



— *City of* —
Melville

**NOTES
OF THE
AGENDA BRIEFING FORUM
HELD ON
TUESDAY, 3 JUNE 2008**

DISTRIBUTED: 6 JUNE 2008



— City of —
Melville

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Notes of the Agenda Briefing Forum held in the Swan Room, Melville Civic Centre, 10 Almondbury Road, Booragoon on Tuesday, 3 June 2008 which commenced at 6.35pm.

FORUM NOTES

PRESENT

Cr H Everett JP (Presiding Member)	Applecross/Mount Pleasant
R A Aubrey	Mayor
Cr N Pazolli	Applecross/Mount Pleasant
Cr A Ceniviva, Cr D Macphail	City
Cr R Subramaniam, Cr C W Robartson	Bill Creek/Leeming
Cr C M Halton, Cr Phelan	Palmyra/Melville/Willagee
Cr M N Barton	Bicton/Attadale

IN ATTENDANCE

Dr S Silcox	Chief Executive Officer
Mr M Tieleman	Director Customer & Corporate Services
Ms K Davis	A/Director Strategic Urban Planning
Mr J Cameron	A/Director Technical Development Services
Mr D Vinicombe	Manager Planning & Development Services
Mr B Taylor	Manager Information, Technology & Support
Mr J Clark	Governance & Compliance Program Manager
Ms C Rourke	Minute Secretary

There were no members of the public and 2 media representatives present in the public gallery at the commencement of the Agenda Briefing Forum.

Mr Clark read aloud the 'Purpose of Agenda Briefing Forum' and the "Disclaimer statement".

APOLOGIES

Cr G Wieland	Bicton/Attadale
Cr L M Reynolds	University Ward
Ms C Young	A/Director Strategic Community Development

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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AGENDA ITEMS FOR PRESENTATION**P08/3036 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS (SMREC) (ATTACHMENT)**

Item presented by	: Mr David Vinicombe A/Manager Planning & Development Services
Ward	: Applecross / Mount Pleasant
Category	: Operational
Application Number	: DA-2007-1507
Property	: 21 Kintail Road, Applecross
Proposal	: Four storeys building (4 multiple dwellings and 5 offices)
Applicant	: Design Management Group
Owner	: Kintail Developments Pty Ltd
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	: David Vinicombe Manager Planning & Development Services
Previous Items	: Not Applicable

AUTHORITY / DISCRETION

	<u>Definition</u>
<input type="checkbox"/> Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/> Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i>
<input type="checkbox"/> Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/> Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/> Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

KEY ISSUES / SUMMARY

- Proposal is for a four storey mixed use building consisting of 5 offices and 4 multiple dwellings.
- Undercroft carparking for 28 vehicles including disabled bay, inclusive of tandem bays.
- Total plot ratio is 1.1042, for non residential is 0.6808 and residential is 0.4234.
- Two submissions have been received objecting the proposal mainly in relation to height of the building, side setbacks and traffic/carparking.
- Recommended for approval subject to conditions.

P08/3036 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS (SMREC) (ATTACHMENT)**BACKGROUND**

Nil

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	CBF - Canning Bridge Frame
R-Code	:	R50
Use Type	:	Office / Residential
Use Class	:	Office: "S" Use – Council discretion required following advertising. Residential: "D" Use – Council discretion required.

Site Details

Lot Area	:	1014 sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	None
Street Furniture (drainage pits etc)	:	None
Site Details	:	Site Photograph 3036 Site Photo 2008.pdf

[3036 May 2008.pdf](#)

DETAIL

The application proposes a four storey building for mixed use development with 3 offices on the ground floor, 2 offices on the first floor, 2 multiple dwellings on the second floor and another 2 multiple dwellings on the third floor.

A total of 28 carparking bays are proposed within the undercroft parking area (including a disabled bay and tandem bays).

A total plot ratio of 1.1042 is proposed with 0.6808 for the non residential component and 0.4234 for the residential component.

A total landscaping of 30.9% is proposed and 25% is required under the the City of Melville Community Planning Scheme No. 5.

The proposal complies with the height limit maximum of 13.5 metres, as the proposed building is 13.0 metres in height from the natural ground level.

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Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	Not Applicable				
Plot Ratio Non-resident.	0.6	0.6808	Does not comply		
Residential Plot Ratio	0.6	0.4234	Complies		
Total Plot Ratio	1.2	1.1042	Complies		
Landscaping	25%	30.9%	Complies		
Building Height	10.0 metres to eaves 13.5 metres (max.)	13.0 metres	Complies		
Carparking	26 bays	28 bays (inclusive of tandem bays)	Complies		

(Note: Non-compliance is emphasised in bold)

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Front					
GF	Nil	7.1 metres	Complies		
1 F	Nil	7.1 metres			
2 F	Nil	6.2 metres			
3 F	Nil	6.2 metres			
Rear					
GF	6.0 metres	6.0 metres	Complies		
1 F	6.0 metres	6.0 metres			
2 F	1.4 metres	10.0 metres			
3 F	1.75 metres	10.0 metres			
East Side					
GF	2.0 metres	2.0/2.15 mts	Complies		
1 F	2.0 metres	2.0/2.15 mts			
2 F	1.8 metres	1.8/2.2 mts			
3 F	1.8 metres	1.8/2.2/2.4 mts			

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West Side					
GF	2.0 metres	3.5 metres	Complies		
1 F	2.0 metres	3.5 metres			
2 F	1.8 metres	3.5/3.9/4.1 mts			
3 F	3.4 metres	3.5/3.9/4.1 mts			

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Office: "S" Use – Council discretion required following advertising.
 Residential: "D" Use – Council discretion required.
 Support/Object: 2 Submissions objecting

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Up Hold/Not Up Hold)
1.	Height to be restricted to 13.5 metres to restrict overshadowing and overlooking into 23 Kintail Road.	Objection	Height of the building is only 13.0 metres and therefore compliant with the Scheme.	Not Up Hold
	Potential damage to 23 Kintail Road (cracks on walls and fences) due to vibration and excavation during construction of proposed basement carparking.	Objection	As the excavation in this instance is significant, it is appropriate to require the applicant to provide a Dilapidation Report prior to the issue of a Building Licence.	Up Hold
	Setbacks and plot ratios should be in accordance with regulations.	Objection	Proposal complies with setbacks and combined plot ratios for mixed-use development in accordance with the City of Melville Community Planning Scheme No. 5 and the Residential Design Codes	Not Up Hold

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2	Overlooking into the adjoining residential property.	Objection	Louvers and fixed obscure glazing is proposed to avoid overlooking into adjoining residential properties.	Not Up Hold
	Concern about noise level from residents and tenants into the adjoining residential property to the west due to the setback of the building.	Objection	The development proposes a minimum setback to the western boundary of 3.5 metres and a minimum of 10 metres to the rear boundary. These setbacks exceed the standard requirements and provide for increased separation distances to the adjoining property.	Not Up Hold
	Height of the building of 13.75 metres.	Objection	The building is proposed to be 13.0 metres in height – less than provided for under the Scheme.	Not Up Hold
	Concerns about parking problems and increase in traffic along Kintail Road.	Objection	Proposal complies with the minimum carparking required. Kintail Road has the potential to accommodate the traffic generated by the development.	Not Up Hold

REFERRALS TO GOVERNMENT AGENCIES

Nil

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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 in accordance with Part 14 of the Planning and Development Act 2005.

Clause 4.2 (d) (iv) of Community Planning Scheme No. 5 requires a Special Majority Decision of Council to vary plot ratio.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy No. 06-PL-024 Car Parking (Non-Residential) – compliant.

Policy No. 06- PL-036 Planning Process and Decision Making – process would normally require that this application be referred to Portfolio Meeting, but not Council. In this instance, the development has not been presented to a Portfolio Meeting as one has not been scheduled recently. However the alternative of referring the matter through the Council Agenda Forum process provides a suitable option to provide Elected Members with information on the proposal.

City of Melville Development & Building Controls Policy 06-PL-029 – Mixed Use Plot Ratio Bonus Application

Legal advice from Council's Solicitors in 2007 indicates that the plot ratio requirement of Community Planning Scheme No 5 work in hand with the requirements of the Residential Design Codes. As of right, mixed use developments within the Melville Commercial Centre Frame can achieve a plot ratio of 0.6 for the residential component (relative to R50 development) and 0.6 for non-residential development under CPS No. 5 and a total plot ratio of 1.2. In addition, these requirements do not require consideration of any bonus applied under the terms of Council Policy 06-PL-029 - Mixed Use Plot Ratio Bonus Application (e.g. – bonus for community benefits).

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It is noted that the new Residential Planning Codes gazetted on 29 April 2008 now provide for Council to have a Policy with regard to Mixed Use developments. Advice from Council's Solicitors indicates that the modification to the Codes does not provide for Policy No 06-029 "Mixed Use Plot Ratio Bonus Application" to vary or replace the Acceptable Development provisions relative to Mixed Use development at this point as the objectives of the Policy indicate that they were not intended to "vary or replace" the relative provisions. The Policy dealt purely with guiding Council discretion, whereas the Acceptable Development provisions on the other hand are not discretionary unless a new Policy is prepared to vary or replace the acceptable development provisions of the Codes, and for that matter provide guidance relative to the Scheme provisions. In the absence of a new Policy, the existing 2007 advice on this matter still stands and it is recommended that the Policy be reviewed, now that the Codes provide for alternative controls to be applied.

Further, and notwithstanding any Policy implication above, Council's Solicitors confirm that discretion is still available under both the Residential Design Codes (PC 4.2.1 P1) and Clause 4.3 of the Scheme to increase the plot ratio for the residential component. In these instances Council may consider such matters as community benefit in order to warrant an increase in plot ratio. Notwithstanding, Council also has the power to reduce the applicable plot ratio under Clause 7.8 of the Scheme in consideration of a number of matters inclusive of local amenity.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council may refuse the application should it be considered that the development does not comply with the provision of the City of Melville Community Planning Scheme No. 5, as the proposal exceeds the maximum non-residential plot ratio of 0.6. However the proposal complies with the maximum plot ratio of 1.2 based on the Council's legal interpretation and therefore an appeal to the State Administrative Tribunal (SAT) may be difficult to defend.

COMMENTS**Mixed Use Applications**

It should be noted that another application for a Three Storey Mixed-Use Development (3 office units on the ground floor and 5 multiple dwellings) with undercroft carparking was submitted to the City of Melville on 31 October 2007 by the same applicant. The proposal is located on 1 First Avenue, Applecross, at the rear of the subject development application. The application is pending on additional information prior to final assessment and public advertising.

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Also another application for a Three Storey Mixed-Use Development (6 office units on the ground floor and 4 multiple dwellings) with undercroft carparking was submitted to the City of Melville on 20 March 2008. The proposal is located on 30 Kintail Road, corner with Forbes Avenue, Applecross and is under preliminary assessment prior to public consultation.

Plot Ratio

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

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

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

Plot ratio exclusions for non-residential development were previously contained under the Uniform Building Bylaws (but are not included under the current Building Code of Australia). In practice, however, the former Uniform Building Bylaw requirements are generally applied and in this regard, plot ratio for commercial development also exclude walls of the commercial building and all floor areas for vehicle parking, whether at or below ground floor or above. In this regard, it should be noted that the lobby and waiting area on the second floor and passage between tenancy 2 and 3 on the ground floor have been included within the calculation of plot ratio for the non-residential component.

The plot ratio "as of right" (subject to discretionary consideration under Clause 7.8 of CPS No 5) applicable for a Mixed Use Development consists of the plot ratio of the commercial floor area plus the plot ratio of the residential area provided under the R-Coding.

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The development proposes a non-residential plot ratio of 0.6808 (690.29 square metres) which is 81.89 square metres above the maximum 608.4 square metres permitted in the Canning Bridge Frame. The residential component proposes a plot ratio of 0.4234 (429.36 square metres) which is 179.04 square metres below the maximum 608.40 square metres permitted. The combined plot ratio equates to 1.1042 (1119.65 square metres), which is 97.15 square metres less than the 1216.8 square metres permitted “as of right” based on the Council’s legal interpretation of plot ratio for mixed-use development.

The proposal does not involve an overall increase in plot ratio as described above and it is considered reasonable to support the variation relative to the non-residential component. The increase in non-residential plot ratio can be considered under Clause 4.2(d) of the Scheme, which requires a Special Majority vote in favour of the variation and takes into consideration factors listed under Clause 7.8 and any adverse impact on residents or the future development of the locality. In this regard:

- a) It is noted from the consideration of submissions that concerns raised related primarily to matters of compliance with relevant development standards, therefore it is considered that the impacts on residents is limited.
- b) The proposal will not adversely impact on the future development of the locality and matters relating to Clause 7.8 of the Scheme are satisfied.
- c) Specifically, the proposal is not inconsistent with the future amenity of the area as provided under Amendment No 35 to CPS No. 5;
- d) The proposal is consistent with orderly and proper planning as the property is located in the heart of the Precinct and therefore will have a reduced impact relative to other properties located on the fringe of the Precinct.

Accordingly the variation to the plot ratio for the non-residential component of the development is supported.

Car Parking and Traffic

The City of Melville Community Planning Scheme No. 5, Policy No. 06-024 Car Parking (Non-Residential) requires a total of 22 carparking bays for the non-residential component. In accordance with the Residential Design Codes a total of 8 carparking bays are required for the 4 multiple dwellings, which may be reduced to 4 bays where on-site parking required for other users is available outside normal business hours. No visitor bays are required for the residential development in accordance with the Residential Design Codes as only 4 dwellings are proposed.

