

CITY OF ARMADALE

MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 12TH JULY 2005 AT 7:00 PM.

PRESENT: Cr H A Zelones JP Chair
Cr P J Hart Deputy Chair
Cr A L Cominelli JP (Deputy for Cr C J MacDonald)
Cr J Everts
Cr J Knezevich
Cr R J Tizard
Cr L Reynolds JP

APOLOGIES: Cr C J MacDonald

OBSERVERS: Nil

IN ATTENDANCE: Mr R S Tame Chief Executive Officer (7.00pm to 8.32pm)
Mr I MacRae Executive Director Development Services
Mr P Meyrick Health Services Manager
Mr I Townson Building Services Manager
Mr L Fouché Planning Services Manager
Mrs N Cranfield Minute Secretary

Public 7

DISCLAIMER

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

DECLARATION OF MEMBER'S INTERESTS

Nil.

QUESTION TIME

Nil.

DEPUTATION – 7.10pm

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Presentation by – Mr Brett Wood-Gush (The Planning Group)
Mr David Caddy (The Planning Group)

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the Development Services Committee Meeting held on 14th June 2005, were confirmed.

MOVED Cr Tizard
MOTION CARRIED (7/0)

ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.13/2005

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 May 2005
- ◆ Planning Services Manager’s Report for May 2005
- ◆ Planning Applications Monthly Statistics – May 2005
- ◆ Town Planning Scheme No.2 – Amendment Action Table
- ◆ PAW Closure Report – Significant Actions during May 2005
- ◆ Subdivision Applications – Recommendation Table (May / June 2005)
- ◆ Compliance Officer’s Report for May 2005
- ◆ Minutes – Community Heritage Advisory Committee Meeting
- ◆ Swan Catchment Council – Local Govt Info Bulletin Swan Region, May 2005
- ◆ 6th International Cities Town Centres & Community Conf – June 2005
- ◆ Building Services Manager’s Report for May 2005

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

DEVELOPMENT SERVICES COMMITTEE

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**DEVELOPMENT
SERVICES
COMMITTEE**

PLANNING



PROPOSED DEVELOPMENT CNR WARTON & RANFORD ROADS, FORRESTDALE

Presentation by –	Mr Brett Wood-Gush	The Planning Group
In Attendance -	Mr Bob Thomas, A/Director General	Dept of Housing & Works
	Mr John Coles	Dept of Housing & Works
	Mr Richard Elliott	Dept of Housing & Works
	Mr David Caddy	The Planning Group

Correspondence received from Department of Housing & Works –

“The Department of Housing and Works (DWH) owns a 27ha parcel of land at the above location. The DWH is proposing, through its land development arm Landstart, to subdivide the site to create approximately 320 lots. The development will be a flagship for sustainable urban development through its design, water management practices and the promotion of housing diversity.

The project is strongly supported by the Minister for Housing and Works and provides your Council with the unique opportunity to demonstrate sustainable urban development within the City of Armadale.

I would like to respectfully request the opportunity to bring the proposed project to the attention of Council through a presentation to the forthcoming Development Services Committee meeting on July 12.

I look forward to your favourable consideration of the opportunity to discuss this exiting forthcoming project.

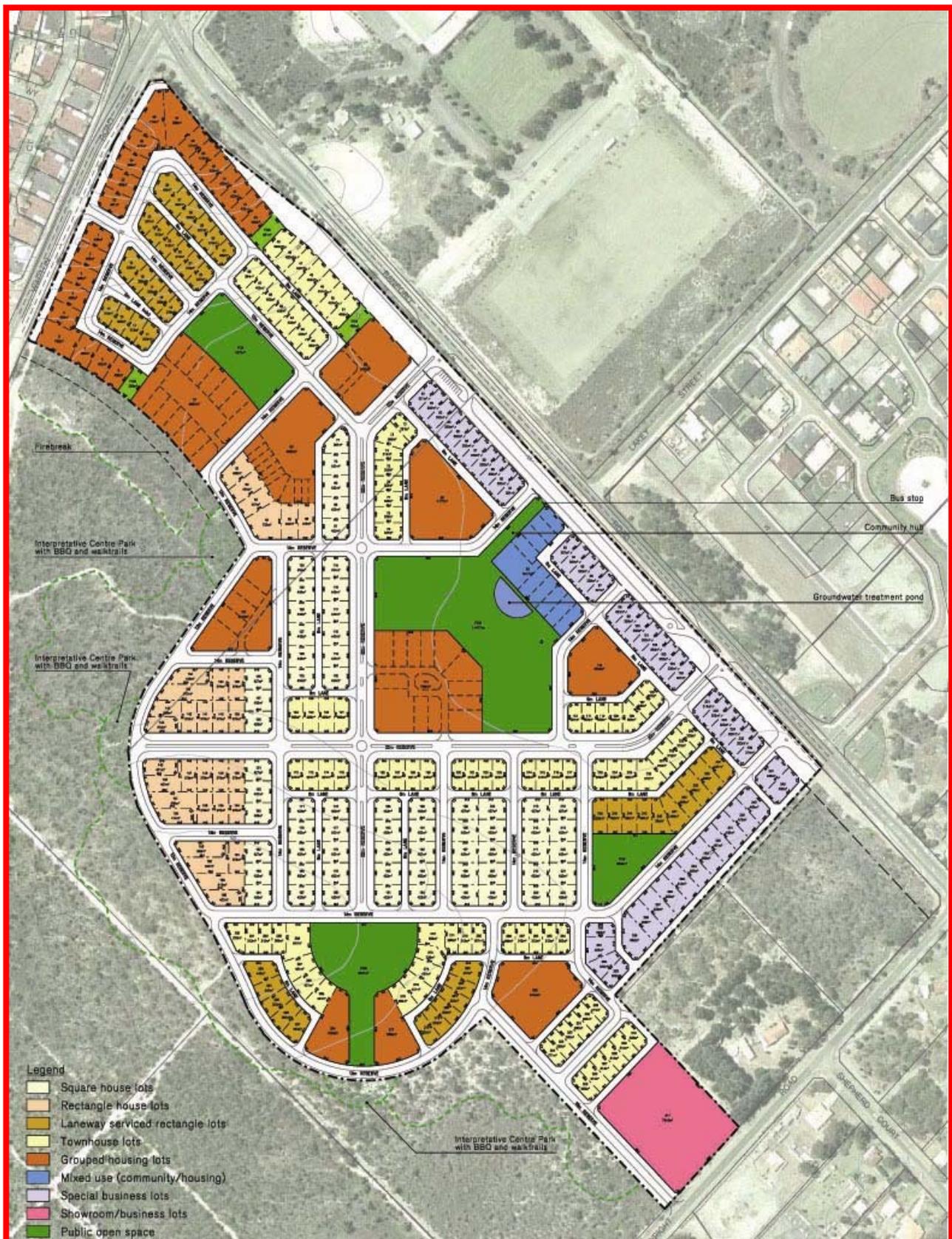
BOB THOMAS
A/DIRECTOR GENERAL
DEPT OF HOUSING & WORKS”

DEPUTATION – 7:10pm

Mr Bob Thomas (acting Director General) introduced representatives from Department of Housing and Works and The Planning Group.

Mr Wood-Gush briefed COMMITTEE on the Harrisdale Eco-Village – Sustainable Development Project covering the following –

- ◆ *Statutory background to the proposed project and structure plan area which includes approximately 27 hectares of integrated mixed density housing with an average of 220m² of land per dwelling;*
- ◆ *Overall design of the structure plan consisting of a more sustainable estate which includes –*
 - *Square and rectangle housing lots;*
 - *Laneway serviced rectangle lots;*
 - *Townhouse lots;*



PROPOSED HARRISDALE ECO-VILLAGE
STRUCTURE PLAN
CNR WARTON & RANFORD RDS, FORRESTDAL

- *Group housing lots;*
- *Mixed Use (community/housing);*
- *Special business lots;*
- *Large format retail lots;*
- *Public Open space;*

- ◆ *Lifestyle and urban design benefits including –*
 - *Connectable walkable neighbourhood;*
 - *North/south east/west streets;*
 - *Range of open spaces;*
 - *Frontage to Ranford Road;*
 - *Links to Local Centre and transport.*

- ◆ *Extensive research into sustainability initiatives and benefits such as –*
 - *Compact, efficient, site responsive urban design;*
 - *Vibrant mixed use development;*
 - *Housing variety;*
 - *Energy efficiency;*
 - *Employment and business development;*
 - *Ecological protection;*
 - *Community development;*

- ◆ *Water management – the project will be the first project in Western Australia to comprehensively manage the water cycle – including infiltration based aquifer recharge and third pipe water supply.*

Mr Wood-Gush concluded that there was a high level of commitment from the Minister for Housing and Works and the Department of Housing and Works to deliver a development of the highest quality achieving objectives of housing choice, high quality design, community and sustainability.

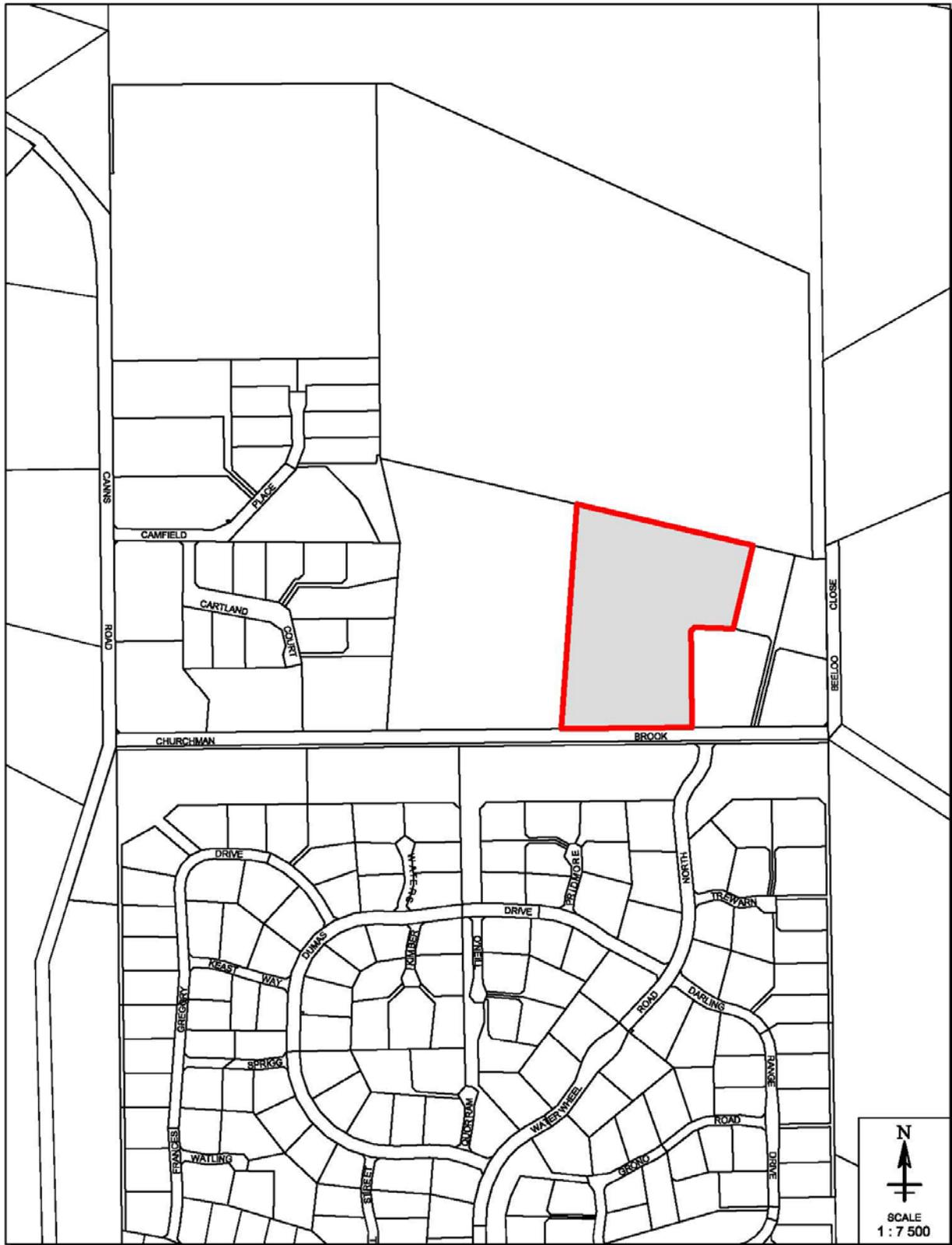
Chairman thanked Mr Wood-Gush for his presentation.

Deputation retired at 7:40pm.

COMMITTEE discussed the subdivision proposal with DOHW and The Planning Group representatives. Committee raised the following issues:

- ◆ *The need to integrate the proposed subdivision to the centre of the City of Armadale;*
- ◆ *The need to ensure that the development is open rather than hidden behind walls;*
- ◆ *The interface with the bushland areas;*
- ◆ *The commitment of DOHW to deliver the build out areas;*
- ◆ *The operation of and access to the areas designated as mixed business; and*
- ◆ *The appropriateness of the proposed residential area adjacent to the industrial/business area on Wright Road.*

*A copy of the proposed **Harrisdale Eco-Village Structure Plan** is included in this report.*



LOCATION PLAN
Pt LOT 53 CHURCHMAN BROOK ROAD, BEDFORDALE

***PROPOSED REVISION TO SUBDIVISION GUIDE PLAN –
LOT PT 53 CHURCHMAN BROOK ROAD, BEDFORDALE***

WARD : NEERIGEN
FILE REF : SCH/2/121
DATE : 4 July 2005
REF : RVD
RESPONSIBLE MANAGER : PSM
APPLICANT : Greg Rowe & Associates
LAND OWNER : Gilete Brook Pty Ltd
SUBJECT LAND : Lot Pt 53 Churchman Brook Road, Bedfordale
Property size 7.0246ha
Map 25-03
ZONING MRS/TPS No.2 : Rural/ Special Use Zone No.82
Rural Residential/ Cluster
Special Residential/
DRAFT TPS No.4 : Development (Structure Planning) Area No.11

In Brief:-

- Revised Subdivision Guide Plan received that proposes to increase the lot yield on Pt Lot 53 from 7 to 13 lots.
- Advertised and two objections received.
- The revised Subdivision Guide Plan is similar to one previously approved in August 2001, but policy has changed since then.
- Application of Western Australian Planning Commission Policy DC3.7 means development envelopes need to be at least 80 to 100m from the Darling Range Regional Park boundary. This would mean one lot could not have a development envelope, so the plan would need to be revised to reduce the number of lots by one.
- Other concerns regarding road width, intersection design, the location of development envelopes and screening need to be addressed.
- Recommend that subject to revision of the Plan, Council endorse the revised Subdivision Guide Plan and forward it to the Western Australian Planning Commission for adoption

Tabled Items

Nil.

Officer Interest Declaration

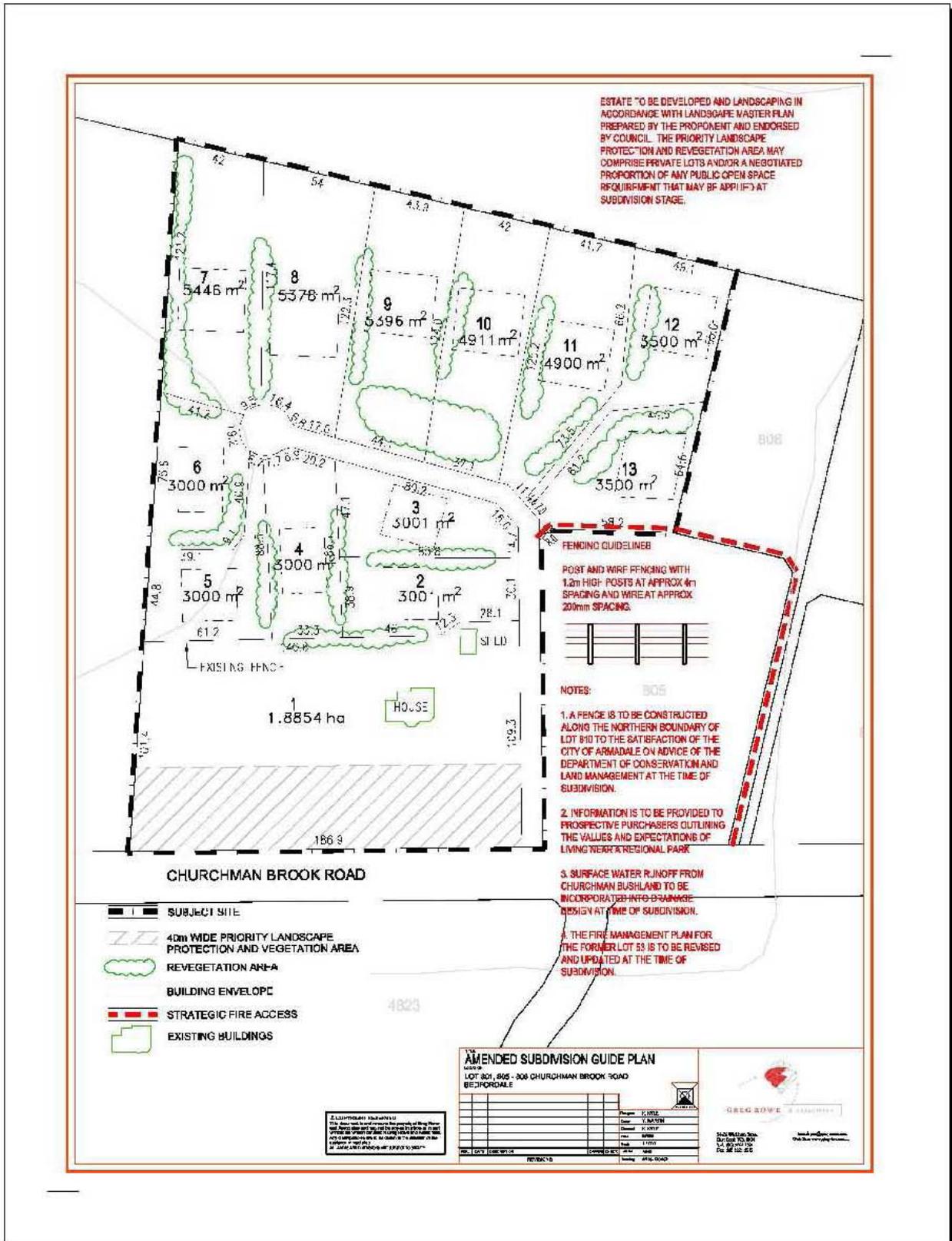
Nil.

