



ORDINARY COUNCIL MEETING  
10 AUGUST 2010

TABLE OF CONTENTS - MINUTES

Item	Report Title	Page No.
1.	OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS/DISCLAIMER.....	1
2.	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE .....	2
3.	DECLARATIONS OF INTEREST .....	2
4.	ANNOUNCEMENTS BY THE PRESIDING MEMBER .....	2
5.	REPORTS OF DELEGATES .....	3
6.	QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS .....	3
	QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS AWAITING RESPONSE .....	3
	RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS .....	3
6.1	QUESTION TIME .....	3
6.2	PUBLIC STATEMENTS .....	4
7.	CONFIRMATION OF MINUTES .....	6
8.	THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS.....	6
9.	APPLICATIONS FOR LEAVE OF ABSENCE.....	7
10.	QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN .....	7
11.	ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY .....	8
	13.4.1 BALFOUR STREET HUNTINGDALE - TRAFFIC CALMING REQUEST .....	9
	13.5.3 DEVELOPMENT APPLICATION – PLACE OF WORSHIP – 45 (LOT 15) MILLS ROAD WEST, GOSNELLS.....	13
	13.5.6 DEVELOPMENT APPLICATION - RETAIL NURSERY - 61 (LOT 252) CLIFFORD STREET, MADDINGTON .....	30

Item	Report Title	Page No.
13.5.8	DEVELOPMENT APPLICATION - RETROSPECTIVE COMMERCIAL VEHICLE PARKING AND LANDFILL - 28 (LOT 25) KENWICK ROAD, KENWICK .....	44
12.	MINUTES OF COMMITTEE MEETINGS.....	54
13.	REPORTS.....	55
13.1	CHIEF EXECUTIVE OFFICE .....	55
13.2	COMMUNITY ENGAGEMENT.....	55
13.3	CORPORATE SERVICES.....	55
13.3.1	BUDGET VARIATIONS.....	55
13.4	INFRASTRUCTURE.....	57
13.4.1	BALFOUR STREET HUNTINGDALE - TRAFFIC CALMING REQUEST <b>(ITEM BROUGHT FORWARD – REFER TO ITEM 11)</b> .....	57
13.4.2	PROPOSED 2011/2012 BLACK SPOT PROJECTS .....	58
13.5	PLANNING AND SUSTAINABILITY.....	61
13.5.1	DEVELOPMENT APPLICATION – SINGLE DWELLING – 11 (LOT 104) FAIRLIE ROAD, CANNING VALE .....	61
13.5.2	DEVELOPMENT APPLICATION – MULTI-PURPOSE HALL FOR LANGFORD ISLAMIC COLLEGE – 57 (LOT 3403) SOUTHGATE ROAD, LANGFORD.....	69
13.5.3	DEVELOPMENT APPLICATION – PLACE OF WORSHIP – 45 (LOT 15) MILLS ROAD WEST, GOSNELLS <b>(ITEM BROUGHT FORWARD – REFER TO ITEM 11)</b> .....	83
13.5.4	AMENDMENT TO LOCAL GOVERNMENT BOUNDARY - PORTION OF LOT 9001 SEAFORTH AVENUE, GOSNELLS ..	84
13.5.5	REVIEW OF CONTRIBUTION RATES - CANNING VALE OUTLINE DEVELOPMENT PLAN - DEVELOPMENT CONTRIBUTION ARRANGEMENT .....	86
13.5.6	DEVELOPMENT APPLICATION - RETAIL NURSERY - 61 (LOT 252) CLIFFORD STREET, MADDINGTON <b>(ITEM BROUGHT FORWARD – REFER TO ITEM 11)</b> .....	90
13.5.7	DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (1 SHOP UNIT, 2 OFFICE UNITS AND 16	

Item	Report Title	Page No.
	GROUPED DWELLINGS) - 132 (LOT 31) AND 136 (LOT 30) FREMANTLE ROAD, GOSNELLS .....	91
13.5.8	DEVELOPMENT APPLICATION - RETROSPECTIVE COMMERCIAL VEHICLE PARKING AND LANDFILL - 28 (LOT 25) KENWICK ROAD, KENWICK <b>(ITEM BROUGHT FORWARD – REFER TO ITEM 11)</b> .....	98
13.6	GOVERNANCE .....	98
14.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	98
15.	NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING .....	98
16.	URGENT BUSINESS.....	98
17.	CONFIDENTIAL MATTERS.....	98
18.	CLOSURE.....	98



Minutes of the Ordinary Council Meeting held in the Temporary Council Chambers, Former Maddington Football and Sportsmans Club; Canning Park Avenue, Maddington, on Tuesday 10 August 2010.

---

## **1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS/DISCLAIMER**

The Mayor declared the meeting open at 7.38pm and welcomed members of the public present in the public gallery, Councillors and staff.

### **DISCLAIMER**

The Mayor read aloud the following statement:

Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until such time as they have seen a copy of the Minutes of the meeting or have been advised in writing by Council staff.

### **COUNCIL MEETINGS – RECORDING OF**

Notice within the Public Gallery in relation to recordings state:

*Notice is hereby given that all Ordinary Council Meetings are digitally recorded, with the exception of Confidential matters (in accordance with Section 5.23(2) of the Local Government Act 1995) during which time recording will cease.*

*Following documentation of the Minutes and distribution to Elected Members a copy of the digital recording shall be available for purchase by members of the public.*

*Recordings will be available in the following formats at a fee adopted by Council annually:*

- \* Digital recordings CD ROM (complete with FTR Reader) for use on a Personal Computer; or*
- \* Audio recordings CD ROM for use on a CD player or DVD Player.*

*For further information please contact the Governance Administration Officer on 9397 3012.*

I \_\_\_\_\_ (THE PRESIDING MEMBER)  
CERTIFY THAT THESE MINUTES WERE CONFIRMED BY THE COUNCIL OF THE  
CITY OF GOSNELLS ON \_\_\_\_\_.

## 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

### ELECTED MEMBERS

MAYOR  
DEPUTY MAYOR

CR O SEARLE JP  
CR B WIFFEN JP  
CR W BARRETT  
CR J BROWN  
CR T BROWN  
CR C FERNANDEZ  
CR D GRIFFITHS  
CR L GRIFFITHS  
CR R HOFFMAN  
CR S IWANYK  
CR K JONES

### STAFF

CHIEF EXECUTIVE OFFICER  
DIRECTOR COMMUNITY ENGAGEMENT  
DIRECTOR CORPORATE SERVICES  
DIRECTOR GOVERNANCE  
DIRECTOR INFRASTRUCTURE  
ACTING DIRECTOR PLANNING & SUSTAINABILITY  
MANAGER PLANNING IMPLEMENTATION  
MINUTE CLERK

MR I COWIE  
MS A COCHRAN  
MR R BOUWER  
MR T PERKINS  
MR D HARRIS  
MR E BRITS  
MR L GIBSON  
MISS S MACGROTTY

### PUBLIC GALLERY

17

### APOLOGIES

Nil.

### APPROVED LEAVE OF ABSENCE

Cr R Mitchell was granted Leave of Absence from 9 July to 9 September 2010 inclusive vide Resolution 221 of the Ordinary Council Meeting held on 25 May 2010.

## 3. DECLARATIONS OF INTEREST

The Director Corporate Services declared a Direct Financial Interest in item 13.5.5 "Review of Contribution Rates - Canning Vale Outline Development Plan - Development Contribution Arrangement".

**Reason:** Property owner in the Canning Vale Outline Development Plan area.

## 4. ANNOUNCEMENTS BY THE PRESIDING MEMBER (without discussion)

The Mayor circulated to Councillors a list of functions and events she had attended since Tuesday 27 July 2010.

**5. REPORTS OF DELEGATES**  
(without debate)

Nil.

**6. QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS**

A period of fifteen (15) minutes is allocated for questions with a further period of fifteen (15) minutes provided for statements from members of the public. To ensure an equal and fair opportunity is provided to address Council, a period of three (3) minutes per speaker will be allowed.

The person's speaking right is to be exercised prior to any matter which requires a decision to be made at the meeting.

Questions and statements are to be –

- a) Presented in writing on the relevant form to the Chief Executive Officer prior to commencement of the meeting; and
- b) Clear and concise.

**QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS AWAITING RESPONSE**

Nil.

**RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS**

Nil.

**6.1 QUESTION TIME**

Question Time for the Public commenced at **7.41pm**.

- \* Mr Mark Russell of 11 Balfour Street, Huntingdale asked the following questions:

- Q 1 My question is regarding the traffic arresting system planned for Balfour Street, Huntingdale. We need such a system because of the speeding vehicles and frequent hooning down our street. I want to know when this safety system will be completed?

**Response:** The Director Infrastructure advised that in the report before Council tonight it is recommended that Council not support the installation of traffic calming devices in Balfour Street due to the fact that the area of concern has a low average weekday traffic volume of 296 vehicles and an operational speed of 57.2 km/h. The City will however continue to assess the need for treatments at intersections should the relevant Black Spot criteria be met.

- \* Mrs Sandra Baraiolo on behalf of the Bickley Ward Ratepayers Association asked the following question:

Q 1 Has permission been granted for the 40 foot sea container which arrived today at 61 Clifford Street, Maddington at the front of the property in full view?

**Response:** The Acting Director Planning and Sustainability advised that the question would be taken on notice and responded to in writing.

#### Notation

*The Mayor invited Mr Kook Moon Wong, who had submitted a question time form prior to the commencement of the meeting in relation to item 13.5.5 "Review of Contribution Rates - Canning Vale Outline Development Plan - Development Contribution Arrangement", to the microphone, however, he was not present at the meeting. The Mayor advised that the question time form would be forwarded to relevant staff for a written response.*

Question Time for the Public concluded at **7.44pm**.

## **6.2 PUBLIC STATEMENTS**

Public Statement Time for the Public commenced at **7.44pm**.

- \* Mr Kelvin Oliver of 7 Kobus Heights, Roleystone made a public statement in relation to item 13.5.3 "Development Application – Place of Worship – 45 (Lot 15) Mills Road West, Gosnells". Mr Oliver advised that he was speaking on behalf of the applicant and stated that many issues had been addressed through discussions with the SAT and the City's Councillors, and that another submission had been put to Council to address the areas of concern. Mr Oliver further advised that if the application was approved it could be subject to a 4 year time limit, given this information the applicant has agreed to progress with the changes that Council might want. Mr Oliver concluded by stating that it is believed the issues have been addressed and requested that Council support the staff recommendation.

#### Notation

*The Mayor invited Mr Kook Moon Wong, who had submitted a public statement form prior to the commencement of the meeting in relation to item 13.5.5 "Review of Contribution Rates - Canning Vale Outline Development Plan - Development Contribution Arrangement", to the microphone, however, he was not present at the meeting.*



- \* Mr Alan Duross made a public statement in relation to item 13.5.6 “Development Application - Retail Nursery - 61 (Lot 252) Clifford Street, Maddington” speaking against the staff recommendations. Mr Duross expressed his concerns in regards to the approval of the application for a Retail Nursery, advising that at the moment it was a facade for a sheet piling and earthmoving business. Mr Duross made further comment in regards to the ablation facilities and storage containment facilities and concluded by urging Council to think of the surrounding residents when making their decision.
  
- \* Mrs Sandra Baraiolo on behalf of the Bickley Ward Ratepayers Association made a public statement in relation to item 13.5.6 “Development Application - Retail Nursery - 61 (Lot 252) Clifford Street, Maddington” speaking against the staff recommendations. Mrs Baraiolo expressed her concern in regards to the approval of the application for a Retail Nursery and mentioned that several ratepayers had received threats of intimidation over the proposal and that this needed to be investigated. Mrs Baraiolo further advised that the precedent of the application for a wholesale nursery at 3Victoria Road, Kenwick was not relevant as the proposal never eventuated and that there were many concerns regarding the restrooms, storage of products and the effects on the groundwater.
  
- \* Mr Kelvin Oliver of 7 Kobus Heights, Roleystone made a public statement in relation to item 13.5.6 “Development Application - Retail Nursery - 61 (Lot 252) Clifford Street, Maddington”. Mr Oliver advised that he was speaking on behalf of the applicant and advised the Council that the applicant had engaged in the services of a highly qualified environmental consultant, who has submitted a report to Council, addressing all the issues in regards to any possible leachates or contamination of the groundwater. Mr Oliver further advised that the report was accepted by the City’s environmental staff, and any conditions raised, the applicant is prepared to accept. Mr Oliver concluded by stating that the original reasons for refusal had more than adequately been addressed.
  
- \* Ms Maree Walsh of 18 Park Road, Kenwick made a public statement in relation to item 13.5.8 “Development Application - Retrospective Commercial Vehicle Parking and Landfill - 28 (Lot 25) Kenwick Road, Kenwick”. Ms Walsh advised that she was speaking on behalf of Garry Walsh and that the request to have the fill levelled out was not for developmental purposes but to direct excess low lying water to the existing property drains and to the supporting drainage system on Kenwick Road. Ms Walsh further stated that Mr Walsh intends to reticulate the block and the surveying and supportive soil testing would be paid for by Mr Walsh in order to comply with Council concerns and regulations. Ms Walsh concluded by addressing several objections to the proposal.

Public Statement Time for the Public concluded at **8.01pm**.

**7. CONFIRMATION OF MINUTES**

COUNCIL RESOLUTION
--------------------

**340 Moved Cr J Brown Seconded Cr L Griffiths**

That the Minutes of the Ordinary Council Meeting held on 27 July 2010 be confirmed.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

**8. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS**

All petitions are to be handed to the Chief Executive Officer immediately following verbal advice to the meeting.

A copy of all documentation presented by Councillors is located on File and may be viewed subject to provisions of Freedom of Information legislation.

- \* Cr B Wiffen presented a petition initiated by Mr Steve Linton of 156 Corfield Street, Gosnells containing 18 signatures. The petition stated:

*"We the undersigned electors of the City of Gosnells request that the City reconsider its decision to grant permission for a Caltex service station on Corfield Street, Gosnells, for the following reasons;*

*We object to the construction of a Caltex service station on a location that will cause it to be immediately next to residential property, which some bowzers being 20 metres away, much less than the Environmental Protection Authority's recommended boundary to boundary buffer of 200 metres for 24 hour service stations."*

COUNCIL RESOLUTION
--------------------

**341 Moved Cr B Wiffen Seconded Cr D Griffiths**

That the petition be forwarded to the relevant staff for investigation and response to the petition initiator.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

- \* Cr D Griffiths presented a petition initiated by Grethe Gervoe of 81 Mills Road West, Martin containing 113 signatures. The petition stated:

*"We the undersigned electors of the City of Gosnells request that Council not proceed with the application for a Place of Worship at 45 (Lot 15) Mills Road West, Martin, for the following reasons;*

*The full extent of the proposal has not been explained and therefore how can Council or the residents be in a position to comment, based on the information on the applicants website the site of locality may not be suitable."*

COUNCIL RESOLUTION
--------------------

**342 Moved Cr D Griffiths Seconded Cr C Fernandez**

That the petition be forwarded to the relevant staff for investigation and response to the petition initiator.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

**9. APPLICATIONS FOR LEAVE OF ABSENCE**

In accordance with Clause 2.9 of the City of Gosnells Standing Orders Local Law 2003:

- (1) A Member seeking the Council's approval to take leave of absence shall give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in paragraph (1) shall include the period of leave of absence required and the reasons for seeking the leave.

Nil.

**10. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**  
(without discussion)

Nil.

**11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY**

At this point in the meeting the Mayor may bring forward, for the convenience of those in the public gallery, any matters that have been discussed during “Question Time for the Public and the Receiving of Public Statements” or any other matters contained in the Agenda of interest to the public in attendance, in accordance with paragraph (9) of Sub-Clause 2.15.4 of City of Gosnells Standing Orders Local Law.

COUNCIL RESOLUTION
--------------------

**343 Moved Cr L Griffiths Seconded Cr B Wiffen**

That the following items be brought forward to this point of the meeting for the convenience of members in the Public Gallery who have an interest:

- \* Item 13.4.1 Balfour Street Huntingdale - Traffic Calming Request;
- \* Item 13.5.3 Development Application – Place of Worship – 45 (Lot 15) Mills Road West, Gosnells;
- \* Item 13.5.6 Development Application - Retail Nursery - 61 (Lot 252) Clifford Street, Maddington;
- \* Item 13.5.8 Development Application - Retrospective Commercial Vehicle Parking and Landfill - 28 (Lot 25) Kenwick Road, Kenwick.

CARRIED 11/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Nil.*

**13.4.1 BALFOUR STREET HUNTINGDALE - TRAFFIC CALMING REQUEST**

Author: O Pereira  
Author's Declaration of Interest: Nil.  
Previous Ref: OCM 15 June 2010 (Resolution 251)  
Appendix: Nil.

**PURPOSE OF REPORT**

To address a petition presented by Cr R Hoffman at the Ordinary Council Meeting held on 15 June 2010 and Resolution 251, this reads:

*"That the petition be received and a report be prepared."*

**BACKGROUND**

Cr R Hoffman presented a petition initiated by Mrs Diane Gregori of 12 Balfour Street, Huntingdale containing 45 signatures. The petition stated:

*"We the undersigned electors of the City of Gosnells request that traffic calming devices be installed on Balfour Street, Huntingdale and request that the City liaise with the WA Police to implement speed detection campaigns regularly, so that a campaign against speeding drivers is carried out."*

*For the following reasons, we present our case:*

*Too many motorists travel well above the speed limit of 50km/h, especially in the mornings and evenings.*

*Speeding and hooning poses a particular risk to our young children.*

*We want to return Balfour Street to being an ordinary residential street."*

**DISCUSSION**

Infrastructure staff had investigated this section of Balfour Street in response to correspondence received from Chris Tallentire MLA's Office on 4 March 2010, which referred to the concerns raised by Mrs Gregori.

The City also advised the organiser of the petition; Mrs Gregori on 30 June 2010 that a report would be presented to a future Ordinary Council Meeting and that she would be advised of Council's recommendations accordingly.

Balfour Street is classified as a Local Access Road under the City's adopted Road Network Hierarchy and connects with Gay Street to the south and Cardington Way/Shipbourne Way to the north. This section of Balfour Street is approximately 1.9km long and runs parallel with Harpenden Street, which is located approximately 800m to the west.

Traffic classifiers were set up in the section of Balfour Street between Gay Street and Cardington Way/Shipbourne Way, between 8 and 23 March 2010, and the results of the traffic survey are as follows.

*Item 13.4.1 Continued*

The average weekday traffic volume in Balfour Street is 296 vehicles, which includes an average of 8 or 2.3% of heavy goods vehicles per weekday. The posted speed limit in Balfour Street is 50km/h, and the 85<sup>th</sup> percentile speed or operational speed is 57.2km/h.

Crash statistics obtained from Main Roads WA show that in the five-year period from 1 January 2005 to 31 December 2009, two mid-block crashes were reported in the whole length of Balfour Street from Gay Street to Cardington Way / Shipbourne Way, not including crashes at intersections.

**Staff Comment**

With regards to speeding vehicles and “hoon” behaviour in general, these anti-social practices are a continual problem for the State Government, which is responsible for the Road Traffic Code and “hoon” legislation. There are a relatively small percentage of inconsiderate drivers who are oblivious to the effects of their irresponsible behaviour on local neighbourhoods and these dangerous driving practices should be reported to the local Police, preferably with licence plate details so that enforcement of the Road Traffic Code can occur.

The City receives a large amount of correspondence each year from concerned residents regarding speeding vehicles and “hoon” behaviour on roads. These concerns are all investigated by City staff, whereby recommendations are made and certain actions taken. The investigations involve conducting a traffic survey on the street concerned and then comparing the results to similar streets of the same classification to determine if any unusually high speeds, traffic volumes or crash patterns are evident.

The results of the majority of traffic surveys undertaken show that speeding is the biggest problem, with the operating speed usually found to be higher than the posted speed for that particular street. This is best dealt with by a higher profile Police presence, which has proven to be a successful deterrent on other similar roads and is a direct, comparatively cheap and specific response to the problem, which only affects those causing the problem.

The alternative to a Police presence is an engineering solution. This option is expensive, indiscriminate (in that it affects all road users and not just those creating the problem) and does not specifically target the problem action. If the City was to treat all instances of speeding traffic with calming devices the local road network would become inefficient and practically impenetrable to emergency vehicles, buses and commercial transport.

Additionally, an engineering solution undertaken by Local Government would create a cost shift from State to Local Government. That is the Police can avoid enforcing breaches of the Road Traffic Code (which is their responsibility) and Local Government incurs the cost of expensive, untargeted engineering solutions.

*Item 13.4.1 Continued*

Over the years, the City of Gosnells has worked in conjunction with the Western Australian Police, by providing accurate statistical information so that effective speed detection campaigns can be organised to modify driver behaviour and reduce the speeding that occurs on the City roads. The information supplied to the Police includes a breakdown of vehicle speed and direction and the time of day where the highest percentage of speeding occurs, as collected by the traffic classifier. This information assists the Police when planning their speed detection campaign for the most appropriate time and day when most speeding offences occur. Balfour Street has already been added to the list of roads to be targeted by the Police; however the City does not have any authority over the Police as to when the speed limit on any road within the City will be enforced.

**Conclusion**

As detailed above, the traffic survey conducted in Balfour Street did not identify any large traffic volumes or an atypical high operational speed, as the average weekday traffic volume in this section of Balfour Street is 296 vehicles, which is below the maximum desirable volume for this class of road of 3,000 vehicles per day. The operational speed is 57.2km/h, which although higher than the posted speed limit of 50km/h, is typical of the recorded speeds on many other similarly classified roads throughout the City.

When the traffic data is compared to other similar streets within the City of Gosnells, there is no overwhelming evidence that would warrant remedial action at this stage. Additionally, the two crashes that occurred in Balfour Street in the past five-year period, is also atypical, as the crashes are below the national average for a Local Access Road. As such, traffic calming devices are not recommended to be installed in Balfour Street at this present time. However, Balfour Street and all the streets intersecting with it will be monitored for Black Spot funding for treatments to be installed, such as median islands or roundabouts, should the relevant Black Spot criteria be met.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

*Land Administration Act 1997* requirements relating to the dedication of roads.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.4.1 Continued

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION

**344 Moved Cr D Griffiths Seconded Cr C Fernandez**

That Council not support the installation of traffic calming devices in Balfour Street, and that Balfour Street be monitored on a regular basis to determine the necessity for future treatments.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION

**345 Moved Cr D Griffiths Seconded Cr C Fernandez**

That Council support Balfour Street's inclusion on the list of City roads to be targeted for speed enforcement and the list to be sent to the WA Police Service so that the Police can conduct Multanova and speed detection campaigns.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION

**346 Moved Cr D Griffiths Seconded Cr C Fernandez**

That the petition initiator, Mrs Diane Gregori of 12 Balfour Street, Huntingdale, be informed of Council's decision.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.



**13.5.3 DEVELOPMENT APPLICATION – PLACE OF WORSHIP – 45 (LOT 15) MILLS ROAD WEST, GOSNELLS**

Author: J Baister  
Author's Declaration of Interest: Nil.  
Reference: 206719  
Application No: DA10/00012  
Applicant: Dave Hawchar  
Owner: Muslim Charity Community of WA  
Location: 45 (Lot 15) Mills Road West, Gosnells  
Zoning: MRS: Urban  
TPS No. 6: Residential R17.5  
Review Rights: The proposal is currently subject to review by the State Administrative Tribunal.  
Area: 6,751 m<sup>2</sup>  
Previous Ref: OCM 27 April 2010 (Resolution 164)  
Appendix: 13.5.3A Site Plan

**PURPOSE OF REPORT**

For Council to reconsider an application for planning approval for a Place of Worship at 45 (Lot 15) Mills Road West, Gosnells, at the request of the State Administrative Tribunal (SAT).

**BACKGROUND**

On 27 April 2010 Council refused (Resolution 164) an application for planning approval for a Place of Worship on the subject property. Council refused the application on the grounds that the proposal conflicted with the requirement that an Outline Development Plan (ODP) be prepared for the area. Council advised that the proposal is not considered to be suitable unless it is in keeping with an adopted ODP.

An application to review Council's decision was subsequently lodged with the SAT. A Directions Hearing was held on 9 June 2010 and Mediation was held on 25 June 2010. Following an onsite meeting and further Mediation, the SAT ordered that:

1. *The applicant is to provide additional information to the respondent by Friday, 9 July 2010.*
2. *Pursuant to s 31 of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider the reviewable decision at its meeting of 10 August 2010.*
3. *The matter is listed for mediation at 10.00am on Wednesday, 18 August 2010.*

The applicant has now provided additional information to the City, allowing Council to reconsider its previous decision in accordance with 2 above.