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Therefore the total required number of bays may be reduced to 26 bays. The proposal is for 28 bays and is supported for approval subject to compliance with the Australian Standards. A condition is recommended to ensure reciprocal use of the commercial carparking outside business hours by residents.

The applicant has submitted a Transport Statement which reviews general parking layout and traffic implications for the proposed development has been supported by the Manager of Engineering Design subject to the following qualifications:

1. Car bay 18 adjacent the lift should be widened to 2.8 m.
2. A truncation to improve pedestrian visibility on the footpath at the top of the vehicular access ramp is to be provided.
3. Due to the tandem nature of parking for a number of bays proposed by the development, it is necessary to mark bays to provide for their shared and managed use. It is noted that tandem parking for different uses are undesirable, however the City of Melville has supported this type of arrangement on numerous occasions. It is noted that in this instance, the parking area can provide for suitable joint use of bays and maintain suitable access for parking relative to the two uses.
4. Provision of a fully paved street parking embayment for service vehicle use with the remaining verge adjoining the embayment being fully paved for pedestrian use to the approval of the Manager Engineering Design.

These matters are to be addressed in conditions applied to any approval for the proposed development.

Landscaping

The proposal shows a calculated landscaping area of 30.9% (313.5 square metres) of the site area, which exceeds the City of Melville Community Planning Scheme No. 5 requirement of a minimum landscaping area of 25% for non-residential development.

Bin Storage

A bin storage area is proposed in the basement carparking. Therefore the proposal will be conditioned to provide suitable arrangements for the collection of bins to the approval of the City of Melville Waste Services.

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Submissions

Two submissions have been received objecting the proposal, mainly addressing the height of the building, overlooking into residential adjoining properties, noise, side setbacks, carparking and increase in traffic. A summary and comment have been included within the report above and the objections are not recommended to be upheld due to the fact that the reasons for objection relates specifically to a number of factors of the development which are complaint with the provision of the City of Melville Community Planning Scheme No. 5, its policies and the Residential Design Codes.

CONCLUSION

In view of the above and the development satisfying in general the City of Melville Community Planning Scheme No. 5 and the Residential Design Codes, the proposal is supported for approval subject to conditions.

OFFICER RECOMMENDATION (3036)

SPECIAL MAJORITY APPROVAL

THAT COUNCIL VARY POLICY 06-PL-036 WITH REGARD TO DECISION MAKING PROCESSES AND THE APPLICATION FOR PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

SPECIAL CONDITIONS:

- 1. THE SECURED CAR PARKING AREA TO PROVIDE FOR A MINIMUM OF EIGHT RESIDENTIAL AND ELEVEN COMMERCIAL CAR BAYS AFTER NORMAL BUSINESS HOURS, AND A MINIMUM OF FOUR RESIDENTIAL AND FIFTEEN COMMERCIAL CAR BAYS DURING BUSINESS HOURS.**
- 2. THE BUILDING LICENCE APPLICATION TO INCLUDE DETAILS ON MANAGEMENT OF THE COMMERCIAL PARKING AREA TO ENSURE THAT IT IS OPEN FOR PUBLIC USE DURING BUSINESS HOURS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 3. FOUR RESIDENTIAL PARKING BAYS IN THE SECURED PARKING AREA TO BE MARKED FOR DAY TIME USE AND A FURTHER FOUR BAYS IN THAT AREA TO BE MARKED FOR AFTER HOURS RESIDENTIAL USE WITHIN BAYS 10-17 INCLUSIVE.**

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4. THE DIMENSIONS OF ALL CAR PARKING BAYS, AISLE WIDTHS AND CIRCULATION AREAS COMPLYING WITH AUSTRALIAN STANDARD AS2890.1. THIS WILL SPECIFICALLY REQUIRE ALTERATION TO THE LIFT ADJACENT TO CAR BAY 18 WHICH IS TO BE WIDENED TO 2.8 METRES.
5. PROVISION OF AN IMPROVED TRUNCATION OR REDUCED WALL HEIGHT AT THE TOP OF THE VEHICULAR ACCESS RAMP ADJACENT THE FOOTPATH TO IMPROVE PEDESTRIAN VISIBILITY AND SAFETY.
6. PROVISION OF A FULLY PAVED STREET PARKING EMBAYMENT FOR SERVICE VEHICLES WITH THE REMAINING ADJOINING VERGE BEING PAVED TO APPROVAL OF THE MANAGER ENGINEERING DESIGN SERVICES.
7. PRIOR TO THE ISSUE OF THE BUILDING LICENCE, THE APPLICANT/OWNER IS REQUIRED TO SUBMIT A CONSTRUCTION MANAGEMENT PLAN FOR THE PROPOSAL, TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES, DETAILING HOW IT IS PROPOSED TO MANAGE:
 - THE DELIVERY OF MATERIALS AND EQUIPMENT TO THE SITE;
 - THE STORAGE OF MATERIALS AND EQUIPMENT ON THE SITE;
 - THE PARKING ARRANGEMENTS FOR CONTRACTORS AND SUBCONTRACTORS;
 - IMPACT ON TRAFFIC MOVEMENT AND;
 - OTHER MATTERS LIKELY TO IMPACT ON THE SURROUNDING RESIDENTS.
8. A DETAILED LANDSCAPING AND RETICULATION PLAN BEING SUBMITTED AND APPROVED FOR THE SUBJECT SITE AND ROAD VERGE ADJACENT TO THE SITE. THE APPROVED LANDSCAPING PLAN SHALL BE FULLY IMPLEMENTED PRIOR TO THE FIRST COMMENCEMENT AND OPERATION OR OCCUPATION OF THE DEVELOPMENT AND MAINTAINED THEREAFTER TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
9. SUITABLE ARRANGEMENTS BEING MADE FOR THE STORAGE OF BINS AND COLLECTION OF WASTE FROM THE SITE TO APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.

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10. DURING EXCAVATIONS, ALL NECESSARY PRECAUTIONS TO BE TAKEN TO PREVENT DAMAGE OR COLLAPSE OF ANY ADJACENT STREETS, RIGHT-OF-WAY OR ADJOINING PROPERTIES. IT IS THE RESPONSIBILITY OF THE BUILDER TO LIAISE WITH ADJOINING AND ADJACENT PROPERTY OWNERS PRIOR TO CARRYING OUT WORK.
11. ON COMPLETION OF CONSTRUCTION, ALL EXCESS ARTICLES, EQUIPMENT, RUBBISH OR MATERIALS AND TEMPORARY FACILITIES ARE TO BE REMOVED AND THE SITE AND SURROUNDING AREA USED DURING THE DEVELOPMENT IS TO BE MADE GOOD AND LEFT IN AN ORDERLY AND TIDY CONDITION TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
12. ALL SECURITY ALARM DEVICES TO BE “SILENT MONITORED” SYSTEMS TO ADDRESS POTENTIAL IMPACTS ON SURROUNDING RESIDENTIAL AMENITY TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
13. THE FAÇADE OF THE BUILDING AND WALLS TO BE TREATED WITH AN ANTI-GRAFFITI AGENT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
14. PROVISION OF A NOISE MANAGEMENT PLAN FOR THE DEVELOPMENT INDICATING HOW THE NOISE FROM THE CARPARKING, AIR CONDITIONING AND OTHER MECHANICAL EQUIPMENT WILL IMPACT ON THE NEIGHBOURING PROPERTIES AND RECOMMENDATIONS FOR REDUCING ANY POTENTIAL NOISE IMPACT TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE RECOMMENDATIONS SHALL BE INCORPORATED IN THE PLANS SUBMITTED FOR A BUILDING LICENCE.
15. THE USE AND/OR DEVELOPMENT HEREBY PERMITTED SHALL AT ALL TIMES COMPLY WITH THE REQUIREMENTS OF THE ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997. APPLICANT IS REQUIRED TO CONSULT WITH CITY OF MELVILLE HEALTH SERVICES PRIOR TO THE INSTALLATION OF ANY NOISE EMITTING EQUIPMENT SUCH AS AIR CONDITIONERS.
16. THE BUILDING SHALL NOT USE REFLECTIVE OR MIRROR GLASS EXTERNALLY. DETAILS TO BE SHOWN ON THE DEVELOPMENT PLANS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.

P08/3036 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS (SMREC) (ATTACHMENT)

17. THE ROOF OF THE BUILDING NOT TO BE ZINCALUME OR WHITE METAL (E.G. COLORBOND SURFMIST) OR ANY OTHER MATERIAL / COLOUR CONSIDERED TO BE HIGHLY REFLECTIVE UNLESS OTHERWISE APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED ROOF MATERIAL AND COLOUR TO BE SHOWN ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE.
18. SUBMISSION OF A GLARE REFLECTIVITY STUDY BY A SUITABLY QUALIFIED PROFESSIONAL AND ANY GLARE ISSUES TO BE ADDRESSED PRIOR TO THE ISSUE OF A BUILDING LICENCE.
19. THE SUBMISSION OF A COLOUR SCHEDULE BOARD DETAILING THE USE OF MATERIALS, FINISHES AND COLOURS FOR THE MIXED USE BUILDING TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
20. EQUIPMENT SUCH AS AIR CONDITIONERS OR EXHAUST VENTS, BUT NOT INCLUDING ANY SOLAR PANEL, WHICH ARE LIKELY TO DETRACT FROM THE VISUAL APPEARANCE OF THE BUILDING SHALL NOT BE LOCATED ON THE ROOF OR OTHERWISE EXPOSED TO PUBLIC VIEW.
21. PRIOR TO THE OCCUPATION OF THE BUILDING A SIGN STRATEGY FOR THE BUILDING IS TO BE SUBMITTED AND APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
22. THE PROVISION OF TWO STREET TREES IN THE VERGE AREA OF THE SUBJECT PROPERTY IN 100L CONTAINERS, AT THE APPLICANTS / OWNERS FULL COST TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED STREET TREES AND LOCATION TO BE INCLUDED IN THE LANDSCAPING AND RETICULATION PLAN STATED IN SPECIAL CONDITION 8.
23. PRIOR TO THE ISSUE OF A BUILDING LICENCE, THE APPLICANT TO SUBMIT A DILAPIDATION REPORT TO THE APPROVAL OF THE PRINCIPAL BUILDING SURVEYOR.

P08/3036 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS (SMREC) (ATTACHMENT)

STANDARD CONDITIONS:

24. A 1.8 METRE HIGH FENCE TO BE PROVIDED FROM THE HIGHEST RETAINED GROUND LEVEL. ALL FENCING TO BE PROVIDED IN ACCORDANCE WITH THE DIVIDING FENCES ACT. AND BE CONSTRUCTED AS A MINIMUM STANDARD OF FIBRE CEMENT.
25. THE CONSTRUCTION OF RETAINING WALLS NOT TO EXCEED THE HEIGHTS SPECIFIED ON THE APPROVED PLANS UNLESS OTHERWISE APPROVED BY COUNCIL. DETAILS, SIGNED BY A PRACTICING STRUCTURAL ENGINEER MUST BE SUBMITTED FOR APPROVAL AT THE TIME OF SUBMITTING A BUILDING LICENCE APPLICATION.
26. THE DEVELOPMENT IS TO BE CONNECTED TO THE WATER CORPORATION'S RETICULATED SEWERAGE SYSTEM.
27. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.
28. LIGHTING TO BE PROVIDED TO ALL CARPARKING AREAS AND THE EXTERIOR ENTRANCES TO ALL BUILDINGS IN ACCORDANCE WITH AUSTRALIAN STANDARD AS 1158.3.1 (CAT. P). ALL EXTERNAL LIGHTING TO BE HOODED AND ORIENTED SO THAT THE LIGHT SOURCE IS NOT DIRECTLY VISIBLE TO THE TRAVELLING PUBLIC OR ABUTTING RESIDENCES.
29. ALL SEWERAGE WASTES AND WATER PIPES TO BE CONCEALED WITHIN THE BUILDING.
30. PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION THE COUNCIL REQUIRES THE PROVISION OF A SUITABLE RECEPTACLE FOR THE CONTAINMENT OF WINDBLOWN RUBBISH. THE RECEPTACLE (GENERALLY A WIRE MESH CAGE) SHOULD HAVE MAXIMUM OPENINGS OF 100MM; HAVE A BASE OF 4M² AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.
31. DURING CONSTRUCTION ACCESS TO THE LOT TO BE VIA THE STREET FRONTAGE ONLY AND THAT NO BUILDING RUBBLE BE PERMITTED TO OVERSPILL THE SITE.
32. ELECTRICAL INSTALLATION TO BE CONSTRUCTED AND MAINTAINED TO THE SATISFACTION OF WESTERN POWER IN ACCORDANCE WITH THE SAA WIRING RULES NO.CC1, PART 1, 1961.

