



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

13 OCTOBER 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: 16 OCTOBER 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 9:00 AM ON TUESDAY, 13 OCTOBER 2009.**

PRESENT

| | |
|---------------------------------|---|
| T Capobianco (Presiding Member) | A/Manager Planning & Development Services |
| J Gonzalez | Planning Services Coordinator |
| H Shigeyoshi | A/Planning Services Coordinator |
| A Poore | A/ Building Services Coordinator |
| N Gray | Environmental Health Officer |

APOLOGIES

| | |
|-----------|--------------------------|
| R Bailey | Technical Officer |
| G Russell | Senior Building Surveyor |

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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U09/0135 (RJ) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 13 OCTOBER 2009

| No. | LOCATION | TREE/BACKGROUND | RECOMMENDATION |
|-----|----------------------------|--|---|
| 1 | 26 Arkwell Street Willagee | Planning Application is currently being considered for a single-storey dwelling on the corner of Winnacott Street, with the proposed off Arkwell Street. There are two existing <i>Lophostemon Conferta</i> (Box Tree) located either side of the proposed crossover. The Box Tree on the eastern side is very close to the proposed crossover which would either require removal of the tree or modification of the crossover to allow adequate clearance. Given a third tree exists further to the east and the proposed configuration of the crossover with respect to the garage, removal and replacement of this tree in the Winnacott Street verge is recommended. | Recommend that the existing street tree be removed and replaced with a 100 litre semi-advanced tree in the Winnacott Street verge, subject to the issuance of a Building Licence and all work to be undertaken by the City of Melville at the owner/applicants expense. |



26 ARKWELL STREET WILLAGEE

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

Ward : University
Category : Operational
Application Number : DA-2009-617
Property : 70 Gilbertson Road, Kardinya
Proposal : Three-Storey Mixed Use Development
Applicant : DMBD Pty Ltd
Owner : Mr P J B Barrett
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 : n/a

AUTHORITY / DISCRETION

Definition

- Advocacy *when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets*
- Legislative *includes adopting local laws, town planning schemes & policies.*
- Review *when Council reviews decisions made by Officers.*
- Quasi-Judicial** *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.*

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning approval is sought for a mixed-use development comprising of one (1) office and three (3) multiple dwelling units.
- The office component represents a discretionary use and has therefore been the subject of advertising in accordance with Clause 7.5 (d) of Community Planning Scheme No. 5 (CPS No. 5).
- The advertising process resulted in the receipt of four (4) submissions, three (3) objecting to the development proposal on the grounds of detrimental impact to residential amenity, loss of privacy, overshadowing and building bulk.
- Variations are sought for landscaping and store provisions.
- It is recommended that the application be conditionally approved.



U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

| | |
|--------------|--|
| MRS Zoning | : Urban |
| CPS 5 Zoning | : KF - 'Commercial Centre Frame' Precinct |
| R-Code | : 'R50' |
| Use Type | : Multiple Dwelling 'Residential' and 'Office' |
| Use Classes | : Residential – 'D' use Office – 'S' use |

Site Details

| | |
|--------------------------------------|------------------------|
| Lot Area | : 769 sqm |
| Retention of Existing Vegetation | : N/A |
| Street Tree(s) | : N/A |
| Street Furniture (drainage pits etc) | : N/A |
| Site Details | : Refer to photo above |

U09_0136_October_2009.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on 16 October 2009.

DETAIL

Development Requirements - CPS No. 5

| Development Requirement | Required/ Allowed | Proposed | Comments | Delegation to approve variation | Plan Notation |
|-------------------------|--|---------------|------------------------|---------------------------------|---------------|
| Landscaping | 25%, in accordance with Cl. 5.9 | 22% | Does not comply | MPDS | |
| Plot Ratio | 0.8 | 0.8 | Complies | | |
| Front Setback | 6.0m | Averages 6.0m | Complies | | |
| Building Height | 8.0m (eaves) 10.5m (max) | n/a 10.0m | Complies | | |
| Setbacks | | | | | |
| Side | 2.0m | 2.0m | Complies | | |
| Rear | 6.0m | 19.6m | Complies | | |
| Car Parking | 5 bays | 6 bays | Complies | | |

