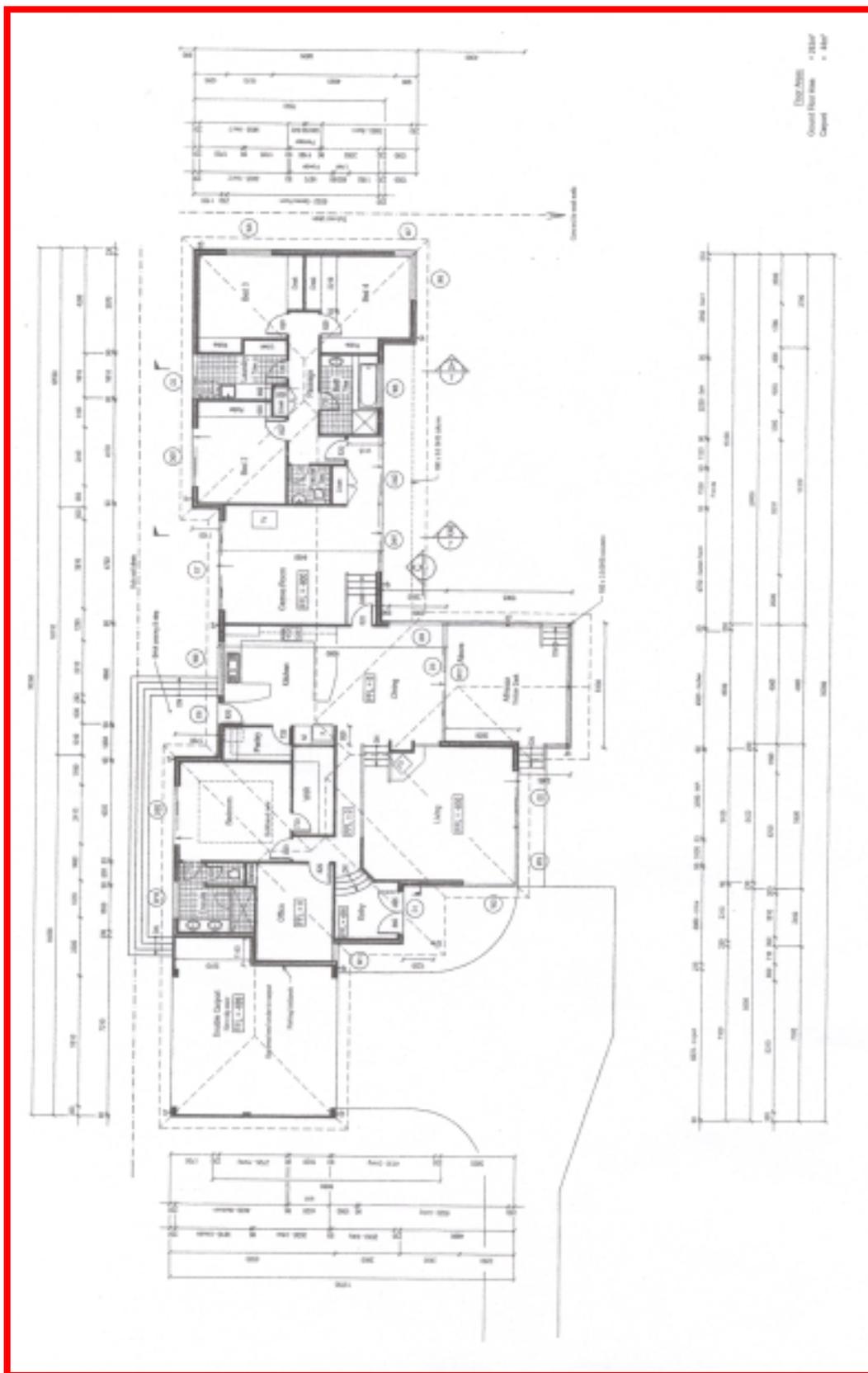
The orientation of the proposed residence is such that it presents a side elevation to the residential area west of the South Armadale Industrial Area. This means that the amount of Zinalume material that can be viewed from the residential area is minimal. It is nevertheless noted that the greater expanse of the roof is orientated towards the south west, which may increase the potential for this aspect to be seen from the plain and it is from this angle that major concerns are held with the proposal.

### ***Screening***

A number of mature and partially mature trees are present between the proposed development and the outlook to the coastal plain (approximately 6m to 8m high). These trees are, in the majority, outside the proposed development envelope and as such the applicant would have to specifically apply to Council for their removal under Town Planning Scheme No.2. As none of the trees are proposed to be removed as part of the application they will remain to screen the proposed development from the coastal plain. Nevertheless, it is noted that the trees will not entirely obscure the roof, and as a result a detrimental impact on the landscape quality of the Darling Scarp may result.

### ***Similar Development (Potential Precedent)***

An application for Zinalume roofing was approved at Lot 207 Richon Heights in March 2001, when no objections were received from the public comment period. A site inspection of the constructed residence confirmed that through the design of the residence and its associated roofing design, the areas of the roof can be viewed from Richon Heights and the coastal plain. Questions have been raised as to the appropriateness the approval of the potentially reflective material for the residence on this property, which raises some concern for the current proposal. Essentially, an example that is not considered to be a good basis for comparison should not be used to justify the approval of another similar development. Therefore it is recommended that Council consider the use of Zinalume material inappropriate in this instance.



PROPOSED FLOOR PLAN  
LOT 153 RICHON HEIGHTS, WUNGONG

### ***Development Envelope Modification***

With respect to the proposed modification of the development envelope, it is considered the proposed changes are acceptable and in accordance with the objectives of Policy 4.3.11. The new envelope is situated in the same location as the old envelope, but had to be modified to incorporate the earthworks and leach drains associated with the proposed development. The change will not have significant bearing on how the Zincalume roofing will impact upon the surrounding area, as the location has been chosen well initially.

### **OPTIONS**

1. Council can approve the application for a single residence with Zincalume roofing and associated development envelope modification on Lot 153 Richon Heights, Wungong.
2. Council can approve the application for a single residence and associated development envelope modification on Lot 153 Richon Heights, Wungong on the condition that the roofing material is changed to Colorbond in a colour that Council considers non-reflective or other non-reflective material.

### **CONCLUSION**

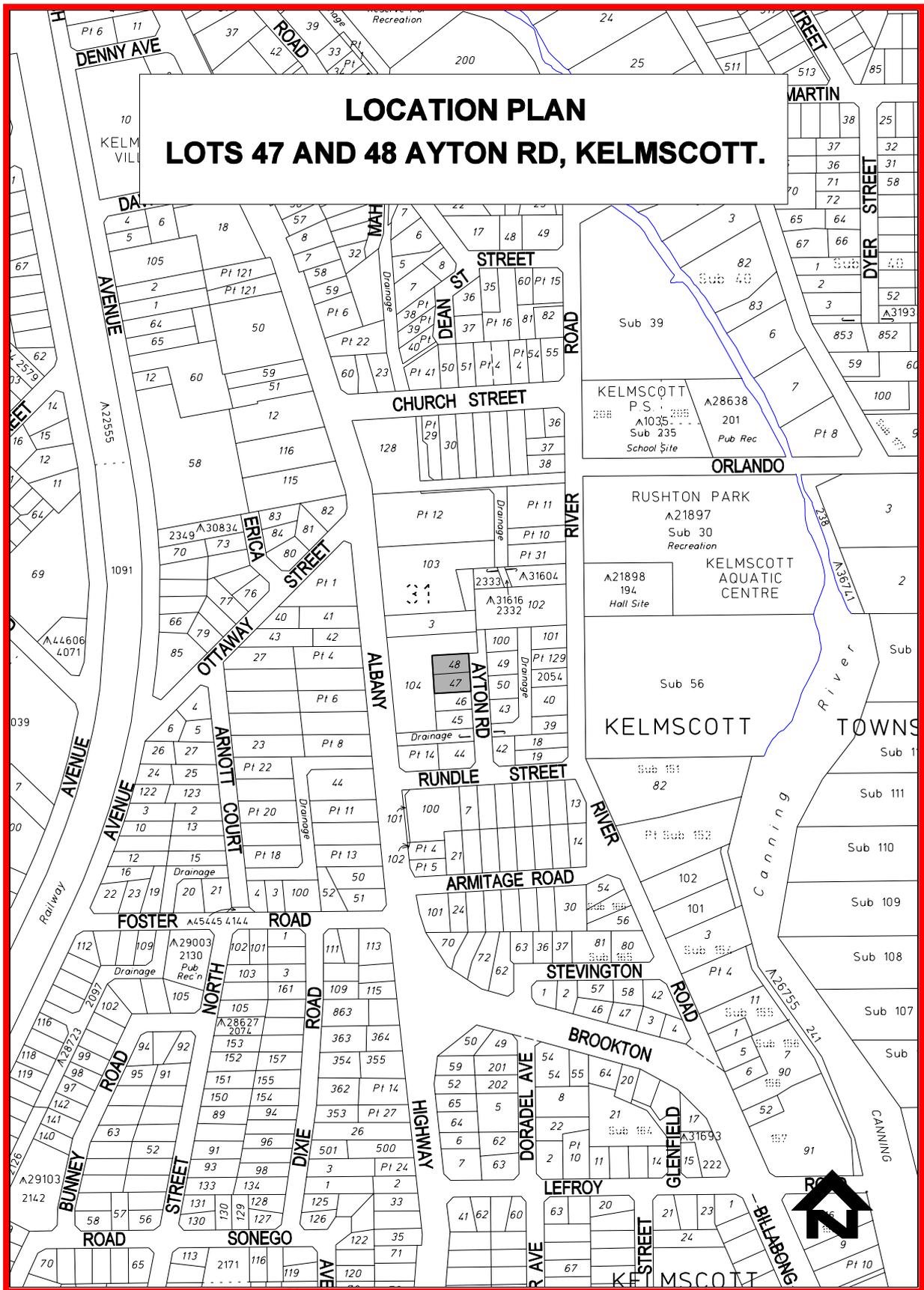
It is duly noted that Council has been relatively consistent in its approach to reflective material. The existing residence with Zincalume roofing on the high side of Richon Heights is visible from the coastal plain and the roofing material is more prominent than those constructed from tiles or Colorbond which is less reflective. It is therefore construed that the example should not be used as an argument for a precedent. In this regard, it is therefore recommended that the development be approved, but the roofing material changed to a material and colour that is non-reflective, in accordance with Option 2.

