

ADVICE NOTE

Presented to	16 August 2022 Ordinary Council Meeting
Related to Item	UP22/3988 Proposed Two Storey Single House with Roof Terrace at Lot 90 (No. 23) Carron Road, Applecross
Submitted by	Peter Prendergast – Manager Statutory Planning
Attachments	Nil

Based on the information provided in this Advice Note, Officers recommend that Item UP22/3988 Proposed Two Storey Single House with Roof Terrace at Lot 90 (23) Carron Road, Applecross be approved with the condition as outlined in Officer Recommendation in the report originally presented to the 21 June 2022 Ordinary Meeting of Council and re-presented at this meeting.

Background

At the June Ordinary Council Meeting (OCM), Council resolved to defer its decision on the proposed Two Storey Single House with Roof Terrace at Lot 90 (No. 23) Carron Road, Applecross (the site) to allow for legal advice to be obtained in relation to views of significance, building height and roof top open space. Mcleods was engaged to provide this advice and a copy was provided to Elected Members in July.

At the July OCM, City officers recommended the application be deferred to enable an assessment of the impact on views of significance of adjoining properties to be completed as recommended in the legal advice. At this meeting, Elected Members modified the officer recommendation to require an independent assessment of the proposal. From the discussion which took place at this meeting it was interpreted that the independent assessment sought by Council was limited to determining if the perspective of the view corridor from the property at 26 Strome Road, provided by the applicant, is accurate as the City does not have the software to analyse this information. The final assessment of the impact on views of significance of adjoining properties as per the SAT Case of Warden and Town of Mosman Park is to be completed by City officers.

Details regarding the perspective and the view corridor assessment are provided below.

Perspective drawing

As part of the development application, the applicant (Rowe Group) provided a photomontage demonstrating the views which would be available from the objector's property towards the Perth CBD. At the June OCM Lateral Planning, a planning consultant acting on behalf of their client provided a Sketchup model which demonstrated that the view towards the CBD from their study would be impacted to a greater extent than shown by the applicant.

Given the conflicting documents, the City requested the applicant provide a model of the proposal using a Building Information Modelling program such as Autodesk Revit or similar to demonstrate the impact of the development on the views of significance from 26 Strome Road. The City advised the applicant that this model may be reviewed by an independent architect to check its accuracy. The resolution of Council at the July OCM confirmed this independent review was required.

On 25 July 2022, the applicant provided a 3D model of the development, prepared by the applicant and the digital file to enable a review. A copy of this model is attached to this correspondence. On 28 July 2022, a copy of this was provided to Steve Christie, Associate of Cottee Parker along with the development plans for the site and the building permit plans for the objector's property.

By email on 4 August, Cottee Parker provided confirmation that the model prepared by the applicant is accurate to the floor plans provided and is appropriately located on this site. Cottee Parker also reviewed the 3D diagram provided on behalf of the objector and considers this was not accurately located on the site and also was not an accurate depiction of the built form. Despite the above, Cottee Parker were not able to confirm that the viewing plane from the residence across the road is accurate as a GPS coordinate was not provided along with the model. The City requested this information from the applicant however it is not available as the perspective has been prepared using a photo taken by the owner of 23 Carron Road and no GPS data was taken at the time. Further supporting evidence including a site section has been provided by the applicant in support of the drawing and this is attached to this advice note.

While the applicant was willing to provide a 3D model of the building to demonstrate the future views from the objector's property, the applicant maintains its position that was outlined in the correspondence provided to all Elected Members via email on 19 July and reiterated in the legal advice from Arthur Korovesi on 25 July. This position is quoted below:

- *Pre-development views to the Perth City skyline available to the occupiers of 26 Strome Road from the upper-level study were highly restricted and incomplete;*
- *Views currently available to the Perth City skyline are transitory only and not representative of the pre-development access to views of significance; and*
- *Post development access to views of significance does not materially differ from pre-development views.*

The assessment of views is discussed in more detail below.

