



— City of —
Melville

REPORTS AND RECOMMENDATIONS
FROM THE
DEVELOPMENT ADVISORY UNIT
MEETING
HELD ON
18 NOVEMBER 2008

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

DISTRIBUTED: 21 NOVEMBER 2008



— City of —
Melville

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**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 1:30PM ON TUESDAY 18 NOVEMBER 2008**

PRESENT

D Vinicombe (Presiding Member)

J Gonzalez
P.Prendergast
T Capobianco
D Monteiro
R Jessup
R Bailey

Manager Planning & Development Services
(with exception to Kintail Road Report due
past involvement in property/applicant)
Planning Services Coordinator
Planning Services Coordinator
Principal Building Surveyor
Environmental Health Officer
Senior Horticultural Technical Officer
Technical 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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U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mount Pleasant Ward
Category : Operational
Policy
Strategic
Application Number : DA-2008-895
Property : 18B Tain Street, APPLECROSS
Proposal : Two Storey Single Dwelling (Right Side)
Applicant : Prestigious Building and Design
Owner : Mr B Pontre and Mrs S Pontre
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 :

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> |

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The applicant seeks consent for a two storey single house with boundary walls.
- The City's determination is sought under the Performance Criteria under clause 6.3.2 'Building on Boundary' of the R Codes for ground and upper floor setbacks.
- An objection has been lodged by an adjoining owner to the south.
- The application is recommended for approval.

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R15
Use Type	:	Residential
Use Class	:	'P'

Site Details

Lot Area	:	550sqm
Retention of Existing Vegetation	:	Nil
Street Tree(s)	:	Nil
Street Furniture (drainage pits etc)	:	Nil
Site Details	:	U08_0270_PROPERTY_MAP.pdf

[U08_0270_November_2008.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 21 November 2008.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	50%	55%	Complies		
Building Height	8.0m (eaves) 10.5m (ridge)	6.8-5.8m (eaves) 6.8m (ridge)	Complies		
Car parking	2	2	Complies		
Overshadowing	25%	20.17%	Complies		

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front	6.0m	7.27m (dwelling) 4.5m (garage) 5.4m (portico-entry)	Complies Complies Complies		
Rear	6.0m	14.91m	Complies		
Side (N-W)	(Ground) Nil (next to another boundary wall) Nil (next to another boundary wall) 1.5m (Upper) Nil (next to another boundary wall) Nil (next to another boundary wall) 3.0m	(Ground) Nil (entry/stairs) Nil (kit/din/alfresco) 1.5m (full length) (Upper) Nil 1.0m 1.5m	Complies Complies Complies Complies Complies Does not Comply		
Side (S-E)	(Ground) 1.0m 1.5m 1.0m (Upper) 1.2m 3.0m 1.2m	(Ground) Nil (garage) 1.68m, 2.38m 1.2m (Upper) Nil 1.6m, 2.3m 1.2m	Does not Comply Complies Complies Does not Comply Does not Comply Complies	MPDS MPDS MPDS	

(Note: Non compliance is emphasised in bold)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
Neighbour's Comment Supplied: Yes
Reason: Required in accordance with the R-Codes
Support/Object: 1- Object and 1-Support

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

Submission Number	Summary of Submission	Support-Objection	Officer's Comment	Action (Condition /Uphold/Not uphold)
1.	<p>Concerned about ground floor setback for garage wall at nil in lieu of 1.0m due to the new dwelling we propose to build in 2009 on 20 Tain St.</p> <p>We propose to build in the near futureThe home is over 17m in width, with a kitchen on the first floor and 2 bedrooms above that will face a blank wall at very close proximity if the proposed wall at 18B is placed directly on our mutual boundary.</p> <p>The proposed boundary wall is unacceptable as northern light to our rooms will be greatly reduced.</p>	Objection	<p>Noted. In the absence of a valid planning approval for the redevelopment of the neighbour's lot at No 20 Tain Street, the assessment in relation to the current planning application is restricted to the impact that results to the existing property, not a proposed one. Any future impact is considered minimal as it is noted that the proposed dwelling also involves a blank garage wall in close proximity to the common boundary. See further details in comments below.</p> <p>As above.</p> <p>The proposal meets the Performance Criteria under the R Codes in respect of lighting and ventilation. Existing trees located within the lot at No. 20 Tain St cause a degree of overshadowing already.</p>	<p>Not uphold</p> <p>Not uphold.</p>

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

	<p>Extensive area of brick will be visually oppressive from our windows and difficulty in camouflaging of said wall due to lack of light.</p> <p>Poor architectural aesthetics from both lack of privacy to home and attendant streetscape issues.</p>		<p>The proposed boundary wall will be screened by existing mature trees located within the objectors lot at No.20 Tain St. If these trees were removed, then the wall would be exposed. The treatment of part of the wall with decorative cladding would add interest and help ameliorate any negative visual impact. The visual bulk of the wall is already broken and reduced by the curved roof over the front section of the balcony.</p> <p>Architectural merit is a personal preference as the applicant proposes a contemporary home relative to the classical design proposed by the respondent. This area contains a variety of architectural form and it is inappropriate in this case to favour one form or another. The applicant has agreed to apply stone cladding to the upper floor section and recess the wall to articulate the design and reduce visual bulk.</p>	<p>Partially upheld.</p> <p>Upheld.</p>
2	<p>Do not object to 6.18m double parapet wall, 13.74m long by 3.086m high parapet wall, 5.0m long by 2.2m high parapet wall and second level setback of 1.0m inlieu of 1.9m.</p>	Support	<p>Noted. The proposed boundary (parapet) wall meets with the Acceptable development Standards of the R Codes, as it faces walls of similar scale and proportion on the opposing lot.at 18A Tain Street.</p>	

**U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET,
APPLECROSS (REC) (ATTACHMENT)**

REFERRALS TO GOVERNMENT AGENCIES

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

The applicant may have the right to have the decision of the Council reviewed in accordance with part 14 of the Planning and Development Act 2005.

FINANCIAL IMPLICATIONS

Not applicable

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable

POLICY IMPLICATIONS

Council Policy 06-008 exists to control the quality of residential development throughout the City.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Not applicable.

COMMENT

This application seeks consent for the erection of a two storey single house on a cleared strata lot. The property has a frontage of 10.06m to Tain Street, and is one half of an original property.

A new dwelling is currently being constructed on 18A Tain Street (to the north) and has design elements similar to the proposed two storey dwelling. The designs have shared boundary walls between them and a garage at 4.5 metres from the Tain Street boundary.

The subject site is located in a Living Area Precinct under the provisions of the City of Melville Community Planning Scheme. No 5 (CPS No 5). The dominant land use activity in this Precinct is residential, and the existing immediate streetscape is made up of 4 single detached one and two storey dwellings on Tain Street.

**U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET,
APPLECROSS (REC) (ATTACHMENT)**

The proposed dwelling is contemporary in design and incorporates a 'colorbond' metal roof with a 'curve' to the front to articulate and screen a balcony side. The front elevation has a combination of rendered brickwork and stone cladding. The footprint of the proposed dwelling is 45% (247.62sqm approx.), with an upper floor area of 169.151sqm.

The property is generally designed to comply with the R Codes and CPS No 5. However, in recognition of the size of the lot area and its narrow width, there are a number of variations to the minimum setbacks sought by the applicant under the performance criteria of the R Codes. The issues these variations pose are as follows:

Boundary Set Back.

The proposal seeks variations to the side setback requirements of the R Codes in relation to the boundary walls of the NW and SE side elevations.

In relation to the setback variations sought to the NW side, a setback of 1.5m is proposed for a 5.95m length of wall in lieu of a required setback of 3.0m. This length of wall abuts a light well area for the proposed residence and is located opposing a similar light well area for the property at 18A Tain Street. In addition, the owners of the adjoining property at No 18A have confirmed their support for the proposed development.

In relation to the setback variations sought on the SE side the design proposes a two storey wall with nil setbacks in lieu of 1.0m for the ground floor element (garage) and nil in lieu of 1.2m for the upper floor element (main bedroom and balcony). In addition a length of the proposed wall is setback between 1.6 and 2.3m where the requirement is 3.0 m. The neighbour from 20 Tain Street objects to the nil setback for the garage and main bedroom only on the basis that it would prejudice the way in which they intend to develop their lot in the future.

