



— *City of* —  
***Melville***

**REPORTS AND RECOMMENDATIONS**

**FROM THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**10 APRIL 2007**

- NOTES:**
- 1. This Meeting makes Recommendations to the Director Technical & Development Services.**
  - 2. Should any Elected Member want any matter referred and considered by the Council, please contact the Manager Planning & Development Services prior to the Tuesday (or Wednesday if Monday is a public holiday) following the date of this Meeting.**
  - 3. Unless 'called in' by an Elected Member it is expected that the Director Technical & Development Services will after the 'call in' date approve the recommendations, refer the matter to the Council or back to the Development Advisory Unit for further considerations.**

**DISTRIBUTED: 11 APRIL 2007**



— City of —  
**Melville**

10 Almondbury Road Booragoon WA 6154  
Postal Address: Locked Bag 1, Booragoon WA 6954  
Tel: 08 9364 0666  
Fax: 08 9364 0285  
Email: [melinfo@melville.wa.gov.au](mailto:melinfo@melville.wa.gov.au)  
Web: [www.melville.wa.gov.au](http://www.melville.wa.gov.au)

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,  
BOORAGOON, COMMENCING AT 9:00AM ON TUESDAY 10 APRIL 2007**

**PRESENT**

K Weymes (Presiding Member)  
D Vinicombe  
T Capobianco  
R Bailey

Manager Planning & Development Services  
Planning Services Coordinator  
Principal Building Surveyor  
Technical Officer

**APOLOGIES**

R G C Willis  
R Jessup  
D Monteiro

Director Technical & Development Services  
Senior Horticultural Technical Officer  
Environmental Health Officer

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

**ELECTED MEMBERS' ATTENTION**

Nil

**DELEGATED AUTHORITY – PLANNING POLICY (1) 2**

**The following items are recommendations to the Director Technical and Development Services for decision.**

## **DISCLOSURE OF FINANCIAL INTERESTS LOCAL GOVERNMENT ACT 1995**

### **Members' interests in matters to be discussed at meetings to be disclosed**

S.5.65 (1) A member who as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

### **Meeting to be informed of disclosures**

**S.5.66** If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

### **Disclosing members not to participate in meetings**

**S.5.67** A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

**Please refer to your Handbook for definitions of interests and other detail.**

## **TABLE OF CONTENTS**

U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42)  
OGILVIE ROAD, MOUNT PLEASANT (REC) ..... 3

U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR  
PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC) ..... 8

**U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42)  
OGILVIE ROAD, MOUNT PLEASANT (REC)**

Ward	:	Applecross / Mount Pleasant
Category	:	Planning / Building Development
Application Number	:	DA-2006-1435/A
Property	:	42 Ogilvie Road, Mount Pleasant WA 6153
Proposal	:	Retaining Walls and Earthworks
Applicant	:	Mr L Brickland
Owner	:	Ashley Brooke Pty Ltd
Disclosure of any Interest	:	No officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Keith Weymes, Manager Planning & Development Services
Previous Items	:	Nil

**SUMMARY**

The application is for retaining walls and earthworks on Lot 91 (42) Ogilvie Road, Mount Pleasant. The application proposes amendments to the previously issued planning approval.

The application is recommended for approval subject to a number of conditions.

**BACKGROUND**

The Western Australian Planning Commission conditionally approved an application for subdivision on 3 March 2005 for two survey-strata grouped dwelling lots with a common property access leg. The subdivision has not received clearance from the City of Melville, and hence new titles are yet to be issued. The subdivision was approved under the transitional R17.5 provisions of the R-Codes, which means that if the subdivision is not finalised within three years of the date of the conditional approval, the subdivision potential of the lot will lapse.

A demolition licence for the previous dwelling was issued by the City of Melville on 9 March 2006.

The City of Melville considered an application for retaining walls on the subject lot (DA-2006-435), which was refused by the Development Advisory Unit on 23 August 2006 for non-compliance with Element 6 (Site Works) of the Residential Design Codes 2002, and because it was determined that the retaining walls would not maintain the visual impression of the natural contour of the land.

