

2.3: LAND USE APPLICATION – TEMPORARY ACCOMMODATION – LOT 169 DELORAINE DRIVE

Land Description : Lot 169 Deloraine Drive
Proponent/Owner : William Casserly
Attachment : Temporary Accommodation Policy
Responsible Officer(s) : Executive Director Planning and Development Services
(D Putland)

Maps and Diagrams:



IN BRIEF

- An application was received for temporary accommodation at Lot 169 Deloraine Drive.
- The proposal does not comply with Council Policy 2G Temporary Accommodation, Clause G1, which states; *'The applicant must be an owner-builder'*.
- The applicant has a building permit for a dwelling to be built by a 'registered builder' and not an "owner builder".
- Staff do not have the necessary delegation to relax a provision of a Policy.
- Council may decide to relax a Policy provision after considering the objective of the Policy and submissions.
- The objective of the Temporary Accommodation Policy is: *to provide guidelines for landholders seeking to live on their property whilst constructing their permanent housing.*
- Neighbouring properties were consulted and at the close of the advertising period (8 May), one letter of support was received.

RECOMMENDATION

ITEM 2.3: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

1) THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for 'Temporary Accommodation' at Lot 169 Deloraine Drive subject to the following conditions:

- 1) Temporary Accommodation must be in a caravan either containing or connected to a laundry, shower and toilet facilities that meet the requirements of Environmental Health and Building Services and comply with the Caravan Parks and Camping Grounds Regulations 1997.
- 2) The building site being clearly demarcated and appropriately fenced to prevent unauthorised access to the satisfaction of the City;
- 3) Safe access being provided to the temporary accommodation;
- 4) The Building site to complying with all Work safe requirements.
- 5) The Temporary accommodation approval being limited to 1 year and meeting the following criteria
 - a. Floor slab being laid within three months;
 - b. Dwelling being at wall plate height within eight months;
 - c. Dwelling being at lock-up stage within 12 months;

2) THAT Council resolves to commission staff to undertake a review of the 'Temporary Accommodation Policy'

CARRIED EN BLOC

BACKGROUND

1. An application was received for temporary accommodation at Lot 169 Deloraine Drive subsequent to compliance investigations and discussions with the Owner of the Lot.
2. An anonymous member of the community brought to the attention of staff at the City that an outbuilding at 169 Deloraine Drive was being used for human habitation purposes.
3. Property owner was contacted and advised that an outbuilding is a Class 10a building under the Building Code of Australia (1996), which is a non-habitable building. Staff advised the owner that the City may consider temporary accommodation within a caravan in accordance with Council's 'Temporary Accommodation' Policy.
4. The owner has since acquired and is now living in a caravan on site.

DISCUSSION

5. The application for temporary accommodation complies with the City's Policy on the following grounds:
 - The property in question is greater than 4000m² (4617m²); and
 - The property is zoned 'Special Residential';
6. The application for temporary accommodation does not comply with the policy requirement that requires the occupant to be an owner builder
7. The requirement for the applicant to be an owner builder does not relate to any other legislation and does not facilitate the ultimate intent, which is to support temporary accommodation (max 12 months) whilst a dwelling is being constructed.

8. The major concern is for the health and safety of the occupier of the temporary accommodation whilst living on an active building site. These matters can however be addressed through the proposed number of conditions.
9. Staff at the City undertook research to ascertain how other Local Governments deal with requests for temporary accommodation. Research revealed that the City of Busselton, Town of Port Headland, Shire of Ravensthorpe, Shire of Manjimup, City of Gosnells, Shire of Northam, Shire of Harvey and Shire of York have Policies to assist owners in the building of their dwelling and to ensure the temporary accommodation commensurate with building and health standards. None of these policies required the applicant to be an owner builder.
10. On review of temporary accommodation policies adopted by other Local Governments, the following conditions are consistently applied:
 - The temporary accommodation is to be located in rural and rural residential zones – no size limit stipulated;
 - Temporary Accommodation must be in a caravan either containing or connected to a laundry, shower and toilet facilities that meet the requirements of Environmental Health and Building Services;
 - Accommodation is limited to 12 months;
 - The occupant has legal write to camp in a caravan on the land; and
 - Temporary Accommodation approval will be given when a Building License has been issued for the proposed dwelling.
11. Staff will be reviewing this policy in light of these investigations and also in light other concerns relating to the impact that this use has on the amenity of the area and the potential for land use conflict especially in areas with smaller lots.

