



CITY OF BAYSWATER

AGENDA

FOR THE

SPECIAL MEETING

OF COUNCIL

4 November 2009

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CITY OF BAYSWATER

Dear Members

I have pleasure in advising that a Special Meeting of the Bayswater City Council will take place in the Council Chamber, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on *Wednesday, 4 November 2009* commencing at *7:00pm*.

(A meal will be served at 6.30pm)

Yours sincerely

FRANCESCA LEFANTE
CHIEF EXECUTIVE OFFICER

29 October 2009

A G E N D A

1 OFFICIAL OPENING

**2 RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)**

2.1 Attendance and Apologies

2.2 Leave of Absence (Previously Approved)

Cr Sylvan Albert	from 26 October 2009	-	08 November 2009 inclusive.
Cr Sally Palmer	from 09 November 2009	-	14 November 2009 inclusive.
Cr Mike Anderton, JP	from 28 October 2009	-	29 October 2009 inclusive.
	from 01 December 2009	-	05 December 2009 inclusive.
Cr Graham Pittaway	from 22 November 2009	-	26 November 2009 inclusive.

3 PUBLIC QUESTION TIME

- In accordance with Section 5.24 of the *Local Government Act 1995*, time is allocated for questions to be raised by members of the public.
- Pursuant to Regulation Part 4(b) of the *Local Government (Administration) Regulations 1996* questions from the public must relate to the Agenda for the Special Council Meeting

4 APPLICATIONS FOR LEAVE OF ABSENCE

5 DISCLOSURE OF INTEREST SUMMARY

In accordance with Section 5.65 of the *Local Government Act 1995*:

A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

6 URGENT BUSINESS

7 PETITIONS

8 BUSINESS**8.1 Representation to Council on the Proposed Liquor Store and Tavern Proposals**

Location: Lot 101, No.497 Guildford Road, Bayswater
File No: DA09-0356, DA09-0357
Applicant: Joseph Tili
Owner: Project Development (WA)
Officer: Director of Planning and Development Services

Application

This Item provides for representation to be made on the proposed Liquor Store application and the proposed Tavern application both listed on this agenda.

Background

The site at Lot 101, No.497 Guildford Road, Bayswater has generated a significant amount of community interest with a number of submissions being received in relation to the original proposal for a commercial development.

The community has been notified of the current applications and representation has been made by the proponents and objectors.

Comment

Given the community interest on this matter it is considered that representation be made by the proponent and by the community regarding the proposals.

Summary

The applications for a liquor store and a tavern have generated a significant level of community interest.

It is considered appropriate that representation be made by the proponent and by those opposed to the proposals.

Voting Requirements

Simple Majority Required.

Officer's Recommendation

That the information contained in this report be received.

Moved:

Seconded:

8.2 Proposed Liquor Store

Location: Lot 101, No. 497 Guildford Road, Bayswater
Attachments: [No. 1 - Location Plan and Site Photo](#)
[No. 2 - Detailed Plans](#)
File No: DA09-0357
Applicant: Joseph Tilli
Owner: Project Development WA Pty Ltd
Officer: Director of Planning and Development Services
Refer: Item 12.3.10 : OMC : 25.03.2008
Item 12.3.7 : OMC : 22.04.2008
Item 14.15 : OMC : 26.08.2008
Item 13.7 : OMC : 24.02.2009
Item 8.1 : SMC : 15.04.2009
Item 13.1 : OMC : 9.06.2009

Application

1. MRS Form 1 and plans dated 7 July 2009 have been received seeking approval for a 'liquor store' at Lot 101, No. 497 Guildford Road, Bayswater.
2. Council consideration is required as the applicant is seeking consideration of 'liquor store' with a drive-through facility as falling under 'local shopping' in the Special Purpose zoning of the subject property under Town Planning Scheme No.24 (TPS 24).
3. The proposal retains the same layout as the application approved by Council at the Ordinary Meeting on 24 February 2009. No alteration is proposed to the two fast food outlets ('Red Rooster' and drive through coffee outlet) or to the tenancy approved as 'shop 1' from Council's previous approval. The current application seeks Council consideration of a 'liquor store' as falling under the permitted use of 'local shopping'. All other aspects of the current application remain unchanged from Council's approval at the Ordinary Meeting on 24 February 2009.

Background

Town Planning Scheme No. 24 Zoning:	Special Purpose
Permitted Uses:	'Tavern' 'Local Shopping'
Lot Area:	3136 m ²
Existing Land Use:	Vacant
Surrounding Land Use:	Residential, Shop, Fast Food Outlet
Size/Nature of Proposed Development:	Proposed Liquor Store

SCHEME PROVISIONS		REQUIRED	PROVIDED
Setbacks	Primary Street (Guildford Rd)	13.5m	15m**
		6m	18m**
	Secondary Street (Slade Street)	0m	9.7m**
	Side (west)	0m	10m**
	Rear		
Maximum Site Coverage	30%	22%**	
Parking	52 car bays	47 car bays*	
Landscaping	11.3% includes 2m wide strip	9.8% includes 1.5m wide strip**	

*' Council approved a five (5) bay parking shortfall at the Ordinary Council Meeting on 24 February 2009.

**'Indicates that the variation sought was previously approved by Council at the Ordinary Meeting on 24 February 2009.

1. Council granted planning approval for a commercial development (fast food outlets and local shops) at the Ordinary Council Meeting on 24 February 2009, which was re-affirmed at the Special Meeting of Council on 15 April 2009. At the time Council resolved to advise the applicant that a liquor licence outlet on the site will be refused.
2. An application to rezone the site was considered at the Ordinary Meeting of Council on 26 May 2009. The proposed amendment sought to remove the permitted use of 'local shopping' to be replaced with 'shop' as a permitted use and 'fast food outlet' and 'lunch bar' as discretionary uses, reflecting the approved uses on the site and corresponding use classes that is listed and defined in TPS 24 and the Model Scheme Text. Council resolved as follows:

“that the matter be deferred for full discussion to the Local Housing Strategy Density Review Workshop as a matter of urgency.”
3. Council considered an application for the authorisation of a Section 40 Liquor Licence Certificate for a liquor store on the subject site at the Ordinary Meeting of Council on 9 June 2009, where it resolved the following:
 1. *Council issue a Liquor Control Act 1988 Certificate of Local Planning Authority – Section 40 certifying that a liquor store at Lot 101, 497 Guildford Road, Bayswater will not comply with the requirements of Town Planning Scheme No. 24 for the following reasons:*
 - a) *Planning Approval for a liquor store is required under District Town Planning Scheme No. 24; and;*
 - b) *The Council has not given Planning Approval and on 24 February 2009 resolved to inform the applicant that a liquor licensing outlet will be refused.*
 2. *Council advise the applicant and the applicant's solicitors, Kott Gunning, that it does not accept the argument in relation to the advice note on the notice of*

determination, and that the City is firm in its view that the liquor licensing outlet has not been approved, and the terms of the Council's critical resolution of 24 February 2009 make that clear."

