

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

21 OCTOBER 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 24 OCTOBER 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, 21 OCTOBER 2014.**

PRESENT

P Prendergast (Presiding Member)
A Templeton
J Wardell-Johnson
S. Burnell
T Capobianco
C Taborda

Manager Statutory Planning
Planning Services Coordinator
Senior Planning Officer
Acting Senior Planning Officer
Manager Building Services
Engineering Technical Officer

APOLOGIES

J Ahola

Landscape Architect Coord (Landscape
Design)

R Bailey

Special Projects Officer (Engineering
Design)

A Donaghey

Senior Planning Officer

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.

TABLE OF CONTENTS

| | |
|--|---|
| U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT) | 1 |
|--|---|

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

Ward : Bicton/Attadale
 Category : Operational
 Application Number : DA-2014-951
 Property : Lot 2 (No. 496A) Canning Highway, Attadale
 Proposal : Three Storey Single House
 Applicant : P Byrne
 Owner : P and M Byrne
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : None applicable
 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> |

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Planning Approval is sought for the construction of a three storey dwelling at 496A Canning Highway, Attadale.
- 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 (R-Codes) and applicable Council Policies with the exception of boundary setbacks and overshadowing.
- In accordance with Part 4 of the R-Codes, the application was advertised to the affected land owners. Five submissions were received outlining concerns relating to overlooking, building bulk, boundary setbacks and overshadowing. Amended plans have since been submitted by the Applicant which partially address these concerns.
- The amended application has been assessed against the relevant Design Principles of the R-Codes and is considered to comply.
- It is recommended that approval be granted subject to conditions.



BACKGROUND

Scheme Provisions

| | |
|--------------|--|
| MRS Zoning | : Urban |
| CPS 5 Zoning | : Living Area - Canning Highway Precinct |
| R-Code | : R25/40 |
| Use Type | : Residential |
| Use Class | : 'P'- Permitted Use |

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

Site Details

Lot Area : 407sqm
 Retention of Existing Vegetation : Not applicable
 Street Tree(s) : Yes, retained
 Street Furniture (drainage pits etc) : None applicable
 Site Details : Refer to site photo above

U14_0454 October 2014 A copy of the plans forms part of the attachments to the Agenda which were distributed to members of council on Friday 24 October 2014.

DETAIL

Planning approval is sought for the construction of a three storey single house at 496A Canning Highway, Attadale.

The proposal has been assessed against all of the relevant provisions of CPS5, the Deemed to Comply provisions of the R-Codes and applicable Council Policies. The proposal requires the exercise of judgement in relation to those matters outlined below.

R-Code Requirements

| Development Requirement | Deemed to Comply | Proposed | Comments | Delegation to approve variation |
|--------------------------------|---|-----------------|---|--|
| Boundary Setback | <i>Northern Elevation</i> Ground Floor - 1.5m | 1m | Requires assessment using Design Principles | Development Advisory Unit (DAU) |
| Overshadowing | 25% | 33% | Requires assessment using Design Principles | DAU |

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: In accordance with Part 4 of the R-Codes
 Support/Object: Five submissions received

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

Upon receipt of these submissions, the Applicant prepared revised plans to address the concerns. The amended plans were not the subject of further public consultation.

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

A summary of the submissions received is provided below.

| Submission Number | Summary of Submission | Support/Objection | Officer's Comment | Action (Condition/Uphold/Not Uphold) |
|--------------------------|---|--------------------------|--|---|
| 1 | Two large balconies will overlook the submitter's family living area, alfresco and backyard which is unacceptable. | Object | Amended plans have been received showing screening to all north facing major openings including the balconies. This aspect of the development is now designed in accordance with the deemed to comply provisions. | Condition |
| 2 | <p>Overlooking from the first and second floor balconies will encroach into the submitter's outdoor living areas and a back bedroom.</p> <p>The existing limestone fence is not high enough and will have to be increased in height for privacy.</p> <p>The building will block southerly breezes into the submitter's living space.</p> <p>The proposed house will completely overshadow the submitter's house thus devaluing it considerably.</p> | Object | <p>Refer to comment above.</p> <p>Refer to comment above.</p> <p>This is not considered to be a material planning consideration.</p> <p>The R-Codes only assess overshadowing impacts on to adjoining properties to the south. The submitter's property is not located to the south of the subject site.</p> | <p>Condition</p> <p>Condition</p> <p>Not Uphold</p> <p>Not Uphold</p> |

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

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| 3 | Overlooking from the proposed balconies will affect the future privacy, especially with future plans to subdivide. | Object | Refer to comment above. | Condition |
| 4 | <p>The balconies on the first and second levels will overlook the submitter's house and give direct views into a bedroom.</p> <p>No screening is permitted to be attached to the submitters boundary wall.</p> <p>The proposed building will tower above us and will degrade the value of our property.</p> | Object | <p>Refer to comment above.</p> <p>Noted.</p> <p>The proposed building height and the setbacks to the first and second floor levels satisfy the requirements of CPS5 and the Deemed to Comply provisions of the R-Codes.</p> | <p>Condition</p> <p>Noted</p> <p>Not Uphold</p> |

