

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**28 AUGUST 2012**

- NOTES:**
- 1. This Meeting makes Recommendations to the Manager Planning & Development. Services**
  - 2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Peter Prendergast, Manager Planning & Development Services. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: [peter.prendergast@melville.wa.gov.au](mailto:peter.prendergast@melville.wa.gov.au) or Tel 9364 0626.**
  - 3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request must be received by the CEO by midday on the Friday following the publication of the Development Advisory Unit (DAU) agenda to the City's web site.**
  - 4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests are subject to the discretion of the CEO, and must be received by him no later than midday on the Friday following the publication of the DAU agenda to the City's web site.**
  - 5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Planning & Development Services, after midday on the Friday after the publication of the agenda to the City's website.**

**DISTRIBUTED: 31 AUGUST 2012**

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,  
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 28 AUGUST 2012.**

**PRESENT**

P Prendergast (Presiding Member)  
A Templeton  
T Capobianco  
R Bailey

H Shigeyoshi  
L Mannion

Manager Planning & Development Services  
Planning Services Coordinator  
Principal Building Surveyor  
Special Projects Officer (Engineering  
Design)  
Senior Planning Officer  
Technical Officer

**APOLOGIES**

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

**ELECTED MEMBERS' ATTENTION**

Nil

**DELEGATED AUTHORITY – PLANNING AND RELATED MATTERS DA-020**

**The following items are recommendations to the Manager Planning &  
Development Services for decision.**

## **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 has 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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## TABLE OF CONTENTS

U12/0419 - (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT) .....	1
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**U12/0419 - (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

Ward : Bull Creek/Leeming  
 Category : Operational  
 Application Number : DA-2012-715  
 Property : 1 Shea Grove, LEEMING WA 6149  
 Proposal : Change Of Use: Residential To Consulting Room, And Signage And Additions To Existing Building  
 Applicant : Archetype Design Studio Pty Ltd  
 Owner : Swami Krupa Pty Ltd  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : None applicable

