



Deputation

UP24/45 Erection of Floodlights at Applecross Tennis Club - Lots 260-264 (30) The Strand, Applecross
- Submission to the Department of Biodiversity, Conservation and Attractions for Consideration in
Making a Determination

Mr B Doyle, Planning Solutions

Applecross Tennis Club Illuminated Towers



How to assess the amenity impacts of a proposed development

of amenity impact is well settled. The approach adopted is set out in *Tempora Pty Ltd v Shire of Kalamunda* (1994) 10 SR (WA) 296, where the Town Planning Appeal Tribunal observed at 304 that 'the determination of the amenity of the locality is a question of fact and consists of three parts: the existing amenity, the manner in which the proposed use will affect the existing amenity and the degree of impact on the locality'. Consistent with the definition of amenity in cl 1 of the deemed provisions, *Sunbay Developments Pty Ltd and Shire of Kalamunda* [2006] WASAT 74; (2006) 150 LGERA 116 at [21] also confirmed that an evaluation of amenity should take account of future amenity. Further, as articulated in *Canning Mews Pty Ltd and City of South Perth* [2005] WASAT 272; (2005) 41 SR (WA) 79 at [48]:

... in undertaking [the] objective inquiry [as to the character of the area that represents the state of amenity], a specialist planning tribunal is assisted not only by the expert opinions of town planners, but also by the views of residents [of the locality who] are often well placed to identify the particular qualities and characteristics which contribute to their residential amenity[.]

Lodged materials for assessment







AT&T PARK



Coors LIGHT



TONIGHT'S GAME

1B	WOLAN REMOLD	OF	JOE MATHIAS
2B	ANDREW BURNETT	CF	JOE MATHIAS
3B	ANDREW BURNETT	RF	JOE MATHIAS
SS	ANDREW BURNETT	LHP	ANDREW BURNETT
LF	ANDREW BURNETT	RHP	ANDREW BURNETT
CF	ANDREW BURNETT	OF	ANDREW BURNETT
RF	ANDREW BURNETT	CF	ANDREW BURNETT
IF	ANDREW BURNETT	IF	ANDREW BURNETT
IF	ANDREW BURNETT	IF	ANDREW BURNETT
IF	ANDREW BURNETT	IF	ANDREW BURNETT



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← 69 Quai Jacques Chirac



Paris, Ile-de-France

Google Street View

May 2024 [See more dates](#)



Does compliance with the Noise Regulations mean there is no impact on amenity?

63 In *GMF Contractors Pty Ltd and Shire of Serpentine-Jarrahdale*¹⁴ the Tribunal set out that compliance with the Noise Regulations is a 'necessary, but in some cases not sufficient criterion, to ensure that the noise emissions from a proposed development would not have an unacceptable acoustic impact on the locality'.

64 That is to say, even where a land use complies with the Noise Regulations, it does not automatically follow that the noise does not constitute an adverse impact on the amenity of the locality in a planning sense for the purposes of exercising planning discretion under the PD Act.¹⁵

Has the impact of noise on residential amenity been assessed?

No, it has not.

Refer Paragraphs 6.13 to 6.17 of the DBCA report. The report concludes simply that the noise emissions are expected to comply with (or be exempt from) the Noise Regulations.

Neither the City of Melville or DBCA reports contain any assessment of the amenity impact of noise on nearby residents.

Has the impact on visual amenity been assessed?

No, it has not.

Refer Paragraphs 6.22 to 6.23 of the DBCA report. The report concludes simply that the light spill is expected to comply with Australian Standards.

Neither the City of Melville or DBCA reports contain any assessment of impact on visual amenity for nearby residents.



Jefferson Reserve

The Strand

The Strand

Garloch St

Garloch St

Duncraig Rd

Duncraig Rd

Tweeddale Rd

Tweeddale Rd

Grose Rd

Grose Rd

Nearmap



The application is not capable of support

- The assessment has identified the wrong issues.
- The assessment has given weight to irrelevant matters.
- The assessment has failed to consider relevant matters.
- The application does not contain sufficient information for a proper assessment to be undertaken.
- The City of Melville assessment and the DBCA report have incorrectly assessed the impact on amenity and not in accordance with the relevant legal tests.
- The City of Melville and DBCA assessments both assert, incorrectly, that the application would not impact amenity, without having assessed the amenity impacts in accordance with the relevant legal tests.
- The deficiencies in the assessment mean any decision that is reliant on the assessment would be 'material jurisdictional error'.