

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 17 SEPTEMBER 2019

1. This Meeting makes Recommendations to the Manager Statutory Planning.
2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Peter Prendergast, Manager Statutory Planning. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: peter.prendergast@melville.wa.gov.au or Tel 9364 0626.
3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests should be referred to an Elected Member of Council for the Ward within which the development application is located. An Elected Member may request that the application be determined by Council. Any call up request from an Elected Member shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

DISTRIBUTED: FRIDAY, 20 SEPTEMBER 2019



**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, TUESDAY, 17 SEPTEMBER
2019**

PRESENT

P Prendergast
M Scarfone
L Crake
B Ashwood
T Cappellucci
R Boswell

Manager Statutory Planning
Planning Services Coordinator
Senior Building Surveyor
Senior Planning Officer
Senior Planning Officer
Planning Officer

DISCLOSURES OF INTEREST

**DISCLOSURE OF FINANCIAL INTERESTS
LOCAL GOVERNMENT ACT 1995**

Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

Meeting to be informed of disclosures

S.5.66 If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

Disclosing members not to participate in meetings

S.5.67 A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

Please refer to your Handbook for definitions of interests and other detail.

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**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

Ward : Palmyra - Melville - Willagee Ward
 Category : Operational
 Application Number : DA-2019-698
 Property : Lot 16 (227) Leach Highway, Willagee
 Proposal : Change of Use – single house to child care premises
 Applicant : Building Lines
 Owner : Edward John Bastow
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning
 Previous Items : N/A

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>When the 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>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Approval is sought for a change of use from single house to child care premises at Lot 16 (227) Leach Highway, Willagee.
- The application includes single-storey additions to the existing building, fencing, signage, shade sails, landscaping and 9 car parking bays accessed via Quinn Street.
- The child care centre will accommodate up to 37 children (from birth to 6 years old) and will operate with a maximum of 6 staff when at full capacity.
- The centre will operate weekdays between 7am – 6pm.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making. 7 submissions were received during the consultation period each outlining concerns relating to traffic and parking congestion, noise and community safety.
- Notwithstanding the objections received, it is considered that the development is acceptable having regard to the relevant provisions of Local Planning Scheme No.6 (LPS6).
- It is recommended that approval be granted subject to conditions.



Figure 1 – Aerial Photography

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R20/60
Use Type	:	Child care premises
Use Class	:	A1 'discretionary use'

Site Details

Lot Area	:	870sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	No
Street Furniture (drainage pits etc.)	:	N/A
Site Details	:	Refer Figure 1 above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 20 September 2019.

DETAIL

Development approval is sought for a change of use from single house to child care premises at Lot 16 (227) Leach Highway, Willagee. The proposed change of use includes the conversion of the existing building to facilitate a child care centre with a single-storey front, side and rear addition, fencing along Leach Highway and Quinn Street, signage, shade sails over the child play area, landscaping and 9 car parking bays accessed via Quinn Street.

STAKEHOLDER ENGAGEMENT

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
Support/Object:	7 objections received

A summary of the content of the objections received and an officer's response is provided in the table below.

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Traffic safety, congestion and parking	A traffic impact assessment was provided in support of the development application. This was reviewed by the City's traffic engineers and by Main Roads Western Australia (MRWA) who raise no subsequent concerns regarding this aspect of the development. The proposed 9 off-street car bays will ensure that the use operates with limited impact on Quinn Street. Quinn Street is a local distributor road and is classed as an Access Road within the road hierarchy, and is designed to accommodate traffic flow of up to 3000 vehicles per day. Quinn Street is used by local residents to access Leach Highway which is a Primary Regional Road. The traffic flow on Quinn Street is limited and the proposed development will unlikely result in any adverse traffic impacts.	Not Uphold
Noise	An acoustic report has been prepared in accordance with State Planning Policy 5.4 Road and Rail Transport Noise. This report has been reviewed by MRWA and the development is considered to be acceptable in respect to noise subject to the imposition of recommended conditions of development approval.	Not Uphold

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

Summary of Issues Raised (Continued)	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Noise (Continued)	Child care premises operate in Residential zones across the City of Melville. These generally operate in harmony with the surrounding dwellings. Notwithstanding this, a condition of planning approval is recommended to require an amended acoustic report to demonstrate the proposed use can operate without impacting on the neighbouring properties.	Not Uphold
Community safety	Not a material planning consideration.	Not Uphold
Property devaluation	Not a material planning consideration.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications for the City relating to the proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There is no strategic risk, or environmental management implications with this application.

