



— City of —  
**Melville**

**MINUTES**

**FOR THE**

**ORDINARY MEETING OF THE COUNCIL**

**HELD ON**

**TUESDAY, 15 APRIL 2008**

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— City of —  
**Melville**

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**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.35PM ON TUESDAY 15 APRIL 2008.**

**1. PRESENT**

His Worship The Mayor, Russell Aubrey

**COUNCILLORS**

Cr J Bennett, Cr L M Reynolds  
Cr H R Everett, Cr N Pazolli  
Cr A Ceniviva  
Cr R Subramaniam  
Cr P M Phelan, Cr C M Halton  
Cr M J Barton, Cr G Wieland

**WARD**

University  
Applecross/Mount Pleasant  
City  
Bull Creek/Leeming  
Palmyra/Melville/Willagee  
Bicton/Attadale

**2. IN ATTENDANCE**

Dr S Silcox  
Mr M Tieleman  
Mr C McClure  
Mr J Cameron

Ms C Young

Mr D Vinicombe  
Mr J Clark

Mr B Taylor

Ms L Croxford / E Gormley

**POSITION TITLE**

Chief Executive Officer  
Director Customer & Corporate Services  
Director Strategic Urban Planning  
A/Director Technical & Development  
Services  
A/Director Strategic Community  
Development  
A/Manager Planning & Development Services  
Governance & Compliance Program  
Manager  
Manager Information Technology & Corporate  
Support  
Minute Secretary

At the commencement of the Meeting there were 7 people in the Public Gallery and 1 member of the Press in the Press Gallery.

**3. APOLOGIES AND APPROVED LEAVE OF ABSENCE**

Cr C W Robartson                      Bull Creek/Leeming Ward  
Cr D MacPhail                          City Ward

**4. PUBLIC QUESTION TIME**

Nil

## **5. DEPUTATION**

At 6.40pm, a deputation on Item P08/3033 was received. Ms B Sinclair represented by Mr J Blanchard of Jackson McDonald Lawyers provided information to Council. The deputation was provided 10 minutes with an additional 5 minutes for questions from Councillors. No questions were asked by Elected Members

## **6. AWARDS AND PRESENTATIONS**

The City of Melville has been awarded a Gold Certificate in the Municipal Workcare Scheme AS/NZS 4801:2001 from the Local Government Insurance Scheme. The Mayor made the presentation of the certificate to the Chief Executive Officer.

## **7. CONFIRMATION OF MINUTES**

### **7.1 ORDINARY MEETING OF COUNCIL – 18 MARCH 2008 [MIN\\_OMC\\_180308.pdf](#)**

At 6.52pm Cr J Bennett moved, seconded Cr H R Everett -

**THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON TUESDAY 18 MARCH 2008 BE CONFIRMED AS A TRUE AND ACCURATE RECORD.**

At 6.52pm the Mayor submitted the motion, which was declared

**CARRIED WITHOUT DISSENT (11/0)**

### **7.2 NOTES OF AGENDA BRIEFING FORUM – 1 APRIL 2008 [NOTES\\_AF\\_010408.pdf](#)**

At 6.53pm Cr M J Barton moved, seconded Cr R Subramaniam -

**THAT THE NOTES OF THE AGENDA FORUM HELD ON TUESDAY 1 APRIL 2008 BE RECEIVED.**

At 6.53pm the Mayor submitted the motion, which was declared

**CARRIED WITHOUT DISSENT (11/0)**

## **8. DECLARATIONS OF INTEREST**

### **8.1 FINANCIAL INTERESTS**

- C08/7000 Cr M J Barton

### **8.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

- P08/3034 Cr G Wieland

**9. APPLICATIONS FOR NEW LEAVE OF ABSENCE**

Cr J Bennett - May to October 2008 Ordinary Meetings of Council

At 6.55pm Cr L M Reynolds moved, seconded Cr R Subramaniam

**THAT LEAVE OF ABSENCE FOR CR J BENNETT TO BE ABSENT FROM THE ORDINARY MEETINGS OF COUNCIL FROM MAY TO OCTOBER 2008 BE APPROVED.**

At 6.55pm the Mayor submitted the motion, which was declared **CARRIED (11/0)**

**10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

C08/7000 – POINT WALTER GOLF COURSE – BELGRAVIA LEISURE -  
(CONFIDENTIAL)

**11. PETITIONS**

Nil

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### P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)

Ward	: Bicton/Attadale
Category	: Operational
Application Number	: HO-227
Property	: 244-246E Preston Point Road Bicton
Proposal	: Home occupation – Chiropractor
Applicant	: Mr C Sinclair
Owner	: Mr C Sinclair and Mrs B Sinclair
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	: No previous items

#### 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 &amp; 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

- The application is for a home occupation for a chiropractic practice at 244-246E Preston Point Road Bicton.
- The application complies with the home occupation provisions of the Community Planning Scheme No. 5.
- Concern in relation to traffic safety, noise and the appropriateness of the land use in a primarily residential area has been raised by some residents and the Bicton Primary School Roadwise Committee.
- It is recommended that the application be supported subject to modifications to the location of parking or deviation of the footpath to improve sight lines and pedestrian safety and the provision of a 15 minute gap between any two appointments for clients who both require vehicle parking to prevent more than one vehicle visiting the site in relation to the home occupation at any one time.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : Living Area – BC2  
 R-Code : R17.5  
 Use Type : Residential  
 Use Class : P

**Site Details**

Lot Area : 490sqm  
 Retention of Existing Vegetation : Yes  
 Street Tree(s) : Yes, to be retained  
 Street Furniture (drainage pits etc) : No  
 Site Details : [3033 PROPERTY MAP.pdf](#)

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Carparking	2 bays for the existing dwelling plus 1 bay for the home occupation	3 bays	Complies		

(Note: Non compliance is emphasised in bold)

**Setbacks**

Not applicable.



**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

Submission 1 (Continued)	3. The proposed home occupation is likely to compromise the safety of local primary school children using Harris Street.		3. The proposed home occupation is not likely to compromise the safety of local school children because the proposed home occupation is not likely to adversely affect the operation of Harris Street (see comments on parking safety below).	Partially uphold
Submission 2	<p>1. The intersection of Harris Road and Preston Point Road is a major access to the school for vehicles, cyclists and pedestrians. The intersection is already heavily congested. Traffic movements associated with the proposed business will only exacerbate congestion during peak times.</p> <p>2. Children walking or cycling to school along this route traverse the footpath along the verge or 246 Preston Point Road. The existing driveway access has poor visibility such that drivers cannot see pedestrians or cyclists approaching.</p>	Objection	<p>1. The proposed home occupation is not likely to have an adverse traffic impact because the proposed increase in vehicles trips to the site is insubstantial relative to the current traffic volumes in Harris Street and all visitor car parking can be accommodated on the site (see further comments on parking safety below).</p> <p>2. The objection refers to an existing solid wall located along the street boundary on the site and in close proximity to the proposed customer car parking bays. The wall is truncated (2m) to provide vehicle sight lines in excess of standard 1.5m truncation as required under the R-Codes (see further comment on parking safety below).</p>	<p>Partially uphold</p> <p>Partially uphold</p>

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

<p>Submission 2 (Continued)</p>	<p>2. (Cont'd) This situation is undesirable for a domestic application and unacceptable for a business occupation where customers would be less familiar with the movements of school children.</p>	<p>Objection</p>	<p>2.(Cont'd) The objection also refers to the behaviour of vehicle operators. The behaviour of vehicle operators is regulated by separate legislation which is not administered by the Council. The applicant has demonstrated that customer car parking can be accommodated on the site. Notwithstanding modifications to improve vehicle sight lines as detailed below will further assist in the prevention of any anticipated adverse traffic impacts.</p>	<p>Partially uphold.</p>
<p>Submission 3</p>	<p>3. Given that 246 Preston Point Road does not appear to provide safe off street parking, we question where customers will park. On street parking in close proximity to the busy intersection will severely compromise intersection safety and impede traffic flow. Parking on the narrow street verge is likely to result in vehicles obstructing the footpath. There have already been instances of obstruction to the footpath by vehicles and mulch.</p>	<p>Support</p>	<p>3. Customer car parking is proposed to be accommodated on the site (see further comment on parking safety below).</p>	<p>Uphold</p>

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

<p>Submission 4 (Questions and comments presented at Agenda Forum on 2 April, 2008)</p>	<p>Objects on the basis of safety for residents and children passing the property. Submission raises the following queries:</p> <p>1. Has due consideration been taken regarding the quantum of pedestrian traffic using Harris Street whilst passing 246 Preston Point Road to specifically take advantage of this crossing point on Preston Point Road?</p> <p>2. How will clients be able to adequately view traffic passing 246 Preston Point Rd (Harris St exit)?</p>	<p>Objection</p>	<p>See comments below of parking safety.</p> <p>Yes. Sight lines from the parking bay past the adjoining screen wall to the courtyard of the subject unit exceeds the standard truncation requirement for residential development under the R-Codes of 1.5 metres (2.0 metres provided – see further comments on parking safety).</p> <p>See comments on parking safety below.</p>	<p>Partially uphold</p> <p>Partially uphold</p> <p>Partially uphold</p>
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**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

<p>Submission 4 (continued)</p>	<p>3. Please demonstrate how the residential parking complies with Melville Council's Mixed Use Development Policy requiring residential parking to be roofed?</p> <p>4. Please demonstrate how client parking is to be accommodated on site?</p>		<p>Parking requirements are for Home Occupations are required to satisfy residential parking requirement of two (2) bays (in a typical tandem parking arrangement) plus one (1) bay for the business. The Council Policy relative to Mixed Use does not apply and one bay is already roofed as required under Council Policy. There are no requirements for the second bay or the home occupation bay to be also covered.</p> <p>Client parking is to be provided at the front of the site in the area immediately south of the courtyard to the unit (see further comment below on parking safety).</p>	<p>Not uphold</p> <p>Partially uphold</p>
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**REFERRALS TO GOVERNMENT AGENCIES**

Required:                      No

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON  
POINT ROAD BICTON (REC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no anticipated strategic or risk management implications.

**POLICY IMPLICATIONS**

No relevant Council Policy.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could refuse to approve the application if in the opinion of the Council the home occupation is likely to have an adverse impact on amenity. Council may impose conditions which will address parking safety concerns raised in the submissions in accordance with Clause 7.8 of CPS No 5.

**COMMENTS**

It is noted that CPS No. 5 includes Home Occupations as part of a Residential use, which is permitted in this zone. Council may however refuse such an application if it considers that the proposal does not satisfy the requirements of Clause 5.6 of the Scheme. It is noted that these requirements are prescriptive and if they are satisfied, then Council may have difficulty in justifying a refusal. It should also be noted that the Scheme provides for Council to revoke its approval if a home occupation causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood. This matter would have to be considered in the context of the presentation of any justifiable concerns raised once the use is in operation. Further, it is noted that the Scheme provides for approvals to be issued for a maximum period of 12 months only and the applicant is required to seek renewals after that period to allow the continuance of the activity.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

The applicant proposes the following:

- A home occupation for a chiropractic practice.
- The area of the existing dwelling to be used for the home occupation will be 27 square metres.
- The applicant permanently resides at the property and will carry out the home occupation.
- The hours of operation will be between 7.00 am and 7.00 pm Monday to Friday and 8.00 am to 2.00 pm Saturday. There will be a maximum of three appointments per hour. The applicant has indicated that he will not carry out the home occupation entirely within the proposed operating days and hours because he has expressed a desire to not work entirely within those hours and he is currently employed one day per week in another practice and he intends to continue with that employment. The applicant simply wishes to have the flexibility of operating within those days and times for convenience of his clients.
- One customer / client at a time visiting the property in relation to the home occupation.
- One car parking bay for customers/clients is proposed to be accommodated on the site. A hardstand area is provided and it can be accessed using the northernmost crossover from Harris Street.
- A sign which will be 0.175 square metres in area stating the name of the home occupation and contact details.
- Attached is the proposed floor plan (modified to include a doorway between Bed 3 and Lounge/Bed 2). [3033 April A 2008.pdf](#) (It is noted that the requirements for home occupation applications do not require the provision of site plans, however the applicant has provided photographs and dimensions of the parking bay to illustrate the location of the bay).