Whilst the concerns expressed by the neighbour in this regard are acknowledged, the fact that there is no valid planning proposal for the redevelopment of No 20 Tain Street means that the concerns of the respondent cannot be taken on board in the consideration of the current proposal at 18b Tain Street. Despite this, the applicant has demonstrated that he is prepared to consider the impact that the proposed dwelling at 18B will have upon the potential for redevelopment at No 20. A meeting to discuss this took place on 10 November attended by the applicant, the neighbour and a Planning Officer wherein it was demonstrated that:

- i) The adjoining lot could be redeveloped in the manner envisaged by the neighbour as the neighbour's preference is to provide a double garage on the northern boundary with laundry behind and master bedroom suite above. These elements would therefore abut the two storey boundary wall proposed at 18B Tain Street. The outlook from those rooms would be from the proposed front (west) elevation overlooking the street.

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

- ii) The dwelling on No.20 Tain Street could be constructed with the garage on the boundary against the proposed boundary wall on No.18B Tain Street. This would then reduce the impact of the two storey wall and the need for cladding across the upper floor section.
- iii) The two storey boundary wall could be treated with stone cladding to articulate it and reduce its visual impact. The upper floor section could also be setback a small amount (200mm) to provide additional articulation.

The objection still stands however, and as such the proposal needs to be assessed in relation to its impact on the existing residence at No 20 Tain Street, for which consideration under the Performance Criteria of Clause 6.3.2 is necessary.

Under the performance criteria the variations can be supported as the walls make effective use of space, enhance privacy for occupiers, and do not result in any significant adverse effect on the amenity of either of the adjoining properties. In relation to the variation on the SE side the existence of mature trees mitigates against any further negative impact that could result from the wall, particularly in respect of the restriction of direct sun to major openings to habitable rooms and outdoor living areas.

Streetscape

The boundary wall will be partially visible within the streetscape due to the existence of mature trees which act as a screen. However, if and when the trees are cleared the house and wall will be more visible and as such it is recommended that a condition of approval be imposed to require some stone cladding on the SE side elevation and setting the upper level back 200mm. The applicant has already consented to applying these design elements to improve appearance of the building.

CONCLUSION

In light of the above, it is recommended that the application be supported subject to a special condition requiring articulation of the upper southern elevation to the boundary wall to enhance its visual appearance within the street scene.

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET, APPLECROSS (REC) (ATTACHMENT)

OFFICER RECOMMENDATION

APPROVAL

THE APPLICATION FOR A TWO STOREY DWELLING SINGLE DWELLING ON STRATA LOT 2 (NO.18B) TAIN STREET, APPLECROSS BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

SPECIAL CONDITIONS

- 1. THE UPPER LEVEL OF THE SOUTHERN FAÇADE TO BE SETBACK 200MM FROM THE SOUTHERN BOUNDARY AND INCORPORATE AN ARTICULATED SURFACE (BY CLADDING) TO REDUCE THE BLANKNESS OF THE WALL TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**

STANDARD CONDITIONS

- 2. 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.**
- 3. SPECIFIC APPROVAL MUST BE OBTAINED TO REMOVE A STREET TREE TO PERMIT THE CONSTRUCTION OF A VEHICLE CROSSOVER OTHERWISE IT SHOULD BE ASSUMED THAT STREET TREES ARE TO BE RETAINED. ANY WRITTEN APPROVAL FOR THE REMOVAL OF STREET TREES IS SUBJECT TO THE APPLICANT/OWNER PAYING ALL COSTS AND MAY ENTAIL REMOVAL AND RELOCATION COSTS; OR REMOVAL AND REPLACEMENT COSTS.**
- 4. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.**
- 5. 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.**

U08/0270 - (CP) TWO STOREY SINGLE DWELLING ON LOT 2 (NO. 18B) TAIN STREET,
APPLECROSS (REC) (ATTACHMENT)

6. 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.
7. ALL COMMON BOUNDARY FENCING WHERE ABUTTING RESIDENTIAL LOTS TO BE 1.8 METRES IN HEIGHT AT ANY POINT ALONG THE DIVIDING BOUNDARIES MEASURED 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. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.

FOOTNOTES

1. THE DETERMINATION OF THIS APPLICATION FOR PLANNING APPROVAL HAS BEEN UNDER DELEGATED AUTHORITY BY OFFICERS OF THE COUNCIL. IF YOU DO NOT LIKE ALL OR PART OF THE DETERMINATION, YOU HAVE A RIGHT OF APPEAL TO THE COUNCIL FOR RECONSIDERATION. THIS RIGHT OF APPEAL TO THE COUNCIL DOES NOT IMPINGE UPON ANY RIGHTS OF APPEAL OTHERWISE PROVIDED FOR UNDER THE PLANNING AND DEVELOPMENT ACT 2005 AND SHOULD NOT BE CONFUSED WITH SUCH RIGHTS OF APPEAL WHICH IS TO BE LODGED WITHIN TWENTY EIGHT (28) DAYS OF THE DECISION BEING ISSUED. THE RIGHT OF APPEAL TO THE COUNCIL SHOULD NOT BE CONFUSED WITH SUCH RIGHTS OF APPEAL UNDER THE ACT.
2. THIS IS A PLANNING APPROVAL ONLY AND DOES NOT OBTAIN 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.

**U08/0271 - (MB) VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 90
SOUTH STREET, MURDOCH (REC) (ATTACHMENT)**

Ward : University Ward
Category : Strategic
Application Number : DA-2008-1176
Property : 90 South Street, MURDOCH
Proposal : Veterinary Surgery Teaching Facility
Applicant : Hames Sharley
Owner : Murdoch University
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 :

AUTHORITY / DISCRETIONDefinition

- | | | |
|-------------------------------------|----------------|---|
| <input checked="" 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 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> |

**U08/0271 - (MB) VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 90
SOUTH STREET, MURDOCH (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The subject application involves the construction of a new veterinary surgery teaching building to replace the existing surgery.
- New building is of 2 storey contemporary design, sited in an area defined for “University Uses” under the provisions of the Master Plan for Murdoch University.
- Proposal is acceptable in land use terms.
- Recommended to WAPC for conditional Approval.

BACKGROUND

In 2004, Murdoch University in collaboration with the City of Melville undertook a master planning initiative aimed at setting a vision and framework for future development of the campus precinct. The resultant Master Plan Report, entitled the “Campus Development Strategy” defines the area including the site of the current proposal as land for “University Uses”.

Murdoch University indicates thhe School of Veterinary Science at the University is arguably one of the leading Veterinary Schools in Australia, and the course offered is a flagship one for the university as a whole.

The existing “small animal” surgery facilities have been identified as a limiting factor constraining and likely to prejudice the ongoing delivery of educational excellence in relation to veterinary education at the University. The current proposal will replace these “limiting” facilities with a modern state of the art facility.

Scheme Provisions

MRS Zoning	: Public Purposes
CPS 5 Zoning	: Public Purposes
R-Code	: Not applicable
Use Type	: Not applicable under the provisions of CPS No 5.
Use Class	: Not applicable under the provisions of CPS No 5.

Site Details

Lot Area	: 226.9627ha
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: U08_0271_PROPERTY_MAP.pdf

[U08_0271_November_2008.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 21 November 2008.

U08/0271 - (MB) VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 90 SOUTH STREET, MURDOCH (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Not applicable.

REFERRALS TO GOVERNMENT AGENCIES

The proposal requires determination by the Western Australian Planning Commission (WAPC) as the application site area is Crown land.

STATUTORY AND LEGAL IMPLICATIONS

The City of Melville is not the determining Authority with respect to this planning application. Ultimately the applicant has a right of appeal in respect of the final decision reached, which in this case will rest with the WAPC.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Not applicable.

COMMENT

This application seeks consent for the construction of a new Veterinary Surgery Teaching building within the Murdoch University Campus. The new building will provide enhanced facilities and floorspace and will replace an existing building which is considered inadequate in terms of its size and the quality of accommodation provided. The new building involves the construction of a surgery preparation area and surgery on the ground floor and 6 tutorial rooms and 8 offices on the upper floor.

U08/0271 - (MB) VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 90 SOUTH STREET, MURDOCH (REC) (ATTACHMENT)

The building will house the academic and administrative requirements for up to 60 students and 10 staff members. This is consistent with the current scenario in respect of student numbers and staffing levels. The applicant has advised that the existing building will be decommissioned as a teaching surgery and will be refitted for alternative University use once the new facility is operational.

The development proposed is consistent with the provisions of the “Murdoch University Master Plan” which, in land use terms, earmarks the application site for “University Uses”. The proposal is therefore acceptable in land use terms.