A fresh application for retaining walls and earthworks was subsequently submitted to the City of Melville (DA-2006-1435), which was approved subject to a number of conditions that established top of wall and finished ground levels for the front and rear of the property. The application was approved on 20 October 2006.

**U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42)  
OGILVIE ROAD, MOUNT PLEASANT (REC)**

An application to amend the height of the retaining walls in the centre of the site was submitted to the City of Melville on 21 February 2007.

Concerns over the surveyed level of the site were expressed by the adjoining landowners. The adjoining landowners believe that the survey levels shown on the plans were not consistent with the levels they believed to exist on the site. Further investigation by the City of Melville and the provision of a revised survey plan revealed that the surveyed levels were inconsistent. This application has been submitted to include the correct site levels.

The City of Melville currently has an application for planning approval for two grouped dwellings on the subject property pending the resolution of the retaining walls and earthworks approval.

**Scheme Provisions**

MRS Zoning : Urban  
CPS 5 Zoning : Living Area Precinct – Mount Pleasant 2  
R-Code : R17.5  
Use Type : Residential  
Use Class : P

**Site Details**

Lot Area : 1052sqm  
Retention of Existing Vegetation : No  
Street Tree(s) : Yes  
Street Furniture (drainage pits etc) : No  
Site Details : [U07 0087 PROPERTY MAP.pdf](#)

[U07 0087 April 2007.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Wednesday 11 April 2007

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Retaining Wall Height	Maximum 0.5 m above natural ground level	0.27 m – <b>0.69 m above existing retained ground level</b>	<b>Does Not Comply</b>	DTDS	
Fill Level	Maximum 0.5 m above natural ground level	0.22 m – <b>0.64 m above natural ground level</b>	<b>Does Not Comply</b>	DTDS	

(Note: Non-compliances are emphasised in bold)

**U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42)  
OGILVIE ROAD, MOUNT PLEASANT (REC)**

**POLICY IMPLICATIONS**

Residential Design Codes 2002

The Residential Design Codes 2002 outline the general development requirements for residential development within Western Australia. The provisions of the R-Codes are applicable unless a local government planning policy or town planning scheme provision specifies more specific development standards. Development may be approved under either the acceptable development provisions of the R-Codes or through demonstration of compliance with a performance-based criteria.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Retaining wall greater than 0.5 m above natural ground level on the boundary  
 Support/Object: 1 Object

<b>Submission</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/Support/Dismiss)</b>
Submission 1	Not willing to consent to retaining wall being effectively 1.12 m above the lowest ground level on affected property. Preference is for the retaining wall not to exceed 0.5 m above the lowest ground level on affected site.	Object	Noted, however the Residential Design Codes 2002 state that natural ground level is taken from the pre-development level. This equates to a maximum height of 0.69 m above natural ground level on the subject property. The effective retaining wall height on the adjoining property varies between 0.38 – 1.12 m above natural ground level, and it is considered that there will be minimal adverse impact as the adjoining area is an extensive back garden with dense vegetation and a garden shed.	Dismiss

**U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42)  
OGILVIE ROAD, MOUNT PLEASANT (REC)****REFERRALS TO GOVERNMENT AGENCIES**

Not required.

**STATUTORY AND LEGAL IMPLICATIONS**

The applicant will have the right to have any decision that is made by the City of Melville with respect to the subject application reviewed in accordance with Part 14 of the Planning and Development Act 2005.

**FINANCIAL IMPLICATIONS**

None

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

None

**COMMENT**

The following aspects of the development application are worthy of further discussion.

**Retaining Wall Height and Site Filling**

The proposal is to increase the height of the existing retaining wall along the rear boundary to 8.75 AHD which is a maximum of 1.12 m above the ground level at the worst point on the adjoining property and 0.69 m above the existing natural ground level.