### **D207/02            RECOMMEND**

**That Council approve the application for a single residence and an associated development envelope modification on Lot 153 Richon Heights, Wungong subject to the following principal requirements:**

- ♦ **Roofing material to be changed to a material / colour that is non-reflective, to the satisfaction of Council.**
- ♦ **All buildings and/or structures to be confined to the designated development envelope, as shown on the enclosed plan.**

MOVED Cr Fletcher  
MOTION CARRIED (7/0)



***PROPOSED GROUP HOUSING DEVELOPMENT –  
LOTS 47 AND 48 AYTON ROAD, KELMSCOTT***

WARD : KELMSCOTT  
FILE REF : A068585 & A068599  
DATE : 31 October 2002  
REF : PRR  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : J Tobia  
LAND OWNER : G & S Tobia  
SUBJECT LAND : Property size 1774m<sup>2</sup> (total)  
Map 23.06  
ZONING : Urban / Residential 'R10'  
MRS/TPS No.2

**In Brief:-**

- Council received an application for the development of two units behind the existing residences on Lots 47 and 48 Ayton Road, Kelmscott.
- The application proposes a variation to Council's Group Housing Development Policy in terms of density.
- The application was advertised for public comment and attracted three (3) submissions objecting to the proposal.
- Recommend that Council approve the application for group housing on Ayton Road, subject to appropriate conditions.
- *Committee recommended that the application be refused on the basis that-*
  - *the location and adjoining development are not conducive to establishing increased residential development with an appropriate amenity;*
  - *the site does not adequately comply with Council's Grouped Housing Development Policy in terms of desirable locational characteristics;*
  - *the increased degree of residential density is beyond that contemplated under Council's Grouped Housing Development Policy and is out of character with the prevailing residential densities in Ayton Road.*

**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**

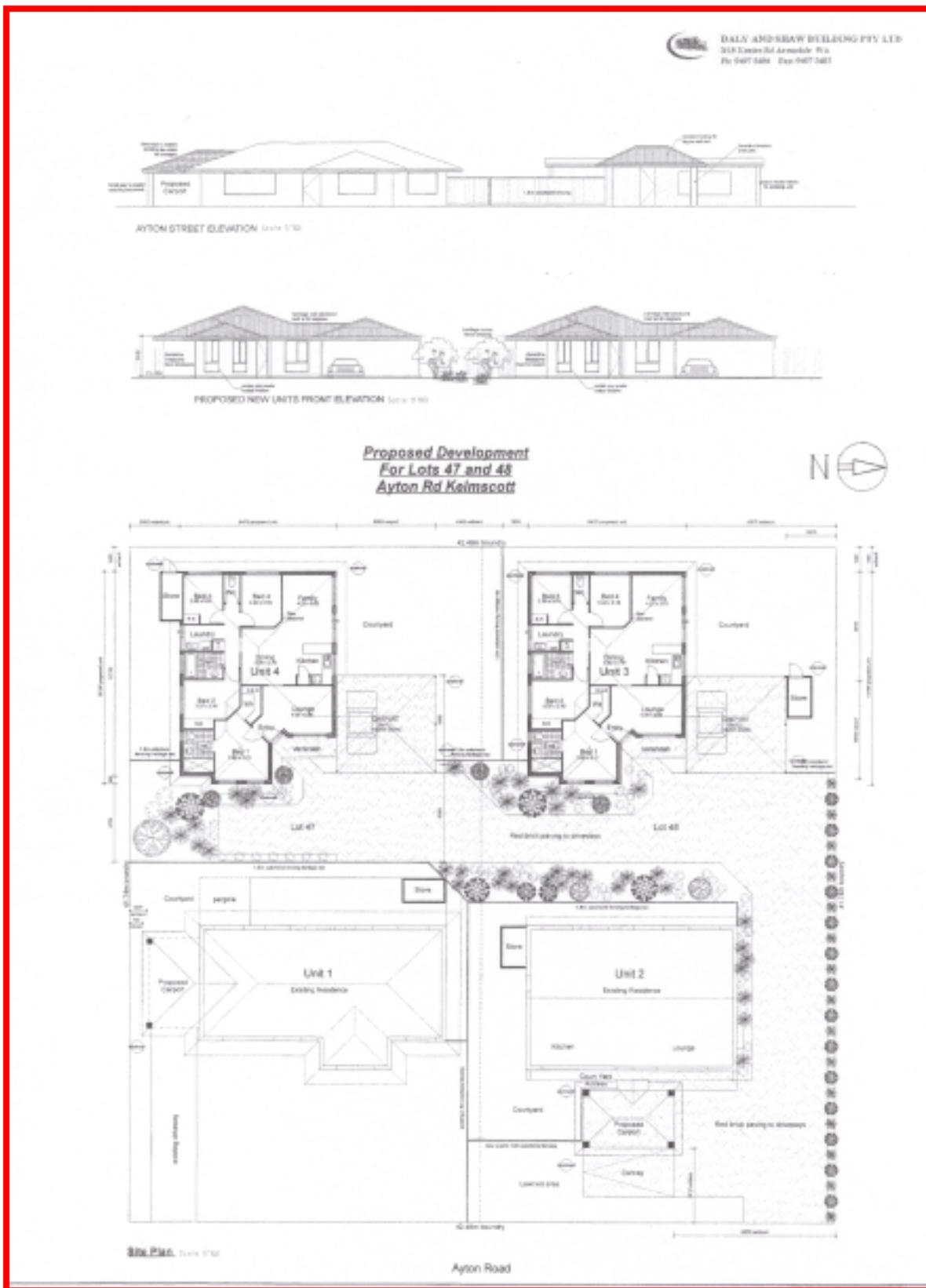
Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

4.3.13 – Group Housing Development

**Budget / Financial Implications**

Nil.



PROPOSED SITE PLAN  
LOTS 47 & 48 AYTON ROAD, KELMSCOTT

### **Consultation**

- ◆ Council's Development Control Unit
- ◆ Surrounding Landowners

### **BACKGROUND**

Council received an application for a grouped housing development on Lots 47 and 48 Ayton Road, Kelmscott on 2 July 2002. 'Grouped Housing' is an "AA" use in the Residential Zone under Town Planning Scheme No.2, which requires determination by Council.

### **DETAILS OF PROPOSAL**

The applicant proposes to develop two additional single storey units to the rear of the existing dwellings on the subject properties.

The applicant is applying for a variation to Council's Group Housing Policy in that the proposed density is 'R25' whilst the prevailing density is 'R10'. Council's Policy provides for a potential increase of 10 units per hectare above the prevailing density (ie 'R20'), but in this instance the applicant has applied for an increase of 15 units, which is 5 units above the policy provisions.

The new units would be situated 1.5m from the rear boundary, and 8.9m and 3m from the northern and southern boundaries respectively. The new units would be constructed of limestone brickwork and heritage red 'Colorbond' roofing. Photos of the existing residences are included within this report.

### **COMMENT**

#### ***Development Control Unit (DCU)***

At its meeting held on 31 October 2002, DCU supported the proposal and recommended that the item be referred to Council for approval, subject to appropriate conditions.

#### ***Surrounding Landowners***

The application was advertised to surrounding landowners for a period of two weeks. A total of three submissions objecting to the proposal were received. The issues raised are outlined in the following section.



EXISTING STREET PRESENTATION  
LOTS 47 & 48 AYTON ROAD, KELMSCOTT



## ANALYSIS

### *Public Submissions*

The comments raised in the three submissions from surrounding landowners can be summarised as outlined below:

1. *Improper behaviour and language from previous tenants and their children.*

Council cannot be responsible for policing tenants in rental properties, and must present an unbiased assessment of the development itself, rather than who may or may not reside there.

2. *Additional rental properties have the potential to duplicate and exacerbate problems already experienced.*

See comments for issue number one above.

3. *As residents are yet to discover the impact of the operation of the sports centre, further development is not appropriate.*

Council must consider each application on its merits, and the impact of the sports centre on surrounding residences would have been considered in the application relevant to that structure. Council cannot defer consideration of another proposal on the basis that the sports centre has not commenced operations.

4. *Property values would depreciate.*

This argument is not supported by evidence to provide a planning basis for refusal.

5. *The additional buildings would constitute a fire hazard.*

If approved, the structures would conform to the Building Code of Australia, which includes regulations governing the control of potential fire risks.

6. *The extra traffic on Ayton Road would be unacceptable.*

Ayton Road would be capable of handling the additional traffic generated by an extra two units in the street.

7. *The proposed driveway entrance to the new homes is not wide enough.*

The driveway complies with Council's Group Housing Development Policy with respect to a minimum 3m driveway width, being 5m at the crossover, and 4.5m wide adjacent to the existing dwelling. A distance equivalent to at least the minimum width has been applied in all areas.

***Policy 4.3.13 – Group Housing Development***

The application complies with most areas of Council's Group Housing Development Policy apart from the following discrepancies:

***Density*** – The application is proposing a density equivalent to 'R25', with the four lot sizes being approximately 443.5m<sup>2</sup>. The prevailing density in the area is 'R10' and Council's Group Housing Development Policy allows an increase of ten units per hectare above the prevailing density, which equates to 'R20'. The applicant has based the increase on the Residential zone use table of Town Planning Scheme No.2 that states that Council may approve Group Dwellings up to a density of 'R40', if it is satisfied that the amenity of the area is not prejudicially affected.

Council's Policy has a list of specific requirements for the location of Group Housing. In this regard, it is noted that the proposal is not located on a corner lot which is preferred, but it is considered that the subject site is situated in close proximity to a major transport route that provides public transport, community facilities including churches, schools and sports facilities (including tennis, squash, and swimming with additional court sports forthcoming) and the nearby Kelmscott Town Centre. The location is also within walking distance of Rushton Park (approximately 180m as the crow flies, or 420m via streets).

The existing housing stock in Ayton Road was probably constructed in the late 1960's and early 1970's. Most of the dwellings are typical brick and tile homes that have been well maintained. The area is gradually becoming surrounded by a number of non-residential uses being developed along Albany Highway. From a strategic viewpoint, it can be considered that higher density housing in adjoining, well-serviced residential areas would support the non-residential uses and provide an interface between these uses and the lower density housing.

It is also noted that none of the objections received directly refer to the proposed density increase. Given that the proposal satisfies the majority of the location criteria, and a number of other requirements in Council's Policy, it is reasonable to favourably consider the increase in density as appropriate.

***Parking*** - In accordance with the new Residential Design Codes, a total of eight (8) private parking bays and one (1) visitor parking bay are required to service the site which incorporates four (4) grouped dwellings in total. (Two existing units and two proposed units). The submitted site plan satisfies this requirement and also indicates ample brick paved areas to accommodate any additional parking.

***Architectural Sympathy*** – Council's Policy states that when existing residences are to be retained and incorporated into a grouped housing proposal, Council must be satisfied the existing dwellings are of a sufficient standard in relation to the new dwellings. If Council is not satisfied that the dwellings exhibit architectural sympathy to the proposed new dwellings, Council may require the demolition or upgrading of the existing residences in question.

With respect to the proposal, the existing house on Lot 47 is of satisfactory architectural standard and can be upgraded in terms of colours to match the proposed units. The existing residence on Lot 48 differs from the other three structures in that it has a flat roof. The applicant has attempted to address this concern through the addition of the carport with a pitched Colorbond roof at the front of the residence. Reservations are nevertheless held as to whether this is enough to tie in the existing residence with the development. It has been suggested that a pitched roof would need to be added to the existing residence before it can be accepted.

**Landscaping** – Whilst the site plan clearly defines areas intended for landscaping, this would need to be finalised with the submission of a comprehensive landscape plan as a condition of approval, should Council deem the development acceptable.

**Amenity Impact** – As the courtyards / outdoor living areas for the two proposed units are designed to be located at the side of the dwelling units away from the boundary wall of the adjacent sport complex the impact of the boundary wall on the amenity of the units would be minimal. Given the applications compliance with the Residential Design Codes, use of satisfactory building material types and colour schemes, landscaping and the proposed improvements to the existing residences to improve the appearance, the proposal is considered to contribute to the improvement of the amenity of the site and the Ayton Road area.

### ***Amalgamation***

The design of the proposal is such that the proposed access to the two rear units crosses the existing common property boundary of Lots 47 and 48. From a pragmatic planning viewpoint, this arrangement becomes simplified if the two lots are amalgamated. Council's Policy recommends a minimum lot size of 900m<sup>2</sup> to consider group housing proposal the lots are 887m<sup>2</sup> individually, which would mean Council would need to relax the Policy standard if the lots remained separate.

## **OPTIONS**

1. Council could approve the application for the group housing development on Lots 47 and 48 Ayton Road, Kelmscott, subject to appropriate conditions with regard to the upgrading of the existing residences, the provision of parking, amalgamation and the submission of a landscape plan.
2. Council could refuse the application for the group housing development on Lots 47 and 48 Ayton Road, Kelmscott, if it is of a view that the proposal will have a detrimental impact on the residential amenity of the locality.

