



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FROM THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

17 MARCH 2009

- 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: 20 MARCH 2009



— 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 17 MARCH 2009**

PRESENT

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

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

APOLOGIES

R Bailey
D Monteiro

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 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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**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

Ward : Bicton/Attadale Ward
Category : Operational
Application Number : DA-2009-94
Property : Lot 182 (42) Hislop Road, ATTADALE
Proposal : Proposed change of use to Consulting Rooms
(Medical)
Applicant : SJB Town Planning & Urban Design
Owner : Mr M R Lowings and Mrs L Lowings
Disclosure of any Interest : No Officer involved in the preparation of this
report has a declarable interest in this matter.
Responsible Officer : Mr David Vinicombe
Manager Planning and Development Services
Previous Items : Not Applicable

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 & 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> |

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Proposal is for a change of use from residential to medical consulting rooms.
- Lot immediately opposite the Attadale Private Hospital, which is contained within the Hislop Frame (Commercial Centre Frame).
- Subject property however is located within the River Foreshore Living Area.
- Consulting room is an “S” use, which requires discretion of the Council.
- Purpose of this discretion is to provide for community benefit with low-key health services which do not adversely impact on surrounding neighbourhood amenity.
- Application formally advertised in accordance with CPS No. 5.
- 17 objections have been received.
- Issues raised generally relate to carparking, anti-social behaviour (crime) and property devaluation.
- Application is considered to have negative amenity impacts on surrounding residential properties and represent an inappropriate intrusion of hospital facilities in the adjacent residential area.
- Application is recommended for refusal.

BACKGROUND

The subject lot is located between Kingsall Road and Burke Drive and opposite Attadale Private Hospital. The existence of the hospital use has resulted in there being parking and associated road safety issues in the immediate locality due to the spillage of traffic associated with the hospital onto Hislop Road.

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R12.5
Use Type	:	Consulting Room
Use Class	:	‘S’ – use not permitted unless Council exercises discretion following advertising

Site Details

Lot Area	:	983.21 sqm
Retention of Existing Vegetation	:	Yes
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	U09_0045_PROPERTY_MAP.pdf

[U09_0045_March_2009.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 20 March 2009

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Carparking	7	10	Complies		

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes – 17
 Reason: "S" Use
 Support/Object: 17 Objections – all generally refer to the same areas of concern. A summary of these concerns are listed below.

Submission Reference	Summary of Submission	Support/ Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
1.	Objection to development on basis of property devaluation.	Objection	Unsubstantiated/ not a material planning consideration.	Not Uphold
2.	Objection to development on basis of use would increase crime and other antisocial activities.	Objection	The incidence of crime and/or anti social behaviour can be mitigated against via the use of security measures such as installation of security gates at the commencement of the driveway. The requirement to put such measures in place could be a condition of planning approval.	Condition

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

3.	Objection to development on basis of safety issues given high traffic flow around a dangerous bend generally banked with parked cars belonging to people attending the hospital.	Objection	The applicant has advised that there will be no net increase in the level of traffic in this area as a result of their proposal as the traffic associated with their activities will be displaced from the hospital itself to the proposed consulting rooms. Whilst this is noted, the reality is that the space within the hospital freed up by the vacating of the services provided by the applicants will no doubt be used by the hospital itself to expand the range of services offered or at least consolidate those already in existence. This will therefore result in a net increase in traffic flow in the vicinity, contrary to the claims made by the applicants in support of the proposal.	Uphold
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**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

	The carparking at the rear will serve to increase noise made from cars entering and exiting the property as well as verbal noise.		Noise from the parking of vehicles, including the opening and closing of car doors and associated verbal noise may give rise to detriment to the levels of residential amenity currently enjoyed by adjoining residents, particularly those whose private outdoor areas share a boundary with the proposed rear car parking area and accessway.	Uphold
	It is difficult to uphold the Scheme requirement for 25% of the site for landscaping given the large amount of carparking space taken up.		With a plot ratio of less than 0.2 (169sqm), there is sufficient room for landscaping.	
4.	Objection to development on basis of property rezoning.	Objection	The zoning will not be affected as a result of any resolution regarding this application.	Not Uphold

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

Setbacks

Clause 5.7 of CPS No. 5 requires setbacks of commercial buildings abutting residential properties to be a minimum 2.0m from side and 6.0m from rear boundaries. The proposed change of use of the subject property from a residence to Consulting Rooms accommodates these requirements. The setbacks are therefore compliant with CPS No. 5.

REFERRALS TO GOVERNMENT AGENCIES

Required: No
Reason: N/A
Support/Object: N/A

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for Planning Approval, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the Planning and Development Act 2005.

FINANCIAL IMPLICATIONS

Not Applicable

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not Applicable

ALTERNATIVE RECOMMENDATIONS

Council may choose to approve this application if it considers the use does not have an adverse impact on the amenity of the adjoining property owners (or that this impact may be satisfactorily ameliorated by the provision of 1.8m high masonry fencing along all side and rear boundaries) and does not represent an intrusion of commercial uses into the Living Area Precinct. Should this be the view of Elected Members, they may request that this application be presented to the next available council meeting for determination.

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

Council Policy ref 06-PL-024 Car Parking (non residential) exists to provide guidance to control the provision of non residential car parking. Under the requirements of this Policy a medical consulting room use shall be provided with three (3) bays per practitioner plus one (1) per staff member including the practitioner.

In defining the use “consulting room(s)” CPS No. 5 states that they cannot be used by more than 2 health consultants and one staff member for patient care. As such the operation of this facility in accordance with CPS No. 5 requirements will result in a demand for 9 car parking bays in accordance with Council Policy

COMMENT

The main issues for consideration in the determination of this application relate to whether the proposed use is acceptable in land use terms in accordance with CPS No. 5 and whether it can be accommodated without detriment to levels of residential amenity or road safety.

Land Use Considerations

Under the provisions of CPS No. 5, the application site in question is located within a River Foreshore area. Such areas are characterised as being primarily low density and residential in character, although home occupations, parks, ,religious, recreational, educational and community uses may be accommodated in land use terms provided that they complement rather than detract from the character of the area.

A consulting room is defined by CPS No 5 as “land or buildings other than a hospital used by not more than 2 health consultants and 1 staff member for the investigation or treatment of human injuries or ailments and for general patient care”. This is classed as an “S” use in accordance with the Use Class Table of CPS No. 5, and as such is not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d) of CPS no 5. The application has been the subject of a programme of advertising in accordance with these requirements and a total of 17 letters have been received opposing the proposed development from interested local residents.

The application is required to be considered in the context of Clause 7.8 of CPS No 5 with regard to such matters as the objectives of the Scheme, orderly and proper planning, existing and likely future amenity of the area, any Planning Policy of the State, any relevant submission and any other relevant planning consideration.

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

The primary intent of permitting a medical consulting use within a residential area is to provide local communities with the ability to easily access local health practitioners such as general practitioners. These uses have evolved over time from consulting rooms for one practitioner only (and often involving the medical consultancy being operated by a practitioner who actually resided within the practice premises) to permit 2 consultants as previously outlined, on the proviso that the character of the areas within which such uses are located is not undermined. These activities are often accommodated in residential areas, particularly where medical facilities are not provided within commercial type zones in order to raise service levels within residential areas and encourage sustainable transport objectives. They are also often established at major intersections and along major roads, where exposure to passing traffic and good public transport provides suitable sites in areas of diminished residential amenity.

The use is also considered to be beyond the scope and intent of such uses as provided for by CPS No 5. This view is reached as the nature of the medical services to be offered are more specialist than general and patronage to the facility will come from beyond the immediate local area for hospital related medical services. In addition the size of the facility may be considered in excess of that deemed appropriate under the provisions of CPS No 5, as the layout provides for 4 consulting rooms, twice as many as that envisaged and the staff area provides accommodation for considerably more than one staff member.

Whilst it could be argued that the property has reduced residential amenity in that it is located opposite the Attadale Hospital, and in terms of Liveable Neighbourhoods, is appropriately located backing onto residential development rather than across the road as present, it is apparent that the existence of the hospital opposite the residential area does not detrimentally impact on the residential amenity of the locality or streetscape (other than parking). It is noted that these concerns are acknowledged in CPS No. 5. Although the statement of intent for another Frame Precinct (Farrington) and therefore not applicable directly to this Living Area Precinct, the principle of avoiding rear parking areas to protect the amenity of adjacent residents is raised and no rear parking is permitted in that Precinct. Accordingly, the use of the subject premises as Consulting Rooms and the type and scale of the activities proposed therein may be considered to be an unacceptable intrusion in to the residential environment as the residential character of the locale would be diminished.

