

CITY OF ARMADALE

MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 9TH DECEMBER 2002, AT 7:15 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 Everts	
Cr J Knezevich	
Cr L Reynolds JP	
Cr R C Stubbs AM	

APOLOGIES: Cr G M Hodges

OBSERVERS:

Cr J D Cumming	(7.15pm – 7.40pm)
Cr R R Fletcher	(7.15pm – 7.50pm)

IN ATTENDANCE:

Mr I MacRae	Executive Director Development Services
Mr J H A Adderley	Executive Director Development Services
Mr L Fouché	Planning Services Manager
Mr I Townson	Building Services Manager
Mr P Meyrick	Health Services Manager
Ms N Cranfield	Minute Secretary
Public	6

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 Boris – 32 Clenham Way, Kelmscott

1. I wrote and hand delivered a letter to every resident in both streets informing them of the problems I have encountered and my closure application. How come only 3 people bothered to make a written objection to my closure application during the public comment period? Of the 50 or so regular users of the accessway, it's obvious that the majority either agree with closure or don't care either way and are only using the accessway because its open.

The Chairman commented that he could not answer for the actions of the public in terms of submissions. Public response is not the only information taken into account when making a decision. DOLA has also made it own assessment and has taken a position to not allow closure. The Chairman also commented that Committee might consider this issue in the course of the meeting.

2. Why is the City of Armadale discriminating against me? They had observers noting the rate of users during the day but no count of the anti-social incidents caused by the accessway. How come the City has indicated a willingness to spend \$5,000 on lighting the accessway but refused to help me pay for a higher fence, as other neighbours are obliged to do? When can I expect consideration of my health and safety for a change instead of accessway users ?

The Chairman commented that there was no basis to claim discrimination as the Council has supported his concerns. As can be seen from the report the refusal to close the access way is DPI's final position. Chairman noted the other matters raised by Mr Boris were contained in part two of the recommendation and advised that lighting, fencing and maintenance of the public accessway would be conveyed to the Technical Services Directorate for consideration.

3. The majority of accessways have utility lines running under them and placing an accessway on top was an easy way to keep lines off private land. Pedestrian movement was only an afterthought.

This was not correct but the Chairman noted the comment made by Mr Boris.

4. How much longer am I expected to subsidise the users of this accessway. It costs me \$12.00-\$14.00 a week in alarm monitoring fees, call outs by security staff and paying for repairs out of my pocket (make too many claims and who would cover me?) where is the much wanted user pays principle?

Chairman noted the matters raised by Mr Boris and noted that there were many services provided by Council that were not charged on a user pay principle.

5. Will the Valuer General adjust my rates to reflect the negative influence on my property by the accessway? So far this year, I've only put my bin out on less than 10 occasions. Will the City of Armadale adjust my rates to reflect the small use of the rubbish collection service?

Chairman advised that he has the option of appealing his valuation direct to the Valuer General. The matter of rubbish collection is not related to the access way and if he can refer rubbish collection issues to the Technical Services Department.

6. Will the State Government introduce legislation forcing Real Estate agents to inform prospective buyers of the negative impact accessways will have?

Chairman noted the matters raised by Mr Boris and suggested that legislation was a matter for the State Government. He can contact his local Member of Parliament to seek support from the Government.

ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.23/2002

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 October 2002
- ✍ Noise Complaint, Robin Road, Roleystone
- ✍ Health Act Prosecution – Lot 54 Third Ave, Kelmscott
- ✍ Planning Services Manager’s Report for October 2002
- ✍ PAW Closure Report – significant actions during October 2002
- ✍ Compliance Officer’s Report for the month of October 2002
- ✍ Town Planning Scheme No.2 & No.3 – Amendment Table
- ✍ Subdivision Applications – Recommendation Table
- ✍ Monthly Admin Reports for October 2002
- ✍ Building Services Manager’s Report for October 2002

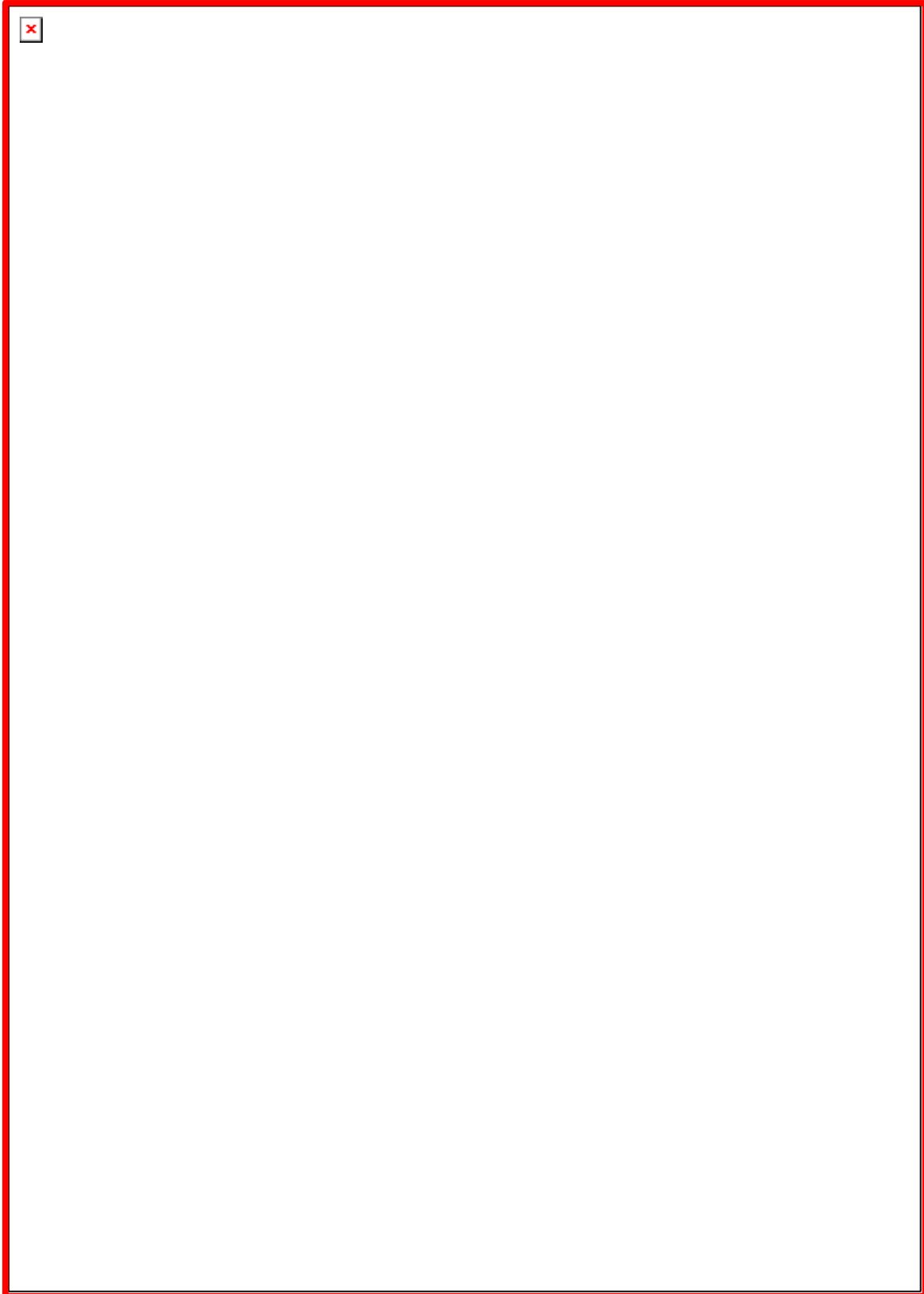
Committee noted the information and no items were raised for further report.

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the Development Services Committee Meeting held on 11th November 2002, were confirmed.

MOVED Cr Stubbs
MOTION CARRIED (7/0)



***FENCING ON STREET BOUNDARY GREATER THAN 1.8 METRES IN HEIGHT -
LOT 614 (195A) CHAMPION DRIVE, WESTFIELD***

WARD : WESTFIELD
FILE REF : A136815
DATE : 2 December 2002
REF : IT
RESPONSIBLE : BSM
MANAGER
APPLICANT : L M^cNab
LAND OWNER : As above
SUBJECT LAND : Property size 870 m²
Map 21-06
ZONING : Residential
MRS/TPS No.2 R15

In Brief:-

- ✍ Application to extend the height of existing street boundary fencing to a height of 2.1 metres to secure an aggressive dog.
- ✍ Recommendation that approval be granted on the basis of negligible impact on the streetscape.

Tabled Items

Plans and photographs

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

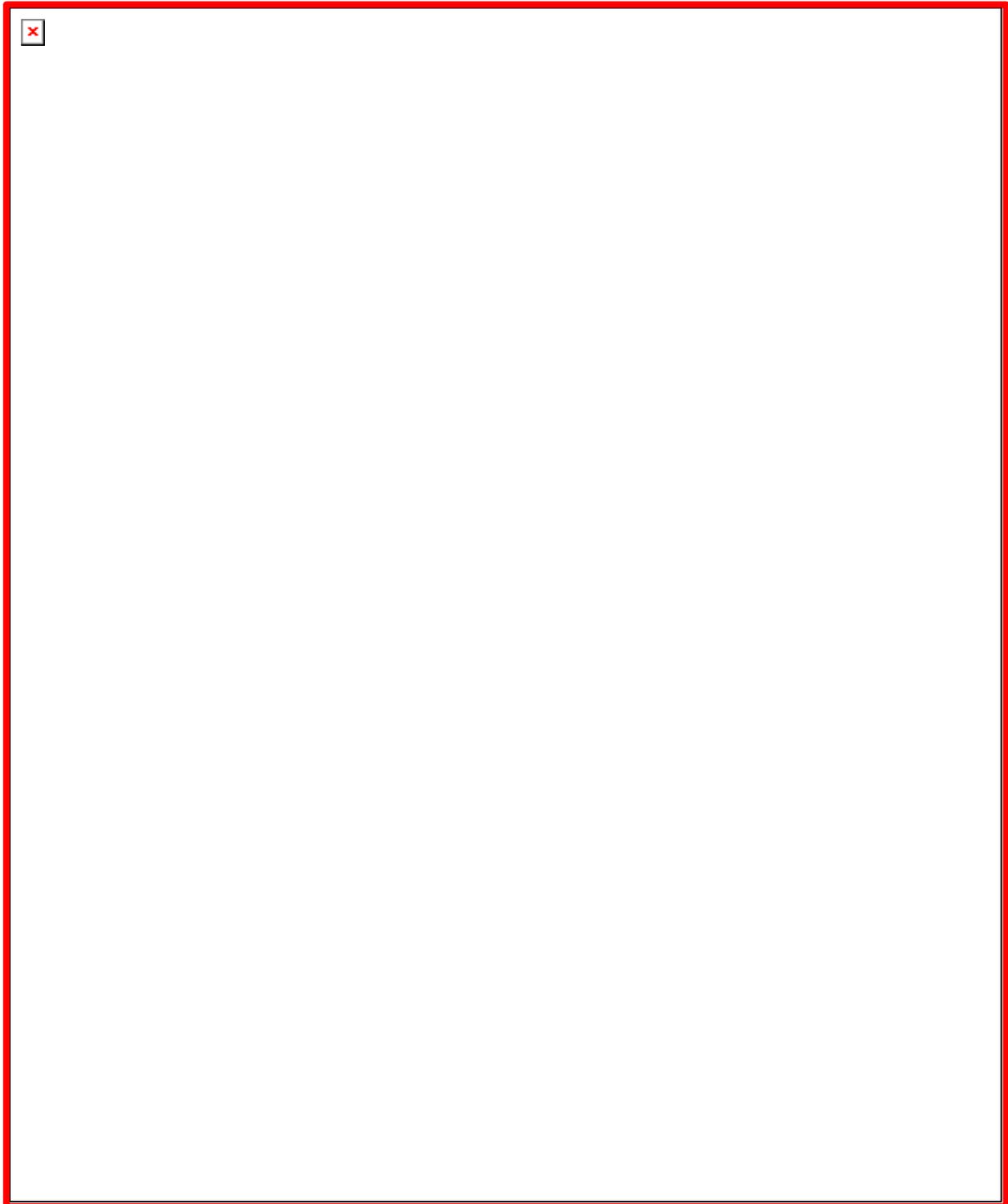
City of Armadale Local Laws Relating to Fencing

Budget / Financial Implications

Nil.

Consultation

Affected adjacent landowners



SITE PLAN
LOT 614 CHAMPION DRIVE, WESTFIELD

DETAILS OF PROPOSAL

The applicant requests Council's approval to extend the height of existing street boundary fencing on her lot to allow her to take ownership of a dog currently in her son's ownership, which has been the focus of a "dangerous dog" decision by the Armadale Court. In essence the Court will consider giving its approval to the applicant to keep the dog at her premises if the Court is satisfied that it is sufficiently retained and that other conditions applicable to Court's consideration of the matter are satisfied.

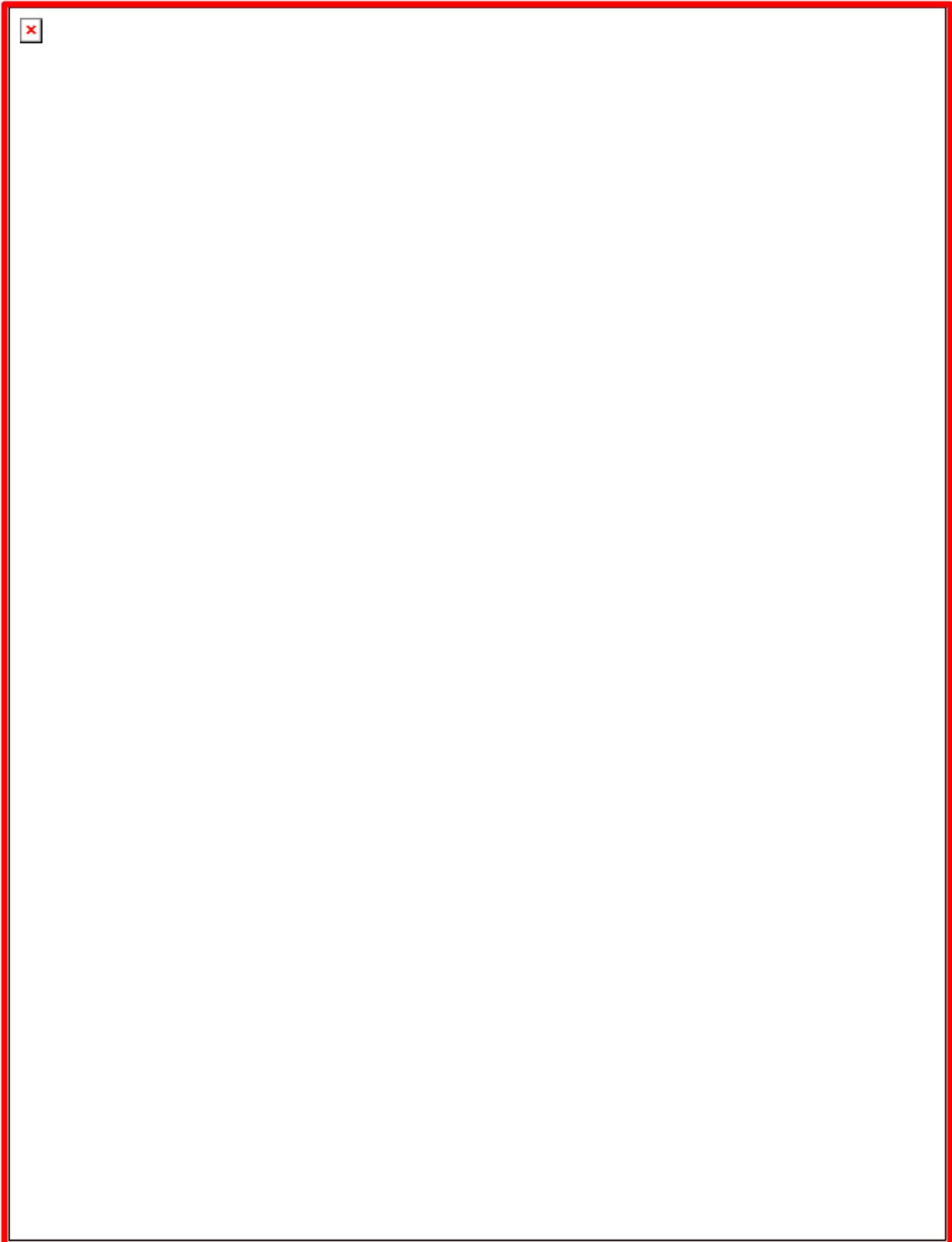
Officers have discussed the proposal with the applicant and it is considered that the use of a "pool fencing" type extension to the fence, in lieu of solid brickwork, will provide the height required without any adverse impact on adjacent properties.

Consultation with adjacent landowners has not identified any objections to the proposal.

☐

Elevation 2 : Scale 3 squares + 1 meter - Brick fence with metal infill (pool type) refer to pamphlet.
Inquiries made to landscape the verges in keeping with Parks & Gardens policies.

ELEVATION PLAN
LOT 614 CHAMPION DRIVE, WESTFIELD



ELEVATION PLAN & CROSS SECTION
LOT 614 CHAMPION DRIVE, WESTFIELD

OPTIONS

1. Approve the application to raise the fence height to 2.1 metres.
2. Refuse the application.

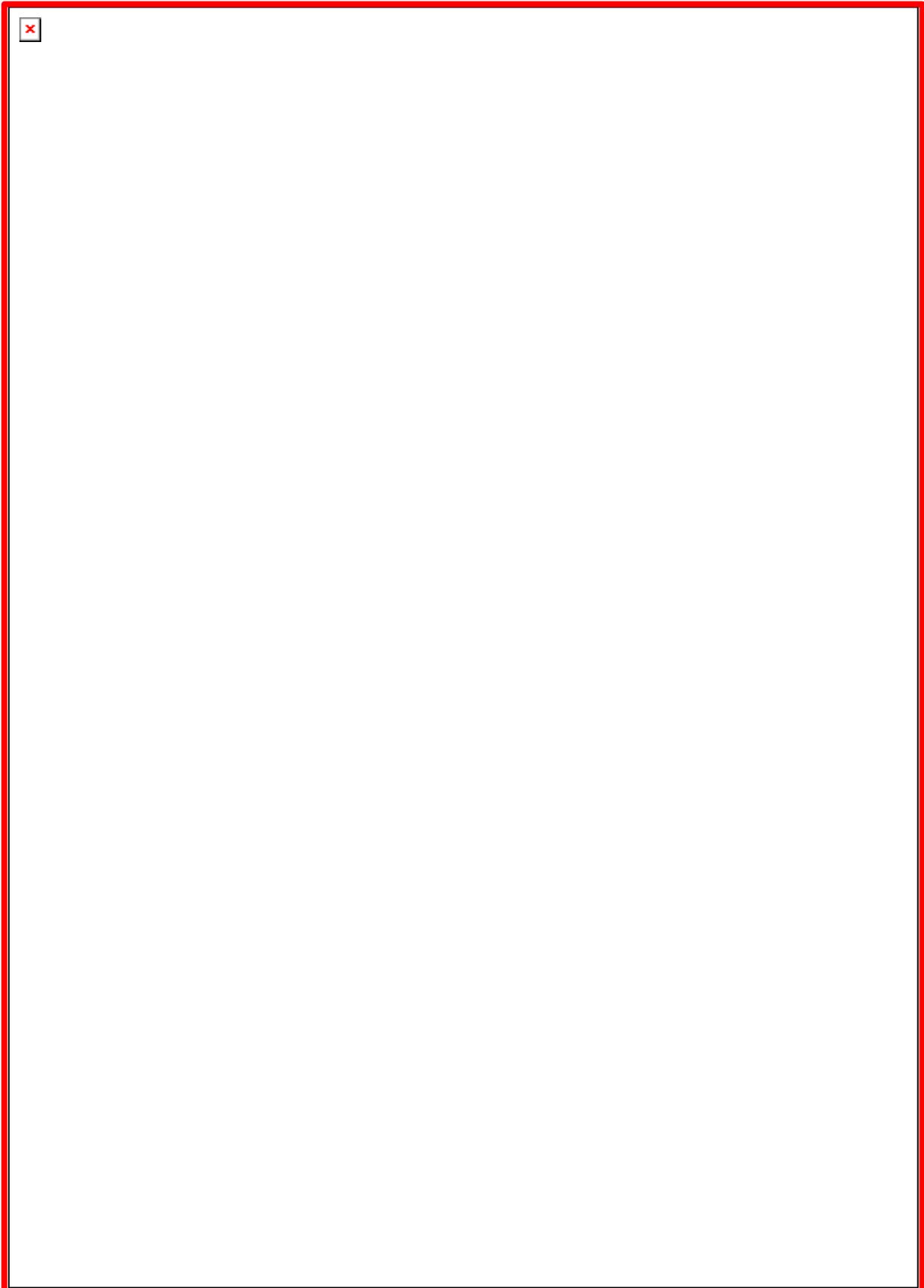
CONCLUSION

On the basis that the proposal will have negligible impact on the streetscape adjacent to the property and the support for the proposal from adjacent property owners it is considered that option 1 approving the extension of the fence height is appropriate in the circumstances that prevail.

D218/02 RECOMMEND

That Council approval the application for Ms M^cNab to extend existing street boundary fencing to a height of 2.1 metres in accord with the application documentation on Lot 614 (No.195A) Champion Drive, Westfield be approved.

MOVED Cr Reynolds
MOTION CARRIED (7/0)



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

WARD : ARMADALE
FILE REF : A3777
DATE : 28 November 2002
REF : JRH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Roberts Day Group
LAND OWNER : ABC Child Care
SUBJECT LAND : Property size 2491m²
Map 23.04
ZONING : Urban /
MRS/TPS No.2 ResidentialR15

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

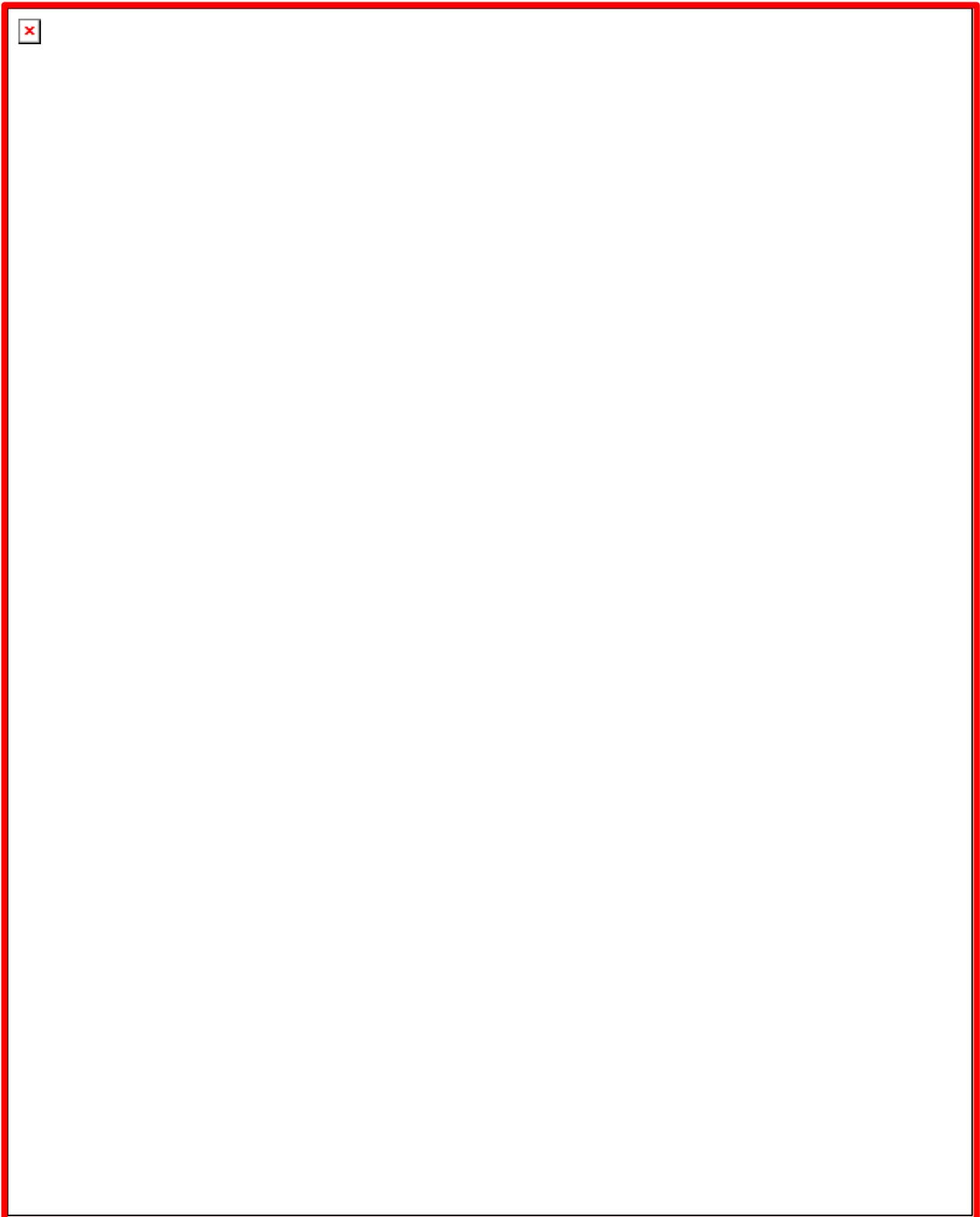
- ✍ Town Planning and Development Act 1928 (as amended)
- ✍ Town Planning Scheme No.2 (TPS No.2)
- ✍ Community Services (Child Care) Regulations 1988

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

In Brief:-

- ✍ Council recommended the application be refused at its July 2002 round of meetings. The proposal is now the subject of the appeal process, and is currently undergoing mediation.
- ✍ The appellant has submitted additional supporting evidence from traffic and noise consultants, which was presented to Council’s November 2002 round of meetings.
- ✍ Committee recommended that the application be recommitted pending receipt of further information from proponents in respect to a traffic impact assessment.
- ✍ A further mediation hearing has been held, where the City obtained advice on the progress of the appeal from the appellant and members of the Town Planning Appeal Tribunal.
- ✍ Recommend that Council resolve not to contest the appeal at a substantive hearing of the Town Planning Appeal Tribunal, on the basis of the findings of the traffic study prepared by the appellant, and the assessment of the traffic study by the City’s Technical Services Directorate and Main Roads WA.



SITE PLAN
LOT 14 CAROLINE ST, MT NASURA

Budget / Financial Implications

Potential legal costs involved in defending Council's refusal in the Town Planning Appeal Tribunal (a minimum of \$10,000 for legal fees plus additional cost should expert witnesses and consultants be required). Given the unpredictable nature of appeals, no specific allocation is made to accommodate such eventualities in the Budget.

Consultation

- ✍ Development Control Unit
- ✍ Council's Manager Technical Services

DETAILS OF PROPOSAL

At its meeting of 15 July 2002 Council resolved to refuse the application for a child minding centre for 71 children at Lot 14 (No.2) Caroline Street, Mount Nasura (D106/02) due to concerns with the scale of the proposal, and the resulting negative impacts on traffic, car parking and noise within the locality of the proposal.

The applicant subsequently appealed Council's decision to the Town Planning Appeal Tribunal. Following an initial mediation hearing, the appellant submitted a noise analysis, traffic analysis and car parking investigation for consideration by Council. The information was presented to Council's November 2002 round of meetings, with Council's determination being as follows:

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

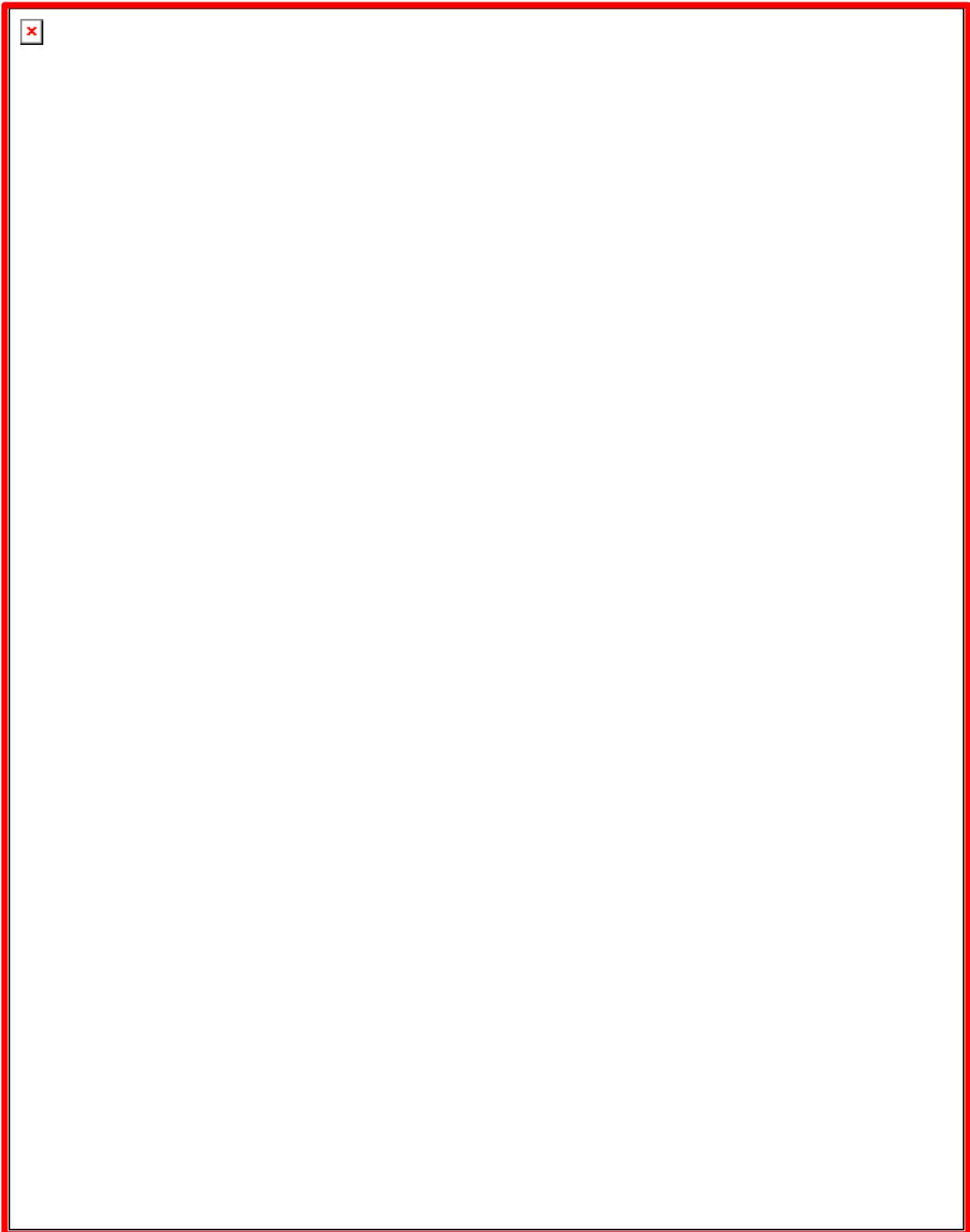
The City's officers attended a second mediation hearing on 25 November 2002. At this mediation hearing, the above resolution and Council's concerns were presented, and the appellant presented a revised car parking layout and access arrangements for the proposal. The applicant did not present additional information relating to the comprehensive traffic impact assessment as noted in the above resolution, but the consultant Traffic Engineer attended the mediation hearing and provided further clarification on the traffic impact assessment.

Council is requested to consider the revised plan submitted by the appellant, and to consider further options with respect to the appeal.

DETAILS OF PROPOSAL

Revised Car Parking Layout and Access Arrangements

The report on the proposal to Council's November 2002 meeting outlined concerns with the design of the proposed car park, due to the single crossover for shared entry/exit. In the event that bays in the car park are full, vehicles must turn around within the car park or reverse onto Caroline Street, creating an undesirable traffic situation which would be worsened by other patrons wishing to access the site.



ELEVATION PLAN
LOT 14 CAROLINE ST, MT NASURA

The appellant subsequently prepared a revised plan for the site, incorporating two crossovers approximately 13 metres apart with a one-way internal accessway of 6.5 metres width. All other details relating to the application remain unchanged, including the overall parking provision of 20 bays.

The plan has been reviewed by officers from the City's Technical Services Directorate, and it is considered that the revised plan addresses the concerns raised by Council with respect to access and manoeuvring. Although the provision of 20 bays appears insufficient in view of the fact that 12 of these bays are to be occupied by staff of the centre, this parking provision exceeds the requirement for 19 bays, based upon the provision of 1 bay per 10 children plus 1 bay per staff member as outlined in the City's Child Care Centres Policy. Consequently, it would be difficult for Council to successfully challenge this matter on appeal to the Tribunal.

COMMENT

Development Control Unit (DCU)

At its meeting held on 5 November 2002, DCU resolved to recommend that Council advise the appellant and the Town Planning Appeal Tribunal that the revised car parking arrangements and traffic impact should satisfactorily address the concerns of Council.

ANALYSIS

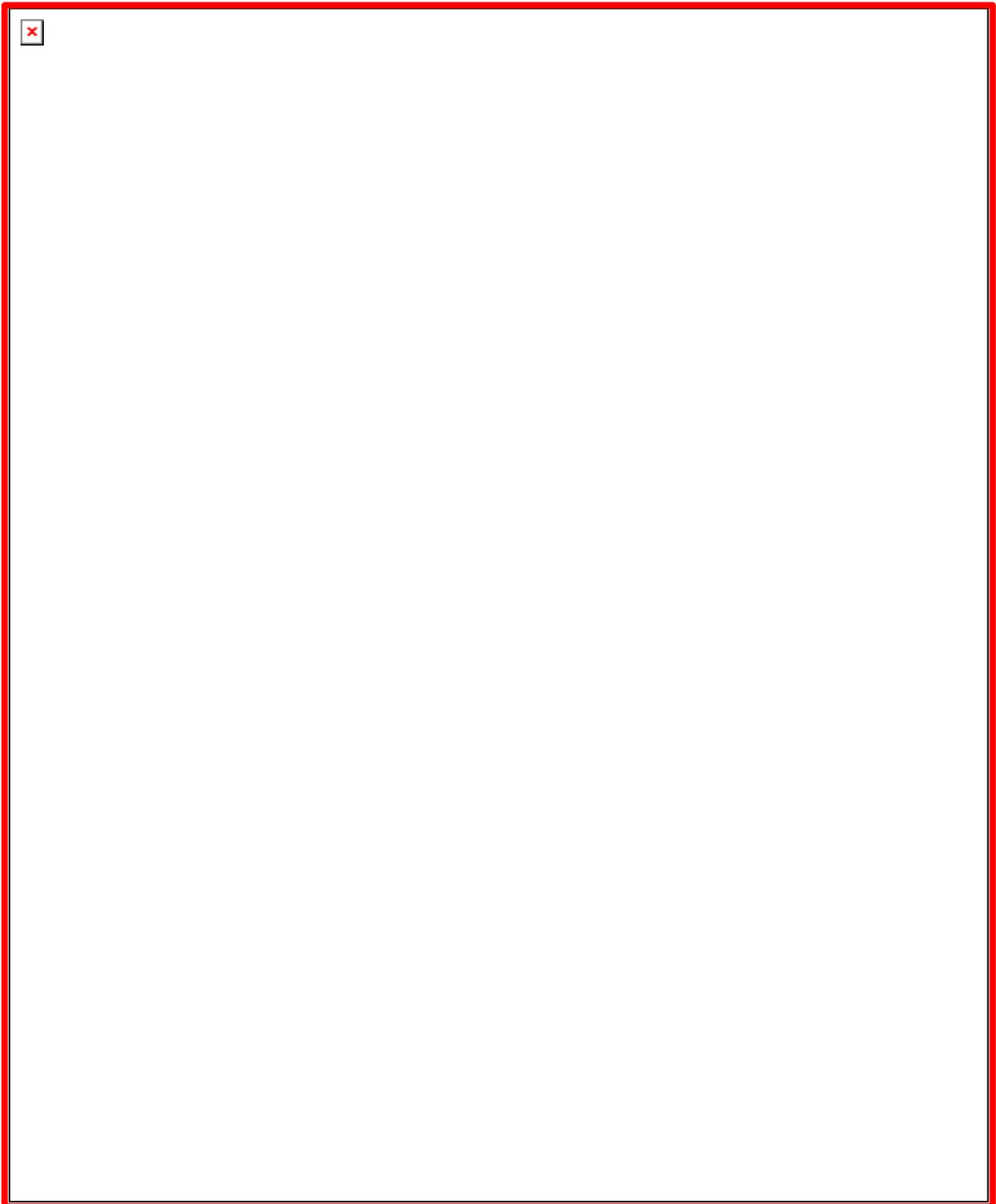
Noise Analysis

This matter was included within the report to Council's November 2002 round of meetings, but was not formally determined by Council. Council's Acting Health Services Manager examined the acoustic report submitted by Herring Storer Acoustics. In conducting an assessment of the data provided the following points were noted:

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

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

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



REVISED CONCEPT PLAN
LOT 14 CAROLINE ST, MT NASURA

Traffic Analysis

Council's Manager Technical Services previously examined the traffic impact statement submitted by Transcore Pty Ltd. The City identified several concerns with the safety of the intersection resulting from the proposal, however the findings of the traffic study did not concur with this. The investigations carried out by the traffic consultant used a technical tool (a computer package known as SIDRA) which reviews the current and predicted traffic volumes on the subject roads, anticipated traffic increases resulting from the proposal, and determines a 'Level of Service' for the road/intersection. The system has a large number of variables and deals in principle with outcome numbers and ratings, but does not consider factors relating to human behaviour or trauma following an accident.

The main concern raised by the City during the discussions with the appellant, Mediators of the Tribunal and Main Roads WA was the non-existence of deceleration lanes and sufficient space for queuing. The current gap in the median allows for one vehicle only and any further vehicle on the north bound lane must subsequently stop in the outer lane awaiting its turn to access into Caroline Street, which creates traffic conflicts as north bound vehicles travelling with 70km/h do not expect a vehicle to come to a sudden halt on the outer lane for the purpose of turning.

Following recommittal of the matter by Council at its November 2002 round of meetings, officers from the City's Technical Services Directorate have provided additional information to the appellant's Traffic Engineer with respect to the subject intersection. Currently there have been nine crashes reported for the time span between 1st January 1997 to 31st December 2001 at the intersection. A road safety investigation carried out by Council together with a senior consultant "Road Safety Auditor" in September 2002 indicated the following:

- ✍ The site does qualify for the State or Federal Black Spot Program based on the number and types of casualty crashes;
- ✍ It was recommended that u-turn movements should be banned based on the different levels of the two carriageways.

Since the above information was forwarded to the Traffic Engineer, the City has not received a response or a revised traffic analysis which incorporates this information.

Progress of Mediation

The mediation process for the appeal has focused on Council's concerns with respect to noise, traffic and parking, with the appellant engaging professional consultants to enable the impacts to be determined and addressed. It would appear that the issues relating to noise and car parking can now be addressed to the satisfaction of Council, with only the matter of traffic impact remaining to be reconsidered.

The appellant engaged a consultant Traffic Engineer to review the current situation at the intersection of Albany Highway and Caroline Street, and to assess the potential impact resulting from the development of the proposed child care centre.

The findings of this review indicate that the intersection is currently operating with a Level of Service of 'A', being the highest level of safety and traffic movement according to SIDRA, which will be maintained following the development of the centre. This information has been subject to assessment by the City's Technical Services Directorate and by Main Roads Western Australia. Whilst the report may require attention to address some anomalies, it is unlikely that the Level of Service at this intersection would be reduced. Prior to the mediation hearing, the City had received two facsimile messages received from Main Roads WA which indicated that the authority considered it desirable to have turning lanes installed on Albany Highway to improve the safety. This written statement was withdrawn by an officer of the authority during the mediation process.

The City acknowledges that the intersection has not been designed for significant traffic volumes accessing/egressing Caroline Street. The lack of a deceleration lane for southbound traffic and a central refuge for northbound traffic increases potential for rear-end collisions at this location, which is particularly of concern and the development of this centre will increase the likelihood of children being involved in such incidents. However, the outcome of the study does not demonstrate sufficient concern to refuse the application on this basis, nor to require the upgrading of the intersection as a condition.

It should be noted that should Council determine that it is not satisfied with the outcome of the traffic analysis, the matter would be referred to a substantive hearing of the Town Planning Appeal Tribunal. At this point the City would have to demonstrate the validity of its case, which would involve engaging a Traffic Engineer to conduct a review of the proposal and the report prepared by the appellant's consultant. The appellant would present its findings, and the final decision is to be made by the Tribunal. This stage of the process would also require the City to engage legal representation, which will incur further unbudgeted costs for this appeal. Tribunal members facilitating the mediation have advised that in their professional opinion, it is unlikely that the City would be successful on appeal at a substantive hearing of the tribunal.

OPTIONS

1. Council could resolve that it is not satisfied with the outcome of the traffic analysis, and requests that the matter be referred to a substantive hearing of the Town Planning Appeal Tribunal.
2. Council could resolve that its concerns relating to parking and noise have been satisfactorily addressed, but that it has serious reservations with the potential impact of the proposal on the safety of motorists at the intersection of Albany Highway and Caroline Street. Notwithstanding these concerns, it is not prepared to contest the appeal at a substantive hearing of the Town Planning Appeal Tribunal, on the basis of the findings of the traffic study prepared by the appellant, and the assessment of the traffic study by the City's Technical Services Directorate and Main Roads Western Australia.

CONCLUSION

In conclusion, it is considered that the additional information provided by the applicant with respect to car parking and noise impact provides sufficient information to address Council's concerns. Whilst Council's concerns with respect to the potential traffic impact on the intersection of Albany Highway and Caroline Street remain, the findings of the traffic impact study does not provide Council with a sufficient basis to contest its previous refusal of the proposal to the Town Planning Appeal Tribunal.

In light of the traffic assessment indicating that the proposal would not affect the current Level of Service at the intersection, and that Main Roads do not consider that the proposal would generate significant traffic impacts at the intersection, it is recommended that Council do not progress this matter to a substantive hearing of the Tribunal.

It is therefore recommended that the application be determined in accordance with Option 2.

Officer's report recommends –

1. That Council resolve to advise the Town Planning Appeal Tribunal and Main Roads Western Australia that with respect to the proposed Child Care Centre at Lot 14 (2) Caroline Street Mt Nasura, its concerns relating to parking and noise have been satisfactorily addressed, but that concerns with the potential impact of the proposal on the safety of motorists at the intersection of Albany Highway and Caroline Street as a result of the proposal remain.
2. That notwithstanding these concerns, Council is prepared to withdraw from the appeal at a substantive hearing of the Town Planning Appeal Tribunal, on the basis of the findings of the traffic study prepared by the appellant, and the assessment of the traffic study by the City's Technical Services Directorate and Main Roads Western Australia.
3. That in light of the above, Council advise the appellant and the Town Planning Appeal Tribunal that it is prepared to support the proposal in accordance with the revised plan indicating the alternative car parking layout and access arrangements, subject to the following principal requirements:
 - ✍ The building and fenced play areas to be designed and constructed utilising appropriately effective acoustic measures and materials to minimise noise nuisance to adjoining residential areas.
 - ✍ The submission of a comprehensive landscape plan is required. The landscape plan is to include plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained thereafter to the satisfaction of Council.
 - ✍ The submission of a schedule of materials and colours for the development (including any fencing) to be approved by Council. The development is to be completed and maintained in accordance with the approved colour scheme to the satisfaction of Council.

- ✍ Road upgrading/signage/access restrictions to the satisfaction of Council.
 - ✍ Construction of car parking, driveway and crossovers and marking of internal car parking spaces to the satisfaction of Council.
4. That the applicant be advised that compliance with the “Environmental Protection (Noise) Regulations 1997” is required.

COMMITTEE discussed concerns relating to the safety of the intersection resulting from the proposal and the unsatisfactory outcome of the traffic analysis report.

