

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**23 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, 23 NOVEMBER 2010.**

**PRESENT**

|                |  |
|----------------|--|
| P. Prendergast | Manager Planning & Development Services                  |
| T Capobianco   | A/Manager Planning & Development Services                |
| H. Shigeyoshi  | Senior Planning Officer                                  |
| L. Anderson    | Senior Planning Officer                                  |
| C. Taborda     | A/Traffic & Road Safety Coordinator (Engineering Design) |
| M. Snell       | Senior Team Leader Landscape Construction                |
| T. Stojanovic  | Traffic & Road Safety Coordinator                        |

**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.**

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## **DISCLOSURE OF FINANCIAL INTERESTS LOCAL GOVERNMENT ACT 1995**

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

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

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

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

### **Meeting to be informed of disclosures**

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

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

### **Disclosing members not to participate in meetings**

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

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

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

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

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

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CREEK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

Ward : Bull Creek/Leeming  
 Category : Operational  
 Application Number : DA-2010-1140  
 Property : 32 Bull Creek Drive, BULL CREEK WA 6149  
 Proposal : ADDITIONS AND ALTERATIONS TO EXISTING CHURCH  
 Applicant : Peter Jodrell Architect  
 Owner : Westminster Presbyterian Church Bull Creek Inc  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : DA-2006-995  
 DA-2008-798  
 DA-2009-923

**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> |

**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
 (32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The application proposes additions and alterations to the Westminster Presbyterian Church, Bull Creek Drive, Bull Creek, to facilitate an increase in the maximum capacity of the Church from 450 to 610 persons.
  - The application details are generally compliant with Community Planning Scheme No. 5 (CPS5) with the exception of landscaping, street setback variations (to both Fyfe Circle and Bull Creek Drive) and car parking.
  - The Church currently has 100 car parking bays, which, based on a requirement for 1 bay per 4 patrons, represents a shortfall of 13 bays assuming a capacity of 450 persons.
  - There are limited opportunities to provide additional car parking within the existing church grounds.
- 
- To mitigate against this additional impact, the applicant seeks approval for the creation of 38 car parking bays along Gleddon Road (south east of the church), within the verge area adjacent to the Ron Carroll Reserve. In addition 1 car bay has been added within the church grounds..
- 
- This would result in a total of 139 bays available for use. With a proposed congregation of 610 people there will still be a shortfall of 21 bays.
  - The proposed setback variations along Fyfe Circle and Bull Creek Drive, are considered suitable subject to the provision of relief panels or artwork along the blank concrete tilt up panels to break up the building bulk.
  - The variation to the landscaping requirement is considered acceptable as the applicant proposes to provide additional landscaping within the Council owned verge facing Bull Creek Drive..
  - On that basis, it is recommended that the application be conditionally approved.
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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

**BACKGROUND**

The site of the Westminster Presbyterian Church is made up of two separate lots, one of which houses the church building and the other the car parking bays and main vehicle circulation areas. The church and the parking area exist together and operate as one use. A Deed of Agreement exists between the City of Melville and the owners of the subject lots, and this prohibits the sale or transfer of either one or both of the subject lots without the written consent of Council. This ensures that the lot containing the existing car parking required for the church building is retained, and provides a binding link between the two lots.

In June 2006, the owners of the subject lot(s) submitted an application (DA-2006-995) for additions to the existing church building, which included a proposal to increase the seating capacity from 450 to 698. The application was refused on 25 August 2006 due to non-compliance with the City's Car Parking (non-residential) Policy. Records indicate that despite several requests being made for information to support the proposed shortfall in parking, this was not received hence the refusal of permission.

In December 2008 permission was granted for additions to the existing church building to provide enhanced facilities without increasing overall seating capacity. Since then, the applicant has entered into pre-application discussions in pursuit of a more effective solution to their capacity requirements.

It was deemed that whilst the approved scheme to extend the church facility would have enhanced the overall accommodation provided, it would not have enabled any increase to the capacity of the congregation. As such, and in order to satisfy a pressing need for additional seating capacity within the main hall area, a temporary solution involving minor internal alterations to the building was proposed. This involved minor internal alterations to create a new opening between the existing auditorium and hall to allow the two (2) spaces to come together and provide the necessary seating capacity for 605 patrons. No external modifications were proposed at that time, although in order to satisfy the additional car parking requirements, it was proposed to provide an additional 38 car parking bays on Gleddon Road in the same way as is now being proposed. Planning approval for these works was granted in August 2009 .