That view does not detract however from the fact that the application site lies within an area where CPS No. 5 does not envisage a commercial development such as is proposed, and in one where dwellings sit side by side in a residential environment. The Hospital alternatively is located within a Commercial Centre Frame (Hislop Frame), within which medical practitioners are defined as acceptable uses in principle. It is notable that a hospital is a non conforming use in a Commercial Centre Frame, albeit authorised in planning terms by virtue of its longevity. The creation of medical consulting rooms in the manner proposed by this application could be seen to be extending the impact of a non conforming use into a predominantly residential environment, contrary to the spirit and intent of CPS No. 5.

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)**

The type of medical consulting proposed to be offered from the subject premises may be readily accommodated in accordance with CPS No. 5 within the Hislop Community Centre Precinct. This precinct is located a short distance away from the application site closer to Canning Highway, and CPS No. 5 identifies medical uses as appropriate in land use terms.

It is therefore considered that the use of the application site as specialist type medical consulting rooms associated with the Hospital represents an acceptable encroachment of Hospital uses in to the adjacent Living Area Precinct and is therefore not supported in land use terms.

Car Parking and Traffic Issues

Under the provisions of Council Policy, a total of nine off street car parking bays are required for the use proposed. The details submitted with the application depict the provision of 10 bays in total, 3 within the front setback area, and 7 within the rear garden area. Whilst this complies with the Councils requirements in terms of the number of bays provided, there is concern that the use of the bays located within the rear garden area will give rise to a reduction in the levels of residential amenity currently enjoyed by those residents whose own rear gardens/outdoor living spaces abut the parking area and accessway. It is preferable that car parking is provided within the front setback areas of properties only, thereby retaining the calm and quiet associated with rear garden areas. Alternatively staff parking bays can be accepted within the rear areas as there is generally less movement associated with staff vehicles when compared to the vehicles of patients, particularly where 1.8m high masonry fencing is provided along all side and rear boundaries. As there is not enough space within the front setback area to satisfy the demand for patient parking in accordance with the Councils requirements, the proposal would be in conflict with the provisions of Clause 7.8 of CPS No. 5. As such the application for change of use is not supported in parking terms.

In general terms the use will result in additional traffic in the vicinity of the application site. The applicant contends that as the services that they will offer from the site are already provided within the Attadale Hospital, that there will be no net increase in levels of traffic in the vicinity. In reality the space created within the hospital once the practitioners in question have set up in the site at 42 Hislop Road will be absorbed within the wider activities associated with the hospital, and there will be a net increase in the number of vehicles visiting that part of Hislop Road. Whilst there is no evidence to suggest that there is an issue with the capacity of Hislop Road to deal with the additional demands likely to be placed upon it, the increase in traffic is nonetheless a reality for residents of the area.

**U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)****CONCLUSION**

Whilst Council often supports these types of uses in residential areas, there appear no strong grounds for such in this case, other than to allow the indiscriminate expansion of hospital facilities into the adjacent high quality residential area. As such, approval will provide an undesirable precedent for further expansion of commercial activities into the adjacent residential area to the detriment of its amenity. It is considered that the use of these premises as consulting rooms will conflict with the pattern of land use in the immediate vicinity, and the way in which it is proposed to provide off street car parking bays will give rise to a reduction in levels of residential amenity enjoyed by local residents, contrary to the provisions of CPS No 5. As such the proposal is recommended for refusal.

OFFICER RECOMMENDATION**REFUSAL**

- A) THAT THE PROPOSED CHANGE OF USE FROM RESIDENTIAL TO MEDICAL CONSULTING ROOMS ON LOT 198 (42) HISLOP ROAD BE REFUSED FOR THE FOLLOWING REASONS:**

STANDARD CONDITIONS:

- 1. THE PROPOSED DEVELOPMENT WILL, BY VIRTUE OF ITS SCALE AND THE NATURE OF THE MEDICAL SERVICES PROVIDED, BE CONTRARY TO THE RESIDENTIAL CHARACTER OF THE LOCALITY AND CONFLICT WITH THE PROVISIONS OF CLAUSE 7.8 OF THE CITY OF MELVILLE COMMUNITY PLANNING SCHEME NO 5.**
- 2. THE PROVISION OF OFF STREET CAR PARKING WITHIN THE REAR SETBACK AREA WILL RESULT IN AN INCREASE IN BACKGROUND NOISE LEVELS IN THE IMMEDIATE VICINITY OF THE SITE TO THE DETRIMENT OF LEVELS OF RESIDENTIAL AMENITY CURRENTLY ENJOYED BY ADJOINING RESIDENTS. THIS WOULD BE CONTRARY TO THE ORDERLY AND PROPER PLANNING OF THE AREA, AND CONFLICT WITH THE PROVISIONS OF CLAUSE 7.8 OF THE CITY OF MELVILLE COMMUNITY PLANNING SCHEME NO 5.**
- 3. THE PROPOSED USE REPRESENTS AN INDISCRIMINANT EXPANSION AND ENCROACHMENT OF HOSPITAL FACILITIES INTO THE ADJACENT RESIDENTIAL AREA AND WILL PROVIDE AN UNDESIRABLE PRECEDENT FOR FURTHER EXPANSION OF COMMERCIAL ACTIVITIES INTO THE ADJACENT RESIDENTIAL AREA TO THE DETRIMENT OF THE EXISTING AND FUTURE RESIDENTIAL AMENITY OF THE LOCALITY.**

U09/0045 - (PS) CHANGE OF USE TO CONSULTING ROOMS (MEDICAL) ON LOT 198
(42) HISLOP ROAD, ATTADALE (REC) (ATTACHMENT)

**B) THE APPLICANT AND THOSE WHO RAISED OBJECTION TO THE PROPOSAL
BE ADVISED IN WRITING OF A) ABOVE.**

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2008-1623
 Property : 35A Canning Beach Road, APPLECROSS
 Proposal : 2 Storey Single Dwelling
 Applicant : Ms L Di Masi
 Owner : Ms L Di Masi
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Yes. Make contact with your Manager/Director.
 Responsible Officer : Mr David Vinicombe
 Manager Planning and Development Services
 Previous Items : DA-2006-2 Proposed 2 storey dwelling with undercroft approved by Council November 2008.
 Decision issued 5 December 2008.

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 & 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

- This application is for a two storey dwelling which generally complies with Council requirements with exception to a number of setback variations.
- The application has been advertised to potentially affected neighbours and 1 relevant objection has been raised in relation to the proposed setback variations.
- Notwithstanding the objection, the variation is considered acceptable as the development satisfactorily addresses the Performance Criteria of the Residential Design Codes.
- The application is recommended for approval.

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)**BACKGROUND**

In January 2008 the owner of 35a Canning Beach Road applied for planning approval for a two storey single house with an undercroft. Three neighbours were consulted and two objections were received. After lengthy negotiation and discussion with the applicant and neighbour's, the application was referred to an Ordinary Meeting of Council due to the extent of the variations proposed (primarily relating to overshadowing).

The Council resolved to support the application subject to conditions requiring the modification of the upper floor to provide additional sunlight to neighbouring properties. The owner has since decided against pursuing the original approval and prepared a new proposal in the form of this new application, the details of which address the majority of the concerns raised by Council during the original application, particularly with reference to the impact of overshadowing to the southern neighbouring property.

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area Precinct - River Foreshore
R-Code	:	R12.5
Use Type	:	Residential
Use Class	:	P – Permitted

Site Details

Lot Area	:	695 sqm
Retention of Existing Vegetation	:	N/A
Street Tree(s)	:	No
Street Furniture (drainage pits etc)	:	No
Site Details	:	U09 0048 PROPERTY MAP.pdf

[U09 0048 March 2009.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 20 March 2009

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	55%	56%	Complies		
Building Height	8m to eaves 10.5m max.	6m to eaves 7.5m max.	Complies		
Overshadowing	25% of southern lot	24.84% of southern lot	Complies		

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front (E)	3.75m minimum, 7.5m average	3.9m minimum, 7.6m average	Complies		
Rear (W)	6m setback 1.0m setback for outbuilding	1.0m to detached garden veranda, 10.4m to main dwelling 1.02m for outbuilding	Does not comply Complies	MPDS	
Side (N)					
Garage	1.1m	0m	Does not comply	MPDS	
Laundry – alfresco	1.5m	1.52m	Complies		
Change room/outbuilding	1m	1.52m	Complies		
Balcony – dressing room	1.9m	1.52m	Does not comply	MPDS	
Dressing room / ensuite	2.8m	2.7m	Does not comply	MPDS	
Shower - ensuite	1.5m	1.52m	Complies		
Side (S)					
Deck / theatre	1.5m	2m	Complies		
Entry	1.5m	2.9m	Complies		
Study – alfresco	1.5m	1.509m	Complies		
Rear veranda	1m	4.8m	Complies		
Balcony / retreat	1.5m	2.009m	Complies		
Entry / void	1.2m	2.909m	Complies		
Gallery / bed 4	2.8m	5.009m	Complies		

(Note: Non compliance is emphasised in bold)

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
Neighbour's Comment Supplied: Yes
Reason: Setback variations
Support/Object: 1 x Object