Strategic Implications

Developing our City “balance the needs of development with sustainable economic, social and environmental objectives”.

Legislation Implications

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



**AMENDED SUBDIVISION GUIDE PLAN
P1 LOT 53 CHURCHMAN BROOK ROAD, BEDFORDDALE**

Council Policy / Local Law Implications

City of Armadale Local Rural Strategy

Western Australian Planning Commission Policies

DC2.5 Special Residential zones
 DC3.7 Fire Planning

Budget / Financial Implications

Nil.

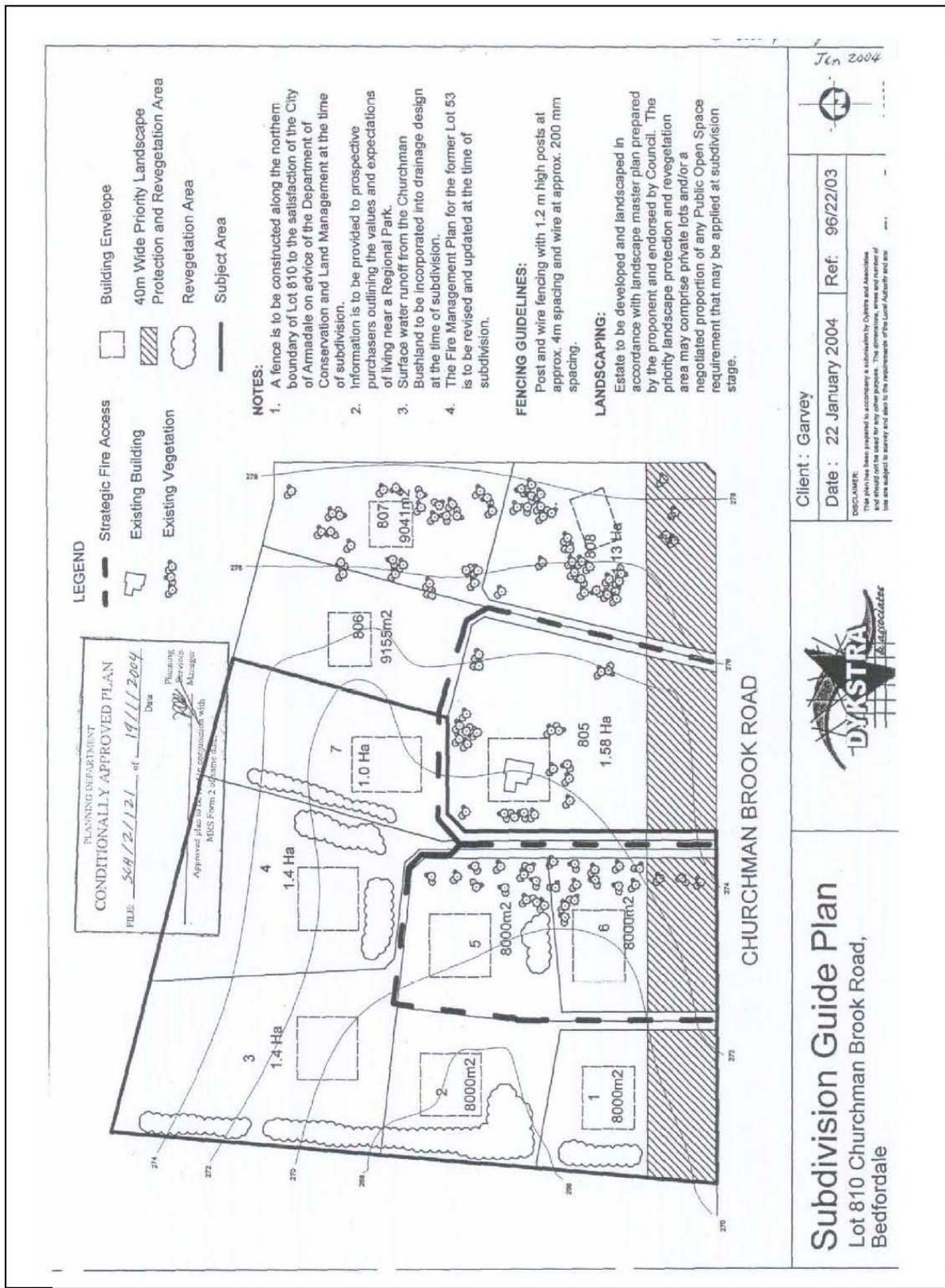
Consultation

- ◆ Development Control Unit
- ◆ Surrounding landholders

BACKGROUND

Since gazettal of Special Use Zone No.82 in 1997 Council has considered and approved five different Subdivision Guide Plans for Lot 53 Churchman Brook Road, Bedfordale as indicated in the table below.

Date Adopted by Council	Key Characteristics	Total No. of Lots
July 1997	<ul style="list-style-type: none"> • Cluster of eight mostly 3000m² lots in north east corner, one large 2.6ha lot on Churchman Brook Road and three 2ha lots over the remainder of the lot. • Access off a built road from Shrike Close (now known as Beeloo Close) for all but three lots. • Two lots fronting Churchman Brook Road. • No narrow battleaxe legs. 	12
March 1999	<ul style="list-style-type: none"> • Cluster of eight lots replaced with three lots of about 8,500m² and the large 2.6ha lot split into two lots. No change to the three 2ha lots. • Access from two battleaxe legs of Churchman Brook Road. • Four lots fronting Churchman Brook Road. 	8
August 2001	<ul style="list-style-type: none"> • Significant change that included 0.5ha lots along the northern boundary, 0.3ha lots south of these lots and larger lots fronting Churchman Brook Road and the north east corner of the lot. • Access to the 0.5 and 0.3ha lots via a constructed road. • Three 1ha and a 1.5ha lot fronting Churchman Brook Road. 	17
July 2002	<ul style="list-style-type: none"> • Similar to the March 1999 plan but with the three 2ha lots split into four 1.5ha lots. • No change to access and lots fronting Churchman Brook Road. 	9



**CURRENTLY APPROVED SUBDIVISION GUIDE PLAN
FORMER LOT 53 CHURCHMAN BROOK ROAD, BEDFORDALE**

Date Adopted by Council	Key Characteristics	Total No. of Lots
January 2004	<ul style="list-style-type: none"> • The four 1.5ha lots split into four 8000m² lots and two 1.4ha lots. • Access from three battleaxe legs from Churchman Brook Road. • No change to number of lots fronting Churchman Brook Road. 	11
Current proposal	<ul style="list-style-type: none"> • Four lots between 1.58 and 0.9044ha already subdivided, two of which front Churchman Brook Road. • Twelve lots between 0.3 to 0.59ha plus one lot of 1.5ha fronting Churchman Brook Road. • Access to the smaller lots via a constructed road. 	17

The eastern third of the subject land has been subdivided and the remaining portion of Lot 53 (i.e. Lot Pt 53) is now the subject of a revised Subdivision Guide Plan.

The currently approved Subdivision Guide Plan comprises a total of seven lots on Lot Pt 53, Churchman Road, Bedforddale (i.e. the subject land). The subject land has recently changed ownership, and the new landholder is seeking to amend the Subdivision Guide Plan back to a pattern similar to one approved by Council in August 2001.

DETAILS OF PROPOSAL

The applicant proposes to revise the Subdivision Guide Plan over the un-subdivided portion of the former Lot 53 to provide 13 lots over that area, thus bringing the total to 17 lots on the former Lot 53. A 1.5ha lot faces Churchman Brook Road and lots ranging from 3000m² to 5,900m² at the rear of the Lot Pt 53 are serviced by a 260m long cul-de-sac.

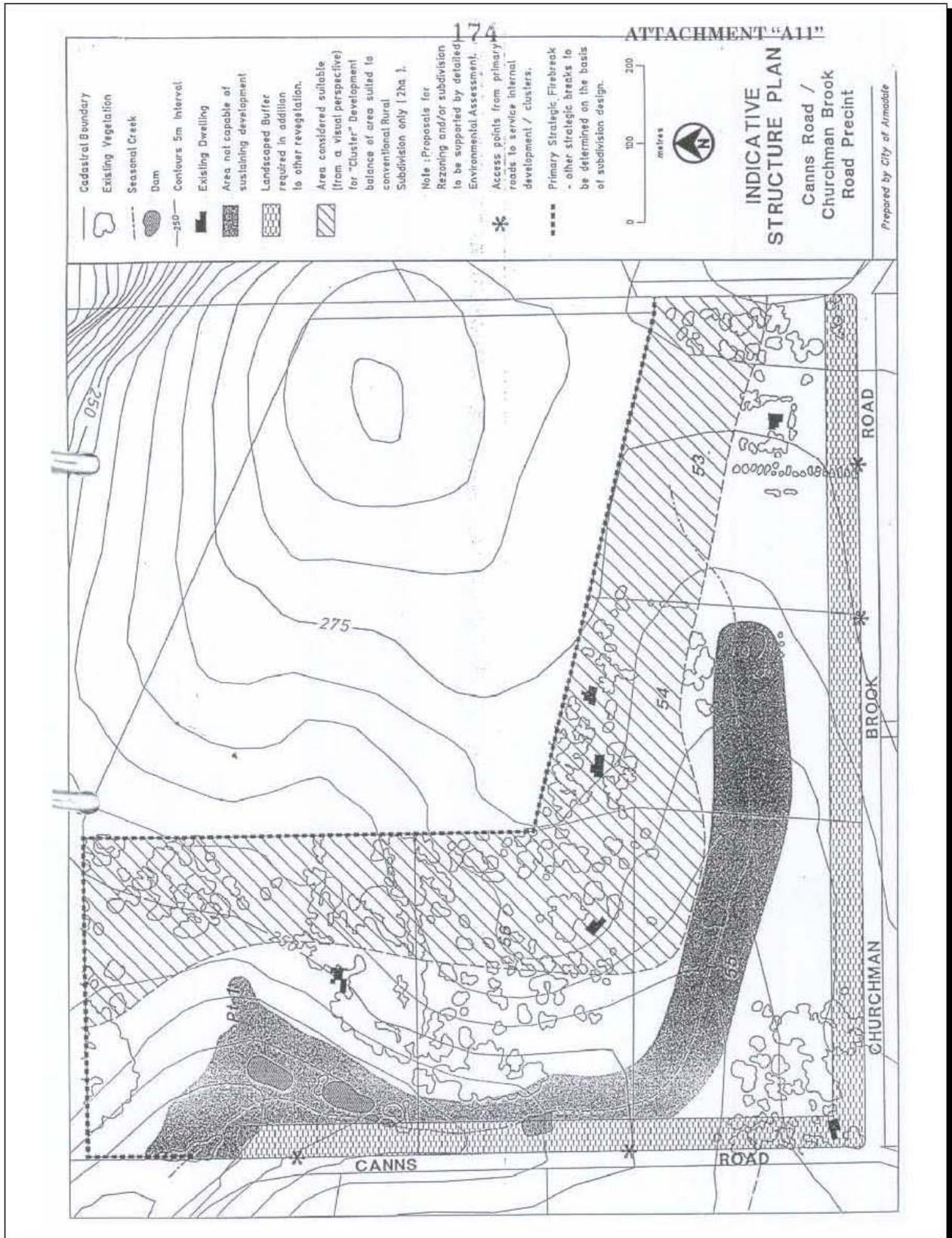
COMMENT

Development Control Unit

The Development Control Unit meeting of 23 June 2005 raised concerns regarding the width of the road reserve, the dimensions of the cul-de-sac bulb and the intersection of the proposed cul-de-sac road with Waterwheel Road.

In response to concerns regarding the road reserve width the applicant provided cross sections showing the location of services to the Technical Services Directorate, which concluded that the proposed 10m road width would not be adequate. Typically a minimum road reserve width of 14m would be required. Therefore it is recommended that the Subdivision Guide Plan be amended to show a 14 m road reserve width.

In regard to the proximity of the intersection of the proposed road, Austroads (Part 5) states that left right staggers are not appropriate unless a right turn pocket is provided on the main road, in this case Churchman Brook Road. This is to ensure that through flows on Churchman Brook Road are not impeded by vehicles turning right. In terms of the stagger distance it would appear that they meet the criteria for distance between staggers. It is recommended that the layout be revised so as to conform with Austroads (Part 5) standards and a note be placed on the Subdivision Guide Plan advising that road modifications will be required to be undertaken as part of subdivision approval.



**INDICATIVE STRUCTURE PLAN
 LOT 53 CHURCHMAN BROOK ROAD, BEDFORDALE.**

Public submissions

The proposal was advertised to adjacent landholders commencing on 26 May 2005 and with comments closing on 20 June 2005. Three submissions were received in response to the proposal.

Total number of responses received -	:	3
Number opposed -	:	2
Number in favour/ no objections (Health Department of WA) -	:	1

A copy of a location plan of respondents is at Confidential Attachment “B2” of the Agenda.

The issues raised by submissions have been summarised and responded to under Analysis below.

ANALYSIS

Public submissions

A summary of the issues raised in the submissions objecting to the proposal appears in italics below, along with a recommended response.

- 1. The proposed increase is not in keeping with the policy regarding properties adjacent to Regional Parks.*

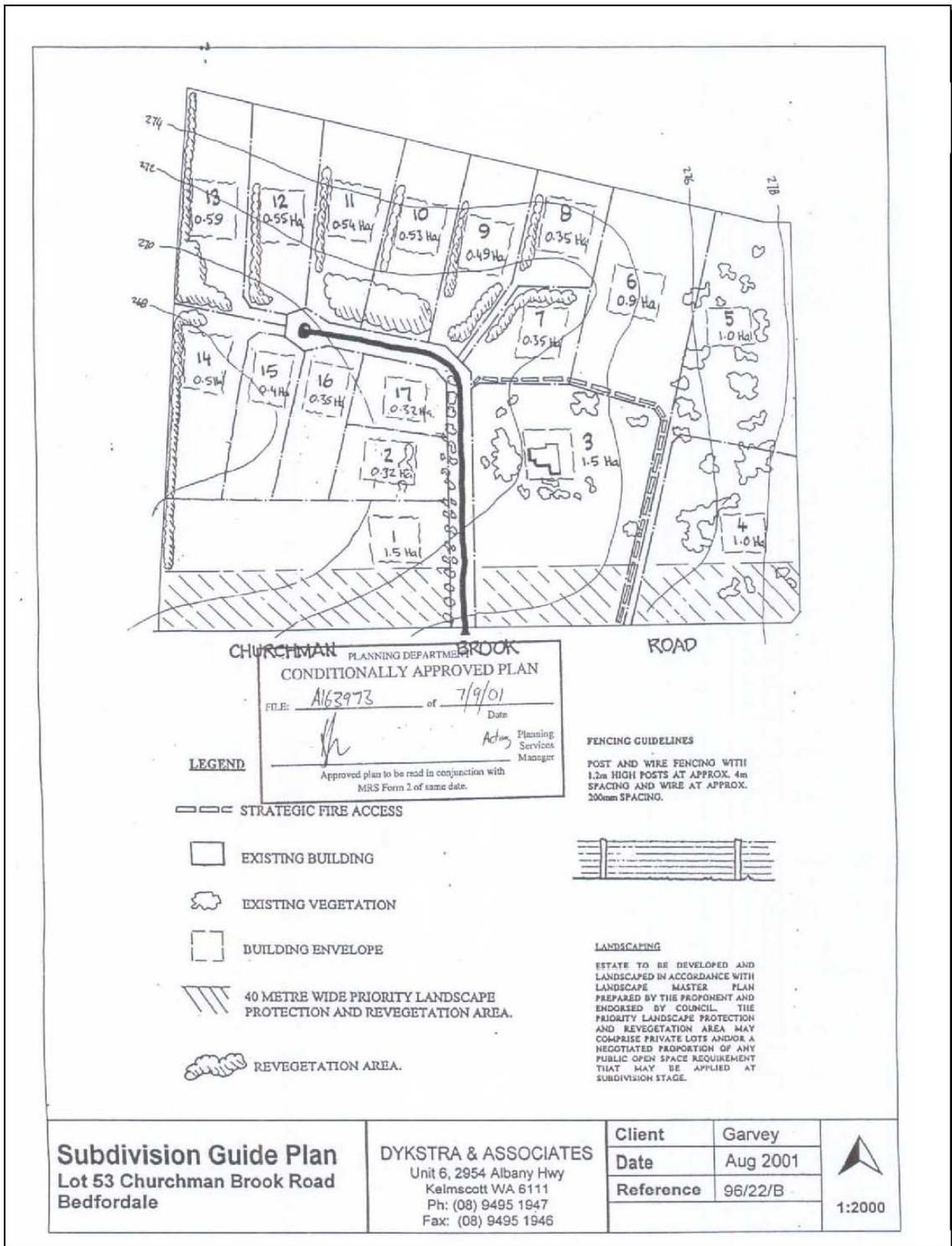
Although not clear from the submission what policy is being referred to, it is assumed to be Western Australian Planning Commission Policy DC3.7 Fire Planning. This policy is discussed in detail below.

