

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

16 JULY 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 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 19 JULY 2013

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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U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)

Ward : Palmyra/Melville/Willagee
 Category : Operational
 Application Number : DA-2013-683
 Property : Lot 2 (No. 85D) Solomon St Palmyra
 Proposal : Single Storey Dwelling
 Applicant : Shelford Constructions
 Owner : Neil & Lorraine Stanley
 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 : N/A

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> |

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning approval is sought for the construction of a single storey dwelling at Lot 2 (No. 85D) Solomon Street, Palmyra.
- The subject lot is the rear lot of a survey strata subdivision and construction on the lot is limited by a restrictive covenant to a single storey house only.
- The proposal satisfies all of the relevant provisions contained within Community Planning Scheme No. 5 (CPS5), the Acceptable Development provisions of the Residential Design Codes (R-Codes) and Council Policy with the exception of boundary walls.
- The application was advertised in accordance with the R-Codes and two submissions in objection to the proposal were received.
- Notwithstanding the objections received, the proposal is considered to satisfy the Performance Criteria of the R-Codes relating to boundary walls on the basis that the impact as a result of the two boundary walls is shared between two properties and no significant adverse amenity or overshadowing impacts will occur.
- The application is recommended for approval



BACKGROUND

Scheme Provisions

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

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)

Site Details

Lot Area : 466sqm (including a share of common property)
 Retention of Existing Vegetation : None applicable
 Street Tree(s) : Yes
 Street Furniture (drainage pits etc) : None applicable
 Site Details : See aerial photo above

U13_0442_July_2013 A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 19 July 2013.

DETAIL

The proposal has been assessed against CPS5, the Acceptable Development provisions of the R-Codes and Council Policies and satisfies all of the relevant provisions with the exception of those matters outlined below:

R-Code Requirements

| Development Requirement | Acceptable Development | Proposed | Comments | Delegation to approve variation |
|--------------------------------|--|--|--|--|
| Boundary Walls | <i>Length</i> 9m <i>Height</i> 2.7m average height 3m max. height Up to one boundary only | <i>West</i> Length 5.2m Height 2.7m | Requires assessment using Performance Criteria | Manager Statutory Planning (MSP) |
| | | <i>South</i> Length 7.8m Height 2.7m | | |

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Part 4 of R Codes
 Support/Object: Two objections

| Submission Number | Summary of Submission | Support/Objection | Officer's Comment | Action (Condition/Uphold/Not Uphold) |
|--------------------------|--|--------------------------|---|---|
| 1 | As there is a 30cm difference in ground level between the two properties, the proposed boundary wall along the western boundary will impede access to sunlight into the submitter's bedroom. | Objection | The bedroom window in question is located within the southern elevation of the dwelling adjacent to the attached carport. As such, this window is already shaded by the carport. | No Uphold |
| 2 | The boundary wall along the southern boundary will block sunlight to the submitter's alfresco area and be imposing. | Objection | The submitter's property has been excavated at the rear, therefore it is acknowledged that the proposed boundary wall will have a minor bulk impact upon the adjoining property. However, it is noted that were the rear wall of the garage amended to be setback from the western boundary, this wall would be permitted as-of-right. Furthermore, the proposal satisfies the Acceptable Development provisions of the R-Codes in relation to overshadowing. | Not Uphold |

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not 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 strategic, environmental or risk management implications associated with the proposal.

POLICY IMPLICATIONS

The proposal has been assessed and is considered to satisfy all applicable Council 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 construct a single storey dwelling at Lot 2 (No. 85D) Solomon Street, Palmyra.

As outlined above, as walls up to more than one boundary are proposed, the proposal does not satisfy the Acceptable Development provisions of the R-Codes in relation to boundary walls and as such, requires consideration against the applicable Performance Criteria.

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)

Performance Criteria 6.3.2 of the R Codes acknowledges 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 proposal is considered to satisfy the above Performance Criteria for the following reasons:

- Although the proposal does not satisfy the Acceptable Development provisions as walls up to more than one boundary are proposed, it is noted that both of the proposed walls comply with the maximum dimensions specified by the Acceptable Development provisions for boundary walls.
- The inclusion of the walls encourages the effective use of the space available on the lot, which is important, in this case given the restrictive covenant on the property which limits construction to one storey only.
- Due to the low height and length of the proposed boundary wall along the western boundary, and its location adjacent to an existing carport, no significant impact upon the access to sunlight or amenity of the adjoining property to the west is anticipated.
- The ground level of the adjoining property to the south has been excavated by approximately 0.5m. Whilst this serves to effectively increase the actual wall height when viewed from the adjoining property, as a stand alone boundary wall, and in the absence of a second wall, it would nonetheless be deemed to comply.
- The proposal satisfies the Acceptable Development provisions relating to overshadowing.

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 variation sought.

CONCLUSION

The proposal is considered to satisfy the relevant Performance Criteria in the R-Codes and as such, is recommended for approval subject to conditions.

U13/0442 – (BA) - SINGLE STOREY DWELLING AT LOT 2 (NO. 85D) SOLOMON STREET, PALMYRA (REC) (ATTACHMENT)**OFFICER RECOMMENDATION****APPROVAL**

- A) That the application for the construction of a single storey dwelling at Lot 2 (No. 85D) Solomon St Palmyra be approved subject to the following conditions:**
- 1. 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.**
 - 2. All stormwater generated on site is to be retained on site.**
 - 3. 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.**
 - 4. 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.**