The details of the home occupation generally comply with the home occupation requirements prescribed in Clause 5.6 of the Community Planning Scheme No. 5.

Parking Provision

The applicant is able to accommodate a customer / client car parking on the site provided there is no overlap in appointment times. The current hardstand area is capable of accommodating only one vehicle in accordance with the requirements of Clause 5.6 (viii) of CPS No. 5. It does not appear that Council has any discretion under the Scheme to vary this development standard. Providing vehicle movement associated with appointments are staggered by a sufficient time period (recommended to be 15 minutes) to ensure that overlap in parking occurs, and parking is provided to the satisfaction of Council, the proposal is fully compliant with the Scheme. Accordingly, if the application is approved, a condition is required to ensure that the applicant provides a 15 minute gap between any two appointments for clients who both require vehicle parking to prevent more than one vehicle visiting the site in relation to the home occupation at any one time.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**Parking Safety

With regard to parking safety, it is noted that whilst the normal requirement for home occupations is that parking be provided in accordance with residential standards (direct from street – typical commercial parking with access aisle and turnaround bay not required), it is desirable for alternative parking arrangements to be implemented to improve passing pedestrian safety. The proposed parking bay is located between fully screened courtyard fencing and the carport in an area which has a width of approximately 10.6 metres and a depth of 7.4 metres. Sight lines from the parking bay to the adjacent footpath are accommodated in excess of the standard 1.5 metre residential requirement (2.0 metres provided). The site has been examined to determine whether there is sufficient space to provide vehicle parking, access and turn-around areas in the front yard of the property. It is noted that without relocation of the existing courtyard fencing, the provision of such parking facilities is not practical on the site. Whilst this would provide for the client vehicles to return to the road in forward gear, this option is not supported by the applicant as it is considered unreasonable and well in excess of residential standards. The dwelling is setback a minimum of 7.4 metres from the street, which is sufficient to accommodate a parking bay with direct access and egress to the street.

Further options are however available to improve sight lines between the bay and footpath. The first option is relocation of the bay (and crossover) further south so as to be centrally located between the carport and the courtyard and adjacent an existing tree and elevated water tank. This will increase the sight line from 2.0 metres to approximately 6.0 metres. The second option is to require the applicant to deviate the footpath further towards the street to the satisfaction of the Manager Engineering to increase sight lines relative to the proposed location of the client bay. Either of these options will significantly improve pedestrian safety and adequately address concerns raised in the submissions.

The applicant has suggested two alternative solutions which involve slightly off-setting the parking bay from the courtyard wall with a garden bed to further increase the sight line or swapping the second (tandem) bay with the client bay.

With respect to the first option, it is acknowledged that provision of a garden bed will increase the sightlines (but not to the same extent as provided for in one of the aforementioned options) and noted that the crossover will need to be modified to provide a direct connection with the relocated bay. Accordingly, if the crossover and bay are to be relocated it is considered more desirable that they be moved to the central location as detailed above.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

With regard to the second option, it is noted that Scheme requires "one on-site parking bay for the client/customer in addition to the domestic requirements on site, such parking bay to be accommodated to the satisfaction of the Council and not disrupting the access of domestic bays." Accordingly, the Scheme does not provide any discretion to enable the use of the bay in front of the carport to be used by the patients. The applicant has contested this view by indicating that Council has discretion to vary the parking requirement under the R-Codes. In this case, however, the parking requirement relates to the business, not the domestic parking requirements as provided for under the provisions of the R-Codes.

Multi-Signature Letter

A multi-signature letter objecting to the proposed home occupation, and two separate objections have been submitted. Although this letter does not technically satisfy Council's requirements for a petition, the letter does indicate significant concern over the proposed development and accordingly the matter is to be referred to Council for determination. The multi-signature letter contains 113 signatures. Of the signatures received, 46 were from properties where residents would possibly walk or drive past the subject property in commuting to and from the local Bicton Primary School.

The objections contained in the Multi-signature letter and responses to them are summarised as:

- *The increase in traffic on Harris Street (of up to 216 additional cars per week) will significantly impact on the immediate neighbours and have adverse impact on the safety and convenience of local users of both Harris Street and Preston Point Road.*

This matter has been referred to the City of Melville Engineering Services for consideration. In this regard, the anticipated increase in traffic generated by the proposed home occupation on both Harris Street and Preston Point Road is not likely to adversely affect the operation of those roads. The current volume of traffic and proposed increase is well below the respective design capacities for these roads. A maximum of 4 vehicle movements relative to 2 appointments per hour (with 15 minute staggering of vehicle movements as recommended above) will not detrimentally impact on the traffic generation, or traffic / pedestrian safety in this locality.

Visitor car parking can be accommodated on the site and therefore there should be no adverse impacts from car parking spilling into the street.

There is a controlled pedestrian crossing point west of the intersection of Preston Point Road and Harris Street to provide a safe crossing point for pedestrians. The proposed home occupation is not likely to have an adverse impact on the operation of this controlled crossing point because access to the site is from Harris Street.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

- *There are inadequate turning facilities to allow patients to safely negotiate a street which is already congested with local primary school children and their families and other local residents.*

This matter has been referred to the City of Melville Engineering Services for consideration.

The access point to the property is located a safe distance from the intersection of Preston Point Road and Harris Street and vehicles wishing to access the site should create minimal disruption to traffic flow on Harris Street. During the peak half hour periods of school drop-down and pick up, a maximum of 4 vehicle movements would result from the proposed activity. On the basis of staggered vehicle movements as required above, any vehicle wishing to access the site should not create undesirable queuing on Harris Street. Relocation of either the footpath or client bay as detailed above will significantly improve sight lines from the bay to the footpath and improve pedestrian safety.

- *The proposed home occupation is not compatible with amenity of the neighbouring residents and pedestrians.*

In relation to this objection, the proposed home occupation is not likely to have an adverse impact on the amenity of the neighbouring properties because the activities proposed to be carried out are not likely to generate noise, odour, light, or any other form of nuisance likely to be adverse to the domestic enjoyment of the neighbouring properties.

## **CONCLUSION**

Providing client vehicle movements to the site are staggered and sight lines between the parking bay and the footpath are improved by either relocation of the bay or deviation of the adjacent footpath as detailed above to improve pedestrian safety, it is clear that the home occupation satisfies the requirement of CPS No. 5. Concerns raised with regard to traffic generation, and safety are not substantiated. Accordingly, it is recommended that the application be conditionally approved.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

Officer recommendation (3033)

Approval

That the application for a home occupation of Chiropractic Practice on 244-246E Preston Point Road, Bicton be approved subject to the following:

**Special conditions:**

1. The applicant providing a 15 minute gap between any two appointments for clients who both require vehicle parking to prevent more than one vehicle visiting the site in relation to the home occupation at any one time.
2. The applicant improving pedestrian safety and sight lines between the client parking bay and the footpath by either relocating the client bay to be centrally located between the courtyard fence and carport to the approval of the Manager Planning and Development Services or deviation of the footpath to the approval of the manager engineering. All works associated with this condition are to be at the applicant's cost.
3. Hours of operation for the home occupation being Monday to Friday from 7.00 am to 7.00 pm and Saturday from 8.00 am to 2.00 pm.
4. Only one client vehicle may be parked on the premises at any one time.

**Standard conditions:**

1. The applicant must permanently live on the premises.
2. The home occupation does not entail more than one customer or client at any one time other than those members of the immediate family to travel to and from the premises in relation to the business.
3. No employees other than the members of the occupying family of the dwelling being employed in the operation of the business.
4. All parking associated with the home occupation to be accommodated within the subject property only. on-street parking is not permitted.
5. This approval may not be transferred to any other person or property.
6. This approval is valid for a period of twelve months from the date of approval only and the applicant is to seek renewals thereafter to enable continuance of the home occupation.

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

**Notes**

- A) The applicant be advised that failure to comply with the above conditions of this approval or if the activity causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood, council may revoke its approval of the home occupation in accordance with the provisions of community planning scheme no. 5.
- B) City of Melville to monitor parking relative to the home occupation on a regular basis and report to planning services any verge or street parking activity which appears related to the home occupation and impacts on traffic and pedestrian movement in Harris Street.
- C) Those who made submissions be advised of a) and b) above and that any possible breach of the above conditions, particularly with regard to parking arrangements detailed in condition 1, is to be fully documented and submitted to planning services for further investigation and determination of any appropriate action.

**Amendment to the Motion**

At 7.04pm Cr J Bennett moved, seconded Cr N Pazolli -

**That the Officer Recommendation be adopted with Special Condition 2 deleted.**

At 7.33pm The Mayor submitted the motion to amend, which was declared

**CARRIED (6/5)**

Cr Bennett advised that the reason for the amendment to delete Special Condition 2 was due to the cost imposed on the applicant with limited additional benefit provided to the community

**COUNCIL RESOLUTION**

At 7.33pm Cr J Bennett moved, seconded Cr N Pazolli

**THAT THE APPLICATION FOR A HOME OCCUPATION OF CHIROPRACTIC PRACTICE ON 244-246E PRESTON POINT ROAD BICTON BE APPROVED SUBJECT TO THE FOLLOWING:**

**SPECIAL CONDITIONS:**

- 1. THE APPLICANT PROVIDING A 15 MINUTE GAP BETWEEN ANY TWO APPOINTMENTS FOR CLIENTS WHO BOTH REQUIRE VEHICLE PARKING TO PREVENT MORE THAN ONE VEHICLE VISITING THE SITE IN RELATION TO THE HOME OCCUPATION AT ANY ONE TIME.**
- 2. HOURS OF OPERATION FOR THE HOME OCCUPATION BEING MONDAY TO FRIDAY FROM 7.00 AM TO 7.00 PM AND SATURDAY FROM 8.00 AM TO 2.00 PM.**

**P08/3033 – HOME OCCUPATION (CHIROPRACTIC PRACTICE) ON 244-246E PRESTON POINT ROAD BICTON (REC) (ATTACHMENT)**

- 3. ONLY ONE CLIENT VEHICLE MAY BE PARKED ON THE PREMISES AT ANY ONE TIME.**

**STANDARD CONDITIONS:**

- 1. THE APPLICANT MUST PERMANENTLY LIVE ON THE PREMISES.**
- 2. THE HOME OCCUPATION DOES NOT ENTAIL MORE THAN ONE CUSTOMER OR CLIENT AT ANY ONE TIME OTHER THAN THOSE MEMBERS OF THE IMMEDIATE FAMILY TO TRAVEL TO AND FROM THE PREMISES IN RELATION TO THE BUSINESS.**
- 3. NO EMPLOYEES OTHER THAN THE MEMBERS OF THE OCCUPYING FAMILY OF THE DWELLING BEING EMPLOYED IN THE OPERATION OF THE BUSINESS.**
- 4. ALL PARKING ASSOCIATED WITH THE HOME OCCUPATION TO BE ACCOMMODATED WITHIN THE SUBJECT PROPERTY ONLY. ON-STREET PARKING IS NOT PERMITTED.**
- 5. THIS APPROVAL MAY NOT BE TRANSFERRED TO ANY OTHER PERSON OR PROPERTY.**
- 6. THIS APPROVAL IS VALID FOR A PERIOD OF TWELVE MONTHS FROM THE DATE OF APPROVAL ONLY AND THE APPLICANT IS TO SEEK RENEWALS THEREAFTER TO ENABLE CONTINUANCE OF THE HOME OCCUPATION.**

