

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 7 MAY 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, 10 MAY 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, 23 APRIL 2019**

PRESENT

M Scarfone
T Capobianco
G Russell
B Ashwood
T Cappellucci

Planning Services Coordinator
Manager Building Services
Building Services Coordinator
Senior Planning Officer
Senior 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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U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Ward : Bicton – Attadale – Alfred Cove
 Category : Operational
 Application Number : DA-2016-546/B
 Property : Lot 54 (134A) Petra Street, Bicton
 Proposal : Amendments to Two Storey Single House with Basement
 Applicant : Arc Seven 1
 Owner : Mr Michael Crowther and Mrs Margaret Crowther
 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 : DA-2016-546 & DA-2016-546/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>

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

KEY ISSUES/SUMMARY

- In December 2016, Development Approval was granted for a two storey 'Single House' with a basement at Lot 54 (134A) Petra Street, Bicton.
- In June 2018, an amended Development Approval was granted for changes to the eastern elevations which came to the City's attention during the construction process.
- Each of these previous Development Approvals was granted following the DAU process.
- The dwelling is currently under construction. It has come to the City's attention that a number of elements including the overall building height, finished floor level of the ground floor decking, height of the retaining walls and setbacks to the east vary from the previously approved plans.
- Development approval is now sought to formalise these changes.
- The amendments require 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 two objections were received relating to the amenity impact of the building in terms of height, visual privacy and retaining wall height
- 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.

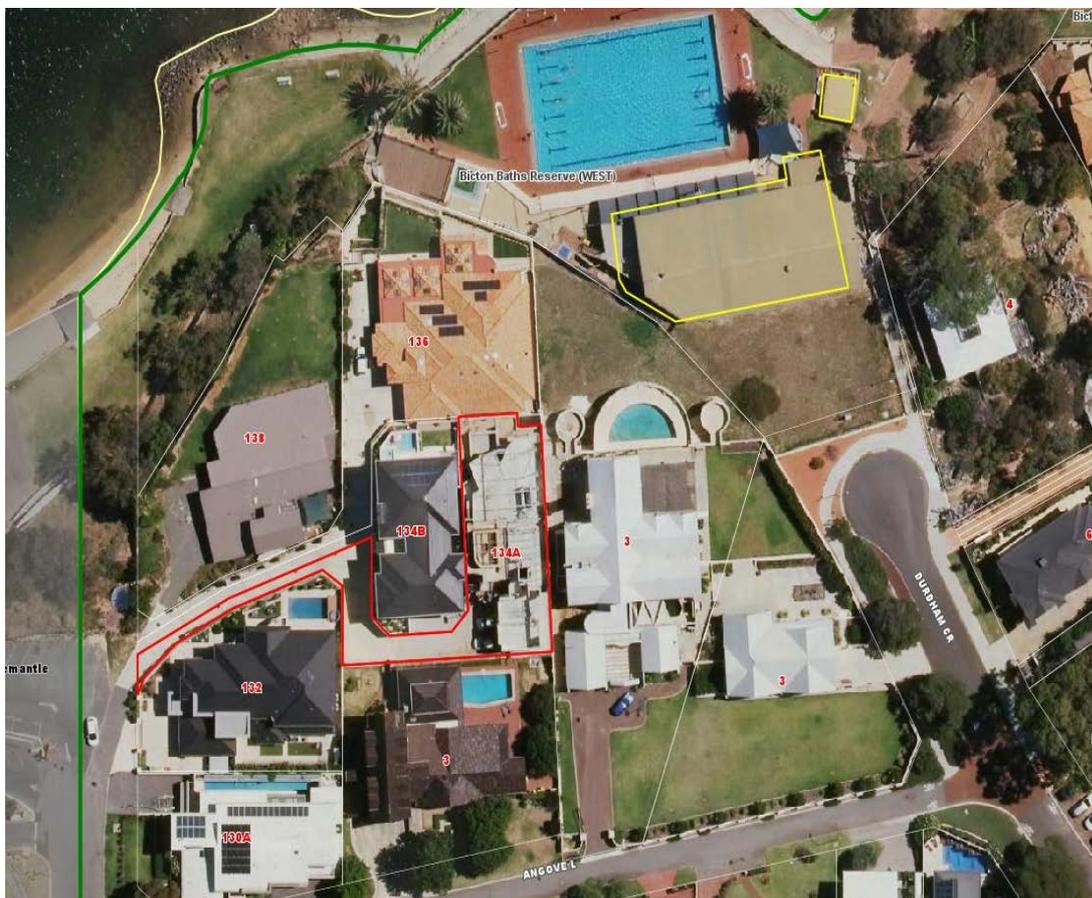


Figure 1 – Aerial Photography

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Living
R-Code	:	R17.5
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	753 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, 10 May 2019.

