3.6 PROPOSED AGRICULTURAL SHED - LOT 215 MIDDLE SWAN ROAD CAVERSHAM

Ward: (Swan Valley/Gidgegannup Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning)

KEY ISSUES

- An application has been made to the City for the construction of a 300 m² shed with a wall height of 4 metres at Lot 215 Middle Swan Road, Caversham. The shed was originally proposed to be setback 5 meters from the northern and eastern boundaries.

- The proposed shed will be used for the storage of equipment ancillary to the current viticultural activities taking place on the property.

- The application was advertised to owners of the adjoining properties affected by the reduced setbacks.

- The property owner directly to the east of the subject site objected on the basis that the proposed shed will have an adverse impact on the visual amenity.

- In accordance with current exemption procedures the shed was not referred to the Swan Valley Planning Committee.

- The initial proposal entailed a 5 metre setback from the eastern boundary which practically eliminated the possibility of screening as a 3 metre firebreak needs to be maintained around the inside of the property.

- The proponent revised the plans by increasing the eastern setback from 5 metres to 10 metres which will now allow for screening to be installed.

It is recommended that the Council conditionally approve the proposed shed at Lot 215 Middle Swan Road, Caversham.

AUTHORITY/DISCRETION

Council has discretion pursuant to Clause 10.3 of the Scheme to approve (with or without conditions) or refuse applications for planning approval. If the applicant is aggrieved with the decision of the Council a right of appeal may exist in accordance with Part 3 of the State Administrative Tribunal Act 2004 and Part 5 of the Planning and Development Act 2005.
BACKGROUND

Applicant: Highline
Owner: Forrestfield Pty Ltd (Directors: Allan Iliya Erceg, Alternate Director: Daniel Joseph Erceg)
Zoning: TPS - Swan Valley Rural
        MRS - Rural
Strategy/Policy: Swan Valley Planning Act (Area B)
Development Scheme: LPS 17
Existing Land Use: Function Centre, Restaurant, Tavern and Microbrewery
                 Winery, Residential Dwelling
Lot Size: 11.57ha
Use Class: "Agriculture Intensive" - "P"

DETAILS OF THE PROPOSAL

The proposal is for the construction of a 20 metre x 15 metre (300 m$^2$) shed with a wall height of 4 metres.

The shed will be set back 5 metres from the northern boundary and 10 metres from the eastern boundary.

DESCRIPTION OF SITE

Lot 215 Middle Swan Road, Caversham is approximately 11.57ha in area. The southern lot boundary abuts the Swan River Trust Development Control Area. The lot is approximately 70% covered with grape vines used in the production of wine.

There is an existing approved wine production facility in the north eastern corner of the lot. On 16 January 2013 approval was granted for Restaurant, Winery, Tavern, Food and Beverage Production (Micro-Brewery) & Reception Centre.

Lot 215 and Lot 10 to its west are proposed to be amalgamated into a single future Lot 170, subject to an application to the Western Australian Planning Commission (WAPC).

Lot 10 Harris Road, Caversham is approximately 1.82ha in area and has an access road to Middle Swan Road. The access leg currently has an access easement to the benefit of the adjacent landowner, Sandalford Wines. This application does not propose development that will alter existing access arrangements.

SITE HISTORY/PREVIOUS APPROVALS

Several previous approvals had been granted in respect of the property in question, the latest being on 16 January 2013 under DA-673/2012 for Restaurant, Winery, Tavern, Food and Beverage Production (Micro-Brewery) & Reception Centre.
APPLICANT’S SUBMISSION

1. Although we believe that a 5m setback between the shed and the eastern boundary provides us with sufficient space for our landscaping strip, we have now increased the setback to 10m to progress this application and satisfy any concerns.

2. The proposed location of the shed has the least impact to our eastern neighbour, as it is a considerable distance away from their home and will be screened by their existing landscaping as well as the additional trees that we will be planting on the boundary.

