



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

24 AUGUST 2010

- NOTES:**
1. This Meeting makes Recommendations to the Manager Planning & Development Services.
 2. Should any Elected Member want any matter referred and considered by the Council, please contact the Manager Planning & Development Services prior to the 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: 27 AUGUST 2010



— City of —
Melville

10 Almondbury Road Booragoon WA 6154
Postal Address: Locked Bag 1, Booragoon WA 6954
Tel: 08 9364 0666
Fax: 08 9364 0285
Email: melinfo@melville.wa.gov.au
Web: www.melville.wa.gov.au

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 24 AUGUST 2010.**

PRESENT

D Vinicombe (Presiding Member)
J Gonzalez
H Shigeyoshi
L Anderson
T Capobianco
R Jessup
R Bailey
L Hitchcock

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

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.

TABLE OF CONTENTS

U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (ATTACHMENT)..... 3

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-
STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D)
WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT) 20

U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION 'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD, MYAREE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The application seeks planning approval for a change of use from 'Showroom / Warehouse' to 'Warehouse' with an incidental 'Shop' component within the Mixed Business Precinct.
- Specifically, the application is for a fruit, vegetable and meat distribution operation with a 'Shop' component which will retail produce as an incidental component of the 'Warehouse' distribution operation.
- With the exception of the floorspace of the shop component and landscaping, the proposal is considered to be compliant with the provisions of the City of Melville Community Planning Scheme (CPS5) and relevant Policies.
- By way of permissibility, a 'Shop' may only be approved in the Mixed Business Precinct where it is incidental to a predominant use as decided and approved by the Council. Accordingly, it is recommended that the proposed 200sqm 'Shop' component (as submitted by the applicant) be reduced to 100sqm, which is considered to be a sufficient area to undertake an 'incidental' retail function.
- Two submissions detailing legal and traffic issues have been received in relation to the proposal, objecting on the grounds of adverse traffic impact and land use permissibility having regard to CPS5.
- Whilst the objections are acknowledged, matters raised can be adequately addressed by way of conditions.
- It is recommended that the proposal be conditionally approved.



U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION 'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD, MYAREE (REC) (CONFIDENTIAL ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	: Industrial
CPS 5 Zoning	: Mixed Business
R-Code	: R20 – unsewered R25 - sewerred
Use Type/s	: 'Warehouse' and 'Shop'
Use Permissibility	: Warehouse – 'D' Shop – 'I'

Site Details

Lot Area	: 4,566sqm (lot area) 1,055.2sqm (unit area)
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Refer to photo above

U10_0256_AUGUST_2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on 27.8.2010.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Min. Front Setback	12.0m	Existing building			
Min. Side and Rear Setback	North – Nil South – Nil	Existing building			
Min. Landscaping	10% of site or 5% (where verge is landscaped, reticulated and maintained)	1.1% (no verge landscaping proposed)	Does not comply	MPDS	
Max. Building Height	11.0m (eaves) 13.5m (max)	Existing building			
Car Parking Warehouse – 1 bay / 40sqm NLA Shop – 8 bays / 100sqm NLA	35 bays (733.5sqm of warehouse / office, 200sqm of shop)	39 bays	Complies, see comment section below.		
Plot Ratio	1.0 (optimum) 1.3 (max)	Existing building			

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: No
Neighbour's Comment Supplied: Yes
Reason: Advertising was not undertaken by the City.
Support/Object: Two (2) Objections

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	A detailed submission has been lodged by a Planning Consultant raising concerns in relation to land use and car parking considerations, with accompanying advice from a Solicitor and Traffic Consultant. Given the breadth of the submissions, for clarity and brevity, further detail is provided under the comments section below.	Object	Refer to comments section below for further detail.	Partially Uphold
2.	An objection has been submitted by an adjoining landowner on the grounds of detrimental traffic impact. Specifically, concerns are raised in relation to the potential traffic impact caused by the proposal to an existing crossover located on North Lake Road.	Object	Whilst concerns are acknowledged, it is considered that the proposal would result in a negligible increase in traffic numbers compared to the previous showroom / warehouse development.	Not Uphold

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

REFERRALS TO GOVERNMENT AGENCIES

Required: Yes
Reason: Abuts Category 2 'Other Regional Roads' reservation
Support/Object: Support, no objection on regional transport planning grounds

Agency	Summary of Submission	Support / Objection	Officer's Comment	Action (Uphold / Not Uphold)
Main Roads WA	<p>The Department has no objections to the proposal subject to the following matters being taken into consideration:</p> <ol style="list-style-type: none"> <i>The Department recommends that 12.5m HRV (Heavy Rigid Vehicles) deliveries should not be permitted to turn left from the median lane (inside lane) across a traffic lane (outside lane) on North Lake Road (when travelling north), and the crossover be further widened to facilitate a 12.5m truck turning left from the kerbside lane. Alternatively, smaller delivery vehicles can be used within the existing geometry.</i> <i>The crossover be restricted to left-in / left-out only and the median island on North Lake Road opposite the site be extended northward to restrict right-turn movements.</i> 	Support, no Objection	<p>The following comments are provided in response to the Department's comments:</p> <ol style="list-style-type: none"> The applicant agrees to further widen the existing crossover "...to the south by 5.0m at the eastern edge of the footpath (and 6.5m at the edge of the road pavement given the radiused kerb return) to enable a HRV to enter the site via the kerbside land of North Lake Road". See comments in the Traffic and Transport Considerations section below. 	<p>Uphold</p> <p>Not Uphold</p>

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

	3. <i>The provision of parking bays on the subject site is to comply with the City of Melville Town Planning Scheme.</i>		3. Provision of parking is compliant with the City's Policy provisions (refer Policy section below).	Uphold
--	--	--	--	--------

STATUTORY AND LEGAL IMPLICATIONS

Should the Council refuse the application for planning approval, the applicant may have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications for Council associated with this application.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Strategic Implications

The Council of the City of Melville at its Ordinary Meeting of 21 February 2006 resolved to initiate Amendment No. 47 to CPS5. The purpose of Amendment No. 47 was to address the evolving nature of land uses within the Myaree Business Precinct from a light-industry focus to a mixed-use area. Of particular importance was the recognition the area's designation as an 'activity centre' under the WA Planning Commission's Network City initiative, and to facilitate this function through the proposed Precinct changes. Amendment No. 47 is currently the subject of further review by the City given its initial rejection by the Minister for Planning. Significantly, one of the elements of review required by the Minister for Planning was a reduction in the retail capacity of the area.

In relation to Amendment 47, it is critical to ensure retail uses only encroach into the 'Mixed Business' Precinct in a controlled manner and in defined areas, as opposed to that which has occurred in the past, typically within the Hulme Court and Marshall Road localities.

In this instance, provided the extent of retail use can be kept to a minimum consistent with an 'incidental' classification, it is considered that the proposed 'Warehouse' with a small 'Shop' is a development type that is predominantly a distribution activity of larger quantities of goods with incidental retail functions and therefore consistent with the intent of the City's Amendment No. 47 proposals for the mixed-use area.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

Risk Management Implications

As recommended, with appropriate conditions which mitigate risk factors in relation to parking, access and pedestrian movement, there are no anticipated risk management implications for Council.

POLICY IMPLICATIONS

Council Policy CP - 06-PL-024 – Car Parking (Non-Residential)

Council Policy CP - 06-PL-024 – Car Parking (Non-Residential) controls the provision of non-residential car parking throughout the City of Melville.