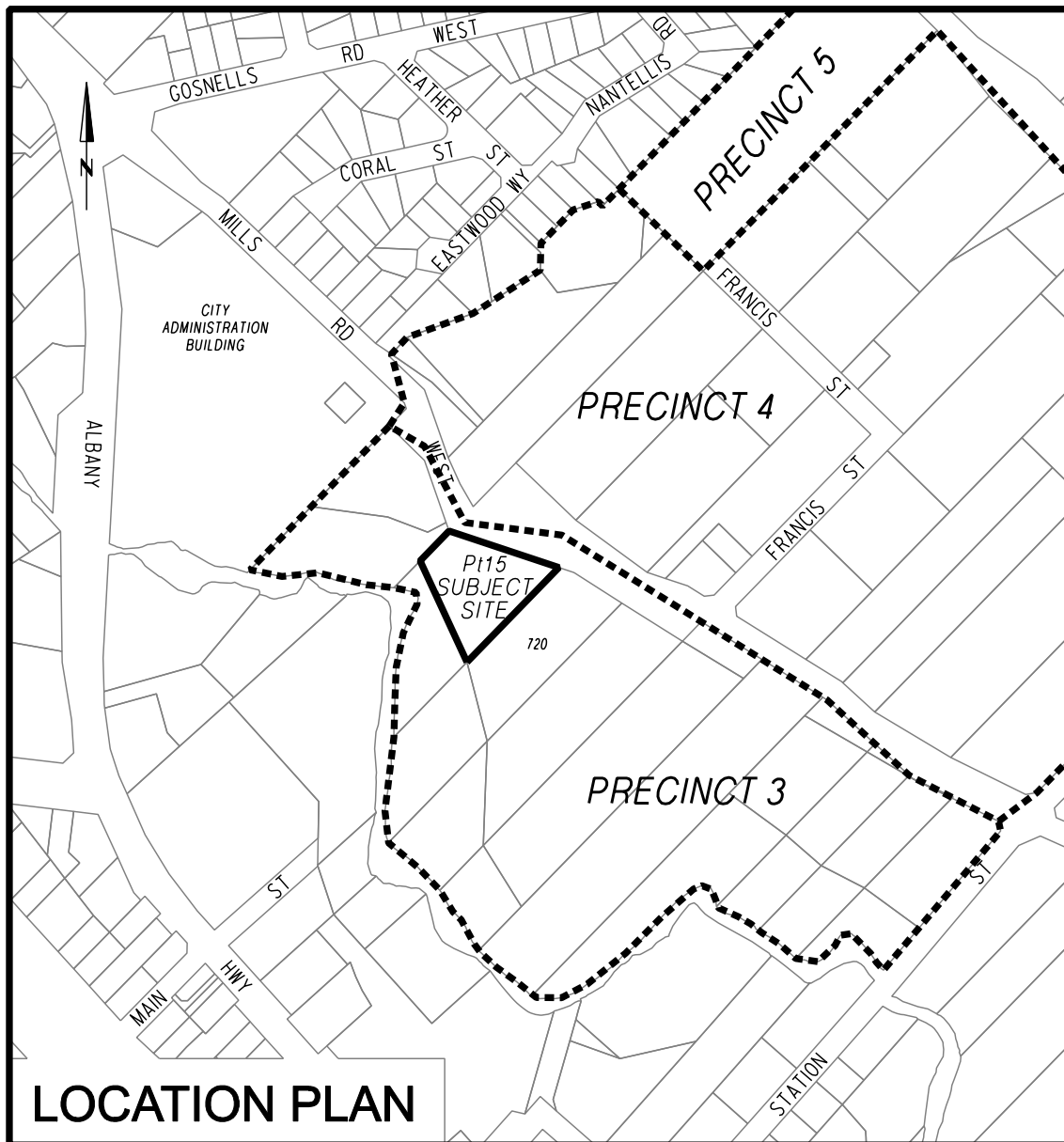
Item 13.5.3 Continued

**Site Description**

The property contains a single dwelling and an outbuilding used to store equipment associated with the maintenance of the property. Mature landscaping is situated along the south-east (side) and north-east (front) boundaries, and the Canning River is within close proximity to the south-west (rear) boundary.

The site is located within the West Martin Precinct 3 area, which requires and Outline Development Plan (ODP) to guide subdivision and development. There is currently no ODP for the Precinct 3 area.

A plan showing the location of the property follows.



Item 13.5.3 Continued

**Proposal**

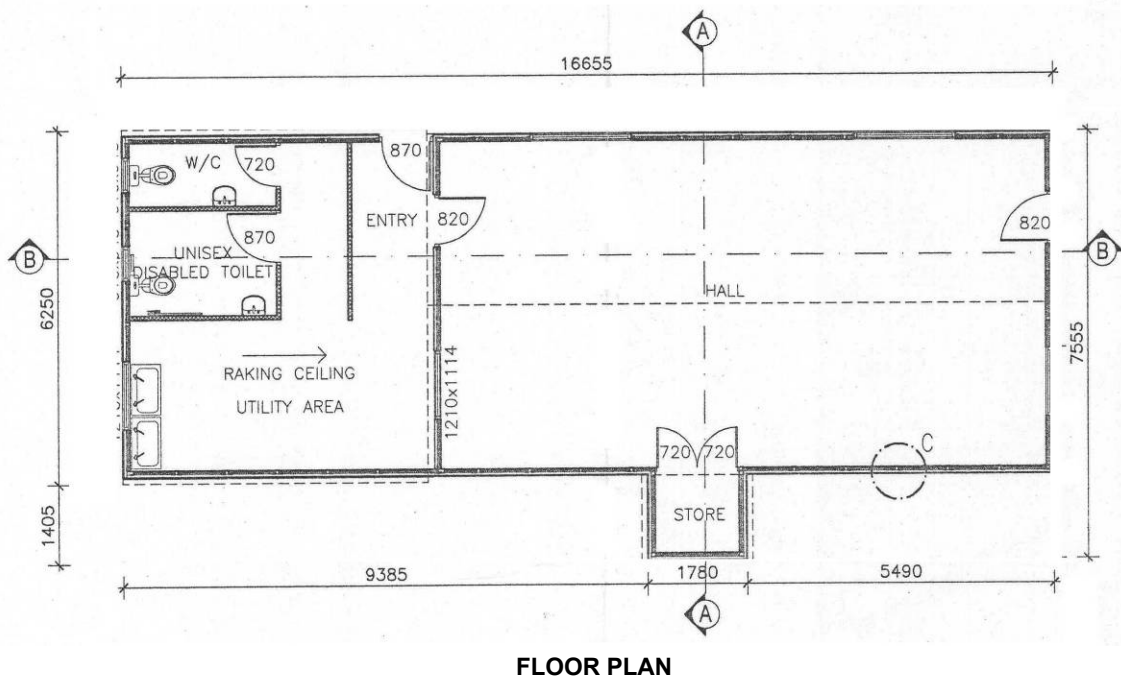
The original application involved:

- Conversion of an existing 60m<sup>2</sup> outbuilding, for use as a prayer and meeting area, and an extension to the outbuilding of 40m<sup>2</sup> to provide an ablutions area.
- A sealed parking area containing 15 parking bays and one disabled bay to be constructed in the eastern portion of the site adjacent to Mills Road West.
- Retention and continued use of the existing single dwelling for that purpose.

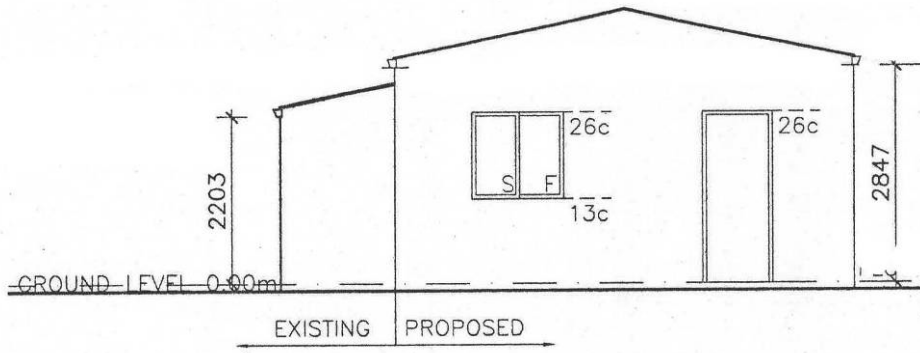
The Place of Worship use is proposed to include:

- Friday prayers between 1pm and 2pm for a maximum of 40 people. The participants would arrive prior to the start time and stay for the duration of the session.
- Fortnightly committee meetings associated with the religious group on Saturdays between 7pm and 9pm with eight people in attendance.

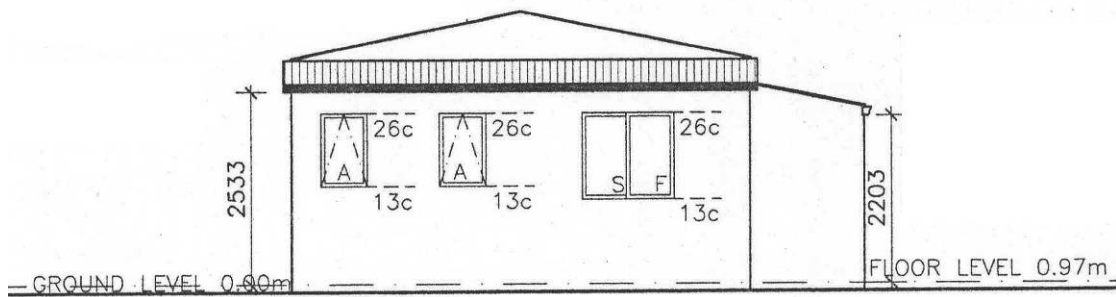
An internal floor plan and elevations of the proposal are shown below with a site plan contained as Appendix 13.5.3A.



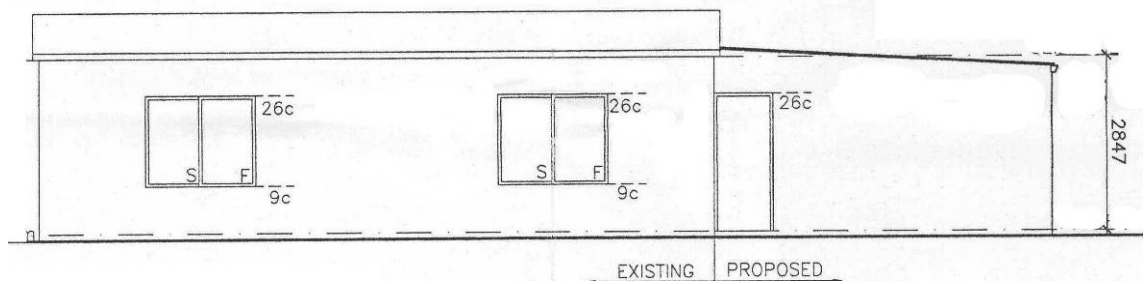
Item 13.5.3 Continued



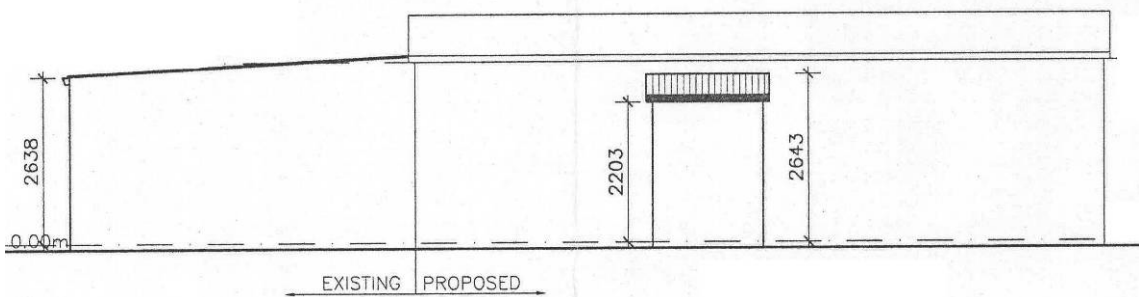
**EAST ELEVATION**



**WEST ELEVATION**



**NORTH ELEVATION**

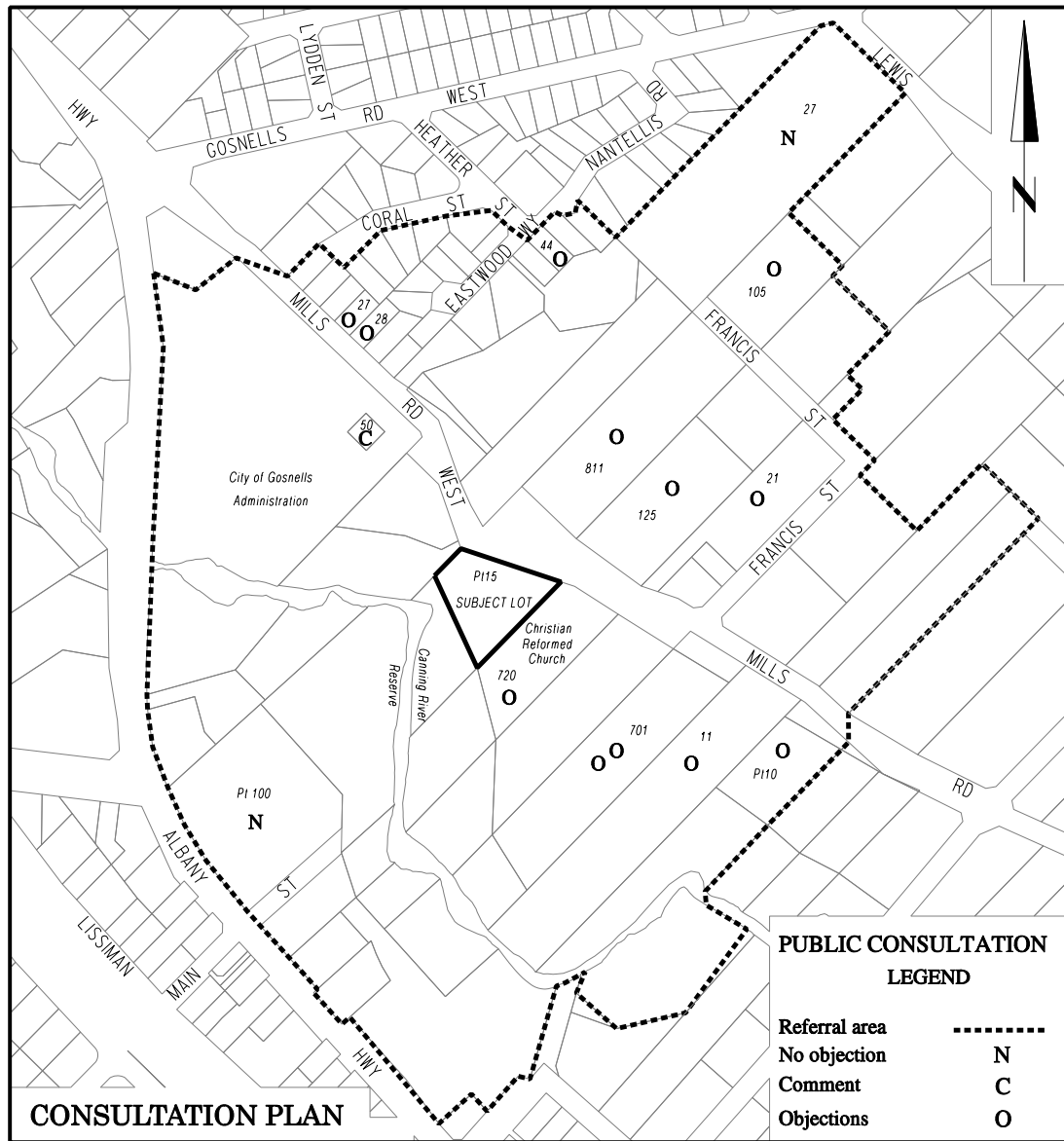


**SOUTH ELEVATION**

Item 13.5.3 Continued

**Previous Consultation**

As part of the original assessment, the application was advertised for public comment for 14 days in accordance with TPS 6 requirements. During this time 15 submissions were received, 12 objecting to the proposal, two raising no-objection and one which provided comment. A map identifying the location of each submission follows.



The main issues raised by the objectors related to the potential impacts on the amenity of the area, however the Council did not take this point up when it resolved to refuse the proposal. The application was subsequently refused on the grounds that the proposal conflicted with the requirement that an ODP be prepared for the area.

Item 13.5.3 Continued

## DISCUSSION

### Invitation to Council to Reconsider its Decision

The SAT has invited Council to reconsider the application in the context of the additional information submitted by the applicant. The options available to Council are as follows:

- To not accept the SAT's invitation to reconsider the matter.
- To accept the SAT's invitation and affirm the previous decision to refuse the application.
- To accept the SAT's invitation and set aside Council's previous decision and substitute a new decision.

### Amended Application

The amended application proposes to limit the use of the site as a Place of Worship to four years, after which time, the use would cease, unless the approval is extended by the Council.

In amending the application, the applicant has also agreed to the following:

- The provision of a solid path to be constructed between the car parking area and the prayer room.
- The cladding of the front façade of the Place of Worship building with timber panelling so as to be more in keeping with the existing residence.
- The provision of a \$2,000 landscaping bond to the City.

Additional matters were raised during mediation which have been addressed through the submission of a feature survey and a concept for potential future development of the site.

The proposal has been assessed against TPS 6 parking requirements and the details are summarised in the table below:

Use Class	Car Parking Standards (Scheme Requirements)	Car Parking Required (Scheme Requirements)	Car Bays Provided
Place of Assembly or Worship	1 space for 4 seats, or	N/A	N/A
	1 space for every 4 persons the facility is designed to accommodate, or	The facility is designed to accommodate a maximum of 40 patrons, therefore 10 bays are required.	
	1 space for every 2.5m <sup>2</sup> seating area, whichever is greater	The floor area designated for assembly or worship is approximately 60m <sup>2</sup> , therefore 24 bays are required.	
TOTAL	The greater requirement is for 1 space for every 2.5m <sup>2</sup> seating area.	24 bays are required by the Scheme	A total of 15 standard bays and 1 disabled bay are proposed.

*Item 13.5.3 Continued*

The parking proposed for the site is eight bays short of the requirement specified in TPS 6. Should Council resolve to approve the application a condition has been added requiring the provision of 24 sealed parking bays on the site.

**Local Planning Policy LPP 3.2 – Outline Development Plan Requirements**

The application was refused on the grounds that the area requires an ODP and that the proposed development could prejudice the future planning for the precinct. As detailed above, the applicant has agreed to a temporary planning approval, valid for four years, after which time the use is to either cease, unless the approval is extended at the discretion of Council.

From a planning view point, the proposed time limitation is considered to render the proposal consistent with Local Planning Policy LPP 3.2 insofar as the temporary nature of the development would not present a long-term constraint to the ultimate urbanisation of the area.

**CONCLUSION**

The amended proposal is supported because the four-year time limitation ensures the temporary nature of the development so as to not prejudice the preparation of a future ODP.

It will therefore be recommended that Council revoke its previous decision (refusal) relating to this application and grant approval to the amended application.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- City of Gosnells Town Planning Scheme No. 6 Clauses 7.1, 7.2, 10.4 and 11.2 and Table No. 3A.
- Local Planning Policy 3.2 – Outline Development Plan Requirements.

**VOTING REQUIREMENTS**

- Staff Recommendation 1 for Revocation of Resolution: Absolute Majority required (requires the support of one third (4) of the Offices of Members of Council for the matter to be considered).
- Simple Majority required for Staff Recommendation 2, and 3.

Item 13.5.3 Continued

STAFF RECOMMENDATION (1 OF 3)
-------------------------------

**Moved Cr L Griffiths Seconded Cr C Fernandez, Cr S Iwanyk and Cr T Brown**

That Council revoke Resolution 164 of the Ordinary Council Meeting held on 27 April 2010, which reads:

*“That Council refuses the application for a ‘Place of Worship’ at 45 (Lot 15) Mills Road West, Gosnells, as proposed in the application dated 5 January 2010 on the grounds that;*

- 1. The proposal conflicts with the Council’s requirement (under Town Planning Scheme 6) that an Outline Development Plan be prepared for the area.*
- 2. The proposal is an “A” land use (which requires the Council to exercise its discretion) and in this case the proposal is not considered to be suitable unless it is in keeping with an adopted Outline Development Plan.”*

Foreshadowed Motion to Staff Recommendation (1 of 3)

*During debate Cr D Griffiths foreshadowed that he would move the following motion:*

*“That Council accept the SAT’s invitation and affirm the previous decision to refuse the application.”*

*if the motion under debate was defeated, providing the following written reason:*

*“That the proposal will conflict with the ODP and it could be deemed prejudice and could affect the amenity of the area.”*

*At the conclusion of debate the Mayor put staff recommendation (1 of 3), which reads:*



Item 13.5.3 Continued

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION

**347 Moved Cr L Griffiths Seconded Cr C Fernandez, Cr S Iwanyk and Cr T Brown**

That Council revoke Resolution 164 of the Ordinary Council Meeting held on 27 April 2010, which reads:

*“That Council refuses the application for a ‘Place of Worship’ at 45 (Lot 15) Mills Road West, Gosnells, as proposed in the application dated 5 January 2010 on the grounds that;*

1. *The proposal conflicts with the Council’s requirement (under Town Planning Scheme 6) that an Outline Development Plan be prepared for the area.*
2. *The proposal is an “A” land use (which requires the Council to exercise its discretion) and in this case the proposal is not considered to be suitable unless it is in keeping with an adopted Outline Development Plan.”*

CARRIED BY ABSOLUTE MAJORITY 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

Notation

*As Council adopted staff recommendation (1 of 3) the foreshadowed motion from Cr D Griffiths was not proceeded with.*

STAFF RECOMMENDATION (2 OF 3)

**Moved Cr C Fernandez Seconded Cr J Brown**

That Council approve the application for a Place of Worship at 45 (Lot 15) Mills Road West, Gosnells, dated 5 January 2010 (including amended plans received 17 March 2010 and further information received 7 July 2010) subject to the following conditions:

1. This approval is valid for four years only, after which time the land shall not be used for the purpose approved unless a new application for planning approval has been submitted and approved.
2. A pedestrian pathway of 1.6m in width, is to be constructed linking the carparking area to the Place of Worship, to the satisfaction of the City.
3. A landscaping plan for the development (incorporating mature screening) is to be submitted in accordance with Council’s Local Planning Policy 4.5 – Development Landscaping and approved

*Item 13.5.3 Continued*

- by the Manager Parks and Environmental Operations prior to the issue of a building licence.
4. Landscaping of the site frontage (screening) is to be installed prior to occupation of the proposed development in accordance with the approved landscaping plan to the satisfaction of the Manager Parks and Environmental Operations.
  5. The application is approved for Friday prayers between 1pm and 2pm for a maximum of 40 people and for fortnightly committee meetings on Saturdays between 7pm and 9pm for a maximum of eight people.
  6. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.
  7. The submission of a drainage plan, to the satisfaction of the Manager Technical Services, indicating the manner by which stormwater from the proposed building and paved areas (including the carpark) is to be drained.
  8. An approved Aerobic Treatment Unit for on-site effluent disposal is to be installed to the satisfaction of the Manager Health Services, the Health Department of WA and the Swan River Trust for the existing residence and the proposed Place of Worship.
  9. All existing septic tanks are to be decommissioned and all components removed to the satisfaction of the Manager Health Services.
  10. Prior to the issue of a Building Licence:
    - i) A site assessment shall be undertaken on the advice of the Department of Environment and Conservation, to determine whether acid sulphate soils are present on the land, and if present, their extent and severity.
    - ii) If the site is found to contain acid sulphate soils, an acid sulphate soils management plan shall be submitted to and approved by, the Department of Environment and Conservation.
    - iii) All development shall be carried out in accordance with the provisions of the approved management plan.
  11. A minimum of 24 carparking bays are to be provided, prior to the occupation of the building, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.

*Item 13.5.3 Continued*

12. Plans showing a gabled roof to the extension, exterior cladding to the building and a schedule of external finishes and colour schemes are to be submitted prior to the issue of Building Licence to the satisfaction of the Manager Planning Implementation.
13. No earthworks shall encroach onto the Mills Road West reservation.
14. No stormwater drainage shall be discharged onto the Mills Road West reservation.
15. The applicant shall make good any damage to the existing verge vegetation within the Mills Road West reservation.
16. The existing crossovers onto Mills Road West shall be rationalised, such that one driveway will be permitted to service the existing residence, and the remaining crossover shall be removed and the verge reinstated at the applicant's cost. The driveway for the residence shall be 4.5 metres in width, at right angles to the carriageway. The driveway crossover shall conform to City of Gosnells standards for residential driveways.
17. One two-way driveway shall be permitted onto Mills Road West to service the proposed carpark, which should be designed to the City of Gosnells standard for commercial driveways supported by a Traffic Management Safety Plan and approved by the Manager Technical Services prior to installation.
18. The existing ground levels on the Mills Road West boundary are to be left unchanged.