The application site is currently an enclosed yard attached to the existing Veterinary School buildings. There are therefore obvious locational advantages in developing this area as additional Veterinary School accommodation, and the proposed building is, in spatial terms, designed to define the eastern corner of the Veterinary School. It will also help to establish an updated identity for the School, acting as a landmark building for the benefit of visitors to this part of the University, particularly those visiting the Animal Hospital.

To that end the building is contemporary in terms of its design and construction, incorporating masonry elements complemented by aluminium framed windows and louvers, curtain wall glazing and a steel colorbond roof the profile of which is designed to incorporate four mono pitch elements. Collectively these elements comprise a building which will harmonise well with the pattern and style of architecture in the vicinity, incorporating sustainable design elements which should be encouraged.

As the proposed development replaces existing outdated accommodation, there are no additional car parking requirements. The re-use of the existing Veterinary School accommodation may give rise to additional car parking demands. In order to manage this, it is recommended that the re-use of the accommodation be the subject of a new planning application. This will enable the proper consideration of car parking requirements at that time. A small number of existing bays will be displaced by the new building. These will however be re-instated in a revised alignment once the construction is complete.

With reference to the management of waste which may result from the proposed use of the building, the applicant has provided the following comments;

“Liquid waste will be handled in the normal sewer system. There are no floor wastes in the surgery or prep areas which are relatively clean areas. Unlike the mortuary, surgery needs to contain body fluids within the patient if the outcome is to be successful. This is not a laboratory facility needing to dispose of reagents or volatile chemicals. Liquid waste will be waste water from sinks, wash hand basins and change room showers (soaps, detergents and disinfectants), urine (from change rooms and animal holding cages) and faeces (from change room toilets and animal holding cages) flushed down water closet pans in the change rooms or slop hoppers in the animal holding area.”

**U08/0271 - (MB) VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 90
SOUTH STREET, MURDOCH (REC) (ATTACHMENT)**

In relation to disposal of animal cadavers, the applicant has advised that no incineration will take place at the campus. Instead, the cadavers will be collected from the Necropsy cold room and taken for incineration at a private contractor's facility which is off-site. This is consistent with the status quo as this off-site incineration has proven to be more cost effective than maintaining such facilities on site.

CONCLUSION

The proposed development is referred to the Western Australian Planning Commission with a recommendation for conditional approval.

OFFICER RECOMMENDATION**REFERRAL**

THE APPLICATION FOR A NEW VETERINARY SURGERY TEACHING FACILITY ON LOT 4049 (90) SOUTH STREET, MURDOCH, BE REFERRED TO THE WESTERN AUSTRALIAN PLANNING COMMISSION WITH A RECOMMENDATION FOR SUPPORT SUBJECT TO THE FOLLOWING CONDITIONS;

STANDARD CONDITIONS:

- 1. THAT ALL STORMWATER BE CONTAINED WITHIN THE SUBJECT LOT.**
- 2. ALL PARKING BAY/S, DRIVEWAY/S AND POINTS OF INGRESS AND EGRESS AREAS ARE TO BE CONSTRUCTED, DRAINED, MARKED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 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 4M² AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.**
- 4. A SEPARATE APPLICATION FOR PLANNING APPROVAL AND A SIGNS LICENCE IS REQUIRED FOR ALL SIGNAGE.**
- 5. THE OFFICE USE DEPICTED ON THE APPROVED PLAN SHALL NOT BE EXTENDED WITHOUT A FURTHER APPROVAL FROM THE COUNCIL.**
- 6. A PLANNING APPLICATION BEING LODGED PRIOR TO A NEW USE BEING APPLIED TO THE DISPLACED VETERINARY SURGERY ACCOMMODATION.**

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

Ward : Applecross – Mount Pleasant
Category : Operational / Strategic
Application Number : DA-2008-505
Property : 26 Kintail Rod, Applecross
Proposal : Three storey office building
Applicant : Tuscom Subdivision Consultant Pty Ltd
Owner : Starworld Holdings Pty Ltd
Disclosure of any Interest : David Vinicombe
Manager Planning and Development Services
Responsible Officer : Julio Gonzalez
Planning Services Coordinator
Previous Items : DA-2004-1981/ DA-2006-1962

AUTHORITY / DISCRETION

{mark one box}

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 review 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.*

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Proposal is for a three storey office building with undercroft car parking for 16 vehicles plus 8 bays at the ground floor level.
- The application site is a vacant lot comprising an area of 786 sq m. For the purposes of this determination and in accordance with Amendment 46, the site area of the subject lot and that of the adjoining lot to the immediate north at 13 Tweeddale Road are considered as one entity for the purposes of plot ratio, density and coverage.
- Total plot ratio is 0.96, calculated to include 0.35 for the proposed non-residential element and 0.61 for the existing residential building facing Tweeddale Road...
- Rear setback variations are proposed at 1.8 metres in lieu of 6.0 metres.
- Landscaping 13.87% in lieu of 25%.
- No submissions were received during the advertising period.
- Recommended for approval subject to conditions.

BACKGROUND

This matter was presented to an Elected Members Workshop on Tuesday 4 November 2008. No concerns were raised with the exception of the lots being subdivided after amalgamation. However Amendment No. 46, Clause 4.3.3 considers the combination of Lots for the purposes of calculation of Plot Ratio.

On 17 April 2007 the Council approved, DA-2006 – 1962 for “amendments to penthouse and balconies on Lot 1057 (13) Tweeddale Road and Lot 1068 (26) Kintail Road, Applecross subject to the following conditions:

1. That lot 1057 (13) Tweeddale Road and lot 1062 (26) Kintail Road, Applecross be amalgamated or resubdivided so that the residential components of the development are wholly within a single lot.
2. That the residential plot ratio be limited to 0.61:1 (as detailed in this application).
3. That the deed of agreement dated 17 July 2006 between Starworld Holdings Pty Ltd and the City of Melville be modified to the satisfaction of the Chief Executive Officer to reflect special conditions 1 & 2 above.
4. That compliance with all conditions stipulated in the Council approval dated 15 March 2005 other than condition 2 and 3 which limits the residential plot ratio to 0.6:1 and conditions 7 and 21 deleted in the planning approval issued on 6 October 2005.

This approval resulted in an increase in the residential area from 1214 sqm to 1232 sqm with the total plot ratio area being increased from 1580 sqm to 1598 sqm accordingly.

On 15 March 2005, the Council approved, DA-2004 -1981 for a “Five (5) level apartment building containing seven (7) residential units and three (3) storey office building on Lots 1057 (13) Tweeddale Road and 1062 (26) Kintail Road, Applecross.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

The application was approved with Condition 2 “*The development shall not exceed a maximum plot ratio of 0.8:1 (1619 sqm)*”. The application proposed a total floor area of 1610 sq metres, 1214 sq metres for residential use and 396 sq metres for commercial purposes.

On 21 September 2005 an application to reduce the extent of the commercial floor space from 396 sq m to 366 sq m, with a total plot ratio area of 1580 sq m was approved by DAU.

The March 2005 approval was subject to the amalgamation of Lots 1057 Tweeddale Road and 1062 Kintail Road. In order to satisfy this requirement, the applicant entered into a deed of amalgamation with the City of Melville on 17 July 2006 which required the properties to be amalgamated within 12 months of the issue of a Building Licence (11 September 2006). It is also noted that the agreement stipulated that the maximum residential component facing Tweeddale Road be capped at 0.6:1 (1232 sq m) and the commercial component facing Kintail Road be capped at 0.2:1 (366 sq m).

On 4 July 2007, the Western Australian Planning Commission approved a green title subdivision into 2 lots, one facing 13 Tweeddale Road with 1235 sqm containing the multiple dwellings building and one facing 26 Kintail Road with 786 sqm as a vacant lot.

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Commercial Centre Frame
R-Code	: R50
Use Type	: Office
Use Class	: “S” use – Council discretion required after following advertising.

Site Details

Lot Area	: 786 sqm (original lot 2021 sqm)
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Two(2)
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: U08_0272_PROPERTY_MAP.pdf

[U08_0272_November_2008.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 21 November 2008.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

DETAIL

Planning consent is sought for the erection of a 3 storey office building. It is proposed to provide 2 offices, gymnasium and amenities (toilets and kitchen) to the ground floor; and 4 offices plus amenities to each of the upper floors. A basement car park with 16 bays and 3 bays on gradient; plus 6 additional bays on the ground floor is also proposed.

