

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

17 JANUARY 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 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.



**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, 17 JANUARY 2012**

PRESENT

A Templeton (Presiding Member)

H Shigeyoshi

L Anderson

T Capobianco

R Bailey

A/Manager Planning & Development
Services

A/Planning Services Coordinator

Senior Planning Officer

Principal Building Surveyor

Special Projects Officer (Engineering
Design)

APOLOGIES

C Taborda

Engineering Technical Officer

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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**U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD,
MELVILLE (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Planning approval is sought to construct a two storey dwelling at 38 Money Road, Melville.
- The proposal satisfies the relevant provisions within Community Planning Scheme No. 5 (CPS5), the Residential Design Codes (R-Codes) and Council policies with the exception of the Acceptable Development provisions relating to boundary walls, building height, visual privacy, site works and the setback of retaining walls.
- Two submissions objecting to the proposal were received during the advertising period raising concerns on loss of privacy and an adverse effect on amenity.
- Upon assessment of the proposal against the relevant Performance Criteria of the R-Codes, the proposal is considered to satisfy all of the requirements.
- It is recommended that the application be approved subject to conditions.



U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD, MELVILLE (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R20
Use Class	:	Residential
Use Permissibility	:	'P' Permitted

Site Details

Lot Area	:	832sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Yes, retained
Street Furniture (drainage pits etc)	:	No
Site Details	:	See aerial photo above

[U12_0398_January_2012.pdf](#) A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 20 January 2012.

DETAIL

Development Requirements

The proposal satisfies the relevant provisions within CPS5, the R-Codes and Council policies with the exception of those matters detailed below:

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Boundary Walls	Max. height 3.0m Average height 2.7m Length 9m	Max. height 3.1m Average height 2.9m Length - 6.3m	Does not comply	MPDS	
Building Height	Eaves 8.0m Max 10.5m	Eave 8.6m Max 9.5m	Does not comply	MPDS	
Site Works	Fill within 1m of a boundary not to exceed 0.6m	Maximum fill along the northern boundary - 0.85m	Does not comply	MPDS	
		Maximum fill along the southern boundary - 1.37m	Does not comply	MPDS	

U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD, MELVILLE (REC) (ATTACHMENT)

Setback of Retaining Walls	Retaining walls along the northern and southern boundaries to be setback 1m	0m	Does not comply	MPDS	
Visual Privacy	Unenclosed outdoor active habitable spaces setback 7.5m from boundaries	Northern elevation of the alfresco setback a minimum of 6.0m from the northern boundary.	Does not comply	MPDS	

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Two objections received
 Reason: Variation to Acceptable Development Criteria
 Support/Object: Object

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Submission 1	Accept the boundary wall height of 2.9-3.1m but not 3.3m. The house/garage wall may shadow and restrict direct sun to the bedroom window.	Conditional support Objection	The proposed boundary wall has an average height of 2.9m and a maximum height of 3.1m. The proposed development satisfies the Acceptable Development criteria of the R-Codes relating to overshadowing.	Uphold Not Uphold

U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD, MELVILLE (REC) (ATTACHMENT)

	The proposed retaining wall along the southern boundary may have an adverse impact on our amenity.	Objection	The subject site slopes down from front to rear by approximately 3m. It is therefore anticipated that some level of retaining or build up would be required to construct a dwelling on the site. The proposed retaining is not anticipated to result in any significant impacts upon the adjoining property in terms of bulk, amenity and overshadowing as the highest portion of the retaining wall is located opposite an outbuilding.	Not Uphold
Submission 2	The proposed ground levels, alfresco and balcony will result in a loss of privacy into the rear yard and outdoor living area.	Objection	In response to this submission the Applicant has submitted amended plans to ensure the Alfresco and first floor balcony satisfy the Acceptable Development criteria of the R-Codes relating to privacy. A condition of approval is recommended to ensure that a Dividing Fence is constructed above the proposed retaining wall height along the northern and southern boundaries to also screen views of the outdoor living areas of the adjoining properties	Not Uphold

**U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD,
MELVILLE (REC) (ATTACHMENT)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies or consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no anticipated strategic, risk or environmental management implications.

