

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

18 SEPTEMBER 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, 18 SEPTEMBER 2012.**

PRESENT

P Prendergast (Presiding Member)	Manager Planning & Development Services
A Templeton	Planning Services Coordinator
T Capobianco	Principal Building Surveyor
R Bailey	Special Projects Officer (Engineering Design)
H Shigeyoshi	Senior Planning Officer
J Wardell – Johnson	Senior Planning Officer
L Mannion	Technical Officer
C Taborda	Engineering 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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U12/0420 -(NW) - RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)

Ward : Applecross/Mt Pleasant
 Category : Operational
 Application Number : DA-2012-776
 Property : 87A The Esplanade, Mt Pleasant
 Proposal : Retrospective Home Business – Recreational Skippers Ticket Boating Tuition
 Applicant : Mr Anthony Smith and Ms Tracy Leveridge-Smith
 Owner : Mr Anthony Smith and Ms Tracy Leveridge-Smith
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Mr Peter Prendergast
 Manager Planning and Development Services
 Previous Items : Not Applicable.

AUTHORITY / DISCRETION

DEFINITION

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

U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANADE, MT PLEASANT (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Retrospective approval is sought to operate a 'Home Business' to undertake tuition for people seeking their Skippers Ticket.
- The application resulted from a complaint which was submitted regarding the unauthorised business activity. This complaint has been taken into consideration as part of the application assessment. Additional consultation with surrounding property owners was also undertaken, which resulted in no further objections being raised, and seven letters in support being received.
- Whilst the concerns raised in the initial complaint are acknowledged, it is considered that the Home Business will not have a detrimental amenity impact on the locality, subject to the imposition of relevant conditions.
- The application is recommended for conditional approval.



U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area (RFS – River Foreshore)
R-Code	:	R12.5
Use Type	:	Home Business
Use Class	:	“S” use – discretionary use

Site Details

Lot Area	:	1183.34sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	No street trees
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	Refer to aerial photo above

U12_0420_September_2012.pdf A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 21 September 2012.

DETAIL**Development Requirements**

The proposal is consistent with the definition for ‘Home Business’ as contained under the provisions of CPS5.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	Yes
Neighbour’s Comment Supplied:	Yes
Reason:	‘S’ use as per Table 1 of CPS5.
Support/Object:	One letter of objection and seven letters of support received

U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1	<p>The training takes place during non-business hours.</p> <p>Up to 12 people attend the training.</p> <p>Customers are not local residents.</p> <p>Customers take up all of the public parking bays in front of the submitter's house and along The Esplanade, which then inconveniences their visitors.</p> <p>The appearance and nature of the customers often leaves "a lot to be desired".</p>	Objection	<p>The instruction occurs on a Saturday or Sunday every second or third weekend during peak season. The tuition is undertaken wholly within the dwelling until the clients and instructor leave to undertake the remainder of the lesson off-site.</p> <p>Approval is sought to have between 2 and 5 customers at any one time. A condition of approval is recommended to restrict client numbers to five.</p> <p>Not a material planning consideration..</p> <p>On site car parking for up to 9 vehicles is available on site in accordance with Council Policy.</p> <p>This is not a material planning consideration.</p>	<p>Not Uphold</p> <p>Condition</p> <p>Not Uphold</p> <p>Condition</p> <p>Not Uphold</p>

U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)

	<p>Customers often congregate along their driveway, smoking and drinking coffee, before, during and after class.</p> <p>Customers have been observed looking over their fence, and one customer was observed entering their garage and looking at their vehicle.</p>		<p>This likelihood of this occurring is slight, and can be managed by the business operator in any event..</p> <p>This is not a material planning consideration.</p>	<p>Condition</p> <p>Not Uphold</p>
2 - 8	No objection to the applicant conducting a home business as outlined in the cover letter provided.	Support	Noted.	Uphold.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

No consultation with other agencies / consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville 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 relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no anticipated strategic, risk or environmental management implications associated with this application.

U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

There are no policy implications associated with this proposal.

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

Retrospective approval for a Home Business is sought. The Home Business relates to tuition for Recreational Skippers Tickets.

A 'Home Business' is an "S" use within a Living Area Precinct, which means that the use is not permitted unless the Council exercises discretion and grants planning approval after advertising.

The training is conducted on Saturdays and/or Sundays from 8.30am to 4.00pm. The theory component of the tuition is undertaken within the 31m² entry foyer of the dwelling and takes between 2 and 4 hours. The clients then complete a practical session off-site on the owners' boat.

The frequency of the training is seasonally driven, with the peak period being between October and February when training sessions are generally conducted once every second or third weekend (on either Saturday or Sunday). Outside of the peak period, sessions are conducted once per month.

The Applicant has stated that the maximum number of clients which can attend each training session is five due to the capacity limit of the boat used for the practical session.

Nine parking bays are available on site. As such, there is sufficient car parking on-site to meet the demand of the occupants of the dwelling as well as the five clients. In addition, there is adequate space for manoeuvring from each of the bays to ensure that vehicles can enter the street in a forward gear.

The Applicant has noted that in the past, some customers may have parked vehicles in public parking spaces on The Esplanade, however the Applicants have indicated that they will now instruct all customers to park on-site and will provide a parking plan and parking instructions at the time of booking. Irrespective of car parking availability on site, if there are public car parking bays available within the road reserve that customers of the Home Business choose to use, there are no particular restrictions in place to force them to do otherwise.

U12/0420 (NW) RETROSPECTIVE HOME BUSINESS (RECREATIONAL SKIPPERS TICKET TUITION) AT 87A THE ESPLANDE, MT PLEASANT (REC) (ATTACHMENT)

Overall, due to the nature of the proposed business, the low number of clients and its seasonality, it is considered that the proposal can be accommodated without prejudice to the general amenity of the adjoining properties and surrounding area.

CONCLUSION

It is concluded that the proposed Home Business can be accommodated on the subject site and in the manner proposed, without detriment to residential amenity. Accordingly, it is recommended that conditional Planning approval be granted.

OFFICER RECOMMENDATION**APPROVAL**

- A) That the application for a Retrospective Home Business on Lot 15 (87A) The Esplanade, Mount Pleasant be approved subject to the following conditions:**
- 1. A maximum of five clients at any one time are permitted to visit the property.**
 - 2. The Home Business shall not operate outside of the hours of 8.30am and 4pm Saturday and Sunday.**
 - 3. The Home Business is to be undertaken wholly within the dwelling.**
 - 4. Planning approval for the Home Business is issued only to Tracy Leveridge-Smith, in respect of the premises at 87A The Esplanade and is not transferable to another person or property.**
 - 5. No non-resident persons shall be employed by the Home Business.**

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*. These regulations can be obtained from www.slp.wa.gov.au**
 - 2. The Applicant is encouraged to implement measures to minimise noise impacts from customers congregating in the driveway and vehicle movements.**
- B) That the residents who made a submission in relation the application be advised of A) above.**