



— City of —  
**Melville**

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**27 OCTOBER 2009**

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

**DISTRIBUTED: 30 OCTOBER 2009**



— City of —  
**Melville**

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

**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT  
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,  
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 27 OCTOBER 2009.**

**PRESENT**

D Vinicombe (Presiding Member)  
H Shigeyoshi  
T Capobianco  
G Russell  
C Chew  
R Bailey

Manager Planning & Development Services  
A/ Planning Services Coordinator  
Principal Building Surveyor  
Building Surveyor  
Environmental Health Officer  
Technical Officer

**APOLOGIES**

R Jessup  
J Gonzalez

Senior Horticultural Technical Officer  
Planning Services Coordinator

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

**ELECTED MEMBERS' ATTENTION**

Nil

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

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

## DISCLOSURE OF FINANCIAL INTERESTS LOCAL GOVERNMENT ACT 1995

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

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

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

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

### Meeting to be informed of disclosures

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

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

### Disclosing members not to participate in meetings

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

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

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

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

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

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**U09/0138 - (PS) FOUR (4) TWO-STOREY GROUPED DWELLINGS ON LOT 3 (52)  
WADDELL ROAD, BICTON (REC) (ATTACHMENT)**

Ward : Bicton/Attadale  
Category : Operational  
Application Number : DA-2009-845  
Property : 52 Waddell Road, Bicton  
Proposal : Four (4) Two-Storey Grouped Dwellings  
Applicant : Michael Little Designs  
Owner : Stapledon Pty Ltd  
Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
Responsible Officer : Mr Julio Gonzalez  
A/Manager Planning and Development Services  
Previous Items : Not Applicable

**AUTHORITY / DISCRETION**

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

**U09/0138 - (PS) FOUR (4) TWO-STOREY GROUPED DWELLINGS ON LOT 3 (52)  
WADDELL ROAD, BICTON (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Application is made for the development of four (4) two-storey grouped dwellings.
- Three of four dwellings are compliant with acceptable development provisions of the R-Codes and as such, do not form part of this report.
- The fourth and rear-most dwelling has been assessed as having one (1) setback variation to the southern boundary and three (3) setback variations on the eastern boundary.
- No objections have been received relative to the eastern variations whilst one objection has been received relative to the southern variation.
- The variations the subject of the rear dwelling have been considered and deemed to satisfy the Performance Criteria of the R-Codes.
- Application is recommended for conditional approval.



**BACKGROUND**

The subject site currently consists of a built-strata (duplex) development. This application proposes to redevelop the site by complete demolition of the existing building and the development of four (4) two-storey grouped dwellings.

The application has been the subject of consideration by Development Advisory Unit (DAU) given a variation to the Acceptable Development Standards of the R-Codes and the submission of an objection with regard to the variation. For the intent of clarity and brevity, the following report shall only refer to development considerations applicable to Unit 4 given the other three units are entirely compliant with the provisions of the R-Codes and relevant Council Policies.

**U09/0138 - (PS) FOUR (4) TWO-STOREY GROUPED DWELLINGS ON LOT 3 (52)  
WADDELL ROAD, BICTON (REC) (ATTACHMENT)**

**Scheme Provisions**

MRS Zoning : Urban  
CPS 5 Zoning : Commercial Centre Frame  
R-Code : R50  
Use Type : Residential  
Use Class : 'D' - Discretionary

**Site Details**

Lot Area : 283.00sqm + 37.13sqm proportionate share of common area  
Retention of Existing Vegetation : Not Applicable  
Street Tree(s) : To be retained  
Street Furniture (drainage pits etc) : Not Applicable  
Site Details : Refer photo above

U09\_0138\_October\_2009.pdf A copy of the plans forms part of the Attachments to the Agenda, which were distributed to Members of the Council on 30 October 2009.

