

# CITY OF ARMADALE

## MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 15<sup>TH</sup> FEBRUARY 2005, AT 7:00 PM.

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**PRESENT:**

|                   |               |
|-------------------|---------------|
| Cr H A Zelones JP | Chair         |
| Cr P J Hart       | Deputy Chair  |
| Cr G M Hodges     |               |
| Cr J Knezevich    |               |
| Cr L Reynolds JP  | (from 7.02pm) |
| Cr R J Tizard     |               |
| Cr J Everts       |               |

**APOLOGIES:** Nil

**OBSERVERS:** Cr G T Wallace

**IN ATTENDANCE:**

|                 |                                         |
|-----------------|-----------------------------------------|
| Mr I MacRae     | Executive Director Development Services |
| Mr L Fouché     | Planning Services Manager               |
| Mr P Meyrick    | Health Services Manager                 |
| Mr I Townson    | Building Services Manager               |
| Mrs N Cranfield | Minute Secretary                        |
| Public          | 3                                       |



***DISCLAIMER***

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

***DECLARATION OF MEMBER'S INTERESTS***

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Nil.

***QUESTION TIME***

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Nil.

***CONFIRMATION OF MINUTES***

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**RESOLVED**

**Minutes of the Development Services Committee Meeting held on 11 January 2005 were confirmed.**

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

***ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.3/2005***

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

- Report on Outstanding Matters – Development Services Committee
- Health Services Manager’s Report for December 2004
- Planning Services Manager’s Report for December 2004
- Town Planning Scheme No.2 – Amendment Action Table
- PAW Closure Report – Significant Actions during December 2004
- Subdivision Applications – Recommendation Table (December 2004 / January 2005)
- Compliance Officer’s Report for December 2004
- Planning Dept Monthly Admin Reports for December 2004
- Biodiversity Conservation Strategy for WA – Discussion Paper
- Transit Oriented Development Conference 5<sup>th</sup> – 8<sup>th</sup> July 2005

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



# DEVELOPMENT SERVICES COMMITTEE

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15<sup>TH</sup> FEBRUARY 2005

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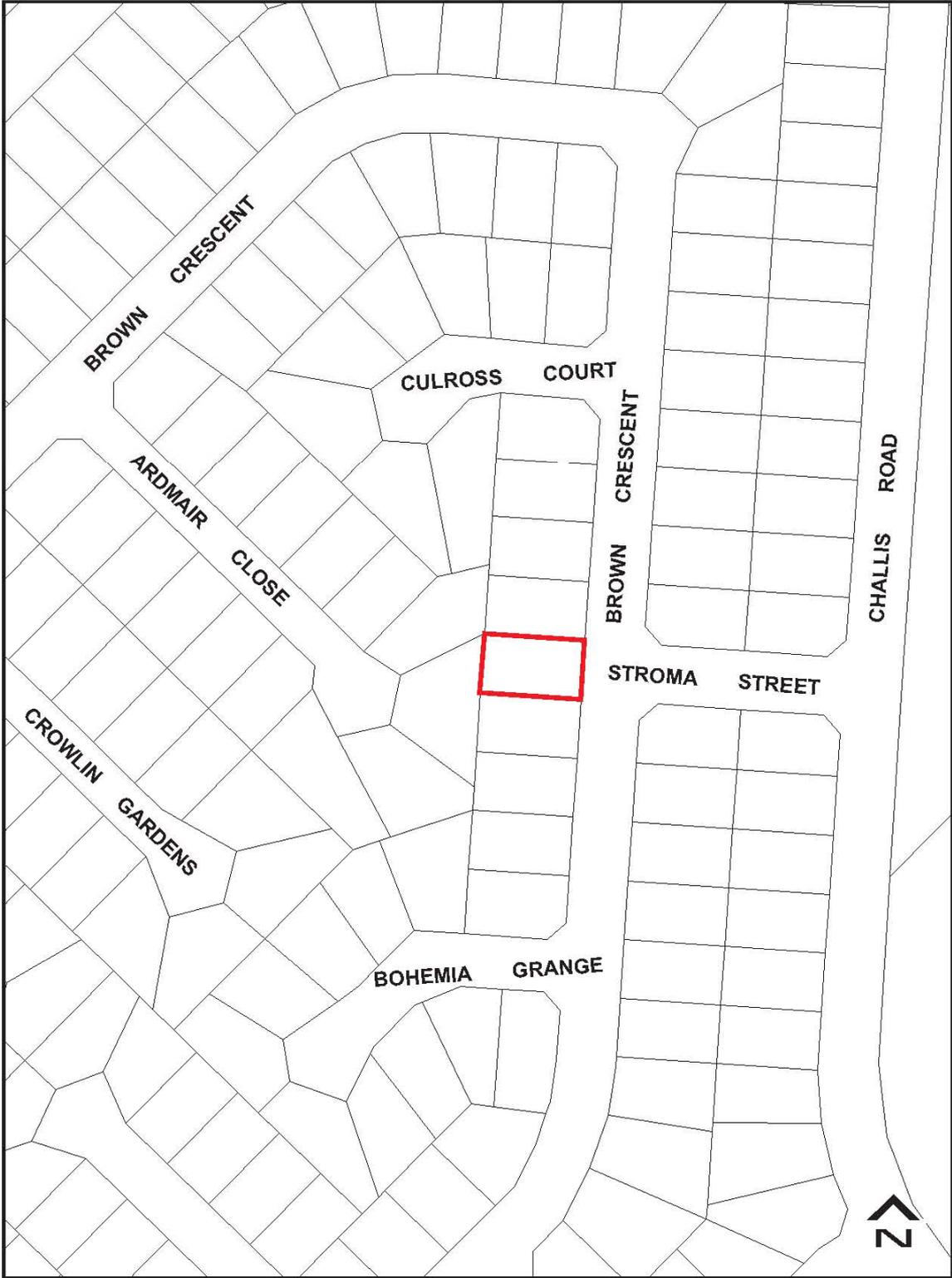
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**DEVELOPMENT  
SERVICES  
COMMITTEE**

**PLANNING**



**LOCATION PLAN**  
**LOT 380 BROWN CRESCENT, SEVILLE GROVE.**

***FAMILY DAY CARE FACILITY, LOT 380 (59) BROWN CRESCENT, SEVILLE GROVE***

WARD : ARMADALE  
FILE REF : A196051  
DATE : 24 January 2005  
REF : RVD  
RESPONSIBLE MANAGER : PSM  
APPLICANT : M E Lewis  
LAND OWNER : J M & M E Lewis  
SUBJECT LAND : Property size 680m<sup>2</sup>  
Map 21-05  
ZONING  
MRS/TPS No.2 : Urban /  
Residential Development Area  
DRAFT TPS No.4 : Residential R15

**In Brief:-**

- Application for Family Day Care in a residential area.
- The proposal was advertised and one letter of objection was received.
- The normal functioning of Family Day Care means the proposal would have negligible impacts on neighbours.
- Recommend that Council approve the proposal without conditions.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

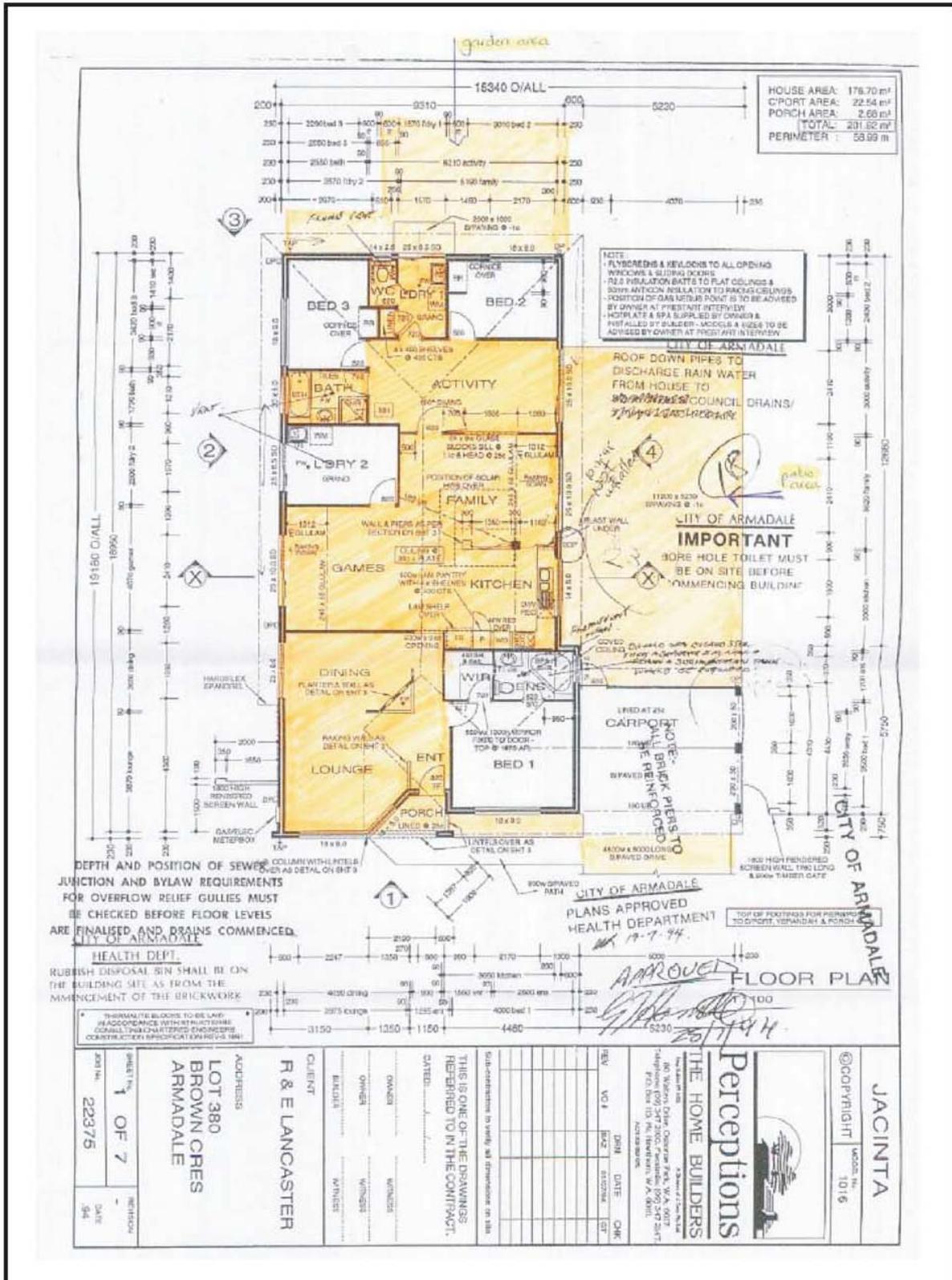
Development - "To balance the need of development with sustainable economic, social and environmental objectives".

**Legislation Implications**

Town Planning and Development Act 1928  
Metropolitan Region Town Planning Scheme Act 1959  
Metropolitan Region Scheme  
Town Planning Scheme No.2  
Community Services (Child Care) Regulations 1988  
Environmental Protection (Noise) Regulations 1997

**Council Policy / Local Law Implications**

Nil.



**FLOOR PLAN  
 LOT 380 BROWN CRESCENT, SEVILLE GROVE.**

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit
- ◆ Surrounding landholders

### **BACKGROUND**

The City received an application for Family Day Care on 2 December 2004. Council has delegated authority to the Executive Director Development Services and Planning Services Manager to approve Family Day Care proposals. However, this proposal has been referred to Council because an objection has been received.

### **DETAILS OF PROPOSAL**

The applicant proposes to conduct Family Day Care licensed under the *Community Services (Child Care) Regulations 1988*. Under the Regulations “Family Day Care” means a child care service provided to a child in a private dwelling in a family or domestic environment. No employees are permitted, and a maximum of seven children up to the age of 12 may be cared for inclusive of the applicants own children.

The applicant proposes to care for four children in addition to her three children and to operate between 7am to 5:30pm.

### **COMMENT**

The proposal was advertised to surrounding neighbours from 23 December 2004 to 17 January 2005.

Total number of responses received : 1  
Number opposed : 1

***A copy of the location plan re submissions received is at Attachment “B2” of the Agenda.***

Comments raised by the submission objecting to the proposal are considered under Analysis below.

### ***Development Control Unit***

The Development Control Unit considered the proposal on 25 January 2005 and supported the proposal subject to advice notes concerning other approvals required.

## **ANALYSIS**

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

The application can be treated as a Use Not Listed in accordance with Clause 3.4 of Town Planning Scheme No.2.

Under Clause 3.4 of Town Planning Scheme No.2 a Use Not Listed must be considered with regard to whether or not it is consistent with the objectives and purpose of the particular zone, and if deemed consistent be advertised. These steps have been completed under delegated authority (Delegation No.719 and No.720).

Council is now required to assess the application, with due regard to issues raised in the objection.

### ***Analysis of submission objecting to proposal***

The objector's comments are summarised in italics below, and responded to.

*We pay \$1,100 a year rates to live in prestige area of Seville Grove, not to have a day care centre behind us. There are already sufficient day care centres established or being built. We start work early in the morning and are home early in the afternoons in which we like to relax outside and having to listen to seven children playing and screaming would disrupt our quiet afternoon.*

A household that includes seven children would have the same level of noise impacts as the Family Day Care proposal. The outdoor play area is separated from the adjoining residences by solid fences and a 1m garden bed on the applicant's property. In this regard the proposal is unlikely to pose adverse impacts on adjoining neighbours.

The number of day care centres in the vicinity of the application site is not a sufficient planning argument to refuse an application as each application is to be considered on its own merits.

### ***Traffic and amenity***

The proposal is unlikely to generate significant traffic impacts, as it will generate a maximum of eight (8) additional vehicle trips per day.

In the unlikely event that noise problems occur, these can be dealt with under the Environmental Protection (Noise) Regulations 1997.

### ***Draft Town Planning Scheme No.4***

Under draft Town Planning Scheme No.4 the subject land is zoned Residential R15 and Family Day Care is a "D" use (i.e. the use is discretionary).

## OPTIONS

1. Council could approve the proposal without conditions on the basis that existing regulations will ensure the proposal does not adversely affect surrounding landholders, but advise the applicant about other approvals required and regulations that apply.
2. Council could refuse the application if it is of the view that the proposal would adversely impact on the neighbourhood.

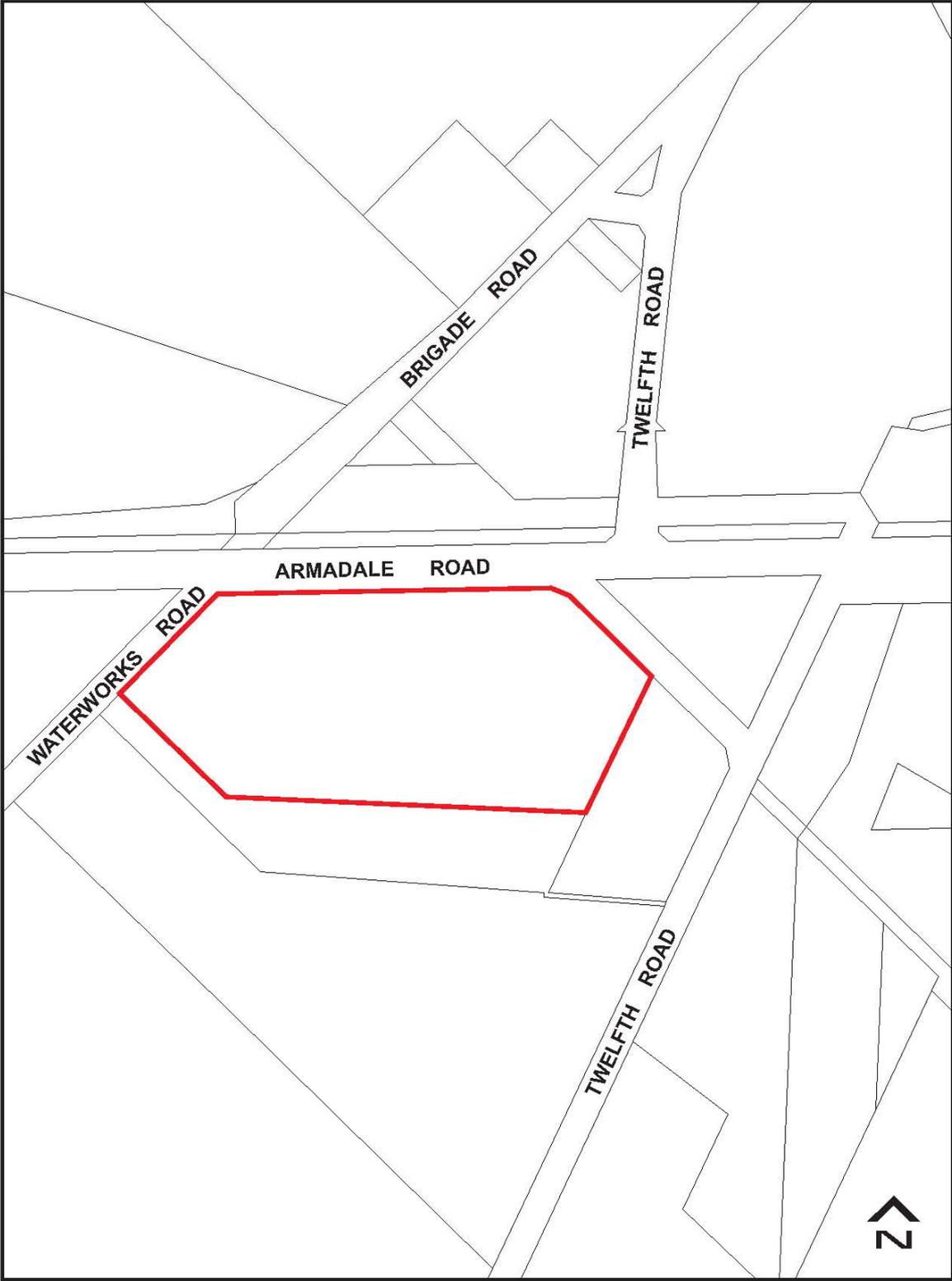
## CONCLUSION

Family Day Care is regulated under the Community Services (Child Care) Regulations 1988 to an extent that ensures negligible impacts on neighbours. The restriction on the number of children permitted to be cared for means that the impacts on the neighbourhood are similar to that of a large family. Families with seven children were common until relatively recently and families of that size are not prevented from moving into estates such as Seville Grove. Therefore it is recommended that Council approve the proposal without conditions, with advice to the applicant concerning other approvals required and regulations that apply.

## D12/2/05          RECOMMEND

1. **That Council approve the application for Family Day Care at Lot 380 (15) Brown Crescent, Seville Grove without conditions.**
2. **That Council advise the applicant that:**
  - a) **Compliance is required with the Health (Food Hygiene) Regulations and the Australian Food Safety Standards. To this end the applicant should contact the City's Health Department to arrange an inspection of the kitchen facilities; and**
  - b) **Compliance with the Environmental Protection (Noise) Regulations 1997 and the Community Services (Child Care) Regulations 1988 is required.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)



**LOCATION PLAN  
LOT 31 ARMADALE ROAD, BROOKDALE.**

***PROPOSED TEXT AMENDMENT TO SPECIAL USE ZONE No.76 –  
FINAL ADOPTION***

WARD : FORREST

FILE REF : SCH/2/199

DATE : 25 January 2005

REF : GIW

RESPONSIBLE MANAGER : PSM

APPLICANT : Planning Solutions Pty Ltd

LAND OWNER : Shorenden Pty Ltd

SUBJECT LAND : Lot 31 Armadale Road,  
Brookdale  
Property size 3.9ha approx.  
Map 20.03

ZONING  
MRS/TPS No.2 : Rural / Special Use No.76  
TPS No.4 : N/A (To be included in  
Armadale Redevelopment  
Authority Scheme Area).

**In Brief:-**

- Council initiated the proposed amendment at its meeting held on 20 September 2004.
- The proposal involves a text amendment to Table 11.20 of Special Use No.76 of TPS No.2 by inserting a new land use of “Telecommunications Infrastructure” under the “Prescribed Special Use, b) uses permissible only with Council discretion” column.
- Council to consider submissions received during the advertising period.
- Recommend that Council not adopt the amendment.

*Committee recommended adoption of the proposed amendment of Table 11.20 of Special Use No.76.*

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Town Planning & Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2  
Armadale Redevelopment Authority Act 2001  
Armadale Redevelopment Authority Scheme 2004  
Statement of Planning Policy No.5.2- Telecommunications Infrastructure



**AERIAL PHOTOGRAPH  
LOT 31 ARMADALE ROAD, BROOKDALE.**

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

Nil.

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit (DCU)
- ◆ Armadale Redevelopment Authority (ARA)
- ◆ Surrounding landowners
- ◆ Advertisement in West Australian newspaper
- ◆ Sign on site

### **BACKGROUND**

On 7 May 2004, Council received an application to erect a telecommunications tower on the subject site. Council Officers received legal advice on this application at the time confirming that Council would not be in a position to approve the application under Town Planning Scheme No.2 on the following grounds:

1. A telecommunications tower is not listed under Table 11.21 of Special Use No.76 and therefore is not permitted.
2. Clause 3.6 of TPS No.2 restricts development and use of land to those specified in the Special Use development table only.
3. The proposal could also not be considered under the Use Not listed provisions of TPS No.2 on the grounds that the use was inconsistent with the intent of the zone.

As a consequence, the application was withdrawn and the applicant requested an amendment to Special Use No.76 (Table 11.21) of Town Planning Scheme No.2 to facilitate a telecommunications tower on the subject site.

On 21 June 2004, Council approved an application to develop a Golf Course Village comprising of convenience store and service station, restaurant, retail shops, function centre, two fast food outlets, tavern and bottle shop, sports centre and medical consulting room.

At its meeting held on 20 September 2004, Council considered the following Officer recommendation:

1. That Council not initiate the proposed text amendment to Table 11.22 of Special Use No.76 by inserting a new land use of Telecommunications Infrastructure for the following reasons:
  - a) The proposal is considered to be premature at this stage and may compromise structure planning for future residential development within the Brookdale locality.

- b) The adjoining Forrestdale Industrial Business Park is a more appropriate and desirable location to facilitate such infrastructure.
- c) The proposal is inconsistent with the intent of the Special Use No.76 under Town Planning Scheme No.2 and has the potential to impact on the visual amenity of the future golf course.

Council however acknowledged the merits of the proposal and the need for telecommunication facilities, and resolved to initiate the proposed Scheme Amendment (D147/9/04).

As the advertising period for the amendment has now been finalised, Council is requested to determine the submissions received and consider final adoption of the proposed Amendment accordingly.

Following the initiation of this amendment, the Armadale Redevelopment Authority initiated an Interim Scheme over the Brookdale area, including Lot 31 Armadale Road. The interim scheme was advertised for public comment and is yet to be referred to the Minister for final adoption. On 18 October 2004 Council resolved to note the intention of the ARA to introduce an Interim Scheme for Brookdale to prevent development other than specified Permitted development and provided comment on the proposed Scheme provisions (D172/10/04).

#### **DETAILS OF PROPOSAL**

The proposal involves a text amendment to Table 11.20 of Special Use No.76 of TPS No.2 by inserting a new land use of “Telecommunications Infrastructure” under the *Prescribed Special Use, b) uses permissible only with Council discretion column.*

The inclusion of this land use will provide Council with the discretion to approve a telecommunications tower and associated infrastructure on the subject site.

#### **COMMENT**

##### ***Public Advertising of Scheme Amendment No.199***

The proposed Amendment was advertised from 9 December 2004 to 26 January 2005. Advertising involved notifying surrounding landowners and external authorities by mail, a sign being erected on site and an advert in the ‘West Australian’ newspaper.

|                                 |   |                                   |
|---------------------------------|---|-----------------------------------|
| Total No. of responses received | : | 5 (including Government Agencies) |
| No. commented                   | : | 1                                 |
| No. in favour / no objections   | : | 4                                 |

***A copy of the Schedule of Submissions is at Attachment “A1” of the Minutes.***

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

DCU at its meeting on 25 January 2005 reiterated its previous concern that the proposal has the potential to impact on the visual amenity of the golf course and surround locality. DCU also acknowledged that the ARA is currently undertaking structure planning within the locality and therefore the proposal is considered to be premature at this stage.

