



CITY OF BAYSWATER

MINUTES

**FOR THE
PLANNING AND DEVELOPMENT
SERVICES COMMITTEE MEETING**

15 August 2017



PLANNING AND DEVELOPMENT SERVICES COMMITTEE MINUTES

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CITY OF BAYSWATER

MINUTES of the meeting of the Planning and Development Services Committee which was held in Council Chambers, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on **Tuesday, 15 August 2017** commencing at 6:30 pm.

Committee Recommendations to Council are subject to adoption, or otherwise, at the following Ordinary Meeting of Council, as recorded in Minutes of that Council Meeting.

MINUTES**1. OFFICIAL OPENING**

Notice is hereby given that the Meeting will be audio recorded in accordance with the resolution of Council of 17 May 2016.

Persons are not permitted to record (visual or audio) at the Committee meeting without prior approval of the Council.

The Chairperson, Cr Dan Bull, welcomed those in attendance and declared the meeting open for the ordinary business of Council at 6:30pm.

1.1 Traditional Owners Acknowledgement

The Chairperson, Cr Dan Bull, respectfully acknowledged the past, present and future traditional custodians of the land on which we are meeting, the Whadjuk (Perth) region people of the Noongar nation. Cr Bull acknowledged and respected their continuing culture and the contribution they make to the life of this city and this region.

1.2 Declaration of Due Consideration

The Chairperson read the Declaration of Due Consideration and all Councillors present raised their hands to indicate that due consideration was given to all matters contained in the Agenda.

2. ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE (PREVIOUSLY APPROVED) & ABSENCE**Members**

Cr Barry McKenna, Mayor
Cr Chris Cornish
Cr Sally Palmer
Cr Stephanie Coates, Deputy Mayor
Cr Dan Bull
Cr John Rifici
Cr Catherine Ehrhardt
Cr Alan Radford
Cr Michelle Sutherland
Cr Brent Fleeton

Officers

Mr Andrew Brien	Chief Executive Officer
Mr Des Abel	Director Planning and Development Services
Ms Helen Smith	Manager Planning Services
Mr Matt Turner	Manager Strategic Planning and Place
Ms Fiona Dent	PA/Director Community Services
Ms Elizabeth Breen	PA/Director Planning and Development Services

Observers

Public - 19
Press - 1

Apologies

Cr Terry Kenyon, JP

Leave of Absence

Nil.

3. DELEGATED AUTHORITY BY COUNCIL**Delegated Authority**

In accordance with section 5.16(1) of the *Local Government Act 1995* and Council's resolution at its Ordinary Meeting held on 15 November 2016 (Item 13.7) the Planning and Development Services Committee has been granted delegated authority by Council, subject to the limitations on delegation of powers and duties contained in section 5.17 of the *Local Government Act 1995*, therefore, in accordance with section 5.23(1)(b) of the *Local Government Act 1995*, this meeting is open to the public.

Terms of Reference***Planning and Development Services:***

To receive reports and make decisions in accordance with delegated authority and to consider reports and make recommendations to Council in respect to issues relating to the delivery of services within the areas of:

- Planning,
- Building,
- Development,
- Policies,
- Regulations and enforcement; and
- all other aspects of the Planning and Development Services of the City of Bayswater.

4. PUBLIC QUESTION TIME

The following questions were submitted both in writing and verbally:

In accordance with section 5.24(1)(b) of the *Local Government Act 1995* and regulation 5(b) of the *Local Government (Administration) Regulations 1996*, time is allocated for questions to be raised by members of the public, as follows:

- (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Pursuant to regulation 7(4)(c) of the *Local Government (Administration) Regulations 1996*, questions from the public must relate to a matter affecting a function of the Committee.

In accordance with section 5.25(1)(f) of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* regulation 11(e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.

Where a question is taken on notice at the meeting, in accordance with clause 5.6(7)(b) of the *City of Bayswater Standing Orders Local Law 2013* a summary of the response to the question will be included in the minutes for the following meeting of the Committee at which the questions were raised.

4.1 Responses to Public Questions Taken 'On Notice'

Nil.

4.2 Public Question Time

Nil.

5. DECLARATION OF INTEREST

5.1 Disclosures at the Planning and Development Services

In accordance with section 5.60A and 5.65 of the *Local Government Act 1995* the following disclosures of financial interest were made at the meeting:

Date	Name	Item No.	Item Name
15 August 2017	Cr Chris Cornish	9.1.10	Proposed Convenience Store - Development Assessment Panel Application
15 August 2017	Cr Sally Palmer	9.1.10	Proposed Convenience Store - Development Assessment Panel Application

In accordance with section 5.61 of the *Local Government Act 1995* the following disclosures of indirect financial interest were made at the meeting:

Date	Name	Item No.	Item Name
15 August 2017	Cr Barry McKenna	9.1.9	Proposed Change of Use to Small Bar and Associated Alterations, Additions and Signage (Former Maylands Post Office)

In accordance with section 5.60B and 5.65 of the *Local Government Act 1995* the following disclosures of proximity interest were made at the meeting:

Date	Name	Item No.	Item Name
15 August 2017	Cr John Rifici	9.1.19	Kiosk at The RISE - New Lease

In accordance with regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* the following disclosure of interests affecting impartiality (Elected Members) were made at the meeting:

Date	Name	Item No.	Item Name
15 August 2017	Cr Stephanie Coates	9.1.5	Proposed Home Occupation - Family Day Care
15 August 2017	Cr John Rifici	9.1.9	Proposed Change of Use to Small Bar and Associated Alterations, Additions and Signage (Former Maylands Post Office)
15 August 2017	Cr Dan Bull	9.1.17	Proposed Road Closure and Scheme Amendment to Town Planning Scheme No 24 - Rezone an Unmade Road Reserve from "No Zone" to "Residential R25"
15 August 2017	Cr Catherine Ehrhardt	9.1.19	Kiosk at the Rise- New Lease
15 August 2017	Cr Sally Palmer	9.1.19	Kiosk at the Rise- New Lease

In accordance with regulation 34C of the *Local Government (Administration) Regulations 1996* and clause 5.5 of the City of Bayswater's Code of Ethics, the following disclosure of interests affecting impartiality (Officers) were made at the meeting:

Nil.

6. CONFIRMATION OF MINUTES

The Minutes of the Planning and Development Services Committee Meeting held on Tuesday, 18 July 2017 which have been distributed, are to be presented for confirmation as a true and correct record.

CR BRENT FLEETON MOVED, CR SALLY PALMER SECONDED

CARRIED UNANIMOUSLY

7. DEPUTATIONS**1. Additional Single Bedroom Dwelling - Reconsideration of Conditions Location: Lot 185, 26 Milne Street, Bayswater**

In relation to Item 9.1.2, John Nirella (Owner - 119, Fourth Avenue, Mount Lawley) will be in attendance, speaking in support of the officer's recommendation (*refer page 21*).

2. Proposed Two-Storey Grouped Dwelling

Location: Lot 4, 93A Stone Street, Bayswater

In relation to Item 9.1.3, Tom Hill (Owner - 10 Campbell Court, Noranda and Adam Stillitano - Shire Liaison Officer from 101 Residential Builders) will be in attendance, speaking in support of the officer's recommendation (*refer page 29*).

3. Home Business - Electrical Contractor

Location: Lot 47, 22 Crowhurst Way, Morley

In relation to Item 9.1.6, Anella Tollis (Owner - 22 Crowhurst Way and Nick Di Lorenzo - 41 Holden Drive, Noranda) will be in attendance, speaking in support of the officer's recommendation (*refer page 59*).

4. Signage Additions to Place of Public Worship Location: Lot 11, 92 Eighth Avenue, Maylands

In relation to Item 9.1.7, Vesna Davogic (Resident - 95 Eighth Ave, Maylands and on behalf of Residents - Mrs Janice Almasi - 95C Eighth Avenue, Maylands and Mr and Mrs Radinovic - 95A Eighth Avenue, Maylands) will be in attendance, speaking against the officer's recommendation (*refer page 66*).

5. Proposed Change of Use to Small Bar and Associated Alterations, Additions and Signage

Location: Lot 600, 160 Whatley Crescent, Maylands

In relation to Item 9.1.9, Nick Rogers (Managing Director, Macro Management Services Pty Ltd - 533 Hay Street, Perth (on behalf of the Applicant Maria Havilah - 177 Old Burleigh Road, Broadbeach, Queensland) will be in attendance, speaking in support of the officer's recommendation (*refer page 82*).

8. PETITIONS

Nil.

ORDER OF BUSINESS

Items were dealt with in the following order: Items 9.1.2, 9.1.3, 9.1.6, 9.1.7, 9.1.9, 9.1.4, 9.1.5, 9.1.10, 9.1.11, 9.1.12, 9.1.13, 9.1.18, 10.1 and 9.1.19.

All remaining items were carried by en bloc resolution.

9. REPORTS BY OFFICERS (COMMITTEE DELEGATION)**9.1 Planning and Development Services****9.1.1 Proposed Patio, Retaining Wall, and Street Fence Additions to Single House, Including Removal of Street Tree**

Location: Lot 147, 20 Ash Way, Morley
File Number: DA17-0187
Applicant: Design2Solution
Owner: James and Kylie Barr
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services
Refer: Item 11.1.6: OCM 10.12.2013

EXECUTIVE SUMMARY**Application:**

A planning application dated 12 April 2017 and plans dated 24 July 2017 have been received for proposed patio, retaining wall, and street fence additions to single house at Lot 147, 20 Ash Way, Morley.

Key Issues:

- Proposed removal of a street tree within the Ash Way verge and the resultant impact on the amenity of the streetscape and locality.
- The proposed development does not comply with the site works and vehicular access requirements of the Residential Design Codes (R-Codes).
- Expiration of previous Council approval to develop the site and remove the street tree.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Residential - R20/25
Use Class:	Single House - 'P'
Lot Area:	880m ²
Existing Land Use:	Single House
Surrounding Land Use:	Single Houses and Grouped Dwellings
Size/Nature of Proposed Development:	Patio, Retaining Wall, and Street Fence Additions to Single House

The primary consideration in relation to this application is the visual impact of the proposed development on the amenity of the area, including the streetscape and the affected adjacent properties, given the proposal does not meet the site works and vehicular access requirements of the R-Codes and proposes removal of a street tree.



The City sought comment for the proposed variations from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, no submissions were received.

ANALYSIS

Key Scheme Provisions	Required	Provided	Assessment
Minimum Patio Setbacks:			
Front	6.0m	6.0m	Compliant
Side (East)	1.0m	9.5m	Compliant
Side (West)	1.0m	6.2m	Compliant
Minimum Open Space	50%	61%	Compliant
Site Works	Max 0.5m fill within 3.0m of street boundary	1.25m fill	Variation
Minimum Car Parking	2 car bays	>2 car bays	Compliant
Vehicular Access	Street tree removal to be avoided	Street tree removal	Variation
	0.5m from side lot boundary	Nil	Variation

Site Context

The development is located within a residential zone and surrounded primarily by single-storey single houses and grouped dwellings. The proposal is similar to that previously approved by Council at its Ordinary Meeting held on 10 December 2013, which also included an additional double crossover (and associated street tree removal) and raised pool within the street setback area; this approval has since lapsed.

Vehicular Access (Street Tree Removal)

The verge area adjoining the subject lot contains a Bottlebrush 'Kings Park Special' tree which is proposed to be removed to allow access to two car bays on the eastern side of the property. The dwelling currently has an existing driveway on the western side of the lot which leads to a carport and rear garage, however in the event the lot is subdivided to create a new lot at the rear of the existing dwelling this space will be required for the access way. The proposal is considered a step towards facilitating the future subdivision of the lot.

The crossover location required to service the proposed new parking bays will require removal of an existing Bottlebrush 'Kings Park Special' tree. Ash Way contains a total of 27 street trees, comprising 18 different varieties of tree, three of those being Bottlebrush trees. The existing street tree locations and species throughout Ash Way are considered to be sporadic, and the proposed removal of the Bottlebrush tree is not considered to unduly impact any established or consistent street tree pattern.

An assessment of the tree was undertaken by the City's consulting arborist, which found the tree to be a small specimen of poor form and health. It was recommended that removal of the tree be supported subject to a new street tree being planted within the verge between the two crossovers.

It is noted that removal of the tree was previously approved in the approval issued in 2013, however this approval was not acted on and has since expired. In light of the above, the proposed additional vehicle access point and associated removal of the street tree is supported subject to appropriate conditions.

Site Works

Fill proposed within the street setback area is proposed up to 1.25m in lieu of the deemed-to-comply requirement of 0.5m. The fill allows for an outdoor living area with a similar ground level to the finished floor level of the dwelling. This increases the potential of the street setback area to be used as an outdoor living area in conjunction with the dwelling, and would help to facilitate subdivision of the lot at a future date.

The visual impact of the fill is considered to be relatively minor as adjoining dwellings are similarly raised above street level and the fill will not obstruct sightlines or interaction between the street and these dwellings. The fill is accordingly supported subject to appropriate conditions.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater Local Planning Policies, including Street Trees Planning Policy; and
- State Planning Policy 3.1 - Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development

COMMITTEE RESOLUTION

That Council grants planning approval for the proposed patio, retaining wall, and street fence additions to single house, including street tree removal at Lot 147, 20 Ash Way, Morley, in accordance with planning application dated 12 April 2017 and plans dated 24 July 2017, subject to the following planning conditions:

1. **The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.**

2. The Bottlebrush 'Kings Park Special' tree located within the Ash Way verge adjacent to the subject site is to be removed to the satisfaction of the City of Bayswater. The owner/applicant is responsible for engaging a qualified contractor, the cost of removing the tree and any claims that may arise from the removal of the tree.
3. One street tree is to be planted on the Ash Way verge adjacent to the subject site at the full cost of the applicant/owner and to the specifications and satisfaction of the City of Bayswater.
4. The car parking bays and associated paved areas shall be setback a minimum 0.5m from side lot boundaries. The unpaved setback area shall be landscaped to the satisfaction of the City of Bayswater.
5. All vehicle crossings being upgraded, designed, and constructed to the satisfaction of the City of Bayswater.
6. All stormwater shall be managed on-site to the satisfaction of the City of Bayswater.
7. 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, to the satisfaction of the City of Bayswater.

Advice Notes:

1. To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. In relation to condition 2, a list of suitable tree species is provided on the City's website at: <http://www.bayswater.wa.gov.au/cproot/617/2/StreetTrees2010.pdf> or as determined by the City's Parks and Gardens Services. The recommended bag size is 45 litres (35 litres minimum).
3. The pool pump and filter shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
4. This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
5. Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and verge areas including any verge trees must be adequately protected, maintained and reinstated if required, during and as a result of carting and all works associated with this development.
6. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
7. This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should you wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, you must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act 1961*.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

HOUSE WELL CLEAR
LOT 158

21.89m

40.23m

EXISTING SHED

EXISTING GARAGE / SHED

EXISTING SPA

LOT 147
880m²

EXISTING PATIO

EXISTING RESIDENCE
B&T (#20)

EXISTING CARPORT

SEWER JUNCTION
IN 1.2 UP 1.3
RL 30.57 (TOP OF RISER)
INVERT LEVEL 29.27
ABOUT 1.0m DEEP (TOR)

RENDERED B&T
LOT 146 (#22)
FL: 31.49

NEW PATIO
(ALFRESCO)
25.75m²
FL: 31.514
PAVING @ -1c

NEW DOUBLE
PARKING BAYS
39.33m²
FL: 30.314
CONC / PAVING

RENDERED B&T
LOT 171 (#18)
FL: INACCESSIBLE

NEW POOL
9.0 X 4.5m

NEW D.P. DIA 80 PVC

NEW D.P. DIA 90 PVC

NEW D.P. DIA 100 PVC

NEW D.P. DIA 1200 X 900
DEEP SOAKWELL WITH
GRATE IN CONC.

POOL FENCE TO
AS1926.1 (typ)

FUTURE ACCESS LEG TO REAR LOT.
REMOVE EXISTING CONC, COMPACT SOIL & LAY
BLUEMETAL AS INTERIM DRAINED TRAFFICABLE
SURFACE TOWARDS FUTURE SUB-DIVISION

BEWARE - DIGGING HAZARD..!
UNDERGROUND POWER
CROSSES TO NEW M/BOX
THIS VICINITY (C.O.S.)

NEW POWER DOME
TO WESTERN POWER
REQMNTS TO
REPLACE O'HEAD

SMH
30.26

TBM 29.99 (AHD)

EXISTING CROSSOVER
TO BE REMOVED &
VERGE REINSTATED.
NEW CROSSOVER TO
REPLACE EXISTING TO
COUNCIL GUIDELINES
(FUTURE ACCESS LEG
FOR SUB-DIVISION)

EXISTING O'HEAD POWER
TO POLE ACROSS ROAD

ASH WAY

500 5125

L'SCAPING
STRIP &
DRIVEWAY
SETBACK

DRIVEWAY
& CROSSOVER

NEW CROSSOVER TO
COUNCIL GUIDELINES

NATIVE L'SCAPING
(AS NOM)

SEWER

W/METER

L/BOX

EXISTING RETAINING WALL
TO BOUNDARY
(C.O.S)

PARKING BAY
1000.00

SEWER JUNCTION
IN 5.0 UP 0.8
RL 29.18 (TOP OF RISER)
INVERT LEVEL 28.38
ABOUT 1.1m DEEP (TOR)

EXISTING BORE. PROVIDE SUBMERSIBLE
PUMP WITH TRAFFICABLE LID, OR REMOVE
(AS NOM BY OWNER)

1
JUL 2017
AMENDED TO COUNCIL REQUEST
NEW DWG FOR D.A. & BLDG PERMIT

2
JUL 2017

DESIGN 2 SOLUTION
BUILDING SIMPLICITY

RESIDENTIAL • COMMERCIAL • INDUSTRIAL
BUILDING DESIGN • DOCUMENTATION

AS/NZS 2758:2012

PROPOSED ALTERATION / ADDITION

CLIENT
Mr J & Mrs K Barr. Lot 147 (#20) Ash Way,
MORLEY

DWG
SITE PLAN: NEW WORKS

DATE
MAR 2017

REVISION
1

DATE
MAR 2017

REVISION
2

DWG #
4770612

SHEET #
A02 of 06

SCALE @ AS
1:200

DRAWN
RLS

CHECKED
RLS

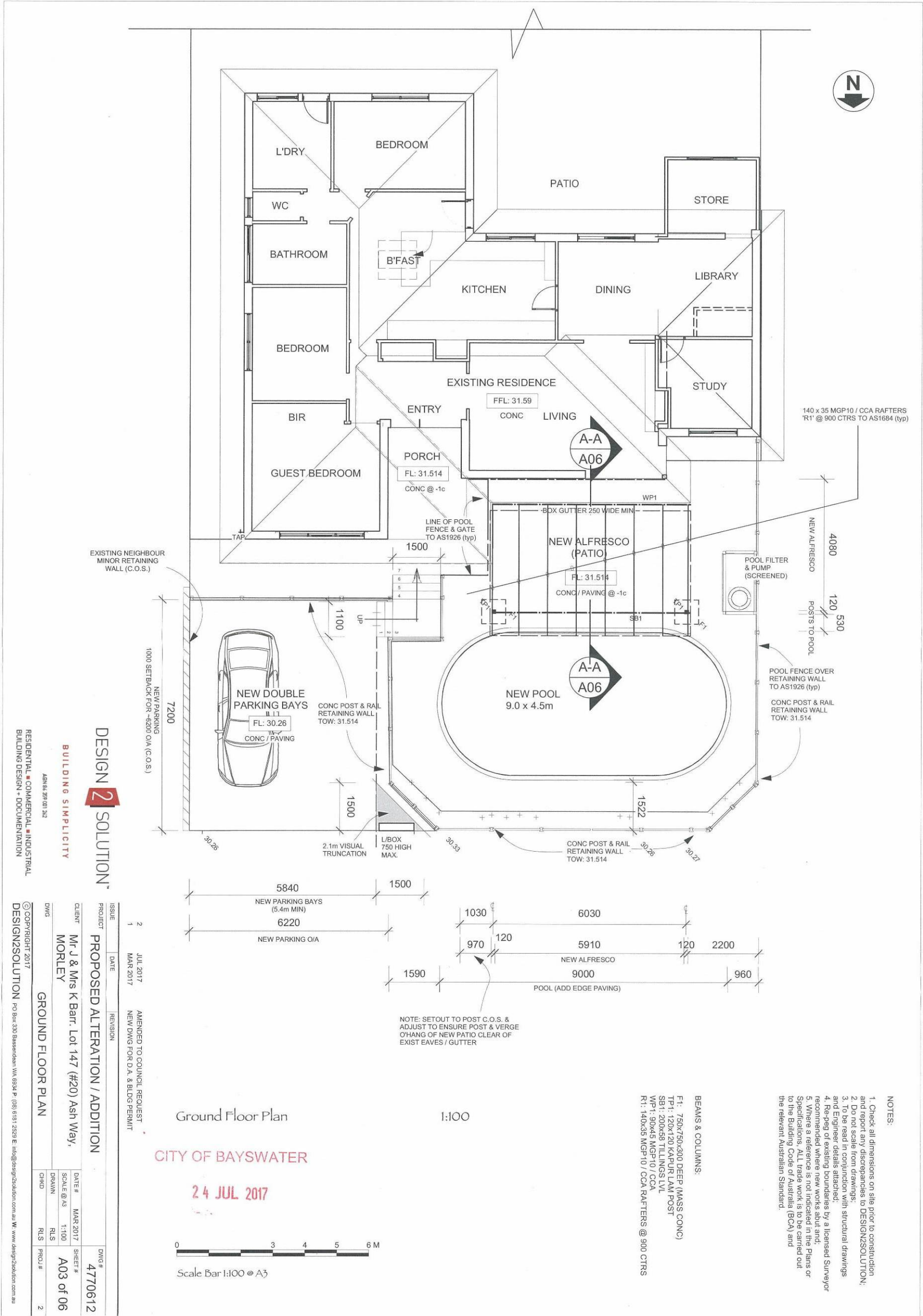
PROJECT #
4770612

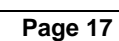
CITY OF BAYSWATER

24 JUL 2017

Site Plan: Proposed Alteration / Addition

1:200





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9.1.2 Additional Single Bedroom Dwelling - Reconsideration of Conditions

Location: Lot 185, 26 Milne Street, Bayswater
File Number: DA13-0168.01
Applicant: Rowe Group
Owner: Maria Nirella
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

EXECUTIVE SUMMARY**Application:**

A development application dated 12 July 2017 has been received for reconsideration of right of way widening conditions relating to an approved single bedroom dwelling at Lot 185, 26 Milne Street, Bayswater.

Key Issues:

- An additional single bedroom house was approved on the subject property on 8 January 2014 subject to among other conditions, two conditions relating to the portion of the adjacent right of way (ROW) required for widening.
- A request has been received by the City to reconsider the two conditions relating to the ROW.
- The City's Right of Way Study requires the subject ROW to be widened upon subdivision or infill development.
- A similar case, *Le and City of Stirling [2017] WASCA 181* was recently considered by the State Administrative Tribunal.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Residential R17.5/25
Use Class:	Grouped Dwelling - 'P'
Lot Area:	600m ²
Existing Land Use:	Two Grouped Dwellings
Surrounding Land Use:	Single Houses
Size/Nature of Proposed Development:	Reconsideration of condition requiring the widening, construction and draining of the portion of adjacent ROW.

An additional single bedroom dwelling on Lot 185, 26 Milne Street, Bayswater was approved under delegated authority on 8 January 2014 subject to appropriate conditions including, conditions 11 and 12 as follows:

- "11. *The right-of-way being widened by 1.0 metres along the full frontage of the land the subject of this application by the applicant/owner transferring the land required to the Crown free of cost for the purposes of widening.*
12. *The section of the right-of-way widened in accordance with this approval, is to be constructed and drained at the full cost of the applicant/owner".*

The portion of land required to be ceded is a 13.69m² strip of land to a width of 1m to the south-western side of the single bedroom dwelling. The single bedroom dwelling is under construction and nearing completion and does not obtain vehicle access from the ROW.

At the time of the original planning application, there was a garage that has since been demolished, located to the rear of 26 Milne Street with a driveway and crossover from Almondbury Street and the applicant asserted that the subject application was essentially reinstating the crossover to the garage. The imposition of vehicle access from the ROW into the garage would also have resulted in a significant loss of usable land. Therefore, a separate, single width driveway access was approved off Almondbury Avenue on the basis that conditions would be imposed upon the approval to facilitate ROW widening.

The request received for the City to reconsider the imposition of conditions 11 and 12 was received on 12 July 2017, approximately 2.5 years after the planning approval was granted. Due to the amount of time that has lapsed, the applicant has lost their right of appeal to the State Administrative Tribunal and has therefore submitted the current request to the City whereby in the event it is not supported, they will have a right to appeal Council's decision.

In accordance with Clause 77 of Schedule 2 (Deemed provisions for local planning schemes) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City may amend or delete any condition to which the approval is subject.





CONSULTATION

Not applicable.

ANALYSIS

Right of Way Study 2007

The City's Right of Way Study was completed in 2007 with its purpose being to provide a strategic approach to the future use, tenure and management of 101 ROWs within the City. The study includes a priority list that identifies high, medium and low priority ROWs requiring construction by the City.

The ROW is owned by the City of Bayswater and has not been identified as a high priority ROW as under the current zoning there is limited potential for infill development on the adjoining lots. The study also identifies that developers may contribute to the cost of upgrading the subject ROW as a condition of subdivision or development approval. It is also noted that the ROW study has not been adopted as a local planning policy under the Scheme.

The ROW adjoining 26 Milne Street is identified as 'ROW No.25' in the ROW study. In the study, ROW No.25 was identified as being in poor condition and as a low priority ROW in regard to potential upgrading by the City. Recommendations from the study indicate that the widening of ROW No.25 should be imposed upon infill development or subdivision in accordance with Clause 152 of the *Planning and Development Act 2005*.

Reconsideration of Conditions 11 and 12

Council recently refused a similar request at its Planning and Development Services Committee meeting held 22 February 2017. However, in that instance the applicant was utilising the laneway as their only means of vehicle access whereas the dwelling on 26 Milne Street has vehicle access from Almondbury Avenue. It is for this reason that the applicant is requesting that the two conditions be deleted.

A similar case, *Le and City of Stirling [2017] WASCA 181* was recently considered by the State Administrative Tribunal. This case involved an appeal against a decision made by the City of Stirling to impose ROW construction and widening conditions on the development approval for a carport which obtained its sole vehicle access from an adjoining ROW.

In regard to this matter, the Tribunal determined to revoke conditions of a development approval relating to laneway widening and construction because the nexus between the development and the laneway was not demonstrated. The implication of the Tribunal's decision in regard to this application indicates that the City would be unsuccessful in defending its position should Council refuse this request.

Notwithstanding the above and given there are no structures proposed or within the widening area, the City will be able to pursue the laneway widening at the time of subdivision in the future in accordance with Clause 152 of the *Planning and Development Act 2005*. It is also noted that should Council accede to this current request, it may establish a precedent for similar requests in the future which would each be considered upon their individual merits.

Whilst it is considered in this particular instance the nexus between the right of way and the subject development is not demonstrated, it does not take away from the City's objectives for right of way widening in other instances. Given that the City has an existing right of way construction program in place based on the Right of Way Study 2007 which remains current and robust as an operational guiding document, and given the requirements of the Residential Design Codes (R-Codes) in relation to vehicular access, the City will prepare a planning policy to further strengthen its position in regard to imposing conditions relating to ROW widening and construction on development and subdivision applications.

OPTIONS

The following options are available to Council:

1. Council approves the application with or without conditions.
2. Council refuses the application.

CONCLUSION

In light of the outcome of *Le and City of Stirling [2017] WASCA 181* and the fact that the recently constructed single bedroom dwelling on 26 Milne Street does not use the laneway for vehicular access, it is recommended that subject conditions 11 and 12 be removed.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme:	Our Built Environment
Aspiration:	A quality and connected built environment.
Outcome B1:	Appealing streetscapes.
Outcome B3:	Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No.24; and
- City of Bayswater local planning policies and Right of Way Study 2007.

VOTING REQUIREMENTS

Simple Majority Required.

ATTACHMENTS

1. Approved Plans for Development

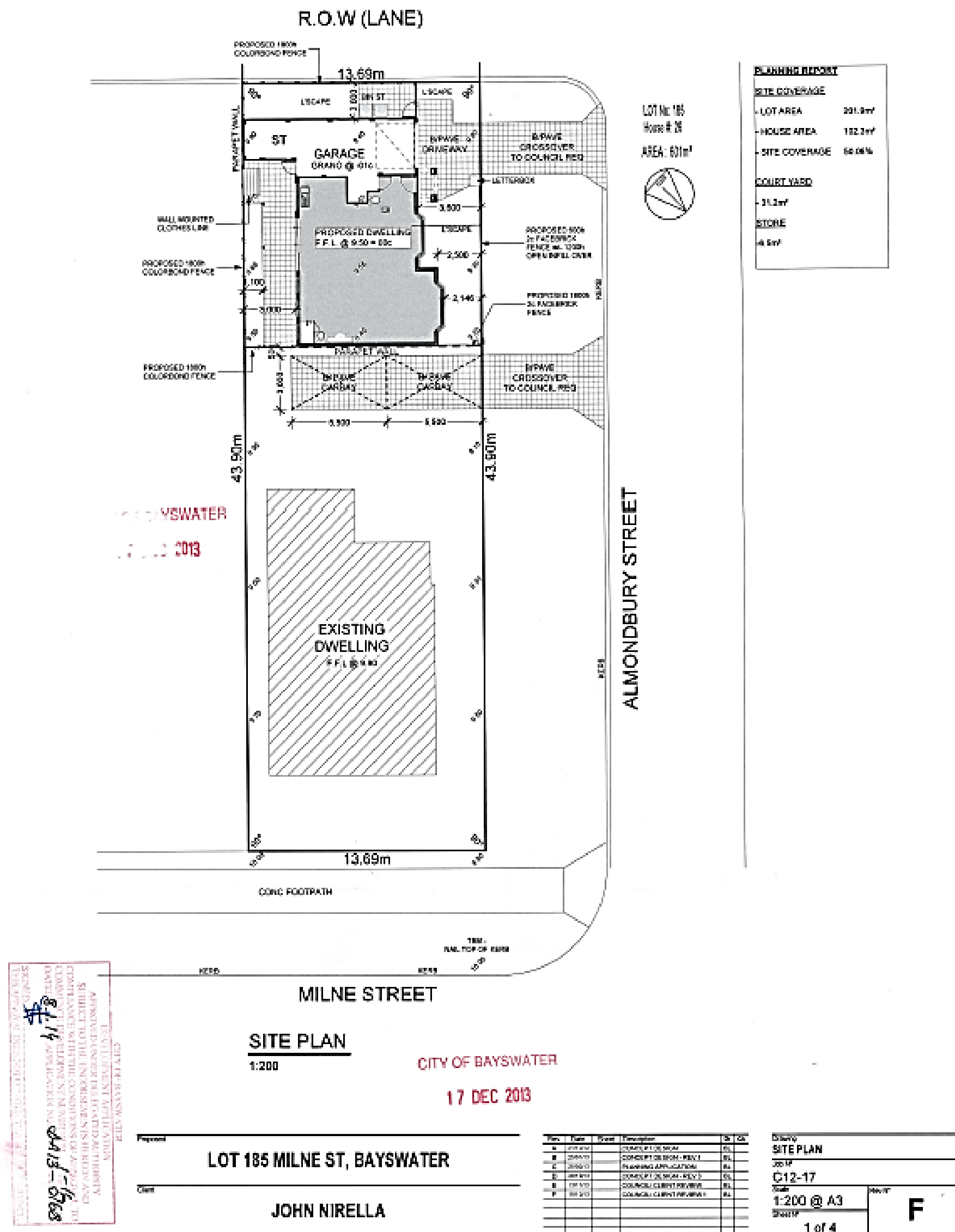
COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council approves the removal of condition 11 (ceding of land for right of way) and condition 12 (construction and draining of the portion of the adjacent right of way) of the Development Approval DA13-0168 dated 8 January 2014, for the single bedroom dwelling at Lot 185, 26 Milne Street, Bayswater.

CR BRENT FLEETON MOVED, CR MICHELLE SUTHERLAND SECONDED

CARRIED: 10/0

Attachment 1 - Approved Plans for Development



[illegible]

Rev	Date	Sheet	Description	Dr	Cr
A	1-1-1970		CONCEPT DESIGN	84	
B	3-10-1970		CONCEPT DESIGN - REV 1	84	
C	1-1-1971		PLANNING AND DESIGN		
D	3-10-1971		CONCEPT DESIGN - REV 2		
E	1-1-1972		DESIGN & CONSTRUCTION	84	
F	1-1-1972		COUNCIL CLUB 1 REV 1	84	

Drawing GROUND FLOOR PLAN	
Job No C12-17	
Scale 1:100 @ A3	Rev No F
Sheet No	

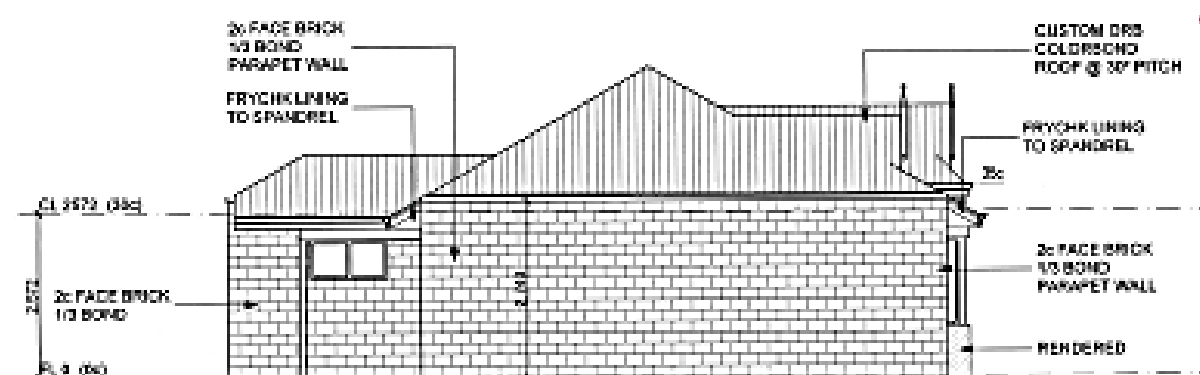


ELEVATION 1

1:100

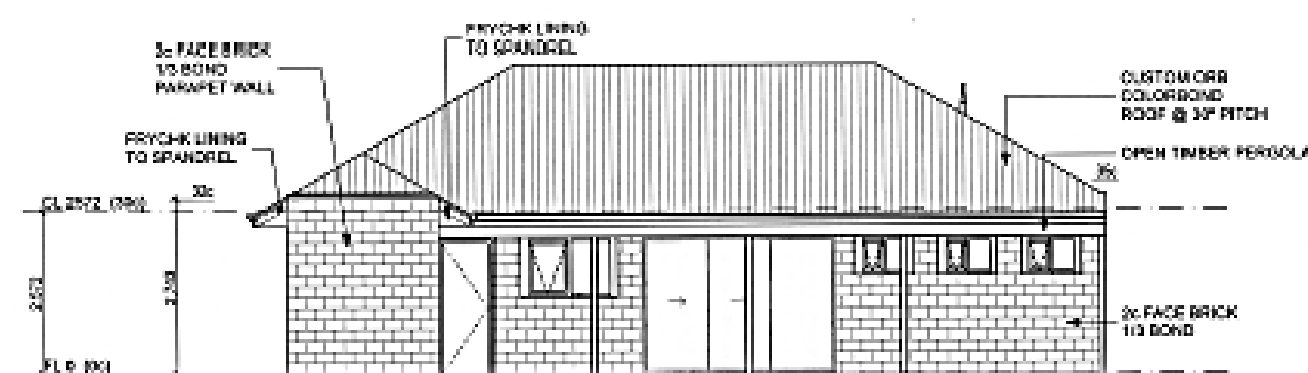
CITY OF BAYSWATER

17 DEC 2013



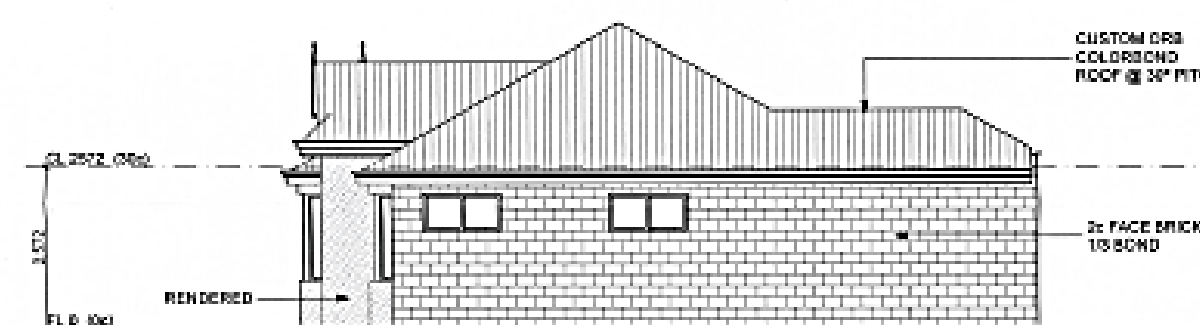
ELEVATION 2

1:100



ELEVATION 3

1:100



ELEVATION 4

1:100

CITY OF BAYSWATER
 DEVELOPMENT SERVICES
 APPROVED UNDER DELEGATED AUTHORITY
 SUBJECT TO THE ENDORSEMENTS HAVING
 CONFORMANCE WITH THE REQUIREMENTS OF CITY
 COMPOSITE PHOTOGRAPHY NUMBER 17
 DATED 17/12/2013 APPLICATION NO. 2013-
 17
 SIGNED: [Signature]
 THIS APPROVAL IS NOT VALID WITHOUT THE CITY OF BAYSWATER

Proposed

LOT 185 MILNE ST, BAYSWATER

Rev	Date	Sheet	Description	By	Rev
1	17/12/13		CONCEPT DESIGN - REV 1	BL	
2	20/12/13		CONCEPT DESIGN - REV 1	BL	
3	20/12/13		CONCEPT DESIGN - REV 1	BL	

Planning
ELEVATIONS
 33/17
 C12-17

9.1.3 Proposed Two-Storey Grouped Dwelling

Location: Lot 4, 93A Stone Street, Bayswater
File Number: DA17-0191
Applicant: 101 Residential
Owner: T & J Hill
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

Confidential Attachment(s) - in accordance with Section 5.23 (2)(b) of the Local Government Act 1995 - personal affairs of any person.

EXECUTIVE SUMMARY**Application:**

A planning application dated 1 May 2017 and plans dated 13 July 2017 have been received for proposed two-storey grouped dwelling at Lot 4, 93A Stone Street, Bayswater.

Key Issues:

- The proposed development does not meet the side setback (garage) requirement of the Residential Design Codes (R-Codes).
- One objection received during community consultation.
- Impact of the development on the amenity of the area.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Residential R17.5/25
Use Class:	Grouped Dwelling - 'P'
Lot Area:	1,119m ²
Existing Land Use:	Vacant
Surrounding Land Use:	Single Houses
Size/Nature of Proposed Development:	Two-Storey Grouped Dwelling

The primary consideration in relation to this application is the visual impact of the proposed development on the amenity of the area and the affected adjacent properties, given the proposal does not meet the side setback requirement of the Residential Design Codes (R-Codes), and to consider an objection that has been received in relation to the proposed development.



CONSULTATION

The City sought comment for the proposed variations from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, one objection was received. Details of the objections, applicant's responses and officer's comments are stated below.

Comment was also sought from the Department of Parks and Wildlife (Swan River Trust) who advised that there were no objections to the proposed development subject to their standard conditions.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
Loss of Views	Concern in relation to loss of views and impact of the proposed garage structure to the existing property. The size of the property being developed should negate the need to build near any boundaries.	<p><i>"The subject garage wall is built up to the northern boundary and consequently will not impede access to direct northern light on adjoining lots. It is notable that a 1.63m high retaining wall exists to the northern side of the garage wall for much of its length, essentially rendering the garage as a 0.83m structure above ground levels of the neighbouring lot. For the remainder of the garage there is a retaining wall to a height of 1.04m. This ensures the garage will not be visible above the neighbours compulsory fencing to the rear of their lots and will not have any impact on views. This is further supported by the finished floor levels of the adjoining properties to the north which are significantly higher than the subject property and garage. In addition this means any perceived bulk from adjoining sites will be negligible.</i></p> <p><i>Ventilation to adjoining lots will not be significantly impacted given there are significant setbacks provided for surrounding areas of the dwelling and a 1.0m setback for the garage wall allows air to flow to its northern side. Significantly the wall is 2.4m meaning it is relatively low."</i></p>	Refer to the "Analysis" section below.

ANALYSIS

Key Scheme Provisions	Required	Provided	Assessment
Minimum Setbacks:			
Side (North)			
Ground Floor	1.5m	1.0 (garage)	Variation
	1.5m (balance)	1.5m	Compliant
First Floor	1.5m	1.5m	Compliant
Side (East)			
Ground Floor	1.5m	7.2m (min)	Compliant
First Floor	2.8m	5.5m - 6.8m	Compliant
	1.6m (balance)	8.0m	Compliant
Side (West)			
Ground Floor	1.0m	14.6m	Compliant
First Floor	3.3m	27.0m	Compliant
Side (South)			
Ground Floor	1.5m	4.584m - 6.8m	Compliant
First Floor	3.3m	4.584m - 6.8m	Compliant
Maximum Building Height:			
Wall Height	6.0m	5.9m	Complaint
Roof Pitch Height	9.0m	8.4m	Compliant
Minimum Open Space	50%	82%	Compliant
Maximum Overshadowing of Adjoining Property	25%	0% Overshadows Reserve	Compliant
Minimum Parking	2 car bays	4 car bays	Compliant

Streetscape

The affected streetscape is characterised as a mix of single and two storey single houses. The subject property has been subdivided into three survey strata lots, with two lots fronting Stone Street comprising single storey single houses and the subject lot to the rear. The rear of the property adjoins the Baigup Wetlands Reserve on the southern boundary.

The proposed development is considered not to impinge on the remnant vegetation or wetland, however it is worthwhile noting that the site is complementary to the adjoining reserve. Accordingly, all stormwater, rubbish and sediment is to be contained on site and any new landscaping utilises native species.

Boundary Setbacks

The lot boundary setbacks of the development fully comply with the exception of the northern side boundary (garage). The variation to the lot boundary setback for the proposed garage is considered relatively minor with the variation on the northern boundary lot being 0.5m. The reduced setback is derived from the length of the proposed garage and its location is due to the limitation of this area of the dwelling which abuts an existing swimming pool, which is to be retained, on the immediate east of the site.

The proposed garage abuts the rear of two existing dwellings at 93 and 95 Stone Street and whilst the top of the garage pitched roof will be marginally visible above the height of the existing boundary fencing at the rear of the properties, the setback of 1.0m is considered acceptable to limit any impact to the adjoining properties. This minor section of the garage is not considered to impact the retention of views across the reserve. The top of the pitched roof of the garage is proposed to be located 4.0m from the property boundary, limiting the impact of the scale of the garage from the adjoining lots.

Accordingly, the proposed development and the variation to the side setback (garage) requirement of the R-Codes is considered to meet the relevant design principles of the R-Codes and will not unduly impact the amenity of the adjacent properties, and are therefore supported.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24;
- City of Bayswater local planning policies; and
- State Planning Policy 3.1 - Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development
2. Submission Location Plan (Confidential)

OFFICER'S RECOMMENDATION

That Council grants planning approval for the proposed two-storey grouped dwelling at Lot 4, 93A Stone Street, Bayswater, in accordance with planning application dated 1 May 2017 and plans dated 13 July 2017, subject to the following planning conditions:

1. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
2. A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application.
3. 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, to the satisfaction of the City of Bayswater.
4. A detailed landscape plan shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application. For the purpose of this condition, the plan shall be drawn with a view to reduce large areas of hard stand in passive areas and show the following:
 - (a) The location and species of all trees and shrubs to be retained or removed.
 - (b) The size and number of new plants to be planted.
 - (c) The location of any lawn areas to be established.
 - (d) Those areas to be reticulated or irrigated.

Landscaping and reticulation shall be completed in accordance with the approved detailed landscape plan prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

5. All stormwater and drainage runoff produced onsite is to be disposed of onsite to the satisfaction of the City of Bayswater.
6. All vehicle crossings being upgraded, designed and constructed to the satisfaction of the City of Bayswater.
7. The existing and/or proposed driveways being constructed with brick paving or concrete to the satisfaction of the City of Bayswater.
8. Retaining walls on lot boundaries exceeding 500mm in height (above natural ground level) are to be designed by a suitably qualified practising engineer, to the satisfaction of the City of Bayswater.
9. The owner shall execute and provide to the City of Bayswater, a notification pursuant to section 70A of the *Transfer of Land Act* to be registered on the title of the grouped dwelling property as notification to proprietors and/or (prospective) purchasers of the property of the following:
 - (a) The land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional Planning and building requirements may apply to development on this land.
 - (b) The lot is in close proximity to known mosquito breeding areas.

The Section 70A Notification shall be prepared by the City's solicitors to the satisfaction of the City of Bayswater. All costs of, and incidental to, the preparation of and registration of the Section 70A Notification, including the City's solicitor's costs, shall be met by the applicant/owner of the land. This notification shall be lodged and registered in accordance with the *Transfer of Land Act* prior to the first occupation of the grouped dwelling.

10. The proponent shall ensure that appropriate on-site measures are implemented to prevent sediment from entering the stormwater system, reserve and river during construction.
11. No soil, building materials, rubbish or any other deleterious matter shall be deposited on the Parks and Recreation reserve.
12. The applicant shall not access the site via the Parks and Recreation reserve unless authorised by the City of Bayswater to do so.

13. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.
14. No temporary or permanent fencing is to be placed outside the property boundary.

Advice Notes:

1. To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
4. This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should the applicant/landowner wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, the applicant/landowner must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act 1961*.
5. Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and verge areas must be adequately protected, maintained and reinstated if required, during and as a result of carting and all works associated with this development.

