

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- The application seeks Planning Approval for a two single-storey Aged or Dependent Persons' Dwellings on a corner lot.
- Due to the lie of the land and drainage network in the locality, the property has been the subject of major flooding during heavy deluge which has caused the property owner's considerable stress and financial hardship.
- Council has previously undertaken rectification work in the locality in an attempt to reduce the potential for drainage overflows onto the subject property.
- The owners recently approached Council to consider the option of subdividing into two lots in order to financially assist redevelopment of the property at a higher level, so as to avoid further flood inundation.
- Whilst the property is too small to allow subdivision under a single-house of grouped-dwelling arrangement, the Residential Design Codes of WA (R-Codes) provides for a density bonus to apply to reduce the minimum site area requirement by one third for Aged or Dependent Person' Dwellings.
- The proposed development seeks variations to the Acceptable Development provisions of the R-Codes, relative to aged or dependent person' dwellings: these consisting of a front setback variation and, plot ratio area and minimum number of dwellings permissible under Clause 7.1.2 of the R-Codes.
- Furthermore, the application seeks a variation to Clause 5.2 of the City of Melville Community Planning Scheme No. 5 (CPS5) which prevents the general application of the R-Codes density bonus provisions.
- Notwithstanding, Clause 4.3 of CPS5 provides Council the power to vary Clause 5.2 above subject to a Special Majority decision of the Council.
- The variations have been the subject of neighbour consultation with no objections being received.
- As far as can be determined, the concessions to the density bonus and associated Special Majority decision of Council in allowing such a variation to the provisions of CPS5 have not been used previously.
- Notwithstanding, it is noted that the major provider of aged and dependant persons' accommodation in the State, the Department of Housing (DoH), are specifically exempt from CPS5 R-Code density provisions. In recent times, DoH has gained approvals (through the State Administrative Tribunal) for development which exceeds the density provisions of CPS 5.
- Whilst Council could undertake further works on the verge to increase levels and reduce the potential for flooding, the option presented by the applicant of raising the finished floor levels 500mm above the floor levels of Ainslie Court and Fredrick Baldwin Park lake (to be established) offers the best solution to the issue.
- Given the extreme circumstances that have lead to this application, the proposal is considered to be a special case which warrants favourable consideration to a variation to CPS5 provisions which would otherwise prevent a density bonus being applied in this instance.
- The application is recommended for conditional approval.

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**



## **BACKGROUND**

### **Scheme Provisions**

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

### **Site Details**

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

[\*\*3176 25 Ainslie Court Aged and Dependant Person's Dwellings Photo's\*\*](#)

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**DETAIL**

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

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

(Note: \*non-compliance in bold)

**Setbacks**

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

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

(Note: \*non-compliance in bold)

**PUBLIC CONSULTATION/COMMUNICATION**

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

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

In addition to the formal consultation undertaken with regard to this application, community consultation received from the Age-Friendly Cities project indicated a desire by older people to have the opportunity to downsize within their existing area of residence. The recent review of Age-Friendly Melville – Directions for Seniors Strategy 2010-2012 again highlights the desire for seniors to downsize accommodation and the lack of suitable smaller detached homes or units in the City of Melville. A strategy within Directions for Seniors makes particular reference to the City “facilitating suitable affordable housing options to allow seniors to remain in contact with their social networks”.

**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 in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC AND RISK MANAGEMENT IMPLICATIONS**

Strategic Implications

There are no strategic implications for Council.

Risk Management Implications

Council is advised that the subject property has been the subject of flooding during the course of several years which have resulted from the levels associated with the land and the drainage network. Essentially the drainage problems extend from overflow of the lake at Frederick Baldwin Park. Notwithstanding works carried out at the property by Council and to the drainage system by Water Corporation, drainage issues still exist in the locality. The Finished Floor Level (FFL) of the existing dwelling is 7.6m and the flood levels have been recorded at 7.8m. The proposal provides for the FFL to be increased to 8.1m (Unit 1) and 8.2m (Unit 2), to provide sufficient (300mm) freeboard to the recorded flood levels whilst at the same time providing for levels relatively consistent with adjoining development (FFL's of 7.9m and 8.43m).