**NOTES**

- A) THE APPLICANT BE ADVISED THAT FAILURE TO COMPLY WITH THE ABOVE CONDITIONS OF THIS APPROVAL OR IF THE ACTIVITY CAUSES A NUISANCE OR ANNOYANCE TO OWNERS OR OCCUPIERS OF LAND IN THE NEIGHBOURHOOD, COUNCIL MAY REVOKE ITS APPROVAL OF THE HOME OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF COMMUNITY PLANNING SCHEME NO. 5.**
- B) CITY OF MELVILLE TO MONITOR PARKING RELATIVE TO THE HOME OCCUPATION ON A REGULAR BASIS AND REPORT TO PLANNING SERVICES ANY VERGE OR STREET PARKING ACTIVITY WHICH APPEARS RELATED TO THE HOME OCCUPATION AND IMPACTS ON TRAFFIC AND PEDESTRIAN MOVEMENT IN HARRIS STREET.**
- C) THOSE WHO MADE SUBMISSIONS BE ADVISED OF A) AND B) ABOVE AND THAT ANY POSSIBLE BREACH OF THE ABOVE CONDITIONS, PARTICULARLY WITH REGARD TO PARKING ARRANGEMENTS DETAILED IN CONDITION 1, IS TO BE FULLY DOCUMENTED AND SUBMITTED TO PLANNING SERVICES FOR FURTHER INVESTIGATION AND DETERMINATION OF ANY APPROPRIATE ACTION.**

At 7.34pm The Mayor submitted the substantive motion, which was declared  
**CARRIED (6/5)**

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

**Declaration of Interest**

**Item No:** P08/3034 – 1 Thurso Road, Myaree  
**Member:** Cr G Wieland  
**Type of Interest:** Interest under Code of Conduct  
**Nature of Interest:** Work for same employer  
**Extent of Interest:** Closely Associated Person  
**Request:** Leave  
**Decision of Council:** Decision not required

At 7.35pm Cr G Wieland having declared an interest in this item left the meeting.

Ward : City  
 Category : Operational  
 Application Number : DA-2008-342  
 Property : Portion of Lot 41 (1) Thurso Road Myaree  
 Proposal : Application for retrospective planning approval for change of use from hobby ceramics et al to storage on portion of lot 41 (1) Thurso Road Myaree  
 Applicant : Statewide Staging Systems  
 Owner : Mr S Hunt and Others  
 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 : P07/3025 December 2007

**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 &amp; 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> |

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Change of use from hobby ceramics et al to storage.
- Current and proposed use for storage relates to the stage and entertainment industry.
- Application has resulted from noise complaint investigations relative to the unauthorized change of use.
- Error on proposed site plan. A dwelling is shown close to the boundary on Lot 34. This dwelling is in fact on Lot 35. The dwelling on Lot 34 is well setback from the site.
- Sufficient car parking and drainage on the site.
- Noise report submitted which recommends remedial action to reduce the impact of the development on adjoining residential properties.
- The applicant has agreed to all of the remedial actions and submitted further operational concessions to address concerns raised by adjoining residents relative to the former application.
- Recommended that the application be supported subject to recommendations of the report, which specifically address noise and amenity concerns.

**BACKGROUND**

The City of Melville issued planning approval dated 13 June 1984 for the manufacture of greenware for hobby ceramics, hobby ceramic classes and sale of glazes – both retail and wholesale on the site. Although previous records of planning approvals for development on the site are not clear, it is apparent that the site may have initially been developed for some form of storage activity. Notwithstanding, legal advice indicates that that the most recent approval for the property (referred to above) is the current legitimate use on site and any former use (whether approved or not) has no further legal standing.

A previous application for the same request was refused by the Council at its' Ordinary Meeting on 18 December 2007 for the following reasons:

- “1. *The proposal does not satisfy clause 7.8 of Community Planning Scheme No. 5 in that it is inconsistent with orderly and proper planning and will have an adverse impact on the amenity of the adjoining residential properties.*
2. *Non-compliance with the Statement of Intent for the Mixed Business Frame Precinct, namely that “all uses are to be compatible with the adjoining residential area – primarily commercial offices, showrooms, consulting rooms and the like,, and*
3. *The proposal is inconsistent with the future planning direction of the locality, which proposes to remove storage and warehousing uses from the “frame” surrounding the Myaree Business Area Precinct to reduce amenity impacts on adjacent residential properties.”*

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

The previous Council report forms an attachment to this report [3025 Report2.pdf](#). The previous site plan is used for the purpose of generally providing an illustration of the development. [3034 April 2008.pdf](#). Details of the modified proposal are contained in the comment section of the report.

A review of the decision of Council has commenced with the State Administrative Tribunal (SAT) and the applicant has submitted the current proposal, which is a modified proposal, for consideration.

**Scheme Provisions**

MRS Zoning	:	Industrial
CPS 5 Zoning	:	Mixed Business Frame
R-Code	:	R20/25
Use Type	:	Storage
Use Class	:	D

**Site Details**

Lot Area	:	4081sqm
Retention of Existing Vegetation	:	No
Street Tree(s)	:	No
Street Furniture (drainage pits etc)	:	No
Site Details	:	<a href="#">3034 Site Photo.pdf</a>

**DETAIL****Development Requirements**

Same as previous report presented to the Council at it's Ordinary Meeting on 18 December 2007.

**Setbacks**

Same as previous report presented to the Council at it's Ordinary Meeting on 18 December 2007.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Not for the current application.

The proposal is essentially the same as previous report presented to the Council at its Ordinary Meeting on 18 December 2007, however it proposes additional operational modifications which will further protect the amenity of these residents (see details in the Comments section of this report). The previous application was advertised and the concerns of the adjacent residents were well documented in the report to Council in December. Notwithstanding, the adjoining owners are being advised that this matter is under further consideration at Council.

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)****REFERRALS TO GOVERNMENT AGENCIES**

Required: No

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

There are no anticipated financial implications.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no anticipated strategic and risk management implications.

**POLICY IMPLICATIONS**

Policy 06-PL-024 Car Parking

Policy 28-PL-007 Mixed Business Frame Additional Development Requirements provides for the management of the interface between non-residential and residential uses through a variety of supplementary development standards. The Policy includes the following requirements that may apply to this application:

1. Setback areas have regard to minimising the impact on adjoining residential property relative to material storage, loading/unloading activities and vehicle turning.
2. Landscaping to be focused on ... where feasible on boundaries with residential property (for visual amenity and privacy).
3. All boundary fencing is to be masonry, optimally 2m high or as agreed with the owner of the residential property, constructed at the cost of the developer to the satisfaction of the City.

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council may refuse the current application for planning approval. If the Council decides to do so then the current review with the State Administrative Tribunal (SAT - the review of the decision of the Council on the previous application made at it's Ordinary Meeting on 18 December 2007) will proceed to a hearing. In addition, if the applicant is not satisfied with the results of that appeal, a secondary appeal right may be made to the SAT with regard to this application if it is refused or if the applicant is not satisfied with any position imposed.

**COMMENTS**

The purpose of the current application is to enable the occupier of the site, Statewide Staging Systems, to continue to operate from the site while they look for a new site. If approval to use the Thurso Road site is not granted by Council for a long term period then the occupier intends on moving their operation from the Thurso Road site.

The current application is generally consistent with the previous application (DA-2007-823) with a few modifications to further reduce the impacts generated by the use (see below). The applicant has been provided with copies of the submissions made on the previous application, has analysed them and proposed the following actions in an attempt to resolve some of the concerns raised by the surrounding residents:

- Approval is sought by the occupier of the site for remaining period of the lease which expires early 2010. However approval of a lesser period will also be acceptable.
- The telephone amplification device will be removed. Two of the submissions in the previous application referred to the telephone ringing loudly.
- Work will not be carried out on the site on Sundays and Public Holidays.
- An internal working policy will be created and adopted which will aim at avoiding working on Saturdays wherever possible with at most three Saturdays per month.
- Vehicles will not use the western driveway of the property. Vehicles will be parked and access and exit the site using the eastern driveway.
- The existing forklift will be replaced with an electric run model.
- Low decibel beepers will be installed on all vehicles.
- Radio/stereo music will not be played.

Whilst the above additional operational concessions offered by the applicant have the potential to further reduce the impact of the development on the adjoining residents, it is recommended that additional requirements be imposed. Inclusion of additional planting of advanced specimen trees within the property adjoining the proposed 3.0m high masonry wall is proposed to soften the visual impact of the wall when viewed from the adjoining residential properties and ensure that the western driveway will not be used as proposed above. It is ideal that the width of this landscaping strip be the width of the driveway (approximately 5.0m) and that this width extends north up along the whole side boundary adjacent to the yard area.

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

**CONCLUSION**

It is noted that the Statement of Intent for the Mixed Business Frame indicates that all uses are to be compatible with adjoining residential uses and Council is to manage the interface between non-residential and residential uses. In addition, the Council Policy provides for various measures to protect the adjacent residential properties in terms of addressing the interface.

Whilst the proposed use has caused considerable concern to adjoining residents, it is clear that the applicant has and is prepared to further modify the operations and carry out noise attenuation in an attempt to satisfy noise and amenity concerns.

The present zoning of the property provides for a range of commercial and semi industrial activities inclusive of Light and Service Industry and Storage which have legitimate rights to operate on the property providing the adjacent residential amenity is adequately protected. It is considered that the proposal can be managed to satisfy noise concerns particularly with the construction of the noise wall and through other attenuation measures. Should the site be incorrectly managed, conditions of approval may provide for the approval to be revoked. If this was to occur and the use continued, the City may commence prosecution proceedings to bring about compliance with the Scheme forthwith.

In terms of the impact of the proposed wall, it is noted that the wall will be significantly shielded by vegetation which exists at the rear of the residential properties. The visual appearance will be further softened by a secondary layer of advanced specimen vegetation as required above. In addition to the noise attenuation benefits provided by the wall, it will also screen, together with the required advanced specimen landscaping, the majority of the unsightly storage activities on the site.

It also needs to be considered that if the site was not use for open storage, it is likely to be covered with a building with considerable bulk. Approval of this use maintains the capacity for short term redevelopment of a mixed use development at the R40 density (increasing from current R20/R25) resulting from Amendment No 47, which is currently at the Minister for Planning and Infrastructure's office.

Council may refuse the development proposal for reasons which were stated in the previous refusal, however it is considered that providing the proposal has adequate conditions to safeguard residential amenity, it is reasonable to approve the application. In this case it is considered that the proposal has adequate requirements to safeguard residential amenity in its present form inclusive of the additional concessions and taking into account proposed conditions.

Accordingly, taking into account these factors and specifically the additional requirements referred to in this report, it is recommended that the application be conditionally approved.