## **CONCLUSION**

The issues objected to by surrounding residents were largely centred on issues, which cannot be considered as planning grounds for refusal of a development. The consideration of the interface the proposal will create between the low density residential areas and the non-residential uses, together with the locational criteria of the proposal is grounds for Council to consider allowing a density that equates to 'R25'. In addition, it is noted that design issues with the development can be resolved through appropriate conditions. It is therefore recommended that Council approve the proposed group housing development in accordance with Option 1.

*Officer's report recommends –*

That Council approve the application for Grouped Housing at Lots 47 and 48 Ayton Road, Kelmscott, subject to the following principal requirements:

- ◆ Lots 47 and 48 Ayton Road are to be amalgamated.
- ◆ The existing residence on Lot 47 Ayton Road is to be upgraded by repainting in a colour to match the proposed new units.
- ◆ The residence on Lot 48 Ayton Road is to be upgraded by replacing the existing flat roof with a pitched roof to match the roofline of the proposed units and repainting in colours to match the new units to the satisfaction of Council.
- ◆ The additional parking bays (one private bay and two visitor bays) are to be indicated on a revised plan.
- ◆ The submission of a comprehensive landscape plan is required. The landscape plan is to include plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained thereafter to the satisfaction of Council.

*COMMITTEE was firmly of the view that there were insufficient grounds to vary from Council's Group Housing Development policy to accept this particular proposal.*

*COMMITTEE Members were also concerned that the adjoining development was not compatible with group housing development particularly in relation to scale, bulk and visual amenity. Additionally, the increase in density proposed (R25) was well above the prevailing density (R10) and is inconsistent with the residential character of Ayton Road.*

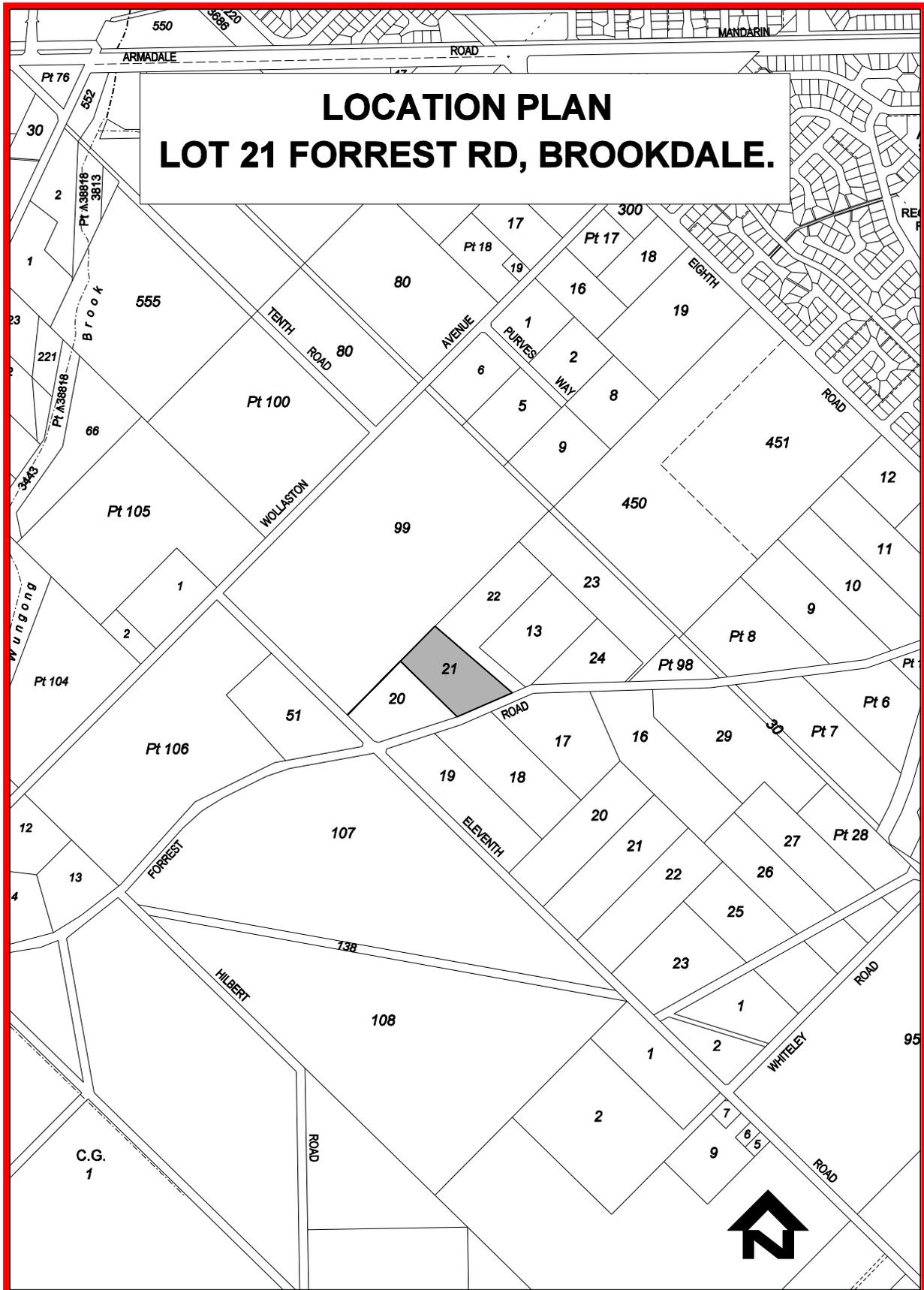
*The site of the group housing development is not well located to take advantage of policy criteria such as proximity to POS, corner siting or close to a local neighbourhood or district centre and associated services and facilities.*

**D208/02            RECOMMEND**

**That Council refuse the application for grouped housing development on Lot 47 and 48 Ayton Road, Kelmscott on grounds that:-**

- ◆ **the location and adjoining development are not conducive to establishing increased residential development with an appropriate amenity;**
- ◆ **the site does not adequately comply with Council's Grouped Housing Development Policy in terms of desirable locational characteristics;**
- ◆ **the increased degree of residential density is beyond that contemplated under Council's Grouped Housing Development Policy and is out of character with the prevailing residential densities in Ayton Road.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)



**PROPOSED SECOND RESIDENCE – LOT 21 FORREST ROAD, BROOKDALE**

WARD : FORREST  
FILE REF : A028492  
DATE : 1 November 2002  
REF : PRR / GIW / EDDS  
RESPONSIBLE : PSM / EDDS  
MANAGER  
APPLICANT : Mr and Mrs Wise  
LAND OWNER : Mr and Mrs Wise  
SUBJECT LAND : Property size 2.5142ha  
Map 20.02  
ZONING : Urban Deferred / Gen. Rural  
MRS/TPS No.2

**In Brief:-**

- Council received an application for a second residence on the subject property on 26 September 2002.
- Council's Policy 4.3.10 'Two Houses on One Lot in the Rural Zone' applies.
- Recommendation for refusal on the grounds that the proposal does not meet the requirements of Clause 2.4.1 of Policy 4.3.10.
- *Committee recommended that the application be approved subject to appropriate conditions with regard to the submission of a schedule of materials and colours and provisions for the upgrading of the existing residence in terms of external finishes.*

**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**

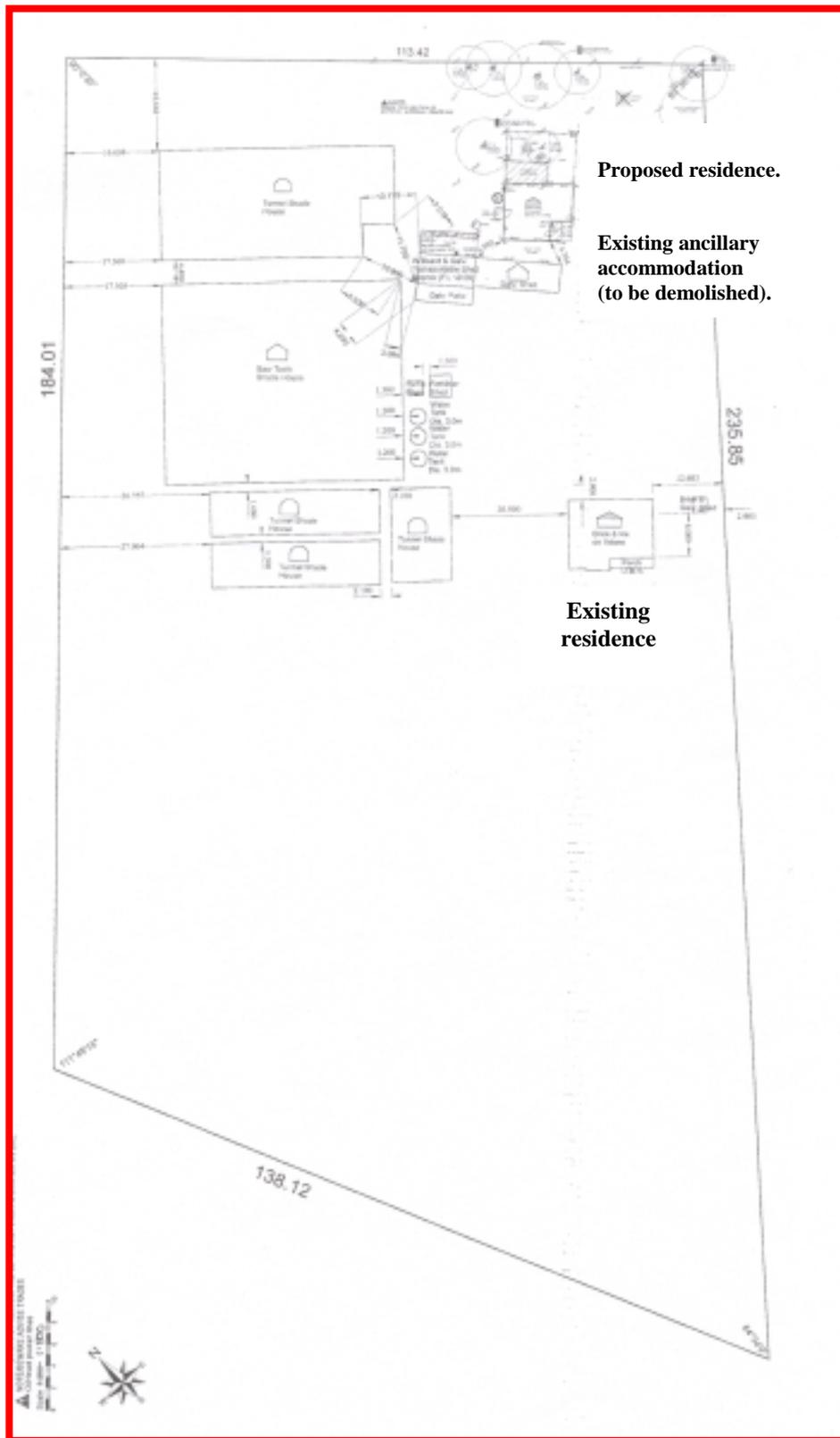
Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Policy 4.3.10 – Two Houses on one Lot in the Rural Zone.  
Council's Rural Strategy  
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan

**Budget / Financial Implications**

Nil.



SITE PLAN - EXISTING STRUCTURE  
LOT 21 FORREAST ROAD, BROOKDALE

## **Consultation**

- ◆ Development Control Unit

## **BACKGROUND**

Existing improvements on the property include a residence, shade / tunnel houses, a number of outbuildings and three water tanks. Council received an application for a second residence on Lot 21 Forrest Road, Brookdale on 26 September 2002. Since the proposal does not comply with an aspect of Council's 'Two Houses on One Lot in the Rural Zone' Policy, the application has been referred to Council for determination.

