

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 1 NOVEMBER 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 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: MONDAY, 7 NOVEMBER 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, 1 NOVEMBER 2016**

PRESENT

P Prendergast
M Scarfone
T Capobianco
M Cosson
J Wardell-Johnson
Madison Rea

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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**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Ward : Bicton – Attadale
 Category : Operational
 Application Number : DA-2016-546
 Property : Lot 54 (134A) Petra Street, Bicton
 Proposal : Two Storey Single House with Basement
 Applicant : Arc Seven 1
 Owner : Mr Michael Crowther and Mrs Margaret Crowther
 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 : N/A

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 (e.g. 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>

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

KEY ISSUES/SUMMARY

- Development approval is sought for the construction of a two storey single house with a basement at Lot 54 (134A) Petra Street, Bicton
- The proposal satisfies the relevant provisions of Local Planning Scheme No.6 (LPS6), the deemed-to-comply provisions of the R-Codes and applicable Council Policies with the exception of lot boundary setbacks, boundary walls, visual privacy, site works and building height, for which an exercise of judgement is required.
- The application was advertised in accordance with the provisions of the R-Codes and Council Policy to affected land owners. Two submissions were received outlining concerns relating to visual privacy, the lot boundary setbacks and building height.
- The objections received, raised relevant planning issues and amended plans were provided by the applicant in response to a request from the City.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant design principles of the R-Codes and Council Policy CP-066 Height of Buildings.
- It is recommended that approval be granted subject to conditions.



Figure 1 – Aerial Photography

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning : Urban
LPS6 Zoning : Residential
R-Code : R17.5
Use Type : Residential
Use Class : Permitted

Site Details

Lot Area : 753 sqm
Retention of Existing Vegetation : Not applicable
Street Tree(s) : Not applicable
Street Furniture (drainage pits etc.) : Not applicable
Site Details : Refer Figure 1 above

U16_0477_November_2016 A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Monday 7 November 2016.

DETAIL

Planning approval is sought for the construction of a two storey single house with a basement at 134A Petra Street, Bicton.

The proposal has been assessed against all of the relevant provision 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:

LPS6 and Council Policy Requirements

Development Requirement	Deemed to comply	Proposed	Comments	Delegation to approve variation
Boundary Wall (east)	Height: 3m maximum height 3m average height Length: 9m	2.9 m maximum height 2.7 m average height 9.5m	Overall length requires assessment using Design Principles	Manager Statutory Planning
Boundary Wall (south)	Height: 3m maximum height 3m average height	4.3m maximum height 4.3m average	Height requires assessment using Design Principles	Manager Statutory Planning

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Development Requirement	Deemed to comply	Proposed	Comments	Delegation to approve variation
Boundary Wall (south) continued	Length: 9m	height 6.8m		
Boundary Wall (west)	Height: 3m maximum height 3m average height Length: 9m	6.1m maximum height 5.9m average height 7.4m	Height requires assessment using Design principles	Development Advisory Unit (DAU)
Building Height	9m maximum height external wall (concealed roof)	9.7m maximum height	Requires assessment using Design principles	DAU

R-Code requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Side Setback – First Floor (east)	Total Dwelling Roof Garden, Sitting and Balcony Balcony architectural feature	2.1m in lieu of 3.8m 1.5m in lieu of 2.5m 1.4m in lieu of 1.7m	Requires assessment using Design Principles	DAU
Side Setback – First Floor (west)	Dining, Kitchen, Library	1.2m to 2.2m in lieu of 2.7m	Requires assessment using Design Principles	Manager Statutory Planning
Side Setback – Ground Floor (north)	Alfresco	2.2m to 2.4m in lieu of 2.3m	Requires assessment using Design principles	Manager Statutory Planning