COMMITTEE requested that officers prepare a case for submission to the Town Planning Appeal Tribunal emphasising the following concerns –

- ✍ *Traffic safety;*
- ✍ *The risk to children playing in the playscape area; and*
- ✍ *The general amenity of the adjoining properties.*

D219/02

RECOMMEND

AMENDMENT
COUNCIL
16 DEC 2002

That Council resolve that it is not satisfied with the outcome of the traffic analysis report, and requests that the matter be referred to a substantive hearing of the Town Planning Appeal Tribunal, emphasising the following concerns:-

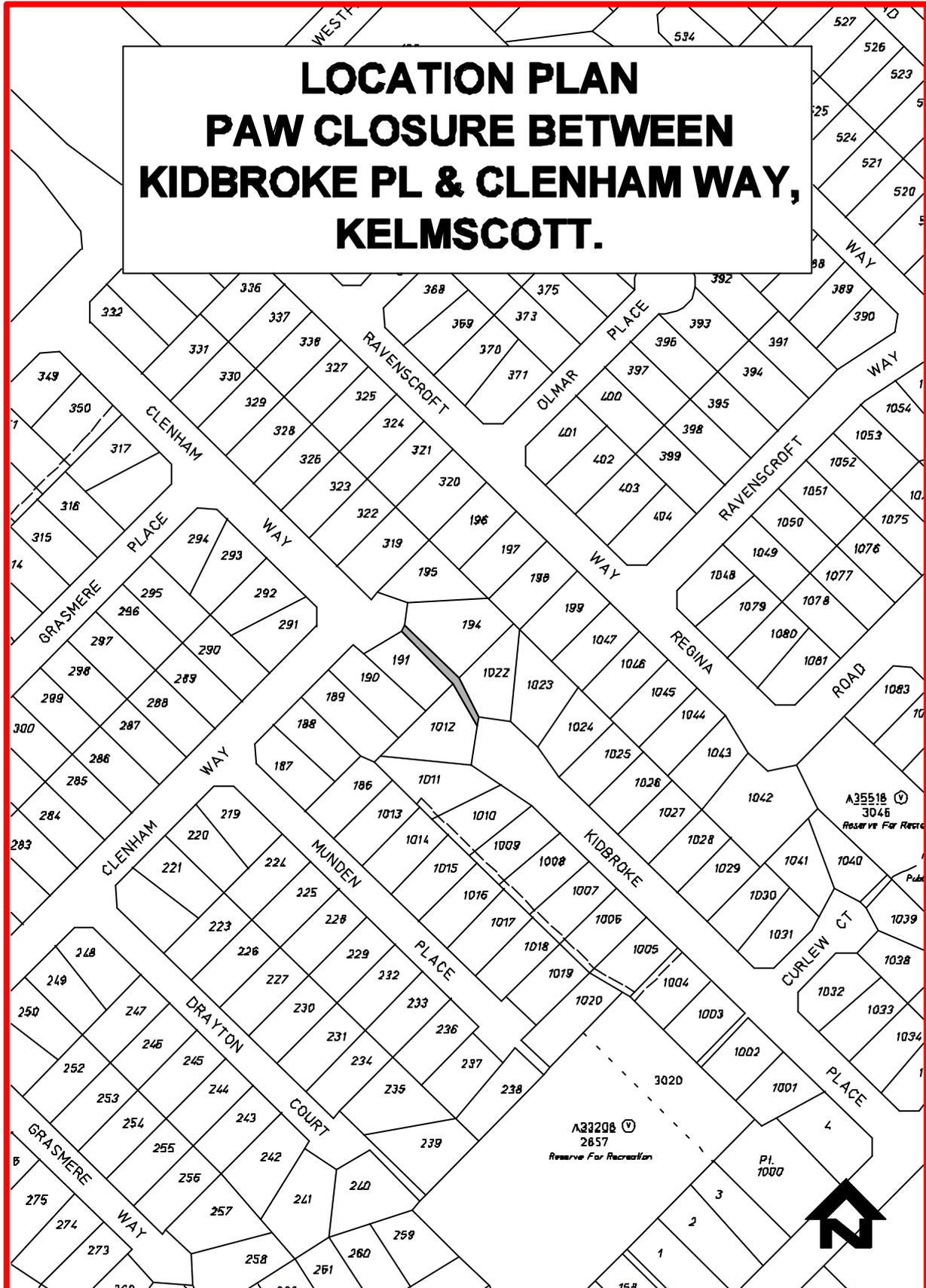
- ✍ **Traffic safety;**
- ✍ **The risk to children playing in the playscape area closest to Albany Highway; and**
- ✍ **The general amenity of the adjoining properties.**

MOVED Cr Green
MOTION CARRIED (7/0)

Cr Cumming left the meeting at 7.40pm and did not return.

Cr Fletcher left the meeting at 7.50pm and did not return.

**LOCATION PLAN
PAW CLOSURE BETWEEN
KIDBROKE PL & CLENHAM WAY,
KELMSCOTT.**



PROPOSED CLOSURE OF PEDESTRIAN ACCESS WAY (PAW) BETWEEN LOTS 191 (24) & 194 (22) CLENHAM WAY AND BETWEEN LOTS 1012 (28) 1022 (27) KIDBROKE PLACE, KELMSCOTT

WARD : WESTFIELD
FILE REF : WAY/3/97
DATE : 3 December 2002
REF : MF
RESPONSIBLE : PSM
MANAGER
APPLICANT : Mr Boris
LAND OWNER : As above
SUBJECT LAND : Pedestrian access way (PAW)
between Lots 191 (24) & 194
(22) Clenham Way and between
Lots 1012 (28) & 1022 (27)
Kidbroke Place, Kelmscott;
Map 22-06
ZONING : Urban / Residential 'R.15'
MRS/TPS No.2

In Brief:

- ✍ Closure of PAW further discussed with Department for Planning & Infrastructure (DPI) in accordance with Council's resolution on 21 October 2002.
- ✍ DPI has reiterated its previous position and declined its support for closure.
- ✍ Department of Land Administration unable to proceed with closure due to lack of support from the Department of Land Administration.
- ✍ Recommend that Council resolve not to pursue closure in view of DPI's determination not to support the closure

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

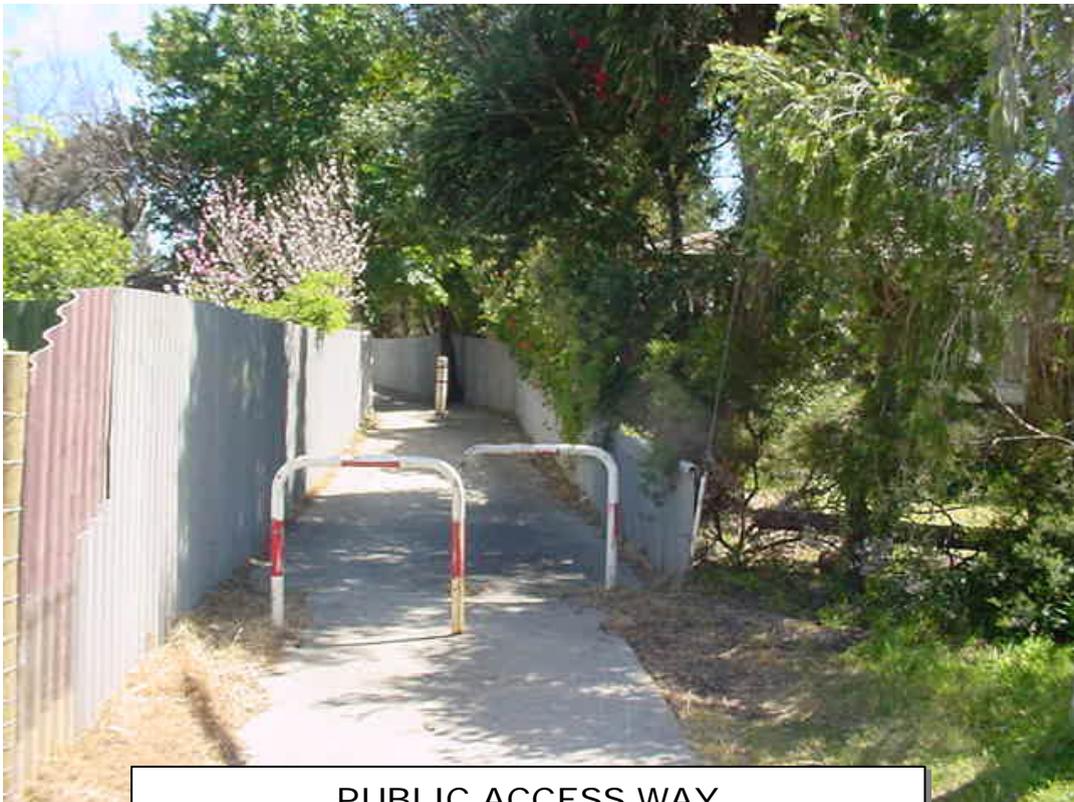
Land Administration Act 1997.

Council Policy / Local Law Implications

Nil.



PUBLIC ACCESS WAY
VIEW FROM KIDBROKE PLACE



PUBLIC ACCESS WAY
VIEW FROM KIDBROKE PLACE

Budget / Financial Implications

Technical Services Directorate has indicated a cost of approximately \$3,500.00 to install a welded mesh type fencing and a gate at each end of the PAW if Council resolves to close the PAW and establish the land as a Public Utilities Reserve with vesting in Council. This cost has been included in the 2002/2003 Budget.

Alternatively, if Council resolves to decline the request to close the PAW, some improvement works will need to be carried out to increase the safety and security of the PAW as follows:

1. Basic upgrading including concrete repairs to the PAW and general tidying up at a cost of \$800.00.
2. Installation of vandal proof lighting along the fence line at a cost of approximately \$5,000.00.

These costs have not been included in the 2002/2003 Budget but will form part of Technical Services Directorate's 5-year Programme.

Consultation

- ✍ Technical Services Directorate
- ✍ Department for Planning & Infrastructure (DPI)
- ✍ Department of Land Administration (DOLA)
- ✍ Abutting landowners
- ✍ Grovelands Primary School
- ✍ Public advertising

BACKGROUND

At its Meeting of 21 October 2002, Council resolved (D176/02):

1. That the proposed closure of the pedestrian access way (PAW) between Lots 191 (24) and 194 (22) Clenham Way and between Lots 1012 (28) and 1022 (27) Kidbroke Place, Kelmscott be further discussed with the Department for Planning & Infrastructure.
2. That applicant and abutting landowners be advised of Council's determination.

Council Officers consulted with the adjoining landowners. There was a varying consensus of view regarding closure of the PAW as summarised below.

COMMENT

The proposal was advertised for public comment in the Comment News and to 27 neighbouring property owners and service authorities with the following results:

- In favour of closure - 8 plus a petition containing 46 signatures
- Against closure - 3

However, a pedestrian count conducted on Monday 11 February, Tuesday 12 February and Wednesday 13 February 2002 revealed that 56 pedestrians used the PAW between 7.30 a.m. and 8.45 a.m. and 30 pedestrians used the PAW between 2.45 p.m. and 3.45 p.m. on the days in question.

The applicant has stated that he would prefer to purchase the PAW, subject to easements and if necessary with strict covenants. The applicant has also stated that he would be prepared to install gates and continue to maintain the land.

One of the abutting landowners consulted has objected to the closure proposal at the outset on the grounds that she uses the PAW on a regular basis to walk her children to School. Her home was broken into about 10 years ago but since she has carried out some basic measures to improve the security of her home, she has not had any further break-ins. She suggests that the applicant should perhaps also consider taking some basic measures such as increasing the height of his low fence and installing a gate to improve security and to deter intruders from accessing the rear of his property from the PAW.

Department of Land Administration (DOLA) has indicated that any action to close the PAW requires approval from DPI.

The Principal of Grovelands Primary School has also submitted a letter stating that the PAW is used by a significant number of school children and its closure will raise issues of safety because the children will have a longer unsupervised journey.

The Department for Planning & Infrastructure (DPI) in a letter dated 8 October 2002 reiterated its previous position and does not support closure. In its more recent dated letter, the DPI is of the view that:

- i) The PAW forms an important part of the local pedestrian and cycle route that provides for good overall permeability through the area;
- ii) There is not a consensus of view regarding the merits of closing the PAW;
- iii) There are impediments to the closure such as the objection from the Water Corporation;
- iv) Council should examine and trial alternative options to closure.

NEW INFORMATION

On 26 November 2002, Council Officers discussed the closure proposal with representatives from the DPI with a view to pursuing the closure of the PAW in accordance with Council's resolution of 21 October 2002.

Analysis of further discussions with DPI

The DPI has stated that whilst the most obvious solution is to close the PAW, the costs to the broader community in taking this action weigh against the closure to address the potentially transient problems of anti-social behaviour.

In addition, the DPI referred to a Western Australian Planning Commission Planning Bulletin which will be released in the near future dealing with planning considerations for the closure of pedestrian access ways. This document will provide Council in particular and local government in general with clear direction on matters that DPI will take into consideration when determining requests for pedestrian access way closures.

In essence, the Bulletin will in future require local Governments to consider the following:

1. The impact of closure of the PAW on local pedestrian/cycle connectivity, that is the additional travelling distance after closure.
2. The impact of closure on safe access to neighbourhood and facilities, including schools, shopping, parks, community facilities and public transport services.
3. The length of alternative routes and safety, surveillance amenity especially for the young, disabled and elderly.
 - (i) The role of the PAW as part of the wider pedestrian/cycle network.
 - (ii) The incidences of crime and social difficulties being experienced by the adjoining landowners.
 - (iii) The views of the adjoining landowners in relation to the PAW closure and a general commitment to purchase (applications will not proceed unless the land can be sold or reserved).

Analysis

Whilst the applicant's preferred option is to purchase the PAW land, the Water Corporation prefers the land to remain in the public domain.

The other abutting landowner's suggestion that basic measures should be considered to secure private property appears to be a valid comment. The Armadale police have arrangements in place to advise property owners on basic property security measures.

The concern expressed by the Principal of Grove lands Primary School seems a valid comment on the grounds that the closure will involve the children in a circuitous walk to the school.

DOLA has also advised that any action to close the PAW requires the support of DPI who is the determining authority.

In addition, the results of the pedestrian count on the days in question averaged 18 pedestrians between 7.30 a.m. and 8.45 p.m. and 10 pedestrians between 2.45 p.m. and 3.45 p.m. This suggests that the PAW is well used during school times on a regular basis.

Options

1. Advise the applicant and the abutting landowners that in view of the absence of support from the DPI (who is the ultimate Department to sanction closure) Council is unable to progress the closure.
2. Council may request that the Western Australian Planning Commission be asked to reconsider DPI decision.

CONCLUSION

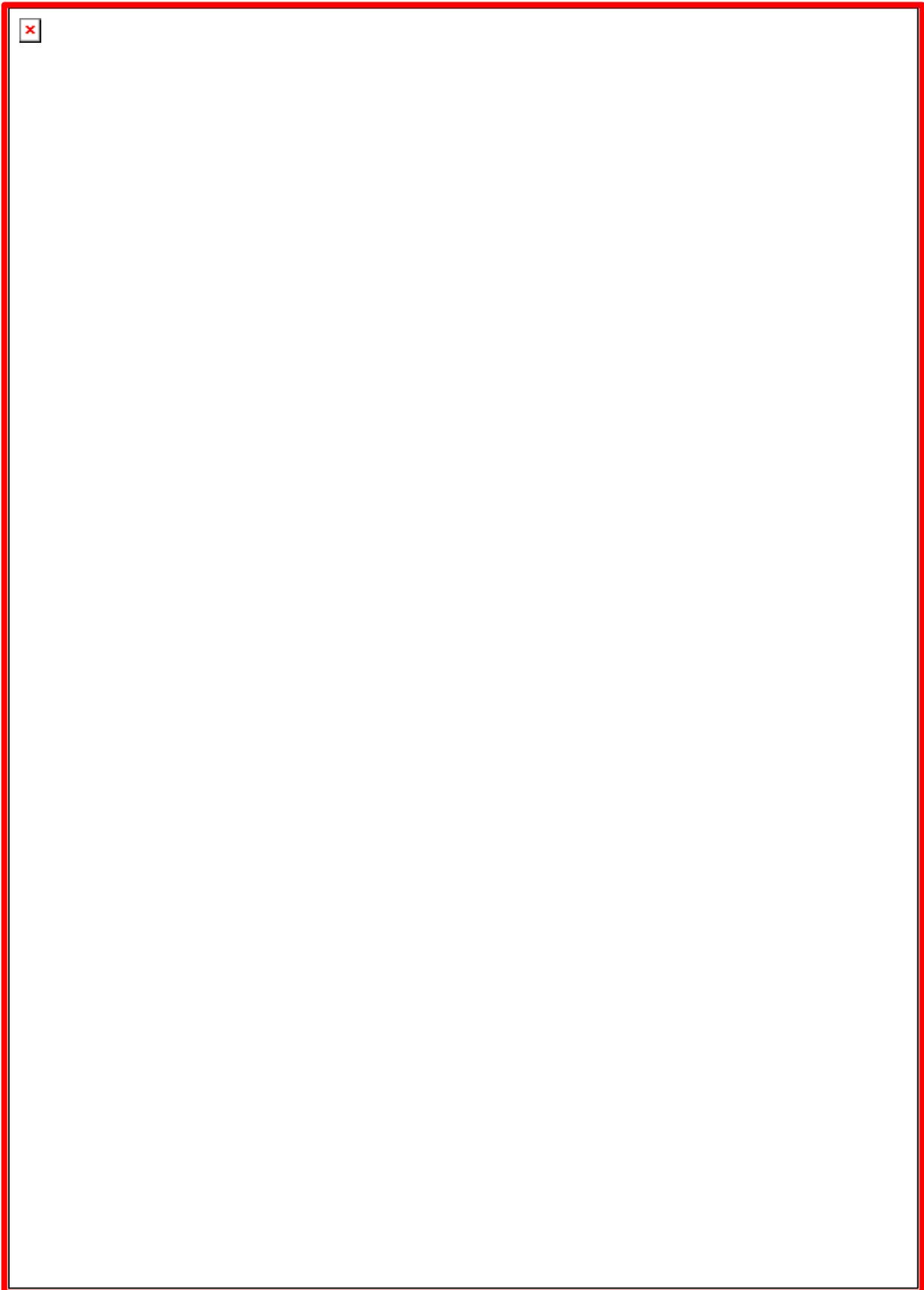
In view of DPI's position regarding the closure of this PAW, it is recommended that Council advise the applicant and abutting landowners that it is unable to proceed with the closure of this PAW. It is also recommended that the matter of basic upgrading of the PAW be referred to Technical Services Directorate for consideration and implementation.

D220/02

RECOMMEND

1. **That the applicant and abutting landowners and respondents be advised that proposed closure of the pedestrian access way (PAW) between Lots 191 (24) and 194 (22) Clenham Way and between Lots 1012 (28) and 1022 (27) Kidbroke Place, Kelmscott is unable to be further advanced in the absence of support from the Department for Planning and Infrastructure (DPI).**
2. **That basic upgrading works to improve security of the PAW be referred to Technical Services Directorate for consideration and implementation.**

MOVED Cr Reynolds
MOTION CARRIED (7/0)



**CONVERSION OF TANK AND PUMP HOUSE TO RESIDENCE –
LOT 8 (9A) PEET ROAD, ROLEYSTONE**

WARD : ROLEYSTONE
FILE REF : A132506
DATE : 29 November 2002
REF : IT
RESPONSIBLE : BSM
MANAGER
APPLICANT : D Nolan
LAND OWNER : D Nolan & H Yeaman
SUBJECT LAND : Property size 2,000 m²
Map 25.06
ZONING :
MRS/TPS No.2 Residential R5

In Brief:-

- ✍ Building Licence application to convert a decommissioned water tank into habitable residential accommodation.
- ✍ Recommendation that the application be approved subject to conditions relating to improving the streetscape impact of the existing structures.

Tabled Items

Plans and Photographs

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

Local Government (Miscellaneous Provisions) Act 1960
Building Regulations 1989
City of Armadale Town Planning Scheme No.2
Residential Planning Codes

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.



SITE PLAN - LOT 8 PEET RD, ROLEYSTONE



FLOOR & ELEVATION PLAN
LOT 8 PEET ROAD, ROLEYSTONE

Background

The applicants propose to convert a decommissioned concrete water tank and pump house on Lot 8 (No.9A) Peet Road Roleystone into residential and studio accommodation. The lot was previously owned by the City of Armadale and in recent years used to accommodate the Roleystone Volunteer Fire Brigade. The tank and pump house are the only structures currently on the lot.

The applicants purchased the lot from the City of Armadale in November 2001.

Consultation

✍ Adjacent property owners

DETAILS OF PROPOSAL

The applicant propose various modifications to the existing structure to achieve compatibility with the objectives of the Building Code in regard to moisture control, ventilation, effluent disposal and other aspects of the Code and the Health Act applicable to residential development and use the converted structure as a residence.

COMMENT

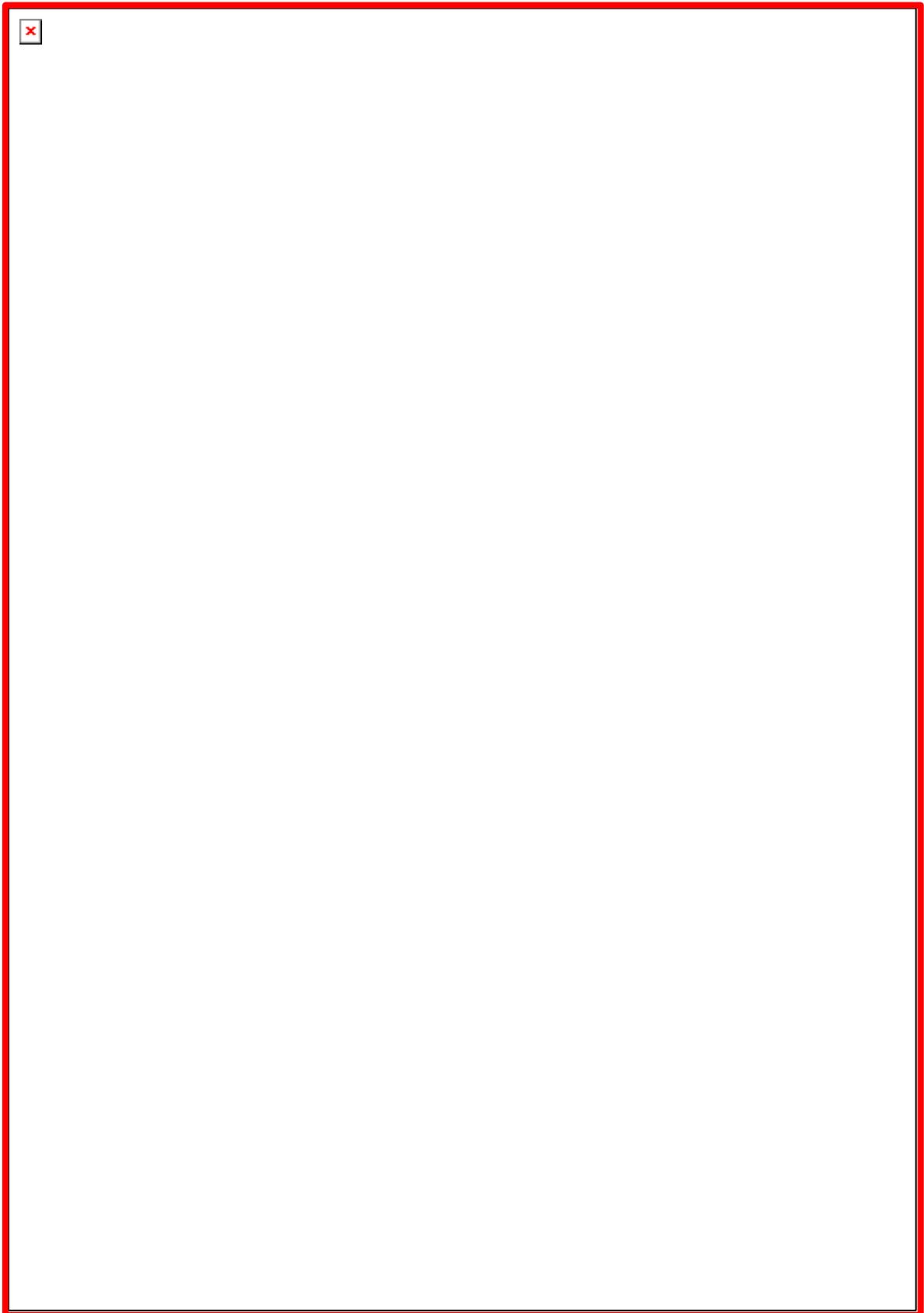
With the modifications to the structures proposed by the applicant it is clear that the conversion will ensure that the minimum residential standards of the Building Code of Australia are achieved. On this basis it is not possible to prohibit the conversion of the structure to residential purposes under the provisions of building control legislation

Notwithstanding that the structures have existed on the lot for a number of years it is considered appropriate that the residential setback provisions of the Residential Planning Codes be applied given that the current proposal is to use the structures for residential accommodation purposes.

The tank is setback 4.5 metres from the Peet Road boundary of the lot. Normal residential development would be expected to average a setback of 12 metres, with a minimum of 6 metres, on a lot coded R5 under the Residential Planning Codes.

On the basis that the structures have existed for a considerable length of time and that the modifications proposed are believed to improve their streetscape impact, officers are of the view that approval, with conditions, of the conversion is appropriate in terms of the objectives of the Residential Planning Codes.

Consultation has revealed that there are members of the surrounding community who are concerned about the retention of the tank structures on the lot and object to the modification of the structures for residential use purposes.



FLOOR & ELEVATION PLAN
LOT 8 PEET ROAD, ROLEYSTONE

Options

1. Approve the application to convert the existing tank and pump house into residential accommodation.
2. Refuse to issue a Building Licence on the basis that it is considered that the proposal does not meet the objectives of the Residential Planning Codes.

CONCLUSION

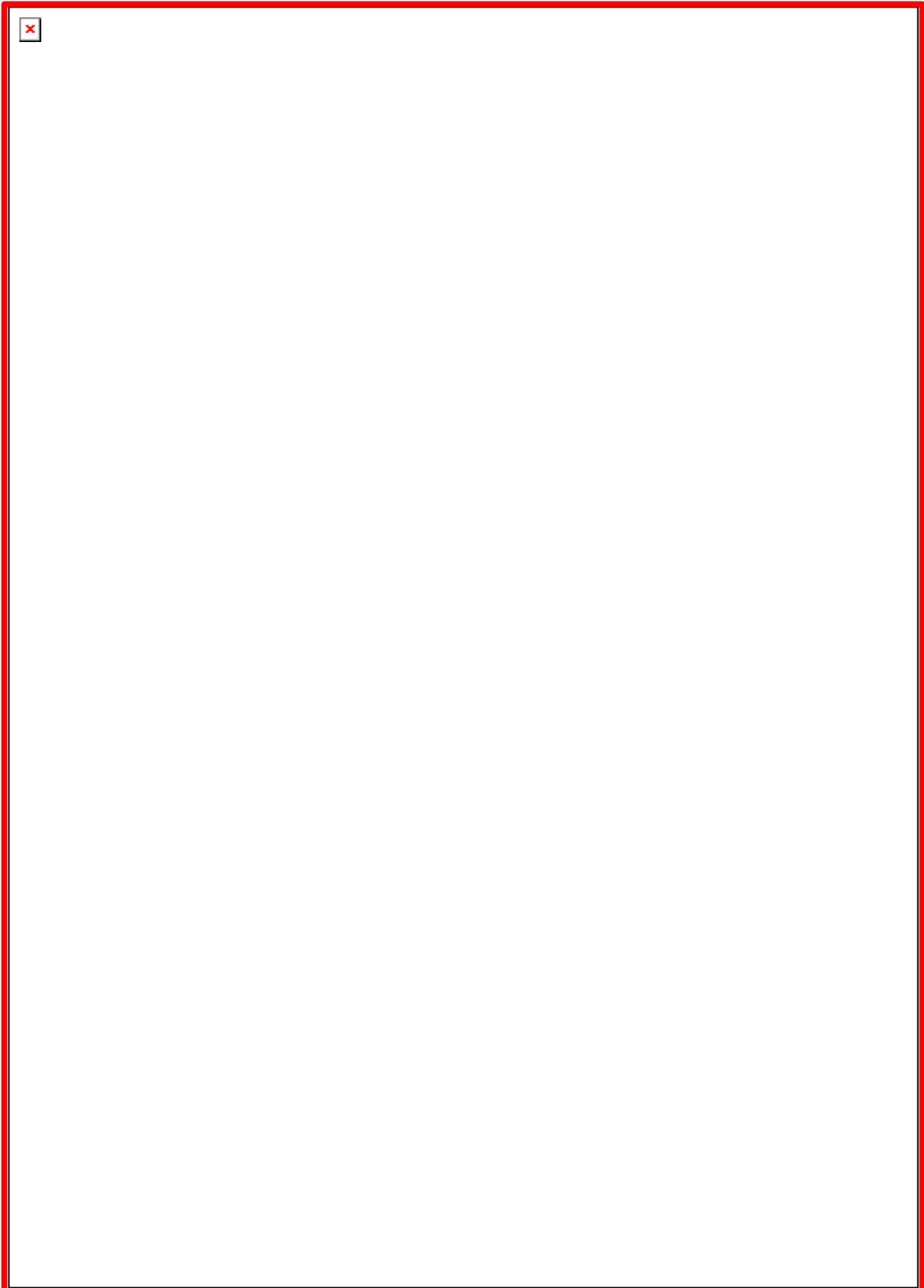
On the basis of the above, officers consider that it would be appropriate to issue a Building Licence to convert the decommissioned water tank and pump house on the lot to residential accommodation subject to conditions intended to improve streetscape impact.

D221/02

RECOMMEND

That the applicant's Building Licence application to convert tank and pump house structures on Lot 8 (9A) Peet Road Roleystone into residential accommodation be approved on the basis of its compliance with all the provisions of Building Code of Australia and the objectives of the Residential Planning Codes. Approval subject to the roof of the structure being painted in a colour compatible with the colour scheme adopted by the applicant for the balance of the development and to the satisfaction of the Building Services Manager.

MOVED Cr Knezevich, SECONDED Cr Everts
MOTION CARRIED (4/3)



***UNAUTHORISED OUTBUILDING ADDITIONS –
LOT 5 (NO.11) LEAKE STREET, FORRESTDAL***

WARD : FORREST
FILE REF : A36805
DATE : 29 November 2002
REF : SLH
RESPONSIBLE MANAGER : IT
LAND OWNER : C.J.Higgs
SUBJECT LAND : Property size 809m²
Map 18.03
ZONING : Res / Urban R12.5
MRS/TPS No.2

In Brief:-

- ✍ Report advising of the construction of an unauthorised addition and verandah to an existing outbuilding. Owner's respective family occupying the unauthorised structure.
- ✍ Recommendation that notice under Section 401 of the Local Government (Miscellaneous Provisions) Act 1960 be served on the owner requiring removal of the structures.
- ✍ At the expiration of the notice period a further inspection of the property to be undertaken to determine compliance with the notice. If the structures have not been removed a complaint to be made to the Court of Petty Sessions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Nil.

Legislation Implications

Local Government (Miscellaneous Provisions) Act 1960
Building Regulations 1989

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ✍ There has been consultation with the owner requesting removal of the unauthorised structures. The City's recent request has not received a response.

BACKGROUND

Officers from the City's Building, Health and Planning Departments recently inspected the subject property in response to a letter received from a neighbour, which outlined a number of concerns.

The primary building / health element was pertaining to an extension to the existing shed, which had been converted to what appeared to be family accommodation. Approval for the works had not been applied for which is in contravention of the Building Regulations 1989.

Other issues related to noise, truck parking and accumulation of rubbish on site, which were to be followed up by the City's Compliance Officer.

The inspection confirmed that the existing brick outbuilding had been extended to include a steel framed addition, which was occupied by the owner's son. The works were not considered to be structurally sound nor of a good construction standard. The structure also lacked basic facilities such as water, electricity and adequate ventilation and as such is not fit for habitation.

Officers have requested both verbally and in writing that the owner's son vacate the premises in conjunction with the removal of the offending structure.

Recently, a reinspection of the property revealed that the structure still remains and that a verandah has also been constructed over the entrance. The owner has not responded to the City's correspondence, which requests that he contacts the officer concerned.

DETAILS OF PROPOSAL

It is unlikely that the City will achieve a suitable outcome without pursuing a process, which involves formal resolution of the matter. Consequently it is considered appropriate to serve a notice under the Local Government (Miscellaneous Provisions) Act 1960 on the owner of the land requiring removal of the structure.

Options

1. Serve notice under the Local Government (Miscellaneous Provisions) Act 1960 requiring the removal of the structure.
2. Take no further action.

CONCLUSION

Given that the structure is adversely impacting on the neighbouring community, and that the owner has failed to comply with the City's requests, it is considered appropriate to serve notice to ensure resolution of the problem and on that basis Option 1 is recommended.

D222/02 RECOMMEND

- 1. That notice under Section 401 of the Local Government (Miscellaneous Provisions) Act 1960, be served on the owner of Lot 5 (No.11) Leake Street, Forrestdale, requiring that unauthorised structures comprising of an addition and verandah to the existing outbuilding on the subject lot be removed within 28 days of the notice service date.**

- 2. That at the expiration of the notice period, a further inspection of the property is undertaken to determine if compliance with the notice has occurred. If the structures have not been removed, a complaint in accordance with section 401(7) of the Local Government (Miscellaneous Provisions) Act 1960 be made to the Court of Petty Sessions.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

COUNCILLORS' ITEMS

Nil.

PIONEER VILLAGE AIR CONDITIONER – NOISE COMPLAINT

WARD : ARMADALE
FILE REF : A185084
DATE : 28 MAY 2002
REF : IW
RESPONSIBLE : HSM
MANAGER

In Brief:-

- ✍ Since the Pioneer village cinema opened in January a number of noise complaints have been received from a nearby resident.
- ✍ Recent sound level measurements show that the noise emissions significantly exceed the prescribed levels.
- ✍ Recommendation: That the action of the Acting Health Services Manager in issuing an infringement notice be noted.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Strategic Plan Aim – To maintain the City Of Armadale as a place where the average family can enjoy a good lifestyle.

Legislation Implications

Environmental Protection Act 1986 – Creates the offence of emission of unreasonable noise and defines “unreasonable noise” as, among other things, noise exceeding a standard defined by any subsidiary legislation.

Environmental Protection (Noise) Regulations 1997 (made under the Act) prescribe the standard for noise emissions and assigned noise levels.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

The Department Of Environmental Protection.

BACKGROUND

At its meeting of 20th May, 2002 Council resolved:-

That unless by 31st May, 2002:-

- ✍ Works effective in reducing noise emissions from the air conditioning unit serving the building known as Pioneer Village Cinema, to the levels permitted by the Environmental Protection (Noise) Regulations 1997 have been completed; and*
- ✍ The modified penalty imposed by the Infringement Notice issued on 25th March has been paid;*

Legal proceedings be instituted against Regent Cinemas for breach of Section 79 of the Environmental Protection Act.

The Infringement Notice was paid but, due to the onset of cooler weather, the air conditioner was not used again and subsequently no more sound level readings were taken.

With the onset of warmer weather the air conditioner is now being used again. Despite claims that work has been carried out on the unit to reduce the noise emissions, sound level readings taken on 22nd November 2002 demonstrated that the noise emissions exceed the prescribed level by a significant amount. The Department Of Environmental Protection (DEP) has confirmed that the sound level readings recently taken by Council officers clearly demonstrate that the noise emissions exceed the prescribed levels. The DEP is prepared to put this in writing and they can be subpoenaed as our *expert witness* should the matter result in legal action.

The proprietors of the Cinema have been advised of this and have given an undertaking to reduce the noise levels.

Sound level readings taken on 28th November, 2002 show that the levels are still significantly above the prescribed levels for the area.

An Infringement Notice was subsequently issued for the offence committed on 22nd November. Since the Infringement Notice was issued an acoustic consultant has been appointed by the proprietors of Pioneer Village Cinema. The consultant has indicated that he will be able to reduce the noise levels considerably.

COMMENT

Analysis

This has been a difficult complaint to resolve for a number of reasons i.e. intermittent use of the air conditioner and high background noise levels.

The proprietors of the cinema have been given numerous written warnings that if noise from the air conditioner exceeds the prescribed levels legal action would be taken. We are now in a very strong position to take legal action over the matter.

Options

1. Issuing an Infringement Notice with a \$500 penalty;
2. Instituting legal action;
3. Issue a Noise Abatement Direction (this prevents the air conditioner from being used but is only valid for 7 days.);
4. Issue a Pollution Abatement Notice (this prevents the air conditioner from being used and the Notice is registered as a caveat on the title.)

Conclusion

Given that :

- ✍ the complaint has been going on for some time;
- ✍ the proprietors of the cinema have been given numerous written warnings;
- ✍ the noise levels clearly exceed the prescribed level for the area;
- ✍ the complainants frustration at the length of time to resolve the matter;

breaches of the Regulations should result in action being taken.

The quickest way to take action is to issue an infringement notice, with a penalty of \$500. This can be then followed up with further action if it does not have the desired effect.

Committee was appraised of the latest developments in this matter including:

1. *A memorandum (tabled) from the CEO which read:*

“In response to advice from the Press that the operator of the Pioneer Village Cinema had criticised Council for “unfairly” penalising his business in response to one complainant, I advised the Weekend Examiner:-

- a) *I am aware of a practical solution advised on site on Monday, 2 December 2002 by an Acoustic Consultant.*
- b) *The solution can be readily implemented if the owner authorises.*
- c) *I hoped that I would be able to advise Committee and Council by this week that remedial measures had been effected.*
- d) *The EDDS and Principal EHO will advise Committee of latest developments.”*

2. *Advice from the Health Services Manager to the effect that:*

- a) *The City was in receipt of a written undertaking from Regent Cinemas to undertake all relevant modifications recommended by its Acoustic Consultant and anticipated completion of works by Wednesday 11th December.*
- b) *In the meantime, the company had undertaken not to use the air conditioner after 7.00pm until such works were completed, and not to use it at all after 11th December should the requisite works not be complete by that time.*
- c) *The complainant had indicated that he was prepared to accept that arrangement.*
- d) *Accordingly, Regent Cinemas had been advised that no enforcement action would be undertaken subject to strict adherence to its undertakings.*

D223/02 RECOMMEND

- 1. That the action of the Acting Health Services Manager in issuing an infringement notice on the Proprietor of Regent Cinemas be noted by Council.**

- 2. That legal action be instigated for any further breaches.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

COUNCILLORS' ITEMS

Nil.

***METROPOLITAN REGION SCHEME PROPOSED AMENDMENT –
INCORPORATION OF RETROSPECTIVE APPROVAL PROVISIONS INTO THE MRS***

WARD : ALL
FILE REF : MRS/1062/33A
DATE : 29 November 2002
REF : HC
RESPONSIBLE : PSM
MANAGER
APPLICANT : WA Planning Commission

In Brief:-

- ✍ The WA Planning Commission is seeking to amend the Metropolitan Region Scheme (MRS) text to provide for the incorporation of retrospective approval provisions for developments.
- ✍ Currently the only recourse is to take no action on the development or to undertake legal action for unlawful development.
- ✍ Recommend that Council support the amendment and authorise the Executive Director Development Services to make any necessary submission to the Western Australian Planning Commission on behalf of Council.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Create stronger communication links with Government agencies, industry and commercial groups.

Legislation Implications

- ✍ Metropolitan Region Town Planning Scheme Act.
- ✍ Metropolitan Regional Scheme

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

Nil.

DETAILS OF PROPOSAL

The Western Australian Planning Commission (WAPC) advises it recently resolved to amend the Metropolitan Region Scheme (MRS) text to provide for the incorporation of retrospective approval provisions. The amendment is being advertised from 15 November 2002 to 31 January 2003 and submissions are sought prior to the latter date.

COMMENT

Analysis

There is currently no power under the MRS to grant approval after a development has been completed. Development can only be approved prior to its commencement and, in some circumstances, during the course of carrying it out, but not subsequent to its completion.

The situation can arise where a developer omits to apply for development approval or completes a development which is not entirely in accordance with a planning approval. In the absence of specific provisions the Commission can either take no action or take court action against the development as being illegal.

The retrospective approval provisions are of value in enabling approval to be granted to otherwise acceptable development that has not received formal approval or varies from an approval granted. It would overcome the need for recourse to enforcement action in such circumstances. Retrospective approval provisions do not imply that approval will be granted but only that an individual can be given the opportunity to apply for planning approval after a development has been commenced or completed. It does not place any obligation on the Commission to approve the development.

OPTIONS

1. Object to the proposed amendment.
2. Support the proposed amendment.

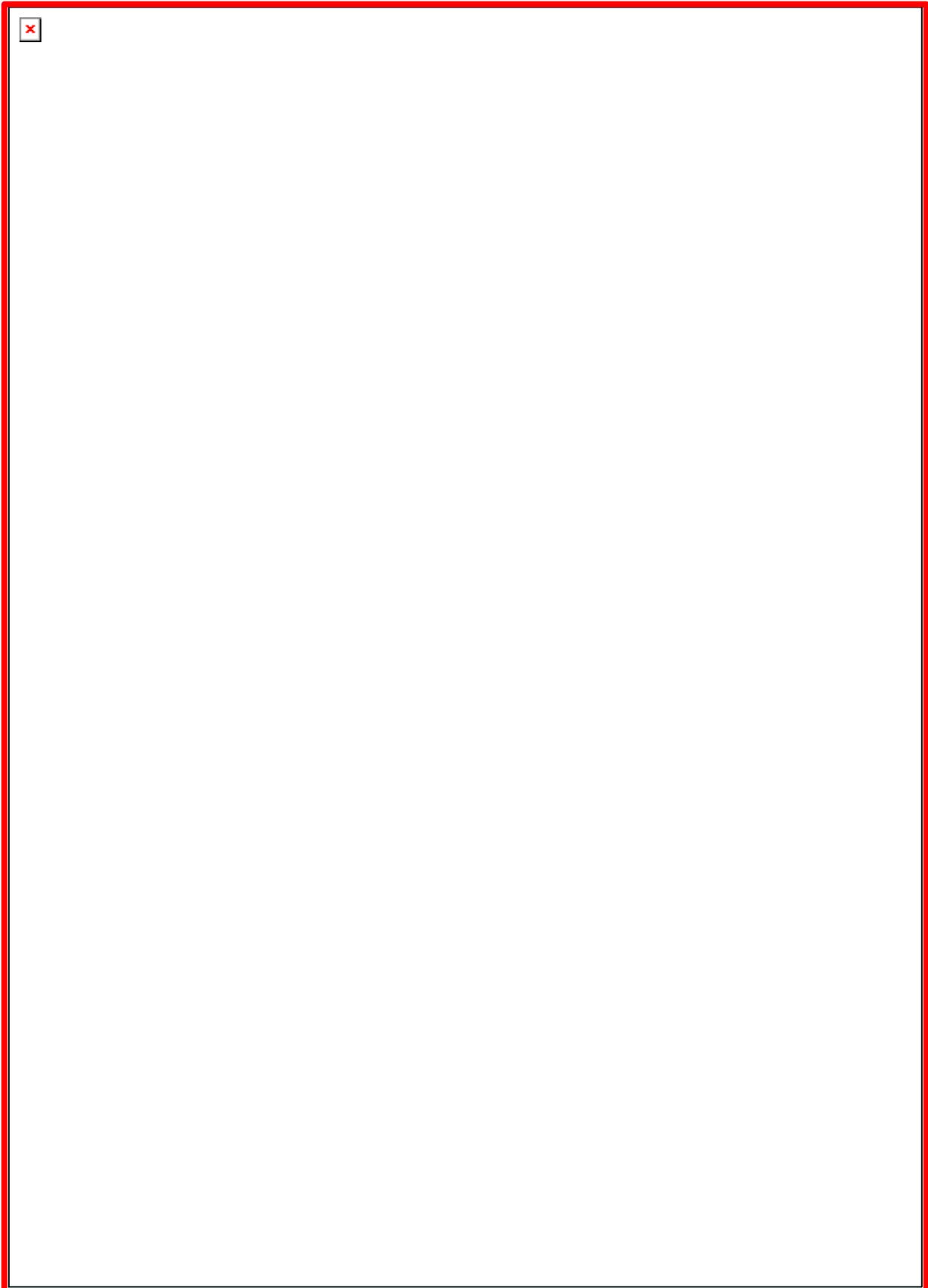
CONCLUSION

It is suggested that the amendment will overcome anomalies raised where formal approvals have not been received prior to the completion of a development and can be supported. It will give the WAPC a retrospective power to approve acceptable developments whilst retaining the right to take legal action against unacceptable developments.

D224/02 RECOMMEND

That Council support the amendment to incorporate retrospective approval provisions into the Metropolitan Region Scheme and authorise the Executive Director Development Services to make any necessary submission on the amendment to the Western Australian Planning Commission on behalf of Council.

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED MRS AMENDMENT AND TOWN PLANNING SCHEME AMENDMENT –
LOTS 106 & 107 WRIGHT ROAD, FORRESTDAL***

WARD : FORREST
FILE REF : A63535
DATE : 1 November 2002
REF : JRH
RESPONSIBLE MANAGER : PSM
APPLICANT : Prestige Developments
LAND OWNER : G. Hendriks
SUBJECT LAND : Property size 3.98ha
Maps 18.07 & 18.08
ZONING : Rural
MRS/TPS No.2 : Rural – Kennels

In Brief:-

- ✍ Applicant proposes a Scheme Amendment over the subject lots, to facilitate the development of the site for Commercial purposes. The applicant is also seeking Council's support to a minor Amendment to the Metropolitan Region Scheme (MRS) to rezone the lots to 'Urban' to facilitate rezoning under the local Town Planning Scheme.
- ✍ Proposal is generally consistent with the recommendations of the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan, but requires further review to ensure that the overall development of the Village Centre is not compromised.
- ✍ Recommend Council resolve to request the Western Australian Planning Commission initiate a minor amendment to the MRS, and resolve to initiate the proposed Scheme Amendment. This request and initiation is subject to the completion of a Centre Plan for the proposed Village Centre at the intersection of Ranford Road and Wright Road, which is to be determined by Council as part of its final adoption of the Scheme Amendment.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

- ✍ Legislation requires the local Town Planning Scheme No.2 to be in conformity with the Metropolitan Region Scheme;
- ✍ Town Planning Scheme No.2;
- ✍ Town Planning & Development Act 1928;
- ✍ Metropolitan Region Town Planning Scheme Act 1959;
- ✍ Environmental Protection Act and Regulations 1986;
- ✍ WAPC Statement of Planning Policy No.9 – Metropolitan Centres Policy

Council Policy / Local Law Implications

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

Budget / Financial Implications

Nil.

Consultation

- ✍ Council's Strategic Planner
- ✍ Council's Environmental Officer
- ✍ Council's Technical Services Directorate
- ✍ City of Gosnells

BACKGROUND

The subject lots currently contain a single residence and kennels. Lots 80 & 82 Ranford Road to the north-west of the site have been the subject of several rezoning proposals, with a proposal to rezone the lots to 'Residential – Development Area' and 'Showroom' being initiated by Council at its November 2002 round of meetings (D206/02).