- 2. The outlook from our property will be compromised. Two lots are proposed adjacent to our property, with development envelopes too close to the property boundary. There should be sufficient space to plant at least three rows of trees (at least 4-5m apart) to buffer the visual impact. (Two submissions from different properties).*

The applicant’s response to this concern was that the location of the building envelopes is for indicative purposes only and will be further examined as part of the subdivision approval process. However, it is the City’s experience that Subdivision Guide Plans are often used for sales purposes and false expectations can be created. Furthermore, assurance is needed at this stage that building envelope sizes will be acceptable given the constraints that apply to the site.

Under the existing scheme provisions “no building shall be constructed within six (6) meters of any lot boundary.”

It is considered that two rows of trees, spaced 4m apart should provide sufficient screening from the adjacent properties. This would mean a development envelope setback of about 11m based on a 3m firebreak, 2m to the first tree line, 4m to the next tree line and then 2m to provide canopy space for the trees.



**SUBDIVISION GUIDE PLAN AS APPROVED AUGUST 2001
 FORMER LOT 53 CHURCHMAN BROOK ROAD, BEDFORDALE**

It is recommended that the applicant be required to amend the Subdivision Guide Plan to provide screening and a minimum setback of 11m for development envelopes along the eastern and western boundaries of Pt Lot 53.

It is considered that 600m² provides a relatively small envelope given that some houses built in the area have a 300m² floor area, but is probably acceptable.

3. *The proposed fencing will restrict the movement of the kangaroo population and increase the kangaroo hazard along Churchman Brook Road.*

The proposed Subdivision Guide Plan does not change the situation in regard to fencing along the boundary with the Darling Range Regional Park and the change along Churchman Brook Road is very minor. The Subdivision Guide Plan requires fencing along the boundary to be constructed to the satisfaction of the Department of Conservation and Land Management. It is considered that this issue is adequately addressed.

4. *If the proposal is to proceed, the following obligations should apply; ban the keeping of cats and dogs, require each household to have a rainwater tank, insist the Bedfordale volunteer bushfire brigade is informed before any burning off, and ban the riding of trail bikes.*

The keeping of cats is best addressed through Local Laws, and cannot be addressed through a Subdivision Guide Plan process. It is currently expected that Council will consider the issue of cat local laws following the outcomes of research work being undertaken by Murdoch University that is due for completion at the end of 2005.

Previous fencing designs recommended by the Department of Conservation and Land Management have specifically been designed to prevent the entry of most types of dog into the Regional Park. The Dog Act also provides a mechanism for the control of dogs. Additional controls on the keeping of dogs are not considered necessary.

Rainwater tanks are not considered necessary as under Town Planning Scheme No.2 all lots are to be provided with reticulated water supply.

Burning off and the riding of trail bikes are matters that cannot be addressed through a Subdivision Guide Plan and are considered to be adequately addressed by the existing State and Local Laws.

Town Planning Scheme No.2

The subject lot falls within Special Use Zone No.82 which has a number of requirements. Requirement 1 states that the Subdivision Guide Plan “*shall generally observe the following subdivision standards:*

- ♦ *overall maximum number of lots being in accordance with the approved Subdivision Guide Plan.*
- ♦ *minimum lot sizes in clusters 3000m² with an average of 4000m².*
- ♦ *minimum lot size outside clusters – 1.5ha”.*

The average lot size in the clustered area is 4,350m². This is considered to be a relatively minor variation that can be accommodated because Requirement 1 states that the subdivision standards be “generally” observed.

The Subdivision Guide Plan complies with all other relevant requirements of Special Use Zone No.82.

Under Clause 5.2.1 of the Scheme Council may amend the Subdivision Guide Plan after consideration of submissions, and then shall forward the Subdivision Guide Plan to the Western Australian Planning Commission together with a copy of Council’s decision in relation to each submission received.

Development Envelope setbacks

Requirement 4 of Special Use Zone No.82 requires that “lots below 1ha shall comply with the building standards of the R2.5 Residential Planning Code excepting that no building shall be constructed within six (6) metres of any lot boundary”. Under R2.5, minimum setbacks apply of 15m from a primary street and 7.5m from a secondary street. It is recommended that the development envelopes be modified to reflect the 15m setback from the primary street and 6m from the side boundaries.

Under Town Planning Scheme No.2, the boundaries of a development envelope do not supersede the Scheme or the *Residential Design Codes of Western Australia* requirements. Most development envelopes are in the order of 600m² in area, and only a few building envelopes contain areas within which structures cannot be built on.

Draft Town Planning Scheme No.4

Under Draft Town Planning Scheme No.4 the site is zoned Special Residential and is subject to Schedule 12 – Development (Structure Planning) Areas.

There are significant differences between the provisions that apply under Town Planning Scheme No.2 and Draft Town Planning Scheme No.4, and there have been a number of changes to the provisions that would apply to this proposal since the Draft Scheme was advertised.

Under the Special Residential zone provisions, building setbacks are to comply with the R5 Residential Planning Code, which has a 12m setback from the primary street, a 6m setback from secondary street and other setbacks are 6m or less depending on the length and height of proposed walls and whether or not they have major openings (i.e. doors and windows). However, under Draft Town Planning Scheme No.4 the development envelope is taken as the setback for the development by way of variation to the Residential Design Codes.

The likely change to the Scheme provisions reinforces the need to ensure development envelopes reflect the appropriate primary street and side setbacks.

Planning framework and visual amenity

The revised Subdivision Guide Plan proposal is within the “Indicative Structure Plan – Canns Road Churchman Brook Road Precinct” which was prepared by the City of Armadale, advertised with Amendment No.121 and adopted in July 1997. The Indicative Structure Plan identifies that the rear portion of Lot 53 as “Area considered suitable (from a visual perspective” for Cluster Development”. The area considered suitable for cluster development aligns roughly with the east-west portion of the road, so the lots south of the east-west are outside of this area.

Therefore it is recommended that additional revegetation be required on the southern side of each development envelope south of the road to protect the rural amenity of the area.

Western Australian Planning Commission Policy DC3.7 Fire Planning

The Western Australian Planning Commission Policy DC3.7 Fire Planning came into effect in October 2001, after Council approved the previous 13 lot proposal in August 2001.

In January 2004 when Council considered the current Subdivision Guide Plan, fire management was raised as a key issue by the Department of Conservation and Land Management who requested that *Planning for Bushfire Protection* published by the Western Australian Planning Commission in 2001 be taken into account in the new subdivision and advised that in their view the fire hazard from the adjacent Churchman Bushland was “Extreme”.

Planning for Bushfire Protection provides guidance on how the WAPC Policy DC3.7 Fire Planning should be met.

Assessment of the fire hazard as “Extreme” was questioned given that the Churchman Bushland vegetation is not uniform around Lot 53 having been cleared along the northern boundary. A separation of 100m is recommended between “Extreme” fire hazard areas and residences by *Planning for Bushfire Protection*, but separation distances are not provided for other fire hazard ratings. In January 2004 it was agreed that the relocation of building envelopes to about 80-100m from the northern boundary was acceptable. It is recommended that the 80-100m setback of development envelopes also be applied to this proposal.

Unless the Subdivision Guide Plan is totally re-designed relocation of development envelopes to 80-100m from the Darling Range Regional Park boundary could probably only be achieved with the loss of one lot on the north eastern boundary.

The applicant notes that the land to the north is largely cleared and considers that despite the policy change the fire risk has not changed so the existing proposal should be acceptable. The applicant has indicated that they are willing to relocate the development envelope on the north western lot further south. This would provide a setback from the Darling Range Regional Park of about 30m assuming the same size development envelope (i.e. 600m²).

Planning for Bushfire Protection also recommends that cul-de-sacs should not exceed 200m, but that can be increased to 800m if two way access and egress is provided. The proposed cul-de-sac is 260m long. Alternative egress is provided part way along the cul-de-sac through the strategic fire access that runs around Lot 805.

The Subdivision Guide Plan Notes require that the Fire Management Plan be revised and updated at the subdivision stage.

Western Australian Planning Commission Policy DC 2.5 Special Residential zones

Western Australian Planning Commission Policy DC 2.5 includes locational, design and servicing requirements for special residential zones which are defined as areas with lot sizes between 2,000m² and 1ha.

Issues concerning the locational requirements have been dealt with when the original Subdivision Guide Plan was approved. The design and servicing requirements specified by the policy have generally been met.

City of Armadale Local Rural Strategy

Town Planning Scheme No.2 provisions and the Subdivision Guide Plan address the relevant Local Rural Strategy recommendations for the Canns Rural Planning Area. All of Lot Pt 53 is rated High Capability for Rural Residential Development.

OPTIONS

1. Council could endorse the Subdivision Guide Plan subject to a redesign to achieve adequate road width, intersection treatment, and development envelopes and screening to address fire planning, *Residential Design Codes of Western Australia* and rural amenity concerns.
2. Council could refuse to endorse the proposed modification to the Subdivision Guide Plan and request that subdivision occur in accordance with the currently approved Subdivision Guide Plan.

CONCLUSION

The proposed Subdivision Guide Plan has been reassessed with particular regard to policy that has been developed since the previous 13 lot Subdivision Guide Plan was adopted by Council in August 2001. Application of the policy framework means that one lot will not be able to meet fire planning requirements. With re-arrangement of the location of development envelopes, a wider road, intersection treatment and additional screening the proposed Subdivision Guide Plan could provide an acceptable outcome. Therefore Option 1 is recommended. Following receipt of the amended Subdivision Guide Plan it should be forwarded to the Western Australian Planning Commission for its adoption.

COMMITTEE discussed the necessity of fencing along the northern boundary which is to be constructed to the satisfaction of Department of Conservation and Land Management at the time of subdivision.

Executive Director Development Services advised of recent correspondence received from the applicant in relation to the proposed conditions, specifically conditions (iv) and (v). Given the applicant's disagreement with the "extreme" fire hazard classification of the CALM reserve north of the subdivision in terms of WAPC Policy DC 1.7 and Planning for Bushfire Protection and the resulting setback requirements, Executive Director Development Services noted that should Committee require further consideration on this matter, the item will have to be recommitted.

COMMITTEE was supportive of the officer's recommendation and the revised Subdivision Guide Plan subject to the plan illustrating the following recommended conditions of approval.

~~D93/7/05~~ ——— ~~RECOMMEND~~

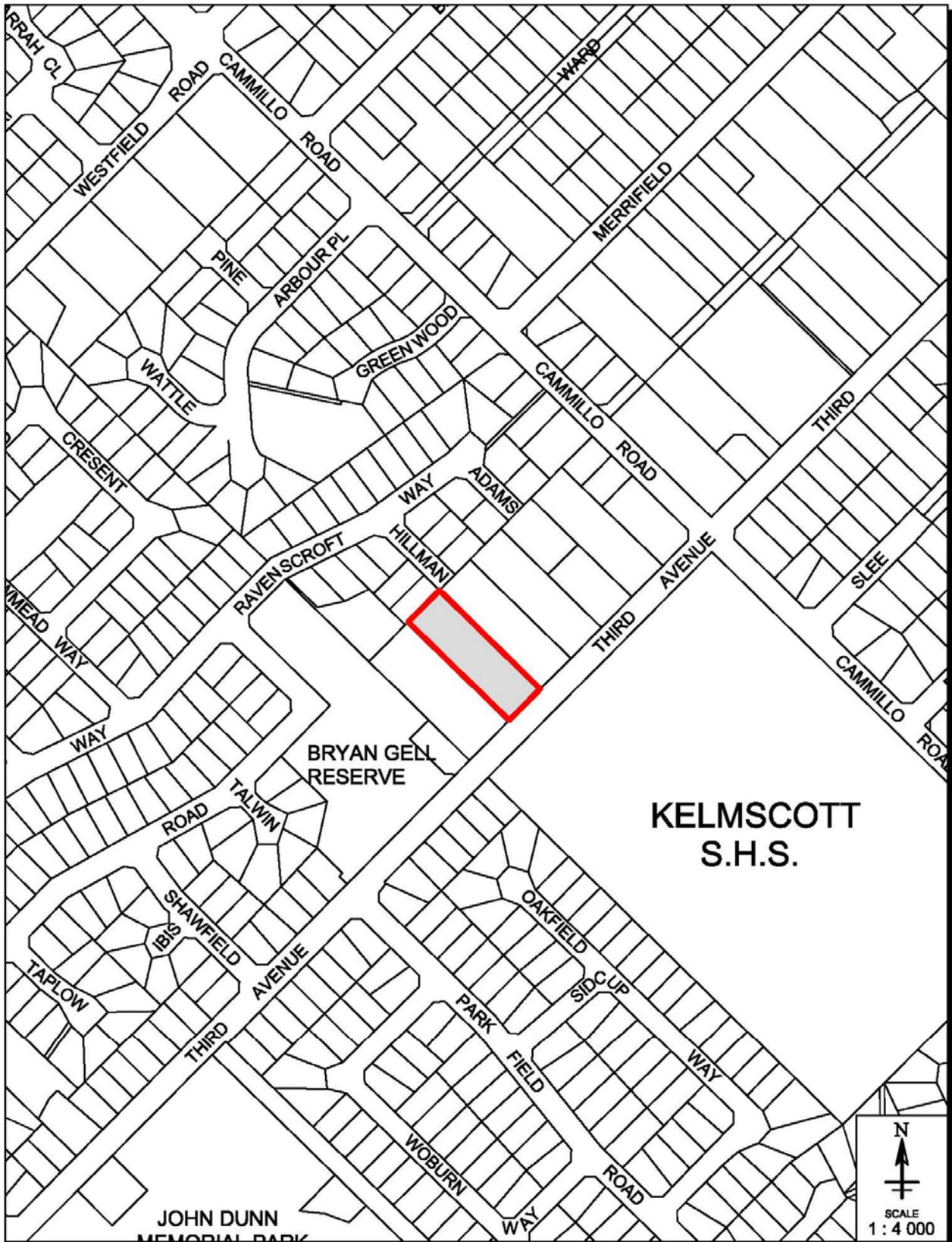
- ~~1. That Council endorse the revised Subdivision Guide Plan, subject to submission of an amended plan showing:
 - ~~i) a road reserve width of 14m;~~
 - ~~ii) a road design on Churchman Brook Road that complies with Austroads (Part 5) standards;~~
 - ~~iii) a note that improvements to Churchman Brook Road are required at subdivision;~~
 - ~~iv) development envelopes with setbacks of least 80m from the Darling Range Regional Park, 15m from primary street, 6m from side boundaries and 11m from the eastern and western boundaries of Lot Pt 53;~~
 - ~~v) lots abutting Lot 806 in the north east of the Subdivision Guide Plan to be amalgamated into one lot to comply with development envelope setbacks (unless satisfactory compliance with (i) to (iv) can be demonstrated); and~~
 - ~~vi) a notation stating "Adequate screening vegetation to be implemented on the eastern and western boundaries of Lot Pt 53 and on the south side of each development envelope south of the proposed cul-de-sac."~~~~
- ~~2. That Council forward the revised Subdivision Guide Plan (as amended by Recommendation 1) and the Schedule of Submissions to the Western Australian Planning Commission and request the Commission to adopt the Subdivision Guide Plan as the basis for approval of subdivision applications within the area covered by the plan.~~

MOVED Cr Tizard
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 18th July 2005 that Recommendation D93/7/05 be not adopted and recommitted to the next Development Services Committee meeting as the applicant has indicated there is additional information for consideration.

Chief Executive Officer left the meeting at 8.23pm.