In conclusion, the independent architect engaged by the City to review the information provided has confirmed that the model provided by the applicant is accurate when compared with the model provided on behalf of the objector however they are unable to confirm the accuracy of the viewing plain.

View Corridor Assessment

The legal advice provided to the City confirms that in the situation where a building exceeds the deemed to comply provisions of the R-Codes in relation to building height, the City should have regard to the potential impact on views of significance from adjoining properties, neighbouring properties which do not adjoin the site and the public domain. The advice notes that in order to assess the impact on views of significance the four-step approach outlined in the *Warden vs Town of Mosman Park* State Administrative Tribunal (SAT) case shall be considered.

In order to complete this assessment, the City of Melville considers the properties to the south at No.26 Strome Road, No.13 Killian Road and No.25 Carron Road, Applecross are the only properties which may have their views of significance impacted by the proposed development. There are no impacts on views from the public realm which need to be analysed as a part of this proposal. The impact on view corridors of each of the properties is assessed below in detail however it is concluded that the proposed building maintains appropriate access to views and as such meets the design principles contained in Clause 5.1.6 Building Height.

As part of legal advice obtained from the City regarding assessment of impact of views, the following principles/steps were identified by the SAT in the *Warden* case. These are used in the City's assessment:

- Assess what is the existing access to views of significance, unaffected by the proposed development?
- Assess whether it is appropriate that access to views of significance be maintained in the circumstances of the case; and
- If it is appropriate that access to views be maintained, then does the proposed development maintain access to views of significance?

With the first step, the following principles are relevant:

- (1) Whole views are more significant than partial views.
- (2) Iconic views, water views and views of where water meets land are more significant than land views and views without icons.
- (3) The view from front or rear boundaries are more significant than views from side boundaries.
- (4) Standing views are more significant than seated views.
- (5) Views from living areas are more significant than views from bedrooms/service areas.
- (6) Views from kitchens are also highly valued.

The table below provides an analysis of each view, in terms of the property, the location, the habitable areas and the impact rating to assess the access to existing views as per the legal advice. A comment is then provided in terms of the appropriateness of maintaining the view and whether it is maintained.

Impact on No.26 Strome Road

This property has access to several views of significance including the Swan River, Perth City skyline and the Darling Scarp to the east. These views are obtained from the upper floor of the property. At the time of writing City officers have not been able to conduct a site inspection of this dwelling to confirm the current access to views from the master bedroom and sitting area of the dwelling. It is noted that the objector has not raised any concern in relation to the loss of views from the master bedroom, the upper floor sitting area or the ground floor living spaces.

In order to complete an assessment of the view impact on view corridors from 26 Strome Road, the City has relied on several pieces of documentation including:

- The development approval at No. 26 Strome Road (DA-2016-1189);
- The 3D model provided by the applicant;
- Supporting documentation provided by the applicant to demonstrate the 'pre-development' view from the study;
- Google Earth and Google Street View images to demonstrate the amount of vegetation on site prior to the demolition of the former dwelling at 23 Carron Road taking place.

Property	Location/ Habitable area	Does it block views?	Impact rating
26 Strome Road	First Floor Study As per the provisions of the Warden case a view from a bedroom is less significant than that from a living space. Under the R-Codes a study and a bedroom are considered to be similar for the purpose of assessing visual privacy and therefore could also be considered similar for the purpose of a view corridor assessment. In which case a study is a less significant room than a lounge room.	North facing study window will have views to the Perth skyline partially blocked by the proposed development. The information provided by the applicant indicates that the predevelopment views to the north were also compromised by the existing vegetation on site. The views to the Swan River and the Darling Scarp will be maintained from the northern and eastern study windows.	Moderate



