

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 16 NOVEMBER 2021

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, 19 NOVEMBER 2021



**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, 16 NOVEMBER 2021**

PRESENT

P Prendergast
M Scarfone
G Russell
B Ashwood
T Cappellucci
M Flanagan

Manager Statutory Planning
Planning Services Coordinator
Manager Building Services
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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**U21/573 – CHILD CARE CENTRE (OUTSIDE OF SCHOOL HOURS) – 43 (LOT 535)
ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)**

Ward : Palmyra - Melville - Willagee Ward
 Category : Operational
 Application Number : DA-2021-1067
 Property : 43 (Lot 535) Zenobia Street, Palmyra WA 6157
 Proposal : Child Care Centre (Outside of School Hours)
 Applicant : One Tree Community Services Inc.
 Owner : City of Melville
 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 (e.g. 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>

**U21/573 - CHILD CARE CENTRE (OUTSIDE OF SCHOOL HOURS) – 43 (LOT 535)
ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Development approval is sought for an outside of school hour's Child Care Centre at No.43 (Lot 535) Zenobia Street, Palmyra.
- The applicants of the subject proposal have a lease from the City of Melville to occupy the building that exists on-site. The building is currently classified as an 'Educational Establishment' land use and has historically functioned as a 'pre-primary centre' used by Palmyra Primary School.
- The details of the proposed development have been assessed *against Local Planning Scheme No. 6 (LPS6), Local Planning Policy 1.12 - Child Minding Centres and Family Day Care (LPP1.12)* and relevant local planning and council policies.
- The proposed Child Care Centre use requires a performance assessment in relation to the suitability of the land use and the associated car parking requirements.
- In accordance with *Local Planning Policy 1.1 - Planning Process and Decision Making*, the development application was advertised to adjoining owners and occupiers.
- Three submissions were received in respect of car parking, traffic management and impact on neighbourhood amenity.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against LPS6 and LPP 1.12.
- It is recommended that approval be granted subject to conditions.



Figure 1: Aerial Photography of subject site

**U21/573 - CHILD CARE CENTRE (OUTSIDE OF SCHOOL HOURS) – 43 (LOT 535)
ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)****BACKGROUND**

In June 2018, the Department of Education vacated the City owned subject site which had been leased for the Palmyra Kindergarten in association with Palmyra Primary School. Following this, the City's Community Development team carried out a needs analysis for the potential re-use of the building. This needs analysis informed a recommendation by the Strategic Property Management Group to the City's Executive that the building be demolished with the land to be reinstated into Geo Thompson Park. At the Ordinary Meeting of Council held on 12 March 2019, Council directed the Chief Executive Officer (CEO) to undertake further assessment to determine the feasibility including estimated costs of retaining and upgrading subject site for other suitable community uses. In October 2019 a tender was advertised, with One Tree Community Services, the applicant in this case, being the preferred bidder, with their intention being to relocate the existing pre and after school care from the Primary School site, back to the subject site.

Scheme Provisions

MRS Zoning	: Urban
LPS6 Zoning	: Residential
R-Code	: R20
Use Type	: Child Care Premises
Use Class	: 'A' Use

Site Details

Lot Area	: 1753m ²
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes
Street Furniture (drainage, pits, etc.)	: Not applicable
Site Details	: Refer photo above – Figure 1

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 19 November 2021.

DETAIL

In September 2021, the subject development application was lodged for the change of use of the subject site from an 'Educational Establishment' to a 'Child Care Premises'. The development is proposed to operate between the hours of 7:00am to 8:45am and 3:00pm to 6:00pm Monday to Friday during school terms and 7:00am to 6:00pm Monday to Friday outside of school terms. A maximum of 30 children and 3 staff will be on the premises at any one time. The proponent is to replace the existing signage on-site (as shown in Figure 2 below) with their own branding within the dimensions of the existing sign.

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Figure 2: View of the corner of the subject lot between Zenobia and McKimmie. The existing sign is to be replaced with the operators branding

The application has been assessed against the provisions of LPS6, LPP1.12 and relevant local planning and Council policies. A performance assessment is required in respect of the matters listed below.