*non-compliance in bold

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

Development Requirements – R-Codes

| Development Requirement | Required/ Allowed | Proposed | Comments | Delegation to approve variation | Plan Notation |
|---|---|------------------------------|-----------------|---------------------------------|---------------|
| Cl. 6.10.3: Essential Facilities (Storage Area) | 3 stores each having an area of 4sqm with a minimum dimension of 1.5m | 1 store with an area of 3sqm | Does not comply | MPDS | |
| Car Parking | Two (2) bays per dwelling | Two (2) bays per dwelling | Complies | | |
| Overshadowing | 50% | 36.5% | Complies | | |

*non-compliance in bold

Setbacks

All setbacks are compliant with the Acceptable Development requirements contained under the provisions of the R-Codes.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: 'S' use classification for the proposed Office component
 Support/Object: Three (3) objections received

| Submission Number | Summary of Submission | Support/ Objection | Officer's Comment | Action Uphold / Not Uphold |
|-------------------|---|--------------------|-------------------|----------------------------|
| 1. | No objection to development however, concerns expressed with regard to inadequate vehicle parking and potential traffic hazard. | Support | Noted. | Uphold |

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

| | | | | |
|----|--|-----------|---|------------------|
| 2. | Concerns are expressed in relation to detrimental impact to privacy, security, property values and residential amenity levels currently enjoyed. States that the locality should remain as residential. | Objection | In the case of the subject application, all aspects of non-compliance with the R-Codes and/or provisions of CPS No. 5 are deemed acceptable for support at the discretion of Council (refer to comments section below for detailed assessment). | Partially Uphold |
| 2. | Concerns are expressed in relation to the residential amenity levels currently enjoyed by virtue of loss of privacy, potential verge parking, noise pollution, commercial trading hours and overshadowing. | Objection | Noted - refer to comments section below for detailed assessment. | Partially Uphold |
| 3. | Concerns expressed in relation to the adverse impact on the residential amenity currently enjoyed by the objector by virtue of increased traffic volumes, visual bulk and reduced land values. | Objection | Noted - refer to comments section below for detailed assessment. | Not Uphold |

REFERRALS TO GOVERNMENT AGENCIES

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

Not applicable.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Policy 06-024 - Car Parking (Non Residential)

Policy 06-024 – Car Parking (Non-Residential) exists to control the provision of non-residential car parking throughout the City of Melville.

The commercial component of the mixed-use development comprises of an ‘Office’ use under the provisions of Table 1 - Use Class Table of CPS No 5. As such, Policy 06-024 requires parking to be provided at a ratio of ‘1 bay per 30 square metres of net lettable area (NLA)’.

Based on above ratio, a total of five (5) bays are required. The development proposal provides a total of twelve (12) bays of which six (6) are allocated to the ‘Office’ use. Accordingly, the Policy requirement is satisfied.

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 the opportunity to have this matter called up for formal Council consideration.

COMMENTS

The subject application seeks planning approval for a mixed-use development comprising of a small-scale office use on the ground floor and three (3) ‘multiple-dwelling’ residential apartments which occupy two levels above. Whilst the proposed development has generally been designed to comply with the provisions of the R-Codes and CPS No. 5, the development proposal affords two (2) variations relating to the provision of landscaping and storage facilities. The following section below addresses these variations along with issues raised by objectors.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

Land Use

- The subject lot is located within the 'Commercial Centre Frame - Kardinya Frame' and is surrounded by residential properties in the immediate vicinity. However, the subject site is situated within a 100 metre catchment area of the Kardinya Shopping Centre which is within the 'District Centre' Precinct under the provisions of CPS No. 5. The function of the 'Commercial Centre Frame' in this instance is to provide a transitional area between full-scale retail uses permitted within the 'District Centre' Precinct and 'Living Area' Precincts which provide for residential land use.
-
- The Statement of Intent for the Kardinya Frame states:

Primarily residential but may include offices, medical practitioners and churches where privacy of neighbours is respected and design has a residential character.

Based on the above, the proposed development consisting of a small-scale office and majority residential is considered acceptable in this location as it is consistent with the intent of the precinct. The development design also maintains a modern residential appearance incorporating different materials and finishes aimed at aesthetically improving the streetscape and surrounding area.

Objections received during the advertising process have raised concerns relating to adverse impact to the residential amenity levels currently enjoyed as a result of security risk, increase in traffic volumes and commercial trading hours.