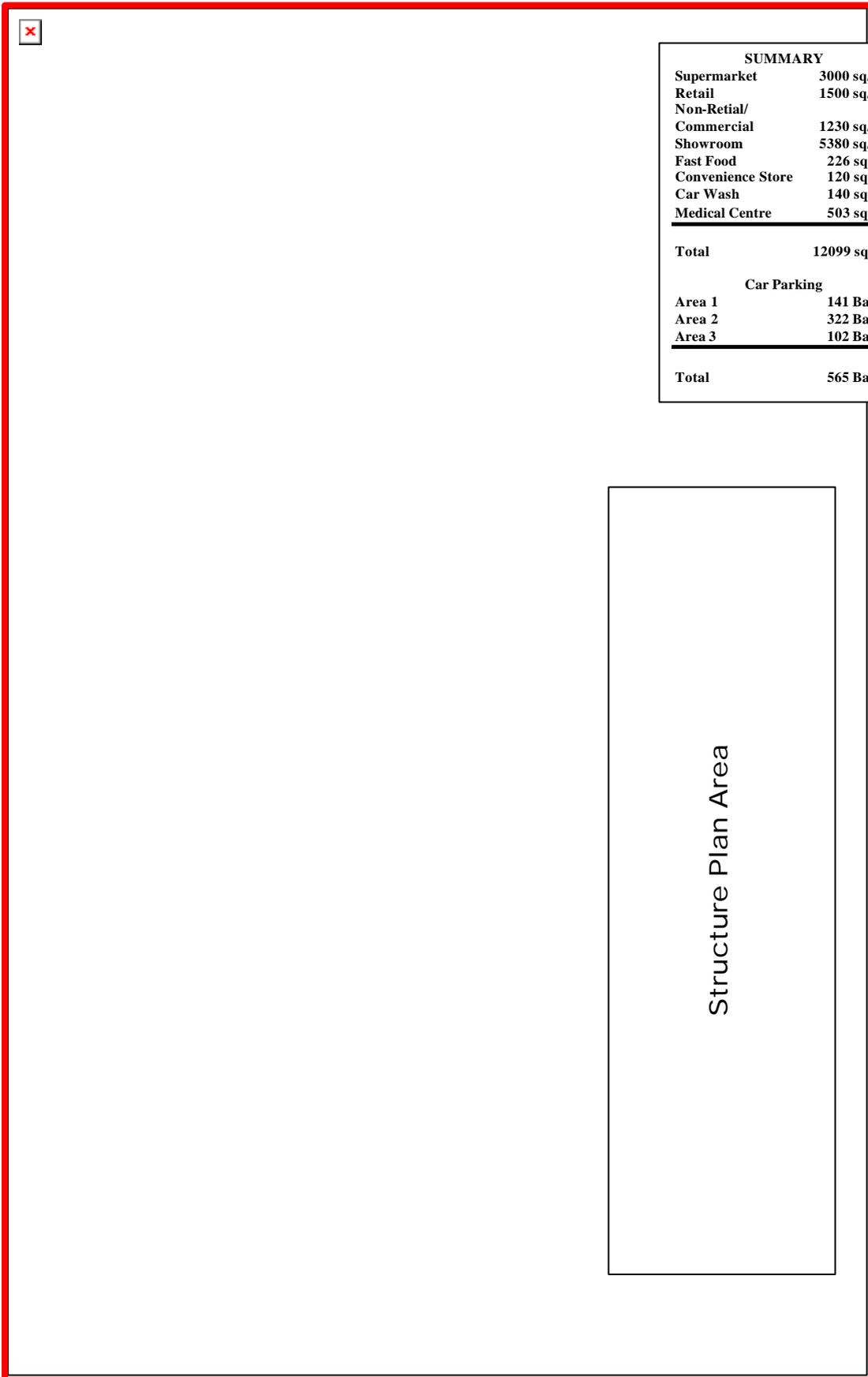
The site is located within the District Structure Plan for Southern River, Forrestdale, Brookdale and Wungong, which provides for the urbanisation of existing rural land in this location over the next 10 to 20 years. Lots 106 and 107 are identified within the Structure Plan as being part of a Village Centre at the intersection of Ranford Road and Wright Road.

DETAILS OF PROPOSAL

The application proposes the rezoning of the lots under Town Planning Scheme No.2 from 'Rural – Kennels' to 'Showroom' and 'Shopping'. The applicant also seeks Council's support to request the Western Australian Planning Commission initiate a minor amendment to the Metropolitan Region Scheme under Section 33A of the Metropolitan Region Town Planning Scheme Act 1959 to rezone the lots from 'Rural' to 'Urban'.

An Indicative Development Plan has been submitted in support of the proposal. The plan demonstrates the development of a Service Station at the intersection of Wright Road and Ranford Road together with 850m² retail floorspace, with Showroom/Mixed Business development to the south and west of the retail component.

The subject lots are also included within a Structure Plan over Lots 80 & 82 Ranford Road, Forrestdale. This plan details the proposed subdivision form within the application area, and the development of the portion of the Village Centre over Lots 106 and 107. Council's consideration of this Structure Plan is covered within a separate report elsewhere in this agenda.



VILLAGE CENTRE - APPROVED DEVELOPMENT WITHIN CITY OF GOSNELLS -
PROPOSED MRS AMENDMENT & TOWN PLANNING SCHEME AMENDMENT
LOTS 106 & 107 WRIGHT RD, FORRESTDALE

COMMENT

Southern River/Forrestdale/Brookdale/Wungong District Structure Plan

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

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

Urban Water Management Strategy

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

The assessment of the strategy is anticipated to be completed within the next few months. The UWMS should be finalised prior to Council's consideration of final adoption of the proposed Amendment, which would permit modifications to the Amendment to comply with the completed UWMS, should changes be required.

Minor Amendment to the Metropolitan Region Scheme

Lots 106 and 107 are currently zoned 'Rural' under the Metropolitan Region Scheme (MRS). In conjunction with the proposed rezoning, the applicant requests Council's support to a minor amendment to the MRS to 'Urban', in accordance with the provisions of Section 33A of the Metropolitan Region Town Planning Scheme Act 1959.

The adjacent Lots 80 and 82 are currently zoned 'Urban' under the MRS, and the applicant argues that rezoning of the subject lots constitutes a 'rounding off' of the Urban zoning in this area, to create an urban cell bounded by Wright Road, Ranford Road, Warton Road and regional reserve. Lots 106 and 107 are to be developed in conjunction with Lots 80 and 82, and not as part of the larger Forrestdale area which will be the subject of a major MRS Amendment.

Section 33A of the Act enables the Commission to certify that where an Amendment would not constitute a major alteration to the MRS, an abbreviated amendment process may be followed. Subject to support by the Commission, the MRS is amended through a process which is considerably shorter than that of a major MRS Amendment, and is determined by the Hon. Minister rather than by both Houses of Parliament.

Given the above, it is considered that the current MRS zoning of 'Rural' is not an impediment to Council initiating an amendment to the District Planning Scheme over Lots 106 and 107 for urban purposes, subject to the MRS Amendment being finalised prior to finalisation of the District Planning Scheme Amendment.

Metropolitan Centres Policy - Compatibility with approved 'Village Centre' Floorspace

The Southern River/Forrestdale/Brookdale/Wungong District Structure Plan identifies the intersection of Wright Road and Ranford Road as the location of a Village Centre. A centre of this scale would typically accommodate a Net Leasable Area (NLA) of approximately 4500m², in accordance with the provisions of the Metropolitan Centres Policy of the Western Australian Planning Commission. The policy does not include floorspace for uses such as Service Stations, Showrooms or Offices, but relates to retail shopping floorspace.

This proposed Village Centre is divided partly within the City of Gosnells and partly within the City of Armadale, along the alignment of Ranford Road. Development of retail uses at this centre within Gosnells has substantially progressed, with approvals granted for 4500m² retail floorspace, a convenience store, non-retail commercial, office and mixed business uses. These approvals have been granted in the absence of an overall Centre Plan for the development of the Village Centre.

The City of Gosnells has previously resolved that this centre be allocated 4500m² retail floorspace, which includes the portion within the City of Armadale. This was based upon retail modelling conducted by consultants on behalf of the City of Gosnells. The Policy does incorporate the ability to approve an increase in floorspace of up to 1000m², subject to provisions including the centre being designed along 'Mainstreet' principles as integrated, attractive, safe and vibrant places to provide a focus for community activities. The Indicative Development Plan for Lots 106 and 107 proposes 850m² retail floorspace within mainstreet shopping, and retail floorspace within the proposed convenience store. The applicant has advised that the retail component within the subject lots will not exceed 1000m², which is within the parameters specified within the policy.

It should be noted that endorsement of the above would result in the maximum floorspace allocation (4500m² plus 1000m² bonus) being distributed on only three sides of the intersection. The policy does note that the floorspace allocation may be subject to alteration following consideration of a Local Planning Strategy or Centre Plan. On this basis it is recommended that the retail component within the proposed 'Shopping' zone be endorsed at this stage, subject to the formal consideration and adoption of a Centre Plan for this Village Centre by Council. This plan may be considered for adoption by Council in conjunction with its consideration of final adoption of the amendment, prior to being determined by the Commission.

Environmental Issues

A vegetation and flora assessment for Lots 106 & 107 has been completed by ATA Environmental, with the assessment being reviewed by the City's Environmental Officer. Whilst both lots are covered in the assessment, the focus of the study is on Lot 107, as this lot has not been subject to clearing for development and contains significant stands of remnant vegetation.

The assessment has found that there are no wetlands occurring on Lots 106 or 107, but that a 'Resource Enhancement' wetland occurs approximately 150m to the north-west of the site on Lot 82 Ranford Road. The minimum depth to groundwater over the lots in winter is between 0.5m and 0.7m, which should not result in any constraints to development. Native vegetation occurs over approximately 90% of the site and belongs to the Southern River Vegetation Complex. Currently only 6% of this vegetation complex is protected in the Perth Metropolitan Area, but through the implementation of Bush Forever a total of 11% will be protected which is above the 10% minimum set by the State Government. The vegetation on the property has not been identified as a Bush Forever site.

The vegetation over the site is generally in good condition, though part of the understorey has been cleared for firewood and is infested with weeds. In addition, there is an area adjacent to Ranford Road which appears to be infected with dieback disease. With respect to the species of vegetation found on the site, there are no species considered to be worthy of protection, with the exception of a population of eight plants of the Grand Spider Orchid (*Caladenia huegelii*). This species is noted as being a Declared Rare Flora Species, and it is recommended that the population be relocated to a nearby Conservation Reserve, where the probability of the population being sustainable in the long term is more likely.

The relocation of these plants will require a survey of the site to be conducted in Spring to verify the presence and precise location of the rare orchid population. Council's Environmental Officer is satisfied with the extent and findings of the environmental assessment, but considers the Spring survey to be critical in ensuring that the entire population is relocated. Given that it is not possible to impose such a requirement within the proposed rezoning, it should be identified on the associated Structure Plan for the lots that the orchid population be relocated to the satisfaction of the City and the Department of Conservation and Land Management, following a Spring survey, prior to the commencement of any site works on the lot.

Impacts From Adjoining Kennel Properties

The subject lots are located directly opposite established kennel properties on the eastern side of Wright Road. At present there are 21 licensed kennels/properties in the Rural-Kennels zone with some kennels having the capacity to house up to 48 dogs.

Whilst the Rural - Kennels zoned land to the east of the application area will ultimately be rezoned for urban purposes as identified within the District Structure Plan, the existing approved kennels may continue to operate within the provisions of the TPS No.2 relating to Non-Conforming Use Rights. Given this situation, the consideration of urban development proposals surrounding the kennel operations must be based upon the kennels' continued operation in the medium to long term.

The applicant's submission in support of the proposed rezoning acknowledges the potential for negative impacts from the kennels, but that this is not a concern due to the non-residential nature of the rezoning being sought. In addition, the proposed rezoning is considered to be consistent with the objectives of the District Structure Plan in this location, allowing for the gradual 'phasing out' of the Rural - Kennels zone by creating a land use which can coexist with the kennels and at the same time provide a buffer to the residential development proposed through the rezoning of Lots 80 & 82.

Council has previously considered requests for the rezoning of land located adjacent to operations which generate negative impacts, but these have been limited to residential or rural residential land uses. These proposals incorporated buffers to minimise adverse impacts, in accordance with relevant statutory legislation, but these relate directly to protecting residential amenity and do not apply to non-residential land uses. Given this situation, the proximity of the existing kennel activities to the proposed land uses, which may be considered following gazettal of the proposed rezoning, is not an issue of concern.

ANALYSIS

The proposed rezoning generally accords with the intentions of the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan. Council's endorsement of the Scheme Amendment would progress the development of the Village Centre, in conjunction with development approved within the City of Gosnells.

The development of Lots 106 and 107 for commercial purposes has potential to reduce the level of negative impacts from existing kennel operations, on residential lots proposed through the rezoning of Lots 80 and 82 Ranford Road. The development of commercial activities on the site represents a suitable land use within the kennels buffer zone, and is compatible with the strategic planning objectives for the locality.

The approval of retail uses within the identified Village Centre has occurred without the benefit of a Structure Plan to provide guidance on the floorspace allocation and distribution of retail land uses. The proponents of the proposed rezoning are also the proponents of the approved development within the City of Gosnells, which indicates a level of confidence in the viability of commercial development in this location. Nevertheless, this matter will require further review to ensure that the distribution of remaining floorspace within the Centre does not compromise the functionality of the site.

OPTIONS

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

1. Council request the Western Australian Planning Commission initiate a minor amendment to the Metropolitan Region Scheme to rezone Lots 106 and 107 from 'Rural' to 'Urban', and resolve to initiate the proposed Amendment to Town Planning Scheme No.2. This request and initiation is subject to the completion of a Centre Plan for the proposed Village Centre at the intersection of Ranford Road and Wright Road, for determination by Council as part of its final adoption of the Scheme Amendment;
2. Council could resolve not to initiate the proposed Scheme Amendment, should Council have concerns with the expansion of the Village Centre in the absence of a Centre Plan adopted by the Cities of Armadale, Gosnells and the Western Australian Planning Commission.

CONCLUSION

In light of the above, it is considered appropriate for Council to initiate the Scheme Amendment, to progress the development the Village Centre as outlined in the District Structure Plan. Council's support to a minor amendment to the Metropolitan Region Scheme to rezone Lots 106 and 107 to 'Urban', as part of its initiation of the local Scheme Amendment, ensures that its obligations under the Metropolitan Region Town Planning Scheme Act (1959) are met.

To ensure that the proposed rezoning of the lots to 'Showroom and 'Shopping' is consistent with the objectives of the Metropolitan Centres Policy, a Centre Plan should be prepared for the proposed Village Centre at the intersection of Ranford Road and Wright Road. This will determine the optimum size for the centre, and establish an appropriate distribution of retail uses within the centre so that the creation of floorspace on the western side of Wright Road does not compromise the establishment of retail floorspace to the east of Wright Road.

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

D225/02 RECOMMEND

1. **That Council request the Western Australian Planning Commission initiate a minor amendment to the Metropolitan Region Scheme to rezone Lots 106 and 107 Wright Road, Forrestdale, from 'Rural' to 'Urban', to facilitate the proposed Amendment to Town Planning Scheme No.2**

2. **That pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended) Council initiate a Scheme Amendment to Town Planning Scheme No.2, by:-**
 - a) **rezoning part of Lot 106 Wright Road, Forrestdale from 'Rural – Kennels' to 'Shopping', and rezoning Part of Lot 106 & Lot 107 Wright Road, Forrestdale from 'Rural – Kennels' to 'Shopping' and 'Showroom'; and**

 - b) **amending the Scheme maps accordingly;**

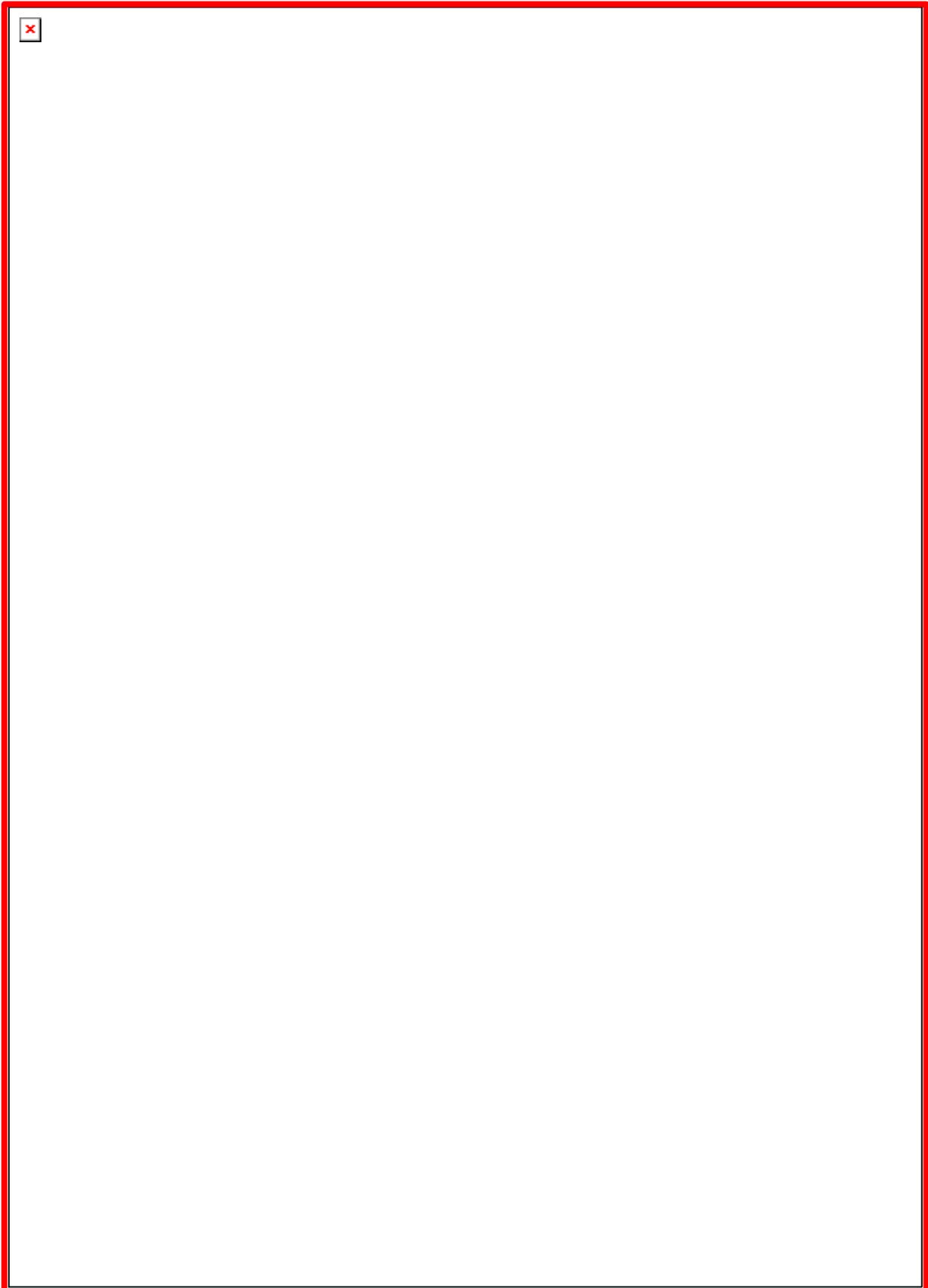
3. **That Council seek consent from the Western Australian Planning Commission to advertise the proposed District Scheme Amendment for public comment concurrently with the MRS Amendment, and refer the proposal to the Environmental Protection Authority for environmental assessment, prior to advertising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

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

- 5. That prior to consideration of final adoption of the proposed Scheme Amendment, the applicant is to prepare a Centre Plan for the proposed Village Centre at the intersection of Ranford Road and Wright Road. The plan is to determine the optimum size for the centre, and establish an appropriate distribution of retail uses within the centre so that the creation of floorspace on the western side of Wright Road does not compromise the establishment of retail floorspace to the east of Wright Road. Such plan shall be considered for adoption by Council as part of its determination of the Scheme Amendment.**

- 6. That the proposed Scheme Amendment shall not be considered for final adoption by Council until rezoning of the subject lots under the Metropolitan Region Scheme has been finalised.**

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED STRUCTURE PLAN –
LOTS 80 & 82 RANFORD RD AND LOTS 106 & 107 WRIGHT RD, FORRESTDAL***

WARD : FORREST
FILE REF : SCH/2/186
DATE : 2 December 2002
REF : JRH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Allering Burgess
Prestige Developments
LAND OWNER : Dept of Housing & Works
G Hendriks
SUBJECT : Lots 80 & 82 Ranford Rd &
LAND : Lots 106 & 107 Wright Rd,
Forrestdale
Property size 30.27ha total
Maps 17:08 & 18:08
ZONING : Urban, Rural
MRS/TPS No.2 : Rural – Kennels

In Brief:-

- ✍ Applicants propose a Structure Plan in support of the proposed Scheme Amendments over Lots 80 & 82 Ranford Rd, and Lots 106 & 107 Wright Rd Forrestdale.
- ✍ Proposal was presented to Council's November 2002 round of meetings and was recommitted, pending referral to the City of Gosnells and review of road construction and design issues.
- ✍ Issues have been satisfactorily addressed. Plan represents an orderly and efficient form of development, which responds effectively to the land uses and constraints surrounding the site.
- ✍ Recommend Council adopt the proposed Structure plan, subject to minor modifications.

Tabled Items

Nil.

Officer Interest Declaration

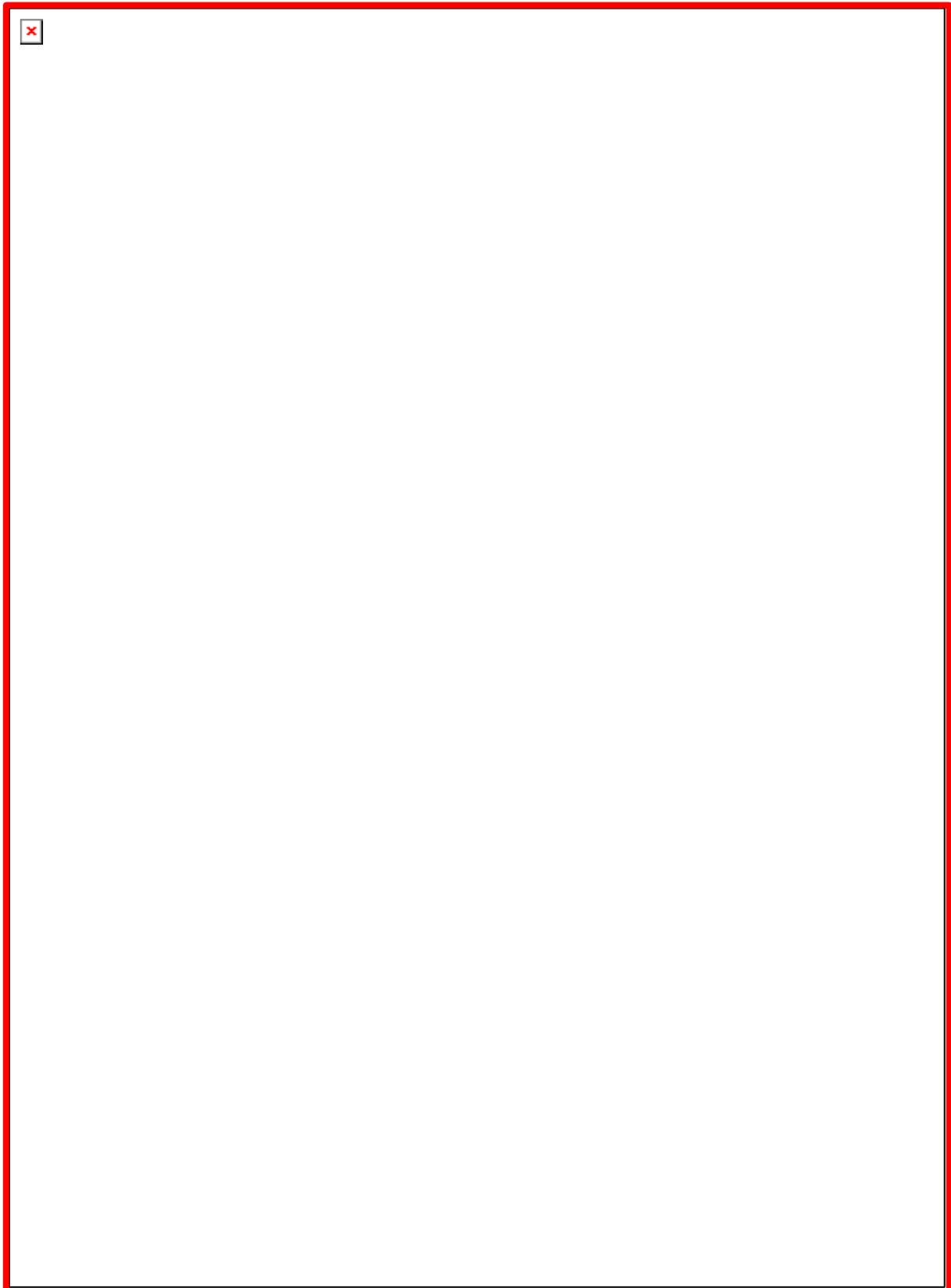
Nil.

Strategic Implications

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

Legislation Implications

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



PROPOSED STRUCTURE PLAN
LOTS 80 & 82 RANFORD ROAD, FORRESTDAL

Council Policy / Local Law Implications

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

Budget / Financial Implications

Nil.

Consultation

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

BACKGROUND

Council considered a proposed Scheme Amendment over Lots 80 and 82 Ranford Road, and a proposed Structure Plan over Lots 80 & 82 Ranford Road and Lots 106 and 107 Wright Road, Forrestdale at its November 2002 round of meetings (D202/02). At the meeting, Council resolved to initiate the proposed Scheme Amendment, but resolved to recommit the proposed Structure Plan following referral of the proposal to the City of Gosnells, and satisfactory resolution of the following matters:

- a) The compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells; and
- b) the arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.

The proposal has since been forwarded to the City of Gosnells for comment, and further information obtained with respect to items (a) and (b) above.

DETAILS OF PROPOSAL

The proposed subdivision layout has been designed to respond to environmental features, surrounding developments and to provide a good solar aspect to the proposed lots. A distributor road passes through the centre of the lots, with a four-way intersection with Warton Road and Roebuck Avenue controlled by a roundabout in the north-west, and a T-junction with Wright Road in the south-east adjacent to Carey Baptist College. The road design forms a hard edge along the boundary of the Bush Forever site, providing access for fire fighting and limited open space purposes. A full intersection from the application area onto Ranford Road is also proposed.

Internal accessways are to be incorporated adjacent to Warton Road and Ranford Road, which avoids back fences fronting regional roads and provides passive surveillance from the properties. The residential density proposed within the application area is predominantly R20, with R30 grouped housing lots interspersed within the site and a precinct of R30 rear laneway lots adjacent to the proposed Public Open Space (POS) site and commercial development.

A Showroom/Mixed Business zone is proposed within the south-eastern corner of Lot 82, with a Service Station, Showroom floorspace and approximately 850m² retail floorspace on the adjacent Lots 106 & 107 contributing to the Village Centre as identified within the District Structure Plan.

COMMENT

Southern River/Forrestdale/Brookdale/Wungong District Structure Plan

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

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

Impacts From Adjoining Kennel Properties

An assessment of the potential impact to the lots resulting from the adjacent kennel properties, within the Rural – Kennels zone on the eastern side of Wright Road, was included in the report to Council's November 2002 round of meetings. The findings of this assessment recommend that a 250 metre buffer be imposed, in accordance with the recommendations of the 'Noise Impact Assessment' prepared by project consultants Herring Storer Acoustics, and advice from the City's Health Services Department.

The imposition of a buffer is consistent with Council's approach to other instances where development has potential to be adversely affected by surrounding activities such as poultry farms (Amendment 143) and orchards (Amendment 173). The analysis indicates that a 250 metre buffer distance should be imposed, but this has not been subject to review by the Department of Environmental Protection.

Given this situation, it is considered that the proposed Structure Plan may proceed, subject to modifications to indicate that residential lots are not to be created within 250 metres of the adjoining Rural - Kennels zone, and that residential lots located between 250 metres and 1 kilometre from the zone shall incorporate a Memorial advising prospective purchasers of the potential for negative impacts. This minimum 250 metre buffer will be reconsidered by Council as part of its final adoption of the Scheme Amendment.

Inclusion of Lots 106 and 107 Wright Road within the Structure Plan

The report on the Structure Plan to Council's November 2002 meeting noted that Lots 106 and 107 were to be excluded from the application. This was stated as the City's officers were of the understanding that these lots would be considered within a separate Structure Plan proposal, as part of an application proposing the rezoning of Lots 106 & 107 under the MRS and TPS No.2, to the December 2002 round of meetings.

A report on the proposed rezoning of Lots 106 and 107 Wright Road is included elsewhere within this agenda. However the City has subsequently received advice from the proponents of Lots 106 & 107 that it is their intention to retain the four lots within the one Structure Plan application, to demonstrate compatibility and complementarity between the land uses in the precinct. This request is considered reasonable, subject to Council's initiation of the proposed rezoning of Lots 106 and 107 Wright Road.

With respect to the subject Lots 106 and 107, a vegetation and flora survey submitted in support of the proposed rezoning identified a population of eight plants of the Grand Spider Orchid (*Caladenia huegelii*). This species is noted as being a Declared Rare Flora Species, and it is recommended that the population be relocated to a nearby Conservation Reserve following a Spring survey, where the probability of the population being sustainable in the long term is more likely.

Given that it is not possible to impose such a requirement within the proposed rezoning, it should be identified on the associated Structure Plan for the lots that the orchid population be relocated to the satisfaction of the City and the Department of Conservation and Land Management, following a Spring survey, prior to the commencement of any site works on the lot.

CONCERNS IDENTIFIED IN PREVIOUS REPORT

Comments from City of Gosnells

Officers from Council's Planning Services and Technical Services Departments have met with officers from corresponding departments within the City of Gosnells, regarding the proposed Structure Plan. The proposed Structure Plan has also been referred to the City of Gosnells for comments, as noted in Council's previous resolution.

In discussion with the officers, the City of Gosnells had no objections to the proposal. The only matter raised was the compatibility of the proposed T-junction onto Ranford Road, with the proposed crossovers to the approved Showroom/Mixed Business development on the opposite side of the road. This matter is discussed elsewhere in this report in greater detail, and a design solution has been found which addresses the concerns of all parties without requiring modification to the proposed Structure Plan.

The City has not yet received a written response to this referral, but officers from Gosnells advise that this response should be completed and forwarded to the City prior to the Development Services Committee meeting.

Compatibility of the proposed T-junction onto Ranford Road with development approved within the City of Gosnells

The proposed intersection from the Structure Plan application area onto Ranford Road is of concern to officers from both Armadale and Gosnells, due to the limited separation distance between this intersection and the access to the approved Showroom/Mixed Business development within the City of Gosnells on Lot 1003 Lakey Street, Southern River. The current design does not allow adequate 'weaving' length between the access road and the proposed driveway to the Showroom development, which would adversely affect the safety of the road in this location.

It would be difficult to relocate the proposed subdivisional road, as it has been positioned centrally between two roads to the north of Ranford Road, being Lakey Street and a proposed subdivisional road currently under construction. A meeting was held on this matter, involving officers from both Local Governments and the proponents of the Showroom/Mixed Business development, to determine an acceptable solution.

The proponents have indicated that they would be prepared to modify the approved plan, to relocate the crossover further east along Ranford Road and increase the separation from the proposed subdivisional road. As the separation involves a crossover to private development rather than to a gazetted road, there is no standard minimum requirement. However, this may be acceptable to officers from both Cities. Should Council consider this proposal to be acceptable, a revised plan will be submitted to the City of Gosnells for acceptance, prior to Council considering final adoption to the Structure Plan.

In the event that the proponent is not willing to proceed with the revised plan, insufficient separation can be achieved, or the revised plan is not acceptable to the City of Gosnells, the intersection will require modification to prevent right-turn movements from the application area onto Ranford Road. It is considered that the Structure Plan may be adopted on this basis, with the outcome being determined as part of Council's final consideration of the Structure Plan following public advertising and referral to service authorities including Main Roads Western Australia.

Arrangements for the future construction of the dual carriageway of Ranford Road and Warton Road.

Following Council's resolution, the applicant of Lots 80 & 82 was requested to provide further advice on the nature of arrangements (if any) between landowners of the Structure Plan application area, surrounding property owners and Main Roads Western Australia, for the future construction of the dual carriageway of Ranford Road where it abuts the application area.

The applicant has advised that the landowners have had preliminary discussion with relevant agencies as part of the Structure Plan preparation. The landowners will be seeking compensation for the road widening, due to both the status of the road and the extensive impact of the additional land on Lots 80 & 82. With respect to upgrading and construction, it is anticipated that this will occur in accordance with existing statutory requirements, as noted in the Town Planning & Development Act 1928. Section 28A of the Act provides regulation on the upgrading and construction of roads, and the instances where contributions are required.

The construction and upgrading of the road are considered by the applicant to be 'development' works, and would be resolved as part of a conditional approval for subdivision. The landowners would review these matters with Council and other relevant agencies at the subdivisional stage of the project, following completion of the Scheme Amendment and Structure Plan over the application area.

OPTIONS

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

1. Subject to a favourable response from the City of Gosnells, Council could resolve to adopt the proposed Structure Plan for Lots 80 & 82 Ranford Road and Lots 106 & 107 Wright Road, Forrestdale, subject to the Structure Plan being modified to include the following:
 - a) Identification of the kennel buffer zone illustrating that residential lots are not to be created within 250 metres of the adjoining Rural - Kennels zone, and that residential lots located between 250 metres and 1 kilometre from the zone shall incorporate a Memorial advising prospective purchasers of the potential for negative impacts;
 - b) Notification on the Structure Plan that prior to the commencement of site works on Lot 106 Wright Road, the population of Grand Spider Orchids (*Caladenia huegelii*) which are listed as a Declared Rare Flora species, are to be relocated to the satisfaction of the City and the Department of Conservation and Land Management following a Spring survey.
 - c) In the event that the crossover to the proposed Showroom/Mixed Business development on Lot 1003 Lakey Street, Southern River is not relocated to a position which avoids conflict with the intersection of the proposed subdivisional road and Ranford Road, to the satisfaction of the Cities of Gosnells and Armadale, the intersection is to be redesigned to restrict right-turn movements from the subdivisional road onto Ranford Road.

(Note: Option 1 is contingent upon initiation of the proposed Scheme Amendment and MRS amendment over Lots 106 & 107 Wright Road, Forrestdale);

2. Council could resolve not to adopt the proposed Structure Plan, should it determine that the issues relating to the compatibility of the proposed T-junction to Ranford Road with development approved within the City of Gosnells has not been resolved to its satisfaction.

CONCLUSION

The matters of concern relating to the proposed Structure Plan have been satisfactorily addressed. The plan represents an orderly and efficient form of development, which responds effectively to the land uses and constraints surrounding the site, and provides a sufficient level of detail to support the proposed Scheme Amendments over Lots 80 & 82 Ranford Road and Lots 106 & 107 Wright Road.

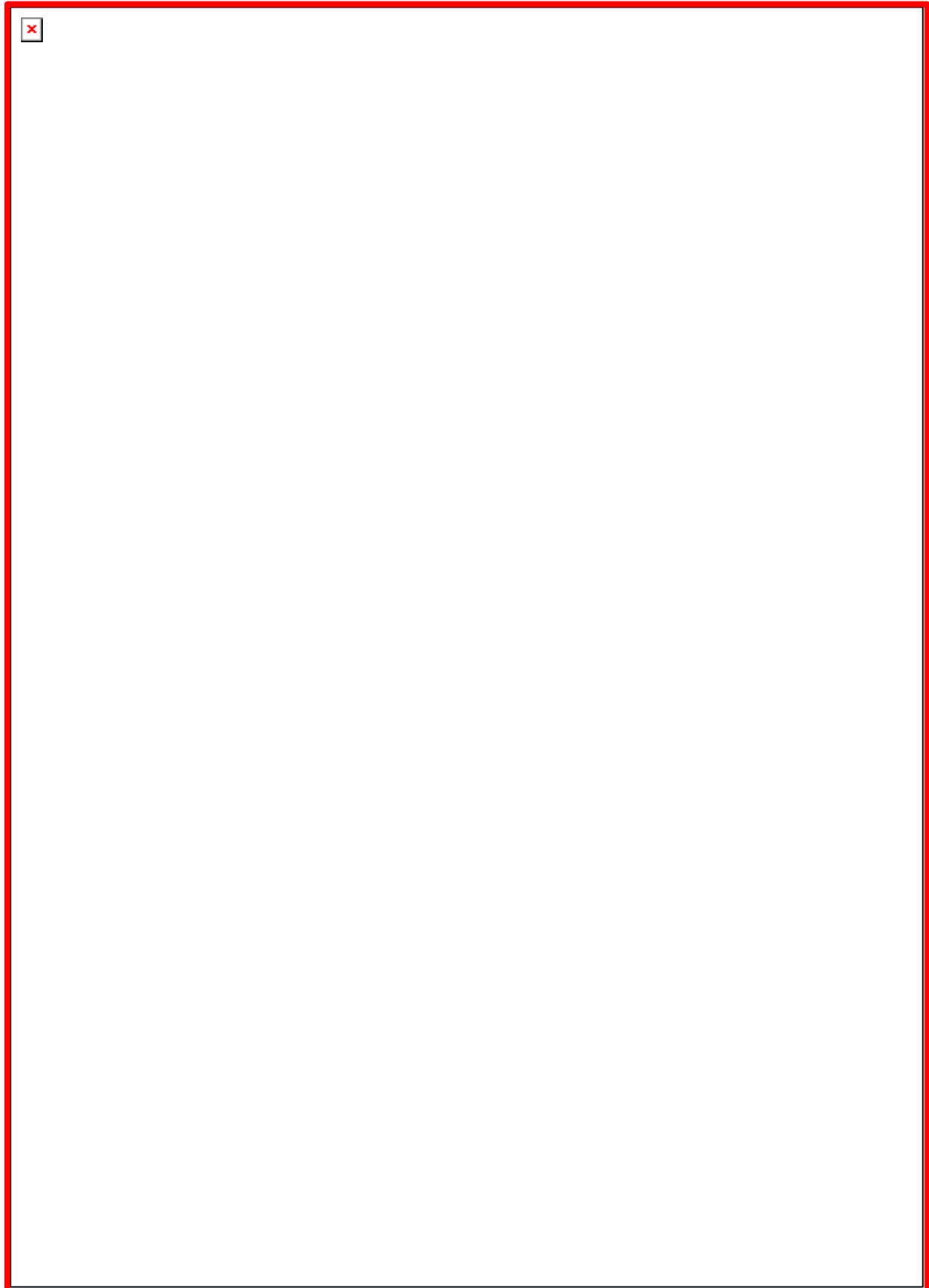
It is therefore recommended that Council proceed with the proposed Structure Plan in accordance with Option 1 above.

D226/02

RECOMMEND

1. That subject to a favourable response from the City of Gosnells, and to the proposed Scheme Amendment and MRS Amendment being initiated over Lots 106 & 107 Wright Road, Forrestdale, Council adopt the proposed Structure Plan for Lots 80 and 82 Ranford Road, and Lots 106 & 107 Wright Road, Forrestdale, subject to modifications including the following:
 - a) Identification of the kennel buffer zone illustrating that residential lots are not to be created within 250 metres of the adjoining Rural - Kennels zone, and that residential lots located between 250 metres and 1 kilometre from the zone shall incorporate a Memorial advising prospective purchasers of the potential for negative impacts;
 - b) Notification on the Structure Plan that prior to the commencement of site works on Lot 106 Wright Road, the population of Grand Spider Orchids (*Caladenia huegelii*) within the lot, which are listed as a Declared Rare Flora species, are to be relocated to the satisfaction of the City and the Department of Conservation and Land Management following a Spring survey; and
 - c) In the event that the crossover to the proposed Showroom/Mixed Business development on Lot 1003 Lakey Street, Southern River is not relocated to a position which avoids conflict with the intersection of the proposed subdivisional road and Ranford Road, to the satisfaction of the Cities of Gosnells and Armadale, the intersection is to be redesigned to restrict right-turn movements from the subdivisional road onto Ranford Road.
2. That following receipt of a revised plan which addresses the matters raised in 1(a), 1(b) and 1(c) above, the Structure Plan is to be advertised for comments in conjunction with the proposed Scheme Amendments over Lots 80 and 82 Ranford Road, and Lots 106 & 107 Wright Road, Forrestdale.
3. That the Western Australian Planning Commission be advised of Council's adoption of the Structure Plan.

MOVED Cr Zelones
MOTION CARRIED (7/0)



PROPOSED REZONING – LOT 152 ANSTEY ROAD, FORRESTDAL

WARD : FORREST
FILE REF : A186559
DATE : 2 December 2002
REF : JRH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dykstra & Associates
LAND OWNER : W. Barber
SUBJECT LAND : Property size 3.5342 ha
Map 19.05
ZONING : Rural
MRS/TPS No.2 : General Rural

In Brief:-

- ✍ Application proposes a Scheme Amendment to facilitate the development of a roadhouse and truck depot adjacent to the proposed Tonkin Highway extension.
- ✍ Proposal is consistent with the recommendations of the District Structure Plan over the site, and with the adjoining industrial zoned land.
- ✍ Recommend that Council initiate the proposed rezoning.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

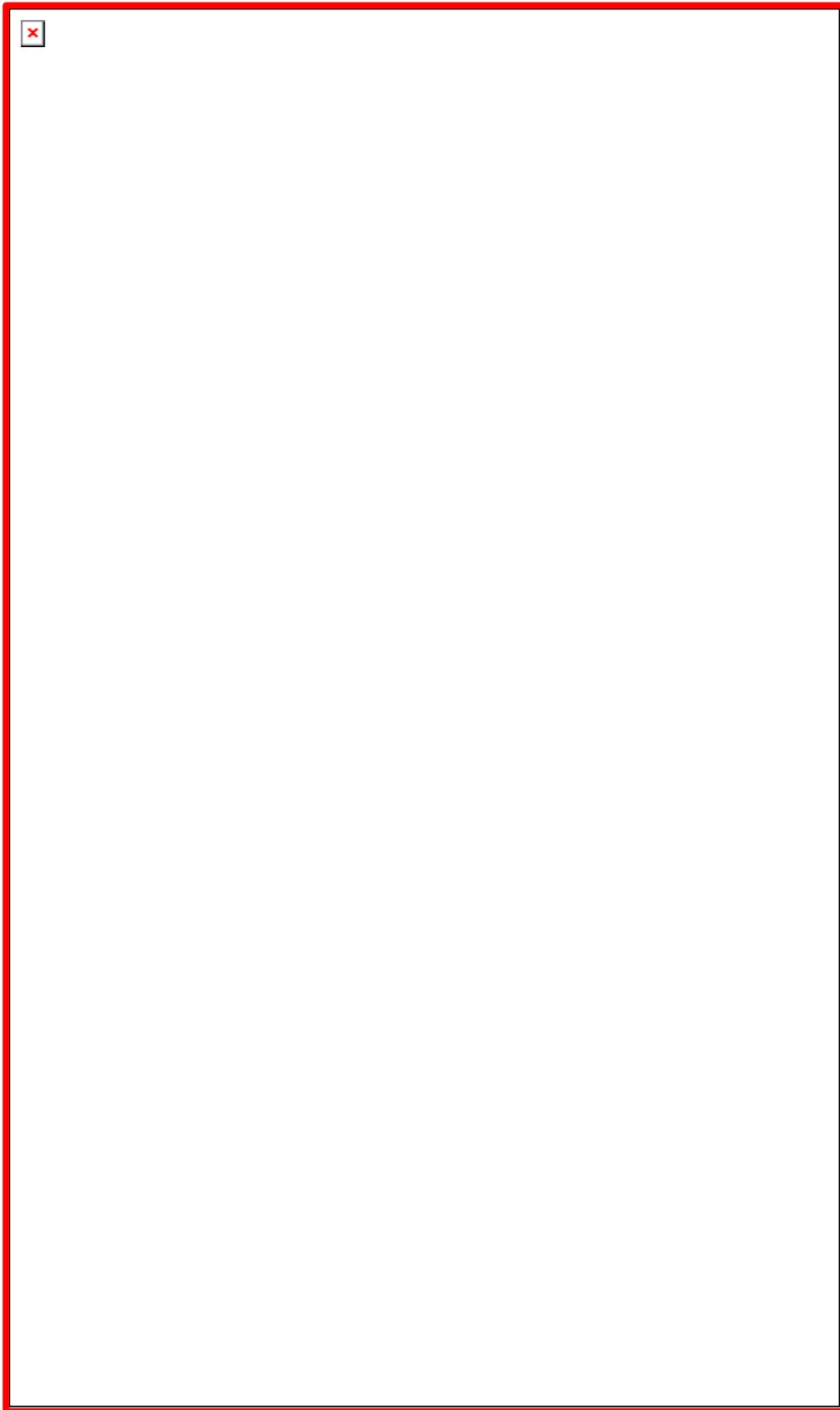
1. Long Term Strategic Planning - Promote employment and residential growth, encouraging the economic well-being of the community.
- 1.4 Complete the structure plans for Brookdale and Forrestdale, focusing on provision of high quality residential development.

Legislation Implications

- ✍ Town Planning & Development Act 1928
- ✍ Metropolitan Region Scheme Act 1959
- ✍ Town Planning Scheme No.2
- ✍ Environmental Protection Act and Regulations 1986
- ✍ WAPC Policy DC 1.10 – Location & Design of Freeway Service Centres

Council Policy / Local Law Implications

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



SITE PLAN
LOT 152 ANSTEY ROAD, FORRESTDAL

Budget / Financial Implications

Nil.

Consultation

- ✍ Council's Strategic Planner
- ✍ Council's Technical Services Directorate

BACKGROUND

The City's Planning Department received a preliminary request to rezone the subject property in July 2002. Following discussions with the applicant and further information being received, the proposal is presented to Council for initiation.

DETAILS OF PROPOSAL

The applicant proposes to rezone Lot 152 Anstey Road from 'General Rural' to 'Special Use – Roadhouse and Truck Depot'. The subject property is located adjacent to the future extension of Tonkin Highway, in a wedge of land between the Forrestdale Industrial Business Park and 'General Industry' zoned land owned by Landcorp.

The property is currently zoned 'Rural' within the Metropolitan Region Scheme (MRS), and 'Rural 'C'' within the City's Town Planning Scheme No.2 (TPS No.2). Rezoning under TPS No.2 to an industrial zone such as the surrounding land would not be compatible with the MRS zoning. Consequently, the Special Use zoning has been proposed to facilitate development of the site in a form which is compatible with and complementary to the future surrounding industrial development, and to the future major transport route of the Tonkin Highway extension.

