

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 15 JUNE 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 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, 18 JUNE 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, 15 JUNE 2021**

PRESENT

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

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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U21/0564 – PROPOSED SINGLE HOUSE - LOT 390 (NO. 84) KINTAIL ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)

Ward : Applecross – Mount Pleasant
 Category : Operational
 Application Number : DA-2021-239
 Property : Lot 390 (No. 84) Kintail Road, Applecross WA
 Proposal : Proposed Single House
 Applicant : Weststyle
 Owner : A and Z Shehzad
 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 & 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 (e.g. 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>

U21/0564 – PROPOSED SINGLE HOUSE - LOT 390 (NO. 84) KINTAIL ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**KEY ISSUES/SUMMARY**

- Development approval is sought for a two storey single house with undercroft car parking and a roof terrace at Lot 390 (No. 84) Kintail Road, Applecross.
- 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 Part 4 of the R-Codes and Clause 3.4 of *Local Planning Policy 1.1 'Planning Process and Decision Making'*, the proposed development was advertised to the adjoining owners and occupiers.
- During the consultation period, objections were received in relation to visual privacy and the building height.
- Amended plans were submitted, in response to concerns raised by the City which provided additional screening to the balconies to ensure the majority meets the Deemed to Comply provisions for visual privacy under the R Codes. In response to these amended plans one landowner withdrew their objection however one valid objection remains.
- 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

U21/0564 – PROPOSED SINGLE HOUSE - LOT 390 (NO. 84) KINTAIL ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R15
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	1012sqm
Retention of Existing Vegetation	:	No
Street Tree(s)	:	Yes, to be retained
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, 18 June 2021.

DETAIL

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 complies with all the relevant development requirements with the exception of those matters listed below.

Local Planning Policy 1.9 – Height of Buildings

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Permitted Building Height Cl.2.1	Eaves – 8.0 metres External Wall (Concealed Roof) - 9.0 metres Overall – 10.5 metres	External Wall (Concealed Roof) – 10.5 metres	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)

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State Planning Policy 7.3 Residential Design Codes Vol. 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Visual Privacy CI 5.4.1	Unenclosed outdoor active habitable space – 7.5m	7.5m cone of vision extends into adjoining property	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required:	Yes
Neighbour's Comments Supplied:	Yes
Reason:	Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
Support/Object:	Two objections received (one objection withdrawn as a result of the submission of amended plans)

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

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
The height of the roof is incongruous with surrounding structures and will potentially cause shadowing, loss of light and visual intrusion.	Refer to the comments section of this report	Not Uphold
The balcony/terrace compromise privacy – in particular bathrooms and bedrooms.	Refer to the comments section of this report	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

U21/0564 – PROPOSED SINGLE HOUSE - LOT 390 (NO. 84) KINTAIL ROAD,
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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

Visual Privacy

The Deemed to Comply provisions of the R-Codes require a setback of 7.5m for balconies/terraces for visual privacy or the provision of permanent screening as specified in Clause 5.4.1 (C1.2).

The amended plans have achieved Deemed to Comply requirements through the provision of screening and setbacks to proposed balconies and terraces with the exception of a portion of balcony 2 which is unscreened where it meets the landing of the external stair. This requires a performance assessment having regard to the relevant design principles in 5.4.1.

The design principles are considered to be met for the following reasons:

- The area directly in front of the external stairs functions as a walkway rather than an active habitable space, this is not considered to be the key recreational space on this balcony and as such is not likely to be used frequently or for extended periods of time; and
- The adjoining property to the north is designed with a central courtyard as its primary outdoor living space which has no interface with the subject property. The bedrooms on the southern side of the adjoining property which do have an interface with the subject property are designed with narrow windows facing south and west and a primary window facing east towards a landscaped courtyard. This design restricts the views into property and ensures that the view is on an oblique angle minimising adverse overlooking impacts.

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- The overlooking towards the western property is restricted to a vegetated area of the backyard and does not directly overlook an outdoor living area.
- In order to ensure the planter boxes shown on the balcony are not used as habitable spaces, a condition of approval has been recommended to require the provision of a landscaping plan prior to commencement of the development and once endorsed, for this to be maintained going forward to the City's satisfaction.

