

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**25 SEPTEMBER 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](mailto: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: 28 SEPTEMBER 2012**

**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, 25 SEPTEMBER 2012.**

**PRESENT**

P Prendergast (Presiding Member)	Manager Planning & Development Services
A Templeton	Planning Services Coordinator
T Capobianco	Principal Building Surveyor
R Bailey	Special Projects Officer (Engineering Design)
H Shigeyoshi	Senior Planning Officer
J Wardell Johnson	Senior Planning Officer
C Taborda	Engineering Technical Officer

**APOLOGIES**

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

**ELECTED MEMBERS' ATTENTION**

Nil

**DELEGATED AUTHORITY – PLANNING AND RELATED MATTERS DA-020**

**The following items are recommendations to the Manager Planning & Development Services for decision.**

## **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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**U12/0421 – GD- RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)**

Ward : Bicton/Attadale  
 Category : Operational  
 Application Number : DA-2011-850A  
 Property : Lot 801 (No.13) Moreing Road, Attadale  
 Proposal : Retrospective Application to increase the height of an approved boundary wall  
 Applicant : Brian Burke Homes  
 Owner : Mr Steven Panton and Ms Rosalinda Panton  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Responsible Officer : Mr Peter Prendergast  
 Manager Planning and Development Services  
 Previous Items : Not Applicable.

**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 &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council reviews decisions made by Officers.</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>

**U12/0421 – GD - RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Retrospective planning approval is sought to increase the height of an approved boundary wall at 13 Moreing Road, Attadale.
- The proposal represents a variation to the acceptable development provisions of the Residential Design Codes (R-Codes) in relation to boundary setbacks.
- One objection was received relating to the potential reduction in sunlight into the unroofed area on the northern side of the objectors property.
- The proposed development has been assessed against the relevant Performance Criteria of the R-Codes and is considered to satisfy the Criteria.
- The proposal is recommended for conditional approval.



**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area
R-Code	: 12.5
Use Type	: Residential
Use Class	: 'P' Permitted

**U12/0421 – GD - RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)**

**Site Details**

Lot Area	:	947sqm
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\_0421\_September\_2012 A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 28 September 2012.

Development approval was granted for the construction of a two storey dwelling with undercroft at 13 Moreing Road, Attadale on 25 August 2011 subject to conditions.

The approved design included a 5.8m length of boundary wall located along the southern boundary with a maximum height of 3.518m. The maximum height of this boundary wall was designed to be consistent with the height of the existing boundary fence located between 13 and 15A Moreing Road.

Retrospective planning approval is now sought to increase the height of the boundary wall by 0.7m to a maximum height of 4.2m. The additional 0.7m boundary wall height is to be set back from the boundary by approximately 0.2m.

**DETAIL**

The proposal satisfies all of the requirements of Community Planning Scheme No. 5 (CPS5), the Residential Design Codes (R-Codes) and Council policy with the exception of the setback of the boundary wall.

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Side (south)	1m	Nil	Does not comply	MPDS	

**U12/0421 – GD - RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to R-Codes  
 Support/Object: One objection received

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/Uphold/Not Uphold)</b>
Submission 1 Moreing Road	The increased height of the boundary wall will reduce sunlight and ventilation into their rear outdoor living area.	Objection	The proposed additional height will exceed the height of the existing 1.6m high dividing fence by 0.7m. This additional height now proposed will not result in further overshadowing above and beyond that which will occur as a result of the main two storey portion of the proposed dwelling. Whilst the increase to the boundary wall height may prejudice access to ventilation from the north, there will remain access to ventilation from the east, west, and south.	Not uphold

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies / consultants is required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the Council 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*.



**U12/0421 – GD - RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

There are no anticipated financial implications resulting from this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risk or environmental management implications as a result of this proposal.

**POLICY IMPLICATIONS**

The subject application have been assessed against, and found to comply with, the provisions of Policy CP-067 Amenity.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is recommended to be approved 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, the proposal satisfies all of the relevant requirements contained within CPS5, the R-Codes and Council policy with the exception of the Acceptable Development requirements of the R-Codes relating to boundary walls.

The R-Codes do not prescribe Acceptable Development criteria for boundary walls within the R12.5 zone, as such; all applications for boundary walls within this zone require assessment against the Performance Criteria.

The Performance Criteria of Clause 6.3.2 of the R Codes acknowledge that buildings can be built up to boundaries, in order to make effective use of space, enhance privacy, or otherwise enhance the amenity of the development whilst not having any significant adverse effect on the amenity of the adjoining property and ensuring that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

The proposed boundary wall makes effective use of the available space on the subject site and will have no impact upon the privacy of the adjoining dwelling as no window or door openings are located within the wall..

