

LATE ITEM P22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (N0.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DA-2021-214/C
 Property : Lot 90 (No.23) Carron Road, APPLECROSS WA 6153
 Proposal : Two storey single house
 Applicant : Ionic Projects Pty Ltd
 Owner : George Eustratios Manios
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable.
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

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 & 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	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 (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

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KEY ISSUES / SUMMARY

- The proposed development was presented to the Development Advisory Unit meeting held on 31 May 2022 and a report was published on the City's website. The development application has now been called up to Council by Cr Ross for determination in accordance with the procedures outlined in the Local Planning Policy 1.1.
- The reason for the call up as provided by Cr Ross is as follows: *The amendments sought include reductions of the primary and side setbacks and increased building height above the maximum height limit specified for residential development in the area. The development is on a 1004sqm lot and requiring reduced setbacks and increased heights on such a large Lot seems unnecessary or indicates a building mass that is oversize or inconsistent with other residential developments in the area.*
- In June 2021, Development Approval was granted for a two storey single house with roof top terrace at Lot 90 (No. 23) Carron Road, Applecross. Subsequent amendments were granted development approval by the City in July 2021 and September 2021.
- This application proposes further amendments to the previous approvals.
- A performance based assessment is sought in respect of the proposed building height and setbacks.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response seven objections and a multi signature letter were received relating to the amenity impact of the building in terms of building height, loss of views and overshadowing.
- The concerns raised in the submissions received were considered in detail by the DAU, who concluded based on a performance assessment including an assessment of the impacts that the development as proposed would have upon the amenity of impacted adjoining properties, that the development was acceptable. This is reflected in the DAU report which is currently published to the City's website. The application was recommended for approval subject to conditions by the DAU. It is now recommended that approval be granted by the Council, subject to conditions.

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Figure 1 – Aerial Photography

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R15
Use Type	: Residential
Use Class	: Permitted

Site Details

Lot Area	: 1004m2
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Not Applicable
Site Details	: Refer photo above

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DETAIL

The current development application seeks approval for various amendments to the previously approved development, including the following:

- The reconfiguration of the internal layout;
- Changes to the roof top terrace layout;
- Increased building height;
- A reduced street setback to Killilan Road
- Reconfigurations of the ground floor outdoor living area fronting Carron Road on the east of the site;
- A decreased setback to the western side at Level 1; and
- Modification to the gatehouse.

In respect of the subject application plans [Application Amendment DA 2021 2014 B 23 Carron Road Plans](#), negotiations with the City have resulted in further amendments being made to reconfigure the structures on the roof top terrace and reduce the building height. These amended plans are the subject of this report.

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS No.6), Local Planning Policy 3.1 'Residential Development' (LPP3.1), Local Planning Policy 1.9 'Building Height' (LPP1.9) and the relevant provisions of R-Codes. A performance assessment is required in respect of the matters listed below.

R-Code Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
CI 5.1.6 (LPP1.9) Building Height	Eaves - 8m Maximum Height – 10.5.	Amended Height 11.3m to lift/lobby. Outdoor dining area pergola roof. Amended Height 11.8 (east side) 11.3m (west side)	To be assessed on performance basis.	Development Advisory Unit (DAU)
Clause 5.1.3 C3.1 Lot Boundary Setbacks	Western boundary (side) Level 1 - 3.0m	1.2m	To be assessed on performance basis	Development Advisory Unit (DAU)
Clause 5.3.7 C7.2 Site Works	Fill and retaining walls up to 0.5 metres within street setback area.	1.2m fill (Carron Road)	To be assessed on performance basis	Manager Statutory Planning (MSP)

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5.2.4 Fences and Street Walls Secondary Street	Walls located within the secondary street setback area are to be visually permeable above 1.2 other than opposite the primary outdoor living area. Pier max height 2m Infill panels 1.2m	1.2m – Retaining Wall 1.2m Clear Pool Glass Total Height - 2.4m (Carron Road)	To be assessed on performance basis	Manager Statutory Planning (MSP)
Primary Street Setback (Killilan Road)	Min 1.5m / Average 3m	Min 1.5m / Average 2.62m	To be assessed on performance basis Requires	Manager Statutory Planning (MSP)
5.2.4 Fences and Street Walls Secondary Street Gate House	Gate or entry way visually permeable Max. width and length 2m or 20% frontage (whichever is less) 2.4m wall height 3m overall height Materials compatible with dwelling or front fence	Proposed width 3m Proposed wall height 3m	To be assessed on performance basis	Manager Statutory Planning (MSP)

Given the concerns of submitters relate to the proposed building height and western side setback only, further commentary in this report is confined to consideration of the impacts that those matters have on the amenity of those that have raised them, relative to the associated performance criteria as provided by the design principles of the R Codes.