DCU recommended that a telecommunications tower would be more appropriately located within the adjoining Forrestdale Industrial Business Park.

***Armada Redevelopment Authority (ARA)***

The proposal was referred to ARA for comment prior to initiation and during the advertising period as the subject site is situated within the Armada Redevelopment Authority extension area. As such, the ARA has provided two separate submissions covering the following issues:

1. The proposal is inconsistent with Statement of Planning Policy No.5.2 “Telecommunications Infrastructure”.

The ARA considers that the proposal has not adequately addressed any impacts on the landscape features of the site and surrounds, particularly the nearby regional open space reserves, Wungong Brook, views across the valley floor and those from the proposed golf course.

2. The proposal may compromise future residential development within the locality and is considered to be premature prior to strategic planning and more detailed structure planning of the area being concluded.

The ARA notes that through its strategic planning for the area, some residential development surrounding the proposed golf course village may come to be considered appropriate. The ARA also notes that separate in-principle approval is being sought for medium density residential development to the rear of Lot 31 and Lot 32, which would replace the previously proposed and approved Function Centre and Indoor Recreation Centre. In these respects the ARA considers that the proposed textual amendment may prejudice future planning for this area, where development more sensitive to the impact of telecommunications infrastructure may be considered more appropriate for the area.

3. The proposal would be better located within the Forrestdale Business Park situated opposite the site, and which is likely to be more suitable for the erection of telecommunication infrastructure.

4. The proposal does not adequately address draft Armadale Redevelopment Scheme 2004 Planning Policy 1.14, which states that wherever possible, telecommunication towers should (inter-alia) be:
  - located away from the street and public spaces;
  - located with due consideration for adjoining uses and adjoining land owners;
  - located where their visual impact can be moderated by trees or other landscape elements;
  - co-located with other similar facilities wherever possible, including shared structures, to limit their proliferation.
5. The ARA considers that Council's resolution to amend TPS No.2 has been made on grounds relating to previous commitments by the City on this site. The ARA requests the City not to advance any other discretionary uses given the area will shortly be under planning and development control of the ARA pending finalisation of the ARA Scheme for the Brookdale area.
6. The location of any future telecommunication facilities on the site has the potential to adversely impact on the visual amenity of the locality and compatibility with possible future land uses as part of structure planning being undertaken by ARA.

### **ANALYSIS**

The subject site is zoned Special Use No.76 under Town Planning Scheme No.2.

Telecommunications infrastructure is not listed under Special Use No.76 and therefore is not permitted.

The definition of "Telecommunication Infrastructure" under TPS No.2 "means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct hole, pit or other structures used, or for use, in or in connection with a telecommunications network."

The objective of the Special Use No.76 zone is "*specifically intended to provide an entry to the regional golf course facility with close integration of uses to services this facility*".

It is arguable however as to whether telecommunications infrastructure is a suitable use for the site or compatible with the objectives of the Special Use No.76 zone. Telecommunication towers are relatively imposing structures and therefore have the potential to adversely impact on the visual amenity of the golf course and detract from the site's ability to function as an entry statement to the golf course as intended by Special Use No.76. It is difficult however to fully ascertain the potential visual impact of such infrastructure prior to the golf course or village being developed.

Notwithstanding the above, should the amendment be gazetted the inclusion of telecommunications infrastructure as a discretionary use would provide Council with the power to refuse any inappropriate applications or alternatively determine the most appropriate location and design of such infrastructure on site at the development application stage.

***Draft Town Planning Scheme No.4 & Armadale Redevelopment Authority Area***

The subject site is not covered by TPS No.4. The area is situated within the Armadale Redevelopment Area extension area and is to be included in the ARA Town Planning Scheme.

If gazetted, the ARA interim scheme will require a moratorium on all new significant development until master planning for the area has been completed.

***Statement of Planning Policy No.5.2- Telecommunications Infrastructure***

The Western Australian Planning Commission's Statement of Planning Policy (SPP) No.5.2 provides various principles for the location, siting and design of Telecommunications Infrastructure. Specific criteria outlined within the SPP requiring further comment are discussed below:

1. *Telecommunication facilities should be designed to minimise adverse impacts on the visual character and amenity of residential areas.*

It should be noted that under the current zoning there is no immediate impact on residential areas, however the proposal may have the potential to compromise the amenity of future residential development / structure planning being conducted by the ARA.

2. *Unless it is impractical to do so telecommunications towers should be located within commercial, business, industrial and rural areas outside identified conservation areas.*

The applicant argues that the subject site is zoned for commercial development and therefore considered an appropriate location. Whilst it is acknowledged that the zoning of the subject site permits land uses of a commercial nature, the intent of the zone is primarily to provide an entry statement to the golf course. The site is not intended to function as a stand-alone commercial zone or allow development that has the potential to detract from the amenity of the golf course and its function as an entry statement. However, as telecommunication infrastructure is proposed to be a discretionary use, this would provide Council with the ability to determine the most appropriate location and design of such infrastructure on site at the development application stage.

The Forrestdale Industrial Business Park is situated directly opposite the subject site and is considered to be a more appropriate and practical location to facilitate such infrastructure.

**OPTIONS**

1. Council could finally adopt the amendment if it was of the view that telecommunications infrastructure is an appropriate land use and could be accommodated on site without impacting on the visual amenity of the site and adjoining future golf course.
2. Council could decline to finally adopt the amendment.

## CONCLUSION

Whilst it is acknowledged that the advertising period raised no additional issues, Officers however are still of the opinion that the amendment does not comply with the intent of Special Use No.76 of Town Planning Scheme No.2 and has the potential to impact on the visual amenity of the future golf course.

The Forrestdale Industrial Business Park is situated directly opposite the subject site and is considered to be a more appropriated and practical location to facilitate such infrastructure.

The concerns raised by the Armadale Redevelopment Authority are supported and the proposal is considered to be premature at this stage in light of ARA's structure planning and imminent Interim Scheme for Brookdale.

In this regard, it is recommended that Council adopt Option 2 above and decline to finally adopt the proposal.

*Officer's report recommends –*

1. That Council determine submissions to Scheme Amendment No.199 in accordance with recommendations in the *Schedule of Submissions recorded at Attachment "A1" of the Minutes.*
2. That Council not finally adopt the proposed text amendment to Table 11.22 of Special Use No.76 by inserting a new land use of Telecommunications Infrastructure for the following reasons:
  - a) The proposal is considered to be premature at this stage and may compromise structure planning for future residential development within the Brookdale locality.
  - b) The adjoining Forrestdale Industrial Business Park is a more appropriate and desirable location to facilitate such infrastructure.
  - c) The proposal is inconsistent with the intent of the Special Use No.76 under Town Planning Scheme No.2 and has the potential to impact on the visual amenity of the future golf course.

*COMMITTEE was of the view that telecommunications infrastructure is an appropriate land use and could be accommodated on site without impacting on the visual amenity of the site and adjoining future golf course. Development conditions and design issues such as colour scheme, building construction and vegetation screening can be addressed at the development application stage to ensure a relatively high quality of development is achieved. Accordingly, the alternative Recommendation was adopted.*

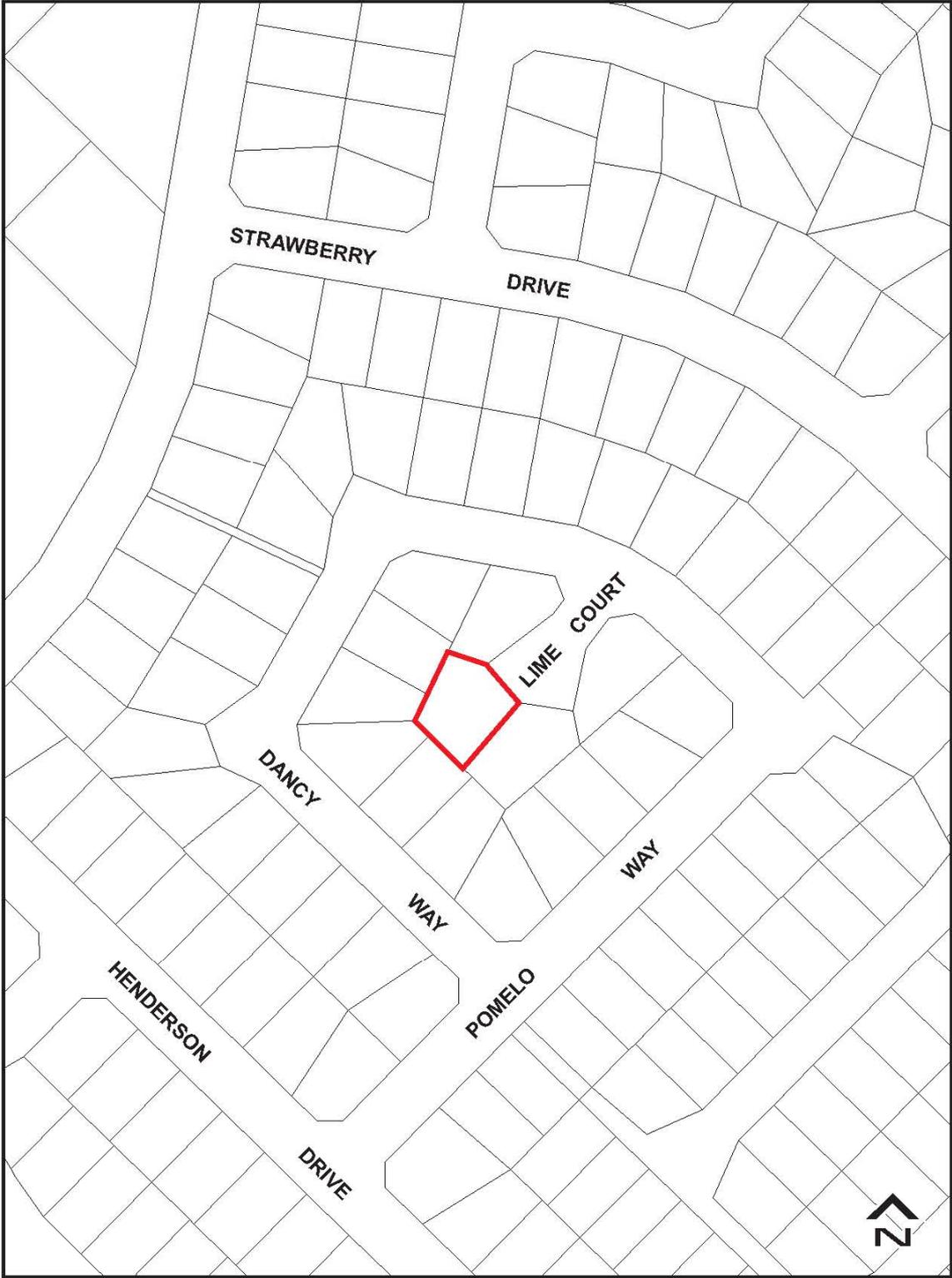
*Executive Director Development Services advised that the applicant had made allegations about the inaccuracy of the officer's report in the context of SPP 5.2 Telecommunications Infrastructure. The officer's report was not inaccurate, however the Council has the discretion to apply the policy in accordance with the merits of the case taking account the objectives of the Special Use Zone.*

*Comments received from Armadale Redevelopment Authority regarding addition of "Telecommunications Infrastructure" was tabled for Committee's information a copy of which is at Attachment "A2" of the Minutes.*

**D13/2/05                      RECOMMEND**

- 1. That Council determine submissions to Scheme Amendment No.199 in accordance with recommendations in the *Schedule of Submissions recorded at Attachment "A1" of the Minutes.***
- 2. That Council under and by virtue of the powers conferred upon it by the Town Planning and Development Act, 1928 (as amended) and the Metropolitan Region Town Planning Scheme Act, 1959 (as amended), hereby adopts Town Planning Scheme Amendment No.199 by:**
  - a) Amending Table 11.20 of Special Use No.76 by inserting a new land use of "Telecommunications Infrastructure" under the "Prescribed Special Use, b) uses permissible only with Council discretion" column.**
  - b) That Council authorise the Mayor and the Chief Executive Officer to execute the amendment documents.**

MOVED Cr Reynolds  
MOTION CARRIED (7/0)



**LOCATION PLAN  
LOT 379 LIME COURT, SEVILLE GROVE.**

***FAMILY DAY CARE FACILITY, LOT 379 (No.3) LIME COURT, SEVILLE GROVE***

WARD : SEVILLE  
FILE REF : A169993  
DATE : 20 January 2005  
REF : LJB  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : D & E Gibbs  
LAND OWNER : D & E Gibbs  
SUBJECT LAND : Property size 776m<sup>2</sup>  
Map 20-04  
ZONING  
MRS : Urban  
TPS No.2 : Residential Development Area  
DRAFT TPS No.4 (R15)  
Residential R15

**In Brief:-**

- Application received for Family Day Care Facility at Lot 379 (No.3) Lime Court, Seville Grove, which is a Use Not Listed under Town Planning Scheme No.2.
- The proposal was advertised and two letters objecting to the proposal were received.
- Recommend that the proposal for the Family Day Care be approved.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Town Planning and Development Act 1928  
Metropolitan Region Town Planning Scheme Act 1959  
Metropolitan Region Scheme  
Town Planning Scheme No.2  
Community Services (Child Care) Regulations 1988  
Environmental Protection (Noise) Regulations 1997

**Council Policy / Local Law Implications**

Nil.



**SITE PLAN**  
**LOT 379 LIME COURT, SEVILLE GROVE.**

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit
- ◆ Surrounding landowners

### **BACKGROUND**

The City received an application for a Family Day Care Facility on 17 December 2004. Delegation exists for officers to consider a Family Day Care following advertising and subject to no substantiated objections being received. The proposal has been referred to Council because two letters objecting to the proposal have been received.

### **DETAILS OF PROPOSAL**

The applicant proposes to operate a Family Day Care Facility between 7am and 5pm, Monday to Friday. The applicant proposes to care for four (4) pre-school aged children and three (3) school aged children for a total of seven children (including the applicant's child).

The areas to be used for family day care purposes include the games room inside as well as the enclosed back garden and outside patio area. (*See Site and Floor Plan*).

### **COMMENT**

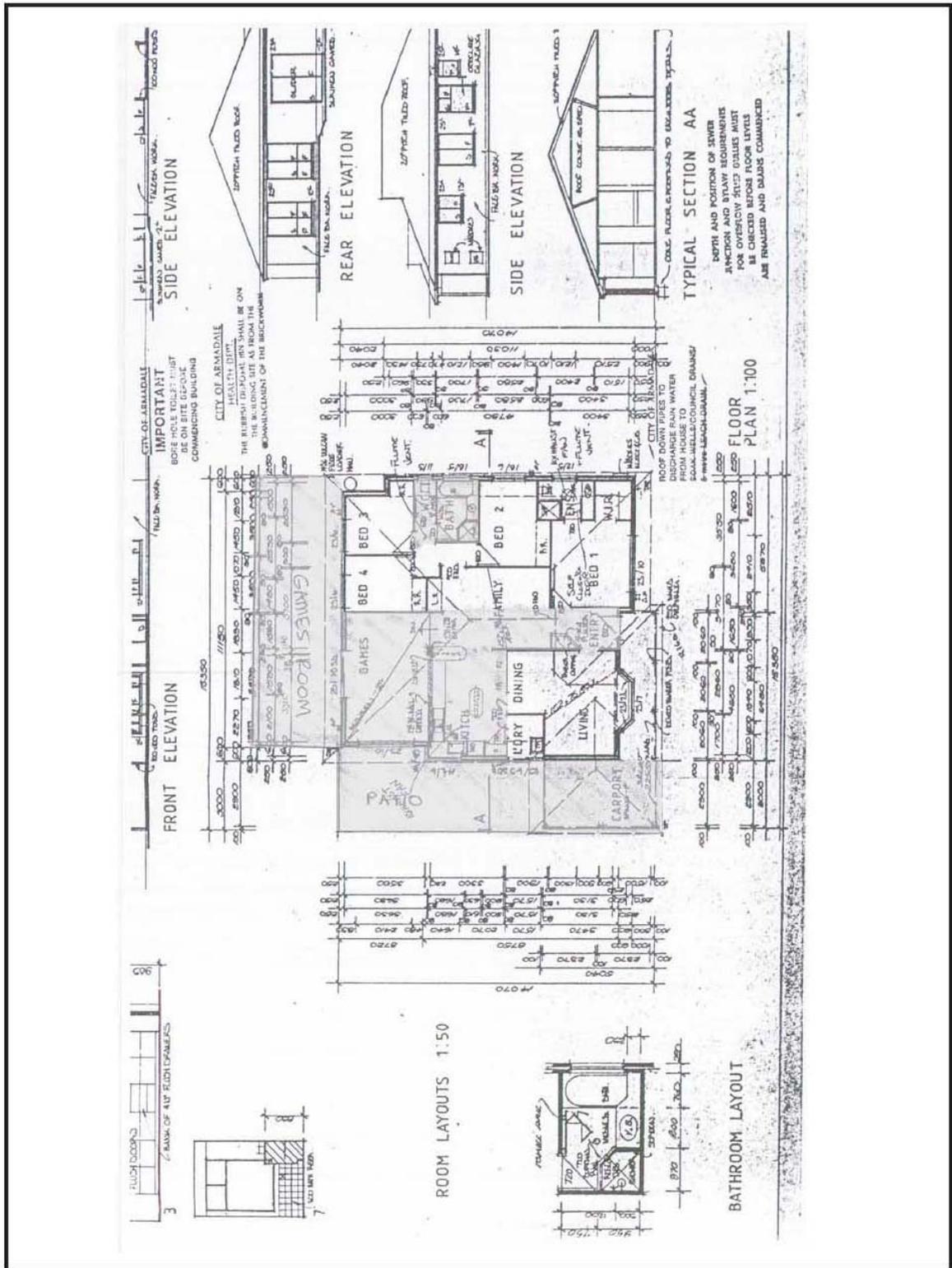
#### ***Development Control Unit***

At its meeting of 20 January 2005, DCU recommended that the application be approved.

#### ***Public Comment***

The application was advertised to eight (8) surrounding landowners for a period of three (3) weeks. Two letters objecting to the proposal were received during this period. The comments received in the objections are detailed below in the analysis section of this report.

***A copy of the location plan re submissions received is at Attachment "B1" of the Agenda.***



**FLOOR PLAN  
 LOT 379 LIME COURT, SEVILLE GROVE.**

## **ANALYSIS**

### ***Public submissions***

The objectors' comments are summarised in italics, and a response is given below.

*I do not see the logic in having yet another child care centre in a residential area such as ours as there are already a few established child care centres around us.*

The number of family day care facilities or child care centres in the vicinity of the application site is not a sufficient planning argument to refuse an application as each application is to be treated on its own merits. Each application is considered in relation to its impacts on surrounding land and is determined accordingly. In this regard, the proposal is relatively incidental and is therefore unlikely to adversely impact on the amenity of adjoining neighbours. (See "Amenity impacts" section of this report).

*We are already victims of extensive noise pollution... Being immediate neighbours we will be prone to more discomfort.*

The applicant has only applied to care for a maximum of seven (7) children and therefore the total number of children allowed on the site will be limited. The applicant would also need to comply with the Environmental Protection (Noise) Regulations 1997 and Community Services (Child Care) Regulations 1988 accordingly.

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

The application can be treated as a Use Not Listed in accordance with Clause 3.4 of Town Planning Scheme No.2.

Under Clause 3.4 of Town Planning Scheme No.2 a Use Not Listed must be considered with regard to whether or not it is consistent with the objectives and purpose of the particular zone, and if deemed consistent, be advertised.

Council is now required to consider the application, with due regard to issues raised in the objections.

### ***Amenity impacts***

The Policy Statement for the Residential Zone states, "*Council also recognises that residential living should also include the opportunities for self employment or creative activity provided that those activities do not, in Council's opinion, prejudice the amenity of the residential environment.*"

It is considered that the additional traffic and noise generated by the proposal is insignificant and therefore unlikely to impact on adjoining neighbours. The proposal will not generate a substantial amount of traffic and the subject property has sufficient space to accommodate a pick-up and drop-off area.

All activity associated with the proposal occurs within the time that the Environmental Protection (Noise) Regulations 1997 assigns the highest acceptable noise levels, namely between 7am and 7pm Monday to Friday. Given that some families have seven children, the noise from seven children in Family Day Care is generally considered acceptable in the Residential Development Area Zone.

#### ***Draft Town Planning Scheme No.4***

Under Draft Town Planning Scheme No.4, Family Day Care is a Discretionary Use in the Residential zone. The objectives of the Residential Zone include, “*To provide for a range of associated compatible activities and development, which will assist in the creation of efficient and sustainable residential neighbourhoods*”. The new Scheme will therefore provide a less ambiguous method of dealing with Family Day Care facilities, although the approach developed with this application will be similar.

#### ***Community Services (Child Care) Regulations 1988***

Family Day Care houses are regulated by the Community Services (Child Care) Regulations 1988.

Under the Regulations “family day care” means a child care service provided to a child in a private dwelling in a family or domestic environment, and under Clause 27 (2) a licence or permit for family day care can not be issued for more than 7 children of pre-school age, including the children of the licensee or permit holder. This effectively limits the potential for adverse impacts on residential areas from family day care premises.

#### **OPTIONS**

1. Council could approve the application if it is satisfied that the proposal is consistent with the objectives of the Residential Development Area zone.
2. Council could refuse the application if it considers the proposal to be inconsistent with the objectives of the Residential Development Area zone, and that it is likely to have an adverse impact on surrounding residential properties

#### **CONCLUSION**

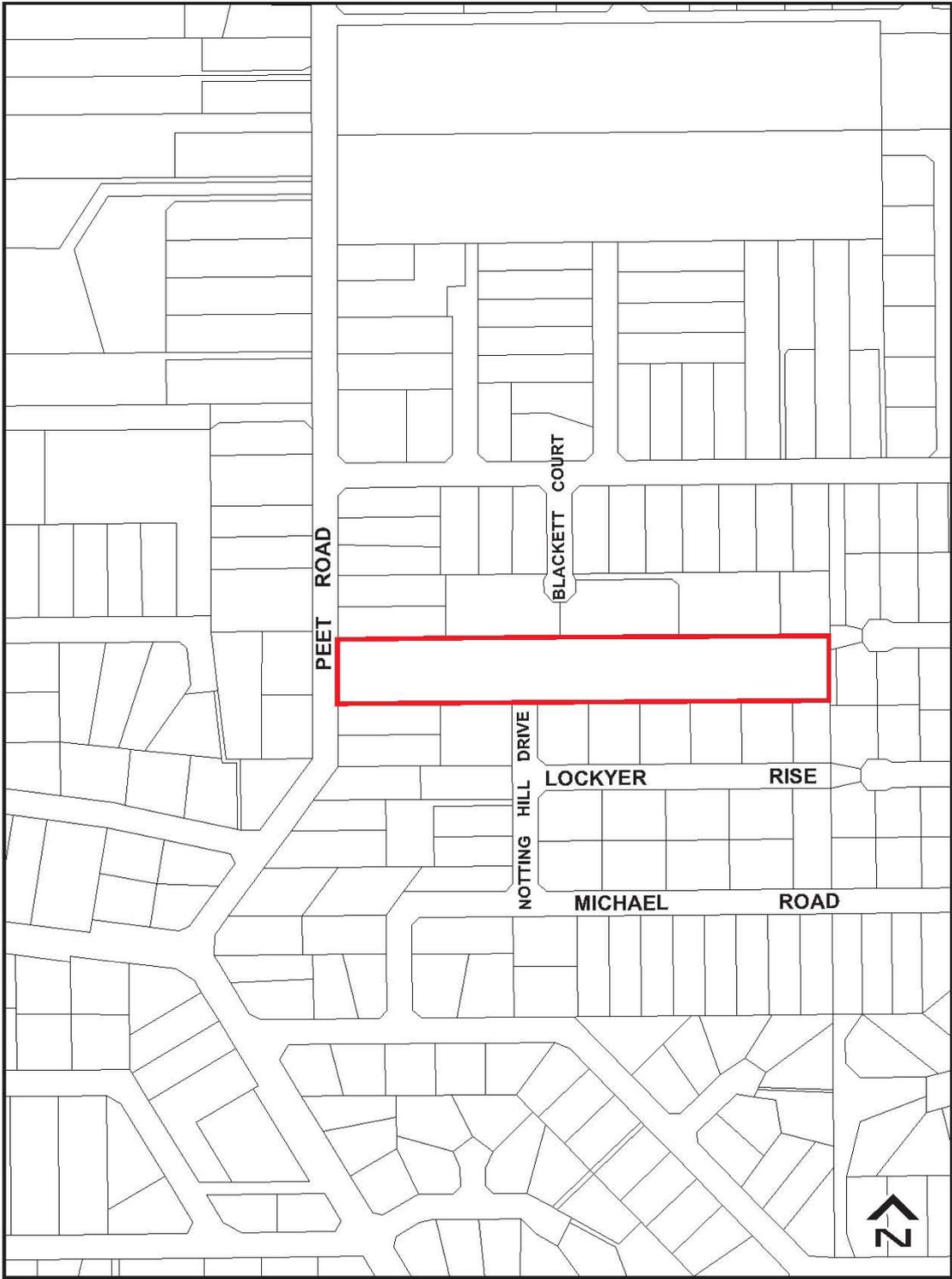
The proposal as described is consistent with the objectives of the Residential Development Area zone. The concerns raised by two surrounding landowners are not considered to represent the views of all the surrounding neighbours and are considered to generally represent matters that are adequately controlled under the Community Services (Child Care) Regulations 1988 and the Environmental Protection (Noise) Regulations 1997. Accordingly Option 1 is recommended.

