

## **REPORTS AND RECOMMENDATIONS**

### **FOR THE**

### **DEVELOPMENT ADVISORY UNIT**

### **MEETING**

### **HELD ON**

**TUESDAY, 31 AUGUST 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, 3 SEPTEMBER 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, 31 AUGUST 2021**

**PRESENT**

P Prendergast  
M Scarfone  
B Ashwood  
T Cappellucci  
G Davey

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.**

**TABLE OF CONTENTS**

U21/0570 TWO STOREY SINGLE HOUSE- LOT 881 (NO.44B) GILBERTSON ROAD,  
KARDINYA (REC) (ATTACHMENT) ..... 4

**U21/0570 TWO STOREY SINGLE HOUSE- LOT 881 (NO.44B) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)**

Ward : Bateman – Kardinya - Murdoch  
 Category : Operational  
 Application Number : DA-2021-798  
 Property : Lot 881 (No.44B) Gilbertson Road, KARDINYA  
 Proposal : Two storey single house  
 Applicant : 101 Residential Building Pty Ltd  
 Owner : Mr M Smith-Carter and Mrs M Smith-Carter  
 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

**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"/>	<b>Quasi-Judicial</b>	<b><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></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Development approval is sought for a proposed two storey single house at Lot 881 (No.44B) Gilbertson Road, Kardinya.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes) and relevant local planning and council policies.
- In accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making, the proposed development was advertised to the adjoining southern owner.
- A submission was received which objected to the proposed southern ground floor side setback variation.
- 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

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

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

**Site Details**

Lot Area	:	384m <sup>2</sup>
Retention of Existing Vegetation	:	None
Street Tree(s)	:	None
Street Furniture (drainage pits etc)	:	Yes
Site Details	:	Refer photo above – Figure 1

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 3 September 2021.

**DETAIL**

In July 2021, a development application was lodged for a single two storey house at Lot 881 (No.44B) Gilbertson Road, Kardinya. The dwelling is designed with a garage, entry, and main living area at the ground level, with bedrooms to the upper floor.

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS6), State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies. A performance assessment is required in respect of the matters listed below.

State Planning Policy 7.3 Residential Design Codes Vol. 1

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Clause 5.1.2 Street setback - Primary Street	Average 6 metres	Av 5.75 metres	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)
Clause 5.1.3 Lot Boundary Setbacks	Southern boundary ground floor Kitchen -1.5 metres	1.0 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)**

Local Planning Policy 3.1 Residential Development

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 3 Garage width C2.3	Max 60% for a two storey residential dwelling	62%	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)

**STAKEHOLDER ENGAGEMENT**

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: Object

A summary of the objection received and a response is provided in the table below.

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
1	The clear glazed window to the kitchen will impact amenity.	Objection	Refer to the comments section of this report.	<b>Not Uphold</b>
	The reduced setback will result on increased overshadowing.	Objection	Refer to the comments section of this report.	<b>Not Uphold</b>

**II. OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies/consultants is required.

**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.

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD,  
KARDINYA (REC) (ATTACHMENT)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risks or environmental management implications with this application.

**POLICY IMPLICATIONS**

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

**COMMENT**Southern Boundary setbacks*Kitchen/Scullery Wall*

The R-Codes require a setback of 1.5 metres, to the side boundary for ground floor walls where they contain a major opening. The proposed kitchen window has an area of 1.4m<sup>2</sup> and meets the definition of a major opening.