**Scheme Provisions**

|              |   |                                 |
|--------------|---|---------------------------------|
| MRS Zoning   | : | Urban                           |
| CPS 5 Zoning | : | Living Area – BLK1 (Bull Creek) |
| R-Code       | : | R20                             |
| Use Type     | : | Public Worship                  |
| Use Class    | : | “S”                             |

**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

**Site Details**

Lot Area : 2325.54 sqm  
 Retention of Existing Vegetation : Not applicable  
 Street Tree(s) : Not applicable  
 Street Furniture (drainage pits etc) : Not applicable  
 Site Details : {Link to Site Photo}

U10\_0297\_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 29 November 2010.

**DETAIL**

The proposed development satisfies all of the relevant criteria of CPS5, the R-Codes and Councils Planning Policies, with the exception of the following:

**Development Requirements**

| Development Requirement | Required/ Allowed  | Proposed | Comments        | Delegation to approve variation | Plan Notation |
|-------------------------|--|----------|-----------------|---------------------------------|---------------|
| Car Parking             | 1 per 4 patrons at capacity, plus 1 bay per staff member.<br>610 patrons at capacity plus 8 staff = 160 (160.2) bays | 139 bays | Does not comply | MDPS                            |               |
| Landscaping             | 33.3%  | 8%       | Does not comply | MDPS                            |               |

**Setbacks**

| Wall               | Required   | Proposed | Comments        | Delegation to approve Variation | Plan Notation |
|--------------------|------------|----------|-----------------|---------------------------------|---------------|
| Front (Bull Creek) | 6.0 metres | Nil -    | Does not comply | MDPS                            |               |
| Secondary Street   | 1.5 metres | Nil -    | Does not comply | MDPS                            |               |

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**U10/0297(LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Not required.

**REFERRALS TO GOVERNMENT AGENCIES**

None required.

**STATUTORY AND LEGAL IMPLICATIONS**

None applicable

**FINANCIAL IMPLICATIONS**

None applicable

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

None applicable

**POLICY IMPLICATIONS**

Council Policy CP - 06-PL-024 – Car Parking (Non-Residential)

This policy outlines the minimum car parking requirements for a range of land uses. In the case of a Public Worship use, the requirement is 1 bay per 4 patrons at capacity, plus 1 bay per staff member

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**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.

**COMMENT**

The application site is located within a Living Area precinct under the provisions of CPS5. The use of the site as a Place of Worship is an existing authorised use in this location, and as such the proposed extension to the Church is acceptable in principle in land use terms.

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

The main issues to consider in the determination of this application however, relate to whether the increase in the capacity of the church can be accommodated without prejudice to the Councils Car Parking requirements, and whether the proposed additions/extensions should be supported as proposed, particularly given the zero side setbacks proposed to both Bull Creek Drive and Fyfe Circle respectively., as well as the proposed reduced landscaping.

Car Parking

In accordance with Council requirements, a total of 160 car parking bays are required for a church use with a congregation of 610 patrons.

In the subject case, a total of 139 car parking bays are proposed, 101 bays located within the existing church car park, and a further 38 bays proposed within the Gleddon Road road reserve to the south east of the application site on the opposite side of Bull Creek Drive. This represents an overall shortfall of twenty one (21) bays.

Clause 5.8.1 of CPS No.5 provides the discretion for Council to vary car parking requirements having regard to Council Policy. In view of this, and given that there is an existing shortfall of car parking, the proposed development is supported in principle in car parking terms.

As stated, the 38 additional car parking bays are proposed to be located along Gleddon Road, which is to the immediate south east of the subject site on the opposite side of Bull Creek Drive. The proposed bays are to be constructed within the verge area of Ron Carroll Reserve, and will be provided at the cost of the Applicant. The bays are to be located approximately 100 metres away from the Church and will stretch for approximately 95 metres. The car parking bays are to be established as overflow parking for the church but will also be available to the general public at all times.