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

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

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

Council could also undertake further works within the verge area adjoining the property and raise the driveway and fencing associated with the property. The increased level of the verge is not however expected to provide the same measure of flood protection as proposed by raising the overall levels of development as proposed by this application.

It is noted that discussions with Water Corporation have indicated that drainage issues became apparent in the locality following subdivision work and the removal of the pre-existing pine plantations and the consequential impact on the hydrology of the location. Removal of the root structures associated with the plantation has resulted in the ground water levels rising significantly and contributing to the flood conditions. The flooding first became evident in 1987 following a 1 in 50 year rainfall event. Subsequently the Water Corporation "took over" the regional drainage responsibilities for this area and declared it a main drainage catchment and installed pumping plant and a drainage outfall from Frederick Baldwin Lake. The Water Corporation's Operating Licence requires it to provide flood protection for a 1 in 5 year event.

The flooding experienced at 25 Ainslie Court is only evident in major storm events in excess of the 1 in 5 year and can be attributed to the high lake levels in major storm events and the impact of those high water levels on the City's local drainage networks which drain into the lake. As the area is a declared drainage catchment, the Water Corporation levies all homeowners in the catchment with annual main drainage charges in addition to sewerage rates.

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

The Water Corporation also advised that although it requires landowners in the locality to contribute to a rate for main drainage, significant works would be required to further improve the drainage network which are not funded or a requirement of their Operating Licence. Additional drainage works have not been planned or budgeted for in the foreseeable future as the current flood levels do not exceed the Water Corporation's Operating Licence of providing suitable drainage for a 1 in 5 year storm event.

The City's Executive Engineer Design has advised that similarly the City would have a significant cost exposure to any drainage improvement works if an attempt was made to flood proof the lot. Further, it would be appropriate to ensure that any remedial development on the property be subject to the applicant confirming the 100 year flood level and provide for any development to have a finished floor level of 300mm above that flood level. The flood level is not expected increase significantly above those recorded on 22 March this year as that storm event has been recognised as a 1 in 80 year event. Accordingly, the fill levels to be established for the 1 in 100 year storm event and associated additional fill are not expected to raise the levels on the site significantly above those currently proposed.

Further, Council could resolve to initiate an amendment to increase the density coding of the subject (and adjacent) properties to R25. This may be considered as either a separate amendment or alternatively by considered as part of the Scheme review process.

## **COMMENT**

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

### Drainage Considerations

It is noted that the property has been the subject of major flooding during heavy deluge which has caused the property owner's considerable stress and financial hardship. Flooding at the property has occurred periodically since the mid 1980's when the property was initially developed by the applicant. Whilst the exist dwelling could have been constructed at a higher level, the finished floor level of the existing development is set a t a reasonable level relative to the road - 7.6m. The road adjacent the property at the kerb line ranges from 7.47m to 7.86m, with an average level of 7.665m. Accordingly, the existing level is 65mm below the average level of the road and 130mm above the lowest point of the road (immediately adjacent the crossover). Since that time flooding has occurred on at least 12 occasions. The most recent flooding event on 22 March 2010 has been documented and forms an Attachment to this report.

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

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

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

Density Considerations

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

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

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

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

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

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

Finally, it is noted that the Department of Planning has indicated that the current restrictions applied by Clause 5.2 are unlikely to be transferred to Community Planning Scheme No 6 under the current review.

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

### R-Code Considerations

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

Maximum Plot Ratio

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

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

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

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

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

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

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

Number of Dwellings per Single Development

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

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

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

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

Front Setbacks – Primary Street

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

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

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

With regard to Unit 1, it is considered that the variation to the minimum building setback will have limited impact to the existing streetscape given the building intrusion relates to an open-side portico area. Compared to the intrusion of a main part of the dwelling which can result in excessive building bulk and streetscape impact by virtue of its solid walls, the portico is to have a far lesser impact.

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

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

Accordingly, the front setback variations are supported.