P08/3036 - PROPOSED FOUR STOREY MIXED USE DEVELOPMENT (FOUR MULTIPLE DWELLINGS AND FIVE OFFICES) ON LOT 303 (21) KINTAIL ROAD, APPLECROSS (SMREC) (ATTACHMENT)

33. ALL STORMWATER AND DRAINAGE RUN OFF TO BE CONTAINED ON SITE. AN ONSITE STORMWATER DRAINAGE SYSTEM WITH A CAPACITY TO CONTAIN A 1:100 YEAR STORM OF A TWENTY-FOUR (24) HOUR DURATION IS TO BE PROVIDED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. ALL DOWNPIPES TO BE CONNECTED TO SOAKWELLS. THE PROPOSED STORMWATER DRAINAGE SYSTEM IS REQUIRED TO BE SHOWN ON THE BUILDING LICENCE SUBMISSION FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE LODGING OF DETAILED LANDSCAPE AND RETICULATION PLANS, TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES FOR THE DEVELOPMENT OF THE SITE AND THE ADJOINING ROAD VERGE(S) AT THE TIME OF SUBMITTING A BUILDING LICENCE APPLICATION.
34. A SEPARATE APPLICATION FOR PLANNING APPROVAL AND A SIGNS LICENCE IS REQUIRED FOR ALL SIGNAGE.
35. THE LAND SHALL NOT BE USED FOR THE PURPOSE APPROVED UNTIL COUNCIL HAS ISSUED A CERTIFICATE OF CLASSIFICATION FOR THAT USE AND THE MANAGER PLANNING AND DEVELOPMENT SERVICES IS SATISFIED THAT ALL RELEVANT CONDITIONS OF THIS APPROVAL HAVE BEEN SATISFIED.
36. PRIOR TO OCCUPANCY OR COMMENCEMENT OF THE LAND USE THE APPLICANT IS TO ARRANGE FOR A PRACTICAL COMPLETION INSPECTION TO BE UNDERTAKEN BY THE CITY AND FOR ALL RELEVANT CONDITIONS TO BE SATISFIED TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. IN CERTAIN CIRCUMSTANCES, AND AT ITS DISCRETION, A CONDITION MAYBE SATISFIED IN PART BY WAY OF A LEGAL AGREEMENT BEING IN PLACE AND BOND/BANK GUARANTEE BEING SUBMITTED BY THE APPLICANT/OWNER TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. WHERE THE DEVELOPMENT INVOLVES THE ERECTION OF A BUILDING A CERTIFICATE OF CLASSIFICATION BEING OBTAINED PRIOR TO OCCUPANCY.

FOOTNOTES

1. WITH RESPECT TO SPECIAL CONDITION 9, THE APPLICANT IS REQUIRED TO LIAISE WITH THE CITY OF MELVILLE WASTE SERVICES.
2. A HEALTH LICENCE IS REQUIRED FOR THIS DEVELOPMENT AT THE BUILDING APPROVAL STAGE.

General discussion took place regarding the report and officer recommendation. Cr Barton enquired about the height of the underground parking bays and whether a portion of the parking area could be converted to additional office space if ultimately the parking was not required. The Manager Planning & Development Services, Mr Vinicombe advised that he would provide that information to Cr Barton.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Item presented by : Mr David Vinicombe
A/Manager Planning & Development Services

Ward : Palmyra/Melville/Willagee

Category : Operational

Application Number : DA-2007-1603/A

Property : 28A Foss Street, Palmyra WA 6157
28B Foss Street, Palmyra WA 6157

Proposal : Three-Storey Mixed Use Development (Five Multiple Dwellings and Eleven Office Units)

Applicant : Private Horizon Planning Solutions

Owner : Interweave Pty Ltd

Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.

Responsible Officer : Mr David Vinicombe
Manager Planning and Development Services

Previous Items : Report P08/3031 [3039 Previous Item 3031.pdf](#)
Proposed Three Storey Mixed Use development (Five Multiple Dwellings and Eleven Offices) on Lot 1 (28A) and Lot 2 (28B) Foss Street, Palmyra to Council 18 March 2008.

AUTHORITY / DISCRETION

- | | <u>Definition</u> |
|--|---|
| <input type="checkbox"/> Advocacy | <i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i> |
| <input type="checkbox"/> Executive | <i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i> |
| <input type="checkbox"/> Legislative | <i>includes adopting local laws, town planning schemes & policies.</i> |
| <input type="checkbox"/> Review | <i>when Council reviews decisions made by Officers.</i> |
| <input checked="" type="checkbox"/> Quasi-Judicial | <i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- The application is for amendments to a three-storey mixed use development comprising 5 residential dwelling units and 8 office units on the subject property which was approved by Council on 18 March 2008.
- The development proposes two variations from the approved plans, being an increase in office floor space and rear boundary setback to level 2. Consequential changes include lowering of the approved building at the rear, a minor increase in plot ratio and parking and reduction in landscaping.
- This requires the deletion of Planning Condition 1.
- Letter of non objection from adjoining rear landowner received supporting the proposed reduced rear setback variation.
- Developer has reduced the floor levels of the rear portion of the development to match that of the approved developments front portion. This reduces building height and bulk of the development overall.

BACKGROUND

The development site is currently a strata-titled parent lot with one grouped dwelling on the front lot (28A Foss Street, Palmyra) and one vacant rear strata lot (28B Foss Street, Palmyra).

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Commercial Centre Frame – Melville Frame
R-Code	: R50
Use Type	: Office / Residential
Use Class	: Office: “S” Use – Council discretion required following advertising. Residential: “D” Use – Council discretion required.

Site Details

Lot Area	: 1073sqm
Retention of Existing Vegetation	: No
Street Tree(s)	: 1 Weeping Peppermint – To be retained
Street Furniture (drainage pits etc)	: Footpath
Site Details	: Site Photograph 3039 Site Photo 2008.pdf

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Development Requirements

Modifications to the approved plans are assessed as follows.

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Plot Ratio - Residential	Max 644 sqm - 0.6	672 sqm - 0.626	Complies by virtue of previous approval	Approved by Council 18 March 2008	
Plot Ratio - Non-Residential	Max 644 sqm - 0.6	629.2 sqm - 0.586	Complies		
Plot Ratio - Total	Max 1288 sqm - 1.2	1301.2 sqm - 1.213	Does not comply		
Landscaping	Min 25% (268 sqm) of site area	19.6% (210sqm) of site area	Does Not Comply		
Carparking	29 bays (10 res, inclusive of 1 visitor bay & 18.4 (19) office)	31 bays - 2 excess bays	Complies		

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Rear (E) <u>Middle</u> <u>(Office)</u>	6.0m	3.25m	Does Not Comply		

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Variations to planning requirements
 Support/Object: One letter of support from owner to the rear

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not uphold)
1.	Letter of no objection	Support	Noted	Uphold

REFERRALS TO GOVERNMENT AGENCIES

Not required.

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

None

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

None

SCHEME AND POLICY IMPLICATIONS

Community Planning Scheme No. 5

Clause 4.2 (d) provides for Council to vary any of the development requirements in Part 4, having regard to Clause 7.8 and impacts on users of the development and existing and future amenity of the locality and residents.

Clause 5.7(c) Non-Residential Development Amenity stipulates that:

“every non-residential building shall have minimum boundary setbacks of 2 metres side and 6 metres rear from adjoining residential development, other than in the City Centre and District Centre Precincts, and the Mixed Business and Mixed Business Frame Precincts, unless otherwise specified or approved by the Council”.

Clause 5.9 Landscaping (Non-Residential) requires that landscaping be provided in accordance with Part 4 of the Scheme, the R Codes and any Council Policy. Part 4 of the Scheme includes Precinct development requirements for the Melville Commercial Centre Frame which requires 25% of the site to be landscaped.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Clause 7.8 lists a number of matters which Council is to consider when determining an application for planning approval.

Residential Design Codes 2008

The Residential Design Codes 2008 are a State Government Planning Policy that applies to residential development in Western Australia. It is assumed that the provisions of the R-Codes apply unless otherwise specified in a local planning scheme or local planning policy.

Special Provisions 7.2 of the R-Codes relates to Mixed Use Development. Of particular relevance are the provisions relating to on-site car parking, which allows for a reduction of one bay per dwelling where on-site parking required for other uses is available outside normal business hours, and plot ratio, which allows for the ground floor non-residential uses to be excluded from the plot ratio calculation. (See comments below on Plot Ratio).

City of Melville Development & Building Controls Policy 06-PL-029 – Mixed Use Plot Ratio Bonus Application

Legal advice from Council's Solicitors in 2007 indicates that the plot ratio requirement of Community Planning Scheme No 5 work in hand with the requirements of the Residential Design Codes. As of right, mixed use developments within the Melville Commercial Centre Frame can achieve a plot ratio of 0.6 for the residential component (relative to R50 development) and 0.6 for non-residential development under CPS No. 5 and a total plot ratio of 1.2. In addition, these requirements do not require consideration of any bonus applied under the terms of Council Policy 06-PL-029 - Mixed Use Plot Ratio Bonus Application (e.g. – bonus for community benefits).

It is noted that the new Residential Planning Codes gazetted on 29 April 2008 now provide for Council to have a Policy with regard to Mixed Use developments. Advice from Council's Solicitors indicates that the modification to the Codes does not provide for Policy No 06-029 "Mixed Use Plot Ratio Bonus Application" to vary or replace the Acceptable Development provisions relative to Mixed Use development at this point as the objectives of the Policy indicate that they were not intended to "vary or replace" the relative provisions. The Policy dealt purely with guiding Council discretion, whereas the Acceptable Development provisions on the other hand are not discretionary unless a new Policy is prepared to vary or replace the acceptable development provisions of the Codes, and for that matter provide guidance relative to the Scheme provisions. In the absence of a new Policy, the existing 2007 advice on this matter still stands and it is recommended that the Policy be reviewed, now that the Codes provide for alternative controls to be applied.

Further, and notwithstanding any Policy implication above, Council's Solicitors confirm that discretion is still available under both the Residential Design Codes (PC 4.2.1 P1) and Clause 4.3 of the Scheme to increase the plot ratio for the residential component. In these instances Council may consider such matters as community benefit in order to warrant an increase in plot ratio. Notwithstanding, Council also has the power to reduce the applicable plot ratio under Clause 7.8 of the Scheme in consideration of a number of matters inclusive of local amenity.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The City of Melville may either approve the application with or without conditions or refuse the application should it be considered that the development does not comply with the provisions of Community Planning Scheme No. 5 (CPS No. 5), Council Policy or the Residential Design Codes 2008 (R-Codes). Refusal or application of conditions which are considered unreasonable by the applicant may give rise to an application of review by the State Administrative Tribunal (SAT).

COMMENTS

Amended plans have been received to increase the office floorspace by reducing the rear setback and thereby increasing the viability of the approved development. The proposal includes consequential modifications to reduce the height of the development and landscaping area.

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

Rear Setback

The amended plans propose a variation to the office (middle level) rear setback under the provisions of CPS No. 5. The office level of the building is required to comply with Clause 5.7 of CPS No. 5 in relation to the rear setback of 6.0 m from adjoining residential development. The proposal is to modify the approved 6.0 m rear setback for the office level to 3.25 m.

The amended plans also reduce the height of the approved development by lowering the ground level parking area by 1.029 m. The reduced height results in the majority of the middle office level being located below the rear ground level at the boundary; thereby reducing the impact of the development on adjoining properties whilst maintaining an articulated roof line and residential appearance. The applicant has also advised that reduction of the rear setback and rear height will reduce the capacity of the approved covered 6.0 m setback to the office level from creating disturbance to the neighbours.

With due regard to the above comments, and in isolation of other considerations below, no objections are raised to the rear setback variation.

Landscaping

The landscaping requirement for non-residential use, in accordance with the City of Melville's CPS No. 5, is 25% (268 sqm) of the site area. The subject development proposes approximately 19.6% (210 sqm) landscaping, which is a 58 sqm variation to this requirement.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Clause 5.9(b) of Community Planning Scheme No. 5 (Landscaping - Non-Residential) states that *"landscaping shall be located with special attention to street frontage(s), any adjoining river foreshore reserve and any adjoining residential use..."*. Details of the landscaping are provided. Although slightly below the required proportion of the site area, the plan demonstrates that the proposed landscaping be provided with attention to the street frontage and the adjoining residential development and will include the use of native species. Additional landscaping is proposed for the verge inclusive of a new reticulated lawn and an additional street tree to complement the existing street tree. The additional street landscaping will enhance the amenity of the development. Further details shall be requested regarding the landscaping, however in principle the proposed landscaping reduction is recommended for support.

Plot Ratio

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

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

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

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

The plot ratio of the subject development varies from the standards of the Council. The plans submitted indicate the residential component has been calculated at 0.626 (672 sqm) in lieu of a maximum of 0.6 (644 sqm), which is a variation of 28 sqm, and the non-residential component calculated at 0.586 (629.2 sqm) in lieu of 0.6 (644 sqm). The total plot ratio is therefore 1.213 (1301.2 sqm) in lieu of 1.2 (1288 sqm), which is a variation of 13.2 sqm.

The increased residential plot ratio was approved by Council on 18 March. The additional office floorspace not only requires an increase to the non-residential plot ratio, but also requires a consequential variation to the overall total plot ratio for the development. Notwithstanding, the non-residential plot ratio is still within the requirements of the Scheme and the variation to the total plot ratio is considered minor.

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It is considered that the approved development already provides considerable improvements to the amenity of the locality. The increase in plot ratio at the rear of the development site at a lower level to that already approved and predominantly located below the level of the rear boundary will to some degree reduce the impacts of the approved development on the locality. Accordingly, the additional plot ratio is not considered to have an undesirable impact on the adjacent properties and in this regard a variation to the total plot ratio for the development is accordingly supported.