GOVERNMENT CONSULTATION

12. There is no requirement or need to consult with government organisations in relation to this application.

PUBLIC CONSULTATION / ENGAGEMENT

13. Properties within the vicinity of Lot 169 Deloraine Drive were consulted and at the close of advertising, one letter of support from a direct neighbouring property was received. The following comments were made:

My property abounds the one in question on the western side. My partner and I have met several times 'over the fence' with our neighbour and discussed his plans to build and his desire to reside on the block until his house is completed. They keep their premises very neat and tidy and have made terrific inroads in establishing an orchard and landscaping around the rest of the property, all obvious indicators that Roley and Linda intend to push for their house to be finished as soon as possible so they can move in. To this end, please be advised that Nory and I have no problems whatsoever with Roley and Linda living on-site and in their caravan until their home is finished.

STATUTORY IMPLICATIONS

14. *Caravan and Camping Grounds Regulations 1997 (CCGR) and the Building Codes of Australia 2012 deal with living in caravans*. The CCGR supports a person camping on land for a period specified by the local government if such approval will not result in the land being camped on for longer than 12 months, the person owns or has a legal right to occupy the land and the person camps in a caravan on the land while a permit has effect in relation to the land. The *Building Codes of Australia 2012* defines a permit as: *'The person who is named as the builder on a building permit'*.

STRATEGIC IMPLICATIONS

15. *"This item relates to the following elements of the City of Albany Strategic Plan (2011 2021):*

Community Priority

Policy and Procedures

Proposed Strategies

- *Develop clear processes and policies and ensure consistent, transparent application across the organisation.*
- *Regularly review all policies in consultation with community and key stakeholders.*

POLICY IMPLICATIONS

16. Council has adopted Policy 2G 'Temporary Accommodation'. The application for temporary accommodation does not comply with the City's Policy as the applicant is not an owner builder.
17. In accordance with Clause 6.9.4 (A) of Town Planning Scheme 3 the Council is not bound by a policy when considering a planning application, however Council in considering a variation is to take into account the provisions of the policy and objectives which the policy was designed to achieve and any submissions lodged, before making its decision.
18. The objective of the Temporary Accommodation Policy is: *to provide guidelines for landholders seeking to live on their property whilst constructing their permanent housing.*
19. Neighbouring properties were consulted and at the close of advertising, one letter of support from a direct neighbouring property was received.

RISK IDENTIFICATION & MITIGATION

20. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Toilet, bathroom and laundry facilities need to comply with standards required by the Building Code of Australia and the Health Act.</i>	<i>Likely</i>	<i>Health impacts to humans and environment if not developed to required standards.</i>	<i>Low</i>	<i>Councils Environmental Health Officers and Building Surveyors assess toilet, bathroom and laundry facilities to make compliant with standards.</i>
<i>Council's support for the proposal could create a precedent for other applications and devalue the policy.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>Should Council support the proposal, it should consider whether the policy should be reviewed to accommodate similar applications.</i>

FINANCIAL IMPLICATIONS

21. There are no financial issues in relation to this planning application an Temporary Accommodation application fee of \$200 still needs to be paid to the Environmental Health service team if this application is approved.

LEGAL IMPLICATIONS

22. Opportunity exists for an applicant to appeal a planning decision and/or condition to the State Administrative Tribunal.

ALTERNATE OPTIONS

23. The Council may refuse the application as it does not comply with Council's adopted Policy.

SUMMARY CONCLUSION

24. The application complies with Council Policy other than a requirement that the builder is an 'Owner Builder'.
25. This requirement does not relate to any other legislation and does not facilitate the ultimate intent, which is to support temporary accommodation (max 12 months) whilst a dwelling is being constructed.
26. Recommend that the Council support the application subject to conditions and direct staff to amend the 'Temporary Accommodation Policy' to make more appropriate to the intent.