First Amendment to Staff Recommendation (2 of 3)

*During debate Cr R Hoffman moved the following amendment to staff recommendation (2 of 3):*

*"That staff recommendation (2 of 3) be amended by;*

1. *Inserting the word "temporary" prior to the words "Place of Worship" where they appear in the first line of the recommendation; and*
2. *Including additional conditions 19 and 20 which read;*
  19. *The approval relates only to the use of the outbuilding as a "Place of Worship".*
  20. *The use must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997."*

*Item 13.5.3 Continued*

*Cr R Hoffman provided the following written reason for the proposed amendment:*

*“To clarify the extent of the approval.”*

*Cr S Iwanyk Seconded Cr R Hoffman’s proposed amendment.*

*At the conclusion of debate the Mayor put Cr R Hoffman’s proposed amendment, which reads:*

**Moved Cr R Hoffman Seconded Cr S Iwanyk**

That staff recommendation (2 of 3) be amended by

1. Inserting the word “temporary” prior to the words “Place of Worship” where they appear in the first line of the recommendation; and
2. Including additional conditions 19 and 20 which read;
  - “19. The approval relates only to the use of the outbuilding as a “Place of Worship”.
  20. The use must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997;”

with the amended recommendation to read:

“That Council approve the application for a temporary Place of Worship at 45 (Lot 15) Mills Road West, Gosnells, dated 5 January 2010 (including amended plans received 17 March 2010 and further information received 7 July 2010) subject to the following conditions:

1. This approval is valid for four years only, after which time the land shall not be used for the purpose approved unless a new application for planning approval has been submitted and approved.
2. A pedestrian pathway of 1.6m in width, is to be constructed linking the carparking area to the Place of Worship, to the satisfaction of the City.
3. A landscaping plan for the development (incorporating mature screening) is to be submitted in accordance with Council’s Local Planning Policy 4.5 – Development Landscaping and approved by the Manager Parks and Environmental Operations prior to the issue of a building licence.
4. Landscaping of the site frontage (screening) is to be installed prior to occupation of the proposed development in accordance with the approved landscaping plan to the

*Item 13.5.3 Continued*

- satisfaction of the Manager Parks and Environmental Operations.
5. The application is approved for Friday prayers between 1pm and 2pm for a maximum of 40 people and for fortnightly committee meetings on Saturdays between 7pm and 9pm for a maximum of eight people.
  6. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.
  7. The submission of a drainage plan, to the satisfaction of the Manager Technical Services, indicating the manner by which stormwater from the proposed building and paved areas (including the carpark) is to be drained.
  8. An approved Aerobic Treatment Unit for on-site effluent disposal is to be installed to the satisfaction of the Manager Health Services, the Health Department of WA and the Swan River Trust for the existing residence and the proposed Place of Worship.
  9. All existing septic tanks are to be decommissioned and all components removed to the satisfaction of the Manager Health Services.
  10. Prior to the issue of a Building Licence:
    - i) A site assessment shall be undertaken on the advice of the Department of Environment and Conservation, to determine whether acid sulphate soils are present on the land, and if present, their extent and severity.
    - ii) If the site is found to contain acid sulphate soils, an acid sulphate soils management plan shall be submitted to and approved by, the Department of Environment and Conservation.
    - iii) All development shall be carried out in accordance with the provisions of the approved management plan.
  11. A minimum of 24 carparking bays are to be provided, prior to the occupation of the building, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
  12. Plans showing a gabled roof to the extension, exterior cladding to the building and a schedule of external finishes and colour schemes are to be submitted prior to

*Item 13.5.3 Continued*

the issue of Building Licence to the satisfaction of the Manager Planning Implementation.

13. No earthworks shall encroach onto the Mills Road West reservation.
14. No stormwater drainage shall be discharged onto the Mills Road West reservation.
15. The applicant shall make good any damage to the existing verge vegetation within the Mills Road West reservation.
16. The existing crossovers onto Mills Road West shall be rationalised, such that one driveway will be permitted to service the existing residence, and the remaining crossover shall be removed and the verge reinstated at the applicant's cost. The driveway for the residence shall be 4.5 metres in width, at right angles to the carriageway. The driveway crossover shall conform to City of Gosnells standards for residential driveways.
17. One two-way driveway shall be permitted onto Mills Road West to service the proposed carpark, which should be designed to the City of Gosnells standard for commercial driveways supported by a Traffic Management Safety Plan and approved by the Manager Technical Services prior to installation.
18. The existing ground levels on the Mills Road West boundary are to be left unchanged.
19. The approval relates only to the use of the outbuilding as a "Place of Worship".
20. The use must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997.

CARRIED 11/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Nil.*

*Item 13.5.3 Continued*

Second Amendment to Staff Recommendation (2 of 3)

*During debate Cr S Iwanyk moved the following amendment to 'Condition 1' of staff recommendation (2 of 3):*

*"That 'Condition 1' of the staff recommendation (2 of 3) be amended by inserting the following words after the word "approval" where it appears in the first line"*

*"applies for the outbuilding at 45 (Lot 15) Mills Road West, Gosnells and".*

*Cr S Iwanyk provided the following written reason for the proposed amendment:*

*"To clarify the building is to be used for Worship".*

*Cr D Griffiths Seconded Cr S Iwanyk's proposed amendment.*

Notation

*Following further discussion the Mover and Seconder chose to withdraw the proposed amendment.*

*The Mayor then put the substantive motion, which Cr R Hoffman previously proposed, which reads;*

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---------------------------------------------

**348 Moved Cr R Hoffman Seconded Cr S Iwanyk**

That Council approve the application for a temporary Place of Worship at 45 (Lot 15) Mills Road West, Gosnells, dated 5 January 2010 (including amended plans received 17 March 2010 and further information received 7 July 2010) subject to the following conditions:

1. This approval is valid for four years only, after which time the land shall not be used for the purpose approved unless a new application for planning approval has been submitted and approved.
2. A pedestrian pathway of 1.6m in width, is to be constructed linking the carparking area to the Place of Worship, to the satisfaction of the City.
3. A landscaping plan for the development (incorporating mature screening) is to be submitted in accordance with Council's Local Planning Policy 4.5 – Development Landscaping and approved by the Manager Parks and Environmental Operations prior to the issue of a building licence.

*Item 13.5.3 Continued*

4. Landscaping of the site frontage (screening) is to be installed prior to occupation of the proposed development in accordance with the approved landscaping plan to the satisfaction of the Manager Parks and Environmental Operations.
5. The application is approved for Friday prayers between 1pm and 2pm for a maximum of 40 people and for fortnightly committee meetings on Saturdays between 7pm and 9pm for a maximum of eight people.
6. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.
7. The submission of a drainage plan, to the satisfaction of the Manager Technical Services, indicating the manner by which stormwater from the proposed building and paved areas (including the carpark) is to be drained.
8. An approved Aerobic Treatment Unit for on-site effluent disposal is to be installed to the satisfaction of the Manager Health Services, the Health Department of WA and the Swan River Trust for the existing residence and the proposed Place of Worship.
9. All existing septic tanks are to be decommissioned and all components removed to the satisfaction of the Manager Health Services.
10. Prior to the issue of a Building Licence:
  - i) A site assessment shall be undertaken on the advice of the Department of Environment and Conservation, to determine whether acid sulphate soils are present on the land, and if present, their extent and severity.
  - ii) If the site is found to contain acid sulphate soils, an acid sulphate soils management plan shall be submitted to and approved by, the Department of Environment and Conservation.
  - iii) All development shall be carried out in accordance with the provisions of the approved management plan.
11. A minimum of 24 carparking bays are to be provided, prior to the occupation of the building, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
12. Plans showing a gabled roof to the extension, exterior cladding to the building and a schedule of external finishes and colour



*Item 13.5.3 Continued*

schemes are to be submitted prior to the issue of Building Licence to the satisfaction of the Manager Planning Implementation.

13. No earthworks shall encroach onto the Mills Road West reservation.
14. No stormwater drainage shall be discharged onto the Mills Road West reservation.
15. The applicant shall make good any damage to the existing verge vegetation within the Mills Road West reservation.
16. The existing crossovers onto Mills Road West shall be rationalised, such that one driveway will be permitted to service the existing residence, and the remaining crossover shall be removed and the verge reinstated at the applicant's cost. The driveway for the residence shall be 4.5 metres in width, at right angles to the carriageway. The driveway crossover shall conform to City of Gosnells standards for residential driveways.
17. One two-way driveway shall be permitted onto Mills Road West to service the proposed carpark, which should be designed to the City of Gosnells standard for commercial driveways supported by a Traffic Management Safety Plan and approved by the Manager Technical Services prior to installation.
18. The existing ground levels on the Mills Road West boundary are to be left unchanged.
19. The approval relates only to the use of the outbuilding as a "Place of Worship".
20. The use must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997.

CARRIED 10/1

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Cr D Griffiths.*

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION
------------------------------------------------------

**349 Moved Cr R Hoffman Seconded Cr D Griffiths**

That the applicant be requested to liaise with the City regarding the separate requirement for other approvals and certification including, but not limited to the Public Building Regulations.

CARRIED 11/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Nil.*

**13.5.6 DEVELOPMENT APPLICATION - RETAIL NURSERY - 61 (LOT 252)  
CLIFFORD STREET, MADDINGTON**

Author: L Langford  
Author's Declaration of Interest: Nil.  
Reference: 227640  
Application No: DA09/00162  
Applicant: Kelvin Oliver Planning Consultant  
Owner: Alvin, Ghim Chuan Teh, Yok Hoe Teh and Ewe Huat Teh  
Location: 61 (Lot 252) Clifford Street, Maddington  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: The proposal is currently subject to review by the State Administrative Tribunal.  
Area: 4.19ha  
Previous Ref: OCM 23 March 2010 (Resolution 116)  
Appendix: Nil.

**PURPOSE OF REPORT**

For Council to reconsider an application for planning approval for a Retail Nursery at 61 (Lot 252) Clifford Street, Maddington, at the invitation of the State Administrative Tribunal (SAT).

**BACKGROUND****Site History**

In September 2008 a complaint was received that the property was being used for the storage of sand and landscaping materials, and the parking of commercial vehicles. After protracted negotiations with the owners, an application for a retail nursery was lodged.

On 23 March 2010, Council refused (Resolution 116) the application for planning approval. Council refused the application on the grounds that it would give rise to an unreasonable level of traffic on Clifford Street and that the proposed activities could potentially adversely impact on the ground water.

An application to review Council's decision was subsequently lodged with the SAT. A Directions Hearing was held on 5 July 2010 where the SAT ordered that:

1. *Pursuant to rule 15 of the State Administrative Rules 2004, the applicant has leave to amend the proposed development for Lot 252 Clifford Street, Maddington, to that shown on the plan dated 30 June 2010.*
2. *If the applicant wishes to provide to the respondent submissions on traffic and drainage additional to that already provided it must do so prior to 8 July 2010.*

*Item 13.5.6 Continued*

3. *Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision at its meeting on 10 August 2010 having regard to the amended plan for the proposed development and the submissions made by the applicant in respect of the management of drainage for the site and traffic and the use of Clifford Street.*
4. *The matter is adjourned to a further directions hearing at 2pm Friday, 13 August 2010.*

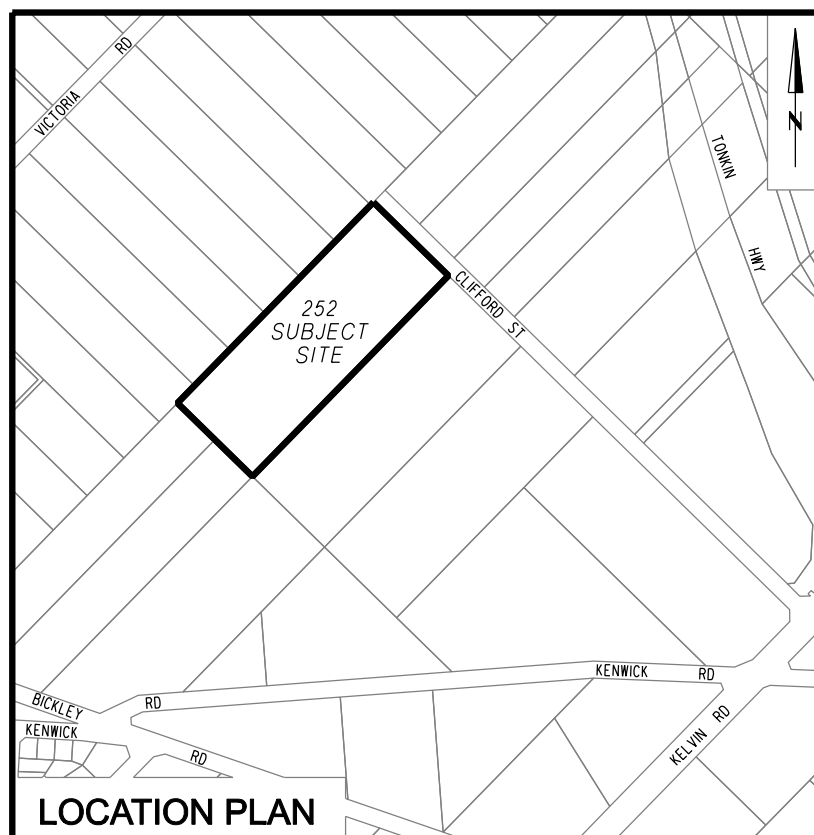
In accordance with 1 and 2 above, the applicant has provided an amended site plan and additional information to the City, to facilitate Council's reconsideration in accordance with 3 above.

**Site Description and Planning Framework**

The subject property is 4.19ha in area, and contains an existing dwelling. The property is zoned General Rural under Town Planning Scheme No. 6 (TPS 6), Rural under the Metropolitan Region Scheme (MRS) and is located within Precinct 1 of the proposed Maddington Kenwick Strategic Employment Area (MKSEA). The property is surrounded by rural lots and is within a poultry farm buffer. A Wholesale Nursery was approved by Council at 3 (Lot 8) Victoria Road, Kenwick which is approximately 500m west of the subject site.

There is a groundwater dependent Threatened Ecological Community (TEC) listed for protection by state and federal governments located in very close proximity to the site.

A map identifying the location of the property follows.



*Item 13.5.6 Continued*

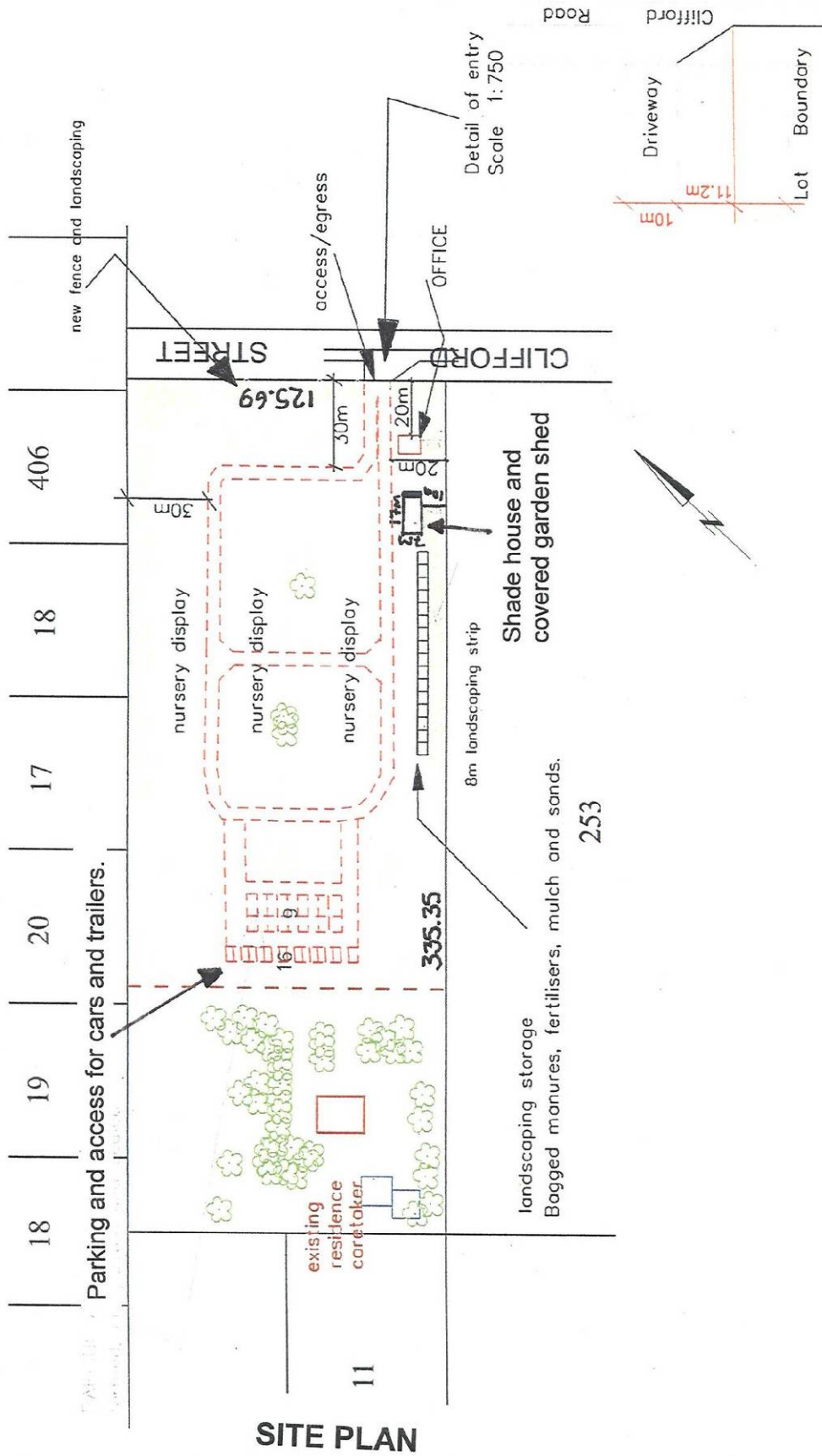
## **Proposal**

The original application involved the following:

- The retail sale of bagged fertilisers, manures, sand and mulch which were to be placed onto hardstand bases with steel and/or masonry retaining walls. The storage bin areas were proposed to be 2m wide by 2m long and 1m high.
- The construction of an internal vehicle and pedestrian access road, together with a parking area containing 25 bays. The access ways were proposed to be 5m wide and be formed, compacted and sealed.
- An outdoor nursery display area located within the internal vehicle access road. This area was proposed to be used to display plants, seedlings, trees and garden ornaments.
- The construction of a shadehouse to be 17m in length, 7m in width and 2.4m high, be constructed of steel tubing or similar and covered in mesh to hold shade cloth. In addition to the outdoor nursery display area, the shadehouse was proposed to be used for keeping seedlings, pot plants, ornaments, herbicides, pots and items which generally need protection from the elements.
- An office, to provide shelter for the salesperson, which was proposed to house a small desk and ancillary items for taking payments, phone calls, orders and the receipting of sales. The structure was proposed to be 3m by 3m and 2.4m high.
- The retention of the existing house and garden shed on the site, to be used as a residence/caretaker facility.
- The construction of secure front fencing with an entry statement and new access driveway (10m wide) which was proposed to be formed, compacted and sealed.
- The use of a 1-2 tonne tray-top utility vehicle for deliveries occurring twice a day.
- The removal of existing piles of sand that are being stored on the site.

The originally proposed site plan follows.

Item 13.5.6 Continued

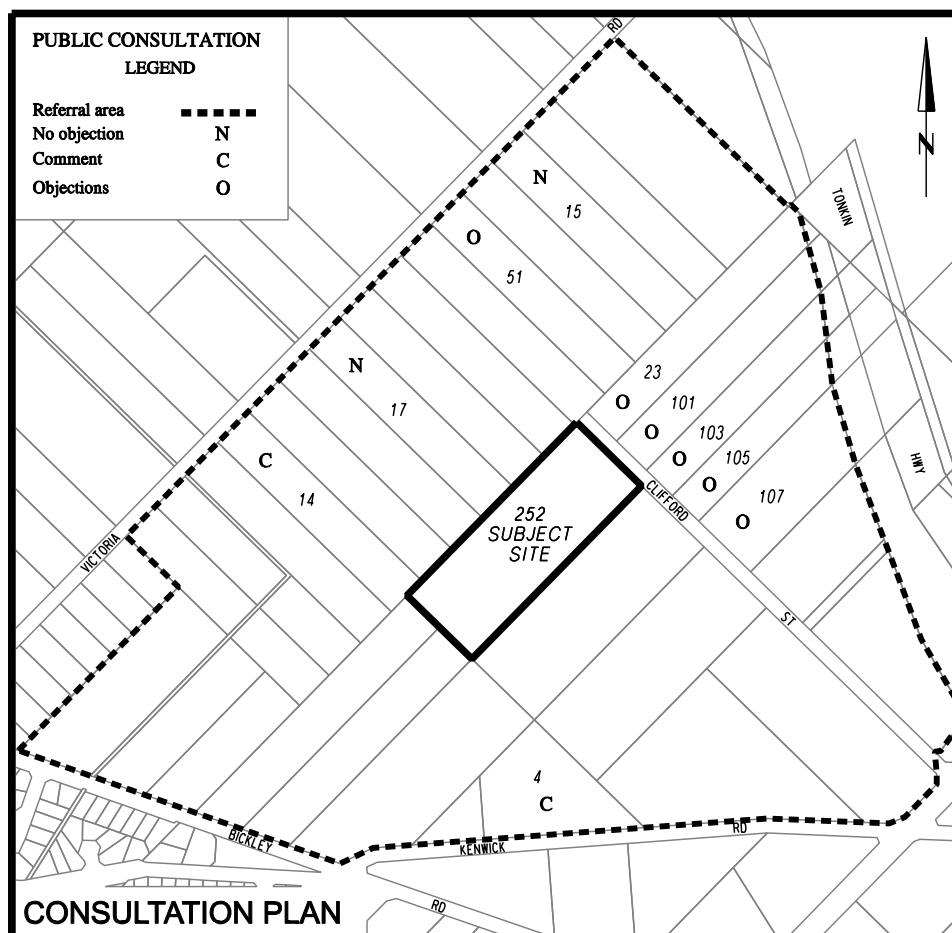


**SITE PLAN**

Item 13.5.6 Continued

## Previous Consultation

As part of the original assessment, the application was advertised for public comment for 14 days in accordance with TPS 6 requirements. During this time 10 submissions were received, comprising six objections and four raising no objection/commenting on the application. A map identifying the location of each submission follows.



A summary of the submissions and comments thereon is contained within the report presented to Council on 23 March 2010.

The main issues raised in the public submissions were as follows:

- The standard of Clifford Street being insufficient to accommodate additional traffic associated with the proposal.
- The future planning for the MKSEA area.
- Impact on the amenity of the area.
- Environmental impacts.
- Fire safety.

In summary, it was determined that no adverse amenity impacts and fire safety issues were likely to occur, and that the application would not impact on the future planning for the MKSEA area. The application however was refused on the basis that it would give

*Item 13.5.6 Continued*

rise to an unreasonable level of traffic on Clifford Street, and that the proposed activities could potentially impact on the underlying ground water resource.

**DISCUSSION****Invitation to Council to Reconsider its Decision**

The SAT has invited Council to consider the application in the context of the additional information submitted by the applicant. The options available to Council are:

- To not accept the SAT's invitation to reconsider the matter.
- To accept the SAT's invitation and affirm the previous decision to refuse the application.
- To accept the SAT's invitation, set aside the previous decision and substitute a new decision.

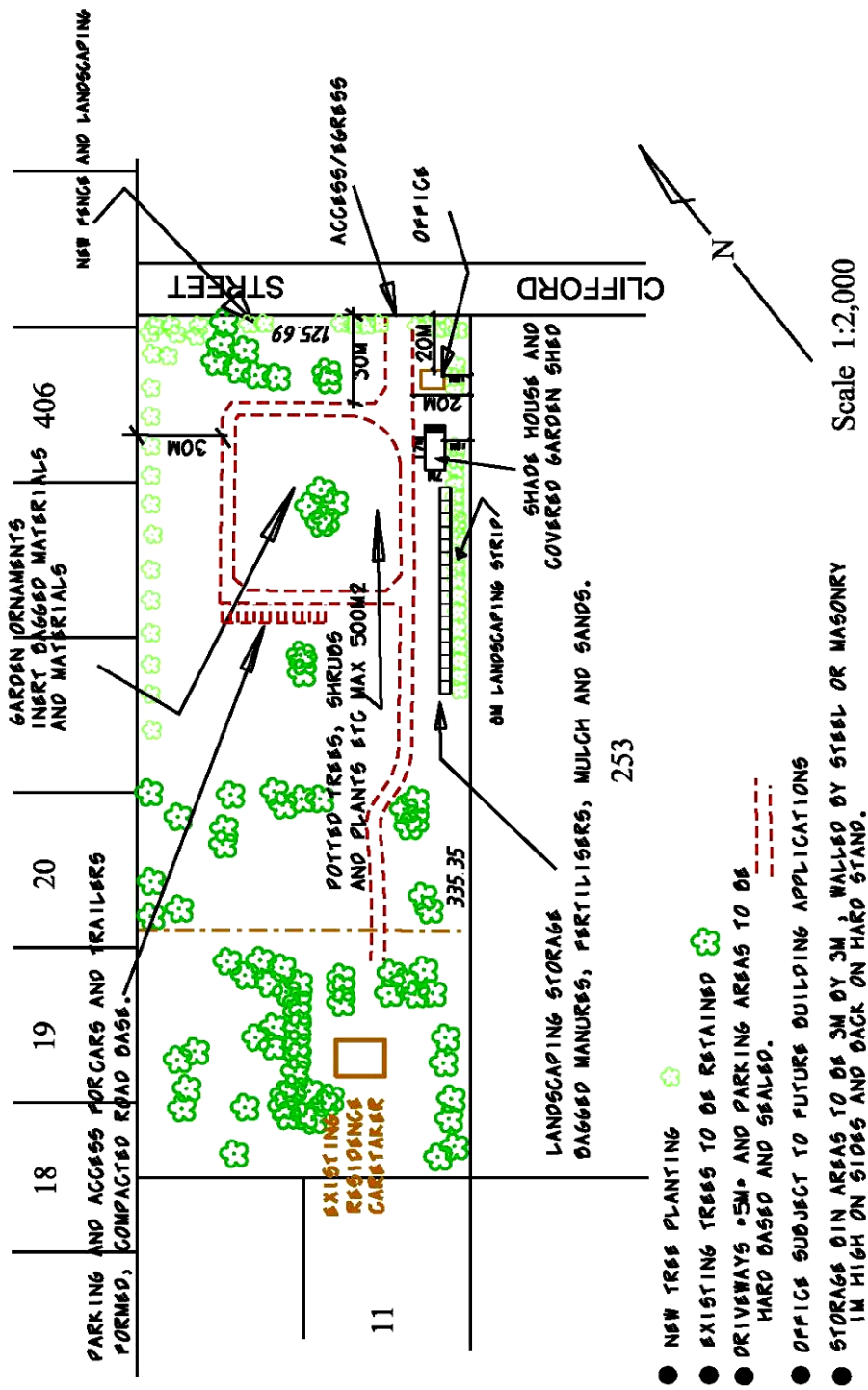
**Amended Application**

The following changes have been made to the application:

- The reduction of the outdoor display area to a maximum of 500m<sup>2</sup> (from approximately 1,000m<sup>2</sup>) and the redesign of the internal vehicle and pedestrian access roads so as to be limited to the front half of the property.
- The proposed parking area has been reduced to 13 bays.
- Deliveries of materials to the site are proposed to be limited to three times per week.
- A risk assessment of the relationship with the groundwater resource has been provided.