The abovementioned Policy provides a car parking requirement for 'Warehouse' and 'Shop' use classes which require parking to be provided based on the following ratios:

- *Warehouse (inclusive of administration office) – 1 bay per 40 square metres Net Lettable Area (NLA);*
- *Shop (Community Centre) – 8 bays per 100 square metres NLA.*

In relation to the proposal, the development (as submitted) consists of 733.5sqm of 'Warehouse' (inclusive of administration office) and 200sqm of incidental 'Shop' space. It is noted that the abovementioned Policy provides a varied parking requirement relative to 'Shop' uses dependent on the Precinct. In this instance, given the absence of a parking ratio relative to 'Shop' for the 'Mixed Business' Precinct, the 'Community Centre - Shop' parking ratio has been used given it represents the strictest standard.

The car parking bays required in accordance with the Policy is 35 bays. A total of 39 bays are provided on-site, thus satisfying the minimum requirement contained under the Policy provision.

Council Policy CP - 28-PL-006 - Mixed Business Precinct Additional Development Requirements

Council Policy CP - 28-PL-006 – Mixed Business Precinct Additional Development Requirements prescribes additional development requirements for properties situated within the 'Mixed Business' Precinct. The proposal generally satisfies the requirements of the subject Policy with the exception of landscaping and requires consideration relating to signage.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**Landscaping

With regard to landscaping, the Policy puts an emphasis on the provision of landscaping on verges, frontages and boundaries with adjoining lots. The proposal presents limited landscaping in this regard which is reflective of the existing site layout which is dominated by car parking and building.

Whilst limited opportunity exists for the provision of landscaping as part of this application (without detrimentally impacting on the provision of necessary car parking), it is considered that there is opportunity to provide landscaping within the verge in order to soften the dominant hard-surfaces and appearance of the site and to be more consistent with the Policy objectives. The benefit of verge landscaping is evident on the eastern side of North Lake Road which is extensively grassed between McCoy Street to the north through to Leach Highway to the south. Landscaping of a portion of the verge shall also assist in delineating the parking areas, crossover and the kerb / cycleway (thus mitigating against vehicles parking within the sealed shoulder).

Accordingly, a condition on landscaping the verge area in front of the unit should form part of any approval for the development.

Signage

With regard to signage, the subject Policy provides that:

- *It is intended to prevent uncontrolled signage and to allow attractive, commercially viable advertising of consistent quality and relatively cohesive style.*
- *Verge signage is not supported.*
- *Signage is to be of a scale, design and construction so as to not adversely impact on the amenity of adjoining property, the locality or precinct.*
- *Uniform signage and combined signage for businesses sharing common or linked premises is encouraged.*
- *There is a general presumption against tower and roof signs, particularly for small developments. However, they may be considered for large sites or sites on major roads, buildings set well back from the street, or uses conducive to such signage.*
- *Pylon signs other and all signs must comply with the Signs, Hoardings and Billposting Local Law of the City of Melville.*

In this regard, the applicants seek to replace an existing pylon sign and painted signage present on the building facade with a new pylon sign, seven horizontal signs located on the North Lake Road façade including three painted signs and four located on canvas panels.

In considering the Policy provisions relative to signage, it is noted that the development site falls within the 'Mixed Business' Precinct under CPS5 which is characterised by a range of industrial and commercial land-uses. Advertising signage is prominent in the locality and notifies passing trade of the presence of the business. There are already a number of businesses located along North Lake Road which have been approved with signage of greater dimension than that proposed.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

In relation to the amenity impacts, the application provides insufficient detail to determine the impact of the signage proposed.

Accordingly, whilst it is acknowledged that the proposal is to replace existing signage which existed as part of the previous showroom/warehouse use, it is desirable that this matter be addressed with a separate application for signage, should the subject application be supported.

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

Council Policy CP - 06-PL-017 provides a set of standards for the provision of bicycle parking and associated facilities at end of trip destinations. Where appropriate, the Policy provides a dispensation on the car parking bays required under Council Policy CP - 06-PL-024 based on a standard of six bicycle bays for every 'converted' car parking bay, subject to suitable bicycle parking and end-of-trip facilities being provided.

Whilst the subject application already complies with the car parking requirement, two bicycle racks (which presumably accommodate for up to 4 bicycles) have been depicted on the development plans submitted, located to the west of the main entry. Furthermore, staff facilities are also provided, consistent with the objective of Council Policy CP - 06-PL-017 which is to provide for end-of-trip facilities.

Given on-site parking is within the requirements of Council Policy CP - 06-PL-024 as detailed in the preceding sections above, dispensation through bicycle bays is not necessary. However, the proposal to integrate sustainable transport options is entirely supported.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed to be approved under delegation through the DAU process. Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

COMMENTS

The subject site is situated within a section of the Myaree 'Mixed Business' Precinct characterised by a range of commercial showrooms and bulk retail stores which front North Lake Road. The subject site contains three (3) existing buildings (inclusive of the proposal), these consisting of Bike Force to the north and ACJ interiors to the south. Immediately surrounding the subject site is a range of established commercial developments, these consisting of Waldecks garden centre and Bunnings to the east, Supercheap Auto to the south and a second-hand car dealership to the north.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

The Statement of Intent for the Mixed Business Precinct is as follows:

“An industrial area in transition to commercial use in accordance with the Local Commercial Strategy, accommodating retail uses of a bulky nature. Some residential use may occur. The amenity of the area is to be up-graded and attention given to landscaping all new development.”

The following sections below detail the development proposal and relevant planning considerations in further detail.

Proposal

The application seeks Planning Approval to establish a 'Warehouse' with incidental 'Shop' and integral 'Office' components for a fruit, vegetable and meat wholesale operation. It is noted that the existing building previously operated as a 'Warehouse' being a bathroom, kitchen and plumbing showroom, commercially identified as 'Katie's bathroom, kitchen and plumbing supplies'. Therefore the change of use Planning Application is relating to the incidental 'Shop' component as the 'Warehouse' component has already been approved.

Specifically, it is proposed that the existing 1,055.2sqm building will consist of the following (approximate) break-down in relation to its function:

- 676.2sqm (64%) will be dedicated to the wholesale / warehousing operation of fruit, vegetable and meat.
- 200sqm (19%) will be dedicated to an incidental 'shop' area.
- 57.3sqm (5.5%) will be dedicated as an office area for administrative functions.
- 121.7sqm (11.5%) will be dedicated to staff amenities and access areas.

It is proposed that the development (inclusive of warehouse) will open for trade 7-days a week, 8am to 6pm. Fresh produce will be sourced locally and principally from the Canning Vale Markets and brought to the site via a 6-tonne 12.5m Heavy Rigid Vehicle (HRV). It is proposed that deliveries will arrive between 5.00am and 6.00am, normally on Tuesday and Thursday being main market days.

Wholesale customers will be required to collect produce from the premises which will be brought out on display in pallets on a daily basis from the cool rooms. With regard to wholesale customers, the applicant has provided a comprehensive list of existing clientele which consist of a number of food franchises, fresh produce supermarkets, stock feed outlets throughout the Perth Metropolitan area and various horse trainers.

By way of land-use, the proposal is best considered as a 'Warehouse' use with incidental 'Shop' use. CPS5 defines the abovementioned uses as follows:

‘Warehouse’ means a building wherein goods are stored and may be offered for sale by wholesale.

‘Shop’ means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in this part.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

The permissibility of the abovementioned land-uses are 'D' and 'I' respectively under the provisions of Table 1 of CPS5 which entail the following meanings:

'D' - use not permitted unless the Council exercises discretion and grants planning approval.

'I' - use not permitted unless incidental to the predominant use as decided and approved by the Council.