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

Front Setback – Secondary Street

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

Clause 7.8 of CPS5

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

- (b) The orderly and proper planning of land within the area;*
- (c) The existing and likely future amenity of the area.*
- (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.*

In addition to comments provided previously in regards to Density Considerations, the proposal (and its variations) where considered in the context of existing development on the adjoining lots is considered to be entirely consistent with the established residential character and orderly and proper planning for the locality.

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

**CONCLUSION**

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

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**OFFICER RECOMMENDATION (3176)**

**SPECIAL MAJORITY APPROVAL**

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

**SPECIAL CONDITIONS:**

- 1. At least one occupier of Units 1 and 2 must be disabled, a physically dependent person or aged over 55, or is the surviving spouse of such a person. The owner of the land is to enter into a legal agreement, binding the owner, their heirs and successors in title requiring that this provision be maintained.**
- 2. Units 1 and 2 are to comply with the following provisions of Clause 7.1.2 of the Residential Design Codes of WA:**
  - i) Provision of an access path from the street frontage, car parking area or drop-off point in accordance with the requirements of AS4299:1995 Clause 3.3.2.**
  - ii) Level entry to the front entry door with preferably all external doors having level entries (diagrams, figure C1 of AS4299:1995).**
  - iii) All external and internal doors to provide a minimum 820mm clear opening. (AS4299:1995 Clause 4.3.3).**
  - iv) Internal corridors to be a minimum 1000mm wide, width to be increased to a minimum of 1200mm in corridors with openings on side walls.**
  - v) A visitable toilet is to be provided, preferably located within a bathroom in accordance with AS4299:1995, Clause 1.4.12.**
  - vi) Toilet and toilet approach doors shall have a minimum 250mm nib wall on the door handle side of the door and provision for the installation of grab rails in accordance with AS4299:1995, Clause 4.4.4 (h).**
  - vii) One visitor car space is to be provided. The visitor car space shall provide a wheelchair accessible parking space and be a minimum width of 3.8m and designed in accordance with AS4299:1995, Clause 3.7.1.**
- 3. The applicant is to establish with the Water Corporation the 1 in 100 year flood water level for the Fred Baldwin Park lake and the associated flood level for Ainslie Court in front of the subject property. Once these levels are established, the minimum finished floor level of the proposed development is to be 300mm above the highest flood level.**

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

**STANDARD CONDITIONS:**

- 4. 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.**
- 5. All Stormwater and drainage run off to be contained on site. An onsite stormwater drainage system with a capacity to contain a 1:100 year storm of a twenty-four (24) hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Planning and Development Services. All downpipes to be connected to soakwells. The proposed stormwater drainage system is required to be shown on the Building Licence submission for approval prior to the commencement of construction.**
- 6. Nothing in this Planning Approval authorises any works outside the surveyed boundaries of the lot the subject of this Planning Approval.**
- 7. 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.**
- 8. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).**
- 9. Prior to the commencement of any construction the Council requires the provision of a suitable receptacle for the containment of windblown rubbish. The receptacle (generally a wire mesh cage) should have maximum openings of 100mm; have a base of 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overfill.**
- 10. All unused crossover(s) to be removed and the kerbing and verge to be reinstated at the applicant/owner's full expense to the satisfaction of the Manager Planning and Development Services.**

**LATE ITEM - P10/3176 - PROPOSED TWO SINGLE-STOREY AGED OR DEPENDENT PERSONS' DWELLINGS ON LOT 311 (25) AINSLIE COURT, KARDINYA (SMREC) (CONFIDENTIAL ATTACHMENT)**

- 11. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Council Plan Nos 528A2-91E (barrier kerb crossover), 284A2/84E/7 (minimum clearances) unless otherwise specified by this approval. Where any damage is caused to a Council facility, tree or street furniture, or where alteration to a Council facility is required, the cost of the applicant shall pay for such damage or alteration. A concrete apron having width of 0.75m must be installed between a brick paved crossing and the bitumen surface of a road. The cost of damage to a street tree will be determined in accordance with the "Tree Amenity Valuation Formula" adopted by the Council.**
- 12. 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.**

**ADVICE NOTES:**

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