DETAIL

Planning approval is sought for amendments to a two storey single house with a basement at Lot 54 (134A) Petra Street, Bicton. The dwelling is currently under construction.

The amendments proposed are in relation to:

- Increasing the concealed roof height;
- Raising the finished floor level of the ground floor decking area adjoining the alfresco;
- Increasing the height of the boundary retaining walls on the northern and eastern elevations;
- New screening design along the eastern elevation of first-floor roof garden;
- Garage wall length has increased along both the eastern and southern boundaries; and
- Reduced lot boundary setbacks to the eastern side on both the ground and first-floor.

The proposed amendments have 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 those matters listed below.

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Local Planning Scheme and Local Policy Requirements

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Concealed Roof Height	9m	10.0m maximum	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)

R-Code Requirements

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Site works and retaining walls	0.5m	3m maximum (north east)	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)
Side Setback – (North) First Floor Total Dwelling	5.7m	4.8m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes.	Manager Statutory Planning (MSP)
Side Setback – (East) First Floor Total Dwelling	3.5m	1.9m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes.	Manager Statutory planning (MSP)
Side Setback – (East) First Floor Roof Garden Screening	1.5m	1.3m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes	Manager Statutory planning (MSP)
Side Setback – (South) First Floor Total Dwelling	1.4m	1.2m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes.	Manager Statutory planning (MSP)

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Boundary Wall – (East) Garage	Length: 9m	Length: 9.53m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes.	Manager Statutory planning (MSP)
Visual Privacy Setback – (East) First Floor Balcony and Roof Garden	7.5m	Balcony: 1.8m Roof Garden: 1.3m	Considered acceptable when assessed against the relevant Design Principles of the R-Codes	Manager Statutory planning (MSP)
Visual Privacy Setback – (East) Ground floor deck	7.5m	Nil	Condition recommended to ensure screening provided to the east and south elevations meets the relevant Deemed to Comply criteria of the R-Codes.	Manager Statutory planning (MSP)

The discussion in this report relates only to the design elements that are the subject of an 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: Two objections received.

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

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
No need for increased retaining wall height on the northern boundary as it's already a very significant boundary wall height.	Refer to the comments section of this report.	Not Uphold
The proposed increase to the overall building height by 295mm is unnecessary and unacceptable as would cause an amenity impact.	Refer to the comments section of this report.	Not Uphold
Increasing the approved floor level of the ground floor northern decking by 500mm is not needed and will have a significant detrimental impact on the adjoining neighbours.	Condition 2 is recommended to ensure that visual privacy screening is installed and maintained to the satisfaction of the City on the southern and eastern elevations of the decking adjoining the alfresco area to ensure visual privacy is compliant with the deemed-to-comply requirements of the R-Codes.	Not Uphold
Don't support the gabion wall as the choice of construction of the increased retaining wall height as not consistent with existing limestone wall construction on the common boundary.	Not considered to be a relevant planning matter as per LPP1.1. Despite this, Condition 4 is recommended to ensure the external surface of the retaining walls which are visible from the adjoining properties are to be finished to the same standard as the rest of the development, to the satisfaction of the City.	Not Uphold
Viewing windows through basement gym are a gross violation of privacy.	Not considered to be a relevant planning matter as per LPP1.1. No viewing gap through the northern boundary retaining wall is shown on the proposed plans; therefore no loss of privacy will result.	Not Uphold

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Changed use of basement storeroom to a gym has created significant planning issues.	Not a relevant planning matter as per LPP1.1 as the change in nature of the room has not resulted in any additional planning variations for that specific aspect of the proposal.	Not Uphold
No details of the privacy screen required from the deck have been provided.	A condition is recommended to ensure that visual privacy screening is installed and maintained to the satisfaction of the City on the southern and eastern elevations of the decking adjoining the alfresco area to ensure visual privacy is compliant with the deemed-to-comply requirements of the R-Codes.	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

The proposal satisfies all of the relevant provisions of the applicable Local Planning Policies with the exception of the concealed roof height limit referenced in *LPP1.9 - Building Height*, which requires consideration against the Design Principles of the R-Codes (see comments section below).