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold Not uphold)
1.	"These reduced set backs exacerbate the impact of building bulk and will therefore have an adverse affect on the amenity and enjoyment of our property"	Object	The setbacks satisfy the respective Performance Criteria and can therefore be supported. Please see comments section.	Not uphold
	The bulk impact is compounded by: <ul style="list-style-type: none"> The unattractive warehouse like appearance of the north side elevation; The absence of eaves; The proposal to render and paint north facing walls rather than use face / feature brick work; and The reduction of natural light to our dwelling, particularly the kitchen (vegetation adjacent to the kitchen is regularly pruned to fence height to maximise sunlight availability. 	Object	The setbacks satisfy the respective Performance Criteria and can therefore be supported. Please see comments section.	Not uphold

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

	<p>Very large setbacks are proposed to the southern boundary which is inequitable when compared to the northern setbacks.</p>	<p>Object</p>	<p>The proposed generous setback to the southern side boundary is designed to safeguard the occupiers of the property to the south from the effects of overshadowing. This is in accordance with the requirements of the R Codes, and is consistent with the sentiments of Council as expressed in the determination of the previous application for residential development on this site. The property to the north is not affected by overshadowing in the same way hence the setback can be reduced on that side</p>	<p>Not uphold</p>
	<p>It is possible that reducing the height would reduce overshadowing of their southern neighbour and this would make the northern setbacks comply.</p>	<p>Object</p>	<p>Noted, however the application complies with the height restrictions and is not out of character with surrounding dwellings.</p>	<p>Not uphold</p>

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

	The proposed boundary wall at the front will be 1.2m high and will create a hazard as visual sight lines reversing from 35a will be restricted.	Object	Noted. This aspect does not comply with the Residential Design Codes requiring fencing to be truncated or reduced to a maximum height of 0.75m within 1.5m of a driveway and 1.5m of the front boundary. A condition will be applied to this effect.	Condition/ uphold
	There is no information on the plans regarding landscaping between the verge and street setback.	Object	Noted. The plans provided suggest some areas in front of the decking and either side of the driveway will be landscaped.	Not uphold
	Examination of the plans indicates that a 'contained' rather than an 'open' streetscape is proposed. This is due to the majority of properties along Canning Beach Road containing vegetation between the verge and the building. It is requested that Council advise the developer to revise the plans to retain the residential character of the area.	Object	The proposed front setbacks comply with the Streetscape provisions of the R-Codes which aim to achieve open streetscapes in suburban areas.	Not uphold

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	<p>This application and the previous application have been going on for some time and have resulted in unnecessary stress for us. Council should have in place guidelines for developers to restrict the number and extent of variations to reduce the risks of neighbour harassment and the adverse effect on neighbour relations.</p>	<p>Object</p>	<p>The Residential Design Codes which apply through the State have been formulated with two sets of planning standards. One set is referred to as the Performance Criteria, and one set is referred to as Acceptable Development. All development must comply with the Performance Criteria. The Acceptable Development provisions are deemed to satisfy the Performance Criteria and have been included to provide applicants with a straight forward, simple path to approval. The City is unable to adopt a Policy or guidelines on the number of variations as proposing variations simply means that the applicant has elected for the application to be determined under the Performance Criteria not the Acceptable Development provisions. To meet either of these standards results in an acceptable planning outcome. In addition, in this case, it is not considered that a large number of variations are proposed.</p>	<p>Not uphold</p>
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U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

			<p>The consultation procedure is not intended to contribute to neighbour's stress level. Whilst this may occur in certain instances, the consultation process is intended to inform neighbour's of development occurring nearby and provide them with the opportunity to express their opinion. The consultation procedure does not shift the power or responsibility from Council to neighbour's.</p>	
	<p>These comments are preliminary for the reason that we have not completed a close examination of the plans. To finalise our comments we request that Council in turn request the developer to provide us with a copy of the plans as was the case with the previous development proposals for this property.</p>	Object	<p>Noted. Whilst the neighbours have indicated that they have not completed a close examination of the plans to finalise their comments, it is clear from the representations received, that they have been able to provide suitable commentary in relation to the proposed setback and boundary wall variations. Accordingly, provision of plans by the applicant is note considered necessary.</p>	Not uphold

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REFERRALS TO GOVERNMENT AGENCIES

Required: Yes
Reason: Abutting Swan River Trust Management Area
Support/Object: Support

Agency	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Support/Dismiss)
Swan River Trust	<p>Support subject to the following conditions:</p> <ol style="list-style-type: none"> 1. No development, fill, building materials, rubbish or any other deleterious matter shall be deposited on the Parks and Recreation reservation or allowed to enter the river as a result of the development. 2. Stormwater drainage shall be contained on site or connected to the local government stormwater drainage system. 3. Any fence or gate to be constructed along the boundary of the Parks Recreation reserve shall be open view with a maximum height of no more than 1.8 metres including any retaining walls. 	Support	<p>These conditions will be applied to the planning approval with exception to Condition 2 which will be replaced with the City of Melville's standard condition requiring the stormwater to be contained on site. The stormwater will not be allowed to connect to the City's stormwater system.</p> <p>The advice to applicant will be applied as a footnote.</p>	Condition

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	<p>Advice to applicant:</p> <p>1. The applicant is advised that the proposed development is located in an Acid Sulphate Soil Risk Area, and it is therefore recommended that an Acid Sulphate Soil Risk Assessment be carried out prior to development, and if necessary, a management plan be prepared and implemented.</p>			
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STATUTORY AND LEGAL IMPLICATIONS

Should the Council refuse the application for planning approval, the applicant will 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.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

There are no anticipated strategic or risk implications.

POLICY IMPLICATIONS

Not applicable

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

COMMENT

The development of the subject lot for residential purposes is acceptable in principle in land use terms as the lot is located within a Living Area under the provisions of CPS No 5, and planning permission exists for the erection of a 2 storey single dwelling, approved by Council in November 2008, issued 5 December 2008, and valid until 4 December 2010.

The proposal the subject of this report has been assessed against the provisions of CPS No 5 and the Residential Design Codes. Whilst the proposed development complies with the requirements of CPS No 5, variations are proposed to the setback requirements of the R-codes for which the applicant seeks approval under the performance criteria.

Setback Variations

The application proposes two upper floor setback variations as follows:

- a) Northern setback to the balcony - dressing room of 1.52m in lieu of 1.9m (0.38m variation);
- b) Northern setback to the dressing room / ensuite of 2.7m in lieu of 2.8m (0.1m variation); and
- c) Western setback to the detached veranda of 1.0m in lieu of 6m (5.0m).

The setback variations are assessed against the following Performance Criteria:

“P1 Buildings setback from boundaries other than street boundaries so as to:

- provide adequate direct sun and ventilation to the building;*
- ensure adequate direct sun and ventilation being available to adjoining properties;*
- provide adequate direct sun to the building and appurtenant open spaces;*
- assist with protection of access to direct sun for adjoining properties;*
- assist in ameliorating the impacts of building bulk on adjoining properties; and*
- assist in protecting privacy between adjoining properties.”*

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

It is considered that in relation to the setback variations sought to the northern side, a reduction in the “acceptable” setback by 0.38m for a length of 13.0m, and by 0.1m for a length of 4.0m may be sustained without giving rise to any detriment to levels of residential amenity on the part of the neighbouring property to the north. This view is reached based on the assessment of the proposal under the relevant performance criteria of the R codes, and to that end it is concluded that the variations sought can be supported as the reduced setback makes effective use of the space available whilst maintaining privacy for occupiers and does not result in any significant adverse impact in terms of overshadowing, bulk (see comments below) or ventilation on the amenity for proposed building or the occupiers of the adjoining property. The fact that the adjoining property is sited north of the proposed residence with its own setback ranging from 2.5m and 4.4m further supports this position.

There is no measure for the acceptance of building bulk and the extent in which it becomes unacceptable. Therefore the acceptance of bulk must rely on what constitutes building bulk and what elements have been introduced into the design to ameliorate the impacts.

The primary elements which are believed to exacerbate bulk are long, high and blank walls; and continuance of colours, materials and features (eg. Windows). The applicant has redesigned the northern elevation to include the following features:

- a) A number of different shape, size and height windows which assist in breaking up the warehouse look / continuance of features;
- b) Different roof finishes and levels. For example the front part of the building contains a visible parapet wall concealing a flat Colorbond roof, the boundary wall part contains a visible Colorbond roof and the remaining building contains a Colorbond roof atop the upper floor and parts of the ground floor;
- c) The building features two ducts extending from ground floor to 500mm above the finished floor level of the upper floor. These will present as protruding elements and will assist in providing visual variety;
- d) The building contains an articulated portion for 4m which is finished in planking as oppose to rendered brickwork;
- e) The proposed privacy screen to the balcony provides for a different material to break up the continuity of the brickwork.