The visual privacy measures provided are considered to meet the objectives of the R Codes which aims to ensure minimal direct overlooking of active habitable spaces.

Building Height

The height of a small portion of the development exceeds the deemed to comply provisions set out in Local Planning Policy 1.9 – Height of Buildings. This is depicted by Figures 2-4 below. In view of this a performance assessment is required having regard to the design principles in Clause 5.1.6 of the R-Codes.

The design principles are achieved for the following reasons:

- The dwelling presents as two storeys from the street ensuring that it does not have a bulk or amenity impact on the streetscape.
- The structures on the roof terrace include a lift shaft and stairwell which provide access to this space, a pool, pool store and covered deck area. These are setback significantly from the northern and southern boundaries ensuring that they will have minimal impact to the street or towards the rear of the property.
- In relation to the east and west boundaries, the setbacks are 3.5 and 6.5 metres respectively well exceeding the 1.9 metre setback required to meet the deemed to comply provisions. This ensures the structures will not have a bulk or scale impact on the properties located to each side.
- The orientation of the subject site ensures there are no adverse shadow impacts as the shadow would fall across the road to the south.
- The height of the building does not detract from access to views of significance.
- The roof terrace meets the visual privacy provisions of the R-Codes.

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Figure 2: Area highlighted in red is the element above 9 metres in height.



EAST ELEVATION

Figure 3: Are highlighted in red is the element above 9 metres in height.



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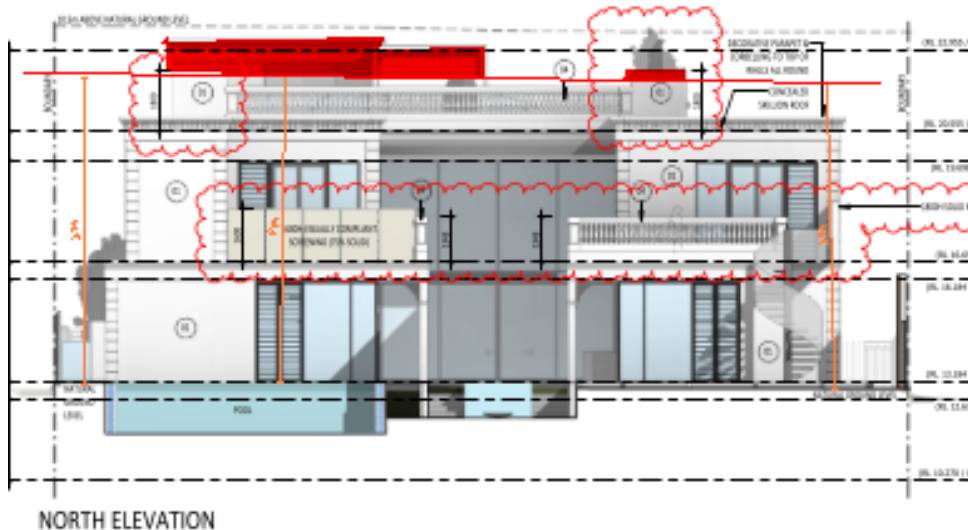


Figure 4: Are highlighted in red is the element above 9 metres in height.

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 an 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.

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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 6m;
 - 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. 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.
5. 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 Local Planning Policy *LPP3.1 Residential Development* to the satisfaction of the City.
6. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
7. 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.

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8. All trees on the City's verge to be managed in accordance with Tree Policy (CP-029) Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:
- A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
 - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
 - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
 - The following actions shall not be undertaken within any TPZ:
 - Storage of materials, equipment fuel, oil dumps or chemicals
 - Servicing and refuelling of equipment and vehicles
 - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
 - Open-cut trenching or excavation works (whether or not for laying of services)
 - Changes to the natural ground level of the verge
 - Location of any temporary buildings including portable toilets
 - The unauthorised entry by any person, vehicle or machinery
 - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.
9. Prior to the commencement of the development, details of the proposed planter boxes including details of the planting that will take place within them, shall be submitted to and approved in writing by the City. The landscaped planter boxes shall thereafter be provided as approved prior to the initial occupation of the development, and retained thereafter in perpetuity to the ongoing satisfaction of the City.