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	N/A				
Plot Ratio	0.6	0.35	Complies		
Landscaping	25%	13.87%	Does Not Comply	MPDS	
Building Height	13.5 metres	13.5 metres	Complies		
Car parking	19 bays	24 bays	Complies		

(Note: Non compliance is emphasised in bold)

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front	Nil	3.4 metres	Complies		
Rear	6.0 metres	1.8 metres	Does Not Comply	MPDS	
Side West	Nil	5.8 metres	Complies		
Side East	2.0 metres	2.3/4.1 metres	Complies		

(Note: Non compliance is emphasised in bold)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: No
 Reason: "S" use (Office) – Council discretion required following advertising.
 Support/Object: No submissions were received during the advertising period.

REFERRALS TO GOVERNMENT AGENCIES

Not Applicable

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

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

POLICY IMPLICATIONS

Policy No. 06-PL-024 Car Parking (Non-Residential) – compliant.

Policy No. 06-PL-036 Planning Process and Decision Making. The Planning Process Matrix indicates that major applications with minor variations are to be referred to a Portfolio Meeting and then the Development Advisory Unit, but not Council. In this instance, the development has not been presented to a Portfolio Meeting as these meetings have been replaced with Elected Member Workshops. The proposal was presented to the Elected Member Workshop on 4 November 2008.

Policy No. 25-PL-002 Arts and Culture. This Policy requires all major commercial developments to provide public art to the value of 1% of the development cost.

Policy Ref No 06-035 “Aesthetics” exists to assist and guide staff and Councillors in dealing with aesthetics as part of the Planning Approval process. This Policy recommends that in dealing with suburban residential developments architectural advice should be sought where necessary.

Policy Ref No 06-031 “Architectural and Urban Design Advisory Panel” provides the ability to procure this advice in the context of an Advisory Panel. A “Panel” considered the details of this application on 5th November 2008.

COMMENTS

The current proposal raises the following matters for consideration:

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

Amendment 46

On 4 July 2007, the Western Australian Planning Commission approved a green title subdivision into 2 lots, one facing 13 Tweeddale Road with 1235 sqm containing the multiple dwellings building and one facing 26 Kintail Road with 786 sqm as a vacant lot.

Amendment No. 46 of the Community Planning Scheme No 5 was endorsed by the Council and referred to the Minister for final approval. The Western Australian Planning Commission in correspondence dated 31 July 2008 advised that *“The Minister for Planning and Infrastructure has decided not to approve the above amendment until such time as the following modifications are effected:*

1. *Modify clause 4.3.1 to read:*

“development land” means land in any form of tenure which is the subject of a planning approval and consisting of:

- (a) the lot or combination of lots; or*
- (b) the combination of a lot or lots with any part lot of lots; or*
- (c) a part lot or combination of part lots.*

2. *Modify clause 4.3.3 to read:*

When the Council is considering a development proposal on any portion of development land, any existing development (to remain and that complies with the Scheme), or any development the subject of a current planning approval on any portion is to taken into consideration and aggregated for the purpose of calculation plot ratio, residential density or site cover.”

These modifications have been incorporated within the Amendment and this awaits final Council Approval. For the purposes of the current application it is necessary to consider the combined area of the subject lot and the lot to the north when calculating plot ratio, residential density and site cover.

Plot Ratio

In simple terms, plot ratio is the ratio of built area relative to the site area. This planning tool provides some rational for the assessment of building bulk on a property. However, other considerations such as setback, parking and building height, together with the visual aesthetics of a development have equal or more significance when considering the bulk of a development. The plot ratio requirements are complex and in many instances do not give a true representation of building bulk.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

Plot ratio exclusions for non-residential development were previously contained under the Uniform Building Bylaws (but are not included under the current Building Code of Australia). In practice, however, the former Uniform Building Bylaw requirements are generally applied and in this regard, and plot ratio for commercial development excludes external walls of the commercial building, plant rooms, lift shafts, stairs, toilets and amenities and all floor areas for vehicle parking, whether at or below ground floor or above.

Taking this into consideration the development proposes a non-residential plot ratio of 0.35 (708 sq m) which is 504.6 sq m less than the 0.6 maximum (1212.6 sq m) permissible under the provisions of the Canning Bridge Frame. The residential development already provided on the lot to the north at 13 Tweeddale Road was approved by Council with a plot ratio of 0.61 (1232 sqm). Taking into consideration the requirements of Amendment No. 46, the total plot ratio for the combination of that lot and the subject lot is 0.96 (1940 sq m), which is 485.2 sq m less than the maximum plot ratio of 1.2 (2425.2) permitted "as of right" based on the Council's legal interpretation of plot ratio for mixed-use development.

In addition to the above, Clause 7.8 of Community Planning Scheme No. 5 provides guidelines in relation to matters to be taken into account when considering planning applications, such as the objectives of the Scheme, orderly and proper planning and existing and future amenity of the area. In this regard, the proposal is considered to be consistent with the following:

- a) The Statement of Intent for the Canning Bridge Frame (CBF) which indicates that offices may be supported where privacy of neighbours is respected and the design has a residential character. In this regard, the way in which the proposal has been designed is consistent with the existing residential character of the area. In relation to privacy considerations the proposal exhibits higher levels of privacy for the benefit of existing local residents than would normally be the case under the R-Codes.
- b) The orderly and proper planning for the locality. The development, in terms of its land use and design, is consistent with the pattern of land use in the locality, particularly from a streetscape perspective.
- c) The existing and future amenity of the locality along Kintail Road which is within the Canning Bridge Frame. This area is currently being developed with similar proposals, i.e.: 28 Kintail Road is a 4/5 storey mixed use building; a 4 storey mixed use building at 21 Kintail Road (approved by Council in June 2008) is located across the road; a 4 storey mixed use development at 4 Forbes Road (approved by SAT on appeal on 10 April 2008); a 3 storey mixed use development was approved by Development Advisory Unit (DAU) on 28 October 2008 and a 3 storey mixed use development at 30 Kintail road was approved by Council on 21 October 2008. The subject proposal is therefore consistent with this emerging pattern of development in the locality.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**Traffic

Based on NSW Roads and Traffic Authority standards, the total vehicular trips generated by the proposed development should be in the order of 10 Vehicle Trips Per Day (VTPD) per 100 sq m of offices. Accordingly, the proposed 570 sq m (NLA) of office floor space will generate a total of 57 VTPD.

Traffic volume counts in 2004 were 7243 Average Weekday Traffic (AWT) along Kintail Road (137 m east of the subject property). It is considered that Kintail Road has the potential to accommodate the traffic generated by this proposal as it amounts to only 0.8% of the total amount of traffic along Kintail Road as highlighted by the 2004 traffic count figures.

In traffic terms the proposal has been the subject of consideration by the Councils Highway Engineers who offer support subject to the following:

1. The construction of a paved bin storage area sited to the side of the new crossover.
2. The reinstatement of road kerbing and verge in the position where the existing crossover is proposed to be removed...
3. Landscaping to verge areas to the satisfaction of Manager Planning and Development Services.

The provision of a parking embayment for service vehicles, generally sited within the verge area adjacent to the development, is usually required for this type of development. In this case however, there are two (2) mature trees on the verge which effectively prohibit this from happening. The trees make a positive contribution to the streetscape along Kintail Road and as such their retention is a prerequisite for this development to proceed. An alternative to provide the service vehicle embayment within the parking area adjacent to the proposed building is considered acceptable in this case. A condition of planning approval is recommended in order to achieve this.

Car Parking

In accordance with the City of Melville Policy No. 06-PL-024 Car Parking (Non-Residential), 19 bays would be required for the non-residential component (offices). The development proposes 25 bays (24 once the service embayment is taken into account), 16 of these bays are provided within the secure undercroft car parking area whilst the remaining 8 bays are provided for visitors at ground floor level.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)***Setbacks*

Under the provisions of the CPS No 5 a rear setback of 6.0 metres is required for developments of this nature. In this case a 1.8 metre setback is proposed, 4.2 metres less than that envisaged by the Scheme. It is considered however that this reduced setback does not prejudice the intent of the Scheme for the following reasons:

1. There will be 13.5 metres separating the opposing buildings on the combined lot, brought about by the existing 11.7 metre rear setback of the residential complex on the northern part of the combined lot, coupled with the 1.8 metres now proposed.
2. The area within the rear setback of the residential complex houses a recreational cabana and a communal gymnasium facility with a solid masonry wall constructed between. These building elements provide a useful buffer between the office development proposed and the residential complex recently developed. This buffer mitigates against any adverse that may otherwise have resulted.
3. The proposal was the subject of consultation from 17 June 2008 to 11 July 2008. No objections were received. Subsequent to that consultation period the strata plan was approved by the Western Australian Planning Commission and the residential complex was completed. A number of these apartments are now sold and the new owners have therefore not benefited from the consultation exercise previously undertaken.