Local Planning Scheme No.6

Provision	Requirement	Proposed	Comments	Delegation to approve variation
Land Uses (Table 3 of LPS6, LPP 1.12 Child Minding Centres and Family Day Care)	Preferred land uses are outlined within LPS6. These include a range of land uses expected in a residential zone.	Child Care Premises – 'A' use capable of approval in principle.	See planning assessment below under 'Land Uses' section.	Development Advisory Unit

Local Planning Policy 1.12 Child Minding Centres & Family Day Care

Provision	Requirement	Proposed	Comments	Delegation to approve variation
Clause 1 - Locations	Located close to, or abutting shopping centres, workplaces, schools, community facilities or public open spaces.	Located within proximity to Centre zones, schools and public open space.	See planning assessment below under 'Land Uses' section.	Development Advisory Unit

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Provision (cont.)	Requirement	Proposed	Comments	Delegation to approve variation
Clause 3 - Noise and Amenity	<p>3.1 Where a Child Care Premises is proposed to be located adjacent to residential property(s), an acoustic impact assessment shall be requested to demonstrate that the proposal will satisfy the relevant noise regulations.</p> <p>3.2 Outdoor playing spaces should be sited to minimise any adverse noise impact towards occupiers of adjoining residential properties.</p>	<p>No Acoustic Report provided.</p> <p>Separated from the closest residential homes by Zenobia Street and McKimmie Road.</p>	See planning assessment below under 'Land Uses' section.	Development Advisory Unit

Local Planning Policy 1.6 Car Parking and Access

Provision	Requirement	Proposed	Comments	Delegation to approve variation
Parking for Child Minding Centres	<p>5 bays.</p> <p>Pick-up/drop-off area to the satisfaction of the Council.</p> <p>2 bicycle bays.</p>	0 Car and Bicycle bays on-site. Car parking provided within Palmyra Primary school site.	See planning assessment below under 'Car parking' section.	Development Advisory Unit

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STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
Neighbour's Comments Supplied: Yes
Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 3.3 (c)
Support/Object: 3 objections received

A summary of the objections received and a response is provided in the table below.

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Inadequate parking	Refer to the comments section of this report.	Not Uphold
Increase in noise	Refer to the comments section of this report.	Not Uphold
Increased risk to pedestrians	Refer to the comments section of this report.	Not Uphold
Increase in traffic congestion	Refer to the comments section of this report.	Not Uphold
Impacts on the character and aesthetic of the area	Refer to the comments section of this report.	Not Uphold
Issue of parents parking on residents verges and driveway	Noted. This matter would be addressed by the City's Rangers.	Not Uphold
Reduction in birds within Geo Thompson Park due to increase in noise	Noted. This is a previously developed site, the use of which is akin to that now proposed.	Not Uphold
Reduced access to amenities at Geo Thompson Park	Noted. There will be no such impacts.	Not Uphold
One Tree (the applicant) should remain in their current premises at Palmyra Primary School	Not relevant. The choice of operating premises for this business is a matter for the business proprietor.	Not Uphold
The application states that there will be up to 30 children on site at any one time and serviced by 3 staff members whilst their websites states they offer 60 places	Noted. The Education and Care Services National Regulations licenses venues based their size. It is not expected that the subject site will be able to accommodate more than 30 children at any one time.	Not Uphold

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II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City refuse the application or impose a condition that the applicant does not agree with they 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 none in planning terms. Given this is a City owned asset, there are associated financial implications from a leasing stance, but these are not material to the development application in planning terms.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

None.

POLICY IMPLICATIONS

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

COMMENT

The details of the proposal have been assessed against the zoning objectives of the Residential Zone within LPS6 and the provisions of LPP 1.6 and LPP 1.12. With regard to the objections received, the key concerns related to the land use, parking, traffic and reduction in amenity of the locality, are addressed below.

