

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**30 APRIL 2013**

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](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 second Monday after the Friday publication of the Development Advisory Unit (DAU) minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
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 second Monday after the Friday publication of the DAU minutes to the City of Melville website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, the deadline for call up requests will remain the following Monday.
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 3 MAY 2013**



**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, 30 APRIL 2013**

**PRESENT**

A Templeton (Presiding Member)  
Hideyuki Shigeyoshi  
Joanne Wardell-Johnson  
T Capobianco  
L Mannion

A/Manager Statutory Planning  
A/ Planning Services Coordinator  
Senior Planning Officer  
Manager Building Services  
Technical Officer

**APOLOGIES**

P Prendergast  
R Bailey

Manager Statutory Planning  
Special Projects Officer (Engineering  
Design)

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

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## 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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## TABLE OF CONTENTS

U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET, BATEMAN (REC) (ATTACHMENT).....	1
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**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET, BATEMAN (REC) (ATTACHMENT)**

Ward : City  
 Category : Operational  
 Application Number : DA-2013-290  
 Property : Lot 1 (19B) Gannett Street, Bateman  
 Proposal : Additions to Single House  
 Applicant : P. Roberts  
 Owner : P. Roberts  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P10/3177 – Ordinary Meeting of Council - 16 November 2010  
 Responsible Officer : Amanda Templeton  
 A/Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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"/>	<b>Quasi-Judicial</b>	<b><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></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought to undertake additions to the existing single house at Lot 1 (19B) Gannett Street, Bateman. The additions include a second storey and a garage addition at ground floor level.
- An identical application to the one proposed was previously approved by Council at its Ordinary Meeting of Council on 16 November 2010. This approval has since lapsed and as a result, the application has been re-submitted for approval.
- The proposal satisfies all of the relevant provisions within the City of Melville Community Planning Scheme No. 5 (CPS5), the Acceptable Development provisions of the Residential Design Codes of WA (R-Codes) and Council Policy with the exception of boundary setbacks and boundary walls.
- The application has been the subject of neighbour consultation. One submission was received in objection to the proposal. The objection relates to building bulk and loss of daylight.
- As the subject development has previously been approved by Council and there have been no relevant changes to the planning framework since this time, the application is recommended for conditional approval in accordance with proper and orderly planning.



**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)****BACKGROUND**

Planning approval was previously granted by Council for an identical proposal at its Ordinary Meeting held on 16 November 2010. This development was not substantially commenced prior to November 2012 and therefore lapsed.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area - Bateman
R-Code	:	R20
Use Type	:	Residential
Use Permissibility	:	Permitted

**Site Details**

Lot Area	:	399sqm
Retention of Existing Vegetation	:	Yes
Street Tree(s)	:	Yes
Street Furniture (drainage pits etc)	:	No
Site Details	:	Refer to photo above

U13\_0438\_April\_2013 A copy of the plans form part of the attachments to the Agenda which were distributed to members of council on Friday 5 April 2013.

**DETAIL****Development Requirements**

The proposal satisfies all of the relevant requirements contained within CPS5, the R-Codes and Council Policy with the exception of those matters listed below:

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)**

**R-Code Requirements**

Wall	Required	Proposed	Comments	Delegation to approve Variation
Side Setback (east)				
UF - WIR & stairs	1.5m	0.44m	Requires assessment using Performance Criteria	MSP
Side Setback (west) – Boundary Wall				
GF - Garage	<i>Length</i> 9m max.  <i>Height</i> 3m max. 2.7m average  Up to one boundary only	<i>Length</i> 6.2m  <i>Height</i> 2.7m max. and average height  Boundary walls along the eastern and western boundaries	Requires assessment using Performance Criteria	MSP

(Note: GF - Ground Floor, UF – Upper Floor)

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes – one submission received
Reason:	Departure from the Acceptable Development criteria of the R-Codes
Support/Object:	One objection



**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)**

Affected Property	Summary of Submission	Support / Object	Officer's Comment	Action (Uphold / Not Uphold)
Submission 1	The proposal to build on top of the existing common wall will result in the loss of natural light into a bedroom and bathroom window on the submitter's property and create a tunnel effect.	Object	<p>The impact upon access to daylight and the likely bulk impact is considered to be negligible given the location of the existing boundary wall, the orientation of the lots and the varied setbacks proposed as part of the second storey addition.</p> <p>It is noted that these same concerns were raised by the submitter as part of the previous application which results in the 0.44m setback of the upper floor level to reduce the potential impacts.</p>	Not uphold

**CONSULTATION WITH 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 in accordance with Part 14 of the *Planning and Development Act 2005*.