The Residential Design Codes, through rigorous Privacy standards, constantly result in dwellings featuring high light windows for the entire length of the building. This may result in unattractive, bulky buildings which may consequently impact on neighbours. In this instance, the modifications mentioned above are believed to demonstrate that the applicant has intentionally introduced elements to assist in breaking up the visual impact of the wall and lessen the impact on the neighbour.

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In relation to the setback variation proposed along the rear (western) boundary, it is proposed to erect a free standing detached garden veranda structure setback 1.0m from the rear boundary, whilst the main rear wall of the proposed residence is itself set back 10.4m. The veranda area is attached to a change room/out building which is compliant with setback requirements both to the side and rear boundaries. As the variation to the setback requirements relates to an ancillary open sided structure, and as a setback of 10.4m is maintained to the residence itself, it is considered that the variation may be supported under the performance criteria as no adverse effect on amenity will result for the neighbour to the rear in terms of privacy, overshadowing, bulk (as the veranda is an open structure) or ventilation. In addition the neighbour was consulted on this setback variation and raised no objection to this structure and its setback..

Boundary Wall

The boundary wall of the garage is proposed with no setback from the northern side in lieu of a requirement of 1.1m

The boundary wall is assessed against the following Performance Criteria:

“P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- make effective use of space; or*
- enhance privacy; or*
- otherwise enhance the amenity of the development;*
- not have any significant adverse effect on the amenity of the adjoining property; and*
- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.”*

Under the performance criteria it is considered that the variation may be supported as the provision of the wall on the boundary makes effective use of the space available to the applicant, enhances their and their neighbour’s privacy, and does not result in any adverse impact on amenity for the neighbour to the north in terms of overshadowing, bulk or ventilation. The garage wall is a single storey element of the proposed structure and its existence will provide screening benefits from the street.

Based on the development plans submitted, the wall will be primarily located adjacent to the neighbour’s front yard which, as observed during a site inspection on 19 January 2009, contains a number of trees and shrubs adjacent to where the wall will be located. It is noted however that the neighbour has indicated that the majority of this will be removed in the near future. In any case, the area primarily affected by the wall is an area which is not used frequently or for extended periods of time. The neighbour’s primary outdoor living area is located at the west of their lot and is in no way affected by the wall.

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The wall does however extend to be located adjacent to a major opening of the neighbours dwelling. The separation between the major opening and the boundary wall is approximately 3.8m. The separation is more generous than that which may have been created as the Acceptable Development provisions can allow ground floor buildings with no major openings (such as this wall) to be setback 1.0m from the boundary (2.0m total separation). This consideration is believed to further warrant the acceptance of this wall.

In relation to sunlight impact on the neighbour, the wall is located on the neighbour's southern boundary. This means that any shadow will be cast over the development site and will not impact on the neighbour.

As such its impact is limited, and may be supported on that basis.

Front Deck

The front deck is proposed to be finished at a level of 10.572 relative to the assumed datum. Given the natural ground levels surrounding the deck of around 10.04, the deck is proposed to be constructed with a finished floor level 0.532m above natural ground level and is subject to the privacy requirements of the R-Codes.

The privacy standards of the R-Codes states that decks with a floor level more than 0.5m above natural ground level and which overlook any part of any other residential property behind its street setback line are required to comply with the standards. When superimposing the 7.5m line of sight setback distance within cone-of-vision from the deck, the property overlooks the neighbouring property in front of the street setback line only. Therefore the deck is exempt from further screening requirements. In any case there are valid grounds to support the overlooking from the deck under the Performance Criteria such as this area being visible from the street.

CONCLUSION

It is considered that the proposed development satisfactorily addresses the requirements of the R-Codes and represents a desirable improvement in the development of the property (in comparison with the former approval which included significantly greater variations). Accordingly, the proposal is recommended for conditional approval.

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

OFFICER RECOMMENDATION

APPROVAL

- A) THAT THE APPLICATION FOR A TWO STOREY SINGLE HOUSE ON LOT 500 (35A) CANNING BEACH ROAD, APPLECROSS BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

SPECIAL CONDITIONS:

1. NO DEVELOPMENT, FILL, BUILDING MATERIALS, RUBBISH OR ANY OTHER DELETERIOUS MATTER SHALL BE DEPOSITED ON THE PARKS AND RECREATION RESERVATION OR ALLOWED TO ENTER THE RIVER AS A RESULT OF THE DEVELOPMENT.
2. ANY FENCE OR GATE TO BE CONSTRUCTED ALONG THE BOUNDARY OF THE PARKS RECREATION RESERVE SHALL BE OPEN VIEW WITH A MAXIMUM HEIGHT OF NO MORE THAN 1.8 METRES INCLUDING ANY RETAINING WALLS.
3. THE NORTHERN WALL CURRENTLY MEASURING 1.2M IN HEIGHT BEING REDUCED TO NO HIGHER THAN 0.75M WITHIN 1.5M OF THE FRONT BOUNDARY AS SHOWN IN 'RED' ON THE APPROVED PLANS.

STANDARD CONDITIONS:

4. ALL STORMWATER AND DRAINAGE RUN OFF TO BE CONTAINED ON SITE. AN ONSITE STORMWATER DRAINAGE SYSTEM WITH A CAPACITY TO CONTAIN A 1:100 YEAR STORM OF A TWENTY-FOUR (24) HOUR DURATION IS TO BE PROVIDED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. ALL DOWNPIPES TO BE CONNECTED TO SOAKWELLS. THE PROPOSED STORMWATER DRAINAGE SYSTEM IS REQUIRED TO BE SHOWN ON THE BUILDING LICENCE SUBMISSION FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
5. THE DEVELOPMENT COMPLYING WITH ANY AMENDMENTS AND NOTATIONS MARKED IN 'RED' AS SHOWN ON THE APPROVED PLANS.

U09/0048 - (AG) 2 STOREY SINGLE DWELLING ON LOT 501 (35A) CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

6. THE EXTERNAL FACE OF THE PARAPET WALL TO BE FINISHED TO THE SATISFACTION OF THE ADJOINING NEIGHBOUR OR, IN THE EVENT OF A DISPUTE TO BE FINISHED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
7. ROOFING MATERIALS BEING OF A NON-REFLECTIVE MATERIAL (ZINC OR WHITE COLOUR METAL ROOFING MAY ONLY BE PERMITTED THROUGH SPECIAL PLANNING CONSENT).
8. PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION THE COUNCIL REQUIRES THE PROVISION OF A SUITABLE RECEPTACLE FOR THE CONTAINMENT OF WINDBLOWN RUBBISH. THE RECEPTACLE (GENERALLY A WIRE MESH CAGE) SHOULD HAVE MAXIMUM OPENINGS OF 100MM; HAVE A BASE OF 4M² AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.
9. ALL NEW RESIDENTIAL DWELLINGS TO BE SERVICED BY A CONCRETE OR BRICK PAVED VEHICLE CROSSING OF NO GREATER WIDTH THAN THE LESSER OF 6M OR 40% OF THE WIDTH OF THE FRONTAGE OF THE LOT AND CONSTRUCTED IN ACCORDANCE WITH THE COUNCIL'S SPECIFICATION TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
10. A 1.8 METRE HIGH FENCE TO BE PROVIDED FROM THE HIGHEST RETAINED GROUND LEVEL. ALL FENCING TO BE PROVIDED IN ACCORDANCE WITH THE DIVIDING FENCES ACT. AND BE CONSTRUCTED AS A MINIMUM STANDARD OF FIBRE CEMENT.
11. THE CONSTRUCTION OF RETAINING WALLS NOT TO EXCEED THE HEIGHTS SPECIFIED ON THE APPROVED PLANS UNLESS OTHERWISE APPROVED BY COUNCIL. DETAILS, SIGNED BY A PRACTICING STRUCTURAL ENGINEER MUST BE SUBMITTED FOR APPROVAL AT THE TIME OF SUBMITTING A BUILDING LICENCE APPLICATION.
12. THE DEVELOPMENT IS TO BE CONNECTED TO THE WATER CORPORATION'S RETICULATED SEWERAGE SYSTEM.
13. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

Ward : University Ward
Category : Operational
Application Number : DA-2006-466/A
Property : 1-15 South Street, KARDINYA
Proposal : Additions And Alterations To Kardinya Park Shopping Centre
Applicant : Greg Rowe & Associates
Owner : Dato Holdings Pty Ltd
Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer : Mr David Vinicombe
Manager Planning and Development Services
Previous Items : DA-2006-466 Referred to DAU 27 February 2007 and Council 20 March 2007.