4. Council considered the proposal at the Ordinary Meeting of Council on 28 October 2009, where the following resolution was made:

"that this Item be deferred to a Special Meeting of Council prior to 11 November 2009 (to be set by the Mayor) in order for further consideration to take place."

5. The subject application before Council for a 'liquor store' does not give rise to additional planning matters not previously considered by Council at the meetings held on 24 February 2009 and 15 April 2009 other than the issue of the 'liquor store' and its appropriateness with 'local shopping', therefore no further traffic reports are considered necessary in relation to the current proposal.
6. The site has a reciprocal access arrangement with the neighbouring Lot 26 for access, parking and servicing of the two sites. This arrangement is in the form of an absolute caveat across the land, which the City is party to. The applicant is not seeking to alter the existing arrangements with the neighbouring site. There are nineteen (19) parking bays on Lot 26.
7. In around 1996 Lots 101 and 26 were part of a larger singular site. At the time of subdivision, a condition was imposed by the WAPC requiring reciprocal access and parking between the two new lots. This condition resulted in the City becoming party to a deed of reciprocal access.
8. The condition was imposed to ensure that ingress and egress to the site could occur from Guildford Road and Slade Street. Any proposal to alter this agreement would need the concurrence of the land owner(s) of Lot 26 (i.e. they would have to be party to the application for development) and would need the approval of Main Roads WA.
9. A separate planning application for a 'tavern' with a drive through component on the subject site has also been received by the City and is listed as a separate item in this agenda.

Submissions

1. Council sought and considered comments from the community in regard to the previous application for the proposed commercial development that was approved at the Ordinary Meeting of Council on 24 February 2009. The original application presented to Council at the Ordinary Meeting on 25 March 2008 was recommended for approval, as the proposal for a tavern and local shops was considered to be consistent with the permitted uses of 'tavern' and 'local shopping' under the Special Purpose zoning of the property. Under TPS 24, there is no mandatory advertising requirement for uses listed as 'permitted' under TPS 24 unless specifically directed by Council. Notwithstanding, at the 25 March 2008 meeting, Council resolved to advertise the proposal to the community in accordance with Clause 3.3 of TPS 24.
2. Advertising of the current application for the proposed 'liquor store' in accordance with Clause 3.3 of TPS 24 has not been conducted as the liquor store is considered to

be consistent with the permitted use of 'local shopping'. In this regard, all previous submitters have been advised of the proposal and the relevant issues raised on the previous application are addressed in terms of the current application.

3. A total of twenty five (25) written submissions including four (4) petitions containing 320 signatories were received regarding the previous application. The submissions raised the following issues:
 - a) Traffic and parking;
 - b) Enough liquor outlets in area;
 - c) Increase in anti-social behaviour;
 - d) Devalue of property;
 - e) Child safety; and
 - f) Fumes from fast food outlet.
4. Of the submissions received above, fourteen (14) individual submissions and 266 signatories from three (3) petitions objected to the proposal based on the tavern use. Seven (7) submissions, and 54 signatories from one (1) petition, objected to the proposal based on the bottle shop and fast food uses.

Comment

Use Class and Local Shopping

1. The applicant is seeking approval from Council for 'Shop 2' as a 'liquor store' with a drive through facility. Under the provisions of Town Planning Scheme No.24 (TPS 24), the site is zoned 'Special Purpose' with permitted uses of 'tavern' and 'local shopping'. Council previously granted approval for the subject tenancy to be used as a 'shop'. It is a matter for Council consideration as to whether a 'liquor store' falls under the terms of 'local shopping'.
 2. A liquor store is not defined under the provisions of TPS 24, however a 'liquor store' is considered to fall under the land use definition of a 'shop', which is defined under TPS 24 as follows:

"means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in this part."
 3. A retail store that sells liquor without consumption on the premises falls under the definition of a 'shop' under TPS 24. A liquor store satisfies the TPS 24 definition of a 'shop' as the operation provides for '*goods being kept, exposed or offered for sale by retail*'. From a planning perspective, TPS 24 does not differentiate between a premises that displays or offers goods for sale by retail, and a premises that displays or offers liquor for sale by retail, as both are the same activity. TPS 24 in effect does not differentiate between the sale of liquor and the sale of goods, where both are sold direct to the public. A premises that sells liquor and allows consumption on the premises would not be classified as a 'shop' but would be classified as a 'tavern' or similar.
 4. Under TPS 24, the use class of 'Local Shopping' is not currently defined. In summary, the legal advice from the City's solicitors contends that it would be artificial
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to use the individual meanings of the words and that as the phrase ‘Local Shopping’ as used in the Scheme consideration should be given to it having a special technical meaning. The advice argues that as the term ‘Local Shopping’ is not defined within TPS 24, it is reasonable and relevant in the context of the Clause 19(1)1 of the *Interpretations Act 1984* to refer to the definition of ‘Local Shopping’ from when it was first applied over the land. The term “Local Shopping is not defined in TPS 24 or in the immediately prior scheme TPS 21. However, the term is defined in TPS 13 which was the scheme in force at the time this Special Purpose Zone for Lot 101 was created, and at the time when the City’s planning schemes first recognised that ‘local shopping’ was a permitted use in that Special Purpose zone. Under TPS 13 ‘Local Shopping’ was defined as:

“The use of land or buildings for one or more of the following activities – butcher shop, cake shop, green grocer, delicatessen, small goods, hairdresser, newsagent or novelty shop. Any other activities, non conforming with this definition, are only permissible with the approval of Council, if Council considers they serve the day-to-day shopping needs of the locality.”

