

CITY OF ARMADALE

A G E N D A

OF DEVELOPMENT SERVICES COMMITTEE TO BE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 10TH NOVEMBER 2003, AT 7:00 PM.

A meal will be served at 6:15 pm

PRESENT:

APOLOGIES: Cr G M Hodges (Leave of Absence)

OBSERVERS:

IN ATTENDANCE:

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read by the Chairman.

DECLARATION OF MEMBER'S INTERESTS

QUESTION TIME

Minimum time to be provided – 15 minutes (unless not required)

CONFIRMATION OF MINUTES

RESOLVED

Minutes of the Development Services Committee Meeting held on 13th October 2003, be confirmed.

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Carried/Lost ()

ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.21/2003

The following items were included for information in the “Development Services Strategy section” –

- Report on Outstanding Matters – Development Services Committee
- Health Services Manager’s Report for September 2003
- Brookdale Liquid Waste Treatment Facility – Site Assessment Report
- Aust Institute of Environmental Health National Conference
- Planning Services Manager’s Report for September 2003
- Town Planning Appeal – Child Minding Centre, 2 Caroline St, Mt Nasura
- Town Planning Scheme No.2 - Amendment Action Table
- PAW Closure Report - significant actions during September 2003
- Subdivision Applications - Recommendation Table (Sept/Oct 2003)
- Compliance Officer’s Report for September 2003
- Planning Dept Monthly Admin Reports for September 2003
- Building Services Manager’s Report for September 2003
- Financial Statements for the period ending 30 September 2003

If any of the items listed above requires clarification or a report for a decision of Council, this item is to be raised for discussion at this juncture.

DEVELOPMENT SERVICES COMMITTEE

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**DEVELOPMENT
SERVICES
COMMITTEE**

HEALTH

PUBLIC BUILDINGS

WARD : All
FILE REF : HLT/23
DATE : 3 November 2003
REF : PM
RESPONSIBLE : HSM
MANAGER

In Brief:-

- A review of outcomes of the Public Buildings Inspection Program has found that the number of improvement directions issued as a percentage of inspections undertaken has remained more or less constant for the past four years.
- Many of the identified offences have the potential to compromise public safety.
- Recommendation for a process leading to prosecution of offences where appropriate.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Strategic Plan Aim : To have in place the range of services to enhance the safety and security of the community.

Legislation Implications

Health Act 1911 refers with respect to alleged breaches and Council's responsibilities.
Health (Public Buildings) Regulations 1992

Council Policy / Local Law Implications

Nil

Budget / Financial Implications

Nil.

Consultation

Nil.

BACKGROUND

At its meeting of 21st August, Council was advised of the history of non compliance with the public buildings provisions of the Health Act by the Pioneer Village Cinema and resolved that any future offence against those provisions would result, without further notice, in prosecution for that offence and any previous offences falling within the statutory time limit. (Resolution D134/8/03)

Since that time, a review of outcomes of the Public Buildings Inspection Program within Council's Environmental Health Plan has been undertaken. It was found that, although there has been a steady improvement in overall standards, some building operators are persistently failing to comply with regulatory standards. Some of the recurring breaches noted have the potential to seriously compromise public safety.

COMMENT

Analysis

The table below summarises findings.

Year	Nº of Inspections	Nº of Improvement Directions	Percent. Imp. Dir.	Nº of Premises Exceeding Target Risk Factor Score
99-00	130	75	58	25
00-01	123	69	56	14
01-02	109	64	59	12
02-03	109	63	58	6

While the steady reduction in the number of premises exceeding the Target Risk Factor Score suggests an improvement in standards, at least among those buildings with the lowest ratings, the number of improvement directions issued as a percentage of inspections undertaken has remained pretty well constant.

Examination of premises' files shows that directions issued relate primarily to:

- ♦ failure to display the Certificate of Approval (showing the maximum number of persons that may be accommodated) issued under section 178(1) of the Act;
- ♦ failure to maintain exit lighting, and emergency lighting, or failure to inspect, test and maintain a logbook of such testing in accordance with AS/NZS-2293;
- ♦ fitting of prohibited types of locks and latches to required exit doors;
- ♦ installation of security grills or gates fitted with prohibited latching devices adjacent to exit doors or otherwise across exit ways;
- ♦ other obstruction of exit ways; and
- ♦ failure to have fire extinguishers serviced annually.

While all of these offences carry the potential for serious consequences, even more disturbing is the fact that there are many instances of same buildings noted as having recurring faults of the same or similar type year after year.

The need to address this issue was identified within the City's Annual Report to the Executive Director, Public Health which said: "*The ongoing maintenance of public buildings continues to be less than satisfactory, although there has been significant improvement over the last few years, with only six inspections finding an unacceptable standard compared with twelve last year and 25 in 1999-2000. While most buildings within the district are of relatively low risk types, more work is required in education of clubs and similar organizations of their responsibilities.*"

A letter has recently been forwarded to all public building operators drawing attention to their responsibilities, outlining the more significant problems encountered, providing the relevant extract from the *Health Act 1911*, recommending purchase of copies of the *Health (Public Buildings) Regulations 1992* and the appropriate Standards and advising from where these may be purchased. The letter concluded with the advice that, following a prolonged period of a primarily educational approach on this matter, more stringent enforcement was likely in the future.

In considering related issues last August, Council was advised that the combined effect of Section 26 of the Act, in empowering and directing each local government to carry out its provisions, and Section 358, in empowering both the local government and its Environmental Health Officers (without receiving authority from that local government) to institute legal proceedings against any person committing an offence under the Act, may be to expose both to legal liability in the event of a breach resulting in an injury to any person. This would be likely where it could be shown that there was knowledge of a history of non-compliance and the local government or its officers had not taken appropriate enforcement action.

OPTIONS

Options open to Council are:

1. Continue with the current non-punitive approach. Given the facts outlined above it would be difficult to argue that exercising this option fulfilled Council's responsibilities.
2. Deal with each future reported breach individually at Development Services Committee prior to forming a recommendation for action to full Council. This has the disadvantages of being cumbersome and time consuming, and has the potential for introduction of inconsistencies in approach from case to case.
3. In light of the letter recently issued to all operators, endorse, as a general principle, prosecution for offences where:
 - ♦ the breach has the potential for serious public safety consequences (essentially those involving obstruction of exits, failure to properly maintain fire equipment or exit and emergency lighting, or permitting, or failure to take reasonable measures to prevent, overcrowding or misuse of a building);
 - ♦ there has been failure to rectify a fault within a time indicated as reasonable within a written direction resulting from an inspection, or there has been a history of an offence or offences of a similar type; and

- ♦ the operator is unable to demonstrate that he, she or it has endeavoured to become familiar with the relevant requirements and made every effort to implement them.

(This is similar to the approach that has been used most effectively with respect to offences under the food quality provisions of the Health Act as agreed by Council in 1994.)

CONCLUSION

It is considered that Option 3 is most likely to produce positive outcomes in the medium term and also demonstrate that Council and officers have properly exercised their responsibilities.

RECOMMEND

That, with respect to future identified offences against the public buildings provisions of the *Health Act 1911*, legal proceedings be instituted where:

- a) **the breach has the potential to seriously compromise public safety;**
- b) **there has been failure to rectify a fault within a reasonable time following a written direction or a history of similar offences; and**
- c) **the operator is unable to demonstrate a genuine attempt to become familiar with the relevant requirements and every effort to implement them.**

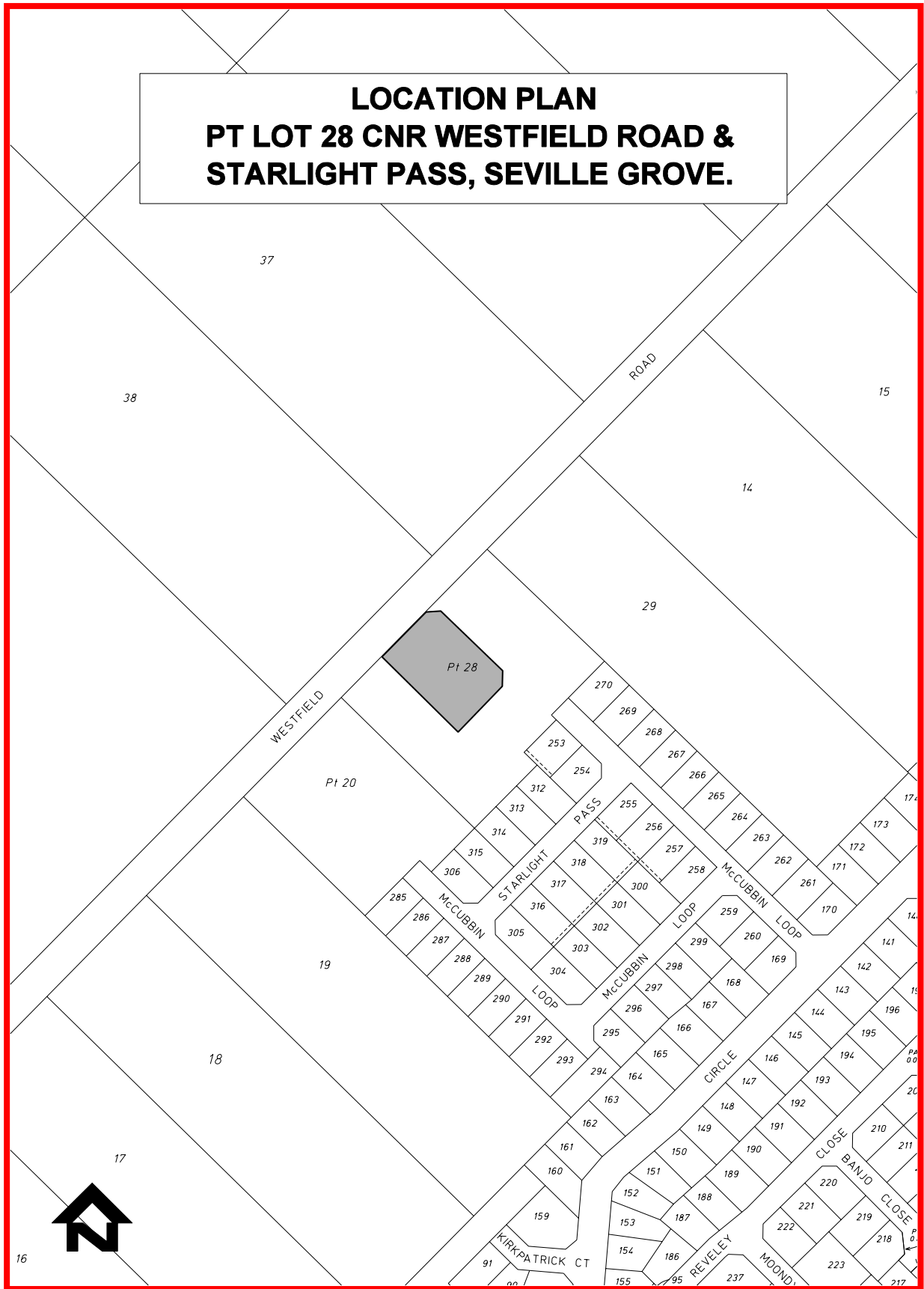
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COUNCILLORS' ITEMS

**DEVELOPMENT
SERVICES
COMMITTEE**

PLANNING

**LOCATION PLAN
PT LOT 28 CNR WESTFIELD ROAD &
STARLIGHT PASS, SEVILLE GROVE.**



***CHILD MINDING CENTRE –
PT LOT 28 CNR WESTFIELD ROAD & STARLIGHT PASS, SEVILLE GROVE***

WARD : SEVILLE
FILE REF : A223377
DATE : 28 October 2003
REF : EP
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dykstra & Associates
LAND OWNER : Sports Media Enterprises
SUBJECT LAND : Property size 2635m²
Map 21-05
ZONING : Urban /
MRS/TPS No.2 Residential Development Area
("R17.5")

In Brief:-

- Application proposes to develop a Child Minding Centre to accommodate a maximum of 90 children.
- The application was advertised for public comment. No submissions were received.
- The proposal is consistent with the Town Planning Scheme No.2 provisions and the Child Care Centres Policy requirements.
- Recommend that application be approved subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

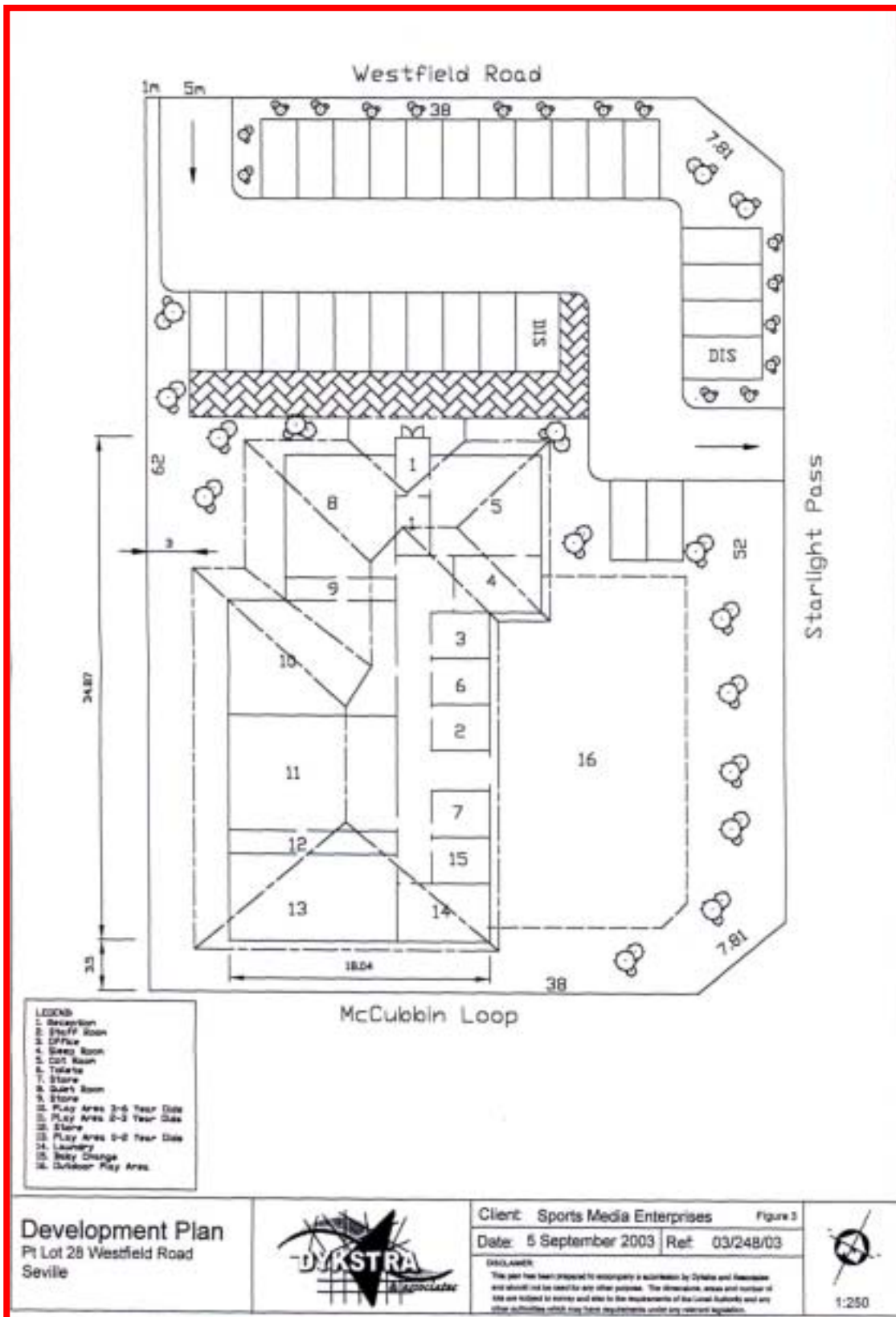
Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications

Child Care Centres Policy

Budget / Financial Implications

Nil.



SITE PLAN
PT LOT 28 WESTFIELD ROAD, SEVILLE GROVE

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Surrounding Landowners

BACKGROUND

Council received the application for a child minding centre on Pt Lot 28 Cnr Westfield Road and Starlight Pass, Seville Grove on 10 September 2003. A 'Child Minding Centre' is an "SA" use in the Residential zone under Town Planning Scheme No.2, and requires determination by Council.

It should be noted that as a result of recent Town Planning Tribunal decisions, it is no longer appropriate that Council apply Clauses 2.1.3 and 2.6.3 of its Child Care Centres Policy relating to a 1.5 km separation distance between centres and the requirement for a demographic demand analysis to establish the need for a new centre. It is intended that the Policy will be amended (currently in draft) to be consistent with the Tribunal's ruling during the current review of Council's Policies. Clause 2.6 (Contents of Applications) also requires amendment to delete reference to market need. Other aspects of the Policy relating to proper planning considerations remain relevant.

DETAILS OF PROPOSAL

The application entails the following:

- ◆ Construction of a new building designed at a residential scale and character fronting and with ingress from Westfield Road and egress to Starlight Pass;
- ◆ Catering for 90 children in the following age groups -
 - 0 - 2 years (15 children)
 - 2 - 3 years (30 children)
 - 3 - 6 years (45 children)
- ◆ Staffed by 18 qualified personnel;
- ◆ Operating hours would be from 6.30am to 6.30pm, Monday to Saturday;
- ◆ Twenty-seven (27) parking bays including pick-up and set-down facilities provided on site;
- ◆ Extensive landscaping along property perimeters abutting streets and car parking areas.

COMMENT

Development Control Unit (DCU)

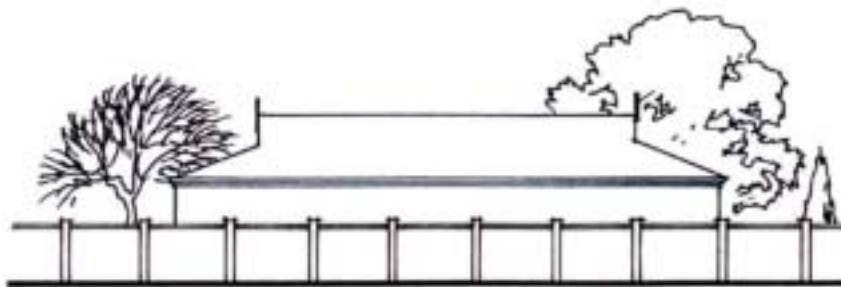
DCU considered the application at its meeting on 28 October 2003 and recommended approval subject to appropriate conditions.

Technical Services Directorate

Council's Technical Services Directorate has advised that Westfield Road being a Local Distributor Road is designed to carry a traffic volume of 3,000 vehicles per day and it presently carries approximately 2,000 vehicles per day. Therefore, it is not anticipated that the traffic generated by the proposed development would be of significant concern, however, a traffic study is required to alleviate any concerns.



Indicative Streetscape Elevation
Showing architectural style
Scale 1:300



Indicative Elevation
Rear Boundary
Scale 1:400

Elevations
Pt Lot 28 Westfield Road,
Seville



Client	Sports Media
Date	Aug 2003
Ref	03/248/04
Figure 4	



NTS

ELEVATION PLAN
PT LOT 28 WESTFIELD ROAD, SEVILLE GROVE

The traffic consultant employed by the applicant is liaising with the Technical Services Directorate Officers with a view to preparing the study to the satisfaction of the Technical Services Directorate.

The unmade section of Starlight Pass leading up to the egress point of the subject property from Westfield Road will need to be constructed at the subdividers cost.

The applicant is also required to contribute towards the upgrading of stormwater drainage along Westfield Road if an outlet to Westfield Road is required.

Results of Advertising

The application was advertised to 36 surrounding property owners for comment for a period of three weeks. No submissions were received.

Analysis

Town Planning Scheme No.2

The subject site is zoned "Residential - Development Area" where a Child-Minding Centre is classified as a discretionary land use ("SA" Use) under Town Planning Scheme No.2.

The application proposes to accommodate 90 children, which is in excess of the maximum prescribed number of 30 children under TPS No.2. The applicant asserts that the proposed child minding centre is a new and modern facility offering a wider range of services than those offered by older centres catering for 30-50 children. The general argument used by the applicant on this issue is that the current requirement for a maximum of 30 children per centre is not financially viable. Previous advice received from Department of Community Development (DCD) acknowledges that small centres find it difficult to manage child/staffing ratios in accordance with their (DCD) regulations.

Clause 7.6 of TPS No.2 however, provides for relaxation of standards if Council is of the opinion that the development is consistent with the proper and orderly planning of the locality and does not adversely impact on the amenity of the locality. The surrounding area when developed will be characterised by residential development and other related uses (such as educational facilities). In this regard, the amenity of the locality will not be adversely affected by the relaxation of this standard, provided other scheme and development conditions are met.

Consolidated Outline Development Plan- Urban Unit A14 (ODP Area)

The subject property is within the above ODP area, in a locality, which has not yet been subdivided. As the configuration of the proposed land area for the child minding centre is consistent with the indicative subdivision plan proposed for the locality this application is not considered to compromise any future planning of this locality.

Compliance with Child Care Centres Policy Requirements (Policy 4.3.15)

Suitable Locations and Site Area

The site is on a corner lot, being a preferred location, and is in close proximity to an identified school site and a local centre but is not adjacent to non-residential land uses, which is favoured in terms of the Policy. It could be argued that the site is strategically located to conveniently service the growing residential neighbourhood. Department of Community Development has stated that consumer surveys suggest that parents prefer centres to be located in residential areas within close proximity to their residences.

The chosen site is significantly larger (2635m²) than the Policy favoured size of 800m² and sufficient to accommodate all required facilities such as parking and access, servicing and outdoor play areas.

Car Parking and Traffic Management

Car parking on site is adequate as outlined under policy requirements, which state that one (1) bay for each ten (10) children and one (1) bay per staff member is required. Twenty-seven (27) bays are proposed on site, which meets the requirement. Access and exposure to the site is proposed from Westfield Road while egress would be from proposed Starlight Pass extension to minimise any prospective traffic issues. Should the application be approved, staffing levels and the number of children should be restricted to ensure no additions are made at a later date without Councils prior approval resulting in insufficient car parking availability.

The site plan depicts landscaping along all perimeters abutting streets and parking areas, which can be finalised with the submission of further details, including plant species and method of irrigation, as a condition of any approval issued.

The applicant is currently in the process of preparing a traffic impact assessment. Given that it is not presently available to be included in this report the applicant has stated that they will be prepared to satisfy any conditions imposed as a result of the outcome of this study. The Technical Services Directorate has accepted this proposition.

Building Design and Site Layout

The building is designed with a residential scale and character to complement the surrounding developing residential area. Proposed setbacks to the building from the roads would further minimise any visual impact from the roads.

The elevation plans submitted by the applicant are conceptual at this stage, however they demonstrate an acceptable residential scale and design to complement existing residences in the locality and future residential development planned to the north east and west of Westfield Road. Detailed elevation plans and a colour / material schedule could be required as a condition of approval.

Noise Issues

Fencing details have not been provided at this stage. The applicant however acknowledges that any noise issue could be mitigated by sensible design and fencing acting as a buffer between the two land uses.

The applicant states that the outdoor play area fronts Starlight Pass and is adjacent to the road intersection of proposed Starlight Pass and McCubbin Loop and hence, provides for maximum separation between surrounding residential frontages.

Given the scale of the proposed development an acoustic study is considered necessary in this instance. Any approval should specify that fencing must meet the regulation standards as outlined by the Department for Community Development and Family and Children's Services and the Environmental Protection (noise) Regulations.

A child minding centre management plan demonstrating the level of supervision and the number of children allowed outside at any given time should be requested from the applicant to ensure minimising possible noise concerns.

Hours of Operation

Operating hours would be from 6.30am to 6.30pm Monday to Saturday. Council must be satisfied that these hours are acceptable in a residential area. The hours proposed allows sufficient time for parents going to work to drop children off, and pick them up on the way home from work. It is considered that these hours are acceptable and if the application is approved, a condition could be imposed limiting the operating hours to these times.

OPTIONS

1. Council may approve the application on the grounds that the proposal is compatible with the surrounding residential area.
2. Council may refuse the proposal if it is of the opinion that such use is not considered acceptable within a developing residential locality, as it would have the potential to adversely impact on the amenity of the area.
3. Council may defer determination of this application until the applicant has demonstrated with appropriate acoustic and traffic studies that potential noise and traffic issues can be dealt with adequately.

CONCLUSION

The proposal is considered to be compatible with the surrounding residential zone and therefore poses minimal impact on surrounding residents. Prospective surrounding residential property owners will be aware of the Child Minding Centre as it will have existing approval as opposed to a new centre in an existing residential area.

This purpose built development would contribute to the future development planned for this locality and generate employment opportunities for the local community. Lack of public submissions indicates the acceptance of the development by the surrounding neighbours.

The approval can be conditional upon receiving a satisfactory traffic impact study report and the report being approved by the Executive Director Technical Services.

It is recommended that Council adopt Option 1 above and approve the application accordingly.

RECOMMEND

1. **That for the purpose of this application Council relax the standard relating to the maximum number of children with regard to Child Minding Centres, in accordance with Clause 7.6 of Town Planning Scheme No.2, from 30 to 90 children.**
2. **That subject to submission of a Traffic Impact Study Report to the satisfaction of the Executive Director Technical Services, and an Acoustic Study to the satisfaction of the Executive Director Development Services, Council authorise the Executive Director Development Services to issue a Form 2 Planning Approval for the development of a Child Minding Centre to accommodate a maximum of 90 children at Lot 28 corner Westfield Road and Starlight Pass, Seville Grove subject to the following conditions:**
 - a) **All requirements recommended in the Traffic Impact Study to the satisfaction of the Executive Director Technical Services.**
 - b) **All requirements recommended in the Acoustic Study to the satisfaction of the Executive Director Development Services.**
 - c) **Redesigning parking area to relocate disabled parking bays closer to the building to the satisfaction of the Executive Director Technical Services.**
 - d) **The unmade section of Starlight Pass leading up to the egress point of the subject property from Westfield Road to be constructed at the subdividers cost to the specification and satisfaction of the Executive Director Technical Services.**

- e) **Contribution to the upgrading of stormwater drainage along Westfield Road (if required) to the requirement and satisfaction of the Executive Director Technical Services.**
- f) **A management plan is to be submitted to the satisfaction of the Executive Director Development Services, addressing the supervision and number of children allowed in outside play areas at any one time to specifically address the manner in which children over 5 years of age will be managed in and out of school holidays. All external activities to be conducted in accordance with the approved management plan.**
- g) **Detailed elevation plans of the proposed development (including fencing) to complement the surrounding residential locality are to be submitted to the satisfaction of Council and such submission be approved by the Executive Director Development Services.**
- h) **A detailed colour and material schedule of the proposed development (including fencing) is to be submitted to the satisfaction of the Executive Director Development Services. The proposed development is to be completed and maintained in accordance with the approved schedule.**
- i) **A comprehensive landscape plan for the proposed development (including the verge between the roadway and the property boundary) is to be submitted to the satisfaction of and approved by the Executive Director Technical Services. All landscaping to be installed and maintained thereafter to the satisfaction of the said officer.**
- j) **Operating hours to be limited from 6.30am to 6.30pm from Monday to Saturday to the satisfaction of the Executive Director Development Services.**
- k) **All hard standing areas (eg. car parking area, crossovers, driveway vehicle manoeuvring space) unless otherwise determined by Council, to be constructed, drained, sealed, kerbed and marked to the requirements of Council in accordance with the approved site plan.**
- l) **Internal driveways to be brick paved to the satisfaction of the Executive Director Technical Service.**
- m) **Stormwater design is to be in accordance with water sensitive design principles to the satisfaction of the Executive Director Technical Services.**

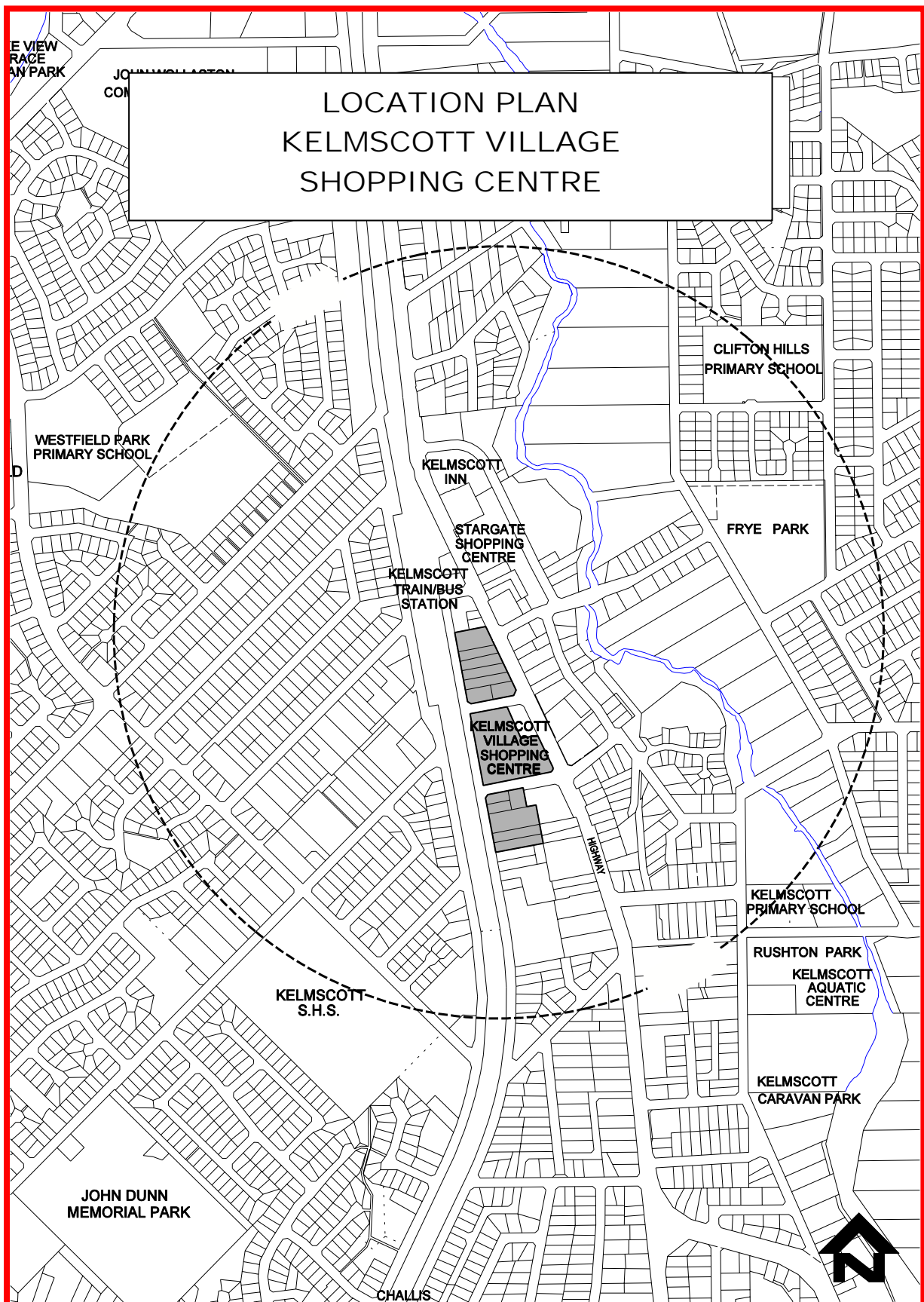
- n) **Evidence being provided from the Land Titles Office that subdivision/creation of the new lot has been completed and new titles issued.**

That the applicant be advised that:

- a) **Compliance with the regulation standards of the Department for Community Development and Family and Children's Services and the Environmental Protection (Noise) Regulations 1997 is required.**
- b) **Any changes in numbers of children or staff above the levels indicated in this application will require approval from Council.**
- c) **Any proposed signage requires a separate application and approval from the Executive Director Development Services.**

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***KELMSCOTT VILLAGE SHOPPING CENTRE REDEVELOPMENT –
APPEAL REQUEST FROM APPLICANT***

WARD : KELMSCOTT

FILE REF : A166046

DATE : 5 November 2003

REF : IM

RESPONSIBLE MANAGER : EDDS

APPLICANT : The Planning Group

LAND OWNER : DOLA, CoA (vestee), PTA (vestee), Cox Retirement Investments, Collective Property Investments, Redback Investments, Quinton Enterprises, Darley Holdings, Chevez Holdings, Western Property Investments and Syndicated Investment.

SUBJECT LAND : Lots 96, 1,2,3 and 5 Albany Hwy, Lots 10, 11, and 6 Denny Ave, Lots 1, 2, 5 and 105 Streich Ave, Lots 4 and 5 Davis Rd, Reserves 22186, 25940 and 22555 and Streich (part) and Denny Rd reserves. Map 22.06 and 22.07

ZONING MRS/TPS No.2 : Urban and Railways/ Shopping, Special Use, Public Purposes and Railways

In Brief:-

- The proposal consists of:
 - 26,015sqm GLA (approx.) of Retail floorspace including food;
 - 3,014sqm GLA (approx.) of Office floorspace;
 - 3,384sqm GLA (approx.) of Cinema with 8 screens;and various infrastructure works associated with road and rail are proposed.
- The proponent has appealed to the Appeal Tribunal against the City's failure to determine the application. The appeal is currently subject to mediation. It would be appropriate for Council to indicate what would be acceptable in terms of the redevelopment of the Kelmscott Village Shopping Centre.
- Recommend (in summary) that Council agree in principle to support a modified proposal which is consistent with the Retail Hierarchy Review and does not rely upon infrastructure development on public land or the availability of government (local and state) funds.

Tabled Items

Nil

Officer Interest Declaration

Nil.

Strategic Implications

Development – “To balance the need of development with sustainable economic, social and environmental objectives.”

Legislation Implications

Town Planning and Development Act 1928
Metropolitan Region Town Planning Scheme Act 1959
Town Planning Scheme No.2
Metropolitan Region Scheme
Statement of Planning Policy No.9 – Metropolitan Centres Policy

Council Policy / Local Law Implications

Metropolitan Centres Policy 2000
Kelmscott Station Precinct Study 1999
Kelmscott Enquiry-by-Design 2002
Retail Hierarchy Review 2003

Budget / Financial Implications

Infrastructure costs relating to roads, footpaths and landscaping. Library and Child Health Centre relocation.

Appeal costs – substantial costs have already been incurred in preparing for appeal in legal fees and witness statements. Additional costs will be incurred during the actual appeal hearing.

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Surrounding landowners
- ◆ Armadale Redevelopment Authority (ARA)
- ◆ Main Roads WA (MRWA)
- ◆ Public Transport Authority (PTA)
- ◆ Department for Planning and Infrastructure (DPI)

BACKGROUND

The Council has been appraised of this application by reports in December 2002 (to note the receipt of the application), April 2003 (to advise that the application was considered to be invalid), in July 2003 (in particular to clarify Council's position regarding the position regarding Council's vested reserves) and in September 2003 in respect of the mediation process and the compromise position proposed (and adopted) by Council.

The application was referred to the Western Australian Planning Commission on 22 November 2002 for determination under Clause 32 of the Metropolitan Region Scheme in accordance with Statement of Planning Policy No.9: Metropolitan Centres Policy (MCP) as the proposal exceeds the recommended maximum floor area of 15,000m² for the Kelmscott District Centre.

The applicant lodged an appeal with the Town Planning Appeal Tribunal against both the City of Armadale and the Western Australian Planning Commission on the grounds that the application had not been determined within the statutory 60 day period.

UPDATE ON NEGOTIATIONS

The applicant commissioned Malcolm MacKay (an urban designer) to prepare an alternative plan and this was presented to officers of the City and the DPI. It was agreed that the revised proposal was a substantial advance on the application previously submitted and a sound basis for a revised application. In particular the revised plan did not require the use of Council's library and child health centre, the closure of Denny Avenue, the relocation of the station and the excessive retail areas.

Senior officers were approached by the owners to facilitate a further discussion on the areas of disagreement between the Council and the applicant. Accordingly a meeting was held on 3 November 2003 between Mr Syd Chesson, Mr Dan Chesson, Mr Julian Grill and Mr Roger Stubbs and the CEO, EDDS, the Mayor and Chairman of the Development Services Committee and Executive Director of the ARA.

At the meeting a number of issues associated with the provision of the infrastructure and the appropriateness of the retail development and its impact on other centres was discussed. While there was no outcome from the meeting, it was requested that the views of the applicant be put before the Development Services Committee. To enable this to occur in the absence of a formal application, a letter outlining the applicant's position was requested. ***A copy of this letter is at Attachment "A1" of the Agenda, (refer Summary of Attachments - yellow page) for the consideration of the Committee.***

The applicant's letter asks that Council:

- ◆ be guided by the precedent created by other large district centres and takes account of the commercial imperative of having a discount department store;
- ◆ consider the proposed retail space more flexibly;
- ◆ support the relocation of the station;
- ◆ support the relocation of the railway crossing from Denny Avenue to Davis Road;
- ◆ support any agreed amendments to the development that occur through negotiation, be agreed by consent order in the Tribunal;

The applicant recognises that other outstanding issues are not addressed in the letter.

The applicant requests that the Committee agree to a deputation either at the Committee meeting or at a separate meeting.

COMMENT

At this late stage it is not possible to analyse what is being proposed in the attached letter. Suffice to say that the appellant have submitted 14 witness statements to the Tribunal and the WAPC and the City are in the final stages of submitting up to 20 statements in response to be provided to the Tribunal on 10 November 2003. It is important that the City's case is not diverted by the appellant's briefings. It should be noted that the revised plan developed by Malcolm MacKay, that addresses many of the City's concerns, is not the basis for the discussion as this plan does not suit the appellant.

It is generally appropriate to support further opportunities to discuss matters in the hope that an agreed position can be arrived at and thereby avoid the protracted appeal process. Accordingly it may be appropriate to agree to Council receiving a delegation from the appellant to explain their position. However, it would not be appropriate for this to occur at the Development Services Committee in view of time constraints and the desirability of other Councillors having the opportunity to attend.

Options

1. Council may agree to receive the deputation.
2. Council may decide to not receive a deputation on the grounds that the matter is shortly to be considered by the Town Planning Appeal Tribunal.

CONCLUSION

While it is disappointing that the appellants have continued to press for a development far in excess of policy parameters, it would be appropriate to positively respond to the approach requesting that a deputation be received. Accordingly Option 1 is recommended.