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Side Setback – First Floor (north) continued	Dining and Balcony Balcony	4.9m to 6.2m in lieu of 5.2m 1.2m to 6.5m in lieu of 4.8m	Requires assessment using Design principles	Manager Statutory Planning
Site works within 1m of the boundary	Fill	1.5m max in lieu of 0.5m	Requires assessment using design principles	Manager Statutory Planning
Visual Privacy Variation (north)	Ground Floor Decking Alfresco Balcony	0m in lieu of 7.5m 2.3m to 4.2m in lieu of 7.5m 1.3m to 6.4m in lieu of 7.5m	Requires assessment using design principles	Manager Statutory Planning
Visual Privacy Variation (east)	Ground Floor Alfresco First Floor Balcony	3.1m min in lieu of 7.5m 2.9m min in lieu of 7.5m	Requires assessment using design principles	DAU

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
1	<p>The western boundary wall and variation to the first floor setback will affect the access to light and ventilation from the ground floor bedroom 3.</p> <p>The variation to visual privacy from the dining room and western balcony will affect the privacy of the outdoor entertaining area</p>	Object	<p>Refer to comments</p> <p>An existing boundary wall mitigates any adverse overlooking impacts from the proposed western first floor balcony.</p> <p>A condition of planning approval is recommended to ensure visual privacy is not compromised from the dining room.</p>	Not uphold
2	<p>The variation to visual privacy on the first floor balcony will directly overlook the outdoor living area and pool area of the property.</p> <p>The variation to visual privacy of the ground floor alfresco area will directly overlook the outdoor living area.</p> <p>The variation to visual privacy from the proposed decking area will directly overlook the outdoor living area.</p> <p>Detail has not been provided to ensure that screening which is to be applied to the first floor roof garden will be R-Code compliant.</p>	Object	<p>Amended plans have been submitted which look to screen majority of the first floor balcony, with a condition to be applied which screens the remainder of the eastern portion of the balcony. The remaining overlooking does not affect the primary outdoor living area or the major openings to habitable rooms.</p> <p>Amended plans have been submitted which look to screen the eastern side of the alfresco area. The remaining overlooking does not affect the primary</p>	Not uphold

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
2 continued	<p>The side setback variation of the ground floor total dwelling being 1.55m in lieu of 1.8m creates visual bulk.</p> <p>The side setback variation of the first floor being 1.3m in lieu of 2.8m creates visual bulk.</p> <p>The variation to the height of the garage parapet wall creates visual bulk and has a negative aesthetic impact.</p> <p>The variation to building height is considered to be unnecessary and affect the amenity of adjoining properties.</p>		<p>outdoor living area or the major openings to habitable rooms.</p> <p>Amended plans have been submitted which provide screening to the eastern boundary and limit the decking's cone of vision. The remaining overlooking does not affect the outdoor living area or the major opening to habitable rooms.</p> <p>The roof garden screening is to be conditioned to be R-Code compliant.</p> <p>Amended plans have been submitted which show all ground floor setbacks to be compliant with R-Code requirements</p> <p>Refer to comments</p> <p>Amended plans have been submitted which reduce the maximum and average height to be compliant with the provisions of CP-078 the Residential Development Policy</p>	

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
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2 Continued			Refer to comments	
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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 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.

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 and CP-066 Building Height. This therefore requires assessment against the relevant Design Principles of the R-Codes. This assessment is outlined below.

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

Planning Approval is sought for a two storey single house with basement at Lot 54 (134A) Petra St, Bicton.

The proposed development generally satisfies the relevant requirements contained within LPS6, the deemed-to-comply provisions of the R-Codes and Council Policy with the exception of boundary walls, lot boundary setback, site works, visual privacy and building height.

As outlined in the below the development is considered to meet the relevant Design Principles of the R-Codes and is supported on that basis.

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Eastern Boundary wall length

The eastern boundary wall length variation being 9.55m in lieu of 9m is considered to satisfy P3.1 and P3.2 of the R-Codes for the following reasons

- There are no privacy variations.
- The north to south orientation of the lot results in no loss to the provision of adequate direct sun and ventilation to the adjoining property.
- The existing masonry dividing fence has an approximate maximum height of 2.7m. As the maximum height of the boundary wall is to be 2.95m. This limits the affect that the boundary wall may have on the amenity of the adjoining property (see below image).