**D14/2/05**

**RECOMMEND**

- 1. That Council determine that the Family Day Care is consistent with the objectives and purpose of the Residential Development Area Zone in accordance with clause 3.4 of the City's Town Planning Scheme No.2.**
- 2. That Council approve the application for Family Day Care Facility at Lot 379 (No.3) Lime Court, Seville Grove unconditionally.**
- 3. That the applicant be advised of the requirement to comply with:**
  - a) Community Services (Child Care) Regulations 1988.**
  - b) Environmental Protection (Noise) Regulations 1997.**

MOVED Cr Everts  
MOTION CARRIED (7/0)



**LOCATION PLAN  
LOT 79 PEET ROAD, ROLEYSTONE.**

**\* PROGRESS REPORT - SIGNING OF CONSENT ORDER FOR TPAT No.291 of 2004: COLUMBIA HOLDINGS V CITY OF ARMADALE (“LOG SHACK” - LOT 79 PEET ROAD, ROLEYSTONE)**

WARD : ROLEYSTONE  
FILE REF : A127969  
DATE : 10 February 2004  
REF : JEH / LF  
RESPONSIBLE MANAGER : PSM  
APPLICANT : Columbia Holdings Pty Ltd  
LAND OWNER : I Mckellar  
SUBJECT LAND : Property size 1.9526 ha  
Map 25.07  
ZONING : Urban / Residential R5  
MRS/TPS No.2

**In Brief:-**

- At its meeting on 17 January 2005, Council resolved to authorise the signing of a consent order to allow the demolition of the *Log Shack* on the application site.
- Consent orders have now been signed dismissing the appeal.
- Council’s previous resolution is now unnecessary, as the matter has been brought to a satisfactory conclusion.
- Recommend that Council revoke its previous resolution and endorse officer actions to sign the consent order dismissing the appeal.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

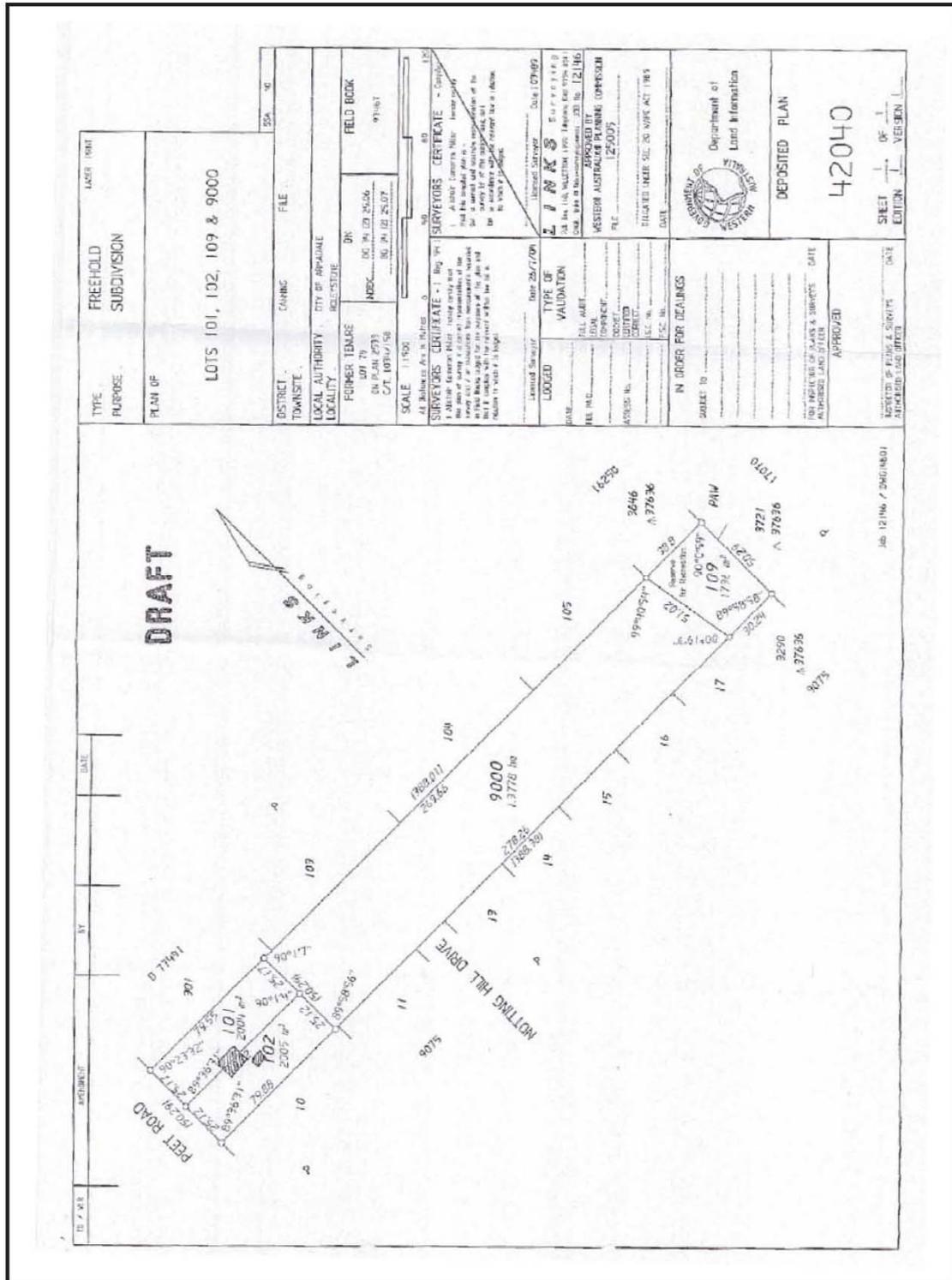
Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2  
Heritage of Western Australia Act 1990

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Legal expenses to date expected to be approximately \$5000. The cost of legal representation associated with an appeal/review would have been between \$10 000 and \$15 000.



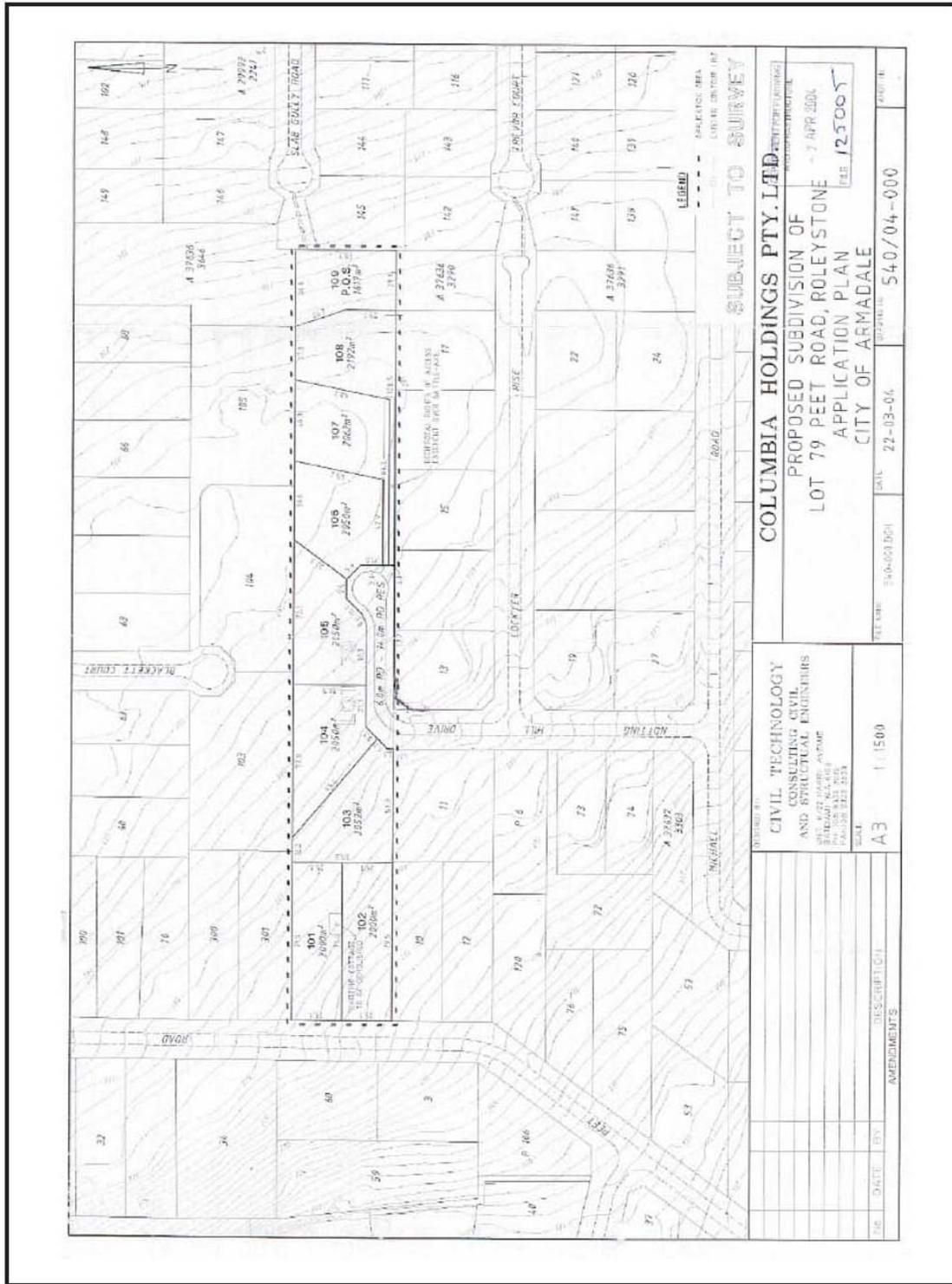
**SITE PLAN**  
**LOT 79 PEET ROAD, ROLEYSTONE.**

### **Consultation**

- ◆ Council's solicitors (Kott Gunning)
- ◆ Appellant's solicitors (Hotchkin Hanly)
- ◆ Heritage Council of Western Australia

### **BACKGROUND**

- ◆ On 7 July 2004 the Western Australian Planning Commission (WAPC) approved a subdivision application to create eight (8) residential lots from the subject lot. As an existing house known as the Log Shack straddles the proposed boundary between two of the proposed lots, the applicant submitted a formal development application (MRS Form 1) on 22<sup>nd</sup> September 2004 seeking the City's approval to demolish the house.
- ◆ On the same day, a letter was received from the Heritage Council of Western Australia (HCWA) to advise that the Log Shack had recently been reviewed as part of the HCWA Assessment and Registration program, and that further assessment was proposed (in order to establish the cultural heritage significance of the place) for consideration for entry in the Register of Heritage Places.
- ◆ The HCWA requested an opportunity to provide comment on the application prior to the City issuing its determination on the proposal. On 19 November 2004 the HCWA sought the cooperation of the City of Armadale under Section 10 of the Heritage of Western Australia Act 1990 requesting deferment of the City's determination on the Development Application and the issue of a demolition Licence for the Log Shack, Roleystone until a heritage assessment had been considered by the Register Committee on 10 December 2004.
- ◆ The City accepted the request of the HCWA to defer a decision until after 10 December 2004, and the applicant on 26 November 2004 lodged an appeal against the City's "deemed refusal" of the application, as it had not been determined within the statutory sixty (60) day time period in terms of the City's Town Planning Scheme No.2.
- ◆ The City received a letter dated 14 December 2004 from the HCWA stating that the place was of cultural heritage significance in terms of the Heritage of Western Australia Act 1990. It was advised that the assessment documentation is scheduled for presentation to a meeting of the Register Committee of HCWA on 11 February 2005, with a recommendation that the place is of sufficient cultural heritage significance to warrant consideration for entry in the State Register.
- ◆ The City's solicitors attended a directions hearing on 17 December 2004 and requested that the Crown Solicitor (on behalf of the HCWA) apply to be joined as a party to the appeal in consideration of HCWA's view of the matter potentially being of State, rather than local, significance. However, the Crown Solicitor's office has advised that the HCWA will not apply to be joined to the appeal. A hearing date for the appeal was set for 10<sup>th</sup> February 2005.



**SUBJECT TO SURVEY**

**COLUMBIA HOLDINGS PTY. LTD.**

PROPOSED SUBDIVISION OF  
 LOT 79 PEET ROAD, ROLEYSTONE  
 APPLICATION PLAN  
 CITY OF ARMADALE

DATE: 22-03-04  
 REF: 540/04-000

DATE: 7 APR 2004  
 REF: 125005

DATE: 11/5/00  
 REF: A3

DATE: 22-03-04  
 REF: 540/04-000

**SUBDIVISION PLAN  
 LOT 79 PEET ROAD, ROLEYSTONE.**

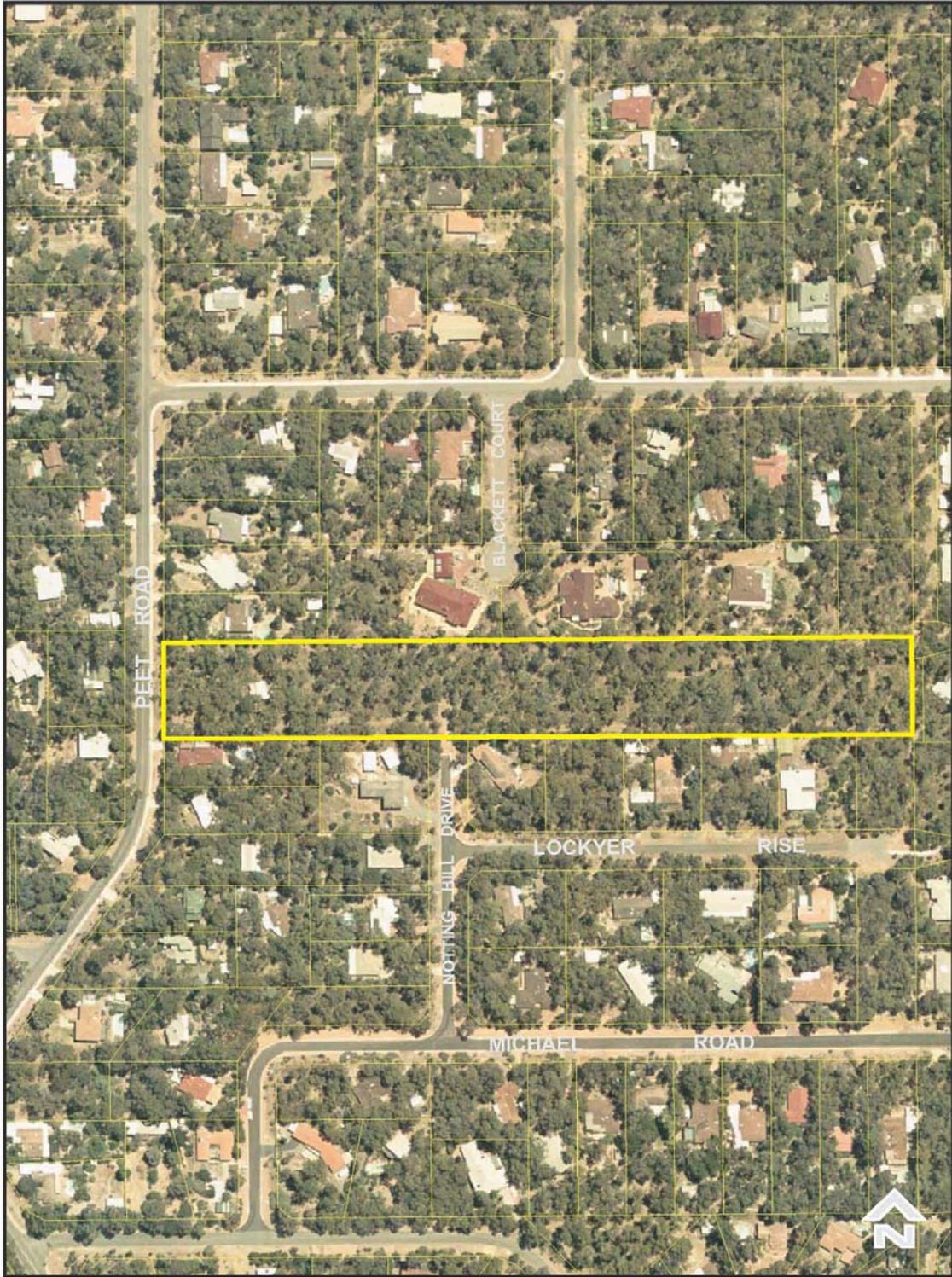
- ◆ As the HCWA declined to be joined to the appeal/review related to a place that it considers to be of State significance, and the means of halting the demolition are available under the Heritage of Western Australia Act, it was considered inappropriate that the City contest the appeal at a full Tribunal hearing.

Council of the City of Armadale at its meeting on 17 January 2005 resolved (D8/1/05):

1. That Council authorise the Executive Director Development Services / Planning Services Manager to sign a consent order allowing demolition of *Log Shack* at Lot 79 Peet Road, Roleystone subject to the following condition:
    - a) All material associated with the demolition of the building to be removed from the subject lot within 28 days of commencement of site works.
  2. That the Heritage Council of Western Australia be advised of the City's intention to sign a consent order.
  3. That the applicant be advised that a Demolition Licence is also required to be approved by the City prior to demolition of any structures on the property.
  4. That a copy of heritage related photographs be lodged with the Birtwhistle Local Studies Library.
- ◆ On 17 January 2005, the Minister for Heritage issued a Conservation Order (Stop Work Order), prohibiting the demolition, damage or alteration of "Log Shack" and associated structures. The Order remains in force for a period of 42 days.
  - ◆ A Development Approval to allow demolition of *Log Shack* at Lot 79 Peet Road, Roleystone has not been issued.
  - ◆ The City issued a Demolition Licence on 18 January 2005.
  - ◆ On 21 January the appellant requested that the Minister for Heritage revoke the Conservation Order (Stop Work Order). The City has not received notification of the outcome of this request.
  - ◆ On 3 February 2005 notification was received from the City's solicitor's advising that the appellant has now forwarded signed consent orders dismissing the appeal with no order as to costs. After consultation with the Executive Director Development Services, the Planning Services Manager instructed the City's solicitors to sign the consent order on behalf of the City and have it filed with the State Administrative Tribunal (SAT). These instructions were executed on 7 February 2005. The City's solicitors advised on 10 February 2005 that the executed (stamped and sealed) consent order documents have been received from the SAT.

## ANALYSIS

The City's solicitors have now signed the consent order on behalf of the City, dismissing the appeal against the City. This action differs from the recommendation of Council on 17 January 2005, however due to the applicant's willingness to dismiss the appeal, Council's previous resolution is effectively unnecessary.



**AERIAL PHOTOGRAPH  
LOT 79 PEET ROAD, ROLEYSTONE.**

The City's Building Department has issued a Demolition Licence which includes the standard requirement for all material from the site to be removed within 90 days of commencement of demolition. A photographic record of *Log Shack* has also been compiled and will be forwarded to the Birtwhistle Local Studies Library.

The Conservation Order (Stop Work Order) issued by the Minister for Heritage, prohibits the demolition of Log Shack and if the applicant wishes to demolish Log Shack he must first resolve this matter with the Heritage Council.

Acting under Delegation 712 (Authority to exercise discretion on behalf of Council to reach determination, where appropriate, of appeals processed by mediation), officers have taken the appropriate course of action to limit the City's application of officer resources and legal expenses. The signing of the consent order (written agreement between parties) to dismiss the appeal is considered consistent with Council's intentions to end the appeal/review process before the State Administrative Tribunal and has now effectively concluded the City's involvement with the appeal.

Nevertheless, given the appellant's willingness to have the appeal dismissed and the events that transpired since Council's resolution of 17 January 2005, it is recommended that Council revoke Part 1 of its resolution of that date and endorse the actions of officers in resolving the appeal/review.

## CONCLUSION

Given that the actions taken by the City will bring the appeal/review to a satisfactory conclusion, and that Council's previous resolution is effectively unnecessary it is recommended that Council revoke its previous resolution and endorse the decision to sign a consent order dismissing the appeal against the City.

