

**MINUTES
OF THE COUNCIL ASSESSMENT PANEL MEETING OF THE CITY OF TEA TREE
GULLY HELD ON TUESDAY 18 JULY 2023 AT 10.01AM IN THE COUNCIL
CHAMBERS, 571 MONTAGUE ROAD, MODBURY**

1. Attendance Record:

1.1 Present

Mr M Adcock *(Independent Member)-(Presiding Member)*
Ms B Merrigan *(Independent Member)*
Mr J Rutt *(Independent Member)*
Mr A Mackenzie *(Independent Member)*

Present via electronic means

Mr D Wyld *(Elected Member)*

Officers in Attendance

Mr M Pereira General Manager Community Services
Mr B O'Neil Senior Planner
Ms C Gustafson Development Services Administration Officer

1.2 Apologies

Mr N Grainger Manager, City Development

1.3 Public Gallery

11 attendees

1.4 Media - Nil

2. Minutes of Previous Meeting

Moved Mr Rutt, Seconded Mr Mackenzie

That the Minutes of the Council Assessment Panel Meeting held on 18 April 2023 be confirmed as a true and accurate record of proceedings.

Motion Carried Unanimously (237)

3. Business Arising from Previous Minutes - Nil

4. Reports and Recommendations

4.1 21030842 - Construction of a child care centre with associated boundary acoustic fences, retaining walls and advertising at 48 & 50 Brunel Drive Modbury Heights

10.11am – Mr O’Neil entered the Chambers

10.15am – Mr Pereira entered the Chambers

Moved Ms Merrigan, Seconded Mr Mackenzie

Cr Kristianne Foreman attended the meeting and addressed panel members in support of her representation.

Mr Marc Duncan (Future Urban) and Mr Suresh Vijayakumar (MFY) attended the meeting and addressed panel members in support of the application.

It is recommended that the Council Assessment Panel resolve that:

- A. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- B. Development Application Number 21030842, by Future Urban Pty Ltd is granted Planning Consent subject to the following conditions and advisory notes:

CONDITIONS

Condition 1

The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 21041414 except where varied by any condition(s) listed below.

Condition 2

The materials used on the external surfaces of the development and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times. All external paintwork must be completed within 2 months of the erection of the structures herein consented to.

Reason: To preserve and enhance the amenity of the site and locality.

Condition 3

The premises must be kept tidy and buildings, fences, landscaping and paved or sealed surfaces must be maintained in good condition at all times.

Reason: To maintain the amenity of the site and locality.

Condition 4

The hours of operation herein approved are as follows:

Monday to Friday 6:30am to 6:30pm

Any variation to these hours of operation will require a further consent.

Reason: To minimise the impact on adjoining properties.

Condition 5

All driveways, parking and manoeuvring areas must be formed, sealed with concrete, bitumen or paving, and be properly drained. They must be maintained in good condition thereafter.

Reason: To ensure useable and safe carparking.

Condition 6

All off-street car parking spaces must be linemarked, in accordance with the approved plans and Australian Standards AS 2890.1:2004 and 1742.2:2009. The linemarking, signposting and directional arrows must be maintained to a clear and visible standard at all times.

Reason: To maintain safety for users.

Condition 7

Free and unrestricted access must be available to all the designated carparking spaces and the vehicle access ways at all times.

Reason: To ensure useable access and appropriate off-street carparking is provided.

Condition 8

Driveways, parking and manoeuvring areas and footpaths must be lit in accordance with the Australian Standard AS 1158 during the hours of darkness that they are in use. Such lights must be directed and screened so that overspill of light into nearby properties is avoided and motorists are not distracted.

Reason: To minimise the impact on adjoining properties and provide a safe environment for users during darkness

Condition 9

Any existing crossing places not providing vehicle access on the approved plans must be replaced with kerb and watertable and the verge restored with materials consistent with the surrounding verge to a uniform level free of obstructions.

Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge

Condition 10

Except where varied by the approved plans or other conditions listed below, the new or modified crossing place must meet the minimum standard of design and construction as detailed on City of Tea Tree Gully drawings (as applicable):

- 1/15/SD – ‘Concrete Vehicle Crossing Place’;
- 2/15/SD – ‘Block Paved Vehicular Crossing Place’;
- 40/15/SD – ‘Property Access Grades;’ and/or;
- 45/15/SD – ‘Commercial Concrete Vehicular Crossing Place.

Reason: *To maintain consistency of the streetscape and protect the infrastructure within the road verge.*

Condition 11

The new crossing places must be constructed and/or modified, as per the approved plans and conditions, within six (6) months of completing the childcare centre, associated carparking, retaining walls, fencing and landscaping.

