

## **REPORTS AND RECOMMENDATIONS**

**FOR THE**

**DEVELOPMENT ADVISORY UNIT**

**MEETING**

**HELD ON**

**TUESDAY, 7 JUNE 2022**

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 shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
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 should be referred to an Elected Member of Council for the Ward within which the development application is located. An Elected Member may request that the application be determined by Council. Any call up request from an Elected Member shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
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, 10 JUNE 2022**



**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, 7 JUNE 2022**

**PRESENT**

P Prendergast  
L Crake  
T Cappellucci  
G Davey  
R Boswell

Manager Statutory Planning  
Building Services Co-ordinator  
Senior Planning Officer  
Planning Officer  
Planning Officer

**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 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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**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mt Pleasant  
 Category : Operational  
 Application Number : DA-2021-1315  
 Property : Lot (70) No.4 Fraser Road, Applecross  
 Proposal : Two Storey House With Roof Top Terrace  
 Applicant : Urban Projects Pty Ltd  
 Owner : Kevin & Melanie Attree  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : No Previous Items  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

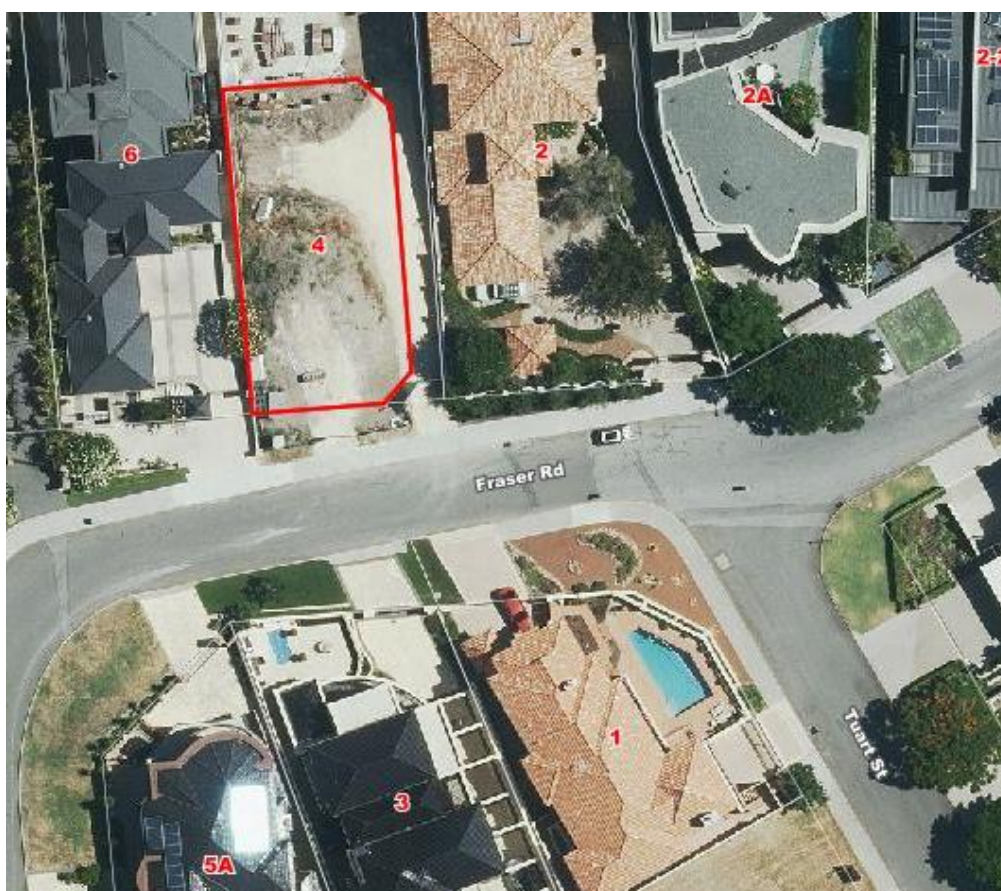
**AUTHORITY / DISCRETION**

**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>

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Development approval is sought for a three storey Single House with roof terrace at Lot 70 (No. 4) Fraser Road, Ardross.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), relevant local planning policies including Local Planning Policy 3.1 – Residential Development (LPP3.1) and Local Planning Policy 1.9 Height of Buildings, and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- A number of aspects of the proposed development including building height and visual privacy, require assessment against the applicable Design Principles of the R-Codes.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response, six objection letters were received relating to the amenity impact of the building in terms of building height, loss of views and visual privacy.
- 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**

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R12.5
Use Type	: Residential
Use Class	: Permitted

**Site Details**

Lot Area	: 500m2
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Yes
Site Details	: Refer photo above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 10 June 2022

**DETAIL**

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS No.6), relevant local planning policies and the R-Codes. A performance assessment is required in respect of the matters listed below.