CONCLUSION

In consideration of the above, the proposed amendments to the approved development generally comply with the provisions of CPS No. 5 and Council Policy.

The reduction in the rear setback for the office has inconsequential impacts on the bulk of the development and has been supported by the rear property owner. Resultant increases in plot ratio are minor and do not impact on the amenity of the locality. In fact it may be considered that the reduced levels at the rear of the development have a positive impact on the adjacent amenity relative to the approved development.

Accordingly, it is recommended that approval to the amended plans for the approved mixed use development be granted subject to the previous conditions with exception to former condition 1 which related to provision of a 6.0 m rear setback for the Office component of the development.

OFFICER RECOMMENDATION (3039)

APPROVAL

THAT THE AMENDED PLANS FOR THE APPROVED THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

SPECIAL CONDITIONS:

- 1. THE PARKING DESIGN BEING MODIFIED TO PROVIDE A MINIMUM OF TWELVE SECURED RESIDENTIAL PARKING BAYS AT THE REAR OF THE SITE, FIFTEEN PARKING BAYS BEHIND A FRONT NIGHT SECURITY DOOR FOR THE OFFICE USES AND FOUR ADDITIONAL BAYS IN FRONT OF THE NIGHT SECURITY DOOR FOR THE OFFICE USES WITH ONE RESIDENTIAL VISITOR PARKING BAY DURING BUSINESS HOURS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.**
- 2. A MINIMUM OF TWO CAR PARKING BAYS TO BE PROVIDED ON SITE IN FRONT OF NIGHT SECURITY DOOR FOR THE EXCLUSIVE USE OF RESIDENTIAL VISITORS AFTER BUSINESS HOURS. THESE BAYS SHALL BE ACCESSIBLE AT ALL TIMES.**

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3. DIMENSIONS OF ALL CAR PARKING BAYS, AISLE WIDTHS AND CIRCULATION AREAS COMPLYING WITH AUSTRALIAN STANDARD AS2890.1.
4. DETAILS WITH REGARD TO PARKING REVISIONS REQUIRED BY CONDITIONS 2, 3 AND 4 ABOVE ARE TO BE PROVIDED PRIOR TO THE APPLICATION FOR BUILDING LICENCE TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES AND BE INCORPORATED INTO THE BUILDING LICENCE APPLICATION.
5. PROVISION OF PERMANENT DEVICES OR AN AREA FOR CLOTHES-DRYING FOR EACH RESIDENTIAL DWELLING UNIT SEPARATE TO THE OUTDOOR LIVING AREAS AND NOT VISIBLE FROM THE STREET. DETAILS OF THE PROPOSED DEVICES OR AREAS TO BE INCLUDED ON THE DEVELOPMENT PLANS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.
6. RETAINED WALL AND STAIRWAY ALONG THE SOUTHERN SIDE BOUNDARY TO BE SUITABLY SCREENED IN ACCORDANCE WITH THE REQUIREMENTS OF ELEMENT 8 OF THE RESIDENTIAL DESIGN CODES TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
7. THE ELEVATED STAIRWAYS ADJACENT THE SOUTHERN SIDE BOUNDARY BEING SCREENED TO ADDRESS RESIDENTIAL AMENITY WITHIN THE DEVELOPMENT AND PREVENT OVERLOOKING FROM THE STAIRWAYS AND LANDINGS INTO ADJACENT RESIDENTIAL PROPERTIES TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
8. A DETAILED LANDSCAPING AND RETICULATION PLAN BEING SUBMITTED AND APPROVED FOR THE SUBJECT SITE AND ROAD VERGE ADJACENT TO THE SITE. THE APPROVED LANDSCAPING PLAN SHALL BE FULLY IMPLEMENTED PRIOR TO THE FIRST COMMENCEMENT AND OPERATION OR OCCUPATION OF THE DEVELOPMENT AND MAINTAINED THEREAFTER TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
9. ALL EXISTING STREET TREES TO BE RETAINED, TO BE INCLUDED IN THE LANDSCAPING AND RETICULATION PLAN STATED IN SPECIAL CONDITION 9.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

10. THE PROVISION OF ONE ADDITIONAL STREET TREE IN THE VERGE AREA OF THE SUBJECT PROPERTY IN A 100L CONTAINER, AT THE APPLICANTS / OWNERS FULL COSTS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED STREET TREE AND LOCATION TO BE INCLUDED IN THE LANDSCAPING AND RETICULATION PLAN STATED IN SPECIAL CONDITION 9.
11. A MINIMUM OF TWO METRE HIGH MASONRY FENCING TO BE PROVIDED AROUND THE INTERNAL RESIDENTIAL BOUNDARIES TOGETHER WITH SCREEN LANDSCAPING ADJACENT THE REAR BOUNDARY AND THE NORTHERN SIDE BOUNDARY TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES IN ORDER TO ADDRESS THE AMENITY OF ADJACENT RESIDENTIAL PROPERTIES.
12. THE BUILDING LICENCE APPLICATION TO INCLUDE DETAILS ON MANAGEMENT OF THE COMMERCIAL PARKING AREA TO ENSURE THAT IT IS OPEN FOR PUBLIC USE DURING BUSINESS HOURS TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
13. DURING EXCAVATIONS, ALL NECESSARY PRECAUTIONS TO BE TAKEN TO PREVENT DAMAGE OR COLLAPSE OF ANY ADJACENT STREETS OR ADJOINING PROPERTIES. IT IS THE RESPONSIBILITY OF THE BUILDER TO LIAISE WITH ADJOINING AND ADJACENT PROPERTY OWNERS PRIOR TO CARRYING OUT WORK.
14. ON COMPLETION OF CONSTRUCTION, ALL EXCESS ARTICLES, EQUIPMENT, RUBBISH OR MATERIALS AND TEMPORARY FACILITIES ARE TO BE REMOVED AND THE SITE AND SURROUNDING AREA USED DURING THE DEVELOPMENT IS TO BE MADE GOOD AND LEFT IN AN ORDERLY AND TIDY CONDITION TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
15. PROVISION OF A NOISE MANAGEMENT PLAN FOR THE DEVELOPMENT INDICATING HOW THE NOISE FROM THE CARPARKING, AIR CONDITIONING AND OTHER MECHANICAL EQUIPMENT WILL IMPACT ON THE NEIGHBOURING PROPERTIES AND RECOMMENDATIONS FOR REDUCING ANY POTENTIAL NOISE IMPACT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE RECOMMENDATIONS SHALL BE INCORPORATED IN THE PLANS SUBMITTED FOR A BUILDING LICENCE.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

16. THE USE AND/OR DEVELOPMENT HEREBY PERMITTED SHALL AT ALL TIMES COMPLY WITH THE REQUIREMENTS OF THE ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997. APPLICANT IS REQUIRED TO CONSULT WITH CITY OF MELVILLE HEALTH SERVICES PRIOR TO THE INSTALLATION OF ANY NOISE EMITTING EQUIPMENT SUCH AIR CONDITIONERS.
17. ALL SECURITY ALARM DEVICES TO BE “SILENT MONITORED” SYSTEMS TO ADDRESS POTENTIAL IMPACTS ON SURROUNDING RESIDENTIAL AMENITY TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
18. PEDESTRIAN ACCESS, PARKING AND OPEN AREA SURROUNDING THE BUILDING TO BE DESIGNED TO COMPLY WITH CRIME PREVENT THROUGH ENVIRONMENT DESIGN (CPTED) PRINCIPLES TO ADDRESS LIGHTING AND SURVEILLANCE OF PEDESTRIAN MOVEMENT AROUND THE BUILDING AND WITHIN THE CARPARKING AREA TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
19. THE FAÇADE OF THE BUILDING AND WALLS TO BE TREATED WITH A NON-SACRIFICIAL ANTI-GRAFFITI AGENT TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
20. THE BUILDING SHALL NOT USE REFLECTIVE OR MIRROR GLASS EXTERNALLY, TO BE SHOWN ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE.
21. THE ROOF OF THE BUILDING NOT TO BE ZINCALUME OR WHITE METAL (E.G. COLORBOND SURF MIST) OR ANY OTHER MATERIAL / COLOUR CONSIDERED TO BE HIGHLY REFLECTIVE UNLESS OTHERWISE APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES. DETAILS OF THE PROPOSED ROOF MATERIAL AND COLOUR TO BE SHOWN ON THE DEVELOPMENT PLANS PRIOR TO THE ISSUE OF A BUILDING LICENCE.
22. SUBMISSION OF A GLARE REFLECTIVITY STUDY BY A SUITABLY QUALIFIES PROFESSIONAL AND ANY GLARE ISSUES TO BE ADDRESSED PRIOR TO THE ISSUE OF A BUILDING LICENCE TO THE APPROVAL OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
23. EQUIPMENT SUCH AS AIR CONDITIONERS OR EXHAUST VENTS WHICH ARE LIKELY TO DETRACT FROM THE VISUAL APPEARANCE OF THE BUILDING SHALL NOT BE LOCATED ON THE ROOF OR OTHERWISE EXPOSED TO PUBLIC VIEW.
24. THE SUBMISSION OF A COLOUR SCHEDULE BOARD DETAILING THE USE OF MATERIALS, FINISHES AND COLOURS FOR THE MIXED USE BUILDING TO THE APPROVAL OF MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

25. DETAILS OF THE PROPOSED PUBLIC ART SHALL BE APPROVED BY THE MANAGER OF PLANNING AND DEVELOPMENT SERVICES PRIOR TO THE ISSUE OF A BUILDING LICENCE. THE APPROVED ARTWORK SHALL BE CONSTRUCTED AND INSTALLED PRIOR TO THE OCCUPATION OF THE BUILDING AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
26. PRIOR TO THE ISSUE OF THE BUILDING LICENCE, THE APPLICANT/OWNER IS REQUIRED TO SUBMIT A CONSTRUCTION MANAGEMENT PLAN FOR THE PROPOSAL, TO THE APPROVAL OF THE MANAGER PLANNING SERVICES, DETAILING HOW IT IS PROPOSED TO MANAGE:
 - THE DELIVERY OF MATERIALS AND EQUIPMENT TO THE SITE;
 - THE STORAGE OF MATERIALS AND EQUIPMENT ON THE SITE;
 - THE PARKING ARRANGEMENTS FOR CONTRACTORS AND SUBCONTRACTORS;
 - IMPACT ON TRAFFIC MOVEMENT AND;
 - OTHER MATTERS LIKELY TO IMPACT ON THE SURROUNDING RESIDENTS.
27. SIGNAGE IS NOT APPROVED AS PART OF THIS APPLICATION.
28. PRIOR TO THE OCCUPATION OF THE BUILDING A SIGN STRATEGY FOR THE BUILDING IS TO BE SUBMITTED AND APPROVED BY THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
29. SUITABLE ARRANGEMENTS BEING MADE FOR THE STORAGE OF BINS AND COLLECTION OF WASTE FROM THE SITE TO THE APPROVAL OF THE MANAGER WASTE SERVICES.

STANDARD CONDITIONS

30. LIGHTING TO BE PROVIDED TO ALL CARPARKING AREAS AND THE EXTERIOR ENTRANCES TO ALL BUILDINGS IN ACCORDANCE WITH AUSTRALIAN STANDARD AS 1158.3.1 (CAT. P). ALL EXTERNAL LIGHTING TO BE HOODED AND ORIENTED SO THAT THE LIGHT SOURCE IS NOT DIRECTLY VISIBLE TO THE TRAVELLING PUBLIC OR ABUTTING RESIDENCES.
31. A 2.0 METRE HIGH MASONRY WALL TO BE CONSTRUCTED ON THE SIDE AND REAR BOUNDARIES OF THE SITE. STRUCTURAL DETAILS FOR THE WALL, CERTIFIED BY A PRACTISING STRUCTURAL ENGINEER, TO BE SUBMITTED WITH THE BUILDING LICENCE APPLICATION.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

