

**REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**7 JANUARY 2013**

- 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: 11 JANUARY 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 MONDAY, 7 JANUARY 2013.**

**PRESENT**

P Prendergast (Presiding Member)  
A Templeton  
T Capobianco  
H Shigeyoshi  
J Wardell-Johnson  
L Mannion

Manager Planning & Development Services  
Planning Services Coordinator  
Principal Building Surveyor  
Senior Planning Officer  
Senior Planning Officer  
Technical Officer (Environmental Services)

**APOLOGIES**

R Bailey

Special Projects Officer (Engineering  
Design)

C. Taborda

Engineering Technical Officer

**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.

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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.**

## TABLE OF CONTENTS

U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B) MILLINGTON Street, ARDROSS (REC) (ATTACHMENT).....	1
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**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA – 2012 -1126  
 Property : 6B Millington Street, Ardross  
 Proposal : Two Storey Single Dwelling  
 Applicant : Emmerton Pty Ltd  
 Owner : Mr S Lupica  
 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 : None 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 &amp; 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>

**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought to construct a two storey single dwelling at 6B Millington Street, Ardross.
- The proposal involves variations to the Acceptable Development criteria of the Residential Design Codes (R-Codes) in respect of visual privacy, boundary setbacks, site works and boundary walls.
- The application was advertised to the adjoining properties. Two submissions were received; one in support and the other citing an objection to the proposed north east wall setback and privacy.
- The proposal has been assessed against the relevant Performance Criteria of the R-Codes and is considered to be acceptable in that context notwithstanding the objection raised.
- The application is recommended for conditional approval.



**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living
R-Code	:	R20
Use Type	:	Residential
Use Class	:	'P' Permitted

**Site Details**

Lot Area	:	506sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Retained
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	Refer to photo above

U13 0426 7 January 2013 A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 11 January 2013.

**DETAIL**

The application has been assessed against the requirements of CPS5, the R-Codes and Council Policy. The following variations to the Acceptable Development Criteria of the R Codes are identified.

**Development Requirements**

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>	<b>Plan Notation</b>
Boundary Wall (North East)	Height - Average 2.7m Maximum 3m  Length 9m	Height - Average 1m Maximum 1.9m  Length 16.7m	Does not comply	MPDS	
Site Works	Filling within 1m of a boundary not to exceed 0.6m	North East boundary - Maximum fill height 1.6m  North West boundary - Maximum fill height 1.1m	Does not comply	MPDS	

**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

Set Back of Retaining Walls	Retaining wall along the North East boundary required to be setback 1.5m  Retaining wall along the North West boundary required to be setback 1.5m	North East side 0m  North West side 0m	Does not comply	MPDS	
Visual Privacy	Balconies which overlook any part of an adjoining property behind its street setback line setback 7m	Balcony setback 1.2m from both the North East and North West boundaries	Does not comply	MPDS	

Boundary Setbacks

Wall	Required	Proposed	Comments	Delegation to approve Variation	Plan Notation
Side wall (NW) First Floor (Balcony / Kitchen / WIP)	3 - 3.5m	1.2m	Does not comply	MPDS	
Side wall (NE) Ground Floor (Ensuite / Guest)	1.0m	0.8m	Does not comply	MPDS	
Side wall (NE) First Floor (Balcony / Family)	3.8m	1.5m	Does not comply	MPDS	



**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

Side wall (NE) First Floor (Dining / Family)	2.1m	1.5m	Does not comply	MPDS	
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**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to Acceptable Development criteria of the R-Codes  
 Support/Object: One Support and One Objection

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Submission 1	No objection to the variations.	Support	Noted	<b>Noted</b>
Submission 2	The injected concrete into our property for soil stabilisation is not acceptable.  Concerned about the extent of the North East wall and requires further information as to the type of retaining proposed.  The ground floor and first floor balconies overlooks a swimming pool in the front setback.	Objection  Objection  Objection	Not a planning matter. Stabilisation mechanisms are assessed at the Building Licence stage.  The North East boundary wall will not be visible from the adjoining property upon construction of a standard 1.8m fence. The type of retaining will be assessed at the Building Licence stage.  The objectores swimming pool is already capable of being overlooked from the street given its location within the front setback area of the property.	<b>Not Uphold</b>  <b>Not Uphold</b>  <b>Not Uphold</b>

