

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 21 FEBRUARY 2023

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, 24 FEBRUARY 2023



**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, 21 FEBRUARY 2023**

PRESENT

M Scarfone
T Cappellucci
P Hughes
T Geddes
R Boswell
J Caracciolo

A/Manager Statutory Planning
A/Planning Services Coordinator
Manager Building Services
Senior Planning Officer
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.

TABLE OF CONTENTS

U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE, BICTON 6157 (REC) (ATTACHMENT)	4
U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT).....	17

U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE, BICTON 6157 (REC) (ATTACHMENT)

Ward	:	Bicton-Attadale-Alfred Cove
Category	:	Operational
Application Number	:	DA-2022-601
Property	:	Lot (25) No. 2 Lindsay Place, Bicton 6157
Proposal	:	Two Storey Grouped Dwelling
Applicant	:	Rowe Group
Owner	:	Robert Abrugiato
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	No Previous Items
Responsible Officer	:	Mark Scarfone
		Acting Manager Statutory Planning

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>

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Development approval is sought for a two-storey grouped dwelling at (Lot 25) No. 2 Lindsay Place, Bicton.
- The details of the subject development have been assessed against Local Planning Scheme No. 6 (LPS6), relevant local planning policies including Local Planning Policy 3.1 – Residential Development (LPP3.1), Local Planning Policy 1.9 Height of Buildings, and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed development requires a performance assessment in relation to several design elements including the lot boundary setbacks to the adjoining southern property, visual privacy and solar access.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- An objection relating to the amenity impacts from the lot boundary setbacks and overshadowing was received from the southern landowner.
- Notwithstanding the objection received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.



Figure 1: Aerial Photography

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R17.5
Use Type	: Single House
Use Class	: Permitted

Site Details

Lot Area	: 1750m ²
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: No
Street Furniture (drainage pits etc)	: No
Site Details	: Refer to Figure 1 above

A copy of the plans forms part of the attachments to the agenda which were distributed to Elected Members on Friday, 24 February 2023.

Recent decisions

A development application was lodged in 2021 (DA-2021-1268) for a three-storey grouped dwelling at the subject site. That application was refused by the City under delegation due to the development:

- Not satisfying deemed to comply or design principles of a number of clauses within State Planning Policy 7.3 Residential Development Volume 1 (the R-Codes).
- Not satisfying the deemed to comply provisions contained in Local Planning Policy 1.19 Height of Buildings or the design principles contained in Clause 5.1.6 Building height of the R-Codes; and
- Insufficient information provided to make a determination on the merits of the proposed lot size, site works and open space.

DETAIL

In July 2022 a development application was lodged for a three-storey grouped dwelling at Lot 25 (No.2) Lindsay Place, Bicton.

In response to concerns raised by the City, revised plans were submitted which reduced the building height of the dwelling by removing the third storey element. These revised plans are the subject of this report.

The application has been assessed against the provisions of LPS6, the R-Codes and relevant local planning and council policies. A performance assessment is required in respect of the matters listed below.

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

State Planning Policy 7.3 - Residential Design Codes Volume 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.1.1 Site Area C1.1 – Table 1 – Minimum Frontage	R17.5 = 12m lot frontage	11.5m lot frontage	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning (MSP)
5.1.3 Lot boundary setbacks Cl. 3.1 (i) – Northern Elevation First Floor – Total Wall	3m	1.5m	Requires a performance assessment against the Design Principles of the R-Codes.	MSP
5.1.3 Lot boundary setbacks Cl. 3.1 (i) – Southern Elevation Ground Floor	1.9m & 2.8m respectively	1.8m & 2.3m respectively	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
5.1.3 Lot boundary setbacks Cl. 3.1 (i) – Southern Elevation Upper Floor – Office to Entry and Total Wall	3m & 4.3m respectively	1.8m & 2.3m respectively	Requires a performance assessment against the Design Principles of the R-Codes.	DAU
5.3.1 – Outdoor Living Areas Cl. 1.1 (i) & (v)	36sqm outdoor living area and with at least two-thirds of the required outdoor living area without roof cover	Less than 36sqm and less than two-thirds without roof cover	Requires a performance assessment against the Design Principles of the R-Codes.	MSP
5.3.2 – Landscaping Cl. 2.2 (ii)	Landscaping in street setback area less than 50% impervious surfaces	Greater than 50% impervious surfaces within front setback area	Requires a performance assessment against the Design Principles of the R-Codes.	MSP

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

Design Element (Continued)	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.4.1 Visual Privacy Cl. 1.1 (i) - Western Elevation Ground and Upper Floors - Balconies	7.5m	5.1m and 4.2m respectively	Requires a performance assessment against the Design Principles of the R-Codes.	MSP
5.4.2 Overshadowing Cl. 2.1	25% of site area of 4 Lindsay Place	37.52%	Requires a performance assessment against the Design Principles of the R-Codes.	DAU
5.4.2 Overshadowing Cl. 2.2	9.51% of site area of 50 Blackwall Reach	12.33%	Requires a performance assessment against the Design Principles of the R-Codes.	MSP