32. THAT NO ACTIVITIES CAUSING NOISE AND/OR INCONVENIENCE TO NEIGHBOURS SHALL BE CARRIED OUT AFTER 7.00PM OR BEFORE 9.00AM, MONDAY TO SATURDAY, AND NOT AT ALL ON SUNDAYS OR PUBLIC HOLIDAYS.
33. PRIOR TO ISSUE OF A BUILDING LICENSE, THE MANUFACTURER'S RATED NOISE LEVELS FOR REFRIGERATION AND VENTILATION ARE TO BE SUBMITTED TO AND APPROVED BY COUNCIL. IMMEDIATELY FOLLOWING THE INSTALLATION AND OPERATING OF THE EQUIPMENT, THE APPLICANT IS TO SUPPLY TO COUNCIL THE RESULTS OF A CERTIFIED TEST OF THE NOISE LEVEL OF IN-SERVICE PERFORMANCE.
34. THE FINISH TO THE FACE OF THE PARAPET WALL(S) ARE TO BE OF FAIR BRICK FACE FINISH AND MADE GOOD TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
35. ALL SEWERAGE WASTES AND WATER PIPES TO BE CONCEALED WITHIN THE BUILDING.
36. PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION THE COUNCIL REQUIRES THE PROVISION OF A SUITABLE RECEPTACLE FOR THE CONTAINMENT OF WINDBLOWN RUBBISH. THE RECEPTACLE (GENERALLY A WIRE MESH CAGE) SHOULD HAVE MAXIMUM OPENINGS OF 100MM; HAVE A BASE OF 4M² AND A HEIGHT OF 1M AND A HINGED LID. THE RECEPTACLE SHOULD NOT BE ALLOWED TO OVERFILL.
37. RUBBISH STORAGE AREA TO BE PROVIDED AND SCREENED FROM PUBLIC VIEW TO THE SATISFACTION OF MANAGER PLANNING AND DEVELOPMENT SERVICES PRIOR TO OCCUPANCY. THIS AREA IS NOT TO BE LOCATED WITHIN THE PARKING OR LANDSCAPING AREA.
38. DURING CONSTRUCTION ACCESS TO THE LOT TO BE VIA THE STREET FRONTAGE ONLY AND THAT NO BUILDING RUBBLE BE PERMITTED TO OVERSPILL THE SITE.
39. SPECIFIC APPROVAL MUST BE OBTAINED TO REMOVE A STREET TREE TO PERMIT THE CONSTRUCTION OF A VEHICLE CROSSOVER OTHERWISE IT SHOULD BE ASSUMED THAT STREET TREES ARE TO BE RETAINED. ANY WRITTEN APPROVAL FOR THE REMOVAL OF STREET TREES ARE AT THE FULL EXPENSE OF THE APPLICANT/OWNER AND MAY ENTAIL REMOVAL AND RELOCATION COSTS; OR REMOVAL AND REPLACEMENT COSTS.
40. DISABLED CAR PARKING BAY/S TO BE PROVIDED, CLEARLY DESIGNATED AS SUCH, LOCATED CONVENIENTLY TO THE PRINCIPAL BUILDING ENTRANCE AND TO BE OF MINIMUM DIMENSIONS 3.8 METRES WIDE BY 6.0 METRES DEEP.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

41. ALL CAR PARKING AREAS ARE TO BE PROVIDED WITH PROTECTIVE RAILS OR A BUFFER STRIP TO HARD STANDING CAR BAYS ADJOINING BOUNDARY FENCES TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
42. IN ACCORDANCE WITH THE APPROVED PLANS ALL PARKING BAY/S, DRIVEWAY/S AND POINTS OF INGRESS AND EGRESS AREAS ARE TO BE PERMANENTLY PROVIDED, CONSTRUCTED, DRAINED, MARKED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. THE PARKING BAY/S, DRIVEWAY/S AND POINTS OF INGRESS AND EGRESS ARE TO BE DESIGNED IN ACCORDANCE WITH THE CITY OF MELVILLE PLAN NOS 102A2-80E/1 (CONCRETE COMMERCIAL CROSSOVER), 423A2-87E (BITUMEN COMMERCIAL CROSSOVER) UNLESS OTHERWISE SPECIFIED BY THIS APPROVAL. THE APPLICANT SHALL PAY FOR WHERE ANY DAMAGE IS CAUSED TO A COUNCIL FACILITY, TREE OR STREET FURNITURE, OR WHERE ALTERATION TO A COUNCIL FACILITY IS REQUIRED, THE COST OR SUCH DAMAGE OR ALTERATION. A CONCRETE APRON HAVING WIDTH OF 0.75 MILLIMETRES MUST BE INSTALLED BETWEEN A BRICK PAVED CROSSING AND THE BITUMEN SURFACE OF A ROAD THE COST OF DAMAGE TO A STREET TREE WILL BE DETERMINED IN ACCORDANCE WITH THE "TREE AMENITY VALUATION FORMULA" ADOPTED BY THE COUNCIL IN SEPTEMBER 1994.
43. ALL UNUSED CROSSOVER(S) TO BE REMOVED AND THE KERBING AND VERGE TO BE REINSTATED AT THE APPLICANT/OWNER'S FULL EXPENSE TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES.
44. MAXIMUM VEHICLES ACCESS GRADIENT RATIO OF 1:5 BEING ACHIEVED.
45. THE CONSTRUCTION OF RETAINING WALLS NOT TO EXCEED THE HEIGHT SHOWN ON THE APPROVED PLANS UNLESS OTHERWISE APPROVED BY THE COUNCIL. DETAILS, SIGNED BY A PRACTICING STRUCTURAL ENGINEER, MUST BE SUBMITTED FOR APPROVAL AT THE TIME OF SUBMITTING A BUILDING LICENCE APPLICATION.
46. ELECTRICAL INSTALLATION TO BE CONSTRUCTED AND MAINTAINED TO THE SATISFACTION OF WESTERN POWER IN ACCORDANCE WITH THE SAA WIRING RULES NO.CC1, PART 1, 1961.
47. THE DEVELOPMENT IS TO BE CONNECTED TO THE WATER CORPORATION'S RETICULATED SEWERAGE SYSTEM.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

- 48. ALL STORMWATER AND DRAINAGE RUN OFF TO BE CONTAINED ON SITE. AN ONSITE STORMWATER DRAINAGE SYSTEM WITH A CAPACITY TO CONTAIN A 1:100 YEAR STORM OF A TWENTY-FOUR (24) HOUR DURATION IS TO BE PROVIDED PRIOR TO THE DEVELOPMENT FIRST BEING OCCUPIED AND THEREAFTER MAINTAINED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. ALL DOWNPIPES TO BE CONNECTED TO SOAKWELLS. THE PROPOSED STORMWATER DRAINAGE SYSTEM IS REQUIRED TO BE SHOWN ON THE BUILDING LICENCE SUBMISSION FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE LODGING OF DETAILED LANDSCAPE AND RETICULATION PLANS, TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES FOR THE DEVELOPMENT OF THE SITE AND THE ADJOINING ROAD VERGE(S) AT THE TIME OF SUBMITTING A BUILDING LICENCE APPLICATION.**
- 49. THE LAND SHALL NOT BE USED FOR THE PURPOSE APPROVED UNTIL COUNCIL HAS ISSUED A CERTIFICATE OF CLASSIFICATION FOR THAT USE AND THE MANAGER PLANNING AND DEVELOPMENT SERVICES IS SATISFIED THAT ALL RELEVANT CONDITIONS OF THIS APPROVAL HAVE BEEN SATISFIED.**
- 50. PRIOR TO OCCUPANCY OR COMMENCEMENT OF THE LAND USE THE APPLICANT IS TO ARRANGE FOR A PRACTICAL COMPLETION INSPECTION TO BE UNDERTAKEN BY THE CITY AND FOR ALL RELEVANT CONDITIONS TO BE SATISFIED TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. IN CERTAIN CIRCUMSTANCES, AND AT ITS DISCRETION, A CONDITION MAYBE SATISFIED IN PART BY WAY OF A LEGAL AGREEMENT BEING IN PLACE AND BOND/BANK GUARANTEE BEING SUBMITTED BY THE APPLICANT/OWNER TO THE SATISFACTION OF THE MANAGER PLANNING AND DEVELOPMENT SERVICES. WHERE THE DEVELOPMENT INVOLVES THE ERECTION OF A BUILDING A CERTIFICATE OF CLASSIFICATION BEING OBTAINED PRIOR TO OCCUPANCY.**
- 51. GROUND LEVELS MAY NOT BE CHANGED OTHER THAN APPROVED AS PART OF THIS APPROVAL.**

General discussion took place regarding the report and officer recommendation.

The Manager Planning and Development Services, Mr D Vinicombe advised that a correction to the report on the Development Requirements table and Landscaping comments on pages 22 and 25 in relation to amending the proposed landscaping percentage and area to 21.9% and 235 sqm was required. This results in a variation of 33 sqm. This change would be made to the final agenda that would be presented to the Council.

P08/3039 - PROPOSED MODIFICATIONS TO THREE-STOREY MIXED USE DEVELOPMENT (FIVE MULTIPLE DWELLINGS AND ELEVEN OFFICE UNITS) ON LOT 1 (28A) AND LOT 2 (28B) FOSS STREET, PALMYRA (REC) (ATTACHMENT)

Cr Halton enquired if a condition relating to a dilapidation report as required for the Kintail Road development would be appropriate. Mr Vinicombe advised that such a condition may be appropriate and could be raised by an Elected Member as an amendment at the Ordinary Meeting of Council, if required.

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)

Item presented by : Mr David Vinicombe
A/Manager Planning & Development Services

Ward : City
Category : Strategic
Application Number : CPS 5-52
Property : Lot 29 (67) Cranford Avenue
Proposal : Amendment No. 52 to CPS No. 5, Lot 29 (67) Cranford Avenue, Brentwood – Removal of Special Conditions relative to Additional Use No. 44.

Applicant : Vanguard Planning Services
Owner : G H Bolton and J Bolton
Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.

Responsible Officer : David Vinicombe
Manager Planning and Development Services

Previous Items : DAU report U06/0003 Change of use from “Residential” to “Office” on Lot 29 (67) Cranford Avenue, Brentwood.
Council report P07/5006 dated 18 September 2007 – Proposed Amendment No 52 to Community Planning Scheme No 5

AUTHORITY / DISCRETION

- Definition
- Advocacy *when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets*
- Legislative *includes adopting local laws, town planning schemes & policies.*
- Review *when Council review decisions made by Officers.*
- Quasi-Judicial *when Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Amendment 52 [5009 Amend 52.pdf](#) proposes to remove the special development conditions applying to the existing Additional Use (No. 44) to provide for additional medical and office activity on site.
- No objections were received during the advertising period.
- Recommended for Final Approval.

BACKGROUND

The Council at its Ordinary Meeting on 18 September 2007 resolved:

- “1. That pursuant to Part 5 of the Planning and Development Act 2005, Council resolve to initiate Amendment No 52 to Community Planning Scheme No 5 to amend Schedule 3: Additional Uses and Special Conditions Additional Use No 44 by removal of the listed Special Conditions.
2. That His Worship the Mayor and the Chief Executive Officer be authorised to endorse the amendment document.
3. That the City of Melville forward a copy of the amendment documentation to:
 - a) The Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
 - b) The Western Australian Planning Commission for information.
4. That on receipt of advice from the Environmental Protection Authority under Section 48a of the Environmental Protection Act indicating that the amendment need not be subject to an environmental assessment, the Amendment be advertised in accordance with the Town Planning Regulations for not less than forty-two (42) days.”

A development approval was granted (under TPS No. 3) for a Medical Centre (“SA” use for up to 3 practitioners) on Lot 29 (67) Cranford Avenue, Brentwood in 1997. The building provided for the practitioners to operate from the ground floor, with the first floor designed as a 3 bedroom dwelling. On gazettal of CPS No. 5, the medical centre became a “non-conforming use”.

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)

Application to rezone the property from “Living Area – BT2 Brentwood Precinct” to “Community Centre Precinct” was not supported by the City in 2004 as a “Centre Plan” had not been prepared. Specifically, concerns related to following:

- Rezoning was not justified by a Centre Plan as required by the Draft Local Commercial Strategy.
- The built form of the property did not lend itself to commercial uses due to the location of parking to the rear.
- Extension of the Community Centre Precinct to the southern side of Cranford Avenue had the potential to impact on the amenity of adjoining residential properties.
- Inclusion of properties to the south of Cranford Avenue had not been sufficiently considered in the context of potential for pedestrian and vehicular traffic conflict.
- The proposal did not detail how the surplus commercial floorspace under the Local Commercial Strategy could be provided within the existing Community Centre Precinct.

As an alternative, Council supported Amendment No 38 (gazetted 2 December 2005), which provided for an Additional Use (No. 44) “Medical Centre and Office”. The additional use is subject to Special Conditions restricting no more than 3 practitioners and 1 support staff to operate from the Medical Centre at any one time and the office component to be limited to 25% of the total floor space. The applicant has indicated that the entire floor space has been difficult to fully tenant and that an amendment will provide required commercial flexibility on site.

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area – BT2 Brentwood Precinct
R-Code	: R25
Use Type	: Not Applicable
Use Class	: Not Applicable

Site Details

Lot Area	: 816 sqm
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Not Applicable
Site Details	: Not Applicable

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)**DETAIL**

The site is presently developed with a two storey building with a residential appearance. A total of 15 car parking bays are available on site, with 2 at the front and 13 at the rear. The site abuts residential properties to the south and east and is adjacent the Brentwood Shopping Centre to the north. The site also abuts a Shell service station to the west. An easement exists on Lot 29 which provides vehicle access over the front of the site for petrol tanker movement.

PUBLIC CONSULTATION/COMMUNICATION

The amendment was advertised between 19 March 2008 and 30 April 2008 in the West Australian, including a sign being positioned on the site seeking public comments. Letters were sent to the affected adjoining neighbours.

At the end of the advertising period no submissions were received.

It should be noted that the Environmental Protection Authority has no objection to the amendment to proceed.

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

Not Applicable

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not Applicable

POLICY IMPLICATIONS

Not Applicable

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Not Applicable

COMMENTS

There are some concerns in relation to pedestrian linkages and preservation of opportunity for the Service Station (presently zoned Community Centre Precinct) to redevelop (if closed) for retail uses together with pedestrianisation of the subject portion of Cranford Avenue. However in order to facilitate improved commercial use of the subject site until such time as the pedestrian linkages can be appropriately improved between the existing Community Centre and the subject site (and service station site), it is considered appropriate to remove the existing Special Conditions relative to Additional Use No. 44 which apply to the site, as achieved by this amendment (No. 52).

No submissions were received during the advertising period of the amendment.

CONCLUSION

It is recommended that the Council adopts the Amendment for finalisation and forwards Amendment No. 52 to the Honourable Minister for Planning and Infrastructure for final approval.

