



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FROM THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

21 OCTOBER 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: 24 OCTOBER 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 21 OCTOBER 2008**

PRESENT

D Vinicombe (Presiding Member)
J Gonzalez
T Capobianco
D Monteiro
R Jessup
R Bailey

Manager Planning & Development Services
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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U08/0255 - (PS) - RETROSPECTIVE APPLICATION FOR A TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)

Ward : Applecross/Mount Pleasant Ward
Category : Operational
Policy
Application Number : DA-2008-1175
Property : 1 Kearns Crescent, ARDROSS
Proposal : Sign
Applicant : Mr R Calnan
Owner : Ashland Corporation Pty Ltd
Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer : Mr David Vinicombe
Manager Planning and Development Services
Previous Items : None

AUTHORITY / DISCRETION

Definition

- 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.*

U08/0255 - (PS) - RETROSPECTIVE APPLICATION FOR A TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- Application is made retrospectively for business signage including a four sided Tower sign and three Horizontal Signs at the above address.
- Council's Building Services served a Direction Notice on the owners of the property to remove the sign which were erected without approval.
- The applicants have subsequently appealed the Direction to the State Administrative Tribunal SAT and submitted an application for retrospective Planning and Building Approval.
- CPS5 states Tower and Roof Signs are prohibited in the District Centre 2 – Riseley Centre Precinct.
- Clause 4.2(b) of CPS5 allows for variation of the Scheme, provided there is no adverse effect upon occupiers or users of the development or local residents, future development in the locality is not prejudiced and the proposal satisfied Clause 7.8 of the Scheme.
- As the sign as erected does not have an adverse effect on the surrounding occupiers or users, or future amenity of the precinct area, it is recommended that Clause 4.2(b) be exercised and approval be granted.

BACKGROUND

In 2003, approval was granted to change the use of the property from a photo shop to an office (Real Estate agent). The real estate agent as part of their desire to create a new façade, gained approval in 2004 for additions including an external stairwell and a new “space frame” – a skeletal pyramid structure situated above the western side entry/foyer portion of the building. No signage was approved as part of the Councils consideration at that time.

Council's Building Services became aware of this unauthorised signage and served Notice on the owners/occupiers of the property to remove the signage. The notice has subsequently been appealed and a retrospective planning application the subject of this report submitted.

The planning application is the subject of this report.

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	District Centre 2 – Riseley Centre
R-Code	:	R60
Use Type	:	Office
Use Class	:	'P' Use – use is permitted

U08/0255 - (PS) - RETROSPECTIVE APPLICATION FOR A TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)

Site Details

Lot Area	:	1042.20 sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	U08_0255_PROPERTY_MAP.pdf

[U08_0255_October_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 24 October 2008.

DETAIL

The Council's Local Law relating to Signs, Hoardings and Billpostings provides the following definition and requirements for Tower Signs and Horizontal Signs:

A Tower Sign is defined as "a sign affixed to or placed on a chimney stack or open structural mast or Tower".

Requirements for Tower Signs: A Tower Sign shall not, unless otherwise specially approved by Council:

- (a) indicate or display any matter other than the name of the owner or occupier of the land or premises on which the mast, tower or chimney stack is erected;
- (b) if illuminated, be a flashing sign;
- (c) exceed in height one-sixth of the height of the mast, tower or chimney stack on which it is placed;
- (d) exceed in width the width or diameter of the mast, tower or chimney stack on which it is placed; or
- (e) extend laterally beyond any part of the mast, tower or chimney stack on which it is placed.

A Horizontal Sign is defined as "a sign fixed parallel to the wall of a building to which it is attached and with its largest dimension horizontal".

Requirements for Horizontal Signs: A horizontal Sign shall:

- (a) afford a minimum headway of 2.75m;
- (b) be fixed parallel to the wall of the building to which it is attached;
- (c) be no more than 750mm in depth if less than 7.5m above street level;
- (d) not project more than 600mm from the wall to which it is attached;
- (e) not be within 600mm of either end of the wall to which it is attached.

U08/0255 - (PS) - RETROSPECTIVE APPLICATION FOR A TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	No
Neighbour's Comment Supplied:	No
Reason:	No deemed impact on neighbouring properties
Support/Object:	Not Applicable

REFERRALS TO GOVERNMENT AGENCIES

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

If consent is refused 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

None

DISCUSSION

Whilst the signs comply with the Council's Local Law requirements, the Tower Sign conflicts with the provisions of the Council's Community Planning Scheme No. 5 ("the Scheme"), which requires that within the Riseley Centre Precinct, advertising on towers and roofs are prohibited. The Precinct Policy indicates that other signs (i.e. Horizontal Sign) may be approved in accordance with the Signs, Hoardings and Billposting by-laws.

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Clause 4.2(b) of the Scheme provides the ability to vary this requirement and approve non compliant development either unconditionally or subject to conditions through an Absolute Majority Decision of the Council provided that there is no adverse effect upon occupiers or users of the development or local residents, the future development in the locality is not prejudiced and the proposal satisfies Clause 7.8 of the Scheme. Clause 7.8 includes (amongst other matters) reference to the objectives and provisions of the Scheme, orderly and proper planning, any non-statutory guideline, planning policy, strategy or plan and the design and external appearance of the building.

In this instance, the Tower Sign does not prejudice amenity or development potential within this area or cause an adverse impact on the local occupiers of development. The structure upon which the sign is sited is authorised. The retention of the signage on the structure does not give rise to any further concerns, nor does it exacerbate the existing visual impact. In addition, the proposal is in accordance with the provisions of Clause 7.8 of the Scheme.

CONCLUSION

In light of the above, the impact of the Tower Sign is not considered detrimental to the precinct, the occupiers nor the future development of the locality. Accordingly, it is recommended Council exercise Clause 4.2 of the Scheme and grant planning approval to the Tower Sign unconditionally. As the approval in this regard requires an Absolute Majority Decision of Council, the matter is to be referred to Council for determination. In addition, approval is recommended for the Horizontal Signs.

OFFICER RECOMMENDATION (U08/0255)**REFERRAL**

THAT THE APPLICATION TO APPROVE THE RETROSPECTIVE TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS BE REFERRED TO THE NEXT AVAILABLE COUNCIL MEETING WITH A RECOMMENDATION FOR UNCONDITIONAL APPROVAL.

OFFICER RECOMMENDATION**ABSOLUTE MAJORITY APPROVAL**

THAT COUNCIL RESOLVE, PURSUANT TO CLAUSE 4.2(B) OF COMMUNITY PLANNING SCHEME NO. 5 TO APPROVE THE RETROSPECTIVE APPLICATION FOR A TOWER SIGN AND HORIZONTAL SIGNS ON LOT 1 (1) KEARNS CRESCENT, ARDROSS UNCONDITIONALLY.