Local Planning Policy 3.1 Residential Development

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 4 Garage width C2.2(ii) and (iii)	Minimum 2sqm major opening directly fronting the primary street Minimum of two wall materials (not renders)	1.2sqm Render only	Requires assessment against the Design Principles of the R-Codes.	MSP
Clause 6 Boundary Walls C3.2(iii) Boundary Wall Length and Height	Maximum wall height of 3m and maximum wall length of 17.46m on northern elevation	Maximum wall height of 4.76m and cumulative wall length of 31.6m on northern elevation	Requires a performance assessment against the Design Principles of the R-Codes.	MSP

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

The officer comment below is limited to lot boundary setbacks and overshadowing to the southern boundary as these elements were the subject of the objection received. All other elements discussed above are considered to meet the relevant design principles and are supported on that basis.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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:	During the first consultation period for a three-storey grouped dwelling, 5 submissions were received with 4 objections and 1 support received. Amendments made to the plans, including the deletion of the third storey, On receipt of the revised plans the City advertised to the two southern adjoining landowners as a performance assessment is still required in relation to the side setbacks and overshadowing. As a result of this advertising one submitter reiterated their concerns while the other withdrew their submission.

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

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Natural light to outdoor living area and major openings reduced as a result of overshadowing.	Since initial advertising, plans have been amended and overshadowing has been reduced, now considered to be an acceptable level as outlined in comments section below.	Not Uphold
The level of shadow exceeds the requirements of the R-Codes	The R-Codes allows for a performance-based assessment of each proposal based on its merits. The proposed amount of shadow onto the adjoining southern property meets the relevant design principles as outlined in the comments in the report below.	Not Uphold
Natural direct light reduced to major openings as a result of lot boundary setbacks.	Refer to the comments section of this report.	Not Uphold

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)****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 will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

COMMENT**Lot Boundary Setbacks – Southern Boundary**

The proposed development seeks a performance assessment for lot boundary setbacks to the southern boundary on the ground and first floor as outlined above in the detail section of this report. The design principles contained in Clause 5.1.3 Lot Boundary Setbacks of the R-codes seek to reduce the impact of building bulk on adjoining property, maintain visual privacy, maintain amenity for outdoor living areas and contribute to the streetscape. The proposed side setback is considered to meet the design principles as discussed below.

- The proposed ground and first floors to the southern boundary are well articulated via varying setbacks, large windows and different façade cladding to help reduce the impact of building bulk as viewed from the northern side of the southern landowner's lot (see Figures 2 & 3 below)
- A condition has been recommended to ensure a detailed colour and material schedule is provided for the development which will ensure the level of detail and visual interest depicted in the below perspective is achieved when the development is built.
- The proposed dwelling abuts two southern lots. The portion of the subject site that abuts No.50 Blackwall Reach Parade is adjoining heavily vegetated area that is currently not developed. While in terms of No.4 Lindsay Place, the subject dwelling will abut a driveway, pedestrian access leg and a three-storey wall with no major openings facing north towards the subject dwelling (see Figures 4 & 5 below).

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

- Much of the proposed dwelling will be obscured from the adjoining southern property due to their being no major openings to the habitable rooms on northern side of 4 Lindsay Place. The roof of the adjoining alfresco area of 4 Lindsay Place also obscures much of the first floor minimising its bulk.
- The setbacks permit adequate natural light in to indoor and outdoor habitable spaces both directly and indirectly. The articulated setbacks on both the ground and first floor allow adequate ventilation in to and around both the subject and adjoining southern dwelling at No.4 Lindsay Place.
- The dwelling at No.4 Lindsay Place is orientated so that its primary outlook is westwards towards the river. Therefore, the subject dwelling will not impact light and ventilation to that dwelling.
- As there are no major openings or active outdoor habitable spaces facing south, there are no issues relating to visual privacy. The design of the dwelling by orientating the internal layout toward the western river views enhances the privacy of the future occupants and adjoining southern neighbours.



Figure 2: Perspective of No. 2 Lindsay Place as viewed from the south which adjoins southern lots at No. 50 Blackwall Reach (vegetated area) and No. 4 Lindsay Place (existing dwelling)

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

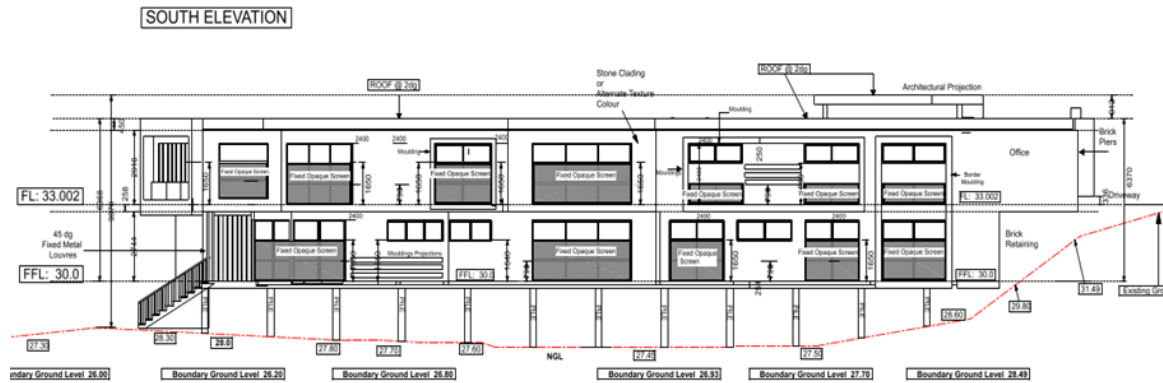


Figure 3: Elevation from south side of subject dwelling as viewed from southern adjoining lots