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

Officer recommendation (3034)

Approval

That the application for retrospective planning approval for a change of use from hobby ceramics et al to storage on Lot 41 (1) Thurso Road, Myaree be approved for a period of twelve months only and subject to the following

**Special conditions:**

1. The pressure cleaner being relocated to and being used at all times on the eastern side of the existing building.
2. That reversing beepers on all vehicles be modified or replaced with lower pitch and decibel alternatives within one month to the approval of the Manager Planning and Development Services so as to reduce the noise of the reverse beepers.
3. The openings in the western wall of the existing building being closed at all times when there are activities being carried out in the existing building, in order to assist in containing the noise generated by those activities inside the existing building.
4. A three metre high wall (masonry in type) being constructed along the western boundary of the site adjoining 94 and 96 Rome Road in the location marked in red on the approved site plan.
5. The three metre high wall (masonry in type) being extended along the northern boundary to the adjoining commercial building fronting 33 Mccoy Street to further reduce the visual and noise impacts of the proposed use on adjacent residential properties to the north-west.
6. The finish of the three metre high wall to be constructed along the western boundary of the site being to the approval of the adjoining land owners or in the event of a dispute to the approval of the Manager Planning and Development Services.
7. Hours of operation of the storage activity to be limited to 7.00 am to 7.00 pm Monday to Saturday inclusive of deliveries and collection of equipment to and from the property (with exception of public holidays). This condition does not prevent office activities from the storage building outside of these hours.
8. Any alarm system for the activity to be a silent monitored system in order to reduce the impact on adjacent residential properties.
9. All noise attenuation construction, procedures and equipment as detailed and conditioned in this application to be fully completed and operational within one month of this approval or a later date approved in writing by the Manager Planning and Development Services.

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

10. Upon compliance with condition 9 above, the applicant to submit a supplementary noise report within two months of the date of this planning approval that reports on an audit of the approved activities during typical business operations and confirms that required reductions in noise levels have been achieved to the approval of the Manager Planning and Development Services.
11. Should the supplementary noise report / audit identify any further work or procedures required to achieve the required noise levels, the applicant is to carry out those works or modifications to procedures to the approval of the Manager Planning and Development Services or alternatively cease operation of the storage business on site.
12. Any security lighting to be designed and located so as not to cause disturbance to the adjacent residential properties.
13. The use of the site is at all times to comply with the submitted application and subsequent information.
14. An additional five metre wide (approx.) Landscaping strip containing advanced specimen vegetation along the western side boundary adjacent to the existing building and yard area to further screen the site from the adjoining residential properties and prevent the use of the western vehicle accessway to be provided to the approval of the Manager Planning and Development Services.
15. Storage within the rear yard area to be limited to the height of the central lower parapet of the adjoining development at 33 McCoy Street, Myaree.
16. No telephone amplifier to be used on site.
17. The storage activities (other than administration work associated with the business) are to operate on the site for a maximum of three Saturdays in any calendar month.
18. Vehicles not permitted to be parked, stored or access and exit the site using the western driveway on the site.
19. Radio/stereo music not permitted to be played in the storage yard or in the existing building, with the exception of the office.
20. All forklift vehicles used on site are to be electrically powered.

**Standard Conditions:**

**COM 26 and 33.**

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)****Notes**

- A) The applicant be advised that following the expiration of the twelve month approval period for this activity as granted above, the continuation of that use is not to extend beyond that period unless an application for such has been lodged with Council and an approval is granted.
- B) The applicant and adjoining residents be advised of the above and that failure of the applicant to satisfy the conditions of approval, particularly with regard to noise attenuation requirements, or the creation of excessive noise relative to the business which results in a proven noise complaint will be investigated by the City of Melville and any necessary remedial enforcement action will be implemented.

**COUNCIL RESOLUTION****REFUSAL****Reject and Replace**

The reasons for replacement of the Officer Recommendation are explained in the replacement resolution.

At 7.35pm Cr C M Halton moved, seconded Cr P M Phelan –

That the Officer Recommendation be rejected and replaced as follows:

**THAT THE APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR A CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON LOT 41 (1) THURSO ROAD MYAREE BE REFUSED FOR THE FOLLOWING REASONS**

- 1. THE PROPOSAL DOES NOT SATISFY CLAUSE 7.8 OF COMMUNITY PLANNING SCHEME NO. 5 IN THAT IT IS INCONSISTENT WITH ORDERLY AND PROPER PLANNING AND WILL HAVE AN ADVERSE IMPACT ON THE EXISTING AND FUTURE AMENITY OF THE ADJOINING RESIDENTIAL PROPERTIES IN TERMS OF POTENTIAL NOISE IMPACTS AND ENCLOSURE CREATED BY THE PROPOSED 3.0 METRE HIGH MASONRY FENCE ALONG THE REAR OF ADJOINING RESIDENTIAL PROPERTIES;**
- 2. NON-COMPLIANCE WITH THE STATEMENT OF INTENT FOR THE MIXED BUSINESS FRAME PRECINCT UNDER COMMUNITY PLANNING SCHEME NO. 5, NAMELY THAT "ALL USES ARE TO BE COMPATIBLE WITH THE ADJOINING RESIDENTIAL AREA – PRIMARILY COMMERCIAL OFFICES, SHOWROOMS, CONSULTING ROOMS AND THE LIKE", AND THAT THE PROPOSED 3.0 METRE HIGH MASONRY FENCE DOES NOT PROVIDE AN APPROPRIATE MEASURE TO "MANAGE THE INTERFACE BETWEEN NON-RESIDENTIAL AND RESIDENTIAL USES" DUE TO IT'S OVER BEARING IMPACT ON THE AMENITY OF THE REAR OF THE ADJOINING RESIDENTIAL PROPERTIES;**

**P08/3034 - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL FOR CHANGE OF USE FROM HOBBY CERAMICS ET AL TO STORAGE ON PORTION OF LOT 41 (1) THURSO ROAD MYAREE (REC) (ATTACHMENT)**

- 3. THE PROPOSED 3.0M HIGH MASONRY FENCE EXCEEDS THE OPTIMAL 2.0 METRE HIGH MASONRY FENCING REQUIREMENT (OR HEIGHT AS AGREED TO BY ADJOINING RESIDENTIAL PROPERTY OWNERS) AS PROVIDED FOR UNDER COUNCIL POLICY 28-PL-007 IN ORDER TO ADDRESS THE INTERFACE BETWEEN NON-RESIDENTIAL AND RESIDENTIAL USES; AND**
- 4. THE PROPOSAL IS INCONSISTENT WITH THE FUTURE PLANNING DIRECTION OF THE LOCALITY, WHICH PROPOSES TO REMOVE STORAGE AND WAREHOUSING USES FROM THE “FRAME” SURROUNDING THE MYAREE BUSINESS AREA PRECINCT TO REDUCE AMENITY IMPACTS ON ADJACENT RESIDENTIAL PROPERTIES.**

At 7.42pm the Mayor submitted the motion, which was declared

**CARRIED (10/0)**

At 7.43pm Cr G Wieland returned to the meeting.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

At 7.43pm Cr A Ceniviva left the meeting and returned to the meeting at 7.44pm

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2007-824  
 Property : 26 Kearns Crescent, Ardross WA 6153  
 Proposal : Four Storey Mixed Use Development (Four Multiple Dwellings, Four Offices, Restaurant)  
 Applicant : Gavin Construction  
 Owner : Mr G R Hunt & Mr G G Turich  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr David Vinicombe  
 Manager Planning and Development Services  
 Previous Items : None

**AUTHORITY / DISCRETION**

	<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 &amp; 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>

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The application is for a four-storey mixed use development on the subject property.
- The development comprises four multiple dwellings, four office units, and a restaurant on the ground floor. A semi-undercroft car park is proposed in conjunction with the ground floor of the development.
- The application proposes variations to the residential plot ratio and on-site landscaping and requires consideration in relation to works in the verge area and the location of bin storage.
- Two submissions were made regarding the proposed development, in which objections were made on the grounds of plot ratio, landscaping, building height, mix of uses, size and scale of development, and overlooking.
- The application was referred to the Architectural and Urban Design Advisory Panel meeting on 2 April, 2008 and was supported subject to the front screen/public art providing for strong visual connectivity between the Office and street with the screen being offset a minimum of 500mm from the building and contained within the property boundary.
- The application suitably satisfies the requirements of CPS No. 5, Council Policy and the Residential Design Codes and is accordingly recommended for conditional approval.

**BACKGROUND**

The subject property is currently developed with a single storey office.

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: District Centre – Riseley
R-Code	: R60
Use Type	: Residential / Office / Restaurant
Use Class	: D / P / P

**Site Details**

Lot Area	: 914sqm
Retention of Existing Vegetation	: No
Street Tree(s)	: Kurrajong, Queensland Box & Olive Tree – To be removed and replaced
Street Furniture (drainage pits etc)	: 3 on-street carparking bays
Site Details	: <a href="#">3035 PROPERTY MAP.pdf</a>

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Plot Ratio	Max 0.6 commercial	0.45 commercial	Complies		
	Max 0.7 residential	<b>0.74 residential</b>	<b>Does Not Comply</b>		
	Max 1.3 total	1.19 total	Complies		
Landscaping	Min 228.5 sqm - 25% of site area	<b>73sqm on site plus 16.6sqm paved footpath on site and 15sqm paved footpath on the verge – total 104.6sqm – 11.44% of site area</b>	<b>Does Not Comply</b>		
Building Height	11.0m to eaves 13.5m max	No eaves	Complies		
		12.19m max	Complies		
Carparking	21 bays	22 bays on-site, 2 bays off-site (reduced from 3)	Complies		
Retaining Walls	Max 0.5m above natural ground level	Max 0.4m above natural ground level (rear)	Complies		
Bin Storage	Readily accessible from street	<b>Located in undercroft area</b>	<b>Does Not Comply</b>		
Privacy	7.5m from balcony to rear	10.5m min. (no screening proposed)	Complies		

(Note: Non compliance is emphasised in bold)

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front (W)	Nil	1.759m	Complies		
Rear (E)					
<u>Ground</u>	N/A (Wholly below NGL)	N/A	Complies		
<u>First</u>	6.0m	13.0m	Complies		
<u>Second</u>					
- Balcony	4.6m	10.5m	Complies		
- Kitchen to Master	2.9m	10.5m	Complies		
<u>Third</u>					
- Balcony	6.0m	10.5m	Complies		
- Kitchen to Master	5.0m	10.5m	Complies		
Side (N)	Nil	Nil	Complies		
Side (S)	Nil	Nil	Complies		

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes – Formal Advertising (21 days)  
 Neighbour's Comment Supplied: Yes – 2 submissions received  
 Support/Object: 2 objections

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1.	<p>Based on the proposed 4 level structure, we question the plot ratio conformance for the site in relation to the Council's Town Planning Scheme. It appears to be a significantly higher density than that allowed for our adjoining premises and of surrounding developments.</p> <p>We question the conformance to height limitations (if any) as a 4 storey structure which has significant overlooking issues into our property seems to be out of context with the current 2 level properties in Kearns Crescent.</p>	Object	<p>Plot ratio varies from the residential component but complies with the non-residential and total plot ratio requirements. Density is less than the maximum provided under the R60 code (5 could be developed – 4 proposed). Despite the increased residential plot ratio, the development is considered to have a reasonable mix of uses and is unlikely to significant impact local amenity and character.</p> <p>Building height is compliant with the provisions of Community Planning Scheme No. 5. Privacy is compliant with the requirements of Element 8 of the Residential Design Codes.</p>	<p>Not uphold.</p> <p>Not uphold.</p>

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

	<p>1. Cont'd</p> <p>We query the percentage of landscaping shown on the development plans as it appears not to meet the required percentage for the overall site area.</p>		<p>Landscaping varies from the provisions of Community Planning Scheme No. 5, however this is considered acceptable to vary in context of the surrounding development and the proposed public art.</p>	Not uphold
2.	<p>Object to: Multiple mixed usages. Dwellings should not be included so as to keep within the surrounds.</p> <p>The strip is saturated with restaurants hence does not need another one.</p> <p>Height and mass/bulk are visually unacceptable.</p> <p>The development overlooks and overshadows adjoining properties.</p>	Object	<p>Zoning and statement of intent of CPS No 5 allows for a mix of residential and non-residential uses.</p> <p>Restaurant is a permitted use in this zone.</p> <p>Building Height complies with CPS No. 5. Plot ratio under CPS No. 5 and Residential Design Codes which expectedly result in significant bulk.</p> <p>Overlooking and shadowing (to the south) affects non-residential properties and therefore not subject to provisions of R-Codes. Some overlooking from rear faces of balconies exist, however this is fully compliant with the requirements of the</p>	<p>Not uphold</p> <p>Not uphold</p> <p>Not uphold</p>

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

	<p>2. Cont'd</p> <p>Development may have an adverse effect on nearby landowners.</p> <p>Open space is insufficient. Should be adequate space between the building and fence.</p> <p>The density of the development is excessive.</p>		<p>R-Codes (approx. 10.5m relative to required 7.5m). It is noted that no objection has been raised from the owner to the rear.</p> <p>Submission does not specify how adjacent owners may be affected.</p> <p>CPS No. 5 allows for nil setbacks to side boundaries. The building is to be setback approximately 10.5m from the rear.</p> <p>Development is less than the R60 density provided for under CPS No. 5 (5 units are possible - 4 are proposed).</p>	<p>Not uphold</p> <p>Not uphold</p> <p>Not uphold</p>
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**REFERRALS TO GOVERNMENT AGENCIES**

Not required.