REASON FOR CHANGE

The Committee changed the Officer's recommendation as the property is adjacent to Baigup Wetlands reserve, it was felt that the applicant should use native species in their landscaping.

COMMITTEE RESOLUTION

That Council grants planning approval for the proposed two-storey grouped dwelling at Lot 4, 93A Stone Street, Bayswater, in accordance with planning application dated 1 May 2017 and plans dated 13 July 2017, subject to the following planning conditions:

1. **The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.**
2. **A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application.**
3. **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, to the satisfaction of the City of Bayswater.**
4. **A detailed landscape plan shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application. For the purpose of this condition, the plan shall be drawn with a view to reduce large areas of hard stand in passive areas and show the following:**
 - (a) **The location and species of all trees and shrubs to be retained or removed.**

- (b) The size and number of new plants to be planted.
- (c) The location of any lawn areas to be established.
- (d) Those areas to be reticulated or irrigated.
- (e) All species proposed to be planted on site to be of a native variety.

Landscaping and reticulation shall be completed in accordance with the approved detailed landscape plan prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

5. All stormwater and drainage runoff produced onsite is to be disposed of onsite to the satisfaction of the City of Bayswater.
6. All vehicle crossings being upgraded, designed and constructed to the satisfaction of the City of Bayswater.
7. The existing and/or proposed driveways being constructed with brick paving or concrete to the satisfaction of the City of Bayswater.
8. Retaining walls on lot boundaries exceeding 500mm in height (above natural ground level) are to be designed by a suitably qualified practising engineer, to the satisfaction of the City of Bayswater.
9. The owner shall execute and provide to the City of Bayswater, a notification pursuant to section 70A of the *Transfer of Land Act* to be registered on the title of the grouped dwelling property as notification to proprietors and/or (prospective) purchasers of the property of the following:
 - (a) The land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional Planning and building requirements may apply to development on this land.
 - (b) The lot is in close proximity to known mosquito breeding areas.

The Section 70A Notification shall be prepared by the City's solicitors to the satisfaction of the City of Bayswater. All costs of, and incidental to, the preparation of and registration of the Section 70A Notification, including the City's solicitor's costs, shall be met by the applicant/owner of the land. This notification shall be lodged and registered in accordance with the *Transfer of Land Act* prior to the first occupation of the grouped dwelling.

10. The proponent shall ensure that appropriate on-site measures are implemented to prevent sediment from entering the stormwater system, reserve and river during construction.
11. No soil, building materials, rubbish or any other deleterious matter shall be deposited on the Parks and Recreation reserve.
12. The applicant shall not access the site via the Parks and Recreation reserve unless authorised by the City of Bayswater to do so.
13. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.
14. No temporary or permanent fencing is to be placed outside the property boundary.

Advice Notes:

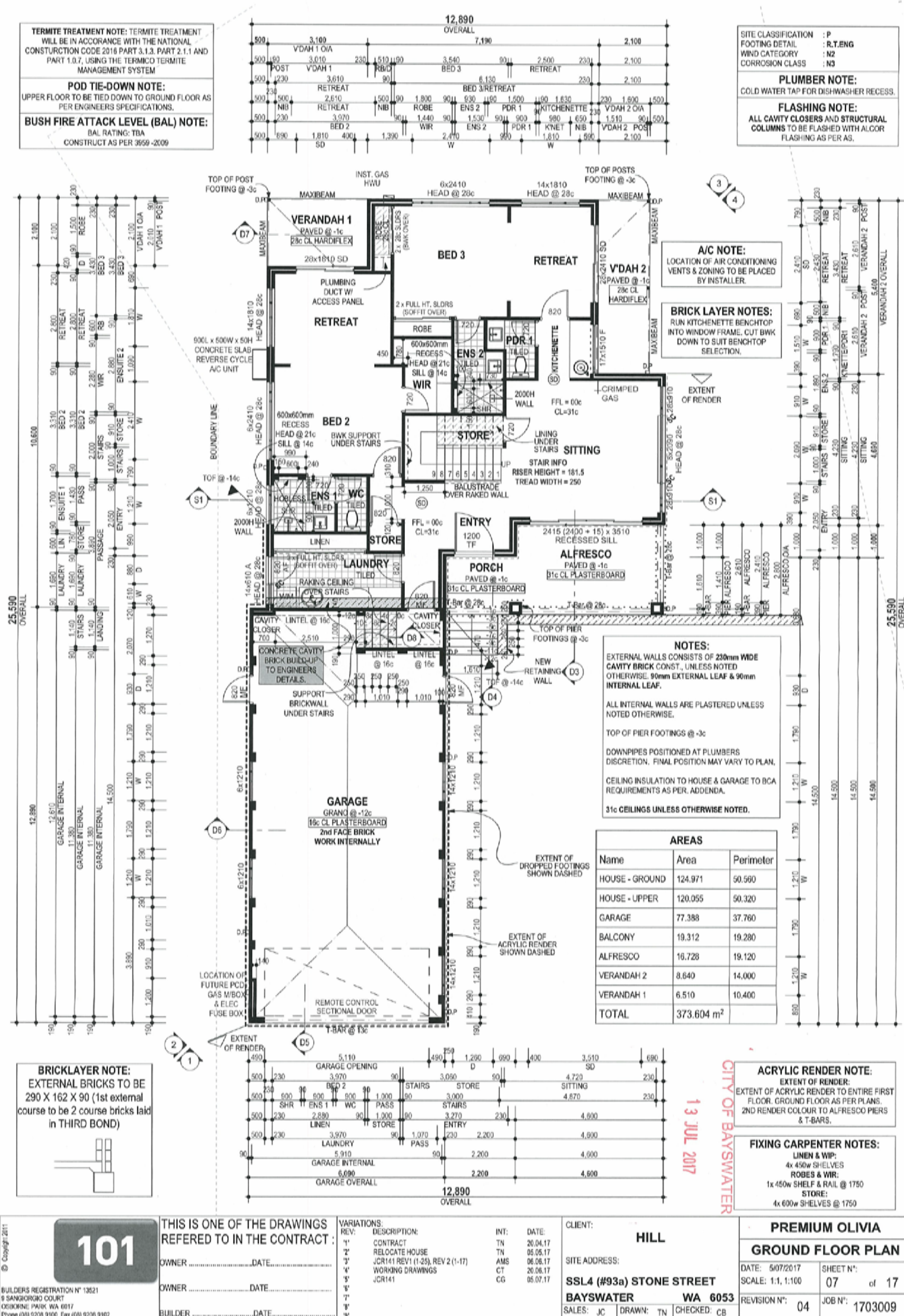
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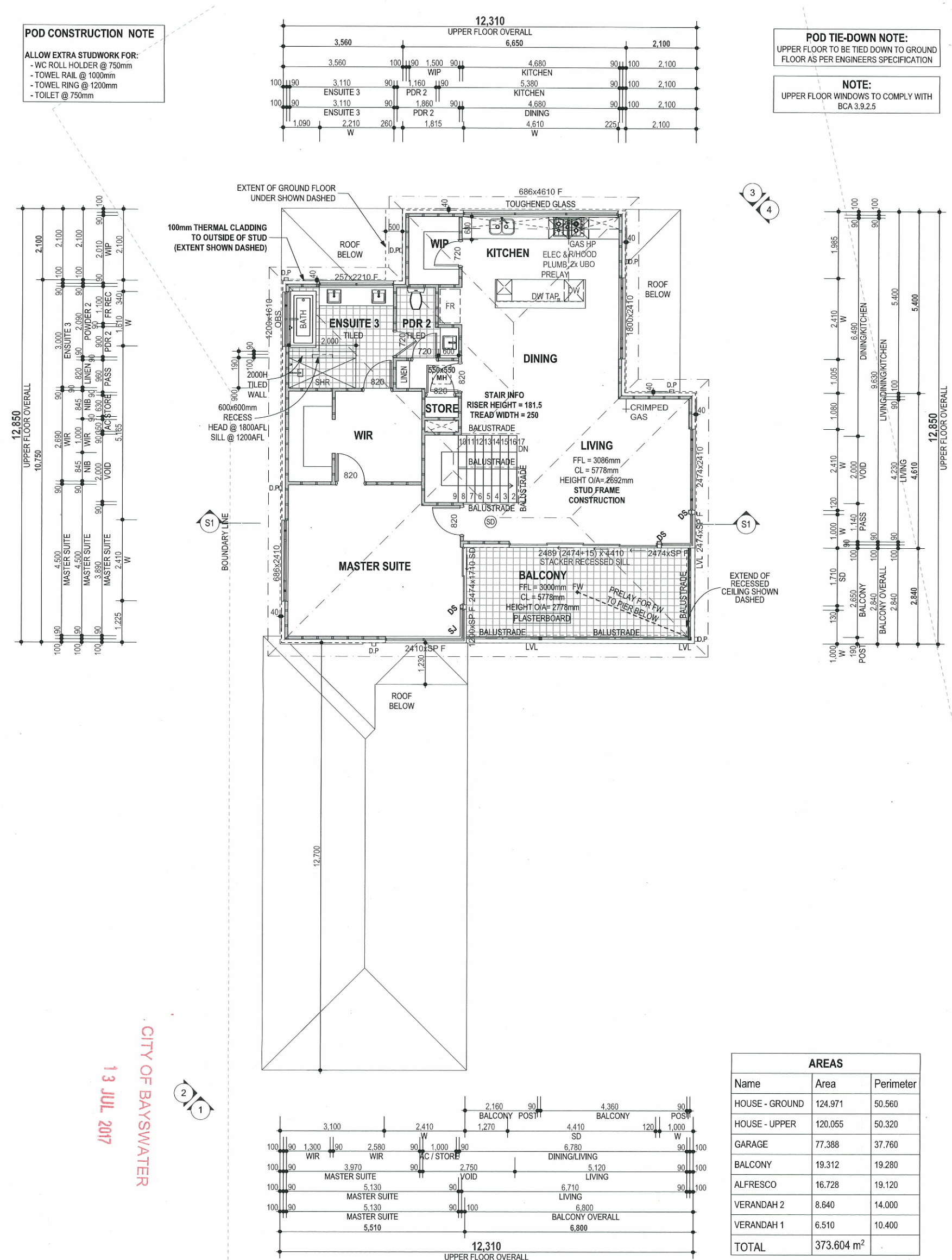
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3. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
4. This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should the applicant/landowner wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, the applicant/landowner must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act 1961*.
5. Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and verge areas must be adequately protected, maintained and reinstated if required, during and as a result of carting and all works associated with this development.

CR CHRIS CORNISH MOVED, CR STEPHANIE COATES, DEPUTY MAYOR SECONDED

CARRIED: 10/0

Attachment 1





101

BUILDERS REGISTRATION N° 13521
9 SANGIORGIO COURT
OSBORNE PARK WA 6017
Phone (08) 9208 9100 Fax (08) 9208 9102

THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT :

OWNERDATE.....

OWNERDATE.....

BUILDERDATE.....

VARIATIONS:

REV: DESCRIPTION:

1' CONTRACT

2' RELOCATE HOUSE

3' JCR141 REV1 (1-25), REV 2 (1-17)

4' WORKING DRAWINGS

5' JCR141

6'

7'

8'

9'

INT: DATE:

TN 20.04.17

AMS 05.05.17

CT 06.06.17

CG 20.06.17

CG 05.07.17

CLIENT:

HILL

SITE ADDRESS:

SSL4 (#93a) STONE STREET

BAYSWATER WA 6053

SALES: JC DRAWN: TN CHECKED: CB

PREMIUM OLIVIA

UPPER FLOOR PLAN

DATE: 5/07/2017 SHEET N°: 08 of 17

SCALE: 1:100, 1:1

REVISION N°: 04 JOB N°: 1703009

ELEVATION 1
1:100

ELEVATION 2
1:100

EXTENT OF RENDER:
EXTENT OF ACRYLIC RENDER TO ENTIRE FIRST FLOOR. GROUND FLOOR AS PER PLANS.
2ND RENDER COLOUR TO ALFRESCO PIERS & T-BARS.

25° PITCH COLORBOND ROOF
COLORBOND GUTTERS, FASCIA AND DOWNPIPES

CL 5778 (5778mm)
CL 3086 (3086mm)
CL 2657 (31c)
CL 1372 (16c)
CL 1029 (-12c)

FL 5560
FL 3086 (3086mm)
FL 0 (0c)
FL -1029 (-12c)

170 x 50 MOULDING
1050H BALUSTRADE
90x90 STEEL POST
T-BAR @ 28c
T-BAR @ 13c
ENTRY DOOR
AUTO SECTIONAL DOOR
PIER
NEW RETAINING WALL T.O.R. @ 9.950
EXISTING RETAINING WALL TOR @ 9.170

2ND RENDER COLOUR
RETAINING WALL @ 10.500
RETAINING WALL @ 10.040

FACE BRICK
SILLS 10mm RECESSED
LDRY DOOR
REVERSE CYCLE A/C UNIT
GAS M/BOX & ELEC FUSE BOX
LOCATION OF FIRE ESCAPE

CL 5778 (5778mm)
CL 3086 (3086mm)
CL 2657 (31c)
CL 1372 (16c)
CL 1029 (-12c)

FL 5560
FL 3086 (3086mm)
FL 0 (0c)
FL -1029 (-12c)

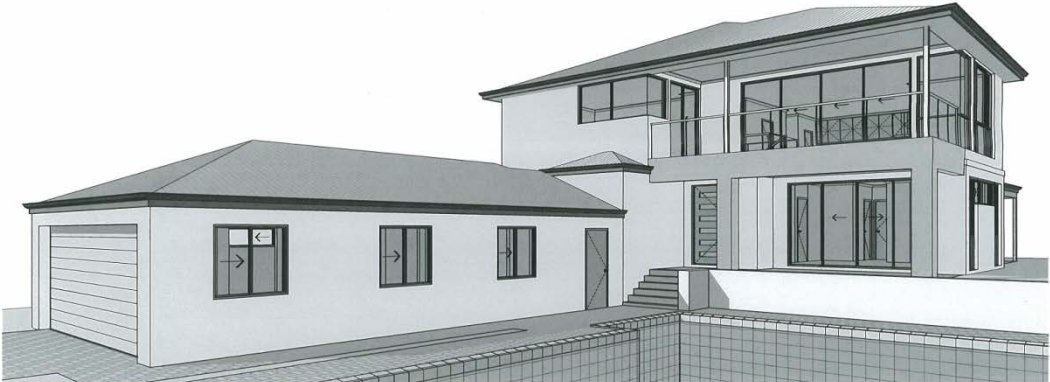
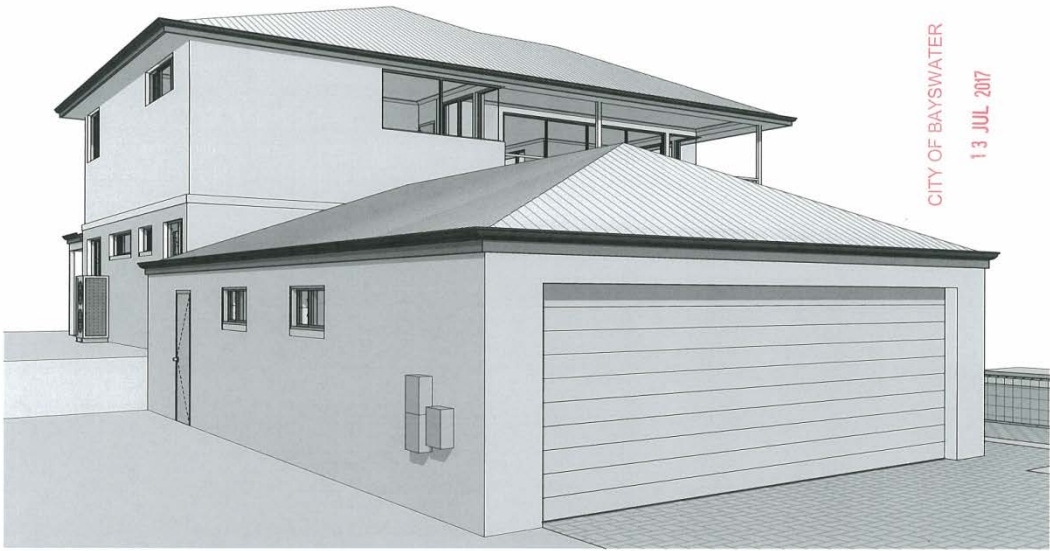
170 x 50 MOULDING
EXPOSED BEAM 2200
90x90 STEEL POST
RETAINING WALL @ 10.630
GARAGE DOOR
RETAINING WALL @ 10.040

CITY OF BAYSWATER
13 JUL 2017

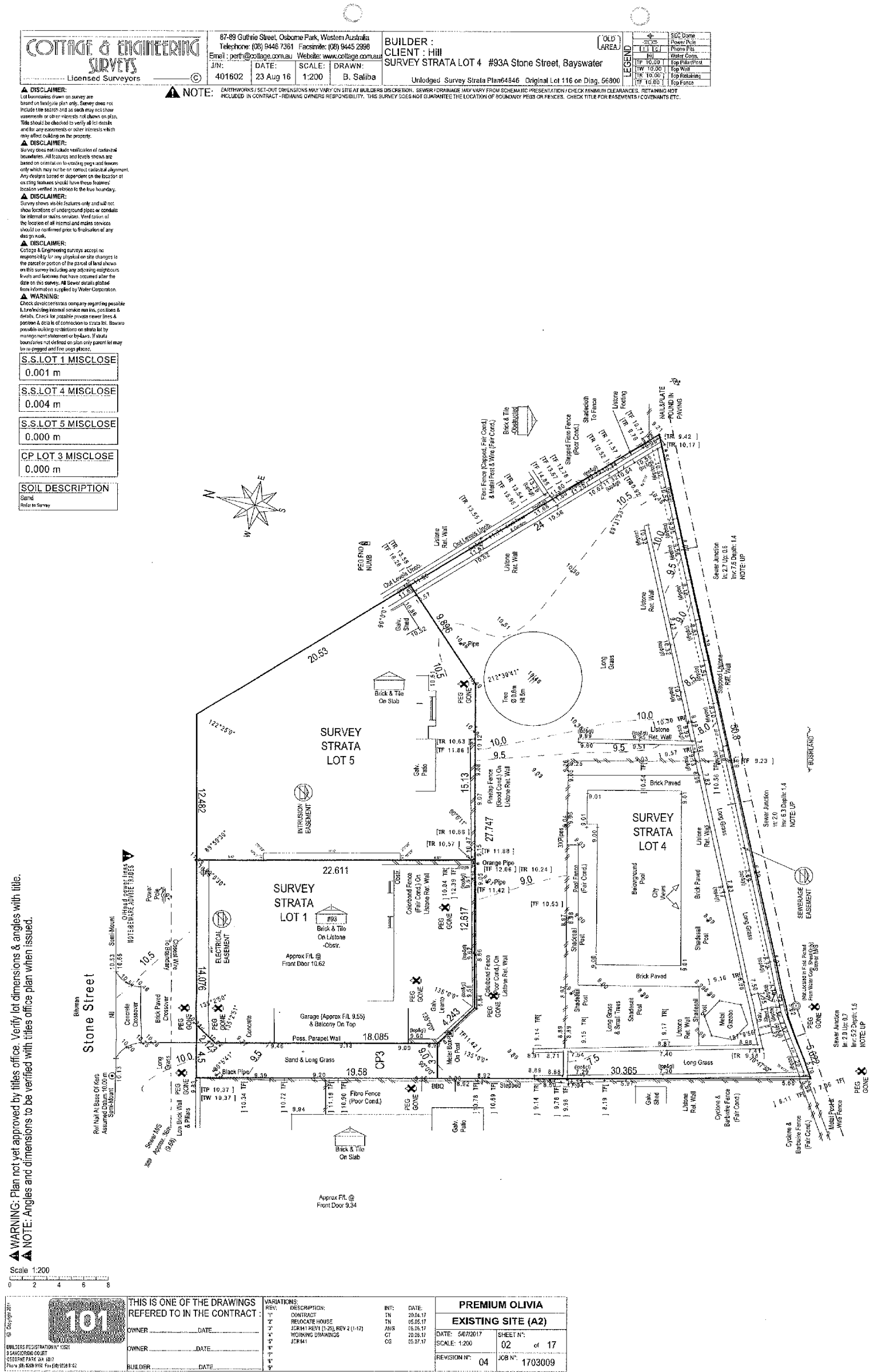
ELEVATION 3
1:100

ELEVATION 4
1:100

CITY OF BAYSWATER
13 JUL 2017



<div>101</div> <div><div>© Copyright 2011</div><div>BUILDERS REGISTRATION N° 13021</div><div>10 SANDGROVE COURT</div><div>OSBORNE PARK WA 6017</div><div>Phone (08) 9309 9100 Fax (08) 9309 9102</div></div>	THIS IS ONE OF THE DRAWINGS REFERED TO IN THE CONTRACT	<div>VARIATIONS:</div> <table><tr><td>REV:</td><td>DESCRIPTION:</td><td>INT:</td><td>DATE:</td></tr><tr><td>1</td><td>CONTRACT</td><td>TN</td><td>20.04.17</td></tr><tr><td>2</td><td>RELOCATE HOUSE</td><td>TN</td><td>05.05.17</td></tr><tr><td>3</td><td>JCR141 REV1 (1-25), REV 2 (1-17)</td><td>AMS</td><td>06.06.17</td></tr><tr><td>4</td><td>WORKING DRAWINGS</td><td>CT</td><td>20.06.17</td></tr><tr><td>5</td><td>JCR141</td><td>CG</td><td>05.07.17</td></tr></table>	REV:	DESCRIPTION:	INT:	DATE:	1	CONTRACT	TN	20.04.17	2	RELOCATE HOUSE	TN	05.05.17	3	JCR141 REV1 (1-25), REV 2 (1-17)	AMS	06.06.17	4	WORKING DRAWINGS	CT	20.06.17	5	JCR141	CG	05.07.17	<div>CLIENT:</div> <div>HILL</div> <div>SITE ADDRESS:</div> <div>SSL4 (#93a) STONE STREET</div> <div>BAYSWATER WA 6053</div> <div>SALES: JC DRAWN: TN CHECKED: CB</div>	<div>PREMIUM OLIVIA</div> <div>PERSPECTIVES</div> <table><tr><td>DATE: 5/07/2017</td><td>SHEET N°:</td></tr><tr><td>SCALE: 1:100</td><td>20 of 17</td></tr><tr><td>REVISION N°:</td><td>JOB N°:</td></tr><tr><td>04</td><td>1703009</td></tr></table>	DATE: 5/07/2017	SHEET N°:	SCALE: 1:100	20 of 17	REVISION N°:	JOB N°:	04	1703009
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9.1.4 Proposed Two Lot Subdivision, Involving Potential Removal of a Street Tree

Location: Lot 27, 98 Rosebery Street, Bedford
File Number: SD17-0093
Applicant: Nigel McAndrew
Owner: Nigel McAndrew
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

EXECUTIVE SUMMARY**Application:**

An application dated 20 June 2017 and plans dated 26 June 2017 have been received for proposed two lot survey strata subdivision, involving potential removal of one street tree, at Lot 27, 98 Rosebery Street, Bedford.

Key Issues:

- The proposed subdivision results in the potential removal of one street tree in the Rosebery Street verge to facilitate the future placement of a crossover and the resultant impact on the amenity of the streetscape and the area.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Residential R20/25
Use Class:	Single House - 'P'
Lot Area:	765m ²
Existing Land Use:	Single House
Surrounding Land Use:	Single Houses and Grouped Dwellings
Size/Nature of Proposed Development:	Two Lot Subdivision, Involving Potential Removal of a Street Tree

The primary consideration in relation to this application is the visual impact on the amenity of streetscape and the area, given the potential removal of one existing street tree on the Rosebery Street verge adjacent to the subject site.



CONSULTATION

The City sought comment for the potential removal of the existing street tree from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, no objections were received.

ANALYSIS

Key Scheme Provisions	Required	Provided	Assessment
Average Lot Area	350m2		Compliant
Minimum Lot Area	300m2		Compliant

Street Tree

The affected streetscape along Rosebery Street is characterised by single storey single houses and grouped dwellings. Rosebery Street also has a well-established planting of various street verge trees with the Queensland Box tree the most prominent.

The subject subdivision application proposes the creation of two new narrow lots from the existing single lot, and the potential removal of the existing adjacent street tree. The lot sizes proposed are compliant with the Residential R25 requirements of the R-Codes. The proposed two side by side lots will each have a width/frontage of 8.045m, and necessitate the construction of a minimum 3m wide crossover to each lot to provide access to the lots. This will mean that the most western lot, in order to provide a compliant crossover, will be located within the 2.0m setback requirement from the existing street tree (with a 3.0m crossover provided a 1.5m setback from the crossover to the street tree would be provided), and necessitate the need to remove a large portion of the canopy of the existing tree.

The adjoining property at No. 96 and 96a Rosebery Street was also subdivided in the same configuration as the proposed subject lots, however the location of the existing street tree in the middle of the lot still enabled a 2.0m setback from the crossovers to the street trees to these lots.

The City's Consulting Arborist has identified that the subject street tree is a Queensland Box tree in good health and condition with no requirement for removal other than to facilitate the placement of a driveway for a side by side subdivision. The arborist has identified that the best outcome for this proposal would be for the block to be subdivided in a battle-axe configuration and utilise the current driveway. The installation of a crossover is possible to the western lot, however it would be of detriment to the tree, in that severe pruning to remove at least 30 to 40% of the canopy to provide vertical clearance, would be required and thereby limiting the remaining canopy of the tree. It is noted overall there will be significant canopy lost not just from clearing of the block itself, but by the potential removal the street tree as well.

The City's current practice is to ensure a minimum 2.0m setback from the base of all street trees to any crossovers and to preserve trees where a viable alternative exists. As noted by the City's arborist a viable alternative exists without the need to remove the verge tree with a proposal for a battle-axe subdivision of the site. The City has advised the applicant that this was an alternative proposal for the subdivision of the site; however the applicant requests that the side by side subdivision of the site is their preference. As the tree is a mature, healthy species, the requirement to remove the street tree to facilitate a future crossover is not supported.

OPTIONS

The following options are available to Council:

1. Council supports the proposal and recommends to the Western Australia Planning Commission that the proposal be approved with or without conditions.
2. Council recommends to the WAPC that the proposal be refused.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for refusal.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24;
- City of Bayswater local planning policies, including Street Trees Planning Policy; and
- State Planning Policy 3.1 - Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Subdivision Plan

OFFICER'S RECOMMENDATION

That Council recommends refusal to the Western Australian Planning Commission for the proposed two lot subdivision at Lot 27, 98 Rosebery Street, Bedford in accordance with subdivision application dated 20 June 2017 and plans dated 26 June 2017, for following reasons:

1. The proposal does not comply with clause 5.3.5 of the Residential Design Codes which requires driveways to be located so as to avoid street trees.
2. The proposal which will result in the need to remove a street tree is considered to have an undue impact on the amenity of the area.
3. The proposal is considered to be inconsistent with the orderly and proper planning of the locality.

MOTION

That Council recommends approval to the Western Australian Planning Commission of the proposed two lot survey strata subdivision of Lot 27, 98 Rosebery Street, Bedford, in accordance with application dated 20 June 2017 and plans dated 26 June 2017, subject to the following conditions:

1. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
2. The existing street tree adjacent to the subject site is to be retained and may be pruned to the satisfaction of the City of Bayswater.
3. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.
4. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on Lot 27 at the time of subdivision approval being demolished and materials removed from the lot(s).

5. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and *Disposal of Effluent and Liquid Waste*) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.
6. Arrangements being made to the satisfaction of the Western Australian Planning Commission for the filling of any bores on Lot 27.

Advice Notes:

1. In regard to Condition 5, a demolition licence will be required to be obtained from the local government prior to the commencement of demolition works.
2. The City may be prepared for the existing crossover to remain should it be in good condition and to be used for the proposed lot.

CR JOHN RIFICI MOVED, CR STEPHANIE COATES, DEPUTY MAYOR SECONDED

LOST: 4/6

FOR VOTE - Cr Stephanie Coates, Deputy Mayor, Cr Sally Palmer, Cr John Rifici and Cr Michelle Sutherland.

AGAINST VOTE - Cr Barry McKenna, Mayor, Cr Alan Radford, Cr Catherine Ehrhardt, Cr Chris Cornish, Cr Brent Fleeton and Cr Dan Bull.

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that the subdivision could proceed with the retention of the existing street tree, and the application be supported subject to the retention of the street tree and standard conditions.

COMMITTEE RESOLUTION

That Council recommends approval to the Western Australian Planning Commission of the proposed two lot survey strata subdivision of Lot 27, 98 Rosebery Street, Bedford, in accordance with application dated 20 June 2017 and plans dated 26 June 2017, subject to the following conditions:

1. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
2. The existing street tree adjacent to the subject site is to be retained.
3. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.
4. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on Lot 27 at the time of subdivision approval being demolished and materials removed from the lot(s).
5. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and *Disposal of Effluent and Liquid Waste*) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.

6. Arrangements being made to the satisfaction of the Western Australian Planning Commission for the filling of any bores on Lot 27.

Advice Notes:

1. In regard to Condition 5, a demolition licence will be required to be obtained from the local government prior to the commencement of demolition works.
2. The City may be prepared for the existing crossover to remain should it be in good condition and to be used for the proposed lot.

CR CHRIS CORNISH MOVED, CR STEPHANIE COATES, DEPUTY MAYOR SECONDED

CARRIED: 9/1

FOR VOTE - *Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor, Cr Alan Radford, Cr Catherine Ehrhardt, Cr Chris Cornish, Cr Brent Fleeton, Cr Dan Bull, Cr Sally Palmer and Cr John Rifici.*

AGAINST VOTE - *Cr Michelle Sutherland.*

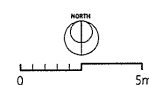
LEGEND

- LOT 27 SUBJECT SITE (764m²)
- EXISTING BUILDINGS TO BE REMOVED
- EXISTING TREES TO BE REMOVED
- EXISTING CONTOUR (1m INTERVAL)
- TELSTRA PIT
- EXISTING SEWER CONNECTION
- WC EXISTING WATER METER
- WP EXISTING POWER POLE

Note: All areas and dimensions subject to detailed survey.

The site plan shows Lot 27 (DP 8673) divided into Lot 1 (382m²) and Lot 2 (382m²). The total area is 764m². The plan includes dimensions for the lots and surrounding areas, as well as locations for existing buildings, trees, and infrastructure. The plan is dated 23 JUN 2017.

Lot 27 (House Number 98) Rosebery Street, Bedford
City of Bayswater



Date: 16/06/2017
Projection: MGA 50
Datum: AHD
Scale: 1:250@A4
Plan: Spec\Lot 27-NM

9.1.5 Proposed Home Occupation - Family Day Care

Location: Lot 123, 1 Hester Street, Bayswater
File Number: DA17-0030
Applicant: Sandra O Segura
Owner: Frances C Hoskins and Joshua M Wilson
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

CR COATES, DEPUTY MAYOR DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 Cr Stephanie Coates declared an impartiality interest as this property was previously her family home two years ago. Cr Coates remained in the room during voting on this item.

EXECUTIVE SUMMARY**Application:**

A planning application dated 20 January 2017 and plans dated 2 June 2017 have been received for proposed home occupation - family day care at Lot 123, 1 Hester Street, Bayswater.

Key Issues:

- Proposed family day care is compliant with the City's Family Day Care Policy.
- Comments received during the Councillor consultation process relating to home occupations.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Medium and High Density Residential - R40
Use Class:	Home Occupation - 'D'
Lot Area:	519m ²
Existing Land Use:	Single House
Surrounding Land Use:	Single Houses and Grouped Dwellings
Size/Nature of Proposed Development:	Home Occupation - Family Day Care

A family day care premises may be operated in accordance with the *Education and Care Services National Law (WA) Act 2012*, and shall not involve the care of more than seven children at any time, which includes any children of the carer, aged under 13 years.

The applicant proposes the following:

- Caring for a maximum of four children at any given time including one child of the carer aged less than 13 years, Monday to Friday 7.30am to 5.30pm, and closed on weekends and public holidays.

The primary consideration in relation to this application is to consider the Councillor comments received in relation to the proposed home occupation. Concern was raised that the subject dwelling is too small for the proposed family day care hence in accordance with the Delegated Authority policy, the application being referred to Council for determination.



CONSULTATION

Letters of non-objection to the proposed development were provided by the adjacent affected landowners.

ANALYSIS

The affected streetscape is characterised as single storey single houses and grouped dwellings. Open space comprising Lower Hillcrest Reserve and Wymond Park fronts onto Coode Street to the north west of the site.

The home occupation comprises use of a 55m² portion of the inside of the dwelling and the rear garden where children will play. There are no visible alterations associated with the home occupation. Accordingly, it is considered the home occupation will not unduly impact the streetscape.

Dwelling Size

The comments received in relation to the application raised concern that the existing dwelling may be too small to accommodate the proposed family day care.

The existing three-bedroom dwelling has a floor area of approximately 110m² and half of this area comprising the lounge, meals, family, laundry and WC rooms is proposed to be used for the family day care as indicated on the attached plans. The *Education and Care Services National Regulations (WA) 2012* specify operational requirements including the physical environment for education and care services including a family day care premises. These Regulations do not specify indoor or outdoor space requirements applicable to a family day care premises. The City's Environmental Health Services has also examined the proposed development and considers that the dwelling is suitable for the intended use and number of children and has no objection subject to standard conditions.

It is noted that separate approval from the Department of Communities will also be required for the family day care in terms of the *Education and Care Services National Law (WA) Act 2012*.

Car Parking

In relation to car parking for home occupation the City's Town Planning Scheme No. 24 (TPS 24) states:

"In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles".

The subject property consists of a double carport and a driveway which may be utilised for dropping children off to the family day care. Given the property is situated within 800m of Bayswater Railway Station only one on-site parking bay is required for the occupants in terms of the Residential Design Codes (R-Codes). The applicant submits that all parking associated with the home occupation will be contained on site and there will be no cars parked on the verge. Based on the proposal it is likely that three cars will attend the site in the morning and in the afternoon which is not considered to have an undue impact on traffic within the street.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies including Family Day Care Policy and Home Based Businesses Policy.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council grants planning approval for the proposed home occupation - family day care at Lot 123, 1 Hester Street, Bayswater, in accordance with planning application dated 20 January 2017 and plans dated 2 June 2017, subject to the following planning conditions:

1. This approval is limited for a period of 12 months. A renewal fee is applicable every 12 months. The applicant is to hold a valid home occupation licence. Should the licence lapse, the approval hereby permitted shall be considered as no longer valid.
2. Prior to commencement of the home occupation a Noise Management Plan shall be submitted to and approved by the City of Bayswater, and implemented thereafter to the satisfaction of the City.
3. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
4. The use shall comply with the City of Bayswater's home occupation provisions set out in clause 8.5.7 of the City's Town Planning Scheme No. 24 or otherwise notified by the City in writing.
5. A maximum of four children are permitted at any one time, including one child of the carer aged less than 13 years.
6. A maximum of one advertising sign which does not exceed 0.2m² and is not illuminated is permitted on the site.
7. The hours of operation shall be limited to the following times: 7.30am to 5.30pm Monday to Friday, and closed on weekends and public holidays.
8. This approval is not to be transferred to any other person or from the land of which it was granted to another site within the City of Bayswater.
9. A waste management plan shall be prepared to the satisfaction of the City of Bayswater prior to operation of the home occupation.

10. The Council reserves the right to revoke approval for the home occupation, where it is of the opinion that the use is prejudicially affecting the amenity of the neighbourhood or is causing a public nuisance.

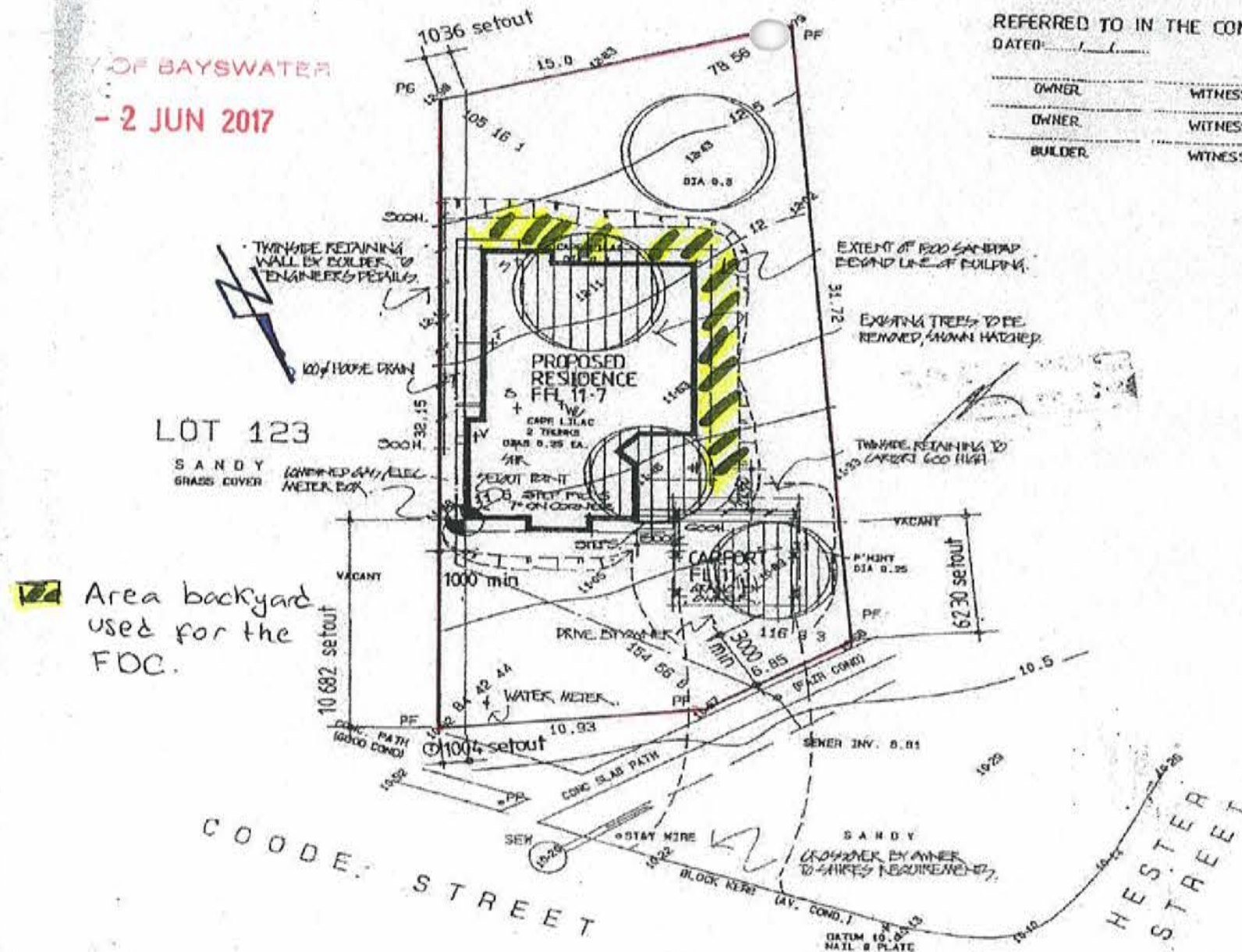
Advice Notes:

1. To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
4. Any activities involving handling of food as part of the business is not permitted without approval from the City of Bayswater (Handling of food as described in the Food Standards Code Food Standards Code include: making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food).
5. Noise emissions from the property must comply with the *Environmental Protection (Noise) Regulations 1997*.
6. Ventilation is to comply with the requirements of the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code of Australia.
7. Premise to comply with the *Health (Miscellaneous Provisions) Act 1911* as amended and all relevant health legislation.
8. Compliance with the City of Bayswater Health Local Laws 2001.

CR STEPHANIE COATES, DEPUTY MAYOR MOVED, CR SALLY PALMER SECONDED

CARRIED: 10/0

OF BAYSWATER
- 2 JUN 2017

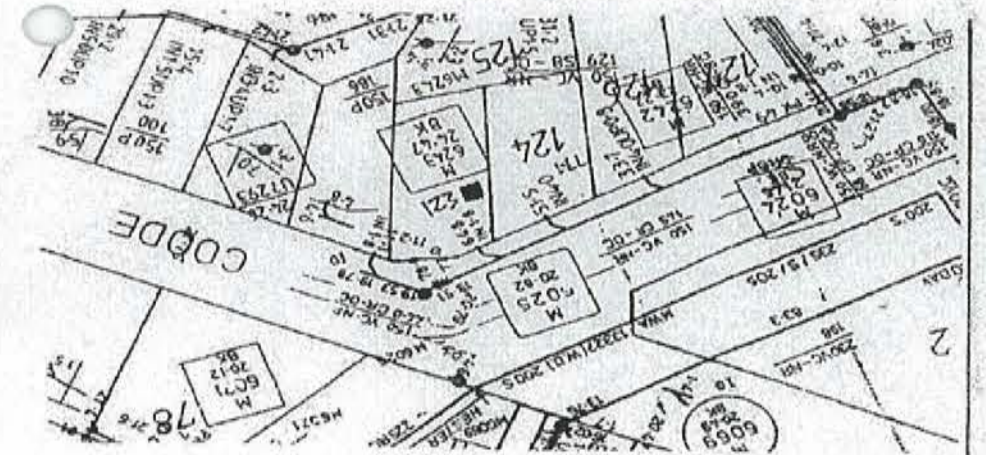


REFERRED TO IN THE CONTRACT
DATED: 1/1/1911

OWNER
WITNESS.

OWNER
WITNESS.

BUILDER
WITNESS.



SEWER	YES	NO	TBE	1-2	in	DEEP	WATER	YES	NO	TBE
GAS	YES	NO	TBE				TELECOM	YES	NO	TBE
ELEC.	YES	NO	TBE	-6/6		0/H	SAME SIDE OF RD.	YES	NO	TBE
REPEP REQUIRED	YES	NO					CONSUMER POLE REQUIRED	YES	NO	
INDEX	①	TELECOM PIT	SN	②	STORM WATER MH		③	ELEC. CABLE BOX		
SEK		SEWER MH	SIZE		GRATED INLET PIT			SIDE ENTRY PIT		
PP		POWER POLE	SV		STOP VALVE		HY	HYDRANT		



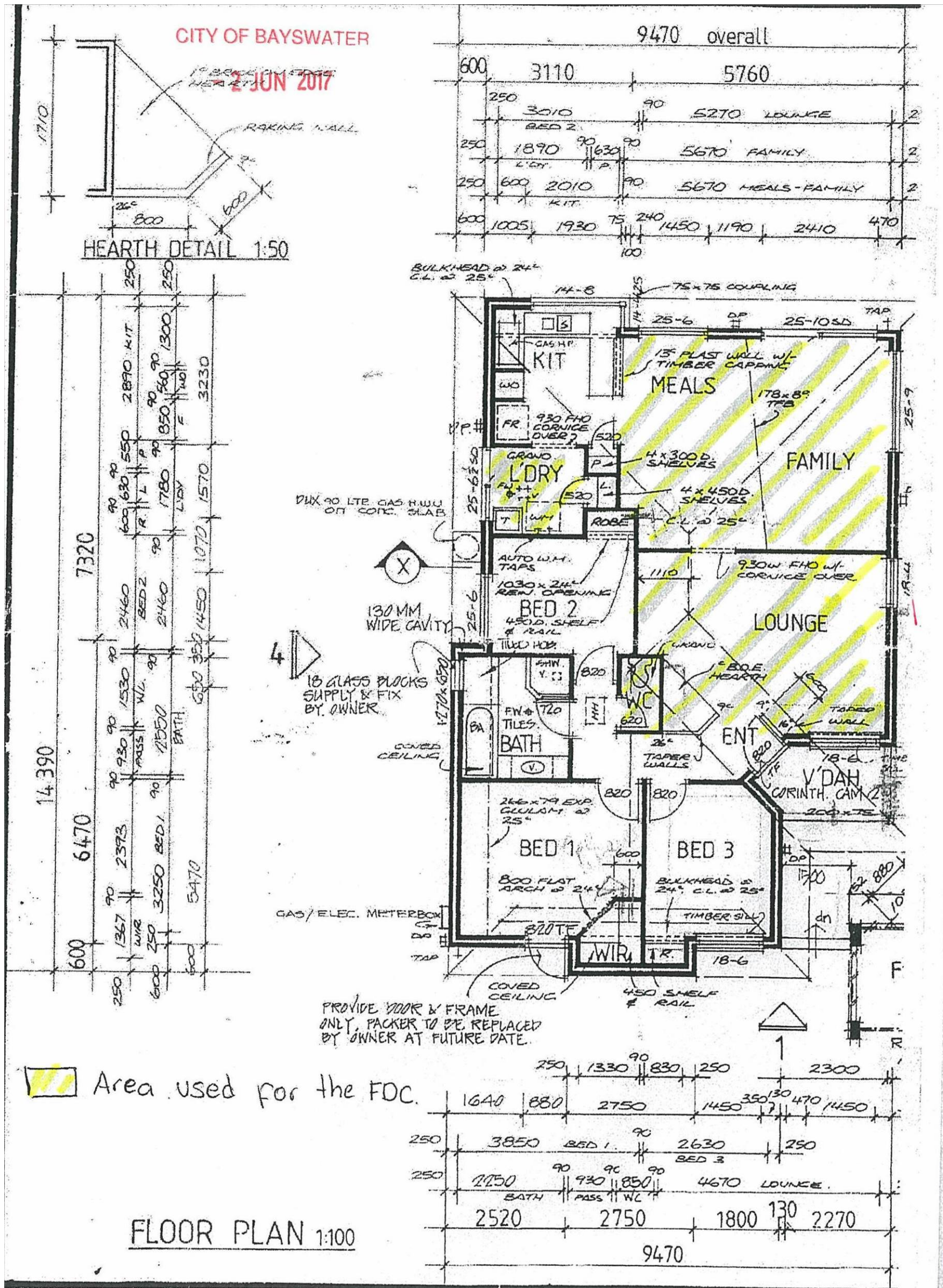
AS **AUTOMATED SURVEYS**

3 Old Street West Perth Western Australia 6008

Postal Address
PO Box 518 Willaton 6155
Telephone (09) 481 7500
Fresuma (09) 321 7647

BUILDER	For easements etc. check Certificate of Title. Site survey only location of boundary pegs or fences in relation to the boundary is not guaranteed.
Earthworks/set out dimensions may vary on site at builders discretion. Sewer/drainage may vary from schematic presentation/check minimum clearances. Retaining — not included/in addition to contract remains owner's responsibility	





9.1.6 Home Business - Electrical Contractor

Location: Lot 47, 22 Crowhurst Way, Morley
File Number: DA17-0270
Applicant: Michael Tollis
Owner: Michael & Anella Tollis
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

Confidential Attachment(s) - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 - personal affairs of any person.

