

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

6 MARCH 2012

- NOTES:**
- 1. This Meeting makes Recommendations to the Manager Planning & Development. Services**
 - 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 Planning & Development Services. 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 must be received by the CEO by midday on the Friday following the publication of the Development Advisory Unit (DAU) agenda to the City's web site.**
 - 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 are subject to the discretion of the CEO, and must be received by him no later than midday on the Friday following the publication of the DAU agenda to the City's web site.**
 - 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 Planning & Development Services, after midday on the Friday after the publication of the agenda to the City's website.**

DISTRIBUTED: 9 MARCH 2012

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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**U12/0403 –(SM) - AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)**

Ward : Bicton – Attadale
 Category : Operational
 Application Number : DA-2011-1245/A
 Property : Lot 2 (25B) Milne Street, Bicton
 Proposal : Amendment to approved Two-Storey Single House – reduced front setback
 Applicant : Lorimer Homes
 Owner : Glen Stuart
 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 Planning and Development Services
 Previous Items : not applicable

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when 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 Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

**U12/0403 –(SM) -AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)**

KEY ISSUES / SUMMARY

- Amended Planning Approval is sought to a two-storey single house previously approved under delegated authority on 5 December 2011.
- The amendment refers to a reduction of the ground and upper floor primary street setbacks to 5.0m and 5.7m respectively. No other modifications are proposed.
- Initially, a ground and upper floor primary setback variation of 4.5m and 5.2m was proposed to which, two objections were received from the adjoining neighbours.
- The proposal was then further amended to 5.0m and 5.7m (as per above) in response to the concerns raised by the objectors. Despite this however, concerns still stand.
- Notwithstanding the objection received, the proposal is considered to satisfy the relevant performance criteria of the R-Codes and as such is recommended for conditional approval.



**U12/0403 –(SM) -AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)**

BACKGROUND

The subject application has previously been granted planning approval under delegated authority on 5 December 2011. The amended proposal is identical to the previous application with the exception of a reduced front setback, which represents a variation to the Acceptable Development provisions of the R-Codes.

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living Area – BC1
 R-Code : R17.5
 Use Class : Residential
 Use Permissibility : P - permitted

Site Details

Lot Area : 504.00sqm
 Retention of Existing Vegetation : Not applicable
 Street Tree(s) : To be retained
 Street Furniture (drainage pits etc) : Not applicable
 Site Details : Refer to photo above

U12_0403_March_2012.pdf A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 9 March 2012.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
GF Front Setback	6m avg	5.0m avg	Does not comply	MPDS	
FF Front Setback	6m avg	5.7m avg	Does not comply	MPDS	

*Note: GF – Ground Floor, FF – First Floor

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Variations to R-Codes
 Support/Object: Objection

**U12/0403 –(SM) -AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)**

Affected Property	Summary of Submissions	Support / Objection	Officer's Comment	Action (Uphold / Not Uphold)
27 Milne Street	Concerns raised in relation to: <ul style="list-style-type: none"> - Excessive building bulk projecting into the streetscape; - Non-compliance with 6.0m average frontage requirements; - Impinges on future redevelopment and design of property. 	Object	The concerns raised relate to an initial proposal for a reduced front setback of 4.5m. In response to these concerns, the setback was increased, resulting in the current variation of 5.0m and 5.7m respectively. The variation now sought is considered to satisfy the Performance Criteria of the R-Codes (refer to comments section for further detail).	Not Uphold
25A Milne Street	Object to a reduced front setback	Object	The variation is considered to satisfy the Performance Criteria of the R-Codes (refer to comments section for further detail).	Not Uphold

REFERRALS TO GOVERNMENT AGENCIES

No consultation with other agencies or 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 in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no anticipated strategic, risk or environmental management implications.

**U12/0403 –(SM) -AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)****POLICY IMPLICATIONS**

There are no relevant policies in the assessment of the current application.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is recommended for approval under delegation through the DAU process. Should Elected Members, or interested third parties have an alternative view, the DAU 'call-up' procedures provide opportunity to call the matter up for formal Council consideration.

COMMENTS

As noted amended planning approval is sought for a two-storey single house approved under delegated authority on 5 December 2011. Specifically, the amendment relates to a reduced front setback, initially proposed at 4.5m (ground floor) and 5.2m (upper floor). The variation was the subject of neighbour consultation with two objections being received. In response to the concerns raised (refer to public consultation / communication table above), the setback variation was modified to 5.0m (ground floor) and 5.7m (upper floor).