An amended site plan follows.

Item 13.5.6 Continued



AMENDED SITE PLAN

- NEW TREE PLANTING
- EXISTING TREES TO BE RETAINED
- DRIVEWAYS, EM AND PARKING AREAS TO BE HARD BASED AND SEALED.
- OFFICE SUBJECT TO FUTURE BUILDING APPLICATIONS
- STORAGE BIN AREAS TO BE 3M BY 3M, WALLED BY STEEL OR MASONRY 1M HIGH ON SIDES AND BACK ON HARD STAND.



*Item 13.5.6 Continued*

### **Traffic**

One of Council's reasons for refusing the original application was that it would give rise to an unreasonable level of traffic on Clifford Street. In response, the proponent has reduced the scale of the proposed Retail Nursery by reducing the display area from approximately 1,000m<sup>2</sup> to 500m<sup>2</sup>, the carparking from 25 bays to 13 bays and deliveries to the site from 14 per week to three per week.

The reduction in the display area and customer carparking will not necessarily have a significant effect on the number of vehicle movements to and from the proposed business. However, the reduction in the number of deliveries to the site is considered to satisfactorily address Council's concerns regarding traffic impact on Clifford Street.

### **Ground Water Resource**

To address matters relating to the potential impact on the ground water resource, the applicant has undertaken a Risk Assessment as a precursor to a Drainage and Nutrient Management Plan. The key environmental issues identified by the Risk Assessment are ground water and surface water contamination associated with ecologically sensitive receiving environments. It highlights the Resource Enhancement Wetland approximately 170m west and downstream of the site as the primary environmental asset requiring consideration in the context of the proposal. It also identified potential issues relating to all aspects of the nursery's operations, including matters which will need to be addressed as part of a future Drainage and Nutrient Management Plan. Should the Drainage and Nutrient Management Plan adequately address such matters to the City's satisfaction, the proposed land use will be compatible with the surrounding environment.

Should Council resolve to approve the amended application a condition has been added requiring the provision of a Drainage and Nutrient Management Plan prior to any development occurring on the site.

### **CONCLUSION**

The amended proposal is supported as it is considered to satisfactorily address Council's previous concerns relating to traffic and ground water.

It is therefore recommended that Council revoke its previous decision (refusal) relating to this application and grant approval to the amended application.

### **FINANCIAL IMPLICATIONS**

Nil.

### **STATUTORY IMPLICATIONS**

City of Gosnells Town Planning Scheme No. 6 – Clause 11.2 – Matters to be Considered by Local Government.

*Item 13.5.6 Continued*

## **VOTING REQUIREMENTS**

- Staff Recommendation 1 for Revocation of Resolution: Absolute Majority required (requires the support of one third (4) of the Offices of Members of Council for the matter to be considered).
- Simple majority required for Staff Recommendation 2.

STAFF RECOMMENDATION (1 OF 2)
-------------------------------

### **Moved Cr R Hoffman Seconded Cr B Wiffen, Cr S Iwanyk and Cr L Griffiths**

That Council revoke Resolution 116 of the Ordinary Council Meeting held on 23 March 2010, which reads:

*“That Council refuse the proposed nursery at 61 (Lot 252) Clifford Street, Maddington dated 17 April 2009, on the grounds that the proposal;*

1. *Would give rise to an unreasonable level of traffic on the local road, and*
2. *Includes proposed activities which could potentially impact on the underlying ground water resource.”*

### Foreshadowed Motion

*During debate Cr T Brown foreshadowed that he would move the following motion:*

*“That Council does not accept the SAT’s invitation to reconsider this matter and that Resolution 116 of the Ordinary Council Meeting held on 23 March 2010 remain.”*

*if the motion under debate was defeated, providing the following written reasons:*

*“The ground water dependent, Threatened Ecological Community (TEC) would be polluted by water run off and contaminated by fertilisers and pesticides etc.*

*The very narrow road issues, to the property have not been addressed.*

*There are no ablution facilities provided.*

*It could interfere with the future changes under the Maddington Kenwick Strategic Employment Area.”*

### Notation

*The Mayor advised Cr T Brown, having debated the matter for 5 minutes; in accordance with Clause 3.3.11 of the City of Gosnells Standing Orders 2003 his time to speak had expired.*

Item 13.5.6 Continued

COUNCIL RESOLUTION

**350 Moved Cr B Wiffen Seconded Cr C Fernandez**

That Cr T Brown be granted an extension of a further 5 minutes to speak on the matter.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

*At the conclusion of debate the Mayor put staff recommendation (1 of 2), which read:*

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION

**351 Moved Cr R Hoffman Seconded Cr B Wiffen, Cr S Iwanyk and Cr L Griffiths**

That Council revoke Resolution 116 of the Ordinary Council Meeting held on 23 March 2010, which reads:

*“That Council refuse the proposed nursery at 61 (Lot 252) Clifford Street, Maddington dated 17 April 2009, on the grounds that the proposal;*

- 1. Would give rise to an unreasonable level of traffic on the local road, and*
- 2. Includes proposed activities which could potentially impact on the underlying ground water resource.”*

CARRIED 8/3

**FOR:** Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk and Cr O Searle.

**AGAINST:** Cr T Brown, Cr K Jones and Cr B Wiffen.

Notation

*As Council adopted staff recommendation (1 of 2) the foreshadowed motion from Cr T Brown was not proceeded with.*

STAFF RECOMMENDATION (2 OF 2)

**Moved Cr R Hoffman Seconded Cr D Griffiths**

That Council approve the application for a Retail Nursery at 61 (Lot 252) Clifford Street, Maddington, dated 17 April 2009 (including amended plans and further information received 7 July 2010) subject to the following conditions:

*Item 13.5.6 Continued*

1. All waste and rubbish produced on-site is to be disposed of to facilities provided for that purpose. No wind-blown waste or rubbish shall leave the development site.
2. Selling or storage of bulk animal manures, sewage sludge or other offensive matter as classified under the Health Act 1911 is not permitted, unless fully packaged and sealed offsite.
3. Selling or storage of landscaping materials such as sand, soil, gravel, pebbles or other materials that may create a dust nuisance is not permitted unless the materials are fully packaged and sealed offsite.
4. The applicant preparing and implementing a Drainage and Nutrient Management Plan to the satisfaction of the City prior to the commencement of the approved use.
5. A minimum of 13 carparking bays are to be provided as indicated on the plan, prior to the commencement of the development, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
6. Works associated with setting up the Retail Nursery are only permitted between 7am to 7pm from Monday to Saturday, and excluding public holidays.
7. A landscaping plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's development landscape policy and approved by the City prior to the issue of a building licence.
8. Landscaping and reticulation of the development site and adjoining road verges is to be installed and thereafter maintained prior to occupying the proposed development in accordance with the approved landscaping plan to the satisfaction of the City.
10. Deliveries to the site are to be limited to three per week.

Amendment to Staff Recommendation (2 of 2)

*During debate Cr S Iwanyk moved the following amendment to 'Condition 6' of staff recommendation (2 of 2):*

*"That 'Condition 6' of staff recommendation (2 of 2) be amended by inserting the following words after the words "public holidays."*

*"That the hours of operation of the Retail Nursery after setting up is completed are to be from 8am to 6pm weekdays and 9am to 5pm Saturday, Sunday and public holidays."*

*Item 13.5.6 Continued*

*Cr S Iwanyk provided the following written reason for the proposed amendment:*

*“For clarification of the operating hours”.*

*Cr L Griffiths Seconded Cr S Iwanyk’s proposed amendment.*

*At the conclusion of debate the Mayor put Cr S Iwanyk’s proposed amendment, which reads:*

**Moved Cr S Iwanyk Seconded Cr L Griffiths**

That ‘Condition 6’ of staff recommendation (2 of 2) be amended by inserting the following words after the words “public holidays.”

“That the hours of operation of the Retail Nursery after setting up is completed are to be from 8am to 6pm weekdays and 9am to 5pm Saturday, Sunday and public holidays;”

with the amended recommendation to read:

“That Council approve the application for a Retail Nursery at 61 (Lot 252) Clifford Street, Maddington, dated 17 April 2009 (including amended plans and further information received 7 July 2010) subject to the following conditions:

1. All waste and rubbish produced on-site is to be disposed of to facilities provided for that purpose. No wind-blown waste or rubbish shall leave the development site.
2. Selling or storage of bulk animal manures, sewage sludge or other offensive matter as classified under the Health Act 1911 is not permitted, unless fully packaged and sealed offsite.
3. Selling or storage of landscaping materials such as sand, soil, gravel, pebbles or other materials that may create a dust nuisance is not permitted unless the materials are fully packaged and sealed offsite.
4. The applicant preparing and implementing a Drainage and Nutrient Management Plan to the satisfaction of the City prior to the commencement of the approved use.
5. A minimum of 13 carparking bays are to be provided as indicated on the plan, prior to the commencement of the development, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City’s standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
6. Works associated with setting up the Retail Nursery are only permitted between 7am to 7pm from Monday to

*Item 13.5.6 Continued*

Saturday, and excluding public holidays. That the hours of operation of the Retail Nursery after setting up is completed are to be from 8am to 6pm weekdays and 9am to 5pm Saturday, Sunday and public holidays

7. A landscaping plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's development landscape policy and approved by the City prior to the issue of a building licence.
8. Landscaping and reticulation of the development site and adjoining road verges is to be installed and thereafter maintained prior to occupying the proposed development in accordance with the approved landscaping plan to the satisfaction of the City.
10. Deliveries to the site are to be limited to three per week.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

*The amendment was put and carried with the amendment becoming the substantive motion. The Mayor then put the substantive motion, which reads:*

COUNCIL RESOLUTION
--------------------

**352 Moved Cr S Iwanyk Seconded Cr L Griffiths**

That Council approve the application for a Retail Nursery at 61 (Lot 252) Clifford Street, Maddington, dated 17 April 2009 (including amended plans and further information received 7 July 2010) subject to the following conditions:

1. All waste and rubbish produced on-site is to be disposed of to facilities provided for that purpose. No wind-blown waste or rubbish shall leave the development site.
2. Selling or storage of bulk animal manures, sewage sludge or other offensive matter as classified under the Health Act 1911 is not permitted, unless fully packaged and sealed offsite.
3. Selling or storage of landscaping materials such as sand, soil, gravel, pebbles or other materials that may create a dust nuisance is not permitted unless the materials are fully packaged and sealed offsite.
4. The applicant preparing and implementing a Drainage and Nutrient Management Plan to the satisfaction of the City prior to the commencement of the approved use.

*Item 13.5.6 Continued*

5. A minimum of 13 carparking bays are to be provided as indicated on the plan, prior to the commencement of the development, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
6. Works associated with setting up the Retail Nursery are only permitted between 7am to 7pm from Monday to Saturday, and excluding public holidays. That the hours of operation of the Retail Nursery after setting up is completed are to be from 8am to 6pm weekdays and 9am to 5pm Saturday, Sunday and public holidays
7. A landscaping plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's development landscape policy and approved by the City prior to the issue of a building licence.
8. Landscaping and reticulation of the development site and adjoining road verges is to be installed and thereafter maintained prior to occupying the proposed development in accordance with the approved landscaping plan to the satisfaction of the City.
10. Deliveries to the site are to be limited to three per week.

CARRIED 10/1

**FOR:** *Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Cr T Brown.*

**13.5.8 DEVELOPMENT APPLICATION - RETROSPECTIVE COMMERCIAL VEHICLE PARKING AND LANDFILL - 28 (LOT 25) KENWICK ROAD, KENWICK**

Author: C Windass  
Author's Declaration Nil.  
of Interest:  
Reference: 224838  
Application No: DA08/02638  
Applicant: Gary Walsh  
Owner: Gary Walsh  
Location: 28 (Lot 25) Kenwick Road, Kenwick  
Zoning: MRS: Urban  
TPS No. 6: Residential R17.5  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 4,047m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: 13.5.8A Schedule of Submissions

**PURPOSE OF REPORT**

For Council to consider an application for retrospective planning approval for commercial vehicle parking and landfill at 28 (Lot 25) Kenwick Road, Kenwick. The commercial vehicle parking component of the application cannot be determined under delegated authority due to objections received during advertising.

**BACKGROUND****History**

In April 2008, a complaint was lodged with the City regarding dust associated with landfill that was placed on the subject site. Inspection by City staff also identified that a commercial vehicle was being parked on the site. The owner of the subject property was requested to either remove the landfill and the commercial vehicle or to submit a development application for retrospective approval of both matters.

In May 2008, the owner submitted an application for retrospective approval for the commercial vehicle parking and the landfill.

In June 2009, the commercial vehicle parking application was advertised for 14 days for public comment. Under normal circumstances, the proposal would have been presented to Council soon after advertising. However, the landfill component of the application was deficient and required additional information to be submitted for assessment purposes.

Following a site meeting and numerous written requests, the applicant has not submitted all the required information to the City's satisfaction.

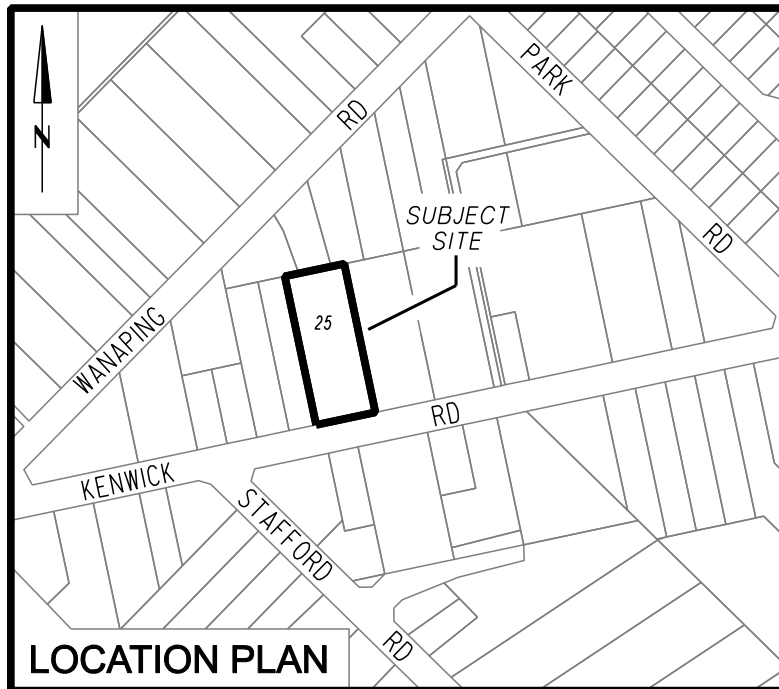


Item 13.5.8 Continued

### Site Description

The subject site is occupied by a single residence and several outbuildings used to store equipment of a domestic nature. The surrounding area is comprised of predominantly low density residential lots.

A map identifying the location of the subject lot follows.



### Proposal

The landfill component of the application must be determined as part of the commercial vehicle parking application as both of these uses were applied for on the same application.

The commercial vehicle parking component of the application includes the following:

- One prime mover and trailer to be parked on site.
- Two designated hardstand areas for parking have been proposed; one located to the rear of the property to accommodate parking in summer, and one located on the driveway towards the front of the property to accommodate parking in winter.
- The commercial vehicle is to be used as a mobile home and to transport a racing car.
- Frequency of use of the commercial vehicle is approximately twice a month when racing events are held.
- The commercial vehicle is to be driven by the resident of the property between the hours of 8.30am - 6.30pm.

*Item 13.5.8 Continued*

- Maintenance of the commercial vehicle is to be conducted off-site.

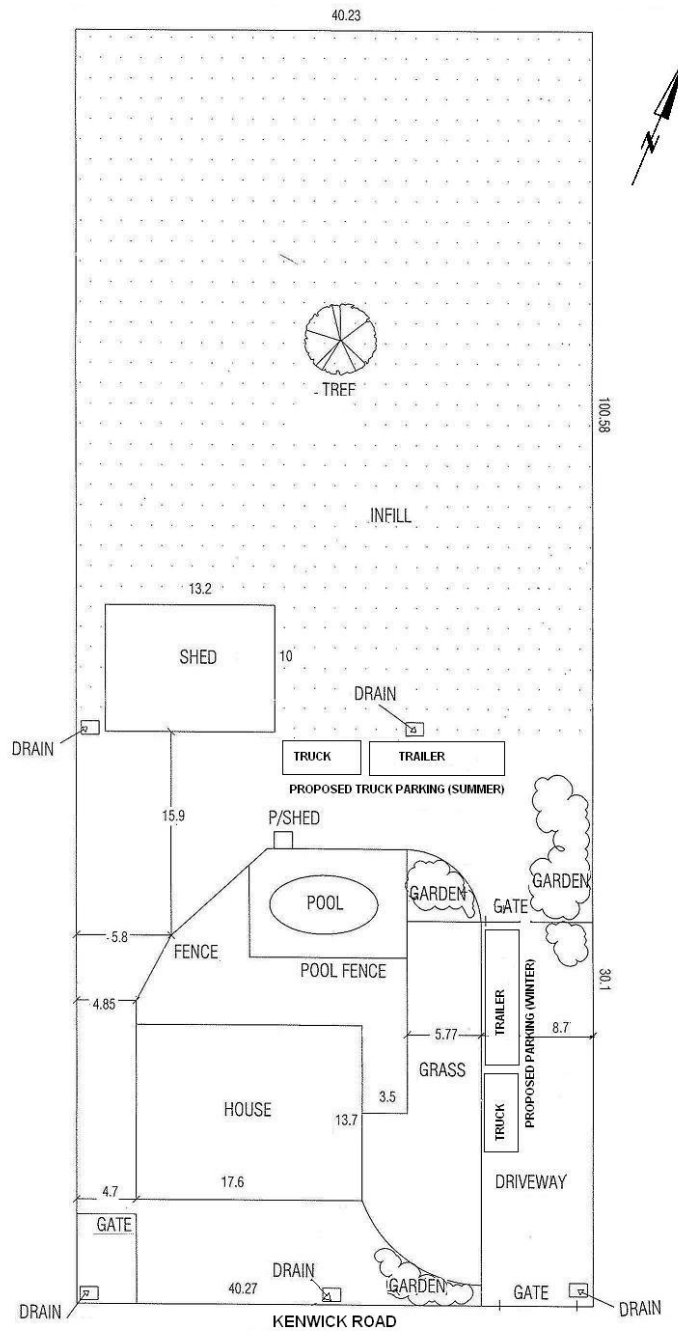
The details of the commercial vehicle are provided below:

	<b>Prime Mover</b>
Make	Ford LNT 9000
Type	Louisville
Year	1979
Length	5m
Height	4m
Licence No.	1BEZ-663

	<b>Trailer</b>
Make	Freighter
Type	Race Trailer
Year	1971
Length	14m
Height	4m
Licence No.	1TEP-888

A site plan showing designated parking areas follows.

Item 13.5.8 Continued



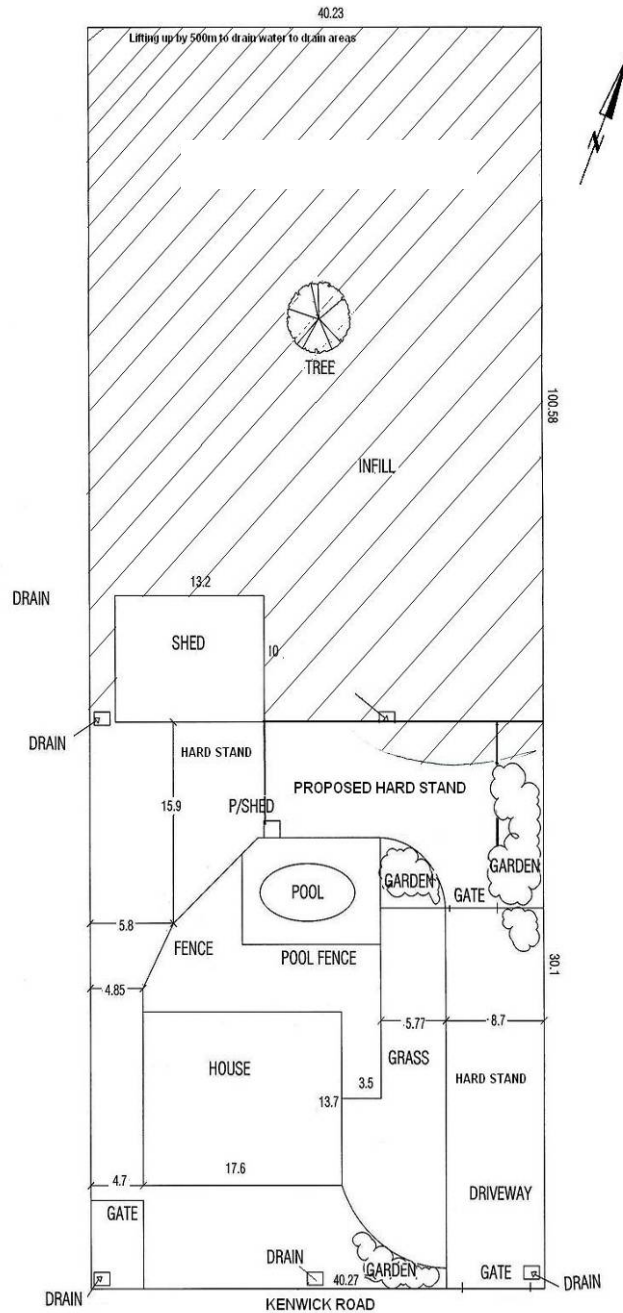
**SITE PLAN FOR TRUCK PARKING**

Item 13.5.8 Continued

The landfill component of the application includes the following:

- Approximately 40% of the rear of the property has been filled to a depth of approximately 0.5 metres.
- The fill has not been retained in any form but has been battered towards the property boundaries.

A site plan showing the approximate area of landfill is shown below:



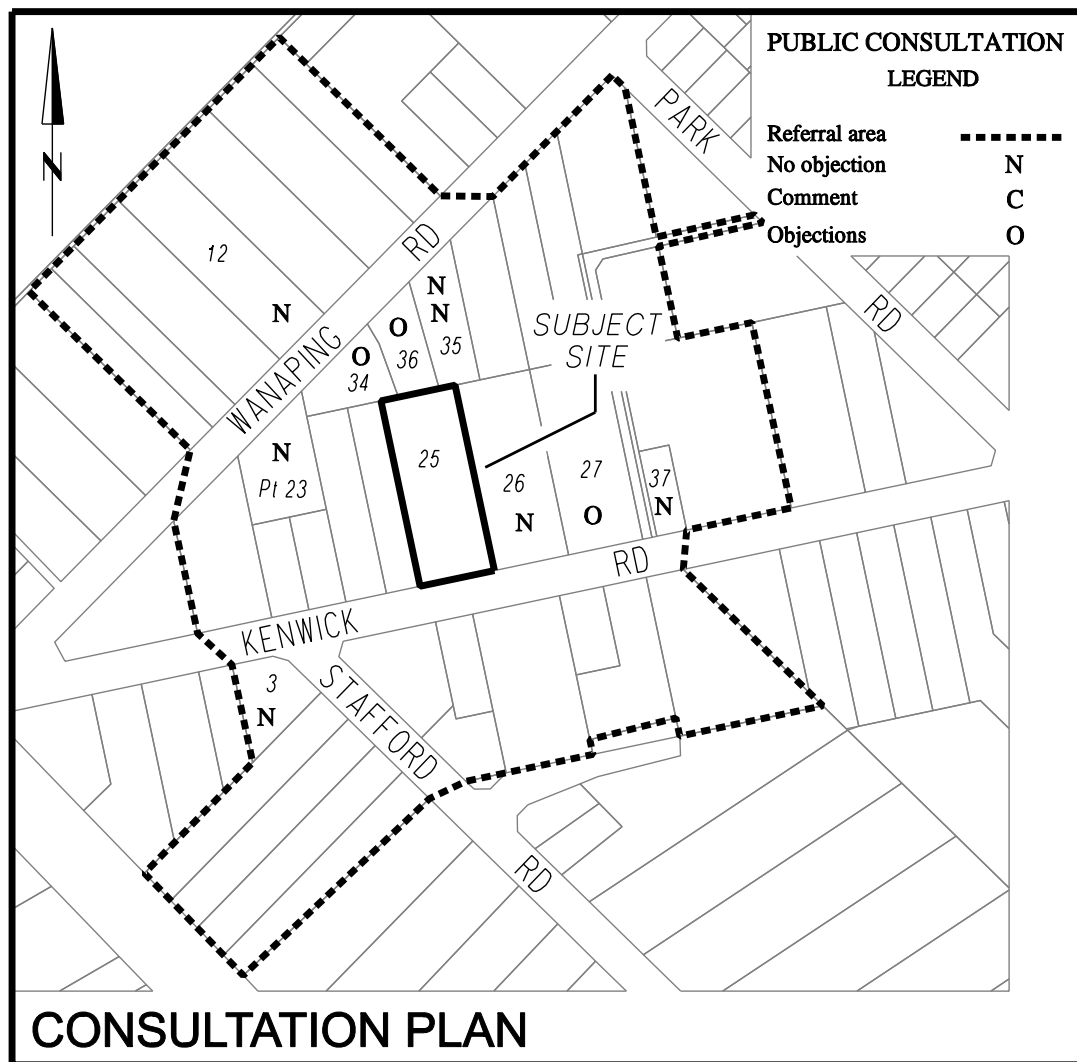
**SITE PLAN FOR LANDFILL**

Item 13.5.8 Continued

**Public Consultation**

The application was advertised for public comment for 14 days in accordance with Town Planning Scheme No. 6 (TPS 6). During this time ten submissions were received, three objecting to the proposal and seven raising no objections. It should be noted that two of the objections were raised by one submitter who owns two properties (Lot 34 and 36) adjacent to the subject site. It should also be noted that the non-objectors from Lot 35 are related to the applicant. A summary of all submissions received and comments thereon is contained as Appendix 13.5.8A.