EXECUTIVE SUMMARY**Application:**

A planning application dated 7 June 2017 and plans dated 7 June 2017 have been received for a home business - electrical contractor at Lot 47, 22 Crowhurst Way, Morley.

Key Issues:

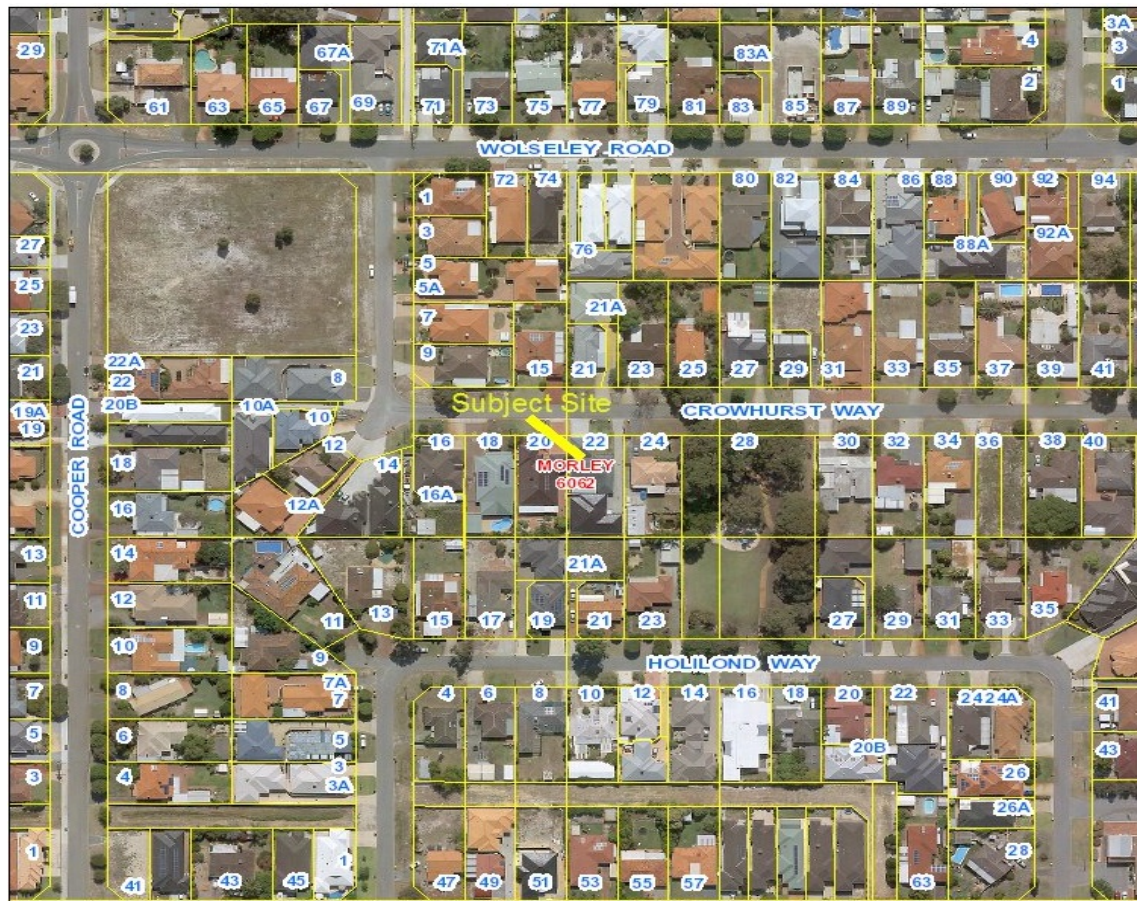
- The home business - electrical contractor use is existing.
- One objection with concerns relating to noise and compliance was received as a result of community consultation on the application.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Residential - R20/25
Use Class:	Home Business - 'A'
Lot Area:	852m ²
Existing Land Use:	Grouped Dwelling
Surrounding Land Use:	Residential
Size/Nature of Proposed Development:	Home Business - Electrical Contractor

The primary consideration in relation to this application is the appropriateness of the use and the impact on the amenity of the area, and to consider an objection that has been received in relation to the use.

The application is for retrospective approval and was submitted as a result of a complaint/compliance matter brought to the attention of the City.



CONSULTATION

The City sought comment on the application from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, one objection was received. Details of the objections, applicant's responses and officer comments are stated below.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
Compliance	Concerns regarding enforcement of compliance with proposed hours. The vans associated with the business advertises a 24 hour service.	The applicant has advised they are a 24 hour business. After hours call outs are minimal with a call out once a month or once every two months.	In the event the application is approved, the applicant will be required to comply with conditions of approval relating to hours of operation.
Noise	Concerns regarding noise.	Efforts to reduce noise from the property have been undertaken in the form of tradesmen conversing in the house or garage.	The applicant is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> .
Storage of Materials	Does not believe storage of fittings and equipment in a private house in a residential area is appropriate. Does not see why workers are unable to buy fittings and equipment as needed from electrical wholesalers.	Employees purchase items on a needs basis from suppliers. However, it is more financially viable to purchase some equipment in bulk. Vans are reloaded on site or occasionally when vans return to the property. No stock is placed outside of the house. Storage of items has no impact on neighbours, and is not viewed as any different from storing household or gardening items.	The floor area of the home business is compliant with the City's Town Planning Scheme No 24.
Nature of business operations	Does not see why the applicant is not able to send job sheets by email to workers.	Work sheets are also emailed. From time to time, the employees may need to discuss a job and it is not practical or cost effective to do by email or phone. This is all done inside the house to reduce disruption.	Noted.

ANALYSIS

The affected streetscape is characterised as single storey single houses and grouped dwellings.

The home business is located inside the rear grouped dwelling. There are no visible alterations associated with the home business. Accordingly, it is considered the home business will not unduly impact the streetscape.

It is noted that there is a driveway that is exclusively used by occupants of the rear dwelling at the subject property. As such, it is considered that there is sufficient space for parking of vehicles for the times specified by the applicant.

The applicant has advised that the home business does not employ more than two people not members of the occupier's household, as required by the City's Town Planning Scheme No. 24 (TPS 24). Further, the home business occupies 25m² in lieu of 50m² allowable under TPS 24.

The objector has raised general concerns in regard to compliance. It is noted, that in the event the application is approved, appropriate conditions will be imposed. Further, it is noted that the applicant has two employees come to the property three times a week for approximately 30 minutes to pick up materials and job sheets, and no clients visit the property. The City's Home Based Business policy allows for a maximum of five customers per day visiting a home business. In comparison, it is considered that two employees visiting three times a week would have less of an impact.

It is noted that the objector has raised concerns in regard to the business operating on a 24 hour basis. The applicant has advised that the business operates on a 24 hour basis, with minimal call outs after hours. To this matter, it is recommended that the applicant comply with the parking of commercial vehicle requirements of TPS 24 which requires the vehicle to not be brought to or taken from the lot between the hours of midnight and 6.00am in order to ameliorate any undue impact on the amenity of adjoining properties.

Given the above, it is considered the home business is supportable subject to appropriate conditions to mitigate any undue impact on the amenity of the area.

OPTIONS

The following options are available to Council:

1. Council approves then application with or without conditions.
2. Council refuses the application.

CONCLUSION

In light of the above assessment of the development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme:	Our Built Environment
Aspiration:	A quality and connected built environment.
Outcome B1:	Appealing streetscapes.
Outcome B3:	Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies, including Home Based Businesses Policy.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development
2. Submission Location Plan (Confidential)

OFFICER'S RECOMMENDATION

That Council grants planning approval for the home business - electrical contractor at Lot 47, 22 Crowhurst Way, Morley in accordance with planning application dated 7 June 2017 and plans dated 7 June 2017, subject to the following planning conditions:

1. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
2. This approval is limited for a period of 12 months. A renewal fee is applicable every 12 months. The applicant is to hold a valid home business licence. Should the licence lapse, the approval hereby permitted shall be considered as no longer valid.
3. The commercial vehicle of the property occupier associated with the home business is not to be brought to or taken from the lot between midnight and 6.00am each day in accordance with the City's Town Planning Scheme No. 24. Any other commercial vehicle associated with the home business shall only attend the site between 7:00am and 5:00pm Monday to Friday.
4. The use shall comply with the City of Bayswater's home based business provisions set out in clause 8.5.7 of the City's Town Planning Scheme No. 24 or otherwise notified by the City in writing.
5. Any noise generated by the home business is not to exceed the levels as set out under the *Environmental Protection (Noise) Regulations 1997*.
6. A maximum of one advertising sign which does not exceed 0.2m² and is not illuminated is permitted on the site.
7. This approval is not to be transferred to any other person or from the land of which it was granted to another site within the City of Bayswater.

Advice Notes:

1. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
2. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.

REASON FOR CHANGE

The Committee changed the Officer's recommendation as it was of the opinion that the home business was unlikely to be operated often after midnight.

COMMITTEE RESOLUTION

That Council grants planning approval for the home business - electrical contractor at Lot 47, 22 Crowhurst Way, Morley in accordance with planning application dated 7 June 2017 and plans dated 7 June 2017, subject to the following planning conditions:

1. **The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.**

2. This approval is limited for a period of 12 months. A renewal fee is applicable every 12 months. The applicant is to hold a valid home business licence. Should the licence lapse, the approval hereby permitted shall be considered as no longer valid.
3. The use shall comply with the City of Bayswater's home based business provisions set out in clause 8.5.7 of the City's Town Planning Scheme No. 24 or otherwise notified by the City in writing.
4. Any noise generated by the home business is not to exceed the levels as set out under the *Environmental Protection (Noise) Regulations 1997*.
5. A maximum of one advertising sign which does not exceed 0.2m² and is not illuminated is permitted on the site.
6. This approval is not to be transferred to any other person or from the land of which it was granted to another site within the City of Bayswater.

Advice Notes:

1. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
2. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.

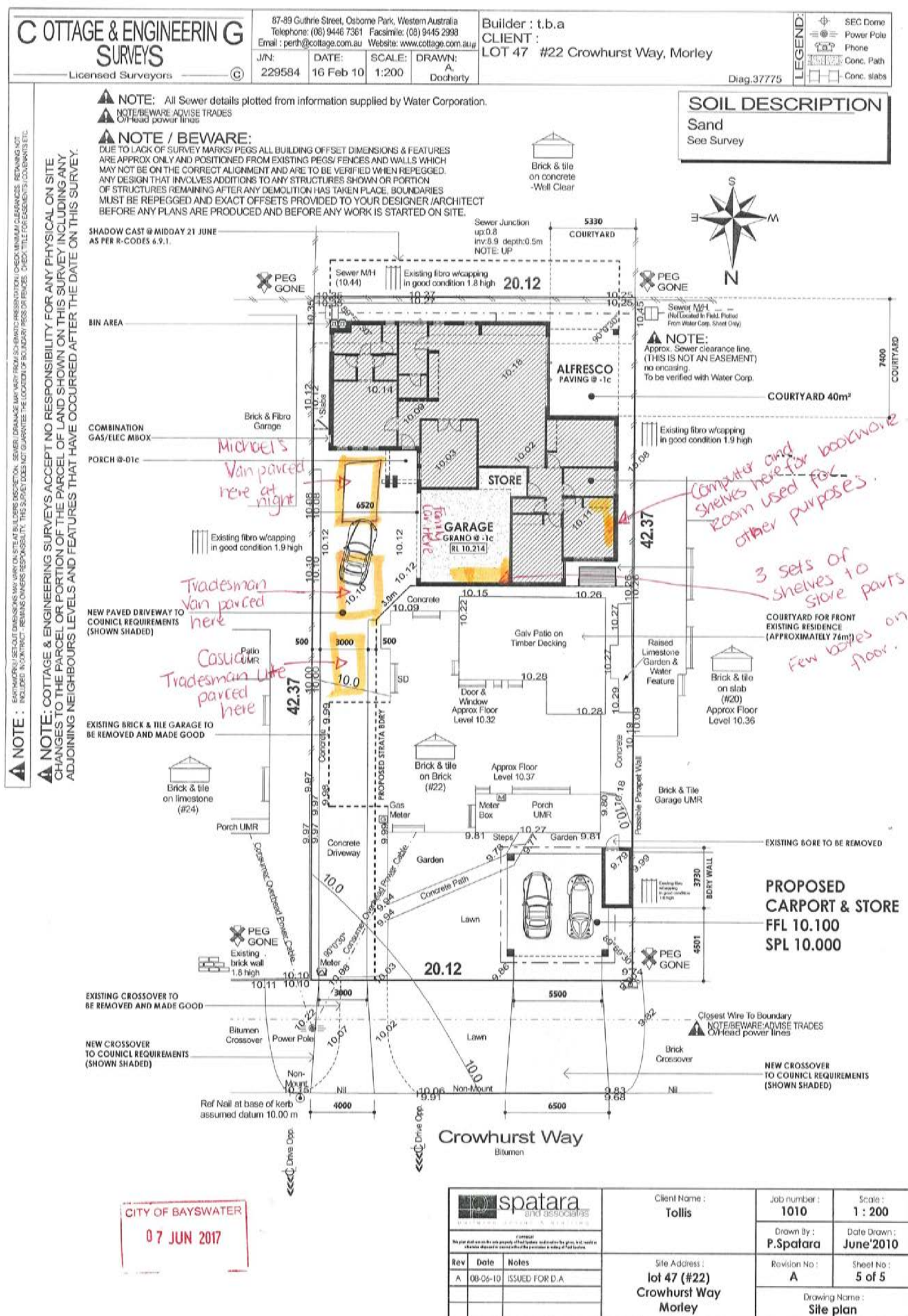
CR SALLY PALMER MOVED, CR MICHELLE SUTHERLAND SECONDED

CARRIED: 8/2

FOR VOTE - Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor, Cr Sally Palmer, Cr John Rifici, Cr Michelle Sutherland, Cr Catherine Ehrhardt, Cr Brent Fleeton and Cr Dan Bull.

AGAINST VOTE - Cr Alan Radford and Cr Chris Cornish.

Attachment 1



9.1.7 Signage Additions to Place of Public Worship

Location: Lot 11, 92 Eighth Avenue, Maylands
File Number: DA17-0012
Applicant: Alvin Prasad
Owner: Jehovah's Witnesses Congregations
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

Confidential Attachment(s) - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 - personal affairs of any person.

EXECUTIVE SUMMARY**Application:**

A planning application dated 3 January 2017 and plans dated 18 July 2017 have been received for signage additions to place of public worship at Lot 11, 92 Eighth Avenue, Maylands. The signage subject of this application is existing.

Key Issues:

- Non-compliance with Appendix 8 of the City of Bayswater Town Planning Scheme No. 24 (TPS 24) relating to Exempted Advertisements.
- Non-compliance with the City's Signage Policy.
- Two objections received during community consultation.
- Impact of the signage additions on the amenity and streetscape of the area.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Medium and High Density Residential - R50
Use Class:	Place of Public Worship - 'A'
Lot Area:	2,014m ²
Existing Land Use:	Place of Public Worship
Surrounding Land Use:	Residential and Commercial Uses and Maylands Train Station
Size/Nature of Proposed Development:	Signage Additions to Place of Public Worship

The primary consideration in relation to this application is the visual impact of the signage on the amenity of the area, including the streetscape and the affected adjacent properties, given the signage additions do not meet the requirements of TPS 24 relating to exempted advertisements or the Signage Policy, and to consider objections that have been received in relation to the signage.



The City sought comment for the variations to TPS 24 and the policy requirements from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, two objections were received. Details of the objections, applicant's responses and officer's comments are stated below.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
Signage	The size and illumination of the signage is inappropriate within a residential zone and does not comply with the scheme requirements.	<i>"The pylon sign complies with all dimensional requirements set out in the Signage Policy except for the minimum headway (1.55m instead of 2.75m). It is considered that the reduced headway is more appropriate to the residential setting.</i> <i>The wall sign complies with all dimensional requirements set out in the Signage Policy."</i>	The City considers the front sign to be a pylon sign and the sign above the entrance to be a verandah sign which are both specified sign types within the Signage Policy. The appropriateness of each sign is discussed in the relevant section below.
	Objection to the pylon sign, it is suggested that the illumination be removed and the sign be relocated to the southern corner of the site, closer to the adjoining commercial premises of the site where a similar non-illuminated sign was previously located.	<i>"To address concerns about light spill, the design has been revised and now features a non-illuminated sign.</i> <i>The option to relocate the sign back to the southern corner of the site was explored, however it is not preferred given the visual obstructions in this area (e.g. electrical kiosk, trees, sliding gate)."</i>	Refer to 'Pylon Sign' section below.
	Objection to the illumination of the verandah sign, the illumination is not considered appropriate when the premises are not in use or after 10.00pm.	<i>"To address concerns about light spill, it is proposed that the lighting be set to automatically turn off at 10pm each night."</i>	Refer to 'Verandah Sign' section below.
	The signs are currently brightly illuminated 24 hours a day which is obtrusive to the eye, affecting and disturbing nearby residents.	As above.	The applicant has proposed to remove illumination of the pylon sign, and will limit the hours of illumination of the verandah sign to address the impact of illumination to the nearby residential properties.

ANALYSIS

Given the retrospective nature of the application, in addition to the application fee, twice that fee by way of penalty was also required to be paid.

Key Scheme Provisions	Required	Provided	Assessment
Signage Policy:			
Residential Zone	Signs not to be located in residential zone	Two signs within residential zone	Variation
Pylon Sign	Minimum headway 2.75m	1.8m	Variation
	Not within 1.0m of side boundaries	3.0m	Compliant
	Not exceed 2.5m in width or 6.0m ²	1.79m wide and 1.61m ²	Compliant
Verandah Sign	Max height 1.5m	0.6m high	Compliant
	Not extend beyond width of fascia	Does not extend beyond fascia	Compliant
	Not lower than bottom of fascia	Is not lower than bottom of fascia	Compliant

Site Context

The property is located on the border of a residential zone, with residential developments to the north and west including single houses, grouped and multiple dwellings. Adjoining the site to the south and east is the Peninsula Hotel and Peninsula Tavern, both of which are directly opposite the Maylands Rail Station. South of the rail station is the central core of the Main Street Precinct of the Maylands Activity Centre, containing a wide range of commercial activities.

Residential Zone

The development is located within a residential zone, bordering the Maylands Activity Centre and acting as a buffer between the two zones. TPS 24 provides for a number of exempt advertisements which do not require development approval. Under these exempt advertisements is a concession for places of public worship, permitting one advertisement detailing the function and/or the activities of the institution concerned to a maximum area of 0.2m². In this instance the two signs have areas of 1.61m² and 0.36m² which do not meet the exemption and accordingly development approval is required.

The City's Signage Policy specifies that signage shall not be located on land that is zoned or used for residential purposes within its general requirements, however the site presents unique circumstances, being located on the border of the Maylands Activity Centre, adjoining commercial uses and associated with an approved non-residential use. It is not considered unreasonable for a community based use to have identifying signage and in light of the lot's unique circumstances there are considered to be sufficient grounds for consideration of the signage within a residentially zoned lot.

Pylon Sign

The primary concern raised within the submissions related to the pylon sign at the front of the property, in particular the illumination and impact of light spill on the nearby residential properties. The sign complies with all requirements associated with a pylon sign with exception to the minimum headway requirement, however this variation is not considered to be of any undue impact given the sign is located within a garden bed.

Notwithstanding, all signs are also required to be considered against the general requirements of the Signage Policy. The general requirements are divided into three sections; design and amenity, safety, and sitting.

The design and amenity requirements section includes the following key points:

- Signage shall be designed and located such that it is sympathetic and harmonious with the character of the surrounding environment; and
- The design, number or variety of signs shall not be injurious to the amenity or natural beauty of the locality.

The sign is considered to be designed in a manner sympathetic with the surrounding environment, constructed with framing matching the colour and material of the existing fencing infill panels, and having minimal impact on sight lines between the property and street as the bottom of the sign has been raised to 1.8m. The size of the sign is not considered to be excessive, occupying 1.79m of the 57.5m lot frontage (3.1%) and located in the western corner of the site adjoining a vehicular access point to provide for instant recognition.

The safety requirements are considered to be fully met as sight lines are not obstructed and the sign is located within a garden bed and as such will not impact pedestrian and vehicle movement. The sitting requirements are considered to be addressed through the 'Residential Zone' section above. To address the concern raised during consultation relating to the illumination of the sign, the applicant has proposed to remove illumination from the sign, and amended plans were provided to reflect this.

In light of the above, the pylon sign is considered to satisfactorily address the requirements of the Signage Policy, is not considered to have any undue impact to the adjoining properties or streetscape, and accordingly is supported.

Verandah Sign

The verandah sign is located centrally on the site, above the entrance to the premises and setback approximately 15m from the street. The Signage Policy includes specific requirements relating to verandah signage which the sign fully complies with. The sign is illuminated and this was also raised as a concern during the consultation period (although not to the extent of the pylon sign).

To address these concerns the applicant has proposed that the illumination of this sign be automatically turned off between 10.00pm and 7.00am each day, to reduce the potential impact of light spill from the premises after hours. This is considered to be an adequate response to the concerns raised, particularly given the impact of illumination from this sign is significantly less than the pylon sign as it is smaller, provided with a greater street setback, and located closer to Railway Parade where the adjoining commercial premises are located.

Accordingly the sign is not considered to be of any undue impact and is supported.

OPTIONS

The following options are available to Council:

1. Council approves the application with or without conditions.
2. Council refuses the application.

CONCLUSION

In light of the above assessment of the subject development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies, including Signage Policy.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development
2. Submission Location Plan (Confidential)

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council grants planning approval for the signage additions to place of public worship at Lot 11, 92 Eighth Avenue, Maylands, in accordance with planning application dated 3 January 2017 and plans dated 18 July 2017, subject to the following planning conditions:

1. Within 28 days of the issue date of this 'approval to commence development', the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:
 - (a) A building approval certificate application in accordance with sections 51, 52 and 54 of the *Building Act 2011*, and regulation 4 of the *Building Regulations 2012* shall be submitted to and approved by the City of Bayswater.
 - (b) Illumination shall be removed from the pylon sign.
2. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
3. The verandah sign shall not be illuminated between 10.00pm and 7.00am each day.

4. The sign indicated 'old sign' and located in the southern corner of the lot on the approved plans does not form part of this approval and shall be removed within 28 days of the issue date of this 'approval to commence development'.
5. The signage hereby permitted shall not contain any flashing, moving or pulsating lighting, nor contain lighting that is distracting to road users, or interferes with traffic signals, to the satisfaction of the City of Bayswater.

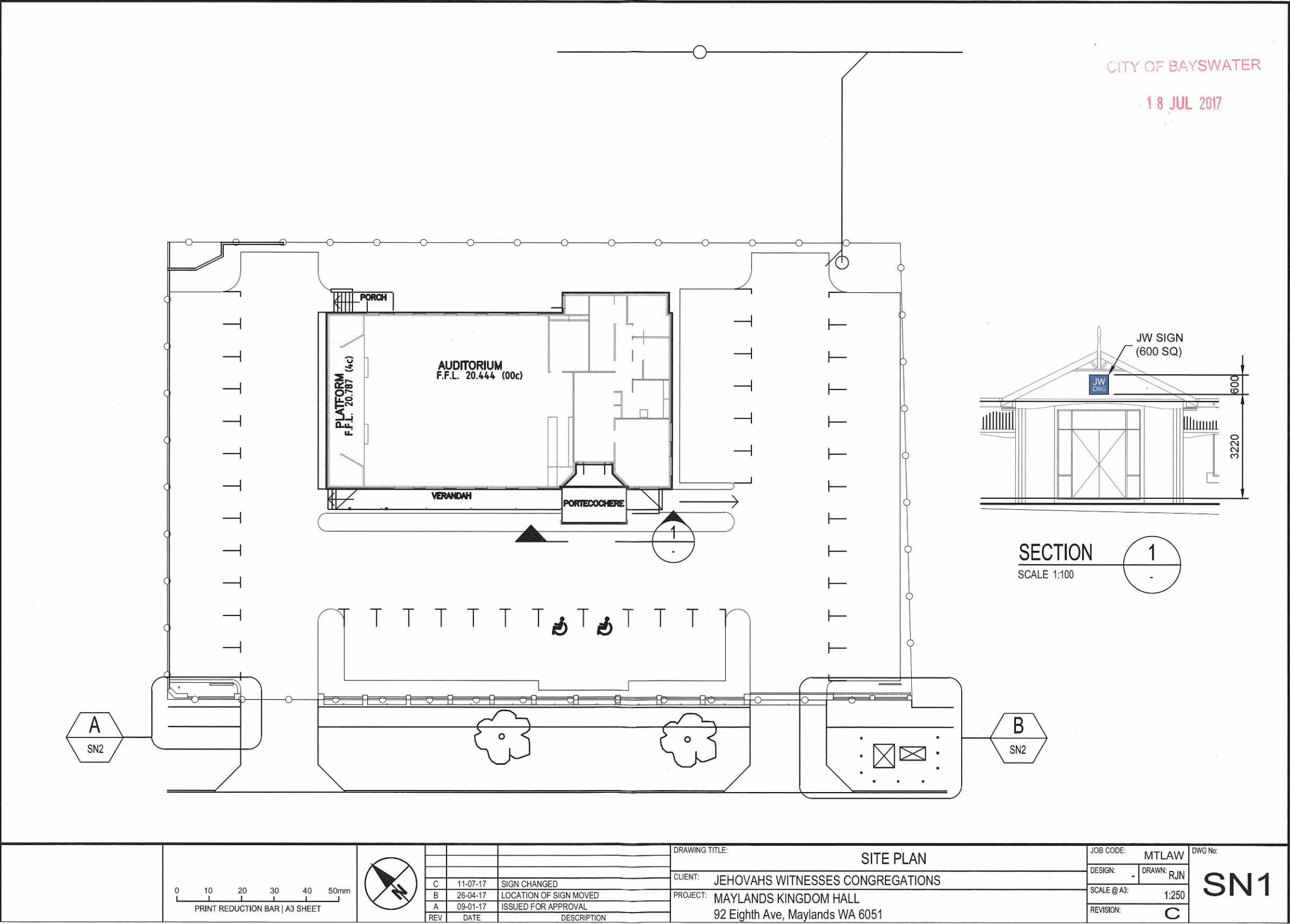
Advice Notes:

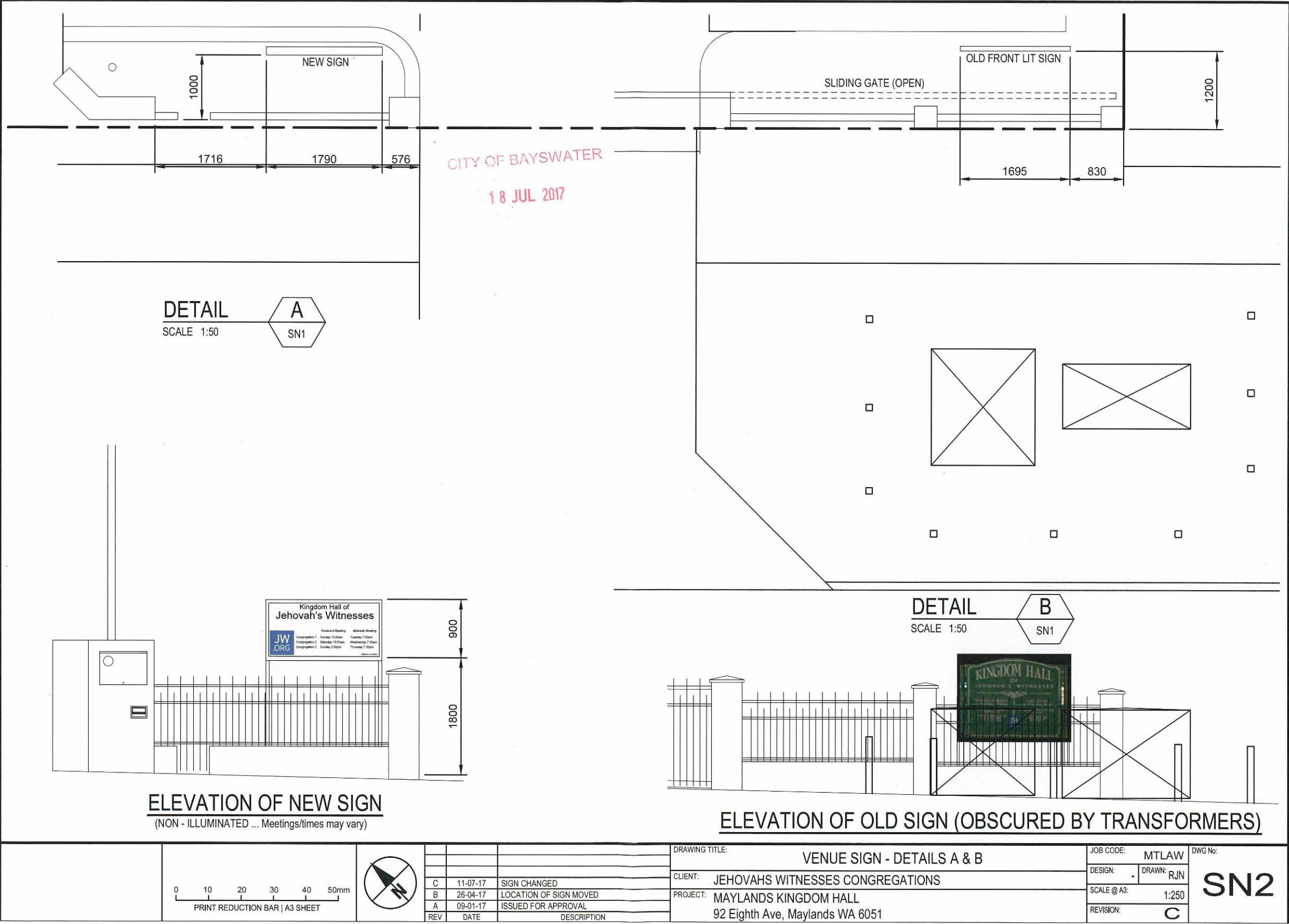
1. This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
2. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.

CR CHRIS CORNISH MOVED, CR STEPHANIE COATES, DEPUTY MAYOR SECONDED

CARRIED: 10/0

Attachment 1





9.1.8 Proposed Change of Use to Laundromat and Associated Alterations in Coventry Village

Location: Lot 1, Tenancy 13A, 243-253 Walter Road West, Morley
File Number: DA17-0334
Applicant: Dev Singh
Owner: Coventry Village Pty Ltd
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

EXECUTIVE SUMMARY**Application:**

A planning application dated 16 June 2017 and plans dated 7 July 2017 have been received for proposed change of use to laundromat and associated alterations in Coventry Village at Lot 1, Tenancy 13A, 243-253 Walter Road West, Morley.

Key Issues:

- Impact on the amenity of the area, given that the proposed use is not listed ('other use') and no additional car parking bays are proposed.

BACKGROUND

Town Planning Scheme No. 23 Zoning:	Central City Area Zone - Residential R80 Precinct 2A: Coventry's Central
Morley Activity Centre Structure Plan Zoning:	Central Core (R-ACO)
Use Class:	TPS23: Laundromat - 'Other Use' MACSP: Laundry Premises - 'Permitted'
Lot Area:	46,678m ²
Existing Land Use:	Market, Shop, Restaurant, Fast Food Outlet
Surrounding Land Use:	Commercial, Residential and Morley Sport and Recreation Centre
Size/Nature of Proposed Development:	Laundromat and Associated Alterations

The primary consideration in relation to this application is the potential impact of the proposed development on the amenity of the area, given that a laundromat is an 'other' use under TPS 23.



CONSULTATION

The City sought comment for the proposed variations from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, no objections were received.

ANALYSIS

Key Scheme Provisions	Required	Provided	Assessment
Town Planning Scheme No.23			
Minimum Parking (Overall Site):	941 car bays	723 car bays	Variation
Morley Activity Centre Structure Plan:			
Minimum Parking (Overall Site):	552 car bays	723 car bays	Compliant

Site Context

Coventry Village is located within the Morley Activity Centre and comprises various commercial tenancies including shops and restaurants. The surrounding land uses are commercial, recreational and residential.

The MACSP was prepared as part of the future vision for the Morley Activity Centre and is considered to be more relevant and in-line with the City's objectives and intentions for the area than TPS 23. As the MACSP has been adopted as a local planning policy and is the guiding document for the Morley Activity Centre endorsed by Council, the City's assessment has been primarily focused on compliance with the MACSP.

Appropriateness of Use

The development application is to change the use of Shop 13A from a shop to a laundromat. This will involve internal refurbishment of the 42.5m² tenancy including the installation of eight washing machines, four dryers and an ironing machine. All machines will be coin operated and therefore do not require employees to operate the laundromat. The laundromat is proposed to open 24 hours per day, 7 days a week in line with the Spud Shed's current opening hours. It is considered that the proposed laundromat use is also commercial in nature and is therefore compatible with the surrounding land uses.

Car Parking

As the proposal is for another/unlisted use, no car parking requirements are specified for the proposed laundromat use and associated alterations in TPS23. In accordance with Clause 4.6.3 of TPS23, if the Scheme does not specify the number of parking spaces required in respect of any particular use then the number of parking spaces to be provided shall be determined by Council.

A total of 723 car bays are provided on the site and are shared amongst all tenancies. The proposal does not include provision of any additional car bays. In considering whether or not provision of additional parking for the laundromat is appropriate, it is noted that under the MACSP, only one additional car parking bay would be required.

The proposed laundromat is located within an existing shop which already meets the car parking requirement in terms of the MACSP. Based on observations made during an inspection of the site by the City's officers, the existing car park is underutilised during day time trading hours, with a number of vacant bays observed.

In light of the above, the car parking variation is considered in accordance with the City's MACSP and will not result in any undue impact to the adjoining tenancies or locality.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Local Economy
Aspiration: A business and employment destination.
Outcome E2: Active and engaging town and city centres.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No.23;
- Amendment No. 61 to City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies, including Morley Activity Centre Structure Plan Policy.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council grants planning approval for the proposed change of use to laundromat and associated alterations in Coventry Village at Lot 1, Tenancy 13A, 243-253 Walter Road West, Morley in accordance with planning application dated 16 June 2017 and plans dated 7 July 2017, subject to the following planning conditions:

1. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
2. Prior to occupation, floor wastes are to be installed within the premises and the floor is to be graded to the floor wastes to prevent water pooling within the tenancy to the satisfaction of the City of Bayswater.

Advice Notes:

1. To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. The noise generated by operational activities is not to exceed the levels prescribed under the *Environmental Protection (Noise) Regulations 1997*.
4. Compliance with the *Health (Air Handling and Water Systems) Regulations 1994* and relevant Australian Standards 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".

5. Compliance with the City of Bayswater Health Local Laws.
6. Ventilation is to comply with the requirements of the Sewerage (*Lighting, Ventilation and Construction Regulations 1971*) and the Building Code of Australia.
7. A permit to discharge waste water is required to be obtained from the Water Corporation and a copy of to be provided to the City of Bayswater.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

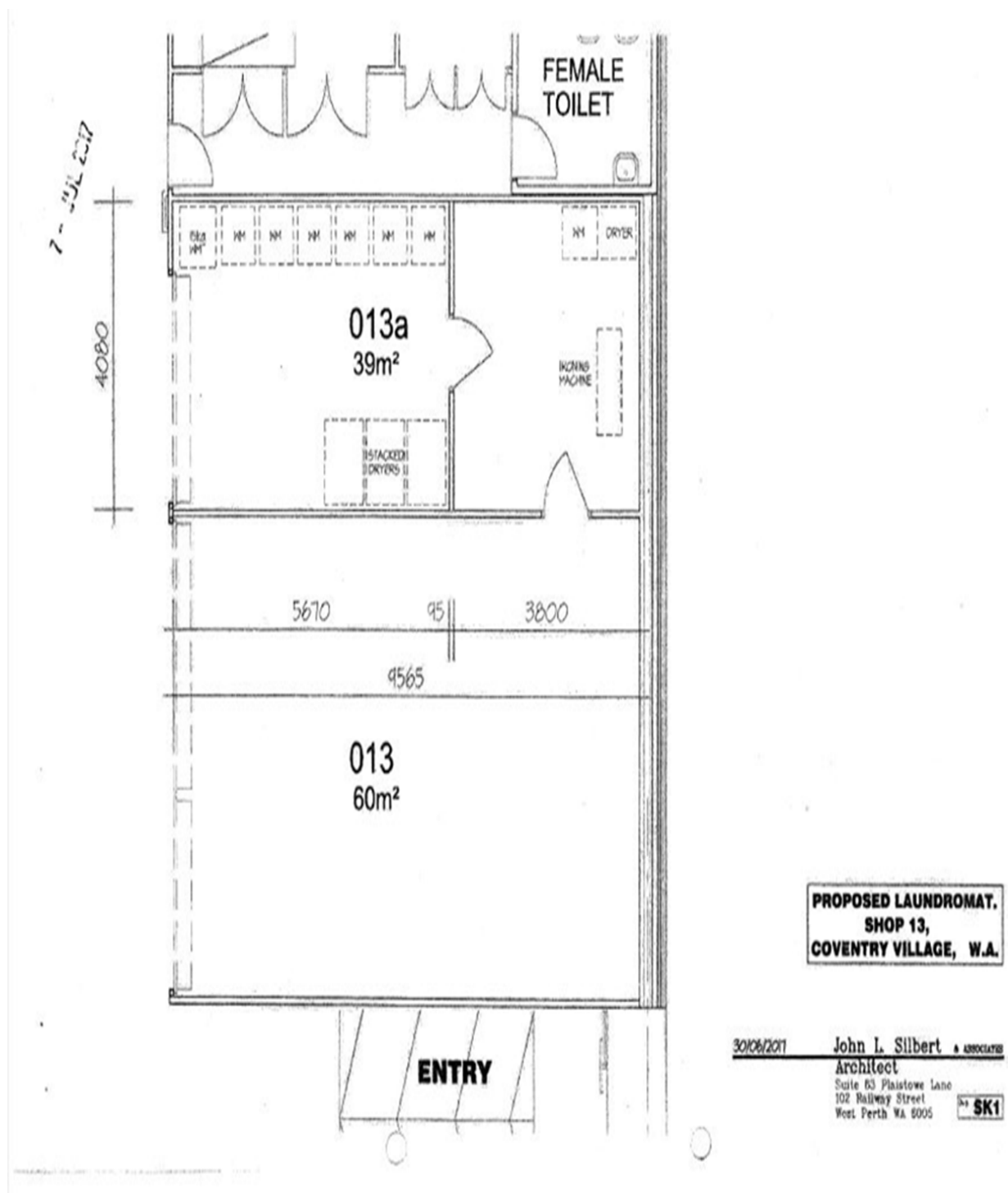
CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

FOR IDENTIFICATION PURPOSES
(not to scale)

Walter Road West Entrance

LOCATION PLAN
Coventry Village Shopping Centre

Attachment



9.1.9 Proposed Change of Use to Small Bar and Associated Alterations, Additions and Signage (Former Maylands Post Office)

Location: Lot 600, 160 Whatley Crescent, Maylands
File Number: DA17-0067
Applicant: Nori-Lynn Munoz
Owner: Maria Havilah
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

CR BARRY MCKENNA, MAYOR DECLARED AN INDIRECT FINANCIAL INTEREST

In accordance with section 5.61 of the Local Government Act 1995, Cr Barry McKenna declared an indirect financial interest in this item as his wife and her siblings used professional services in 2006/07 that may have had business transactions with the owner. At 7:22pm, Cr McKenna withdrew from the meeting.

CR RIFICI DECLARED AN IMPARTIAL INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 Cr John Rifici declared an impartiality interest as he has met the applicant. Cr Rifici remained in the room during voting on this item.

EXECUTIVE SUMMARY**Application:**

A planning application dated 13 February 2017 and plans dated 15 June 2017 have been received for proposed change of use to small bar and associated alterations, additions and signage at Lot 600, 160 Whatley Crescent, Maylands (former Maylands Post Office).

Key Issues:

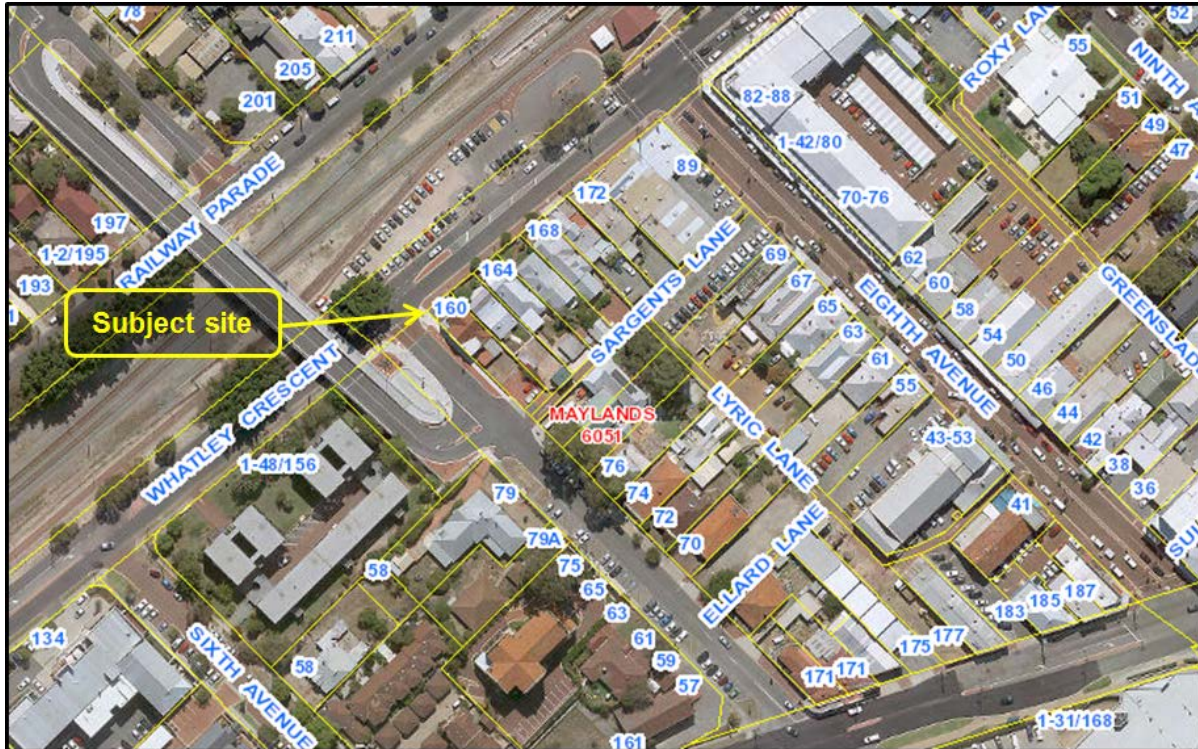
- The proposed development relates to a property entered in the State Register of Heritage Places and the City's Heritage List prepared in accordance with Town Planning Scheme No. 24 (TPS 24) with a management category classification 1.
- Non-compliance with the City's Signage Policy.
- Car Parking in accordance with the existing traditional development clause of the City's Car Parking in the Town Planning Scheme No. 24 Area Policy.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	Maylands Activity Centre - R-AC0 - Special Control Area 1
Use Class:	Small Bar - 'P'
Lot Area:	450m ²
Existing Land Use:	Office
Surrounding Land Use:	Residential and Commercial Uses and Maylands Train Station
Size/Nature of Proposed Development:	Change of Use to Small Bar and Associated Alterations and Additions

The primary consideration in relation to this application is that the development relates to a property entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990* and the City's Heritage List prepared in accordance with TPS 24 with a management category classification 1. The proposed development also does not meet the requirements of the City's Signage Policy.

The building subject to the change of use is the former Maylands Post Office which was constructed in 1910. The property has been vacant in recent years and is currently approved for the use of office.



CONSULTATION

The City consulted with the State Heritage Office (SHO) on the proposal as the development relates to a property entered in the State Register of Heritage Places. Comments received from the SHO advised support of the proposed development subject to the following conditions:

- "1. The original front awning is to be retained insitu, and new signage is to be mounted on the existing awning.
2. Prior to the issuing of a Building Permit, further details regarding National Construction Code and Disability Discrimination Act requirements that will be triggered by the change of use are to be submitted to the State Heritage Office for advice."

In accordance with Section 11(3)(c) of the *Heritage of Western Australia Act 1990*, the above conditions are required to be applied in the event the application is approval by Council.

Given the proposal involves a permitted use, complies with the City's car parking requirements, and was not considered to involve any variations directly impacting the amenity of an adjoining property, community consultation was not undertaken.

ANALYSIS

Key Scheme Provisions	Required	Provided	Assessment
Setbacks:			
Maximum Front	Nil	5.0m	No change
Minimum Side (north-east)	Nil	Nil	Compliant
Maximum Side (Seventh Avenue)	Nil	5.9m	Variation
Minimum Rear (Sargents Lane)	1.0m	6.4m	Compliant
Boundary Wall:			
Maximum Wall Length -			
Side (north-east)	Four storeys	One storey	Compliant
Maximum Plot Ratio*	0.35	0.53	Variation*
Maximum Site Coverage*	35%	44.1%	Variation*
Minimum Landscaping*	10% lot area	11.1%	Compliant*
	2.0m strip adjoining street frontage	Planter boxes and 1.0m strip	Variation*
Maximum Building Height	Six storeys	One storey	Compliant
Minimum Parking	Provide on-site car bays to the extent reasonably possible	Three car bays	Compliant
Signage (Semaphore):			
Minimum headway	2.75m	2.75m	Compliant
Maximum height	1.5m	1.85m	Variation

Maximum projection	1.0m	1.0m	Compliant
Maximum semaphore signs	1 per street frontage	2 on Seventh Avenue façade	Variation

*These requirements are associated with a Tavern use in accordance with Table 2 of TPS 24, and are not specific to the use of a Small Bar however have been included for comparative purposes.