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**LOCATION PLAN
LOT 22 THIRD AVENUE, KELMSCOTT**

***PROPOSED 14 UNIT GROUP HOUSING DEVELOPMENT –
LOT 22 (59) THIRD AVENUE, KELMSCOTT***

WARD : HERON
FILE REF : A103525
DATE : 4 July 2005
REF : PRR
RESPONSIBLE : PSM
MANAGER
APPLICANT : Summit Projects
LAND OWNER : B Swain
SUBJECT LAND : Property size 4095m²
Map 22.06
ZONING
MRS/TPS No.2 : Urban / Residential R15
DRAFT TPS No.4 : Residential R25

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

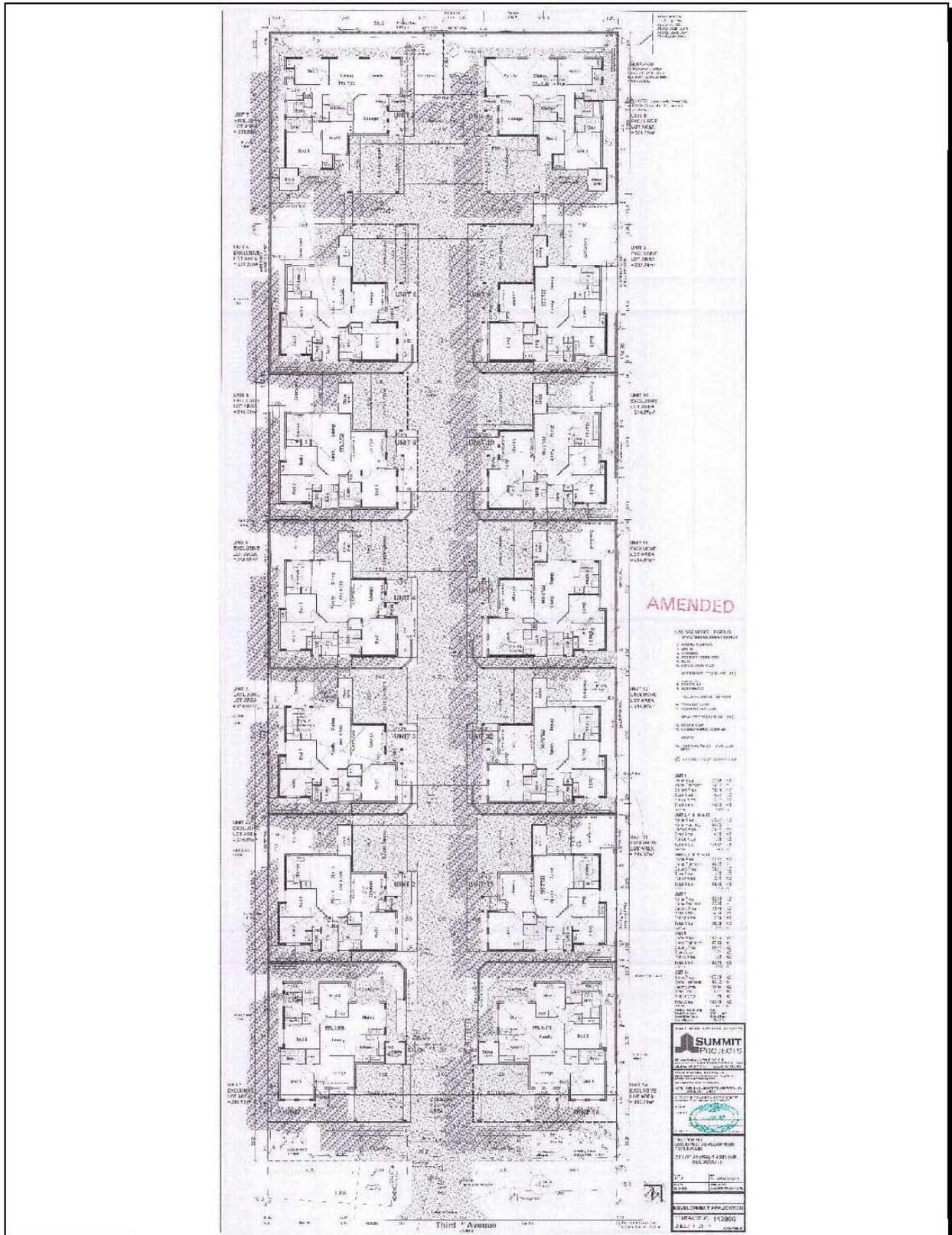
Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2
Draft Town Planning Scheme No.4
State Administrative Tribunal Act 2004
State Administrative Tribunal Regulations 2004
State Administrative Tribunal Rules 2004

Council Policy / Local Law Implications

4.3.13 – Group Housing Development

In Brief:-

- Council considered an application for 14 units at a density of R40 on the subject site at its April 2005 round of meetings and approved the application subject to a reduced density of R25, resulting in the need for a revised design for only 12 units.
- The applicant has submitted an “application for review” with the State Administrative Tribunal (SAT), seeking to overturn Council’s decision and have the R40 density and 14 units approved.
- The applicant has submitted revised plans to address Council’s concerns with the proposal which are now referred to Council for consideration.
- Recommend that Council authorise the City’s officers to finalise the application for review (by signing a consent order) on the basis it is willing to conditionally approve the revised plans.



**SITE AND FLOOR PLAN
LOT 22 THIRD AVENUE, KELMSCOTT**

Budget / Financial Implications

Costs already incurred through the City's representative at the State Administrative Tribunal amount to less than \$1000. There is potential for approximately \$10,000 to \$20,000 in representation costs to be incurred if the matter proceeds to a full hearing.

Consultation

- ◆ Development Control Unit

BACKGROUND

The City received an application for a grouped housing development on Lot 22 Third Avenue, Kelmscott on 24 January 2005. The application proposed variations to Town Planning Scheme No.2 (TPS No.2), Policy 4.3.13 – Group Housing Development (Council's Policy) and the Residential Design Codes of Western Australia (RD-Codes) and as such was referred to Council for determination.

Council recommitted the item at its meeting of 21 March 2005 on the basis that it would give consideration to a reduced building footprint on the lot (D28/3/05). After officers met with the applicant and revised plans were submitted showing three (3) different unit elevations, Council resolved at its meeting of 26 April 2005 (D42/4/05) that the application be approved subject to a density of R25 instead of the R40 density applied for, and that revised plans were to be submitted reducing the number of units by two (2). The reason cited by Council for the reduced density was that it considered the proposal an overdevelopment of the site.

The applicant submitted an application for review (the new terminology for an appeal) against Council's decision to the State Administrative Tribunal (SAT) on 20 May 2005. The matter is set for mediation before the SAT on 20 July 2005. After discussing the matter with Councillors, the applicant has provided another set of amended plans for consideration. The plans have been referred to Council for direction in terms of the forthcoming mediation session.

DETAILS OF PROPOSAL

The applicant proposes the development of 14 single storey, brick and tile and Colorbond units on the subject property, at a density of 'R40' on the basis of Table 1.1 in TPS No.2. The proposal incorporates 28 private car parking bays (two (2) per unit) and four (4) visitor parking bays. Landscaping details have also been submitted as part of the application. The plans currently submitted differ from the originals through increased variety in materials / colours used and treatment of the front carports.

COMMENT

Development Control Unit (DCU)

At its meeting of 30 June 2005, DCU recommended that the amended plans be supported subject to appropriate conditions, as per its previous decisions on 10 February and 5 April 2005.



**PREVIOUS ELEVATION PLAN
LOT 22 THIRD AVENUE, KELMSCOTT**

Advertising

The application was advertised in February 2005 to surrounding landowners for a period of two (2) weeks. Four (4) submissions objecting to the proposal were received, the grounds of which provided some basis for Council's decision to approve a reduced density for the site.

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

ANALYSIS

Revised Plans

A meeting was held between officers, the applicant and the Mayor to discuss designs for furthering the proposal. The revised plans submitted by the applicant are the second attempt to address Council's concerns and demonstrate a willingness to come to an agreeable solution in terms of the design of the units. In addition to previous modifications to provide a greater opportunity for passive surveillance within the development, the applicant has produced several different elevations in terms of materials, creating interest and increasing choice / variety. Also, the carports for the front units have been screened with lattice to reduce visibility of parked vehicles. It is noted that the possibility of utilising mature trees in the development was also discussed but no details were provided in this regard. Should Council be satisfied with the amended plans, the mature trees can be required as part of the submission of a landscape plan.

Another design issue that has not been discussed with the applicant is the use of eaves. Not only do eaves provide a practical use in that some small measure of protection from the sun is gained, but they are also an architectural feature that is relatively cost effective and easy to implement. It is recommended that to enhance the design of the units, minimum 300mm eaves be provided to all units as a condition of approval, should Council be satisfied with the revised plans.

Officers are of the opinion that the revised plans adequately address the majority of the RD-Codes, TPS No.2 and Policy 4.3.13 requirements. The areas of these documents that the application does not comply with are outlined in the sections to follow. If Council is satisfied that the revised plans address their concerns it is recommended that the plans be supported and agreed to at mediation.

Town Planning Scheme No.2

Density

Table 1.1 in TPS No.2 states the following relative to density: "*As per Residential Planning Density Code indicated on Scheme Map... but the Council may permit Grouped Dwellings (not exceeding R40)... where it is satisfied that the amenity of the locality will not be prejudicially affected*". The surrounding density is 'R15' and the location of the subject site relative to the criteria set out in Council's Policy as well as the overall quality of the design in terms of the RD-Codes needs to be considered carefully in this regard.



**NEW ELEVATION PLAN
LOT 22 THIRD AVENUE, KELMSCOTT**

Open Space

Table 1.1 of TPS No.2 also requires Council to be satisfied that sufficient open space exists in the locality to offset the increased demand for recreation space caused by the development. The subject lot is 70m from the Bryan Gell Reserve (a passive recreation reserve) and 365m from John Dunn Memorial Park (an active recreation reserve). These reserves would be adequate to cater for the additional demand for recreational facilities caused by the development.

Matters to be Considered by Council

Clause 7.3 of TPS No.2 lists a range of other issues that must be taken into account in determining an application for planning consent. It is noted that the issues raised in this section of TPS No.2 include issues such as compliance with Scheme and Policy provisions, the existing and likely future character and amenity of the neighbourhood, the presence of vegetation on site and submissions received by Council.

Residential Design Codes of Western Australia

Specific details relative to certain areas are provided as follows. (Where elements of the RD-Codes are not commented upon, the proposal is deemed to comply).

Density

The proposal complies with the Acceptable Development and Performance Criteria provisions of the RD-Codes relative to 'R40' development, which include a minimum lot size of 200m² and an average lot size of 220m². It is noted however that this density is above that intended for the site, as described by TPS No.2 ('R15' with 'R40' at Council's discretion) and Council's Policy ('R25').

Setbacks

Internally, the front setback to the units should be 2.5m. A setback of 2m has been provided for all units with the exception of units seven (7) and eight (8), which have been moved towards the centre of the lot by 1m as a result of the meeting with the applicant to increase opportunity for surveillance of the common driveway. Given the front setback is internal to the site and the driveway width could be altered to meet the requirement anyway, the front setback is deemed to meet the Performance Criteria.

The rear setbacks to all units should be 1.5m along their entire length, as the length of the wall is in excess of 9m. The applicant has provided the 1.5m setback to sections of these walls that include major openings (a window in excess of 1m² or a door opening onto a habitable room), whilst the remainder of the wall is setback only 1m. Similarly, some side setbacks separating individual units have been reduced to 1m where major openings do not exist.

Given the important parts of the wall are set back as required, it is deemed appropriate to vary the setbacks for the remaining sections of wall from 1.5m to 1m based on the Performance Criteria.

Visitor Bays

In accordance with RD-Codes Clause 3.5.3, visitor bays are to be marked appropriately and a condition should be imposed in this regard should an approval be issued.

Stormwater

No details have been provided with regard to stormwater disposal as required by RD-Codes Clause 3.9.2. A condition requiring a stormwater management plan to Water Sensitive Design Principles should be imposed should Council approve the application.

Waste Collection

Whilst there is adequate frontage to accommodate 28 rubbish bins on pick up day as required by Clause 3.10.3, Technical Services has requested that a condition be placed on any approval issued requiring the developer to provide bin pads to accommodate all bins (i.e. 1m² per bin). This would make placement of rubbish bins on the road verge easier for residents and would result in a more defined pickup area.

Policy 4.3.13 – Group Housing Development (Council’s Policy)

Comments relative to some of the aspects of Council’s Policy follow. (Where Policy criteria are not commented upon, the proposal is deemed to comply).

Density

Council’s Policy allows for a density increase relative to residential areas zoned ‘R20’ and below based on certain criteria. The density increase means a developer may apply standards relative to the density 10 units per hectare above the prevailing density (in this case ‘R15’ would become ‘R25’). The applicant in this instance has requested a density 25 units per hectare above the prevailing density, or ‘R40’.

The Policy Statement for the ‘Residential’ zone in TPS No.2 does note that “*where Council is satisfied that proper servicing and amenity is present, medium density grouped dwellings may be permitted in recognising the varied demands for residential accommodation within the community*”. Clause 2.2.1.4 of Council’s Policy requests the applicant to demonstrate that a group housing proposal is in close proximity to public transport, public open space, the footpath and cycleway system, shopping areas and community facilities to justify an increased density.

The applicant has not provided any information as to how the application meets these criteria. However, it is noted that the subject site is directly opposite the Kelmscott Senior High School, is in close proximity to two (2) public open space reserves, is approximately 750 – 800m from the Kelmscott town centre which includes shops and public transport and Third Avenue has a dual use footpath. These elements represent a strong correlation with the locational criteria outlined by the policy and were taken into account in the amendments undertaken during the preparation of TPS No.4 wherein the land is to be coded ‘R25’.

Proximity to Other Unit Developments

Section 2.2.1.2 of Council's Policy stipulates that Council will not approve group housing where an existing unit development is located on the same side of the street within six (6) lots. Council's Policy notes however, that subject to due regard for prevailing densities in the area, this requirement may be waived if no reasonable objections are raised, the site demonstrates a high correlation between the locational requirements outlined in the Policy and the design is of high quality.

As described in the previous section, the development is suitably located to address the locational criteria of Council's Policy. However as previous iterated, three (3) nearby unit developments exist, on Lots 21, 23 and 24 Third Avenue. Lots 21 and 23 approximate a density of 'R25', whilst Lot 24 has been approved at 'R40' and the subject lot proposes the same. The mixture of densities is not ideal and it could be argued that the density of the development should be reduced. However the fact that an almost identical application at 'R40' has been approved only two (2) lots away weakens this argument considerably. As such, given the design is of a high standard and the locational requirements are met, it is recommended Council's Policy be varied in this instance.

Car Parking

Section 3.3.3 of Council's Policy requires car parking in the front setback to be under the cover of a carport. The visitor's car parking bays are proposed within the front setback, but given they are not for continuous use as those bays provided for private residences are, it is recommended the provision be varied.

Colours and Materials

A colour and material schedule has been provided for the proposed development as part of the revised plans. The schedule represents a greater variety of colours and materials from that proposed previously and is deemed to be appropriate.

Landscaping

The landscaping plan originally submitted did not meet the requirements of Council's Parks Department. Parks noted that the designer has not indicated the minimum requirements as listed in the Landscaping Guidelines handout, the proposal has too few plants to achieve a landscaped appearance, the plan does not show all plants listed in the legend, Azaleas should not be used in full sun positions and that the legend fails to show plant container sizes. A new plan has not been submitted to date. A comprehensive landscape plan is required by Council's Policy and as such it would be appropriate to include the standard landscape plan condition (requiring the use of mature trees as previously noted) and advice note on any planning approval issued.

Application for Review

Given the officer's recommendations for approval at a density of R40 (i.e. 14 units) in the two (2) previous reports to Council, the City has arranged for representation in the review before the SAT to defend Council's position. The application meets the majority of the requirements set out by TPS No.2, the RD-Codes and Council's Policy and those areas that do not should be considered under the performance criteria or varied where appropriate. Given a precedent for the R40 density was created two (2) lots away, should the matter proceed to a full hearing, it is possible that the Tribunal would uphold the application for review.

Delegation 712 allows officers to finalise review (appeal) matters (attend mediation, organise consent orders etc) and this is reflected by Option 1 should Council consider the revised plans acceptable. Should the plans be unacceptable or if Council is willing to consider concessions from their original stance of 12 units at R25 then it can make further approaches to the applicant through the officers and the mediation process in accordance with Option 2.

OPTIONS

1. Council may decide to support the revised plans and therefore the proposal for 14 units at a density of R40 and authorise the City's officers to finalise the application for review (by signing a relevant consent order) in accordance with Delegation 712, based upon appropriate conditions and advice notes.
2. Council may decide not to support the revised plans and authorise the City's delegate to inform the applicant and SAT at mediation that the requirement for 12 units at a density of R25 will be pursued at a full hearing. It is noted that there will be costs further to those already accrued associated with pursuing this option.
3. Council may decide not to support the revised plans and put forward another position for mediation should it be willing to grant concessions from their original position. It is noted that there will be costs further to those already accrued associated with pursuing this option.

CONCLUSION

The proposal generally complies with the provisions of TPS No.2, the RD-Codes and Council's Policy. The applicant has modified the appearance and to a lesser degree the layout of the development to address Council's concerns. The resultant variety in terms of appearance presents a good outcome for the site. It is therefore recommended that Council accept the revised plans and authorise the City's officers to finalise the application for review, in accordance with Option 1.

COMMITTEE generally supported the revised plans submitted by the applicant. The possibility of planting large mature trees in the street frontage of the development was also discussed as part of the submission of a landscape plan.

Executive Director Development Services advised that Technical Services Directorate recently indicated that the collection of the proposed 14 recycling bins was a potential traffic and safety issue and requested that a Waste Management Plan be prepared that addresses the collection of the waste and recycling bins in a safe manner. Accordingly, COMMITTEE amended Part (c) of the Recommendation.

D94/7/05 RECOMMEND

- 1. That Council authorise the Executive Director Development Services / Planning Services Manager to finalise the application for review (by signing a consent order) on the basis that it is willing to consent to the approval of the revised plans for the grouped housing application for 14 units on Lot 22 Third Avenue, Kelmscott, at a density of 'R40' subject to the following conditions:**
 - a) All hard standing areas (eg. car parking area (including visitors bays), crossovers, driveway, vehicle manoeuvring space) are to be constructed, drained, sealed, kerbed and marked to the satisfaction of the Executive Director Technical Services.**
 - b) Submission of a stormwater management plan to water sensitive design principles to the satisfaction of the Executive Director Technical Services.**
 - c) Waste Management Plan be prepared that addresses the collection of the waste and recycling bins in a safe manner, to the satisfaction of the Executive Director Technical Services.**
 - d) A schedule of colours and textures of external materials (including any fencing) is to be submitted to the satisfaction of the Executive Director Development Services. The development is to be completed and maintained in accordance with the approved schedule.**
 - e) The submission of a comprehensive landscape plan for all landscaped areas to the satisfaction of the Executive Director Technical Services. Such plan to include plant species (predominantly mature West Australian natives), numbers, location, container size and method of irrigation of the landscaped areas. The landscape plan is to be approved and the landscaping installed and maintained thereafter, to the satisfaction of the said officer.**

- f) Minimum of 300mm eaves are to be provided to all units to the satisfaction of the Executive Director Development Services.**
- 2. That the applicant be advised, in addition to the standard advice notes with respect to development applications, that:**

 - a) The demolition of the existing structures on site is subject to a separate planning application and approval.**
 - b) With regard to Conditions 1(b), 1(d) and 1(e), it is expected the required information and plans will be submitted prior to the issue of a Building Licence.**
 - c) With regard to Condition 1(d), please note that Zinalume or white or bright colours are not acceptable unless otherwise approved by Council. Colours should be associated with the natural tones of the landscape and architectural detail and trim (gutters, capping, window frames etc) will be considered an integral component of the overall appearance.**
 - d) With regard to Condition 1(e), please refer to the landscaping guide from Council's Parks Department (attached).**

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**DEDICATION OF FOUR PORTIONS OF R.O.W. AS PUBLIC ROAD
SLEE AVENUE, KELMSCOTT**

DEDICATION OF PORTIONS OF RIGHT OF WAY (ROW) AS A PUBLIC ROAD AND BEING PART OF SLEE AVENUE, KELMSCOTT

WARD : RIVER

FILE REF : RDS/14

DATE : 30 June 2005

REF : MF

RESPONSIBLE MANAGER : PSM

APPLICANT : Department for Planning and Infrastructure – Land Asset Management Services

LAND OWNER : Crown / Private

SUBJECT LAND : Four portions of Right of Way (ROW) forming part of Slee Avenue, Kelmscott Map 22-06

ZONING

MRS/TPS No.2 : Urban/Residential “R12.5”

DRAFT TPS No.4 : Residential “R25”

In Brief:-

- Investigation by the Department for Planning and Infrastructure – Land Asset Management Services has revealed that 4 portions of Right of Way (ROW) forming part of Slee Avenue, Kelmscott remain undedicated.
- The Department has requested Council to assist in facilitating the dedication of these ROWs as a public road.
- Recommend that Council agree to facilitate the dedication by resolving to request the Minister for Lands to dedicate the ROWs as a public road.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

“Enhance the qualities and benefits of our natural and built environment.”