**R-Code Requirements**

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
5.1.6/LPP1.9 Building Height	Eaves Height - 8m Maximum Height - 10.5m Concealed Roof - 9m	The proposed house is designed with a flat roof and as such does not align with the building height maximums expressed in LPP 1.9.	Requires assessment using Performance Criteria.  Refer building height section of the report below for detailed comment.	Development Advisory Unit (DAU)

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

Development Requirement (Cont.)	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Clause 5.4.1 C1.1 Visual Privacy	Unenclosed outdoor active habitable spaces with a floor level more than 0.5m above natural ground level setback 7.5m	A portion of the cone of vision falls within the adjoining the western and eastern neighbouring lots.	Requires assessment using Performance Criteria.  Refer to visual privacy section of the report below for detailed comment.	Development Advisory Unit (DAU)
5.1.3 – Lot Boundary Setback	Ground Floor Garage/Ens (east) – 2.2m setback.	1.5m – 2.2m	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)
	First Floor Family/Balcony (east) 3.0m setback.	2.7m		
	First Floor Scullery/Balcony (west) – 2.7m setback	1.5m – 2.2m		
Clause 5.3.7 C7.2 Site Works	Height of site works between 0.5m to 1m to be setback a minimum of 1m	North West Corner 2.6m – 3m fill  North East Corner -3.7m fill	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)

## 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 1.7.6  
 Support/Object: Five objections received

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

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Overlooking and loss of privacy	Refer to the comments section of this report.	Not Uphold
The building height does not comply with Policy/Residential Design Codes, Volume 1.	Refer to the comments section of this report.	Not Uphold
The additional building heights will impact views of significance and is not in keeping with the existing built form.	Refer to the comments section of this report.	Not Uphold
Concerns regarding the addition soil on site and in correct natural ground levels.	Refer to the comments section of this report.	Not Uphold
The proposed height also poses an issue of overshadowing onto the adjoining property	Refer to the comments section of this report.	Not Uphold

**II. OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies/consultants is required.

**STATUTORY AND LEGAL IMPLICATIONS**

None.

**FINANCIAL IMPLICATIONS**

None.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The proposal has been assessed against the prevailing planning policy framework. A performance assessment is sought in respect of a number of matters including building height and visual privacy.(see comments section below).

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)****COMMENT**

This 500sqm freehold lot is located within an established residential area of Applecross approximately 25m away from the river foreshore reserve. In common with other areas of Applecross, the street here is in the process of systematic renewal, with older properties being demolished, some single lot subdivisions taking place, and new contemporary homes being developed. These newer homes are typically larger, two to three storeys in height, and of striking modern style designed to take advantage of the proximity to the river and associated river/city views.

The dominant characteristic of this precise location is the topography, there being a significant slope across the lots from south to north, including the subject lot. This is depicted in the aerial image below (see Figure 2), noting that for the subject lot there is a fall of some 7 to 8 metres across the site from the SW corner close to Fraser Road, to the NE at the rear driveway truncation. This is therefore a challenging site to develop, particularly in the context of aligning the design of a building to the maximum building height levels.