**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
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	The 0.8m setback to the ground floor Ensuite is acceptable.	Support	Noted	<b>Uphold</b>
	Overlooking from the family/dining room and master bedroom is unacceptable.	Objection	These windows have a minimum cill height of 1.6m, and as such are minor openings and compliant with the Acceptable Development Criteria.	<b>Not Uphold</b>
	The setback variations relating to the balcony/dining, TV recess and master suite/ensuite will result in significant building bulk affecting our enjoyment of our house and yard..	Objection	Amended plans have been received which have increased the setback to the balcony which has also provided additional articulation along the wall.	<b>Not Uphold</b>

**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*.

**FINANCIAL IMPLICATIONS**

There are no financial implications applicable.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

The proposed development 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.

**COMMENTS**

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 setbacks, boundary walls, site works and visual privacy. These are assessed against the relevant Performance Criteria below.

Please note that the commentary in this report will be restricted to consideration of the boundary setbacks and visual privacy relating to the North East boundary which are the subject of an objection. The remainder of the proposed variations have been assessed against the relevant Performance Criteria of the R-Codes and considered to comply.

Boundary Setbacks

Performance Criteria 6.3.1 of the R-Codes acknowledges that reduced setbacks can be approved where adequate solar access is maintained to adjoining properties, building bulk is ameliorated and privacy is protected. The proposal is considered to satisfy these criteria for the following reasons:

- The application ensures adequate and direct sun to the adjoining neighbour due to the orientation of the lot.
- The design of the dwelling assists in ameliorating the impacts of building bulk on adjoining properties through its varied setbacks and openings
- Privacy of the neighbouring north east property is not compromised as the major openings overlook the front yard area and the approved plans of the adjoining property to the North East property require screening of the major openings facing the subject site.

Visual Privacy

Two balconies are proposed to the front of the dwelling; one on the ground floor level and the other on the first floor, both facing Millington Street.

The Acceptable Development criteria of the R-Codes require that balconies which overlook any part of any other residential property behind its street setback line be setback 7.5m from the common boundary.

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In this instance, the proposed ground floor level balcony is screened along its North East elevation and only allows for views over the adjoining property's front setback area. As such, with respect to the property to the North East, this balcony satisfies the Acceptable Development criteria.

The first floor balcony however is open on all three sides, and due to the significant setback from the front boundary proposed, this balcony does not satisfy the Acceptable Development criteria as it does allow some view of the adjoining property to the North East behind its front setback line. Notwithstanding, the proposed balcony is considered to satisfy the Performance Criteria for the following reasons:

- The front setback area which contains the swimming pool is also open to viewing from the street and is not considered to be a sensitive space.
- The adjoining property to the North East has several large trees along the boundary which will assist to screen the pool area from view of the balcony.
- The approved plans for the adjoining property state that the sides of the ground and first floor balconies and the Study window located on the adjoining property were to be screened. These are not presently screened, however if the Study window were screened as per the approval, this would no longer be a major opening and therefore not considered capable of overlooking.

#### Amenity

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

#### **CONCLUSION**

It is considered that the development, subject to the imposition of appropriate conditions, satisfies the provisions and requirements of CPS5, the R-Codes and Council policies. Accordingly, it is recommended that conditional approval be granted.

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**U13/0426 (GD) - PROPOSED TWO-STOREY SINGLE HOUSE AT LOT 801 (6B)  
MILLINGTON Street, ARDROSS (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION****APPROVAL**

- A) That the application for a single storey single dwelling at lot 801 (6B) Millington Street, Ardross be approved subject to the following conditions:**
- 1. All stormwater generated on site is to be retained on site.**
  - 2. The external face of the parapet walls 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.**
  - 3. Roofing materials being of a non-reflective material (Zinc or white colour metal roofing may only be permitted through special planning consent).**
- B) That the residents who made a submission on the proposal be notified in writing of A) above.**