OFFICER RECOMMENDATION (5009)**APPROVAL**

- 1. THAT COUNCIL RESOLVE, PURSUANT TO TOWN PLANNING REGULATION 17(2) THAT AMENDMENT NO 52 (5009_AMEND52) TO COMMUNITY PLANNING SCHEME NO 5 RELATIVE TO LOT 29 (67) CRANFORD AVENUE, BRENTWOOD AND REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 BE ADOPTED FOR FINAL APPROVAL WITHOUT MODIFICATION.**
- 2. THAT THE SCHEME AMENDMENT DOCUMENTS BE EXECUTED BY THE MAYOR AND CHIEF EXECUTIVE OFFICER AND HAVE THE COMMON SEAL AFFIXED.**
- 3. AMENDMENT NO 52 DOCUMENTS BE FORWARDED TO THE HONOURABLE MINISTER FOR PLANNING AND INFRASTRUCTURE FOR FINAL APPROVAL WITH ADVICE THAT NO SUBMISSIONS WERE RECEIVED DURING THE STATUTORY ADVERTISING PERIOD AND THAT THE ENVIRONMENTAL PROTECTION AUTHORITY HAS NO OBJECTION TO THE AMENDMENT.**

At 7.24pm Cr Phelan left the meeting.

P08/5009 - FINAL APPROVAL FOR AMENDMENT NO 52 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 29 (67) CRANFORD AVENUE, BRENTWOOD – REMOVAL OF SPECIAL CONDITIONS RELATIVE TO ADDITIONAL USE NO. 44 (REC) (ATTACHMENT)

General discussion took place regarding the report and officer recommendation.

Cr Pazolli enquired into whether a mixed use development could be added to the site and whether extensions could occur which would increase the plot ratio of development on site. The Manager Planning and Development Services Mr Vinicombe advised that the Scheme provides for a non-residential plot ratio of 0.4 and that the property could be developed with a mixed use development. However, as the R-Codes do not apply a plot ratio calculation for R25 development, the extent of total plot ratio in accordance with legal advice would need to be determined. Further, if Council was concerned about this matter, it would be open an Elected Member to raise an amendment at the Ordinary Meeting of Council to insert a new Special Condition which restricted the total floorspace of the development.

At 7.32pm Cr Phelan returned to the meeting.

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

Disclosure of Interest

Item No. : P08/5010
Member : Ms Kym Davis
A/Director Strategic Urban Planning
Type of Interest : Proximity Interest in Accordance with the Act (s 5.60B)
Nature of Interest : Relative resides adjacent to property
Request : Requested to leave
Decision of Council : N/A

At 7.32pm Ms Kym Davis having declared an interest in this Item left the meeting.

Item presented by : Mr David Vinicombe
A/Manager Planning & Development Services

Ward : City
Category : Strategic
Application Number : CPS5-53
Property : Lot 56 (485) Marmion Street (cnr Malland Way)
Proposal : Amendment No. 53 to amend CPS No. 5 to provide for Additional Uses of “Offices” and “Medical Centre”.

Applicant : Tuscom Subdivision Consultants Pty Ltd
Owner : Screentech Australia Pty Ltd
Disclosure of any Interest : The Acting Director of Strategic Urban Planning has declared an interest in this report. No other Officer involved in the preparation of this report has a declarable interest in this matter.

Responsible Officer : David Vinicombe
Manager Planning and Development Services

Previous Items : P07/5005 – Finalisation of Amendment No 47 to CPS No 5 – Modification of Myaree Mixed Business Frame and Precinct by addition of new zones, Precincts, development requirements, definitions and modification to the Use Class Table.
P07/3021 – Proposed Amendment No. 53 to CPS No. 5 – Additional Uses of “Office” and “Warehouse”

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

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

KEY ISSUES / SUMMARY

- Proposed Amendment No 53 [5010 Amend 53.pdf](#) to CPS No. 5 provides for Additional Uses of “Office” and “Medical Centre” at Lot 56 (485) Marmion Street (cnr Malland Street), Myaree which is currently zoned “Living Area Precinct MY1 – Myaree” with a density coding of R20.
- The owner made a previous submission on Amendment No 47 to CPS No 5 seeking support for rezoning of the subject property to “Mixed Use Frame”. This was not supported due to concerns that it would necessitate readvertising of Amendment No. 47 and hence delay the progression of the Amendment. The matter was referred to Strategic Planning Services for consideration under the review of CPS No 5.
- The property is located immediately between existing residential and commercial/industrial developments and zones.
- The residential amenity of the property is diminished to the point that the current adjacent development and zoning discourages redevelopment and blights the adjacent residential character of the area.
- Two submissions of objection were received on the proposed amendment.
- Recommended for Final Approval.

BACKGROUND

The Council at its Ordinary Meeting on 16 October 2007 resolved:

- “1. Pursuant to Part 5 of the Planning and Development Act 2005, Council resolve to initiate Amendment No 53 to Community Planning Scheme No 5 as follows:

Amending Schedule 3: Additional Uses and Special Conditions to include Lot 56 (485) Marmion Street (Cnr) Malland Street, Myaree with Additional Uses of “Office” and “Medical Centre” and include the following Special Conditions for any future development:

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

- i) *Provision of residential setbacks to all streets, with the primary street setback of 6.0 metres to apply to the Marmion Street frontage.*
 - ii) *Marmion Street frontage to be landscaped and developed as a typical residential front garden with any fencing being open screen fencing.*
 - iii) *All vehicular parking to be provided off Malland Street behind the Marmion Street front setback and behind landscape screening to Marmion Street.*
 - iv) *The development shall be of a residential scale and have a residential façade to Marmion Street with any side setbacks being as would be required by the residential planning codes if it had applied and assuming that any opening is a major opening.*
2. *That His Worship the Mayor and the Chief Executive Officer be authorised to endorse the amendment document.*
 3. *That the City of Melville forward a copy of the amendment documentation to:*
 - a) *The Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.*
 - b) *The Western Australian Planning Commission for information.*
 4. *That on receipt of advice from the Environmental Protection Authority under Section 48a of the Environmental Protection Act indicating that the amendment need not be subject to an environmental assessment, the amendment be advertised in accordance with the Town Planning regulations for not less than 42 days.*
 5. *The applicant be advised of 1-4 above.”*

During the advertising period of Amendment No 47, the owner made a submission on the Amendment to seek rezoning of the subject property to “Mixed Use Frame”. In support of the proposal, the owner indicated as follows:

“Amendment is supported with a request for the boundary of the “Mixed Use Frame” to be reassessed to include an existing residential property in the state of disrepair at 485 Marmion Street (cnr Malland Street). The property is bounded by the existing “Mixed Business Frame” and proposed “Mixed Use Frame”, and faces the “Mixed Business Precinct” to the east and the proposed “Mixed Use Precinct”. It is acknowledged that the Amendment excludes this property from the “Mixed Use Frame” to maintain residential character along Marmion Street west of Malland Street. In order to address this, it is proposed to redevelop the site with a 2 storey office / warehouse with residential façade facing Marmion Street. Access for commercial vehicles would be proposed to Malland Street, with parking to the rear and residential style fencing onto Marmion Street to maintain residential character. This proposal represents a good compromise between maintaining residential character and providing for the redevelopment of the site to its full potential.”

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

In response to this submission, it was noted that:

“the subject property is on the periphery of the study area and whilst the proposal may have some merit, it has not been advertised for public comment. Accordingly, it is inappropriate to modify the zoning applicable to the property, without going through additional consultation to determine to extent of public support for the proposal. Readvertisement of this proposal under this Amendment would delay its progression. Accordingly, it is recommended that this matter be referred to Strategic Planning Services for consideration under the current review of the Community Planning Scheme.”

Accordingly, Part 3 of Council’s resolution (P07/5005 – Council 19 June 2007) indicated that:

“all submissions to the advertisement of Amendment No 47 which requested modifications which were not specific to the Amendment area or were inappropriate to uphold without further public consultation be referred to the City of Melville’s Strategic Planning Services for consideration of inclusion under the current review of the Community Planning Scheme.”

Scheme Provisions

MRS Zoning : Urban
CPS 5 Zoning : Living Area Precinct – MY1 Myaree
R-Code : R20
Use Type : Not Applicable
Use Class : Not Applicable

Site Details

Lot Area : 817 sqm
Retention of Existing Vegetation : Not Applicable
Street Tree(s) : Not Applicable
Street Furniture (drainage pits etc) : Not Applicable
Site Details : Not Applicable

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)**DETAIL**

The site is presently developed with a single dwelling.

The applicant raised the following points in support of the amendment proposal:

1. The site is located adjacent and abutting a variety of land uses and zonings. To the north and west of the lot are established single residential dwellings within the Living Area Precinct – MY1 Myaree. To the south is an abutting warehouse within the Myaree “Mixed Business Frame” (proposed “Mixed Use Frame” under Amendment No 47) and to the east is a large undeveloped open lot used for mass storage in the “Mixed Business Precinct” (proposed “Mixed Use Precinct”). Accordingly, it is appropriate that the property be utilised for office and warehouse uses.
2. The proximity of the site to heavy commercial/semi industrial uses coupled with intense traffic volumes in Marmion Street and the nearby Norma Road intersection impact on the residential amenity of the site. It is considered that the site is inappropriately located for continuing residential use.
3. It is understood that the City of Melville is strongly in favour of maintaining residential character along Marmion Street to the west of Malland Street. Accordingly, it is proposed that the site be redeveloped into a purpose built two storey office/warehouse building with a residential facade to Marmion Street [5010A June 2008.pdf](#). Along the Marmion Street façade, it is proposed to erect a visually permeable front fence to secure the area which is to be complemented with high quality landscaping within the lot and on the road verges. All vehicular access and parking is proposed off Malland Street (as the commercial/industrial street) to eliminate unsightly car parking areas from the residential character in this portion of Marmion Street. The proposal is a good compromise between maintaining residential character and providing for the site to be developed to its full commercial potential.
4. The proposal will provide for the redevelopment of the existing dwelling (which is in a current poor state of repair) and as a result improve the residential amenity of the location. The locational characteristics and the sites ineligibility for subdivision do not encourage repair of the existing dwelling or redevelopment of the site for residential purposes.
5. The impacts of the proposal on the adjoining residential property owner have been taken into consideration in the preparation of the concept plan [5010A June 2008.pdf](#). The owner of the adjoining residential property has been consulted and provided a letter of support for the proposal.

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)**PUBLIC CONSULTATION/COMMUNICATION**

The amendment was advertised between 19 March 2008 and 30 April 2008 in the West Australian, including a sign positioned on the site seeking public comments. Letters were sent to the affected adjoining neighbours.

At the end of the advertising period, two submissions were received, one objecting the amendment and one expressing concerns. The submissions and responses are detailed in the attached Schedule of Submissions. [5010 Submission 2008.pdf](#)

It should be noted that the Environmental Protection Authority raised no objection to the amendment proceeding.

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

Not Applicable

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not Applicable

POLICY IMPLICATIONS

On conclusion of the Amendment, any future development application will be subject to assessment of CPS No. 5 and Council Policy requirements.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Not Applicable

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)**COMMENTS**

The subject corner site is subject to diminished residential amenity due to adjacent commercial and industrial type land uses and associated traffic. In addition, it is recognised that the current locational characteristics, traffic and zoning requirements (R20 density coding) do not encourage the redevelopment of the existing development. Accordingly, these constraints will continue to blight the amenity of the locality and impact on the residential character of this section of Marmion Street unless an amendment to CPS No 5 provides ample encouragement for the owner to redevelop the site.

The City of Melville Strategic Urban Planning Services has indicated that although this proposal may be considered as part of the Scheme review, the current proposal may be supported in its own right to actively encourage redevelopment of the site and improve the residential character of the locality. In this regard, the preliminary design presents a residential façade to Marmion Street. In addition, it may be logical to apply a similar “Mixed Use Frame” zone to the property consistent with the proposal for rezoning of the properties to the south in accordance with Amendment No 47. “Medical Centre” would be a desirable use in this location, being consistent with both the current “Mixed Use Frame” proposal under Amendment No 47 and the review of CPS No 5.

It should be noted that at the Agenda Forum Meeting held on 2 October 2007, Councillors received a submission indicating objection to the originally proposed warehouse component of the amendment application. Although not a formal submission on the Amendment at that time of the meeting, the submission supported redevelopment for grouped dwellings or residentially designed offices or medical suites on the site.

It is noted that the preliminary development concept plan has no statutory recognition. However, elements of the plan may be incorporated within Special Conditions of Schedule 3 of CPS No 5 – Additional Uses and Special Conditions table. In this regard, it is considered desirable to include the following Special Conditions for any future development:

1. Provision of residential setbacks to all streets, with the primary street setback of 6.0 metres to apply to the Marmion Street frontage.
2. Marmion Street frontage to be landscaped and developed as a typical residential front garden with any fencing being open screen fencing.
3. All vehicular parking to be provided off Malland Street behind the Marmion Street front setback and behind landscape screening to Marmion Street.
4. The development shall be of a residential scale and have a residential façade to Marmion Street with any side setbacks being as would be required by the residential planning codes if it had applied and assuming that any opening is a major opening.

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

It is noted that reference to “residential planning codes” in part 4 of the above Special Conditions should more correctly refer to the “Residential Design Codes (or similar)”. Whilst this is not a matter of major concern and is not a significant modification, it is opportune to modify the amendment documentation accordingly.

