

LATE ITEM P22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42) DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward : Applecross - Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2021-1204
 Property : Lot 6 (No. 42) Duncraig Road, Applecross WA 6153
 Proposal : Three Storey Single House with roof terrace
 Applicant : Steve Paterson Building Design
 Owner : L & M Castelli
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Peter Prendergast
 Responsible Officer : 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 (e.g. 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

- Development approval is sought for a three storey Single House with roof terrace at Lot 6 (No. 42) Duncraig Road, Ardross. A performance-based assessment is sought in respect of building height and the rear setback.
- 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 for determination in accordance with the procedures outlined in the Local Planning Policy 1.1 by Cr Pazolli for the following reason: *Performance assessment regarding building height with respect to Roof Terrace and impact on neighbour property overlooking and privacy.*
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), Local Planning Policy 3.1 – Residential Development (LPP3.1), and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed development requires a performance assessment in relation to building height and rear setback to ground floor alfresco area.
- The proposed development was advertised to the surrounding landowners in accordance with part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- Three submissions were received with two opposing the development, and one in support. 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 subject to conditions, by the Council.
- Notwithstanding the objection received, the proposed development is considered acceptable when assessed against the relevant Design Principles of the R-Codes and policy objectives of LPP3.1.
- It is recommended that approval be granted subject to conditions.

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Figure 1: Aerial photography of subject site

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R12.5
Use Type	:	Single House
Use Class	:	'P' Permitted Use

Site Details

Lot Area	:	864sqm
Retention of Existing Vegetation	:	Yes
Street Tree(s)	:	Yes
Street Furniture (drainage pits etc)	:	Yes - Footpath

[3989 DA 2021 1204 42 Duncraig Road Applecross App and Plans](#)

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DETAIL

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.

State Planning Policy 7.3 - Residential Design Codes Volume 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Table 1 Minimum rear setback	Minimum 6m rear setback for R12.5	A portion of the rear alfresco area has a setback of 4.5m in lieu of 6m	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

Local Planning Policy 1.9 – Height of Buildings

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 2.1 Permitted Building Height	External Wall (concealed roof) 9m	11.6m	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

Given the concerns of submitters relate to the proposed building height 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.

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: Two objections and one comment of support received

As part of the assessment followed by the City, amendments were sought from the applicant to address a number of planning issues including reassessment of natural ground levels. Amended plans were received which are the subject of this assessment.

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

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Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Building height to have an adverse impact on the amenity of the surrounding area and adjoining property	Refer to the comments section of this report.	Not Uphold
Visual privacy - ensure that screening proposed is retained to the proposed roof terrace (regardless of the setback being greater than 7.5m) Screening be provided to the rear of the roof terrace notwithstanding the Deemed to Comply setback.	The Deemed to Comply provisions of the R Codes (Clause 5.4.1 C1.1 Visual Privacy) are achieved.	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

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

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COMMENT

Building Height

The permitted building height for a property designed with a concealed roof under the provisions of LPP 1.9 is 9m. In this case, approval is sought for a maximum building height of 11.6m to accommodate a roof terrace stair well and storage/services area. Where a proposal exceeds the height under LPP1.9 it is required to be assessed having regard to the Design Principles contained in Clause 5.1.6 of Volume 1 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 proposed building height is considered to meet the design principles for the following reasons:

- The proposed roof terrace is located towards the centre of the site and is setback 16.2m from the front boundary, 9.4m from the south west boundary and 7.6m from the north east and rear boundaries. The roof terrace is designed using similar materials to the remainder of the house ensuring that it will assimilate with the overall development.
- The roof terrace is open on three sides, using a combination of rendered and glass balustrading and covered by a slim line pergola. (See Figure 2). The setbacks provided and relatively open design mitigates adverse bulk and scale impacts on the adjoining properties and the streetscape.
- The proposed dwelling is not out of keeping with the immediate area with respect to streetscape. Figure 3 shows a streetscape montage which includes the existing dwelling to the left and potential or permitted heights on the currently vacant site adjoining to the right.
- The location and design of the terrace provides for view corridors towards the river for adjoining properties.
- The proposed roof terrace retains access to light and ventilation on adjoining properties due to its location on the lot.
- The roof terrace includes glazed balustrades which are set back from all sides. In the case of the submission received from the adjoining property at 7 The Strand, whereby concern is expressed that the use of the roof top terrace will adversely impact on the enjoyment by the occupiers of the outdoor living areas associated with 7 The Strand, it is considered that such adverse amenity impacts are avoided by the setback provided coupled with the fact that the finished floor level of the proposed roof top terrace is located at a height of 9.4m, a modest 40cms above the deemed to comply height.

