

CITY OF ARMADALE

MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 8TH JULY 2002, AT 7:00 PM.

- PRESENT:**
- | | |
|---------------------|----------------------------|
| Cr H A Zelones JP | Chairman |
| Cr F R Green | Deputy Chairman |
| Cr A L Cominelli JP | (Deputy for Cr G M Hodges) |
| Cr J D Cumming | (Deputy for Cr J Everts) |
| Cr J Knezevich | |
| Cr L Reynolds JP | |
| Cr R C Stubbs AM | |
- APOLOGIES:**
- | | |
|---------------|---------------------------|
| Cr G M Hodges | (Leave of Absence) |
| Cr J Everts | |
| Mr R S Tame | Chief Executive Officer |
| Mr L Fouché | Planning Services Manager |
- OBSERVERS:**
- | | |
|------------------|-------------------------------------|
| Cr D L Hopper JP | |
| Ms S Grebe | Planning Officer |
| Mr P Rosser | Planning Officer (7.00pm to 7.40pm) |
| Mr I Watt | Environmental Health Officer |
- IN ATTENDANCE:**
- | | |
|-------------------|---|
| Mr J H A Adderley | Executive Director Development Services |
| Mr I Townson | Building Services Manager |
| Mr P Meyrick | Health Services Manager |
| Mr J Hofland | Senior Planning Officer |
| Ms N Cranfield | Minute Secretary |
| Public | 9 |
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DISCLAIMER

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

DECLARATION OF MEMBER'S INTERESTS

Nil.

QUESTION TIME

Mr H Van Leeuwen – 112 Derry Avenue, Mt Nasura

1. In respect to the Child Minding Centre at Caroline Street, Mt Nasura, Mr van Leeuwen queried substantial levels of non-compliance with Town Planning Scheme standards, particularly setbacks and child care capacity ?

Executive Director Development Services responded, advising matters were still to be considered by Committee in the course of the meeting but Council is empowered to relax development standards in circumstances that it deems reasonable on planning grounds.

2. Mr van Leeuwen queried whether the number of children proposed to be accommodated was reasonable ?

Chairman responded that this would be an issue of discussion in the course of the meeting.

3. Mr van Leeuwen queried the adequacy of car parking proposed to be provided, indicating that the corner of Albany Highway and Caroline Street would be dangerous in respect to street parking associated with peak hour pick-up / set-down of children ?

Chairman again responded that this matter would be assessed in the course of Committee discussion.

Mr B Millard – 3132 Albany Highway, Mt Nasura

1. In respect to the Child Minding Centre at Caroline Street, Mt Nasura, Mr Millard queried whether Council was aware of the dangerous nature of the Albany Highway / Caroline Street intersection ?

Chairman noted the matter for consideration.

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the Development Services Committee Meeting held on 10th June 2002, were confirmed.

MOVED Cr Green
MOTION CARRIED (7/0)

ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.13/2002

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

- Report on Outstanding Matters – Development Services Committee
- Health Services Manager’s Report for May 2002
- Minutes – Brookdale Liquid Waste Treatment Facility Air Emission Concerns
- Pioneer Village Cinema – Air Conditioner Noise
- Planning Services Manager’s Report for May 2002
- Correspondence re Customer Service of Development Services Directorate
- PAW Closure Report – significant actions during May 2002
- Monthly Admin Report for May 2002
- Town Planning Scheme No.2 & No.3 – Amendment Table
- Subdivision Applications – Recommendation Table
- Building Services Manager’s Report for May 2002
- Financial Statements for the period ending 31st May 2002

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

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

WARD : ARMADALE
FILE REF : A3777
DATE : 25 June 2002
REF : SG
RESPONSIBLE : PSM
MANAGER
APPLICANT : Roberts Day Group
LAND OWNER : GR Gregson
SUBJECT : Property size 2491m²
LAND : Map 23.04
ZONING : Urban / Residential R15
MRS/TPS No.2

In Brief:-

- Application for Child Minding Centre to cater for up to 71 children.
- Town Planning Scheme limit of 30 children considered outdated in light of current market feasibility.
- Application complies with Policy requirements.
- Recommend approval subject to conditions to limit visual impact of development.
- *COMMITTEE recommended that the application be refused on the basis that the proposal does not comply with Town Planning Scheme standard provisions such as setback standards and maximum number of children to be accommodated in the Centre.*

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

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

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

Legislation Implications

Town Planning and Development Act 1928 (as amended)

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

Community Services (Child Care) Regulations 1988

Council Policy / Local Law Implications

Development Services Planning Policy 4.3.15 – Child Care Centres Policy

Development Services Planning Policy 4.3.2 - Highway Development Policy

Budget / Financial Implications

Nil

Consultation

- ◆ Development Control Unit
- ◆ Main Roads WA
- ◆ Department for Community Development
- ◆ Surrounding owners notified as required by Clause 7.2 of TPS No.2

DETAILS OF PROPOSAL

The application proposes development of a Child Minding Centre on Lot 14 (No.2) Caroline Street, Mount Nasura with associated play areas and car parking area. Details of the application are as follows:

- ◆ Number of children – maximum of 71 (up to 5 years).
- ◆ Number of staff – 12 (Staff are qualified in Childhood Education and undertake further ‘in house’ training at the ABC Early Childhood Training College.)
- ◆ Hours of operation – 7am to 6pm Monday to Friday.
- ◆ Access proposed off Caroline Street with no access to Albany Highway.
- ◆ The proposed centre is an ABC Learning Centre which provides high quality, affordable early childhood care and education with a range of programs and services including the following:
 - Development programs (eg. music programs, dancing lessons, excursions etc).
 - Holiday care and community involvement.
 - Child care ranging from long day care, to after school and holiday care for older children.
 - Before / after school pick up service.
 - Information on child care issues.
 - Centres planned to suit the needs and interests of small children, including computers in the pre-school class.
- ◆ The proposed building design is based on a design formula established by ABC.

COMMENT

Existing situation

The subject lot slopes down towards Albany Highway and is currently vacant and cleared of vegetation. Surrounding land uses comprise single residences.

Comments from other agencies

Main Roads WA

Main Roads WA has no objections to the development which proposes access off Caroline Street.

Department for Community Development

The Department advised that the role of the Child Care Licensing Unit is to monitor a centre's compliance with the Child Care Regulations which cover health and safety issues, building and physical environment, equipment, programming and administration.

Anecdotal advice from the Department supported the applicant's claim that ABC Learning Centres provide high quality child care.

Development Control Unit comments (DCU)

The DCU, at its meeting on 25 June 2002, recommended approval of the application subject to a reduction in the height of retaining walls which create a bulky visual aspect to Albany Highway not in keeping with the surrounding residential streetscape.

Results of Advertising

The proposal was advertised to surrounding landowners and a sign was placed on site. Six letters of objection were received from surrounding residents and one from a child care operator. Objections raised are analysed below:

	Statement	No. Submittees holding view
1	<p><i>Noise generated by children playing outside is likely to cause disturbance to surrounding residents. Additional noise may cause objectors' dogs to bark, creating further noise.</i></p> <p>The applicant has addressed the issue of noise as follows:</p> <ul style="list-style-type: none"> ◆ Only one third of children are outside at any one time, with infants remaining inside at all times. ◆ Outdoor playground activities are staggered throughout the day to minimise playground noise. ◆ Daily programs include a maximum of 3 hours outdoor playground activities. ◆ Buffer landscaping will attenuate noise. ◆ The proposed cut and fill earthworks will lower the rear play area to further minimise playground noise. <p>The application also proposes acoustic boundary walls and fencing between the two abutting residential properties to further attenuate noise. The site is also currently exposed to high traffic noise levels from Albany Highway. In a recent ruling by the Town Planning Appeal Tribunal on a similar application for a Child Minding Centre on the corner of Albany Highway/Ottaway Street, Kelmscott, the Tribunal ruled that the use would not create excessive noise due to existing high levels of traffic noise from Albany Highway (further discussed below).</p> <p>Additional activity on the site may cause dogs on surrounding properties to bark, however noise generated on site is not considered excessive.</p> <p>In light of the existing traffic noise levels and noise attenuation measures proposed by the applicant, expected noise created by the Centre is considered acceptable given the location of the site.</p>	4

	Statement	No. Submittees holding view
2	<p><i>Caroline Street/Albany Highway intersection is dangerous and proposed Centre will increase traffic risks to residents.</i></p> <p>Council's Technical Services Directorate advises that the intersection is not considered dangerous in terms of Main Roads WA 'Intersection Crash Ranking' report. In addition, the applicant submits that ABC's experience is that one third of clientele walk to the Centres and the arrival and collection of children is staggered throughout the day, therefore not creating safety issues normally associated with peak traffic congestion.</p>	6
3	<p><i>On site car parking is inadequate and parents will park in Caroline Street.</i></p> <p>The application complies with Council's Child Care Centres Policy which requires 20 car parking spaces (20 spaces proposed). On site car parking provision is considered adequate as not all clients will use cars and drop-off and collection of children is staggered throughout the day.</p>	1
4	<p><i>Proposal will devalue surrounding properties.</i></p> <p>Argument is not substantiated with reason or evidence to support claim.</p>	1
5	<p><i>Number of children proposed exceeds Scheme requirements.</i></p> <p>The site is considered capable of accommodating 71 children in terms of required building size, play areas and car parking. It is considered appropriate to relax Scheme standards in light of information provided in the 'Analysis' section below.</p>	1
6	<p><i>Child Minding Centre should be located in a commercial zone and properties were purchased on advice from Council that land was zoned 'Residential' and not 'Commercial'.</i></p> <p>TPS No. 2 makes provision for a Child Minding Centre in the Residential zone as a discretionary "SA" use.</p>	5
7	<p><i>Proposed location will endanger children due to proximity of highway.</i></p> <p>The applicant submits that children's safety has been addressed in the design through provision of suitable fencing and separation of play areas from car parking and traffic. Children's safety is not considered a matter of concern as safety standards are monitored by the Child Care Licencing Unit through Licencing Officers.</p>	3
8	<p><i>Existing centres are not full with many vacancies in almost every centre in Armadale and Kelmscott. A new centre will weaken current services to the community.</i></p> <p>In light of a recent ruling from the Town Planning Appeal Tribunal that "need" is not an appropriate planning consideration for private uses, this argument is not considered valid. This issue is further discussed below under the heading 'Determination of Town Planning Appeal Tribunal'.</p>	1
9	<p><i>A child care centre is being built just down the road in Kelmscott.</i></p> <p>The issue of market competition is no longer a relevant ground for consideration of applications as discussed in 8 above.</p>	1

Analysis

Highway Development Policy provisions

Council's Policy provides that land uses not provided for in the Policy may be considered if vehicle access can be provided from an alternative route. In this instance, access is proposed from Caroline Street and the Policy provisions could therefore be considered to be satisfied.

Proposed variations from TPS No. 2 requirements

Clause 7.6 provides for relaxation of TPS No.2 standards, providing the development is consistent with the orderly and proper planning of the locality and the non-compliance will not have an adverse effect upon the inhabitants of the locality.

The application proposes construction of a small portion of verandah 6.6m from the rear boundary in lieu of 7.5m as required by TPS No. 2. In light of the minor nature of the setback variation and the provision of screen landscaping, it is considered that the variation will not impact on the adjoining lot.

Maximum numbers of children

The application proposes to cater for up to 71 children which is a variation to the maximum prescribed number of 30 children. The applicant advises that up to 71 children are required as a critical mass for provision of high quality programmes and services by ABC Learning Centres.

Anecdotal evidence from the Department for Community Development and other Centre owners indicates that smaller services struggle to be cost effective in terms of satisfying the requirements of the Child Care Regulations and that approximately 50 children may be required for financially viable centres.

It appears that the standard in TPS No. 2 for a maximum number of 30 children may not reflect current market standards for financially viable centres. The standard is applied in the Residential zone only, with no restriction on numbers of children in rural and commercial zones. This suggests that careful consideration should be given to the impact of centres that propose more than 30 children in residential areas.

The subject site is zoned Residential R15 and is surrounded by single residences. The property has a relatively large area (2491m²) and is considered capable of physically accommodating 71 children in terms of required building size, play areas and car parking. Surrounding landowners have objected to the proposal on the basis of impact on the amenity of the area due to increased noise and traffic volumes/safety. It is acknowledged that the proposed development will intensify activity on and around the site, however the impact is considered acceptable as outlined in the analysis of submissions above.

In light of the appropriate design of the development in relation to the site and surrounding residential area, it is considered appropriate that Council relax TPS No.2 standards relating to maximum numbers of children. It also appears that the standard may require review. In this regard, it is appropriate that the issue be noted during the current Town Planning Scheme review.

Determination of Town Planning Appeal Tribunal

On 5 July 2002, Council received notification that the Town Planning Appeal Tribunal has upheld the appeal of Council's refusal of a Child Care Centre on the corner of Albany Highway and Ottaway Street, Kelmscott (D235/01 Council Minutes 17 September 2001).

With regard to Council's reason for refusal relating to non-compliance with the Policy in respect to the preferred minimum separation distance of 1.5km between new and existing centres, the Tribunal has found as follows:

“ “Need” is not an appropriate planning consideration for private uses and has discounted the requirements for the applicant to prove the “need” for a particular commercial facility through market surveys. Hence, the Tribunal does not accept that Sections 2.1.3 and 2.6.3 of the Policy, that focus on a perceived “need” for a facility and consequent mechanisms to control the distribution of the facility, as either proper planning considerations or valid reasons for refusing the proposed application.”

As a result of the Tribunal's determination, it is no longer appropriate that Council apply Clauses 2.1.3 and 2.6.3 of its Child Care Centres Policy relating to a 1.5 km separation distance between centres and the requirement for a demographic demand analysis to establish the need for a new centre. It is intended that the Policy will be amended to be consistent with the Tribunal's ruling during the current review of Council's Policies. Clause 2.6 (Contents of Applications) also requires amendment to delete reference to market need. Other aspects of the Policy remain relevant.

The Tribunal also determined that neither the Child Minding Centre or Physiotherapy Consulting Rooms (which was approved by Council) are *“considered...to be at risk of producing noise at levels potentially disruptive to the amenity of surrounding areas. The amenity of the area is already influenced by its proximity to Albany Highway which is a major regional road and carries significant volumes of traffic with an associated high level of traffic noise”*.

The Caroline Street site is subject to similar traffic noise from Albany Highway and it would therefore be difficult to argue against the application on the basis of impact on amenity of the surrounding area due to noise generation.

Compliance with Child Care Centres Policy

The proposal has been assessed according to Council's Policy 4.3.15 on Child Care Centres and generally complies with the provisions of the Policy as follows:

Section 2.1 – Suitable Locations

The corner site is centrally located in Mt Nasura on the public transport route of Albany Highway as preferred by the Policy. Corner sites are also preferred locations in the Residential zone. The Policy prefers locations on local distributor roads to major roads adjacent to non-residential land uses, however the site is considered appropriate in light of the proposed access off Caroline Street and proximity to Albany Highway which limits through traffic in the residential area.

Section 2.2 – Site Characteristics

The Policy prefers sewered sites of a regular shape with level topography and of a sufficient area to accommodate parking, access, servicing and play areas, with a minimum area of 800m². The subject lot is a regular shape, however the land slopes down towards Albany Highway. The subject lot has access to deep sewerage and has an area of 2491m² which is considered adequate to accommodate all aspects of the development.

Should Council approve the proposal, conditions of approval should be imposed to require a detailed earthworks plan, limiting the height of retaining walls to a maximum of 2m. Such restriction, coupled with the proposed provision for a 1.5m landscaping strip that would enable visual screening of the retaining wall, is considered sufficient to maintain the visual aspect of the development at an appropriate scale within the existing residential streetscape.

Section 2.3 – Car Parking and Traffic Management

The proposal complies with car parking and traffic management provisions of the Policy as discussed in the Response to Objection Nos. 2 and 3. There is adequate provision for landscape screening of car parking areas from both Caroline Street and Albany Highway. A landscape plan would be required for the site to ensure appropriate planting.

Section 2.4 - Building Design and Site Layout

The residential scale and design of the proposed building is considered consistent with the character of the existing residential streetscape. The facility has been designed to accommodate compliance with standards of the Child Care Regulations and a Licence to operate is dependent on satisfying those Regulations.

Section 2.5 - Building Design and Site Layout

Proposed hours of operation are 7.00am to 6.00pm Monday to Friday. Use of child care varies for individual family needs and early drop-offs of children would not apply to all enrolments. Issues of noise in regard to protection of residential amenity are addressed in the Response to Objection No. 1 above.

Section 2.6 - Contents of Application and Community Consultation Procedures

The advertising procedures have been undertaken in accordance with Scheme provisions.

Options

Option 1

Council may refuse the application on the following grounds:

- ◆ The proposal does not comply with TPS No. 2 provisions relating to maximum number of children.
- ◆ The proposal represents a departure from the existing residential, surrounding land uses.

Option 2

Council may relax TPS No.2 standards relating to the maximum number of children and rear setback requirements and approve the application on the basis that:

- ◆ The application complies with Policy provisions.
- ◆ The site is capable of accommodating the development and use without detriment to the surrounding residential area.

