

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

2 NOVEMBER 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 publishing 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.**

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON,
COMMENCING AT 9:00 AM ON TUESDAY 2 NOVEMBER 2010.**

PRESENT

T Capobianco (Presiding Member)
G Russell
C O'Neill
H Shigeyoshi
L Anderson
P Stuart
R Bailey
M Snell

A/ Manager Planning & Development Services
A/ Principal Building Surveyor
Consultant
A/Planning Services Coordinator
Senior Planning Officer
A/Senior Planning Officer
Special Projects Officer (Engineering Design)
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 as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest

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- (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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**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

Ward : Bull Creek/Leeming
 Category : Operational
 Application Number : DA-2010-1192
 Property : Lot 129 (47) Benningfield Road, Bull Creek
 Proposal : Single Storey Single House
 Applicant : Tangent Nominees Pty Ltd
 Owner : Mr H I Tedjasukmana and T Tedjasukmana
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Tony Capobianco
 A/Manager Planning & 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 & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Application has been received for a single-storey Single House.
- The proposed development is entirely compliant with the Acceptable Development provisions of the Residential Design Codes (R-Codes). As such, there are no aspects which require assessment against the Performance Criteria of the R-Codes.
- Neighbour consultation was not required to be undertaken, although the applicant did notify his neighbour. In response to this notification one (1) objection has been received in relation to concerns on overshadowing, bulk, noise and limitation on development opportunities for the objector's property.
- As the boundary wall complies with the Acceptable Development provisions of the R-Codes, the boundary wall is permitted 'as-of-right'.
- The application is recommended for conditional approval.



**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living Area – BLK-1 Precinct
 R-Code : R20
 Use Type : Residential
 Use Permissibility : 'P'- Permitted

Site Details

Lot Area : 682sqm
 Retention of Existing Vegetation : Yes
 Street Tree(s) : No
 Street Furniture (drainage pits etc) : No
 Site Details : Refer to photo above

U10_0287 November 2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Monday 8 November 2010.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	50%	60%	Complies		
Car parking	2-bays	2-bays	Complies		
Overshadowing	25%	7.59%	Complies		
Building Height	8.0m (eaves) 10.5m (max)	2.435m 6.0m	Complies Complies		

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Primary Street	6.0m avg	7.7m avg	Complies		
Rear (East)					
Entire Wall	1.5m (min)	7.4m (min)	Complies		
Side (North)					
Store	0m (Cl. 6.3.2)	0m	Complies		
Theatre / Kitchen / Alfresco	1.5m	3.1m	Complies		
Side (South)					
Entire Wall	1.5m	1.5m	Complies		

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: No
 Neighbour's Comment Supplied: Yes
 Reason: Advertising not required however undertaken by Applicant.
 Support/Object: One (1) Objection

Affected Property	Summary of Submission	Support / Object	Officer's Comment	Action (Uphold / Not Uphold)
1.	Concerns have been raised by an adjoining resident on the following matters: <ul style="list-style-type: none"> Height of the building exceeding 2.7m. Loss of natural lighting / access to direct sun. 	Object	The proposed height of the store/garage wall is approximately 2.5m maximum and therefore averages less than 2.7m which is in accordance with the Acceptable Development provisions of cl. 6.3.2A2ii) of the R-Codes.	Not Uphold
		Object	Given the proposed development is located to the south of the objector's property, shadowing will be limited.	Not Uphold

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

2.	3. Noise and fumes from cars as a result of a garage being located adjacent to neighbour's master bedroom.	Object	Noise concerns are not subject to planning consideration and are matters regulated under the <i>Environmental Protection (Noise) Regulations 1997</i> . Notwithstanding, the garage/store area does not directly abut any south-facing major openings located on the objector's property.	Not Uphold
	4. Presence of a 'workshop' adjacent to master bedroom.	Object	There is no proposal and has been no indication that the garage / store will be used as a workshop.	Not Uphold
	5. Will limit future development opportunities of the objector's property.	Object	Applicant is proposing to build within their own lot boundaries. Redevelopment of the adjoining lot will otherwise be assessed on its merits.	Not Uphold

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 financial implications for the Council as part of this application.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

There are no strategic and risk management implications for Council as part of this application.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed to be supported 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.

