

**PD017: DEVELOPMENT APPLICATION: SINGLE HOUSE – DESIGN  
CODES RELAXATION AT 18 CALEDONIA CRESCENT, GOODE  
BEACH.**

<b>Land Description</b>	: 18 (Lot 121) Caledonia Crescent, Goode Beach
<b>Proponent</b>	: Roger Jeffery
<b>Owner</b>	: Mr R D & Mrs C S Jeffery.
<b>Business Entity Name</b>	: Not Applicable
<b>Attachments</b>	: Application details – site plan, floor plans, elevations and covering letter; Site location plan at 1:5,000; Letters of objection.
<b>Appendices</b>	: None.
<b>Councillor Workstation</b>	: None.
<b>Responsible Officer(s):</b>	: Executive Director Planning & Development Services (D Putland).

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:**
    3. A connected built environment.
  - b. **Strategic Objective:**
    - 3.3 To develop vibrant neighbourhoods which retain our local character and heritage.

**In Brief:**

- The proponent is seeking approval for a single house. The house proposed is part two-storey, part single storey and is intended to be elevated above natural ground level on steel columns.
- The proposed development seeks a relaxation of the front boundary requirement under Town Planning Scheme No.3 as well as Residential Design Code (R-Codes) relaxations of the 7m height limit for a flat roofed dwelling and multiple visual privacy relaxations relating to neighbouring properties.
- The application has been advertised to surrounding landowners in the vicinity potentially impacted by the relaxations requested, in conjunction with specific adjoining properties impacted by the visual privacy relaxation requests.
- A total of three written responses were received to this consultation. All three raised objections.
- Due to the nature of the objections and the relaxations being sought, it is considered appropriate that this proposal be referred to Council for consideration and determination.

**RECOMMENDATION**

**PD017: COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for Single House at 18 Caledonia Crescent, Goode Beach subject to the following conditions:**

- 1) Prior to occupancy of the development, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped approved plans, including any details or amendments marked in red as shown on the approved plans.
- 2) Notwithstanding the submitted detail the dwelling hereby approved shall be re-designed with a finished floor level of the upper ground floor at a maximum relative level of 9.40 according to the submitted survey detail.
- 3) The dwelling hereby approved including any external fixtures and fittings shall not exceed a maximum height of 7m, which is measured vertically from the existing natural ground level, unless otherwise approved in writing by the City of Albany.
- 4) Prior to occupancy of the development a privacy screen to prevent overlooking below the eaves level of 33 Karrakatta Road shall be installed on the east edge of the deck. Exact details of the privacy screen shall be submitted to and approved in writing by the City of Albany.
- 5) All privacy screens and measures shall be maintained in good condition in perpetuity, to the satisfaction of the City of Albany.
- 6) Notwithstanding the submitted detail, prior to the commencement of construction full details of the proposed external finish for the roof, including materials, colour and reflectance value, shall be submitted to and approved in writing by the City of Albany.
- 7) The new crossover(s) shall be constructed to the specifications, levels and satisfaction of the City of Albany.

**Advice:**

- A 'Permit for Vehicle Crossover Construction' from the City of Albany is required prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer to the City of Albany's Subdivision and Development Guidelines). proposed development is to comply with any details and/or amendments marked in red as shown on the approved plan.
- 8) The pedestrian access bridge shall not encroach within the road reserve.
  - 9) An appropriate effluent disposal system that is designed for long term usage shall be installed for the development hereby approved, to the satisfaction of the City of Albany.
  - 10) Stormwater disposal plans, details and calculations shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

**Advice:**

- Stormwater disposal is to be designed in accordance with the 'City of Albany's Subdivision and Development Guidelines';
  - Soil capability testing will likely be required to determine if soakwell infiltration is the appropriate method of disposal for the site;
  - The stormwater disposal system is to be designed and certified by a practicing Civil Engineer to the satisfaction of the City of Albany.
- 11) Suitable acoustic attenuation being incorporated to the exposed/elevated floor

**areas, to the satisfaction of the City of Albany**

PD017: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR GREGSON

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- 11) Suitable acoustic attenuation being incorporated to the exposed/elevated floor areas, to the satisfaction of the City of Albany

