

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPECROSS  
WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mount Pleasant Ward  
 Category : Operational  
 Application Number : DA-2020-1300  
 Property : Lot 12 (4) Tweeddale Road, Applecross  
 Proposal : 6 Grouped Dwellings  
 Applicant : Pinnacle Planning  
 Owner : R J Tunnercliffe and L J Tunnercliffe  
 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 : Not Applicable

**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	<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 (e.g. 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>

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**KEY ISSUES / SUMMARY**

- Development approval is sought for six grouped dwellings at Lot 12 (4) Tweeddale Road, Applecross.
- The proposed development has been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of the Canning Bridge Activity Centre Structure Plan (CBACP) and relevant local planning and council policies.
- The proposed development requires a performance assessment in relation to Element 5 *Side and Rear Setbacks* of the CBACP and as such was advertised to the adjoining owners in accordance with Local Planning Policy 1.1 'Planning Process and Decision Making'. Three submissions were received which object to the proposed development.
- Notwithstanding the objection received, it is considered that the development is acceptable when assessed against the relevant Desired Outcome of the CBACP.
- Following the DAU meeting, the development application was called up to Council for determination in accordance with the procedures outlined in the Draft Local Planning Policy 1.1.
- Notwithstanding the objection received, it is recommended that the Council approve the application subject to conditions



**Figure 1: Aerial Photography**

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MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R -AC0
Use Type	: Residential
Use Class	: Preferred

**Site Details**

Lot Area	: 866m <sup>2</sup>
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes
Street Furniture (drainage pits etc.)	: No
Site Details	: Refer to Figure 1 above

**[3908 Attachment 1 Amended Plans 4 Tweeddale Road Applecross](#)****DETAIL**

In October 2020 a development application was lodged for 6 grouped dwellings at 4 Tweeddale Road, Applecross. Prior to lodgement, the applicant engaged with the City to discuss the relevant development standards. In addition, the application was presented to the *Canning Bridge Design Review Panel* (CBDRP) for initial feedback on the design.

In response to concerns raised by the City, revised plans were submitted in February 2021 which reduce the height of the rear grouped dwellings and increase the setback to the rear boundary. These amended plans are the subject of this report.

The key document in the assessment of the proposal is the Canning Bridge Activity Centre Plan (CBACP) which was gazetted in April 2016 with the most recent amendment adopted by the WAPC on 22 September 2020.

The subject site is located at the edge of the H4 precinct of the CBACP which in principle permits residential development of up to four storeys in height. The adjoining properties to the north are located outside of the CBACP and are zoned R30 under the City's LPS6.

The proposed development has been assessed against all the relevant provisions of Local Planning Scheme No. 6 (LPS6), the CBACP and all relevant local planning policies. The proposal satisfies all such requirements with the exception of those matters listed in the table below. These matters require a performance assessment having regard to the desired outcomes of the CBACP.

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**Figure 2-** Subject site identified in green within the CBACP. The lots shaded in beige to the north are located outside of the CBACP area.

**Canning Bridge Activity Centre Plan**

Development Requirement	Requirements	Proposed	Comments	Delegation to approve variation
Rear setback	4 metres for ground and first floor.  8 metres for Second and third floor.	Unit 5 and 6 garage has nil setback  The second floor balconies of Units 5 and 6 have a rear setback of 6.1m.	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)
Side setback (west)	4 metres for each floor	Ground floor 1.0 – 3 metres  First and second floor 3.0 – 4.0 metres	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)

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<b>Development Requirement</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Side setback (east)	4 metres	Ground floor 1.0 – 4.0 metres  First and second floor 3.0 – 4.0 metres	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)
Street Setback	3 metres	Minimum 2 metres	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)
Balcony area	Minimum 10 square metres	Some balconies in Units 1-4 are smaller than the required 10m <sup>2</sup> however each dwelling is provided with an outdoor space greater than 10m <sup>2</sup> .	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)
Parking	Two – Three bed dwellings Minimum 1 bay Maximum 1.5 bays	Units 1,2,5 & 6 are three bedroom dwellings with two parking bays provided for each	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)

Commentary in this report focuses on the matters raised in the submissions received. All other matters listed above have been assessed against and are considered to meet the desired outcomes of the CBACP.