Whilst the concerns raised by the objectors are acknowledged, it is considered that the development proposal shall have minimal impact to the current residential amenity of the area given that the residential component is the dominant use for the development. The commercial office component is considered to be sympathetic to the surrounding residential properties as it is not an intensive nor dominating commercial use (i.e. occupies approximately 22 percent of the total floor area of the building). Furthermore, it is anticipated that the office use will operate between Monday to Friday, 8.30am to 5.00pm after which there will be no activity.

Given the above, the proposal is entirely supported from a land use perspective.

Car Parking / Traffic Impact

Objections received during the advertising period raised concerns regarding increased traffic volumes and loss of residential amenity as a result.

It is noted that the development proposal is entirely compliant with the parking provisions contained under the R-Codes and Policy 06-024 Car Parking (Non-Residential). Accordingly, objections relating to car parking are not upheld given its compliance with the relevant provisions.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

With regard to overall traffic impact, it is noted that the subject site is well within a 400-metre walkable catchment to the Kardinya Shopping Centre and various public transport nodes which are situated along Gilbertson Road and South Street. The proposal also provides end-of-trip facilities for the use of the office and residences. The net impact of this shall place less dependence on the use of vehicles as such, assist in curbing the potential for traffic volumes to increase substantially as a result of the development. The latest traffic count for Gilbertson Road undertaken in 2007 reveals an average weekday traffic count of 4,763 vehicles. Gilbertson Road is classified as a Local Distributor Road under the City of Melville Road Hierarchy and is designed to support a maximum of 6000 vehicles per day.

Accordingly, whilst concerns raised by the objectors are acknowledged, they are not upheld in this instance.

Essential Facilities – Storage Area

The development varies from Clause 6.10.3 of the R-Codes in relation to store provisions for the residential units. The Acceptable Development Criteria of the R-Codes requires an enclosed, lockable storage area at least 4.0 square metres with a minimum dimension of 1.5m be provided for each multiple dwelling. The development proposes a single store for all three (3) units with a total area of 3.0 square metres with a minimum dimension of 1.3 metres.

This is not considered to be adequate to meet the storage needs for all three residences. Therefore, in order to overcome this shortfall, it is recommended that the proposal be conditional on the basis that the bicycle parking enclosure be reduced to half its size to create additional space to accommodate extra storage. This will result in an extra 6.0 square metres being created which will total 9.0 square metres, in lieu of 12 square metres (i.e. thus resulting in a shortfall of 3.0 square metres).

Whilst the 4.0 square metres per unit standard is not met, it is deemed to satisfy the Performance Criteria of Clause 6.10.1 of the R-Codes as adequate provision has been made to accommodate the needs of the residents and the slight variation to the storage area is not regarded to cause detriment to the amenity of the locality.

Landscaping

Based on the current design, the proposal provides 84.4sqm of soft landscaping and 86.2sqm of hard landscaping which equates to a total landscaping provision of 22%, in lieu of 25% as required under the provisions of CPS No. 5.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

Notwithstanding the shortfall, the landscaping requirement contained under the 'Kardinya Frame' provides Council the discretion to vary the required amount under Clause 5.9(a) of CPS No. 5. In this instance, the minor shortfall of 3% is conditionally supported on the basis that:

- The development provides three (3) semi-mature 200 litre shade trees to the rear landscaping strip to lessen the impact of bulk on the adjoining neighbours to the east as these lots are in a solely residential zoning.
- Provisions of two (2) large 2.0m x 0.75m x 0.6m high planter pots with shrubs and in each pot a semi-mature 100 litre shade tree on the first floor common terrace to the residential element of the building.
- The landowner is to landscape, reticulate and maintain the verge area to the specification and satisfaction of the Council.

Additional to the above, it is proposed that the development approval be conditional on the basis that a detailed landscaping plan be provided prior to issuance of a Building Licence for the Council's approval.

CONCLUSION

The proposal as submitted is considered to meet the relevant Performance Criteria with regard to the variations proposed and is otherwise in full compliance with the provisions of the City of Melville Community Planning Scheme No. 5, relevant Policies and R-Codes. As such, it is recommended that application be conditionally approved.

