

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 28 FEBRUARY 2023

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 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, 3 MARCH 2023



**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, 28 FEBRUARY 2023**

PRESENT

M Scarfone
T Geddes
J Caracciolo

A/Manager Statutory Planning
A/Planning Services Coordinator
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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U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)

Ward : Applecross – Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2022-540/A
 Property : Lot 39 (No. 151) The Esplanade, Mount Pleasant WA 6153
 Proposal : Alterations to Boundary Fence
 Applicant : E Ng
 Owner : J Ng
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Mark Scarfone
 Acting 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 & 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>

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Development approval is sought for Alterations to Boundary Fence at Lot 39 (No 151) The Esplanade, Mount Pleasant.
- The details of the proposed development have been assessed against Local Planning Scheme No 6 (LPS6), State Planning Policy 7.3 (SPP 7.3) - Residential Design Codes Volume 1 (R-Codes) and Local Planning Policy 3.1 – Residential Development (LPP3.1).
- The proposed development requires a performance assessment in relation R-Codes Clause 5.1.3 Lot boundary setbacks.
- The application was advertised in accordance with the provisions of the R-Codes, Planning and Development (Local Planning Scheme) Regulations 2015 and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- One submission that objected to the proposal was received during the advertising period.
- Notwithstanding the objection 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 of subject site.

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R12.5
Use Type	: Single House
Use Class	: Permitted

Site Details

Lot Area	: 1309m ²
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes, to be retained
Street Furniture (drainage pits etc)	: No
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, 3 March 2023.

Previous application

In October 2022 a development application to retain the existing alterations to the boundary fence at 151 The Esplanade, Mt Pleasant, reference DA-2022-540, was refused by the City on the basis that the development did not comply with the design principles under Clause 5.1.3 of the R-Codes due to the size and scale of the structure negatively impacting the adjoining properties amenity.

The applicant amended the development plans in response to the City's concerns and these are the subject of the current development application.

DETAIL

The application has been assessed against the provisions of LPS6, LPP3.1, and the relevant provisions of the R-Codes. A performance assessment is required in respect of the matter listed below.

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

Local Planning Scheme and Local Policy Requirements

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Boundary walls (Vertical screening structures) C3.2 / LPP3.1 Residential Development Policy	3m in height 9m in length	3.1m in height 15.5m in cumulative length	Requires a performance assessment against the Design Principles of the R-Codes.	DAU

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 1.7.6
Support/Object:	One (1) submission objected to the proposal.

A summary of the content of the objection received and an officer's response is provided in the table below.

Summary of Issues Raised	Officer's Comments	Action (Condition/ Uphold/ Not Uphold)
Bulk Impacts: Boundary wall is too high.	The proposed alteration to existing boundary fence is considered to meet the relevant design principles as outlined in the comments section in the report below.	Not Uphold
Amenity Impacts: Boundary wall faces entry to entertaining area causing loss of amenity and the finish is unacceptable.	The proposed alteration, subject to appropriate conditions requiring a clean finish to the wall considered the relevant design principles as outlined in the comments section in the report below.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****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 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 are no strategic, risk or environmental management implications with this application.

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

COMMENT

The proposed development requires a performance assessment in regard to its height and length as outlined above in the detail section of this report. The design principles contained in Clause 5.1.3 Lot Boundary Setbacks of the R-Codes seek to minimise the impact of building bulk on adjoining properties, maintain visual privacy, maintain amenity for outdoor living areas, provide for solar access and contribute to the streetscape. The development meets the design principles as discussed below.

P3.1:

- Building bulk is considered to be minimised, as;
 1. Half the length (3.25m) of the fence alteration is a lattice material and the remaining half (3.25m) a solid material, thereby breaking up the combined bulk impacts of the existing dividing fence and proposed fence alteration.
 2. The fence alteration, being split into two materials, is stepped down along the existing fence further breaking its bulk.
- The fence alteration will not impact the adjoining southern neighbours access to adequate direct sun and ventilation to the building or open spaces. The existing dwelling and carport on site cast a shadow which is longer than the shadow cast by the fence alteration when assessed at midday on midwinter, when overshadowing is at its greatest extent. Additionally, the lattice material, which abuts most of the gym room opening allows for some light and ventilation to penetrate into the open spaces and room along this neighbour's boundary.
- There are no overlooking concerns associated with the fence alteration.