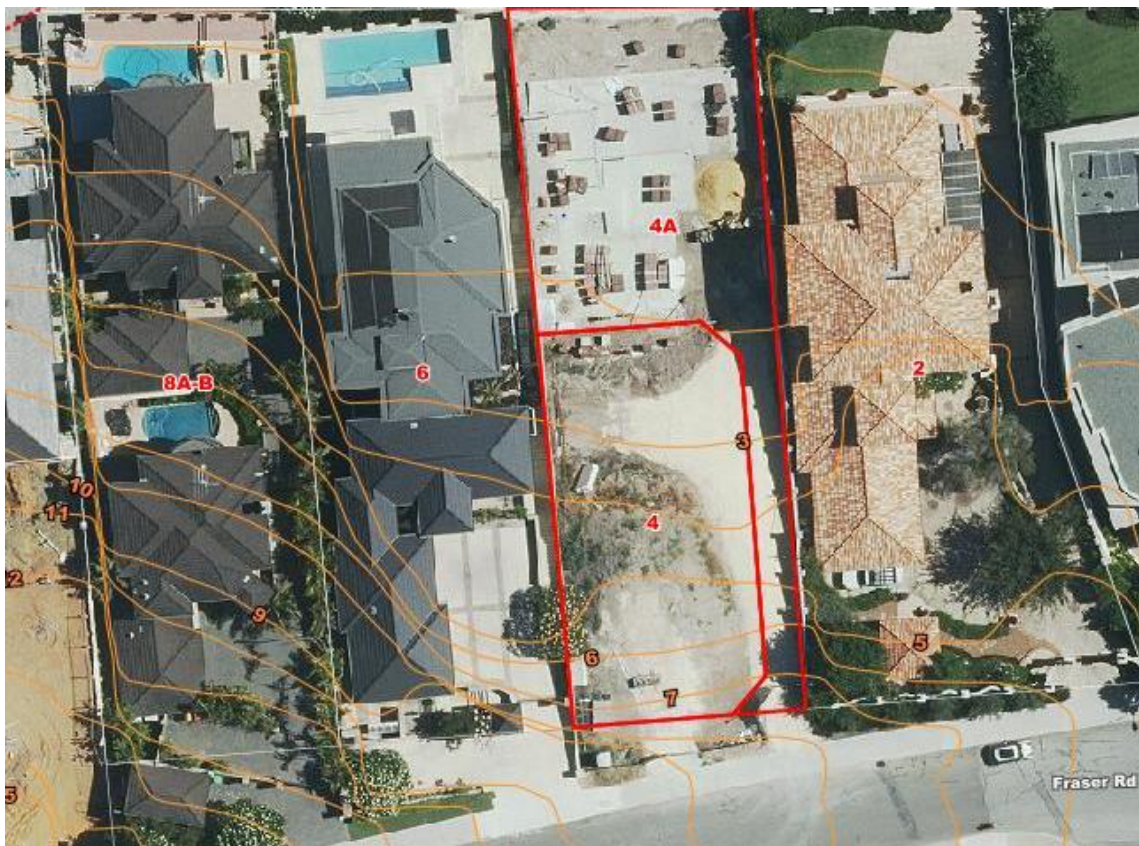


Figure 2: Site topography

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

In that vein, the proposed dwelling has been designed in a way which responds to the topography of the site as well as taking advantage of the sites' proximity to the river and associated views. The proposed lower ground level sits below the Fraser Road verge level and as such does not have any impact on the street at all. This ensures that the building presents to the street at two storeys plus a roof terrace.

The surrounding dwellings along Fraser Road exhibit a wide range of residential building styles, ages and heights. It is noted that two and three storey buildings are common in the Applecross area and there are many examples of these within close proximity to the site. Like this proposal many of the surrounding dwellings take advantage of the topography of the land to create a third storey at the lower ground level to provide additional internal living space as well as capitalising on available views.

### Building height

The proposed building height requires a performance assessment having regard to the design principles contained in Clause 5.1.6 'Building Height' of the R-Codes. These design principles seek to ensure that development is appropriate to the streetscape, maintains adequate levels of sunlight to adjoining properties and maintains access to views of significance where appropriate. It is noted that given the challenges posed by the levels on this lot and those that characterise neighbouring lots, recent nearby developments do generally include over height building elements reflective of the topography. The proposed development in this case is no different in that respect.

- In common with other recent development within this side of the street, the building is designed in a considerate manner to present as a two storey house to the street and utilise the significant downward slope of the land to create a lower ground floor level. The roof top terrace balustrades are also setback from the street in excess of the deemed to comply standards to ensure that any adverse bulk impacts are avoided.
- Access to the roof terrace is provided via a roof hatch rather than a traditional stairwell. This design feature ensures that the bulk impact towards the street is minimised.
- The proposed building is well articulated, through the use of varied setbacks, floor to ceiling windows, landscaping and a mix of materials which combine to reduce the bulk impact on to the adjoining properties and the streetscape.
- The proposed building height does not have any adverse impact on the amenity of the adjoining landowners to the east and west for the following reasons:
  - The tallest section of the building is located at the rear portion of the site. As noted above the setbacks to the west meet the design principles of the R-Codes and as such there is no impact in terms of building bulk. The roof terrace is setback further from the first and second floor below, in excess of the deemed to comply provisions providing further mitigation of bulk impacts.