CONCLUSION

Notwithstanding that TPS No. 2 standards relating to maximum numbers of children and rear setbacks require relaxation, it is considered that the development of a Child Minding Centre on Lot 14 Caroline Street, Mount Nasura is consistent with the orderly and proper planning and preservation of the residential amenity of the locality in accordance with Clause 7.6 of the Scheme. It is therefore recommended that the application be approved for the following reasons:

- ◆ The application satisfies the provisions of Council's Child Care Centres Policy.
- ◆ The rear setback variation is minor in nature and will not impact on the adjoining property.
- ◆ The concerns of surrounding residents have been adequately addressed with regards to noise, traffic and child safety issues.
- ◆ The proposal is designed to minimise impact on the surrounding residential streetscape.
- ◆ The lot is of a sufficient area to accommodate all facilities required in terms of the Child Care Regulations.

Officer's report recommends –

1. That for the purpose of this application Council, in accordance with Clause 7.6 of Town Planning Scheme No. 2, relax standards relating to maximum numbers of children and rear setback standards with regard to Child Minding Centres.
2. That Council approve the application for a Child Minding Centre for up to 71 children at Lot 14 Caroline Street, Mount Nasura, subject to the following principal requirements:
 - ◆ Prior to the issue of a Building Licence, a detailed earthworks plan to be submitted to the satisfaction of Council, indicating all retaining works and limiting the height of retaining walls along the Albany Highway frontage to a maximum of 2m.
 - ◆ A detailed landscape plan to be submitted to the satisfaction of Council, indicating species, density of planting, materials, paving and reticulation proposals and such plan to demonstrate:-
 - visual screening of retaining works and car parking areas from Albany Highway and Caroline Street.
 - acoustic attenuation of noise from outdoor play areas.
 - ◆ All landscaping to be installed and maintained to the satisfaction of Council.
 - ◆ Elevation plans depicting colour scheme and building material types relative to the external appearance of the development to be submitted to the satisfaction of Council.

3. That the current requirement of TPS No.2 which limits the number of children to a maximum of 30 be reviewed during the current Town Planning Scheme review.
4. That Council's Child Care Centres Policy 4.3.15 be amended to be consistent with the Town Planning Appeal Tribunal's ruling (131 of 2001) in respect to need or distribution of centres.

A revised report on this item was tabled before Committee.

Executive Director Development Services explained that the reason for the modified report was in consequence to a decision handed down by the Town Planning Appeals Tribunal in relation to a Child Care Centre cnr Albany Highway / Ottawa Street, Kelmscott. In that decision the Tribunal indicated that the City's Planning Policy 4.3.15 (Child Care Centres), Sections 2.1.3 and 2.6.3 which refer to "the need for a facility and the requirement for a 1.5km minimum separation distance between Centres", was not a reasonable or proper planning consideration.

As the previous report referred to these aspects of Policy 4.3.15, it was appropriate to modify the report in response to the Appeal Tribunal's decision.

COMMITTEE considered the application at some length and noted the following principal concerns:-

- ◆ *The overall scale of the proposed Child Minding Centre operation is substantially above the scale of activity contemplated in the District Planning Scheme as potentially compatible with residential areas;*
- ◆ *The notion of a threshold of commercial viability is acknowledged but should not dictate the scale of a Child Minding Centre in a residential context;*
- ◆ *It is possible that Child Minding Centres above the scale envisaged in the Town Planning Scheme (30 children maximum) might be better located in specially zoned sites;*
- ◆ *The proposed play areas are too close to adjoining residences generating the potential for unacceptable noise nuisance;*
- ◆ *Play areas adjoining Albany Highway would be vulnerable to potential traffic accidents.*
- ◆ *Overflow parking associated with peak times for pick-up, set-down would be dangerous in proximity of the Albany Highway / Caroline Street intersection.*

Based on the above concerns, COMMITTEE was of the view that the application should be refused.

D106/02

RECOMMEND

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

MOVED Cr Green
MOTION CARRIED (7/0)

PROPOSED CHILD MINDING CENTRE – LOT 15 CAMMILLO ROAD, KELMSCOTT

WARD : WESTFIELD
FILE REF : A110756
DATE : 25 June 2002
REF : PRR
RESPONSIBLE MANAGER : PSM
APPLICANT : Roberts Day Group
LANDOWNER : H Haworth & M Tate
SUBJECT LAND : Property size 4029m²
Map 22-07
ZONING : Urban / Residential 'R15'
MRS/TPS No.2

In Brief:-

- Proposal is for the development of a child minding centre for 99 children on a 2895m² portion of this site.
- Advertising yielded 10 submissions, consisting of nine objections and one letter of conditional support.
- Proposal would require variation to the child minding centre size provision of Town Planning Scheme No.2.
- Recommend that Council approve the application subject to appropriate conditions.
- *COMMITTEE recommended that the application be refused on the basis that the proposal does not comply with Town Planning Scheme standard provisions and that the proposed scale of the Child Minding Centre is inappropriate to the residential area.*

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

4.3.15 Child Care Centres Policy

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit
- ◆ Surrounding Landowners
- ◆ Department for Community Development
- ◆ Family and Children Services (Armadale)

BACKGROUND

Council received the application for a child minding centre on Lot 15 Cammillo Road, Kelmscott on 17 April 2002, with the application proposing variations to the requirements of the Child Care Centres Policy and Town Planning Scheme No.2. A 'Child Minding Centre' is an "SA" use under Town Planning Scheme No.2, which requires public advertising prior to determination by Council.

The Town Planning Appeal Tribunal has recently upheld the appeal against Council's refusal of a child minding centre on the corner of Albany Highway and Ottaway Street, Kelmscott (D235/01 Council Minutes 17 September 2001). With regard to Council's reason for refusal relating to non-compliance with the Policy, in respect to the preferred minimum separation distance of 1.5km between new and existing centres, the Tribunal has found as follows:

“ “Need” is not an appropriate planning consideration for private uses and has discounted the requirements for the applicant to prove the “need” for a particular commercial facility through market surveys. Hence, the Tribunal does not accept that Sections 2.1.3 and 2.6.3 of the Policy, that focus on a perceived “need” for a facility and consequent mechanisms to control the distribution of the facility, as either proper planning considerations or valid reasons for refusing the proposed application.”

As a result of the Tribunal's determination, received 5 July 2002, it is no longer appropriate that Council apply Clauses 2.1.3 and 2.6.3 of its Child Care Centres Policy relating to a 1.5 km separation distance between centres and the requirement for a demographic demand analysis to establish the need for a new centre. It is intended that the Policy will be amended to be consistent with the Tribunal's ruling during the current review of Council's Policies. Clause 2.6 (Contents of Applications) also requires amendment to delete reference to market need. Other aspects of the Policy remain relevant.

DETAILS OF PROPOSAL

The application proposes:

- ◆ The child minding centre to be constructed on a 2895m² portion of the site.
- ◆ The remainder of the site is to be subdivided into a new residential lot – Council's Planning Department recently provided a recommendation to the Western Australian Planning Commission that the subdivision be approved.
- ◆ The applicant submits that their client, ABC Learning Centres Ltd, is a specialist provider of high quality, affordable early childhood care and education, which now commands a highly respected position as the 'premier' provider of early childhood care in Australia.

Child minding centre details:

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

COMMENT

Development Control Unit (DCU)

At its meeting held on 20 June 2002, DCU recommended that the item be referred to Council for refusal, as it does not comply with Council's Policy because the applicant's demographic demand analysis does not clearly demonstrate the need for another centre in the area.

Since this time, the decision with regard to the appeal for a previous child minding centre has been determined, and the grounds for refusal as set out by DCU are no longer considered to have sufficient planning basis.

External Comments and Advice

The application was advertised to surrounding landowners for a period of two weeks, and a sign was erected on site for a period of 21 days. A total of ten submissions were received, consisting of nine objections and one letter conditionally supporting the proposal. Advice was also sought from the Department for Community Development and the Armadale office for Family and Children Services. The issues raised are addressed in the analysis section.

ANALYSIS

Submissions

The comments raised in the ten submissions from surrounding landowners and also those received from government agencies are analysed below:

	Statement	No. Submitters holding this view
1	<i>Proposal would jeopardise employment in smaller centres.</i> Argument is not substantiated with evidence to support claim. Concern is however noted.	2
2	<i>Current centres are not at full capacity so there is no demand for another centre.</i> A decision made by the Town Planning Appeal Tribunal recently means that the element of Council's Policy used to analyse demand for new centres (the demographic demand analysis) is no longer considered to have a planning basis.	4
3	<i>Proposal situated on a very busy corner, which could cause accidents.</i> The development will increase traffic using Cammillo and Westfield Roads, but Technical Services Directorate was of the view that the additional vehicle movements could be accommodated at the intersection. Should approval be given, the applicant could be required to demonstrate to the satisfaction of Council that any traffic issues resulting from their development can be addressed.	8
4	<i>An existing service is less than the prescribed 1.5km distance from the proposed centre, with no major barrier in between.</i> See comments for 2 above.	6
5	<i>Noise from the establishment (including alarms) and the associated traffic would be intolerable.</i> Some detrimental impact may result from the noise of the children playing. The applicant has outlined management procedures to reduce noise impact including, only one third of the children outdoor at any one time, playground activities to be staggered, 3 hours maximum outdoor play time per child and buffer landscaping to attenuate some noise. These measures are appropriate and should be implemented in the event of any approval. With regard to the potential for the security system to be repeatedly set off, this argument isn't supported by evidence to provide a planning basis for refusal. The concern with regard to traffic noise is also noted, but as Cammillo and Westfield Roads are local distributor roads, traffic flow is likely to increase over time regardless of the location of a child minding centre.	6
6	<i>Approval would devalue nearby properties.</i> This argument is not supported by evidence to provide a planning basis for refusal.	4
7	<i>Site would be inadequate to accommodate enough parking for the proposal.</i> As will be outlined in the following section, the applicant has provided more bays than required under Council's Town Planning Scheme No.2.	2

	Statement	No. Submittees holding this view
8	<p><i>The increased traffic and presence of children raises safety concerns.</i></p> <p>Fencing is required to be in accordance with the relevant regulations to keep children on the premises, and any approval should ensure that fencing is adequate. Once off site however, children are the responsibility of their parent or guardian. The only possible assistance that could be enforced is as per the comments for issue 3.</p>	3
9	<p><i>The proposal is in excess of prescribed maximum of 30 children per centre as outlined under Town Planning Scheme No.2</i></p> <p>This statement is correct, as Town Planning Scheme No.2 limits the number of children in a residential child minding centre to 30. Council can however take into consideration variations to such requirements based on Clause 7.6 of Town Planning scheme No.2. Anecdotal evidence from several sources suggests that the Town Planning Scheme's maximum of 30 provision is dated. It is therefore recommended that the number of children should be based on consideration of the individual merits of each application with respect to Clause 7.6.</p>	1
10	<p><i>Centre would be likely to attract crime, and the police agree this can happen.</i></p> <p>This argument is not supported by evidence to provide a planning basis for refusal.</p>	1

A letter of conditional support for the proposal was also received, offering no objection as long as Council could commit to slowing or managing traffic in that area, and ensuring that verge parking would not be allowed. A study could be undertaken in the event of any approval by the applicant to allay traffic concerns to the satisfaction of Council.

Submissions were also received from the Department for Community Development and Family and Children's Services, commenting on compliance with licencing provisions and associated regulations. Comments were made with regard to regulations for the wading pool, out-of-school-hours-care and the general design and layout of the centre, which was termed as 'very good', but no analysis with respect to how the application complies with these regulations was provided. It is recommended that the applicant be made aware of such regulations in the event of an approval being given.

4.3.15 – Child Care Centres Policy

Brief comments on specific elements of Council's Policy 4.3.15 are as follows:

Section 2.1 – Suitable Locations

2.1.3 – This policy requirement no longer carries any weight, in accordance with the recent decision made by the Town Planning Appeals Tribunal.

2.1.4 – The site is on a corner lot, being a preferred location, but is not adjacent to non-residential land uses, which is favoured in terms of Policy 4.3.15.

Section 2.3 – Car Parking and Traffic Management

2.3.1 – Car parking on site is adequate as outlined under policy requirements, which state that one bay for each ten children and one bay per staff member is required. Sixteen bays for staff are required and ten bays to meet the maximum number of 99 children proposed, representing a total of twenty-six bays. Twenty-seven bays are proposed on site, which exceeds the requirement.

2.3.2 – The site plan depicts landscaping around parking areas, which can be finalised with the submission of further details, including plant species and method of irrigation, as a condition of any approval.

2.3.3 – The layout of the car park provides one way access to the child minding centre, with the entry being from Westfield Road and the exit being to Cammillo Road. The layout is considered to be acceptable, however concerns have been raised in the public submissions regarding this aspect. It is therefore recommended that in the event of any approval a traffic analysis be undertaken to address these concerns to the satisfaction of Council.

Section 2.4 – Building Design and Site Layout

2.4.2 – Fencing details have been provided consisting of four different fencing types, including masonry pier and picket, masonry pier and screen, acoustic and rendered masonry fencing (as indicated on the attached plan). These fencing types are specific to individual areas of the centre, but the site plan does not detail locations. Any approval should specify that fencing details must also meet the required regulation standards as outlined by the Department for Community Development and Family and Children's Services.

Section 2.5 – Hours of Operation

2.5.1 – Operating hours would be from 7.00am to 6.00pm Monday to Friday. Council must be satisfied that these hours are acceptable in a residential area. The hours proposed allows sufficient time for parents going to work to drop children off, and the option of picking them up on the way home from work.

Section 2.6 – Contents of Applications

2.6.3 – See comments for 2.1.3 above.

Demographic Demand Analysis

The applicant has submitted details with regard to this element of Policy 4.3.15, which were considered by the City to be inconclusive in demonstrating the need for another child minding centre. Due to the recent decision made by the Town Planning Appeal Tribunal with regard to this particular element of Council's Policy, the demographic demand analysis details are now considered to be superfluous to the application, and the implication of such analysis must be disregarded.

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

A 'Child Minding Centre' is a discretionary "SA" use in the Residential zone under TPS No.2. All setbacks from property boundaries have been complied with, namely 7.5m front and rear setbacks and 3m side setbacks. Other provisions from the Residential Planning Codes of Western Australia, including a minimum 12m lot frontage and 50% site coverage have also been achieved, as required by TPS No.2.

The application proposes to accommodate 99 children, which is in excess of the maximum prescribed number of 30 children under TPS No.2. Clause 7.6 provides for relaxation of TPS No.2 standards, providing the development is consistent with the orderly and proper planning of the locality. Based on anecdotal evidence, a previous report for a child minding centre application outlined that the current requirement for a maximum of 30 children per centre does not allow centres to be financially viable. In this respect, Council may consider it appropriate to look at the proposal for a centre with capacity for 99 children, or a revised figure that would be considered "consistent with the orderly and proper planning of the locality".

In this respect, it has been acknowledged that some detrimental impact from noise may result. With the noise management procedures proposed, this would result in 33 children being outside the centre at any one time, with acoustic fencing provided to limit noise. The Town Planning Appeal Tribunal's recent decision with regard to a child minding centre outlined that due to ambient noise from Albany Highway, and a limestone wall proposed, the Tribunal stated that the wall would "satisfactorily restrict noise and visual impact". Granted, the ambient noise from Cammillo and Westfield Roads is not of the same magnitude as that produced by Albany Highway, but the number of children outside at one time would be significantly less than the 51 children proposed for the centre on Albany Highway and fencing should keep noise to an acceptable level.

With this in mind, Council may consider approving the application for a child minding centre with the capacity for 99 children on the subject site. Alternatively, Council could consider reducing the number of children in the centre to 71, which ABC Learning has indicated as their critical mass for a centre to be viable with the standard of care proposed within the operation.

It is also recommended that Council examine the provision for a maximum of 30 children per child minding centre as appropriate for the forthcoming Town Planning Scheme No.4. Alternatively, Council may want to reconsider stipulating a maximum number for centres, and assess each application on individual merit.

OPTIONS

Option 1

Council could approve the application for a child minding centre on Lot 15 Cammillo Road, subject to appropriate conditions with regard to traffic analysis, landscaping and regulations as required by the Department for Community Development and Family and Children's Services. In this regard, two centre capacities have been put forward, 99 or 71.

Option 2

Council could refuse the application for a child minding centre on the subject site, on the grounds that it remains unsatisfied the potential noise impact issue is addressed and the number of children proposed is unacceptable as outlined under Council's Town Planning Scheme No.2.

CONCLUSION

In conclusion, given the ruling of the Town Planning Appeal Tribunal, Clauses 2.1.3 and 2.6.3 of Council's Child Care Centres Policy relating to a 1.5 km separation distance between centres and the requirement for a demographic demand analysis to establish the need for a new centre are no longer applicable. This means that the main concerns with this proposal lie in noise generated by the centre and the maximum occupancy provision of Town Planning Scheme No.2. In this respect, the design elements of the application are all appropriate in terms of the necessary requirements and the concerns held in the submissions appear to be manageable.

It is therefore recommended that Council approve the application in accordance with Option 1 and a centre capacity of 99 children. Further to this, it is recommended that the provision of TPS No.2 to allow 30 children per centre be reviewed as appropriate.