Figure 4: Existing photo of No. 4 Lindsay Place and its northern elevation



Figure 5: Approved Northern Elevation of No.4 Lindsay Place from BA-2018-1742

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**Solar Access – Southern Boundary

The Design Principles in Clause 5.4.2 Solar access of the R-Codes in regard to adjoining dwellings aim to ensure there is sufficient solar access for the proposed dwelling and the adjoining dwelling/s. The Design Principles seek to protect outdoor living areas, major openings and solar collectors. The discussion below is only in relation to the shadow cast onto No.4 Lindsay Place and not onto No.50 Blackwall Reach Parade as the shadow onto No. 4 Lindsay Place is requiring approval via the delegation of DAU.

The proposed development is considered to meet these principles of the R-Codes in regard to the shadow cast onto No. 4 Lindsay Place for the following reasons:

- The design of the proposed dwelling ensures that the proposed shadow does not fall onto north facing major openings of habitable rooms and any uncovered outdoor living areas. All overshadow falls onto the roof of the adjoining southern property along with a north facing wall with no major openings, a covered outdoor living area and driveway (See Figures 6 & 7 below).
- Currently, the overshadow from the existing dwelling at No.2 Lindsay Place falls onto a bedroom highlight window at No.4 Lindsay Place. The additional shadow proposed from the new dwelling will not result in the overshadowing of any outdoor living areas or habitable rooms other than the highlight bedroom window which is already overshadowed by the existing dwelling on the subject site.
- Due to the orientation of the lots and views of significance towards the Swan River, the affected southern properties major openings to habitable rooms and outdoor living area are all west facing and will continue to receive access to afternoon sun.
- The adjoining covered alfresco area is already shadowed by its own roof and is not designed in an optimal manner to receive winter sunlight.
- There are no solar collectors on the adjoining southern lot.

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**



Figure 6: Overshadowing by proposed dwelling on RHS to adjoining southern properties on LHS at No.4 Lindsay Place (with dwelling depicted) and No. 50 Blackwall Reach Parade

U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE, BICTON 6157 (REC) (ATTACHMENT)

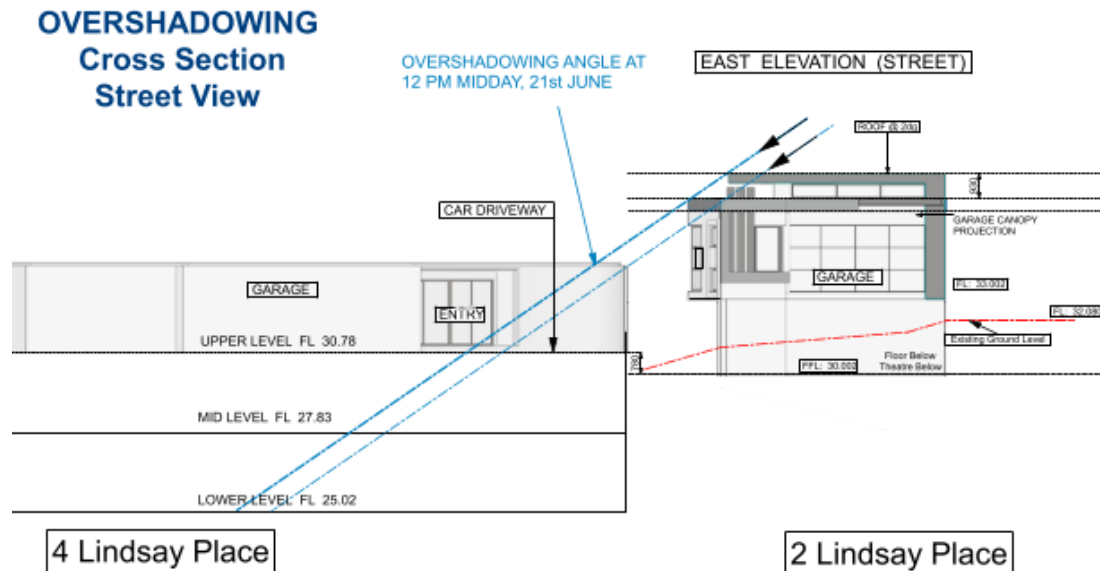


Figure 7: Cross section view showing overshadow onto No.4 Lindsay Place on LHS will predominantly be on its roof and driveway

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 opportunity to call this matter up for formal Council consideration.

CONCLUSION

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

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 in accordance with the City's stormwater design guidelines.
3. The obscure glazing and privacy screening shown on the approved plans shall meet the Deemed to Comply standards of Cl. 5.4.1 of the Residential Design Codes. The obscure glazing and privacy screening shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the City.