*Planning Services Manager advised that he had received advice from the appellant that the Heritage Council had recommended to the Minister for Heritage that the site not be listed in the Register of Heritage Places. Confirmation in writing had not yet been received.*

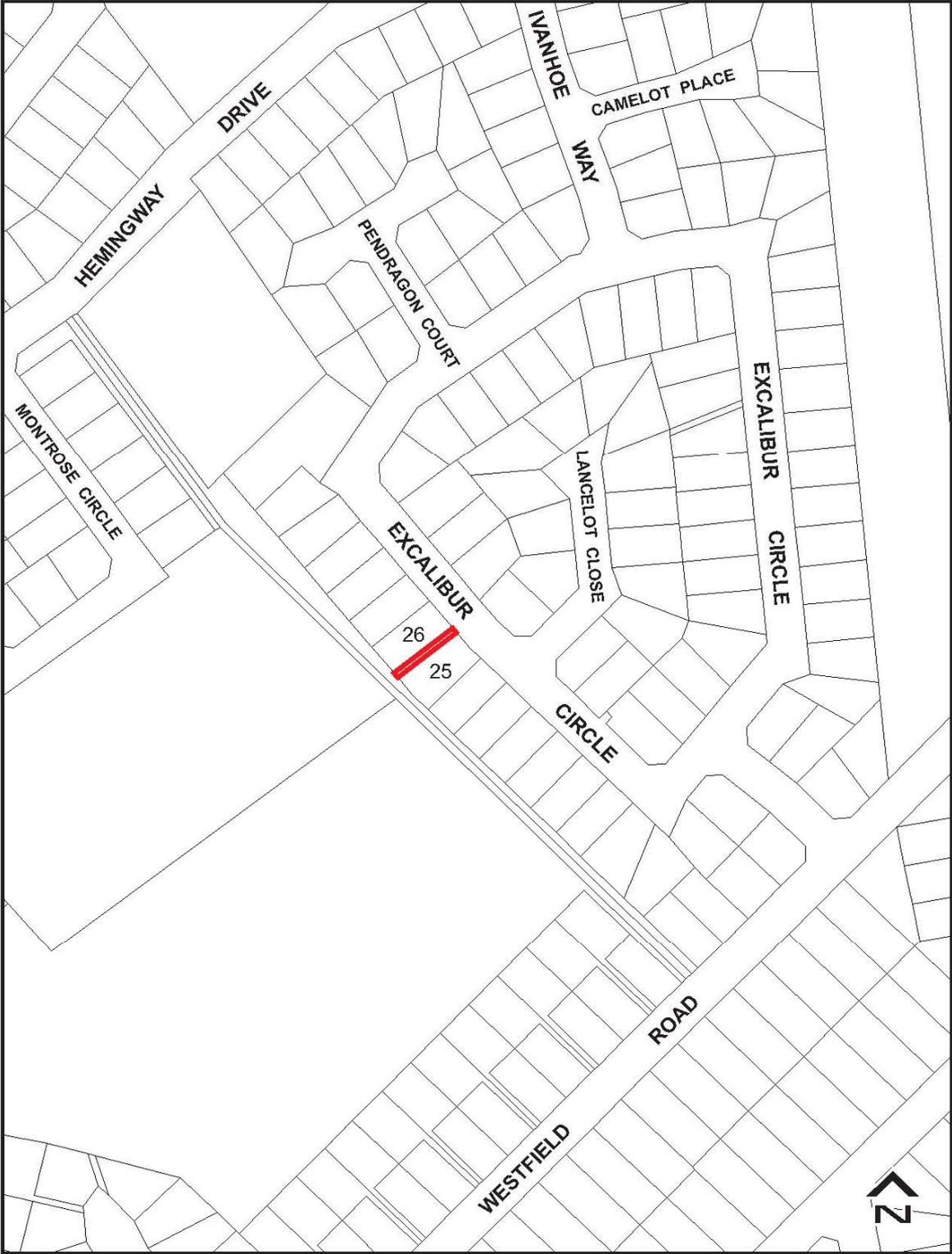
*Planning Services Manager also advised that he would be writing to the Heritage Council expressing Council's concerns regarding the handling of the matter by the HCWA and resultant costs incurred by the City in this process.*

## D15/2/05            RECOMMEND

- 1. That Council revoke Part 1 of Resolution D8/1/05 of 17 January 2005.**
- 2. That Council endorse the Planning Services Manager's actions to instruct the City's solicitors to sign the consent orders to dismiss Town Planning Appeal No.291 of 2004: Columbia Holdings V City of Armadale with no orders as to cost.**

**\*\*ABSOLUTE MAJORITY OF COUNCIL REQUIRED (PART 1) \*\***

MOVED Cr Reynolds  
MOTION CARRIED (7/0)



**LOCATION PLAN  
PEDESTRIAN ACCESSWAY ABUTTING LOTS 25 AND 26  
EXCALIBUR CIRCLE, WESTFIELD.**

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

WARD : WESTFIELD

FILE REF : WAY/2/00

DATE : 25 November 2004

REF : MF

RESPONSIBLE MANAGER : PSM

APPLICANTS : Mrs Van Trigt &  
Mr & Mrs Stewart

LAND OWNER : CROWN

SUBJECT LAND : Pedestrian access way (PAW)  
between Lots 25 (24) & 26 (26)  
Excalibur Circle, Westfield.  
Map 22-07

ZONING  
MRS/TPS No.2 : Urban / Residential “R15”  
DRAFT TPS No.4 : Residential “R15/40”

**In Brief:-**

- Request received from the two abutting landowners to close the PAW on grounds of on going problems associated with the PAW.
- At its Meeting of 18 December 2000, Council resolved not to close the PAW.
- Recommend that the closure be re-advertised for public comment to gauge local community feedback prior to submitting proposal to the Department for Planning and Infrastructure for approval.

*COMMITTEE resolved to write to landowners to confirm that they would be prepared to withdraw the application to close the PAW on the basis that Council would construct “twin side” walls on both sides of the PAW and upgrade and maintain the PAW as required. Upgrading works to improve security and lighting of the PAW to be referred to Technical Services Directorate for consideration and implementation*

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Land Administration Act 1997.

**Council Policy / Local Law Implications**

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



**AERIAL PHOTOGRAPH  
PEDESTRIAN ACCESSWAY ABUTTING LOTS 25 AND 26  
EXCALIBUR CIRCLE, WESTFIELD.**

### **Budget / Financial Implications**

A total of \$24,000.00 has been allocated in the 2004/2005 Technical Services Budget for the PAWs in the following locations- Cammillo Road, Elm Close/Tall Karri Close, Clenham Way/Kidbroke Place and Redtingle Road. In addition a sum of \$8,000.00 has been carried forward from the 2003/2004 PAW Budget for the improvement of the PAW in Excalibur Circle. The estimate for the provision of twin side fencing in Excalibur Circle for a length of 36m on each side of the PAW (total 72m) is \$17,000.00. In addition, installation of appropriate lighting towards the park end of the PAW together with under road boring and reinstatement would cost approximately \$13,000.00.

### **Consultation**

- ◆ Technical Services Directorate.

### **BACKGROUND**

At its meeting of 18 December 2000, Council initially considered the closure proposal and resolved not to close the pedestrian access way between Lots 25 and 26 Excalibur Circle, Westfield because of strong community objections to the closure as evidenced by the responses received during the advertising process.

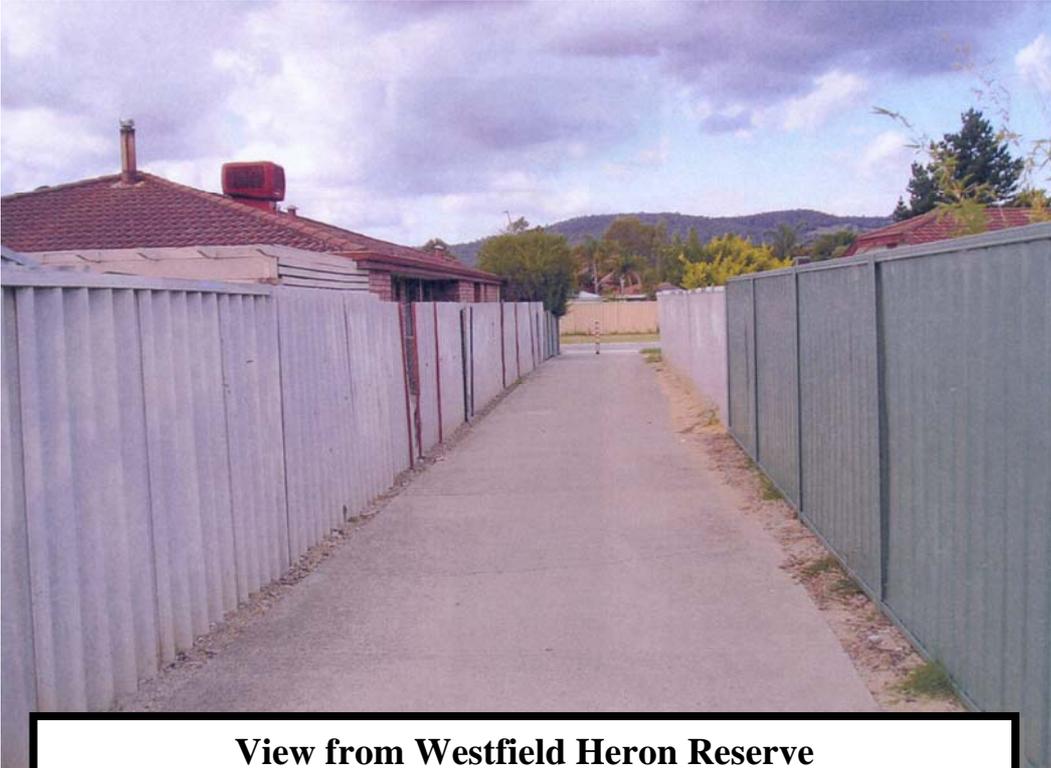
In September 2002, the Federal Member for Canning wrote to Council on behalf of one of his constituents requesting that Council reconsider its previous decision not to close the PAW. Council, at its Meeting on 18 November 2002, considered this request and resolved:

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

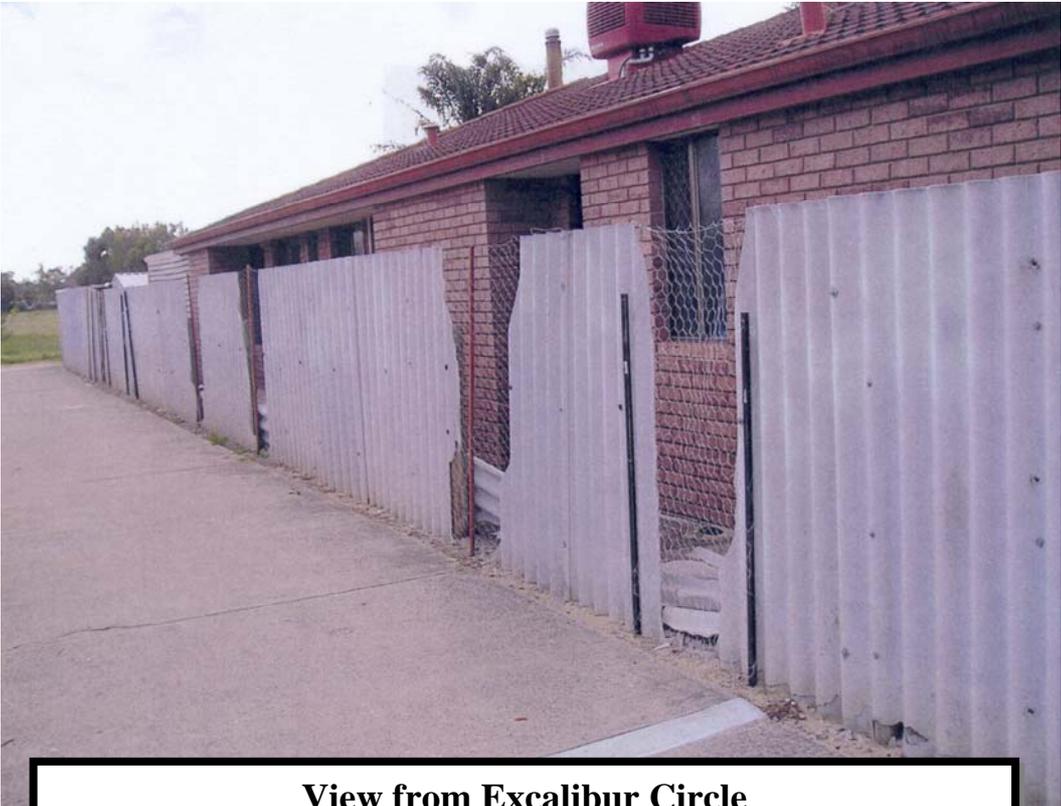
### **DETAILS OF PROPOSAL**

The applicants have requested closure of the PAW on grounds of the following:

- ◆ Damage to private fencing on both sides of the PAW caused by perpetrators with up to 15 panels requiring renewal and replacement;
- ◆ Damage to colour bond fencing on one side of the PAW which was replaced following previous damage to super six fencing ;
- ◆ Used syringes and empty beer cans regularly being found in abutting landowners' properties;
- ◆ Anti-social behaviour and graffiti.



**View from Westfield Heron Reserve  
PAW between Lots 25 & 26 Excalibur Circle, Westfield**



**View from Excalibur Circle  
PAW between Lots 25 & 26 Excalibur Circle, Westfield**

## **COMMENT**

If the amount of \$17,000.00 is used for the installation of twin side fencing, some of the on-going PAW maintenance programme may be compromised. Installation of lighting cannot be accommodated in the current budget.

The letter from one of the abutting landowners suggests that Council's decision not to close the PAW should be reviewed because the circumstances relating to usage of the PAW has changed during the last two years.

## **ANALYSIS**

The decision not to close the PAW was taken by Council in December 2000, in light of strong community objection but in view of the on going problems suffered by the abutting landowners and the fact that four years have elapsed since Council initially declined the closure proposal, it may be appropriate to re-advertise the closure proposal for public comment.

In the event of strong opposition to the closure being received following advertising, Council could resolve to take measures to secure the safety of the abutting landowners, including installation of solid fencing as appropriate.

## **OPTIONS**

1. Decline closure of the PAW and resolve to install twin side fencing on both sides of the PAW at a cost of \$17,000.00 with the lighting component (approx \$12,500.00) being deferred until the 2005/2006 financial year. If Council resolves to install solid fencing on both sides of the PAW, the expenditure involved will affect the on going maintenance of other PAWs in the short term.
2. Resolve to re-advertise the closure proposal for public comment in order to ensure that maximum feedback is received prior to this matter being submitted to the Department for Planning and Infrastructure for support.

## **CONCLUSION**

It is suggested that Council adopts Option 2 and supports the re-advertising of the proposed closure on the grounds of on going problems suffered by the abutting landowners and bearing in mind that 4 years have elapsed since Council's initial decision to decline the closure request. The feedback will enable Council to gauge the opinions of the local community and to make the appropriate recommendation.



**View from Excalibur Circle  
PAW between Lots 25 & 26 Excalibur Circle, Westfield**

*Officer's report recommends –*

1. That Council resolve that the request to close the pedestrian access way (PAW) between Lots 25 (24) and 26 (26) Excalibur Circle, Westfield be re-advertised for public comment in order to gauge local community feedback.
2. That the abutting landowners be advised of Council's determination.

*CHAIR advised that the fencing of the PAW had recently been replaced with new colorbond panels and that the photographs in the officer's report were taken prior to the replacement.*

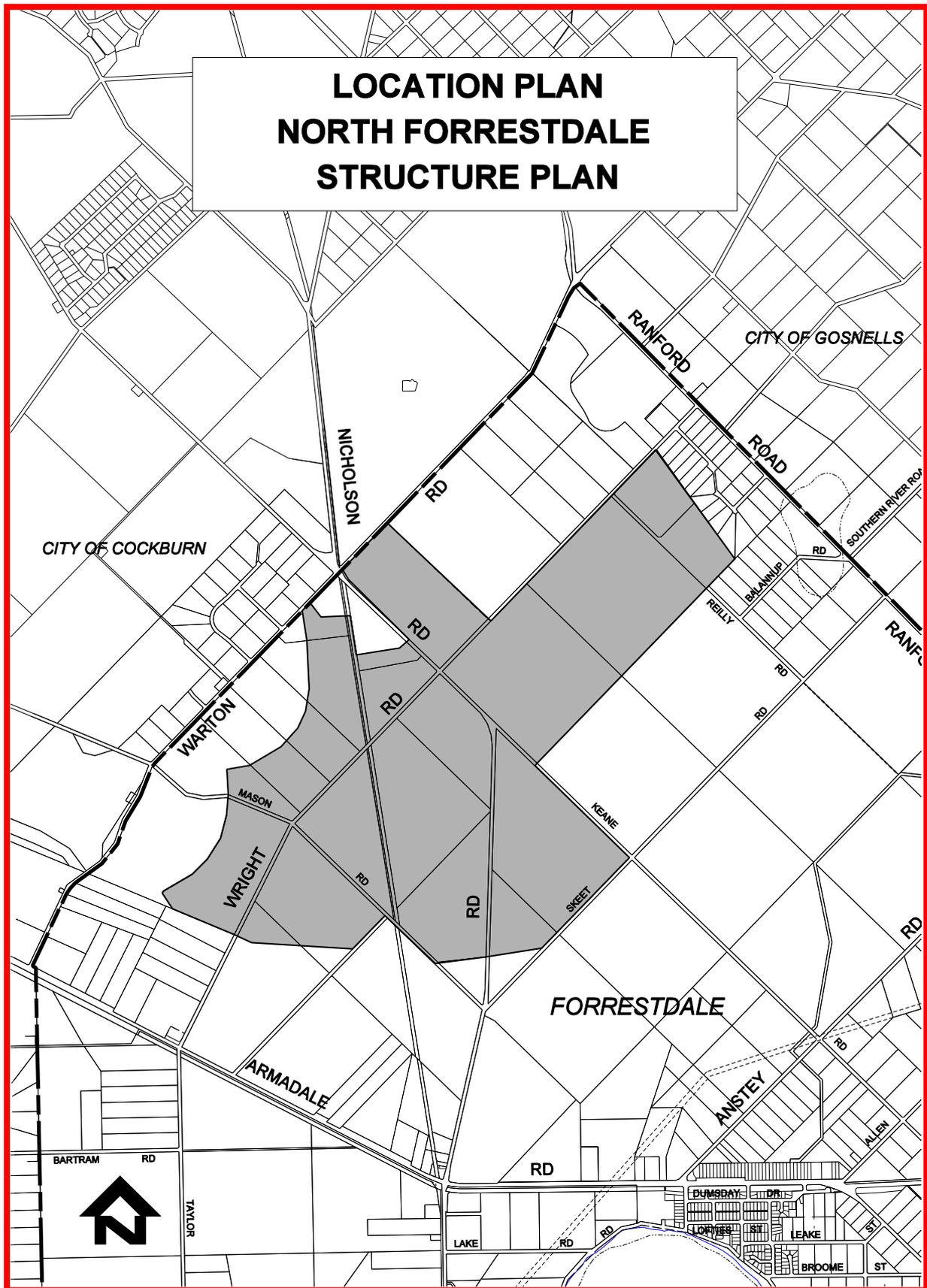
*COMMITTEE resolved not to close the pedestrian access way and write to landowners to confirm that they would be prepared to withdraw the application to close the PAW on the basis that Council would construct "twin side" walls on both sides of the PAW and upgrade and maintain the PAW as required. Upgrading works to improve security and lighting of the PAW be referred to Technical Services Directorate for consideration and implementation.*

*Accordingly, the Recommendation was amended.*

**D16/2/05            RECOMMEND**

- 1. That Council write to the landowners of Lots 25 and 26 Excalibur Circle, Westfield and confirm that they would be prepared to withdraw the application to close the PAW, on the basis that Council would construct "twin site" walls or similar on both sides of the PAW, and provide an appropriate level of illumination to the PAW and adjacent POS.**
- 2. That on receipt of the above advice, and recognising that council has already twice previously refused to close the PAW, (during which time an unacceptable level of anti-social behaviour and damage to adjacent properties has continued), Council agrees to construct "twin side" walls to private properties bordering the PAW, and to upgrade as required.**
- 3. That Council's Technical Services Committee be requested to provide advice on funding options and the likely timing of works.**

MOVED Cr Reynolds  
MOTION CARRIED (7/0)



***NORTH FORRESDALE – FIRST STAGE STRUCTURE PLAN***

WARD : FORREST

FILE REF : PSC/36 Vol 9

DATE : 13 October 2004

REF : JR

RESPONSIBLE MANAGER : EDDS

APPLICANT : Joint proposal from:  
Chappell & Lambert Planning  
Consultants, Development  
Planning Strategies, Roberts  
Day Town Planning & Design  
and Dykstra & Associates.

**In Brief:-**

- The Structure Plan was advertised for a submission period of 28 days, which formally closed on 13<sup>th</sup> December 2004 and with 33 submissions being received.
- The consultants acting for the landowners need further time to address the issues raised by the submission and assessment processes.
- Recommend that Council seek an extension of time to allow the submissions to be addressed at Council's meeting of 21<sup>st</sup> March 2005.

LAND OWNER : Various landowners in North Forrestdale.

SUBJECT LAND : 452 hectares comprising:  
Part of Lots 2 and 48, and Lots 3, 4, 6, 13, 15 Nicholson Road, Part of Lots 10, 111, 112, 113, and 143 Warton Road, Part Lots 45 and 388 and Lots 14, 46, 49 50, 1000 and 1001 Wright Road.

ZONING : Urban and Urban Deferred / General Rural (Proposed Development Zone  
MRS/TPS No.2 : including Development Area / Development Contribution Area under  
DRAFT TPS No.4 : Amendment No.190, which is currently pending gazettal).

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Strategic Plan - Development – “To balance the need of development with sustainable economic, social and environmental objectives”;  
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan (2001) (SRFBWDSP);  
SRFBWDSP Urban Water Management Strategy (2003);  
SRFBWDSP Memorandum of Understanding (2004)  
Statement of Planning Policy 2.9 (draft) – Water Resources.

### **Legislation Implications**

Town Planning Scheme No.2;  
Draft Town Planning Scheme No.4;  
Metropolitan Region Town Planning Scheme Act 1959;  
Town Planning and Development Act 1928;  
Environmental Protection Act 1986;

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

Water Sensitive Urban Design.

### **Budget / Financial Implications**

While the structure plan itself has no direct financial implications to the City, the development of the subject land has significant financial implications arising from the additional rate base on one hand and from the need to manage infrastructure provision and provide for the maintenance of public areas and facilities on the other.

### **Consultation**

- ◆ Water Corporation, Department of Environment, CALM, Transperth, Education Department, Department for Planning and Infrastructure and various servicing agencies.
- ◆ Officers within the City's Development Services, Technical Services and Community Services Divisions.
- ◆ Special Technical consultants Jim Davies and Associates (Urban Water Management), and Kleyn Consulting (Traffic Management)
- ◆ North Forrestdale First Stage Steering Group.

### **PREAMBLE**

Amendment No.190 was adopted by Council in August 2004 (D128/8/04) and is pending approval by the Minister for Planning and Infrastructure. The Amendment zones the First Stage North Forrestdale as Urban Development Zone and designates the area as a Development Area requiring a Structure Plan.

Prior to subdivision and development, a Structure Plan is required to be prepared by the landowners. Following Council's advertising of the Structure Plan, consideration of public submissions and Council decision to adopt, modify, or refuse to adopt the Structure Plan, the City is required to forward it to the Western Australian Planning Commission for its endorsement of Council's decision.

Amendment No.190, Schedule 1 – Provisions relating to Special Control Areas, requires the First Stage North Forrestdale Structure Plan to address management responses to identified key environmental planning factors as follows:

- i) *The urban water management outcomes recommended in the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan - Urban Water Management Strategy;*
- ii) *Surveys of existing flora and fauna, heritage sites, conservation category wetlands, land contamination, sources of noise or odour impacts on development, permissibility of the urban land uses proposed to be established upon implementation of urban development and interfaces to adjacent conservation areas.*

## **BACKGROUND**

At its meeting of 1<sup>st</sup> November 2004 Council resolved to advertise the *North Forrestdale Structure Plan* for submissions from the community for a period of 28 days (D174/11/04).

The submission period formally closed on 13<sup>th</sup> December 2004 with 33 submissions being received from the community and public agencies. The Provisions of TPS No.2 require the City to consider the submissions within 60 days of the closing date and to forward Council's determination on the Structure Plan to the WAPC within 7 days of making that decision.

However, the 33 submissions raised several primarily environmental and servicing issues, which require addressing and submission of additional information, prior to Council being able to finalise and recommend approval of the *North Forrestdale Structure Plan*. Additional assessments of the Structure Plan undertaken by the City's own technical consultants also raised a number of further issues and concerns to be addressed by the proponents.

## **COMMENT**

As the consultants acting for the landowners need further time to address the issues raised by the submission and assessment processes, it is proposed to seek an extension of time for the determination of submissions.

The consultants have been advised to undertake additional research, respond and provide new information, prior to Council's determination of the Structure Plan and submissions. It is anticipated that a full report will be made to the March round of meetings.

Accordingly it is proposed to notify the WAPC of this arrangement and to seek an extension of the 60-day period to determine the submissions.

**D17/2/05**

**RECOMMEND**

**That in relation to the North Forrestdale Structure Plan, Council advise the Western Australian Planning Commission that the consultants acting for the landowners have requested further time to address the issues raised by the submission and assessment processes and accordingly Council seeks an extension of time to allow the submissions to be addressed at its meeting of 21<sup>st</sup> March 2005.**

MOVED Cr Hodges  
MOTION CARRIED (7/0)

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**ADMINISTRATIVE PROCEDURES - LEGAL**

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WARD : ALL  
FILE REF : PSD/I  
DATE : 10 August 2005  
REF : SA/CHE  
RESPONSIBLE : PSM  
MANAGER

**In Brief:-**

- The Liaison & Compliance Officers investigate breaches to the Town Planning Scheme and Local Laws therefore it is practical for these Officers to be the Complainant on behalf of Council.
- The Senior Liaison & Compliance Officer was Gazetted to serve in this capacity in 1998.
- Recommend that Liaison and Compliance Officer Charl Erasmus be authorised to make lay and swear Complaints and to appear in Court on Council's behalf.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Nil.