In terms of land-use permissibility, as detailed in the functional break-down above, the predominant use of the building will be for the wholesaling of various fruit, vegetables and meat produce. Incidental to this main function will be a retail 'Shop' component which is proposed to provide an outlet to sell to the general public, produce sourced and distributed as part of the wholesale operation in smaller quantities. Permissibility of the office and other areas are not considered relevant in this instance given that they are essential functions which are integral to any commercial operation and as such, do not require an independent categorisation under Table 1 of CSP5.

Based on the above, the concept of an incidental shop to a warehouse activity is considered to be generally acceptable from a land-use perspective. It is noted that the area has been the subject of Amendment No. 47 to CPS5 which is now under review as a result of the Minister for Planning's refusal to approve the amendment as submitted, due in part to its potential impacts in promotion of significant retail expansion. In this regard, it is considered pertinent that care be taken to ensure the shop component of the proposal does not undermine the objectives of CPS5 and Amendment No. 47 which would be contrary to the Council's and the WA Planning Commission's future intentions for the locality.

The scale of the proposed 'Shop' component has been the subject of an objection submitted by a Planning Consultant with accompanying legal and traffic advice sourced from independent parties. It has been stated that the proposal is more accurately defined as a 'Shop', or 'Shop' and 'Warehouse' (i.e. a supermarket) given both uses are capable of operating independently (with reference to Chisholm Holdings Pty Ltd and City of Wanneroo [2008] WASAT 250 at [14]). Reference is also made to the Supreme Court case of Taylor v City of Swan [2005] WASCA 88 which considered the meaning of "incidental to" as follows:

"...requires the identification of a predominant use and a determination of whether the proposed use is consequent on such a use or naturally attaching, appertaining or relating to such a use. In my view, there must be some relationship or connection between the two uses for one to be incidental to the other."

It is claimed that the shop element of the proposed use cannot be said to be incidental to the warehouse/wholesale element of the use given the apparent unrestricted access between the areas of the premises proposed to be used as wholesale/warehouse and retail/shop, and also by the apparent duplicity of the lines of produce to be sold in the wholesale/warehouse and retail/shop. Furthermore, the use of 'Shop' (supermarket) is in conflict with the City's Local Commercial Strategy as it would undermine the established retail hierarchy and affect the viability of the nearby 'Myaree Centre' immediately to the north of the subject site. Other issues raised include, non-compliance with the CPS definition of "warehouse" with reference to the provisions of the Sales Tax Assessment Act No1 1930 (as amended), non-compliance with Council's Parking requirements and concerns over access arrangements to the site.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

In considering the above, a 200sqm shop represents a significant retail floor space with the capacity to operate in its own right as a retail business. Accordingly, at this size, it is questionable whether the shop component can accurately be described as an incidental activity to the main predominant warehouse use. Approval for a 200sqm shop in this location would be significant and has the capacity to trigger a proliferation of retail activities and hence be contrary to orderly and proper planning for the locality and the objectives of the City and WA Planning Commission in curtailing the extent of retail activity in the location.

With reference to the Chisholm Holdings Pty Ltd v. City of Wanneroo SAT case, the proposal was for a hybrid Growers Mart use (unlisted under the City of Wanneroo's District Planning Scheme No 2 –and therefore a discretionary use). The City of Wanneroo was of the view that the use was a distinct shop and warehouse use under the one roof. As the shop use is one which could not be approved under the Scheme, it could not be approved. SAT supported this view and did not uphold the appeal. The fundamental difference in this case is that the shop use can be approved under CPS5 if Council is of the view that it is incidental to the predominant use. Providing, the shop use is in fact incidental to the operation of a predominant warehouse use, Council may approve the proposal consistent with the Supreme Court view of "incidental to" as considered in the Taylor v City of Swan [2005] WASCA 88 case and the decision in relation to the Chisholm Holdings Pty Ltd and City of Wanneroo [2008] WASAT 250 case.

In determining the incidental nature of the proposal, size of the shop and the physical relationship between the shop and the warehouse are paramount concerns. With regard to the separation, the proposed low stainless steel barrier will not provide sufficient separation of uses and not prevent free flow of customers from one area to the next. In order to address this issue, it would be appropriate that a more substantial barrier in the form of a full height solid wall be required, together with restrictions being applied in relation to customer movement between the two areas.

Issues raised in relation to the provisions of the Sales Tax Assessment Act No1 1930 (as amended), non-compliance with Council's Parking requirements and concerns over access arrangements to the site do not apply in this instance as the concerns in relation to Sales Tax do not apply under the CPS5 definition of warehouse, parking is compliant and access matters are suitably addressed.

In order to address the issues of size of the shop, it is recommended that the proposed 'Shop' component be reduced to be no greater than 100sqm floor area to limit the scale of retail operations. This will also assist in controlling retail use spread throughout the area and ensure that a proliferation of 'retail' uses now and into the future does not eventuate.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

In justifying the above, it is noted that 100sqm is considered to represent an adequate area to undertake the intended 'incidental' sale, by retail, or produce sourced and subsequently distributed as part of the primary warehouse operations. As the 'Shop' component of 100sqm will be purely associated with the display areas, it will not be taken up by facilities such as storage / cool-rooms and offices typically associated with a supermarket operation which may undertake a similar function (i.e. goods sold in the 'shop' component are those passed-through from the warehouse). A floor area of 100sqm is considered to be adequate to provide for the display and retail sales area for fruit, vegetable and meat produce. This is comparable to the corresponding components of many smaller supermarkets (e.g. IGA) which measure out to have a similar sized area (disregarding their retail areas associated with other items such as toiletries, beauty products, cleaning products etc).

Based on the above, the proposal subject to a limit of 100sqm relative to the shop component and considered to be appropriate from a land use perspective.

Development Considerations

As detailed under the development table above, the proposal is considered to satisfy the development requirements contained under the provisions of CPS5 and the Mixed Business Precinct Additional Development Requirements Policy.

Traffic and Transport Considerations

The application has been the subject of referral to the City's Technical Services for consideration. In providing comments, Technical Services has made reference to a detailed Traffic and Parking Impact Assessment Report prepared by an independent Traffic Consultant and comments raised by Main Roads WA. The following pertinent points are made, summarising the comments provided:

- *Road Network Characteristics* – parking in the sealed shoulder is not to be permitted at all times and adequate provision for cyclist and pedestrians to be made when undertaken crossover widening.
- *Existing Traffic Conditions* – it has been stated by the City's Technical Services and Main Roads WA that should queuing occur along North Lake Road through to the traffic signals at McCoy Street, vehicle movements should be limited to left-in / left-out only. After considering the impact of the median extension suggested by Main Roads WA, it is clear that a full median extension up to the signals at McCoy St would disadvantage all businesses on the west side of NLR in that section. A partial extension as suggested by the applicant would assist in reducing that problem but the partial extension may in fact increase illegal or unwanted manoeuvres into and out of the subject site. It would restrict the availability of the current flush median and for the ability for cars to "store" in that area prior to making right hand turns into and out of the site. Based on safety grounds it would therefore preferable if the median remain as is, at this time. This position may have to be reviewed at a future time if the traffic forecasts provided in the traffic report are exceeded and this gives rise to the sorts of issues forecast by Main Roads. However, at this time it is recommended that the median not be extended and that they are kept under review should traffic conditions change in this section.