**AUTHORITY / DISCRETION**

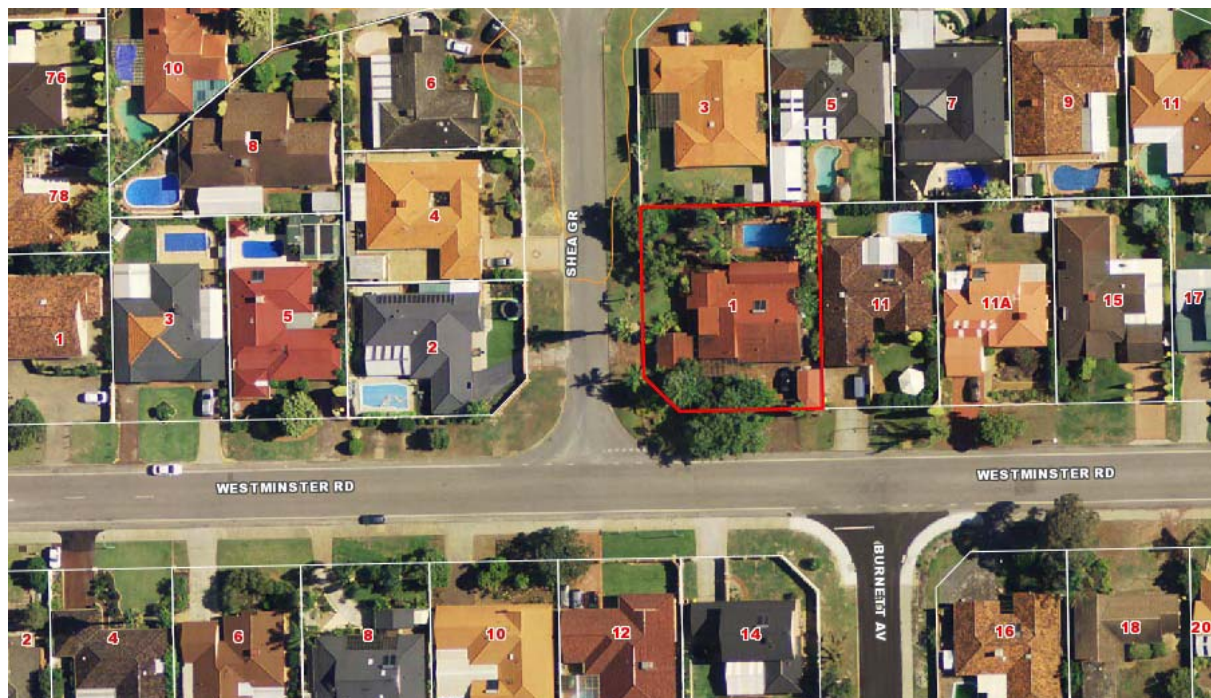
**DEFINITION**

<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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	<b>Quasi-Judicial</b>	<b><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></b>

**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought for the change of use of an existing residence to a 'Consulting Room'. Minor additions to the property are also proposed, as is business related signage.
- A 'Consulting Room' use is an 'S' use within the Living Area Precinct, and as such is not permitted unless Council exercises discretion and grants approval after advertising in accordance with Clause 7.5 (d) of the City's Community Planning Scheme No.5 (CPS5).
- Consultation was undertaken in accordance with the provisions of Clause 7.5 in the form of letters to adjoining property owners, a notice in the local newspaper, and the erection of a sign on each frontage of the subject property for a period of twenty-one (21) days.
- Submissions from 33 property owners as well as a multi-signature petition signed by 108 people were received in response to this consultation exercise, all of which oppose the development.
- Whilst the concerns raised by objectors are acknowledged, it is considered that the proposed development is acceptable at the scale proposed in this location, and is supported in principle, on that basis. .
- The application is recommended for conditional approval.



**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area (L1 – Leeming)
R-Code	: R20
Use Type	: Consulting Room(s)
Use Class	: “S” – discretionary use not permitted unless Council exercises discretion and grants approval after advertising in accordance with Clause 7.5 (d)

**Site Details**

Lot Area	: 1049.4 m <sup>2</sup>
Retention of Existing Vegetation	: Yes, substantial vegetation within the property boundary adjacent to Shea Grove and Westminster Road is to be retained.
Street Tree(s)	: Removal of some smaller existing vegetation proposed see ‘Comment’ section below.
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Refer to photo above

U12\_0419\_August\_2012\_DAU\_Attachment A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 31 August 2012.



**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

**DETAIL**

**Development Requirements**

The proposal satisfies the development requirements of CPS5 and Council Policy with the exception of the proposed 1.8m high solid front fence.

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>	<b>Plan Notation</b>
Front and Secondary Street boundary fencing	Maximum height - 1.8m  Visually permeable above 1.2m.	Majority of fencing along Westminster Road solid to 1.8m in height.  Portions of fencing along Shea Grove boundary visually permeable above 0.7m in height, however some sections of solid fencing to 1.8m in height	<b>Does not comply</b>	<b>MPDS</b>	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes – The proposal was advertised in accordance with Clause 7.5 (d) of CPS5.  
 Neighbour's Comment Supplied: Yes  
 Reason: 'S' use as per Table 1 of CPS5.  
 Support/Object: 33 objections received, as well as a multi-signature petition with 108 signatures.