## **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 3.4(a)
Support/Object:	Three objections received.

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

<b>Summary of Issues Raised</b>	<b>Comments</b>	<b>Action (Condition/ Uphold/ Not Uphold)</b>
The proposal should follow the guidelines set out in the <i>Canning Bridge Activity Centre Plan</i> (CBACP)	The CBACP is a performance based document The setback variations are supported against the Desired Outcomes of the CBACP. Refer to the comments section below.	Not Uphold
The impact of the building bulk onto each property's air space	The setback variations are supported against the Desired Outcomes of the CBACP.	Not Uphold
Loss of visual privacy from the proposed dwelling	The provision of visual privacy does not apply within the CBACP. Refer to the comments section below.	Not Uphold
Overshadowing	The provision of solar access and overshadowing do not apply within the CBACP. Refer to the comments section below.	Not Uphold
Height of proposed dwellings	The proposed dwellings are compliant in regard to height, this being an H4 location where under the provisions of the CBACP, 4 storey development is supported in principle.	Not Uphold
Noise disturbance caused by new dwellings;	<p>Noise is not a material planning consideration that issue being dealt with under non planning legislation. The proposed residential use is an appropriate use in this residential location, and the noise associated with the operation of the residential uses will be readily accommodated as such, without rise to adverse amenity impacts.</p> <p>The subject site is located within an area designated to accommodate a growing population through infill development projects such as this. During the construction phase, contractors will be required to comply with the relevant noise legislation.</p>	Not Uphold

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPECROSS  
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The application was presented to the *Canning Bridge Design Review Panel* (CBDRP) in September 2020. See for the Minutes of this meeting.

**[3908 Attachment 2 Design Review Panel Notes September 2020](#)**

At its meeting, the CBDRP supported the proposed housing typology and identified the following strengths of the proposal:

- The proposed housing typology;
- By virtue of its typology, the proposal benefits from high levels of cross ventilation and dual aspect;
- The built form incorporates a number of curved elements which mediate scale whilst drawing from the local Art Deco historical context.
- The upper levels provide active spaces that overlook and engage with Tweeddale Road and the internal driveway and provide good activation and passive surveillance.

The panel members made a number of recommendations to the applicant, from the retention of the street trees, to the engagement of a landscape architect, the defining of the rear unit's ground floor entrance and the location of utilities.

The applicant has responded in a satisfactory manner and amendments have been made to the final proposed design. The development is therefore considered to be of an acceptable design quality which satisfies the requirements of the CBACP.

**FINANCIAL IMPLICATIONS**

There are no financial implications for the City relating to this proposal.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There is not considered to be strategic risk or environmental management implications associated with this application.

**POLICY IMPLICATIONS**

There are no policy implications for the City relating to this proposal.

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**COMMENT**

Setbacks

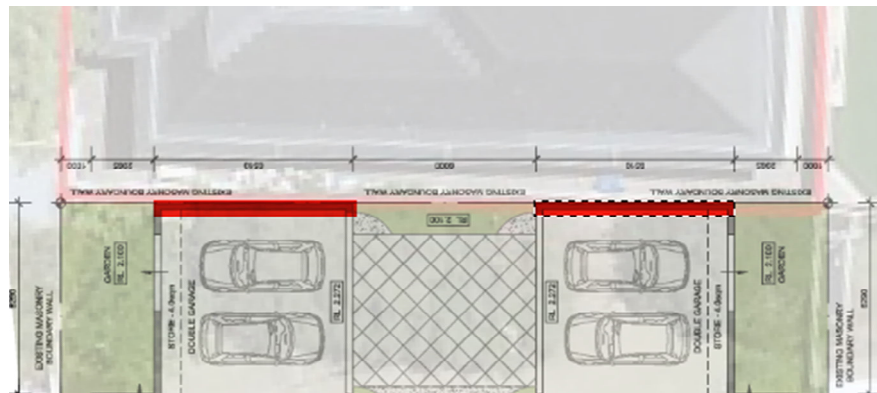
Under the provisions of Clause 5.6 of Element 5 *Side and Rear Setbacks* of the CBACP, the side and rear setback requirement is 4 metres. Further, the rear boundary of the subject site abuts a property which is outside of the CBACP. As such in accordance Clause 5.9 of Element 5, the rear setback for the third storey is required to be a minimum 8 metres from the common boundary. These matters are discussed in greater detail below.

*Ground floor Rear Setback*

The proposed garages for Units 5 and 6 have a nil setback to the rear boundary therefore a performance assessment is required against the Desired Outcome DO 5.