5. The core issue regarding the liquor store proposal is whether or not the use is considered consistent with the intent of the Special Purpose zoning of the site, which permits local shopping (i.e: open for Council discretion). Whilst the site is likely to attract patronage from passing traffic due to its location on a major road, the proposed use will provide services for local residents in the area and is considered to be consistent with local shopping in this context.
6. Legal advice received from the City’s solicitors previously states that there is a strong likelihood that in an appeal setting a ‘liquor store’ would be considered to fall within the use class of ‘local shopping’ as a liquor store, for the purposes of consideration under TPS 24, is essentially a ‘shop’. Therefore, given the above, a liquor store is also considered to be consistent with ‘local shopping’ and as such is considered to be consistent with the Special Purpose zoning of the site. The solicitors further advised that the State Administrative Tribunal (SAT) would be influenced by the use of ‘tavern’, a liquor licensing outlet, being permitted on the site.
7. It should be noted that when Council considered the request for the Section 40 Liquor Licence Certificate at the Ordinary Meeting on 9 June 2009, Council resolved in accordance with the Officers Recommendation that the Section 40 Certificate be endorsed with notations indicating a planning approval for a liquor store is required under TPS24 and that planning approval has not been given for a liquor store. The 9 June 2009 Officer Recommendation was specifically formed on the basis of the Planning Approval granted at the 24 February 2009 Ordinary Council Meeting where Council approved a shop, but resolved to inform the applicant that an application for a liquor licence outlet on the site would not be supported. In other words, the Officer Recommendation on the Section 40 Liquor Licence application was specifically prefaced on Council’s previous non-approval of a liquor licence outlet. The current application is a new planning application and as such the Officers Recommendation reflects relevant consideration as a new application.
8. A number of submissions have objected to a liquor outlet and believe that it is not appropriate for the site, based on concerns of loss of amenity, increased traffic and increase in anti-social behaviour. Concerns have also been raised in regard to the

number of liquor outlets in the area. The location of the site and the zoning suggest that a commercial development of an appropriate form is acceptable. The current application for a 'liquor store' is not considered to unduly affect the amenity of the surrounding area, particularly as it is considered as being a 'shop' under TPS 24.

Parking

9. The previous application for a commercial development approved by Council on 24 February 2009 was approved with a parking shortfall of five (5) bays. The current proposal maintains the same building layout as the application approved by Council at the 24 February 2009 Ordinary Meeting.
10. TPS 24 does not contain parking standards for a 'liquor store' therefore the most relevant comparable standard is considered to be that of a 'shop', given that a liquor store and a shop both provide for the sale of goods by retail and are in essence the same activity. Therefore, the parking standard applied for the proposed liquor store is the same as that applied to the shop under the previous approval of Council at the 24 February 2009 Ordinary Meeting (i.e. 7 bays per 100m² of the gross leasable area).
11. The plans provide for thirty-one (31) dedicated parking bays on the site. In addition the drive through components for the proposed liquor store and the previously approved fast food tenancies (drive through coffee tenancy and 'Red Rooster' outlet) can accommodate up to sixteen (16) cars at any one time. This results in a total parking provision of forty-seven (47) parking bays in lieu of the TPS 24 requirement of fifty-two (52) parking bays.
12. A liquor store is considered to have peak operating times between 3pm and 7pm on weekdays and weekends. The fast food uses are likely to experience peak demand in the morning for the drive through coffee outlet (approximately 8am to 11am) and during lunchtime (11.30am to 2pm) and evenings (6pm to 8.30pm) for the 'Red Rooster' outlet. Whilst there is some overlap with the peak times for the proposed liquor store and the peak evening period associated with the 'Red Rooster' outlet, the uses on site are considered to have sufficient alternating peak demand times which will allow adequate sharing of the parking facilities on site. In addition, the drive through components are considered to alleviate some demand for parking. The number of bays proposed is considered to be sufficient to cater for the proposed uses on the site.

Traffic

13. The City's Engineering Department has reviewed the proposal and has indicated that additional traffic information is not required, as the matter has been adequately canvassed in the previous traffic impact report provided to Council by the applicant in relation to the commercial development approved by Council on 24 February 2009. Furthermore, a 'shop' and a 'liquor store' are considered to generate a similar degree of vehicular activity as both provide for '*goods being kept, exposed or offered for sale by retail*', and are likely to have a similar effect in terms of vehicle movements and activity.
14. Council has resolved to undertake a review in Slade Street and surrounding streets to review traffic issues in the area. A working group has been established with a budget of \$200,000 to identify issues and solutions to traffic concerns in the area.

15. The application has been referred to Main Roads WA who has indicated support for the proposal subject to the standard conditions (these conditions are included as Conditions 24 to 27 in the officer recommendation). The proposal has the same layout to that approved by Council on 24 February 2009 and is not considered to give rise to additional issues not previously canvassed from a traffic perspective.

Landscaping

16. TPS 24 requires a 2 metre wide landscaping strip along the street frontage and 10% overall of the total site area to be provided as landscaped open space. In addition, Clause 8.4.5 of TPS 24 requires additional landscaping to be provided where open parking areas of 21 or more bays are proposed, in addition to any other landscaping requirement required under the Scheme. When combined, the total landscaping requirement is 11.3% of the site area, including a 2 metres strip along the street frontage.
17. The plans indicate that 9.8% of landscaping has been provided, with 1.5 metres landscaping strips along the two street frontages. The wide verge areas on both Slade Street and Guildford Road are considered to provide an appropriate buffer to adjoining uses. When considered in context with the proposed street setback distances of 15.0 metres (Guildford Road) and 4.8 metres (Slade Street), the landscaping provided is deemed to meet with the TPS 24 requirement from a performance perspective. It is relevant to note that the landscaping provided has not altered from the Council's approval at the Ordinary Meeting on 24 February 2009.

Setbacks

18. The proposal granted approval by Council at the Ordinary Meeting on 24 February 2009 sought a variation to the secondary street setback requirement under TPS 24. At this meeting a setback of 4.8 metres to the secondary street (Slade Street) was considered and approved in lieu of the 6 metre requirement under TPS 24. The proposal maintains the same setbacks previously approved by Council at the Ordinary Meeting on 24 February 2009 and the application as proposed complies.