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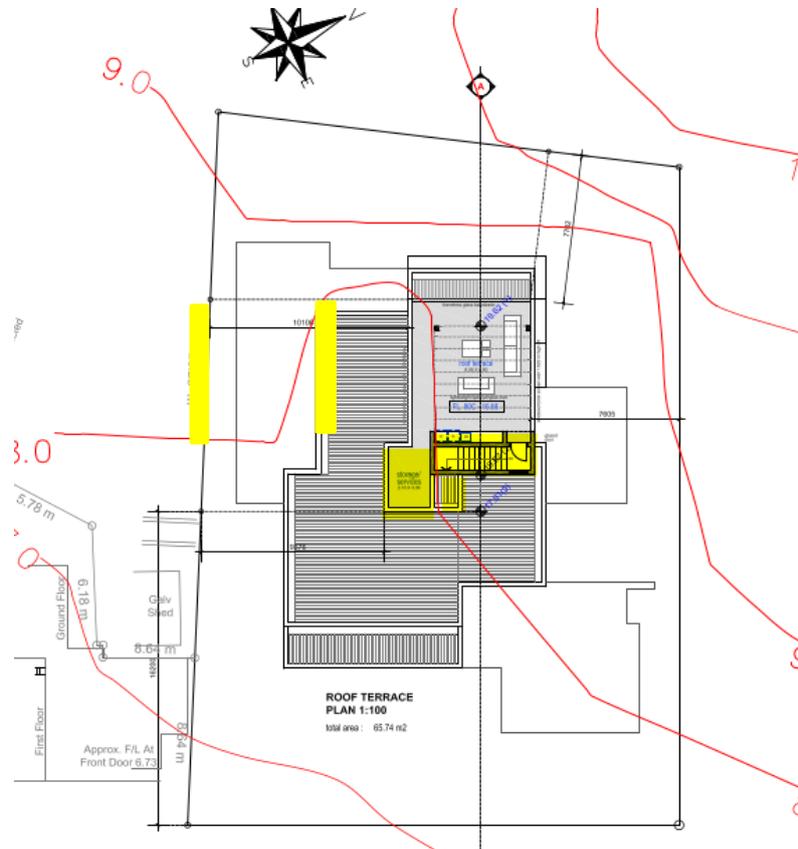


Figure 2: Yellow highlight showing enclosed area of the roof terrace above permitted height

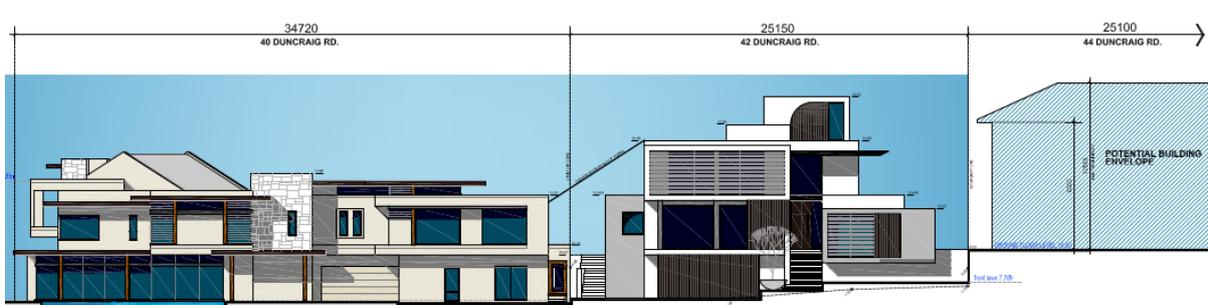


Figure 3: DunCraig Road streetscape with permitted building heights on the adjoining vacant site at 44 DunCraig Road

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*.

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CONCLUSION

This proposal has been assessed and is considered to meet the objectives with the relevant planning framework, including the relevant Design Principles of the R-Codes. Therefore, the development is recommended for approval subject to the following conditions:

OFFICER RECOMMENDATION (3989)

APPROVAL

That the Council approves DA-2021-1204 for a three storey single house with roof terrace at Lot 6 (No.42) Duncraig Road, Applecross WA 6153 subject to compliance with the following:

- 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 commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossovers shall be designed to be;**
 - a maximum width of 6m;**
 - located a minimum of 2m away from the outside of the trunk of any street tree; and**
 - a minimum of 1m from any existing street infrastructure.**

The approved crossovers are to be constructed prior to the initial occupation of the development to the satisfaction of the City.

- 4. 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.**
- 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. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 4 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.**

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- 7. All trees on the City's verge to be managed in accordance with Tree Policy (CP-029). 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 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.**
 - 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.**
 - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.**
 - The following actions shall not be undertaken within any TPZ:**
 - Storage of materials, equipment fuel, oil dumps or chemicals**
 - Servicing and refuelling of equipment and vehicles**
 - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)**
 - Open-cut trenching or excavation works (whether or not for laying of services)**
 - Changes to the natural ground level of the verge**
 - Location of any temporary buildings including portable toilets**
 - The unauthorised entry by any person, vehicle or machinery**
 - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's 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.**
- 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. The on-site tree/s to be retained (as marked in red on the approved plans) shall be maintained in perpetuity, to the ongoing satisfaction of the City.**