Officer's report recommends –

1. That for the purpose of this application Council, in accordance with Clause 7.6 of Town Planning Scheme No.2, relax the standard relating to the maximum number of children with regard to Child minding centres.
2. That Council approve the application for a child minding centre for 99 children at Lot 15 Cammillo Road, subject to the following principal requirements:
 - ◆ A traffic analysis study to determine the existing and future traffic situations at the intersection of Cammillo and Westfield Roads is to be undertaken, and recommendations provided on appropriate management procedures to the satisfaction of Council.
 - ◆ The submission of a comprehensive landscape plan for all landscaped areas as indicated on the site plan to the satisfaction of Council. Such plan to include plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained to the satisfaction of Council.
3. That the applicant be advised of the need to comply with the regulations of the Department for Community Development and Family and Children's Services as necessary.
4. That the provision for a maximum of 30 children per child minding centre in particular zones in Town Planning Scheme No.2 be reviewed as appropriate in Town Planning Scheme No.4.
5. That Council's Child Care Centres Policy 4.3.15 be amended to be consistent with the Town Planning Appeal Tribunal's ruling (131 of 2001) in respect to need or distribution of centres.

Executive Director Development Services tabled new report in place of that in original agenda and explained circumstances as per previous item dealt with by COMMITTEE.

COMMITTEE viewed this proposal as similar in principle to the Caroline Street Child Minding Centre application and identified unsatisfactorily resolved issues as indicated in the recommendation below, i.e.:-

- ◆ *inappropriate scale;*
- ◆ *parking and traffic concerns; and*
- ◆ *noise nuisance;*
- ◆ *traffic safety.*

Based on the above concerns, COMMITTEE was of the view that the application should be refused.

D107/02 RECOMMEND

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

MOVED Cr Reynolds
MOTION CARRIED (7/0)

WHITE COLORBOND ROOF – LOT 19 (25) BANYARD AVENUE KELMSCOTT

WARD : KELMSCOTT

FILE REF : A80137

DATE : 1 JULY 2002

REF : IT

RESPONSIBLE
MANAGER : BSM

APPLICANT : S & S MILLER

LANDOWNER : S & S MILLER

SUBJECT LAND : Lot 19 (No.25) Banyard Avenue Kelmscott
Property size 998m²; Map 22.07

ZONING

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

In Brief:-

- Proposal to construct a residence, utilising white “Colorbond” roof sheeting materials.
- Application advertised, one objection received.
- Recommendation for approval on the basis of no significant adverse impact on the adjacent properties.

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
Metropolitan Region Scheme
Town Planning Scheme No.2

Council Policy / Local Law Implications

Policy 4.5.19 Use of Zincolume Roofing Materials on Residences within Residential Areas.

Budget / Financial Implications

Nil.

Consultation

The proposal was advertised to six (6) neighbouring property owners for comment.

BACKGROUND

Under the City's Town Planning Scheme No.2, a landowner requires Council's approval for a residence on land zoned for Residential purposes if proposing to utilise materials on the roof or walls which are highly reflective, or likely to cause glare.

As the applicant proposes to utilise "White Colorbond" coated materials for the roof sheeting, Council's determination is required.

DETAILS OF PROPOSAL

An application has been received from the landowners, requesting Council's approval to construct a residence on the lot utilizing "White Colorbond" coated roof coverings.

COMMENT

Consultation was undertaken with the adjacent landowners who may be affected by the proposed reflective roof sheeting. One (1) response was received objecting to the proposal on the basis that the white coloured roof sheeting would reflect the setting sun into their property.

Analysis

Officers have visited the site and consider that the proposal is unlikely to have an adverse impact on the adjacent properties given the prevailing site conditions. The objection received from a landowner adjoining the rear boundary of the applicant's lot expresses concern that a white roof on the applicant's home would reflect light into their backyard and windows.

It is considered that little, if any, light reflection would affect the properties to the rear of the applicant's land. An existing outbuilding on Lot 19 shields most of the property to the rear from the applicant's proposed residence.

In addition the roof pitch and configuration of the proposed residence is not likely to reflect light toward the property at the rear of the applicant's lot.

Options

In consideration of the above, it is believed that there are two options available to Council.

Option 1 – Approve the application to utilise “White Colorbond” coated roofing materials.

Option 2 – Refuse the application and invite the applicant to submit a proposal specifying the use of materials having a lower light reflectivity characteristic.

CONCLUSION

It is considered that the use of white “Colorbond” roof sheeting on the applicant’s residence would have negligible impact on adjacent properties. Other homes in close proximity to the proposed residence have been recently constructed with “Zincalume” sheeted roofs.

D108/02 RECOMMEND

That, on the basis that it is considered that there will be no significant impact on adjoining properties, approval be granted to the owners of Lot 19 (No.25) Banyard Avenue, Kelmscott to construct a residence on the lot using white “Colorbond” roof sheeting materials.

MOVED Cr Zelones
MOTION CARRIED (7/0)

ZINCALUME ROOF – LOT 511 (44) RUSHTON TERRACE, MT NASURA

WARD : ARMADALE
FILE REF : A164597
DATE : 1 July 2002
REF : IT
RESPONSIBLE MANAGER : BSM
APPLICANT : Commodore Homes
LANDOWNER : B Waterfield & J Oxford
SUBJECT LAND : Lot 511 (No.44) Rushton Tce, Mt Nasura
Property size 5779m²; Map 23.04
ZONING
MRS / TPS No.2 : Urban/ Residential

In Brief:-

- Proposal to construct a residence utilising “Zincalume” coated roof sheeting.
- Application advertised and objections received.
- Recommendation for refusal on the grounds of the likely adverse impact on the adjacent properties.

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
Metropolitan Region Scheme
Town Planning Scheme No.2

Council Policy / Local Law Implications

Policy 4.5.19 Use of Zincalume Roofing Materials on Residences within Residential Areas.

Budget / Financial Implications

Nil.

Consultation

The proposal was advertised to seven (7) neighbouring property owners for comment.

BACKGROUND

Under the City's Town Planning Scheme No.2, a landowner requires Council's approval for a residence on land zoned for Residential purposes if proposing to utilise materials on the roof or walls which are highly reflective, or likely to cause glare. As the application proposes to utilise "Zincalume" – coated materials for the roof sheeting, Council's determination is required.

DETAILS OF PROPOSAL

An application has been received from the builder, on behalf of the owners, requesting Council's approval to construct a residence on the lot utilizing "Zincalume" coated roof coverings.

COMMENT

Consultation was undertaken with the adjacent landowners who may be affected by the proposed reflective roof sheeting. Four (4) responses were received, two listing objections to the proposals with two not objecting. The concerns raised were in relation to the potential for glare and reflectivity if "Zincalume" coated material was utilised.

Analysis

Officers have visited the site and consider that the proposal is likely to have an adverse impact on the adjacent properties given the prevailing site conditions.

Options

In consideration of the above, it is believed that there are two options available to Council.

- Option 1 – Refuse the application and invite the applicant to submit a proposal specifying the use of materials having a lower light reflectivity characteristic.
- Option 2 – Approve the application to utilise "Zincalume" coated roofing materials.

CONCLUSION

Officers concur with the concerns expressed by the adjacent landowners about the potential glare impact if reflective roofing materials were used and therefore recommend that the applicant's request for approval to use "Zincalume" coated roof sheeting materials be refused.

D109/02 RECOMMEND

That Commodore Home's request for Planning Consent to allow the use of reflective roofing materials on the residence proposed to be constructed on Lot 511 (No.44) Rushton Terrace, Mt Nasura be refused because of the material's potential to adversely impact on adjacent properties due to its high light reflectivity characteristics.

MOVED Cr Zelones
MOTION CARRIED (7/0)

***NATIONAL CONFERENCE –
AUSTRALIAN INSTITUTE OF BUILDING SURVEYING - SYDNEY***

WARD : ALL
FILE REF : PSF/73
DATE : 11 June 2002
REF : IT
RESPONSIBLE : BSM
MANAGER

In Brief:-

- Report advising of a National Building Surveying conference being convened in Sydney in August 2002.
- Recommendation that approval be granted to the Senior Building Surveyor, Ms Hillel to attend at a cost of \$2,500.

Tabled Items

Conference programme and promotional information

Officer Interest Declaration

Nil.

Strategic Implications

- ♦ To foster an effective professional environment for the governance and administration of the City's services.
- ♦ To create a workplace where staff are innovative, confident and continue to learn.

Legislation Implications

Nil.

Council Policy / Local Law Implications

Policy 1.2.5. Conferences, Seminars and Training

Budget / Financial Implications

Costs calculated in accordance with Council's Policy 1.2.5, \$2,500, are accommodated within the 2002/2003 Draft Budget.

BACKGROUND

The Australian Institute of Building Surveyors convenes a bi-annual "National Conference" on a rotational basis in each State and the Northern Territory. The next conference is to be held in Sydney, in August 2002, and will focus on "Safe Buildings for this Century". A copy of the full programme will be tabled at the meeting. A précis of the programme:-

- ♦ Planning for Bushfires
- ♦ Community Impact of Disaster
- ♦ Is Fire Safety compromised in Heritage Building Upgrades?
- ♦ Ethics for Better Buildings (Keynote Speaker)
- ♦ Human Behaviour in Fire Safety
- ♦ Global Fire Safety: What does the future hold?

DETAILS OF PROPOSAL

It is proposed that approval be granted for the Senior Building Surveyor, Ms Hillel, to attend the next National Conference of the Australian Institute of Building Surveyors in Sydney, from the 12th to the 13th of August 2002, inclusive.

COMMENT

An opportunity to attend a National Conference would provide a valuable opportunity for professional development to an officer who makes a significant contribution to the local industry via her professional association. Ms Hillel convenes the local Chapter's "Codes and Regulations" committee. This committee has made a positive contribution to the recent discussion on the "Residential Design Codes" and the new "Energy Efficiency Measures" proposed by the Australian Building Codes Board for inclusion in the Code next January.

Options

1. Approve the attendance of Ms Hillel at the Australian Institute of Building Surveyor's "National Building Surveyors Conference" to be held in Sydney from the 12th to the 13th of August 2002.
2. Not approve the attendance.

CONCLUSION

On the basis of the excellent professional development opportunity provided by attendance at the National Conference, particularly at a time of significant regulatory change in this State, the following recommendation is considered to be appropriate.

COMMITTEE was of the opinion at the time that this matter may not need determination by Council and queried whether the item could be deleted from the Agenda.

Executive Director Development Services has reviewed Policy 1.2.5 and affirms the need for Council determination.

D110/02 RECOMMEND

1. **That approval be granted to the Senior Building Surveyor to attend the National Conference of the Australian Institute of Building Surveyors in Sydney from the 12th to the 13th of August 2002.**
2. **That the cost of attendance, \$2,500, be debited against Schedule 32 Building Control, Account 1544820 (Conferences Building Services).**
3. **That a report containing a Précis of the Conference Programme be prepared by the Senior Building Surveyor following the conference and be referred to the Development Services Committee in accordance with Policy 1.2.5.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

Planning Officer, Mr Paul Rosser left the meeting at 7.40pm and did not return.

COUNCILLORS' ITEMS

Nil.

HEALTH (SMOKING IN ENCLOSED PUBLIC PLACES) REGULATIONS 1999

WARD : All
FILE REF : HLT/10
DATE : 26 June 2002
REF : PM
RESPONSIBLE : HSM
MANAGER

In Brief:-

- The Department of Health has released a discussion paper seeking comment on operation of the *Health (Smoking in Enclosed Public Places) Regulations 1999*.
- WALGA has also sought input from member Councils for its own response.
- Recommendation that the Health Services Manager be authorised to respond to both organizations on Council's behalf.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Nil.

Legislation Implications

Discussion paper seeks comment on the *Health (Smoking in Enclosed Public Places) Regulations 1999*.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

Council's Environmental Health Officers.

BACKGROUND

The Department of Health has released a discussion paper seeking comment on operation of the *Health (Smoking in Enclosed Public Places) Regulations 1999* and Part IXB of the *Health Act 1911*, within which the head of power for the making of the Regulations lies. The Western Australian Local Government Association has indicated its intention of making a submission based on feedback from member Councils.

Specific matters upon which comment is sought include:

- ◆ effectiveness of the Regulations in protecting the community from environmental tobacco smoke in enclosed public places;
- ◆ effectiveness of the regulations in relation to compliance and enforcement provisions;
- ◆ whether an enforcement regime including use of infringement notices would assist in improve operation and effectiveness;
- ◆ evidentiary issues faced by prosecutors;
- ◆ rationale for exemptions from the Regulations; and
- ◆ whether the prohibition upon smoking in public places should be extended.

Analysis

Adverse health effects from exposure to environmental tobacco smoke are well documented and have been subject to consideration on several occasions in the past, most recently in connection with formulation of policy with respect to smoking in its own buildings.

While the Regulations purportedly seek to minimise such effects in enclosed buildings that are open to the public, there are significant difficulties in both enforcement and interpretation, largely caused by concessions made with respect to licensed premises during formulation of the Regulations. Chief among these are:

- ◆ the requirement that an Environmental Health Officer take reasonable steps to notify an occupier of his or her presence before taking any action in connection with the enforcement of the Regulations;
- ◆ interpretation of the term “enclosed public space” since an undefined term, namely “substantially enclosed”, is used within the definition;
- ◆ the application of the Regulations in certain rooms which are sometimes used for service of meals, given that exemptions apply in some cases in licensed premises provided that meals are not served;
- ◆ the definition of the term “meals” itself; and
- ◆ difficulty in both application and compliance with the exemption provisions generally.

Given that both the previous and current State Governments maintain that the Regulations are intended to minimise the health effects from exposure to environmental tobacco smoke, the principal of application of the prohibition in some cases only when meals are served is itself questionable. There is also the issue of whether application of the Regulations should be extended to include buildings such as boarding houses and non-enclosed public structures such as sports stadiums.

Options

Council may choose:

- ◆ not to respond to the discussion paper;
- ◆ to respond in full support of the Regulations as they now stand; or
- ◆ to respond suggesting amendments which would extend the scope of the Regulations, facilitate greater ease of enforcement, or both.

It is also may decide to forward its response only to the WA Local Government Association or only to the Department of Health.

CONCLUSION

In view of the difficulties in interpretation, enforcement and dealing with exemptions currently experienced, it is considered that a response suggesting broadening the application and simplifying the interpretation and enforcement of the Regulations is appropriate.

D111/02 RECOMMEND

- 1. That both the Department of Health and the WA Local Government Association be advised that Council believes the current Regulations are difficult to both interpret and enforce, and are insufficiently broad in their application to achieve their professed objectives.**

- 2. That the Health Services Manager be authorised to respond to each of the specific questions within the discussion paper on Council's behalf.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

REMOVAL OF RUBBISH – LOT 54 (18) THIRD AVENUE, KELMSCOTT

WARD : KELMSCOTT
FILE REF : A105335
DATE : 25 June 2002
REF : IW
RESPONSIBLE : HSM
MANAGER

In Brief:-

- Following complaints about the accumulation of rubbish at No.18 Third Ave, Kelmscott, an order was served on the owners to remove it.
- The owners did not carry out the work, which was subsequently completed by Council employees.
- Recommendation for action to be taken to recover all expenses incurred by Council in removing the rubbish.

LANDOWNER : C & HZ Mania & MK Rusiecki

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Nil.

Legislation Implications

Under the provisions Section 182 of the *Health Act 1911* an accumulation of rubbish may be deemed to be a “nuisance”, and under Section 184 if an order is served on the owner/occupier to abate the nuisance, and default is made in complying with the order, then the local government is obliged to cause the work to be carried out. Any expenses incurred shall be recoverable by legal action and until recovered remain a charge upon the land.

Council Policy / Local Law Implications

Clause 55 of the *City Of Armadale Health Local Laws 2002* prohibits the placement of any waste food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents.

Budget / Financial Implications

The cost to Council to remove the rubbish amounts to \$135.30.

Consultation

Nil

BACKGROUND

A complaint was received by Council's Health Department about an accumulation of rubbish and garden waste at N° 18 Third Ave. Kelmscott. The owners were requested in writing on two occasions to remove the rubbish. They were also advised that the accumulation of rubbish was an offence under the *Health Act 1911* and the City Of Armadale *Health Local Laws 2002*.

The owners did not remove the rubbish as requested and in fact added material, including used disposable nappies and have generally been uncooperative. The rubbish was therefore removed by Council employees. An account for costs incurred by Council has been sent to the owners.

OPTIONS

1. That no further action be taken other than to register the outstanding amount as a charge on the land.
2. That legal action be instigated to recover costs incurred if the account is not paid on time.
3. That legal action be instigated to recover costs (if not paid on time) and for failing to comply with the terms of a requisition issued under the provisions of Section 184 of the *Health Act 1911*.

CONCLUSION

In view of the lack of cooperation shown by the owners, it is considered that if the due amount is not paid legal proceedings for the recovery of costs and for failing to comply with the order ought to be instituted. If the account is paid however, the costs of legal action are likely to exceed any amount recovered through a fine and other penalties, and so such action is not recommended.

D112/02

RECOMMEND

1. **That if the account for \$135.30, being costs associated with removal of refuse from Lot 54 (HN18) Third Avenue, Kelmscott, is paid then no further action be taken.**
2. **That if the account is not paid by 26 July legal action be instigated against Czeslow and Hermina Zofia Mania and Marzena Katarzina Rusiecki to recover costs and for failing to comply with an order issued pursuant to Section 184 of the Health Act.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

VACANCY – WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION MEMBERS – COMMUNITY & INDUSTRY ADVISORY GROUP (STATE WATER QUALITY MANAGEMENT STRATEGY)

WARD : All
FILE REF : GOV/51
DATE : 27 June 2002
REF : HSM
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- WALGA is seeking nominations to fill positions on the Community & Industry Advisory Group (State Water Quality Management Strategy).

DETAILS OF PROPOSAL

Notification has been received from the Western Australian Local Government Association inviting Council to submit nomination/s for appointment of Western Australian Local Government Association Members – Community & Industry Advisory Group (State Water Quality Management Strategy).