RECOMMEND

1. **That Council note the letter submitted by Dr Daniel Chesson of Australian Real Estate Investment Limited relating to the Kelmscott Village Shopping Centre.**
2. **That Council note the request to receive a delegation to explain the attached letter and agree to arrange a convenient time at which such a delegation may be received for all Councillors to have an opportunity to attend.**

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***PROPOSED BOUTIQUE WINERY, COFFEE SHOP AND WINE PRODUCTION –
LOT 104 (171) CANNS RD, BEDFORDALE***

WARD : ARMADALE
(& ABUTS ROLEYSTONE)

FILE REF : A231825

DATE : 31 October 2003

REF : RVD

RESPONSIBLE : PSM
MANAGER

APPLICANT : TJ Cook & BD O’Connell

LAND OWNER : TJ Cook & BD O’Connell

SUBJECT LAND : Lot 104 Canns Rd
Property size 3.1333ha
Map 24-04

ZONING : Rural/ Rural D1
MRS/TPS No.2

In Brief:-

- Proposed boutique winery at Lot 104 (171) Canns Road, Bedforddale which would only sell wine from grapes grown and processed on the three hectare property on Sundays between 10am to 4pm. Existing vineyard area and its management are not proposed to change.
- Consultation with surrounding landholders did not yield any submissions.
- Recommend that proposal be approved subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

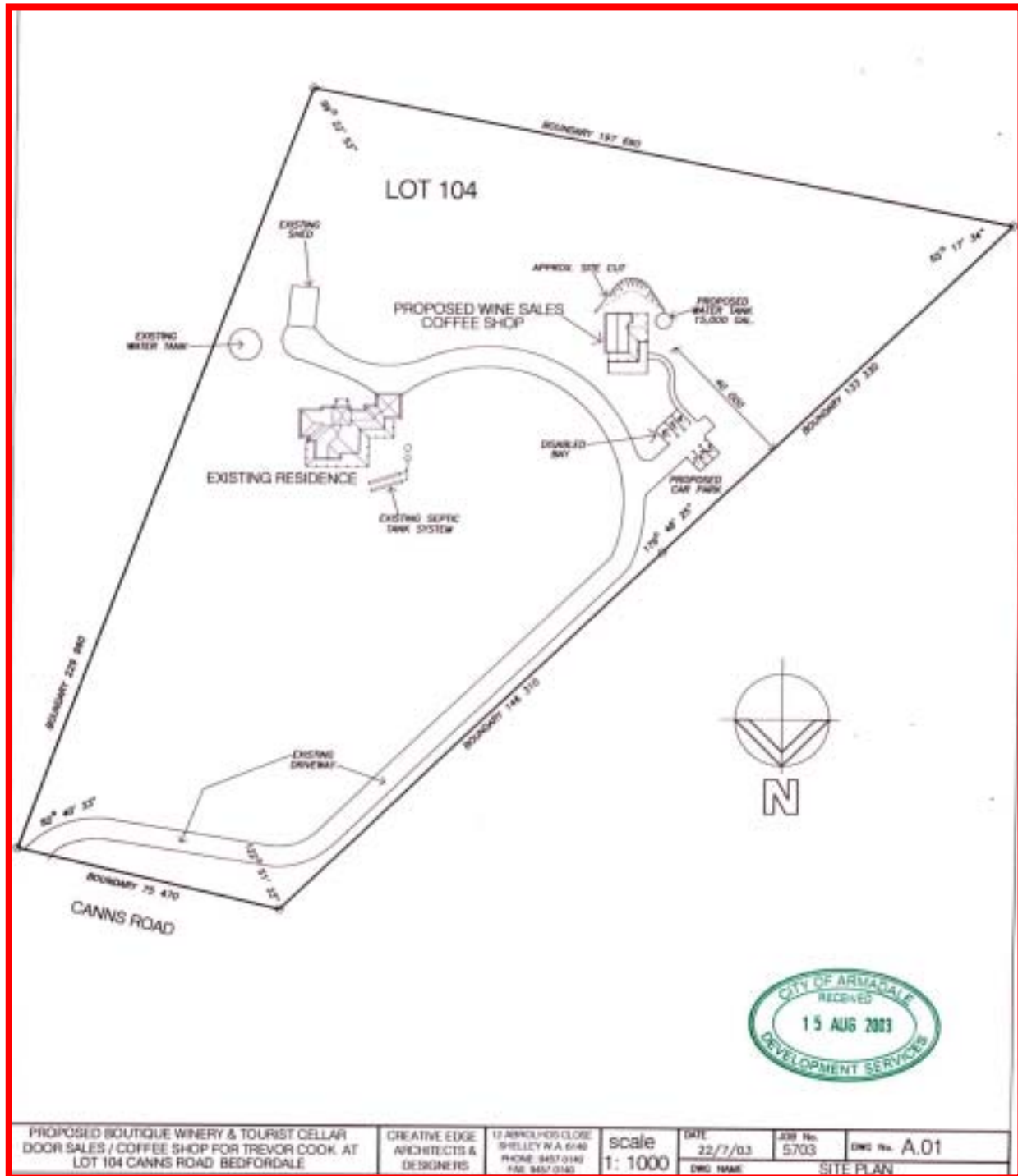
Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning Scheme No.2
Town Planning & Development Act 1928
Metropolitan Region Scheme Act 1959
Environmental Protection (Noise) Regulations 1997
City of Armadale Environment Animals and Nuisance Local Law 2002
Food Health Regulations

Council Policy / Local Law Implications

Alcohol (HLTH 3)
City of Armadale Rural Strategy



SITE PLAN
LOT 104 CANN ROAD, BEDFORDALE

Budget / Financial Implications

Nil.

Consultation

- ◆ Neighbouring landholders
- ◆ Development Control Unit

BACKGROUND

In 2000 Council approved a new dwelling on the subject lot, and there is an existing shed at the rear of the new dwelling. The applicant established 450 vines on the property for their own use but did not seek approval to do so. It is understood that last year the vines were harvested manually and wine was produced on-site from the crop.

DETAILS OF PROPOSAL

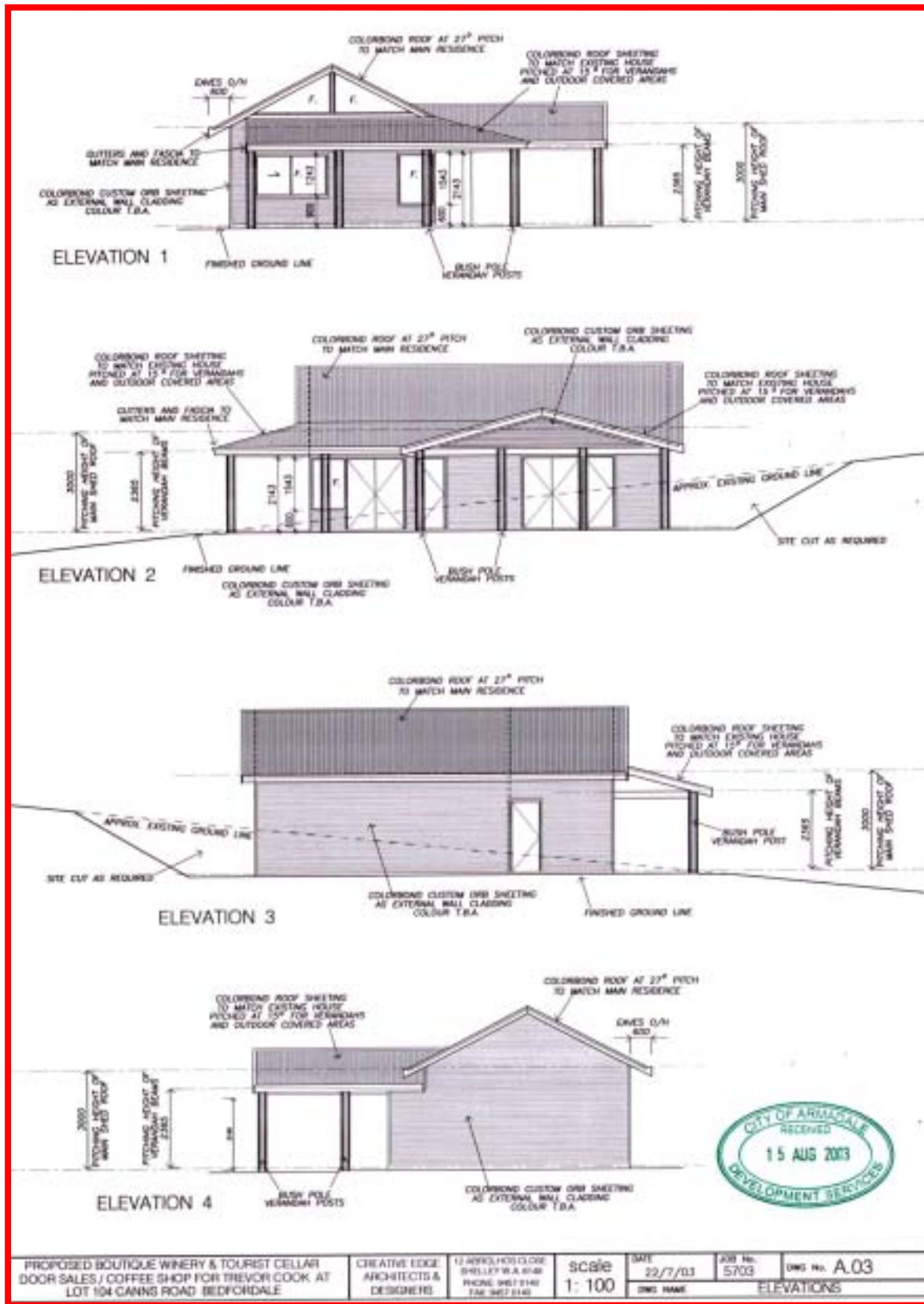
The applicants propose to construct a building for wine sales and a coffee shop. It is proposed to use the building to manufacture wine solely from grapes grown on the property, and then sell the wine along with coffee and cake. It is also proposed that:

- ◆ Opening hours for the winery will be Sundays from 10am to 4pm;
- ◆ The building may be slightly re-orientated to reduce cut and fill requirements;
- ◆ About six small marri or jarrah trees will be removed to make way for the building;
- ◆ Six sealed car parking bays are to be provided and will be located off the existing sealed driveway;
- ◆ Existing management practices for the vineyard, which include hand harvesting of the grapes and spraying for powdery mildew approximately three times per year will continue. The applicant has indicated that these operations are not noisy, and are conducted during daylight hours.
- ◆ Wine manufacturing is proposed to be undertaken using a manually operated crusher that does not generate noise that will affect adjoining landholders. Grape skins would be disposed of around the vines. Wastewater from equipment wash down is proposed to drain into the septic tank.

COMMENT

Development Control Unit

The Development Control Unit supported the proposal subject to a condition to address winery effluent disposal. Disposal of winery effluent into the same septic tank as used for toilet wastes is not acceptable. Advice notes in respect to compliance with the Building Code and the Food Hygiene Regulations were recommended. The Building Code requires that staff toilets be provided and the Food Hygiene Regulations require that commercial cooking is not undertaken in a domestic kitchen.



ELEVATION PLAN
LOT 104 CANNIS ROAD, BEDFORDDALE

Other agencies comments

Council's Alcohol Policy is aimed at reducing alcohol related problems in the community, and as such stipulates that all applications involving alcohol should be referred to the WA Police Service for comment. Comments have not been received from the WA Police Service to date.

In response to a similar application for a boutique winery operation, the WA Police Service recommended that should the application be approved, the applicant attend a training course and submit a management plan to address harm minimisation issues regarding underage drinking, safety management in relation to the service of alcohol, drink driving and general responsible service principles. These measures are seen to be appropriate.

Analysis

Town Planning Scheme No.2

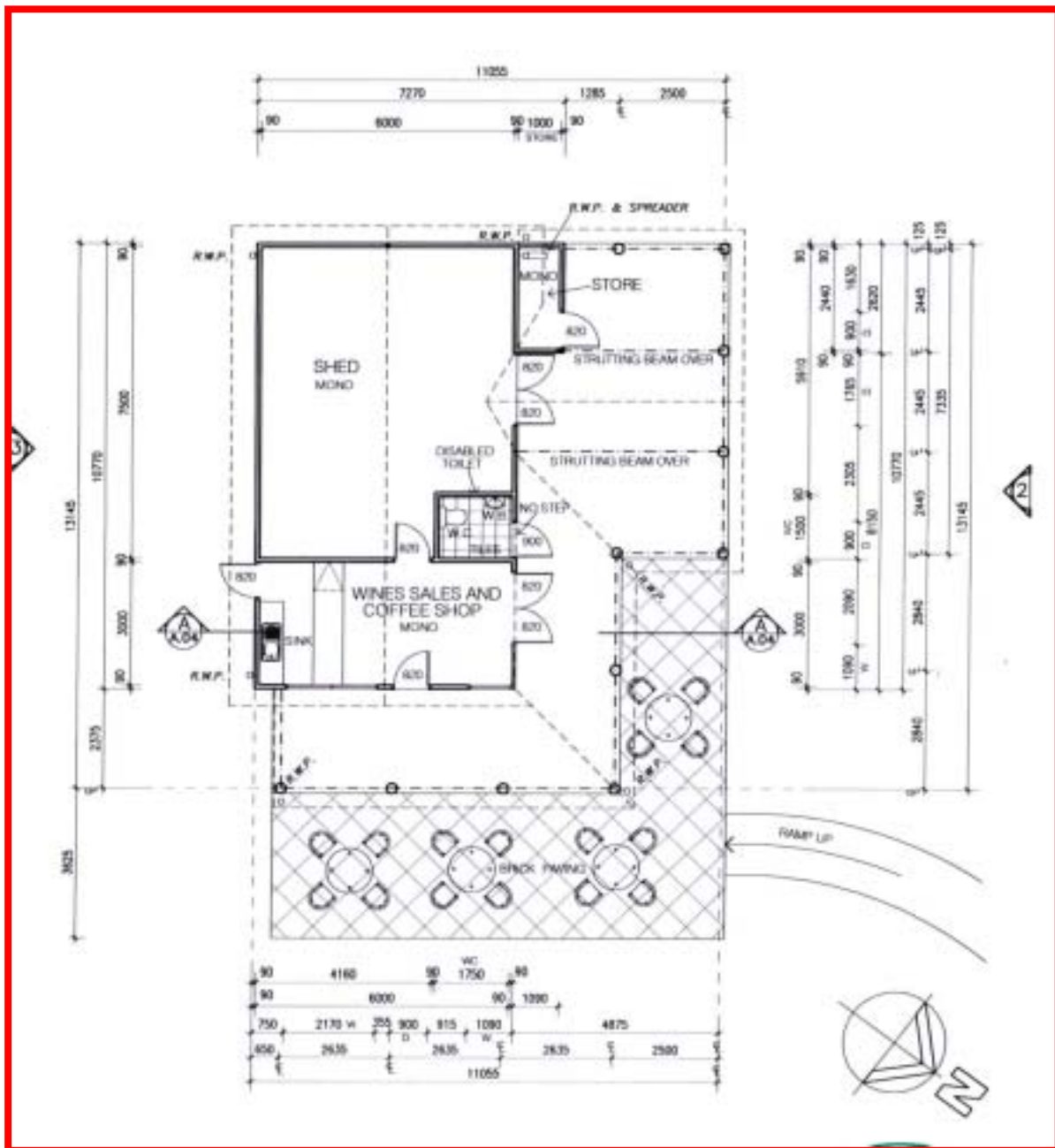
Clause 3.4 of Town Planning Scheme No.2 (the Scheme) outlines the procedure for determining a use that is considered to be a 'Use Not Listed' under the Scheme. The definition of a 'Use Not Listed' is when "*a particular use or class is not mentioned in the list of use classes or is not included in the general terms of any of the use classes in the Development Table, that use or purpose is prohibited unless it is permitted by the subsequent provisions of the Scheme*".

The proposal for the winery includes the growing of grapes (considered a 'Rural Use'), the production of wine (considered a 'Rural Industry'), and the tasting/sale of wine on the premises (partially a 'Retail Liquor Outlet'). As such, the proposal should be considered as a 'Use Not Listed' because it does not entirely fit into any single Scheme definition.

Council is to determine whether the proposed use is consistent with the objectives and purpose of the zone. Advertising has been undertaken in accordance with Clause 7.2, as required by Clause 3.4(b).

The Town Planning Scheme No.2 Policy Statement for the Rural zone states that it is a zone intended for the fostering of semi-intensive rural use of land, and that where compatible, such uses promoting tourism may be permitted.

As the applicants have not previously sought approval for the vineyard as a Rural Use, the application effectively seeks approval for this use. Under Town Planning Scheme No.2, Rural Use is a discretionary use, and Council may require planting of native trees to revegetate barren landscapes.



FLOOR PLAN
LOT 104 CANS ROAD, BEDFORDDALE

City of Armadale Rural Strategy

Council's Rural Strategy lists tourism (accommodation/ attractions) as a desirable/ conditional land use for the Canns Rural Planning Area. The proposal is considered to be a compatible tourist use.

Potential adverse impacts on amenity from vineyard operation

The Government of Western Australia and Grape Growers Association of Western Australia have produced *Environmental Management Guidelines for Vineyards 2002*, which identifies the following potential off-site impacts from vineyard operations:

- ◆ Spray drift;
- ◆ Noise from machinery, particularly mechanical harvesters; and
- ◆ Noise from equipment such as gas guns used to minimise bird damage of grapes.

Spraying operations have not resulted in complaints about spray drift to date. However, the vineyard has only been in operation for a short period. The vines are located within about 10m of Lot 105 and are a significant distance from other lots. There is no barrier to spray drift between Lot 104 and Lot 105. In this instance, there is insufficient space to plant vegetation and planting vegetation to prevent spray drift would provide refuge for birds that damage grapes. It is recommended that the applicant be required to erect a cloth barrier of the type recommended for placement between market gardens and residential areas in Planning Bulletin No.63 between the vineyard and the existing residence on Lot 105.

Noise from machinery is not considered to be an issue given the proposed method of operation of the vineyard. The applicants have suggested in discussions that all operations are likely to occur during daylight hours. The *Environmental Protection (Noise) Regulations 1997* are considered to adequately cover noise from machinery.

Noise from gas guns or electronic bird scarers used for pest control could be a concern in the future. The *Environmental Protection (Noise) Regulations 1997* do not deal with intermittent noise of this nature. Therefore it is recommended that the use of pest scaring devices that rely on short bursts of noise such as gas guns or electronic bird scarers be expressly prohibited. Alternative methods of pest control are available, including the use of netting, or a combination of balloons, fake cats and scarecrows.

Vineyard operation – potential environmental impacts

In addition to the matters addressed above, the *Environmental Management Guidelines for Vineyards 2002* identifies the following potential environmental impacts from vineyard operation:

- ◆ the potential for loss of soil if weed control leads to bare soils;
- ◆ soil contamination if chemicals are not handled and disposed of correctly.

It is considered that the Clauses 42 to 44 of the City's *Environment, Animals and Nuisance Local Law 2002* provides adequate powers to address any loss of soil and that the scale of operation means few chemicals would be stored on-site. Clause 42 requires an owner to take all practicable measures to ensure that no soil is carried by water off the particular lot, and Clauses 43 and 44 allow the City to require and erosion management plan and clean up soil from erosion.

Winery operation – environmental and amenity impacts

The Water and Rivers Commission *Water Quality Protection Note – Wineries in Public Drinking Water Source Areas* was consulted by officers to evaluate the potential adverse impacts of the winery operation. However, the winery operations referred to in the Water Quality Protection Note are for significantly larger operations, with figures being quoted of 500 to 2000kL of waste for a crush of 500 tonnes of grapes. This operation proposes to crush 4 tonnes of grapes.

The applicant considers that only small volumes of wastewater are produced that can easily be disposed of over the property or in a septic tank. However, the Development Control Unit expressed concern that the septic tank for other effluent should not be used for winery wastes and requested further details are provided to ensure wastewater disposal occurs appropriately. Therefore it has been recommended that the applicant provide a Winery Effluent Disposal Plan.

The proposal is set well back from the road and will be located relatively high in the landscape. Those houses that are visible from the proposed site are some distance off, so although the building will not be screened it is expected that the proposal will not adversely affect the rural amenity of the area, provided appropriate materials and colours are used. A condition to address the colour scheme is recommended.

Parking and traffic

Given the limited seating capacity of the winery and limited hours of operation, traffic impacts are expected to be minor.

There are no parking standards for this use identified in Town Planning Scheme No.2. A tavern requires one car parking bay per three square metres of bar and lounge space, whilst a retail liquor outlet requires one car bay per 100m² of gross leasable area, and a restaurant requires one bay per four attendance capacity. Given that the plan shows about four tables would be available for use by patrons and that the intention is that the operation be relatively low-key, the six parking bays provided on site are considered adequate.

Setbacks

Setbacks recommended for vineyards and wineries from watercourses are met by this proposal.

OPTIONS

1. Council could approve the proposed boutique winery and coffee shop as a “use not listed” in accordance with Clause 3.4 (b) of Town Planning Scheme No.2 subject to conditions relating to hours of operation, winery effluent disposal, spray drift control, prohibition of pest control devices that rely on intermittent noise, submission of a colour scheme and an alcohol harm minimisation plan.
2. Council could defer a decision the proposal on the basis that more information is needed on the management of potential environmental impacts from the vineyard and winery operation.
3. Council could refuse the proposal on the grounds that the use is not consistent with the Rural Zone objective/ policy statement because off-site impact adversely affect the amenity of the area.

CONCLUSION

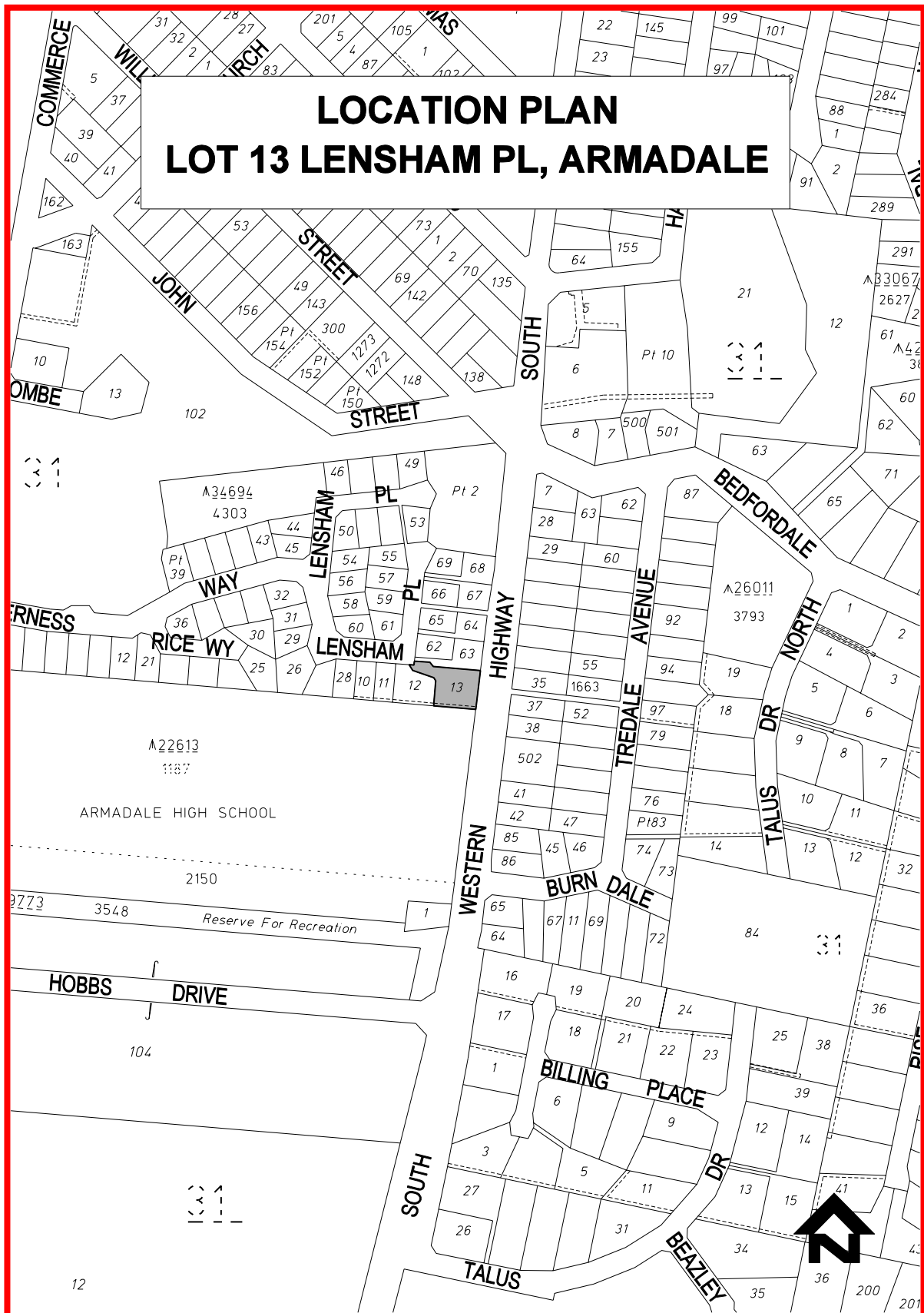
As the proposal is in keeping with the intent and purpose of the Rural zone and no submissions arose through advertising of the proposal, it is recommended that Council approve the application for a boutique winery in accordance with Option 1.

RECOMMEND

1. **Council determines the application as a “Use not listed” in accordance with Clause 3.4 of Town Planning Scheme No.2.**
2. **That Council determine that the proposed boutique winery and coffee shop submitted by TJ Cook & BD O’Connell at Lot 104 (171) Canns Road, Bedforddale constitutes a use that may be consistent with the objectives and purposes of the Rural zone and approve the use subject to the following requirements:**
 - a) **Hours of operation of the winery be restricted to Sundays from 10am to 4pm.**
 - b) **Submission and subsequent implementation of a Winery Effluent Disposal Management Plan to the satisfaction of the Executive Director Development Services.**
 - c) **Erection of a spray drift barrier between Lot 104 and Lot 105 to the satisfaction of the Executive Director Development Services.**

- d) **A schedule providing details of the colour scheme and building materials relative to the external appearance of the residence to be submitted and approved by the Executive Director Development Services. The development to be completed and maintained thereafter in accordance with the approved schedule to the satisfaction of the Executive Director Development Services.**
 - e) **Submission of a Alcohol Harm Minimisation Management Plan that addresses issues regarding underage drinking, safety management in relation to the service of alcohol, drink driving and general responsible service principles to the satisfaction of the Executive Director Development Services.**
 - f) **The use of pest control equipment that relies on short intermittent burst of noise such as gas guns and electronic bird scaring devices is not permitted.**
2. **That the applicant be advised that:**
- a) **Compliance is required with the:**
 - i) **Environmental Protection (Noise) Regulations 1997;**
 - ii) **City of Armadale Environment, Animals and Nuisance Local Laws 2002 particularly in relation to preventing soil erosion;**
 - iii) **Food Hygiene Regulations, which amongst other things requires that commercial cooking is not undertaken in a domestic kitchen;**
 - iv) **Building Code of Australia, which amongst other things requires that staff toilets be provided.**
 - b) **With regard to condition c) the applicant is advised to erect a cloth barrier with a permeability consistent with advice provided in Planning Bulletin No. 63.**
 - c) **With regard to condition d), the external building material is to be non-reflective and in a colour scheme to blend in with the natural landscape.**
 - d) **With regard to condition e) that the applicant will be required to attend a training course run by the WA Police Department in order to determine the scope and contents of the Alcohol Harm Minimisation Management Plan.**

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PROPOSED FIVE UNIT DEVELOPMENT – LOT 13 LENSAM PLACE, ARMADALE

WARD : ARMADALE
FILE REF : A241183
DATE : 31 October 2003
REF : PRR
RESPONSIBLE MANAGER : PSM
APPLICANT : Mrs A Ferris
LAND OWNER : Mrs A Ferris
SUBJECT LAND : Lot 13 Lensham Pl, Armadale
Property size 1628m²
Map 22.02
ZONING : Urban & Primary Regional
MRS/TPS No.2 Road / Residential R15

In Brief:-

- Council received an application for a five (5) unit grouped housing development on Lot 13 Lensham Place, Armadale, on 9 April 2003.
- The application proposes a variation to the density of the site from 'R25' (applicable under Council's Group Housing Development Policy) to 'R40'.
- The application was advertised to surrounding landowners and one (1) letter objecting to the proposal was received.
- Recommend that Council approve the application subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development – "To balance the need of development with sustainable economic, social and environmental objectives".

Legislation Implications

Town Planning and Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications

4.3.13 – Group Housing Development

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit
- ◆ Surrounding Landowners
- ◆ Main Roads WA / Department for Planning and Infrastructure
- ◆ Technical Services Directorate

BACKGROUND

The City received an application for a grouped housing development on Lot 13 Lensham Place, Armadale on 9 April 2003. The application proposes variations to Town Planning Scheme No.2 (TPS No.2), Policy 4.3.13 – Group Housing Development (Council’s Policy) and the Residential Design Codes of Western Australia (RD-Codes). As delegation for grouped housing only exists in situations where the application complies with all these areas, the matter has been referred to Council for consideration.

DETAILS OF PROPOSAL

The applicant proposes the development of five (5) single storey units on the subject property, at a density of ‘R40’ on the basis of Table 1.1 in TPS No.2. The proposal incorporates ten (10) private car parking bays and one (1) visitor parking bay. Landscaping details have been submitted as part of the application. Units one (1), three (3) and five (5) would be constructed of Smooth Red face bricks and units two (2) and four (4) would be constructed of Smooth Cream face bricks. Roofing would either be natural clay tiles or Shale Grey ‘Colorbond’ sheeting. ‘Zincalume’ would be used for the guttering and downpipes only.

COMMENT

Development Control Unit (DCU)

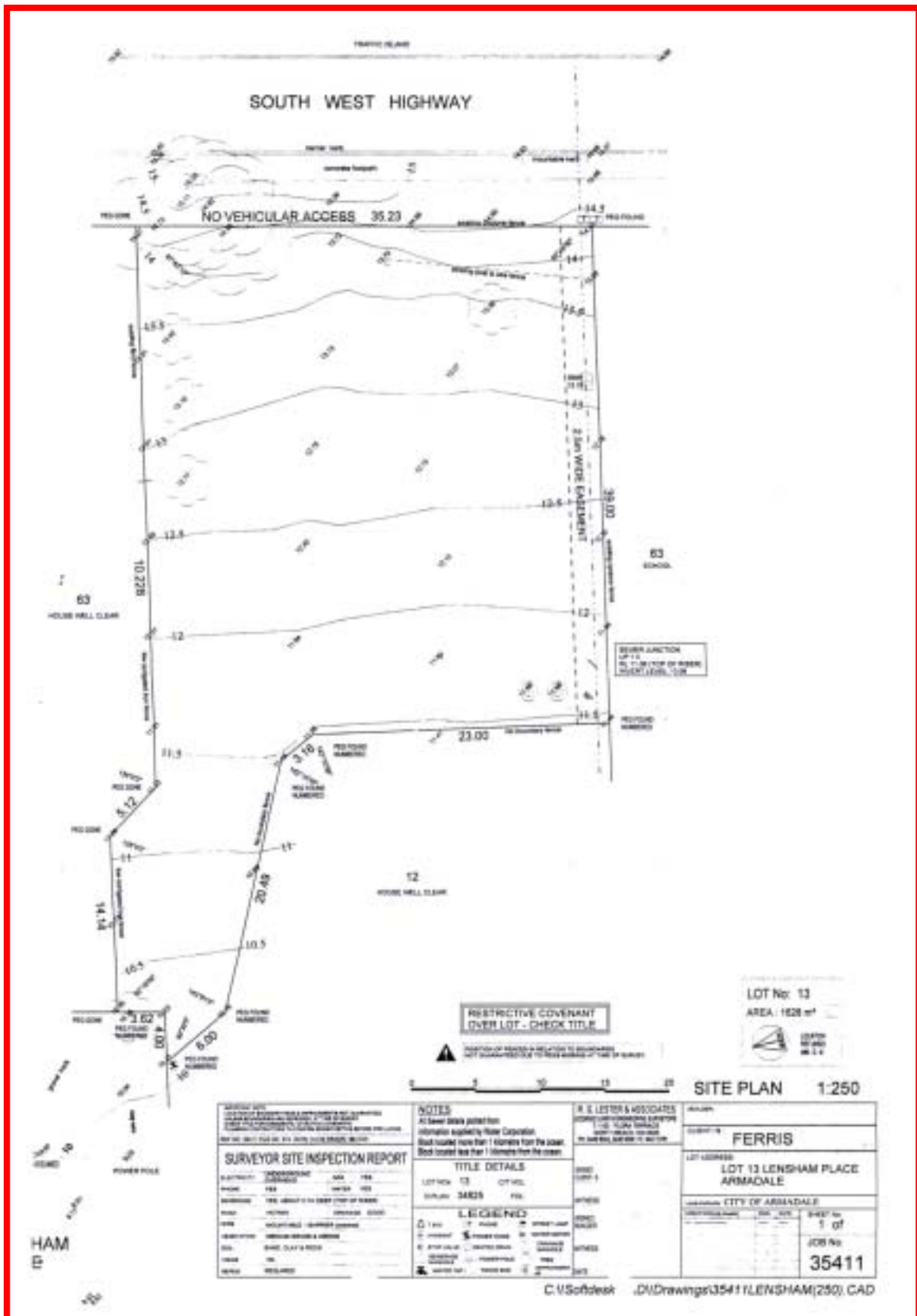
At its meeting held on 4 November 2003, DCU recommended that the item be referred to Council for approval, subject to appropriate conditions.

Surrounding Landowners

The application was advertised to surrounding landowners for a period of two (2) weeks. One (1) submission objecting to the proposal was received. The submission shall be considered in the Analysis section. *Refer to Confidential Attachment “BI” for location plan of respondents.*

Main Roads WA (MRWA) / Department for Planning and Infrastructure (DPI)

MRWA and the DPI were contacted with regard to South Western Highway, which abuts the eastern property boundary, as the Regional Road Reserve for the Highway extended into the subject property. MRWA stated that no vehicle access to the South Western Highway would be supported and that other comments could not be provided as the reserve was currently being reviewed by the DPI. The DPI advised that the reserve is currently undergoing amendment to be removed from the subject property, as it is not required.



SITE PLAN
LOT 13 LENSHAM PLACE, ARMADALE

Technical Services

Council's Parks Department assessed the landscaping details provided by the applicant and confirmed that the plan adequately addressed landscaping requirements. Technical Services advised that a 3m wide easement to the southern property boundary would need to be kept clear, and this would require the relocation of the store rooms on units three (3), four (4) and five (5). This should be required as a condition of any approval issued. Technical Services also requested that standard conditions relative to driveway construction and storm water be included in any approval.

ANALYSIS

Public Submissions

One (1) submission was received objecting to the proposal. The issues raised are summarised as follows:

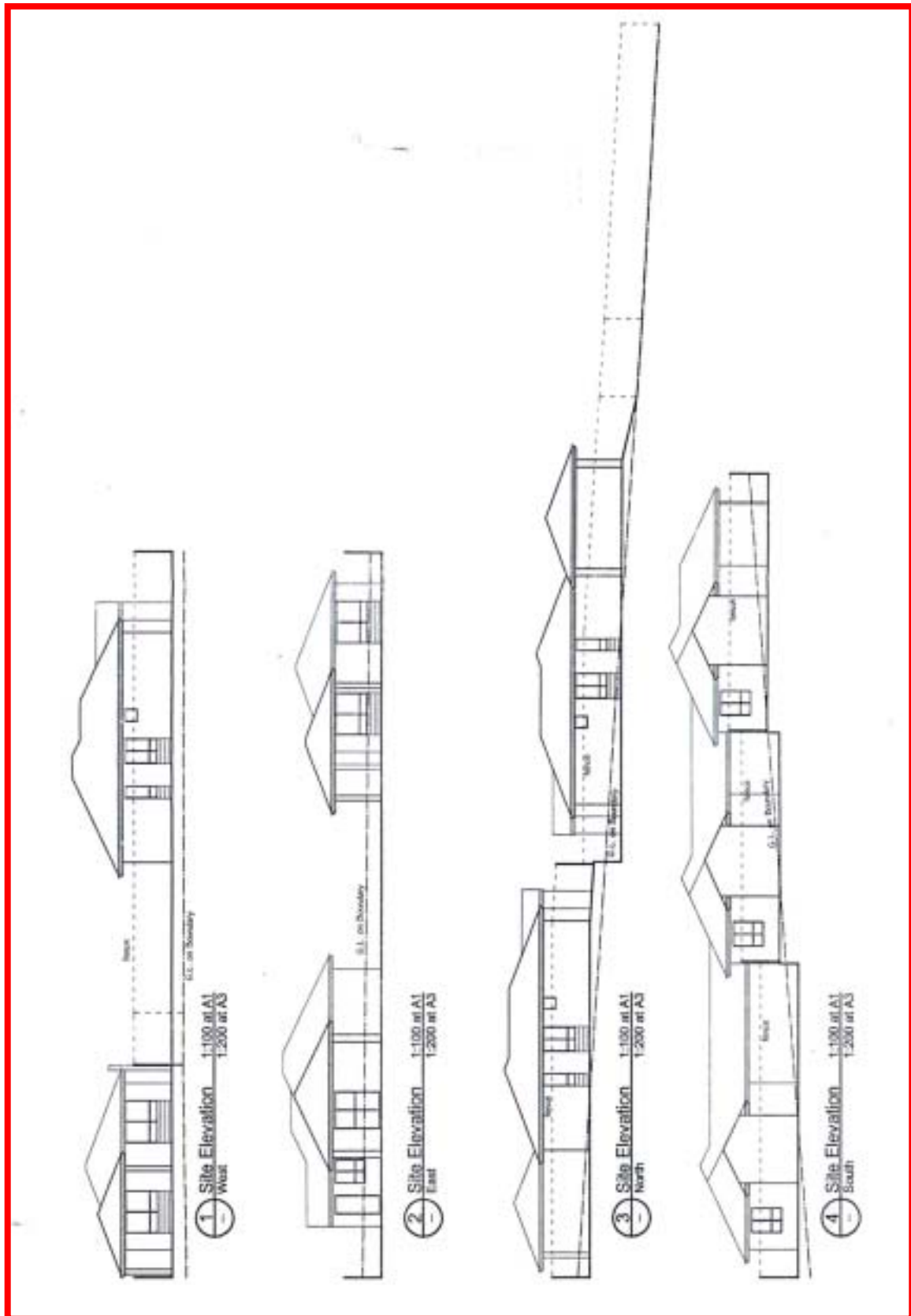
1. *Object to the proposed reduction in the side setback from 1.5m to 1.35m because:*
 - *Purchased property in Armadale to have a greater distance between neighbours;*
 - *Real estate agent assured me a single house was proposed for the subject site;*
and
 - *I did not want to be located adjacent to units.*

It is noted that the applicant submitted a revised site plan on 23 October 2003 after the advertising period closed on 9 October 2003. The revised site plan addressed the issue of variation to the setback in question and the proposal now complies at a distance of 1.5m.