A map identifying the location of each submission follows.



**DISCUSSION**

The proposal involves two distinct aspects (commercial vehicle parking and landfill) which will be considered separately as follows.

Item 13.5.8 Continued

## Commercial Vehicle Parking

### Town Planning Scheme No. 6

Under the Zoning Table of TPS 6, commercial vehicle parking in the Residential zone is classed as a “D” use, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

TPS 6 requires Council to consider:

- The preservation of the amenity of the locality.
- The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.
- The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

### Local Planning Policy No. LPP 2.1 – Commercial Vehicle Parking Policy

Council’s Commercial Vehicle Parking Policy provides assessment criteria to determine whether an application for commercial vehicle parking is generally acceptable, requires consultation to potentially affected landowners, or is generally unacceptable. The assessment criteria are detailed in Clause 4 and associated table in the Policy. The relevant criteria and staff assessment is tabled below.

The application does not meet all the requirements of Column A (Acceptable) or Column B (Variation subject to Advertising) of Table 1 of the policy, and as such some aspects of the proposal fall within Column C (Unacceptable), as detailed below. In accordance with Clause 4.5 of the Policy, commercial vehicle parking applications that fall within one or more of the criteria outlined in Column C (Unacceptable) of Table 1 will generally be refused.

<b>1.0 Universal Criteria</b>	<b>Assessment</b>
<p>1.1C Commercial vehicle parking that does not comply with criterion 1.1A (see below).</p> <p>1.1A: The commercial vehicle must form an essential part of the occupation of the occupant of a dwelling on the subject lot.</p>	<p>The commercial vehicle is proposed to be used as a mobile home and to transport a racing car and does not form an essential part of the occupation of the occupant of the dwelling. Therefore the proposal does not comply with criterion 1.1A and as such, falls within Column C (Unacceptable).</p>
<b>3.0 Vehicle Size Criteria</b>	<b>Assessment</b>
<p>3.1C Commercial vehicle parking that does not comply with criteria 3.1B (see below).</p> <p>3.1B: In a Residential Zone:</p> <p>i) One C-class vehicle; or</p> <p>ii) One C-class vehicle plus two trailers,</p> <p>providing that no vehicle or trailer exceeds 10 metres in length and 3 metres in height.</p>	<p>The application is proposing a Prime Mover with a length of 5m and a height of 4m, and a trailer with a length of 14m and a height of 4m. Therefore both the Prime Mover and trailer do not comply with criterion 3.1B, and as such, falls within Column C (Unacceptable).</p>

*Item 13.5.8 Continued*Amenity

A number of submitters raised concerns with the impact the existing commercial vehicle parking was having on the amenity of the locality. The various amenity impacts are discussed as follows.

*Noise*

An adjoining landowner has expressed concern regarding excessive noise resulting from the manoeuvring and driving the commercial vehicles on the subject property. The applicant has indicated that the commercial vehicle is to only be used on race days which are held approximately twice a month, with the commercial vehicle leaving the property at 8.30am and returning at 6.30pm. Provided that the applicant adheres to these times, it is expected that the noise impact on adjoining landowners will be minimal as the vehicles will leave and enter the property during what is commonly considered to be peak traffic times.

*Dust*

An adjoining landowner has expressed concern regarding adverse dust impacts resulting from parking the commercial vehicles on the subject property. Dust impacts associated with the parking of commercial vehicles on site could be mitigated by ensuring all access and parking areas are appropriately paved and/or sealed. Such work could be imposed as a condition of planning approval.

*Traffic*

A submitter raised concerns regarding the potential traffic impact associated with the application, including the safety risk to children based on there being child care centre and two schools in close proximity to the subject property. The commercial vehicle is permitted to use the local road network and the City has no authority to prevent this type of vehicle accessing local roads. The proposal was assessed for traffic impacts and deemed acceptable. Therefore no adverse traffic impacts are envisaged as a result of this application.

*Visual Amenity*

It is considered that the proposed commercial vehicle parking may affect the visual amenity for adjoining landowners to the north and east of the subject property. The designated parking area located towards the front of the property would allow the vehicles to be visible from both the public street and the adjoining Lot 26, whilst the designated parking area located towards the centre of the property would allow the vehicles to be visible from the adjoining Lots 34 and 36, the owners of which objected to the proposal.

Whilst vegetation or fence screening may reduce the visual impact of the vehicles from neighbouring properties it would be impossible to mitigate the visual impact of the vehicles on the public street, particularly given the sizes of the vehicles involved.

*Item 13.5.8 Continued*

The City's Commercial Vehicle Parking Policy provides guidance on the acceptable length and height of vehicles within the Residential zone. As detailed above, the proposal does not comply with the policy provisions in relation to the length and height of the vehicle and therefore it is considered to not comply with Council's established standards relating to visual amenity.

Based on the above, it is considered that the vehicles would be visually obtrusive, in the context of a residential neighbourhood, and therefore detract from the intended visual amenity of the local area.

**Landfill**

As detailed in the background section of the report, following a site meeting and numerous written requests, the applicant has still not submitted all the required information to the City's satisfaction. The information required includes:

- A detailed site plan including cross sections showing location(s) of the fill material on the site and the depth of fill material.
- Details of the levels of the adjoining land.
- A comprehensive level plan showing all piped and open drainage infrastructure.
- A geotechnical report identifying whether the soil conditions of the land are suitable for on-site disposal of stormwater and if not, how stormwater can be addressed.
- Details of the type of fill used on site and how the material was placed and/or compacted.

Under Clause 11.9.1 of TPS 6, an application which does not require advertising for public comment, is deemed to have been refused where it has not been determined within 60 days from the date of lodgement with the City.

Given that the application lacks the technical information necessary for it to be comprehensively assessed, it has been unable to be determined within the abovementioned 60 day timeframe. It is therefore considered appropriate for the landfill component of the application to be deemed refused due to non-determination within the statutory timeframe.

Should Council determine that the landfill proposal be deemed refused, it would still be open to the applicant to have the proposal considered within a specified timeframe, provided that the above information was provided, to the satisfaction of the City.

In addition, it will also be recommended that Council require the removal of the landfill from the site, with the property reinstated to its former state, within a specified time period. In the event that the landowner does not comply with Council's direction, it will be recommended that legal proceedings be initiated against the landowner.



*Item 13.5.8 Continued*

## CONCLUSION

With regard to the commercial vehicle parking aspect of the proposal, it is recommended that Council refuse the application on the basis that the requirements of the City's Local Planning Policy LPP 2.1 – Commercial Vehicle Parking have not been met and cannot be adequately addressed through conditions of planning approval.

With regard to the landfill aspect of the proposal, it is recommended that Council refuse the application on the basis that insufficient technical information has been provided to enable the matter to be appropriately assessed and determined.

## FINANCIAL IMPLICATIONS

Nil.

## STATUTORY IMPLICATIONS

- Town Planning Scheme No. 6 – Clause 5.11.3 and 11.2.
- Local Planning Policy LPP 2.1 – Commercial Vehicle Parking.

## VOTING REQUIREMENTS

Simple Majority required.

### Notation

*9.09pm – Cr B Wiffen left the meeting.*

*9.10pm - Cr B Wiffen returned to the meeting.*

### STAFF RECOMMENDATION (1 OF 4) AND COUNCIL RESOLUTION

#### **353 Moved Cr R Hoffman Seconded Cr L Griffiths**

That Council refuse the application for the retrospective commercial vehicle parking of one Ford LNT 9000 Louisville Prime Mover (registration number 1BEZ-663) and one Freighter Race Trailer (registration number 1TEP-888) at 28 (Lot 25) Kenwick Road, Kenwick as the application does not comply with Local Planning Policy LPP 2.1 - Commercial Vehicle Parking for the following reasons:

- (i) The length and height of the Prime Mover and Trailer is in excess of the limits prescribed by the Policy.
- (ii) The use of the Prime Mover and Trailer is for recreational purposes and is not associated with the occupation of the occupant of the dwelling on the subject lot.

CARRIED 10/1

**FOR:** *Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Cr T Brown.*

**Resolution 353  
revoked vide  
Resolution 568  
of the  
14/12/2010  
OCM**

Item 13.5.8 Continued

STAFF RECOMMENDATION (2 OF 4) AND COUNCIL RESOLUTION

**354 Moved Cr R Hoffman Seconded Cr L Griffiths**

That should the commercial vehicle parking continue to occur on the property after 30 days from the date of adoption of the Council resolution, Council authorise the Director Planning and Sustainability to initiate legal proceedings against Gary Walsh being the owner of 25 (Lot 28) Kenwick Road, Kenwick for using the property for commercial vehicle parking, which is contrary to Section 214(2) of the Planning and Development Act 2005.

Resolution 354  
revoked vide  
Resolution 568  
of the  
14/12/2010  
OCM

CARRIED 10/1

**FOR:** Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Cr T Brown.

STAFF RECOMMENDATION (3 OF 4) AND COUNCIL RESOLUTION

**355 Moved Cr R Hoffman Seconded Cr L Griffiths**

That Council, in accordance with Clause 11.9.1 of Town Planning Scheme No. 6, advise the applicant that the application for retrospective planning approval for landfill is deemed refused as more than sixty (60) days has elapsed since the subject application was lodged on 9 May 2008.

CARRIED 10/1

**FOR:** Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Cr T Brown.

STAFF RECOMMENDATION (4 OF 4) AND COUNCIL RESOLUTION

**356 Moved Cr R Hoffman Seconded Cr L Griffiths**

That should the landfill aspect of the application not be addressed to the City's satisfaction nor the landfill be removed from the site within 30 days from the date of adoption of the Council resolution, Council authorise the Director Planning and Sustainability to initiate legal proceedings against Gary Walsh being the owner of 25 (Lot 28) Kenwick Road, Kenwick, for the storage of unapproved landfill, which is contrary to Section 214(2) of the *Planning and Development Act 2005*.

CARRIED 10/1

**FOR:** Cr W Barrett, Cr J Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Cr T Brown.

**12. MINUTES OF COMMITTEE MEETINGS**

## 13. REPORTS

### 13.1 CHIEF EXECUTIVE OFFICE

### 13.2 COMMUNITY ENGAGEMENT

## 13.3 CORPORATE SERVICES

### 13.3.1 BUDGET VARIATIONS

Author: R Bouwer  
 Author's Declaration of Interest Nil.  
 Previous Ref: Nil.  
 Appendix: Nil.

#### PURPOSE OF REPORT

To seek approval from Council to adjust the 2010/2011 Municipal Budget.

#### DISCUSSION

In accordance with Section 6.8 of the Local Government Act 1995 a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- Is incurred in a financial year before the adoption of the annual budget by the local government.
- Is authorised in advance by Council resolution.
- Is authorised in advance by the Mayor or President in an emergency.

Approval is therefore sought for the following budget adjustments for the reasons specified.

#### FINANCIAL IMPLICATIONS

Account Number	Type	Account Description	Debit \$	Credit \$
JL10-10136-3800-000	Increase Expenditure	Bullfinch St, Huntingdale - Drain A TPS 17 - Capital Purchase	15,983	
JL10-10136-2504-000	Increase Income	Drain A TPS 17 - TPS 17 Reserve		15,983
	<b>Reason:</b>	Reimbursement to the Department of Housing and Works for the cost of constructing a drain located in Bullfinch Street, Huntingdale as part of the subdivision of former Lot 1393. The drain is identified as a common infrastructure item under TPS 17		

## Item 13.3.1 Continued

Account Number	Type	Account Description	Debit \$	Credit \$
JL91-92500-3503-000	Increase Expenditure	Telephones - General	3,200	
JL91-92500-3504-000	Decrease Expenditure	Telephones - Mobile		3,200
	<b>Reason:</b>	Budget allocated to incorrect account		

**STATUTORY IMPLICATIONS**

Section 6.8 of the *Local Government Act 1995*.

**VOTING REQUIREMENTS**

Absolute Majority required.

## STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**357 Moved Cr J Brown Seconded Cr D Griffiths**

That Council approve the following adjustments to the Municipal Budget:

Account Number	Account Description	Debit \$	Credit \$
JL10-10136-3800-000	Bullfinch St, Huntingdale - Drain A TPS 17 - Capital Purchase	15,983	
JL10-10136-2504-000	Drain A TPS 17 - TPS 17 Reserve		15,983
JL91-92500-3503-000	Telephones - General	3,200	
JL91-92500-3504-000	Telephones - Mobile		3,200

**CARRIED BY ABSOLUTE MAJORITY 11/0**

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

## **13.4 INFRASTRUCTURE**

### **13.4.1 BALFOUR STREET HUNTINGDALE - TRAFFIC CALMING REQUEST (ITEM BROUGHT FORWARD – REFER TO ITEM 11)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the first report in these Minutes.

### **13.4.2 PROPOSED 2011/2012 BLACK SPOT PROJECTS**

Author:	O Pereira
Author's Declaration of Interest:	Nil.
Previous Ref:	11 August 2009 – Proposed 2010/2011 Black Spot Projects
Appendix:	Nil.

#### **PURPOSE OF REPORT**

For Council to endorse the projects submitted for the 2011/2012 Nation Building and State Black Spot Programs.

#### **BACKGROUND**

Each financial year Council allocates funding in the Capital Works Program to Black Spot funded projects. For State Black Spot projects the City of Gosnells' contribution is one-third to the State Government two-third's contribution, with National Black Spot projects being wholly funded by the Federal Government.

The National and State Black Spot Programs were introduced to reduce the social and economic costs of road trauma by:

- The identification and cost-effective treatment of sites and area with a demonstrated crash history
- Placing significant focus on the need to reduce road trauma, in accordance with road safety policy objectives
- Using a proportion of funds to treat sites, lengths of roads and areas which official Road Safety Audits have identified as potential crash locations and to implement other road safety measures
- Encouraging widespread consultation with the community to ensure local road-related safety concerns are addressed

Both Black Spot Programs focus on the cost-effective treatment of hazardous road locations by providing financial assistance to improve the physical condition or management of locations noted for a high incidence of crashes and to encourage implementation of safety-related traffic management techniques and other road safety measures that have proven road safety value.

Due to the short time frames associated with receiving the crash data from Main Roads WA, upon which the projects submitted for funding are based, and the closing date for the Black Spot program, it would not be feasible to prepare a report for Council to approve nominated projects prior to the closing date of the Black Spot submissions.

#### **DISCUSSION**

Below are the proposed nominations for the 2010/2011 National and State Black Spot Programs for the City of Gosnells. Main Roads WA prioritises nominations meeting all criteria by rating them against other Local Government submissions, with a focus on locations where the highest benefits can be achieved. Funding approval depends on the number of projects submitted that meet the relevant criteria and the total costs of all projects. As such, there are no guarantees that any project will be approved for funding.

*Item 13.4.2 Continued*

<b>Project Location</b>	<b>Predominant Crash Type</b>	<b>Proposed Treatment</b>	<b>Cost Estimate \$</b>
Austin Avenue: Opposite Bunnings Warehouse and Kenwick Trade Centre	Right Turn Thru Crashes	Install Roundabout	450,000
Yale Road/Murdoch Road	Right Turn Crashes	Install Roundabout	510,000
Balfour Street/Bullfinch Street	Hit Object Crashes	Install Roundabout	180,000
Amherst Road between Daniel Drive and Fraser Road North	Hit Object Crashes	Install Median Island	120,000
Ovens Road between Hampton Court and Lachlan Road	Hit Pedestrian Crashes	Install Median Islands and Upgrade Existing Footpath	420,000
William Street/Tooting Street	Right Angle Crashes	Install Roundabout	159,000
Yale Road/Murdoch Road	Night Time or Unlit Crashes	Upgrade Street Lighting	42,000
Forest Lakes Drive between Warton Road and Ovens Road	Hit Pedestrian Crashes	Install Median Islands	99,000
Corfield Street/Stalker Road	Right Angle Crashes	Reinforce/Improve Priority Signage	45,000
Dorothy Street between Digby Street and Croft Street	Head -On Crashes	Install Median Islands	54,000

Nominations for both Black Spot Programs closed on 16 July 2010, and the above cost estimates may vary at detail design stage.

### **FINANCIAL IMPLICATIONS**

Where possible projects will be considered under the National Black Spot Program and would therefore be 100% funded. The City of Gosnells Ten Year Financial Plan has an annual allocation of \$250,000 of municipal funds for contribution to State Black Spot funding. This amount would be reviewed as part of 2011/2012 budget review, based on the success of funding applications.

### **STATUTORY IMPLICATIONS**

*Land Administration Act 1997* requirements relating to the dedication of roads.

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.4.2 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---------------------------------------------

**358 Moved Cr D Griffiths Seconded Cr T Brown**

That Council note the recommended projects nominated for submission into the 2010/2011 Black Spot Program, as follows:

Project Location	Predominant Crash Type	Proposed Treatment	Cost Estimate \$
Austin Avenue: Opposite Bunnings Warehouse and Kenwick Trade Centre	Right Turn Thru Crashes	Install Roundabout	450,000
Yale Road/Murdoch Road	Right Turn Crashes	Install Roundabout	510,000
Balfour Street/ Bullfinch Street	Hit Object Crashes	Install Roundabout	180,000
Amherst Road between Daniel Drive and Fraser Road North	Hit Object Crashes	Install Median Island	120,000
Ovens Road between Hampton Court and Lachlan Road	Hit Pedestrian Crashes	Install Median Islands and Upgrade Existing Footpath	420,000
William Street/ Tooting Street	Right Angle Crashes	Install Roundabout	159,000
Yale Road/Murdoch Road	Night Time or Unlit Crashes	Upgrade Street Lighting	42,000
Forest Lakes Drive between Warton Road and Ovens Road	Hit Pedestrian Crashes	Install Median Islands	99,000
Corfield Street/ Stalker Road	Right Angle Crashes	Reinforce/Improve Priority Signage	45,000
Dorothy Street between Digby Street and Croft Street	Head -On Crashes	Install Median Islands	54,000

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.



## 13.5 PLANNING AND SUSTAINABILITY

### 13.5.1 DEVELOPMENT APPLICATION – SINGLE DWELLING – 11 (LOT 104) FAIRLIE ROAD, CANNING VALE

Author: R Munyard  
Author's Declaration Nil.  
of Interest:  
Reference: 307408  
Application No: DA10/00142  
Applicant: JCorp t/a Impressions  
Owner: Emille Coniglio  
Location: 11 (Lot 9008) Fairlie Road, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 290m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: Nil.

#### PURPOSE OF REPORT

For Council to consider an Application for planning approval for a single dwelling at 11 (Lot 104) Fairlie Road, Canning Vale as it is outside the delegated authority granted to staff due to the objection received during the advertising period.

#### BACKGROUND

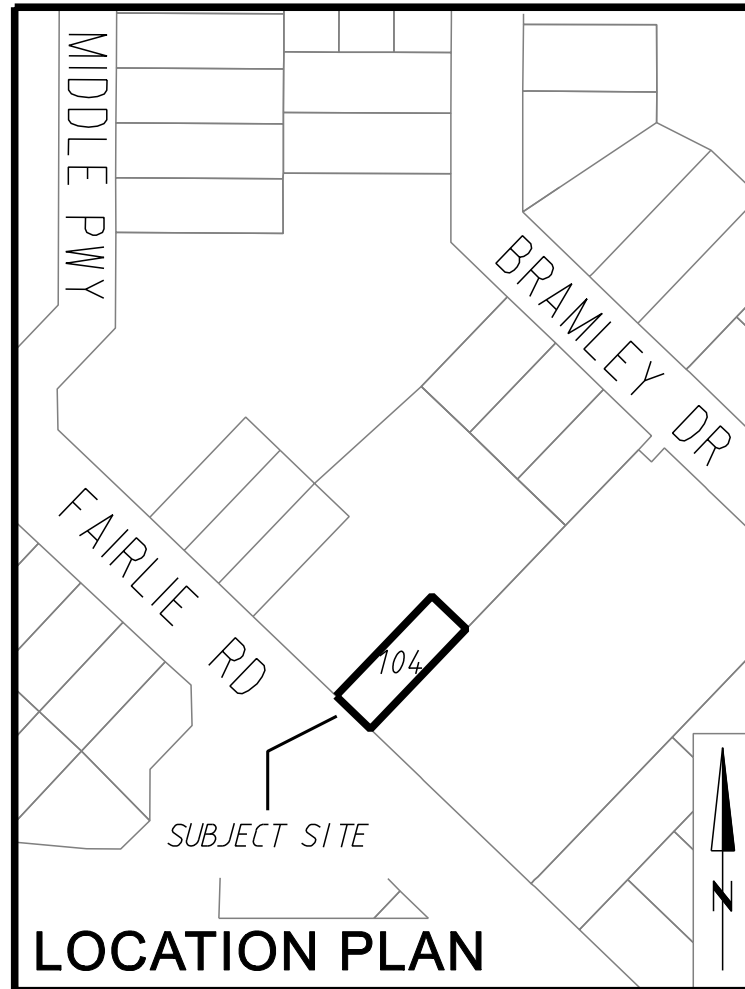
##### Site Description and Planning Framework

Lot 104 is a flat vacant site that is 290m<sup>2</sup> in area.

Due to previous subdivisional and drainage requirements, Lot 104 has been filled to a level approximately 300mm higher than the adjacent Lot 45.

A plan showing the location of the subject site follows.

Item 13.5.1 continued



The property is zoned Residential Development under Town Planning Scheme No. 6 (TPS 6) and is part of the West Canning Vale Outline Development Plan, which identifies the lot as Residential R30.

### Proposal

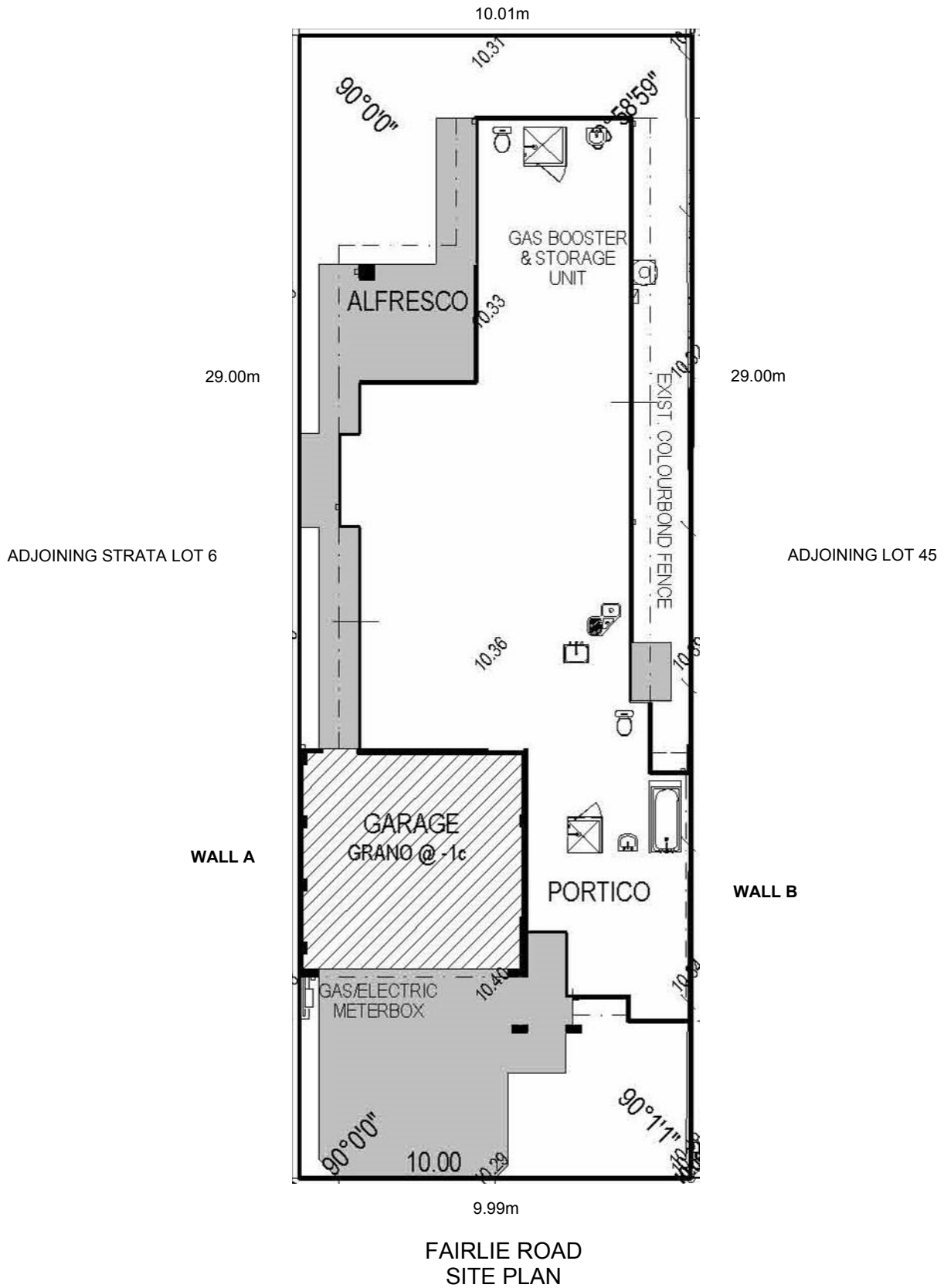
The application proposes:

- One single storey dwelling with a living area of 119m<sup>2</sup>, containing three bedrooms and two bathrooms.
- Boundary walls to both side boundaries of 5.79m and 6.3m in length.
- A double garage positioned under the main roof of the dwelling built up to the future boundary of the adjoining Strata Lot 6.