Legislation Implications

Land Administration Act 1997.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Department for Planning and Infrastructure – Land Asset Management Services
- ◆ Technical Services Directorate

BACKGROUND

Investigation by the Department for Planning and Infrastructure – Land Asset Management Services has revealed that a small portion of Slee Avenue, Kelmscott remains undedicated as a public road. The subject portion of Slee Avenue remains in four freehold titles, three portions of which have been vested in the Crown for the purpose of ROW, pursuant to Section 20A of the Town Planning and Development Act 1928. The fourth portion is also described as ROW but was not vested in the Crown at the time of subdivision and therefore remains in private hands.

DETAILS OF PROPOSAL

The Department for Planning and Infrastructure – Land Asset Management Services has requested Council to assist in facilitating the dedication of the subject ROWs as public road by undertaking the following:

1. Council resolving to request the Minister for Lands to dedicate the subject land as a public road, pursuant to Section 56 of the Land Administration Act 1997 with respect to the three ‘Crown’ ROWs.
2. Council resolving to request the Minister for Lands to dedicate the private ROW, remaining in CT Volume 408 Folio 153 as public road, pursuant to Section 56 (1) (c) of the Land Administration Act 1997 (used for dedication of ‘private roads’) if the City considers that Section 56(1) (c) is applicable in this instance.
3. Council indemnifying the Minister for Lands with respect to the proposed road dedication of the four ROWs as required under Section 56 (4) of the Land Administration Act 1997.

COMMENT

In essence, Section 56(1) of the Land Administration Act 1997, among other things, provides that

- a) If land is used by the public as a road under the care, control and management of the local government and
- b) Constructed and maintained to the satisfaction of the local government (in the case of land comprising a private road) or
- c) Land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years

And that land is described in a plan of survey, the local government may request the Minister to dedicate that land as a road.

In addition, Section 56(8) provides that where the request is made in respect of a private road, local government also needs to give the Minister the following information:

- ◆ Written confirmation that the public has had uninterrupted use of the private road for a period of not less than 10 years;
- ◆ A description of the section or sections of the public who have had that use and
- ◆ A description of how the private road is constructed.

ANALYSIS

The identified four portions of ROW form part of Slee Avenue, Kelmscott and have been used by the public both on foot and by vehicles for a period of not less than 10 years by virtue of the fact that this road has been in existence for more than 10 years.

It should be noted that the private ROW is the only portion of land remaining in private ownership since around 1967, following subdivision of the rest of the land.

Section 56(1)(c) of the Land Administration Act 1997 (used for dedication of private roads) is applicable in this case on the grounds that the public has had uninterrupted use for a period of not less than 10 years.

Slee Avenue (including the portions of ROW) is sealed, kerbed and drained and has been maintained by the City for many years.

OPTIONS

1. Decline the request to dedicate the ROWs as a public road thereby allowing the existing situation to continue. This option, however, does not have any discernable benefit.
2. Resolve to facilitate the dedication of the four ROWs as a public road.

CONCLUSION

It is recommended that Council adopts Option 2 and resolves to dedicate the four ROWs as a road on the grounds that such dedication is in the best interests of Council.

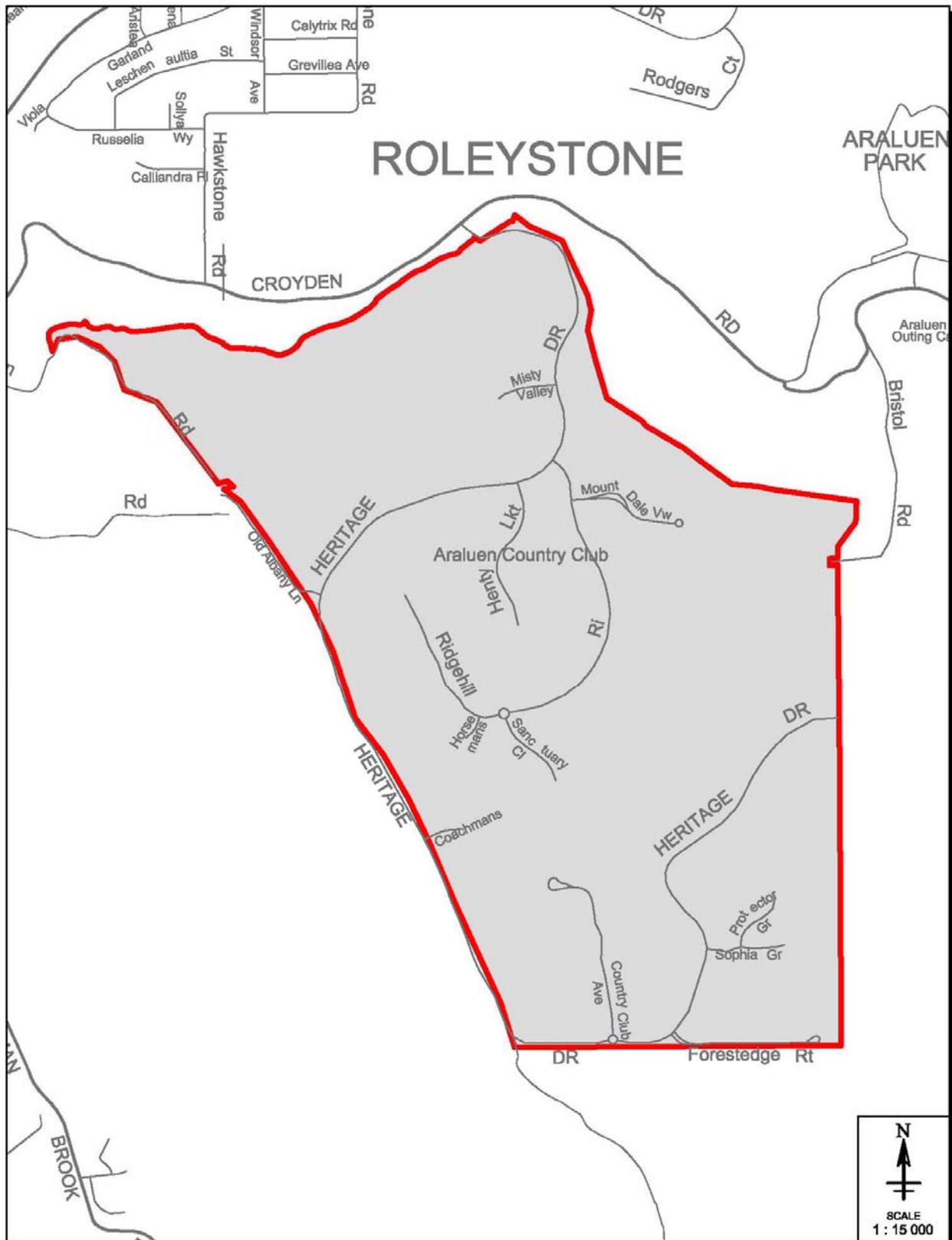
D95/7/05

RECOMMEND

- 1. That Council resolve to request the Minister for Lands to dedicate as a public road the following:**
 - a) Three portions of ‘Crown’ Right of Way (ROW) included in CT 1104/993, CT 1204/408 and CT 20/22A, respectively, which form part of Slee Avenue, Kelmscott, pursuant to Section 56 of the Land Administration Act 1997 shown and described on the accompanying location plan;**
 - b) The private Right of Way (ROW) included in CT 408/153, which also forms part of Slee Avenue, Kelmscott, pursuant to Section 56(1)(c) of the Land Administration Act 1997 also shown and described on accompanying location plan.**
- 2. That Council indemnifies the Minister for Lands with respect to the proposed dedication of the four portions of Right of Way (ROW) as required under Section 56(4) of the Land Administration Act 1997.**
- 3. That the Department for Planning and Infrastructure – Land Asset Management Services be advised of Council’s determination.**

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**LOCATION PLAN
ARALUEN RESIDENTIAL ESTATE**

ARALUEN RESIDENTIAL ESTATE

WARD : ALL
FILE REF : A131392
DATE : 16 MAY 2005
REF : IM
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- Recent applications for development of dwellings in the Araluen Residential Estate have raised the question of whether the controls over design are sufficient to ensure that development is consistent with the desired theme of the estate.
- Some greater clarity on the meaning of Australian vernacular could be provided by amendment to PLN 3.7.

Recommend

That PLN 3.7 be amended by the insertion of additional clauses and be advertised for public comment.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Town Planning and Development Act 1928
Town Planning Schemes 2, and Draft TPS No.4

Council Policy / Local Law Implications

Policy PLN 3.7, a Local Planning Policy under TPS No.4 could be amended.

Budget / Financial Implications

Nil.

Consultation

- ◆ During the preparation of Policy PLN 3.7 all Araluen owners were sent a copy of the draft and invited to comment.

BACKGROUND

Properties in the Araluen Residential Estate were subject to various controls set out in Design Guidelines and Covenants prepared for the Araluen Country Club. The covenants (which referred to the Design Guidelines) had statutory effect, however after ten years of operation they expired in October 2004. Covenants are statutory mechanisms included on a title and must be complied with. The covenants were introduced by the developers of the Araluen Country Club Estate (Sangora Holdings) and the City had no power to retain them. The exact replacement of the covenants with planning provisions is difficult to achieve as landowners generally have greater ability to object to and appeal planning provisions than those given effect by covenant. The replacement of the covenants would also require agreement by all landowners.

In anticipation of the expiry of the covenants the City prepared a Local Planning Policy including most of the design controls contained in the previous Design Guidelines. (*PLN 3.7 is included as Attachment “A1” of the Agenda.* In addition an amendment of the Scheme was prepared and finalised to control the sinking of bores to ensure that water was protected for golf course usage.

At its meeting on 23 May 2005 Council resolved (D71/5/05) that:

“Officers to review Policy – Araluen Residential Estate PLN 3.7 and a report be submitted to the Development Services Committee Meeting”.

Council’s resolution was in the context of the recent development application for Lot 273 Heritage Drive, Araluen which resulted in a petition from residents and ensuing debate to the effect that the definition of Australian Vernacular as previously interpreted for the Estate was not demonstrated with the particular application and that the wording of Policy PLN 3.7, which was prepared in anticipation of the expiry of the Araluen Country Club restrictive covenants, should be amended to more closely reflect the intent of the covenants. Specifically the request from residents was that the policy be amended to include the wording from the previous covenants including:

“Dwellings shall be designed to be unobtrusive, in harmony with the natural environment; respectful of streetscapes and neighbourhood dwellings”.

ANALYSIS

The main relevant provisions of the Araluen covenants were contained in clause 2 wherein the construction of structures was prohibited where:

- ◆ not complying with the Design Guidelines;
- ◆ with reflective materials;
- ◆ not matching the main residence in terms of roof pitch, materials, design, colour or external appearance;
- ◆ with inadequate landscaping; and
- ◆ over 7.5m in height.

The Design Guidelines addressed a number of issues (siteworks, setbacks, height, parking, driveways, fencing, solar access, privacy, outbuildings and dwelling character).

These requirements were generally reflected in Policy PLN 3.7. The manner in which the matters were dealt with in the Covenant Guidelines and Policy are described in Table 1.

Table 1: Comparison of Requirements under Covenant Guidelines and Policy PLN 3.7

1994 Design Guideline/ Covenant provisions	Coverage in current policy PLN 3.7
<p><i>Araluen Country Club</i> is a unique development in a unique environment. The styles of dwellings sought for the estate should express a rural, Australian vernacular character so that they can blend with the landscape character rather than be divorced from it. Houses that are a pastiche of styles from other places may not satisfy this objective.</p> <p>The Australian vernacular style of dwelling, with its wide verandahs, energy efficiency, simple forms, use of muted colours and natural materials will empathise with the site, and therefore is highly regarded.</p> <ul style="list-style-type: none"> ◆ Dwellings shall be designed to be unobtrusive; in harmony with the natural environment; and respectful of streetscapes and neighbouring dwellings. <p>Consideration shall be given to:</p> <ul style="list-style-type: none"> ○ <i>Split level designs on steeply-sloping sites,</i> ○ <i>Roof forms expressing sensitivity to the contours of the land,</i> ○ <i>Avoiding large bulky buildings, and,</i> ○ <i>Designing highly articulated structures, such as pole-frame dwellings on bushland allotments and steeply-sloping sites;</i> <ul style="list-style-type: none"> ◆ Dwelling designs shall incorporate elements of Australian vernacular character such as verandahs and porches. 	<p>This statement appeared to be more of an explanatory statement than a policy statement and was therefore not included in the policy.</p> <p>This statement appeared to be more of an explanatory statement than a policy statement and was therefore not included in the policy.</p> <p>Policy is not couched in terms of “unobtrusive” or “Harmony” as these are subjective terms. Specific policies relating to streetscape are included in PLN 3.7 Clause 4.1.</p> <p>Included in PLN 3.7 – 4.3.4 – <i>On sloping sites, split level designs are encouraged.</i> Not included in policy as terms such as “sensitivity” lack definition. No reference to “bulky” included in the Policy as it lacked definition. Reference to pole-frame dwellings was omitted from PLN 3.7 as it was considered that split level houses following the contours were preferable to pole houses.</p> <p>Included in PLN 3.7 – Clause 4.3.1. <i>Dwelling designs shall incorporate elements of Australian vernacular character such as verandahs and porches.</i></p>

1994 Design Guideline/ Covenant provisions	Coverage in current policy PLN 3.7
<ul style="list-style-type: none"> ◆ Roofs shall be constructed to a pitch of between 25 and 45 degrees. A roof form providing highly articulated slopes with hips, gables, or other forms shall be used. 	<p>Included in PLN 3.7 – Clause 4.3.2. <i>Roofs shall be constructed to a pitch of between 25 and 45 degrees. A roof form providing highly articulated slopes with hips, gables, or other forms shall be used.</i></p>
<ul style="list-style-type: none"> ◆ Transportable and kit homes are not permitted on the estate. 	<p>Included in PLN 3.7 – Clause 4.3.3. <i>Transportable and kit homes are not permitted on the estate.</i></p>
<ul style="list-style-type: none"> ◆ The use of ‘borrowed styles’ of dwellings common in other countries and cultures shall be avoided. 	<p>Not included – considered unspecific and too vague.</p>
<ul style="list-style-type: none"> ◆ Some illustrations of what would be unacceptable and acceptable were included in the Guidelines. 	<p>No illustrations were included in the Policy.</p>

As noted in the above table, the main areas contained in the Design Guidelines but omitted from PLN 3.7 are:

- ◆ Dwellings shall be designed to be unobtrusive; in harmony with the natural environment;
- ◆ Roof forms expressing sensitivity to the contours of the land;
- ◆ Avoiding large bulky buildings;
- ◆ Designing highly articulated structures, such as pole-frame dwellings on bushland allotments and steeply-sloping sites;
- ◆ The use of ‘borrowed styles’ of dwellings common in other countries and cultures shall be avoided.

The reason for these omissions was in large part due to the lack of specificity of each Guideline. The main controls relating to roof pitch, height, boundary setbacks, materials and streetscape were more directly articulated using provisions regarding which it was more certain whether they were being achieved or not. These provisions were either already controlled through the RD Codes or were included elsewhere in Policy PLN 3.7.

Clauses requiring buildings to be “unobtrusive”, “in harmony”, or non “bulky” were not included as they would be difficult to interpret. No definition was provided in the original Guidelines except to the extent that some illustrations were provided regarding what was considered inappropriate and what would be appropriate. In addition it was considered difficult to promote non-bulky development or to prevent those employing a “borrowed style” given that it is common for architects and designers to use elements of other styles in their designs, as is reflected in many dwellings already built in the estate.

The main omission could be said to be the lack of clarity as to what “Australian vernacular” was intended to be. Certainly the “rural” nature of this vernacular was unintentionally omitted from PLN 3.7 and greater guidance in words and possibly illustrations would provide assistance in implementing the policy. It should nevertheless be noted that any particular person’s views on a specific architectural design will be subjective and these can at best be supplemented by professional opinions. There is however no guarantee that the City would be able to successfully defend an appeal against the refusal of an application representing modern design where elements of Australian architecture are actually included in the design (as represented in the design of the residence on Lot 273 Heritage Drive).

It is possible that the key matter of concern relates to roof design. The policy requires roofs of dwellings to have a pitch of between 25 and 45 degrees (as consistent with traditional roofs) and also limits height to 7.5m. The difficulty for some recent building designers has been that the height limits result in the need to create alternative roof designs to satisfy their client’s objective in respect of internal space. A greater preparedness to relax the building height limit (noting that the RD Codes allow 9m by right) while providing greater clarity to and thereafter more consistently enforcing the roof pitch policy may be a more effective way of achieving the objectives of the Araluen community.