**STATUTORY AND LEGAL IMPLICATIONS**

The applicant has the right to have any decision that is made by the City of Melville with respect to the subject application reviewed in accordance with Part 14 of the Planning and Development Act 2005.

**FINANCIAL IMPLICATIONS**

None.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

None.

**POLICY IMPLICATIONS**

Community Planning Scheme No. 5

Part 4 of Community Planning Scheme No. 5 outlines the general development requirements for the “District Centre – Riseley Centre” precinct. The statement of intent for the precinct is:

*“Primarily retail shopping, boutiques, small-scale offices, restaurants, and other commercial activities and residential use”.*

Table 1 of Community Planning Scheme No. 5 identifies the types of uses that may or may not be permitted within areas zoned “District Centre”.

Residential Design Codes 2002

The Residential Design Codes 2002 are a state government planning policy that apply to residential development in Western Australia. It is assumed that the provisions of the R-Codes apply unless otherwise specified in a local planning scheme or local planning policy.

Special Provisions 4.2 of the R-Codes relates to Mixed Use Development. Of particular relevance are the provisions relating to on-site car parking, which allows for a reduction of one bay per dwelling where on-site parking required for other uses is available outside normal business hours, and plot ratio, which allows for the ground floor non-residential uses to be excluded from the plot ratio calculation. (See comments below on Plot Ratio).

City of Melville Development & Building Controls Policy 06-PL-024 – Car Parking (Non Residential)

The City of Melville’s non-residential car parking policy imposes car parking standards based on different types of non-residential uses. The policy requires car parking for office at 1 bay per 30 sqm of net lettable area and for restaurant at 1 bay per 4 patrons, plus 1 bay per staff member.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)***City of Melville Development & Building Controls Policy 06-PL-029 – Mixed Use Plot Ratio Bonus Application*

Recent legal advice from Council's Solicitors indicates that the plot ratio requirement of Community Planning Scheme No 5 work in hand with the requirements of the Residential Design Codes. As of right, mixed use developments within the Riseley District Centre can achieve a plot ratio of 0.7 for the residential component (relative to R60 development) and 0.6 for non-residential development under CPS No. 5 (total plot ratio of 1.3). In addition, these requirements do not require consideration of any bonus applied under the terms of Council Policy 06-PL-029 Mixed Use Plot Ratio Bonus Application (e.g. – bonus for community benefits) and accordingly, the Policy requires review. Further, discretion is available under both the Residential Design Codes (PC 4.2.1 P1) and Clause 4.3 of the Scheme to increase the plot ratio for the residential component. In these instances Council may consider such matters as community benefit in order to warrant an increase in plot ratio. Notwithstanding, Council also has the power to reduce the applicable plot ratio under Clause 7.8 of the Scheme in consideration of a number of matters inclusive of local amenity.

*City of Melville Policy 25-PL-002 - Arts and Culture*

The City of Melville Arts and Culture Policy requires 5% of the estimated cost of significant developments to be allocated to public art. The style of public art is flexible and may occur in a number of ways, including statues, art features, brick-paving, or some incorporation of art into the design of the building.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The City of Melville may either approve the application with or without conditions or refuse the application should it be considered that the development does not comply with the provisions of Community Planning Scheme No. 5, Council Policy or the Residential Design Codes 2002.

**COMMENT**

A number of aspects of the proposed development require further discussion.

[3035 April 2008.pdf](#)

*Plot Ratio*

In simple terms, plot ratio is the ratio of built area relative to the site area. The planning tool aims to provide some rational for the assessment of building bulk on a property. However, other considerations such as setback, parking and building height, together with the visual aesthetics of a development have equal or more significance when considering the bulk of a development.

The plot ratio requirements are complex and in many instances do not give a true representation of building bulk.

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Plot Ratio (Cont'd)

In this regard, for residential development, the definition includes the area of walls and provides for a number of exclusions which still add to the bulk of a building. Exclusions for residential development include areas for lifts, stairs or landings for more than one dwelling, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used for parking at or below natural ground level, lobbies or amenity areas common to one or more dwellings and balconies or verandahs open on at least two sides.

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

The subject development proposes a non-residential plot ratio of 0.45 (414sqm -134sqm below the permitted plot ratio maximum of 0.6 - 548sqm) in the Riseley District Centre. However, the residential component of the development comprises a plot ratio is 0.74 (675sqm - 35sqm variation to the permitted residential plot ratio under the R60 Code for the area - maximum of 0.7 - 640sqm). The combined plot ratio equates to 1.19 (1089sqm) which is 99sqm less than the permitted maximum plot ratio of 1.3 (1188sqm) based on the Council's legal interpretation in relation to plot ratio. It should be noted that the applicant could have applied for greater plot ratio for the commercial component, however has opted to reduce this aspect and accommodate for a minor increase in residential floor area to promote a more community-friendly balance of land use.

In considering that the variation to the plot ratio is for the residential component only, a variation may be given in accordance with Clause 4.3 of CPS No. 5. The Scheme does not specify the grounds in which a variation to any residential standard may be applied. Accordingly, it more appropriate therefore to consider the variation under the Residential Design Codes which specifies Performance Criteria 4.2.1 (Dwellings in Mixed-Use Development) as follows:

*“Dwellings combined with non-residential uses on the same site that provide comparable standards of amenity to other Multiple Dwellings taking account of the need to:*

- *Satisfy streetscape objectives;*
- *Provide open space in accordance with resident needs; and*
- *Provide car parking to satisfy reciprocal requirements of residents and other users”.*

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Plot Ratio (Cont'd)

In this regard the following comments are pertinent:

- a) The subject development is located in the Riseley District Centre in an area of Kearns Crescent that is primarily two-storey non-residential buildings built up to the street boundary. The adjoining property to the north is a two storey office of considerable bulk. The existing building on the subject site is set back approximately 13.5m from the street and therefore is inconsistent with the setbacks of adjoining development. It is considered that the proposed building will be more consistent with the established building setback line in Kearns Crescent and reinforce the façade of buildings that adjoin the site to create a main street effect consistent with a modern mixed use streetscape.
- b) The special provisions of the R-Codes relating to mixed-use development specify a nil open space provision and a nil requirement for communal open space as part of the development. However, residential dwellings in mixed-use development are required to provide outdoor living areas of a minimum 4sqm in area. The dwellings of the development are all serviced with large balcony areas that exist as the main outdoor living and open space components. The balconies that are provided are well in excess of the required 4sqm area under the provisions of the R-Codes (all between 40sqm and 50sqm) and have the added benefit of achieving solar access to the north and west. In considering this, the open space is sufficient to meet the expectations of the residents and enhance the amenity of the development.
- c) In relation to car parking, the development complies with the required provision on-site for both the residential and non-residential components. The residential component has 4 bays provided for the exclusive use of the dwellings. It is expected that the 9 car parking bays required for the office uses will be available after hours and therefore can represent an opportunity for shared use of car parking for visitors. This allows for the number of required bays for the residential dwellings to be reduced to 4 bays, which represents sound car parking arrangements for the development.

Although the building is tall, it is consistent with the building height provisions of Community Planning Scheme No. 5. The main bulk of the building is concentrated towards the front of the lot where there is already an established building line on the front boundary. As the property slopes up towards the rear, the bulk of the building is four storeys at the road frontage. The bulk reduces to three storeys at the rear. The façade of the building is generally open and addresses the streetscape. This will assist in reducing the impacts of bulk on the streetscape, making it less likely to affect local character. Although primarily a non-residential area, residential use may be permitted as described in the Statement of Intent for the Riseley District Centre Precinct and Table 1 of Community Planning Scheme No. 5 and, as detailed above, the overall plot ratio could have been significantly (99sqm) greater.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**Plot Ratio (Cont'd)

On the basis of the above, it is considered reasonable to support the variation to the residential plot ratio. It is noted that as the development does not involve an overall increase in plot ratio, it is inappropriate to require the provision of any community contributions consistent with Council Policy. As detailed below, the development will involve the provision of a pedestrian easement and footpath across the front of the property.

Landscaping

The landscaping requirement for non-residential use, in accordance with the City of Melville's Community Planning Scheme No. 5, is 25% (228.5sqm) of the site area. The subject development proposes approximately 73sqm landscaping on site plus 16.6sqm paved footpath on site and 15sqm paved footpath on the verge – total 104.6sqm – 11.44% of site area, which is a significant variation to this requirement.

It is noted that the Residential Design Codes, Clause 4.2.1 Dwellings in Mixed-Use Development, provides for nil street setbacks for mixed-use building development. The City of Melville's Community Planning Scheme No. 5, Clause 5.9, Landscaping (Non-Residential), (b) location, states that "*landscaping shall be located with special attention to street frontage(s), any adjoining river foreshore reserve and any adjoining residential use....*".

The subject site is irregular in shape, with the frontage of the property being narrower than the rear of the property. For this reason, it is difficult to achieve significant areas of landscaping in front of the building, especially in light of the restaurant being located with an alfresco eating area up to the front boundary and vehicular access to the rear of the property along the northern side boundary. Despite that lack of landscaping attending to the frontage of the property (other than planter boxes at the front of the café), landscaping has been provided along the rear boundary, which is the only boundary that abuts residential land uses. The rear parking area is slightly raised relative to the natural ground levels of the adjoining residential property at the rear. In order to protect the amenity of the adjoining residential property from the parking bays, it is considered appropriate that a barrier be placed at the end of the bays to prevent vehicle over-runs into the landscaping and fence. This may be achieved through the provision of a raised garden bed, although it is noted that this may reduce the security improvements for the adjoining residents achieved through the provision of a two (2.0) metre high boundary fence. Alternatively, this may more desirably be achieved through the provision of barrier kerbing or barrier railing. No specific details of types of species and size of species have been included on the landscaping plan.