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

- *Traffic Generation* – based on the traffic survey provided by the independent Traffic Consultant and with reference to the Road Traffic Authority (RTA) Guide to Traffic Generating Developments, over a 12-hour day, the 33 additional trips created by the proposal equates to approximately three extra vehicular trips per hour. This is not considered to be a significant increase.
- *Proposed Access and Parking Layout* – a minimum of one disabled bay is to be provided measuring 3.2m x 5.4m. The pedestrian walkway to the east of the main building will need to be cut to allow sufficient space for vehicles to enter and exit simultaneously without collision. A Site Management Plan is to be provided to ensure sufficient bays are left un-used when Heavy Ridged Vehicles (HRV) access are scheduled to occur.
- *Service Vehicles* – discussions with the City's Waste Services have identified that the proposal would require a commercial front lift bin being either 1.5 or 3.0cm in capacity. The multiple 1100 litre bins as depicted on the submitted plans suffice in this regard.
- *Public Transport* – adequate bus stops and footpaths are already provided in the locality to address public transport needs of staff and/or patrons.
- *Provision of Drainage* – a Drainage Management Plan is to be submitted depicting proposed drainage disposal.
- *Street Lighting* – the existing lights attached to the warehouse building may require upgrading in order to provide sufficient illumination to the southern side of the site, to ensure the entire parking area is adequately lit.
- *Service Vehicles* – a Site Management Plan is to be provided to ensure HRV and Medium Rigid Vehicle (MRV) movements are adequately provided for on-site. Adequate provision for waste pick-up has been made.
- *Pedestrian Safety* – Signage is recommended between the proposed warehouse building and Bike Force to the north to remind drivers to keep left and to be mindful of pedestrians and cyclists. When forklifts are in operation and service vehicles reversing, this may pose as a danger to pedestrians. The Site Management Plan is required to address such issues.

In relation to the traffic considerations, concerns have been raised under the two submissions received during the course of this application (refer to 'Public Consultation/Communication' section above). Three key issues have been raised in this regard being the shortfall of parking bays, internal access implications on safety grounds and potential traffic impact to existing crossovers on North Lake Road. Whilst these concerns are acknowledged, it is noted that the proposal, with appropriate conditions, will address the issues raised. A summary of the recommendations as suggested by the City's Technical Services are listed below:

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

- Rails or fixtures are to be provided, sufficient to store the bicycles.
- A detailed 'Site Management Plan' is to be provided to ensure HRV, MRV, fork lift and associated service vehicle movements are adequately provided for on-site.
- Bay 12 to be deleted and the adjoining kerb be modified to cater for two-way movement (a minimum 6.0m access width is to be achieved).
- The shared access bay is to be deleted and used to create a disabled bay measuring 3.2m x 5.4m.
- A concrete nib is to be provided adjoining the disabled bay.
- A 'Drainage Management Plan' is to be submitted.
- On-site lighting to be provided in accordance with 'Crime Prevention through Environmental Design' (CPTED) principles.
- Signage to be placed between the proposal and adjoining 'Bike Force' business reminding drivers to be mindful of pedestrians and cyclists.
- The existing 6.5m wide crossover on North Lake Road be widened to the south by 5.0m at the eastern edge of the footpath (and 6.5m at the edge of the road pavement) to enable an HRV to enter the site via the kerbside land of North Lake Road.

Given the above, there are no outstanding issues with respect to traffic considerations.

Clause 7.8 of CPS5 Considerations

The provisions of CPS5 do not specify any applicable variation standards to assess and determine the appropriateness of the variations other than in consideration of matters raised under Clause 7.8. In this regard, applications for development are to take into account such matters as the objectives of the Scheme, orderly and proper planning, existing and likely future amenity, the nature of development relative to adjoining land, the size, shape and character of the lot and its influence on the new building, the design and external appearance of the building and the influence it may have on the area, any relevant submission(s), and any other relevant planning considerations.

In essence, the above considerations relate to amenity matters. Given proposed landscaping improvement requirements, it is considered that the proposed development does not impact on amenity in any way. Accordingly, the proposal is considered to entirely satisfy the provisions of Clause 7.8 of CPS5.

CONCLUSION

Whilst submissions received objecting to the proposal on traffic, land use and permissibility grounds are acknowledged, it is considered that the proposal, as per the recommendations proposed, presents as an appropriate form of development for the subject site. Accordingly, it is recommended that the proposal be conditionally approved.

U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION 'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD, MYAREE (REC) (CONFIDENTIAL ATTACHMENT)

OFFICER RECOMMENDATION

APPROVAL

- A) That the application for a proposed fruit, vegetable and meat distribution 'Warehouse' with incidental 'Shop' on Lot 101 (99B) North Lake Road, Myaree be approved with the following Special and Standard Conditions:**

SPECIAL CONDITIONS:

- 1. The proposed incidental 'Shop' component is limited to 100sqm in area and is to be permanently partitioned off from the remainder of the warehouse with a full height solid wall.**
- 2. The proposed 'Warehouse' areas are to operate in accordance with the definition for 'Warehouse' as per the provisions of the City of Melville Community Planning Scheme No. 5. Goods are not to be kept, exposed or offered for sale by retail and the general public is not permitted to enter the warehouse area except in relation to the purchase of wholesale goods.**
- 3. The development to comply with the principles of crime prevention through environmental design (CPTED) relative to natural surveillance, camera surveillance and lighting being provided.**
- 4. A detailed Site Management Plan is to be submitted prior to issuance of Building Licence to the satisfaction of the Manager Planning and Development Services detailing proposed HRV, MRV, fork lift and associated service vehicle management on-site.**
- 5. Bay 12 is to be deleted and the adjoining kerb be modified as marked in 'RED' on the approved plans to cater for two-way movement (a minimum 6.0m access width is to be achieved).**
- 6. The shared access bay is to be deleted and a disabled bay measuring 3.2m x 5.4m provided on-site as marked in 'RED' on the approved plans. A concrete nib is to be provided adjoining the disabled bay.**
- 7. A drainage plan is to be submitted and approved for the subject site prior to the issuance of Building Licence.**
- 8. Signage is to be placed at the entrance to the rear parking area (adjoining the 'Bike Force' business) warning drivers of pedestrian and cyclist traffic.**
- 9. The existing 6.5m wide crossover on North Lake Road be widened to the south by 5.0m at the eastern edge of the footpath (and 6.5m at the edge of the road pavement) to enable an HRV to enter the site via the kerbside land of North Lake Road as marked in 'RED' on the approved plans.**
- 10. A separate application for Planning Approval and Signs Licence is required for all signage.**

**U10/0256 (LA) PROPOSED FRUIT, VEGETABLE AND MEAT DISTRIBUTION
'WAREHOUSE' WITH INCIDENTAL 'SHOP' ON LOT 101 (99B) NORTH LAKE ROAD,
MYAREE (REC) (CONFIDENTIAL ATTACHMENT)**

11. In accordance with the approved plans all parking bay/s, driveway/s and points of ingress and egress areas are to be permanently provided, constructed, drained, marked prior to the development first being occupied and thereafter maintained. The parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the City of Melville Plan Nos 102A2-80E/1 (concrete commercial crossover), 423A2-87E (bitumen commercial crossover) unless otherwise specified by this approval. The applicant shall pay for where any damage is caused to a Council facility, tree or street furniture, or where alteration to a Council facility is required, the cost or such damage or alteration. A concrete apron having width of 0.75 metres must be installed between a brick paved crossing and the bitumen surface of a road. The cost of damage to a street tree will be determined in accordance with the "Tree Amenity Valuation Formula" adopted by the Council in September 1994.
12. All unused crossover(s) to be removed and the kerbing and verge to be reinstated at the applicant/owner's full expense.
13. 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. 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.