## **DETAILS OF PROPOSAL**

Details pertaining to the application include the following:

- ◆ Construction of a second residence (two storey) with a total floor area of 387.38m<sup>2</sup>;
- ◆ The proposed residence would be located in the northern corner of the lot, eight (8) metres from the north-west boundary and fifteen (15) metres from the north-east boundary;
- ◆ The second residence will be constructed of 'Florentine' limestone brick, and a 'Colorbond' roof at a pitch of 24°;
- ◆ The applicant has provided information in support of the proposal, outlining the following:
  - The new residence would become the primary residence of the property, with the second residence being used by family members who would assist in the running of an approved nursery on site.
  - The location was chosen due to existing ancillary accommodation being situated there (to be demolished), privacy from Forrest Road and the presence of a number of existing trees.
  - A letter of no objection from the adjoining landowner with reference to a reduced setback of 8m (instead of the required 15m) for the proposed residence has been provided.

## **COMMENT**

At its meeting held on 5 November 2002, DCU recommended that the application be referred to Council for approval, subject to appropriate conditions.

## **ANALYSIS**

### ***Policy 4.3.10 – Two Houses on one Lot in the Rural Zone (the Policy).***

#### *Lot Size, Coverage and Use*

The minimum lot size for a second residence to be considered is 2ha. The subject lot is 2.5142ha, which exceeds the minimum requirement. The Policy also stipulates that site coverage is not to exceed five (5) per cent. As the shade/hot houses are not permanent structures, the proposal would also meet this requirement.



Council's Policy specifies that a second residence must be used for family or farm management purposes. In this instance the owners would move into the new residence (having lived off-site and worked at the premises), and the existing residence will continue to accommodate family members who assist in the running of the hydroponic nursery that needs 24 hour a day, seven days a week attention. As both residences will house members of the same family who will be working on site, the Policy requirement is met.

#### *Architectural Sympathy*

The proposed residence is of a much higher architectural standard the existing residence and ancillary accommodation on the subject lot. Council's policy notes that the two dwellings should exhibit architectural sympathy to lessen the impact of the additional building bulk on the character of the area. The existing residence is constructed of a combination of cream and red bricks with a dark red tile roof. The proposed 'Florentine' limestone bricks should therefore blend with the cream bricks used for the existing residence.

A schedule of materials and colours for the rest of the proposed development has not been provided however, and if approved should be required as a condition. The applicant should also be advised that it is necessary for the proposed residence to be compatible with the colours used for the existing dwelling, or that the existing dwelling is to be upgraded to be compatible with the new residence.

#### *Location*

Council's Policy also makes reference to the location of a second dwelling. The Policy requires a second residence to be in close proximity to the existing residence, to maximise the potential for rural use of the land and to avoid subdivision. As demonstrated by the submitted site plan, the second residence would be approximately 50m distant from the existing residence, which would not comply with this requirement and Council may not be willing to consider a variation of the Policy requirements to the extent as requested by the applicant.

The arguments put forward by the applicant in support of the location for the proposed residence are duly noted and whilst the Policy provides guidelines for location, the final position of the second residence is at the discretion of Council. A site visit to the subject property revealed that there are existing constraints between the existing residence and the proposed development, being the sheds as indicated on the site plan, associated fencing and existing trees and that the new residence would almost be entirely screened from Forrest Road.

Whilst there is room further south-east of the existing residence, it is acknowledged that this would be less private than the chosen location, and would also impact upon the maximisation of the land for rural purposes. It should however be noted that the location of the proposed dwelling is consistent with the existing ancillary dwelling which would be demolished should the application be approved.



*Future Urban Development (Clause 2.4.1)*

Further to justifying the location chosen with respect to the existing residence on site, clause 2.4.1 of Council's Policy raises the issue of the protection of future urban areas. The subject lot is included within an area that has been rezoned under the Metropolitan Region Scheme to 'Urban Deferred'. As such, the Policy states that an application for a second residence would generally not be supported.

The addition of a second residence means that there will be more built form to accommodate and take into account in future subdivisions. In addition, the property in question would acquire a greater value, thus making it more difficult for developers to account for in costs associated with subdivision.

It should be noted that Council has previously refused similar applications within the locality (i.e. Lot 10 Forrest Road P335/92) based on the potential impact of such proposals to compromise future subdivision. The precedent in the area for this type of development is therefore set and needs to be taken into account. If Council is to be consistent in terms of the application of Clause 2.4.1 of Policy 4.3.10, then the application for the second residence should be refused.

***Southern River / Forrestdale / Brookdale / Wungong District Structure Plan***

The Southern River / Forrestdale / Brookdale / Wungong District Structure Plan nominates the subject lot as urban, with a road running along the north-western property boundary. The neighbouring land on the other side of the road is nominated for open space. In this regard, the proposal has the potential to compromise future detailed structure and subdivision planning within the locality, which is the main issue addressed by Clause 2.4.1 of Policy 4.3.10.

**OPTIONS**

1. Council could approve the application for a second residence on Lot 21 Forrest Road, Brookdale, subject to appropriate conditions with regard to the submission of a schedule of materials and colours and provisions for the upgrading of the existing residence in terms of external finishes.
2. Council could refuse the application for a second residence on Lot 21 Forrest Road, Brookdale, if it is of a view that the proposal will have a detrimental impact on potential future urban development in the locality, and will create an undesirable precedent for similar applications.

**CONCLUSION**

As a significant level of detail has not been reached in terms of the planning for future urban development in the surrounding area, it is difficult to assess the exact impact the proposal will have on future subdivision. Whilst it is acknowledged that the application meets some criteria in Council Policy, the issues of detrimental impact on the orderly and proper planning of future urban areas and establishment of an undesirable precedent within the locality remains. Therefore, in accordance with Clause 2.4.1 of Council's Two Houses on One Lot in the Rural Zone Policy, it is recommended that Council should not support the proposed second residence.

*Officer's report recommends –*

That Council refuse the application for a second residence on Lot 21 Forrest Road, Brookdale on the following grounds:

- ♦ The proposal does not comply with Clause 2.4.1 of Council's Two Houses on One Lot in the Rural Zone Policy (Policy 4.3.10) relating to the protection of future urban areas.
- ♦ The proposal has the potential to compromise the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan proposals in terms of future detailed structure planning and subdivision within the locality.
- ♦ The approval of the application will create an undesirable precedent for other similar applications.

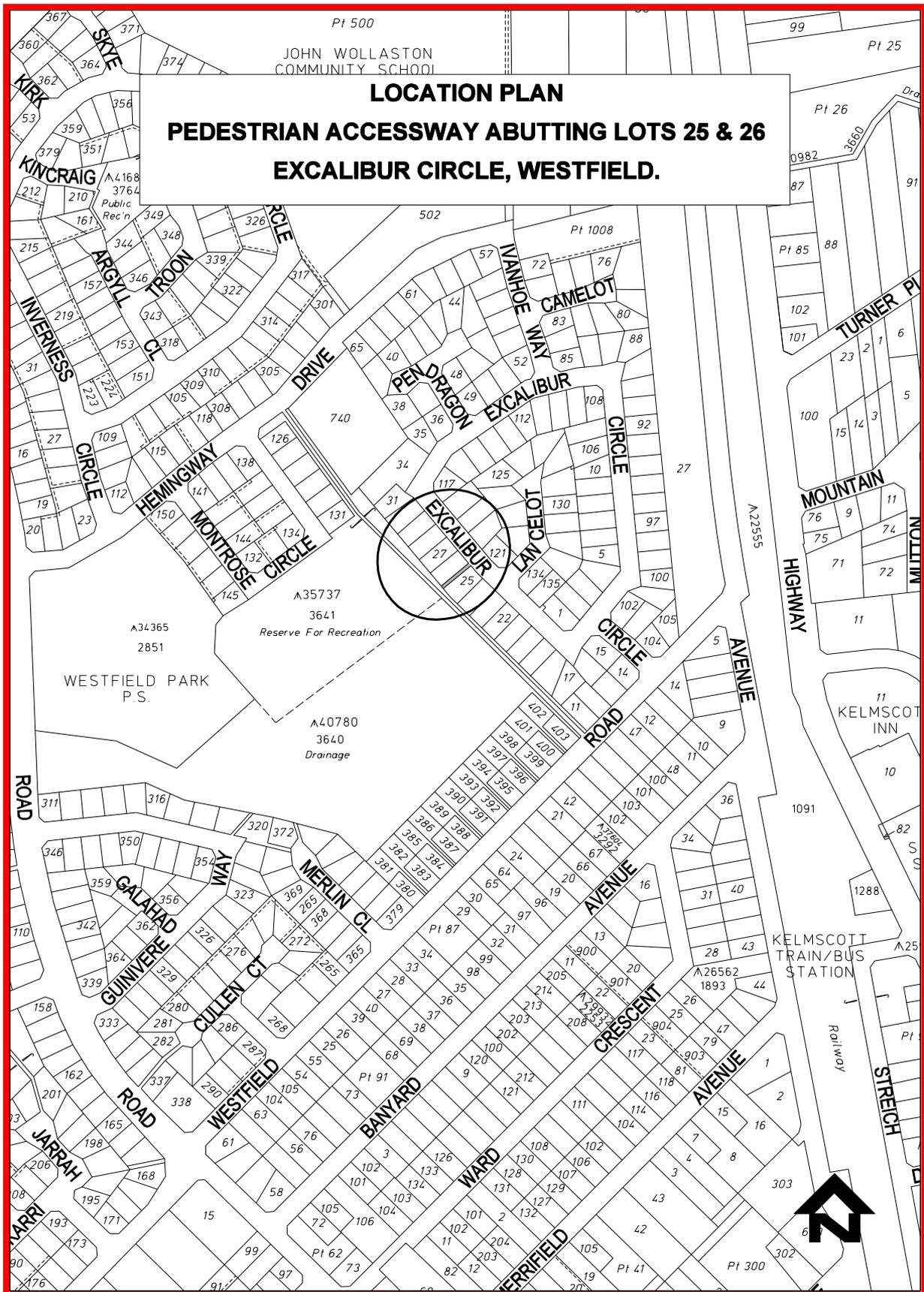
*COMMITTEE reviewed this proposal in some depth and concluded that there was a case to allow the second residence, based on argument that the proposal was improving the economic viability, management and function of the associated hydroponic nursery business being conducted on the land.*

*COMMITTEE was also of the view that the development proposed was an enhancement of the property and would be able to be accommodated without compromise of future urban structure planning of the area.*

**D209/02            RECOMMEND**

**That Council approve the application for a second residence on Lot 21 Forrest Road, Brookdale, subject to appropriate conditions with regard to the submission of a schedule of materials and colours and provisions for the upgrading of the existing residence in terms of external finishes.**

MOVED Cr Hodges  
MOTION CARRIED (7/0)



***PEDESTRIAN ACCESS WAY (PAW)  
BETWEEN LOTS 25 (24) & 26 (26) EXCALIBUR CIRCLE, WESTFIELD***

WARD : WESTFIELD  
FILE REF : WAY/2/00  
DATE : 1 November 2002  
REF : MF  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Member for Canning on  
behalf of Landowners  
LAND OWNER : Mr G & Mrs HI Gutteridge  
SUBJECT LAND : Pedestrian access way (PAW)  
between Lots 25 (24) & 26  
(26) Excalibur Circle,  
Westfield.  
Map 22-07  
ZONING : Urban/Residential “R.15”  
MRS/TPS No.2

**In Brief:**

- Letter received from Federal Member for Canning (on behalf of Mr & Mrs Gutteridge) requesting Council to reconsider its previous decision ‘*not to close the PAW*’.
- Recommend that Council decline this request on the grounds that its previous decision was made as recently as December 2000 following strong community objections received during the advertising process.
- *Committee additionally recommended that further measures should be investigated to improve security and amenity of the public access way by way of lighting and uniform fencing.*

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Land Administration Act 1997.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

\$7,500.00 for the construction of solid fencing.