The comments that the objector bought a property on surrounding conditions at the time (i.e. no unit developments in the immediate area, increased separation distance, assurances of the estate agent) are noted, but the City must consider each application on individual merit. The subject site would have some development potential for grouped housing based on Council's Policy (i.e. 'R25') even if the applicant was not requesting an increase to a density of 'R40'.

2. *The current application is in breach of the number of houses allowed between group housing developments. It is my understanding that nine (9) houses is the recommended allowance between such developments, and a unit development exists on Part Lot 2 Lensham Place.*

Council's Policy recommends a distance of six (6) lots between grouped housing developments and the proposal is separated by eight (8) lots from the unit development on Part Lot 2. Nevertheless, Lot 63 adjacent to the subject site is a duplex development. It is noted that Council's Policy contains provision to waive the one (1) in six (6) requirement, but Council must consider the appropriateness of the proposal in this regard. The matter will be analysed further in relation to Council's Policy later in the report.



ELEVATION PLAN
LOT 13 LENSAM PLACE, ARMADALE

Town Planning Scheme No.2

Density

Table 1.1 in TPS No.2 states the following relative to density: “*As per Residential Planning Density Code indicated on Scheme Map... but the Council may permit Grouped Dwellings (not exceeding R40)... where it is satisfied that the amenity of the locality will not be prejudicially affected*”. The surrounding density is ‘R15’, with Council’s Policy allowing development up to a density of ‘R25’. The location of the subject site relative to the criteria set out in Council’s Policy and the overall quality of the design in terms of the RD-Codes will need to be considered carefully in this regard.

Open Space

Table 1.1 of TPS No.2 also requires Council to be satisfied that sufficient open space exists in the locality to offset the increased demand for recreation space caused by the development. The subject site is within walking distance of a 7584m² public recreation reserve (vested in the City), 180m away along Lensham Place (adjacent to Dale Cottages) that would serve residents of Lensham Place, Rice Place, Deerness Way and Dale Cottages.

Vehicle Access

As access is available to Lensham Place, the South Western Highway does not need to be utilised for vehicular access, meeting the requirements of TPS No.2 and MRWA.

Residential Design Codes of Western Australia

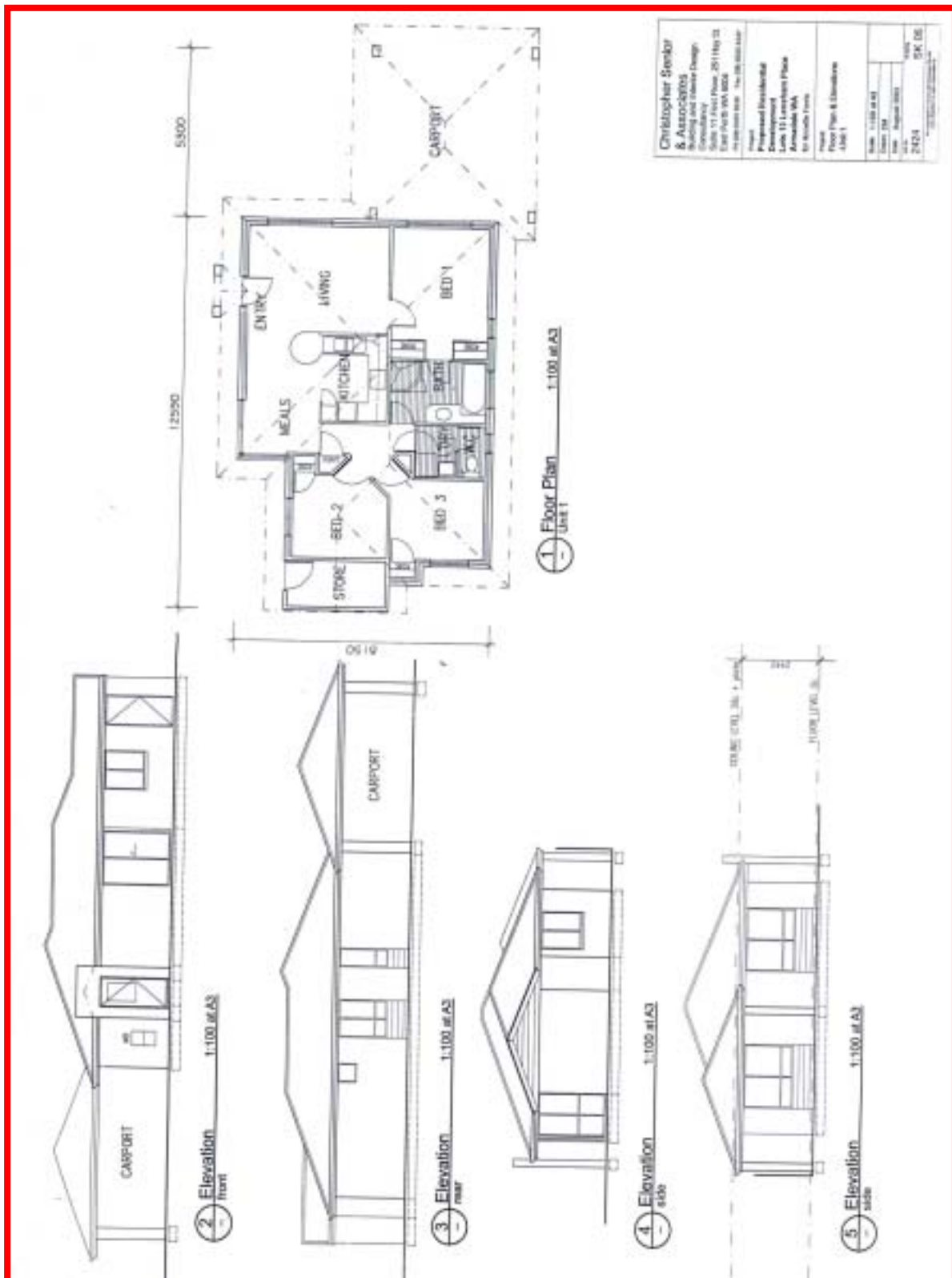
Specific details relative to certain areas are provided as follows. (Where elements of the RD-Codes are not commented upon, the proposal is deemed to comply).

Density and Open Space

The proposal complies with the provisions of the RD-Codes relative to ‘R40’ development, which include a minimum lot size of 200m² and an average lot size of 220m². It is noted however that this density is above that intended for the site, as described by TPS No.2 and Council’s Policy. The RD-Codes also require an outdoor living area for each unit and this space is to be 20m², accessible from a habitable room with a minimum dimension of 4m. The proposal also meets this requirement.

Setbacks

The setbacks of the units to the property boundaries and the setbacks in between the units themselves all comply with the requirements of the RD-Codes. The only concern is relative to Element 6 of the RD-Codes, in relation to site works. The site plan and site survey indicate that 590mm of fill would be necessary adjacent to Lot 12 to achieve the final floor level indicated. The RD-Codes note that any fill over 500mm in height must be retained and set back from property boundaries appropriately. In this instance, that would require a setback of 1m to 1.5m depending on screening. As 1.5m is the setback indicated for unit three (3), the final floor level indicated creates a design problem.



FLOOR PLAN & ELEVATIONS
LOT 13 (UNIT 1) LENSHAM PLACE, ARMADALE

It is recommended that should Council deem a development at the density proposed appropriate, the site plan and elevations be revised to comply with the RD-Codes. It is recommended that the applicant reduce the difference between the final floor level in this location and the existing ground level to 500mm or less in this regard.

Parking and Access

Two (2) private car parking bays are required per unit, which the applicant has provided. The development also requires one (1) visitor car parking bay per four (4) units, or part thereof, which equates to two (2) visitor bays. The proposal only incorporates one (1) visitor car parking bay and a further bay must be provided if the proposal is approved (the site plan would have to be amended in this regard).

Further to the visitor parking shortfall, the RD-Codes specify a minimum 6m manoeuvring depth from the carport opening to the nearest impediment. This distance is not met for units two (2), four (4) and five (5) due to 'tandem' parking existing for units four (4) and five (5). The distance can be increased however by moving the carports further away from the common driveway, but the applicant must be mindful of maintaining the minimum requirements for the outdoor living areas, particularly for units four (4) and five (5). It is also suggested that an additional 1m be added to the driveway at the eastern end to allow cars from units two (2) and five (5) sufficient reversing and turning room. Again, this will need to be reflected on an amended site plan, should the application be approved.

The RD-Codes note that no more than 50% of a site's frontage shall be hard surface within the setback area. In this case, given the narrow width of the access leg, this is unavoidable and the development is deemed to meet the performance criteria in this regard, which require the proposal to "*meet the projected needs of the residents*".

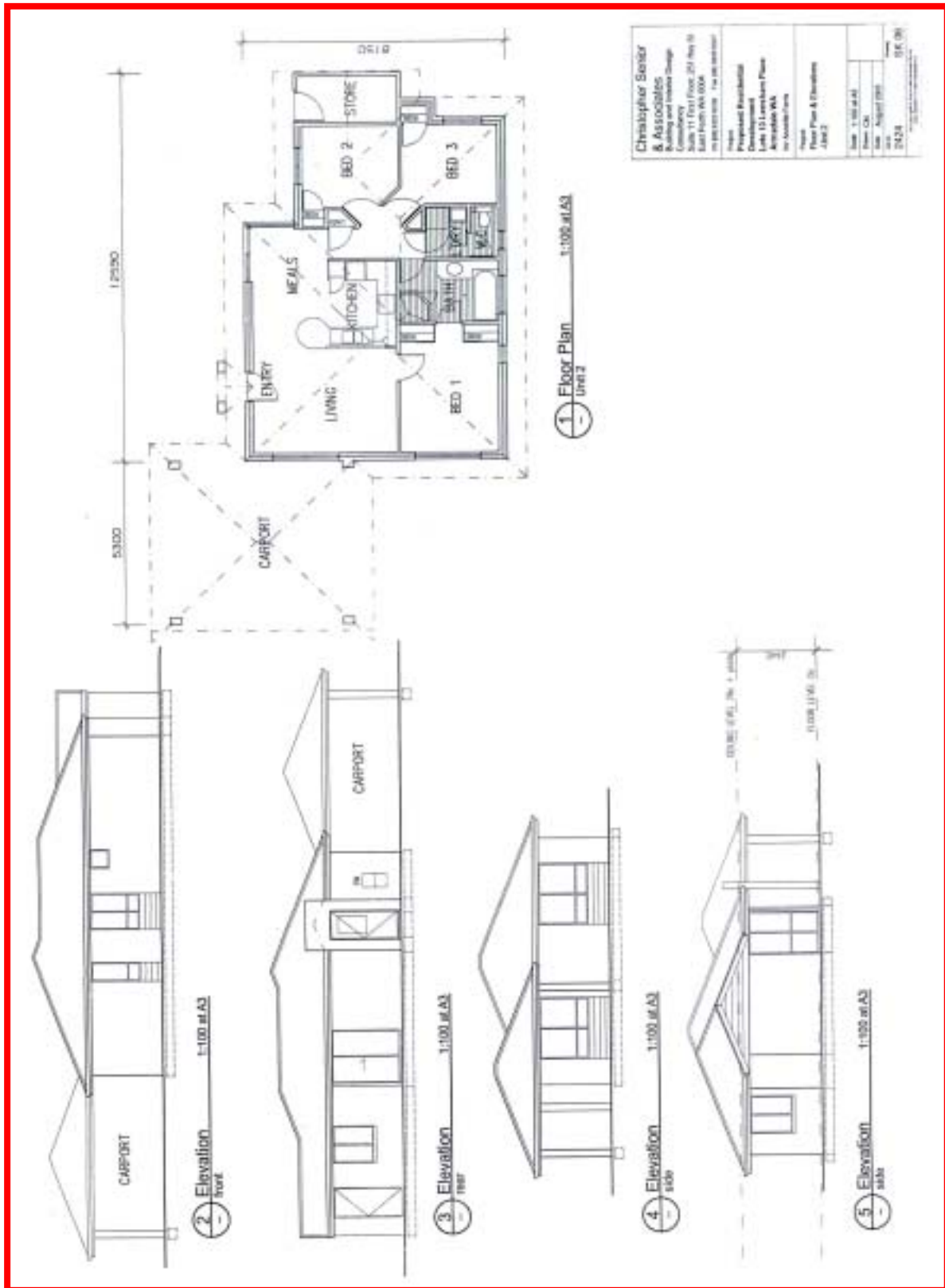
Policy 4.3.13 – Group Housing Development

Comments relative to some of the aspects of Council's Policy follow. (Where Policy criteria are not commented upon, the proposal is deemed to comply).

Density

Council's Policy allows for a density increase relative to residential areas zoned 'R20' and below based on certain criteria. The density increase means a developer may apply standards relative to the density ten (10) units per hectare above the prevailing density (in this case 'R15' would become 'R25'). The applicant is in this instance requesting a density 25 units per hectare above the prevailing density, or 'R40'.

The Policy Statement for the 'Residential' zone in TPS No.2 does note that "*where Council is satisfied that proper servicing and amenity is present, medium density grouped dwellings may be permitted in recognising the varied demands for residential accommodation within the community*". Clause 2.2.1.4 of Council's Policy requests the applicant to demonstrate that a group housing proposal is in close proximity to public transport, public open space, the footpath and cycleway system, shopping areas and community facilities to justify an increased density. It should be noted that the R-Coding of this locality is likely to be reviewed under Town Planning Scheme No. 4 in view of its proximity to the City Centre and transport routes.



FLOOR PLAN & ELEVATIONS
 LOT 13 (UNIT 1) LENSHAM PLACE, ARMADALE

The applicant submits that the South Western Highway will provide immediate access to the public bus network, however the site plan does not indicate a pedestrian access / egress point relative to the Highway. Also noted is that the Armadale train station, Shopping City and community facilities are only a relatively short distance away (775m, 745m and 550m to 800m respectively in a straight line). Finally the applicant notes the subject site's proximity to a convenience store adjacent to the Armadale Senior High School, but again a pedestrian access point to the Highway would be necessary.

No comment is provided relative to the footpath / cycleway network. The facilities noted by the applicant are approximately 1km via the minor road network, but if pedestrian access to the South Western Highway were provided, this would reduce the distance by about 200m to an acceptable walking catchment distance and the matter would be addressed satisfactorily. It is also noted that the subject site is not a corner lot or adjacent to Public Open Space as preferred by Council's Policy, but as mentioned previously open space is easily within walking distance.

The distance to Armadale train station and city centre via the minor road network is such that walking is unlikely. Access to buses and a decreased walking distance along the South Western Highway would improve this aspect. It is considered that the site's proximity to open space and a Regional Road gives some merit to the location criteria outlined in Council's Policy.

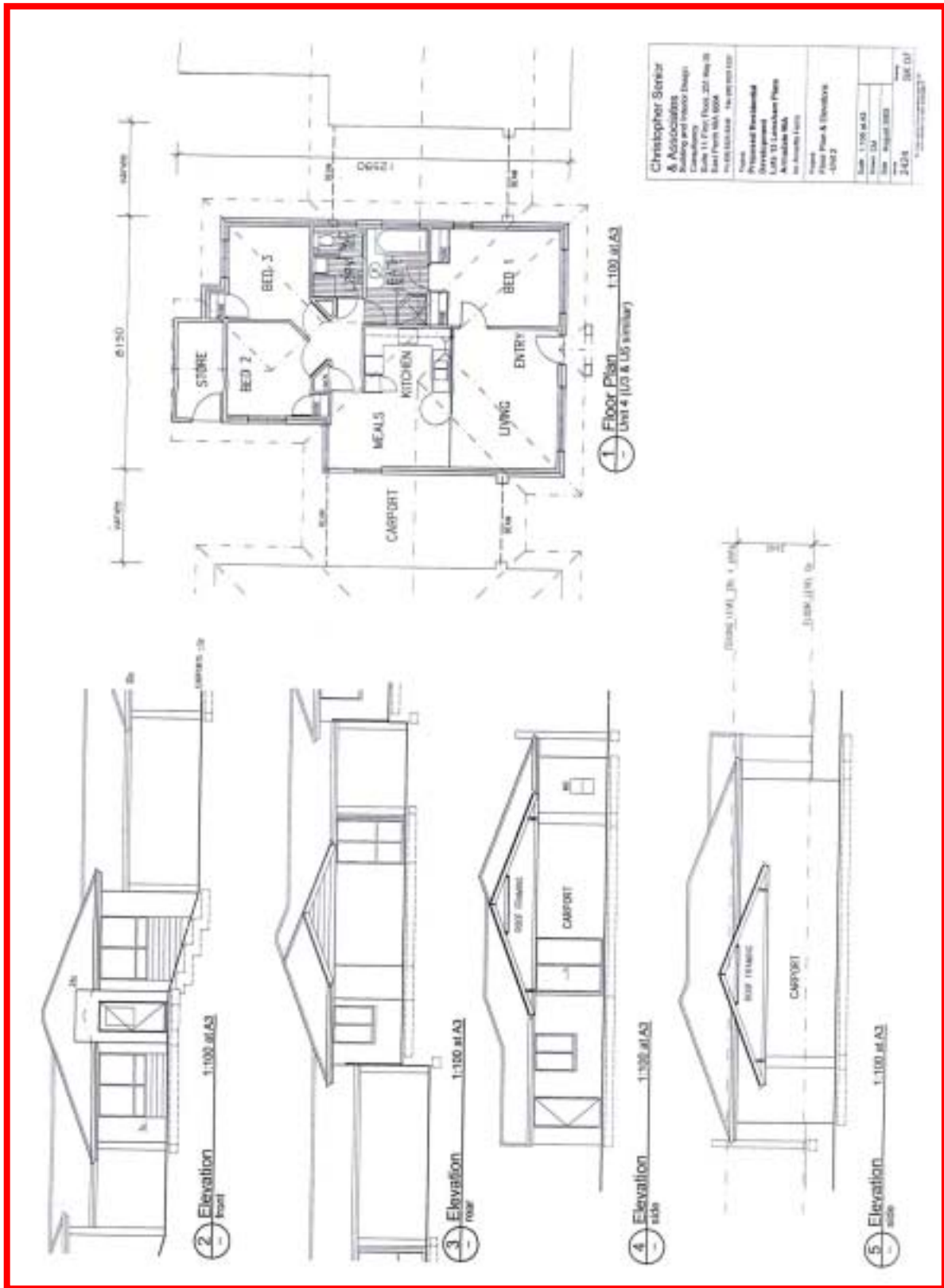
Materials

It is noted that Council's Policy prefers the use of earthy tones that blend with the natural landscape and specifies that potentially reflective materials will only be considered where it will retain an existing streetscape character. Surrounding residences utilise clay tiles of various colours, with a number of minor additions (i.e. patios) and garden sheds found to have used 'Zincalume'.

The use of 'Zincalume' is not considered to address the requirement of Council's Policy for high quality development however and it is recommended that the guttering and downpipes be constructed of 'Colorbond' or painted in appropriate colours.

Parking and Access

Council's Policy parking and access requirements accord with the RD-Codes requirements as previously outlined, with the exception of a 5.5m turning circle manoeuvring depth instead of 6m. Clause 1.3 of Council's Policy notes the precedence of the RD-Codes and therefore the 6m manoeuvring requirement remains an issue.



FLOOR PLAN & ELEVATIONS
 LOT 13 (UNIT 4) LENSHAM PLACE, ARMADALE

Landscaping

As mentioned, a landscape plan was submitted with the application and approved by Council's Parks Department. Council Policy notes that landscaping should be integrated with the verge area to maintain a continuous theme and present a higher standard of development. Whilst the subject site effectively has a battle axe leg and frontage is minimal, it is recommended the verge area be included in the landscaping for the subject site in accordance with Council's Policy, should an approval be issued.

OPTIONS

1. Council could approve the proposed development of five (5) units at Lot 13 Lensham Place, Armadale, at a density of 'R40' subject to appropriate conditions relative to site works, visitor parking, vehicle and pedestrian access, relocation of the store rooms and landscaping.
2. Council could refuse the proposed development of five (5) units at Lot 13 Lensham Place, Armadale, at a density of 'R40' if it is of the view that the proposed density is inappropriate for the subject site, as the application has not sufficiently demonstrated compliance with location criteria of Policy 4.3.13 and the design submitted does not comply with areas of the Residential Design Codes of Western Australia and is therefore not of a high enough standard to warrant the density increase sought.

CONCLUSION

It is open to some interpretation whether Table 1.1 of TPS No.2 intended to enable an 'R40' density to be applied to any 'Residential' zone within the City. It could also be viewed as meaning that TPS No.2 has residential densities up to 'R40'. It has been applied previously relative to the former interpretation in specific locations that demonstrated particular merit, but is considered the exception rather than the rule.

Council must nevertheless be satisfied that the proposed development is of a high standard, has satisfactory access to facilities such as shops, open space and public transport and will not have a detrimental effect on surrounding properties. An objection relative to separation distance between grouped housing developments must be taken into account in this regard. It is acknowledged that the design needs some modification to comply and could therefore be seen as sub-standard, but it is apparent the site could adequately cater for five (5) units.

It is believed that with pedestrian access to the South Western Highway, the proposed development would be within walking distance of all elements specified by Council's Policy and therefore meets the location criteria, giving Council grounds to vary the one (1) in six (6) separation clause. The plans will require revision but once conditions are met, the development would be of a high quality and would assist in meeting the varied housing needs of the community. The application should therefore be approved in accordance with Option 1.

RECOMMEND

1. **That Council approve the grouped housing application for five (5) units on Lot 13 (27B) Lensham Place, Armadale, subject to the following conditions:**
 - a) **Revised plans are to be submitted demonstrating the following, to the satisfaction of the Executive Director Development Services:**
 - i) **Compliance with Element 6 – Site Works of the Residential Design Codes of Western Australia relative to the final floor level for unit three (3) and associated fill to the western property boundary (11.41 spot level).**
 - ii) **An additional visitor parking bay (total two (2)).**
 - iii) **Relocation of the storerooms on units three (3), four (4) and five (5) to leave the 3m wide easement to the southern property boundary clear.**
 - iv) **Pedestrian access to the South Western Highway.**
 - v) **The car ports and associated tandem car parking bays of units two (2), four (4) and five (5) realigned to take account of the necessary vehicle manoeuvring depth of 6m.**
 - vi) **A 1m wide turning head added to the eastern end of the driveway.**
 - b) **Development to be completed and maintained in accordance with the revised plans.**
 - c) **All hard standing areas (eg. car parking area, crossovers, driveway, vehicle manoeuvring space) are to be constructed, drained, sealed, kerbed and marked to the satisfaction of the Executive Director Technical Services.**
 - d) **Landscaping is to be implemented in accordance with the approved site plan and maintained thereafter, to the satisfaction of the Executive Director Development Services.**
 - e) **Design of the storm water disposal system is to be to water sensitive design principles to the satisfaction of the Executive Director Technical Services.**

- f) **A revised schedule of colours and textures of materials is to be submitted to and approved by the Executive Director Development Services. Development to be completed and maintained in accordance with the approved schedule.**
2. **That the applicant be advised of the following:**
- a) **With regard to Condition 1a), the revised plans are expected to be received prior to the issue of a Building Licence.**
- b) **With regard to Condition 1(a) ii, the site indicated for the first visitor parking bay is appropriate to accommodate two (2) 90° parking bays. Their design is to take account of the required 6m manoeuvring depth.**
- c) **With regard to Condition 1(d), landscaping is to include the verge area between the subject property and Lensham Place.**
- d) **With regard to Condition 1(f), please note that Zincalume or white or bright colours are not acceptable. It is expected that the revised colour schedule will be received prior to the issue of a Building Licence.**

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***PROPOSED HORTICULTURE & SALE OF RURAL PRODUCE –
LOT 10 FORREST ROAD, BROOKDALE***

WARD : FORREST
FILE REF : A28046
DATE : 30 October 2003
REF : EP
RESPONSIBLE : PSM
MANAGER
APPLICANT : Dykstra & Associates
LAND OWNER : Gold Reef Corporation Pty
Ltd
SUBJECT LAND : Property size 4.0 ha
Map 21-02
ZONING : Urban deferred/General Rural
MRS/TPS No.2

In Brief: -

- The application proposes a horticulture/orchard activity with the sale of produce grown on property and imported from other rural lands.
- Advertising of the proposal resulted in four submissions including two submissions of concern and two submissions of objections.
- The request for horticulture /orchard activity and the retailing of produce grown on land is consistent with the “Rural Use” definition of the TPS No.2, while retailing of produce imported to the site does not comply with the “Rural Use” definition of the TPS No.2.
- Recommend that Council approve the horticulture/orchard activity and the retailing of produce grown on land subject to appropriate conditions and refuse the application to retail produce not originating from the subject property.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

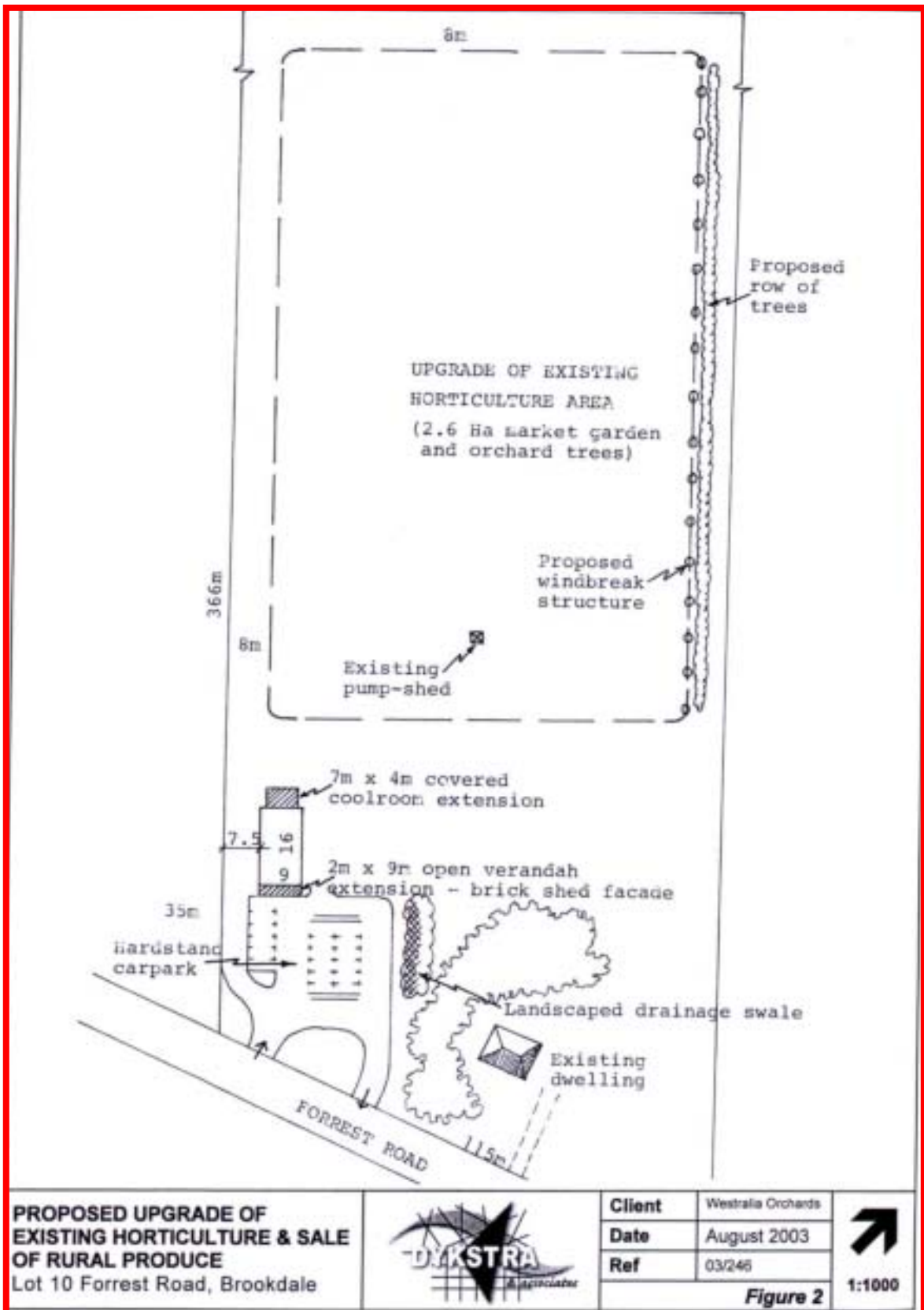
Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning and Development Act 1928
Metropolitan Region Scheme
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications

Southern River / Forrestdale / Brookdale / Wungong District Structure Plan



SITE PLAN
 LOT 10 FORREST ROAD, BROOKDALE

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit
- ◆ Surrounding landowners
- ◆ Armadale Redevelopment Authority
- ◆ Environmental Protection Authority
- ◆ Council's Environmental Planner

BACKGROUND

On 25th August 2003 Council received an application to conduct a Horticulture and Sale of Produce activity operation from this property. The applicant has advised that Lot 10 Forrest Road has for many years accommodated orchard activities, but has recently have been allowed to "run down". The new landowner (Westralia Orchards Pty Ltd) wishes to utilise much of the existing infrastructure (i.e. pump, reticulation and shed) and upgrade the property to continue the existing use of the land.

A horticulture activity is construed as a "Rural Use" in the General Rural zone and is a permissible "P" use under Town Planning Scheme No.2 (TPS No.2). Nevertheless, any development other than a single house on land zoned "Residential or "General Rural" requires an application to Council for planning consent under Clause 7.1 of TPS No.2. Given the environmentally sensitive nature of the proposed rural use, the property's location being within an area earmarked for future urban development and the concerns / objections received from the surrounding landowners within the advertising period of this proposal, the application is referred to Council for determination. The sale of produce grown on the property is a discretionary use and requires Council approval.

The subject lot is relatively flat and supports a residence and two outbuildings with evidence of remnants of a previous orchard.

DETAILS OF PROPOSAL

The proposed development entails the following:

- ◆ Utilising an area of approximately 2.6ha for market gardening and incidental orchards.
- ◆ The existing bore pump and reticulation system will be used to service the market garden and the incidental orchard area.
- ◆ Upgrading the existing rural shed on the property with a front verandah and a 28m² coolroom to the rear.
- ◆ A maximum of 4 staff members will be employed.
- ◆ Utilising part of the shed as the sales office.
- ◆ Northeastern edge of the growing area will be protected by a shade cloth windbreak structure.



AERIAL PHOTOGRAPH - LOT 10 FORREST RD, BROOKDALE

- ◆ Supplementary planting of a row of trees will visually screen the windbreak structure.
- ◆ Landscaping designed to visually screen the growing areas.
- ◆ 18 on site car-parking bays to service the development.
- ◆ Over 60% of the produce offered for sale from the property will be grown on site and the rest will be imported from other rural properties.

COMMENT

Development Control Unit (DCU)

At its meeting held on 30 October 2003, DCU recommended that the application be referred to Council for approval of the proposed rural use and sale of produce grown on the property components. Sale of produce imported to the property is not considered an acceptable use as it would create an undesirable precedent and therefore is recommended for refusal.

Armadale Redevelopment Authority (ARA)

The Brookdale area has been noted as a potential management area for the Armadale Redevelopment Authority (ARA) and the proposal was therefore referred to the ARA for comment. Advice received from the ARA is as follows:

“ARA does not object to the proposed improvements to the property and “farm gate” sale of produce grown on site. It does not support the sale of produce grown on other properties in the area without a proper analysis of its strategic planning implications. Accordingly the ARA recommends the sale of “imported” produce not be permitted without further justification in terms of retail planning strategy. It is also suggested that the applicant be advised that the land is zoned “Urban Deferred” under the MRS, and as such the ARA supports hastened urbanisation of the area. The ARA therefore, generally considers the continued use of land in the area for rural purposes to be an interim measure”.

Environmental Protection Authority (EPA)

EPA has advised that the overall environmental impact of the proposal is not so severe as to require formal assessment by the Authority.

Results of Advertising

The application was advertised for public comment for a period of three weeks. ***Refer to Confidential Attachment “B2” for location plan of respondents.***

No. of properties notified	-	7
No. of submissions received	-	4
No. concerned with the proposal	-	2
No. opposing the proposal	-	2

RESUMÉ OF SUBMISSIONS

No	Statement	Number of submittees holding this view
1	<p>We are very concerned about the effects (spray drift) of insecticides and herbicides in the market garden industry (and the impact they could have on our school children and parish community).</p> <p><i>The applicant has advised that given the low scale nature of the operation, machine spraying will not be utilised on this property. It is envisaged that any spray application to fruit trees would have to be a direct and manual operation, hence minimising any opportunity for spray drift.</i></p>	3
2	<p>Concerned about obnoxious smells emanating from the site (manure).</p> <p><i>The applicant advises that the application of raw poultry manure to market gardens is no longer permitted and is now regulated by the State Government's Health Department regulations to mitigate potential impact such as fly breeding and odour. All vegetable waste is either managed off site or is turned into the soil and appropriately covered, and in any event is not left exposed on site for any longer than two days.</i></p>	3
3	<p>Even if chemicals used did not affect our students and parishioners, many would perceive such effects and find another school and church.</p> <p><i>The property concerned is currently zoned "General Rural" and has been used as an orchard for a considerable period of time. The current proposal is to restore the presently neglected activity and to make it a viable enterprise by including market gardening. Imposition of a reasonable buffer at the street perimeter of the site could assist in mitigating any prospective adverse impact from the activity.</i></p>	1
4	<p>If the application is approved it could have far reaching effects on future development.</p> <p><i>It is acknowledged that this locality is zoned "Urban Deferred" under the MRS. Continuation of a rural use from this presently rural zoned land is considered as an acceptable interim use. ARA has confirmed the same.</i></p>	1
5	<p>Fear of contamination of our pasture and farm animals.</p> <p><i>Horticulture is considered a rural use that has traditionally coexisted with rural uses such as keeping of farm animals.</i></p>	1
6	<p>Pesticide, herbicide and fertiliser may contaminate groundwater, which is used by rural landowners in the absence of reticulated water supply.</p> <p><i>The property has been used as an orchard for a considerable period of time without any complaints. Given the small-scale nature of the operation it is unlikely that it would cause a major impact. The EPA has not raised any concern in this regard.</i></p>	2
7	<p>Previous horticulture on this land resulted in the lowering of the water table.</p> <p><i>As previously advised by the Water & Rivers Commission this is an argument that cannot be sustained without substantiated evidence being provided by the complainants. The existing bore on site is proposed to be used for irrigating the cultivation.</i></p>	2

No	Statement	Number of submittees holding this view
8	<p>Noise generated from the coolroom that will be located close to our bedroom.</p> <p><i>The existing shed on the subject lot is located approximately 75m from the nearest residence to the west and over 130m to the nearest residence to the east. Council's Health Department has confirmed that noise emitted from a cool room is unlikely to cause any noise nuisance to residents living in houses at such distances. Further any cool room proposals will need to comply with EPA noise Regulations.</i></p>	1
9	<p>Encouraging crime to our rural area.</p> <p><i>No evidence has been provided to substantiate that this type of activity would generate a higher crime level compared to any other land uses in the city of Armadale.</i></p>	1
10	<p>Interruption to sleep from security alarm and guard dogs.</p> <p><i>A residence already exists on the property. This security situation will not be different to any other Rural/residential use.</i></p>	1
11	<p>Proposed landscaping is not adequate to sufficiently screen the proposed structures on site.</p> <p><i>The application only involves minor extensions to an existing shed to facilitate the proposed activity. The applicant could be requested to install additional landscaping along the perimeters of the site to obscure the structures.</i></p>	1
12	<p>Concerns are raised that the proposed sale of produce from the site appears to be a major commercial activity.</p> <p><i>It is recommended that sale of produce from the property be restricted to a low scale ("Farm Gate" sales).</i></p>	1
13	<p>A similar application made by me was rejected 7 years ago. I object on the grounds that the same rule should apply to this application.</p> <p><i>The application concerned was for a 'Retail Garden Centre', which involves different planning implications. Therefore, these two applications are not comparable. All applications are assessed on merit.</i></p>	1

Analysis

Town Planning Scheme No.2 (TPS NO.2)

The subject lot is currently zoned "General Rural" under the City of Armadale Town Planning Scheme No.2, and "Urban Deferred" under the Metropolitan Region Scheme. "Horticulture /Orchard" activity is considered a "Rural Use" which is a permitted ("P") use within the "General Rural" zone. The retail sale of produce grown on the property is a discretionary use and requires Council's approval. The retail sale of produce imported from other rural land is not considered to be an appropriate use as the items are not incidental or associated with the horticulture/orchard activity of the land.

Southern River/ Forrestdale/ Brookdale Wungong District Structure Plan (Forrestdale Structure Plan)

The subject land area is proposed to be future Urban in accordance with this Structure Plan. The Structure Plan is a conceptual guide that indicates how the area can be developed in the future. No detailed Outline Development Plans have been prepared to guide the rezoning, subdivision and development for this land at this stage. The proposed horticulture use of this property can be considered as an interim use that would benefit the community without compromising the future proposed urban uses of the locality under the Structure Plan. Such uses can generally be converted to urban development when the urban front moves towards it while optimising this under-utilised land by this rural activity at the present time.

Land Use Suitability

The subject application to restore and intensify an already existing rural activity on this land is considered acceptable given the “General Rural” zoning of the property, which partly intends to “maintain an open broad acre rural character and fostering of rural uses and rural industries in circumstances where they do not constitute a nuisance”. “Farm Gate” sale of produce grown on rural properties is considered to be a compatible use that is incidental to the predominant use of market gardening /orchard activity. This has been an acceptable activity within the rural areas of the City of Armadale provided such activity does not adversely impact on the amenity of the surrounding locality.

The sale of items not originating from the property however, is considered to be an incompatible use as the items are not incidental or associated with the horticulture/orchard activity of the land. This activity is considered a “Shop” use that is more suited to retail shopping outlets and other retail tourist sites. Approval of such non-related retail activities is likely to establish an undesirable precedent within the rural zone. Further, such activity does not comply with the “Rural Use” definition of TPS No.2 as only produce grown or produced on the land is permitted for retail sale at Council’s discretion.

