

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY 5 NOVEMBER 2013

1. This Meeting makes Recommendations to the Manager Statutory Planning.
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 Statutory Planning. 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 second Monday after the Friday publication of the Development Advisory Unit (DAU) minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
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 second Monday after the Friday publication of the DAU minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
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 Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

DISTRIBUTED: FRIDAY 8 NOVEMBER 2013



**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, 5 NOVEMBER 2013.**

PRESENT

P Prendergast (Presiding Member)
T Capobianco
R Bailey

L Mannion
A Donaghey
J Wardell-Johnson
M Turner

Manager Statutory Planning
Manager Building Services
Special Projects Officer (Engineering
Design)
Technical Officer (Environmental Services)
Senior Planning Officer
Senior Planning Officer
Environmental Health Officer
(Environmental Health Services)

APOLOGIES

A Templeton

Planning Services Coordinator

IN ATTENDANCE

OBSERVERS

DISCLOSURES OF INTEREST

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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U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mt Pleasant
 Category : Operational
 Application Number : DA-2013-1074
 Property : 817 Canning Highway, APPECROSS WA 6153
 Proposal : Change of Use from 'Residential' to 'Child Minding Centre'
 Applicant : Narelle Johns
 Owner : Insert Owner Details
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Nil
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

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 operates as a review authority on decisions made by Officers for appeal purposes.</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>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning Approval is sought for a change of use from 'Residential' to 'Child Minding Centre' at 817 Canning Highway, Applecross. In addition, approval is sought for a new sign facing Canning Hwy.
- Under the Use Class provisions of Community Planning Scheme No5 (CPS5), a Child Minding Centre is a discretionary 'S' use within the Living Area Precinct, and is not permitted unless Council exercises discretion and grants planning approval following advertising.
- The Child Minding Centre will accommodate up to thirty (30) children and seven (7) staff at peak periods.
- The application was advertised for a period of 21 days and three (3) submissions were received all primarily concerned with the impact that the proposed use would have in parking and traffic terms, specifically on Alness Street.
- The proposed development has been assessed against the provisions of CPS5, Council Policies (CP-049 'Child Minding Centres' and CP-079 Car Parking Non Residential), and the Western Australian Planning Commission Planning Bulletin 72/2009 'Child Care Centres' and in principle is considered to meet the objectives of this policy framework. .
- The proposed development is recommended for conditional approval..



U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area
R-Code	: R25/40
Use Type	: 'Child Minding Centre'
Use Class	: 'S – Discretionary'

Site Details

Lot Area	: 807sqm
Street Tree(s)	: None applicable
Street Furniture (drainage pits etc)	: None applicable
Site Details	: Refer to aerial photo above

U13_0449_November_2013 A copy of the plans form part of the attachments to the Agenda which were distributed to members of council on Friday 8 November 2013.

DETAIL

The proposal is considered to satisfy all of the relevant provisions contained within Community Planning Scheme No. 5 (CPS5) and Council policy.

CPS5 and Policy Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation
Car Parking	Thirteen (13) bays plus drop-off and pick-up area	<u>On-Site</u> 3 bays <u>On-Street</u> 3 bays <u>Reciprocal Use</u> 7 bays Total = 13 bays	Requires assessment against amenity provisions of Clause 7.8 of CPS5.	Manager Statutory Planning (MSP)

U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes (21 days)
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with CPS5
 Support/Object: Three Objections

Issue	Summary of Submissions	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
Parking and Traffic	The proposed Child Minding Centre will add to existing traffic and parking problems on Alness Street	Object	The proposed use provides adequate parking to cater for demand.	Not Uphold

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Required: Yes
 Reason: Abuts Category 3 'Primary Regional Roads' Reservation
 Support/Object: Conditional Support

Agency	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
Main Roads WA	No objection in principle subject to the imposition of a number of conditions.	Support	Conditions of approval are included within the Officer recommendation below.	Condition

STATUTORY AND LEGAL IMPLICATIONS

Should the Council refuse to grant 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 for the Council to consider as part of this application.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

The proposed development is considered to satisfy the requirements of Council Policy CP-079 – Car Parking (Non-Residential) and Policy CP-049 Child Minding Centres. (Refer to detailed comment section below)

One sign is proposed which complies with the performance criteria of the City's draft Outdoor Advertisements and Signage Policy.

The proposed development is considered to meet the requirements of WAPC Planning Bulletin 72/2009 'Child Care Centres' which provides guidelines for local governments on the location and development of child care centres. (Refer to detailed comment section below)

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 for a change of use from 'Residential' to 'Child Minding Centre' at 817 Canning Highway, Applecross. The Child Minding Centre will accommodate up to thirty (30) children and seven (7) staff at peak periods.

Land Use

The subject site is located within the 'Living Area' Precinct. Under the provisions of CPS5 a 'Child Minding Centre' is an 'S' use meaning the use is not permitted unless Council exercises discretion and grants planning approval following advertising.