Site Context

The property is within Special Control Area 1 (SCA 1); the main street precinct of the Maylands Activity Centre which is described as a pedestrian-scaled, vibrant, mixed use area. The development site is located on the corner of Whatley Crescent and Seventh Avenue, situated opposite the Maylands Rail Station and Seventh Avenue Bridge. There are various residential and commercial land uses within the immediate vicinity of the development.

Development on a Heritage Listed Place

The proposed development involves a number of alterations, additions and signage to the existing development which were commented on by the SHO. A summary of the proposed works and comments received from the SHO are as follows:

- Partial demolition of the existing ground floor internal partitions and the upper floor mezzanine area.
- Demolition of the rear toilet blocks and shed.
- Cool room and new toilet block additions to the rear of the existing building.
- Front and rear alfresco seating areas, the rear alfresco area will include the addition of a vergola and pergola.
- Wall mounted signage fronting Seventh Avenue.

The proposed internal demolition works include the removal of intrusive ground floor partitions and a portion of the first floor/mezzanine addition, which were both constructed in recent times and are considered to greatly lower the authenticity of the place. The removal of such fabric will uncover the original features including the double hung sash windows, which will provide a positive outcome. It is noted the original internal extant fabric including the front door, hallway door, fireplace and surround, timber floorboards and the timber skirting boards in the kitchen are being retained.

Both the rear corrugated iron shed and toilet block are considered to be of little significance and will be replaced with a new building to accommodate ambulant toilets, a cool room and outdoor landscaped alfresco area. It is understood that the rear addition will be designed as such to read as new fabric, and will meet accessibility requirements which will allow the original main entrance to remain unaltered.

The proposal will allow for a new use for the building which has been vacant for some time, and will have a positive impact to the place's social value as it will be accessible to the general public.

Schedule 2, Clause 12 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows the City to vary any site or development requirement specified in the Scheme to facilitate the built heritage conservation of a heritage listed place. The City's officer considers the development a positive step to revitalising the site while preserving the existing heritage building. The change of use will facilitate active street frontages and compliment the character and heritage of the site, and will contribute most positively to the Maylands Activity Centre. Accordingly the development within the heritage listed place is supported subject to appropriate conditions.

Small Bar Use and Car Parking

The applicant has advised that the small bar is proposed as an upmarket wine bar which will provide activity unique to the area with an attractive selection of international wines and local boutique beers, and a selection of food prepared by a professional chef. The bar will operate Monday to Sunday between the hours of 11.00am to 11.00pm, and hire an estimated 20 employees. The proposed use of small bar is permitted within SCA 1 and therefore is supported by the City. Conditions to address appropriate management of the small bar will be included in the officer recommendation, and it is also noted that the premises will be subject to various environmental health requirements and such matters will also be addressed through the respective legislation.

The site is located just over 100m from the Maylands Rail Station and Guildford Road bus routes, and there are also a number of public parking facilities available nearby and the property currently facilitates space for two to three ad-hoc car parking bays at the rear of the site. The development is located in zone three of the Maylands Activity Centre parking survey undertaken by Donald Veale consultants, which found that the maximum parking bay occupancy for this zone was 52%, concluding that there is currently a surplus of parking bays in the area. The Draft Maylands Town Centre Car Parking Strategy which was informed by the parking survey was adopted for advertising by Council at its Ordinary Meeting held on 20 June 2017.

The development on site is considered an existing traditional development as defined in the City's Car Parking in the Town Planning Scheme No. 24 Area Policy. In accordance with Table 1 Note (c), *"Changes of use and minor redevelopment of these sites are to provide on-site car bays to the extent reasonably possible given the existing building fabric"*. The site is significantly constrained in its ability to facilitate vehicle access and car bays due the building, the lots narrow width (10m), and close proximity to the intersections of Whatley Crescent and Seventh Avenue, and Seventh Avenue and the Seventh Avenue bridge ramp.

It is considered that the proximity of the site to the Seventh Avenue bridge ramp makes access to the site from Seventh Avenue an undesirable and hazardous option. The City's preference is that all vehicular access and car bays on site be accessed via the available right-of-way, which the applicant has provided. Accordingly the car bays provided are considered to be extent that can be reasonably provided on-site and is supported.

Street Setback

SCA 1 requires that a nil setback be provided to Seventh Avenue to facilitate the objectives of the precinct. The existing development currently presents a nil setback to Seventh Avenue, however the proposed rear additions comprising a toilet block and cool room are setback 5.9m from the street.

The proposal includes a new fence on the Seventh Avenue frontage and an open structure vergola and pergola above the adjoining alfresco seating area. This new active area will promote interaction with the Seventh Avenue frontage while minimising the visual impact of the additions, ensuring the heritage building remains the most dominant structure and focus of the site. Accordingly the increased street setback is not considered to be of any undue impact and is supported.

Signage

The signage consists of two wine barrels attached to the Seventh Avenue façade, representative of the name of the small bar 'Barrel One Sixty'. The unique signage is considered under the sign specific requirements for semaphore signs within the City's Signage Policy. The variations identified relate to the sign height and number of signs.

Given the sign meets minimum height clearance requirements and does not extend beyond the height of the wall to which it is attached, the sign height is considered not to unduly impact the façade or have a dominating presence on the heritage building or streetscape.

The original proposal included a barrel attached to the Whatley Crescent façade in addition to the two barrels currently proposed to the Seventh Avenue façade; however at the request of the SHO the Whatley Crescent barrel was removed. The total number of semaphore signs on site does not exceed what would typically be permitted under the Signage Policy provided they are spread across both street frontages.

The SHO accepted the provision of two semaphore signs to the Seventh Avenue street façade/frontage due to the limiting impact on the primary façade of the heritage place. The signs create a unique point of interest for the development and are not considered to unduly impact on the heritage significance of the place or the streetscape and are supported accordingly.

Plot Ratio, Site Coverage, Landscaping

The analysis table above indicated three areas of assessment which are associated with the use of Tavern for comparative purposes, given there are no requirements specific to the use of small bar. While there are some similarities between the two uses, small bars are considered to be drastically different from taverns in relation to their design and built form.

Taverns are typically characterised as standalone developments, provided with large areas of car parking and outdoor areas suited to catering for high volumes of people. Small bars typically do not include outdoor areas and are contained to relatively small commercial tenancies, accommodating a maximum of 120 people (sometimes less), and located within activity centres often relying on communal or public parking to service their customers.

The low allowance for plot ratio (0.35 permitted, 0.53 proposed - 51% variation) and site cover (35% permitted, 44.1% proposed - 26% variation) associated with the tavern use is considered appropriate for taverns given a large proportion of the site area will accommodate car parking and outdoor areas. Small bars however are more space intensive uses which do not have sufficient space to accommodate any significant outdoor and parking areas. In this instance the development does not meet the plot ratio or site cover requirements, however this is primarily due to the existing built form on site as opposed to any significant additions being proposed.

Schedule 2, Clause 12 of the *Planning and Development (Local Planning Schemes) Regulations 2015* allows the City to vary any site or development requirement specified in the Scheme to facilitate the built heritage conservation of a heritage listed place. Given the location of the site within an activity centre the increase to plot ratio and site cover is considered reasonable, and will facilitate the conservation of a significant heritage place, accordingly the variations are not considered to be of any undue impact and are supported accordingly.

The provision of landscaping on site exceeds the overall requirement of 10% despite the constraints of the existing development. The landscaping areas provided will for the most part be visible from the street and therefore achieve a similar outcome to that of the landscaping strips required. Overall the site is considered to be landscaped to a high standard and the proposal is supported subject to a more detailed landscaping plan being provided to the satisfaction of the City.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment.
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

Theme: Our Local Economy.
Aspiration: A business and employment destination.
Outcome E2: Active and engaging town and city centres.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies, including Car Parking in the Town Planning Scheme No. 24 Area Policy.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development
2. Municipal Inventory - Statement of Significance

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council grants planning approval for the proposed change of use to small bar and associated alterations, additions and signage at Lot 600, 160 Whatley Crescent, Maylands, in accordance with planning application dated 13 February 2017 and plans dated 15 June 2017, subject to the following planning conditions:

1. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
2. The original front awning is to be retained insitu, and new signage is to be mounted on the existing awning.
3. Prior to the issuing of a Building Permit, further details regarding National Construction Code and *Disability Discrimination Act* requirements that will be triggered by the change of use are to be submitted to the State Heritage Office for advice to the satisfaction of the City of Bayswater.
4. A detailed management plan shall be submitted to and approved by the City of Bayswater, prior to occupation of the premises addressing the following matters:
 - (a) Nature of any entertainment that may be provided on the premises.
 - (b) Control of anti-social behaviour.
 - (c) Control of noise.

The approved detailed management plan shall be implemented prior to the first occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

5. A refuse and recycling management plan shall be submitted to and approved by the City of Bayswater, prior to commencement of any works. The plan shall include details of refuse bin location, number of rubbish and recycling receptacles, vehicle access and manoeuvring, and be implemented thereafter to the satisfaction of the City.
6. A suitably screened refuse bulk bin area with a minimum area of 10m² shall be provided to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.
7. A detailed landscape plan shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application. For the purpose of this condition, the plan shall show the following:
 - (a) The species, size and number of new plants to be planted.
 - (b) Provision of at least one tree on site.
 - (c) The location of any lawn areas to be established.
 - (d) Those areas to be reticulated or irrigated.

Landscaping and reticulation shall be completed in accordance with the approved detailed landscape plan prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

8. A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application.
9. Walls, fences and other structures or vegetation shall be truncated or reduced to no higher than 0.75m within 1.5m of the junction of Seventh Avenue and Sargents Lane.
10. Windows, doors and adjacent areas fronting Whatley Crescent and Seventh Avenue shall maintain an active and interactive relationship with the street, to the satisfaction of the City of Bayswater.
11. The approved parapet/boundary wall(s) and footings abutting the lot boundaries must be constructed wholly within the subject allotment. The external surface of the parapet/boundary wall(s) shall be finished in facebrick or rendered brickwork to a professional standard, to the satisfaction of the City of Bayswater.
12. All stormwater shall be managed on-site to the satisfaction of the City of Bayswater.
13. The car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City of Bayswater.
14. All vehicle crossings being upgraded, designed, and constructed to the satisfaction of the City of Bayswater.
15. Redundant vehicle crossover(s) to be removed and the kerbing, verge and footpath (where relevant) reinstated to the satisfaction of the City of Bayswater.
16. The signage hereby permitted shall not contain any flashing, moving or pulsating lighting, nor contain lighting that is distracting to road users or interfere with traffic signals, to the satisfaction of the City of Bayswater.

17. All external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street, or designed integrally with the building and be located so as not to be visually obtrusive from the street.
18. 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, to the satisfaction of the City of Bayswater.

Advice Notes:

1. To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any law other than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. The City will only support an application for a small bar licence under the *Liquor Control Act 1988* in association with the approved development. Small bar licences prohibit the sale of packaged liquor, limit the number of persons who may be on the licensed premises to a maximum of 120, and permitted hours of operation in accordance with Section 98 of the Act.
4. Any additional proposed signage not included in the plans of this approval will require a separate application including plans and details of the signs (including signs painted on a building) and shall be submitted to the State Heritage Office for comment and approved by the City of Bayswater.
5. The application shall comply with all relevant Waste and Health local laws, legislation and subsidiary legislation.
6. The noise generated during construction or operational activities is not to exceed the levels prescribed under the *Environmental Protection (Noise) Regulations 1997*.
7. Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and verge areas including any verge trees must be adequately protected, maintained and reinstated if required, during and as a result of carting and all works associated with this development.
8. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
9. This approval does not authorise any interference with dividing fences, nor entry onto neighbouring land. Accordingly, should you wish to remove or replace any portion of a dividing fence, or enter onto neighbouring land, you must first come to a satisfactory arrangement with the adjoining property owner. Please refer to the *Dividing Fences Act 1961*.

CR CATHERINE EHRHARDT MOVED, CR STEPHANIE COATES, DEPUTY MAYOR
SECONDED

CARRIED: 9/0

At 7:27pm, Cr McKenna returned to the meeting.

AREA CALCULATIONS

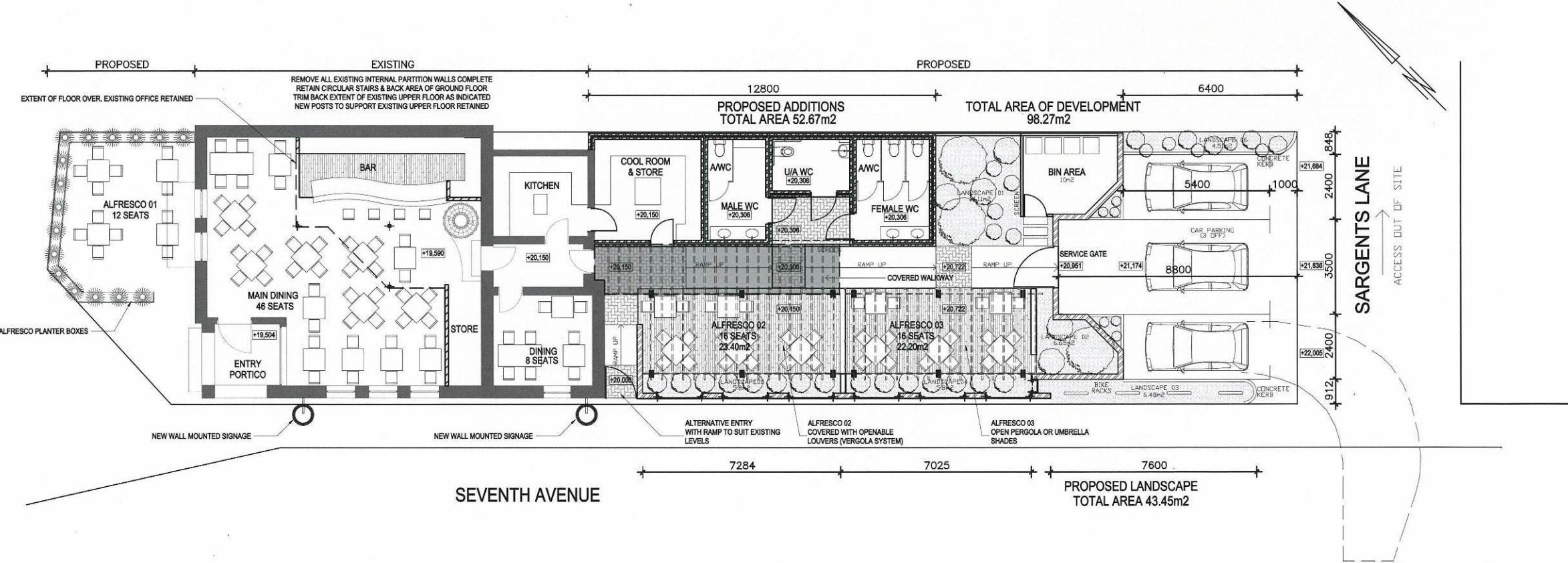
SITE: 450 SQM
EXISTING BUILDING: 146SQM
EXISTING TOILET BLOCK (REMOVED): 14SQM
EXISTING SHED (REMOVED): 14SQM

PROPOSED NEW TOILET BLOCK/STORE: 52.67 SQM
ALFRESCO 02: 23.40 SQM
ALFRESCO 03: 22.20 SQM
TOTAL DEVELOPMENT AREA: 98.27 SQM

PROPOSED WINE BAR
160 WHATLEY CRESCENT, MAYLANDS

LOCATION PLAN
SHOWING EXISTING STREET PARKING BAYS IN NEARBY STREETS
PROPOSED TO USE THE SAME LOCATION AS LOADING BAYS
AND DROP OFF POINTS TO SERVICE PROPOSED WINE BAR

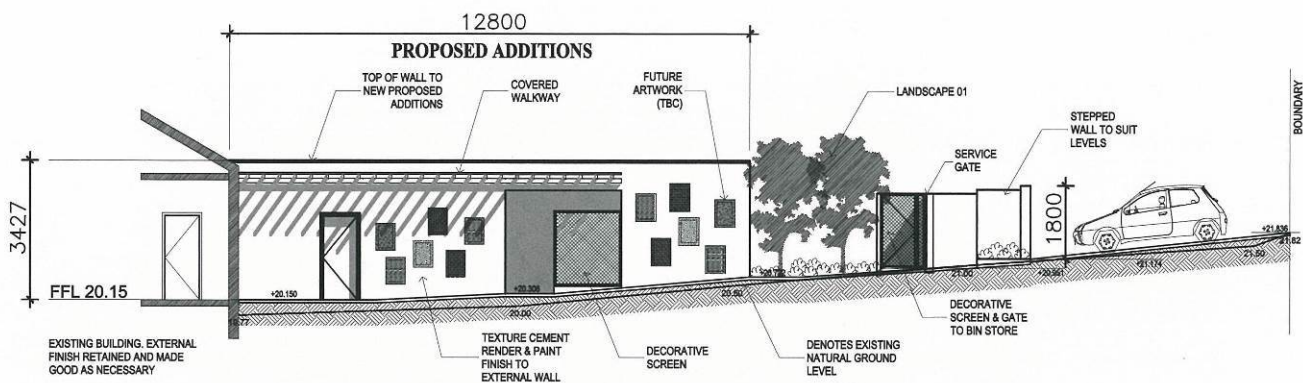
LOCATIONS ARE AT
(1) WHATLEY CRESCENT
(2) SEVENTH AVENUE &
(3) PARKING AREA WITH ACCESS THRU SARGENTS LANE



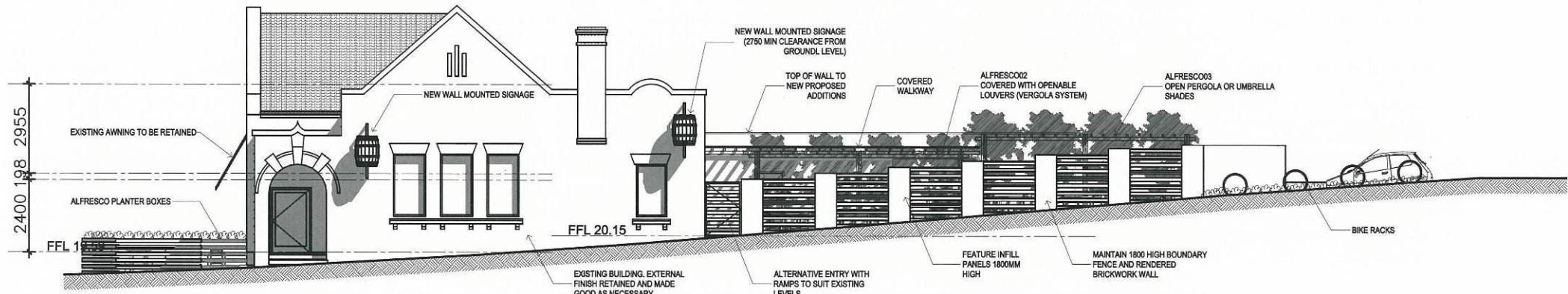
<div><div><div></div><div></div><div></div></div><div><div>DRAWN BY</div><div>NORI-LYNN MUNOZ (Arch & BApp Science) 81 Central Avenue Maylands WA 6051 MOB: 0409880010 EML: n27munoz@inet.net.au ABN: 74 557 655 988</div></div></div>	JOB TITLE	PROPOSED CHANGE OF USE (WINE BAR) BARREL ONE SIXTY 160 Whatley Crescent Maylands WA 6051										DRAWING TITLE PROPOSED FLOOR PLAN									
		A		12/06/17		1		ADDED INFORMATION AS PER COUNCIL'S REQUEST													
		B		07/07/17		1		ADDED INFORMATION AS PER COUNCIL'S REQUEST													
REV		DATE		NO		COMMENTS				REV		DATE		NO		COMMENTS					
BUILDER TO CHECK ALL DIMENSIONS BEFORE UNDERTAKING ANY WORK.																		DO NOT SCALE DRAWINGS.			
161215_DA_Barrel160_R1.plt																		REV DATE: 07 JUL 17			




WHATLEY CRESCENT ELEVATION



PROPOSED ADDITIONS - STORE & TOILET BLOCK ELEVATION



SEVENTH AVENUE ELEVATION

<div>DRAWN BY</div> <div>NORI-LYNN MUNOZ (Arch & BApp Science) 81 Central Avenue Maylands WA 6051 MOB: 0409880910 EML: n27munoz@inet.net.au ABN: 74 557 655 988</div>	<div>JOB TITLE</div> <div>PROPOSED CHANGE OF USE (WINE BAR) BARREL ONE SIXTY 160 Whatley Crescent Maylands WA 6051</div>	A 12/06/17 1 ADDED INFORMATION AS PER COUNCIL'S REQUEST			DRAWING TITLE		
		B 07/07/17 1 ADDED INFORMATION AS PER COUNCIL'S REQUEST			PROPOSED ELEVATIONS		
		REV DATE NO COMMENTS			SCALE 1:100	DATE FEB 17	
		BUILD TO CHECK ALL DIMENSIONS BEFORE UNDERTAKING ANY WORK.			JOB No. 161215	DRAWING No. A02 (B)	REV DATE 07 JUL 17

Attachment 2**PLACE Number: 227**Heritage Council Ref: 2422
COB ID: 1236210**SITE DETAILS****Place Name:** Fmr Maylands Post Office**Other Names:** Bruce Havilah & Associates**Street Number:** 180**Lot Number:** 200**Street Name:** Whatley Cr**Suburb/Town:** Maylands**Postcode:** 6051

Reserve No.

Lot/Location No.

Plan/Diag

Vol/Folio

Lot 200

D090463

2075/831

DESCRIPTION OF PLACE**Construction Year:** 1910**Architectural Style:**

Description Notes: A single storey face brick with stucco decorative treatments and a tiled roof. There are gables addressing both streets and a corner entry portico. There is a tiled roof to the awning over the Whatley Crescent window. There are touches of arts and crafts detailing to this simple utilitarian building.

Historical Notes: The post office is an integral part in the developing story of the growth of the commercial heart of Maylands, being its first permanent post office and built at a time when the state still built post offices on behalf of the young Commonwealth. It is understood that Silvercock and Hayes built the place for 736 pound.

While the post office was closed in 1988, it has considerable aesthetic and historic value in developing the theme of the establishment and growth of the Maylands

Town Centre.

Condition: Fair condition

Integrity/ Integrity - Low

Authenticity: Authenticity - High

LISTINGS

Listing Type	Status	Date	Entry
HCWA Assesst Program	Unknown	25/09/1998	
Municipal Inventory	Adopted	17/06/1997	City of Stirling Muncpal Inventory adopted 1997

SIGNIFICANCE

Statement of Significance: The place is significant for its associations with the development of the Maylands Townsite and has aesthetic value, contributing to the Whatley Crescent streetscape.

Management Category: Classification 2

Management Category Description: Sites have considerable local importance and will generally include public or community buildings, commercial buildings and residential dwellings of exceptional significance. Demolition of these places would generally not be supported.

Landowners are encouraged to conserve the integrity, authenticity and condition of the site. Any redevelopment, extension, modification or change of use requires the approval of Council. Council will only support the substantial modification of a place when adequate planning and heritage justifications have been provided. Demolition of the site will generally not be supported. Applicants have right of appeal to Councils decision, however Council's requirements will be strongly reinforced by inclusion as a Category 2.

OTHER IMAGES

9.1.10 Proposed Convenience Store - Development Assessment Panel Application

Location: Lot 1, 162 Russell Street, Morley
File Number: DA17-0276
Applicant: Peter Webb & Associates
Owner: Malawi Holdings Pty Ltd & Rita Scolaro
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

Confidential Attachment(s) - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 - personal affairs of any person.

CR CHRIS CORNISH DECLARED A FINANCIAL INTEREST

In accordance with section 5.60A of the Local Government Act 1995, Cr Chris Cornish declared a financial interest as he is a member of the Metropolitan Central Joint Development Assessment Panel (JDAP) and as this item is going to be considered by JDAP, he will be remunerated by the Department of Planning, Lands and Heritage. At 7:49pm, Cr Cornish withdrew from the meeting.

CR SALLY PALMER DECLARED A FINANCIAL INTEREST

In accordance with section 5.60A of the Local Government Act 1995, Cr Sally Palmer declared a financial interest as the owner of 84 Broun Avenue has a pest control business that her real estate business utilises regularly. At 7:49pm, Cr Palmer withdrew from the meeting.

EXECUTIVE SUMMARY**Application:**

A Development Assessment Panel (DAP) application dated 2 June 2017 and plans dated 17 July 2017 have been received for a proposed convenience store at Lot 1, 162 Russell Street, Morley.

Key Issues:

- Consideration of the proposal against the City's Town Planning Scheme No. 23 (TPS 23) and policy in relation to the Morley Activity Centre Structure Plan (MACSP).
- The proposed development does not meet the street setback and landscaping requirements of TPS 23, and street setback, landscaping, car parking and access, and design element requirements of MACSP, and requirements of the signage policy.
- Consideration of two objections received from community consultation.
- Impact of the proposal on the objectives, streetscape and the amenity of the centre.

BACKGROUND

Town Planning Scheme No. 23 Zoning:	Morley City Centre Zone - Residential R80, Precinct 6: Marchant
Morley Activity Centre Zoning:	Mixed Business (R-AC0)
Use Class:	TPS 23: Convenience Store - 'Other Use' MACSP: Convenience Store - 'P'
Lot Area:	3,925m ²

Existing Land Use:	Tyre Service Centre, Vacant Showroom and Car Sales
Surrounding Land Use:	Residential, Commercial and Educational Uses
Size/Nature of Proposed Development:	Convenience Store

Under the DAP Regulations, the applicant can choose to have the matter determined by either the local government or the DAP where development applications have an estimated cost of between \$2,000,000 and \$10,000,000. As the development has a construction cost of \$2,300,000 the applicant has elected for the proposal to be determined by the Metropolitan Central Joint DAP (JDAP).

The primary consideration in relation to this application is the visual impact of the proposed development on the amenity of the area, including the streetscape and the affected adjacent properties, given the proposal does not meet the street setback and landscaping requirements of TPS 23, and street setback, landscaping, car parking and access, and design element requirements of MACSP, requirements of the signage policy, and to consider the objections received in relation to the proposed development.

Amendment No. 61 to City of Bayswater Town Planning Scheme No. 24 (AMD 61) is currently being proposed to enable the statutory implementation of land use, zoning and other provisions contained with the MACSP, repealing TPS 23 and expanding the City's Town Planning Scheme No. 24 in its place. The amendment is currently pending final approval from the Western Australian Planning Commission and Minister for Planning.





CONSULTATION

The City sought comments from the Department of Planning, Lands and Heritage (DPLH) in relation to the development adjoining Broun Avenue which is classified as an Other Regional Road (ORR). The DPLH advised as follows:

- The surrounding intersections will be near or beyond capacity in the future and supports upgrades to the Russell Street / Broun Avenue intersection and the Russell Street / Barnett Court intersection.
- It is noted that the proposed bicycle infrastructure (bike parking) and accessible ramp are shown within the ORR reservation for Broun Avenue. In principle, the DPLH do not support construction of any permanent structures within the land reserved. Given the type and nature of the development however, the DPLH would be prepared to support the use of the reserved land for the placement of the development on a temporary basis only, subject to conditions.

In addition to the above, the City sought comment for the proposed variations from the adjacent affected property owners for a period of 14 days. A total of two objections were received, one objection was received after the closing date. Details of the objections, applicant's responses and officer's comments are stated below.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
MACSP Landmark Development	The development site was indicated as a landmark site on the MACSP, the proposal for a 24 hour petrol station on the site is contrary to clauses 5.15, 7.4.2, 7.4.5 of the MACSP and does not reflect the vision provided by Council.	No response provided.	The MACSP was updated and the development site is no longer indicated as a landmark site, accordingly the clauses are no longer relevant to the site. Notwithstanding the above, the applicant in considering the prominence of the site has attempted to address the corner via the 'framing' of the boundary.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
MACSP Gateways and Views	The Gateways and Views section of the MACSP (page 110) states these sites are expected to demonstrate iconic architectural features and provide a visual distinction in the Activity Centre. The proposal at the Russell Street / Broun Avenue intersection is far from 'iconic' as is possible.	In relation to the architectural character of this proposal, the applicant is of the view that the design of this facility with its attendant architectural features is not unattractive as suggested by this submission.	Refer to the 'Design Features' section below.
MACSP Precinct Objectives	Precinct objective 13.1 of the MACSP states 'Encourage higher densities along major entry points to the activity centre to create a sense of arrival'. This objective is not being achieved.	No response provided.	Precinct objective 13.1 relates to the inner residential precinct, whereas the subject development is located within the mixed business precinct so the objective is not considered relevant to the site.
Street Setbacks	The reduced setback to Broun Avenue will obscure existing businesses to the north of the proposal, affecting visibility of their signage and advertising.	The current planning framework calls for a more urban form of development where buildings address the street, rather than the old mid-20th century highway commercial strip format that currently exists. Any future compliant building will be closer or on the street boundary.	Refer to the 'Street Setbacks' section below.
Signage / Light Spill	<p>The two monolith signs and roof sign will be illuminated 24 hours a day and visible from the rooms of residential dwellings opposite the development on Broun Avenue. What steps have been taken to assure these signs will not impact residents living nearby the development?</p> <p>Larger than standard signs should not be permitted, particularly where they will be in conflict by causing distraction to the traffic lights.</p>	<p>The signage faces directions of travel rather than facing the existing dwellings. The development is in an activity centre in a location with high levels of exposure and it is therefore reasonable to expect commercial activity with attendant activity and signage. A standard condition of approval is suggested to restrict the illumination to not exceed a maximum luminance of:</p> <ul style="list-style-type: none"> • 6000 cd/m2 during hours of full daylight; • 600 cd/m2 at dawn and dusk; and • 300 cd/m2 during hours of darkness. <p>Signage is to draw attention. As such, all signs are a distraction. The issue is at what point they distract</p>	Refer to 'Signage' section below.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
		<p>from road safety infrastructure. Main Roads WA have a clear position on the matter and it relates to the luminosity and position of illuminated signage. The proposed signs fall comfortably within Main Roads WA policy.</p>	
Noise	<p>Concerns the 24 hour operation of the development will result in additional early morning and night time traffic noise which will significantly impact on the amenity of the residential properties opposite the development.</p>	<p>The ambient noise levels in the immediate locality (with 24 hour traffic on this regional road (Broun Avenue)) between the site and the residences referred, would far exceed the minimal noise levels from the relatively small number of vehicle movements on this site during the operating hours of the facilities.</p>	<p>Refer to 'Appropriateness of Use' section below.</p>
Traffic	<p>A proposal such as this where there will be high traffic flows should not be permitted to locate on a major intersection with traffic lights, it should only be permitted at an intersection with one major road and the second road being of minor importance only.</p> <p>The proposal makes use of the proposed road widening to assist traffic flows back into Russell Street. This can only be a temporary as when the road is widened there will be no land available for this purpose and traffic will have to move directly banked up cars at the traffic lights. Any traffic flows should be designed compatible with the future traffic flows following widening of Russell Street.</p> <p>A sweeping curve out of Broun Avenue into the property is not compatible with pedestrian safety as cars will be travelling faster than normal crossing the footpath and coming from behind pedestrians walking in a northerly direction.</p>	<p>This type of activity is commonly located, nationally and internationally, at intersections with similar or higher volumes of traffic and, in the Perth context, on roads with a higher placement in the road hierarchy. It should also be noted that the roads are different classifications in the road hierarchy.</p> <p>The traffic analysis presented in the report was based on a 10 year post-development analysis in line with WAPC Guidelines. The analysis accounts for traffic growth ten years into the future. A SIDRA Network model was developed which analysed the operation of the site crossovers in relation to the traffic signals. The results confirm satisfactory operation of the whole network.</p> <p>The sweeping curve is a mountable concrete apron to facilitate safe (lane correct) truck entry into the site. Turn path analysis indicates trucks will have to enter the site at low speed due to the 90 degree turn,</p>	<p>The applicant has provided a Traffic Impact Assessment (TIA) prepared by a suitably qualified engineering consultant to accompany the proposal and address traffic and safety issues.</p> <p>The TIA has been reviewed by the City's Engineering Services and considered satisfactory to address and justify the proposed development at this location subject to minor amendments which have since been addressed by the applicant.</p>

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
		the sweeping apron is designed to accommodate the size of the trailer. For regular cars, the entry radius at this crossover is smaller and therefore entry speed will not be an issue. This treatment is similar to existing service stations operating in the City.	

ANALYSIS

TPS 23 Provisions	Required	Provided	Assessment
Minimum Setbacks:			
Russell Street:			
TPS 23	4.5m max	33.5m*	Variation*
MACSP	2.0m max	33.5m*	Variation
Broun Avenue:			
TPS 23	4.5m min	Nil - 1.8m*	Variation*
MACSP	2.0m - 6.0m	Nil - 1.8m*	Variation
Side and Rear	N/A	8.5m	Compliant
Maximum Building Height:			
TPS 23	Three storeys	Single storey	Compliant**
MACSP	Eight storeys	Single storey	Compliant
Maximum Plot Ratio	1.0 (3,925m ²)	0.3 (1,175m ²)	Compliant**
Minimum Landscaping:			
Landscaping area:			
TPS 23	15%	2.3%	Variation* **
MACSP	10%	2.3%	Variation*
Shade trees	1 for 6 car bays	Nil	Variation
Landscaping to street boundary	2m strip	2.2m - 4.5m	Compliant
Landscaping to side and rear	1.5m strip	Nil	Variation**
Minimum Parking:			
Car bays:			
TPS 23	9 car bays	14 car bays	Compliant**
MACSP	6 car bays	14 car bays	Compliant
Bicycle bays:	2 bicycle bays	4 bicycle bays	Compliant
Car Parking and Access:			
Maximum at grade parking	One row	Three rows	Variation
Maximum crossovers	One per lot	Two crossovers	Variation

TPS 23 Provisions	Required	Provided	Assessment
Design Elements	Refer to 'Design Elements' section below		Discretionary
Signage:			
Directional (x1)	General Only	Compliant	Compliant
Horizontal (x6)	Sign Specific	Compliant	Compliant
Monolith (x2)	Sign Specific	Refer to	Variation
Roof (x1)	Sign Specific	'Signage	Variation
Wall (x4)	Sign Specific	Section' below	Variation

*Value calculated after taking into account future road widening of Russell Street and Broun Avenue.

**Represents a provision of TPS 23 which will no longer be required when Scheme Amendment No. 61 is gazetted.

Site Context

The development site is located at the intersection of Russell Street and Broun Avenue, adjoining commercial uses to the north, residential properties to the east, and John Forrest Secondary College to the west. Both Russell Street and Broun Avenue are proposed to be widened at a future date; this widening has been indicated on the proposed plans.

The MACSP was prepared as part of the future vision for the Morley Activity Centre and is considered to be more relevant and in-line with the City's objectives and intentions for the area than TPS 23. As the MACSP has been adopted as a local planning policy and is the guiding document for the Morley Activity Centre endorsed by Council, the City's assessment has been primarily focused on compliance with the MACSP.

Appropriateness of Use

The proposed use of convenience store is an 'other use' under TPS 23, however is permitted under the MACSP. The convenience store will include the retail sale of convenience goods and petrol and hire a total of 15 staff. The maximum number of staff on site at any one time will be two, and the business is proposed to operate 24 hours a day, seven days per week.

The use is considered appropriate for the site as it is a permitted use under the MACSP, however it is acknowledged that there are concerns in relation to the potential impact of the premises to the adjoining residential uses on the opposite side of Broun Avenue. The applicant has provided a Traffic Impact Assessment to address traffic issues which was reviewed and supported by the City's Engineering Services.

To address the potential impact of noise of the development the submission of an acoustic report has been included in the officer recommendation, and any recommendations of the acoustic report will need to be implemented prior to occupation. Notwithstanding, the development is separated from the residential properties by a regional road, and it is not expected that the convenience store will result in any undue noise impact to that already resulting from traffic on Broun Avenue.

Street Setbacks

The street setback requirements of the site vary between TPS 23 and MACSP, however for the most part both intend similar outcomes; reduced setbacks to the Russell Street frontage to facilitate pedestrian links and business interaction with the streetscape, and minimum setbacks to Broun Avenue, to complement and transition to the lower scale residential zone opposite. For the purposes of brevity only the requirements of MACSP have been discussed.

The development proposes an increased setback from Russell Street to the storefront of 33.5m in lieu of 2.0m (31.5m variation) which is typical of a convenience store layout, accommodating vehicle fuelling, parking and manoeuvring within the street setback area. To address the significant setback variation the applicant has proposed a façade frame along the Russell and Broun Avenue future lot boundaries to provide an urban edge and built form at the street boundaries, creating a sense of built enclosure to the site.

The frame includes openings representative of windows which allows for interaction and surveillance between the street and assist in activating both street frontages. The structure is most clearly indicated in the perspectives provided by the applicant, and will feature landscaping on the pillars to soften the structure and generally improve the amenity of the site. This unique approach to the street setback requirements is considered to create a point of interest for this prominent site while addressing the objectives of the precinct.

The reduced setback from Broun Avenue is due to the assessment being based on the future lot boundary, following proposed road widening. Under the current lot boundaries the development achieves a 4.0m setback and would comply with the MACSP requirements. Given the open nature of the frame detailed above and the relatively short length of store wall adjoining Broun Avenue (approximately 15m or 30% of the lot frontage) the impact of the setbacks following road widening is considered to be relatively minor. The setback of the store frontage from the north-east adjoining lot boundary (9.0m) is considered sufficient to ensure sightlines to the adjoining premises are not unduly impacted by the development. In light of the above the proposed street setback variations to Russell Street and Broun Avenue are supported.

Car Parking and Access

Under the MACSP a maximum of 1 row of at-grade parking and associated drive aisle is permitted within the front setback area, all other parking areas are required to be located behind the front building line. The convenience store complies with this requirement from the perspective of Broun Avenue however does not comply when viewing the site from Russell Street. Given the nature of convenience stores whereby refuelling vehicles forms a significant and active part of the business, the parking and drive aisle areas form active areas as opposed to a typical car parking area which is primarily inactive space. In this instance, providing the car bays in front of the building line maximises activity and interaction between the customers of the site and the street.

Combined with the proposed building frame discussed in the street setback section above, the parking area presents behind an urban edge on site and contributes to an active frontage to the streetscape. Accordingly the location of the car parking area is considered to satisfy the objectives of the precinct and general intention of the requirement.

The MACSP requires a maximum of one crossover per lot; in this instance two crossovers are proposed. The site accommodates two businesses and is located on a corner, with no more than one crossover to either street, and both crossovers already exist on site. Given the level of traffic associated with the convenience store and location of the site, a second crossover is considered appropriate. The application was referred to the Department of Planning for comment in respect of the regional road, and no objections were raised in relation to the second crossover. Accordingly, retention of both crossovers on site in this instance are considered appropriate and supported.

Landscaping

The landscaping requirements of the site vary between TPS 23 and MACSP, for the purposes of brevity only the requirements of MACSP have been discussed. After taking into account future road widening the landscaping of the site will only be 2.3%; primarily due to loss of the landscaping strips adjoining the road reserves which account for majority of the landscaping on site.

Discussions between the City and applicant began prior to the proposed Russell Street road widening, which is not formally approved and may be subject to change. At the City's request the applicant amended the initial design to ensure all structures are outside of the proposed reserve. The widening of Broun Avenue is formally reserved however there is currently no formal timeframe for when this widening is expected to be required. Both of these areas are effectively no longer developable, and accordingly the applicant has proposed to landscape these areas until such time as the land is required. Landscaping of the site within the current lot boundaries would achieve 11.5% site cover, compliant with the MACSP requirements.

The applicant has included various vertical landscaping elements through green walls being proposed to the Broun Avenue elevation of the convenience store, and also the piers of the external frame surrounding the refuelling area. This will maintain the required vehicle manoeuvring and parking areas are not compromised while also attempting to address the likely future landscaping shortfall in a manner which will ensure remaining landscaping is in a prominent location highly visible from the street to maintain amenity of the site. When assessing the cover of the vertical landscaping proposed, the total area of landscaping is from 2.3% ground cover to 3.6% total landscaped area; an increase of approximately 57%.

Given the burden on the land of being located at the intersection of two roads both proposed to be widened this is considered an adequate solution, achieving compliance on the first instance and maintaining prominent landscaping following widening without further compromising the functionality of the site.

The second landscaping variation relates to shade trees being provided on-site at a rate of one tree per six uncovered car bays. Currently the proposal involves a total of eight uncovered car bays, so a total of two shade trees (rounded up) would be required.

The current design leaves minimal space suitable for growth of trees on site, the most obvious location being within the future road widening areas adjoining Russell Street and Broun Avenue which have been indicated to incorporate landscaping. Whilst the City may request provision of trees within these areas they would have limited capacity to serve their function of shading the car parking bays, and there is the potential for the trees to obstruct sightlines between the development and the street. It is also likely that the trees would be removed at a future date when the road widening is acquired.

The intention of the requirement is primarily focused on providing shade for and improving the amenity of large expanses of car parking areas, however in this instance the car parking bays are disjointed from each other and will be surrounded by various structures. The requirement is not considered appropriate for the car bay layout in this proposal, and the only viable location for the trees to grow also presents issues noted above. Accordingly the proposal is supported without the provision of shade trees in this instance.

Design Elements

The MACSP contains a number of design element requirements which apply across all precincts within the Morley Activity Centre area; the relevant design principles to this development are listed below:

- Building elevations at street level shall be designed such that they provide the desired level of street activation.
- Building facades shall be articulated, coloured and detailed to contribute positively to the local streetscape and adjoining properties.
- Extensive blank walls, facades and featureless glazing which are directly fronting any part of a street or public space are not permitted.

- Feature elements which enhance the streetscape are strongly encouraged. These may include, but are not limited to, variations to colours and building materials, coloured or textured banding, recesses, ornamental details, verandahs, balconies, pillars, awnings and canopies.
- All buildings which are directly visible from the street or any other public space shall be constructed from brick, stone, concrete or glass, or a combination of one or more of these, or similar and/or innovative materials and applications.
- Corner buildings shall be designed to address both the primary and secondary streets, including at least one major opening which provides surveillance of each street.
- Development is to be designed in such a manner as to ameliorate noise and vibration from adjacent land uses and roads. The local government may require an acoustic assessment report detailing the likely noise effects of the development on its surroundings and/or external noise impacts on the development.

The street activation is discussed in the 'street setback' section above and it is considered that an appropriate level of activation has been achieved for the use type through activity within the refuelling area and the building frame proposed to surround the site. While the structures of the development itself have limited articulation, through landscaping the external facades of the built form, both the store wall and the piers of the frame, the development is considered to have achieved a design which will positively contribute to the streetscape and adjoining properties. There is some concern whether the frame a sufficiently prominent urban edge given the significant open areas of the frame. The applicant has commented in response as follows:

"The ultimate design of the frame has been designed to emulate the structural dimensions of an elegantly designed contemporary building. The final dimensions of the columns and beam may vary to accommodate structural engineering requirements however thickening the structure to make it more prominent would result in a chunky and less elegant outcome. Raising the height of the frame would then require the height of the vertical elements that support signage to be similarly raised with the risk of falling foul of policy in regard to signage height. For these reasons, the proposed height and dimensions is considered to be the most appropriate solution.

It should also be noted that the presence of the frame will be further enhanced by the inclusion of a trellis framework to support climbing vegetation as envisaged in the landscape strategy - essentially 'curtains' to the 'windows' in the frame."

Whilst the frame is essentially supported and considered a positive aspect of the development, a general condition will be included within the officer recommendation that consideration be given to further articulation of the frame to ensure it is a focal point of the site and achieves the intended outcomes of the MACSP to create a visually attractive locality with appropriately scaled buildings and streetscapes, providing a diverse but unified urban centre characterised by high quality urban design and buildings addressing street frontages.

While acknowledging that the store does present a blank wall to Broun Avenue, this will be obscured through a green wall feature, and interaction with the street is maintained through views between the store and refuelling areas which will be provided with clear sightlines to both Russell Street and Broun Avenue. The building frame is also considered to constitute a feature element which will enhance the amenity of the site and provide a point of interest for the development. It is noted that the development will also require a public art contribution in accordance with the City's Percent for Public Art Policy which will further provide opportunity to improve streetscape amenity.

The building will be constructed from the materials listed above, however does not provide a major opening directly fronting onto Broun Avenue. The major openings of the convenience store directly face onto Broun Avenue, and the applicant has advised that due to internal design constraints of the convenience store there was not opportunity to provide a major opening to Broun Avenue and has instead opted to provide a green wall to this façade to minimise impact. Despite the development not incorporating major openings to Broun Avenue, it is noted that the windows fronting Russell Street will through their cone of vision provide some surveillance to Broun Avenue. In addition as noted above, the refuelling area is also an area of high activity for the site, and clear views will be maintained between this space and Russell Street through the openings in the proposed external frame. The unique circumstances of the site are considered sufficient to address this requirement despite not providing a major opening directly fronting Broun Avenue.

As noted in the 'appropriateness of use' section above, a condition will be imposed for an acoustic report to be provided in the officer recommendation to address any potential impact associated with noise. In light of the above the development is considered to satisfactorily address the design element requirements of the MACSP and is supported accordingly.

Signage

A total of 14 signs are proposed to be incorporated into the development, and each has been assessed against the requirements of the City's Signage Policy. Only one of the signs was not considered to suitably fit within the specific signage categories (directional sign) and this sign was assessed only against the general requirements of the signage policy accordingly.