QUALIFICATIONS	An Elected Member or Serving Officer with an interest in or knowledge of environment water resources.
TERM	The term of the appointment is two years.
COMMENCES	August 2002
CURRENT REPRESENTATIVE & REASON FOR VACANCY	This is a new committee and therefore there are no previous members.
MEETINGS	Meetings - 4 per annum Location - Metropolitan area Day/Time - To be advised Duration - Approx. 2 hours Meeting Fee - Nil
SELECTION CRITERIA	Nominee to address the following Selection Criteria:- <ul style="list-style-type: none"> ◆ To be a current Elected Member or Serving Officer; ◆ Availability of the applicant to undertake the responsibility; ◆ Relevant skills in the area; ◆ Demonstrated interest in the position; ◆ Capacity of the applicant to represent the interest of Local Government and the Association; ◆ Relevant experience and qualifications that are applicable to the position; ◆ Background knowledge of water resources.

TERMS OF REFERENCE	In February 2002 Waters and Rivers held a State Water Quality Management Strategy Forum. The Community and Industry Advisory Committee is being developed to review the content and application of the preparation of the NWQMX Australian Drinking Water Guidelines and a State Water Quality Implementation Plan.
COMMITTEE MEMBERSHIP	The Board will have representation from:- <ul style="list-style-type: none">◆ Environment and Water Resources Groups;◆ Water Providers;◆ Farming Interests;◆ Tony Laws (Waters and Rivers) Chair;◆ Chamber of Commerce and Industry;◆ Irrigation Representatives.

D113/02 RECOMMEND

~~That _____ be nominated by Council for the position of Western Australian Local Government Association Member – Community & Industry Advisory Group (State Water Quality Management Strategy).~~

Or

If there is no nomination at the Council Meeting of 15th July 2002 then the recommendation be as follows:-

That no nomination be made for the position of Western Australian Local Government Association Member – Community & Industry Advisory Group (State Water Quality Management Strategy).

MOVED Cr Zelones
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 15th July 2002 that no nomination be made for the position WALGA Member – Community & Industry Advisory Group (State Water Quality Management Strategy).

COUNCILLORS' ITEMS

Nil.

***PROPOSED REVISED SUBDIVISION GUIDE PLAN –
PART LOT 53 CHURCHMAN BROOK ROAD, BEDFORDALE***

WARD : ROLEYSTONE
FILE REF : A163973
DATE : 28 June 2002
REF : JRH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dykstra & Associates
LANDOWNER : Michael Garvey & Assoc.
SUBJECT LAND : Part Lot 53 Churchman
Brook Road, Bedforddale
Property size 7.0246ha
Map 25:03
ZONING : Rural/Special Use Zone
MRS/TPS No.2 No.82 – Rural Residential

In Brief:-

- Application proposes a revised Subdivision Guide Plan (SGP), depicting the creation of six lots over the undeveloped portion of Pt Lot 53.
- Proposed revised SGP design is consistent with the original SGP approved over the lot, with the inclusion of an additional lot. The overall yield is also less than the yield of 13 lots proposed within the currently approved SGP.
- Recommend that Council approve the revised SGP by Council without advertising, and forward the SGP to the Western Australian Planning Commission for its adoption.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

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

Legislation Implications

Town Planning & Development Act 1928 (as amended)
Town Planning Scheme No.2

Council Policy/Local Law Implications

City of Armadale Rural Strategy 1999

Budget/Financial Implications

Nil

Consultation

- ◆ Development Control Unit

BACKGROUND

Council has previously endorsed several Subdivision Guide Plans (SGP's) over Lot 53. The SGP over the site which has been acted upon was endorsed by Council in March 1999, and incorporated a yield of eight lots with areas of between 8500m² and two hectares. Three lots have been created from this plan, in the eastern portion of Lot 53.

Amendment No.162 to Council's Town Planning Scheme no.2 (TPS No.2) was also gazetted after approval by the Hon. Minister for Planning in March 2000. This amendment reduced the minimum area for lots outside the cluster lot area of Lot 53 from 2.0 ha to 1.5 ha. Council subsequently approved a revised SGP over the undeveloped portion in August 2001, which proposed the creation of 13 lots. The SGP consisted of eleven lots in a cluster formation with lot sizes ranging from 3500m² to 5900m², and two larger lots of 1.5 ha each fronting Churchman Brook Road. A 15 metre wide cul-de-sac off Churchman Brook Road was also incorporated within the design, to provide access to the cluster lots.

The landowner has not proceeded with the creation of lots as proposed within the later SGP, due to the costs of developing the lots in relation to the proposed design. A revised SGP has been submitted for Council's adoption, which is similar to that previously approved by Council with the exception of an additional lot.

DETAILS OF PROPOSAL

A new SGP received by Council proposes the creation of six lots over the undeveloped portion of Lot 53, consisting of three lots with direct frontage to Churchman Brook Road and three lots obtaining access from a shared battleaxe leg. All lots are 1.5 ha in area with the exception of a 1.0 ha lot.

The proposed lot sizes conform to the minimum lot size specified within the Special Use Zone No.82 provisions. A 40 metre wide landscape protection and revegetation area is proposed along the Churchman Brook Road frontage, and revegetation is proposed within the individual lots, in accordance with the Special use provisions.

COMMENT

Development Control Unit

The revised Subdivision Guide Plan (SGP) was considered by the Development Control Unit. The DCU recommended that the revised SGP be endorsed by Council, as it is consistent with the Special Use Zone no.82 requirements and with previous SGP's approved over the site.

Analysis

The proposed subdivision form is considered to have merit, as the subject site has few environmental restrictions limiting its development potential, and the form of subdivision proposed conforms to the zoning & objectives of Town Planning Scheme No.2 and the Draft Rural Strategy.

The lots proposed within the SGP will be connected to reticulated water, through the supply provided by Churchman Brook Estate, which accords with the requirements of the Health Department of Western Australia with respect to potable water supply.

The proposed battleaxe access leg is to be located approximately 30 metres from the junction of Churchman Brook Road and Waterwheel Road north, which is considered to be a satisfactory separation distance to avoid traffic conflicts, and also has good sight lines for safe access / egress.

Clause 5.2.2 of Council's Town Planning Scheme No.2 generally requires that Subdivision Guide Plans be advertised for public comment, prior to adoption by Council. However, the clause does note that minor departures from or alterations to the Subdivision Guide Plan may be permitted, subject to the approval of the Commission, if it is considered that the proposed departure or alteration will not prejudice the progressive development of the area.

The revised Subdivision Guide Plan is generally consistent with the SGP originally approved by Council over the site, with the exception of a reduction in lot sizes to create an additional lot to the rear of the site. The proposed yield of six lots over the undeveloped portion of the site is also considerably lower than the yield of 13 lots permitted under the current approved SGP, which will reduce traffic generation and impacts to rural amenity resulting from the subdivision of the site.

Based upon the above, it is considered that the revised SGP represents a minor alteration to the SGP originally approved by Council, and may be approved and forwarded to the Commission without advertising.

CONCLUSION

The revised Subdivision Guide Plan responds appropriately to site conditions, the provisions of Special Use Zone No.82 relating to the subject site, and accords with large scale structure planning undertaken by Council for the Bedforddale locality. It is also generally consistent with SGP's previously approved by Council for the landholding.

Given the above, it is recommended that Council approve the revised Subdivision Guide Plan, and forward the plan to the Western Australian Planning Commission for its adoption.

D114/02

RECOMMEND

- 1. That Council approve the revised Subdivision Guide Plan for Part Lot 53 Churchman Brook Road, Bedfordale, noting that it represents only a minor departure to the plan originally approved by Council in March 1999, and**
- 2. That the revised Subdivision Guide Plan be forwarded to the Western Australian Planning Commission for its adoption.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

LAND EXCHANGE FROM LOT 101 JULL STREET AND CONSTRUCTION OF 'LOCAL ROAD'

WARD : ARMADALE
FILE REF : A206171
DATE : 28 June 2002
REF : JRH
RESPONSIBLE : PSM
MANAGER
APPLICANT : City of Armadale
LAND OWNER : Dr H L Chua
SUBJECT LAND : Lot 101 Jull St, Armadale
Map 23.03
ZONING : Urban
MRS/TPS No.3 : Mixed Business/Residential

In Brief:-

- Council approved the development of a Showroom/Warehouse for 'Harvey Norman' at its April 2002 round of meetings, which includes the construction of a 'local road' extending from Jull Street to Church Avenue.
- The developer has been negotiating the acquisition of a small portion of Lot 101 Jull Street required for the road reserve, but has been unable to reach agreement on the matter.
- Recommend negotiation continue with the owner of Lot 101 to obtain the required portion of the lot. If agreement cannot be reached, the Department of Land Administration be instructed to commence compulsory acquisition procedures to obtain the land.

Tabled Items

- ♦ Site plan showing proposed land transfer arrangements.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Town Planning Scheme No.3
Town Planning & Development Act 1928
Land Administration Act 1997

Council Policy / Local Law Implications

Armadale Enquiry-by-Design Report

Budget / Financial Implications

- ♦ Potential costs associated with the acquisition of the subject portion from Lot 101 Jull Street for the road reserve, which is estimated to be between \$9000 - \$12000.

Consultation

- ♦ Technical Services Directorate
- ♦ Owner of Lot 101 Jull Street

BACKGROUND

Council's Town Planning Scheme No.3 (TPS No.3) incorporates a road linking Jull Street to Church Avenue, with the alignment reserved within TPS No.3 as a 'Local Road'. The 'local road' has been generally illustrated in this location since the gazettal of TPS No.3 in October 1985.

Council approved the development of a proposed Showroom/Warehouse and incidental Office on Lots 1, 24 – 27 and 100 South West Highway, and Lot 58 Church Avenue, at its April 2002 round of meetings. Associated with the development proposal is the construction of the 'local road', as identified in Council's Town Planning Scheme No.3, extending from Jull Street (adjacent to the Armadale Tourist Centre), behind the Town Hall and through the site to create a four-way intersection with Church Avenue and Prospect Road.

The majority of the works related to the construction of the 'local road' are to be undertaken by Broad Constructions (the proponent of the Showroom/Warehouse development), with Council responsible for the construction of the roundabout at the intersection of Jull Street and the proposed 'local road'. As part of these works, Broad had been negotiating to obtain a small portion of Lot 101 Jull Street, representing a triangular portion of approximately 74m², which was required to complete the road reserve.

The developer has been unable to reach agreement with the landowner on the acquisition of the road reserve portion, and has requested that Council initiate procedures to compulsorily resume the land.

DETAILS OF PROPOSAL

The proposed 'local road' has been designed as a full two way divided carriageway. The proposed alignment has been determined as it permits the retention of the Armadale Tourist Centre building in its current position, accommodates car parking associated with the proposed Showroom/Warehouse development, and creates a four-way intersection with roundabout at the junction of Church Avenue and Prospect Road. This road will become a public road once constructed, with management and maintenance being the responsibility of Council.

To construct the road in this alignment, a portion of land will be required from Lot 101 to be incorporated within the road reserve. The portion required represents a land area of approximately 74m², however the actual land area will not be determined until the width of the road pavement and pedestrian/cyclist pathway have been established. The ceding of this portion will not affect any existing buildings on site, and construction of the 'local road' will provide improved access for vehicles into Lot 101.

METHODS OF ACQUISITION

With respect to the desired acquisition of the road reserve portion from Lot 101, Council has presented the following options to the owner of Lot 101:

1. A land exchange involving equal portions of land from Lot 101 and the adjacent Right of Way (ROW); or
2. The acquisition of the subject portion from Lot 101.

Option 1 above involves a triangular portion of the ROW adjacent to Lot 101 being amalgamated into Lot 101, in exchange for the portion of Lot 101 required for the road reserve. This would be at no cost to the owners of Lot 101, and the portions being exchanged would be equal in size.

Option 2 involves the outright purchase of the portion of land required from Lot 101 for the road reserve, with the purchase price to be agreed following a valuation of the subject portion by a Licensed Valuer. Based upon recent land sales of lots adjacent to Lot 101, the value of the subject portion is estimated to be approximately \$9000 (at a rate of \$110 per square metre with a 10% solatium included).

Council's officers have written to the representative of the landowner, presenting the above options. A formal response has not yet been received, but discussions between Council's officers and the representative indicate that it is unlikely that agreement could be reached on either of the options presented. In the instance that agreement cannot be reached, the City may request that the Department of Land Administration (DOLA) obtain approval from the Minister for Lands for a compulsory land acquisition to obtain the subject land area.

Before contacting DOLA, Council's approval to resume the land is required. DOLA has also advised that to progress the compulsory taking of the land, Council must firstly indemnify the Minister for Lands and DOLA against all costs or claims arising from the proposed taking/dedication action. In addition to this, Council must also confirm that it has resolved to dedicate the land as a public street, pursuant to s.56 of the *Land Administration Act 1997*, before final taking action can be concluded.

COMMENT

Analysis

The portion of land required from Lot 101 for the road reserve includes a portion of the road pavement for vehicles travelling in a south-westerly direction along the road. The commencement of development works associated with the Showroom/Warehouse and 'local road' are imminent, but in the event that the portion of Lot 101 cannot be obtained prior to the completion of the development, full vehicular access will still be available from Church Avenue, and vehicles may also exit the development from a one-way access to Jull Street. Consequently, whilst it would be desirable to obtain the portion of land promptly, to permit full construction of the 'local road' as part of the development works, restricted access to Jull Street will not be a major impediment to the development in the short term.

Discussions with the owners of Lot 101 will be continuing, to attempt to obtain the subject land requirement either by a land exchange or purchase as noted previously. This method represents the most reasonable and timely method of obtaining the land to permit the full construction of the 'local road'. Should it become apparent that a reasonable acquisition value or exchange cannot be reached, the land may alternatively need to be obtained through the compulsory acquisition process.

In the event that the land needs to be acquired, the City will need to conclude arrangements with Broad Constructions, with respect to reimbursing costs associated with the land acquisition.

Options

Council may determine the subject matter in accordance with one of the following options.

1. Resolve to continue negotiation with the owners of Lot 101 Jull Street Armadale, to obtain the portion of land required for the ‘local road’ reserve. If agreement cannot be reached within 21 days from the date on which a formal offer to acquire the land is made, the City should request that DOLA commence the compulsory acquisition process to obtain the land.
2. Resolve to leave the matter of land acquisition for the ‘local road’ in abeyance, pending further discussions on the matter between the landowner and Broad Constructions.

CONCLUSION

The construction of the ‘local road’ from Jull Street through to Church Avenue, as indicated in Council’s Town Planning scheme No.3, will improve access into the Armadale Town Centre from Armadale Road, and is to be constructed as part of redevelopment works occurring in the eastern end of the town centre. The proposed alignment has been established to accommodate existing constraints and approved developments, and represents the least intrusive means of establishing the road link. It is recommended that Council determine the matter in accordance with Option 1 above.

Executive Director Development Services raised the issue of pursuing funding of the proposed land acquisition by the development proponent.

Accordingly a Part (4) was added to the Recommendation.

D115/02 RECOMMEND

1. **That negotiations be continued with the owners of Lot 101 Jull Street Armadale, to obtain the required portion of the lot for the proposed ‘local road’. If agreement cannot be reached within 21 days from the date on which a formal offer to acquire the land is made, the City shall request that DOLA commence the compulsory acquisition process to obtain the land required for the ‘local road’ reserve;**
2. **That in the event that Council proceeds with a compulsory acquisition claim through DOLA, Council indemnifies the Minister for Lands and DOLA against all costs or claims arising from the proposed taking/dedication action of a portion of the property known as Lot 101 Jull Street, Armadale;**
3. **That Council resolves to dedicate the land known as portion of Lot 101 Jull Street, Armadale as a public street, once taken, pursuant to Section 56 of the Land Administration Act 1997.**
4. **That Council advised Broad Constructions of its expectation that acquisition costs referred to in Part (1) should be borne by them.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

Cr Hopper left the meeting at 7.45pm.

***PROPOSED (6) SIX UNIT GROUPED HOUSING DEVELOPMENT –
LOT 2 (NO.13) THIRD AVENUE, KELMSCOTT***

WARD : KELMSCOTT

FILE REF : A103296

DATE : 25 June 2002

REF : EP

RESPONSIBLE MANAGER : PSM

APPLICANT : Dykstra & Associates

LAND OWNER : Portole Pty Ltd

SUBJECT LAND : Property size 2301m²
Map 22-06

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

In Brief:-

- The application proposes to establish a six (6) grouped dwellings development with associated car parking and landscaping after demolishing the existing house on site.
- The proposal generally satisfies the Group Housing Development Policy and is consistent with requirements of the Residential Planning Codes.
- Recommend approval subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Town Planning & Development Act (as amended)
Town Planning Scheme No.2

Council Policy / Local Law Implications

Grouped Housing Policy 4.3.13

Budget / Financial Implications

Nil.

Consultation

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

BACKGROUND

The subject site accommodates an existing residential building fronting Third Avenue. The application proposes to demolish the existing house and redevelop the property by constructing 6 grouped dwellings. The site directly abuts a 20 unit grouped housing development to the southeast.