The proposal will provide for the redevelopment of the subject site in a manner which will provide a balance between contributing to the residential character of Marmion Street west of Malland Way and ameliorating the amenity impacts of adjacent commercial/industrial development on the subject property.

CONCLUSION

The amendment provides for “Office” and “Medical Centre” Additional Uses together with the application of Special Conditions for any future development designed to reduce the impact of the proposal on adjacent residents. In view of the strategic planning direction for the locality, it is recommended that Council adopt the Amendment for Final Approval, modified to refer to the Residential Design Codes (or similar) and forward the modified Amendment No. 53 to CPS No. 5 to the Honourable Minister for Planning and Infrastructure for finalisation.

OFFICER RECOMMENDATION (5010)**APPROVAL**

THAT AMENDMENT NO 53 (5010_AMEND53) TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” BE APPROVED WITH THE FOLLOWING RECOMMENDATIONS:

- 1. THAT COUNCIL RESOLVE, PURSUANT TO TOWN PLANNING REGULATION 17(1) TO ADOPT THE RECOMMENDATIONS CONTAINED WITHIN THE ATTACHED SCHEDULE OF SUBMISSIONS AND THIS REPORT, AND FURTHER RESOLVE, PURSUANT TO REGULATION 17(2), THAT AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 FOR THE ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” AT LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE BE ADOPTED FOR FINAL APPROVAL WITH A MODIFICATION TO SPECIAL CONDITION NO. 4 TO REMOVE REFERENCE TO “RESIDENTIAL PLANNING CODES” AND REPLACE WITH REFERENCE TO “RESIDENTIAL DESIGN CODES (OR SIMILAR)”.**

P08/5010 - FINAL APPROVAL AMENDMENT NO 53 TO COMMUNITY PLANNING SCHEME NO 5 – LOT 56 (485) MARMION STREET (CNR MALLAND STREET), MYAREE – ADDITIONAL USES OF “OFFICE” AND “MEDICAL CENTRE” (REC) (ATTACHMENT)

- 2. THAT THE MODIFIED SCHEME AMENDMENT 53 DOCUMENTS BE EXECUTED BY THE MAYOR AND CHIEF EXECUTIVE OFFICER AND HAVE THE COMMON SEAL AFFIXED.**
- 3. AMENDMENT NO 53 DOCUMENTS BE FORWARDED TO THE HONOURABLE MINISTER FOR PLANNING AND INFRASTRUCTURE FOR FINAL APPROVAL ALONG WITH THE SCHEDULE OF SUBMISSIONS AND ADVICE THAT THE ENVIRONMENTAL PROTECTION AUTHORITY HAS NO OBJECTION TO THE AMENDMENT.**
- 4. THOSE THAT MADE SUBMISSIONS ON THE PROPOSED AMENDMENT BE ADVISED OF 1, 2 AND 3 ABOVE.**

General discussion took place regarding the report and officer recommendation.

At 7.44pm Kym Davis returned to the meeting.

P08/5011 - FINAL APPROVAL FOR AMENDMENT NO. 54 TO COMMUNITY PLANNING SCHEME NO 5 – TO RESERVE LOT 301 DUNCRAIG ROAD, APPECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) (REC) (ATTACHMENT)

Item presented by : Mr David Vinicombe
A/Manager Planning & Development Services

Ward : Applecross/Mt Pleasant

Category : Strategic

Application Number : CPS 5-54

Property : Triangular portion of Lot 301

Proposal : Final approval for Amendment No. 54 to Amend
CPS No. 5 from unzoned land to Reserve for
Local Open Space

Applicant : City of Melville

Owner : Crown Grant to South of Perth Yacht Club

Disclosure of any Interest : No Officer involved in the preparation of this
report has a declarable interest in this matter.

Responsible Officer : David Vinicombe
Manager Planning & Development Services

Previous Items : P07/5007 to Council 18 December 2007 –
Proposed Amendment No 54.

AUTHORITY / DISCRETION

- | | <u>Definition</u> |
|---|---|
| <input type="checkbox"/> Advocacy | <i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i> |
| <input type="checkbox"/> Executive | <i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i> |
| <input checked="" type="checkbox"/> Legislative | <i>includes adopting local laws, town planning schemes & policies.</i> |
| <input type="checkbox"/> Review | <i>when Council review decisions made by Officers.</i> |
| <input type="checkbox"/> Quasi-Judicial | <i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

P08/5011 - FINAL APPROVAL FOR AMENDMENT NO. 54 TO COMMUNITY PLANNING SCHEME NO 5 – TO RESERVE LOT 301 DUNCRAIG ROAD, APPLECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Metropolitan Region Scheme (MRS) Amendment No 1141/57 for Heathcote Point was Gazetted on 21 August 2007.
- Region Scheme now includes the lower Heathcote land in “Regional Parks and Recreation Reservation” and a narrow triangular slither of land occupied by the South of Perth Yacht Club carpark as “Urban”.
- The Regional Parks and Recreation Reservation is automatically incorporated into CPS No. 5.
- At this time the subject land is unzoned as a result of the removal of the former reservation under the MRS Amendment.
- The City of Melville is required to amend CPS No. 5 to apply an appropriate zoning to the “Urban” land under the MRS.
- Reserve of the subject land under CPS No. 5 for “Local Open Space” consistent with adjoining South of Perth Yacht Club land.
- Recommended for Final Approval.

BACKGROUND

The Council at its Ordinary Meeting on 18 December 2007 resolved:

- “1. That pursuant to Part 5 of the Planning and Development Act 2005, Council Resolve to initiate Amendment No 54 [5011 Amend 54.pdf](#) to Community Planning Scheme No 5 to reserve portion of Lot 301 Duncraig Road Applecross for Local Open Space from unzoned land (former Regional Parks and Recreation Reservation).
2. That His Worship the Mayor and the Chief Executive Officer be authorised to endorse the amendment document.
3. That the City of Melville forwards a copy of the amendment documentation to:
 - a) The Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
 - b) The Western Australian Planning Commission for information.
4. That on receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act indicating that the amendment need not be subject to an environmental assessment, the amendment be advertised in accordance with the Town Planning Regulations for not less than forty-two (42) days.”

P08/5011 - FINAL APPROVAL FOR AMENDMENT NO. 54 TO COMMUNITY PLANNING SCHEME NO 5 – TO RESERVE LOT 301 DUNCRAIG ROAD, APPLECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) (REC) (ATTACHMENT)**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Nil
R-Code	:	Not Applicable
Use Type	:	Not Applicable
Use Class	:	Not Applicable

Site Details

Lot Area	:	70 sqm (approx.)
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	Site Plan 5011 June 2008.pdf

DETAIL

The site presently forms part of the existing yacht club car park along the south western boundary of the yacht club buildings.

The car park and the remainder of the yacht club buildings and surrounding area are zoned "Urban" under the MRS and Reserved for Local Open Space under the Community Planning Scheme No 5.

It is therefore logical that the Reserve for Local Open Space be applied to the triangular portion of Lot 301 so as to provide a consistent reservation over the entire property.

PUBLIC CONSULTATION/COMMUNICATION

The amendment was advertised between 19 March 2008 and 30 April 2008 in the West Australian, including a sign being positioned on the site seeking public comments.

At the end of the advertising period no submissions were received.

P08/5011 - FINAL APPROVAL FOR AMENDMENT NO. 54 TO COMMUNITY PLANNING SCHEME NO 5 – TO RESERVE LOT 301 DUNCRAIG ROAD, APPLECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

Nil

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Not Applicable

COMMENTS

Metropolitan Region Scheme (MRS) Amendment No 1141/57 for Heathcote Point was Gazetted on 21 August 2007. The MRS now includes the lower Heathcote land in “Regional Parks and Recreation Reservation” and a narrow triangular slither of land (portion of Lot 301) occupied by the South of Perth Yacht Club carpark as “Urban”. The Regional Parks and Recreation Reservation is automatically incorporated into CPS No. 5 in accordance with Section 126(1) of the Planning and Development Act 2005. At this point in time the subject portion of Lot 301 is unzoned as a result of the removal of the former reservation under the MRS Amendment. The City of Melville is required to amend CPS No. 5 to apply an appropriate zoning to the “Urban” land under the MRS.

Council resolved to initiate the Amendment No 54 to recognise the amendment to the MRS and it is appropriate to apply the reservation which applies to the remainder of the property occupied by the South of Perth Yacht Club.

No submissions were received during the advertising period of the amendment.

P08/5011 - FINAL APPROVAL FOR AMENDMENT NO. 54 TO COMMUNITY PLANNING SCHEME NO 5 – TO RESERVE LOT 301 DUNCRAIG ROAD, APPLECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) (REC) (ATTACHMENT)

CONCLUSION

It is recommended that the Council forwards the Amendment No. 54 to the Honourable Minister for Planning and Infrastructure for final approval.

OFFICER RECOMMENDATION (5011)

APPROVAL

- 1. THAT COUNCIL RESOLVE, PURSUANT TO TOWN PLANNING REGULATION 17(2) THAT AMENDMENT NO 54 (5011_AMEND54) TO COMMUNITY PLANNING SCHEME NO 5 RELATIVE TO RESERVE LOT 301 DUNCRAIG ROAD, APPLECROSS FOR LOCAL OPEN SPACE FROM UNZONED LAND (FORMER REGIONAL PARKS AND RECREATION RESERVATION) BE ADOPTED FOR FINAL APPROVAL WITHOUT MODIFICATION.**
- 2. THAT THE SCHEME AMENDMENT DOCUMENTS BE EXECUTED BY THE MAYOR AND CHIEF EXECUTIVE OFFICER AND HAVE THE COMMON SEAL AFFIXED.**
- 3. AMENDMENT NO 54 DOCUMENTS BE FORWARDED TO THE HONOURABLE MINISTER FOR PLANNING AND INFRASTRUCTURE FOR FINAL APPROVAL WITH ADVICE THAT NO SUBMISSIONS WERE RECEIVED DURING THE STATUTORY ADVERTISING PERIOD AND THAT THE ENVIRONMENTAL PROTECTION AUTHORITY HAS NO OBJECTION TO THE AMENDMENT.**

At 7.45pm Cr Macphail left the meeting.

General discussion took place regarding the report and officer recommendation.

At 7.48pm Cr Macphail returned to the meeting.

C08/5002 - CITY OF MELVILLE SPONSORSHIP POLICY (REC) (ATTACHMENT)

Item presented by	: Dr Shayne Silcox Chief Executive Officer
Ward	: All
Category	: Policy
Subject Index	: Sponsorship
Customer Index	: Not Applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Not Applicable
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Roshan Weddikkara Marketing & Communications Coordinator

AUTHORITY / DISCRETION

	<u>Definition</u>
<input type="checkbox"/> Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/> Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i>
<input checked="" type="checkbox"/> Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/> Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/> Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

C08/5002 - CITY OF MELVILLE SPONSORSHIP POLICY (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

This policy will ensure that when seeking or receiving sponsorship, the City:

- coordinates selection of potential sponsors fairly and equitably
- protects the City's integrity, public image and reputation
- ensures the City maximises the full potential benefit from sponsorship
- ensures transparency in all sponsorship transactions and agreements

BACKGROUND

In order to enhance, extend and/or off-set costs associated with producing community events or other projects the City of Melville will explore and if deemed appropriate will enter into formal sponsorship agreements. The City may also be approached to sponsor events and activities which enhance the lives of the community.

Sponsorship provides the opportunity for the City to present events and/or programs free of charge or at a reduced rate to the community as well as providing additional resources to heighten specific activities or programs.

Sponsoring a Council event and/or program provides external organisations with the opportunity to gain increased exposure within the City.

Organisations approaching the City of Melville to provide sponsorship of their event or activity must demonstrate a benefit to the local community and will require assessment of costs, benefits and alignment with the City of Melville strategic and community plans.

DETAIL**Sponsorship Policy**

[5002 Sponsorship Policy.pdf](#)

The policy clearly defines the scope and objectives, providing clarity about the boundaries of both receiving and providing sponsorship.

Key objectives of the Policy include the protection of the City's reputation, public image and logo, alignment of sponsored organisations with City values and strategic objectives, and ensuring value for money for both parties.

The Policy lists a range of arrangements which are not considered Sponsorship, including donations, grants, joint ventures and partnerships in which organisations share ownership and responsibility for the ultimate outcome or product.

The Policy states principles and criteria under which the City will not consider either acceptance or provision of sponsorship, including involvement with organisations which are deemed inappropriate by the City, require endorsement by the City, or involve activities which restrict services or pose conflict with City policies and practices.

C08/5002 - CITY OF MELVILLE SPONSORSHIP POLICY (REC) (ATTACHMENT)

The Policy also identifies differing approval mechanisms based on the value of sponsorship.

A comprehensive procedure has been developed for operational use, which has been authorised by the Chief Executive Officer.

PUBLIC CONSULTATION/COMMUNICATION

Extensive research has been conducted into the Sponsorship Policy of Local Government and compatible organisations around the world. This information was collated into a draft policy which was considered by an Internal Reference Group consisting of interested Officers from within the City of Melville.

Following consultation with this group, the Policy and supporting Procedure have been developed in order to consolidate and refine existing ad hoc procedures and methods.