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)

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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.*

The proposed pre and after school child care facility provides an essential service for the local community. The service is currently provided from the Palmyra Primary School site itself, but the space used for this purpose is no longer available, hence the need for alternative accommodation within the locality. The business draws a large percentage of its patronage from the immediate locality, with 80% of currently enrolled students being local Palmyra residents.

The proposed business will operate out of an existing building that has previously been in use as an educational kindergarten, also in association with Palmyra Primary School. The building is modest in scale, is sited well within its parkland setting, and complements the residential character of the area. The proposed development will see the refurbishment of the building which will extend its lifespan in a sustainable manner and allow the site to continue to contribute as a community facility in the interests of the broader Palmyra community for years to come.

It is therefore considered that the proposed land use satisfies the objectives of the Residential zone in terms of building design and compatibility with the surrounding residential land uses. As such in land use terms the proposed development is supported in principle

LPP 1.12 Child Minding Centres and Family Day Care (LPP 1.12).

The proposed development has been assessed against the City's LPP 1.12 and has been deemed to satisfy the majority of the preferred locational characteristics outlined by Clause 1 and the amenity requirements stipulated in Clause 3 for the following reasons:

- The proposed after school centre is located on the corner of Zenobia and McKimmie Road, is located adjacent to Palmyra Primary and is in close proximity to both the Carrington Street and McKimmie Road Local Centre's. The site is well served by public open space by located within Geo Thompson Park, adjacent to Palmyra Primary as well as having adequate play space within the site;
- The subject site is served by bus transport routes with the local roads and footpaths along both Zenobia and McKimmie Road easily accommodating bicycle and pedestrian travel;
- The subject site is located within the wider Geo Thompson Park and is separated from residential properties by Zenobia Street and McKimmie Road. This combined with its operational hours will aid in reducing the impact of noise to surrounding residents;

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- The proposal will not see any change to the existing built form of this 20th century single storey building as such it can be seen to be compatible with the existing residential context of the locality; and
- The premises already benefit from an educational use class which in practical terms is little different to the use that is now proposed.

Car Parking

When assessed against the provisions of LPP 1.12, the proposed use requires 1 car parking bay per 10 children with an additional 0.5 bays per staff member, a total of 4.5 (5) bays. In addition a pick-up/drop-off area needs to be provided to the satisfaction of the City and two bicycle bays area required.

In view of this, a performance assessment is required to assess the availability of car parking within the vicinity of the site and assess the extent to which this satisfies the car parking requirements that apply for the use. In that vein, the following is relevant:

- The site already benefits from an existing land use classification of educational establishment, and has operated as such for many years without the benefit of any dedicated off street car parking.
- Given the proximity of Palmyra Primary School, there are a significant number of embayed on street car parking located along Zenobia Street and McKimmie Road (see Figures 3, 4 and 5 below). These bays are provided to service the parking, drop off, and pick up requirements associated with the Primary School and the former Kindergarten facility.
- On street parking is permitted on the western edge of McKimmie Road, adjacent to the subject site.
- Given patronage from mainly within the locality, and the synergies with the Primary School, the car parking demands from the development are somewhat diluted on the basis that a high proportion of patrons of the proposed pre and after school care centre will come from the Primary School. These impacts are further diluted by the fact that patronage of up to 80% will derive from the local area.
- Peak use for the proposed centre will be both before the morning peak for the school, and after its afternoon peak. Children from the centre will be escorted to and from school by centre staff, thereby also mitigating peak impacts for the school that would otherwise accrue.
- The Primary School has also indicated its willingness to support staff to use the school staff car park during vacation care periods.
- In respect of bicycle parking facilities, it is recommended that a condition be imposed requiring the applicant to provide the necessary bicycle parking bays to the satisfaction of the City.

Overall Amenity Impacts

On the basis that the existing building has been a feature of the local landscape for many years and its character is such that it resembles a residential property in terms of its design and scale, the continued use of the building in the manner proposed can be accepted in principle as no changes to these characteristics will result. In addition given the use is

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closely aligned to the existing adjoining Primary School precinct where ample car parking exists to support the operations of the school, the re-use of the subject building is considered unlikely to result in any additional detriment to residential amenity. Similarly, the activity associated with the pre and after school care in terms of noise is no different to that which would be expected from the use of the building as a Kindergarten, in which case no additional noise impacts to the detriment of residential amenity are likely to result.