Traffic Generation and Car Parking

Although the anticipated number of customers visiting the site per day is not stated in the application the proposed activity is unlikely to generate traffic concerns in this location. There is adequate parking provided on site to service a low scale rural business of this nature. The increased number of traffic generated by the approved new school site opposite the subject property is not considered a significant issue as schools normally only generate high traffic volumes twice daily for a maximum of 15- 20 minutes at a time during school opening and closing times.

Notwithstanding the above, given the narrow width of Forrest Road and the proposed school site opposite this property, Council’s Technical Services Directorate requires the applicant to provide a left turn lane along Forrest Road into the parking area of the subject site.

Environmental Issues

Council's Environmental Planner has advised that "*market gardens typically have significant off-site impacts, can result in soil contamination at levels that require clean-up and use very high fertiliser use rates that could adversely affect efforts to reduce nutrient loss from the Southern River/Forrestdale/Wungong District Structure Plan area*".

"Some of the management practices proposed should significantly ameliorate the level of off-site impacts. It is recommended that a Land Management Plan be prepared to address nutrient and irrigation management and activities that result in off-site impacts. The applicant should be advised that prior to redevelopment of the land for residential use the market garden site would need to be sampled for soil contaminants in accordance with Department of Environment guidelines. The applicant will be provided with relevant information from Department of Environment publications".

It should be noted that the Environmental Protection Authority has not raised any environmental concerns regarding the application. The applicant has advised that the new landowner Westralia Orchards Pty Ltd is a professional rural enterprise, and hence will utilise up to date practices in orcharding and market gardening. Further, it is advised that the new landowner is presently contemplating on moving into organic market gardening.

To minimise any prospective issues of concern it is suggested that the applicant be requested to maintain a 15m buffer zone along the Forrest road perimeter of the site and carry out a fast growing native trees planting programme along all property boundaries.

Options

There are two options available to Council:

1. Approve the application for horticulture and orchard use of the property with incidental sales of produce grown on land subject to appropriate conditions and refuse the request of sale of produced imported to the site from other rural properties.
2. Refuse the application on the basis that, given the current "Urban Deferred" zoning of the area under the MRS and imminent rezoning to "Urban" under Council's TPS No.2 the site is considered to be inappropriate for an establishment of this nature as it would compromise the Council's/ARA's future urban planning of this locality and be likely to cause unnecessary detriment to the surrounding locality.

CONCLUSION

The subject land has been utilised for orcharding purposes for a considerable period of time.

The proposed horticulture/orchard land use is a permissible (P) use within the "General Rural" zone under the current TPS No.2, while retailing of produce grown on the land is a discretionary use that needs to be permitted by Council.

Retailing of produce grown on the land can be considered incidental to the predominant horticulture/orchard activity on site and is a use that is compatible and consistent with the intent of the Policy statement of the "General Rural" zone.

The proposal is not considered to compromise the future urban planning of this locality, as it can be a profitable and optimal interim use of this presently under- utilised rural land. This has been confirmed by the Armadale Redevelopment Authority, which could be the future management Authority of this area.

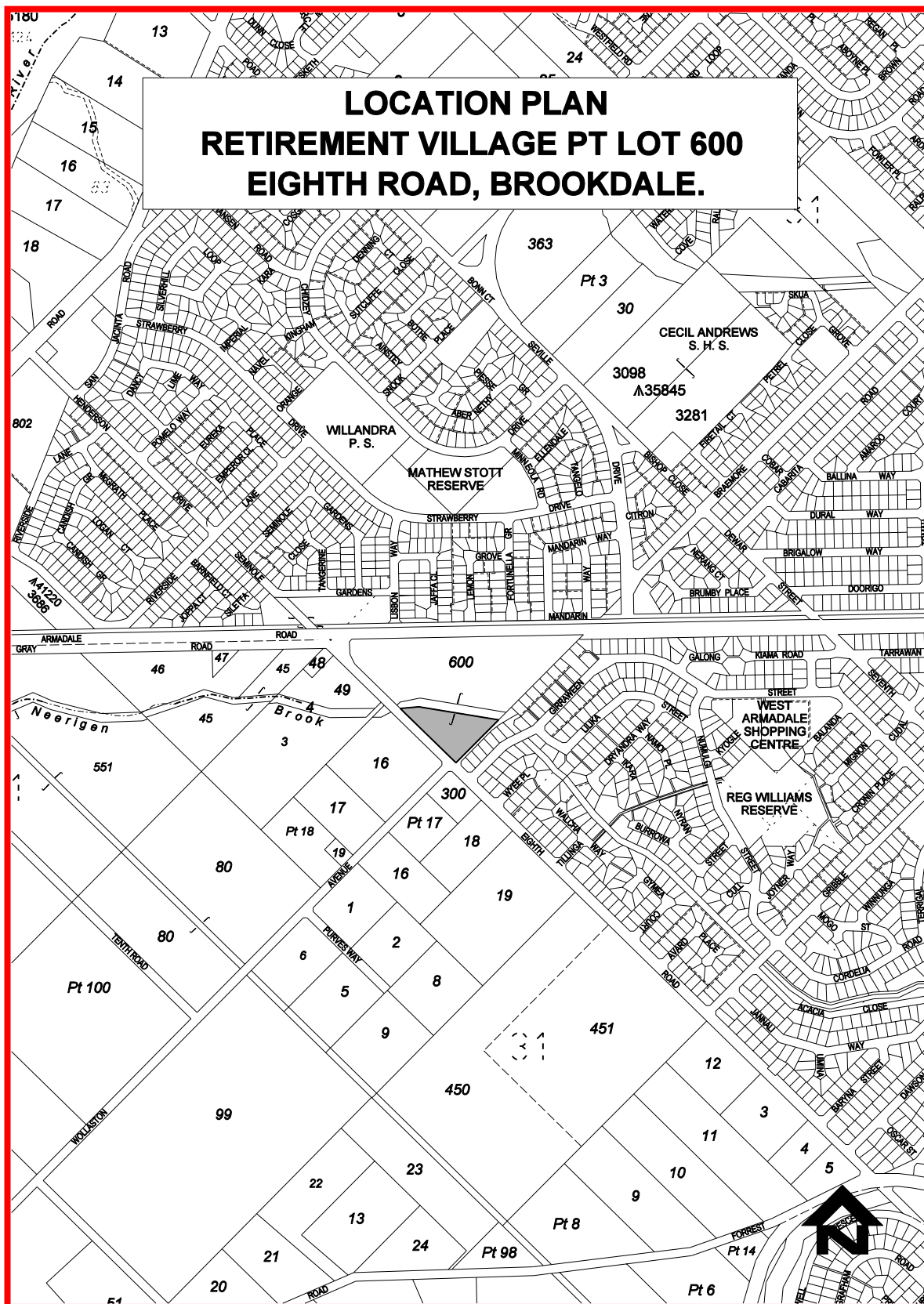
Any potential for adverse environmental impact from the proposal could be minimised by utilising best practice methods and imposition of appropriate conditions on the approval.

Sale of produce not originating from the property is considered incompatible with the orchard activities and “Rural Use” definition of the TPS No.2 and therefore is recommended for refusal.

Given the above, option 1 is recommended.

RECOMMEND

- 1. That the application to establish a horticulture/orchard activity with an associated cool room facility and retailing of produce grown on the land from Lot 10 Forrest Road, Brookdale be approved subject to the following conditions:**
 - a) Details of elevation, colour scheme and building materials relative to the external appearance of the proposed shed extensions to be submitted to and approved by the Executive Director Development Services. The development is to be completed and maintained thereafter in accordance with the approved schedule to the satisfaction of the Executive Director Development Services.**
 - b) Submission of a landscape plan to demonstrate planting along all property perimeters with local native species for the purpose of visually screening and softening the impact of the development. Landscaping to be installed and continuously maintained thereafter, in accordance with the approved landscape plan to the satisfaction of the Executive Director Technical Services.**
 - c) A 15m setback (buffer) along the Forrest Road perimeter to be maintained to the satisfaction of the Executive Director Development Services.**
 - d) Construction of a left turn lane from Forrest Road into the parking area of the subject site to the satisfaction of the Executive Director Technical Services.**
 - e) Driveway, crossover, parking and vehicle parking areas shall be constructed and continuously maintained to the satisfaction of the Executive Director Technical Services.**
 - f) Storm water design is to be in accordance with water sensitive design principles to the satisfaction of the Executive Director Technical Services.**



***PROPOSED RETIREMENT VILLAGE –
PORTION OF LOT 600 EIGHTH ROAD, ARMADALE***

WARD : WEST ARMADALE

FILE REF : A686

DATE : 6 November 2003

REF : GIW

RESPONSIBLE : PSM
MANAGER

APPLICANT : Koltaz Smith

LAND OWNER : Neerigen Brook Estate Pty Ltd

SUBJECT LAND : Lot 600 Eighth Road, Armadale
Property size 7.8ha
Map 21.03

ZONING : Urban /
MRS/TPS No.2 Residential-Development Area

In Brief:-

- Proposal involves developing the southern portion of the subject site to accommodate 45 aged person units.
- Proposal was advertised to surrounding landowners for comment. One (1) submission from the Water Corporation was received.
- Recommend that Council approve the application subject to appropriate conditions.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning & Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2

Council Policy / Local Law Implications

Grouped Housing Policy 4.3.13

Budget / Financial Implications

Nil.



SITE & ELEVATION PLAN
LOT 600 EIGHTH ROAD, BROOKDALE

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Armadale Redevelopment Authority (ARA)

BACKGROUND

The applicant submitted a formal development application to develop the site as a neighbourhood shopping centre and a retirement village on 9 September 2003.

It should be noted that the proposed neighbourhood shopping centre is being presented to Council for determination in a separate report.

DETAILS OF PROPOSAL

The application involves developing the southern portion of the subject site to accommodate 45 aged person dwellings (retirement village) comprising:

- ◆ 24 three-bedroom units;
- ◆ 21 two-bedroom units;
- ◆ A community centre building comprising lounge/hall, activity room, medical room, kitchen and cabana.
- ◆ Associated communal open space and car parking areas.

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 3 November 2003 raised no objection to the proposal and recommended that the application be approved subject to appropriate conditions.

Referral to Surrounding Neighbours

The proposal was advertised to adjoining landowners for comment until 6 November 2003. At the time of writing this report one (1) submission had been received from the Water Corporation. Any other submissions received will be tabled.

Water Corporation

The Water Corporation (owner of the adjoining drainage reserve) advised that the proposed development is situated within the floodplain for the 1 in 100 year storm event for the Neerigen Brook Main Drain and recommended that a finished floor level 300mm above the flood level be applied to the proposed development. Water Corporation also recommended that the proposal be referred to the Waters And Rivers Commission to determine the existing flood levels and recommended floor levels.

Analysis

Town Planning Scheme No.2

The subject site is zoned “Residential” and is designated as a “Development Area” under Town Planning Scheme No.2. Clause 5.8.3 stipulates that subdivision or development of land within a “Development Area” is to be generally in accordance with any Structure Plan that applies to the land. In accordance with Clause 5.8.4.2, Council may approve development of land within a Development Area prior to a Structure Plan coming into effect if it is satisfied that the proposal will not prejudice the area.

Grouped Dwelling development is a discretionary use under Town Planning Scheme No.2. The Residential Zoning table of TPS No.2 stipulates that ‘*Council may approve grouped dwelling development not exceeding a maximum of R40, where it is satisfied that the amenity of the locality will not be prejudicially affected*’.

No prescribed residential density (R Code) applies to the subject site. In this regard, Council may at its discretion approve a maximum density of R40 under TPS No.2.

Residential Design Codes (RD Codes)

The proposal complies with general car parking, setback, private open space and privacy provisions in accordance with R40 requirements of the Residential Design Codes. Noteworthy criteria of the RD Codes requiring further explanation are outlined below:

Special Purpose Dwelling Requirements

The RD Codes provide concessions for “aged person dwellings” subject to the provision of Clause 4.1.2 requiring a limit of the size of such dwellings, that they must be purpose-designed and are subject to a legal agreement to restrict occupancy to persons aged 55 years and over. Where the dwellings generally comply with the above provisions, a reduction to the minimum site area required may be reduced by one third under Clause 3.1.3.

Clause 4.1.2 (A2) restricts the allowable floor area for aged persons dwellings to a maximum of 100m². The proposal however does not meet this criteria as the proposed floor area for each of the three unit types are 100.36m², 108.38m² and 114.53m² respectively.

The proposed two bedroom units with a floor area of 100.36m² only marginally exceed the 100m² maximum and are therefore deemed to satisfy the alternative “performance criteria” (P2) of the RD Codes. In this regard, the required minimum lot area for each unit can be reduced by one third pursuant to Clause 3.1.3 of the RD Codes.

The three bedroom units proposed significantly exceed the maximum 100m² floor area and therefore are considered to be conventional “grouped dwellings” and not “aged person dwellings”. In this regard, these units would not qualify for a variation to the minimum lot size requirement under Clause 3.1.3 of the RD Codes.

Outdoor Living Area

The outdoor living area for Unit 16 does not meet the minimum 24m² requirement under Clause 3.4.2. The 23m² proposed is a relatively minor variation and is considered acceptable given the proposed courtyard is orientated to maximise winter sunlight.

Housing Density Requirements

The number of units proposed on site is equivalent to a density of R33 or 297m² (average) of site area per dwelling. In terms of the Residential Design Codes, the nearest equivalent density code is R35. In this regard, it is considered appropriate to apply the relevant R35 requirements and standards.

Clause 3.1.1 requires a minimum site area to be provided for each unit. The minimum site area is defined as the area of land occupied by a dwelling with all other associated areas designated for the exclusive use of the occupants of the dwelling. Variations to the minimum site area may be applied to aged person dwellings under Clause 3.1.3 A3(i) to allow a reduction of the area (as set out in Column 3 of Table 1 of the RD Codes) by up to one third.

The following table illustrates the minimum site area required under Column 3 of Table 1 and the maximum allowable variation to the site area at various densities:

Density Code	Minimum Site Area Requirement (as per Table 1 of RD Codes)	Allowable reduction of minimum Site Area under Clause 3.1.3 A3(i)
R30	270m²	180m²
R35	235m²	156m²
R40	200m²	133m²

The minimum site areas proposed by the applicant vary between 126m² – 240m². The areas defined by the applicant to calculate the minimum site area appear to be underestimated and could be increased to incorporate adjoining garden areas.

At the proposed density of R35, only Unit 36, 38 and 29 would comply with the minimum lot size requirement. In this regard, the development will need to be redesigned and a revised site plan submitted to demonstrate compliance with the minimum lot area requirements.

Even if Council was to apply the R40 minimum lot size requirements, only Unit 29, 30, 31, 32, 36, and 38 would comply. A revised plan would still be required.

Grouped Housing Policy 4.3.13 (GHP)

The proposal generally complies with the provisions of Council's GHP. Noteworthy criteria of the GHP requiring further explanation are outline below:

Density restrictions and requirements

A density bonus of 10 units per hectare (R10) above the prevailing Density Code is allowable subject to compliance with the location and design criteria of the GHP. This provision is not required as no prevailing density currently applies to the site and therefore Council may at its discretion consider any density up to R40 under the provisions of TPS No.2.

Building Design and Layout

The elevation plans provided are indicative at this stage. Proposed building are to be constructed of "Colorbond" roofing material and rendered brick wall finishes. A detailed elevation plan and colour schedule would be required as a condition of approval to ensure a high quality of development is achieved.

The entrances of the proposed dwellings orientate towards the internal driveway and car parking area. A combination picket-styled and brick masonry fence will be erected along the western boundary to create an open-styled streetscape along Eighth Road, whilst allowing for passive surveillance of the street from the main living areas of each dwelling. A solid fence is to be erected along the eastern boundary to provided privacy from the adjoining residential properties.

The proposed solid fence along the drainage reserve to the north is not considered acceptable as this limits the opportunity to allow for passive surveillance of the reserve and improve the streetscape/ interface with the possible future development on the adjoining side of the reserve. In this regard, it is recommended that open-styled fencing be erected along the drainage reserve.

Internal fencing between each unit will also be required in order to provide privacy and to define individual yard areas as a condition of approval.

Site and Location

The site is situated within relatively close proximity (800m) to community facilities including public transport routes (bus stops) along Eighth Road and Armadale Road, the West Armadale Shopping Centre, Reg Williams Reserve and pockets of public open space.

In addition, the irregular shape of the subject site is not conducive to conventional residential subdivision and therefore is a logical site to accommodate a uniformed grouped housing development.

OPTIONS

1. Council may approve the application subject to submission of a revised site plan to demonstrate compliance with the minimum lot size requirement in accordance with the R35 standards of the Residential Design Codes.
2. Council may refuse the applicant if it is of the view that the subject site is not a suitable location for aged person accommodation or that the proposed density is not appropriate in the locality.

CONCLUSION

The subject site is relatively constrained in terms of its awkward lot shape to warrant conventional single residential subdivision and therefore is more conducive to accommodate a coordinated grouped housing development as proposed. The subject site is situated within relatively close proximity to public facilities, which indicates the suitability of the site for the development of a retirement village.

The proposed density is considered to be appropriate, however the proposal does not meet the minimum lot size requirement in accordance with Clause 3.1.1 of the Residential Design Codes. It is therefore recommended that approval be granted on the basis that the site is suitable for a grouped housing development subject to compliance with the R35 development standards of the Residential Design Codes.

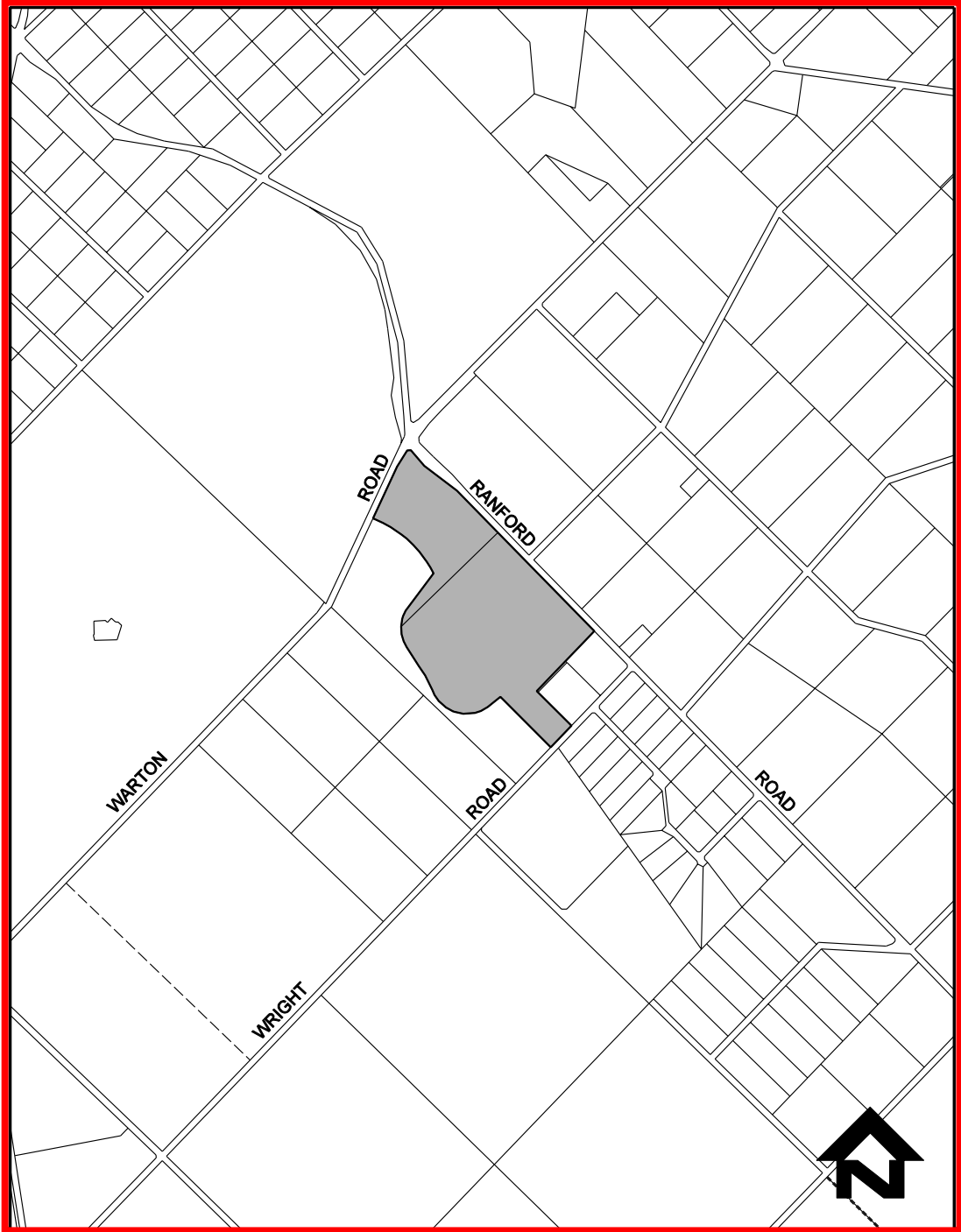
In this regard, it is recommended that Council adopt Option 1 above and approve the application.

RECOMMEND

1. **That Council approve the application to develop (45) forty-five units on a portion of Lot 600 Eighth Road, Armadale subject the following requirements:**
 - a) **Submission of a revised plan to demonstrate compliance with the R35 Density Code requirements (in particular the minimum lot size requirements) in accordance with the Residential Design Codes and design to take into account the location of the development in relation to the 1 in 100 year flood level to the satisfaction of the Executive Director Development Services. Development to be completed and maintained in accordance with the revised plan.**
 - b) **A detailed schedule of colours and textures of materials (including fencing) is to be submitted to and approved by the Executive Director Development Services. Development to be completed and maintained in accordance with the approved schedule.**

- c) **A comprehensive landscaping plan indicating retention of existing trees and irrigation is to be submitted to the satisfaction of Executive Director Development Services. All landscaping to be installed in accordance with the approved landscape plan and maintain for the duration of the development to the satisfaction of the Executive Director Development Services.**
 - d) **All fencing is to be erected (including internal dividing fencing between each unit) to the satisfaction of the Executive Director Development Services.**
 - e) **Design of the storm water disposal system is to be to water sensitive design principles to the satisfaction of the Executive Director Technical Services.**
 - f) **All hardstanding areas (eg car parking areas, crossover, vehicle manoeuvring spaces) unless otherwise determined by the Executive Director Development Technical Services, to be constructed, drained, sealed and kerbed to the requirements of the Executive Director Technical Services in accordance with the approved plan.**
- 2. That the applicant be advised of the following:**
- a) **With regard to Condition 1(a) above, the proposed site is affected by the 1 in 100 year flood levels associated with adjoining the Neerigen Brook Main Drain. In this regard, further liaison will be required with Water Corporation and Waters And Rivers Commission to determine adequate finished floor levels for the proposed development.**
 - b) **With regard to Condition 1(b) above, the fencing along the northern boundary is to be partially open-styled to provide for passive surveillance of the adjoining Reserve.**

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LOCATION PLAN
TPS NO.2 - AMENDMENT NO.186
LOTS 80 & 82 RANFORD ROAD, FORRESTDAL

***FINAL ADOPTION - SCHEME AMENDMENT NO. 186 AND HARRISDALE ESTATE
STRUCTURE PLAN - LOTS 80 & 82 RANFORD ROAD, FORRESTDAL***

WARD : FORREST
FILE REF : SCH/2/186
DATE : 16 September 2003
REF : RVD
RESPONSIBLE MANAGER : PSM
APPLICANT : Allerding Burgess
LAND OWNER : Dept. of Housing and Works
SUBJECT LAND : Lot 80 & 82 Ranford Rd,
Forrestdale
Property size 30.27ha total
Maps 17:08 & 18:08
ZONING : Urban/ Rural Kennels
MRS/TPS No.2

In Brief:-

- Council initiated the Amendment No. 186 in November 2002 and resolved to advertise the proposed Harrisdale Estate Structure Plan in December 2002.
- Amendment and proposed Structure Plan were advertised concurrently for public comment. Fourteen submissions were received, including two objections.
- Council to consider submissions received during the advertising period.
- Recommend that Amendment No. 186 be finally adopted.
- Recommend that the proposed Structure Plan (as amended) be adopted.

Tabled Items

“Harrisdale Estate” Proposed Structure Plan – Lots 80, 82, 106 & 107 Ranford Road, Forrestdale.

Officer Interest Declaration

Nil.

Strategic Implications

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning Scheme No.2
Town Planning & Development Act 1928.
Metropolitan Region Scheme
Metropolitan Region Scheme Act 1956

Council Policy / Local Law Implications

Nil.



**LOCAL STRUCTURE PLAN
TPS NO.2 – AMENDMENT NO.186
LOTS 80 & 82 RANFORD ROAD, FORRESTDAL**

Budget / Financial Implications

The potential budget/ financial implications for ongoing maintenance of the estate will be similar to other areas within the Southern River/ Forrestdale/ Brookdale/ Wungong District Structure Plan area that are covered by the Urban Water Management Strategy.

Consultation

Advertising occurred for Amendment No. 186 and the Harrisdale Estate Proposed Structure Plan from 30 July 2003 to 10 September 2003. This occurred through:

- ◆ Referral to relevant government agencies and surrounding property owners by mail;
- ◆ Sign on site; and
- ◆ Advertising in “The Western Australian” newspaper.

The Development Control Unit was consulted prior to initiation of the Amendment and advertising of the proposed Structure Plan.

BACKGROUND

Council has initiated two scheme amendments in the area bounded by Warton Road, Ranford Road, Wright Road and Harrisdale Swamp, and has prepared one Structure Plan to cover both amendment areas. Scheme Amendment No. 186 covers Lots 80 and 82 Ranford Road which are zoned Urban in the Metropolitan Region Scheme and is unconstrained, whilst Scheme Amendment No. 187 covers Lots 106 and 107 Wright Road which are zoned Rural in the Metropolitan Region Scheme and are constrained by the presence of Declared Rare Flora on Lot 106.

Issues surrounding Amendment No. 187 such as the need for a Metropolitan Region Scheme Amendment to rezone the land from Rural to Urban and management of Declared Rare Flora are likely to take some time to resolve. Therefore it was decided to progress advertising of Amendment No. 186 and the Structure Plan that covers the entire area without waiting for resolution of the issues regarding Amendment No. 187.

Council resolved to initiate Scheme Amendment No. 186 to rezone lots 80 and 82 Ranford Road, Forrestdale from “Rural – Kennels” to “Residential – Development Area” and “Showroom” in November 2002. Zoning to “Residential – Development Area” means that a Structure Plan needs to be prepared and adopted consistent with the requirements of Section 5.8 of Town Planning Scheme No.2, which includes advertising. The Scheme Amendment and Structure Plan processes have been run concurrently for Amendment No. 186.

Council resolved to advertise the Structure Plan for Lots 80, 82, 106 and 107 in December 2002 subject to modifications to the plan including:

- ◆ identification of a kennel buffer zone illustrating that residential lots are not to be created within 250m of the adjoining Rural – Kennels zone;
- ◆ identification that residential lots located between 250m and 1km from the zone shall incorporate a Memorial advising prospective purchasers of the potential for negative impacts from the adjoining Rural – Kennels zone;

- ◆ notification on the Structure Plan regarding the need to relocate Declared Rare Flora on Lot 106 to the satisfaction of Department of Conservation and Land Management; and
- ◆ relocation or re-design to address safety concerns of the crossover to the proposed Showroom/ Mixed Business development on Lot 1003 Lakey Street, Southern River.

Advertising of the Scheme Amendment and Structure Plan consistent with administrative and legal requirements has now been completed.

The Department of Housing and Works has indicated that they are considering revising the Structure Plan using a sustainability framework, but would nevertheless like the current Structure Plan approved at this stage.

DETAILS OF PROPOSAL

Amendment No. 186

The applicant proposes to rezone lots 80 and 82 Ranford Road, Forrestdale from “Rural – Kennels” to “Residential – Development Area” and “Showroom”. The proposed rezoning would permit the subdivision and development of the first stages of residential lots in the Forrestdale locality.

Harrisdale Estate Structure Plan

The proposed subdivision layout has been designed to respond to environmental features, surrounding developments and to provide a good solar aspect to the proposed lots. A distributor road passes through the centre of the lots, with a four-way intersection with Warton Road and Roebuck Avenue controlled by a roundabout in the north-west, and a T-junction with Wright Road in the south-east adjacent to Carey Baptist College. The road design forms a hard edge along the boundary of the Bush Forever site, which provides access for fire fighting and the regional open space. An intersection from the application area onto Ranford Road is also proposed.

Internal accessways are to be incorporated adjacent to Warton Road and Ranford Road, which avoids back fences fronting regional roads and provides passive surveillance from the properties. The residential density proposed within the application area is predominantly R20, with R30 grouped housing lots interspersed within the site and a precinct of R30 rear laneway lots adjacent to the proposed public open space site and commercial development. A Showroom/Mixed Business zone is proposed within the south-eastern corner of Lot 82, with a Service Station, Showroom floorspace and approximately 850m² retail floorspace on the adjacent Lots 106 & 107 contributing to the Village Centre as identified within the Southern River/ Forrestdale/ Brookdale/ Wungong District Structure Plan.

The Harrisdale Estate proposed Structure Plan addresses the interface between the Rural - Kennels zone and the proposal in accordance with Council’s December 2002 resolution through annotations on the Structure Plan showing the 250m separation zone in which residential development is incompatible and an annotation noting that all residential lots within one kilometre of the Rural - Kennel zone will require memorials on the Certificates of Title.

COMMENT

Submissions on Amendment No. 186 and Harrisdale Estate Structure Plan

Total number of responses received	:	14
Number opposed	:	2
Number in favour/ no objections	:	11

A copy of the Schedule of Submissions is at Attachment “A2” of the Agenda (Refer Summary of Attachments – yellow page.)

KEY ISSUES ARISING FROM SUBMISSIONS

A number of minor issues raised in the submissions are addressed within the attached Schedule of Submissions. Issues that warrant detailed explanations as to the basis of recommendations made in the Schedule follow.

1. *Potential adverse impacts from the Canine Association*

Currently it is proposed that memorials on title be placed on all residential development in Precinct A to alert purchasers to the potential adverse impacts from the Rural-Kennel zone. Given that the Canine Association operates its showgrounds day and night it is possible that adverse impacts such as noise from loudspeakers and light overspill may adversely affect properties in Precinct A. Therefore it is proposed to include information about potential impacts from the Canine Association on the proposed memorials.

Consultants for the Canine Association investigating alternative sites for the Association’s activities have approached City of Armadale officers. However, there is no guarantee that the association will move.

2. *Neighbourhood Centre at the intersection of Wright Road and Ranford Road*

The City of Gosnells expressed concern that the proposed uses envisaged in the Structure Plan, namely fast food and service station, would detract from the pedestrian oriented focus of the neighbourhood retail centre at the intersection of Wright Road and Ranford Road. Gosnells also noted that the 4,500m² of retail floor space typically permitted for a neighbourhood centre was already approved in a development application on the Gosnells side of Ranford Road and that under the Metropolitan Centres Policy (Statement of Planning Policy No. 4.2 – formerly SPP No.9), 1000m² of floor space could be developed on the Armadale side of Ranford Road provided a mainstreet style development was proposed.

A meeting was held between the City of Armadale, City of Gosnells, and officers of the Department for Planning and Infrastructure to discuss the City of Gosnells’s submission and to review the history of the process that led to the allocation of 4,500m² of retail floor space occurring on the City of Gosnells side of Ranford Road.

In response to the meeting outcomes, the Structure Plan has been amended to show that shopping area will be developed in accordance with Statement of Planning Policy No. 4.2) (Metropolitan Centres Policy) and Town Planning Scheme No.2. It is proposed to hold further discussions with Gosnells regarding the detailed design when a development application is received.

3. *Potential adverse impacts from Rural – Kennels zones and ongoing management of buffer zone requirements*

The adjacent Rural Kennel zone is included as future urban land under the District Structure Plan and this area will be redeveloped over time. A 250m buffer will remain and all lots developed within 1km will have memorials on title (as annotated on the Structure Plan) until land use change occurs.

4. *Bush fire risk*

Western Australian Planning Commission Policy DC 3.7 *Fire Planning* and the associated *Planning for Bushfire Protection* guidelines apply to the Harrisdale Structure Plan. The applicant maintains that the fire risk from the adjacent bushland is rated as high, whilst the City's Ranger Services have assessed the fire risk as extreme based on the bushland's current condition. Policy DC3.7 requires a 100m separation zone of buildings from "extreme" fire risk bushland, but does not specify a separation zone for "high" fire risk areas.

The structure plan shows a road reserve which will separate buildings from the bushland.

Currently, no management effort has been directed towards reducing the bushfire risk at the proposed residential/ bushland interface. Ultimately, it is expected that the Department of Conservation and Land Management will manage the Harrisdale Swamp. If a low-fuel zone is developed along the road interface to reduce the risk of arson (which is considered best-practice), it is likely that the fire risk rating of the bushland would change to "high" in which case no specific separation distance applies under Policy DC 3.7. With a well-managed low-fuel zone the road reserve would provide adequate separation.

5. *Impacts on Harrisdale Swamp*

Development of the subject land has been planned with due consideration to adjacent Harrisdale Swamp.

The Environmental Protection Authority, the Department of Conservation and Land Management and other relevant agencies have endorsed the location of the interface.

The export of excess water through Lakey Road should ensure Harrisdale Swamp will not be adversely affected from surface water drainage.

Compliance with the Urban Water Management Strategy requirement that subsoil drainage levels are at or above the Average Annual Maximum Groundwater Levels should protect Harrisdale Swamp from groundwater level changes that can kill wetland vegetation. If fill is required to ensure there is a 1.2m separation between the Average Annual Maximum Groundwater Level and development it would be brought in along Ranford Road.

Southern River/ Forrestdale/ Brookdale/ Wungong District Structure Plan and Urban Water Management Strategy

Together the Amendment and proposed Structure Plan provide for development that is consistent with the Southern River/ Forrestdale/ Brookdale/ Wungong District Structure Plan and the Urban Water Management Strategy. The proposed Structure Plan incorporates water sensitive design principles.

OPTIONS

1. Council could determine the submissions as detailed in ***Attachment “A2”*** and adopt the Scheme Amendment and Structure Plan for forwarding the Western Australian Planning Commission.
2. Council could determine the submissions in ***Attachment “A2”*** in relation to the Scheme Amendment only and adopt the Scheme Amendment, choosing not to adopt the Structure Plan pending further information in regard to the potential impacts from the Canine Association’s operations, management to comply with the Urban Water Management Strategy and fire risk. The Amendment can proceed separately to the Structure Plan.
3. Council could refuse to adopt the Scheme Amendment and Structure Plan.

CONCLUSION

The proposed Scheme Amendment and Structure Plan accord with the intentions of the Southern River/ Forrestdale/ Brookdale/ Wungong District Structure Plan and Urban Water Management Strategy. Council’s adoption of the Scheme Amendment would help facilitate one of the first stages of urban development within the City, as outlined in the District Structure Plan.

The site represents a logical pattern of expansion from existing urban development to the north-west and its location adjacent to approved residential and commercial development within the City of Gosnells will assist in permitting early development and creating an impressive entry statement to the City. It is recommended that the Scheme Amendment be adopted without modification, and that the Structure Plan be adopted as modified.