**U23/0598 – TWO STOREY GROUPED DWELLING - LOT 25 (NO.2) LINDSAY PLACE,
BICTON 6157 (REC) (ATTACHMENT)**

4. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossover shall be designed to be;
 - a maximum width of 4.5m;
 - located a minimum of 2m away from the outside of the trunk of any street tree; and
 - a minimum of 1m from any existing street infrastructure.

The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications to the satisfaction of the City.

5. Prior to the commencement of works, details of the exterior colours, materials and finishes are to be submitted and approved in writing by the City. The selected materials and finishes shall generally be in accordance with the elevations provided. The development shall thereafter be constructed in accordance with those approved details.
6. Prior to the initial occupation of the development, the boundary wall shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.
7. The on-site trees to be retained (as marked in red on the approved plans) shall be maintained in perpetuity, to the ongoing satisfaction of the City.
8. Any street walls and fences (including the height of any retaining walls) constructed within the primary / secondary street setback area shall meet the requirements contained under clause 3 of Local Planning Policy *LPP3.1 Residential Development* to the satisfaction of the City.
9. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
10. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

Ward : Central Ward
 Category : Operational
 Application Number : DA-2022-963
 Property : Lot 100 (No. 46) North Lake Road, Myaree 6154
 Proposal : Child Care Premises
 Applicant : Tuscom Subdivision Consultants Pty Ltd
 Owner : H B Kew & S H Goh
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Mark Scarfone
 Acting 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>

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- Development approval is sought for a change of use of an existing single house into a Child Care Premises at Lot 100 (No 46) North Lake Road, Myaree.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), State Planning Policy 7.3 (SPP 7.3) - Residential Design Codes Volume 1 (R-Codes) and relevant local planning policies including Local Planning Policy 1.12 – Child Care Premise and Family Day Care (LPP1.12) and Local Planning Policy 1.6 – Car Parking and Access (LPP 1.6).
- The proposed development requires a performance assessment in relation to its land use and the lack of a pickup and drop off vehicle bay.
- The application was advertised in accordance with the provisions of the R-Codes, Planning and Development (Local Planning Scheme) Regulations 2015 and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response, twelve (12) submissions were received, with one support and eleven (11) objections to the proposal received during the advertising period.
- Notwithstanding the objections received, it is considered that the development in regard to land use permissibility and number of car parking bays provided is acceptable when assessed against the relevant objectives of LPS6 and LPP 1.6.
- It is recommended that approval be granted subject to conditions.



Figure 1: Aerial photography of subject site.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R20
Use Type	: Child Care Premises
Use Class	: 'A' Use

Site Details

Lot Area	: 779m ²
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes, to be retained
Street Furniture (drainage pits etc)	: Footpath, Powerlines
Site Details	: Refer to Figure 1 above

A copy of the plans forms part of the attachments to the agenda which were distributed to Elected Members on Friday, 24 February 2023.

DETAIL

The application has been assessed against the provisions of LPS6, the R-Codes and relevant Local Planning Policies. A performance assessment is required in respect of the matters listed below.

Local Planning Scheme No 6

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Table 3 – Zoning Table	Preferred land uses are outlined within LPS6. These include a range of land uses expected in a residential zone	Child Care Premise – 'A' Land Use	Requires a performance assessment against the Residential Zone objectives of LPS 6	Development Advisory Unit (DAU)

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

State Planning Policy 7.3 - Residential Design Codes Volume 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
SOUTH 5.1.3 Lot boundary setbacks – Ground Floor	Activity 3 Room - 1.5m	1.1m	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning (MSP)

Local Planning Policy 1.6 – Car Parking and Access

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 2 – Table 1	Drop off/pick up area to the satisfaction of the Council	No drop off/pick up area provided	Requires a performance assessment against LPP 1.6 objectives	DAU

Local Planning Policy 1.12 – Child Care Premise and Family Day Care

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 1.1 a)	Be located on a corner site	Not located on a corner site	Requires a performance assessment against LPP 1.12 objectives	MSP

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

Local Planning Policy 2.2 – Outdoor Advertisements and Signage

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 3.2 b)	a) No more than one sign per street frontage. b) Signage shall not exceed a maximum height of 1.8m above ground level. d) Individual signage shall not exceed 1m ² in area.	a) Two signs facing street frontage. b) Roof sign is 3.6m in height above natural ground level. d) Individual street sign is 1.2m ² in area.	Requires a performance assessment against Clause 8 of LPP 2.2	MSP

Local Planning Policy 2.1 – Non-Residential Development

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 6.1 a)	Where applicable landscaping should be concentrated within the street setback area	Minimal landscaping within the street setback area.	Requires a performance assessment against LPP 2.1 objectives	MSP
Clause 8.4	On-site parking should be located behind the building line or within the building where possible. Parking within the front setback area of a development will be discouraged.	On-site parking bays wholly in front of building line and within front setback area	Requires a performance assessment against LPP 2.1 objectives	MSP

The officer comment below is limited to the land use and car parking as these issues were the subject of objections from submitters. The proposed elements in relation to lot setbacks, signage, landscaping/parking in street setback area and location of the Child Care Premises are considered to meet the relevant design principles/policy objectives and are supported on that basis.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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: Eleven (11) submissions objected to the proposal and One (1) submission supported the proposal.

