

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**3 NOVEMBER 2015**

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](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 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: 6 NOVEMBER 2015**

**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**

P Prendergast  
M Scarfone  
T Capobianco  
M Cosson  
J Wardell-Johnson  
J Hobbs

Manager Statutory Planning  
Planning Services Coordinator  
Manager Building Services  
Senior Planning Officer  
Senior Planning Officer  
Planning Officer

**APOLOGIES**

**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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**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)**

Ward : Palmyra – Melville – Willagee  
 Category : Operational  
 Application Number : DA-2015-1201  
 Property : Lot 461 (11) Worley Street, Willagee  
 Proposal : Retrospective Outbuilding - Shed  
 Applicant : Dale Lorraine Montgomery  
 Owner : Mr D L Montgomery  
 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 : Nil

**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"/>	<b>Quasi-Judicial</b>	<b><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></b>

**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Retrospective Planning Approval is sought for an Outbuilding – Shed at 11 Worley Street, Willagee..
- The outbuilding has been assessed against the provisions of Community Planning Scheme No. 5 (CPS5), the relevant Design Principles of the Residential Design Codes (the R-Codes) and applicable Council Policies. The outbuilding has a maximum wall height to eaves of 2.58m, and this has been taken into consideration with the assessment undertaken.
- Concern regarding the height of the outbuilding was raised with the City by the owner of a neighbouring property. The ensuing compliance action has resulted in the submission of the subject retrospective planning application.
- The submission objects to the development on the grounds of building bulk and overshadowing. The submission also raised concerns regarding reduced property value, a perceived lack of structural integrity and a lack of consultation.
- Whilst the objection is acknowledged, the proposal is considered to satisfy the requirements of the Design Principles of the R-Codes.
- It is recommended that the application be approved subject to conditions.



**BACKGROUND**

- An application for a Building Licence was lodged with the City on 16/04/2015. The dimensions of the outbuilding were such that the building did not require the benefit of planning approval.
- The outbuilding was constructed, after which the City received a complaint that the wall height to eave on the south side exceeded 2.4m.
- Compliance action confirmed the wall height to be 2.58m.

**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)**

**Scheme Provisions**

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

**Site Details**

Lot Area : 1022sqm  
 Retention of Existing Vegetation : Not applicable  
 Street Tree(s) : Not applicable  
 Street Furniture (drainage pits etc) : Not applicable  
 Site Details : Refer photo above

U15\_0464\_November 2015. A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday 6 November 2015.

**DETAIL**

The proposal has been assessed against the provisions of CPS5, the relevant Design Principles of the R-Codes and applicable Council Policies. The proposal satisfies all of these requirements with the exception of those matters listed below:

<b>Development Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
R Code Clause 5.4.3 Outbuildings wall height	2.4m	2.58m	Requires assessment under R Code Design Principles	Manager Statutory Planning (MSP)

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: No  
 Neighbour's Comment Supplied: Yes  
 Reason: Submission received resulted in the initial compliance action being taken  
 Support/Object: Object

**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)**

<b>Affected Property</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/ Uphold/ Not Uphold)</b>
Submission 1	<p>The variation to the outbuilding wall height will have an adverse impact on the submitters property through the imposition of building bulk and overshadowing.</p> <p>The submitter also raised concerns regarding property devaluation, structural integrity and a lack of consultation.</p>	Object	<p>The outbuilding has a maximum wall height to eaves of 2.58m. A wall of that height can be considered subject to assessment under the relevant R Code Design Principles. Refer to comment section below.</p> <p>The concerns expressed in respect of property devaluation, and structural integrity are not material planning considerations. With regard to consultation, it is noted that the initial development was exempt from the need for planning approval. The subject application was not the subject of formal consultation with the neighbour as the City was already in receipt of a submission opposing the development from the neighbour, received as a result of the complaint and subsequent compliance activity.</p>	Not upheld



**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)****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 for the City relating to this proposal.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The proposal satisfies all of the relevant provisions within 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.

**COMMENT**

The key issue in this case is whether the wall height to eaves, at 2.58m, meets the objectives of the design principles of the R Codes.

The design principles for outbuildings are set out in Clause 5.4.3 of the R Codes, and state:

*“Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.”*

In the subject case, the outbuilding is located within the rear garden of the property some distance from the street. The outbuilding therefore has no impact on the streetscape.

**U15/0464 RETROSPECTIVE OUTBUILDING – SHED AT LOT 461 (11) WORLEY STREET, WILLAGEE (REC) (ATTACHMENT)**

In terms of visual amenity impacts towards the neighbouring property to the south, it is considered that the wall height increase to 2.58m, from a deemed to comply height of 2.4m, is minor, and as such will not compromise the visual amenity of adjoining residents. It is noted that the ridge height of the outbuilding as constructed is 3.38m compared to a maximum permissible height of 4.2m under the deemed to comply provisions of the R Codes.

This reduction in the ridge height effectively acts to mitigate the visual impact of the development from the neighbouring properties.

**CONCLUSION**

As the development as constructed can be retained in accordance with the design principles of the R Codes, it is concluded that the development satisfies the provisions of CPS5, and Council Policy. It is recommended that the retrospective planning application be approved.

**OFFICER RECOMMENDATION****APPROVAL**

- A) That the resident who made a submission on the proposal be notified of the decision.**