

Technical Report			
Application No:	PA21/100		
Lodgement Date:	3 February 2021	DAU Date:	
Address:	6 Peavey Road, Whitby		
Proposal:	Home Business – Family Daycare		
Land Use:	Home Business	Permissibility:	AA
Owner:	Matthew Kelly		
Applicant:	Brenda Beets		
Zoning:	Urban Development	Density Code:	R20
Delegation Type:	12.1.1	Officer:	Haydn Ruse
Site Inspection:	No		
Advertising:	Yes		
Outstanding Internal Referrals:	No		
External Referrals:	Yes		
Within a Bushfire Prone Area:	Yes		

Introduction:

A planning application dated 3 February 2021 has been received for proposed Home Business at 6 Peavey Road, Whitby.

The subject lot is zoned Urban Development in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). A Family Daycare is considered a 'Home Business' use which is a 'AA' use within the Residential designation under the Local Structure Plan in accordance with the Shire's TPS 2.

The proposal is reported to DAU for determination as officers have delegation to determine a Home Business use under delegation 12.1.1.

This report recommends that the Home Business as proposed be approved subject to appropriate conditions.

Background:

Existing Development:

The subject site is currently developed for residential occupation and features a single house and associated development.

Proposed Development/Site Context:

The development application seeks approval for the operation of a family day care, which would provide care to a maximum of seven children (aged 0 – 12 years) between the hours of 7:30am – 5:30pm Monday to Friday. Outdoor play is proposed to be available to children between 8:45am to 11:30am and again from 2pm to 5:30pm.

Community / Stakeholder Consultation:

The application was advertised to adjacent neighbours for a period of 21 days in accordance with Local Planning Policy 1.4 – Public Consultation on Planning Matters Policy (LPP1.4). During the consultation period, one submission was received objecting to the proposal.

The objection raises concerns in relation to noise generated from outdoor play which is addressed under the amenity section of the report.

Statutory Environment:

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Draft Local Planning Scheme No.3
- Draft Local Planning Strategy
- Whitby Precinct A Local Structure Plan

Planning Assessment:

A comprehensive assessment has been undertaken in accordance with section 67 of the Planning and Development Regulations 2015.

Land Use:

The proposal falls within the land use of 'Home Business', which is defined under TPS2 as follows:

"Home Business – means a business, service, trade or similar activity carried on in a dwelling or on land around a dwelling which may employ, in addition to the resident of the dwelling, no more than two persons but which -

- (a) does not entail the retail sale, display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 50m²;
- (f) will not result in traffic difficulties as a result of the inadequacy of on-site and off-site parking;
- (g) will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
and
- (h) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonne tare weight."

The proposal aligns with this definition.

The subject property is zoned 'Urban Development' under TPS2 where a 'Home Business' is an 'SA' use meaning that *"Council may, at its discretion, permit the use after notice of the application has been given in accordance with Clause 64 of the Deemed Provisions"*.

Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* relates to advertising requirements. As seen in the Community / Stakeholder Consultation section of this report the application has been advertised and the concerns raised addressed further in this report. Therefore, in relation to land use, the application can be considered for approval.

Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3)

Further to the classification under TPS2, Officers consider that the proposal would align with the definition of a 'Family Day Care' under LPS3. The definition of a 'Family Day Care' in LPS3 is as follows:

“Family Day Care – means premises where a family day care service as defined in the Education and Care Services National Law (Western Australia) is provided.”

Under the *Education and Care Services National Law (Western Australia)*, a family day care service is defined as ‘each part of a residence used to provide education and care to children as part of a family day care service or used to provide access to the part of the residence used to provide that education and care.’

The proposed development is intended to provide for the education and care of children and is considered to meet the above definition. Within the ‘Urban Development’ zone under LPS3, a ‘Family Day Care’ use is a ‘D’ use and would be capable of approval. As such, Officers consider the proposal would not prejudice the implementation of LPS3.

Amenity:

During the consultation period, one submission was received objecting on the grounds of expected noise generated from outdoor play activities. The objector has stated that, as shift workers, the proposal would impact on their ability to obtain sleep during the day. Concern has also been raised that the noise from children has the potential to result in the objector’s dog barking.