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)****COMMENTS**

The subject application seeks planning approval for a single-storey Single House with a garage wall located on its northern boundary. The lot is located within the 'Living Area- BLK1' Precinct under the provisions of the CPS5 with an applicable residential density coding of 'R20'.

As summarised in the development and setback tables in the preceding section above, the proposal is entirely compliant with the Acceptable Development provisions of the R-Codes. Where a development satisfies the Acceptable Development provisions, it is generally considered to be permitted 'as-of-right'. Notwithstanding, an objection has been received with regard to the proposed boundary wall.

Boundary Wall

In the case of the proposed garage/store boundary wall, this satisfies the Acceptable Development provisions of Clause 6.3.2A2 iii) of the R-Codes which states:

In areas coded R20 and R25, walls not higher than 3 m with an average of 2.7 m up to a 9 m in length up to one side boundary only

With regard to the above, the proposed boundary wall has the following dimensions:

- Approximately 2.5m average and maximum wall height (the vertical distance from natural ground level to the bottom of the eave or parapet at any point);
- 4.3 m length that is 4.7 m less than the total length permitted of 9.0m; and,
- Is up to only one side boundary.

As evident above, the dimensions demonstrate that the wall complies with the Acceptable Development provisions of the R-Codes. However, in light of the concerns raised by the objector, further assessment is provided below with reference to the Performance Criteria of cl. 6.3.2 of the R-Codes which refer to similar matters raised. It is noted however that satisfying the Acceptable Development provisions illustrate one way of meeting the associated Performance Criteria.

The Performance Criteria of cl. 6.3.2 requires buildings built up to boundaries 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; and*
- *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.*

It is considered that the proposed boundary wall complies with the abovementioned Performance Criteria for the following reasons:

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

- There are no visual privacy implications as the proposed building does not contain any major openings and furthermore, is not classified as a habitable room.
- The height of the wall is much less than the maximum 3m height requirement as well as the 2.7m average height and as such, is deemed to represent minimal bulk impact on the neighbouring property.
- Bulk impact is further minimised as the wall will abut established vegetation on the objector's property which will conceal majority views of the wall on the boundary.
- Given the location of the boundary wall on the southern boundary of the objector's property, the majority of the overshadowing will be onto the subject property. At noon on 21st June, overshadowing will be entirely on the subject property.

Based on the above, whilst the concerns raise by the submitter are acknowledged, in light of the justification detailed, the boundary wall is supported.

Clause 7.8 of CPS5 Considerations

Clause 7.8 provides matters to be considered by Council in determining an application for planning approval. Matters that require consideration consist of 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.*
- (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;*
- (i) 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;*
- (j) 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,*
- (k) Any relevant submissions received on the application.*

The above considerations are essentially amenity issues and draw support from the Acceptable Development provisions and Performance Criteria of the R-Codes. As detailed in the preceding sections above, the development is entirely compliant with the Acceptable Development provisions of the R-Codes which in this instance is considered to encompass the amenity provisions detailed above. Furthermore, the proposal 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.

Accordingly the proposal is considered to satisfy all relevant provisions of Clause 7.8 of CPS5.

CONCLUSION

Given the proposal meets the Acceptable Development provisions of the R-Codes and is in compliance with the provisions of the City of Melville Community Planning Scheme No. 5, it is recommended that application be conditionally approved.