**A number of the submissions made raised concerns of a similar nature. As such, and for reasons of brevity, these matters are only addressed once in the table below.**



**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

Summary of Submission	Support/ Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Commercial developments are not appropriate / should not be permitted in residential areas and in R20 zoned areas.	Objection	CPS5 allows for some types of non-residential uses (including consulting rooms) to operate, in principle, within Living Area Precincts, irrespective of the density code provisions that apply within those residential precincts.,	Not Uphold
Concerns are expressed regarding insufficient car parking and the likely on-street parking which will arise from the proposed use.,.	Objection	The subject proposal is fully compliant with the City's Car-Parking (Non-Residential) Policy CP-079.	Not Uphold
Concerns are expressed that adverse traffic impacts will result, caused by greater traffic volumes and congestion.,	Objection	By its very nature, the scale of the development is modest, there being two consultants and one other staff member involved. Traffic generated by the proposed use will be similarly modest in nature, and readily accomodated within the adjacent road network without detriment to the free flow of traffic, and without prejudice to highway safety.	Not Uphold

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<p>Concerns are expressed that the commercial nature of the proposed use will result in an increase in criminal activity and anti-social behaviour in the area.</p>	<p>Objection</p>	<p>On the contrary, the location of a commercial use in a residential area can result in a mutually beneficial relationship, as passive surveillance from the commercial use is seen to take place during the daytime trading period, for the benefit of residential uses, and from the residential uses in favour of the commercial activity in the evening and at weekends.</p> <p>The applicant proposes to install several security measures in an attempt to deter anti-social behaviour. The applicant has also indicated that no drugs will be kept at the premises.</p>	<p>Not Uphold</p>
<p>The proposed use should be located on Farrington Road, near similar uses, or be located closer to St. John of God Hospital and Fiona Stanley Hospital.</p>	<p>Objection</p>	<p>Whilst the sentiment of this concern is appreciated, the City must assess the proposal on the basis that CPS5 is supportive, in principle of consulting room development within residential areas, subject to specific operational criteria being met. Given the scale of the development proposed it is considered that these criteria are met by the developmnet in this case...</p>	<p>Not Uphold</p>

**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

<p>Concerns about noise not being residential in nature</p>	<p>Objection</p>	<p>The proposed use will be required to operate within the noise limitations imposed by virtue of the Noise Regulations. In practice, noise generated by the proposed development will likely be limited to vehicle noise, which by its very nature is readily accommodated in a location such as this. Despite this however, the applicant has ensured that car parking bays are located away from adjoining residential properties as far as is practical, thereby minimising the likelihood of adverse noise impacts from vehicle movements occurring.</p>	<p>Not Uphold</p>
<p>Concerns about the practice expanding over time.</p>	<p>Objection</p>	<p>A condition of approval is recommended limiting the operation of the Consulting Rooms to two consultants and one staff member.</p>	<p>Condition</p>
<p>Concerns about the de-valuation of property.</p>	<p>Objection</p>	<p>This is not a material planning consideration.</p>	<p>Not Uphold</p>
<p>Concerns that if the proposal is supported, it will set a precedent and invite similar ad hoc applications for changes of use to commercial within the area and result in a change to the residential character of the area.</p>	<p>Objection</p>	<p>Given the ability to change the use of residential premises within the Living Area Precinct to consulting rooms has been available since 1999, it is unlikely that there will be a deluge of such change of use applications now. Irrespective of this, the City is required to deal with any such application received on its merits taking into account Scheme and Policy provisions.</p>	<p>Partly Uphold</p>

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<p>Consideration is not being given to long-term planning.</p>	<p>Objection</p>	<p>A review of CPS5 is currently underway which is considering long-term planning for the whole of the City of Melville. This document is currently in draft form and will be advertised once completed. Until then, CPS5 is the current applicable planning scheme, consequently, the subject application is rightly assessed against its provisions.</p>	<p>Not Uphold</p>
<p>The proposal is not in keeping with the objectives detailed in Clause 2.1 (and sub-clauses 2.3.1, 2.3.5, and 2.4.1) of CPS5.</p>	<p>Objection</p>	<p>The application has been assessed in accordance with these provisions, in addition to the over-riding objectives of CPS5 for determining amenity impacts (primarily detailed in Clause 7.8 of CPS5).</p>	<p>Not Uphold</p>

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies / consultants is required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for Planning Approval, the applicant may have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council to consider as part of this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental management implications as a result of this proposal.