CARRIED 8-0

**PD017: RESPONSIBLE OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

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## BACKGROUND

2. The subject site is an irregular shaped lot 935.8m<sup>2</sup> in area and is located at the Cul-de-Sac head of Caledonia Crescent. It is zoned Residential under Town Planning Scheme No.3 and is not connected to mains sewerage. The lot slopes significantly from west to east across its width. It is undeveloped and has an established coverage of substantial vegetation.
3. Planning Scheme Consent has previously been sought and granted for a single house in 2003. This approval was not commenced and has since lapsed.
4. The current proposal is the second revision to the submitted plans. The proponent has reduced the extent of the overheight relaxation requested, but the proposal remains over the deemed-to-comply height provision of the Residential Design Codes.

## DISCUSSION

5. The proposed development is for a single house with a concealed (flat) roof. It is a part two-storey, part single storey dwelling set above natural ground level on steel columns. The living accommodation is all on one level with the lower ground/undercroft level being utilised as a car port, storeroom and service area.
6. The proponent seeks consent for multiple relaxations, including the Scheme front setback; overheight development and visual privacy relaxations to the adjoining residential properties. These issues will be explained in turn.

### Scheme Front Setback

7. Town Planning Scheme No.3 establishes a required front setback for Residential zoned areas in ( Clause 5.8(b) ). The minimum setback from the primary street is 7.5m and a note following this clause states that '*averaging of the 7.5m primary street setback will not be permitted*'.  
*permitted*'.
8. Although the Scheme clearly states that 7.5m is the minimum required setback and will not be averaged, there are examples where the City of Albany has relaxed the 7.5m setback, particularly where access has been problematic on steep sloping sites or the site has been otherwise constrained. In such instances the relaxation of the front setback has been approved following referral to other landowners in the street to ascertain if there are any objections. In general, people understand the topographic constraints and do not raise objections.
9. The proposal seeks consent for relaxation of the 7.5m setback to 4.14m, a relaxation of 3.36m.

10. The relaxation request has been referred to the owners of six properties in this portion of Caledonia Crescent. One of the letters of objection received (written on behalf of a landowner) makes comment on the requested setback relaxation. This objection suggests any development forward of the usual building line may affect views from the uphill lot and being setback further into the lot may help to lower the development in the wider landscape. The objection also suggests that by reducing the setback, there is reduced driveway manoeuvring space for vehicles.
11. The matters raised in the objection have been considered and although the proposal could be moved further back into the lot, this would result in further reduced visual privacy setbacks from the adjoining properties on the lower land to the northeast. This would increase the overlooking of these properties. Moving the development back may also increase its appearance in the views from the existing dwelling on the adjoining uphill lot.
12. The City's Development Engineer has assessed the access and recommended a minor modification, but is of the opinion there would be sufficient manoeuvring space for vehicles.
13. No significant justification has been advanced by the proponent in support of the relaxation. However, the site is an irregular shape with two lot boundaries abutting the Caledonia Crescent road reserve at the Cul-de-Sac end. There is a wider than usual road verge and it is where the verge is at its widest that the vehicular access is proposed. The road verge is unlikely to be lost to further development/expansion of the road and it is considered the requested front setback relaxation will not impinge on the streetscape appearance of Caledonia Crescent. Accordingly, the front setback relaxation is considered acceptable.

#### **Overheight**

14. The Residential Design Codes of Western Australia (R-Codes) sets a maximum external wall height of 7m for dwellings with a concealed (flat) roof. This height is measured from natural ground level directly below the corresponding point of the building.
15. The proposal seeks consent for a building with a living accommodation level and an undercroft parking, service and storeroom level. These are both a height of 3.3m; giving a total building height of 6.6m. However, due to the slope of the lot, some minor cut and fill is proposed and according to the submitted detail the maximum height of the building is 7.24m above the existing natural ground level. This overheight element of the dwelling is shown on the plans as extending 1.2m back across the roof from the east elevation.
16. The overheight request has been referred to the owners of six properties that abut or are in close proximity to the subject site and may be impacted by the requested overheight relaxation. Two of the letters of objection make comment on the overheight element of the proposal.
17. One objection states, that even at the permitted maximum height, the proposal would loom over the houses on the lower land to the northeast. The bulk and mass of the proposal will have an overbearing impact and give a sense of being crowded in upon. The objector states this will have a detrimental impact on the amenity of the lower property and objects to any height exceeding that permitted under the R-Codes.
18. The second objection quotes the design principles of the R-Codes and objects on the basis that the proposal will have an impact on the views of significance from this adjoining property. They further state that it appears possible for the house to be lowered and thus comply with the deemed-to-satisfy requirements.