**Legislation Implications**

Justices Act 1902  
Town Planning and Development Act 1928  
Town Planning Regulations 1967  
Local Government Act 1995  
Local Government (Miscellaneous Provisions) Act 1960  
All Local Government Regulations  
Metropolitan Region Town Planning Scheme Act 1959  
Town Planning Schemes 2, 3 & 4

**Council Policy / Local Law Implications**

Local Laws Relating Signs, Hoardings and Billposting  
Activities and Trading in Thoroughfares and Public Places  
Local Laws Relating to Removal of Refuse, Rubbish and Disused Materials

**Budget / Financial Implications**

Cost of gazettal in Government Gazette approximately \$200.

## **BACKGROUND**

At its ordinary meeting held on 18<sup>th</sup> January 1998 Council resolved (D29/98) to authorise the then Liaison and Compliance Officer to make, lay and swear Complaints under Section 42 of the Justices Act 1902 on behalf of Council. Prior to 1998 the Chief Executive Officer was required to attend the Armadale Court, in person, to execute such complaints. The authorisation of the Compliance Officer relieved the Chief Executive Officer of what was an unnecessary task and the possibility of having to appear in Court.

## **DETAILS OF PROPOSAL**

To authorise Charl Herman Erasmus Liaison and Compliance Officer to make, lay and swear Complaints, and to appear in Court, on Council's behalf.

## **COMMENT**

Since the 1998 resolution the Liaison and Compliance Officer has been cited as the Complainant on Summonses relating to Town Planning prosecutions and is usually the major, and often the only, witness for the City. He has also been the person who has authored most of the correspondence to the Defendant and collected the evidence, which circumvents any dispute over presentation of documents and/or who, on behalf of Council, is laying the charge.

## **ANALYSIS**

Section 42 of the Justices Act 1902 requires that proceedings before Justices shall be commenced by a complainant, which may be made or laid by the complainant in person or by his Counsel or Solicitor or other person authorised in that behalf. Therefore, Council as the complainant, may authorise its Officers to make or lay a Complaint on its behalf.

## **OPTIONS**

1. Formally Gazette the Liaison and Compliance Officer to act on Council's behalf in the making, laying and execution of Complaints and appear in Court on such matters.
2. Rely upon Council resolutions to authorise a given Officer to act on Council's behalf in the making, laying and execution of Complaints and appear in Court on such matters.
3. Decline the request.

## **CONCLUSION**

As the Compliance team has expanded, it would be appropriate to empower all of the Compliance Officers, who are likely to be authorised by Council resolution to institute legal proceedings, to undertake such procedures. Whilst Council resolutions may be adequate to satisfy Section 42 of the Justices Act 1902 it is felt that a formal Gazettal will nullify any question of the Officers' right to undertake such tasks.

**D18/2/05**

**RECOMMEND**

1. That Council resolve to appoint Charl Herman Erasmus as an Authorised Officer to make, lay and swear Complaints under the Justices Act on behalf of the City of Armadale pursuant to actioning Complaints resolved by the Council under the Following Acts, Regulations and Local Laws:-
  - ◆ Town Planning and Development Act 1928;
  - ◆ Town Planning Regulations 1967;
  - ◆ Metropolitan Region Town Planning Scheme Act 1959;
  - ◆ Local Government Act 1995;
  - ◆ Local Government (Miscellaneous Provisions) Act 1960;
  - ◆ All Regulations under the Local Government Act 1995;
  - ◆ City of Armadale Town Planning Scheme 2 and 3 and any other City of Armadale Gazetted Town Planning Scheme;
  - ◆ Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials.
  - ◆ Local Laws relating to signage; and
  - ◆ Activities and Trading in Thoroughfares and Public Places Local Laws.
  
2. Council authorise Charl Herman Erasmus to appear in Court on Council's behalf on matters relevant to the Acts, Regulations and Local Laws in (1) above.

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***ATTENDANCE BY ELECTED MEMBERS AT THE 6<sup>TH</sup> INTERNATIONAL CITIES, TOWN CENTRES AND COMMUNITIES SOCIETY (ICTCS) CONFERENCE – 31<sup>ST</sup> MAY TO 3<sup>RD</sup> JUNE 2005***

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WARD : ALL  
FILE REF : CRS/4  
DATE : 2 February 2005  
REF : HC  
RESPONSIBLE : PSM  
MANAGER

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Nil.

**Council Policy / Local Law Implications**

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

**Budget / Financial Implications**

- ◆ Conference - \$695 for Members (early bird) or \$795 after 18 March, \$745 for non-members (early bird) or \$845 after 18 March.
- ◆ Pre Conference Workshop - \$195 for 2 hour workshops, \$245 for 3 hour.
- ◆ Accommodation – varies from \$90/night to \$220/night depending on location and room types.
- ◆ Air fares could be in the region of \$635 to \$1460 return (discount flights may be procurable subject to availability. Qantas offers a 40% discount off full economy fares (excluding taxes) for delegates.

**Consultation**

Nil.

**In Brief:-**

- The 6<sup>th</sup> International Cities, Town Centres and Communities Conference is to be held in Yeppoon, Queensland from 31 May to 3 June 2005.
- An officer from the City will be attending either this conference or the Planning Institute of Australia National Congress in Melbourne in April 2005.
- 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.

## DETAILS OF CONFERENCE

The International Cities, Town Centres and Communities Society (ICTCS) is conducting its 6<sup>th</sup> Conference to be held from Tuesday 31 May to Friday 3 June 2005 at the Rydges Capricorn Convention Centre, Yeppoon, Queensland. The convention centre is located some 45km north east of Rockhampton. *A copy of the Conference Brochure is at Attachment “A2” of the Agenda.*

### Structured Networking Sessions

Structured Networking Sessions, included in the conference cost, will be held on Tuesday 31 May 2005. These informal sessions are an opportunity for groups and organisations to register a theme or issue of interest that can be networked or discussed in a workshop, informal meeting or round table. The organisation registering the subject will be responsible for facilitation or leading the discussion. Topics must be nominated on the registration form.

### Specialist Pre-Conference Workshops

A choice of Five Specialist Pre-Conference Workshops, not included in the conference registration fee, are available on the Tuesday afternoon. Most run for two hours though Workshop 4 runs for 3 hours. The Workshops are:

1. Breakthrough Strategies for Town Centre Revitalisation ( limited to 12 places only) – presented by Robert Prestopino (Director Vital Places Pty Ltd);
2. How to Get the Most Use From Your High Resolution Satellite Imagery – presented by Lisa Dykes (Business Development Manager, Geoimage Pty Ltd) and Darren Mottolini (Partner Solutions Manager, ER Mapper);
3. Influencing and Driving Change – presented by Libby Ozinga and Jo Kelly ((People Place and Partnership);
4. How and When Should You Seek to Resolve Disputes? – presented by John Haydon (Managing Director, EcoDirections International Pty Ltd);
5. Demographic and Market Trends and Their Influence on Future Retail Development – presented by Geoff Coghlin and Mike McCracken (Directors, Foresight Partners Pty Ltd).

### ICTCS Conference Proper

The key theme of the conference is “Cities, Town Centres and Communities – The Way Ahead”. The aims of the conference are stated as being to:

- ◆ Discuss the latest developments in urban design, planning, development and project management on a national and international basis.
- ◆ Mix with professionals from varying backgrounds in a true cross disciplinary event.
- ◆ Provide access to and hands on experience with regional and international specialists
- ◆ Provide case studies from around the world.

Global industry specialists at the conference who will lead the International Cities Forum and National Waters Forum at various times through the conference include:

- ◆ Jerilyn Perine, Director Block by Block, New York, USA. Former Commissioner, Department of Housing New York.
- ◆ Mary McKee, Executive Director, Groundwork Northern Ireland.
- ◆ Karsten Gerkens, Director, Department of Urban Regeneration & Residential Development, Leipzig City Council.
- ◆ Tom McGuire, Executive Director, Community Seven Ltd, Liverpool, UK.
- ◆ Duncan Maclennan, Honorary Professor, University of Glasgow, Scotland, Chief Economist & General Manager, Strategic Policy & Projects, Department of Sustainability & Environment, Victoria.
- ◆ Professor Michael Keniger, Queensland Government Architect and Executive Dean, Faculty of Engineering, Physical Sciences and Architecture, The University of Queensland.
- ◆ Dr John Radcliffe, AM FTSE, Honorary research Fellow, CSIRO.
- ◆ Don Blackmore, Chair, The Advisory Council For Water For A Healthy Country, Canberra ACT.
- ◆ Ian Macfarlane, Director of Marketing Services, Tourism Australia, Sydney NSW.
- ◆ Paul Henry, Senior Principal, HOK Sport + Venue + Event.
- ◆ David Hutton, Chief Operating Officer, Lend Lease Development, Sydney NSW.
- ◆ Paul Eagles, Project Director – Special Projects (SEQ), Delfin Lend Lease, Brisbane Qld.

There are many other experienced speakers who will lead sessions in various streams. These streams, in various combinations over the course of the conference, include:

- ◆ Projects in Partnership
- ◆ New Urbanism
- ◆ Water/Energy Management
- ◆ Revitalisation
- ◆ Urban Lifestyles
- ◆ Community Building
- ◆ Main Street
- ◆ Master Planned Communities, Transit Oriented Design, Creative Project Funding
- ◆ Place Making
- ◆ Business/Economic Development, High Density Urban Living, Universal Design
- ◆ Sustainable Rural Communities
- ◆ Infrastructure
- ◆ Housing
- ◆ Tourism/Events
- ◆ Benchmarking/Branding

There is also a choice of attending a rolling workshop at either Yeppoon or Rockhampton.

The workshop at Yeppoon will consider:

- ◆ Waste Management – Yeppoon Sewage Treatment Plant;
- ◆ Keppel Bay Marina and Bayside Residential Villas;
- ◆ Masterplanned Residential Community – Seaspray;
- ◆ Capricorn Coast Water Supply.

The workshop at Rockhampton will consider:

- ◆ Research House;
- ◆ Gracemere Function Centre and Saleyards;
- ◆ Rockhampton CBD and Mall Re-Development;
- ◆ Fitzroy River Re-Development.

## CONCLUSION

It is likely that an officer from the Planning Department will be attending either the 6<sup>th</sup> International Cities, Town Centres and Communities Conference, or the Planning Institute of Australia National Congress in Melbourne in April 2005.

The Conference 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.

## D19/2/05            RECOMMEND

**That Cr H A Zelones and Cr L Reynolds be nominated to attend the 6<sup>th</sup> International Cities, Town Centres and Communities Conference to be held in Yeppoon, Queensland from 31 May to 3 June 2005, with costs incurred to be charged to GL Account 7040111.7504.702.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***ATTENDANCE BY ELECTED MEMBERS AT THE PLANNING INSTITUTE OF AUSTRALIA NATIONAL CONGRESS – 17<sup>TH</sup> TO 20<sup>TH</sup> APRIL 2005***

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WARD : ALL  
FILE REF : CRS/4  
DATE : 1 February 2005  
REF : HC  
RESPONSIBLE : PSM  
MANAGER

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**In Brief:-**

- Planning Institute Australia (PIA) is holding its 2005 National Congress in Melbourne from 17 to 20 April 2005.
- An officer from the Planning Department will be attending either this Congress, or the International Cities, Town Centres and Communities Conference in Queensland in late May/early June 2005.
- 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.

**Strategic Implications**

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

**Legislation Implications**

Nil.

**Council Policy / Local Law Implications**

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

**Budget / Financial Implications**

- ♦ Conference - \$1125 for PIA Members, \$1375 for non-members.
- ♦ Accommodation – varies from \$135/night to \$288/night depending on hotel and room types.
- ♦ Air fares could be in the region of \$400 to \$1450 return (discount flights may be procurable subject to availability. Qantas offers a 40% discount off full economy fares (excluding taxes) for delegates.

**Consultation**

Nil.

## DETAILS OF CONGRESS

The Planning Institute of Australia (PIA) is holding its 2005 National Congress, entitled “*Creative and Sustainable Communities*”, in Melbourne from Sunday 17 April to Wednesday 20 April 2005. *A copy of the Congress Brochure is at Attachment “A3” of the Agenda.*

Speakers at the Congress include:

- ◆ **Prof. Robert John Adams**, Director Design & Culture with the City of Melbourne;
- ◆ **Dr Wendy Craik**, Chief Executive of the Murray-Darling Basin Commission;
- ◆ **Billie Giles-Corti**, Associate Professor in the School of Population Health at the University of Western Australia and Chair of the WA Division of the National Heart Foundation’s Cardiovascular Health Committee;
- ◆ **Penelope Hutchinson**, Director of Arts Victoria;
- ◆ **Davina Jackson**, a Sydney consultant and writer on architecture and urban development and a director of the new urban development network, C-Futures;
- ◆ **Kathryn Mitchell**, Chief Panel Member with Planning Panels Victoria and the Interim Chair of the Priority Development Panel, reporting directly to the Minister for Planning;
- ◆ **Hugh Mackay**, psychologist, social researcher and author, Chairman of the ACT Governments Community Inclusion Board and Chairman of the Board of Management of the Constable Education Program for the NSW Police;
- ◆ **Professor Duncan McLennon**, appointed Professor of Urban Studies in 1989 at the University of Glasgow. An economist now residing in Australia;
- ◆ **Mary Kay Peck**, Community Development Director for the City of Henderson (Texas), elected President of the American Planning Association in 2002 and a past president of the Western Central Chapter of the American Planning Association and Montana Association of Planners;
- ◆ **Bernard Salt**, partner of Property KPMG Australia, based in Melbourne;
- ◆ **Marcus Spiller**, Director of SGS Economics & Planning Pty Ltd, an Adjunct Professor in Urban Management at the University of Canberra, current National President of the Planning Institute of Australia and a Director of VicUrban, the Victorian Government’s land development company;
- ◆ **Steve Vizard**, practised as a commercial lawyer for 10 years before following many other pursuits. Has had many board appointments and directorships; is current President of the Council of Trustees – National Gallery of Victoria and founder and Chairman of Artist Services where he has produced many award winning shows;
- ◆ **Tone Wheeler**, Architect, author, educator and consultant, founder of Environa Studio, member of the RAI National Environment Committee and on the faculty of three universities;
- ◆ **Dr Wendy Sarkissian**, consultant social planner, Fellow of the PIA and co-author of the multi-award winning series of advisory materials, *Community Participation in Practice* (1994-2002);
- ◆ **Darren Cooper**, Development Director of Mirvac Fini, the Perth-based property development subsidiary of the national public-listed Mirvac Limited, and a lecturer in property and town planning.

At this stage there is no advice on the titles of various sessions. The sessions will be presented in the following streams to suit individual preferences:

- ◆ Urban & regional Planning;
- ◆ Environment;
- ◆ Social Planning;
- ◆ Urban Design.

On Tuesday 19 April 2005, there is the opportunity to take a day trip to Bendigo to examine examples of sustainable development including a housing estate project by the Water Authority, a water recycling and a sustainable development project by the Council and a development by the Bendigo Bank. It also visits two heritage restoration sites, a transit terminal development at the Bendigo Railway Station, and the contentious Bendigo Housing Development before returning to Melbourne.

## CONCLUSION

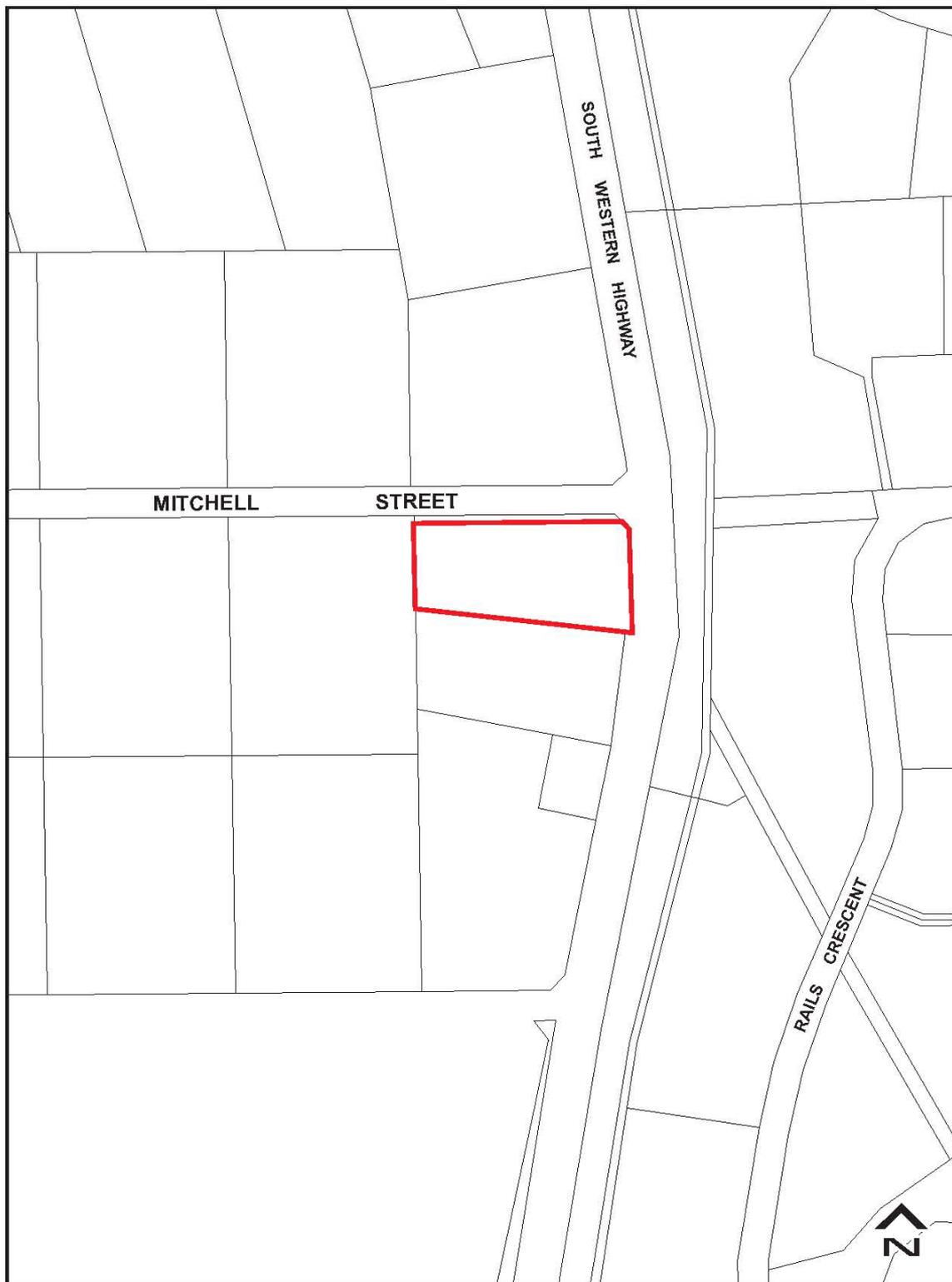
It is likely that an officer from the Planning Department will be attending either the PIA National Congress, or the International Cities, Town Centres and Communities Conference in Queensland in late May/early June 2005.

The Congress 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.

## D20/2/05            RECOMMEND

1.    **That there be no nomination from the Development Services Committee members to attend the Planning Institute Australia 2005 National Congress.**
2.    **That the matter be referred to full Council in the event that any member wishes to be nominated.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)



**LOCATION PLAN  
LOT 15 MITCHELL STREET, WUNGONG.**

**UNAUTHORISED USE OF PROPERTY– LOT 15 [7] MITCHELL STREET, WUNGONG**

WARD : ARMADALE  
FILE REF : A194601  
DATE : 10 January 2005  
REF : CHE  
RESPONSIBLE : PSM  
MANAGER  
LAND OWNERS : CF & AW Coleman  
SUBJECT LAND : Property size 9455m<sup>2</sup>  
Map 22.39  
ZONING  
MRS/TPS No.2 : Rural E / Rural  
DRAFT TPS No.4 : Rural Living (RL 2)

**In Brief:-**

- Stockpiling of substantial quantity of building materials on the subject property and adjoining verge without Council approval.
- Parking of a commercial vehicle on the subject property without Council approval.
- Numerous approaches to remove the commercial vehicle and materials have not resulted in compliance with the provisions of the Town Planning Scheme and Local Laws.
- Recommend that Council institute legal proceedings.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Town Planning and Development Act 1928;  
Town Planning Scheme 2 (the Scheme);  
Local Government Act 1995;  
Draft Town Planning No.4.

**Council Policy / Local Law Implications**

Activities and Trading in Thoroughfares and Public Places Local Laws;  
Commercial Vehicle Parking Policy.



**AERIAL PHOTOGRAPH  
LOT 15 MITCHELL STREET, WUNGONG.**

### **Budget / Financial Implications**

Costs to budget allocation for legal expenses in seeking a legal remedy via prosecution proceedings, usually the cost of an action is not reflected in the penalties imposed. The maximum penalty under the Town Planning and Development Act is \$50,000, with a daily penalty \$5,000 per day for each offence. Under the Local Government Act 1995 the penalty must not exceed \$5000; with a daily penalty of \$500 should the offence continue.

### **BACKGROUND**

In October 2004 it came to Council's attention that numerous materials were stored on the subject property and abutting verge.

The City's Liaison and Compliance Officer inspected the site on 4<sup>th</sup> November 2004 and observed amongst other things numerous motor vehicle parts, a derelict truck and numerous building materials on the subject property and a derelict motor vehicle, pile of building sand, numerous bricks and a derelict trailer on the adjoining verge. (*See photographs included in this report*). A letter requiring the removal of the offending items from the property and adjoining verge was forwarded to the owners of the property.

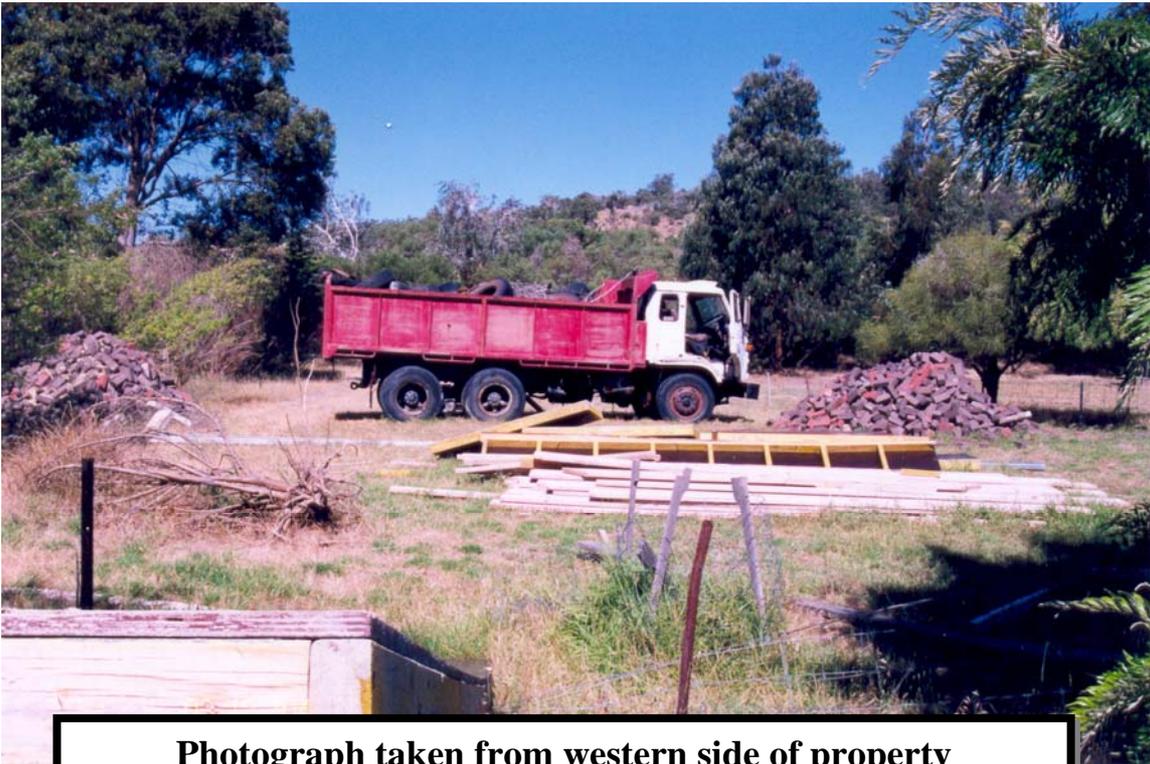
On 10<sup>th</sup> November 2004 Mr Coleman phoned the City to discuss the matter and referred to legal circumstances preventing him entering the Mitchell Street property and advised that his solicitors would write to Council with the information (*See Attachment "B3" of the Agenda*). Mr Coleman's solicitors wrote to the City on 12<sup>th</sup> November 2004 requesting an extension of time to comply with the requirements set out in the letter dated 4<sup>th</sup> November 2004. A letter was forwarded to Mr Coleman's solicitors on 17<sup>th</sup> November 2004 advising them that the City was not prepared to grant an extension and an inspection would be conducted on 22<sup>nd</sup> November 2004 to verify compliance with Legislation under Council's administration. A further inspection of the property took place on 3<sup>rd</sup> December 2004 at which it was observed that the owners had removed the derelict motor vehicle and trailer from the verge but that all the other offending items remained on the property and abutting verge.