Officers of the City's Technical Services Division have reviewed the proposal and support the creation of the car parking bays on the Ron Carroll Reserve verge subject to conditions. It is concluded that at this stage, a grassed verge along the Gleddon Road frontage of the Ron Carroll Reserve may be provided. To that end, the existing grassed verge can be used for parking, provided the existing kerbing is removed, and a mountable kerb and protection devices for the sprinklers are installed.

Notwithstanding this, a condition of approval is recommended to enable the City to review the standard of the grassed verge parking within an initial 12 month period. This is considered prudent to ensure the parking area remains trafficable and its use does not prejudice the free flow of traffic in the vicinity, nor detract from the levels of residential amenity experienced by existing local residents. Should the opposite be the case, then the City will be able to seek the permanent replacement of the car parking bays with hard surfaced bays. The applicant has indicated acceptance of this condition.

Whilst the bays are conveniently located in relative close proximity to the church, Technical Services also recommend safety improvements take place to the crossing between Bull Creek Drive and Gleddon Road. This will improve the route from the car parking area to the Church itself. A special condition of approval is therefore recommended.

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

Setbacks

The proposed extensions and additions to the Church are single storey in nature, and designed to incorporate zero wall setbacks to both Bull Creek Drive and Fyfe Circle. The Applicant has provided a statement in justification of the proposed zero side setbacks, and the impact that they have on the streetscape has been considered as part of this assessment.

It is considered that given the subject lot is a corner one with a significant verge depth, particularly along its Bull Creek Drive frontage, that the variations to the side setback requirements are acceptable in principle. The side elevation of the extension facing Bull Creek Drive has been the subject of amendment since the initial submission of the plans. These amendments now include for a more articulated elevation, achieved using a varied palette of materials and colour, complemented by fenestration, relief panels, and a varied wall height along its total length. It is considered that there remains room for further articulation of the wall as it faces Bull Creek Drive, particularly its southern most portion. A special condition of planning approval is therefore recommended to require this work.

In addition the impact of the wall is mitigated via the existence of mature trees which act to screen the building when viewed from Bull Creek Drive. This screen will be supplemented by further tree and shrub planting, the details of which will be the subject of a special condition of planning approval.

Landscaping

In accordance with scheme requirements, 33% of the site area should be landscaped. In reality the proposed development allows for an area of landscaping equal to 7% of the site area, as the majority of space within the site is taken up by car parking bays..

The variation to the provision of landscaping can be considered under the provisions of Clause 5.9 of the CPS5, which states that:

*“The Council may, however, in order to ensure practicable development whilst still ensuring satisfactory amenity, exercise discretion to vary the requirements contained in Part 4.”*

In that context, the variation to the landscaping requirement is considered acceptable for the following reasons:

- The existing development on the subject lots has already had a substantial shortfall in landscaping approved as part of previous approvals.
- The applicant is intending to engage a landscape architect to create a detailed landscape and reticulation plan for the subject site and the road verge(s) adjacent to the site.
- This focus of planting within the verge area provides mitigation for the adverse impacts that might otherwise result from the variation to the side setback requirements..
- The upgrade to the verge planting ensures that the site appears well landscaped in accordance with the intention of Scheme requirements, whilst allowing the Church to maximise their use of the premises in terms of built form and capacity..

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

**CONCLUSION**

In light of the above, the proposed additions and alterations including the proposed 38 car parking bays along Gleddon Road for the (non exclusive) use of the Westminister Presbyterian Church, are not considered detrimental to the precinct, adjoining occupiers or the future development of the locality. Accordingly, it is recommended that the application be conditionally approved..

**OFFICER RECOMMENDATION (3163)**

**APPROVAL**

**A) That the application for additions and alterations to the existing church on lot 2490 (32) Bull Creek Drive, Bull Creek be approved subject to the following Special and Standard Conditions:**

