



— City of —  
**Melville**

**REPORTS & RECOMMENDATIONS**  
**FROM THE**  
**DEVELOPMENT ADVISORY UNIT**  
**MEETING**  
**HELD ON**  
**2 JUNE 2009**

- NOTES:**
1. This Meeting makes Recommendations to the Manager Planning & Development Services.
  2. Should any Elected Member want any matter referred and considered by the Council, please contact the Manager Planning & Development Services prior to the Tuesday (or Wednesday if Monday is a public holiday) following the date of this Meeting.
  3. Unless 'called in' by an Elected Member it is expected that the Manager Planning & Development Services will after the 'call in' date approve the recommendations, refer the matter to the Council or back to the Development Advisory Unit for further considerations.

**DISTRIBUTED: 5 JUNE 2009**



— City of —  
**Melville**

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**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,  
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 2 JUNE 2009.**

**PRESENT**

D Vinicombe (Presiding Member)  
J Gonzalez  
P. Prendergast  
T Capobianco  
D Monteiro  
R Jessup  
R Bailey

Manager Planning & Development Services  
Planning Services Coordinator  
Planning Services Coordinator  
Principal Building Surveyor  
Environmental Health Officer  
Senior Horticultural Technical Officer  
Technical Officer

**APOLOGIES**

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

**ELECTED MEMBERS' ATTENTION**

Nil

**DELEGATED AUTHORITY – PLANNING POLICY (1) 2**

**The following items are recommendations to the Manager Planning & Development Services for decision.**

## DISCLOSURE OF FINANCIAL INTERESTS LOCAL GOVERNMENT ACT 1995

### Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

### Meeting to be informed of disclosures

**S.5.66** If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

### Disclosing members not to participate in meetings

**S.5.67** A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

**Please refer to your Handbook for definitions of interests and other detail.**

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**U09/0088 - (PS) RADIOMAST FOR AMATEUR RADIO (RENEWAL) ON LOT 10/2 146B STOCK ROAD, ATTADALE (REC) (ATTACHMENT)**

Ward : Bicton/Attadale Ward  
Category : Operational  
Application Number : DA-2009-359  
Property : 146B Stock Road, ATTADALE  
Proposal : Radiomast For Amateur Radio (Renewal)  
Applicant : Mr D E Truscott  
Owner : Mr D E Truscott and J A Truscott  
Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
Responsible Officer : Mr David Vinicombe  
Manager Planning and Development Services  
Previous Items : DA-2002-739  
DA-2005-62  
DA-2007-549

**AUTHORITY / DISCRETION**

- |   | <u>Definition</u>  |
|---|--|
| <input type="checkbox"/> Advocacy                         | <i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>  |
| <input type="checkbox"/> Executive                        | <i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets</i>   |
| <input type="checkbox"/> Legislative                      | <i>includes adopting local laws, town planning schemes &amp; policies.</i>   |
| <input type="checkbox"/> Review                           | <i>when Council reviews decisions made by Officers.</i>  |
| <input checked="" type="checkbox"/> <b>Quasi-Judicial</b> | <b><i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i></b> |

**U09/0088 - (PS) RADIOMAST FOR AMATEUR RADIO (RENEWAL) ON LOT 10/2 146B STOCK ROAD, ATTADALE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Application is for the renewal of planning permission dated 16/5/2007 for a radio mast used for amateur radio.
- The approval for the radio mast was initially approved in 2002.
- No objections have been received regarding the antennae since the previous renewal.
- Application is recommended for approval.