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

P3.2:

- The fence alteration makes more effective use of space for better privacy between the neighbours. The steps on the affected neighbour's side, as shown in Figure 1, show that the affected neighbour's fence is not 1.8m in height (a sufficient dividing fence) in some sections. Although not required to be screened or fenced, the fence alteration is contributing to privacy between neighbours.
- The fence alteration is not considered to have an adverse impact on the adjoining properties amenity due to;
 1. There is one major opening that directly abuts the fence alteration, which is the gym room sliding door. as shown in Figure 1. The nearest opening (gym room) is mainly facing the lattice structure which will allow for light and ventilation into this opening, notwithstanding that the shadow cast by the existing dwelling and carport on the subject site protrude past the shadow cast from the fence alteration. The second opening (guest room) is not directly abutting the structure and this rooms amenity is not considered to be affected.
 2. The boundary fence and associated alterations are consistent with the residential context.
 3. The amenity of the upper floor major openings (Family room) is not adversely impacted by the fence alteration. It is noted that the finish of the structure is to be to the satisfaction of the City, and the proposed finish as shown on the plans is considered to be acceptable.
- Direct sun to the adjoining neighbours north facing major openings is not restricted by the fence alteration. The upper floor family room openings sun access will not be restricted due to the raised finished floor level. The ground floor gym room openings sun access is not considered restricted due to the subject sites existing dwelling and carport casting a shadow past that of the fence alteration.
- There is no impact on the existing streetscape as the structure has an 11.2m setback from the street.

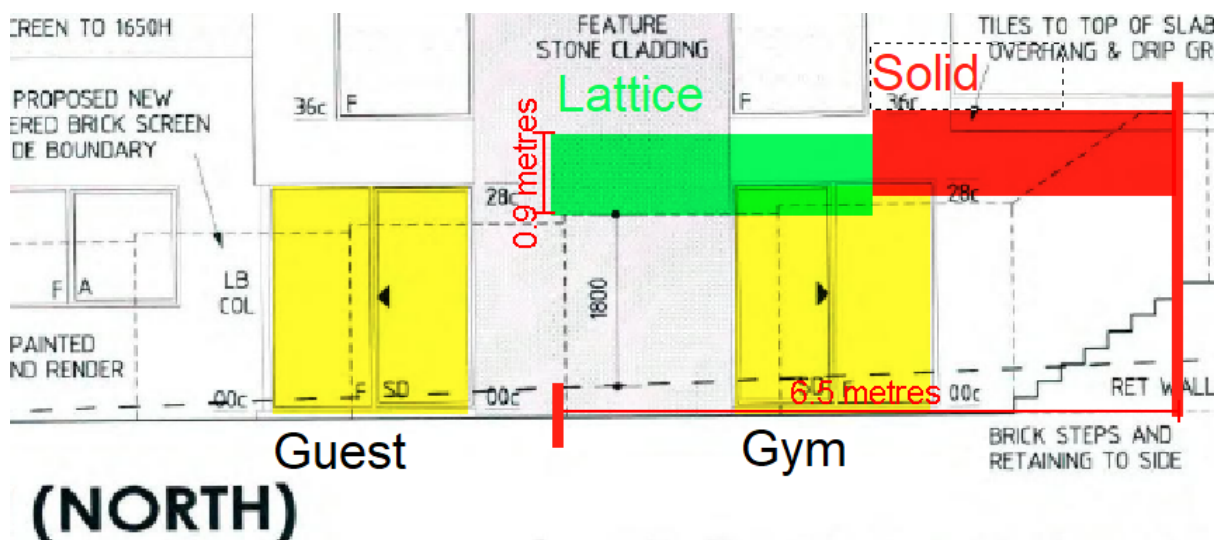


Figure 1: Shows the fence alteration overlaid onto the adjoining neighbours elevation. Yellow shows the ground floor Guest and Gym sliding doors (major openings) in relation to the fence alteration in green and red.

**U23/0600 – ALTERATIONS TO BOUNDARY FENCE AT LOT 39 (NO. 151) THE
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****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, and Council Policy. It is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION**APPROVAL****Subject to the following conditions:**

- 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.**
- 3. 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.**
- 4. The boundary wall/s subject to this approval shall, as a minimum, be finished to a clean finish, to the satisfaction of the City.**
- 5. Within 90 days of the date of this approval, the existing fence alteration subject to the refusal decision issued under DA-2022-540 shall be removed to the satisfaction of the City.**