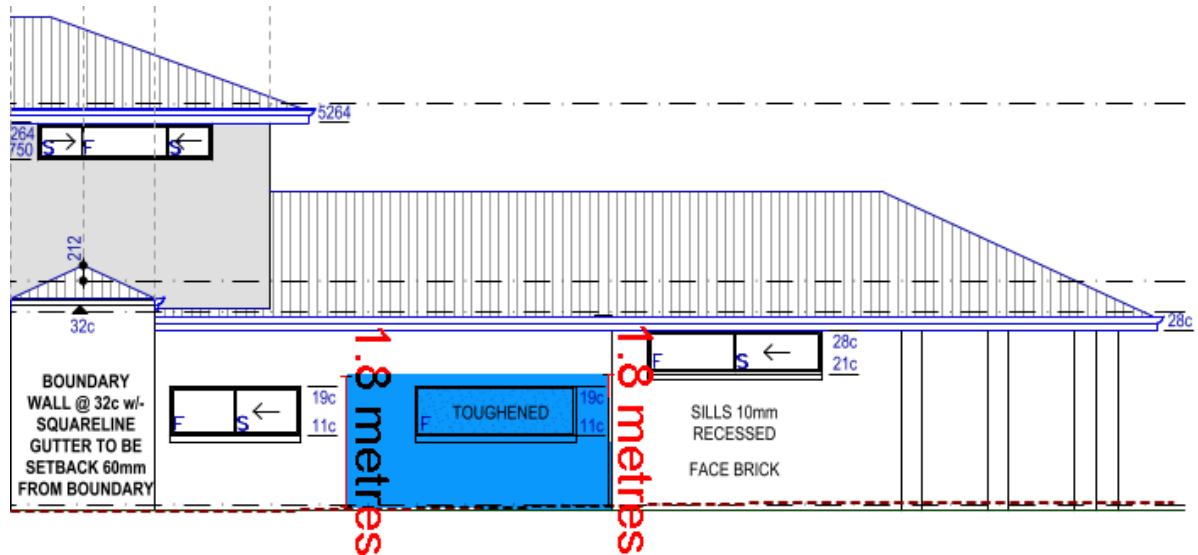
The proposed ground floor southern side setbacks range from 1.1 metres to 1.5 metres. This setback has been assessed against the design principles of the R Codes and is considered to be acceptable in that context given:

- The applicant has designed the southern elevation of the proposed development to limit the bulk, privacy and shadow impact of the dwelling to the adjoining property. The applicant has articulated the building through the use of varied setbacks and fenestration which reduces its visual bulk. The development also meets the deemed to comply standards of Clause 5.4.1 Visual Privacy and Clause 5.4.2 Solar access for adjoining sites.
- The setback allows for adequate natural light and ventilation to the proposed dwelling and open spaces on the site. A portion of the proposed wall sits next to a section of blank wall on the adjoining property reducing the bulk impact and also ensuring there is minimal impact in terms of light and ventilation.
- Visual privacy is maintained to the adjoining property on the basis that the finished floor level is less than 0.5m above the natural ground and the top of the kitchen window is approximately below the top of a 1.8m high dividing fence. Refer to Figure 2 Southern Elevation which shows a 1.8m fence in front of the window.

It is noted the applicant could amend plans to make the kitchen window obscure and the setback of the wall would meet the deemed to comply provisions. This would not change the visual impact of this wall on the adjoining property however may have a negative impact on the amenity of the future occupant as they will not have an aspect from this window.



**U21/0570 TWO STOREY SINGLE HOUSE- LOT 881 (NO.44B) GILBERTSON ROAD, KARDINYA (REC) (ATTACHMENT)**



**Figure 2. Southern Elevation**



**Figure 3. View of the neighbour's southern boundary from the subject site.**

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD,  
KARDINYA (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**

Given the design principle assessment that has been applied in this case concludes that the development is acceptable in principle, it is recommended that approval for the development be granted, subject to conditions.

**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.**
- 3. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossover shall be designed to be;**
  - A maximum width of 4.5m;**
  - 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 crossover is to be constructed prior to the initial occupation of the development to the satisfaction of the City.**

- 4. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 4 of LPP-3.1: Residential Development to the satisfaction of the City.**
- 5. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of LPP3.1 Residential Development, 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.**

**U21/0570 TWO STOREY SINGLE HOUSE– LOT 881 (NO.44B) GILBERTSON ROAD,  
KARDINYA (REC) (ATTACHMENT)**

- 7. 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.**
- 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.**