COMMENT

Southern River/Forrestdale/Brookdale/Wungong District Structure Plan

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

The District Structure Plan indicates the subject lot being within an industrial precinct extending along the south-western side of Ranford Road from Lake Road, across the proposed Tonkin Highway and including land opposite part of the Southern River Kennels Zone within the City of Gosnells. Land to the north-west and south-east of the subject lot is already zoned under the MRS and Town Planning Scheme No.2 for industrial purposes, but only the Forrestdale Industrial Business Park to the south-east has been subject to structure planning at a local level.

Current TPS No.2 Provisions

The subject lot is currently zoned ‘Rural ‘C’’ under the City’s Town Planning Scheme No.2. Within this zone, the proposed land use of Service Station is not a listed use, but as it is listed elsewhere in other zones, the use is not permitted within the zone. The proposed use of ‘Transport Depot’ is a prohibited ‘X’ use. The zoning allows uses which are in accordance with the objectives of the zone, being:

“Zone intended for the fostering of semi-intensive land use on land compatible with land conservation in conjunction with residential hobby farming uses. Where compatible such uses to promote tourism, recreation and non-noisy entertainment may be permitted.”

In considering the site’s position adjacent to existing industrial zones, and its identification within strategic plans for future industrial zoning and development, the objectives of the current zone have a reduced significance to the subject lot. However, should the zoning of Lot 152 be amended to facilitate the development of non-rural land uses on the site, the form of this development will need to be structured to ensure that negative impacts to the rural amenity of adjoining ‘Rural ‘C’’ zoned properties to the south are minimised.

The predominant land uses proposed within the Scheme Amendment, of Truck Depot and Service Station, are uses which would typically be located within the ‘General Industrial’ zone. Therefore the nature of development which could be established within the proposed Special Use zone would be consistent with any future rezoning of the Metropolitan Region Scheme to ‘Industry’, as identified within the District Structure Plan.

Metropolitan Region Scheme Zoning

Council has previously rezoned sites within the Rural zone under the MRS and District Scheme for Service Stations, however none have been of the scale proposed in this application, and incorporating uses such as a Truck Depot. Whilst the proposal is not consistent with the ‘Rural’ zoning of the site under the MRS, this matter does not preclude Council’s initiation of the District Scheme Amendment, but requires Council to obtain consent to advertise the proposal from the Commission.

WAPC Policy DC1.10 – Location and Design of Freeway Service Centres

This policy provides the only State policy guidance for this type of use. This policy addresses a range of issues associated with the siting of Service Stations with access directly to freeways. The current proposal will have no direct access to the Tonkin Highway and the Commission’s policy does not provide guidance on the planning needs of such facilities with frontage to roads that lead to freeway on and off ramps.

The proposed Indicative Development Plan depicts a possible future access into the site from a proposed off-ramp from the Highway, however this will require approval from Council and Main Roads Western Australia at the development stage should the proposed rezoning be finalised. Consequently, the policy does not directly affect the proposal.

Compatibility with Surrounding Infrastructure

The location of the site is adjacent to the future major transport route of Tonkin Highway, with direct access obtained from this Highway along Ranford Road to the Armadale Regional Centre. Whilst its location adjacent to the Tonkin Highway may provide numerous positive aspects, the proposal must be designed so that traffic movement and safety along the highway will not be compromised. In the event that Council initiates the Amendment, consultation with Main Roads Western Australia would occur during the advertising period, and the proposal may be modified accordingly as a result of this process.

The EPIC Energy Gas pipeline, providing gas from Dampier to Bunbury, passes through the adjoining Lot 151 Ranford Road. This pipeline is located approximately 1 metre underground and is approximately 20 metres from the common boundary with Lot 152. Should the proposal be initiated, comments will need to be sought from EPIC Energy to ensure that the authority is satisfied that the proposed land use does not compromise the safety of persons and property in the vicinity of this land use. This consultation may result in additional modifications to the proposal, such as the imposition of minimum setback distances between fuel storage and pumping facilities, to maintain an appropriate level of safety.

Proposed Special Use provisions

The proposed Special Use Zoning provisions have been formulated to facilitate the proposed future use of the site in a manner which minimises adverse impacts to surrounding lots, and is complementary to the future development of the adjoining industrial land.

The uses to be included in the proposed Special Use zone are as follows:

- ☒ Service Station (P)
- ☒ Transport Depot (P)
- ☒ Car Wash (IP)
- ☒ Restaurant (IP)
- ☒ Convenience Store (IP)

Car parking requirements for the uses shall be in accordance with the requirements within the 'General Industry' zone. Landscaping shall be a minimum of 8% of the site, which is to be distributed throughout the site, within a 10m wide landscaped buffer to adjoining Rural lots, and within a 3m wide strip along all other boundaries. This landscape buffer to rural lots shall assist in screening the industrial aspect of the development and maintain rural amenity, whilst the landscaping to remaining boundaries will break up the scale of the development and provide a high quality appearance from the surrounding roads and future Tonkin Highway.

Setbacks for development within the zone are likely to be greater than the minimum standards within the General Industry zone, to permit the manoeuvring of trucks and semi-trailers within the development. A minimum setback of 15 metres is recommended at this stage, though the setback may be varied by Council following preparation of a detailed plan of the proposal, which incorporates justification that a reduced setback will not adversely affect the amenity of surrounding rural lots, or the surrounding streetscape amenity.

Proposed Indicative Development Plan

An Indicative Development Plan has been submitted in support of the proposal, which details an indicative road layout within Lot 152 and the proposed development form for the site. The roadhouse is proposed to be located parallel to the Ranford Road alignment, with access to be obtained from Anstey Road. The south-west portion of the lot behind the road-house is proposed to accommodate a car wash and truck depot assembly area.

The plan is a non-statutory component of the application at this stage, but demonstrates the arrangement of land uses in a manner which locates the movement of vehicles and trucks away from rural properties, and incorporates built form to Ranford Road which provides a commercial frontage to public vantage points. The location of the Truck Depot to the south-east away from road frontages minimises visual impact and provides opportunities for screening with landscaping without compromising the commercial viability of the activity.

Analysis

With respect to the land uses which the proposed rezoning would facilitate, the subject site has many aspects which make it suitable for a service station for heavy transport vehicles. Its location on a major highway and exposure to passing traffic will enable heavy vehicles to refuel and obtain other incidental items, without having to travel too far from the main route and draw commercial vehicle traffic into the rural and residential localities, thereby protecting the safety and amenity of these areas. Along the portion of Tonkin Highway currently constructed, the nearest roadhouse/service station/transport depot facility with similar locational characteristics is in Kewdale, indicating that a service of this nature is not currently available within the Gosnells/Armadale/Serpentine Jarrahdale Region.

In addition to the proximity to Tonkin Highway, its position is centrally located within proposed industrial estates within the Cities of Armadale and Gosnells, including the Forrestdale Industrial Business Park. The proposed land use provides a complementary function to industrial operations to be established in these estates, and the proximity of these estates will reduce the number of residential dwellings which may be adversely affected by the operation.

The visual impact of the development on the surrounding road network and rural properties will need to be appropriately addressed, to provide a high quality façade to motorists travelling through the city. Development standards have been formulated within the proposed Special Use zoning provisions to address this issue, but may require further refinement following advice from service authorities, which will be sought during the submission period of the proposal.

Options

1. Council may initiate the proposed Scheme Amendment for advertising purposes;
2. Council may defer initiation of the proposed Scheme Amendment, should it wish to seek comments from Main Roads Western Australia and EPIC Energy on the impact of the proposal on surrounding infrastructure;
3. Council may decline initiation of the amendment, should it consider the proposal to be premature given that the Tonkin Highway extension and development within the Forrestdale Industrial Business Park has not yet commenced.

CONCLUSION

In light of the above, it is considered appropriate for Council to initiate the Scheme Amendment, to progress the development of the site in a form consistent with the District Structure Plan. Following initiation of the amendment, further refinement of the proposal may occur following consultation with service authorities, which may be incorporate in Council’s final adoption of the Amendment.

It is therefore recommended that Council proceed with Option 1.

D227/02 RECOMMEND

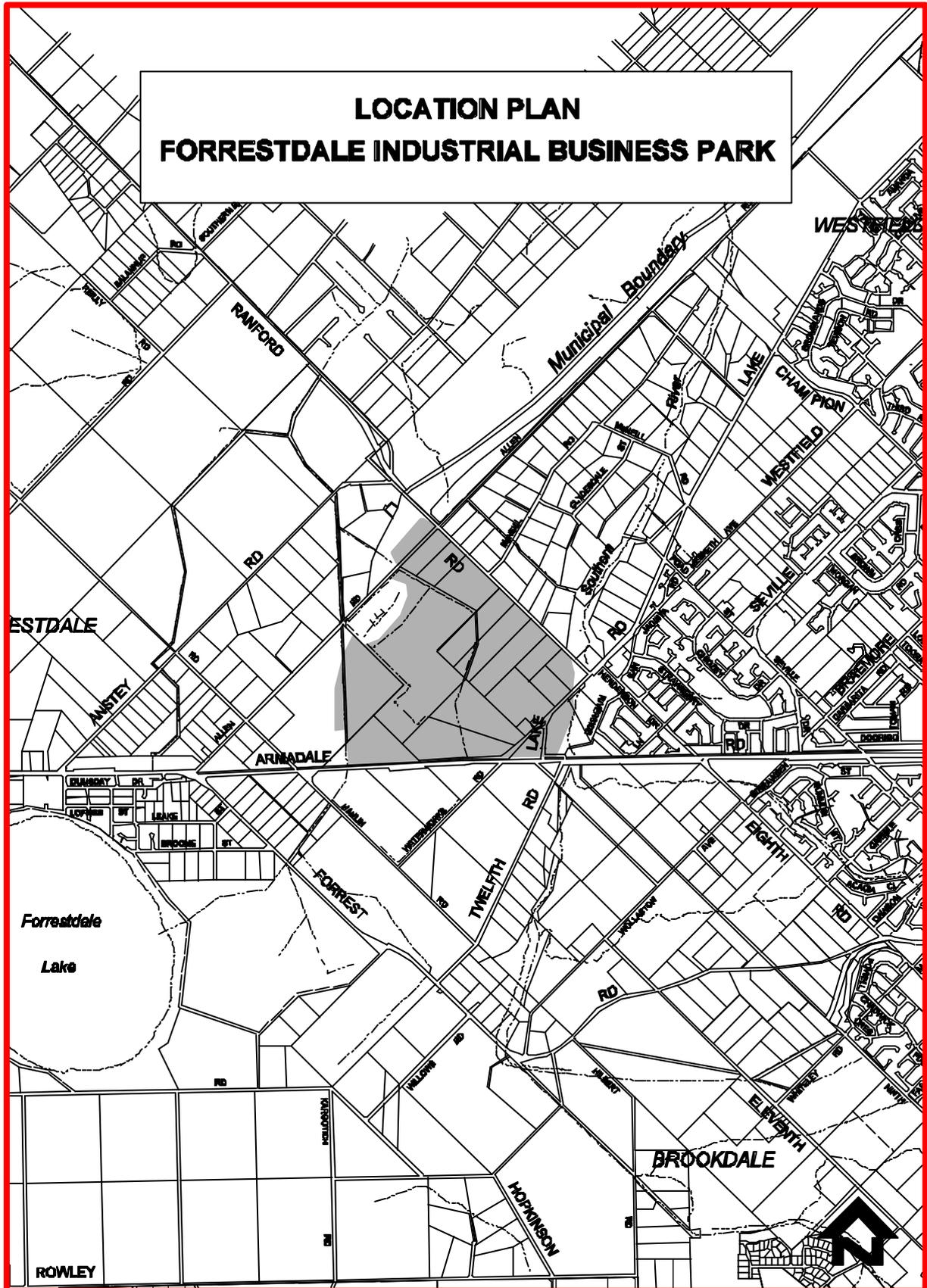
1. That pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended) Council initiate a Scheme Amendment to Town Planning Scheme No.2, by:-
 - a) rezoning Lot 152 Anstey Road, Forrestdale from “Rural ‘C’” to “Special Use – Roadhouse and Truck Depot”;
 - b) amending the Scheme maps accordingly;
 - c) amending the Scheme text by inserting in appropriate numerical order, a new entry into the Special Use Development Table as follows:

Prescribed Special Use	Requirements	Particulars of Land
<p>Roadhouse and Truck Depot</p> <p>‘P’ uses:</p> <ul style="list-style-type: none"> ☒ Service Station ☒ Transport Depot <p>The Council may at its discretion, permit the following incidental uses (IP uses):-</p> <ul style="list-style-type: none"> ☒ Car Wash ☒ Restaurant ☒ Convenience Store 	<ol style="list-style-type: none"> 1. Direct vehicle access from Ranford Road into the development shall not be permitted. 2. Unless otherwise stated, the development standards for the proposed land uses shall be as per the requirements specified within the ‘General Industry’ zone of the Scheme. 3. Car parking provision for the proposed incidental land uses shall be as follows: <ul style="list-style-type: none"> ? Restaurant – 1 bay per 4 seats ? Convenience Store – 8 bays per 100 m² GFA Council may be prepared to approve the development with a reduced car parking provision, subject to the applicant demonstrating to its satisfaction that the proposed provision will be satisfactory to meet the anticipated patronage by motor vehicles and heavy vehicles. 4. Council shall require the preparation of a landscaping plan for the development, which is to be installed as part of the development of the site. Landscaping is to be a minimum of 8% of the site area, to be distributed throughout the site and in the following priority locations: <ol style="list-style-type: none"> a) within a 10m wide landscaped buffer to adjoining Rural lots along the south-western 	<p>Lot 152 Anstey Road, Forrestdale</p>

Prescribed Special Use	Requirements	Particulars of Land
	<p>boundary, to screen the industrial aspect of the development and maintain rural amenity of the lots;</p> <p>b) within a 3m wide strip along all other boundaries, to break up the scale of the development and provide a high quality appearance from the surrounding roads and future Tonkin Highway.</p> <p>5. The overall development of the site shall be of a suitable quality architectural design that provides a high standard of visual appearance to public vantage points, whilst avoiding adverse impacts to adjacent rural properties.</p>	

2. That Council seek consent from the Western Australian Planning Commission to advertise the proposed Scheme Amendment for public comment, and refer the proposal to the Environmental Protection Authority for environmental assessment, prior to advertising the proposal in accordance with the Town Planning Regulations 1967 (as amended).
3. That the Mayor and Chief Executive Officer be authorised to execute Amendment documents.

MOVED Cr Zelones
MOTION CARRIED (7/0)



**FORRESTDALE INDUSTRIAL BUSINESS PARK –
ADOPTION OF FINAL STRUCTURE PLAN**

WARD : FORREST

FILE REF : SCH/2/148
(PSC/16 and SCH/2/168)

DATE : 29 November 2002

REF : JR

RESPONSIBLE MANAGER : PSM

APPLICANT : Taylor Burrell
(for City of Armadale)

LAND OWNER : City of Armadale and
various private landholdings

SUBJECT LAND : Approx 182 ha
Map 19:03/4; 20:03/4

ZONING : MRS Industrial/ TPS No.2
MRS/TPS No.2
General Industry and
Industrial Business
Development Zone

In Brief:-

- ✍ Project Coordinators Taylor Burrell have made recommendations on issues raised by public submissions and have accordingly submitted a revised Structure Plan for Council's adoption.
- ✍ A Schedule of Submissions makes appropriate recommendations for all Structure Plan issues raised by public submissions.
- ✍ Recommendation for Council to determine the Submissions in accordance with the "Recommendations" and also recommend to that the WAPC adopt the modified Structure Plan to guide future planning and development of the estate.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Strategic Plan Review (2000) - Long Term Strategic Planning:
Item 1.3 Complete the preliminary planning requirement for the Forrestdale Business Park

Southern River – Forrestdale – Brookdale – Wungong District Structure Plan (2001)

Legislation Implications

- ✍ Under the Western Australian Planning Commission Model Text for Structure Plans incorporated into TPS No.2 by Amendment No.148 the WAPC is required to approve the Structure Plan following Council's determination of submissions.
- ✍ Armadale Redevelopment Act 2001 (and preliminary draft (interim) Redevelopment Scheme)
- ✍ Town Planning and Development Act 1928
- ✍ Metropolitan Region Scheme Act 1959 and MRS



FIGURE : 1

RECOMMENDED FINAL STRUCTURE PLAN
FORRESTDALE INDUSTRIAL BUSINESS PARK

Council Policy / Local Law Implications

- ✍ Draft Planning Policy and Development Guidelines for the Forrestdale Industrial Business Park
- ✍ Town Planning Scheme No.2.
- ✍ Draft Text Amendment No.168 (Estate Development Contributions Plan).

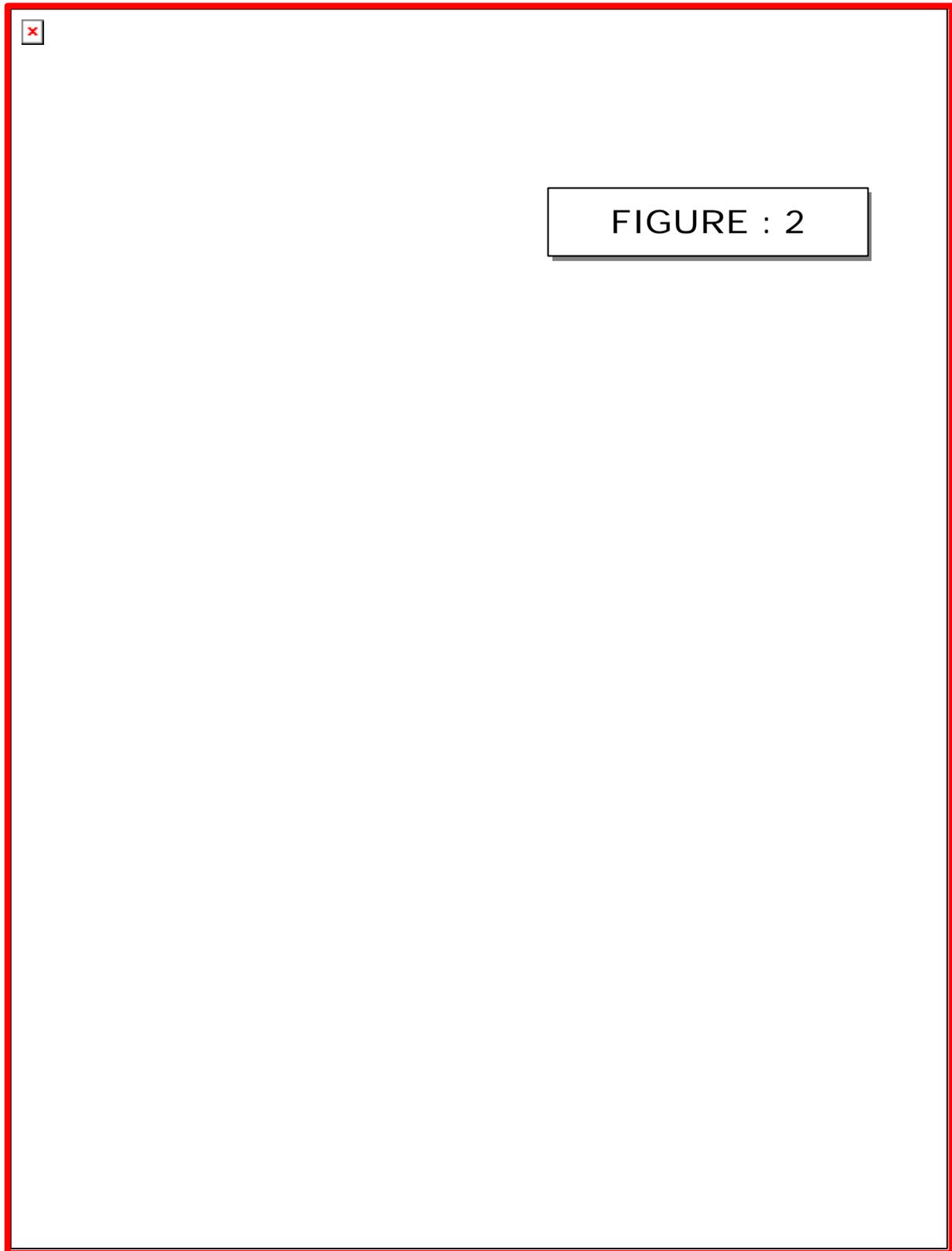
Budget / Financial Implications

The estate development is anticipated to generate significant growth in rate incomes to the City as it develops. In accordance with overall strategic goals for economic development, the City has contributed a portion of the consultant’s fees (30%) with the balance provided by participating landowner members of the Steering Group as advance payment of the Development Contributions Plan contributions (all landowners will be required to make the Development Contributions Plan contributions upon subdivision of their individual landholdings).

BACKGROUND

The statutory planning framework for the Forrestdale Industrial Business Park comprises the following components, which have been steadily progressed in stages:

PLANNING SCHEME/DEVELOPMENT CONTROL PLAN	PLANNING INSTRUMENT	GAZETTAL/COMPLETION DATE
Metropolitan Region Scheme (Reservation for Ranford Rd realignment and Industry zoning)	? MRS Amendment No.979/33	? Gazetted November 1996
	? MRS Amendment No.1005/33	? Gazetted September 1999
Town Planning Scheme No.2 (Industrial Business Development Zone and General Industry Zone and Development Area)	? Rezoning Amendment No.148	? Gazetted March 2001
	? Text Amendment No.157 (Model Scheme Text provisions for contributions to infrastructure)	? Currently pending Gazettal (anticipated early 2003)
	? Text Amendment No.168 (Estate Development Contribution Plan)	? Currently pending Gazettal (anticipated early 2003)
Structure Plan (control of subdivision)	? Structure Plan	? Currently pending subject to this agenda report (anticipated Dec 2002)
Planning Policy (control of built construction and land use)	? Planning Policy and Development Guideline	? Currently undergoing final revisions (anticipated early 2003)



PLAN OF THE POLICY PRECINCTS
FORRESTDALE INDUSTRIAL BUSINESS PARK

Consultation

External consultation – landowners & general public

The draft Structure Plan including the Taylor Burrell Structure Plan Report and associated Planning Policy/Development Guidelines were advertised concurrently with the rezoning Amendment No.148 from 12th November 1999 until 24th December 1999. Ongoing consultation with the landowners also occurred through the regular project Newsletters and direct correspondence.

Further submissions pertaining to the draft Structure Plan were also received during the formal consultation periods of related statutory planning processes for the Industrial Park. Where considered relevant to the Structure Plan, submissions relating to the following have also been summarised in the Schedule of Submissions:

- ✍ Text Amendment No.157 advertised from 23rd February 2000 until 26th April 2000;
- ✍ Text Amendment No.168, which was advertised from 13th December 2000 until 16th February 2001.
- ✍ General correspondence from the landowners.

The *Schedule of Submissions at Attachment “A1” of the Minutes* represents the collated and comprehensive summary of all submissions received on the Structure Plan between 1999 and 2002, it provides a comprehensive summary of landowners views. Where the Recommendation on a submission has been “Supported”, the Structure Plan has been accordingly revised.

Steering Group consultation

The Steering Group guided the preparation of the original draft Structure Plan during the period 1996 to 1998. The Steering Group subsequently met and provided input into two further revisions of the Structure Plan, following the advertising of the initial draft (with Amendment No.148) in late 1999 and following the first revision of the plan in February 2001. The current revised Structure Plan is the product of this two – stage process of revision by the Steering Group.

Internal consultation

- ✍ Technical Services Directorate provided comments at all stages of preparation and revision of the Structure Plan.
- ✍ Project Manager provided comments following his appointment in the latter stage of revision.
- ✍ Elected members attended the Steering Group meetings during the revision processes.

Council consideration

The draft Structure Plan was advertised for submissions in conjunction with rezoning Amendment No.148 and in accordance with WAPC requirements. The submissions pertaining to zoning have been dealt with in Council’s adoption of Amendment No.148.

At its meeting of August 2000 (D234/00) Council made an interim review of the Submissions relating to the Structure Plan. Council accordingly instructed the project co-ordinators to undertake revision of the draft Structure Plan based on the submissions prior to again referring the revised draft Structure Plan to the Steering Group for preliminary comments (this occurred in February 2001 following the first revision and again in October 2002 following the second and current revision of the Structure Plan).

This report therefore only deals with the submissions specific to the Structure Plan. Submissions specific to the Planning Policy Development Guidelines will be dealt with in a subsequent Council meeting after Taylor Burrell have made final refinements.

COMMENT

The recommended final Structure Plan (*Figure 1 overleaf*) also includes an appropriately revised Plan of the Policy Precincts (*Figure 2 overleaf*).

Since advertising the draft Structure Plan in late 1999, the following more detailed studies have also influenced the final form of the Structure Plan:

- ✍ Feasibility Study (DTZ Australia)
- ✍ Drainage Study (Drainage and Nutrient Management Plan - Wood and Grieve Engineers).

A linear basin option was examined by comparing the drainage infrastructure costs of a plan with seven (7) linear drainage basins to a more conventional three (3) drainage basin option. In effect the development cost of the seven (7) basin option is three million dollars (\$3,000,000) greater than the (3) drainage basin option.

The Steering Group concluded that the financial impact of the burden of additional drainage infrastructure costs resulting from the seven (7) linear basin option, could not be accommodated in the context of the overall financial viability of the estate. It was of the view that a linear basin option would represent a disincentive to development of the estate.

Accordingly Taylor Burrell have now incorporated the three (3) basin option into the revised Structure Plan/Policy Precincts Plan herein recommended for final approval.

Main Features of the Revised Structure Plan

Changes to the advertised draft Structure Plan include the following fundamental changes:

- ✍ An additional access road off the Ranford Road deviation to improve accessibility to the south east sector (landowner submissions)
- ✍ An additional access road off Armadale Road to improve accessibility to the south west sector (landowner submissions)
- ✍ Deletion of the two major Public Open Space sites on Ranford Road (landowner submissions)
- ✍ An additional Public “Open Space and Drainage Site” in the central part of the estate (required by the Drainage Study)
- ✍ An additional Aboriginal Heritage Site in the central sector (recommended by the Aboriginal Heritage Studies and development approval under Section 18 of the Aboriginal Heritage Act)

Other changes include:

- ✍ An enlargement of the north west “Open Space and Drainage Site” (required by the Drainage Study)
- ✍ A relocation of the south west “Open Space and Drainage Site” (recommended by Water and Rivers Commission submission)
- ✍ An additional “Drainage Reserve” in the northern sector providing drainage connection between estate roads (required by the Drainage Study)
- ✍ An additional “Drainage Easement” in the south west sector to direct run off to the south western drainage basin (required by the Drainage Study)
- ✍ A 500m buffer to the Wastewater Treatment Plant (Water Corporation buffer Distances Policy for Odour Emissions)
- ✍ Minor modifications to estate and road layouts to accord with existing infrastructure and statutory reservations (recommended by various landowner and agency submissions)

The finalisation of the Structure Plan will enable the final work on the Planning Policy and Development Guidelines to be carried out and presented for adoption by the Council and the WAPC.

CONCLUSION

The revised Structure Plan is considered the best lot and road layout that can be achieved for the industrial estate, taking into account the need for proper and orderly planning, balanced with the need to maintain a financially viable estate that can deliver social and economic benefits to the community of the south east corridor, over a medium term horizon.

The final Structure Plan has achieved a high level of consensus as to the optimum planning outcome and is accordingly recommended for adoption.

D228/02 RECOMMEND

1. **That Council determine the submissions received on the draft Structure Plan in accordance with the *Schedule of Submissions at Attachment “A1” of the Minutes.***
2. **That Council recommend that the WAPC adopt the revised Structure Plan and associated Policy Precincts Plan to guide future development of the Forrestdale Industrial Business Park.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

LOCATION PLAN
LOT 10 CANNIS ROAD, BEDFORDALE



SUBDIVISION LAYOUT PLAN
LOT 10 CANNIS ROAD, BEDFORDALE



REF : EP

CONTEMPLATED SUBDIVISION REFUSAL	WARD ARMADALE
SUBDIVISION NO.:-	SUB/120594
LANDOWNER:-	H & S Hofferberth
APPLICANT:-	Dykstra & Associates
LOCATION:-	Lot 10 (No.69) Canns Road, Bedforddale
ZONE:-	Proposed Rural “D1” (minimum 2ha) (Note- The Amendment No.182, which proposes the rezoning of this locality from Rural “C” to Rural “D1”, is currently with the WAPC pending Ministers approval).
RURAL STRATEGY	Canning Rural Planning Area
LAND SUITABILITY	Level 1 & 2 –High & Fair Potential
LAND CAPABILITY	Class 2 & 3 – High & Fair capability
STRATEGIC PLAN	Development – “to balance the needs of development with sustainable economic, social and environmental objectives”
PROPOSAL:-	To subdivide this 4.05ha property into two lots of 1.8 and 2.24 ha respectively.
PROPOSED RECOMMENDATION	
<i>Refusal on the grounds:-</i>	
<ol style="list-style-type: none"> 1. The proposal does not meet the minimum subdivision standards of the proposed Rural “D1” zone that specifies a minimum Lot size of 2ha, under the Town Planning Scheme No.2. 2. The proposed subdivision would set an undesirable precedent for subdivision of other lots in the Rural “D1” zones. 3. The proposed lot configuration for this subdivision is not consistent with the Subdivision Guide Plan for this locality in Amendment No.182. 	

Officer’s report recommends –

That the proposed recommendation to refuse subdivision application SUB/120594 be adopted.

D229/02 RECOMMEND

Council recommends that the application to subdivide Lot 10 Canns Road, Bedforddale into two lots be approved subject to the Subdivision Plan being modified to achieve a minimum Lot size of 2ha.

MOVED Cr Green
MOTION CARRIED (7/0)

LOCATION PLAN
LOT 65 SPENCER ROAD, KELMSCOTT



SUBDIVISION LAYOUT PLAN
LOT 65 SPENCER ROAD, KELMSCOTT



REF : EP

CONTEMPLATED SUBDIVISION REFUSAL	WARD KELMSCOTT
SUBDIVISION NO.:-	Survey Strata A10698
LANDOWNER:-	B J O’Neil
APPLICANT:-	B J O’Neil
LOCATION:-	Lot 65 (No12) Spencer Road, Kelmscott
ZONE:-	Residential “R 12.5” (minimum 700m ² , average 800m ²)
RURAL STRATEGY	N/A
STRATEGIC PLAN	Development – “to balance the needs of development with sustainable economic, social and environmental objectives”
PROPOSAL:-	To Survey Strata this 1069m ² property into two lots, of 464m ² and 605m ² respectively to separate the existing residence at the front portion of land from the vacant portion at the rear.
PROPOSED RECOMMENDATION	
<i>Refusal on the grounds:-</i>	
<ol style="list-style-type: none"> 1. The proposed Survey Strata lot sizes do not meet the Residential Design Codes stipulated minimum lot size requirement of 700m² and the average lot size of 800m² for this “R12.5” zoned property. 2. Given that there are a number of properties of similar areas within this locality, approval of this application would set an undesirable precedent in the locality. 	

D230/02

RECOMMEND

That the proposed recommendation to refuse Strata Survey application No.A101698 be adopted.

MOVED Cr Zelones
MOTION CARRIED (7/0)

LOCATION PLAN
LOT 111 SOLDIERS RD, ROLEYSTONE



SUBDIVISION LAYOUT PLAN
LOT 111 SOLDIERS RD, ROLEYSTONE



REF : PRR
FILE : SUB/120511

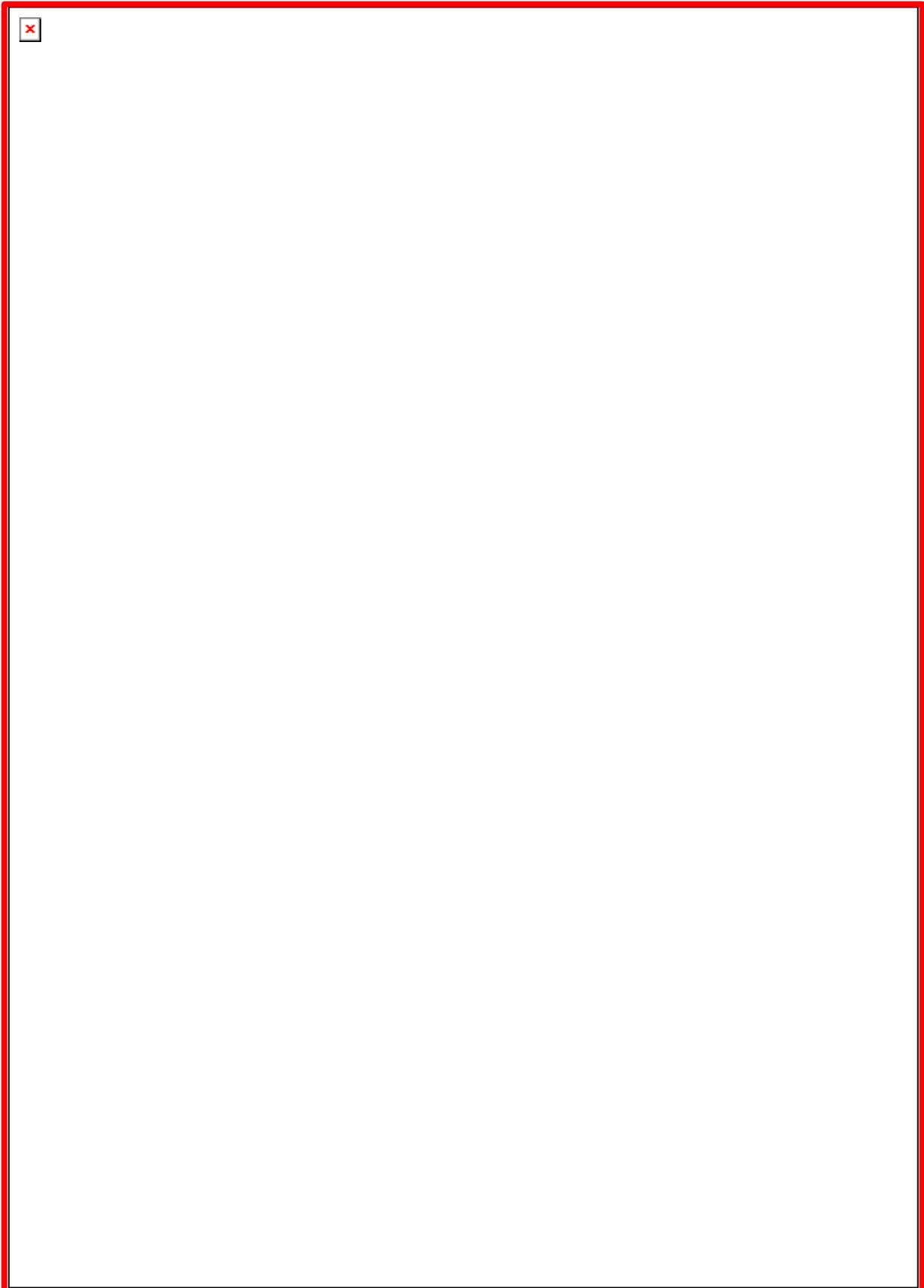
CONTEMPLATED SUBDIVISION REFUSAL	WARD – ROLEYSTONE
SUBDIVISION NO.	SUB/120511
LANDOWNER	Newell Nominees Pty Ltd
APPLICANT	Brook and Marsh Pty Ltd
LOCATION	Lot 111 Soldiers Road, Roleystone
ZONE	Rural 'D'
RURAL STRATEGY	Canning Valley Rural Planning Area
LAND SUITABILITY	Level 3 – Low Potential (significant constraints)
LAND CAPABILITY	Class 4 – Low Capability
STRATEGIC PLAN	Development – “to balance the needs of development with sustainable economic, social and environmental objectives”
PROPOSAL	Create two lots.
<i>PROPOSED RECOMMENDATION</i>	
<i>Refusal on the following grounds:-</i>	
<ol style="list-style-type: none"> 1. The proposal does not meet the minimum subdivision standards of the Rural 'D' zone that specifies a minimum lot size of 2ha, with an average lot size of 3ha. The application proposes two lots of 1.8ha each, failing to meet the standards outlined under Council's Town Planning Scheme No.2. 2. The ground conditions and contours of the subject site are not conducive to further development, as outlined in Council's Rural Strategy. 3. The proposed subdivision would set an undesirable precedent for subdivision of lots in the Rural 'D' zone surrounding Lot 111, that are of similar size to the subject lot. 	
<i>Advice to Applicant:</i>	
<ol style="list-style-type: none"> A) It is noted that a previous subdivision was received in respect to the subject lot (118360). The previous subdivision raised issues relating to the existing tourism uses on the corner of Brookton Highway and Soldiers Road. The current application has not presented these issues as justification for the new proposal. B) It is noted that several other lots in the Rural 'D' zone are below the minimum requirements set by Town Planning Scheme No.2. This is not considered as planning grounds to justify the approval of the current proposal. 	

D231/02

RECOMMEND

That the proposed recommendation to refuse Subdivision Application No.120511 be adopted.

MOVED Cr Zelones
MOTION CARRIED (7/0)



PROPOSED SUBDIVISION – LOT 4 URCH ROAD, ROLEYSTONE

WARD : ROLEYSTONE
FILE REF : SUB/118747
DATE : 28 November 2002
REF : JEH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Scanlan Surveys Pty Ltd
LAND OWNER : D C Dawson
SUBJECT LAND : Lot 4 Urch Road, Roleystone
Property size 4037m²
Map 25 – 06
ZONING : Rural / Rural 'E'
MRS/TPS No.2

In Brief: -

- ✍ Proposal to create two (2) lots of 2038m² and 2000m² respectively within the 'Residential R5' zone.
- ✍ Proposal fails to meet the minimum effective lot area requirement of 2000m² as per Clause 6.1.2 of the R Codes, due to the loss of land for road reserve widening on Urch Road.
- ✍ Recommend that Council advise the WAPC that it is precluded from recommending approval, but that the council is not opposed to the WAPC exercising its discretion and approving the subdivision.

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
Residential Planning Codes

Council Policy / Local Law Implications

Nil

Budget / Financial Implications

Nil.



SUBDIVISION LAYOUT PLAN
LOT 4 URCH ROAD, ROLEYSTONE

Consultation

✍ Development Control Unit (DCU)

BACKGROUND

Council received the application on 16 October 2002. The application is being referred to Council for determination, as it does not meet the minimum effective lot size requirement of 2000m² within the 'Residential R5' zone, following excision of land from the lot which is required for the widening of Urch Road.

DETAILS OF PROPOSAL

The proposal involves the subdivision of Lot 4 (4037m²) into two lots of 2038m² and 2000m² respectively. Lot 4 currently has frontage to both Urch Road to the north and High Road to the south, with the proposed subdivision boundary running east-west through the lot. An existing dwelling and garage fronting Urch Road is to be retained on the proposed northern lot, with the proposed southern lot to be vacant.

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 3 December 2002 recommended that the application be presented to December 2002 Committee Meeting, with a recommendation that Council advise the WAPC that it has no objection to the WAPC exercising discretion and approving the application subject to conditions.

Analysis

Residential Planning Codes

The proposed 2038m² lot does not include road reserve widening of an additional 5m width along the front boundary, equating to a reduction in effective lot size by approximately 203m². The widening has been imposed by Council's Technical Services Directorate, and is consistent with the width along the majority of the road. The inclusion of road reserve widening would result in the lot area being under the minimum of 2000m² required for the 'Residential R5' zone.

With the recommended road reserve widening the minimum effective lot area of the proposed 2038m² lot would be reduced by 203m² to 1835m², and would fail to meet the minimum effective lot area of 2000m² as per Clause 6.1.2 of the Residential Planning Codes (prior to gazettal of the new Residential Design Codes).

Since the application for subdivision was submitted to the WAPC in March 2002, prior to gazettal of the new Residential Design Codes, the proposal should also be considered in accordance with the requirements of Western Australian Planning Commission - Policy No. DC 2.2 – 'Residential Subdivision', prior to gazettal of the new Residential Design Codes.

The Policy states that the Commission will consider subdivision applications proposing lot sizes for single houses below the minimum and below the average lot sizes (site areas) prescribed under the Codes where the variation:

- ✍ does not represent a reduction of more than 10 per cent in the minimum and average lot size set by the code.
- ✍ where development would not adversely affect the residential character and amenity of the surrounding area.
- ✍ where subdivision assists in using housing land to its best advantage.

Allowing for widening of the road reserve:

- ✍ The average lot size for the subdivision is 1917.5m², representing a variation that is less than 10%. The 1835m² lot also represents a variation of less than 10% to the minimum lot size requirement of 2000m².
- ✍ The development is not considered to adversely affect the residential character and amenity of the surrounding area.
- ✍ The subdivision assists in using housing land to its best advantage by facilitating development consistent with that in the vicinity.

Compatibility

The proposed subdivision is generally consistent and compatible with adjacent lot sizes which range from 1922m² to 1935m² representing variations from the 2000m² minimum lot size of approximately 4% and 3% respectively. Given the excision of land for road reserve widening, the subdivision would represent a variation from the 2000m² minimum average lot size of approximately 4% and the 1835m² lot would represent a variation from the 2000m² minimum lot size of approximately 8%. The lot with frontage onto High Road would remain at 2000m².

Given that one of the lots would meet the required 2000m² minimum lot size, and the other would vary from the minimum lot size by less than 10%, the subdivision will result in comparable lot sizes to those in the surrounding area, and pose no adverse impact on the amenity of the area.

OPTIONS

1. Recommend that the Western Australian Planning Commission refuse the application as the excision of land required for road reserve widening on Urch Road results in lot sizes being less than the minimum 2000m² required in the Residential 'R5' zone.
2. Council advise the Western Australian Planning Commission that it is precluded from recommending approval of the application on the grounds that the excision of land required for road reserve widening on Urch Road results in lot sizes being less than the minimum 2000m² required in the Residential 'R5' zone, but that the WAPC exercise its discretion and approve the application as the resultant lot sizes do not represent a reduction of more than 10% in the minimum and average lot sizes set by the R Codes (1991), and are not considered to adversely affect the residential character and amenity of the surrounding area.

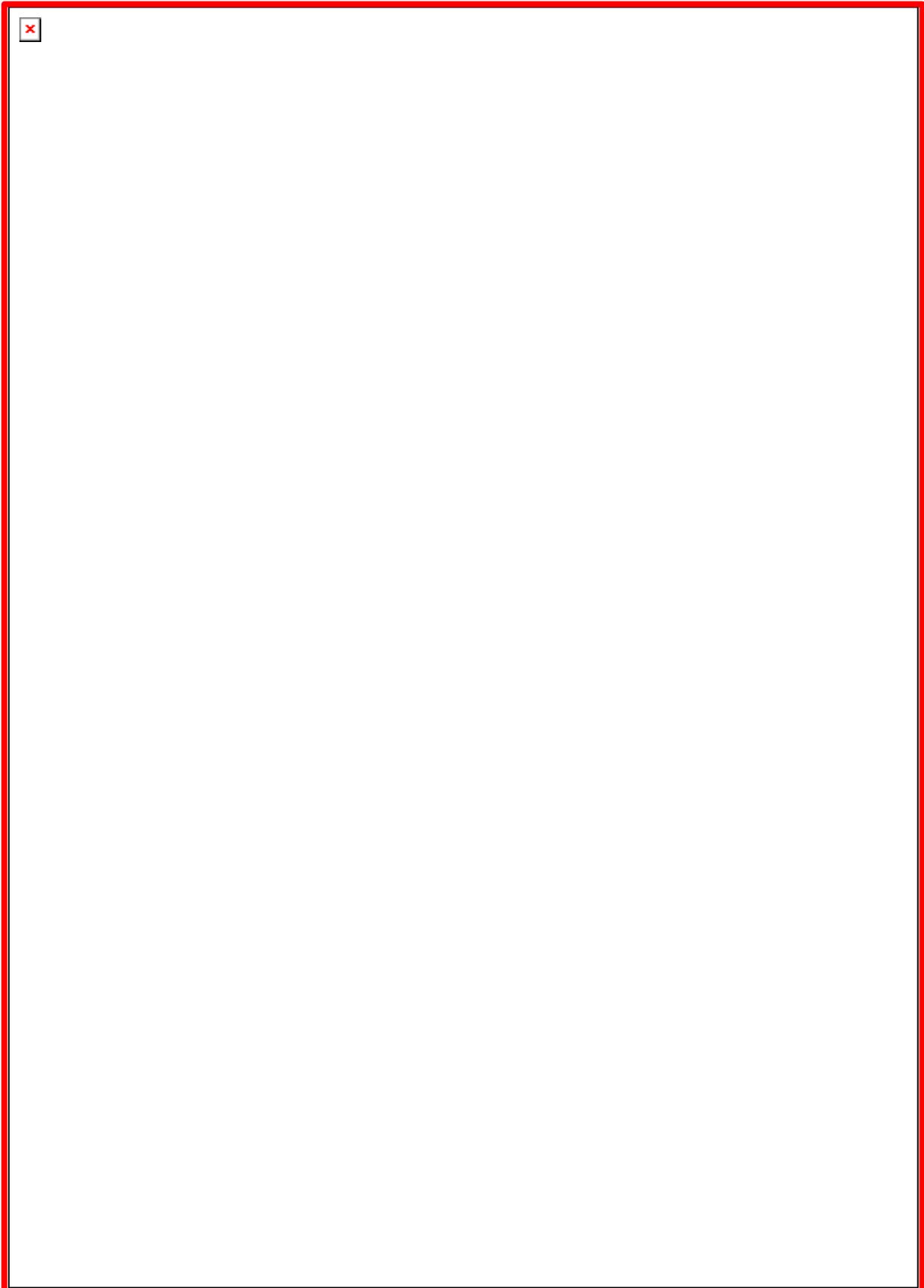
CONCLUSION

The lot areas resulting from the proposed subdivision once road reserve widening is provided are capable of being consistent and compatible with adjacent lots in the vicinity. Under the requirements of WAPC Policy 2.2, the subdivision meets the required standards for lot size variation with average and minimum lot sizes varying from the required 2000m² by less than 10%. The variation from minimum lot size requirements is not considered to adversely affect the residential character and amenity of the surrounding area.