POLICY IMPLICATIONS

The proposal satisfies all of the relevant provisions within the applicable Council policies.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is recommended to be approved under delegation through the Development Advisory Unit (DAU) process. Should Elected Members, or interested third parties have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for Council consideration.

COMMENTS

Planning approval is sought to construct a two storey dwelling at 38 Money Road, Melville.

As outlined above, the proposed development satisfies all of the relevant provisions contained within CPS5, the R-Codes and Council policy with the exception of the Acceptable Development provisions relating to boundary walls, building height, visual privacy, site works and the setback of retaining walls

Site Works and Retaining

Fill and retaining walls which are less than 0.6m in height do not require approval under CPS5, therefore only those portions which exceed 0.6m are assessed within this report.

U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD, MELVILLE (REC) (ATTACHMENT)

The proposed retaining wall and corresponding fill which exceeds 0.6m in height along the northern boundary has a length of approximately 2.6m and ranges from 0.6m to 0.850m in height.

Along the southern boundary, the proposed retaining wall and corresponding fill which exceeds 0.6m in height has a length of approximately 5.5m and ranges in height from 0.6m to 1.370m in height. The retaining along this boundary is gradually stepped down along the slope.

The proposed site works and retaining are considered to satisfy the relevant Performance Criteria of the R-Codes for the following reasons:

- Notwithstanding the site works and retaining proposed for the creation of the split level dwelling and outdoor living areas; the development retains the overall impression of the natural sloping topography of the site as seen from the street and the adjoining properties.
- The proposed retaining wall along the northern boundary which exceeds 0.6m in height is located adjacent to the adjoining property's rear yard area which is used for vehicle and boat storage. This is not considered to be a sensitive space in terms of amenity. The remainder of the proposed retaining which is located adjacent to the adjoining property's outdoor living area is below 0.6m in height.
- The potential impacts of the proposed retaining wall along the southern boundary will be mitigated by the existing mature vegetation located along the boundary of the adjoining property and the outbuildings located on the adjoining property.
- A standard 1.8m dividing fence above the proposed finished ground level will prevent any overlooking between the subject property and the two adjoining properties.

Visual Privacy

The northern side of the ground floor level Alfresco is only setback 6m in lieu of the 7.5m requirement. A condition is recommended to ensure screening is implemented along the northern boundary to satisfy the Acceptable Development criteria of the R-Codes.

Building height

The proposed dwelling includes a 0.6m variation to the CPS5 eave height applicable to the Precinct. The scale of this variation is considered to be minor and is not anticipated to result in any significant adverse impacts upon the adjoining properties or surrounding area. The eave height variation is predominantly as a result of the sloping topography of the site.

Based on the above, the eave height variation is supported in this instance.

Boundary Wall

As outlined above, the boundary wall proposed to be constructed long the southern boundary exceeds the Acceptable Development provisions relating to the average and maximum height. The boundary wall is considered to satisfy the relevant Performance Criteria of the R-Codes for the following reasons:

- The scale of the proposed variations are considered minor.

**U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD,
MELVILLE (REC) (ATTACHMENT)**

- The boundary walls make effective use of the available space on the lot, allowing the dwelling to be primarily orientated toward the north to enhance solar access.
- The proposed boundary wall will enhance the privacy between the adjoining dwellings.
- The boundary wall is predominantly located adjacent to the front yard area of the adjoining site and is therefore is not anticipated to result in any significant impacts on the adjoining property in terms of amenity.
- The proposal satisfies the Acceptable Development provisions of the R-Codes relating to overshadowing.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5 and the Amenity policy. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

CONCLUSION

Notwithstanding the objections that were received, the proposal is considered to satisfy the applicable Performance Criteria of the R-Codes and is therefore recommended for approval subject to conditions.

