

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY 12 NOVEMBER 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 15 NOVEMBER 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 12 NOVEMBER 2013 .**

PRESENT

P Prendergast (Presiding Member)
A Templeton
T Capobianco
M Cosson
A Donaghey
L Mannion

Manager Statutory Planning
Planning Services Coordinator
Manager Building Services
Planning Officer
Senior Planning Officer
Technical Officer (Environmental Services)

APOLOGIES

R Bailey
Special Projects Officer (Engineering Design)

IN ATTENDANCE

OBSERVERS

DISCLOSURES OF INTEREST

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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U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1 (NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)

Ward : Palmyra/Melville/Willagee
 Category : Operational
 Application Number : DA-2013-1215
 Property : Lot 1 (No.7) Cleopatra Street, Palmyra
 Proposal : Retrospective application for a shade structure
 Applicant : T Vallance
 Owner : T Vallance and K Scholten
 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

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 & 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"/>	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>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1
(NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Retrospective planning approval is sought to allow a shade structure constructed along the eastern boundary of Lot 1 (No. 7) Cleopatra Road, Palmyra to remain.
- The proposal satisfies all of the relevant provisions of Community Planning Scheme No. 5 (CPS5), the Deemed to Comply provisions of the Residential Design Codes (RCodes) and Council Policy with the exception of the height and length of the structure along the boundary.
- The application was advertised in accordance with Part 4 of the R-Codes and one objection was received raising concerns relating to building bulk.
- Notwithstanding the objection received, the proposal is considered to satisfy the relevant Design Principles within the R-Codes for boundary walls.
- The application is recommended for approval subject to conditions.



U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1 (NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

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

Site Details

Lot Area : 789sqm
 Retention of Existing Vegetation : None applicable
 Street Tree(s) : None applicable
 Street Furniture (drainage pits etc) : None applicable
 Site Details : See aerial photo above

U13_0450 November 2013 A copy of the plans form part of the attachments to the Agenda which were distributed to members of council on Friday 14 November 2013.

DETAIL

Retrospective planning approval is sought to allow an existing shade structure constructed along the eastern boundary of Lot 1 (No. 7) Cleopatra Street, Palmyra to remain.

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

R-Code Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation
Boundary Walls	<i>Height</i> Maximum - 3.5m <i>Length</i> Maximum - 9m.	<i>Height</i> Maximum - 4.16m <i>Length</i> 12.2m	Requires assessment using Design Principles	Development Advisory Unit

U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1 (NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with Part 4 of the R-Codes and Council Policy
 Support/Object: One objection

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1	<p>The towering structure looms over the front entrance of the submitter's dwelling.</p> <p>The structure will create a precedent in the area.</p> <p>The structure will impact the property value of the submitter's property.</p> <p>The shade cloth structure could constitute a fire and storm hazard.</p>	Object	<p>The structure is adjacent to the submitter's carport, driveway and entry path. The structure is not adjacent to any major openings or the primary outdoor living area of the dwelling and is therefore considered to be acceptable.</p> <p>All applications are required to be assessed on their individual merits and the approval of one application does not necessitate approval of others.</p> <p>This is not a material planning consideration.</p> <p>This is a matter which will be considered by a future building licence application and is not a material planing consideration.</p>	<p>Not Uphold</p> <p>Not Uphold</p> <p>Not Uphold</p> <p>Not Uphold</p>

U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1 (NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)

	The covered area will encourage the congregation of residents and guests in this location.		All noise is required to comply with the relevant noise regulations.	
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CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

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 for the City relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

It is noted that Council Policy 078 – Residential Development is currently under review with Council adopting the revised policy on 20 August 2013 for the purposes of advertising. The policy was subsequently advertised and no submissions were received.

The amended policy is now before Council for final adoption on 19 November 2013 and is therefore considered to be a seriously entertained policy.

The revised policy proposes changes to the Deemed to Comply provisions relating to boundary walls and prescribes the following relating to R20 properties:

- l ii in areas coded R20 and R25, walls not higher than 3.5m with an average of 3m up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback.*

The proposed shading structure does not satisfy the above Deemed to Comply provisions and therefore still requires assessment against the relevant Design Principle of the R-codes.

U13/0450 - RETROSPECTIVE APPLICATION FOR A SHADE STRUCTURE AT LOT 1 (NO.7) CLEOPATRA STREET, PALMYRA (REC) (ATTACHMENT)**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 retrospective shade structure does not satisfy the Deemed to Comply provisions of the R-Codes relating to boundary structures nor the City's revised Residential Development policy. Consequently, the structure requires assessment against the Design Principle of the RCodes.

Design Principle 5.1.3 acknowledges that buildings can be built up to boundaries in order to make effective use of space for enhanced privacy, providing they do not result in any significant adverse effects on the amenity or solar access to the adjoining properties and they positively contribute to the prevailing development context and streetscape.

The proposed boundary wall is considered to meet the Design Principle for the following reasons:

- The amenity of the adjoining property will be maintained as the proposed boundary wall is adjacent to non-habitable space. There are no major openings or primary outdoor living areas on the adjacent site which directly abut the shade structure.
- The structure in question is only 1.1m higher than the previously approved wooden screening device on the boundary.
- Despite its height, the structure is of light weight material (shade cloth) and is open on two ends.
- The structure is well setback from the street and will not be highly visible within the streetscape.
- The boundary wall will not have an impact upon solar access to any major openings or outdoor living areas on the adjoining property to the east.

CONCLUSION

The application is considered to satisfy the relevant Design Principles of the R-Codes and as such, is recommended for approved subject to conditions.

OFFICER RECOMMENDATION**APPROVAL**

A) That the retrospective application for a shade structure at Lot 1 (No. 7) Cleopatra Street, Palmyra be approved subject to the following condition:

1. All stormwater generated on site is to be retained on site.

B) That the resident who made a submission on the proposal be notified of A) above.