Ordinary Meeting of Council  
22 May 2013

3.4 PROPOSED SERVICE STATION, CONVENIENCE STORE AND CAR WASH, LOT 1116 GNANGARA ROAD, HENLEY BROOK

Ward: (Ellenbrook Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning)

KEY ISSUES

- An application was submitted in September 2012 for a service station, convenience store and car wash on Lot 1116 Gnangara Road, Henley Brook. The proposal entailed a 262m² convenience store and a canopied forecourt area containing ten fuel bowser, including four truck diesel bowser, a four stall car wash and parking/queuing space for 50 vehicles.

- The subject lot is zoned 'Special Use No.4', being part of the broader Ellenbrook Estate and is designated "Service Station" pursuant to Outline Development Plan No.68 which covers the Morgan Fields estate.

- Access to Lot 1116 was set out under a Detailed Site Plan approved in April 2002 with provision of crossovers to both Gnangara Road and Henley Brook Drive as well as off Deloraine Way. As the first two roads are designated Important Regional Roads under the Metropolitan Region Scheme (MRS) the application was referred to the Department of Planning for comment (DoP). The DoP has conditionally supported the application.

- Given the proposal entailed a truck refuelling facility, that was proposed to be operable 24 hours, the application was also referred to the closest surrounding residential properties. At the close of advertising a total of 16 submissions were received, including 14 objections relating variously to traffic congestion and safety, truck noise, fuel odours and adverse competition from a new car wash facility.

- The applicant has modified the application to remove the truck bowser, thereby eliminating those expressed concerns relating to congestion and traffic conflict from larger vehicles and truck noise.

- The facility will, with the ultimate upgrades to Gnangara Road and Henley Brook Avenue, provide left-in, left-out movements only. The long-term designation of this location as a service station is cognisant of the traffic function of these major roads and will not impair it.

It is recommended that the Council approve the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook, subject to conditions.
AUTHORITY/DISCRETION

Council has discretion pursuant to Clause 10.2 of Local Planning Scheme No.17 to determine applications for planning approval.

BACKGROUND

Applicant: Cardno WA Pty. Ltd.
Owner: Topshot Enterprises Pty. Ltd. (*Directors: Carl Carmine Sanzone, Guiseppe Sanzone*)
Zoning: TPS - Special Use zone No.4
MRS - Urban
Strategy/Policy: Development Scheme:
Existing Land Use: Vacant
Lot Size: 4840m²
Lot Area: 
Use Class: "Service Station", "Convenience Store" - 'P'

DETAILS OF THE PROPOSAL

The proposal as originally lodged with the City in September 2012 sought planning approval for a service station, comprising as follows:

- Convenience store building of 262m² in area;
- 4 stall (3 manual and 1 automatic) motor vehicle wash including queuing space for 16 vehicles plus 4 vacuum bays;
- 6 fuel bowsers including 1 diesel bowser (total of 12 pumps);
- 2 truck diesel bowsers (4 pumps) including canopy;
- Car parking bays comprising 22 visitor bays, 12 filling bays and carwash queuing space for 16 vehicles; and
- Landscaping.

The modified proposal submitted to the City 17 April 2013 has removed the 4 four proposed truck refuelling bowsers and replaced with two ordinary diesel pumps.

DESCRIPTION OF SITE

The subject lot is a vacant square shaped lot of 4840m² situated in the south-east corner of the junction of Gnangara Road and Henley Brook Avenue in Henley Brook. The lot is service by existing crossovers to Henley Brook Avenue and to Deloraine Way.
Ordinary Meeting of Council
22 May 2013

SITE HISTORY/PREVIOUS APPROVALS

The site has had previous approvals for service station development in 1998 and 2008, both of which have lapsed.

APPLICANT'S SUBMISSION

The applicant provided justification in support of the proposal which is summarised as follows:

The proposal is:

- an efficient use of land;
- in accordance with the development plan for the lot;
- will not impact negatively on the surrounding locality;
- is predominantly the same land use as that previously approved for the site in 2008;
- is compatible with surrounding development; and
- is acceptable from a traffic management perspective.

PUBLIC CONSULTATION

The application was advertised for public comment with direct referral to residential properties that back onto Deloraine Way and to the two commercial developments on the adjoining Lots 1115 and 1117 Gnangara Road.

A total of 16 submissions were received, including 14 objections citing variously concerns with traffic congestion and access, truck noise, fuel odour and commercial competition from a new car wash facility.

These issues will be addressed further in the report.

CONSULTATION WITH OTHER AGENCIES AND/OR CONSULTANTS

The application was referred to the DoP whom, having revised their original objection to the proposal (27 March 2013) has, as of 24 April, now advised it supports the proposed development subject to the following conditions:

(i) Access to Gnangara Road is to be 'left-in, left-out' only and appropriately configured to prevent the use of this access as a full movement crossover.

(ii) A full movement access onto Henley Brook Avenue is supported until the road is upgraded.
Ordinary Meeting of Council
22 May 2013

(iii) The Transport Impact Assessment needs to undertake a traffic assessment of the Gnangara Road and Henley Brook Avenue intersection. It should consider a ten year planning horizon in accordance with WAPC Transport Assessment Guidelines for developments from the year of development (long term) and should assume left-in left-out restrictions onto Gnangara Road with full movements onto Henley Brook Avenue until the road is upgraded to include the new median. At this point access will be restricted to left-in, left-out only.

DETAILS

Zoning and Permissibility of Use

The subject lot is zoned "Special Use No.4", being part of the broader Ellenbrook Estate and is subject of Outline Development Plan No.68 (ODP No.68) which specifically covers the Morgan Fields estate. Under ODP No.68 the land is zoned "Service Station" and such use, as well as the use of "Convenience Store" are 'P' uses in this zone.

Traffic and Access

The application included a Transport Assessment, prepared by Transcore, submitted to the City most recently on February 7 2013. The report identified that the maximum trip generation of the facility will be a peak of 112 vehicles per hour during the weekday lunchtime hour. The assessment concluded that the traffic volumes to and from the lot could be adequately accommodated by the current access points designated for the lot under the Detailed Area Plan both at the present time and with future restrictions imposed by upgrades/modifications to Henley Brook Avenue.

The transport assessment also examined truck turning movements into and out of the lot at existing crossover points. Whilst the report indicated that the turning movements provided sufficient clearance space between existing trucks and incoming cars, consideration of access conflict has become redundant with the modification to the application deleting the truck fuelling bowers.

As noted the DOP's Transport and Movements branch have reviewed the application and support it subject to the access limitations outlined above.

A final but significant matter in relation to access is that raised by the owners of the abutting Lot 1117, which is the KFC franchise. The access to this lot from Henley Brook Avenue is via a driveway across the subject Lot 1116. Whilst this was constructed with the consent of the previous owners of Lot 1116, it was never legally secured by grant of easement as conditionally set out by the development approvals for Lot 1116 that have lapsed. It is therefore necessary and appropriate to impose such condition again here on any approval issued.

Noise and Odour

Submissions by some residents of properties backing onto Deloraine Way expressed concern with adverse amenity impact arising from noise from truck traffic to the proposed service station. Concern was also expressed with overlooking from such higher vehicles into backyard areas of these residences. Whilst the impact of vehicle noise within the street is not regulated by the Environmental Protection (Noise) Regulations 1997 noise within the forecourt area of the proposed service station is. Further consideration of this issue and indeed the overlooking issue and odour issues is redundant here given the modification to the application to remove the truck fuelling bowers.
Ordinary Meeting of Council  
22 May 2013

**Commercial competition from new car wash facility**

Those concerns with potential adverse impact of competition arising as a result of this facility are not relevant planning considerations.

**Development standards**

The proposed structures comply with the setbacks set out in the Scheme for "Convenience Store" and "Service Station" developments. The Scheme requires provision of 40 parking bays in total inclusive of bay requirements for the convenience store, the fuel bowsers and car wash stalls. The proposal is complaint with this requirement, with 22 marked bays for the store, car space for each of the 14 bowsers and space for 16 vehicles using the carwash stalls and queuing behind.

**OPTIONS AND IMPLICATIONS**

**Option 1:** Council may resolve to refuse the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook for the following reason:

(i) The proposal, by virtue of traffic to and from the site, has the potential to adversely affect the functionality of the junction of Gnangara Road and Henley Brook Avenue.

This is not the recommended option.

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

**Option 2:** Council may resolve to approve the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook subject to conditions.

This is the recommended option.

**Implications:** The proposed development may proceed.

**CONCLUSION**

An application was submitted in September 2012 for a service station, convenience store and car wash on Lot 1116 Gnangara Road, Henley Brook. That proposal contained 4 truck refuelling pumps. The lot has frontage to Gnangara Road, Henley Brook Avenue and Deloraine Way and is specifically designated for Service Station and Convenience Store uses under ODP No.68 for the Morgan Fields estate.

The application was advertised to surrounding residential properties that back onto Deloraine Way. A total of 16 submissions were received, including 14 objections citing variously concerns with traffic congestion and access, truck noise, fuel odour and commercial competition from a new car wash facility.

The applicant has modified the application to remove the truck bowsers, thereby eliminating those expressed concerns relating to congestion and traffic conflict from larger vehicles and truck noise.
The application was referred to the DoP for comment, given the site abuts two Important Regional Roads. The DoP has conditionally supported the application.

The proposal complies with the ODP applicable to the land, complies with the development standards set out under the City's Scheme and the traffic and access arrangements are accommodated within the existing road network. Approval is recommended.

**ATTACHMENTS**

Site Plan
Elevations

**STRATEGIC IMPLICATIONS**

Nil

**STATUTORY IMPLICATIONS**

City of Swan Local Planning Scheme No.17
Outline Development Plan No.68

**FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Simple majority
RECOMMENDATION

That the Council resolve to:

1) Approve the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook subject to the following conditions:

1. This approval is for "Service Station", "Convenience Store" and "Motor Vehicle Wash" as defined in the City’s Local Planning Scheme No.17 and the subject land may not be used for any other use without the prior approval of the City.

2. No truck refuelling is permitted without the further approval of the City.

3. Prior to the lodgement of an application for a Building Permit for the proposed development on Lot 1116 Gnangara Road, Henley Brook (Lot 1116), the owner of Lot 1116 shall grant to the City of Swan (City) for the benefit of the City and the public at large an easement in gross pursuant to sections 195 and 196 of the Land Administration Act 1997 for vehicular and pedestrian access purposes over Lot 1116 in a location(s) satisfactory to the City (Easement) to enable access over Lot 1116 to the parking and development on adjoining Lots 1115 and 1117 Henley Brook Avenue, Henley Brook (Lots 1115 and 1117) and to ensure vehicular and pedestrian access and movement is maintained over Lot 1116 for the benefit of Lots 1115 and 1117.

The owner shall be responsible to pay all costs associated with the City's solicitor's (currently McLeods 9383 3133) costs of and incidental to the preparation of (including all drafts), stamping and registration of the Easement at Landgate.

4. Access to Gnangara Road is to be 'left-in, left-out' only and appropriately configured and signed to prevent the use of this access as a full movement crossover.

5. Prior to application for a Building Permit, the owner/applicant shall undertake and submit to the City a further traffic assessment of the Gnangara Road and Henley Brook Avenue intersection that:

   (i) is based on a ten year planning horizon in accordance with WAPC Transport Assessment Guidelines for developments from the year of development (long term); and

   (ii) and assumes left-in left-out restrictions onto Gnangara Road and with full movements onto Henley Brook Avenue until that road is upgraded to include the new median.
6. Prior to occupancy of the development, the owner/applicant shall:

   (i) Submit to the satisfaction of the City a detailed engineering design for a crossover to Gnangara Road and the works required to upgrade the crossovers on Henley Brook Avenue and Deloraine Way; and

   (ii) Undertake the works required to install the new crossover and upgrade the existing crossover to the lot in accordance with the approved design.

7. The applicant/owner shall submit detailed plans and specifications including the site feature survey of a licensed surveyor, levels (proposed), earthworks, drainage, crossovers, access ways, hardstands, parking bays, loading bays, lighting, pavement details, proposed service connections and compound and refuse/bulk bin areas. Such plans and specifications should be submitted with the building permit application and be in accordance with the City of Swan Property Development Design Guidelines and its relevant specifications.

8. Vehicle parking area, access and circulation areas must be sealed, kerbed, drained and maintained to the satisfaction of the City, in accordance with the approved plans.

9. Provision shall be made for 22 designated parking bays. These shall be designed in accordance with the City's Specifications measuring 5.5 x 2.5 metres, clearly marked on the ground and served by a 6 metre wide paved accessway. Where the accessway abuts a building or other barrier, a minimum width of 6.5 metres is required. Disabled bays to comply with Australian Standard 2890.6, bays near obstructions to measure 5.5 x 2.8m.