The proposed setback is supported for the following reasons:

- The location of the garage wall to each proposed property is on the southern boundary of 49 Canning Beach Road where, by virtue of their height and absence of major openings, there are no impacts on the adjoining property in relation to solar access or visual privacy; and
- As demonstrated in figure 3 below, the proposed garage boundary walls, abut an enclosed garage, gym and amenities building on the northern property. This structure does not contain any major openings towards the application site, nor does it provide any habitable spaces. The existence of this structure serves to mask the proposed garage walls from view, thereby ensuring there are no associated adverse amenity impacts towards the northern property, particularly in respect to visual bulk. The section drawing provided in support of the DA further demonstrates the relationship between the ground floor of the two properties and clearly shows that the amenity building on 49 Canning Beach Road will screen the ground floor of the proposed development.



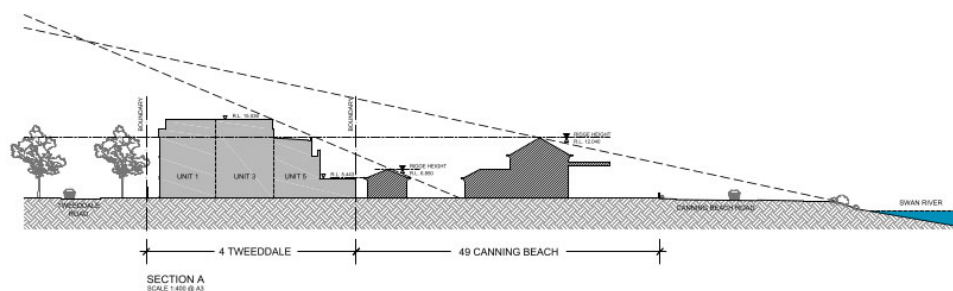
**Figure 3:** Ground floor plan of the subject site and its relationship with 49 Canning Beach Road. The lengths of wall subject to the setback variations are highlighted in red

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*Third Storey Rear Setback*

Clause 5.9 of Element 5 requires that the rear setbacks for the third and fourth storey shall be setback a minimum 8 metres from the common boundary. Given that the third storey of Units 5 and 6 present a setback of 6m, a performance assessment against the Desired Outcome DO 5 is required. The proposed setback is supported for the following reasons:

- The 8m side setback requirement for the upper two floors is recognised as the key measure designed to safeguard amenity where developments are proposed at the interface of the H4 area with land outside the CBACP boundary. The increased setbacks for those upper floors make it clear that there is a building transition from the more dense development that is encouraged by the CBACP and the lower intensity residential development styles that characterise the areas outside of the CBACP area. The applicant has managed this transition effectively through the stepping up of the development from a single storey to three storeys and finally to four storeys (see figure 4).