On 13<sup>th</sup> December 2004 Council's solicitor forwarded letters to both the owners of the property requiring the items on the property be removed within (14) fourteen days. An inspection of the subject premises conducted on 4<sup>th</sup> January 2005 revealed that the offending items had not been removed from the property and abutting verge. A letter was forwarded to both the owners on 5<sup>th</sup> January 2005 advising them that a report will be presented to Council with the view to institute legal action.

### **ANALYSIS**

Clause 7.1 of "the Scheme" 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".*



**Photograph taken from western side of property  
of truck, building material and timber at  
Lot 15 (7) Mitchell Street, Wungong**



**Photograph taken from northern side of property  
of paving bricks on verge at  
Lot 15 (7) Mitchell Street, Wungong**

Planning consent for the storage of a variety of materials and the parking of commercial vehicles have not been granted.

“The Scheme” defines a “Depot” as land or buildings used for the storage or transfer of goods or both. A Depot is a use of the land that is not permitted in the Rural ‘E’ zone, however Council could consider an application as a “Use Not Listed”. The continued storage of materials on the property without the consent of Council constitutes an offence.

Clause 7.7.3 of “the Scheme” 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.

Clause 2.1 (b) of “the Scheme” states “Except as otherwise provided in the Part a person shall not carry out any development on land reserved under this Scheme, other than the erection of a boundary fence, without first applying for and obtaining the planning consent of the Council.

The storage of building materials on the verge is considered a development of land reserved under “the Scheme”. The continued storage of materials on the verge without the consent of Council constitutes an offence.

Clause 2.2 (b) of the Activities and Trading in Thoroughfares and Public Places Local Laws states that a person shall not, without a permit, throw, place or deposit any thing on a verge, except;

- i) For removal by the local government under a bulk rubbish collection;
- ii) A bulk rubbish container, and then only for the period of time required to fill the container, (for a period not exceeding 1 week);
- iii) A bulk container for household and personal effects, (for a period not exceeding 1 week);  
and
- iv) When permitted to do so, under current building licence.

Clause 9.4 of the Activities and Trading in Thoroughfares and Public Places Local Laws states;

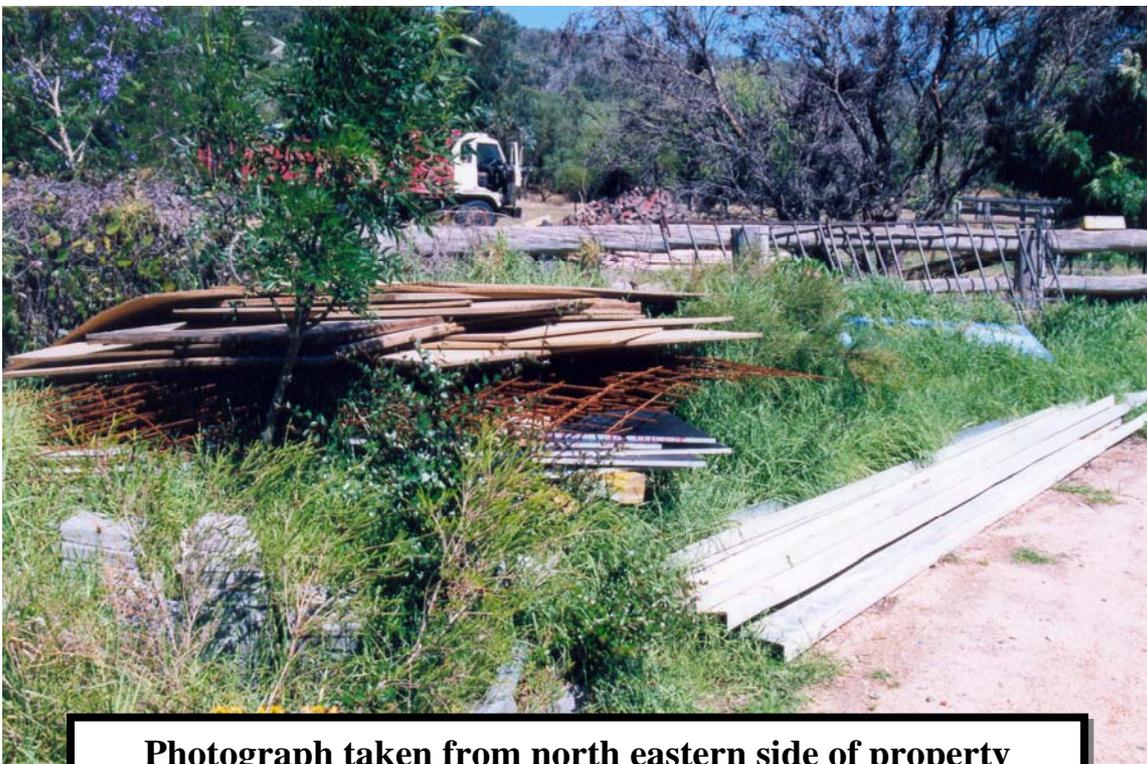
*“Where any thing is placed on a thoroughfare in contravention of this Local Law, the Local Government may by notice in writing to the owner or the occupier request the removal of that thing”*

Clause 10.1 of the Activities and Trading in Thoroughfares and Public Places Local Laws states;

*“Whenever the Local Government gives a notice and the person fails to comply with the notice, that person commits an offence”.*



**Photograph taken from north eastern side of property  
of building rubble on verge at  
Lot 15 (7) Mitchell Street, Wungong**



**Photograph taken from north eastern side of property  
of building material and timber at  
Lot 15 (7) Mitchell Street, Wungong**

## **COMMENT**

From the above it is clear that the owners of the property could be pursued in terms of the City's Town Planning Scheme No.2 and the Activities and Trading in Thoroughfares and Public Places Local Laws. The owners have chosen not to take measures to resolve the matter despite clear direction by the City's officers and Solicitors. It should also be noted that Mr Coleman's current Legal position does not prevent contractors from cleaning up the site on his behalf.

Under "the Scheme" legal proceedings could be instituted immediately but a notice under the Local Laws is subject to providing more time to rectify the matter and possible appeal. With a direction notice under Section 10 Subscription 3 of the Town Planning and Development Act a period of 60 days must be provided within which the direction is to be complied with and could be subject of an appeal that could extend this issue by a few more months.

The fines are ten times higher under "the Scheme" which will off-set some of the legal costs incurred. However the notice provides for the City to carry out the works to rectify the matter and to recover the costs of doing so via the Courts.

## **OPTIONS**

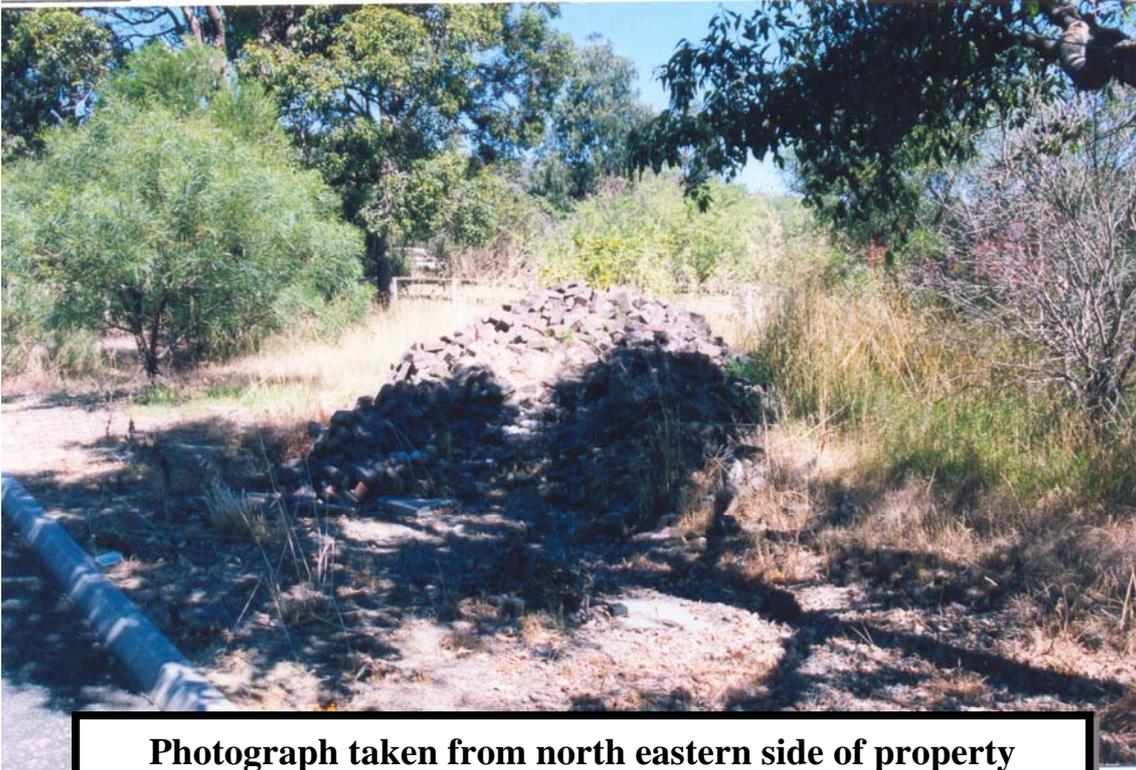
Council could:

1. as the owners of the property have not complied with the relevant legislation, to institute legal proceedings immediately for breaching the provisions of "the Scheme" for conducting a Depot, Parking of a Commercial vehicle and carrying out a development on reserved land without the consent of Council.
2. serve a notice under the Activities and Trading in Thoroughfares and Public Places Local Laws requiring the removal of materials from the verge abutting the property.
3. serve a direction notice under section 10 (3) of the Town Planning and Development Act 1928 requiring the removal of materials from the property and verge abutting the property.
4. resolve to permit a period of grace (i.e. two weeks) to facilitate the clearance of the various materials and objects from the site.
5. resolve not to pursue the matter.

## **CONCLUSION**

Letters from the City's Officers and Solicitor have clearly presented Council's position and requirements to the owners of the property. Unfortunately, these efforts have failed to encourage voluntary compliance with the legislation under Council's administration.

Given that considerable effort has been expended without affecting compliance, it is recommended that legal proceedings be instituted against the owners of Lot 15 (7) Mitchell Street, Wungong in accordance with option 1.



**Photograph taken from north eastern side of property  
of pile of bricks on verge at  
Lot 15 (7) Mitchell Street, Wungong**



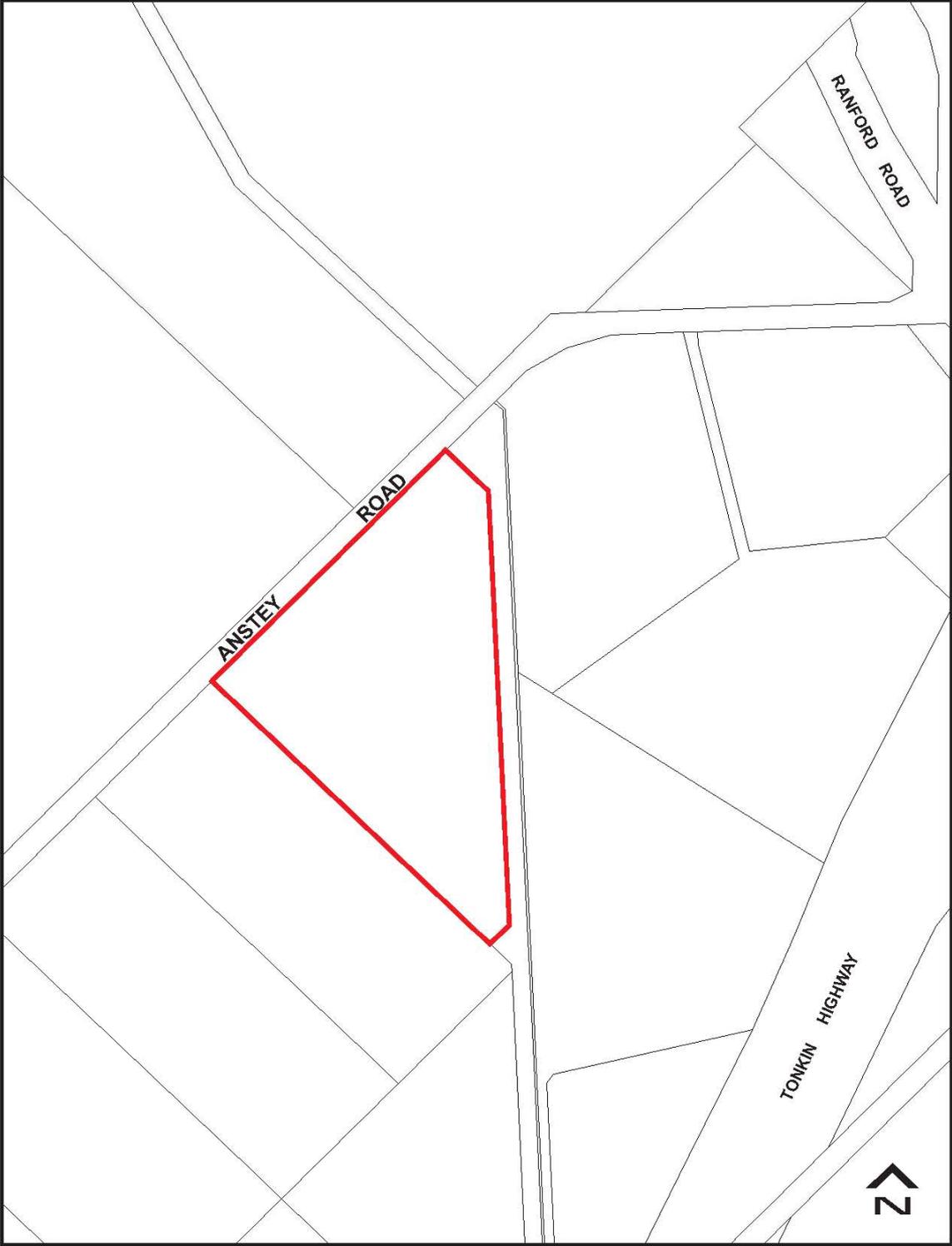
**Photograph taken from north eastern side of property  
of paving equipment and materials at  
Lot 15 (7) Mitchell Street, Wungong**

*Planning Services Manager advised that the majority of materials on the front verge (refer to photograph on bottom of page 68) have recently been removed from the property.*

**D21/2/05            RECOMMEND**

- 1.    That Council authorise the Senior Liaison Compliance Officer /the Liaison and Compliance Officer to institute legal proceedings, subject to legal advice, against Mr Charles Frederick Coleman and Mrs Alison Wilkinson Coleman the owners of Lot 15 (7) Mitchell Street, Wungong for contravening the provisions of the City of Armadale Town Planning Scheme No.2 for;**
  - a)    storing of materials on the property without the consent of Council;**
  - b)    parking a commercial vehicle on the property without the consent of Council;**
  - c)    carrying on a development in the Road Reserve 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.**

MOVED Cr Tizard  
MOTION CARRIED (7/0)



**LOCATION PLAN  
LOT 4 ANSTEY ROAD, FORRESTDAL.**

**UNAUTHORISED USE OF PROPERTY – LOT 4 [250] ANSTEY RD, FORRESDALE**

WARD : FORREST  
FILE REF : A186581  
DATE : 21 January 2005  
REF : CHE  
RESPONSIBLE : PSM  
MANAGER  
LAND OWNERS : Mr B & Mrs C Sorgiovanni  
SUBJECT LAND : Property size 5.6482 ha  
Map 19.05  
ZONING  
MRS/TPS No.2 : Rural / Rural C  
DRAFT TPS No.4 : Rural Living (RL 4)

**In Brief:-**

- Stockpiling of substantial quantity of commercial vehicle parts, various equipment and materials, siting of a sea container, parking of commercial vehicles and repairing: industrial / commercial vehicles on the subject property without Council approval.
- Numerous approaches to the owners of the property by Council's officers to remove the various offending items have not resulted in compliance with the provisions of the Town Planning Scheme and Local Laws.
- Recommend that Council institute legal proceedings.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

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

**Legislation Implications**

Town Planning and Development Act 1928;  
Town Planning Scheme No.2 (the Scheme);  
Local Government Act 1995;  
Draft Town Planning No.4.

**Council Policy / Local Law Implications**

Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials;  
Commercial Vehicle Parking Policy.

**Budget / Financial Implications**

Costs to budget allocation for legal expenses in seeking a legal remedy via prosecution proceedings, usually the cost of an action is not reflected in the penalties imposed. The maximum penalty under the Town Planning and Development Act is \$50,000, with a daily penalty \$5,000 per day for each offence. Under the Local Government Act 1995 the penalty must not exceed \$5000 with a daily penalty of \$500 should the offence continue.



**AERIAL PHOTOGRAPH  
LOT 4 ANSTEY ROAD, FORRESTDAL.**

## **BACKGROUND**

A local resident complained about the commercial vehicles on this property in July 2004, which coincided with investigations into non-compliance relating to the keeping of livestock on the subject property. Investigations revealed a sea container, fuel tank, a workshop servicing heavy-duty earthmoving machinery, numerous commercial vehicle parts, timber, various other objects and a variety of commercial vehicles on the premises. (*See photographs included in this report*).

Mr Sorgiovanni submitted an application for the keeping of animals on 24<sup>th</sup> March 2003. This application was incomplete and numerous letters were forwarded to Mr Sorgiovanni between April and June 2003 requesting more information. Mr Sorgiovanni submitted the information the City needed on 22<sup>nd</sup> July 2003 and paid the additional fees on 28<sup>th</sup> August 2003. Council approved the keeping of animals on 20<sup>th</sup> October 2003 and accepted that certain commercial vehicles were required for the keeping of animals, which did not require Council approval.

However the issue regarding a number of other commercial vehicles, which appeared to be used primarily to transport earthmoving equipment on the property remained unresolved. Officers met with Mr and Mrs Sorgiovanni on 25<sup>th</sup> February 2004 and detailed the Scheme provisions and requirements with regard to the various activities. The officers were advised that Mr Sorgiovanni intended to retire and the commercial vehicles were to be sold, therefore a period of up to 6 months was provided to allow for the disposal of the commercial vehicles and the clearance of the site.

An inspection of the property conducted in August 2004 revealed that the owners had made no effort to honour the agreement. A letter was forwarded to the owners and another meeting was held on the property with Mrs Sorgiovanni on 29<sup>th</sup> October 2004. Mrs Sorgiovanni requested another three months to remove all the offending materials and commercial vehicles from their property. The officers agreed to this final extension but insisted on an interim inspection in December 2004. At the interim inspection little effort had been made to comply, but as the officers had provided an extension until the end of January 2005, a letter was forwarded to the owners requesting, in writing, reasons why the City should not institute Legal action against them for breaching the Scheme. No reply has been forthcoming and an inspection on 31 January 2005 confirmed that the unauthorised activities continued and the site remained in an unsatisfactory condition, furthermore numerous piles of soil had been deposited on the site without the consent of Council.

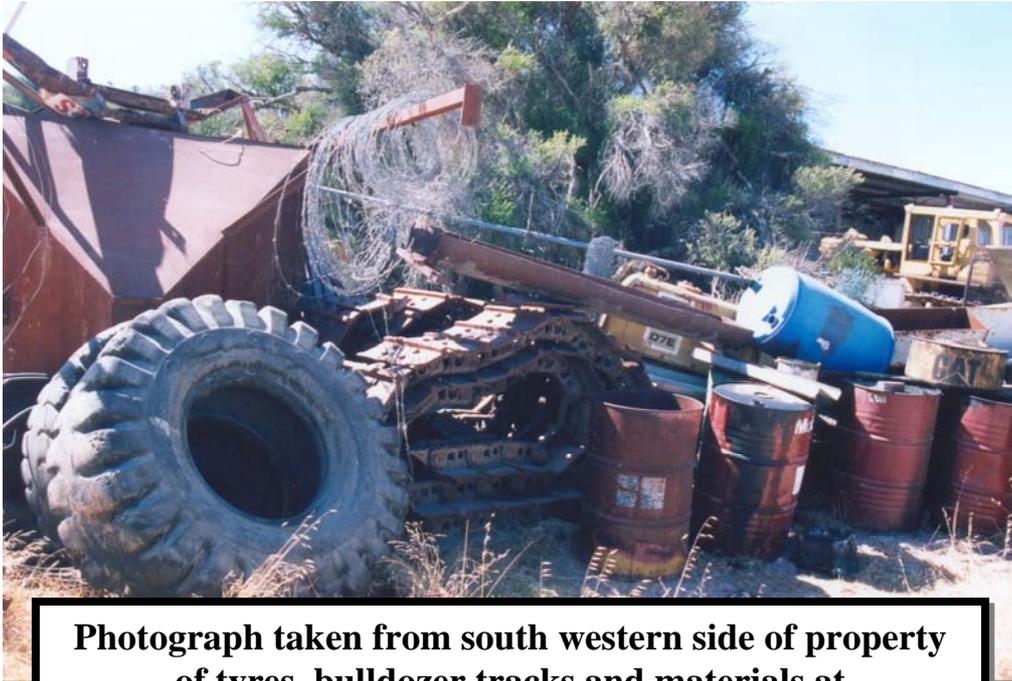
During the course of investigating this matter persons undertaking mechanical repairs and spay painting commercial vehicles have been observed on more than one occasion and partially dismantled earthmoving equipment has been observed in the shed.

## **ANALYSIS**

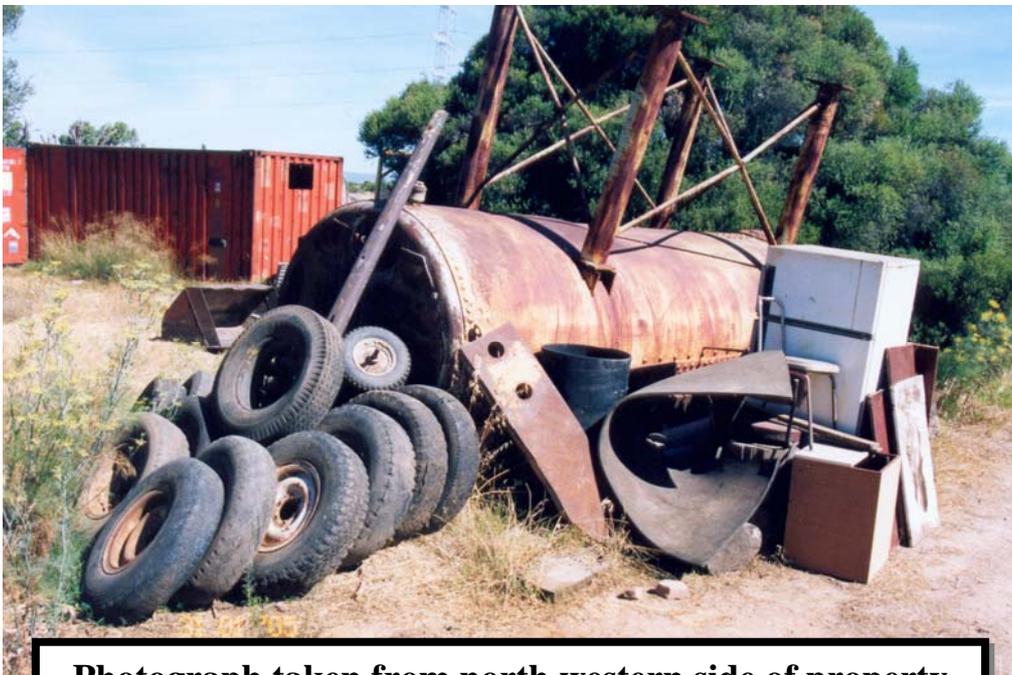
A variety of materials are stored on the property, a sea container is in evidence on the property and commercial vehicles are being parked without the consent of Council.