**U10/0287 (AG) PROPOSED SINGLE STOREY SINGLE HOUSE AT LOT 129 (47)
BENNINGFIELD ROAD, BULLCREEK (REC) (ATTACHMENT)**

OFFICER RECOMMENDATION

APPROVAL

- A) That the proposed single-storey single house on Lot 129 (47) Benningfield Road, Bull Creek be approved subject to the following Special Conditions and Standard Conditions.**

SPECIAL CONDITIONS:

- 1. During excavations, all necessary precautions to be taken to prevent damage or collapse of adjoining properties (driveways, garden beds, walls, etc), (adjacent streets or right-of-way). It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.**

STANDARD CONDITIONS:

- 2. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
 - 3. The materials and finishes of the development to complement the existing building to the satisfaction of the Manager Planning and Development Services.**
 - 4. Front walls and fences within the primary street setback area are to be visually permeable 1.2metres above natural ground level.**
 - 5. 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.**
 - 6. Roofing materials being of a non-reflective material (Zinc or white colour metal roofing may only be permitted through special planning consent).**
 - 7. 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.**
 - 8. Ground levels may not be changed other than approved as part of this approval.**
- B) The submitter who objected to the proposed development be advised in writing of A) above.**

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

Ward : Bull Creek/Leeming
 Category : Operational
 Application Number : DA-2010-1056
 Property : 8 August Court, Bull Creek
 Proposal : Additions And Alterations (Carport And Patio) to Existing Single House
 Applicant : Blakjack Fabrications
 Owner : D M Kirk and R A Kirk
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : 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 & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The application is for additions and alterations (carport and patio) to an existing Single House.
- The proposed development generally complies with the Acceptable Development provisions of the Residential Design Codes (R-Codes) with the exception of two side setback variations applying to the western side of the carport.
- The proposed setback variations for the carport were considered against the Performance Criteria of the R-Codes, and the owners of the adjoining affected property were consulted.
- An objection was received on concerns that the carport structure will reduce the amount of light entering their bedroom and result in increased noise levels near their bedroom window.
- The side setback variations are deemed minor and not likely to result in any significant adverse impacts to the adjoining property with regard to sunlight, ventilation, building bulk or privacy and therefore comply with the Performance Criteria of the R-Codes. However, it is recommended that the roofline of the carport be conditioned to be set back 0.75m from the western boundary, in accordance with the Acceptable Development provisions of the R-Codes.
- It is recommended that the application be approved subject to conditions.



U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living Area – Bull Creek (BLK1)
 R-Code : R20
 Use Type : Residential
 Use Permissibility : 'P' - Permitted

Site Details

Lot Area : 683sqm
 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_0288_November_2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Monday 8 November 2010.

DETAIL

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve variation	Plan Notation
Primary Street Setback (North)					
Carport	4.5m	7.69m	Complies		
Side Setback (West)					
Carport	1.5m for posts / 0.75m for roofline	0m to posts, with roofline set back 0.50m	Does not comply	MPDS	

(Non-compliance marked in bold)

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Variation to R-Codes
 Support/Object: One (1) Objection

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	<p>The affected neighbour has expressed concern that the carport will reduce the amount of light entering their bedroom.</p> <p>The affected neighbour has also stated that there are numerous vehicles being repaired at the property, and expresses concern that increasing the covered area will result in vehicles being repaired next to their bedroom, thereby resulting in a detrimental noise impact.</p>	Object	<p>As the subject lot is north-south orientated, overshadowing does not affect the adjoining property at all. Notwithstanding, the reduced setback of the roofline is considered to reduce daylight (as opposed to access to direct sun) to the adjoining residence. As such, it is recommended that the roofline be set back a minimum 0.75m in accordance with the Acceptable Development provisions of the R-Codes.</p> <p>The owners of the subject lot have indicated that the vehicles located in the driveway area are not related to any business activity. The repair / maintenance of vehicles is simply a hobby of the resident, who works evening shifts and would therefore not be working on the vehicles during inappropriate evening hours. The owners are seeking to create a covered area in order to make the area more useable during daylight hours.</p>	<p>Uphold</p> <p>Not Uphold</p>

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

REFERRALS TO GOVERNMENT AGENCIES

There are no referrals required 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

There are no financial implications for the Council in this application

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

There are no strategic and risk management implications for Council.

POLICY IMPLICATIONS

There are no policy implications for the Council to consider as part of this application.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed to be supported 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 additions and alterations (carport and patio) to an existing Single House. The lot is located within the 'Living Area - Bull Creek (BLK1)' Precinct under the provisions of the City's Community Planning Scheme No. 5 (CPS5) with an applicable density coding of 'R20'. The proposal generally satisfies the Acceptable Development provisions of the R-Codes with the exception of the posts of the carport proposed to be located on the boundary with the roofline set back 0.5m, resulting in setback variations. Consideration of these variations is detailed in the section below.