D232/02 RECOMMEND

1. **That Council advise the Western Australian Planning Commission of its recommendation for approval of the proposed subdivision of Lot 4 Urch Road, Roleystone.**
2. **That Council recommends the following conditions be imposed on the application:**
 - ✍ **Road Reserve widening as shown on the submitted plan is required to be provided to Urch Road to a width of 5 metres, provided free of cost to the satisfaction of Council.**
 - ✍ **Access ramps to be provided to individual lots where required by Council.**
 - ✍ **All buildings having the necessary clearances from the new lot boundaries, to the satisfaction of the City of Armadale.**
 - ✍ **All septic tank and leach drains having the necessary clearances from the new lot boundaries, to the satisfaction of the City of Armadale.**

MOVED Cr Stubbs
MOTION CARRIED (7/0)



***PROGRESS REPORT –
PROPOSED KELMSCOTT VILLAGE SHOPPING CENTRE REDEVELOPMENT***

WARD : KELMSCOTT
FILE REF : A166046
DATE : 2 December 2002
REF : GIW
RESPONSIBLE : PSM
MANAGER
APPLICANT : The Planning Group
LAND OWNERS : Various
SUBJECT LAND : Various
Property size
Map 22.06 & 22.07
ZONING : Urban & Railways /
MRS/TPS No.2 Shopping, Special Use,
Public Purpose & Railways

In Brief:-

- ✍ Progress report including a brief summary of proposed Kelmscott Central Shopping Centre proposal.
- ✍ Council received an incomplete application on 15 November 2002.
- ✍ Awaiting submission of a retail impact analysis report and MRS Form 1 application to be signed by all relevant landowners.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

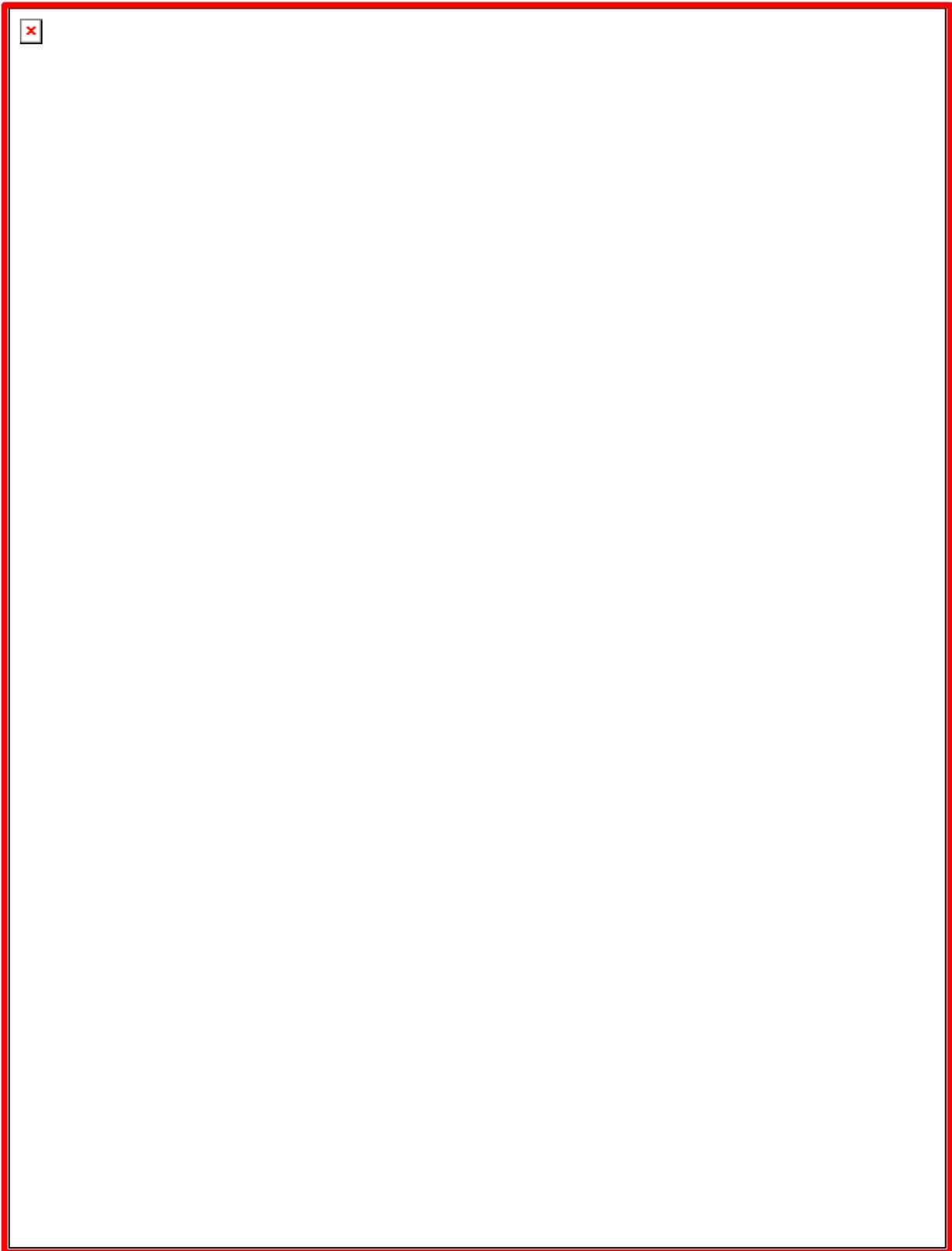
Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

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

Council Policy / Local Law Implications

Metropolitan Centres Policy
Kelmscott Station Precinct Study
Kelmscott Enquiry-by-Design
Commercial Strategy



SITE PLAN
KELMSCOTT SHOPPING PRECINCT

Budget / Financial Implications

- ✍ Possible infrastructure costs relating to upgrading, maintenance and construction of roads, footpaths and landscaping etc.
- ✍ Retail Hierarchy Review

Consultation

Nil

BACKGROUND

The purpose of this report is to provide a brief summary and update on the progress of the proposal for Council's consideration:

The subject site was examined during the Kelmscott Enquiry Design Workshop held in early **October 2002**.

Council received the application for a proposed extension to the existing Village Shopping Centre on **15 November 2002**.

The application has not been signed by all relevant landowners, including the City of Armadale and Western Australia Government Railway and is therefore considered invalid at this stage. Council Officers are unable to process the application until the MRS Form 1 application form has been legitimately signed. It should be noted that legal advice on this matter may be required.

The application was referred to the Western Australian Planning Commission on **22 November 2002** for determination under Clause 32 of the Metropolitan Region Scheme in accordance with Statement of Planning Policy No.9: Metropolitan Centres Policy (MCP) as the proposal will exceed the recommended maximum floor area of 15,000m² for the Kelmscott District Centre.

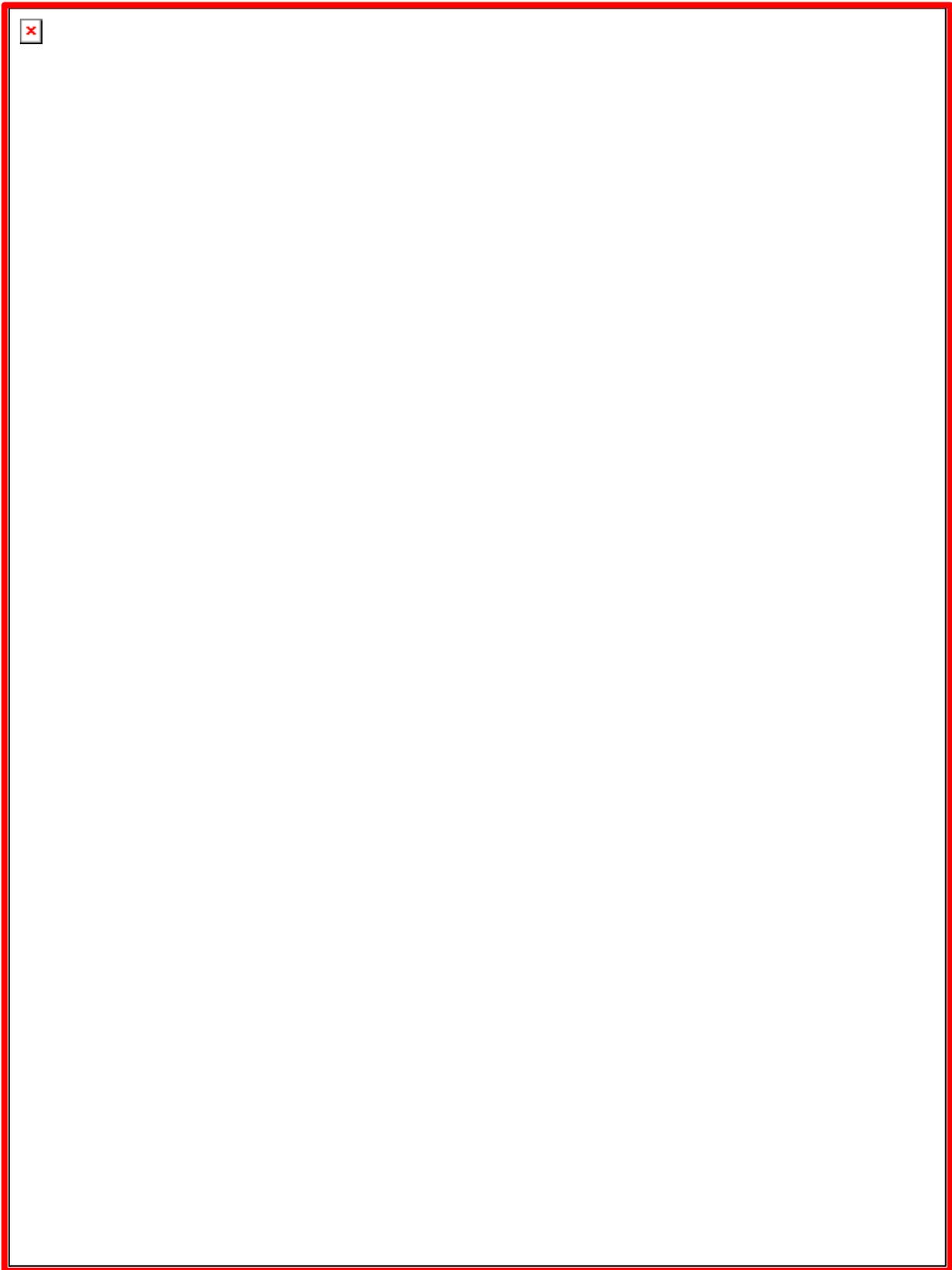
DETAILS OF PROPOSAL

Overview

The proposal consists of two main precincts:

Kelmscott Central Shopping Centre (south of proposed Gilwell Avenue extension)

- ✍ The main shopping centre building comprises three storeys (including a mezzanine car park) and extends the majority of the street block between Denny Avenue, Davis Road, Albany Highway and Streich Avenue;
- ✍ To comprise of speciality retail, offices, discount department store, food court, Woolworths, two other retail/convenience stores, 8 screen cinema complex and civic uses;
- ✍ Gross Leasable Area (GLA) equates to 30,788sqm



ELEVATION PLAN
KELMSCOTT CENTRAL SHOPPING CENTRE

Other Retail (north of the proposed Gilwell Avenue extension)

- ✍ A two storey building comprising ground level retail and upper level offices to be sited between Albany Highway and Streich Avenue; and two separate fast food outlets;
- ✍ Gross Leasable Area (GLA) equates to 2,500m² (approx.)

Other general details pertaining to the overall development are summarised below:

Gross Leasable Area

- ✍ Total GLA for overall development equates to 33,288m² (approx.)

Street Network

- ✍ Various modifications to the existing road network are proposed, including the extension of Gilwell Avenue and Davis Road with underpass through to Railway Avenue and closure of Denny Avenue and section of Streich Avenue.

Car Parking

- ✍ Total car parking provided for entire development equates to 1,661 bays.

Railway Station

- ✍ Relocation of railway station further south between Gilwell Avenue extension and Davis Road to form an elevated split level platform as part of main shopping centre building;
- ✍ Elevation of the rail line to allow construction of underpass at Davis Road and Gilwell Avenue and the station platform.

Additional Information

The applicant has submitted additional information in support of the application including a traffic/car parking study and demographic/retail assessment. The applicant has advised that a further detailed retail impact analysis will also be prepared and submitted as part of the proposal for consideration.

ASSESSMENT CRITERIA & PROCESS

Notwithstanding the fact that further information is required, the application has been formally referred to the Western Australian Planning Commission (WAPC) for determination under the Metropolitan Region Scheme, Council is also required to make its recommendation to the WAPC and determine the proposal in accordance with City of Armadale Town Planning Scheme No.2.

The proposal involves various discretionary land uses requiring public advertising in accordance with Town Planning Scheme No.2. Upon receipt of a completed MRS Form 1 application and all relevant information, the proposal will be advertised for public comment in accordance with Clause 7.2.2 of Town Planning Scheme No.2.

Key Issues

Various key issues requiring detailed assessment and consideration will include:

Scale of Proposal (Metropolitan Centres Policy)

The proposed scale of retail/commercial development needs to be assessed in the context of the Metropolitan Centres Policy and City of Armadale's Retail Strategy and proposed Retail Hierarchy Review. The proposal will increase the existing retail/commercial GLA of Kelmscott from an estimated 12,700m² to 37,136m². This significant increase will require careful assessment in terms of implications on surrounding development within the Kelmscott Town Centre and other nearby centres at the regional, district and local level, including reference to the Western Australian Planning Commission's Statement of Planning Policy No.9: Metropolitan Centres Policy which provides a recommended maximum GFA 15,000m².

City of Armadale Retail Hierarchy Review

It should be noted that Council is currently commissioning an economic consultant to prepare a Retail Hierarchy Review of all major centres within the City of Armadale, including the Kelmscott District Centre. It is anticipated that the outcomes of this review process will be finalised by March 2003. The outcomes of this review would assist a comprehensive assessment of this current proposal and balance any retail impact analysis provided by the applicant.

Kelmscott Enquiry-by-Design Outcomes

The application has been lodged following the Kelmscott Enquiry-by-Design Workshop. An interim report is currently being prepared to provide a record of the various concepts and options raised during the workshop. The recommendations from the workshop however are not finalised and will require further investigation. The outcomes will be published in the Kelmscott Enquiry-by-Design Workshop Outcomes Report due for release in March/April 2003. The EBD Workshop recommendations will then be considered for endorsement by Council and the Department for Planning and Infrastructure following a formal period of public consultation. The outcomes of this process would further assist a comprehensive assessment of this current proposal.

CONCLUSION

The proposal is complex and will require detailed assessment with regard to various statutory and policy frameworks such as the Metropolitan Centres Policy and Town Planning Scheme No.2. Upon receipt of all relevant information, including submission of a valid MRS Form 1 application, the proposal will be advertised for public comment.

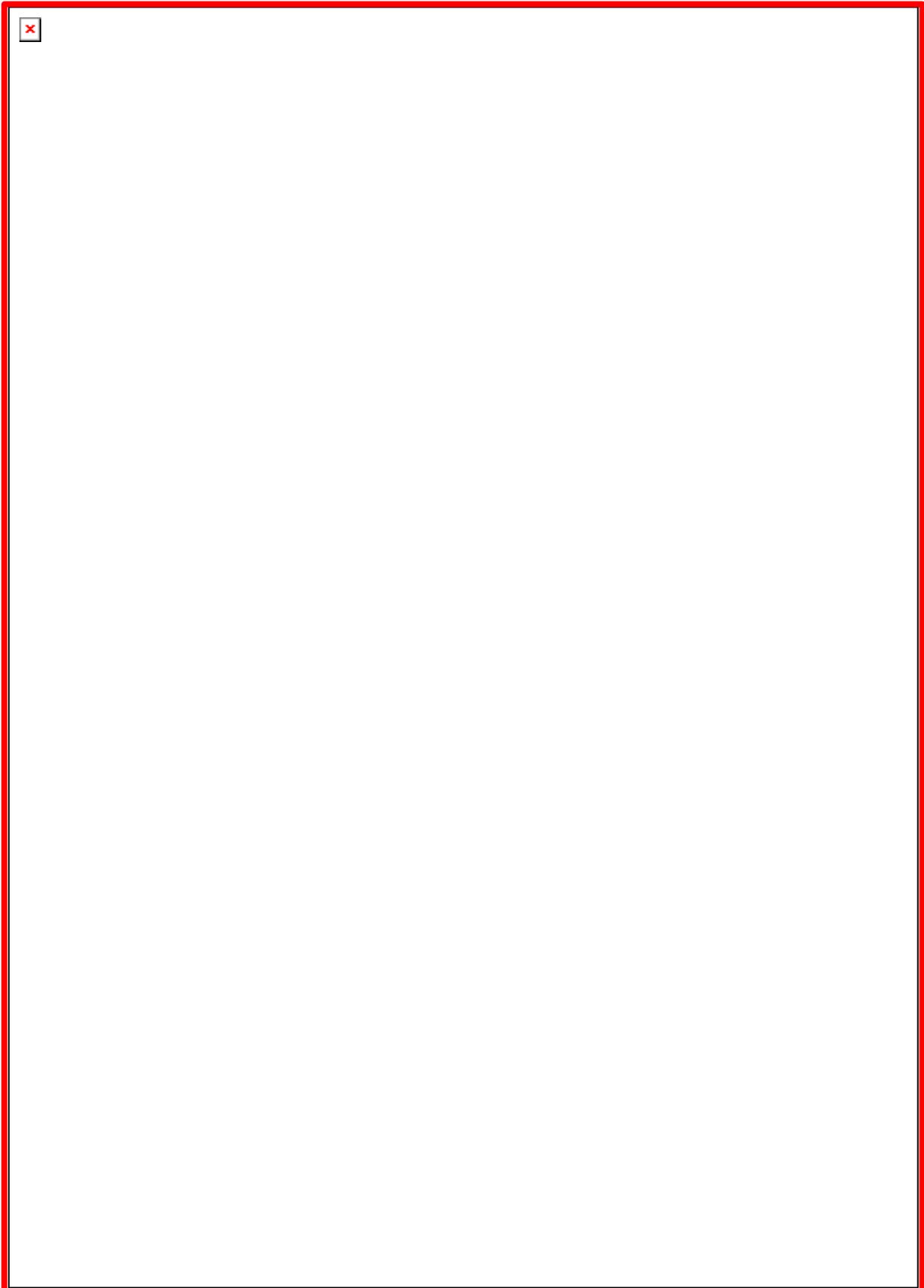
It should be noted that two pertinent studies being the Kelmscott Enquiry-by-Design Workshop Outcomes Report and the Retail Hierarchy Review Study (pending) would provide further strategic information and recommendations to assist determination of the application.

D233/02

RECOMMEND

That Council receive the information pertaining to the application for the proposed Kelmscott Village Shopping Centre redevelopment and note that the application will be presented to Council for determination in due course.

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED EXTENSIONS TO EXISTING RESIDENCE –
LOT 39 (No.369) ALBANY HIGHWAY, BEDFORDALE***

WARD : ARMADALE
FILE REF : A4210
DATE : 28 November 2002
REF : JEH
RESPONSIBLE : PSM
MANAGER
APPLICANT : Summit Home Improvements
LAND OWNER : P & J Painter
SUBJECT LAND : Lot 39 Albany Highway,
Bedfordale
Property size 1.5699 ha
Map 24 – 01
ZONING : Rural / Rural ‘E’
MRS/TPS No.2

In Brief: -

- ✍ Proposal involves extensions to the existing residence consisting of a laundry, bathroom and additional bedrooms.
- ✍ Proposal is seeking variation to the setback requirement of 15m within the Rural ‘E’ zone, due to existing constraints on site.
- ✍ Proposal advertised and no objections received. Setback variation complies with firebreak requirements.
- ✍ Recommend approval subject to standard conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

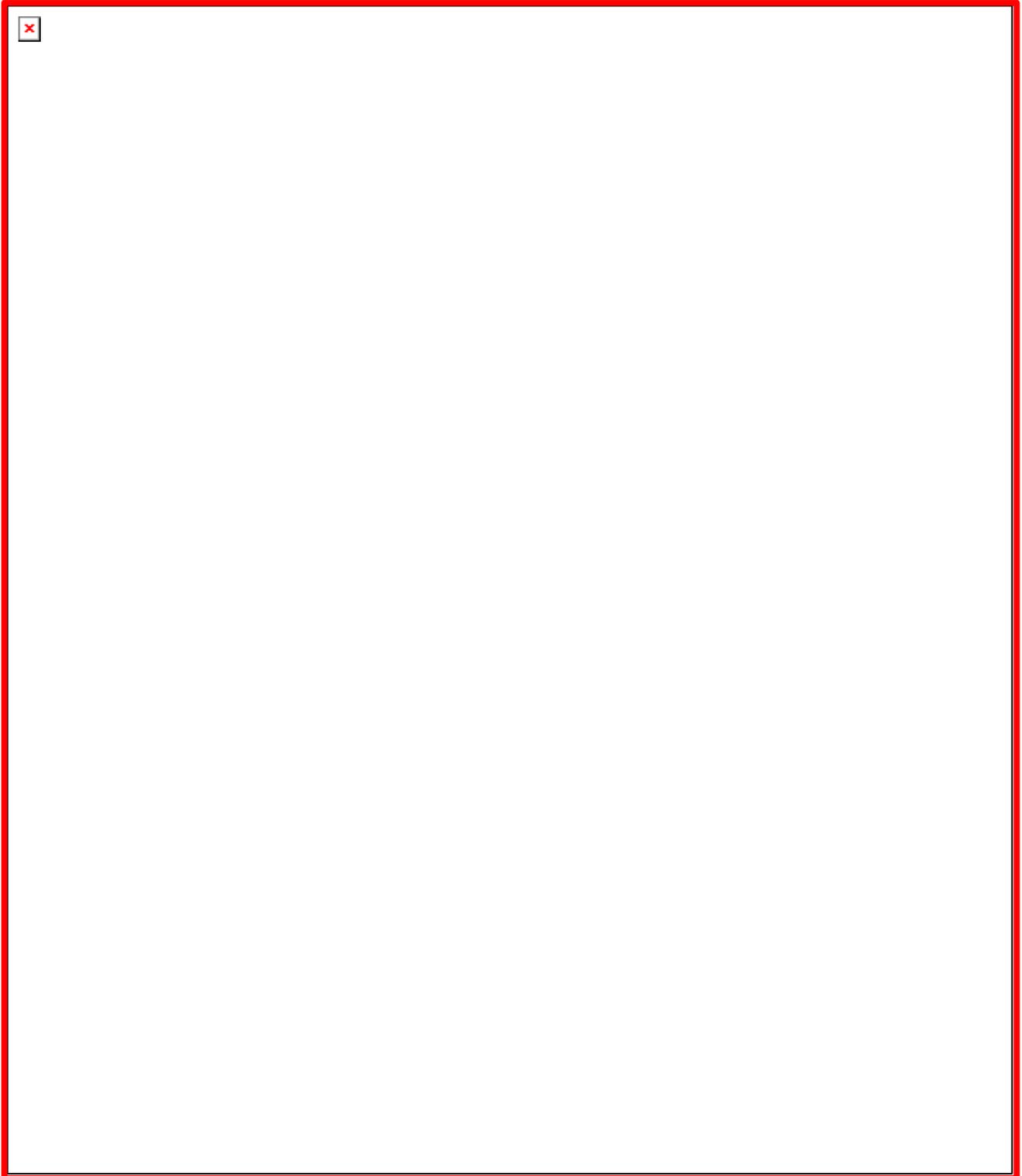
Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

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

Council Policy / Local Law Implications

4.3.7 Setback Variations - Rural and General Rural Zone



SITE PLAN
LOT 39 ALBANY HWY, BEDFORDALE

Budget / Financial Implications

Nil.

Consultation

- ✍ Department for Planning and Infrastructure (Properties and Parks Branch)
- ✍ Fire Control Officer (City of Armadale)
- ✍ Development Control Unit (DCU)

BACKGROUND

Council received the application on 12 September 2002 to extend the existing residence at the subject property.

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

EXISTING SITUATION

The existing residence on the property is constructed of stud framing with painted 'harditex' external sheeting and a Zinalume roof pitched at 8 degrees. The property is located on a small level section in the south-west corner of the lot which otherwise slopes steeply down to Albany Highway. Currently the dwelling is set back a minimum of 12m from the rear property boundary.

DETAILS OF PROPOSAL

Details pertaining to the application include the following:

- ✍ Converting two of the existing three bedrooms into a sitting room, and the existing bathroom/laundry into a walk-in linen cupboard.
- ✍ Extending the existing residence to 3m from the rear property boundary to accommodate three new bedrooms, a new bathroom and a laundry.
- ✍ The use of Zinalume metal roofing at 8 degrees pitch to match the existing residence, with walls constructed and finished to also match the existing residence.

COMMENT

Department for Planning and Infrastructure (Properties and Parks Branch)

The proposal was referred to the Department for Planning and Infrastructure for comment as the rear boundary abuts Bungendore Park.



ELEVATION PLAN
LOT 39 ALBANY HWY,
BEDFORDALE

The application originally proposed that the extensions be set back 2.25m from the rear boundary. The Department for Planning and Infrastructure had no objections as such, but suggested that the reduction in setback would increase the risk of fire damage to the property should a fire emanate from the Reserve. Amended plans were received which proposed a 3m setback from the rear boundary. Subsequently, the Department for Planning and Infrastructure expressed no concerns, subject to Council's Fire Prevention Officer being satisfied that the proposal is acceptable.

Fire Prevention Officer (City of Armadale)

The original proposal for extensions set back 2.25m from the rear property boundary was referred to Council's Fire Prevention Officer, who requested that a minimum 3m setback be provided to comply with firebreak requirements. Subsequently, amended plans providing 3m setback were provided and referred to Council's Fire Prevention Officer who expressed no objections to the proposal.

Development Control Unit (DCU)

DCU at its meeting held on 3 December 2002 recommended that the application be approved subject to appropriate conditions.

Analysis

Town Planning Scheme No. 2

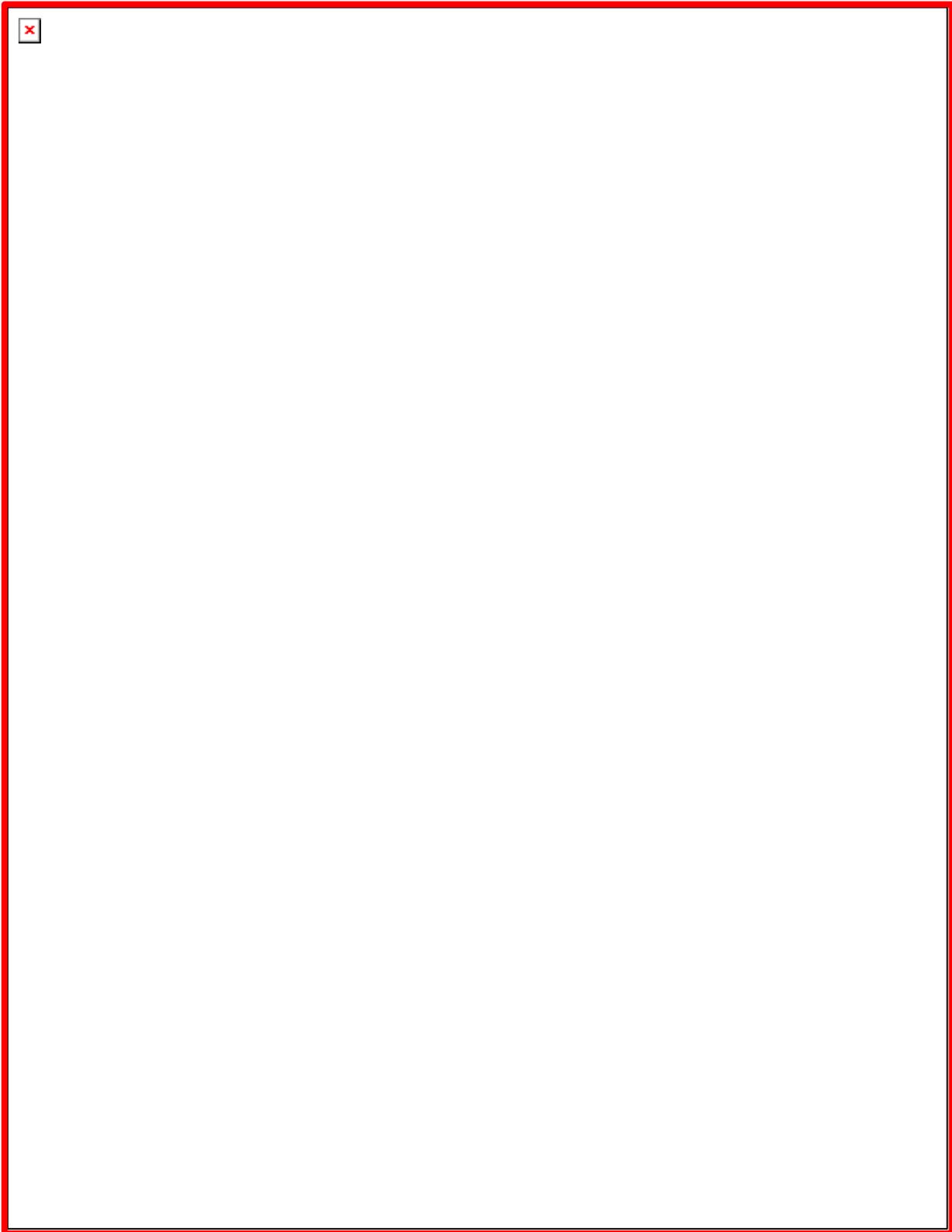
Under Town Planning Scheme No.2 the required boundary setback for the Rural zone is 15 metres to all boundaries. The proposal does not meet this requirement, as a minimum 3m setback is proposed on the southern lot boundary.

Clause 7.1.2 of Town Planning Scheme No.2 also requires that any person who proposes to utilise material on the roof or walls of a single house which in the Council's opinion is highly reflective, shall apply in writing to Council seeking Council's approval for such type of material finish. The Town Planning Scheme also states that before granting its approval, the Council shall satisfy itself on the matters of Amenity as identified under the General Provisions of the Residential Design Codes.

The use of Zinalume is considered acceptable in this instance as the existing roof is Zinalume and low pitched at 8 degrees. In addition, existing vegetation and topography screen the property from the view of surrounding properties, and prevent adverse impacts on other properties or to the rural amenity of the locality.

Policy on 'Setback Variation- Rural and General Rural Zone'

Policy 4.3.7 allows setback variations down to those of the R-Codes where the subject lot has an effective width of less than 50m. The policy provides no guidance for instances where lots have a width greater than 50m – as in this case. In such cases the policy requires Council deliberation.



FLOOR & ELEVATION PLAN
LOT 39 ALBANY HWY, BEDFORDALE

The subject lot is 91.37 metres in width on the rear boundary and 181 metres in depth on the western boundary. Where the effective depth of the lot is greater than 50 metres, the 'Setback Variation' Policy requires variations from the 15 metre rear setback requirement to be referred to Council for deliberation.

The applicant is seeking a setback variation due to the following site constraints owing to the position of the existing residence on the property:

- ✍ Leach drains and septic system prevent extension of the dwelling to the east;
- ✍ Topography and existing earthworks prevent extension of the dwelling to the north;
- ✍ On the western boundary the existing house has a minimum setback of 2.6m to an existing patio and so the proposed 9m side setback of the extensions will have little impact.

Given the existing site constraints, the location of the proposed extensions represents the most appropriate solution. There are few alternative and viable solutions other than the extension being a second storey. The existing house is unlikely to be engineered for a second storey, and this option is likely to be cost prohibitive. Given that the proposed extensions will not result in adverse impacts to surrounding properties or the rural amenity of the locality, the setback variation is considered to be acceptable.

Clause 7.6 of Town Planning Scheme No.2 allows Council to vary standards, provided that the proposal would be consistent with the orderly and proper planning of the locality and would not have an adverse effect on the occupiers of the locality. It is considered that the variation to the setback would not have a deleterious impact on the residents of the subject property or those of the locality.

OPTIONS

1. Approve the application as proposed, subject to conditions.
2. Refuse the application as the proposal does not comply with the required rear setbacks prescribed under Council's Town Planning Scheme No.2.

CONCLUSION

In considering the existing constraints in terms of the earthworks and steeply sloping land to the north of the house, location of the septic system to the east, and close proximity of the house to the western boundary, the proposed extensions are considered to be in the most appropriate location. The setback variation meets appropriate firebreak requirements and the extensions will not affect the amenity of the area or adjoining residential properties.

It is recommended that option No.1 be adopted.

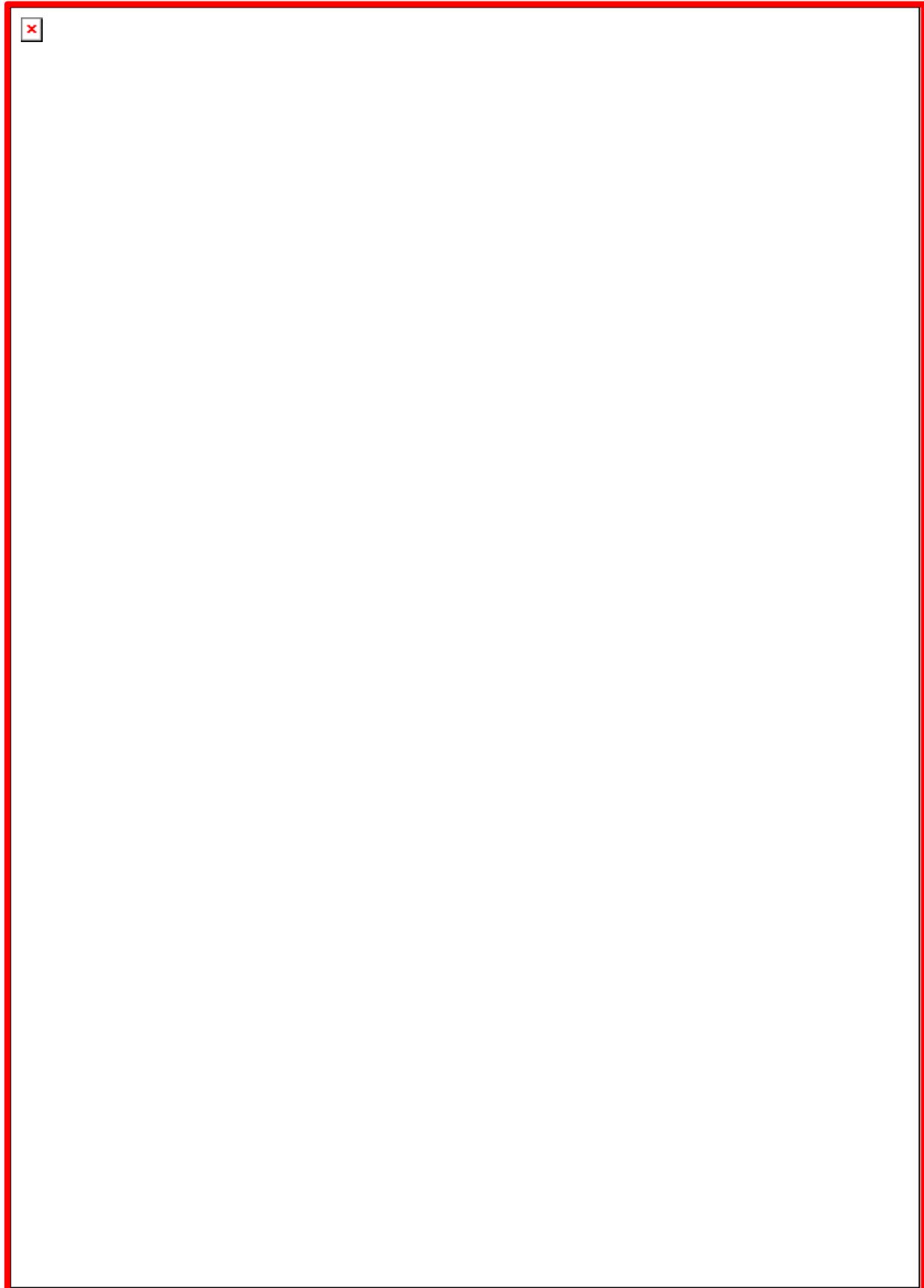
D234/02

RECOMMEND

That Council approve the application for extensions to the single residence at Lot 39 (No.369) Albany Highway, Bedfordale subject to conditions including the following principal requirements: -

- ✍ Details of the colour scheme and building materials relative to the external appearance of the residence to be submitted and approved by the Council. The development to be completed and maintained in accordance with the approved schedule.**
- ✍ The facades of the building additions shall be constructed of materials and an appropriate colour scheme to complement the existing residence to satisfaction of Council.**
- ✍ Applicant to be advised that upgrading of the effluent disposal system is required to the satisfaction of Council.**

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED PRIMARY SCHOOL AND CHURCH -
PARTS LOTS 6, 7, 13 AND 14 FORREST ROAD, BROOKDALE***

WARD : FORREST
FILE REF : A71457
DATE : 2 November 2002
REF : EP
RESPONSIBLE MANAGER : PSM
APPLICANT : The Roman Catholic Archbishop of Perth
LAND OWNER : Department of Housing & Works
SUBJECT LAND : Property size 9.46ha
Map 21-02
ZONING MRS/TPS No.2 : Urban Deferred / General Rural

In Brief:-

- ? Application to relocate St Francis Xavier Primary School and church from Lot 1 South western Highway, Armadale to Parts Lots 6, 7, 13, & 14 Forrest Road, Brookdale.
- ? The applicant has not submitted detailed information relating to the proposal at this stage.
- ? The application can be considered as generally consistent with the Town Planning Scheme No.2 and the land use patterns identified for this area under the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan.
- ? Recommend that the application be approved subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

Southern River / Forrestdale / Brookdale / Wungong District Structure Plan
(Forrestdale Structure Plan)

Budget / Financial Implications

Nil.



SITE PLAN
PT LOTS 6, 7, 13 & 14 FORREST RD, BROOKDALE

Consultation

- ✍ Western Australian Planning Commission (WAPC)
- ✍ Development Control Unit (DCU)
- ✍ Surrounding Landowners

BACKGROUND

The subject site is currently vacant with some scattered mature trees. Surrounding land uses consist of General Rural to the northwest, west and southwest and Residential to the northeast east and southeast. The site abuts an approximately 30m wide road reserve (proposed future Forrest Road connection to Whitely Road), along its eastern boundary, which separate the school site from Neerigen Brook foreshore area.

It is advised that the school urgently seeks Council's approval for this proposed development, due to the time constraints being placed by a land exchange arrangement between the Roman Catholic Archbishop of Perth and the Department of Housing and Works.

DETAILS OF PROPOSAL

The application proposes the relocation of St Frances Xavier Primary School from Lot 1 South Western Highway to the subject site being Pt Lots 6, 7, 13, and 14 Forrest Road Brookdale. The applicant has provided an indicative layout for the site at this stage.

The proposal involves the following:

- ✍ Three stream primary school made up of 21 classrooms and three pre-primary / kindergarten rooms, an administration block, library, playing fields and hard courts to accommodate a projected student population of 750.
- ✍ 450 seat Parish Church with an associated Parish Centre. Both these facilities are to be used as joint use facilities between the church and the school.
- ✍ A presbytery catering as a residence for the parish priest.
- ✍ Parking provisions for 120 cars catering on a reciprocal basis for the church use on weekends and as drop off / pick up for the primary school during weekdays, with over flow parking provisions on site.
- ✍ Access / egress to the site is proposed to be from Forrest Road.

COMMENT

Western Australian Planning Commission (WAPC)

Comments are summarised as follows:

- ✍ Careful consideration should be given to this development to ensure the integrity of the Southern River, Forrestdale, Brookdale, Wungong Structure Plan (the Structure Plan) is not compromised.
- ✍ This matter would be most appropriately addressed in an Outline Development Plan for the area in which the opportunities and constraints could be examined in more detail than is currently the case in the Structure Plan.

- ✍ The Structure Plan is a conceptual guide only, which indicates how the area could be developed and the WAPC accepts that there will be some deviations from the plan as more detailed planning is undertaken.
- ✍ The Structure Plan does not preclude schools from being located within the Open Space Corridors.

Development Control Unit (DCU)

DCU considered this application at its meeting on 19 November 2002 and recommended approval subject to:

- ✍ The applicant providing further details of ultimate parking layout for both school and church developments including satisfactory school bus parking and drop-off pick-up zone included on school grounds, road widening in front of the school to accommodate a turning area and traffic management devises.
- ✍ Submission of a nutrient and irrigation management plan for the oval.
- ✍ Submission of a comprehensive landscape plan for the entire site including identification of existing vegetation and indicating vegetation buffers to mitigate any noise impact to the surrounding areas.
- ✍ Details of proposed effluent disposal methods for the proposal.

Results of Advertising

The proposal was advertised to surrounding landowners for comment for a period of two weeks.

No. of properties advertised	78
No. of submissions received	5 (includes 1 verbal comment)
No. objecting to proposal	3
No. supporting the proposal	2

SUMMARY OF SUBMISSIONS

	Statement	No. Submitters holding this view
1	Increase in traffic volume on Forrest Road by introducing a new school is a concern that would require improved traffic management to ensure safety (i.e. road crossings and foot bridge over the brook).	3
2	Noise generated from the school premises would impact on the surrounding residential area.	2
3	The existing trees along Forrest Road should be retained and the Neerigen Brook foreshore should be maintained.	1
4	The access driveway point to the school site being located directly opposite a private access driveway of a local resident is undesirable.	1

RESPONSE TO ISSUES RAISED IN SUBMISSIONS

1. Impact from increased traffic flow on Forrest Road due to introduction of a new school.

It is acknowledged that the school proposal would generate additional traffic on Forrest Road. It should be noted that such traffic would strictly be restricted to a maximum time period of 15 - 20 minutes twice a day at school starting and closing times. Given that this entire area is identified as future “Urban” under Council’s Forrestdale Structure Plan the traffic increase on Forrest Road is a scenario that would be inevitable.

Council’s Engineers have advised that Forrest Road currently is not a very busy road and therefore this anticipated traffic increase would not pose a major problem. The applicant would also be required to widen Forrest Road at this section to make provision for turning traffic and install traffic management measures to minimise / address any traffic issues.

2. Impact from noise expected to be generated from the school site.

The school site consists of over 9ha in area, and the buildings are proposed to be well set back from all property boundaries. The proposed 30m wide road reserve (Forrest Road connection to Whitely Road) and the Neerigen Brook foreshore reserve provide a substantial buffer between the existing residential areas and the school. This separation together with additional tree planting along the perimeters of the site would assist in minimising any prospective noise generated from this site. It should be noted that the proposed school and church would need to comply with the Environmental Protection (Noise) Regulations 1997.

3. The access driveway point to the school site being located directly opposite a private access driveway of a local resident is undesirable.

Potential vehicle conflict can be resolved by moving the proposed access point to an appropriate location to avoid any prospective traffic conflict. This could be dealt with as a condition of approval.

4. Retention of Existing Vegetation

The submitted application proposes to retain all existing trees along Forrest Road, and install landscaping on the school site and along the Neerigen Brook foreshore. As a condition of approval a detailed landscape plan will need to be submitted by the applicant for Council’s further consideration to ensure satisfactory landscaping will be installed.

Analysis

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

Under TPS No.2 the proposal is classified as an “Educational Establishment” which is a discretionary (AA) use in the General Rural Zone. The use of “Public Worship” (the church) is not a listed use in the General Rural zone use class table under TPS No.2. However, traditionally the church component has been regarded as an integral part of Catholic schools, which is a part of Catholic education.

Southern River/ Forrestdale/ Brookdale Wungong District Structure Plan (Forrestdale Structure Plan)

The subject land area is proposed to be future Urban in accordance with this Structure Plan. However, Lot 13, 14 and portion of Lot 6 are indicated as future Open Space (including drainage corridors) and the drainage corridor extends southwest through the rest of the property. The Structure Plan is a conceptual guide that indicates how the area can be developed in the future. No detailed Outline Development Plans have been prepared to guide the rezoning, subdivision and development for this land at this stage. The allocation and widths of the multiple use corridors would depend upon drainage requirements, natural topography, suitability for open space and landscape value. As confirmed by the WAPC, the Structure Plan does not preclude location of schools within Open Space Corridors and schools could be considered as a land use that could be integrated into these corridors.

The proposal is therefore considered to be consistent with the Brookdale District Structure Plan Review (First Stage Area), which identifies this land as future Urban with the Public Open Space Multiple Use Corridors (including drainage corridors) being restricted to the Neerigen Brook foreshore reserve which is outside the proposed school site.

Parking / Traffic management

The submitted site plan indicates 120 parking bays at a satisfactory location and configuration. These parking bays are proposed to cater on a reciprocal basis for the church use on weekends and for the primary school use during weekdays. The number of bays appears to be satisfactory and generally complies with the TPS No.2 requirements.

Council's Engineers have requested that the layout should be redesigned to reflect details such as school bus parking and drop-off pick-up areas, proposed road widening at the front of the school to accommodate turning vehicles and traffic management devices. This issue could be addressed as a condition of approval.

Site Plan and Details

The submitted indicative layout / proposal does not include details such as building elevations, colour scheme, traffic management details, landscaping, noise attenuation methods, servicing details such as drainage, connection to sewer and other prospective environmental issues. These details could be requested as conditions of approval of the application, if the Council is satisfied that a positive determination could be made based on the information provided.

Notwithstanding the above, given the compliance of this development proposal with the TPS No.2 requirements, and its general consistency with the Structure Plan and the acceptance of the school within this locality indicated by the small number of submissions received, it is apparent that the application could be approved subject to all issues involved being satisfactorily resolved.

OPTIONS

1. Approve the application subject to appropriate conditions.
2. Defer determination of the application pending submission of detailed information as required and detailed in the above report.

CONCLUSION

The applicant at this stage seeks Council approval of this application based on an indicative layout submitted for consideration. Detail information is proposed to be provided at the Building Application stage, as this approval is required to progress a land exchange arrangement between the Roman Catholic Archbishop of Perth and the Department of Housing and Works.

