

**AGENDA**

**FROM THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**19 OCTOBER 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 Friday following the date of the publishing of these minutes.**
  - 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: 25 OCTOBER 2010**



**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON,  
COMMENCING AT 9.00AM ON 19 OCTOBER 2010.**

**PRESENT**

T Capobianco (Presiding Member)	A/Manager Planning & Development Services
G Russell	A/Principal Building Surveyor
H Shigeyoshi	A/Planning Services Coordinator
L Anderson	Senior Planning Officer
P Stuart	A/Senior Planning Officer
R Bailey	Special Projects Officer (Engineering Design)
M Snell	Senior Team Leader Landscape Construction

**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 has 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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**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

Ward : Palmyra/Melville/Willagee  
 Category : Operational  
 Application Number : DA-2010-1026  
 Property : Lot 145 (40) Petra Street, Palmyra  
 Proposal : Sculpture addition to Single House  
 Applicant : Mr V Ulinovich  
 Owner : Mr A D'Amico and F D'Amico  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr. Tony Capobianco  
 A/Manager Planning and Development Services  
 Previous Items : Not applicable

**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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review 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>

**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The application seeks planning approval for a retrospective sculpture addition to a corner residential lot.
- The proposed development seeks variations to the Acceptable Development provisions of the Residential Design Codes of WA (R-Codes) and Policy 06-PL-008 Residential Development relating to a secondary street setback requirement of 3.0m.
- The sculpture has been brought to the City of Melville (City) attention relating to the structural stability and general approval requirements applicable under planning and/or building.
- It is considered by City Officers that a Planning Approval is required given the proposal constitutes a form of development, albeit ancillary in nature.
- On planning grounds, the sculpture is not considered to result in any detrimental impact to the desired streetscape of Petra Street and Solomon Street.
- The City's Building Department has advised that the sculpture appears to be structurally adequate however, should be the subject of an engineering certificate to confirm its integrity.
- The variations sought have been the subject of neighbour consultation with one (1) letter of support being received relating to the streetscape and one (1) letter of objection relating to structural stability and the requirement for City approvals.
- The application is recommended for conditional approval.



**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : Living Area – P1  
 R-Code : R20  
 Use Type : Residential  
 Use Permissibility : P - permitted

**Site Details**

Lot Area : 1,049.65sqm  
 Retention of Existing Vegetation : Not applicable  
 Street Tree(s) : Not applicable  
 Street Furniture (drainage pits etc) : Not applicable  
 Site Details : Refer to photo above  
 U10\_0280\_October\_2010.pdf A copy of the plans forms part of the attachments to the Agenda distributed to Members of Council on 25 October 2010.

**DETAIL**

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Primary Street	6.0m (avg) 3.0m (min)	6.0m (avg) 3.0m (min)	Complies		
<b>Secondary Street</b>	<b>3.0m</b>	<b>0.3m (min)</b>	<b>Does not comply</b>	<b>MPDS</b>	

(Note: \*non-compliance in bold)

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to Policy CP-06-PL-008  
 Support/Object: One (1) letter of objection and one (1) letter of support

**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

Affected Property	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	An objection has been submitted by an adjoining neighbour on concerns regarding the structural stability of the sculpture. It has also been questioned whether any approvals are required from the City with respect to the work.	Object	<p>Upon undertaking an initial inspection, the City's Building Department considers the sculpture is structurally adequate. Notwithstanding, an engineering certificate is recommended to be obtained by the applicant to confirm the integrity of the sculpture.</p> <p>With regard to approvals, a Planning Approval is required which is the subject of this report.</p>	Partially Uphold
2	A letter of support has been submitted by an adjoining neighbour stating that they do not consider the sculpture to have an adverse effect on the street.	Support	Noted.	Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

Referral to Government Agencies is not required as part of this application.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for planning approval, the applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

There are no financial implications for Council associated with this application.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no strategic or risk management implications for Council.

**POLICY IMPLICATIONS**

There are no policy implications the subject of this application.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is proposed to be approved under delegation through the 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**

The subject application seeks planning approval for a retrospective sculpture built on a corner residential property. The subject site is located within the Living Area Precinct under the provisions of CPS5 with an applicable residential density coding of 'R20'. The matter has been brought to light further to an Elected Member raising concerns on the integrity of the sculpture and the need for approvals in light of this.

City Officer's have undertaken an inspection of the sculpture and consider that the sculpture appears to be sound. Notwithstanding, it has determined that a Planning Approval is required in light of a variation to the secondary street setback requirement under Council Policy CP-06-PL-008 and an engineering certificate to ascertain the integrity of the sculpture. Consideration relative to the variation sought to the setback to Solomon Street is detailed in the section below.

**Secondary Street Setback**

Table 1 of the R-Codes requires 1.5m secondary street setbacks for development on R20 lots. Additionally, Policy CP-06-PL-008 Residential Development stipulates a minimum secondary street setback of 3.0m. The proposed minimum secondary street setback is approximately 0.3m.

**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

In relation to the R-Codes where a variation is sought to the Acceptable Development provisions, consideration under the relevant Performance Criteria is required. Whilst the ability to vary the setback provision exists, no criterion is provided in the Policy for consideration. As such, it is considered reasonable in this instance to take into consideration the Performance Criteria of the R-Codes in order to assess the variation to the Policy provision.

The Performance Criteria relative to the above requires buildings to be setback an appropriate distance to ensure they:

- *Contribute to the desired streetscape;*
- *Provide adequate privacy and open space for dwellings; and,*
- *Allow safety clearances for easements for essential service corridors.*

While the structure is not a typical building, it nevertheless falls within the definition of a building under the R-Codes. It is considered that the proposal satisfies the abovementioned Performance Criteria based on the following reasons:

- The desired streetscape can include sculptures that do not dominate the streetscape. The sculpture allows views through (i.e. predominantly made up of wooden architectural pillars);
- By way of privacy and open space the proposal does not represent a departure from the relevant Acceptable Development provisions of the R-Codes; and,
- The proposal does not impact upon safety clearances for essential service corridors.

Accordingly, the streetscape impact is deemed to be minor. Based on the above and as no objections have been raised by adjoining residents relative to streetscape impact (i.e. only structural integrity), the setback variation is supported in this instance.

Clause 7.8 of CPS5

Clause 7.8 provides matters to be considered by Council in determining an application for planning approval. Notwithstanding the justification provided against the relevant Performance Criteria of the R-Codes (as detailed above), specific consideration is necessary against Clause 7.8(b), (c), (h) and (k) which provides for the following considerations:

- (b) The orderly and proper planning of land within the area;*
- (c) The existing and likely future amenity of the area.*
- (h) The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads; and,*
- (k) Any relevant submissions received on the application.*

**U10/0280 RETROSPECTIVE SCULPTURE ADDITION TO SINGLE HOUSE – LOT 145  
(40) PETRA STREET, PALMYRA (REC) (ATTACHMENT)**

With respect to amenity impact, given the minor, incidental nature of the proposal and justification provided above with respect to the secondary street setback variation, no undue amenity impact is envisaged. The sculpture where considered in the context of existing development on the subject lot and adjoining lots, is considered to be consistent with the established residential character and orderly and proper planning for the locality.

Accordingly, the sculpture is considered to satisfy the requirement of Clause 7.8 of CPS5.

**CONCLUSION**

As the sculpture and its variation is deemed to satisfy the Performance Criteria of the R-Codes and amenity provisions of CPS5, it is recommended that the application be conditionally approved.

**OFFICER****APPROVA****L**

- A) That the retrospective application for a sculpture addition to a single house on Lot 145 (40) Petra Street, Palmyra be approved with the following Special Conditions:**

**SPECIAL CONDITIONS:**

- 1. This approval is only granted with respect to the sculpture forming part of this application. Any new sculpture may be subject to further approval/s from the City.**

**ADVICE NOTE:**

- 2. An Engineering Certificate is to be submitted to the City of Melville Building Department to ensure the sculpture is structurally sound.**

- B) That the neighbour who commented on the proposal be notified in writing of A) above.**

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2010-679  
 Property : Lot 1 (11) Carron Road, Applecross  
 Proposal : Three-storey single house  
 Applicant : Mr S Gliosca  
 Owner : Mrs D L Warr and Mr N T Warr  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr. Tony Capobianco  
 A/Manager Planning and Development Services  
 Previous Items : n/a

**AUTHORITY / DISCRETION**

Definition

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**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Application is made for a three-storey single house on an existing strata lot, consisting of two strata units.
- The application involves demolition of the existing two strata units and future amalgamation of these lots for the purposes of constructing the proposed single residence.
- The proposal seeks a number of variations to the Acceptable Development provisions of the R-Codes and Precinct development requirements contained under the provisions of the City of Melville Community Planning Scheme No. 5 (CPS5), all of which have been the subject of public consultation.
- Two objections have been received stating concerns in relation to overshadowing, bulk, detrimental amenity and streetscape impacts.
- In light of concerns raised by objectors, the applicant has undertaken a number of design modifications to accommodate the issues and to bring the variations to within an acceptable level in terms of the relevant Performance Criteria of the R-Codes.
- A number of additional modifications are recommended as part of this report to address the objectors concerns, the relevant Performance Criteria of the R-Codes as well as the amenity provisions of Clause 7.8 of CPS5.
- The application is recommended for conditional approval.



**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

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

**Site Details**

Lot Area	: 1,136.93sqm
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: 2 x <i>Jacaranda Mimosifolia</i> – to be retained 1 x <i>Eucalyptus Cladocalyx</i> – to be retained
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: Refer to photo above
U10_0281_October_2010.pdf A copy of the plans forms part of the attachments to the Agenda distributed to Members of Council 25 October 2010.	