### **Consultation**

- ◆ Previous consultation with Service Authorities, Department of Planning & Infrastructure and residents.
- ◆ Mr Don Randall – Member for Canning on behalf of applicant.
- ◆ Technical Services Directorate.

### **BACKGROUND**

At its meeting of 18 December 2000, Council resolved as follows:

1. Not to close the pedestrian access way (PAW) between Lots 25 (24) & 26 (26) Excalibur Circle, Westfield on the basis of community objections as evidenced by the responses received during the advertising process.
2. That the matter of safety and upgrading measures that may be appropriate for the pedestrian access way at Excalibur Circle, Westfield be referred to Technical Services Committee for consideration.
3. That applicants and respondents be advised of Council's determination.

### **DETAILS OF PROPOSAL**

A letter has been received from Mr Don Randall – Federal Member for Canning acting on behalf of the applicant – requesting Council to reconsider its previous decision '*not to close the PAW*' because of particular problems experienced by the owners of properties alongside the laneway which include:

- ◆ Rubbish thrown over fences on a daily basis and other loutish behaviour;
- ◆ Motorbikes using the laneway as a short cut – a practice that may well result in serious injury to pedestrians;
- ◆ Laneway is used as an escape route for people committing crimes in Excalibur Circle;
- ◆ Mr Gutteridge's next door neighbour (Lot 24) has had a car driven through the asbestos fence into the backyard.

In light of these concerns, Mr Randall feels that closure of the laneway will bring benefits to residents in the immediate vicinity which may outweigh any inconvenience caused to other community members.

### **COMMENT**

When this proposed closure was advertised for public comment in 2000, 11 out of 33 local residents objected to the closure with only two supporting closure. The Principal of Westfield Park Primary School also wrote to Council objecting to the closure on the grounds that at least 15 students use the PAW every day to walk to and from the school. The school has encouraged this mode of travel because of the limited parking facilities available in the school car park.

Council's Technical Services Directorate has included in its Five Year Programme, a proposal to install solid fencing along the PAW. In terms of the scheduling of this programme, it is envisaged that the installation is likely to be carried out during the 2003/2004 financial year.

### **Analysis**

Council's decision to decline closure of the PAW was made as recently as December 2000 amid strong objections to closure received during the advertising process, including a request from the Principal of the Westfield Park Primary School indicating that at least 15 school children use the PAW on a daily basis. If the PAW is closed, the extra walking distance will be approximately 570 metres. Any reconsideration will involve re-advertising the proposed closure without any certainty that this will achieve a different result given the relatively short lapse of time since Council's previous determination in this matter. The circumstances do not appear to have changed since the matter was previously considered by Council.

The Department of Planning & Infrastructure (DPI) did not support the closure as recently as February 2001 saying it will impede pedestrian movement to and from the adjoining recreational facilities and the local primary school. It appears that the DPI will generally oppose closures in where:

- ◆ The PAW forms an important part of the local pedestrian and cycle through route providing for good permeability through the area and/or facilitates connections with local and district public transport and community facilities.
- ◆ There is not a consensus of view from the community regarding the merits of closing the PAW.

### **Options**

1. Reconsider its previous decision on the grounds of perceived problems associated with the PAW as highlighted by the applicant. Any reconsideration however will require re-advertising of the closure proposal.
2. Decline the request to reconsider Council's previous decision on the grounds of strong community objection received during the advertising process in October/November 2000. The Principal of the Westfield Park Primary School has reinforced this objection on the grounds that at least 15 school children use the PAW every day. This has been encouraged because of the limited parking facilities available in the school car park. The closure of the PAW will involve an extra walking distance of approximately 570 metres.

### **CONCLUSION**

It is recommended that Council adopt Option 2 on the grounds that this PAW appears to be well used by the local community and particularly by school children attending the nearby Westfield Park Primary School. If the PAW is closed, the extra walking distance will be approximately 570 metres. The circumstances have not changed since Council's previous consideration. As a result of Council's previous decision not to close the PAW, regular maintenance is being carried on a programmed basis. Council's Technical Services Directorate has also included in its Five Year Programme a proposal to install solid fencing on either side of the PAW. It is envisaged that this will be carried out during the 2003/2004 financial year.

*Officer's report recommends –*

That Council resolve not to reconsider its previous decision relating to the closure of the pedestrian access way (PAW) between Lots 25 (24) and 26 (26) Excalibur Circle, Westfield on the grounds of strong community objections received during the advertising period in October/November 2000.

*COMMITTEE, whilst concurring with the officer's recommendation, considered it appropriate that further measures should be investigated to improve security and amenity of the public access way by way of lighting and uniform fencing.*

**D210/02                      RECOMMEND**

- 1.     That Council resolve not to reconsider its previous decision relating to the closure of the pedestrian access way (PAW) between Lots 25 (24) and 26 (26) Excalibur Circle, Westfield on the grounds of strong community objections received during the advertising period in October/November 2000.**
  
- 2.     That the matter of improving security and amenity of the public access way (PAW) be referred to the Technical Services Committee for consideration of appropriate lighting and uniform fencing measures.**

MOVED Cr Reynolds  
MOTION CARRIED (7/0)

**LOCATION PLAN  
REQUEST TO NAME R.O.W. TO BE  
DEDICATED AS A ROAD, ARMADALE**



***NAMING OF RIGHT OF WAY (ROW) IN FORREST ROAD BETWEEN SIXTH AND SEVENTH ROADS, ARMADALE***

WARD : ARMADALE  
FILE REF : A50221  
DATE : 11 November 2002  
REF : CCB/HC  
RESPONSIBLE : PSM  
MANAGER  
SUBJECT LAND : ROW off Forrest Road  
between Sixth & Seventh  
Roads, Armadale  
Map 22.02  
APPLICANT : Department of Housing  
& Works  
ZONING : Urban/Residential R40  
MRS/TPS No.2  
LAND OWNER : Department of Housing  
& Works

**In Brief:-**

- Council resolved to request the Minister for Lands to dedicate a section of ROW off Forest Road, situated between Sixth and Seventh Roads, as a road.
- DOLA requires that the ROW be named prior to being dedicated as a road.
- Council sought approval of the Geographic Names Committee (GNC) to name the road “Chester Court”.
- The GNC requested a suitable replacement name to be submitted due to the name already occurring five times in the Metropolitan Area.
- Recommend that Council seek approval from the GNC for the name “Bonner Lane” be adopted as the road name.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To foster ownership, pride and a supportive and caring community.

**Legislation Implications**

Land Administration Act 1997

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Minimal postal costs.

### **Consultation**

- ◆ Geographic Names Committee (GNC).
- ◆ Ward Councillors

### **BACKGROUND**

On 23 November 2001, the Department of Housing and Works received a development approval to construct a grouped housing development of 15 units on Lot 7 (113) Seventh Road, Armadale.

Council, at its ordinary meeting on 14 June 2002, resolved to request DOLA to dedicate a section of this ROW as a public road. Advice from DOLA indicates that prior to the dedication of the road, a road name needs to be established.

At its meeting of 15 July 2002, Council resolved to approach the Geographic Names Committee seeking approval of the name “Chester Court, Armadale, for the Right of Way (D122/02 refers). However the GNC advised that the name “Chester” is used ten times in the metro area and under the current guidelines a road name should not be duplicated more than 5 times in the metropolitan area.

At its meeting on 21 October 2002, Council resolved (D195/02 refers) that the naming of Right of Way (ROW) be recommitted to the next Development Services Committee.

### **COMMENT**

The matter has been discussed with officers of the GNC. It was suggested that an aboriginal name “Camira” which means “Wind”, be considered as a name for the ROW. Other suggested names are:

1. The “Bonner” family was the first family to move into the new workers homes in Armadale in 1927.
2. A company named W. “Atkins” was one of the construction firms to engage in the development of the first rail line from East Perth to Pinjarra around 1888.

### **OPTIONS**

1. Adopt **Bonner Lane** as the name for the ROW.
2. Adopt **Camira Lane** as the name for the ROW.
3. Adopt **Atkins Lane** as the name for the ROW.

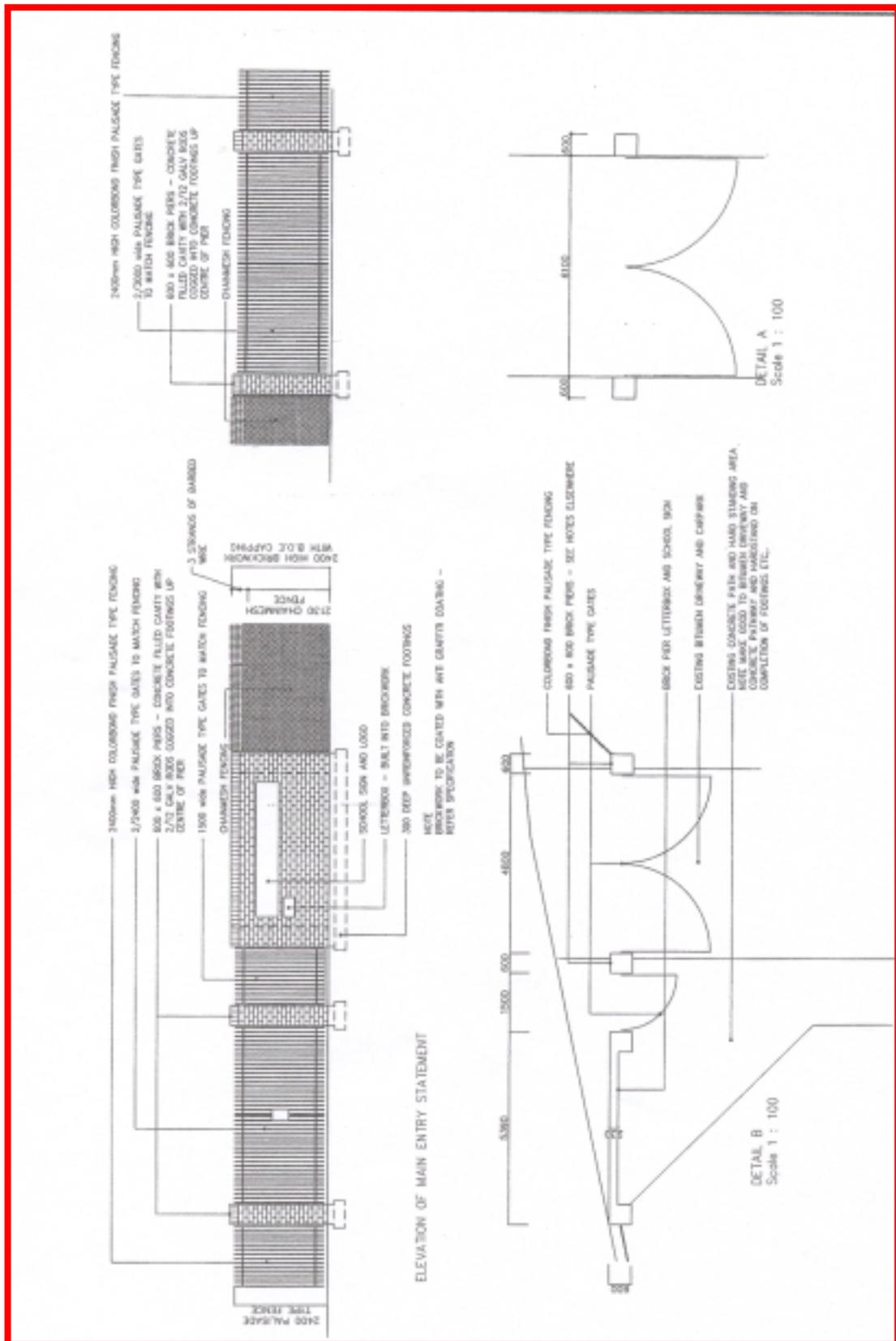
### **CONCLUSION**

It is recommended that Bonner Lane is a suitable name for the ROW as it has historical links to the Armadale area and meets the GNC criteria.