DETAILS OF PROPOSAL

Details pertaining to the application include the following:

- ◆ Construction of six (6), three bedroom self contained grouped housing units after demolishing the existing residence;
- ◆ Units to be constructed of brick and “Colorbond” material;
- ◆ The front unit will have direct access off Third Avenue and the remaining five units will be accessed via an internal driveway;
- ◆ Residential and visitor parking will be accommodated on site;
- ◆ The existing large tree along the rear fence of the property is to be retained as part of the development;
- ◆ The design layout incorporates a sheltered gazebo and passive recreation area in a central location;
- ◆ “Colorbond” fencing to be erected along all perimeters (excluding front) of the site.

RESULTS OF ADVERTISING

The application was advertised for comments from the surrounding landowners for a period of 14 days. No submissions were received.

COMMENT

Development Control Unit (DCU)

DCU at its meeting on 25 June 2002 considered this application and recommended approval subject to compliance with Council’s Town Planning Scheme No.2, Policy for Grouped Housing and the Residential Planning Codes.

Analysis

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

Grouped Dwelling development is a discretionary use under Town Planning Scheme No.2. The Residential Zoning table of TPS No.2 stipulates that ‘Council may approve grouped dwelling development not exceeding a maximum of “R40”, where it is satisfied that the amenity of the locality will not be prejudicially affected’.

The prevailing residential density code of the subject site is “R12.5”. The applicant is requesting a density increase to a “R25” under the abovementioned provision of TPS No.2.

Residential Planning Codes (R Codes)

The development complies with setbacks, private open space and private and visitor car parking requirements in accordance with the “R25” density provisions of the R Codes.

Grouped Housing Policy (GHP)

Density Restriction and requirements

Council’s Grouped Housing Policy provides for a density increase of 10 units above the prevailing R – Code density applicable to the area under the Town Planning Scheme for grouped housing developments. This stipulation only allows a density of R 22.5 for this site. The Policy also stipulates Council will not recommend approval where an existing unit site is located on the same side of the street closer than 6 lots from the proposed development. The proposal exceeds both these requirements.

The Policy permits Council to waiver the above provisions provided that the following requirements can be satisfied:

- ◆ no reasonable objections are raised by abutting or nearby landowners;
- ◆ the development demonstrates a high correlation between the site and the locational requirements outlined in the Policy; and
- ◆ development will achieve a high quality design;

The Policy also states that in waiving this restriction, Council shall have regard to prevailing densities in the area. The subject site is located directly abutting a large grouped dwelling development site to the northeast. There are also a few more grouped dwelling sites in close proximity. Given this situation, the proposal is considered to be consistent with the existing density standards and zoning of the area and will integrate into the surrounding built environment.

Site and Location

The site is considered to be strategically located as it is situated within convenient walking distance (of approximately 250m) to public transport routes (bus / train stops) along Albany Highway and Railway Avenue, Kelmscott District Centre and Kelmscott Senior High School. This is generally consistent with the principles outlined in the Liveable Neighbourhood Design Codes.

Design Guidelines

The detail plans demonstrate a 30°-roof pitch and brick and “Colorbond” construction. The elevation plans reflect a satisfactory architectural design presenting a single residential development appearance from Third Avenue. All boundary fencing and internal dividing fencing are proposed to be constructed of “Colorbond” material. A detailed schedule of colours and textures of material will be required in order to ensure a high standard of non-reflective finish is obtained.

The landscaped, visually open frontage would contribute to the streetscape character while the 139m² communal open space will contribute to the internal amenity of the site. However, a comprehensive landscape plan will need to be submitted by the applicant as a condition of approval to the development.

The proposed driveways, car parking, manoeuvring and visitor parking provisions are provided in a practical manner and satisfy the Residential Planning Code requirements.

Affect of Right of Way (ROW)

The subject property abuts a ROW (which is a part of number pockets of ROW’s) located at the rear of the site, which was created many years ago to provide for a possible future road reserve connecting Cammillo Road with railway Avenue, Kelmscott. As it was unlikely that the proposal to create a road reserve at this location would go ahead, Council at its meeting in November 1999 resolved to request the Department of Land Administration to close those pockets of ROW’s not required by the Water Corporation for their sewer and water main purposes. Therefore this ROW does not affect the subject property.

CONCLUSION

The application is consistent with the provisions of the Residential Planning Codes and generally satisfies the requirements of Council’s Group Housing Development Policy, with the exception of provisions relating to the one in six lot locational criteria and the density increase. Nevertheless, it is considered appropriate to vary these requirements, as the proposal satisfies the relevant Policy requirements that would warrant such variations.

Given the present situation of the property the proposal will not only improve the visual appearance of the site, it will also contribute to the enhancement of the streetscape of Third Avenue. The lack of submissions to the advertising reflects that the proposal is acceptable to the surrounding property owners.

Consequently, it is recommended that the application be approved.

D116/02 RECOMMEND

That Council approve the application to establish a six grouped Dwelling Development on Lot 2 Third Avenue, Kelmscott subject to conditions including the following principal requirements:

- 1. Submission of a comprehensive landscape plan for the entire site and such plan being approved by Council. All landscaping to be installed in accordance with the approved plan and to be maintained thereafter to the satisfaction of Council.**

- 2. Submission of the colour scheme relative to the external appearance of the units and such submission be approved by Council. The development to be completed in accordance with the approved colour schedule and to be maintained thereafter to the satisfaction of Council.**

- 3. All property boundary fencing and internal dividing fencing to be of “Colorbond” material and in a colour scheme to complement the colours of the proposed units to the satisfaction of Council.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

***SHORT TERM YOUTH ACCOMMODATION –
LOT 67 (NO.3053) ALBANY HIGHWAY, KELMSCOTT***

WARD : KELMSCOTT

FILE REF : A66365

DATE : 25 June 2002

REF : EP

RESPONSIBLE MANAGER : PSM

APPLICANT : S Thomas

LAND OWNER : Drug Arm WA Inc.

SUBJECT LAND : Property size 1158m²
Map 22 – 05

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

In Brief:-

- The application proposes to increase the number of residents accommodated at this Council approved short-term accommodation facility from 4 to 8 persons.
- Four submissions of objections were received in response to the advertising.
- Recommend conditional approval for the application.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Town Planning & Development Act (as amended)
Town Planning Scheme No.2

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Surrounding landowners
- ◆ Community & Corporate Services

BACKGROUND

Council at its meeting on 21 June 1993 approved an application to utilise the existing dwelling on this property as Residential Accommodation, on an emergency and overnight basis, for “Neglected Youth”. The approval was conditioned to accommodate only a maximum of four (4) persons at one time.

In March 1995, Council received a letter from a neighbouring property owner of the subject lot raising concerns regarding the activities carried out from this premises. As a result of a meeting held between the operators of the facility and Council’s representatives, the matter was resolved satisfactorily.

DETAILS OF PROPOSAL

The applicant proposes to increase the number of residents accommodated at this ‘Residential Accommodation for Neglected Youth’ facility.

The applicant has provided the following details with regard to the application:

- ◆ Presently the facility provides accommodation for 4 people.
- ◆ The existing facilities will be increased to accommodate 8 people by making alterations to the internal arrangements.
- ◆ No external alterations are proposed to the existing residential building.
- ◆ The facility will be for young drug users between the ages of 12-18 years who will reside at the house for a minimum of two weeks to overcome their drug problems.
- ◆ A minimum of two staff members qualified/trained to provide assistance will be in attendance at all times (replacing previous ‘house parents’).
- ◆ No signage will be placed on site and the residential appearance of the building will be maintained at all times.

COMMENT

Development Control Unit (DCU)

DCU considered the application at its meeting on 25 June 2002. After consideration of the reasons for objections raised in the submissions, it was recommended that the proposal be approved, given the small number of objections received and as most of the concerns raised could be addressed as management issues.

Comments from Council’s Community & Corporate Services Directorate

During the assessment of the application, comments were obtained from the Community Development Department within Council’s Community & Corporate Services Directorate.

Officers within the department are aware of the application to increase numbers of persons accommodated within the facility, and consider the existing premises to be an ideal location, as it is in close proximity to the hospital and public transport routes. The staff employed at Drug Arm are highly qualified and skilled and can be expected to deal with issues of management and any possible effects on the community as they arise.

This service is considered essential and the department recommends that Council approve the extension of this service.

Results of advertising

The proposal was advertised to surrounding landowners for a period of 14 days.

No. of properties advertised -	30
No. of submissions received -	5 (two from the same household)
No. objecting to the proposal -	5

ISSUES ARISING FROM SUBMISSIONS

Anti-social behaviour

The comments made in the submissions relate to the concerns of the surrounding landowners regarding the use of the premises by drug users. It is contended that children living in this locality will be exposed to risk from youths living at this facility. The applicant has pointed out that the premises is only used for short-term rehabilitation programmes designed to assist youths with drug problems referred to them by various non-government agencies. Drugs and alcohol are not allowed on premises and full time supervision is provided to ensure the rules are abided by.

The submissions also suggest that problems such as groups of youths loitering in front of residential properties, smoking what appears to be prohibited substances sitting at the side gate of the facility, cigarette butts and syringes thrown into back yards, graffiti and stealing are associated with this facility. There is however, no evidence substantiating that the youths involved in these activities are the occupants of this facility. It is noted that Council has only received one complaint over the last seven (7) years regarding the activities at Lot 67.

Inappropriate location

Submissions have suggested that this activity should be located away from the residential areas. Concerns are also raised regarding its close proximity to the Kingsley Primary School. It should be noted that the facility is presently operating and the current application only involves the increase of the number of residents accommodated at the facility. As the purpose of this exercise is to help normalise youths with problems to fit in with the community, isolating them from the rest of the community would not assist in achieving this objective. "Drug use" is a wide spread community problem in the modern society which is not restricted by physical boundaries. The applicant has pointed out that this is an ideal location for the facility as the Armadale Kelmscott Health Services and public transport facilities are within walking distance.

ANALYSIS

Council has already approved the “Residential Building” use of the premises, and the current proposal is only to increase the number of residents accommodated at the facility. The definition of a “Residential Building” under Town Planning Scheme No.2 notes that such building is “*intended to be used for the purpose of human habitation temporarily by four or more persons; or permanently by seven or more persons; who do not comprise a single family*”. The proposal complies with such scheme definition.

It is considered that the facility is appropriately located in terms of being on a major highway to take advantage of public transport and being in close proximity to the Armadale – Kelmscott Health Services to obtain medical assistance if required in an emergency situation.

At a site inspection it was observed that the premises is well set-up to accommodate an increase in the number of residents with adequate facilities.

The majority of issues raised are considered to be capable of resolution by effective supervision and management.

CONCLUSION

The application involves the increase of the number of residents accommodated at this existing facility.

The “Drug Arm” organisation provides an important service to the community. On balance, it seems reasonable to allow the extension to such a use in an appropriate environment conducive to the facility.

Given the extent of advertising, the application appears to be acceptable to the majority of the residents in the locality.

COMMITTEE noted that the premises would be classified as a Class 3 building (Hostel) and would need to comply with relevant Building Codes of Australia safety requirements.

D117/02 RECOMMEND

That Council approve the application to increase the number of persons accommodated at this short term accommodation facility on Lot 67 Albany Highway, Kelmscott, from four (4) to eight (8) subject to conditions including the following principal requirement:

- ◆ **Only a maximum of eight (8) persons to be accommodated at one time.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

Cr Hopper returned to the meeting at 7.50pm.

PROPOSED PATIO ROOF - LOT 226 (No.8) SANCTUARY COURT, ROLEYSTONE

WARD : ROLEYSTONE
FILE REF : A214746
DATE : 27 June 2002
REF : GIW
RESPONSIBLE MANAGER : PSM
APPLICANT : Heritage Outdoor
LAND OWNER : L Boardman
SUBJECT LAND : Lot 226 Sanctuary Court,
Roleystone
Property size 2121m²
Map 27.04
ZONING : Rural / Special Use No.66
MRS/TPS No.2

In Brief:-

- Proposal to erect a combination flat and gable roofed 'Colorbond' patio on the existing residence.
- Proposed design does not comply with the Araluen Guideline and Covenants.
- Recommend approval of the application subject the patio being redesigned in accordance with the Araluen Guidelines and Covenants.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

Araluen Design Guidelines & Covenants

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Estate Architect (Grandeur Design & Construction Pty Ltd)

BACKGROUND

An approval was issued on 28 June 2001 to construct a residence on the subject property.

DETAILS OF PROPOSAL

Details pertaining to the application include the following:

- ◆ Erecting a combination flat and gable roofed patio (11.5m x 6m) to the southern side of the existing residence;
- ◆ The two 4m flat-roofed sections of the proposed patio are separated by a 3.5m gabled section with a 25 degree roof pitch to match the existing residence. (Refer to site plan);
- ◆ The proposed colour scheme includes: a smooth cream underside, light grey external finish and slate grey gutters.

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 27 June 2002 noted that the proposal poses minimal visual impact on the surrounding locality, but expressed concern that the proposal does not comply with the Araluen Guidelines and Covenants. It therefore recommended the application be refused on the grounds that the proposal may create a detrimental precedent within the estate.

Estate Architect (Grandeur Design & Construction Pty Ltd)

The Estate Architect is of the view that the proposal poses no impact on the visual amenity of the Estate and therefore has no objection to the proposal. The plans have been stamped and endorsed by the Estate Architect subject to no conditions.

ANALYSIS

Design & Visual Amenity

The gabled section of the patio matches the existing roof pitch at 25 degrees and complements the residence in terms of design. Although the flat roofed sections of the patio does not complement the existing roof pitch of the residence, it could be argued that the flat sections (in an appropriate colour scheme) will blend in with the guttering and walls of the existing residences, as the patio will be predominantly viewed from a side on profile. The central gabled section of the patio also provides a level of relief to the uniformity of the two flat roofed sections.

The slate grey (dark grey) gutters and smooth cream underside of the patio matches the existing slate grey roofed / trim and cream rendered walled residence. The proposed light grey roof of the patio (a standard unfinished coating on the underside of “colorbond” material) does not match the existing residence, however is unlikely to be visible on the flat section from any vantage point given the sloping topography. The roof of the gabled section would only be partially visible from the adjoining property as the pitch faces an east-west direction.

The patio is situated on the southern side of the existing residence and will not be visible from Sanctuary Court looking south, as it is hidden behind the main residence. The patio will also not be visible from the adjoining golf course to the east, as dense vegetation at the rear of the site provides adequate screening of the patio.

The patio will however be partially visible looking north from the end of Sanctuary Court and the adjoining vacant property to the south. (See photograph). The visibility of the patio is likely to be further obscured once the adjoining property is developed. The proposal is unlikely to adversely impact on the visual amenity of the adjoining property taking into account the owners have an opportunity to design / position a residence with living and outdoor areas that maximises an outlook towards the south.

Araluen Design Guidelines & Covenants

Section 9 of the Araluen Design Guidelines stipulates that roofs shall be constructed to a pitch of between 25 and 45 degrees. The gabled section of the proposed patio complies at 25 degrees, however the flat sections of the proposal fail to comply with this criteria. In this regard, the proposal does not comply with Clause 2 (a) of the Araluen Design Guidelines.

OPTIONS

The following options have been prepared for Council’s consideration:

- Option 1 - Council may approve the application subject to the patio being redesigned in accordance with the Araluen Design Guidelines & Covenants.
- Option 2 - Council may refuse the application on the grounds that the proposal does not comply with the Araluen Design Guidelines & Covenants, hence Clause 7.3.2 (c) of Town Planning Scheme No.2, and is therefore likely to establish an undesirable precedent within the estate.

CONCLUSION

Although the proposal poses minimal impact on the visual amenity of the surrounding locality, it contravenes the Araluen Design Guidelines and Covenants. There is concern that approval of the application in its current form will establish an undesirable precedent within the estate. It is therefore recommended that Council adopt option 1 above and approve the application subject to the patio being redesigned with appropriate roof pitching to match the existing residence, in accordance with the Araluen Design Guidelines and Covenants.

COMMITTEE noted that the role of the Estate Architect was essentially to advise compliance of plans with the design covenants, not to “approve” plans in substitution of the City’s responsibilities for determination.

D118/02 RECOMMEND

That Council approve the application to erect a patio roof at Lot 226 (No.8) Sanctuary Court, Roleystone subject to the following principal requirements:

- 1. Submission of a revised elevation plan to demonstrate compliance with the Araluen Design Guidelines and Covenants in terms of design and roof pitch to the satisfaction of Council.**
- 2. Submission of a colour schedule to match the existing residence to the satisfaction of Council. The patio is to be completed in accordance with the approved schedule to the satisfaction of Council.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

***PROPOSED 12 SINGLE BEDROOM DWELLINGS –
LOTS 3 AND 52 FORREST ROAD, ARMADALE***

WARD : WEST ARMADALE
FILE REF : A27747
DATE : 28 June 2002
REF : SG
RESPONSIBLE MANAGER : PSM
APPLICANT : Paterson Group Architects
LAND OWNER : Dept for Housing & Works
SUBJECT LAND : Property size 2142m² (after amalgamation); Map 22.03
ZONING : Urban
MRS/TPS No.2 : Residential R40 /
Local Road Reservation

In Brief:-

- Council previously refused application for 12 single bedroom dwellings.
- Applicant appealed Council's refusal.
- As a result of mediation through the Town Planning Appeals Tribunal, revised plans have been submitted.
- The revised plans and associated submission generally address Council's concerns as expressed in its reasons for refusal.
- Recommend that the revised plans be supported.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

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

Legislation Implications

Town Planning and Development Act 1928 (as amended)
Town Planning Scheme No.3
Residential Planning Codes

Council Policy / Local Law Implications

Council Policy 4.3.13 for Group Housing Development

Budget / Financial Implications

Nil

Consultation

- ◆ Development Control Unit
- ◆ Previously advertised to surrounding landowners – three letters and one petition with 26 signatures were submitted in objection to the proposal.

