

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**TUESDAY, 24 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, 27 AUGUST 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, 24 AUGUST 2021**

**PRESENT**

P Prendergast  
M Scarfone  
B Ashwood  
T Cappellucci  
M Flanagan

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 has 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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**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**

Ward : Bicton - Attadale - Alfred Cove Ward  
 Category : Operational  
 Application Number : DA-2021-785  
 Property : Lot 700 (No.40B) Doney Street, Alfred Cove  
 Proposal : Single House  
 Applicant : Stannard Homes  
 Owner : Mr J R Bennett and M Wierda  
 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"/>	<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 (e.g. 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>

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Development approval is sought for a proposed single house at Lot 700 (No.40B) Doney Street, Alfred Cove.
- 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 owners and occupiers.
- A submission was received which objected to the proposed height of the development, height of the boundary wall, the proposed setbacks and loss of privacy
- 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

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R20
Use Type	:	Residential
Use Class	:	Permitted

**Site Details**

Lot Area	:	501m <sup>2</sup>
Retention of Existing Vegetation	:	Unknown
Street Tree(s)	:	Yes
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, 27 August 2021.

**DETAIL**

In July 2021, a development application was lodged for a single house at Lot 700 (No.40B) Doney Street, Alfred Cove. The dwelling is designed with a garage, entry and store at the ground level, the main living area and master bedroom on the first floor and bedrooms and secondary living space at the upper level.

In response to concerns raised by the City, the applicant provided amended plans that are the subject of this report.

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.

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
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State Planning Policy 7.3 Residential Design Codes Vol. 1

<b>Design Element</b>	<b>Deemed to Comply standard</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Clause 5.1.3 Lot Boundary Setbacks	Northern boundary first floor Balcony (figure 4d) - 4 metres	1.3 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
	Northern boundary first floor Balcony – sitting - 1.4 metres	1.3 metres		
	Northern boundary first floor Bed 3 – balcony at Bathroom – 2.8 metres	1.8 metres		
	Southern boundary Ground floor Bedroom 1 (figure 4d) – 2.3 metres	2.1 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
	Southern boundary First floor Balcony (figure 4d) - 3.8 metres	2 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
	Southern boundary First floor bedroom 2 - Balcony at Sitting - 2.2 metres	2.1 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
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Local Planning Policy 3.1 Residential Development

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 6 Boundary Walls Cl.3.2(ii)	Average height of 3 metres	Average height of 3.1 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

Local Planning Policy 1.9 Height of Buildings

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 2.1.1 General Areas zoned R12.5 – R40 within Residential and Mixed Use Zones	Eave Height 8.0 metres	Portion on the southern boundary at 8.2 metres	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

**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: 1 objection was received

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 setback of the non-compliant ground floor and upper floor setbacks cause a bulk and shadow impact to the property at 42A Doney Street	Refer to the comments section of this report.	Not Uphold

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**

Summary of Issues Raised (Cont.)	Comments	Action (Condition/ Uphold/ Not Uphold)
The proposed boundary wall will cause a bulk and shadow impact to the property at 42A Doney Street	Refer to the comments section of this report.	Not Uphold
The home should be compliant in regards to all aspects advertised.	The R-Codes provides a comprehensive basis for the control of residential development across Western Australia. The deemed to comply provisions of the R-Codes represent one path to approval. A performance assessment against the design principles which allows for design to respond to the site is the other equally legitimate path for an applicant to take. For the reasons outlined in this report, the proposal is considered to meet the relevant design principles and is recommended for approval.	Not Upheld
Views from the balcony will look into their balcony and will have a glimpse of their ground floor bedroom	Refer to the comments section of this report.	Not Upheld
The open nature of the balcony can lead to potential noise disturbances	The proposed residential use is an appropriate use in this residential location. The noise associated with the use of the balcony is unlikely to cause negative amenity impacts however the landowner is required to comply with the relevant provisions of the <i>Environmental Protection (Noise) Regulations 1997</i> .	Not Upheld
Views from the awning window of bedroom 4 will look into their property	The window for bedroom 3 meets the deemed to comply provisions of <i>Clause 5.4.1 Visual Privacy</i> of the R-Codes as the sill height is above 1.6 metres from the Finished Floor Level.	Not Upheld
Views from the ground floor ensuite, WIR, and upper floor bathroom will fall into their property	Ensuite and WIR's are not classed as habitable spaces and meet the deemed to comply provisions of <i>Clause 5.4.1 Visual Privacy</i> of the R-Codes.	Not Upheld