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	50%	57%	Complies		
Building Height	8.0m (eaves) 10.5m (max)	n/a 8.6m	n/a Complies		
Carparking	2 bays	7-bays	Complies		
Shadow Impact	25%	Shadow to street	Complies		

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Primary Street Setback (east)					
UC	7.5m / avg 7.5m	7.5m avg	Complies		
GF	7.5m / avg 7.5m	6.34m avg	Does not comply	MPDS	
UF	7.5m / avg 7.5m	7.5m avg	Complies		
Secondary Street Setback (south)					
UC	3.0m (Policy) 2.0m (R-Codes)	n/a n/a	n/a n/a		

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

GF	3.0m (Policy) 2.0m (R-Codes)	3.0m	Complies		
UF	3.0m (Policy) 2.0m (R-Codes)	3.0m	Complies		
Rear* (west)					
<b>GF – Toy Room</b>	<b>6.0m (R-Codes) 7.5m (CPS5)</b>	<b>0m</b>	Does not comply	<b>MPDS</b>	
* Although this boundary has been technically classified as a rear boundary of the corner lot, it is effectively a side boundary, and adjoins the side boundary of the property immediately to the west. On this basis the standard setback for this wall would be 1.5m – the proposal is for a boundary wall with a nil setback.					
<b>GF – Bed 3</b>	<b>6.0m (R-Codes) 7.5m (CPS5)</b>	<b>4.6m</b>	<b>Does not comply</b>	<b>MPDS</b>	
* The setback to this wall would comply if the boundary were to be classified as a side boundary.					
UF – Bath / ENS 2 / Guest 2	6.0m (R-Codes) 7.5m (CPS5)	8.7m	Complies		
Side (north)					
UC – Garage / Store / Planter	1.8m	7.8m	Complies		
GF / Bed 2 / 3	2.5m	4.1m	Complies		
GF – Terrace	2.2m	5.9m	Complies		
GF – Alfresco	1.0m	7.35m	Complies		
GF – Pool Terrace	2.2m	7.8m	Complies		
UF – Guest 2	1.4m	8.0m	Complies		
UF - Balcony	3.8m	8.4m	Complies		
UF – PDR	1.3m	7.5m	Complies		
UF – Gym / Bar	1.4m	8.4m	Complies		
UF – Stairs Void	4.1m	13.4m	Complies		

(Note: Non-compliance in bold. UC – Undercroft, GF – Ground Floor, UF – Upper Floor)

**Visual Privacy: R-Codes**

Room	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
GF Bed 2	4.5m	4.1m	Does Not Comply	MPDS	
GF Bed 3	4.5m	4.1m	Does Not Comply	MPDS	
GF Terrace	7.5m	5.9m	Does Not Comply	MPDS	

(\*Non-compliance in bold)

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
Neighbour's Comment Supplied: Yes  
Reason: Variation to R-Codes and CPS5  
Support/Object: Two (2) objections

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	Concerns have been raised by a neighbour across the street with regard to the height and close proximity to the boundary of the retaining walls for the pool structure and planter box. The objector has expressed the view that these structures are massive and out of character with the surrounding homes, pivoted up from the ground level to over emphasize the front elevation.	Object	In response to the issues raised, the applicant has amended plans to depict an additional section of stepped planter in order to reduce the visual bulk impact created by the planter box / raised pool area. Additionally, it is recommended that the preparation of a landscaping plan be required that introduces a mix of plant species in the proposed planter boxes that complements and reduces the bulk of the raised pool and planter sections.	Partially Uphold
2.	Concerns have been raised by an adjoining neighbour with regard to the following issues: 1. The boundary wall has a serious impact on providing light, air and visual discernment. 2. The amended height of 3.2m is still a bulky, overbearing parapet wall that will affect the natural amenity and aesthetics of open space. 3. With an established vegetable garden adjacent to the structure, I am concerned that overshadowing will reduce sunlight needed	Object	In response to the issues raised by the adjoining neighbour and feedback from DAU, the applicant submitted revised plans which depict a 2.4m boundary wall height (above natural ground level) .A 2.4m height is considered appropriate in this instance as it will be comparable to a 1.8m dividing fence on the boundary with 0.6m of retaining wall (which are both permitted as-of-right). With regard to shadow impact, based on the orientation and proposed height reduction, the neighbours vegetable garden is	Partially Uphold

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

	<p>for plant growth.</p> <p>4. As a concession, I would consider the rear setback being varied for both the toy room and bed 3 to 4.6m.</p>		<p>unlikely to be significantly detrimentally impacted. Whilst the proposed concession is acknowledged, it is considered that the proposed height reduction is an acceptable outcome.</p>	
3.	<p>Concern is raised by an adjoining neighbour with regard to the proposed boundary wall by virtue of its detrimental light, air and visual impact. Concern is also raised relative to the setback off Dunvegan Road for the ground and first floor levels and its impact on streetscape. The inclusion of an iron fence is also considered to diminish the amount of greenery from the street and overall visual appearance.</p>	Object	<p>Whilst the concern raised by the neighbour is acknowledged, the neighbour does not directly abut the proposed boundary wall. Accordingly, the wall will have no detrimental impact by way of air, light or visual impact. With regard to the Dunvegan Road setbacks, in response to the concerns raised, the applicant has submitted revised plans which depict compliant ground and upper floor secondary street setbacks. The concerns relative to the iron fence are not upheld in this instance as there are no restrictions of secondary street fencing finish, type or colour.</p>	Partially Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

There are no Government Agency referrals required as part of this application.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council refuse the application for planning approval, the applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

There are no financial implications for Council associated with this application.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no strategic or risk management implications for Council.

**POLICY IMPLICATIONS**

There are no Policy implications the subject of this application.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is proposed to be approved under delegation through the 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**

The subject application seeks planning approval for a three-storey single house on an existing two-strata lot. The application involves demolition of the existing two strata units and future amalgamation of these lots for the purposes of constructing the proposed single house. The subject lot being a corner lot is on a prominent location characterised by a gentle slope to the land which inclines west along Dunvegan Road whilst declines north along Carron Road. A large *Eucalyptus Cladocalyx* located near the corner of the lot within the road reserve is a prominent feature of the streetscape.

With regard to the proposal, there are a number of variations proposed to the Acceptable Development provisions of the R-Codes and Precinct development requirements contained under the provisions of CPS5. These are further detailed under the sections below.

**Setbacks of Buildings Generally**

The proposal seeks a variation to the primary street setback relative to the ground floor level, in this instance considered as the Carron Road frontage. The R-Codes in this instance requires a setback of 7.5m or an average thereof subject to a minimum of 3.75m being achieved. The proposal achieves an average of 6.34m and a minimum of 0m, this nil setback being to a raised planter box and elevated pool.

Where a variation is sought to the Acceptable Development provisions, consideration under the relevant Performance Criteria is required. Furthermore, advertising of the variation is also required to surrounding neighbours considered to be affected by the variation sought. In this regard, a submission was received by an adjoining neighbour raising concerns with regard to the bulk and height of the raised pool and planter section.

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

The Performance Criteria relative to the above requires buildings to be setback an appropriate distance to ensure they:

- *Contribute to the desired streetscape;*
- *Provide adequate privacy and open space for dwellings; and,*
- *Allow safety clearances for easements for essential service corridors.*

In acknowledging the concerns raised and requirements of the Performance Criteria above, the applicant has since submitted revised plans (which form part of this report) depicting an additional planter section on the corner truncation portion of the raised pool area. The objective of this is to introduce an additional tier of landscaping which will reduce the bulk impact created by the raised pool section as originally proposed (up to the boundary). Additionally, the section of planter abutting the driveway has also been reduced in height from the originally proposed height of 3.76m to match-in with the lower planter which is proposed at a height of approximately 1.5m. It is also proposed that landscaping of the planter area be made conditional on the need for a landscaping plan to the approval of the City. The intent of this is to ensure landscaping is provided that complements the corner location of the subject lot and existing verge tree but also reduces the visual bulk of the raised pool area and provides for an attractive streetscape.

The end result of the above is a variation to the primary street setback which is considered to have a lesser impact visually when compared to having a solid 1.8m high wall in its place which could incidentally be proposed as the area is a primary outdoor living area for the proposed residence.

By way of privacy, open space and safety clearances for essential service corridors, the proposal does not represent a departure from the relevant Acceptable Development provisions of the R-Codes.

Based on the above the setback variation is supported in this instance.

#### Secondary Street Setback

Table 1 of the R-Codes requires 2.0m secondary street setbacks for development on R12.5 lots. Additionally, Policy CP-06-PL-008 Residential Development stipulates a minimum secondary street setback of 3.0m. In lieu of these requirements, the proposal originally presented a minimum secondary street setback of 2.06m on the ground floor and 2.2m on the upper floor.

Following consideration of the variation by DAU, it was recommended that the ground and upper floor variations be made to satisfy the 3.0m standard stipulated under the abovementioned Policy. Revised plans which depict a secondary street setback in excess of 3.0m for the ground and upper floors have since been submitted by the applicant (which form part of this report).

Accordingly, the secondary street setback now presents as compliant.

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**Rear Setback

Table 1 of the R-Codes requires 6.0m rear setbacks for development on R12.5 lots. Additionally, the Precinct development provisions of CPS5 relative to the 'Living Area – RFS' Precinct stipulate a minimum rear setback of "7.5m, as per the R-Codes". In lieu of these requirements, the proposal presents a variation relative to the ground floor 'Toy Room' and 'Bed 3' which are setback nil and 4.6m respectively from the rear boundary. However, it needs to be borne in mind, that while the boundary concerned is opposite the primary street, it is effectively a side boundary, adjoining the side boundary of the property immediately to the west.

It is noted that the inconsistency between the R-Codes and provisions of CPS5 stem from the fact that CPS5 (when gazetted) referred to the provisions of the 1991 R-Codes which provided for rear setbacks of 7.5m, with an added provision of averaging and side and rear setback exchange. With the introduction of the current R-Codes, the rear setback provision has been revised to 6.0m with no option to average or side and rear exchange.

Notwithstanding the inconsistency, in not meeting the Acceptable Development provisions of the R-Codes, Performance Criteria consideration is necessary. In this regard, the Performance Criteria of 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.

Furthermore, 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.*

As per the previous sections above, the rear setback variation has also been the subject of consultation, with one objection received relative to the visual bulk and overshadowing impact created by the reduced setback (refer to 'Public Consultation/Communication' section for further details). In considering the concerns raised and abovementioned Performance Criteria, the applicant has agreed to a number of modifications to the height of the boundary wall (i.e. Toy Room). Following DAU consideration on this issue, the applicant has subsequently submitted revised plans which have reduced the wall height from approximately 4.0m above natural ground level to 2.4m.

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

It is noted that during DAU consideration of the wall height, whilst the applicant presented 2.6m wall height option which is a significant reduction in the height of the wall, in view of the fact that the proposed 'Toy Room' wall measures approximately 12.0m in length, it was still considered to represent an unreasonable level of bulk and amenity impact. It is also relevant to note that under the applicable 'R12.5' density coding, the R-Codes do not provide as-of-right, walls on the boundary. In this regard, whilst moving the boundary wall off the common boundary would involve a major re-design, it was considered reasonable to require the wall be reduced a further 200mm to achieve a maximum height above natural ground level of 2.4m (which revised plans submitted by the applicant now propose).

It is noted that the setback variation relative to the 'Bed 3' is not considered to be of significant impact as it is sufficiently setback from the rear common boundary with the majority of the wall concealed behind vegetation retained within the rear corner of the subject lot.

With regard to the 'Toy Room' wall, the benefit of achieving a 2.4m maximum height is that based on the topography of the property (i.e. inclines west along Dunvegan Road) the resultant impact of such a wall would be of a reasonable level consistent with properties on sloping sites where dividing fences are constructed on-top of retaining walls. Specifically, the 2.4m height is based on a standard dividing fence height of 1.8m plus up to 0.6m retaining which is permitted as-of-right under the provisions of CPS5. Therefore, in achieving a 2.4m height, the bulk impact is considered to be acceptable, considering that the height of the wall would be comparable to a standard dividing fence constructed on-top of a retaining wall measuring 0.6m. It is noted that the applicant has stated an intention to replace the existing poor condition fibre-cement fence with one of a masonry build which, in matching the colour and finish with that of the proposed boundary wall will result in a seamless finish.

In relation to privacy and shadow impact, the wall (as amended) is not considered to pose any issues given it contains no major openings and is a west facing wall. Whilst concerns raised relative to an existing vegetable garden on the objector's property being affected are acknowledged, it is considered that direct sun will still be available by virtue of the proposed reduced height and orientation of the wall, and that the proposed boundary wall will not unduly increase the level of shading compared with that associated with as-of-right boundary fencing.

Given the above, whilst the neighbour's concerns are acknowledged, the proposed rear setback variation (as per the revised recommendation) is supported in this instance.

