

ADVICE NOTE

Presented to	16 August 2022 Ordinary Council Meeting
Related to Item	Alternative Motion submitted by Cr Ross for Item UP22/3988 Proposed Two Story Single House with Roof Terrace at Lot 90 (No 23) Carron Road, Applecross
Submitted by	Manager Statutory Planning
Attachments	Nil

The alternative motion presented by Cr Ross recommends that the DA for 23 Carron Road for refusal and provides five separate reasons to accompany such a refusal.

Officers have considered the five reasons outlined and provide commentary on each as outlined below.

1. The proposed development exceeds 9 metres in height over the associated natural ground level across significant portions of the building and does not meet the deemed to comply provisions of Clause 2.1.1 of the City of Melville *Local Planning Policy 1.9 Height of Buildings* and or Design Principles specified in Clause 5.1.6 of *State Planning Policy 7.3 Residential Design Codes Volume 1*.

OFFICER ADVICE: The reason for refusal should state what the impacts of the proposed building height are. The fact that the deemed to comply provisions are not met is not an issue. The assessment against the design principles is key to whether this development proposal is acceptable. Failure to identify the precise concerns relative to building height will weaken the position of Council if the DA is refused, and if an appeal to the SAT results.

2. The proposed building has received planning approvals in June 2021, July 2021 and September 2021 which approved the height of the roof terrace structures at RL 18.628 which exceeds the NGL by 1.63 metres to 2.63 metres. This application seeks to further exceed the height limits by an additional 690 mms to RL 19.321 making the roof structures 2.32 metres to 3.32 metres higher than the 9 metre maximum. In addition, the placement and the bulk of the structures has been altered from a covered stairwell, a covered pergola, a lift and a small toilet covering a total area of 75.68 square metres to now include two store rooms, a stairwell and lift lobby and a shower and separate powder room which increases the built area to approximately 119 square metres or 43 sqm more than previously approved. The impact of the combination of the additional height and size of the structure must be considered in accordance with the intent and purpose of the Design Principles which seek to minimize the impact of bulk and scale on adjoining properties and the streetscape.

In this case, significant concessions have already been made approving over-height structures which do not comply with the Design Principles. Approving additional increases in height and bulk of these structures will further increase the non-compliance with the Design Principles.



OFFICER ADVICE: Without commenting on the accuracy of the figures quoted, the bulk of this text is background commentary and as such does not constitute a reason for refusal. The reference to design principles is not relevant in the context provided. It is implicit that a design principles assessment is undertaken when a proposal does not satisfy the deemed to comply provisions. The reference to bulk and scale and the impact of the development in that context requires consideration against all of the design principles outlined. Apart from being an inappropriate comment, the fact that the Elected Member has concluded that previous determinations are flawed in the context of the prevailing design principles is not relevant to the decision in this case.

3. The application also seeks to vary the setback of screening that is required to prevent overlooking and maintain privacy of adjoining properties. The roof terrace at RL 15.971 plus a screen of 1.6 metres high will exceed the maximum height of 9 metres by between 571mm and 1.57 metres. Because these screens are proposed to be erected on the perimeter of the building and must be solid or obscure to prevent overlooking and maintain privacy, these screens increase the bulk of the property by the 571 mm or 1.57 metres in height and adversely impacts upon the adjoining properties and streetscape.

OFFICER ADVICE: A concern that the screening contributes to an unacceptable bulk impact is a valid reason for refusal, but as expressed would not generally be captured in a reason for refusal. It is considered that this could be expressed more succinctly.

4. Because the deemed to comply rules allow for setbacks to be reduced if screening is used to maintain privacy and prevent over-looking that does not mean that the screening can itself then breach the applicable height limits and create other adverse impacts such as increasing bulk and adversely impacting adjoining properties and the streetscape. Such an outcome substitutes one adverse impact for another adverse impact and contravenes the Design Principles. The proposed screening of the balcony although within the overall height limits, increases the bulk of the building and consequently does not comply with the Design Principles.

OFFICER ADVICE: This is commentary on the details of the DA and does not constitute a reason for refusal.

5. The roof terrace on the proposed building is becoming a popular feature for new buildings and as such the guidelines and limits needs to be established so that all applications are treated consistently and developers, planners and elected members have a clear understanding of the applicable rules. The rules applied to this application will establish a precedent. Approving a further amendment which stretches the very generous concessions already approved, allowing increases in height limits, bulk and scale and reductions in setbacks, will establish an adverse precedent.

OFFICER ADVICE: This is commentary and does not constitute a reason for refusal.