POLICY IMPLICATIONS

The proposal requires assessment against Local Planning Policy 1.6 Car Parking and Access and Local Planning Policy 1.12 Child Minding Centres and Family Day Care (refer to comment section of this report below).

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

COMMENT

The application site is located within a residential area under the provisions of LPS6, and is identified as being within the Leach Highway Residential Sector under the provisions of the Willagee Structure Plan.

A child care facility such as this is appropriately located with the residential zone as it provides a service to the resident local population, and is a use which can operate within a residential setting without compromise to levels of residential amenity. In this particular case, the application site is located at the very edge of the residential zone, sharing an interface with Leach Highway, a Primary Regional Road. Leach Highway has its own impacts on the residential amenity levels enjoyed by residents of those properties that flank it, not least via vehicle noise and general associated activity. In view of this it is considered that a child care centre here may be readily accommodated in principle in land use terms.

Despite this, the proposed development requires assessment against the provisions of two key Local Planning Policies, Local Planning Policy 1.12 Child Minding Centres and Family Day Care, and Local Planning Policy 1.6 Car Parking and Access.

Local Planning Policy 1.12 Child Minding Centres and Family Day Care

Clause 3 of Local Planning Policy 1.12 Child Minding Centres and Family Day Care (LPP1.12) provides guidance in relation to the preferred locations for child care premises in residential areas. The policy outlines a preference for child care uses to be located on local or district distributor category roads, on the basis that access to such uses would be complicated if taken from roads that operate at a higher level within the designated road hierarchy, such as Primary Regional Roads like Leach Highway.

In this case whilst the application site has a Leach Highway address, all access to the property is taken directly off Quinn Street, a designated local road. In view of this it can be concluded that the proposed development is fully consistent with the provisions of the Local Planning Policy.

Local Planning Policy 1.6 Car Parking and Access

Under the provisions of this Local Planning policy, one bay per 10 children, plus 0.5 bays per staff member, plus drop-off and pick-up facilities, are required to be provided to the satisfaction of the City. Based on a total of 37 children and six staff this results in a requirement for 7 car parking bays plus a pick up drop off bay.

In this case a total of 9 car parking bays are proposed to be provided. It is considered that the lack of a drop off facility is appropriately compensated for in this case by the addition of two additional car parking bays (nine in total) which are provided above the standard policy requirement of seven bays. In addition a pick up drop off bay is not considered appropriate in this instance as given the young age of the children attending the Child care, there is a need for each to be booked in and signed out. This means that there will be no demand for simply dropping children off at the facility. The proposed parking is considered appropriate having regard to the provisions of LPP1.6 and is supported on that basis.

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process.

Should Elected Members have an alternative view; the DAU 'call-up' procedures provide an opportunity to call this matter up for formal Council consideration.

CONCLUSION

This application is considered to satisfy the provisions of Local Planning Scheme No. 6 and Local Planning Policy 1.6 Car Parking and Access and Local Planning Policy 1.12 Child Minding Centres and Family Day Care.. The use of child care centre and the proposed additions to the building are suitable for the site and locality, and will provide a service to the community and neighbouring commercial zone. The number of vehicle bays provided on site for the proposed child care centre is acceptable (as described above). . On that basis, it is recommended that the proposal be approved subject to conditions below.