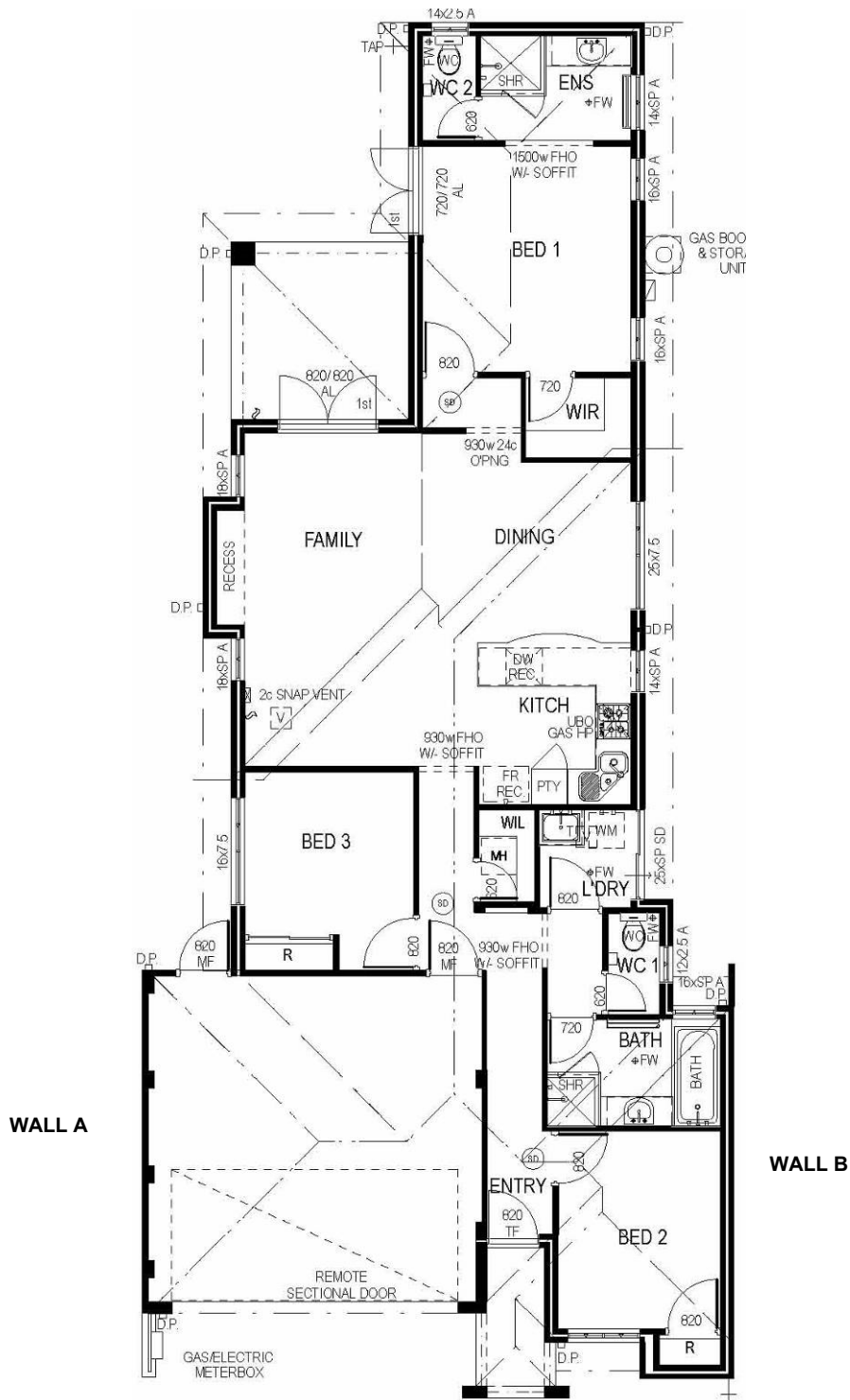
The only aspect of the proposal requiring the consideration of Council is the two boundary walls, as all other aspects of the development comply with the relevant provisions of the R-Codes and TPS 6. The walls in question are labelled A and B for ease of reference.

Plans of the proposal follow.

Item 13.5.1 continued



Item 13.5.1 continued



FAIRLIE ROAD  
FLOOR PLAN

Item 13.5.1 continued



ELEVATIONS

**Consultation**

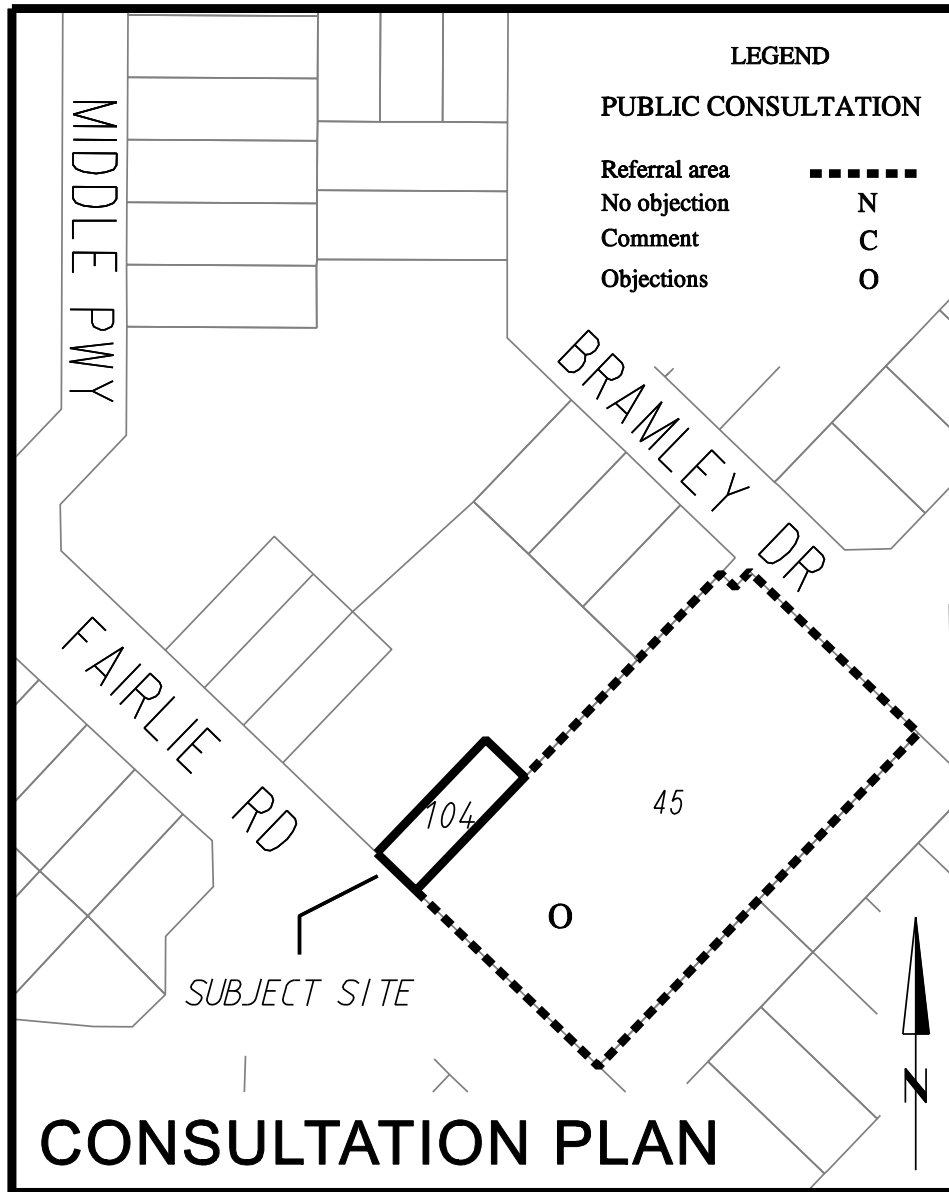
The applicant referred the proposal to the owner of the adjoining property in accordance with Council Policy and TPS 6 requirements as the application proposes two walls on the boundaries. The R-Codes require consultation with the directly adjoining neighbours. As a result of the referral, one submission was received, which objected to the proposal. The reason given is that the proposed development should not disturb any existing fencing or retaining walls.

The submission was lodged by Mr and Mrs Green of 9 Fairlie Road.

The concern raised in the consultation period relates to potential disturbance of an existing retaining wall. This is discussed later in the report.

A map identifying the location of the submission is shown below.

Item 13.5.1 continued



**DISCUSSION**

**Assessment of the Proposal**

The development application is generally consistent with the R-Codes and complies with all relevant provisions with the exception of “Buildings on the Boundary”. Under the Acceptable Development standards of the R-Codes, one boundary wall is permitted as of right, subject to limitations on size. When more than one boundary wall is proposed, or a boundary wall is proposed which is greater than two-thirds of the length of the balance of the boundary behind the front setback, the proposal requires assessment against the Performance Criteria of the R-Codes and the City’s Residential Development Policy.

In total there are two boundary walls to two separate boundaries. Details of the walls are as follows:

*Item 13.5.1 continued*

- Along the 29.0m north-western boundary, Wall A being 5.79m in length is proposed as the garage wall.
- Along the 29.0m south-eastern boundary, Wall B being 6.305m in length is proposed as the bedroom and bathroom wall.

The Performance Criteria of the R-Codes specify that applications which incorporate boundary walls to more than one side boundary should not adversely affect the amenity of the surrounding properties, and should only be approved where they:

- *“Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Do not have any significant adverse affect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.”*

The proposed boundary walls will assist in making effective use of space on the lot which is small in size. It is considered that the proposed boundary walls would not adversely affect the amenity of the surrounding properties, as the walls will not cast shadows on any part of the dwelling.

**Impact on Retaining Wall**

The adjoining landowner has raised concerns regarding the proposed development disturbing the existing fencing and retaining wall. The concern is noted and is a matter that will need to be addressed to the City's satisfaction as part of a Building Licence application associated with the subject proposal.

**CONCLUSION**

It will be recommended that the application to build a Single Dwelling on Lot 104 Fairlie Road, Canning Vale be approved as the development complies with the Performance Criteria set out in the Residential Design Codes for walls on boundaries and, of itself, will not impact on the amenity of the locality or the amenity of the neighbouring residents.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- City of Gosnells Town Planning Scheme No. 6.
- Residential Design Codes 2008 - Clause 6.3.2.
- City of Gosnells Local Planning Policy LPP 1.1.1. – Residential Development – Clause 6.3.2.

*Item 13.5.1 continued*

## **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
----------------------------------------------------

### **359 Moved Cr S Iwanyk Seconded Cr B Wiffen**

That Council approve the application for a single dwelling at 11 (Lot 104) Fairlie Road, Canning Vale as described in the application received on 8 April 2010, subject to the following conditions:

1. Submission of a drainage plan, prior to any building licence being issued, prescribing all details of a drainage system to be implemented, including engineering construction drawings, geotechnical site assessment (soil profile, groundwater conditions and soil permeability) as well as hydrologic and hydraulic calculations to demonstrate functionality of the design to the satisfaction of the City of Gosnells. A maximum 10% stormwater runoff coefficient applies to calculate the critical permissible site discharge (PSD) from the development. All excess stormwater shall be detained and/or infiltrated on-site through suitable structural means.
2. All cut and fill to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
3. The site is to be connected to a reticulated sewerage system.
4. All existing septic tanks are to be decommissioned and all components removed to the satisfaction of the City.

**CARRIED 11/0**

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Nil.*



**13.5.2 DEVELOPMENT APPLICATION – MULTI-PURPOSE HALL FOR LANGFORD ISLAMIC COLLEGE – 57 (LOT 3403) SOUTHGATE ROAD, LANGFORD**

Author: B Fantela  
Author's Declaration Nil.  
of Interest:  
Reference: 209401  
Application No: DA10/00193  
Applicant: Hans Djajamihardja  
Owner: Australian Federation of Islamic Councils Inc  
Location: 57 (Lot 3403) Southgate Road, Langford  
Zoning: MRS: Urban  
TPS No. 6: Local Reserve – Public Purposes  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 3.2855ha  
Previous Ref: OCM 12 May 2009 (Resolution 189)  
OCM 13 October 2009 (Resolution 483)  
Appendix: 13.5.2A Schedule of Submissions

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for a proposed multi-purpose hall at 57 (Lot 3403) Southgate Road, Langford. The application is being presented to Council as the proposal is outside the authority delegated to staff, due to objections being received from surrounding neighbours.

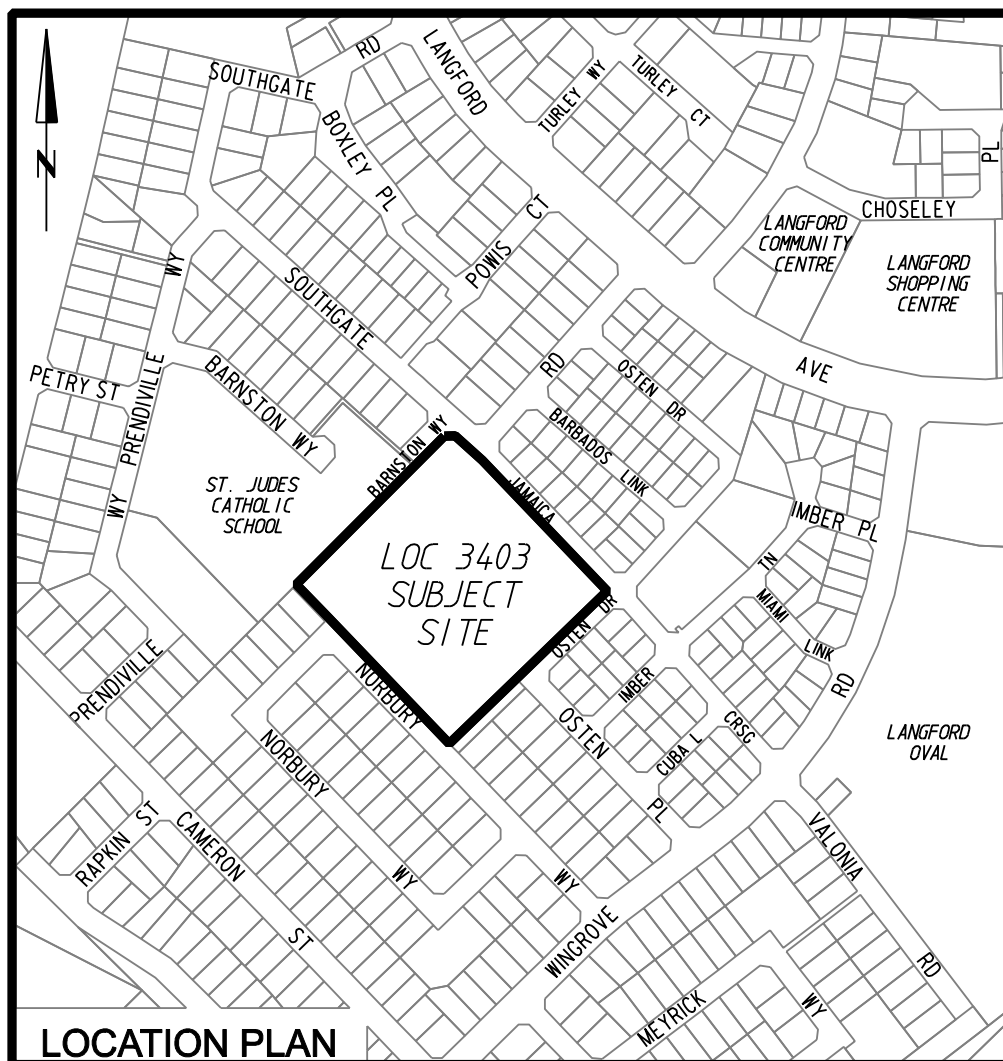
**BACKGROUND****Site Description and Planning Framework**

Prior to its use as an Islamic school, the site was occupied by Langford Primary School. This lot abuts St Judes Catholic School to the north-west, and residential development to the north, south and east.

The entrance to the school is located on Barnston Way, with street parking being provided on Norbury Way and Jamaica Crossing.

A location plan of the subject lot follows.

Item 13.5.2 continued



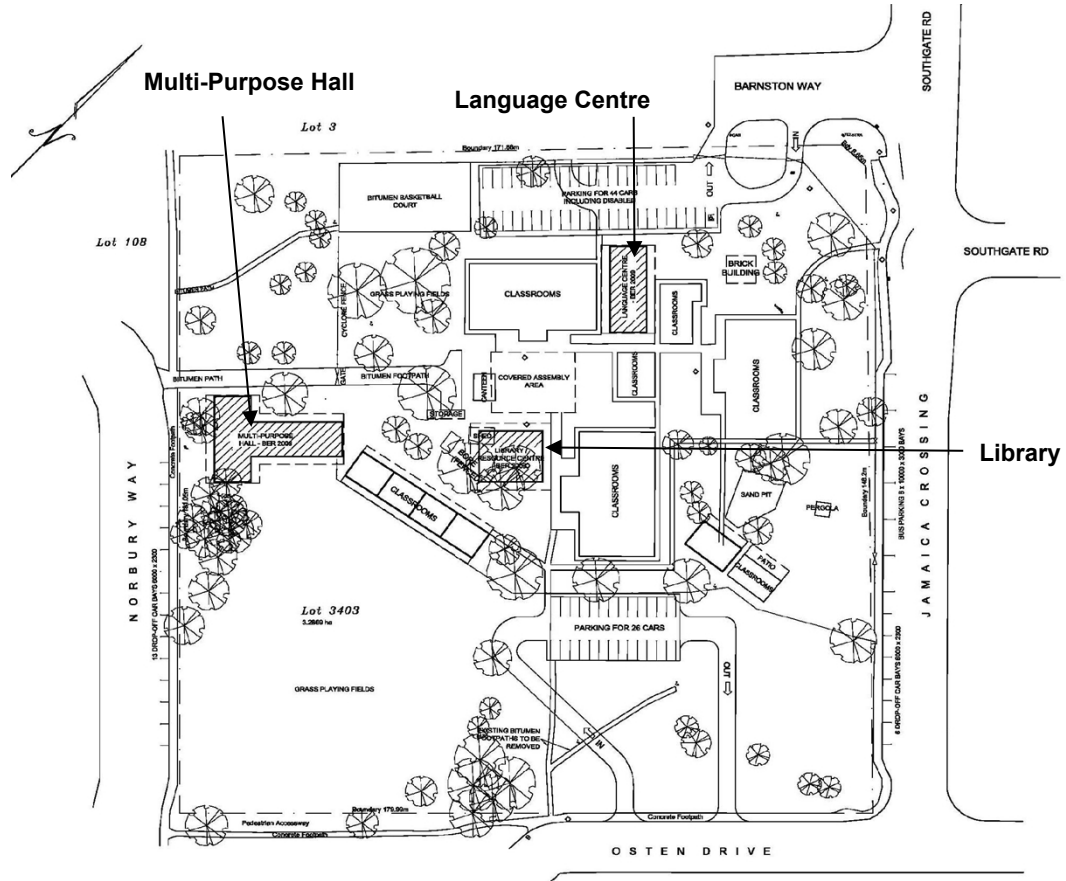
The funding for the proposed hall is from the Building the Education Revolution (BER) program run by the Federal Government. A condition that forms part of this funding is that there is to be no increase in school student or staff numbers as a result of the building additions. Under the BER program, determination of state school development proposals is by the State Department of Treasury and Finance with Local Governments providing a recommendation only. Private school development proposals are determined by the relevant local government.

**Recent application history**

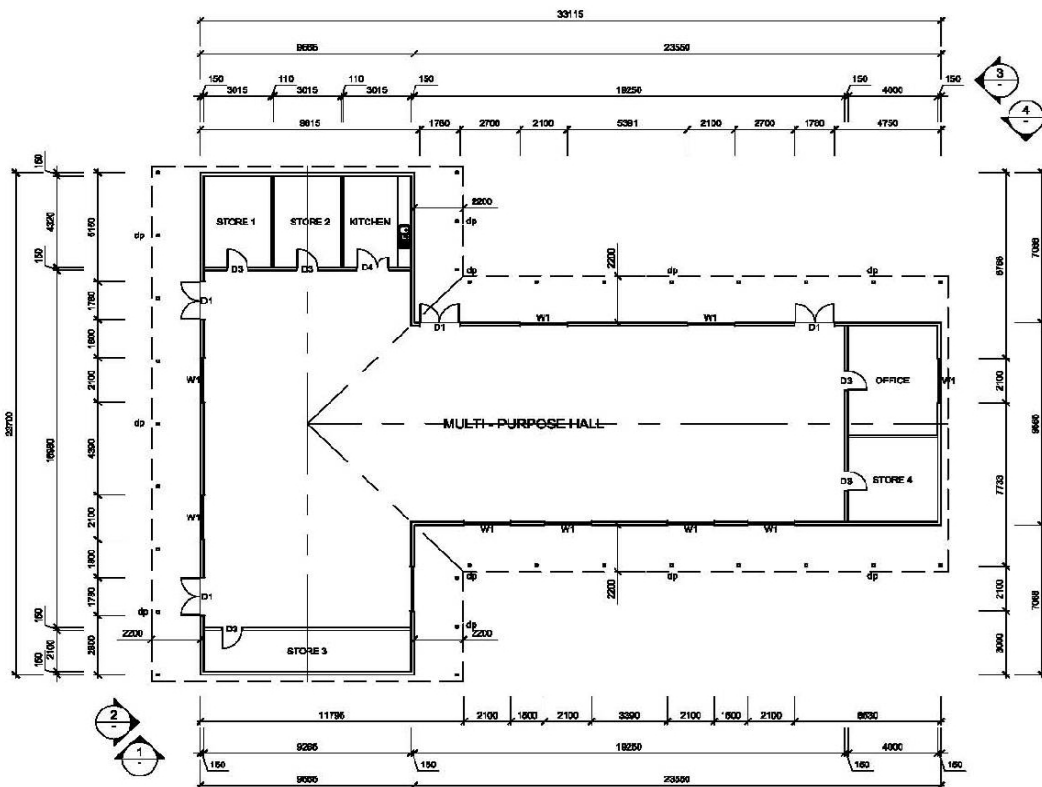
On 13 October 2009, Council approved the development of a library, a language centre and multi-purpose hall on the site. The multi-purpose hall was to be located near the southwest boundary of the site, facing Norbury Way.

Plans illustrating the design of the approved multi-purpose hall follow.

Item 13.5.2 continued



SITE PLAN (as approved on 13.10.2009)

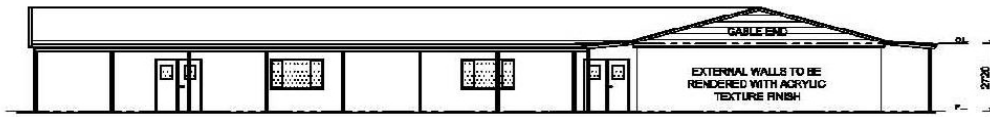


MULTI-PURPOSE HALL – FLOOR PLAN (as approved on 13.10.2009)

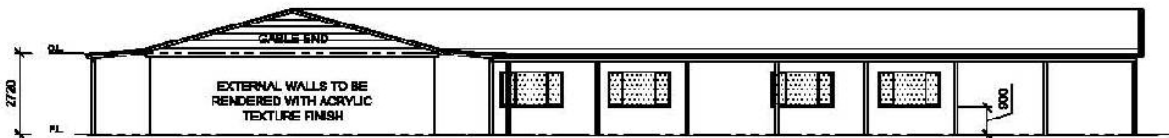
Item 13.5.2 continued



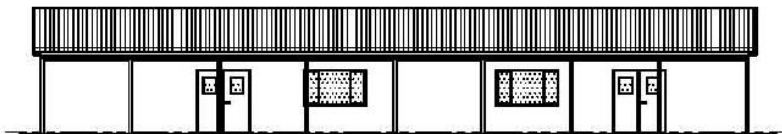
ELEVATION 3  
SCALE 1:100



ELEVATION 4  
SCALE 1:100



ELEVATION 1  
SCALE 1:100



ELEVATION 2  
SCALE 1:100

**MULTI-PURPOSE HALL – ELEVATIONS (as approved on 13.10.2009)**

*Item 13.5.2 continued*

## Proposal

The current application proposes a revised location and design of the hall, compared to the previous approval, as follows:

- The hall is to be located near the north-west boundary with St Judes Primary School, partially occupying the existing basketball court. The building is proposed to be setback 40m from Norbury Way and 9m from the north-west property boundary.
- A building footprint of 551.4m<sup>2</sup> (excluding the 126m<sup>2</sup> verandah) with a wall height of up to 7m and a roof height 13.5m.
- Relocation of the existing basketball court to the western corner.
- A grass playing field between the proposed hall, the proposed basketball court and the existing footpath.
- Tree planting along the perimeter of the proposed grass playing field, which will assist in screening the proposed building from Norbury Way.