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 1.7.6
Support/Object:	Seven Objections plus a Multi Signature Letter opposing the development.

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

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
The additional building height is contrary to the City's building height policy/Residential Design Codes, Volume 1.	Refer to the comments section of this report.	Not Uphold
The additional building heights will impact views of significance.	Refer to the comments section of this report.	Not Uphold
The reduced setback will result in privacy and security concerns.	Refer to the comments section of this report.	Not Uphold
The additional height is not in keeping with the existing built form.	Refer to the comments section of this report.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval and the applicant chooses to have the decision reviewed, there are likely costs for the City including legal fees and consultant fees.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no strategic, risk or environmental management implications with this application.

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POLICY IMPLICATIONS

The details of the proposed development have been considered against and are considered to satisfy the City's planning policy requirements. As the submissions received raise concerns regarding the proposed building height and the western side setback to the first floor of the proposed house, these matters and the impacts that accrue from them are considered in more detail below.

COMMENT

The proposed development is located within an established residential area of Applecross. The area is subject to constant change as older more traditional residential properties are cleared to make way for more contemporary homes, some of which are two or three storey in height, and all of which are generally significantly larger than those older more traditional properties were.

The subject site is located a full street block (approximately 180m) away from the Swan River foreshore. It is a corner lot, located at the north-west intersection of Carron Road and Killian Road.

The lot has an east west upward slope of some 2m, with a 7m contour level close to the eastern side close to Carron Road itself, and a 9m contour level in the south-west side close to No12 Killian Road.

The proposed dwelling has been designed in a way which responds to the topography of the site as well as taking advantage of the sites' proximity to the river and associated views. The surrounding dwellings along Killian and Carron Roads exhibit a wide range of residential building styles, ages and heights. It is noted that two and three storey buildings are common in the Applecross area and there are many examples of these within close proximity to the site. At two storey with a roof top terrace the general scale and associated height of the proposed dwelling is considered to be consistent with the existing and desired streetscape character of the area.

Building height

The proposed building height requires a performance assessment having regard to the design principles contained in Clause 5.1.6 'Building Height' of the R-Codes. These design principles seek to ensure that development is appropriate to the streetscape, maintains adequate levels of sunlight to adjoining properties and maintains access to views of significances where appropriate.

The proposal meets the design principles for the following reasons:

- The building has been designed so that the more substantial components such as the lift, stair well and amenities which service the roof terrace are located towards the rear of the site significantly setback from the street. The pergola is designed to be a lightweight structure with minimal supports and a low profile roof while glass balustrades are provided along Killian and Carron Roads. The pergola and the balustrades are also setback from the street in excess of the deemed to comply standards and ensure that any adverse bulk impacts are avoided.

