



— City of —  
**Melville**

**REPORTS AND RECOMMENDATION**

**FROM THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**9 DECEMBER 2008**

- NOTES:**
1. This Meeting makes Recommendations to the Manager Planning & 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 Manager Planning & 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: 12 DECEMBER 2008**



— City of —  
**Melville**

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**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,  
BOORAGOON, COMMENCING AT 1:30PM ON TUESDAY 9 DECEMBER 2008**

**PRESENT**

D Vinicombe (Presiding Member)  
J Gonzalez  
P. Prendergast  
T Capobianco  
R Jessup  
R Bailey

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

**APOLOGIES**

D Monteiro

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 Manager Planning & 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.**

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**U08/0288– (RJ) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING DECEMBER 9 2008**

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	63 Duncraig Road Applecross	A Pathway request 90229 has been made to remove two trees on the verge of this property. Both trees are young <i>Jacaranda mimosifolia</i> , located in the Carron Road frontage. One removal is requested to allow access to the garage of the new dwelling currently under construction with the second request for removal relating to it being damaged and leaning over. Both trees are shown on the approved development plans, and both trees are shown clear of crossover access.	Whilst one of the trees has a lean, this does not represent integral damage and is more of an aesthetic detraction. The crown of the tree will correct itself over time. The current clearance to the crossover is not expected to be an issue. Given the young age of the present tree stock in the road, replacement of these trees with advanced specimen stock will not impact on the streetscape. Recommended to support removal of the two trees and replacement with two semi advanced <i>Jacaranda mimosifolia</i> trees in 100 litre containers at the applicant's expense.
2	46 Coogee Road Ardross	A Pathway request to remove one street tree to allow construction of a crossover to a new dwelling. The tree is a mature <i>Callistemon viminalis</i> (Weeping Bottlebrush) in good condition with multiple trunks. Planning Approval previously granted and the existing street tree is shown clear of the crossover. However the owner believes it will restrict access.	Recommend retention of the existing street tree and that the City of Melville remove one of the trunks which will allow adequate access to construct the proposed crossover without impacting on the streetscape.

**U08/0288– (RJ) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING DECEMBER 9 2008**

3	734 Canning Highway Applecross	Dataworks request to remove one tree to allow construction of a crossover to access a proposed new single storey dwelling. Assessment for the Building License is underway. The tree is a mature <i>Agonis flexuosa</i> (WA Peppermint) in reasonable condition; however has beginning to “senesce”. There are also some fractures in the trunk of the tree which are beginning to develop also due to the tree’s old age.	Planning Approval previously granted on the basis the tree is removed and replaced at the owners full cost. This will improve egress from the property particularly as Canning Highway is a major arterial road and will provide the City of Melville an opportunity for renewal of the existing street tree which is in decline.
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**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)**

Ward	:	Bull Creek - Leeming
Category	:	Operational
Application Number	:	HO-246
Property	:	8 Hertford Close, BULL CREEK
Proposal	:	Home Occupation - Florist
Applicant	:	Lynda Joy Seotis
Owner	:	Ms Lynda Joy Seotis and Mr Michael Seotis
Disclosure of any Interest	:	No officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	David Vinicombe, Manager Planning & Development Services
Previous Items	:	Attach any previous items here

**AUTHORITY / DISCRETION**

	<u>Definition</u>
<input type="checkbox"/> Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/> Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i>
<input type="checkbox"/> Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/> Review	<i>when Council reviews decisions made by Officers.</i>
<input checked="" type="checkbox"/> Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**KEY ISSUES / SUMMARY**

- Application is for a home occupation for a florist.
- Compliant with Clause 5.6 of the Community Planning Scheme No. 5 with the exception of the employment of two (2) staff members (not members of the occupying family), and two (2) clients proposed to be on site at any given time.
- Signage proposed states the name of the business and measures 0.06 sqm.
- Neighbour comment has been sought, with no objections.
- It is recommended that the application be approved.

**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)**

**BACKGROUND**

No relevant background.

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : Living Area – BLK1  
 R-Code : R20  
 Use Type : Home Occupation  
 Use Class : D

**Site Details**

Lot Area : 712 sqm  
 Retention of Existing Vegetation : Yes  
 Street Tree(s) : No  
 Street Furniture (drainage pits etc) : Yes  
 Site Details : [U08\\_0289\\_PROPERTY\\_MAP.pdf](#)

[U08\\_0289\\_December\\_2008.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 12 December 2008.

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Carparking	2 bays for the existing dwelling, plus 2 bays for staff member and customer use. (Total 4 bays)	4 bays	Complies		

**Setbacks**

Not applicable.

