

AGENDA

FROM THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

12 OCTOBER 2010

- 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 Friday following the date of the publishing of these minutes.**
 - 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: 18 OCTOBER 2010



**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 1:30PM ON TUESDAY 12 OCTOBER 2010**

PRESENT

T. Capobianco (Presiding Member)	A/Manager Planning & Development Services
H. Shigeyoshi	A/Planning Services Coordinator
G. Russell	A/Principal Building Surveyor
T. Portelli	Environmental Health Officer
C. O'Neill	Consultant
L. Anderson	Senior Planning Officer
P. Stuart	A/Senior Planning Officer

APOLOGIES

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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U10/0278 - (BK) - STREET TREE REMOVAL REQUEST RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 12 OCTOBER 2010

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	40 Gairloch Street Applecross	<p>The applicant has requested removal of one street tree existing in the location of a proposed crossover/driveway for an approved two-storey single house. As part of the approval granted for the single house, the subject tree was not depicted on the submitted plans.</p> <p>There are two mature <i>Jacaranda Mimosifolia</i> (Jacaranda) trees, both of which are in good condition. This part of Gairloch Street is characterised by Jacaranda's which line both sides of the road.</p> <p>The builders have advised that the owners are happy to relocate the tree if possible in order to retain the existing streetscape.</p>	<p>It is recommend that the subject tree be retained by virtue of its value to the streetscape of Gairloch Street.</p> <p>In this instance, it is considered that the proposed crossover / driveway may be designed (as currently existing) to avoid removal of the subject tree without resulting in significant issues associated with vehicular access.</p>



40 Gairloch Street, Applecross

**U10/0279 - (LA) CHANGE OF USE SHOP TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**

Ward : Bull Creek/Leeming
 Category : Operational
 Application Number : DA-2010-812
 Property : 51 Farrington Road (Leeming Forum Shopping Centre), Leeming
 Proposal : Change of Use: 'Shop' to 'Liquor Store'
 Applicant : Lavan Legal and Allgroup Investments Pty Ltd
 Owner : Mr P E Grant
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Mr. Tony Capobianco
 A/Manager Planning and Development Services
 Previous Items : [U10/0268 – Development Advisory Unit Meeting Minutes: 28 September 2010](#)

AUTHORITY / DISCRETION

Definition

<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 review 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>

**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**

KEY ISSUES / SUMMARY

- Application is made for a change of use from "Shop to 'Liquor Store'.
- This application was previously reported to the 28 September 2010 meeting of the Development Advisory Unit however is being reconsidered in response to receipt of a late submission objecting to the proposal.
- Although similar to a 'Shop' use, Community Planning Scheme No.5 (CPS5) defines a 'Liquor Store' separately from a 'Shop'.
- As a 'Liquor Store' is a "use not listed" under the use class table, advertising of the application in accordance with Clause 7.5(e) of CPS5 is necessary.
- Two submissions have been received. The abovementioned late objection raises concerns relating to anti-social behaviour, oversupply (of liquor stores) and detrimental community impact. The other submission has requested that any approval granted have regard to safety and noise relating to deliveries.
- The proposed development is considered to satisfy CPS5 development requirements.
- Application is recommended for conditional approval.



**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Community Centre (CCR)
 R-Code : R40
 Use Type : Liquor Store
 Use Permissibility : D-Use – Use is dicretionary.

Site Details

Lot Area : 19,982.77 sqm
 Retention of Existing Vegetation : Not applicable
 Street Tree(s) : Not applicable
 Street Furniture (drainage pits etc) : Not applicable
 Site Details : Refer photo above

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Plot Ratio	0.3	As existing	Complies		
Landscaping	10%	As existing	Complies		
Carparking	1 bay per 15sqm	Same as existing use	Complies		

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with Clause 7.5(e) of CPS5
 Support/Object: 1 letter of conditional support, 1 objection

**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**

Submission	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	Safety and noise from deliveries to be considered.	Support with conditions	Deliveries are proposed to be made from the rear through the store. It is considered appropriate to place a condition relating to noise.	Partially uphold
2.	Concerns have been expressed relating to antisocial behaviour including public drunkenness; crime, oversupply (of liquor outlets) and a higher level of underage drinking as a result of the proposed use.	Object	Whilst concerns raised are acknowledged, issues cannot be assumed to occur as a consequence of this development, and are in any event subject to separate jurisdictional control.	Not Uphold

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

There are no financial implications applicable as part of this application.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

There are no strategic or risk management implications as part of this application.

**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)****POLICY IMPLICATIONS**Policy CP-06-PL024 - Car Parking (Non Residential)

Policy CP-06-PL024 – Car Parking (Non-Residential) exists to control the provision of non-residential car parking throughout the City of Melville.

The Policy does not specifically state a requirement for a ‘Liquor Store’. Where a requirement does not exist under the Policy, , parking is to be provided at the discretion of Council, having regard to similar uses, the Precinct, surrounding uses, off-site parking availability and having regard to recognised car-parking standards for similar uses. In this regard, reference to the parking requirement relative to ‘Shop’ is deemed appropriate.

