

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 26 MAY 2020

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, 29 MAY 2020



**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, 26 MAY 2020**

PRESENT

P Prendergast
M Scarfone
G Russell
B Ashwood
T Cappellucci
G Davey

Manager Statutory Planning
Planning Services Coordinator
Manager Building Services
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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U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (NO. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DA-2019-1490
 Property : Lot 71 (No.4A) Fraser Road, Applecross
 Proposal : Three Storey Single House
 Applicant : Dynamic Planning & Development PTY LTD
 Owner : Mr Kevin & Mrs Melanie Attree
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : N/A
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

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>

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Development approval is sought for a three storey single house at Lot 71 (No. 4A) Fraser Road, Applecross.
- The proposed development has been assessed against the City of Melville Local Planning Scheme No. 6 (LPS No.6), State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies.
- A performance assessment is sought by the DA against the following design elements, boundary setbacks, building height, solar access, boundary walls, retaining walls and site works.
- The proposed building height was considered to have the potential to adversely impact on the adjoining properties and as such was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making. One objection was received in response.
- The proposed dwelling was required to be referred to the Department of Biodiversity, Conservation and Attractions (DBCA) as it abuts the Swan and Canning Control Area. The DBCA has provided written comments supporting the application subject to certain conditions.
- 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 Photo

BACKGROUND

Scheme Provisions

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

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

Site Details

Lot Area	: 605sqm
Retention of Existing Vegetation	: No
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
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, 29 May 2020

DETAIL

In December 2019, a development application was lodged for a proposed three storey single house at Lot 71 (No. 4A) Fraser Road, Applecross.

The application has been assessed against the provisions of LPS6, State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies. The proposal satisfies the relevant deemed to comply provisions of the R-Codes with the exception of those matters listed below.

Local Planning Scheme and Local Policy Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Building Height	Concealed Roof 9m	10.6m	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)

R-Code Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Lot Boundary Wall Height Average (Southern Boundary)	3.0m	7.2m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	Manager Statutory Planning (MSP)

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

Development Requirement (Continued)	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Lot Boundary Wall Height Average (Western Boundary)	3.0m	4.9m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Site Works	Maximum cut or fill of 0.5m	Deck Max: 0.9m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Retaining Walls	Maximum cut or fill of 0.5m	Deck Max: 0.9m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – Ground Floor Eastern Boundary Car stand/storeroom	1.5m	1.4m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – First Floor Eastern Boundary Privacy screen	1.7m	1.3m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – First Floor Eastern Boundary Theatre/total	6.4m	6m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – Second Floor Eastern Screen Columns	1.5m	1.4m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

Development Requirement (Continued)	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Lot Boundary Setback – Second Floor Eastern Bedroom 2	7.2m	5.4m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – First Floor Western Boundary Scullery/kitchen /alfresco	2.2m	1.7m-1.9m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – First Floor Western Boundary Laundry	2.8m	2.2m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Lot Boundary Setback – Second Floor Western Boundary Bedroom 3	1.5m	1.4m	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)
Solar Access	25% 125sqm	28% 145sqm	Assessed as acceptable having regard to the relevant Design Principles of the R-Codes	(MSP)

Note: Commentary in this report relates only to the elements of the proposed development that are the subject of a submission.

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 objection received

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

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Building Height	The proposed building height is considered to meet the relevant design principles of the R-Codes. Refer to the comments section of this report.	Not Uphold
Rear Setback	The proposed rear setback meets the deemed to comply provisions of the R-Codes. Refer to the comments section of this report for further detail.	Not Uphold
Solar Access	The proposed development meets the deemed to comply standards of the R-Codes in respect of visual privacy. Due to the orientation of the lot, the shadow cast at midday on the 21 June falls onto the adjoining property to the south 4 Fraser Road. The adjoining properties to the east and west are not impacted by overshadowing from this proposal.	Not Uphold
Visual Privacy	The proposed development meets the deemed to comply standards of the R-Codes in respect of visual privacy.	Not Uphold
Does not meet DBCA requirements.	The application was referred to DBCA for comment. The DBCA has provided written support for the proposal subject to a number of conditions	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

Department of Biodiversity, Conservations and Attraction

The application was referred to the Department of Biodiversity, Conservations and Attraction (DBCA) as it abuts land within the Swan Canning Development Control Area. The DBCA on behalf of the Swan River Trust has provided written support for the proposal subject to a number of conditions.

