

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

Ward : Palmyra – Melville - Willagee
 Category : Operational
 Application Number : DA-2020-673
 Property : Lot 31 (No. 161) Leach Highway, Willagee WA 6156
 Proposal : Four Grouped Dwellings
 Applicant : Eric Soh, Architectural Studio 63
 Owner : Jason Fook Ngian Wong & Li Lu Khoo
 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 : Not Applicable

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 (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/Committee to note.</i>

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WILLAGEE WA 6156 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Development approval is sought for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies.
- The proposed development requires a performance assessment in relation to building setbacks and visual privacy and as such was advertised to the adjoining owners and occupiers in accordance with Part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). Two submissions were received both of which objected to the proposed building setbacks to the west and visual privacy setbacks to the south.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.



Figure 1 – Aerial photography of subject site

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS6 Zoning	: Residential
R-Code	: R20/R60
Use Type	: Residential
Use Class	: Permitted

Site Details

Lot Area	: 802m ²
Retention of Existing Vegetation	: N/A
Street Tree(s)	: No
Street Furniture (drainage pits etc.)	: No
Site Details	: Refer to Figure 1 above

[3907 Attachment 1 Site Plan Elevations Proposed 4 Group Dwellings](#)

DETAIL

In June 2020, a development application was lodged for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee.

The application has been assessed against the provisions of LPS6, the R-Codes and relevant local planning and council policies. The proposal satisfies all of the relevant deemed-to-comply provisions with the exception of those matters listed below, which require assessment against the Design Principles of the R-Codes.

Residential Design Codes

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 5.1.3 C3.1(i) Lot Boundary Setbacks	First Floor Stairs/Landing setback 1.2 metres (West)	Minimum setback of 1.14 metres	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit
	Second Floor Stairs/Bed 4 (bulk) setback 2.9 metres (West)	Minimum setback of 2.45 metres		
Clause 5.3.1 C1.1 Outdoor Living Areas	Outdoor living areas to be located behind street setback area	Unit 1-4 outdoor living areas located within Leach Highway street setback area	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
Clause 5.4.1 C1.1 Visual Privacy	Balconies - Cone of vision setback 6.0 metres from lot boundaries (South)	First Floor: Unit 1-4 balconies minimum cone of vision setback 3.5 metres	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
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STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
Neighbour's Comment Supplied: Yes
Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 3.4(a)

In accordance with the requirements of LPP1.1, the application was advertised to the affected landowners for a period of 14 days, commencing 6 October 2021 and concluding 20 October 2020. Two submissions were received from the landowners, one objecting to the proposal, and one which requested screening along the first floor balconies.

A summary of the objections received and the City's response is provided in the table below.

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Building size, setbacks and building bulk	Refer to the comments section of this report.	Not Uphold
Impacts of dwellings on the streetscape as dwellings are setback 1.0 metre from Leach Highway.	The proposed dwellings meet the minimum and average street setback requirements for an R60 development as stipulated under Table 1 of the R-Codes.	Not Uphold
Visual privacy impacts from reduced building setbacks from western lot boundary.	There are no major openings along the western elevation of the building and therefore, there will be no overlooking or adverse amenity impacts.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

The City referred the application to Main Roads Western Australian (MRWA) as the subject site abuts Leach Highway which is subject to high exposure to road noise. In accordance with *State Planning Policy 5.4 – Road and Rail Noise*, an Acoustic Report was referred to MRWA on 26 November 2020 for comments. MRWA has provided no objection to the proposal subject to conditions of approval detailed within the Officer Recommendation.

FINANCIAL IMPLICATIONS

There are no financial implications for the City relating to this proposal.

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications for the City relating to this proposal.

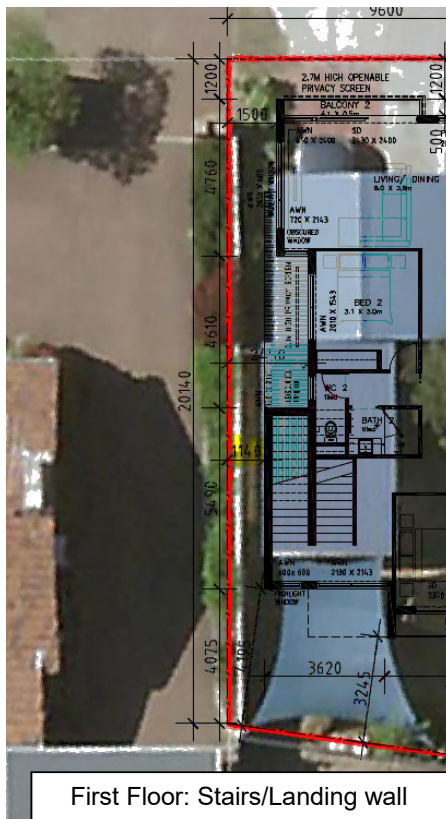
COMMENT

Lot Boundary Setbacks

As detailed in the table above two sections of the western facing wall of unit four do not meet the deemed to comply provisions of the R-Codes and therefore require a performance assessment. The setbacks are considered to meet the Design Principles of the R-Codes for the following reasons:

- Both the first floor and second floor walls are well articulated through the use of varying materials, alternating wall heights, varied setbacks and window openings. This articulation ensures the walls will not add excess building bulk to the adjoining western property;
- The orientation of the wall will ensure that access to direct sunlight and ventilation to the adjoining western property will not be restricted;
- The wall is located next to the driveway area of the adjoining site. This serves to mitigate any potential bulk impact on the actual adjoining dwelling which is consequently set further away from the lot boundary.; and
- There are no major openings along this section of wall, ensuring the development does not pose any overlooking concerns for the adjoining owners/occupiers.

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**



Figures 2a and 2b: First Floor Plan (left) and Second Floor Plan (right) overlay of the subject site and the neighbouring property. The measurement highlighted in red denotes the setback of the wall from the neighbouring western lot boundary.

Balcony Setbacks

Whilst the proposed 2nd floor balconies are screened in accordance with the deemed to comply provisions of the R Codes, the proposed dwellings also each have an unscreened balcony on the first floor facing the southern adjoining lot. Balconies such as these are required to provide a minimum 6 metre cone of vision setback from the southern boundary, but in this case the cone of vision extends beyond the southern lot boundary. In view of this, a performance assessment against Clause 5.4.1 Visual Privacy of the R-Codes is required. The unscreened balconies at the first floor of the southern boundary are considered to meet the Design Principles of the R-Codes for the following reasons:

- The impacted area to the south is currently vacant, that lot having been cleared pending its subdivision into two lots. A future vehicle access driveway (noted as restrictive covenant area on Figure 3b) is proposed along the northern boundary. This driveway will provide access to the proposed subdivided lot, onto which the cone of vision setbacks from the first floor balconies will extend (see figures 3a and 3b below);
- The reduced cone of vision from the balconies will not directly overlook into any active habitable spaces on the lot when developed as the area of incursion will be restricted to the access driveway itself and is not an active habitable space;

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

Waste Management

Waste collection is proposed to occur from Winnacott Street. No concerns are raised in this respect from the City's Waste Services Team. A total of eight bins will be collected each week in accordance with the standard residential waste collection regime operated by the City.

CONCLUSION

The application for four grouped dwellings has been assessed and is considered to comply with the relevant planning framework, including the design principles of the R-Codes. It is therefore recommended that the development be approved subject to the imposition of conditions.

OFFICER RECOMMENDATION (3907)

APPROVAL

That the Council approve the development DA-2020-673 for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee, subject to the following conditions:

- 1. The development the subject of this approval at must comply with the approved plans at all times unless otherwise approved in writing by the City.**
- 2. All stormwater generated on site is to be retained on site in accordance with the City's stormwater design guidelines.**
- 3. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:**
 - public safety and site security;**
 - hours of operation,**
 - noise and vibration controls;**
 - air and dust management;**
 - stormwater, groundwater and sediment control;**
 - waste and material disposal;**
 - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;**
 - the parking arrangements for contractors and sub-contractors;**
 - on-site delivery times and access arrangements;**
 - the storage of materials and equipment on site (no storage of materials on the verge will be permitted without an approval) ; and**
 - any other matters likely to impact upon the surrounding properties or road reserve.**

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

4. 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 City.
5. The proposed development shall be constructed in accordance with the recommendations of the approved Noise Assessment undertaken by Lloyd George Acoustics dated 24 November 2020.
6. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the Certificates(s) of Title of the proposed development. The notification is to state:

“The lots are situated in the vicinity of a transport corridor and are currently affected, or may in the future be affected by transport noise”.

7. No earth works shall encroach onto the Leach Highway road reserve.
8. No stormwater drainage is to be discharged onto the Leach Highway road reserve.
9. No waste Collection is permitted from the Leach Highway road reserve.
10. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City’s Technical Services department. The crossover shall be designed to be;
 - a maximum width of 4.5m;
 - located a minimum of 2m away from the outside of the trunk of any retained street tree; and
 - a minimum of 1m from any existing street infrastructure.

The approved crossover is to be constructed prior to the initial occupation of the development to the satisfaction of the City.

11. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
12. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 4 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
13. Prior to the initial occupation of the development, the boundary wall/s shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.
14. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

15. All retained trees on the City's verge to be managed in accordance with Tree Policy (CP-029) unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:
- 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 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.
16. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, 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 City and are to be removed prior to initial occupation of the development.