The proposed school component generally complies with TPS No.2 requirements and the church activity can be considered as an integral part of the development, which is ancillary to the school proposal. In the absence of any detail Outline Development Plans for the area and the WAPC's general acceptance of the proposal, the development is not considered to compromise the integrity of the Forrestdale Structure Plan.

Notwithstanding the above, it should be noted that there are a number of issues that needs to be addressed by the applicant as identified in the above report. These issues can be addressed by imposing relevant conditions on the planning approval.

Option No. 1 is recommended.

D235/02

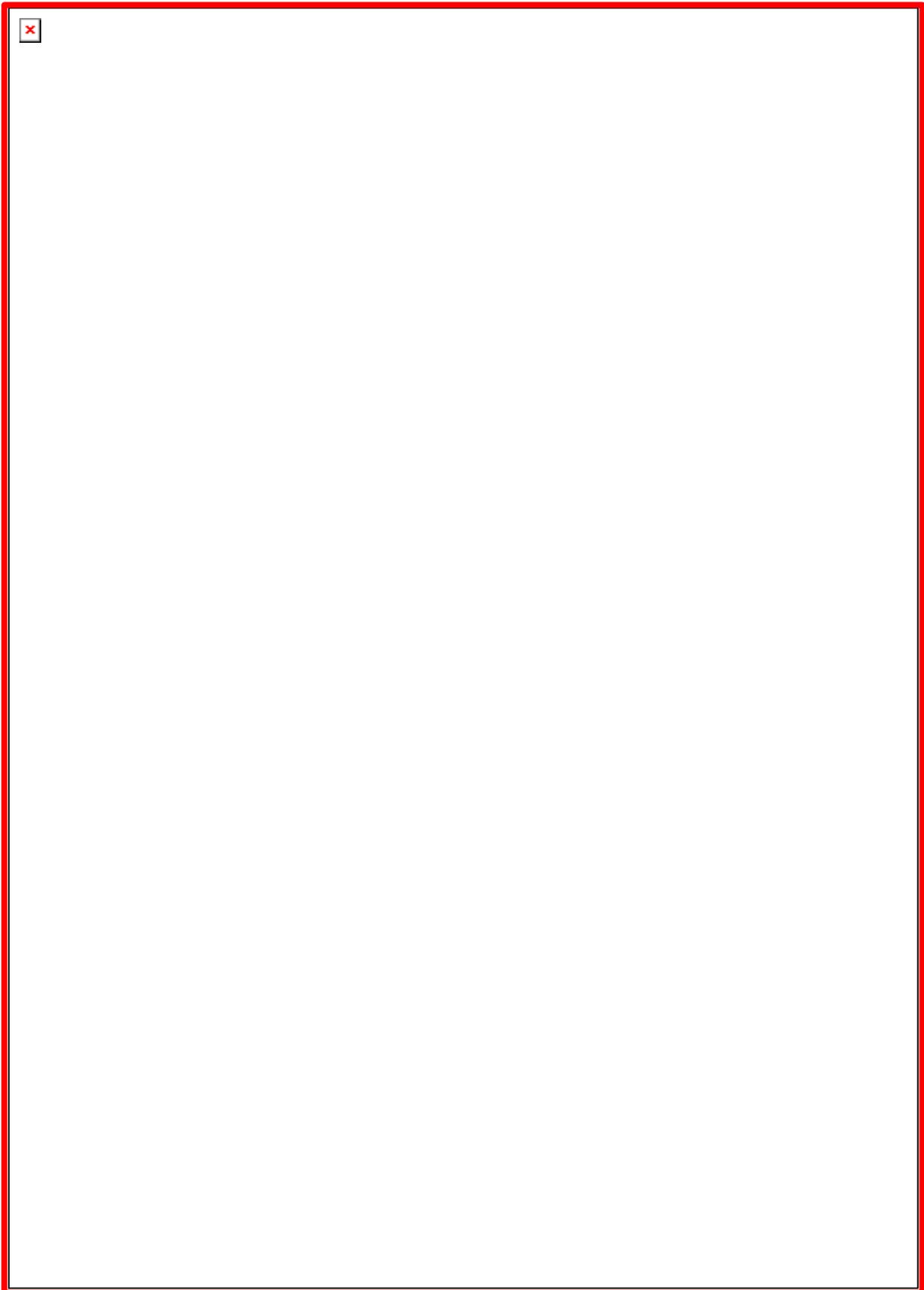
RECOMMEND

That the application to relocate St Francis Xavier Primary School and the associated Public Worship facility from Lot 1 South Western Highway, Armadale to Parts Lots 6, 7, 13, & 14 Forrest Road, Brookdale be approved subject to conditions including the following principal requirements:

- a) Submission of detailed elevation plans depicting a suitable quality architectural design that provides a high standard of visual appearance to public vantage points, material types and colour schemes, and such submission to be to the satisfaction of Council. The development to be completed in accordance with such approved plans and to be maintained thereafter to the satisfaction of Council.**
- b) Submission of a detailed plan indicating parking arrangements for the entire site including bus parking and drop – off / pick - up areas, road widening in front of the school site to accommodate turning vehicles and proposed traffic management measures to the satisfaction of Council.**

- c) **Submission of a comprehensive landscape plan indicating the retention of existing vegetation where possible and proposed landscaping for the entire site including dense vegetation along the property perimeters and the Neerigen Brook foreshore to minimise any prospective noise generated from the school use of the land.**
- d) **Submission of a nutrient and irrigation management plan for the oval area to the satisfaction of Council.**
- e) **Site to be provided with a sewer reticulation system to the satisfaction of the Water Corporation.**
- f) **A comprehensive stormwater drainage plan that reflects Water Sensitive Design Principles is to be submitted and approved by Council. All drainage work to be constructed as per approved plan.**

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED TEAROOMS, ARTS / CRAFTS STUDIOS AND INCIDENTAL KIOSK –
PORTION OF LOT 55 CANNIS ROAD, BEDFORDALE***

WARD : ARMADALE
FILE REF : A163991
DATE : 26 November 2002
REF : EP
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dykstra & Assocoates
LAND OWNER : Lomos Pty Ltd
SUBJECT LAND : Property size 12.17ha
Map 25-03
ZONING : Rural / Special Use (No.86)
MRS/TPS No.2 "Rural Residential"

In Brief:-

☞ Application to establish Tearooms, Arts / Crafts studio and an incidental kiosk use.

☞ The application was advertised for public comment and attracted 8 submissions of objections and 2 submissions of support for the proposal.

☞ The development is generally consistent with the prescribed 'Special Use' table provisions outlined for this area under Town Planning Scheme No.2.

☞ Recommend approval subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

City of Armadale Rural Strategy
City of Armadale Draft Commercial Strategy

Budget / Financial Implications

Nil.



SITE & ELEVATION PLAN
LOT 55 CANNIS ROAD, BEDFORDALE

Consultation

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

BACKGROUND

Council in considering an application to rezone portion of Lot 55 to “Special Use – Rural Retail Village”, at its meeting on 17 September 2001 (D228/01) resolved to decline initiation of the amendment on the basis that:

- ✍ *the proposed retail shop component conflicted with Council’s previous support for a shop site within Churchman Brook Estate;*
- ✍ *the scale and commercial focus was inconsistent with the rural surroundings; and*
- ✍ *the proposal did not comply with the Subdivision Guide Plan for Amendment 171 in respect to the buffer for revegetation and access point on Churchman Brook Road.*

Council also resolved that further consideration of a Tea Room / Tourist related facility on the site may be appropriate upon finalisation of Amendment 171.

Subsequently, Council considered a second application proposing to rezone portion of Lot 55 Canns Road Bedforddale from Rural to “Special Use – Tea Rooms / Convenience Store” at its meeting on 17 December 2001 (298/01) and resolved as follows:

- “1. That Council decline to initiate the rezoning to accommodate a “Special Use – Tea Rooms/Convenience Store” on portion of Lot 55 Canns Road, Bedforddale on the grounds that the proposal conflicts with Council’s continuing support for a Shop site within Churchman Brook Estate, which is provided for in Town Planning Scheme No.2, and which is considered to be the most appropriate site in respect to its central location within a greater population catchment, and accessibility to the wider rural residential areas.*
- 2. That the applicant be advised that further consideration of a Tea Rooms / Tourist related facility on the site, consistent with the requirements of the proposed Rural Residential Special Use Zone for Lot 55 Canns Road, may be appropriate upon finalisation of Amendment No.171”.*

Amendment No.171 has now been finalised and gazetted. The subdivision plan for the super Lot 55 Canns Road is currently in the process of being cleared by the City. The subject lot known as Lot 221 Canns Road on the subdivision plan is 1.73ha in area.

Council at its meeting on 18 March 2002 approved an application to construct a 155m² shop and community facilities within Churchman Brook Estate on Lots 9001 and 9002 subject to conditions.

EXISTING SITUATION

The subject land, portion of Lot 55 Canns Road (to be Lot 221 Canns Road) enjoys frontage to both Canns and Churchman Brook Roads. It is located approximately 4km east of Armadale City Centre and comprises an area of 1.73ha. In terms of surrounding land uses, land to the north, south and east are characterised by rural residential type uses and parks and recreation reserves exist to the west. The property currently supports a residence and a shed.

DETAILS OF PROPOSAL

The application proposes the following:

- ✍ Construction of a 200m² new building to accommodate Tearooms, an Arts and Crafts studio and a kiosk. The total floor area of the development has now been reduced from previously proposed 300m² to 200m²;
- ✍ 100m² floor area is to be used for the Arts /Crafts and Kiosks component while the remaining 100m² will be utilised for the Tearooms;
- ✍ Retailing from the kiosk would involve tourist items and paraphernalia and a limited number of convenience items;
- ✍ The new building is proposed to be set back 51m from Canns Road and 41m from Churchman Brook Road outside the stipulate 40m vegetation buffers along the street perimeters of this site;
- ✍ 18 car-parking bays will be provided to service the development;
- ✍ Landscaping is designed to integrate the building with the rural setting and to minimise visual intrusion;
- ✍ Existing dwelling to be used as a caretaker's residence.

COMMENT

Development Control Unit (DCU)

DCU at its meeting on 28 November 2002 considered this application and recommended that Council approve this application as:

- ✍ It is generally consistent with the provisions prescribed under the Special Use (No.86) table of the TPS No.2 for this site.
- ✍ The small number of submissions received reflects that the proposal is acceptable to the majority of property owners in the area.

Results of advertising

Given the commercial nature of the proposal the application was advertised to 78 surrounding property owners for comment.

No. of properties notified -	78
No. of submissions received -	10
No. of submissions supporting the proposal -	2
No. of submissions objecting -	8

SUMMARY OF SUBMISSIONS

	Statement	No. Submitters holding this view
1	The prominent location of the proposed development will be detrimental to the rural amenity of the locality, because of the high visibility of the Churchman Brook / Canns Road corner.	3
2	The proposed development will result in increased traffic volumes using Canns Road and Churchman Brook Road, contrary to the wishes of the existing residents.	5
3	There is only commercial viability for one commercial site in the locality and to have two located within approximately 1km of each other is not sustainable. The approved facility would be sufficient to service this area.	4
4	This type of commercial development will be detrimental to privacy and peace and quiet environment of this locality, which are our main reasons of choosing this estate for living.	6
5	Given that there are a number of similar type development within this area, if this venture fails what will the building be used for?	1
6	The proposed commercial development would devalue the surrounding properties.	1
7	Increased traffic volume would increase the potential risk for road fatalities including impact on the local fauna.	1

RESPONSE TO ISSUES RAISED IN SUBMISSIONS

Amenity Impact

It is acknowledged that the subject site is in a prominent location being at the corner of Canns and Churchman Brook Roads. However, this corner location could also be regarded as somewhat removed from the wider Special Use zoned rural / residential estates within this area, being located at one end of a larger block within this estate (presently being subdivided). Given the residential scale of the building and the substantial setbacks proposed from both street frontages, plus the 40m vegetation buffer along both road perimeters, it is unlikely that this development would have a detrimental visual impact on the neighbours. The applicant has advised that the proposed development will be integrated with the existing dwelling to minimise the impact of any additional building bulk on site.

Viability and adequacy of more than one commercial centre

A number of submitters have raised objections to a second commercial operation given that the Council has already approved a shop within the Churchman Brook Estate, which is approximately 1 km away from this proposed development site. This proposal will be mainly focusing on the Arts Crafts and the Tearooms aspect, which are more tourist oriented with the kiosk component being an incidental use. The applicant's proposed operation is unlikely to compete with the type of items that would be offered for sale from the shop as approved for the Churchman Brook Estate.

Traffic Issues

It is recognized that a commercial land use would contribute to changing of traffic volumes. However, this low scale activity is unlikely to generate a major increase in traffic given that it would mainly be attracting passing tourist trade. As Bedfordale is an attractive tourist area and has been for a considerable period of time, the tourist traffic would not be dissimilar to the present situation. Council's Technical Services Directorate has confirmed that this development is unlikely to create major traffic problems and both Canns and Churchman Brook Roads are capable of accommodating an increase of traffic generated from a use of this nature.

Devaluation of Properties

It is unlikely that a tourist-oriented activity of this nature would devalue surrounding properties. It should also be noted that the Special Use zoning of this land does make provisions for such tourist activities being one of Council's objectives to encourage tourism into Armadale, the Heritage Country that has a wealth tourist attractions to offer.

Future use of the premises if proposed venture fails

In the event of a land use approved by Council does not progress / fails, the landowners are required to make further application to change the use of such land if they so wish. Council will then consider and determine such an application having regards to its current Town Planning Scheme No.2 / Policy requirement based on the merits of such application.

Analysis

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

Arts Crafts studio is included as a discretionary provision under the "Prescribed Special Use – Rural Residential" zoning of this locality. The proposed Tearooms may be accommodated under the definition of Tourist Use, which is defined as "*facilities predominantly servicing tourists staying at or visiting the site and may include the provision of light refreshment and small scale sale of tourist oriented goods*".

The applicant advises that the kiosks will only sell tourist items and paraphernalia and a limited number of daily convenience items. Such an activity could be considered as an incidental use to this development under the above definition of TPS No.2.

Shop site at Churchman Brook Estate (the Estate)

In responding to Council's advertising of the subject application, the planning consultants acting on behalf of the Churchman Brook Estate have advised that they intend to develop the site in due course and that there is only commercial viability for one commercial site in the locality and to have two located within approximately 1km of each other is not sustainable.

It should be noted that commercial competition is not an accepted planning argument in assessing these types of developments. Given the modest floor area proposed to be allocated for the kiosk, its incidental nature to the predominant use of the Arts Crafts studio and the Tearooms, and the type of items proposed to be offered for sale being mainly tourist oriented with a few convenience items, it is unlikely that this business will directly compete with the approved shop use for the Churchman Brook Estate. The developer asserts that the kiosk would mainly service the passing traffic rather than the estate population.

The subject site on the corner of Churchman Brook and Canns Roads could be considered an appropriate site for a tourist activity, in its ability to service the wider rural catchment of the Canns Road precinct and passing tourist traffic. The Estate shop site also provides a reasonable catchment, which is partially walkable for residents within the Estate, whereas the Churchman Brook / Canns Road site is mainly reliant on use of vehicles.

City Of Armadale Draft Commercial Strategy (Commercial Strategy)

With the exception of a location at the corner of Albany Highway and Admiral Road, the Commercial Strategy does not identify any other locations for proposed “Local Centres” within the “Hills South” precinct, which includes the entire Bedforddale area. The Council approved shop and the community facility for the Churchman Brook Estate falls within the definition of “Local Centres”, which is intended to serve the day - to - day needs of the local community. In comparison to such a centre the proposed development can only be considered as a tourist attraction in terms of the nature of its functions proposed.

Site Layout, Design and Parking

The scale of the current proposal in terms of floor area is considerably less than the originally proposed 550m² floor area development. It is designed to have access off Churchman Brook Road utilising an existing access point for a single residence to minimise entry points along Canns Road. The existing 40m-vegetation buffer is to be maintained with further enhancement of landscaping to integrate with the rural setting and reduce any possible visual impact. Notwithstanding the above, a comprehensive landscape plan would be required to demonstrate the suggested improvements and intensification of the vegetation for the site.

The applicant advises that the proposal has been designed to complement the existing rural amenity of the area. The design is based on a rural federation theme at a residential scale. However detail building plans and colour scheme has not been provided at this stage.

The development will be serviced by 18 parking bays located around the subject building in a practical configuration. The number of bays is consistent with the TPS No.2 requirements.

Rural Strategy

The proposal is generally consistent with Council’s Rural Strategy for the Canns Rural Planning Area with objectives to preserve the scenic and environmental quality of the area. The application proposes careful siting of structures to avoid visual impact and retention and enhancement of existing vegetation on site.

Options

1. Council approve the application subject to appropriate conditions.
2. Council refuse the application on the basis that this type of a commercial activity would have a detrimental impact on the surrounding Rural / Residential properties.

CONCLUSION

The application proposes a reduced scale of development in comparison to the previous applications made for similar land uses, with a major focus on the tourist aspect, being the Tearooms and Arts and Crafts Studio.

The site is well located at the junction of two major roads central to Rural Residential subdivisions and within easy access of Churchman Brook Estate, thus facilitating exposure and access to a wide catchment of tourist and local trade.

Given that the type of items proposed to be offered for sale are mainly tourist oriented with a few convenience items, it is unlikely that this business will directly compete with the approved shop use for the Churchman Brooks Estate.

The development is generally consistent with the prescribed ‘Special Use’ table provisions outlined in Town Planning Scheme No.2 for this area.

Given the above, option No.1 is recommended.

Officer’s report recommends –

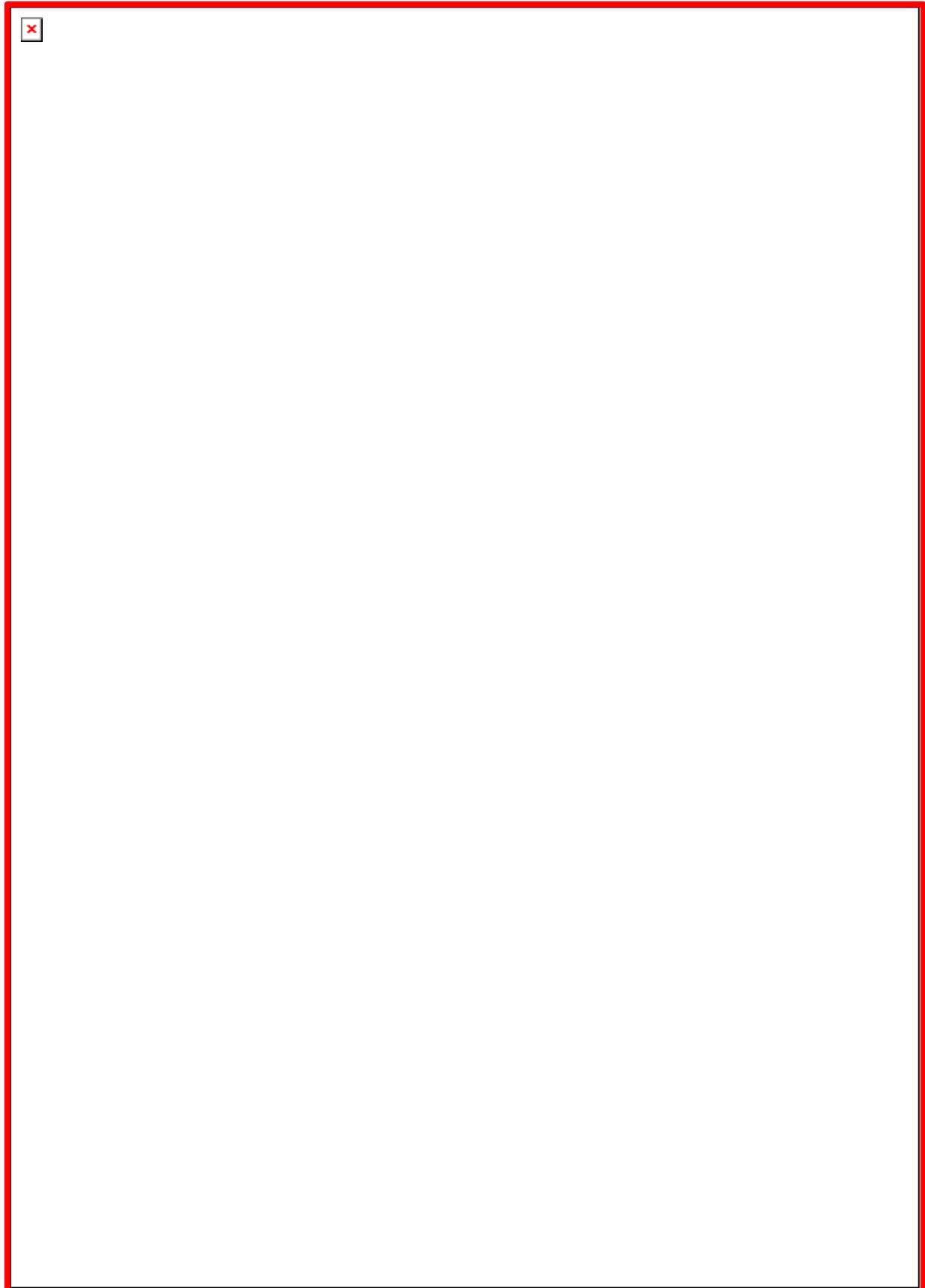
1. That Council resolve to approve the application to establish Tearooms, Arts / Craft studio and incidental Kiosk development on portion of Lot 55 Canns Road, Bedforddale subject to conditions including the following principal requirements:
 - a) Submission of a comprehensive landscape plan to indicate the proposed landscaping programme for the site and such plan be approved by Council. All landscaping to be installed as per the approved plan and to be maintained thereafter to the satisfaction of Council.
 - b) Submission of detailed elevation plans depicting building material type and colour scheme proposed for the building and such plan be approved by Council. The building to be completed as per the approved plan and to be maintained thereafter to the satisfaction of Council.
2. That the applicant be advised that this approval is restricted to land uses defined as “Arts Crafts & Handicrafts” and “Tourist Uses” in Town Planning Scheme No.2.

COMMITTEE was of the view that the development of a Kiosk should be refused on the basis that a Kiosk is a shop which is not permitted under the Town Planning Scheme in this zone.

D236/02 RECOMMEND

- 1. That Council resolve to approve the application to establish Tearooms and Arts/Crafts studio development on portion of Lot 55 Canns Road, Bedforddale subject to conditions including the following principal requirements:**
 - a) Submission of a comprehensive landscape plan to indicate the proposed landscaping programme for the site and such plan be approved by Council. All landscaping to be installed as per the approved plan and to be maintained thereafter to the satisfaction of Council.**
 - b) Submission of detailed elevation plans depicting building material type and colour scheme proposed for the building and such plan be approved by Council. The building to be completed as per the approved plan and to be maintained thereafter to the satisfaction of Council.**
- 2. That the applicant be advised that the development of a Kiosk has been refused on the basis that a Kiosk is a shop which is not permitted under the Scheme in this zone.**
- 3. That the applicant be advised that this approval is restricted to land uses defined as “Arts Crafts & Handicrafts” and “Tourist Uses” in Town Planning Scheme No.2.**

MOVED Cr Stubbs
MOTION CARRIED (7/0)



EXTENSIONS / RENOVATIONS TO EXISTING HERITAGE LISTED BUILDING TO BE USED AS A SECOND RESIDENCE – PT LOT 33 BROOKTON HWY, KELMSCOTT

WARD : KELMSCOTT
FILE REF : A71457
DATE : 28 November 2002
REF : EP
RESPONSIBLE MANAGER : PSM
APPLICANT : R Eikelboom
LAND OWNER : Austro Pty Ltd
SUBJECT LAND : Property size 1.5ha
Map 24-06
ZONING : Rural / Rural “E”
MRS/TPS No.2

In Brief:-

☞ Application to extend and renovate the heritage listed building known as the “Buckingham Homestead/ Poplar and Mill Site” to be used as a second residence.

☞ The proposal does not comply with the lot size requirement stipulated under Town Planning Scheme No.2 for a second residence.

☞ Clause 5.10.7 of the TPS No.2 relating to ‘Conservation Incentives’ for Heritage Listed Buildings empowers Council to consider varying the TPS No.2 requirements to allow the utilising of this heritage listed building as a second residence.

☞ Heritage Council of WA has raised concerns regarding some aspects of the extension. Council’s Heritage Advisory Committee has recommended approval of the proposed renovations and extensions.

☞ Recommend that Council advise the WAPC to approve the application 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.
- ☞ To create a caring and vibrant City, rich in history, heritage and lifestyle.

Legislation Implications

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

Council Policy / Local Law Implications

- ☞ Draft Rural Strategy
- ☞ Policy 4.3.2 ‘Two Houses on One lot in the Rural Zone’

Budget / Financial Implications

Nil.



SITE PLAN
PT LOT 33 BROOKTON HWY, KELMSCOTT

Consultation

- ✍ Main Roads WA
- ✍ Heritage Council of WA
- ✍ Council's Heritage Advisory Committee
- ✍ Development Control Unit (DCU)

BACKGROUND

Lot 33 Brookton Highway is currently developed with two residences and a shed. The older home known as the "Buckingham Homestead / Poplar and Mill site" is listed as a Management Category "A", heritage building in Council's Heritage Inventory and was built in 1868. The new residence presently occupied by the owners of the land was approved by Council and built in 1988. The approval of this second residence was subject to a number of conditions including the following:

"Existing residence not to be used for habitable purposes after the construction of the new residence. In this regard, all drain lines to be disconnected, septic tanks to be pumped clean and filled with clean sand and the leach drains to be removed to the satisfaction of the City Health Department."

As the property directly abuts the Canning River, the Western Australian Planning Commission is currently considering this application under Clause 30A(1)(a)(ii) of the Metropolitan Region Scheme and seeks Council's recommendation on this proposal.

Approval is also required under Town Planning Scheme No.2

DETAILS OF PROPOSAL

The applicant proposes additions and renovations to the existing Heritage listed residence so that it could be used for habitable purposes (second residence). The residence is to be occupied by the property owner's daughter. The proposal involves the following:

- ✍ Additions of bathroom / toilet facilities, a kitchen, dining area and a deck.
- ✍ A freestanding carport at the front of the house.
- ✍ All extensions to be contained under the existing roof.
- ✍ The alterations to the building to be of similar heritage architectural style and constructed in materials and colour scheme to match the existing building.

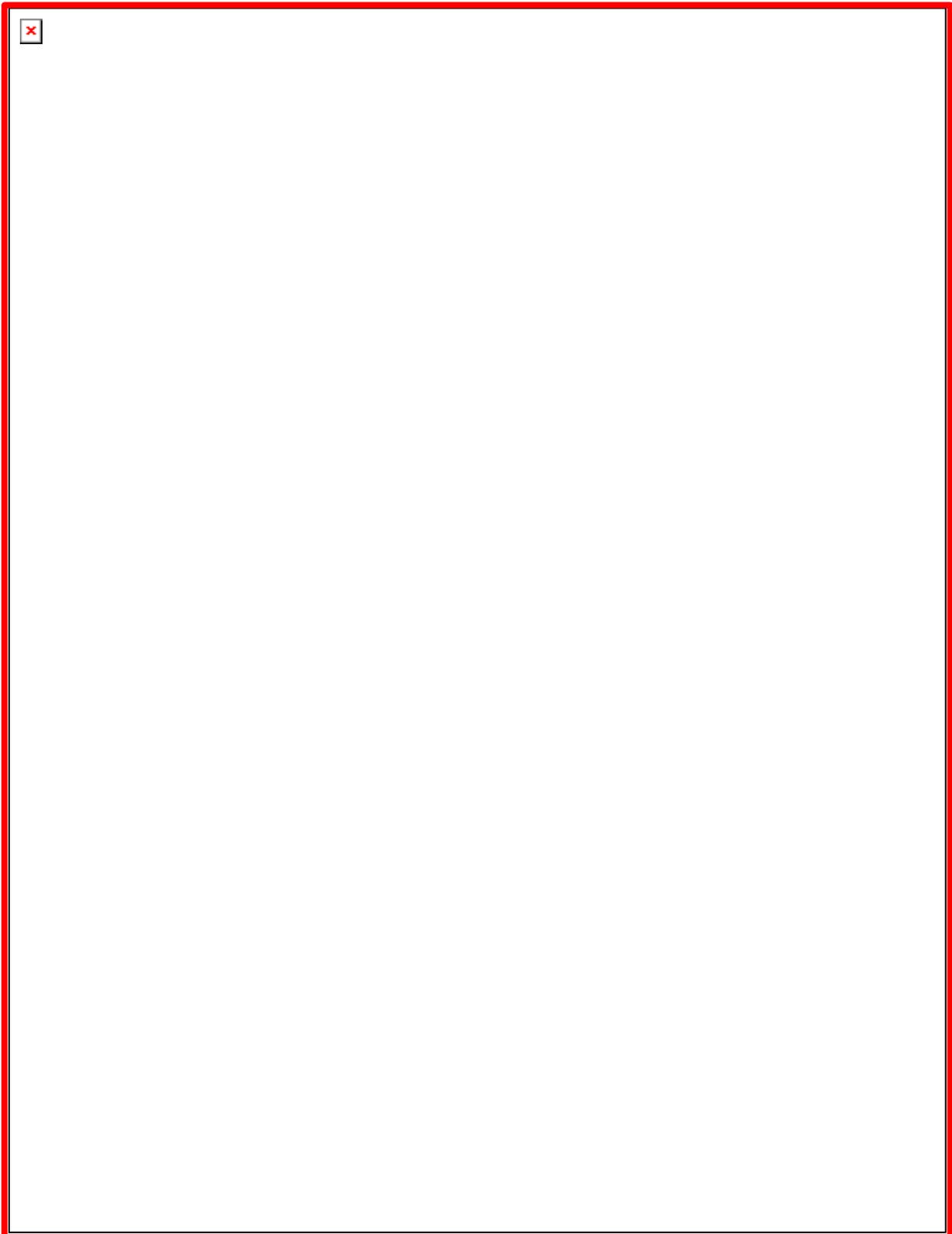
The landowner advises that the intention is to ensure that the renovations would preserve the historical character of this significant heritage listed building.

COMMENT

Main Roads WA

The proposal is acceptable to Main Roads WA subject to:

- ✍ All vehicle access being restricted to the existing driveway; and
- ✍ No stormwater being discharged into the Brookton Highway Road reserve.



ELEVATION PLAN
PT LOT 33 BROOKTON HWY, KELMSCOTT

Heritage Council of WA

Heritage Council of WA has advised that the original alterations proposed are not supported. Advice / comments were provided which are summarised below:

- ✍ The proposed locations of the ensuites to the southern two rooms will have a significant visual and physical impact on the cottage.
- ✍ Any additions to the rear of the cottage should be joined by a lightweight structure to minimise the impact on the existing original fabric.
- ✍ Existing verandahs should be retained.
- ✍ The building material should match the existing.
- ✍ Recreation of traditional interior for the four original rooms.
- ✍ Removing the concrete verandah floor to address any current or future problems with rising damp.
- ✍ Interpretive material be available to visitors to explain the process of development of the site from the 1860's to present.
- ✍ The carport be located towards the north east of the current proposed location.

The applicant has responded to these concerns by advising that the plans would be amended to address most of the concerns raised by the Heritage Council of WA.

Council's Heritage Advisory Committee

The Heritage Advisory Committee considered this matter at its meeting on 21 November 2002 and recommended that the extensions be approved as the proposed alterations would be sympathetic to the heritage character of the building and would ensure the conservation of this significant heritage listed building.

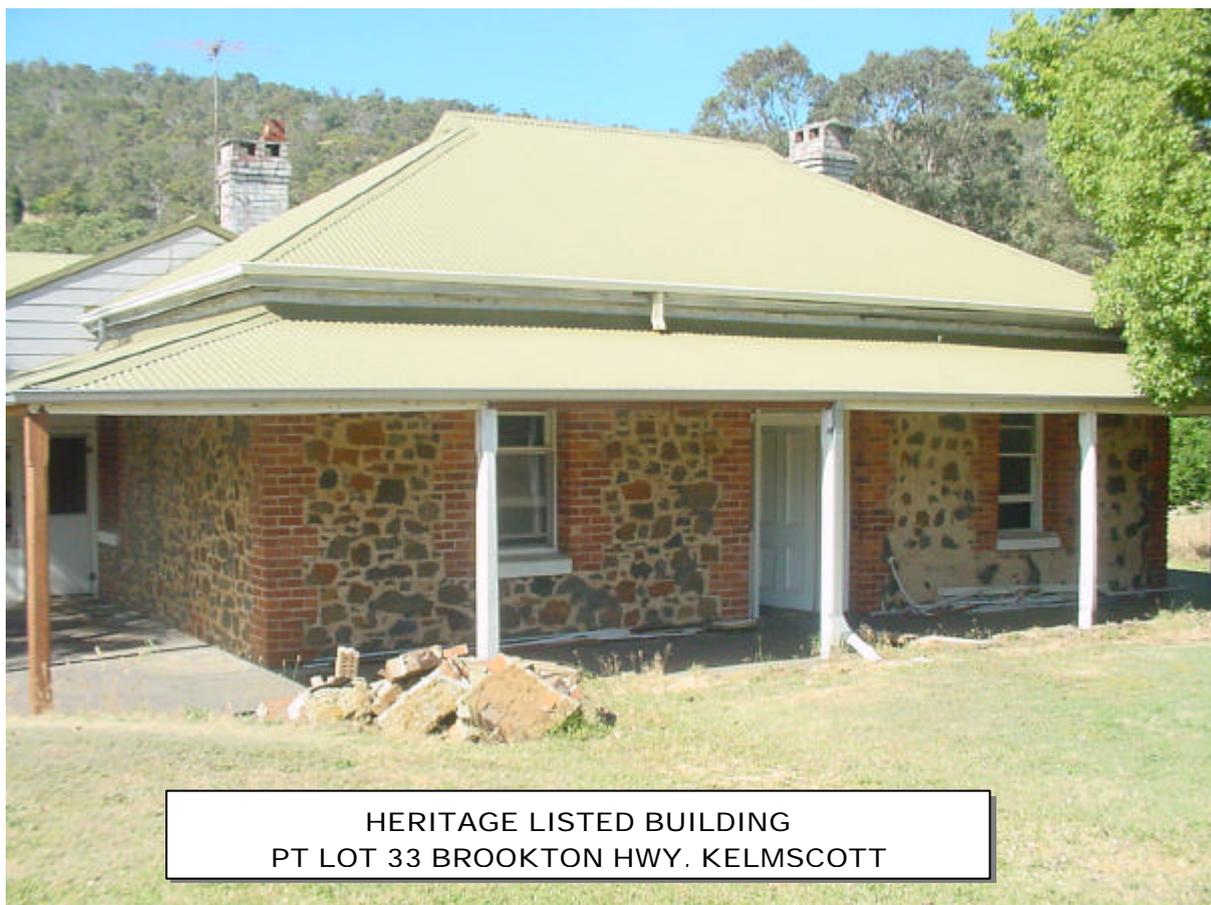
Analysis

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

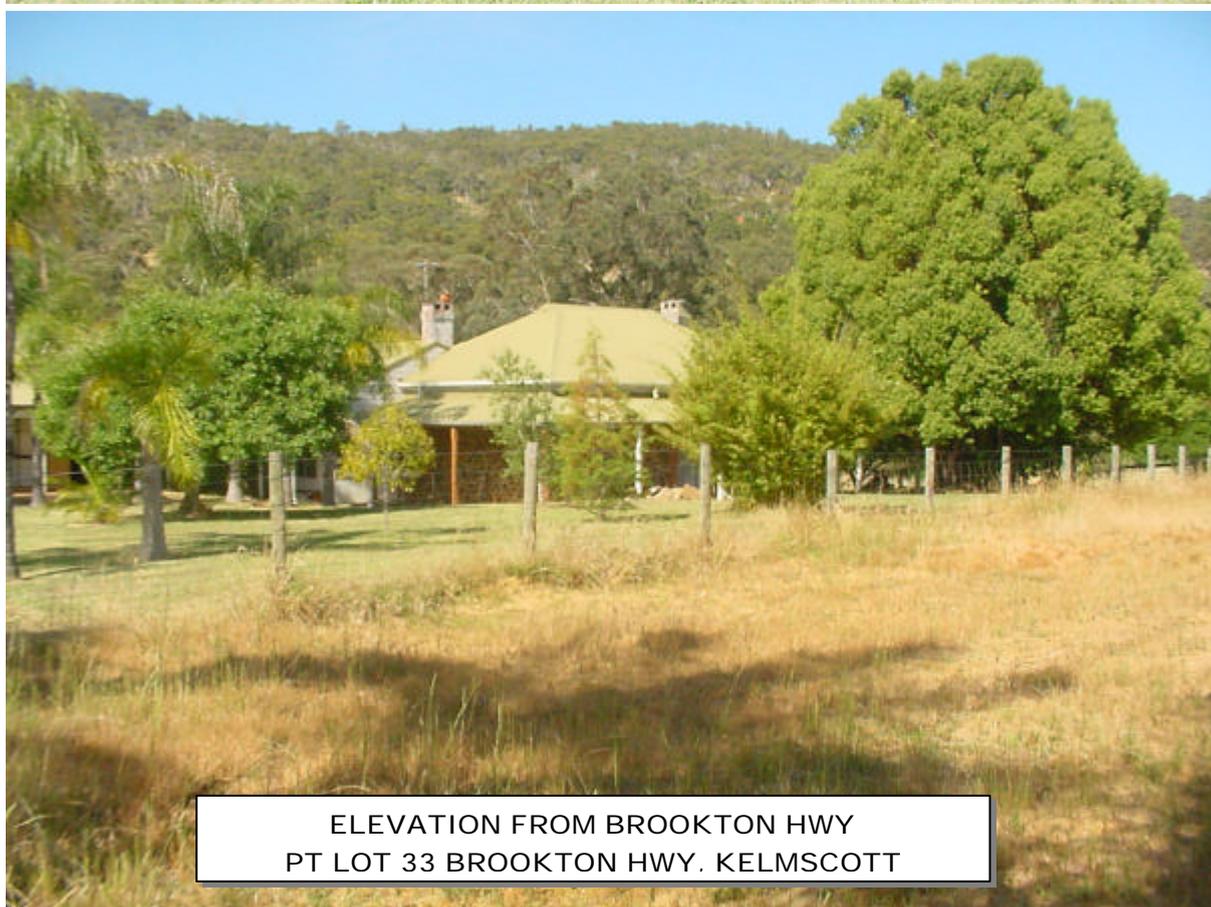
Clause 5.2.2(d) of the TPS No.2, states that only one dwelling will be constructed per lot in the Rural Zone, except in a situation where a lot exceeds 2 ha in size, and Council is satisfied that the development of a second residence complies with the other provisions of Clause 5.2.2. Council should also have due regard to Clause 7.3 (Matters to be Considered by Council) of Town Planning Scheme No.2, as well as specific regard to avoiding the appearance of excessive building bulk. It should be noted that the 1.5ha land area of Lot 33 Brookton Highway is considerably less than 2ha. Given that the two residences already exist on the property, and the buildings provide a single residence appearance from the road as they are attached to each other, the building bulk appearance is not considered to be a concern in this instance.

Clause 7.6 provides Council with the discretion to relax standards in Town Planning Scheme No.2, if it is satisfied that if approval was granted:

- ✍ the development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality; and
- ✍ that the non-compliance would not have an adverse effect on those associated with the development, the inhabitants of the area and the future development of the locality.



HERITAGE LISTED BUILDING
PT LOT 33 BROOKTON HWY. KELMSCOTT



ELEVATION FROM BROOKTON HWY
PT LOT 33 BROOKTON HWY. KELMSCOTT

Given the long established nature of this residence and as the subject property is bounded by Brookton Highway and Canning River on three sides, it is unlikely that the use of this building for habitable purposes would have any adverse effect on the neighbours or the future development of this locality.

Municipal Heritage Inventory/ Heritage Provisions Under TPS No.2

The subject building is identified as a heritage building in the Council’s Municipal Heritage Inventory, and based on the relative value of the building, is classified as a Management Category “A” building which has the following management recommendation:-

“Highest level of protection appropriate: recommended for entry in to the State Register of Heritage Places; provide maximum encouragement to the owner to conserve the significance of the place”

Council’s TPS No.2, under Clause 5.10 relating to “Heritage Provisions Conservation of Buildings and Places of Heritage Significance” makes provisions for conservation incentives to places / buildings affected by Heritage Significance. Clause 5.10.7 stipulates, *“In considering an application for development approval concerning or affecting a place of Cultural Heritage significance or Heritage Precinct, the Council may for the purpose of conserving or enhancing the place or precinct give a special approval, benefit, allowance or incentive, including but not limited to the granting of density bonuses, transfer of development rights and entering into special agreements”*.

This Clause empowers Council to vary the TPS No.2 stipulation of 2ha minimum lot size requirement to establish a second residence on this 1.5ha property in the interest of benefiting the wider community.

Council’s Two Houses on One Lot in the Rural Zone Policy (4.3.10)

The proposal satisfies the intent of Policy 4.3.10, with the proposed second residence being for family purposes. With regard to this intent, the application satisfies the majority of the requirements of the Policy, with the exception of the lot size requirement criteria. The Policy requires the second residence to be located adjacent to / in close proximity to the existing residence with the intent to:

- ☒ promote the clustering of houses as outlined in the Strategy to maximise the potential for a rural use development or retention of special features on the balance of the land;
- ☒ avoid exploitation of Council’s concessions by restricting the opportunity to subdivide the two dwellings.

Succinctly, given that the residences already exists and the renovations are to be carried out to the satisfaction of the Council, the issue involved in this application is the use of the building as a second residence.

Council's Draft Rural Strategy

The subject lot is located within the Canning Valley Rural Planning Area as set out by the Rural Strategy. The Principal Policy Objective for the Canning Valley Area is “*To preserve and enhance the scenic and environmental quality of the Canning Valley and to permit sensitive development of suitable upland areas*”. The property is also identified as being situated within the prime landscape quality area.

The Draft Rural Strategy identifies this land as having a combined level 2 and 4 suitability (fair and unsuitable potential) and a combined level 3 and 5 capability (fair and very low capability) for rural residential development.

The existing buildings on this property by virtue of their appearance, being constructed of cream brick and stone walls and green “Colorbond” roof to match, with the landscaped and well maintained property are considered to contribute to the enhancement of the visual amenity of the area.

Architectural Design

The applicant has advised that the development will be designed to satisfy concerns raised by the Heritage Council of WA with the exception of deleting the addition of the ensuites, which cannot be avoided if the house is to be functional and comfortable as a habitable building. The site plan will be revised to accommodate the proposed alterations. The applicant has advised that the chosen location for the carport is the best possible location to obscure the structure from the road, given its proposed location behind existing trees on the property. However, relocating the carport structure towards the north east of the current proposed location would provide a better, clear view of the heritage listed building from the road.

The restoration works to the cottage are proposed to revive its original character. The extensions proposed would fit under the existing main roof. The front additions would be of brick and stone facades to match the existing fabric with colonial wood windows. Recycled windows are to be used where ever possible or replicas to be made in solid timber. All additional doors will match the existing doors. The original fireplace is to be retained and the rooms are to be decorated in a manner to reflect the 1860's design. The applicant advises that the overall aim of the restoration of this Buckingham Homestead is to be as sympathetic to the era 1868 as possible.

OPTIONS

1. Refuse the application on the basis of non-compliance with the Town Planning Scheme No.2 stipulation of 2ha minimum lot size requirement for a second residence on a rural “E” zoned property.
2. Approve application subject to appropriate conditions.

CONCLUSION

The applicant's intent of renovating this Heritage listed building at a considerable cost is to utilise it for habitable purposes.

As Council's objective is to provide maximum encouragement to the owners to preserve the significance of such buildings, varying from the TPS No.2 stipulation of 2ha minimum lot size requirement for two dwellings on one rural lot is considered a reasonable compromise to encourage the conservation of this significant heritage building for the benefit of the wider community.

As detailed in the architectural design section above, the proposed extensions and renovations are considered satisfactory by the Council's Heritage Advisory Committee to ensure the preservation of this historically significant place and reasonably addresses the concerns raised by the Heritage Council of WA.

It is recommended that Council advise the Western Australian Planning Commission that the application be approved subject to appropriate conditions as per option No.2.

Officer's report recommends –

1. That Council determines the application to utilise the existing heritage listed building on Lot 33 Brookton Highway as a second residence in accordance with Clause 5.10.7 of Town Planning Scheme No.2, and approve relaxation of the 2ha minimum lot size requirement for a second residence.
2. That Council advise the Western Australian Planning Commission that it recommends approval of the proposed extensions and renovations to the heritage listed residence and a carport on Pt Lot 33 Brookton Highway, Kelmscott to be used for residential purposes subject to conditions including the following principal requirements:
 - a) The proposed carport is to be relocated towards the northeast of the current proposed location to improve the view of the heritage listed building from the road.
 - b) The extensions proposed to the rear of the cottage should be a lightweight structure / constructed with wooden board.
 - c) Removal of the concrete verandah to address any problems of rising damp.
 - d) The owner of the subject lot to enter into a deed of agreement with Council, prepared by Council's solicitors at the applicant's/owner's costs, to limit the occupation of the second residence to members of the same family occupying the existing residence on the lot, otherwise if this is not the case, that the second residence will be occupied by persons for the purpose of farm management associated with the subject lot, to the satisfaction of Council.

COMMITTEE requested that it be noted that Council grants approval in recognition of Council's desire to encourage the retention of the heritage value of the property. Accordingly Part 2(d) of the officer's recommendation was deleted.