Whilst the total number of signs proposed is significant, majority of the signs are not considered to have any significant presence on the streetscape. The signs considered to be of the most impact are the two monolith signs, roof sign and directional sign, the remaining signs are incorporated into the facades of the canopy and convenience store and are relatively unobtrusive on the streetscape. The signage associated with the convenience store façade in particular is directed to the internal parking and refuelling area on site, and visibility from the street will be limited. Three of the sign types were found to be non-compliant with their sign specific requirements; the monolith signs, roof sign and wall signs.

Monolith Signs

The requirements associated with the monolith signs (price board signs) are outlined below:

- A person shall not erect more than one monolith sign in relation to a business, shop or premises unless it is a corner lot where one sign per lot frontage may be permitted.
- Maximum height of 7.5m, maximum width 2.5m.
- A monolith sign shall not be located within 1.0m of the boundaries of the lot on which it is erected.
- No other freestanding signs will be permitted on site.

The provision of two monolith signs is considered to comply with the first point; one is proposed to each lot frontage associated with the business. Both signs comply with the width requirement; however one of the signs (adjoining the Russell Street frontage) proposes a 9.0m height (1.5m variation). The additional proposed height is to maintain a consistent signage height across the development despite the natural slope of the lot.

The signs are typical of convenience store developments and in this instance the design of both signs has been incorporated into the proposed external frame which will aid in reducing the visual impact and apparent height of the signs. The height variation of 1.5m is considered to be minimal in the context of the mixed business precinct which permits building heights of up to eight storeys and the location of the site adjoining a regional road. Accordingly the sign height variation is supported instance.

Currently the signs exceed the minimum 1.0m setback from lot boundaries with 4.5m and 1.5m provided; however will not achieve this setback following future road widening. Given the road widening proposed is significant in width, many times greater than the setback requirement, the applicant's proposal to provide the signs at the proposed new lot boundaries is considered an acceptable compromise for both parties.

A requirement of monolith signs is that there be no other freestanding signs on site, currently there are other freestanding signs on site associated with the tyre service centre and showroom and the proposal also involves an additional freestanding sign (directional sign). The primary concern relates to proliferation of signage on the site, and while acknowledging a high number of signs exist on site, provision of the new monolith signs are an accepted requirement of developments offering the sale of petrol to ensure clear pricing is displayed and for the convenience of customers.

Whilst the development is located on the same lot as the adjoining tyre service centre and showroom, it does not represent the typical layout of sites containing multiple commercial tenancies given the development will be a standalone building located on a separate section of the lot; more closely resembling two separate lots. On this basis it is not unreasonable to consider the proposed signage separate from the existing signage of the other businesses, in which case the provision of two monolith signs and the small freestanding directional sign would not be considered excessive.

In light of the above, the monolith signs are considered an essential part of the convenience store proposal, and despite existing signage on site, due to the layout of development on the lot the two new signs are considered reasonable and unlikely to be of undue impact. Accordingly the signs are supported.

Roof Sign

The requirements associated with the roof sign (indicated as tower logo on plans) are outlined below:

- Roof signs located within the City shall generally be discouraged, however where their location is considered appropriate, the following standards shall be met:
 - A roof sign shall not extend beyond the external walls of the building; and
 - A roof sign shall have a maximum area of 6.0m² and 1.5m height.

The proposed roof sign does not extend beyond the external walls of the building, and proposes an area and height of 3.3m² and 1.82m respectively when considering only the area occupied by the signage. The signage is attached to a large wall projecting above the roof of the convenience store. The wall appears to serve no purpose other than accommodating the sign, and measures approximately 2.9m high and 2.9m wide (8.41m²).

The City's Signage policy requires that the design, number or variety of signs within an area shall not be injurious to the amenity or natural beauty of the locality. The subject site already contains a number of large freestanding signs associated with the existing businesses, and the above two new monolith signs were also supported on the basis of their essential function to the convenience store and the layout and location of the development site. The roof signage is considered to duplicate already supported and prominent advertising signage which has been included in the monolith signs.

The roof sign stands well above the roof of the convenience store and appears separate from the building, closely representing the visual appearance of an additional freestanding sign which is considered to contribute to a proliferation of signage on site. The roof sign exceeds height requirements and is not considered to offer any redeeming qualities for the site other than increasing exposure of the business, an aspect already considered to be sufficiently addressed through the monolith signs which will be prominently visible from both Russell Street and Broun Avenue.

Accordingly the roof sign and associated structural support are not considered appropriate and are not recommended to be included in the event of approval.

Wall Signs

Wall signage is required to be a maximum 1.5m in height and 10m². The proposal involves three wall signs on the façade of the convenience store with heights of 1.7m and 2.4m, exceeding the maximum height permitted. The combined total area of all wall signs is approximately 6.0m², just over half of that permitted for wall signs. The signs are considered to have minimal visibility from the street, and will primarily provide exposure to customers already on site entering the convenience store. Given the overall signage associated with the wall signs are well below the permitted maximum area, and due to their location are considered to have minimal opportunity to impact the streetscape, the wall signs are supported.

Illumination

Concerns were raised during consultation in relation to the light spill of the illuminated signage and potential impact to the residential premises opposite the development site on Broun Avenue. In response to these concerns the applicant has advised that a condition of approval addressing this matter would be satisfactory to manage the impact of the illumination, and suggested the following maximum levels of luminance:

- Daytime 6000 cd/m²
- Dawn/Dusk 600 cd/m²
- Night 300 cd/m²

The levels suggested above are consistent with Main Roads WA (MRWA) suggested maximum values for luminance of electronic advertising signs, however MRWA require that when a new device is commissioned, that the initial luminance values be set to half the recommended maximum values and gradually increased to an appropriate level as agreed to by MRWA.

The City's Signage policy states that any sign which is illuminated shall be constructed entirely of non-flammable material, maintained in accordance with the requirements of the appropriate electricity supply authority and shall not cause annoyance to the public or interfere with traffic signals. In order to satisfactorily address the potential impact of the illumination to the nearby residential dwellings and minimise any potential annoyance a condition will be included in the City officer recommendation that the illumination of the signs shall be no greater than the above suggested values, or in the event of annoyance to the public, illumination reduced by up to half of the maximum values in order to resolve the annoyance to the satisfaction of the City.

Other Planning Matters

Notwithstanding the DPLH's comments relating to the temporary provision of bicycle bays within the future road widening of Broun Avenue, bicycle bays form a requirement of the MACSP and the City considers it appropriate that the initial location of the bays not encroach the road widening. This will avoid potential issues associated with their relocation at a later date in the event a suitable location is not available. A condition will be included in the officer recommendation to address this matter.

A directional sign is also located within the Broun Avenue road widening area which the DPLH has advised may also be temporarily located within the road widening on the condition that the owner agrees to remove the infrastructure at the time when the reserved land is required for upgrading of Broun Avenue. The City is willing to support the temporary location for the signage given the applicant has indicated the proposed new location for the sign following road widening on plan 'DA03' along the north-east lot boundary. This location is supported subject to the sign being kept a minimum 1.5m behind the new lot boundary to ensure sightlines are maintained following road widening.

The applicant has indicated that there may be an issue with visibility of the monolith sign and associated price board on the Russell Street frontage due to existing obstructions within the verge area (signage and vegetation) on site. The City acknowledges the potential for visibility to be reduced due to the obstructions at street frontage of the other tenancies on site, however considers this a matter which is more appropriately addressed through internal management of the site and potentially creation of a signage strategy to suit the needs of all tenants rather than each tenant individually pursuing separate and potentially conflicting signage proposals. The applicant has withdrawn an additional sign initially proposed to address the visibility issue however notes that this may be pursued at a future date in the event the obstructions cannot be internally managed and are unduly impacting visibility.

The City has also raised concerns that the rear loading bay currently restricts vehicle manoeuvring at the rear of the site, particularly the ability for vehicles to pass each other. To address this matter the applicant has agreed that the bin yard be reduced 1.5m in depth to allow for the loading bay to be relocated 1.5m to the south-east and create additional manoeuvring space at the rear of the site. The applicant has requested this matter be addressed through a condition of approval.

OPTIONS

The following options are available to Council:

1. Council receives this report relating to the proposal.
2. Council provides additional comments to the JDAP relating to the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the officer's recommendation to the Metropolitan Central Joint Development Assessment Panel is as follows:

That the Metropolitan Central Joint Development Assessment Panel grants planning approval for the proposed convenience store at Lot 1, 162 Russell Street, Morley, in accordance with DAP application dated 2 June 2017 and plans dated 17 July 2017, subject to the following planning conditions:

1. *The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.*
2. *Revised plan(s) addressing the following matters to the satisfaction of the City of Bayswater shall be submitted to and approved by the City prior to the lodgement of a building permit application, and not result in any greater variation to the requirements of the City's Town Planning Scheme No. 23 and associated policies:*
 - (a) *The external frame fronting Russell Street and Broun Avenue shall be further articulated to improve its visibility and emphasis outlining an urban edge for the site.*
 - (b) *The bin yard shall be reduced in depth by 1.5m to allow the adjoining loading bay be relocated 1.5m to the south-east and increase vehicle manoeuvring space adjacent to the loading bay.*
 - (c) *A minimum of two bicycle bays shall be provided at a location convenient to the entrances, within the approved development and not encroaching any future road widening. Details of the design and layout of the bicycle parking facilities shall be submitted to and approved by the City of Bayswater prior to the installation of such facility.*
3. *Directional sign (S3) indicated on plan 'DA02' is supported on a temporary basis on condition that:*
 - (a) *the land owner agrees to remove the infrastructure at the time when the reserved land is required for the upgrading of Broun Avenue at their own expense if required;*

- (b) *the land owner agrees that any improvements made to or loss of amenity will not be taken into consideration in determining any land acquisition cost or compensation which may be payable by Council or the WAPC at such time as the land is required; and*
 - (c) *when the sign is removed at a future date to accommodate road widening, it may only be relocated as indicated on plan 'DA03' and with a minimum 1.5m street setback from any new lot boundary to ensure compliant sight lines are maintained.*
- 4. *The owner, or the applicant on behalf of the owner, shall comply with the City of Bayswater policy relating to Percent for Public Art, and provide public art with a minimum value of 1% (\$23,000) of the estimated total construction cost of the development (\$2.3 million). Details of the public art, including plans of the artwork, its cost and construction, and other matters relating to the artwork's on-going maintenance and acknowledgements in accordance with the City's Percent for Public Art Policy shall be submitted to and approved by the City prior to the lodgement of a building permit application.*
- 5. *A geotechnical report covering the development area being prepared by a suitably qualified practitioner at the applicant's cost, to the satisfaction of the City of Bayswater. The report is to be lodged with the building permit application, together with certification from a structural engineer that the design is suitable for the site conditions as outlined in the geotechnical report.*
- 6. *The applicant shall submit an acoustic report prepared by a suitably qualified acoustic engineer to ascertain the impact of the development has on the sensitive noise premises location on Broun Avenue, Morley, opposite the proposed development. The recommendations of the report are to be incorporated into the final design to the satisfaction of the City of Bayswater. The report is to be submitted to and approved by the City prior to the lodgement of a building permit application.*
- 7. *Detailed plans of a drainage system shall be submitted to and approved by the City of Bayswater prior to the submission of a building permit. The plans shall include the following:*
 - (a) *All stormwater retained on site and directed to the spel puraceptor for treatment.*
 - (b) *A heavy duty spoon drain provided at the future road widening boundary adjoining Russell Street.*
 - (c) *Adequate bunding / drainage system to prevent fuel and oil from discharging into the stormwater system.*

The approved plans shall be implemented and thereafter maintained to the satisfaction of the City of Bayswater.
- 8. *A refuse and recycling management plan shall be submitted to and approved by the City of Bayswater, prior to commencement of any works. The plan shall include details of refuse bin location, number of rubbish and recycling receptacles, vehicle access and manoeuvring.*
- 9. *A suitably screened refuse bulk bin area with a minimum area of 10m2 shall be provided to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.*
- 10. *A detailed landscape plan shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application. The plan shall include the following:*
 - (a) *The location and species of all trees and shrubs to be retained or removed.*
 - (b) *The size and number of new plants to be planted.*

- (c) Details of the proposed 'green wall' feature and vertical landscaping to the piers of the external frame fronting Russell Street and Broun Avenue, including establishment of the wall and any required ongoing maintenance to ensure survival.
- (d) Those areas to be reticulated or irrigated.

Landscaping and reticulation shall be completed in accordance with the approved detailed landscape plan prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

11. A construction management plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application.
12. A detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted to and approved by the City of Bayswater, prior to the submission of a building permit application.
13. The proposal shall be referred to the Department of Mines and Petroleum for review prior to submission of a building permit, to the satisfaction of the City of Bayswater.
14. Prior to occupation of the development the central raised median located in front of the Russell Street crossover shall be extended to join the existing islands to the satisfaction of the City of Bayswater, and all costs associated with these works are to be paid by the applicant/owner.
15. The car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City of Bayswater.
16. All vehicle crossings being upgraded, designed and constructed to the satisfaction of the City of Bayswater.
17. Management measures shall be implemented on site to ensure that the rear loading bay is not utilised at times when a fuel tanker is accessing the site, to the satisfaction of the City of Bayswater.
18. Walls, fences and other structures or vegetation shall be truncated or reduced to no higher than 0.75m within 1.5m of where a vehicular access point meets the road reserve.
19. The signage hereby permitted shall not contain any flashing, moving or pulsating lighting, nor contain lighting that is distracting to road users, or interferes with traffic signals, to the satisfaction of the City of Bayswater.
20. Any illuminated signs on site shall have a maximum luminance in accordance with the following:
 - (a) daytime - 6,000cd/m²;
 - (b) dawn/dusk - 600cd/m²; and
 - (c) night - 300cd/m².

The City of Bayswater reserves the right to require illumination of signs to be reduced by up to half of the maximum values indicated above to address potential issues in the event of public annoyance, to the satisfaction of the City.
21. All advertising signs shall relate only to goods and services provided on site.
22. Windows, doors and adjacent areas fronting Russell Street and Broun Avenue shall maintain an active and interactive relationship with the street, to the satisfaction of the City of Bayswater.
23. All external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street, or designed integrally with the building and be located so as not to be visually obtrusive from the street.

24. *No storage or display of goods is to occur outside the building, to the satisfaction of the City of Bayswater.*
25. *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, to the satisfaction of the City of Bayswater.*

Advice Notes:

1. *To activate the planning approval, the development/use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. *This approval is not a building permit or an approval under any law other than the Planning and Development Act 2005. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.*
3. *Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and verge areas including any verge trees must be adequately protected, maintained and reinstated if required, during and as a result of carting and all works associated with this development.*
4. *This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.*
5. *The noise generated from operational activities shall not to exceed the levels prescribed in under the Environmental Protection (Noise) Regulations 1997.*

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

Theme: Our Local Economy
Aspiration: A business and employment destination.
Outcome E2: Active and engaging town and city centres.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 23;
- City of Bayswater local planning policies, including Morley Activity Centre Structure Plan Policy, Percent of Public Art Policy and Signage Policy;
- Scheme Amendment No. 61 to the City of Bayswater Town Planning Scheme No. 24; and
- *Planning and Development (Local Planning Schemes) Regulations 2015.*

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Plans for Development
2. Submission Location Plan (Confidential)

COMMITTEE RESOLUTION**(OFFICER'S RECOMMENDATION)**

That Council receives this report relating to the proposed convenience store - Development Assessment Panel application at Lot 1, 162 Russell Street, Morley.

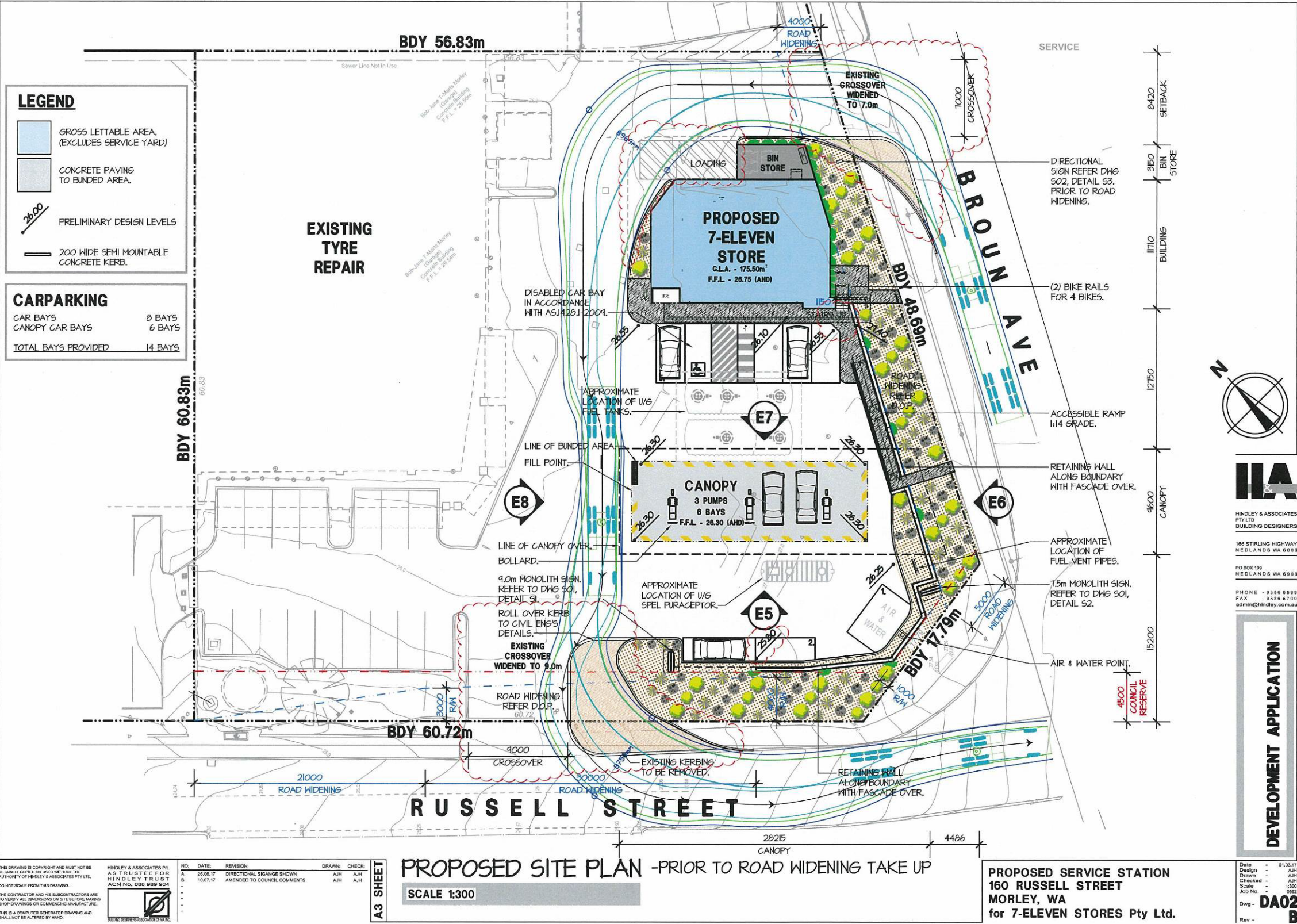
CR BRENT FLEETON MOVED, CR STEPHANIE COATES, DEPUTY MAYOR SECONDED

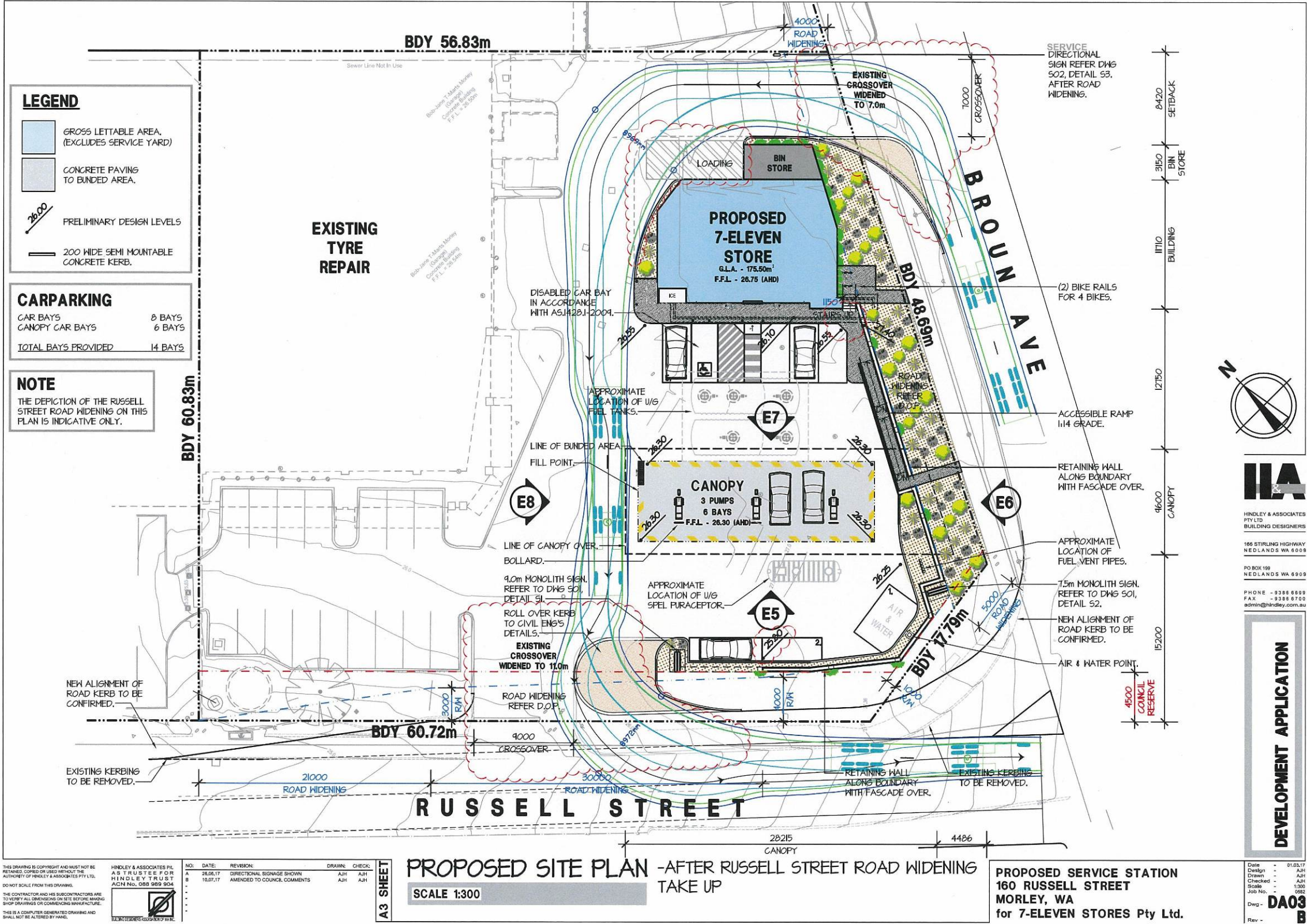
CARRIED: 8/0

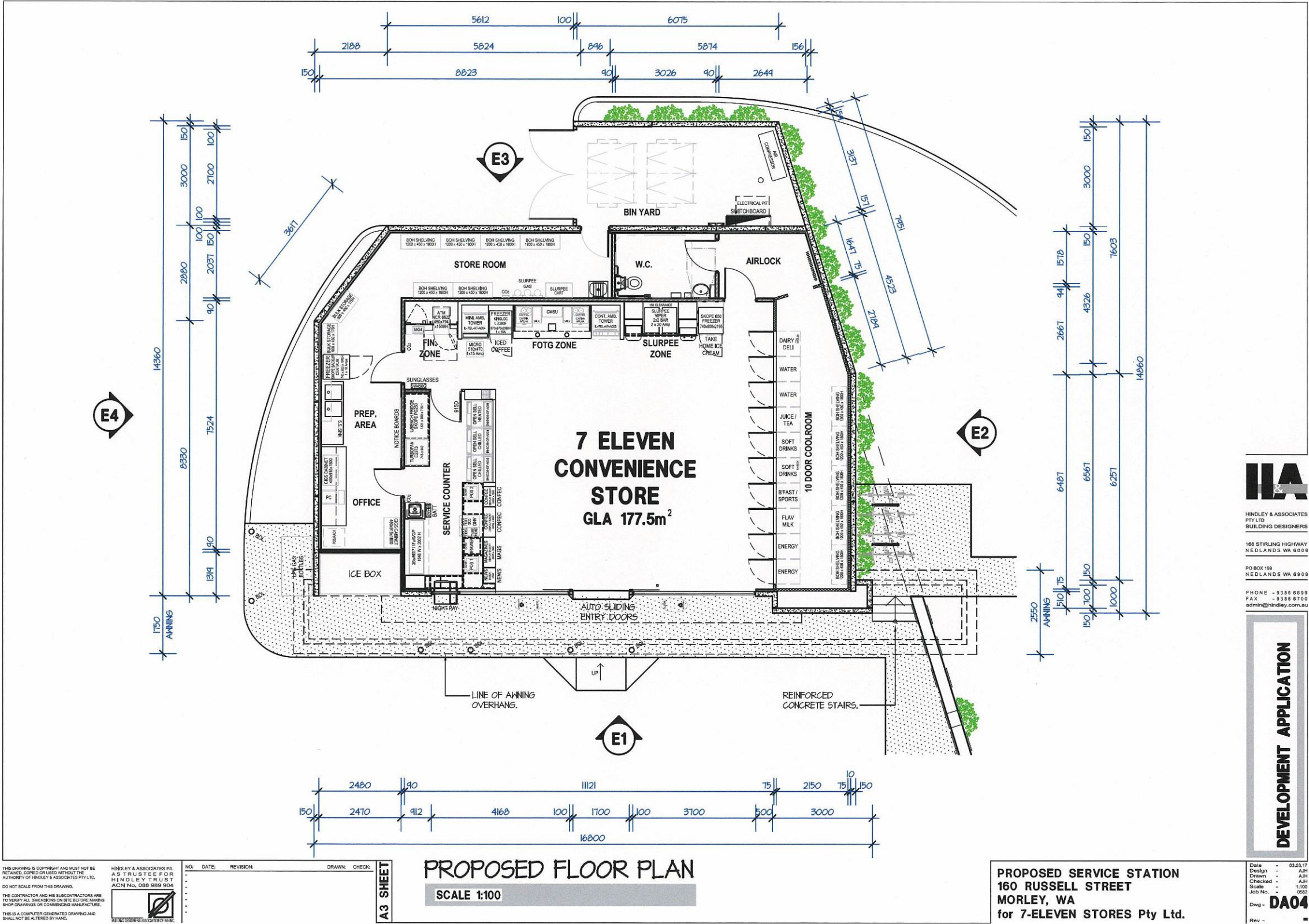
At 7.50pm, Cr Sally Palmer returned to the meeting.

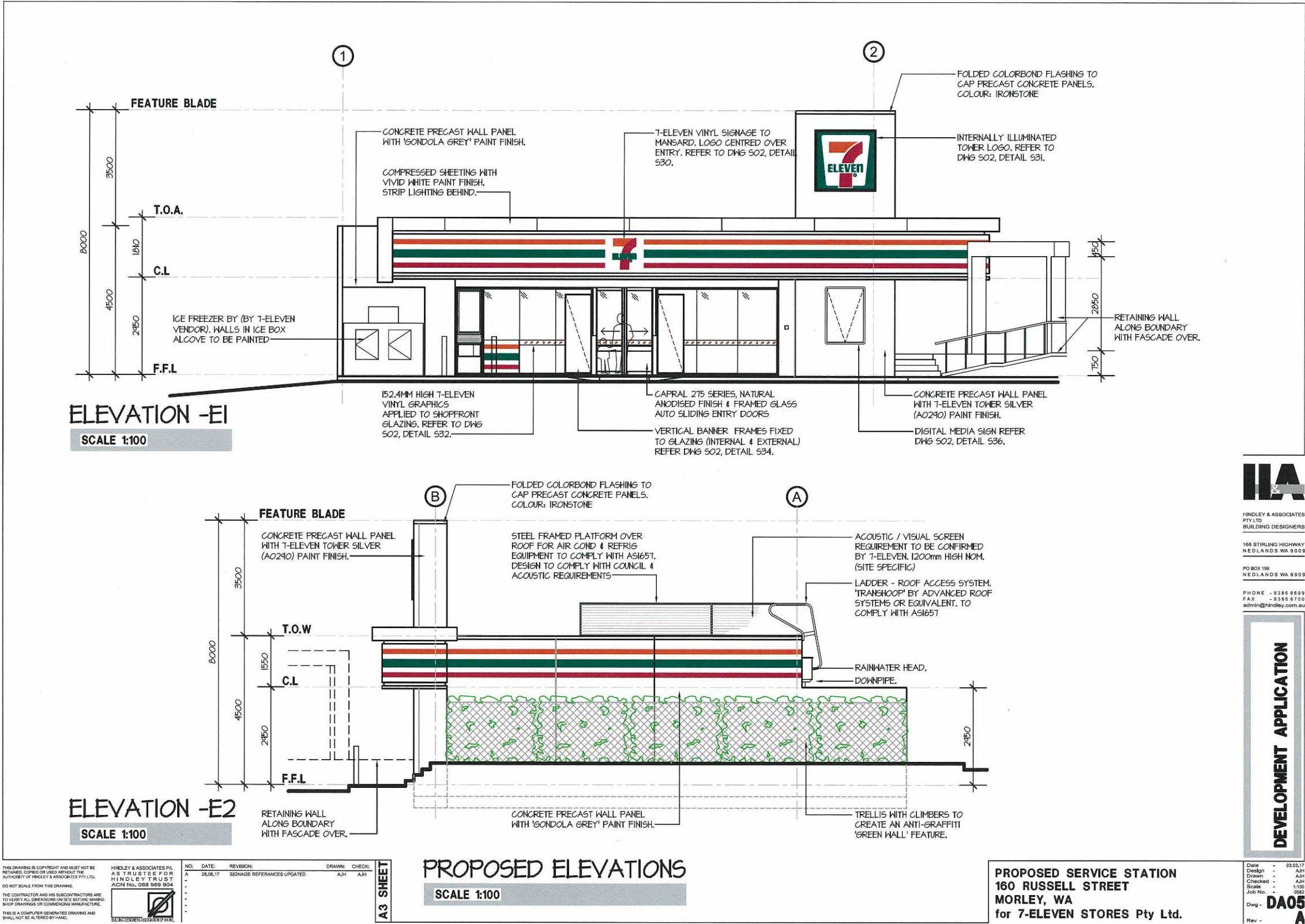
At 7.51pm, Cr Chris Cornish returned to the meeting.

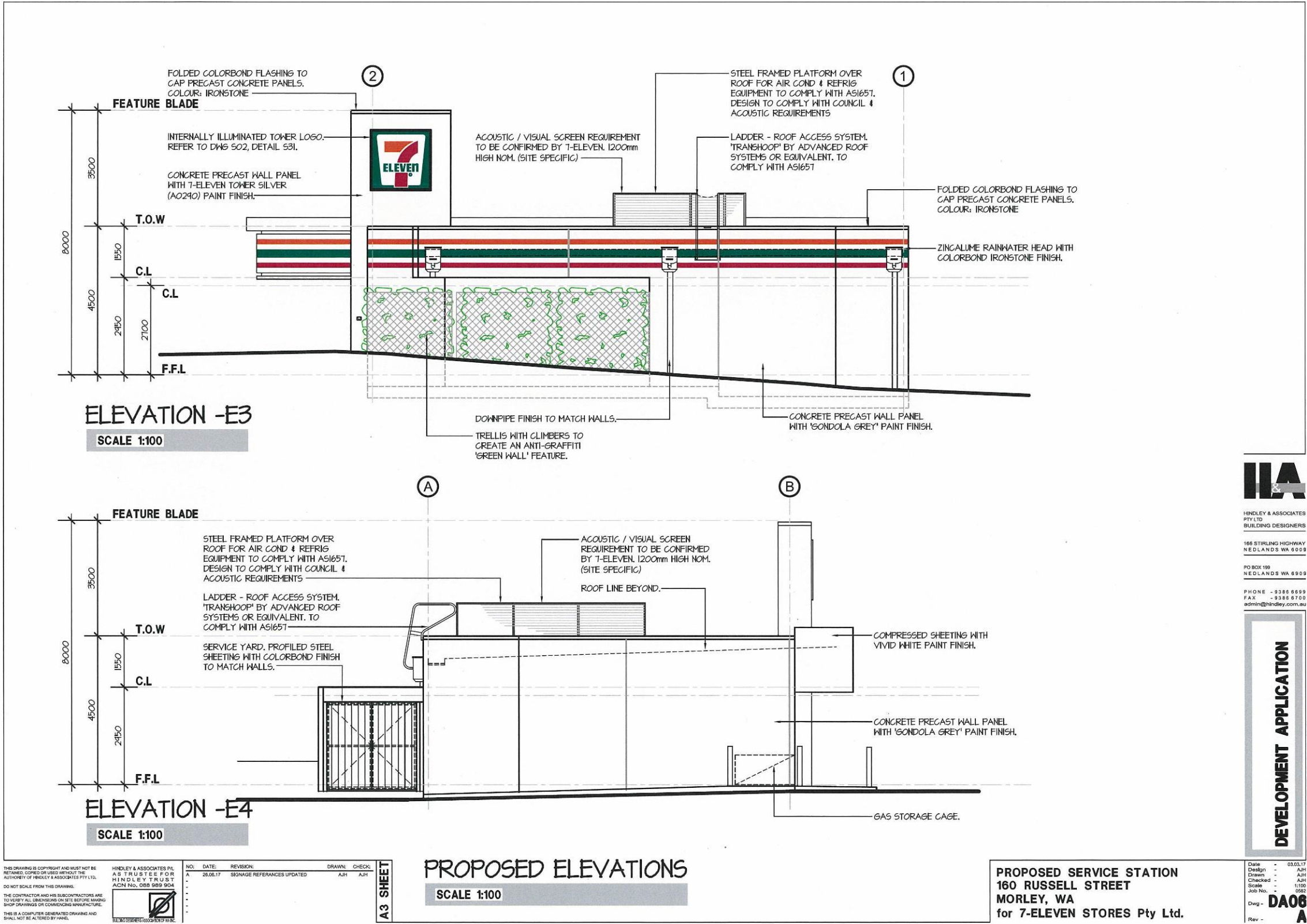
Attachment 1

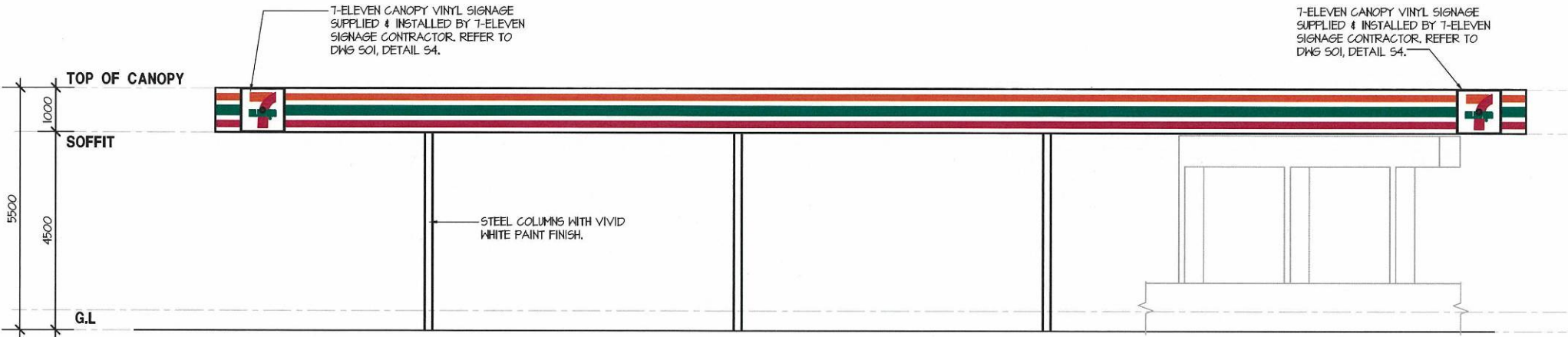




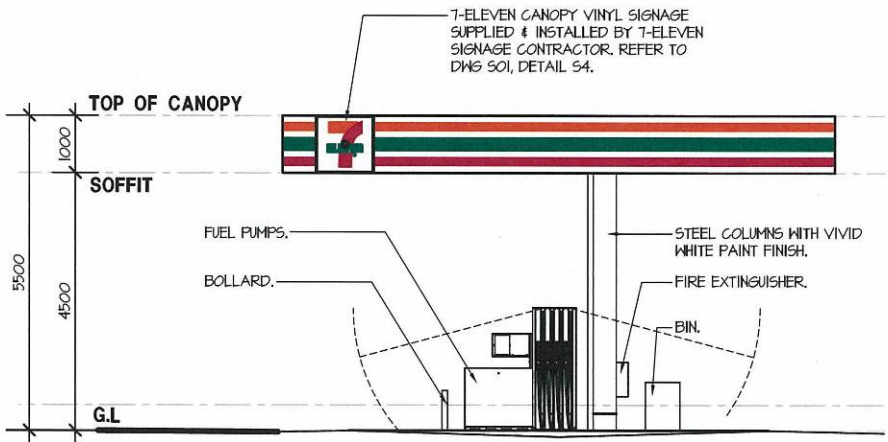








ELEVATION -E5
SCALE 1:100



ELEVATION -E6
SCALE 1:100

PROPOSED ELEVATIONS
SCALE 1:100

HIA
HINDLEY & ASSOCIATES
PTY LTD
BUILDING DESIGNERS
166 STIRLING HIGHWAY
NEDLANDS WA 6908
PO BOX 199
NEDLANDS WA 6908
PHONE - 9386 6699
FAX - 9386 6700
admin@hindley.com.au

DEVELOPMENT APPLICATION

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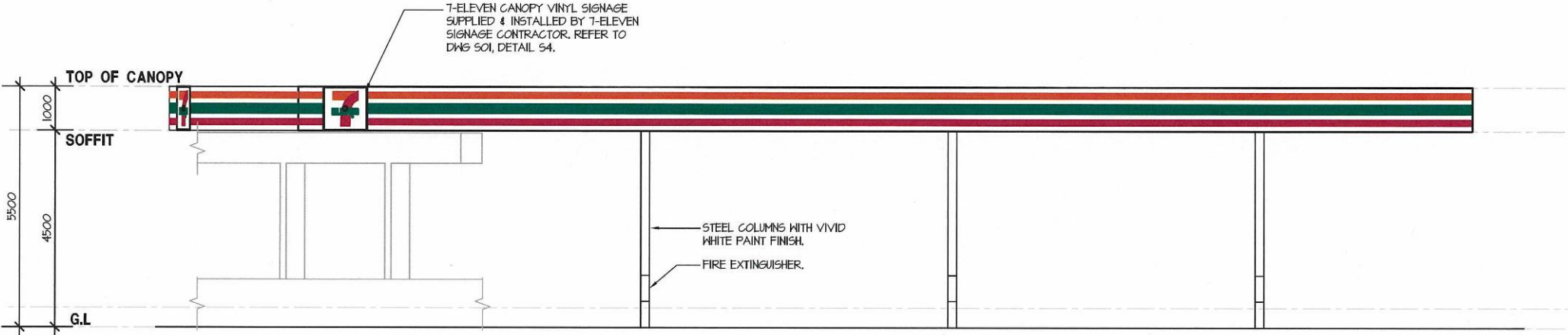
HINDLEY & ASSOCIATES PTY LTD
AS TRUSTEES FOR
HINDLEY TRUST
ACN No. 008 565 504

NO.	DATE	REVISION	DRAWN	CHECK
A	26/06/17	SIGNAGE REFERENCES UPDATED	AJH	AJH

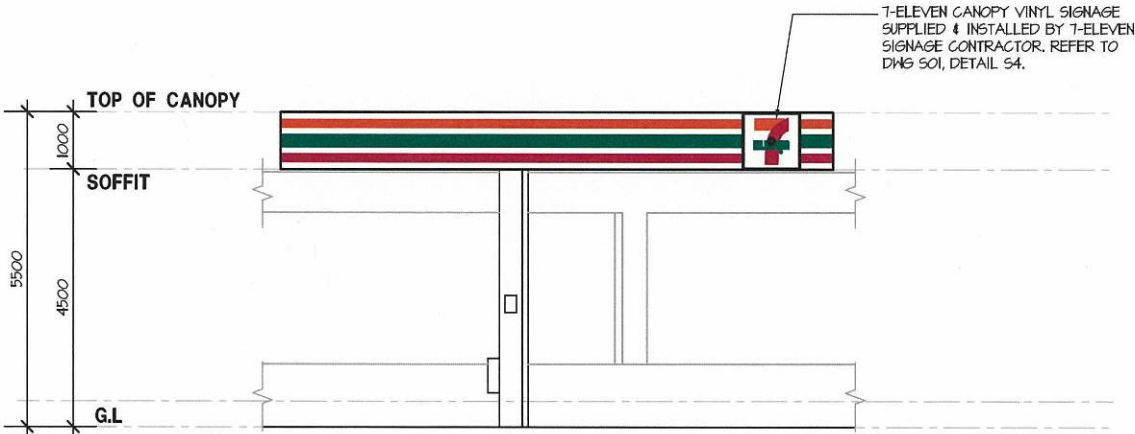
A3 SHEET

PROPOSED SERVICE STATION
160 RUSSELL STREET
MORLEY, WA
for 7-ELEVEN STORES Pty Ltd.

Date - 03.03.17
Design - AJH
Drawn - AJH
Checked - AJH
Scale - 1:100
Job No. - 0582
Dwg - DA07
Rev - A



ELEVATION -E7
SCALE 1:100



ELEVATION -E8
SCALE 1:100

PROPOSED ELEVATIONS
SCALE 1:100

IIA
HINDLEY & ASSOCIATES
PTY LTD
BUILDING DESIGNERS
166 STIRLING HIGHWAY
NEDLANDS WA 6908
PO BOX 199
NEDLANDS WA 6908
PHONE - 9386 8899
FAX - 9386 6700
admin@hindley.com.au

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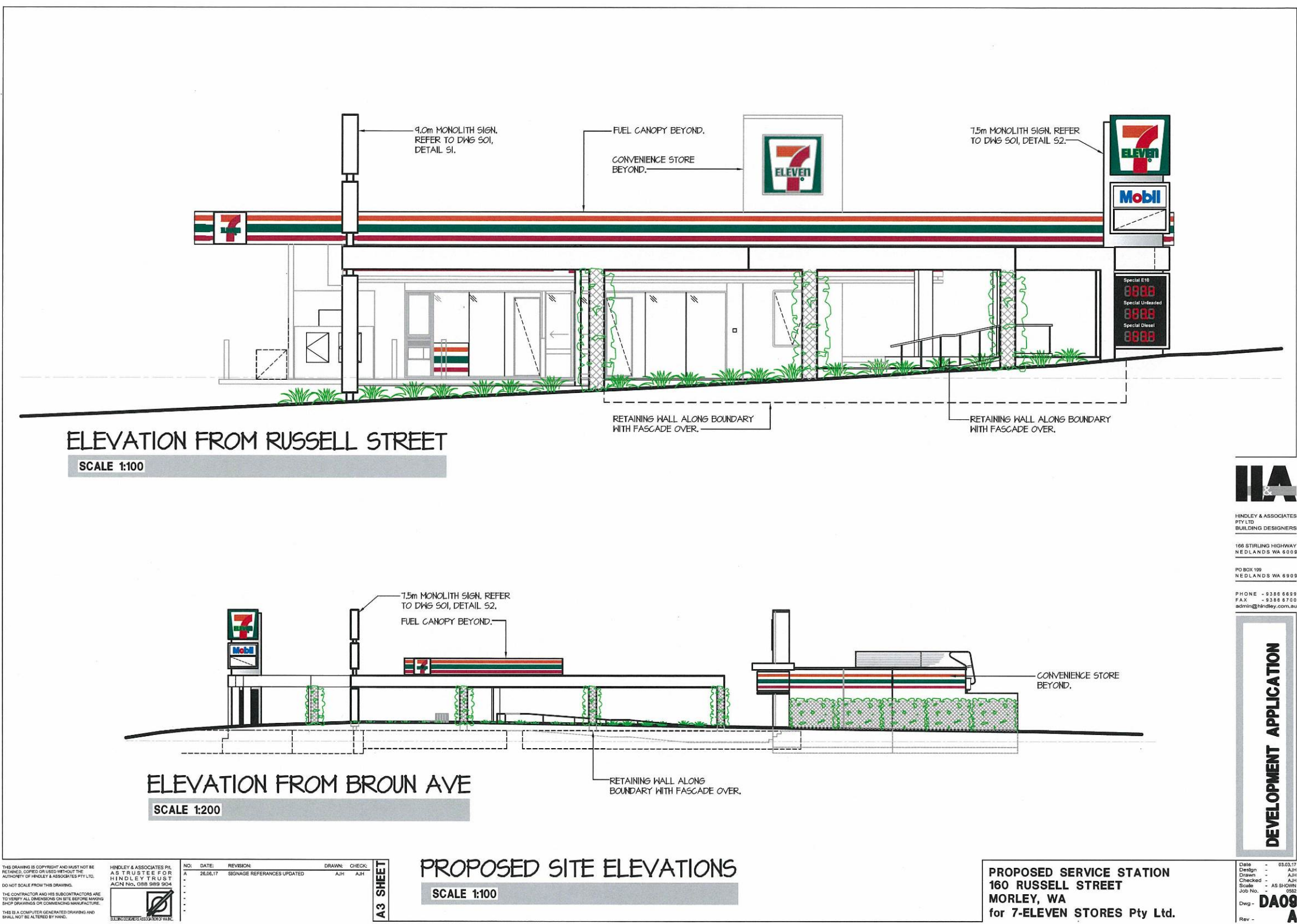
HINDLEY & ASSOCIATES PTY
AS TRUSTEE FOR
HINDLEY TRUST
ACN 110 088 589 504

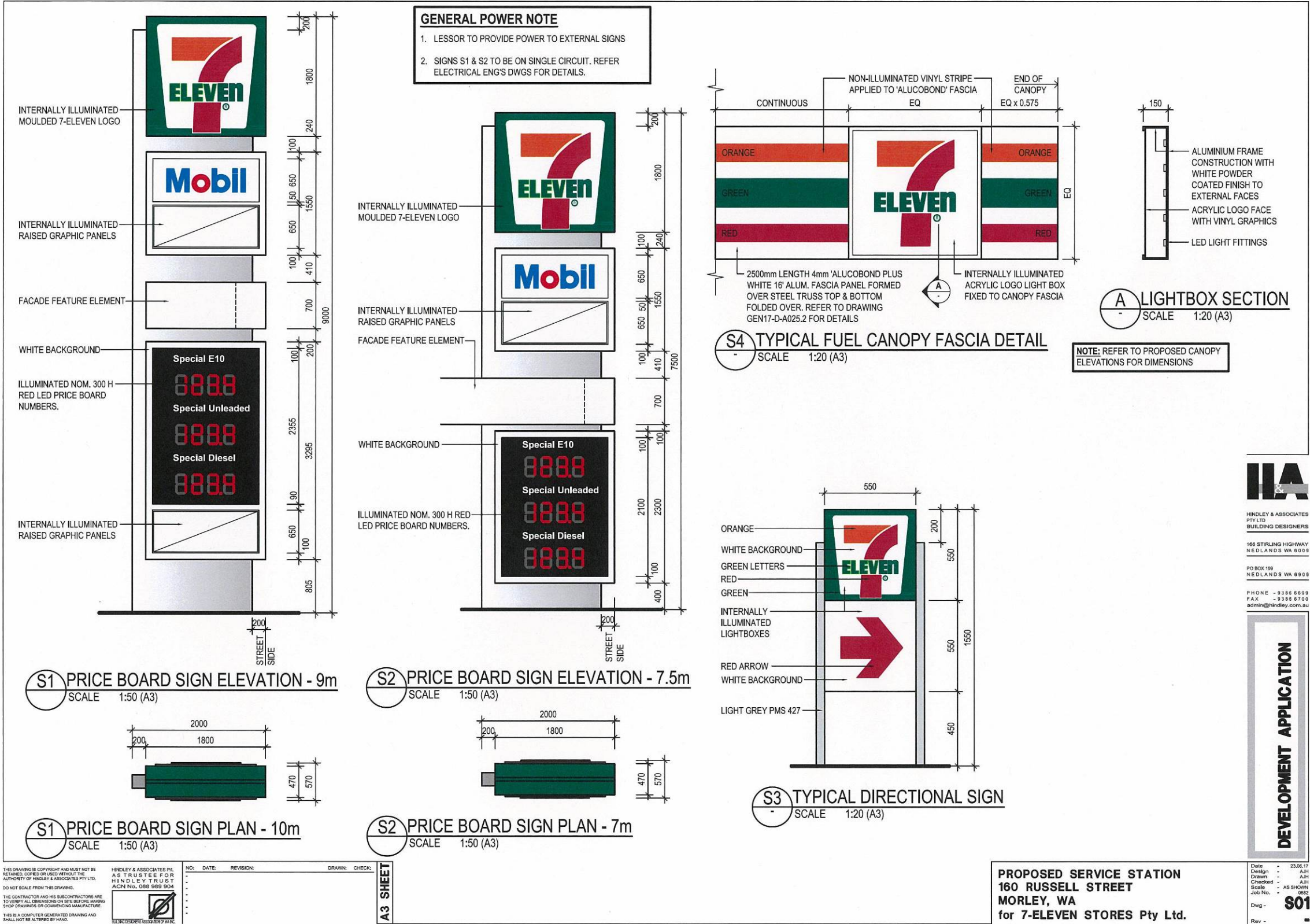
NO.	DATE	REVISION	DRAWN	CHECK
A	26.05.17	SIGNAGE REFERENCES UPDATED	AJH	AJH

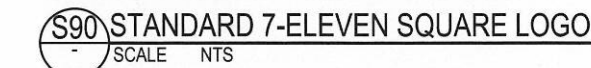
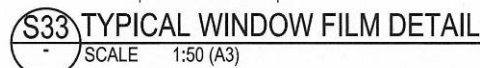
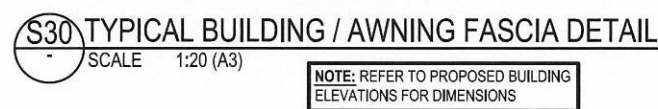
A3 SHEET

PROPOSED SERVICE STATION
160 RUSSELL STREET
MORLEY, WA
for 7-ELEVEN STORES Pty Ltd.