The acceptable standard requires retaining walls not to exceed 0.5 m above natural ground level. The Codes state that the natural ground level is considered to be the level of the site before original development occurred or that resulting from pre-existing development. In this regard, the pre-existing level of the site is considered to be the top of an existing retaining wall, which has a surveyed level of 8.06 AHD to 8.13 AHD. The proposed retaining wall height is 8.75 AHD, with a sand fill level of 8.7 AHD, which equals a maximum height above natural ground level of 0.69 m. The ground level at the bottom of the wall (i.e. the adjoining property) has a level that varies between 7.63 AHD to 8.18 AHD.

Performance Criteria 3.6.1 of the Residential Design Codes 2002 requires development to retain the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property. Performance Criteria 3.6.2 requires retaining walls to be designed or set back to minimise the impact on adjoining properties.

**U07/0087 - (CO) PROPOSED RETAINING WALLS AND EARTHWORKS ON LOT 91 (42) OGILVIE ROAD, MOUNT PLEASANT (REC)**

In considering the performance criteria of the R-Codes, the proposed retaining wall does not propose to significantly alter the land in such a way that it will distort the visual impression of the level of the site. The proposed finished level of the site is 0.3 m lower than the previous planning approval that was issued, and hence will be more in line with the confirmed natural levels. In considering this, Performance Criteria 3.6.1 of the R-Codes is considered to be complied with.

The adjoining landowner has objected to the proposed retaining wall on the grounds that its height will be significantly higher than the existing levels on the adjoining site. Whilst there is some merit in this objection, it is considered that the impact on amenity of the adjoining property will not be significant because the retaining wall abuts an extensive back garden that is occupied by dense vegetation, with the only nearby structure being a garden shed that is non-habitable. The impact of the retaining wall will not have any impact on the main dwelling, which is located approximately 41 m from the subject boundary. On these grounds, Performance Criteria 3.6.2 of the R-Codes is considered to be complied with.

**Conclusion**

In considering the above, the proposed retaining wall and site filling is considered to comply with the provisions of the Residential Design Codes 2002 and is recommended for approval subject to a number of conditions, inclusive of compliance with previously applied conditions and the deletion of the previous condition relative the maximum retaining wall height.

**OFFICER RECOMMENDATION****APPROVAL**

**THAT THE APPLICATION FOR PLANNING APPROVAL FOR RETAINING WALLS AND EARTHWORKS ON LOT 91 (42) OGILVIE ROAD, MOUNT PLEASANT, BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

**SPECIAL CONDITIONS:**

- 1. THE DELETION OF SPECIAL CONDITION 1 AND SPECIAL CONDITION 2 OF PLANNING APPROVAL DA-2006-1435 DATED 20 OCTOBER 2006.**
- 2. COMPLIANCE WITH ALL OTHER SPECIAL CONDITIONS AND STANDARD CONDITIONS OF PLANNING APPROVAL DA-2006-1435 DATED 20 OCTOBER 2006.**
- 3. THAT THE AFFECTED ADJOINING PROPERTY OWNER BE NOTIFIED OF THE DECISION MADE BY THE COUNCIL.**

**U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC)**

Ward	:	City
Category	:	Planning / Building Development
Application Number	:	DA-2007-374
Property	:	11 Pitt Way, Booragoon WA 6154
Proposal	:	Application for retrospective planning approval for public worship development
Applicant	:	Indonesian Charismatic Worship Service
Owner	:	Indonesian Charismatic Worship Service
Disclosure of any Interest	:	No officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Keith Weymes, Manager Planning & Development Services
Previous Items	:	See Background

**SUMMARY**

The application is for the challenging of conditions 1, 2 and 3 of the amended planning approval dated 16 December 2002 for a public worship development on Lot 802 (11) Pitt Way, Booragoon relative to parking requirements.

The applicant cannot challenge those conditions because applicant has acted on the amended planning approval issued and the development has been carried out and is being occupied.

As a consequence, this application is for retrospective planning approval for the public worship development on the same site. All aspects of the development, with the exception of car parking, shall remain the same in this application as approved under the planning approval dated 12 September 2002 and amended planning approval dated 16 December 2002.