**U11/0398 – (GD) TWO-STOREY SINGLE DWELLING ON LOT 47 (38) MONEY ROAD,
MELVILLE (REC) (ATTACHMENT)****OFFICER RECOMMENDATION****APPROVAL**

- A) That the proposed development on Lot 47 (38) Money Road, Melville be approved subject to the following Special Conditions:

SPECIAL CONDITION

1. The external face of the boundary wall is to be finished to the satisfaction of the adjoining neighbour or, in the event of a dispute to be finished to the satisfaction of the Manager Planning and Development Services.
2. Prior to the initial occupation of the development, the northern elevation of the ground floor level Alfresco and the raised northern outdoor area (as marked in 'RED' on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of Clause 6.8.1 (A1) of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Planning and Development Services.
3. Prior to the initial occupation of the development, a 1.8 metre high fence is to be provided from the highest retained ground level along the northern and southern boundaries.

STANDARD CONDITIONS

4. Roofing materials must not be highly reflective. The use of highly reflective materials (zinc or white coloured or coated metal roofing) may only be permitted through the grant of a separate planning approval.

ADVICE NOTE

5. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.
- B) The property owners of the Affected Property be advised in writing of A) above.

U11/0399 - (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross – Mount Pleasant
 Category : Operational
 Application Number : DA-2011-1224
 Property : 47 Kishorn Road, Applecross
 50-52 Kishorn Road, Applecross
 904 Canning Highway, Applecross
 Proposal : Operation of a monthly arts and craft market
 Applicant : Rotary Club of Canning Bridge
 Owners : Commonwealth Bank
 WA Baptist Hospital & Homes Trust Inc
 Gibek 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 & 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>

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPLCROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning approval is sought for the operation of a monthly arts and craft market to be held along Kishorn Road.
- The markets are proposed to be operated predominantly within the Kishorn Road reserve, however the existing car parking areas on three privately owned properties: 47 and 50-52 Kishorn Road and 904 Canning Highway are also proposed to be utilised.
- The proposal is generally compliant with the provisions of Council Policy CP-053: Market Uses.
- The proposed street market has been the subject of consultation in accordance with Clause 7.5 of Community Planning Scheme No. 5 (CPS5). The consultation process resulted in a total of ten submissions being received, five in opposition and five in support. A total of 309 residents were directly consulted. The main points in opposition to the proposal were in relation to traffic, parking and amenity.
- Whilst the concerns outlined within the submissions are acknowledged, the markets are only proposed to be operated once a month and will have restricted hours of operation. Furthermore, a traffic management plan has been submitted with the application addressing concerns relating to access, parking and traffic. Overall, the proposed markets are not anticipated to result in a significant detrimental impact on the locality subject to good management by the Applicant.
- The proposal is recommended for conditional approval. It is recommended that the approval only be issued for a 12 month period so to allow the potential impacts of the operation of the market to be monitored and to allow the City to impose additional restrictions or conditions in the future should the need arise.



U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	District Centre
R-Code	:	R60
Use Class	:	Use not listed - Markets
Use Permissibility	:	D – Use not permitted unless Council exercises discretion and grants approval

Site Details

Lot Area	:	Not applicable
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Retained
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo above

[U12_0399_January_2012.pdf](#) A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 20 January 2012.

DETAIL

Planning approval is sought for the operation of an Arts and Craft Market to take place on the first Sunday of each month starting in March 2012. The markets are proposed to be open between the hours of 8am and 2pm, with set up commencing no earlier than 7am and clean up concluding by 3pm.

The proposed market is intended for the sale of locally made arts and crafts however entertainment is also proposed.

The market will operate with between 20 and 30 stalls set up along either side of Kishorn Road between the intersections of First Ave and Moreau Mews, and within the parking areas of 47 and 50-52 Kishorn Road. 904 Canning Highway is proposed to be utilised for parking for the stall holders.

The Applicant anticipates up to 1000 visitors to the markets each day.

Development Requirements

The proposal satisfies all of the relevant provisions contained within CPS5 and Council policy.

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with Clause 7.5(d) of CPS5.
 Support/Object: Five Support / Five Objections

Consultation with all owners and occupiers within a 450m radius of the subject site was undertaken, this comprising of 309 residents.