Clause 7.1 of the Scheme 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.*



**Photograph taken from south western side of property  
of tyres, bulldozer tracks and materials at  
Lot 4 (250) Anstey Road, Forrestdale**



**Photograph taken from north western side of property  
of tyres, fuel tank, sea-container and materials at  
Lot 4 (250) Anstey Road, Forrestdale**

Council records show that approvals for storage, siting sea container or parking of commercial vehicles have not been granted.

The Scheme defines a “Depot” as “land or buildings used for the storage or transfer of goods or both...”. A Depot is a land use that is not permitted in Rural zones of the City (the subject property is zoned Rural C), however Council could consider an application as a “Use Not Listed”. The continued storage of materials on the property without the consent of Council constitutes an offence.

Some Commercial vehicles associated with the keeping of animals are exempt, however there are a number of other commercial vehicles e.g. three (3) bulldozers, one (1) grader, two (2) low loader trailers and a prime mover not associated with the farm that do not have approval as required under the Scheme.

The repairing and garaging of earthmoving equipment and trucks has taken place on the subject property without the consent of Council.

The Scheme defines a “Transport Depot” as “land and buildings used for the parking or garaging of road motor vehicles (including taxis) which are used or intended to be used for the carriage of goods, or land or a building or buildings used for the transfer of goods or people from one such motor vehicle to another of such motor vehicles and includes the maintenance and repair of such vehicles”. A Transport Depot is a land use that is not permitted in Rural zones of the City.

Clause 7.7.3 of the Scheme 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.

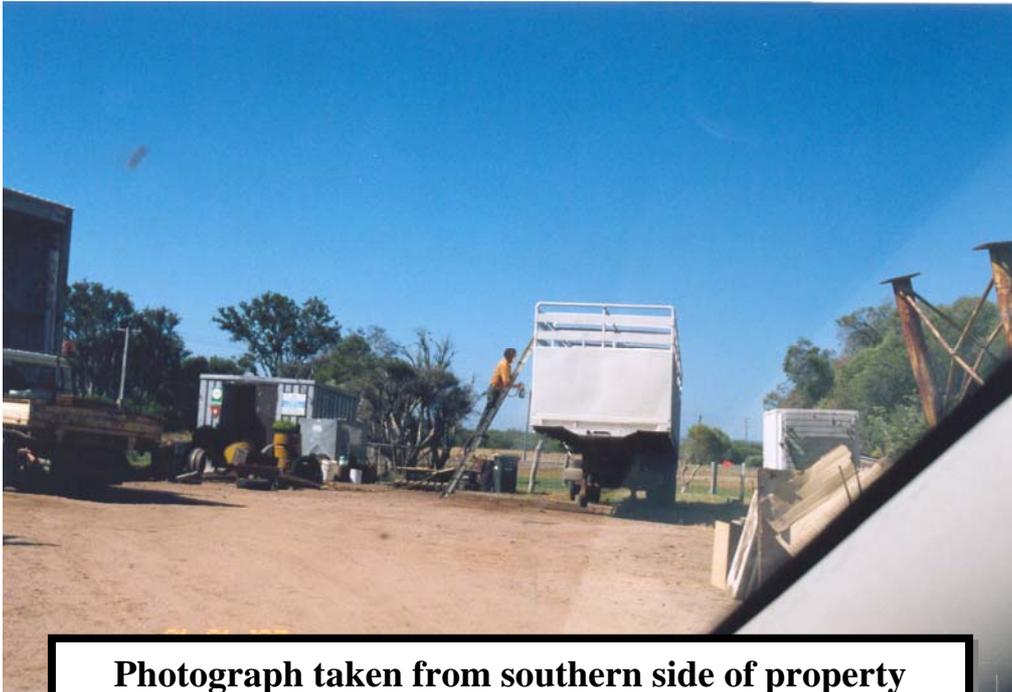
Section 3. (1) of the Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials states;

- i) any material which is abandoned or unwanted by its owner;
- ii) any material which is not being used for its original intended purpose;
- iii) any motor vehicle, motor vehicle parts or machinery which has been deposited or stored upon any property for the purpose of dismantling or breaking up;

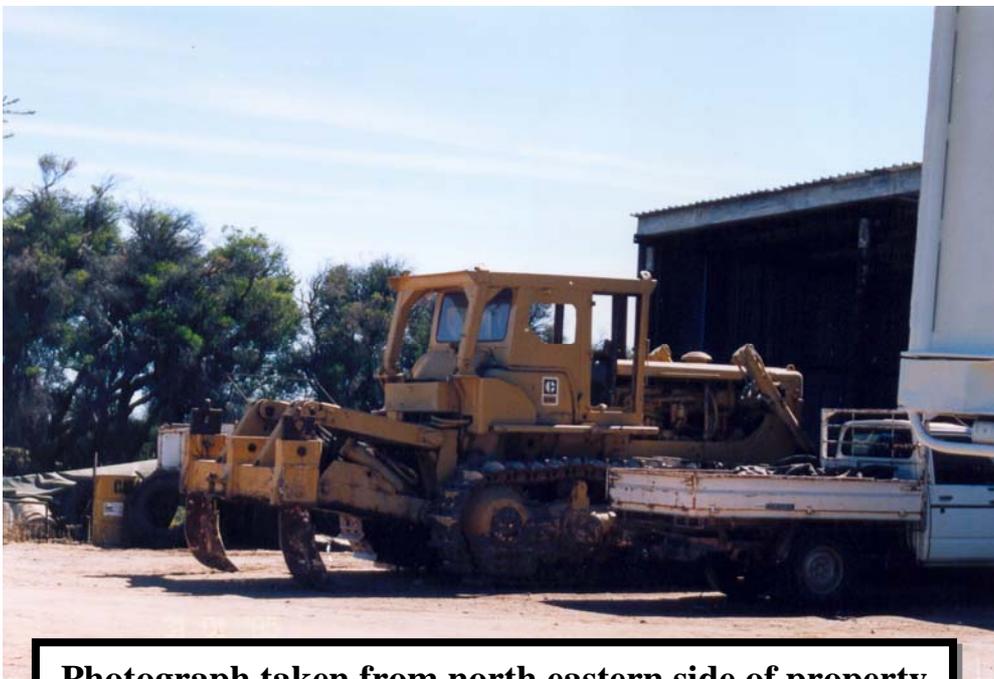
“Any material” may be refuse, rubbish or disused material notwithstanding that it may have a commercial value to its owner or the person in possession of it or to the owner or occupier of any property upon which it is deposited or stored.

Various materials, timber, a fuel tank and commercial vehicle parts are being stored on the property for no other purpose other than storage, without the consent of Council. Council records show that no approval has been granted and little or no attempt has been made to remove them.

Section 5 of the Local Laws states “Any owner or occupier who is served with a Notice under Law 4 of these Local Laws and who fails to comply with the terms of the Notice commits an offence”.



**Photograph taken from southern side of property  
of spray painting of trailer at  
Lot 4 (250) Anstey Road, Forrestdale**



**Photograph taken from north eastern side of property  
of bulldozer in front of shed at  
Lot 4 (250) Anstey Road, Forrestdale**

Law 4 of the Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials states;

*“Any property within the District other than vacant property any refuse, rubbish or disused material which in the opinion of Council is likely to adversely affect the value or having an appearance which does not conform with the general appearance of neighbouring property”.*

*“The Council may give a notice under the hand of the Chief Executive Officer requiring the owner to clean the property”.*

*“Whenever the Local Government gives a notice under Law 4 of these Local Laws and the person fails to comply with terms of the notice, commits an offence”.*

## COMMENT

The owners of the property have chosen not to institute measures to resolve the matter despite clear direction by the City’s officers being given on several occasions.

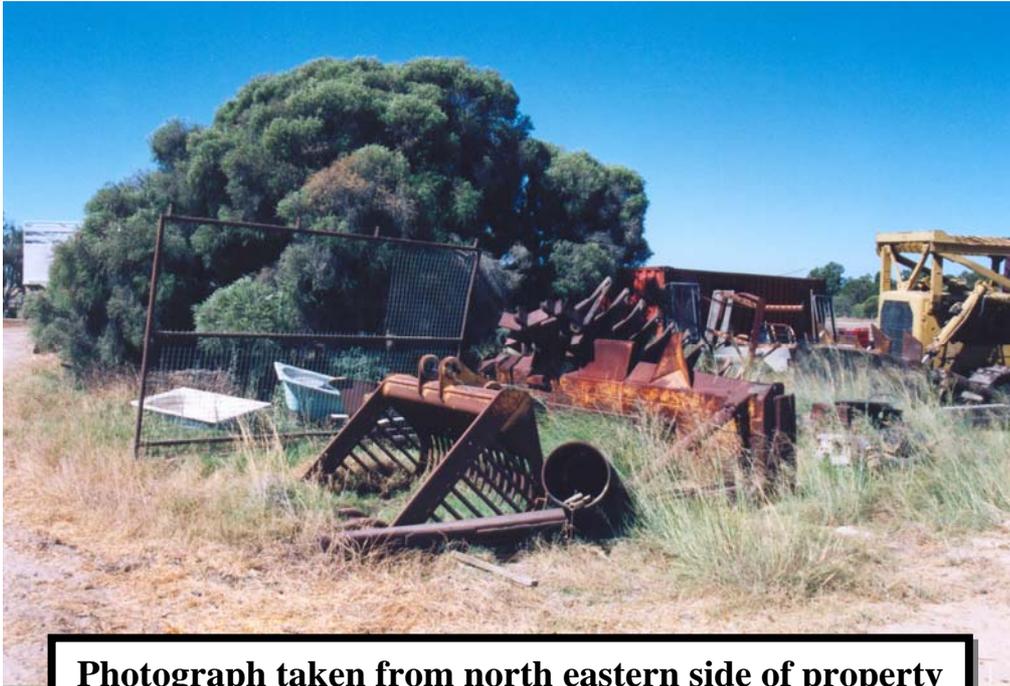
Under the Scheme legal proceedings could be instituted immediately but a trial date is at the mercy of the court list but is generally within two months. A notice under the Local Laws is subject to providing more time to rectify the matter usually 14 days and could be subject of an appeal, which could extend the matter for several months. With a direction notice under section 10 subsection 3 of the Town Planning and Development Act a period of 60 days must be provided to which the direction is to be complied with and could be subject of an appeal that could extend this issue with a few more months.

The maximum fines are ten times higher under the Scheme, which could off set some of the Legal costs likely to be incurred. However, a notice provides for the City to carry out the works to remove some of the items and to recover the costs of so doing via the Courts but will not resolve the issues relating to commercial vehicles, a Transport Depot or the unauthorised development.

## OPTIONS

Council could:

1. as the owners of the property have not complied with the relevant legislation, Council could resolve to institute legal proceedings immediately for breaching the provisions of the Scheme for conducting a Depot, Transport Depot, parking of commercial vehicles and siting a sea container on the property without the consent of Council.
2. serve a notice under the Local Laws Relating to the removal of Refuse, Rubbish and Disused materials requiring the removal of materials from the property.
3. serve a direction notice under section 10 (3) of the Town Planning and Development Act 1928 requiring the removal of materials from the property.



**Photograph taken from north eastern side of property  
of earthmoving equipment and parts at  
Lot 4 (250) Anstey Road, Forrestdale**



**Photograph taken from north eastern side of property  
of shed and one of the bulldozer on site at  
Lot 4 (250) Anstey Road, Forrestdale**

4. resolve to permit a period of grace (i.e. two weeks) to facilitate the clearance of the various vehicles, materials and objects from the site.
5. resolve not to pursue the matter.

## CONCLUSION

The City's Officers have clearly and persistently presented Council's position and requirements to the owners of the property and have been generous in an attempt to accommodate the landowners. Unfortunately, these efforts have failed to encourage voluntarily compliance with the legislation under Council's administration.

Given that considerable effort has been expended without affecting compliance and the continued use of the property as a pseudo industrial site, it is recommended that legal proceedings be instituted against the owners of Lot 4 (250) Anstey Road, Forrestdale in accordance with option 1.

## D22/2/05                      RECOMMEND

1. **That Council authorise the Senior Liaison Compliance Officer / the Liaison and Compliance Officer to institute legal proceedings, subject to legal advice, against Mr B & Mrs C Siorgiovanni the owners of Lot 4 [No.250] Anstey Road, Forrestdale for contravening the provisions of the City of Armadale Town Planning Scheme No.2 for;**
  - a) **carrying on a storage use on the property without the consent of Council;**
  - b) **parking of commercial vehicles on the property without the consent of Council;**
  - c) **siting of a sea container on the property without the consent of Council;**
  - d) **conducting a Transport Depot on the 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.**

MOVED Cr Hodges  
MOTION CARRIED (7/0)

***PUMPING STATION – NICHOLSON ROAD / ARMADALE ROAD, FORRESTDALE***

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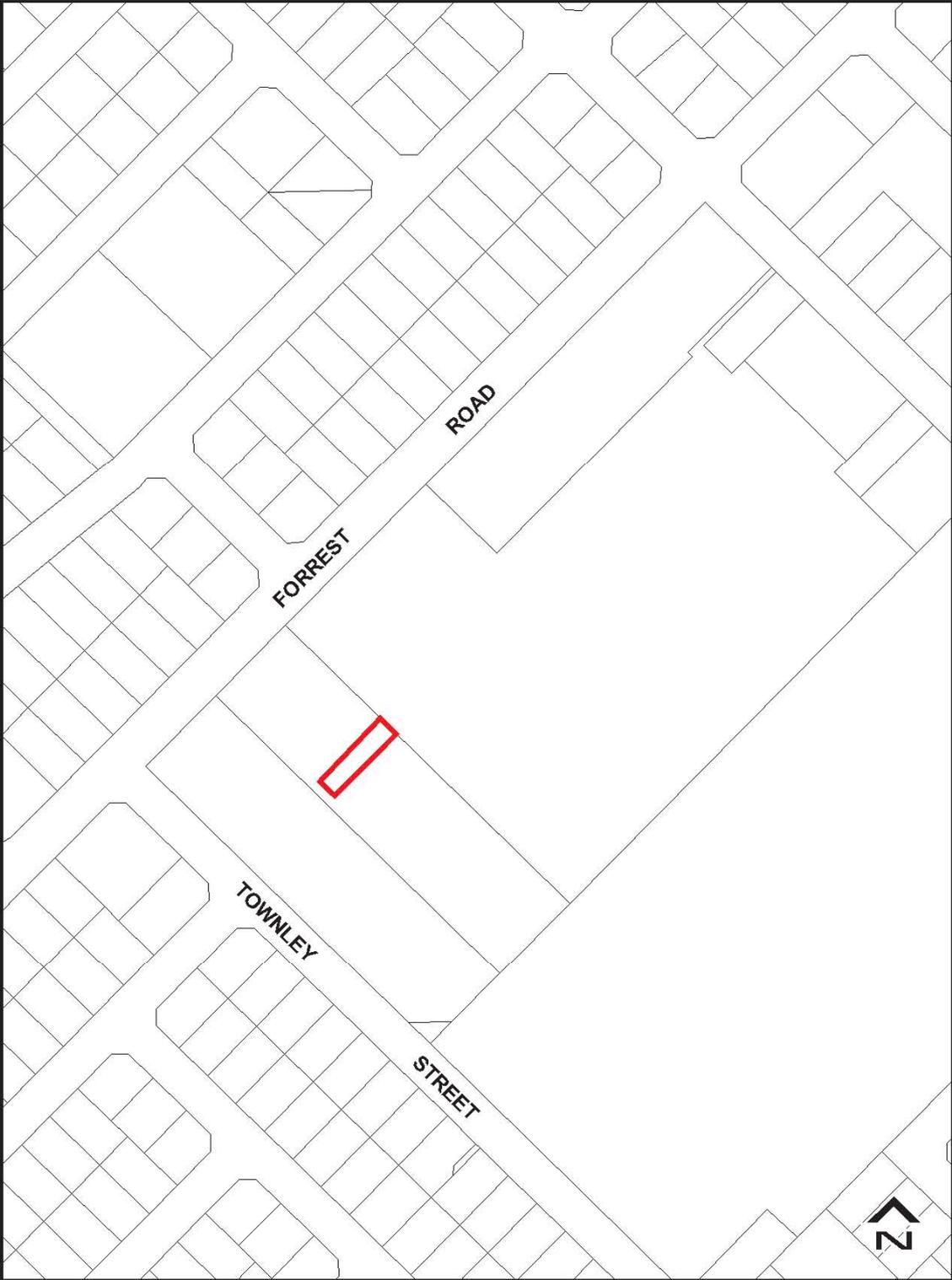
The matter of the pumping station at the intersection of Nicholson Road and Armadale Road, Forrestdale was referred to Development Services Committee by Council at its meeting of 7<sup>th</sup> February 2005, on request by Councillor Cominelli.

*Executive Director Development Services reported to COMMITTEE that a public meeting with Water Corporation was held at the Armadale Soccer Club, Alfred Skeet Oval, Armadale Road, Forrestdale on Monday 7<sup>th</sup> February 2005. The Water Corporation explained the proposal and how they intended to modify the proposal to meet concerns expressed in the submissions.*

*Executive Director Development Services advised that a Development Application had been received from the Water Corporation and the pumping station proposal would be addressed at the March 2005 Development Services Committee Meeting.*

*Executive Director Development Services also advised of a similar pumping station in the Belmont locality and invited Councillors and Officers to view the site. All interested persons to contact EDDS PA, Noelene Cranfield should they wish to attend.*

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**LOCATION PLAN  
LOT 21 TOWNLEY STREET, ARMADALE.**

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***PROPOSED RELOCATION OF EXISTING SHED AND CONSTRUCTION OF NEW SHED – PART LOT 21 TOWNLEY STREET, ARMADALE***

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WARD : FORREST  
FILE REF : A027670  
DATE : 11 February 2005  
REF : PRR  
RESPONSIBLE MANAGER : PSM  
APPLICANT : City of Armadale  
LAND OWNER : City of Armadale  
SUBJECT LAND : Property size m<sup>2</sup>  
Map 22.02  
  
ZONING  
MRS/TPS No.2 : Urban / Residential R15  
DRAFT TPS No.4 : Parks and Recreation (Local)

**In Brief:-**

- The application proposes the relocation of an existing shed and construction of a new shed on the subject site.
- The application requires referral to the Western Australian Planning Commission (WAPC) for determination and a recommendation from Council is sought in this regard.
- Recommend that Council recommend the WAPC conditionally approve the proposal.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

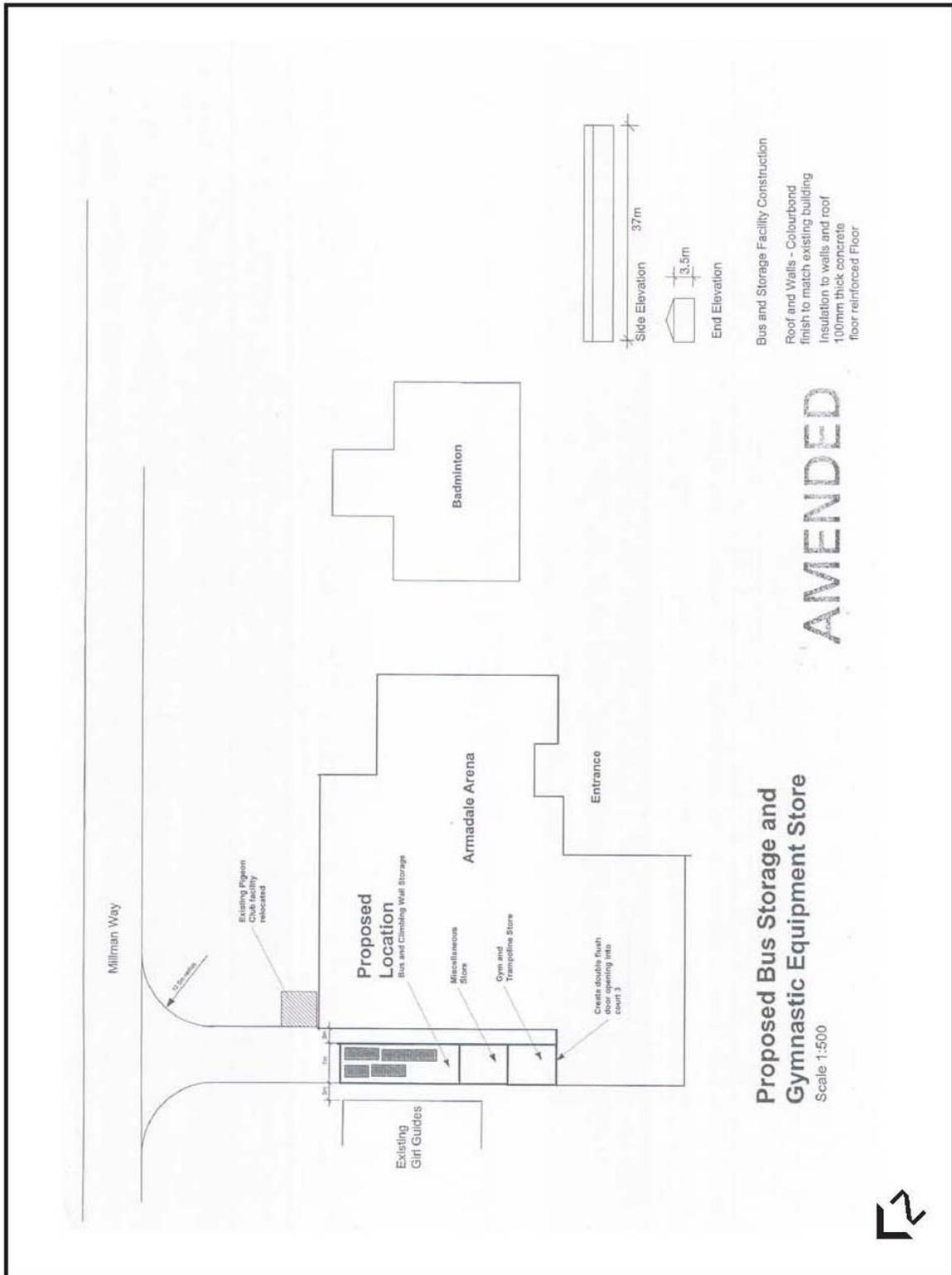
Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

**Legislation Implications**

Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No. 2  
Draft Town Planning Scheme No. 4

**Council Policy / Local Law Implications**

Outbuildings Policy



**SITE PLAN**  
**LOT 21 TOWNLEY STREET, ARMADALE.**

### **Budget / Financial Implications**

Cost of construction / relocation indicated as \$30,000 to \$50,000. Figures relating to income generated from the lease of the structures and potential improvements to the Armadale Arena were not included with the application.

### **Consultation**

- ◆ Armadale Tennis Club
- ◆ Armadale Girl Guides
- ◆ Armadale District Bowling Club
- ◆ Southern Districts Support Association
- ◆ Development Control Unit

### **BACKGROUND**

The City received an application for the relocation of an existing shed and construction of a new shed on 9 November 2004. This report is referred to Council for a recommendation only, so the application can be referred to the Western Australian Planning Commission (WAPC) for determination. The application constitutes works by a public authority and as such is exempt from determination under Town Planning Scheme No. 2, but must be determined by the WAPC under the provisions of the Metropolitan Region Scheme.