3. It should be noted that Lot 100 has a shed which is positioned approximately 3m away from our eastern boundary.

PUBLIC CONSULTATION

The application was advertised for public comment in accordance with the requirements of Local Planning Scheme No. 17 with written referral to the affected landowners to the east and north as it does not comply with the required setbacks in terms of Local Planning Policy POL-TP-126 (Rural Zones – Building and Development Standards) which requires minimum side setbacks of 20 metres.

The neighbour to the east (owner of Lot 100) submitted an objection to the proposed reduced setback based on the following:

- Rural setbacks are designed to maintain a sense of openness and space in rural areas;
- A 15m x 20m x 4m shed located 5m from the boundary has enormous visual impact on the access to and enjoyment of the affected property detracting from the rural character and amenity of the area;
- Screening will not be possible with a 5m setback as a minimum 3m firebreak is required with a practical margin from the fences and shed; and
- There is no lack of space to build the shed elsewhere.

CONSULTATION WITH OTHER AGENCIES

The application was referred to the Swan River Trust (SRT) as the subject site abuts land within the management area of the Trust.

The SRT does not consider the application likely to have any adverse impact on the Parks and Recreation reservation or the Swan River and stated that they have no objection in respect of the proposed development.

DETAILS

Zoning and Permissibility of Use
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The subject lot is zoned "Rural" under the Metropolitan Region Scheme (MRS) and "Swan Valley Rural" under the City's Local Planning Scheme No.17.

The proposed shed is to be used for the storage of equipment related to the viticulture operations currently undertaken on the property. ‘Agriculture – Intensive’ is a permitted ('P') use and the proposed shed is regarded as incidental thereto.

The objectives of the "Swan Valley Rural" zone are to:

"(a) promote the core area of the Swan Valley primarily as a horticultural, recreational, tourism and landscape resource;
(b) provide for limited rural living within the Swan valley, subject to locational, design and landscaping requirements to enhance the character and amenity of the valley and to ensure compatibility with productive rural activities;
(c) recognise the occurrence of high quality horticultural soils and scarce plastic clays and to protect these resources from development which would jeopardise their current and future use;
(d) Ensure that the development and use of land accords with the planning objectives for Area B as specified in the Swan Valley Planning Act 1995".

Swan Valley Planning Act 1995

The application has been assessed against the Planning Objectives of Area B. Planning objectives 3, 5, 5A, 8 and 9 of Area B are not applicable or are irrelevant in this instance and is therefore not discussed in this report. The proposal has been assessed against the relevant Planning Objectives of Area B of the Swan Valley Planning Act 1995 and comments are provided for each relevant planning objectives as follows:

Objective 1: The protection of viticulture

The proposed shed will be used for the storage of equipment directly related to the viticulture operations on site.

Objective 2: The provision of water for viticulture and horticulture and the discouragement of other activities that have high water demands.

The proposed shed will not adversely affect any nearby viticulture and horticulture activities in terms of water demand. The proposed shed will not require any additional water over and above what is already used on site and therefore the approval on the subject lot will have no conflict with the requirement of water for the viticulture and horticulture pursuits within the locality.

Objective 4: The encouragement of traditional activities of the Swan Valley and industries associated with viticulture, horticulture and cottage industry

The proposed shed will be used for the storage of equipment directly related to the viticulture operations on site.

Objective 6: The compatibility of design, siting and landscaping with the character of the area.
The applicant has moved the proposed location of the shed back a further 5m from the eastern boundary. It is now located 10m from the boundary which allows adequate space for screening in the form of landscaping.

Objective 8: *The discouragement of uses that are incompatible with the rural character and traditional activities of the area.*

The proposed shed will be used for the storage of equipment directly related to the viticulture operations on site.

Objective 10: *The avoidance of overstocking, of activities causing pollution or degradation of the environment and of any other land management practices detrimental to the amenity of the area*

The application is not proposing any additional activities that will cause pollution and degradation. Therefore, approval of the proposed shed on the subject lot is not considered to result in an impact detrimental to the amenity of the locality.

**OPTIONS AND IMPLICATIONS**

**Option 1:** That Council resolve to approve the proposed 300 m² shed with a wall height of 4 metres at Lot 215 Middle Swan Road, Caversham subject to standard conditions.

This is the recommended option.