STANDARD CONDITIONS:

14. 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.
 15. 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 overflow.
 16. During construction access to the lot to be via the street frontage only and that no building rubble be permitted to overspill the site.
 17. Maximum vehicles access gradient ratio of 1:5 being achieved.
 18. The buildings shall not be used for habitable or residential purposes.
- B) Applicant and those who made submissions be advised in writing of A above.**

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

Ward : Bicton/Attadale
 Category : Operational
 Application Number : DA-2009-1289
 Property : Lot 66 (40D) Waddell Road, Bicton
 Proposal : Reconsideration of two-storey with mezzanine floor Mixed-Use development
 Applicant : DMBD Pty Ltd
 Owner : Darren Miller
 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 : [P07/3020 – OMC Minutes 21 August 2007](#)
[U09-0008 – DAU Minutes 13 January 2009](#)
[U10-0207 – DAU Minutes 4 May 2010](#)

AUTHORITY / DISCRETION

Definition

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

- On 4 May 2010 the City of Melville Development Advisory Unit (DAU) recommended refusal of an application for a two-storey with mezzanine floor Mixed-Use development on Lot 66 (40D) Waddell Road, Bicton.
- The DAU's reasons for refusal were based on non-compliance with Clause 7.8 b) of the City's Community Planning Scheme No. 5 (CPS5) in terms of orderly and proper planning, inadequate car-parking arrangements and safety concerns relevant to vehicular access.
- On 2 June 2010 an Application for Review was lodged with the State Administrative Tribunal (SAT) by the applicant seeking reconsideration of the City's decision.
- Proceedings so far have included two on-site Mediation Sessions and a third conference call Mediation between the appellant, Member of SAT and Council Officers.
- The Mediation Sessions have resulted in all parties supporting revisions to the proposal on a 'without prejudice' basis subject to addressing the recommendations forming part of this report.
- The SAT pursuant to Section 31(1) of the *SAT Act 2004 (WA)*, has requested the City reconsider its previous determination.
- It is recommended that the proposal be conditionally approved.



*Note: Aerial photograph does not accurately depict existing four (4) angled bays parking bays in front of adjoining Lot 24 (to the south) or the residential apartment development on Lot 24 to the south which is currently being completed...

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)**BACKGROUND**

During the course of the initial application, the applicant submitted a number of design variations and additional information, which provided for two parking bays on site located on variants of car stackers, and street parking. The applicant however remained of the belief the City's interpretation of car-parking demands (three bays) was incorrect. In any event, the proposed two parking bays on-site did not meet the required dimensions for two side-by-side bays in accordance with Australian Standard AS/NZS 2890.1-2004 (herein referred to as 'the Standards').

The Development Advisory Unit (DAU), in consideration of the matters addressed in the officer's report and those additional concerns raised at the meeting, was of the view the application was too adverse an impact upon the orderly and proper planning of the area and accordingly recommended refusal of the application.

The specific reasons for refusal were:

- 1. Non-compliance with Community Planning Scheme No. 5, in particular Clauses 7.8(b) in that the development does not represent the orderly and proper planning of land within the locality;*
- 2. Inability to provide suitable parking arrangement to address the required parking requirements of the City of Melville Policy 06-PL-024 Car-parking (Non-Residential) and the Residential Design Codes; and,*
- 3. Provision of unsafe access arrangements to and from Waddell Road which will present safety and traffic hazards to road users and pedestrians.*

On 2 June 2010, following the DAU recommendation and the issue of the decision by Council Officers under delegation, an Application for Review was lodged with the State Administrative Tribunal (SAT) by the applicant seeking reconsideration of the City's decision. Upon the initial Hearing, SAT ordered that a Mediation Session be held on-site involving the City's Executive Manager Legal Services, Manager Planning and Development Services, and the applicant with two Senior Sessional Members of SAT. Following the initial Mediation Session, a second Mediation Session attended by all of the above and the Executive Engineer Technical Services was held to consider changes to the parking layout in front of the adjoining property (Lot 24 Waddell Road) and partially extending into the frontage of the applicant's property (Lot 66 Waddell Road). Following further discussions between Council Officers and one of the Sessional Members, a subsequent conference call Mediation was held between the appellant, Council Officers and the Sessional Member with the view of discussing the requirements of Council Policy CP - 06-PL-024 – Car Parking (Non-Residential) relative to parking embayments in the road reserve.

As a result of the Mediation Sessions held between the Applicant, representatives of the City and two Members of SAT, revised plans have been submitted which address the DAU's reasons for refusal.

The following sections below provide additional details relating to the application as amended and accepted on a 'without prejudice' basis during the course of the mediation sessions. For clarity and brevity, details relating to the initial report to Council are not presented as part of this item (refer to report link on cover page).

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

Scheme Provisions

MRS Zoning	: Urban
CPS5 Zoning	: Commerical Centre Frame MF – Melville Frame
R-Code	: R50
Use Type	: Residential and Office
Use Permissibility	: 'D' Use (Residential) – Council discretion required 'S' Use (Office) – Council Discretion required

Site Details

Lot Area	: 159 sqm
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Not Applicable
Site Details	: Refer photo above

U10_0257_AUGUST_2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on 20 August 2010.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Plot Ratio	0.8	0.76	Complies		
Landscaping	25% (39.75sqm)	27.86% (44.34sqm)	Complies		
Building Height	8.0m (eaves) 10.5m (max)	No eaves 9.481m	Complies Complies		
Car-parking	3 (2 bays for Office, 1 bay for residential)	2 bays on-site and on a double car stacker and 1 bay to be provided in the street in front of Lots 24 and 66 Waddell Road	Does not comply	MPDS	

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front - west					
GF - Entry	6.0m, as per R-Codes	1.0m	Does not comply	Council	
FF - Office	6.0m, as per R-Codes	1.0m	Does not comply	Council	
MF – Bedroom	6.0m	17.9m	Complies		

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

Rear - east					
GF - Entry	Nil	5.6m	Complies		
FF – Unit 2 Living	1.2m	5.6m	Complies		
MF – Unit 2 Bedroom	1.3m	5.6m	Complies		
Side - north					
GF – Entry	2.0m	0m	Does not comply	MPDS	
FF – Office	2.0m	0m – 1.5m	Does not comply	MPDS	
FF – Unit 2 Meals / Living	1.5m	0m	Does not comply	MPDS	
MF - Bedroom	1.7m	2.0m	Complies		
Side – south					
GF – Entry	0m	0m	Complies		
FF – Office / Meals / Kitchen / Living	0m	0m	Complies		
MF – Bedroom / ENS	0m	0m	Complies		

*Non-compliance in bold, GF – Ground Floor, FF – First Floor, MF – Mezzanine Floor

PUBLIC CONSULTATION/COMMUNICATION

Public consultation was conducted in accordance with Clause 7.5 of CPS5 as part of the initial application. As the mediation proceedings were confidential under SAT requirements (unless agreed to by all parties), no further consultation is required unless otherwise directed by the SAT.

REFERRALS TO GOVERNMENT AGENCIES

There are no referral requirements applicable to other Government agencies in the consideration of this application.

STATUTORY AND LEGAL IMPLICATIONS

The application is currently under appeal to the SAT. Council's recommendation of this proposal will determine the course of this application at SAT. Should the Council recommend refusal of the proposal, the application for Review shall likely be the subject of Full Hearing at SAT and subsequent determination.

It is noted that the applicant has indicated no objection to this report being fully open to the public, however in consideration of comments made by the Sessional Member relative to confidentiality should the mediated outcome not be supported by Council (in that it may prejudice any subsequent formal Appeal Hearing), this report has been prepared on a confidential basis.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

FINANCIAL IMPLICATIONS

Costs associated with the proposed additional car-parking embayment in the street, estimated to be in the order of \$5,000 are to be borne by the applicant. Maintenance of the verge car-bays thereafter will be the responsibility of the City, however, an additional \$1,000 allowance has been agreed to for this purpose as part of the mediated outcome in accordance with the terms of Council Policy.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

There are no anticipated strategic or risk management implications other than the possible precedent setting by approval of a parking facility in the form of “hoist parking” – a first for the City of Melville but not for the Perth Metropolitan Area.