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

Summary of Issues Raised	Officer's Comments	Action (Condition/ Uphold/ Not Uphold)
Parking Impacts: Not enough parking bays for staff and parents. Parking will overflow into surrounding road reserves.	The total number of car parking bays for this land use in regard to the number required based on the maximum number of staff and children complies with the minimum amount required by Local Planning Policy 1.6 Car Parking and Access. Refer to the comments section of this report in regard to the lack of a drop off/pick up bay.	Not Uphold
Traffic Impacts: Increased traffic congestion onto North Lake Road.	The applicant has submitted a Traffic Impact Statement (TIS) that confirms the development will not have a noticeable impact on the performance of North Lake Road, the proposed access driveway or adjacent access driveways. This TIS has been supported by City's Road Safety Engineers.	Not Uphold
Noise Impacts: Noise from children playing and cars coming and going will cause a disturbance to the existing residential amenity.	The applicant has submitted an acoustic report that confirms the development complies with the <i>Environmental Protection (Noise) Regulations 1997</i> . This acoustic report has been supported by City's Environmental Health officers.	Not Uphold
Land Use: Continued commercialisation of the area.	Noted. These concerns are discussed in detail within the 'Land Use' section of the comments section of this report below.	Not Uphold

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

Summary of Issues Raised	Officer's Comments	Action (Condition/ Uphold/ Not Uphold)
Pedestrian/Cyclist/Road User Safety: Pedestrian, cyclist and road user safety will be compromised due to increased vehicle traffic.	The applicant has shown that sightlines for vehicles egressing the Child Care Premise comply. A condition has been recommended to ensure sightlines comply with relevant requirements. The applicant has submitted a Traffic Impact Statement (TIS) that confirms there are no road safety concerns in relation to the proposed Child Care Premise.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

The application was referred to the Western Australian Planning Commission (WAPC) for comment under *Planning and Development Act 2005 Instrument of Delegation Del 2022/03 Powers of Local Government Metropolitan Region Scheme*. The referral was required due to the subject site abutting a Category 2 Other Regional Road (ORR) reservation, that being North Lake Road, within the Metropolitan Region Scheme (MRS).

The WAPC had no objection to the proposed land use on ORR planning grounds.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right to have the decision reviewed 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 this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)**COMMENT****Car Parking**

In accordance with Clause 7.1 of LPP 1.12 *Child Care Premises and Family Day Care*, parking for childcare uses is assessed against LPP 1.6 *Car Parking and Access*.

The required number of car parking bays for a development of the scale proposed is seven (7). The proposal provides seven (7) car parking bays. Three (3) bays are marked on the plan for staff parking and four (4) bays are allocated as parking bays for parents/customers.

LPP 1.6 provides for a pickup and drop off area to be provided to the satisfaction of the City, in addition to the required number of carparking bays. The proposal does not include a pickup and drop off area and therefore requires discretion to be exercised.

The requirement for a dedicated pick up and drop off area for a childcare centre of this scale and operation is not considered to be required as all children within the care of the centre will be under the age of 5 years old. These young children are required to be checked in and out of the centre by a parent or guardian. The use of the parking available essentially renders all the parent/customer parking bays (4) as short-term parking and is considered similar to the use of pick up and drop off areas.

The Traffic Impact Statement (TIS) estimates that the morning peak for vehicle movements is between 8am to 9am. Given the maximum capacity of the Child Care Premises is 40 children, the TIS outlines that a total of 18 trips will occur during this peak morning period. The estimated time for pickup and drop off is 6-8 minutes per vehicle which equates to 7-10 children per bay, per hour, to be dropped off at the centre during the morning peak period. For the three designated bays (fourth bay being an ACROD bay) this equates to 21-30 children per hour to be accommodated. This calculation excludes the use of the ACROD bay and possible public transport use by parents dropping their children to the premise which is available within close proximity of the subject site. This calculation also excludes parents dropping off more than one child. Therefore, the TIS considers that the morning peak for drop offs can be accommodated with the four public bays that are available.

The Child Care premise is well serviced by public transport with the nearest bus stop 60m from the subject site (1-2min walk) on Kitchener Road. Additional bus stops and bus services exist on both North Lake Road and Marmion Street 250m, 350m and 375m away respectively from the subject site (4-7min walk). See Figure 2 below that shows the location of bus stops within close proximity to the subject site