Relevant Rescission Issues from Previous Application

Absolute Majority

19. The City's solicitors have previously confirmed that the site only requires approval by a simple majority of Council as the Special Purpose Zone should not be treated as a use not listed under TPS 24. This is because the proposed liquor store is considered to be consistent with the permitted 'local shopping' use mentioned in Appendix 3 - Special Purpose Zones under TPS 24.

Waste Disposal

20. The City's Environmental Health Officers advised that the proposal for a liquor store requires the provisions of a 10m² bin compound based on the nature of the use.

21. Subsequent discussions with the applicant and the City's Engineers have identified that the loading area shown at the rear of 'Shop 2' could be suitable for a bin storage compound. An appropriate condition is included requiring a bin store of 10m² to be provided for the liquor store, to the satisfaction of the City.

Other Matters

22. The submissions received in relation to the previously approved commercial development proposal raised a number of other matters. The following is considered to address these concerns:
- a) A concern has been raised as to the number of existing liquor outlets in the area. The zoning of the property permits 'local shopping', and a liquor store is considered to be consistent with a 'local shopping' use relevant to TPS 24.
 - b) Concerns have been raised in regard to a likely increase in anti-social behaviour as a result of the development being approved. The application proposes in essence the sale of liquor, which in itself is not considered to be problematic. It is the nature of the product (i.e liquor) consumption that is the issue and in this regard the nature of consumption and its effect on the behaviour of individual persons is not considered to directly relate to the current planning application for a liquor store.
 - c) Impacts to property values are not considered a relevant land-use planning matter.
 - d) Concerns have been raised for the safety of children in the area, given the close proximity of a child care centre to the site. Whilst some increase in activity in the area is envisaged, the child care centre is located south of Guildford Road and the subject site to the north, therefore any increase in activity is considered to have marginal direct impact on child safety.
 - e) Submissions received have raised concerns regarding fumes from the fast food components. The City's Health Officers have advised that the fumes from the commercial development proposed, subject to compliance with the relevant health requirements and the Building Code of Australia, are unlikely to result in major odour concerns. Whilst some odours may occur, the fast food outlets were approved previously by Council at the Ordinary Meeting on 24 February 2009 and are not part of the current application.

Summary

1. The proposal for a 'liquor store' is considered to fall within the permitted use of 'local shopping', particularly as a 'liquor store' and a 'shop' are in essence the same activity under the provisions of Town Planning Scheme No.24. A liquor store satisfies the TPS 24 definition of a 'shop', and is considered to be consistent with the term 'local shopping', adding to the variety of uses available to the local community.

2. Council at its 9 June 2009 Ordinary Meeting endorsed a Section 40 Liquor Licence Certificate as not complying with the provisions of the TPS 24 as approval for a 'liquor store' had not been granted. The current application for a 'liquor store' is considered to meet the intent of the term 'local shopping' which is a permitted use under the Special Purpose zoning of the site. The variation to parking, landscaping and setbacks was previously approved by Council and the layout remains unchanged from Council's approval at the Ordinary Meeting on 24 February 2009. Advertising is not considered warranted as the previous application approved by Council sought comment from the community, with the relevant issues raised in the submissions being taken into consideration with the current application. The traffic generated as a result of the proposal is considered to be commensurate with the previous application and is supported by Main Roads WA on traffic grounds.
3. The proposal is recommended for approval subject to the conditions outlined in the officer recommendation.

Voting Requirements

Simple Majority Required.

Officer's Recommendation

That Planning Approval be granted for a liquor store with a drive-though facility at Shop 2, Lot 101, No.497 Guildford Road, Bayswater in accordance with the application DA09-0357 and plans dated 7 July 2009 subject to the following planning conditions:

1. **This approval is valid for a period of two (2) years from the date of this letter. If the development/use, the subject of this approval, is not SUBSTANTIALLY COMMENCED within two years, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development/use shall be carried out without the further approval of the City having first been sought and obtained.**
2. **The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan, including any notations in red on the approved plan.**
3. **In accordance with the *Local Government (Miscellaneous Provisions) Act 1960* and *Building Regulations 1989*, a building licence application must be obtained prior to the commencement of any building works.**
4. **A separate application including plans or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the City of Bayswater prior to any erection of signage.**
5. **No storage or display of goods outside the building to the satisfaction of the City of Bayswater.**
6. **On completion of construction, all excess articles, equipment, rubbish and materials being removed from the site and the site left in an orderly and tidy condition.**
7. **Landscaping and reticulation must be completed in accordance with an approved detailed landscape plan(s) prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.**

8. All stormwater and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells. The size of the soakwells are to be calculated by use of the formula $VOL(m^3) = AREA (m^2) \times 0.0125$, where VOL is total storage volume of soakwells and AREA is total roofed and paved areas. Connection to the City's stormwater system, where available, may be permitted as an overflow only if to the satisfaction of the City of Bayswater.
9. The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications and shall be thereafter maintained to the satisfaction of the City of Bayswater.
10. All vehicle crossings being upgraded, designed and constructed to the satisfaction City of Bayswater. Payment for the crossover is required prior to the issue of a building licence.
11. Any existing septic tanks, leach drains or soakwells on the property must be pumped out, completely removed and the excavations backfilled with clean sand and compacted. Must be undertaken under the supervision of Environmental Health Officer.
12. Any industry derived liquid waste is to be disposed of in accordance with the Environmental Protection (Liquid Waste) Regulations 1996 and/or the requirements of the Water Corporation, Water and Rivers Commission, Department of Environmental Protection.
13. The noise generated by construction and operational activities is not to exceed the levels prescribed under the Environmental Protection (Noise) Regulations 1997.
14. The applicant is to make arrangements to the satisfaction of the Water Corporation for the provision of reticulated sewerage to the lot within the development.
15. Sanitary Conveniences are to be provided in accordance with the provisions of the *Building Code of Australia, Health Act 1911* and the Occupational Safety Health Regulations.
16. Compliance with the Health (Air Handling and Water Systems) Regulations 1994 and relevant Australian Standards such as AS 1668.2 "the use of mechanical ventilation and air conditioning in buildings" and AS 3666 "Air-handling and water systems of buildings –microbial control part 1: Design, installation and commissioning".
17. Ventilation is to comply with the requirements of the Sewerage (Lighting, Ventilation and Construction) Regulations 1971 and the Building Code of Australia.
18. Compliance with the City of Bayswater Health Local Laws.
19. Applicant to submit a copy of the Liquor Licence Application Public Interest Assessment Report to the City.
20. Applicant to submit a copy of the Acoustic Noise Report addressing the noise impact from the proposed development to the City.