**BACKGROUND**

In 2002 an application was made for Council to retrospectively approve a radio tower mast and antennae at the subject premises. Despite the receipt of objections, the application was approved under Delegated Authority. This initial approval was valid for two years and subject to the following standard conditions:

1. *“This is a Planning Approval only and does not obviate the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council.*
2. *This Planning Approval does not obviate the responsibility of the applicant/owner to comply with any other requirements of Community Planning Scheme No. 5.”*

The Council, at its Ordinary Meeting on 19 April 2005, granted consent for the renewal licence in respect of this equipment, subject to the following conditions:

1. *The applicant be required to make application for the renewal of the communications equipment licence every two (2) years in accordance with part 1, clause 6 of Planning and Building Policy PB3 – Communications Equipment; and*
2. *The applicant be required to obtain and maintain a valid licence from the relevant State and/or Federal Authority for communication equipment of this type; and*
3. *That no additional antennae be added to the mast without prior Council approval.*
4. *The applicant is to provide a Certificate of Structural Sufficiency, including in high winds, from a Structural Engineer within thirty (30) days to the satisfaction of the Principal Building Surveyor.”*

A subsequent renewal application in 2007 was approved under delegated authority. This consent expired in May 2009.

**U09/0088 - (PS) RADIOMAST FOR AMATEUR RADIO (RENEWAL) ON LOT 10/2 146B STOCK ROAD, ATTADALE (REC) (ATTACHMENT)****Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area, BC1
R-Code	:	R17.5
Use Type	:	Residential
Use Class	:	P

**Site Details**

Lot Area	:	1011 sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	{Link to Site Photo}

**PUBLIC CONSULTATION/COMMUNICATION**

Under the provisions of Council Policy 06-002 “Communications Equipment” where it is considered that a “proposed” telecommunications structure may adversely affect the amenity of the locality, consultation with the owners of those lots abutting and fronting the subject site should be undertaken.

In this case, the details of this installation were the subject of consultation with neighbouring properties in 2002, at the time of the initial application. As the current application relates to a renewal licence only (retention of existing equipment), it is not considered necessary to undertake further consultation at this time.

**REFERRALS TO GOVERNMENT AGENCIES**

Not Applicable

**STATUTORY AND LEGAL IMPLICATIONS**

Should the City of Melville refuse the application for Planning Approval, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the Planning and Development Act 2005.

**U09/0088 - (PS) RADIOMAST FOR AMATEUR RADIO (RENEWAL) ON LOT 10/2 146B STOCK ROAD, ATTADALE (REC) (ATTACHMENT)**

**FINANCIAL IMPLICATIONS**

Not Applicable

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not Applicable

**POLICY IMPLICATIONS**

Policy No 06-PL-002 “Communications Equipment” exists to address the visual amenity issues relating to the siting of communications equipment. The Policy states radio antennas shall be permitted where they are not excessive in size or visually obtrusive.

The Policy sets out the procedural requirements in relation to application submissions and advertising. Applications for radio masts may be determined under delegated authority, provided there are no objections raised. In the event that there are objections raised and where they are supported by a Ward Councillor, the determination rests with the Council.

**COMMENT**

The applicant is seeking approval for the renewal of a licence for an amateur radio mast.

The details of the installation are identical to those initially considered in 2002, and subsequently in 2005 and 2007.

No substantiated representations have been received in relation to this radio mast installation since the initial consultation exercise undertaken in 2002 relative to the first planning application.

Nonetheless the details of the application have been re-assessed in accordance with the provisions of Council Policy and it is considered that the telecommunications equipment may be satisfactorily retained for a further 2 year period without prejudice to the visual amenity of the locality and in accordance with Council requirements.

U09/0088 - (PS) RADIOMAST FOR AMATEUR RADIO (RENEWAL) ON LOT 10/2 146B STOCK ROAD, ATTADALE (REC) (ATTACHMENT)

**OFFICER RECOMMENDATION**

**APPROVAL**

That the renewal application for an amateur radio on strata lot 10/2 (146b) Stock Road, Attadale be approved subject to the following:

**Special Conditions:**

1. This permission is valid for a period of 2 years, after which an application for renewal is to be submitted for the approval of Council in accordance with Part 1, Clause 6 of Policy No 06-PL-002 "Communications Equipment".
2. No additional antennae are to be added to the mast without prior Council approval.

**Advice Notes**

- i. *The applicant is advised that this decision does not infer the future support for any renewal application in respect of this telecommunications equipment.*
- ii. *You are advised that a licence should be obtained and thereafter maintained from the relevant state and/or federal authority for telecommunication equipment of this type.*

**U09/0089- (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE  
ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

Ward : Applecross/Mount Pleasant Ward  
Category : Operational  
Application Number : DA-2009-223  
Property : Lot 1 (153) The Esplanade, Mount Pleasant  
Proposal : Two-Storey Grouped Dwelling  
Applicant : Mr K J Ryding  
Owner : Mr K J Ryding & Ms M K Ryding  
Disclosure of any Interest : No Officer involved in the preparation of this  
report has a declarable interest in this matter.  
Responsible Officer : Mr David Vinicombe  
Manager Planning and Development Services  
Previous Items : n/a

**AUTHORITY / DISCRETION**Definition

- Advocacy *when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets*
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- Review *when Council reviews decisions made by Officers.*
- Quasi-Judicial** *when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The application is for a two-storey grouped dwelling on a survey-strata lot which has 32.56m wide direct road frontage to Queens Road.
- The subject lot is one half of an original 1,420 sqm lot which has recently been subdivided into two (2) lots, plus a common property lot measuring 3 sqm.
- A number of variations to the Acceptable Development provisions of the R-Codes are proposed as part of the development.
- Neighbour consultation has been undertaken for the variations proposed to the Acceptable Development requirements of the R-Codes.
- Neighbour comments received object to the variations proposed.
- All of the variations are supported under the relevant Performance Criteria of the R-Codes.
- The application is recommended for conditional approval.



**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : RFS – Living Area  
 R-Code : R12.5  
 Use Type : Residential  
 Use Class : Residential

**Site Details**

Lot Area : 700.00 sqm  
 Retention of Existing Vegetation : n/a  
 Street Tree(s) : n/a  
 Street Furniture (drainage pits etc) : n/a  
 Site Details : Refer to photo above

[U09\\_0089\\_June\\_2009.pdf](#) A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on {INSERT DATE}.

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
<b>Open Space</b>	<b>55%</b>	<b>53.9%</b>	<b>Does not comply</b>	<b>MPDS</b>	
Building Height	8.0m (eaves) 10.5m (max)	6.3m 8.2m	Complies Complies		
Carparking	2 bays (1 covered)	5 covered bays	Complies		
Garage Door (width)	50%	19.04%	Complies		
Shadow impact	25%	Shadow to street	Complies		

(Note: Non-compliance is emphasised in bold)

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
<b>Primary Street Setback</b>					
Ground Floor	7.5m	Achieves 7.5m averages as per Clause 6.2.1 A1.1i of the R-Codes	Complies		
Upper Floor	7.5m		Complies		
<b>Rear Setbacks (North)</b>					
<b>(GF) Triple Garage</b>	<b>1.5m</b>	<b>0m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>(GF) Workshop</b>	<b>1.5m</b>	<b>1.03m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>(GF) Study / Sitting / Ens 2</b>	<b>6.0m</b>	<b>4.8m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>(UF) Balcony</b>	<b>6.0m</b>	<b>4.0m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>(UF) Void / Bed 4</b>	<b>6.0m</b>	<b>5.5m</b>	<b>Does not comply</b>	<b>MPDS</b>	
(UF) Bed 3	6.0m	6.7m	Complies		
<b>Side Setbacks (East)</b>					
(GF) Ens 2 / Bed 2 / Ens 1 / Porch	1.5m	2.9m	Complies		
(GF) Gatehouse	1.0m	1.0m	Complies		
(UF) Rear Balcony	2.5m	10.8m	Complies		
(UF) Bed 4 / WIR	2.5m	4.0m	Complies		
(UF) Activity	1.5m	5.5m	Complies		
(UF) Front Balcony	2.5m	5.5m	Complies		
<b>Side Setbacks (west)</b>					
(GF) Triple Garage	0m	0m	Complies		
(GF) Garage	1.0m	3.53m	Complies		
(GF) Laundry	1.5m	8.6m	Complies		
(UF) Bed 3	2.5m	15.0m	Complies		
(UF) Bath	1.5m	17.0m	Complies		
(UF) Balcony	2.5m	18.6m	Complies		

(Note: Non-compliance is emphasised in bold)

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
Neighbour's Comment Supplied: Yes  
Reason: R-Code Variation  
Support/Object: Object

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold/Not uphold)
1.	Strongly disagree with the triple garage parapet wall due to its height of 3.2m and length of 12.0m and request that this setback is made to comply with the R-Codes. The wall will block out light to our yard and be detrimental to the aesthetics of our backyard. There is ample space to create a triple garage or tandem garage alongside the existing double garage.	Object	<p>The objector's property is located to the north of the subject site, and their main building is setback approx. 9.4m from the common boundary. It is noted that the parapet wall faces onto the objector's driveway, three (3) car garage and drying court.</p> <p>The likelihood that loss of light will result for the objector's property is negligible given the location of the neighbour's property to the north (the R-Codes measures the impact of overshadowing to the south). Additionally, given the objector's private open space is separated from the subject lot by a driveway, three (3) car garage and drying court), and fenced-in by a solid 1.8m high fence, the existence of a boundary wall will not detract from the aesthetics of the neighbour's yard.</p>	Not uphold

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

	<p>Disagree with the ground floor study / sitting / Ens 2 setback as there is ample space to create more rooms on the upper floor. Please redesign to comply with Council requirement of 6.0m.</p>	<p>Object</p>	<p>As a result of subdividing a corner lot, the depth of the subject lot is only 20.9m. Once the front setback is taken into account, limited space is available for the rear setback. It is noted that the subject development has been designed to maximise the front yard area in order to achieve river views and maintain attractive streetscapes by providing a front setback consistent with other residences sited along Queens Road.</p> <p>The variation in setback is supported when assessed against the Performance Criteria relative to Clause 6.3.1 of the R-Codes (see comments section below).</p>	<p>Not uphold</p>
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**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

	<p>Strongly disagree with the upper floor balcony setback due to privacy issues. This will intrude into the privacy of our kitchen, dining and foyer areas of our home as it will be visible to our neighbours.</p>	<p>Object</p>	<p>As above, the variation in setback is supported when assessed against the Performance Criteria relative to Clause 6.3.1 of the R-Codes (see comments section below).</p> <p>With regard to privacy, revised plans submitted by the applicant depict a 1600mm high permanent screen along the north, east and west side of the balcony. It is recommended that this screen be increased to a height of 1.65m to comply with Clause 6.8.1 (A1) of the R-Codes.</p>	<p>Not uphold</p>
	<p>Disagree with the upper floor void setback as this will intrude into the privacy of our kitchen, dining and foyer areas of our home as it will be visible to our neighbours.</p>	<p>Object</p>	<p>A void/stair area is technically not subject to the privacy setback requirements of the R-Codes. It is noted however that the void window consists of a sill height of 1.65m from the upper floor FFL therefore views outside from any portion of the stairs or landing are limited and comply with privacy standards for other rooms. The main purpose of the void window is simply to serve as providing natural light to the ground floor entry area.</p>	<p>Partially uphold</p>

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

	Due to the fact that the ground level at the boundary is being raised by approximately 1.0m, please ensure that any boundary fencing is to be raised to provide a height of 1.8m above the highest level. The fence will need to be rendered and painted to match existing fence on site.		The development proposes to raise the existing natural ground level by a maximum of 0.3m. A condition requiring the placement of a 1.8m high dividing fence from the finished ground level will address the objector's request. The material and finish of the dividing fence is a matter for the neighbours in accordance with the <i>Dividing Fences Act 1961</i> .	Partially uphold
	Retaining wall is not to be higher than allowable.		No retaining is proposed as the difference between the two sites will amount to 4.0 cm which does not require retaining.	Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the City of Melville refuse the application, the applicant will have the right to appeal the decision in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

Not applicable.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not applicable.

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process. Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

**COMMENTS**

This application seeks consent for the development of a two-storey grouped dwelling on a vacant survey-strata lot. The subject lot is one half of an original 1,420 sqm lot which has recently been subdivided into two (2) lots plus common property lot measuring 3.0 sqm.

The same applicant has recently submitted and obtained Planning Approval for a two-storey residence with undercroft on the adjoining lot which has its main frontage to The Esplanade. The design elements incorporated into the proposed development are similar to those included with the recently approved residence.

The proposed development has generally been designed to comply with the provisions of the R-Codes and CPS No. 5. However, given the shallow depth of the lot as a result of subdividing a corner lot, there are a number of variations to the provisions of the R-Codes for which the applicant seeks approval under the applicable Performance Criteria. These relate to the following matters presented below.

Rear Setback – Ground Floor Triple Garage and Workshop

A 9.18m long portion of the triple garage wall and 3.0m long portion of the workshop wall is proposed to be setback 0m and 1.03m respectively to the northern rear boundary, in lieu of 1.5m. It is noted that a 1.5m rear setback applies in this circumstance given outbuildings are not subject to the rear setback requirements of Table 1 under the provisions of the R-Codes, however as the size of the outbuilding exceeds 60 sqm, performance criteria assessment of the outbuilding is required.

The Performance Criteria of the R-Codes (Clause 6.10.1) stipulates that outbuildings are to be built to ensure they do not detract from the streetscape or the visual amenity of residents or neighbouring properties.

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE  
ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

An objection has been raised by a neighbour with regard to the setback variation on the grounds of loss of sunlight and detrimental impact to the aesthetics of their backyard. It is noted that the objector's property is located to the north of the subject site and the main residence is setback approximately 9.4m from the lot boundary. The objection raised by the neighbour is deemed to be unsubstantiated given that the impact of the proposed development on the loss of sunlight will be negligible (the R-Codes measures the impact of overshadowing to the south). Additionally, given the objector's backyard is located to the northern side of their lot; being separated by their driveway, three (3) car garage and drying court (which is fenced-in by a solid 1.8m high fence), the aesthetics of their backyard is not considered to be unduly affected by the proposed parapet wall.

It is pertinent to note that since initial submission and assessment, the development plans for the proposal have been amended. The amendments undertaken, in light of the objections received, relate to shortening the length of the parapet wall from 12.8m to 9.18m (a reduction of 3.62m), achieved by setting the workshop off the boundary by 1.03m. This amendment has been undertaken by the applicant with a view to addressing the amenity and aesthetic concerns raised by the adjoining resident with regard to bulk, notwithstanding the fact that the impacts are already deemed to be negligible from both a solar and aesthetic impact.

With regard to enhancing the amenity of the development, the subject development has been designed to maximise the front yard area in order to achieve river views and maintain attractive streetscapes by providing a front setback consistent with other residences located along Queens Road. Put simply, permitting the boundary wall maximises the available front setback area, and is of more benefit to the overall development.

Accordingly, the variation to the rear setback for the outbuilding is supported.

**Rear Setback – Ground Floor Study / Sitting / Ensuite 2 & 3**

A 14.6m portion of the ground floor wall, being the study, sitting and Ensuite 2 & 3 is proposed to be setback 1.5m from the northern rear boundary in lieu of 6.0m.

An objection has been received with regard to the setback variation stating that there is ample space to create additional rooms on the upper floor. The Performance Criteria of the R-Codes (Clause 6.3.1) requires buildings to be setback from boundaries so as to provide adequate sun and ventilation to the building and open spaces on the subject lot and adjoining property, and ameliorate the impacts of bulk and protect privacy.

**U09/0089 - (HS) TWO-STOREY GROUPED DWELLING ON LOT 1 (153) THE  
ESPLANADE, MOUNT PLEASANT (REC) (ATTACHMENT)**

The subject wall is approximately 2.5m in height with a 22<sup>o</sup> 45' pitch roof on-top. The second storey above is setback a further 4.5m from the rear boundary (with the exception of the balcony which is setback at 4.0m). The staggered effect of the setback of the ground and upper floors effectively reduces bulk impacts. That is, by avoiding the construction of two-storey high walls (similar to that of the adjoining neighbour's southern wall), bulk impact is effectively reduced. Privacy is addressed in accordance with the following comments (detailed below).

As detailed in the preceding section above, given the development site abuts Queens Road to the south (i.e. shadow cast will be onto the street) and the subject wall faces the neighbour's driveway, three (3) car garage and drying court area, access to sunlight or ventilation for the neighbour is not materially affected.

Accordingly, the variation to the rear setback is supported.

**Rear Setback – Upper Floor**

A 3.4m long portion of the balcony and 6.8m long portion of the void/stairs and bed 4 is proposed to be setback 4.0m and 5.5m respectively from the northern rear boundary in lieu of 6.0m.

The adjoining neighbour to the north has raised an objection to the subject walls based on the grounds that the reduced setback will intrude into the privacy of their kitchen, dining and foyer areas, all of which are located approximately 3.8m from the boundary. The Performance Criteria of the R-Codes (Clause 6.3.1) requires buildings to be setback from boundaries to protect privacy as well as to provide adequate sun and ventilation to the building and open spaces on the subject lot and adjoining property, and ameliorate the impacts of bulk.

In light of the neighbour's objection, revised plans have been submitted by the applicant proposing a 1600mm high obscured glass screen along the entire northern side of the balcony and 1600mm high brick wall to enclose the balcony sides. Subject to the obscure glass and brick wall screening being increased in height to 1650mm (i.e. condition of planning approval), privacy concerns raised by the neighbour are adequately addressed. There are no major openings within the remainder of the wall length therefore loss of privacy is not an issue. It is noted that the window to the void/stairs area of the proposed residence is not classed as a habitable room and is therefore not subject to the privacy setback requirements of the R-Codes. It is noted that the void window is set at a sill height of 1.65m above the FFL of the upper floor (i.e. at the floor level of the proposed landing) and is approximately 0.56 sqm in size. As such, views will be limited from the landing or any portion of the stairs (sill height from the stairs will be in excess of 2.3m). The main purpose of the void window is simply to serve as providing natural light to the ground floor entry area.

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Given the subject wall is north facing, the setback variation sought will not have a material impact on access to sun and ventilation for the adjoining neighbour (the R-Codes measures the impact of overshadowing to the south).

With regard to building bulk, the balcony, void/stairs area and bedroom No 4 wall is setback 4.0m and 5.5m respectively from the lot boundary. Furthermore, a 3.8m wide driveway which exists on the adjoining neighbour acts as an additional buffer in increasing the separation distance of the buildings to 7.8m and 9.3m respectively. Taking into account the above and the fact that the subject wall is articulated, bulk impact is deemed to be negligible.

Accordingly, the variation to the rear setback requirement for the upper wall is supported.

#### Open Space

The proposed development includes 53.9% open space in lieu of 55% required under the Acceptable Development provisions of the R-Codes. Under the Performance Criteria of Clause 6.4.1 of the R-Codes, sufficient open space to complement the building, allow attractive streetscapes and to suit the future needs of residents having regard to the type and density of the proposed dwelling is required.

The 1.1 percent (or 7.6sqm) shortfall in open space is considered to be immaterial given that ample open space has been provided along the Queens Road frontage and eastern portion of the lot in the form of an outdoor entertaining area. As noted above, by maximising the front yard area of the proposed residence, an attractive streetscape is achieved in the form of a front setback which is consistent with other residences along Queens Road. The overall shortfall in open space will not give rise to any detriment on the part of occupiers of the proposed residence given the proximity of the site to the Canning River Foreshore which provides an abundance of Public Open Space. The minor variation is therefore supported.

#### **CONCLUSION**

As the proposed development and its variations are deemed to satisfy the Performance Criteria of the R-Codes and is otherwise in full compliance with the remaining provisions of the R-Codes and the City of Melville Community Planning Scheme No. 5, it is recommended that the application be conditionally approved.

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**OFFICER RECOMMENDATION**

**APPROVAL**

**A) That the application for two-storey grouped dwelling on Lot 1 (153) The Esplanade, Mount Pleasant be approved with the following conditions:**

**Special Conditions:**

- 1. Front walls and fences are to be visually permeable 1.2 metres above natural ground level.**
- 2. In order to comply with Clause 6.8.1 (A1) Visual Privacy of the Residential Design Codes (2008), the brick walls enclosing the upper floor balcony sides are to be increased in height to 1.65m above finished floor level.**
- 3. In order to comply with Clause 6.8.1 (A1) Visual Privacy of the Residential Design Codes (2008), the obscure glass screen proposed on the upper floor balcony is to be increased in height to 1.65m above finished floor level.**

**Standard Conditions:**

- 4. All Stormwater and drainage run off to be contained on site. An onsite stormwater drainage system with a capacity to contain a 1:100 year storm of a twenty-four (24) hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Planning and Development Services. All downpipes to be connected to soakwells. The proposed stormwater drainage system is required to be shown on the Building Licence submission for approval prior to the commencement of construction.**
- 5. The provision of a permanent enclosed storage area to each dwelling of at least 4 square metres, accessible from outside the dwelling(s) and compatible with the overall development prior to the development first being occupied to the satisfaction of the Manager Planning and Development Services. The location of the storage area(s) to be shown on plans to be submitted at the time of submitting a Building Licence Application.**
- 6. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
- 7. The development complying with any amendments and notations marked in 'RED' as shown on the approved plans.**

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8. The external face of the parapet wall to be finished to the satisfaction of the adjoining neighbour or, in the event of a dispute to be finished to the satisfaction of the Manager Planning and Development Services.
9. Prior to the commencement of any construction the Council requires the provision of a suitable receptacle for the containment of windblown rubbish. The receptacle (generally a wire mesh cage) should have maximum openings of 100mm; have a base of 4m<sup>2</sup> and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.
10. All unused crossover(s) are to be removed and the kerbing and road verge are to be reinstated at the owners full cost to the satisfaction of the Manager Planning and Development Services.
11. Maximum vehicles access gradient ratio of 1:5 being achieved.
12. All new residential dwellings to be serviced by a concrete or brick paved vehicle crossing of no greater width than the lesser of 6m or 40% of the width of the frontage of the lot and constructed in accordance with the Council's specification to the satisfaction of the Manager Planning and Development Services.
13. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Council Plan Nos 528A2-91E (barrier kerb crossover), 284A2/84E/7 (minimum clearances) unless otherwise specified by this approval. Where any damage is caused to a Council facility, tree or street furniture, or where alteration to a Council facility is required, the cost of the applicant shall pay for such damage or alteration. A concrete apron having width of 0.75m must be installed between a brick paved crossing and the bitumen surface of a road. The cost of damage to a street tree will be determined in accordance with the "Tree Amenity Valuation Formula" adopted by the Council.
14. A 1.8 metre high fence to be provided from the highest retained ground level. All fencing to be provided in accordance with the Dividing Fences Act. and be constructed as a minimum standard of fibre cement.
15. Specific approval must be obtained to remove a street tree to permit the construction of a vehicle crossover otherwise it should be assumed that street trees are to be retained. Any written approval for the removal of street trees is subject to the applicant/owner paying all costs and may entail removal and relocation costs; or removal and replacement costs.
16. The development is to be connected to the Water Corporation's reticulated sewerage system.
17. Ground levels may not be changed other than approved as part of this approval.

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**B) The adjoining property owner who objected to the development be advised in writing of A) above.**