Property	Location/ Habitable area	Does it block views?	Impact rating
		<p>The information obtained from Google Earth images indicates that the views to the north east from the study were previously constrained by the presence of large eucalyptus trees located on the south eastern corner of the property at 23 Carron Road. The removal of this tree means that this view is now more open than the predevelopment stage, opening up a view which was not previously available.</p>	
	First Floor Sitting	<p>No.</p> <p>Views from these windows will not be obscured as these windows face east towards the River and the Darling Scarp.</p>	N/A
	First Floor Balcony	<p>The views directly to the north from this room are taken over the property at 12 Killian Road.</p> <p>It appears that these views north to the Perth skyline are partially blocked by a large Eucalyptus tree on the northern side of Killian Road within the road verge.</p> <p>The views from the balcony to the Darling Scarp will be maintained to the east.</p>	Minor/ Negligible

Property	Location/ Habitable area	Does it block views?	Impact rating
	First Floor Master Suite	<p>The views directly to the north from this room are taken over the property at 12 Killian Road.</p> <p>These views towards the Perth skyline appear to be partially blocked by a 17m high Eucalyptus tree on the northern side of Killian Road within the road verge and a two-storey house on the northern side of Killian Road (No. 12 Killian Road). The subject development is unlikely to alter any view of the Perth skyline currently obtained in this location.</p> <p>Views to the River and the Darling Scarp will be maintained to the east.</p>	Negligible

Based on the above the proposed development is considered to have a moderate impact on the north facing view obtained from the study at 26 Strome Road. The impact the remaining north facing views is negligible and there is no impact on the views to the east. A view from a study is not considered to be as significant as a view from a living space. On balance the development is considered to maintain appropriate access to views from this property and as such meets the design principles of the R-Codes.

Impact on No.13 Killilian Road

This site is currently vacant, with the original house demolished in the past 6 months. A development application has not been lodged with the City to facilitate a replacement dwelling on this site. No approved development applications or building permits could be found on file for the original dwelling on site and as such a desktop assessment has been undertaken to understand what views were previously available. The dwelling which previously existed in 13 Killian Road, appears to have been one of the original buildings in the area and was oriented to the east to take advantage of river views. There was only one small window facing north towards 23 Carron Road.

The proposal for 23 Carron Road, is not considered to have a negative impact on 13 Killian Road. Any future development on the site should be designed in such a way that it considers its surroundings and takes into account any available views.

Impact on No.25 Carron Road

No.25 Carron Road is located directly opposite 23 Carron Road at the south east intersection of Carron and Killian Roads. It is a three-storey dwelling constructed approximately 10 years ago. While this dwelling has a number of windows facing due north, the view from these rooms appear to have been constrained by the presence of the large trees which existing on 23 Carron Road previously. The removal of these trees and the design of 23 Carron Road with a 6.0 metre setback and large lightweight balconies to the east, is likely to have opened up the view corridor for this dwelling. The over height portions of 23 Carron Road are located towards the centre of the site meaning they do not impact on views to the north from 25 Carron Road. The views to the north east and east from this dwelling will not be impacted at all by this development.

Summary

No. 26 Strome Road

The owners of this property raised concerns that the proposed development at No. 23 Carron Road, would obstruct their views of the Perth Skyline (Iconic View) from a study room on the first floor which they currently enjoy.

As noted above in the table, views of the Perth skyline will be partially obstructed from the study, master suite and balcony habitable spaces because of the subject development. While the availability of this Perth skyline view from these habitable areas will be reduced, the proposed development does still ensure that access to these views of significance is maintained, though reduced. While views to the east to the Swan River and Darling Scarp are not affected by the subject development. These are currently whole views and are being maintained as such.

The overall impact that the current proposal has on views available from No. 26 Strome Road is considered to be minor. In accordance with the 'view sharing test' used in the *Warden v Town of Mosman Park* case this is considered reasonable.

No.13 Killian Road

The owners of No. 13 Killian Road raised concerns that their block will lose all city views and the vast majority of their river views.

As noted above the site is currently vacant. The previous house on site was not oriented toward the north and therefore had limited City views. The current proposal on 23 Carron Road will not have a negative impact on the future development potential of the 13 Killian Road in terms of access to views and is therefore considered reasonable.