Privacy

Commercial buildings are not required to demonstrate compliance with the Visual Privacy Requirements of the Residential Design Codes. Notwithstanding this, the proposed development has been designed to provide high level window openings only on those elevations that face existing residential buildings on adjoining lots. This safeguards the occupiers of those buildings from visual intrusion thereby maintaining the levels of residential amenity that they currently enjoy. On the western elevation proposed windows are setback 5.8 and 8.0 metres from the common boundary and overlook the adjacent mixed use building. They do not overlook the more sensitive residential elements of that mixed use complex thereby safeguarding amenity for occupiers of those units.

It is concluded therefore that the proposed commercial office development may be accommodated on this lot without prejudice to privacy standards.

Landscaping

The proposal indicates a landscaping area of 13.87% which is in lieu of the 25% required under CPS No. 5. Additional landscaping and maintenance is to be required within the verge area, including the retention of two (2) matures trees. These should be protected during the construction process, and a suitable condition of planning approval is proposed to ensure that this is the case.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

Crime Prevention through Environmental Design Assessment

The application has been assessed against Crime Prevention through Environmental Design (CPTD) principles adopted by the WA Planning Commission. The development already includes a security gate to the basement parking area. Use of security lighting and camera surveillance will improve compliance with these requirements. A condition in this regard is recommended for inclusion.

Architectural and Urban Design Advisory Panel

The Council Architectural and Urban Design Advisory Panel reviewed the proposal on Wednesday 5 November 2008. Panel members were in collective agreement that the Architectural character of the building was acceptable in principle. The following comments were raised:

1. The extent of the two proposed crossovers should be narrowed.
2. The proposed masonry balustrade of the stairs at the main entry to be replaced using clear glass.
3. No reflective materials to be used within the facades of the building.
4. The proposal should be considered with a residential component.

The 3 first comments have been considered within the assessment and conditions are proposed to address the concerns raised. In relation to the 4th comment the Panel members were concerned that the proposal should incorporate a residential element within the proposed building in order that the scheme be considered “mixed use”: It is considered that the development of the combined lot satisfies the aspiration for mixed use development and no further land use benefits would accrue from the inclusion of a further residential element within the fabric of the building now proposed..

CONCLUSION

In view of the above and the development satisfying in general the City of Melville Community Planning Scheme No. 5, the proposal is recommended for approval subject to appropriate conditions.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council may refuse the application should it be considered that the development does not comply with the provision of the City of Melville Community Planning Scheme No. 5, however the proposal complies with the maximum plot ratio of 1.2 based on the Council’s legal interpretation and Clause 4.3.3 of Amendment No. 46 and therefore an appeal to the State Administrative Tribunal (SAT) would be difficult to defend.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)****OFFICER RECOMMENDATION****REFERRAL**

THAT THE APPLICATION FOR BE REFERRED TO THE NEXT AVAILABLE COUNCIL MEETING WITH A RECOMMENDATION FOR CONDITIONAL APPROVAL:

OFFICER RECOMMENDATION**APPROVAL**

THAT COUNCIL VARY POLICY 06-PL-036 RELATIVE TO THE DECISION MAKING PROCESS AND THAT THE APPLICATION FOR PROPOSED THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD, APPLECROSS BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

SPECIAL CONDITIONS

- 1. THE DIMENSIONS OF ALL CAR PARKING BAYS, AISLE WIDTHS AND CIRCULATION AREAS COMPLYING WITH AUSTRALIAN STANDARD AS2890.1.**
- 2. DETAILS WITH REGARD TO CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED) RELATIVE TO CAMERA SURVEILLANCE AND LIGHTING BEING PROVIDED PRIOR TO THE ISSUE OF A BUILDING LICENCE TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 3. PRIOR TO THE ISSUE OF THE BUILDING LICENCE, THE APPLICANT IS REQUIRED TO SUBMIT A CONSTRUCTION MANAGEMENT PLAN FOR THE PROPOSAL, TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES, DETAILING HOW IT IS PROPOSED TO MANAGE:**
 - THE DELIVERY OF MATERIALS AND EQUIPMENT TO THE SITE;**
 - THE STORAGE OF MATERIALS AND EQUIPMENT ON THE SITE;**
 - THE PARKING ARRANGEMENTS FOR CONTRACTORS AND SUBCONTRACTORS;**
 - IMPACT ON TRAFFIC MOVEMENT AND;**
 - OTHER MATTERS LIKELY TO IMPACT ON THE SURROUNDING RESIDENTS.**
- 4. DURING EXCAVATIONS, ALL NECESSARY PRECAUTIONS TO BE TAKEN TO PREVENT DAMAGE OR COLLAPSE OF ANY ADJACENT STREETS OR ADJOINING PROPERTIES. IT IS THE RESPONSIBILITY OF THE BUILDER TO LIAISE WITH ADJOINING AND ADJACENT PROPERTY OWNERS PRIOR TO CARRYING OUT WORK.**

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

5. A DETAILED LANDSCAPING AND RETICULATION PLAN BEING SUBMITTED AND APPROVED FOR THE SUBJECT SITE AND ROAD VERGE ADJACENT TO THE SITE BY THE EXECUTIVE MANAGER ENGINEERING SERVICES PRIOR TO COMPLETION OF THE DEVELOPMENT. THE PLAN IS TO ADDRESS MODIFICATIONS TO THE FOOTPATH AND VERGE AREAS OF KINTAIL ROAD TO ACHIEVE A HIGH LEVEL OF AMENITY CONSISTENT WITH STREETSCAPE IMPROVEMENT DIRECTIONS FOR THE PRECINCT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
6. THE TWO (2) EXISTING MATURE TREES ON THE VERGE TO BE RETAINED AND PROTECTED DURING THE CONSTRUCTION PROCESS.
7. PROVISION OF A SERVICE VEHICLE EMBAYMENT AS MARKED IN RED ON THE APPROVED PLANS. DETAILS IN THIS REGARD ARE TO BE SUBMITTED FOR APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE COMPLETION OF THE DEVELOPMENT.
8. SUITABLE ARRANGEMENTS BEING MADE FOR THE STORAGE OF BINS AND COLLECTION OF WASTE FROM THE SITE TO THE APPROVAL OF THE WASTE SERVICES MANAGER.
9. EXISTING CROSSOVERS NOT REQUIRED BY THIS DEVELOPMENT BEING CLOSED AND VERGES REINSTATED TO THE SATISFACTION OF THE EXECUTIVE MANAGER ENGINEERING SERVICES.
10. SIGNAGE TO BE PROVIDED ADVISING MOTORISTS EGRESSING FROM THE BASEMENT PARKING TO GIVE WAY TO PEDESTRIANS.
11. ON COMPLETION OF CONSTRUCTION, ALL EXCESS ARTICLES, EQUIPMENT, RUBBISH OR MATERIALS AND TEMPORARY FACILITIES ARE TO BE REMOVED AND THE SITE AND SURROUNDING AREA USED DURING THE DEVELOPMENT IS TO BE MADE GOOD AND LEFT IN AN ORDERLY AND TIDY CONDITION TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
12. ALL SECURITY ALARM DEVICES TO BE “SILENT MONITORED” SYSTEMS TO ADDRESS POTENTIAL IMPACTS ON SURROUNDING RESIDENTIAL AMENITY TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
13. PROVISION OF A NOISE MANAGEMENT PLAN FOR THE DEVELOPMENT INDICATING HOW THE NOISE FROM THE CARPARKING, AIR CONDITIONING AND OTHER MECHANICAL EQUIPMENT WILL IMPACT ON THE NEIGHBOURING PROPERTIES AND RECOMMENDATIONS FOR REDUCING ANY POTENTIAL NOISE IMPACT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE RECOMMENDATIONS SHALL BE INCORPORATED IN THE PLANS SUBMITTED FOR A BUILDING LICENCE.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