**SPECIAL CONDITIONS:**

- 1. The details submitted for Building Licence approval must, in respect of the side elevation facing Bull Creek Drive, incorporate additional architectural articulation. This must be to the satisfaction of the Manager Planning and Development Services.**
- 2. Prior to the occupation of the extensions/additions hereby approved a total of 38 car parking bays are to be provided within the verge area of Ron Carroll Reserve, Gleddon Road, Bull Creek. This car parking provision is to be provided at the full expense of the Applicant and to the satisfaction of the Manager Planning and Development Services. Prior to the commencement of construction a scheme of works is to be submitted and approved by the Manager Planning and Development Services.**
- 3. Within 12 months from the date of initial occupation, the Council will assess the operational effectiveness of the car parking arrangement to be provided on Gleddon Road, and determine whether the applicant is required to provide a permanent hard serviced and marked out car parking facility, or whether the grassed arrangement can continue in perpetuity.**
- 4. Prior to the commencement of the development hereby approved, a scheme for the enhancement of the exiting pedestrian crossing between Bull Creek Drive and Gleddon Road must be submitted to the City for the approval of the Manager Planning and Development. The approved scheme shall thereafter be implemented at the expense of the applicant, and made available for use prior to initial occupation.**
- 5. All stormwater and drainage run off to be contained on site to the satisfaction of the Manager Planning and Development Services and in accordance with Australian Standards relating to stormwater disposal for the development of the site and the adjoining road verge(s) at the time of submitting a Building Licence Application.**

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

6. In accordance with the approved plans all parking bay/s, driveway/s and points of ingress and egress areas are to be permanently provided, constructed, drained, marked prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Planning and Development Services. The parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the City of Melville Plan Nos 102A2-80E/1 (concrete commercial crossover), 423A2-87E (bitumen commercial crossover) unless otherwise specified by this approval. The applicant shall pay for any damage that is caused to a Council facility or street furniture. Where alteration to a Council facility is required or damage occurs, the cost of such damage or alteration shall be paid for by the applicant. A concrete apron having width of 0.75 metres must be installed between a brick paved crossing and the bitumen surface of a road.

**STANDARD CONDITIONS:**

7. A detailed Landscaping and Reticulation Plan being submitted and approved by the Manager Planning and Development Services for the subject site and the road verge(s) adjacent to the site. The approved landscape 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.
8. Lighting on the subject property is to be designed and maintained in accordance with Australian Standard AS 4282 (1997) Control of Obtrusive Effects of Outdoor Lighting. A lighting plan demonstrating compliance with this requirement shall be submitted prior to the issue of a Building Licence.
9. All external building plant, including air conditioner units not to exceed the maximum height of thirteen point five metres (13.5m) from natural ground level and shall be appropriately screened. Details of the location, design and screening of such plant being submitted and approved by Council prior to the issue of the relevant Building Licence.
10. A separate application for Planning Approval and a Signs Licence is required for all signage.
11. The façade of the building/s and wall/s is to be treated with non sacrificial anti-graffiti agent.
12. Lighting to be provided to all car-parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS/NZS 1158.3.1 Lighting for Roads and Public Spaces - Pedestrian Area (Cat. P) Lighting - Performance and Design Requirements. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.

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**U10/0297 (LA) ADDITIONS AND ALTERATIONS TO EXISTING CHURCH ON LOT 2490  
(32) BULL CRREK DRIVE, BULL CREEK (REC) (ATTACHMENT)**

13. Prior to the commencement of any construction the Council requires the provision of a suitable receptacle for the containment of windblown rubbish. The receptacle (generally a wire mesh cage) should have maximum openings of 100mm; have a base of 4m<sup>2</sup> and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.
14. 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.
15. During construction access to the lot to be via the street frontage only and that no building rubble be permitted to overspill the site.
16. Electrical installation to be constructed and maintained to the satisfaction of Western Power in accordance with the SAA Wiring Rules No.CC1, Part 1, 1961.
17. The land shall not be used for the purpose approved until Council has issued a Certificate of Classification for that use and the Manager Planning and Development Services is satisfied that all relevant conditions of this approval have been satisfied.
18. Prior to occupancy or commencement of the land use the applicant is to arrange for a Practical Completion Inspection to be undertaken by the City and for all relevant conditions to be satisfied to the satisfaction of the Manager Planning and Development Services. In certain circumstances, and at its discretion, a condition maybe satisfied in part by way of a legal agreement being in place and bond/bank guarantee being submitted by the applicant/owner to the satisfaction of the Manager Planning and Development Services. Where the development involves the erection of a building a Certificate of Classification being obtained prior to occupancy.