#### Vehicular Access

Clause 6.5.4 of the R-Codes includes a number of provisions relative to the primary or secondary street driveways. The proposal seeks a variation relative to three Acceptable Development provisions of the above clause, these being as follows:

- Aggregate driveway width of 15.3m in lieu of 9.0m;
- Single driveways measuring 7.7m and 7.6m in lieu of a maximum of 6.0m; and,
- Driveways no closer than 0.5m to a side boundary.

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

Where a variation is sought to the Acceptable Development provisions above, consideration under the Performance Criteria is required, which states “*Vehicular access provided so as to minimise the number of crossovers, avoid street trees, to be safe in use and not detract from the streetscape*”.

With regard to the aggregate driveway width, it is considered that the streetscape impact is reduced given the corner lot nature of the site, and that the lot is currently occupied by two strata dwellings, each of which has its own cross-over. As depicted on the development plans, the driveway located on Carron Road measures 7.6m whilst the driveway located on Dunvegan Road measures 7.7m in width. Whilst both driveways exceed the abovementioned Acceptable Development provisions of the R-Codes, both driveways still occupy less than 40% of both frontages measuring 21.1% and 36.8% respectively. In this regard, the streetscape impact of the driveways is considered to be reasonable and comparable (if not better) to the resultant streetscape impact of driveways measuring up to 40% on narrow lots (e.g. with frontages of 10-12.0m).

Based on the above, subject to both driveways achieving a minimum clearance of 0.5m from any side boundary, the variation to the aggregate driveway width is considered to satisfy the Performance Criteria of Clause 6.5.4.

#### Visual Privacy

As detailed in the development table above, visual privacy setback variations applied with respect to the windows to Bed 2, Bed 3 and the Ground Floor Terrace.

In order for above major openings to comply with the Acceptable Development provisions of the R-Codes, the proposal is required to be amended by way of screening, obscure glass treatment or other alternative which complies with the provisions of Clause 6.8.1 of the R-Codes. Such a requirement can be made conditional as part of any determination, which would achieve compliance with the relevant privacy provisions of the R-Codes.

#### Clause 7.8 of CPS5

Clause 7.8 provides matters to be considered by Council in determining an application for planning approval. Notwithstanding the justification provided against the relevant Performance Criteria of the R-Codes (as detailed above), specific consideration is necessary against Clause 7.8(b), (c), (h), (i), (j) and (k) which provides for the following considerations:

- (b) *The orderly and proper planning of land within the area;*
- (c) *The existing and likely future amenity of the area.*
- (i) *The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads;*
- (j) *The size, shape and character of the lot upon which the development is to be carried out, and the influence which this may have on the sitting and nature of any new building;*
- (k) *The design and external appearance, including the exterior cladding, of any new building and its effect upon the amenity of existing buildings and the area generally; and,*
- (l) *Any relevant submissions received on the application.*

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

The proposal, its variations and additional recommendations of DAU where considered in the context of existing development on the adjoining lots, is considered to be consistent with the established residential character and orderly and proper planning for the locality.

With respect to amenity impact, whilst the objections relative to the primary, rear and secondary street setbacks are acknowledged, in light of DAU's recommendations and subsequent revisions undertaken by the applicant, no undue amenity impact is envisaged. It is reiterated that the aspect of the proposed development which seek a variation under the relevant Acceptable Development provisions of the R-Codes otherwise meet the relevant Performance Criteria which address similar provisions forming part of Clause 7.8(c), (h), (j) and (k).

Based on the above, it is considered that the proposal satisfies the provisions of Clause 7.8.

**CONCLUSION**

As the proposed development and its variations are deemed to satisfy the Performance Criteria of the R-Codes and as it is otherwise in 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 a three-storey single house on Lot 1 (11) Carron Road, Applecross be approved with the following Special and Standard Conditions:**

**SPECIAL CONDITIONS:**

- 3. The Toy Room boundary wall height is to be no greater than 2.4m above natural ground level as marked in 'RED' on the approved plans.**
- 4. A detailed Landscape Plan being submitted and approved for the planter section along the Carron Road frontage as marked in 'RED' on the approved plans, and subsequently implemented and approved landscaping maintained. As a guide, landscaping of the planter section along the Carron Road frontage should aim to provide a variety of plant heights to ameliorate against building bulk.**
- 5. 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.**
- 6. 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.**
- 7. All crossovers are to achieve a minimum setback of 0.5m from any side lot boundary.**

**U10/0281 (HS) PROPOSED THREE-STOREY SINGLE HOUSE AT LOT 1 (11) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**

8. In order to comply with Clause 6.8.1 (A1) of the Residential Design Codes, the northern side of the GROUND FLOOR TERRACE as marked in 'RED' on the approved plans, having fixed obscure screening to a minimum height of 1.65 metres above the finished floor level or any other alternative that complies with the above Clause 6.8.1 (A1).
9. In order to comply with Clause 6.8.1 (A1) of the Residential Design Codes, the northern side of GROUND FLOOR BED 2 and BED 3 as marked in 'RED' on the approved plans, having fixed obscure screening to a minimum height of 1.65 metres above the finished floor level or any other alternative that complies with the above Clause 6.8.1 (A1).

**STANDARD CONDITIONS:**

10. 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.
  11. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.
  12. The development complying with any amendments and notations marked in 'RED' as shown on the approved plans.
  13. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).
  14. 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 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.
  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. Ground levels may not be changed other than approved as part of this approval.
- B) That the adjoining neighbour who objected to the subject application be notified of A) above.

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2010-870  
 Property : Lot 301 (11) Moreau Mews, Applecross  
 Proposal : Change of Use from 'Residential' to 'Office'  
 Applicant : Private Horizons Planning Solutions  
 Owner : Labonne Enterprises Pty Ltd  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr. Tony Capobianco  
 A/Manager Planning and Development Services  
 Previous Items : n/a

**AUTHORITY / DISCRETION**

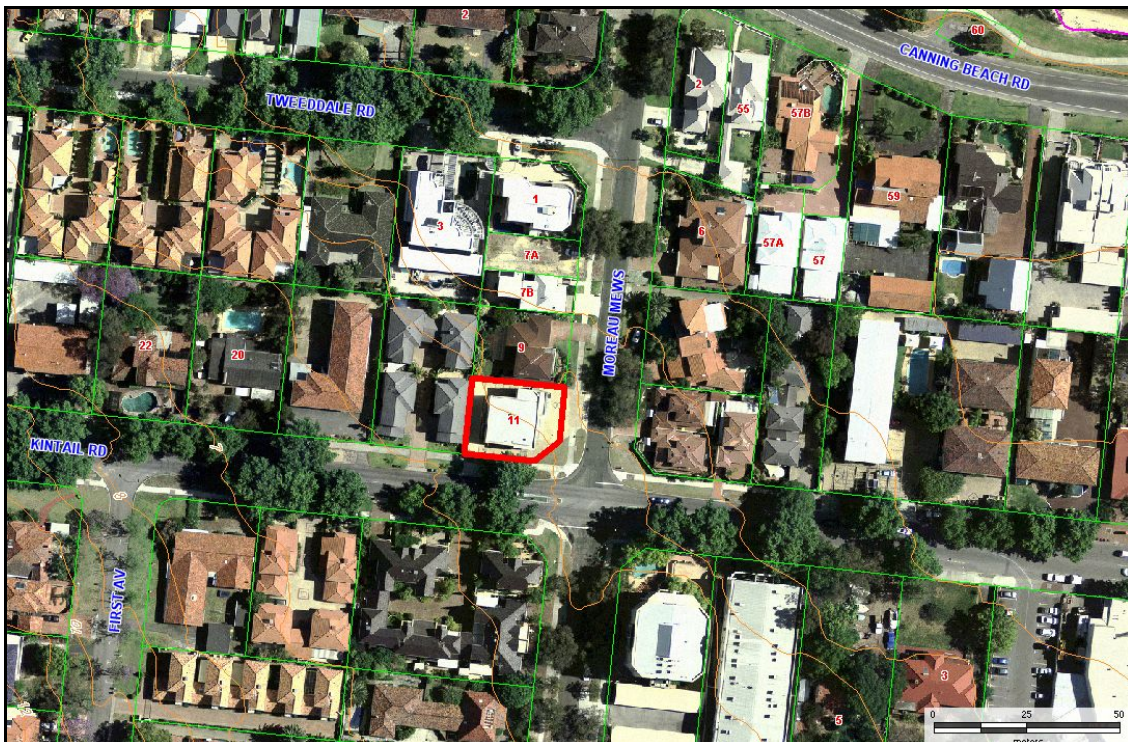
Definition

<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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review 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>

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Application is made for a change of use from 'Residential (Single House)' to 'Office'.
- The proposed 'Office' use is a 'S' use under Table 1 of Community Planning Scheme No. 5 (CPS5) which means the use is not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d) of CPS5.
- Application was advertised in accordance with Clause 7.5(f) of CPS5 with two (2) submissions being received objecting to the proposal on the grounds of lack of parking, traffic safety concerns and detrimental impact to residential amenity levels.
- The proposed development is generally compliant with the development requirements contained under the provisions of CPS5 and relevant Council Policy with the exception of landscaping.
- Application is recommended for conditional approval.



**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : CBF – Commercial Centre Frame  
 R-Code : R50  
 Use Type : Office  
 Use Permissibility : 'S' – use not permitted unless Council exercises discretion and grants approval after advertising in accordance with Cl. 7.5(d)

**Site Details**

Lot Area : 500sqm  
 Retention of Existing Vegetation : Not applicable  
 Street Tree(s) : Not applicable  
 Street Furniture (drainage pits etc) : Not applicable  
 Site Details : See above photo  
 U10\_0282\_October\_2010.pdf – A copy of the plans forms part of the attachments to the Agenda distributed to Members of the Council 25 October 2010.

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Landscaping	25%	15.8%	Does not Comply	MPDS	
Car Parking: (1 bay/ 30m <sup>2</sup> NLA)	8 bays	10 bays	Complies		
Building Heights	11.0m (eaves) 13.5m (max)	Existing Building	Complies		
Front Setback	6.0m	No change to existing	Complies		
Plot Ratio	0.6	0.47	Complies		
Setbacks as per cl.5.7(c) of CPS5	2.0m (side) 6.0m (rear)	1.0m (min) 4.4m (min) No change to existing building	Does not comply  No change to existing building	MPDS	

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: 'S' use under CPS5  
 Support/Object: Object

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPLECROSS (REC) (ATTACHMENT)**

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Support/Dismiss)
1.	Concerns are raised by an adjoining resident with regard to traffic/car parking problems and overlooking (i.e. loss of privacy).	Object	<p>Given the proposal can accommodate the required number of car parking bays within the subject lot, car parking problems are not anticipated. With regard to traffic, the proposal is a relatively small-scale office which is not considered to have a significant impact on the traffic numbers travelling along Kintail Road.</p> <p>With regard to overlooking, CPS5 does not include any specific privacy requirements for offices as is the case for residential development under the R-Codes . Notwithstanding, the existing residence is deemed to comply with privacy setback requirements. As such, the development can be considered to provide adequate privacy protection as existing.</p>	Not Uphold
2.	<p>Concerns relate to impact on vehicles parking on the verge and whether Council can guarantee any damages will be fixed.</p> <p>Amenity concerns are raised as a result of the use of this residential house as an office.</p>	Object	<p>As per above, the anticipated car parking demand can be satisfied entirely within the subject lot.</p> <p>With regard to amenity impact, given adequate parking is provided on-site and noise levels are anticipated to be low (or otherwise limited to between 9am to 5pm), no undue amenity impact is envisaged. It is noted that the use must comply with the prescribed noise levels under the <i>Environmental Protection (Noise) Regulations 1997</i> at all times.</p>	Not Uphold

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)****REFERRALS TO GOVERNMENT AGENCIES**

Referral to Government Agencies is not required as part of this application.

