

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

8 JULY 2014

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 11 July 2014

**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, 8 JULY 2014.**

PRESENT

A Templeton
A Donaghey
J Wardell-Johnson
T Capobianco
J Ahola

Acting Manager Statutory Planning
Senior Planning Officer
Senior Planning Officer
Manager Building Services
Landscape Architect Coord (Landscape
Design)

APOLOGIES

P Prendergast (Presiding Member)
R Bailey

Manager Statutory Planning
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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U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

Ward : Bicton / Attadale
 Category : Operational
 Application Number : DA-2014-478
 Property : Lot 54 (No. 134A) Petra Street, Bicton
 Proposal : Two Storey Single Dwelling
 Applicant : Building Corporation WA Pty Ltd
 Owner : C A Court
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Nil
 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>

U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET, BICTON (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning approval is sought to construct a two storey dwelling at 134A Petra Street, Bicton.
- The proposal has been assessed against the prescriptive development requirements of Community Planning Scheme No. 5 (CPS5), the Residential Design Codes (R-Codes) and Council Policy and the proposal requires assessment against the applicable Design Principles of the R-Codes in relation to setbacks, boundary walls and visual privacy.
- The application was advertised in accordance with the requirements of the R-Codes and three objections remain which outline concerns primarily with regard to setbacks, privacy and amenity.
- Notwithstanding the objections received, the proposal is considered to satisfy the applicable Design Principles of the R-Codes.
- The application is recommended for approval subject to conditions.



BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Living Area
R-Code	:	R12.5./17.5
Use Type	:	Residential
Use Class	:	Permitted

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Site Details

Lot Area	:	753sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	See aerial photo above

U 14 0453 July 2014 - A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 11 July 2014.

The subject site is a rear block which has shared access with two adjoining sites (134B and 136 Petra Street). The site is sloping and falls approximately 4m from south to north. Beyond the northern boundary of the site, the land slopes significantly down toward the river.

The surrounding area is characterised by large dwellings taking advantage of views to the north and northwest over the Swan River and Bicton Baths. Directly to the east of Petra Street is the Town of East Fremantle and includes the yacht club and tennis courts.

DETAIL

Planning approval is sought to construct a two storey dwelling at 134A Petra Street, Bicton.

The proposal has been assessed against the prescriptive development requirements of CPS5, the R-Codes and Council Policy. The following matters require assessment against the relevant Design Principles of the R-Codes:

CPS5 and Policy Requirements

Development Requirement	Acceptable Development	Proposed	Comments	Delegation to approve variation
Boundary Walls	<i>Length</i> 9m	<i>East (Garage)</i> Length 8.6m	Requires assessment against Design Principles	Manager Statutory Planning (MSP)
	<i>Height</i> 3m	Height 3.3m		
	Side boundaries only	<i>West (Ground Floor)</i> Length 15m Height 3.9m-6m		
		<i>West (Upper Floor)</i> Length 6.7m Height 7.5m		

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R-Code Requirements

Wall	Required	Proposed	Comments	Delegation to approve Variation
<i>Boundary Setbacks</i>				
South (Ground Floor) Garage	1.5m	1.0m	Requires assessment against Design Principles	MSP subject to consideration by the Development Advisory Unit (DAU)
North (Upper Floor) Alfresco	4.2m	1.5 - 3.5m	Requires assessment against Design Principles	MSP (DAU)
East (Upper Floor) WIR - Lift	2.8m	2.4m	Requires assessment against Design Principles	MSP (DAU)
East (Upper Floor) Family - Alfresco	3.8m	2.4m	Requires assessment against Design Principles	MSP (DAU)
<i>Visual Privacy Setbacks</i>				
<i>Northern boundary</i>				
Ground Floor - Guest Bedroom	4.5m	2.5m	Requires assessment against Design Principles	MSP (DAU)
Ground Floor - Pool	7.5m	1.5-2.3m	Requires assessment against Design Principles	MSP (DAU)
Ground Floor - Cabana	7.5m	1.7 – 3.4m	Requires assessment against Design Principles	MSP (DAU)
Upper Floor - Alfresco	7.5m	1.9 - 3.5m	Requires assessment against Design Principles	MSP (DAU)
Upper Floor - Kitchen Window	6m	0.45m	Condition of approval recommended	MSP (DAU)
<i>Eastern boundary</i>				
Ground floor - Pool	7.5m	5.0m	Condition of approval recommended	MSP (DAU)
Ground Floor – Bedroom 3	4.5m	2.5m	Requires assessment against Design Principles	MSP (DAU)
Upper Floor - Alfresco	7.5m	2.6m	Condition of approval recommended	MSP (DAU)
Upper Floor - Activity Room	6m	1.8m	Condition of approval recommended	MSP (DAU)