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 & 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> |

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Application relates to proposed additions and alterations to the Kardinya Park Shopping Centre for which planning approval was initially granted by Council on 28 March 2007.
- Consent is sought to renew that permission as the works have yet to commence and the current permission expires on 27 March 2009.
- The details of this proposal are identical to those previously approved and will result in the creation of an additional 4,609.5 sqm of net lettable floorarea (NLA) together with decked and undercroft car parking.
- The current application has been amended since initial submission via the deletion of a drive through liquor store which was proposed to be located within the undercroft car parking area.
- The details of the current application, including the proposed drive through bottle shop element, were the subject of referral to an Elected Members Workshop held on 27 January 2009.
- Concerns were expressed at the workshop with regard to the way in which the undercroft bottle shop facility could prejudice the Council's aspirations to see the creation of a "Main Street" of commercial and retail activities between the Kardinya Park Shopping Centre and the Kardinya Square Centre to the immediate east.
- The applicant has now decided to delete the undercroft bottle shop element of the proposal.
- The concerns expressed by Elected Members are therefore addressed and the application is recommended for conditional approval, consistent with the previous determination.

BACKGROUND

The proposed additions and alterations to the Kardinya Park Shopping Centre were the subject of report to Council in March 2007. A copy of that report is appended. Conditional planning consent was granted on 28 March 2007, and this will expire on 27 March 2009. The current proposal is identical to that previously approved, and the current policy framework is consistent with that which applied at the time of the previous decision. As such, the issues pertaining to the determination of this proposal have already been the subject of a comprehensive appraisal and report to Council. It is therefore not considered necessary to revisit them on the basis that the decision previously granted will be re-issued in its entirety, including all the conditions attached thereto (two of the conditions have been slightly modified to clarify specific requirements).

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	District Centre
R-Code	:	R60
Use Type	:	Shop
Use Class	:	P - Permitted

Site Details

Lot Area	:	47,316.8 sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Upgrade of landscaping within South Street road reserve is recommended.
Street Furniture (drainage pits etc)	:	Not affected
Site Details	:	U09_0050_PROPERTY_MAP.pdf

[U09_0050_March_2009.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 20 March 2009

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Shop Floor Space	20,000 sqm NLA Retail	19,427 sqm NLA Retail (Inclusive of adjoining Kardinya Square)	Complies		
Landscaping	10% of site area 4731.7sqm	1650sqm 3.5%*	The details submitted do not demonstrate sufficient landscaping provision in accordance with the Councils requirements. A condition to ensure compliance with this is therefore recommended.		
Carparking	7 bays per 100sqm NLA 1251 bays	5.4 bays per 100sqm NLA 965	Variation** (see comments section below)	MPDS	
Plot Ratio	0.6	0.38	Complies		
Height	10.5m max	10.3m	Complies		
Front Setback	Nil	1.0m	Complies		
Rear Setback	2.0m	16.5m	Complies		
East Setback	Nil	5.5m	Complies		

* This figure is approximate as landscaping has not been delineated on the plans* This variation if approved would have a value of approximately \$8million

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)**PUBLIC CONSULTATION/COMMUNICATION**

The current application as initially submitted was the subject of consultation with the proprietor of the Kardinya Tavern and Bottle Shop. A number of objections were subsequently received from the Tavern, who employed the services of legal consultants to represent their interests in opposing the proposed development, specifically the undercroft drive through bottle shop element. A letter from the strata company of the Kardinya Square Shopping Centre objecting to the proposal was also received.

Since initial submission, the current application has been amended and the drive through bottle shop is deleted from the application. The objectors have been informed of this and in view of these changes they no longer raise objection to the proposal.

It is noted that when this proposal was initially considered in March 2007 a full programme of consultation was entered into, and this resulted in the submission of letters in support of the development (see previous report to Council appended).

REFERRALS TO GOVERNMENT AGENCIES

The details of the current application have been the subject of consultation with Main Roads WA, who confirm that no objections are raised in principle to the proposed shopping centre additions subject to the imposition of a condition to require the developer to submit a revised Traffic Impact Statement to the satisfaction of the Main Roads Dept. This should be provided before the issue of a Building Licence, and the measures identified should be implemented prior to the initial occupation of the additional retail floor space – consistent with the previous approval condition.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the Planning and Development Act 2005.

FINANCIAL IMPLICATIONS

Although not a planning consideration, the applicant has advised that if the current approval is not kept alive, the current finance arrangements for the development will lapse. In the current tight economic environment, it may be difficult to resecure financing arrangements for the development.

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

The proposed increase in shop floor space complies with CPS No. 5, the Local Commercial Strategy. In accordance with the floor space provisions of Western Australian Planning Commission's Statement of Planning Policy 4.2 (SPP4.2), District Centres are not to exceed 15,000 square metres NLA Retail or an amount consistent with a Local Commercial Strategy adopted by the Western Australian Planning Commission (WAPC). The Local Commercial Strategy recommends a floor space limit of 20,000 sqm NLA Retail for the Kardinya District Centre.

POLICY IMPLICATIONS

City of Melville Policy 06-PL-24 'Car Parking (Non-Residential)' requires the provision of 7 bays per 100 sqm NLA for District Centres. The proposed additions would result in a total of 17,872.5 sqm NLA therefore the required car parking provision is 1,251 car bays. The application includes a total car parking provision of 965 car bays (a shortfall of 286 bays).

City of Melville Policy 06-PL-017 'Bicycle Planning and End of Trip Facilities in Non Residential Areas' (Bicycle Policy) allows for a reduction in car parking bays at the rate of 1 bay per 6 bicycle parking facilities. The application includes 18 bicycle parking bays therefore a reduction of 3 car bays is permitted. The resultant parking requirement is reduced to 1,248 bays (283 bay shortfall).

City of Melville Policy 25-002 'Arts and Culture' requires the allocation of funds for public art for projects of a reasonable size. The target of 1% of the project cost is to be used as a guide. The proposed Kardinya Park redevelopment is a significant development project therefore funds should be allocated for public art.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Whilst the Council may, at its discretion, resolve to refuse the proposal or defer its determination, it is considered that neither of these options would be in the Council's interest as the current application seeks approval for the re-issue of planning permission for a development which has already been approved. As indicated above, the lapsing of the current approval without a new approval in place on 27 March 2009 may jeopardise the financial arrangements for the development to proceed.

U09/0050 - (PP) ADDITIONS AND ALTERATIONS TO KARDINYA PARK SHOPPING CENTRE ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)**COMMENTS**

The bulk of the proposed additions are focused to the east of the existing shopping centre and include an extension of the mall area and additional shop floor space at the same level as the existing shopping centre. The application also includes an expansion of the supermarket (Coles) and the discount department store (K-Mart). The additions are characterised by an undercroft car park accessible via an access road which abuts the eastern boundary of the site. The undercroft and upper car parks are linked by a proposed vehicle ramp adjacent to the main South Street entry.

The report to Council on the initial application in March 2007 is appended, and this provides a comprehensive and detailed commentary on the proposed development as a whole. It is considered prudent however that specific matters in relation to the car parking and landscaping provision are addressed in the context of the current application.

Car Parking

Under the provisions of Council Policy ref 06-024 "Car parking Non residential retail developments within District Centres demand the provision of 7 bays per 100 sqm NLA. In the case of the current proposal this equates to a requirement for 1,251 car parking bays.

A total of 965 bays are proposed, which represents a shortfall of 286 bays. Whilst this level of shortfall is consistent with the previous approval, it is considered worthwhile to repeat the justification offered for that shortfall when the matter was previously considered in March 2007.

Under the provisions of Clause 9.6 of CPS No 5, the Council may prepare a non statutory policy to make provision for any matter related to the planning and/or development of land within the City. For this purpose therefore, the Council prepared Policy ref 06-024 "Non Residential Car Parking", in order to provide guidance to developers of the likely standards that will be employed by the Council in the determination of various development applications in relation to car parking provision. It is accepted that this Policy acts as a guide for the determination of such applications, and Clause 9.6(f) of the Scheme recognises that the existence of a Policy does "not bind the Council in respect of any application for approval" provided the Council has "due regard to the provisions of the Policy" and is satisfied that the application is not prejudicial to the objectives of the Policy before making its decision. The applicant has provided documentation to support the reduction in the levels of car parking envisaged by Policy 06-024, and this has to be considered in the context of Clause 9.6(f) of the Scheme.

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The applicant has commented that the recommended floor space for a District Centre under WAPC SPP4.2 is 15,000 sqm NLA; however the permitted floor space for the Kardinya District Centre is 20,000 sqm NLA, reflected in the LCS and CPS5. The applicant considers that the imposition of the car parking requirement for District Centres (i.e. 7 bays per 100sqm NLA) in this circumstance is unreasonable as the permitted floor space is commensurate with that of a Regional Centre. The Car Parking Policy recognises the reduced parking demand of larger centres, requiring 5.5 bays per 100 sqm NLA for Regional Centres. This would equate to a car parking requirement of 983 bays and a shortfall of 18 bays.

The applicant also comments that the reciprocity of uses at shopping centres is a factor in reducing actual parking demand. For example, the uses on the periphery of a shopping centre and those accessible from the outside of the shopping centre building would peak in demand for parking at different times to the internal retail uses. The applicant has not provided specific details but uses the general examples of videos stores, fast food outlets, restaurants and like that would have different peak parking demands to a supermarket. However, both internal uses and the uses on the periphery would have a Thursday night peak parking demand.