The matters omitted in the transference of the Covenant Guidelines to Policy PLN 3.7 are summarised and commented on in Table 2 below.

Table 2: Suggestions for addressing those matters included in Covenant Guidelines but omitted from Policy PLN 3.7

Guidelines omitted	Response	Recommendation
<p><i>Dwellings should express a rural, Australian vernacular character so that they can blend with the landscape character rather than be divorced from it. Houses that are a pastiche of styles from other places may not satisfy this objective.</i></p>	<p>The Policy could be amended to promote rural Australian vernacular and specify what it is characterised by.</p> <p>The original author of the Guidelines has advised that his objective was to achieve:</p> <ul style="list-style-type: none"> ◆ A horizontal emphasis to elevations ◆ Vertical rhythm in the facades ◆ Dominant roof form ◆ Large eaves overhangs and/or verandahs ◆ Forms producing plenty of shade and shadow. 	<p>Amend Policy to amplify requirements to achieve rural Australian vernacular.</p>

Guidelines omitted	Response	Recommendation
<i>Dwellings shall be designed to be unobtrusive; in harmony with the natural environment.</i>	The terms “unobtrusive” and “in harmony” are in need of definition. This guideline could be given greater clarity by specifying colours, and landscaping requirements. It is already addressed in part by other requirements, notably height limits and use of natural materials for construction.	Add reference in policy to the need for natural muted colours and native landscaping.
<i>Roof forms expressing sensitivity to the contours of the land.</i>	It is presumed that this guideline seeks to achieve rooflines parallel to the landscape and avoid tower-like structures. Potentially this guideline conflicts with the requirement for a roof pitch of at least 25% and the acceptance of pole-framed houses.	Some further guidance on roof requirements would be helpful.
<i>Avoiding large bulky buildings.</i>	Normally bulk is controlled by plot ratio control. But where lots are as large as they are in Araluen plot ratio would have to be set at a very low level – such as 0.2 – and still this may not avoid the construction of what would be regarded to some as bulky buildings. Alternatively it would be possible to specify that buildings be of a maximum cubic area – say, no more than 1000 cubic metres.	No action.
<i>Designing highly articulated structures, such as pole-frame dwellings on bushland allotments and steeply-sloping sites.</i>	It is unclear from this guideline whether pole-frame dwellings are to be encouraged or discouraged. Some designers caution against pole frame houses as they take little account of the contours of the land – a matter identified as important above. It is considered that designs that follow the contours are preferable to pole-frame buildings and that the latter should be discouraged however it is recognised that pole-frame homes may be appropriate for steeply sloping blocks.	Include reference to the limited use of pole-framed housing on steeply sloping properties.
<i>The use of ‘borrowed styles’ of dwellings common in other countries and cultures shall be avoided.</i>	It would probably be easier to prescribe the elements that should be promoted as Australian vernacular rather than to generally forbid styles from elsewhere, which could end up inhibiting many development proposals presented.	No action.

OPTIONS

1. Amend policy PLN 3.7 to more precisely define the type of development to be controlled and encouraged.
2. Not amend the policy but continue to assess development applications based on the current provisions of the Scheme, Policy PLN 3.7 and the RD Codes.
3. Initiate an amendment to TPS No.4 to prescribe the type of development to be approved on the Araluen Residential Estate.

CONCLUSION

The covenants governing development at Araluen expired in October 2004. They have been replaced by Scheme provisions and a specific policy (PLN 3.7) which follows the covenant guidelines in most respects. It is difficult to convert general feelings about how development should look into policy clauses. Some of the areas which Araluen residents seek greater design control over are ambiguous or vaguely stated and would not provide sufficient clarity if written into the policy. Some of these statements were made in the covenant guidelines but were never tested on appeal, if they had been it is likely that they would have been found wanting.

However, there is scope to clarify what is intended to be achieved by the description “Australian vernacular” and this could be included by amendment to the Araluen Residential Estate Policy policy, should Council consider this to be an appropriate approach. It should however be noted that a requirement of planning policy does not have the same status as a scheme requirement or covenant. In addition greater clarity could be brought to the policy by the inclusion of additional or amended clauses relating to landscaping, building design and materials.

While it would be possible to prescribe development through specific scheme provisions this is not recommended as matters of design are difficult to prescribe and tend to limit creative designs.

COMMITTEE was of the view that the first dot point in Part 1(b) be amended by recommending that verandah, porch and eave overhangs be 600mm to reflect elements of the rural Australian vernacular character.

COMMITTEE requested the amendment of 4.5.1 (Building Height) where any part of a dwelling has a maximum height in excess of 7.5 metres above natural ground level, the roof shall be constructed with a pitch greater than 25 degrees. Accordingly, a new Part 1(g) was added to the Recommendation.

D96/7/05 RECOMMEND

1. That Council resolve to amend Policy PLN 3.7 Araluen Residential Estate by:

a) The addition of clause 4.2.3 (Site Works and Vegetation Removal):

- ◆ **Where development is highly visible the view of buildings should be screened in part by landscaping specifically by the planting of native species.**

b) The replacement of clause 4.3.1 (Building Design – Australian vernacular) with:

Dwelling designs shall incorporate elements of rural Australian vernacular character such as:

- ◆ **Verandahs porches and eaves overhangs, of at least 600mm, providing shade;**
- ◆ **Free standing vertical supports to verandahs and porches;**
- ◆ **Predominantly ground level development;**
- ◆ **The pitched roof areas to be at least half the height of the building walls.**

c) The amendment of 4.3.2 (Building Design - roofs):

- ◆ **Roofs shall be constructed to a pitch of between 25 and 45 degrees where visible from public areas and streets with a shallower pitch acceptable for verandahs, canopies and small areas of skillion roofs. A roof form providing highly articulated slopes with hips, gables, or other forms shall be used.**

d) The addition to 4.3.4 (Building Design - sites):

- ◆ **and pole-framed structures may be appropriate on steeply sloping sites.**

- e) **The amendment of 4.4.3 (Building Materials – reflective materials):**
 - ♦ **The development of buildings involving a roof or walls with any external sheeted surface of zincalume, metallic or white coloured finish, should be avoided.**
 - ♦ **The deletion of reference to the absorption index.**
 - f) **The addition of clause 4.4.4 (Building Materials):**
 - ♦ **Building materials used in construction should be of natural muted colours.**
 - g) **The amendment of 4.5.1 (Building Height);**
 - ♦ **Where any part of a dwelling has a maximum height in excess of 7.5 metres above natural ground level, the roof shall be constructed with a pitch greater than 25 degrees.**
2. **That Council seek public comment on the proposed amendments to PLN 3.7 for a 21 day period by publishing a notice of the proposed policy change once a week for 2 consecutive weeks in a newspaper circulating in the District and by notification by letter to the residents of the Araluen Residential Estate.**

MOVED Cr Hart
MOTION CARRIED (7/0)

Heath Services Manager left the meeting at 8.43pm and returned at 8.45pm.

TOWN PLANNING SCHEME NO.4 POLICY - ENVIRONMENTAL MANAGEMENT AND IMPROVEMENT POLICY FOR DEVELOPMENT OF CONSTRAINED LAND

WARD : ALL
FILE REF : PSY/34
DATE : 1ST July 2005
REF : JR
RESPONSIBLE : PSM
MANAGER

Strategic Implications

Developing our City to balance the needs of development with sustainable economic, social and environmental objectives.

Legislation Implications

- ◆ Environmental Protection Act 1986
- ◆ Environmental Protection Policies for the Swan - Canning and Peel Harvey Catchments
- ◆ Town Planning and Development Act 1928.
- ◆ Town Planning Scheme No.4 (Draft)

Council Policy / Local Law Implications

Policy Manual for TPS No.4 (Draft)

Budget / Financial Implications

Nil.

Consultation

- ◆ Preliminary community consultation occurred through the advertising of draft Rural Strategy in 1999.
- ◆ Consultation with the Department for Planning and Infrastructure 2004.
- ◆ Senior Environmental Planner.

BACKGROUND

At its meeting of 20th September 2004 in respect to submission CoA 4.2 on draft TPS No.4, Council resolved to recommend that the Policy Manual for TPS No.4 be modified to incorporate the Environmental Management and Improvement Policy identified on page 103 of the Rural Strategy as PLN 2.7 for application in areas subject to rezoning proposals for rural subdivisions in areas subject to environmental degradation and constraints such as parts of (south) Forrestdale.

In Brief:-

- During its consideration of submissions on TPS No.4, Council resolved to prepare a new policy for Environmental Management and Improvement under TPS No.4.

Recommend that:

- The Environmental Management and Improvement Policy be advertised for comment in accordance with the Scheme;
- That subject to no objections being received, the policy be adopted and incorporated into the Policy Manual for TPS No.4 as PLN 2.7 with any required minor modifications as determined by the Executive Director of Development Services;
- That if major objections are received, the draft Environmental Management and Improvement Policy and letters of objection be referred back to Council for determination.

TPS No.4 has progressed such that the Minister and Council have endorsed final approval subject to minor modifications. Scheme documentation is being duly modified and is anticipated to be submitted to the Department for Planning and Infrastructure in July for final approval and gazettal.

DETAILS OF PROPOSAL

To advertise for comment a new draft Policy proposed to be incorporated into the Policy manual upon Gazettal of TPS No.4, in accordance with TPS No.4 provisions.

PLN 2.7	ENVIRONMENTAL MANAGEMENT AND IMPROVEMENT POLICY FOR DEVELOPMENT OF CONSTRAINED LAND
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1. INTRODUCTION

Under the Rural Living zone, TPS 4 provides for rural residential lifestyles on small rural holdings in a range of lot sizes including 1, 2, 4 and 10ha lots. For rural residential development in locations where land suitability is identified in the Armadale Rural Strategy (1999) as Levels 1 or 2 (High or Fair Potential), landowners generally have the opportunity to submit self-funded and detailed environmental and servicing assessments and proposing further subdivision or development. If supported by Council, such proposals can be incorporated into Scheme amendments to rezone the land to the appropriate Rural Living zone minimum lot size category.

The land mapped as Level 3 or Level 4 – (Low Potential or “Unsuitable”) is sometimes subject to sometimes significant constraints due to conditions such as the poor soil and landform qualities, existing land degradation, poor drainage and proximity to environmentally sensitive areas. These characteristics normally limit the consideration of rezoning proposals for more intensive rural living development.

Problems can arise however, as these same constraints also often generally limit the potential of the land for alternative uses involving rural/agricultural production and this can lead to the land becoming neglected or degraded through inappropriate land uses and/or land management practices. This issue is a particular concern in the southwest Forrestdale locality, where while land capabilities are generally low and are deemed “Unsuitable” for more intensive rural residential development., However continued or expanded exploitation for rural production sometimes holds greater risks for long term decline in valued ecosystem functions such as habitat preservation and water quality.

This policy provides an avenue for owners of land in the Level 3 or Level 4 (Low Potential or Unsuitable) areas, which has been subject to or is at risk of substantial degradation, to invest significant efforts in land rehabilitation and improved management practices.

In this regard Council may consider Scheme amendments to support limited further subdivision on degraded land in the Rural Living zone, subject to the following major strategies for improving degraded land being implemented:

- ◆ revegetation and rehabilitation (eg. planting of indigenous plants appropriate for the preservation or reestablishment of a structure of plants and animals found in the appropriate natural community);
- ◆ sensitive land use allocation and design; and
- ◆ better land management practices.

Where further subdivision may be demonstrated not to be viable, owners of land subject to substantial degradation may consider applying for the additional discretionary land uses listed in the Town Planning Scheme for their degraded land. In considering such applications Council will also take into account proposals whereby the above major strategies for improving degraded land will be achieved as part of the development or subdivision, through the implementation of an Environmental Management and Improvement Strategy prepared for the land.

The intention of the Policy is to substantially improve environmental management and to provide scope for the development and/or subdivision or consolidation of lots, where such substantial environmental improvement can be demonstrated. The outcomes to be achieved under the Policy are not intended to replace other requirements set out in the Scheme.

2. APPLICATION OF POLICY

This Environmental Management and Improvement Policy will be applied to applications for rezoning of all land within the Rural Living zone land assessed as Level 3 or Level 4 suitability in the 1999 Rural Strategy and particularly applies to the locality of southwest Forrestdale.

The policy will also be applied in respect to of applications for development approval for land uses listed as discretionary (D and A) under the Scheme, with a view to negotiating appropriate conditions under which an approval for the proposed use may be granted.

For rezonings proposing in respect to rezoning for re-subdivision, the key requirements detailed under the submitted Environmental Management and Improvement Strategy will be incorporated into the TPS 4 text under the Schedule 12 Development Area provisions. Where subdivision is not involved, key requirements will be incorporated into the Schedule -2 Additional Use provisions of the Scheme. In cases where a Scheme amendment is not required, conditions of development approval and development envelopes will be the prime instruments of development regulation.

3. POLICY OBJECTIVES

- ◆ To substantially improve overall management of the environment and improve the quantity and quality of habitat provided by the land/water resource.
- ◆ To implement practical and sustainable solutions to environmental problems including declines in remnant vegetation coverage and quality, loss of wetland and other habitat areas, soil degradation and erosion, raised water tables and poor drainage.

4. POLICY STATEMENT

4.1 *Detailed Environmental And Servicing Assessments*

Proposals are required to be accompanied by a report which must include:

- a) a rigorous assessment of the subject land by a suitably qualified land planning practitioner to determine its current environmental and physical status, opportunities and constraints;
- b) details of the intended measures of improvement outlining the sequence of rehabilitation including earth-works, drainage control, revegetation and habitat reconstruction, and the management necessary to ensure the implementation and long term administration of these measures; and
- c) an evaluation of both "a" and "b" above by an independent qualified practitioner, funded by the applicant and selected by Council, to provide a high level of assurance that the proposed measures of environmental management and improvement are comprehensive and appropriate.

4.2 *Environmental Management and Improvement Strategy*

Proposals must include an *Environmental Management and Improvement Strategy* which includes development guidelines detailing how the proposal will serve to achieve the following outcomes for the land:

- ◆ Rehabilitate the land to improve the condition of land, wetlands, waters (surface and groundwater);
- ◆ Control and reduce nutrient inputs to the land and exports from the land;
- ◆ Enhance the provision of habitat for flora and fauna on the land;
- ◆ Protect and rehabilitate wetlands and remnant vegetation;
- ◆ Enhance and protect the landscape amenity and rural character of the locality;
- ◆ Maintain and manage the land to achieve the above outcomes over the long term.

The Environmental Management and Improvement Strategy must demonstrate that substantial environmental management and improvement can be achieved in the context of the additional level of development proposed. Proposals should be practically designed to also include high standards of residential servicing, amenity and quality.

Further guidance on nutrient management principles are outlined in "Planning Guidelines for Nutrient Management" by W. Mortlock (Appendix 4 in the Armadale Rural Strategy (1999)). These specifications cover drainage retention on-site, nutrient management, retention and replanting of vegetation.

5. Definitions

- ◆ **"Environmental Management and Improvement"** means:-
 - protection and rehabilitation to improve the condition of degraded land, remnant vegetation, wetlands and waters;
 - introduction of catchment management principles and nutrient management measures to land management;
 - ongoing management of the land to enhance its ability to provide habitat for native flora and fauna.
- ◆ **"substantial"** in the context of environmental management and improvement means Council will make a qualitative assessment based on the present condition of the site and the type of management and improvement measures included in the proposal.
- ◆ **"sustainable"** in the context of environmental management and improvement means, the implementation of environmental and management measures, which can be demonstrated to be viable in the long term.

COMMENT

The Rural Living zone of TPS No.4 provides for a variety of rural living environments in a range of natural and modified environmental settings. While intended primarily for rural residential living the Rural Living zone has a wide range of potential alternative landuses and a wide range of zone subcategory precincts, which identify the recommended minimum lot sizes. Precinct lot size codings range from RL1 (subdivision to 1ha minimum lots) to RL 20 (subdivision to 20ha minimum lots). Minimum lot sizes are established by assessment of the land capability and land suitability characteristics of the precinct location by Scheme review or interim Scheme amendments (where district structure planning has identified "possible future urban development" the need to prevent land fragmentation that would constrain the "possible future urban development" option becomes the overriding factor in determining minimum lot size coding).

The policy provides guidance for landowners within the Rural Living zone who are seeking Council's endorsement of Scheme amendments to allow further subdivision and in respect to the exercise of Council discretion on land uses for "D" and "A" permissibility classifications ("D means that the use is not permitted unless the City has exercised its discretion by granting planning approval"; and "A means that the use is not permitted unless the City has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4").

Under the policy landowners seeking Council discretion for land use/lot size change may prepare an Environmental Management and Improvement Strategy. The strategy will set out a detailed programme for substantial improvement to the overall management of the environment and improvement to the quantity and quality of habitat provided by the land/water resources contained within the subject site. The strategy will need to detail how practical and sustainable solutions to environmental problems including declines in remnant vegetation coverage and quality, loss of wetland and other habitat areas, soil degradation and erosion, raised water tables and poor drainage can be implemented as part of the proposed development.

Should the Environmental Management and Improvement Strategy be supported, it is intended its key recommendations will be incorporated into the TPS 4 text under the Schedule 12 - Development Area provisions, or where subdivision is not involved, key requirements will be incorporated into the Schedule 2 - Additional Use provisions of the Scheme. In cases where a Scheme amendment is not required, conditions of development approval and development envelopes will be the prime instruments of development regulation to ensure implementation of the Strategy.

Procedure for making or amending a Local Planning Policy

Section 2.4 of TPS No.4 provides the procedure for making or amending a Local Planning Policy. A notice of the proposed Local Planning Policy is to be published once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of —

- (i) where the draft Policy may be inspected;
- (ii) the subject and nature of the draft Policy; and
- (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;

After the expiry of the period within which submissions may be made, the City is to review the proposed Policy in the light of any submissions made; and resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

If the City resolves to adopt the Policy, it is to publish notice of the Policy once in a newspaper circulating in the Scheme area; and if, in the opinion of the City, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

A Policy has effect on publication of a notice of its adoption and a copy is to be kept and made available for public inspection during business hours at the offices of the City of Armadale.