**DETAIL**

**Development Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Open Space	45% (127sqm)	47% (134sqm)	Complies		
Building Height	8.0m (eaves) 10.5m (max)	5.5m (eaves) 7.0m (max)	Complies		
Car parking	2	2	Complies		
<b>Lot Truncation</b>	<b>3.0m (front)</b>	<b>0m</b>	<b>Does not Comply</b>	<b>MPDS</b>	

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**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
<b>Eastern GF Garage</b>	<b>1.0m</b>	<b>0m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>Eastern GF Kitchen / Dining / Alfresco</b>	<b>1.5m</b>	<b>1.1m</b>	<b>Does not comply</b>	<b>MPDS</b>	
<b>Eastern FF WIR / Bed 1 / Bed 2</b>	<b>1.5m</b>	<b>1.1m</b>	<b>Does not comply</b>	<b>MPDS</b>	
Northern GF Bed 3 / Bath	0m	0m	Complies		
Northern GF Alfresco	1.5m	1.6m	Complies		
Northern FF WIR / ENS	1.2m	1.5m	Complies		
<b>Southern GF garage</b>	<b>1.0m</b>	<b>0m</b>	<b>Does not comply</b>	<b>MPDS</b>	<b>Southern GF garage</b>
Southern FF Bed 2 / Living	2.5m	7.3m	Complies		Southern FF Bed 2 / Living

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

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to Acceptable Criteria of R-Codes  
 Support/Object: Two (2) support, one (1) objection

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Submission Number	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold / Not Uphold)
1.	No Comment	Support	Noted	Uphold
2.	No Comment	Support	Noted	Uphold
3.	Concerns are expressed in relation to the residential amenity levels currently enjoyed by the occupiers of 4/48-50 Waddell Road, Bicton by virtue of loss of sunlight into outdoor living area due to the proposed garage boundary wall.	Objection	All aspects of non-compliance with the Acceptable Development Criteria have been assessed against the relevant Performance Criteria of the R- Codes. It is concluded that the variation satisfies the Performance Criteria (refer to comments section below for detailed assessment).	Not Uphold

**REFERRALS TO GOVERNMENT AGENCIES**

Not Applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

Not Applicable.

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Not Applicable.

**POLICY IMPLICATIONS**

Not Applicable.

**U09/0138 - (PS) FOUR (4) TWO-STOREY GROUPED DWELLINGS ON LOT 3 (52)  
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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.

**COMMENTS**

The proposed development has generally been designed to comply with the provisions of the R-Codes and CPS No. 5. However, the design for the fourth and rearmost dwelling incurs a number of setback variations to allow the development to make best and effective use of the subdivision of the parent lot. Specifically, these variations relate to one (1) setback variation on the southern façade and three (3) setback variations on the eastern façade.

Wall on the boundary – Ground Floor Eastern Boundary

The proposed boundary wall refers to the eastern side ground floor garage wall. This wall measures 7.3 metres (length) by 2.8 metres (height), as such requires a setback of 1.0 metre.

The Performance Criteria of Clause 6.3.2 of the R-Codes 'Buildings on Boundary' allows buildings to be built up to boundaries other than the street boundary where it is desirable to do so in order to:

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

It is considered that the development will make effective use of the space available to it and will not result in any adverse impact upon the levels of residential amenity currently enjoyed by the occupiers of the adjoining residence to the east in terms of access to sunlight and ventilation. The side elevation has been designed without major openings to provide for privacy and the entire eastern façade wall has been articulated to reduce the impact of bulk. Furthermore, the property affected by the boundary wall has its main openings and outdoor living area facing north.

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The setback variation is therefore supported in this instance given that along with no objections to the setback variation being received from the affected neighbour, the wall is otherwise considered to comply with the abovementioned Performance Criteria.

Wall on the boundary – Ground Floor Southern Boundary

The southern side wall of the proposed garage has a total length of 6.1m and a height of 2.8m accordingly, the acceptable development provisions state a 1.0 metre setback is required.

The adjoining neighbours at 4/38-50 Waddell Road have objected to the setback variation of the subject wall on the grounds of loss of sunlight into their outdoor living area.

In considering the solar impact and Performance Criteria provisions contained under Clause 6.3.2 of the R-Codes, it is of the City's view that the existence of a zero lot parapet wall on the southern side boundary with the objectors' property will make effective use of space, and enhance privacy and amenity for the occupiers of the proposed residence, whilst retaining amenity levels for the benefit of residents of the adjoining lot to the south. The position of the parapet wall to the south side is unlikely to prejudice the availability of direct sun to habitable rooms and outdoor living areas for the adjoining property to the south, as the bulk of the length of the wall abuts an existing garden shed. The remainder of the dwelling is set well back from the boundary and thus creates little bulk and no additional overshadowing beyond that already created by the existing dividing fence along the boundary.