BACKGROUND

At its meeting of 18 February 2002, Council resolved as follows (D21/02):

That Council refuse the proposal for twelve (12) Single Bedroom Dwellings on Lots 3 and 52 Forrest Road, Armadale on grounds that the 50% density bonus for single bedroom dwellings under the R-Codes is unacceptable because:-

- ◆ *The site is exposed to high traffic volumes and traffic noise which impact on the amenity of the site.*
- ◆ *The overall number of units and disposition on the site will be sensitive to traffic noise and impact negatively on the Forrest Road and Abbey Road streetscape.*
- ◆ *The proposal represents an overdevelopment of the site incompatible with the character of the immediate locality.*
- ◆ *Front setback - reduction of 3 metres in lieu of 6 metres is inconsistent with the existing setback of adjoining and surrounding residences;*
- ◆ *The location of the visitor car parking spaces within the front setback does not comply with Clause 3.3.3 of Council's Grouped Housing Development Policy.*

The applicant appealed Council's refusal through the Town Planning Appeal Tribunal, citing grounds for appeal relating to all aspects of Council's reasons for refusal, with an emphasis on technical aspects noted in Council Minutes D21/02 (18 February 2002). Council officers provided a comprehensive response to the grounds for appeal on behalf of Council.

Both parties to the Appeal (Council officers and the appellant) attended a mediation session on 19 June 2002 conducted by members of the Tribunal in an attempt to negotiate an outcome for the appeal. As a result of the mediation, the representative for the Department for Housing and Works (proponent) has submitted revised plans and a written submission to address the issues expressed in the reasons for refusal for Council's further consideration.

The mediation will resume on 19 July 2002 in order that the results of Council's deliberations on the revised plans may be presented to the Tribunal and the proponent.

DETAILS OF PROPOSAL

The proponent has submitted two sets of plans indicating two scenarios as follows. The first plan indicates the existing development with every two units amalgamated to form one grouped dwelling. The second plan retains the 12 single bedroom dwellings, but increases the front setback to 4.5m. In both cases, visitor car parking spaces are relocated behind the setback line.

Scenario 1

The first scenario indicates the existing single bedroom units internally amalgamated to demonstrate that the external form of the development represents 6 grouped dwellings. The proponent submits as follows:

- ◆ The internal amalgamation of the single bedroom dwellings by removing the party wall complies with the density requirements for the site.
- ◆ Instead of 12 bedrooms, there are now 22 bedrooms.
- ◆ Instead of 12 occupants, there is the potential for approximately 24 occupants.
- ◆ The impact on streetscape and amenity remains identical, except the visitor bays are relocated and one visitor bay is deleted, still complying with R-Codes requirements.
- ◆ The bulk of the development remains identical.

The proponent states that the purpose of the scenario is to demonstrate that the 50% density bonus has no impact on external planning/appearance. In reality, an alternate development would propose the maximum permitted density of 8 grouped dwellings and it is probable that 8 units would reduce the open space area to the minimum 50% requirement under the R-Codes and all units would need to be two storey to be accommodated on the site area.

The proposed 50% density bonus will therefore result in a lower intensity development with less occupants and less building bulk than a grouped dwelling development which complies with R-Codes requirements. The proponent argues that Council's concerns expressed in its reasons for refusal relating to streetscape amenity and over-development are therefore addressed.

Scenario 2

The second scenario proposes a revised site plan which retains the 12 single bedroom dwellings with external revisions proposed. The proponent submits that the revisions address the issues expressed as reasons for refusal of the application as follows:

- ◆ The primary street setback to Abbey Road has been increased to 4.5m from 3m as originally proposed. The setback averages 6m in accordance with the R-Codes.
- ◆ Visitor bays have been relocated behind the front setback line, thereby satisfying Policy requirements.
- ◆ The gazebo has been deleted in order to accommodate revised parking arrangements.
- ◆ The truncation for the portion of the lot reserved as a Local Road on the south east corner of Lot 52 has been deleted to accommodate visitor parking according to Policy requirements.
- ◆ The separation distances between the units, and the rear setbacks have been reduced in order to achieve a greater front setback to Abbey Road.
- ◆ Double glazing of the living room windows adjacent to Forrest Road is proposed to address concerns of traffic and train noise.

COMMENT

Development Control Unit (DCU) comments

The DCU, at its meeting on 2 July 2002, advised that the revised plans appear to address matters of concern outlined in Council's reasons for refusal and any minor design issues can be resolved at Building Licence stage.

Analysis

Comments on Scenario 1

If the party walls between the two single bedroom dwellings were removed and the internal areas combined, the living area, bedroom sizes and kitchen/laundry/bathroom areas would be consistent with sizes of such rooms as seen in average to up-market grouped dwelling developments. Due to time constraints imposed by the Tribunal, the proponent has not completely re-designed the site to accommodate amalgamated private open space areas, however combined external areas would also be consistent with average to up-market grouped dwelling developments.

The suggestion by the proponent that the private open space would be reduced and all units would be two storey, in the event of 8 grouped dwelling being developed, would need to be proved through a detailed site design. However it is agreed that the site and configuration does offer the potential for development up to the permitted density of 8 grouped dwellings and such a scenario may present an equal, if not greater visual impact in terms of bulk and impact on the character and amenity of the surrounding streetscape.

Should the site be developed to its permitted potential of 8 grouped dwellings, there is the potential for 24 residents on site (or more) and 16 residents' cars as compared to 12 residents and 12 cars. It could also be argued that greater occupancy levels may contribute to the overall impact of the development in terms of additional traffic and activity in the area.

The proponent's argument that the proposed single bedroom development does not represent an over-development of the site is therefore considered to have some merit, especially given that the hypothetical design proposes only six grouped dwellings, while the site has potential to be developed for 8 grouped dwellings under the current zoning of R40.

Comments on Scenario 2 (revised plans)

Front setback

The R-Codes provide for a reduction in the primary street setback to 3m, provided Council has regard to existing setbacks in the immediate locality. The proponent has increased the front setback to Abbey Road from 3m to 4.5m in order to further reduce the impact of the development on the surrounding residential streetscape.

Surrounding residential setbacks vary from 6m to 12m with the immediately adjoining house set back approximately 12m. It is acknowledged that the proposed 4.5m setback still does not comply with the R-Codes setback of 6m. The 4.5m setback averages 6m under the R-Codes which provides a balance of the area of building forward of the building line against open space behind it.

The difference in impact on the surrounding streetscape with a 4.5m setback, compared to a setback at 6m, may be marginal especially given that only small portions of the buildings encroach 1.5m into the setback area with a generally open character presented to Abbey Road.

Visitor car parking spaces

The revised plans propose the deletion of one visitor car parking space, with two spaces retained in compliance with R-Codes requirements. The relocation of visitor bays behind the front setback line now satisfies Policy requirements and addresses one of Council's reasons for refusal.

Communal open space

Deletion of the proposed gazebo has been supported by Homeswest who anecdotally advise that such facilities are not used at other similar developments and such areas are better utilised for landscaping.

Under the Policy, 150m² of communal open space is required and the revised plans propose an area of 112m². The proponent's argument that the units are adequately supplied with private outdoor areas has merit in light of the provision of private open space for all units in excess of requirements of the R-Codes. It is therefore considered that the relatively minor reduction of communal open space under Policy requirements is appropriate. Should Council support the revised plans, there is sufficient area at the rear of the site to be re-designed to accommodate Policy requirements.

Local road reserve truncation

The revised plan encroaches onto the Local Road reserve boundary on the south east corner of Lot 52 in order to move Units 7 and 8 closer to Forrest Road by approximately 0.7m. Council's Technical Services Directorate have advised that it is unlikely that the existing Road Reserve will be required in future and should the reserve be given up, there is sufficient land reserved on the adjoining Lot 51 to accommodate future road requirements.

Units 7 and 8 are proposed to be set back approximately 3m and 4.5m from Forrest Road in compliance with R-Codes standards which require a 1.5m setback to the secondary road alignment.

Revised separation distances between units and reduced rear setback

All distances between buildings satisfy standards required by the R-Codes. The rear setbacks also comply with the R-Codes.

Double glazing

Double glazing of windows for the living areas of units facing Forrest Road is considered to satisfy Council's concerns regarding noise generated by traffic on Forrest Road, thereby improving the amenity of the site.

General comments

Should Council consider that its concerns for the site are addressed by proposed revisions to the plan and be of a mind to support the proposal, it would need to provide conditions of approval to the Tribunal in the event that the Tribunal upholds the Appeal. It is proposed that the conditions of approval previously recommended by Officers contained in Council's Minutes (D21/02) of 18 February 2002 be applied, with the addition of conditions relating to implementation of landscaping works and site drainage requirements.

Options

Option 1

Council may wish to support the revised plans on the basis that the concerns expressed in its reasons for refusal of the application have been addressed in the plans and accompanying material submitted by the proponent.

Option 2

Council may not wish to support the revised plans on the grounds that the development and proposed density represents over-development of the site in comparison to the surrounding area, requiring a setback and local road reservation concession as well as a possible reduction of communal open space.

CONCLUSION

The proponent submits that the internal amalgamation of the single bedroom units represents development of the site for 6 grouped dwellings. This argument is considered to have some merit by demonstrating that the visual bulk of the development as proposed will not necessarily have any greater impact in terms of over-development of the site, compared to a permitted development for up to 8 grouped dwellings. Either scenario of 12 single bedroom units or up to 8 grouped dwellings may possibly have the same effect in terms of compatibility with the character of the immediate locality.

On balance, it is considered that the proponent has addressed those issues of concern to Council as expressed its reasons for refusal as follows:

- ◆ The concern relating to loss of amenity due to traffic volumes and noise has been addressed through double glazing of windows of units fronting Forrest Road.
- ◆ The overall number of units and disposition on site is arguably similar to a permitted development of up to 8 grouped dwellings.
- ◆ A permitted 8 grouped dwelling development would present similar visual bulk and over-development issues in terms of the character of the immediate locality.
- ◆ The proposed increase in the front setback to 4.5m from 3m may be argued to have no greater impact on the surrounding streetscape than a permitted setback at 6m, given the open aspect of the development to Abbey Road.
- ◆ Visitor car parking spaces have been relocated in accordance with Council's Policy and comply with numbers required under the R-Codes.
- ◆ Should Council wish to impose the Policy requirements for communal open space, there is sufficient area at the rear of the lot for appropriate re-design.

It is therefore recommended that the Town Planning Appeal Tribunal be advised that the revised plans appear to provide a more acceptable development outcome for the site.

D119/02 RECOMMEND

- 1. That Council acknowledge that the revised plans for 12 Single Bedroom Dwellings at Lots 3 and 52 Forrest Road, Armadale provide a more acceptable development outcome for the site in comparison to the plans previously considered.**
- 2. That the Town Planning Appeal Tribunal be advised that should the Appeal in respect to the proposal be upheld, Council requests that the following conditions of approval be applied to the development:**
 - a) Evidence to be provided to the satisfaction of Council that amalgamation of Lots 3 and 52 Forrest Road is completed.**
 - b) A comprehensive landscape plan which is to include the verge between the roadway and the property boundary, the communal open space area and the treatment of internal paved areas, to be submitted to the satisfaction of Council.**
 - c) Landscaping to be installed on site in accordance with the approved landscape plan.**
 - d) Submission of a detailed schedule of materials, textures and colours for the proposed development (including all internal and boundary fencing) to satisfaction of Council. The development is to be completed in accordance with the approved schedule.**
 - e) A comprehensive stormwater drainage plan to water sensitive design principles to be submitted and such plan to be implemented to the satisfaction of Council.**
 - f) Construction of car parking, driveway and crossovers and marking of internal car parking spaces, including visitor bays, to satisfaction of Council.**
 - g) Contribution to Council's City Centre drainage at the rate of \$2.65 + GST / m² of developed area.**
- 3. That zoning of the area of land on Lot 52 currently reserved as a Local Road to 'Residential R40' be included in Council's current Town Planning Scheme Review.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

PROPOSED KENNEL COMPLEX – LOT 268 NICHOLSON ROAD, FORRESTDALE

WARD : FORREST
FILE REF : A042511
DATE : 27 June 2002
REF : PRR
RESPONSIBLE MANAGER : PSM
APPLICANT : A Van Helvoort & P Alder
LAND OWNER : A Van Helvoort & P Alder
SUBJECT LAND : Property size 5.8426ha
Map 17.02
ZONING : Rural / Rural 'C'
MRS/TPS No.2

In Brief:-

- Council has received an application for a kennel complex, to replace an existing complex that has been operating under non-conforming use rights on Lot 268 Nicholson Road.
- One submission was received objecting to the proposal following advertising to surrounding landowners.
- Recommend that Council approve the application for a new kennel complex on the property, subject to conditions with regard to appropriate management of the kennel and number of dogs on site.

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.
Dog Act 1976

Council Policy / Local Law Implications

Southern River / Forrestdale / Brookdale / Wungong District Structure Plan (2001)
Council's Rural Strategy (1999)
Health Local Laws (2002)
Local Laws Relating to Dogs (2002)
Water Quality Protection Guidelines No.25 (1998)

Budget / Financial Implications

Potential for Council to purchase subject property to discontinue a non-conforming use.

Consultation

- ◆ Development Control Unit
- ◆ Ranger Services
- ◆ Surrounding Landowners
- ◆ Department for Planning and Infrastructure (Land Asset Management branch)
- ◆ Water and Rivers Commission
- ◆ Department for Environmental Protection

BACKGROUND

Council received the application for a kennel complex on Lot 268 Nicholson Road, Forrestdale on 20 May 2002. A kennel establishment licence to accommodate 18 dogs on the property has been issued to the current landowner and is still valid. The application has been referred to Council for determination as the existing kennel is operating under non-conforming use rights and the advertising period yielded one objection.

DETAILS OF PROPOSAL

Lot 268 Nicholson Road is being sold and the application is the subject of a condition of sale with respect to the applicant purchasing the property. In this regard, the applicant is seeking to continue the current non-conforming use rights and obtain a licence for 32 dogs by upgrading development associated with the non-conforming use. In this respect, the applicant has informed Ranger Services that 21 licenced dogs would be on site at any one time.

The applicant proposes to construct a new kennel complex situated in the south-eastern corner of the lot, 22 metres from the southern boundary and 32 metres from the eastern boundary. The kennel itself would be 12 metres by 21 metres, with a total floor area of 252 m², and would also have 15 metre runs to the east and west of this structure. The new complex is necessary as a different type and number of dogs would be kept on the property (German Shepherds, as opposed to Greyhounds), and as such different kennel specifications apply. The applicant is a dog breeder and would utilise the kennels to continue this pursuit.

COMMENT

Development Control Unit (DCU)

At its meeting held on 25 June 2002, DCU recommended that the item be referred to Council for approval, subject to appropriate conditions.

Ranger Services

Council's Ranger Services Department was approached with regard to their provisions for kennels and licencing requirements. The implications of the advice received will be examined in the Analysis section.

External Comments and Advice

The application was advertised to surrounding landowners for a period of two weeks, with one submission received objecting to the proposal. Advice was also sought from the Department for Planning and Infrastructure, Department for Environmental Protection and the Water and Rivers Commission. Issues raised by submissions are addressed in the Analysis section.

ANALYSIS

Public Submissions

One submission was received from the five surrounding landowners the proposal was sent to, and comments made are outlined and responded to as follows.

1. *On purchasing adjoining property complainant was assured by Council officers that use would not be continued if Lot 268 was sold or changed ownership. “This proposal makes a mockery of that assurance, and other people could have also been given this information”.*

The statement is incorrect in that Council may only discontinue a use not listed in one of the three following circumstances –

- a) Use is discontinued for a period of 6 months;
- b) Council acquires the property in question; or,
- c) Council reaches an agreement with the property owner to discontinue the use, subject to the payment of compensation or monies to the land owner.

The complainant has not provided any written advice issued by Council to substantiate his claim.

2. *“If the application is approved, will Council allow other landholders the same licence, or will it be unsympathetic to other potential applicants given the change in Policy?”*

TPS No.2 does not allow further kennels to be approved in the vicinity of Lot 268. The non-conforming use rights are specific to Lot 268 and not applicable to surrounding lots under Clause 6.1 of TPS No.2. There has been no change in Policy, as Response 1 demonstrates, but a change to the Town Planning Scheme.

3. *Concern for the noise factor. The complainant points out that the letter sent to surrounding landowners states any change in the number of dogs on site would be subject to approval from Council’s Rangers, and believes that Council should decide the number, and the Rangers should enforce that stipulation.*

Council’s Ranger Services would issue the licence to keep a certain amount of dogs on site, as determined by Council. The applicant has proposed to vary the number of dogs from the existing licence, which is current for 18 dogs to be kept on the property, to 32 dogs. As such, the potential noise impact would increase and needs to be considered.

Other Comments

The Department of Planning and Infrastructure (DPI) Land Asset Management branch, the Water and Rivers Commission (WRC) and the Department for Environmental Protection (DEP) were consulted on the proposal. The DPI had no comments to offer, however the WRC have offered preliminary advice as the lot in question is partially covered by a Conservation Category Wetland.