OFFICER RECOMMENDATION**APPROVAL**

A) That the application for proposed three-storey mixed use development, consisting of three (3) multiple dwellings and one (1) office on lot 149 (70) Gilbertson Road, Kardinya be approved with the following special and standard conditions;

SPECIAL CONDITIONS:

- 1. A security gate is to be installed at a suitable location along the bitumen driveway and is to be operable by remote control or by intercom command after business hours.**
- 2. Any alarm system is to be a silent monitored type to the approval of the Manager Planning and Development Services.**
- 3. Car bay 12 to be used as a turning bay and sign marked to ensure no vehicle parking is permitted at any time.**

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

4. Two (2) street trees being provided on the verge area in front of the development site. The location, species and size being to the satisfaction of the Manager Infrastructure Services. The applicant is to liaise with the City of Melville Senior Natural Resource Officer in relation to compliance with this condition of planning approval.
5. The bicycle enclosure shall be reduced to half its size to allow for an enclosed storage area to be accommodated as marked in 'RED' on the approved plans.
6. The rear fence is to be of masonry construction and achieve a maximum height of 2.0 metres.
7. The northern façade of the commercial office is to comply with the requirements of the Building Codes of Australia (BCA) with regard to (but not limited to) fire rating requirements.
8. Building Licence plans submitted as part of an Application for Building Licence are to represent all conditions of planning approval.
9. The residential component of the development to comply with Clause 6.10.1(A3.4) with regard to the provision of a clothes-drying area.
10. In order to comply with Clause 6.8.1 (A1) Visual Privacy of the Residential Design Codes (2008), the following windows listed below and as shown in 'RED' on the approved plans being either: fixed obscure glazing to a minimum height of 1.65 metres above the finished floor level; or a minimum sill height of 1.6 metres above the finished floor level; or an obscure awning type window; or any other alternative that complies with the above Clause 6.8.1 (A1):
 - i. First Floor Apartment 2, Kitchen;
 - ii. First Floor Apartment 3, Study;
 - iii. Second Floor Apartment 1, Bed 4;
 - iv. Second Floor Apartment 2, Bed 3;
 - v. Second Floor Apartment 2, Bed 4;
 - vi. Second Floor Apartment 3, Bed 3; and,
 - vii. Second Floor Apartment 3, Bed 4;

STANDARD CONDITIONS:

11. The façade of the building/s and wall/s is to be treated with non-sacrificial anti-graffiti agent.
12. That no activities causing noise and/or inconvenience to neighbours shall be carried out after 7.00pm or before 9.00am, Monday to Saturday, and not at all on Sundays or public holidays.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

13. 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.
14. All sewerage wastes and water pipes to be concealed within the building.
15. 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.
16. Disabled car parking bay/s to be provided, clearly designated as such, located conveniently to the principal building entrance and to be of minimum dimensions 3.8 metres wide by 6.0 metres deep.
17. All car parking areas are to be provided with protective rails or a buffer strip to hard standing car bays adjoining boundary fences to the satisfaction of the Manager Planning and Development Services.
18. 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.
19. All unused crossover(s) to be removed and the kerbing and verge to be reinstated at the applicant/owner's full expense to the satisfaction of the Manager Planning and Development Services.
20. The development is to be connected to the Water Corporation's reticulated sewerage system.

U09/0136 - (MB) PROPOSED THREE-STOREY MIXED USE DEVELOPMENT (3 MULTIPLE DWELLINGS AND 1 OFFICE) ON LOT 149 (70) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)

21. 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. The lodging of detailed landscape and reticulation plans, to the satisfaction of the Manager Planning and Development Services for the development of the site and the adjoining road verge(s) at the time of submitting a Building Licence Application.
 22. A separate application for Planning Approval and a Signs Licence is required for all signage.
 23. The hours of operation are to be restricted to 8.30am to 7.00pm Monday to Friday and 9.00am to 1.00pm on Saturday.
 24. 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.
 25. A detailed landscaping and reticulation plan being submitted and approved for the subject site and the road verge(s) adjacent to the site. 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.
- B) The adjoining property owners to the development be advised in writing of A) above.

U09/0137 - (MB) AMENDMENT TO APPROVED EXPANSION OF KARDINYA PARK SHOPPING CENTRE: ADDITION OF DRIVE-THROUGH BOTTLE-SHOP ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

| | |
|----------------------------|--|
| Ward | : University Ward |
| Category | : Operational |
| Application Number | : DA-2009-837 |
| Property | : Lot 17 (1-15) South Street, Kardinya |
| Proposal | : Amendment to approved expansion of Kardinya Park Shopping Centre: Addition of a Drive-through Bottle-shop |
| 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 Tony Capobianco A/Manager Planning and Development Services |
| Previous Items | : DA2006-466 – approved 20 March 2007 DA2006-466/A – approved 17 March 2009 http://www.melvillecity.com.au/about/elected-members/agendas-and-minutes/public-meetings/council-meeting/20070320_omc_minutes.pdf http://www.melvillecity.com.au/about/elected-members/agendas-and-minutes/public-meetings/minutes-development-advisory-unit-17-march-2009/20032009_dau_minutes.pdf |