**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

**POLICY IMPLICATIONS**

The proposal has been assessed against and is compliant with the provisions of Council Policies CP-067: Amenity and CP-079: Car Parking (Non-Residential).

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council may choose to refuse the subject proposal, however such a decision is not recommended as it is considered that the proposal satisfies the requirements of CPS5, and a refusal could give rise to an appeal to the State Administrative Tribunal.

**COMMENTS**

Planning approval is sought to change the use of the subject dwelling house to 'Consulting Rooms'.

A Consulting room is defined by CPS5 as "land or buildings, other than a hospital, used by not more than two (2) health consultants and one (1) staff member, for the investigation or treatment of human injuries or ailments, and for general patient care."

In this case it is proposed to establish a Urology Practice, a facility that conforms with the definition of consulting room as outlined being that it involves the treatment of a human ailment.

The Urology Practice will be staffed by two consultants, assisted by one staff member. This is also consistent with the definition as outlined.

In the case of the proposed Urology Practice, pre- and post operative patient interviews only will occur on site. No medical procedures will be performed on the premises. The consultants will not necessarily work from the premises at the same time, and it is anticipated that the practice will service an average of 16 patients per day, given that each consultant has surgery and post operative home visit commitments, all of which occur off site.

It is proposed to operate the practice between 9.00am and 5.00pm, Monday to Friday. Attendance will be via prior appointment only, with consultations likely to be between 30 to 40 minutes in length for new patients, and 15 to 20 minutes for follow-up visits.

Land Use

A Consulting Room use is an "S" use within the Living Area Precinct. This means that the use is permissible in principle.

**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

The Statement of Intent for the Living Area Precinct states “primarily residential but may include home occupations, corner shops, parks, religious, recreational and educational activities, provided they are designed in a residential style and are not developed to such an intensity that they disturb the Precinct. All non-residential uses shall be advertised in accordance with Clause 7.5...”

The Consulting Rooms as proposed are not expected to result in any significant adverse impacts upon the adjoining properties or surrounding area due to the limited number of consultants proposed and the low number of patients anticipated each day.

The intensity of the proposal is considered to be similar to the operation of a Home Business given only two consultants are proposed to operate from the site and the low number of patients likely to be in attendance.

Furthermore, the proposed development is compliant when assessed against the City's standard development criteria for developments of this nature. As such it is concluded that in land use terms, the use of the premises for Consulting Room purposes is acceptable in principle.

#### Traffic and Parking Considerations

The subject property is located on the corner of Shea Grove and Westminster Road, Leeming. Shea Grove is a 'T'-shaped cul-de-sac, and the subject property is located at the entrance to the cul-de-sac.

Shea Grove is classed as a Local Access Road, and Westminster Road is classed as a Local Distributor Road on the City's Road Hierarchy map. The most recent traffic volume count for Westminster Road (2007) was between 2,000 and 2,500 vehicles per day, which is less than the 3000 to 6000 vehicles per day range considered acceptable for a Local Distributor road. The most recent traffic volume count for Shea Grove (2000) found an average of 260 vehicles per weekday, which is significantly less than the 3000 vehicles per day range considered acceptable for this category of road. Given the low traffic volumes anticipated by the proposed use, traffic generation along Shea Grove and Westminster Road is not likely to be significantly impacted.

Two separate car parking areas are provided, one accessed from Shea Grove and the other from Westminster Road. Together they satisfy the Council's requirements for off street car parking provision. In addition, it is concluded that access and egress to each of the car parking areas is acceptable and in accordance with Australian standards. It is proposed by the applicant that the car parking area accessed from Westminster Road be used by staff of the Practice, thereby minimising the number of vehicle movements into and out of that car park in the interests of road safety.

#### Signage

A sign is proposed to be located on the corner truncation of the property. The signage is 0.7sqm in area and complies with CPS5. The signage is considered minor in nature and its display will not likely result in the creation of any adverse visual amenity impacts..