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

- In respect to the eastern property as noted above the lot setbacks meet the design principles and therefore there is no negative bulk impact from the additional height. In this respect it is noted that the neighbour to the east is separated from the subject site via a three metre wide access leg.
  - The height will have minimal bulk impact on the properties to the east and west and due to the orientation of those properties such that there is no associated loss of views of significance, nor access to direct sunlight.
  - The proposed height will also have no impact on the house at No.5A Fraser Road to the south of the site on the opposite side of Fraser Road. This is because 5A is oriented with its primary frontage to the east to take advantage of river views and is designed with a wall on the boundary and a wall with no major openings on its northern elevation. This ensures there is no visual relationship between the two properties and no bulk impact caused by the proposed building height that is now sought.
- The term 'views of significance' is not defined, nor is detail provided in the explanatory sections of the R-Codes. It is therefore the City's role to make a determination as to whether or not the proposed development maintains access to views of significance. The following paragraphs provided a detailed analysis of the surrounding built form to demonstrate views of significance are not impacted in this case.

**No.1 Fraser Road**

- This property will still have access to significant views as its main viewing corridor is towards the north east. This is based the dwelling's major openings and balconies main viewing corridor being towards the NE towards the river, Perth Central Business District and the Darling Ranges, See Figure 3 street view image and Figure 4 aerial photo below showing the orientation of the dwelling. For orientation purposes, the vehicle shown within the blue square below parked in front of the development site.



Figure 3: Street View Image of 1 Fraser Road

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**



Figure 4: Aerial View depicts aspect towards the east, avoiding the application site to the NW

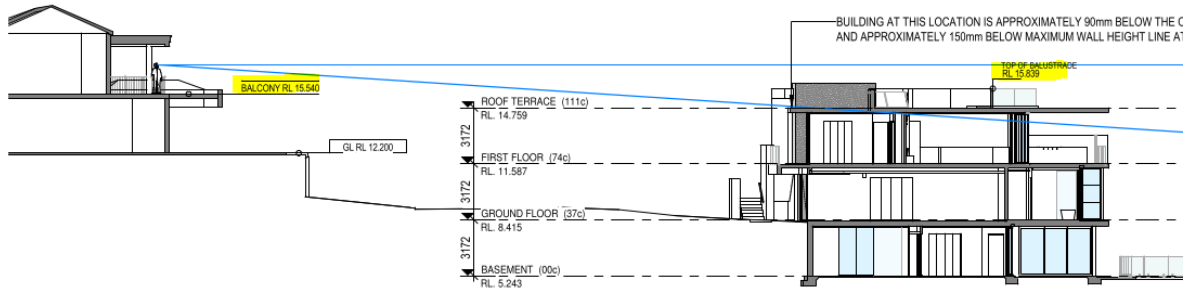
**No.3 & No.5A Fraser Road**

- The applicant has provided cross-sections (See Figure 5 & 6 below) showing the floor level of the roof top terrace (marked in yellow) and the balcony levels (marked in yellow) of the properties at No.3 & No.5A Fraser Road. These properties are considered to be the most impacted by the proposed development. These floor levels were obtained by a surveyor and the floor level of 5A Fraser Road has been crossed checked against DA-2006-1488, approved floor level.
- These cross sections assist in demonstrating that these two properties will maintain access to views over the proposed house toward the river and Perth skyline. It should also be noted that all three properties will still have access to other views to the east and north east.

In Figure 7 below view corridors have been shown in blue, yellow and pink.