The subject development is required to provide public art and it can be considered that this contribution can compensate in some manner for the deficiency of landscaping. In addition, the verge will be modified, a pedestrian easement and path is to be provided across the front of the site (together with an upgrade of the existing foot path) and street trees provided which will assist with the enhancement of the landscape significance of the site. On this basis, it is recommended that a variation to the landscaping requirement be supported. Further details of landscaping shall be requested as a condition of planning approval in the event that the application is approved.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

Public Art

The applicant has presented a preliminary design for the public art component of the development. The concept proposes to artistically design the broad steel screen that is to extend along the face of the first floor of the building as a screen to afternoon sun using perforations and powder coating to represent the extensive river shore within the local area.

The concept involves the steel sheets being punched with holes of varying sizes in various locations to represent a visual delineation of land and river, which will be enhanced through the use of varying colours appropriate to enhance the representation and design.

The concept has been given support by the City of Melville Cultural Development Department and should the application be supported, further discussions will be undertaken to refine the concept and engage a suitable artist.

The application was referred to the Architectural and Urban Design Advisory Panel meeting on 2 April, 2008 and was supported subject to the front screen/public art providing for strong visual connectivity between the Office and street with the screen being offset a minimum of 500mm from the building and contained within the property boundary. Artist impressions of the front elevations [3035 A I.2008.pdf](#) have been submitted by the applicant which indicates that visual links will be maintained through the screening/public art. The applicant has provided a written commitment that this matter will be addressed prior to issue of a Building Licence.

Verge

The existing verge of the subject property currently has 3 car parking bays and 2 street trees. It is noted that the development proposes to make some modifications to the verge area to facilitate vehicular access to the property. As a result, one of the existing car parking bays is to be removed and two of the street trees are to be removed and replanted.

The City of Melville Infrastructure and Technical Services have advised that the verge works are considered reasonable and that the replacement trees shall be planted in 100L containers to their satisfaction. It is also noted that the crossover and vehicle access width should be a minimum of 6.0m.

Car Parking

The City of Melville Non-residential Car Parking Policy requires the subject development to provide 21 car parking bays, based on 4 bays for the four residential dwellings (visitor parking not required as development does not entail more than 4 dwellings), 9 bays for the four office units, and 8 bays for the cafe (24 seats and 2 staff members). The subject development proposes 22 car parking bays on-site, in which 12 bays are provided in the basement and 10 at the rear of the first level. This complies with the Council requirements. In addition, there are two car parking bays proposed to be located in the verge of the subject property, which contributes to useable car parking for the site.

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It is noted that 12 car parking bays are provided in the secured undercroft car park, in which only four of these are required for residential dwellings (as a further four bays are available after business hours) and the remaining bays will be available for use by the offices and restaurant.

In order to protect the amenity of the residential properties to the rear of the site adjacent to the rear parking area, it would be appropriate to require the erection of 2.0 metre high masonry fencing with associated landscaping in a raised garden bed as detailed above.

Traffic

A traffic statement prepared by a professional traffic engineer has indicated that the office use will generate 10 vehicle trips per 100sqm, the restaurant under 60 vehicle trips (based on a restaurant) and the residential use should not exceed 3 vehicle trips per day based on the location of the site within close proximity of a transit route. The transport statement makes the following summary:

*“The proposed development fits in with the existing ambiance of Kearns Crescent which is traffic calmed and fits in well with a transit oriented development concept. It is understood the City is aware of the need to keep the precinct under surveillance and review /upgrade planning requirements including the possibility of installing traffic signals at the intersection of Kearns Crescent Risley Street to link east and west”.*

The Manager Engineering Services has reviewed and supported the report.

It is noted that street parking bays in this section of Kearns Crescent are tight and do not leave a sufficient verge area for an appropriate footpath. In this regard, the applicant has been requested to provide a pedestrian easement across the front of the street parking bays to provide for a clear 1.5m wide pedestrian thoroughfare between the raised alfresco dining area at the front of the café/restaurant and the vehicle overhang of the parking bays. This will require a minor alteration to the front of the building (alfresco seating area).

Bin Storage

The subject development proposes a bin storage area in the basement car park. Ordinarily, bin storage is required to be directly accessible for collection and not visible from the street. The applicant has advised that the restaurant will only be a small-scale operation and will not be preparing significant quantities of food and hence will only have standard waste requirements. Health Services have advised that they are only required to have separated waste storage areas and that the existing proposed location is adequate. It will be necessary to condition the development with a requirement that suitable arrangements be made for the collection of bins to the satisfaction of City of Melville Waste Services.

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Submissions

Two submissions were made to the City of Melville in relation to the proposed development. Both objected on a number of grounds, including plot ratio / density, overlooking, building height, landscaping, mix of uses / uses in general, open space, and overshadowing.

The summary of objections and comments by the City of Melville have been included in an earlier section of this report. The grounds of objection are not upheld primarily due to the fact that the reasons for objection relate specifically to a number of factors of the development which are compliant with the provisions of Community Planning Scheme No. 5, Council Policy, and the Residential Design Codes 2002.

**CONCLUSION**

The proposal was presented to the Planning Portfolio meeting on 19 March, 2007. No objections were raised in this regard. Further, the proposal was presented to the Architectural and Urban Design Advisory Panel Meeting on 2 April, 2008 and was supported subject to the front screen/public art providing for strong visual connectivity between the Office and street with the screen being offset a minimum of 500mm from the building and contained within the property boundary.

In considering the above, the development suitably satisfies the provisions of Community Planning Scheme No. 5, Council Policy and the Residential Design Codes 2002. Although two objections have been received, it is considered that a number of the concerns have been addressed in relation to the type and nature of the development, visual privacy, and the character of the area. It is however noted that further discussions are being undertaken between the City of Melville and the applicant relating to the traffic study, however these should not prevent the application from being forwarded to Council for consideration.

It is recommended that the application be conditionally approved by Council.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3035)**

**APPROVAL**

**THAT THE APPLICATION FOR A FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICE UNITS AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS, WITH A RECOMMENDATION OF APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:**

**SPECIAL CONDITIONS:**

- 1. THE SECURED CAR PARKING AREA TO PROVIDE FOR A MINIMUM OF EIGHT RESIDENTIAL AND FOUR COMMERCIAL CAR BAYS AFTER NORMAL BUSINESS HOURS, AND A MINIMUM OF FOUR RESIDENTIAL AND EIGHT COMMERCIAL CAR BAYS DURING BUSINESS HOURS.**
- 2. THE BUILDING LICENCE APPLICATION TO INCLUDE DETAILS ON MANAGEMENT OF THE COMMERCIAL PARKING AREA TO ENSURE THAT IT IS OPEN FOR PUBLIC USE DURING BUSINESS HOURS TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 3. THE PROPOSED VEHICLE CROSSOVER AND DRIVEWAY TO BE SIX METRES IN WIDTH.**
- 4. A MINIMUM TWO CAR PARKING BAYS TO BE PROVIDED IN THE VERGE IN ADDITION TO THE ON-SITE CAR PARKING PROVISION.**
- 5. THE DIMENSIONS OF ALL CAR PARKING BAYS, AISLE WIDTHS AND CIRCULATION AREAS COMPLYING WITH AUSTRALIAN STANDARD AS2890.1.**
- 6. ALL PROPOSED WORKS IN THE VERGE TO BE UNDERTAKEN AT THE APPLICANTS / OWNERS FULL COST AND ALL KERBING, FOOTPATH AND VERGE AREAS TO BE REINSTATED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 7. PRIOR TO THE ISSUE OF THE BUILDING LICENCE, THE APPLICANT/OWNER IS REQUIRED TO SUBMIT A CONSTRUCTION MANAGEMENT PLAN FOR THE PROPOSAL, TO THE SATISFACTION OF THE MANAGER PLANNING SERVICES, DETAILING HOW IT IS PROPOSED TO MANAGE:**
  - THE DELIVERY OF MATERIALS AND EQUIPMENT TO THE SITE;**
  - THE STORAGE OF MATERIALS AND EQUIPMENT ON THE SITE;**
  - THE PARKING ARRANGEMENTS FOR CONTRACTORS AND SUBCONTRACTORS;**
  - IMPACT ON TRAFFIC MOVEMENT AND;**
  - OTHER MATTERS LIKELY TO IMPACT ON THE SURROUNDING RESIDENTS.**

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

8. A DETAILED LANDSCAPING AND RETICULATION PLAN BEING SUBMITTED AND APPROVED FOR THE SUBJECT SITE AND ROAD VERGE ADJACENT TO THE SITE. THE APPROVED LANDSCAPING PLAN SHALL BE FULLY IMPLEMENTED PRIOR TO THE FIRST COMMENCEMENT AND OPERATION OR OCCUPATION OF THE DEVELOPMENT AND MAINTAINED THEREAFTER TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
9. THE EXISTING STREET TREES MARKED ON THE DEVELOPMENT PLANS FOR REMOVAL ARE TO BE REMOVED AT THE APPLICANTS / OWNERS FULL COSTS WITH ALL WORKS BY THE CITY OF MELVILLE TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
10. THE PROVISION OF TWO REPLACEMENT STREET TREES IN THE VERGE AREA OF THE SUBJECT PROPERTY IN 100L CONTAINERS, AT THE APPLICANTS / OWNERS FULL COST TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED STREET TREES AND LOCATION TO BE INCLUDED IN THE LANDSCAPING AND RETICULATION PLAN STATED IN SPECIAL CONDITION 8.
11. CLOTHES DRYING AREAS FOR APARTMENTS 2 AND 4 TO BE LOCATED SOLELY WITHIN THE SERVICE AREA ADJACENT TO THE LAUNDRY, TO BE DELINEATED AND MARKED ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE. THE OUTDOOR ENTERTAINING BALCONY FOR APARTMENTS 2 AND 4 SHALL NOT BE USED FOR THE PURPOSES OF CLOTHES DRYING.
12. SUITABLE ARRANGEMENTS BEING MADE FOR THE STORAGE OF BINS AND COLLECTION OF WASTE FROM THE SITE TO APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
13. DURING EXCAVATIONS, ALL NECESSARY PRECAUTIONS TO BE TAKEN TO PREVENT DAMAGE OR COLLAPSE OF ANY ADJACENT STREETS, RIGHT-OF-WAY OR ADJOINING PROPERTIES. IT IS THE RESPONSIBILITY OF THE BUILDER TO LIAISE WITH ADJOINING AND ADJACENT PROPERTY OWNERS PRIOR TO CARRYING OUT WORK.
14. ON COMPLETION OF CONSTRUCTION, ALL EXCESS ARTICLES, EQUIPMENT, RUBBISH OR MATERIALS AND TEMPORARY FACILITIES ARE TO BE REMOVED AND THE SITE AND SURROUNDING AREA USED DURING THE DEVELOPMENT IS TO BE MADE GOOD AND LEFT IN AN ORDERLY AND TIDY CONDITION TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