It is noted that the current application is identical to that previously considered and approved by the Council at its Ordinary Meeting held on 16 November 2010. Since this date, there have been no amendments to CPS5, the R-Codes or Council Policy which alter the assessment of the application. In addition, no significant changes have occurred within the surrounding area since this time. As such, in accordance with proper and orderly planning, the application is recommended for approval.

For the abovementioned reasons, should the application be refused, the Applicant may be able to seek costs through the State Administrative Tribunal (SAT).

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

Should the application be refused, the Applicant will have a right of appeal to the SAT. In this instance, the City may have to engage the services of external planning consultants to defend this decision. In addition, the possibility of costs being awarded against the City cannot be discounted.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no anticipated strategic, risk or environmental management implications associated with this proposal.

**POLICY IMPLICATIONS**

The application satisfies all of the relevant Council Policy provisions.

**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.

It is reiterated that the current application is identical to that previously considered and approved by the Council at its Ordinary Meeting of Council held on 16 November 2010.

**COMMENTS**

Planning approval is sought to undertake additions to the existing single storey dwelling at 19B Gannett Street, Bateman. These works include the addition of the garage, an extension of the existing kitchen at ground floor level and the addition of a second storey.

The subject lot was previously a strata lot (i.e. traditional 'purple title') which contained a duplex development. The subject lot has now been converted into two freehold lots. The adjoining lot has since been redeveloped and contains a single-storey single house.

The proposal satisfies all of the relevant requirements within CPS5, the R-Codes and Council Policy with the exception of the Acceptable Development provisions of the R-Codes relating to boundary walls and boundary setbacks.

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)***Boundary Setbacks*

The proposal does not satisfy the Acceptable Development provisions relating to boundary setbacks with regard to the upper floor WIR and stairway wall which measures approximately 10m in length and 5.5m in height. This wall represents a setback variation of 0.44m in lieu of the Acceptable Development requirement of 1.5m.

In not meeting the Acceptable Development provisions of the R-Codes, an assessment against the Performance Criteria is necessary. In this regard, the Performance Criteria Clause 6.3.1 P1 of the R-Codes states:

*Buildings setback from boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with protection of access to direct sun for adjoining properties;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.*

In relation to both access to sunlight and building bulk concerns raised previously in relation to the eastern boundary, the upper floor level was setback from the boundary 0.44m.

Notwithstanding this additional setback, it is acknowledged that the proposed development will have an impact upon the access to direct sun into the adjoining property to the east and building bulk. However, this impact is not considered to be significant by virtue of the location of the existing boundary wall on the subject site and the orientation of the subject site.

The existing boundary wall on the subject site has a length of 13.7m and a height of approximately 2.8m. This wall is adjacent to an existing bedroom and bathroom window on the adjoining property to the east. The existing boundary wall is considered to already impact upon direct access to sunlight and building bulk on to the adjoining property to the east, however it is noted that this adjoining property was redeveloped with full knowledge of this existing party wall, following the demolition of the previous duplex. Further, the setback of the adjoining property from the common boundary also represents a departure from the Acceptable Development provisions of the R-Codes in relation to boundary setbacks.

Due to the north-south orientation of the subject lot, no undue overshadowing resulting from the proposed development will fall upon the adjoining properties. Furthermore, the proposal satisfies the Acceptable Development provisions of the R-Codes relating to overshadowing.

In addition to the above, it is also noted that should the upper floor level be made to comply with the 1.5m Acceptable Development setback requirement, it would still result in the side of the adjoining property to the east being shaded during afternoon hours. This impact is amplified due to the reduced side setback on the adjoining property and the reducing sun-angle after midday.