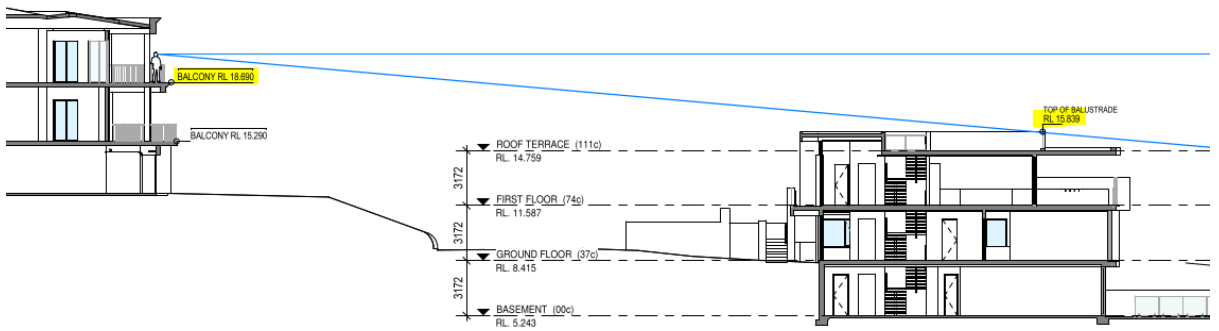
**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4) FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

**#3 FRASER ROAD**  
EXISTING RESIDENCE

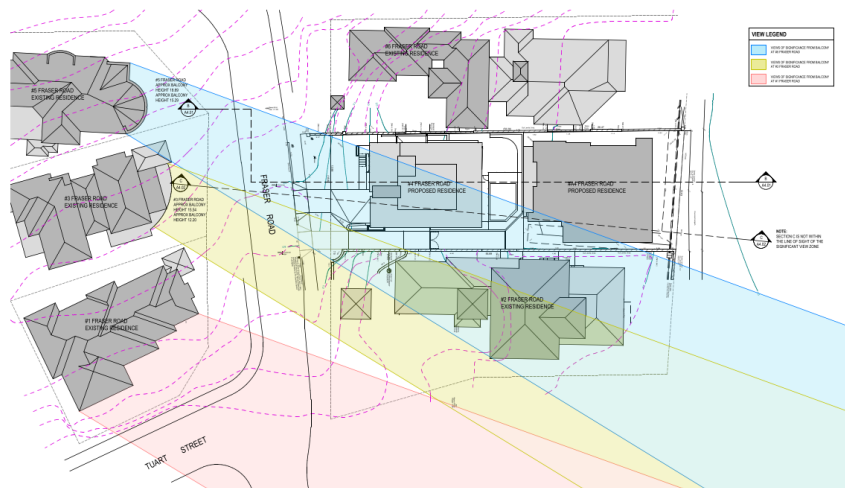


**Figure 5: Cross- Sections**

**#5 FRASER ROAD**  
EXISTING RESIDENCE



**Figure 6: Cross-Sections**



**Figure 7: View Corridors**

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4) FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

A number of residents have raised concerns regarding unauthorised fill on the site and have questioned the natural ground levels. In response to these concerns a revised site plan was requested based on Water Corporation BG 2000 Maps Sheet Series and cross checked with a site plan prepared in 2003 for a subdivision application.

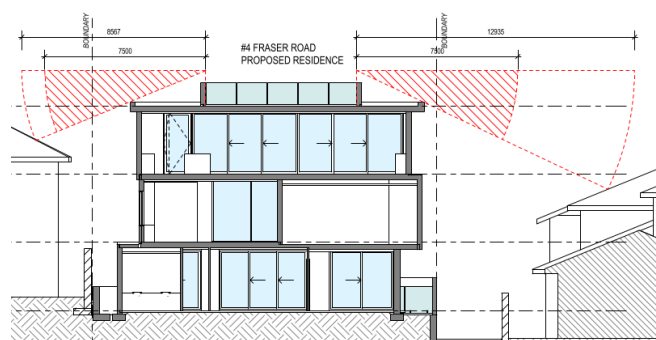
On the basis of the information provided the site levels shown on the plans are considered to be an accurate representation of the natural ground levels on site. The assessment of heights has been undertaken based on Water Corporation BG 2000 Maps Sheet Series and the 2003 site plan. As demonstrated above the overall height is considered to meet the design principles of the R-Codes.