10. Car parking bays and areas designated for landscaping, shall not be used for the storage, display or selling of any goods or vehicles whatsoever.

11. Stormwater shall be disposed of into the City's drainage system via an internal system designed, to the satisfaction of the City, which manages a 1 in 5 year (minimum) storm event with provision of an overland flow path to accommodate potential internal system failure.

12. Refuse bin areas adequate to service the development shall be provided to the satisfaction of the City's Principal Environmental Health Officer before the development is occupied or used.

13. The development must be connected to the Water Corporation's sewer

14. External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.

15. Where petrol, benzene or other inflammable or explosive substances or grease, oil or greasy/oily matter is likely to be discharged, a sealed wash-down area connected to a plate separator or other approved device must be installed and connected to sewer, subject to Water Corporation approval.
16. Provision must be made for access and facilities for use by people with disabilities in accordance with provisions of the Building Code of Australia and AS 1428.1.

17. In order to comply with the City of Swan Provision of Public Art Policy PO-LP-1.10, the owner(s) or applicant on behalf of the owner(s) shall within 28 days of the grant of this approval elect either;

   (i) To pay to the City the sum of ($15,000) which equates to 1% of the Construction Cost of the development, in lieu of providing on-site Public Art (option 1); or

   (ii) Seek approval from the City for an artist to provide Public Art on the development site to a minimum value of ($15,000) (option 2)

If the election is Option 1, the cash-in-lieu amount must be paid to the City on the earlier of the date specified in an invoice issued by the City, or when an application is made for a building permit for the development the subject of the approval.

If the election is Option 2:

   (i) the owner(s) or applicant on behalf of the owner(s) within a further 28 days following the election (or such longer period agreed by the City) must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work. The City may apply further conditions regarding the proposed Public Art;

   (ii) no part of the development may be occupied or used unless the Public Art has been installed in accordance with an approval granted by the City;

   (iii) the Public Art approved must be maintained during the continuation of the development; and

   (iv) prior to the lodgement of a building permit application a Notification pursuant to section 70A of the Transfer of Land Act must be lodged against the certificate of title to the land on which the development is to be carried out, to make the proprietors and prospective purchasers aware of the preceding condition.

18. 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.

2) Advise all those who lodged a submission of Council's decision accordingly.
Ordinary Meeting of Council  
22 May 2013

**MOTION** that the Council resolve to:

1) Prior to the approval of the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook:

   1. the owner/applicant shall undertake and submit to the City a further traffic assessment of the Gnangara Road and Henley Brook Avenue intersection that:

      (iii) is based on a ten year planning horizon in accordance with *WAPC Transport Assessment Guidelines for developments* from the year of development (long term); and

      (iv) and assumes left-in left-out restrictions onto Gnangara Road and with full movements onto Henley Brook Avenue until that road is upgraded to include the new median.

2) Record the reason for changing the staff recommendation is to address concerns regarding traffic safety and management prior to approval.

   (Cr Cheung - )

Cr Cheung withdrew the motion.

**MOTION** that the Council resolve to adopt the staff recommendation.

   (Cr Bailey - Cr Congerton)

**RESOLVED UNANIMOUSLY TO:**

1) Approve the application for a Service Station, Convenience Store and Car Wash at Lot 1116 Gnangara Road, Henley Brook subject to the following conditions:

   1. This approval is for “Service Station”, "Convenience Store" and "Motor Vehicle Wash" as defined in the City’s Local Planning Scheme No.17 and the subject land may not be used for any other use without the prior approval of the City.

   2. No truck refuelling is permitted without the further approval of the City.

   3. Prior to the lodgement of an application for a Building Permit for the proposed development on Lot 1116 Gnangara Road, Henley Brook (Lot 1116), the owner of Lot 1116 shall grant to the City of Swan (City) for the benefit of the City and the public at large an easement in gross pursuant to sections 195 and 196 of the *Land Administration Act 1997* for vehicular and pedestrian access purposes over Lot 1116 in a location(s) satisfactory to the City (Easement) to enable access over Lot 1116 to the parking and development on adjoining Lots 1115 and 1117 Henley Brook Avenue, Henley Brook (Lots 1115 and 1117) and to ensure vehicular and pedestrian access and movement is maintained over Lot 1116 for the benefit of Lots 1115 and 1117.

