

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 18 AUGUST 2020

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, 21 AUGUST



**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, 18 AUGUST 2020**

PRESENT

P Prendergast
M Scarfone
T Cappellucci
B Ashwood
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 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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**U20/0537 - SINGLE HOUSE - LOT 404 (13) VENTNOR AVENUE, MOUNT PLEASANT
WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2020-808
 Property : Lot 404 (13) Ventnor Avenue, Mount Pleasant
 WA 6153
 Proposal : Single House
 Applicant : Avena Homes
 Owner : Paolo Serra
 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>

**U20/0537 - SINGLE HOUSE - LOT 404 (13) VENTNOR AVENUE, MOUNT PLEASANT
WA 6153 (REC) (ATTACHMENT)**

KEY ISSUES/SUMMARY

- Development approval is sought for a two storey single house at Lot 404 (13) Ventnor Avenue, Mount Pleasant.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the Deemed-to-Comply provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies.
- A performance assessment is sought in relation to the, boundary setbacks and solar access provisions of the R-Codes.
- The proposal was considered to have the potential to adversely impact on the adjoining property and as such was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making and one objection was received. In response to the objection and the City's concerns, the applicant provided amended plans to reduce the total amount of shadow cast and to bring the southern boundary setback into line with the Deemed to Comply standards.
- 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

**U20/0537 - SINGLE HOUSE - LOT 404 (13) VENTNOR AVENUE, MOUNT PLEASANT
WA 6153 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

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

Site Details

Lot Area	:	Subject lot - 449 sqm
Retention of Existing Vegetation	:	No
Street Tree(s)	:	Not applicable
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, 21 August 2020.

DETAIL

In July 2020, the subject development application was lodged for the construction of a two storey single house at Lot 404 (13) Ventnor Avenue, Mount Pleasant.

The proposed lot boundary setback and solar access for the adjoining property required performance assessment in accordance with the relevant clauses of the R-Codes.

In accordance with Clause 1.7.6 of *Local Planning Policy 1.1 Planning Process and Decision Making*, the application was advertised to the adjoining neighbours at 15A Ventnor Avenue and an objection was received

In August 2020, the applicant submitted revised plans as a result of concerns raised by both the City and the affected neighbour. These plans have 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 satisfies all of the relevant deemed-to-comply provisions of the R-Codes with the exception of those matters listed below.

**U20/0537 - SINGLE HOUSE - LOT 404 (13) VENTNOR AVENUE, MOUNT PLEASANT
WA 6153 (REC) (ATTACHMENT)**

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Lot Boundary Setback (northern side)	2.3m	1.5m	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
Solar Access	25% (142m ²)	35.15% (191.8m ²)	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

The comment in remainder of this report is limited only to Solar Access which was the subject of the objection.

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 a response is provided in the table below.

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
The proposed southern lot boundary setbacks are non compliant	The applicant has submitted revised plans resulting in the setback meeting the Deemed to Comply provisions	Not Uphold
The variation to Solar Access requirements is well over the Deemed to Comply provisions - resulting in loss of sunlight to the primary outdoor living area, solar collectors and all windows facing north.	Refer to the comments section of this report.	Not Uphold

**U20/0537 - SINGLE HOUSE - LOT 404 (13) VENTNOR AVENUE, MOUNT PLEASANT
WA 6153 (REC) (ATTACHMENT)**

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

If the applicant is unhappy with the decision there is a 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

The proposal satisfies all of the relevant provisions of the applicable Local Planning Policies and the R-Codes, with the exception of solar access set out in Clause 5.2.4 of the R-Codes. This requires consideration against the Design Principles of the R-Codes (see comments section below).

COMMENT

Solar Access

The subject site has a width of 11 metres and is of an east/west orientation. The Design Principles contained in Clause 5.4.2 of the R-Codes seek to ensure sufficient solar access for the development site and the protection of outdoor living areas, major openings and solar collectors on adjoining properties. It is considered that the proposed design satisfies the Design Principles for the following reasons:

- The Explanatory Guidelines of the R-Codes confirm that the sites most vulnerable to overshadowing are narrow east-west orientated sites on the south side of a development site, especially if they are also lower or on a south facing slope. In such cases, even a relatively low building may cast a mid winter shadow over a greater proportion of a site than allowed under the deemed-to-comply provisions.
- The overshadowing impact is exacerbated in this case as the dwelling at No.15A has been designed around a central open plan living area and courtyard which is located on its northern side boundary (Figure 2). An outdoor living area in this location is more susceptible to shadow encroachment from developments to the north than it would be if it was located towards the rear of the dwelling. While the proposed dwelling will cause a shadow to fall on patio area in this central location, this space is currently shadowed by the existing patio structure and as such the additional impact will be acceptable.

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- The amended plans reduce any the potential impact on the solar collectors of the adjoining dwelling, its pool and north facing bedroom windows (Figure 3).
- The subject proposal meets the height provisions set out in *Local Planning Policy 1.9 Height of Buildings* and the deemed to comply setback requirements to the south.