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

Buildings on the Boundary

The R-Codes state that “...the term ‘up to a boundary’ means either on the boundary or between the boundary and the setback provided by table 1, tables 2a and 2b, figures 2a – 2e, and figure 3”. The building on the boundary therefore relates to the posts of the proposed carport which are proposed on the boundary, as well as the roofline which is setback 0.5m in lieu of 0.75m.

Buildings on the boundary within the ‘R20’ density coding are permitted ‘as-of-right’ under the provisions of the R-Codes provided certain criteria are met, one of which is that the length of structures built up to the boundary are not to exceed 9.0metres. As there are existing approved structures on the subject lot which are built up to the boundary the proposed carport on the boundary is not permitted ‘as-of-right’ and as such, represents a variation to the Acceptable Development provisions. The standard setback is set out in Table 2 of the R-Codes and the total length of all of the structures built up to the boundary determines the standard setback for the proposed carport, which in this instance is 1.5m. Where a variation is sought, the proposed setback is to be assessed against the Performance Criteria of Clause 6.3.1 and 6.3.2 of the R-Codes.

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; and*
- *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.*

It is considered that the proposed carport posts being built up to the boundary complies with the abovementioned Performance Criteria for the following reasons:

- The carport posts on the boundary makes effective use of space as compliance with the required setback would result in the posts being located within the existing driveway area, therefore the required setback is not practicable.
- There are no visual privacy implications as the carport is not a habitable room and will not have a finished floor level greater than 0.5m above the natural ground level.
- The carport is an open structure, therefore building bulk is not considered to be an issue. In addition, the natural ground level of the adjoining property is higher than that of the subject lot, with the result that only a small portion of the carport structure is likely to be visible above an existing dividing fence located along the common boundary.
- Being an open structure, the carport is not likely to have any adverse impacts with regard to provision of ventilation for the subject or adjoining property.
- Whilst noise concerns raised are acknowledged, the applicant has indicated that there will be no vehicle repairs being undertaken outside of regular working hours, therefore no detrimental impacts on the amenity of the adjoining property are likely. It is noted that

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

- noise impact is otherwise governed under the *Environmental Protection (Noise) Regulations 1997*.
- Given the north-south lot orientation, no unacceptable overshadowing will occur onto the neighbouring property as calculated in accordance with Clause 6.9 of the R-Codes.

With regard to the proposed reduced setback of the roofline, it is considered that there is some potential for the reduced setback of the roofline to impact on access to daylight (rather than direct sunlight) for the affected bedroom on the adjoining property. It is noted that the eaves of the adjoining property are in close proximity to the boundary fence and therefore there are existing limitations on the amount of daylight access for the affected bedroom due to the fence as well as vegetation along the boundary. It is therefore considered that, by requiring the roofline of the proposed carport to comply with the 0.75m setback standard in Clause 6.3.1 A1(iv) of the R-Codes, the potential for reduction of daylight will be ameliorated.

Based on the above, whilst the concerns raised by the adjoining neighbour are acknowledged, in light of the justification detailed above the setback variations are supported.

Clause 7.8 of CPS5 Considerations

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.*
- (l) *The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads;*
- (m) *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;*
- (n) *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,*
- (o) *Any relevant submissions received on the application.*

The above considerations are essentially amenity issues and draw support from the justification of the variations against the Performance Criteria under the R-Codes. As detailed in the preceding sections above, the development will maintain adequate direct sunlight and ventilation to the proposed dwelling, the neighbouring property and does not have a detrimental effect on privacy between the two properties.

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

Accordingly the proposal is considered to satisfy all relevant provisions of Clause 7.8 of CPS5.

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

CONCLUSION

Given the proposal is considered to meet the relevant Performance Criteria with regard to the variations proposed and is otherwise in compliance with the provisions of the City of Melville Community Planning Scheme No. 5 and R-Codes, it is recommended that application be conditionally approved.

