

**LATE ITEM P22/3969 - THREE STOREY SINGLE HOUSE – LOT 2 (NO.4) DEE ROAD
APPLECROSS WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2021-1275
 Property : Lot 2 (No.4) Dee Road APPLECROSS WA 6153
 Proposal : Single House
 Applicant : Urbane Projects
 Owner : Ms S M Bennett
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item P22/3969 – Three Story Single House – Lot 2 (No 4) Dee Road Applecross - Special Meeting of Council held 7 February 2022.
 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	<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 (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<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 proposed three storey single house at Lot 2 (No.4) Dee Road, Applecross.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes) and relevant local planning and council policies.
- In accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making, the proposed development was advertised to the adjoining owners and occupiers.
- Two submissions were received which objected to the front setback, rear boundary setback, building height, driveway gradient and permeability of retaining walls,
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- The application was referred to the Development Advisory Unit (DAU) on 25 January 2022. The DAU determined that the application be recommended for approval subject to conditions.
- Following the DAU meeting, the development application was called up to Council by Cr Pazolli for determination in accordance with the procedures outlined in the Local Planning Policy 1.1.
- The item was considered at a Special Meeting of Council held 7 February 2022, at which it was resolved "That the Motion be deferred for up to four weeks to allow for the applicant and affected landowners to negotiate resolution of their concerns."
- As the item was deferred the Officer Report and recommendation presented to the Special Meeting has not been amended and an Addendum has been provided advising that the expressed concerns of the third parties are now resolved.
- It is recommended that the Council approve the application subject to conditions.



Figure 1 – Aerial Photography

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BACKGROUND

Scheme Provisions

MRS Zoning : Urban
 LPS6 Zoning : Residential
 R-Code : R12.5
 Use Type : Residential
 Use Class : Permitted

Site Details

Lot Area : 994m²
 Retention of Existing Vegetation : No
 Street Tree(s) : Yes to be retained
 Street Furniture (drainage, pits, etc.) : Not applicable
 Site Details : Refer photo above – Figure 1

DETAIL

In November 2021 a development application was lodged for a three storey single house at Lot 2 (No.4) Dee Road; Applecross.

[3969 Applicants Copy DA 2021 1275 Two Storey Single Dwelling with Undercroft 4 Dee Road Applecross](#)

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS6), State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies. A performance assessment is required in respect of the matters listed below.

State Planning Policy 7.3 Residential Design Codes Vol. 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 5.1.3 Lot Boundary Setbacks	6 metres - Rear Setback	Minimum 2 metres on the ground floor and 3.6 metres on the first floor.	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

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Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.3.7 Site Works	Fill and retaining walls to not exceed 0.5 metres within 1 metre of the lot boundary; and site works to not exceed 0.5m within front setback area	Cut approximately 2-3 metres on the western side	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

Local Planning Policy 3.1 Residential Development

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 1 Part C2.1(iii)	Building setbacks in R12.5 3.75 metre minimum 7.5 metre average	Ground floor Minimum 1.3 metres Average 4.6 metres First Floor Minimum 5.1 metres Average 7.36 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
Clause 4 Fences and Street Walls	Walls located within the front setback area are to be visually permeable above 1.2 metres	Portions of the fencing exceed the 1.8 metre maximum height requirement	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

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STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comments Supplied: Yes
 Reason: Required pursuant to LPP 1.1 Planning Process and
 Decision Making Clause 1.7.6
 Support/Object: 2 objections were received

A summary of the objection received and a response is provided in the table below.

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Encroachment of the development into the rear setback area will create a bulk impact to the dwelling under construction	Refer to the comments section of this report.	Not Uphold
Rear setback is not compliant	Refer to the comments section of this report.	Not Uphold
Height of the building is not compliant	The height of the development is compliant with the City's LPP 1.9 Height of Buildings.	Not Uphold
The front setback is not compliant	The proposal is considered to satisfy the design principles contained within C 5.1.2 <i>Street Setbacks</i>	Not Uphold
The terraced area does not have any balustrading which will cause a safety hazard. Any future balustrading will increase the size of the wall	In lieu of balustrading, the applicant has proposed a large amount of landscaping to act as a buffer between the entertaining space and the edge. Any future balustrading will be required to meet with the requirements of the BCA and the visual permeability requirements of the R Codes.	Not Uphold
The retaining walls within the front setback effectively comprise the front fence of the property and all exceed the height limits and permeability requirements.	Refer to the comments section of this report.	Not Uphold
The eastern driveway comprises a ramp which utilises the Council's front verge and the Council would have the responsibility of maintaining the ramp and any dangers caused by said ramp. This ramp will hinder the Council's ability to change the footpath	The applicant is not proposing to modify the existing levels of the verge as part of this application. The proposed ramp begins within the subject site and the gradient meets the relevant standards. In addition sufficient vehicle sightlines are provided.	Not Uphold