Affected Property	Summary of Submission	Support/ Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Submission 1	Support the idea of the markets.	Support	Noted	Uphold
Submission 2	No objection subject to thorough planning and management of the traffic and parking impacts.	Support	The Applicant has submitted a Traffic Management Plan which details how traffic within the surrounding streets is to be managed. Parking will be available on surrounding privately owned commercial sites as well as on the street. The location is also well serviced via public transport.	Condition

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPLCROSS (REC) (ATTACHMENT)

<p>Submission 3</p>	<p>There are already traffic problems in the area during the week.</p> <p>The market will affect the amenity of the area.</p> <p>If the markets are approved will this allow for other similar operations to commence?</p>	<p>Objection</p>	<p>The area does attract significant traffic during the week however not on Sundays due to the majority of businesses in this location being closed.</p> <p>Subject to good management, it is considered that the operation of the market will not result in any significant adverse impacts on the amenity of the area. The markets could increase the vibrancy and amenity of the area.</p> <p>Any other market proposal/s must also obtain Council approval. Each application received by the City is assessed on its own merits.</p>	<p>Not Uphold</p> <p>Conditions</p> <p>Not Uphold</p>
<p>Submission 4</p>	<p>Support subject to measures being put in place to safeguard local residents with regard to parking, traffic and littering.</p> <p>Adequate toilet facilities and bins should be provided.</p>	<p>Support</p>	<p>Conditions are recommended with regard to compliance with the Traffic Management Plan. Additional conditions relating to the supply of bins and toilets are also recommended.</p>	<p>Conditions</p>

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPLCROSS (REC) (ATTACHMENT)

Submission 5	Support	Support	Noted	Uphold
Submission 6	<p>The market will have an adverse impact on access, traffic congestion and parking.</p> <p>Increase of littering in the area.</p> <p>Amenity of the area will be affected.</p>	Objection	<p>The Applicant has submitted a Traffic Management Plan which details how traffic within the surrounding streets is to be managed. Parking will be available on surrounding privately owned commercial sites as well as on the street. The location is also well serviced via public transport.</p> <p>A condition relating to the adequate supply of bins is recommended.</p> <p>Subject to good management, it is considered that the operation of the market will not result in any significant adverse impacts on the amenity of the area.</p>	<p>Condition</p> <p>Condition</p> <p>Condition</p>
Submission 7	Support, subject to being able to access their property during market days.	Support	The Traffic Management Plan details that access to properties along Kishorn Road will still be available during the operation of the market via one of the traffic controllers.	Condition

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPLCROSS (REC) (ATTACHMENT)

Submission 8	No objection	No objection	Noted	Uphold
Submission 9	<p>There is already a high parking demand in the area during the week, the markets will add to this inconvenience during the weekend.</p> <p>Parking on verges will cause damage to reticulation.</p> <p>Impacts on security of surrounding properties.</p> <p>The markets could turn into second hand markets.</p>	Objection	<p>The area attracts significant traffic during the week however not on Sundays due to the majority of businesses in this location being closed.</p> <p>On-street parking will be required to comply with the City's parking regulations.</p> <p>It is anticipated that with an increase in people in the area that passive surveillance will be increased and therefore the safety and security of the area should be increased.</p> <p>The Applicant has stated that the markets are for the sale of arts and craft and not second hand goods.</p>	<p>Not Uphold</p> <p>Not Uphold</p> <p>Not Uphold</p> <p>Not Uphold</p>

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPLCROSS (REC) (ATTACHMENT)

Submission 10	Concern regarding the hours of operation.	Objection	The market is proposed to be operated from 8am - 2pm, once a month (with an hour either side for set up and clean up). These hours are not considered onerous given the predominantly commercial nature of this section of Kishorn Road and the infrequent occurrence of the markets.	Not Uphold
	There are already ongoing traffic issues during the week and no parking restrictions apply along Kishorn Road on Sundays.		The area attracts significant traffic and parking during the week however not on Sundays due to the majority of businesses in this location being closed.	Not Uphold

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Required: Main Roads WA
Reason: Market to abut Canning Highway which is a Primary Regional Road
Support/Object: No objection

Agency	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
Main Roads WA	No objection	Support	Noted	Uphold

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**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*.

