

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**TUESDAY, 13 DECEMBER 2016**

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: Friday, 16 December 2016**

**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, 13 DECEMBER 2016**

**PRESENT**

P Prendergast  
M Scarfone  
T Capobianco  
M Cosson  
J Wardell-Johnson  
A Miller

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

**APOLOGIES**

**IN ATTENDANCE**

**OBSERVERS**

**DISCLOSURES OF INTEREST**

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## 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.**

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**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)**

Ward : Bicton/Attadale  
 Category : Operational  
 Application Number : DA-2016-1157  
 Property : 15A (Lot 89) Thurloe Street, Bicton 6157  
 Proposal : Retrospective retaining wall.  
 Applicant : Kerrie Lewington  
 Owner : Kerrie Lewington  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : N/A  
 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 &amp; 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>

**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Retrospective approval is sought for a retaining wall which is located on the eastern boundary of 15A Thurloe Street, Bicton.
- This application has been assessed against the design principles of Clause 5.3.8 Retaining Walls of the Residential design Codes of Western Australia. (the R-Codes)
- in accordance with the R-Codes and Council Policy CP-56 Planning Process and Decision Making, the details of the retrospective planning application were advertised to the eastern adjoining property .
- One objection was received, which raises concern regarding the levels of the retaining wall in relation the natural ground level, the bulk impact of the retaining wall, access to natural sun light and restricted ventilation.
- Notwithstanding the objection received, it is considered that the retaining wall as constructed meets the Design Principles of the R-Codes, and as such it is recommended that retrospective planning approval be granted.



**BACKGROUND**

The existing house at 15A Thurloe Street, Bicton was approved in November 2012. The approved drawings showed retaining on the eastern boundary, extending from the front of the house to the rear alfresco. In practice, the retaining wall that was installed extended the full length of the eastern boundary, and as such part of its length was in breach of the planning approval previously issued. The current DA seeks to regularise this breach.

**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)**

**Scheme Provisions**

MRS Zoning : Urban  
 LPS Zoning : Residential  
 R-Code : R17.5  
 Use Type : Residential  
 Use Class : P

**Site Details**

Lot Area : 522 sqm  
 Retention of Existing Vegetation : N/A  
 Street Tree(s) : N/A  
 Street Furniture (drainage pits etc) : N/A  
 Site Details : Refer to aerial photo above.

U16/0480\_December\_2016. A copy of the plans forms part of the attachments to the Agenda which were distributed to the Elected Members on Friday, 16 December 2016.

**DETAIL**

**R-Code Requirements**

<b>Development Requirement</b>	<b>Deemed to Comply</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Retaining walls	0.5 m or less within 1 m of the boundary.	0 m – 0.85 m	Requires assessment under the of the R Codes.	DAU

**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Required pursuant to Part 4 of the R-Codes  
 Support/Object: Object.

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1	<ul style="list-style-type: none"> <li>•The existing retaining levels do not respond to the natural features of the site and exaggerate the fall of the land</li> <li>•It exceeds the maximum amount of excavation and fill which has made it difficult to develop on the submitters site</li> <li>•The retaining wall negatively affects the submitter's access to sunlight and natural air flow with the height of the retaining wall and dividing fence.</li> </ul>	<p>Objection.</p> <p>Objection</p> <p>Objection</p>	<p>See comment section of this report.</p> <p>See comment section of this report.</p> <p>See comment section of this report.</p>	<p>Not uphold.</p> <p>Not uphold</p> <p>Not uphold</p>

**II. OTHER AGENCIES / CONSULTANTS**

Consultation with other agencies / consultants is not required.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the City of Melville refuse the application for development approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal 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.

**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

No applicable Council policies in this case.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process.

Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

**COMMENT**

The retrospective retaining wall is considered to achieve the following Design Principles of Clause 5.3.8 of the R-Codes:

The natural topography of the subject lot and the broader neighbouring area is broadly sloping, with a fall of approximately 2m in the subject lot case, from a point at the immediate rear of the alfresco to the rear boundary. To ensure that this area is usable, terracing has been installed to create three level land platforms. This terracing and the associated retaining wall accounts for the natural ground level as the majority of its length is less than 0.5m in height, and two smaller sections of it exceed that height. The retaining wall sections that are over 0.5m in height are considered to meet the relevant Design Principles of the R Codes as:

- The retaining wall on the first level (which is at the same level as the alfresco) has a height that ranges from 0.45 m to a maximum of 0.85 from the natural ground level.

An approval was given in July 2016 for a two storey house on the neighbouring lot to the east. This dwelling proposes its multi purpose room and alfresco area adjacent to this section of retaining walls. There are no windows from the multi purpose room facing the retaining wall, therefore there is no bulk impact and no loss of natural sunlight or ventilation. With regard to the alfresco, the portion of the retaining wall that is above 0.5 m and abutting the neighbour's alfresco is 3.6 m long. From the approved finished level of the neighbouring property, the height of the retaining is 0.62m maximum, and the associated bulk impact is negligible.

- On the second level of the terracing, towards the northern section of the level, the retaining has a maximum height of 0.65 m, this section is approximately 3 metre long and abuts the neighbour's approved retaining which is 0.76 m higher than the retrospective retaining wall and a section of the lower grassed area where the retaining wall is 0.45 m above the neighbour's approved RL. It is considered that no adverse bulk impacts will result from this.

**U16/0480 RETROSPECTIVE RETAINING WALL AT 15A (LOT 89) THURLOE STREET,  
BICTON (REC) (ATTACHMENT)**

- The retaining wall will not have an adverse impact on access to sun or ventilation as the over shadowing requirements of the R Codes are not compromised..

**CONCLUSION**

The retrospective retaining wall is considered to meet the design principles of the R-Codes, and on that basis it is recommended that unconditional retrospective planning consent is granted.

Not conditions are required.

**OFFICER RECOMMENDATION****APPROVAL**

**Planning approval is granted with no conditions.**