Notwithstanding the modified setback, concerns have still been raised by a submitter. Whilst the issues raised are acknowledged, it is considered that the variation sought satisfies the Performance Criteria of clause 6.2.1 for the following reasons:

- The proposed setback is consistent with that of the adjoining property at 25A Milne Street which is setback at 4.9m (ground and upper floor), thus maintaining a consistent streetscape.
- Whilst the adjoining property at 27 Milne Street currently features a front setback of approximately 8.0m, plans to redevelop the property (which was outlined in the residents' submission) propose a front setback of 6.0m. The proposed variation will have no implications on the redevelopment of this property.
- The setback variation will not have any privacy implications. It is noted that overlooking of the existing balcony at 25A Milne Street satisfies the Performance Criteria of clause 6.8.1 by virtue of the fact that the majority of the balcony is contained within the street setback line. Additionally, it is noted that the balcony is entirely visible from the public realm / street.
- The open space requirements still comply notwithstanding the minor setback variation.

Based on the above, the variation is supported.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**U12/0403 –(SM) -AMENDMENT TO APPROVED TWO-STOREY SINGLE HOUSE –
REDUCED FRONT SETBACK AT LOT 2 (25B) MILNE STREET, BICTON (REC)
(ATTACHMENT)**

CONCLUSION

It is considered that the proposed development, subject to compliance with the conditions imposed as part of the original application, satisfy the provisions and requirements of CPS5 and the R-Codes. Accordingly, it is recommended that approval be granted.

OFFICER RECOMMENDATION

APPROVAL

- A) That the application for an amendment to DA-2011-1245, a Two-Storey Single House at Lot 2 (25) Milne Street, Bicton be approved subject to compliance with the conditions of planning approval reference DA-2011-1245..**
- B) That the neighbours who submitted an objection to the application be notified of (A) above.**

U12/0404 – (GD)- RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Ward : City
 Category : Operational
 Application Number : DA-2011-1449
 Property : 4/7 Cotrill Street, Myaree WA 6154
 Proposal : Retrospective change of use from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation)
 Applicant : Ms A Richards
 Owner : Ms A M Taylor
 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 Planning and Development
 Previous Items : Not applicable