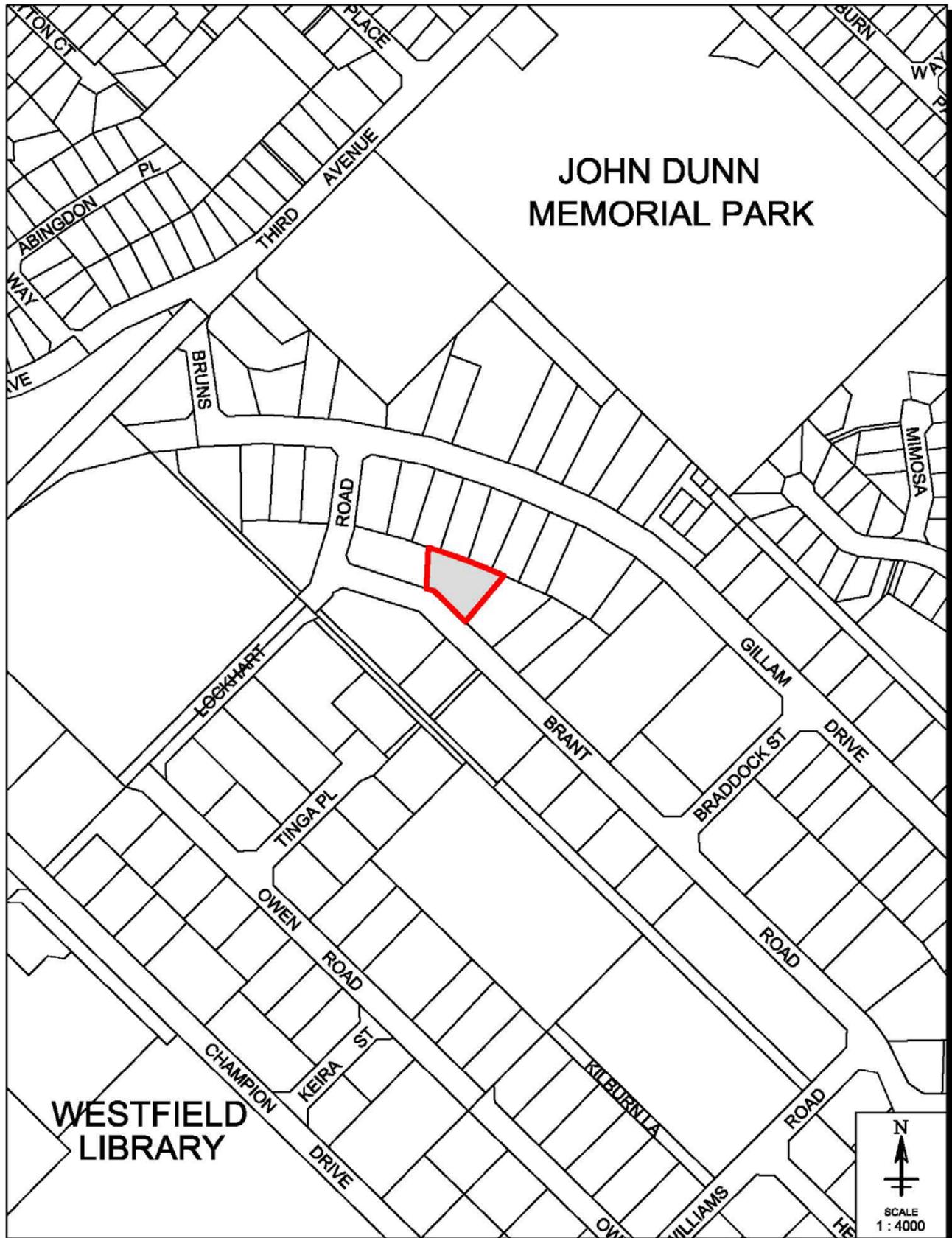
COMMITTEE commended staff on the pro-active approach taken with the drafting of the Policy.

D97/7/05 RECOMMEND

- 1. That the draft Environmental Management and Improvement Policy be advertised for a 21 day public comment period by publishing a notice in a newspaper circulating in the Scheme area once a week for 2 consecutive weeks.**
- 2. That subject to no sustainable objections being received, Council adopt the Environmental Management and Improvement Policy and publish a notice to that effect in accordance with the Scheme requirements.**
- 3. That the Executive Director Development Services be delegated authority to:**
 - a) Determine whether submissions received are sustainable/non-sustainable in nature under 2 above and can be accommodated by minor modification to the policy, or whether the policy and submissions of objection should be referred back to Council; and**
 - b) Implement any minor modifications determined under 3(a) above and incorporate the Environmental Management and Improvement Policy in the Policy Manual for TPS No.4 by publication of the notice of adoption and advise the Commission accordingly.**

MOVED Cr Knezevich
MOTION CARRIED (7/0)

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LOCATION PLAN
LOT 241 BRANT ROAD, KELMSCOTT

PROSECUTION UNAUTHORISED USE – LOT 241 BRANT ROAD, KELMSCOTT

WARD : HERON
FILE REF : A153633
DATE : 30 June 2005
REF : CHE/SA
RESPONSIBLE : PSM
MANAGER
LAND OWNER : Louis John Tuana
Jeffrey Louis Tuana
Kerry Lee Tuana
Michael John Tuana
TENANT : Willem Hendrik Bull
SUBJECT LAND : Lot 241 (4) Brant Rd, Kelmscott
Property size 2021m²
Map 22-05
ZONING
MRS/TPS No.2 : Industrial /General Industry
DRAFT TPS4 : General Industry

In Brief:-

- Council is in the process of prosecuting the tenant of 4 Brant Road, Kelmscott as per Resolution D98/5/04 dated 17th May 2004.
- A multitude of various materials and objects including two commercial vehicles continue to be stored on the premises and abutting verge without the consent of Council.
- The approved use of the land has changed without the consent of Council.
- Written and verbal communication to the tenant has failed to encourage voluntary compliance.
- Recommend that as breaches to the Town Planning Scheme No.2 and Local Government Act 1995 continues, that further legal proceedings be instituted.

Tabled Items

Nil

Officer Interest Declaration

Nil.

Strategic Implications

Sustain and maintain the distinctive character of the City; and maintain Armadale as a special place.

Legislation Implications

Town Planning and Development Act 1928
Town Planning Scheme No.2.
Local Government Act 1995

Council Policy / Local Law Implications

Nil.



Photograph of verge
Lot 241 Brant Road, Kelmscott



Photograph of verge and front of property
Lot 241 Brant Road, Kelmscott

Budget / Financial Implications

Costs to budget allocation for legal expenses in seeking a legal remedy via prosecution proceedings. The maximum penalty under the Town Planning and Development Act 1928 is \$50,000; with a daily penalty of \$5,000. Under the Local Government Act 1995 the penalty for an offence committed is \$5000; with a daily penalty of \$500. Usually, the actual cost of legal action is not reflected in fines and costs imposed.

Consultation

- ♦ Council's Solicitors (Mullins Handcock).

BACKGROUND

Council resolved to institute legal action against Mr Willem Hendrik Bull on 17th May 2004 (D98/5/04). This Resolution has now expired.

Mr Bull has made no effort over the past 12 months to comply despite this matter coming before the Court on 29th August 2005. Legal advice recommends that further Prosecution Notices be issued from 16th May 2005 at regular intervals until the site is brought into compliance.

COMMENT

Legal action pending against Mr Bull has not resolved in him instigating measures to remove the offending materials, rather more materials and commercial vehicles have been brought to the property. So much material has been brought to the site that it is now spilling over onto an adjoining property.

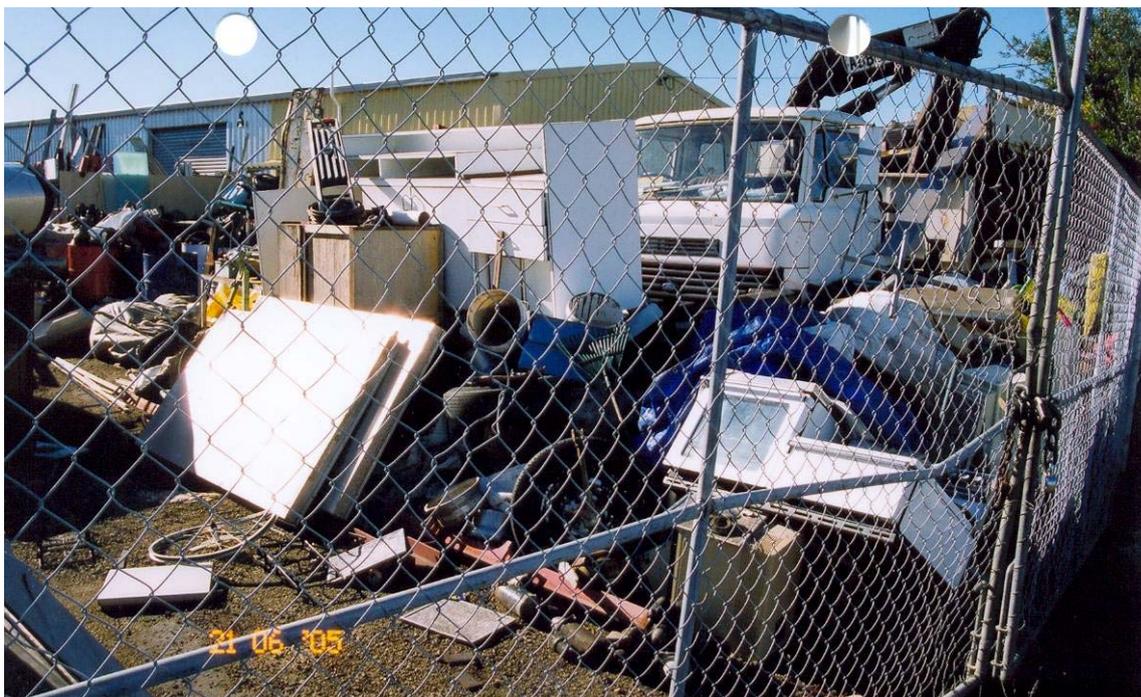
ANALYSIS

Clause 7.7.1 of Town Planning Scheme No.2 states that no person shall erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building contrary to or otherwise than on accordance with the provisions of the Scheme.

Allegation – The car park and unscreened areas of the property are still being used for the storage of scrap metal, various materials and motor vehicle wrecks. Council approved a wrecking yard for the subject property but it is now being used for open-air display purposes without Council consent.

Clause 7.7.3 of Town Planning Scheme No.2 states “Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed in the Act”. The Town Planning and Development Act prescribes a penalty of \$50,000 and a daily penalty of \$5,000.

Under the Activities and Trading in Thoroughfares and Public Places Local Laws a person shall not, without a permit, cause any obstruction to a vehicle or person using a thoroughfare as a thoroughfare.



Photograph of front of property (unscreened area)
Lot 241 Brant Road, Kelmscott



Photograph of western side of property (parking area)
Lot 241 Brant Road, Kelmscott

Allegation – The verge abutting the property is being used for the storage of various items including domestic items and motor vehicle wrecks without Council consent.

Clause 7.1 of Town Planning Scheme No.2 requires “any persons who desire to develop land zoned or reserved under the Scheme for any purpose other than for the purpose of erecting a single house on land zoned Residential or General Rural by the Scheme, shall make application to the Council for planning consent to the development before applying for a Building License”.

Allegation – From Officers’ observations the tenant is parking two commercial vehicles on the subject property. Approval to park commercial vehicles or operate a Transport Depot has not been granted.

Clause 7.1 of Town Planning Scheme No.2 (the Scheme) requires an application for any development in the Industrial zone. As the activity continues without the consent of Council, a breach of the Scheme has been committed.

The Scheme defines a “Transport Depot” as “land and buildings used for the parking or garaging of road motor vehicles which are used or intended to be used for the carriage of goods, or land or building used for the transfer of goods or people from one such motor vehicle to another of such motor vehicles and includes the maintenance of and repair of such vehicles”.

Furthermore the Scheme defines a “Depot” as “land or buildings used for the storage or transfer of goods or both but does not include the sale of such goods unless Council, at its discretion, permits the sale of the goods”. A Depot is a use of the land that is permitted in the Industrial zone with Council approval.

A hearing has been set down for 29 August 2005, with the prospect of a successful outcome for Council. Given the lack of response and cooperation from Mr Bull to Council’s notices and legal action, it is suggested that officers be authorised to commence further legal action and seek daily penalties for any further breaches associated with the failure to remove offending materials from the verge, unscreened areas and car parking areas of the subject property.

OPTIONS

1. As the tenant of the property continues with his non-compliance with relevant legislation, Council could resolve to institute legal action for breaching the provisions of the Town Planning Scheme No.2 and Local Government Act 1995.
2. Resolve not to pursue the matter at this stage.



**AERIAL PHOTOGRAPH
LOT 241 BRANT ROAD, KELMSCOTT**

CONCLUSION

Mr Bull is on trial for the unauthorised storage of materials on the verge, unscreened and car parking areas of the subject property on 29th August 2005. Numerous discussions with Council Solicitors and officers have not resulted in the materials and items being removed from the subject land or verge. As this matter is still pending before the Courts on Council's previous resolution and the breaches are still being committed, it is suggested that Prosecution Notices be served on Mr Bull.

It is recommended that officers be authorised to institute legal action in accordance with Option 1.

D98/7/05 RECOMMEND

1. **That Council authorise the Senior Liaison and Compliance Officer/the Liaison and Compliance Officer to institute legal action, subject to legal advice, against Mr Willem Hendrik Bull of Lot 241 (4) Brant Road, Kelmscott for contravening the provisions of the City of Armadale Town Planning Scheme No.2 and Activities and Trading in Thoroughfares and Public Places Local Laws for;**
 - a) **carrying on an open air display on the subject property without the consent of Council;**
 - b) **storing of materials in the car park and unscreened areas of the subject property;**
 - c) **storing materials on the verge abutting the subject property without the consent of Council;**
 - d) **parking commercial vehicles on the subject property without the consent of Council.**
2. **That Council authorise the Senior Liaison and Compliance Officer/Liaison and Compliance Officer to swear the appropriate Complaints on behalf of Council.**
3. **That should Council be successful with its current prosecution of Mr Bull, in any further legal action against him with regard the matters in (a), (b), (c) and (d) above, Council instruct its Solicitors to seek daily penalties for the continuing unauthorised use of the property and verge.**
4. **That Council authorise the Chief Executive Officer to institute further legal proceedings against any person or Company with an interest in Lot 241 (4) Brant Road, Kelmscott until such time as the offending materials are removed from the verge, unscreened and car parking areas of the subject property.**

MOVED Cr Reynolds
MOTION CARRIED (7/0)

*** COMMUNITY HERITAGE ADVISORY COMMITTEE COMMUNITY MEMBERSHIP**

WARD : ALL
FILE REF : CTE/40
DATE : 28 June 2005
REF : HC
RESPONSIBLE : PSM
MANAGER

In Brief:-

- Applications for Community Representatives on the Community Heritage Advisory Committee (CHAC) were advertised in the local newspapers.
- Four applications meeting the requirements were received.
- Recommend that Council appoint the four nominees to CHAC.

Tabled Items

Nil.

Officer Interest Declaration

The Administrator Planning Services is a member of the Community Heritage Advisory Committee and there may be a perception on the basis of this non-financial interest that his impartiality may be affected. He declares that he has put aside that association and considered the matter on its merits.

Strategic Implications

Aims for communicating and marketing to:

- ◆ Maintain dialogue to understand community needs and expectations; and
- ◆ Communicate our achievements to the community.

Aim for developing our City to sustain and maintain the distinctive character of the City.

Legislation Implications

- ◆ Local Government Act 1995 - Section 5.8 requires that Council formally appoint Committees by an absolute majority.
- ◆ Heritage of Western Australia Act 1990.
- ◆ Town Planning Scheme No.2 and No.3.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

\$1200 per annum budgeted for Heritage Committee administrative support.

Consultation

Newspaper advertisements seeking nominations from interested community members.

BACKGROUND

At its meeting of 23 May 2005 Council resolved:

1. That Cr H A Zelones JP and Cr P J Hart be nominated as Council's Representatives on the Community Heritage Advisory Committee (CHAC);
2. That Council appoint the following Officers of Council to CHAC:
 - ◆ Coordinator Planning Services (Deputy – Senior Statutory Planner);
 - ◆ Administrator Planning Services; and
 - ◆ Manager Property Services.
3. That advertisements be placed in local newspapers seeking expressions of interest from suitable community members to be appointed to CHAC.

COMMENT

Advertisements were placed in the Comment News of 31 May 2005 and Weekend Examiner of 2 June 2005 seeking expressions of interest to nominate for CHAC from City of Armadale residents who had personal capabilities, qualifications or interest in one of the following areas:

- ◆ Local history;
- ◆ Heritage architecture;
- ◆ Historical artefact conservation;
- ◆ Special fields associated with heritage; or
- ◆ Community values relative to heritage issues.

ANALYSIS

Four nominations were received for community positions on CHAC. *A list of names and copies of the nomination forms are at Attachment "B3" of the Agenda.*

The nominees all served on CHAC prior to the May 2005 Local Government elections and each meet one or more of the personal capabilities, qualifications or interest outlined in the newspaper advertisements. They have all been active, knowledgeable and productive members of CHAC and worthy community representatives.

OPTIONS

Council appears to have three options:

1. Appoint the four nominees to CHAC;
2. Appoint less than four of the nominees to CHAC; or
3. Readvertise to seek further nominations to CHAC.