15. ALL SECURITY ALARM DEVICES TO BE “SILENT MONITORED” SYSTEMS TO ADDRESS POTENTIAL IMPACTS ON SURROUNDING RESIDENTIAL AMENITY TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
16. PROVISION OF A TWO METRE HIGH MASONRY WALL ALONG THE REAR PROPERTY BOUNDARY WITH SUITABLE LANDSCAPING AND BARRIER RAILING/KERBING TO REDUCE THE IMPACTS OF THE DEVELOPMENT AND REAR PARKING AREA ON THE AMENITY OF THE ADJOINING RESIDENTIAL PROPERTIES TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
17. THE FAÇADE OF THE BUILDING AND WALLS TO BE TREATED WITH AN ANTI-GRAFFITI AGENT TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
18. PROVISION OF A NOISE MANAGEMENT PLAN FOR THE DEVELOPMENT INDICATING HOW THE NOISE FROM THE CARPARKING, AIR CONDITIONING AND OTHER MECHANICAL EQUIPMENT WILL IMPACT ON THE NEIGHBOURING PROPERTIES AND RECOMMENDATIONS FOR REDUCING ANY POTENTIAL NOISE IMPACT TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE RECOMMENDATIONS SHALL BE INCORPORATED IN THE PLANS SUBMITTED FOR A BUILDING LICENCE.
19. THE USE AND/OR DEVELOPMENT HEREBY PERMITTED SHALL AT ALL TIMES COMPLY WITH THE REQUIREMENTS OF THE ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997. APPLICANT IS REQUIRED TO CONSULT WITH CITY OF MELVILLE HEALTH SERVICES PRIOR TO THE INSTALLATION OF ANY NOISE EMITTING EQUIPMENT SUCH AS AIR CONDITIONERS.
20. THE BUILDING SHALL NOT USE REFLECTIVE OR MIRROR GLASS EXTERNALLY. DETAILS TO BE SHOWN ON THE DEVELOPMENT PLANS TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
21. THE ROOF OF THE BUILDING NOT TO BE ZINCALUME OR WHITE METAL (E.G. COLORBOND SURFMIST) OR ANY OTHER MATERIAL / COLOUR CONSIDERED TO BE HIGHLY REFLECTIVE UNLESS OTHERWISE APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED ROOF MATERIAL AND COLOUR TO BE SHOWN ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

22. SUBMISSION OF A GLARE REFLECTIVITY STUDY BY A SUITABLY QUALIFIED PROFESSIONAL AND ANY GLARE ISSUES TO BE ADDRESSED PRIOR TO THE ISSUE OF A BUILDING LICENCE.
23. THE SUBMISSION OF A COLOUR SCHEDULE BOARD DETAILING THE USE OF MATERIALS, FINISHES AND COLOURS FOR THE MIXED USE BUILDING TO THE SATISFACTION OF MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
24. DETAILS OF THE PROPOSED PUBLIC ART SHALL BE APPROVED BY THE MANAGER OF PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE. THE APPROVED ARTWORK SHALL BE CONSTRUCTED AND INSTALLED PRIOR TO THE OCCUPATION OF THE BUILDING AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. PUBLIC ART SCREENS TO MAINTAIN VISUAL CONNECTIVITY BETWEEN THE OFFICES AND THE STREET, BE SEPARATED BY 500MM FROM THE FACADE OF THE BUILDING AND BE CONTAINED WITHIN THE FRONT BOUNDARY OF THE PROPERTY.
25. EQUIPMENT SUCH AS AIR CONDITIONERS OR EXHAUST VENTS, BUT NOT INCLUDING ANY SOLAR PANEL, WHICH ARE LIKELY TO DETRACT FROM THE VISUAL APPEARANCE OF THE BUILDING SHALL NOT BE LOCATED ON THE ROOF OR OTHERWISE EXPOSED TO PUBLIC VIEW.
26. SIGNAGE IS NOT APPROVED AS PART OF THIS APPLICATION.
27. PRIOR TO THE OCCUPATION OF THE BUILDING A SIGN STRATEGY FOR THE BUILDING IS TO BE SUBMITTED AND APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
28. PRIOR TO THE ISSUE OF A BUILDING LICENCE, THE APPLICANT/OWNER IS TO PROVIDE A 1.0 TO 1.3 METRE WIDE PEDESTRIAN ACCESS EASEMENT ACROSS THE FRONT OF THE PROPERTY AS INDICATED ON THE SITE PLAN TO THE CITY OF MELVILLE ON THE CERTIFICATE OF TITLE FOR LOT 534 TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
29. THE 1.0 TO 1.3 METRE WIDE PEDESTRIAN EASEMENT (TOGETHER WITH RECONSTRUCTION OF FOOTPATH) TO BE CONSTRUCTED AT THE EXISTING FOOTPATH GRADE WITH MATERIALS TO THE APPROVAL OF THE MANAGER ENGINEERING SERVICES.

**P08/3035 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS, FOUR OFFICES AND RESTAURANT) ON LOT 534 (26) KEARNS CRESCENT, ARDROSS (REC) (ATTACHMENT)**

**STANDARD CONDITIONS:**

**COM1; 06; 09; 10; 11; 12; 13; 14; 15; 16; 17; 22; 24; 25; 26; 28; 31; 32; 33; 47; 48; 50; RESSD19**

**FOOTNOTES**

- 1. WITH RESPECT TO SPECIAL CONDITION 12, THE APPLICANT IS REQUIRED LIAISE WITH THE CITY OF MELVILLE WASTE SERVICES.**
- 2. A HEALTH LICENCE IS REQUIRED FOR THIS DEVELOPMENT AT THE BUILDING APPROVAL STAGE.**

At 7.46pm the Mayor submitted the motion, which was declared **CARRIED EN BLOC WITHOUT DISSENT (11/0)**

**C08/5000 – COMMON SEAL REGISTER (REC)**

Ward	:	All
Category	:	Operational
Subject Index	:	Common Seal Register
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bruce Taylor Manager Information & Corporate Support

**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 checked="" 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 &amp; policies.</i>
<input type="checkbox"/> Review	<i>when Council reviews decisions made by Officers.</i>
<input type="checkbox"/> Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied and recommends that the information be noted.

**C08/5000 – COMMON SEAL REGISTER (REC)**

**BACKGROUND**

Section 2.5 of the Local Government Act 1995 states that a Local Government is a Body Corporate with perpetual succession and a common seal. A document is validly executed by a Body Corporate when the common seal of the Local Government is affixed to it by the Chief Executive Officer, and the Mayor and the Chief Executive Officer attest the affixing of the seal.

**DETAIL**

<b>Document Type</b>	<b>Party</b>	<b>Description</b>	<b>File Reference</b>
CEO Contract	Shayne Silcox	CEO Contract	Personnel File
Deed of Licence	Leeming Child Health Service	Deed of Licence	1675640
Deed of Licence	Kardinya Child Health Service	Deed of Licence	1675640
CEO Contract Variation	Shayne Silcox	CEO Contract Variation	Personnel File
Deed of Agreement	Yac It Up 2008 & Healthway Contract	Deed of Agreement	873200
Deed of Agreement	Mt Pleasant Bowling Club	Deed of Agreement	1869339
Deed of Settlement	Mr R Willis	Deed of Settlement	Personnel Files

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 2.5 of the Local Government Act 1995.

**FINANCIAL IMPLICATIONS**

Nil.

**C08/5000 – COMMON SEAL REGISTER (REC)**

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not applicable.

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a standard report for Elected Members information.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5000)**

**NOTED**

**THAT THE ACTION OF HIS WORSHIP THE MAYOR AND THE CHIEF EXECUTIVE OFFICER IN EXECUTING THE DOCUMENTS LISTED UNDER THE COMMON SEAL OF THE CITY OF MELVILLE, BE NOTED.**

At 7.46pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC  
WITHOUT DISSENT (11/0)**

**C08/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Investments and Statements
Customer Index	:	Not applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bob Searle Manager Financial Services

**AUTHORITY / DISCRETION**

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**KEY ISSUES / SUMMARY**

- This report presents the investment statements for the month of March 2008 and recommends that the information detailed in the attachments be noted.

**BACKGROUND**

The investment of surplus cash holdings is undertaken in accordance with Council's investment policy, with the objective of maximising returns whilst maintaining low levels of credit risk exposure.

**C08/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**

**DETAIL**

[6000A April 2008.pdf](#) and [6000B April 2008.pdf](#) the Investment Statements for the month of March 2008, form part of the Attachments to the Agenda, which was distributed to the Members of the Council on Friday, 11 April 2008.

The Investment of Surplus Funds is undertaken in accordance with the Finance Investment Policy document for the City of Melville. [6000C April 2008.pdf](#) a graph showing the total levels of funds invested forms part of the Attachments to the Agenda, which was distributed to the Members of the Council on Friday, 11 April 2008.

Elected Members are aware of the continuing volatility in world financial markets and the negative impact on investments. This volatility has created a situation whereby it continues to be extremely difficult to arrive at a true meaningful valuation for the Collateralised Debt Obligation (CDO) element of the investment portfolio. The estimate based on the valuations provided is that had all investments been disposed of at the end of March, a loss of 17.9% would have been realised. The market valuation of the CDO element of the investment portfolio at the end of March represented 58.0% of its cost figure, with individual valuations ranging between 33.7% and 81.0%. The investment products in question continue to retain their high credit ratings and it is believed that they will continue to pay their full interest yield and to pay full value on maturity.

Two CDOs had their credit ratings reduced from AA to AA- by Standard & Poors on 24 March. The two CDOs were Helium Capital Ltd Scarborough (a holding of \$1.8m) and Ethical Ltd Green (a holding of \$1m). To date there have been no defaults by any of the Corporate entities referenced within the CDOs.

Statements 6000A, 6000B and the graph 6000D show the value of the investments based on cost, which is consistent with long standing practice.

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

In line with the Decision of Council at its February meeting, Grove Research and Advisory have been appointed as the City's investment adviser and has reviewed the current investment portfolio with a view to providing strategies to minimise any unnecessary risks.

In 2007 Price Waterhouse Coopers (PWC) was engaged to provide advice in regards to the appropriateness of the City's investment strategy in light of the recent volatility in the credit markets. Following the receipt of their report and further clarification, a revised investment policy was adopted.

The Department of Local Government and Regional Development issued Investment Policy Guidelines during February and these are being reviewed with a view to making any necessary changes to the existing Investment Policy adopted by Council.

**C08/6000 – INVESTMENT STATEMENTS (REC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

Local Government (Financial Management) Regulations 1996 Regulation 19 – Management of Investments.

Trustee Act 1962 (Part 3)

**FINANCIAL IMPLICATIONS**

As at the end of March 2008, total interest excluding Reserve Fund interest earned was \$1,980,630, against a year to date budget of \$2,131,290. This represents a \$150,660 negative variance. The full year budget is \$2,555,887. The shortfall arises due to the following reasons:-

1. The investment revenue budgets being set at levels exceeding preceding years;
2. Cash received in the 2007/2008 financial year investments being invested in Term Deposits which yield lower returns than the Authorised Deposit Taking Institution (ADI's) subordinated debt and Collateralised Debt Obligations (CDO's) Council previously invested in;
3. A significant reduction in Trust Fund interest earnings due to the above as well as funds being reclassified as Municipal Funds thereby reducing the amount of invested Trust Funds and accordingly investment revenue. A \$150,000 adjustment was proposed in the mid year budget review.

Reserve Fund interest earned was \$1,253,269 against a budget of \$899,700. The full year budget is \$1,175,245. This result is due to Reserve Fund balances being higher than anticipated and the strong income returns being received from Council's ADI and CDO investments which due to their longer terms to maturity are primarily held within the Reserve Fund.

In accordance with Council's recently adopted revised Investment Policy any surplus investment returns derived as a result of investing in ADI's & CDO's when compared to Bank Bills or Term Deposits will be credited to an investment volatility reserve.

The most material current financial implication in relation to the cash position of Council relates to the book value of investments moving according to the very significant market volatility that has been experienced since July 2007, which has impacted negatively on the market price and saleability of our ADI and CDO investments.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Whilst there has been increased market volatility risk associated with Council's investment portfolio, the credit risk of the portfolio remains low and therefore the risk of losing capital or interest earnings is also low. Council's investment policy was constructed to minimise credit risk through investing in highly rated securities and diversification.

**C08/6000 – INVESTMENT STATEMENTS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

Corporate Policy 13-PL-003 – Investment of Surplus Funds.