No. 25 Carron Road

The owners of No. 25 Carron Road are the same as those as No.13 Killian Road.

As noted above, views directly to the north from this site were previously obscured by the vegetation on site. The removal of these trees and the design of the proposal with a large setback and lightweight balconies on the easter portion of the lot is likely to open up views from this property.

The design and location of the proposed development ensures that access to views of significance Darling Scarp and Swan River is not affected.

Appendices

3D Model and supporting documentation 23 Carron Road, Applecross – 25 July 2022
Extra information on 3D model 23 Carron Road, Applecross – 8 August 2022

Corrine Newman

Subject: FW: Development Application - Lot 90 (No.23) Carron Road, Applecross (9612)
Attachments: design proposal_REV B.pdf; 21024_Building Height_22.07.22B.pdf

Good morning, Mark

I refer to Council's resolution to defer determination of the Development Application for Lot 90 (No.23) Carron Road, Applecross at the July OCM.

Please refer to the following attachments to assist Council's further consideration of this matter at the August Council Meeting:

- An updated photo montage depicting a 3D model of the proposed development when viewed from the upper-level study of the residence at 26 Strome Road, prepared by Hillam Architects. The notation 'Neighbour Building Roof Height (18.86) is included on the image as this is an objective point of reference defined by survey relative to the maximum height of the proposed development (19.321).
- Correspondence prepared by Hillam Architects which provides an analysis of the updated 3D image when compared to the 3D image prepared by Lateral Planning on behalf of the owners of 26 Strome Road.
- The digital file of the 3D model provided by Hillam Architects (in SketchUp Pro 2021).

We consider the updated 3D image by Hillam Architects shows a clearer and more accurate depiction of the proposed development (viewed from the 26 Strome Road study) when compared to previous 3D representations and should be accepted on this basis. This notwithstanding, we wish to reiterate the significant and material considerations raised in the Supplementary Submission by Rowe Group (19 July 2022) in relation to the weight that should be given to pre-development access to views of significance in the proper application of clause 5.1.6 P6 of SPP 7.3 Vol.1 ('the R-Codes').

In short:

- Pre-development views to the Perth City skyline available to the occupiers of 26 Strome Road from the upper-level study were highly restricted and incomplete;
- Views currently available to the Perth City skyline are transitory only and not representative of the pre-development access to views of significance; and
- Post development access to views of significance does not materially differ from pre-development views.

I trust this additional material is of assistance in the City's further assessment of this application. Don't hesitate to contact me should you require anything further at this stage.

Regards,

David Maiorana
Manager Town Planning



T: [08 9221 1991](tel:0892211991)
M: [0432 282 629](tel:0432282629)
E: David.Maiorana@rowegroup.com.au
W: www.rowegroup.com.au
Level 3 369 Newcastle Street, Northbridge WA 6003



Rowe Group announces town planning team role changes

This email and any attachments transmitted with it are intended only for the use by the named addressee. This email is confidential and may contain privileged information. If you receive this email in error, please notify our Office immediately by return email or telephone on 08 9221 1991 and immediately delete it from your system. You must not distribute, copy or use any part of this email if you are not the intended recipient. Rowe Group is not responsible for any unauthorised alterations to this email or attachment to it. This email has been scanned for computer viruses prior to sending. Any recipient should check this email and any attachments for viruses prior to opening. Rowe Group does not accept any loss or damage that is the result of a computer virus or a defect in the transmission of this email or any attachment.



NEW PROPOSAL BUILDING (19.321)

NEIGHBOUR BUILDING ROOF HEIGHT (18.86)

19.321 m

18.86 m

0.461m

22th July 2022

George Manios,

**RE: PROPOSED AMENDMENTS TO THE DEVELOPMENT APPROVAL OF 23 CARRON ROAD,
APPLECROSS.**

APPLICATION NUMBER: DA-2021-214

Dear George,

In response to your email related to the planning report provided by lateral planning in regards to the 3D image for 23 Carron Road project, please find below our analysis.