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council associated with this application.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no strategic and risk management implications for Council.

**POLICY IMPLICATIONS**Policy No. 06-024: Car Parking (Non-Residential)

This policy exists to ensure adequate provision of non-residential car parking, and provides detailed guidance relative to the number of car parking bays required for a particular land use.

Car parking for the proposed development falls within the category 'Office'. Compliance with the Policy is discussed in the comments section below.

**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**

The subject application seeks planning approval for a change of use from 'Residential (Single House)' to 'Office'. The property which is located within the 'Commercial Centre Frame - CBF' for which an 'Office' use is a 'S' use meaning the use is not permitted unless Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d). The 'Statement of Intent' relative to the 'Commercial Centre Frame – CBF' states:

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**

*Primarily residential but may include offices and medical practitioners where privacy of neighbours is respected and design has a residential character. Buildings shall not use reflective or mirror glass externally. Shops, open-air display of goods and vehicles, service stations and the like are prohibited. The Council may prepare urban design guidelines for the precinct.*

The proposal is considered to be consistent with the land use intent of the Precinct in so far as the use is small in scale and retains the residential character of the locality given it simply utilises an existing residential dwelling.

With regard to the proposed occupancy, at the time of reporting, the applicant has advised that the office will be used by a mining company (geological practice) with any office space that is un-used made available to be sub-leased. Whether office space will be sub-leased or not or tenants details are not known at this stage.

The following sections below provide further details with respect to setback and landscaping variations and concerns raised during the public consultation process.

**Setback – Rear**

The proposed bulk of the building across both ground and first floors are generally setback 4.5m from the rear boundary in lieu of the required 6.0m, no change being proposed to the existing building. The 6.0m rear setback requirement is a provision under cl.5.7 of CPS5 in view of preserving and protecting amenity levels of adjoining residential land uses. Notwithstanding, cl.5.7(c) provides Council the discretion to vary the setback requirement, where considered appropriate. In this regard, it is considered reasonable to assess the proposed variations in light of its potential impact on bulk, privacy and solar access that are pertinent factors which can contribute towards detracting existing amenity levels.

With regard to solar access, given the rear setback variation relates to the western side of the lot, shadow impact when utilising the overshadowing methodology applied under the R-Codes is not an issue (i.e. winter sun angle on midday, June 21<sup>st</sup>). Whilst the proposal is a commercial development, the R-Codes shadow methodology is used in this instance as a benchmark based on the fact that all abutting uses are residential and its compliance with residential development requirements would be reasonable justification to support the development.

With regard to bulk, the impact of the variation is deemed to be minor as setback of the wall when assessed as a residential building only requires a setback of 1.8m. It is considered reasonable in this instance to refer to the setback requirements contained under the R-Codes to measure the perceived bulk of the wall in the absence of a specific criterion under the provisions of CPS5. Privacy is also not affected as the rear wall does not consist of any major openings which would detrimentally impact upon the privacy of adjoining residents to the rear.

Based on the above, the rear setback variation is supported.

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**Setback – Side

As per the rear setback requirement, cl. 5.7 of CPS5 requires side setbacks of 2.0m to be provided where a commercial development abuts residential uses. The intent of the setback is to preserve and protect amenity levels of adjoining residential land uses. The application proposes a minimum 1.0m side setback relative to the ground and upper floor, no change being proposed to the existing building.

Cl.5.7(c) provides Council the discretion to vary the setback requirement, where considered appropriate. In this regard, it is considered reasonable to assess the proposed variations in light of its potential impact on bulk, privacy and solar access that are pertinent factors which can contribute towards detracting existing amenity levels.

With regard to solar access, given the side setback variation relates to the northern side of the lot, no shadow will be cast upon the adjoining residential lot to the north during any time of the day.

In relation to bulk, in a residential context the existing setbacks would be compliant with the Acceptable Development provisions of the R-Codes which consider matters of bulk. In this regard, with the appearance of the development not changing from its existing residential character, no undue bulk impact upon the adjoining resident is considered to result from the change of use. Privacy is also not affected as the rear wall does not include any major openings which would detrimentally impact upon the privacy of adjoining residents to the rear.

Based on the above, the side setback variation is supported.

Car parking and traffic

Car parking is provided in accordance with the requirements of Council Policy CP-06-PL-024 Car Parking (Non Residential). The Policy requires parking to be provided based on a ratio of *“1 bay per 30 square metres NLA”*.

Based on a floor area of 235sqm NLA, the proposal requires eight (8) car parking bays to be provided. In this regard, the proposal presents ten (10) car parking bays on-site. However, in assessing the bays against the design standards in AS/NZS2890.1 Australian Standards, the City's Technical Services Department has advised that proposed bays 6 and 8 are not considered to be of a satisfactory standard. . Accordingly, on the basis that a surplus of two-bays is currently proposed, it is recommended that bays 6 and 8 be deleted and converted into landscaping to address the shortfall in landscaping (refer section below).

With regard to traffic impact concerns raised as part of the two submissions received during the course of advertising (refer to 'Public Consultation/Communication' section above), the use is not considered to result in a significant increase in traffic along Kintail Road or Moreau Mews, the proposal is not considered to have a detrimental impact on the existing road network or adjoining residential properties. As noted above, off-street parking accords with the requirements of CPS5, and on this basis, there is not expected to be any additional on-street parking associated with the change of use.

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**Landscaping

The Precinct requirement relative to the 'Commercial Centre Frame – CBF' requires 25% of the site to be landscaped. The proposal shows only 15.8% landscaping. However, with the conversion of two sub-standard parking bays for landscaping (refer preceding section above), the extent of landscaping will be increased to approximately 23%.

Clause 5.9(a) of CPS5 does however provide discretion to vary the above in order to ensure practicable development whilst still ensuring satisfactory amenity levels are achieved. In exercising such discretion, it is recommended that consideration be given to the provision of additional landscaping of the verge area.

Subject to an appropriate level of improvement in verge landscaping (which can be applied by way of a condition of approval), the proposal is considered satisfactory and would result in an improvement to the streetscape in softening any hard edges of the building, particularly within the Kintail Road / Moreau Mews corner. Furthermore, the applicants intend to reduce the height of an existing 2.0m high masonry boundary wall along the Kintail Road frontage to 1.0m which will significantly improve the Kintail Road streetscape.

Accordingly, the variation is supported.

Clause 7.8 of CPS5

Clause 7.8 provides matters to be considered by Council in determining an application for planning approval. Specific consideration is necessary against Clause 7.8(b), (c), (h), (i), (j) and (k) which provides for the following considerations:

- (b) The orderly and proper planning of land within the area;*
- (c) The existing and likely future amenity of the area.*
- (m) The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads;*
- (n) The size, shape and character of the lot upon which the development is to be carried out, and the influence which this may have on the sitting and nature of any new building;*
- (o) The design and external appearance, including the exterior cladding, of any new building and its effect upon the amenity of existing buildings and the area generally; and,*
- (p) Any relevant submissions received on the application.*

The subject site is situated within the 'Canning Bridge Frame' under the provisions of CPS5. The wider area is also the subject of the City of Melville Canning Bridge Rail Station Precinct Study. The Council envisages that development within the Canning Bridge Frame locality will be primarily residential in nature but may

*"...include offices and medical practitioners where privacy of neighbours is respected and design has a residential character".*

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPECROSS (REC) (ATTACHMENT)**

Whilst the subject site is currently in residential use, the pattern of land use in the immediate vicinity does not entirely reflect this. In reality there are a large number of non-residential uses in close proximity, and this pattern of land use is a reflection of the locational advantages that exist for business uses here. These locational advantages are brought about by the areas proximity to good public transport links including the Canning Bridge Rail Station and a number of Transperth bus routes. In addition the availability of readily accessible Public Car Parking and cycle routes makes the area an attractive and sustainable location for non-residential uses.

It is considered that an office use such as that proposed can operate side by side with residential uses without undue detriment to amenity levels. This view is reached on the basis that the number of vehicle movements to and from the office premises will not be a significant increase compared to trip numbers associated with the existing residential use, there are no external alterations proposed, and as the environment of the locality is not solely residential in character there should be more tolerance for non-residential development. The introduction of a small-scale office use within this part of the Canning Bridge Commercial Frame area is considered to have a negligible impact on amenity for existing adjacent residents.

**CONCLUSION**

Given the proposal (subject to minor amendments and variations) shall be in general compliance with the provisions of the City of Melville Community Planning Scheme No. 5 and relevant Policies, it is recommended that the application be conditionally approved.

**OFFICER RECOMMENDATION****APPROVAL**

**A) That the application for change of use of 'Residential' to 'Office' on Lot 301 (11) Moreau Mews, Applecross be approved subject to the following special and standard conditions:**

**SPECIAL CONDITIONS:**

- 1. A detailed landscaping and reticulation plan being submitted and approved for the subject site and the road verge(s) adjacent to the site. The approved landscaping and reticulation plan shall be fully implemented prior to first commencement of operation or occupation of the development and maintained thereafter to the satisfaction of the Manager Planning and Development Services.**
- 2. Parking Bays number 6 and 8 are to be deleted and converted into landscaping.**

**STANDARD CONDITIONS:**

- 3. A separate application for Planning Approval and a Signs Licence is required for all signage.**

**U10/0282 CHANGE OF USE OF RESIDENTIAL TO OFFICE ON LOT 301 (11) MOREAU MEWS, APPLECROSS (REC) (ATTACHMENT)**

4. The development complying with any amendments and notations marked in 'RED' as shown on the approved plans.
  5. Lighting to be provided to all carparking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.
  6. 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 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overfill.
  7. Rubbish storage area to be provided and screened from public view to the satisfaction of Manager Planning and Development Services prior to occupancy. This area is not to be located within the parking or landscaping area.
- B) That the objector's be advised in writing of (A) above.**

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

Ward : City  
 Category : Operational  
 Application Number : DA-2009-1390  
 Property : Civic Centre, 10 Almondbury Road, Booragoon  
 Proposal : Farmers Market  
 Applicant : Booragoon Primary School  
 Owner : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr Tony Capobianco  
 A/Manager Planning and Development Services  
 Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