‘Home Business’, by definition, are required to not result in a level of amenity dissimilar to that of a residential household. There is an expectation of noise within residential areas, particularly during daylight hours when domestic activity is generally greater.

The applicant has confirmed that outdoor play is offered to children from 8:45am until approximately 11:30am and then in the afternoon from 2:00pm onwards. The applicant has also undertaken to ensure noise levels are compliant with the relevant legislation as well as being aware of neighbouring families who may be shift workers. Noise generated from outdoor play is commonly mitigated through management practices relating to behaviour and equipment. It is considered that, due to the scale of the proposal and particularly the maximum number of children, noise from outdoor play would not result in an undue level of noise to warrant refusal of the application.

The applicant has confirmed that the proposed number of children for the application, being up to seven children, represents their viable operating model for the proposed business. This is focussed on serving the local needs of the surrounding community. Furthermore, the applicant has also advised that in line with the licencing requirements under the Education and Care Regulatory Unit, up to seven children are permitted which includes four children under the age of four and three children of school age. As the applicant has two children of school age residing at the property, the additional children for which care will be provided would be one additional child of school age and four children under the age of four.

Officers are satisfied that a condition of approval could be implemented requiring an operational management plan to address noise from outdoor play. This could provide differing levels of play equipment based on the changing levels of play (active vs passive), and through some basic management could ensure management of the operation in a compatible manner. This plan would detail more specifically those circumstances to ensure outdoor play does not result in unreasonable noise impacts. Given the low level of intensity of the use (a maximum of seven children aged 0 – 12 years) it is not reasonably considered that excessive noise would be generated in a manner that is inconsistent with the residential amenity of the area. The subject land is also located 350m east of the freight rail, which would also contribute to some level of noise to the area.

Provided that an operational management plan is prepared and implemented, officers are confident that noise can be managed in a manner which protects the current and future intended levels of amenity.

Parking

Officers consider that there is the potential for vehicles associated with the family day care, during drop-off and pick-up times to park along Peavey Road which is a local road reserve.

In relation to TPS 2, there are no specific parking requirements for a 'Home Business' as it relies upon a merits based assessment against the proposed operations, typically due to the small scale nature of developments associated with the use.

The proposal seeks to have a maximum of seven children onsite. This could potentially generate between two and seven vehicle movements to site, depending on whether children are siblings or from separate families. Two parking bays have been made available on the existing driveway of the property to service the development. Although it is anticipated for vehicles during drop-off and pick-up times to arrive onsite on a staggered basis, there is no certainty or guarantee of the availability of these bays during peak times.

There is however, two designated on street parking bays on Bucker Street as depicted below which are in close proximity to the site and which can be utilised if onsite parking is unavailable. Having four parking bays available to service the development and acknowledging the staggered times vehicles attend the site during the drop-off and pick-up times, provides Officers with a high degree of certainty that parking is adequate and that the development will not result in parking or queuing along Peavey Road.

Of final note, is the expectation that Peavey Street can also accommodate on street parking. Peavey Street is a Type D access street, and Liveable Neighbourhoods provides that these are for short, low volume and low parking demand streets. The combination of driveway parking and on street bays in Bucker Street, means the design intent of Peavey Street can still be achieved.



On-street and Onsite Parking Areas

The operator, as part of an Operation Management Plan, will also be required to ensure that users of the operations are made aware of the parking availability and restrictions to ensure that the development does not result in localised amenity impacts.

Conclusion:

The application seeks approval for a family day care at Lot 216, 6 Peavey Road, Whitby. During the consultation period, one submission was received objecting to noise impacts from the proposed development. Officers consider the proposed development would not result in an undue impact on the amenity of the area by means of noise; however, have recommended a condition of approval to ensure the potential for noise is mitigated through appropriate means.

Attachments:

- CL67 Table

Deemed Provisions – Cl 67 Matters to be considered by Local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
c) any approved State planning policy	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
g) any local planning policy for the Scheme area	YES	NO	N/A

	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
m) the compatibility of the development with its setting including the relationship of the development 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 development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
r) the suitability of the land for the development taking into	YES	NO	N/A

account the possible risk to human health or safety	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			