**Visual Privacy**

The proposed development requires a performance assessment in respect of the roof top terrace visual privacy. The proposed visual privacy setbacks are considered to meet the relevant design principles as:

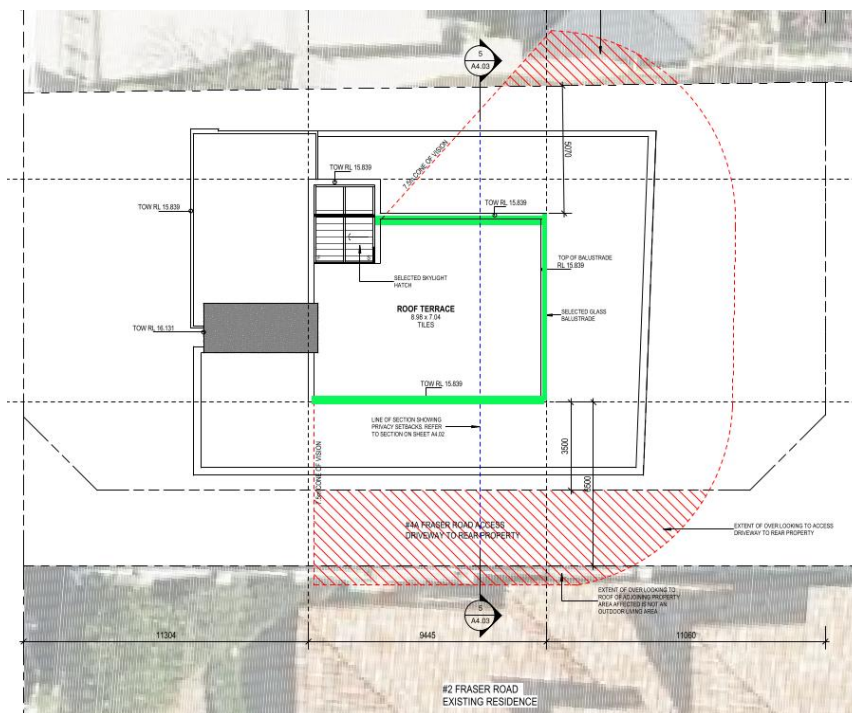
- Seen from Figure 8 below, views from the roof top terrace primarily fall onto the roof of No.2 & No.6 Fraser Road. , The roof of house below creates an oblique angle which prevents any direct overlooking down into any habitable windows or active habitable spaces.
- A small portion of the roof top terrace cone of vision falls into No.2 & No.6 Fraser Road, see Figure 9 below. These spaces are not part of the outdoor living areas of the adjoining lots, nor are they part of any sensitive portion of the lot where people are expected to enjoy outdoor living. The primary outdoor living areas of both of these properties is to the north towards the river frontage. In addition, the oblique angle of view ensures that any potential adverse overlooking impacts are avoided.

The proposed dwelling meets the design principles of the R-Codes in terms of visual privacy and is considered to be acceptable on that basis.



**Figure 8: Cross-Section**

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**



**Figure 9: Green highlight showing enclosed area of the roof top terrace**

**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.

**CONCLUSION**

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

**OFFICER RECOMMENDATION**

**APPROVAL**

- 1. The development the subject of this approval 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.**

**U22/0586 - TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)  
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

3. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossovers shall be designed to be;
  - a maximum width of 6m;
  - located a minimum of 2m away from the outside of the trunk of any street tree; and
  - a minimum of 1m from any existing street infrastructure.

The approved crossovers are to be constructed prior to the initial occupation of the development to the satisfaction of the City.

4. 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.
5. 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 3 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
6. 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.
7. The on-site tree/s to be retained (as marked in red on the approved plans) shall be maintained in perpetuity, to the ongoing satisfaction of the City.
8. The privacy screening/obscure glazing shown on the approved plans shall meet the deemed to comply standards of cl. 5.4.1 of State Planning Policy 7.3 Residential Design Codes Volume 1. The privacy screening/obscure glazing shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the city.
9. 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.
10. The balustrades to the roof terrace shall be constructed of clear glazing unless otherwise approved in writing by the City.

**U22/0587 - REMOVAL OF CONDITION 3 FROM DA-2020-974 AT LOT 89 (NO. 38)  
TWEEDDALE ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mount Pleasant Ward  
 Category : Operational  
 Application Number : DA-2020-974/A  
 Property : Lot 89 (No. 38) Tweeddale Road, Applecross WA 6153  
 Proposal : Amendment to a Two Storey Single House – Removal of Condition 3 from DA-2020-974  
 Applicant : Atrium Homes (WA) Pty Ltd  
 Owner : Rosanne Berenice Beekink  
 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 &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>