14. THE USE AND/OR DEVELOPMENT HEREBY PERMITTED SHALL AT ALL TIMES COMPLY WITH THE REQUIREMENTS OF THE ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997. APPLICANT IS REQUIRED TO CONSULT WITH CITY OF MELVILLE HEALTH SERVICES PRIOR TO THE INSTALLATION OF ANY NOISE EMITTING EQUIPMENT SUCH AS AIR CONDITIONERS.
15. THE FAÇADE OF THE BUILDING AND WALLS TO BE TREATED WITH AN ANTI-GRAFFITI AGENT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
16. SUBMISSION OF A GLARE REFLECTIVITY STUDY BY A SUITABLY QUALIFIED PROFESSIONAL AND ANY GLARE ISSUES TO BE ADDRESSED PRIOR TO THE ISSUE OF A BUILDING LICENCE TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
17. THE ROOF OF THE BUILDING NOT TO BE ZINCALUME OR WHITE METAL (E.G. COLORBOND SURFMIST) OR ANY OTHER MATERIAL / COLOUR CONSIDERED TO BE HIGHLY REFLECTIVE UNLESS OTHERWISE APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED ROOF MATERIAL AND COLOUR TO BE SHOWN ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE.
18. THE SUBMISSION OF A COLOUR SCHEDULE BOARD DETAILING THE USE OF MATERIALS, FINISHES AND COLOURS FOR THE MIXED USE BUILDING TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
19. DETAILS OF THE PUBLIC ART, WITH A MINIMUM VALUE OF 1% OF THE DEVELOPMENT, AS REQUIRED BY COUNCIL POLICY 25-PL-002 ARTS AND CULTURE, TO BE APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE. THE APPROVED ARTWORK SHALL BE CONSTRUCTED AND INSTALLED PRIOR TO THE OCCUPATION OF THE BUILDING AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
20. EQUIPMENT SUCH AS AIR CONDITIONERS OR EXHAUST VENTS, BUT NOT INCLUDING ANY SOLAR PANEL, WHICH ARE LIKELY TO DETRACT FROM THE VISUAL APPEARANCE OF THE BUILDING SHALL NOT BE LOCATED ON THE ROOF OR OTHERWISE EXPOSED TO PUBLIC VIEW.
21. PRIOR TO THE OCCUPATION OF THE BUILDING A SIGN STRATEGY FOR THE BUILDING IS TO BE SUBMITTED AND APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

22. 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 TO THE EAST AND MASONRY TO THE NORTH (UNLESS A LESSER STANDARD IS NEGOTIATED WITH THE ADJOINING PROPERTY OWNER) TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
23. THE BALUSTRADE OF THE STAIRS AT THE MAIN ENTRY TO BE OF CLEAR GLASS.
24. THE TWO (2) PROPOSED CROSSOVERS TO HAVE A MAXIMUM TOTAL WIDTH OF 9.0 METRES.

STANDARD CONDITIONS:

25. 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.
26. THE DEVELOPMENT IS TO BE CONNECTED TO THE WATER CORPORATION'S RETICULATED SEWERAGE SYSTEM.
27. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.
28. 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.
29. ALL SEWERAGE WASTES AND WATER PIPES TO BE CONCEALED WITHIN THE BUILDING.
30. 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 4MP2P AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.

**U08/0272 - (JG) THREE STOREY OFFICE BUILDING ON LOT 289 (26) KINTAIL ROAD
APPLECROSS (REC) (ATTACHMENT)**

31. DURING CONSTRUCTION ACCESS TO THE LOT TO BE VIA THE STREET FRONTAGE ONLY AND THAT NO BUILDING RUBBLE BE PERMITTED TO OVERSPILL THE SITE.
32. ELECTRICAL INSTALLATION TO BE CONSTRUCTED AND MAINTAINED TO THE SATISFACTION OF WESTERN POWER IN ACCORDANCE WITH THE SAA WIRING RULES NO.CC1, PART 1, 1961.
33. 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 APPROVAL 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.
34. A SEPARATE APPLICATION FOR PLANNING APPROVAL AND A SIGNS LICENCE IS REQUIRED FOR ALL SIGNAGE.
35. 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.
36. PRIOR TO OCCUPANCY OR COMMENCEMENT OF THE LAND USE THE APPLICANT IS TO ARRANGE FOR A PRACTICAL COMPLETION INSPECTION TO BE UNDERTAKEN BY THE CITY AND FOR ALL RELEVANT CONDITIONS TO BE SATISFIED TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. IN CERTAIN CIRCUMSTANCES, AND AT ITS DISCRETION, A CONDITION MAYBE SATISFIED IN PART BY WAY OF A LEGAL AGREEMENT BEING IN PLACE AND BOND/BANK GUARANTEE BEING SUBMITTED BY THE APPLICANT/OWNER TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. WHERE THE DEVELOPMENT INVOLVES THE ERECTION OF A BUILDING A CERTIFICATE OF CLASSIFICATION BEING OBTAINED PRIOR TO OCCUPANCY.

FOOTNOTES

1. WITH RESPECT TO SPECIAL CONDITION 8, THE APPLICANT IS REQUIRED TO LIAISE WITH THE CITY OF MELVILLE WASTE SERVICES.
2. A HEALTH LICENCE IS REQUIRED FOR THIS DEVELOPMENT AT THE BUILDING APPROVAL STAGE.

U08/0274 – (PS) - APPLICATION FOR PADDLE BOARDING AND KITE AND WINDSURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE AT POINT WALTER RESERVE, MELVILLE BEACH ROAD AND JEFF JOSEPH RESERVE (REC) (ATTACHMENT)

Ward	:	Applecross/Mt Pleasant Bicton/Attadale
Category	:	Operational
Application Number	:	DA-2008-1060
Property	:	Point Walter Reserve - Honour Avenue, Bicton; Jeff Joseph Reserve - The Strand, Applecross; and foreshore reserves at Melville Beach Road, Applecross
Proposal	:	Paddle boarding and kite and windsurfing school with associated equipment hire
Applicant	:	WA Surf Pty Ltd
Owner	:	Crown Land vested in City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	David Vinicombe Manager Planning and Development Services
Previous Items	:	N/A

AUTHORITY / DISCRETION

Definition

✓	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
	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>
	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
	Review	<i>when Council review decisions made by Officers.</i>
	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, application 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>

U08/0274 – (PS) - APPLICATION FOR PADDLE BOARDING AND KITE AND WINDSURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE AT POINT WALTER RESERVE, MELVILLE BEACH ROAD AND JEFF JOSEPH RESERVE (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- Application is for a paddle boarding and kite and windsurfing school with associated equipment hire at four locations along the Swan River.
- Locations and activities include a Kite Surfing School at Melville Beach Road (between Ness and Dee Roads – generally opposite Spey Road) and occasionally at Jeff Joseph Reserve (Ardross Street), Applecross, and at Point Walter, Bicton.
- When wind conditions at Melville Beach Road become unsuitable, it is proposed to operate the school from Jeff Joseph Reserve.
- Point Walter is proposed to be used during easterlies so as not to impact on pedestrian movement on the spit.
- Wind Surfing School at Melville Beach Road / Dunkley Avenue (opposite Cunningham Street), Applecross.
- When no wind is available, the business is proposed to offer Paddle Boarding at each of these locations.
- School numbers per session will be a maximum of 16 persons, though generally the figure would be 1-8 students for wind surfing, 5 for kite surfing and 12 for paddle boarding.
- In terms of risk management, the applicants hold a \$20 Million Public Liability Insurance.
- The applicants have also prepared a risk management plan and propose to operate to industry standards.
- Public safety and liability concerns are raised with regard to the operation of the Kite Surfing School on the foreshore adjacent Canning Beach Road. Accordingly, this part of the application has not been signed by the Chief Executive Officer.
- This application is a separate matter to the issue of kite surfing in general which is raising concern relative to Melville Beach Parade and is to be the subject of a future Elected Member Information Session and possible report to Council to address control measures such as safety signage or the preparation of a Local Law and/or Policy.
- Remaining parts of the application are recommended for approval by the Swan River Trust (determining authority) for a limited period of one year to allow observation of the resultant impacts of the proposals and allow time for the development of any appropriate Local Law and/or Policy, if deemed necessary to appropriately regulate the activities.

BACKGROUND

Paddle boarding, kite and wind surfing are activities which are completely legal as they are passive recreation use on public open space and the Swan and Canning Rivers. Whilst there are laws to regulate these activities in some States (for example in Victoria and NSW – where surfing kites are defined as sailing vessel and accordingly regulated), there are no laws presently in Western Australia.

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(ATTACHMENT)**

Kite Surfing has been the subject of considerable concern relative to its activities along the foreshore and on the river adjacent to Melville Beach Road. It is noted that this report should not be confused with the general issue of kite surfing in this location, particularly as the application to operate the school in this location has not been supported. The general subject of kite surfing in this location will be the subject of an Elected Member's Information Session and a possible further governance report to Council at a later date.

For these activities to operate commercially (as a school), as is proposed with the application the subject of this report, permission is required from the Swan River Trust.