**D211/02            RECOMMEND**

**That Council approach the Geographic Names Committee seeking approval of the name “Bonner Lane” for the Right of Way (giving access to Lot 7 Seventh Road) between Sixth and Seventh Roads, Armadale.**

MOVED Cr Fletcher  
MOTION CARRIED (7/0)



SCHOOL FENCING ELEVATION PLAN

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***SCHOOL FENCING***

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WARD : ALL WARDS  
FILE REF : PSD/1  
DATE : 30 October 2002  
REF : PRR  
RESPONSIBLE MANAGER : PSM  
APPLICANT : Department for Housing and Works  
LAND OWNER : Minister for Education  
SUBJECT LAND : School Sites  
ZONING : Urban / Public Purpose –  
MRS/TPS No.2 Primary School / Varies

**In Brief:-**

- Council has received several applications for school security fences.
- Fencing types have been upgraded from those used previously by the Department of Education, but the three-strand barbed wire arrangement remains.
- Recommend that Council resolve that the fencing types are acceptable and that associated applications can be dealt with administratively.

**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**

Nil.

**Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Department of Education
- ◆ Department of Housing and Works

### **BACKGROUND**

For some time now fencing types for schools that give negative perceptions of schools to surrounding neighbourhoods have been a concern. The chain link mesh and barbed wire fences that were being erected around schools within the municipality led to the Executive Director of Development Services writing to all schools within the area and the Education Department in 1999, noting the concerns held by Council.

Recently, the City has received a number of applications for security fences around schools in the municipality, including Willandra Primary School, Challis Primary School, Gwynne Park Primary School and Grovelands Primary School. In providing recommendations to the Western Australian Planning Commission (WAPC) for these security fences, the City has recommended that, as a condition of approval, the type of fencing be negotiated and finalised to the satisfaction of Council. In a recent determination of the WAPC for the Willandra Primary School fence, this condition was not imposed.

Members of Council's Planning Services Department met with the Security Manager from the Department of Education, and representatives from the Department of Housing and Works as the authority that submits the applications and supervises construction. The result of the meeting was the explanation of a new fencing design that is being implemented in the Perth metropolitan area. As such, before any approvals are issued to finalise the applications under Council's Town Planning Scheme, this report is referred to Council to determine whether the new fencing type is considered appropriate.

### **DETAILS OF PROPOSAL**

The new fencing type is a combination of two different styles. These include 'garrison' style fencing, consisting of black, powder coated poles and metal bars (pointed) and associated limestone pillars at feature entrance points. Black plastic coated link mesh fencing, with powder coated black poles and three-strand barbed wire along the top is used to secure the remaining boundaries.

Elevations from one of the applications have been included, which demonstrates proposed heights and design. It should be noted that in most applications, the garrison style fencing is generally used around the main entrance to the school, with the remainder of the area being fenced with the chain mesh and barbed wire style fencing. Fencing of ovals is generally not required unless the school and Parents and Citizens Committee specifically request such a measure as a result of existing problems.

## COMMENT

### *Department of Education and Department for Housing and Works.*

In meeting with the two departments involved with the fencing program, it was noted that there is an increased demand for fencing around schools to prevent break-ins and vandalism. Whilst previous proposals have also utilised the chain link mesh and barbed wire design, the applicant maintains that the altered colour decreases visibility of the fencing and is more aesthetically pleasing.

As the main issue of concern, potential alternatives to barbed wire were sought, such as increasing the fence height, but this was dismissed as ineffective. The possibility of landscaping to minimise the impact of the fences was dismissed on the basis that it reduced the potential for passive surveillance and in some instances, may assist persons intent on misconduct in climbing over the fence.

The opinion of the Department of Education and the Department for Housing and Works was that alternatives have been exhausted, and that barbed wire was a necessary component of the fence.

## ANALYSIS

### *General Assessment*

It is accepted that, as with most projects, the school fencing program of the Department of Education is conducted on a limited budget and it would be unreasonable to require a standard of fencing that would be financially unviable. It has been noted by the Department of Education that it is likely that less schools will be fenced or have fencing upgraded as a result of the extra costs associated with 'higher standard' materials. Council's position on the issue has nevertheless remained consistent over time.

In conducting a site visit to Leeming Senior High School where the proposed fencing is already in place, it was noted that the fencing was less visible than those made to the previous standard. It was also noted however that Leeming Senior High School was surrounded by significant vegetation that the fence could blend into.

In terms of presentation however, the point has been raised that a number of schools in the municipality have more than one road frontage from which access is derived. To provide a specific example, the 'front' of Willandra Primary School is orientated toward Chidzey Drive, but there is significant access to and from the school from Strawberry Drive, which runs parallel to Chidzey Drive on the opposite side of the school. In these situations it is felt that the garrison style fencing is more appropriate, particularly in instances where the secondary frontage is very visible. A T-junction between Strawberry Drive and Riverside Lane means that a line of site to the school exists from surrounding neighbourhoods, and as a result, the garrison fencing type would be more preferable. It is therefore recommended that as a general principle with respect to the security fence applications, garrison fencing be utilised on street frontages used for access purposes.

After viewing the standard of the new fencing types, it is conceded that the design has improved, although the barbed wire element of the fencing is not ideal. The barbed wire is less obvious now that the remainder of the fence is black in colour. It is also realised that suitable, effective alternatives to barbed wire are few and as such, it may be necessary to consider the barbed wire as an essential part of the fencing. In doing so, the proposed fencing types incorporate this feature as unobtrusively as possible and could be considered by Council as a realistic solution to problems experienced by both the Department of Education and Council.

If the Departments involved agree to the principal requirement of accessible street frontages using, in the majority, the garrison style fencing, it is suggested that Council consider the proposed new fencing styles as acceptable. Current delegations allow officers to deal with these applications administratively.

### ***Delegation and Determination***

Council's Town Planning Scheme No.2 (the Scheme) states in Clause 2.1(b), "*except as otherwise provided in the Part a person shall not carry out any development on land reserved under this Scheme, other than the erection of a boundary fence, without first applying for and obtaining the planning consent of the Council.*"

Most primary schools in the municipality are reserved under the Scheme and this Clause means that applications for boundary fences are not required. Therefore Council is reliant on 'goodwill' negotiations with the Department of Education in relation to fencing types. Where the fence crosses the property however (ie not on the boundary) Council may require an application. Some primary schools, such as Willandra Primary School, are not reserved under the Scheme, and are zoned Residential. In these instances Council may require a development application for the entire fence. As such, Council has the ability to issue approvals or refusals for parts of fences at some schools and all fencing at other schools.

### **OPTIONS**

1. That Council resolve that the proposed security fencing types are acceptable, on the basis that accessible street frontages will primarily utilise the garrison style fencing and that the development applications received by Council be dealt with accordingly by the Planning Services Department.
2. Council could resolve that the proposed security fencing types are not acceptable and pursue further negotiations with the Department of Education and the Department for Housing and Works to find an alternative for barbed wire.

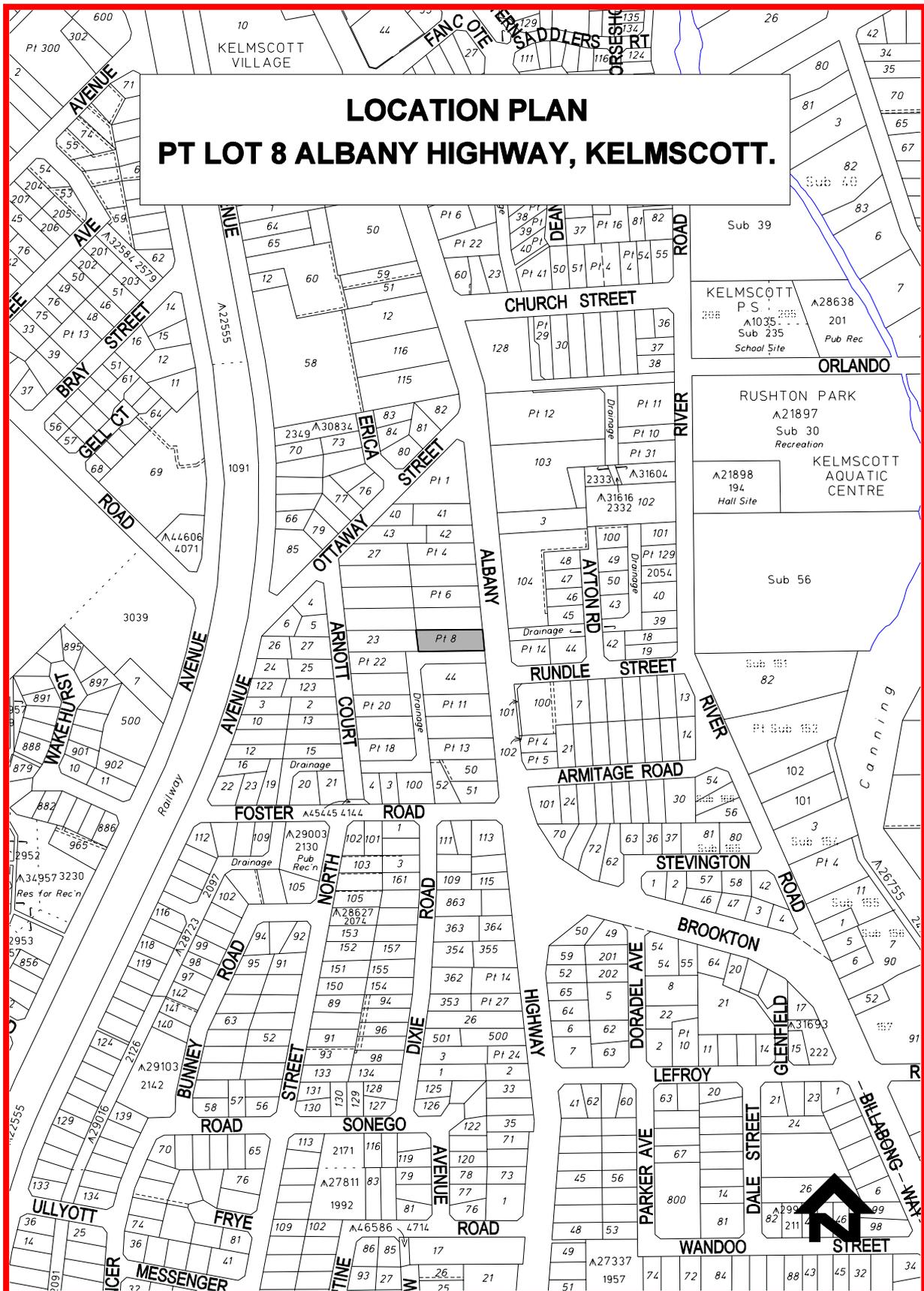
## CONCLUSION

In conclusion, it is recognised that an attempt has been made by the Department of Education to increase the standard of its fencing in response to concerns raised. It is also recognised that the ability to increase the standard of fencing whilst at the same time remaining effective in terms of its purpose is finite. The limestone entrance statement associated with the garrison style fencing will improve the streetscape, and the black wire mesh fencing has a greater capacity to blend with the existing built form, providing a balance between Council's requirements and the security needs of the Department of Education. Therefore, it is recommended that Council deem the proposed fencing types as appropriate and allow the applications to proceed in accordance with Option 1.

