

## **REPORTS AND RECOMMENDATIONS**

### **FOR THE**

### **DEVELOPMENT ADVISORY UNIT**

### **MEETING**

### **HELD ON**

**TUESDAY, 13 APRIL 2021**

1. This Meeting makes Recommendations to the Manager Statutory Planning.
2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Peter Prendergast, Manager Statutory Planning. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: [peter.prendergast@melville.wa.gov.au](mailto:peter.prendergast@melville.wa.gov.au) or Tel 9364 0626.
3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests should be referred to an Elected Member of Council for the Ward within which the development application is located. An Elected Member may request that the application be determined by Council. Any call up request from an Elected Member shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

**DISTRIBUTED: FRIDAY, 16 APRIL 2021**



**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, 13 APRIL 2021**

**PRESENT**

P Prendergast  
M Scarfone  
B Ashwood  
T Cappellucci  
R Tu

Manager Statutory Planning  
Planning Services Coordinator  
Senior Planning Officer  
Senior Planning Officer  
Planning Officer

**DISCLOSURES OF INTEREST**

**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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**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

Ward : Bateman - Kardinya - Murdoch Ward  
 Category : Operational  
 Application Number : DA-2021-80  
 Property : Lot 124 (No. 7) Kardinya Road, Kardinya WA 6163  
 Proposal : Additions and alterations to existing house and new two storey rear house  
 Applicant : DN Studio  
 Owner : Davor Nedic  
 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 Statutory Planning  
 Previous Items : N/A

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the 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 the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>When the 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>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163  
(REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Development approval is sought for additions and alterations to the existing house and a new two storey rear house at 7 Kardinya Road, KARDINYA WA 6163.
- The subject lot has recently received conditional approval for subdivision (Doc Ref: DA-2020-1235). Subdivision clearance and the subsequent issue of titles remain outstanding.
- The proposed development does not compromise the approved plan of subdivision.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the Deemed-to-Comply provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies
- As a performance assessment against the design principles of the R Codes and Local Planning Policy is sought, the proposal was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making. Following this consultation three written submissions were received, each expressing concern that the development would have adverse amenity impacts.
- Notwithstanding the submissions received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.



**Figure 1- Aerial Photography**

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R25
Use Type	:	Residential
Use Class	:	Permitted

**Site Details**

Lot Area	:	744.66m <sup>2</sup>
Retention of Existing Vegetation	:	No
Street Tree(s)	:	No
Street Furniture (drainage pits etc.)	:	Yes, existing footpath and power pole on north-west corner. To be retained.
Site Details	:	Refer to Figure 1 above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 16 April 2021.

**DETAIL**

The proposal has been assessed against all the relevant provisions of LPS6, the Deemed-to-Comply provisions of the R-Codes (SPP 3.1 Vol. 1) and applicable local planning policies and Council Policies. A performance assessment is sought in respect of a number of the proposed building elements, and these have been assessed against the associated design principles of the R Codes as outlined in the table below.

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
R-Codes Clause 5.1.2 – Street Setback / Local Planning Policy 3.1 Part 1 Clause 2.3	3m	Setback at 2.6 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
R-Codes Clause 5.1.3 – Lot Boundary Setbacks	Rear House Ground Floor Scullery and Kitchen to South external boundary – 1.5m	1.4m	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

Design Element (cont.)	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
R-Codes Clause 5.1.3 – Lot Boundary Setbacks	Front House Alfresco to South internal boundary – 1.5m	1m	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
R-Codes Clause 5.1.3 – Lot Boundary Setbacks	Rear House Ground Floor master bedroom to powder room on east external boundary – 1.5m	1.1m	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
R-Codes Clause 5.1.3 – Lot Boundary Setbacks / Local Planning Policy 3.1 Boundary Walls	Rear House Ground Floor Garage Internal Boundary Wall – Maximum 3.5m, Average 3m in height	Maximum 3.6m Average 3.25m in height	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
R-Codes Clause 5.1.4 – Open Space	50%	Front Dwelling 48% Rear Dwelling 45.5%	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
R-Codes Clause 5.2.1 – Setback of Garages and Carports	3m	2.6m	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
R-Codes Clause 5.2.4 – Fences and Street Walls / LPP3.1 Part 4	Pier width maximum 350mm Fencing infill maximum 1.8m, to be visually permeable above 1.2m	Pier width maximum 610mm Infill maximum height 2m, maximum 2m solid	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

Design Element (cont.)	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
R-Codes Clause 5.3.7 – Site Works / R-Codes Clause 5.3.8 – Retaining Walls	Excavation within 3m of the street alignment shall not exceed 0.5m	Maximum excavation of 0.9m on the northwest corner	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
R-Codes Clause 5.4.1 – Setback of Garages and Carports	Front House First Floor Retreat to internal South boundary – 6m	4.6m	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

## STAKEHOLDER ENGAGEMENT

### I. COMMUNITY

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 3.4(a)
Support/Object:	Three objections received.

A summary of the objections received and the City's response is provided in the table below.

Summary of Objections Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Adverse visual privacy impacts into bedrooms of adjoining southern property	The development meets the deemed-to-comply requirements of the R-Codes in terms of visual privacy for the adjoining property.	Not Uphold.
Adverse visual privacy impacts from the first floor and ground floor into rear outdoor living area and pool of adjoining western property.	The development meets the deemed-to-comply requirements of the R-Codes in terms of visual privacy for the adjoining property.	Not Uphold.
Removal of asbestos create adverse health impacts	This is not a material planning consideration.	Not Uphold.