AUTHORITY / DISCRETION

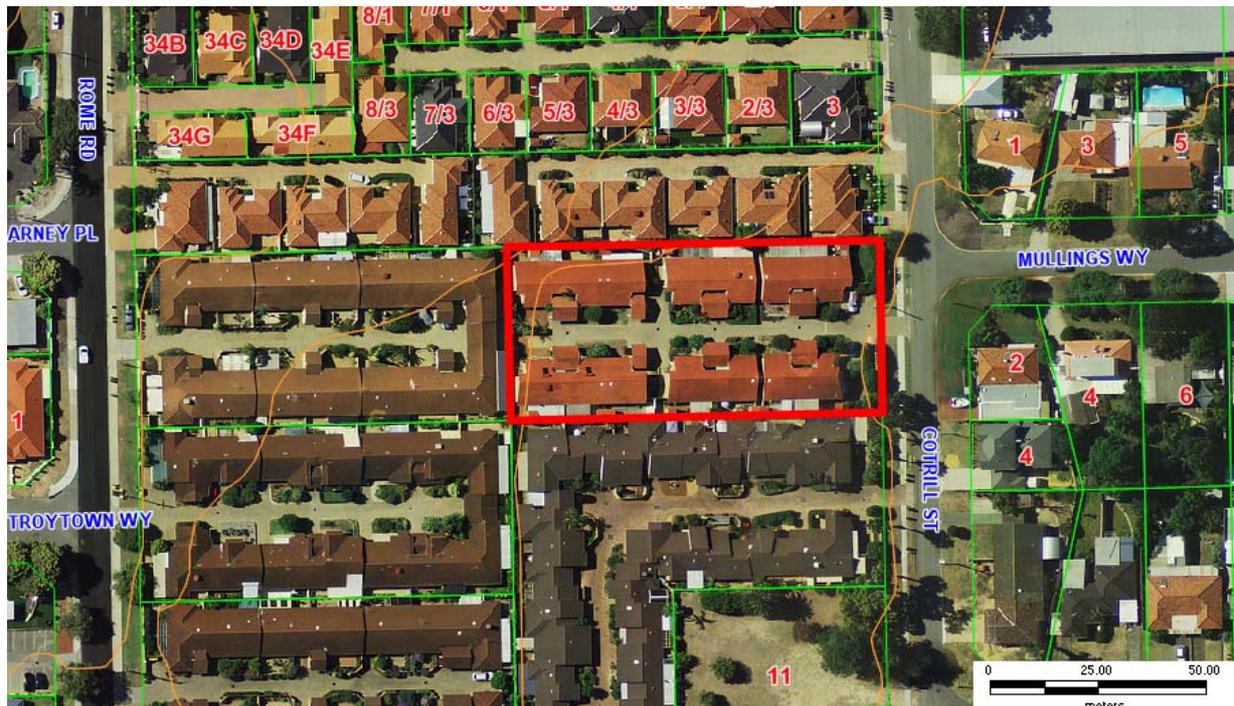
DEFINITION

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<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when 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>

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Retrospective planning approval is sought for a change of use of 4/7 Cotrill Street, Myaree from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).
- Under Community Planning Scheme No. 5 (CPS5), Short Term Accommodation is defined as a “Residential Building” which is a ‘Use Not Listed’.
- There are no Local Planning Policies which regulate Short Term Accommodation.
- The Western Australian Planning Commission Planning Bulletin 99 (PB99) provides guidelines for holiday home developments (short stay residential dwellings).
- The retrospective application was advertised in accordance with Clause 7.5 of CPS5 and seven objections were received, all in opposition.. The objections raised primarily relate to increased noise, decreased safety and security, and problems relating to parking and refuse management.
- The proposal has been assessed against the provisions of CPS5 and PB99 and is deemed not to comply as the use will result in adverse impacts on the levels of residential amenity for owners and occupiers of the subject residential complex, and its near neighbours..
- The application is recommended for refusal.



U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)**BACKGROUND**

The City received a complaint in October 2011 relating to the short term leasing of Unit 4, 7 Cotrill Street, Myaree. An initial compliance check identified that a breach of CPS5 had taken place, as a result of which the owner was encouraged to submit an application for retrospective planning approval. The subject retrospective planning application was submitted to the City in November 2011.

The item has previously been considered at the Development Advisory Unit meeting of 24 January 2012 with a recommendation for conditional approval. In accordance with the provisions of Policy CP-06-PL-004 ‘Development Advisory Unit’, the item was ‘called-up’ for Council consideration.

Since then, the guidance provided by virtue of PB99 has been considered, the provisions of which are at odds with the recommendation of approval previously reached. As such, and in accordance with the requirements of the Development Advisory Unit policy, the matter was referred back to the DAU for further consideration and recommendation...

Scheme Provisions

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area
R-Code	: R20
Use Type	: Residential Building
Use Class	: Use Not Listed – S Use (not permitted unless Council grants approval following advertising in accordance with Clause 7.5 of CPS5)

Site Details

Lot Area	: 3499.68m ²
Retention of Existing Vegetation	: Not applicable
Street Tree(s)	: Not applicable
Street Furniture (drainage pits etc)	: Not applicable
Site Details	: See aerial photo above

U12_0404_March_2012.pdf A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 9 March 2012.

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

DETAIL

Retrospective planning approval is sought for a change of use from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).

Development Requirements

There are no specific applicable development requirements for a development of this nature.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour’s Comment Supplied: Yes, 7 objections plus multi-signatory submission.
 Reason: See below
 Support/Object: Object

Affected Property	Summary of Submission	Support/Objection	Officer’s Comment	Action (Uphold / Not Uphold)
Submission 1	<p>People coming and going at all hours makes residents feel uneasy about privacy and security.</p> <p>The owner and manager are not onsite to control guests when they break house or strata rules, therefore this lack of supervision means that rules are often ignored. There is no incentive for guests to keep to the rules, unlike permanent residents who have to live besides each other.</p>	Object	Noise resulting from people and vehicle activity may have a detrimental amenity impact upon adjoining residents.	Uphold

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Submission 2	Concerns with numbers of people coming and going and do not know who they are.	Object	It is accepted that in the context of a short term let, there would be more likelihood of increased movements of persons into and out of the unit...	Uphold.
Submission 3	Concerns relating to security and noise at night.	Object	Acknowledged.	Uphold
Submission 4	Added traffic and additional noise would interfere with the amenity of the residential address.	Object	Acknowledged.	Uphold
Submission 5	<p>Constant intrusion into privacy.</p> <p>Courtyard is being used as an entertaining area.</p> <p>Rubbish is often overflowing from their allocated rubbish bin and they resort to using other tenants' bins. It is often the case that rubbish amounts to more than the usual tenant amounts; this is often due to quick turnarounds between guests.</p> <p>Additional traffic and parking from guests who do not respect the car parking allocations and block people moving in and out of the site.</p>	Object	Whilst concerns relating to rubbish are not upheld (i.e. can be controlled through management rules of stay), concerns raised in relation to amenity impacts are acknowledged.	Partially uphold.

