

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**31 MAY 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: 3 JUNE 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, 31 MAY 2016.**

**PRESENT**

P Prendergast (Presiding Member)  
T Capobianco  
M Scarfone  
J Wardell-Johnston  
M Cosson  
J Hobbs

Manager Statutory Planning  
Manager Building Services  
Planning Services Coordinator  
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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**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

Ward : Willagee  
 Category : Operational  
 Application Number : DA-2015-1471  
 Property : Lot 66 (78) Arkwell Street, Willagee  
 Proposal : Five two storey grouped dwellings  
 Applicant : Home Builders Advantage  
 Owner : 20/20 Prime Investments  
 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 &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"/>	<b>Quasi-Judicial</b>	<b><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></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning Approval is sought for five two storey grouped dwellings at Lot 66 (78) Arkwell Street, Willagee.
- The proposal satisfies all of the relevant provisions of Local Planing Scheme No.6 (LPS6) the Acceptable Development provisions of the Residential Design Codes (the R-Codes) and applicable Council Policies with the exception of boundary walls.
- The application was advertised in accordance with the provisions of the R-Codes and Council policy and one submission was received in opposition to the proposal on the grounds of building bulk arising from the proposed boundary walls and resultant lot boundary setback variation. The submission also raised concerns regarding visual privacy and the development impacting on the structural integrity of the existing dividing fence.
- Whilst the objection is acknowledged, the proposal is considered to satisfy the requirements of LPS6, the Design Principles of the R-Codes and Council Policy.
- It is recommended that the application be approved subject to conditions.



**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

**BACKGROUND**

Other than a previous planning approval for additions and alterations to the dwelling that currently occupies the lot, there is no relevant background history applicable to the development now under consideration.

**Scheme Provisions**

MRS Zoning : Urban  
LPS6 Zoning : Residential  
R-Code : R20/60  
Use Type : Residential  
Use Class : Permitted

**Site Details**

Lot Area : 865.49sqm  
Retention of Existing Vegetation : Not applicable  
Street Tree(s) : Not applicable  
Street Furniture (drainage pits etc) : Not applicable  
Site Details : Refer photo above

U16\_0473\_May\_2016. A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected members on Friday 3 June 2016.

**DETAIL**

The proposal has been assessed against all of the relevant provisions of LPS6, the Acceptable Development provisions of the R-Codes and applicable Council Policies. The proposal satisfies all of these requirements with the exception of those matters listed below:

**R-Code Requirements**

<b>Development Requirement</b>	<b>Deemed to Comply</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Boundary Walls (Western boundary)	Max Height 3.5m Ave Height 3.0m  Aggregate length: 14.1m	Living (Lot 2) 3.6m Max 3.5m Ave  Living (Lot 3) 4.4m Max 3.8m Ave  Living (Lot 4) 3.6m Max 3.2m Ave  Aggregate Length: 18.1m	Requires assessment using Design Principles	MSP

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

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

<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>Concern is expressed that the boundary walls will have an adverse impact as a result of building bulk and loss of visual amenity.</p> <p>Concern is also expressed regarding visual privacy and the impact that the developmnet may have on the structural integrity of the existing limestone dividing fence.</p>	Object	<p>The boundary walls are located along the western boundary of the application site. There are four in total, each approximately 4.5m in length, providing an aggregate length along the western boundary of 18.1m. All walls have a maximum wall height of 4.4m.</p> <p>The walls are located immediately adjacent to an existing dividing fence located on the boundary between the two properties. A small portion of the boundary wall height will be visible above the height of this dividing fence. This mitigates against any adverse building bulk impact that might otherwise arise from boundary walls of this nature. In addition it is conceded on the submitters part that it is the proposed boundary wall that is</p>	Not uphold



**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

Affected Property	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Submission 1 continued			<p>located adjacent to the submitters pool and outdoor living area that is a concern to them. However, as stated, the existence of a dividing fence mitigates any adverse impact it may have towards the outdoor living area in question.</p> <p>The proposed development is fully compliant with the R Codes deemed-to-comply provisions for visual privacy.</p> <p>The concerns expressed in respect to the existing walls structural integrity is not a material planning consideration</p>	

**II. 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.

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

**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 the applicable Council policies.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