AUTHORITY / DISCRETIONDefinition

- | | | |
|-------------------------------------|-----------------------|--|
| <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> |

U09/0137 - (MB) AMENDMENT TO APPROVED EXPANSION OF KARDINYA PARK SHOPPING CENTRE: ADDITION OF DRIVE-THROUGH BOTTLE-SHOP ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The application proposes an amendment to the already approved expansion of the Kardinya Park Shopping Centre, granted planning approval by Council on 20 March 2007 and subsequently 'renewed' on the 25 March 2009.
- The previous approvals resulted in the creation of an additional 4,609.5 sqm of net lettable floorarea (NLA) which consisted of additional retail space for the existing anchor tenants Coles and K-Mart as well as additional retail floor space for a range of specialty tenancies.
- The additional floorspace of 4,609.5 sqm was spread across two (2) levels, the ground floor comprising of 160 sqm and first floor comprising 4,341.5 sqm.
- The subject application seeks approval for the creation of a drive-through bottle-shop on the ground floor level and minor alterations/reduction to the first floor retail area.
- Whilst the proposal shall result in the increase of ground floor floorspace to 524 sqm, a reduction of 364 sqm in the first floor floorspace is proposed thus, resulting in no aggregate change to the total (approved) retail floorspace of 4,609.5 sqm.
- Additionally, the proposal shall allow improved on-site vehicular circulation and the creation of an additional thirty (30) car parking bays from the March 2009 approval.
- The proposal has been the subject of community consultation in accordance with Clause 7.5(d) of the City of Melville Community Planning Scheme No. 5 (CPS No. 5).
- The advertising process resulted in the receipt of two (2) submissions, both objecting to the development proposal on the grounds of retail competition, security risk and traffic congestion.
- Objections whilst acknowledged are not upheld for reasons detailed in this report.
- The proposal is entirely compliant with the development requirements contained under CPS No. 5 and relevant Policies.
- It is recommended that the application be conditionally approved.



U09/0137 - (MB) AMENDMENT TO APPROVED EXPANSION OF KARDINYA PARK SHOPPING CENTRE: ADDITION OF DRIVE-THROUGH BOTTLE-SHOP ON LOT 17 (1-15) SOUTH STREET, KARDINYA (REC) (ATTACHMENT)**BACKGROUND**

On the 28 March 2007, Council conditionally approved a 4,501.5 sqm expansion of the Kardinya Park Shopping Centre to a total of 17,872m² NLA. A summary of the March 2007 approval is detailed below:

- Total Planning Land Use Category 5 (PLUC5) floorspace approved – 16,750 sqm.
- 965 car bays.
- 3.5% on-site landscaping.
- Plot ratio - 0.38
- Maximum building height – 10.3 metres.

On the 17 March 2009, the City of Melville issued a 'renewal' of the abovementioned planning approval subject to the same terms and conditions as the March 2007 approval. However, a key difference in the March 2009 submission consisted of a proposed drive-through bottle-shop element. The bottle-shop was the subject of a number of concerns raised by Elected Members during an Elected Members Workshop held on 27 January 2009 and as a result, was subsequently deleted from the application. Concerns expressed at the time revolved around the bottle-shop element prejudicing the Council's aspirations to see the creation of a "Main Street" of commercial and retail activities between Kardinya Park Shopping Centre and the Kardinya Square Centre to the immediate east.

The March 2009 approval forms the basis for the subject Application which is discussed in further detail below.

Scheme Provisions

| | |
|--------------|--|
| MRS Zoning | : Urban |
| CPS 5 Zoning | : 'District Centre' Precinct – Kardinya Centre DC5 |
| R-Code | : 'R60' |
| Use Type | : 'Shop' |
| Use Class | : 'P' - Permitted |

Site Details

| | |
|--------------------------------------|------------------------|
| Lot Area | : 47,316.8 sqm |
| Retention of Existing Vegetation | : n/a |
| Street Tree(s) | : n/a |
| Street Furniture (drainage pits etc) | : n/a |
| Site Details | : Refer to photo above |

U09_0137_October_2009.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on 16 October 2009.