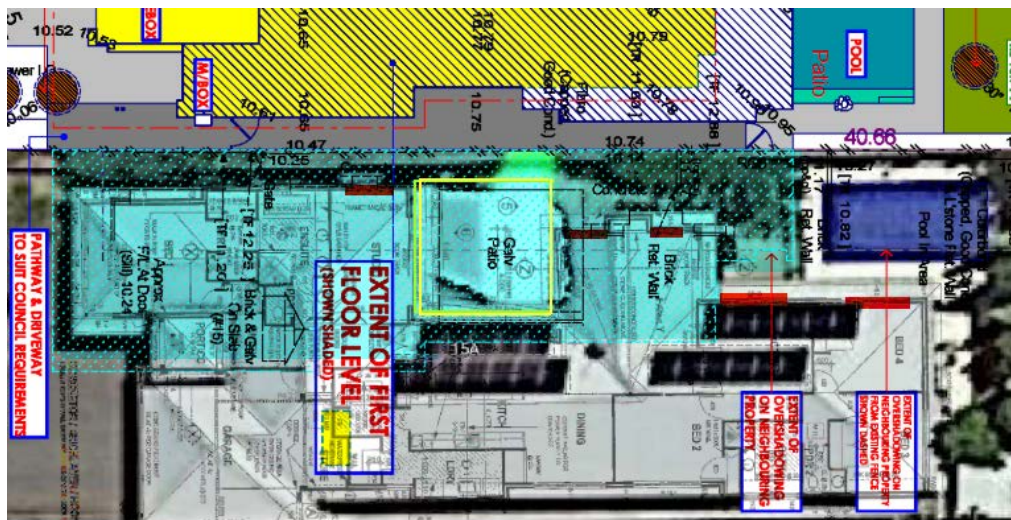


Figure 2: Site plan overlay of the neighbouring property (15A Ventnor Avenue) and the subject site. The area of shadow is demonstrated by the blue shaded area, the yellow box is the approximate area of the patio and the red lines demonstrate major openings to habitable spaces

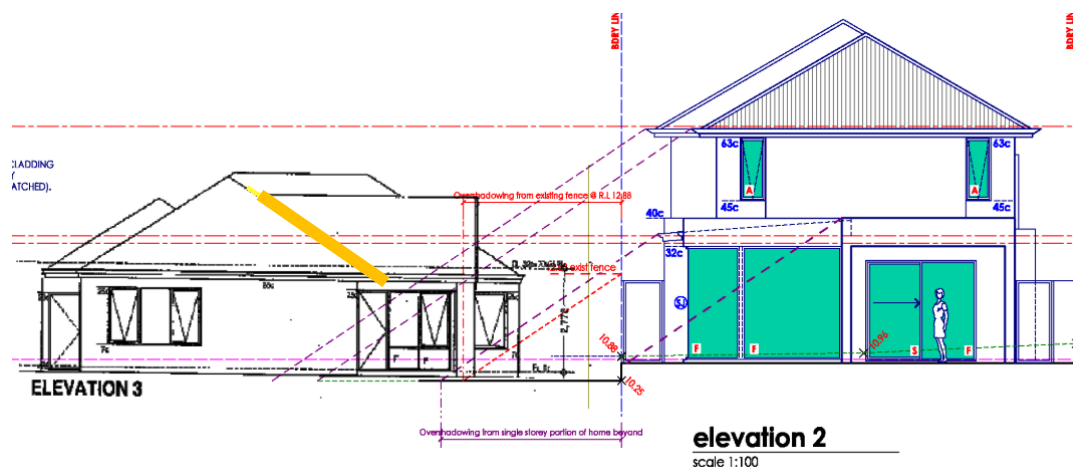


Figure 3: Elevation cross-section between the subject site (Elevation 2) and the southern neighbour (Elevation 3). The orange line demonstrates the approximate alignment of the solar panels which are not affected. Note the existing patio is not shown on the elevation.

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Figure 4: View of the Outdoor Living Area of the neighbouring property from the subject site.



Figure 5: View of the vacant site from Ventnor Avenue

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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 proposed single house meets all of the Deemed to Comply provisions of the R-Codes with the exception of solar access. It is considered that the solar access meets the relevant design principles of the R-Codes and it is recommended that approval 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.**
- 3. 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 Manager Statutory Planning.**
- 4. Where a driveway meets the street, walls or fencing within sight line areas (including the adjoining property to the south) are to meet the requirements contained under clause 5 of LPP-3.1: Residential Development, to the satisfaction of the Manager Statutory Planning.**
- 5. 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.**

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6. The development shall be serviced by a concrete or brick paved vehicle crossover with:
- a. A maximum width of 4.5m;
 - b. Located a minimum of 2m away from the outside of the trunk of any street tree; and
 - c. A minimum of 1m from any existing street infrastructure.

The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications 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.