FINANCIAL IMPLICATIONS

None applicable in respect of this application.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

None applicable in respect of this application.

POLICY IMPLICATIONS

The application has been assessed against the provisions of Council Policy CP-053: Market Uses and is considered to be in general compliance.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is recommended for approval under delegation through the DAU process. Should Elected Members, or interested third parties have an alternative view, the DAU 'call-up' procedures provide opportunity to call the matter up for formal Council consideration.

COMMENTS

As stated, planning approval is sought for the operation of an Arts and Craft Market to take place once a month starting in March 2012.

Land Use

The subject section of Kishorn Road is zoned 'District Centre', which according to the Statement of Intent for the Precinct is intended for primarily retail shopping, tourist facilities, motel/hotel, offices and licensed premises, with residential use encouraged.

By way of land-use, the proposed markets are considered to be an appropriate use of the area which is otherwise under-utilised on Sundays, with the majority of the businesses in the area being closed. Furthermore, in light of the limited frequency of the markets, their operating hours and the Arts and Crafts nature of the market, it is considered that proposal will not unduly compete with the existing land-uses in the locality.

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It is also noted that holding the markets in a public space, such as Kishorn Road encourages community ownership of an event that assists in building community spirit amongst local residents. With the successful management and operation of the markets, they could increase the sense of community within the wider area as well as increase the vibrancy and activation of the area on Sundays.

In addition to the above, it is considered that with the increase in the number of people in the area attending the markets, passive surveillance of buildings and properties within the area will be increased and therefore be consistent with designing-out-crime principles.

As the markets are to primarily operate along the commercial portion of Kishorn Road, it is not anticipated that the noise emitted from the operation of the market will unduly affect any surrounding properties. Notwithstanding, the proposal must comply with the noise limits contained under the provisions of the *Environmental Protection (Noise) Regulations 1997* at all times.

Overall, in land use terms, it is considered that the proposal is acceptable and will not result in any significant adverse impacts upon the surrounding area. Subject to good management, the proposed markets could become a meeting place which would foster community interaction and enhance the vibrancy of the area which at present is under-utilised on Sundays.

A number of conditions are recommended to ensure the markets are operated to ensure impacts on the surrounding properties are mitigated. It is also recommended that the approval only be issued for a 12 month period which will allow the actual impacts of the market to be monitored.

Traffic and Parking

Council Policy CP-079: Car Parking (Non Residential) does not provide a car parking requirement for Markets. Where a parking ratio is not available, the Policy requires that Council have regard to “*similar uses, the precinct, the site, surrounding uses, off-site parking availability and having regard to recognised car parking standards of similar uses*”.

In this instance, it is considered that a car parking requirement should not be applied to the operation of the proposed markets for the following reasons:

- The markets are to operate only once a month and are therefore of infrequent and temporary nature;
- It is acknowledged, that the subject area is busy in terms of traffic generation and parking, Monday to Friday, however the majority of businesses located within the immediate area do not operate on Sundays, therefore there are large numbers of privately owned and public (on-street and off-street) car parking bays which will be available for stall holders and visitors to the markets to utilise;
- There are over 100 bays available on 43 Kishorn Road, 4 Sleat Road and 47 Kishorn Road alone. These sites all presently contain businesses which have limited or no trading on weekends and evenings, at which time their vacant car parking provision could be put to good use.

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

- The market site is adjacent to Canning Highway which is well serviced by public transport via bus services along Canning Highway and the train station at Canning Bridge; and
- It is anticipated that a number of visitors to the market who live in the surrounding area may walk or cycle to the markets.

A Traffic Management Plan has been submitted with the application which states that traffic will be managed through the use of sign marking and traffic marshals located in strategically chosen locations. Seven Rotary members are currently undertaking traffic management training and will act as traffic marshals for the duration of the market period each month.