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<i>Western boundary</i>				
Ground Floor - Pool	7.5m	5.0m	Condition of approval recommended	MSP (DAU)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The application has been the subject of two public consultation periods.

The plans as originally submitted at the time of lodgement were advertised to all of the adjoining property owners and four submissions were received, all outlining concerns.

Upon receipt of a summary of these submissions, the Applicant prepared revised plans.

On the basis of the amended plans, one of the adjoining property owners who previously lodged a submission withdrew their concerns and signed approval to the amended plans.

As the remainder of the modifications to the proposed development related to one property boundary in particular, the revised plans were referred to the owners of this adjoining property for a further public consultation period. Notwithstanding the amended plans, a further letter of objection to the proposed development was submitted.

On this basis, the outstanding concerns raised within the submissions are outlined below:

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1	Request deletion of the south facing window into Bedroom 3 (en suite) and the west facing window into Bedroom 3 due to privacy impacts upon the submitter's outdoor living area.	Objection	Both of these windows satisfy the Deemed to Comply provisions of the R-Codes in relation to visual privacy. One window is into the en suite which is not classed as a habitable room and the other bedroom window is setback 4.5m from the southern boundary.	Not Uphold

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2	<p>Concerns raised in relation to the proposed reduced northern boundary setbacks of the development in relation to the submitter's visual amenity, liveability and enjoyment of their home.</p>	Objection	<p>The submitter's property has a floor level which is significantly lower than the ground level of the subject site (approximately 2.1m at the rear). The view of the adjoining property from the subject site is that of the top portion of a boundary wall and the roof of the dwelling. The outdoor living areas of the adjoining property are all located within the northern portion of the property and are not visible from the subject site. As there are no major openings or outdoor living areas which will have a view of the proposed development, the concerns of the submitters are not upheld.</p>	Not Uphold
3	<p>Visual privacy impact along the eastern boundary as a result of the proposed:</p> <ul style="list-style-type: none"> • Upper floor Activity Room window (not fixed) • Upper floor Alfresco (screening not sufficiently detailed) • Ground floor pool area • Ground floor Guest Bedroom window (eastern elevation) 	Objection	<p>Conditions of approval are recommended to require these elements of the development to satisfy the Deemed to Comply provisions of the R-Codes.</p>	Condition

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3 (continued)	Concerned about the privacy impact of the ground floor Guest Bed/Study window and upper floor Alfresco over the submitter's primary outdoor living area and pool to the northeast.	Objection	The views achieved from the proposed north facing Guest Bed / Study window and the Alfresco over the submitter's property will not fall upon the submitter's primary outdoor living area or pool and will instead fall upon un-used lawn area which is not readily accessible or usable as a habitable outdoor living area due to the topography.	Not Uphold
	Concerned about the privacy impact resulting from the proposed ground floor Store Room window and question the future use of the room.	Objection	A store room is not classed as a habitable room and is therefore not subject to the visual privacy requirements of the R-Codes. Should the use of the Store Room alter in the future to become a habitable room, additional planning approval would be required.	Not Uphold
	Concerned about the future location of air conditioning and pool plant.	Objection	These are detailed matters not assessed at the time of planning approval, however it is noted that notwithstanding their location, the requirements of the relevant noise regulations apply.	Not Uphold
	The submitter seeks further information in relation to how the unfinished ground between the proposed dwelling and the boundaries will be treated.	Objection	This information is not required to be submitted as part of the planning approval process, however any retaining walls or site works in excess of 0.6m requires additional planning approval. An advice note to this effect is recommended.	Advice Note
	The submitter requests details of the roofing materials proposed.	Objection	This is not a material planning consideration.	Not Uphold