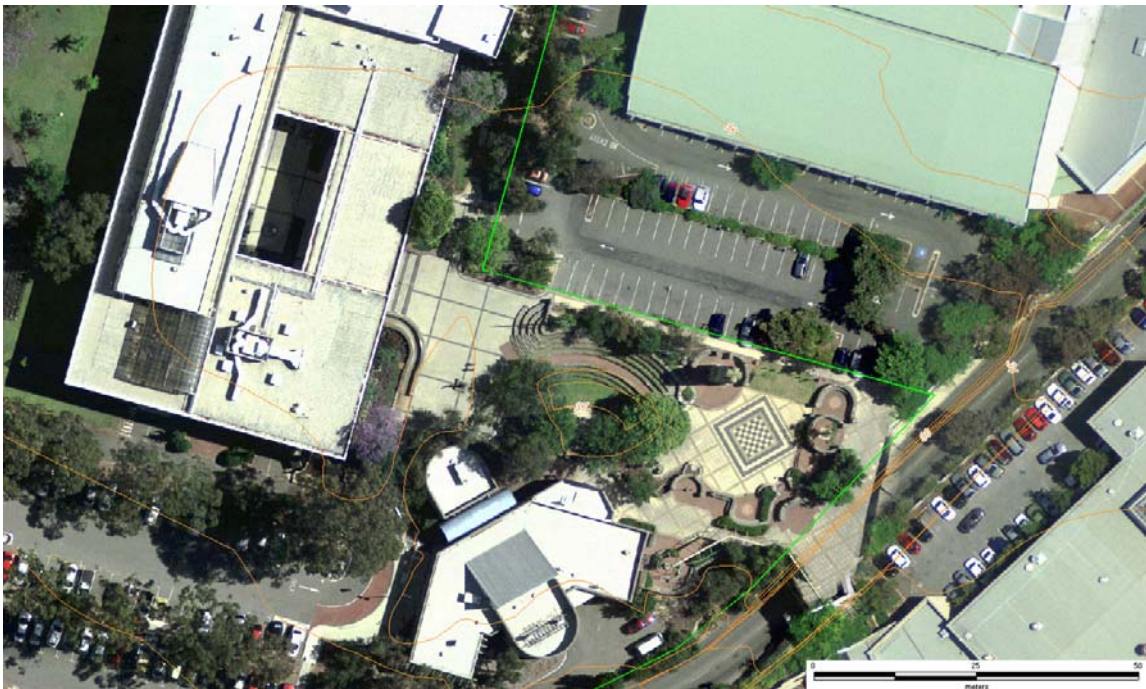
Definition

<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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review 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>

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Application is made for a Farmers Market within the grounds of the City of Melville Civic Centre Quadrangle.
- The proposal shall trade on Sunday mornings only with a proposed set-up time of 7.30am with trading beginning from 8.30am. It is anticipated that the market will close around 1.30pm.
- The application has the full support of the Department of Education and the Booragoon Primary School P & C.
- The proposed Farmers Market will consist up to 20 – 30 stalls contained within an existing covered area and adjacent open (courtyard) area.
- The proposed Farmers Market has been the subject of neighbour consultation in accordance with Clause 7.5 of the City of Melville Community Planning Scheme No. 5 (CPS5). The consultation process has resulted in a total of 23 submissions being received, 12 of which object to the proposal.
- Concerns raised by residents generally relate to traffic impact and detrimental impact to the existing levels of amenity (on a Sunday morning).
- Whilst the concerns raised are acknowledged, the proposal is not considered to have an undue detrimental impact on the locality.
- The application is consistent with Council's Policy No. CP- 06-PL-039 Markets Activity.
- The proposal is recommended for conditional approval inclusive of special condition requiring the preparation of a Management Plan which addresses traffic, safety, noise and health considerations.



**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: City Centre
R-Code	: Not Applicable
Use Type	: Farmers Market
Use Class	: 'D' -use – Use is discretionary

**Site Details**

Lot Area	: 31,864.21sqm (stall area 290 sqm)
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Not Applicable
Site Details	: Refer to photo above

U10\_0283\_October\_2010.pdf A copy of the plans forms part of the attachments to the Agenda distributed to members of the Council on 25 October 2010.

**DETAIL**

**Development Requirements**

There are no development requirements relative to provisions contained under CPS5. Regulatory considerations and assessment requirements are detailed under Policy implications further below.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	As per Policy CP-06-PL-039 Market Uses
Support/Object:	11 letters of Support and 12 Objections

Note: For clarity and brevity, submissions raised have been summarised into 4 main issues, as detailed below. A full copy of submissions received are contained as an attachment to this report.

Comment	Summary of Issue	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	Concerns raised in relation to increased traffic having a detrimental impact on (Sunday) amenity levels and, potential damage to adjacent residential verges due to visitor parking.	Support, subject to condition	Noted – traffic and noise considerations are discussed in detail in the comments section below.	Partially Uphold

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

2.	Supportive of the proposed Farmers Market. It will benefit the local community however concerns are raised in relation to traffic flow and noise on surrounding roads early on a Sunday morning.	Support	Noted – traffic, noise attenuation measures and proposed operating hours are discussed in detail in the comments section below.	Uphold
3.	Objection to the proposal based on concerns in relation to littering, anti-social behaviour and the degradation of the City's facilities.	Object	A site management plan has been submitted stating refuse facilities will be provided on-site to address rubbish disposal. In relation to degradation of the site, the applicant has taken out a \$10million public indemnity insurance certificate to cover all damage.	Partially uphold
4.	Potential increase in crime.	Object	Purported increase in crime has not been substantiated. However, it is likely that increased activity within the locality will provide passive surveillance, being a principal preventative measure in relation to crime.	Not Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

There are no referral requirements to external agencies.

**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**

A fee of \$636.90 (at the time of reporting) is payable to the City on an annual basis for the lease of land.

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)****STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no anticipated strategic or risk implications.

**POLICY IMPLICATIONS**Council Policy CP- 06-PL-039 Markets Activity

The objective of the Markets Activity Policy is to guide market activity uses undertaken throughout the City on both public and private land.

The Markets Activity Policy has been created as a result of the increasing popularity of Growers/Farmers Markets in Western Australia and enquiries made to the City regarding the operational requirements of these types of activities throughout the City.

The proposal's compliance with the assessment criteria of the Policy are detailed further in the comments section below.

Policy 06-PL-024 Car Parking (Non Residential)

The objective of this Policy is to ensure that there is adequate provision of car parking bays to meet the demands of intended land uses. Details relevant to car parking are provided in the comments section below.

**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**

The proposed Sunday Farmers Market is proposed within the City of Melville Civic Centre grounds located at 10 Almondbury Road, Booragoon. Specifically, the Market is proposed to operate within the quadrangle area inclusive of the amphitheatre and the war memorial located between the Civic Centre and Library. The site itself is bounded by Davy Street to the south, Almondbury Road to the north and Garden City Shopping Centre to the east. The site forms part of the 'City Centre' Precinct under the provisions of CPS5 and is zoned 'Urban' under the Metropolitan Region Scheme.

The site is primarily used by the City of Melville Council and Library during the week for its daily operations with minor public activities being held on a periodic basis by a number of community groups. Otherwise, the site is has limited usage, particularly on Sundays.

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

The proposed Farmers Market will consist of approximately 20 – 30 stalls contained within the existing quadrangle area (measuring approximately 290sqm) as marked on the application site plan (refer to attachment).

Consultation

The proposed Farmers Market has been the subject of neighbour consultation in accordance with Clause 7.5 of CPS5. Consultation has been undertaken across a 450m radius of the subject site to all owners and occupiers of residents contained within this area.

The consultation process has resulted in a total of 23 submissions being received. The public opinion in relation to the proposal is generally mixed with 11 submissions received in support of the proposal whilst 12 are against.. As detailed in the 'Public Consultation/Communication' section above, a number of similar issues were raised in multiple submissions, which can be summarised as follows:

- Increased vehicular traffic will be detrimental on current Sunday amenity levels;
- Damage to verges due to visitor parking;
- Farmers Market will have a benefit to the community;
- Detrimental noise impact on early Sunday;
- Concerns relating to littering, antisocial behaviour and damage to council facilities; and,
- Increase in crime.

The following sections below shall address the concerns raised by the objectors and supporters against the regulatory and assessment requirements contained under the Markets Activity Policy.

Policy CP- 06-PL-039 Markets Activity

As detailed in the preceding 'Policy Implications' section above, the abovementioned Policy was adopted to address increasing requests for market activities throughout the municipality. The following sections below address each relevant consideration of the Policy in conjunction with the various concerns raised as part of public consultation.

***1 Compatibility in terms of the nature and scale with the use, zoning of surrounding land, and the environmental character of the location inclusive of traffic and parking impact.***

The Civic Centre site contains existing infrastructure services (i.e. water and power), on-site toilets, adequate weather protection (i.e. undercover areas), a semi-covered quadrangle area to locate medium-to high-risk food stalls, adequate parking, access to public transport and pedestrian access. The market operators propose to utilise the City's infrastructure – and have not proposed any contribution towards the cost of services. This element is not supported and is recommended to form part of a condition for a detailed Management Plan.

By way of land-use, the proposal is considered to be an appropriate use ancillary to an otherwise under-utilised site during Sundays. It is noted that the subject site is considered ideal for a Farmers Market given it includes large open areas, parking availability, unrestricted and multiple access points (i.e. via Davy Street and Almondbury Road), partial protection from the elements and reciprocal use of land.

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

It is noted that the City has recently approved a Farmer's Market at the Palmyra Primary School located at 60 McKimmie Road, Palmyra which has been operating since June 2010.

At the time of this report, no concerns have been raised in relation to the Palmyra Markets and inspections reveal that the Market operates effectively in its location, notwithstanding its proximity to residential land. In this regard, the subject site which is situated in excess of 100-metres from the closest residential land on Almondbury Road is considered to have a far lesser impact.

In terms of parking and traffic impact, the site has direct access to carparking areas from Almondbury Road to the north and Davy Street to the south. Traffic management within the proximity of the Farmers Market site will also be managed through the use of sign marking and traffic marshals located in strategically chosen locations. As discussed above, it is proposed that a detailed Management Plan will be submitted for the City's approval which (amongst other matters) shall provide details on traffic and parking management.

**2 Meeting community needs in the proposed location.**

Farmers Market's are generally well received by community members by virtue of their activation of an otherwise under- or un-utilised site and the sense of community it can foster amongst the visitors and operators of the Markets. In the case of the Palmyra Primary School Markets approved by the City in June 2010, the markets have had an overwhelmingly positive response from the public (including that of the school itself) with only two respondents expressing objections to the proposal.

The current proposal which is proposed by the Booragoon Primary School is assumed to have the school's entire support. Further to this, almost half of the submissions received are supportive of the proposal whilst the remainder raised an objection based on a number of concerns. However, the concerns raised are considered to be addressed through application of suitable conditions and compliance with an approved Traffic Management Plan.

**3 General community support for the use and its location.**

Of the 260 letters sent to surrounding owners and occupiers, only 23 submissions were received, 12 objecting to the proposal. On this basis, it can be considered that an overwhelming number of the public directly consulted have no objection to the proposal. As per point 2 above, Farmers Market's are considered to be supported by the general public in most instances.

**4 A market atmosphere which provides for the sale of fresh produce in a casual retail environment which operates on an infrequent basis and thereby not unfairly compete with established businesses in the locality.**

It is proposed that the Farmers Market shall operate weekly every Sunday and sell fresh food items. No 'bric-a-brac' will be allowed to be sold at the venue at any time. By way of competition, it is considered unlikely that the approval of the proposed Farmers Market will have a significant detrimental impact on retail stores within the locality given its minor scale. As evident in existing Farmers Markets, individual stall owners are generally limited in the amount of produce that can be sold and brought to the premises.