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**

Summary of Issues Raised (Cont.)	Comments	Action (Condition/ Uphold/ Not Uphold)
The proposed three storey home will be out of character with the locality	In relation to the property at 42A Doney Street, the height of the proposed development is compliant with the City's <i>LPP 1.9 Height of Buildings</i> .	Not Upheld
The impact of the earthworks from the proposed development onto their existing retaining	Structural works are not assessed under a development application. These will be assessed as part of any subsequent building permit.	Not Upheld

**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.

**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.

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)****COMMENT**Northern Boundary setbacks*Balcony (figure 4d), Balcony – Sitting and Bedroom 3 – Balcony*

The deemed to comply provisions contained in Clause 5.1.3 Lot Boundary Setbacks of the R-Codes nominate setbacks of 4 metres 1.4 metres and 2.8 metres respectively for lengths of walls identified above. The development proposes setbacks of 1.3 metres, 1.3 metres and 1.8 metres respectively. These setbacks require an assessment against the relevant design principles and are considered acceptable for the following reasons:

- The subject site is a narrow 10.4 metre wide lot, which rises 6 metres from the street to the rear of the property. This proposes numerous challenges in designing a development with setbacks which meet the deemed to comply provisions.
- The applicant has designed the northern elevation of the development to limit the bulk, privacy and shadow impact. The applicant has articulated the building through the use of varied setbacks, a mix of materials and fenestration which reduce its visual bulk.
- The adjoining dwelling is designed, in a way which ensures it has only two major openings facing towards the subject development. These are narrow living room windows located on the ground floor. The remaining windows are highlight windows or windows to non-habitable spaces such as bathrooms and the laundry. This ensures that the proposed building setbacks will not have a negative bulk impact on the adjoining property. The dining room on the ground floor of the adjoining dwelling has its primary view towards the rear of the property across the living room and alfresco area. This view is not impacted at all by the proposed building design. (figure's 3 and 4)
- The applicant has designed first floor of the development with a rear setback of 24 metres. This will leave the neighbour rear yard and outdoor living area relatively unaffected from the proposed development.
- Due to the north south orientation of the lots and the design of the adjoining properties, the shadow cast from the building does not impact on major openings or habitable spaces; and
- Other than the balcony, there are no major openings along the northern elevation of the proposed development which will impact the neighbours privacy and amenity. The balcony will be discussed in further detail under *Visual Privacy*.



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- Building up to the side boundary and to another parapet wall is considered to be an effective use of space on narrow lots. This design avoids unusable space along the northern boundary that a setback would bring;
- There are no overshadowing issues created by the proposed boundary wall, as this aspect meets the relevant deemed-to-comply provisions of the R-Codes.

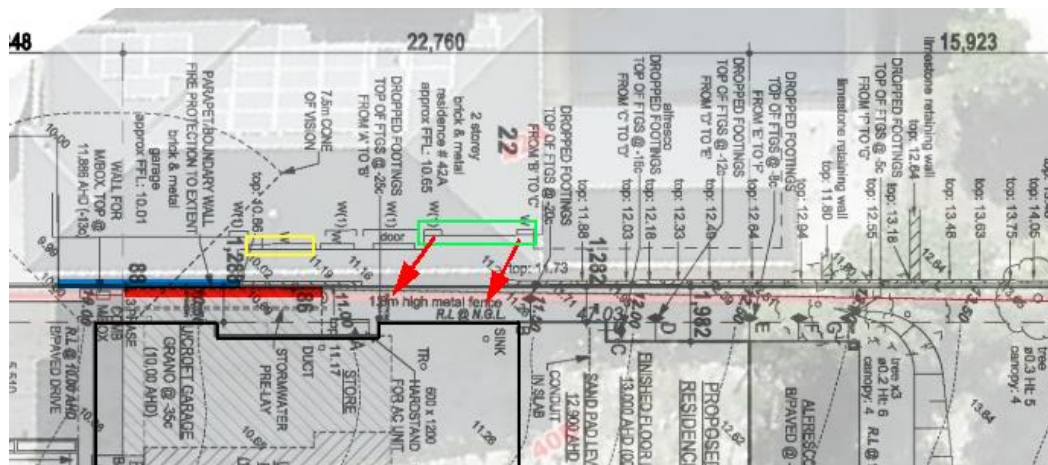


Figure 4: Site plan of the subject site overlaid with an aerial image. The subject boundary wall is highlighted in red, the neighbour's boundary wall in blue, the neighbours ground floor bedroom and lounge room in yellow and green respectively.