**Implication:** The applicant will be able to proceed with the construction of the proposed shed.

**Option 2:** The Council resolve to refuse the proposed 300 m² shed with a wall height of 4 metres at Lot 215 Middle Swan Road, Caversham on the ground that the proposal will have an adverse impact on the visual amenity of the neighbouring property to the east and is therefore inconsistent with the objectives of the Swan Valley Rural zoning applicable to the subject land.

This is not the recommended option.

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

**CONCLUSION**

The proposed development is supported on the following grounds:

- It is considered to be compliant with the relevant provisions of LPS 17;
- It is deemed appropriate in terms of bulk and scale;
- The development will be setback adequately to allow for landscaping to be provided along the eastern boundary in order to limit any adverse visual impact on the property to the east; and
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- The proposed development is incidental to the current viticulture activities on-site and therefore consistent with existing rural activities in the locality, those being viticulture, rural residential living, and rural pursuits.

On the basis of the above it is considered that the application is consistent with the objectives of the zone and accordingly approval is recommended.

ATTACHMENTS

Attachment 1 – Aerial Photo & Location Plan
Attachment 2 - Objection
Attachment 3 – Site Plan
Attachment 4 – Floor Plan & Elevations

STRATEGIC IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Swan Valley Planning Act 1995
Planning and Development Act 2005
Local Planning Scheme No. 17
  Part 4.2.20 - Rural Living Zone
  Part 8 - Development of land
  Part 9.4 - Advertising of applications
  Part 10.2 - Matters to be considered by Local Government

Pol-TP-126 (Building and Development Standards, Rural Zones)

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple majority
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RECOMMENDATION

That the Council resolve to:

1) Approve the application for the proposed 300 m$^2$ shed at Lot 215 Middle Swan Road, Caversham, subject to the following conditions:

   1. This approval is for a shed as depicted in the approved plans date received by the City 3 May 2013
   2. The shed is to be assembled in a manner that has due regard for the local amenity and local residents by way of being constructed and assembled to compliment the local dwellings and painted/coloured in a natural earth tone complimentary to the local amenity,
   3. 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,
   4. Use of the site for the purpose approved shall not commence until an Occupancy Permit is issued,
   5. Vehicle access onto the site shall be restricted to that shown on the approved site plan,
   6. 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 Permit application,
   7. The proposed shed is to be adequately screened with suitable landscaping from the view from nearby residents to the satisfaction of the Principal Planner and is to be continually maintained to an effective standard to the satisfaction of the City of Swan. Pot sizes of plants are to be sufficient to ensure immediate (and adequate) screening of the proposed shed, and
   8. Any additional Development, which is not in accordance with the application or any condition of approval, will require further approval by Council.

ADVICE NOTES

a) This is a Development Approval of the City under its Local Planning Scheme No. 17. It is not a building permit 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.

b) In accordance with the Building Act 2011 and Building Regulations 2012, a Building Permit application must be submitted to, and approved by the City’s Principal Building Surveyor prior to any construction or earthworks commencing on site.

c) 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.

d) 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 Permit 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).

e) Embankment stabilisation shall be in accordance with the provisions of the Building Code of Australia.

f) To enable your Building Permit Application to be assessed promptly, please ensure a complete application is submitted to the City.

To assist in preparing a complete Building Permit Application refer to the City of Swan Website (www.swan.wa.gov.au) and follow the links to Building Services Applicant Checklists.

If you require assistance, please contact Customer Services on 9267 9267. In accordance with the Health Act 1911 and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974, an application to construct an off-site effluent disposal system must be submitted to, and approved by, the City's Principle Environmental Health Officer, prior to the construction of such a system.

g) The Developer must ensure that compliance with the access and facilities for disabled requirements of the Building Code of Australia and all other relevant Australian Standards in respect of access and facilities for the disabled are met.

h) Stormwater to be disposed clear of building and contained on site.

i) Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits, and nature strips must be adequately protected during construction of the development.

j) The proposed development is not to be within 1.2 metres of any sewerage septic tank or 1.8 metres of any effluent leach drain without the City’s approval.

2) Advise all submitters of the Council’s decision.

CARRIED