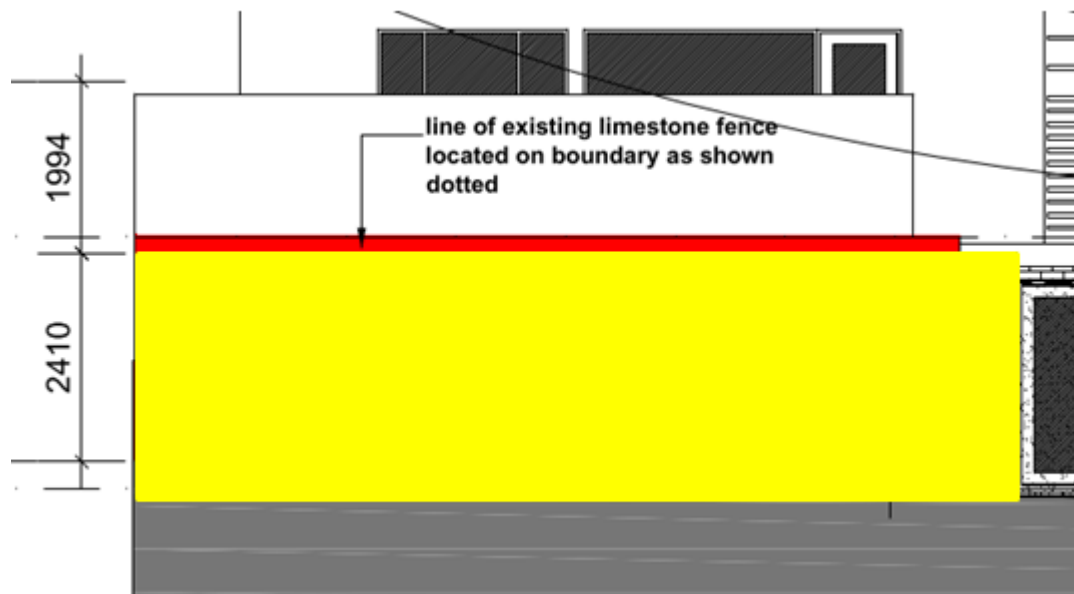


Figure 2. Yellow shows existing boundary fence, red shows proposed boundary wall

Southern Boundary wall height

The variation to the height of the southern boundary wall being 4.3m in lieu of 3m is considered to satisfy P3.1 and P3.2 of the R-Codes for the following reasons

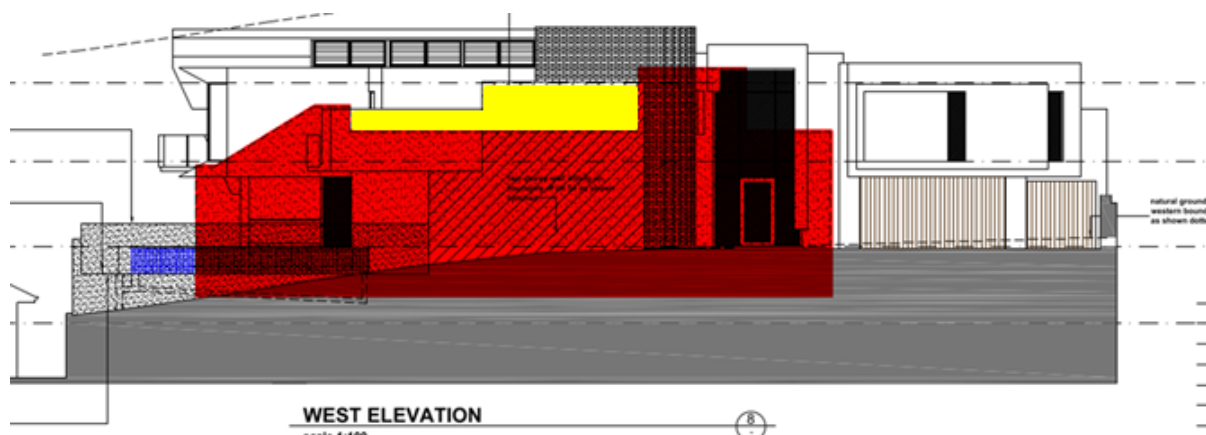
- The visual building bulk generated from the variation is considered to be minimal as the over height wall is not directly abutting the primary outdoor living area or the major openings to habitable rooms.
- The finished floor level of the adjoining southern property is 16.31, which is 1.2m above the natural ground level of the subject lot (15.1 NGL). This change in level is considered to further reduce the impact of building bulk.
- There are no privacy variations
- The overshadowing complies with the deemed-to-comply provisions