The Policy was presented at an Elected Members Workshop on Tuesday 29 April 2008, where concerns were noted and addressed within the policy and procedure.

No public consultation was conducted during the development of this policy for the following reasons:

- The majority of the policy and supporting procedure seeks to consolidate and formalise existing operational and approvals processes surrounding sponsorship procurement. The policy and procedure have primarily been developed as an operational resource to support a currently existing practice.
- Currently, City of Melville Recreation Centres, and many City events and activities involve some form of sponsorship including naming rights, advertising signs, in-kind support and financial support. It is generally understood in the wider community that without this form of support, many community and commercial events would not be feasible.
- It is expected that by raising the profile of sponsorship through development of this policy, that the community may gain a greater understanding of the role of sponsorship in City activities. It is intended that further education and information be provided to the community and their input be considered for future modifications to this policy.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Consultation conducted with City of Melville Legal Advisors McLeods Barristers and Solicitors, who have drafted the basic form of sponsorship agreement.

C08/5002 - CITY OF MELVILLE SPONSORSHIP POLICY (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

While not a statutory obligation, in general practice, most organisations name major sponsors in their Annual report. It is intended that the City of Melville report incoming sponsors, and major external sponsorships with a value of more than \$5000 in the Annual Report.

FINANCIAL IMPLICATIONS

There are no up front financial implications for Council in this application.

There are no direct on-going financial implications as the City presently does not actively seek outgoing sponsorships. The intention of incoming sponsorships should be to augment and add value to existing projects, activities and events. As the success of sponsorship proposals vary greatly, generally the City should not rely on sponsorship to conduct normal operational activities.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk*	Risk Mitigation Strategy
<p>As a result of NOT developing a formal sponsorship policy, the City risks:</p> <ul style="list-style-type: none"> • Accusations of unfair business practices • Employee conduct being compromised by potential or existing sponsors • Success or failure of events being subject to inequitable sponsorship agreements • Compromise of potential and future long term relationships between the City and corporate and community partners through inconsistency in relationship management and sponsorship proposals • Inability to provide desired components of events, or inability to add value to events • Inability to attract future sponsorship • Insufficient value attached to City public image and reputation • Compromise of City public image and reputation 	<p>Moderation consequences which are likely, resulting in a Medium level of risk</p>	<p>Establishment of this Policy and procedure, with yearly review of sponsorship activity, policy and procedure.</p>

For further information on risk management <http://melvillenet/service-areas/management-services/risk-services>

C08/5002 - CITY OF MELVILLE SPONSORSHIP POLICY (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

N/A

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Continue to deal with applications for sponsorship without a structured approach.

CONCLUSION

Establishing a policy and procedure to effectively and consistently manage sponsorship provides benefits to the organisation and the community, safeguards the public image and reputation of the City and provides the opportunity for better events and activities for the community and improved relationships with corporate partners.

The procedure and agreements ensure that City of Melville staff and sponsors are able to maximise benefits to themselves and ensures consistency and equity in relationships. The policy and procedure create a clear framework of process, negotiation and approvals for staff to ensure that they do not contravene the code of conduct, and the City's public image and reputation are protected.

The policy and procedure also ensure that the City is able to take advantage of all sponsorship opportunities as they arise consistently and appropriately

OFFICER RECOMMENDATION (5002)**APPROVAL**

THAT THE SPONSORSHIP POLICY 01-PL-007 DATED 28 MAY 2008
[5002 Sponsorship Policy.pdf](#) BE ADOPTED.

At 7.53pm Cr Pazolli left the meeting.

General discussion took place regarding the report and officer recommendation.

At 7.55pm Cr Pazolli returned to the meeting.

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
(AMREC) (ATTACHMENT)**

Item presented by	: Mr Jeff Clark Governance & Compliance Program Manager
Ward	: All
Category	: Strategic
Subject Index	: Delegated Authority
Customer Index	: City of Melville
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Review of City of Melville Delegated Authority Manual - C07/5007 - 17 May
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Jeff Clark Governance & Compliance Program Manager

AUTHORITY / DISCRETION

	<u>Definition</u>
<input type="checkbox"/> Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/> Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i>
<input checked="" type="checkbox"/> Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/> Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/> Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

KEY ISSUES / SUMMARY

- This report seeks Councils consideration in reviewing and adopting certain delegations of authority that permit officers to perform functions within a prescribed parameter.

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
(AMREC) (ATTACHMENT)****BACKGROUND**

The Local Government Act 1995 (The Act) provides for the delegation of certain powers and duties to certain Committees (Sections 5.16 & 5.17) and the Chief Executive Officer (Sections 5.42 & 5.43). The Chief Executive Officer may, unless prohibited by Councils instrument of delegation, further on-delegate powers and duties to employees (Section 5.44).

The Act also provides for a delegations register to be maintained and reviewed on an annual basis (Section 5.46). This report comprises this review process.

DETAIL

It is necessary to review all current delegations to ensure, in the first instance, that they are consistent with the legislation and secondly, that they are, in fact, still necessary. Although the provisions of the Local Government Act 1995 do not affect delegations made under other legislation, it is also considered be an appropriate time to review those delegations.

“Delegated Authority” refers only to those powers or duties required by legislation and are often referred to as statutory delegations. Generally, these delegated authorities will be made to the Chief Executive Officer who may then on-delegate to such person or persons as he feels appropriate.

[Delegations Attachment](#) The City of Melville Delegated Authority Manual forms part of the Attachments to the Agenda, which was distributed to Members of the Council on 30 May 2008. This attachment provides specific detail as to the extent of each delegation.

Delegations Recommended for Deletion

There are 8 delegations recommended for deletion:

04-DA-006 Authority to Negotiate Disposal of a portion of - Lot 66 (21) Third Avenue Bicton. The disposal has been concluded and the Delegation is no longer required.

04-DA-008 Authority to dispose of 65 Arkwell Street Willagee. The disposal has been concluded and the Delegation is no longer required.

12-DA-001 Street Tree Removal. Delete this delegation as sufficient authority exists to undertake this process.

13-DA-011 Commercial Waste Service Operations. The authority provided in this Delegation is duplicated in 13-DA-009.

14-DA-006 Codes of Conduct. This delegation provided an authority to the Governance Committee to prepare or adopt a Code of Conduct. The preparation of a draft Code of Conduct is a normal function of the CEO who would bring the draft to Council as part of the review of Policies for consideration. It is considered that the Delegation is not required.

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
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14-DA-007 Audit Committee. The Financial Management, Audit, Risk and Compliance Committee were granted authority to terminate the appointment of the Auditor. It is considered that the Committee should make a recommendation to Council for such serious action.

14-DA-013 Urgent Business During Council Recess. The Governance Committee was granted the authority to deal with urgent business during Council recess. It is recommended that Council call a Special Meeting of Council should urgent business arise during Council Recess.

23-DA-002 Authority to Revoke the Offensive Trade Licence for WA Fish Processing on Lot 77 (12) Parkinson Lane, Kardinya. The premises has closed.

Other Delegations have been reviewed by officers and suggestions have been included on the Delegations for changes to descriptions and sub-delegations to or from positions. The review process was undertaken by all Directors and their suggestions have been noted on each Delegation. An attachment [5014 Index 2008.pdf](#) provides an analysis of all Delegations and identifies where suggested amendments have been made. Where it has been proposed that a Delegation should be renamed, in the attachment the proposed name has been inserted under the current name in bold font.

Elected members should note and pay particular attention to the Delegations that have had "Major" amendments.

PUBLIC CONSULTATION/COMMUNICATION

No external public consultation has been carried out as these delegations are considered to be an internal matter requiring only the Councils consideration.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Should delegations to officers not be granted, customers would experience increased delay in obtaining approvals and authorisations.

The City of Melville Delegated Authority Manual has been modelled on the Department of Local Governments guidelines introduced in the February 2007. These guidelines were prepared in collaboration between Department of Local Government & Regional Staff, McLeods Barristers & Solicitors, and officers from various local governments including the City of Melville.

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
(AMREC) (ATTACHMENT)**

STATUTORY AND LEGAL IMPLICATIONS

The following are the key issues under the Act affecting delegated authority:

Delegations (to Committees and the Chief Executive Officer) must be made by an absolute majority decision [s.5.16(1) and s.5.42(1)].

- Delegations (whether to Committees or the Chief Executive Officer) must be in writing, and may be general or as otherwise provided in the instrument of delegation [s.5.16(2), s.5.42(2) and s.5.44(2)].
- All Delegations will have effect for the period of time specified in the delegation, or if not specified, indefinitely. Any decision to amend or revoke a delegation must be by absolute majority [s.5.16(3)].
- Any of the Council powers or duties under the Act can be delegated to a Committee comprising Council members only, EXCEPT any power or duty requiring absolute or special majority decisions; or any other power or duty as prescribed [s.5.17(1)(a)].
- Delegations CANNOT be made to Committees comprised of “other persons” only [s.5.9(2)(f)] (ie with no council members or employees). Following from this, delegations cannot be made to a committee comprised of employees only [such a committee cannot exist by virtue of s.5.9(2)].
- A Local Government may delegate to the Chief Executive Officer, by absolute majority, any of its powers or duties under the Act [s.5.42(1)], EXCEPT those identified in s.5.43 as listed below:
 - (a) any power or duty that requires an absolute or special majority decision or seventy five percent (75%) majority of the Local Government;
 - (b) accepting a tender which exceeds an amount determined by the Local Government;
 - (c) appointing of an auditor;
 - (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government;
 - (e) any powers under s.5.98 (fees for Council Members), s.5.99 (annual fee for Council Members in lieu of fees for attending meetings), or s.5.100 (payments for certain Committee Members);
 - (f) borrowing money on behalf of the local government;
 - (g) hearing or determining an objection of a kind referred to in s.5.95;
 - (h) any power or duty requiring the approval of the Minister or the Governor;

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
(AMREC) (ATTACHMENT)**

- (i) such other powers or duties as may be prescribed.
 - Any powers or duties which can be delegated to the Chief Executive Officer in accordance with s.5.42 and s.5.43, can be delegated to a Committee comprising Council members and employees [s.5.17(1)(b)]. Further, the Chief Executive Officer may delegate to any employee any of these powers or duties (other than the power of delegation) [s.5.44(1)]
 - Any powers or duties that are necessary or convenient for the proper management of the City of Melville's property or related to an event in which the City of Melville is involved, can be delegated to the following types of Committee:
 - (i) comprised of council members, employees and other persons
 - (ii) comprised of council members and other persons
 - (iii) comprised of employees and other persons [s.5.17(1)(c)]
- Registers must be kept of all Delegations made to Committees, the Chief Executive Officer and employees, and such Delegations are to be reviewed at least once every financial year. [s.5.18, s.5.46(1) & (2)]
- The Chief Executive Officer and any other employee who has been delegated a power or duty under the Act is required to keep a written record of:
 - (i) how and when the power was exercised or the duty discharged
 - (ii) the persons or classes of persons directly affected (other than Council or Committee members, or employees) by the use of the delegation [s.5.46(3) and Reg. 19].

FINANCIAL IMPLICATIONS

Should a Council choose not to delegate authority to its officers, additional financial cost will be incurred in the extra administrative resources that would need to be applied in order to prepare reports seeking authorisation for individual actions from Council.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk*	Risk Mitigation Strategy
An issue arises that requires urgent attention of officers to ensure public safety.	Moderate consequences which are almost certain, resulting in a High level of risk	Implementation of delegation of power to authorise officers to enter site to make a situation safe.

* As derived from using the Risk Assessment Matrix

**C08/5014 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL
(AMREC) (ATTACHMENT)****POLICY IMPLICATIONS**

A number of Council policies adopted by Council have enabling delegation to the Chief Executive Officer who in turn may on delegate to other appointed officers.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

All delegations are subject to the discretion of Council and can be removed at any time. Council may choose to remove delegations which in turn will then require formal Council consideration of relevant matters or items at the next available meeting of Council.

CONCLUSION

It is important to note that major decisions or actions made under delegation are as a matter of procedure referred onto Elected Members for their information. In addition whilst many decisions may be procedural, circumstances may make a decision contentious and therefore may be referred onto Council for formal decision despite the enabling delegation.

OFFICER RECOMMENDATION (5014)**ABSOLUTE MAJORITY APPROVAL**

THAT BY ABSOLUTE MAJORITY DECISION, THE CITY OF MELVILLE DELEGATED AUTHORITY MANUAL [Delegations Attachment](#) AS ATTACHED BE ADOPTED.

General discussion took place regarding the report and officer recommendation.

Cr Ceniviva noted that there was no delegation relative to the removal of Restrictive Covenants. The Manager Planning and Development Services advised that the Scheme provides for this to occur under delegation and that he regularly signs off documentation to remove restrictive covenants relative to development potential when the site has a development or subdivision approval. This matter is to be clarified and if necessary, a modification to the delegations may need to be made at Council.

Footnote:

It is subsequently noted that Delegation 06-DA-008 - Planning and Related Matters – covers the removal of Restrictive Covenants so no modifications are required to the report.

ADDITIONAL DISCUSSION

The CEO advised the meeting that in addition to the standard Finance Reports that there would be three additional Reports included on the July 2008 Ordinary Meeting of Council Agenda relating to:

- City of Melville “Plan for the Future”
- The 2008/2009 Budget Adoption
- An Amendment to Community Planning Scheme No 5

CLOSURE

There being no further business, the Presiding Member declared the forum closed at 8.22pm.