

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 6 AUGUST 2019

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, 9 AUGUST 2019

**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, 9 AUGUST 2019**

PRESENT

P Prendergast
M Scarfone
G Russell
B Ashwood
T Cappellucci
R Tu
R Boswell

Manager Statutory Planning
Planning Services Coordinator
Manager Building Services
Senior Planning Officer
Senior Planning Officer
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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**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**

Ward : Bicton - Attadale - Alfred Cove
 Category : Operational
 Application Number : DA-2015-10/A
 Property : Lot 802 28C Swan Road, Attadale WA 6156
 Proposal : Amendment to Two Storey Single Dwelling
 (Removal of Screening)
 Applicant : Michael Whitbread
 Owner : Margaret Castle
 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 (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>

**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**

KEY ISSUES/SUMMARY

- In March 2015, Development Approval was granted for a two storey 'single house' at Lot 802 (28C) Swan Road, Attadale.
- Construction works in relation to the dwelling have been completed.
- It has come to the City's attention that the balcony wall height on the eastern boundary varies from the previously approved plans.
- Development approval is now sought to formalise this change.
- 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 Council Policy, during this time one objection was received relating to the amenity impact of the building in terms of visual privacy.
- 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

**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R40
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	390 sqm
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, 9 August 2019.

DETAIL

Development approval is sought for an amendment to a two storey single house at Lot 802 (28C) Swan Road, Attadale.

The amendment proposed is in relation to the removal of a privacy screening on the eastern boundary of the front balcony.

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 matter listed below.

R-Code Requirements

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Visual Privacy	7.5m	3.3m	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)

**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**

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 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 lack of privacy screening results in direct overlooking of neighbouring properties main outdoor living area	Refer to the comments section of this report.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

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 is 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 visual privacy setback which requires consideration against the Design Principles of the R-Codes (see comments section below).

**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**

COMMENT

Visual Privacy

The original approved plans show a 1.6 metre high wall on the eastern edge of the front balcony. The wall has been constructed a height of 1.0 metres a decrease of 0.6m from what was previously approved. The wall does not meet the definition of a privacy screen under the R-Codes and therefore requires a performance assessment. It is considered that the development responds meets the relevant design principles of the R-Codes as:

- Overlooking from the subject balcony is towards the front garden area of the adjoining property to the east. Front gardens are part of the public realm and are therefore not protected by the R-Codes privacy provisions. While the adjoining landowner has privatised their front yard by constructing a fence around it, and whilst it is used as an outdoor living area, it must be expected that the space will likely be overlooked. In addition this is not the only outdoor space available for the benefit of residents of the property, there being a covered outdoor living area to the rear of the property.
- The cone of vision from the balcony does not overlook any sensitive areas behind the front setback area. The view from this space falls upon an existing screened balcony and wall which has no major openings as demonstrated in the photos below.
- Landscaping has been planted which provides a more natural screen between the two properties and which will reduce the impact of the balcony as the landscaping matures.



**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (REC) (ATTACHMENT)**



**U19/520 – AMENDMENT TO TWO STOREY SINGLE DWELLING AT LOT 802 (28C)
SWAN ROAD, ATTADALE WA 6156 (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 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 Approval to Commence Development is approved subject to compliance with the previous planning approvals DA-2015-10 dated 6 March 2015 (including remaining conditions) and enclosed plans (referenced Site Plan, Ground Floor Plan, First Floor Plan and Elevations) stamped as approved on xx date.**

U19/521 - PROPOSED HOME BUSINESS AT LOT 1 SP 15081 (69) GAIRLOCH STREET, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross – Mount Pleasant
 Category : Operational
 Application Number : DA-2019-394
 Property : Lot 1 SP 15081 (69) Gairloch Street, Applecross
 Proposal : Single House
 Applicant : Kate Andrew
 Owner : Kate Andrew
 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