**ADVICE NOTES:**

19. The additional on-street bays are not to be marked or reserved for the benefit of Lots 2 and 2490 Bull Creek Drive.

**U10/0298 (DR) THREE STOREY SINGLE DWELLING ON LOT 400 (18) HELM STREET,  
MOUNT PLEASANT (REC) (ATTACHMENT)**

|                            |   |   |
|----------------------------|---|---|
| Ward                       | : | Applecross/Mt Pleasant  |
| Category                   | : | Policy  |
| Application Number         | : | DA-2010-987   |
| Property                   | : | 18 Helm Street, MOUNT PLEASANT WA 6153  |
| Proposal                   | : | THREE STOREY SINGLE DWELLING  |
| Applicant                  | : | Webb & Brown-Neaves   |
| Owner                      | : | L Sugiarto and Ms S Sasmitra  |
| Disclosure of any Interest | : | No Officer involved in the preparation of this report has a declarable interest in this matter. |
| Responsible Officer        | : | Peter Prendergast<br>Manager Planning and Development Services                                  |
| Previous Items             | : | Not applicable  |

**AUTHORITY / DISCRETION**

Definition

|   |                |  |
|---|----------------|--|
|   | Advocacy       | <i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>  |
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|   | Legislative    | <i>includes adopting local laws, town planning schemes &amp; policies.</i>   |
|   | Review         | <i>when Council review decisions made by Officers.</i>   |
| ✓ | 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, application 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> |

**U10/0298 (DR) THREE STOREY SINGLE DWELLING ON LOT 400 (18) HELM STREET,  
MOUNT PLEASANT (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The subject application seeks planning approval for a three storey single house.
- Building setback variations to the secondary street boundary are being sought.
- Privacy setback variations are proposed for the first and second floor balconies and overshadowing is also non-compliant in respect of the adjoining property to the south.
- The application was advertised to the owners of neighbouring properties in accordance with the requirements of Community Planning Scheme No 5 (CPS5) and the R-Codes.
- The City has received representations from the owners of two properties located to the east and west who express concern in respect of overshadowing and general overlooking impacts.
- It is considered that the proposal generally complies with the Performance Criteria requirements of the Residential Design Codes relative to streetscape, overshadowing and overlooking, and the application is recommended for conditional approval on that basis.



This document was created from IntraMaps.

**U10/0298 (DR) THREE STOREY SINGLE DWELLING ON LOT 400 (18) HELM STREET,  
MOUNT PLEASANT (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : Living Area Precinct (Mount Pleasant MP2)  
 R-Code : R 17.5  
 Use Type : Residential  
 Use Class : P

**Site Details**

Lot Area : 760sqm  
 Retention of Existing Vegetation : The application site is devoid of vegetation.  
 Street Tree(s) : Street trees exist along the View Road frontage.  
 Street Furniture (drainage pits etc) : No infrastructure identified  
 Site Details : See aerial photo above

U10\_0298\_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 29 November 2010.

**DETAIL**

**Development Requirements**

| Development Requirement | Required/ Allowed | Proposed | Comments        | Delegation to approve variation | Plan Notation |
|-------------------------|-------------------|----------|-----------------|---------------------------------|---------------|
| Shadow Impact           | 25%               | 27%      | Does not comply | MPDS                            |               |

**U10/0298 (DR) THREE STOREY SINGLE DWELLING ON LOT 400 (18) HELM STREET,  
MOUNT PLEASANT (REC) (ATTACHMENT)**

| Setbacks:<br>Wall                                    | Required   | Proposed        | Comments       | Delegation<br>to approve<br>Variation | Plan<br>Notation |
|--|------------|-----------------|----------------|---------------------------------------|------------------|
| Secondary<br>Street                                  | 3m minimum | 2.3m<br>minimum | Does<br>comply | not<br>MPDS                           |                  |
| Master<br>Bed/retreat<br>Balcony<br>(First<br>Floor) | 7.5m       | 6.4m<br>minimum | Does<br>comply | not<br>MPDS                           |                  |
| Bed 2 and<br>3 Balcony<br>(Second<br>Floor)          | 7.5m       | 6.5m<br>minimum | Does<br>comply | not<br>MPDS                           |                  |
| Sitting<br>Room<br>Balcony<br>(Second<br>Floor)      | 7.5m       | 7.3m            | Does<br>comply | not<br>MPDS                           |                  |

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Overshadowing and setback variations as per R Codes  
 Support/Object: Object

