

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

24 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.

DISTRIBUTED: FRIDAY 26 JANUARY 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, 24 JANUARY 2012.**

PRESENT

P Prendergast (Presiding Member)
A Templeton
H Shigeyoshi
L Anderson
T Capobianco
R Bailey

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

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.

TABLE OF CONTENTS

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM 'GROUPED DWELING'
TO 'RESIDENTIAL BUILDING' (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7)
COTRILL STREET, MYAREE (REC) (ATTACHMENT)..... 1

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Ward : City
 Category : Operational
 Application Number : DA-2011-1449
 Property : 4/7 Cotrill Street, MYAREE WA 6154
 Proposal : Retrospective change of use from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation)
 Applicant : Ms A Richards
 Owner : Ms A M Taylor
 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
 Previous Items : Not applicable

AUTHORITY / DISCRETION

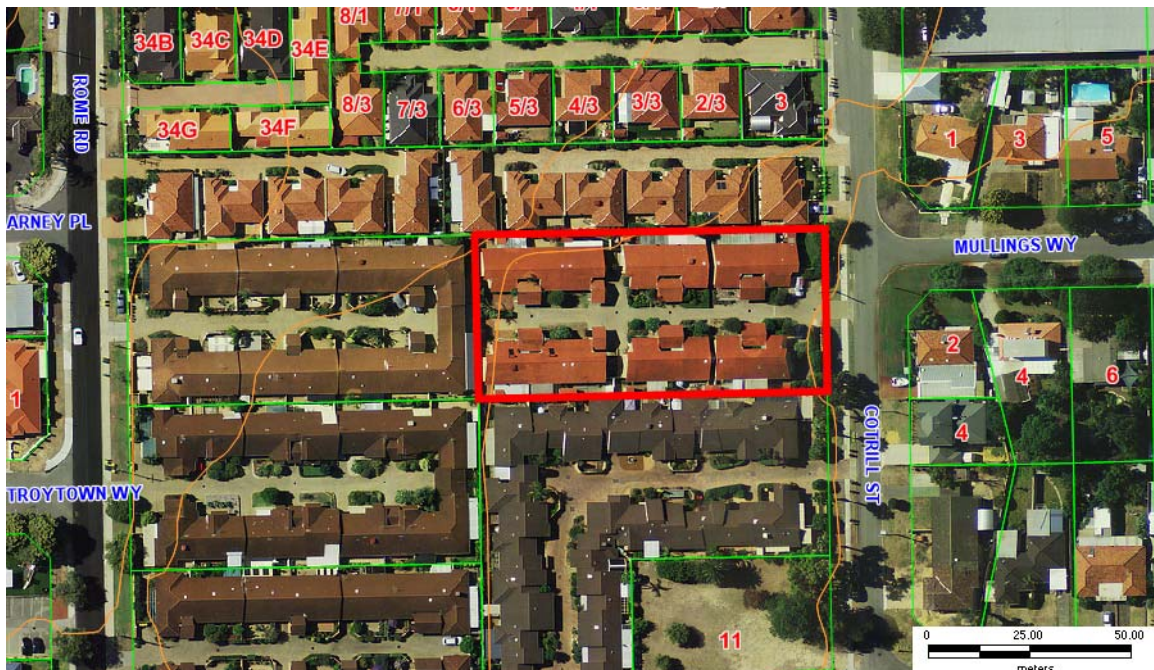
DEFINITION

<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>

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Retrospective planning approval is sought for a change of use of 4/7 Cotrill Street, Myaree from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).
- Under Community Planning Scheme No. 5 (CPS5), Short Term Accommodation is defined as a “Residential Building” which is a ‘Use Not Listed’.
- The application was advertised in accordance with Clause 7.5 of CPS5 and seven objections were received, all in opposition.. The objections raised primarily relate to increased noise, decreased safety and security, and problems relating to parking and refuse.
- The proposal has been assessed against the applicable objectives and provisions of CPS5 and is considered to comply with the requirements contained therein.. Subject to effective management, it is considered that the use of the property for short term accommodation will not result in any significant adverse impacts upon the occupiers of surrounding properties.
- The application is recommended for conditional approval..



BACKGROUND

The City received a complaint in October 2011 relating to the short term leasing of Unit 4, 7 Cotrill Street, Myaree. An initial compliance check identified that a breach of CPS5 had taken place, as a result of which the owner was encouraged to submit an application for retrospective planning approval. The subject retrospective planning application was submitted to the City in November 2011.

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R20
Use Type	:	Residential Building
Use Class	:	Use Not Listed – S Use (not permitted unless Council grants approval following advertising in accordance with Clause 7.5 of CPS5)

Site Details

Lot Area	:	3499.68m ²
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	See aerial photo above

U12_0400_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 27 January 2012.

DETAIL

Retrospective planning approval is sought for a change of use from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).

