

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**22 SEPTEMBER 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: 25 SEPTEMBER 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, 22 SEPTEMBER 2015.**

**PRESENT**

P Prendergast (Presiding Member)  
J Wardell-Johnson  
M Giancaspro  
M Cosson  
A Miller

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

**APOLOGIES**

Nil

**IN ATTENDANCE**

Nil

**OBSERVERS**

Nil

**DISCLOSURES OF INTEREST**

Nil

## **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 as 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

U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT).....	1
--	---

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

Ward : Bicton-Attadale  
 Category : Operational  
 Application Number : DA-2015-866  
 Property : Lot 1 (14) Clydesdale Street, Alfred Cove  
 Proposal : Two Storey Single Dwelling  
 Applicant : Mr David Hill  
 Owner : Mr John Reay  
 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>

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Retrospective planning approval is sought for a an amendment to the southern setback for an approved two storey single dwelling at Lot 1 (14) Clydesdale Street, Alfred Cove.
- Construction of the approved two storey dwelling is nearing completion.
- In July of this year it was brought to the City's attention that the dwelling was not being constructed in accordance with the approved plans, specifically the setback of the southern wall was less than that approved. In addition, the dwelling as constructed includes an additional window. The owners of the adjoining residence to the south have objected to the development.
- The development has been assessed against the Design Principles of the R-Codes in relation to the reduced setback to the southern boundary and the potential for overlooking to the adjoining property to the south.
- The insertion of a secondary window to an upper floor lounge room has introduced the potential for overlooking towards the southern neighbouring residence. A condition of planning approval is recommended to be imposed to require this element of the development to comply with the visual privacy requirements of the R-Codes, and ensure that the window is fitted with obscure glazing and is of fixed design.
- The impact of the reduced side setback has been assessed against the relevant R Code provisions. It is recommended that the dwelling can be retained as constructed as the works do not prejudice the amenity of the adjoining property or the streetscape. It is recommended that the application be approved subject to conditions.



**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)****BACKGROUND**

Planning Approval for the residence was initially granted on 5 January 2015  
A complaint received in July 2015 outlined concerns that the development as constructed was in breach of the planning approval given. A subsequent compliance check confirmed this to be the case, and the ensuing compliance action has resulted in the submission of the retrospective subject application.

**Scheme Provisions**

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

**Site Details**

Lot Area	:	492 sqm
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Yes-to be retained
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer photo above

U15\_0463\_September\_2015. A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday 22 September 2015.

**DETAIL**

The southern elevation the subject of the retrospective development application 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 development satisfies all of these requirements with the exception of those matters listed below:

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

**R-Code Requirements**

<b>Development Requirement</b>	<b>Deemed to Comply</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Southern boundary lot setback	Ground Floor: 1m First floor: 1.2m	First & Second Floors 0.969m	Requires assessment using Design Principles	Development Advisory Unit (DAU)
Visual Privacy	Major openings to habitable rooms other than bedrooms and studies – 6m	4m	Requires assessment using Design Principles	MSP

Commentary in this report will be restricted to the consideration of the southern boundary setback as this matter is the subject of the objection. The remainder of the abovementioned matters have been assessed against the relevant Design Principles of the R-Codes and are considered acceptable.

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

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

<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>
1	As the variation is retrospective, the reduced setback has an adverse bulk impact on the submitter's property.	Object	As the majority of the wall in question abutts the garage wall of the adjoining property to the south, any adverse impact is mitigated.	Not uphold
2	The submitter also raised concerns regarding privacy and overshadowing.	Object	The development has been assessed and meets the Deemed-to-Comply provisions of the R-Codes in relation to solar access for adjoining sites. The introduction of an additional window is deemed to be acceptable subject to the window having obscure glass installed, and to it being of fixed, non opening design. A condition of planning approval to that effect is recommended.	Not uphold

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies / consultants is required.

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (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 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 of Council's policies with the exception of the boundary wall provisions of CP-078: – Residential Development. This therefore requires assessment against the relevant Design Principles of the R-Codes. This assessment is outlined below.

**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**

This development was initially approved under delegation with a side setback of 1.125m. This meant that the building was to be 7.5cm closer to its boundary than is recommended by the deemed to comply provisions of the R Codes, and was considered to be acceptable due to its very minor nature.

Retrospective approval is now sought for a side setback as built of 0.96m, 13.5cm closer to the boundary than was initially approved, and 21cm closer to the boundary than is recommended by the deemed to comply provisions.

The key issue in dealing with the current retrospective application is therefore whether the additional setback variation can be accommodated without giving rise to any adverse amenity impacts for the occupiers of the adjoining property to the south. To do this, reference must be made to the relevant design principles of the R Codes, in this case, Clause P3.1 applies.

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

The development as proposed for retention is considered to satisfy these Design Principles as:

- The impact of the setback is mitigated as the bulk of the length of the wall abuts the garage wall of the adjoining property. Whilst a small portion abuts the rear garden area of the adjoining property, any additional impact caused by bringing the wall 13.5cm closer to the boundary of that adjoining property will be negligible in practice, and will not restrict access to direct sunlight or ventilation for occupiers of that property.
- The wall will not compromise the overshadowing requirements of the R-Codes.
- Subject to a condition of planning approval for the secondary lounge window, the development complies with overlooking requirements of the R-Codes.

**CONCLUSION**

On the basis that adverse amenity impacts will not result from the retrospective approval of the wall in its new position, it is recommended that that retrospective planning approval be granted subject to conditions.

**OFFICER RECOMMENDATION****APPROVAL**

- 1. All stormwater generated on site is to be retained on site.**
- 2. The development shall be serviced by a concrete or brick paved vehicle crossover with a maximum width of 6m and located a minimum of 2m away from the outside of the trunk of any street tree (add in 1m from light pole etc if applicable). The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications to the satisfaction of the Manager Statutory Planning.**

**U15/0463 RETROSPECTIVE AMENDMENT TO SOUTHERN SETBACK OF TWO STOREY DWELLING AT LOT 1 (14) CLYDESDALE STREET, ALFRED COVE (REC) (ATTACHMENT)**

3. Prior to the commencement of works, the street tree/s to be retained within the verge are to be protected through the installation of a Tree Protection Zone (TPZ). Each TPZ is to be installed as per Australian Standard AS4970-2009 and in accordance with the following criteria to the satisfaction of the Manager Statutory Planning:
- A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
  - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
  - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
  - The following actions shall not be undertaken within any TPZ:
    - Storage of materials, equipment fuel, oil dumps or chemicals
    - Servicing and refuelling of equipment and vehicles
    - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
    - Open-cut trenching or excavation works (whether or not for laying of services)
    - Changes to the natural ground level of the verge
    - Location of any temporary buildings including portable toilets
    - The unauthorised entry by any person, vehicle or machinery
  - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.

Once erected to the required standard, the TPZ shall be maintained in good condition to the satisfaction of the Manager Statutory Planning and may only be removed upon occupation of the development.

4. Prior to the initial occupation of the development, the opening along the southern side of the Lounge/Landing (as marked in RED 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 (for Single Houses or Grouped Dwellings) or C1.1 of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.