OFFICER RECOMMENDATION

APPROVAL

- A) That the proposed additions and alterations (carport and patio) on Lot 390 (8) August Court, Bull Creek be approved subject to the following Special Conditions and Standard Conditions:**

SPECIAL CONDITIONS:

- 1. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.**
- 2. The roofline of the carport to be set back a minimum distance of 0.75m from the western boundary.**

STANDARD CONDITIONS:

- 3. 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 approval 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.**
- 4. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
- 5. Roofing materials being of a non-reflective material (Zinc or white colour metal roofing may only be permitted through special planning consent).**
- 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 4m² and a height of 1m and a hinged lid. The receptacle should not be allowed to overfill.**

U10/0288 (NW) PROPOSED ADDITIONS AND ALTERATIONS (CARPORT AND PATIO) TO EXISTING SINGLE HOUSE ON LOT 390 (8) AUGUST COURT, BULL CREEK (REC) (ATTACHMENT)

- 7. Ground levels may not be changed other than approved as part of this approval.**

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

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

Ward : Bicton/Attadale
 Category : Operational
 Application Number : DA-2010-1080
 Property : 8B Westbury Crescent, Bicton
 Proposal : Single-Storey Single House
 Applicant : Mr O P Lowth
 Owner : Mr O P Lowth and Mrs P R Lowth
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : 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 & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Application seeks planning approval for a single-storey Single House.
- The proposal is generally compliant with the Acceptable Development provisions of the Residential Design Codes of WA (R-Codes) and the Council's Policy requirements with the exception of a proposed south western boundary wall, north western wall setback variation and the proposed zincalume roof colour/material.
- Neighbour consultation was undertaken with one (1) objection being received relative to the proposed boundary wall and zincalume roof.
- The objection relates to concerns on the impact of the proposed boundary wall and zincalume roof on the residential amenity levels currently enjoyed by the neighbouring resident.
- The boundary wall and the reduced north western wall setback are deemed to satisfy the relevant Performance Criteria of the R-Codes.
- Whilst the concerns relating to the use of Zincalume as a roof material is acknowledged, it is not considered to result in adverse amenity impact to adjoining properties.
- The application is recommended for conditional approval.



**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living Area – Bicton (BC3)
 R-Code : R 17.5
 Use Type : Residential
 Use Permissibility : Permitted

Site Details

Lot Area : 380sqm
 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_0289 November 2010.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on Monday 8 November 2010

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	50%	52%	Complies		
Building Height	8.0m (eaves) 10.5m (max)	2.7m 4.0m	Complies Complies		
Carparking	2-bays	2-bays	Complies		
Shadow Impact	25%	4.7%	Complies		

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Entire North eastern wall	1.5m	3.55m	Complies		
South-eastern wall – lounge & Study	1.5m	1.5m	Complies		
South-western wall – Garage & Store	1.5m	Nil	Does not comply	MPDS	
Entire North-western wall	1.5m	1.415m (min)	Complies (minor variation)		

(*Non-compliance in bold)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Variation to R-Codes and Policy CP-06-PL-023
 Support/Object: One (1) objection

Affected Property	Summary of Submission	Support / Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	<p>Concerns have been raised by an adjoining neighbour on the following grounds:</p> <ul style="list-style-type: none"> Lack of space between the neighbour's property and the new construction. 	Object	<p>The following comments are made in response to the issues raised:</p> <p>In view of the height of the proposed boundary wall (i.e. only 300mm higher than the existing common dividing fence), the availability of space (or lack thereof) is not considered to be of significance.</p>	Not Uphold

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

<ul style="list-style-type: none"> • Lack of privacy. • Noise from the garage. • Possible leaks and water flowing into neighbour's property. <p>Glare and reflection affecting the use of the neighbour's outdoor area.</p>	Object	As the boundary wall does not contain any openings, privacy is not unduly affected.	Not Uphold
	Object	Noise in the context of this application cannot be considered as a relevant planning matter as it is regulated under separate jurisdictional control.	Not Uphold
	Object	All Stormwater and drainage run off is required to be contained on site.	Uphold
	Object	It is considered that due to the low pitch of the roof and southern location of the neighbour's property, amenity impacts due to reflection will be insignificant.	Not 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*.

