

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 9 MAY 2023

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, 19 MAY 2023



**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 MAY 2023.**

PRESENT

P Prendergast
M Scarfone
T Geddes
L Johnson

Manager Statutory Planning
Planning Services Coordinator
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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U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD, MELVILLE 6156 (REC) (ATTACHMENT)

Ward : Palmyra - Melville - Willagee
 Category : Operational
 Application Number : DA-2023-226
 Property : Lot 10 (No. 63) Kitchener Road, Melville 6156
 Proposal : Two (2) Grouped Dwellings
 Applicant : Alpha Studios
 Owner : Impressive Development Pty LTD
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : No Previous Items
 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>

U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD, MELVILLE 6156 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Development approval is sought for two grouped dwellings at Lot 10 (No. 63) Kitchener Road, Melville.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), relevant local planning policies including Local Planning Policy 3.1 – Residential Development (LPP3.1), and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed development requires a performance assessment in relation to several aspects of the R-Codes.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response, one objection was received relating to the lot boundary setback of the Lot 2 Dwelling to the eastern lot boundary.
- 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

**U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD,
MELVILLE 6156 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R20
Use Type	: Grouped Dwelling
Use Class	: Permitted

Site Details

Lot Area	: 970m ²
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: Yes – pedestrian path/crossing and road furniture
Site Details	: Refer to Figure 1 above

A copy of the plans forms part of the attachments to the agenda which were distributed to Elected Members on Friday, 19 May 2023.

DETAIL

In March 2023, a development application was lodged for two grouped dwellings at Lot 10 (No. 226) Kitchener Road, Melville.

In response to concerns raised by the City, revised plans were submitted in April 2023 which reduced the heights of retaining walls for lot 2 to below 500mm above Natural Ground Level (NGL). The amended plans submitted in April 2023 are the subject of this report.

The application has been assessed against the provisions of LPS6, the R-Codes and relevant local planning and council policies. A performance assessment is required in respect of the matters listed below.

State Planning Policy 7.3 - Residential Design Codes Volume 1

U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD, MELVILLE 6156 (REC) (ATTACHMENT)

Table 1: Lot 1 Dwelling

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.1.2 – Street Setback	Secondary st setback <ul style="list-style-type: none"> • 1.5m minimum • 3m average 	1.9m minimum, 2.6m average setback. 4.8m ² incursion into secondary street setback area	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
5.3.5 – Vehicular Access	From secondary street in lieu of primary street	Vehicle access from primary street	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
5.3.7 – Site Works	Retaining walls on boundary less than 500mm above NGL	Retaining wall +500mm above NGL on lot boundary	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
5.4.4 – External fixtures, utilities and facilities	Store area required for each grouped dwelling	No store area proposed	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

Table 2: Lot 2 Dwelling

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.1.3 Lot boundary setbacks Cl. 3.1 (i) – Eastern Wall (kitchen/scull/living)	1.5m (wall with major opening)	1.3m	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
5.4.4 – External fixtures, utilities and facilities	Store area required for each grouped dwelling	No store area proposed	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

The officer comment below is limited to the lot boundary setback of Lot 2 kitchen/scullery/lounge wall, as this was the subject of the objection received by the City.

**U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD,
MELVILLE 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 objection received and an officer's response is provided in the table below.

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Overlooking generated eastward from lot 2 dwelling	The development meets the deemed to comply standards for visual privacy contained in Clause 5.4.1 C1.1(ii) of the R-Codes. A retaining wall shown to be 0.5m tall is situated on the lot boundary which these windows face. The retaining wall will have a 1.8m tall dividing fence on which will provide suitable screening to 1.7m above the finished floor level of the dwelling.	Not Uphold
Overshadowing generated from lot 2 dwelling to 65 Kitchener Road	The development meets the deemed to comply standards contained in Clause 5.4.1 of the R-Codes. Overshadowing is calculated at noon on 21 June when the sun is at its lowest. On that basis, the majority of the shadow cast from the proposed dwelling will be retained on-site. The reduced dwelling setback will not create additional overshadowing on the adjoining lot at midday on the winter solstice. The majority of the proposed building exceeds the minimum lot setback on the eastern side which will reduce any shadow from the dwelling in the afternoon.	Not Uphold