**U22/0587 - REMOVAL OF CONDITION 3 FROM DA-2020-974 AT LOT 89 (NO. 38)  
TWEEDDALE ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Development approval is sought for an amendment to an existing development approval issued for a two storey single house at Lot 89 (No. 38) Tweeddale Road, Applecross.
- The proposed amendment seeks to remove condition 3 from the original development approval in relation to the upper floor front balcony needing to be screened on the east and west elevations to comply with the visual privacy requirements of the R-Codes.
- With the original development approval, the return views from the front balcony were deemed to potentially overlook sensitive spaces on the adjoining eastern and western properties and therefore it was considered reasonable to condition the sides of the balcony to be screened.
- To the west, an objection was received from the adjoining property owners as part of the original application and at that time, it was a vacant site and no development approval or building permit had been issued for that western property. To the east, visual privacy screening was deemed necessary as views were considered possible within the cone of vision towards two small bedroom windows.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), Local Planning Policy 3.1 – Residential Development (LPP3.1), and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed amendment requires a performance assessment in relation to visual privacy.
- The amendment was advertised to three adjoining landowners in accordance with part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- One submission was received opposing the amendment.
- Notwithstanding the objection received, the proposed amendment to remove condition 3 is considered acceptable when assessed against the relevant Design Principles of the R-Codes and policy objectives of LPP3.1.
- It is recommended that approval for the removal of condition 3 from DA-2020-974 be granted.

**U22/0587 - REMOVAL OF CONDITION 3 FROM DA-2020-974 AT LOT 89 (NO. 38)  
TWEEDDALE ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**



Figure 1: Aerial photography of subject site

## BACKGROUND

### Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R15
Use Type	: Single House
Use Class	: 'P' Permitted Use

### Site Details

Lot Area	: 505sqm
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: No
Site Details	: Refer to Figure 1 above

A copy of the plans forms part of the attachments to the Agenda which were distributed to Elected Members on Friday, 10 June 2022

## DETAIL

On 6 April 2022, a development application was lodged for an amendment to a two storey Single House at Lot 89 (No. 38) Tweeddale Road, Applecross for the removal of planning condition No. 3.

**U22/0587 - REMOVAL OF CONDITION 3 FROM DA-2020-974 AT LOT 89 (NO. 38)  
TWEEDDALE ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

The application has been assessed against the provisions of LPS6, LPP3.1 and the relevant provisions of R-Codes. A performance assessment is required in respect of the matters listed below.

**State Planning Policy 7.3 - Residential Design Codes Volume 1**

<b>Design Element</b>	<b>Deemed to Comply standard</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Clause 5.4.1 - C1.1 Visual Privacy	Balconies: Minimum 7.5 metres from a lot boundary	Upper floor balcony setback <7.5 metres from eastern boundary	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning (MSP)
Clause 5.4.1 - C1.1 Visual Privacy	Balconies: Minimum 7.5 metres from a lot boundary	Upper floor balcony setback <7.5 metres from western boundary	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

The officer comment below is limited to the visual privacy variation from the balcony to the western boundary only as this was the subject of the objection received. The visual privacy setback resulting from the balcony not being screened to the eastern boundary and the lot boundary side setback are considered to meet the relevant design principles and are supported under delegation on that basis.

**I. COMMUNITY**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Required pursuant to LPP 1.1  
 Support/Object: One objection received

A summary of the content of the objection received and an officer's response is provided in the table below.

<b>Summary of Issues Raised</b>	<b>Officer's Comment</b>	<b>Action (Condition/ Uphold/ Not Uphold)</b>
Entry and porch being overlooked.	Refer to the comments section of this report.	Not Uphold

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

## **POLICY IMPLICATIONS**

There are no policy implications in relation to this proposal.