Development Requirements

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

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	Yes
Neighbour’s Comment Supplied:	Yes, 7 objections
Reason:	See below
Support/Object:	Object

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
Submission 1	<p>People coming and going at all hours makes residents feel uneasy about privacy and security.</p> <p>The owner and manager are not onsite to control guests when they break house or strata rules, therefore this lack of supervision means that rules are often ignored. There is no incentive for guests to keep to the rules, unlike permanent residents who have to live besides each other.</p>	Object	<p>Practical and effective management can overcome, or at least minimise the incidence of possible anti-social behaviour associated with short stay residents.</p>	Not uphold.
Submission 2	<p>Concerns with numbers of people coming and going and do not know who they are.</p>	Object	<p>See comment above.</p>	Not uphold.

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Submission 3	<p>Constant intrusion into privacy.</p> <p>Courtyard is being used as an entertaining area.</p> <p>Rubbish is often overflowing from their allocated rubbish bin and they resort to using other tenants' bins. It is often the case that rubbish amounts to more than the usual tenant amounts; this is often due to quick turnarounds between guests.</p> <p>Additional traffic and parking from guests who do not respect the car parking allocations and block people moving in and out of the site.</p>	Object	See comment above.	Not uphold.
Submission 4	Concerns relating to security and noise at night.	Object	See comment above.	Not uphold.
Submission 5	Added traffic and additional noise would interfere with the amenity of the residential address.	Object	See comment above.	Not uphold.

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Submission 6	Short term residents arrive at early hours, there is no monitoring, unacceptable noise, additional risk as the complex is not insured for holiday/commercial property. Children of guests playing in the driveway area is against strata rules and is dangerous.	Object	See comment above.	Not uphold.
Submission 7	Safety has been compromised.	Object	See comment above.	Not uphold.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

No referrals to external agencies are 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 applicable Council policy provisions.

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

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.

COMMENT

As outlined above, retrospective planning approval is sought for a change of use of Unit 4, 7 Cotrill Street, Myaree from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).

The subject unit is within a complex of 14 single storey units which have a central driveway and visitor parking bays located adjacent to the street boundary. The subject unit has one allocated car parking bay.

The unit has three bedrooms which contain one king bed, one set of bunks and one single bed with a trundle bed. Therefore the premises provide accommodation for up to six people.

The Applicant states that the type of guests who rent the unit vary and have included corporate guests, rural guests visiting family or the hospital, international or interstate based family members, local families renovating their family home, or most recently an International ISAF World Sailing Championship team.

The minimum letting period is three nights and bookings are made via the website www.stayz.com.au. On the day of the reservation, the keys are left at the property for the guests in a locked, secure location.

A ‘Residential Building’ is a Use Not Listed within CPS5. Uses that are not listed within CPS5 are ‘S’ uses within the Living Area Precinct and are therefore not permitted unless Council exercises discretion and grants approval after advertising in accordance with Clause 7.5 of CPS5.

There are no specific provisions within CPS5 or Council policy relating to short term accommodation, however the application has been assessed against the applicable objectives in Part 2, the matters to be considered in the assessment of all planning applications in Part 7 of CPS5 and Council Policy CP-067: Amenity policy.

It is considered that the use of the premises as a short term let can, in land use terms operate successfully from premises such as this, particularly if the operation is guided by clear and effective property management principles. To that end the applicant has submitted a copy of the ‘house rules’ which all prospective guests are made aware of and must abide by throughout the duration of their stay. The ‘house rules’ require that:

U12/0400 – (LA) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

- 1 There is no external noise of any description after 10pm.
- 2 Refuse is deposited within one of the standard refuse bins assigned to the unit..
- 3 Children are prohibited from riding skateboards and other play equipment within the common driveway area.
- 4 Tenants are required to park within the designated car parking area.
- 5 There shall be no parties or gatherings of more than six persons.
- 6 If complaints are received tenants may be evicted.

It is acknowledged that without adequate management, there may be circumstances that arise where short term residents behave in a manner inconsistent with the interests of permanent residents. However, it should be noted that these impacts could also occur through the long term letting of the property to people who hold a number of parties or make a lot of noise, and as such this is not a material planning consideration for the current proposal.

In practice, the occupation of this dwelling for residential, albeit short term, purposes, is consistent with the expected residential use of the premises. To that end the use is considered acceptable in principle, subject to the imposition of conditions to require the occupation of the premises to six persons. In addition an advice note is proposed to be attached to ensure the owner is aware of his obligations under the Environmental Protection (Noise) Regulations 1997.

CONCLUSION

It is concluded that the use of the premises for short term residential purposes is acceptable in principle in land use terms, and is supported on that basis.

OFFICER RECOMMENDATION**APPROVAL**

- A That the retrospective application for a Change of Use from a ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation) on Lot 27 (No. 4/7) Cotrill Street, Myaree be approved subject to the following conditions:**

SPECIAL CONDITIONS:

- 1. The occupation of the Residential Building (Short Term Accommodation) is limited to six (6) occupants at any one time.**

ADVICE NOTES

- 1. 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.**