U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD, MELVILLE 6156 (REC) (ATTACHMENT)

Summary of Issues Raised (Continued)	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Lack of retaining and fill	Suitability of retaining walls and fill to be addressed through building permit application	Not Uphold
Overflow of stormwater from soak wells to 65 Kitchener Road	Condition to be placed on any approval of application requiring stormwater to be retained on site	Not Uphold
Existing Asbestos Fence Replacement	Dividing fence issue to be resolved between neighbours	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 are no strategic, risk or environmental management implications with this application.

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

COMMENT

Lot 1 Dwelling

No submissions were received in respect of the proposed grouped dwelling on Lot 1. The elements of the R Codes where a performance assessment against the design principles of the R Codes is sought, as outlined by Table 1 above, are considered to have been met and are supported on that basis.

**U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD,
MELVILLE 6156 (REC) (ATTACHMENT)****Lot 2 Dwelling**Lot Boundary Setback

The Lot two dwelling proposes a wall (Kitchen/living/Scullery) with major openings setback 1.275m from the side lot boundary

A performance assessment against the design principles of the R Codes is sought in respect of the proposed lot boundary setback to the eastern side where it adjoins the neighbouring property at No 65 Kitchener Road. The design principles contained in Clause 5.1.3 of the R-Codes seek to reduce the impact of building bulk on adjoining properties, maintain visual privacy, maintain amenity for outdoor living areas and contribute to the streetscape. The proposed lot boundary setback is considered to meet the design principles for the following reasons;

- Due to the angled nature of the lot, the minimum setback is 1.2m. Minimal building bulk is considered to be generated to the eastern boundary, with the dwelling being of single storey design and setback at an average of 2.6m from the lot boundary.
- No overlooking occurs toward the eastern lot boundary. The development proposes a retaining wall along this boundary with a 1.8m dividing fence situated above. The Finished Floor Level of the dwelling and OLA areas is not greater than 500mm above the level of the retaining wall and as such the dividing fence is considered to provide adequate screening between the two lots

Most of the shadow cast from the proposed dwelling will be retained on-site due to the orientation of the lot. The dwelling setback average of 2.6m will assist in safeguarding from adverse overshadowing impacts.

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

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

**U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD,
MELVILLE 6156 (REC) (ATTACHMENT)**

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 in accordance with the City's stormwater design guidelines.
3. Prior to the initial occupation of the development, the eastern lot boundary of Lot 2 (as marked in RED on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.6 metres above the finished floor level, or any other screening alternative approved by the City that complies with C1.1 or C1.2 of Clause 5.4.1 of *State Planning Policy 7.3 Residential Design Codes Volume 1*. The screening measures must thereafter be retained 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 being in accordance with the City's Crossover Guidelines, Standards and Specifications;
 - 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. 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.
6. Any street walls and fences (including the height of any retaining walls) constructed within the primary and secondary street setback areas shall meet the requirements contained under clause 3 of Local Planning Policy *LPP3.1 Residential Development* to the satisfaction of the City.
7. 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.
8. 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.
9. Prior to the initial occupation of the development, the proposed tree/s (as marked in red on the approved plans) shall be planted and maintained thereafter in perpetuity, to the ongoing satisfaction of the City.

**U23/0605 – TWO GROUPED DWELLINGS - LOT 10 (NO. 63) KITCHENER ROAD,
MELVILLE 6156 (REC) (ATTACHMENT)**

- 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.**

- 11. Unless otherwise approved in writing by the City, all trees located on the verge adjacent to the land on which the development is to take place shall be protected throughout construction of the development 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:**
 - 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 of the TPZ, the TPZ fencing shall be located the minimum distance from the approved works that is required to complete the works.**
 - 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 or refuelling of equipment or 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; or**
 - The parking of vehicles or machinery.**