## D212/02                      RECOMMEND

**That Council resolve that school security fencing types proposed by the Department of Education, utilising the garrison style fence with limestone pillars rather than wire fencing should be utilised on all prominent, accessible street frontages, with the balance of the fencing being, at a minimum, black powder coated poles with black wire mesh. Council is strongly opposed to the use of barbed wire which is contrary to Council policy but acknowledges that the Department of Education has little alternative to achieve school security objectives at affordable cost.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)



**HERITAGE LISTED PROPERTY - LOT 8 ALBANY HIGHWAY, KELMSCOTT**

WARD : KELMSCOTT  
FILE REF : A65494  
DATE : 31 October 2002  
REF : HC  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : R Papalia  
LAND OWNER : M Papalia  
SUBJECT LAND : Lot 8 (No.2953) Albany Highway, Kelmscott  
Property size 1910m<sup>2</sup>  
Map 22.06  
ZONING  
MRS/TPS No.2 : Urban / Res R10

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Protecting our history and heritage.

**Legislation Implications**

Heritage of Western Australia Act 1990.  
Town Planning Scheme No.2.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Nil.

**Consultation**

Community Heritage Advisory Committee.

**In Brief:-**

- Lot 8 (No.2953) Albany Highway, Kelmscott, is listed on the Municipal Heritage Inventory (MHI) under a “B” Management Category.
- Applicant seeks to have Management Category reviewed or the property removed from MHI.
- Community Heritage Advisory Committee (CHAC) does not recommend amending the Management Category or removing from MHI.
- Consideration of heritage value of Nissen hut on the property.
- Outline of recent developments in regard to heritage matters and Town Planning Appeals Tribunal decision on heritage.
- Recommend that Council retain the property on the MHI and maintain the Management Category at Level “B”.
- Recommend that the Management Category of the Nissen hut be amended to level “C”.
- *Committee recommended that the property should be delisted from the MHI.*

## **BACKGROUND**

The house at 2953 Albany Highway is on Council's Municipal Heritage Inventory (MHI), and known as "Stewart Residence" (MHI – "K24"). The MHI Statement of Significance notes:

*"The building is believed to have been built by the Stewart (circa 1890) family and it was used as a hospital in the 1920s. Although poorly restored it has an unusually interesting form with high pitched roof and gables. The Nissen hut is the only known example remaining in the district, believed to have been built in the 1940s".*

## **DETAILS OF PROPOSAL**

The applicant initially sought that the "B" Management Category placed on the residence under the MHI be reviewed. The request has now been made to remove the property from the MHI altogether. The Applicant states, amongst other things, that:

- ◆ The property has been on the market for most of 2002 with continual interest from buyers who do not follow up once they learn the property is listed on the MHI with a "B" Management Category;
- ◆ The nissen hut is not of original form as it has been elevated with sheets of corrugated iron and had been relocated from Morrison Park. The nissen hut bears no significance to the house, which was once a hospital, and cannot be restored in any way to soften the "eye sore" from Albany Highway;
- ◆ The house has had a laundry and outhouse added. They are in poor repair and of no significance to the history of the hospital. The back of the house leaks in winter and is a hothouse in summer;
- ◆ The late occupant rendered the brick walls (comment - apparently prior to its listing on the MHI) as the bricks were softening and with the deterioration of the mortar, bricks were falling out. Some walls are subject to rising damp;
- ◆ The fireplaces have all been removed and replaced with walls. Some windows have been replaced with aluminium frames.

The current owner is elderly, has lost her husband and can no longer live in the conditions of the house. She is currently staying with friends, cannot afford to renovate the house and is unable to purchase a suitable property without selling. She has suffered medical problems and now wishes to settle in another location.

## **COMMENT**

### ***Community Heritage Advisory Committee Consideration***

#### ***Stewart Residence***

Some members of the Community Heritage Advisory Committee (CHAC) have inspected the house and CHAC has considered the matter. It was agreed that the property should not be recommended for removal from the MHI as the building was well proportioned and did have heritage importance. It was suggested that a letter be sent to the parties explaining the "B" listing in the MHI ("High level of protection appropriate: provide maximum encouragement to the owner under the town planning scheme to conserve the significance of the place"), how the heritage process works and explaining that development was possible within certain parameters.

The owner was given the opportunity to consider the information and to further request the removal of the property from the MHI if necessary. A request to remove the property from the MHI has now been made.

### *Nissen Hut*

The Nissen hut, originally from Morrison Park, was seen by CHAC as a separate issue. It was suggested that demolition of the building would be unfortunate as it is probably the only building of its kind in the Municipality. However, it is not considered as important as the Stewart residence and the query was raised whether there was a community group that may be interested in the building should there be a move to demolish it, or whether Council may be interested in returning the hut to Morrison Park.

## **ANALYSIS**

The applicant is an elderly lady who is unable to maintain or upgrade the house and needs the sale to provide herself with a suitable home. The MHI listing appears to her, her real estate agent and her family as a major impediment to the sale of the property. The other side of the equation is a finely proportioned house with some history and importance to the heritage of Armadale. The house, however, has been altered and poorly restored, has rising damp, is affected by traffic noise from a busy portion of Albany Highway and is in need of attention. It is currently vacant and therefore may deteriorate further quite quickly.

### ***Recent Planning Appeals Tribunal Decision***

There has been some controversy regarding heritage listings recently with the Cities of Subiaco and Fremantle. Also, in a recent Town Planning Appeals Tribunal decision in *Moullin v Town of Cottesloe (2002) WATPAT 23* the Tribunal considered the weight that local governments should give to heritage considerations when assessing a development application. The appeal was against the imposition of certain conditions by the Town of Cottesloe on the approval to commence development of a two storey residence located within the 'Claremont Hill Heritage Area' which is designated under the Cottesloe Heritage Strategy.

During the appeal, the Town of Cottesloe argued that the development did not reflect the architectural elements of the Strategy or the companion Residential Conservation and Development Guidelines.

A Minter Ellison Local Government Update (*Copy at Attachment "A1" of the Agenda*) summarises the Tribunal's outline of principles that will apply to heritage considerations when determining a development application:

- ◆ If a precinct or building is not entered on the State Register, historical considerations should not be elevated to the prime or sole determinant of a development application.
- ◆ The overriding consideration is whether the new proposal is appropriate having regard to the amenity and the orderly and proper planning of the locality, even if the design does not match historical elements.
- ◆ Placement of a property on a Municipal Inventory raises heritage values for consideration but such placement will carry little weight.
- ◆ Placement of a property on a heritage list under a town planning scheme will make the heritage values of the place relevant in the consideration of a development application but will be only one factor in the determination.

The Heritage Council of WA (HCWA), in response to the above, advises:

- ◆ The commentary contained in the Tribunal decision is not binding in any ‘precedent’ sense, nor is it a definitive statement of the law;
- ◆ Municipal Inventories are not limited to places of State significance for potential entry in the State Register, but may also contain places of heritage significance to the local community;
- ◆ The Tribunal’s decision does not change the statutory obligation for every local government to maintain and review an inventory of buildings within their district, which may or may become of cultural heritage significance;
- ◆ Municipal inventories can legitimately be used as the underlying base for heritage protection provisions in town planning schemes.

*(Copy of Heritage Council’s correspondence is at Attachment “A2” of the Agenda).*

The property at 2953 Albany Highway, Kelmscott is unlikely to meet Heritage Council criteria for listing on the State Heritage List and therefore lacks that ultimate protection. Any applications for alteration or development will therefore be considered under the provisions of the City’s Town Planning Scheme No.2, where heritage matters will be only one of a number of amenity issues assessed. The MHI listing is not therefore a ban on development and gives the owner, or any future owner, a degree of flexibility for development that will be considered under a number of amenity issues, including heritage.

It can be noted that Town Planning Scheme No.2 contains heritage Conservation Incentives that Council can grant when considering an application for development approval. Council may give a special approval, benefit, allowance or incentive, including density bonuses. They may also consider the transfer of development rights or entering into special agreements. These would be subject to the usual assessment by Council and other relevant agencies.

The Residential Use Classes under TPS No.2 also provide the opportunity for the building to be put to other suitable uses, apart from residential, that can be considered by Council. Development could thus be considered whilst maintaining the heritage character of the building and the current Management Category.

Retaining the property on the MHI whilst amending the Management Category to “C” (Retain and conserve if possible: endeavour to conserve the significance of the place through the provisions of the town planning scheme; photographically record the place prior to any major redevelopment or demolition) may be a compromise to consider. The emphasis in the Management Category “C” may not seem so daunting or prohibitive to potential purchasers of the property.

### ***The Nissen Hut***

The applicant regards the Nissen hut as having no connection with the heritage issues for the house, and see it as more an eyesore. It does appear as less important than the house and in the interim, it may be appropriate to delete the Nissen hut from the MHI entry for the Stewart Residence or amend the Management Category of the hut to a “C”.

## OPTIONS

Options regarding the MHI listing for 953 Albany Highway, Kelmscott and the Nissen hut, appear to be:

1. Decline to consider removing the property from the MHI, or lowering the Management Category.
2. Consider lowering the Management Category whilst retaining the property on the MHI.
3. Remove the property from the MHI.

## CONCLUSION

CHAC regards the property as having a heritage importance, whilst acknowledging the poor condition and the owner's concerns, and has recommended that the building be retained on the MHI and that the "B" Management Category remains appropriate.

The heritage provisions of the Town Planning Scheme offer a degree of flexibility and incentive for an owner or developer and a listing in the MHI does not put a stop on development or improvement. It is suggested that it is an appropriate decision to maintain the status quo in this instance.

It is also recommended that the MHI Management Category relating to the Nissen hut be amended to level "C". This would allow for the removal of the hut at a later date, if requested, after a photographic record was made.

### *Officer's report recommends –*

1. That Council retain the property at 2953 Albany Highway, Kelmscott on the Municipal Heritage Inventory and retain the Management Category at level "B".
2. That Council retain the Nissen Hut at 2953 Albany Highway, Kelmscott on the Municipal Heritage Inventory and amend the Management Category to level "C".
3. That the Applicant be advised of the prospect of Council considering development applications which may allow for conservation incentives and special benefits (Clause 5.10.7) that may apply under the provisions of the Town Planning Scheme for heritage properties.