We have generated a more accurate 3D image based on the survey data you have provided.

Original image



Figure 1: Existing View from Study of 26 Strome Road

Our latest 3D image based on suvey data



3D Image provided in planning report by Lateral planning



Comparing the two images we can observe the following inconsistencies:

- The house appears to be placed on a different level.
- Fence heights seem to have an inadequate level of detail.
- Slab Thickness seems incorrect.
- Obscured glazing on the Killian roadside looks inconsistent
- Garage wall appears to be higher than proposed
- The angle at which the house is shown is inconsistent with our 3D analysis.

Please note the above is a 3D analysis only and therefore subject to interpretation.

Should you seek any further information please do not hesitate to contact us on (08) 6380 1877 or luis@hillam.com.au otherwise we look forward to your comments and support.

Yours Faithfully,

Luis A. Schilling
Senior Associate
Hillam Architects

Corrine Newman

Subject: FW: Development Application - Lot 90 (No.23) Carron Road, Applecross (9612)
Attachments: View Point Plan.pdf

Hi Mark

Further to your email on Thursday 4 August, my client has instructed Hillam Architects to respond to the City's request to provide further clarification to illustrate where the view line has been taken from when preparing the 3D model. An additional plan prepared by Hillam Architects is attached which responds to this matter. I trust this is of assistance. Don't hesitate to contact me should you require anything further.

Regards,

David Maiorana
Manager Town Planning



T: [08 9221 1991](tel:0892211991)
M: [0432 282 629](tel:0432282629)
E: David.Maiorana@rowegroup.com.au
W: www.rowegroup.com.au
Level 3 369 Newcastle Street, Northbridge WA 6003

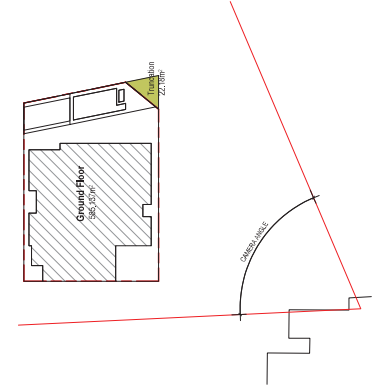


[Rowe Group announces town planning team role changes](#)

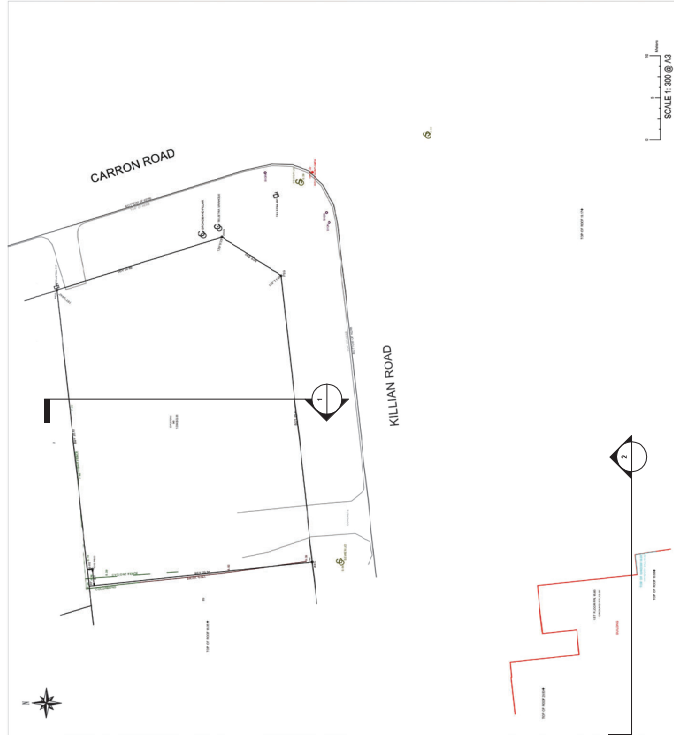
This email and any attachments transmitted with it are intended only for the use by the named addressee. This email is confidential and may contain privileged information. If you receive this email in error, please notify our Office immediately by return email or telephone on 08 9221 1991 and immediately delete it from your system. You must not distribute, copy or use any part of this email if you are not the intended recipient. Rowe Group is not responsible for any unauthorised alterations to this email or attachment to it. This email has been scanned for computer viruses prior to sending. Any recipient should check this email and any attachments for viruses prior to opening. Rowe Group does not accept any loss or damage that is the result of a computer virus or a defect in the transmission of this email or any attachment.