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

Local retail businesses (operating on a Sunday) include the following:

- Garden City Shopping Centre on two Sundays per year only;
- IGA stores in Mt Pleasant and Myaree;
- Limes Myaree;
- Metro Fresh (Corner Canning Hwy and Riseley Street)

In light of the limited frequency, operation time and Sunday-only nature of the proposal, it is considered that proposed farmers market will not unduly compete with established retail uses in the locality. It is further noted that during occasions where the Garden City Shopping Centre is operating on Sundays, it is recommended that the proposal not be permitted to operate.

**5 *Markets that contribute to the activation of public land on which they are located.***

The quadrangle area, while used during other days of the week, is generally under-utilised on Sundays. By opening it as a market site the land will be utilised for the community's benefit. Increased activity will also decrease opportunity for anti-social behaviour and assist in overall crime prevention. As noted in the Western Australian Planning Commission's Designing Out Crime Guidelines, increased activity within public places can contribute to crime prevention.

It is also noted that holding the markets in a public space encourages community ownership of an event that will assist in building community spirit amongst local residents. To an extent this is already occurring during weekdays as part of the community functions held at 'The Vault'.

**6 *Satisfies all City of Melville Health Services requirements***

The proposal has been the subject of consideration by the City's Health Services who have provided conditional support for the proposal. It is noted that individual stalls will be the subject of compliance with the following regulatory requirements:

- *Health Act 1911;*
- *Food Act 2008;*
- *Food Regulations 2009;*
- *Australia New Zealand Food Standards Code;*
- *City of Melville Health Local Laws 1997;*
- *Environmental Protection Act 1986;*
- *Environmental Protection (Noise) Regulations 1997;*
- *Health (Public Buildings) Regulations 1992;*

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)****7 Hours of operation.**

It is proposed that the Farmers Market will trade on Sunday mornings only with a proposed set-up commencing at 7.30am with trading beginning from 8.30am. It is anticipated that the market will close at approximately 1.30pm.

It is noted that the *Environmental Protection (Noise) Regulations 1997* stipulate excessive noise generating activities are not to be undertaken prior to 9.00am or continued past 7.00pm on Sundays. Whilst evening activities are not relevant, a set-up time commencing from 7.30am does encroach within the noise sensitive timeframe. Notwithstanding, given the distance (approximately 100m) of the proposed Farmers Market site to residential properties and the need for a Management Plan which shall specifically address noise considerations, it is not anticipated that the proposal shall have a detrimental impact upon the amenity levels currently enjoyed by residents.

**8 Impacts on other users of the land (together with their support) and adjoining properties, and detail a management plan to illustrate how the activities can co-exist.**

The Farmers Market is situated next to Garden City Shopping Centre who have conditionally endorsed the proposal subject to the use not operating on Sunday's when the Shopping Centre is trading. As detailed in the 'Public Consultation/Communication' section above, local residents use the area for various passive and active recreational purposes have also indicated support for the proposal. It is noted that the subject proposal does not involve any limitation on the operation of other activities or result in an overlap in operating time by other users or in regard to the use of the amphitheatre area.

**9 Parking Considerations**

The City of Melville Parking Policy CP-06-PL-024 (Non Residential) does not provide a specific criterion for car parking bays for market stalls. Where a parking ratio is not available, the Policy requires "...at the discretion of Council, having regard to similar uses, the precinct, the site, surrounding uses, off-site parking availability and having regard to recognised carparking standards of similar uses".

Given the unusual nature of the use, the proposal has been the subject of referral to the City's Engineering Department to address anticipated parking requirements and relevant management considerations. In this regard, it is noted that there are two large marked parking areas on the periphery of the market site (typically used by employees and customers of the Civic Centre during the week). As the Civic Centre is not operating on Sundays, all of these bays will be available for use by the proposed Farmers Market.

Based on the above, there are no concerns anticipated with regard to the number of bays that will be available for use by stall owners and visitors to the proposed Farmers Market. It is noted that given the nature of the use, and as evident in existing operational market locations throughout Western Australia, a significant amount of visitors may walk or cycle (particularly local residents) thus reducing the dependence of the vehicle and associated car parking.

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)***10 Traffic Flow / Movement*

The traffic flow / movement of vehicles to the subject site is considered to be adequate given direct access is available via Almondbury Road to the north and Davy Street to the south. Similarly, pedestrian and cyclist movement is also adequately catered for by the existing footpath network in the locality.

It is noted that to ensure vehicular traffic does not pose detrimental impact to surrounding residences, Market management will provide traffic marshals. The purpose of the marshals will be to monitor customer parking to ensure visitors to the market park within appropriate areas and ensure littering, anti-social behavior or damage to Council facilities do not occur which were concerns raised by a number of supporters as well as objectors to the proposal. Details relative to the number and placement of marshals as well as general traffic and parking management shall be detailed in a subsequent Traffic Management Plan the subject of separate approval.

Accordingly, the proposal is considered to be reasonable from a traffic management perspective.

Noise Issues

As detailed in the preceding sections above, a set-up time of 7.30am is proposed, with trading commencing at 8.30am. According to the applicant's correspondence, the Farmers Market is anticipated to close by 1.30pm. In accordance with the *Environmental Protection (Noise) Regulations 1997*, the 7.30am set-up time does encroach within the noise sensitive timeframes which applies to 9:00am on Sundays. .

Notwithstanding the above, it is noted that the majority of stalls will be well inside the perimeter of the site, with no use of amplified music or spruiking permitted at all times. Stall-holders will also be instructed to comply with a Management Plan to be prepared and approved prior to commencement of the market (see detail below). The market site is also in excess of 100m from the closest residential property which is considered to be an adequate separation distance to mitigate against any detrimental noise concerns.

Based on the above, it is considered that the proposed use can be undertaken with minimal impact to the existing levels of amenity enjoyed by surrounding neighbours and within the noise limitations of the *Environmental Protection (Noise) Regulations 1997*.

Market Management Plan

As detailed in the preceding sections above, it is recommended that a Market Management Plan be prepared by the operators and submitted for the City's approval, prior to first operation of the market use. The purpose and intent of a Management Plan will be to address issues such as (but not limited to):

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

- Traffic management – marshals, car parking, contingency plans (i.e. in the event of congestion);
- Noise management – setup, trading and closure times, limitations on noise generating equipment;
- Health management – vendor trading permits, inspection processes, availability of restrooms, waste collection and disposal;
- Safety management – emergency evacuation plan, public liability and product insurance, Certificate of Currency and compliance with relevant Australian Standards.

**CONCLUSION**

Based on the preceding sections above, the proposed Farmers Market use is considered to be an appropriate use of land which already serves the local community by way of passive and active recreational needs. The extended use of the land for a market use is considered to be beneficial to the locality and will foster a sense of community amongst the visitors and operators accordingly. It is considered that the application suitably addresses Council's Policy CP-06-PL-039 Markets Activity and warrants conditional approval to be granted.

**OFFICER RECOMMENDATION****APPROVAL**

**A) That the proposed Farmers Market on 10 Almondbury Road, Booragoon be approved subject to the following Special Conditions:**

**SPECIAL CONDITIONS:**

- 1. Prior to the commencement of market activities on site, the applicant is to prepare and submit for the City's approval, a Market Management Plan which addresses (but not limited to) the following matters:**
  - (i) Traffic management**
  - (ii) Noise management**
  - (iii) Health management**
  - (iv) Safety management**
  - (v) Facilities and essential services management**
- 2. The hours of operation are limited to the following:**
  - (i) Setup is to commence no earlier than 7.30am for stallholders and all associated staff / management associated with the use;**
  - (ii) The Farmers Market is not to be open to the public prior to 8.30am.**
- 3. The proposal is limited to Sunday trading only and only during times when Garden City is not operating. Proposal to operate other than these times shall require separate Planning Approval.**
- 4. The parking of all vendor and staff vehicles shall be contained entirely within the City's parking areas (as marked), or as per areas marked on the approved site plan.**

**U10/0283 - (PS) PROPOSED FARMERS MARKET AT CITY OF MELVILLE CIVIC CENTRE: 10 ALMONDBURY ROAD, BOORAGOON (REC) (ATTACHMENT)**

5. Additional bins will be required for more than eighty (80) people. Additional bins are to be provided at a rate of one (1) bin per fifty (50) people. Bins are also to be located at the entrance and exit points of the site.
6. Removal of stalls and clean-up activities must not extend beyond 2.00pm on the operative day. The clean up is also to include streets immediately abutting the Civic Centre site which may be affected as a consequence of the market operation.

All efforts are to be made to ensure noise levels comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*. In this regard, the approved use shall not use any amplified systems or undertake spruiking at any time. Approval may be withdrawn if valid (as assessed) noise complaints are received.

7. The proposed use is satisfactory to the City of Melville Health Services subject to compliance with the following Legislations (as amended):
  - *Health Act 1911*;
  - *Food Act 2008*;
  - *Food Regulations 2009*;
  - *Australia New Zealand Food Standards Code*;
  - *City of Melville Health Local Laws 1997*;
  - *Environmental Protection Act 1986*;
  - *Environmental Protection (Noise) Regulations 1997*; and,
  - *Health (Public Buildings) Regulations 1992*.
8. Garden City parking areas may only be used for overflow parking for the public, stall holders and/or staff with the agreement of Garden City management.
9. This approval is only valid for a period of twelve (12) months only from the date of the approval. Should the applicant seek to operate the use after such period, a renewal is to be submitted and approved by the City.
10. The markets shall only be used for the sale of fresh produce. The sale of bric-a-brac is not permitted at anytime.
11. Approvals are not transferable between owners, operators or properties.
12. The Market Management will be responsible to ensure appropriate management and control of dogs entering the market area with regard to hygiene and safety. No dog/s are permitted in or, around any food stall or food storage area. Dogs should be suitably controlled and no dog shall be allowed to cause a nuisance and any dog litter/droppings are to be immediately removed. It is recommended the Market Management take the initiative and ban dogs from the market area.
13. Separate Planning Approval is required for any signage forming part of the Farmers Market operation.