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.

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)****POLICY IMPLICATIONS**Policy CP-06-PL-023: Highly Reflective Roofing Materials

The above Policy applies in controlling the use of highly reflective roofing materials on buildings. The proposed use of zincalume as the roof material is subject to compliance with the provisions of Policy CP-06-PL-023.

Further comments are provided under the comments section below.

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 single-storey single house on a rear strata lot. The lot is located within the 'Bicton (BC3)' Living Area Precinct under the provisions of CPS5 with an applicable residential density coding of 'R17.5'. The proposal is generally compliant with the Acceptable Development provisions of the R-Codes with the exception of two setback variations which are the result of an easement limiting the extent of development on the subject lot. Considerations relative to the variations sought are detailed in the sections below.

North western side setback variation

The north western side wall is setback at 1.415m in lieu of a standard setback of 1.5m in accordance with the Acceptable Development provisions of the R-Codes. It is noted that the variation of 0.085m (or 8.5cm) is applicable only to approximately a 1.0m portion of the wall as the boundary runs out on an angle relative to the subject wall (i.e. the setback becomes progressively larger).

Given the minor nature of the variation, no negative impacts in relation to bulk, shadow impact or privacy result from the side setback variation. Accordingly, the variation is supported.

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)****South-western side setback variation**

The south-western side setback relates to a proposed boundary wall for the garage/store measuring 10.49m in length and 2.4m in height. The subject wall is proposed on the boundary in lieu of a standard setback of 1.5m. Boundary walls within the 'R17.5' density coding are not permitted as-of-right under the provisions of the R-Codes, therefore a variation from the Acceptable Development provisions is proposed and the wall is to be assessed against the Performance Criteria, which states:

Buildings 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.*

In considering the variation relative to the abovementioned Performance Criteria and concerns raised relative to lack of space, loss of privacy, noise, leaks and glare/reflection as detailed in the 'Public Consultation/Communication' section above, the following comments are made:

- The reduced setback for the garage/store (i.e. towards the southern portion of the subject lot) maximises the dwelling's north facing outdoor living area.
- Due to an easement that runs approximately 3.6m parallel from the rear boundary, the effective lot area is substantially reduced. The proposed boundary wall assists to overcome this limitation with minimal impact to the adjoining resident.
- Whilst the concern raised in relation to lack of space is acknowledged, it is considered that the boundary wall will result in minimal amenity impact. This is due to the proposed boundary wall only being approximately 0.3m higher than an existing limestone dividing fence contained on the objector's property.
- Being a boundary wall with no major openings, there are no privacy implications as a result of the reduced setback.
- The additional shadow impact created by the boundary wall is no greater than the amount of shadow currently created by the existing limestone dividing fence. It is also noted that the shadow percentage of 4.7% created by the boundary wall is well within the Acceptable Development standard of 25% as provided for under Clause 6.9.1 of the R-Codes.

Based on the above, the south-western side setback variation is supported in this instance.

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

Roofing Material

Council's Highly Reflective Roofing Policy CP-06-PL-023 stipulates under its Policy Statement that::

Highly reflective roofing materials (eg. Zinc and white colour metal) are not permitted unless it can be demonstrated to the satisfaction of the Executive Manager Development and Neighbourhood Amenity (with power to sub-delegate) that there will be minimal adverse impact on the amenity of the area or on adjoining properties.

It is considered that due to the low pitch of the roof (10-degree pitch) and the fact that all surrounding properties are of single-storey in scale, no undue amenity impacts due to reflection are considered to occur. Furthermore, whilst the concerns raised by the objector are acknowledged, by virtue of the above and southern location of the objector's property, specular reflectively is deemed to be unlikely.