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**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)****Front and Secondary Street Fencing**

In order to maintain the residential character of the property, it is considered that the solid fencing panels which are proposed to be located adjacent to the vehicle bays on the Shea Grove and Westminster Road frontages be made visually permeable. Whilst the solid panels would provide screening of the vehicles to be parked at the property, it is considered that the continuation of the visually permeable fencing will provide adequate screening as well as enhancing the surveillance of the property.

**Street Trees**

The proposal was referred to the City's Arborocultural Team in respect of the proposed removal of two existing small verge trees along Westminster and the location of the proposed cross-overs.

The proposed development was subsequently amended to allow for a 1.8 metre clearance between the existing large tree on the Westminster Road verge and the proposed crossover.

Removal of the other existing street trees has been supported by Technical Services subject to replacements being provided in accordance with the City's Street Tree Policy CP-029.

**Amenity**

The proposed development has been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5 and those of Council Policy CP-067 'Amenity'. In accordance with the 'Amenity' Policy, the applicant has demonstrated measures intended to mitigate adverse impacts within the locality, including the location of car bays well away from adjoining residences, fencing to aid noise attenuation, screening of car bays, security measures, and additional landscaping to enhance visual amenity. In addition, the existing dwelling will retain its residential appearance and existing vegetation and landscaping acts as a buffer between the adjoining properties. It is therefore concluded that the proposal will have minimal impact on, and enhance rather than detract from, the amenity of the adjoining properties and surrounding area, and as such, the proposed development is supported on that basis.

**CONCLUSION**

It is considered that the proposed Consulting Room use can be accommodated on the subject site and in the manner proposed, without detriment to residential amenity. It is also considered to be a Use which will provide benefit to the wider community. Accordingly, it is recommended that conditional Planning approval be granted.



**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION**

**APPROVAL**

- A) That the application for change of use from ‘Residential to ‘Consulting Room, and Signage and Minor Additions to the Existing Building on Lot 36 (1) Shea Grove, Leeming be approved subject to the following conditions:**

**SPECIAL CONDITIONS:**

- 1. All proposed front and secondary street brick screen walls as marked in red on the approved plans are required to be a maximum height of 1.8 metres from the natural ground level of the subject lot and to be visually permeable above 1.2 metres as per the City’s Residential Development Policy CP-078 to the satisfaction of the Manager Planning and Development Services.**
- 2. A 1.8m clearance between the proposed crossover and the existing street tree within the Westminster Road verge (as marked in RED on the approved plans) is to be provided to the satisfaction of the Manager Planning and Development Services.**
- 3. Prior to the initial occupation of the development, the two street trees within the proposed crossover off Westminster Road (as marked in GREEN on the approved plans) shall be removed and replaced with two trees in accordance with Street Tree Policy CP-029 to the satisfaction of the Manager Planning and Development Services. The cost of the removal, replacement trees and all work undertaken is to be at the owner’s expense.**

**STANDARD CONDITIONS:**

- 4. Not more than two practitioners and one support staff member are to occupy the premises at any one time.**
- 5. The façade of the front fences are to be treated with non-sacrificial anti-graffiti agent.**
- 6. Lighting to be provided to all car parking 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 to the satisfaction of the Manager Planning and Development Services.**
- 7. Prior to the initial occupation of the development, nine parking bay/s (including one disabled bay), manoeuvring areas, driveway/s and points of ingress and egress shall be provided in accordance with the approved plans to the satisfaction of the Manager Planning and Development Services. The bay/s shall thereafter be retained in perpetuity.**

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**U12/0419 – (NW) - CHANGE OF USE: RESIDENTIAL TO CONSULTING ROOM, AND SIGNAGE AND ADDITIONS TO EXISTING BUILDING ON LOT 36 (1) SHEA GROVE, LEEMING WA 6149 (REC) (ATTACHMENT)**

- 8. All unused crossover(s) are 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.**
  - 9. All stormwater generated on site is to be retained on site.**
- B) That the residents who made individual submissions and the lead petitioner be advised of A) above.**