Conclusion

The proposed development can be readily accommodated in this existing building on the subject site, is akin to the existing approved use of the site, and can take place without adverse impact on the residential amenity levels currently associated with the locality. On that basis the proposed development is recommended for conditional approval.



Figure 3: Map of the available on-street parking in the locality. The area highlighted in orange is available for pick up and drop off on McKimmie Road. The area highlighted in yellow represents street parking along Zenobia Street and McKimmie Road. School staff parking where staff working at the Child Care Centre may also park is denoted in green

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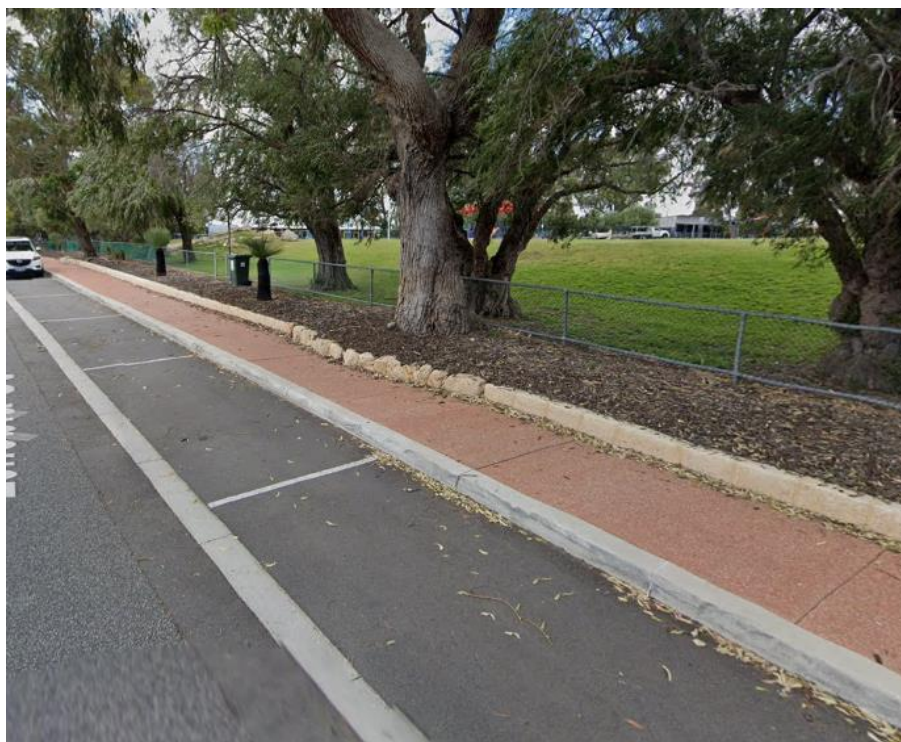


Figure 4: On-street parking along Zenobia Street (Google Street View)



Figure 5: On-street parking along McKimmie Road (Google Street View)

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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

For the reasons given above, the proposed land use is considered to be consistent with the relevant planning framework. Accordingly, it is recommended that approval for the change of use is granted, 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. The centre shall only operate between the hours of 7:00am to 8:45am and 3:00pm to 6:00pm Monday to Friday during school terms and 7:00am to 6:00pm Monday to Friday outside of school terms, to the satisfaction of the City.**
- 4. A maximum of 3 staff and 30 children are permitted on site unless otherwise approved in writing, to the satisfaction of the City.**
- 5. The Waste Management Plan shall be in accordance with the approved Waste Management Plan dated September 2021 as per 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.**
- 6. Prior to the initial occupation of the development, bicycle parking facilities for a minimum of 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**

Advice Notes

- 1. A separate application for Development Approval may be required for any future signage.**