The definition of Development under the Swan and Canning Rivers Management Act 2006 (SCRM Act) includes acts and activities, but excludes those which do not involve the erection, construction, demolition alteration or carrying out of any building, excavation, or other works on or over land or waters as defined by Regulation 4 of the Swan and Canning Rivers Management Regulations 2007 (SCRM Regulations). Accordingly, the use does not qualify as a development. Notwithstanding, the Swan River Trust is required to issue a Permit for these activities on the foreshore and a Licence for the activities to operate in the River Reserve.

The following applications have been lodged:

1. Swan River Trust Permit (Form 7) – Required by Regulation 17 of the SCRM Regulations for commercial acts and activities in the River Park or Development Control Area. The Chief Executive Officer on behalf of the City has in turn signed the application for a Kite Surfing School (Point Walter and Jeff Joseph Reserve only), Wind Surfing School (foreshore adjacent the intersection of Melville Beach Road/Dunkley Avenue/Cunningham Street) and Paddle Boarding School which is to be conducted for a period of 20 years. The application also involve the operation of a Kite Surfing School along Melville Beach Road, however, due to safety and liability concerns, this part of the application has not been signed.
2. Swan River Trust Licence (Form 6) – Schedule 4 of the SCRM Act requires the issue of a Licence for acts and activities in the River Reserve. This is included in the application, however it does not require the CEO to sign as it only relates to the River, which is beyond local government jurisdiction. A Licence may be issued by the SRT following consultation with local government or public authorities (for example Department for Planning and Infrastructure).

**U08/0274 – (PS) - APPLICATION FOR PADDLE BOARDING AND KITE AND WINDSURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE AT POINT WALTER RESERVE, MELVILLE BEACH ROAD AND JEFF JOSEPH RESERVE (REC)
(ATTACHMENT)**

3. Planning Application may be required under the Community Planning Scheme No. 5 (CPS No. 5). Legal advice obtained from Council's Solicitors indicates that Clause 7.1 of CPS No. 5 requires that approval be obtained for the use or development of all land "*classified*" by the Scheme (term '*classified*' includes land which is reserved or zoned under the Scheme). Notwithstanding, as Clause 3.2 of the CPS No.5 does not reserve Regional Open Space under the Scheme, approval under the Scheme is not required.

Scheme Provisions

MRS Zoning	: Reserve
CPS 5 Zoning	: Parks and Recreation
R-Code	: Not applicable
Use Type	: Not listed in CPS No.5, though recreation under MRS
Use Class	: Not applicable

Site Details

Lot Area	: Not applicable
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: U08 0274 PROPERTY MAP 1.pdf U08 0274 PROPERTY MAP 2.pdf U08 0274 PROPERTY MAP 3.pdf U08 0274 PROPERTY MAP 4.pdf

[U08 0274 November 2008.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 21 November 2008.

DETAIL

The specific activities associated with this type of land use which require consideration the City of Melville as part of this assessment include vehicle parking (on the road along Melville Beach Road; within the parking area opposite Cunningham Street; and parking areas at Jeff Joseph Reserve and Point Walter (proposed to take place on a grass verge adjacent the spit), the storage of equipment, 'meet and greet' activities, and tuition. In addition it is proposed to equipment for these activities.

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(ATTACHMENT)**

The information submitted as part of the application includes details on student numbers; up to 16 persons, but generally 1-8 will take part in wind surfing activities at any one time, 12 for the paddle boarding and 5 persons kite surfing. The Applicants hold a \$20 Million Public Liability Insurance, have prepared a Risk Management Plan and propose to operate to industry standards.

When wind conditions at Melville Beach become unsuitable it is proposed to operate the Kite Surfing School from Jeff Joseph Reserve. Alternatively, Point Walter is proposed to be used but only during periods when an easterly wind prevails. This will safeguard pedestrian movement on the spit. When no wind is available the School will focus its attention on paddle Boarding.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	No
Neighbour's Comment Supplied:	Yes
Reason:	General concerns over existing activities
Support/Object:	Object

Objections to the acts and activities associated with kite surfing along Melville Beach Road have been recorded since 2001. All representations received, the majority of which have come from the owners/occupiers of properties along Melville Beach Road, relate to safety and liability concerns, including the risk that kite surfers could crash into areas of Melville Beach Road, resulting in both property and personal damage.

Included within the representations made are comments from the Local Member for Parliament, who has stated that continued unregulated use of the foreshore has potential to cause "terrible tragedy", particularly on Melville Beach Road.

Whilst various ways of minimising the impacts of kite surfing are discussed later in this report, based on the demonstrated impacts of public safety concerns, the application for the Kite Surfing School in this location has not been supported and accordingly it will be recommended that the Swan River Trust refuse consent for the Kite Surfing School at Melville Beach Road.

REFERRALS TO GOVERNMENT AGENCIES

Required:	No
Reason:	SRT determination
Support/Object:	Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

U08/0274 – (PS) - APPLICATION FOR PADDLE BOARDING AND KITE AND WINDSURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE AT POINT WALTER RESERVE, MELVILLE BEACH ROAD AND JEFF JOSEPH RESERVE (REC) (ATTACHMENT)

Any decisions made in relation to these applications, including the resistance by the Chief Executive Officer on behalf of the City of Melville to sign the application form for the Kite Surfing School application at Melville Beach Road may be the subject of appeal to the State Administrative Tribunal.

FINANCIAL IMPLICATIONS

Council may require the payment of a regular fee for the use of its land. The payment of fees for licences to operate commercial activities on land under the control of the City would appear to be limited to the value of recovery of services (costs to maintain reserves and facilities associated with the activities and regulate and monitor the safe conduct of the activities), but also appears to be reliant on application of a Local Law and Council Policy, neither of which are applicable in the City of Melville at the present time.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

In relation to the Kite Surfing activities at Melville Beach Road, a Risk / Management Plan could be formulated to include reference to specific requirements such as restrictions in relation to body dragging only within 50 m of the river shore line, or a requirement that only instructors bring Kites in to shore. However, it is considered that such restrictions would be difficult to monitor and enforce, as take off and landing areas would be difficult to manage given variable wind and tidal conditions. As such the usefulness of a Risk Management Plan for the kite surfing adjacent Melville Beach Road is limited. It is noted that a 'kite surfing' restriction zone has been marked on Melville Waters by yellow buoys, to keep beginners away from the shore and pedestrians. It is presumed that these safety initiatives are provided by the Department of Planning and Infrastructure.

No concerns are raised relative to the Kite Surfing at Jeff Joseph Reserve and Point Walter (these sites provide for the Kites to extend out from the land away from pedestrians). In addition, no concerns are raised with regard to Wind Surfing adjacent Cunningham Street or the Paddle Boarding in any of the locations, as these areas are of sufficient size to accommodate the activities provided suitable Risk/Management plans are prepared to the satisfaction of the City.

POLICY IMPLICATIONS

There are no policies which relate specifically to this application at the present time.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Council could either support all of the proposed locations for the School, or alternatively refuse to support the proposed activities.

U08/0274 – (PS) - APPLICATION FOR PADDLE BOARDING AND KITE AND WINDSURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE AT POINT WALTER RESERVE, MELVILLE BEACH ROAD AND JEFF JOSEPH RESERVE (REC) (ATTACHMENT)**COMMENT**

It is recognised that certain benefits would accrue from the regulation of activities associated with the operations of the proposed Paddle Board, Wind and Kite Surfing School. These include the opportunity to educate, regulate and train private paddle boarder, kite and wind surfers, encourage a sense of responsibility amongst users of the equipment and provide the ability to monitor activities along this part of the shoreline. These benefits would however only apply to those paddle boarders, kite and wind surfers operating under the jurisdiction of the School. Other persons engaged in paddle boarding, wind and/or kite surfing activities in this area would remain unregulated.

There are as many as 70 or more Kite and Wind Surfers who utilise the bay at Melville Beach Road. Therefore, whether a School is established on the site or not, public safety and liability concerns will remain.

Further options worthy of consideration for the regulation of private kite surfers include the introduction of a Local Law and or Policy to regulate the activities, and the provision of safety advice signage. The former may be worthy of further investigation as such local laws have proved useful elsewhere in the State in regulating these types of recreational activities. The latter would be of immediate benefit and should be made a condition of approval in the event that this application is approved.