19. City staff advised the proponent that the initial design was unacceptable due to the extent of the height relaxation being sought. This proposal represents the revision advanced by the proponent to address these concerns. Whilst the revised proposal has reduced the height to some degree, more could be done to further reduce the height and make the development compliant. For example; the house is proposed set on steel columns and where the natural ground level is highest, the finished floor level of the house is 0.92m above the ground level. As a result, the floor level would be 0.6m higher than the ridge of the roof of the adjoining property to the northeast. Using a different construction method for this section of the floor could easily reduce the overall height of the building by 1m and thus the proposal would comply and overcome the objections raised.

### **Visual Privacy**

20. The proposed development has a north facing living room and a deck that give rise to visual privacy issues with adjoining properties.
21. The north facing living room is subject to a 6m cone of vision privacy setback requirement as the floor level is greater than 0.5m above natural ground level. The cone of vision extends over the western boundary and impacts a small portion of the northeast corner of the neighbouring property.
22. The adjoining owner has been consulted for the requested relaxation and has raised an objection due to the loss of privacy. As part of their objection the adjoining owner has referenced their 2010 retaining wall application. This retaining wall was objected to by the current proponent and during the State Administrative Tribunal review; the development was mediated such that the retaining wall was required to be developed with an open style fence to a maximum 1.2m above the wall so that the boundary treatment was not so dominant and overbearing or overshadowed the current proponent's property. The proponent is now seeking to build a house elevated above the ground and the fence will not afford the privacy provided by a standard residential fence.
23. If the house were to be set with a lower floor level and thus comply with the height requirements as suggested above, this objection would no longer be relevant as the visual privacy cone of vision would no longer apply and the retaining wall together with the fence and vegetation would provide the necessary privacy screening.
24. The deck is an unenclosed outdoor active habitable space that attracts a requirement for a 7.5m cone of vision privacy setback requirement. The deck is proposed 4.775m from the boundaries of two adjoining properties (33 & 35 Karrakatta Road). This is a setback relaxation of 2.725m.
25. The adjoining owners of these properties have been consulted on the requested relaxation. The owners of one property have stated they have no objection, but the owner of the other property has objected to the loss of privacy. The objection is on the grounds that the area to the rear of the house is the only useable private open space being screened from the road and sheltered from prevailing wind. Also, given the elevation of the proposal, the dwelling would loom over the back yard giving the impression of '*being watched from on high*'.
26. As suggested above, if the proposed dwelling were to have a reduced floor level, at the requested setback the proposal would still represent an imposing tall structure giving a perception of being overlooked. The plans show the intention to retain the trees and vegetation between the proposed dwelling and its eastern boundary to offer some screening and privacy. However, some, if not all, of these may have to be cleared to accommodate space for effluent disposal and depending on the type of system for effluent disposal; it may not be advisable to re-plant vegetation as it may lead to problems for longevity of the system.

27. The objecting adjoining owner also states that the proponent has in the past requested their trees be cut back, so they do not have confidence that vegetation would be maintained as an effective privacy screen in the future.
28. In order to overcome the objection, a permanent privacy screen on the deck can be required by condition on any approval. This could be a horizontal screen or angled louvres that would obscure the view down to the lower properties without obscuring views to the ocean. This form of screen allows views above a set angle and the ocean view from the proposed deck could be maintained.