D237/02 RECOMMEND

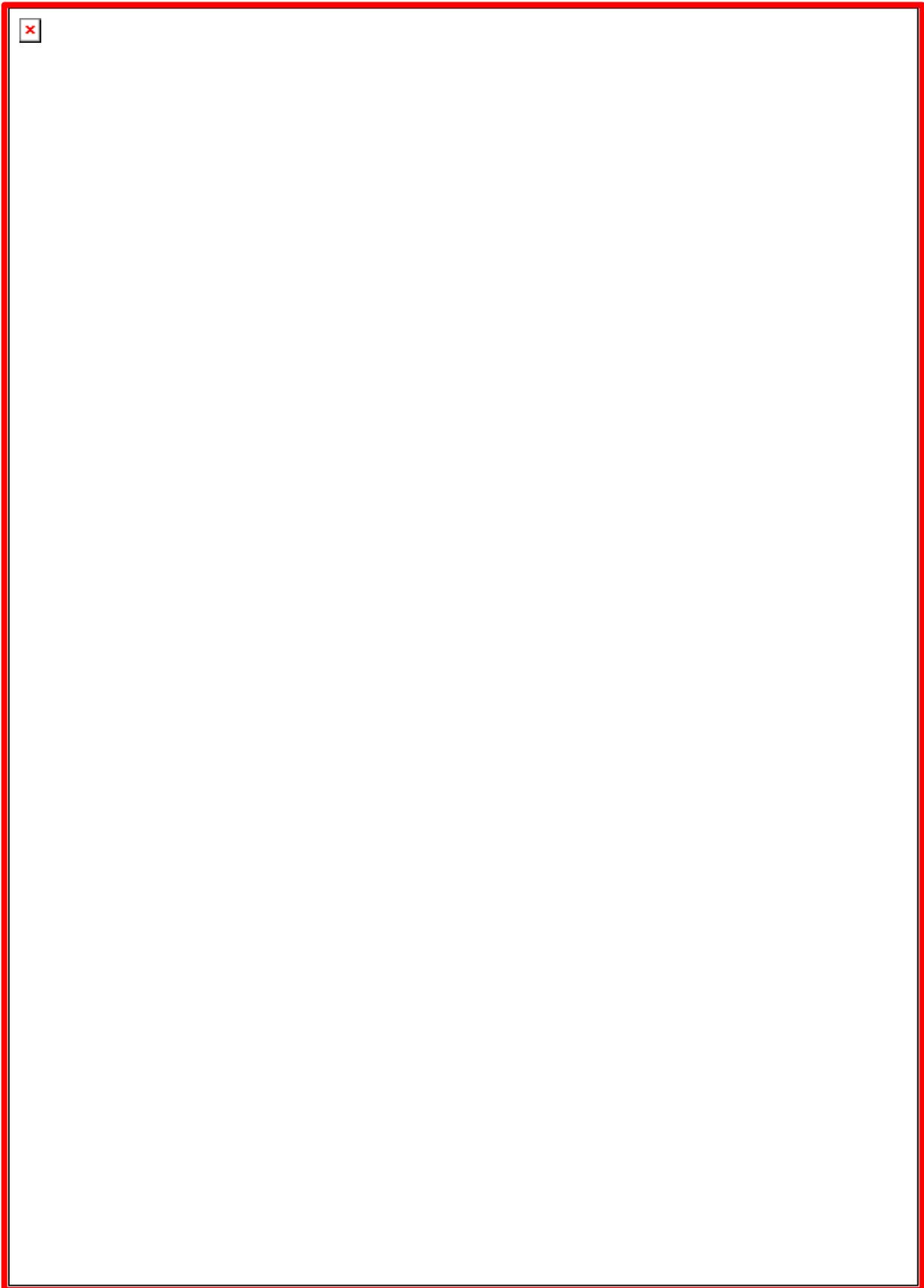
- 1. That Council determines the application to utilise the existing heritage listed building on Lot 33 Brookton Highway as a second residence in accordance with Clause 5.10.7 of Town Planning Scheme No.2, and approve relaxation of the 2ha minimum lot size requirement for a second residence.**

- 2. That Council advise the Western Australian Planning Commission that it recommends approval of the proposed extensions and renovations to the heritage listed residence and a carport on Pt Lot 33 Brookton Highway, Kelmscott to be used for residential purposes subject to conditions including the following principal requirements:**
 - a) The proposed carport is to be relocated towards the northeast of the current proposed location to improve the view of the heritage listed building from the road.**

 - b) The extensions proposed to the rear of the cottage should be a lightweight structure / constructed with wooden board.**

 - c) Removal of the concrete verandah to address any problems of rising damp.**

MOVED Cr Zelones
MOTION CARRIED (7/0)



***PROPOSED VILLAGE LIFE DEVELOPMENT –
LOT 505 BRECHIN RETREAT, ARMADALE***

WARD : SEVILLE
FILE REF : A217233
DATE : 25 November 2002
REF : PRR
RESPONSIBLE : PSM
MANAGER
APPLICANT : The Planning Group
LAND OWNER : Ashdale Holdings Pty Ltd
SUBJECT LAND : Property size 5275m²
Map 21.05
ZONING : Urban / Residential
MRS/TPS No.2 : Development Area

In Brief:-

- ✍ Council received an application for a development similar to an aged care facility at Lot 505 Brechin Retreat, Armadale on 27 September 2002.
- ✍ The application was advertised to surrounding landowners for a period of three weeks and a sign was placed on site for the duration. Two submissions were received including one letter of no objection and one letter of conditional no objection.
- ✍ Recommend that Council approve the application for 'Village Life' subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

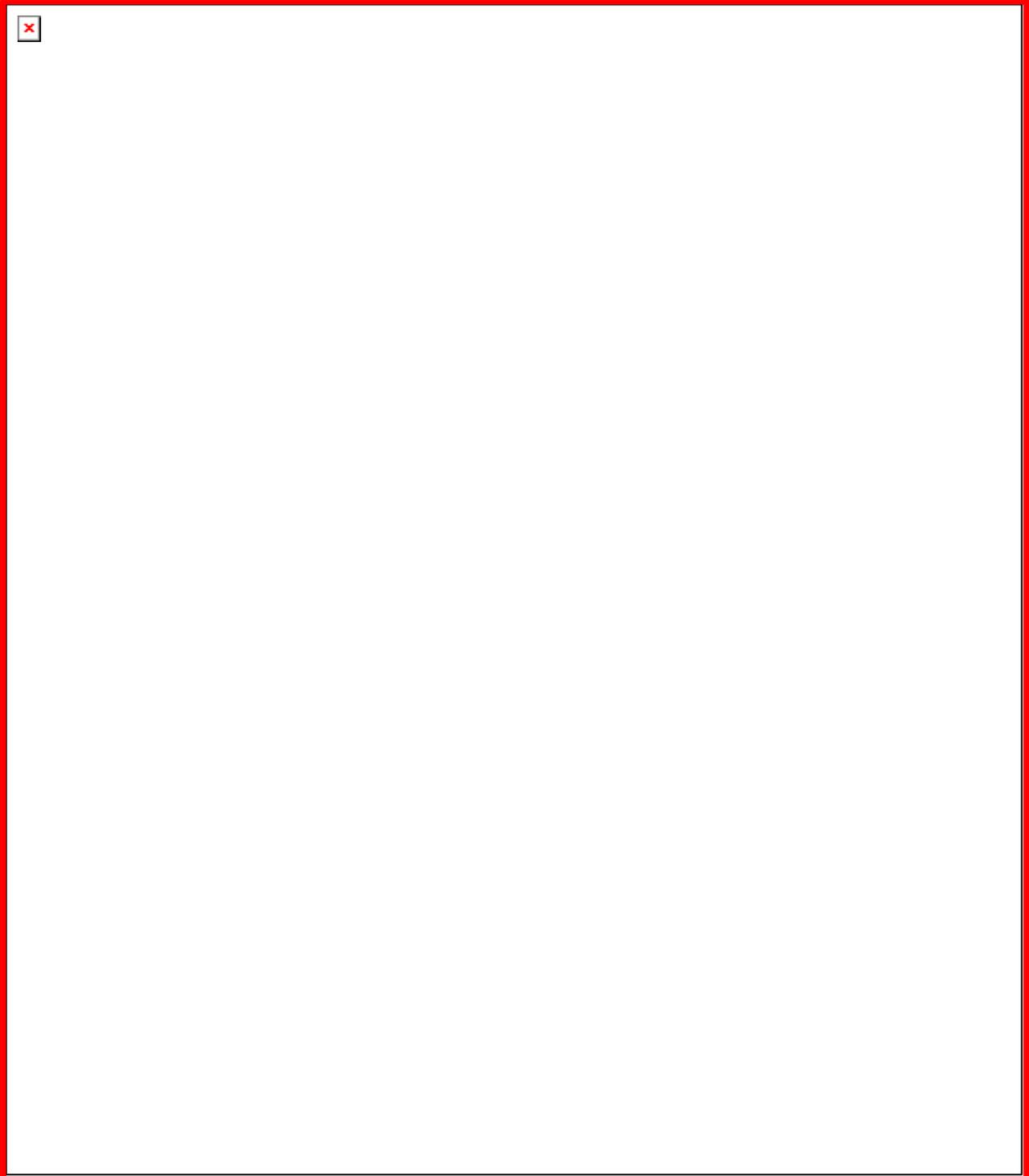
Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.



SITE PLAN & STREET ELEVATION
LOT 505 BRECHIN RETREAT, ARMADALE

Consultation

- ✍ Development Control unit
- ✍ Surrounding Landowners

BACKGROUND

Council received an application for a development called ‘Village Life’, which is similar to an aged care facility, on 27 September 2002, at Lot 505 Brechin Retreat, Armadale. The subject lot is situated in a Residential Development Area that is guided by the Urban Unit A14 Consolidated Outline Development Plan. The subject site is currently vacant.

DETAILS OF PROPOSAL

The Village Life development incorporates 39 units (32 single person units, 6 double units and a manager’s unit), dependant on some facilities from a central community centre. The units themselves would be single storey, whilst the community centre would have a second storey component, with a live-in manager/caretaker residing on the first floor. The ground floor proposes to contain the communal dining area, a large kitchen and laundry facilities. All buildings would be accessible via undercover walkways and a small shed/workshop would be provided for communal use. Units would be rented to residents at a cost of 85% of their pension.

The materials used would include Florentine limestone external brickwork and ‘Colorbond’ roofing. The units would be set back six (6) metres from Brechin Retreat, and three (3) metres from Champion Drive, with those two frontages being fenced with a brick pillar and open panel arrangement. The development is situated two (2) metres from the remaining boundary at the closest points, but the majority of the structures would be set back three (3) and four and a half (4.5) metres respectively. The shed (6m by 6m) would be one (1) metre from the same boundary at its closest point. Twenty (20) car parking bays have been nominated with fifteen (15) being located on site, and five (5) being located partially within the verge at the cul-de-sac end of Brechin Retreat.

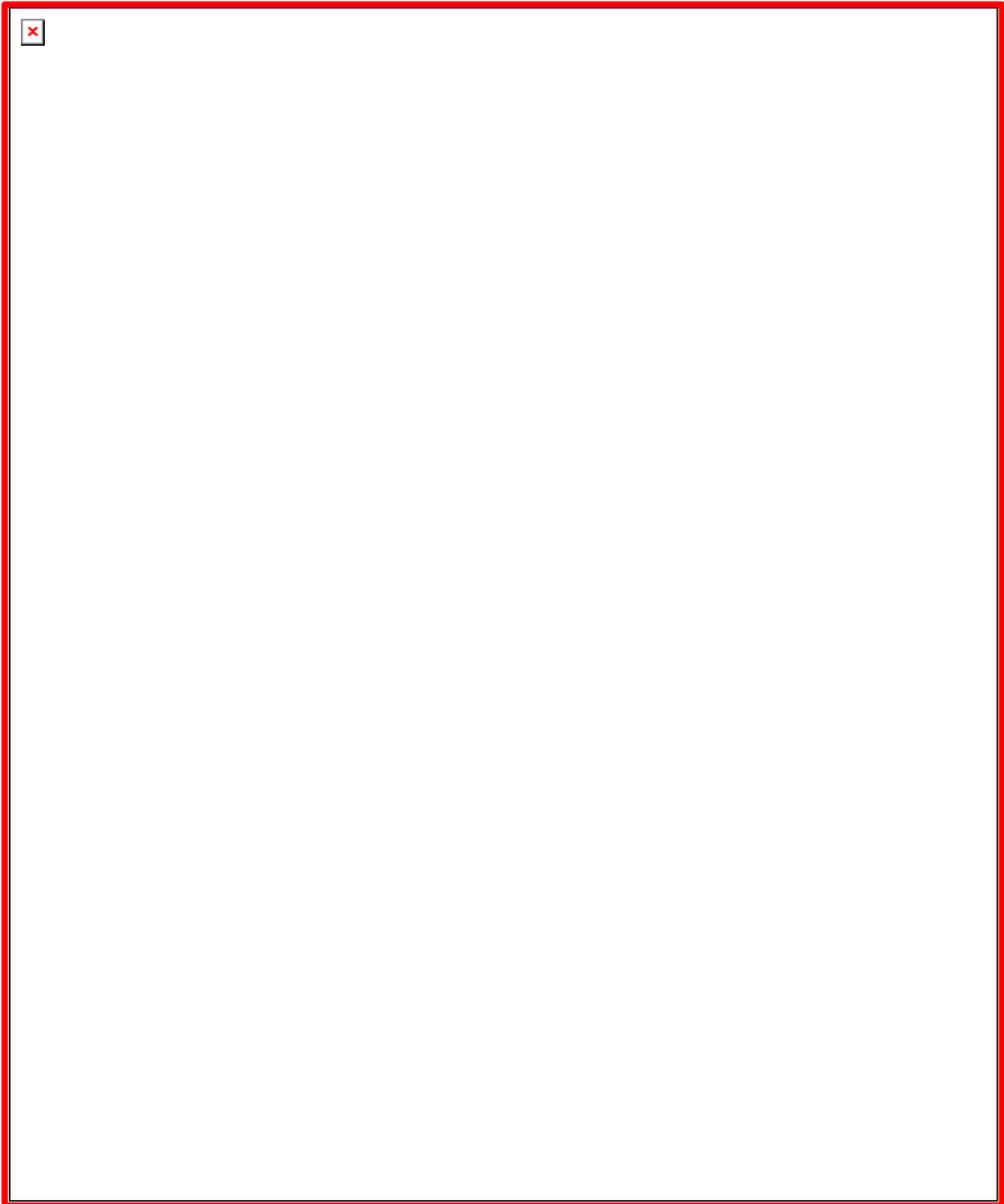
Village Life would provide the following services to the residents of the development:

- ✍ Quality serviced accommodation (fully furnished);
- ✍ Affordable rental levels;
- ✍ Three (3) meals a day;
- ✍ A weekly service to wash all heavy linen;
- ✍ Regular organised shopping trips and excursions;
- ✍ A community lifestyle in a secure environment; and,
- ✍ Proximity to support services.

COMMENT

Development Control Unit (DCU)

At its meeting held on 28 November 2002, DCU recommended that the item be referred to Council for approval, subject to appropriate conditions.



STANDARD FLOOR PLANS & ELEVATIONS
LOT 505 BRECHIN RETREAT, ARMADALE

Town Planning Scheme No.2 (TPS No.2) Clause 3.4

The applicant requested that the proposal be considered a ‘Use Not Listed’ under Town Planning scheme No.2 (TPS No.2), presenting reasons why the development could not be considered as group housing, aged persons accommodation or a hostel (‘Residential Building’).

The proposal is being considered as a ‘Use Not Listed’ under TPS No.2, as the development is not adequately described by the definitions for ‘Grouped Housing’, ‘Aged Persons Accommodation’ or a ‘Residential Building’. The applicant submits that the proposal cannot be considered a ‘Grouped Housing’ development, or ‘Aged Persons Accommodation’ as the units themselves are not fully self-contained, being reliant on cooking and laundry facilities in a communal building. The applicant also maintains that the proposal differs from a hostel, similar to the ‘Residential Building’ definition of TPS No.2, as the usual examination of prospective residents by an Aged Care Assessment Team is not required. The matter has therefore been referred to Council for consideration.

Clause 3.4 of TPS No.2 outlines the procedure for determining a use that is considered to be a ‘Use Not Listed’ under TPS No.2. The definition of a ‘Use Not Listed’ is when “*a particular use or class is not mentioned in the list of use classes or is not included in the general terms of any of the use classes in the Development Table, that use or purpose is prohibited unless it is permitted by the subsequent provisions of the Scheme*”.

Council is to determine whether the proposed use is consistent with the objectives and purpose of the zone.

Surrounding Landowners

The application was advertised to surrounding landowners for a period of three (3) weeks, and a sign was erected on site for that period. A total of two (2) submissions were received, consisting of one letter of no objection and one letter of conditional no objection. The issues raised are addressed in the analysis section.

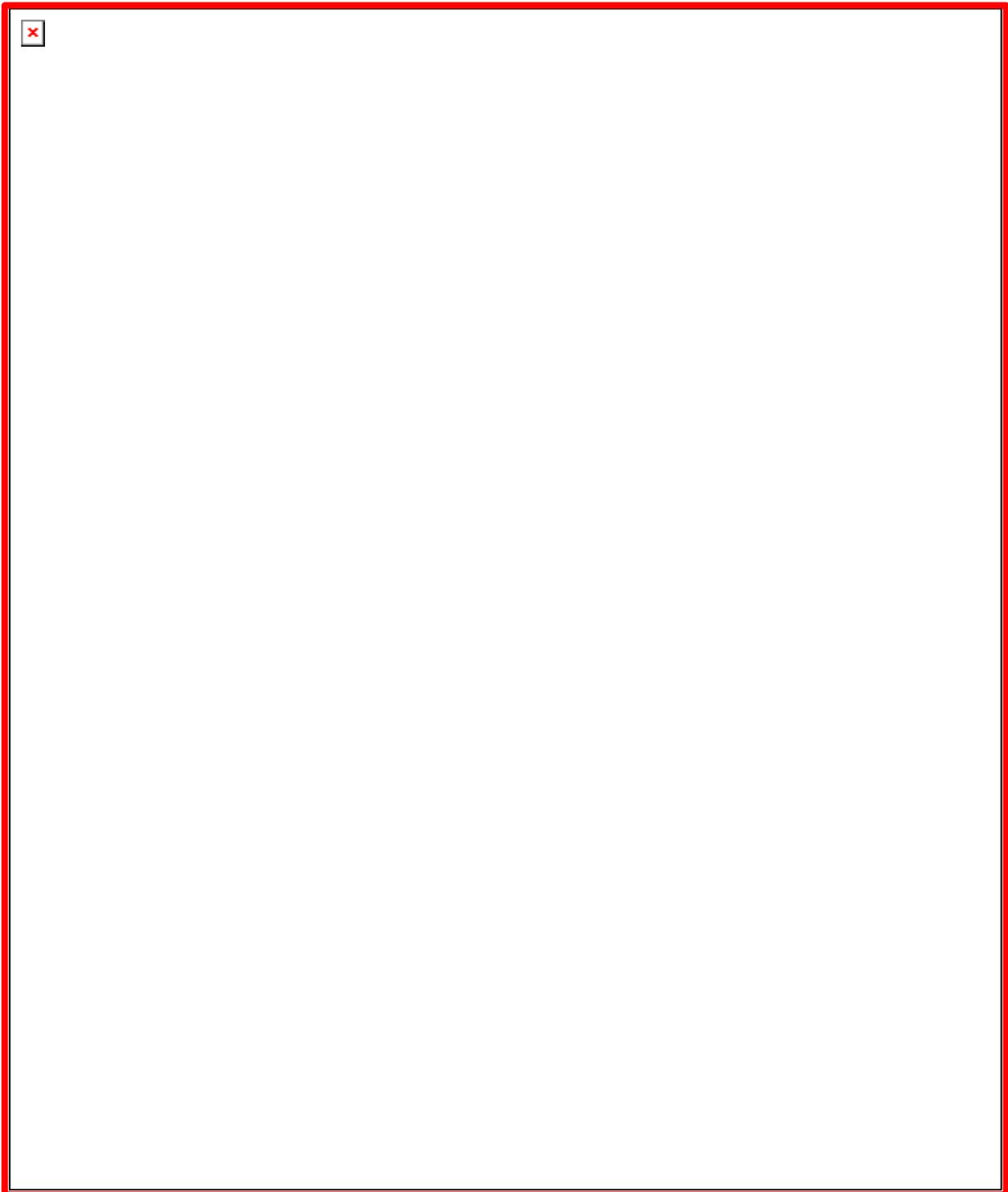
ANALYSIS

Public Submissions

Noise Issues

One letter was received that offered some comment on the proposal. The letter related to the zoning of land on the opposite side of Champion Drive. Essentially the letter stated no objection was held, but made note of the fact the area has Industrial and Showroom uses, and that noise problems may result. The letter reminds Council that the industrial area was zoned and the associated uses in place before this proposal was put forward, and advises Council that the submittee will not be receptive to noise complaints at a later date.

Council’s Health Department deals with noise complaints, and if the activities undertaken in the industrial area are within the limits prescribed by the Environmental Protection (Noise) Regulations 1997, the business owners will not have any problems in this regard.



COMMUNAL FACILITIES & MANAGERS UNIT
FLOOR PLAN & ELEVATIONS
LOT 505 BRECHIN RETREAT, ARMADALE

Urban Unit A14 Consolidated Outline Development Plan (the ODP)

The subject lot is situated within a Residential Development Area under TPS No.2. The ODP governs this Development Area, and indicates that the site is optional as a group housing site. The surrounding densities indicated by the ODP are 'R15' and 'R17.5' and it is noted that the proposal has a greater density relative to these codings, which will be assessed later in the report.

Residential Planning Codes of Western Australia (R-Codes)

It is important to understand that there are no development standards in relation to a 'Use Not Listed', and the applicant has based their assessment on the requirements for aged or dependent persons' dwellings in the R-Codes. It is duly noted that as the application was received prior to the introduction of the new R-Codes, the information provided by the applicant is based on the previous version of the R-Codes (1991) and this will be taken into account in considering the application.

Density

With a lot area of 5275m², the 39 unit development has an average lot area per dwelling of 135m², which equates to a residential density of 'R74'. This density is in excess of the 'R60' coding in the R-Codes (1991), which requires an average of 166.6m² per unit and is applicable to all densities above 'R60'. With respect to the surrounding densities of 'R15' and 'R17.5' which could be increased to 'R25' under Council's Group Housing Policy, a density over 'R60' seems excessive.

It is noted that TPS No.2 generally limits group housing and aged persons developments to a maximum of 'R40'. The R-Codes (1991) specify that Council may grant a density increase of 50% above the R-Code applying to the site. If Council acknowledges that the maximum density provision under TPS No.2 for Aged Persons Dwelling is 'R40', then a 50% density increase would equate to 'R60'.

Using the 'R60' density coding as a guide on the basis that it has been increased via a 50% bonus from the maximum density allowable in TPS No.2 will mean that development would not occur without some justification. It is taken into account that the units themselves are not entirely self-contained and would be rented to residents rather than sold. The units have a kitchenette with minimal cooking facilities, as well as the option to install a small washing machine and are dependant on the community centre for further services in this regard.

It also is noted that the chosen location is in close proximity to the Champion Drive Shopping Centre as well as the Westfield Library and the aquatic centre, with access to public transport via a bus stop on Champion Drive at the end of Brechin Retreat and a regional hospital. As noted, the development is quite different from the standard form of unit / aged care development and the 50% density bonus from the TPS No.2 maximum may be seen as appropriate as a result.

This would require the applicant to revise the plans to reflect a density relative to the 'R60' coding of the R-Codes (1991). Essentially, this equates to the provision of 31.65 (effectively 32) units rather than the 39 proposed. This is seen as more appropriate in relation to the surrounding densities in the locality.

Setbacks

The setbacks for the development have been based on the provisions for ‘R60’ development under the R-Codes (1991). The setback to the primary street is required to be 6m, the development maintaining this in the instance of two of the front buildings. A third building presents its side elevation at 3m to the front property boundary and a portico and the residents’ letterboxes form an entry statement to the development at a zero setback. These setbacks are appropriate, due to the 3m setback being behind the main building line in this instance and the portico forming a point of entry to the development. All other setbacks for the main buildings are at least 1.5m from property boundaries, which satisfies the provisions of the R-Codes (1991) and is acceptable.

Parking

As the proposal is being considered as a ‘Use Not Listed’ and no standards exist in relation to parking, the following section examines the provisions of both the old and new versions of the R-Codes with respect to Aged or Dependant Persons’ dwellings, considering what may be an appropriate standard to apply. It also considers information submitted by the applicant and similar development experience within the City.

R-Codes Requirements (1991)

The R-Codes (1991) require a minimum of 22 parking bays for the development as proposed, which incorporates 20 resident bays and two (2) visitor bays. The 20 resident bays are derived from the minimum requirement of 0.5 bays per unit. It is noted that Council has discretion to require a maximum of one (1) bay per unit for aged persons developments under the R-Codes (1991), which would equate to the provision of 43 parking bays.

R-Codes Requirements (2002)

The current version of the R-Codes would require the development to include one (1) parking bay per unit for residents and where those units are accessible for disabled persons, the parking bay should conform to ACROD standards. Additionally, visitors’ bays are to be provided at a rate of one (1) bay per every four (4) units. This would equate to the provision of 39 resident bays (some being ACROD bays) and 9.5 visitors bays, a total provision of 49 parking bays (rounded up).

Traffic Analysis

The applicant has provided significant details with regard to a traffic assessment undertaken in the eastern states at five typical retirement villages to justify the provision of a lesser number of parking bays than either version of the R-Codes requires. A full day survey of one of the villages was conducted as well as peak surveys and spot checks of all sites. The results of the mid-week surveys show that two sites with a greater number of units than this proposal (being 40 and 41) had a peak demand of 11 and nine (9) cars respectively. The report also notes that none of the spot checks undertaken on a Sunday recorded a parking demand in excess of that observed during the mid-week surveys.

The report research suggests that, in relation to the sites surveyed, a parking ratio of one (1) bay per five (5) units would be appropriate. The report then takes into account the fact that the Village Life proposal is rented rather than owned and suggests that one (1) bay per four (4) units, or, applying a safety factor, one (1) bay per three (3) units would be appropriate to accommodate the managers, residents and visitors. It is noted that additional parking for support staff like cooks and cleaners is not necessary, as the live-in managers provide these services.

Based on the reports' recommendation, the provision of one (1) bay per three (3) units would equate to approximately 13 parking bays, which would suggest that the applicant has provided seven (7) more bays than their traffic analysis suggest they will require. Being a 'Use Not Listed', Council could use the applicants' data as a basis for the provision of parking, but it would be more appropriate to apply development standards that are generally accepted such as those outlined in the R-Codes.

Comparison to Similar Development

It is noted that the car parking provisions may raise questions for Council with regard to the experience at the aged persons complex on the corner of Railway Avenue and Cammillo Road in Kelmscott. That particular development was considered akin to a hospital use, and parking was required at a rate of one (1) parking bay for every four (4) beds under TPS No.2. A total of 15 bays were required. The proposal actually incorporated 30 bays, double the required amount and has since had an additional 13 bays approved on an adjoining lot due to parking difficulties.

If the one (1) bay for four (4) beds standard were applied to the proposal under consideration, the development would only require 11.75 parking bays and double that amount would approximate the minimum of 22 bays suggested by the R-Codes (1991). Realistically, the proposal cannot be directly compared directly with the Kelmscott development, as a different parking standard has been applied and the development is of a different nature.

Parking Provision

At the outset it is noted that the parking requirements for a development should be contained within the lot boundaries for that development. The proposal has effectively provided 15 parking bays on site (including two ACROD bays and an ambulance bay), which is not in accordance with the minimum standards of either version of the RCodes as a comparison. The applicant has also indicated five (5) bays located partially on site and partially within the road reserve at the end of Brechin Retreat.

Council's Manager Technical Services has stated that bays in the road reserve may be acceptable if Council should consider approving the development as proposed. It should be noted that in all situations, parking bays should be within lot boundaries and that parking within the road reserve should be considered only in the context of overflow parking. Technical Services also specified any such parking should be subject to input from surrounding residents and the provision of a walkway between the boundary fence and the parking bays, to permit safe pedestrian access from the subject lot to Champion Drive. DCU noted that parallel bays might be more appropriate than the 90° arrangement.

The provision of 20 bays nevertheless remains two (2) bays short of the minimum amount required by the R-Codes (1991) and that minimum is at the discretion of Council, as double that amount could effectively be required. It seems appropriate that if the applicants' traffic analysis is taken into account and a standard is to be applied with respect to a 'Use Not Listed', a compromise could be reached by requiring the applicant to provide the minimum standard for parking as outlined by the previous version of the R-Codes. This means that a total of 22 parking bays should be provided. As the applicant has demonstrated 15 parking bays totally on site, seven (7) parking bays are still required. If the five (5) 90° bays are retained mostly within the road reserve, the applicant may also be able to provide the additional two (2) bays in parallel formation along Brechin Retreat. As previously noted, this is not standard practice in relation to development and may set an undesirable precedent.

If the development were limited to 'R60' and 32 units, it is believed that a rate of 0.5 bays per unit as specified in the R-Codes (1991) would be sufficient to address the parking needs of the site. Given that the reduced density would leave more site area available, the parking would be capable of being retained on site, which is more appropriate. Whichever form is considered, if approved, all parking bays should be constructed and marked to the satisfaction of Council.

Open Space

The applicant argues that the R-Codes specify that the high density codes do not require the provision of private open space, instead requiring 50% of the site to be open space, 20% of which should be communal open space. This is accurate when looking at multiple dwellings of high density, but the proposal is not for multiple dwellings, which are described by the R-Codes (1991) as being "*where any part of a dwelling is vertically above any part of any other*". It is appropriate to consider the proposal in terms of the grouped dwelling requirements, as the R-Codes (1991) (as a reference guide in this instance) specify that for high density development, "*all standards for grouped dwellings are as for the R60 Code*".

This would mean that the development requires 50% of the site to be open space, with a minimum private average per dwelling of 40m² consisting of 24m² that is immediately accessible from a habitable room. With regard to private open space, the applicant has effectively provided an average of 13m² per unit, arguing that given the residents of the development are to be of retiring age or older, previous developments have demonstrated that a large area of private open space is unnecessary, as it may be difficult for individuals to maintain. It is noted that access to the private open space is obtained from the bedroom of the unit, which the R-Codes (1991) prohibits for group dwellings, but does not mention with regard to aged persons' dwellings. This situation is acceptable, given the units will be mostly occupied by single persons.

The applicant also states that the emphasis is placed more heavily on the larger areas of landscaped communal open space that the units face. It is noted that the development has left approximately 2214m² (not including the main structures, parking area and private open space), which can be considered communal open space maintained by the manager, which equates to approximately 42% of the site. With regard to the 50% total open space for the site (private and communal), the proposal achieves this requirement, with approximately 2721m² (or 51.5%) of the site remaining open (with the exception of the covered walkways).

Based on the applicant's argument that a greater amount of private open space will be unnecessary for the prospective occupants and the large amount of quality communal open space provided, it may be appropriate for Council to consider the proposed relaxation with regard to private open space standard as being appropriate to the needs of the occupants, as the proposal is being considered as a 'Use Not Listed' and a greater emphasis on communal open space exists.

Other Considerations

Consistency with TPS No.2 Policy Statement

With respect to the consideration of a 'Use Not Listed', TPS No.2 requires Council to consider whether the proposed use is consistent with the objectives and purpose of the zone. TPS No.2 outlines the policy statement for the Residential zone as being a "*zone intended primarily for residential living with single dwelling houses on separate lots. Where Council is satisfied that proper servicing and amenity is present, medium density grouped dwellings may be permitted in recognising the varied demands for residential accommodation in the community. Council also recognises that residential living should include the opportunities for self employment or creative activity provided that those activities do not, in Council's opinion, prejudice the amenity of the residential environment*".

In this regard, it is noted that the policy statement makes reference to the 'varied demands for residential accommodation in the community' albeit in reference to grouped housing. The applicant maintains that there is currently a large demand for quality housing for the financially disadvantaged elderly and that the 'Village Life' proposal will address this need in a manner that whilst being practical, will not detract from the amenity of the area. Therefore, the application may be seen as compliant with the Policy Statement.

Storage Areas

Whilst no individual storage areas have been provided for the units, a communal shed would be provided for the development. This would serve a storage facility function, as well as providing an area for residents to pursue any hobbies they may have which involve a home workshop. This provision is seen as appropriate in relation to varied housing types.

Ministry of Housing Guidelines

Ministry of Housing guidelines suggest that the minimum size for an aged persons' home should be 50m². The proposed units have an area of approximately 32m², but it is noted that they are not self-sufficient units and a decrease in size may be justified in this regard. Any approval granted with respect to the development should limit occupancy to residents whose age is over 55.

Amenity

No final details have been provided with respect to the colours and materials of the structures, including the fencing on site, and these should be required as a condition of approval along with a comprehensive landscape plan.

‘Village Life’ Mandurah

The City of Mandurah has considered and approved a Village Life proposal, considering the proposal as aged persons’ dwellings and granting the full 50% density bonus allowable under the R-Codes in an area zoned ‘Residential R40’. In doing so, a number of concessions were granted to the applicant including the density bonus, as well as relaxations to setbacks, parking, courtyards and storage areas. An inspection of the development at 2pm on a Wednesday indicated that at that particular time there did not appear to be any problems as a result of the relaxations and the representative for the development indicated that occupancy was close to 100 percent. The development was neatly presented and appeared well maintained.

Discussions with officers from the City of Mandurah indicated that even though concessions were made in some areas, their approval required a shuttle bus service to the nearest shopping centre given the distance involved, and air conditioning for all units. The officers indicated that these requirements were dismissed when the applicant appealed to the Minister for Planning and Infrastructure. The City of Mandurah relaxed the parking requirement to 0.6 bays per unit, with no additional parking required for visitors. If applied to this proposal, that parking standard would equate to the provision of 23.4 bays. In comparison, as previously noted the provision of parking bays at Brechin Retreat is approximately 0.5 bays per unit, plus visitors parking. To date, the City of Mandurah has not had any complaints with relation to the development with regard to parking or otherwise.

OPTIONS

Option 1 – Council could approve the application for the Village Life development on Lot 505 Brechin Retreat, Armadale, subject to appropriate conditions with regard to the limitation of density to ‘R60’, the submission of a schedule of materials and colours, a comprehensive landscaping plan, the construction and marking of car parking bays and limitation of occupancy.

Option 2 – Council could approve the application for the Village Life development on Lot 505 Brechin Retreat, Armadale as proposed, subject to appropriate conditions with regard to the submission of a schedule of materials and colours, a comprehensive landscaping plan, the construction and marking of car parking bays and limitation of occupancy.

Option 3 – Council could refuse the application for the Village Life development on Lot 505 Brechin Retreat, Armadale, if it is not satisfied that the proposal adequately addresses the objectives and purpose of the residential zone in terms of its scale, having a detrimental effect on the amenity of the surrounding residential environment.

CONCLUSION

In summary, for Council to consider approving the application, it must be satisfied that a number of concessions that would be provided are in the best interests of the community in accordance with Clause 3.4 of TPS No.2. In this regard, Council must consider issues with regard to density, setbacks, open space, parking and the impact of the proposal on the amenity of the surrounding area.

As the proposal provides a form of housing for a specific group of the community that is not readily available, it can be argued that the proposal is in keeping with the intent and purpose of the Residential zone. Nevertheless, the issues of density and parking within the road reserve are two that are immediately relevant to the surrounding community. As the proposal is being considered a 'Use Not Listed' it is accepted that the standards being referred to are being used as a guide rather than something that must be adhered to. For the sake of future applications however, it is important to establish that a proposal cannot exceed the usual density limitations by such a significant degree, simply because no development standards are in place.

Limiting the development to a density of R60 can be justified in terms of the limitations and allowances of TPS No.2 and the R-Codes. Such limitation will also provide a more appropriate design solution with respect to parking being capable of being retained on site. It is therefore recommended that Council approve the application for the Village Life development in accordance with Option 1.

D238/02 RECOMMEND

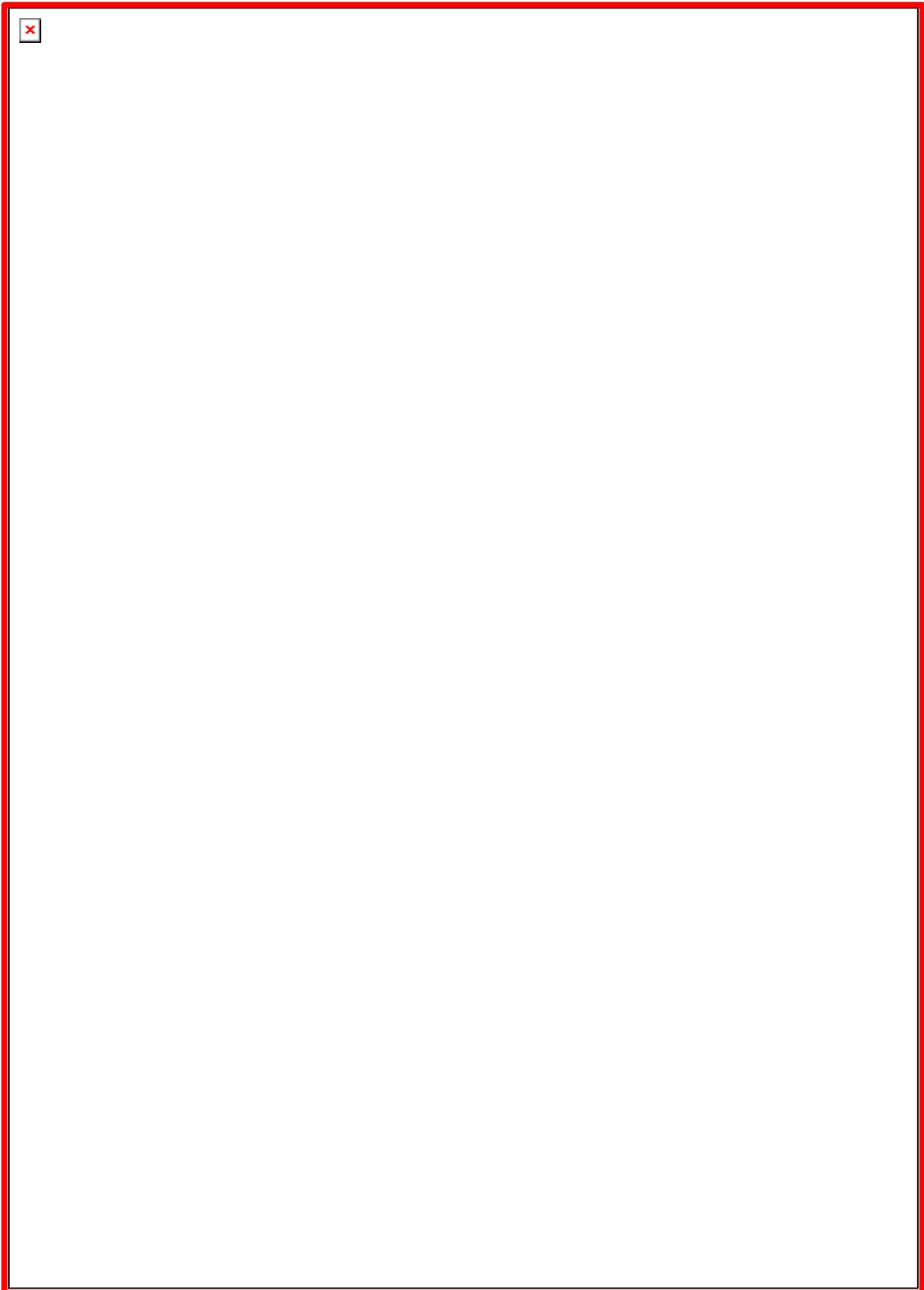
AMENDMENT
COUNCIL
16 DEC 02

~~That Council determine that the proposed Village Life development submitted by The Planning Group for Lot 505 Brechin Retreat, Armadale, constitutes a use that may be consistent with the objectives and purposes of the Residential Development Area zone and approve the use subject to the following principal requirements:~~

- ~~a) The submission of revised plans adhering to a maximum density of 'R60' as provided for in the Residential Planning Codes of Western Australia (1991).~~
- ~~b) The submission of a comprehensive landscape plan is required. The landscape plan is to include plant species and method of irrigation of the landscaped areas. The landscape plan is to be approved by Council and all landscaping is to be completed and maintained thereafter to the satisfaction of Council.~~
- ~~e) The submission of a schedule of materials and colours for the development (including any fencing) to be approved by Council. The development is to be completed and maintained in accordance with the approved colour scheme to the satisfaction of Council.~~
- ~~d) All parking is to be contained on site at a ratio of 0.5 bays per unit plus visitor parking at a ratio of 10% of the required parking bays with a minimum of two bays, to the satisfaction of Council.~~
- ~~e) Construction of car parking, driveway and crossovers and marking of internal car parking spaces to the satisfaction of Council.~~
- ~~f) Occupancy of the units is to be limited to residents who are over 55 years of age.~~

MOVED Cr Zelones
MOTION CARRIED (5/2)

That Recommendation D238/02 be not adopted and be recommitted to the Development Services Committee as the applicant has requested deferral of Council consideration to allow additional time for further liaison with officers in regard to this application.



***PROPOSED SECOND RESIDENCE –
LOT 8 (No.16) GARDINER ROAD, KARRAGULLEN***

WARD : ROLEYSTONE
FILE REF : A121066
DATE : 25 November 2002
REF : PRR
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dale Alcock Homes
LAND OWNER : G & J Putland
SUBJECT LAND : Property size 2.0000ha
Map 29.07
ZONING : Rural / General Rural
MRS/TPS No.2

In Brief:-

- ✍ Council received application for a second residence on Lot 8 (No.16) Gardiner Road, Karragullen on 6 November 2002.
- ✍ Application varies from Clause 2.3.2 of the Two Houses on One Lot in the Rural Zone Policy, as it proposes a 90.5m separation between the existing and proposed residences.
- ✍ Variation may be considered as appropriate given the arguments submitted with regard to the preservation of the rural character and amenity of the area.
- ✍ Recommend that Council approve the application subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

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

Legislation Implications

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

Council Policy / Local Law Implications

- ✍ 4.3.10 - Two Houses on One Lot in the Rural Zone
- ✍ Rural Strategy

Budget / Financial Implications

Nil.



SITE PLAN
LOT 8 GARDINER RD, KARRAGULLEN

Consultation

✍ Development Control Unit

BACKGROUND

Council received an application for a second residence on Lot 8 Gardiner Road, Karragullen on 6 November 2002. Since the proposal does not comply with the locational requirement of Clause 2.3.2 of Council's 'Two Houses on One Lot in the Rural Zone' Policy, the application has been referred to Council for determination. Existing improvements on the property include a residence, shed and a small water tower.

It is noted that Council considered an application for subdivision of the subject property at its May 2002 round of meetings. Council recommended that the Western Australian Planning Commission (WAPC) refuse the subdivision application as per the following resolution (D74/02):

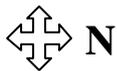
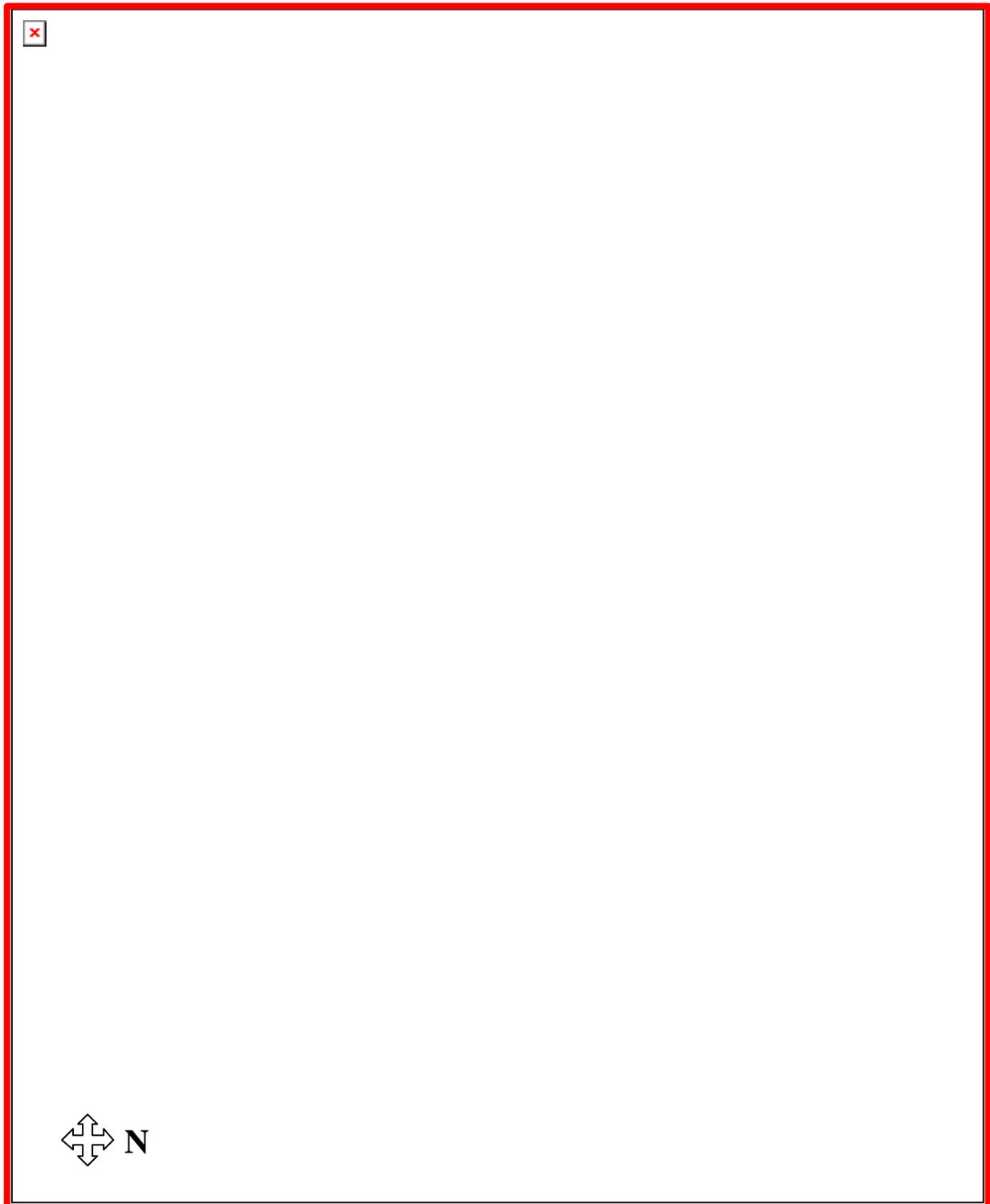
1. *The applicant has not demonstrated that the proposal complies with the Policy Statement for the General Rural Zone outlined under Council's Town Planning Scheme No.2, which states that unless Council is of the opinion that subdivision assists in achieving the objectives of the Zone, subdivision will not be recommended.*
2. *The application is not consistent with the objective of Statement of Planning Policy No.11, which is to "protect agricultural land resources wherever possible by... (b) minimising the ad hoc fragmentation of rural land".*
3. *The proposed subdivision would set an undesirable precedent for subdivision of other lots in the General Rural Zone, when similar circumstances are prevalent.*

The WAPC refused the application in accordance with Council's recommendation.