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

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|---|---|--------|--|------------|
| 5 | The mass, bulk and proximity of the rear elevation will present an overbearing and intrusive element. | Object | Refer to comment above. | Not Uphold |
| | The proposal will significantly overshadow the submitter's rear garden and does not allow for solar penetration into habitable rooms. | | Overshadowing has been assessed against the Design Principles of the R-Codes in the Comment section below. | Not Uphold |
| | The second floor should be setback to 1.5m. | | The setback of the second floor has been amended and now satisfies the Deemed to Comply requirements of the R-Codes. | Uphold |

II. OTHER AGENCIES / CONSULTANTS

Required: Yes
Reason: Abuts Main Roads Primary Regional Road Reserve
Support/Object: Conditional Support

| Agency | Summary of Submission | Support/Objection | Officer's Comment | Action (Condition/Uphold/Not Uphold) |
|---------------|---|--------------------------|---|---|
| Main Roads | The proposed development is acceptable to Main Roads subject to conditions. | Support | Noted. The recommended conditions are included within the Officer recommendation below. | Uphold |

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)**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 associated with this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The proposal is considered to satisfy all of the relevant provisions of Council's policies including CP-075: Canning Highway Precinct Design Guidelines.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application is proposed 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 formal Council consideration.

COMMENT

As outlined above, the proposed development requires the exercise of judgement in relation to overshadowing and boundary setbacks. These assessments are detailed below:

Boundary Setback

The setback of the proposed ground floor level from the northern boundary requires assessment against Design Principle 5.1.3 (P3.1) of the R-Codes.

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

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

- The finished floor level of the adjoining properties to the north is approximately 1.1m lower than that of the subject building and a 2m high limestone dividing fence (built from the highest retained level) is located in between. Accordingly, due to the difference in ground level and the height of the dividing fence, the building bulk impact of the ground floor level will be mitigated.
- Due to the orientation, the setback to the northern boundary will not restrict direct sun and ventilation to the adjoining properties to the north.
- The ground floor level wall does include major openings, however the existing dividing fence will provide sufficient privacy screening of these openings.

Overshadowing

As outlined above, the proposal requires the exercise of judgement in relation to overshadowing and therefore requires assessment against Design Principles 5.4.2 (P2.1 and P2.2) of the R-Codes.

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

- The design of the proposed development allows for effective solar access into the subject property.
- The proposed development results in the overshadowing of all of the north facing openings and the backyard of the adjoining property to the south, however it is noted that 25% overshadowing in accordance with the Deemed to Comply provisions of the R-Codes would also overshadow all of these openings and backyard area.
- The rear backyard area of the adjoining property to the south is not considered to be the primary outdoor living area for the property as it does not satisfy the R-Codes requirements for outdoor living areas. A private outdoor living area is provided within the front setback of the property to which the subject proposal has no adverse effect. This area is considered to be the primary outdoor living area for the property as it is a larger and a more usable space that complies with the minimum requirements of the R-Codes for outdoor living areas.
- The design of the proposed development is approximately 2.85m under the permitted 12m (flat roof) height for the Precinct and is setback from the southern boundary in excess of the Deemed to Comply requirements of the R-Codes. Accordingly, an alternative design for the subject site could result in greater impacts upon the adjoining property to the south than the proposed development.
- It is noted that the adjoining property to the south contains a number of trees and shrubs within the backyard area which already provide some overshadowing of the backyard area and north facing major openings.

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

- There are no roof mounted solar collectors located on the adjoining property to the south.

CONCLUSION

Based on the above, the application is considered to satisfy the requirements of CPS5, the R-Codes and Council Policy, including the Design Principles for boundary setbacks and overshadowing. Consequently, it is recommended that the proposed development be approved subject to the imposition of conditions.

OFFICER RECOMMENDATION (U0454)**APPROVAL**

That the planning application for the construction of a three storey dwelling at Lot 2 (496A) Canning Highway, Attadale 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 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. Prior to the initial occupation of the development, the first and second floor balconies along the northern elevation shall have installed, fixed obscure screening to a minimum height of 1.6 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 first and second floor major openings on the northern, eastern and southern elevations (as marked 'PS' on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.6 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, the development is to comply with the Western Australian Planning Commission State Planning Policy 5.4: Road and Rail Transport Noise and Freight Considerations in Land Use Planning and implement noise insulation "Deemed to Comply" packages for residential development to the satisfaction of the Manager Statutory Planning.,**
- 6. All vehicle access to Canning Highway is restricted to the existing driveway.**

U14/0454 – (SB) - THREE STOREY SINGLE HOUSE AT LOT 2 (NO. 496A) CANNING HIGHWAY, ATTADALE (REC) (ATTACHMENT)

- 7. The driveway shall be design to have an internal turn around facility or area that enables vehicles to turn around and exit the driveway in a forward movement to the satisfaction of the Manager Statutory Planning.**

Advice Notes

- 1. In relation to Condition 5 above, Main Roads WA advises that this noise sensitive development adjacent to an existing major transport corridor must implement measures to ameliorate the impact of transport noise.**
- 2. No earthworks shall encroach onto the Canning Highway road reserve.**