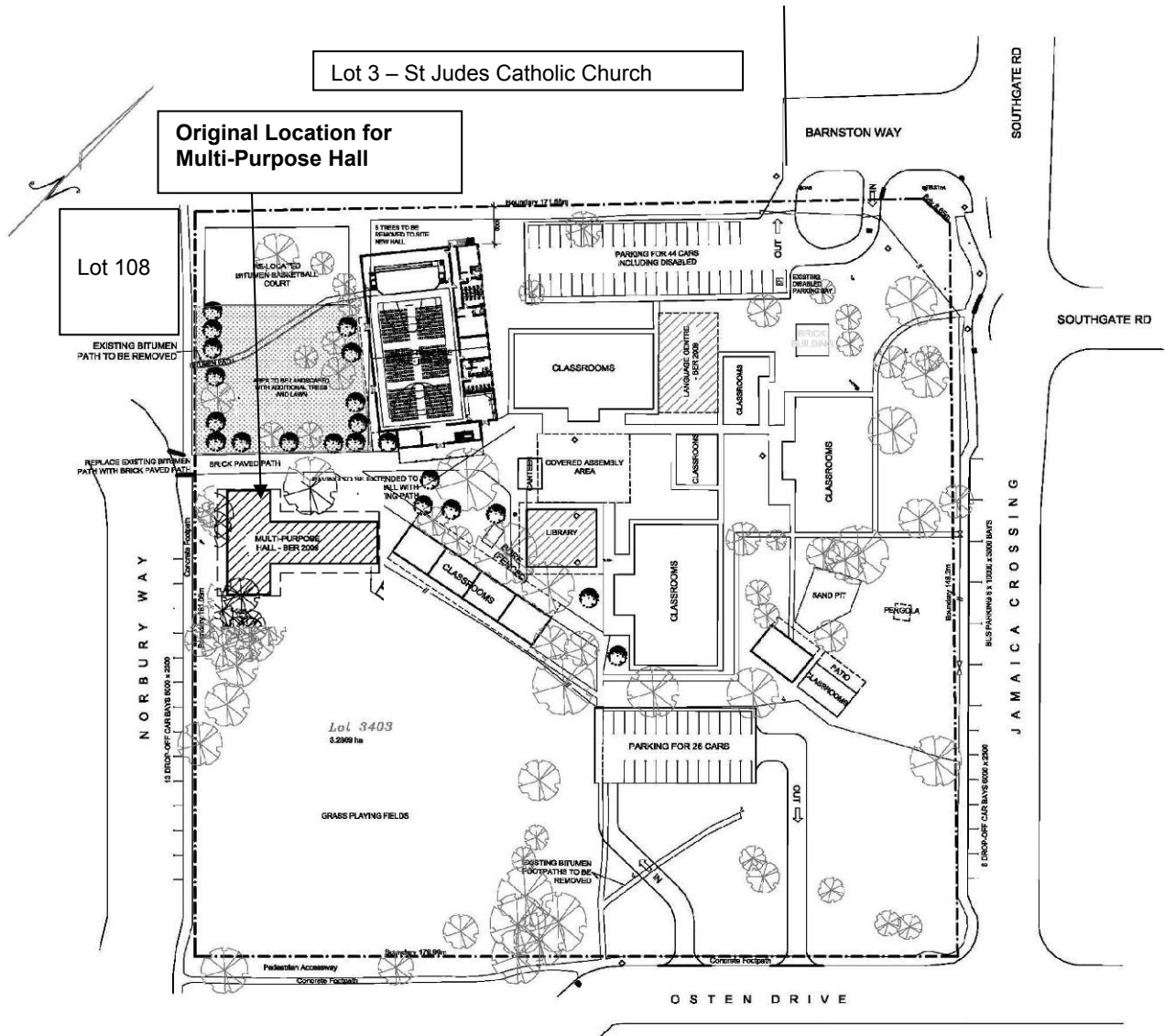
The proposed hall is to be used primarily by the school, but will be available for use by the general public. The school has previously advised that use of the hall for purposes not associated with the school would be limited to community based functions (see OCM Minutes 13 October 2009, Item 13.5.2).

A direct comparison between the previously approved application and the current proposal follows.

	Proposal	
	Previously Approved	Current
Building Size	452m <sup>2</sup>	551.4m <sup>2</sup>
Wall Height	2.72m	7m
Roof Height	4.1m	13.5m
Minimum Setback	10m (approx.) to Norbury Way	9m to neighbouring school
Setback to Nearest Residence	34m (approx.)	44m (approx.)

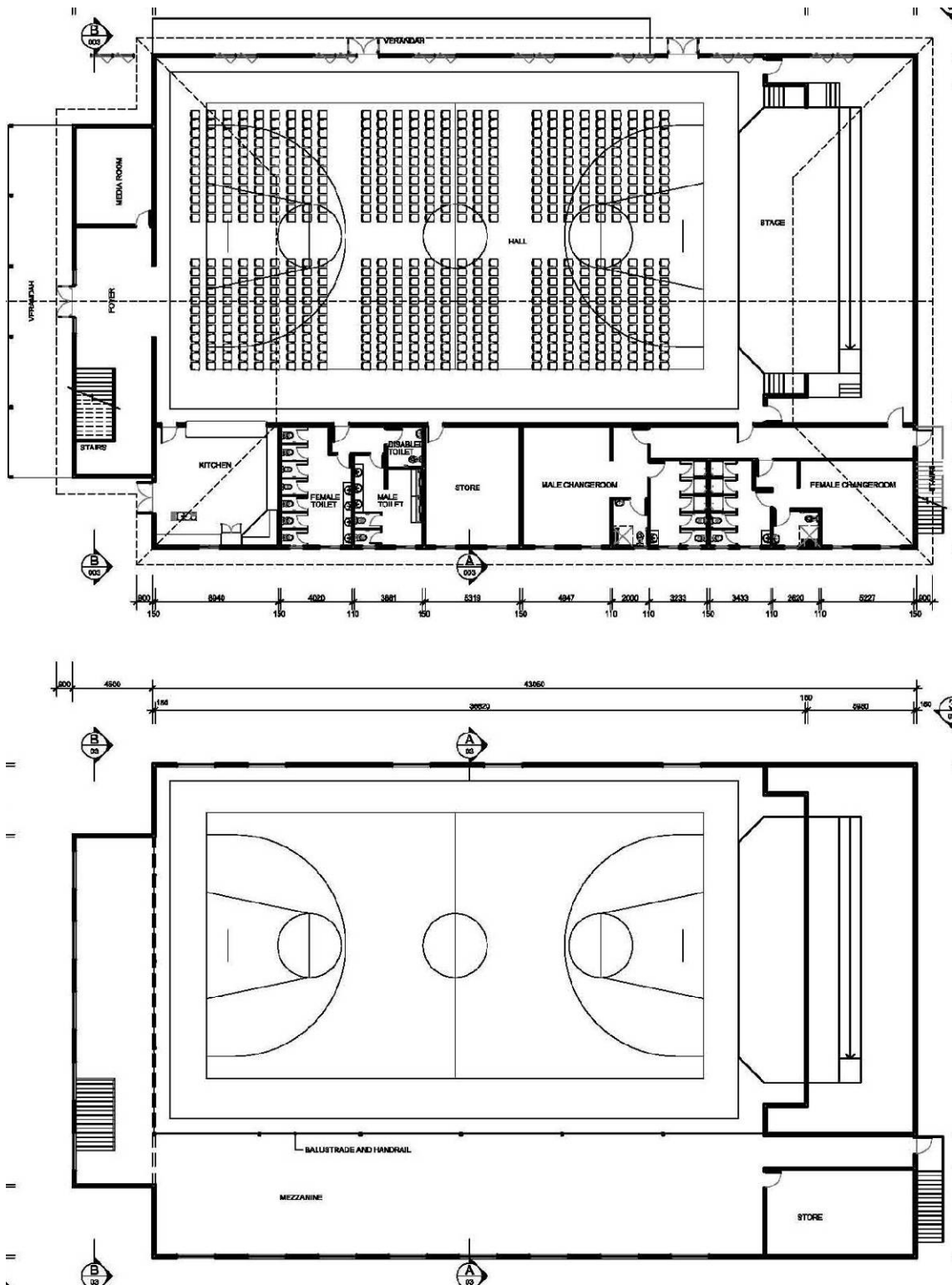
Plans illustrating the proposed development follow.

Item 13.5.2 continued



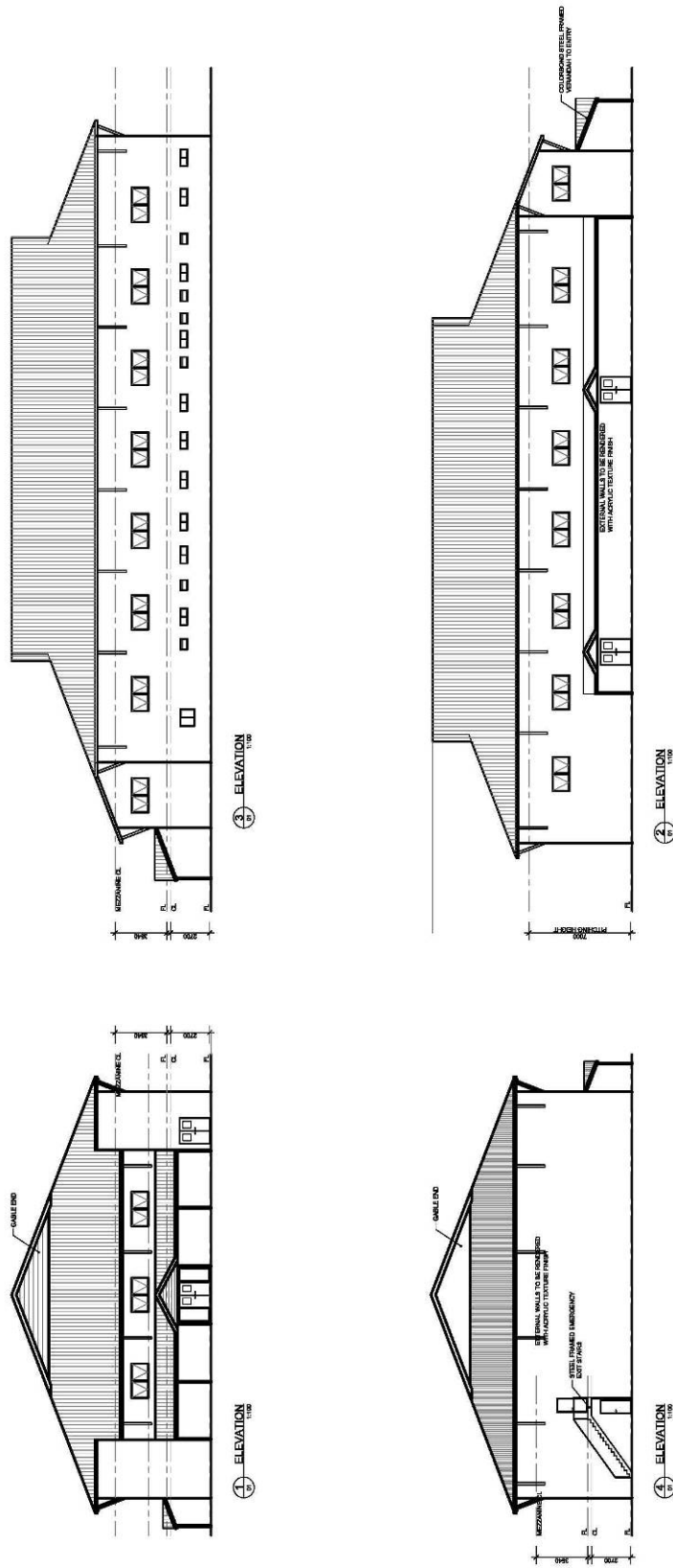
SITE PLAN

Item 13.5.2 continued



FLOOR PLANS

Item 13.5.2 continued



ELEVATIONS

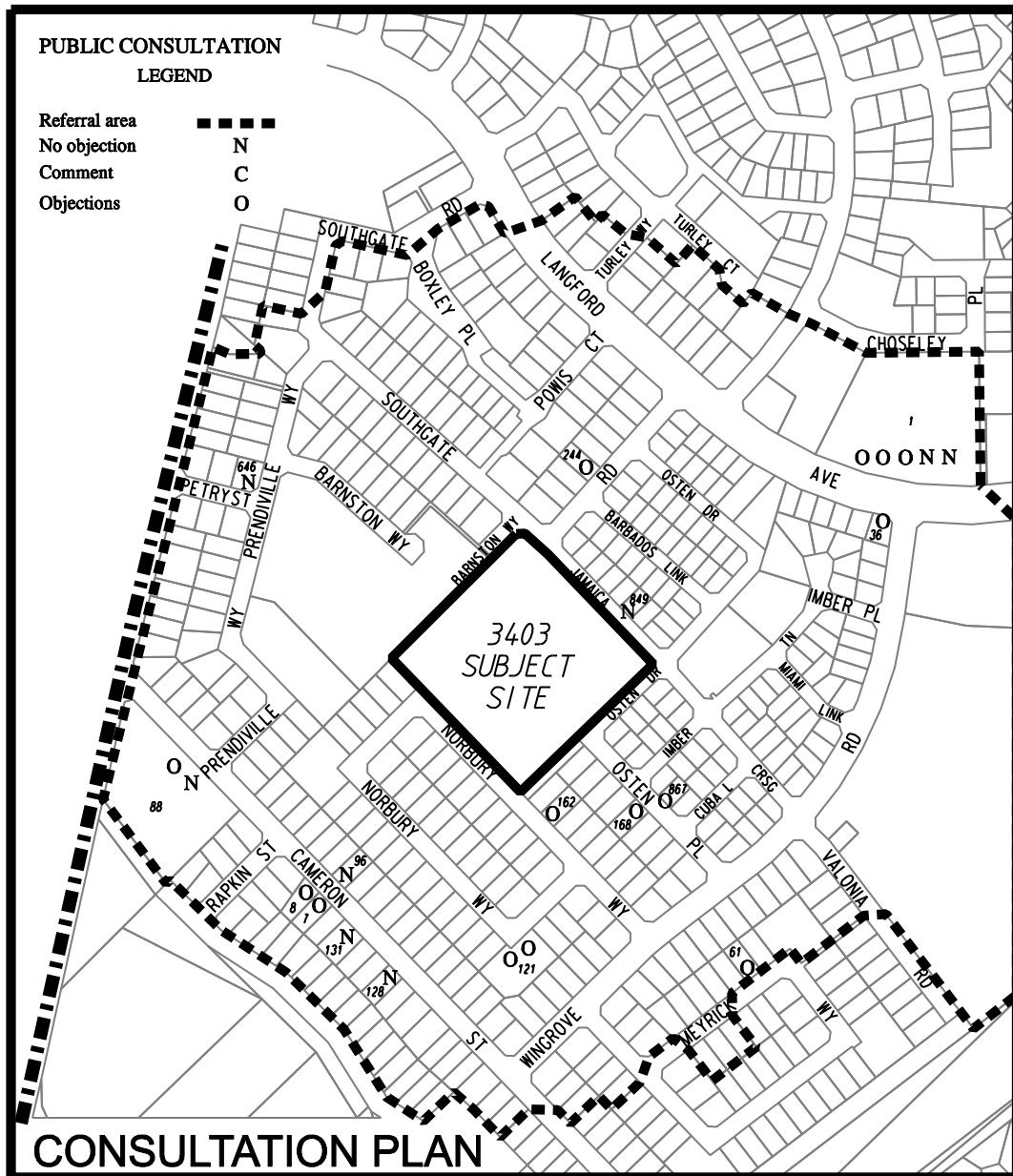


Item 13.5.2 continued

**Consultation**

The proposal was advertised for public comment for 14 days in accordance with Council Policy/TPS 6 requirements, during which time 22 submissions were received, 14 objecting to the proposal and eight raising no-objection. A summary of these submissions and comments thereon are provided in the Schedule of Submissions contained as Appendix 13.5.2A.

A map identifying the location of each submission follows:



*Item 13.5.2 continued*

The main planning issues raised during the advertising period related to:

- The potential impact of the proposed development on vehicle traffic within the locality.
- The aesthetic impact and size of the proposed building.

Each is considered in turn.

## **DISCUSSION**

### **Town Planning Scheme No. 6**

The land is identified as a Local Reserve (Public Purposes – Primary School) under Town Planning Scheme No. 6 (TPS 6) and is zoned Urban under the Metropolitan Regional Scheme (MRS). Clause 3.4.1 of TPS 6 states that a person must not commence or carry out development on a Local Reserve without first having obtained planning approval under Part 9 of the Scheme. In addition, Clause 3.4.2 states as follows:

*“3.4.2 In determining an application for planning approval the local government is to have due regard to:*

- (a) the matters set out in clause 11.2; and*
- (b) the ultimate purpose intended for the Reserve.”*

The relevant provisions of Clause 11.2 of TPS 6 are outlined below:

*“11.2 Matters to be considered in determining application for planning approval:*

- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- (n) the preservation of the amenity of the locality;*
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;”*

With respect to sub-clause (g) above, the site was originally created for use as a school, and the proposed development is consistent with this purpose.

In relation to sub-clause (n), the proposed multi-purpose hall has been located adjacent to existing classrooms in a position which facilitates access for school purposes and for use by the general community. It is not considered that the proposed development would adversely affect the amenity of the locality.

With respect to sub-clause (q), the development is proposed in order to improve school facilities on site, and is not associated with any increase in student numbers. Consequently it will not generate an increase in traffic movement within the locality during the school peak demand times, i.e. at morning drop-off and afternoon collection.

*Item 13.5.2 continued*

### **Traffic Impacts**

Whilst the proposal does not involve an increase in student numbers, the proposed hall will be available for community based functions, and therefore may result in an increase in traffic in the local area. It is considered, however, that any increase will be able to be accommodated by the existing road network and site parking, and will not be unreasonable in the context of an urban area

### **Visual Amenity**

The proposed building should not have a detrimental impact on the visual amenity of the local area as it will be located over 40m from the nearest residential lot and will be partially screened by proposed landscaping. Whilst the building will be of a height greater than the surrounding single storey dwellings, the design of the structure, incorporating two verandahs, a gabled roof and numerous windows, serves to reduce the bulky appearance of the building and add elements of visual interest. The proposed building, therefore, is not considered unreasonable in an urban context particularly as it is located in a school campus, and is set well back from residential development.

### **CONCLUSION**

The proposal is supported for the following reasons:

1. The proposal complies with the requirements of TPS 6.
2. The proposed development will not increase student numbers on site and would not result in detrimental traffic impacts on the surrounding residential area.
3. The form of the proposed development is not inappropriate given the size of the lot and as such, will not result in detrimental aesthetic impacts on the surrounding residential area.

It will therefore be recommended that the proposal be approved subject to appropriate conditions as listed in the staff recommendation.

### **FINANCIAL IMPLICATIONS**

Nil

### **STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6, Clauses 3.4.1, 3.4.2, and Clauses 11.2(g), (n) and (q).

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.2 continued

STAFF RECOMMENDATION
----------------------

**Moved Cr L Griffiths Seconded Cr D Griffiths**

That Council approve the application for a multi-purpose hall at 57 (Lot 3403) Southgate Road, Langford, dated 13 May 2010 and as amended and dated 24 June 2010, subject to the following conditions:

**Conditions**

1. A landscaping plan for the development site and the adjoining road verge is to be submitted in accordance with the Council's Local Planning Policy 4.5 - Development Landscaping and approved by the City prior to the issue of a building licence. The plan is to include mature trees to assist in the screening of the building.
2. A colour scheme of the proposed development to be submitted and approved by the City prior to the issue of a building licence.
3. Submission of a drainage plan, prior to any building licence being issued, prescribing all details of a drainage system to be implemented, including engineering construction drawings, geotechnical site assessment (soil profile, groundwater conditions and soil permeability) as well as hydrologic and hydraulic calculations to demonstrate functionality of the design to the satisfaction of the City of Gosnells. The design is to provide for all stormwater to be disposed of on-site by the use of soakwells. Soakwells are to be designed to accommodate a one in five year frequency storm event. Flows above this level shall be accommodated by overland flow to the street.
4. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.
5. All cut and fill is to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
6. The site is to be connected to a reticulated sewerage system.

*Item 13.5.2 continued*

### Foreshadowed Motion

*During debate Cr R Hoffman foreshadowed that he would move the following motion:*

*“That Council refer item 13.5.2 – Development Application – Multi-Purpose Hall for Langford Islamic College – 57 (Lot 3403) Southgate Road, Langford back to a future meeting of Council.”*

*if the motion under debate was defeated, providing the following written reason:*

*“To enable further consideration of the parking requirements, due to extra use of community purposes”.*

*At the conclusion of debate the Mayor put the staff recommendation, which reads:*

STAFF RECOMMENDATION
----------------------

LOST
------

### **Moved Cr L Griffiths Seconded Cr D Griffiths**

That Council approve the application for a multi-purpose hall at 57 (Lot 3403) Southgate Road, Langford, dated 13 May 2010 and as amended and dated 24 June 2010, subject to the following conditions:

#### **Conditions**

1. A landscaping plan for the development site and the adjoining road verge is to be submitted in accordance with the Council's Local Planning Policy 4.5 - Development Landscaping and approved by the City prior to the issue of a building licence. The plan is to include mature trees to assist in the screening of the building.
2. A colour scheme of the proposed development to be submitted and approved by the City prior to the issue of a building licence.
3. Submission of a drainage plan, prior to any building licence being issued, prescribing all details of a drainage system to be implemented, including engineering construction drawings, geotechnical site assessment (soil profile, groundwater conditions and soil permeability) as well as hydrologic and hydraulic calculations to demonstrate functionality of the design to the satisfaction of the City of Gosnells. The design is to provide for all stormwater to be disposed of on-site by the use of soakwells. Soakwells are to be designed to accommodate a one in five year frequency storm event. Flows above this level shall be accommodated by overland flow to the street.
4. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.

*Item 13.5.2 continued*

5. All cut and fill is to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
6. The site is to be connected to a reticulated sewerage system.

LOST 4/7

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown and Cr S Iwanyk.*

**AGAINST:** *Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr K Jones, Cr B Wiffen and Cr O Searle.*

### Notation

*As the staff recommendation was lost the Mayor invited Cr R Hoffman to put his foreshadowed motion, which Cr C Fernandez seconded.*

COUNCIL RESOLUTION
--------------------

### **360 Moved Cr R Hoffman Seconded Cr C Fernandez**

That Council refer item 13.5.2 – Development Application – Multi-Purpose Hall for Langford Islamic College – 57 (Lot 3403) Southgate Road, Langford back to a future meeting of Council.

CARRIED 8/3

**FOR:** *Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Cr W Barrett, Cr J Brown and Cr S Iwanyk.*

**13.5.3 DEVELOPMENT APPLICATION – PLACE OF WORSHIP – 45 (LOT 15)  
MILLS ROAD WEST, GOSNELLS (*ITEM BROUGHT FORWARD – REFER  
TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the second report in these Minutes.

**13.5.4 AMENDMENT TO LOCAL GOVERNMENT BOUNDARY - PORTION OF LOT 9001 SEAFORTH AVENUE, GOSNELLS**

Author:	L Gibson
Author's Declaration of Interest:	Nil.
Reference:	302582
Application No:	N/A
Applicant:	Department of Local Government
Owner:	Della-Vedova Family
Location:	Lot 9001 Seaforth Avenue, Gosnells
Zoning: MRS:	Urban Deferred
TPS No. 6:	N/A (does not form part of TPS 6)
Review Rights:	Nil.
Previous Ref:	OCM 23 March 2010 (Resolutions 143 and 144)
Appendix:	13.5.4A Plan of Local Government boundary realignment supported by Council on 23 March 2010 and the currently proposed Local Government boundary realignment

**PURPOSE OF REPORT**

For Council to consider a proposed realignment of the City's boundary so as to include a portion of road reserve and a portion of Lot 9001 Seaforth Avenue, Gosnells, within the City of Gosnells.

**BACKGROUND**

On 23 March 2010, Council resolved to support the proposed realignment of the City's boundary so as to include part of the Ranford Road reserve and Lot 22 Ranford Road, Southern River, within the City of Armadale.

Since that time, the City of Armadale requested the Department of Local Government to consider a further modification so as to include a portion of road reserve and a portion of Lot 9001 Seaforth Avenue, Gosnells, within the City of Gosnells.

