

## **REPORTS AND RECOMMENDATIONS**

### **FOR THE**

### **DEVELOPMENT ADVISORY UNIT**

### **MEETING**

### **HELD ON**

**TUESDAY, 14 DECEMBER 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, 17 DECEMBER 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, 14 DECEMBER 2021**

**PRESENT**

P Prendergast  
M Scarfone  
G Russell  
T Cappellucci  
A Di Nella  
R Tu

Manager Statutory Planning  
Planning Services Coordinator  
Manager Building Services  
Senior Planning Officer  
A/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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**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mount Pleasant Ward  
 Category : Operational  
 Application Number : DA-2020-940/A  
 Property : Lot 7 (No. 179) The Esplanade, Mount Pleasant WA 6153  
 Proposal : Amendment to Three Storey Single House  
 Applicant : Seacrest Homes  
 Owner : Mr Pasqualino Savino and Mrs Roberta Ellen Savino  
 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

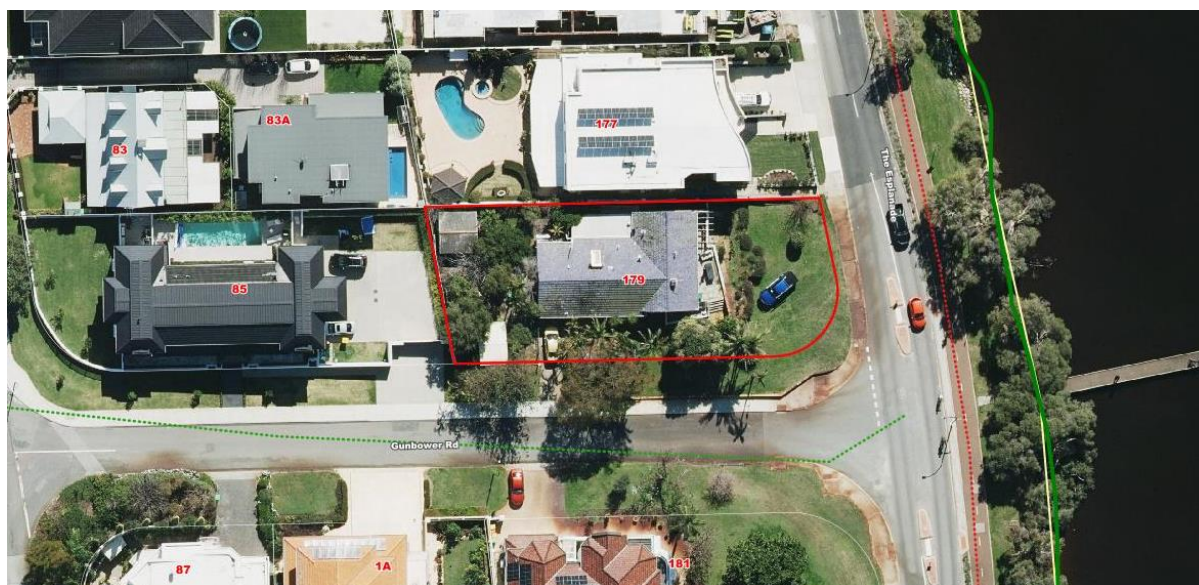
**AUTHORITY / DISCRETION**

**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	<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>

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****KEY ISSUES/SUMMARY**

- In December 2020, Development Approval was granted for a three storey single house at Lot 7 (No. 179) The Esplanade, Mount Pleasant.
- This application proposes amendments to the original approval, with changes including;
  - Raising the finish floor level and subsequent height of the house by approximately 600mm to meet Department of Water and Environmental Regulations (DWER) flood level requirements.
  - Reducing the depth of the front porch and balconies to straddle the front setback line.
- The amendment requires assessment against the applicable Design Principles of the R-Codes.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy, during this time two objections were received relating to the amenity impact of the building in terms of bulk and streetscape.
- Notwithstanding the objections 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**

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE  
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R12.5
Use Type	:	Residential
Use Class	:	Permitted

**Site Details**

Lot Area	:	1022.23m <sup>2</sup>
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage, pits, etc.)	:	Not applicable
Site Details	:	Refer photo above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 17 December 2021.

**DETAIL**

In December 2020, Development Approval was granted for a three storey single house at Lot 7 (No. 179) The Esplanade, Mount Pleasant.

This application proposes amendments to the original approval, with changes including;

- The raising of the finish floor level and subsequent height of the house by approximately 600mm to meet Department of Water and Environmental Regulations (DWER) flood level requirements.
- Reducing the depth of the front porch and balconies to straddle the front setback line.