POLICY IMPLICATIONS

Council Policy CP - 06-PL-024 – Car Parking (Non-Residential)

Council Policy CP - 06-PL-024 provides non-residential car parking standards additional to those contained under the provisions of CPS5. The parking requirement for the proposal is summarised in the table below.

Council Policy CP - 06-PL-024 - Parking Requirement

Land Use	Policy Requirement	Bays Required	Bays provided on-site
Office (50 sqm)	1 bay per 30 sqm Net Lettable Area	2 (1.667)	2 bays on site 1 additional bay proposed within verge
Residential	In accordance with R-Codes	1 (0.75)	
		Total: 3 bays (2.417)	

Based on the above, and accepting that the double car stacker provides for two bays (notwithstanding its sub-standard width), the proposed development would represent a shortfall of one bay on-site. However in accordance with the “without prejudice” agreements reached at mediation, one additional car-bay may be created within the general area of the existing four verge bays located directly in front of the adjoining Lot 24 (40) Waddell Road and partially extending into the frontage of the subject property at Lot 66 (40D Waddell Road). Specifically, the existing 60 degree parking bays which measure 3.0m in width may be reduced to 2.6m, which, together with additional modifications to the kerbing to widen the parking area by 1.0m to the satisfaction of the City’s Executive Engineer Technical Services, will provide for the creation of an additional bay for the use of the subject development.

Further consideration relating to car parking and associated cash-in-lieu components of Council Policy are detailed under the comments section below.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)Council Policy CP - 25-PL-002 – Arts and Culture

Council Policy CP - 25-PL-002 aims to develop and implement a public art strategy which focuses on creating a 'sense of place' and civic identity, through promoting the local authority and enhancing the urban environment. The Policy provides for the allocation of funds for public art to be included within each building or urban landscape project (of a reasonable size). As a guide the target of one per cent (1%) for public art (percent for art scheme) should be used.

This Policy has recently been considered by SAT in the context of the Dan Murphy Appeal and although the decision on that Appeal has not been handed down by SAT to date, discussion raised at the Full Hearing of SAT on that matter indicated that the Policy has no statutory weight and cannot be applied to Planning Applications until such time as Council formally adopts it under the provisions of CPS5. Accordingly, it is appropriate that this Policy not be applied to development in the City at this point and the Council consider inclusion of the existing Policy in the review of Planning and Development Policies.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed to be supported under delegation through the DAU process. Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

Should Council refuse the subject proposal, the matter will likely be the subject of Full Hearing of SAT which will require the involvement of City's Officers and independent Consultants at a cost to the City. Furthermore, SAT may award costs to the applicant should it be determined that the City has acted negligently in its decision making relative to the appeal proceedings.

COMMENTS

As a result of the Mediation Sessions held between the Applicant, representatives of the City and two Members of SAT, plans have been revised to address Council's reasons for refusal as well as parking concerns raised by objectors as part of the initial application. The outcome of the latest Mediation Session undertaken prior to this item has resulted in eight key revisions being made to the development proposal. The revisions agreed on "without prejudice" are as follows:

1. Three car-bays are required to be supplied as part of the development application;
2. Given that the applicant is electing to provide the parking on site in raised bays (double car stacker) to address restricted access commitments to the adjoining property owner, the car stacking device is acceptable as a dual car width tray able to contain two cars on site (as opposed to the two individual stackers which were considered as part of the former DAU report);

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

3. The car stacker, whilst not wide enough to meet the Standards for car-parking, is an acceptable proposal. It is noted that the Sessional Members were of the view that the deviation in width of the two bays from the Standards (5.5m down to 5.05m – reduction of 0.45m) would not impact on the safe operation of the bays – only the convenience of the users. In addition, it was noted that there are no specific Australian Standards which apply at present to the use and dimension requirements of “car stackers”;
4. The required third bay may be located on street partially in the area of and next to the existing four verge car bays located opposite Lot 24 (40) Waddell Road;
5. The existing verge car-bays are to be modified from 3.0m in width to 2.6m with associated modifications to the kerb (totalling approximately 1.0m in width) to accommodate the additional bay;
6. Modifications are to be made to the existing pedestrian footpath to increase pedestrian safety;
7. The provision of the third car bay within the verge shall entail construction and maintenance costs (estimated by Engineering Services to be up to \$6,000) to be borne by the applicant however, does not include land value as part of the cash-in-lieu calculation; and,
8. The development is to contain sight mirrors for motorists exiting the property in a safe manner.

Issues raised by Objectors

As a result of the mediation meetings, various revisions to the development plans address the parking concerns raised by the initial objectors to the proposal and result in proposed development plans which are acceptable in land use planning terms, subject to conditions.

The other concerns raised (these detailed under the ‘Public Consultation/Communication’ section of the previous Council item) were previously upheld by the former DAU report. Specifically, the major objection addressed by the revised plans relate to no overspill of carparking onto street and loss of car-parking bays for the adjoining property.

The mediation sessions concluded the development is acceptable if one additional bay can be provided in modified on-road parking bays opposite Lot 24 Waddell Road and encroaching into the frontage of Lot 66 Waddell Road. The provision of the additional bay is facilitated by minor widening of the parking embayments and a reduction of the existing bay widths. Therefore, the proposed development is considered to satisfy its demands relative to car parking standards.

At the initial Mediation Session, it was indicated that revisions listed above would be the subject of consideration by the City’s Technical Services prior to the reconsideration of the application by Council. In this regard, advice provided indicates overall satisfaction with the proposal, subject to the following comments and recommendations being raised:

- The width of the verge bays may only be reduced to 2.6m. Appropriate works to modify the kerbing either side are to be undertaken by the City of Melville at cost of the applicant;
- Verge bays are not to be reserved (i.e. marked / dedicated) for the sole use of individual properties and/or tenancies;

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

- All works associated with the additional car bay and verge/kerb/ raised pedestrian crossing modifications are to be undertaken by the City of Melville at cost of the applicant;
- Reversing out of the crossover for the site was considered problematic with poor visibility due to the location of cars parked in the existing street bays. This can be rectified with the allocation of mirrors being able to overlook the street and pedestrian footpath.

Based on the above, the subject revised plans can be supported on transport grounds subject to appropriate conditions.

Additional Street Parking Embayment

As detailed in the preceding sections above, one parking bay is proposed to be accommodated with the creation of an additional verge bay on Waddell Road as per the technical advice detailed above.

Council Policy CP - 06-PL-024 provides parking requirements to be provided as “cash-in-lieu”. Whilst the principle of cash-in-lieu has been applied by the City previously, the application of cash-in-lieu as part of this Mediation has been the subject of debate between the City and Members of the SAT. Clause IV) of Policy 06-PL-024 Car Parking (Non-Residential) stipulates as follows:

IV) Acceptance of cash in lieu for the provision of car parking spaces otherwise required shall be on the basis that:

- *Money so received shall be applied to the development and maintenance of car parking facilities and, where necessary, the cost of acquisition of land for that development*
- *The cost of acquisition of land for car parking may include payment to the City of Melville of the value of any land owned or held by the City of Melville and which is applied or modified for car parking purposes including, without limitations, any modification of a road reserve to provide verge parking.*
- *The cost of land for the determination of an appropriate cash in lieu contribution shall be determined by a licensed valuer at the market price for that land and shall be calculated on the basis of:*
 - *30 square metres per bay for bays contained within car parking stations (15 square metres for the actual bay plus 15 square metres for reversing manoeuvring);*
 - *15 square metres per bay for car parking constructed as verge parking in road reserves.*
- *The Council shall have a discretion as to whether or not the provision of verge parking and, hence, the payment of a cash in lieu contribution calculated on the basis of verge parking) is acceptable in any given case.*
- *In addition to the cost of acquisition or valuation of land for the purposes of determining a cash in lieu contribution, the cost of construction of a car parking bay shall be as set out in the Councils schedule of fees and charges.*

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

The issue of primary debate has been in relation to the City's request for payment relative to the value of the land in addition to the construction and maintenance costs associated with the additional car bay on the Waddell Road verge. As detailed under point one above, the City may require payment should there be a need to acquire land for the purposes of car parking.

