

## ADVICE NOTE

<b>Presented to</b>	16 August 2022 Ordinary Council Meeting
<b>Related to Item</b>	Alternative Motion submitted by Cr Ross for Item UP22/3994 Three Storey Single House with Roof Terrace at Lot 70 (No 4) Fraser Road, Applecross
<b>Submitted by</b>	Manager Statutory Planning
<b>Attachments</b>	Nil

The alternative motion presented by Cr Ross recommends that the DA for 4 Fraser Road for refusal and provides six separate reasons to accompany such a refusal.

Officers have considered the six 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 the entire 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: This does not constitute a valid reason for refusal, the fact that the deemed to comply provisions are not met is irrelevant in terms of the impact, which in this case is assessed against the associated design principles.

2. The proposed building height exceeds the LPP 1.9 maximum height of 9 metres by heights ranging from 1 metre to 3.3 metres and the excess height results in this building standing out above the adjoining properties and contravenes the Design Principles by creating an adverse impact on the amenity of adjoining properties and the streetscape.

OFFICER ADVICE: If this were relied upon for a reason for refusal, the way in which the additional height is considered to result in an adverse impact upon neighbouring amenity should be specified in terms of what those adverse effects are.

3. The site levels are being raised above the site's natural ground level by 2 metres at the front where the building commences and 3 metres at the rear of the building. The applicant/owner has chosen to increase the site levels so as to provide an unobstructed view over another building owned, designed for and under construction by the same applicant.

OFFICER ADVICE: The quoted figures are not considered to be accurate. The fact that the levels are amended by the proposed development is not an issue unless there is an adverse impact that results from the change. As such this is a not a strong reason for refusing the DA which would be difficult to defend in the event of an appeal to the SAT.

4. The roof terrace and surrounding walls are 3.3 metres higher than the maximum height of 9 metres and because the surrounding brick walls are and must be solid or obscure to prevent overlooking and maintain privacy, these walls increase the bulk of the property by 3.3 metres in height and adversely impacts upon the streetscape especially as the side of the property which is 12.3 metres high and 17.5 metres long is entirely solid without any windows and will be visible from the roadway and pedestrian footpath and to traffic and pedestrians approaching the building from the east.

OFFICER ADVICE: The maximum building height refers to the uppermost element of the roof top structures, not the floor level of the roof terrace itself. It is not clear whether reference to the “surrounding brick walls” refers to the glass balustrade around the proposed roof terrace. If so please note this is glazing, not masonry, and the maximum height of the balustrade/screening is 1.6m.

5. 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.

OFFICER ADVICE: This is commentary rather than being a valid reason for refusal as such.

6. 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 building which by choice and not necessity is being raised 2 to 3 metres above the NGL of the site, so that the overall building height ranges from 1 metre to 3.3 metres above the maximum height limit of 9 metres and part of which is a roof terrace that together with the surrounding screening is 3.3 metres over the prescribed 9 metre limit will establish an adverse precedent.

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