**U12/0421 – GD - RETROSPECTIVE APPLICATION TO INCREASE THE HEIGHT OF AN APPROVED BOUNDARY WALL AT LOT 801 (13) MOREING ROAD, ATTADALE (REC) (ATTACHMENT)**

With respect to access to sunlight, the two storey portion of the dwelling which is setback 1.5m from the common boundary will cast a greater shadow than the proposed boundary wall. Therefore, the proposed increase to the boundary wall height will not create any additional overshadowing.

In order to mitigate any potential building bulk impact as a result of the increased boundary wall height on the adjoining property, the additional 0.7m wall height will be constructed approximately 0.2m inside the boundary. Although visible above the height of the existing boundary fence, the boundary wall is not anticipated to result in any significant building bulk impacts on the adjoining property due to its limited length. In visual terms, the additional wall height will be viewed against the backdrop of the proposed two storey dwelling. This will further mitigate its impact.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined within Clause 7.8 of CPS5 and CP-067: Amenity. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variation sought.

**CONCLUSION**

It is considered that the proposed development, subject to the imposition of appropriate conditions satisfies the provisions and requirements of CPS5, the R-Codes and Council policy. Accordingly, it is recommended that the proposal be approved subject to conditions.

**OFFICER RECOMMENDATION****APPROVAL**

- A) That the proposed development on Lot 801 (13) Moreing Road, Attadale be approved subject to the following standard condition:**

**STANDARD CONDITION**

- 1. The external face of the parapet wall to be finished to the satisfaction of the adjoining neighbour or, in the event of a dispute to be finished to the satisfaction of the Manager Planning and Development Services.**
- B) The parties which submitted objections on proposal be advised in writing of A) above.**

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**

Ward : Bicton/Attadale  
 Category : Operational  
 Application Number : DA-2012-964  
 Property : 11 Galloway Street Attadale  
 Proposal : Additions and alterations to the existing single storey dwelling.  
 Applicant : Sam Payne  
 Owner : Shelley Marie Stewart  
 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 : N/A

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input type="checkbox"/>	Review	<i>When the Council reviews decisions made by Officers.</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>

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought to undertake additions and alterations to the existing single storey dwelling at 11 Galloway Street, Attadale. These involve a rear single storey addition to the main living accommodation, and the erection of a double garage to the front of the property.
- The proposal satisfies all of the relevant provisions of Community Planning Scheme No. 5 (CPS5), the Residential Design Codes (the R-Codes) and applicable Policies with the exception of the rear setback and the side boundary setback for the proposed garage.
- Two submissions of objection were received, one from the rear neighbour with regards to non-compliance with the provisions of the R-Codes, and one from the north-eastern neighbour with regards to the loss of streetscape amenity and the loss of views.
- Whilst the concerns raised are acknowledged, the variations are considered to satisfy the relevant Performance Criteria of the R-Codes.
- It is recommended that the application be approved subject to conditions.



**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R15
Use Type	:	Residential
Use Class	:	P- Permitted

**Site Details**

Lot Area	:	823m <sup>2</sup>
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to site photo above

U12\_0422 September 2012 A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 28 September 2012.

**DETAIL**

**Development Requirements**

The proposal satisfies all of the applicable CPS5, R-Codes and Council policy provisions with the exception of those matters outlined below:

**Setbacks**

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Rear	6 metres	3.1 – 3.6m	Does not Comply	MPDS	
Side (north) Garage Wall	1 metre	0 metres	Does not Comply	MPDS	

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: R-Codes Variation  
 Support/Object: Two objections received

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/Uphold/Not Uphold)</b>
Submission 1	<p>The reduced rear setback will set a precedent.</p> <p>Six metres is considered a suitable distance for privacy and allows for sufficient sunlight.</p> <p>Request that the roof is not highly reflective.</p>	Object	<p>The application will not create a precedent as all planning applications are assessed on their individual merit.</p> <p>The additions are single storey in nature and satisfy the Acceptable Development criteria with regard to privacy and overshadowing.</p> <p>This will be required as a recommended condition of approval.</p>	<p>Not Uphold</p> <p>Not Uphold</p> <p>Condition</p>
Submission 2	<p>The garage will detract from the open and attractive nature of the streetscape.</p>	Object	<p>The front setback of the garage is compliant with the Acceptable Development provisions of the R Codes. The impact of the side boundary wall is mitigated by the existence of trees and vegetation located within the front garden area of the neighbouring property.</p>	

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**

	<p>The garage will impact on the view from the submitter's bedroom and study.</p> <p>The 3.37m high wall will increase the feeling of being shut in which increases anxiety and tension.</p> <p>Request a 1m setback from the boundary.</p>		<p>The front setback to the garage is compliant.. In the context of this application, access to views would not be a material planning consideration.</p> <p>The applicant has agreed to reduce the overall height of the wall on the boundary to 3.027m. This reduction in wall height is a recommended condition of planning approval.</p> <p>Whilst the provision of a 1.0m setback would bring the proposed garage into compliance with the Acceptable Development provisions of the R Codes, the applicant seeks approval for a boundary wall in this case, the impact of which has been assessed in accordance with the relevant performance criteria, and is acceptable on that basis.</p>	<p>No Uphold</p> <p>Not Uphold</p>
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**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies / consultants is required.