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<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U19/521 - PROPOSED HOME BUSINESS AT LOT 1 SP 15081 (69) GAIRLOCH STREET,
APPLECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- On 12 April 2019, the City received an application for a Home Business at Lot 1(69) Gairloch Street, Applecross.
- The initial application proposed up to 40 one hour individual sessions per week, and up to 3 two hour group sessions of up to 8 clients each per week. The proposed hours of operations were Monday to Sunday 9am to 9.30pm.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making to the surrounding affected landowners. 9 submissions were received during the consultation period each outlining concerns relating to traffic congestion and parking, late operating time, incompatible use within a residential zone, the number of clients proposed, safety, client demographic and noise.
- Following an assessment of the proposal it was considered that the intensity of the development should be reduced taking into account the residential nature of the street. This reduced intensity is reflected in the proposed conditions of approval.
- Notwithstanding the objections received, it is considered that the development is acceptable having regard to the relevant provisions of Local Planning Scheme No.6.
- It is recommended that approval be granted subject to conditions.



Figure 1 – Aerial Photography

**U19/521 - PROPOSED HOME BUSINESS AT LOT 1 SP 15081 (69) GAIRLOCH STREET,
APPLECROSS (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R60
Use Type	: Home Business
Use Class	: A 'requires advertising'

Site Details

Lot Area	: 680sqm
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: N/A
Site Details	: Refer Figure 1 above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 9 August 2019.

DETAIL

Development approval is sought for a Home Business (Art Psycho Therapy and Counselling) to be conducted within a single-storey dwelling at Lot 1 (69) Gairloch Street, Applecross. The proposed Home Business will be conducted from the living/dining room at the front of the dwelling. Client parking can be accommodated on site. There is space for three vehicles to park on the driveway and on the lawn at the front of the dwelling.

The proposal has been assessed against all the relevant provisions of LPS6 and applicable Local Planning Policies and Council Policies. The proposal satisfies all of these requirements.

Art therapy draws on characteristics from the fields of psychology and art to create a distinct new form of therapy where healing is facilitated through creative self-expression. It is unique in that it fuses together as a form of communication – visual and verbal.

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:	9 objections received

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

U19/521 - PROPOSED HOME BUSINESS AT LOT 1 SP 15081 (69) GAIRLOCH STREET, APPLECROSS (REC) (ATTACHMENT)

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Traffic congestion and parking	Three vehicles can be parked on private property without impeding the surrounding neighbours or the street.	Not Uphold
Late operating time	Operating hours are proposed to be managed via a conditioned of approval.	Not Uphold
Incompatible use within a residential zone	A Home Business is an acceptable land use in principle within the Residential Zone.	Not Uphold
The number of proposed clients	The size and frequency of group sessions has been reduced.	Not Uphold
Safety concerns	Not a material planning consideration.	Not Uphold
Client demographic	Not a material planning consideration.	Not Uphold
Noise	Not a material planning consideration.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant has 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 the 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 in relation to this proposal.

**U19/521 - PROPOSED HOME BUSINESS AT LOT 1 SP 15081 (69) GAIRLOCH STREET,
APPLECROSS (REC) (ATTACHMENT)**

COMMENT

This development application is for a Home Business (Art Psycho Therapy and Counselling) and is recommended for approval. This application can be supported for the following reasons:

- The intensity and scale of the Home Business is considered to be of an acceptable scale for location within this residential locality.
- Sufficient car parking is provided on site to accommodate the proposed use. ;
- The operation of the use will can occur without detriment to the safety of motorists and pedestrians; and
- The proposed hours of operation of 9am-8pm for individuals and group sessions on any given day is deemed acceptable.

The proposed Home Business is recommended for approval on that basis.

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

The application is considered to satisfy the provisions of LPS6. The intensity and scale of the Home Business is suitable for the locality and will provide a service to the community. On this basis, it is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION

APPROVAL

- 1. Development approval is granted exclusively to the Applicant and is not transferable to another person or property.**
- 2. No retail sale, display or hire of goods of any nature is to occur.**
- 3. All staff involved in the business of the Home Business must reside on the premises.**
- 4. No signage shall be displayed at the premise that exceeds 0.2m².**
- 5. A maximum of three clients at any one time are permitted to visit the property.**
- 6. The Home Business shall not operate outside of the hours of 9:00am to 8:00pm Monday to Sunday.**
- 7. All materials and/or equipment used in relation to the Home Business shall be stored out of public view.**