

Item P21 -3943 Amendment to Single House Site Works and Screening Lot 802 (10 D) Birdwood Circus, Bicton

### **Applicant's Deputation**

The Applicant makes the following Deputation in relation to Item P21 -3943 Amendment to Single House Site Works and Screening Lot 802 (10D) Birdwood Circus, Bicton.

1. All habitable spaces at 10 D Birdwood Circus (**Property**) have been constructed in accordance with the current design approval from the City of Melville (**City**).
2. The Applicant supports the conclusion and recommendation of the DAU Report dated 13 July 2021 (**DAU Report**) and refers to the DAU's assessment of the Applicant's Property as compliant with the relevant planning framework, including the design principles of the Residential Design Codes (**R Codes**).
3. The Applicant otherwise rejects the DAU's assessment of the background of the Application as recorded in the DAU Report that "the Application is a result of a compliance matter where site works occurred without approval which created a visual privacy issue with the Northern Neighbour". For clarity, it is the Applicant's position that:
  - 3.1. The City have never provided the Applicant with any notice of non-compliance or verbally advised the Applicant of a non-compliance issue.
  - 3.2. The relevant works referred to have been completed in accordance with the original Design Application and are within the allowances and tolerances prescribed within the City of Melville bylaws and the R Codes.
  - 3.3. No fill has ever been brought into the Applicant's Property. Fill has been removed.
  - 3.4. The Applicant's Property has never been surveyed by the City.
  - 3.5. The amended Design Application that forms the basis of this Application was filed by the Applicant on the advice of the City as a way to addressing the Northern Neighbour's concerns.
  - 3.6. The grassed hill in lieu of stairs in the Applicant's landscaping does not create the privacy issue which has arisen from the difference in the Relative Level (**RL**) of the Applicant's primary habitable living area (ground floor) and the Northern Neighbour's secondary outdoor living area (**Privacy Issue**).
4. The Privacy Issue includes direct visual overlooking from the:
  - 4.1. Applicant's primary habitable ground floor spaces into the Northern Neighbour's secondary outdoor living space.
  - 4.2. Northern Neighbour's secondary outdoor living space into the primary habitable areas of the Applicant's ground floor spaces (which includes a playroom (Rumpus) for the Applicant's three young children) and the Applicant's secondary outdoor living space.  
*Please see annexure A and B.*
5. The Northern Neighbour's direct visual overlooking into the Applicant's primary habitable living spaces is a significant concern for the Applicant who has three young children aged five and under. The Northern Neighbour's currently have a security camera located in the north-east corner of the Northern Neighbour's secondary outdoor living area which has direct visual overlooking into the Applicant's property including the Applicant's primary

habitable ground floor spaces and the children's playroom (Rumpus). *Please see annexure C Applicant's photograph taken from inside the Applicant's playroom.*

6. The Applicant has at all stages of the construction process attempted to communicate, consult and engage with the Northern Neighbours to find a solution to the Privacy Issue. The Applicant has provided three solutions during the Application process to address and ameliorate the Privacy Issue. The Northern Neighbour has rejected those three proposed solutions. The Northern Neighbour has not provided any alternate solutions to the Privacy Issue. The Privacy Issue has a significant impact on both parties and needs to be addressed.
  
7. The Applicant supports the DAU finding that the (5m) Screening Proposal addresses the Privacy Issue and is the best available solution in circumstances where the Screening Proposal:
  - 7.1. Provides a reasonable level of screening and privacy for **both** the Applicant and the Northern Neighbour at the minimum height and length.
  - 7.2. Minimises the Northern Neighbour's direct visual overlooking into the Applicant's primary habitable ground floor living areas.
  - 7.3. Minimises the Applicant's direct overlooking into the Northern Neighbour's secondary outdoor living area.
  - 7.4. Is located at the southern side of the Northern Neighbour's rear boundary fence within the Applicant's Property and does not affect the Northern Neighbour's access to northern sunlight (no overshadowing) and ventilation.
  - 7.5. Does not impact the outlook from the Northern Neighbour's east facing bedroom window.
  - 7.6. Is set back 0.4 metres from the Northern Neighbour's lot boundary to mitigate the impact of any building, bulk or scale on the Northern Neighbours and is physically separated from the fence.

ANNEXURE A



PROPOSED SCREEN SOLUTION AS VIEWED FROM THE APPLICANTS PRIMARY HABITABLE SPACE.

ANNEXURE B



PROPOSED SCREENING SOLUTION LOCATION, AS VIEWED FROM NORTHERN NEIGHBOURS SECONDARY OUTDOOR AREA.

**ANNEXURE C**



**NORTHERN NEIGHBOURS  
SECURITY CAMERA**

**THIS IMAGE IS TAKEN FROM  
THE HABITABLE SPACE INSIDE THE BUILDING,  
NAMELY THE CHILDRENS PLAY ROOM (RUMPUS)**

**CURRENT OVERLOOKING ISSUE. IMAGE TAKEN FROM THE APPLICANTS PRIMARY  
HABITABLE SPACE.**