### **Other Issues**

29. The other letter received in response to the consultation with surrounding landowners objects to the proposed access as depicted on the site plan. The objector does not support the alignment as it is close to the existing crossover serving the adjacent property to the south.
30. The referenced crossover is not a standard crossover as it occupies almost the entire road frontage of this adjacent property at an approximate width of 16m. Following inspection of the City's records, it is unclear when this crossover was constructed and if it received the necessary consent.
31. The City's Development Engineer has considered the proposal in terms of the crossover and access. It has been suggested that modifications from the proposed position and layout be required in order to be considered acceptable and meet the City's requirements. These have been marked in red on the site plan and a suggested condition relates to these changes.
32. The suggested modified crossover is considered acceptable and overcomes the objection raised.
33. As the proposed development is located in Goode Beach it is subject to the '*Reflective Roofs – Goode Beach*' Local Planning Policy. This policy requires '*Low reflective building materials*' with a reflectance value of 50% or less to be used on roofs, unless justification is advanced and accepted. The proposed development intends the roof to be a corrugated metal with a Gull –Grey colour finish. This is noted as non-reflective. However, planning staff note that Gull Grey is no longer sold as a standard Colorbond colour and the proponent has not provided a reflectance specification for the selected material. This can be required by condition on any approval to be granted.
34. Overall, it is considered the dwelling can re-designed with a lower finished floor level no higher than 500mm above the highest ground level. Such a re-design would eliminate the overheight relaxation and address one of the adjoining owner's objections for loss of privacy. Screening on the balcony can overcome the loss of privacy to the other objecting adjoining landowner and on this basis, the proposed development could be considered acceptable subject to general and specific conditions.

### **GOVERNMENT & PUBLIC CONSULTATION**

35. Consultation with State Government Departments was not required or undertaken.
36. Under the Town Planning Scheme No.3 and R-Codes requirements a 14 day consultation was undertaken with potentially affected surrounding landowners.
37. This public consultation commenced on Tuesday 8 October, 2013, with letters sent to local landowners outlining the relaxations being requested that potentially affected their properties. A total of eleven letters were sent out and requested comments be provided by Wednesday 23 October, 2013.



38. A total of four responses were received, three of which were written responses. Copies of the written responses are attached to this report.
39. One response was received by telephone from the owner of two vacant lots. This owner stated they have no issue with the requested front setback relaxation or the minor overheight relaxation.
40. The three written objections raised the following points:
- Object to the proposed access as shown on the site plan. Will the proposed access impact on the existing access? Can some alternative be agreed?
  - Information with the application has a number of incorrect statements relating to the Scheme, the R-Codes and use of land on adjoining properties.
  - The proposal will overlook the useable private open space – permanent screening should be required.
  - The proposed house will loom over the lower properties and give a feeling of being watched from on high.
  - Any relaxation of the height will have a detrimental impact and together with other existing houses would give a sense of being crowded in upon.
  - The site has rock and shallow soils as well as the slope. Can stormwater and effluent disposal be accommodated and controlled.
  - This is a pole home and will need to have noise attenuation addressed as well as visual screening of the underside services.
  - There are few examples of the reduced setback for houses in Goode Beach. This relaxation impinges on views and the proposal should be moved back.
  - The reduced front setback reduces vehicle manoeuvring space.
  - The proposal results in overlooking and loss of privacy, this can be avoided by reducing the finished floor level which appears easily achievable.
  - The overheight requested impacts on views of significance and should be revised.
41. The matters raised in the objections are discussed and addressed in the preceding discussion section above in this report.

### STATUTORY IMPLICATIONS

42. Section 73 (1) of the *Planning and Development Act 2005* states that ‘A local planning scheme is to – (b) specify the local government to be responsible for enforcing the observance of the scheme, and for the execution of any works which, under the scheme or this Act, are to be executed by a local government.’
43. Clause 1.4 of the City of Albany Town Planning Scheme 3 specifies the Responsible Authority as ‘The responsible authority for carrying out the Scheme is the Council of the Shire of Albany (hereinafter referred to as the Council).’ A note on the cover page of the Scheme states ‘On 1/7/98 Shire of Albany and Town of Albany was amalgamated to form “City of Albany”’. Therefore, the City of Albany is responsible for the administration and observance of Town Planning Scheme 3.
44. Clause 5.4 of the City of Albany Town Planning Scheme 3 specifies the Matters to be Considered by Council and states:

*The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application:*

*(a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*

*(b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*

*(f) any Town Planning Scheme Policy adopted by the Council under clause 6.9, and any other plan or guideline adopted by the Council under the Scheme;*

*(i) the compatibility of a use or development with its setting;*

*(n) the preservation of the amenity of the locality;*

*(o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of height, bulk, scale, orientation and appearance of the proposal;*

*(p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*

*(y) any relevant submission received on the application;*

*(zb) any other planning consideration the Council considers relevant.*

45. These relevant matters have been considered and addressed by staff in arriving at the recommendation.

## POLICY IMPLICATIONS

46. The Local Planning Policy ‘*Reflective Roofs – Goode Beach*’ is applicable to this proposed development.
47. The policy requires roofs of developments within the identified policy area to be finished externally with materials with a solar reflectance value of 50% or less, unless justification for a higher reflectance is advanced and accepted.
48. This policy has been considered and the requirements of the policy are the subject of a suggested condition.

## RISK IDENTIFICATION & MITIGATION

49. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Approving the proposed use could give rise to unacceptable detrimental impacts on the residential amenity of adjoining and surrounding properties.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>These issues have been considered and the suggested conditions address, overcome or minimise the potential of this occurring. Impose the suggested conditions on any approval.</i>

### **FINANCIAL IMPLICATIONS**

50. All costs associated with the development will be borne by the proponent.

### **LEGAL IMPLICATIONS**

51. The Council is at liberty to use its discretion to approve the proposal with or without conditions or refuse the proposal. This application is being assessed on its individual merits and will not set a general precedent for future development of this or any other site.
52. The proponent or any person aggrieved by a decision has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

### **ENVIRONMENTAL CONSIDERATIONS**

53. The proposed development seeks approval for a single house on a vacant lot. The site is constrained by topography and geology, but no more so than many other lots in Albany. As such, there are no significant Environmental Considerations that require special attention.

### **ALTERNATE OPTIONS**

54. Council may determine that the proposed development is unacceptable due to the potential adverse impacts on surrounding properties and may resolve to refuse the application. A detailed reason for refusal would need to be provided as part of such a determination. This reason could include reference to non-compliance with deemed-to-comply and design principle requirements of the Residential Design Codes and the Town Planning Scheme No.3.
55. The proponent would be able to seek a review of Council's decision, including any conditions attached to an approval or refusal and the City of Albany may be required to defend the reasons for refusal or the conditions at a State Administrative Tribunal hearing.

### **SUMMARY CONCLUSION**

56. The application seeks consent for a part two-storey, part single storey dwelling. The dwelling is overheight, seeks a reduced front setback and relaxations to the side boundaries regarding overlooking/privacy with adjoining properties.
57. The proposal has been referred to surrounding landowners with properties that are potentially impacted by the requested relaxations. Three written objections have been received and two of these are objections relating to overlooking/loss of privacy and amenity.
58. There is scope to reduce the finished floor level of the proposal and doing so would remove the overheight element as well as the loss of privacy impact on one adjoining owner. This would also reduce the impact on the other objecting adjoining owner. It is considered by City staff that a re-design to achieve this outcome is required in order to approve this proposal, otherwise refusal would be recommended.
59. In addition to the re-design for reduced floor level, an element of overlooking remains to an adjoining landowner. Screening to prevent/minimise overlooking can be provided, that will not reduce ocean views from the proposed dwelling. It is appropriate that this privacy screening be required by condition.
60. The vehicular access indicated on the site plan also requires minor revision to be considered acceptable. An indicative draft of an acceptable solution has been sketched on the site plan and this is also the subject of a proposed condition.

61. City staff are of the opinion the proposal can be supported and recommend approval subject to the recommended conditions.

<b>Consulted References</b>	:	City of Albany Town Planning Scheme 3.
<b>File Number (Name of Ward)</b>	:	A14136 (Vancouver Ward)
<b>Previous Reference</b>	:	N/A