Date - 03.03.17
Design - AJH
Drawn - AJH
Checked - AJH
Scale - 1:100
Job No. - 0582
Dwg - DA08
Rev - A





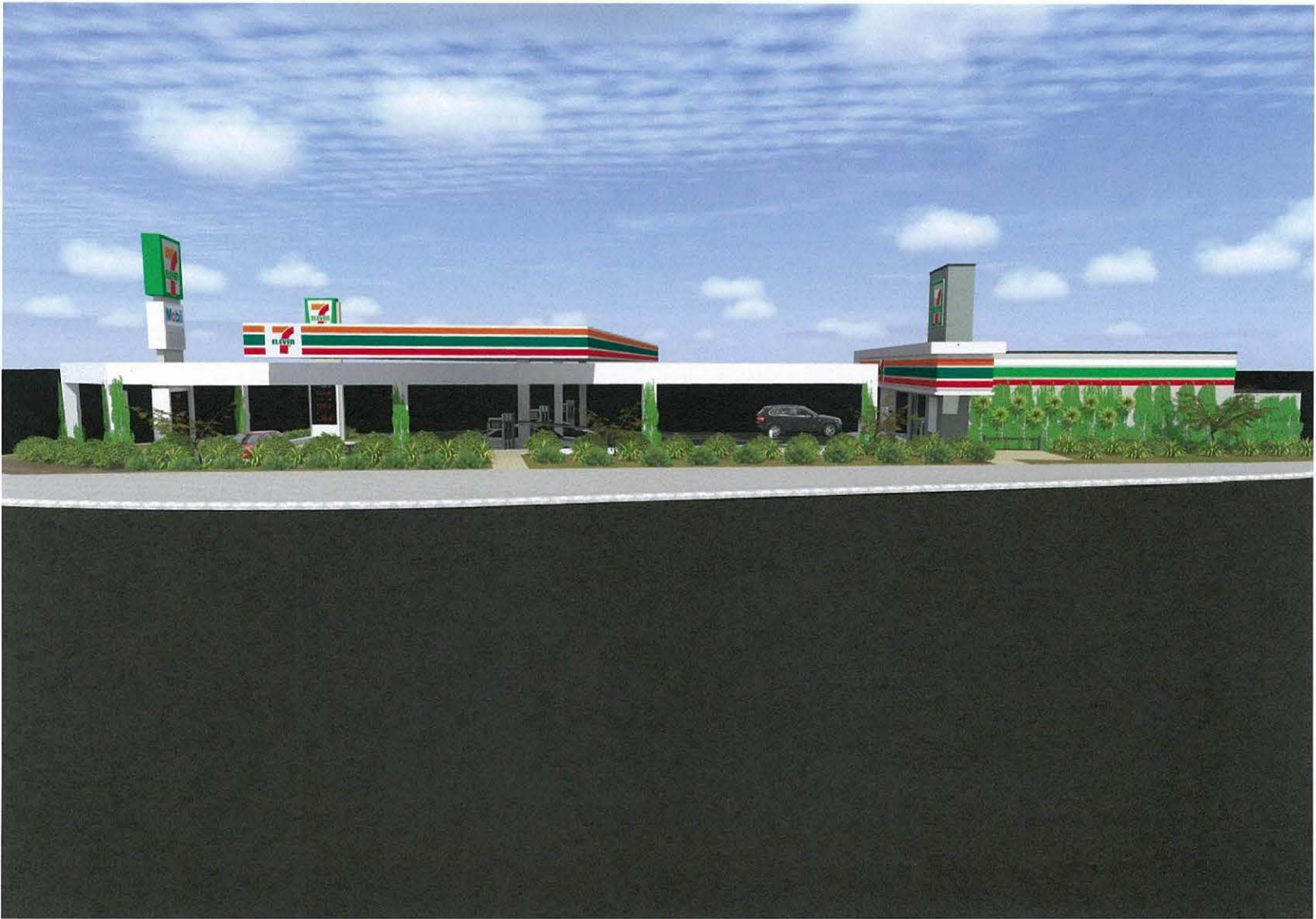


10	10
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Date - 23.06.17
Design - A/JH
Drawn - A/JH
Checked - A/JH
Scale - AS SHOWN
Job No. - 0582
Dwg - **S02**
Rev -

Attachment 1







9.1.11 Review of Naming of Parks, Reserves, Streets and Infrastructure Policy

Reporting Branch: Strategic Planning and Place Services
Responsible Directorate: Planning and Development Services
Refer: Item 9.1.15: OCM 20.06.2017
Item 11.1: OCM 17.05.2016

EXECUTIVE SUMMARY**Application:**

Council consideration is sought in relation to the review of the City of Bayswater's Naming of Parks, Reserves, Streets and Infrastructure Policy.

Key Issues:

- Council previously requested a review of the subject policy at its Ordinary Council Meeting held 17 May 2016.
- The review has considered naming right opportunities for components of reserves, theming of street names, and other changes to ensure consistency with State policy.
- Council at the Planning and Development Services Committee meeting held 20 June 2017 deferred the item to a workshop for further consideration.

BACKGROUND

At its Ordinary Council Meeting held 17 May 2016 Council considered an application for renaming of Frank Drago Reserve Stadium to Finance 365 Stadium. The subject proposal was not considered to satisfy the allowable listed categories for naming a street, recreation reserve or infrastructure as stated in the Naming of Parks, Reserves, Streets and Infrastructure Policy. Accordingly, Council approved the proposal and further resolved to:

- "2. *Requests a review of the applicable policy - naming of a street, recreation reserve or infrastructure to:*
- a) *Protect the existing approved naming of a street, recreation reserve or infrastructure indefinitely, and*
 - b) *Include a provision to approve short term sponsorship or naming right opportunities."*

It is further noted that the City has a separate policy in relation to Sponsorship Signage on Reserves, which all the sponsorship signage on reserves have to comply with. The proposed review of the Naming of Parks, Reserves, Streets and Infrastructure Policy will not affect that policy.

The review of the policy was accordingly prepared and reported to the Planning and Development Services Committee meeting held 20 June 2017 where the Council resolved to defer the item to a workshop for further consideration.

CONSULTATION

No consultation has occurred on this matter.

ANALYSIS

The review of the Naming of Parks, Reserves, Streets and Infrastructure Policy, recommends some modification to the subject policy which is a policy made under the *Local Government Act 1995*.

Modifications have been made throughout the policy to allow for clarity, enabling Council to recognise commercial short term names for components of recreational reserves for the purpose of event promotion and sponsorship.

It is further noted that, in recent years, the City has had difficulties in choosing names which would fall under historical figures or commemorative names categories for streets, as there are a limited number of historical figure or which meet the State criteria. For example, under State policy, 'Policies and Standards for Geographical Naming in Western Australia' being a landowner is not sufficient to have a road named after a person and similarly government officials are excluded.

Accordingly, the proposed modified policy allows acceptable theming for street names, which are compliant with the subject State policy.

It is proposed to include a statement that chosen names will be expected to be permanent, and re-naming is discouraged. Renaming will only be considered in exceptional circumstances and where significant community support has been demonstrated.

Incorrect references to legislation have also been removed from the original policy.

At a Councillor Workshop held 11 July 2017, Councillors discussed the proposed modifications to the policy and suggested not to remove the phrase "if applicable" from clause 4b of the existing policy (renumbered to clause 6b in the modified policy). This was because in some circumstances the year of death may not be applicable. In accordance with the updated State policy (3 July 2017), buildings, infrastructure, facilities, components of local parks or recreational reserves may be named in honour of living community members. However, for roads and localities, only in rare circumstances may it be named after a living person, *"where they have attained exceptional achievements at state, national or international level, requiring special recognition"*. Accordingly, the suggested modification is considered acceptable.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
1. Modify the 'Naming of Parks, Reserves, Streets, and Infrastructure Policy as per the officer's recommendation. Estimated Cost: <ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Provides clear guidance for naming of parks, reserves, streets and infrastructure. Provides guidance in regard to commercial naming of components of recreational reserves. 	<ul style="list-style-type: none"> Nil.
2. Modify the 'Naming of Parks, Reserves, Streets and Infrastructure Policy with other modifications. Estimated Cost: <ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Dependent on the proposed modifications. 	<ul style="list-style-type: none"> Dependent on the proposed modifications.
3. Not modify the 'Naming of Parks, Reserves, Streets and Infrastructure Policy. Estimated Cost: <ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> The unmodified policy does not reflect current practices. The unmodified policy is not consistent with the Geographic Names

OPTION	BENEFIT	RISK
		<p>Committee Policies and Standards for Geographic Naming in Western Australia.</p> <ul style="list-style-type: none"> The unmodified policy will remain silent in regard to commercial naming of components of recreational reserves and renaming requests.

CONCLUSION

In light of the above, it is recommended that Council supports modifying the 'Naming of Parks, Reserves, Streets and Infrastructure Policy' as per the officer's recommendation (Option 1) which also reflect Councillors' suggested modification at the Councillor Workshop held 11 July 2017.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC LINK

In accordance with the City of Bayswater's Strategic Community Plan 2017-2027, the following applies.

Theme: Our Built Environment
 Aspiration: A quality and connected built environment
 Outcome B3: Quality built environment

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- Local Government Act 1995.*

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

- Naming of Parks, Reserves, Streets and Infrastructure Policy - recommended modifications.
- Naming of Parks, Reserves, Streets and Infrastructure Policy - recommended modified policy.

COMMITTEE RESOLUTION (OFFICER'S RECOMMENDATION)

That Council adopts the modified Naming of Parks, Reserves, Streets and Infrastructure Policy as contained in Attachment 2 to this report.

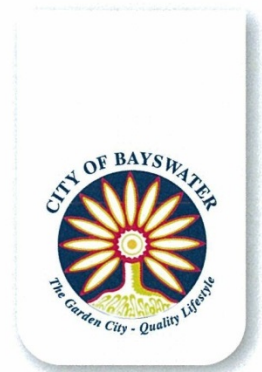
CR STEPHANIE COATES, DEPUTY MAYOR MOVED, CR BRENT FLEETON SECONDED
 CARRIED: 9/1

FOR VOTE - *Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor, Cr Chris Cornish, Cr John Rifici, Cr Michelle Sutherland, Cr Sally Palmer, Cr Catherine Ehrhardt, Cr Brent Fleeton and Cr Dan Bull.*

AGAINST VOTE - *Cr Alan Radford.*

Attachment 1 - Recommended Modifications**NAMING OF PARKS, RESERVES, STREETS & INFRASTRUCTURE POLICY**

Responsible Division	Planning and Development Services
Responsible Business Unit/s	Planning Services Strategic Planning and Place Services, Recreation Services
Responsible Officer	Planning Manager Manager Strategic Planning and Place
Affected Business Unit/s	Planning Services Strategic Planning and Place Services, Recreation Services

**PURPOSE:**

To outline ~~Council's~~ the City of Bayswater's requirements, in support of the consistent approach for the naming of parks, reserves, streets and infrastructure as set out by the Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia. ~~and assist in making recommendations to the Geographic Names Committee.~~

POLICY STATEMENT:

In accordance with Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia:

1. The naming of ~~a streets and~~ Park, ~~recreation~~ reserves, ~~street and~~ infrastructure shall be determined by Council. ~~and~~
2. A list of all names and their origins ~~is to~~ will be kept within a Geographic Names Register.
3. ~~2.~~ Priority will be given to the naming of parks and reserves after an adjacent street or feature to maximise the identification of that park or reserve with an area.
4. ~~3.~~ Components of recreational reserves (e.g. pavilions, ovals, gardens etc.) may:
 - a. be named in honour of community members who have contributed towards the establishment of the particular facility or towards the community in general. Such proposals may include forename/surname combinations; ~~or~~
 - b. have commercial short term names for the purposes of event promotion or sponsorship. Any proposed sponsorship signage shall be in accordance with the Sponsorship Signage on Reserves Policy.
5. All requests for the naming of a ~~park,~~ street, ~~recreation~~ reserve or infrastructure must be identified within one of the following categories:
 - a. ~~War veteran from within the City of Bayswater;~~
 - b. ~~Founding member of a Bayswater community organisation;~~
 - c. ~~Ex councillor, Local Member of Parliament or Senior Council Officer;~~
 - d. ~~Contribution to the Bayswater community (contribution must be verifiable, i.e. long-term member of a community organisation); or~~

- a. A figure of local historical note;
 - b. Geographic feature(s); or
 - c. Other acceptable theme(s).
6. ~~4.~~ Requests for the naming of a **park**, street, ~~recreation~~ reserve or infrastructure after a person ~~should~~**must** be made in writing and ~~should~~ contain the following details **of the person intended to be recognised**:
- a. Name;
 - b. Date of birth and year of death, if applicable;
 - ~~c. Length of residency within the City of Bayswater;~~
 - ~~d. Membership of community organisation(s);~~
 - ~~e. Involvement in community projects;~~
 - ~~f. Contributions towards the development or improvement of the City of Bayswater; and~~
~~The category, as described in (5) below, under which the name is proposed to be included.~~
 - c. Detailed information and supporting documentation (e.g. letters, newspaper articles, oral histories, photographs etc.) to demonstrate the person's contribution(s)/relevance to the local community; and**
 - d. Evidence of all efforts to gain consent from family members of the person who is being recognised in the name.**
- ~~6. No street or reserve name shall be duplicated within the City of Bayswater.~~
7. Names chosen for City parks, reserves, streets and infrastructure are expected to be permanent, and re-naming is discouraged. Renaming will only be considered in exceptional circumstances and where significant community support has been demonstrated.
8. Nothing in this policy prevents Council from approving short term names for the purposes of event promotion or sponsorship.

DEFINITIONS:

Nil

RELATED LEGISLATION:

~~Section 9.59 of the Local Government Act 1995~~

Section 2.7(2)(b) of the Local Government Act 1995

RELATED DOCUMENTATION:

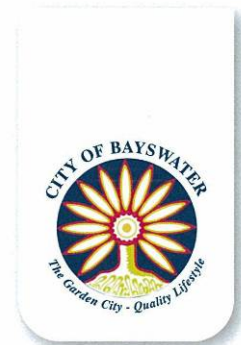
Nil

Relevant Delegations		
Risk Evaluation		
Council Adoption	Date	23 April 1996
Reviewed / Modified	Date	22 September 1998
Reviewed / Modified	Date	25 January 2005

Reviewed / Modified	Date	1 March 2016
Reviewed / Modified	Date	

Attachment 2 - Recommended Modified Policy**NAMING OF PARKS, RESERVES, STREETS & INFRASTRUCTURE POLICY**

Responsible Division	Planning and Development Services
Responsible Business Unit/s	Strategic Planning and Place Services, Recreation Services
Responsible Officer	Manager Strategic Planning and Place
Affected Business Unit/s	Strategic Planning and Place Services, Recreation Services

**PURPOSE:**

To outline the City of Bayswater's requirements, in support of the consistent approach for the naming of parks, reserves, streets and infrastructure as set out by the Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia.

POLICY STATEMENT:

In accordance with Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia:

1. The naming of a park, reserve, street and infrastructure shall be determined by Council.
2. A list of all names and their origins will be kept within a Geographic Names Register.
3. Priority will be given to the naming of parks and reserves after an adjacent street or feature to maximise the identification of that park or reserve with an area.
4. Components of recreational reserves (e.g. pavilions, ovals, gardens etc.) may:
 - a. be named in honour of community members who have contributed towards the establishment of the particular facility or towards the community in general. Such proposals may include forename/surname combinations; or
 - b. have commercial short term names for the purposes of event promotion or sponsorship. Any proposed sponsorship signage shall be in accordance with the Sponsorship Signage on Reserves Policy.
5. All requests for the naming of a park, street, reserve or infrastructure must be identified within one of the following categories:
 - a. A figure of local historical note;
 - b. Geographic feature(s); or
 - c. Other acceptable theme(s).
6. Requests for the naming of a park, street, reserve or infrastructure after a person must be made in writing and contain the following details of the person intended to be recognised:
 - a. Name;
 - b. Date of birth and year of death, if applicable;

- c. Detailed information and supporting documentation (e.g. letters, newspaper articles, oral histories, photographs etc.) to demonstrate the person's contribution(s)/relevance to the local community; and
 - d. Evidence of all efforts to gain consent from family members of the person who is being recognised in the name.
7. Names chosen for City parks, reserves, streets and infrastructure are expected to be permanent, and re-naming is discouraged. Renaming will only be considered in exceptional circumstances and where significant community support has been demonstrated.
 8. Nothing in this policy prevents Council from approving short term names for the purposes of event promotion or sponsorship.

DEFINITIONS:*Nil***RELATED LEGISLATION:**

Section 2.7(2)(b) of the Local Government Act 1995

RELATED DOCUMENTATION:*Nil*

Relevant Delegations		
Risk Evaluation		
Council Adoption	Date	23 April 1996
Reviewed / Modified	Date	22 September 1998
Reviewed / Modified	Date	25 January 2005
Reviewed / Modified	Date	1 March 2016
Reviewed / Modified	Date	
Reviewed / Modified	Date	

9.1.12 Proposed Modifications to Draft Percent for Public Art Policy

Reporting Branch:	Strategic Planning and Place Services
Responsible Directorate:	Planning and Development Services
Refer:	Item 10.4: OCM 15.11.2016
	Item 16.1: OCM 31.5.2016
	Item 11.1.13: OCM 25.6.2013
	Item 11.1.15: OCM 26.3.2013

EXECUTIVE SUMMARY**Application:**

Council consideration is sought regarding proposed modifications to the 'Percent for Public Art' policy.

Key Issues:

- Council previously considered modifications to the Percent for Public Art Policy in light of a draft percent for street trees policy at that time and resolved not to proceed with the modifications.
- The current proposed modifications include; the introduction of a cash-in-lieu option; introduction of an alternative contribution option and modifications to the 'Artwork on Public Land' section.

BACKGROUND

The City's 'Percent for Public Art' policy was adopted by Council on 25 June 2013 and provides policy direction on the provision of public art for development proposals and where the City will apply the policy to enhance and promote the public realm and streetscape.

At its Ordinary Meeting held 31 May 2016 Council considered a motion to review the Percent for Public Art Policy, and resolved as follows:

"That the City:

- 1. Amends Policy TP-P 1.11 'Percent for Public Art' to change the cost of any public art provided under this policy to be no less than half of one percent (0.5%) (currently 1%) of the construction value of the eligible development proposal; and*
- 2. Prepares a new policy (for consideration at a future Councillor workshop then through extensive community and industry consultation) that requires no less than half of one percent (0.5%) of the construction value of all commercial, non-residential or mixed use development with a construction cost of \$1 million or greater to be paid to the City for the provision of street trees in the immediate vicinity of the relevant development.*
- 3. That the modified Policy TP-P 1.11 'Percent for Public Art' and the proposed new policy relating to a street tree contribution be effective at the same time, subject to Council final adoption".*

At its Ordinary Meeting held 15 November 2016 Council considered the proposed modifications to the Percent for Public Art policy which included reducing the cost of public art to 0.5% of the construction value of the eligible development proposal and a proposed draft Percent for Street Trees policy. Council resolved as follows:

"That Council:

- 1. Does not proceed with the draft 'Percent for Street Trees' policy and the draft modified 'Percent for Public Art' policy as included in Attachment 1 and Attachment 2 to this report.*
- 2. Commits to the 'Percent for Arts Scheme' with a 1% developer contribution as currently in place".*

CONSULTATION

No consultation has yet occurred with the community or other agencies on this matter. In the event Council adopts the modified policy for advertising, it will be advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

ANALYSIS

Percent for Public Art

The current 'Percent for Public Art' policy applies where a development proposal on private property has a construction cost of \$1 million or greater and is a commercial, non-residential or mixed use development. It does not apply to solely residential developments. The developer/builder is generally required to provide the public art on the development site (or on public at the City's discretion), and the cost of the artwork is to be no less than 1% of the construction value of the development.

Alternative Contribution Option

The modified policy (**Attachment 1**) proposes a provision that would permit the City to vary the requirements of the policy to use up to 50% of the contribution for the provision of alternative arts and/or community based initiatives that satisfy the objectives of the policy. This option will only be available to public art contributions that are valued at \$1 million or greater and thus will only apply on limited occasions such as the Galleria Shopping Centre redevelopment application. It is considered that this option will enable more community led art projects to occur in the area surrounding large developments.

Cash-In-Lieu Option

The modified policy proposes to introduce the option of a cash-in-lieu payment which would allow the owner/applicant to make a contribution of no less than 1% for public art which would be held in a trust fund by the City. The modified policy provides that cash-in-lieu funds paid in relation to more than one development may be accrued for more comprehensive or detailed public art projects on public land as determined by the City. It is considered that the implementation of any such public art would need to be informed by a public art strategy. Details on an Arts Strategy are discussed below.

It is considered that the implementation of public art by the City could be coordinated by the Place Managers for the respective town centres.

Artwork on Public Land

The modified policy proposes to remove reference to the process for consideration of public art on public land from the 'Artwork on Public Land' section. The modification is proposed for the following reasons:

- A review of other local government's Percent for Public Arts policies found that most other local governments did not require public art proposed on public land to be advertised to the local community, nor did they require a deed of agreement or a similar legal document. It is noted that in some cases the policy specifically stated that maintenance of public art of public land was the responsibility of the local government.
- This section is procedural and therefore is not required to be included in the policy.
- Further it will reduce the amount of red tape and make it easier for applicants / owners to commission public art on public land where it is considered appropriate.

In light of the above it is considered appropriate to remove this section.

Public Art Strategy

It is considered that the implementation of any artwork using cash-in-lieu funds would need to be informed by a public art strategy. A public art strategy would guide the artwork themes for the City (potentially including specific themes for each town centre) and may also identify types of public art and locations for public art to be located.

Council at the Community, Technical, Finance and Corporate Services Committee meeting held 17 May 2017 resolved to consider a budget allocation of \$70,000 in the 2018-19 budget to develop an Arts Plan. Further the recently adopted Corporate Business Plan 2017-2021 identifies the development and implementation of an Arts Plan with support from an Arts Advisory Group to occur from 2018-2019 onwards and the development and implementation of a Public Art Strategy to occur from 2019-2020 onwards. It is considered that the Public Art Strategy may be incorporated within the Arts Plan.

Art Advisory Committee

In accordance with the recently adopted Corporate Business Plan 2017-2021 an Arts Advisory Committee is to be created prior to the development of an Arts Plan. It is noted that the Terms of Reference for an Arts Advisory Committee have not yet been developed, however it is anticipated that the primary role of the Committee would be to assist with creation and implementation of community art. As the City does not receive a significant number of applications for public art under the Percent for Public Art Policy (five since it was adopted in June 2013) it is considered that the Arts Advisory Committee may be able to assist in assessing public art applications and art commissioned by the City using cash-in-lieu funds.

A number of other local governments including the Cities of Vincent, South Perth and Melville have Art Advisory Committees. The committees are generally made up of Councillors, City staff and community members with relevant experience or qualifications in the arts.

In the event Council established an Arts Advisory Committee it is considered the City would need to develop a set of art guidelines or terms of reference for the advisory group to refer to when assessing applications for public art.

OPTIONS

The following options are available to Council:

OPTION		BENEFIT	RISK
1.	Adopt the modified 'Percent for Public Art' policy for public advertising. Estimated Cost <ul style="list-style-type: none"> \$950 for public advertising 	<ul style="list-style-type: none"> Continued funding for public art. Increased public art provided on public land. Reduces red tape for the placement of public art on public land. Will create a more co-ordinated approach to public art on public land. 	<ul style="list-style-type: none"> The City may be responsible for the maintenance of public art on public land.
2.	Adopt the modified 'Percent for Public Art' policy with other modifications for public advertising. Estimated Cost <ul style="list-style-type: none"> \$950 for public advertising 	<ul style="list-style-type: none"> Dependent on modifications proposed. 	<ul style="list-style-type: none"> Dependent on modifications proposed.

OPTION	BENEFIT	RISK
3. Do not proceed with the modified 'Percent for Public Art' policy. Estimated Cost <ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Incurs no advertising fee. 	<ul style="list-style-type: none"> Will not reduce the amount of red tape for the placement of public art on public land. Will not encourage a more co-ordinated approach to public art on public land.

CONCLUSION

In light of the above, it is recommended that Council proceed with Option 1 and adopts the modified 'Percent for Public Art' policy for public advertising.

FINANCIAL IMPLICATIONS

The City's 2017-2018 Budget contains funds for public advertising of draft (modified) planning policies. The costs of the various options are detailed in the 'Options' section above.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
 Aspiration: A quality and connected built environment.
 Outcome B1: Appealing streetscapes.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24; and
- City of Bayswater local planning policies including the Percent for Public Art Policy.

The process for modifying local planning policies is set out in Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

- Modified 'Percent for Public Art' policy.

OFFICER'S RECOMMENDATION

That Council adopts for public advertising the modified 'Percent for Public Art' policy as included in Attachment 1 to this report.

ADDENDUM - ITEM 9.1.12 - PLANNING AND DEVELOPMENT SERVICES COMMITTEE - 15 AUGUST 2017

Additional Information

At the Councillor Workshop held 8 August 2017 Councillors considered the proposed modifications to the draft Percent for Public Art policy and provided the following feedback.

Location of Public Art

Councillors raised the matter that public art provided by an applicant on site had the potential to be covered up by future developments. Specifically where the artwork is on the side of a building (such as murals) which adjoins a property which has not yet been developed to its full potential. In light of these matters it is recommended that the following provision be included in the 'Implementation by Owner/Applicant' section of the Percent for Public Art Policy:

'All artwork is to be in a location where it is visible from the public realm for the life of the artwork'.

Queries were also raised about the placement of art commissioned using the cash-in-lieu funds and how close to the development the artwork is to be. As the intent of the policy is to improve the amenity in the area surrounding a development it is considered that artwork commissioned using cash-in-lieu funds should be within 800m of the development. It is not considered necessary to specify this requirement within the policy itself as it will be an internal practice and will only relate to artwork commissioned by the City. Additionally, the Public Art Plan/Strategy will may identify general locations for public art commissioned using the cash-in-lieu funds.

Maintenance of Public Art on Public Land

Councillors also raised queries about the cost of maintaining public art commissioned under the Percent for Public Art Policy on public land. City officers spoke with other local governments who receive cash-in-lieu funds for public art and received the following comments from the Cities of South Perth and Vincent.

City of South Perth

The City of South Perth noted that they had not yet received any cash-in-lieu funds for public art, however that they have had applications for public art to be placed on public land. The City of South Perth considered that the cost of maintaining artwork on public land was dependent on the specific artwork. The City of South Perth did not consider the cost of maintenance of art work on public land to be significant. It recommended that the City require a maintenance schedule be submitted as a part of the application for artwork on public land to understand what maintenance is required and an estimated cost.

It is noted that the Percent for Public Art policy already contains a requirement for any maintenance details to be provided by the applicant at the application stage. Additionally, for artwork commissioned by the City using cash-in-lieu funds artists will be required to submit a schedule of maintenance at the expression of interest stage.

City of Vincent

The City of Vincent has recently commissioned three artworks using cash-in-lieu of public art funds. It was noted that these artworks were specifically commissioned for their durability and low maintenance costs. As the artworks are relatively new no maintenance works have yet been required, however given the types of artworks the anticipated maintenance costs (generally an occasional pressure clean) was not considered to be significant. The City of Vincent also noted that it does have a maintenance budget, which is used to maintain all artwork on public land within the City.

It is noted that cash-in-lieu was the preferred option for public art contributions in both local governments. To encourage cash-in-lieu contribution the Cities of South Perth and Vincent offers a 10% and 15% discount, respectively, on the overall public art contribution if it is a cash-in-lieu contribution. Additionally, the Public Art Plan/Strategy will identify general requirements for art works commissioned by the City, and it is expected that the artworks will be required to be constructed of durable materials and low maintenance.

Invoice for the Works

Councillors considered that a final invoice for the works undertake to produce and install artwork on private land should be provided to the City to ensure the required amount was being suitably spent on public art. In light of the above, City officers recommend that the following be included in the 'Implementation by Owner/Applicant' section:

'Prior to the occupation of the development a final invoice(s) of the works associated with the commissioned artwork are to be provided to the City to demonstrate the actual costs of the artwork is not less than 1% of the construction value of the development.'

Community Based Incentives

Councillors raised queries regarding the inclusion of the following provision:

"Where a public art contribution is valued at \$1 million or greater, the City may vary the requirements of the policy to allow for up to 50% of the contribution to be allocated toward the provision of alternative arts and/or community based initiatives that satisfy the objectives of the policy."

City officers note that the above provision only applies where the amount to be spent on public art is greater than \$1 million, and that 50% (\$500,000) will still be required for public art associated with the development. It is considered that by using up to 50% of the fund on alternative arts and/or community based initiatives it will enhance social capital in the surrounding area, and aligns with the first purpose of the policy which is to contribute towards creating a sense of place.

Recommendation Implications

In light of the above the officer recommendation is modified as follows:

That Council adopts for public advertising the modified 'Percent for Public Art' policy as included in Attachment 1 to this report with the following modification:

1. Add the following provisions to the 'Implementation by Owner/Applicant' section:
'All artwork is to be in a location where it is visible from the public realm for the life of the artwork'.

'Prior to the occupation of the development a final invoice(s) of the works associated with the commissioned artwork are to be provided to the City to demonstrate the costs of the artwork is not less than 1% of the construction value of the development'.

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that the proposed modified policy be further changed so that the total contribution can only be used for public art rather than alternative arts or community based initiatives.

COMMITTEE RESOLUTION

1. That Council adopts for public advertising the modified 'Percent for Public Art' policy as included in Attachment 1 to this report with the following modifications:

Add the following provisions to the 'Implementation by Owner/Applicant' section: 'All artwork is to be in a location where it is visible from the public realm for the life of the artwork'.

'Prior to the occupation of the development a final invoice(s) of the works associated with the commissioned artwork are to be provided to the City to demonstrate the costs of the artwork is not less than 1% of the construction value of the development'.

2. Delete the paragraph that states 'Where a public art contribution is valued at \$1 million or greater, the City may vary the requirements of the policy to allow for up to 50% of the contribution to be allocated toward the provision of alternative arts and /or community based initiatives.'

CR CHRIS CORNISH MOVED, CR CATHERINE EHRHARDT SECONDED

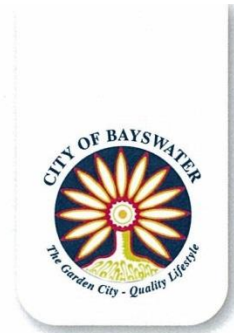
CARRIED: 9/1

FOR VOTE - *Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor, Cr Sally Palmer, Cr John Rifici, Cr Michelle Sutherland, Cr Catherine Ehrhardt, Cr Chris Cornish, Cr Alan Radford and Cr Dan Bull.*

AGAINST VOTE - *Cr Brent Fleeton.*

Attachment 1 - Modified 'Percent for Public Art' Policy**PERCENT FOR PUBLIC ART POLICY (MODIFIED)**

Responsible Division	Planning and Development Services
Responsible Business Unit/s	Planning Services
Responsible Officer	Planning Manager
Affected Business Unit/s	Planning Services

**PURPOSE:**

This policy relates to the provision of public art for development proposals and provides guidance on how and where the City of Bayswater will apply the policy to enhance and promote the public realm and streetscape.

1. To facilitate public art that contributes towards creating a strong sense of place, which promotes the expression of local identity and responds to the culture and character of the community.
2. To facilitate public art that positively contributes to its streetscape.
3. To improve legibility by introducing public art which assists in making streets and buildings more identifiable.

POLICY STATEMENT:

This policy provides the parameters for which a percent contribution for public art may be taken for development with a construction value of \$1 million or greater.

The policy shall not be seen as replacing the developer's responsibility to provide a high quality development which positively interacts with the public realm, or to satisfy another condition of approval. Rather, the policy is a mechanism to further enhance a development's contribution to the public realm. **Minor modification to wording.*

The policy applies where a development proposal on private property has a construction cost of \$1 million or greater and is a commercial, non-residential or mixed use development. The policy is to apply to all development proposals on private property. Those development proposals which do not require a local authority planning approval should utilise this policy as a guide for the implementation of the respective percent for art policy obligations, where applicable.

The cost of any public art provided under this policy is to be no less than 1% of the construction value of the eligible development proposal.

**Construction cost definition deleted as it's repeated at the end of the policy.*

Type of Public Art

Public art is an original artistic work that is created by a professional artist and located for public accessibility. Public art is either clearly seen from the public realm, such as a street, park or urban plaza, or may be located in the public realm, to the satisfaction of the City of Bayswater.



Public art may be freestanding or integrated into building exteriors; or it may take the form of unique functional objects (such as seats or gates). Public art may include an interpretation of cultural heritage or place. Public art does not include:

- Advertisements, promotions, marketing or business logos;
- Directional elements such as supergraphics, signage or colour coding;
- 'Art objects' which are mass produced such as fountains, statuary or playground equipment;
- Most art reproductions, that is, the copying of an existing artwork without modification or interpretation;
- Landscaping or generic hardscaping elements which would normally be associated with the project;
- Services or utilities necessary to operate or maintain artworks; or
- Any discriminatory or offensive material or interpretation.

Where a public art contribution is valued at \$1 million or greater, the City may vary the requirements of the policy to allow for up to 50% of the contribution to be allocated toward the provision of alternative arts and/or community based initiatives that satisfy the objectives of the policy. * New Paragraph

Professional Artist

Within this Policy, public art is required to be undertaken by a professional artist. A professional artist refers to a person who:

- Earns more than 50% of income from arts related activities, such as teaching, selling artwork or undertaking public art commissions; or
- Has a track record of exhibiting artworks; or
- Has a university qualification or high level technical college qualification in visual, graphic or fine art, or other art form where relevant.

Provision of Public Art *New Title and Paragraph

Under this policy public art may be provided by the owner/applicant, or by the City on behalf of the owner/applicant via a cash-in-lieu contribution.

The provision, installation and maintenance of public art will form a condition of planning approval. Where possible, it is recommended that the public art proposed for a development site is considered up-front as part of the development application, to ensure the proposed public art forms an intrinsic component of the development.

Cash-In-Lieu Option *New Section

Where the owner/applicant chooses the cash-in-lieu option, a cash-in-lieu payment of no less than 1% of the construction value is to be made to the City prior to submission for a building permit application. The funds will be held by the City in a trust fund and will only be expended after the development has been substantially commenced.

Cash-in-lieu payments will only be refunded to the owner/applicant if the development does not proceed or does not reach the stage of substantial commencement. If the development is substantially commenced the cash-in-lieu will not be refunded. Cash-in-lieu funds paid in



relation to more than one development may be accrued for more comprehensive or detailed public art projects as determined by the City. Any public art commissioned by the City under this policy will be owned and maintained by the City.

Owner/Applicant Provision of Public Art *New Title

All owner/applicant applications incorporating the provision of public art are to include the following:

1. Details of the artist's qualifications, experience and suitability for the project;
2. Detailed plans of the artwork(s) – to scale which include dimensions, materials, colours and installation details of the artwork and its relationship to the site;
3. A description of the artwork, including the motivation and meaning of the piece;
4. Details of cost calculations for the public art, including construction cost and the public art contribution costs. Contribution costs are limited to artist's fees, labour, materials, installation and naming plate. Building fabric that the art is attached to (such as fences and walls) or other construction costs are not to be included in the contribution cost;
5. Details of requirements and written consent from the artist for any ongoing care or maintenance of the artwork by the landowner(s); and
6. Written acknowledgement of the implications of the *Copyright Amendment (Moral Rights) Act 2000*, including how the artist will be acknowledged, consent for any required maintenance or relocation, and consent for the City of Bayswater to publish images of the artwork.

Artwork on Public Land *Modified Section

Artwork is typically provided onsite however, the City of Bayswater may consider artwork on public land, such as an adjacent street verge area, at the request of the owner/applicant.

Implementation by Owner/Applicant *Minor modification to wording

Public artwork provided by the owner/applicant must be completed and installed prior to the first occupation of the new development, and maintained thereafter by the landowner(s).

Artworks that are low maintenance, robust, durable and resistant to vandalism will be encouraged. Artists will be required to present a copy of the maintenance schedule to the landowner(s) and City of Bayswater, at the completion of the commission.

All artwork is required to be identified with the artist's name, and the name of the artwork.

The landowner is to undertake the care, maintenance and ongoing management of the artwork in accordance with the artist's maintenance requirements.

Copyright of Artwork

Once an artwork has been completed and accepted by the City of Bayswater, copyright will be held mutually by the City of Bayswater and the artist. In practical terms, this means that the City of Bayswater has the right to reproduce extracts from the design documentation and photographic images of the artwork for non-commercial purposes such as annual reports, information brochures about the City and information brochures about the artwork. The artist will have the right to reproduce extracts from the design documentation or photographic images of the artwork in books or other publications associated with the artist or artwork.



DEFINITIONS:

In this policy construction cost means all costs associated with site works, construction and full completion of a development, including all materials, labour, servicing and ancillary costs. To ensure accurate calculation of public art contribution values the City of Bayswater, if necessary, may require an applicant to provide cost breakdowns and/or certification from a quantity surveyor to confirm construction cost.

RELATED LEGISLATION:

Planning and Development (Local Planning Schemes) Regulations 2015 (WA). (*New Reference)

RELATED DOCUMENTATION:

Nil.

Relevant Delegations		
Risk Evaluation		
Council Adoption	Date	25 June 2013
Reviewed / Modified	Date	1 March 2016
Reviewed / Modified	Date	
Reviewed / Modified	Date	



9.1.13 Proposed Amendment No 74 to Town Planning Scheme No 24 - Liquor Stores

Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services
Refer: Item 7.1: OCM 26.4.2017
Item 11.1.12: OCM 23.2.2016
Item 11.1.18: OCM 22.9.2015
Item 11.1.18: OCM 28.7.2015
Item 9.4: OCM 23.6.2015

EXECUTIVE SUMMARY**Application:**

Council consideration is sought regarding final approval of Amendment No. 74 to the City's Town Planning Scheme No. 24 (TPS 24) to modify the definitions for 'Liquor Store - Large' and 'Liquor Store - Small' to further clarify where packaged liquor can be sold within the City.

Key Issues:

- Council at its Ordinary Meeting held 26 April 2017 resolved to initiate Amendment No. 74 for public advertising.
- The proposed scheme amendment was advertised for a period of 42 days and no submissions were received.

BACKGROUND

Council at Its Ordinary Meeting held 26 April 2017 considered proposed Amendment No. 74 to TPS 24, and resolved in part as follows:

"That Council:

1. *Initiates Amendment No. 74 to the City of Bayswater Town Planning Scheme No. 24 as follows:*
 - (a) *Modify Appendix 1 by amending the definition of Liquor Store - Large and Liquor Store - Small, to read as follows:*

Liquor Store – Large:
Means premises the subject of a liquor licence granted under the Liquor Control Act 1988 with a net lettable area of more than 300m² and is able to sell packaged liquor under any category of liquor licence.

Liquor Store – Small:
Means premises the subject of a liquor licence granted under the Liquor Control Act 1988 with a net lettable area of not more than 300m² and is able to sell packaged liquor under any category of liquor licence.
4. *Upon Notice of Assessment from the Environmental Protection Authority being received (and issues raised being complied with), causes the proposed scheme amendment documentation to be advertised for public comment for 42 days by way of:*
 - (a) *Notification being published in the local newspaper/s;*
 - (b) *The relevant public authorities being notified in writing of the amendment details;*
 - (c) *All land owners directly affected by the amendment being notified in writing of the amendment details;*
 - (d) *Information being placed on the City's engagement website".*

CONSULTATION

Environmental Assessment and Heritage Referral

The scheme amendment documentation was referred to the then Environmental Protection Authority (EPA) for assessment. In correspondence dated 12 June 2017 the EPA advised the City that the proposed scheme amendment would not require environmental assessment.

In correspondence dated 12 June 2017 the State Heritage Office advised the City that they had no objection to the proposed scheme amendment.

Public Advertising

Following notification from the EPA the City undertook public advertising of the proposed amendment in accordance with point 4 of the Council resolution of 26 April 2017, including individual letters sent to the business owners and community clubs holding a current liquor licence.

No submissions were received during the public advertisement period.

ANALYSIS

In light of no submission being received through the consultation process, it is considered that no modification is required to the proposed scheme amendment and the amendment can be approved as previously initiated by Council.

OPTIONS

The following options are available to Council:

OPTION		BENEFIT	RISK
1.	<p>Adopt Amendment No. 74 to modify Appendix 1 by amending the definition of Liquor Store - Large and Liquor Store - Small with no modification, and forward it to the WAPC for final approval.</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> \$500 (for Gazettal notification) 	<ul style="list-style-type: none"> The proposed amendment will limit where packaged alcohol can be sold in the City. The proposed amendment will close the loophole where liquor stores are not considered liquor stores when under a different type of licence. 	<ul style="list-style-type: none"> The WAPC may be unwilling to consider an amendment which modifies definitions contained within the Model Scheme Text.
2.	<p>Adopt Amendment No. 74 to modify Appendix 1 by amending the definition of Liquor Store - Large and Liquor Store - Small with modification(s) and forward it to the WAPC for final approval.</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> \$500 (for Gazettal notification) 	<ul style="list-style-type: none"> Dependent on the modification(s) proposed. 	<ul style="list-style-type: none"> Dependent on the modification(s) proposed.
3.	<p>Advise the WAPC that the City does not support Amendment No. 74.</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Liquor stores may be permitted in inappropriate locations under other types of liquor licences. Minister for Planning may still proceed with the proposed Amendment.

CONCLUSION

In light of the above, it is recommended that Council proceed with Option 1 to adopt Amendment No. 74 to modify Appendix 1 by amending the definition of Liquor Store - Large and Liquor Store - Small with no modification, and forward it to the WAPC for final approval.