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

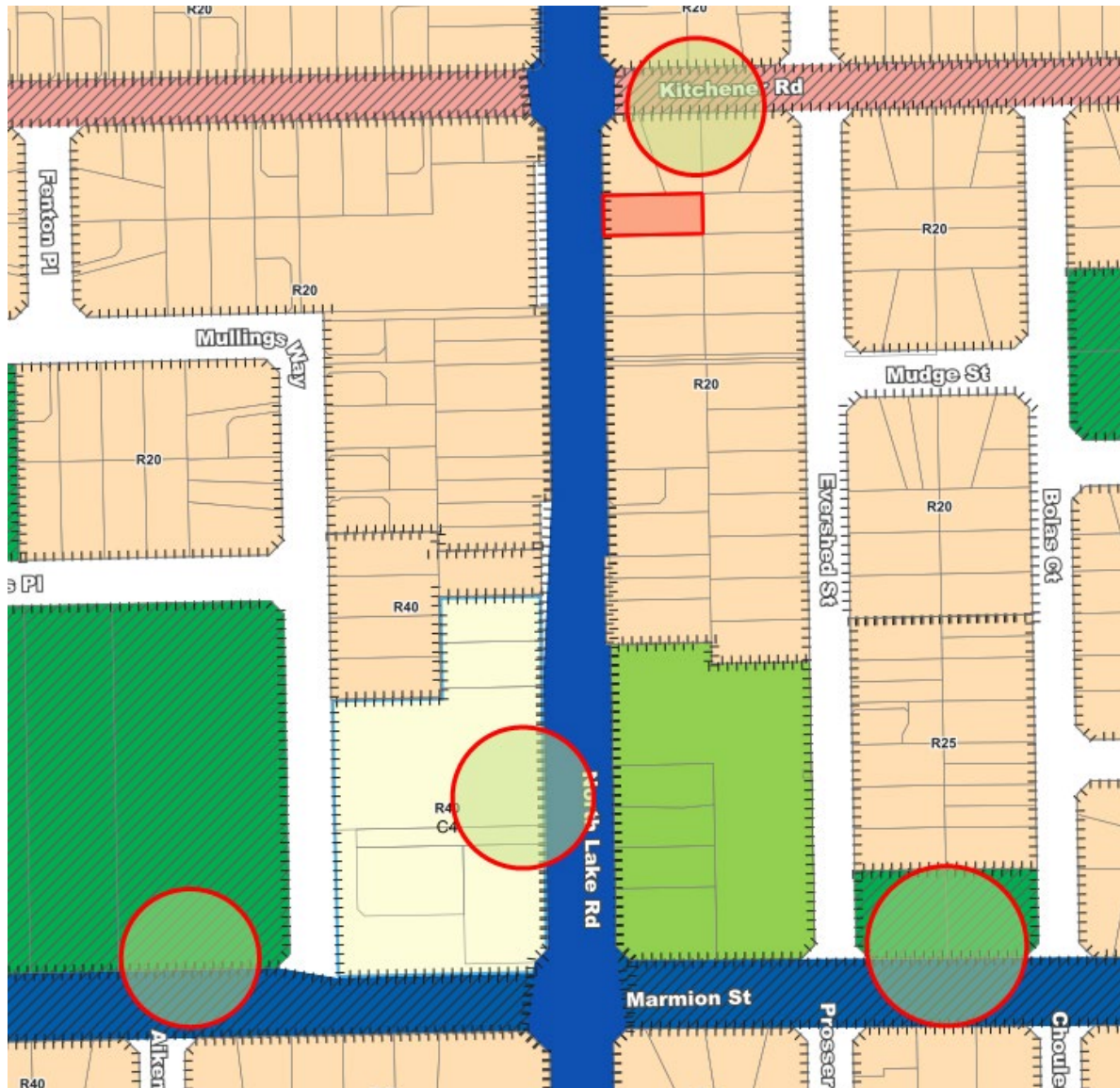


Figure 2: Shows bus stops (in red circles) within close proximity to the subject site. The Child Care premise is located 150m and 220m away from the Myaree Shopping Centre and Marmion Reserve respectively, both of which have numerous street and centre parking options within a short walk of the subject site. See Figure 3 below that shows the location of Myaree Shopping Centre and Marmion Reserve within close proximity to the subject site.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