DETAILS OF PROPOSAL

Details pertaining to the application include the following:

- ✍ Construction of a single storey second residence with a total floor area of 353m².
- ✍ The proposed residence would be located in the north-west corner of the lot, 40.9m from the western property boundary and 20.6m from the northern property boundary.
- ✍ The second residence will be constructed of brick with a 'Colorbond' roof at a pitch of 25°, but a schedule of colours has not been received.
- ✍ The applicant has provided information in support of the proposal, outlining the following:
 - The second residence would be occupied by family members. In this regard, a statutory declaration has been provided outlining that Mrs Leske (nee Putland) is the daughter of Mr and Mrs Putland. She would be on hand to care for Mrs Putland in her professional capacity as a nurse.
 - A large belt of trees exists between the two residences and would maintain privacy.



SITE PLAN – SECOND RESIDENCE
LOT 8 GARDINER RD, KARRAGULLEN

- The location is in a clear area amongst the trees and would not require further removal of trees.
- The proposed location is out of view from the road, and would maintain the consistency of a single dwelling in a rural environment. Locating the second residence adjacent to the existing residence may detract from this.
- The gradient at the front of the property is slightly greater and would result in greater earthworks associated with the development.

COMMENT

Development Control Unit (DCU)

At its meeting held on 21 November 2002, DCU recommended that the application be referred to Council for approval, subject to appropriate conditions.

ANALYSIS

Two Houses on One Lot in the Rural Zone (Policy 4.3.10)

The application complies with the majority of the provisions in Policy 4.3.10, but is requesting consideration of a greater separation between the residences than the Policy provides for in Clause 2.3.3. This purpose of this clause is to limit the impact on the amenity of the area, maximise the area of land available for agricultural use and to limit the potential for undesirable subdivision of rural land.

Clause 2.3.4 of Policy 4.3.10 must also be considered with regard to architectural sympathy between the two residences.

Location

The proposed second residence would be located in the north-west corner of the lot, approximately 96m distant from the existing residence, which is located in the south-east corner of the lot. The proposed location is a small clearing amongst the trees on the lot, which has some significant remnant vegetation.

Council's Policy requires that a second residence be located adjacent to or in close proximity to an existing residence. The distance proposed between the two residences would not comply with this provision. The final position of a second residence is at the discretion of Council, if it is of the opinion that the development will not have a detrimental impact on the amenity of the area.

The second residence would not be visible from the road (which abuts the eastern property boundary) due to the screening provided by existing vegetation on site. Consequently, the appearance of a single residence on the lot would be maintained. The property is situated on a ridge line, but the possibility that the proposed second residence may be viewed from other areas to the west of the subject property is reduced due to the retention of the surrounding existing vegetation. It should be noted that the proposed residence would still appear as a single entity from the western aspect, as the existing residence is not visible because of the vegetation that is present either side of the ridge line.



ELEVATION PLAN
LOT 8 GARDINER ROAD, KARRAGULLEN

With regard to the concern that a second residence located at a greater distance from the existing residence may provide justification for subdivision, it is noted that Council recommended a subdivision application for refusal at its May 2002 meeting. This matter will be outlined in more detail in a following section.

Architectural Sympathy

The existing residence on the subject property is constructed of red brick, a red/orange tile roof and green guttering. The owners have informed the City that at this stage, the colours for the proposed residence have not been finalised, but will be sensitive to the rural character of the area and will not utilise reflective materials. The submission of a final schedule of materials and colours should be required as a condition of any approval granted.

Rural Strategy

Policy 4.3.10 specifies that approval for a second residence will not be granted in areas identified by Council's Rural Strategy as being Primary or Secondary Landscape Quality Areas. The subject property is not located within either of these areas.

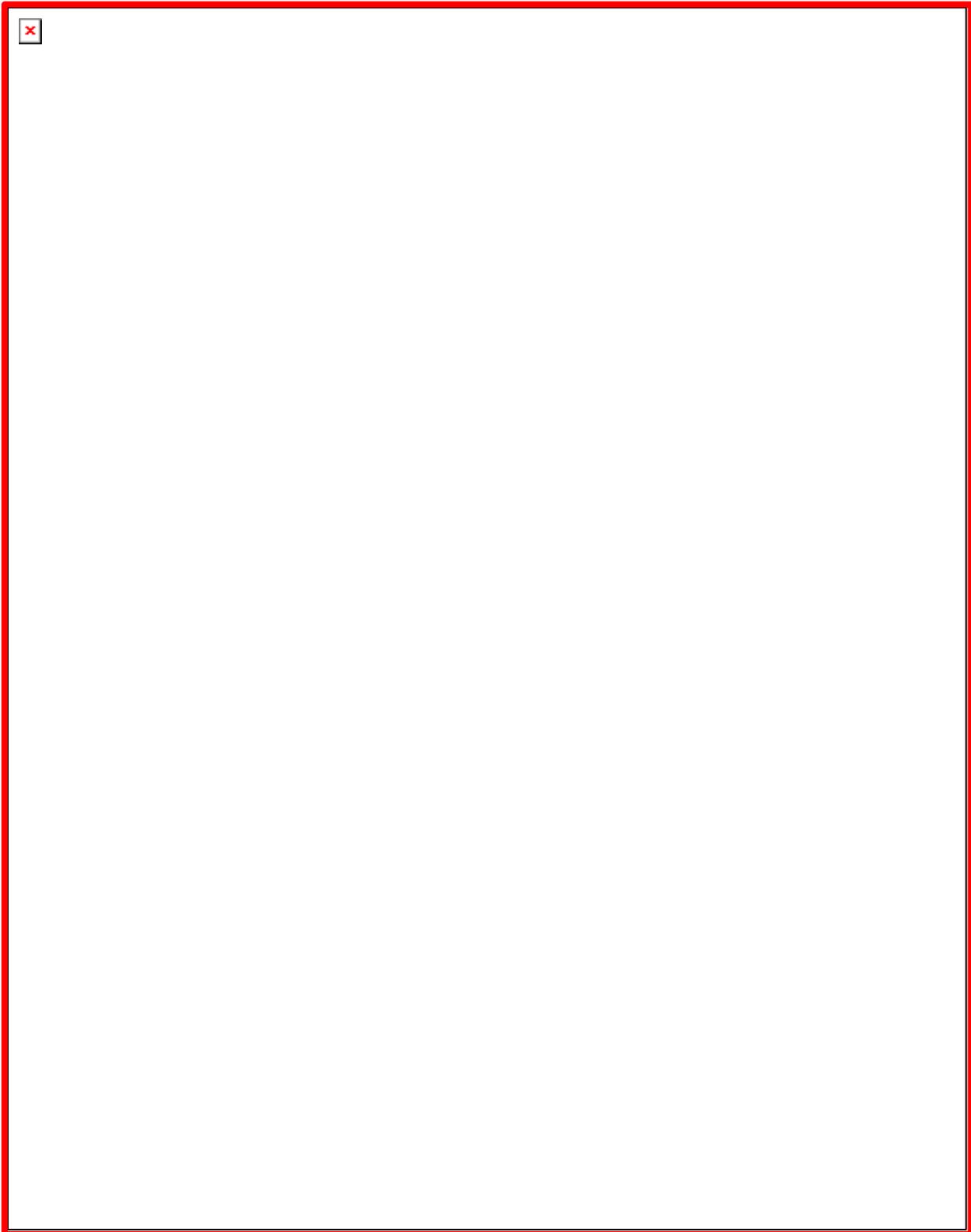
Previous Subdivision Application

As the WAPC refused a subdivision application for the subject property recently, Council may be concerned that the second residence will be used as further justification for a future subdivision application. It is noted that Policy 4.3.10 makes specific reference to this concern and provides it as one of the reasons behind keeping the two residences close together. If Council decided that the application was appropriate, an advice note specifying that the second residence does not provide justification for future subdivision under the current zoning could be included in its resolution.

The Policy Statement for the current zoning, being General Rural, specifies that the zone is a "*zone intended for the conservation of natural resources, the maintenance of a broad acre rural character, the fostering of rural uses and rural industries in circumstances where they do not constitute a nuisance... Apart from subdivision which will, in Council's opinion, assist in achieving the objects of this zone, **subdivision will not be recommended by Council***". As such, Town Planning Scheme No.2 provides a safeguard with relation to the concern about future subdivision.

OPTIONS

1. Council could approve the application for a second residence on Lot 8 Gardiner Road, Karragullen, subject to appropriate conditions with regard to the submission of a schedule of materials and colours.
2. Council could approve the application for a second residence on Lot 8 Gardiner Road, Karragullen, subject to the second residence being located adjacent to the existing residence in accordance with Clause 2.3.3 of Policy 4.3.10.
3. Council could refuse the application for a second residence on Lot 8 Gardiner Road, Karragullen, on the grounds the application does not comply with Clause 2.3.3 of Policy 4.3.10 and that approval could be a prelude to further applications for subdivision.



FLOOR PLAN
LOT 8 GARDINER RD, KARRAGULLEN

CONCLUSION

Given that the arguments submitted to justify the chosen location of the second residence have merit in terms of the preservation of the rural character and amenity of the area, it is recommended that Council utilise their discretion to vary from the locational provisions of its Policy and approve the application in accordance with Option 1.

D239/02 RECOMMEND

That Council approve the application for a second residence at Lot 8 (No.16) Gardiner Road, Karragullen, subject to the following principal requirements:-

- a) **The submission of a schedule of materials and colours for the development to be approved by Council. The development is to be completed and maintained in accordance with the approved colour scheme to the satisfaction of Council.**
- b) **The owner of the subject lot to enter into a deed of agreement with Council, prepared by Council's solicitors at the applicant's/owner's costs, to limit the occupation of the second residence to members of the same family occupying the existing residence on the lot, otherwise if this is not the case, that the second residence will be occupied by persons for the purpose of farm management associated with the subject lot, to the satisfaction of Council.**
- c). **That the applicant be advised that Council will not consider the second residence as grounds to recommend approval of any future subdivision applications to the Western Australian Planning Commission under the current property zoning.**

MOVED Cr Zelones
MOTION CARRIED (7/0)

LESSONS FROM THE LORD V CITY OF PERTH SUPREME COURT CASE

WARD : ALL
FILE REF : PSC/1
DATE : 28 November 2002
REF : IM
RESPONSIBLE : ED DS
MANAGER

Tabled Items

Nil

Officer Interest Declaration

Nil.

Strategic Implications

Nil.

Legislation Implications

Nil.

Council Policy / Local Law Implications

It would be appropriate to draft Scheme provisions and policies with care to ensure that where Council discretion is required clear criteria for the exercise of the discretion are provided.

Budget / Financial Implications

Nil.

Consultation

☞ Ernie Samec, Kott Gunning

BACKGROUND

At its meeting of 11th November 2002 Council resolved to refer the matters raised in McLeod's Client Bulletin contained in the Information Bulletin No.21/2002 for further consideration at the next Development Services Committee meeting.

The matter raised by McLeods concerned a recent decision of the Full Court of the Supreme Court of Western Australia in *Lord v City of Perth* (2002) WASCA 254. This case held that the City of Perth did not observe the requirements of its Scheme in relation to two development approvals it granted in February and December 2001 for a nine storey block of 32 multiple dwellings in West Perth.

In Brief:-

☞ A recent decision of the Supreme Court *Lord v City of Perth* raised issues associated with the accuracy of officer reports and the way in which a Council makes decisions, particularly in respect of the way Scheme requirements are relaxed and discretionary provisions applied.

The report concludes that:

☞ Discretion should be applied with care in accordance with any specified criteria.

☞ Where there is a requirement to safeguard local amenity, consultation processes need to be applied.

☞ Recording meetings is administratively convenient, but may provide inconvenient evidence in court cases.

☞ Decisions should be made based upon the information relevant to the particular case.

☞ Where Council makes a decision on a particular report, the contents of the report should be read.

☞ Decisions could be invalid where based on inaccurate information.

☞ Recommend that Council note the conclusions drawn from *Lord v City of Perth* and take them into account in future decision-making.

The case raised issues associated with the accuracy of officer reports and the way in which a Council makes decisions, particularly in respect of the way Scheme requirements are relaxed and discretionary provisions applied.

The case is important to local government planners and Councillors because it focused on what is relevant in the proper exercise of discretion where an application involves the relaxation of Scheme standards and requirements. It is also important because the Council's approval was erroneously based on previous approvals and some general policy of the Council.

Both the exercise of discretion and the application of policy are daily features of development control in local government. It is therefore essential that care is exercised when Scheme requirements are relaxed. It is also essential that policy considerations are not applied in an irrelevant manner so as to obscure the proper application of the discretionary provisions of Schemes.

THE SPECIFIC CASE

The West Perth development was approved in February 2001 despite significant areas of non-compliance. It transpired that the application was invalid on the grounds that it had been granted approval by the Council while the Council actually owned the land.

The subsequent reapplication resulted in the proposal being approved but it was challenged by an adjacent owner who instructed Kott Gunning to issue a writ of certiorari against the planning approvals of the City of Perth. While at first instance a single judge of the Supreme Court dismissed the application, upon appeal to the Full Court the decision was quashed on the grounds of jurisdictional error.

Analysis

Each case turns on the specifics, so general conclusions need to be drawn with care. In the *Lord v City of Perth* case the Scheme specifically required the Council to be satisfied by an absolute majority that any variation would be consistent with orderly and proper planning of the locality and would not have any adverse effects on the property or the locality. The appellants were able to demonstrate that this requirement had not been met and therefore that the Council had acted unlawfully in approving the development. The court acknowledged that these matters cannot be measured with scientific precision and therefore concluded that whether the criteria had been met or not was not critical, however, whether *the Council had been satisfied by an absolute majority* that the criteria had been met was the determining factor.

Clause 48 of the City of Perth Scheme is somewhat unusual in that it enables a Council to approve a development that does not comply with the scheme. Consequently the conditions specific in the Scheme under which such approval occurs are important. The City of Armadale TPS No.2 contains no similar provision and neither does the Model Scheme Text upon which TPS No.4 is based.

However there are provisions (such as 7.1 Application for Planning Consent and 7.6 relaxation of standards in TPS 2 and relating to higher density development than permitted under the Codes under TPS 4) which enable the Council to grant approval "if it is satisfied" that certain criteria have been met. In these instances the Council needs to be consciously satisfied that there will be, for instance, no adverse impacts on the inhabitants of the locality prior to granting consent.

The implications of this are that where discretion is exercised under a scheme the criteria guiding this discretion need to be consciously applied - discretion is rarely unfettered.

The issue discussed in the case was the obligation on the Council to notify neighbouring property owners and afford an opportunity to make submissions on the grounds of procedural fairness. This was critical in this case as it was important to establish under the provisions of the scheme that the proposal was consistent with the orderly and proper planning of the locality.

The implications of this is that Council should carefully consider who may be affected by a proposed development and whether to afford an opportunity to be heard. Failure to do so could result in claims that natural justice has not been applied.

The fact that the Council had meetings recorded enabled the Court to go further than reading the minutes in analysing the extent to which individual councillors were fully conversant with the facts of the case. The court was able to deduce that the Mayor and some of the councillors were somewhat unfamiliar with the officer's report. However as an absolute majority is required - the finding that some of the Council were unfamiliar with the report was of concern but not necessarily crucial in this case. However, it is possible that the failure of councillors to read a report could have consequences and certainly the statement after the debate by the Mayor that "We just wasted 10 minutes" proved sufficiently to the Court that the decision was regarded as a foregone conclusion and not compatible with the careful and considered assessment that the Council was required to give to the application.

The implications of tape recording meetings is that by their discovery it may be demonstrated that a Council member has taken into consideration irrelevant matters or failed to consider relevant matters and thereby a decision of the Council may be rendered invalid.

Of greater importance was the fact that council members placed reliance on the fact that the application had been previously approved. This denial of the need to consider each application on its merits was a telling factor as the previous approval was in fact irrelevant. This led the Court to conclude that on a balance of probability some councillors made the decision without being aware of all the facts.

Decisions should be made based upon the information relevant to the particular case and Councillors should read the officers' report before purporting to make a decision on the subject matter of the report.

The report to the Council contained significant errors of fact, in particular in respect of advice that a use was permitted when in fact it was permitted only subject to significant qualifications. The presentation of inaccurate information to Council resulted in the Council decision being challenged as being made on an erroneous basis.

Officers need to take particular care in reporting to Council regarding the facts of the town planning scheme, or any other relevant laws, as inaccuracies may result in the ensuing Council decision being rendered invalid.

An interesting additional finding was in response to the developer's claim that his rights had been prejudiced after having received what he considered to be a legitimate approval. The Court concluded that the developer's rights had not been prejudiced because he had no right except to an approval granted in accordance with the law. Indeed it was inferred that the developer was partly to blame in that he would have known that the decision was based on faulty information but did not seek to enlighten the City's planning officers.

The implication of this is that it is in the interest of the developer to ensure that correct information is placed before Council.

Options

Council could note the implications drawn from *Lord v City of Perth* to take into account in future decision-making.

Council could amend its procedures to provide greater proof against a similar challenge to *Lord v City of Perth*.

CONCLUSION

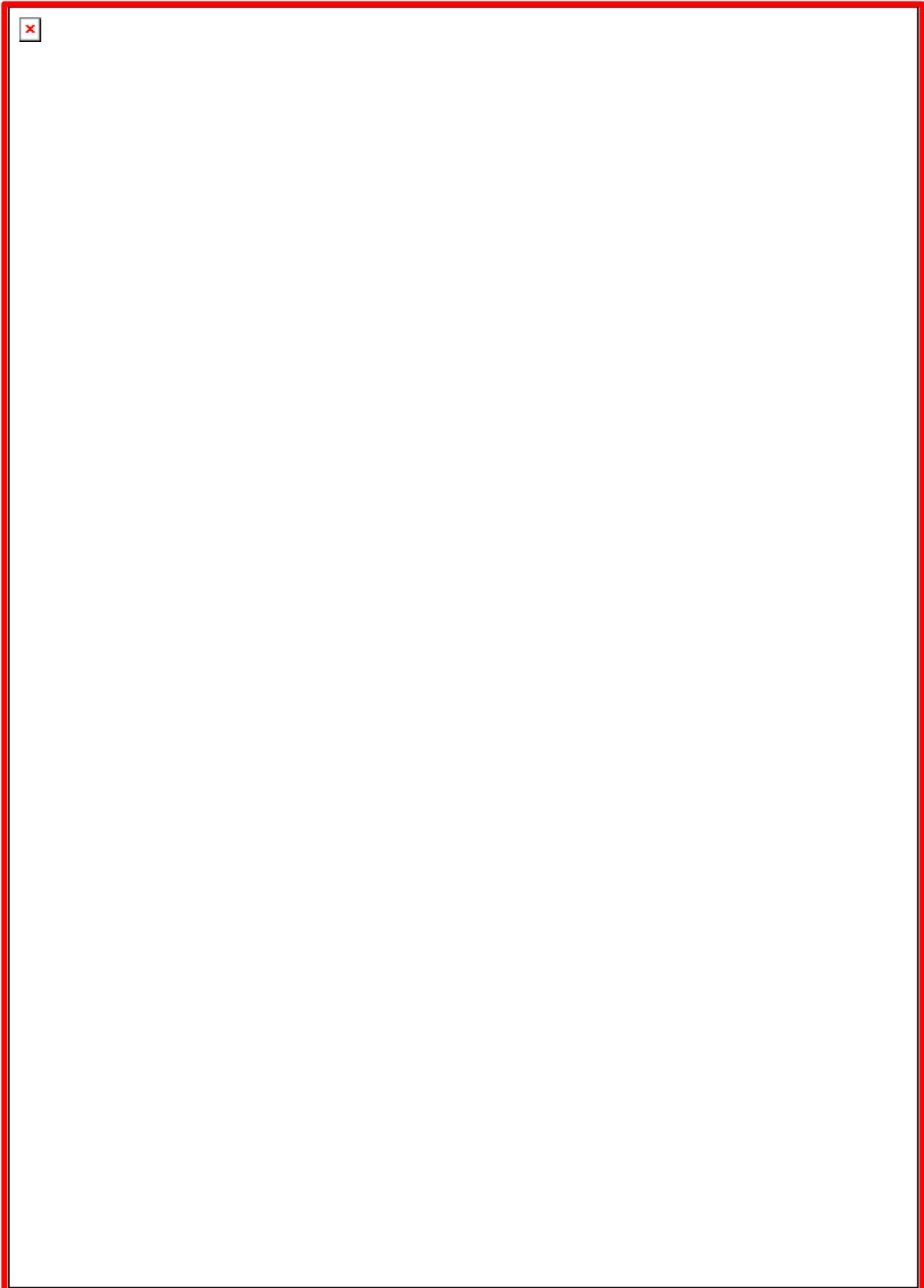
- ✍ Discretion should be applied with care in accordance with any specified criteria.
- ✍ Where there is a requirement to safeguard local amenity, consultation processes need to be applied.
- ✍ Recording meetings is administratively convenient, but may provide inconvenient evidence in court cases.
- ✍ Decisions should be made based upon the information relevant to the particular case.
- ✍ Where Council makes a decision on a particular report, the contents of the report should be read.
- ✍ Decisions could be invalid where based on inaccurate information.

D240/02

RECOMMEND

That Council note the conclusions drawn from *Lord v City of Perth* and take them into account in future decision-making.

MOVED Cr Zelones
MOTION CARRIED (7/0)



***BUCKINGHAM'S COTTAGE, LOT 701 HERITAGE DRIVE, ROLEYSTONE –
CONSIDERATION FOR INCLUSION IN STATE REGISTER OF HERITAGE PLACES***

WARD : ROLEYSTONE

FILE REF : A214304

DATE : 28 November 2002

REF : HC

RESPONSIBLE : PSM
MANAGER

APPLICANT : Heritage Council of WA

LAND OWNER : Araluen Golf Resort Pty Ltd

SUBJECT LAND : Lot 701 Heritage Dr, Roleystone
Property size 516m²
Map 27.05

ZONING : Rural / Special Use No 66
MRS/TPS No.2

In Brief:-

- ✍ The Heritage Council of WA invites a Council nominee to attend a meeting to consider whether or not Buckingham's Cottage be entered in the State Register of Heritage Places.
- ✍ Recommend that Council support entry of the Cottage in the State Register and nominate the Planning Services Manager and Margaret Bettenay, CHAC Member, to attend the meeting as Council's representatives.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Relates to our commitment to the future to create a caring and vibrant City, rich in history, heritage and lifestyle.

Legislation Implications

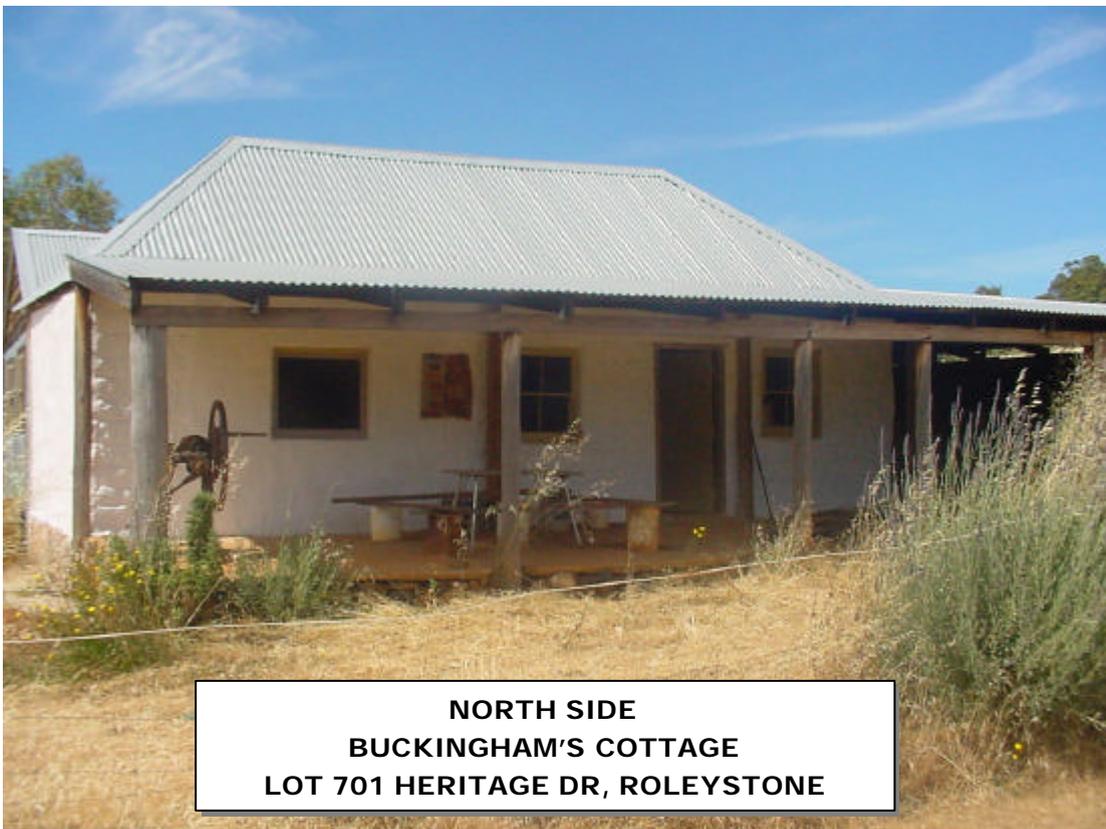
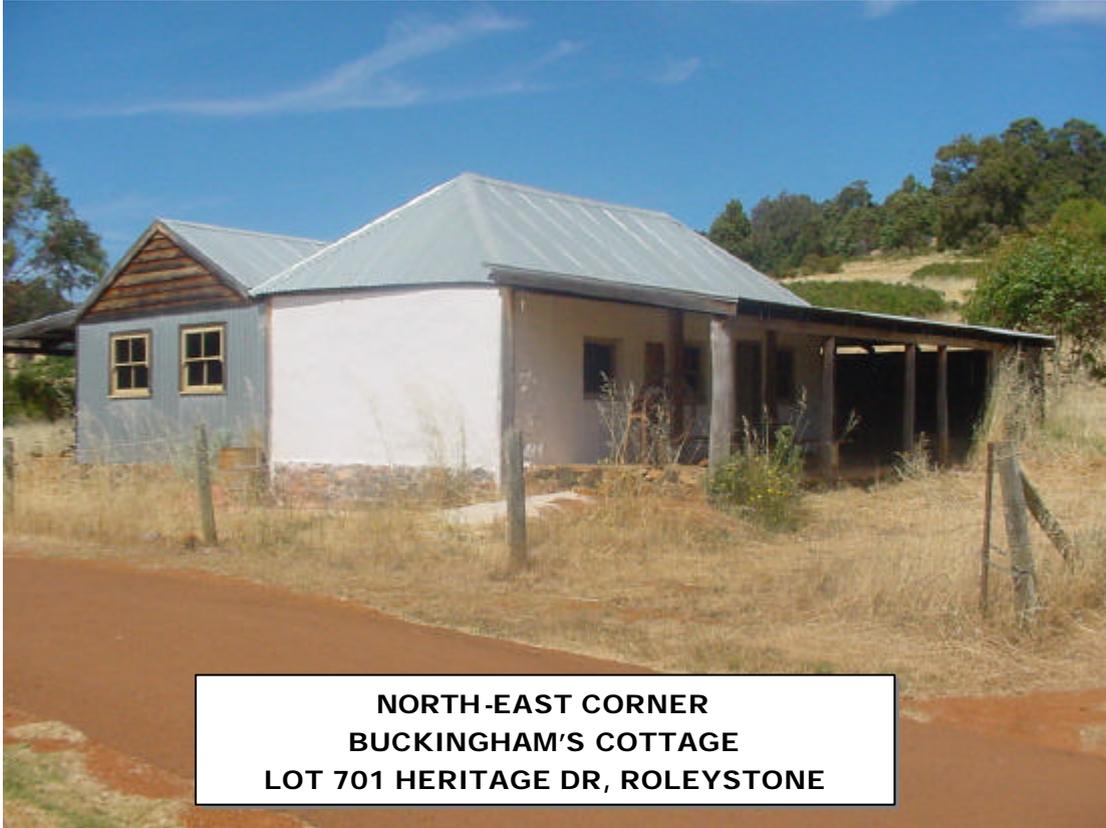
Heritage of Western Australia Act 1990.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.



Consultation

Community Heritage Advisory Committee (CHAC).
Araluen Golf Resort Pty Ltd.

BACKGROUND

Council, under an agreement with Sangora Holdings Pty Ltd, leased Buckingham's Cottage (the Cottage) for 25 years from 17 October 1995 for the purpose of the restoration, management and exhibition of the Cottage as a heritage/historical exhibit. By a Deed of Assignment dated 29 June 2001, Araluen Golf Estate Pty Ltd, the new owner, agreed to be bound by the terms and conditions of the lease.

DETAILS OF PROPOSAL

The Heritage Council of WA (HCWA) has recently advised that documentation regarding the Cottage is scheduled for presentation to a meeting of the HCWA in the near future with a recommendation that the place is of sufficient cultural heritage significance to warrant consideration for entry into the State Register of Heritage Places. (*A copy of the documentation is at Attachment "A2" of the Agenda*).

HCWA has invited a nominee from Council to attend the meeting to consider the Cottage. They advise this means the nominee:

- ✍ Becomes a member of the Heritage Council for the discussion including the decision as to whether or not this place should be entered in the Register.
- ✍ Will be asked as part of the discussion to present the views of the local government on the value of the entering the place in the Register.
- ✍ Is invited to participate fully in the discussion about the entry of the place in the Register.
- ✍ Is entitled to vote on whether or not the place should be entered in the Register.

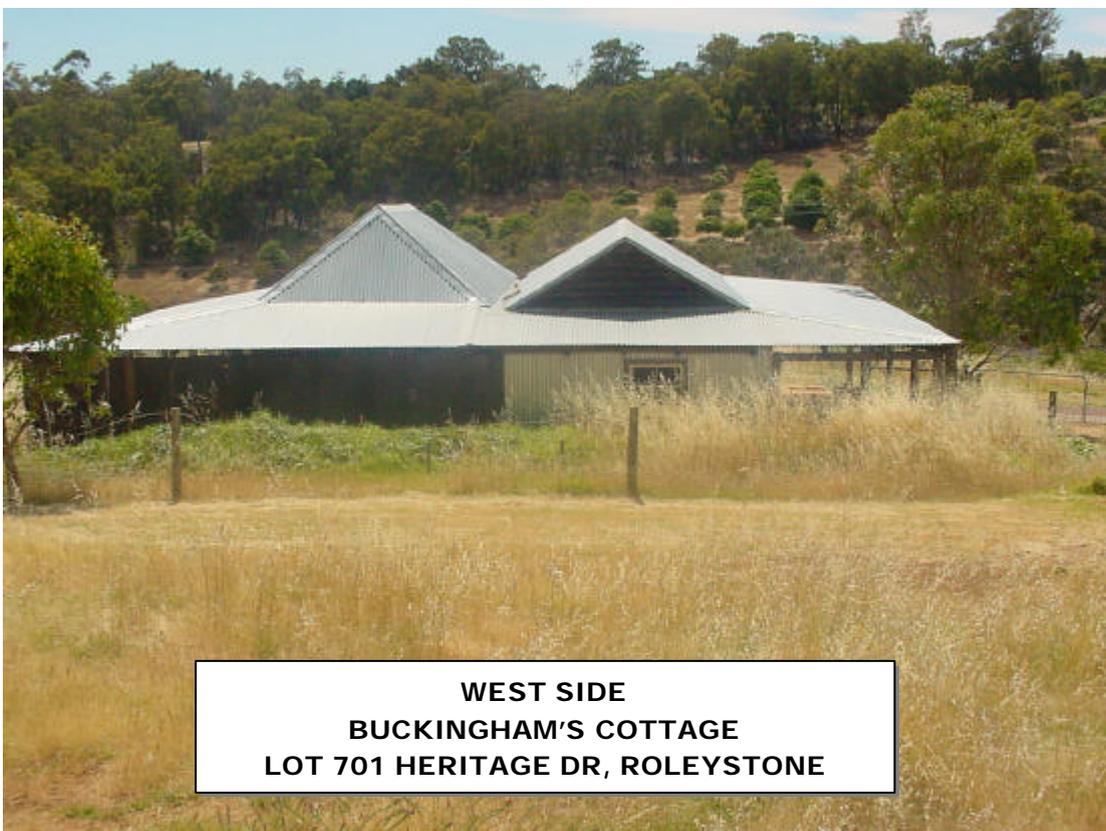
COMMENT

CHAC has suggested that Council consider nominating the Planning Services Manager, accompanied by Margaret Bettenay, CHAC member, to attend the meeting and suggest that Council support entering the Cottage in the State Register of Heritage Places.

Analysis

The Cottage, William Buckingham's homestead also known as Coolgiebrie, is the oldest building in Roleystone, associated with an important pioneering family, demonstrates the way of life of farmers in the area in the 1880s and reflects the rural economics of that and subsequent times. It is entered in Council's Municipal Heritage Inventory under an "A" Management Category (Highest level of protection appropriate: recommend for entry into the State Register of Heritage Places; provide maximum encouragement to the owner to conserve the significance of the place).

Araluen Golf Resort Pty Ltd has no objection to HCWA entering the Cottage on the State Register of Heritage Places.



Options

1. Decline to nominate a person to attend the meeting;
2. Nominate a person or team to attend the meeting to support the entering of the Cottage on the State Register of Heritage Places;
3. Nominate a person or team to attend the meeting to decline to support the entering of the Cottage on the State Register of Heritage Places.

CONCLUSION

It is suggested that the Cottage is of sufficient importance to support entry in the State Register of Heritage Places and a team of the Planning Services Manager and CHAC member represent Council.

D241/02

RECOMMEND

- 1. That Council advise the Heritage Council of Western Australia that it supports the entry of Buckingham's Cottage, Lot 701 Heritage Drive, Roleystone, in the State Register of Heritage Places.**
- 2. That Council nominate the Planning Services Manager and Margaret Bettenay, Community Heritage Advisory Committee Member, to represent Council at the Heritage Council of Western Australia meeting to consider Buckingham's Cottage.**

MOVED Cr Stubbs
MOTION CARRIED (7/0)

**** REVIEW OF DELEGATIONS OF AUTHORITY RELEVANT TO THE
DEVELOPMENT SERVICES DIRECTORATE**

WARD : ALL
FILE REF : PCY/2
DATE : 26 November 2002
REF : HC
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- ☞ Delegations of Authority for the Development Services Directorate to be reviewed annually.
- ☞ Proposed minor amendment to Delegation P005 to correct legislation title, deletion of a paragraph regarding appeals in Delegations A003 and A005 and addition of the Building Services Manager to a section in Delegation A004.
- ☞ Propose that Delegations P006 and A007 be revoked.
- ☞ Proposed new Delegation of Authority to the Executive Director Development Services, Planning Services Manager and Building Services Manager to approve variations to the Residential Design Codes.
- ☞ Proposed amendment to Delegation of Authority to the Executive Director Development Services and/or Planning Services Manager to exercise discretion to reach determination of Appeals processed by mediation within the Ministerial and the Town Planning Appeal system.
- ☞ Recommend that delegations as amended and proposed remain in force.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Corporate Services New Initiatives 1.2 – Review and Clarify Delegations.

Legislation Implications

- ☞ Local Government Act 1995;
- ☞ Local Government (Miscellaneous Provisions) Act 1960;
- ☞ Town Planning & Development Act 1928;
- ☞ Town Planning Schemes Nos 2 and 3;
- ☞ Residential Design Codes;
- ☞ Health Act 1991;
- ☞ Strata Titles Act 1985 as Amended.

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

Executive Director Development Services, Planning Services Manager, Building Services Manager, Health Services Manager.

BACKGROUND

It is a requirement of the local Government Act 1995 that all Delegations be reviewed annually.

In accordance with that requirement, copies of the Delegations relevant to this Committee, with suggested revisions, are at Attachment "A2" of the Minutes.

COMMENT

Analysis

The Delegations P001 to P004, P007 to P009, A001, A002, A006 to A012 and S001 and S002 remain appropriate.

There is a minor amendment required to Delegation No P005 to ensure the accuracy of the reference to the appropriate legislation. To reflect appropriate legislation, "1995" should be deleted from the Title of the legislation (Strata Titles Act 1995) and replaced with the words "1985 as amended".

Deletion of Delegation P006

Delegation No P006 should be revoked as the authority to approve the keeping of roosters, peafowls or geese in other than rural areas has been overtaken by the provisions of Clause 17 of the City of Armadale Environment, Animals and Nuisance Local Laws 2002.

Amendment of Delegation P010

Delegation P010 requires minor amendment to some of the legislation outlined to ensure accuracy as follows:

- ✍ Health (Skin Penetration) Regulations 1998, not 1987;
- ✍ Add 1964 to the end of Health Act (Swimming Pools) Regulations;
- ✍ Add 2002 to the City of Armadale Health Local Laws.

It also requires delegation for several more relevant pieces of legislation. The legislation that should be included is:

- ✍ Health (ANZ Food Standards Code Adoption) Regulations 2001;
- ✍ Hair Dressing Establishment Regulations 1972
- ✍ Health (Temporary Sanitary Facilities) Regulations 1997
- ✍ Fly Eradication Regulations

This includes regulations that have previously inadvertently been excluded from the Delegation and adds newly released health regulations.

Amendment of Delegations A003, A004 and A005

Delegations A003 and A005 require deletion of the statement:

“In the event an applicant is aggrieved following a refusal for a [Home Occupation] (A003) [commercial vehicle parking permit] (A005) under delegated authority or seeks a variation to a provision within the Town Planning Scheme, a request in writing may be made to Council to have the matter deliberated and determined by Council.”

The appeal provision outlined in this statement may be *ultra vires* under the *functus officio* (having discharged its duty) principle. Council, having made a decision by the officer duly delegated the decision making power, cannot then make another decision on the same application. The applicant has appeal rights to the Minister or the Town Planning Appeals Tribunal, or can lodge a fresh application for consideration.

Delegation A005 also requires the widening of the authority to include Town Planning Scheme No. 3 to provide flexibility should an application for commercial vehicle parking be received within that area. This would require the addition of TPS No 3 to both under the heading “Refusals” and the heading “Authority”.

Delegation A004 requires the addition of delegation to the Building Services Manager to deal with all MRS Form-1 Development Applications for permitted “P” uses provided they conform to Council’s approved Town Planning Schemes Nos. 2 and 3 and any adopted policies and for single dwellings and outbuildings in the Rural Zoned areas. The Building Department is processing many building applications that also require planning approval. These Development Applications are by their nature suitable for assessment by the Building Department.

Deletion of Delegation A007

Delegation No A007 should be revoked as the Town Planning Building Regulations 1989, which were the basis for the delegation, have been repealed.

New Delegation – Authority to Approve Variations to the Residential Design Codes

Authority is sought from Council to provide delegated authority to the Executive Director Development Services, Planning Services Manager and Building Services Manager to approve applications for developments that require variations to the Acceptable Development requirements of the Residential Design Codes (R-Codes) where such variations satisfy:

- ✍ The Objectives and Performance Criteria of the R-Codes;
- ✍ The scheme requirements; and
- ✍ Any relevant Council policy.

The Delegation will also provide authority to the Executive Director Development Services, Planning Services Manager and Building Services Manager to refuse applications that do not satisfactorily address the above requirements.

The delegation, flowing from the recent introduction of the updated R-Codes, is to provide flexibility to approve those developments that meet the objectives and performance criteria of the R-Codes and scheme requirements, without tying up Councillors' time on matters that are clearly prescribed under the R-Codes.

It is proposed to number the delegation as A013, should it be approved by Council.

Amendment of Delegation – Authority to Exercise Discretion on Behalf of Council To Reach Determination, Where Appropriate, of Appeals Processed by Mediation

Council, at its meeting on 16 November 1998 (D513/98 refers), resolved to participate in the process of mediation within the Ministerial Planning Appeal system and authorise the Executive Director Development Services and Planning Services Manager to exercise discretion on behalf of Council to reach determination, where appropriate, of Appeals processed by mediation. The authority, though being exercised where necessary, has not previously been committed to writing in the Delegation of Authority Manual.

The Ministerial Planning Appeal system is being phased out and as staff have been working through Appeals under mediation within the Town Planning Appeal Tribunal system, it is suggested that the delegation authority be widened to refer to the Town Planning Appeals Tribunal system as well. It is proposed to number the delegation as A014.

OPTIONS

1. Approve the suggested amendments to the Delegations of Authority and the suggested new Delegation of Authority to approve variations to the Residential Design Codes and authorise that they remain in force for the coming twelve months.
2. Make the necessary editorial changes to existing Delegations but include no new Delegations.

CONCLUSION

It is suggested that Option 1 ensures the Delegations of Authority are more correct and give greater flexibility to deal with planning issues.

D242/02

RECOMMEND

1. That Delegation Number P005 be amended so the legislation is shown as "*Strata Titles Act 1985 as Amended*".
2. That Delegation Number P006 – Authority to approve the keeping of Roosters, Peafowls or Geese, other than in Rural Zones subject to discussion with and agreement of the Ward Member serving on the Development Services Committee – be revoked.
3. That Delegation Number P010 be amended to record the following dates:
 - ✍ Health (Skin Penetration) Regulations 1998;
 - ✍ Health Act (Swimming Pools) Regulations 1964; and
 - ✍ The City of Armadale Health Local Laws 2002.

and the addition of the following Regulations to be subject to the Delegation:

- ✍ Health (ANZ Food Standards Code Adoption) Regulations 2001;
 - ✍ Hair Dressing Establishment Regulations 1972;
 - ✍ Health (Temporary Sanitary Facilities) Regulations 1997; and
 - ✍ Fly Eradication Regulations.
4. That Delegation Numbers A003 and A005 be amended by the deletion of the paragraph *“In the event an applicant is aggrieved following a refusal for a [Home Occupation] (A003) [commercial vehicle parking permit] (A005) under delegated authority or seeks a variation to a provision within the Town Planning Scheme, a request in writing may be made to Council to have the matter deliberated and determined by Council.”*
 5. That Delegation Number A005 be amended by the addition of the words *“and 3”* after the words *“Town Planning Scheme No. 2”* in both the section headed *“Refusals”* and the section headed *“Authority”*.
 6. That Delegation Number A004 be amended to include the phrase *“The Building Services Manager be given full delegation to deal with: 7. all MRS Form-1 Development Applications for single houses and outbuildings in the Residential and Rural Zoned areas provided they conform to Council’s approved Town Planning Schemes Nos. 2 and 3, the Residential Design Codes (where relevant) and any adopted or related policies.”* within the section dealing with the Power or Duty Delegated, and the phrase *“The Building Services Manager for Item 7 above”* under the section headed *Delegatee*.
 7. That Delegation A007 – Authority to approve earthbanks exceeding 1 metre in height – be revoked.
 8. That Council grant delegated authority to the Executive Director Development Services, Planning Services Manager and Building Services Manager to approve or refuse variations to the Residential Design Codes under a new Delegation Numbered A013 detailed in *Attachment “A2” of the Minutes*.
 9. That Council amend the Delegation of Authority to be numbered A014 detailed in *Attachment “A2” of the Minutes* so the Executive Director Development Services and/or Planning Services Manager is delegated authority to exercise discretion on behalf of Council to reach determination, where appropriate, of Appeals processed by mediation within the Ministerial Planning Appeal system and within the Town Planning Appeal Tribunal system of Appeals under the Town Planning and Development Act 1928.

10. That the powers or duties detailed in *Attachment "A2" of the Minutes* as delegated by Council, including the Delegation Number P005 amended as per 1 above, the Delegation Number P010 amended as per 3 above, the Delegations A003 and A005 amended as per 4 and 5 above, the Delegation Number A004 amended as per 6 above, the new Delegation A013 as per 8 above, the Delegation A014 as per 9 above, (excluding Delegation P006 as per 2 above, and Delegation A007 as per 7 above) remain in force for the next 12 months.

**** ABSOLUTE MAJORITY REQUIRED**

MOVED Cr Zelones
MOTION CARRIED (7/0)

CHAMPION LAKES

The matter of compliance issues in Champion Lakes was referred to Development Services Committee by Council at its meeting of 18 November 2002, on request by Councillor Stubbs.

Cr Stubbs reported on the storage and accommodation of disused materials on properties in the Champion Lakes precinct and the need to progress compliance issues in this area.

D243/02 RECOMMEND

That Council recognise the need to progress compliance issues in the Champion Lakes precinct.

MOVED Cr Zelones
MOTION CARRIED (7/0)

COUNCILLORS' ITEMS

Nil.

The Chairman conveyed Christmas greetings to members of the Committee and to all Development Services Staff.

The Chairman also wished John Adderley (Executive Director Development Services) the very best for the future and for his 29 years of exemplary service at the City of Armadale.

MEETING DECLARED CLOSED AT 9:20 PM

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DEVELOPMENT SERVICES COMMITTEE

9TH DECEMBER 2002

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I N D E X

DEVELOPMENT SERVICES COMMITTEE

9TH DECEMBER 2002

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