At the time of the previous decision in March 2007, the applicant provided details of a car parking survey which was undertaken to determine the average vacancy rates experienced by Kardinya Park. A technical report was prepared by a qualified traffic consultant (Riley Consulting) based on the results of the survey. The report was prepared on the basis of the following factors:

- A required car parking provision of 5.5 bays per 100 sqm;
- A total of 18,090 sqm NLA; and
- A car parking provision of 978 bays.

Subsequent to the submission of the technical report, specific details of floor space have been provided showing that the existing development is comprised of 12,823 sqm NLA. The proposed development will add an additional 4,609.5 sqm NLA (rather than 4,570sqm) giving a total of 17,872.5 sqm NLA (rather than 18,090sqm NLA). The NLA within the Service Station is not included in this total and this is reasonable for the purpose of car parking assessment as the Service Station does not involve longer term parking in association with the shopping centre.

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The technical report made the following key points and conclusions:

- The existing car park at the shopping centre has a peak occupancy of 62%, an average occupancy of 44% during the peak Thursday evening period (5pm) and 57% during the peak Saturday period (11am). The car park is typically half empty at the peak times.
- Based on the peak occupancy rate of 62% (peak parking demand) and the required car parking provision of 995 bays, the proposed development would demand a maximum of 617 bays resulting in a surplus of 361 bays or 37% of the parking provision.
- Based on the expected 26% increase in traffic flow generated by the development (determined by the Director General Transport South Australia – *Guide to Traffic Generation Developments*) and the current peak parking demand, the future demand would be 716 bays providing a surplus of 262 bays or 27% of the parking provision.
- Based on the proposed increase in floor area of the shopping centre and the current peak parking demand, the future demand would be 760 bays which results in a surplus of 218 bays or 22% of the parking provision.
- Whilst the parking provision for the proposed development is short of CPS No. 5 requirements, the analysis demonstrates that the actual peak demand would still leave at least 20% of the car park vacant.

The car parking assessment methodology may be acquainted relative to the following;

- The current utilisation rate cannot be applied to the proposed discounted parking rate. It should be applied to a ratio of current parking requirement per unit of floor space.
- The methodology takes no account of the need for vacant bays for circulation.
- It assumes that an enhanced larger, more convenient and newer centre (of regional status as expressed by the applicant) will have the same attraction as the current centre.

It assumes that there is a direct linear relationship between the existing parking demand and trip generation but does not add or subtract for the possible enhanced performance of the centre.

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There are several tests as to whether the proposed parking provision is reasonable as discussed below:

- The existing occupancy rate of 62% (568 bays) equates to a car parking rate of 4.2 bays per 100 sqm NLA. The required car parking provision at this rate is 751 bays. An additional 10% for circulation purposes gives a total of 826 bays.
- The applicant contends that the centre should be considered as a Regional Centre to obtain a reduced car parking requirement based on the area of the expanded centre to 20,000sqm NLA. Kardinya is not a Regional Centre; nor does it or will it have the attributes of a Regional Centre.

CPS No. 5 requires the provision of 7 bays per 100 sqm NLA for District Centres or 1,251 bays. This ratio is considered to be excessive and the draft requirement being used in the review of Community Planning Scheme No.5 relies on the standard established by the Road Traffic Authority of NSW (RTA) following extensive surveys of shopping centres and parking demand. For District Centres, the RTA recommends a ratio of 5.6 bays per 100 sqm of Gross Leasable Floor Area (GLFA – equivalent of NLA under Community Planning Scheme No.5) or a requirement of approximately 1,001 bays.

- The RTA also provides a formula for the calculation of car parking based on the mix of retail types. This formula indicates a requirement of approximately 83 bays after providing for a conversion between the differing floor space measures.

It is considered based on the detailed information supplied, that the proposed car parking provision is sufficient to cater for the peak parking demand expected to be generated by the redevelopment of the shopping centre, and as such the more onerous car parking requirements of Council Policy 06-024 may be set aside in this case, in accordance with Clause 9.6(f) of CPS No 5.

Landscaping

Under the provisions of Clause 5.9 of CPS No 5, a minimum of 10% landscaping, in this case 4,731 sqm of the total site area, should be laid out to landscaping. In accordance with Scheme requirements the term “landscaping” is defined by the Residential Design Codes, as follows:

“Land developed with garden beds, shrubs and trees, or by the planting of lawns, and includes such features as rockeries, ornamental ponds, swimming pools, barbeque areas or playgrounds and any other such area approved of by the Council as a landscaped area.”

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In the case of this development, whilst the landscape details provided are not definitive, they do demonstrate the provision of an area of soft landscaping (trees, shrubs and planted beds) comprising 1,650 sqm, and the provision of extensive areas of hard landscaping within pedestrian and vehicle circulation areas. As these details are not finalised in terms of their specific layout or the quality of paving used, and on the basis that there is sufficient space within the application site to satisfy the Council's 10% landscaping requirement, it is recommended that a compliance condition be attached to any approval. This condition will require the submission of a detailed Landscaping Plan comprising an area of at least 10% of the total site area. This area of "public realm" should be laid out to include trees, shrubs and planted beds, areas within which to sit in the open air, areas of shade, areas to accommodate the provision of Public Art, and areas where users of the centre can congregate in high quality soft and hard landscaping surfaces.

In accordance with CPS No. 5 requirements, and to be consistent with existing landscaping within the Kardinya Park Centre, the Plan when submitted should emphasise soft landscaping to the street frontages including the main access road and the two main access points off South Street. This will ensure that the external appearance of the shopping centre is softened by the existence of trees and shrubs in the interests of visual amenity. Should the applicant fail to provide justification for suitable landscaping which provides for the required 10%, a further application to Council will be required to regularise this matter.

CONCLUSION

As this application refers to an identical proposal to that already approved by Council in March 2007, and as there are no Policies that have been introduced in the intervening period that would warrant the development inappropriate, it is recommended that this application to renew the consent for additions and alterations to the Kardinya Park Shopping Centre be approved subject to the re-imposition of conditions as previously stated (apart from clarification in two of the conditions relative to landscaping and the Traffic Impact Statement).

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OFFICER RECOMMENDATION

APPROVAL

THAT THE RENEWAL APPLICATION FOR ADDITIONS AND ALTERATIONS TO THE KARDINYA PARK SHOPPING CENTRE , LOT 17 (1-15) SOUTH STREET, KARDINYA, BE APPROVED SUBJECT TO THE FOLLOWING.

SPECIAL CONDITIONS:

- 1. THE AREA OF THE KARDINYA PARK SHOPPING CENTRE INCLUSIVE OF THESE ADDITIONS SHALL BE NOT MORE THAN 17,872 SQUARE METRES GROSS NLA AND NOT MORE THAN 16,750 SQUARE METRES NLA RETAIL. NLA RETAIL MEANS ONLY THOSE TYPES OF FLOOR SPACE INCLUDED IN APPENDIX 4 OF THE WESTERN AUSTRALIAN PLANNING COMMISSION'S STATEMENT OF PLANNING POLICY 4.2.**
- 2. BROPHY STREET SHALL BE UPGRADED TO PROVIDE AN ENTRY TO KARDINYA PARK SHOPPING CENTRE AND A PRIMARY ENTRY/EXIT TO THE SHOPPING CENTRE CAR PARK AT THE APPLICANT/OWNERS FULL COST TO THE SATISFACTION OF THE MANAGER INFRASTRUCTURE SERVICES. IN THIS REGARD, DETAILED DESIGN PLANS SHALL BE SUBMITTED TO AND APPROVED BY THE MANAGER INFRASTRUCTURE SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE AND THE APPROVED PLANS SHALL BE FULLY IMPLEMENTED PRIOR TO THE OCCUPATION OF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL.**
- 3. THE UPGRADE OF BROPHY STREET SHALL INCLUDE THE CONSTRUCTION OF A 2.0 METRE HIGH MASONRY WALL ALONG THE FULL LENGTH OF THE NORTHERN SIDE OF THE ROAD RESERVE AND THE SOUTHERN SIDE OF THE ROAD RESERVE ADJACENT TO LOT 30 (1) BROPHY STREET, KARDINYA. THE WALL MAY BE A LESSER HEIGHT OF 1.8 METRES SUBJECT TO THE APPROVAL OF THE ADJOINING RESIDENTIAL LANDOWNERS. THE WALL SHALL BE TREATED WITH A NON-SACRIFICIAL ANTI-GRAFFITI AGENT. THE FINISH OF THE WALL IS TO BE TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT**
- 4. PRIOR TO THE ISSUE OF A BUILDING LICENCE, THE APPLICANT TO UNDERTAKE A TRAFFIC IMPACT STATEMENT TO THE SATISFACTION OF THE CITY OF MELVILLE IN CONSULTATION WITH THE MAIN ROADS DEPARTMENT WA. THIS IS TO INCLUDE A 'SIDRA' ANALYSIS OF THE PROPOSED DISTRICT CENTRE, AND SHOULD INCLUDE REFERENCE TO TRAFFIC GENERATION AND CAPACITY OF THE ADJOINING HIGHWAY NETWORK TO ABSORB THAT GENERATION. ANY HIGHWAY IMPROVEMENT MEASURES IDENTIFIED ARE TO BE IMPLEMENTED PRIOR TO THE INITIAL OCCUPATION OF THE SHOPPING CENTRE FLOORSPEACE HEREBY APPROVED.**