B) That the residents who commented the proposal be advised of A) above.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : University  
 Category : Operational  
 Application Number : DA-2010-920  
 Property : Lot 311 (25) Ainslie Court, Kardinya  
 Proposal : Two Single-Storey Aged or Dependent Dwellings  
 Applicant : Mr J G Clifford and Ms M Clifford  
 Owner : Mr J G Clifford and Ms M Clifford  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : David Vinicombe  
 Manager Planning and Development Services  
 Previous Items : Not applicable

**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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>when Council review 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>

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- The application seeks Planning Approval for a two single-storey Aged or Dependent Persons' Dwellings on a corner lot.
- Due to the lie of the land and drainage network in the locality, the property has been the subject of major flooding during heavy deluge which has caused the property owner's considerable stress and financial hardship.
- The owners recently approached Council to consider the option of subdividing into two lots in order to financially assist redevelopment of the property at a higher level, so as to avoid further flood inundation.
- Whilst the property is too small to allow subdivision under a single-house of grouped-dwelling arrangement, the Residential Design Codes of WA (R-Codes) provides for a density bonus to apply to reduce the minimum site area requirement by one third for Aged or Dependent Person' Dwellings.
- The proposed development seeks variations to the Acceptable Development provisions of the R-Codes ,relative to aged or dependent person' dwellings: these consisting of a front setback variation and, plot ratio area and minimum number of dwellings permissible under Clause 7.1.2 of the R-Codes.
- Furthermore, the application seeks a variation to Clause 5.2 of the City of Melville Community Planning Scheme No. 5 (CPS5) which prevents the general application of the R-Codes density bonus provisions.
- Notwithstanding, Clause 4.3 of CPS5 provides Council the power to vary Clause 5.2 above subject to a Special Majority decision of the Council.
- The variations have been the subject of neighbour consultation with no objections being received.
- As far as can be determined, the concessions to the density bonus and associated Special Majority decision of Council in allowing such a variation to the provisions of CPS5 have not been used previously.
- Notwithstanding, it is noted that the major provider of aged and dependant persons' accommodation in the State, the Department of Housing (DoH), are specifically exempt from CPS5 R-Code density provisions. In recent times, DoH has gained approvals (through the State Administrative Tribunal) for development which exceeds the density provisions of CPS5.
- Given the extreme circumstances that have lead to this application, the proposal is considered to be a special case which warrants favourable consideration to a variation to CPS5 provisions which would otherwise prevent a density bonus being applied in this instance.
- The application is recommended for conditional approval.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**



**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area – Kardinya K1 Precinct
R-Code	: R17.5
Use Type	: Residential
Use Class	: Permitted

**Site Details**

Lot Area	: 807sqm
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Yes – 3 x drainage pits
Site Details	: Refer to photo above
25_Ainslie_Court_Aged_and_Dependant_Person's_Dwellings_Photo's	

U10\_0284\_October\_2010.pdf – A copy of the plans forms part of the attachments to the Agenda distributed to Members of the Council on 25 October 2010.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**DETAIL**

**Development Requirements – R-Codes (Cl. 7.1.2)**

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>	<b>Plan Notation</b>
Building Height	8.0m 10.5m	3.1m (max) 6.0m (max)	Complies Complies		
Car parking	2 bays per unit	2 bays per unit	Complies		
<b>Max. plot ratio</b>	<b>100sqm per dwelling</b>	<b>Unit 1 – 170.23sqm Unit 2 – 139.24sqm</b>	<b>Does not Comply Does not Comply</b>	<b>MPDS</b>	
<b>No. of dwellings per single development</b>	<b>Min. of Five (5)</b>	<b>Two (2) dwellings</b>	<b>Does not Comply</b>	<b>MPDS</b>	
Compliance with AS4299 - 1995 Adaptable Housing Clause 3.3.2	Access path from street frontage / car park area or drop-off point	Condition	Complies		
Entrance level	Level entry to front door and other entries	Condition	Complies		
External and internal doors	Minimum 820mm wide opening.	Condition	Complies		
Internal corridors	Min. 1000mm wide; or 1200mm where openings on side walls	Condition	Complies		
Compliance with AS4299 - 1995 Adaptable Housing Clause 1.4.12	Provision of visitable toilet	Condition	Complies		
Toilet and toilet approach doors	Min. 250mm nib wall on the door handle side of the door and grab rails as per AS4299 - 1995 Adaptable Housing, Clause 4.4.4 (h).	Condition	Complies		

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Visitors car spaces	One per four dwellings, with a minimum of one space	Condition – hardstand can be provided within front setback area	Complies		
Visitors car spaces	First visitors car space to provided wheelchair access and be minimum width of 3.8m	Condition	Complies		
Legal Agreement	Min. one occupant is disabled or physically dependent person or aged over 55, or is surviving spouse of such a person.	Condition requiring legal agreement	Complies		
Outdoor Living Area	36sqm; but having due regard to one third reduction in the area specified in Table 1 (24sqm min.).	Unit 1 - 24sqm Unit 2 – 32sqm	Complies Complies		

(Note: \*non-compliance in bold)

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
<b>Primary Street Setback</b>					
<b>Unit 1</b>	Avg 6.0m <b>Min 3.0m</b>	Avg 6.0m <b>Min 2.5m</b>	Complies <b>Does not Comply</b>	<b>MPDS</b>	
<b>Unit 2</b>	<b>Avg 6.0m</b> Min 3.0m	<b>Avg 5.25m</b> Min 4.5m	<b>Does not Comply</b> Complies	<b>MPDS</b>	
<b>Secondary Street</b>					
Unit 1	R-Codes - 1.5m Policy - 3.0m	4.6m to wall – <b>1.5 to alfresco</b>	<b>Does not Comply</b>	<b>MPDS</b>	
<b>Rear Setback</b>					
Unit 1 – Study / ENS / Bed 1	1.5m	2.0m	Complies		
Unit 2 – Bed 1 / Alfresco	1.5m	2.0m	Complies		

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Side Setback (north) – Unit 1					
Bath/study	1.0m	1.0m	Complies		
Bed 2	1.5m	1.5m	Complies		
Garage	0m	0m	Complies		

Side Setback (north) – Unit 2					
Garage	1.0m	1.0m	Complies		
L'dry / Bed 2 / Ens	1.5m	2.0m	Complies		
Side Setback (south) – Unit 2					
Alfresco	1.0m	1.5m	Complies		
Living	1.5m	2.2m	Complies		
Store	0m	0m	Complies		

(Note: \*non-compliance in bold)

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes.  
 Neighbour's Comment Supplied: Yes.  
 Reason: Variation to R-Codes / CPS5  
 Support/Object: Two (2) letters of support.

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	Neighbour agrees provided that the air conditioner is placed on the northern wall.	Support	Noted – Advice note regarding air-conditioner location to be applied.	Uphold
2.	Neighbour request the height of the common fence be raised accordingly to the new floor height. We would also like the Council to put in an extra stormwater drain if possible.	Support	Noted – Condition to be applied to ensure minimum 1.8m high fence to be provided from highest finished ground level.  Additional stormwater drain cannot form part of this application.	Partially Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

Referral to Government Agencies is not required as part of this application.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)****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**

There are no up front financial implications for Council in this application.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**Strategic Implications

There are no strategic implications for Council.

Risk Management Implications

Council is advised that the subject property has been the subject of flooding during the course of several years which have resulted from the levels associated with the land and the drainage network. Council has in the past attempted to address the flooding issues through a number of flood protection works. To date, these measures have failed to protect the property against flooding and flood damage. The Finished Floor Level (FFL) of the existing dwelling is 7.6m and the flood levels have been recorded at 7.8m. The proposal provides for the FFL to be increased to 8.1m (Unit 1) and 8.2m (Unit 2), to provide sufficient freeboard to the recorded flood levels whilst at the same time providing for relatively consistent with adjoining development (FFL's of 7.9m and 8.43m).

The application and its variations proposed presents an opportunity for Council to address the ongoing flood issues and potential future risk implications associated with the ongoing failure of the stormwater drainage system.

**POLICY IMPLICATIONS**

Council Policy CP-06-PL-008 Residential Development provides for secondary street setbacks to be 3.0m.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council may take the view that the proposal, as presented, seeks variations outside the scope of the amenity provisions contained under Clause 7.8 of CPS5 and that the density bonus concession is inappropriate. Accordingly, in those instances, the application may be refused.

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With regard to a refusal, Council's attention is brought to the anticipated risk implications associated with the past and future flood issues as detailed under the preceding sections of this report.

**COMMENT**

This application seeks Planning Approval for a two Aged and Dependent Persons' dwellings on a property currently occupied by a single-storey single house. The subject property is located at the lowest point within the Somerville Estate at the north-eastern bend of Ainslie Court. The subject site is located within the 'Living Area – Kardinya K1' Precinct and has an applicable residential density coding of 'R17.5'.

Drainage Considerations

It is noted that the property has been the subject of major flooding during heavy deluge which has caused the property owner's considerable stress and financial hardship. Flooding at the property has occurred periodically since the mid 1980's when the property was initially developed by the applicant. Since that time flooding has occurred on at least 12 occasions. The most recent flooding event in March 2010 has been documented and forms an Attachment to this report.

The Ainslie Road reserve opposite the subject property has been the subject of major flooding during heavy deluge over past 20 years which has been caused by the lake to the north at Frederick Baldwin Park reaching flood levels resulting in stormwater overflow at the nearest low point: being the stormwater drainage pits adjacent to the subject site.

Attempts have been made by the City of Melville and the Water Corporation to resolve the issue of flooding, these including the City of Melville allocating \$18,000 in the 1992/1993 Works Program for flood protection, the lifting the verge and crossover; lowering of the present landscaped area between Ainslie Court and Le Souef Drive as an overflow area and, the construction of a new pipeline across Ainslie Court to improve the hydraulic efficiency of the existing drainage system. Furthermore, the Water Corporation has installed a pumping system to control lake water-level which pumps the drainage water to the Canning River at Bull Creek. To date, the systems put in place have failed to resolve the flooding issue.

Given the failure of civil works to adequately control the flood levels in this location, the applicant has considered that the most appropriate action would be to redevelop the property with raised Finished Floor Levels to provide freeboard to the recorded flood levels.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**Density Considerations

In seeking assistance for redevelopment of the property, the applicant has approached the City to consider an option of subdividing into two lots.

Given the R17.5 density coding of the Precinct, the average and minimum lot sizes (571sqm and 500sqm respectively) and applicable variations for lot sizes provided for under the Residential Design Codes (R-Codes) and Western Australian Planning Commission (WAPC) Policy guidelines, it is not possible to subdivide the property into two single house or grouped dwelling lots without an Amendment to the density coding under the Scheme. One off Amendments to the Scheme to increase the density coding is generally not supported and need to be addressed on strategic grounds relative to larger tracts of land or multiple land holdings.

Whilst the property is too small to allow subdivision under a single-house of grouped-dwelling arrangement, the R-Codes provides for a density bonus to apply to reduce the minimum site area requirement by one third for Aged or Dependent Person' Dwellings. Notwithstanding, Clause 5.2 of the City of Melville Community Planning Scheme No. 5 (CPS5) prevents the general application of the R-Codes density bonus provisions.

Specifically, Clause 5.2(c) of CPS5 provides a limitation as follows:

- (c) *in the case of special purpose dwellings the Council shall not exercise discretion in accordance with sub-clauses 5.1.3 or 5.2.1 of the Residential Planning Codes to permit the number of dwellings to be up to 50% greater than provided for by the Code applying to the site, and in the case of car parking bays for aged or dependent persons' dwellings the Council shall exercise its discretion in accordance with sub-clause 5.1.5 of the Residential Planning Codes to require the provision of one (1) bay per dwelling;*

Notwithstanding, Clause 4.3 of CPS5 provides Council the power to vary Clause 5.2 above subject to a Special Majority decision of the Council. As far as can be determined, the concessions to the density bonus and associated Special Majority decision of Council in allowing such a variation to the provisions of CPS5 have not been used previously and accordingly, the circumstances in which such a variation should apply should be exceptional.

Notwithstanding, it is noted that the major provider of Aged and Dependant Persons' accommodation in the State, the Department of Housing (DoH), are specifically exempt from CPS5 R-Code density provisions. In recent times, DoH has gained approvals (through the State Administrative Tribunal) for development which exceeds the density provisions of CPS 5.