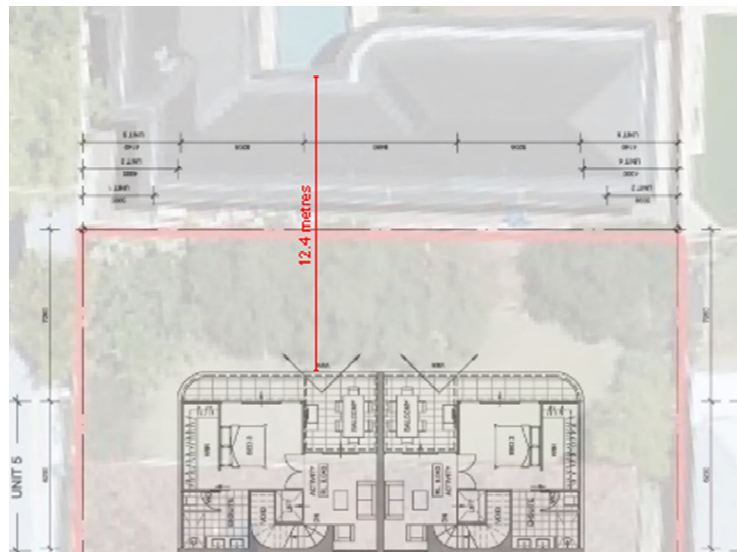


**Figure 4:** Cross sectional diagram showing the eastern elevation of the proposed dwelling with 49 Canning Beach Road

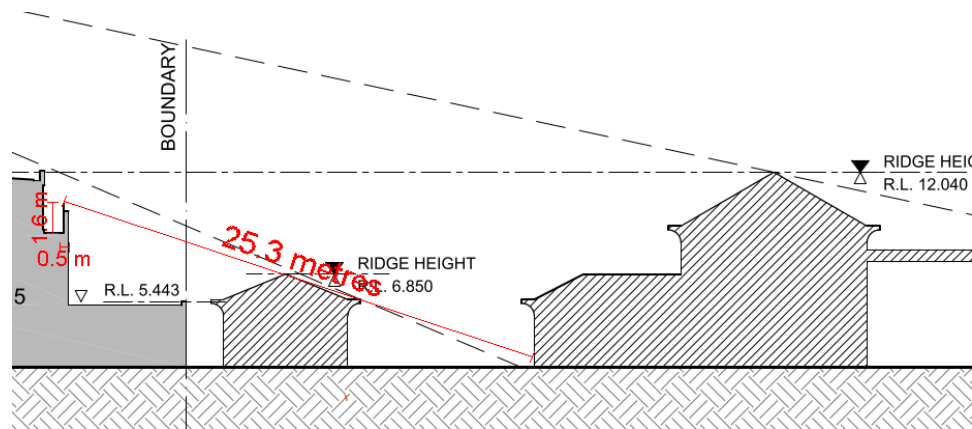
- Under the provisions of Element 5.7 of the CBACP there are no development controls relating to visual privacy and overshadowing. Setbacks are therefore the key development control for dealing with visual privacy, overshadowing and building bulk. Due to the orientation of the subject site, the shadow from the proposal falls towards Tweeddale Road and therefore the setbacks do not cause any amenity issues in the context of overshadowing;
- The proposed setbacks will not affect the view corridors of 49 Canning Beach Road as the home is orientated northward towards the Swan River and Perth City skyline; and

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The rear of 49 Canning Beach Road comprises of a garage, gym and covered alfresco area. This home has an uncovered pool and driveway in the centre of the property with the main structure being oriented north towards the river. Figures 5 and 6 demonstrate the relationship between the existing and proposed properties. The line of sight diagram demonstrates that views from the second floor balconies of Units' 5 and 6 largely fall onto the roof of the neighbouring rear structure. Figure 6 shows that a person stood on the balcony with a view towards the rear property at 49 Canning Beach Road has that view interrupted by the rear building of the adjoining property. The ridge line of this structure forces the line of sight away from the swimming pool and towards the rear elevation of the property, a distance of some 25.3m away. This distance alone serves to safeguard the occupiers of that property from any adverse overlooking impacts from the balconies in question.



**Figure 5:** The floor plan for the second floor of Units 5 and 6 and its relationship with 49 Canning Beach Road.



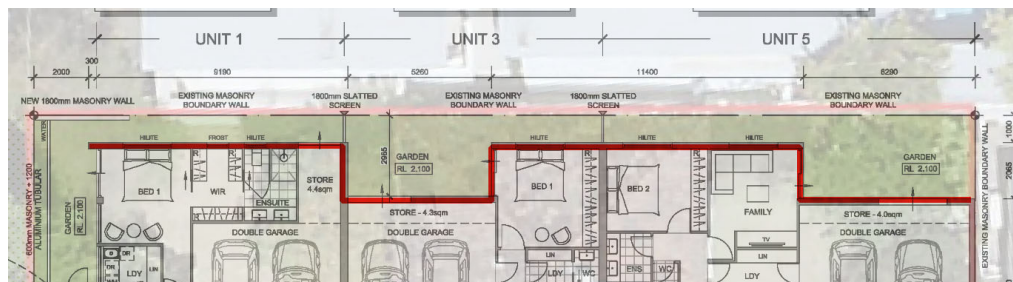
**Figure 6:** Line of sight illustration

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*Ground floor Side Setbacks to the Western and Southern Boundaries*

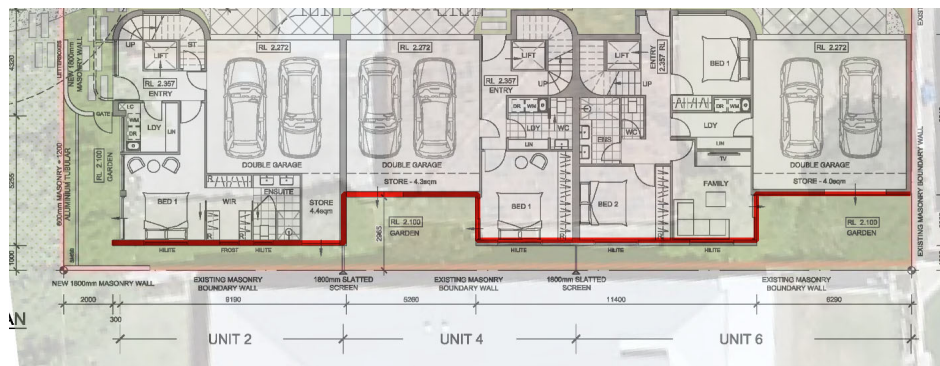
As the development proposes a minimum side setback of between 1m and 3m to the western and southern side boundaries in lieu of 4m, a performance assessment is required against the Desired Outcome DO 5 of Element 5. The proposed setbacks are supported for the following reasons:

- The proposed side setbacks will not affect the view corridors of the neighbouring properties on the east and west as the Swan River and Perth City skyline is located northward and these dwellings are oriented to capture these views;
- As seen in Figures 7 and 8 below, the development is well articulated along the ground floor, with the building being set back 1m at some points, and 3m at others. This design outcome coupled with the lack of major openings on the adjoining residences will ensure that adverse impacts towards the adjoining properties at 2b Tweeddale Road and 6 Tweeddale Road is minimised, and adverse amenity impacts are avoided;
- Due to the north south orientation of the lots and the design of the adjoining properties, the shadow cast from the building does not impact on major openings or habitable spaces; and
- As seen in figures 9 and 10, the subject walls do not abut any major openings or habitable spaces. Combined with its single storey nature this will ensure that there are no impacts to visual privacy of the adjoining properties.



**Figure 7:** Ground floor overlay of the proposal and its relationship with 6 Tweeddale Road. Setback variations are highlighted in red. Note there are no major openings on the eastern side elevation of No 6 Tweeddale Road

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**Figure 8:** Ground floor overlay of the proposal and its relationship with 2B Tweeddale Road. Setback variations are highlighted in red. Note there are no major openings on the western side elevation of No 2b Tweeddale Road.

*Upper Floor Side Setbacks to the Western and Southern Boundaries*

Proposed Units 1 and 2 have a side setback of 3 metres to the western and southern boundaries for the first and second floors. The third floor of units 1 and 2 incorporates a planter box to the proposed balcony. This is considered to be an architectural feature, the balcony itself being setback the requisite 4m in accordance with the CBACP provisions.

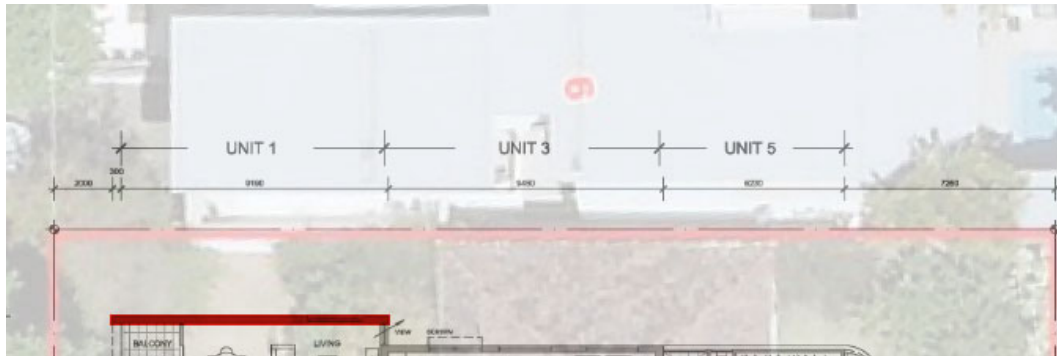
A performance assessment against the Desired Outcome DO 5 of Element 5 of the CBACP has therefore been undertaken in respect of the proposed first and second floor side setback of 3m.

The proposed setbacks are supported for the following reasons:

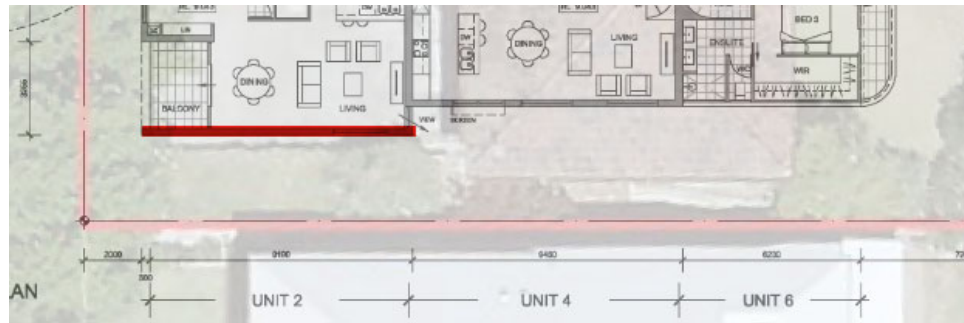
- The proposed setbacks will not affect the viewing corridors of the neighbouring properties to the east and west as the Swan River and Perth City skyline is located northward;
- As seen in the elevations below (refer Figures 9 and 10), Unit 1 and 2 do not abut any major openings or outdoor living areas. Given this, the bulk impact to the adjoining properties at 2b Tweeddale Road and 6 Tweeddale Road is minimised.
- Further to the above, the orientation of subject site ensures that solar access will not be impacted.
- The dwellings on either side of the development site have themselves been developed with minimal upper floor setbacks. The proposed setbacks will therefore be consistent with the existing streetscape character in this portion of Tweeddale Road.



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**Figure 11:** Second floor plan of the proposed development and its relationship with 6 Tweeddale Road. The setback variation is highlighted in red



**Figure 12:** Second floor plan of the proposed development and its relationship with 2B Tweeddale Road. The setback variation is highlighted in red

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**Figure 13:** View north of the existing dwelling from Tweeddale Road. The tree seen in the foreground is to be retained



**Figure 14:** View east to the existing home at 2B Tweeddale Rd, noting absence of major openings.

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**Figure 15 and 16:** View west to 6 Tweeddale Road noting existing boundary wall and general absence of major openings within this side elevation



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The Council may choose to refuse to grant approval for the proposed development and provide a reason for doing so. If the Council chooses to refuse the application, the applicant may exercise a right of review to the State Administrative Tribunal.

**CONCLUSION**

The proposed development is considered to be consistent with the intent and provisions of the CBACP and the Local Planning Scheme No.6. The application is recommended for conditional planning approval on that basis.

**OFFICER RECOMMENDATION (3908)****APPROVAL**

**That the Council approves DA-2020-1300 for 6 Grouped Dwellings at Lot 12 (4) Tweeddale Road, Applecross WA 6153 subject to the following conditions:**

- 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.**
- 3. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.**
- 4. Prior to the initial occupation of the development, the boundary walls shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.**
- 5. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.**
- 6. The development shall be serviced by a concrete or brick paved vehicle crossover with:**
  - a. a maximum width of 6m;**
  - b. located a minimum of 2m away from the outside of the trunk of any street tree; and**
  - c. a minimum of 1m from any existing street infrastructure.**

**The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications to the satisfaction of the City.**

- 7. Prior to occupation of the dwellings the access leg depicted in red on the approved plans is to be marked as common property on the Strata Plan**

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8. 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
9. Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:
  - a. A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
  - b. If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
  - c. Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
  - d. The following actions shall not be undertaken within any TPZ:

Storage of materials, equipment fuel, oil dumps or chemicals

    - i. Servicing and refuelling of equipment and vehicles
    - ii. Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
    - iii. Open-cut trenching or excavation works (whether or not for laying of services)
    - iv. Changes to the natural ground level of the verge
    - v. Location of any temporary buildings including portable toilets
    - vi. The unauthorised entry by any person, vehicle or machinery
  - e. No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.
10. 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.
11. Fencing and all structures within the front setback area are to comply with Clause 10.7 of Element 10 of the Canning Bridge Activity Structure Plan with a maximum height of 1.2m to the satisfaction of the City.

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12. In accordance with Local Planning Policy LPP1.4 Provision of Art in Development Proposals, prior to the commencement of development, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City.
13. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:
- a. public safety and site security;
  - b. hours of operation,
  - c. noise and vibration controls;
  - d. air and dust management;
  - e. stormwater, groundwater and sediment control;
  - f. waste and material disposal;
  - g. Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
  - h. the parking arrangements for contractors and sub-contractors;
  - i. on-site delivery times and access arrangements;
  - j. the storage of materials and equipment on site (no storage of materials on the verge will be permitted) ; and
  - k. any other matters likely to impact upon the surrounding properties or road reserve.

Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.

14. Prior to the commencement of development , a detailed landscaping and reticulation plan for the subject site and the road verge adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include details of (but not limited to):
- a. The location, number and type of proposed trees and shrubs including planter size and planting density;
  - b. Any lawns to be established;
  - c. Any existing vegetation and/or landscaped areas to be retained;
  - d. Any verge treatments; and
  - e. The landscaping treatment to be applied to the drive way access leg boundary.

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.