An adjoining proposal put forward by the Southern Districts Support Association (SDSA) for a 'Home and Community Care Centre' was approved by Council at its meeting of 17 January 2005 (D1/1/05). The SDSA and the Police and Citizens Youth Club (PCYC) would share use of a proposed driveway.

### **DETAILS OF PROPOSAL**

The applicant proposes to relocate an existing 6m by 6m shed used by the Pigeon Club 3m to the rear (north) of the existing Armadale Arena facility. A new 35m by 7m (245m<sup>2</sup>) by 3.65m (wall height) shed would be constructed in between the Arena building and the building currently used by the Girl Guides, located 3m from each structure. The proposed shed would be used for the storage of a bus, climbing wall and general equipment for the PCYC. Access would be via a driveway from Millman Way, a road that is internal to the Gwynne Park complex.

As part of its resolution in relation to the SDSA proposal, Council included a condition relating to the redesign of the shared access point the currently proposed shed would utilise to incorporate a 12.5m turning circle. This would allow use of the driveway by longer vehicles, as is proposed, but would also require the SDSA to move one of their buildings further south.

### **COMMENT**

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

At its meeting of 10 February 2005 DCU recommended approval of the application but noted that the capacity of the fire exits from Armadale Arena would be restrained by the proposed location. This issue could be addressed at the Building Licence stage.



### *Community Groups*

Correspondence has been sent to the user groups that have facilities in proximity to the proposed storage facility inviting their comments on the proposal. Follow up telephone conversations were held with each of the four groups to gauge their initial response, and meetings with the groups were held on 10<sup>th</sup> and 11<sup>th</sup> February 2005. The following comments are made in relation to the discussions that have been held between the Community Services Directorate and user groups:

#### *Southern Districts Support Association (SDSA)*

The SDSA expressed some concern with Council's Resolution (8/1/2005) for the combined access to covered trailer bus bays and Armadale Arena to be redesigned to accommodate a 12.5m turning circle, but did not have any issues with the storage facility itself. In a meeting with the Chief Executive Officer of SDSA and the architect for SDSA's development proposal, the architect advised that it would be possible to alter the current plans in order to accommodate Council's request for proper access to the new storage facility. A written response is expected from SDSA within the next few days.

The 12.5m turning circle required to accommodate the use of the storage shed by a bus has been included as a condition in the SDSA approval. Besides the joint access from Millman Way, there will be no other significant impact on the SDSA as a result of the proposal.

#### *Armadale Girl Guides*

The Armadale Girl Guides did not have any major concerns with the proposed location of the storage facilities but reiterated some concerns with SDSA's proposal. The Girl Guide's comments are noted.

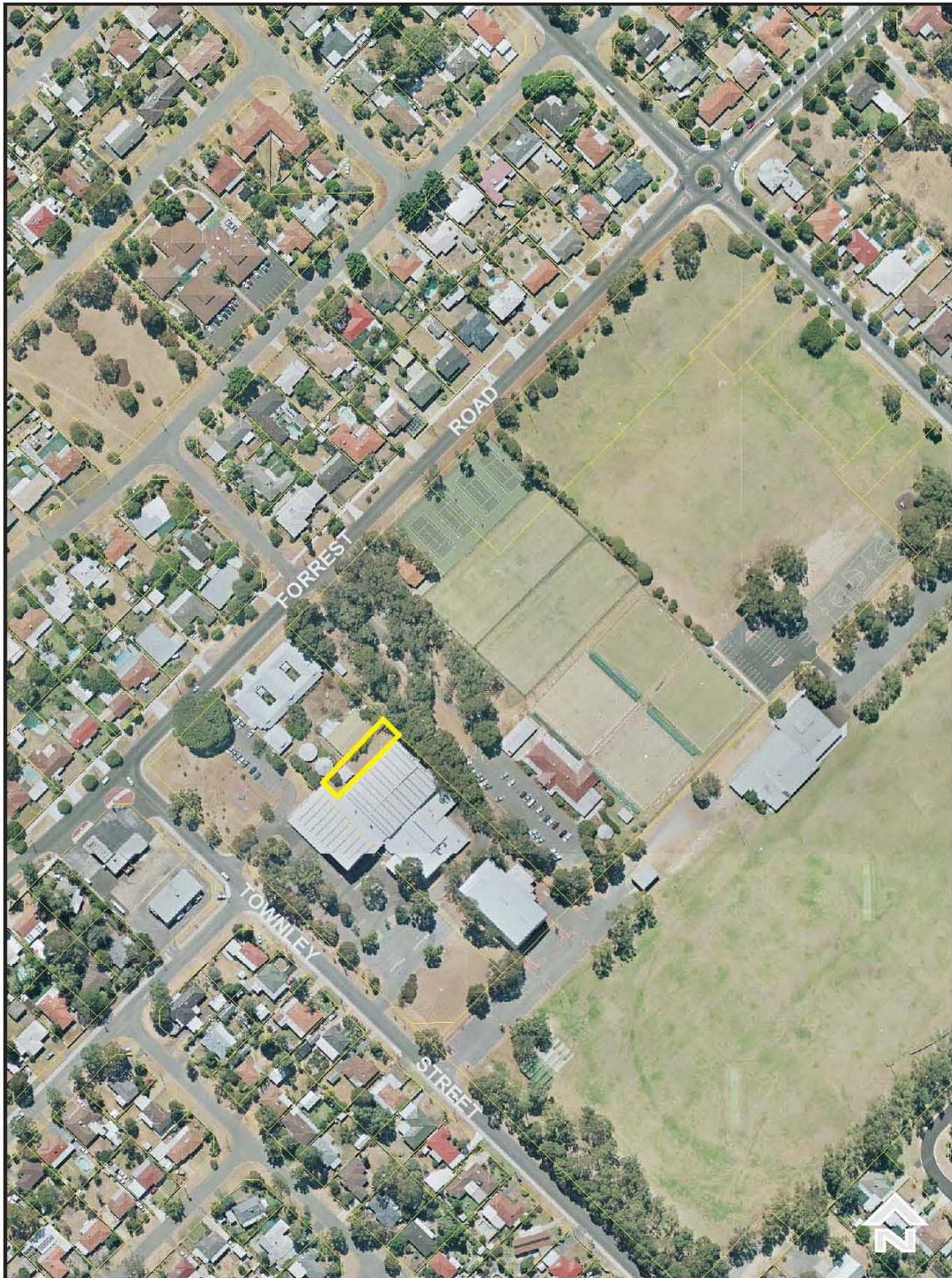
#### *Armadale Bowling Club*

The Armadale Bowling Club did not have any concerns with the proposal and did not believe that it would adversely affect the club. The Bowling Club's comments are noted.

#### *Armadale Tennis Club*

The Armadale Tennis Club did not believe that the proposal would adversely affect the club's current use of the tennis facilities. The Tennis Club's comments are noted.

Each of the user groups have been invited to make comment in writing by 17<sup>th</sup> February 2004 should they wish to put forward any issues or concerns related to the proposal. Based on their initial response however, it is unlikely that the groups will express any major concerns with the proposal.



**AERIAL PHOTOGRAPH  
LOT 21 TOWNLEY STREET, ARMADALE.**

## **ANALYSIS**

### ***Location / Fire Separation***

The chosen location for the proposed shed which is 3m distant from the side of the Armadale Arena building affects a number of Arena fire exits. The 3m wide ‘corridor’ that the proposed shed will create with the nearby Arena building will channel patrons in a certain direction in the event of an emergency evacuation. Therefore, the aggregate number of people the fire exits cater for must be considered, rather than each exit being assessed individually. At the time of the report being written, it is uncertain as to the effect this would have on Arena patronage levels, as plans detailed enough to assess this have not been provided.

If Council is comfortable with the proposed location of the shed restricting the number of visitors the Armadale Arena may have, then the issue can be addressed after approval of the development application (at the Building Licence stage).

### ***Outbuildings Policy***

The proposed shed exceeds the maximum 3m wall height and 4m apex height requirement of Council’s Outbuildings Policy. As this is necessary due to the need for clearance to store the bus, the height variation is deemed to be appropriate.

### ***Residential Design Codes of Western Australia (RD-Codes) and draft Town Planning Scheme No. 4 (TPS No. 4)***

The RD-Codes specify outbuildings in residential areas are not to exceed 60m<sup>2</sup> floor area, 2.4m wall height and 4.2m ridge height. The shed is situated in a Residential zone and it exceeds all these requirements. However, the surrounding buildings are not residential in nature and it is believed that varying these requirements would not detract from the amenity of the area. It is also noted that the subject land is proposed to be rezoned to Parks and Recreation (Local) as part of draft TPS No. 4.

### ***Colours / Materials***

No details with respect to the colour of the Colorbond metal sheeting to be used have been supplied. Any recommendation for approval to the WAPC should include a condition stipulating a colour / material should be submitted to complement the existing structures on site.

### ***Driveway / Access***

For the proposed storage shed to be used by bus / truck and trailer (combination) vehicles as proposed, a 12.5m turning circle is required for the driveway where it intersects with Millman Way. Technical Services have also advised that a straight driveway is preferable to that originally proposed by the SDSA. As such the proposal would require the SDSA to modify their layout slightly and this was taken account of in Council’s January resolution regarding the SDSA ‘Home and Community Care Centre’. As previously indicated, the SDSA are investigating options for revision of the layout with a formal response forthcoming.

Any approval recommended to the WAPC should include a condition with regard to the driveway from Millman Way to the proposed shed being constructed to the satisfaction of the Executive Director Technical Services.

### ***Storm Water Disposal***

Any approval recommended to the WAPC should include a condition with regard to storm water disposal being to water sensitive design principles to the satisfaction of the Executive Director Technical Services.

### ***Amenity / Streetscape***

The proposed shed will not be very visible from Forrest Road and once the SDSA buildings are constructed, will be very difficult to see. It will be visible from Millman Way, an internal road, and will present a 7m wall incorporating a door to those passing. Given the shed will be setback in accordance with the existing Arena building, the proposed shed is unlikely to have an impact upon the amenity of the area.

The other smaller shed to be relocated and used by the Pigeon Club will be screened somewhat by existing trees on site, so although it will be visible from Millman Way, its size and location should negate any minimal impact.

No details have been provided as to the proposed colours of the Colorbond for the proposed shed. It is therefore recommended that a colour schedule for the proposed shed that complements the existing structures on site be submitted.

## **OPTIONS**

1. Council can recommend that the WAPC approve the application for the relocation of an existing shed and construction of a new shed on the application site subject to appropriate conditions.
2. Council can recommend that the WAPC refuse the application for the relocation of an existing shed and construction of a new shed on the application site if it is of the opinion the variations to the Outbuildings Policy and the RD-Codes should not be granted and the fire separation issue cannot be adequately addressed.

## **CONCLUSION**

Council must be satisfied with the location with respect to its potential impact on the maximum patronage of the Armadale Arena. Without adequate plans to assess and advise Council fully in this regard, Council would essentially be agreeing that the matter can be addressed separately.

The location of the proposed shed in the Gwynne Park complex of non-residential uses gives reason to consider relaxing the requirements of the RD-Codes and Council's Outbuildings Policy with respect to floor size, wall and roof heights. The use of the shed for the storage of a bus and equipment associated with the PCYC is also considered to be appropriate for the area. In this regard it is recommended Council recommend conditional approval of the shed to the WAPC in accordance with Option 1.

*Planning Services Manager updated COMMITTEE on the proposal to relocate an existing 36m<sup>2</sup> shed used by the Pigeon Club to the rear of the existing Armadale Arena facility. A new 245m<sup>2</sup> shed would be constructed in between the Arena building and the building currently used by the Girl Guides, located approximately 3m from each structure. The proposed shed would be used for the storage of a bus, climbing wall and general equipment for the PCYC. The proposal has been advertised and correspondence has been sent to the user groups that have facilities in proximity to the proposed storage facility inviting their comments on the proposal. The Manager Recreation Services had discussions with relevant Community Groups and Clubs as reflected in the report. To date no written objections have been received.*

**D23/2/05            RECOMMEND**

- 1. That Council recommend the Western Australian Planning Commission approve the application for the proposed relocation of an existing shed and construction of a new shed at Part Lot 21 Townley Street, Armadale, subject to the following conditions:**
  - a) A schedule of colours and textures of external materials to be used that complements the existing structures on site. The development is to be completed and maintained in accordance with the approved schedule.**
  - b) The driveway indicated on the site plan is to be constructed to the satisfaction of the City.**
  - c) Storm water design to be to water sensitive design principles to the satisfaction of the City.**
- 2. That the Western Australian Planning Commission be requested to advise the applicant that a Building Licence is necessary for the proposed development.**

MOVED Cr Knezevich  
MOTION CARRIED (7/0)

***COUNCILLORS' ITEMS***

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*Cr Hodges*

**1. Water Tanks – Pt Lot 21 Townley Street, Armadale**

Cr Hodges reported on the condition of the two water tanks located at the Gwynne Park complex and requested that the Technical Services Directorate consider the potential future removal of the tanks to improve surveillance of and the access of the Girl Guides building. It was requested that the necessary notation be included on current plans to this effect.

**D24/2/05            RECOMMEND**

**That the item regarding the condition of the water tanks located at Pt Lot 21 Townley Street, Armadale be referred to the Technical Services Directorate for investigation and appropriate action as warranted.**

*Cr Hart*

*Cr Hart, as a representative on the Araluen Botanic Park Foundation Board, reported to COMMITTEE that the WA Planning Commission had approved the commencement of negotiations to purchase additional surrounding land in order to increase their parking facilities, thus alleviating the annual traffic congestion on Croyden Road, and expressed concern that announcements were being made prior to any consideration by Council.*

***EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORTS***

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Nil.

**MEETING DECLARED CLOSED AT 8:07 PM**

| <b>SCHEDULE OF SUBMISSIONS<br/>TOWN PLANNING SCHEME NO.2 AMENDMENT NO.199</b> |                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------|------------------------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NO                                                                            | NAME & ADDRESS               | AFFECTED PROPERTY                        | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1                                                                             | Shoreden Pty Ltd             | Owner of Lot 31 Armadale Road, Brookdale | <p>Supports the proposal</p> <ol style="list-style-type: none"> <li>1. Telecommunication infrastructure would complement other similar facilities which will be erected along the Tonkin Highway and Forrestdale Business Park and provide comprehensive telecommunication coverage in the locality.</li> <li>2. Lot 31 is of a commercial nature and is an appropriate location to accommodate telecommunication infrastructure.</li> <li>3. There is a growing need for such infrastructure.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2                                                                             | Gazebo Management Pty Ltd    | Lot 4 Lake Road, Forrestdale             | Supports the proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 3                                                                             | Main Roads Western Australia | Armadale Road                            | No objections.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 4                                                                             | Water Corporation            | N/A                                      | <p>No objections and reiterated its previous advice with respect to Golf Course Village development proposal. A summary of WC's previous advice is summarised below:</p> <ol style="list-style-type: none"> <li>1. Upgrading of existing water mains is the responsibility of the developer</li> <li>2. A portion of the site falls within a 100m buffer of a Water Corporation's Cathodic Protection Bed facility which is designed to protect the DN760 water main from corrosion. This facility generates high electrical current that can cause damage to unprotected concrete footings and electrical equipment. WC recommends a Section 70a notice be imposed on the Certificate of Title to inform prospective purchasers accordingly.</li> <li>3. Further discussions will be required with the Armadale Redevelopment Authority and the Water Corporation to ensure orderly extension of reticulation mains to connect to the Balannup Waste Water Pump Station "1" located within</li> </ol> |

| <b>SCHEDULE OF SUBMISSIONS<br/>TOWN PLANNING SCHEME NO.2 AMENDMENT NO.199</b> |                                        |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------|----------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NO                                                                            | NAME &<br>ADDRESS                      | AFFECTED<br>PROPERTY | RESUMÉ OF SUBMISSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 5                                                                             | Armadale<br>Redevelopment<br>Authority | Brookdale            | <p>the Forrestdale Industrial Business Park. WC will not approve any temporary WWPS's to service the proposal development.</p> <p>4. The WC recommends that the proposed development be subject to the outcomes of the Water Cycle Plan being prepared by the Water Corporation.</p> <p>The ARA has provided two separate submissions of which the key issues raised are summarised below:</p> <p>1. Proposal is inconsistent with Statement of Planning Policy No.5.2 "Telecommunications Infrastructure".</p> <p>The ARA considers that the proposal has not adequately addressed any impacts on the landscape features of the site and surrounds, particularly the nearby regional open space reserves, Wungong Brook, views across the valley floor and those from the proposed golf course.</p> <p>2. Proposal may compromise future residential development within the locality and is consider to be premature prior to strategic planning and more detailed structure planning of the area being concluded.</p> <p>The ARA notes that through its strategic planning for the area, some residential development surrounding the proposed golf course village may come to be considered appropriate. The ARA also notes that separate in-principle approval is being sought for medium density residential development to the rear of Lot 31 and Lot 32, which would replace the previously proposed and approved Function Centre and Indoor Recreation Centre. In these respects the ARA considers that the proposed textual amendment may prejudice future planning for this area, where development more sensitive to the impact of telecommunications infrastructure may be considered more appropriate for the area.</p> <p>3. The proposal would be better located within the Forrestdale Business Park situated opposite the site, and which is likely</p> | <p>1. Supported. It should be noted however that the inclusion of telecommunications infrastructure as a discretionary use would provide Council with the power to determine the most appropriate location and design of such infrastructure on site at the development application stage.</p> <p>2. Supported. See 5 (1) above.</p> <p>3. Supported. The Forrestdale Industrial Business Park is situated directly opposite the subject site and is considered to be a more appropriated and practical location to facilitate such infrastructure.</p> <p>4. Noted.</p> <p>5. Supported. The proposal is considered to be premature as it pre-empts ARA' interim scheme and structure planning for the area.</p> <p>6. Supported. The proposal has the potential to adversely impact on the visual amenity of the golf course and its surrounds. It is difficult however to fully ascertain the potential visual impact of such infrastructure prior to the golf course being developed. Also see point 5 (5) above.</p> |

| <b>SCHEDULE OF SUBMISSIONS</b>                    |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                |
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| <b>TOWN PLANNING SCHEME NO.2 AMENDMENT NO.199</b> |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                |
| NO                                                | NAME & ADDRESS | AFFECTED PROPERTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | RECOMMENDATION |
| NO                                                | NAME & ADDRESS | RESUMÉ OF SUBMISSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | RECOMMENDATION |
|                                                   |                | <p>to be more suitable for the erection of telecommunication infrastructure.</p> <p>4. The proposal does not adequately address draft Armadale Redevelopment Scheme 2004 <i>Planning Policy 1.14</i>, which states that wherever possible, telecommunication towers should (inter-alia) be:</p> <ul style="list-style-type: none"> <li>• located away from the street and public spaces;</li> <li>• located with due consideration for adjoining uses and adjoining land owners;</li> <li>• located where their visual impact can be moderated by trees or other landscape elements;</li> <li>• co-located with other similar facilities wherever possible, including shared structures, to limit their proliferation.</li> </ul> <p>5. The ARA considers that Council's resolution to amend TPS No.2 has been made on grounds relating to previous commitments by the City on this site. The ARA requests the City not to advance any other discretionary uses given the area will shortly be under planning and development control of the ARA pending finalisation of the ARA Scheme for the Brookdale area.</p> <p>6. The location of any future telecommunication facilities on the site has the potential to adversely impact on the visual amenity of the locality and compatibility with possible future land uses as part of structure planning being undertaken by ARA.</p> |                |



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| REFER/NOTE: |              | IN: |
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Mr G Windass  
Coordinator Statutory Planning  
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Dear Glen

**City of Armadale Town Planning Scheme No 2, Amendment No 199:  
Addition of "Telecommunications Infrastructure" as a Permissible Use with  
Council Discretion in Special Use Zone No 76**

I refer to Council's advertising of the above Amendment and invitation for comments in respect of the same.

Further to the ARA's earlier comments provided under cover of letter dated 31 August 2003, the following comment is submitted for your consideration.

*Armadale Redevelopment Authority Statutory Role in Respect of Planning and  
Development Control*

In December 2003 the land subject of the Amendment was added to the Armadale Redevelopment Area by regulations made under the *Armadale Redevelopment Act 2001* (the "Act"). By virtue of that addition the land became subject to the ARA's planning and development control functions as provided under the Act. Notwithstanding that a redevelopment scheme was not immediately implemented for the area, the ARA is compelled under the Act to bring the area under such a scheme. A draft redevelopment scheme was prepared by the ARA for the area in September 2003 and has already been subject to public notification. Ministerial approval to the that scheme is considered imminent at the start of a new term of Government.

Having had the intent and statutory compulsion to bring the land under a redevelopment scheme, the ARA considers that in terms of planning and development control the City of Armadale has to some extent been a "caretaker" for the land since it became part of the Armadale Redevelopment Area. As such, the ARA considers Council's resolution to amend TPS No 2 has been made on grounds relating to previous commitments by the

City on this site. The ARA, given its pending planning and development control of the area, requests the City to not advance any other discretionary uses in Brookdale.

#### *Armadale Redevelopment Authority Strategic Planning*

The Armadale Redevelopment Authority commenced strategic planning for its Brookdale precinct, which includes the subject land, prior to Council's initiation of Amendment 199, and included the City of Armadale in that planning process from its outset. It has been the ARA's intention to ensure Brookdale is ultimately developed as a showcase for best-practice sustainable development and to that end the ARA has been conducting a comprehensive analysis of the area's opportunities and constraints. This has involved a review of current land use and zoning, including the long term suitability of the sites intended as the golf course and the golf course village.

In light of its review of strategic land use in the area the ARA previously advised Council that the timing of its recent approval to development at the Golf Course Village was considered to be at odds with the intent of the site's Special Use zoning ("*...to service the proposed adjacent golf course and to provide an entry statement to that facility*") as it is premature to development of the Golf Course itself. Changes to the land uses permitted on these sites at this stage creates a "moving feast" that complicates the analysis of the area's opportunities and constraints, and may ultimately compromise the ARA's best practice intentions.

#### *ARA and State Planning Policy*

The ARA's adopted Planning Policy 1.14 on *Telecommunications and Roof Mounted Structures* provides that, wherever possible, telecommunication towers should (inter-alia) be:

- located away from the street and public spaces;
- located with due consideration for adjoining uses and land owners;
- located where their visual impact can be moderated by trees or other landscape elements; co-located with other similar facilities wherever possible, including shared structures, to limit their proliferation.

The Western Australian Planning Commission's Statement of Planning Policy (SPP) No 5.2 provides various principles for the location, siting and design of Telecommunications Infrastructure. The SPP states that *telecommunication facilities should be designed and sited to minimise any adverse visual impact on the character and amenity of the local environment. In particular, impacts on prominent landscape features, general view in the locality and individual significant views.* The SPP states further that *telecommunication facilities should be designed to minimise adverse impacts on the visual character and amenity of residential areas and that unless it is impractical to do so telecommunications towers should be located within commercial, business, industrial and rural areas outside identified conservation areas.*

While the ARA recognises that there are local telecommunications infrastructure requirements to be met in the area, the use of the subject land for those purposes is considered not ideal given the suitability of the nearby Forrestdale Business Park for the same, and the opportunity for co-location with likely future infrastructure and development in that area.

The undeveloped nature of the subject land and adjacent areas provides a clear opportunity for the ARA's review of their strategic use. There are distinct possibilities that residential development and the conservation or enhancement of local landscape will be

deemed desirable for the area. The ARA is also cognisant of the landowner's stated interest in residential development of the area. In light of State and ARA planning policy, telecommunication towers could pose a problem for other land uses in the area if it is inappropriately sited. The ARA also considers that the proposal needs to address potential impacts on the area's landscape features, particularly the nearby regional open space reserves, the Wungong River, and the views across the valley floor and those from the proposed golf course.

The ARA considers the Amendment's intended purpose to allow telecommunications infrastructure on the site raises issues in terms of its compatibility with other possible land uses that may be deemed desirable through the ARA's strategic and structure planning for the area. It is therefore imperative that any development application for a communications tower must address public benefit and the future amenity of the area.

Yours sincerely



*per* John Ellis  
Executive Director

31 January 2005

R:/ARA/.../Amendment 199 Submission