- 21. A bin area to be provided adjacent to the building with a minimum area of 10 square metres and a permanent water supply and drainage facility for washdown. The bin area to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8 metres. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.**
- 22. Compliance with the *Liquor Control Act 1988*.**
- 23. Kerbing being modified as agreed to with the applicant to the satisfaction of the City.**
- 24. No earthworks shall encroach onto the Guildford Road reserve.**
- 25. No stormwater drainage shall be discharged onto the Guildford Road reserve.**
- 26. The applicant shall make good any damage to the existing verge vegetation within the Guildford Road reservation.**
- 27. All vehicle access to or from Guildford Road must be via the existing crossover at Lot 26.**
- 28. No earthworks shall encroach onto the Slade Street road reserve.**
- 29. No stormwater drainage shall be discharged onto the Slade Street road reserve.**
- 30. The applicant shall make good any damage to the existing verge vegetation within the Slade Street road reservation.**
- 31. This approval does not limit or alter the conditions of approval as they relate to the approval dated 24 February 2009, except where implicitly provided for in the plans or a condition of approval.**

Mover:

Seconder:

8.3 Proposed Tavern

Location: Lot 101, No. 497 Guildford Road, Bayswater
Attachments: [No. 1 - Location Plan and Site Photo](#)
[No. 2 - Detailed Plans](#)
File No: DA09-0356
Applicant: Joseph Tilli
Owner: Project Development WA Pty Ltd
Officer: Director of Planning and Development Services
Refer: Item 12.3.10 : OMC : 25.03.2008
Item 12.3.7 : OMC : 22.04.2008
Item 14.15 : OMC : 26.08.2008
Item 13.7 : OMC : 24.02.2009
Item 8.1 : SMC : 15.04.2009
Item 13.1 : OMC : 9.06.2009

Application

1. MRS Form 1 and plans dated 7 July 2009 have been received for a proposed tavern at Lot 101, No. 497 Guildford Road, Bayswater.
2. The proposal comprises construction of a tavern with 180m² of bar area and a drive-through component and other associated internal facilities.
3. Council consideration is required as the applicant has requested a variation to the following requirements of the City's Town Planning Scheme No. 24:
 - a) Minimum lot size;
 - b) Side setback;
 - c) Car parking; and
 - d) Landscaping.
4. The tavern proposal retains essentially the same building footprint as the application approved by Council at the Ordinary Meeting on 24 February 2009, however, the area approved as 'shop 1' and 'shop 2' is combined as one singular tenancy containing a tavern with associated internal facilities. No alteration is proposed to the two fast food outlets ('Red Rooster' tenancy and drive through coffee outlet) from Council's previous approval at the Ordinary Meeting held on 24 February 2009. The only modification is a reduction in floor area to facilitate four (4) additional parking bays at the rear of the tavern tenancy. The subject application before Council for a tavern does not give rise to additional planning matters not previously considered by Council at the meetings held on 24 February 2009 and 15 April 2009 other than the issue of traffic associated with the tavern, and variations to the requirements relating to minimum lot size, side setbacks and the number of car parking bays.

Background

Town Planning Scheme No. 24 Zoning:	Special Purpose
Permitted Uses:	‘Tavern’ ‘Local Shopping’
Lot Area:	3136 m ²
Existing Land Use:	Vacant
Surrounding Land Use:	Residential, Shop, Fast Food Outlet
Size/Nature of Proposed Development:	Proposed Tavern

SCHEME PROVISIONS		REQUIRED	PROVIDED
Setbacks	Primary Street (Guildford Rd)	15m	15m*
	Secondary Street (Slade St)	6m	18m*
	Side (West)	10m	0m*
	Rear	10m	10m*
Minimum Lot Area		4000m ²	3136m ²
Maximum Site Cover		35%	21%
Parking		59 parking bays	51 parking bays
Landscaping		11.3% including 2m wide strip*	9.8% including 1.5m wide strip*

‘*’ Indicates that the variation sought was previously approved by Council at the Ordinary Meeting on 24 February 2009.

1. Council granted planning approval for a commercial development (fast food outlets and local shops) at the Ordinary Council Meeting on 24 February 2009, which was re-affirmed at the Special Meeting of Council on 15 April 2009. At the time Council resolved to advise the applicant that a liquor licence outlet on the site will be refused.
2. An application to rezone the site was considered at the Ordinary Meeting of Council on 26 May 2009. The proposed amendment sought to remove the permitted use of ‘local shopping’ to be replaced with ‘shop’ as a permitted use and ‘fast food outlet’ and ‘lunch bar’ as discretionary uses, reflecting the approved uses on the site and corresponding use classes that is listed and defined in TPS 24 and the Model Scheme Text. Council resolved as follows:

“that the matter be deferred for full discussion to the Local Housing Strategy Density Review Workshop as a matter of urgency.”

3. Council considered an application for the authorisation of a Section 40 Liquor Licence Certificate for a liquor store on the subject site at the Ordinary Meeting of Council on 9 June 2009, where it resolved the following:
- “1. Council issue a Liquor Control Act 1988 Certificate of Local Planning Authority – Section 40 certifying that a liquor store at Lot 101, 497 Guildford Road, Bayswater will not comply with the requirements of Town Planning Scheme No. 24 for the following reasons:
- a) Planning Approval for a liquor store is required under District Town Planning Scheme No. 24; and
 - b) The Council has not given Planning Approval and on 24 February 2009 resolved to inform the applicant that a liquor licensing outlet will be refused.
3. Council advise the applicant and the applicant’s solicitors, Kott Gunning, that it does not accept the argument in relation to the advice note on the notice of determination, and that the City is firm in its view that the liquor licensing outlet has not been approved, and the terms of the Council’s critical resolution of 24 February 2009 make that clear.”
4. Council considered the proposal at the Ordinary Meeting of Council on 28 October 2009, where the following resolution was made:
- “that this Item be deferred to a Special Meeting of Council prior to 11 November 2009 (to be set by the Mayor) in order for further consideration to take place.”*
5. The site has a reciprocal access arrangement with the neighbouring Lot 26 for access, parking and servicing of the two sites. This arrangement is in the form of an absolute caveat across the land, which the City is party to. The applicant is not seeking to alter the existing arrangements with the neighbouring site. There are nineteen (19) parking bays on Lot 26.
6. In around 1996, Lots 101 and 26 were part of a larger singular site. At the time of subdivision, a condition was imposed by the WAPC requiring reciprocal access and parking between the two new lots. This condition resulted in the City becoming party to a deed of reciprocal access.
7. The condition was imposed to ensure that ingress and egress to the site could occur from Guildford Road and Slade Street. Any proposal to alter this agreement would need the concurrence of the land owner(s) of Lot 26 (i.e. they would have to be party to the application for development) and would need the approval of Main Roads WA.
8. A separate development application for a liquor store with a drive-through facility on the subject site has also been received by the City and is listed as a separate item on this agenda.