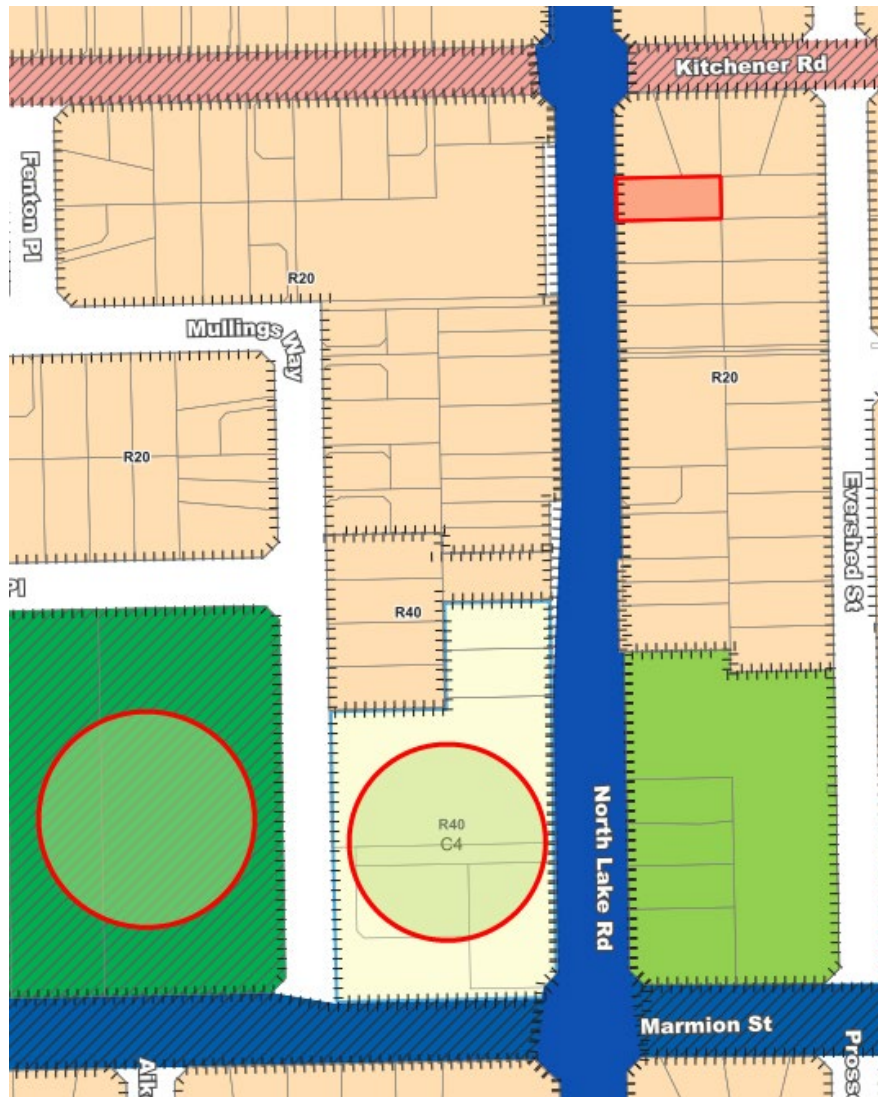


Figure 3: Shows Myaree Shopping Centre and Marmion Reserve (in red circles) within close proximity to the subject site.

The City's technical officers have reviewed the TIS including the parking provisions and agree with its conclusions and recommendations.

Given the above, the proposed car parking is considered appropriate for the site, complies with the objectives of LPP 1.6 *Car Parking and Access* and can be supported on that basis.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)**Land Use****City of Melville Local Planning Scheme No. 6**

In accordance with the provisions of Table 3 – Zoning Table of the City of Melville's *Local Planning Scheme No. 6* (LPS6), a 'Child Care Premises' is an 'A' use which is not permitted unless the decision maker exercises its discretion by granting approval after advertising in accordance with Cl.64 of the deemed provisions. In considering the discretionary nature of the use proposed, it is necessary to take into consideration not just the land use table in LPS6, but also the zone objectives table of LPS6 and any relevant state and local planning policies, which include in this case, *LPP 1.12 Child Minding Centres and Family Day Care* (LPP 1.12).

The objectives of the Residential Zone relevant to this development are as follows:

1. *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
2. *To provide for a range of non-residential uses, which are compatible with and complementary to residential development to promote sustainable residential development; and*
3. *To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*

With respect to the above objectives, the proposed built form is consistent with the surrounding residential area with respect to bulk, scale, design and street alignment.

Child Care as a land use can co-exist with existing adjoining residential uses without compromise to the levels of residential amenity currently enjoyed by occupiers of such properties. The proposed childcare centre will complement the local school providing a service which draws patronage from the adjoining residential area, promoting the objective of creating a more sustainable residential environment.

The principle of childcare premises being acceptable in residential areas is supported by WAPC *Planning Bulletin 72/2009* dealing with Child Care Centres.

The proposed land use is considered to meet the objectives of the Residential zone in terms of building design and compatibility with the surrounding residential and commercial land uses. As such in land use terms the proposed development is supported in principle.

Local Planning Policy LPP 1.12 Child Minding Centres and Family Day Care (LPP 1.12)

Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 states that when considering an application for development approval the decision maker is required to have due regard to a range of matters including the requirements of the local planning scheme and any local planning policy. The proposed development has been assessed against LPP 1.12.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

The policy objective of LPP1.12 relevant to this development is as follows.

To provide for the establishment of childcare and family day care premises within the City of Melville, whilst ensuring that their location, siting and design is compatible with the surrounding built form and avoids significant adverse amenity impacts.

The built form surrounding the subject site is a mix of established residential and low scale commercial land uses. The existing residential land uses primarily comprise of one and two storey single dwellings, consistent with the Residential R20 zoning of the land. The existing commercial land uses that abut the site to the north and south are both consulting rooms and comprise a dentist and chiropractor respectively. The proposed Child Care building is of residential scale and character and as such respects the stated policy objective.

The preferred locational characteristics for childcare premises detailed in Clause 3.1 and officer comments are referenced in the table below.