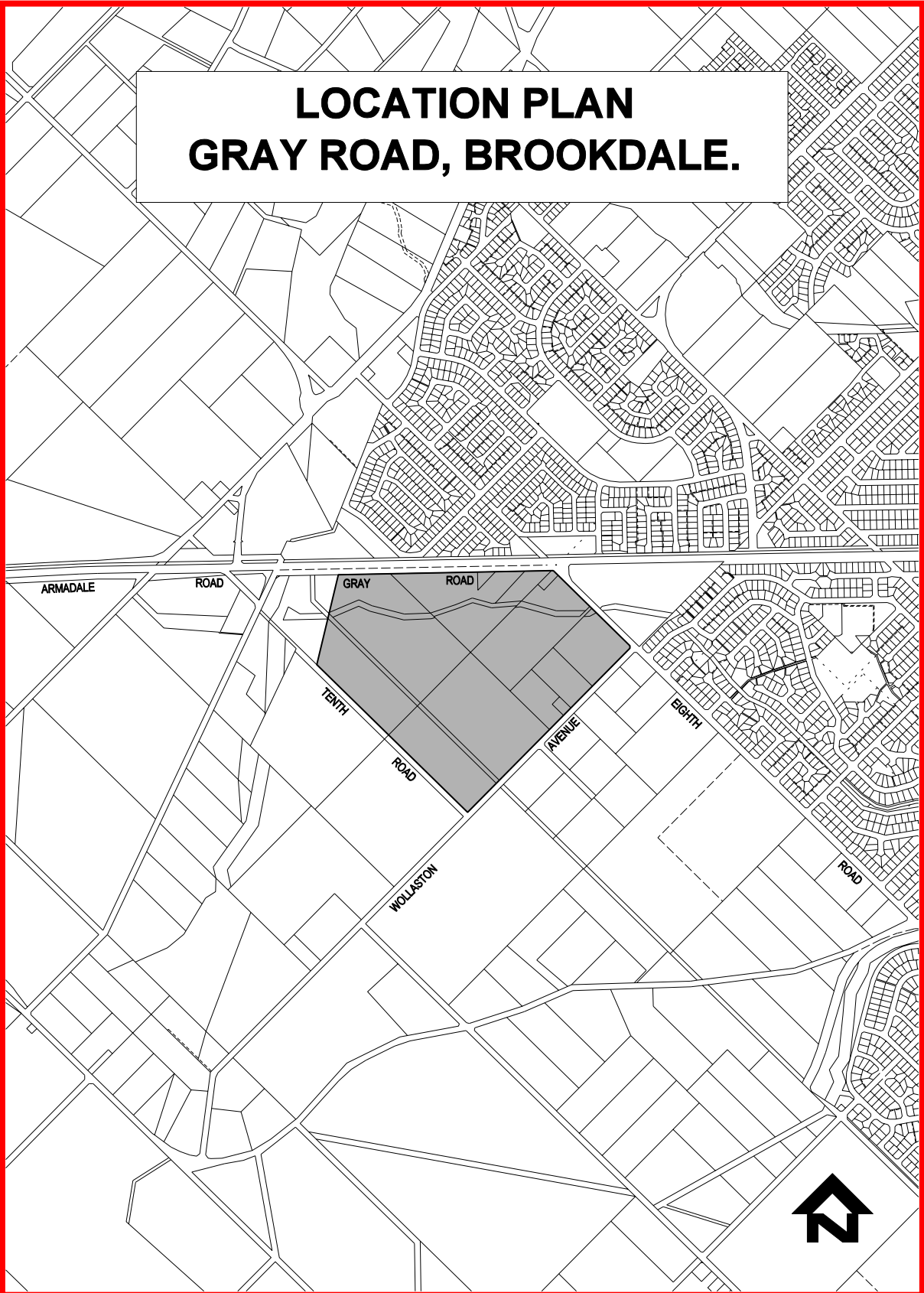
RECOMMEND

- 1. That Council determine submissions to Scheme Amendment No.186 and associated Subdivision Guide Plan in accordance with recommendations in the *Schedule of Submissions recorded at Attachment “A2” of the Agenda.***
- 2. That Council under and by virtue of the powers conferred upon it by the Town Planning and Development Act, 1928 (as amended) and the Metropolitan Region Town Planning Scheme Act, 1959 (as amended), hereby adopts Town Planning Scheme Amendment No.186 by:**
 - a) rezoning Lots 80 and 82 Ranford Road, Forrestdale from “Rural - Kennels” to “Residential - Development Area” and “Showroom”;**
 - b) amending the Scheme maps accordingly.**
- 3. That Council authorise the Mayor and Chief Executive officer to endorse and execute the amending documents.**
- 4. That Council forward the Amendment documents to the WAPC for final consideration.**
- 5. That Council adopt the Harrisdale Estate Structure Plan (as modified).**
- 6. That consistent with Provisions 5.8.11 and 5.8.12 of Town Planning Scheme No.2 the City of Armadale forward a copy of the adopted Harrisdale Estate Structure Plan (as modified) to the Western Australian Planning Commission for endorsement, as well as to the owner and to the following public authorities:**
 - a) Environmental Protection Authority;**
 - b) Health Department of Western Australia; and**
 - c) City of Gosnells.**

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**LOCATION PLAN
GRAY ROAD, BROOKDALE.**



PROPOSED MRS AND LOCAL SCHEME AMENDMENT AND STRUCTURE PLAN - LOTS BOUND BY GRAY ROAD, EIGHTH ROAD, WOLLASTON AVENUE & TENTH ROAD, BROOKDALE

WARD : FORREST
FILE REF : A142977
DATE : 28 October 2003
REF : GIW
RESPONSIBLE MANAGER : PSM
APPLICANT : Taylor Burrell Barnett
LAND OWNER : Various
SUBJECT LAND : Lot 45, 46, 47, 48, 49, 551, Gray Rd, Lot 16, 17, 18, 19, 80 & Pt80 Wollaston Ave, Lot 3, 4, 5 Eighth Rd and Reserve 36356
Property size Map 22.40
ZONING : Urban Deferred /
MRS/TPS No.2 General Rural

In Brief:-

- Proposal to transfer the land from “Urban Deferred” to “Urban” under the Metropolitan Region Scheme.
- Proposal to also rezone lots bound by Gray Road, Eighth Road, Wollaston Avenue and Tenth Road, Brookdale from “General Rural” to “Residential-Development Area” under Town Planning Scheme No.2.
- An indicative Local Structure Plan has been prepared by the applicant to illustrate potential land use distribution, residential densities and road layout.
- Recommended that Council defer initiation of the proposed amendment and associated Local Structure Plan pending finalisation of the MRS amendment and Water Cycle Plan.
- Recommended that the Western Australian Planning Commission be advised that support for the MRS Amendment to lift the Urban Deferred zoning is considered warranted given the site is earmarked as urban under the District Structure Plan, subject to finalisation of the Water Cycle Plan and relevant environmental issues.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

- ♦ Town Planning & Development Act 1928
- ♦ Metropolitan Region Scheme Act 1959
- ♦ Town Planning Scheme No.2
- ♦ Environmental Protection Act 1986
- ♦ Metropolitan Region Town Planning Scheme
- ♦ Armadale Redevelopment Authority Act 2001

Draft TPS No.4 – has been forwarded to the WAPC for approval to advertise, and under standard practices, concurrent rezoning proposals under TPS No.2 will be progressed through separate Scheme Amendment processes of assessment and public review before being incorporated into the new Scheme 4 at the appropriate time, which depending on timing may be either prior to advertising Scheme 4 or prior to the final adoption of the new Scheme.

Council Policy / Local Law Implications

- ◆ Southern River / Forrestdale / Brookdale / Wungong District Structure Plan
- ◆ Commercial Strategy
- ◆ Retail Hierarchy Review
- ◆ Water Sensitive Design Policy

Budget / Financial Implications

Costs associated with administering Developer Contributions Plan.

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Environmental Planner
- ◆ Technical Services Directorate
- ◆ Armadale Redevelopment Authority (ARA)

BACKGROUND

Council received the proposal to rezone the subject site from “General Rural” to “Residential-Development Area” on 8 September 2003.

In addition, the applicant has lodged a submission to the Western Australian Planning Commission to request that it resolve under Clause 27 of the MRS to transfer the land from “Urban Deferred” to the “Urban” zone.

New urban areas in Brookdale and north Forrestdale

In June 2002, Council affirmed its position in respect to the two future urban areas of Brookdale and North Forrestdale, as a position of providing “a level playing field” for developers in both Brookdale and north Forrestdale to proceed with their plans (CS58/02). In regard to Brookdale, Council recently indicated its support of the Armadale Redevelopment Authority’s proposal to extend its existing statutory planning jurisdiction to include those areas as described and recommended in the Confidential Report. In October 2002, Council supported Peet and Co’s then intention to proceed with a Structure Plan for the Brookdale–west area (D186/02).



DRAFT LOCAL STRUCTURE PLAN
GRAY ROAD, BROOKDALE

Memorandum of Understanding on Urban Water Management

Following the 2002 finalisation of the Urban Water Management Strategy by the WRC, Council endorsed a Memorandum of Understanding (MOU) to be entered into with the Water Corporation, Water and Rivers Commission, Environmental Protection Authority and Western Australian Planning Commission (D129/7/03). The MOU aims to establish mutual-cooperation between the above agencies, in dealing with development of the area and enabling more detailed urban water management planning under guidance of the Water Corporation.

It is understood that all agencies other than the Water Corporation, have confirmed their endorsement of the MOU and that the Water Corporation is likely to also endorse the MOU pending negotiation of details for preparing the Water Cycle Plan with the other agencies. The Water Cycle Plan will be developed in conjunction with the Cities of Armadale and Gosnells, together with the Water and Rivers Commission, Environmental Protection Authority and Western Australian Planning Commission.

DETAILS OF PROPOSAL

Metropolitan Region Scheme (MRS) Amendment

The Department for Planning and Infrastructure has requested Council's comments with respect to the applicant's request to transfer the land under Clause 27 of the MRS from the "Urban Deferred" to the "Urban Zone" zone.

Local Scheme Amendment

The proposal involves rezoning lots bound by Gray Road, Eighth Road, Wollaston Avenue and Tenth Road from "General Rural" to "Residential" and designated the precinct as a "Development Area" under Town Planning Scheme No.2.

The applicant represents the landowner of Lot 46 and 47 Gray Road and has prepared this rezoning application to primarily facilitate the future development of these two lots as a possible residential / retirement village up to a density of R30.

In the interest of proper and orderly planning, the entire precinct bound by Eighth Road, Gray Road, Wollaston Avenue and Tenth Road has been included in the rezoning.

The application does not include supporting information with respect to environmental management issues.

Draft Local Structure Plan (LSP)

The applicant has prepared a draft Local Structure Plan to demonstrate the integration of the potential development of Lot 46 and 47 Gray Road within the context of the broader Local Structure Plan area. The draft LSP identifies road layout and distribution of proposed land uses throughout the amendment area including residential, a local centre (shopping) and open space areas including drainage corridors. (Refer to Draft Local Structure Plan).



AERIAL PHOTOGRAPH - GRAY ROAD, BROOKDALE

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 28 October 2003 recommended that the proposal be deferred pending resolution of outstanding environmental issues and the Water Cycle Plan. DCU also noted that the proposal should be forwarded to the ARA for comment in light of current planning initiatives being undertaken by the ARA within the Brookdale area.

Environmental Planner

Council's Environmental Planner has assessed the proposal and raised several issues requiring further investigation and attention by the applicant including:

1. The rezoning documentation needs to take into consideration and illustrate the floodplain and floodway for the Wungong River and Neerigen Brook. A significant portion of the proposed rezoning area is affected by the floodplain and therefore should remain undeveloped. The Neerigen Brook has a significant catchment extending some distance up Albany Highway, so it is essential that the water from this brook can be accommodated through the development. The Urban Water Management Strategy notes that changes to flood levels as a result of land use changes should also be taken into account. Flood levels should be investigated and identified to ensure realistic expectations of the area of developable land.
2. Soil contamination studies need to be completed. There are different clean-up standards depending on the end land use, so these studies should be done at the Local Structure Plan stage or before end land uses are determined (i.e. definitely before subdivision). Contaminated soil also affects where drainage is located. The Department of Environment has standards for site assessment and clean-up. The current submission does not adequately address this issue.
3. The Structure plan should indicate a proposed buffer for the Resource Enhancement wetland.
4. In general, the Urban Water Management Strategy, Water Sensitive Design and the principles provided by the applicant are not adequately addressed in the Draft Local Structure Plan and require further investigation as to how these are to be achieved.
5. The hydrology of the wetlands will need to be protected, and this needs to be assessed at the Local Structure Plan stage. The applicant's proposed measure of preparing a Wetland Management Plan does not indicate this issue will be addressed. In this instance wetland management will need to influence the design of the surrounding drainage system and the extent of groundwater infiltration.
6. The Urban Water Management Strategy recommends that monitoring should be undertaken to determine current catchment and waterway conditions both prior to and following development. There is no evidence that this recommendation is being implemented at this site.

7. Detailed environmental and stormwater management reports should be provided to demonstrate the above points.

Technical Services Directorate (TSD)

Council's Technical Services Directorate has assessed the proposed Local Structure Plan and requires the following modifications:

1. The two cul-de-sac ends terminating at Eight Road and Gray Road are to be connected to provide for continuous movements;
2. The proposed western most intersection along Armadale Road would need to be subject to further investigation and take into account the proposed roundabout required as part of the future Ranford / Lake Road realignment;

In addition to the above modifications, TSD noted that the District Structure Plan identifies two drainage lines traversing the subject site and therefore the applicant would be required to undertake further investigation to ascertain and demonstrate that the single alignment proposed would cater for drainage requirements of the area.

Armadale Redevelopment Authority (ARA)

It should be noted that the ARA's comments summarised below represent preliminary advice provided by ARA officers and will be subject to further consideration / resolution of the ARA Board.

The ARA advised that it does not support the proposal and considers the proposal to be premature and potentially prejudicial to the overall development of the area on the grounds that ongoing water management issues associated with Urban Water Management Strategy may instigate further modifications to the current District Structure Plan in respect to land use and subdivision design.

The ARA also advised that the subject land is located within part of Brookdale that the ARA proposes to incorporate with the redevelopment area and subsequently take jurisdiction over planning for the area, and is facilitating significant research and investigation into water management of the area.

Analysis

Metropolitan Region Scheme (MRS)

The applicant has lodged a submission to the Western Australian Planning Commission to request that it resolve under Clause 27 of the MRS to transfer the land from "Urban Deferred" to the "Urban" zone. If gazetted, the resolution would result in a change to the MRS which would facilitate a subsequent amendment to the Town Planning Scheme.

The Department for Planning and Infrastructure has requested Council's comments with respect to the proposed lifting of the Urban Deferred zone under the MRS prior to it placing the matter before the South East District Planning Committee and the Perth Region Planning Committee. It is recommended that the Department for Planning and Infrastructure be advised that support for the MRS amendment is warranted given the site is earmarked for urban development under the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan subject to resolution of the Water Cycle Plan.

Town Planning Scheme No.2

The applicant seeks an amendment from the current zone under Town Planning Scheme No.2 to "Residential- Development Area".

Clause 5.8 and 5.9 of TPS No.2 makes provisions for the subject site to be designated as a "Development Area" and "Developer Contribution Area" respectively. Such areas enable specific provisions to be incorporated into the Schedule 1 of TPS No.2 relating to environmental considerations, Structure Plan requirements and developer contributions. In addition, subdivision or development of land is to be generally in accordance with an adopted Structure Plan. The recommendations of the Urban Water Strategy and outstanding environmental issues would need to be facilitated by appropriate Scheme provisions if Council is of the view to initiate the proposed local scheme amendment.

Contextual Overview and Analysis

The proposed amendment area is bound by Gray Road to the north, Eight Road to the east, Wollaston Avenue to the south, and Tenth Road and a Parks & Recreation Reserve (containing the Wungong Brook) to the west.

The amendment area is characterised by low-lying rural pasture land. The Neerigen Brook traverses the northern half of the site. Orchard activities are being conducted on Lot 3, 45 and 49 Eighth Road and a plant nursery is situated on Lot 18 Wollaston Avenue. A wetland is contained on Lot 80 Wollaston Avenue. Lot 46 Gray Road contains the remnants of a disused plant nursery ("Gladalan Nursery"), which is listed under Council's Municipal Heritage Inventory. The remaining area is relatively undeveloped.

The amendment area is situated in close proximity to existing residential development on the opposite side of Armadale Road (Seville Grove) to the north and Eighth Road (Armadale) to the east. Whilst it is acknowledged that the proposed amendment area represents a logical extension and integration with these established areas, it should also be noted that the existing supply of urban zoned land situated to the south (Peet & Co landholdings) has not been developed to date.

Local Structure Plan

Southern River / Forrestdale / Brookdale / Wungong District Structure plan (DSP) & Water Cycle Plan

The draft Local Structure Plan is generally consistent with the Southern River / Forrestdale / Brookdale / Wungong District Structure plan (DSP) & Water Cycle Plan with the exception of the proposed location of the Open Space (drainage corridor).

The final alignment of the drainage corridor should not be determined until further detailed investigation has been conducted by the applicant with respect to the drainage and hydrological requirements of the subject land. The outcome of such investigations will be dependent on the recommendations of the impending Water Cycle Plan. As noted by the ARA in the “comment” section of this report above, the overall DSP for this area may require further modifications to accord with the recommendations of the Water Cycle Plan and as such the proposal is considered to be premature at this stage.

An area of shopping is also proposed to accord with the “Neighbourhood Centre” as identified on the DSP. It should be noted that Council has received an application to develop the adjoining parcel of land on Lot 600 Eighth Road (situated outside the amendment area along the eastern side of Eight Road) to accommodate a large Neighbourhood Centre and is also being considered by Council at this meeting. In this regard, if Council is of the view to initiate this proposed rezoning, then further consideration would need to be given towards ensuring an appropriate distribution and scale of shopping floor space as part of a detailed Structure Plan.

Infrastructure

The servicing requirements provided by the applicant primarily relate to Lot 46 and 47 Gray Road and suggest that a temporary or private wastewater pumping station would be required to service those specific lots if developed in isolation. According to the applicant, these lots are currently serviced by reticulated water, power, telephone and gas supplies. Details with respect to the servicing requirements for the entire amendment area would need further investigation.

A Developer Contributions Plan would therefore be required to ensure the equitable sharing of infrastructure costs amongst landowners within the amendment areas and to coordinate the provision of such infrastructure in a coordinated and timely manner.

Environmental Considerations

As highlighted in the “Comment” section of this report above, there are various environmental issues requiring further detailed investigation. This however does not preclude Council from initiating the proposed amendment as this additional information could be required as a condition of initiation, or alternatively, appropriate Scheme provisions could be incorporated into the amendment to ensure issues relating to the Urban Water Management Strategy, remediation of soil contamination, flooding, distribution of drainage corridors and stormwater disposal are addressed as part of a more detailed Structure Plan.

OPTIONS

1. Council initiate the proposed amendment and seek approval from the Western Australian Planning Commission to advertise a local rezoning. This option is considered too premature taking into consideration unresolved issues pertaining to the Water Cycle Plan, need for a resolution under the MRS Scheme amendment and environmental factors.

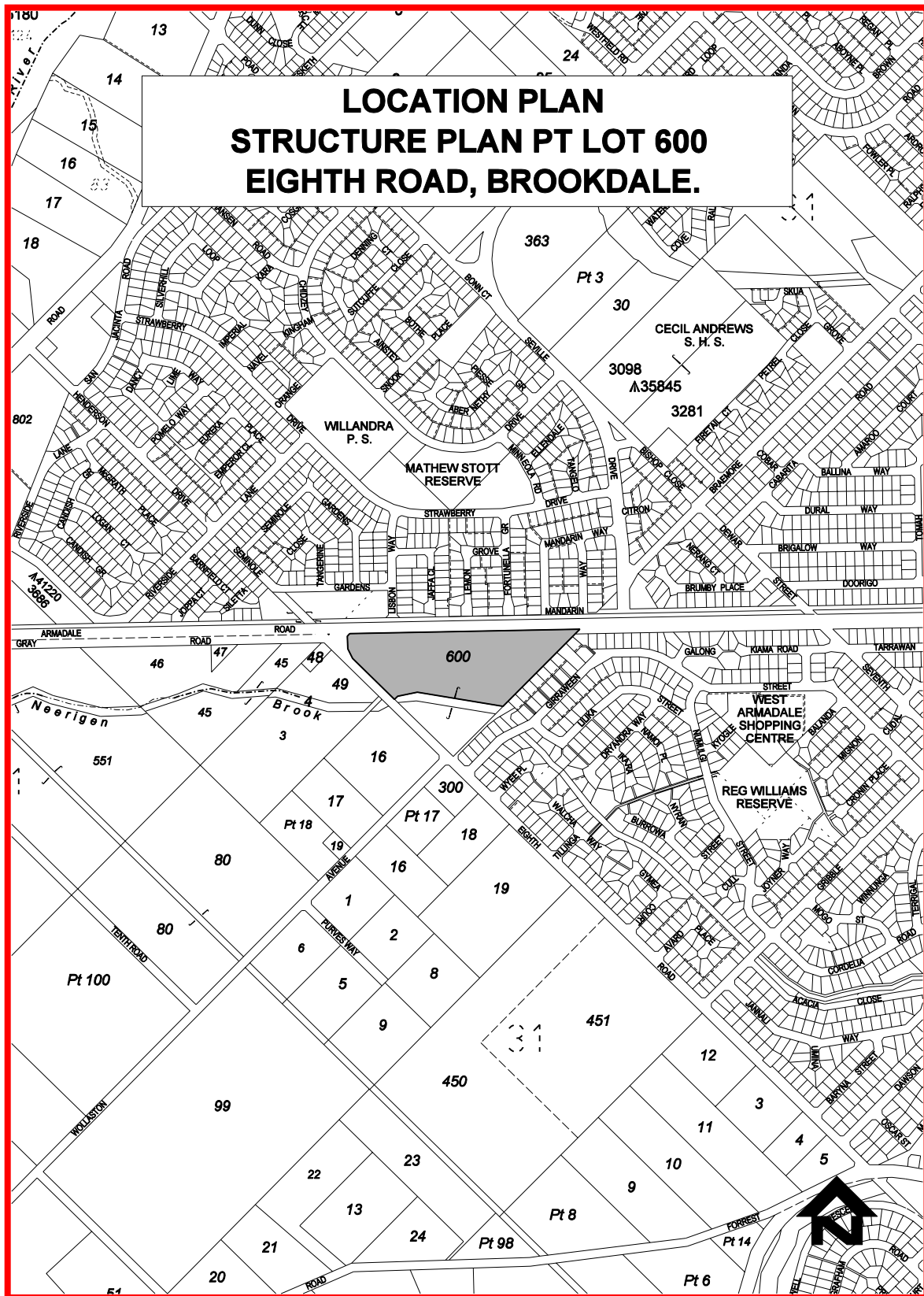
2. Council not initiate the propose amendment based on the advice received from the Armadale Redevelopment Authority on the grounds that planning of the area is not sufficiently advanced to warrant the proposal. This option is inflexible and does not provide the applicant with an opportunity to undertake the required investigates to advance planning for the area.
3. Council defer consideration of the proposed amendment. This option provides the applicant with an opportunity to progress through the transfer of land to the Urban zone under the MRS, address the environmental issues affecting the area and to take into consideration the recommendations of the impending Water Cycle Plan.

CONCLUSION

It is acknowledged that the proposed amendment area is located within close proximity to existing residential development and would merely represent an extension of these areas. The proposal however has predominantly focused on two landholdings within the amendment area and does not adequately address key environmental management issues affecting the entire site, including the impending Water Cycle Plan to warrant initiating a rezoning of the entire precinct at this stage. In addition, the transfer of land to the Urban zone under the MRS has not significantly progressed to allow rezoning to occur under Town Planning Scheme No.2. In this regard, it is recommended that Council adopt Option 3 above and defer consideration of the amendment until the above matters have been resolved.

RECOMMEND

1. **The Western Australian Planning Commission be advised that support for the resolution under Clause 27 of the MRS to lift the Urban Deferred zoning is considered warranted given the site is earmarked as urban under the District Structure Plan, subject to finalisation of the Water Cycle Plan and relevant environmental issues.**
2. **That Council defer initiation of the proposed Scheme amendment to rezone lots bound by Gray Road, Eighth Road, Wollaston Avenue and Tenth Road, Brookdale pending:**
 - a) **Finalisation of the Water Cycle Plan currently being prepared by the Water Corporation.**
 - b) **Gazettal of the resolution of the Western Australian Planning Commission to transfer the land from “Urban Deferred” to “Urban”.**
 - c) **Submission of a detailed Local Structure Plan demonstrating compliance with the impending Water Cycle Plan.**
 - d) **Submission of a detailed environmental assessment / study of the subject site.**



***PROPOSED STRUCTURE PLAN –
PORTION OF LOT 600 EIGHTH ROAD, ARMADALE***

WARD : WEST ARMADALE

FILE REF : A686

DATE : 30 October 2003

REF : GIW

RESPONSIBLE MANAGER : PSM

APPLICANT : Koltaz Smith

LAND OWNER : Neerigen Brook Estate Pty Ltd

SUBJECT LAND : Lot 600 Eighth Road,
Armadale
Property size 7.8ha
Map 21.03

ZONING : Urban / Residential-
MRS/TPS No.2 Development Area

In Brief:-

- Proposed Structure Plan involving commercial / retail development over a portion of the subject site.
- Council to determine whether the proposal meets Town Planning Scheme No.2 requirements prior to advertising for public comment.
- Recommend that Council determine that the proposed Structure Plan is not consistent with the proper and orderly planning of the locality and decline to advertise the proposal.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning & Development Act 1928
Metropolitan Region Scheme Act 1959
Town Planning Scheme No.2
Statement of Planning Policy No.9: Metropolitan Centres Policy (MCP)

Council Policy / Local Law Implications

Commercial Strategy
Retail Hierarchy Review
Southern River / Forrestdale / Brookdale / Wungong District Structure Plan

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit (DCU)
- ◆ Armadale Redevelopment Authority (ARA)
- ◆ Technical Services Directorate (TSD)

BACKGROUND

The applicant submitted a formal development application to develop the site as a neighbourhood shopping centre and a retirement village on 9 September 2003.

Council officers advised the applicant that the City was not in a position to consider the commercial component of the application until the West Armadale Shopping Centre issue has been resolved and as an interim measure suggested the applicant prepare a Structure Plan for the portion of the site in accordance with Clause 5.8 of Town Planning Scheme No.2 for consideration.

The applicant has subsequently prepared and submitted a Structure Plan and is being referred to Council for consent to advertise the proposal.

It should be noted that the proposed retirement village is not part of the Structure Plan and is being presented to Council for determination in a separate report.

DETAILS OF PROPOSAL

The proposed Structure Plan identifies an indicative layout of buildings on site, car parking and several land uses with approximate floor areas including:

- ◆ Neighbourhood Shopping Centre including a “mini-major” and specialty shops (5200m²)
Service Station (300m²)
- ◆ (2) Fast Food Outlets (497m²)
- ◆ Medical Centre / Pharmacy (1300m²)
- ◆ Restaurant (500m²)
- ◆ Retail Garden Centre (1400m²)
- ◆ Hardware (568m²)
- ◆ Fruit & Vegetable Store (600m²)

COMMENT

Development Control Unit (DCU)

DCU at its meeting held on 4 November 2003 acknowledged that the subject site has relatively high exposure and could potentially provide a suitable location for a neighbourhood centre however recommended that the proposal be deferred pending an outcome of the applicant's negotiation with the owners of the West Armadale Shopping Centre regarding the potential relocation / rationalisation of this existing centre to the subject site.



AERIAL PHOTOGRAPH - LOT 600 EIGHTH ROAD, BROOKDALE

Technical Services Directorate (TSD)

TSD has assessed the proposal and advises the following:

1. Numerous issues require further investigation and liaison with other external authorities including:
 - a) Relocation of the bus stop along Armadale Road (Transperth);
 - b) Access off Armadale Road and required left turn / right turn provisions (Main Roads Western Australia);
 - c) Landscaping of the drainage reserve (Water Corporation)
2. The Structure Plan needs to demonstrate improved pedestrian connectivity between proposed land uses on site;
3. The location of the propose pedestrian crossings over Armadale Road will be subject to further investigation and negotiation;
4. Eighth Road and Armadale Road would require upgrading given the anticipated traffic volumes;
5. The continued alignment of Eighth Road (unchanged) conflicts with the draft structure plan prepared for the rezoning proposal on the adjacent side of Eighth Road which proposes to remove the intersection of Eighth Road and Armadale Road;
6. The proposed drive-thru area associated with the fast-food outlets conflicts with the proposed crossover onto Armadale Road;
7. The proposed open space area adjoining the drainage reserve should be maintained by the developer;
8. Approval from the Water Corporation would be required to construct the proposed footbridge and footpath over the drainage reserve;
9. The road widening requirements along Armadale would require further investigation with Main Roads Western Australia;

Armadale Redevelopment Authority (ARA)

It should be noted that the ARA's comments summarised below represent preliminary advice provided by ARA officers and will be subject to further consideration / resolution of the ARA Board.

ARA advised that the proposed commercial development and retirement village is considered appropriate where it replaces the West Armadale Shopping Centre, and where the strategic implication of replacement uses on that site are adequately resolved. It also recommended that the proposal only be assessed at the structure plan level at this stage until the above matters have been resolved.

Notwithstanding the above, ARA also advised that the Southern River, Forrestdale, Brookdale, Wungong District Structure Plan identifies a site for a "neighbourhood" centre immediately to the west of Lot 600. Although that centre could be complementary to the shopping centre proposed for Lot 600, it is considered more likely to be superfluous and therefore rationalisation of the potential three shopping centres in such close proximity is therefore considered critical.

In addition, if a development application for the proposal should be pursued and assessed on a separate basis, the Authority would wish to provide more detailed comment on the proposal, including such matters as a closer setback to Armadale Road and relocation of the majority of car parking to the rear of the site. Should negotiations for the West Armadale Shopping Centre relocation fail, then alternative "higher and better uses" for the site should be considered as opposed to low residential density.

Analysis

Town Planning Scheme No.2

The subject site is zoned "Residential" and is designated as a "Development Area" under Town Planning Scheme No.2. Clause 5.8.3 stipulates that subdivision or development of land within a "Development Area" is to be generally in accordance with any Structure Plan that applies to the land.

Clause 5.8.6.3 stipulates that a proposed Structure Plan may, to the extent that it does not conflict with Scheme, impose a classification on the land by reference to reserves, zones or the Residential Design Codes. In this regard, Council is to determine whether the proposed land uses are consistent with the objectives of the "Residential" zone under TPS No.2.

A "Shop" is a "SA" Use meaning that the use is not permitted unless Council has exercised its discretion following public consultation in accordance with Clause 7.2. The proposed neighbourhood shopping centre and restaurant fall within the definition of a "Shop" and therefore Council could consider these particular land uses.

All other proposed land uses are not mentioned within the "Residential" zone of TPS No.2 and therefore Council may consider them in accordance with Clause 3.4 "Use Not Listed" provisions of the Scheme. In this regard, Council may either determine that the uses are inconsistent with the objectives and purpose of the zone and refuse to grant approval or determine that the use may be consistent with the zone and advertise the proposal in accordance with Clause 7.2 prior to making a determination.

Notwithstanding the above provisions, given the proposed scale of development proposed by the Structure Plan, Council could require a formal amendment to the Scheme to rezone the site from "Residential" to "Shopping" in keeping with existing shopping centre sites within the City. In addition, fast food outlets and services station sites have traditionally been zoned as "Special Use" within TPS No.2 area.

Clause 5.8.6.4 stipulates that a proposed Structure Plan must, in the opinion of the City, be consistent with proper and orderly planning. In this regard, Council will need to take into consideration the amenity of the surrounding residential area, District Structure Plan and objectives of the Western Australian Planning Commission's Metropolitan Centres Policy, which guides the distribution and scale of centres with the metropolitan area.

In accordance with Clause 5.8.8, a proposed Structure Plan is required to be advertised for public comment prior to determination provided the plan complies with the Scheme.

Contextual Overview and Analysis

The subject site is currently vacant and abuts existing residential development along the south eastern boundary. A drainage reserve (Neerigen Brook) traverses the site in an east to west direction separating the block into two triangular portion of land. The site has relatively high exposure to passing traffic along Armadale Road and the proposed Structure Plan allows for appropriate buffers to protect the amenity of existing residential development.

An existing neighbourhood centre, the West Armadale Shopping Centre, is situated within relatively close proximity to the subject site (less than 800m). The West Armadale Shopping centre is a 4004m² neighbourhood shopping centre consisting of a supermarket and speciality shops. The centre adjoins Reg William Reserve and is situated on Girrawheen Street. This centre was identified during the Armadale Enquiry-by-Design 1999 (AEBD) as a centre in decline for the following reasons:

The centre was located in accordance with the conventional planning philosophy of the time, of neighbourhood shopping at the centre of a residential catchment (cell)...The centre is failing; it does not have an adequate retail catchment for its size and level of service nor is sufficient passing trade captured, despite being accessible on a bus route...In addition, the predominant cul-de-sac layout of the street has limited safe walkable access to the centre...The owner has indicated that an alternative use for the site may be considered in view of the poor viability of the centre.

Whilst the viability of the centre is adversely affected by its isolated location, poor accessibility and limited catchment, the EBD workshop acknowledged that the centre still performs a local function. Various options were pursued at the workshop to improve the viability of the centre including:

- ◆ Redesigning the road network and linking cul-de-sacs to improve permeability for vehicular and pedestrian access to the centre;
- ◆ Redeveloping a portion of the site to accommodate business incubators and residential lots;
- ◆ Relocating the centre to the intersection of Gribble Avenue and Seventh Road for better exposure to passing trade and provide better access to the surrounding catchment.

The subject site (Lot 600 Eight Road) has an obvious commercial advantage over the West Armadale site in terms of location due to the potential exposure from passing traffic along Armadale Road. In this regard, the applicant should be encouraged to negotiate with the owners of the West Armadale Shopping Centre to explore the feasibility of relocating this existing centre to the subject site. It could be argued that consideration of the proposed Structure Plan without first resolving the future of the West Armadale Shopping Centre and potential replacement land uses for the site is considered to be premature at this stage and contrary to the interest of proper and orderly planning for the locality.

The existing West Armadale shopping centre already exists and thereby has a place in the Council's retail hierarchy - however, it is acknowledged to be a relatively run-down and relatively inaccessible centre. It may be preferable for an arrangement to be entered into whereby there is a phased conversion of the existing centre to other uses rather than allow another centre to start up and place pressure on the existing centre, which would inevitably become further run down. However, it may be pragmatic to affect the process by permitting the better located and more substantial proposal to occur and thereby stimulate action to redevelop the West Armadale centre. This may not represent a classic planning approach but it is distinguished from those arguments generally presented to ensure that one shopping centre does not expand to impact on the catchment of another, because most agree that the West Armadale centre is one that would be a better candidate for redevelopment for uses other than shopping.

Council's Commercial Strategy (1999) and Retail Hierarchy Review (2003)

The subject site is not identified as a potential retail centre under Council's Commercial Strategy or Retail Hierarchy Review (2003).

The Retail Hierarchy Review (2003) identifies a proposed local centre (250m²-600m²) on the adjacent parcel of land on the eastern side of Eight Road in keeping with the District Structure Plan.

Western Australian Planning Commission's Statement of Planning Policy No.9: Metropolitan Centres Policy (MCP)

The purpose of the MCP is to define the scope, function and scale of various shopping centres throughout the Metropolitan Region, including Local, Neighbourhood, District, Regional and Strategic Regional centres in terms of desirable land uses and retail floor space. The applicant is applying for the Neighbourhood Centre as defined under the MCP. In the context of the MCP, such centres "*should be promoted as predominantly for convenience retailing and (in larger centres) weekly food and groceries shopping. Provision should also be made for small offices which serve the local community, as well as health, welfare and community facilities*".

SPP No. 9 (MCP) requires that shopping floorspace within Neighbourhood Centres should generally be confined to an area of **4,500m²** (Net Lettable Area) unless consistent with a Commission endorsed Local Planning Strategy or centre plan for the area. The Policy also states that Council is unable to grant approval where a proposal is in excess of 4,500m² in the absence of an endorsed Local Planning Strategy or centre plan for the area, otherwise endorsement by the Commission is required to enable delegation of development control to local governments under the Metropolitan Region Scheme.

The maximum shopping floor space is based only on land uses defined under Appendix 4 of the MCP. The proposed land use identified on the Structure Plan that are to be included in the overall calculation include: shopping centre, fruit and vegetable store, restaurant, pharmacy and fast food outlets. The total floor area of these land uses (based on the indicative building footprints provided by the applicant) equates to approximately 8079m². This proposed floor area significantly exceeds the requirements established by the MCP and therefore the applicant would need to provide a detailed economic impact assessment to justify any increase above 4,500m².

OPTIONS

1. Council may advertise the proposed Structure Plan for public comment in accordance with Town Planning Scheme No.2. This option is considered to be premature at this stage given the uncertainty of negotiations between the applicant and owner of West Armadale Shopping Centre to relocate / rationalise the centre.
2. Council may decline to advertise the proposed Structure Plan and defer consideration of the proposal until such time as negotiations between the applicant and the owner of the West Armadale Shopping Centre to relocate/rationalise the centre have been finalised.

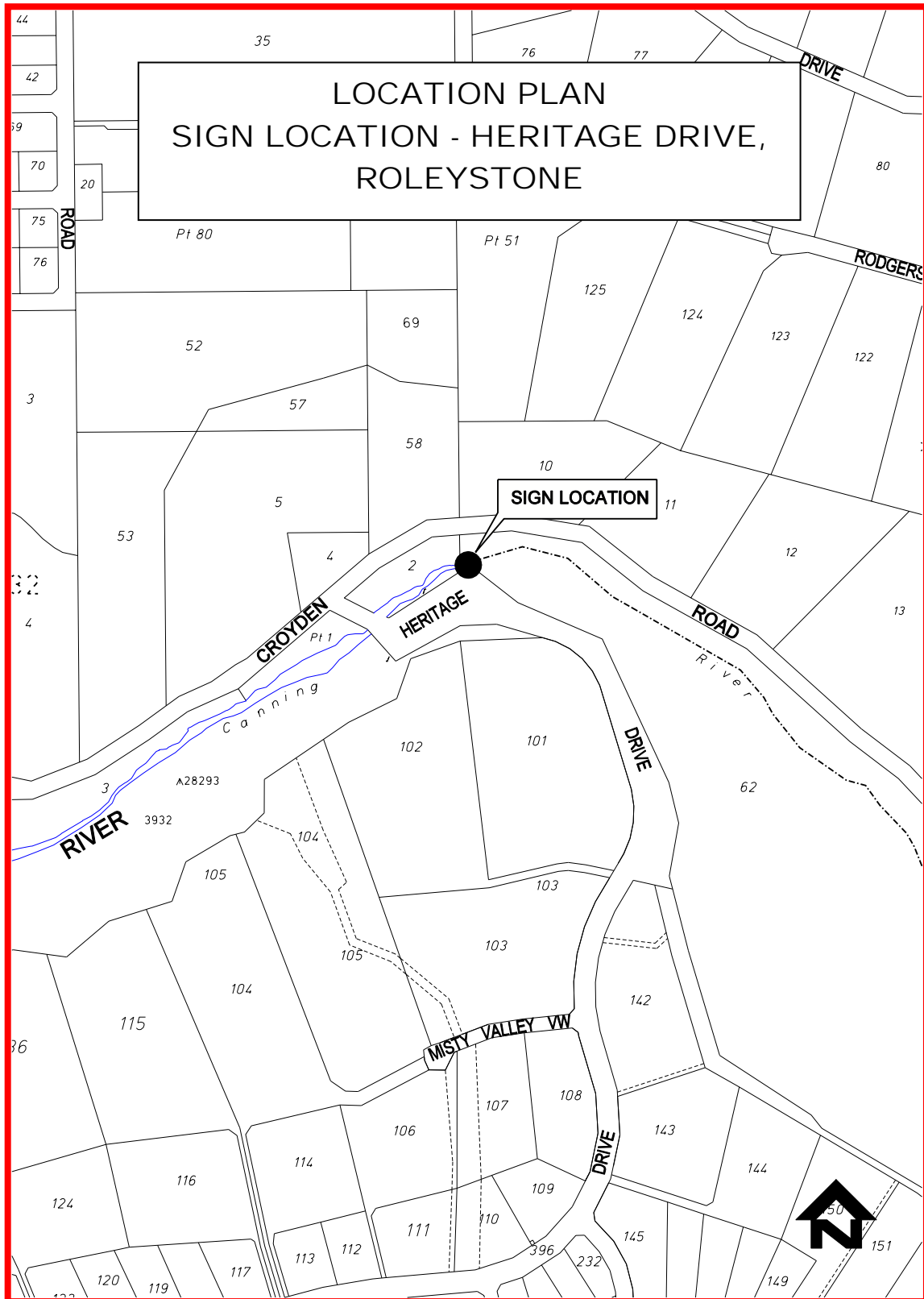
CONCLUSION

Given the West Armadale Shopping Centre (Neighbourhood Centre) is still in operation within relatively close proximity of the subject site, the proposed Structure Plan is considered to be premature at this stage and contrary to Council's Retail Hierarchy Plan and proper and orderly planning of the locality to warrant advertising the proposal for public comment. Notwithstanding these current circumstances, it is acknowledged that the subject site would be an appropriate / desirable location for a Neighbourhood Shopping Centre subject to the rationalisation of the existing West Armadale Shopping Centre site, compliance with the Statement of Planning Policy No.9: Metropolitan Centres Policy and Town Planning Scheme No.2. In this regard, it is recommended that Council adopt Option 2 above.