The WRC have stated they would normally recommend refusal in this instance, but given the property has non-conforming use rights and an existing licence, the WRC agrees with recommendations made by Council officers as outlined in the Management Issues section of this report. Formal advice outlining their conditions for appropriate management of the kennel is forthcoming. The DEP concurs with the advice of the WRC and as such any approval should reflect the need to comply with the forthcoming conditions of the WRC as outlined.

The advice of Council's Ranger Services explained that a new set of local laws relating to dogs had been adopted by Council in April, but has not yet been gazetted. The new *Local Laws Relating to Dogs* (2002) outline specific requirements with regard to confinement of dogs, licencing details, transfer of licences and minimum requirements for kennel configuration, some of the details of which are absent from the old laws. In this regard, it is recommended that Council consider the application in terms of the new laws, as any approval issued in accordance with the old laws but in contravention of the new laws would have to be addressed when the new laws are gazetted, which may be seen as overly bureaucratic.

The Ranger Services Department has advised that the kennel plans demonstrate 16 double kennels and runs, which could potentially cater for 32 dogs which in turn could have litters until puppies reach 3 months of age. In this respect, concerns are held for the additional impacts the proposal may have. Given that the applicant has indicated that 21 dogs is likely to be the maximum number on site at any one time, the licence should be limited to this number in the event of approval. Ranger services have indicated that a licence will not be issued until after completion and inspection of the kennels. The demolition and removal of the existing kennel complex was also required.

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

Under Town Planning Scheme No.1, kennels were a permitted use in the 'Rural' zone. TPS No.2 created a specific kennel zone, and operations that were existing at the time gained non-conforming use rights. In granting approval, Council must consider the suitability of retaining the kennel in its current location.

Clause 6.1 of TPS No.2 deals with continuation of non-conforming uses, and 6.1(d) states that "*a building shall not be altered or extended otherwise than in conformity with the relevant development standards contained in the Development Table and with the provisions of the Scheme*". So long as the property is still used for the purpose of a kennel, the construction of a new kennel complex to replace the existing complex on site is acceptable in accordance with TPS No.2 requirements.

Alternatively, Clause 6.4 allows Council to acquire land or buildings associated with a non-conforming use or make an agreement for compensation or monies to be paid to persons willing to discontinue a non-conforming use. This is an option given that the property is changing hands.

Management Issues

With regard to health and environmental considerations, the following list outlines requirements that the proposed kennel complex will have to fulfil to ensure correct procedures are followed and environmental impact is kept to a minimum:

- ◆ Solid waste to be removed from site.
- ◆ Floors to be swept clean before wash down (dog hair not to enter effluent disposal system).
- ◆ Wash down water to be treated in a nutrient removal effluent disposal system (ie Ecomax).
- ◆ All runs / exercise areas to be grassed.

OPTIONS

Option 1

Council could approve the application for the redevelopment of a kennel complex on Lot 268 Nicholson Road subject to conditions as will be imposed by the Water and Rivers Commission, and suitable conditions relating to the appropriate management of the kennels as well as the maximum number of dogs the kennels should cater for.

Option 2

Council could refuse the application for the redevelopment of a kennel complex on Lot 268 Nicholson Road on the grounds that it does not wish to continue the non-conforming use. Council should be aware that a refusal could result in a claim for compensation in accordance with Clause 6.4 of TPS No.2.

CONCLUSION

In conclusion, concerns are held that an increase of the number of dogs licenced on the subject property from 18 to 32 could have a detrimental impact in terms of potential noise increase and environmental degradation. Given that the kennel has non-conforming use rights with a current licence for 18 dogs, and the applicant has indicated that 21 dogs would be on site at any one time, an increase in the number of dogs licenced on site by three seems insignificant and acceptable. Solid waste would be taken off site, and although the nutrient waste output of the proposal will be higher than the existing situation, effluent disposal would be treated via a nutrient removal system.

It is recommended that Council approve the proposal to construct a new kennel complex on Lot 268 Nicholson Road, Bedforddale, in accordance with Option 1. In this respect, the applicant should be advised of the necessity to comply with any conditions as outlined by the WRC and conditions in relation to the management of the kennel would reflect the recommendations made by Council's Development Control Unit and Ranger Services Department. The maximum number of licenced dogs should be 21 and the design of the kennels should be amended to address this figure.

COMMITTEE discussed the extent to which it would be reasonable to allow the non-conforming use to continue.

COMMITTEE concluded that a minor change to the officer's recommendation altering the reference to "licenced dogs" to "dogs of a licenceable age" should be effected to avoid misunderstanding.

Amendment illustrated by "strikethrough" and "underlining".

D120/02 RECOMMEND

- 1. That Council approve the application for the redevelopment of a kennel complex on Lot 268 Nicholson Road, Forrestdale, subject to the following principal requirements:**
 - ◆ Existing kennel complex is to be demolished and removed.
 - ◆ *No more than 21 dogs over the age of three months (ie. licensable age) are allowed to be kept on the premises at any time*".
 - ◆ The kennels and associated runs are to be designed and constructed to the satisfaction of Council.
 - ◆ All solid waste to be removed from site (food and faecal material).
 - ◆ Floors to be swept clean before wash down (dog hair not to enter effluent disposal system).
 - ◆ Wash down water to be treated in a nutrient removal effluent disposal system (ie Ecomax).
 - ◆ All runs / exercise areas to be grassed to the satisfaction of Council.

- 2. That the applicant be advised that:**
 - ◆ Compliance with the *Local Laws Relating to Dogs (2002)*, the *Health Local Laws (2002)* and the Water and Rivers Commission's *Water Quality Protection Guidelines No.25 (1998)* is required.
 - ◆ Compliance with any conditions as outlined by the Water and Rivers Commission is required.
 - ◆ A kennel licence will not be issued until after the completion and subsequent inspection of the kennel site by Council.

MOVED Cr Zelones
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 15th July 2002 that Recommendation D120/02 be amended to read "No more than 21 dogs over the age of three months (ie. licensable age) are allowed to be kept on the premises at any time".

PROPOSED SHED – LOT 115 DARLING RANGE DRIVE, BEDFORDALE

WARD : ARMADALE
FILE REF : A232471
DATE : 27 June 2002
REF : PRR
RESPONSIBLE MANAGER : PSM
APPLICANT : Coastline Sheds
LAND OWNER : Andrew Sherman
SUBJECT LAND : Property size 4120m²
Map 25.03
ZONING : Rural / Special Use No.69
MRS/TPS No.2

In Brief:-

- Proposal involves erection of a 108.75m² ‘Colorbond’ shed at the subject property.
- A total of 4 submissions have been received from surrounding landowners during the advertising period (3 opposing and 1 in favour of the application).
- Recommend that Council approve the application for a shed on Lot 115 Darling Range Drive, Bedfordale, subject to conditions with regard to configuration, revegetation and screening.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

Outbuildings Policy.

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit
- ◆ Surrounding Landowners
- ◆ Estate Developer

BACKGROUND

Council previously considered an application for a 162m² shed on the subject property. The application was advertised to six surrounding landowners for two weeks during which time fourteen objections were received. At its meeting of 15 October 2002 Council resolved the following (D243/01):

1. *That Council refuse the application to erect a (162m²) shed at Lot 115 Darling Range Drive, Bedfordale for the following reasons:*
 - ◆ *The bulk and scale of the shed will adversely impact on the streetscape of Darling Range Drive and the visual amenity of the surrounding locality;*
 - ◆ *The proposal does not comply with the requirements and intent of Council's Outbuildings Policy that outbuildings are designed, sited, and constructed in a manner to be sympathetic in scale and character with the locality*
2. *That Council will consider an application for a shed at the subject property with a maximum Gross Floor Area which is proportionate to the building envelope, taking into consideration the requirements of Council's Outbuildings Policy.*

A new application has been submitted for a 108.75 m² shed, which was advertised for two weeks to the previous objectors. A total of four submissions were received, three objecting, one in favour of the proposal. As such, the application has been referred to Council for determination.

DETAILS OF PROPOSAL

The applicant has proposed a shed that is 14.5m by 7.5m, for a total floor area of 108.75m². The proposed shed would be situated in the existing development envelope, 8m from the southern property boundary and approximately 38m and 24m from the western and eastern property boundaries respectively. The height to the eaves would be 2.5m and the roof would be at a pitch of 20.5°. The proposed shed would be constructed of "Colorbond", in colours to match the existing residence ('Smooth Cream' walls and a 'Torres Blue' roof).

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 2 July 2002 recommended that the application be referred to Council for approval, subject to appropriate conditions relating to the configuration of the shed and revegetation and screening of the subject site.

Estate Developer

The plans for the proposed shed have been endorsed by the estate developer for Churchman Brook Estate subject to conditions. The conditions imposed will be addressed in the Analysis section of this report.

Surrounding Landowners

The application was referred to all landowners who made submissions during the previous application (14 in total) for a period of two weeks. During the advertising period, three objections were received and one letter of no objection was received.

ANALYSIS

Submissions

1. *A maximum wall length of 12m and total area of no more than 108m² would be acceptable / Size of the outbuilding to be 7.5m by 14.4m with a total area of 108m². Southern side of the shed to be 8m from the boundary.*

It is recommended that should approval be given, wall length be limited to 12m to reduce visual impact. A distance of 8m from the southern boundary is acceptable. With regard to the floor area, it is recommended that any approval be limited to 105m² in accordance with Council's previous resolution.

2. *The maximum size of the shed should be 10m by 6.5m (65m²).*

If the current application is conditionally approved, it would be within the requirements of Council's Outbuildings Policy, and those stipulated by Council's previous resolution.

3. *The roof height for the shed should not exceed 2.7m / Roof height should not be excessive / The height to the top of the shed to be no greater than 4m / The pitch of the roof to be 19°.*

The overall height of the shed will not exceed the maximum overall outbuilding height of 4m as stipulated in the Outbuildings Policy, and a lower pitch (19°), complementary to that of the residence, should be used for the roof of the shed in the event of any approval being given, based on the advice of the estate developer.

4. *Concern for visual amenity in that the light tones proposed make the shed more visible in the bush setting / The outbuilding to be equipped with gutters and downpipes discharging to soak wells and of matching design and colour to those on the house / Walls of the outbuilding to be a matching colour to the house walls / Roof to be same material and colour as house.*

Whilst darker colours would be more in accordance with the natural tones of the landscape, the existing residence has been approved with limestone rendered walls and a 'Torres Blue' "Colorbond" roof. In this instance, it is preferred that should approval be given, the colours of the shed complement the residence as far as is possible, as the shed is in close proximity to the house.

5. *Has the Outbuildings Policy review been finalised? If not, what priority does the review carry?*

The Outbuildings Policy review has not been carried out, as the *Residential Planning Codes of Western Australia* (R-Codes) are currently under revision. As any changes to this document may result in changes to the Outbuildings Policy, Council's officers have delayed the review of the Outbuildings Policy until the review of the R-Codes is completed. In this respect, it is anticipated that the review of the R-Codes will be completed later this year.

6. *All earthworks to be within the development envelope shown on the plan.*

This is standard practice with all applications and there is ample room in this instance for the applicant to comply with this requirement.

7. *The area between the southern development envelope boundary and the southern property boundary to be revegetated.*

It is agreed that the applicant be required to screen the proposed shed to lessen the visual impact and revegetate the cleared areas between the southern and western boundaries. In this respect, any approval should condition the submission of a comprehensive landscape plan to address this requirement.

Outbuildings Policy

With regard to compliance with the requirements of Council's Outbuildings Policy, the proposed shed would be within the maximum aggregate floor area of 132m² and the maximum wall height of 3m. The maximum overall height of 4m could be maintained if roof pitch was limited to 19° in the event of any approval.

The previous report to Council outlined that consideration could be given to a revised application to erect a shed, which was proportionate to the existing building envelope and development on site. The existing building envelope of 1200m² was modified to 1963m² and it was determined that an acceptable sized outbuilding would be one in relation to the existing building envelope, as opposed to the lot area, which equates to a floor area of 105m². Alternatively, Council could support the Estates Developer's position to approve a 108m² outbuilding, which is the largest outbuilding previously approved within the Churchman Brook Estate.

Visual Amenity

Concerns were held in the previous application for a 162m² shed with regard to visual amenity. In general, these concerns centred around the configuration of the shed, building bulk and visibility. The shed proposed by this current application is smaller in terms of building bulk, and it is possible to address the issues of configuration and visibility through conditions. It is therefore recommended that Council consider approving the shed subject to conditions appropriate to the above mentioned issues.

OPTIONS

- Option 1 - Council could approve the application for a “Colorbond” shed on Lot 115 Darling Range Drive, subject to appropriate conditions with regard to the configuration, screening and revegetation. In this regard, two configurations - 108m² or 105m², have been put forward.
- Option 2 - Council could refuse the application for a “Colorbond” shed on Lot 115 Darling Range Drive, should concerns still be held with regard to the configuration of the shed and its subsequent impact on the amenity of the surrounding area.

CONCLUSION

In conclusion, it is believed the remaining concerns held for the proposed shed in terms of amenity are manageable through appropriate conditions, and as such it is recommended that Council approve the application in accordance with Option 1 and a maximum 105m² floor area.

D121/02 RECOMMEND

That Council approve the application for a shed on Lot 115 Darling Range Drive, Bedfordale, subject to the following principal requirements:

- ♦ **Shed to have a maximum floor area of 105m², with a maximum wall length of 12m.**
- ♦ **Pitch of the shed roof to be 19°, to ensure the overall height of the shed is no greater than 4m.**
- ♦ **The submission of a comprehensive landscape plan for the area between the shed and the southern and western property boundaries as indicated on the site plan to the satisfaction of Council. Such plan to include existing and new vegetation, plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained to the satisfaction of Council.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

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

WARD : ARMADALE
FILE REF : A50221
DATE : 1 July 2002
REF : HC/CCB
RESPONSIBLE : PSM
MANAGER
APPLICANT : Ministry of Housing
LAND OWNER : Ministry of Housing
SUBJECT LAND : ROW off Forrest Road
between Sixth & Seventh
Roads
ZONING : Urban / Residential R40
MRS/TPS No.3

In Brief:-

- Council resolved at its Ordinary Meeting on 14 June 2002 to request the Minister for Lands to dedicate a section of ROW off Forrest Road and situated between Sixth and Seventh Roads as a road.
- DOLA requires that the ROW be named prior to it being dedicated as a road.
- Recommend that Council seek approval from the Geographic Names Committee for the name 'Hove Close' to be adopted as the road name.
- *COMMITTEE recommended that the alternative road name "Chester Court" be submitted to Geographic Names Committee for consideration.*

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Section 56 (4) of the Land Administration Act 1997.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Technical Services Committee
- ◆ DOLA/Geographic Names Committee

BACKGROUND

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

Council at its Ordinary Meeting on 14 June 2002, resolved to request DOLA to dedicate a section of this ROW as a public road.

Advice from DOLA indicates that prior to the dedication of the road, a road name needs to be established.

DETAILS OF PROPOSAL

The Ministry for Housing has suggested the name **Dove Close** as a suitable name for the Right of Way.

COMMENTS

Analysis

Under the Geographic Names Committee (GNC) Guidelines names “must not be duplicated more than 5 times in the metropolitan region, and must be at least 10 km from existing duplication”.

There are already six **Dove Closes** in the Street Directory. Some are in suburbs that are relatively close including Thornlie, High Wycombe and Baldivis. Discussion with GNC staff indicates it would not meet the criteria.

The Geographic Names Committee (GNC) has a list of names reserved for streets in Armadale. As there are some other streets in the vicinity of the Right of Way with an English theme (Devonshire, Cornish, Tudor), names suggested from the GNC list for consideration include:

- ◆ **Middlesborough Close**
- ◆ **Blackpool Close**
- ◆ **Southampton Close**

These names do not appear elsewhere in the Street Directory. However, GNC prefer short names for short roads for ease of printing on their maps.

GNC staff have indicated that Hove is a name that can be considered. It appears four times in the Street Directory but the nearest is over 11 kilometres from Armadale. It also continues the English theme and is close to the name suggested by the Applicant.

Option 1

Adopt “**Hove Close**” as the name for the ROW.

Option 2

Adopt one of the following names as the name for ROW:

- ◆ **Middlesborough Close**
- ◆ **Blackpool Close**
- ◆ **Southampton Close**

CONCLUSION

It is not recommended that Council consider Dove Close as it does not meet GNC criteria. The names in Option 2 are not duplicated elsewhere in the Metropolitan Area and fit in with an English name theme. However they are longer than the GNC prefers for a short space in a map. It is suggested that Option 1, Hove Close, is an appropriate choice that continues the English name theme.

COMMITTEE considered possible alternative names and concluded that “Chester Court” would be appropriate.

“Chester” is the name of a local resident who pioneered crop dusting in the area from an airstrip not far from Churchman Brook Road. He was also a local racehorse owner.

The name “Chester Court” is substituted in the Recommendation by “~~strikethrough~~” and “underlining”.

D122/02 RECOMMEND

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

MOVED Cr Green
MOTION CARRIED (7/0)

**COMMERCIAL VEHICLE PARKING –
LOT 113 [34] TAMARIND CRESCENT, KELMSCOTT**

WARD : WESTFIELD

FILE REF : A138891

DATE : 2 July 2002

REF : SA

RESPONSIBLE
MANAGER : PSM

APPLICANT : JA Blackwell

LANDOWNER : BE Blackwell

SUBJECT LAND : Lot 113 Tamarind Crescent, Kelmscott
Property size 712m²; Map 22.06

ZONING

MRS / TPS No.2 : Urban/Residential 'R 15'

In Brief:-

- Request to park a 4.28 tonne tray top truck on the property.
- Length of vehicle does not comply with the Town Planning Scheme.
- Recommendation that the application be approved.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

Commercial vehicle parking provisions of Town Planning Scheme No.2.