For the duration of the market, Kishorn Road is to be closed to the east of the First Avenue / Kishorn Road intersection and to the north of the Moreau Mews / Kishorn Road intersection. This will still allow unrestricted access to be maintained to the properties along Moreau Mews and First Avenue using Kintail Road as a detour. As a result, it is considered that the movement of vehicles within the surrounding area during the operation of the market will be adequate, particularly given direct access to Kishorn Road is unavailable via Canning Highway. The proposed road closure has preliminary approval from the City's Technical Services.

In addition to the above, where access to properties along Kishorn Road may be required during the operation of the market, the Traffic Management Plan states that these vehicles will be escorted through the market by a trained traffic marshal.

A condition of approval is recommended to ensure that the markets are operated in accordance with the Traffic Management Plan submitted with the application and that the certification of the traffic marshals are submitted prior to initial commencement of the markets.

Overall, the proposal is not anticipated to result in any significant adverse impacts upon the surrounding area in terms of traffic movement and car parking.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5 and the Council's Amenity policy. It is concluded that the details of the proposal are acceptable in this context.

CONCLUSION

It is considered that the proposed markets, subject to the imposition of appropriate conditions, satisfy the provisions and requirements of CPS5 and the applicable Council policies. Accordingly, it is recommended that conditional approval be granted for a period of 12 months.

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)**OFFICER RECOMMENDATION****APPROVAL**

- A) That the application for the operation of a monthly Arts and Craft Market at Kishorn Road, Applecross be approved subject to the following conditions:

SPECIAL CONDITIONS:

1. This approval is valid for a period of twelve (12) months only from the date of the approval. Should the applicant seek to operate the use after such period, a new application is to be submitted and approved by the City.
2. The markets are to be open to customers within the hours of 8am and 2pm. Market holders are permitted to commence set up from 7am. The area is to be returned to its original state by 3pm.
3. The markets are to operate one Sunday each calendar month.
4. Prior to initial operation of the market, a Waste Management Plan is to be submitted and approved in writing by the Manager Planning and Development Services detailing:
 - The approximate location of bins during the operation of the markets.
 - The provision of additional rubbish bins at a rate of one bin per 50 people.
 - Measures that will be undertaken to clean up Kishorn Road and the surrounding streets at the conclusion of the market session.
5. The markets are to operate in accordance with the Traffic Management Plan submitted with the application at all times to the satisfaction of the Manager Planning and Development Services.
6. Prior to first commencement of the markets, copies of the traffic warden certificates are to be supplied to the Council.
7. Prior to the initial commencement of the markets, the applicant is to provide and maintain a public liability insurance policy of not less than \$10 million ('the Policy') with a reputable public insurance office to ensure the City is covered for all claims in respect of loss, damage or injury occurring to all structures contained within the road reserve in connection with the proposed development to the satisfaction of the Manager Planning and Development Services. The Policy shall cover the City for all claims (but without limiting the generality of the foregoing) for loss or damage to property not owned by the Applicant and also for any loss or damage to property not under the physical or legal control of the Applicant and in respect of all claims relating to contractual liability and such other risks as the City might reasonably nominate at the time of entry into such Policy.

U11/0399 – (SM) - OPERATION OF A MONTHLY ARTS AND CRAFT MARKET AT KISHORN ROAD, APPECROSS (REC) (ATTACHMENT)

ADVICE NOTES:

1. This planning decision is confined to the authority of the *Planning and Development Act 2005* and the City of Melville Community Planning Scheme No. 5. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements or encumbrances are adhered to.
2. The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*. These regulations can be obtained from www.slp.wa.gov.au
3. The applicant is responsible to ensure that sufficient toilet facilities are provided to accommodate 1000 persons as per tables below:

	Water Closet	Urinal trough (meters)	Wall Hung	Hand Wash Basin
Male	1	1.2	1	1
Female	4	-	-	1
Disabled	1	-	-	1

OR

	Water Closet	Urinal trough (meters)	Wall Hung	Hand Wash Basin
Male	3	-	-	1
Female	4	-	-	1
Disabled	1	-	-	1