A plan indicating the extent of the previously proposed boundary realignment and the currently proposed boundary realignment is contained as Appendix 13.5.4A.

**Site Description**

Lot 9001 Seaforth Avenue is 272.68 hectares in area, with all but 1,070m<sup>2</sup> (approx) of the site being located within the City of Gosnells. The 1,070m<sup>2</sup> not located within the City of Gosnells currently falls within the City of Armadale.

The subject portion of Lot 9001 is vacant with some scattered vegetation. The subject portion of road reserve is not constructed but has been cleared of vegetation.



*Item 13.5.4 continued*

## **DISCUSSION**

Lot 9001 currently straddles the Local Government boundary between the City of Gosnells and the City of Armadale. Correction of this anomaly will assist with the future planning of the Southern River Precinct 4 area as well as representing good governance practice.

## **CONCLUSION**

The proposed boundary change is particularly minor and will enable Lot 9001 to be wholly located with the City of Gosnells and therefore assist the future planning of the Southern River Precinct 4 area.

It will therefore be recommended that Council support the proposed boundary realignment.

## **FINANCIAL IMPLICATIONS**

There are no costs associated with the proposed amendment to the Local Government boundary, however there would be a very small increase in the City's annual property rates as a result of the transfer of the part of Lot 9001 Seaforth Avenue to the City of Gosnells.

## **STATUTORY IMPLICATIONS**

Schedule 2.1 of the *Local Government Act 1995* prescribes the methods by which a municipal boundary can be amended. Should Council be prepared to support the proposed municipal boundary change, advice to this effect would be forwarded to the Local Government Advisory Board for consideration and approval.

## **VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---------------------------------------------

### **361 Moved Cr D Griffiths Seconded Cr C Fernandez**

That Council, in accordance with Schedule 2.1 of the *Local Government Act 1995*, advise the Local Government Advisory Board that it supports the relocation of the local government boundary, as shown on the plan contained as Appendix 13.5.4A, so as to include a portion of road reserve and a portion of Lot 9001 Seaforth Avenue, Gosnells, within the City of Gosnells.

**CARRIED 11/0**

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

*The Mayor advised the meeting that the Director Corporate Services had disclosed a Financial Interest in the following item in accordance with Section 5.60 of the Local Government Act 1995.*

### **13.5.5 REVIEW OF CONTRIBUTION RATES - CANNING VALE OUTLINE DEVELOPMENT PLAN - DEVELOPMENT CONTRIBUTION ARRANGEMENT**

Author:	B Seward
Author's Declaration of Interest:	Nil.
Previous Ref:	OCM 8 September 2009 (Resolutions 443 and 444) OCM 25 March 2008 (Resolutions 104 and 105) OCM 27 February 2007 (Resolutions 39 and 40) OCM 6 December 2005 (Resolutions 584-587) OCM 8 June 2004 (Resolutions 292 and 293) OCM 11 February 2003 (Resolution 49) OCM 18 December 2002 (Resolution 1036)
Appendix:	13.5.5A Canning Vale Outline Development Plan – Draft Revised Schedule of Common Infrastructure Works – August 2010

#### **PURPOSE OF REPORT**

For Council to consider recommendations in respect to the land valuation basis and common infrastructure works (CIW) contribution rate associated with the Canning Vale Outline Development Plan (ODP) development contribution arrangement (DCA).

#### **BACKGROUND**

DCAs are used to share the costs of major infrastructure across an ODP area so that those owners who benefit from development can contribute equitably to the cost of providing those works. The normal method used to achieve the arrangement is to establish a contribution rate for each landowner based on the physical area of land that they propose to develop. This is expressed as an amount (in dollars) per hectare. Town Planning Scheme No. 6 (TPS 6) provides that the City administers the fund, and reviews the contribution rates annually.

The City administers a DCA for the shared provision of infrastructure and land for public purposes in the Canning Vale ODP area. Part of the arrangement involves the collection of development contributions to be used for the acquisition of land for public open space (POS), which includes land for conservation, drainage and recreational purposes and the provision of the following CIW:

- Wetland protection works (fencing and boardwalks) within the ODP area.
- Alignment of existing 132kV powerlines traversing the Canning Vale ODP area
- Traffic management devices (roundabouts and signals)
- The acquisition of land for road widening (Nicholson and Warton Roads)
- A proportion of the cost of regional road works (Nicholson and Warton Roads and Garden Street)
- Service relocation works involved in widening Nicholson and Warton Roads
- Shared use paths

*Item 13.5.5 continued*

- Drainage infrastructure
- Administration and technical reports associated with designing and managing future community assets.

The annual review of DCA rates involves adjustment of contribution rates to account for changes in land values and construction costs. Council last reviewed the DCA for the Canning Vale ODP at its meeting on 9 September 2009 and resolved to adopt a CIW contribution rate of \$48,498/ha. Council also resolved to set the land valuation at \$1,200,000/ha. This figure is used to calculate contribution rates and in circumstances where it is necessary to acquire land identified on the ODP for public purposes. To conform to the requirements of TPS 6, it is necessary for Council to again review the land valuation basis and contribution rates.

**DISCUSSION**

DCA values and rates for the Canning Vale ODP area typically require adjustment in respect of:

- The basis for land valuation
- CIW contribution rates

The table below shows the history of adjustments made to values and rates over the life of the DCA. Each of those adjustments has occurred after obtaining qualified expert valuation advice.

<b>HISTORY OF ADJUSTMENTS TO LAND VALUATION AND CONTRIBUTION RATES</b>		
<b>Date of Revision</b>	<b>Land Valuation Basis</b>	<b>Common Infrastructure Works (CIW)</b>
	<i>Valuation rate/ha</i>	<i>\$ rate/ha</i>
Gazettal – 6/04/01	\$250,000/ha	\$27,563/ha
OCM – 18/12/02	\$350,000/ha	\$28,622/ha
OCM – 11/02/03	\$400,000/ha	\$29,532/ha
OCM – 8/06/04	\$500,000/ha	\$31,250/ha
OCM – 8/12/05	\$800,000/ha	\$40,663/ha
OCM – 27/02/07	\$1,350,000/ha	\$44,541/ha
OCM – 25/03/08	\$1,350,000/ha	\$47,032/ha
OCM – 8/09/09	\$1,200,000/ha	\$48,498/ha
Proposed - 2010	\$1,350,000/ha	\$50,532/ha

**Land Valuation**

To ensure that adequate funds are collected to acquire the land identified on the ODP for POS and other public purposes, it is necessary to set contribution rates based on a current englobo land valuation. The land valuation is also used as a basis to determine the amount of compensation for the acquisition of land for public purposes, such as POS and the widening of regional roads.

Previous adjustments have been adopted on the basis of valuation advice from Propell National Valuers.

*Item 13.5.5 continued*

Propell's latest valuation was undertaken in May 2010 and its report details that over the previous 12 months land values in the Canning Vale area have increased. The report concludes that the typical englobo value of land within the ODP area is currently \$1,350,000/ha.

It is therefore recommended that Council increase the land valuation used by the Canning Vale ODP DCP to \$1,350,000/ha.

### **Common Infrastructure Works (CIW) Contribution Rate**

Adjustments to the CIW contribution rate have previously been determined on the basis of increases to the Australian Bureau of Statistics (ABS) general construction price index, changes to infrastructure unit cost rates and other inflationary indicators, in addition to factoring in the impact of changes to land values given that certain CIW include a land component.

The most recent price index date, released by the ABS indicates that in general, costs have increased by 2.9% over the 12 month period to June 2010.

It will therefore be recommended that a 2.9% increase be applied to the unit cost rates for CIW required in the Canning Vale ODP.

The draft revised Schedule of Works for the DCA, contained in Appendix 13.5.5A, reflects increases to CIW cost rates of 2.9%. Those CIW that involve a land component have been adjusted against the englobo valuation rather than applying a percentage increase, as has been the case when undertaking previous reviews. The resulting change to the CIW contribution rate is a recommended new rate of \$50,532/ha, an increase of \$2,034/ha from the previous rate.

Schedule 12 of TPS 6 provides for landowners to object to the adopted contribution rate and land valuation basis.

### **FINANCIAL IMPLICATIONS**

Should Council accept that the land valuation be based at \$1,350,000/ha, there will be an increase to the amount payable by developers, and the amount payable to landowners for the acquisition of land, where necessary.

Revisions to the CIW contribution rate are necessary to ensure that infrastructure identified in the ODP is equitably provided, without placing a financial burden on the City and the wider community to deliver those works.

It will be recommended that Council adopt a land valuation basis of \$1,350,000/ha and adopt a revised CIW contribution rate of \$50,532/ha for the purposes of the Canning Vale ODP DCA.

### **STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6 – Schedule 12.

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.5 continued

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION

**362 Moved Cr D Griffiths Seconded Cr L Griffiths**

That Council adopt a contribution rate of \$50,532/ha for common infrastructure works and a land valuation basis of \$1,350,000/ha for the acquisition of land necessary to satisfy the objectives of the Development Contribution Arrangement for the Canning Vale Outline Development Plan.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION

**363 Moved Cr D Griffiths Seconded Cr L Griffiths**

That Council inform all landowners with outstanding contribution obligations within the Canning Vale Outline Development Plan area of Council's decision and of the potential for review, as is allowable under Town Planning Scheme No. 6.

CARRIED 11/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Nil.

**13.5.6 DEVELOPMENT APPLICATION - RETAIL NURSERY - 61 (LOT 252)  
CLIFFORD STREET, MADDINGTON (*ITEM BROUGHT FORWARD –  
REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the third report in these Minutes.

**13.5.7 DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (1 SHOP UNIT, 2 OFFICE UNITS AND 16 GROUPED DWELLINGS) - 132 (LOT 31) AND 136 (LOT 30) FREMANTLE ROAD, GOSNELLS**

Author: C Windass  
Author's Declaration Nil.  
of Interest:  
Reference: 205021 and 205019  
Application No: DA10/00188  
Applicant: Samers Developments Pty Ltd  
Owner: R H T Capital Investments Pty Ltd  
Location: 132 (Lot 31) and 136 (Lot 30) Fremantle Road, Gosnells  
Zoning: MRS: Urban  
TPS No. 6: Local Centre  
Review Rights: The proposal is currently subject to review by the State Administrative Tribunal.  
Area: Lot 30 – 2,853m<sup>2</sup> and Lot 31 – 1,176m<sup>2</sup>  
Previous Ref: OCM 12 July 2005 (Resolution 304)  
OCM 15 June 2010 (Resolution 272)  
Appendix: 13.5.7A Site Plan  
13.5.7B Floor Plan  
13.5.7C Elevations  
13.5.7D Colour Schedule  
13.5.7E Amended Site Plan

**PURPOSE OF REPORT**

For Council to reconsider an application for planning approval for a Mixed Use Development at 132 (Lot 31) and 136 (Lot 30) Fremantle Road, Gosnells, as invited by the State Administrative Tribunal (SAT).

**BACKGROUND**

On 15 June 2010 Council refused (Resolution 272) an application for planning approval for a Mixed Use Development on the subject properties. Council refused the application on the grounds that the proposal did not comply with the parking requirements under Town Planning Scheme No. 6.

An application to review Council's decision was subsequently lodged with SAT. A Directions Hearing was held on 2 July 2010 and Mediation was held on 19 July 2010. Following Mediation, SAT ordered that:

1. *The applicant must provide to the respondent any variation to the plan of the development with any explanation of the changes it would want the respondent to consider, by 20 July 2010.*
2. *Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision on the development having regard to the amendments and explanation provided by the applicant on or before its meeting of 10 August 2010.*
3. *The matter is adjourned to the Senior Member's class 2 directions list at 10 am Friday 13 August 2010.*

Item 13.5.7 continued

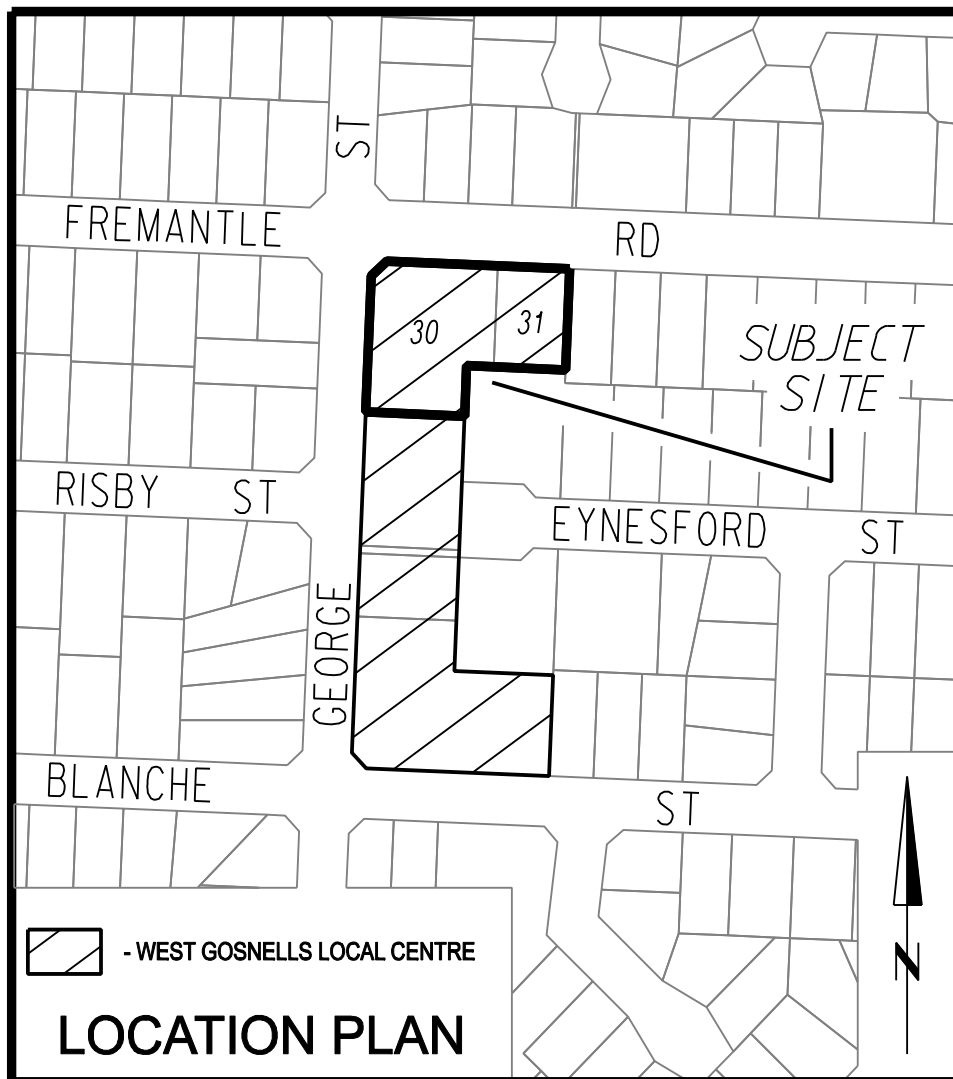
4. *The parties are at liberty to apply to vary these orders in the event that changes to orders 1, 2 and 3 are required.*

In accordance with 1 above, the applicant has provided additional information to the City, allowing Council to reconsider its previous decision in accordance with 2 above.

**Site Description**

The subject lots are located on the corner of Fremantle Road and George Street and form part of the West Gosnells Local Centre. This centre comprises four land parcels bordered by George Street, Blanche Street and Fremantle Road. Two of these land parcels have been developed for commercial uses, being the West Gosnells Shopping Centre and the Southern River Tavern, and the two vacant lots are the subject of this application. Lot 30 Fremantle Road was previously developed as a Service Station, although this use discontinued some years ago. Lot 31 was developed with a single residence.

A plan showing the location of the property follows.





*Item 13.5.7 continued*

## **Proposal**

The original application involved:

- 16 grouped dwellings at a density of R60.
- One shop unit comprising an area of 103m<sup>2</sup>.
- Two office units comprising an area of 100m<sup>2</sup> each.
- A car parking area containing 12 spaces with access from George Street to service both the commercial units and the grouped dwellings.
- 14 separate storerooms provided for the storage needs of individual units. Units 15 and 16 each propose a storage unit attached to the main residence.
- A one way internal driveway providing egress for the residents of the grouped dwellings onto Fremantle Road.

A site plan, floor plan, elevations and colour schedule of the original proposal are included as Appendices 13.5.7A, 13.5.7B, 13.5.7C and 13.5.7D.

## **DISCUSSION**

### **Amended Application**

The amended application proposes the removal of 10 storerooms and the relocation of a commercial bin enclosure to accommodate an additional four car parking spaces.

An amended site plan is attached as Appendix 13.5.7E.

### **Invitation to Council to Reconsider its Decision**

The SAT has invited Council to reconsider the application in the context of the additional information submitted by the applicant. The options available to Council are as follows:

- To not accept the SAT's invitation to reconsider the matter
- To accept the SAT's invitation and affirm the previous decision to refuse the application
- To accept the SAT's invitation and set aside the previous decision and substitute a new decision.

### **Residential Design Codes**

The removal of the storerooms is permissible under the City's Residential Development Policy provided that the courtyard areas are 6m<sup>2</sup> greater than the standard required by the Residential Design Codes (R-Codes). The minimum courtyard area prescribed by the R-Codes at the density for this proposal is 16m<sup>2</sup>, whereas the application is proposing courtyard areas between 24m<sup>2</sup> and 40m<sup>2</sup>, which are significantly greater than the prescribed minimum. Therefore the amended application is compliant with the Performance Criteria of the R-Codes (as it relates to storerooms) as augmented by the City's Residential Development Policy.

Item 13.5.7 continued

### Car Parking

The amended proposal incorporates 16 customer parking bays on-site to service the commercial units and one parking bay per grouped dwelling (16) combined to make up a total 32 bays.

The proposed development does not comply with the parking requirements of TPS 6 and the R-Codes as described in the following table.

<b>Town Planning Scheme No. 6 Provisions</b>		<b>Assessment/Comment</b>
<b>5.13 Vehicle Parking and Access</b>		
Shop	1 space for every 15m <sup>2</sup> net lettable area. Minimum 4 bays.	The Shop Unit comprises 103.7m <sup>2</sup> therefore 7 bays are required.
Office	1 space for every 30m <sup>2</sup> net lettable area. Minimum 4 bays per tenancy or office unit.	The two Office Units comprise 100m <sup>2</sup> per unit therefore a minimum of 4 bays per unit are required, which combine to make up a total of 8 bays.
Number of Bays Required		15 bays
Number of Bays Proposed		16 bays
<b>R-Codes Parking Provisions</b>		
<b>Parking Requirements 6.5.1-On-site Parking Provision – Grouped Dwellings:</b>		
•	Two spaces per grouped dwelling.	16 Grouped Dwellings are proposed therefore 32 bays are required.
•	In addition, visitor's parking spaces are provided at a rate of one space for each four dwellings, or part thereof in excess of four dwellings, served by a common access.	3 visitor's bays are required.
Number of Bays Required		35 bays
Number of Bays Proposed		16 bays
<b>Total Number of Bays for the Overall Development Required</b>		<b>50 bays</b>
<b>Total Number of Bays for the Overall Development Proposed</b>		<b>32 bays</b>

The previous version of the application, refused by Council on 15 June 2010, involved a shortfall of 22 car parking bays. The original application determined by Council on 12 July 2005 approved a 23 bay shortfall.

As shown in the above table, the amended application reduces the shortfall to 18 car parking bays.

It is open to Council to consider whether a variation to the carparking standard is warranted. Clause 5.13.3 of TPS 6 enables Council to grant a reduction in the number of carparking spaces, as outlined below:

*Item 13.5.7 continued*

*“Where the Council is satisfied that the circumstances of a development justify such action and there will not be any resultant lowering of safety, convenience and amenity standards, it may permit a reduction in the number of car parking spaces required by Clause 5.13.1.”*

It is considered that the application will not create any adverse parking impacts on the basis that:

- An office use is considered a relatively ‘low generator’ of vehicle movements as this type of business is generally conducted by appointment and with only one client/s being serviced per appointment.
- The 18 car parking bay shortfall represents a reduction of 36% of the parking requirement stipulated in TPS 6. It is considered that this reduction can be compensated for by an easement which allows the occupiers of the residential units to use the commercial visitor parking area, effectively allowing access to an additional 16 bays after business hours. This will need to be secured via a condition of approval to ensure that appropriate access rights are implemented.
- Demand for commercial visitor parking will generally occur at different times to the demand for residential visitor parking.
- The size of the grouped dwellings (103.5m<sup>2</sup> to 104.3m<sup>2</sup>) would be suited to small households requiring not more than one car.
- The proposed grouped dwellings are located immediately adjacent to the West Gosnells Local Centre and therefore residents will not need to use a car for their convenience shopping.
- The site is immediately adjacent to public transport facilities.

## **CONCLUSION**

The amended application is supported on the basis that an additional four car parking bays have been provided which reduces the car parking variation sought by the proposal from 22 to 18.

It will therefore be recommended that Council revoke its previous decision (refusal) relating to this application and grant approval to the amended application.

## **FINANCIAL IMPLICATIONS**

Nil.

## **STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6 – Part 5.8 – Commercial Zones.
- Residential Design Codes 2008.
- Local Planning Policy LPP 1.1.1 – Residential Development.

Item 13.5.7 continued

## VOTING REQUIREMENTS

- Staff Recommendation 1 for Revocation of Resolution: Absolute Majority required (requires the support of one third (4) of the Offices of Members of Council for the matter to be considered).
- Simple majority required for Staff Recommendation 2.

### STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION

#### 364 Moved Cr R Hoffman Seconded Cr W Barrett, Cr L Griffiths and Cr C Fernandez

That Council revoke Resolution 272 of the Ordinary Council Meeting held on 15 June 2010, which reads:

*“That Council refuses to grant approval for the proposed development of 132 (Lot 31) and 136 (Lot 30) Fremantle Road, Gosnells as proposed in the application dated 30 December 2009 on the grounds that the proposal does not comply with the parking requirements under Town Planning Scheme Number 6.”*

CARRIED BY ABSOLUTE MAJORITY 9/2

**FOR:** Cr W Barrett, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.

**AGAINST:** Cr J Brown and Cr T Brown.

### STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION

#### 365 Moved Cr R Hoffman Seconded Cr L Griffiths

That Council approve the application for a Mixed Use development (one shop unit, two office units and 16 grouped dwellings) at 132 (Lot 31) and 136 (Lot 30) Fremantle Road, Gosnells as proposed in the amended application and site plan dated 27 July 2010, subject to the following conditions:

1. A geotechnical report is to be submitted to the satisfaction of the City certifying that the land is physically capable of development, prior to applying for a building licence.
2. The applicant shall submit details prescribing a functional drainage system, including detailed engineering drawings, where required geotechnical site assessment (soil profile, groundwater conditions and permeability), as well as hydrologic and hydraulic calculations to demonstrate functionality of the design to the satisfaction of the City of Gosnells.
3. All cut and fill to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
4. Existing crossovers that are not required as part of the development shall be removed and the verge reinstated to the satisfaction of the City.

*Item 13.5.7 continued*

5. The driveways, accessways and carbays are to be paved, drained and marked to the City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.
6. An easement in gross is to be granted in favour of the City over the proposed carparking bays and vehicular access thereto, in order to provide access and parking for general use.
7. All crossovers are to be located and constructed to the City's specifications.
8. Lots 30 and 31 are to be amalgamated onto a single lot on a Certificate of Title prior to the issue of a building licence to the satisfaction of the Manager Planning Implementation.
9. Bin pads for the placement of mobile garbage bins are to be constructed in a location to the satisfaction of the City.
10. A landscaping plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's development landscaping policy and approved by the City prior to the issue of a building licence. Landscaping and reticulation of the development site and adjoining road verges is to be installed and maintained to the satisfaction of the City.
11. Pursuant to Regulation 17(5) of the Local Government (Uniform Local Provisions) Regulations 1996, the proponent shall enter into a legal agreement with the City in respect of the proposed awning above public property, which shall:
  - a) Indemnify the City against any loss or damage suffered as a result of the awning, and to secure this indemnity by the owner obtaining an appropriate insurance policy;
  - b) Require the owner to maintain, alter, repair or remove the awning, in part or in whole, if the land is required for the purpose of carrying out any public works, or other works authorised by statute, without the City being liable to compensate any person therefore;
  - c) Require the owner to make good any damage caused to the road reserve within a prescribed period of time;
  - d) Oblige the owner to require any transferee of the land to enter into an agreement with the City in substantially similar terms prior to the registration of any transfer;
  - e) Charge the affected land in favour of the City in respect of the observance and performance of the owner's obligations and enable the City to lodge a caveat against the land in order to protect its interests under the agreement.

CARRIED 9/2

**FOR:** *Cr W Barrett, Cr C Fernandez, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr B Wiffen and Cr O Searle.*

**AGAINST:** *Cr J Brown and Cr T Brown.*

**13.5.8 DEVELOPMENT APPLICATION - RETROSPECTIVE COMMERCIAL VEHICLE PARKING AND LANDFILL - 28 (LOT 25) KENWICK ROAD, KENWICK (ITEM BROUGHT FORWARD – REFER TO ITEM 11)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the fourth report in these Minutes.

**13.6 GOVERNANCE**

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**15. NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING**

Nil.

**16. URGENT BUSINESS**  
(by permission of Council)

Nil.

**17. CONFIDENTIAL MATTERS**

Nil.

**18. CLOSURE**

The Mayor declared the meeting closed at 9.31pm.