Preferred Location Criteria	Officer Comment
Corner sites – to improve the ability for access and to limit the impacts upon adjoining residential properties	The proposed development is located one lot from the corner of Kitchener Road and North Lake Road. The development provides one entry/exit point and cars leave the site in forward gear.
Located close to, or abutting shopping centres, workplaces, schools, community facilities, public open space and civic facilities	A walkable catchment is identified as a distance of 400 to 800m (approximately 5-to-10-minute walk). The subject site is located 150m from a Local centre (Myaree Shopping Centre), 220m from the nearest public open space (Marmion Reserve) and 180m from Mel Maria Catholic Primary School.
Well served by footpaths, dual access paths and public transport.	Footpaths are on both sides of North Lake Road. Public transport is available from Kitchener Road and Marmion Street with the nearest bus stop being on Kitchener Road, 60m from the site.
Adequate size to provide suitable areas of play space and parking.	The open space provided by this centre is compliant as per the <i>Child Care Services Act 2007</i> . The amount of parking bays proposed satisfies the requirements of LPP 1.6 Car Parking and Access. The lack of a dedicated pick up and drop off area is discussed above within the parking assessment.
Located on Local Distributor and District Distributor Roads.	The proposed development is located on North Lake Road which is classified as a District Distributor Road.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

The development application was also accompanied by supporting documents including an Environmental Noise Assessment and a TIS as required by LPP1.12. The supporting documents were prepared by specialists from their respective professional disciplines. These have been reviewed by relevant officers from the City's Technical Services (Traffic Engineers) and Environmental Health teams and are considered to have adequately addressed all relevant matters associated with the proposed development.

The proposed development is considered to have met all the relevant standards set out in LPP1.12. It demonstrates high quality-built form and respects the residential and commercial nature of the area. The proposed childcare centre is located in close proximity to local services, and traffic and noise matters have been adequately addressed. The proposed Child Day Care premises is recommended for conditional approval on that basis.

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 opportunity to call this matter up for formal Council consideration.

CONCLUSION

The application is considered to satisfy the provisions of LPS6, and Council Policy. It is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION**APPROVAL****Subject to the following conditions:**

- 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. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.**
- 4. A maximum of 6 staff members and 40 children are permitted on site during standard operational times unless otherwise approved in writing, to the satisfaction of the City.**

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

5. The Child Care Premise shall only operate between the hours of 8am to 5pm Monday to Friday, to the satisfaction of the City.
6. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 3 of Local Planning Policy LPP3.1 Residential Development to the satisfaction of the City.
7. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy LPP3.1 Residential Development, to the satisfaction of the City.
8. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding streets prior to the initial occupation of the development to the satisfaction of the City.
9. Prior to the initial occupation of the development, all parking bays manoeuvring areas, driveway[s] and points of ingress and egress shall be provided in accordance with the approved plans to the satisfaction of the City. The bay[s] shall thereafter be retained for the life of the development.
10. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.
11. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossover shall be designed in accordance with the approved plans

The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications, to the satisfaction of the City.
12. Prior to the initial occupation of the development, the applicant shall demonstrate that the development, including acoustic fencing has been built in compliance with the recommendations and assumptions in the Herring Storer Acoustics Report Environment Acoustics Assessment dated October 2022, to the satisfaction of the City.
13. The recommendations set out in the Noise Assessment prepared by Herring Storer Acoustics are to be implemented and adhered to for the duration of the occupancy or use of the development, unless otherwise approved in writing by the City.
14. Access of service vehicles to the property including deliveries shall not occur before 7:00am or after 7:00pm Monday to Saturday and before 9:00am or after 7:00pm on Sundays and Public Holidays.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

15. All trees on the City's verge to be managed in accordance with Tree Policy (CP-029) Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:

- **A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.**
- **If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.**
- **Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.**
- **The following actions shall not be undertaken within any TPZ:**
 - **Storage of materials, equipment fuel, oil dumps or chemicals**
 - **Servicing and refuelling of equipment and vehicles**
 - **Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)**
 - **Open-cut trenching or excavation works (whether or not for laying of services)**
 - **Changes to the natural ground level of the verge**
 - **Location of any temporary buildings including portable toilets**
 - **The unauthorised entry by any person, vehicle or machinery**
- **No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.**

16. Prior to commencement of development, a detailed landscaping and reticulation plan for the subject site and/or the road verge(s) adjacent to the 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.

U23/0599 - CHANGE OF USE TO CHILD CARE PREMISES AT LOT 100 (NO. 46) NORTH LAKE ROAD, MYAREE WA 6154 (REC) (ATTACHMENT)

- 17. The development is to be constructed and operated in accordance with the approved Waste Management Plan dated 26 August 2022 and as per the City's Local Planning Policy LPP1.3 Waste and Recyclables Collection for Multiple Dwellings, Mixed Use Developments and Non-Residential Developments.**
- 18. A minimum of 30 days prior to the lodgement of a Building application, the applicant shall submit a Construction Management Plan (CMP) to the City of Melville for approval. The CMP shall be prepared having regard to the provisions of Local Planning Policy 1.22 Construction Management Plans. Once approved in writing by the City, the development is to be carried out in accordance with the CMP to the satisfaction of the City. Any modifications to the CMP are to be approved by the City in writing.**
- 19. Prior to the initial occupation of the development, bicycle parking facilities for two (2) bicycles shall be provided in accordance with Australian Standard AS 2890.3, to the satisfaction of the City. The facilities shall thereafter be retained for the life of the development.**