Advertising

In accordance with CPS5, the application was advertised for a period of 21 days whereby three (3) submissions were received all primarily concerned with the proposed use intensifying existing parking and traffic problems along Alness Street.

Council Policy CP-049 Child Minding Centres

This Council policy is designed to provide guidance regarding the approval and operation of child minding centres.

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The Policy contains general guidance and advice in respect of the planning application process, and some prescriptive statements regarding the suitability of particular locations to support such uses. In that respect, the Policy cites roads that carry more than 30,000 vehicles per day as unsuitable locations in principle, including Canning Highway. Closer scrutiny of the policy has however, led to the conclusion that the objective of the policy in respect of heavily trafficked routes such as Canning Highway, was to minimise any adverse impact on traffic flows through the comings and goings of vehicles associated with any Child Care Centre.

In the subject case, all access is taken from the secondary side road, Alness Street, there being no access or egress point from the property to Canning Highway.

In addition, the Council Policy places emphasis on sites being selected for Child Care Centre uses that are on corner locations, locations that are close to complementary services and/or land use activities, and sites that are well served by footpaths and good public transport.

In the case of the subject application site, the site is located on the corner of Canning Highway and Alness Street. It is immediately adjacent to St Benedict's Catholic Primary School, the kindergarten of which actually abuts the application site along its southern boundary. Finally, the location of the site in such close proximity to Canning Highway means that access to a number of high frequency public transport routes is readily available. In addition, footpaths are in place in and around the Primary School to support the high levels of pedestrian movements that occur within this school dominated precinct.

It is considered therefore that the proposed use is appropriately located in the context of Council Policy, and is recommended for support on that basis.

Car Parking

Under the provisions of Council Policy CP-079: Car Parking (Non-Residential) the proposed use requires 1 bay per 5 children, plus 1 bay per staff member; plus a drop-off and pick-up area to the satisfaction of Council. A total of thirteen parking bays (seven staff and six parent bays) and a drop-off/pick-up area to council satisfaction are therefore required.

In considering the requirements of Policy CP-079 the following elements were taken in to consideration:

1. The availability of 10 existing on-street public car parking bays on the eastern side of Alness Street;
2. The proximity of the use to high frequency bus routes along Canning Highway; and
3. At present up to 8 enrolments of the child care centre are confirmed to be siblings of children already attending St Benedict's, thereby further reducing the demand for car parking.

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Through discussions with Technical Services it was therefore agreed that the provision of three on-site bays, three new on-street parking bays (constructed at the applicants cost) and seven reciprocal use bays provided through a signed agreement with St Benedict's Primary School would be sufficient to cater for the car parking requirements of the business as proposed, in accordance with the City's requirements..

The seven reciprocal bays provide for four all day staff parking bays in the Ardross Street car park and three 15 minute parent parking bays between 7am and 8:15am in the Alness Street car park.

The proposed use is considered to provide adequate parking to meet the demand with a total of 13 car bays provided and existing on-street car parking, high frequency public transport and sibling 'car pooling' helping to alleviate overall demand. The use will not therefore contribute to existing parking problems on Alness Street.

WAPC Planning Bulletin 72/2009 'Child Care Centres'

Planning Bulletin 72/2009 provides guidance for decision making authorities on planning for child care centres.

The proposed use generally meets the requirements of the policy in relation to the suitability of the site in land use terms. Consideration has been given to the impact of noise pollution on surrounding land uses, road and traffic safety and, given the proximity of the use to Canning Highway, the potential impact of vehicle noise and emissions on the use itself.

However, in considering the provisions of Planning Bulletin 72/2009 the location of the proposed use is deemed appropriate for the following reasons:

Noise/Air Pollution

1. Any noise pollution generated by the proposed use is compatible with existing noise generated by the primary school and kindergarten immediately to the south of the site;
2. The portion of Canning Hwy fronting the site is located approximately 100m from the nearest intersection where vehicle noise and emissions are at their highest due to idling vehicles. As a result, traffic on the southern side of Canning Hwy is generally free flowing for the majority of the day, with the exception of peak periods in the early morning and late afternoon; and
3. An existing 1.8m high solid fence is located on the primary and secondary street frontages and the applicant is required, as a condition of planning approval, to prepare a landscaping plan providing established trees/vegetation in the front setback area to help mitigate the potential noise and/or air pollution that may be generated by Canning Hwy.

U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)*Road and Traffic Safety*

1. Vehicle access to the child care centre is achieved off Alness Street, a local access street, with a maximum speed limit of 50km/hr. The proximity of the use to the existing school also means speeds are reduced to 40km/hr during school pick-up/drop-off periods.
2. Access to or from Canning Hwy on to Alness Street is limited by a 'left in, left out' intersection reducing the potential for vehicles to use Alness Street as a through road thereby ensuring satisfactory safety levels for both vehicles and pedestrians.

Signage

The child minding centre proposes one wall sign located on the fencing of the north western corner truncation facing Canning Highway. The signage is considered to satisfy the performance criteria of the City of Melville draft Outdoor Advertisements and Signage Policy.