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

Submission 6	Short term residents arrive at early hours, there is no monitoring, unacceptable noise, additional risk as the complex is not insured for holiday / commercial property. Children of guests playing in the driveway area is against strata rules and is dangerous.	Object	Amenity concerns are acknowledged. Concerns relating to insurance and safety are not relevant planning considerations.	Partially uphold
Submission 7	Safety has been compromised.	Object	No evidence is presented to substantiate this claim.	Not uphold.
Submission 8	Multi-signatory submission from units owners / occupiers on the grounds of adverse impact on quality of life, noise, lack of parking and access / egress safety.	Object	Concerns raised are acknowledged.	Uphold

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

No referrals to external agencies are 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 in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this proposal.

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no anticipated strategic, risk or environmental management implications.

POLICY IMPLICATIONS

There are no Policy implications associated with this proposal.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is recommended to be refused under delegation through the Development Advisory Unit (DAU) process. Should Elected Members or interested third parties have an alternative view, the DAU ‘call-up’ procedures provide opportunity to call this matter up for Council consideration.

COMMENT

As outlined above, retrospective planning approval is sought for a change of use of Unit 4, 7 Cotrill Street, Myaree from ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation).

The subject unit is within a complex of 14 single storey units which have a central driveway and visitor parking bays located adjacent to the street boundary. The subject unit has one allocated car parking bay.

The unit has three bedrooms which contain one king bed, one set of bunks and one single bed with a trundle bed. Therefore the premises provide accommodation for up to six people.

The Applicant states that the type of guests who rent the unit vary and have included corporate guests, rural guests visiting family or the hospital, international or interstate based family members, local families renovating their family home, or most recently an International ISAF World Sailing Championship team.

The minimum letting period is three nights and bookings are made via the website www.stayz.com.au. On the day of the reservation, the keys are left at the property for the guests in a locked, secure location.

A ‘Residential Building’ is a Use Not Listed under the provisions of CPS5. Uses that are not listed under CPS5 are ‘S’ uses within the Living Area Precinct and are therefore not permitted unless Council exercises discretion and grants approval after advertising in accordance with Clause 7.5 of CPS5.

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

There are no specific provisions within CPS5 or Council policy relating to short term accommodation; however the Western Australian Planning Commission (WAPC) provides guidelines for holiday homes under the provisions of PB99.

PB99 provides guidance on matters such as location, amenity considerations and types of dwellings considered to be suitable for short stay use. It states that short term accommodation is ideally located in areas of high tourism amenity and in close proximity to key tourism attractions such as the beaches, town centres and rural areas.

In this regard, the proposal is not located in or near a designated tourist area with key attractions other than the Swan River which is located approximately 900m to the north.

The guidance also states that short stay accommodation is preferably located in residential dwellings on freehold lots as opposed to a multi unit or grouped dwelling scenario, unless the entire complex is established for such purpose. As previously mentioned the subject unit is one of 14 units which are otherwise all occupied in the more traditional residential sense.

The guidance makes note of the fact that the residential environment within multi unit or grouped dwelling developments is generally denser than its single residential freehold counterparts, with less space around buildings, less circulation space for visitors, and with an acceptance that strata management bodies will operate with the express intention to regulate the behaviour of residents who dwell there.

For these reasons, the guidance within PB99 recommends that short stay accommodation is best not sited within those types of residential environment.

In practice, the occupation of this dwelling for short term accommodation is not consistent with the expected residential amenity levels of a grouped dwelling or single house. To that end the use is considered not appropriate for this location.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the proposal is unacceptable in this context.

CONCLUSION

It is concluded that the use of the premises for short term residential purposes is not acceptable in accordance with WAPC Guidelines PB99 and is therefore recommended for refusal.