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Clause 7.8 lists a range of matters which may be considered in dealing with a Planning Application (see further comments at end of this report on Clause 7.8 considerations). These include matters such as the character of a lot, any relevant submission received, existing and likely future amenity of the area and any other planning consideration that the Council thinks relevant. In this regard, it is noted that the character (level) of the lot and existing development results in an exposure to flooding which impacts on the amenity levels of the residents. In addition, the variations have been the subject of neighbour consultation with no objections being received. Whilst the drainage considerations are not normal considerations which would influence a planning outcome, in the circumstances they are highly relevant and accordingly, a variation to Clause 5.2 of CPS5 to allow the density bonus provisions of the R-Codes to apply to provide for the development of two Aged or Dependant Persons' Dwellings is supported.

R-Code Considerations

As detailed above, the application seeks a number of variations under the provisions of the R-Codes relative to setback, plot ratio area and required number of dwellings.

Maximum Plot Ratio

The Acceptable Development provisions of Clause 7.1.2 A2i) of the R-Codes provides to a maximum plot ratio area in the case of aged or dependent persons' dwellings to be 100sqm in size. The proposed Unit 1 and 2 seek a variation to this with a plot ratio area of 170.23sqm and 139.24sqm respectively.

Where a variation is sought to any of the Acceptable Development provisions of Clause 7.1.2, consideration of the Performance Criteria is required. In this regard, the Performance Criteria of Clause 7.1.2 states:

*Dwellings that accommodate the special needs of aged or dependent persons and which:*

- *Are designed to meet the needs of aged or dependent persons;*
- *Are located in close proximity to public transport and convenience shopping;*
- *Have due regard to the topography of the locality in which the site is located;*  
*and,*
- *Satisfy a demand for aged or dependent persons' accommodation.*

In considering the above, it is noted that the Australian Urban and Housing Research Institute indicated in 2010 that the vast majority of older people (aged 55 and over) in Australia live as singles or couples in owner-occupied separate houses — most with three or more bedrooms. When considering future decline in abilities, most older home owners considered it important that their dwellings would accommodate their needs, either by being easily and inexpensively modified, or being suitably designed so that modifications were unnecessary. Further to this, older home owners wish to live in areas that are well serviced by a combination of facilities. They value convenient access to public transport, retail, and medical, community, cultural and recreational facilities.

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In addition, the Australian Bureau of Statistics indicated in 2003 (document 4102.0 - Australian Social Trends) that during the last decade of the 20th century, a number of factors influenced the types of dwellings being added to Australia's housing stock. The demand for more variety in dwelling types was influenced by changes in the age structure of the population, household and family composition and size, as well as demand for lower priced accommodation and housing closer to employment centres. During this period, government and urban planners supported and promoted increased housing choice, essentially seeking to increase the availability of various types of higher density housing. Other factors influenced this Policy push towards higher density housing, including the price of land close to city centres, the infrastructure costs of developing non-urban land, and environmental concerns relating to the spread of urban development.

Specifically, the applicant has advised that there is a limited supply of suitable housing for over 55's in the Kardinya locality who are considering downsizing, but not ready for a retirement home. Unit 1 has been designed to meet their long term housing requirements and they already have interest from another friend (over 55) to occupy proposed Unit 2. It is noted that the size of Unit 1 was initially proposed at 188.28sqm, which was considered to be considerably larger than the standard 100sqm allowance. In discussions with the applicant, the size has been slightly reduced by removal of a study and allocation of multiple functions to other rooms, thereby maintaining the applicant's housing requirements and not excessively varying the plot ration size requirements of the R-Codes.

Based on the above, the proposed plot ratio variations are supported in this instance.

Number of Dwellings per Single Development

The Acceptable Development provisions of Clause 7.1.2 A2ii) of the R-Codes requires "...a minimum number of five dwellings within any single development". The application proposes two dwellings only. In considering a variation to the Acceptable Development provisions, consideration of the abovementioned Performance Criteria is necessary.

A variation to the dwelling number is considered acceptable in this instance as it is considered that the number of residents provided is not a critical consideration in providing housing choice that accommodates the needs of aged or dependent persons. Specifically, in considering the Performance Criteria, the number of dwellings provided is not considered to have a direct association with the need to provide residences designed to meet the needs of aged or dependent persons (other than by providing for a larger development pool of applicants for this form of accommodation as detailed below), proximity to public transport or convenience shopping, topographical limitations or demand for such type of housing choice. This consideration exists purely to provide for larger developments of this nature in residential areas and to avoid a multitude of private developments where it is possible that developers are purely attempting to circumvent density limitations for development of a property as provided for under normal density allowances. This matter is not directly addressed in the relative performance criteria and as such is out of the scope of formal consideration. Notwithstanding, as presented as part of this application, the provision of Aged or Dependent Persons' housing in this instance provides for a desirable planning outcome and it is considered that the reduced number of units proposed is not a critical consideration as part of this application.

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In considering the specific locational performance criteria provisions, it is noted that the subject property is only 78m from the nearest bus stop. Bus Route 511 provides service to Kardinya Shopping Centre and Murdoch Train Station which satisfy both proximity to public transport and convenience shopping. Kardinya Shopping Centre is located 900m to the south, Murdoch Hospital 3.0km to the south-east, Murdoch Train Station 4.7km to the south-east. Other local shops and a Senior Citizens Club are located within 1.7km of the property. By way of topography, the area surrounding the subject site is generally flat and as such, is not considered to have constraints relative to access for both able and disabled persons. The property overlooks the parklands and has access to northern light for the proposed living areas.

Based on the above, the proposed variation to the minimum number of units is supported in this instance.

Front Setbacks – Primary Street

Under the Acceptable Development provisions of Clause 6.2.1 A1.1i) of the R-Codes, buildings are to achieve a 6.0m average setback from the primary street. In this regard, both units 1 and 2 propose a variation, these being a minimum building setback of 2.5m in lieu of 3.0m for Unit 1 and an average building setback of 5.25m in lieu of 6.0m.

Where a variation is sought to the Acceptable Development provisions, consideration under the relevant Performance Criteria is required. The Performance Criteria relative to the above requires buildings to be setback an appropriate distance to ensure they:

- *Contribute to the desired streetscape;*
- *Provide adequate privacy and open space for dwellings; and,*
- *Allow safety clearances for easements for essential service corridors.*

With regard to Unit 1, it is considered that the variation to the minimum building setback will have limited to no impact to the existing streetscape given the building intrusion relates to an open-side portico area. Compared to the intrusion of a main part of the dwelling which can result in excessive building bulk and streetscape impact by virtue of its solid walls, the portico is to have a far lesser impact.

With regard to Unit 2, the variation to the average front setback is considered to have minimal impact to the streetscape as the variation is only minor. As the minimum building setback is 4.5m, the overall impact is considered less in comparison to a development that achieves the average however seeks a minimum setback of 3.0m.

By way of privacy, open space and safety clearances for essential service corridors, both units do not represent a departure from the relevant Acceptable Development provisions of the R-Codes.

Accordingly, the front setback variations are supported.

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Council Policy CP – 06-PL-008 Residential Development requirements for 3.0m secondary street setbacks are regularly varied, particularly when the setback provided is still consistent with the Acceptable Development setbacks provided by the R-Codes and where articulation or the open nature of construction of the building reduces bulk impacts on the streetscape. In this instance, the main building is to be setback a minimum of 4.6m and the subject variations relates to an open sided alfresco area. In this context a variation to Council Policy is supported.

Clause 7.8 of CPS5

Clause 7.8 provides matters to be considered by Council in determining an application for planning approval. Notwithstanding the justification provided against the relevant Performance Criteria of the R-Codes (as detailed above), specific consideration is necessary against Clause 7.8(b), (c), (h), (i), (j) and (k) which provides for the following considerations:

- (b) The orderly and proper planning of land within the area;*
- (c) The existing and likely future amenity of the area.*
- (q) The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads;*
- (r) The size, shape and character of the lot upon which the development is to be carried out, and the influence which this may have on the sitting and nature of any new building;*
- (s) The design and external appearance, including the exterior cladding, of any new building and its effect upon the amenity of existing buildings and the area generally; and,*
- (t) Any relevant submissions received on the application.*

The proposal (and its variations) where considered in the context of existing development on the adjoining lots is considered to be entirely consistent with the established residential character and orderly and proper planning for the locality.

Based on the above, it is considered that the proposal satisfies the provisions of Clause 7.8.

**CONCLUSION**

As the proposed development and its variations are deemed to satisfy the Performance Criteria of the R-Codes and amenity provisions of Clause 7.8 of CPS5, it is recommended that the application be approved by way of a Special Majority decision of Council.

**U10/0284 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)****OFFICER RECOMMENDATION****SPECIAL MAJORITY APPROVAL**

- (A) That the proposed two single-storey Aged or Dependent Persons' Dwellings on Lot 311 (25) Ainslie Court, Kardinya be approved with a Special Majority decision of Council subject to the following Standard Conditions:

**SPECIAL CONDITIONS:**

1. At least one occupier of Units 1 and 2 must be disabled, a physically dependent person or aged over 55, or is the surviving spouse of such a person. The owner of the land is to enter into a legal agreement, binding the owner, their heirs and successors in title requiring that this provision be maintained.
2. Units 1 and 2 are to comply with the following provisions of Clause 7.1.2 of the Residential Design Codes of WA:
  - i) Provision of an access path from the street frontage, car parking area or drop-off point in accordance with the requirements of AS4299:1995 Clause 3.3.2.
  - ii) Level entry to the front entry door with preferably all external doors having level entries (diagrams, figure C1 of AS4299:1995).
  - iii) All external and internal doors to provide a minimum 820mm clear opening. (AS4299:1995 Clause 4.3.3).
  - iv) Internal corridors to be a minimum 1000mm wide, width to be increased to a minimum of 1200mm in corridors with openings on side walls.
  - v) A visitable toilet is to be provided, preferably located within a bathroom in accordance with AS4299:1995, Clause 1.4.12.
  - vi) Toilet and toilet approach doors shall have a minimum 250mm nib wall on the door handle side of the door and provision for the installation of grab rails in accordance with AS4299:1995, Clause 4.4.4 (h).
  - vii) One visitor car space is to be provided. The visitor car space shall provide a wheelchair accessible parking space and be a minimum width of 3.8m and designed in accordance with AS4299:1995, Clause 3.7.1.

**STANDARD CONDITIONS:**

3. 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.

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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. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.
6. 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.
7. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).
8. 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 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overfill.
9. All unused crossover(s) to be removed and the kerbing and verge to be reinstated at the applicant/owner's full expense to the satisfaction of the Manager Planning and Development Services.
10. 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.
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.

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**ADVICE NOTES:**

12. With regard to Special Condition 1 above, a notification under Section 70A of the Transfer of Land Act is to be prepared in a form acceptable to Landgate (formerly the Department of Land Administration) and lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot, prior to the issue of a Building Licence. This notification is to be sufficient to alert prospective landowners of the use restrictions of the aged or dependent persons' dwellings as stipulated under this approval. All costs associated with the fulfilment of this condition shall be met by the landowner.
13. In order to avoid disturbance to the adjoining property owner to the south, it is recommended that any airconditioner for proposed Unit 2 be located away from the common boundary with that property.