**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD  
CLOSE, BULL CREEK (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

There is no relevant Council Policy.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes – 3 letters sent  
Neighbour's Comment Supplied: Yes – 3 responses received  
Reason: Home occupation is a discretionary use under the provisions of CPS5  
Support/Object: Three letters of support received.

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/Support/Dismiss)</b>
1	No objection	Support	No comment	Uphold
2	No objection	Support	No comment	Uphold
3	No objection	Support	No comment	Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for planning approval, the applicant may have the right to have the decision reviewed in accordance with Part 14 of the Planning and Development Act 2005.

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)****STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no anticipated strategic and risk management implications.

**COMMENT**

The applicant proposes the following:

- Business comprising supply of floral arrangements, which is primarily conducted via telephone, facsimile and email, with minimal customers visiting the property.
- Members of the occupying family use their private vehicles to deliver floral arrangements to customers, as well as to collect the majority of their floral supplies from the markets. The exception to this is one supply delivery (of orchids) per week to the property.
- One (1) backyard workshop on the subject lot is to be used in relation to the home occupation. The workshop is 45 sqm in area, however only 35 sqm is to be used for the home occupation.
- The hours of operation of 7.30 am to 5.00 pm Monday to Friday, with some hours proposed on Saturdays and Sundays. These hours are to be used for receipt of orders, and involve minimal or no visits to the property by customers or employees.
- There are two (2) part time employees proposed who are not members of the occupying family.
- No more than two (2) customers will visit the site at any time in relation to the home occupation.
- Two (2) car parking bays for the home occupation.
- An advertising sign stating the name of the business, measuring 0.06 sqm.

The proposed home occupation complies with the provisions of the Community Planning Scheme No. 5 with the exception that there are two (2) part-time members of staff proposed who do not reside on the premises, and two (2) customers may be on site at any given time.

Under the provisions of the CPS No. 5, the employment of any person not a member of the occupier family may be permissible subject to the granting of special approval. It is noted that the term “special approval” is not defined by the Scheme. Other forms of approval provided by the Scheme, such as “Special Majority” and “Absolute Majority” specifically require referral to Council for determination. In this case special approval is similar to an “S” use under the Use Class Table, which if applied in the same manner, means that approval may be issued by the Development Advisory Unit following advertising.

**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)**

In considering whether the staff and parking exceptions may be endorsed in this case, it is noted that the activities associated with the arrival and departure of two non-resident staff members may be satisfactorily accommodated without prejudice to the general amenity of the area. The home occupation is a florist business primarily conducted via phone, email and fax. Members of the occupying family collect a majority of the floral supplies required for their business, with the exception of one delivery of orchids to the property per week. In addition, there is a collection every second week of the waste produced from the floral arrangements, which is stored in garden bags in the back yard of the subject property prior to collection. Delivery of the floral arrangements to customers is undertaken by members of the occupying family. The two proposed staff members are required on an "as needed" basis, for example when a large order has been received or when members of the occupying family are not available to work due to other commitments. The need for the employees is expected to be very sporadic, and will be on a part time basis only. One of the proposed employees is the mother of the applicant. In addition, the employees would not be required for assistance with any customers visiting the property, and as such, coordination of vehicles visiting the property in relation to the home occupation can be undertaken as employees and customers will not be on site at the same time. The impact of the activities associated with the home occupation will therefore be minimised for the benefit of local residents.

In assessing the impact that two customers will have to the home occupation, the likely nature and frequency of their visits has been taken into consideration. The home occupation for the most part does not comprise visits by customers as most orders are placed by phone, email and fax. On occasion however, more than one customer may attend the property to make selections for floral arrangements, for example in relation to wedding orders. On such occasions these customers will likely arrive and depart together in the same vehicle, thereby minimising any adverse impact that their visit will have on the premises.

Sufficient car parking is provided on the subject lot. The driveway can accommodate three (3) vehicles and there is an additional hardstand car bay located adjacent to the carport. This provides the two (2) car bays required for the dwelling, as well as two (2) bays for the home occupation. In addition, there is space for the parking of two (2) more vehicles on the grassed area adjacent to the driveway and contained within the lot boundary, thus retaining the residential character of the property.

This home occupation can be accommodated without detriment to residential amenity and as such it is not considered pertinent to impose restrictions on operating hours. The applicant requires flexibility for the receiving and preparation of flower orders, and the imposition of operating restrictions would impede that flexibility for no good reason. In the event that the operation of this home occupation gave rise to complaints from the occupiers of neighbouring properties the matter of operating restrictions can be reconsidered, either immediately or at the time of any renewal. This is considered unlikely, particularly in view of the support that the applicant has received from her three (3) immediate neighbours.