Council Policy / Local Law Implications

Council Policy 4.4.6 Commercial Vehicle Parking

Budget / Financial Implications

Nil.

Consultation

Applicant canvassed adjoining landowners.

BACKGROUND

Council refused an application to park a 4.28 tonne, 7.4m long tip truck in the driveway of the subject site at its ordinary meeting held on 15th April 2002. The grounds for refusal being that the length of the vehicle exceeded the 6m maximum and the parking of the vehicle in front of the building adversely impacts on the amenity of the street.

A fresh application for approval to park the same tip truck has been received.

DETAILS OF PROPOSAL

The applicant proposes to park a 4.28 tonne Hino tray top truck on the premises between the hours of 6.00pm to 7.30am. The vehicle is 7.4m in length and 2.4m in height and is to be parked at the side of the residence.

Whilst the length of the vehicle exceeds the maximum of 6m (by 1.4m) permitted by the Town Planning Scheme criteria, provision has now been made to park the vehicle behind the front building setback line by removing a carport and erecting gates.

COMMENT

Analysis

The specifications of the truck do not comply with the commercial vehicle parking provisions of the Town Planning Scheme, inasmuch that 6m is the maximum length permitted on a lot of less than 1000m².

In his original application the applicant supplied 10 letters from neighbours, including the immediate neighbours on either side of the subject site, who did not object to the proposal.

Options

1. Given that the length of the vehicle does not comply with the Scheme provisions, in terms of the total length, Council may refuse the application.
2. Council has the discretion under clause 7.6 to relax a Scheme standard or requirement where Council is satisfied that approval would be consistent with the orderly and proper planning of the locality and the non-compliance will not have an adverse effect upon the inhabitants or amenity of the area. Should Council decide to approve the application and the applicant fail to comply with the provisions of the Scheme or substantiated complaints are received, Council has the discretion to revoke the approval or decline the annual renewal.

CONCLUSION

It would appear that it is the intent of the Scheme to protect the streetscape by requiring commercial vehicles to be parked behind the front setback line. As provision has now been made to park the subject vehicle behind the front building setback line, one of the reasons for refusing the original application has been satisfied. The length of the vehicle is not seen as detrimentally affecting the amenity of the area and it is therefore recommended that the application be approved.

D123/02

RECOMMEND

1. **That, in this instance, Council relax the Town Planning Scheme No.2 requirement that a commercial vehicle must not exceed a maximum length of 6 metres parking on residential premises with a land area of less than 1000 square metres.**
2. **That Council approve the application to park a 4.28 tonne Hino commercial vehicle registration number 7LP 389 at Lot 113 [34] Tamarind Crescent, Kelmscott subject to compliance with the commercial vehicle parking provisions of Town Planning Scheme No.2 (other than the requirement referred to in (1) above), and the following principal conditions;**
 - a) **The vehicle is not permitted to park in the road reserve adjacent to the property;**
 - b) **The vehicle must not reverse onto the carriageway in order to access Tamarind Crescent;**
 - c) **Compliance with the Noise Provisions of the Environmental Protection Act 1986.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

ADVERTISING / ADOPTION OF DRAFT PLANNING POLICIES

WARD : ALL
FILE REF : PCY/1
DATE : 3 July 2002
REF : SG
RESPONSIBLE : PSM
MANAGER

In Brief:-

- The draft Policy on Sea Containers, Railway Carriages and Other Decommissioned Transport Conveyances was given preliminary endorsement by Council in January 2002.
- The draft Policy on Recycling Bins for Charitable and Other Organisations was given preliminary endorsement by Council in August 1999.
- Both draft Policies have been advertised in accordance with TPS requirements. Two letters of support for the Recycling Policy were received from charitable organisations.
- Recommendation for adoption of both Policies.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

Development – “to foster a distinctive character for the City based on good design principles.”
Social Infrastructure – “to have in place the range of services to enhance the well being and safety of the community.”

Legislation Implications

Town Planning Schemes Nos. 2 and 3 (TPS)

Council Policy / Local Law Implications

- ♦ Draft Policy on Sea Containers, Railway Carriages and Other Decommissioned Transport Conveyances.
- ♦ Draft Policy on Recycling Bins for Charitable and Other Organisations.

Budget / Financial Implications

Nil

Consultation

The draft Policies were advertised in the Armadale Examiner newspaper and posted on the official notice board of Council for a period of 30 days in accordance with TPS requirements for the making of Policies.

BACKGROUND

- ◆ At its meeting on 14 January 2002, Council resolved to give preliminary endorsement to the Draft Policy for Sea Containers, Railway Carriages and Other Decommissioned Transport Conveyances (Sea Containers Policy) and advertise the Policy in accordance with TPS requirements.
- ◆ At its meeting on 16 August 1999, Council resolved to advertise the draft Policy for Recycling Bins for Charitable and Other Organisations in accordance with TPS requirements. The Policy was prepared to provide guidance for the location of Recycling Bins to ensure recycling activities do not compromise the civic amenity or safety of the locality.

COMMENT

Sea Containers Policy

The draft Sea Containers Policy is intended to regulate and provide guidance for the location of sea containers, railway carriages and other decommissioned transport conveyances to maintain and enhance the visual amenity of areas within the City. ***A copy of the Sea Containers Policy appears at Attachment “A1” of the Minutes.***

Results of Advertising

No submissions on the Policy were received during the 30 day advertising period.

Analysis

Adoption of the policy will assist in providing certainty to prospective applicants by establishing guidelines for the location and use of sea containers etc. It provides assessment criteria and conditions of planning approval to achieve consistent procedural outcomes in the assessment of applications. Ultimately, it will assist in achieving high standards of visual amenity in the various localities of the City where the sea containers etc may be located.

Recycling Bins Policy

The Policy on Recycling Bins for Charitable and Other Organisations has been operating in draft form since Council’s endorsement of it in August 1999. In order to reduce the costs to Council of advertising Policies separately, the draft Recycling Bins Policy was advertised simultaneously with the draft Sea Containers Policy. The major charitable organisations that provide recycling bins, primarily for recycled clothing and small scale household items, were notified in writing about the draft Policy and asked to provide comment.

A copy of the Recycling Bins Policy appears at Attachment “A1” of the Minutes.

Results of advertising

Submissions were received from the Paraplegic-Quadriplegic Association on behalf of the Community Clothing Bin Collection Agency and from the Society of St Vincent de Paul. Both organisations express support for the Policy which they see as providing recognition of the critical importance of collection facilities in the generation of income and charitable support for the general community.

The Para-Quad Association recommends an addition to the Policy in order to highlight the charitable purpose and benefit derived through community clothing collection bins.

Analysis

Recycling Bins are located predominantly in shopping centre car parks or service stations. Careful management of the bins is required to avoid occasional overflowing, littering and vandalism of bins and the consequent negative impact on the amenity of localities. The Policy provides assessment criteria and conditions of planning approval to provide for development control and application procedures to achieve good management outcomes.

It is considered appropriate to include recognition of the importance of the recycling facilities in providing significant community benefits, as suggested in the submissions. Accordingly, an addition has been made to the Statement of Intent as follows which appears as underlined in the attached Policy.

“Through the promotion of good management practices, to recognise the importance of recycling bins in the generation of income for charitable organizations which provide support for the general community”.

CONCLUSION

The Sea Containers Policy and Recycling Bins Policy have been prepared and advertised in accordance with TPS provisions. Both Policies will promote orderly and proper planning within various localities and will assist in creating high standards of visual amenity throughout the City. It is therefore recommended that Council adopt both Policies, with a minor addition to the Recycling Bins Policy.

COMMITTEE suggested that the Policy for sea containers etc should include reference to “dongas”.

Executive Director Development Services confirmed that the Policy does encompass all forms of rail conveyance but that reference of “dongas” will be formally included in the Policy.

D124/02 RECOMMEND

That Council, in accordance with Clauses 5.9.1 and 9.2.1 of Town Planning Schemes Nos. 2 and 3 respectively, adopts the following Policies as recorded in Attachment “A1” of the Minutes -

- ♦ **Policy for Sea Containers, Railway Carriages and Other Decommissioned Transport Conveyances.**
- ♦ **Policy for Recycling Bins for Charitable and Other Organisations (with minor modifications).**

MOVED Cr Knezevich
MOTION CARRIED (7/0)

VACANCY – WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION MEMBERS – PERTH BIODIVERSITY PROJECT MANAGEMENT GROUP

WARD : All
FILE REF : GOV/51
DATE : 27 June 2002
REF : HC
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- WALGA is seeking nominations to fill positions on the Perth Biodiversity Project Management Group.

DETAILS OF PROPOSAL

Notification has been received from the Western Australian Local Government Association inviting Council to submit nomination/s for appointment of Western Australian Local Government Association Members – Perth Diversity Project Management Group

QUALIFICATIONS	A metropolitan based Elected Member or Serving Officer with a knowledge of and interest in biodiversity and its management.
TERM	The term of the appointment is three years.
COMMENCES	Upon appointment.
CURRENT REPRESENTATIVE & REASON FOR VACANCY	This is a newly formed Management Group
MEETINGS	Meetings - Monthly Location - Local Government House Day/Time - To be advised Duration - Approx. 2 - 3 hours Meeting Fee - Nil
SELECTION CRITERIA	Nominee to address the following Selection Criteria:- <ul style="list-style-type: none"> ◆ To be a current Elected Member / Serving Officer of a Local Government in the Perth Metropolitan Region Scheme Area. ◆ Availability of the applicant to undertake the responsibility; ◆ Relevant skills in the area; ◆ Demonstrated interest in the position; ◆ Capacity of the applicant to represent the interest of Local Government and the Association; ◆ Relevant experience and qualifications that are applicable to the position.

TERMS OF REFERENCE	<p>The Terms of Reference for the Perth Biodiversity Management Group are as follows:-</p> <ul style="list-style-type: none"> ◆ Guide the overall development and implementation of the project. ◆ Further the project's objectives within partner organizations and other project stakeholders. ◆ Monitor progress with respect to project objectives, targets and outputs. ◆ Establish, participate in and review the output of Working Groups. ◆ Establish the Assessment Panel and review the Funding Programme prior to WALGA approval. ◆ Advise the Programme Manager regarding any aspects of the project. ◆ Refer matters affecting Local Government to the Reference Group.
COMMITTEE MEMBERSHIP	<p>The Board will have representation from:-</p> <ul style="list-style-type: none"> ◆ CALM; ◆ Dept of Planning & Infrastructure; ◆ Environmental Protection Authority; ◆ Swan Catchment Council; ◆ Urban Bushland Council; ◆ Greening WA.

D125/02 RECOMMEND

~~That _____ be nominated by Council for the position of Western Australian Local Government Association Member – Perth Biodiversity Project Management Group.~~

Or

If there is no nomination at the Council Meeting of 15th July 2002 then the recommendation be as follows:-

That no nomination be made for the position of Western Australian Local Government Association Member – Perth Biodiversity Project Management Group.

MOVED Cr Zelones
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 15th July 2002 that no nomination be made for the position WALGA Member – Perth Biodiversity Project Management Group.

VACANCY – WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION MEMBERS – DOLA COMMUNITY TITLES ADVISORY COMMITTEE

WARD : All
FILE REF : GOV/51
DATE : 27 June 2002
REF : HC
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- WALGA is seeking nominations to fill positions on the DOLA Community Titles Advisory Committee.

DETAILS OF PROPOSAL

Notification has been received from the Western Australian Local Government Association inviting Council to submit nomination/s for appointment of Western Australian Local Government Association Member – DOLA Community Titles Advisory Committee.

QUALIFICATIONS	An Elected Member or Serving Officer with a knowledge / interest in Strata Titles issues.
TERM	The term of the appointment is two years.
COMMENCES	Upon appointment.
CURRENT REPRESENTATIVE & REASON FOR VACANCY	This Committee has been re-constituted by the Minister for the purpose of assisting DOLA in its review of the Strata Titles Act 1985. The sitting members of the previously convened committee were Cr A Richardson from the City of Belmont and Cr L Goodman from the City of Perth. Cr's Richardson and Goodman are eligible to renominate for this newly re-constituted committee.
MEETINGS	Meetings - Every two months Location - REIWA House, Hay Street, Subiaco Day/Time - Wednesday, 5.00pm Duration - Approx. 2 hours Meeting Fee - \$50 for the member attending and travel allowance in accordance with Public Sector standards.
SELECTION CRITERIA	Nominee to address the following Selection Criteria:- <ul style="list-style-type: none"> ◆ To be a current Elected Member / Serving Officer; ◆ Availability of the applicant to undertake the responsibility; ◆ Relevant skills in the area; ◆ Demonstrated interest in the position; ◆ Capacity of the applicant to represent the interest of Local Government and the Association; ◆ Relevant experience and qualifications that are applicable to the position;

TERMS OF REFERENCE	The DOLA Community Titles Advisory Committee is required to provide informed input into the review process of the Strata Titles Act 1995 as well as providing an initial sounding board on industry and public views regarding the proposed changes to the Act.
COMMITTEE MEMBERSHIP	The Board will have representation from:- <ul style="list-style-type: none">◆ DOLA;◆ Dept of Planning & Infrastructure;◆ Office of Strata Titles Referee;◆ Water Corporation;◆ REIWA;◆ Institute of Surveyors WA;◆ Law Society of WA;◆ Aust Institute of Conveyancers WA Division;◆ Urban Development Institute of Australia WA Division Inc;◆ Strata Titles Institute;◆ Representatives from single and multi tier strata titles schemes.

D126/02 RECOMMEND

~~That _____ be nominated by Council for the position of Western Australian Local Government Association Member – DOLA Community Titles Advisory Committee.~~

Or

If there is no nomination at the Council Meeting of 15th July 2002 then the recommendation be as follows:-

That no nomination be made Council for the position of Western Australian Local Government Association Member – DOLA Community Titles Advisory Committee.

MOVED Cr Zelones
MOTION CARRIED (7/0)

Council resolved at its Ordinary Meeting on 15th July 2002 that no nomination be made for the position WALGA Member – DOLA Community Titles Advisory Committee.

COUNCILLORS' ITEMS

Councillors informally discussed progress on the matter of cemetery planning which Executive Director Development Services undertook to progress with officers of Department of Planning and Infrastructure.

Further discussion took place in relation to a recent press release outlining a landowner expectation of the Kelmscott Enquiry-by-Design. In this regard, COMMITTEE noted the need for caution in relation to expectations for development of one kind or another which may not be compatible with strategic planning objectives.

MEETING DECLARED CLOSED AT 8.32 PM

INDEX

DEVELOPMENT SERVICES COMMITTEE

8TH JULY 2002

BUILDING

NATIONAL CONFERENCE - AUSTRALIAN INSTITUTE OF BUILDING SURVEYING - SYDNEY -----	28
WHITE COLORBOND ROOF - LOT 19 BANYARD AVE, KELMSCOTT -----	23
ZINCALUME ROOF - LOT 511 RUSHTON TCE, MT NASURA -----	26

DEVELOPMENT

LAND EXCHANGE FROM LOT 101 JULL ST & CONSTRUCTION OF 'LOCAL ROAD' -----	42
PROPOSED (6) UNIT GROUPED HOUSING DEVELOPMENT - LOT 2 THIRD AVE, K/S -----	46
PROPOSED (12) SINGLE BEDROOM DWELLINGS - LOTS 3 & 52 FORREST RD, A/D -----	59
PROPOSED CHILD MINDING CENTRE - LOT 14 CAROLINE ST, MT NASURA -----	4
PROPOSED CHILD MINDING CENTRE - LOT 15 CAMMILLO RD, KELMSCOTT -----	14
PROPOSED KENNEL COMPLEX - LOT 268 NICHOLSON RD, FORRESDALE -----	66
PROPOSED PATIO ROOF - LOT 226 SANCTUARY CRT, ROLEYSTONE -----	55
PROPOSED SHED - LOT 115 DARLING RANGE DR, BEDFORDALE -----	72
SHORT TERM YOUTH ACCOMMODATION - LOT 67 ALBANY HWY, KELMSCOTT -----	51

HEALTH

HEALTH (SMOKING IN ENCLOSED PUBLIC PLACES) REGULATIONS 1999 -----	31
REMOVAL OF RUBBISH - LOT 54 THIRD AVE, KELMSCOTT -----	34

MISCELLANEOUS

ADVERTISING / ADOPTION OF DRAFT PLANNING POLICIES -----	83
COMMERCIAL VEHICLE PARKING - LOT 113 TAMARIND CRES, KELMSCOTT -----	80
NAMING OF RIGHT OF WAY IN FORREST RD BETWEEN SIXTH & SEVENTH RD, A/D -----	77

SUBDIVISION

PROPOSED REVISED SUBDIVISION GUIDE PLAN - PT LOT 53 CHURCHMAN BRK RD, B/D -----	38
---	----

VACANCY

WALGA MEMBERS - COMMUNITY & INDUSTRY ADVISORY GROUP -----	36
WALGA MEMBER - DOLA COMMUNITY TITLES ADVISORY COMMITTEE -----	88
WALGA MEMBER - PERTH BIODIVERSITY PROJECT MANAGEMENT GROUP -----	86

I N D E X

DEVELOPMENT SERVICES COMMITTEE

8TH JULY 2002