RECOMMEND

1. **That Council decline to advertise the proposed Structure Plan for a portion of Lot 600 Eighth Road, Armadale for the following reason:**
 - ♦ **The proposal is inconsistent with the proper and orderly planning of the locality given the sites close proximity to the existing West Armadale Shopping Centre.**
2. **That the applicant be advised that Council considers Lot 600 Eighth Road, Armadale to be an appropriate/ desirable location to accommodate a Neighbourhood Centre subject to the rationalisation of the West Armadale Shopping Centre site, compliance with the Statement of Planning Policy No.9 Metropolitan Centres Policy and Town Planning Scheme No.2.**

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PYLON SIGN – HERITAGE DRIVE ROAD RESERVE, ROLEYSTONE

WARD : ROLEYSTONE
FILE REF : A131392
DATE : 29 October 2003
REF : YP/SA
RESPONSIBLE : PSM
MANAGER
APPLICANT Araluen Golf Resort
LANDOWNER Sangora Holdings Pty Ltd
SUBJECT LAND Lot 32 Thompson Road,
Roleystone
Property size 126.26ha;
Map 26.05
ZONING Rural / Special Use
MRS / TPS No.2

In Brief: -

- Application for a Pylon Sign located in the Heritage Drive road reserve.
- Subject sign was formally an entry statement/welcoming sign that has been repainted.
- Recommend that the subject sign be refused.

Tabled Items

Photographs.

Officer Interest Declaration

Nil.

Strategic Implications

To foster a distinctive character for the City based on good design principles.

Legislation Implications

Nil

Council Policy / Local Law Implications

Signs, Hoardings and Billposting Local Laws and Policy.
Activities and Trading in Thoroughfares and Public Places Local Laws.

Budget / Financial Implications

Nil.

Consultation

Technical Services Directorate

BACKGROUND

The original entry statement / welcoming sign, which did not contain any advertising material and painted in colours that blended with its surroundings, has been located in the road reserve of Heritage Drive for some time. The sign has been repainted in colours that resemble the corporate colours of the Selling Agent and sign written with details of the resort and the Selling Agents. The alterations to the existing sign prompted officers to approach the Araluen Golf Course Estate with a request to submit an application for approval of the sign. Inspections of the site revealed that two signs existed in the road reserve adjacent to each other.

DETAILS OF PROPOSAL

The application relates to a Pylon Sign located in the road reserve (verge) on Heritage Drive, Roleystone. The sign promotes the International Golf Course and advertises Real Estate Agent L.J. Hooker in Roleystone and faces traffic entering the estate. The colours of the subject sign are yellow, red, black and green, which are in stark contrast to its surroundings. Its dimensions are 4m wide, 3m in height with a diagonal measurement of 5m and headway of 50cm from the ground immediately below it.

Whilst the second sign does not form part of the application many of the same requirements apply to it and it should therefore be considered in the same light. The second sign is sign written “Thank you for visiting the Enchanted Valley” in white lettering on a green background, which in the main blend in with the surroundings, and faces traffic leaving the estate. Its dimensions are 3m in width, 2.4m in height with a diagonal measurement of 3.85m and a headway of 50cm from the ground immediately below it.

ANALYSIS

Council’s Advertising Signs Policy states, “No commercial advertising signs or hoardings shall be permitted in Road Reserves”.

- ◆ The sign, which is the subject of the application, contains commercial advertising material and is located within the Road Reserve.
- ◆ The second sign whilst located in the road reserve does not contain commercial advertising material.

The provisions of Council’s Signs, Hoardings and Billposting Local Laws for a Pylon sign require that: -

Local Law 18 (1) a – “not have any part thereof less than 2.75m or more than 6.0m above the level of the ground immediately below it”.

- ◆ The bottom of each sign measures 50cm from the ground immediately below it, which is less than the local law requirement of 2.75m from ground level.

Local Law 18 (1) b – “not exceed 2.6m measured in any direction across the face of the sign or have a greater superficial area than 4.0m²”.

- ◆ The diagonal dimension of each sign, 5.0m and 3.85m respectively, exceeds the maximum permissible of 2.6m. The superficial area of each sign, 12.0m² and 7.2m² respectively, exceeds the maximum of 4.0m².

The provisions of Council's Activities and Trading in Thoroughfares and Public Places Local Laws require that: -

Local Law 3.2 (2) (c) – “a person shall not erect or place an advertising sign – on or within 3m of a carriageway”.

- ◆ The edge of the signs is less than 1m from the carriageway.

Council is not provided with the discretion to vary the provisions of either set of Local Laws.

Officers from Council's Technical Services Directorate inspected the location and found that both signs were not suitable and should be removed for the following reasons:

- ◆ Both signs do not meet MRWA standards detailed in its “Guide to the Management of Roadside Advertising” for two and three post signs.
- ◆ Both signs have rigid footings and would not break away in the case of an accident. This creates a hardstand structure that would not reduce the force of impact applied to the driver or any passengers in the vehicle in an accident.
- ◆ The edge of the signs is less than 1m away from the kerb edge. This does not allow sufficient room for a pedestrian to walk along the verge without having to move onto the carriageway. Also should a vehicle leave the carriage way it does not allow room for the driver to adjust and turn the vehicle back onto the carriageway.
- ◆ There is no barrier located on the edge of the kerb to protect cars from veering off the road and into the signs.
- ◆ The signs have a greater angle than 5° to the face of the kerb on a curved alignment. For visual safety reasons the signs need to be perpendicular to the kerb if not it creates an unsafe environment for pedestrians and vehicles.
- ◆ The bottom of each sign is at a height that does not allow room for a pedestrian to pass under or a vehicle to travel under in the instance of an accident. (The minimum height requirement from the ground creates less impact area and minimises possible injury to the driver and passengers in the vehicle).

Council has the authority to seek the removal of the signs under clauses 2.2(c) and 9.4 of its Local Law relating to Activities and Trading in Thoroughfares and Public Places, by way of a Notice and may undertake the work should the applicant not remove the signs voluntarily.

OPTIONS

1. Council could refuse the request for the subject sign on the grounds of non-compliance with its Local Laws and Policy, concerns raised by Council's Technical Services Directorate and should advise the applicant to remove all signs from the road reserve in this location.
2. Council could recognise the “Thank you for visiting the Enchanted Valley” sign and seek an application for a similar sign that complies with the requirements of the Local Laws and the requirements of Council's Technical Services Directorate.

CONCLUSION

The application as presented does not comply with the Sign, Hoardings and Billposting Local Laws and Advertising Signs Policy. The exit statement, whilst not forming part of the application, does not comply with the provisions of the Local Laws. Council is not afforded the discretion to vary the provisions of these Local Laws or Policy. Furthermore, and most importantly, there are serious concerns with regard to the construction of both signs that could adversely affect the safety of pedestrians and drivers. It is therefore recommended that the application be refused and that the applicant be advised to remove both signs from the verge.

RECOMMEND

1. **That Council refuse the application from Araluen Golf Resort to place a Pylon Sign in the Road Reserve on Heritage Drive, Roleystone and require the removal of the exit statement in the same vicinity, on the grounds that:**
 - a) **Council's Advertising Signs Policy precludes advertising signs in road reserves.**
 - b) **Both signs do not comply with City of Armadale Signs, Hoardings and Billposting Local Laws and Policy and Activities and Trading in Thoroughfares and Public Places Local Laws.**
 - c) **The signs do not meet Main Roads WA standards for signs located on the side of the road.**
2. **The applicant being advised that:**
 - a) **The two signs are to be removed from the road reserve within fourteen (14) days of receipt of Council's decision.**
 - b) **Council is willing to consider an application, which shows that the signs have been modified to comply with Council's Local Laws, Policy and Main Roads WA standards.**
- *3. **In the event that the applicant does not remove the signs voluntarily, Officers are directed to issue a Notice to the Araluen Golf Resort under the hand of the Chief Executive Officer directing that the signs be removed from the verge and the verge made good within fourteen (14) days of the date of the Notice.**

*** ABSOLUTE MAJORITY OF COUNCIL
REQUIRED (PART 3)**

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PROPOSED REVISED SUBDIVISION GUIDE PLAN – LOT 801 (FORMERLY PT LOT 11) ROWLEY ROAD (BROOKWOOD ESTATE), BROOKDALE

WARD : FORREST

FILE REF : SCH/2/116 & SUB/120595

DATE : 31 October 2003

REF : RVD

RESPONSIBLE : PSM
MANAGER

APPLICANT : Taylor Burrell Barnett

LAND OWNER : Peet Adios Syndicate Ltd

SUBJECT LAND : Lot 801
Property size 18.6047ha
Map 21-40

ZONING : Rural/ Special Use No. 72
MRS/TPS No.2

In Brief:-

- A subdivision application and a Revised Subdivision Guide Plan for Brookwood Estate has been received. After some negotiation a Subdivision Guide Plan that meets the requirements of the City and the applicant was developed.
- Submissions were sought from surrounding landholders but no submissions were received.
- Recommend that Council endorse the Subdivision Guide Plan and forward it to the Western Australian Planning Commission for adoption.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning Scheme No.2
Town Planning and Development Act 1928
Metropolitan Region Scheme

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Development Control Unit
- ◆ Surrounding landholders were consulted through letters sent on 10 and 14 October 2003, with a request for comments by 31 October 2003.
- ◆ Main Roads Western Australia
- ◆ Shire of Serpentine-Jarrahdale

BACKGROUND

Council adopted the existing Subdivision Guide Plan for Brookwood Estate in November 1996 after Special Use Zone No. 72 was gazetted in July 1996 (see Existing Approved Subdivision Guide Plan). Special Use Zone No. 72 requires that subdivision and development be generally in accordance with a Subdivision Guide Plan prepared in accordance with Clause 5.2.1 of Town Planning Scheme No.2.

In October 2002 the applicant applied for a 56 lot subdivision from the Western Australian Planning Commission, and the proposal was forwarded to the City of Armadale for comment. The proposed subdivision was significantly different to that shown in the Subdivision Guide Plan. The proposed subdivision essentially consisted of three long (230-250m) cul-de-sacs connected to the northern east-west leg of Vermilion Boulevard with no access to Rowley Road, and showed 5000m² lots fronting Rowley Road.

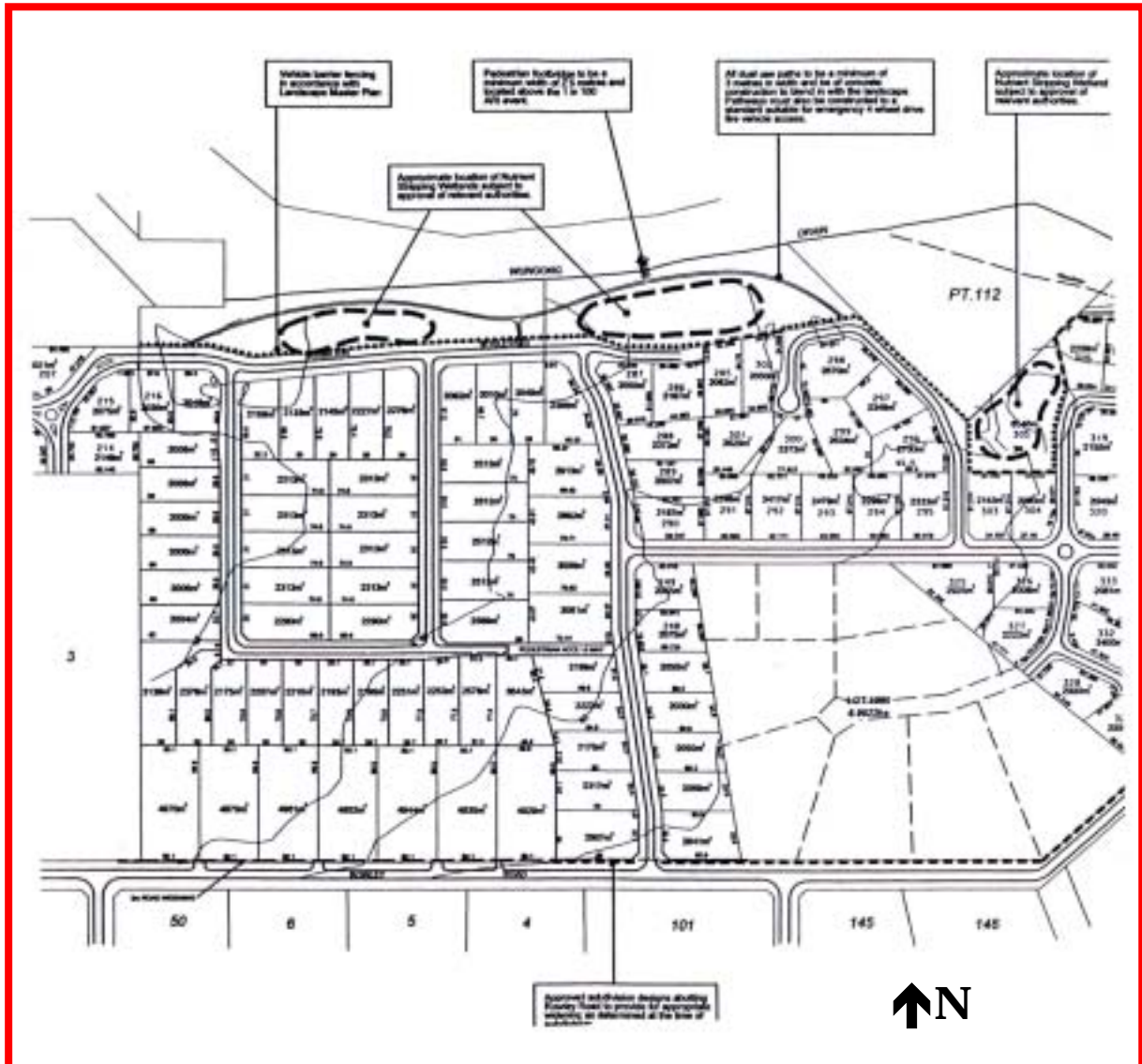
Following a meeting with the applicant, the City wrote to the applicants and to the Western Australian Planning Commission in November 2002 advising that Council would need to endorse a revised Subdivision Guide Plan before considering the subdivision application. The applicant was advised of a number of concerns with the revised design.

Further revised Subdivision Guide Plans were submitted in February 2003, June 2003 and at the end of August 2003. Officers provided advice in respect to each plan. The response to the August 2003 plan advised the applicant that the change to the Subdivision Guide Plan required advertising to surrounding landholders because the change was not considered to be minor.

DETAILS OF PROPOSAL

Key differences between the approved Subdivision Guide Plan and the Revised Subdivision Guide Plan (see plans in this Agenda) are:

- ◆ Larger lots (~ 5,000m²) are proposed along Rowley Road that will have access from Rowley Road rather than internal to the subdivision. The number of access points to Rowley Road is proposed to be minimised by adjoining lots having common access driveways, as shown on the Revised Subdivision Guide Plan.
- ◆ Vehicular access to Vermillion Boulevard is now only via the northern portion of the Boulevard. However, pedestrian access is maintained east to Vermillion Boulevard which maintains walking options.
- ◆ The Revised Subdivision Guide Plan will yield 60 lots, compared to 63 lots for the existing approved Subdivision Guide Plan.



REVISED SUBDIVISION GUIDE PLAN
LOT 801 ROWLEY ROAD, BROOKDALE

COMMENT

Development Control Unit

The Development Control Unit considered the revised Subdivision Guide Plan and the revised subdivision application simultaneously at its meeting of 9 September 2003, and supported the proposal subject to conditions. The Western Australian Planning Commission will be advised of the City's recommended conditions for the subdivision application as soon as practicable following Council's consideration of the revised Subdivision Guide Plan.

Town Planning Scheme No.2

Under Clause 5.2.1 Council may amend the Subdivision Guide Plan after consideration of submissions, and then shall forward the Subdivision Guide Plan to the Western Australian Planning Commission together with a copy of, and Council's decision in relation to each submission received.

The Western Australian Planning Commission can approve minor departures without the need for public consultation. However, the proposed changes to the Subdivision Guide Plan are not considered minor.

Public consultation

Surrounding landholders were consulted through letters sent on 10 and 14 October 2003, with a request for comments by 31 October 2003. No submissions were received other than a letter from the Shire of Serpentine Jarrahdale of no objection.

Analysis

Revisions made to Subdivision Guide Plan of February 2003

Matters of concern addressed through the revisions made to the Subdivision Guide Plan submitted in February 2003 include:

- ◆ Length of cul-de-sacs. The original plan included three 230m long cul-de-sacs, which exceeds the length recommended by Western Australian Planning Commission Planning for Bushfire Protection guidelines. The revised Subdivision Guide Plan includes one cul-de-sac about 40m in length.
- ◆ Connection of Vermillion Boulevard to Rowley Road. The original plan showed Vermillion Boulevard as one of the cul-de-sacs and so there was only one exit from the entire estate to Rowley Road. The revised plan connects Vermillion Boulevard to Rowley Road, consistent with the previously approved plan;
- ◆ Need for widening of Rowley Road and acceptability of direct access onto Rowley Road in view of likely traffic volumes. City of Armadale officers re-examined potential traffic volumes along Rowley Road to determine the acceptability of lots having direct access onto Rowley Road, and the likely extent of widening that would be required. This confirmed that access to Rowley Road was acceptable and that road widening would be required; and

- ◆ Reduction in road widths. A road width of 18m was sought for the cul-de-sacs and has been sought for the new roads apart from Vermillion Boulevard. This width is considered acceptable.

Assessment in respect to sound planning principles

Good planning principles reflected in the revised Subdivision Guide Plan include:

- ◆ A road hierarchy applies, with Vermilion Boulevard and Allwood Avenue acting as feeder roads to Rowley Road;
- ◆ There is more variety in lot sizes with several lots about 4,900m² rather than having almost all lots between 2-3000m²;
- ◆ Direct road frontage for the public open space is likely to lead to overlooking by adjacent houses and safer public open space;
- ◆ The subdivision layout is permeable for pedestrians with the 10m wide pedestrian access way significantly enhancing walking options for residents;
- ◆ The access way provided also enables better access and egress in emergency situations, provides access for emergency service vehicles and can act as a strategic firebreak;
- ◆ The revised layout provides a variety of options for future bus routes if services are to be provided to this area; and
- ◆ Public open space provided for the Wungong River and stormwater management is as proposed in the original Subdivision Guide Plan to meet flood management and water quality objectives.

Compliance with WAPC Policy DC 2.5

Western Australian Planning Commission Policy DC 2.5 includes locational, design and servicing requirements for special residential zones which are defined as areas with lot sizes between 2000m² and one hectare. Issues concerning the locational requirements would have been dealt with when the original Subdivision Guide Plan was approved.

The design and servicing elements of the policy relevant to a Subdivision Guide Plan have been met. The policy requires that building setbacks, particularly to main frontage and subdivisional roads, should be varied to create a more interesting and spacious environment. It is expected that this will be achieved by each owner making decisions as to where to locate their house in respect to surrounding dwellings. It is considered that using building envelopes to achieve the policy outcome presents an administrative burden and undue constraint upon people wishing to develop their land.

Adequacy of Revised Subdivision Guide Plan to guide subdivision

The Revised Subdivision Guide Plan is considered adequate to guide future subdivision. Only minor changes that can be dealt with through standard conditions at the subdivision stage would be needed to make the Revised Subdivision Guide Plan meet subdivisional criteria.

OPTIONS

1. Council could refuse to endorse the proposed modification to the Subdivision Guide Plan and request that subdivision occur in accordance with the currently approved Subdivision Guide Plan.
2. Council could decide to support the revised Subdivision Guide Plan. If this option is chosen, Council should endorse the plan and forward it to the Western Australian Planning Commission for its adoption.

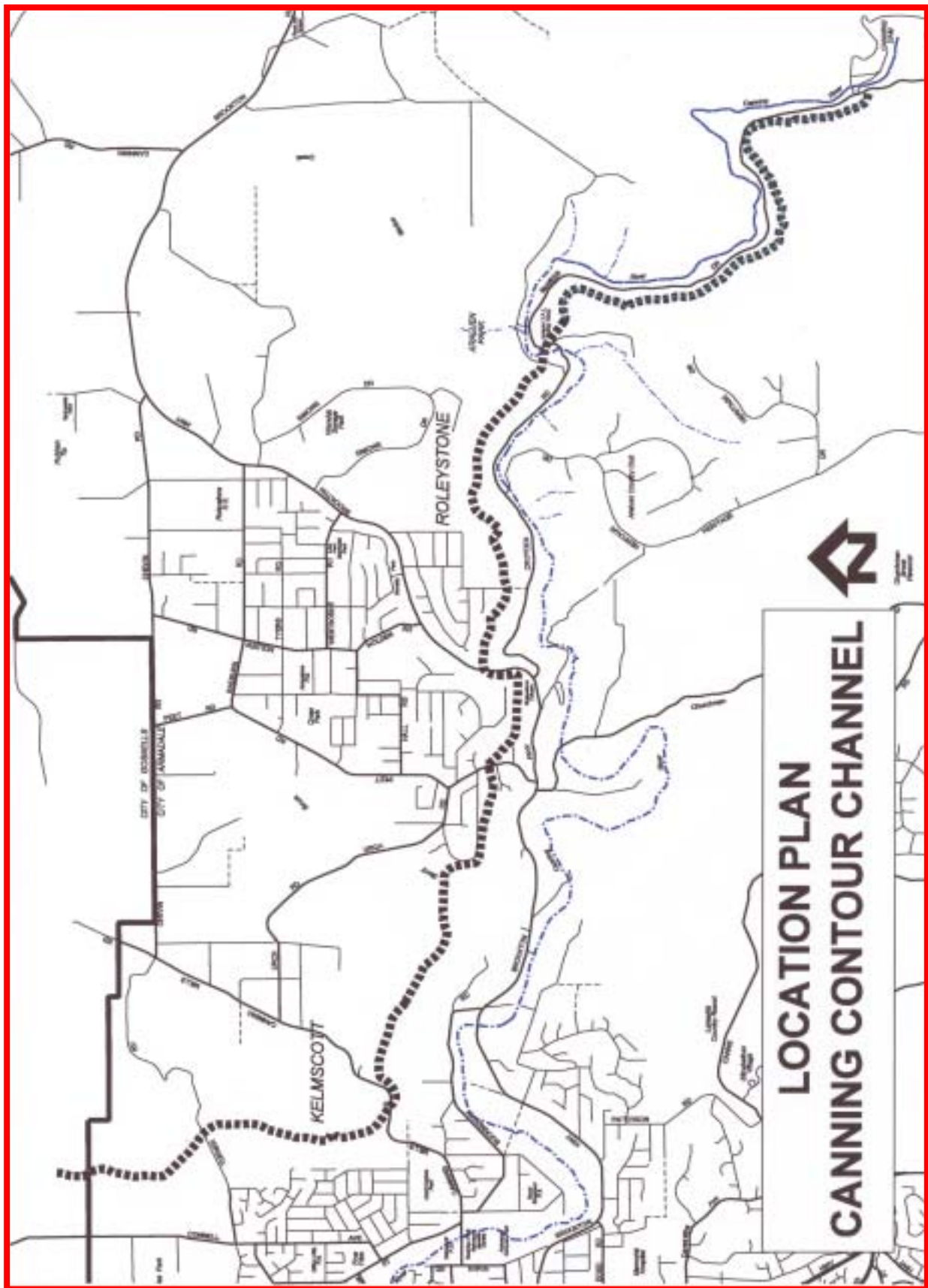
CONCLUSION

After some negotiation, a revised Subdivision Guide Plan has been developed that meets planning principles, the requirements of the Technical Services Directorate and the developer. It is recommended therefore that the Subdivision Guide Plan be endorsed. This will enable officers to provide advice on the proposed subdivision to the Western Australian Planning Commission and enable the Commission to process the pending subdivision application.

RECOMMEND

1. **That Council endorse the revised Subdivision Guide Plan for Lot 801 Rowley Road, Brookdale.**
2. **That Council request the Western Australian Planning Commission to adopt the Revised Subdivision Guide Plan submitted as the basis for approval of subdivision applications within the area covered by the plan.**

Moved Cr _____
Carried/Lost ()



LOCATION PLAN
CANNING CONTOUR CHANNEL

CANNING CONTOUR CHANNEL – REVIEW OF MUNICIPAL HERITAGE INVENTORY MANAGEMENT CATEGORY AND THE HERITAGE COUNCIL OF WESTERN AUSTRALIA ASSESSMENT FOR STATE LISTING

WARD : ROLEYSTONE;
KELMSCOTT

FILE REF : GOV/47

DATE : 31 October 2003

REF : HC

RESPONSIBLE MANAGER : PSM

APPLICANT : Community Heritage Advisory Committee;
Heritage Council of Western Australia.

LAND OWNER : Various

SUBJECT LAND : Various
Maps 23.07, 23.08, 23.09,
24.06, 24.07, 25.06, 26.06,
27.06, 28.04, 28.05

ZONING MRS/TPS No.2 : Parks & Recreation, Urban,
Rural and Water Catchment /
Parks & Recreation (Region),
Residential R5, Rural D and
Rural C

Tabled Items

Nil.

In Brief:-

- The Community Heritage Advisory Committee (CHAC) has suggested Council consider raising the Management Category of the Canning Contour Channel (the Channel) from a “B” to an “A” category in the MHI.
- The Heritage Council of Western Australia (HCWA) is assessing the Channel for possible entry in the State’s Register of Heritage Places and is seeking Council’s comments on the matter.
- The Channel is considered to have an important historical and heritage value to the Municipality and the State.

Recommend that:

- the Management Category of the portions of the Channel contained within the Regional Reserves be raised from the “B” level to the “A” level in the City’s MHI whilst the portion within the Residential and Rural zones remains at the “B” level..
- the HCWA be advised that Council supports the entry of the Channel in the State’s Register of Heritage Places but recommends that it enter only that portion of the Channel contained within the Regional Reserves in the Register.

Officer Interest Declaration

Mr Carder and Mr Fouché are members of the Community Heritage Advisory Committee and there may be a perception on the basis of this non-financial interest that their impartiality may be affected. they declare that they have put aside that association and considered the matter on its merits.

Strategic Implications

Relates to our commitment to the future to create a caring and vibrant City, rich in history, heritage and lifestyle.

Legislation Implications

Heritage Act of Western Australia 1990
Town Planning Scheme No.2
Municipal Heritage Inventory



Portion of the Canning Contour Channel – relatively good repair



Superstructure where water flowed from channel into siphon pipes to cross valley

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Community Heritage Advisory Committee (CHAC);
- ◆ Heritage Council of Western Australia (HCWA)

BACKGROUND

At its meeting of 21 August 1995 Council resolved to adopt its Municipal Heritage Inventory (MHI). The Contour Channel and Fireplaces (K08 on the MHI) were part of the adoption and received a “B” Management Category (High level of protection appropriate: provide maximum encouragement to the owner under the town planning scheme to conserve the significance of the place).

Much of the Canning Contour Channel (the Channel) is within the Regional Parks and Recreation reserve. This includes from the border with the City of Gosnells, near Lowannaa Road, Martin to Contour Road, Roleystone and the area from just north west of the Canning Dam to near McNess Road, Roleystone.

Portion of the Channel north of Croyden Road and east of the residential portion of Roleystone was sold to adjoining landowners many years ago and the land amalgamated into their properties. The portion of the Channel running through the residential area of Roleystone was rezoned to Residential R5, gazetted on 3 November 1995. Some portions of the Channel in this area have been sold by the Water Corporation to adjoining owners for amalgamation into their properties.

The Channel was classified and entered into the National Trust’s List of Classified Heritage Places in September 1995.

The Water Corporation, following discussions with HCWA, commissioned a heritage report on the Channel.

DETAILS OF PROPOSAL

CHAC has examined the Channel and considered the matter. It has recommended that Council consider raising the Management Category from its current “B” to “A” (Highest level of protection appropriate: recommended for entry into the State Register of Heritage Places; provide maximum encouragement to the owner to conserve the significance of the place).

The HCWA is currently assessing whether the Channel should be included in the State’s Register of Heritage Places and is seeking comments from Council and relevant parties. It advises that following public and local government comments it will recommend to the Heritage Council that the place is of sufficient heritage significance to warrant entry in the Register.



COMMENT

Analysis

Municipal Heritage Inventory Management Category

The Channel is a physical reminder of the infrastructure used to convey water to Perth from the late 1930s to the early 1970s. It stands as a testament to the resourcefulness of its designers and engineers and to the brutal physical labour undertaken by its work force. It is an amazing structure built in a forbidding landscape of bush, steep-sided hills and wide, deep valleys.

Historically, the Channel is a reminder of the great depression and public works that were undertaken under sustenance programs to provide jobs and dignity to a great number of men in a time of economic turmoil. It is suggested that this is one of the projects that contributed to the recovery of Western Australia's economy.

The Channel is the only example in WA of an engineering project designed to transport large quantities of potable water by gravity whilst open to the elements. The Channel had a minimal impact on the landscape it traversed. It used age-old design principles that were considered viable and appropriate in the circumstances but are no longer practiced today.

The Channel and its associated siphons range in condition from poor to excellent. Some sections are in good repair with little change to the fabric since construction in 1937. However, other parts are missing or have been severely damaged through intrusions by rocks or natural bush growing from the surrounding terrain.

The Channel has a moderate degree of integrity given that its original purpose is clear though it is no longer in use. It has a high level of authenticity with much of the original fabric remaining intact and clearly indicating its original state, form and purpose.

Whilst it is considered that the Channel is worthy of an "A" management category in the City's MHI, for logistic reasons the higher level may be more appropriate only for those areas of the Channel within the Regional Reserves, whilst the areas of Channel within the Residential R5 and the Rural D and C zones within Roleystone could be retained at the current "B" Management Category. The Regional Reserves contain perhaps two thirds of the length of the Channel with a good representation of the construction.

The portions of the Channel through the Rural zones have been in private hands and amalgamated with the adjoining properties for many years. There are portions in the Residential zone that have been sold to adjoining owners and amalgamated into their properties. Access is therefore a problem because of private ownership and unsold portions of the Channel cannot be reached because they are surrounded by privately owned land.

HCWA Listing in the State Register of Heritage Places

The HCWA is considering entering the entire length of the Channel in the State Register.

It could be noted that registration will not necessarily prevent future development of privately owned sites. The HCWA will ensure that the proposed development does not, as far as possible, impact negatively on the place's cultural heritage values.

Any planning or building application would be referred to the HCWA for advice but the local government remains the decision-making authority in the matter. The HCWA would consider where the Channel sits on the property in question, its condition, whether there are any unique or intact elements, the nature of the proposed structure or use, and how any changes will impact on the Channel before providing advice to Council.

Registration by the State does not affect the ownership of the property by the owner, nor does it provide the public with the right of access. Any person accessing the property without consent will be trespassing.

The Channel appears to have the necessary significance, history, rarity, and social and aesthetic value for placement in the State's Register. It can be a matter of pride that such a significant structure is almost wholly contained within the City of Armadale Municipal area. It is suggested that Council support entry into the State's Register of Heritage Places.

However it is suggested that, for logistical reasons including private ownership of portions of the Channel and ensuing access problems, Council recommend to the HCWA that it consider placing only that portion of the Channel that is contained within the Regional Reserves in the Register of Heritage Places. That portion contains a good representation of the construction, is more readily protectable and avoids potential conflict arising with owners who, in some cases, have held the land in question for many years and may resent the intrusion of the State in their affairs.

OPTIONS

MHI Management Category

1. Decline to change the Management Category of the portion of the Channel contained within the Regional Reserves from a "B" level to the "A" level.
2. Agree to change the Management Category of the whole Channel from a "B" level to the "A" level.
3. Agree to change the Management Category of the portion of the Channel contained within the Regional Reserves from a "B" level to the "A" level.

HCWA Listing in the State Register of Heritage Places

1. Support the entry of the entire length of the Channel in the State's Register of Heritage Places.
2. Decline to support the entry of the Channel in the State's Register of Heritage Places.
3. Recommend to the HCWA that it enter that portion of the Channel contained within the Regional Reserves in the State's Register of Heritage Places.

CONCLUSION

It is suggested that the Channel is of sufficient historic and heritage importance to rate an “A” Management level in Council’s MHI. However, it is suggested for logistic reasons including:

- ♦ The portion of channel within the Regional Reserves contains a fitting representation of the construction of good integrity that is readily protectable and manageable; and
- ♦ The portion of Channel within the Residential and Rural zonings includes privately owned sections and raises access difficulties and potential owner conflict,

that only the portion of the Channel contained within the Regional Reserves be raised from a “B” level to the “A” level whilst the portion contained within the areas of Residential and Rural zoning remain at the “B” level.

It is also suggested for the same reasons that Council advise the HCWA that it supports the entry of the Channel in the State’s Register of Heritage Places but recommends to the HCWA that it enter only that portion of the Channel contained within the Regional Reserves in the Register.

RECOMMEND

1. **That the Management Category of the portions of the Canning Contour Channel (Number K08 in the City’s Municipal Heritage Inventory) contained within the Regional Reserves be raised from the current “B” level to the “A” level and the Heritage Council of Western Australia be advised accordingly. The portion of the Channel within the Residential and Rural zones is to remain at the “B” Management level.**
2. **That the Heritage Council of Western Australia be advised that Council supports the entry of the Canning Contour Channel in the State’s Register of Heritage Places but given that:**
 - ♦ **The portion of channel within the Regional Reserves contains a fitting representation of the construction of good integrity that is readily protectable and manageable; and**
 - ♦ **The portion of Channel within the Residential and Rural zonings includes privately owned sections and raises access difficulties and potential owner conflict,**

recommends that the Heritage Council of Western Australia enter only that portion of the Channel contained within the Regional Reserves in the Register.

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*** DELEGATION FOR DISCRETIONARY DEVELOPMENT STANDARDS OF LAND USE TABLES IN TOWN PLANING SCHEME NO.2**

WARD : ALL
FILE REF : PCY/2
DATE : 28 October 2003
REF : PRR
RESPONSIBLE : PSM
MANAGER

In Brief:-

- In some instances, land use tables in Town Planning Scheme No.2 specify requirements ‘to be determined by’ or ‘as required by’ Council.
- This situation means despite existing delegations, some uses require consideration by Council for specific elements (i.e. parking or landscaping etc).
- Recommend that delegated authority be granted to the Executive Director Development Services / Planning Services Manager to deal with these elements of the land use tables.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

Legislation Implications

Town Planning and Development Act 1928
Town Planning Regulations 1967
Town Planning Scheme No.2

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ♦ Development Services Directorate

BACKGROUND

Land Use Tables in Town Planning Scheme No.2 (TPS No.2) are divided into four (4) areas under the heading ‘Development Standards’. These areas are ‘Boundary Setbacks’, ‘Car Parking’, ‘Landscaping’ and ‘Other Requirements’. Many delegations to officers for the determination of applications have been granted on the proviso that the development complies with the requirements of the relevant Town Planning Scheme. This includes any Development Standards from the relevant Land Use Table.

However, some Development Standards specify Council approval (i.e. ‘to be determined by’, or ‘as required by’ Council) and a report to Council is technically necessary for these specific elements, even though officers would still have delegation to approve or refuse the overall proposal. Officers are therefore unable to deal with these matters without direction from Council and this causes a significant delay to an application that could have otherwise been dealt with through delegated authority.

It is suggested that Council rectify this anomaly by granting officers the ability to manage these situations by determining appropriate Development Standards.

DETAILS OF PROPOSAL

In the interests of efficiency, it is proposed that Council provide delegation to the Executive Director Development Services, the Planning Services Manager and the Building Services Manager to determine appropriate requirements for development where the Development Standards section of a Land Use Table necessitates Council approval for specific elements relative to a land use officers would otherwise have delegation for.

ANALYSIS

Town Planning Scheme Provisions

Powers of Delegation

Clause 7.10 of TPS No.2 provides for Council to delegate to an officer of the Council the authority to determine an application for development approval or planning consent.

Development Standards

As previously indicated, there are four (4) sections under the Development Standards heading. The first three (3), Boundary Setbacks, Car Parking and Landscaping, are fairly straightforward, whilst the fourth is somewhat more complex. The Land Use Table will generally specify something similar to the following examples:

Boundary Setbacks

Table 1.2, ‘Civic Building’, ‘Permitted’ use in a ‘Residential’ zone, front setback – “As required by Council”.

Car Parking

Table 1.3, 'Public Recreation', 'Permitted' use in a 'Residential' zone, car parking spaces – "As determined by Council".

Landscaping

Table 1.4, 'Stables', discretionary 'SA' use in a 'Rural' zone (for which delegation has been granted), landscaping – "Council may require the planting of native trees in order to revegetate...".

Other Requirements

The final category of the Development Standards allows the implementation of specific requirements relative to individual uses and is therefore quite varied. The general issues Council must consider under the Other Requirements category are summarised below:

- ◆ Requirement for rights of carriageway in favour of adjacent properties;
- ◆ Closure of vehicle access (crossover) to a public street, if an alternative is available;
- ◆ Provision of car parking for the disabled;
- ◆ Variation to the Residential Design Codes of Western Australia;
- ◆ Compatibility of a Service Industry, Educational Establishment, Private Recreation, or Public Amusement use with surrounding uses;
- ◆ Variations to side setbacks;
- ◆ Screening of wrecking / stacking areas; and,
- ◆ Period of approval validity or hours of operation.

The Land Use Tables for the 'Special Use' zone are not included as they relate to specific areas of land rather than generic applications.

Other Situations

Delegation for the majority of the Development Standard areas is being requested as Officers also have current delegations to renew approvals, or approve minor extensions to approved 'AA' and 'SA' discretionary uses. Only granting delegation for instances where uses are 'Permitted' uses or where delegation has already been granted would mean Council reports would still be required when dealing with the aforementioned situations.

OPTIONS

1. Council may grant delegated authority to the Executive Director Development Services / Planning Services Manager / Building Services Manager to determine appropriate requirements for development where the Development Standards section of a Land Use Table necessitates Council approval for specific elements relative to a land use officers would otherwise have delegation for.
2. Council could maintain the current process under TPS No.2, which requires it to determine specific elements of proposals prior to the Executive Director Development Services / Planning Services Manager / Building Services Manager making a decision under delegated authority.

CONCLUSION

It would be in the interest of efficiency to grant the delegation as requested. In addressing technical issues such as this, the overall turn around time of applications is reduced. Council's time may then be spent on more complicated matters. It is therefore recommended that the delegation request be approved in accordance with Option 1.