OFFICER RECOMMENDATION

APPROVAL

- 1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City.**
- 2. All stormwater generated on site is to be retained on site.**
- 3. A maximum of 37 children and 6 staff are permitted on site unless otherwise approved in writing by the City.**
- 4. The centre shall only operate between the hours of 7am and 6pm Monday to Friday.**
- 5. The signage proposed as part of this application shall be reduced to not exceed an aggregate of 4m², subject to the satisfaction of the City.**
- 6. Prior to the commencement of development, an updated Acoustic Report shall be submitted to the City for approval to demonstrate how all noise generating activities and mechanical plant associated with the development will comply with the 'Assigned Noise Levels' contained in the Environmental Protection (Noise) Regulations 1997 when the noise is received at any neighbouring residential premises. The development shall operate in accordance with the recommendations set out in the approved Acoustic Report to the satisfaction of the City.**

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
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7. Prior to the initial occupation of the development, vehicular parking is to be provided in accordance with the approved plans and Traffic Impact Assessment prepared by Apex Engineers dated 19 June 2019 including manoeuvring areas, driveways and points of ingress and egress to the satisfaction of the City. The bays shall be line marked and thereafter be retained for the life of the development.
8. Prior to the initial occupation of the development, the two end tandem car parking bays shall be marked for staff use only, and thereafter retained for such use in perpetuity.
9. Prior to the initial occupation of the development, a detailed landscaping and reticulation plan for the subject site shall be submitted to and approved in writing by the City. The landscaping plan is to include proposed details of (but is not limited to):
 - (a) The location, number and type of proposed trees and shrubs including planter size and planting density;
 - (b) Any lawns to be established;
 - (c) Any existing vegetation and/or landscaped areas to be retained; and
 - (d) Any verge treatments

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter, to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.

10. Prior to the initial occupation of the development, a Waste Management Plan shall be prepared in accordance with Local Planning Policy *LPP1.3 Waste and Recyclables Collection for Multiple Dwellings, Mixed Use Developments and Non-Residential Developments* and submitted in writing for the approval of the City. Once approved, the development is to be constructed and operated in accordance with the Waste Management Plan, to the satisfaction of the City.
11. Prior to the initial occupation of the development, drawings and specifications detailing noise mitigation measures, in accordance with the submitted acoustic report (Acoustic Engineering Solutions 20 August 2019) and *State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning Implementation Guidelines* shall be submitted to and approved by the City. These drawings and specifications are to be endorsed as acceptable by an independent, qualified acoustic engineer and thereafter maintained to the satisfaction of the City.

Main Roads Western Australia Conditions:

12. Quite house design treatment, in the form of Package C must be applied. Treatment package must comply with the SPP5.4 Implementation Guidelines to ensure that noise levels achieve the noise criteria.

**U19/0525 CHANGE OF USE – RESIDENTIAL TO CHILD CARE PREMISES LOT 16 (227)
LEACH HIGHWAY WILLAGEE (REC) (ATTACHMENT)**

13. The development must provide at least one outdoor living space that complies with the SPP 5.4 target, or if not practical, the limit.
14. Prior to the occupation of the building, certification from a suitably qualified acoustic consultant shall be submitted to confirming that conditions 9 and 10 have been achieved to the satisfaction of the City.
15. Prior to the initial occupation of the development, a notification under section 70A of the *Transfer of Land Act 1893* must be registered over the Certificate of Title of the subject lot to notify owners and prospective purchasers of the land the existence of a hazard or other factor. The notification is to be prepared and executed at the applicant's cost and is to state as follows:

“The lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise.”

Advice Notes

- i. This development constitutes a “Food Business” as per Section 107 of the Food Act 2008 and therefore shall comply with the provisions of the Food Regulations 2009 and the Food Safety Standards. Prior to the commencement of “Food Handling” operations, the “Food Business” must notify the City of Melville Health Section on the approved “Food Business Notification Form”. All plans and specifications of the “Food Business” including details of all fixtures, fittings, appliances and finishes must be submitted to the City of Melville Health Section for approval. The provisions contained in Australian Standard 4674 - Design, Construction and Fitout of Food Premises will be used to determine whether the construction complies with the requirements of Standard 3.2.3 of the Food Safety Standards – “Food Premises and Equipment”. As the premises provides food to "Vulnerable Persons" a Food Safety Plan that complies with Food Safety Standard 3.2.1 must be submitted as part of the Food Business application.