Whilst the concerns expressed by the neighbour are acknowledged, as the proposed garage parapet wall is considered acceptable when judged against the Performance Criteria of Clause 6.3.2 of the R-Codes and the amenity provisions of Clause 7.8 of CPS No 5, the subject setback variation is supported.

Buildings Setback from the Boundary – Ground Floor Eastern Boundary

The entire eastern aspect of the ground floor wall is proposed to be setback 1.1 metres in lieu of 1.5 metres. The wall in question has an overall length of 20.29 metres and a height of 2.8 metres.

The Performance Criteria of Clause 6.3.1 requires any setback which varies from that required under Table 2A or 2B to satisfy the following:

- *Provide adequate direct sun and ventilation to buildings;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with protection of access to direct sun for adjoining properties;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties; and,*
- *Assist in protecting privacy between adjoining properties.*

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In the case of the subject wall, the entire eastern side façade is well articulated which effectively ameliorates the impact of building bulk. This is achieved by the variety in wall setbacks, although discounting the alfresco which is an open structure and thus does not add to the impact of building bulk. Additionally, given the wall is situated on the eastern side, the effects of overshadowing or loss in ventilation are negligible.

In light of the above and as the adjoining residence affected by the subject variation has raised no objections, the proposed setback is supported.

**Buildings Setback from the Boundary – Upper Floor Eastern Boundary**

The entire eastern upper floor wall is proposed to be setback 1.1 metres in lieu of 1.5 metres. The subject wall has an overall length of 11.24 metres and a height of 5.5 metres.

The Performance Criteria of the R-Codes (Clause 6.3.1) requires buildings to be setback from boundaries so as to provide adequate sun and ventilation to the building and open spaces on the subject lot and adjoining property, and ameliorate the impacts of bulk and protect privacy.

It is considered that the setback variation shall have minimal impact to the levels of residential amenity currently enjoyed by the occupiers of the adjoining residence to the east in terms of access to sunlight and ventilation given the north-south orientation of the subject wall (i.e. the R-Codes consider shadow impact to southern lots). Privacy is also maintained as the subject wall does not contain any major openings. With regard to impacts of bulk, the façade of the subject wall will be facing the adjoining residences carport and portion of wall which is setback only 1.5 metres from the boundary. Accordingly, the setback variation to the subject wall shall have negligible impact as there are no areas of prominent open space (i.e. backyard) or extensive setback which would provide an extensive view of the subject wall.

Accordingly, the wall is deemed to satisfy the performance criteria, and as the affected adjoining landowner has not objected to the wall, the setback is supported.

**CONCLUSION**

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

**U09/0138 - (PS) FOUR (4) TWO-STOREY GROUPED DWELLINGS ON LOT 3 (52)  
WADDELL ROAD, BICTON (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION**

**APPROVAL**

- A) That the application for four two-storey grouped dwellings on Lot 3 (52) Waddell Road, Bicton 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. Prior to the issue of a Building Licence the land the subject of this approval being subdivided/amalgamated in the manner shown on the approved plans with the lot(s) being depicted on an approved Diagram of Survey, which is in order for dealing.**
- 3. A 3.0 metre front truncation abutting the driveway and a 4.24 metre truncation at the rear of each proposed unit development being provided as marked in 'RED' on the approved plans.**

**Standard Conditions:**

- 4. All stormwater and drainage run off to be contained on site. An onsite stormwater drainage system with a capacity to contain a 1:100 year storm of twenty-four (24) hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Planning and Development Services. All downpipes to be connected to soakwells. The proposed stormwater drainage system is required to be shown on the building licence submission for approval prior to the commencement of construction.**
- 5. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
- 6. 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 4m<sup>2</sup> and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.**
- 8. 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 approval of the Manager Planning and Development Services.**

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9. 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 approval of the Manager Planning and Development Services.
  10. 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.
  11. 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.
  12. The development is to be connected to the Water Corporation's reticulated sewerage system.
  13. Ground levels may not be changed other than approved as part of this approval.
  14. Maximum vehicles access gradient ratio of 1:5 being achieved.
- B) The adjoining property owners to the development be advised in writing of A) above.