CONCLUSION

Given the City's experience in the past, it is unlikely that readvertising for expressions of interest from community members would generate better qualified or more suitable persons than the present nominees.

The present nominees are all eminently suitable CHAC community members, familiar with the heritage aspects of the Municipality and are in a position to be of great assistance during the forthcoming review of the Municipal Heritage Inventory. It is therefore recommended that Council adopt Option 1.

D99/7/05 RECOMMEND

That Council appoint the following persons as Community Members to the Community Heritage Advisory Committee:

- ♦ **Mr Kim Fletcher;**
- ♦ **Mr Terry Holton;**
- ♦ **Mrs Margaret Bettenay; and**
- ♦ **Mrs Doreen Bloomfield.**

***ABSOLUTE MAJORITY REQUIRED**

MOVED Cr Hart
MOTION CARRIED (7/0)

***ATTENDANCE BY ELECTED MEMBERS AT THE HERITAGE COUNCIL OF WA'S
HERITAGE PLANNING AND MANAGEMENT SEMINAR 2005***

WARD : ALL
FILE REF : CRS/4
DATE : 30 June 2005
REF : HC
RESPONSIBLE : PSM
MANAGER

In Brief:-

- The Heritage Council of Western Australia is holding its Heritage Planning and Management Seminar on 7 and 8 August 2005 at the Burswood Convention Centre in Perth.
- An officer from the Planning Department will be attending the Heritage Planning Seminar.
- Matters to be covered should be of benefit to Councillors and of interest in the Armadale context.
- Recommend that Councillor/s be nominated to attend.

Tabled Items

Nil.

Officer Interest Declaration

The Administrator Planning Services is a member of the Community Heritage Advisory Committee and there may be a perception on the basis of this non-financial interest that his impartiality may be affected. He declares that he has put aside that association and considered the matter on its merits.

Strategic Implications

Aim for developing our City to sustain and maintain the distinctive character of the City.
Aims for developing our organisation to:

- ♦ Deliver high quality, professional governance and administration; and
- ♦ Ensure the Council is a proactive, enquiring organisation.

Legislation Implications

Heritage of Western Australia Act 1990.
Town Planning Schemes 2, 3 (and ultimately 4).

Council Policy / Local Law Implications

Council Policy ADM3 – Conferences and Training.
Council Policy EM1 – Re-imbusement of Councillor's Expenses.

Budget / Financial Implications

Seminar - \$385 per attendee

Consultation

Nil

DETAILS OF SEMINAR

The Heritage Council of Western Australia is holding its Heritage Planning and Management Seminar on Sunday 7 and Monday 8 August 2005 at the Burswood Convention and Events Centre in Perth. *A copy of the advice is at Attachment “A2” of the Agenda.*

The Seminar will coincide with Local Government Week to provide opportunities for participants to attend Local Government Week initiatives, whilst attending the heritage seminar.

This year’s seminar will include presentations on core areas of heritage including assessments and registration, development, local heritage protection and education and promotion. Case studies and interactive discussion sessions will highlight some of the issues faced in heritage such as balancing pressure for development with heritage conservation, insuring heritage-listed properties and the Local Government Heritage Working Party. It will incorporate practical site visits and participants will receive a comprehensive manual of presentation notes and background information.

Curtin University’s Professor David Dolan will facilitate the course. The program will also include opportunities for networking with Heritage Council members and staff and other Local Governments.

Sessions include a range of matters relating to the management of the heritage estate as outlined in *Attachment “A2” of the Agenda.*

CONCLUSION

An officer from the Planning Department will be attending the Heritage Planning Seminar in early August 2005.

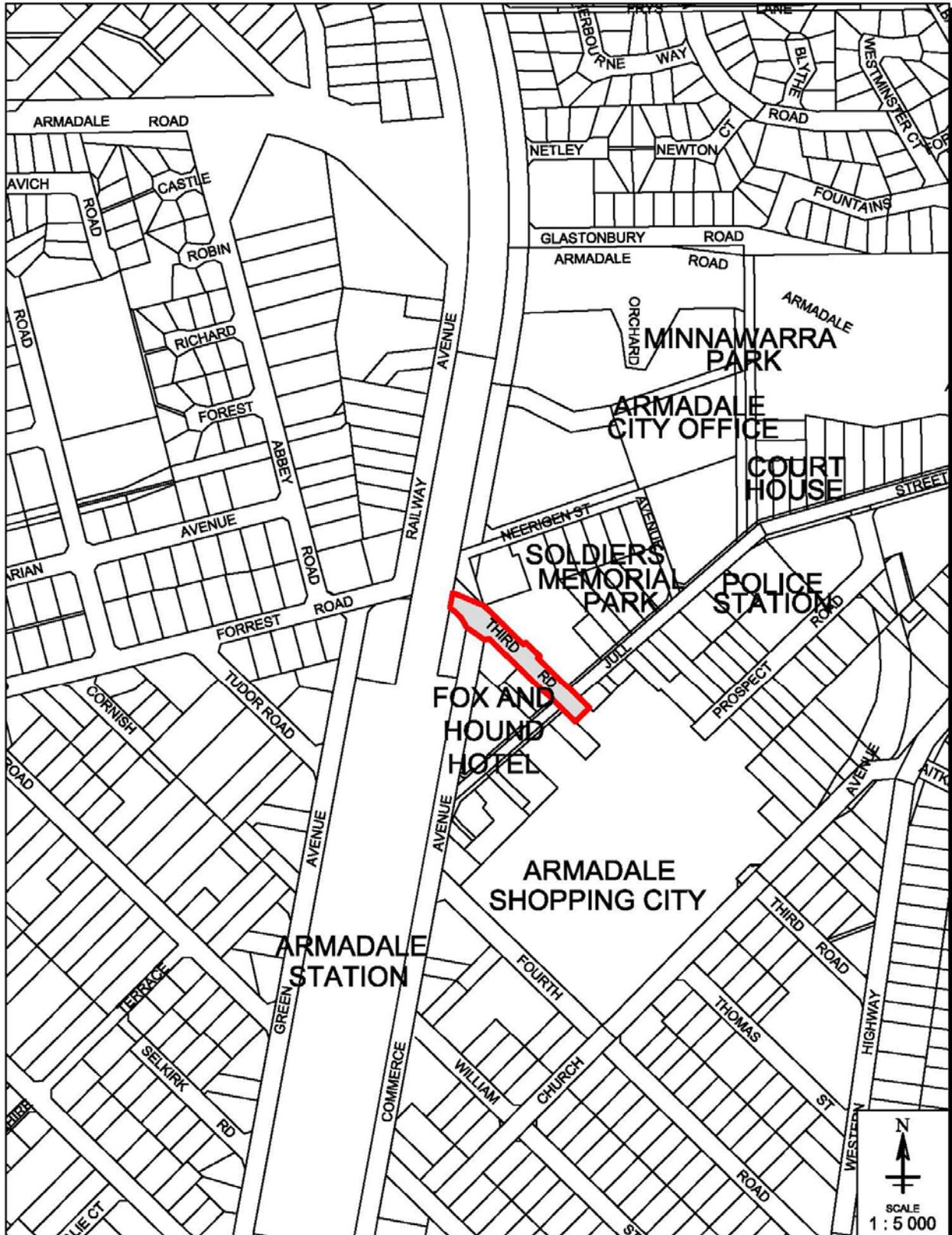
The Seminar should be an informative and interesting gathering that will deal with many issues that are relevant to the City of Armadale. The item is raised for information for any Councillors who may wish to nominate to attend.

D100/7/05 RECOMMEND

That Cr J Knezevich and Cr R Butterfield be nominated to attend the Heritage Planning and Management Seminar to be held in Perth on Sunday, 7 August and Monday, 8 August 2005, with costs incurred to be charged to GL Account 7040111.7504.702.

MOVED Cr Reynolds
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 18th July 2005 that that Recommendation D100/7/05 be amended by adding “and Cr R Butterfield” after “Knezevich”.



**LOCATION PLAN
RENAMING OF A PORTION OF THIRD ROAD**

REQUEST TO RENAME PORTION OF THIRD ROAD, ARMADALE

WARD : MINNAWARRA
FILE REF : NAM/2
DATE : 1 July 2005
REF : HC
RESPONSIBLE MANAGER : PSM
APPLICANT : Armadale Redevelopment Authority
LAND OWNER : Crown
SUBJECT LAND : Map 22.03
ZONING
MRS : Central City Area
ARA Scheme : Road Reserve within City Centre Retail Zone

In Brief:-

- Advertising was undertaken seeking public comment on the proposal to rename portion of Third Road between the railway line and Jull Street as either Forrest Road or another unique name.
- Five substantial responses were received with a number of suggestions for unique road names.
- Recommend that Council approach the Geographic Names Committee seeking approval to rename the portion of Third Road between the railway line and Jull Street as Remembrance Gate (or other suitable road type).

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Fits with aims for developing our City to sustain and maintain the distinctive character of the City.

Legislation Implications

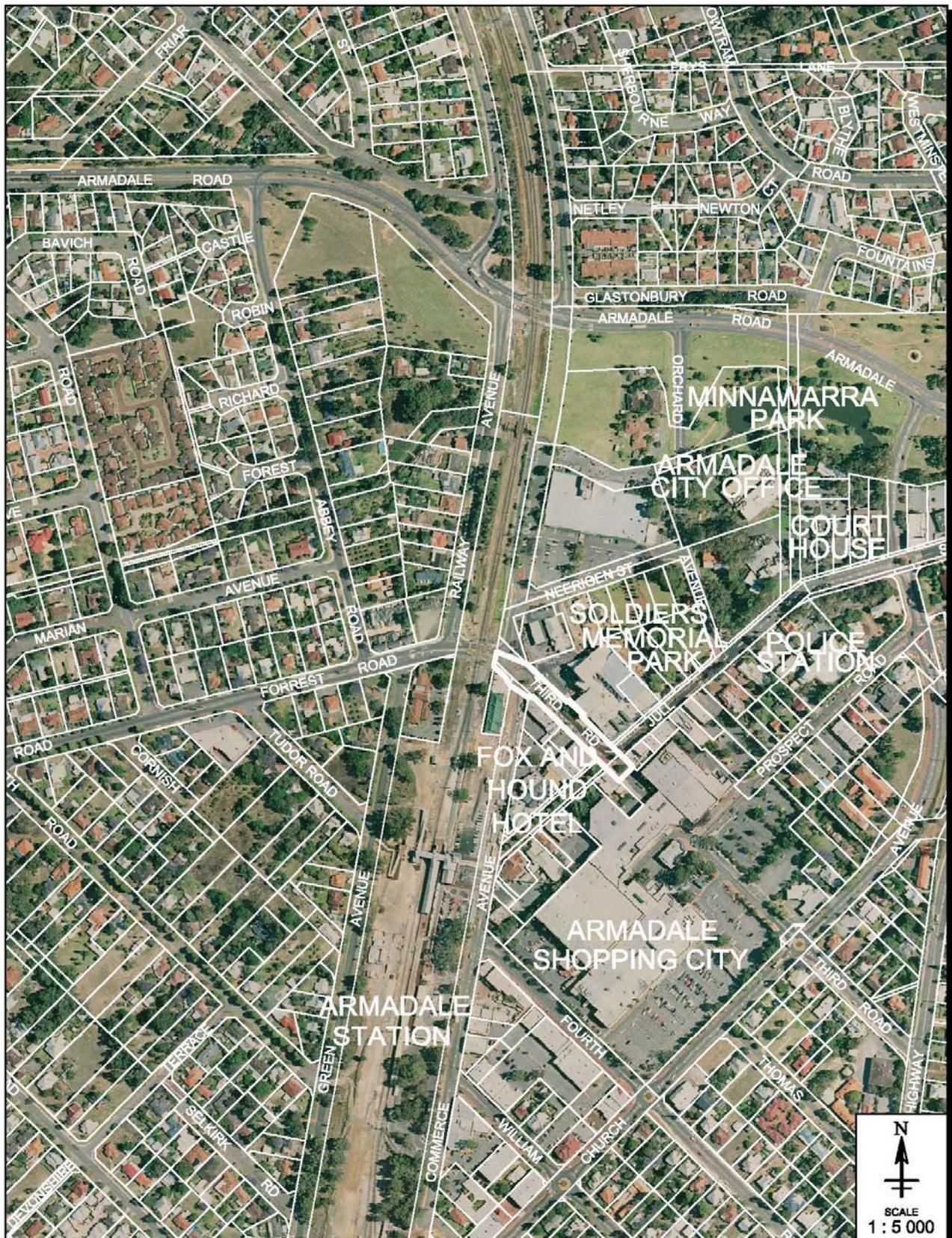
Land Administration Act 1997.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

\$220 non-essential road name change fee to Department of Land Information.
\$227.50 approximately per sign and installation.



**AERIAL PHOTOGRAPH
RENAMING OF A PORTION OF THIRD ROAD**

Consultation

- ◆ Submissions received from newspaper advertising and letter drop.
- ◆ Geographic Names Committee (GNC) informally.
- ◆ Armadale Redevelopment Authority (ARA).

BACKGROUND

The ARA requested the City to consider renaming the portion of Third Road between the railway line and Jull Street to Forrest Road.

At its meeting of 22 March 2005 Council resolved to advertise the proposal to rename portion of Third Road between the railway line and Armadale Shopping City shopping centre seeking community opinion on the proposal:

1. For the name Forrest Road; or
2. Whether a unique name for the portion of road should be found, in which case suggestions for an appropriate name are sought.

COMMENT

The proposal was advertised in both local newspapers and by letter to surrounding property owners and residents.

ANALYSIS

Five substantial responses were received. Main Roads WA also responded but declined to comment as Third Road is not under their control.

One submission supported renaming the portion of Third Road to Forrest Road.

Four submissions suggested that the portion of Third Road be given a unique name and provided a number of alternatives. It could be noted that one submission supporting a unique name noted it would be preferable to keep the name Third road than to rename it to Forrest. Suggestions included:

- ◆ Cinema Way;
- ◆ Little Forrest Road;
- ◆ Elder Place (in recognition of a former business);
- ◆ City Way (indicating it is in the heart of Armadale City);
- ◆ Anzac Cove (being the road used to march from the RSL Hall to the War Memorial on Anzac Day, in honour to all that have served their country, either surviving the war or killed in action, and to commemorate the 60th anniversary of the end of World War II);
- ◆ Short Street;
- ◆ Jull Gate or Entrance;
- ◆ Knight Road or Place (in memory of Mrs Knight who ran the newsagency for many years).

A number of these names would not appear to be acceptable to the GNC as they are represented too many times in the Street Directory and/or are duplicated nearby or too close to Armadale.

The only suggested names that appear to meet the criteria are “City” and “Cinema”. Both are indicative of the current nature of the road. The road leads into the City Centre and it is one of the accesses to the new cinema complex. Whether they are considered suitable or more in the way of advertisement is a matter of debate.

Whilst the GNC will not consider “Anzac” unless the road leads directly to a war memorial, the sentiment expressed in the submission to use the opportunity to honour our servicemen and veterans and to commemorate the 60th anniversary of World War II is worth considering. Consideration on this theme could be given to the name “Remembrance” to further commemorate all those from the Armadale district and other communities who heeded the call to fight for their country.

OPTIONS

Council appears to have a number of options:

Seek GNC approval for the relevant portion of Third Road, Armadale for the name:

1. Cinema;
2. City;
3. Remembrance; or
4. Forrest Road.

Or

5. Decline to rename the portion of road and leave it as Third Road.

Or

6. Decide upon another different name that has historical or heritage significance to the City Centre.

CONCLUSION

The ARA suggested renaming the portion of Third Road to Forrest Road. Whilst one other submission supported renaming this portion of road to Forrest, another was adamantly opposed to the proposal. The railway line does form a cadastral barrier between Third Avenue and Forrest Road that could lead to confusion as Third Road is further distanced from Forrest Road by a roundabout and change of direction.

“City” and “Cinema”, whilst being descriptive do not appeal as the most appropriate choices.

It is not recommended that Council decline to rename the portion of road following the request to rename and the submissions received.

It is recommended that option 3 “Remembrance” with Gate being a suitable road type, be considered by Council as another means of honouring and commemorating our servicemen of all wars.

Officer’s report recommends –

That Council approach the Geographic Names Committee seeking approval to rename the portion of Third Road between the railway line and Jull Street as Remembrance Gate (or other suitable road type).

COMMITTEE deliberated on various names and concluded that the name “Jacaranda Rise” was a suitable name for the relevant portion of Third Road. Accordingly, the Recommendation was amended.

COMMITTEE agreed that the matter be further discussed at the Full Council meeting on Monday, 18th July 2005.

~~D101/7/05 — RECOMMEND~~

~~That Council approach the Geographic Names Committee seeking approval to rename the portion of Third Road between the railway line and Jull Street as “Jacaranda Rise”.~~

MOVED Cr Reynolds
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 18th July 2005 that Recommendation D101/7/05 be not adopted and recommitted to the next Development Services Committee meeting for further consideration.

LATE ITEMS

Nil.

COUNCILLORS' ITEMS

Cr Hart

1. 90 Soldiers Road, Roleystone

Cr Hart queried if an Erosion Management Plan, as per Council Policy, had been issued in regards to the earthworks and development at 90 Soldiers Road, Roleystone.

D102/7/05 RECOMMEND

That Officers investigate and appropriate action be undertaken as necessary.

MOVED Cr Hart
MOTION CARRIED (7/0)

EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORTS

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

- ◆ Town Planning Scheme No.4 is ready to be signed-off by the Mayor and submitted to the WA Planning Commission and the Minister for Planning & Infrastructure;
- ◆ In regard to Lot 12 Albany Highway, Bedforddale and the proposed development of an education establishment the Director of World Vision travelled from Melbourne recently to meet with nearby residents and assure them that that World Vision is committed to making the education facility a success.

MEETING DECLARED CLOSED AT 9:07 PM