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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 – no change to previously approved | | |
| Landscaping | 10% (4731.7sqm) | 3.5% (1,650sqm) | Shortfall conditionally approved under previous DA | | |
| Car Parking | 7 bays per 100sqm NLA 1251 bays | 5.4 bays per 100sqm NLA 995 | Shortfall conditionally approved under previous DA | | |
| 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 | | |

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with Clause 7.5(e) of CPS No. 5
 Support/Object: One (1) objections received

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| Submission Number | Summary of Submission | Support/Objection | Officer's Comment | Action Uphold / Not Uphold |
|-------------------|--|-------------------|--|----------------------------|
| 1. | Concerns are expressed in relation to the proposal on the grounds of retail competition, security risk and traffic congestion. | Object | <p>In the case of the subject application, retail competition cannot be taken into consideration as such matters are not regulated by the Local Authority nor under the provisions of the <i>Planning and Development Act 2005</i> under which planning approval is granted.</p> <p>Whilst concerns relating to security and traffic congestion are noted, issues are unlikely to arise as a result of the proposal (refer to comments section below for detailed assessment).</p> | Not Uphold |

REFERRALS TO GOVERNMENT AGENCIES

Referral to MRWA was not deemed necessary as part of the subject application.

The details of the previous March 2009 application have been the subject of consultation with Main Roads Western Australia (MRWA), who confirms 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 MRWA. This is to be submitted for Council approval prior to the issuance of a Building Licence, with measures identified being implemented prior to the commencement of operation of the additional retail floor space.

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*.

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Not applicable.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Under the provisions of the Western Australian Planning Commission (WAPC) Statement of Planning Policy 4.2, 'District Centres' are not to exceed 15,000 square metres NLA Retail or an amount consistent with a Local Commercial Strategy adopted by the WAPC. The City of Melville Local Commercial Strategy recommends a floor space limit of 20,000 sqm NLA Retail for the Kardinya District Centre.

Given the subject proposal does not propose a change to the already approved retail NLA of 19,427 sqm as per the March 2009 approval, no strategic implications are envisaged.

POLICY IMPLICATIONSPolicy 06-PL-024 Car Parking (Non-Residential)

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 March 2009 approval for the expansion of the Kardinya Park Shopping Centre granted approval based on the provision of 965 bays in lieu of the required 1,251 car bays (based on the aggregate floorspace of 17,872 sqm). A dispensation of 286 bays was supported given a technical report prepared by a qualified traffic consultant as part of the March 2007 approval considered sufficient car parking bays were provided on-site to cater for the peak parking demand generated by the redevelopment.

Given the subject proposal does not change the aggregate floorspace of the shopping centre, it is considered that the grounds for dispensation still apply (refer to March 2009 report for further details). Notwithstanding, it is noted that the current proposal results in the creation of an additional thirty (30) bays as a result of the floorspace re-arrangement. Therefore, this has reduced the car bay shortfall to 256 bays as well improved vehicular circulation within the ground floor parking area.

Policy 06-PL-017 Bicycle Planning and End of Trip Facilities in Non Residential Areas

City of Melville Policy 06-PL-017 'Bicycle Planning and End of Trip Facilities in Non Residential Areas' 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 (253 bay shortfall).

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The subject application proposes an amendment to the already approved expansion of the Kardinya Park Shopping Centre, granted planning approval by Council on 20 March 2007 and subsequently 'renewed' on the 17 March 2009. Specifically, the application seeks approval for the creation of a drive-through bottle-shop on the ground floor level and minor alterations/reduction to the first floor retail area to cater for the alteration.

It is noted that the report to Council on the initial application in March 2007 and subsequent renewal in March 2009 (refer to web link) provides a comprehensive and detailed

commentary on the overall development to which the subject application application generally conforms with. However, it is considered prudent that specific matters in relation to bottle-shop element are addressed in the context of the current application.

Main Street Activation

As stated previously, the March 2009 application proposed the inclusion of a drive-through bottle-shop element which was not supported at the Elected Members Workshop held on 27 January 2009. Concerns were expressed with regard to the way in which a drive-through bottle-shop 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 subject application presents a redesigned drive-through bottle-shop proposal which has taken due regard to the concerns raised. Specifically, the redesign incorporates the use of glass screens along the shop façade facing the Kardinya Square Centre to create a 'shop front' atmosphere along the internal parking aisle. This proposal is an improvement upon the previous approved proposal which did not include any commercial land uses on the ground floor, thus leaving the space as a vacant access and egress point for the undercover visitor parking. Through the provision of a commercial land use on the ground floor, this contributes to improved interaction and connection to the adjoining retail facility to the east (i.e. Kardinya Square Centre), as well as promoting pedestrian activity between the two sites.