**U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)**

The signage proposed is within the size limit tolerated by CPS No. 5, and is designed to reflect the residential character of the Bull Creek Precinct.

**CONCLUSION**

It is concluded that the home occupation may operate from this residence in accordance with the Council's requirements and without detriment to residential amenity. Accordingly, it is recommended that the application be conditionally approved.

**OFFICER RECOMMENDATION****APPROVAL**

**THAT THE APPLICATION FOR A FLORIST HOME OCCUPATION AT LOT 624 (8) HERTFORD CLOSE BULL CREEK, BE APPROVED AND SUBJECT TO THE FOLLOWING:**

**SPECIAL CONDITIONS:**

- 1. NO MORE THAN TWO PERSONS ASSOCIATED WITH THE HOME OCCUPATION (INCLUDING EMPLOYEES), OTHER THAN MEMBERS OF THE OCCUPYING FAMILY, BEING ON THE SITE AT ANY ONE TIME.**

**STANDARD CONDITIONS:**

- 1. COMPLIANCE WITH THE CITY OF MELVILLE COMMUNITY PLANNING SCHEME NO 5.**
- 2. COMPLIANCE WITH ALL BUILDING AND HEALTH LOCAL LAWS AND REGULATIONS WITHIN THIS CITY.**
- 3. THE APPLICANT MUST PERMANENTLY RESIDE ON THE PREMISES.**
- 4. NO MORE THAN 38 SQUARE METRES OF THE DWELLING BEING USED FOR THE HOME OCCUPATION.**
- 5. ALL PARKING ASSOCIATED WITH THE HOME OCCUPATION TO BE ACCOMMODATED WITHIN THE SUBJECT PROPERTY ONLY. ON-STREET PARKING IS NOT PERMITTED.**
- 6. NOT MORE THAN ONE SIGN, BEARING THE NAME OF THE BUSINESS ONLY AND NOT EXCEEDING AN AREA OF 0.2 SQUARE METRES, SHALL BE ERECTED ON THE PROPERTY WITH REGARD TO THE HOME OCCUPATION.**

U08/0289 - (NW) - HOME OCCUPATION OF FLORIST ON LOT 624 (8) HERTFORD CLOSE, BULL CREEK (REC) (ATTACHMENT)

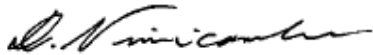
7. IF IN THE OPINION OF THE COUNCIL, THE HOME OCCUPATION IS CAUSING A NUISANCE OR ANNOYANCE TO OWNERS OR OCCUPIERS OF LAND IN THE NEIGHBOURHOOD THE COUNCIL MAY REVOKE ITS APPROVAL.
8. THIS APPROVAL MAY NOT BE TRANSFERRED TO ANY OTHER PERSON OR PROPERTY.
9. THIS APPROVAL IS VALID FOR A PERIOD OF TWELVE (12) MONTHS FROM THE DATE OF APPROVAL ONLY AND THE APPLICANT IS TO SEEK RENEWALS THEREAFTER TO ENABLE CONTINUANCE OF THE HOME OCCUPATION.
10. THE HOME OCCUPATION SHALL NOT REQUIRE THE PROVISION OF ANY ESSENTIAL SERVICE OF A GREATER CAPACITY THAN NORMALLY REQUIRED FOR THE PERMITTED USE OF THE LOT.
11. THE HOME OCCUPATION SHALL NOT CREATE INJURY TO OR PREJUDICIALLY AFFECT THE AMENITY OF THE NEIGHBOURHOOD INCLUDING (BUT WITHOUT LIMITING THE GENERALITY OF THE FORGOING) INJURY OR PREJUDICIAL AFFECTION DUE TO THE EMISSION OF NOISE, VIBRATION, SMELL, FUMES, SMOKE, VAPOUR, STEAM, SOOT, ASH, DUST, GRIT, OIL, WASTE WATER OR WASTE PRODUCTS.

**U08/0291– (DV) – DEVELOPMENT ADVISORY UNIT MEETING OVER CHRISTMAS NEW YEAR BREAK**

Elected Members are advised that next week's Development Advisory Unit (DAU) report distributed on 19 December will be the last report for 2008. This report will include the Fiona Stanley Hospital recommendation to the WA Planning Commission.

The DAU will take a short break over the Christmas and New Year period and reconvene on Tuesday 6 January, with the report being distributed on 9 January.

The DAU would like to wish all Elected Members and happy Christmas and New Year, and look forward to reporting to you next year.



David Vinicombe  
Manager Planning and Development Services