The proposed amendment has been assessed against all the relevant provisions of LPS6, the Deemed-to-Comply provisions of the R-Codes and applicable local planning policies and council policies. The proposal satisfies all of these requirements with the exception of the matters listed below.

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

**R-Code Requirements**

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.1.6/LPP1.9 Building Height	8m (Eaves)	8.6m	Requires assessment against the Design Principles of the R-Codes. Refer to details in report below.	Development Advisory Unit (DAU)
5.1.6/LPP1.9 Building Height	9m (Concealed Roof)	9.1m	Requires assessment against the Design Principles of the R-Codes. Refer to details in report below.	Development Advisory Unit (DAU)
Clause 5.4.1 Visual Privacy	7.5m	3.3m	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

The officer comment below is limited to building height matters only as this was the subject of the objections received. The proposed visual privacy setbacks are considered to meet the relevant design principles and are supported under delegation on that basis.

**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: Two objections received.

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

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
The height of the building is inappropriate for the street scape and is inconsistent with the urban landscape	Refer to the comments section of this report.	Not Uphold

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

Summary of Issues Raised (cont.)	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Unnecessarily increased the bulk, impacting the amenity and views of adjoining properties	Refer to the comments section of this report.	Not Uphold
Sets an unreasonable precedent for the area	Refer to the comments section of this report.	Not Uphold
Penalises adjoining properties who chose to comply with building height requirements when building in 2016 and is unfair	Not a relevant planning consideration	Not Uphold

## II. OTHER AGENCIES / CONSULTANTS

Given the subject lot abuts the Swan Canning River Development Control Area, the application was referred to the Department of Biodiversity, Conservation and Attractions (DBCA). The following comments were provided;

*DBCA's Policy 42, Section 5.29 recommends development within the flood fringe to have a minimum habitable floor level of 0.5m above the relevant 100-ARI flood level. Based on DWER's floodplain management advice, the relevant 100-year ARI flood level should include allowance for sea level rise (i.e. 1 in 100AEP + 0.9m). Note that DWER is the lead agency in providing advice on floodplain matters and as outlined in Section 5.29, DBCA will have due regard to its advice.*

Subsequently, the Department of Water and Environmental Regulations (DWER) recommend minimum habitable floor levels of 2.72 m AHD to ensure adequate flood protection against 1 in 100 AEP flooding into the future. The proposed amendments are designed to accommodate this requirement.

## 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.

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE  
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

The proposal satisfies all of the relevant provisions of the applicable Local Planning Policies with the exception of the height and visual privacy setback which requires consideration against the Design Principles of the R-Codes (see comments section below).

