



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FROM THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

2 SEPTEMBER 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: 5 SEPTEMBER 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 2 SEPTEMBER 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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U08/0234 – (PS) – AMENDMENT TO PROPOSED CHANGE OF USE TO CONSULTING ROOM (MEDICAL) ON 844 CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

Ward	:	Applecross/Mt Pleasant
Category	:	Operational
Application Number	:	DA-2008-639/A
Property	:	844 Canning Highway
Proposal	:	Amendment to proposed change of use to Consulting Room (Medical)
Applicant	:	Tuscom Subdivision Consultants
Owner	:	Francisco Sanchez
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	David Vinicombe Manager Planning and Development Services
Previous Items	:	U08/0101 – Proposed change of use to Consulting Room (Medical) at 844 Canning Highway, Applecross – 15 July 2008

AUTHORITY / DISCRETION

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

KEY ISSUES / SUMMARY

- Approval granted for a Consulting Room (Medical) by DAU on 15 July 2008.
- Lot has an approved Scheme Amendment permitting office as an additional use.
- Scheme Amendment was approved subject to all vehicular access to be via Reynolds Road only.
- Consulting room is an "S" use, which requires discretion of the Council.
- Application formally advertised in accordance with CPS5 with one objection received.

U08/0234 – (PS) – AMENDMENT TO PROPOSED CHANGE OF USE TO CONSULTING ROOM (MEDICAL) ON 844 CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

- Special Condition 5 of the approval requires a masonry wall being built along the western (side) and northern (rear) boundaries in order to limit noise impacts on neighbours.
- This application has been made to remove Special Condition 5 from the approval.
- Letters of “support” from adjoining neighbours to remove that condition have been received.
- Modification of the condition is recommended.

BACKGROUND

In July 2005, an application was submitted to Council to amend the Community Planning Scheme No. 5 (CPS No. 5) to include an additional permitted use of “Office” (refer Amendment No. 45). The amendment was supported by Council subject to all vehicular access to be via Reynolds Road only.

Following approval of the amendment, an application was submitted for a change of use from “Residential” to “Consulting Room” in June 2008. The application was approved by Council’s Development Advisory Unit (DAU) subject to 7 Special Conditions, including the following Condition 5:

- “5. *A 2.0 metre high masonry wall to be constructed behind the front setback on the western side and southern rear boundaries of the site. Structural details for the wall certified by a Practising Structural Engineer, to be submitted with the building licence application.*”

The purpose of this condition was to minimise noise resulting from parking cars outside abutting residential properties - thereby minimising the impact of commercial activity in a predominantly residential area.

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area (Special Additional Use of Office)
R-Code	: R25 (R25/40)
Use Type	: Consulting Room
Use Class	: ‘S’ – use not permitted unless Council exercises discretion following advertising

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Site Details

Lot Area : 1106 sqm
Retention of Existing Vegetation : Yes
Street Tree(s) : N/A
Street Furniture (drainage pits etc) : N/A
Site Details : [U08_0234_PROPERTY_MAP.pdf](#)

[U08_0234_September_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 5 September 2008.

DETAIL

Condition 10 of the approval requires a practical completion report to be carried out prior to occupancy. This requires the construction of the boundary walls as required by Condition 5 prior to be completed prior to commencement of the Consulting Room (Medical) use.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
Neighbour's Comment Supplied: Yes -
Reason: Amend the application to remove Special Condition No. 5
Support/Object: Two submission supporting

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Up Hold/Not Up Hold)
1 and 2.	Support for no change to existing dividing fence	Support	.Noted	Up Hold

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

Not applicable

U08/0234 – (PS) – AMENDMENT TO PROPOSED CHANGE OF USE TO CONSULTING ROOM (MEDICAL) ON 844 CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

POLICY IMPLICATIONS

Not applicable

COMMENTS

Whilst the consulting room is still essentially a discretionary use within the Living Area precinct, the property provides for a permitted commercial use (Additional Use of Office). The property is located on a major regional road (Canning Highway) and accordingly the streetscape amenity is unlikely to be impacted, particularly as noise generated from Canning Highway at peak periods will override any noise generated from the consulting rooms.

Nevertheless, the noise generated from the Highway is irregular due to periodic traffic movements. Therefore the impact of cars entering and exiting the consulting room property can occur on the adjoining residential properties.

In order to minimise these impacts of parking cars, particularly in regards to noise at the rear of the property, the condition for a masonry wall on the side and rear boundaries was placed upon the approval.

However the applicants have sought to have this condition removed. It is understood that having to construct the wall will delay the new proprietor's commencing their consulting room business operations. Subsequently, the applicants have submitted letter for "support" from the adjoining residential property owners with regards to removal of Special Condition 5.

It is possible that the adjoining owners are concerned they may be required to share the cost of removing the existing fence and replacing it with a new masonry fence.

A subsequent letter (to the non-objection to remove the fencing requirement) received from the western adjoining neighbour at 842 Canning Highway, has stated that he signed a statement for being satisfied with the existing dividing fence remaining, as a masonry wall was not mentioned in his initial objection. Notwithstanding, he still objects to the propose development.

The intention of the wall was to limit noise rather than replace the existing fence on amenity grounds. Whilst Council could totally relax the condition, this would not address the amenity concerns raised by the neighbour in the submission period relative to the initial application. Accordingly, two alternative conditions are feasible to address amenity impacts as follows:

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- Special Condition 5 being amended to state that the wall is to be constructed at the owner's expense with the neighbour's side finished to their satisfaction or in the event of a dispute, alternative fencing arrangements to the satisfaction of the Manager Planning and Development Services; or
- Additional landscaping being provided to the side and rear boundaries in order to minimise noise and amenity impacts of the development to the satisfaction of the Manager Planning and Development Services.