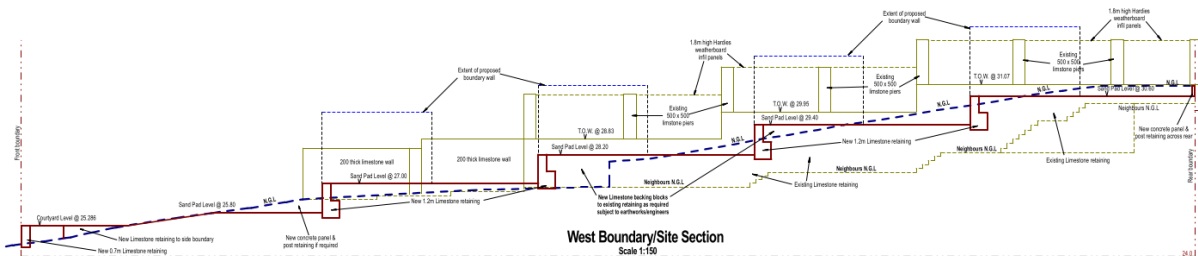
This application is recommended to be approved under delegation through the Development Advisory Unit (DAU) process. Should Elected Members or interested third parties have an alternative view; the DAU 'call-up' procedures provide opportunity to call this matter up for Council consideration.

**COMMENT**

The key issue in this case is whether the proposed boundary wall length and height, meets the objectives of the Design Principles of the R Codes.

The Design Principles for boundary walls are set out in Clause 5.1.3 of the R Codes, and generally seek to ensure new boundary walls do not have a negative impact on the adjoining landowners or the streetscape in terms of visual bulk, access to direct sun and ventilation and visual privacy while at the same time allowing the landowner to make effective use of space.

In the subject case, a boundary wall aggregate length of 14.1m with a maximum height of 3.5m and average height of 3.0m would meet the deemed-to-comply provisions of the R-Codes. The proposed boundary walls of 18.1m aggregate length and a maximum height of 4.4m will not result in an unduly bulky relationship as there is a substantial dividing fence on the adjoining property. The dividing fence effectively serves to mitigate the visual impact of the development from the neighbouring property (See Figures 1, 2 and 3).



**Figure 1. Cross section demonstrating existing boundary fence**

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**



Figure 2. Existing boundary fence



Figure 3. Existing boundary fence

The proposed wall is located directly east of the adjoining property, in which case any overshadowing impact is avoided. The boundary wall is effectively screened by the existing dividing fence, and is otherwise devoid of any window openings. As such visual privacy is not an issue in this case.

**CONCLUSION**

The application is considered to satisfy the provisions of LPS6, the R-Codes and Council Policy. It is recommended that the proposal be approved subject to conditions.

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)****OFFICER RECOMMENDATION****APPROVAL**

1. All stormwater generated on site is to be retained on site.
2. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the Manager Statutory Planning.
3. The development shall be serviced by a concrete or brick paved vehicle crossover with a maximum width of 6.0m and located a minimum of 2.0m away from the outside of the trunk of any street tree. 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.
4. No development (including fencing, letter boxes or any other structure) or landscaping over 0.75m in height is to be located within the 1.5m x 1.5m sightline truncation where the vehicle access point meets the road reserve to the satisfaction of the Manager Statutory Planning.
5. Any street walls and fences (including the height of any retaining walls) constructed within the front setback area shall be visually permeable 1.2m above natural ground level and are to satisfy Clause 5.2.4 C4 of the Residential Development policy to the satisfaction of the Manager Statutory Planning.
6. Prior to the initial occupation of the development, the surface finish of the boundary wall(s) are to be finished externally to the same standard as the rest of the development to the satisfaction of the Manager Statutory Planning.
7. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the Manager Statutory Planning and are to be removed prior to initial occupation of the development.
8. An easement under section 167 of the Planning and Development Act 2005 in favour of Lot 10 (No 117) Leach Highway for the purpose of access is to be applied to the common property.
9. 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.

**U16/0473 FIVE TWO STOREY GROUPED DWELLINGS AT LOT 66 (78) ARKWELL STREET, WILLAGEE (REC) (ATTACHMENT)**

- 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.