It is recommended that the current application for retrospective planning approval be approved.

**BACKGROUND**

The City of Melville issued planning approval dated 12 September 2002 (DA-431/2002/DAC) for a public worship building on the site.

The City of Melville also issued an amended planning approval dated 16 December 2002 (DA/671/2002/AMEND).

With respect to the amended planning approval, the applicant has indicated that they were aggrieved by Special Conditions 2 and 3:

**U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC)**

- “1. A minimum of 23 car parking bays to be provided for the use by the patrons of the church either on site or as through legal agreements being put in place to use parking on adjacent properties with a minimum of 14 parking bays to be provided on-site.
2. The applicant entering into an agreement (at the applicant’s cost) with Council and the owners of the adjacent properties to be used for car parking on Sundays.”
3. A Notification to be placed on the Certificates of Title for the properties covered by the legal agreement required by Special Condition 2, under s70A of the Transfer of Land Act 1893.”

The applicant carried out the development and did not comply with the above conditions. This resulted in the serving of a direction under s214 of the planning and development act 2005 on the owner of the site for not carrying out development in accordance with the planning approval issued.

**Scheme Provisions**

MRS Zoning : Industrial  
 CPS 5 Zoning : Mixed Business  
 R-Code : R20/25  
 Use Type : Public Worship  
 Use Class : D

**Site Details**

Lot Area : 1070sqm  
 Retention of Existing Vegetation : No  
 Street Tree(s) : No  
 Street Furniture (drainage pits etc) : No  
 Site Details : [U07 0088 PROPERTY MAP.pdf](#)

[U07 0088 April 2007.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Wednesday 11 April 2007

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Carparking	1 bay for every 4 patrons plus 1 bay for every staff member (24 bays)	<b>14 bays</b>	<b>Does Not Comply</b>	DTDS	

(Note: Non-compliance is emphasised in bold)

**U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC)****Setbacks**

Not applicable.

**POLICY IMPLICATIONS**

City of Melville Policy 06-pl-024 Car Parking (Non-residential)

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: No

**REFERRALS TO GOVERNMENT AGENCIES**

Required: No

**STATUTORY AND LEGAL IMPLICATIONS**

The applicant may have the right to make application for the decision of the City of Melville to be reviewed under Part XIV of the Planning and Development Act 2005.

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no anticipated strategic and risk management implications.

**COMMENT**

The applicant has requested retrospective planning approval for a maximum of 92 persons for the existing public worship development on the site.

The City of Melville policy relating to car parking provides that the use of public worship shall provide 1 car bay for every 4 patrons plus 1 car bay for every staff member (1).

Based on the applicant's proposal, the public worship development requires 24 car bays to comply with the policy.

A Parking Impact Statement has been prepared by Transcore and submitted as part of the application for retrospective planning approval.

The Statement indicates that there are 14 car bays on the site and the remaining number of car bays required under the policy could be provided on the street in Pitt Way.

**U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC)**

Whereas it is standard practice for all parking requirements to be provided on site, this is not specifically required under the Scheme provisions or Council Policy. Accordingly, it is open for Council to consider the partial provision of parking in the street in accordance with Council Policy. It is noted that the value of the bays proposed to be provided in the street would be likely to be in the order of \$200,000.

The Parking Statement has been reviewed by the City of Melville Technical Services and proposal for on street car parking on Pitt Way has, generally, been supported. Technical Services have advised that at this time there is no need for signage on Pitt Way to control car parking nor is there a need to mark bays for car parking on Pitt Way. It has been observed that there are a number of cars currently parked on Pitt Way during standard business hours during the weekdays. Additional on street car parking is likely to be a result of the growth of businesses located along Pitt Way. The City of Melville Technical Services have no objection to this practice continuing and have no intention of prohibiting on street car parking on Pitt Way at this time.

It is noted that there is no further capacity for additional cars to be parked on Pitt Way during standard weekday business hours. Therefore, during standard weekday business hours all parking relative to the public worship development should be contained on the site, whereas at times outside of standard business hours on weekdays and on weekends it appears reasonable to permit some car parking associated with the public worship development to be accommodated on Pitt Way.