U12/0404 – (GD) - RETROSPECTIVE CHANGE OF USE FROM ‘GROUPED DWELLING’ TO ‘RESIDENTIAL BUILDING’ (SHORT TERM ACCOMMODATION) ON LOT 27 (NO. 4/7) COTRILL STREET, MYAREE (REC) (ATTACHMENT)

OFFICER RECOMMENDATION

REFUSAL

- A) That the retrospective application for a Change of Use from a ‘Grouped Dwelling’ to ‘Residential Building’ (Short Term Accommodation) on Lot 27 (No. 4/7) Cotrill Street, Myaree be refused for the following reason:**

REASONS FOR REFUSAL:

- 1. Non-compliance with the purpose and intent of the Western Australian Planning Commission Planning Bulletin 99 – Holiday Homes Guidelines.**
- 2. Non-compliance with clause 7.8 amenity provisions of the City of Melville Community Planning Scheme No. 5.**
- 3. Inconsistent with the orderly and proper planning for the locality.**

ADVICE NOTES

- B) That those who submitted an objection to the application, including the lead petitioner, be notified of (A) above.**

U12/0405 -(SM) - PROPOSED THREE-STOREY SINGLE HOUSE – LOT 679 (2) KENT STREET, BICTON (REC) (ATTACHMENT)

Ward : Bicton – Attadale
 Category : Operational
 Application Number : DA-2012-2
 Property : Lot 679 (2) Kent Street, Bicton
 Proposal : Three-Storey Single House
 Applicant : DMBD Pty Ltd
 Owner : Stephen Tobin
 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 : Not applicable

AUTHORITY / DISCRETION

DEFINITION

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U12/0405 (SM) - PROPOSED THREE-STOREY SINGLE HOUSE – LOT 679 (2) KENT STREET, BICTON (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning Approval is sought for a three-storey single house.
- The application has been advertised to surrounding landowners with one objection being received.
- The objection specifically relates to the setback variation for a second floor wall setback 1.2m in lieu of 3m.
- The proposal includes other variations to the R-Codes, to which there have been no objections raised.
- Notwithstanding the objection received, the proposal has been assessed, and is considered to satisfy, the relevant performance criteria of the R-Codes.
- Recommended for conditional approval.



U12/0405 (SM) - PROPOSED THREE-STOREY SINGLE HOUSE – LOT 679 (2) KENT STREET, BICTON (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living Area – BC4
 R-Code : R12.5 / R17.5
 Use Class : Residential
 Use Permissibility : P - permitted

Site Details

Lot Area : 1354.00sqm
 Retention of Existing Vegetation : Not applicable
 Street Tree(s) : Not applicable
 Street Furniture (drainage pits etc) : Not applicable
 Site Details : Refer to photo above

U12_0405_March_2012.pdf A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 9 March 2012.

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Garage setback	3m	0m	Does not comply	MPDS	
Outbuilding – Maximum Height	2.4m	3m	Does not comply	MPDS	
Street walls and Fences	Permeable above 1.2m	2.0m solid (portion)	Does not comply	MPDS	
Setbacks – Rear					
GF – Pool Equipment	1.0m	0m	Does not comply	MPDS	
Setbacks – Side (east)					
FF – Bed 1 & 2	1.5m	1.0m	Does not comply	MPDS	
SF – Dining / Kitchen / Bed 3	3.0m	1.2m	Does not comply	MPDS	
Privacy Setback					
TF balcony	7.5m	6m	Does not comply	MPDS	

*Note: GF – Ground Floor, FF – First Floor, SF – Second Floor, TF – Third Floor

U12/0405 (SM) - PROPOSED THREE-STOREY SINGLE HOUSE – LOT 679 (2) KENT STREET, BICTON (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Variations to R-Codes
 Support/Object: Objection

Affected Property	Summary of Submissions	Support / Objection	Officer's Comment	Action (Uphold / Not Uphold)
4 Kent Street	Whilst no objection is raised to the majority of variations sought, concerns are raised in relation to the second floor dining / kitchen wall on the grounds of: <ul style="list-style-type: none"> - Excessive building bulk impacting the visual amenity; and, - Non-compliance with boundary setback requirements. 	Object	Whilst the concerns raised are acknowledged, the variation sought is considered to satisfy the Performance Criteria of the R-Codes (refer to comments section for further detail).	Not Uphold

REFERRALS TO GOVERNMENT AGENCIES

No consultation with other agencies or 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 in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this proposal.