**U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD,
APPLECROSS (REC) (ATTACHMENT)**

STATUTORY AND LEGAL IMPLICATIONS

If the applicant is unhappy with the decision there is a 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

If the applicant is unhappy with the decision there is a right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The proposal satisfies all of the relevant provisions of the applicable Local Planning Policies with the exception of the lot boundary wall height maximum and average referenced in *LPP3.1 – Residential Development and building height in LPP1.9 – Building Height* which requires consideration against the Design Principles of the R-Codes (see comments section below).

COMMENT

Building Height

The proposed development is of three storey construction with a maximum height of 10.6 metres in lieu of 9.0 metres provided by *LPP1.9 – Building Height* (refer to Figure 2a and 2b below where the red line indicates the 9.0m height point). As such a performance assessment having regard to the Design Principles contained in Clause 5.1.6 of the R-Codes is required.

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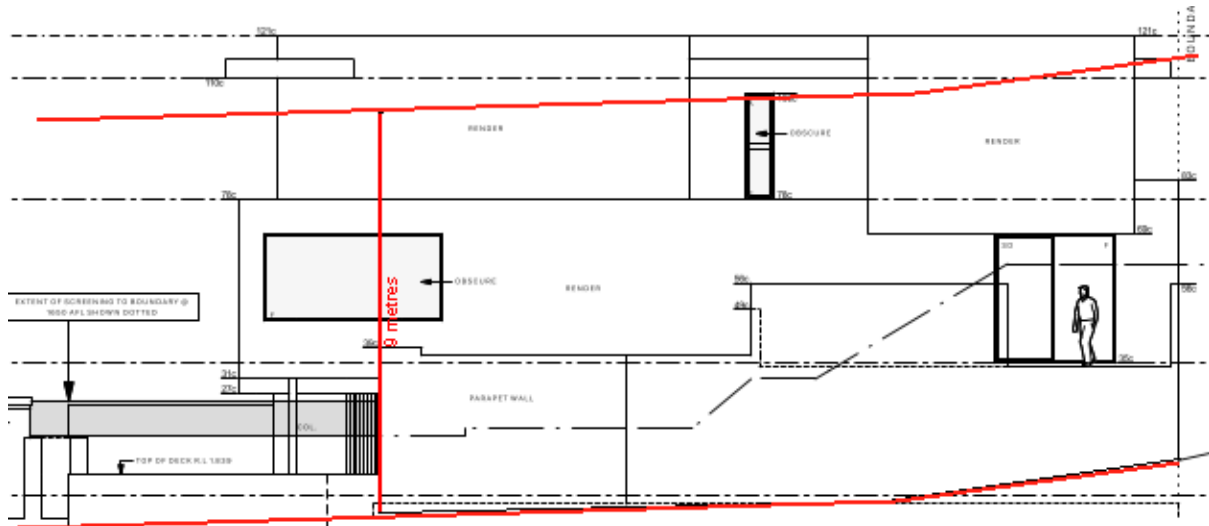