Reason: *To maintain consistency of the streetscape and protect the infrastructure within the road verge*

Condition 12

Stormwater management and water discharge must be undertaken in accordance with the Stormwater Management Plan prepared by FMG Engineering dated 14 November 2022 with works outside the boundary of the site to be undertaken to the satisfaction of Council’s engineer.

Reason: *To assist and maintain water quality entering Council’s drainage network and minimise the impact of development on neighbouring properties.*

Condition 13

Where stormwater is to be discharged to the street gutter, the stormwater system installation must meet the minimum requirements of City of Tea Tree Gully drawing:

- 62/15/SD – ‘Stormwater Pipe Connection to Council Kerb and Gutter’

Reason: *To maintain consistency of the streetscape and protect the infrastructure within the road verge.*

Condition 14

Any lights on the subject land including the carpark must be installed, directed and screened in accordance with Australian Standard AS 4282—1997 – Control of Obtrusive Effects of Outdoor Lighting.

Reason: *To ensure that overspill of light into the nearby properties is avoided and motorists are not distracted and to minimise the impact on adjoining properties and motorists*

Condition 15

No materials or equipment are to be stored outside except within the designated areas marked on the approved plans.

Reason: *To preserve and enhance the amenity of the site and locality.*

Condition 16

The planting and landscaping identified in the Landscape Concept Plan prepared by Das-Studio herein consented to, and submitted with the application must be completed in the first planting season concurrent with or following commencement of the use of the land. Such planting and landscaping must not be removed nor the branches of any tree lopped and any plants which become diseased or die shall be replaced by suitable species.

Reason: To maintain amenity and site of locality.

Condition 17

The acoustic treatments recommended for the site in the acoustic report provided by Echo Acoustic Consulting, reference 116-3 dated 27 November 2023, are complied with and completed prior to commencement of the use and will remain in place and be maintained to the satisfaction of Council thereafter.

Reason: To minimise the impact on adjoining properties.

Condition 18

Waste collection services must be undertaken between 6:30pm and 7:00pm on weekdays and 9:00am to 5:00pm on Saturday and Sunday.

Reason: To minimise the impact on adjoining properties.

Condition 19

The signage, herein approved, must be maintained in good repair with all words and symbols being clearly visible at all times.

Reason: To ensure amenity of the site and locality.

Condition 20

The illumination of the signage must be kept to a level which ensures, that no hazard, difficulty or discomfort is caused to either approaching drivers on adjacent public roads or nuisance to adjoining residents, and in accordance with the relevant Australian Standards.

Reason: To not distract road users and adjoining properties.

Condition 21

A permanently fixed privacy screen must be erected on the eastern elevation of the upper level play area to a minimum height of 1.8 metres above the finished floor level of the play area prior to the commencement of use, and must be maintained as an effective privacy screen thereafter.

Reason: To minimise overlooking of adjoining properties.

Condition 22

The upper level windows of the building facing north and east must have:

- Minimum window sill heights of 1.5 metres above the upper finished floor level; or
- Fixed and obscured glass to a height of 1.5 metres (minimum) above upper floor level; or

- Obscured glass to a height of 1.5 metres (minimum) above the upper floor level, which are hinged at the top of the window panel and include a wind out mechanism to no greater than 125mm.

The obscured glass must be fitted prior to occupation of the building and maintained at all times thereafter.

Reason: To minimise overlooking of adjoining properties.

GENERAL NOTES

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

PLANNING CONSENT NOTES

Advisory Note 1

This consent does not obviate the need to obtain any other necessary approvals from any/all parties with an interest in the land.

Advisory Note 2

The granting of this consent does not remove the need for the applicant to obtain all other consents that may be required by other statutes or regulations.

Advisory Note 3

The development (including during construction) must not at any time emit noise that exceeds the relevant levels derived from the *Environmental (Noise) Policy 2007*.

Advisory Note 4

The applicant/developer is reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practical measures to ensure the activities on the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm. This includes being mindful of and minimising off site noise, dust and vibration impacts associated with development.

Advisory Note 5

The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.

Advisory Note 6

The applicant/owner is advised that any driveway crossovers on the Council verge, and shown on the stamped plans, has been approved as part of this application. For further information on the specifications and conditions relating to crossovers and stormwater connections, please contact Council's Civil Operations Department on 8397 7444.

Any works undertaken on Council owned land (including but not limited to works relating to reserves, crossing places, landscaping, footpaths, street trees and stormwater connections and underground electrical connections), shall require a separate authorisation from Council. Further information and/or specific details can be obtained by contacting Council's Civil Operations department on 8397 7444.