GENERAL NOTES

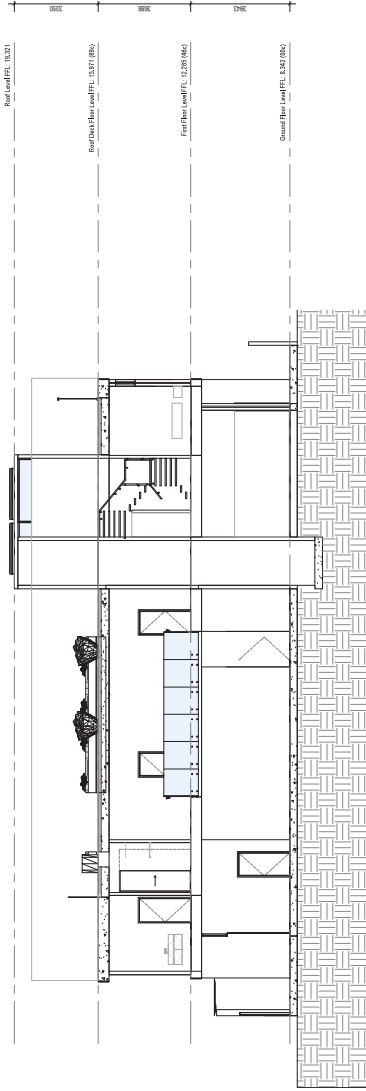
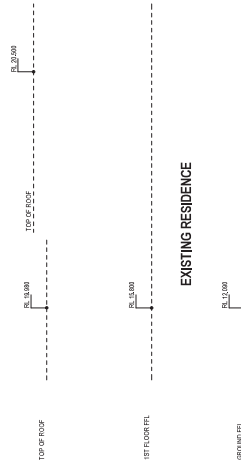
1. THE CONTRACTOR TO VERIFY AND OBTAIN THE PROPERTY OF ALL PROJECTS MUST NOT BE TAKEN COMED ON-LAND.
2. THE CONTRACTOR TO CHECK ALL DIMENSIONS ON THE OFF SITE.
3. ALL DIMENSIONS AND POSITIONS SHALL BE BROUGHT TO THE ATTENTION OF THE CONTRACTOR.
4. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
5. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
6. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
7. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
8. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
9. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.
10. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND POSITIONS ON THE OFF SITE.



3 SITE - CAMERA ANGLE DIAGRAM
SCALE: 1:300



2 NEIGHBOUR SECTION
SCALE: 1:100



1 SITE SECTION
SCALE: 1:100

LS	DATE FOR CLIENT REVIEW
23/03/23	A
06/03/23	B
06/03/23	C
06/03/23	D

ARCHITECT: HILLAM ARCHITECTS
 1/111 SOUTH ST, SUITE 101, MELBOURNE VIC 3000
 PH: 03 9412 1111
 WWW.HILLAMARCHITECTS.COM.AU

PROJECT NAME: CARRON RD
 23 Carron Rd, Apperross

CLIENT: George Manios

DRAWING NAME: SITE SECTION

SCALE: As indicated (A1)

PROJECT NO: 21024
 DRAWING NO: A1-02
 REV: D

RESIDENTIAL DEVELOPMENT

© 2023 HILLAM ARCHITECTS

NOTE: ALL INFORMATION IS RELATIVE ONLY. REFER TO THE SURVEY PLAN FOR EXACT DIMENSIONS.