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3 (continued)	The submitter requests that the Applicant agrees to an undertaking in relation to earthworks, construction and potential damage to their property.	Objection	This is not a material planning consideration.	Not Uphold
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II. OTHER AGENCIES / CONSULTANTS

Consultation with other agencies or consultants was not required in this instance.

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 as a consequence of this report.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The application has been assessed against the provisions of CP-078: Residential Development Policy. The proposal satisfies all of the requirements of this policy with the exception of the boundary walls. These walls therefore require assessment against the applicable Design Principles of the R-Codes as outlined above.

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.

U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**COMMENT**

As outlined above, the proposed development requires assessment against the applicable Design Principles of the R-Codes in relation to boundary walls, boundary setbacks and visual privacy. These assessments are detailed below:

Boundary Walls

Boundary walls are proposed along both the eastern and western boundaries.

Design Principle 5.1.3 (P3.1 and P3.2) of the R-Codes states:

P3.1 Buildings set back from lot boundaries so as to:

- *Reduce impacts of building bulk on adjoining properties;*
- *Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

P3.2 Buildings built up to boundaries (other than the street boundary) where this:

- *Makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *Does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *Does not have any adverse impact on the amenity of the adjoining property;*
- *Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *Positively contributes to the prevailing development context and streetscape.*

The proposed development is considered to satisfy the abovementioned Design Principle for the following reasons:

- The proposed boundary walls are considered to make effective use of the available space on the property, which is both of irregular shape and formation. This allows for enhanced privacy and maximisation of the outdoor living area to the north of the property.
- The adjoining property to the west is currently vacant; however the Applicant has worked in collaboration with the owner of the adjoining property to ensure that their developments' are mutually beneficial. On this basis, the adjoining property owner has signed the proposed plans with no objections. Consequently, it is anticipated that the proposed boundary walls along the eastern boundary will not have an adverse impact upon this adjoining property's future amenity or access to sunlight.

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- The garage boundary wall along the eastern elevation is of single storey height and exceeds the height specified in the Deemed to Comply provisions of CP-078 by 0.25m only. This slight increase in the acceptable height is not anticipated to comprise the amenity of the adjoining property by virtue of its bulk, nor is it anticipated to have a significant impact upon the adjoining property's solar access. Furthermore, the adjoining property owner to the west has not cited any objection to the proposed garage boundary wall.

Boundary Setbacks

As outlined above, the setbacks along the northern, eastern and southern boundaries require assessment against the abovementioned Design Principle 5.1.3 (P3.1) of the R-Codes.

The proposed development is considered to satisfy this Design Principle for the following reasons:

- The proposed reduced southern setback to the ground floor garage is not anticipated to result in any significant bulk impacts upon the adjoining property by virtue of their slightly elevated topography which will result in the appearance of the garage wall being reduced. The proposed development also satisfies the Deemed to Comply provisions of the R-Codes in relation to overshadowing and visual privacy in relation to this wall.
- The reduced northern setback is in relation to the upper floor Alfresco. This is proposed to be open sided along the northern elevation to take advantage of the views to the north and northwest. As a result, the bulk impact upon the adjoining property to the north is mitigated. Furthermore, it is noted that were screening installed, the proposed setback would comply. It is acknowledged that the proposed Alfresco will allow overlooking of the adjoining properties to the north and northeast, however the area of overlooking will fall upon the roof of the adjoining property to the north and unused, steep lawn space of the adjoining property to the east. In addition, due to the site's orientation, the proposed Alfresco will not have an impact upon the adjoining properties' access to sunlight.
- The proposed reduced setbacks to the eastern boundary relate to the recessed sections of the upper floor wall (WIR-Lift and Family-Alfresco) with other portions of the elevation protruding closer to the boundary as permitted by the Deemed to Comply provisions. The Applicant has included a red dotted line on the upper floor plan which indicates the built form that they could propose under the Deemed to Comply provisions, which in many instances, is closer to the boundary than what is presently proposed. As a result, it is considered that the bulk impacts of the proposed development are mitigated. Furthermore, conditions of approval are recommended to ensure that the openings along the eastern elevation satisfy the Deemed to Comply provisions of the R-Codes.