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

Summary of Objections Raised (cont.)	Comments	Action (Condition/ Uphold/ Not Uphold)
The development of two storey dwellings would devalue adjoining properties	Property value is not a material planning consideration. The proposed development meets the deemed-to-comply requirements of the R-Codes in terms of building height.	Not Uphold.
Parapet wall height on eastern boundary	The development meets the deemed-to-comply requirements of the R-Codes in terms of lot boundary wall for the adjoining property.	Not Uphold.
Visual privacy concerns.	The development meets the deemed-to-comply requirements of the R-Codes in terms of visual privacy for the adjoining property.  Refer to the comments section of this report for lot boundary setback.	Not Uphold.
Retaining wall and fence height at the front	Has been assessed against the relevant design principles of the R Codes. Refer to the comments section of this report for Retaining wall and Fence within the front setback area.	Not Uphold.
Overshadowing concerns.	Whilst the proposed development includes a setback of 1.1m in lieu of 1.5m, this does not result in any variation to the deemed to comply requirements in respect of overshadowing.  Refer to the comments section of this report for lot boundary setback.	Not Uphold.

**II. OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies/consultants is required.

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

Should the City refuse the application or impose a condition that the applicant does not agree with they have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no financial implications for the City relating to this proposal.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There is no strategic, risk, or environmental management implications with this application.

**POLICY IMPLICATIONS**

There are no policy implications for the City relating to this proposal.

**COMMENT**

The key issues for consideration in respect of this proposed development relate to:

- The lot boundary setback on the ground floor of the proposed rear dwelling and its associated impacts towards the adjoining property to the east, and
- The proposed retaining wall and fence within the front setback area.

These matters relate to the concerns raised by the submission received from the neighbour to the east. The concerns raised by the two other submissions meet the relevant deemed-to-comply provisions of the R-Codes as outlined by the Table above and as such no further commentary is provided in this report.

**Eastern lot boundary setback to the ground floor of the proposed rear dwelling**

The ground floor east facing wall (master bed to powder room) is setback 1.1m from the boundary. A performance assessment against the design principles of Clause 5.1.3 of the R Codes has been undertaken, and the proposed wall is considered to be acceptable as:

- Being single storey in nature, it does not result in any adverse bulk impacts towards the adjoining property.
- The wall incorporates window openings which provide direct sun and ventilation to the proposed house, but as these are at ground floor level, and there is a dividing fence between it and the neighbouring property, there is no resultant loss of privacy for the neighbour.

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

- The wall being single storey in nature and located to the west of the neighbouring property, will not result in any adverse overshadowing impacts towards the rear garden area of that adjoining property. It should be noted that the overall shadow cast from this proposed development satisfies the relevant deemed-to-comply provision of the R-Codes.

**Retaining wall and Fence within the front setback area**

- The proposed development includes site works including the erection of a retaining wall in front setback area in conjunction with the front fence proposed. This aspect of the development also requires an assessment against the design principles of the R Codes, and is considered acceptable on the basis that the proposed retaining wall and associated fill corresponds to the natural slope of the site and allows for the creation of an external space at a ground level consistent with that of the existing house. It is noted that the proposed steps within this area provide some design articulation to enhance its streetscape appeal.
- The fill allows for the development of a secondary outdoor living area to be used in conjunction with the main living room for the front house, optimising the northern aspect of the lot at that point.
- The fence provides additional security to the house and front outdoor living area, without restricting opportunities for surveillance. The retaining and fill does not abut any habitable spaces for the adjoining properties at 5 and 9 Kardinya Road.

The overall design of the front fence treatment, including its associated levels of visual permeability are considered to be acceptable and meet the intentions of the R Codes and Local Planning Policy noting that vehicle sightlines are provided for in accordance with the deemed-to-comply provisions of the R-Codes .

**ALTERNATE OPTIONS AND 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.

**CONCLUSION**

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On that basis, it is recommended that the DA be approved subject to conditions.

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)****OFFICER RECOMMENDATION****APPROVAL**

1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City.
2. All stormwater generated on site is to be retained on site in accordance with the City's stormwater design guidelines.
3. The privacy screening/obscure glazing shown on the approved plans shall meet the Deemed to Comply standards of Cl. 5.4.1 of State Planning Policy 7.3 Residential Design Codes Volume 1. The privacy screening/obscure glazing shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the City.
4. Where a driveway meets the street, walls or fencing within sight line areas (as highlighted in yellow on the approved plans) are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
5. The street walls and fencing marked in red on the approved plans are required to comply with the definition of 'Visually Permeable' found in State Planning Policy 7.3 *Residential Design Codes Volume 1*, to the satisfaction of the City.
6. Prior to the initial occupation of the development, the boundary wall/s shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.
7. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.
8. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
9. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.

**U21/0559 – ADDITIONS AND ALTERATIONS TO EXISTING HOUSE AND NEW TWO STOREY REAR HOUSE AT LOT 124 (NO. 7) KARDINYA ROAD, KARDINYA WA 6163 (REC) (ATTACHMENT)**

- 10. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossovers shall be designed to be;**
- a maximum width in accordance with the City of Melville Crossover Specifications;**
  - located a minimum of 2m away from the outside of the trunk of any street tree; and**
  - a minimum of 1m from any existing street infrastructure.**
- The approved crossovers are to be constructed prior to the initial occupation of the development to the satisfaction of the City.**