**A. OFFICER RECOMMENDATION****APPROVAL**

**THAT THE APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR THE PUBLIC WORSHIP DEVELOPMENT ON LOT 802 (11) PITT WAY BOORAGOON BE APPROVED AND SUBJECT TO THE FOLLOWING:**

**SPECIAL CONDITIONS:**

- 1. THIS PLANNING APPROVAL REPLACES THE PLANNING APPROVAL DATED 12 SEPTEMBER 2002 (DA-431/2002/DAC) AND THE AMENDED PLANNING APPROVAL DATED 16 DECEMBER 2002 (DA/671/2002/AMEND).**
- 2. THE MAXIMUM NUMBER OF PATRONS ON WEEKENDS, AFTER 7.00PM ON WEEKDAYS AND PUBLIC HOLIDAYS BEING 92 AND THE MAXIMUM NUMBER OF PATRONS AT ALL OTHER TIMES BEING 52.**

**STANDARD CONDITIONS:**

- 1. THE DEVELOPMENT COMPLYING WITH THE ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997 AS PER THE RECOMMENDATIONS IN THE ACOUSTIC CONSULTANTS REPORT DATED**

**U07/0088 – (AJP) APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR PUBLIC WORSHIP ON LOT 802 (11) PITT WAY, BOORAGOON (REC)**

- 2. THE “GREY” COLOUR AND NON-SACRIFICIAL GRAFITTI AGENT APPLIED TO THE BOUNDARY WALL ALONG THE EASTERN BOUNDARY OF THE SITE BEING MAINTAINED FOR THE LIFE OF THE DEVELOPMENT TO A STANDARD ACCEPTABLE TO THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 3. THE LANDSCAPING BEING MAINTAINED FOR THE LIFE OF THE DEVELOPMENT TO A STANDARD ACCEPTABLE TO THE MANAGER PLANNING AND DEVELOPMENT SERVICES AND IN ACCORDANCE WITH THE APPROVED LANDSCAPING PLAN DRAWN DATED 7 JULY 2003.**
- 4. ALL EXTERNAL LIGHTING BEING HOODED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 5. THE CAR PARKING BAYS, DRIVEWAYS AND ASSOCIATED MEANS OF ACCESS TO THE SITE BEING MAINTAINED FOR THE LIFE OF THE DEVELOPMENT TO A STANDARD ACCEPTABLE TO THE MANAGER PLANNING AND DEVELOPMENT SERVICES AND IN ACCORDANCE WITH THE APPROVED PLANS.**
- 6. ALL STORMWATER AND DRAINAGE RUNOFF BEING CONTAINED ON SITE AND ALL DOWNPIPES BEING CONNECTED TO SOAKWELLS. THE ONSITE STORMWATER DRAINAGE SYSTEM BEING MAINTAINED FOR THE LIFE OF THE DEVELOPMENT AND TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**

**FOOTNOTE: THE CAR PARKING FACILITY ON THE SITE IS TO BE THE FIRST PREFERENCE FOR CAR PARKING BY PATRONS OF THE PUBLIC WORSHIP DEVELOPMENT. IT IS THE RESPONSIBILITY OF THE CHURCH TO INFORM PATRONS ACCORDINGLY.**

- B. THAT THE DIRECTION DATED 5 JANUARY 2007 AND ISSUED BY THE CITY OF MELVILLE ON THE INDONESIAN CHARISMATIC WORSHIP SERVICE INCORPORATED OVER LOT 802 (11A) PITT WAY BOORAGOON FOR UNDERTAKING DEVELOPMENT IN CONTRAVENTION OF SPECIAL CONDITIONS 2 AND 3 OF THE PLANNING APPROVAL DATED 16 DECEMBER 2002, BE WITHDRAWN.**
- C COUNCIL NOTE THAT THE VALUE OF THE STREET PARKING APPROVED UNDER THIS APPLICATION IS APPROXIMATELY \$200,000.**