Submissions

1. Council sought and considered comments from the Community in regard to the previous application for the proposed commercial development that was approved at the Ordinary Meeting of Council on 24 February 2009. The original application presented to Council at the Ordinary Meeting on 25 March 2008 was recommended for approval, as the proposal for a tavern and local shops was considered to be consistent with the permitted uses of 'tavern' and 'local shopping' under the Special Purpose zoning of the property. Under TPS 24, there is no mandatory advertising requirement for uses listed as 'permitted' under TPS 24 unless specifically directed by Council. Notwithstanding, at the meeting of 25 March 2008, Council resolved to advertise the proposal to the community in accordance with Clause 3.3 of TPS 24.
2. Advertising of the current application for the proposed 'tavern' in accordance with Clause 3.3 of TPS 24 has not been conducted as a tavern is a permitted use under TPS 24 Appendix 3 - Special Purpose zoning of the site. In this regard, all previous submitters have been advised of the proposal and the relevant issues raised on the previous application are addressed in terms of the current application.
3. A total of twenty five (25) written submissions including four (4) petitions containing 320 signatories were received regarding the previous application. The submissions raised the following issues:
 - a) Traffic and parking;
 - b) Enough liquor outlets in area;
 - c) Increase in anti-social behaviour;
 - d) Devalue of property;
 - e) Child safety; and
 - f) Fumes from fast food outlet.
4. Of the submissions received above, fourteen (14) individual submissions and 266 signatories from three (3) petitions objected to the proposal based on the tavern use. Seven (7) submissions, and 54 signatories from one (1) petition, objected to the proposal based on the bottleshop and fast food uses.

CommentCompliance with Scheme Requirements

1. Assessment of the proposal indicates that the application complies with the provisions of Town Planning Scheme No.24 (TPS) and Council Policy with the exception of the minimum lot size, side setback, parking bays and landscaping requirements.

Appropriateness of Use

2. Under the provisions of TPS 24, the site is zoned 'Special Purpose' with Appendix 3 of the Scheme indicating permitted uses of 'tavern' and 'local shopping'. The proposal therefore complies with TPS 24 with regard to the proposed land use. Given that the tavern complies with the permitted use of the site, Council is only required to be satisfied that the development standards associated with a tavern are adequately met.

Minimum Lot Size

3. Town Planning Scheme No.24 stipulates a minimum lot area requirement of 4000m² for a tavern under *Table No.2 Development Standards Table*. In this regard the area of the subject site measures 3136m² and therefore does not comply with the TPS 24 requirement.
4. The minimum lot sizes outlined in the Development Standards Table of TPS 24 ensure that sufficient area is available on a site to provide for front, side and rear setbacks, vehicle manoeuvring, bin areas and landscaping. These standards enable new development to provide an appropriate setting and allow sufficient area to satisfy the necessary development standards required under TPS 24. The previous application for a commercial development granted approval by Council at the Ordinary Council Meeting on 24 February 2009 was approved with essentially the same layout, albeit with the area proposed as a tavern under the current application being approved as two 'shops'. The application for a tavern maintains the manoeuvring areas previously approved by Council and an appropriate condition has been included requiring a bin area to be provided. The side setback, parking and landscaping issues are discussed further in the report.
5. When the zoning was placed on the land, the subject site was part of a large singular landholding with the adjoining site (No.465-469 Guildford Road) with a combined area of 4763m², which therefore complied with the minimum lot area requirement stipulated in TPS 24 of 4000m². It is relevant to note that the Western Australian Planning Commission approved the application to subdivide the site into two parcels that resulted in the current area of the site, and would have been mindful of the variation to the minimum lot size requirement at the time of subdivision. Whilst the area of the site is less than is required under TPS 24, the size of the proposed tavern is considered to be commensurate with the size of the land (the proposed tavern occupies 11% of the total site area). The sites have a reciprocal access and parking agreement which in effect demonstrates that the two sites remain linked.
6. TPS 24 outlines that a tavern requires a minimum lot size of 4000m² and no more than 35% of site coverage. This would otherwise allow 1400m² of site coverage based on the prescribed minimum lot size of 4000m². The subject lot has an area of 3136m², and a total site coverage (inclusive of the other approved fast food uses on the site) of 570m², which equates to 21% site coverage. This demonstrates that the proposal is commensurate with the size of the lot and therefore not considered to be overdevelopment of the site. Notwithstanding, the site is zoned for a tavern as a permitted use and the site was able to be subdivided with the support of Council. For example, much of the Bayswater Industrial Area would not meet current standards for minimum lot size, however as the lots exist, Council is obliged to consider development and on a performance basis determine if any proposal is commensurate with the size of the lot.
7. Based on the above, the variation to the minimum lot size is deemed appropriate given that the proposal is considered to provide sufficient areas for setbacks, vehicle manoeuvring, bin area and landscaping from a performance perspective.