In this instance, the Sessional Members of the SAT consider that as the additional bay is located within an existing verge being land which is vested under the State, the City has no ownership. Therefore, it is considered to be land that has been provided to the City free-of-cost subject to maintenance responsibilities being placed with the City. Accordingly, as there are no costs to the City associated with acquiring the part of the verge for the creation of the additional bay, it is considered unreasonable in this instance to require the applicant to make payment for the land cost, in addition to the development and maintenance costs associated with the additional verge bay.

The above view, whilst inconsistent with the terms of the current Policy, and former decisions by Council, provides clear indication of how SAT may view the matter in the event of the matter going to a Full Hearing of SAT.

Accordingly, based on the views of the Sessional Members of SAT it is considered appropriate that the cash-in-lieu for the parking bay not include a land value and that this matter be considered as part of the review of Council Policy CP - 06-PL-024.

Use

The subject site is located within the 'Commercial Centre Frame MF - Melville Frame' Precinct under the provisions of CPS5, which envisages that the area is to primarily consist of residential uses but may include:

...offices, medical practitioners, and ancillary uses, where privacy of neighbours is respected and design has a residential character. Buildings shall not use reflective or mirror glass externally. Shops, open-air display of goods and vehicles, service stations and the like are prohibited.

With regard to the subject site, the property currently is vacant, however has an existing approval for a single bedroom residential dwelling. The current proposal seeks planning approval for a Mixed-Use office and residential development, with the residence contained to the rear and the office towards the front of the building. Both utilise a common stairwell accessible via ground floor level, however have independent entrances on the first floor.

Whilst the proposal is considered to be an acceptable form of development in terms of land use permissibility, the proposal presents a number of significant variations to the provisions of CPS5 and Policy 06-PL-024 Car Parking (Non-residential), as well as setback variations under the provisions of the R-Codes and CPS5 which require consideration. Relevant matters are detailed below.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)Primary Street Setback

Primary street setback standards in relation to the residential component of a mixed-use development is covered under the provisions of cl.7.2 of the R-Codes. Specifically, the R-Codes allow for nil setback to streets in the case of the dwelling component of a Mixed-Use development.

However, the proposed development also avails itself to a front setback standard under Part 4 of CPS5 which stipulates a minimum front setback requirement of '6 metres, as per R-Codes' is to apply for both commercial and residential uses within the 'Commercial Centre Frame MF – Melville Frame'. Accordingly, given the development proposes a front setback of 1.0m across the ground and first floor components, a variation to this requirement is sought.

In accordance with legal advice received previously in relation to Precinct setback requirements where reference is made to "as per R Codes", the 6.0m requirement may be varied relative to the provisions of the R-Codes and this takes precedent over the Precinct requirement. In this regard, as detailed above, the applicable setback under the R-Codes is nil for Mixed-Use development. In addition, the Performance Criteria contained under Clause 6.2.1 of the R-Codes provides for front setbacks to be varied to take into account the desired streetscape, privacy and open space for dwellings and allow safety clearances for easements and essential service corridors.

In this regard, the proposed front setback variation is recommended for support by Council given that the locality (with the exception of the lot to the north) is characterised by commercial development with front setbacks less than 1.0m from Waddell Road. A reduced setback of 1.0m in lieu of 6.0m for the proposal will not have any significant detrimental impact to the amenity levels currently enjoyed by occupiers of the residential house to the north. Furthermore, given the narrow nature of the lot, coupled with the similar architectural style of the proposal with that of the adjoining Mixed-Use development currently being constructed on the southern lot, it is considered that the proposal will in-fact complement and contribute towards an improved streetscape compared to what previously existed.

Accordingly, the front setback variation element of the proposal may be recommended for support.

Side Setback - Northern Boundary

Clause 7.2.1 A1 of the Codes provides for Mixed-Use development to have walls on the boundary for two-thirds of the boundary behind the street setback up to 6.0m in height. In this instance the wall along the northern boundary, which serves both the residence and office has a length of 24.8m (which represents 78% of the common boundary) and is to a height of 5.8m (not including the portion which relates to the front office – 6.0m). The relative Performance Criteria under Clause 7.2.1 indicates that the development should be designed to provide comparable standards of amenity to other multiple dwellings. In this regard, the side setback variation relative to the residential component requires due consideration with regard to the Performance Criteria of Clause 6.3.2 of the R-Codes 'Buildings on Boundary' which allows buildings to be built up to boundaries other than street boundary where it is desirable to do so in order to:

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

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

In addition, Clause 5.7 of CPS5 provides development standards relative to non-residential developments adjoining residential lots. Sub-clause 5.7(c) stipulates:

Every non-residential building shall have minimum boundary setbacks of two (2) metres side and six (6) metres rear from adjoining residential development, other than in the City Centre and District Centre Precincts, and the Mixed Business and Mixed Business Frame Precincts, unless otherwise specified or approved by the Council.

As the first floor office component of the proposal directly adjoins a residential development to the north (i.e. 42 Waddell Road), the above provisions are to apply.

These matters of compliance with the Scheme and R-Code side setback requirements are dealt with together as follows.

The applicant has justified the setback variation by stating the adjoining property to the north has a 2.0m wide sewerage easement extending north from their southern (abutting) boundary. Therefore, as the owner of this property cannot build over the easement, there is effectively a buffer of 2.0m as intended under Clause 5.7 of CPS5.

However, the adjoining neighbours have objected to the setback, stating any approval on the former right-of-way will obstruct the potential for development approval for a cantilevered wall located on the southern boundary (i.e. over the sewerage easement). Whilst the proposal cannot be assessed taking due regard to a future development proposal, nor is it known whether the sewer easement is going to be an encumbrance to the future development potential of the adjoining lot, it is considered that development may occur on, or at a distance less than the required 2.0m as indicated by the applicant. Accordingly, the neighbour's objection cannot be substantiated.

It is noted that part of the wall along the northern side boundary is elevated 1.6m above the treads of a stairway. This stairway services both the dwelling and office. The wall height above the stairway does not provide suitable privacy from overlooking of the neighbouring property as persons using the stairway will be able to look down towards the front of the property. Notwithstanding technical compliance with the R-Code requirements in that privacy screening is not required to a stairway, the fact that the stairway also services the office elevates consideration of this matter beyond the scope of the R-Codes as it is a significant issue in terms of protecting neighbourhood amenity. Accordingly, this wall would require additional screening, should the development be approved, which may in turn add to the bulk impacts of the side setbacks relative to the proposal.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

In considering the issues raised, the portions of wall which vary from the 2.0m (commercial) and 1.5m (residential) setback requirement will not result in significant bulk impact given the walls are well articulated, propose different finishes/materials, and are considered to be an improvement on the extensive parapet walls which exist as part of the mixed-use development on adjoining lot to the south (i.e. 40 Waddell Road). In addition, with additional screening, the wall will provide suitable privacy to the neighbour.

Accordingly, the concerns raised in the objection are not upheld in this instance.