Based on the above and as no other concerns have been raised by surrounding neighbours with regard to the use of Zinalume as a roof material, the use of Zinalume 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), (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.*
- (p) The nature of the proposed development in relation to development either existing or proposed on adjoining land and the need to upgrade existing roads;*
- (q) 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;*
- (r) 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,*
- (s) Any relevant submissions received on the application.*

The proposal (and its variation) 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 objection relative to the boundary wall variation and reflectively resulting from the roofing material is acknowledged, no undue amenity impacts are envisaged for reasons detailed in the preceding sections. It is considered that the proposed development otherwise satisfies the relevant Performance Criteria of the R-Codes which addresses similar provisions forming part of Clause 7.8(c), (h) and (j).

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

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

CONCLUSION

The proposal as submitted is considered to meet the relevant Performance Criteria of the R-Codes with regard to the setback variations and the variation to Council's Policy CP-06-PL-025. With the exception of the above, the proposal (as presented) is otherwise in compliance with the provisions of the R-Codes and CPS5. As such, it is recommended that application be conditionally approved.

OFFICER RECOMMENDATION

APPROVAL

- A) That the application for a single-storey single house on Lot 2 (8B) Westbury Crescent, Bicton be approved with the following Special and Standard Conditions:**

SPECIAL CONDITIONS:

- 1. During excavations all necessary precautions shall be taken to prevent damage or collapse of any adjoining properties (driveways, garden beds, walls, etc), streets or right-of-ways. It is the responsibility of the builder/owner to liaise with adjoining and adjacent property owners prior to carrying out work.**

STANDARD CONDITIONS:

- 2. 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.**
- 3. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
- 4. 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.**
- 5. Prior to the commencement of any construction the Council requires the provision of a suitable receptacle for the containment of windblown rubbish. The receptacle (generally a wire mesh cage) should have maximum openings of 100mm; have a base of 4m² and a height of 1m and a hinged lid. The receptacle should not be allowed to overfill.**

**U10/0289 (TW) PROPOSED SINGLE-STOREY SINGLE DWELLING ON LOT 2 (8B)
WESTBURY CRESCENT, BICTON (REC) (ATTACHMENT)**

- 6. Ground levels may not be changed other than approved as part of this approval.**
 - 7. The construction of retaining walls not to exceed the heights specified on the approved plans unless otherwise approved by Council. Details, signed by a practicing Structural Engineer must be submitted for approval at the time of submitting a Building Licence Application.**
- B) That the submitter who objected to the subject application be notified of A) above.**

U08/0290– (MS) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 2 NOVEMBER 2010

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
1	42b Ogilvie Road, Mt Pleasant	Semi-mature Magnolia in average health. Magnolia's are no longer a City of Melville nominated street tree. Subject tree is not in keeping with other trees in the street which primary consist of Jacarandas. Subject tree was planted by former property owner. Has previously been quoted for removal prior to re-development of the subject lot. Tree is located approximately 0.5 metres from new crossover location.	Recommend that the existing street tree be removed and replaced with two 100-litre semi-advanced trees in accordance with Street Tree Policy. One tree to be planted in Council allocated position on verge, and one planted elsewhere as nominated by the City of Melville Aboricultural Supervisor. All work to be undertaken by the City of Melville at the owner/applicants expense.



U08/0290– (MS) - STREET TREE REMOVAL REQUESTS RELATIVE TO DEVELOPMENT PROPOSALS AT DAU MEETING 2 NOVEMBER 2010

No.	LOCATION	TREE/BACKGROUND	RECOMMENDATION
	32a Fraser Road,w Applecross	<p>Mature <i>Agonis Flexuosa</i> in reasonable health. One of two on property verge. Owners requesting relocation as tree is one-metre from proposed crossover. Both verge trees were considerably damaged during demolition of former house and had to be pruned, giving them their unusual shapes at present.</p> <p>Special Condition 2 relative to Planning Approval DA-2006-730 requires street trees to be retained.</p>	<p>Recommended that tree be retained as the tree is in reasonable health and forms part of a consistent streetscape. Very unlikely to survive transplant. It is considered that the driveway can be modified to suit, if required. Crossover as proposed already achieves minimum one-metre clearance in accordance with Council requirements.</p>