**U10/0298 (DR) THREE STOREY SINGLE DWELLING ON LOT 400 (18) HELM STREET,  
MOUNT PLEASANT (REC) (ATTACHMENT)**

| Affected Property | Summary of Submission  | Support/Objection | Officer's Comment  | Action (Condition/Support/Dismiss) |
|-------------------|--|-------------------|--|------------------------------------|
| 1                 | Concerns have been raised by owner of the adjoining residence relative to general overlooking and overshadowing. The adjoining owner feels that the full height windows and proposed balconies will negatively impact on privacy and the general height/bulk of the development will impact upon access to sunlight. | Object            | All major openings comply with the Acceptable Development criteria of the R-Codes relating to visual privacy with the exception of the living and dining room balcony on the first floor and the sitting room balcony on the second floor. As the affected area is utilized as outdoor living space, a condition of approval is recommended to require the provision of screening measures. In doing so the proposal will be fully compliant with the privacy requirements of the R Codes. | Noted                              |

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|    |   |        |  |       |
|----|---|--------|--|-------|
|    |   |        | <p>The adjoining affected residence will be protected from the west afternoon sun due to the orientation of the development. This is seen to be a desirable outcome in relation to passive solar design principles as it prevents low angle afternoon sun entering the house. Notwithstanding, the substantial setback of the proposed development will assist in ameliorating the overall shadow impact to the adjoining affected property. Morning sun will continue to be accessible.</p> |       |
| 2. | <p>The objector also raises concern regarding overshadowing from the proposed development particularly of the front garden as this is the only outdoor living area available to the property.</p> | Object | <p>Overshadowing to the south is, at 27%, marginally more than the level that would be deemed "acceptable" by the R Codes. The shadow at 12pm, 21 June will fall upon the northern elevation of the dwelling (which contains no major openings), the driveway, carport and a small area of the front yard. Approximately 79sqm of the front yard area will remain unaffected by shadow.</p>  | Noted |

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**REFERRALS TO GOVERNMENT AGENCIES**

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

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

There are no financial implications for the City to consider as part of this application.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

There are no strategic and risk management implications for the City to consider as part of this application.

**POLICY IMPLICATIONS**

Residential Development Policy 06-008 exists to control building setbacks from secondary streets throughout the City of Melville. The Policy specifies a setback standard of 3m minimum.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The subject application is for a three storey single house on a corner lot. Variations relate to the secondary street setback for all three levels, overshadowing to the south adjoining lot and overlooking from proposed balconies on the first and second floors.

**COMMENT**

The proposal satisfies all of the relevant provisions within the Community Planning Scheme 5, the R-Codes and Council policies with the exception of the following:

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### Secondary Street Setback

City's Policy 06-008 relating to Residential Development prescribes a minimum setback standard of 3m from a secondary street boundary. Approximately 3m of the northern elevation protrudes into the secondary street (Helm Street) setback area. The remainder of the elevation is setback between 3m and 3.7m from the northern boundary.

As outlined above, the majority of the building setback exceeds the 3m requirement. The offending portions of the development relate to the patio on the ground floor and balconies of the first and second floors. Being open structures, the balconies allow visual depth and as such ameliorate the impact of bulk onto the streetscape. The balconies also increase passive surveillance of the street. The ground floor patio is also to be of open construction but as it is mostly screened from view by a dividing fence, it has a negligible impact to the streetscape.

Formal consultation was undertaken and no comments were received in relation to the setback variation being sought. The applicant has provided the following comments in justification of the variations:

- *"In terms of impact, the proposed variation involves an area of the building measuring 2.6m<sup>2</sup> and a setback variation of 1.0m for a length of 2.6m. Clearly, this variation is very minor and has resulted predominantly as a result of the angle of the lot where it adjoins the secondary street.*
- *The building is well articulated in its design and features a façade having high visual interest. The minor setback variation will not result in any significant adverse impact on the streetscape."*

Given the minor nature of the variation, coupled with the fact that there were no objections received, the variation is supported in this instance.

### Overshadowing

The proposed development will overshadow 27% of the southern adjoining lot (4 View Road). The Acceptable Development criteria of the R Codes specifies a maximum of 25% overshadowing in this context.. A variation of 2% is therefore proposed.

The adjoining lot to the south is approximately 325sqm in area, having been created via the conversion of an original built strata title into a survey strata title. The resultant lot is therefore considerably undersized given the R 17.5 density of the locality, and which in normal circumstances, prescribes a minimum site area of 500sqm. This reduced adjoining lot size presents an obvious constraint for the applicant in developing his lot, particularly in respect of overshadowing.