It is noted however, that a critical problem exists with respect to the development's non-compliance with regard to the Building Codes of Australia fire separation requirements relative to openings. It has been advised by the City's Building Services that the development (as submitted), requires a standard setback of 3.0m from the lot boundary.

Notwithstanding, alternative design solutions in this regard may be considered as part of a Building Licence application and these solutions are not expected to result in any additional bulk considerations relative to the boundary wall.

Clause 7.8 of CPS5 Considerations

The provisions of CPS5 do not specify any applicable variation standards to assess and determine the appropriateness of the variations other than in consideration of matters raised under Clause 7.8. In this regard, applications for development are to take into account such matters as the objectives of the Scheme, orderly and proper planning, existing and likely future amenity, the nature of development relative to adjoining land, the size, shape and character of the lot and its influence on the new building, the design and external appearance of the building and the influence it may have on the area, any relevant submission(s), and any other relevant planning considerations.

In essence, the above considerations relate to amenity matters. In support of the proposal is the fact that all variations sought adequately satisfy the relevant Performance Criteria of the R-Codes and CPS5 with regard to setbacks. It is noted however, that a condition is recommended to improve privacy to the adjoining property owners from the stairway along the side boundary.

Furthermore, the revised plans resulting from Mediation suitably address the parking requirements for the proposed development and will not result in an adverse impact on the neighbours, other than perhaps in regard to the operation of the business located to the rear of the commercial building on the adjoining Lot 24 in terms of restricting access during construction works. Notwithstanding, in the absence of any formal access rights over the subject property, these concerns fall to the side as access to this premises is legally taken from the rear of the property, via the adjoining Right of Way through to Stock Road.

Accordingly, the proposal is considered to entirely satisfy the provisions of Clause 7.8 of CPS5.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)Other Considerations

Whilst not strictly matters relating to planning, it has been identified that the proposal does not address a number of other critical requirements contained under the Building Codes of Australia, these relating to disabled access, disabled toilet facilities and mechanical plant noise control.

Relative to noise control, information submitted by the applicant confirms noise generated by the mechanical car stacker will be minimal. Also, the location of air-conditioners may be suitably placed within the building envelope to minimise noise.

However, of significance is the development's non-compliance with respect to disabled access and facilities. Notwithstanding, a review of the plans by Building Services indicates there is sufficient capacity within the design of the building not to require extensive modifications to the built form of the development proposed, and that these matters may be adequately addressed by the applicant at the Building Licence stage.

CONCLUSION

Based on the above, it is considered that the conditions on appeal raised in relation to the initial application have since been successfully mediated and addressed by way of recommendations detailed in the preceding sections above. Therefore, pursuant to Section 31(1) of the *SAT Act 2004 (WA)* it is recommended that the subject application be conditionally approved and the SAT be advised of the City's determination.

OFFICER RECOMMENDATION**APPROVAL**

- A) That the application for Mixed - Use development on Lot 66 (40D) Waddell Road, Bicton be approved subject to the following Special Conditions and Standard Conditions:**

SPECIAL CONDITIONS:

- 1. All on-street works and car-parks approved as part of the application be constructed by the City of Melville to the satisfaction of the Executive Engineer Technical Services**
- 2. The costs of works associated with on-street modifications relative to Special Condition 1 inclusive of an allowance for maintenance above up to \$6,000 are to be borne by the applicant.**
- 3. The additional on-street bays are not to be marked or reserved for the benefit of Lots 24 or 66 Waddell Road, except where otherwise approved by the City of Melville.**

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

4. In order to improve the amenity of the adjoining property owner in terms of privacy from the stairway servicing the dwelling and office, the height of the northern boundary wall being increased in height above the stairway to restrict overlooking onto the adjoining property to the satisfaction of the Manager Planning and Development Services.
5. A Construction Management Plan shall be submitted to and approved by the Manager Planning and Development Services prior to the issue of a Building Licence.
6. A detailed Landscaping and Reticulation Plan being submitted and approved by the Manager Planning and Development Services for the subject site and the road verge(s) adjacent to the site. The approved landscape and reticulation plan shall be fully implemented prior to first commencement of operation or occupation of the development and maintained thereafter to the satisfaction of the Manager Planning and Development Services.
7. All pedestrian paths and crossings shall be illuminated to the levels recommended in the Australian Standard AS/NZ 1158 Set: 2010 Lighting for Roads and Public Spaces.
8. Lighting on the subject property is to be designed and maintained in accordance with Australian Standard AS 4282 (1997) Control of Obtrusive Effects of Outdoor Lighting. A lighting plan demonstrating compliance with this requirement shall be submitted prior to the issue of a Building Licence.
9. All external building plant, including air conditioner units not to exceed the maximum height of thirteen point five metres (13.5m) from natural ground level and shall be appropriately screened. Details of the location, design and screening of such plant being submitted and approved by Council prior to the issue of the relevant Building Licence.
10. A separate application for Planning Approval and a Signs Licence is required for all signage.
11. All new security alarm devices on the commercial component of the development to be 'silent monitored' systems to address potential impacts on surrounding residential amenity to the satisfaction of Council.
12. The Development complying with any amendments and notations marked in 'RED' as shown on the approved plans.
13. The façade of the building/s and wall/s is to be treated with non sacrificial anti-graffiti agent.
14. Lighting to be provided to all car-parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS/NZS 1158.3.1 Lighting for Roads and Public Spaces - Pedestrian Area (Cat. P) Lighting - Performance and Design Requirements. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

15. 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 overflow.
16. Rubbish storage area to be provided and screened from public view to the satisfaction of Manager Planning and Development Services prior to occupancy. This area is not to be located within the parking or landscaping area.
17. During construction access to the lot to be via the street frontage only and that no building rubble be permitted to overspill the site.
18. 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.
19. All stormwater and drainage run off to be contained on site. to the satisfaction of the Manager Planning and Development Services and in accordance with Australian Standards relating to stormwater disposal for the development of the site and the adjoining road verge(s) at the time of submitting a Building Licence Application.
20. In accordance with the approved plans all parking bay/s, driveway/s and points of ingress and egress areas are to be permanently provided, constructed, drained, marked prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Planning and Development Services. The parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the City of Melville Plan Nos 102A2-80E/1 (concrete commercial crossover), 423A2-87E (bitumen commercial crossover) unless otherwise specified by this approval. The applicant shall pay for any damage is caused to a Council facility, tree or street furniture, or where alteration to a Council facility is required, the cost or such damage or alteration. A concrete apron having width of 0.75 metres must be installed between a brick paved crossing and the bitumen surface of a road The cost of damage to a street tree will be determined in accordance with the "Tree Amenity Valuation Formula" adopted by the Council in September 1994.
21. 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.

U10/0257 (PS) CONFIDENTIAL ITEM - RECONSIDERATION OF REFUSED TWO-STOREY WITH MEZZANNINE FLOOR MIXED-USE DEVELOPMENT ON LOT 66 (40D) WADDELL ROAD, BICTON (REC) (CONFIDENTIAL ATTACHMENT)

22. 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 satisfaction 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.

Advice Note

1. The applicant be advised that a number of design details in terms of fire separation, disabled access, disabled toilet facilities and mechanical plant noise control do not presently satisfy requirements of the Building Code of Australia. These matters will need to be addressed as part of an application for a Building Licence.
- B) The State Administrative Tribunal be Advised of A) above.
- C) The adjoining property owners, those who made submissions on the proposal be advised in writing of A) and B) above.
- D) Council undertake a review of its Policy PL-28-002 Arts and Culture with the view of addressing shortcomings in application relative to adoption under the provisions of Community Planning Scheme No 5 and address the land contribution requirements relative to “cash-in-lieu” parking in the review of Council Policy CP - 06-PL-024 – Car Parking (Non-Residential).