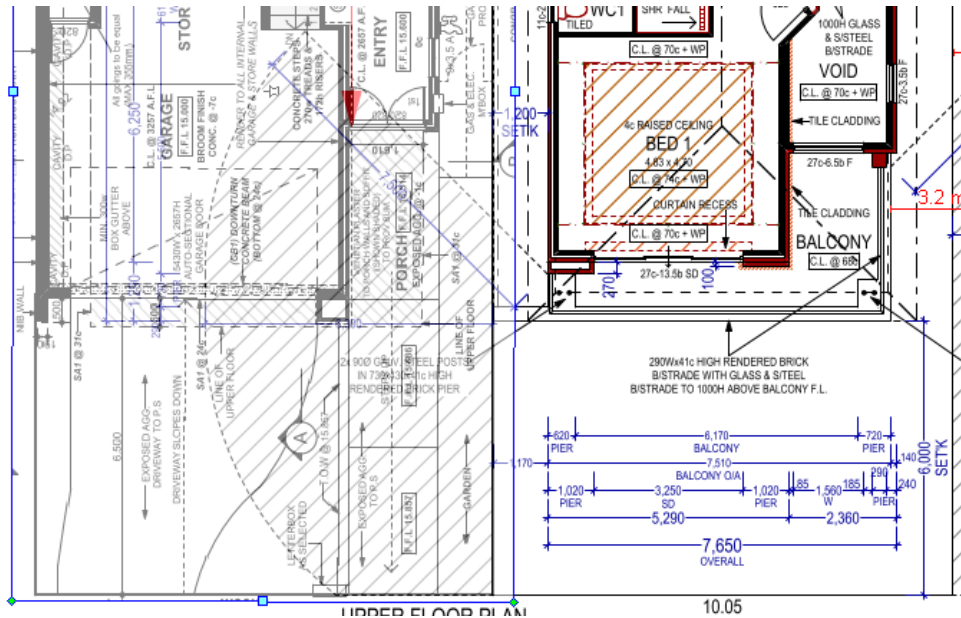
## **COMMENT**

### Visual privacy

As per the deemed-to-comply provisions of clause 5.4.1 'Visual Privacy' of the R-Codes, a setback of 7.5m is required for an unscreened balcony. The subject balcony is setback 1.2 metres from the western boundary and therefore requires a performance assessment. The proposal is considered to meet the Design Principles of the R-Codes for the following reason:

- The cone of vision which falls over the adjoining western property is not directly cast onto any habitable spaces or major openings of the adjoining property at 38A Tweeddale Road. Rather, it falls onto the adjoining land owner's ground floor porch and entry, and a blank wall of the first floor (See Figures 2 and 3 below). A porch and an entry point are not deemed to be active habitable spaces and therefore, there will be no adverse impacts.

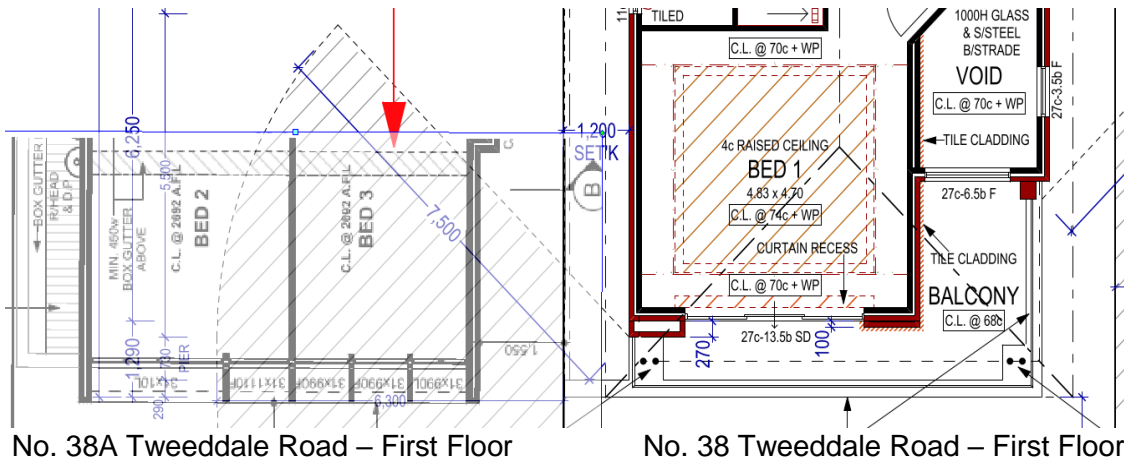
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No. 38A Tweeddale Road – Ground Floor

No. 38 Tweeddale Road – First Floor

**Figure 2: Image depicting cone of vision from balcony to adjoining ground floor of western property**



No. 38A Tweeddale Road – First Floor

No. 38 Tweeddale Road – First Floor

**Figure 3: Image depicting cone of vision from balcony to adjoining upper floor of western property**

**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 an opportunity to call this matter up for formal Council consideration.

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### CONCLUSION

Given there are no adverse amenity impacts from the removal of the screening requirement, it is recommended that approval for the removal of Condition 3 from DA-2020-974 be granted.

**OFFICER RECOMMENDATION**

**APPROVAL**