It is noted that the existing fencing is in reasonable condition; however is approximately 1.6m high. In addition, landscaping is provided adjoining the fence, which in some instances is substantial and in others could be supplemented.

The first alternative is likely to satisfy any concerns the neighbours may have as a result of cost implications relative to the Dividing Fences Act whereas the second alternative would negate any need to change the existing dividing fence. Both alternatives would require a modification of the condition; however both can be easily incorporated into the one condition, which provides for some degree of flexibility dependant on adjoining owner views and allows for a defined period of time (90 days) in which to construct the fencing after occupancy of the Consulting Room (Medical) use.

CONCLUSION

It is therefore recommended that Special Condition 5 of the previous approval be modified to reflect the above and provide for improved neighbour amenity to be facilitated on site. In addition, the revised condition can provide some certainty in terms of cost and timing of construction and also provide for alternatives to address neighbour concerns.

OFFICER RECOMMENDATION

APPROVAL

THAT THE AMENDMENT TO PROPOSED CHANGE OF USE TO CONSULTING ROOM (MEDICAL) ON LOT 146 (844) CANNING HIGHWAY, APPLECROSS BE APPROVED SUBJECT TO THOSE SAME CONDITIONS AND SPECIAL CONDITIONS OF APPROVAL DATED 25 JULY 2008, SAVE FOR SPECIAL CONDITION 5, WHICH HAS BEEN AMENDED AS FOLLOWS:

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5. A MASONRY FENCE BEING CONSTRUCTED ALONG THE WESTERN AND NORTHERN SIDE BOUNDARIES WITHIN 90 DAYS OF OCCUPANCY OF THE CONSULTING ROOM AT THE OWNER'S EXPENSE WITH THE OUTER FACE BEING FINISHED TO THE SATISFACTION OF THE ADJOINING LANDOWNERS, OR IN THE EVENT OF A DISPUTE WITH ADJOINING LANDOWNERS, AN ALTERNATIVE MEASURE TO ADDRESS AMENITY IMPACTS OF THE DEVELOPMENT SUCH AS ADDITIONAL LANDSCAPING BEING PLANTED AT THE SIDE AND REAR OF THE PROPERTY MAY BE PROVIDED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

U08/0235– (RJ) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 2 SEPTEMBER 2008

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	5B Lang Street Brentwood	Building Assessment for a single storey dwelling on a lot which has been subdivided into two lots, each with a street frontage of 9.05m. The tree is a mature Lophostemon conferta (Box Tree) in good condition forming part of an avenue of trees along this side of Lang Street. It is located on the left hand side lot, on the same side to the power lines, therefore requiring regular pruning.	Removal of Street Tree will impact on the streetscape. Retain existing Street Tree and deviate the crossover allowing a minimum of 1.0m clearance from trunk of the tree. This will enable reasonable access and maintain the existing streetscape. It will require pruning on one side by the City of Melville to improve access when the dwelling has been constructed.
2	7 Ince Road Attadale	A Planning Application has been received for three single dwellings, all with street frontages. The dwelling in the centre is impacted by a street tree located within the proposed crossover, which will require removal if the current configuration is approved. The tree is a mature Lophostemon conferta (Box Tree) in good condition forming part of an avenue of trees along this side of Ince Road and is located on the opposite side to the power lines, which allows it to grow into its mature form.	Removal of the tree will have a significant impact on the streetscape. It is recommended that the existing street tree is retained, allowing a minimum clearance for the crossover, of 1.0m from the trunk of the tree. This will still enable good access and maintain the existing streetscape.

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3	45 Matheson Road corner Ness Road Applecross	<p>A Planning Application has been received for a two storey single dwelling with crossover access from Matheson Road. The tree is a Jacaranda mimosifolia (Jacaranda) which is the common street tree along this street.</p> <p>There is a very large magnificent Corymbia citriodora (Lemon Scented Gum) located on the property, just inside the corner truncation of Matheson Road and Ness Road. This tree is reflected by two other similar trees on the opposite corners, all which provide a significant feature in the streetscape. Discussion with the owner has established they are happy to retain the Lemon Scented Gum and modify the proposed boundary wall.</p>	<p>Removal of Street Tree will impact on the streetscape. It is recommended that the Jacaranda be removed and replaced with one semi-advanced tree in a 100 litre container, subject to: all works by the City of Melville at applicant's expense; a Building License being approved; and an application for removal to be submitted to the Manager Infrastructure Services. This is conditional on retention of the large Lemon Scented Gum on the property and the brick screen wall proposed for construction across the corner truncation being modified to allow retention of this tree, as removal will have a significant impact on the streetscape.</p>
4	57 Wrexham Street corner Waddell Road Bicton	<p>A Planning Application has been received for alterations and additions to a single dwelling. A new carport is proposed with crossover access from Wrexham Street. The tree is a mature Eucalyptus erythrocorys (Red Capped Gum) in average condition on the opposite side of the road to power lines. The tree is not a City of Melville Prescribed Street Tree and there is a mixture of widely spaced trees along this street.</p>	<p>It is recommended that the Red Capped Gum be removed and replaced with one semi-advanced tree in a 100 litre container, subject to: all works by the City of Melville at applicant's expense; a Building License being approved; and an application for removal to be submitted to the Manager Infrastructure Services.</p>