   The owner shall be responsible to pay all costs associated with the City's solicitor's (currently McLeods 9383 3133) costs of and incidental to the preparation of (including all drafts), stamping and registration of the Easement at Landgate.
4. Access to Gnangara Road is to be 'left-in, left-out' only and appropriately configured and signed to prevent the use of this access as a full movement crossover.

5. Prior to application for a Building Permit, the owner/applicant shall undertake and submit to the City a further traffic assessment of the Gnangara Road and Henley Brook Avenue intersection that:

   (i) is based on a ten year planning horizon in accordance with WAPC Transport Assessment Guidelines for developments from the year of development (long term); and

   (ii) and assumes left-in left-out restrictions onto Gnangara Road and with full movements onto Henley Brook Avenue until that road is upgraded to include the new median.

6. Prior to occupancy of the development, the owner/applicant shall:

   (i) Submit to the satisfaction of the City a detailed engineering design for a crossover to Gnangara Road and the works required to upgrade the crossovers on Henley Brook Avenue and Deloraine Way; and

   (ii) Undertake the works required to install the new crossover and upgrade the existing crossover to the lot in accordance with the approved design.

7. The applicant/owner shall submit detailed plans and specifications including the site feature survey of a licensed surveyor, levels (proposed), earthworks, drainage, crossovers, access ways, hardstands, parking bays, loading bays, lighting, pavement details, proposed service connections and compound and refuse/bulk bin areas. Such plans and specifications should be submitted with the building permit application and be in accordance with the City of Swan Property Development Design Guidelines and its relevant specifications.

8. Vehicle parking area, access and circulation areas must be sealed, kerbed, drained and maintained to the satisfaction of the City, in accordance with the approved plans.

9. Provision shall be made for 22 designated parking bays. These shall be designed in accordance with the City's Specifications measuring 5.5 x 2.5 metres, clearly marked on the ground and served by a 6 metre wide paved accessway. Where the accessway abuts a building or other barrier, a minimum width of 6.5 metres is required. Disabled bays to comply with Australian Standard 2890.6, bays near obstructions to measure 5.5 x 2.8m.

10. Car parking bays and areas designated for landscaping, shall not be used for the storage, display or selling of any goods or vehicles whatsoever.

11. Stormwater shall be disposed of into the City's drainage system via an internal system designed, to the satisfaction of the City, which manages a 1 in 5 year (minimum) storm event with provision of an overland flow path to accommodate potential internal system failure.

12. Refuse bin areas adequate to service the development shall be provided to the satisfaction of the City's Principal Environmental Health Officer before the development is occupied or used.
Ordinary Meeting of Council
22 May 2013

13. The development must be connected to the Water Corporation’s sewer.

14. External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.

15. Where petrol, benzene or other flammable or explosive substances or grease, oil or greasy/oily matter is likely to be discharged, a sealed washdown area connected to a plate separator or other approved device must be installed and connected to sewer, subject to Water Corporation approval.

16. Provision must be made for access and facilities for use by people with disabilities in accordance with provisions of the Building Code of Australia and AS 1428.1.

17. In order to comply with the City of Swan Provision of Public Art Policy PO-LP-1.10, the owner(s) or applicant on behalf of the owner(s) shall within 28 days of the grant of this approval elect either:

   (i) To pay to the City the sum of ($15,000) which equates to 1% of the Construction Cost of the development, in lieu of providing on-site Public Art (option 1); or

   (ii) Seek approval from the City for an artist to provide Public Art on the development site to a minimum value of ($15,000) (option 2)

If the election is Option 1, the cash-in-lieu amount must be paid to the City on the earlier of the date specified in an invoice issued by the City, or when an application is made for a building permit for the development the subject of the approval.

If the election is Option 2:

   (i) the owner(s) or applicant on behalf of the owner(s) within a further 28 days following the election (or such longer period agreed by the City) must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work. The City may apply further conditions regarding the proposed Public Art;

   (ii) no part of the development may be occupied or used unless the Public Art has been installed in accordance with an approval granted by the City;

   (iii) the Public Art approved must be maintained during the continuation of the development; and

   (iv) prior to the lodgement of a building permit application a Notification pursuant to section 70A of the Transfer of Land Act must be lodged against the certificate of title to the land on which the development is to be carried out, to make the proprietors and prospective purchasers aware of the preceding condition.

18. 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.

2) Advise all those who lodged a submission of Council’s decision accordingly.