

### **3.4 PROPOSED ENTERTAINMENT AREA (POOL AND BUILDING) & DAM - LOT 166 (149) CASPIAN WAY, BRIGADOON**

(Swan Valley) (Development Services)

#### **KEY ISSUES**

- The applicant is seeking approval to construct an entertainment area (outbuilding) with a pool and a 405m<sup>3</sup> dam on the subject site. The application requires the building envelope to be relocated and split into two sections. The entertainment area will contain a spa, kitchen, lounge, dining area and bathroom. The applicant has advised that the room will not be utilised for accommodation purposes.
- The property currently has an existing dam which has been assessed as a low impact dam in accordance with the Council's adopted policy on dams. The existing dam is stocked with fish.
- The proposed 405m<sup>3</sup> dam has been assessed as 'low impact' in accordance with the Council's adopted policy on dams. The dam will be located within an area of land that is already cleared. The applicant has advised that the purpose of the new dam is for the landowner to grow marron for personal consumption. The existing dam is not suitable for this purpose due to its excessive depth.
- The application was referred to the adjoining neighbours for comment. A total of 4 submissions were received – two non objections and two objections. The issues raised by the objectors were the potential negative impacts on the visual amenity of the proposed outbuilding. It is recommended that the entertainment room be screened with vegetation to reduce the visual impact on adjoining properties.

Given the size of the proposed dam and the reasons stated by the applicant for its construction, it is recommended that Council grant approval to the relocation of the building envelope to facilitate the construction of the proposed entertainment area and the 405m<sup>3</sup> dam, subject to conditions.

#### **AUTHORITY/DISCRETION**

The Council may approve (with or without conditions) or refuse the application. If the applicant is aggrieved with the decision of the Council a right of review may exist in accordance with Part 14 of the Planning and Development Act 2005 (as amended).

## **BACKGROUND**

Applicant:	Sergio Famiano
Owner:	Richard Jardine
Zoning:	TPS - Rural MRS - Landscape
Strategy/Policy:	Dams Policy (POL-C-089)
Development Scheme:	City of Swan Town Planning Scheme No.9
Existing Land Use:	Residential
Lot Size:	21506 m <sup>2</sup>
Area:	
Use Class:	N/A

## **DETAILS OF THE PROPOSAL**

The application is for a variation to the location of an existing building envelope to facilitate the construction of an entertainment room which opens to a proposed swimming pool and landscaping areas. The entertainment room will be set back 16 metres from the nearest side boundary and is open on the southern side and portion of the western side. It is fully enclosed on the eastern side. The applicant also proposes to construct a 405m<sup>3</sup> dam to be used for the growing of marron for personal consumption.

## **DESCRIPTION OF SITE**

The subject site is located to the north of the intersection of Caspian Way and Boulonnais Drive. The lot falls away approximately 38 metres from the front boundary to the rear boundary. The property has limited ground vegetation with a number of semi mature and mature trees.

## **SITE HISTORY/PREVIOUS APPROVALS**

1995 – Residence approved

## **OTHER RELEVANT PREVIOUS DECISIONS OF COUNCIL**

None on record

## **APPLICANT'S SUBMISSION**

The applicant has provided the following information in support of the application:

- The property owner wishes to become more self sufficient and produce their own foods.

- The proposed outbuilding is an entertainment area and is deliberately located away from the existing house. The proposed location is the most acceptable location given the topographical limitations of the property.
- Landscaping shall be used to screen the entertainment area from the adjoining properties.
- Consideration has been given to the size and design of the pond to ensure that it does not impact too greatly on the natural water flow patterns. The dam is not located within a watercourse. The proposed dam is classified as a low impact dam in accordance with Council's policy.
- The nominated area for the dam already contains surface water. The pond would therefore not be tapping into an alternative water source. The dam will not require any clearing of mature trees and only a minimal impact on the native vegetation of the property.
- The existing dam has proven to be unsuitable for growing of marron. This dam will be utilised solely to grow fish.
- An adjoining neighbour has indicated their support for the dam in writing.
- The outbuilding/entertainment room will not be used as an ancillary accommodation. It will be open on one side and has no provision for sleeping quarters.

## **PUBLIC CONSULTATION**

The application was referred to the adjoining properties within 200 metres as part of the public consultation process. A total of four submissions were received, two objecting to the proposal and two offering no objections. The objectors raised the following concerns:

- The relocated building envelope should have the same area as the original building envelope.
- Buildings should not be located less than 15 metres from the boundary.

These concerns will be discussed in greater detail later in the report.

## **CONSULTATION WITH OTHER AGENCIES AND/OR CONSULTANTS**

Not applicable to this application

## **REPORT**

### **Relocation of Building Envelope:**

The applicant proposes to split the building envelope into two portions. The existing building envelope comprises 1350m<sup>2</sup> and is set back 12 metres from the eastern side boundary.

The proposed building envelopes (in two portions) comprise a total of 1500m<sup>2</sup> and will be set back 12 metres and 10.4 metres from the nearest side boundary.

In relation to the increase in the size of the building envelope, the City's Building Envelopes policy stipulates that a building envelope shall not exceed 2000m<sup>2</sup> or 10% of the property area. As the area of the subject property is 21,506m<sup>2</sup>, the proposed building envelope is well within the 10% stipulation.

The public consultation period raised 2 objections to relocating the building envelope to the proposed position. The objections related to the perceived visual impact of the proposed entertainment area. Whilst the proposed building envelope breaches the 20 metre side setback requirement for the Landscape zone. It should be noted that the existing building envelope is currently located 12 metres from the eastern boundary.