Figure 5: View of the neighbour's southern boundary from the subject site.

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
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Visual Privacy

As outlined, the proposed development requires a performance assessment in respect of visual privacy. The proposed visual privacy setbacks are considered to meet the relevant design principles as:

- As seen from Figure 4 and 6 views from the balcony will fall onto the neighbour's ground floor garage and areas of the upper floor without major openings.
- The balcony of the adjoining property has been designed with a highlight opening facing towards the subject site. Any overlooking from the proposed balcony will therefore be on an oblique angle and which will reduce the impact. In addition, as front facing balconies are visible to the public realm, they are not private open spaces which can expect the same level of privacy as outdoor living areas at the rear of the dwelling.
- The proposed balcony will provide the occupants with views toward the river and visual surveillance of the street consistent with the objectives of the R-Codes. It is located to ensure it does not have an impact on the private indoor or outdoor spaces of the adjoining dwelling.

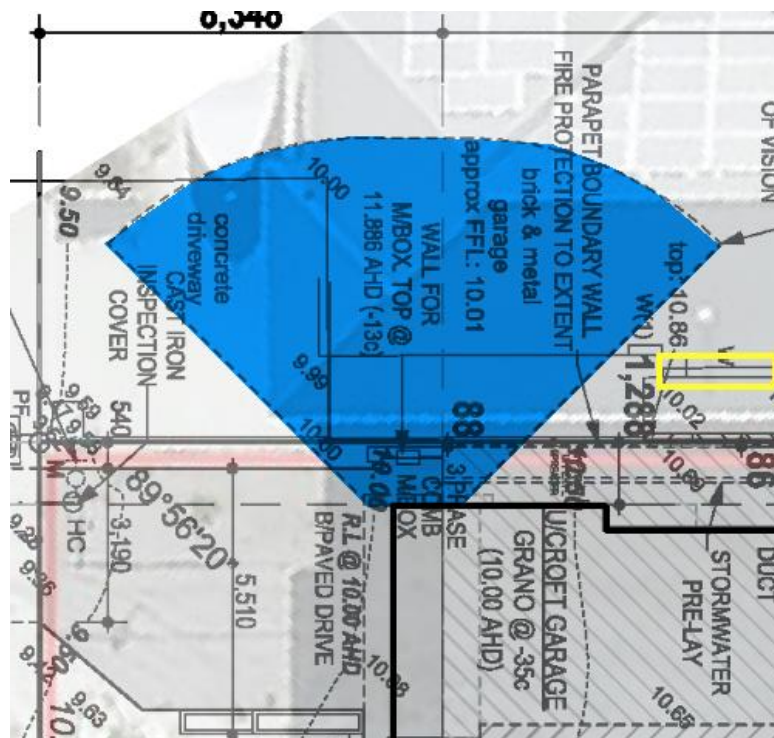


Figure 6: Cone of vision from the first floor balcony (expressed in blue) onto the neighbour dwelling. The neighbour's ground floor bedroom is expressed in yellow

U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)



Figure 7: View of the vacant subject site. Note the large slope from the rear of the property to the street boundary.



Figure 8: Southern elevation of the neighbouring property

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**



Figure 9: View south west from the subject property to the vacant lot at 40A Doney Street and the tennis court at 38 Doney Street.

### **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 amendment 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.**

**U21/0569 – SINGLE HOUSE– LOT 700 (NO.40B) DONEY STREET, ALFRED COVE  
(REC) (ATTACHMENT)**

3. Prior to the initial occupation of the development, the on-site tree (as marked in red on the approved plans) shall be planted and maintained thereafter in perpetuity, to the ongoing satisfaction of the City.
4. 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.

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 LPP-3.1: 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 *LPP3.1 Residential Development*, to the satisfaction of the City.
7. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining 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.
9. 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.
10. 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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11. 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.