RECOMMEND

1. That Council grant delegated authority, in accordance with Clause 7.10 of Town Planning Scheme No.2, to the Executive Director Development Services, Planning Services Manager and the Building Services Manager, to determine appropriate requirements for development where the Development Standards section of a Land Use Table necessitates Council approval for specific elements relative to a land use officers would otherwise have delegation for.
2. That the following Delegation of Authority be added to Council's Delegation of Authority Register:

Authority to determine discretionary development standards of land use tables.

The Executive Director Development Services, Planning Services Manager and Building Services Manager are delegated authority to determine appropriate requirements for development where the Development Standards section of a Land Use Table necessitates Council approval for specific elements relative to a land use officers would otherwise have delegation for. Development Standards refers to the areas of:

- ♦ Boundary Setbacks;
- ♦ Landscaping;
- ♦ Car Parking; and,
- ♦ Other Requirements, including:
 - Requirement for rights of carriageway in favour of adjacent properties
 - Closure of vehicle access (crossover) to a public street, if an alternative is available
 - Provision of car parking for the disabled
 - Variation to the Residential Design Codes of Western Australia

- **Compatibility of a Service Industry, Educational Establishment, Private Recreation, or Public Amusement use with surrounding uses**
- **Variations to side setbacks**
- **Screening of wrecking / stacking areas and**
- **Period of approval validity or hours of operation.**

Note: This delegation does not include the density bonus noted by Table 1.1, or the Special Use zone Land Use Tables of Town Planning Scheme No.2.

**** ABSOLUTE MAJORITY OF COUNCIL REQUIRED**

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*** PROPOSED FEE AMENDMENT FOR DEVELOPMENT APPLICATIONS**

WARD : ALL
FILE REF : PSD/1
DATE : 4th November 2003
REF : LF/IT
RESPONSIBLE : EDDS
MANAGER

In Brief:-

- The City's fees currently do not differentiate between applications that result in a higher administrative cost and those that result in a lower administrative cost to the City.
- It is proposed that a fee be introduced that will represent the "fee for service" principle.
- Recommend that Council adopt a \$100 fee for Development Applications with a development cost below \$50 000 that do not meet the relevant provisions in the Town Planning Schemes, Residential Design Codes, or require public consultation and determination by Council's.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

To achieve maximum community benefit from effective use of resources (staff, finances and information technology).

Legislation Implications

Town Planning and Development Act 1928
Town Planning (Local Government Planning Fees) Regulations 2000
Local Government Act 1995
Residential Design Codes

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

The exact income that the proposal would generate is difficult to predict but is estimated in the order of \$15,000 per annum. Given that development applications will no longer be required for minor developments that meet the "Acceptable Development" standards defined in the RD Codes, a loss of revenue in the order of \$20 000 is expected as a result. (Net loss in planning revenue of \$5000).

Consultation

- ◆ Other Metropolitan Local Governments.
- ◆ The Local Government Act requires that public notice be given of a Local Government's intention to introduce a new fee. Such public notice would be arranged should Council adopt the recommendation.

BACKGROUND

The City of Armadale's current schedule of fees and charges (effective from 19 December 2000) are based on the fees in Schedule 1 of the Town Planning (Local Government Planning Fees) Regulations 2000.

While the maximum fee for development applications with a development cost below \$50 000 in Schedule 1 is \$100, the City currently charges a fee of \$50 for development with a development cost below \$12 000. The City's fees currently do not differentiate between applications that result in a higher administrative cost and those that have a lower administrative cost to the City.

The City's administrative workload is generally lower for applications that meet the relevant provisions in the City's Town Planning Schemes, Council's Policies and the Residential Design Codes. Conversely administrative workloads / processing costs are generally significantly higher for non-complying applications that generally require public consultation as well as Council determination after consideration by the Development Control Unit and recommendation by the Development Services Committee. The latter applications are also more likely to eventually result in appeals.

Prior to the introduction of the new RD Codes in October 2003, the City required Development Applications for all minor developments that are not considered to fall within the definition of a "single house" in the Residential zones under Town Planning Scheme No.2. While planning approval is required for grouped and multiple dwellings, single houses do not require planning approval. Development is however required to comply with the provisions of the Residential Design Codes. After a year of implementing the RD Codes, officers are of the view that Development Applications for minor development in Residential zones are no longer necessary, should these applications comply with the provisions of the Codes.

DETAILS OF PROPOSAL

It is proposed that the City pursues the procedures and requirements of s6.16 of the Local Government Act 1995 as modified, and subject to s33B of the Town Planning and Development Act 1928 to introduce a Town Planning Fee of \$100 for development applications with a development cost below \$50 000 that:

- ◆ do not meet the "Acceptable Development Standards" in the Residential Design Codes or;
- ◆ do not comply with any provision or standard in Town Planning Scheme 2 and 3 or;
- ◆ require consultation with affected landowners / referral to Government Agencies or;
- ◆ cannot be determined by officers under delegation and require determination by Council.

The proposal will only affect development applications with a development cost below \$12 000, where the current fee is \$50. There will be no change to the current fee of \$100 for development applications with a development cost between \$12 000 and \$50 000.

ANALYSIS

The Residential Design Codes of Western Australia (the RD Codes) were introduced by the State Government in October 2003 to replace the Residential Planning Codes 1991. The new RD Codes have a two-stream approach to defining appropriate development, being “Acceptable Development” where a proposal meets the prescribed set of standards, or a “Performance Approach” by which an application must be considered against more general guidance from the Codes.

While the Performance Approach provides an option for the applicant and the Local Government to explore more innovative design, it imposes a significant workload on the Local Government that is obliged by the Codes to satisfy itself that the proposal meets the objectives of the Codes before approving a proposal. The Codes also prescribe a consultation regime that must be pursued by the Local Government to ensure that neighbours are involved appropriately in the decision making process.

Although there is no requirement to submit a formal application for complying development it is necessary for officers to confirm that an application complies with statutory provisions prior to the issue of a building licence. Where applications do not comply with requirements, normally it is necessary to consult with neighbours and issue a formal planning approval. It was anticipated during the review of the R-Codes that the additional cost of administering non-complying development should be met by applying a minimum fee.

Officers are of the view that it is appropriate, for the City to introduce a fee when applicants wish to pursue “Performance Approval” rather than design to meet the “Acceptable Development Standards”. Applicants who design to meet the Acceptable Development Standards will have their developments approved via the Building Licence process as envisaged by the new Codes and will not be required to submit the “Codes Variation Form” or pay any fees other than those required as part of the Building Licence process.

It should be noted that minor developments with a development cost below \$12 000 do not currently incur the maximum fee allowable under the Town Planning (Local Government Planning Fees) Regulations 2000 in order to be consistent with Building Licence fees. The cost of development is however not always a good indicator of the administration cost incurred by the City as most applications that comply with statutory provisions and Council Policies can be approved under delegation with a lower direct cost to the City than non-complying applications.

The underlying principle of the new fee structure introduced through the Town Planning (Local Government Planning Fees) Regulations 2000, is that of a “fee for service” that represents the extent and quality of service provided. It is considered appropriate that this principle apply to the processing of all development applications by the City.

OPTIONS

1. Introduce a \$100 fee applicable to development applications with a development cost below \$50 000 that do not comply with the TPS No.2 or No.3 provisions and/or the “Acceptable Development Standards” of the RD Codes and/or require consultation or determination by Council.
2. Not to introduce a higher fee for non-complying development applications with a development cost below \$50 000 that do not comply with the TPS No.2 or No.3 provisions and/or the “Acceptable Development Standards” of the RD Codes, require consultation or determination by Council and continue to absorb the costs involved in processing these applications.

CONCLUSION

Given that non-complying development applications that require public consultation or referral to government agencies require more administration by the City, (usually also associated with reports to the Development Services Committee and Council), it is considered reasonable that applicants should be required to contribute to the cost of the City undertaking the assessment and determination of the application.

The proposal to increase fees for Development applications that require more officer time to process, is seen as more equitable in terms of the “user pays” or “fee for service” principles. Option 1 above is therefore recommended.

RECOMMEND

That Council adopt a \$100 fee for Development Applications with a development cost of \$50 000 and below that:

- ♦ **do not meet the “Acceptable Development Standards” in the Residential Design Codes or;**
- ♦ **do not comply with any provision or standard in Town Planning Scheme 2 and 3 or;**
- ♦ **require consultation with affected landowners / referral to Government Agencies or;**
- ♦ **cannot be determined by officers under delegation and require determination by Council;**

*** ABSOLUTE MAJORITY REQUIRED**

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***REVIEW OF DELEGATIONS OF AUTHORITY RELEVANT TO THE DEVELOPMENT SERVICES DIRECTORATE**

WARD : ALL
FILE REF : PCY/2
DATE : 31 October 2003
REF : HC
RESPONSIBLE MANAGER : EDDS

In Brief:-

- Delegations of Authority are to be reviewed annually.
- Proposed deletion of a paragraph, considered *ultra vires*, is suggested for Delegations 700 and 701.
- Proposed amendment to include authority for the Building Services Manager for extensions and minor additions to approved group housing and aged persons developments is suggested for Delegation 702.
- The addition of an information note is suggested for Delegation 706.
- The addition of the words “and aged persons accommodation, including applications requesting a density bonus to a maximum of ‘R40’ under Table 1.1 of Town Planning Scheme No.2” is suggested for Delegation 718.
- A new Delegation is suggested to the Executive Director Development Services and the Planning Services Manager to determine requirement with regard to factory unit developments.
- Recommend that delegations as amended and proposed remain in force.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Corporate Services New Initiatives 1.2 – Review and Clarify Delegations.

Legislation Implications

Local Government Act 1995
Local Government (Miscellaneous Provisions) Act 1960
Town Planning & Development Act 1928
Town Planning Schemes Nos 2 and 3
Residential Design Codes
Health Act 1991
Strata Titles Act 1985 as amended

Council Policy / Local Law Implications

Nil.

Budget / Financial Implications

Nil.

Consultation

- ◆ Executive Director Development Services
- ◆ Planning Services Manager
- ◆ Building Services Manager
- ◆ Health Services Manager

BACKGROUND

It is a requirement of the Local Government Act 1995 that all Delegations of Authority be reviewed annually.

In accordance with that requirement, copies of the Delegations relevant to this Committee, with suggested revisions, are at Attachment “A3” of the Agenda.

COMMENT

Analysis

The Delegations numbered 13, 90, 100, 120, 130, 131, 140, 601, 602, 703, 704, 707 to 717 and 719 to 721 remain unaltered.

Alterations to a number of Delegations are suggested as follows:

Delegation 700 - Authority to Determine Applications for Establishment or Variation of Development Envelope Location, and

Delegation 701 - Authority to Determine Applications for Two Houses on One Lot in a Rural Zone.

The final paragraph in both these delegations (commencing “*In the event an applicant is aggrieved*” and concluding “*a request in writing may be made to Council to have the matter deliberated and determined by Council*”) should be removed as it is *ultra vires*.

Council has given delegation for development application variations so any decision has been made with authority delegated by Council. Once an application has been determined, it cannot be reconsidered without a new application. If an applicant has concerns with a refusal, he/she has the right of appealing the decision.

Delegation 702 – Authority to Exercise Powers of Approval for Subdivisions, Development, Advertising Devices and Miscellaneous Matters.

The authority delegated to the Building Services Manager should be amended in point 7 by deleting the words “*in Residential and Rural Zoned areas*” and substituting the words “*within all zones*”.

A new point should be added to the Building Services Manager's authority as follows:

"8. All extensions and minor additions to approved group housing and aged persons developments."

This will provide more flexibility to allow the Building Services Manager to approve applications in all zones, particularly Special Use zones, rather than being limited to the Rural and Residential zones. Point 8 allows a more flexible approach to approving extensions and minor additions to approved developments.

Delegation 706 – Authority to Approve Reduced side and/or Rear Setbacks in the General Industry and Light Industry Zones.

This should be modified by adding the words *"Note: This only applies to use classes for which delegation already exists"*.

Delegation 718 – Authority to Determine Applications for Group Housing and Aged or Dependant Persons Developments

It is suggested that this delegation be amended by adding the words *"and aged persons accommodation, including applications requesting a density bonus to a maximum of 'R40' under Table 1.1 of Town Planning Scheme No.2,"* in between *"The Executive Director Development Services and / or Planning Services Manager is delegated authority to approve applications for group housing"* and *"where the following criteria are met:"*

This will allow officers to determine all applications, including those seeking density bonuses under TPS No.2 within the context of the requirements of TPS No.2, Council's Group Housing Development Policy and the Residential Design Codes of Western Australia.

Proposed New Delegation of Authority – Authority to Determine Applications for Variations to Requirements for Open Storage Yards for Factory Units in the General Industry Zone

Council, at its meeting on 17 September 2001 resolved, inter alia:

That, in respect to applications for variations to requirements for open storage yards for factory units in the 'General Industry' zone, Council adopt the following additional Policy Statement in the context of its Policy 4.3.12, Industrial Design Guidelines under Section 10.0, Storage Yards and Bin Areas and include it in Council's Policy Manual:

10.5 The Executive Director Development Services and / or the Planning Services Manager is delegated authority to determine applications for variations to requirements for open storage yards for factory units in the General Industry zone that comply with the following objectives:

- ◆ *The proposed use is appropriate to operate without provision of an open yard area.*
- ◆ *The internal design of the factory unit can accommodate internal storage of equipment.*
- ◆ *The proposal does not compromise or inhibit use of any adjoining or surrounding development.*

As part of Council's resolution, the delegation was to be incorporated into Council's Industrial Design Guidelines Policy. This was not undertaken and as the view of the City is that any such delegations should be placed within the Delegations Register, it is proposed to add the delegation to the Delegations Register as part of this annual review.

In addition to varying open storage yard requirements however, it is also proposed that Council consent to other minor issues relative to factory tenements being added to the delegation. These will be addressed in the Proposal and Analysis sections.

DETAILS OF PROPOSAL

Factory Unit / Tenement Open Storage Yards, Internal Alterations and Vehicle Access

In the interests of efficiency, it is proposed that Council provide delegation to the Executive Director Development Services and / or the Planning Services Manager to determine whether or not a factory unit requires an open storage yard area, screening requirements if an open storage yard is required, applications if internal modifications are required and access way width in accordance with Town Planning Scheme No.2 (TPS No.2), Section 5.5.

ANALYSIS

Factory Unit / Tenement Open Storage Yards, Internal Alterations and Vehicle Access

Given Council previously granted delegation for the consideration of open storage yard requirements (Clause 5.5.1(c) of TPS No.2), albeit in another format, it is recommended to transfer that format intended for the Policy Manual to the Delegations Register. It is suggested that the wording be revised slightly however, should additional elements be incorporated.

As delegation can be reasonably considered for open storage yards, it is practical to consider the remainder of Section 5.5 of Town Planning Scheme No.2 at the same time. Clause 5.5.1(e) of TPS No.2 requires Council consent if the internal partitions within a factory tenement building are altered. Given the structure will have been approved previously and internal modifications are likely to be minor, delegation for this matter is deemed appropriate.

Clause 5.5.2(c) of TPS No.2 relates to vehicle access ways for factory units, stating that the minimum width shall be 6m but Council can approve a narrower width dependant on lot size, in no case being less than 3m wide. It would be appropriate for Council to consider granting delegation for this issue as well.

Clause 5.5.3 of TPS No.2 stipulates that all open storage yards must be screened from public view to the satisfaction of Council. It is logical that if Council is comfortable with the Executive Director Development Services / Planning Services Manager determining the provision of open storage yards, that they could also determine placement and screening of such yards.

It is therefore requested that Council grant the Executive Director Development Services / Planning Services Manager delegation for Clauses 5.5.1(c), 5.5.1(e), 5.5.2(c) and 5.5.3 accordingly.

OPTIONS

1. Approve the suggested amendments to the Delegations of Authority and the suggested new Delegation of Authority to determine applications for variations to requirements for open storage yards for factory units in the General Industry Zone, and authorise that they remain in force for the coming twelve months.
2. Make the necessary editorial changes to existing Delegations and authorise that they remain in force for the coming twelve months, but include no new Delegations.

CONCLUSION

It is suggested that Option 1 ensures the Delegations of Authority are more correct and give greater flexibility to deal with planning issues.

RECOMMEND

1. That Delegation 700 be amended by deletion of the words *“In the event an applicant is aggrieved following a refusal for the establishment or variation to an established development envelope under delegated authority, a request in writing may be made to Council to have the matter deliberated and determined by Council”*.
2. That Delegation 701 be amended by deletion of the words *“In the event an applicant is aggrieved following refusal for the second residence under delegated authority or seeks a variation to provision with the Town Planning Scheme, a request in writing may be made to Council to have the matter deliberated and determined by Council”*.
3. That Delegation 702 be amended by:
 - ♦ deleting the words *“in Residential and Rural Zoned areas”* in point 7 and substituting the words *“within all zones”*;
 - ♦ and adding a new point *“8. All extensions and minor additions to approved group housing and aged persons development”*.
4. That Delegation 706 be amended by the addition of the words *“Note: This only applies to use classes for which delegation already exists”*.
5. That Delegation Number 718 be amended by adding the words *“and aged persons accommodation, including applications requesting a density bonus to a maximum of ‘R40’ under Table 1.1 of Town Planing Scheme No.2,”* in between *“The Executive Director Development Services and / or Planning Services Manager is delegated authority to approve applications for group housing”* and *“where the following criteria are met:”*

6. That Council note its resolution of 17 September 2001 (D241/01) to grant delegated authority, in accordance with Clause 7.10 of Town Planning Scheme No.2, to the Executive Director Development Services and the Planning Services Manager, to determine the requirement for open yard areas and vehicle access ways, internal alterations and the screening of open yard areas, with regard to factory unit developments and include the following Delegation of Authority in Council's Delegation of Authority Register:

Authority to Determine Factory Unit / Tenement Requirements.

The Executive Director Development Services and / or Planning Services Manager is delegated authority to determine Development Applications relative to Clauses 5.5.1(c) (Storage Yard Provision), 5.5.1(e) (Internal Alterations), 5.5.2(c) (Access Way Width) and 5.5.3 (Storage Yard Screening) of Town Planning Scheme No.2.

Note: This only applies to use classes for which delegation already exists.

7. That the powers or duties detailed in Attachment "A3" of the Agenda as delegated by Council, including Delegation Number 700 as amended per 1 above, Delegation Number 701 as amended per 2 above, Delegation Number 702 as amended per 3 above, Delegation Number 706 as amended per 4 above, Delegation Number 718 as amended per 5 above, the new Delegation as per 6 above remain in force for the next twelve months.

*** ABSOLUTE MAJORITY REQUIRED**

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REVIEW OF TOWN PLANNING SCHEME PROVISIONS RELATING TO CHILD MINDING CENTRES

WARD : ALL
FILE REF :
DATE : 29 October 2003
REF : GIW/EDDS
RESPONSIBLE MANAGER : PSM
APPLICANT : N/A
LAND OWNER : N/A
SUBJECT LAND : N/A
ZONING : Urban / Residential
MRS/TPS No.2

In Brief:-

- Recommitted Item from Council's meeting in October 2003.
- Report reviews Town Planning Scheme provisions relating to Child Minding Centres.
- Eight (8) applications involving child minding centres have been received since November 2002
- Recommend that Council note the recent Town Planning Tribunal's decision regarding Child Minding Centres and not, at this time, initiate amendments to Town Planning Scheme No.2 and No.3 to expressly prohibit larger child minding facilities within the Residential zone.

Tabled Items

Nil.

Officer Interest Declaration

Nil.

Strategic Implications

Development- "To balance the need of development with sustainable economic, social and environmental objectives".

Legislation Implications

Town Planning & Development Act 1928
Metropolitan Region Scheme Act 1959
Metropolitan Region Scheme
Town Planning Scheme No.2
Environmental Protection Act 1986
Environmental Protection (Noise) Regulations 1997

Council Policy / Local Law Implications

Child Care Centres Policy 4.3.15

Budget / Financial Implications

There have been costs associated with recent appeals regarding Child Minding Centres. Notably the City expended \$80,000 contesting the appeal involving the proposed centre at Caroline Street.

Consultation

Nil

BACKGROUND

This report was referred to the Council meeting of 20 October 2003 with a recommendation that Council note the recent Town Planning Appeal Tribunal's decision regarding child minding centres and not, at this time, initiate amendments to Town Planning Scheme No.2 and No.3 to expressly prohibit larger childcare facilities within the residential area. Council resolved at the meeting "*that Recommendation D189/10/03 be not adopted and be recommitted to the next Development Services Committee meeting*".

The purpose of this report is to outline recent Tribunal decisions relating to Child Minding Centres, review the current Town Planning Scheme No.2 provisions relating to Child Minding Centres and to examine various options available to Council with respect to restricting the scale of such developments within residential areas, limit the influx of such applications, and reducing the instances of lengthy / costly appeals.

Several applications have been made recently for child minding centres. Council has received eight applications since November 2002, including the following:

Summary of Child Minding Centre Applications subject to appeal

1. *Corner of Ottaway Street and Albany Highway, Kelmscott (Lot 1 Ottaway Street)*

The Town Planning Appeal Tribunal upheld an appeal against Council's refusal of this application for 50 children. The Tribunal determined that "need" / "competition" is not considered a valid Planning argument to refuse an application and was satisfied that the potential noise and traffic impacts would not adversely impact on the amenity.

2. *Corner Westfield and Cammillo Roads, Kelmscott (Lot 15 Cammillo Road)*

Council issued an approval for this centre to accommodate 99 children through the mediation process of the Town Planning Appeal Tribunal after an appeal was submitted against Council's initial refusal concerning potential impacts of traffic and noise. The applicant submitted an acoustic report and traffic study during mediation that resolved these concerns.

3. *Corner Caroline Street and Albany Highway, Mount Nasura (Lot 14 Caroline Street)*

The Town Planning Appeal Tribunal upheld an appeal against Council's refusal of this application for 71 children on grounds mainly concerning potential impacts of traffic and road safety at the intersection of Albany Highway and Caroline Street. The Tribunal determined that the proposed development would not increase the risk of traffic accidents to an unacceptable level. The Tribunal decision on this application is examined further in the "Case Study" section of this report below.

4. *Corner Holden and Heather Roads, Roleystone*

This existing centre applied for an extension and an increase in numbers from 30 to 60 children, which was refused by Council on grounds concerning potential impacts of traffic and noise. This proposal is currently the subject of the Town Planning Appeal Tribunal's mediation process.

Other Centres Approved by Council

5. *Corner Forrest and Seventh Roads, Armadale*

Council approved this centre to accommodate 85 children subject to standard conditions.

6. *Corner Poad Street and Seville Drive, Seville Grove (Lot 501 Seville Road)*

Council approved this centre to accommodate 60 children subject to standard conditions.

Current Applications

7. *Corner Westfield Road and Starlight Pass (Pt Lot 28 Westfield Road)*

This proposed centre to accommodate 90 children is currently being assessed by Council Officers.

8. *Corner of Ottaway Street and Albany Highway, Kelmscott (Lot 1 Ottaway Street)*

This is a revised application to increase the number of children from 50 to 75 and is currently being assessed by Council Officers.

COMMENT

Town Planning Scheme No.2

A Child Minding Centre is classified as the following under Town Planning Scheme No.2:

- ◆ Discretionary “SA” use (advertising required) within the “Residential” and “Rural” zones;
- ◆ Discretionary “AA” use within the Industrial Business Development” zone;
- ◆ Permitted “P” use within the “Shopping” and “Office” zone
- ◆ A maximum number of 30 children and minimum lot area of 800m² also applies to child minding centre developments within the “Residential” zone (Table 1.2), however, these provisions can be relaxed at the discretion of Council under Clause 7.6 ‘Relaxation of Standards’ under TPS No.2.

Clause 7.6 “Relaxation of Standards” of TPS No.2 enables Council to grant planning consent to a development that does not comply with the development standards of the Scheme if it is satisfied that:

- a) *If approval were granted, the development would be consistent with the orderly and proper planning of the locality and the preservation of amenities of the locality; and;*
- b) *The non-compliance will not have an adverse effect upon the occupiers or users of the development or the property in or inhabitants of the locality or the likely future development of the locality; granting planning consent to the development subject to any conditions the Council thinks fit notwithstanding the non-compliance with the Scheme.*

Under Town Planning Scheme No.3 Child Minding Centres are discretionary within all zones, however there are no criteria specified relating to the number of children or minimum lot area.

Child Minding Centres Policy 4.3.15

Policy 4.3.15 is supplementary to the requirements of TPS No.2 and No.3 and provides a guide only to the assessment of child minding centres. The policy outlines preferred location, site characteristics, car parking, building design and site layout, hours of operation and community consultation procedures for such proposals.

Council has also approved an amended Draft Child Care Centres Policy to be advertised under TPS No. 4 that specifies a recommended lot size as follows:

“Applicants are encouraged to consider sites of 1400m² in the residential and rural zones...Where the applicant is seeking a relaxation of the Scheme requirement of maximum 30 children, a 3000m² site area is preferred.”

Analysis

Case Study: Outcome of Town Planning Appeals Tribunal Decision on Caroline Street Child Minding Centre.

Council refused an application for a child minding centre to accommodate 71 children at the corner of Caroline Street and Albany Highway in July 2002.

The Tribunal subsequently determined that the proposed child minding centre would not compromise the amenity of the surrounding residential locality on the following grounds:

- ◆ *Noise* - Based on findings of the submitted acoustic report and evidence provided by the proponent with respect to management practices of outdoor play activities, the Tribunal determined that nearby residences would not be adversely affected by noise generated by the proposed centre. The acoustic report confirmed that the anticipated noise levels would comply with the Environmental Protection (Noise) Regulations 1997 and that noise levels from passing traffic on Albany Highway exceeded the levels likely to be generated by the centre.
- ◆ *Traffic and road safety* - The Tribunal determined that the proposed development would not increase the risk of traffic accidents to an unacceptable level. It was a matter of judgement whether the increased accidents resulting from the centre were unacceptable.
- ◆ *Safety of outdoor play area* - An issue was raised during the hearing with regard to the potential for vehicles to crash through into the outdoor play area endangering children. The Tribunal was satisfied that this concern could be addressed as the appellant agreed to install / construct an appropriate crash barrier.
- ◆ *Number of children exceeds Scheme requirement* - The Tribunal determined that the intent of Clause 7.6 of TPS No.2 has been satisfied and therefore the limit of 30 children referred to in Table 1.2 should be relaxed accordingly.

Discussion of Options

Established vs New Residential Areas

All applications received to date are located within existing built-up areas. It is reasonable to expect that community objection to such applications will be greater in built-up areas as opposed to newer residential areas given the following:

- ◆ There is likely to be a higher demand for child care centres within newly created areas given the higher proportion of younger families;
- ◆ Residents in well established areas are less likely to accept changes to their surroundings compared to residents within newer areas where changes are more likely to occur until the area has fully developed;
- ◆ Developers have an opportunity to earmark suitable sites within new residential areas and therefore residents are more likely to be aware of such potential sites.

Council has expressed concern that child Minding centres have recently increased in size and could result in some compromise to the residential amenity of the areas in which they are located. It could be presumed that the original limit of 30 children within the Scheme was included because beyond this figure the use should be elsewhere. While applicants have argued successfully to the Tribunal that the 30 children limit was merely a standard that could be varied under Clause 7.6 like all other standards in the scheme, this may not have been Council's original intent. It may now be timely to amend the scheme provisions to place it beyond doubt that large child minding centres should be restricted to commercial zones and the like.

It could be argued that small child minding centres are more compatible with residential areas and that larger centres take on more of a commercial character for which suitable zones exist.

Other arguments have also been mounted, such as the more homely nature of smaller centres, the more personalized care children receive and the fact that the community is already well served by a network of smaller centres. However, these arguments are either subjective or anti-competitive. They are not strong planning arguments.

There are arguments against initiating an amendment to limit large child minding centres from residential zones including:

- ◆ In view of the fact that the City is already well served by large centres, there may not be a significant need for applications of this scale in the future;
- ◆ Future operators would feel aggrieved by not being afforded similar opportunities to those provided in the past. It is possible that existing small centres will attempt to expand to compete with the new centres and a scheme amendment could prevent this;
- ◆ There is a view that the introduction of larger centres are purely a matter of competition, that this is healthy and will provide Armadale residents with a higher quality and more affordable service either from the larger centres or from the older centres being forced to upgrade to compete;
- ◆ There are other uses similar to large child minding centres that are accepted in residential areas, such as schools and churches, that are dealt with on the basis of actual impacts rather than the rigid application of number of attendees;
- ◆ Any restriction based purely on the number of children would be necessarily arbitrary. While the impacts of child minding centres can be scientifically assessed (in terms of noise and traffic) and measures taken to manage any impacts, the imposition of limits on numbers irrespective of site size, building features and management regime would be arbitrary and inflexible;
- ◆ The initiation of an amendment to limit larger centres would be likely to precipitate an influx of applications from existing and prospective child minding centre operators intent on applying for increases in the number of children prior to the amendment coming into effect. It would be expected that such an amendment would take at least a year to finalise.

While there are more arguments against amending the scheme to limit the size of child minding centres within residential zones than there are arguments in favour, if the Council was of the mind to do so, it could initiate such an amendment. Once such an amendment to the scheme was finalized the Tribunal would have no authority to consider an appeal against a Council refusal of a child minding facility that does not meet the specified criteria regarding the allowable number of children simply because the Council would have no discretionary power to approve such an application in the first instance.

OPTION 1

1. Initiate a text amendment to Clause 7.6 of TPS No.2 by including the words “child minding centre” to read as follows:

*“If development other than a residential development or **child minding centre** in the Residential zone, the subject of an application for planning consent does not comply with a standard or requirement prescribed by the scheme applicable thereto the Council may if it is satisfied...”*

This option provides Council with no discretion to vary the development standards of Table 1.2 (such as setback, minimum lot area or maximum 30 number of children) for child minding centre developments within the residential zone. An applicant has no grounds of appeal where Council does not exercise its discretionary powers under the Scheme.

A major disadvantage of this option is that it offers no flexibility for Council to vary from the scheme provisions under any circumstances. In particular, a prescribed limit on the number of children may unfairly restrict the feasibility of centres and provides no opportunity for the applicant to demonstrate the individual merits of a development proposal.

It should be noted that the current scheme provision is limited to a maximum of 30 children, however most existing and approved centres to date accommodate a range of between 50 and 99 children. Limiting the scale (number of children) is considered to be too restrictive and does not take into account site specific conditions such as lot size, traffic noise, management of the child minding centre, location and noise attenuation measures. In addition, there is no equivalent provision under Town Planning Scheme No.3 suggesting that for consistency a more substantial amendment would be required to TPS No.3.

OPTION 2

2. Initiate a text amendment to Table 1.2 of TPS No.2 to define Child Minding Centres as an “X” use- a use not permitted within residential zone.

This option could be argued against on the grounds that the majority of child minding centres are situated within the residential zone in close proximity to their catchment areas and it is not proven that child minding centres are detrimental to the amenity of residential areas. This option would confine such uses to the “Industrial Business Development”, “Shopping” and “Office” zones.

OPTION 3

3. Not to initiate a Scheme amendment. This would result in applications being determined on individual merit in the context of existing scheme and policy requirements, and the relaxation of standards in circumstances where the applicant can demonstrate that the development proposal does not compromise the amenity of the locality.

CONCLUSION

The City has received a number of proposals to establish large child minding centres in recent years and despite Council's concerns all applications have been approved after satisfying planning requirements. Whilst it could be argued that large centres would be more appropriate within non-residential zones, it is difficult to sustain this argument in the context of the way in which other non-residential land uses are dealt with.

It could also be argued that the number of centres approved to date form a relatively even distribution throughout the City and therefore the likelihood of Council receiving an influx of such applications is now minimal. In addition, market forces will inevitably limit the number (demand and supply) and distribution of child minding centres. In this regard, it is recommended that each application continue to be assessed on its individual merit in the context of the existing scheme / policy requirements and recent Town Planning Appeal Tribunal decisions as per Option 3 above.

RECOMMEND

That Council note the recent Town Planning Tribunal's decision regarding Child Minding Centres and not, at this time, initiate amendments to Town Planning Scheme No.2 and No.3 to expressly prohibit larger child care facilities within the residential area.

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LATE ITEMS

COUNCILLORS' ITEMS

EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORTS

In view of likely confidential aspects of this Report, public and staff in attendance, other than Chief Executive Officer and Executive Director Development Services, may be requested to retire from the meeting.

MEETING DECLARED CLOSED AT _____

DEVELOPMENT SERVICES COMMITTEE

SUMMARY OF “A” ATTACHMENTS

10TH NOVEMBER 2003

ATT NO.	SUBJECT	PAGE
BUILDING		
HEALTH		
PLANNING		
A1	Correspondence – re Kelmscott Village Shopping Centre	157
A2	Schedule of Submissions – TPS No.2 – Amendment No.186	161
A3	Copy of Delegations – Development Services Directorate	167



5 November 2003

City of Armadale
 7 Orchard Avenue
 ARMADALE WA 6112
 By facsimile: (08) 9399 0184
 Four (4) Pages Only

I 75403

CITY OF ARMADALE	
REC'D - 5 NOV 2003	No.
TO: DDS	INIT
REFER/NOTE: (Fax) cc. CEO	INIT
FILE/S A 166046	

Attention: Mr Ray Tame
 Chief Executive Officer

"Without Prejudice"

Dear Mr Tame,

PROPOSED REDEVELOPMENT OF THE KELMSCOTT CENTRAL SHOPPING CENTRE

Thank you for the courtesy you extended in providing us with an opportunity to meet with yourself, Mayor Reynolds, Councillor Zelones, Mr MacRae and Mr Ellis on Monday 3rd November 2003, to discuss the outstanding issues in relation to our development application for the redevelopment of the Kelmscott Central Shopping Centre.

We remain committed to our appeal but we recognize the considerable merit in reaching a settlement before the full hearing commences on the 24th of November 2003. A settlement will save all parties considerable legal costs and will also allow the redevelopment of the Kelmscott District Centre to begin much sooner, to the advantage of ourselves, other businesses in the Kelmscott District Centre and to the Council and its community.

We request that Council at the Development Services meeting to be held on the 10th of November 2003 and at the subsequent Council Meeting on the 17th of November 2003, reconsider the position towards the development application it has so far adopted and support our application in the following terms:

1. Support an allowance of 7,300 square metres of Net Lettable Area for a Discount Department Store

We request that Council is guided in its deliberations by the precedent set when the Western Australian Planning Commission, in the late 1990s, approved a 7,246 square metre Discount Department Store (Big W) as part of the Kingsway City District Centre and a 7,294 square metre Discount Department Store (Big W) at Riverton Forum District Centre.

We also ask Council to consider the commercial imperatives of Discount Department Store Operators, who ultimately "dictate" the size of the store to the land owner. The size of Discount Department Stores are typically based on "standard" models that are implemented throughout Australia. Whilst the size may vary slightly from store to store, the standard models are the same.



"Without Prejudice"

- 2. Support an allowance of 13,000 square metres of Net Lettable Area, Planning Land Use Category Number 5 ("PLUC5"), retail for the balance of the development.**

We request that Council recognize that the success of District Centres is dependent upon an integrated mix of anchor tenants such as the Discount Department Store and specialty stores. Few of the existing specialty stores in the Kelmscott town centre conform to the retail mix and offering that is usually associated with District Centres. Those that do exist are isolated and do not reach their potential because there is not a drawcard such as a Discount Department Store to create the critical mass of shoppers necessary for the District Centre to function at an appropriate level.

In its deliberations, we ask that Council consider that of the 13,000 square metres NLA PLUC5, approximately 4,500 square metres NLA is to be applied to an extension of the existing supermarket.

We ask that Council recognize that the Metropolitan Centres Policy allows for a flexible response to development applications. The policy does not peg retail space at 15,000 square metres Net Lettable Area but provides that figure as a benchmark. It is open for the Council to support the development of an area greater than the benchmark provided for in the policy just as the Western Australian Planning Commission has done on a number of occasions.

We are of the firm belief, based upon our consultation with economic analysts and discussions with the representatives of major retailers, that the proposed development at Kelmscott will not slow the rate at which the Armadale Strategic Centre will develop. Our advice suggests that the redevelopment of Kelmscott to a proper standard will enhance prospects for the Armadale Strategic Regional Centre. Our consultants indicate that our development at Kelmscott will act as a catalyst for development in Armadale and assist both the Council and the Armadale Redevelopment Authority in achieving the objective of developing Armadale to its fullest potential as a Strategic Regional Centre.

- 3. In September 2003, Council resolved that the railway station remain in its current location. We request that Council withdraw its opposition to any proposal to relocate the railway station and instead resolve that it has no objection to the railway station being relocated provided that any relocation is approved by the Public Transport Authority (formerly WAGR), that there is no erosion of the number of existing railway car parking bays by the proposed development, and that traffic issues are resolved.**

Certainly there are advantages for us if the railway station is relocated but there are too, broader advantages for the community. We believe that the relocation of the station will enable better integration between bus, rail and the commercial elements of the Kelmscott town centre in accordance with contemporary planning practice. There is an opportunity to redevelop the station in a way that is attractive to commuters because of increased levels of comfort and enhanced security. If Council changes its position on the railway station there is a better opportunity for us to negotiate with the appropriate authorities for an outcome beneficial to all parties.

- 4. In September 2003, Council supported the concept of the rail crossing being relocated to an underpass at Davis Road and the extension of Gillwell Avenue but that for the "foreseeable future development should occur based upon the continual operation of Denny Avenue and the main crossing point of the railway." We request that Council adopt a more flexible approach to the relocation of the crossing.**

We request that the Council support the relocation of the railway crossing and the changed operation of Denny Avenue as part of any current redevelopment. In doing so we recognize that the Council may need to establish fair and reasonable conditions for those events to occur.



"Without Prejudice"

If Denny Avenue continues to operate in its present form, it will be extremely difficult to achieve the integrated commercial development necessary for the successful operation of the District Centre. Traffic conflicts associated by a "split" development will be increasingly difficult to manage as will the servicing requirements of the development such as deliveries, rubbish removal and the like.

The early closure of Denny Avenue in association with the relocation of the railway crossing, will resolve the high level of existing conflict between vehicles and pedestrians that occurs when traffic turns left and right from Denny Avenue into Albany Highway. Further, Council will be aware of the conflict that occurs when vehicles turning left from Gilwell Avenue attempt to cross into the slip lane in order to turn right at Denny Avenue. Both of these situations impact upon the successful operation of the existing centre. If our proposals are implemented then a number of traffic issues will be resolved for the benefit of the wider community.

We ask Council to note that the development will be staged, whereby Stage 1 involves the construction of the development to the North of Denny Avenue, which means that Denny Avenue remains open for that period of time.