Advisory Note 7

Public services may be present in the road and it is the property owner's responsibility to ensure these services are not damaged as a result of the work. If services require alterations, it is the property owner's responsibility to consult with the particular service agency before performing any works. (Contact "Dial Before you Dig" on telephone 1100 or their website www.dialbeforeyoudig.com.au).

At all times during the construction, removal or repair of a crossing place or stormwater pipe, sufficient barricades and signs, visible at night (where work duration exceeds daylight hours), are to be installed and maintained to give adequate warning to the public.

The applicant shall be responsible for all costs associated with:

- The construction, removal or repair of crossing places or stormwater pipes. This may include the repairs and modifications to an abutting footpath as a result of the construction or alteration of the crossing place or stormwater pipe.
- The pruning, removal and replacement of any tree as approved in accordance with Council's Tree Management Policy and the Council's Fees and Charges Register.

Advisory Note 8

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 9

This application involves development located on the boundary or within close proximity to the boundary of the allotment. To ensure that the proposed development is constructed within the allotment, it is recommended that a site survey be undertaken to confirm the location of the relevant boundaries.

Advisory Note 10

You are advised that under the *Fences Act 1975* you are legally required to give notice for the removal of a fence on the common boundary. Please refer to the *Fences Act 1975* for the correct procedural requirements.

Advisory Note 11

Please be advised that your application involves work that may impact on the stability of neighbouring land. Pursuant to Section 139 of the *Planning, Development and Infrastructure (PDI) Act 2016*, you are reminded of your obligations to:

- 20 business days before the building is commenced, caused to be served on the owner of the affected land a notice of intention to perform the building work and the nature of that work; and
- Take precautions as may be prescribed to protect the affected land or premises and carry out work in accordance with the Section 139 of the Act.

Motion Carried (238)

4.2 23002769 - Telecommunications facility comprising a 30m monopole, antennas, ancillary equipment, equipment shelter and fencing at 66-68 Valley Road Hope Valley.

Mr Mark Baade (SAQ Consulting on behalf of Telstra Corporation) attended the meeting via electronic means and answered questions from panel members.

Moved Mr Rutt, Seconded Ms Merrigan

That pursuant to the authority delegated to the Council Assessment Panel, the Council Assessment Panel:

- A. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- B. Development Application Number 23002769, by Telstra Corporation Limited is granted Planning Consent subject to the following conditions and advisory notes:

CONDITIONS

Condition 1

The development shall be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 23002769

In particular –

- The site plan site works and elevations submitted by Telstra Drawing Number S108226, Sheet numbers S1, S1-1, S1-2, S3, and
- The landscape Design Plan submitted by the City of Tea Tree Gully drawing number HVS/23/01.

Condition 2

The entire structure must be finished in an unobtrusive, natural, earthy colour. The paintwork or pre-coloured steel finish must be maintained in good condition at all times. This condition must be complied with within 2 months of the erection of the structures.

Reason: To preserve and enhance the amenity of the site and locality.

Condition 3

Any type of graffiti which occurs on the subject land shall be removed within 28 days of its occurrence.

Reason: To preserve the amenity of the locality.

Condition 4

The planting and landscaping identified on the landscaping plan submitted with the application must be completed in the first planting season concurrent with or following commencement of the use of the telecommunications facility. Such planting and landscaping must not be removed nor the branches of any tree lopped and any plants which become diseased or die must be replaced by suitable species.

Reason: To maintain the amenity of the site and locality.

ADVISORY NOTES

GENERAL NOTES

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

PLANNING CONSENT NOTES

1. The granting of this consent does not remove the need for the applicant to obtain all other consents that may be required by other statutes or regulations.
2. The applicant/developer is reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practical measures to ensure the activities on the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm. This includes being mindful of and minimising off site noise, dust and vibration impacts associated with development.
3. The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.

Motion Carried Unanimously (239)

5. Other Business

5.1 E.R.D. Court Matters Pending - Nil

5.2 Policy Considerations - Nil

5.3 Agenda to include Acknowledgement of Country

Ms Merrigan suggested that the agenda should be updated to include an Acknowledgement of Country. Cr Wyld advised that it is on the agenda for Council meetings but not all committee meetings.

Council staff to prepare a report including draft updated meeting procedures document to be added to the next CAP agenda.

6. Information Reports - Nil

7. Date of Next Meeting

15 August, 2023

The Presiding Member declared the meeting closed at 11.32 am.

Confirmed.....
Presiding Member 15 August 2023