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Western Boundary Wall height

The variation to the western boundary wall height being a maximum height of 6.11m and average height of 5.88m in lieu of 3m is considered to satisfy P3.1 and P3.2 of the R-Codes for the following reasons.

- The majority of the wall adjoins the existing boundary wall and over height dividing fence under construction on the adjoining lot.
- The portion of proposed boundary wall exceeding the adjoining properties existing boundary wall and dividing fence (see below image) is not directly adjoining any major openings or the primary outdoor living area.
- Due to the north to south orientation of the subject and adjoining lots, the proposal complies with the overshadowing provisions of the R-Codes. As such, the proposed boundary wall is not considered to compromise direct access to sunlight for the adjoining lot.
- There are no privacy variations.
- While the adjoining landowner has raised an objection in relation to a loss of ventilation and natural light to the courtyard it is considered this is already compromised by virtue of the window facing south and the height of the dividing fence.



The above diagram depicts the proposed boundary wall (YELLOW) and the existing boundary wall of the adjoining lot (RED).

Building Height

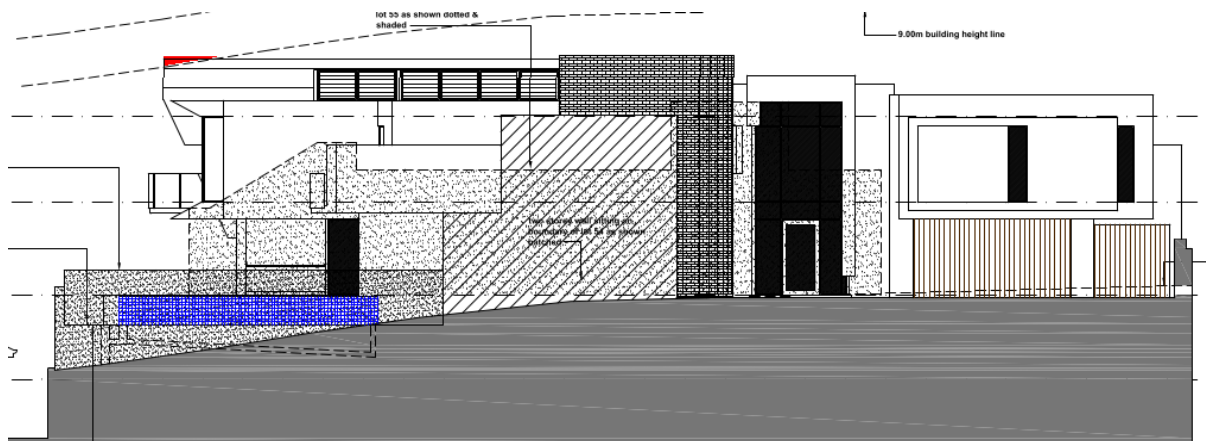
The variation to building height being 9.75m maximum in lieu of 9m as per CP-066 is predominately located within the north eastern corner of the proposed house, with a lesser extent located along the north western corner (see below images). The variation to height is considered to satisfy P6 of the R-Codes for the following reasons

- The over height portion is located at the northern point of the site, with the building height reducing to the south of the site resulting in minimal affect on the adjoining lots access to direct sun. Overshadowing is compliant with the R-Codes.
- The over height portion does not have an adverse impact on access to views of significance.

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
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The above diagram depicts the portion of wall which is over height (RED) on the eastern elevation.