We request that in deliberating its decision, Council consider its long-standing objective of relocating the rail crossing to Davis Road. We are of the firm belief that our development creates an opportunity for Council to realize this objective in cooperation with private enterprise.

We acknowledge Council's concerns about the funding implications for a number of the infrastructure elements. We have undertaken preliminary investigations and developed a number of strategies by which the necessary infrastructure may be funded or pre-funded. For those strategies to progress, we require a Development Approval.

- 5. We request that Council support any agreed amendments to the development that occur through negotiation, be agreed by consent orders in the Town Planning Appeals Tribunal.**

We are advised that Consent Orders are quite commonly agreed and endorsed by the Tribunal.

We appreciate that there are other issues in addition to those mentioned above, that need to be resolved, including the proposed relocation of the Library & the Child Health Care Clinic, and the rationalisation of Crown land. These issues are beyond the scope of this letter, however we can provide further supporting information and elaborate on these issues if required. We are confident that if points 1 to 5 above can be resolved, the other issues can be managed and dealt with.

In relation to the proposed Cinema Complex, we request that Council is guided by the cinema zoning of Lots 1, 2 and 105 Streich Avenue (part of the development land), and the previous development approval for six screens on that site. We further ask that Council is guided by the precedent set when the Western Australian Planning Commission approved an eight screen cinema complex to be integrated into the Southlands Shopping Centre. We ask that Council give consideration to the location of the cinemas, where an integrated development into the Shopping Centre would remove any dislocation of the cinemas from the public transport hub and the Kelmscott town centre and would compliment pedestrian and traffic management needs.

The Kelmscott town centre has been functioning well below its potential for some time because of fragmented ownership and management, unresolved traffic issues, the poor relationship between transport and retail elements and uncoordinated development. We have assembled sufficient land through a series of acquisitions over the past 15 years to provide for an integrated redevelopment. In this way we have created a window of opportunity for many of the District Centre's defects to be remedied. If redevelopment that is commercially viable does not proceed within a short time frame, then it is unlikely that we will maintain our land assembly in the medium term. That may result in a complete loss of opportunity for Kelmscott to be redeveloped and to reach its potential.

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PAGE 04



"Without Prejudice"

In deliberating the merits of the development, we ask that Council gives due consideration of the broader community benefits created by the development. Our consultants indicate that some of these benefits include introducing new and different retail facilities and entertainment facilities to Kelmscott, injecting more than \$30 million into the local economy, creating an estimated 700 jobs with many of them being local, reducing the "escape" spending from the Kelmscott/ Armadale region, and creating a catalyst for future development in Armadale and the South East Corridor.

The meeting we had on Monday was valuable but we are aware that neither the Development Services Committee nor the balance of the Council has had the benefit of those discussions. Accordingly we request that we are given an opportunity to attend the Development Services Committee on the 10th of November 2003, as a deputation, in order to share the discussions we had with you and to answer any questions that Councillors may have. Alternatively, as we have previously offered, we are prepared to make ourselves available to make a presentation at a separate meeting at your direction. Given the understandable sensitivity Councillors have about meeting with or talking to proponents individually, a deputation to the committee provides a suitable environment for an exchange of views to occur.

Yours faithfully,

A handwritten signature in black ink, appearing to read "D Chesson", written over a horizontal line.

Dr Daniel Chesson
Project Manager: Kelmscott Central Shopping Centre

SCHEDULE OF SUBMISSIONS			
TOWN PLANNING SCHEME NO.2 AMENDMENT NO. 186			
NO	NAME & ADDRESS	AFFECTED PROPERTY	RECOMMENDATION
1	Environmental Protection Authority	<ol style="list-style-type: none"> Recommended that within 250m for the Rural-Kennel zone, residential development and noise sensitive premises should not proceed until such time as the kennels have been removed. Appropriate memorials should be placed on titles within 250-500m from the Rural-Kennel zone. 	<ol style="list-style-type: none"> Supported. The advertised Structure Plan shows the site divided into two precincts specifically to address the issue of development within both 250 metres and 500 metres of the Rural Kennel Zone. The Structure Plan has now been amended to reflect commitments made in this regard.
2	City of Gosnells	<ol style="list-style-type: none"> In- principle support. Need to ensure adequate road reservation widths – currently under review with Department for Planning and Infrastructure. Appropriate contributions should be sought for upgrading Ranford Rd/ Warton Rd intersections. Memorials should be placed on titles regarding noise from the Canine Association. Retail modelling suggests only 4,500m² of retail floor space can be supported at this location, though minor increases may be able to be supported. Development approvals for 4,500m² of retail floor space already been approved on the northern side of Ranford Rd. No justification provided for additional retail floor space. The proposed services station and fast food uses are likely to adversely impact on the pedestrian focus of the neighbourhood centre at this location. 	<ol style="list-style-type: none"> Noted. Noted. If extra widths than shown on the Structure Plan are needed this can be dealt with at subdivision. Roadways have been designed in accordance with WAPC policy. Noted. Road upgrading will be applied in accordance with standard WAPC policy. It should be noted that the full widening of the road reserve for Ranford Road has been provided within the subject land. Supported. The Structure Plan is annotated to note that memorials will be placed on titles in Precinct A for the negative impacts from the Rural-Kennel zone. The memorials will be extended to include reference to the potential for light and noise impacts from the Canine Association premises. Supported in part. Future retail floor space will occur consistent with SPP No. 4.2 (Metropolitan Centres Policy) and Town Planning Scheme No. 2, and annotations on the Structure Plan have been amended accordingly. Supported in part. Reference to the service station and fast food uses have been deleted. Future development consistent with SPP No. 4.2 (Metropolitan Centres Policy) will need to have a main street focus for development to obtain the 1000m² retail floor area bonus under the policy, and consultation with Gosnells will occur when development applications are received.

SCHEDULE OF SUBMISSIONS			
TOWN PLANNING SCHEME NO.2 AMENDMENT NO. 186			
NO	NAME & ADDRESS	AFFECTED PROPERTY	RECOMMENDATION
3	Department of Health		<p>1. Impact of odour from Rural-Kennel zone and noise and lighting from activities of the Canine Association not adequately addressed. Need appropriate buffer zones on the advice of the Department of Environment Air Quality branch.</p>
4	Main Roads Western Australia		<p>1. No formal comments to offer.</p>
5	Department of Conservation and Land Management		<p>1. Road interface with Bush Forever site is supported.</p> <p>2. With regard to the development interface:</p> <ul style="list-style-type: none"> • it should be fenced prior to road construction; • no construction debris should be placed in the Bush Forever site; and • a dieback management plan should be prepared. <p>3. Landscaping adjacent to the Bush Forever Site should ensure invasive plants that would become bushland weeds are not used.</p> <p>4. Prospective purchasers should be advised not to plant potential weeds.</p> <p>5. Fire management should be considered in the context of the Fire and Emergency Services Authority/ Western Australian Planning Commission <i>Planning for Bushfire Protection</i> document.</p> <p>6. The form of the 2.6ha of public open space in precinct A is not defined. The Department would support retention of native vegetation in this public open space.</p> <p>7. The Department considers further survey for Declared Rare Flora unnecessary.</p>
6	Western Power		<p>1. No objections to the proposed rezoning, but need to note location of Cannington Terminal – Pinjarra 132kV transmission line along the western boundary of the Structure Plan area.</p>
7	EM Green 112 Wright Rd Forrestdale	112 Wright Rd, Forrestdale	<p>1. Area should be reserved for Parks and Recreation to protect bushland.</p>

SCHEDULE OF SUBMISSIONS TOWN PLANNING SCHEME NO.2 AMENDMENT NO. 186			
NO	NAME & ADDRESS	AFFECTED PROPERTY	RECOMMENDATION
		<p>2. Area could be named after Mr Nash who used to run a poultry farm on the (former) Lot 3.</p> <p>3. Area is adjacent to a high fire risk area, but no fire management measures are proposed.</p> <p>4. Noise from Canine Association activities and aircraft from Jandakot and Perth airport affect the site.</p> <p>5. Traffic problems at Wright Rd/ Ranford Rd will increase.</p> <p>6. Will adversely affect Harrisdale Swamp and require extensive drainage and sand infill.</p>	<p>2. Not supported. The currently proposed estate name for the project is derived from adjacent Harrisdale Swamp. It should be noted that the current name is an estate name that might be subject to future change.</p> <p>3. Not supported. It is expected that a low-fuel zone would be established along the bushland/ urban interface to reduce the risk of arson and this would reduce the fire risk so large separation distances are not required.</p> <p>4. Not supported. The site is outside the noise contours associated with both Jandakot and Perth airports. Memorials will be placed on titles to alert purchasers of the potential for noise and light impacts from Canine Association activities.</p> <p>5. Noted. The road hierarchy external to the site is provided in accordance with the District Structure Plan. The Cities of Armadale and Gosnells are currently preparing documentation for transmittal to Main Roads Western Australia requesting that traffic lights be provided at this intersection.</p> <p>6. Not supported. Development of the subject land has been planned with due consideration to adjacent Harrisdale Swamp. The location of the interface has been endorsed by EPA, CALM and other relevant agencies. Compliance with maintaining any subsoil drainage levels at or above the Average Annual Maximum Groundwater Levels and export of excess water through Lakey Road should ensure Harrisdale Swamp will not be adversely affected. If fill were required it would be brought in along Ranford Road that is already busy.</p>

SCHEDULE OF SUBMISSIONS TOWN PLANNING SCHEME NO.2 AMENDMENT NO. 186			
NO	NAME & ADDRESS	AFFECTED PROPERTY	RECOMMENDATION
RESUME OF SUBMISSION			
8	GW Hendricks 20 Wright Rd Forrestdale	Lots 107 & 107 Wright Rd (part of Structure Plan)	1. Good mix of land uses. Hope it will stop rubbish dumping.
9	Killalo Nominees P/L 26 Mettler Ct Canning Vale	Sanctuary Waters Estate	1. Fully agree with rezoning. 2. We get more noise from the trucks than the kennels, but kennels should be located further out and given permits for a maximum time period of say 5 years.
10	Mr & Mrs T Morris 5 Wright Rd Forrestdale	5 Wright Rd, Forrestdale	1. Intersection of Wright Rd/ Ranford Rd already congested at school arrival and departure times - Fast food premises on the corner will exacerbate the problem.
11	Garry Robinson 1 Roeback Ave Canning Vale	1 Roeback Ave, Canning Vale	1. Group housing should be situated at Wright Rd end of the proposal because group housing will worsen the crime rate near Warton Rd. 2. Strip of natural bushland along Warton Rd should be left as a noise barrier from vehicles travelling west along Warton Rd.
12	H & D Walker 12 Hatch Ct	12 Hatch Ct, Forrestdale	1. No objections, but observed a typographical error in the covering letter.

SCHEDULE OF SUBMISSIONS TOWN PLANNING SCHEME NO.2 AMENDMENT NO. 186			
NO	NAME & ADDRESS	AFFECTED PROPERTY	RECOMMENDATION
	Forrestdale		<ol style="list-style-type: none"> 2. Supported in part. The adjacent Rural-Kennel zone is included as future urban land under the District Structure Plan and this area is expected to be redeveloped over time to urban uses. The buffer will remain (as described on the Structure Plan) until this land use change occurs. This amendment does not affect the Rural - Kennel zone. 3. Noted. The Amendment and Structure Plan take the existing Rural - Kennel zone into account and are not expected to directly affect the continuation of existing kennels within the Rural - Kennel zone. Although not part of this amendment, even if the Rural - Kennel zone was rezoned to Urban, existing kennel uses would have non-conforming use rights and would be able to continue operating.
13	Friends of Forrestdale (David James) 134 Commercial Rd Forrestdale		<ol style="list-style-type: none"> 2. Even if the Rural - Kennel zone is removed existing licensed kennels will have non-conforming rights so the need for a buffer would remain. 3. Our main concern is that we will be able to continue our kennel zone use.
14	The Canine Association of Western Australia (Inc) PO Box 1404 Canning Vale	Corner of Wright Rd and Ranford Rd	<ol style="list-style-type: none"> 1. Concerned that the hydrology of Harrisdale Swamp will suffer from drainage and bore water extraction that will adversely affect wetland vegetation. 2. Predatory pets such as dogs and cats should not be permitted. 3. The bushland area should be managed as part of Jandakot Regional Park.
			<ol style="list-style-type: none"> 1. Not supported. The hydrology of Harrisdale Swamp will be protected through the requirements of the Urban Water Management Strategy. 2. Not supported. Dogs are managed under the <i>Dog Act</i> and cat control is best considered under the <i>Local Government Act 1995</i>. 3. Noted. This is not a matter that can be addressed through the Scheme Amendment and Structure Planning process.
			<ol style="list-style-type: none"> 1. Supported. The Structure Plan is annotated to note that memorials will be placed on titles in Precinct A for the negative impacts from the Rural-Kennel zone. The memorials will be extended to include reference to the potential for light and noise impacts from the Canine Association premises.

Delegations
Council to CEO

REGISTER OF DELEGATIONS – COUNCIL TO CEO

DATE: June 2002

Local Government Act 1995

NO.	SECTION	DELEGATION	ASSIGNEE(S)
13	9.28	<p>Power to take proceedings with respect to enforcing, securing the observance of, or preventing the breach either of the provisions of any of the City's town planning schemes made under the Town Planning & Development Act 1928 or the provisions of the Town Planning and Development Act 1928. This delegation is subject to the following conditions:-</p> <ol style="list-style-type: none"> 1. The power shall only be exercised by the Chief Executive Officer where, in the opinion of the Chief Executive Officer – <ol style="list-style-type: none"> 1.1 it is necessary as a matter of urgency to do so; and there is insufficient time or other good reason which makes it impractical to await the resolution of the Council of the City at its next meeting authorising the taking of proceedings by the City. 2. The Chief Executive Officer shall report to the Council of the City at its next meeting following the exercise of the power, informing the Council of the action taken in exercising the power and the reasons for exercising the power. 	Yes

Delegations
Council to Building Services Manager

DELEGATIONS – COUNCIL TO BUILDING SERVICES MANAGER

Local Government (Miscellaneous Provisions) Act 1960

NO.	SECTION	DELEGATION	ASSIGNEE(S)
90	374(1b)	In accordance with Council's predetermined policy in respect to building matters, the Building Services Manager (or person appointed Acting Building Services Manager) be authorised to approve or refuse building licence applications, except that where a discretionary power is vested in the Council, the application for the building licence, together with a report of the Building Services Manager, be referred to the Development Services Committee for recommendation to Council.	No

Strata Titles Act 1985

NO.	SECTION	DELEGATION	ASSIGNEE(S)
100	23(4)	Authority to approve and sign Strata Title Certificates which come within the boundaries of the Municipality. Any such Certificate will not be issued until the Building Services Manager is satisfied that the building has been inspected and found to comply with the approved building plans and Strata Title.	No

Delegations
Council to Health Services Manager

DELEGATIONS – COUNCIL TO HEALTH SERVICES MANAGER

Health Act 1911

NO.	SECTION	DELEGATION	ASSIGNEE(S)
120	26	Powers and functions of Council under:- Part IV - Division 3 (Connection of Premises to Drains and Sewers) Division 4 (Sanitary Conveniences) Division 7 (Pollution of Water) Part V - Division 1 (Houses Unfit for Habitation) Part VI - (Public Buildings) Part VII - Division 1 (Nuisances) Part VIII - (Food Generally)	No

of the Health Act, and the following Regulations and Local Laws made under the Act:

- Health (Food Hygiene) Regulations 1993
- Health (Cloth Materials) Regulations 1985
- Health (Pet Meat) Regulations 1990
- Health (Meat Hygiene) Regulations 2001
- Health (Public Buildings) Regulations 1992
- Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974
 - Sewerage (Lighting, Ventilation and Construction) Regulations 1971
 - Health (Skin Penetration) Regulations 1998
 - Health Act (Swimming Pools) Regulations 1964
 - The City Of Armadale Health Local Laws 2002
 - Health (ANZ Food Standards Code Adoption) Regulations 2001
 - Health (Air Handling and Water Systems) Regulations 1994
 - Hair Dressing Establishment Regulations 1972
 - Health (Temporary Sanitary Facilities) Regulations 1997
 - Fly Eradication Regulations

Subject to the following limitations and conditions:-

1. With respect to:
Part IV – Divisions 3, 4 & 7
authority is limited to the forming of opinions, the issuing of notices, requisitions, directions and orders, and, subject to prior consultation with and agreement of the Development Services Committee Chairman and Executive Director Development Services, the carrying out, or causing to be carried out, works in default of duly served notices, and does not include the undertaking or contracting of works, the

Delegations
Council to Health Services Manager

Health Act 1911

NO.	SECTION	DELEGATION	ASSIGNEE(S)
		provision of sanitary conveniences or receptacles, the making of charges for works or the supply of pans or receptacles for refuse.	
2.		With respect to:- Part V – Division 1 authority is limited to the forming of opinions and issuing of notices and directions, subject to prior consultation with and agreement of the Development Services Committee Chairman and Executive Director Development Services, and does not include the carrying out of works in default of duly served notices.	
3.		With respect to : Part VII Division 1 authority extends to the issuing of requisitions and, in the case of default, the causing of requisite work to be done, with the limitation that such action has been subject to prior discussion with and agreement of the Development Services Committee Chairman and the Executive Director Development Services.	
4.		A report is to be submitted to Council each month advising of any action taken pursuant to delegated authority.	
5.		Delegations with respect to Regulations and Local Laws are subject to the limitation only specific or Policy decisions of Council from time to time.	

Delegations
Council to Health Services Manager

Caravan Parks & Camping Grounds Regulations 1997

NO.	SECTION	DELEGATION	ASSIGNEE(S)
130	Reg 6	Licensing of Caravan Parks	No
131	Reg 6	Approval of occupation of a caravan, other than at a Caravan Park.	No

Health (Treatment of Sewage & Disposal of Effluent & Liquid Waste) Regulations 1974

NO.	SECTION	DELEGATION	ASSIGNEE(S)
140	Reg 4	Powers and functions of Council for the purposes of Regulation 4 are delegated to the Environmental Health Officers, while in the employment of Council	No

Delegations
Council to CEO

Other Delegations

NO.	AREA	DELEGATION	ASSIGNEE(S)
601	BUILDING	Authority to approve front boundary fencing over 1200 millimetres high. Local Government Act 1995 – Section 5.42(1) Local Laws Relating to Fencing	Yes

NO.	AREA	DELEGATION	ASSIGNEE(S)
602	BUILDING	Swimming Pools – Infringement Notices <ol style="list-style-type: none"> 1. Where an Infringement Notice is served on a person, and the modified penalties have not been paid within the prescribed twenty-one day period, and the offence does not continue, an extra period of fourteen days grace be allowed, and this be conveyed to the person in writing. 2. If, after the prescribed twenty-one day period and the fourteen day period of grace, the modified penalties have not been paid, the Building Services Manager or person so acting in that position be authorised to commence legal proceedings subject to endorsement by the Chief Executive Officer. 3. The appointment of authorised officers under Section 245A of the Local Government (Miscellaneous Provisions) Act 1960 be set by resolution of the Council to conduct all proceedings relating to unpaid Infringement Notices. Notwithstanding the above, the authorised officers and Chief Executive Officer be given the option of referring any matter to Council if they consider there are exceptional circumstances which warrant such action. Local Government Act 1995 – Section 9.16	Yes

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
700	Authority to Determine Applications for Establishment or Variation of Development Envelope Location	No

Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for the establishment or variation to an established development envelope which has satisfactorily addressed Policy requirements.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications for the establishment or variation to an established development envelope which has not satisfactorily addressed Policy requirements.

~~In the event an applicant is aggrieved following a refusal for the establishment or variation to an established development envelope under delegated authority, a request in writing may be made to Council to have the matter deliberated and determined by Council.~~

City of Armadale Town Planning Scheme No 2.

701	Authority to Determine Applications For Two Houses on One Lot in a Rural Zone	No
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Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications which comply with the mandatory criteria for a second residence outlined in the Town Planning Scheme No 2 and which satisfy the other general criteria outlined in Policy requirements.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications which do not comply with the mandatory criteria for a second residence outlined in Town Planning Scheme No 2 and/or which do not satisfy the other criteria outlined in Policy requirements.

~~In the event an applicant is aggrieved following refusal for the second residence under delegated authority or seeks a variation to provision with Town Planning Scheme, a request in writing may be made to Council to have the matter deliberated and determined by Council.~~

City of Armadale Town Planning Scheme no 2.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
702	Authority to Exercise Powers of Approval for Subdivisions, Development, Advertising Devices and Miscellaneous Matters	No

The Executive Director Development Services and/or Planning Services Manager be given full delegation to deal with:

1. All subdivisions that conform with Council's Town Planning Schemes No 2 and 3 (as amended). Applications received for more than 100 lots are to be referred to Council for consideration unless the said application complies with a subdivision Guide Plan or Outline Development Plan adopted by Council.
2. All MRS Form-1 Development Applications for Permitted "P" uses provided they conform to Council's approved Town Planning Schemes Nos 2 and 3 and any adopted or related policies.
3. Where delegation is specifically provided for in accordance with a Council resolution or adopted policy.
4. Direction signs for isolated businesses (with the exception that any proposed refusals by the Executive Director Development Services be referred to Council for determination).
5. Direction signs for isolated community facilities (with exception that any proposed refusals by the Executive Director Development Services be referred to Council for determination).
6. Advertising devices complying with the Signs, Hoardings and Billposting Local Law and Advertising Signs Policy (with the exception of signs on buildings or property under Council's care, control and management, and with the exception that any proposed refusals by the Executive Director Development Services be referred to Council for determination).

The Building Services Manager also be given full delegation to deal with:

7. All MRS Form 1 Development Applications for single houses and outbuildings ~~in the Residential and Rural Zoned areas~~ *within all zones* provided they conform to Council's approved Town Planning Schemes Nos 2 and 3, the Residential Design Codes (where relevant) and any adopted or related policies.
8. *All extensions and minor additions to approved group housing and aged persons developments.*

City of Armadale Town Planning Scheme No 2 & No 3.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
703	Authority to Determine Applications for Commercial Vehicle Parking	No

Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications where:

- an applicant seeks renewal to an existing permit issued by Council where there have been no complaints received from adjoining or surrounding residents; or
- an application complies with all Scheme provisions and there has been no sustainable objection concerning the activity following advertising.

Approvals shall be valid for a period of 12 months at which time renewal will be required following payment of the prescribed fee.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications:

- in circumstances where an application is received and the proposal does not comply with the requirements of Town Planning Schemes No 2 & 3;
- where substantiated objections are received during advertising.

City of Armadale Town Planning Schemes No 2 & 3

704	Authority to Determine Applications for Home Occupation Permits	No
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Approvals

- a. an applicant seeks renewal to an existing HOP issued by Council where there has been no complaints received from adjoining or surrounding residents;
- b. where advertising has occurred for an application and no sustainable objections have been lodged;
- c. the Executive Director Development Services deems the proposal as non-contentious.

Refusals

- d. an application does not comply with the Home Occupation Provisions identified in Town Planning Scheme No 2 or Town Planning Scheme No 3;
- e. substantiated objections are received during advertising;
- f. the scale of compatibility criteria score is 30 or above.

City of Armadale Town Planning Scheme No 2 & No 3

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
705	Authority to Determine applications for Duplex Development in a Residential Zone ****	No

~~Where applications for duplexes satisfy all Residential Planning Code requirements and comply with Council's adopted Group Dwelling Policy, it appears unreasonable to delay determination for periods up to 5 weeks awaiting Council approval, causing additional workloads on Councillors and Council staff and ultimately being a cause of complaint as to unnecessary delay. For the above reasons Council adopted the following Policy of Delegation (in addition to the existing Policy for Grouped Dwellings in Single Residential Areas, Clause 4.3.6) in respect to approving duplex developments in single residential areas:~~

- ~~1. The Executive Director Development Services and/or Planning Services Manager be authorised to approve sites/applications for "duplexes" in Residential Zones under Town Planning Schemes Numbers 2 which comply With Scheme standards and comply with the following **mandatory** locational requirements:

 - ~~• lots size not less than 900m² (consistent with present policy);~~
 - ~~• site located not closer than six lots on same side of street to nearest existing duplex or "unit" site;~~

~~and the following **desirable** locational requirements:~~

 - ~~• site abutting open space reserve;~~
 - ~~• site constituting corner lot;~~
 - ~~• site located within 400m of community/shopping facilities.~~~~
- ~~2. Contemplated refusals or requests for variation in standards to be referred to Council for deliberation.~~

~~City of Armadale Town Planning Schemes No 2~~

~~**** DELETED COUNCIL RESOLUTION D147/8/03 ****~~

706	Authority to Approve Reduced side and/or Rear Setbacks in the General Industry and Light Industry Zones	No
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The Executive Director Development Services and Planning Services Manager be given full delegation to determine applications for development which seek a reduced side and/or rear setback in the General Industry and Light Industry zones for proposals which satisfy the other criteria outlined in the Statement of Planning Policy 4.3.12 for Industrial Design Guidelines and which comply with the following objective.

- The development does not compromise the amenities or the future development of the locality
- The development incorporates high standards of factory design and appearance, landscaping and provision of facilities.

Note: This only applies to use classes for which delegation already exists.

City of Armadale Town Planning Scheme No 2

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
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707	Authority to Determine Whether a Telecommunications Facility is a Use That May be Consistent with Objectives and Purposes of Zones and Reserves Within the City, and to Advertise	No
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The Executive Director Development Services and the Planning Services Manager be given full delegation to determine with respect to Development Applications for Telecommunications Facilities as to whether a Telecommunications Facility is a use that may be consistent with the objectives and purposes of Zones and Reserves within the City of Armadale.

If, in the opinion of the Executive Director Development Services and/or the Planning Services Manager, a proposed Telecommunications facility is a use that may be consistent with the objectives and purposes of Zones and/or Reserves within the City, the proposal may be directly advertised in accordance with the provisions of clauses 7.2 and 11.7 of the Town Planning Schemes Nos 2 and 3 respectively.

The Chair of the Development Services Committee and Ward Members are to be notified of proposals for Telecommunications Facilities at the commencement of the advertising period.

City of Armadale Town Planning Scheme No 2 and 3.

708	Authority to Determine Applications for Extensions and/or Revisions to Existing Approved 'AA' and 'SA' Uses	No
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Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for extensions and/or revisions to existing approved 'AA' and 'SA' uses subject to satisfying the following criteria:

- The proposal is consistent with Town Planning Scheme and Policy provisions, including public notification procedures.
- The scale of the extension does not alter the original intent of the development or substantially increase its operational capability.
- The architecture and colour scheme of the extension is consistent with or improves the existing development.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications for extensions and/or revisions to existing approved 'AA' and 'SA' uses which have not satisfactorily addressed the above criteria.

City of Armadale Town Planning Schemes Nos 2 and 3

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
709	Authority to Determine Applications for Minor Developments on Reserved Land	No

Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for minor developments on reserved land subject to satisfying the following criteria:

- The proposal is consistent with all Town Planning Scheme provisions.
- In regard to applications relating to schools, the proposal does not compromise the safe provision of access/egress and on-site traffic flow including drop-off and pick-up points.
- In regard to the addition of built structures, the addition is to either match, be compatible with, or provide an improvement to the existing structures in terms of architectural merit, colour scheme and materials of construction.
- In regard to applications relating to demolition work, the structure/s must be assessed as having no existing recognised or potential heritage value.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications for minor developments on reserved land which have not satisfactorily addressed the above criteria.

City of Armadale Town Planning Schemes Nos 2 and 3

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
710	Authority to Determine Applications for Renewal of Approval of 'AA' and 'SA' Uses	No

Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for 'AA' and 'SA' uses, the approval of which has lapsed, subject to satisfying the following criteria:

- The details of the previously approved use have not substantially altered.
- The surrounding land uses have not substantially changed.
- There has been no Scheme or Policy change or strategic reconsideration of the area the subject of the application.
- In the case of minor amendments to previous applications that could, in the opinion of the Executive Director Development Services and/or Planning Services Manager affect adjoining owners, the application to be re-advertised.

Refusals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications for 'AA' and 'SA' uses, the approval of which has lapsed.

City of Armadale Town Planning Schemes Nos 2 and 3

711	Authority to Approve Variations to the Residential Design Codes	No
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Approvals

The Executive Director Development Services, Planning Services Manager and Building Services Manager are delegated authority to approve applications for developments that require variations to the Acceptable Development requirements of the Residential Design Codes (R-Codes) where such variations satisfy:

- The Objectives and Performance Criteria of the R-Codes;
- The scheme requirements; and
- Any relevant Council policy.

Refusals

The Executive Director Development Services, Planning Services Manager and Building Services Manager are delegated authority to refuse applications for developments that require variations to the Acceptable Development requirements of the Residential Design Codes (R-Codes) which have not satisfactorily addressed the above criteria.

City of Armadale Town Planning Schemes Nos 2 and 3

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
712	Authority to Exercise Discretion on Behalf of Council to Reach Determination, Where Appropriate, of Appeals Processed by Mediation	No

The Executive Director Development Services and/or Planning Services Manager is delegated authority to exercise discretion on behalf of Council to reach determination, where appropriate, of Appeals processed by mediation within the Ministerial Planning Appeal system and within the Town Planning Appeal Tribunal system under the Town Planning and Development Act 1928.

City of Armadale Town Planning Schemes Nos 2 and 3

713	Authority to Determine Applications for Incidental Uses	No
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Approvals

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for incidental uses subject to the application satisfying the following criteria:

- An approval has been, or is to be issued for the predominant use on site;
- The proposal is consistent with the current Town Planning Scheme and any Policy provisions that may be relevant;
- The architecture and colour scheme of any additional development is consistent with or improves the existing structures on site; and
- The scale of the proposed use is incidental to the predominant use of the site.

Variations from these criteria or contemplated refusals to be referred to Council for determination.

City of Armadale Town Planning Schemes Nos 2 and 3.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
714	Authority to Determine Applications Involving Properties Listed on The Municipal Heritage Inventory	No

APPROVALS:

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications involving properties listed on the Municipal Heritage Inventory subject to the application satisfying the following criteria:

Applications for development involving properties, objects, structures and places listed as Category 'A' in the Municipal Heritage Inventory:

- The proposal is consistent with the current Town Planning Scheme and any Policy provisions that may be relevant;
- Consultation with the Heritage Council of Western Australia is undertaken and favourable advice is received;
- Consultation with the Community Heritage Advisory Committee is undertaken and favourable advice is received.
- Advertising is undertaken as appropriate and no sustainable objections are received

Applications for development involving properties, objects, structures and places listed as Categories 'B' through 'F' in the Municipal Heritage Inventory:

- The proposal is consistent with the current Town Planning Scheme and any policy provisions that may be relevant; and
- Consultation with the Community Heritage Advisory Committee is undertaken and favourable advice is received.

REFUSALS:

The Executive Director Development Services and/or Planning Services Manager is delegated authority to refuse applications involving properties listed on the Municipal Heritage Inventory if any of the following apply:

- The proposal is not consistent with the current Town Planning Scheme and any relevant Policy provisions;
 - The proposal would have a detrimental effect on the integrity of heritage value of the site;
- The advice received from the heritage referral agencies is not favourable.

Notes

Development that, in the opinion of Executive Director Development Services/ Planning Services Manager, is of a significant scale (including demolition of Category 'A' structures) does not form part of this delegation.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Where an application has been submitted by a qualified heritage architect or is accompanied by a report from such professional, this will contribute to the favourable consideration of the application.

City of Armadale Town Planning Schemes Nos 2 and 3.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
715	Authority to Determine Applications for Bed and Breakfast Establishments	No

APPROVALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to approve applications for bed and breakfast establishments subject to the application satisfying the following criteria:

Applications for bed and breakfast establishments:

- a) The proposal is consistent with the current Town Planning Scheme definition;
- b) Advertising to surrounding landowners for a minimum of two (2) weeks is undertaken as appropriate and no reasonable objections are received; and
- c) Officers are satisfied that the criteria of Clauses 7.3 and 11.4 of TPS No.2 and No.3 respectively are adequately addressed.

REFUSALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to refuse applications for bed and breakfast establishments if any of the following apply:

- a) The proposal is inconsistent with the current Town Planning Scheme definition;
- b) Advertising to surrounding landowners for a minimum of two (2) weeks is undertaken as appropriate and reasonable objections are received; or
- c) Officers are not satisfied that the criteria of Clauses 7.3 and 11.4 of TPS No.2 and No.3 respectively are adequately addressed.

NOTES:

- a) If a planning approval is to be issued, an advice note is to be included on the approval indicating to the applicant that compliance with the forthcoming Food Standards Code and the Building Code of Australia 1996 is required.
 - b) Where appropriate and to avoid confusion, signage identifying a bed and breakfast establishment may be required as a condition of approval. An advice note is to be included on all approvals indicating that a separate application and approval is required for advertising signage.
 - c) Where applications do not comply with the criteria of section 2.1 above, but is nevertheless supported by Council officers, the application is to be referred to Council for consideration.
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Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
716	Authority to Determine Applications for the Keeping of Farm Animals	No

APPROVALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to approve applications for the keeping of farm animals (horses, sheep, cattle, goats, deer, llamas and alpacas) in the 'Rural' zone subject to the application satisfying the following criteria:

- Application complies with the provisions of Council's Rural Strategy;
- Management details are submitted in accordance with the *Stocking Rate Guidelines for Rural Small Holdings* (AgWA, 2000);
- The stocking rate, as outlined within the *Stocking Rate Guidelines for Rural Small Holdings* (AgWA 2000), is not exceeded;
- The application is advertised to surrounding landowners for a minimum of 14 days in accordance with Clause 7.2 of TPS No. 2 and no reasonable objections are received;
- Application to be referred to the DCU (including Council's Environmental Officer and Health Department) with no objections noted.

REFUSALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to refuse applications for the keeping of farm animals where the application does not satisfy the above 'Approvals' criteria.

NOTE:

Applications varying from these criteria but considered appropriate are to be referred to Council for determination. Applications for free range poultry and game bird production are not included in this delegation.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
717	Authority to Determine Applications for Stables / Shelters	No

APPROVALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to approve applications for stables / shelters in the 'Residential', 'Rural', 'General Rural' and 'Rural Groundwater Protection' zones subject to the application satisfying the following criteria:

- The application complies with the requirements of TPS No. 2 and the Environment, Animal and Nuisance Local Laws;
- The application is advertised to surrounding landowners in accordance with Clause 7.2 of TPS No. 2 and no reasonable objections are received;
- Application to be referred to the DCU (including Council's Environmental Officer and Health Department) with no objections noted.

REFUSALS:

The Executive Director Development Services and / or Planning Services Manager is delegated authority to refuse applications for stables / shelters where the application does not satisfy the above 'Approvals' criteria.

NOTE:

Applications varying from these criteria but considered appropriate are to be referred to Council for determination.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
718	Authority to Determine Applications for Group Housing and Aged or Dependant Persons Developments	No

APPROVALS:

The Executive Director Development Services and/or Planning Services Manager is delegated authority to approve applications for group housing *and aged persons accommodation, including applications requesting a density bonus to a maximum of 'R40' under Table 1.1 of Town Planning Scheme No. 2* where the following criteria are met:

- a) The proposal complies with the requirements of the Residential Design Codes of Western Australia, Council's Group Housing Development Policy and Town Planning Scheme No 2;
- b) If variations to the Policy are proposed, advertising is to be undertaken for a minimum of 14 days in accordance with Clause 7.2 of TPS No 2 and no valid objections are to be received;
- c) In terms of the Residential Design Codes of Western Australia:
 - i. Proposed variations are to be acceptable under the Performance Criteria;
 - ii. Proposed variations are to be advertised when necessary for the prescribed 14 day period;
 - iii. No reasonable objections are to be received in response to the advertising period.

REFUSALS:

Contemplated refusals are to be referred to Council for determination.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
719	Authority to Determine the Necessity, Duration and Extent of Advertising of Development Services Applications	No

The Executive Director Development Services and/or Planning Services Manager and/or Building services Manager is delegated authority to determine the necessity, duration and extent of advertising of development applications under Town Planning Scheme No's 2 and 3 and the Residential Design Codes of Western Australia by reference, based on the following minimum standards:

- a) 'AA' Uses – minimum 14 days.
- b) 'SA' Uses and 'Uses Not Listed' – minimum 21 days.

City of Armadale Town Planning Scheme No's 2 and 3

NO.	DELEGATION	ASSIGNEE(S)
720	Authority to Determine if a 'Use Not Listed' is Consistent with the Objectives and Purpose of a Zone	No

The Executive Director Development Services and/or Planning Services Manager Is delegated authority to determine if a 'Use Not Listed' is consistent with the Objectives and purpose of the zoning in which the subject site is situated, in Accordance with Clauses 3.4 and 3.3 of Town Planning Schemes No 2 and 3 Respectively.

Note - Where in the opinion of the Executive Director Development Services/ Planning Services Manager a "Use Not Listed" is considered not to be consistent with the objectives and purpose of the zoning in which the subject site is situated, the application is to be referred to Council for determination.

Delegations
Council to Executive Director Development Services and Planning Services Manager

Planning Delegations

NO.	DELEGATION	ASSIGNEE(S)
721	Authority to Determine Requests for Tree Removal or Maintenance and to Rescind Tree Preservation Orders.	No

APPROVALS:

The Executive Director Development Services and/or Planning Services Manager is delegated authority, if after seeking comments from Council's Manager Parks and Reserves, no objections are raised, to:

- Determine requests to remove trees with a trunk circumference in excess of 0.6 metres measured at a height of one (1) metre from the ground in the Rural zone;
- Determine requests to maintain trees that are subject to tree preservation orders;
- Rescind tree preservation orders where the removal of trees is found to be necessary;
- Determine whether a tree may be certified as dangerous under TPS No 3;
- Determine whether the removal or maintenance of a tree is necessary to provide a utility or service under TPS No 3.

Note: Where appropriate, an arboriculturalist's report will be required to clearly outline whether the removal or maintenance of a tree or trees is necessary.

REFUSALS:

Contemplated refusals are to be referred to Council for determination.

Delegations
Council to Executive Director Development Services and Planning Services Manager

New Delegation

Authority to Determine Factory Unit / Tenement 'requirements

The Executive Director Development Services and / or Planning Services Manager is delegated authority to determine Development Applications relative to Clauses 5.5.1(c) (Storage Yard Provision), 5.5.1(e) (Internal Alterations), 5.5.2(c) (Access Way Width) and 5.5.3 (Storage Yard Screening) of Town Planning Scheme No.2.