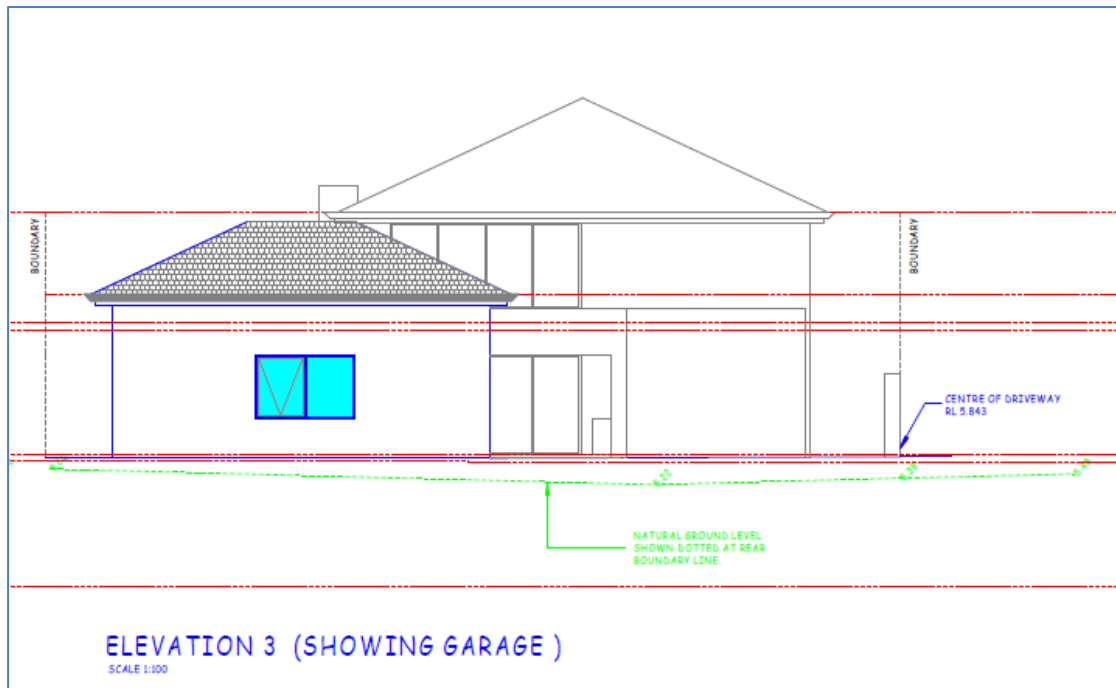
**COMMENT**

The proposed dwelling has been designed in a way which responds to the topography of the site as well as taking advantage of the sites' proximity to the river and associated views. The dwelling is three storey at the front and reduces to two storeys in the centre of the site and single storey at the rear. The Esplanade exhibits a wide range of residential building styles and heights however three storey buildings are common. The proposed dwelling is considered to be consistent with the existing and desired streetscape character of the area.

The portion of the dwelling which requires a performance assessment in relation to building height is located on the north eastern side of the property closest to 177 The Esplanade. The Design Principles are met for the following reasons:

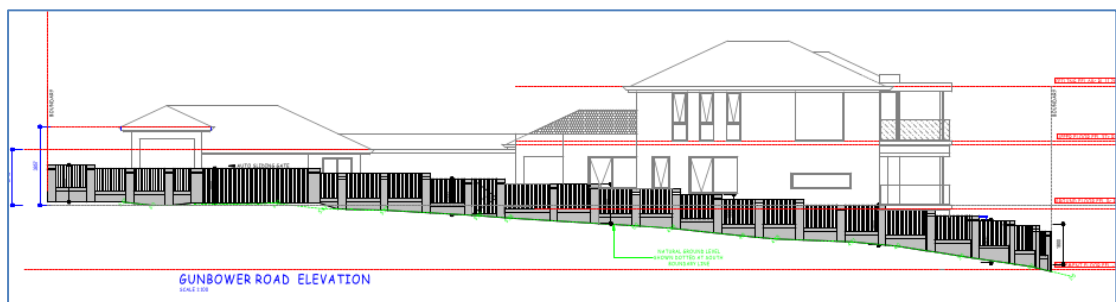
- The bulk impact to adjoining properties is acceptable given the building itself is articulated with windows and finished to a high quality standard. The building mass is orientated towards the street (The Esplanade) and away from adjoining properties with openings orientated primarily towards the street and river. The building meets or exceeds the deemed to comply provisions of the R-Codes in terms of lot boundary setbacks.
- The bulk impact to the adjoining property at 85 Bateman to the west, is minimal due to the topography of the site. The natural ground level of the neighbouring sits from 3m - 3.5m higher than the subject lot. The impact of the proposed dwelling is therefore comparable to that of a two storey dwelling when viewed from the aforementioned property.

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE  
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**



**Elevation from adjoining property (85 Bateman)**

- The proposed building height has very minimal impact on the properties on the southern side of Gunbower Road as the road reserve provides natural separation between buildings and the topography of the site acts to reduce perceived building height.



**Elevation from Gunbower Road**

- In conjunction with the above, the whole of the proposed dwelling sits below the maximum permitted height, as the height at the apex of the roof is 10.1m in lieu of 10.5m. Due to the orientation of the building, the pitched roof section obscures the over height sections from the objectors property, which means there can be no actual bulk impact.
- The proposed dwelling is considered to meet the relevant design principles of the R-Codes in terms of visual privacy. The building is designed in a way which ensures there is minimal direct overlooking of the adjoining property

**U21/0574 – AMENDMENT TO THREE STOREY SINGLE HOUSE - LOT 7 (NO. 179) THE  
ESPLANADE, MOUNT PLEASANT WA 6153 (REC) (ATTACHMENT)**

- Given the orientation of the lots, there are no overshadowing impacts to the adjoining properties as a result of the dwelling. Towards the southern boundary (street boundary to Gunbower Road) the development is comparable to that of a single storey development and the shadow from this portion falls onto the verge/road reserve.

**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**

It is considered the development meets the design principles of the R-Codes and it is recommended that approval for the amendment be granted, subject to conditions.

**OFFICER RECOMMENDATION****APPROVAL**

- 1. This Planning Approval is granted subject to compliance with the previous planning approval DA-2020-940 dated 4 December 2020 (including remaining conditions) and enclosed plans (referenced Site Plan, Ground Floor Plan, First Floor Plan, Second Floor Plan and Elevations) stamped as approved on (date to be inserted once the DAU process is finalised).**