As resolved at the November full meeting of Council, the policy has been amended to incorporate mechanisms that protect Council's investments from undue volatility risk as well as the risk to reputation as a result of investments that may be perceived as unsuitable by the Community.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

Interest rates moved only slightly in this period, with the rate for ninety day bank bills falling by 0.13% to 7.86%, while the 30 day rates increased by 0.16% from 7.52% to 7.68%.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6000)****NOTING**

**THAT THE INVESTMENT STATEMENTS FOR THE MONTH OF MARCH 2008, AS DETAILED IN THE FOLLOWING ATTACHMENTS BE NOTED:**

[6000A April 2008.pdf](#)

[6000B April 2008.pdf](#)

[6000C April 2008.pdf](#)

At 7.46pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC  
WITHOUT DISSENT (11/0)**

**C08/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Statement and Investments
Customer Index	:	Not applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not Applicable
Funding	:	2007/2008 Budget
Responsible Officer	:	Bob Searle Manager Financial Services

**AUTHORITY / DISCRETION**

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**C08/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- This report presents details of the payments made to suppliers for the provision of goods and services for the month of March 2008 and recommends that the Schedule of Accounts be noted.

**BACKGROUND**

Delegated Authority CE23 has been granted to the Chief Executive Officer to make payments from the Municipal and Trust Funds. This authority has then been on-delegated to the Director Customer and Corporate Services. In accordance with Regulation 13.2 and 13.3 of the Local Government (Financial Administration) Regulations 1996 where this power has been delegated, a list of payments for each month is to be compiled and presented to the Council. The list is to show each payment, payee name, amount and date of payment and sufficient information to identify the transaction.

**DETAIL**

The Schedules of Accounts for the period ending 31 March 2008, [6001 April 2008.pdf](#) including Payment Registers numbers 41 and 42 were distributed to the Members of Council on Friday 11 April 2008.

Payments in excess of \$100,000 in the month were as follows:-

- Boral Construction – E008917 - \$384,435.57 – Road resurfacing, Bull Creek Drive
- Robinson Buildtech – E008945 - \$109,191.44 – Repairs, replacement and painting, principally at Concrete Lookout Towers, Wireless Hill and Melville Bowling Club
- SMRC Reg Resource Recovery Centre – E008921 - \$428,988.96 – Debt Principal and Interest payment
- Synergy – Cheque 029394 - \$172,542.60 – Electricity Charges February 2008
- Titan Ford – E008783 - \$103,267.05 – General repairs and parts plus 3 x Ford Falcon RTV Auto Utility
- WA Electoral Commission – Cheque 029487 - \$175,616.52 – Ordinary Election October 2007
- Western Power – Cheque 029587 - \$825,000 – second instalment re the Mt Pleasant Underground Power project

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**C08/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)**

**STATUTORY AND LEGAL IMPLICATIONS**

This report meets the requirements of the Local Government (Financial Management) Regulations 1996 Regulation 11 - Payment of Accounts, Regulation 12 - List of Creditors and Regulation 13 - Payments from the Trust Fund and the Municipal Fund.

**FINANCIAL IMPLICATIONS**

Expenditures were provided for in the 2007/2008 Budget.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not applicable.

**POLICY IMPLICATIONS**

Management Procedure 1.8 - Certification of Accounts.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a regular monthly report for Elected Members information.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6001)**

**NOTING**

**THAT THE SCHEDULE OF ACCOUNTS FOR THE PERIOD ENDED 31 MARCH 2008, AS APPROVED BY THE DIRECTOR CUSTOMER AND CORPORATE SERVICES IN ACCORDANCE WITH DELEGATED AUTHORITY CE23, AND DETAILED IN ATTACHMENT [6001 April 2008.pdf](#) BE NOTED.**

At 7.46pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC  
WITHOUT DISSENT (11/0)**

**C08/6002 – FINANCIAL STATEMENTS (AMREC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Statements and Investments
Customer Index	:	Not applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bob Searle Manager Financial Services

**AUTHORITY / DISCRETION**

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**KEY ISSUES / SUMMARY**

- This report presents the financial statements to the end of March 2008 and recommends that they be noted by Council.

**C08/6002 – FINANCIAL STATEMENTS (AMREC) (ATTACHMENT)**

**BACKGROUND**

The Financial Statements for the end of the month of March 2008 have been prepared and tabled in accordance with Regulation thirty-four of the Local Government (Financial Management) Regulations 1996 as amended in March 2005, which requires that:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail-
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of the month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing-
  - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
  - (b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
  - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown-
  - (a) according to nature and type classification;
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be-
  - (a) presented to the council-
    - (i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or
    - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and
  - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

**C08/6002 – FINANCIAL STATEMENTS (AMREC) (ATTACHMENT)**

**DETAIL**

The attached reports have been prepared in compliance with the requirements of the legislation.

Investments have been valued at the cost of acquisition for the purpose of these monthly reports.

The following attachments form part of the Attachments to the Agenda, which was distributed to the Members of the Council on Friday 11 April 2008.

<b>DESCRIPTION</b>	<b>LINK</b>
Statement of Financial Activity – March 2008	<a href="#">6002A April 2008.pdf</a>
Operating Statements by Program for the period ended 31 March 2008	<a href="#">6002B April 2008.pdf</a>
Representation of Working Capital as at March 2008	<a href="#">6002E April 2008.pdf</a>
Reconciliation of Net Working Capital as at 31 March 2008	<a href="#">6002F April 2008.pdf</a>
Notes on Operating Statements for March 2008 reporting on variances of 10% or greater	<a href="#">6002H April 2008.pdf</a>
Details of Budget Amendments requested during the month of March 2008	<a href="#">6002J April 2008.pdf</a>
Summary of Rates debtors as at 31 March 2008	<a href="#">6002L April 2008.pdf</a>
Graph showing Rates collections as at 31 March 2008	<a href="#">6002M April 2008.pdf</a>
Summary of general debtors aged 90 days old or greater as at 31 March 2008	<a href="#">6002N April 2008.pdf</a>

**C08/6002 – FINANCIAL STATEMENTS (AMREC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Local Government Act 1995 Division 3 – Reporting on Activities and Finance Section 6.4 – Financial Report.

Local Government (Financial Regulations) 1996 Part 4 – Financial Reports

**FINANCIAL IMPLICATIONS**

Amendments to the 2007/2008 Budget have been included in the budget amendment reports.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not applicable.

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

The attached reports reflect the financial situation of the City of Melville as at 31 March 2008.

**C08/6002 – FINANCIAL STATEMENTS (AMREC) (ATTACHMENT)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)  
ABSOLUTE MAJORITY APPROVAL**

At 7.46pm Cr J Bennett moved, seconded Cr R Subramaniam

- 1. THAT THE STATEMENTS OF FINANCIAL ACTIVITY AND THE OPERATING STATEMENTS FOR THE PERIOD ENDING 31 MARCH 2008 AS DETAILED IN THE FOLLOWING ATTACHMENTS BE ADOPTED:**

<b>DESCRIPTION</b>	<b>LINK</b>
<b>STATEMENT OF FINANCIAL ACTIVITY – MARCH 2008</b>	<a href="#"><u>6002A April 2008.pdf</u></a>
<b>OPERATING STATEMENTS BY PROGRAM FOR THE PERIOD ENDED 31 MARCH 2008</b>	<a href="#"><u>6002B April 2008.pdf</u></a>
<b>REPRESENTATION OF WORKING CAPITAL AS AT MARCH 2008</b>	<a href="#"><u>6002E April 2008.pdf</u></a>
<b>RECONCILIATION OF NET WORKING CAPITAL AS AT 31 MARCH 2008</b>	<a href="#"><u>6002F April 2008.pdf</u></a>
<b>NOTES ON OPERATING STATEMENTS FOR MARCH 2008 REPORTING ON VARIANCES OF 10% OR GREATER</b>	<a href="#"><u>6002H April 2008.pdf</u></a>
<b>SUMMARY OF RATES DEBTORS AS AT 31 MARCH 2008</b>	<a href="#"><u>6002L April 2008.pdf</u></a>
<b>GRAPH SHOWING RATES COLLECTIONS AS AT 31 MARCH 2008</b>	<a href="#"><u>6002M April 2008.pdf</u></a>
<b>SUMMARY OF GENERAL DEBTORS AGED 90 DAYS OLD OR GREATER AS AT 31 MARCH 2008</b>	<a href="#"><u>6002N April 2008.pdf</u></a>

- 2. THAT BY ABSOLUTE MAJORITY DECISION, THE BUDGET AMENDMENTS, AS LISTED IN THE BUDGET AMENDMENT REPORTS FOR MARCH 2008, AS DETAILED IN ATTACHMENT [6002J April 2008.pdf](#) BE ADOPTED.**

At 7.46pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (11/0)**

## EN BLOC ITEMS

At 7.46pm Cr L M Reynolds moved, seconded Cr M J Barton

**THAT THE RECOMMENDATIONS FOR ITEMS P08/3035, C08/5000, C08/6000, C08/6001 BE CARRIED EN BLOC.**

At 7.46pm the Mayor submitted the motion, which was declared **CARRIED (11/0)**

### 13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

### 14. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Nil

### 15. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

At 7.48pm Cr R Subramaniam moved, seconded Cr P M Phelan

**THAT IN ACCORDANCE WITH SECTION 5.23 (2) (C) OF THE LOCAL GOVERNMENT ACT 1995 THE DISCUSSION REGARDING THE CONTRACTUAL MATTER BE DISCUSSED CONFIDENTIALLY BEHIND CLOSED DOORS.**

At 7.48pm the Mayor submitted the motion, which was declared **CARRIED (11/0)**

The public gallery left the meeting at 7.48pm for Item C08/7000

**C08/7000 - POINT WALTER GOLF COURSE – BELGRAVIA LEISURE (REC)**  
**(ATTACHMENT) (CONFIDENTIAL)****Declaration of Interest**

<b>Item No:</b>	C08/7000 – Point Walter Golf Course – Belgravia Leisure
<b>Member:</b>	Cr M J Barton
<b>Type of Interest:</b>	Interest under Code of Conduct
<b>Nature of Interest:</b>	Resides opposite golf course
<b>Extent of Interest:</b>	Interest under proximity
<b>Request:</b>	Leave
<b>Decision of Council:</b>	Decision not required

At 7.49pm Cr M J Barton having declared an interest in this item left the meeting.

The contents, attachment and recommendations of this Report are Confidential under Section 5.23 (2) of the Local Government Act 1995.

At 7.52pm Cr R Subramaniam moved, seconded Cr P M Phelan

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (7000) APPROVAL****THAT THE RECOMMENDATIONS CONTAINED IN CONFIDENTIAL ITEM C08/7000 – POINT WALTER GOLF COURSE – BELGRAVIA LEISURE BE ADOPTED.**

At 7.53pm the Mayor submitted the motion, which was declared **CARRIED (10/0)**

**THAT THE CONFIDENTIAL SECTION OF THE MEETING BE CONCLUDED AND THE MEETING BE RE-OPENED TO THE PUBLIC**

At 7.54pm the Mayor submitted the motion, which was declared **CARRIED WITHOUT DISSENT (10/0)**

At 7.55pm Cr M J Barton returned to the meeting.

There were no members of the public who returned to the meeting.

The Mayor advised those in attendance that the Council had resolved during the Closed section of the meeting to adopt the Officer Recommendation.

**16. CLOSURE**

There being no further business, the Mayor declared the Meeting closed at 7.56pm.



— City of —  
**Melville**

**ORDINARY MEETING OF COUNCIL  
15 APRIL 2008**

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