U12/0405 (SM) - PROPOSED THREE-STOREY SINGLE HOUSE – LOT 679 (2) KENT STREET, BICTON (REC) (ATTACHMENT)**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risk or environmental management implications.

POLICY IMPLICATIONS

There are no policy implications associated with this application.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is recommended for approval under delegation through the DAU process. Should Elected Members, or interested third parties have an alternative view, the DAU 'call-up' procedures provide opportunity to call the matter up for formal Council consideration.

COMMENTS

Planning approval is sought for a three-storey single house on a large freehold lot, currently containing a split-level two storey single residence. The subject site is characterised by sloping topography, resulting in a level difference of approximately 3.0m on a east-west axis.

The proposal is generally compliant with the provisions of the R-Codes with the exception of the following:

- garage setback;
- maximum height relative to the proposed outbuilding (pool equipment store);
- front wall surveillance;
- rear setback relative to the proposed pool equipment store;
- side (eastern) setback relative to the first and second floor walls; and,
- third floor balcony privacy setback.

All of the variations listed above have been the subject of neighbour consultation and assessment against the relevant Performance Criteria of the R-Codes. It is noted that no objections have been raised (or objections have otherwise been withdrawn) against all of the abovementioned variations with the exception of the second floor eastern setback. In assessing the variations against the relevant Performance Criteria, all are deemed to comply and as such, for clarity and brevity, will not form part of any further consideration as part of this report.

Notwithstanding the above, one concern remains in relation to the setback variation for the second floor eastern wall which is proposed at a height of 7.0m facing the objectors property.

Whilst the concerns raised are acknowledged, it is considered that the variation sought satisfies the Performance Criteria of clause 6.2.1 for the following reasons:

- The location of the subject wall and difference in floor levels between the subject lot and that of the objectors results in negligible shadowing impact;

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- Ventilation is not considered to be compromised as a result of the reduced setback. Specifically, the parapet wall forming part of the second floor wall only extends partly beyond that of the neighbours balcony and kitchen window (i.e. would not block-out any easterly breezes);
- Whilst the adjoining property features a kitchen window and balcony abutting the proposed second floor wall, neither are major openings. The proposed variation therefore cannot be considered to significantly impact upon the amenity levels currently enjoyed by the occupier as a result of building bulk.
- The setback variation will not have any privacy implications given there are no major openings located along the entire wall façade. .
- It is noted that the proposed subject wall is adjacent to solid wall of greater height (by approximately 2.3m) located on the objectors property.

Based on the above, the variation is supported.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

CONCLUSION

It is considered that the proposed development satisfies the relevant provisions of CPS5 and the R-Codes. Accordingly, it is recommended that conditional approval be granted.

OFFICER RECOMMENDATION**APPROVAL**

- A) That the application for a Three-Storey Single House at Lot 679 (2) Kent Street, Bicton be approved subject to the conditions below.**

SPECIAL CONDITIONS:

- 1. The front gate and balustrade situated on the garage roof as marked in 'RED' on the approved plans is to be visually permeable.**
- 2. In order to comply with Clause 6.8.1 (A1) of the Residential Design Codes, the DINING ROOM BALCONY as marked in 'RED' on the approved plans, having fixed obscure screening to a minimum height of 1.65 metres above the finished floor level or any other alternative that complies with the above Clause 6.8.1 (A1).**
- 3. All Stormwater and drainage run off to be contained on site.**

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4. Prior to the initial occupation of the development, the surface finish of the boundary wall shall be to the satisfaction of the adjoining neighbour. In the event of a dispute, the surface finish shall be to the satisfaction of the Manager Statutory Planning.

STANDARD CONDITIONS:

5. Ground levels may not be changed other than approved as part of this approval.
 6. A 1.8 metre high fence (or such other height agreed to in writing by the relevant adjoining land owners) to be provided from the highest retained ground level. All fencing to be provided in accordance with the Dividing Fences Act. and be constructed as a minimum standard of fibre cement.
 7. All new residential dwellings to be serviced by a concrete or brick paved vehicle crossing of no greater width than the lesser of 6m or 40% of the width of the frontage of the lot and constructed in accordance with the Council's specification.
 8. Roofing materials must not be highly reflective. The use of highly reflective materials (zinc or white coloured or coated metal roofing) may only be permitted through the grant of a separate planning approval.
- B) That the neighbour who submitted an objection to the application be notified of (A) above.