Figure 2a Western Elevation

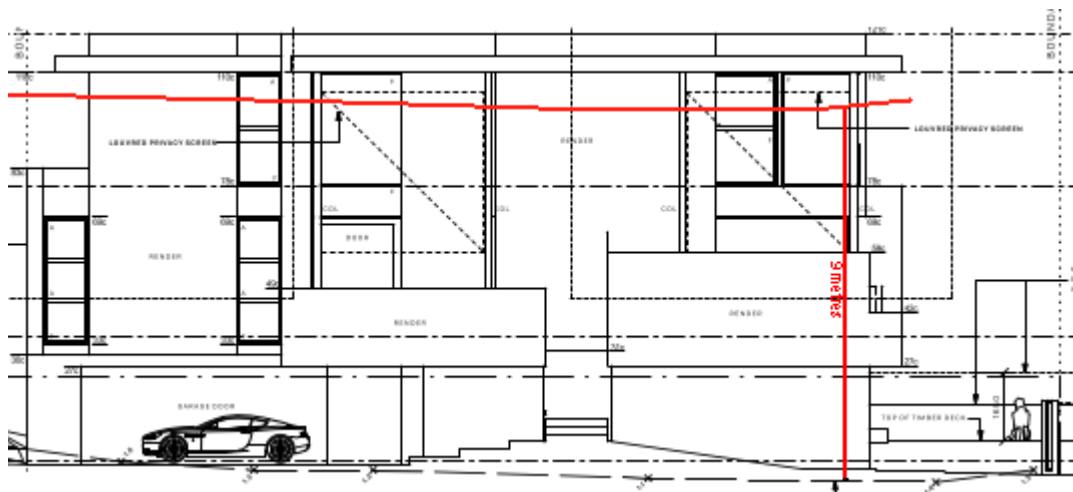


Figure 2b Eastern Elevation

The proposed building height is considered to meet the Design Principles of CI 5.1.6 *Building height* of the R-Codes for the following reasons:

- The proposed development is of a similar size and scale to existing neighbouring residential development located alongside it. (refer to Figures 3 and 4 below).
- The adjoining dwellings to the west and east are generally oriented away from the subject site to take advantage of the available northern views towards the river and CBD.
- It is considered that the proposed building height will not have a negative impact on these properties in terms of building bulk. This is due the following:

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

- The walls on the eastern and western sides are well articulated via the use of different wall materials, colours and wall setbacks which can be seen in Figure 3 below;
 - There is adequate separation between dwellings either side;
 - Major openings of the adjoining dwelling's are generally orientated towards the river.
 - Assisted by the orientation of the lot, the proposed development meets the Deemed to Comply requirement and Design Principles outlined by Clause 5.4.2 *Solar Access for Adjoining Sites* of the Residential Design Codes; as such the building height will not limit adequate access to direct sun into buildings, open spaces, and major openings to habitable rooms of adjacent residential properties.
 - There is no impact on access to views of significance as discussed in more detail below.
- The proposed height does not have negative impact on the lot to the south, 4 Fraser Road which is in the same ownership as 4A Fraser Road and is currently vacant. The top section of 4 Fraser Road, is approximately 6.5 metres above the ground floor level of the proposed dwelling. This level difference ensures that any future development on No. 4 can be designed to take advantage of views over the roof of the proposed development and to minimise any bulk impact from the upper level.



Eastern Elevation Side



Western Elevation Side

Figure 3 – Perspectives of the development showing its relationship to the adjoining properties.

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)



Figure 4 - River Perspective

Rear Setback

Concern has been raised with regard to the rear setback of the proposed dwelling on the basis that it does not comply with clause 5.1.3 'Lot Boundary Setbacks' and DBCA setback requirements.

The deemed to comply provisions contained in Clause 5.1.3 Lot boundary setback' of the R-Codes, generally require a building to be setback from the boundary in accordance with Table 1 , which in this case is 6.0m in accordance with C3.1 (v) This setback requirement can be reduced by half the width of an adjoining right-of-way, pedestrian access way, communal street or battle-axe lot access leg, to a maximum reduction of 2m.

In this instance, the application site does abut a Right of Way (ROW) as shown below in Figure 5 which is a copy of the Title for the subject lot. The ROW is also shown the Deposited plan attached to this lot, see Figure 6