Side Setback

8. The provisions of TPS 24 state that a tavern is required to be setback 10 metres from the western side boundary of the property. In this regard, the primary street is considered to be Guildford Road with Slade Street being the secondary street. The application seeks approval for a nil setback wall on the western side boundary with the adjoining commercial development at No.465-469 Guildford Road, Bayswater. The adjoining commercial development comprises a pizza take away shop, a fish and chip shop and a lunch bar and has been operating for a number of years from the site.
9. The proposed boundary wall is located adjacent to the side wall of the building on the adjoining site, which is setback approximately 1 metre from the common boundary. The proposed nil setback wall measures 7.7 metres in length and 5.4 metres in height.
10. The setbacks prescribed under TPS 24 with regard to a particular land use ensure that adjoining development is not unduly affected by the site and location of the particular use and any activities that may result from the use. In this regard, a tavern with a reduced setback is not considered to be problematic, as the reduced setback proposed to the western boundary with the adjoining Lot 26 is to another commercial building. The reduced setback is not considered to give rise to any undue impact on amenity for the adjoining commercial development. It is considered that locating commercial uses together in close proximity is a more effective use of the land, and is considered desirable in terms of proper and orderly planning principles.
11. The nil setback results in the commercial uses being located closer together which is considered desirable, and the imposition of the 10 metre side setback as required under TPS 24 would result in the tavern being located closer to residential properties along Slade Street. The nil setback is not considered to have any undue impact given that the adjoining building is setback 1 metre and does not contain any openings that would be affected in terms of light and ventilation. In general terms, a tavern adjacent to commercial uses is not uncommon and the reduced setback is considered appropriate in this instance.

Parking

12. The previous application for a commercial development approved by Council on 24 February 2009 was approved with a parking shortfall of five (5) bays. The current application for a 'tavern' increases this parking variation to eight (8) parking bays.
13. The plans indicate that thirty-five (35) dedicated parking bays are provided on site. In addition, the drive through components for the proposed tavern and two previously approved fast food uses can accommodate up to sixteen (16) cars at any one time. This equates to a total parking provision of fifty-one (51) parking bays on site. The inclusion of the drive-through components for the previously approved fast food uses ('Red Rooster' tenancy and drive through coffee tenancy) and the tavern result in a large portion of the site being used for vehicle manoeuvring purposes.

14. Under the provisions of TPS 24, parking is required to be provided a rate of 1 bay per 5m² of bar area, in addition to the number of bays required for the remaining 'fast food' uses on the site. Based on the bar area of 180m², 36 bays are required for the tavern component. The 'fast food' uses, combined, have an area of 220m² which equates to 23 bays required. When combined, the total number of bays required for the 'fast food' uses and the 'tavern' is 59 bays. The proposal therefore has a parking shortfall of 8 bays which represents 13% of the total parking requirement under TPS 24.
15. Clause 8.4.2 of TPS 24 allows Council to consider joint use of parking facilities where it can be demonstrated that peak time demand for parking does not coincide with those of other uses on the site. The fast food outlet (drive-through coffee) is likely to experience peak demand during the morning period from approximately 8am to 11am, given the nature of products sold. The 'Red Rooster' outlet is likely to have a peak demand period during lunchtime (11.30am to 2pm) and evening periods (6pm to 8.30pm). The proposed tavern is likely to experience a peak demand period in evenings (5pm to 9pm) and on weekends, where patronage is likely to be the most concentrated. The tavern is likely to attract a longer use of parking facilities when compared with the fast food uses. In addition, some of the expected patrons to the tavern would likely walk to the site from nearby residences and additional parking is available on the adjoining Lot 26 if required.
16. The shortfall in parking bays is also considered to be balanced by the regular turnover of parking bays associated with the fast food uses where fast food patrons are likely to have short stay trips of approximately 5-15 minute duration. Given the above, the number of parking bays proposed on the site is considered adequate to cater for the proposed uses.

Traffic

17. The City's Engineering Department has advised the proponent's traffic consultant has provided additional information in relation to the likely changes to traffic flow associated with the change to the proposal.
The original information indicated a daily traffic volume of 365 vehicles for the proposed bottle shop and shop (original plan) and a peak hour (5pm to 6pm) flow of 63 vehicles. Using traffic generation rates associated with a tavern, the revised daily traffic volume is 366 vehicles and the peak hour flow 67 vehicles. Given the minor increases involved, re-investigation of the crossover, intersection and roadway capacity is not warranted and the analysis in the original traffic report is considered valid.
18. Council has resolved to undertake a review in Slade Street and surrounding streets to review traffic issues in the area. A working group has been established with a budget of \$200,000 to identify issues and solutions to traffic concerns in the area.
19. The application was referred to Main Roads WA, who has advised that no objection to the proposal is raised from a regional traffic perspective subject to the inclusion of standard conditions. The standard conditions outlined by Main Roads WA are included in the Officer's recommendation (Conditions 28 to 31).

Landscaping

20. TPS 24 requires a 2 metre wide landscaping strip along the street frontage and 10% overall of the total site area to be provided as landscaped open space. In addition, Clause 8.4.5 of TPS 24 requires additional landscaping to be provided where open parking areas of 21 or more bays are proposed, in addition to any other landscaping requirement required under the Scheme. When combined, the total landscaping requirement is 11.3% of the site area, including a 2 metres strip along the street frontage.
21. The plans indicate that 9.8% of landscaping has been provided, with 1.5 metres landscaping strips along the two street frontages. The wide verge areas on both Slade Street and Guildford Road are considered to provide an appropriate buffer to adjoining uses. When considered in context with the proposed street setback distances of 15.0 metres (Guildford Road) and 4.8 metres (Slade Street), the landscaping provided is deemed to meet with the TPS 24 requirement from a performance perspective. It is relevant to note that the landscaping provided has not altered from the Council's approval at the Ordinary Meeting on 24 February 2009.

Other Matters

22. The submissions received in relation to the previously approved commercial development proposal raised a number of other matters. The following is considered to address these concerns:
- a) A concern has been raised as to the number of existing liquor outlets in the area. The zoning of the site explicitly permits a tavern under TPS 24 and a tavern requires approval by a simple majority of Council.
 - b) Concerns have been raised in regard to a likely increase in anti-social behaviour as a result of the development being approved. There is limited evidence to substantiate that approval for the subject tavern proposal would result in an increase in anti-social behaviour in the area. Notwithstanding, an appropriate condition has been included requiring the applicant to provide a management plan to address any potential issues in this regard, to the satisfaction of the City.
 - c) Impacts to property values is not a relevant land-use planning matter.
 - d) Concerns have been raised for the safety of children in the area, given the close proximity of a child care centre to the site. Whilst some increase in activity in the area is envisaged, the centre is located south of Guildford Road and the subject site to the north, therefore any increase in activity will have marginal direct impact on child safety.