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET, BATEMAN (REC) (ATTACHMENT)**

Whilst the concerns raised within the submission are acknowledged, the 'tunnel' or building bulk impact as a result of the proposed second storey already exists by virtue of the existing boundary wall and as noted above, is amplified by the redevelopment of the adjoining lot with a reduced side setback. Based on this, the upper floor addition will only be partly visible given the already restricted view upward.

In relation to privacy, the proposed wall does not contain any major openings. Furthermore, the proposal satisfies the Acceptable Development provisions of the R-Codes in relation to visual privacy.

Based on the above, whilst the concerns raised within the submission are acknowledged, the proposed setback is considered to satisfy the relevant Performance Criteria of the R-Codes.

*Boundary Walls*

The proposal does not satisfy the Acceptable Development provisions of the R-Codes in relation to boundary walls.

As outlined above, the existing dwelling on the subject site contains a boundary wall along the eastern boundary. An additional boundary wall is proposed along the western boundary as a result of the proposed construction of a single garage in this location. The Acceptable Development provisions allow the construction of boundary walls in R20 areas up to one boundary only. As such, the proposal is required to be assessed against the relevant Performance Criteria which state:

*Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:*

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The proposed garage wall is to have a length of 6.2m and a height of 2.7m.

The proposed boundary wall in addition to the existing boundary wall along the western boundary makes effective use of the space available on the subject site. This is relevant, particularly as the subject site is only 10m wide.

The proposed garage is to replace an existing carport of similar dimension and location on the subject site which will improve the appearance of the building as viewed from the adjoining property to the west. As a result, no significant adverse effect on the amenity of the adjoining property is anticipated. Furthermore, vegetation situated along the common boundary will also assist in reducing any perceived impacts of bulk.

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET, BATEMAN (REC) (ATTACHMENT)**

No adverse overshadowing impacts will result from the proposed garage by virtue of the north-south orientation of the lots.

Based on the above, the proposal is considered to satisfy the relevant Performance Criteria and is therefore supported.

Clause 7.8 of CPS5

It is noted that the proposal is identical to the proposal previously approved in November 2010. The Acceptable Development and Performance Criteria outlined in the R-Codes relative to building setbacks and boundary walls have not altered since this time. Accordingly, in the interest of proper and orderly planning, the proposal is supported.

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

**CONCLUSION**

As the proposed development is considered to satisfy the provisions of CPS5, the R-Codes and Council Policy and is consistent with a development previously approved in 2010, it is recommended that the application be conditionally approved.

**OFFICER RECOMMENDATION****APPROVAL**

**A) That the proposed additions to single house on Lot 1 (19B) Gannett Street, Bateman be approved subject to the following conditions:**

**CONDITIONS:**

- 1. All stormwater generated on site is to be retained on site.**
- 2. 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.**
- 3. The materials and finishes of the development are to complement the existing building to the satisfaction of the Manager Statutory Planning. Details of the materials and finishes are to be submitted prior to the commencement of works.**
- 4. 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.**

**U13/0438 – GD - ADDITIONS TO SINGLE HOUSE AT LOT 1 (19B) GANNETT STREET,  
BATEMAN (REC) (ATTACHMENT)**

- 5. Prior to the commencement of the development, the street tree/s within the verge are to be protected in accordance with Australian Standard AS4970-2009: Protection of trees on development sites.**

**ADVICE NOTES:**

- 1. In order to satisfy Condition 5 above, the following measures (at a minimum) are required:**
- **A Tree Protection Zone (TPZ), in the form of a mesh fence (or similar material) is to be installed around each street tree prior to the commencement of works on site, and retained in place until the completion of the development.**
  - **The TPZ is to have a radius of no less than 1.2m from the outside of the trunk of the street tree.**
  - **Once established, no persons, vehicles or machinery are to enter the TPZ.**
  - **No stockpiling of building materials, debris or soil is to occur within the TPZ.**
  - **No fuel, oil dumps or chemicals are allowed or stored within the TPZ.**
  - **No signage or other fixtures are to be attached to the tree.**
  - **The natural ground level of the verge is not to be altered.**
  - **All possible care is to be taken whilst works are occurring on site to ensure that no damage is caused to the tree/s including its trunk, roots and structural branches during construction.**
- B) That the submitter who objected to the proposal be notified of A) above.**