U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET, BICTON (REC) (ATTACHMENT)*Visual Privacy*

The proposed development does not satisfy the visual privacy Deemed to Comply provisions of the R-Codes in relation to the northern, eastern and western boundaries.

Design Principle 5.4.1 (P1.1 and P1.2) of the R-Codes states:

P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:

- *Building layout and location;*
- *Design of major openings;*
- *Landscape screening of outdoor active habitable spaces; and/or*
- *Location of screening devices.*

P1.2 Maximum visual privacy to side and rear boundaries through measures such as:

- *Offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- *Building to the boundary where appropriate;*
- *Setting back the first floor from the side boundary;*
- *Providing higher or opaque and fixed windows ; and/or*
- *Screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

A number of the proposed openings and outdoor living areas have been assessed against the above criteria and are not considered to comply. Consequently, conditions of approval requiring compliance with the Deemed to Comply provisions of the R-Codes are recommended in relation to the following:

- North facing upper floor Kitchen window
- East facing upper floor Activity Room window
- Eastern elevation of the upper floor Alfresco
- Eastern and Western sides of the pool where it extends to the north beyond the Guest Bed/Study and Cabana

The remainder of the major openings or outdoor living areas which require assessment against the Design Principles relate to the north facing Guest Bed / Study window, Pool, Cabana and Alfresco as well as the south facing window into Bed 3. These are considered to satisfy the abovementioned Design Principle for the following reasons:

- The Bed 3 window will only allow views of the eastern boundary at an oblique angle from inside the room and although it is acknowledged that the floor level of the dwelling is raised (by approximately 0.6m), the views of the adjoining property from this window will be screened by a standard dividing fence.
- The openings along the northern elevation which are proposed to remain unscreened are considered to satisfy the Design Principle as they will not overlook any major openings or primary outdoor living areas of the adjoining properties' to the north and east. Views from these openings of the adjoining properties will be limited to the roof of the adjoining property to the north and an unused and relatively inaccessible (due to its topography) area of lawn of the adjoining property to the east.

U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**CONCLUSION**

Although a number of submissions have been received in relation to the proposed development, it is considered to satisfy the requirements of CPS5, the R-Codes and Council Policy, including the Design Principles for boundary walls, boundary setbacks and visual privacy. Consequently, it is recommended that the proposed development be approved subject to the imposition of conditions.

OFFICER RECOMMENDATION (U14/0453)**(APPROVAL)**

That the planning application for the construction of a two storey dwelling at Lot 54 (134A) Petra Street, Bicton be approved subject to the following 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 walls 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. Prior to the initial occupation of the development, the North facing window into the Kitchen (as marked in red on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.**
- 4. Prior to the initial occupation of the development, the upper floor Activity Room window along the Eastern elevation (as marked in red on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.**
- 5. Prior to the initial occupation of the development, the Eastern and Western elevations of the pool, where they extend to the north beyond the wall of the Guest Bed / Study and Cabana (as marked in red on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished pool wall level, or any other screening alternative that complies with the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.**

**U14/0453 – (AD) - TWO STOREY DWELLING AT LOT 54 (NO. 134A) PETRA STREET,
BICTON (REC) (ATTACHMENT)**

6. Prior to the initial occupation of the development, the Eastern elevation of the upper floor Alfresco (as marked in red on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.65 metres above the finished floor level, or any other screening alternative that complies with the purpose and intent of C1.1 or C1.2 of Clause 5.4.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.

Advice notes

1. The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*. These regulations can be obtained from www.slp.wa.gov.au
2. Any site works or retaining walls in excess of 0.6m in height require further planning approval prior to construction.