*COMMITTEE viewed photographs of the structures in question and advice in relation to the condition of the buildings particularly the high level of modification and the poor condition of original materials.*

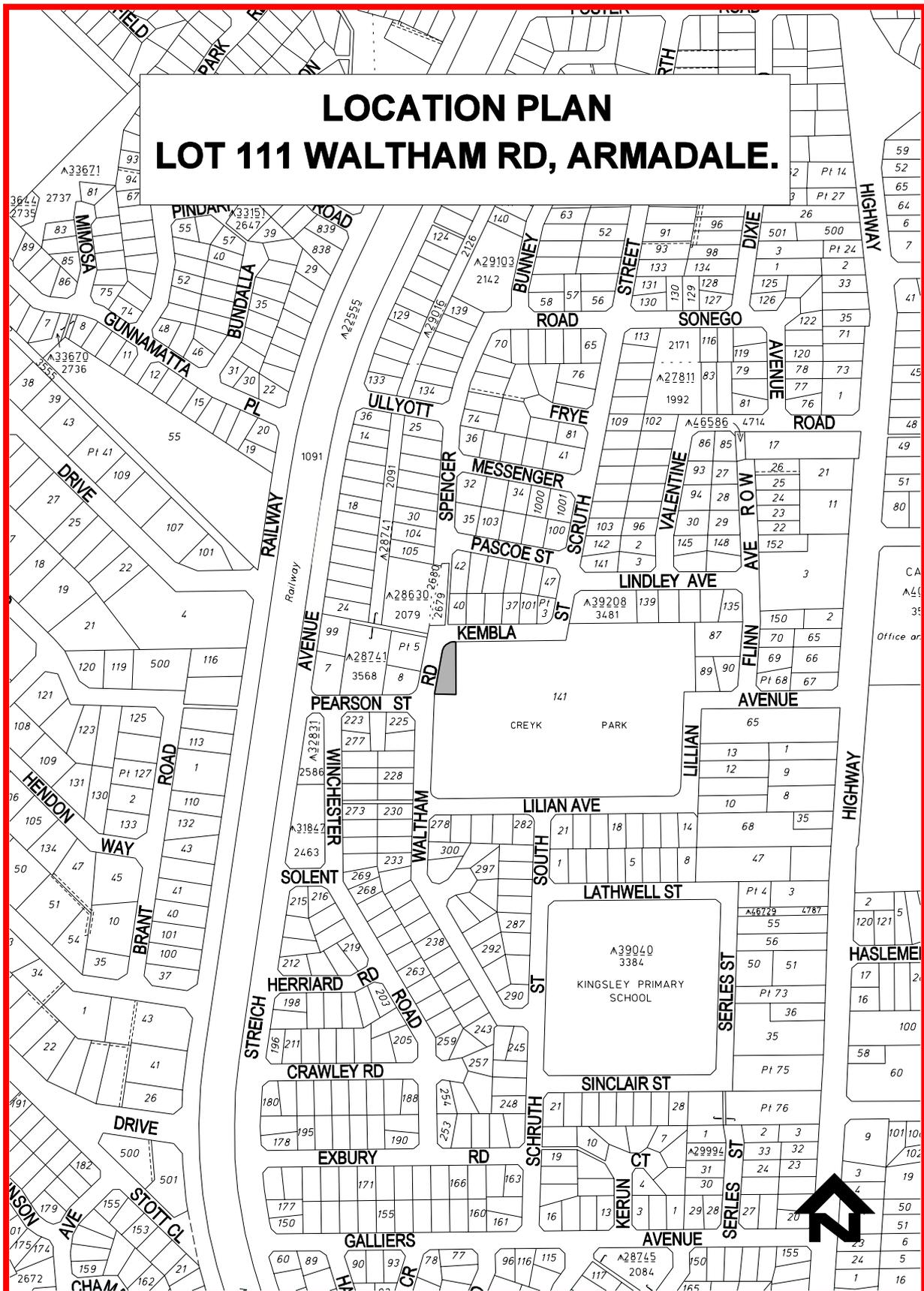
*COMMITTEE whilst acknowledging the historical association of the buildings, noted that the present circumstances of the owners and their difficulties experienced in being unable to sell the property because of the MHI listing and was of the view that the present circumstance was untenable.*

*Accordingly, Committee concluded that the property should be delisted from the Municipal Heritage Inventory.*

**D213/02            RECOMMEND**

- 1.    That subject to arrangements being made with the Heritage Advisory Committee for documentation and recording of the heritage characteristics of the subject property, the listing of 2953 Albany Highway, Kelmscott on the Municipal Heritage Inventory be cancelled.**
  
- 2.    That Executive Director Development Services undertake liaison with the owners with a view to possible acquisition of the Nissen Hut structure.**

MOVED Cr Fletcher  
MOTION CARRIED (7/0)



***POSSIBLE PURCHASE OF WATER CORPORATION LAND AT LOT 111 WALTHAM ROAD, ARMADALE***

WARD : KELMSCOTT  
FILE REF : A108048  
DATE : 31 October 2002  
REF : HC  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Water Corporation  
LAND OWNER : Water Corporation  
SUBJECT LAND : Property size 1137m<sup>2</sup>  
Map 22.05  
ZONING :  
MRS/TPS No.2 : Urban / Public Purpose  
(Water Corporation)

**In Brief:-**

- The Water Corporation has offered to sell Council land at Lot 111 Waltham Road, Armadale for the sum of \$16,017 suggesting it be incorporated with Creyk Park.
- Sale of the land to private parties may result in development that is not to Council's advantage.
- Recommend that Officers enter discussions with the Water Corporation for the purpose of reaching mutually acceptable arrangements to transfer Lot 111 Waltham Road to Council at a nil or nominal cost according to the recommended parameters outlined in *Confidential Attachment "B2"*.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Local Government Act 1995.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Land Acquisition Reserve Account.

**Consultation**

- ♦ Technical Services
- ♦ Environmental Officer
- ♦ Recreation Services

## **BACKGROUND**

The Waltham Road Water Corporation pump station was decommissioned and demolished several years ago. The Water Corporation has enquired whether Council is interested in purchasing the land to add to Creyk Park. They suggest that alternatively it could be rezoned and sold to allow a use that is compatible with the park and nearby hall, such as a health centre or child minding facility.

## **DETAILS OF PROPOSAL**

The Water Corporation advises that the land and associated costs has been valued at \$16,017. They will require a 4.4 metre wide easement on the western boundary (Waltham Road side) to protect a new sewer main.

## **COMMENT**

### **Analysis**

The Manager Parks notes that there is some remnant vegetation on the block which is worthy of retention. The Environmental Officer notes there is only about 70m<sup>2</sup> of probably threatened ecological community bushland and the Water Corporation is under the same obligation as others to protect it.

The Manager Recreation Services advises the land in question does not affect the function of the Reserve. He would be supportive of acquisition if it was at no cost to Council but would not be supportive of Council paying other than a nominal fee for its acquisition.

Whilst noting the above views, there is the possibility that if Council does not acquire the land, the Water Corporation may seek to rezone it and sell it as a residential lot. As the prevailing zone of Creyk Park is “Residential” it would be difficult to object to this. This possibility may not be the most appropriate development or in the common interest. It may therefore be in the interests of Council to consider purchasing the lot to round off Creyk Park. The Water Corporation could be approached to enquire whether they may be prepared to consider gifting the land to Council or consider a compromise figure to dispose of the property. (*Confidential figures are at Attachment “B2” of the Agenda*).

It could be noted that the Kelmscott Enquiry-By-Design Workshop identified possible opportunities for reconfiguration of Creyk Park. Whilst this is not committed to, it may be prudent to consider for the future as Lot 111 Waltham Road may then assume more relevance to achieve strategic objectives.

### **Options**

1. Decline the Water Corporation’s offer to consider purchasing Lot 111 Waltham Road, Armadale unless the land is gifted to Council.
2. Accept the Water Corporation’s invitation and offer to purchase the property at the valued price of \$16017.
3. Authorise Officers to seek to negotiate a compromise position with the Water Corporation regarding the value of the property and its possible purchase.

## CONCLUSION

It is suggested that as there is possibly some advantage in land consolidation, Council could approach the Water Corporation to determine whether it would be prepared to transfer the land to Council at a nil or notional value.

## D214/02 RECOMMEND

**That Officers enter discussions with the Water Corporation for the purpose of reaching mutually acceptable arrangements to transfer Lot 111 Waltham Road, Armadale to Council at a nil or nominal cost according to recommended parameters outlined in *Confidential Attachment "B1" of the Minutes.***

MOVED Cr Reynolds  
MOTION CARRIED (7/0)

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***ATTENDANCE BY ELECTED MEMBERS AT SUSTAINABILITY WORKSHOP***

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WARD : ALL  
FILE REF : CRS/4  
DATE : 6 November 2002  
REF : HC  
RESPONSIBLE : ED DS  
MANAGER

**In Brief:-**

- The WA Local Government Association is holding a Sustainability Workshop at the Novotel Langley Hotel in Perth on 5 and 6 December 2002.
- Matters to be covered will be of benefit to Councillors and of interest in the Armadale context. No Council staff will be attending.
- 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 1.2.5 – Conferences, Seminars and Training.

**Budget / Financial Implications**

\$300 per delegate (\$270 per delegate if three or more register, or \$1200 for a team of five delegates).

**Consultation**

Nil.

**BACKGROUND**

The Western Australian Local Government Association (WALGA) advises it is holding a two-day workshop entitled "Working Towards Sustainability – Rethinking the Problems and the Solutions" at the Novotel Langley Hotel, Perth on Thursday 5 and Friday 6 December 2002.

## DETAILS OF THE WORKSHOP

The Workshop Training Facilitator is Rod Griffith who has over thirty years experience in State Government, Local Government, private and academic sectors and in a range of roles from natural area manager, marketing manager in the construction industry, planner and consultant.

The Workshop will focus on new ways of thinking about and implementing sustainability through Local Government projects and planning activities. Projects can be undertaken by a team of five (suggested from different functional areas of the one Council) or can be project based. In the latter instance existing or planned projects can be brought to share with others in a learning environment as a base on which to build capacity for sustainability.

## COMMENT

Some of the areas that will be covered (*Copy of Program is at Attachment "A3" of the Agenda*) include:

- ◆ The sustainability agenda;
- ◆ Rethinking the problems and the solutions;
- ◆ Strategic planning;
- ◆ Redesign and modify team projects;
- ◆ Summary (by Cr Clive Robartson).
- ◆ Are we already doing sustainability?
- ◆ Change strategies;
- ◆ Positive feedback;
- ◆ Project assessment;

No staff will be attending the Workshop. Mr Griffith recently conducted a training seminar at the City, which was attended by relevant Council officers.

## CONCLUSION

The WALGA Sustainability Workshop should be an interesting and informative working forum dealing with issues that are relevant to the City. The item is raised for information for any Councillors who may wish to attend.

## D215/02 RECOMMEND

**That Councillors \_\_\_\_\_ and \_\_\_\_\_ be nominated by Council to attend the Western Australian Local Government Association Sustainability Workshop to be held on 5 and 6 December 2002, with costs incurred to be charged to GL Account 1508520.**

**or**

**If there is no nomination at the Council Meeting of 18<sup>th</sup> November 2002 then the recommendation be as follows:-**

**That no nomination be made for Councillors to attend the Western Australian Local Government Association Sustainability Workshop to be held on 5 and 6 December 2002.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

***CAR WRECKS ON STATE OWNED PROPERTY***

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The matter of a car wrecks on State owned property, ie. CALM land in Forrestdale and Railway land at the end of Commerce Avenue, was referred to Development Services Committee by Council at its meeting of 4 November 2002, on request by Councillor Munn.

*Cr Munn was unavailable to further inform Committee, however the Executive Director Development Services reported that the City's Compliance Officers were presently acting on the above matter.*

**D216/02            RECOMMEND**

**That Council note that the City's Compliance Officers are actioning the matter of car wrecks located on State owned property.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

***COUNCILLORS' ITEMS***

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*Cr Fletcher*

**1. Harvey Norman Construction**

Cr Fletcher referred to potential danger of Harvey Norman construction site access across the Town Hall car park and the need to arrange an alternative access.

*Cr Stubbs*

**1. Araluen Covenants**

Cr Stubbs noted the need to expedite amendment to Town Planning Scheme in order to perpetuate Araluen Golf Course Estate covenants.

*Cr Stubbs*

**2. McLeod's Planning Law Report**

Cr Stubbs suggested the desirability of Committee actively considering the McLeod's Planning Law Report as contained in the Information Bulletin No.21/2002 at its next meeting.

*Cr Zelones*

**1. Agenda Maps**

Cr Zelones requested attention to improving presentation and legibility of Agenda maps and plans.

**D217/02            RECOMMEND**

**That the Councillors' items listed as follows:-**

- a) Harvey Norman Construction – (Cr Fletcher)**
- b) Araluen Covenants – (Cr Stubbs);**
- c) McLeod's Planning Law Report - (Cr Stubbs);**
- d) Agenda Maps – (Cr Zelones)**

**be referred to the appropriate Directorate for relevant action and/or report back to Committee.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

**MEETING DECLARED CLOSED AT 9.05 PM**

# I N D E X

## DEVELOPMENT SERVICES COMMITTEE

11<sup>TH</sup> NOVEMBER 2002

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