The proposed development has therefore been assessed in accordance with Clause 6.9.1 "Design for Climate Requirements". In addition the applicant has provided justification for the departure to the Acceptable Development requirements, which states:

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*“The amended plans show that 89.9m<sup>2</sup> of the adjoining lot will be affected by overshadowing, which equates to 27.66% of the area of the adjoining property. The variation has therefore been reduced to 2.66%, which is minor.*

*The overshadowing impact will affect the roof, front driveway and portion of the front setback area of the adjoining dwelling. The following is noted with reference to the performance criteria of the Codes in Part 6.9.1 P1:*

- *The proportion of shadowing affecting the driveway is in the order of 19m<sup>2</sup>, which is already affected by the presence of trees at the boundary and is also the location used for vehicle parking, given that no carport exists.*
- *In addition, approximately 10m<sup>2</sup> of overshadowing affects the roof of the adjoining dwelling.*
- *Taking the above into consideration, the level of overshadowing outside of the driveway and roof, affecting outdoor space in the front setback area, is approximately 18%.*
- *Furthermore, the proposed shadowing will not affect any open space to the rear of the adjoining unit.”*

In view of this, it is considered that the minor variation to the level of overshadowing can be accommodated without undue compromise to the amenity levels currently enjoyed by the occupiers of the adjoining lot. The proposed variation to overshadowing levels is supported on that basis.

#### Privacy Setbacks

The proposed development satisfies the Acceptable Development criteria of the R-Codes relating to visual privacy with the exception of the setbacks proposed to the balconies on the first and second floors. The non-compliant balconies are:

- the first floor retreat/master bedroom balcony which has an aspect towards the south.,
- the second floor bedroom 2 and 3 balcony also with southerly aspect,; and
- the second floor sitting room balcony which has an aspect to the east.

The 7.5m R Code setback requirement from the nominated balconies is compromised by 1.0m in respect of those that have a southerly aspect, and a 0.2m in respect of the second floor sitting room balcony which has an aspect to the east.

The balconies on the first and second floors facing south are considered to achieve the objectives of the Performance Criteria of Clause 6.8.1 of the R Codes in that overlooking into active habitable spaces and outdoor living areas is minimised. The balconies are predominantly screened by existing vegetation and overlook the existing driveway area and carport which are visible from the street in any case. Furthermore, there are no major openings on the north elevation of the adjoining affected residence eliminating the potential for overlooking into active habitable rooms. Notwithstanding the objection raised, these balconies are considered acceptable without the need for additional screening measures.

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With respect to the second floor sitting room balcony however, it is considered that the potential for overlooking from it would compromise the neighbours privacy and amenity. As such additional screening measures are required, and a condition of planning approval to that effect is recommended.

Clause 7.8 of CPS No 5

The proposed development has also been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5, particularly with part (b), (c), (h), (i), (j) and (k) which relate to:

- (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 siting 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;*

Notwithstanding this, it is considered that the development can take place without compromise to the amenity provisions of CPS5, and should be supported on that basis.

## **CONCLUSION**

The proposal development is considered acceptable in principle, subject to the imposition of a special condition to require that additional screening measures are incorporated in respect of the upper floor sitting room.

## **OFFICER RECOMMENDATION (INSERT ITEM NUMBER)**

**(APPROVAL)**

- A) That the application for a new three-storey single house on Lot 400 (18) Helm Street, Mount Pleasant be approved subject to the following Special Conditions and Standard Conditions:**

**SPECIAL CONDITIONS:**

- 1. In order to comply with Clause 6.8.1(A1) of the Residential Design Codes, the east side of the second floor sitting room balcony as shown 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).**

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**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. Roofing materials being of a non-reflective material (Zinc or white colour metal roofing may only be permitted through special planning consent).
  4. Prior to the commencement of any construction the City 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.
  5. Ground levels may not be changed other than approved as part of this approval.
  6. 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.
  7. 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.
  8. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.
  9. All unused crossover(s) are to be removed and the kerbing and road verge are to be reinstated at the owners full cost to the satisfaction of the Manager Planning and Development Services.
- B) The adjoining property owner who objected to the development be advised in writing of A) above.**