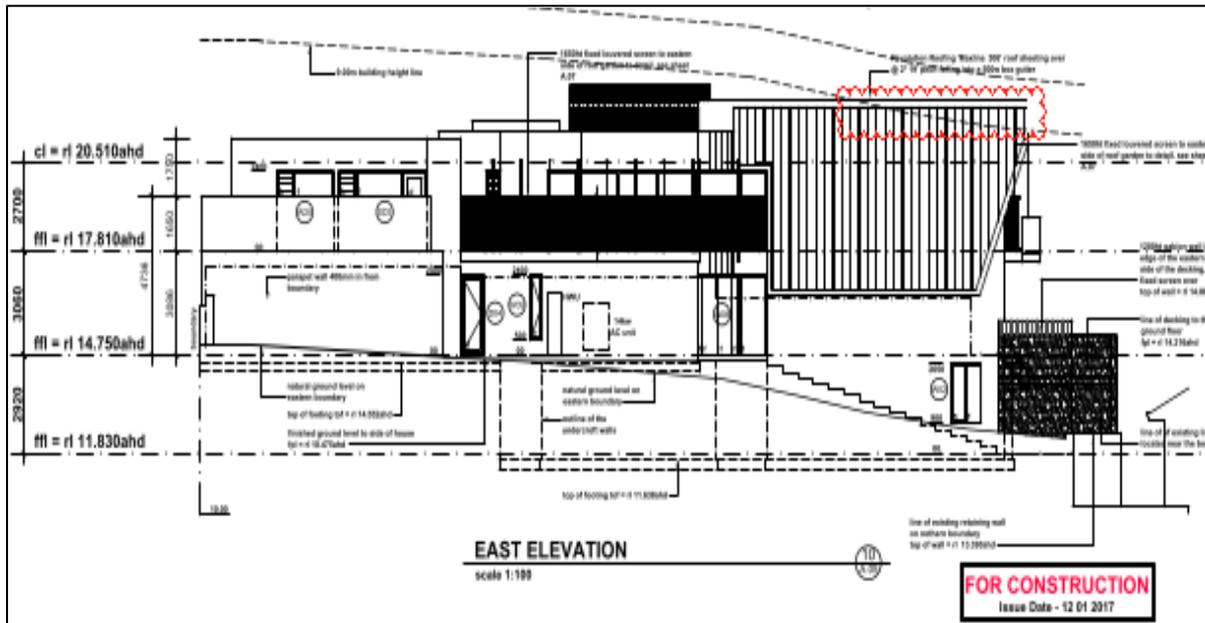
U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

COMMENT

Building Height

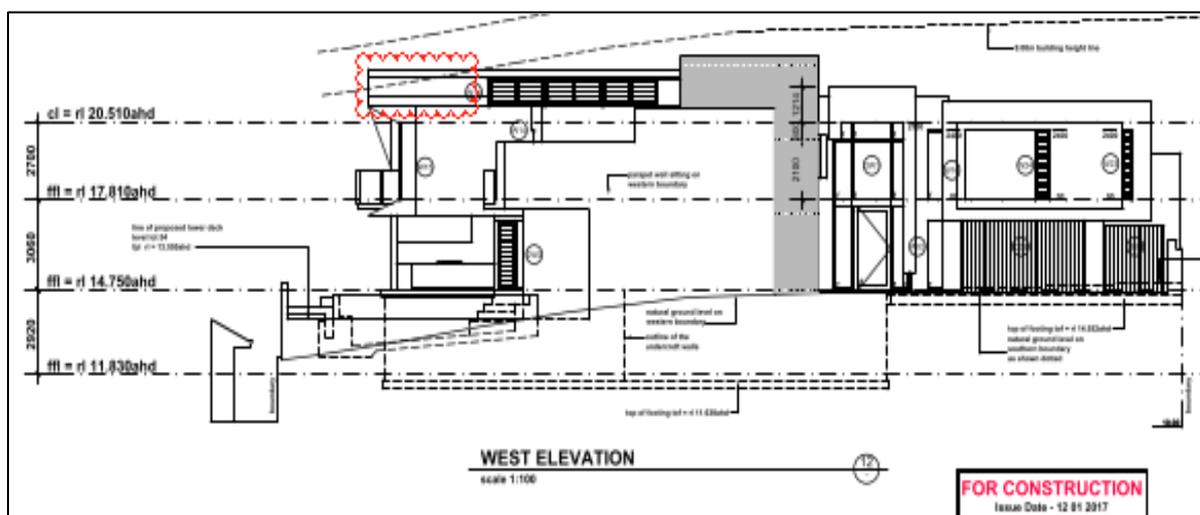
The subject site is generally flat however it falls away sharply in the northern third of the lot. The building presents as two storey and the majority of the building sits well below the deemed to comply building height set out by LPP 1.9. The building height is considered to meet the Design Principles of Cl 5.1.6 *Building Height* of the R-Codes for the following reasons:

- Due to the topography of the area, the dwellings to the south are significantly higher than the subject property ensuring that the building height does not have an adverse impact on access to views of significance.
- Aided by the topography of the area, the proposed development meets the Deemed – to – Comply standards outlined by Cl 5.4.2 *Solar Access for Adjoining Sites* of the R-Codes; as such the building height will not limit adequate access to direct sun into buildings, open spaces, and major openings to habitable rooms of adjacent residential properties.
- The adjoining building to the east and north are generally oriented away from the subject site to take advantage of the available views. The proposed building height does not have a negative impact on these properties in terms of building bulk.
- Due to the location of the site, there will be no impact on the Petra Street streetscape.



The above diagram depicts the portion of the wall which requires a consideration against the design principles (Circled in Red) on the eastern elevation.

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (REC) (ATTACHMENT)



The above diagram depicts the portion of the wall which requires a consideration against the design principles (Circled in RED) on the western elevation.

Site Works and Retaining Walls

The proposed decking level adjoining the ground floor alfresco is a maximum of 2m above natural ground level. The top of the proposed retaining/balustrade is a maximum of 3m above natural ground level. This is an increase in 0.5m from what was previously approved. It is considered that the development responds well to the relevant design principles of the R-Codes as:

- The subject lot has employed levels of both cut and fill across the site. The level of fill which is to be employed responds to the steep slope of the site, resulting in an increase in the functionality of the outdoor living area.
- Due to the configuration of the lot, the site works cannot be viewed from the street.
- The impact on the adjoining property to the north is considered to be minimal as the existing site works and retaining sit above the eave line of that property. The additional retaining/balustrade (0.5m in height) from what was originally approved, is not considered to result in any impact on the adjoining northern dwelling. This is because the height sits above that dwellings eave line and does not impact on any major openings or the primary outdoor living area.
- The location of retaining to the adjoining eastern property is considered to result in minimal impact as it is not adjacent to major openings of habitable rooms or the primary outdoor living area of that property but is adjacent to a walkway and an existing dividing fence which exceeds the permitted 1.8m dividing fence height.
- A condition is recommended to ensure that visual privacy screening is installed and maintained to the satisfaction of the City on the southern and eastern elevations of the decking to ensure visual privacy is compliant with the deemed-to-comply requirements of the R-Codes.
- No screening is required to the north, as the decking does not overlook any major openings or unenclosed outdoor active habitable spaces of any adjoining properties and is therefore considered the relevant Design Principles have been met.

U19/0518 PROPOSED AMENDMENTS TO TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54 (134A) PETRA STREET, BICTON (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

Given the design principle assessment that has been applied in this case concludes that the development as amended is acceptable in principle, it is recommended that approval for the amendment be granted, subject to conditions.

OFFICER RECOMMENDATION U19/0518

APPROVAL

- 1. This Approval to Commence Development is approved subject to compliance with the previous planning approvals DA-2016-546 dated 2 December 2016 and DA-20166-546/A dated 19 June 2018 (including remaining conditions) and enclosed plans (referenced Site Plan, Undercroft Floor Plan, Ground Floor Plan, First Floor Plan and Elevations) stamped as approved on xx date.**
- 2. Prior to the initial occupation of the development, the Southern and Eastern elevations of the ground floor decking adjoining the Alfresco (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 the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the City.**
- 3. The privacy screening shown on the approved plans on the Eastern elevation of the first floor Balcony and Roof Garden (as marked in RED on the approved plans) shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the City.**
- 4. Prior to the initial occupation of the development, the external surface of the retaining walls which are visible from the adjoining properties are to be finished to the same standard as the rest of the development, to the satisfaction of the City.**