Accordingly, it is considered that the proposal adequately addresses Council's long term vision for the possible future Formation of a "main street" atmosphere between the two centres. Therefore, the drive-through bottle-shop proposal is supported.

Traffic Movement

The proposal presents car parking and traffic circulation almost identical to that already approved as part of the March 2009 approval which was the subject of detailed technical consideration by an independent Traffic Consultant as well as City's Engineering Design Services.

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Notwithstanding the above, minor modifications form part of the subject proposal which have been re-considered by the City's Engineering Design Services. In principle, the proposal has been supported subject to the following conditions:

- The proposed tandem car bays situated to the west of the proposed bottle-shop being used for staff parking only, with appropriate signage indicating its purpose.
- The existing island located at the western end of Brophy Street being retained.
- The proposed islands on the northern entrance of the drive-through shall be reduced in length and width to allow improved access and egress for vehicles.
- The tree proposed on the south-eastern section of the bottle-shop development being removed to ensure adequate sightlines are achieved.
- The westerly traffic flow proposed along the southern parking aisle shall be modified to allow an easterly direction only.

CONCLUSION

Based on the above, the subject application is considered to represent an improved redevelopment proposal to that approved by Council previously. The subject application has benefits associated with the increased number of car bays and improved traffic conditions to facilitate the improved circulation of vehicles. Furthermore, Council's long term vision of achieving a 'main street' atmosphere is initiated through the subject proposal. Accordingly, it is recommended that this application be conditionally approved.

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OFFICER RECOMMENDATION

APPROVAL

- A) That the amendment to the approved expansion of the Kardinya Park Shopping Centre: addition of a drive-through bottle-shop on lot 17 (1-15) South Street, Kardinya, be approved subject to the following.**

Special Conditions:

- 1. The subject application does not obviate the responsibility of the applicant to ensure condition/s of planning approval previously imposed for the overall Kardinya Park Shopping Centre redevelopment as part of DA2009-466/A being satisfied. Where conditions imposed as part of this application conflict with those forming part of DA2009-466/A, conditions of this approval shall prevail.**
- 2. The tandem car bays marked in 'RED' on the approved plans shall be for staff parking only and sign marked accordingly.**
- 3. 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.**
- 4. All pedestrian paths and crossings shall be illuminated to the levels recommended in the Australian Standard 1158 light for roads and public spaces.**
- 5. CCTV shall be installed and continuously operated and monitored within the undercroft parking area to the satisfaction of the manager planning and development services.**
- 6. This approval is valid for a period of two (2) years from the date of the approval.**
- 7. The islands marked in 'RED' on the approved plans pertaining to the northern entrance of the drive-thru shall be reduced in length and width to the satisfaction of the Manager Planning and Development Services to ensure adequate access and egress is achieved into the drive through lane.**
- 8. The tree marked in 'RED' on the approved plans shall be removed to allow for adequate sightlines.**
- 9. Traffic movement along the parking aisle immediately south of the development as marked in 'RED' on the approved plans shall be changed to flow in an easterly direction.**
- 10. The existing island located at the western end of Brophy Street as marked in 'RED' on the approved plans is to be retained to allow safe traffic movement.**

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11. 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.
12. 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.

Standard Conditions:

13. The development complying with any amendments and notations marked in 'RED' as shown on the approved plans.
14. The façade of the building/s and wall/s is to be treated with non-sacrificial anti-graffiti agent.
15. All facades are to be in masonry or plate glass construction or other material as specifically approved in writing by the council.
16. 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.
17. The materials and finishes of the development are to compliment the existing building to the satisfaction of the manager planning and development services.
18. 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.
19. 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.
20. During construction, access to the lot to be via the street frontage only and that no building rubble be permitted to overspill the site.

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21. 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.
 22. Maximum vehicles access gradient ratio of 1:5 being achieved.
 23. The development is to be connected to the water corporation’s reticulated sewerage system.
 24. A separate application for planning approval and a signs licence is required for all signage.
 25. 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.
 26. 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.
- B) The adjoining property owners to the development be advised in writing of A) above.