FINANCIAL IMPLICATIONS

The City's 2017-2018 Budget contains funds for gazettal notification of scheme amendments. The costs of the various options are detailed in the 'Options' section above.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B3: Quality built environment.

Theme: Our Local Economy
Aspiration: A business and employment destination.
Outcome E3: Active and engaging town and city centres.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* prescribes the process for scheme amendments.

VOTING REQUIREMENTS

Simple Majority Required.

ATTACHMENTS

Nil.

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council:

1. Recommends approval of Amendment No. 74 to the City of Bayswater Town Planning Scheme No. 24 to modify Appendix 1 by amending the definition of Liquor Store - Large and Liquor Store - Small, to read as follows:

Liquor Store – Large

Means premises the subject of a liquor licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300m² and is able to sell packaged liquor under any category of liquor licence.

Liquor Store – Small

Means premises the subject of a liquor licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300m² and is able to sell packaged liquor under any category of liquor licence.

2. Authorises the affixing of the Common Seal to the scheme amendment document, and the documentation be forwarded to the Western Australian Planning Commission for approval.

CR DAN BULL MOVED, CR BARRY McKENNA SECONDED

CARRIED: 6/3

FOR VOTE - *Cr Barry McKenna, Mayor, Cr Sally Palmer, Cr John Rifici, Cr Chris Cornish, Cr Alan Radford and Cr Dan Bull.*

AGAINST VOTE - *Cr Stephanie Coates, Deputy Mayor, Cr Michelle Sutherland and Cr Brent Fleeton.*

At 8:06pm, Cr Catherine Ehrhardt withdrew from the meeting and returned at 8:10pm.

9.1.14 Proposed Amendment No. 72 to Town Planning Scheme No. 24 - Child Day Care Centre at Lot 71, 197 Collier Road Embleton - Final Approval

Location: Lot 71, 197 Collier Road, Embleton
Applicant: Altus Planning and Appeals
Owner: Hurricane Nominees Pty Ltd
Reporting Branch: Strategic Planning and Place Services
Responsible Directorate: Planning and Development Services
Refer: Item 8.1.11: PDSC 24.01.2017

Confidential Attachment(s) - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 - personal affairs of any person.

EXECUTIVE SUMMARY**Application:**

Council consideration is sought regarding the final approval of Amendment No. 72 to Town Planning Scheme No. 24 (TPS 24) to include the additional use of 'Child Day Care Centre' at Lot 71, 197 Collier Road, Embleton.

Key Issues:

- Council at the Planning and Development Services Committee Meeting held 24 January 2017 resolved to initiate Amendment No. 72 for public advertising.
- The proposed scheme amendment was advertised for a period of 42 days and four submissions were received.
- Of the submissions received two provided comment and two did not support the proposed scheme amendment.

BACKGROUND

Council at the Planning and Development Services Committee Meeting held 24 January 2017 considered the proposed Amendment No. 72 to TPS 24 and resolved in part as follows:

"That Council:

- 1. Initiates Amendment No. 72 to the City of Bayswater Town Planning Scheme No. 24 to modify the Special Purpose zone at Lot 71, 197 Collier, Embleton as follows:*
Permitted Uses - Officers and Child Day Care Centre - restricted to the existing building and any additions the Councils may subsequently approve.
- 5. Upon Notice of Assessment from the Environmental Protection Authority being received (and issues raised being complied with), causes the proposed scheme amendment documentation to be advertised for public comment for 42 days by way of:*
 - i. Notification being published in the local newspapers;*
 - ii. The relevant public authorities being notified in writing of the amendment details;*
 - iii. All surrounding landowners within a 400m radius of the site being notified in writing of the amendment details;*
 - iv. Information being placed on the City's website; and*
 - v. Hard copies of the amendment documentation made available for inspect at the City of Bayswater Civic Centre, City of Bayswater libraries, Max Tulley Office and Information Centre and the RISE One Stop Shop."*



CONSULTATION

Environmental Assessment and Heritage Referral

The scheme amendment documentation was referred to the then Environmental Protection Authority (EPA) for assessment. In correspondence dated 3 April 2017 the EPA advised the City that the proposed scheme amendment would not require environmental assessment.

In correspondence dated 13 June 2017 the State Heritage Office advised the City that they had no objection to the proposed scheme amendment.

Public Advertising

Following notification from the EPA the City undertook public advertising of the proposed amendment in accordance with part 5 of the Committee resolution of 27 January 2017. Over 350 letters were sent to surrounding land owners and interested government agencies.

Submissions

A total of four submissions were received during the consultation period. Two submissions were from government agencies providing comment, and two submissions were from surrounding land owners one who provided comment and one who did not support the proposed amendment.

A full summary of submissions is contained in **Confidential Attachment 1**.

ANALYSIS

One submission raised concerns with the potential increase in traffic. The respondent considered that the intersection between Collier Road and Beechboro Road South will get busier with the upgrades to Tonkin Highway. In light of this the respondent recommended that access to the site should be restricted as follows:

- Left only access and egress from Collier Road; and
- Left only egress from Beechboro Road.

The respondent considered this would reduce congestion across the traffic lights and reduce the likelihood of accidents.

In response City officers note that the Traffic Impact Statement (TIS) provided by the applicant indicates that a child day care centre at the subject site will not significantly increase the amount of traffic in the area. Further it is considered that in the event access to the subject site was limited as recommended that it would increase congestion in the area and the occurrence of 'rat runs' as visitors to the site coming north or south along Beechboro Road South or west along Collier Road would be required to use residential streets to access the site from the east along Collier Road. In light of this it is considered that the proposed access to the site is the most appropriate.

The applicant provided the following comments in response to the concerns raised. In accordance with the TIS that was prepared by Transcore and lodged with the scheme amendment, the proposed amendment is not considered to have a significant impact on the surrounding road network. Furthermore, the Western Australian Planning Commission's (WAPC) quoted threshold for vehicles per lane per hour is 100, the proposed amendment will introduce a maximum increase of 5 vehicles per lane per hour. Accordingly, it is not considered that the amendment will have no undue impact upon Collier Road or Embleton Avenue.

One submission raised concerns with verge parking along Embleton Avenue restricting visibility along the street. The respondent considered that access from Tolworth Street onto Beechboro Road South is already difficult due to verge parking, and that this would be worsened with the increase in traffic. In response the City notes that subject site is 270m away from the intersection of Tolworth Way and Embleton Avenue, it is therefore considered that the proposed amendment will not unduly impact on the sightlines of that intersection.

One submission raised concerns with the proposed wording of the scheme amendment. The respondent did not support the use of the phrase "restricted to the existing building and any additions Council may subsequently approve". The respondent considered that the above statement was too open ended and that they could not support the proposed amendment when it is unknown what Council may approve in the future.

In response City officers note that the phrase referred to is already within the City's TPS 24 and therefore does not specifically form part of this amendment. In accordance with the existing phrase any application for additions to the building must be considered by Council, even if the application is compliant with the development standards and would not generally require Council approval. Additionally, in the event the proposed amendment is approved the two permitted land uses for the site would be "Office" and "Child Day Care Centre". It is considered that the proposed wording is more restrictive of development on the site than for surrounding properties.

One submission raised concerns that the busy intersection is an inappropriate location for a child day care centre. In response it is considered that the proposed access and egress plan will allow vehicles accessing the site to do so in a safe manner as they are limited to entering and exiting the site in the direction of the flow of traffic. Further it is noted any safety issues relating to children entering / exiting a proposed child day care centre will be considered in further detail at the development application stage.

The applicant also advised that the TIS identified that the existing crossovers would be sufficient for the proposed use and would allow access and egress to the site from both Collier Road and Embleton Avenue. Furthermore, the TIS also identified that the proposed use would not have any undue impact on the existing intersection or the surrounding road network.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
1. Adopt Amendment No. 72 to include the additional land use of 'Child Day Care Centre' for 197 Collier Road, Embleton with no modification, and forward it to the WAPC for final approval. Estimated Cost: <ul style="list-style-type: none"> \$500 (for Gazettal notification). 	<ul style="list-style-type: none"> The proposed amendment would help provide additional child care services within the City. The subject site is close to other trip generators including, Embleton Primary and the industrial precinct. The proposed amendment will help to reactivate a currently disused subject site. 	<ul style="list-style-type: none"> The proposed amendment may result in an increase in noise and traffic for surrounding properties.
2. Adopt Amendment No. 72 to include the additional land use of 'Child Day Care Centre' for 197 Collier Road, Embleton with modification(s) and forward it to the WAPC for final approval. Estimated Cost: <ul style="list-style-type: none"> \$500 (for Gazettal notification) 	<ul style="list-style-type: none"> Dependent on the modification(s) proposed. 	<ul style="list-style-type: none"> Dependent on the modification(s) proposed.
3. Advise the WAPC that the City does not wish to proceed with Amendment No. 72. Estimated Cost: <ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> Will not cause any increased noise or traffic for surrounding properties. 	<ul style="list-style-type: none"> Will not provide for additional child care services within the City. Will not reactivate the currently unused subject site. Minister for Planning may still proceed with the proposed amendment.

CONCLUSION

In light of the above, it is recommended that Council proceed with Option 1 to adopt Amendment No. 72 to include the additional land use of 'Child Day Care Centre' for Lot 71, 197 Collier Road, Embleton with no modifications and forward it to the WAPC for final approval.

FINANCIAL IMPLICATIONS

The City's 2017-2018 Budget contains funds for gazettal notification of scheme amendments. The costs of the various options are detailed in the 'Options' section above.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
Aspiration: A quality and connected built environment.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* prescribes the process for scheme amendments.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Summary of Submissions (Confidential)
2. Submissions Location Plan (Confidential)

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That Council:

1. Recommends approval of Amendment No. 72 to the City of Bayswater Town Planning Scheme No. 24 to modify the Special Purpose zone at Lot 71, 197 Collier Road, Embleton as follows:
"Permitted Uses - Offices and Child Day Care Centre - restricted to the existing building and any additions the Council may subsequently approve."
2. Authorises the affixing of the Common Seal to the scheme amendment document, and the documentation be forwarded to the Western Australian Planning Commission for approval.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

9.1.15 Proposed Amendment No 20 to Town Planning Scheme No 24 - Bayswater Car Rental

Location: Lots 9, 10, 26 and 27 Guildford Road and Lots 20, 28, 29 and 800 Garratt Road, 381-383 Guildford Road, Bayswater

Applicant: Arnold Kluck

Owner: Bayswater Car Rental Pty Ltd

Reporting Branch: Strategic Planning and Place Services

Responsible Directorate: Planning and Development Services

Refer: Item 12.2.1: OCM 22.04.2008
Item 12.3.2: OCM 13.12.2005

EXECUTIVE SUMMARY**Application:**

Council consideration is sought regarding cessation of Amendment No. 20 to Town Planning Scheme No. 24 (TPS 24) which proposes consolidation of the various zonings on Lots 9, 10, 26 and 27 Guildford Road and Lots 20, 28, 29 and 800 Garratt Road, 381-383 Guildford Road, Bayswater, into a single 'Special Purpose' zoning (Vehicle Hire and Car Park) which intended to facilitate use of the site for car rental purposes.

Key Issues:

- Council at its Ordinary Meeting held 13 December 2005 resolved to initiate Scheme Amendment No. 20.
- At its Ordinary Meeting held 22 April 2008, Council resolved to re-initiate the subject scheme amendment, include Lot 800 Garratt Road, Bayswater in the amendment, and advertise the changes to the proposal accordingly.
- During the public consultation, the City received three submissions which raised seven objection issues. The applicant was requested to provide responses to the objections before the matter could be reported to Council for final approval. To date, the City has not received any responses from the applicant.
- Correspondence received 5 May 2017 from the Western Australian Planning Commission (WAPC) requires the City to pass a resolution to either support, support with modifications or not support the amendment pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015*.

BACKGROUND**Subject Area and Town Planning Scheme No. 24 Zoning:**

Lot 9: Special Purpose (Hire Cars);
Lot 10: Business;
Lots 26 and 27: Special Purpose (Car Sale Yard);
Lots 20, 28 and 29: Special Purpose (Parking of Rental Cars); and
Lot 800: Business

Lot Area:

5,248m²

Proposed Zoning:

Special Purpose (Vehicle Hire and Car Park)

Summary of Proposed Scheme Amendment:

Rezone to consolidate current zonings.



The subject scheme amendment was submitted to the City on 17 October 2005 to amend TPS 24 in respect to the Bayswater Car Rental site on Guildford Road and Garratt Road. The proposal aimed to consolidate the various zoning across the site into a single 'Special Purpose' zoning (Vehicle Hire and Car Park) to enable using the lots for car rental purpose.

The site has different zonings including 'Special Purpose' and 'Business' with different permitted uses for each lot in the 'Special Purpose' zone.

The inconsistency of the zonings across the site was considered as a concern for the owner as any future development applications would have been difficult given the different uses permitted on different portions of the site.

The proposal initially excluded two lots on the corner of Garratt Road and Guildford Road (currently Lot 800) as the subject lots were owned by Main Roads WA and the Department of Planning and Infrastructure at the time. However, in a proposal to Council in 2008, the applicant requested to include Lot 800 into the proposed Scheme Amendment No. 20. The subject lot was under offer and acceptance by the owner of the rental landholding at the time.

Following the applicant's request, Council at its meeting held 22 April 2008 resolved to reinstate the Scheme Amendment No. 20 to include Lot 800 in the amendment for advertisement.

CONSULTATION

Consultation for the proposed scheme amendment was first undertaken in 2005.

Following the Council resolution on 22 April 2008, the proposed scheme amendment was readvertised and three submissions were received in relation to the proposal with one submission indicating no objection and two submissions objecting to the amendment. The key concerns were around the panel beating and spray painting on site without a spray booth and the resultant fumes in a close proximity of residential properties.

The applicant was therefore required to provide their response to the objections, prior to the matter being reported back to Council.

To date, the City has not received the applicant's responses to the subject objections.

ANALYSIS

In accordance with regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City is to pass a resolution to either support, support with modifications or not support the subject amendment. The resolution on the proposed scheme amendment has to be passed before the end of the consideration period which is 60 days after the end of the submission period for the amendment. In this instance, the City did not pass a resolution on the subject scheme amendment in 2009 given no response to the raised objections had been provided by the applicant. The City's officers followed the proposal with the applicant's planning consultant in April 2012 requiring relevant information to be provided by 30 April 2012. However, no further information was submitted.

The WAPC's correspondence, dated 5 May 2017 reminded the City of its obligation to pass a resolution on the proposed scheme amendment. The City sent a letter to the applicant, dated 18 May 2017, requesting them to advise the City of their intention in relation to the subject amendment within 30 days. No responses to the subject letter have been received to date and accordingly, it is not clear whether the applicant is still interested in the proposed scheme amendment.

Since 2009, when the scheme amendment commenced, there have been a number of changes to the strategic planning context relevant to the site. In *Perth and Peel @3.5million*, Guildford Road is an activity corridor and it is considered that the City should need to undertake a review of all zonings along Guildford Road corridor, prior to supporting any individual rezoning request.

In light of the above and given the City is currently developing a Local Planning Strategy (LPS) and will then prepare a new Town Planning Scheme (TPS), it is considered that zoning of the lots subject to this scheme amendment can be reviewed as part of the LPS and new TPS process, and there is no urgent planning need to support the proposed scheme amendment.

However, should the Council wish to proceed with the proposed scheme amendment, it would need to request for an extension to the consideration period from the WAPC and re-advertise the scheme amendment, given the consideration period for the subject scheme amendment has lapsed.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
1. Advise the WAPC that it does not support the proposed Amendment No. 20 to the City's TPS 24. Estimated Cost: <ul style="list-style-type: none"> Nil 	<ul style="list-style-type: none"> Ensures compliance of the scheme amendment process is in accordance with regulation 50(3) of the <i>Planning and Development (Local Planning Schemes Regulations) 2015</i>. 	<ul style="list-style-type: none"> The zonings over the proposed lots will remain unconsolidated.

OPTION	BENEFIT	RISK
2. Proceed with the proposed Scheme Amendment No. 20 by requesting for an extension to the consideration period from the WAPC and re-advertise the scheme amendment. Estimated Cost: <ul style="list-style-type: none"> • \$600 (for advertising) 	<ul style="list-style-type: none"> • The zonings over the proposed lots may be consolidated. 	<ul style="list-style-type: none"> • The applicant may not wish to proceed with the proposal.

CONCLUSION

It is recommended that Council advises the WAPC that it does not support the proposed Amendment No. 20 to the City's Town Planning Scheme 24 (Option 1).

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment
 Aspiration: A quality and connected built environment.
 Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* prescribes the process for scheme amendments.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

Nil.

COMMITTEE RESOLUTION (OFFICER'S RECOMMENDATION)

That Council advises the Western Australian Planning Commission that it does not support Amendment No. 20 to the City of Bayswater Town Planning Scheme No. 24 to consolidate the various zonings of Lots 9, 10, 26 and 27 Guildford Road and Lots 20, 28, 29 and 800 Garratt Road, 381-383 Guildford Road, Bayswater, into a single 'Special Purpose' zoning (Vehicle Hire and Car Park) for the following reasons:

1. The strategic planning context along Guildford Road has changed since the submission of the subject proposal.
2. The zoning of the subject lots will be reviewed as part of the City's Local Planning Strategy and new town planning scheme process.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

9.1.16 Proposed Scheme Amendment to Town Planning Scheme No 24 - Development Approval to Remove or Harm Trees on a Significant Tree Register

Reporting Branch: Strategic Planning and Place Services
Responsible Directorate: Planning and Development Services
Refer: Item 9.2.5: CTFCSM 19.7.17
Item 9.1.7: PDSCM 18.7.17
Item 12.2.10: OCM 23.2.2016

EXECUTIVE SUMMARY**Application:**

Council consideration is sought regarding a proposed scheme amendment to the City's Town Planning Scheme No. 24 (TPS 24) to include a clause to require development approval or written consent to remove or harm trees listed on a City's Significant Tree Register (STR).

Key Issues:

- The City's Urban Forest Strategy recommends creating a STR.
- Currently there is no statutory planning control for the removal or harm of trees listed on a STR on private land.

BACKGROUND

Council at its Ordinary Meeting held on 23 February 2016 considered the resolutions from the 2015 Annual General Meeting for Electors, and resolved in part as follows:

"4. Considers amending the town planning scheme(s), to require planning approval to be obtained from the City prior to any pruning or removal of a tree on the register in conjunction with:

- (a) Consideration of establishing a Significant Tree Register.
- (b) The formulation of an overarching tree management strategy."

Council at its Planning and Development Services Committee Meeting held on 18 July 2017 considered a proposed scheme amendment to TPS No 24 in relation to development approval to remove or harm trees on a STR, and resolved as follows:

"That this item be deferred to the next Planning and Development Services Committee meeting."

Council at its Community, Technical, Finance and Corporate Services (CTFCS) Committee Meeting held on 19 July 2017 considered a proposed STR, and resolved as follows:

"That Council adopts the attached Significant Tree Register Guidelines with amendments to ensure that the Guidelines will only apply to trees on public land."

The Urban Forest Strategy (subject to minor amendments) was also adopted at the CTFCS Committee Meeting held on 19 July 2017. The Strategy puts forward objectives, actions and principles to guide the planning, advancement and management of the City's urban forest.

Strategic Objective No.1 of the Strategy is to protect and retain established trees that are in good health and condition. The creation of a STR will assist to achieve this objective.

CONSULTATION

No consultation has yet occurred. In the event the proposed amendment is initiated by Council, the proposed scheme amendment documentation will be forwarded to the Department of Water and Environment Regulation (DWER) for assessment, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), and the Heritage Council for comment, in accordance with the current practice.

Further, in accordance with the Regulations, upon Notice of Assessment from the DWER being received (and issued raised being complied with), the proposed scheme amendment documentation will be advertised for public comment for 42 days, by way of:

- (a) Notification being published in the local newspaper(s);
- (b) The relevant public authorities being notified in writing of the amendment details;
- (c) Information being placed on the City's engagement website; and
- (d) Hard copies of the amendment documentation made available for inspection at the City of Bayswater Civic Centre, City of Bayswater libraries, Max Tulley Office and Information Centre and The RISE One Stop Shop.

ANALYSIS

Private Land

In regards to trees on private land, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) outlines matters that are to be considered as part of a development application, which includes planning instruments such as a STR. However as Clause 61 of the Regulations also exempts certain types of development from requiring approval, such as the erection or demolition of a single house, it is considered that trees on a Significant Tree Register could be removed without development approval.

As Council resolved in the CTFCS Committee Meeting held on 19 July 2017 to apply the STR Guidelines to trees on public land only, it is considered that the proposed scheme amendment is not required in relation to trees on private land at this time.

Public Works and Land Under the Control of the City of Bayswater

Public works have the potential to impact trees on a STR and can be undertaken without the consent of the City of Bayswater. However, public works are required to be undertaken in accordance with Section 6 of the *Planning and Development Act 2005*, namely the development is required to have regard to the purpose and intent of TPS 24, orderly and proper planning and the preservation of the amenity of the locality. The City is also required to be consulted with at the time when a proposal for any public work, or for the taking of land for a public work, is being formulated to ensure that the undertaking, construction, or provision of, or the taking of land for, the public work will comply with Section 6 of the *Planning and Development Act 2005*.

Other legislation may supersede/override the *Planning and Development Act 2005* allowing public authorities to undertake certain type of works, such as the *Railway (Forrestfield-Airport Link) Act 2015*, which authorises some works to be undertaken in association with the Forrestfield Airport Link project without requiring consultation or approval with the City.

In relation to trees on land under the City's control, the City's current practices require consent to be obtained prior to any works being undertaken that may impact any tree in relation to land owned or managed by the City.

A tree registered on a STR will be given even greater protection and care under the STR Guidelines adopted at the CTFCS Committee Meeting held on 19 July 2017. Where a tree is registered on a STR on land under the control of the City, it will be inspected by the City's Consulting Arborist on an annual basis, and where specific target pruning or other remedial maintenance is required, this will be performed under the supervision of the City's Consulting Arborist.

It is considered that trees registered on the STR on public land will have adequate protection from removal or harm as they will be given even greater protection under the adopted STR Guidelines. It is therefore considered that the proposed scheme amendment is not required in relation to trees on public land.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
<p>1. Initiate a proposed scheme amendment to require development approval or written consent to remove or harm trees registered on a City of Bayswater STR.</p> <p>Estimated Cost</p> <ul style="list-style-type: none"> • \$500 for advertising of scheme amendment. 	<ul style="list-style-type: none"> • If a STR for trees on private land is established in the future, the City will be able to provide the necessary statutory planning protection of trees listed on a STR. 	<ul style="list-style-type: none"> • Landowners being discontent from not being able to remove trees on private property without development approval if a STR for trees on private land is established in the future. • Given the resolution made at the 19 July 2017 CTFCS Committee Meeting, a new clause in the scheme in relation to a STR for trees on private land may create expectations in the community that trees on private property can be registered as 'significant' and protected.
<p>2. Initiate a proposed scheme amendment to require development approval or written consent to remove or harm trees registered on a City of Bayswater STR, with modifications.</p> <p>Estimated Cost</p> <ul style="list-style-type: none"> • \$500 for advertising of scheme amendment. 	<ul style="list-style-type: none"> • Dependent on the modifications proposed. 	<ul style="list-style-type: none"> • Dependent on the modifications proposed.
<p>3. Do not initiate a proposed scheme amendment to require development approval or written consent to remove or harm trees registered on a City of Bayswater STR at this time.</p> <p>Estimated Cost</p> <ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • Landowners are able to remove such trees without requiring development approval. • Consistent approach to the resolution made at the 19 July 2017 CTFCS Committee Meeting in relation to the STR Guidelines only applying to trees on public land. 	<ul style="list-style-type: none"> • The City will not be able to provide the necessary statutory planning protection of trees listed on a STR if a STR for trees on private land is established in the future.

CONCLUSION

In light of the above, it is recommended that Council does not initiate a proposed scheme amendment to TPS 24 to require development approval or written consent to remove or harm trees listed on a City of Bayswater STR at this time (Option 3).

FINANCIAL IMPLICATIONS

The City's 2016-2017 Budget contains funds for the advertising and notification of scheme amendments. The cost of the various options is detailed in the 'Options' section above.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Natural Environment

Aspiration: We conserve and manage our natural environment, which makes the City of Bayswater a great place and we live in a sustainable way to protect our environment for future generations.

Outcome N1: Natural environment and biodiversity which is conserved and protected.

Outcome N3: Reduce the City's carbon footprint.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* prescribes the process for scheme amendments.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

Nil.

COMMITTEE RESOLUTION**(OFFICER'S RECOMMENDATION)**

That Council does not initiate a proposed scheme amendment to Town Planning Scheme No. 24 to require development approval or written consent to remove or harm trees listed on a City of Bayswater Significant Tree Register at this time, for the following reasons:

1. Council resolved in the Community, Technical, Finance and Corporate Services Committee Meeting held on 19 July 2017 that the Significant Tree Register Guidelines will only apply to trees on public land.
2. It is considered that trees registered on the Significant Tree Register on public land will have adequate protection from removal or harm from public works or other works as they will be given even greater protection under the Significant Tree Register Guidelines adopted at the Community, Technical, Finance and Corporate Services Committee Meeting held on 19 July 2017.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

- 9.1.17 Proposed Road Closure and Scheme Amendment to Town Planning Scheme No 24 - Rezone an Unmade Road Reserve from "No Zone" to "Residential R25"**
Reporting Branch: Strategic Planning and Place Services
Responsible Directorate: Planning and Development Services

CR DAN BULL DECLARED AN IMPARTIALITY INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Dan Bull declared an impartiality interest as he lives on the same road as the subject of the item, but not in close proximity.

EXECUTIVE SUMMARY

Application:

Council consideration is sought to close an unmade road reserve and to initiate a scheme amendment to the City's Town Planning Scheme No.24 (TPS 24) to rezone the unmade road reserve from "No Zone" to "Residential R25".

Key Issues:

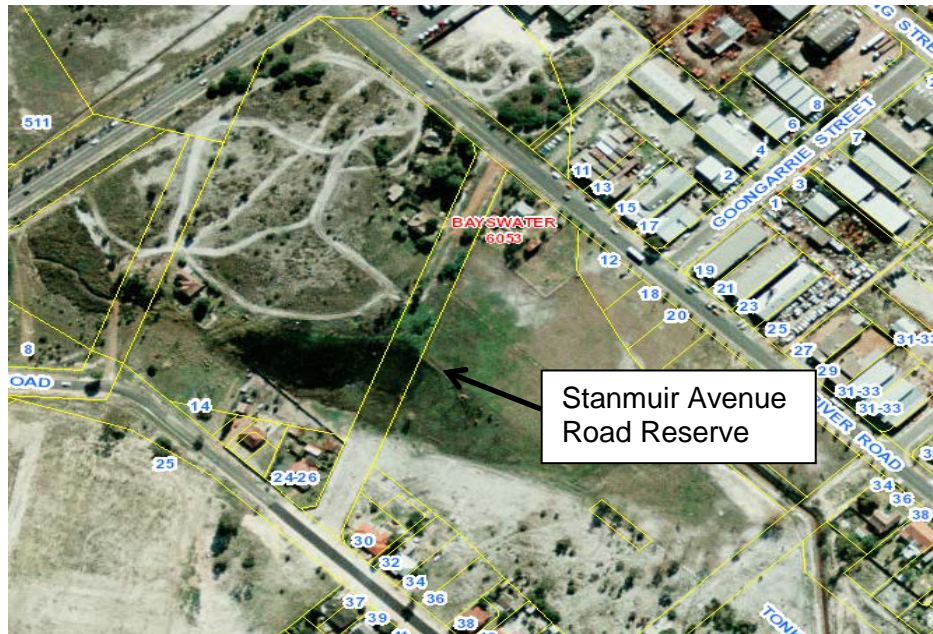
- There is no intention or need to construct the subject unmade road.
- The proposed rezoning of the unmade road reserve from 'No Zone' to 'Residential R25' is consistent with the zoning of the neighbouring properties.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	"No Zone" under TPS No.24; and "Urban" under Metropolitan Region Scheme.
Applicant:	Department of Lands
Lot Area:	1,100m ²
Proposed Zoning	Residential R25
Summary of Proposed Scheme Amendment:	Rezone an unmade road from "No Zone" to "Residential R25"

The Department of Lands has written to the City seeking the approval of Council to close an unmade road reserve and rezone the land from "No Zone" to "Residential R25". The unmade road reserve is 1,100m² and is located between Nos. 24-26 and No. 30 Wyatt Road, Bayswater.

Prior to the mid 1980's the subject road reserve, named "Stanmuir Avenue", was planned to connect Wyatt Road and River Road, as shown in the map below.



However in the mid 1980's, Tonkin Highway was constructed, which made the road reserve redundant. A small parcel of land, the subject of this report, has remained as an unmade road reserve ever since.



CONSULTATION

Road Closure

Consultation will be undertaken in accordance with Section 58 of the *Land Administration Act 1997* (LAA), which will require the proposed road closure being advertised for public comment for 35 days, by way of:

1. Notification being published in the local newspaper(s);
2. The relevant public authorities being notified in writing of the amendment details; and
3. Landowners within 100m of the subject land being notified in writing.

Scheme Amendment

In the event the proposed amendment is initiated by Council, the proposed scheme amendment documentation will be forwarded to the Department of Water and Environmental Regulation (DWER) for assessment, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), and the Heritage Council for comment, in accordance with the current practice.

Further, in accordance with the Regulations, upon Notice of Assessment from the DWER being received (and issued raised being complied with), the proposed scheme amendment documentation will be advertised for public comment for 42 days, by way of:

1. Notification being published in the local newspaper(s);
2. The relevant public authorities being notified in writing of the amendment details;
3. Landowners within 100m of the subject land being notified in writing.
4. Information being placed on the City's engagement website; and
5. Hard copies of the amendment documentation made available for inspection at the City of Bayswater Civic Centre, Bayswater Library and the One Stop Shop at The RISE.

ANALYSIS

Road Closure

There is no Certificate of Title for the land and therefore no easements on the site. The Department of Lands conducted a 'Dial Before You Dig' and found that there is a Water Corporation pipeline running along the north-west boundary of the lot. The Department of Lands propose to protect the Water Corporation asset either by way of an easement or relocation if the proposal proceeds.

The proposed road closure is considered acceptable for the following reasons:

- The road is currently not constructed.
- The road reserve was made redundant since the construction of Tonkin Highway, and has no future need as a road.
- The Water Corporation asset will be protected.

In the event the road closure is finalised, the Department of Lands intends to create a freehold lot and dispose of it.

Scheme Amendment

The land is zoned 'Urban' under the Metropolitan Region Scheme and 'No Zone' under the City's TPS 24.

The neighbouring residential properties in the area are currently zoned Residential R17.5/25, however under proposed Scheme Amendment 73; they are set to be rezoned to Residential R25. This density coding would allow up to three grouped dwellings to be developed on the lot. Proposed Scheme Amendment 73 is currently being assessed by the Department of Water and Environmental Regulation and the State Heritage Office, following this it will then be advertised for public comment.

The site has not been earmarked for any other public purpose, including public open space.

The subject site is not considered contaminated and there are no wetland or bush forever issues. Generally the site is suitable for residential development.

Due to the above, the proposed Scheme Amendment to rezone the subject site from "No Zone" to "Residential R25" is considered acceptable as the zoning will be consistent with the neighbouring properties and the site is suitable for residential development.

Under the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed Scheme Amendment is considered to be a 'standard' amendment as:

- It will have minimal impact on land in the area; and
- It will not result in any significant environmental, social or economic impacts.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
<p>1. Approve, for the purpose of advertising, the applicant's request to close the unmade road reserve and to initiate the Scheme Amendment to TPS 24 to rezone the unmade road reserve from "No Zone" to "Residential R25".</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> • \$700 for advertising (the scheme amendment costs are to be paid by the applicant). 	<ul style="list-style-type: none"> • Would meet the applicant's desired outcome of disposing of unutilised land. • Would make use of a vacant site. • Future potential rates income from the property. 	<ul style="list-style-type: none"> • Nil
<p>2. Not approve, for the purpose of advertising, the applicant's request to close the unmade road reserve and the initiation of the Scheme Amendment to TPS 24 to rezone the unmade road reserve from "No Zone" to "Residential R25".</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • Would not meet the applicant's desired outcome. • Would result in the site remaining vacant.

CONCLUSION

In light of the above, it is recommended that Council approves, for the purpose of advertising, the applicant's request to close the unmade road reserve and initiates the proposed Scheme Amendment to TPS 24 to rezone the unmade road reserve from 'No Zone' to "Residential R25" (Option 1).

FINANCIAL IMPLICATIONS

The City's adopted Fees and Charges include a fee for scheme amendments. This fee recoups officer time based on an hourly rate and advertising costs associated with processing the amendment. There is currently no fee to process a road closure proposal.

STRATEGIC LINK

In accordance with the City of Bayswater's Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment.
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

The City is required to undertake formal consultation in accordance with the requirement of Section 58 of the *Land Administration Act 1997*.

In the event Council chooses to consider the proposed scheme amendment it must do so in accordance with *Planning and Development (Local Planning Schemes) Regulations 2015*.

VOTING REQUIREMENTS

Simple Majority Required.

ATTACHMENTS

Nil.

COMMITTEE RESOLUTION
(OFFICER'S RECOMMENDATION)

That:

1. Council approves, for the purpose of advertising, the applicant's request to close the unmade road reserve located between Nos. 24-26 and No. 30 Wyatt Road, Bayswater.
2. Council initiates Amendment No. 77 to the City of Bayswater Town Planning Scheme No. 24 to rezone the unmade road reserve located between Nos. 24-26 and No. 30 Wyatt Road, Bayswater, from "No Zone" to "Residential R25".
3. Council considers Amendment No. 77 to the City of Bayswater's Town Planning Scheme No. 24 to be 'standard' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - (a) The amendment will have minimal impact on land in the area;
 - (b) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - (c) The amendment is not a complex or basic amendment.
4. Upon Notice of Assessment from the Department of Water and Environmental Regulation being received (and issues raised being complied with), causes the proposed scheme amendment documentation and proposed road closure to be advertised for public comment.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

9.1.18 Disposal of Lot 50, 43 Morley Drive East, Morley

Location:	Lot 50, 43 Morley Drive, East, Morley
Reporting Branch:	Strategic Planning and Place Services
Responsible Directorate:	Planning and Development Services
Refer:	Item 9.1.21: PDSC 20.06.2017
	Item 9.1.13: PDSC 16.05.2017
	Item 8.1.11: PDSC 21.02.2017
	Item 20.1.1: OCM 15.11.2016
	Item 15.1.4: OCM 26.03.2013

EXECUTIVE SUMMARY**Application:**

Council consideration is sought on authorising the sale of property at Lot 50, 43 Morley Drive East, Morley to the offer accepted at the Planning and Development Services Committee meeting held 20 June 2017.

Key Issues:

- Council accepted the only remaining offer for the sale of Lot 50, 43 Morley Drive East, Morley, subject to a 14-day public notice in a local newspaper.
- The City received no submission on the disposal of the land during the public notice period.

BACKGROUND

Lot 50 (previously Lot 129), 43 Morley Drive East, Morley is currently vacant, has an area of 528m² and is owned by the City of Bayswater in freehold. The site is zoned 'Residential R20/25' under the City's Town Planning Scheme No.24 (TPS 24) with the potential for a single dwelling only.

At its Ordinary Meeting of 26 March 2013 Council discussed the updated vacant land asset inventory and resolved that the subject site was surplus to need and could be sold, with the timing of the disposal being considered as part of the Long Term Financial Plan.

At the Planning and Development Services (PDS) Committee meeting held on 21 February 2017, it was resolved that Council continues of the process of disposition by sale of Lot 50, 43 Morley Drive East, Morley, by private treaty following marketing and the City reports all final offers received for the purchase of Lot 50, 43 Morley Drive East, Morley, for Council consideration.

In view of the above, all the received offers were reported to the PDS Committee meeting held 16 May 2017, and Council resolved to accept Offer 2 for the sale of Lot 50, 43 Morley Drive East, Morley for \$205,000 (including any GST payable), subject to a public notice in a local newspaper of its intention to dispose of Lot 50, 43 Morley Drive East, Morley for a 14-day period.

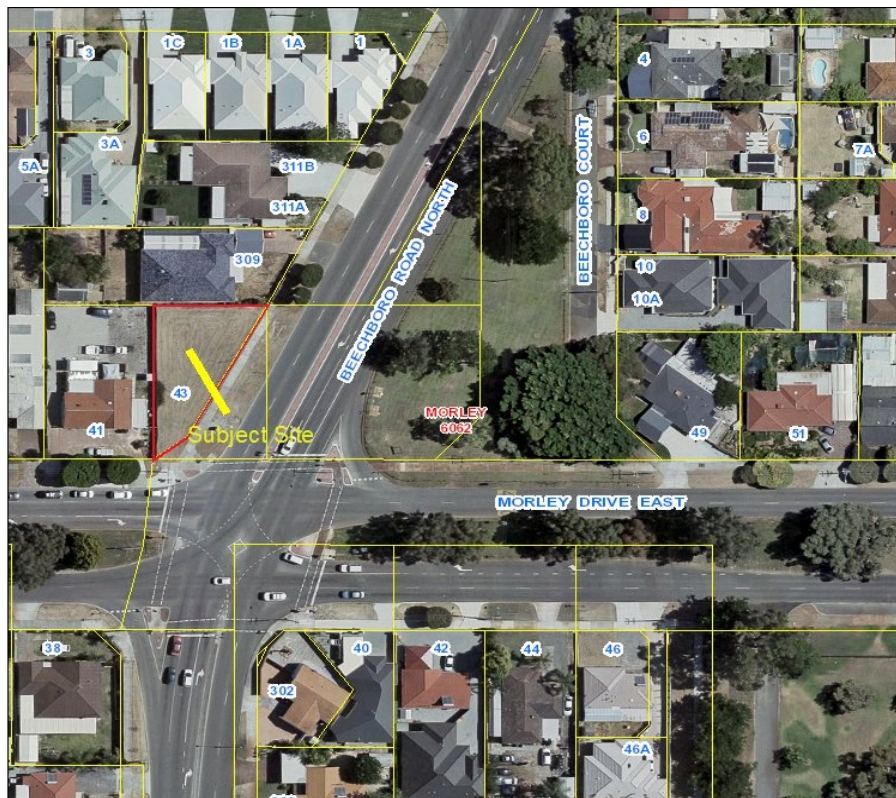
During the public notice period, one submission was received for the subject offer which included a revised offer purchase for \$230,000. Further, the prospective buyer, whose offer was accepted by Council, at the PDS Committee meeting held 16 May 2017, withdrew their offer.

In view of the above, Council at the PDS Committee meeting held 20 June 2017, resolved that:

- "1. Council notes the withdrawing of the offer accepted at the Planning and Development Services Committee meeting held on 16 May 2017 for the sale of Lot 50, 43 Morley Drive East, Morley.

2. Council accepts the revised Offer 1 as outlined in Confidential Attachment 1 for the sale of Lot 50, 43 Morley Drive East, Morley, for \$230,000 (including GST).
3. The City gives public notice in a local newspaper of its intention to dispose of Lot 50, 43 Morley Drive East, Morley based on the revised Offer 1, and invites comments for a 14-day period.
4. The City prepare a report to Council following the conclusion of the public notice period to consider any submissions received on the disposal of Lot 50, 43 Morley Drive East, Morley."

The contract document has been subsequently signed by the City and has been counter-signed by the respective buyer. Further, the deposit amount of \$40,000 has been paid by the prospective buyer to the real estate agent.



CONSULTATION

Following acceptance of revised Offer 1 by Council, the statutory public notice in relation to disposal of the land was published on the Eastern Reporter newspaper, inviting comment for a 14 day period.

No submission was received during the public notice period.

ANALYSIS

Given that no submission was received during the public notice period, Council is able to finalise the sale process by granting final approval to the sale and accepting the revised Offer 1. The remainder of the purchase value (\$190,000.00) will be payable following the final approval of the offer by Council and the settlement will occur within 30 days of the final acceptance.

OPTIONS

The following options are available to Council:

OPTION		BENEFIT	RISK
1.	Grant final approval to the sale and accept revised Offer 1. Estimated Cost: <ul style="list-style-type: none">Nil.	<ul style="list-style-type: none"> Disposal of the property is in line with the Council resolution which identified this lot as surplus to need. Disposal will provide revenue in line with the City's Long Term Financial Plan. The City will obtain the highest return from the offer for the site. 	<ul style="list-style-type: none"> Nil.
2.	Cancel the sale process and reject the revised Offer 1. Estimated Cost <ul style="list-style-type: none">Nil.	<ul style="list-style-type: none"> Nil. 	<ul style="list-style-type: none"> No revenue will result from the subject land at this stage.

CONCLUSION

It is recommended that Council grants final approval to the sale of Lot 50, 43 Morley Drive East, Morley, and accepts revised Offer 1 (Option 1).

FINANCIAL IMPLICATIONS

Disposal would provide income as outlined in the City's Long Term Financial Plan.

In the event that Council proceeds with Option 1, settlement of the sale would not occur until mid-end September 2017. The proceeds of the sale are to be placed in the City's Strategic Land Acquisition Reserve.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Leadership and Governance
 Aspiration: Open, accountable and responsive service.
 Outcome L1: Accountable and good governance.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Section 3.58 of the *Local Government Act 1995* applies to the disposal. The implications for this matter are outlined in the 'Analysis' section.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

Not applicable.

OFFICER'S RECOMMENDATION

That Council grants final approval to the sale of Lot 50, 43 Morley Drive East, Morley, and accepts revised Offer 1 for \$230,000 (including GST).

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that the proceeds are allocated to Major Capital Works Reserve Account.

COMMITTEE RESOLUTION

That Council grants final approval to the sale of Lot 50, 43 Morley Drive East, Morley, with the revenue being placed into the major capital works reserve and appropriate adjustments to be made at the first budget review.

CR BRENT FLEETON MOVED, CR SALLY PALMER SECONDED

CARRIED: 9/1

FOR VOTE - Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor,
Cr Sally Palmer, Cr Brent Fleeton, Cr John Rifici, Cr Chris Cornish,
Cr Alan Radford, Cr Michelle Sutherland and Cr Catherine Ehrhardt.

AGAINST VOTE - Cr Dan Bull.

9.1.19 Kiosk at The RISE - New Lease

Location: 28 Eighth Avenue, Maylands
Reporting Branch: Strategic Planning and Place Services
Responsible Directorate: Planning and Development Services
Refer: Item 9.1.14: PDSCM 18.7.2017
Item 8.1.2: OCM 16.9.2013
Item 15.1.2: OCM 26.3.2013
Item 14.1.2: OCM 11.12.2012
Item 14.1.3: OCM 28.8.2012
Item 15.1.5: OCM 31.1.2012

Confidential Attachment - in accordance with Section 5.23(2)(e) of the Local Government Act 1995 - information that has a commercial value.

CR JOHN RIFICI DECLARED A PROXIMITY INTEREST

In accordance with section 5.60b AND 5.65 of the Local Government Act 1995, Cr John Rifici declared a proximity interest as he owns property across the road from The RISE. At 8:21pm, Cr John Rifici withdrew from the meeting.

CR SALLY PALMER DECLARED AN IMPARTIALITY INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Sally Palmer declared an impartiality interest as she knows the offeree as a Bayswater local person, not personally. Cr Coates remained in the room during voting on this item.

CR CATHERINE EHRHARDT DECLARED AN IMPARTIALITY INTEREST

In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, Cr Catherine Ehrhardt declared an impartiality interest as the applicant is known to her. Cr Ehrhardt remained in the room during voting on this item.

EXECUTIVE SUMMARY**Application:**

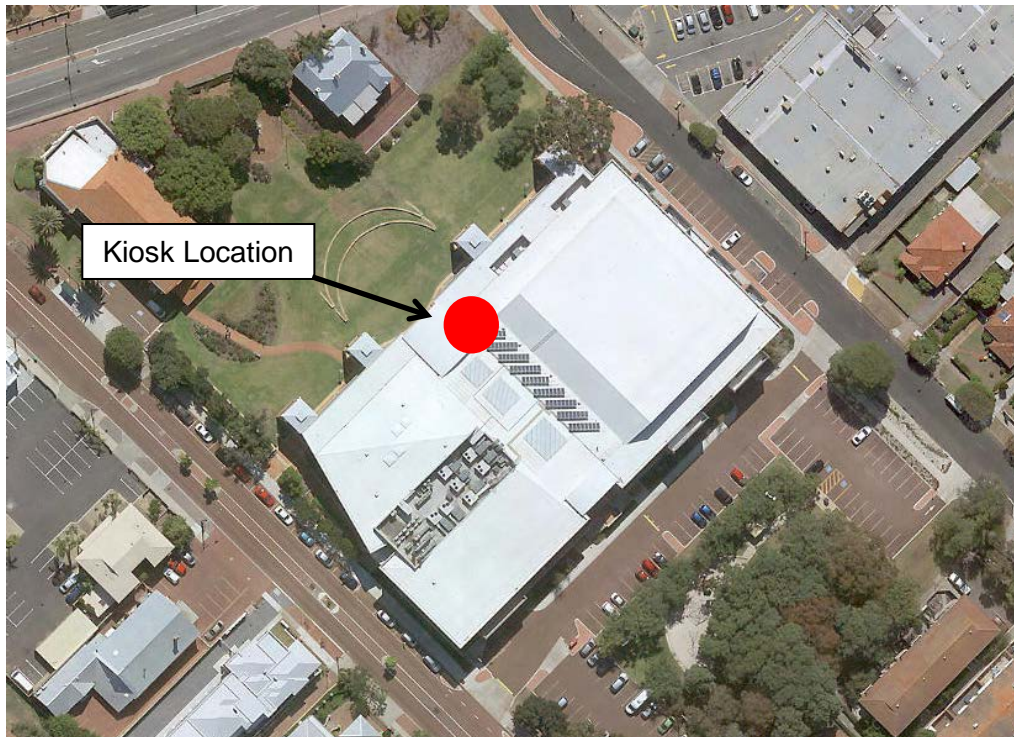
Council consideration is sought on a proposed new lease and lease options for the kiosk at The RISE, 28 Eighth Avenue, Maylands.