Amenity

The proposed development has been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5 and those of policy CP-067 'Amenity'. It is concluded that the proposed change of use will not detract from amenity levels given adequate parking has been provided

and the site is suitably located immediately adjacent to a large primary school and kindergarten. The proposed development is therefore supported on that basis.

CONCLUSION

Based on the above, the application is considered to generally satisfy the objectives of both Council and WAPC planning policy and CPS5. The proposed use provides adequate parking given the unique characteristics of the site which is suitably located immediately adjacent to a primary school and within walking distance to high frequency bus routes on Canning Hwy. For these reasons, the proposal is recommended for conditional planning approval.

U13/0449 - (TK) – CHANGE OF USE TO CHILD MINDING CENTRE AND SIGNAGE AT LOT 349 (NO. 817) CANNING HIGHWAY, APPLECROSS (REC) (ATTACHMENT)**OFFICER RECOMMENDATION****APPROVAL**

A) That the application for a change of use from 'Residential' to 'Child Minding Centre' and proposed signage at 817 Canning Highway, Applecross be approved subject to the following conditions:

- 1. The Child Minding Centre shall not operate outside of the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 6:30pm on Saturday and Sunday. This includes access and egress of service delivery vehicles and the use of forklifts and other plant and machinery.**
- 2. All stormwater generated on site is to be retained on site.**
- 3. The Child Minding Centre is restricted to a maximum of 30 children and 7 staff members on site at any one time.**
- 4. The reciprocal parking agreement between St Benedicts Catholic School and the applicant shall remain in place throughout the operational lifetime of the Child Care centre hereby approved.**
- 5. Prior to the opening of the Child Care Centre, a minimum of three 'on street' parking bays shall be constructed and made available for use. The verge bays shall be provided on the eastern side of Alness Street, north of the proposed crossover, in accordance with engineering drawings that are to be provided to and approved in writing by the Manager Statutory Planning. The bays shall be engineered to a minimum of 2.5m wide. Once constructed, the bays should be clearly marked by way of a street sign to require '15minute parking between 7.00am and 9.30am, and 2.30pm and 4.00pm, Monday to Friday.'**
- 6. The universal access bay as shown on the plans hereby approved is to be constructed in accordance with AS2890.6. Line marking and signage is to comply with standards for universal access bays for people with disabilities.**
- 7. The crossover onto Alness Street is to be designed to the City of Melville standards. This is to be 6.0m wide and is to accommodate 2 way traffic flow.**
- 8. A detailed landscaping and reticulation plan shall be submitted and approved to the satisfaction of the Manager Statutory Planning. The approved landscaping and reticulation plan shall be fully implemented within 1 month of final completion of the development and maintained thereafter to the satisfaction of the Manager Statutory Planning.**

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9. The landscaping and reticulation plan shall include a minimum 1.5m landscaping strip measured from the primary street front boundary and must include appropriate mature tree and plant species with the purpose of mitigating the potential impact of noise and emissions generated by Canning Highway.

ADVICE NOTES

- i. 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 approvals are first obtained, applicable State and Federal legislation is complied with, and any restrictions, easements or encumbrances are adhered to.
- ii. This approval is not permission to build. A building application may be required to be submitted and approved for this development prior to the commencement of any works on the site.
- iii. Noise from air conditioning units must comply with the Environmental Protection (Noise) Regulations 1997. In this regard, the owner may wish to refer to the document titled, “An installers guide to Air Conditioner Noise” available on the Department of Environment and Conservation’s website to ensure air conditioning units are located such that they will not cause a noise nuisance to nearby properties.
- iv. 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.
- v. This development constitutes a “Food Business” as per Section 107 of the Food Act 2008 and therefore shall comply with the provisions of the Food Regulations 2009 and the Food Safety Standards. Please liaise with the City’s Environmental Health Services in this regard.

Prior to the commencement of “Food Handling” operations, the “Food Business” must notify the City of Melville Health Section on the approved “Notification” form. All plans and specifications of the “Food Business” including details of all fixtures, fittings, appliances and finishes must be submitted to the City of Melville Health Section for approval as part of the application for Building Licence. The provisions contained in Australian Standard 4674 – Design, Construction and Fitout of Food Premises will be used to determine whether the construction complies with the requirements of Standard 3.2.3 of the Food Safety Standards – “Food Premises and Equipment”.

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- vi. This development constitutes a “Public Building” as per Section 173 of the Health Act 1911 and therefore shall comply with the provisions of the Health (Public Building) Regulations 1992. Please liaise with the City’s Health Services in this regard.
 - vii. Prior to the commencement of the operation of the “Public Building”, the owner must notify the City of Melville Health Section on the approved “Form 1 – Application to Construct, Alter or Extend a Public Building”. All plans and specifications of the “Public Building” including details of all fixtures, fittings, appliances and finishes must be submitted to the City of Melville Health Section for approval as part of the application for Building Licence.
- B) That the residents who made a submission on the proposal be notified in writing of (A) above.**