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)****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 for Council to consider as part of this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risk or environmental management implications as a result of this proposal.

**POLICY IMPLICATIONS**

The proposal has been assessed against the provisions within the relevant Council Policies, in particular: CP-067: Amenity and CP-078: Residential Development. The proposed development satisfies all of the relevant provisions within these policies.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application is recommended to be approved 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.

**COMMENTS**

Planning approval is sought to undertake single storey additions and alterations to the existing dwelling at 11 Galloway Street Attadale.

As outlined above, the proposed development generally satisfies the relevant requirements contained within CPS5, the R-Codes and Council policy with the exception of those matters detailed below.



**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)**Rear Setback

The R-Codes prescribe a 6m rear setback for properties zoned R15; however a rear setback of 3.1m for the games room and 3.6m to the ensuite is proposed.

The games room and ensuite additions are single storey, designed with skillion roofs of opposing orientation and are separated by a distance of approximately 5m. As such, the encroachment of the residence within the 6m rear setback advocated by the R Codes will have a negligible impact on the levels of amenity enjoyed by occupiers of properties located to the rear, and is supported on that basis.

In respect of access to direct sunlight, the reduced rear setback will have a negligible impact on this given their single storey design..

In view of this, it is concluded that the rear setback variation sought complies with the relevant performance criteria of the R Codes, and is supported on that basis.

Side Setback (North)

There are no as of right boundary wall provisions within areas with a residential density code of R 15, as is the case with the subject proposal.

In this case, the garage has been designed with a zero setback boundary wall along its northern side, initially at a height of 3.37m, but now proposed to be 3.027m.

At that height, it is considered that the boundary wall can be supported when judged against the relevant performance criteria of the R Codes given that:

- it will make for effective use of space
- there will be no overshadowing implications due to the boundary wall being located along the northern boundary
- there are no openings included within the length of the wall therefore the level of privacy between the two dwellings will be safeguarded, and.
- existing trees and shrubs located on the adjoining property which will mitigate the potential impact of the boundary wall upon the streetscape.

The provision of a 1.0m side setback in accordance with the Acceptable Development provisions of the R Codes would, in this case, act to centralise the garage within the lot, making it more dominant to the detriment of the streetscape.

Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined within Clause 7.8 of CPS5 and CP-067: Amenity. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**U12/0422 – SB - ADDITIONS AND ALTERATIONS TO THE EXISTING SINGLE STOREY DWELLING AT LOT 339 (11) GALLOWAY STREET, ATTADALE (REC) (ATTACHMENT)****CONCLUSION**

It is considered that the proposed development, subject to the imposition of appropriate conditions satisfies the provisions and requirements of CPS5, the R-Codes and Council policy. Accordingly, it is recommended that the proposal be approved subject to conditions.

**OFFICER RECOMMENDATION****APPROVAL**

- A) That the application for Additions and Alterations to the Existing Single Storey Single Dwelling at Lot 339 (11) Galloway Street, Attadale be approved subject to the following Special and Standard Conditions:**

**SPECIAL CONDITIONS**

- 1. All stormwater generated on site is to be retained on site.**
- 2. Prior to the commencement of the development, amended plans are to be submitted detailing the following:**
  - (a) A maximum wall height of 3.027m above natural ground level for the garage boundary wall.**

**The amended plans shall be approved in writing to the satisfaction of the Manager Planning and Development Services and the development constructed in accordance with those approved plans.**

**STANDARD CONDITIONS**

- 1. The external face of the parapet wall to be finished to the satisfaction of the adjoining neighbour or, in the event of a dispute to be finished to the satisfaction of the Manager Planning and Development Services.**
  - 2. Roofing materials shall not be highly reflective (e.g. Zinc, white or Surfmist colour metal roofing may only be permitted through special planning consent).**
  - 3. All carports and garages where connected to the main structure and/or in front of the building set back line to be of the same roofing material and finishes as the main structure.**
- B) That the neighbours who submitted on the application be notified of A) above.**