Given the existing use is ‘Shop’, the proposal does not result in any additional parking demand.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process.

Should Elected Members have an alternative view, the DAU ‘call-up’ procedures provide opportunity to call this matter up for formal Council consideration.

COMMENTS

The subject application seeks planning approval for a change of use from ‘Shop’ to ‘Liquor Store’. Specifically, the application intends to occupy Shop 11 of the Leeming Forum Shopping Centre which will operate in conjunction with the existing Leeming IGA store. From a planning context, the subject site is situated on land zoned ‘Community Centre’ Precinct under the provisions of CPS5. the ‘Statement of Intent’ for the subject precinct is:

Primarily community facilities, such as shops, schools and halls but may include aged persons housing and other medium density residential to take advantage of facilities. May include licensed premises, parks, religious, public, recreational, educational and medical uses, and small scale offices provided they are not developed to such an intensity that they disturb the Precinct. Any additional retail facilities shall adjoin existing shops and shall be advertised in accordance with Clause 7.5 (emphasis added)

Based on the above, the proposed change of use to ‘Liquor Store’ is deemed to be consistent with the above ‘Statement of Intent’ for the locality.

**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**Proposal

The applicant proposes to establish a take-away packaged liquor outlet which provides a comprehensive range of stock and related services and primarily is intended to complement the Leeming IGA supermarket so as to create a one-stop-shopping facility. The liquor store is intended to operate from 8am to 9pm Monday to Saturday and from 10am to 9pm on Sundays, to coincide with the IGA operating times.

The liquor store will be a browsing outlet only, with no drive-through facility. It is intended to comprise 108sqm of existing shop area.

Development Considerations

As detailed in 'Development Requirements' table above, the proposal is entirely compliant with the development requirements contained under the provisions of CPS5.

Car Parking

As detailed in the preceding section above, where a parking standard does not specifically exist for a proposed use, Policy CP-06-PL024 stipulates parking is to be provided at the discretion of Council, having regard to similar uses, the Precinct, surrounding uses, off-site parking availability and having regard to recognised car parking standards for similar uses.

In this regard, the parking standard applicable to a 'Shop' use is considered appropriate by virtue of its similarity in form and function (i.e. is a retailer of goods direct to consumers). As the existing use of the subject tenancy is 'Shop', there is no additional parking demand resulting from the change of use.

Accordingly, there is adequate parking provided on-site.

Issues raised by Objector

As detailed in the 'Public Consultation/Communication' section above, concerns have been raised with regard to potential anti-social behaviour, increases in crime and under-age drinking. Whilst the concerns raised are acknowledged, such statements are not substantiated and in any event are subject to considerations of the Department of Racing, Gaming and Liquor in its determination of a future Liquor Licence application. Anyone may submit an objection to the licence despite the approval of the land use on-site, this being a 'Liquor Store', and control of any illegal activity associated with the consumption of alcohol is subject to separate jurisdiction.

**U10/0279 - (LA) - CHANGE OF USE TO LIQUOR STORE ON LOT 1 (11/51)
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(ATTACHMENT)**

With regard to the oversupply of liquor outlets, it is not appropriate for the City to involve itself with economic considerations when dealing with statutory planning issues, nor does the City base its use control system on preferred uses. As the permissibility of the proposed use is discretionary under the provisions of CPS5, the recommendation of Officer's is limited to planning considerations. No evidence has been provided of increased anti-social behaviour relative to the number of liquor outlets in the City of Melville.

CONCLUSION

Given the above, it is recommended that the subject application be conditionally approved as the development is entirely consistent with the City of Melville CPS5 objectives, statement of intent with respect to the 'Community Centre' Precinct and is justified on the basis of car parking.

OFFICER RECOMMENDATION**APPROVAL**

- A) That the application for Change of Use to 'Liquor Store' on Lot 1 (11/51) Farrington Road, Leeming be approved subject to the following Special Conditions and Standard Conditions:**

SPECIAL CONDITIONS:

- 1. Prior to the issue of a Building Licence, the applicant to submit a detailed Noise Management Plan to address potential noise impacts from external equipment and activities of the proposed development in accordance with Environment Health (Noise) Regulations.**
- 2. A separate application for Planning Approval and a Signs Licence is required for all signage. Approval is not required for signage internal to the Shopping Centre building.**

STANDARD CONDITIONS:

- 1. Prior to issue of a building licence, 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.**
- 2. 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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FARRINGTON ROAD (LEEMING FORUM SHOPPING CENTRE), LEEMING (REC)
(ATTACHMENT)**

- 3. 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 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.**

ADVICE NOTES:

- 1. This is a Planning Approval only and does not obviate the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council or with any other requirements of Community Planning Scheme No. 5. Prior to the commencement of any works a Building Licence may be required.**
 - 2. The proposal will need to comply with all aspects of the Building Code of Australia including fire rating, fire separation, provision of hydrants, hose reels, access ramps and disabled facilities, emergency lighting and signage.**
- B) That the objector be notified in writing of A) above.**