A licensing regime for land use activities provides an opportunity to regulate activities in terms of damage to the foreshore and vegetation/replacement, maintenance of facilities, parking, public nuisance control (inclusive of alcohol consumption, behaviour of clients and staff), control of rubbish, insurance and preparation of Risk and Management Plans. From investigation of similar types of commercial activities along foreshore areas in other local government authorities through the State, it appears that licensing these activities may be subject to the application of an appropriate Local Law and/or Local Policy in order to prohibit and infringe inappropriate activity. As the City does not have these regulations in place, it may be appropriate to support the activities for a period of 1 year so as to observe the resultant impacts of the proposals and allow time for the development of any appropriate Local Law and/or Policy to appropriately regulate the activities. Notwithstanding, this would not prevent the City from Licencing the activities and the Licence could, as indicated above regulate the activities. In addition, all of the above matters may be controlled / required to be addressed under a Management Plan which could be requested as a condition to any Licence/Permit granted by the Swan River Trust.

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Clause 7.8 of Community Planning Scheme provides for a number of matters to be considered as part of any Planning application, inclusive of the following:

- a) Scheme objectives – The proposals have some capacity to enhance the use of the Regional Open Space and River Reserve and provide for variety in structured opportunities for recreation, however this may come at the expense of other users, particularly along Melville Beach Road.
- b) Orderly and proper planning – Safety of the activities is considered paramount in the assessment of the applications. Risk /Management plans have the capacity to regulate the activities, however Melville Beach Road is considered to have significant safety concerns of which management may be difficult.
- c) Existing and likely future amenity – The proposals provide for a visual spectacle along the foreshore and on the River. Notwithstanding, promotion of kite surfing at Melville Beach Road may impact revegetation programs, existing trees and create property damage, thereby impacting on the amenity of the location relative to users of the River foreshore and adjacent residents. The operation of the paddle board and wind surfing activities adjacent Cunningham Street in Applecross has potential to impact on the adjacent Marine Park, which is rich in invertebrate and a bird feeding area.. The applicant has indicated that the activities will keep well clear of the Park. It is appropriate to condition this accordingly. Although kite surfing at Point Walter will operate in wind conditions which pull kites to the west away from the spit, some concern is also raised with regard to pedestrian safety in this location and it is recommended that the activities be restricted to operate approximately 150m west of the main shoreline.
- d) Need for additional infrastructure – Promotion of the activities is unlikely to generate significant parking infrastructure requirements except for along Melville Beach Road, where all parking occurs along the road verge. Given the width of the foreshore in this location, there is no capacity to construct parking embayments to reduce the impacts of the activity on road users. Toilet facilities are presently available at Point Walter and Jeff Joseph Reserve and provision of new facilities are planned for the reserve adjacent to Cunningham Street. Parking of vehicles associated with the activities are to be appropriately accommodated within constructed parking bays and not to be permitted on any grassed reserve area.
- e) Nature of development relative to development on adjoining land and need to upgrade roads, shape of lot and needs of cyclists – The proposals are unlikely to impact adjoining land except for along Melville Beach Road, where on shore kite surfing conditions have the capacity for kites to extend over the foreshore and onto the road and adjacent property.

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(ATTACHMENT)**

- f) Relevant submissions – A number of concerns from adjacent residents in Melville Beach Road have been documented as detailed above.

CONCLUSION

It is considered that the use of Point Walter Reserve (on the spit), and the Jeff Joseph Reserve in Applecross for the purpose of both kite and wind surfing classes is acceptable and appropriate. This element of the proposal should be supported in principle. The third site at Melville Beach Reserve is considered inappropriate for the purposes of Kite Surfing School, but acceptable for use as a Wind Surfing School (adjacent to Cunningham Street). All of the supported locations are also considered suitable for the Paddle Board School activities. This recommendation is reached having regard to the restricted width of the foreshore reserve (between 15 and 25m from Melville Beach Road), the length of the kite strings (between 24 and 27m – the school operates kites with strings 15-27m) and the close proximity of dwelling houses and property. In addition, photographic records show kites caught in trees (potential to cause environmental damage), extending across the road and creating potential for property damage and danger to kite users, pedestrians, road users and property owners. Wind surfing and paddle boarding activities are more contained than kite surfing and as such may be more readily accommodated on the remaining three sites.

Accordingly, it is recommended that the Swan River Trust be advised of Council's conditional support for the School for a limited period of one year. Further, following consideration of general kite surfing concerns at a future Elected Member's Information Session, it is recommended that consideration be given to the preparation and adoption of a Local Law and/or Policy to regulate and control both commercial activities along the Swan and Canning River foreshores and address private kite surfing on the Swan River foreshore adjacent Melville Beach Road.

OFFICER RECOMMENDATION**SUPPORT**

A) THAT THE SWAN RIVER TRUST BE ADVISED THE CITY OF MELVILLE HAS NO OBJECTIONS TO THE PROPOSED PADDLE BOARD, KITE AND WIND SURFING SCHOOL WITH ASSOCIATED EQUIPMENT HIRE SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE LICENCE AND PERMITS BE LIMITED TO A PERIOD OF ONE YEAR TO PROVIDE COUNCIL THE OPPORTUNITY TO OBSERVE THE RESULTANT IMPACTS OF THE PROPOSALS AND ALLOW TIME FOR THE DEVELOPMENT OF ANY APPROPRIATE LOCAL LAW AND/OR POLICY TO APPROPRIATELY REGULATE THE ACTIVITIES.**

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(ATTACHMENT)

2. KITE SURFING SCHOOL AT MELVILLE BEACH ROAD IS NOT SUPPORTED DUE TO SAFETY, PUBLIC LIABILITY AND AMENITY CONCERNS.
3. APPLICATIONS FOR THE PADDLE BOARD AND KITE SURFING SCHOOLS AT POINT WALTER AND JEFF JOSEPH RESERVE, TOGETHER WITH THE PADDLE BOARD AND WIND SURFING SCHOOL ADJACENT CUNNINGHAM STREET WITH ASSOCIATED EQUIPMENT HIRE AT ALL THREE LOCATIONS BE SUPPORTED SUBJECT TO THE FOLLOWING CONDITIONS:
 - I) PREPARATION OF AND COMPLIANCE WITH A RISK / MANAGEMENT PLAN TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES AT THE CITY OF MELVILLE. THE MANAGEMENT PLAN IS TO INCLUDE, BUT NOT BE LIMITED TO DETAILS RELATIVE TO THE OPERATION OF THE BUSINESS INCLUSIVE OF MANAGEMENT MEASURES FOR THE CONTROL OF LITTER; PROTECTION AND MAINTENANCE OF THE ADJACENT RIVER PARK (NEAR CUNNINGHAM STREET), VEGETATION (INCLUDING REPAIR AND REPLACEMENT OF VEGETATION DAMAGE), ENVIRONMENT AND COUNCIL FACILITIES; PREVENTION OF PUBLIC NUISANCE (INCLUSIVE OF NO ALCOHOL CONSUMPTION AND BEHAVIOUR OF STAFF AND STUDENTS); NON-OBSTRUCTION OF PUBLIC THOROUGHFARE OR PEDESTRIAN ACTIVITY INCLUSIVE OF NO KITE SURFING WITHIN 150 METRES WEST OF THE MAIN SHORELINE AT POINT WALTER; NO CONDUCT OF ORGANISED EVENTS WITHOUT CITY OF MELVILLE PRIOR APPROVAL; AND PARKING OF ALL VEHICLES ASSOCIATED WITH THE ACTIVITIES APPROPRIATELY WITHIN CONSTRUCTED PARKING BAYS AND NOT ON GRASSED AREAS.
 - II) THE APPLICANT PROVIDING AND MAINTAINING \$20 MILLION PUBLIC LIABILITY INSURANCE RELATIVE TO THE COMMERCIAL ACTIVITIES OF THE BUSINESS TO APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES AT THE CITY OF MELVILLE.

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(ATTACHMENT)

- III) THE ERECTION OF SAFETY SIGNAGE FOR BOTH STUDENTS AND THE GENERAL PUBLIC AT THE APPROVED SITES.
 - IV) THE APPLICANT OBTAINING A LICENCE FROM THE CITY OF MELVILLE TO CONDUCT COMMERCIAL ACTIVITIES FROM THE FORESHORE TO THE SATISFACTION OF THE MANAGER INFORMATION TECHNOLOGY AND SUPPORT.
- B) FOLLOWING CONSIDERATION OF GENERAL KITE SURFING CONCERNS AT A FUTURE ELECTED MEMBER'S INFORMATION SESSION, CONSIDERATION BE GIVEN TO THE PREPARATION AND ADOPTION OF A LOCAL LAW AND/OR POLICY TO REGULATE AND CONTROL COMMERCIAL ACTS AND ACTIVITIES ALONG THE SWAN AND CANNING RIVER FORESHORES AND ADDRESS PRIVATE KITE SURFING ON THE SWAN RIVER FORESHORE ADJACENT MELVILLE BEACH ROAD.