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- The proposed building is well articulated, through the use of varied setbacks, floor to ceiling windows, landscaping and a mix of materials which combine to reduce the bulk impact on to the adjoining properties.
- In terms of building height, as elements of the proposed development seek approval under the performance criteria, consideration must be had to the impacts that the development has at its proposed height towards the amenity that is currently enjoyed by the occupiers of adjoining properties whose views of significance may be prejudiced.
- It is noted that the term 'views of significance' is not defined by, nor is detail provided in the explanatory sections of the R-Codes. It is therefore the City's role to make a determination as to whether or not the proposed development maintains access to views of significance, and/or assess the extent to which such views are compromised by the elements of the buildings height which exceed the deemed to comply height level, which in this case is 10.5m, and for the purposes of this assessment relate to structures located on the roof top terrace of the proposed development and include an open style pergola, and the lift/lobby/stairwell.
- Based on the City's assessment, and taking account of the submissions received, the applicant has provided a cross-section (See Figure 2 below) showing the floor level of the roof top terrace (marked in green) and the balcony & study floor level (marked in yellow) of the property at the corner of Killian Road and Strome Road. This property is considered to be the most impacted by this proposed building height.
- In the context of a significant view, it is noted that given the distance away from the foreshore edge, the properties in and around the application site do not enjoy uninterrupted views of the river and towards the City. Rather, glimpses of the City skyline are afforded, compromised by buildings in the foreground. Such views are also generally only possible from the upper floors of buildings.
- The floor level of the dwelling at the corner of Strome Road and Killian Street was obtained by a surveyor and this floor level was cross checked against the Building Licence plans approved by the City in 2017. A further diagram has been produced illustrating that habitable rooms at the property on the corner of Killian Street and Carron retain access to views either side of the structure located on the roof top terrace. For clarity, the habitable openings have been marked in yellow and structures on top of the roof top terrace have been marked in green. It should also be noted that the property at the corner of Strome Road and Killilil Road will still have access to other views towards the Swan River to the east. In Figure 3 view corridors are depicted by red arrows.
- It is concluded therefore that the maximum height of the proposed development does not compromise views of significance, nor do the structures which comprise the roof top terrace compromise streetscape amenity in general terms.

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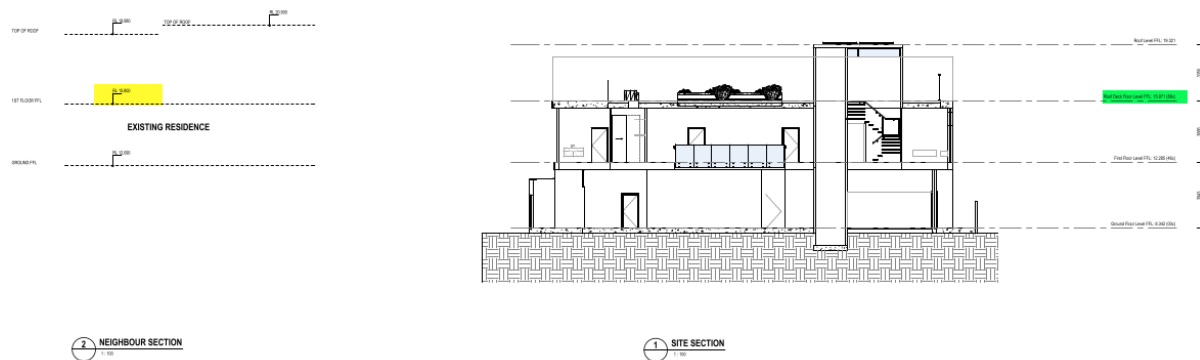


Figure 2: Cross-Section – No. 26 Strome Road (Yellow) No. 23 Carron Road (Green)