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5. THE VEHICLE RAMP AND PARKING AREA HEREBY APPROVED IS THAT ILLUSTRATED ON APPROVED PLAN NO.2, NOT PLAN NO.1.
6. THE WIDTH OF THE SHOPPING CENTRE ENTRY/EXIT MARKED IN RED ON APPROVED PLANS NO.1 AND NO.2 SHALL BE INCREASED TO A MINIMUM OF 3.0M TO PROVIDE IMPROVED ACCESS TO THE SHOPPING CENTRE FROM THE MAIN PEDESTRIAN LINK THROUGH THE CAR PARK. THIS INCREASED WIDTH SHALL BE ACHIEVED BY A REDUCTION TO THE FLOOR SPACE OF THE ADJACENT SPECIALITY SHOPS.
7. A DETAILED LANDSCAPING AND RETICULATION PLAN SHALL BE SUBMITTED AND APPROVED FOR THE SUBJECT SITE AND THE SOUTH STREET RESERVE ADJACENT TO THE SITE. THE LANDSCAPE PLAN TO COMPRISE AN AREA NOT LESS THAN 10% OF THE TOTAL SITE AREA IN ACCORDANCE WITH COUNCIL REQUIREMENTS AND LAID OUT TO INCLUDE AREAS OF BOTH HARD AND SOFT LANDSCAPED SPACES.THE APPROVED LANDSCAPING AND RETICULATION PLAN SHALL BE FULLY IMPLEMENTED PRIOR TO FIRST COMMENCEMENT OF OPERATION OR OCCUPATION OF THE DEVELOPMENT AND MAINTAINED THEREAFTER TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
8. THE LANDSCAPING AND RETICULATION PLAN SHALL INCLUDE MATURE TREES WITHIN THE SOUTH STREET VERGE ADJACENT TO THE CAR PARK DECK AND DETAILS RELATIVE TO UPGRADING THE VERGES OF BROPHY STREET AND DALSTON CRESCENT. THE DETAILS, SPECIES SELECTION AND CONTAINER SIZE SHALL BE TO THE SATISFACTION OF THE MANAGER INFRASTRUCTURE SERVICES. THE LANDSCAPING RETICULATION PLAN SHALL ALSO INCLUDE DETAIL ON CREEPER/CLIMBER TYPE PLANTS AND/OR HANGING POTTED PLANTS ALONG THE FULL LENGTH OF THE EAST FACING CAR PARK DECK WITH THE PURPOSE OF IMPROVING THE AMENITY OF THE CAR PARK DECK AS VIEWED FROM THE ADJOINING LOT TO THE EAST.
9. ONE (1) TREE PER FOUR (4) CAR BAYS SHALL BE PROVIDED WITHIN THE EXISTING AND PROPOSED CAR PARKING AREAS, OTHER THAN ABOVE THE UNDERCROFT CAR PARK AND IN AREAS THAT HAVE NO ACCESS TO SUNLIGHT. SHADE SAILS SHALL BE PROVIDED ON THE CAR PARK DECK AS SHOWN ON APPROVED PLAN NO.2. THE CAR PARK TREES AND SHADE SAILS SHALL BE INCLUDED IN THE LANDSCAPING AND RETICULATION PLAN.
10. BICYCLE PARKING FACILITIES SHALL BE PROVIDED IN THE LOCATIONS SHOWN ON THE APPROVED PLANS, AT THE EXISTING ENTRIES TO THE SHOPPING CENTRE AND ADJACENT TO THE TRAVELATOR TO THE SATISFACTION OF THE MANAGER INFRASTRUCTURE SERVICES. DESIGN AND SETOUT DETAILS SHALL BE SUBMITTED TO AND APPROVED BY THE MANAGER INFRASTRUCTURE SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.

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- 11. NOT LESS THAN 965 CAR PARKING BAYS BEING PROVIDED.**
- 12. ALL CAR BAYS ADJACENT TO COLUMNS SHALL BE A MINIMUM 2.8M WIDE OR OTHERWISE COMPLY WITH AS 2890.1.**
- 13. THE TWO TANDEM CAR BAYS MARKED IN RED ON THE APPROVED PLANS SHALL BE FOR STAFF PARKING ONLY, DESIGNATED WITH A SIGN AND PERMANENTLY MAINTAINED FOR STAFF PARKING ONLY.**
- 14. DISABLED CAR PARKING BAYS SHALL BE PROVIDED, CLEARLY DESIGNATED AS SUCH, LOCATED CONVENIENTLY TO THE PRINCIPLE BUILDING ENTRANCES AND WITH DIMENSIONS IN ACCORDANCE WITH AUSTRALIAN STANDARDS. BICYCLE PARKING FACILITIES SHALL NOT OBSTRUCT ACCESS TO DISABLED PARKING BAYS.**
- 15. PROTECTIVE RAILS OR A BUFFER STRIP SHALL BE PROVIDED TO CAR BAYS ADJOINING BOUNDARY FENCES AND THE EDGES OF THE CAR PARK DECK.**
- 16. THE MEDIAN ISLAND ADJACENT TO THE EASTERN ENTRANCE/EXIT OFF SOUTH STREET SHALL BE REDUCED IN LENGTH TO MAINTAIN ACCESS TO THE VEHICULAR ACCESS WAY AND PARKING AREA TO THE SOUTH OF KARDINYA TAVERN.**
- 17. ALL STORMWATER AND DRAINAGE RUN OFF SHALL BE CONTAINED ON SITE. AN ONSITE STORMWATER DRAINAGE SYSTEM WITH CAPACITY TO CONTAIN A 1 IN 100 YEAR STORM OF A 24 HOUR DURATION, AND THE BELOW GROUND DRAINAGE SYSTEM CATERING FOR A 1 IN 10 YEAR CRITICAL STORM EVENT SHALL BE PROVIDED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER INFRASTRUCTURE SERVICES. A DETAILED STORMWATER DRAINAGE PLAN SHALL BE SUBMITTED TO AND APPROVED BY THE MANAGER INFRASTRUCTURE SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.**
- 18. A DETAILED SERVICE MANAGEMENT PLAN SHALL BE SUBMITTED TO AND APPROVED BY THE MANAGER INFRASTRUCTURE SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE. THE SERVICING MANAGEMENT PLAN SHALL INCLUDE DETAILS OF PROPOSED TRUCK MOVEMENTS, *WHICH MAINTAIN PRESENT CONTROLLED ACCESS AND EGRESS FROM NORTH LAKE ROAD*, LOADING AREAS, RUBBISH STORAGE AND PICK UP. RUBBISH STORAGE AREAS SHALL BE SCREENED FROM PUBLIC VIEW TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES AND SHALL NOT BE LOCATED WITHIN THE PARKING OR LANDSCAPING AREA.**

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19. THE TEN CAR BAYS TO THE SOUTH OF THE COLES SUPERMARKET ARE HEREBY DELETED AND THE AREA DESIGNATED AS A SERVICE AREA FOR RUBBISH STORAGE/PICK UP AND/OR OTHER SHOPPING CENTRE SERVICES AS DETAILED IN THE SERVICE MANAGEMENT PLAN TO BE PREPARED.
20. A CONSTRUCTION PARKING MANAGEMENT PLAN SHALL BE SUBMITTED TO AND APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
21. ALL PEDESTRIAN PATHS AND CROSSINGS SHALL BE ILLUMINATED TO THE LEVELS RECOMMENDED IN THE AUSTRALIAN STANDARD 1158 LIGHT FOR ROADS AND PUBLIC SPACES.
22. THE FOOTPATH ALONG SOUTH STREET IMMEDIATELY ADJACENT THE MAIN CENTRAL CROSSOVER TO BE THE SUBJECT OF A SAFETY AUDIT AND MODIFICATION AS REQUIRED TO THE SATISFACTION OF MANAGER INFRASTRUCTURE SERVICES.
23. A PROPORTION OF THE OVERALL CONSTRUCTION COST TO A MINIMUM OF 1% OF THE CONSTRUCTION COST SHALL BE ALLOCATED TOWARDS PUBLIC ART ON THE SITE. THE PUBLIC ART SHALL BE APPROVED BY THE CITY OF MELVILLE AND COMPLETED PRIOR TO THE OCCUPATION OF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL.
24. CCTV SHALL BE INSTALLED AND CONTINUOUSLY OPERATED AND MONITORED WITHIN THE UNDERCROFT PARKING AREA TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
25. THIS APPROVAL IS VALID FOR A PERIOD OF TWO YEARS FROM THE DATE OF THE APPROVAL.
26. LIGHTING ON THE SUBJECT PROPERTY IS TO BE DESIGNED AND MAINTAINED IN ACCORDANCE WITH AUSTRALIAN STANDARD AS 4282, (1997) CONTROL OF OBTRUSIVE EFFECTS OF OUTDOOR LIGHTING. A LIGHTING PLAN DEMONSTRATING COMPLIANCE WITH THIS REQUIREMENT SHALL BE SUBMITTED PRIOR TO THE ISSUE OF A BUILDING LICENCE.
27. ALL NEW SECURITY ALARM DEVICES TO BE 'SILENT MONITORED' SYSTEMS TO ADDRESS POTENTIAL IMPACTS ON SURROUNDING RESIDENTIAL AMENITY TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