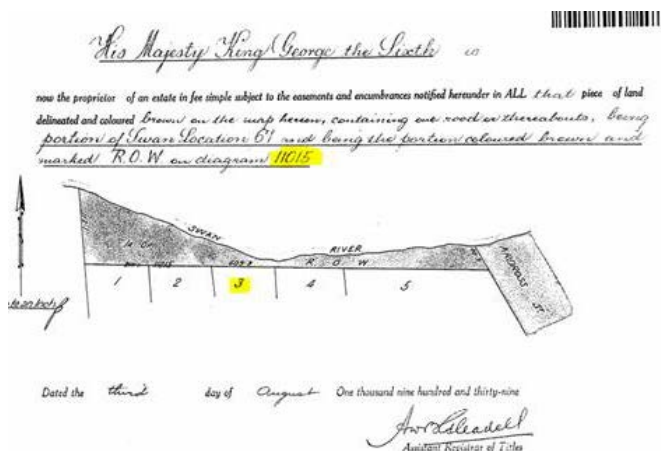


Figure 5

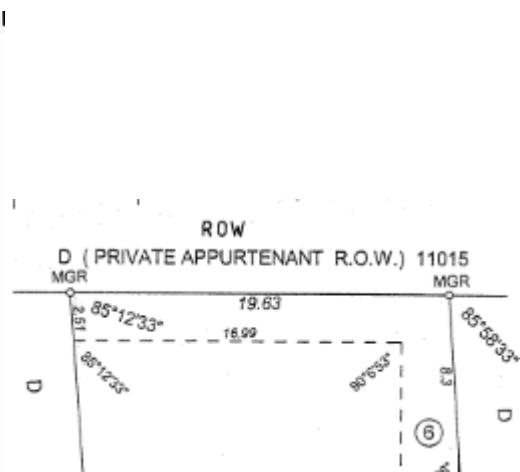


Figure 6

U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD, APPLECROSS (REC) (ATTACHMENT)

As the proposed single house abuts a Right of Way the rear setback could be 4 metres and would meet the deemed to comply requirements of the R-Codes. The proposed setbacks range between 8.5 metres and 3.9 metres. The section at 3.9 metres is a small section of eave overhang at the third floor level which is a minor incursion into this setback. The design of the building ensures that the largest setbacks are provided adjacent to 6 Fraser Road, reducing any potential bulk impact on their rear outdoor living areas and pool. Due to the design and orientation of the dwelling there are no privacy issues and no reduction in direct sunlight at midday. The proposed setbacks are considered to meet both the deemed to comply provisions and the associated design principles and are supported on that basis.

In relation to the DBCA requirements Policy Statement No. 48 'Planning For Development Setback Requirements Affecting 'The Swan Canning Development Control Area' (CPS48) outlines provisions regarding how the Trust is to determine setback requirements for sites adjoining DCA.

While there is a variation to DBCA setback requirements, this is considered by the DBCA to be minor and is supported subject to recommended conditions of approval being applied.

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

OFFICER RECOMMENDATION

APPROVAL

- 1. The development hereby approved 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. The development shall be serviced by a concrete or brick paved vehicle crossover with:**
 - a maximum width of 3m;**
 - 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.**

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APPLECROSS (REC) (ATTACHMENT)**

The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications to the satisfaction of the City.

4. 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.
5. The privacy screening/obscure glazing shown on the approved plans shall meet the Deemed to Comply standards of Cl. 5.4.1 of the Residential Design Codes. 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.
6. Prior to the commencement of works, details of the exterior colours, materials and finishes are to be submitted and approved in writing, by the City. The development shall thereafter be constructed in accordance with those approved details.
7. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining property/properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.
8. 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.

Swan River Trust Conditions

9. The applicant shall take appropriate measures to ensure that no building materials, sediment (including as a result of stormwater run-off), rubbish or any other deleterious matter enters the Parks and Recreation reserve, stormwater system or river as a result of the works.
10. Prior to any fill and/or topsoil being brought onto the site, the applicant shall demonstrate that all material is certified clean, uncontaminated, and free from rubble, weeds and disease and is geotechnically suitable for the proposed works.

**U20/0534 PROPOSED SINGLE HOUSE – LOT 71 (No. 4A) FRASER ROAD,
APPLECROSS (REC) (ATTACHMENT)**

- 11. Stormwater runoff from constructed impervious surfaces generated by small rainfall events (i.e. the first 15mm of rainfall) must be retained and/or detained and treated (if required) on-site.**
- 12. No wastewater/backwash from the swimming pool or spa is to be discharged onto the land, into the river or the local government drainage system.**

Swan River Trust Advice Notes

- A. The applicant is advised that in the event the site requires dewatering during construction, the Department of Biodiversity, Conservation and Attractions' Policy 50 – Planning for Dewatering Affecting the Swan Canning Development Control Area has dewatering tailwater discharge standards which are required to be met if it is proposed to discharge directly or indirectly (via the stormwater system) to the river. Separate approval from the Department of Biodiversity, Conservation and Attractions may be required.**
- B. With regard to Condition 12, for more information on the safe storage and application of pool chemicals and how to minimise impacts on the environment, the applicant is referred to Water Quality Protection Note No. 55 - Swimming Pools (Department of Water, 2009).**