Consulted References	:	Policy 2G 'Temporary Accommodation' <i>Caravan and Camping Grounds Regulations 1997</i> <i>Building Codes of Australia 2012</i>
File Number (Name of Ward)	:	P2130103
Previous Reference	:	Nil

City of Albany

Planning Policy

TEMPORARY ACCOMMODATION

2G TEMPORARY ACCOMMODATION

Objective:

To provide guidelines for landowners seeking to live on their property whilst constructing their permanent housing.

G1 Policy Provision

Approval for temporary occupation will only be granted for properties greater than 4000m² in area and zoned in the City's Town Planning Schemes as Rural, Special Rural or Special Residential.

Temporary accommodation will only be permitted in a caravan that must remain in a condition that readily permits its removal from the site at all times. Sleeping and cooking activities must be confined to the caravan.

Toilet, bathroom and laundry facilities must be provided to the minimum health standards required by the Building Code of Australia and the Health Act. These facilities may be in a shed constructed on-site and alongside which the caravan is parked.

All facilities must be inspected before occupation of the temporary accommodation.

All ablution facilities must be connected to an approved on-site sewage treatment and effluent disposal system approved by the City.

Temporary accommodation is limited to a period of one (1) year. Council may support an application to extend the time frame provided the landowner undertakes to meet the following criteria:

- 1) Floor slab must be laid within three months;
- 2) Dwelling must be at wall plate height within eight months;
- 3) Dwelling must be at lock-up stage within 12 months; and
- 4) The potential for the dwelling being completed within 18 months.

The applicant must be an owner-builder and hold a current building licence for the construction of a dwelling on the property prior to the approval being considered.

The applicant must complete a Temporary Accommodation Agreement Deed (**see Appendix 1**) and pay the applicable fee which must be paid on a pro-rata basis up to June 30 of that year.

All fees must be paid by July 1 each year subject to the satisfactory progress of the dwelling as outlined above.

Council reserves the right to revoke temporary occupation permission if it is at any time dissatisfied with the rate of progress of the dwelling, with the amenity of the site or the general terms of the approval not being complied with.

APPENDIX 1:

DEED OF AGREEMENT FOR TEMPORARY CARAVAN ACCOMMODATION

This is a formal Deed of Agreement between the City of Albany and the applicant(s) to reside on their property in approved temporary caravan accommodation while their permanent dwelling is being constructed on the same land.

APPLICANT(S):.....

ADDRESS:
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.....

TELEPHONE NO:

BUILDING LICENCE NUMBER OF PERMANENT DWELLING:

ADDRESS OF PROPERTY FOR PROPOSED TEMPORARY CARAVAN ACCOMMODATION:
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REASON FOR REQUEST:
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PROPOSED TIMEFRAME FOR BUILDING CONSTRUCTION OF DWELLING:
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TYPE OF CARAVAN TO BE USED (INCLUDE LICENCE NUMBER, SIZE AND MAKE OF CARAVAN):

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I/WE.....
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Of.....
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have applied to the City of Albany for Temporary Caravan Accommodation during the construction phase of a permanent dwelling on that land.

I/We understand fully the terms and conditions of this Agreement and Guidelines for Temporary Caravan Accommodation and accept them completely.

Further, I/We will vacate and remove the temporary caravan accommodation if instructed by a Council Environmental Health Officer due to a lack of sufficient building progress as outlined in the Guidelines and where there is non-compliance with any conditions of approval, or if I/We have remained in temporary caravan accommodation for a greater period than approved by Council or the Minister for Local Government.

If in the event I/We do not vacate and/or remove the temporary caravan accommodation as instructed by a Council Environmental Health Officer, I/We permit the Council to undertake this removal at my/our cost.

Signed:

Date:

Signed:

Date: