



— City of —
Melville

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

12 JANUARY 2010

- 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: 15 JANUARY 2010



— City of —
Melville

10 Almondbury Road Booragoon WA 6154
Postal Address: Locked Bag 1, Booragoon WA 6954
Tel: 08 9364 0666
Fax: 08 9364 0285
Email: melinfo@melville.wa.gov.au
Web: www.melville.wa.gov.au

**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, 12 JANUARY 2010.**

PRESENT

D Vinicombe (Presiding Member)
H Shigeyoshi
P. Stuart
T Capobianco
R Jessup
R Bailey

Manager Planning & Development Services
A/ Planning Services Coordinator
Planning Services Officer
Principal Building Surveyor
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.

TABLE OF CONTENTS

U10/0163– (RJ) – PUBLIC ACCESSWAY TREE REMOVAL ADJACENT STREET
REQUEST RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 12 JANUARY
2010 3

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)..... 4

**U10/0163– (RJ) – PUBLIC ACCESSWAY TREE REMOVAL ADJACENT STREET
 REQUEST RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 12
 JANUARY 2010**

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	29 Polglass Way Ardross	Pathway request 135582 for removal of one tree in the Public Access Way adjacent to this property and the Polglass Way road reserve. The tree is a large Cupressocyparis leyandii (Castlewellan Gold) positioned against the lot boundary. Planning approval DA-2009-1221 has previously been issued for a two storey single dwelling. A garage, driveway and retaining wall is proposed to the boundary which will result in substantial roots of the tree being cut and this will result in the tree becoming unstable.	Recommend that the tree be removed subject to a Building Licence being issued all work by the City of Melville at the applicant's expense. Consideration has been given to an option to require the planting of a new street tree, however given the substantial vegetation to be retained in the front setback area of the property (see large tree to right of photograph below), the provision of an additional tree on the road verge is not warranted.



29 POLGLASS WAY ARDROSS

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross/Mount Pleasant
 Category : Operational
 Application Number : DA2009-698
 Property : Lot 2 (2A) Sixth Avenue, Applecross
 Proposal : Two-Storey Single Dwelling
 Applicant : Aintree Holdings Pty Ltd
 Owner : Ms L T Stannard and Mr P W Stannard
 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

<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 & policies.</i>
<input type="checkbox"/>	Review	<i>When Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<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>

**U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- The subject application is for a two-storey residence situated on an east-west orientated lot.
- The proposal generally complies with the requirements of the Residential Design Codes (R-Codes) and provisions of CPS No. 5, with the exception of a boundary garage wall and overshadowing impact.
- The variations require consideration under the relevant Performance Criteria of the R-Codes.
- One (1) objection has been received from the southern neighbour with respect to overshadowing, building bulk and detrimental streetscape impact.
- One (1) submission has also been received during the course of the application by a nearby resident raising concerns with respect to the clearing of on-site vegetation, overshadowing impact, boundary fencing requirements and the retention of an existing shed structure.
- Whilst concerns raised by the southern neighbour are acknowledged, the proposal is deemed to satisfy the relevant Performance Criteria of the R-Codes.
- The concerns raised by the nearby residence are acknowledged and have been addressed further within this report.
- The application is recommended for conditional approval.



U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area – A1
R-Code	: R15
Use Type	: Residential
Use Class	: Residential

Site Details

Lot Area	: 765.94 sqm
Retention of Existing Vegetation	: n/a
Street Tree(s)	: n/a
Street Furniture (drainage pits etc)	: n/a
Site Details	: Refer photo above

U10_0164_January_2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Friday 15 January 2010.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	50%	60%	Complies		
Driveway width	7.16m	5.0m	Complies		
Building Height	8.0m (eaves) 10.5m (max)	5.2m 8.5m	Complies Complies		
Overshadowing	25%	27.18% - 2B Sixth Ave 2.8% - 2C Sixth Ave	Does not comply Complies	MPDS	
Car Parking	2 bays	2 bays	Complies		
Garage door width	50%	34.6%	Complies		

(Note: Non compliance emphasised in bold)

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (REC) (ATTACHMENT)

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve variation	Plan Notation
Front	GF – 6.0m	6.0m	Complies		
	FF – 6.0m	6.4m	Complies		
Rear	GF – 6.0m	8.2m	Complies		
	FF – 6.0m	19.2m	Complies		
Northern Garage	GF 1.0m	0m	Does not comply	MPDS	
Northern Theatre	GF 1.5m	3.6m	Complies		
Northern Dining / Verandah	GF 1.5m	5.2m	Complies		
Northern Alfresco	GF 1.5m	8.2m	Complies		
Northern FF WC	1.2m	4.2m	Complies		
Northern FF Bed 5	2.5m	5.2m	Complies		
Northern FF Bed 2 / Bath / PDR 2	2.6m	5.2m	Complies		
Southern GF WIR / ENS / WIP	1.0m	1.2m	Complies		
Southern GF Bed 1	1.5m	1.7m	Complies		
Southern GF L'dry / PDR / WC	1.5m	1.7m	Complies		
Southern GF Alfresco	1.5m	2.4m	Complies		
Southern FF Bed 4	1.2m	1.2m	Complies		
Southern FF Bed 3	1.5m	1.7m	Complies		
Southern FF Sitting	2.0m	3.7m	Complies		

(Note: Non-compliance in bold / GF – Ground Floor, FF – First Floor)

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (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.	Concerns are expressed in relation to detrimental impact to the residential amenity levels currently enjoyed by the occupiers of an adjoining property, by virtue of overshadowing, building bulk and detrimental streetscape impact.	Object	<p>The boundary garage wall and the overshadowing impacts from the development require consideration under the Performance Criteria of the R-Codes. Refer 'comments' section below for further consideration.</p> <p>The concerns raised by the adjoining neighbour with regard to building bulk and streetscape impact are not upheld given the southern boundary and primary street setback is entirely compliant with the Acceptable Development Criteria of the R-Codes.</p>	Not Uphold

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (REC) (ATTACHMENT)

2.	Concerns raised by the resident at an adjacent property with respect to the clearing of on-site vegetation, shadow impact onto an adjoining property, removal of the boundary fence and the retention of an existing outbuilding at the rear of the property.	n/a	As the objector does not directly abut the development site, comments are not required with respect to development variations. Notwithstanding, matters raised are discussed further under the 'comments' section below.	Not Uphold
----	---	-----	--	------------

REFERRALS TO GOVERNMENT AGENCIES

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Should the Council 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*.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

**U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)**

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 the opportunity to have this application called up for formal Council consideration.

COMMENTS

The proposal generally complies with the provisions of the R-Codes and CPS No. 5. However, as a result of the lot’s east-west orientation, and that of its neighbour to the south, overshadowing exceeds the level deemed permissible under the Acceptable Development Criteria of the R-Codes. This variation has been the subject of consultation with the owner of the adjoining property to the south, and objections have been submitted on the grounds of resultant overshadowing, building bulk and detrimental streetscape impact.

In addition, a setback variation under the Performance Criteria of the R Codes is sought with respect to the proposed garage which is sited on the northern side boundary in lieu of a setback requirement of 1.0 metre.

Buildings on Boundary

A boundary wall is proposed for the garage which measures 7.0 metres in length at a height of 3.2 metres. The Performance Criteria of Clause 6.3.2 of the R-Codes ‘Buildings on Boundary’ allows buildings to be built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The subject wall shall have negligible impact upon the amenity levels currently enjoyed by the adjoining neighbours given the wall abuts a driveway / garage area. Furthermore, access to sunlight or ventilation is not affected given such areas are not habitable rooms or form part of their outdoor living area. The setback variation also allows the dwelling frontage to be maximised thus minimising any dominant effect of a garage on the lot frontage.

Based on the above, the setback variation is supported given that no comments objecting to the setback variation have been received from the affected neighbour and the wall otherwise complies with the abovementioned Performance Criteria.

**U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)**Overshadowing

The development proposal results in a shadow impact of 27.18% to the residence at 2B Sixth Avenue, in lieu of an acceptable level of 25% as per the R-Codes. Therefore, the proposal represents a minor variation of 2.18% or 16.69sqm.

Where the acceptable requirements of Clause 6.9.1 of the R-Codes cannot be achieved, the Performance Criteria provides that developments are designed to protect solar access for neighbouring properties taking into account the potential to overshadow:

- Outdoor living areas;
- Major openings to habitable rooms;
- Solar collectors; or
- Balconies or verandahs.

The 27.18% shadow impact of the proposed development will affect two (2) major openings on the northern elevation of the adjoining residence, specifically a kitchen and a bedroom window. These openings will be cast entirely under shadow based on a midday sun angle on 21 June (i.e. winter sun). However, should the overshadowing impact be brought within the 25% “acceptable” tolerance level as advocated by the R-Codes, then the impact of overshadowing on the windows in question will arguably remain the same, totally overshadowed at midday on 21 June given the majority of shadow falls onto the roof of the adjoining residence.

It is noted that east-west orientated lots typically represent a ‘worst-case-scenario’ with respect to shadow impact given the longest part of a proposed dwelling (i.e. the side) faces directly to the north, thus casting a large amount of shadow to any lot/s located to the south. As an example, a single storey residence with complying front, rear and side setbacks proposed on the subject site could cast a shadow impact of up to 30.1% on the adjoining lot to the south. It is also noted that minor alterations could be made to the plan to relocate the rear alfresco seating area and to make minor alterations to the floor plan which would bring the proposal into full compliance with the 25% overshadowing requirement. Notwithstanding these relatively easy to accommodate changes, they would not have any positive bearing on the critical overshadowing impacts to the major openings on the adjoining property as a vertical assessment of the shadow indicates that these windows are not overshadowed. Accordingly, it is not considered warranted to require these minor modifications.

Additional to the above, it is also noted that a window awning which exists on one of the bedroom windows and the existence of mature trees (which have since been cleared off the subject lot as part of demolition) inhibited solar access to the adjoining property in any case.

There are four major openings along the side boundary of the adjoining property, two of which will not be shadowed and one of which has an awning which overshadows the window itself. One remaining major opening (to a centrally located kitchen) will be impacted; however, a development which would comply with the overshadowing requirements would most likely affect this window due to its location.

U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE, APPLECROSS (REC) (ATTACHMENT)

Based on the above, whilst the concerns expressed by the neighbour are acknowledged, the overshadowing impact is deemed acceptable when assessed against the Performance Criteria of Clause 6.9.1 'Solar access for adjoining sites' of the R-Codes. Accordingly, the variation is supported in this instance. Furthermore as noted above, as the development has removed a number of mature trees located within the rear garden area of the subject lot, this is considered to improve solar access for the occupiers of the adjoining residence to the south, particularly within the rear private open space which will receive full sun.

Neighbour Comments

During the course of the application, a submission has been received from a nearby resident with respect to concerns relating to the clearing of on-site vegetation, shadow impact onto an adjoining property, removal of the boundary fence and the retention of an existing outbuilding at the rear of the property.

As discussed above, the only shadow impact has been assessed and determined to satisfy the Performance Criteria of the R-Codes with respect to Clause 6.9.1.

With respect to the clearance of vegetation, whilst Council under the provisions of Clause 6.5 of CPS No. 5 may require the preservation of trees, these are matters which can only be addressed as part of an Application for Planning Approval. Given the subject development has been the subject of a demolition licence and the site has already been cleared, the removal of any trees cannot be controlled by Council. The issuance of demolition licence does however impose the requirement for temporary fencing to be erected should the existing boundary fence/s be removed accordingly, concerns raised by the residence with respect to this will be addressed separate to this application.

Lastly, the retention of an existing outbuilding has been taken into consideration as part of the assessment of the subject application. The concerns raised by the resident states that the 'shed' appears to be a room as it has air-conditioning. Site inspections reveal that it is unlikely that the structure can be used frequently or for extended periods of time therefore, is deemed to fall within the definition of an 'outbuilding' under the provisions of the R-Codes. The R-Codes allow the construction of outbuildings provided they satisfy the provisions of Clause 6.10.1 of the R-Codes. The retained structure satisfies these provisions and as such, is of little consequence in the context of the overall application.

**U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)****CONCLUSION**

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

OFFICER RECOMMENDATION**APPROVAL**

A) That the application for two-storey dwelling on Lot 2 (2A) Sixth Avenue, Applecross be approved with the following Special Conditions and Standard Conditions:

SPECIAL CONDITION:

- 1. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.**
- 2. The retained outbuilding is not to be used for habitable purposes.**
- 3. The external face of the parapet wall(s) on the boundary is to be finished to an equivalent standard of finish and colour of the dwelling (or fence) on the adjoining property.**
- 4. All unused crossover(s) are to be removed and the kerbing and road verge are to be reinstated at the owners full cost.**

STANDARD CONDITIONS:

- 5. 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.**
- 6. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**

**U10/0164 - (HS) TWO STOREY SINGLE DWELLING ON LOT 2 (2A) SIXTH AVENUE,
APPLECROSS (REC) (ATTACHMENT)**

7. The development complying with any amendments and notations marked in 'RED' as shown on the approved plans.
 8. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).
 9. 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.
 10. 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 4m² and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.
 11. 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.
 12. 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.
 13. The construction of retaining walls not to exceed the heights specified on the approved plans unless otherwise approved by Council. Details, signed by a practicing Structural Engineer must be submitted for approval at the time of submitting a Building Licence Application.
 14. The development is to be connected to the Water Corporation's reticulated sewerage system.
 15. Ground levels may not be changed other than approved as part of this approval.
- B) The nearby resident and adjoining property owner who objected to the development be advised in writing of A) above.