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STANDARD CONDITIONS:

28. THE DEVELOPMENT COMPLYING WITH ANY AMENDMENTS AND NOTATIONS MARKED IN 'RED' AS SHOWN ON THE APPROVED PLANS.
29. THE FAÇADE OF THE BUILDING/S AND WALL/S IS TO BE TREATED WITH NON-SACRIFICIAL ANTI-GRAFFITI AGENT.
30. ALL FACADES ARE TO BE IN MASONRY OR PLATE GLASS CONSTRUCTION OR OTHER MATERIAL AS SPECIFICALLY APPROVED IN WRITING BY THE COUNCIL.
31. LIGHTING TO BE PROVIDED TO ALL CARPARKING AREAS AND THE EXTERIOR ENTRANCES TO ALL BUILDINGS IN ACCORDANCE WITH AUSTRALIAN STANDARD AS 1158.3.1 (CAT. P). ALL EXTERNAL LIGHTING TO BE HOODED AND ORIENTED SO THAT THE LIGHT SOURCE IS NOT DIRECTLY VISIBLE TO THE TRAVELLING PUBLIC OR ABUTTING RESIDENCES.
32. THE MATERIALS AND FINISHES OF THE DEVELOPMENT ARE TO COMPLIMENT THE EXISTING BUILDING TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
33. PRIOR TO ISSUE OF A BUILDING LICENSE, THE MANUFACTURER'S RATED NOISE LEVELS FOR REFRIGERATION AND VENTILATION ARE TO BE SUBMITTED TO AND APPROVED BY COUNCIL. IMMEDIATELY FOLLOWING THE INSTALLATION AND OPERATING OF THE EQUIPMENT, THE APPLICANT IS TO SUPPLY TO COUNCIL THE RESULTS OF A CERTIFIED TEST OF THE NOISE LEVEL OF IN-SERVICE PERFORMANCE.
34. PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION THE COUNCIL REQUIRES THE PROVISION OF A SUITABLE RECEPTACLE FOR THE CONTAINMENT OF WINDBLOWN RUBBISH. THE RECEPTACLE (GENERALLY A WIRE MESH CAGE) SHOULD HAVE MAXIMUM OPENINGS OF 100MM; HAVE A BASE OF 4M² AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.
35. RUBBISH STORAGE AREA TO BE PROVIDED AND SCREENED FROM PUBLIC VIEW TO THE SATISFACTION OF MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO OCCUPANCY. THIS AREA IS NOT TO BE LOCATED WITHIN THE PARKING OR LANDSCAPING AREA.

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36. DURING CONSTRUCTION ACCESS TO THE LOT TO BE VIA THE STREET FRONTAGE ONLY AND THAT NO BUILDING RUBBLE BE PERMITTED TO OVERSPILL THE SITE.
37. IN ACCORDANCE WITH THE APPROVED PLANS ALL PARKING BAY/S, DRIVEWAY/S AND POINTS OF INGRESS AND EGRESS AREAS ARE TO BE PERMANENTLY PROVIDED, CONSTRUCTED, DRAINED, MARKED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE PARKING BAY/S, DRIVEWAY/S AND POINTS OF INGRESS AND EGRESS ARE TO BE DESIGNED IN ACCORDANCE WITH THE CITY OF MELVILLE PLAN NOS 102A2-80E/1 (CONCRETE COMMERCIAL CROSSOVER), 423A2-87E (BITUMEN COMMERCIAL CROSSOVER) UNLESS OTHERWISE SPECIFIED BY THIS APPROVAL. THE APPLICANT SHALL PAY FOR WHERE ANY DAMAGE IS CAUSED TO A COUNCIL FACILITY, TREE OR STREET FURNITURE, OR WHERE ALTERATION TO A COUNCIL FACILITY IS REQUIRED, THE COST OR SUCH DAMAGE OR ALTERATION. A CONCRETE APRON HAVING WIDTH OF 0.75 MILLIMETRES MUST BE INSTALLED BETWEEN A BRICK PAVED CROSSING AND THE BITUMEN SURFACE OF A ROAD THE COST OF DAMAGE TO A STREET TREE WILL BE DETERMINED IN ACCORDANCE WITH THE "TREE AMENITY VALUATION FORMULA" ADOPTED BY THE COUNCIL IN SEPTEMBER 1994.
38. MAXIMUM VEHICLES ACCESS GRADIENT RATIO OF 1:5 BEING ACHIEVED.
39. THE DEVELOPMENT IS TO BE CONNECTED TO THE WATER CORPORATION'S RETICULATED SEWERAGE SYSTEM.
40. A SEPARATE APPLICATION FOR PLANNING APPROVAL AND A SIGNS LICENCE IS REQUIRED FOR ALL SIGNAGE.
41. THE LAND SHALL NOT BE USED FOR THE PURPOSE APPROVED UNTIL COUNCIL HAS ISSUED A CERTIFICATE OF CLASSIFICATION FOR THAT USE AND THE MANAGER PLANNING AND DEVELOPMENT SERVICES IS SATISFIED THAT ALL RELEVANT CONDITIONS OF THIS APPROVAL HAVE BEEN SATISFIED.
42. ANY ROOF MOUNTED OR FREESTANDING PLANT OR EQUIPMENT SUCH AS PLUMBING PIPES ARE TO BE LOCATED AND/OR SCREENED SO AS NOT TO BE VISIBLE FROM THE SURROUNDING STREET(S) TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

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HEALTH FOOTNOTES:

43. THE APPROVED DEVELOPMENT SHALL COMPLY WITH THE ASSIGNED NOISE LEVELS UNDER THE *ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997*. THIS INCLUDES ALL PLANT AND EQUIPMENT, CONSTRUCTION AND DELIVERY NOISE.
44. THE APPROVED DEVELOPMENT SHALL COMPLY WITH THE HEALTH (*PUBLIC BUILDING*) *REGULATIONS 1992* WHICH INCLUDES EXITS, EXIT SIGNAGE, EMERGENCY LIGHTING AND ACCESS/EGRESS.
45. ANY NEW USES THAT INVOLVE HANDLING, STORING OR PREPARATION OF FOOD SHALL BE SUBJECT TO A SEPARATE APPLICATION FOR A FIT OUT LICENCE TO ENSURE COMPLIANCE WITH THE *HEALTH (FOOD HYGIENE) REGULATIONS 1993*.

FOOTNOTES:

46. THE APPLICANT IS ADVISED OF COUNCIL'S DESIRE TO SEE THE DEVELOPMENT OF A MAIN STREET WITH COMMERCIAL ACTIVITIES AT GROUND LEVEL WHEN AND IF THE OWNERS OF THE ADJACENT LOT TO THE EAST REDEVELOP.
47. COUNCIL NOTE THAT THE REDUCED PARKING REQUIREMENT IS VALUED AT APPROXIMATELY \$8 MILLION DOLLARS.

U09/0051– (RJ) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 10 MARCH 2009

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	39 Mathew Avenue Leeming	<p>Proposed garage, house extension and front fence. The owner has made a written submission requesting removal of one street tree as the tree causes damage to the garden and house, the tree is leaning towards Matthew Avenue, the tree stability is poor and will be further compromised by addition of new stone wall (part of home garden renovations).</p> <p>The tree is a semi mature Eucalyptus maculata (Spotted Gum) in good condition located within the corner truncation of Matthew Avenue and Hewison Street. A valuation of the tree has been conducted in accordance with the City of Melville's Tree Amenity Valuation Formula and has been calculated at \$8,741.84</p>	<p>Recommend that the tree is retained.</p> <p>Damage to the garden and house has not been specified, the tree appears in sound health at this stage and there is no sign of major limb fall.</p> <p>The tree is clear of the street and does not pose any danger to Matthew Avenue. It is located approximately 1.5 metres from the property boundary, therefore there is sufficient room to construct the boundary fence.</p>