Key Issues:

- The kiosk at The RISE has been vacant since 28 July 2017, as the previous lessee chose not to extend the lease.
- A new potential Lessee has indicated an interest in leasing the kiosk.
- Under the *Local Government Act 1995*, Council has a number of options in how it can procure the kiosk lease.

BACKGROUND

The site location of the kiosk at The RISE is depicted in the following figure, while the floor plan of the kiosk at The RISE is included in **Attachment 1**.



At its Ordinary Meeting held 31 January 2012 Council considered the tender for the lease of the kiosk at The RISE, and resolved to accept the tender submission and enter into, a five year lease with the now former Lessee, Justin Ronald Peters. The lease was executed on 19 April 2012 and included a four month rent-free period from the commencement date of the lease.

On 22 November 2012 the Lessee requested an extension of the rent-free period by six months. Council at its Ordinary Meeting held on 11 December 2012, considered the applicant's request and resolved to approve a variation to the rent terms.

On 5 March 2013, the City received a letter from the Lessee stating that the Lessee was unable to meet the requirements under the Lease and sought the City's permission to sell the business.

At its Ordinary Meeting held on 26 March 2013, Council approved the applicant's request to sell the business to the new Lessee, The Purple Carrot Food Company Pty Ltd, owned by James Michael Archer and Deborah Joy Archer. The lease was subsequently assigned to the Purple Carrot Food Company Pty Ltd, who commenced trading under the name of 'Mamalilli Cafe' on 19 June 2013.

On 18 August 2013, the City received an email from the Lessee requesting a three month rent-free period, which was subsequently approved by Council at its Ordinary Meeting held on 16 September 2013.

On 9 March 2017 City officers attended a meeting with the previous Lessee during which the Lessee outlined difficulties in paying the rent and raised issues that hampered operations at The RISE. The previous Lessee provided the City with a letter dated 25 March 2017, outlining the Lessee's concerns and terms under which the Lessee would consider a five year extension of the lease.

The previous Lessee requested the following terms in order to consider a five year extension of the lease:

- A three month rent-free period, to begin at the start of the extended lease period; and
- A 50% reduction in the rent amount per annum plus GST, for the duration of the lease.

The City appointed a valuer to review the rent for the kiosk at The RISE, the executive summary of which is included in **Confidential Attachment 2**.

In reviewing the value of the lease for the subject property, regard was given to the following relevant factors:

- The age, construction and condition of the improvements;
- The functional design and utility of the improvements;
- Location of the café/kiosk;
- The available comparable rental evidence within reasonable proximity; and
- The general state of the Perth commercial real estate market.

Market rent for the subject property per annum plus GST and outgoings as at 27 March 2017 is as detailed in **Confidential Attachment 3**, which equates to a 14.6% reduction of the previous rent amount.

A report was prepared for the Planning and Development Services Committee held on 18 July 2017 with a recommendation to offer the previous Lessee pay only 75% of the market rent based on the valuation contained in **Confidential Attachment 3** plus GST, for a period of one year and then revert to a market rent per annum plus GST for the remainder of the lease term.

However, prior to the Committee Meeting the previous Lessee decided not to extend the lease and the report was subsequently withdrawn. The kiosk was formally vacated on 28 July 2017 and remains empty.

CONSULTATION

No consultation has occurred to date in relation to this matter. If Council chooses to progress consideration of the disposal (via lease) of the kiosk by private treaty, public comments are required to be invited for a 14 day period as part of the local public notice of the proposed disposal (via lease).

ANALYSIS

Since the kiosk was formally vacated by the previous Lessee, a new potential Lessee approached the City expressing an interest to lease the kiosk for a 10 year period with two 5 year extension options, as outlined in **Confidential Attachment 4**. The proposed rent amount offered by the new potential Lessee aligns with the previously recommended charging the new rent amount (in line with the rent review dated 27 March 2017) and reducing the new rent amount by 25% for the first year.

Options

If Council wishes to pursue the request from the interested party to lease the kiosk, disposal (via lease) must proceed in accordance with Section 3.58 of the *Local Government Act 1995*. Under this Act, the City has three options for the disposal:

- the highest bidder at public auction;
- the most acceptable public tender; or
- a private treaty after giving local public notice and inviting submissions.

In this instance public auction is not considered a reasonable option given that there is unlikely to be sufficient interest in the kiosk to warrant a public auction. Public tender or a private treaty can, however, be considered as relatively functional options for leasing the kiosk, which are further described below.

Public Tender

The City has successfully used disposal by public tender on previous occasions, such as when the lease for the kiosk at The RISE was first offered. This option can occur with or without marketing by a real estate agent. The process is similar to a tender for the procurement of goods and services. This method provides a transparent process with a fixed tender period. However, there is no flexibility to negotiate with the tenderers on the lease value. The City is required to accept the most preferable tender or reject all tenders.

Private Treaty

The City can either agree to accept the offer received and enter into a new lease with the new potential Lessee or undertake an expression of interest (EOI) process in search of potential Lessees, which would involve the City marketing the lease or engaging a real estate agent to market the lease. At the conclusion of the EOI period, there is potential to negotiate with interested parties.

If Council resolves to sell via public treaty, it is required to give public notice of this intention and then consider any submissions received.

Conclusion

The public tender and EOI processes will take a number of months to be completed, during which time the kiosk will be vacant and not generate any income for the City. The City has received an offer, in-line with the current market valuation, from an operator who is known to the City and is considered to be a quality operator.

The operator who has made the offer is also interested in providing:

- New signage to the exterior of the building and developing greater visual links between The RISE and the kiosk to make the kiosk easier to view and accessible to all users of The RISE; and
- New seating within the foyer of The RISE in association with the kiosk.

Any proposed new signage and seating may require approval and will be assessed at the appropriate time.

OPTIONS

The following options are available to Council:

OPTION	BENEFIT	RISK
1 Support disposal (via lease) of the kiosk by a public tender. Estimated Cost: <ul style="list-style-type: none"> • \$1,500 for tender advertising in the local newspapers. • \$7,000 agent fees and marketing costs if marketing and process undertaken by a real estate agent. 	<ul style="list-style-type: none"> • Disposal could raise revenue in line with the City's Long Term Financial Plan. • Transparent process for the lease. • Marketing by the agent will increase its exposure to potential lessees. 	<ul style="list-style-type: none"> • The requirement for a tender submission may discourage some potential lessees. • Little flexibility to negotiate the rental price.

OPTION	BENEFIT	RISK
<p>2 Support disposal (via lease) of the kiosk by private treaty and an EOI process, with a real estate agent assisting with the marketing and negotiation.</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> • \$7,000 agent fees and marketing costs. • \$500 for notice of intention to lease in a local newspaper. 	<ul style="list-style-type: none"> • Disposal could raise revenue in line with the City's Long Term Financial Plan. • Flexibility to keep the property open for offers and to negotiate with interested parties. • Marketing by the agent will increase its exposure to potential lessees. • The agent can manage the negotiation process. 	<ul style="list-style-type: none"> • Negotiation may be perceived as favouring one party. • The name of the lessee and rental price must be publicly disclosed, which may deter some potential lessees.
<p>3 Accept the offer received and advertise the intention to dispose of the kiosk via private treaty.</p> <p>Estimated Cost:</p> <ul style="list-style-type: none"> • \$500 for notice of intention to lease in a local newspaper. 	<ul style="list-style-type: none"> • Disposal could raise revenue in line with the City's Long Term Financial Plan. • Flexibility to keep the property open for offers and to negotiate with interested parties. • A new potential Lessee has already approached the City with lease terms that are considered to have merit. • Would be the most efficient and cost-effective method for leasing the kiosk. • Would be the fastest way for the kiosk to generate income for the City. 	<ul style="list-style-type: none"> • Negotiation may be perceived as favouring one party. • The name of the lessee and rental price must be publicly disclosed, which may deter some potential lessees.

CONCLUSION

In light of the above, it is recommended Council accepts the offer received and gives notice of the intention to lease the kiosk by way of private treaty to the new potential Lessee (Option 3).

FINANCIAL IMPLICATIONS

Disposal (via lease) would provide income as outlined in the City's Long Term Financial Plan. The final amount would depend on the tender/offer accepted less the process costs outlined in the Options section.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: The Local Economy
Aspiration: Our vibrant business hubs provide opportunities for business growth, community activity, learning and employment opportunities.
Outcome E3: Growth of local and new business.
Outcome E4: Town Centres which are vibrant community meeting spaces.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Section 3.58 of the *Local Government Act 1995* applies to the disposal (via lease). The implications for this matter are outlined in the 'Analysis' section.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Tenancy Floor Plan
2. Rent Review Executive Summary (Confidential Attachment)
3. Rent Amounts (Confidential Attachment)
4. Offer from the new potential Lessee (Confidential Attachment)

OFFICER'S RECOMMENDATION

That Council accepts the lease offer contained in Confidential Attachment 4, subject to notice of the intention to lease the kiosk at The RISE, 28 Eighth Avenue, Maylands by private treaty being given, in accordance with section 3.58 of the *Local Government Act 1995*, and a further report be referred to Council to consider any submissions received during the public notice period.

COMMITTEE RESOLUTION

That this item be moved to the confidential section of the meeting and be discussed at the end of the meeting.

CR BARRY MCKENNA MOVED, CR SALLY PALMER SECONDED

CARRIED: 6/4

FOR VOTE - Cr Barry McKenna, Mayor, Cr Sally Palmer, Cr Alan Radford, Cr John Rifici, Cr Brent Fleeton and Cr Dan Bull.

VOTE AGAINST - Cr Stephanie Coates, Deputy Mayor, Cr Michelle Sutherland, Cr Catherine Ehrhardt and Cr Chris Cornish.

At 9:02pm, the Committee reconsidered this item.

MOTION

That this report be deferred to address the confidentiality and probity matters raised and return to the next Planning and Development Services Committee Meeting.

CR BARRY MCKENNA, MAYOR MOVED, CR ALAN RADFORD SECONDED

LOST: 4/5

FOR VOTE - Cr Barry McKenna, Mayor, Cr Sally Palmer, Cr Alan Radford and Cr Dan Bull.

VOTE AGAINST - *Cr Stephanie Coates, Deputy Mayor, Cr Michelle Sutherland, Cr Catherine Ehrhardt and Cr Chris Cornish and Cr Brent Fleeton.*

MOTION

That Council accepts the lease offer contained in Confidential Attachment 4, subject to notice of the intention to lease the kiosk at The RISE, 28 Eighth Avenue, Maylands by private treaty being given, in accordance with section 3.58 of the *Local Government Act 1995*, and a further report be referred to Council to consider any submissions received during the public notice period.

CR BRENT FLEETON MOVED, CR STEPHANIE COATES SECONDED

LOST: 0/9

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that Council should support the disposal of the kiosk by private treaty and an Expression of Interest (EOI) process and report back to the Planning and Development Services Committee.

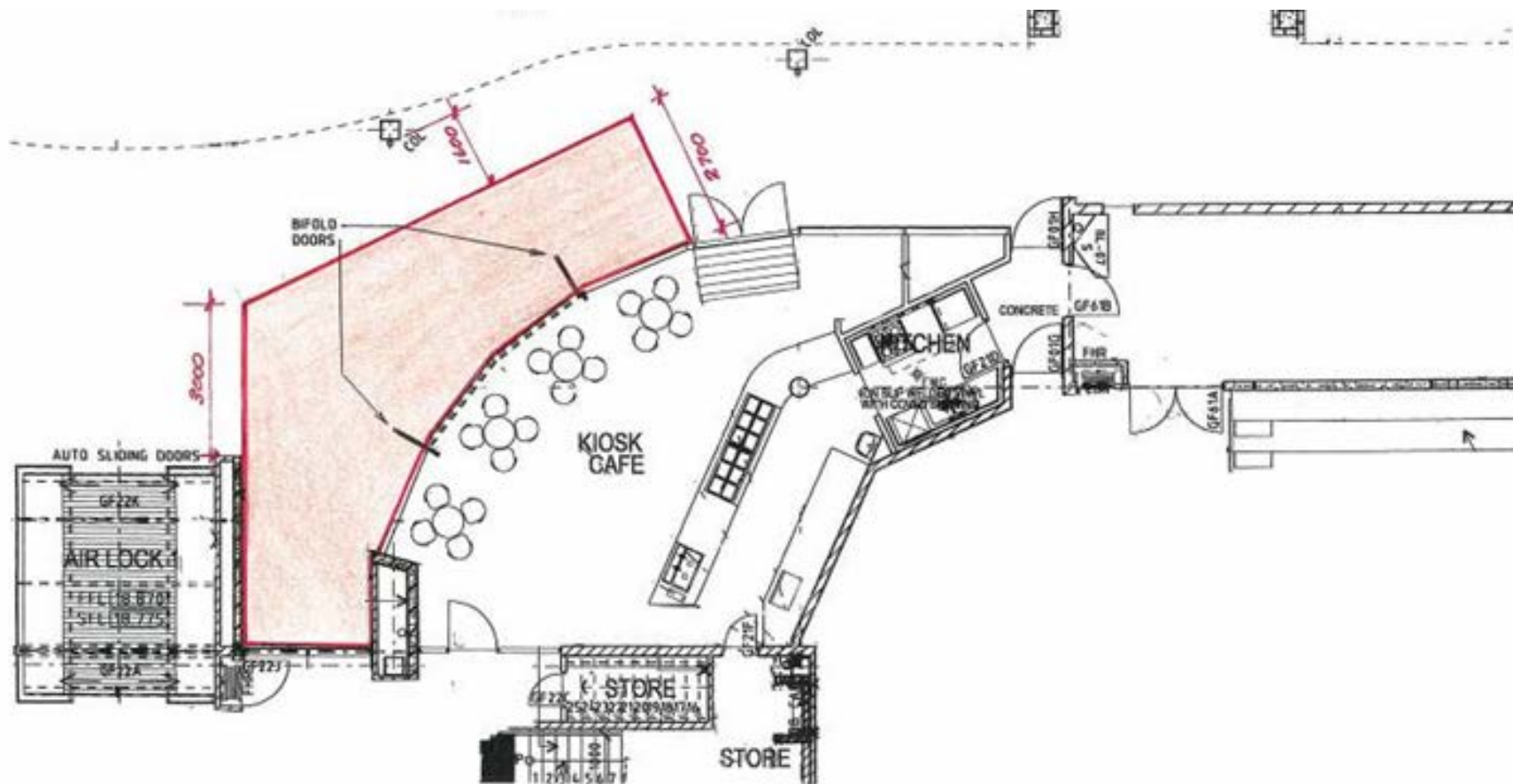
COMMITTEE RESOLUTION

That Council support disposal (via lease) of the kiosk at The RISE, 28 Eighth Avenue, Maylands by private treaty and an Expression of Interest (EOI) process, with the outcome to be reported back to a future Planning and Development Services Committee meeting.

CR BARRY MCKENNA MOVED, CR SALLY PALMER SECONDED

CARRIED: 9/0

At 9:01pm, Cr Rifici returned to the meeting.

Attachment 1- Tenancy Floorplan

10. REPORTS BY OFFICERS (COUNCIL DECISION)**10.1 Proposed Change of Use to Dog Day Care and Grooming and Associated Alterations**

Location: Lot 1, Unit 1, 13-17 Durham Road, Bayswater
File Number: DA17-0260
Applicant: Megan Youdell
Owner: Michelle Farmer
Reporting Branch: Statutory Planning Services
Responsible Directorate: Planning and Development Services

Confidential Attachment(s) - in accordance with Section 5.23(2)(b) of the Local Government Act 1995 - personal affairs of any person.

EXECUTIVE SUMMARY**Application:**

A planning application dated 15 May 2017 and plans dated 30 May 2017 have been received for proposed change of use from storage to dog day care and grooming at Lot 1, Unit 1/13-17 Durham Road, Bayswater.

Key Issues:

- The City's Town Planning Scheme No.24 (TPS24) does not specify a use of dog day care and grooming nor the number of parking spaces required in respect to the proposed use.
- One objection to the proposal was received during community consultation.
- The appropriateness of the use and the impact of the proposal on the amenity of the area.

BACKGROUND

Town Planning Scheme No. 24 Zoning:	General Industry
Use Class:	'Unlisted' Use
Lot Area:	3,795m ²
Existing Land Use:	Warehouse
Surrounding Land Use:	Warehouse, Storage and Other Light Industrial Uses
Size/Nature of Proposed Development:	Dog Day Care and Grooming

The primary consideration in relation to this application is the potential impact of the proposed development on the amenity of the area, given that dog day care and grooming is an 'unlisted' use in terms of TPS 24.



CONSULTATION

The City sought comment for the proposed unlisted use from the adjacent affected property owners for a period of 14 days. At the completion of the advertising period, one objection was received. Details of the objection, applicant's responses and officer's comments are stated below.

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
Waste Disposal	The capacity of the Biomax septic system to deal with increased load	<i>"The Biomax representative has provided a written statement advising that</i>	Refer to the 'Environmental Health Considerations'

ISSUE	NATURE OF CONCERN	APPLICANT RESPONSE	OFFICER COMMENT
	and detergents. Request that waste water is filtered.	<i>there will be no detrimental effects on the performance of the Biomax WWTP.</i> <i>The hydrobath machine used for dog washing has a built in filter so no dog hair is able to escape with the waste water".</i>	section below.
Noise	Barking noise impacting upon the amenity of the surrounding area.	<i>"It is noted that the site is located within an industrial area which is separated from residential areas... Given that only 8 dogs are proposed... it is very unlikely that noise would be significant enough to have any detrimental impacts upon neighbours."</i>	Refer to the 'Environmental Health Considerations' section below.
Odour	Odour generated by the dog's excrement. Request that adequate ventilation system is installed and that dog excrement is cleaned immediately by the operator.	<i>"Heavy duty, 2.4 metre industrial gates have been installed so that the roller door can be securely opened during business hours allowing for fresh air to ventilate through the premises and large industrial wall-mount fans will be installed for air circulation... A waste management plan will be in place (which includes daily removal of dog waste by a contractor to Balcatta tip). We will check the verge areas twice per day to ensure there is no dog excrement left on the verge area and if there is it will be cleaned immediately."</i>	Refer to the 'Environmental Health Considerations' section below.
Number of Dogs	Request that dog numbers are set at a maximum of eight dogs.	No response provided.	Refer to the 'Officers Recommendation' below.

ANALYSIS

Site Context

The subject site is located within the Bayswater industrial area on Durham Road, west of Tonkin Highway. There are seven other industrial units within the complex including private storage units, car electrical repair, car tinting and a gymnasium. The surrounding land uses are predominately industrial warehouses, small factories, automotive repair and car wrecking.

Appropriateness of Use

A dog day care is a place where supervision of pet dogs is provided to dog owners whilst they are at work during the day. The proposal includes internal refurbishment of the unit including the installation of partitioned play areas for the dogs and a dog grooming area with hydro bath. A separate reception/office area, staff kitchen and toilets already exist within the unit.

The dog day care and grooming business is proposed to operate by prior appointment only, Monday to Friday between 7:30am and 5:30pm. A maximum of eight (8) dogs are proposed to be cared for on the premises at any one time. The dogs will be contained within the unit and will not be permitted to wander outside of the building unsupervised or unleashed.

The wider surrounding area is predominately industrial, with the nearest habitable dwelling located approximately 174m to the south of the subject site. As the dogs will be supervised at all times, it is considered that the behaviour of the dogs including any potential odour or noise nuisance can be adequately managed by staff.

It is considered that the proposed land use does not comfortably fit within any other land use listed in the zoning table of the City's TPS 24. Pursuant to Clause 7.2.4 of the Scheme the application can still be considered against TSP 24, the objectives and purpose of the zone at the discretion of the local government, and requires approval by an absolute majority of Council.

Environmental Health Considerations

Concerns have been raised in relation to potential environmental health impacts including waste water disposal, noise, odour and general cleanliness. The applicant has detailed that a designated toilet area for the dogs will be provided inside of building. Dog excrement will be placed into sealed bags and disposed at a licenced rubbish tip daily.

The internal floor area would be hosed down at the end of each day and mechanical ventilation installed to disperse odour in accordance with the relevant Australian Standard and the *Health Act 1911*. The applicant has also supplied a letter from Biomax advising that existing sewerage system is capable of dealing with the increased load as a result of the dog grooming provided that residue filters are installed in the hydro bath.

In regard to noise, the use would be subject to compliance with the *Environmental Protection (Noise) Regulations 1997*. Although it is acknowledged that surrounding land owners may experience some barking noise, noise levels generated by the dogs is not expected to exceed the levels as set out under the *Environmental Protection (Noise) Regulations 1997* due to the low number of dogs proposed (a maximum of eight dogs at any one time) and with the constant supervision of the dogs by staff.

Car Parking

As the proposal is for unlisted uses, there are no car parking requirements specified for the proposed use in TPS 24. In accordance with Clause 8.4.1 of TPS 24, if the Scheme does not specify the number of parking spaces required in respect of any particular use then the number of parking spaces to be provided shall be determined by Council.

A total of 42 car bays are provided on the site, with unit 1 being entitled to the use of five (5) bays in addition to the shared use of a disabled bay under the Strata Plan Schedule of Entitlement. The proposal does not include provision of any additional car bays as the site is fully developed and unable to accommodate any additional onsite bays. The applicant has advised that they do not require the use of more than five car parking bays as their clients would have staggered arrival and departure times.

In light of the above, the car parking variation is considered to not unduly impact the adjoining tenancies or locality.

OPTIONS

The following options are available to Council:

1. Council approves the proposal with or without conditions.
2. Council refuses the proposal.

CONCLUSION

In light of the above assessment of the proposed development, the application is recommended for approval subject to appropriate conditions.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Local Economy
Aspiration: A business and employment destination.
Outcome E2: Active and engaging town and city centres.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 24.

VOTING REQUIREMENTS

ABSOLUTE MAJORITY REQUIRED.

ATTACHMENTS

1. Plans for Development
2. Submission Location Plan (Confidential)

OFFICER'S RECOMMENDATION

That Council grants planning approval for the proposed change of use to dog day care and grooming and associated alterations at Lot 1, Unit 1, 13-17 Durham Road, Bayswater in accordance with planning application dated 15 May 2017 and plans dated 30 May 2017, subject to the following planning conditions:

1. The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.
2. A maximum of eight dogs are permitted to be cared for onsite at any one time.
3. Dogs must be kept under effective control and supervised at all times when on the premises and on the property to the satisfaction of the City of Bayswater.

4. A daily register shall be kept up to date with the time dogs enter and exit the premises. The register must be made available to City of Bayswater on request.
5. A suitably screened refuse bulk bin area with a minimum area of 10m² shall be provided to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m.
6. A waste management plan is to be submitted to and approved by the City of Bayswater prior to the commencement of the use and implemented to the satisfaction of the City.
7. Additional waste water shall not compromise the function and performance of the existing Alternative Treatment Unit.
8. The premises shall at all times be maintained in good order and in a clean and sanitary condition to the satisfaction of the City of Bayswater.

Advice Notes:

1. To activate the planning approval, the use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
4. Any noise generated by the use is not to exceed the levels as set out under the *Environmental Protection (Noise) Regulations 1997*.
5. The use shall comply with the *Environmental Protection Act 1986*, the *Health Act 1911* and any relevant environmental protection or health regulations.
6. The premises is to be operated in accordance with the *Dog Act 1976* and the City of Bayswater Dogs Local Law 2016 as applicable.

REASON FOR CHANGE

The Committee changed the officer's recommendation as it was of the opinion that no dogs be kept on the premises overnight and subsequently, the register of dogs was not warranted.

COMMITTEE RECOMMENDATION TO COUNCIL

That Council grants planning approval for the proposed change of use to dog day care and grooming and associated alterations at Lot 1, Unit 1, 13-17 Durham Road, Bayswater in accordance with planning application dated 15 May 2017 and plans dated 30 May 2017, subject to the following planning conditions:

1. **The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan.**
2. **A maximum of eight dogs are permitted to be cared for onsite at any one time.**
3. **Dogs must be kept under effective control and supervised at all times when on the premises and on the property to the satisfaction of the City of Bayswater.**

4. No dog(s) is permitted to be kept on the premises overnight.
5. A suitably screened refuse bulk bin area with a minimum area of 10m² shall be provided to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8m.
6. A waste management plan is to be submitted to and approved by the City of Bayswater prior to the commencement of the use and implemented to the satisfaction of the City.
7. Additional waste water shall not compromise the function and performance of the existing Alternative Treatment Unit.
8. The premises shall at all times be maintained in good order and in a clean and sanitary condition to the satisfaction of the City of Bayswater.

Advice Notes:

1. To activate the planning approval, the use subject of this approval must be substantially commenced within a period of two years of the date of this approval notice. If the development is not substantially commenced within this period, this 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. This approval is not a building permit or an approval under any other law than the *Planning and Development Act 2005*. It is the responsibility of the applicant/owner to obtain any other necessary approvals, consents and/or licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as but not limited to an easement or restrictive covenant. It is the responsibility of the applicant/owner to investigate any such constraints before commencing development.
4. Any noise generated by the use is not to exceed the levels as set out under the *Environmental Protection (Noise) Regulations 1997*.
5. The use shall comply with the *Environmental Protection Act 1986*, the *Health Act 1911* and any relevant environmental protection or health regulations.
6. The premises is to be operated in accordance with the *Dog Act 1976* and the City of Bayswater Dogs Local Law 2016 as applicable.

CR STEPHANIE COATES, DEPUTY MAYOR MOVED, CR BRENT FLEETON SECONDED

CARRIED: 9/1

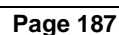
FOR VOTE -

Cr Barry McKenna, Mayor, Cr Stephanie Coates, Deputy Mayor, Cr Sally Palmer, Cr Brent Fleeton, Cr John Rifici, Cr Chris Cornish, Cr Dan Bull, Cr Michelle Sutherland and Cr Catherine Ehrhardt.

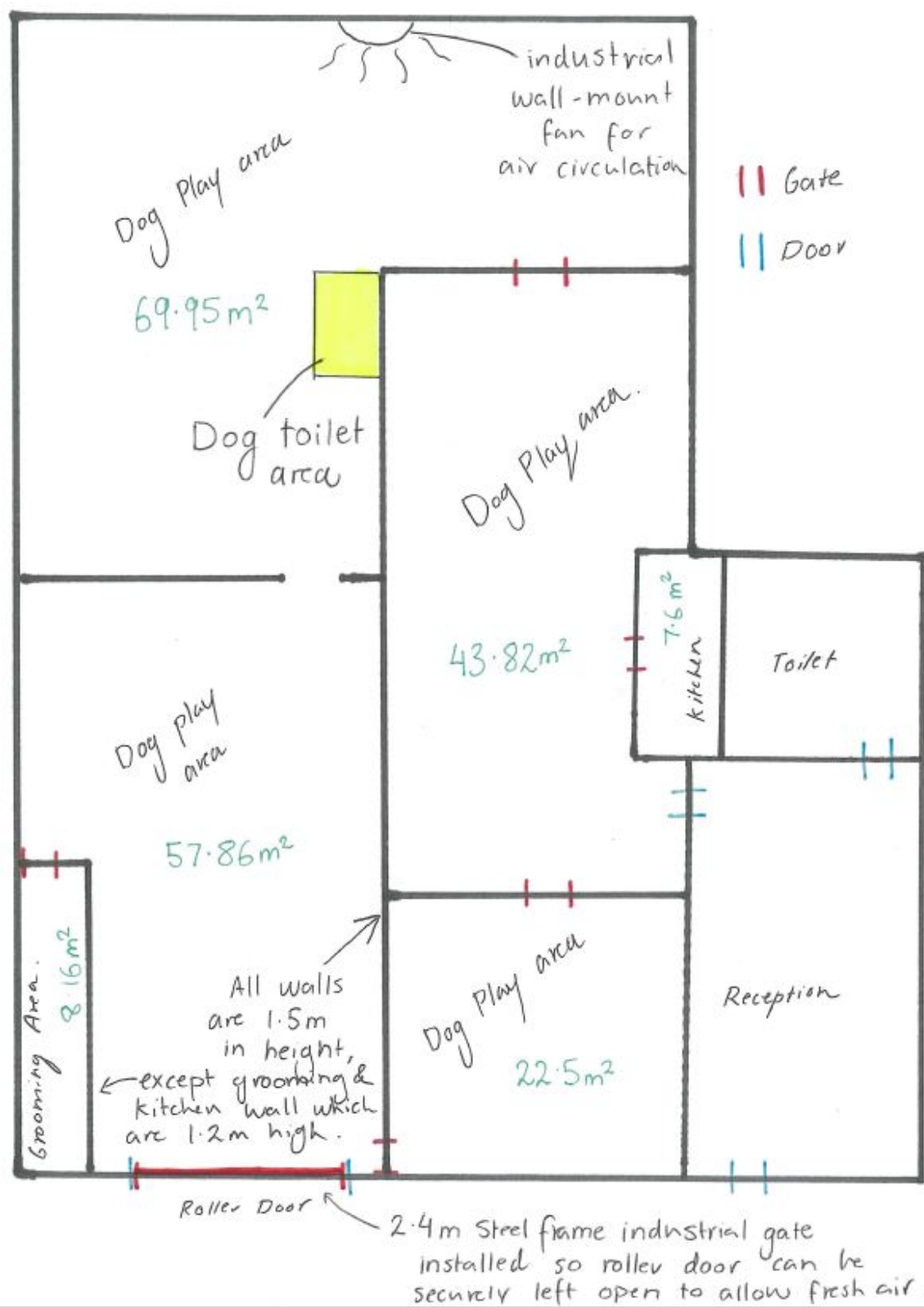
AGAINST VOTE -

Cr Alan Radford.

Attachment 1 - Plans for Development



Internal Floorplan.



11. REPORTS FOR NOTING**11.1 Planning Determinations Under Delegated Authority - July 2017**

Reporting Branch: Statutory Planning Services
Directorate: Planning and Development Services

EXECUTIVE SUMMARY**APPLICATION**

To receive a summary of development applications determined for the period of 1 July 2017 to 31 July 2017.

BACKGROUND

Nil.

CONSULTATION

Nil.

ANALYSIS

The development applications contained in **Attachment 1** have been determined in accordance with the Residential Design Codes and the City's town planning schemes, policies and Delegated Authority Register.

OPTIONS

Nil.

CONCLUSION

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment.
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme Nos. 23 and 24;
- City of Bayswater local planning policies; and
- State Planning Policy 3.1 - Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Council Ratification of Planning Determinations Under Delegated Authority 1 July 2017 - 31 July 2017.

COMMITTEE RESOLUTION**(OFFICER'S RECOMMENDATION)**

That Council receives the planning determinations issued for the period 1 July 2017 to 31 July 2017 by the City's Director Planning and Development Services and Manager Planning Services in accordance with the City's Delegated Authority Register, Town Planning Scheme Nos. 23 and 24 and policies, and Residential Design Codes, as contained in Attachment 1.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

Attachment 1

APPLICANT / PROPERTY	PROPOSAL	DATE / COMMENT
Daniela Gugliotta Lot 12, 63 Napier Road MORLEY WA 6062	Alterations and Single Storey Additions to Single House and New Single Storey Grouped Dwelling	06/07/2017 Approved
Daniel V Falcone & Melissa M Mcdowell Lot 109, 38 Cooper Road MORLEY WA 6062	Two Storey Grouped Dwelling	07/07/2017 Approved
Gurlal S Syan & Paramjeet Kaur Strata Lot 2, 11A Devonshire Street MORLEY WA 6062	Single Storey Grouped Dwelling	03/07/2017 Approved
Georgios Amperiadis & Haritos Amperiadis Lot 197, 65 Bellew Way NORANDA WA 6062	Two Single Storey Grouped Dwellings	12/07/2017 Approved
Anne S K Major & Neil Major Lot 8, 14 Swan Bank Road MAYLANDS WA 6051	Two Storey Single House	04/07/2017 Approved
Claire J T Lieb & William A M Jones Lot 9, 15 Coode Street BAYSWATER WA 6053	Alterations and Single Storey Additions to Single House	04/07/2017 Approved
Theo W Anton & Athena Augustine Strata Lot 2, 54A Hotham Street BAYSWATER WA 6053	Single Storey Grouped Dwelling	10/07/2017 Approved
Lutheran Church of Australia WA District Inc Lot 16, Church & Manse 3 Chertley Street MORLEY WA 6062	Signage to Place of Worship (Robinson Road Street Frontage)	05/07/2017 Approved
Samuel Hesford Lot 18, 1 Coombe Street BAYSWATER WA 6053	Carport to Single House	05/07/2017 Approved
Attilio A Ferrara & Nicole G Ferrara Lot 163, 12 Broomhall Way NORANDA WA 6062	Two Storey Grouped Dwelling and Additional Carport and Fence to Existing Dwelling	05/07/2017 Approved
Brody J Pendlebury & Hannah J Garnaut Lot 2, 106 Seventh Avenue MAYLANDS WA 6051	Front Fence to Single House	06/07/2017 Approved
Peter C V Wong & Mooi H Ling Strata Lot 2, 35A Grey Street BAYSWATER WA 6053	Home Business - Remedial Massage	10/07/2017 Approved
Ravi Narula & Sujaya Narula Strata Lot 1, 22A Lovegrove Way MORLEY WA 6062	Patio to Grouped Dwelling	10/07/2017 Approved
Rosalind C H Johnson Strata Lot 1, 80 Kelvin Street MAYLANDS WA 6051	Patio and Carport to Single House	11/07/2017 Approved

Peter J Riggs & Bronwyn A Achemedei Strata Lot 2, 38 Langley Road BAYSWATER WA 6053	Single Storey Single House	11/07/2017 Approved
Domenico Frisina & Angelo Frisina Strata Lot 1, 36 Waltham Way MORLEY WA 6062	Carport and Front Wall to Grouped Dwelling	11/07/2017 Approved
Gregory W Carter & Zofia K Carter Lot 377, 181 Rosebery Street BEDFORD WA 6052	Carport to Single House	12/07/2017 Approved
Eugene M C Rufo & Mariel C Rufo Strata Lot 2, 25 Wheatstone Drive MORLEY WA 6062	Single Storey Single House	12/07/2017 Approved
Michael R Jones & Taryn A Langlois Lot 69, 12 Arundel Street BAYSWATER WA 6053	Patio and Carport to Single House	12/07/2017 Approved
Benjamin C H Maziarz & Bronte V Maziarz Lot 568 , 194 Shaftesbury Avenue BEDFORD WA 6052	Two Storey Single House	14/07/2017 Approved
Jeffrey G Horner & Lucy Leland Strata Lot 2, 11A Adelphi Street BAYSWATER WA 6053	Patio to Grouped Dwelling	14/07/2017 Approved
LD & R Holdings Pty Ltd Lot 100, 7 Barnett Court MORLEY WA 6062	Alterations and Additions to Vehicle Sales and Service Centre and Replacement of Pylon Sign	14/07/2017 Approved
Rosario Scurria & Rosanna Scurria Lot 9, 45 Crowhurst Way MORLEY WA 6062	Carport to Single House	14/07/2017 Approved
Yiming Ma & Ye He Strata Lot 2, 1 Sandleford Way MORLEY WA 6062	Two Storey Single House	18/07/2017 Approved
Alastair J Boyes & Justine N Karini Strata Lot 3, 32B Stone Street MAYLANDS WA 6051	Single Storey Grouped Dwelling	18/07/2017 Approved
Rino D'Andrilli Strata Lot 1, 82 McKenzie Way EMBLETON WA 6062	Carport to Grouped Dwelling	18/07/2017 Approved
Stephanie Rullo & Benjamin Rullo Lot 592, 12 Tassell Street EMBLETON WA 6062	Patio to Grouped Dwelling	18/07/2017 Approved
Lisa J Winter Strata Lot 3, 15 Frinton Street BAYSWATER WA 6053	Patio to Single House	18/07/2017 Approved
John G Wilkins & Rochelle J Wilkins Lot 35 , 14 Donald Way BAYSWATER WA 6053	Shed to Single House	18/07/2017 Approved
Ling E Chai & Yok B D Lee Lot 355, 10 Tourer Court MAYLANDS WA 6051	Patio to Single House	18/07/2017 Approved

Michael Sanderson-Green & Angela Sanderson-Green Lot 169, 407 Guildford Road BAYSWATER WA 6053	Patio to Single House	18/07/2017 Approved
Robert J Martin & Denise M Martin Strata Lot 6, 6/24 Sixth Avenue MAYLANDS WA 6051	Patio to Grouped Dwelling	18/07/2017 Approved
Myrtle J Hopkins & Margaret G Grimshaw Lot 18, 1129 Beaufort Street EMBLETON WA 6062	Single Storey Single House	19/07/2017 Approved
Lutheran Church of Australia WA District Inc Lot 16, Church & Manse 3 Chertley Street MORLEY WA 6062	Shade Sails and Door Alterations to Church and Manse	19/07/2017 Approved
Michael Deane & Wendy L Hull-Deane Lot 4, 7 Aughton Street BAYSWATER WA 6053	Carport to Single House	19/07/2017 Approved
Mark P Fernandes & Wilma Fernandes Strata Lot 1, 13A Russell Street MORLEY WA 6062	Carport to Grouped Dwelling	19/07/2017 Approved
Elvana Firanji & Klevis Firanji Lot 81, 9 Hampton Square West MORLEY WA 6062	Patio, Carport and Front Fence to Grouped Dwelling	24/07/2017 Approved
Kenneth L Brown & Karen E Brown Lot 319, 6 Beard Elbow BAYSWATER WA 6053	Patio to Single House	25/07/2017 Approved
David A Silvestro Lot 881, 32 Belfast Street MORLEY WA 6062	Patio to Single House	25/07/2017 Approved
Haroutane K Toutikian & Sona Toutikian Lot 3, 17 Hollett Road MORLEY WA 6062	Single Storey Grouped Dwelling	26/07/2017 Approved
Veselko Savic & Vesna Savic Lot 36, 14 Hardwick Street MORLEY WA 6062	Carport and Store to Grouped Dwelling	26/07/2017 Approved
Simon Chen Lot 605, 78 Broun Avenue EMBLETON WA 6062	Home Occupation - Computer Repairs	27/07/2017 Approved
Natasa Marjanovic Lot 97, 10 Lovell Way BAYSWATER WA 6053	Alterations and Single Storey Additions to Single House	27/07/2017 Approved
Nada Duric & Radosav Duric Strata Lot 4, 32A Stone Street MAYLANDS WA 6051	Two Storey Grouped Dwelling	27/07/2017 Approved
Kim Johnson Lot 73, 24 Embleton Avenue EMBLETON WA 6062	Weighbridge to Automotive Wreckers and Sales Yard	28/07/2017 Approved

Michele M Miranda Strata Lot 2, 286A Benara Road MORLEY WA 6062	Single Storey Grouped Dwelling	28/07/2017 Approved
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11.2 Subdivisions and Amalgamations Under Delegated Authority - July 2017**Reporting Branch:****Statutory Planning Services****Directorate:****Planning and Development Services****EXECUTIVE SUMMARY**

To receive a summary of subdivision and amalgamation applications assessed for the period 1 July to 31 July 2017.

BACKGROUND

Nil.

CONSULTATION

Nil.

ANALYSIS

The subdivision and amalgamation applications contained in **Attachment 1** have been assessed in accordance with the provisions of the City's town planning schemes and policies, and a recommendation returned to the Western Australian Planning Commission.

OPTIONS

Nil.

CONCLUSION

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment.
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- City of Bayswater Town Planning Scheme No. 23 and 24;
- City of Bayswater local planning policies; and
- State Planning Policy 3.1 - Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Delegated Authority Subdivisions - 1 July 2017 - 31 July 2017.

OFFICER'S RECOMMENDATION

That Council receives the subdivision and amalgamation applications for which comment has been provided to the Western Australian Planning Commission for the period 1 July to 31 July 2017, as contained in Attachment 1.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

Attachment 1

APPLICANT / PROPERTY	PROPOSAL	DATE / COMMENT
Leah J Botten & David M Botten Lot 15, 9 Almondbury Street BAYSWATER WA 6053	Two Lot Freehold Subdivision	10/07/2017 Supported
Alexandra F Nehammer Lot 36, 43 Queen Street BAYSWATER WA 6053	Two Lot Survey Strata Subdivision	10/07/2017 Supported
Section 51(B) Elector 116648 & Section 51(B) Elector 116649 Lot 35, 11 Robyn Street MORLEY WA 6062	Two Lot Survey Strata Subdivision	11/07/2017 Supported
Darren P Martin & Rosemary A Martin Lot 420, 125 Salisbury Street BEDFORD WA 6052	Three Lot Survey Strata Subdivision	12/07/2017 Supported
Krikor S Jerejian & Shogher K Jerejian Lot 233, 36 Bellew Way NORANDA WA 6062	Two Lot Survey Strata Subdivision	13/07/2017 Supported
Cheryl J Pavlenko & Bogdan Pavlenko Lot 678, 116 The Strand BEDFORD WA 6052	Two Lot Survey Strata Subdivision	20/07/2017 Supported
Michael D Johnson & Katrina R Johnson Lot 218, 34 McKenzie Way EMBLETON WA 6062	Two Lot Freehold Subdivision	21/07/2017 Supported
Ognjen Susa & Sinisa Petkovic Lot 5, 8 Hewton Street MORLEY WA 6062	Four Lot Survey Strata Subdivision	21/07/2017 Supported
Vesna Savic & Mladen Savic Lot 384, 74 Birkett Street BEDFORD WA 6052	Two Lot Survey Strata Subdivision	21/07/2017 Supported
Acezone Pty Ltd Lot 379, 42 Railway Parade BAYSWATER WA 6053	Two Lot Freehold Subdivision	24/07/2017 Supported
Steven G Radi, Tamara Radi, Civic Development Group Pty Ltd, Flora E Radi Lot 6, 42 Drummond Street BEDFORD WA 6052	Two Lot Survey Strata Subdivision	26/07/2017 Supported

11.3 Building Permits Issued Under City's Policy for Single Residential Development - July 2017**Reporting Branch:**
Directorate:**Statutory Building Services**
Planning and Development Services**EXECUTIVE SUMMARY****Application:**

To receive a summary of building permits issued for single residential development involving a variation to setbacks and other policy requirements, for the period 1 July to 31 July 2017.

BACKGROUND

Nil.

CONSULTATION

Nil.

ANALYSIS

The building applications contained in **Attachment 1** for single residential development involving variations to setbacks and other policy requirements have been approved, in accordance with the City's Delegated Authority Register and policies, Residential Design Codes and Building Codes of Australia.

OPTIONS

Nil.

CONCLUSION

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC LINK

In accordance with the City of Bayswater Strategic Community Plan 2017-2027, the following applies:

Theme: Our Built Environment.
Aspiration: A quality and connected built environment.
Outcome B1: Appealing streetscapes.
Outcome B3: Quality built environment.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

- *Building Act 2011;*
- *Building Regulations 2012;*
- *Building Code of Australia;*
- City of Bayswater local planning policies, including TP-P2.7 - Retaining Wall Setbacks - R-Codes Performance Criteria; and
- State Planning Policy 3.1 Residential Design Codes.

VOTING REQUIREMENTS

Simple Majority required.

ATTACHMENTS

1. Building permits for single residential development involving a variation to setbacks and other policy requirements under delegated authority for 1 July to 31 July 2017.

COMMITTEE RESOLUTION**(OFFICER'S RECOMMENDATION)**

That Council receives the building permits issued for the period 1 July to 31 July 2017 by the City's Building Services Section for single residential development involving a variation to setbacks and other policy requirements, in accordance with the City's Delegated Authority Register and policies, Residential Design Codes, and Building Code of Australia, as contained in Attachment 1.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY BY EN BLOC RESOLUTION

Attachment 1

APPLICANT / PROPERTY	PROPOSAL	DATE/COMMENT
Drago Vulin, Kristina Vulin, Dragica Lekic Strata Lot 2 , 69A Wylde Road MORLEY WA 6062	Parapet/Boundary Wall - over length	24/07/2017 Approved
May A Menagh Lot 688, 13 Compton Way MORLEY WA 6062	Retaining Walls - on the boundary	27/07/2017 Approved

12. LATE ITEMS

Nil.

COMMITTEE RESOLUTION - EN BLOC RESOLUTION

To en bloc the Officer's Recommendations to Items: 9.1.14, 9.1.15, 9.1.16, 9.1.17, 11.1, 11.2 and 11.3.

CR MICHELLE SUTHERLAND MOVED, CR JOHN RIFICI SECONDED

CARRIED UNANIMOUSLY

COMMITTEE RESOLUTION

That the meeting be closed to the public and the doors were closed.

CR JOHN RIFICI MOVED, CR ALAN RADFORD SECONDED

CARRIED: 7/3

FOR VOTE - Cr Barry McKenna, Mayor, Cr Sally Palmer, Cr Alan Radford, Cr John Rifici, Cr Chris Cornish, Cr Brent Fleeton and Cr Dan Bull.

VOTE AGAINST - Cr Stephanie Coates, Deputy Mayor, Cr Michelle Sutherland and Cr Catherine Ehrhardt.

At 8:20pm, the doors were closed to the public and those present in the public gallery left the meeting.

13. CONFIDENTIAL ITEMS**13.1 Reports by Officers (Committee Delegation)**

Nil.

13.2 Reports by Officers (Council Decision)

Nil.

COMMITTEE RESOLUTION

That the meeting be re-opened to the public and the doors were re-opened.

CR MICHELLE SUTHERLAND MOVED, CR STEPHANIE COATES SECONDED

CARRIED UNANIMOUSLY

At 9:00pm, the doors were re-opened to the public and those present in the public gallery were invited to return to the meeting, however no members of the public returned.

14. NEXT MEETING

The next meeting of the Planning and Development Services Committee will take place in the Council Chambers, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on Tuesday, 5 September 2017 commencing at **6:30pm**.

15. CLOSURE

There being no further business to discuss, the Chairperson, Cr Dan Bull declared the meeting closed at **9.01pm**.