The objection from the adjoining neighbour to the east states that "*Buildings should not be constructed less than 15 metres from a boundary*". The applicant has indicated that the entertainment area will be located 16 metres from the boundary. Notwithstanding this fact, a condition of approval should require the entertainment area to be screened from the side and rear boundaries with vegetation.

It should also be noted that due to the physical constraints of the property in terms of vegetation cover and topography, the proposed location of the building envelope is considered most appropriate as it is located within an area that is largely cleared of vegetation and relatively flat. The applicant has indicated his intention to retain all mature trees on the property.

#### **City of Swan Dam's Policy:**

The subject dam has been assessed against the Council's adopted policy above. As a catchment dam with a capacity of 405m<sup>3</sup> and located over 100 metres from the nearest watercourse, the dam has a low impact rating (less than 5 points) under the Policy.

The Policy stipulates that dams should normally only be supported where they are an integral part of the functioning of a rural property and to this end should not be supported on properties with a land area of 2 hectares or less, where rural activities are generally not of such a scale to warrant the construction of a dam. In this instance the applicant has indicated that the purpose of the dam is to grow marron for personal consumption. The size of the subject dam on a lot of this size is considered to be justified by the intended uses stated by the applicant. The new dam is based on a design from the WA fisheries and will provide enough marron for private usage.

#### **Construction of the Dam:**

The cross-section of the dam included with the submitted plans is consistent with the City's engineering standard drawing STD 80-1s "Construction Details and Requirements for Small Rural Dams". Given height above ground level is less than 3 metres engineering certification is not required.

#### **Existing Dam:**

The subject property currently contains an existing dam. Details of the existing dam are not comprehensive as the dam was constructed before the current landowner purchased the property. The capacity of the dam is approximately 1200m<sup>3</sup> and is located over 100 metres from the nearest watercourse and classifies as a low impact dam. The existing dam is used to stock fish. The applicant has advised that using the existing dam to produce the marron is not viable. The marron do not respond well to deep waters and the landowners have been unable to produce more than 2-3 large marron a year.

**Environmental Impact:**

The dam is classified as a catchment dam as it will not receive any water from a watercourse. The applicant has advised that the dam will be located within an area where inundation is present each year. The proposed dam will prevent this area becoming a muddy hole each winter.

**OPTIONS AND IMPLICATIONS**

Option 1: Council can resolve to grant development approval to the relocation of the building envelope, construction of the entertainment room and a dam.

This is the recommended option.

Implications: The dam and entertainment area will receive development approval.

Option 2: Council can resolve to refuse the application to relocate the building envelope to construct the entertainment room 16 metres from the side boundary and refuse the application for a dam.

This is not the recommended option.

Implications: The applicant will have a right of appeal to the State Administrative Tribunal.

**CONCLUSION**

The applicant is seeking approval to relocate the building envelope to construct an entertainment area and a 405m<sup>3</sup> dam at Lot 166 Caspian Way, Brigadoon. The entertainment area will contain a spa, kitchen, lounge, dining area and bathroom.

The application was referred to the adjoining neighbours for comment with two objections received. The issues raised by the objections were the potential negative impacts on the visual amenity of the proposed entertainment area. To address the concerns of the neighbours it is recommended that the entertainment room be screened with vegetation to reduce the visual impact on adjoining properties.

The proposed dam has been assessed as a low impact dam and will be used to grow marron for personal consumption. The dam will be setback 22 metres from the nearest side boundary which is in accordance with the scheme requirements.

Given the above it is recommended that Council grant approval for the relocation of the building envelope and the construction of an entertainment area and a 405m<sup>3</sup> dam subject to conditions.

## **ATTACHMENTS**

- Location Plan
- Site Plan

## **STRATEGIC IMPLICATIONS**

City of Swan Policy No.POL-C-089 "Dams"

## **STATUTORY ENVIRONMENT**

City of Swan Town Planning Scheme No. 9

## **FINANCIAL IMPLICATIONS**

Nil

## **RECOMMENDATION**

That the Council resolve to:

- 1) Grant approval for the relocation of the building envelope to facilitate the construction of an entertainment area (consisting of an outbuilding and swimming pool) and a 405m<sup>3</sup> dam at Lot 166 (149) Caspian Way, Brigadoon subject to the following conditions:
  - a. The entertainment area (including the outbuilding) is to be used for domestic purposes associated with the property, and not for human habitation/accommodation.
  - b. The entertainment area shall be screened from the eastern side and rear boundaries by vegetation and such landscaping/screening shall be implemented within 60 days from the date of the approval to the satisfaction of the Principal Planner.
  - c. All stormwater is to be collected and contained onsite. No stormwater is to be discharged from the property into other land or reserves. Stormwater drainage plans are to be included at submission of building licence application.

- d. The proposed 405m<sup>3</sup> dam shall be located 22 metres from the western lot boundary.
- e. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.

ADVICE NOTES

- (a) Take notice that it is the responsibility of the applicant to advise the landowner(s) and/or builder(s) of the need to satisfy the requirements of the conditions of the planning approval for the subject lot, prior to or on lodgement of Building Applications. The City will not issue a Building Licence until all the conditions of planning approval and any other requirements pertaining to this planning approval have been met (including payment of fees and charges).
  - (b) This is a Development Approval of the City of Swan under its Town Planning Scheme No. 9. It is not a building licence or an approval to commence or carry out development under any other law. It is the responsibility of the applicant to obtain any other necessary approvals, consents and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
  - (c) Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
  - (d) This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City's attention.
- 2) Those who lodged a submission to be advised of the Council decision accordingly.

**CARRIED**