- e) Submissions received have raised concerns regarding fumes from the fast food components. The City's Health Officers have advised that the fumes from the commercial development proposed, subject to compliance with the relevant health requirements and the Building Code of Australia, are unlikely to result in major odour concerns. Whilst some odours may occur, the fast food outlets were approved previously by Council at the Ordinary Meeting on 24 February 2009 and are not part of the current application.
- f) The City's Environmental Health Officers advised that the proposal for a tavern requires the provisions of a 10m² bin compound based on the nature of the use. Subsequent discussions with the applicant and the City's Engineers have identified that the loading area shown at the rear of the tavern could be suitable for a bin storage compound. An appropriate condition is included requiring a bin store of 10m² to be provided for the tavern, to the satisfaction of the City.

Summary

The application for a tavern complies with the permitted uses under the Special Purpose zoning. The lot size whilst less than TPS 24 requirement, was previously endorsed by Council and is considered to provide adequate areas for setbacks, servicing, parking and vehicle circulation and meet with the TPS 24 requirements from a performance perspective. The side setback variation is considered acceptable and will ensure that the tavern use is located further away from adjoining residences along Slade Street, and is not considered to unduly impact on the amenity of the adjoining commercial site. The variation to parking standards is considered to be sustainable given the high turnover of parking bays associated with the previously approved 'fast food' uses. The variation to landscaping is considered to be acceptable given the extensive verge areas on both Guildford Road and Slade Street.

The proposal is recommended for approval.

Voting Requirements

Simple Majority Required.

Officer's Recommendation

That Planning Approval be granted for the proposed tavern at Lot 101, No.497 Guildford Road, Bayswater in accordance with the application DA09-0356 and plans dated 7 July 2009 subject to the following planning conditions:

- 1. This approval is valid for a period of two (2) years from the date of this letter. If the development/use, the subject of this approval, is not SUBSTANTIALLY COMMENCED within two years, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development/use shall be carried out without the further approval of the City having first been sought and obtained.**
- 2. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan, including any notations in red on the approved plan.**

3. In accordance with the *Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989*, a building licence application must be obtained prior to the commencement of any building works.
 4. A separate application including plans or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the City of Bayswater prior to any erection of signage.
 5. No storage or display of goods outside the building to the satisfaction of the City of Bayswater.
 6. On completion of construction, all excess articles, equipment, rubbish and materials being removed from the site and the site left in an orderly and tidy condition.
 7. Landscaping and reticulation must be completed in accordance with an approved detailed landscape plan(s) prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.
 8. All stormwater and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells. The size of the soakwells are to be calculated by use of the formula $VOL(m^3) = AREA (m^2) \times 0.0125$, where VOL is total storage volume of soakwells and AREA is total roofed and paved areas. Connection to the City's stormwater system, where available, may be permitted as an overflow only if to the satisfaction of the City of Bayswater.
 9. The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications and shall be thereafter maintained to the satisfaction of the City of Bayswater.
 10. All vehicle crossings being upgraded, designed and constructed to the satisfaction City of Bayswater. Payment for the crossover is required prior to the issue of a building licence.
 11. Any existing septic tanks, leach drains or soakwells on the property must be pumped out, completely removed and the excavations backfilled with clean sand and compacted. Must be undertaken under the supervision of Environmental Health Officer.
 12. No live music acts are permitted to operate from the venue at any time.
 13. The operating hours being limited from 10am to 12pm on any given day, subject to compliance with the relevant Liquor Licensing requirements, except on New Years Eve, when a closing time of 1am is permitted.
 14. Any industry derived liquid waste is to be disposed of in accordance with the Environmental Protection (Liquid Waste) Regulations 1996 and/or the requirements of the Water Corporation, Water and Rivers Commission, and Department of Environmental Protection.
 15. The noise generated by construction and operational activities is not to exceed the levels prescribed under the Environmental Protection (Noise) Regulations 1997.
 16. The applicant is to make arrangements to the satisfaction of the Water Corporation for the provision of reticulated sewerage to the lot within the development.
 17. Compliance with the Health (Food Hygiene) Regulations 1993.
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18. **Compliance with the City of Bayswater Eating House Local Laws.**
19. **Sanitary Conveniences are to be provided in accordance with the provisions of the Building Code of Australia, *Health Act 1911* and the Occupational Safety Health Regulations.**
20. **Compliance with the Health (Air Handling and Water Systems) Regulations 1994 and relevant Australian Standards such as eg AS 1668.2 “the use of mechanical ventilation and air conditioning in buildings” and AS 3666 “ Air-handling and water systems of buildings –microbial control part 1: Design, installation and commissioning”.**
21. **Ventilation is to comply with the requirements of the Sewerage (Lighting, Ventilation and Construction) Regulations 1971 and the Building Code of Australia.**
22. **Compliance with the City of Bayswater Health Local Laws.**
23. **Premises to comply with the Health (Public Buildings) Regulations 1992.**
24. **Applicant to submit a copy of the Liquor Licence Application Public Interest Assessment Report to the City.**
25. **Applicant to submit a copy of the Acoustic Noise Report addressing the noise impact from the proposed development to the City.**
26. **A bin area to be provided adjacent to the rear coolroom/storage with a minimum area of 10 square metres and a permanent water supply and drainage facility for washdown. The bin area to be screened by a gate and walls constructed of brick or other suitable material to a height of not less than 1.8 metres. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.**
27. **Compliance with the *Liquor Control Act 1988*.**
28. **No earthworks shall encroach onto the Guildford Road reserve.**
29. **No stormwater drainage shall be discharged onto the Guildford Road reserve.**
30. **The applicant shall make good any damage to the existing verge vegetation within the Guildford Road reservation.**
31. **All vehicle access to or from Guildford Road must be via the existing crossover at Lot 26.**
32. **No earthworks shall encroach onto the Slade Street road reserve.**
33. **No stormwater drainage shall be discharged onto the Slade Street road reserve.**
34. **The applicant shall make good any damage to the existing verge vegetation within the Slade Street road reservation.**
35. **A detailed management plan that addresses the control of noise, anti-social behaviour, disposal of rubbish and its collection and litter associated with the development and any other appropriate matters shall be submitted to and approved by the City prior to the first occupation of the development, and thereafter maintained; and**

- 36. This approval does not limit or alter the conditions of approval as they relate to the approval granted by Council on 24 February 2009, except where implicitly provided for in this approval.**

Mover:

Secunder:

9 CLOSURE