The above diagram depicts the portion of wall which is over height (RED) on the western elevation.

Lot Boundary Setbacks (east)

As noted in the R-Code compliance table above, there are several setback variations proposed on the eastern side of the proposed building. The setback variation is generally caused by the applicant's decision to locate a roof garden on the first floor. The roof garden is proposed to be screened by to ensure there is no visual privacy impact on the adjoining landowner. While the screen is located approximately 2.0metres from the boundary the first floor wall behind is setback up to 4.4 metres from the boundary.

The mix of materials and varied setbacks on this elevation are considered to reduce the bulk impact of the structure. In addition the setback variations have no impact in terms of overshadowing or visual privacy. The eastern boundary setbacks are considered to meet the Design principles and are supported on this basis.

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)***Lot boundary setbacks (west)*

The proposed first floor western wall setback is considered to meet the relevant design principles R-Codes for the following reasons:

- The proposed wall does not abutting the major openings to habitable rooms or the primary outdoor living area of the adjoining dwelling.
- Due to the north to south orientation of the lot there is no loss of direct sun and ventilation
- There are no privacy variations;
- The design including angled wall and mix of materials limits the bulk.

Lot boundary setbacks (north)

The proposed setbacks to the north are considered to satisfy the relevant design principles of the R-Codes for the following reasons:

- The adjacent dwelling to the north sits significantly lower than natural ground level of the subject lot. For this reason, the roof line of the northern lot is inline with the finished floor level of the proposed dwelling. As the proposed dwelling can not be viewed by the northern lot, it is considered to not have any bulk building impact.
- Overshadowing complies with the deemed-to-comply provisions
- The variations to overlooking are considered acceptable as per the R-Code requirements; see visual privacy section below for further clarification.

Site Works

The proposed site works (decking) located within 1m of the lot boundary with a maximum height of 1.5m in lieu of 0.5m as per C7.3 of the R-Codes are considered to satisfy design principles P7.1 and P7.2 for the following reasons

- The subject lot has employed levels of both cut and fill across the site. The level of fill which is to be employed responds to the steep slope of the site, resulting in an increase in the functionality of the outdoor living area.
- Due to the configuration of the lot, the site works cannot be viewed from the street.

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)**

Visual privacy variation (east)

The proposed cone of vision for both the ground floor alfresco and upper floor balcony is a minimum of 3m in lieu of 7.5m as per 5.4.1 C1.1 of the R-Codes. The variations are considered to satisfy the relevant design principles for the following reasons:

- The portion of the cone of vision, which falls onto the adjoining lot, does not overlook the primary outdoor living area or the major openings to habitable rooms (see below Images).
- Screening is to be applied to the remainder of the eastern side of the first floor balcony to ensure that no overlooking occurs.



First Floor

Ground Floor

Visual privacy variation (north)

The proposed cone of vision variations to the first floor and ground floor northern lot ranging from 0m to greater than 7.5m in lieu of 7.5m as per 5.4.1 C1.1 of the R-Codes are considered to satisfy design principles P1.1 and P1.2 for the following reasons

- The cone of vision falls over the roofline of the adjoining property and does not have an adverse affect on the major openings to habitable rooms or the primary outdoor living area.

**U16/0477 PROPOSED TWO STOREY SINGLE HOUSE WITH BASEMENT AT LOT 54
(134A) PETRA STREET, BICTON (REC) (ATTACHMENT)****CONCLUSION**

Based on the above, the application is considered to satisfy the requirements of LPS6, The R-Codes and Council Policy, including the Design principles for lot boundary setbacks, boundary walls, site works, building height and visual privacy. On this basis, the proposal is recommended for approval subject to conditions.

OFFICER RECOMMENDATION**APPROVAL**

1. All stormwater generated on site is to be retained on site.
2. Prior to the initial occupation of the development, the east first floor elevation of the balcony and roof garden screening (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) of the Residential Design Codes. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the Manager Statutory Planning.
3. Prior to the initial occupation of the development, the opening along the northern side of the Dining (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) 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 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.