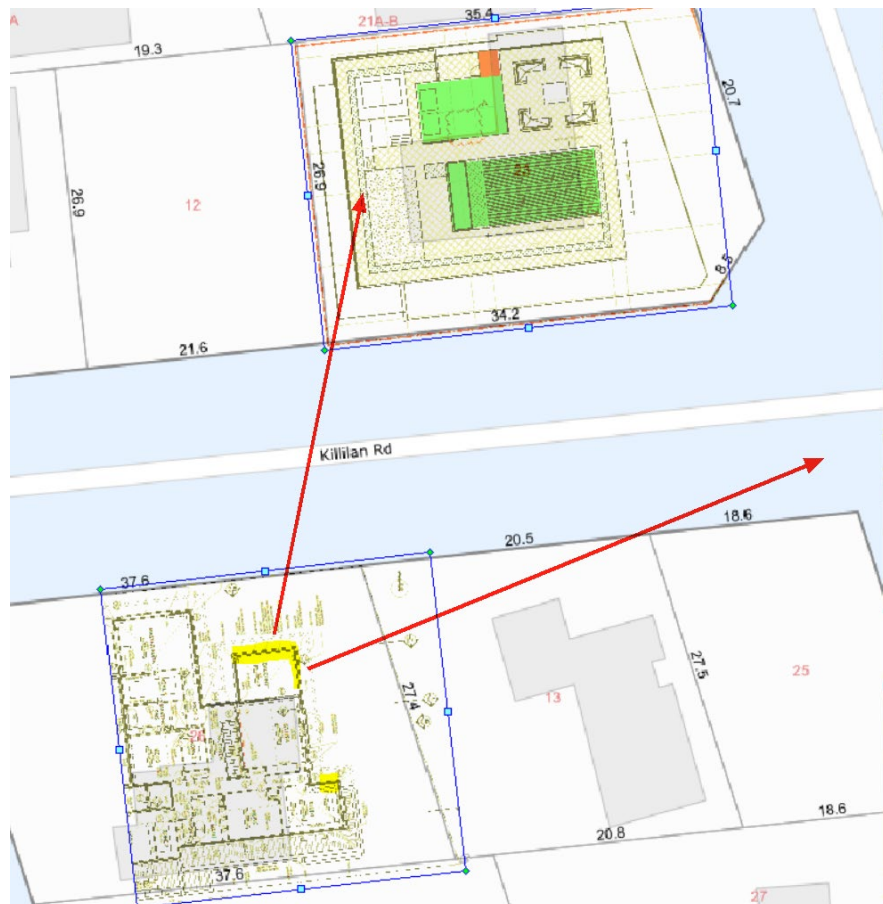


Figure 3: View Corridor

Side (western) Boundary setback

In accordance with Clause 5.1.3 Lot Boundary Setbacks C3.1 (i) of the R-Codes, walls with non-major openings that are less than 7.5 metres high and less than 25 metres in length require a setback of 3.0 metres from a side lot boundary to meet the deemed to comply provisions. The proposed development has been designed on the upper floor with bedrooms and associated ensuite bathroom's located along the western side. The actual building edge proper at this point is setback 3.1m and as such is in accordance with the deemed to comply provisions of the R Codes.

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The design of the proposed house has however incorporated a balcony along the western side, with access to it from each of the bedrooms located there. This balcony incorporates a glazed balustrade, screened to ensure that there are no visual privacy impacts. It is this screening/balustrade, setback a minimum 1.2m from the western side boundary, that constitutes the variation to the R Codes highlighted by this report. The balustrade, which for the purposes of the assessment is classed as a wall, has been assessment against the associated Design Principles of the R-Codes. The proposed balustrade/wall is considered to meet the Design Principles of the R-Codes for the following reasons:

- The setback variation comprises a glazed balustrade which by its very nature is lightweight, and no more than 1.6m in height above the finished floor level of the upper floor.
- The screening wall/balustrade to the balcony does not oppose any active habitable spaces nor does the screening directly abut any major openings on the adjoining property at 12 Killian Road, there being two non-major openings on that property at the upper floor levels as depicted by Figure 4 below.
- A two storey vertical screen structure is located on the neighbour's house at the northern end which provides screening to north facing major openings, see Figure 4 below;
- The orientation of the wall will ensure that no access to direct sunlight and/or ventilation will result;
- No major openings are proposed due to the balcony screening being 1.6m high. The Residential Design Codes, Volume 1, state that openings with obscured screening up to 1.6m high are not considered to be major openings.



Figure 4 – Western Property

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ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The statutory alternative for refusal of the application for planning approval is the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

CONCLUSION

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION (3988)

APPROVAL

That the Council approves DA-2021-214/C for amendments to a Two Storey Single House at Lot 90 (23) Carron Road, Applecross WA 6153 subject to compliance with the following:

- A) The previous planning approval DA-2021-214 dated 11 June 2021, DA-2021-214/A dated 12 July 2021 and DA-2021-214/B dated 10 September 2021 (including remaining conditions); and**
- B) The approved plans (referenced Site Plan, Ground Floor Plan, First Floor Plan, Second Floor Plan and Elevations); and**
- C) Condition 11 of Planning Approval DA-2021-214 being modified as detailed below:**
 - 11. Prior to the initial occupation of the development, northern end Level 1 Balcony (as marked in RED on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.6 metres above the finished floor level, or any other screening alternative approved by the City that complies with C1.1 or C1.2 of Clause 5.4.1 of State Planning Policy 7.3 Residential Design Codes Volume 1. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the City.**