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II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City refuse the application or impose a condition that the applicant does not agree with they 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 for the City relating to this proposal.

COMMENT

Rear (western) Boundary setback

4 Dee Road, Applecross is zoned Residential with a density coding of R12.5 under the provisions of Local Planning Scheme No. 6. As per Clause 5.1.3 Lot Boundary Setbacks and Table 1 of the R-Codes, a 6.0 metre rear setback is required to meet the deemed-to-comply provisions.

The proposed development provides a minimum rear setback of 2.0 metres with an average of 4.6 metres to the ground floor, and a setback minimum of 3.9 metres and an average of 6.5 metres to the first floor (Figure 2 and 3). Therefore the development requires assessment against the relevant design principles of the R-Codes.

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For example the dwellings at the rear of the subject site have been approved with 1-1.5 metre side setbacks, resulting in minimal separation (Figure 4).



Figure 5: Aerial Snapshot of the immediate locality

The dwelling under construction at 40B Fraser Road has been designed in a manner to ensure that the primary outdoor and indoor spaces are orientated westward, optimising the view towards the Swan River. The secondary views from this property are in an easterly direction towards and along the driveway. The development will be visible from the ground floor study and a first floor bedroom, noting that the orientation of the window ensures this view is oblique in nature, reducing the bulk impact of these walls (Figure 5).

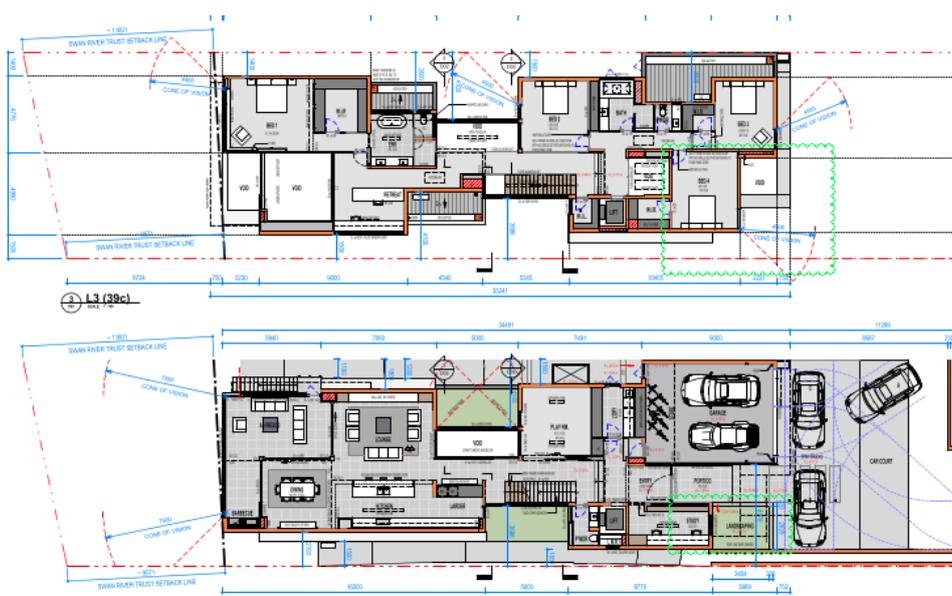


Figure 5: Ground floor and first floor of the approved development at 40B Fraser. Areas highlighted in green will have a view of the proposed development

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The subject site is located on the southern boundary of the neighbouring property and is compliant in regards to visual privacy. As such there are no adverse impacts in respect of visual privacy or solar access.

Site Works, Retaining and Front Fences

The deemed to comply provisions of the R-Codes allow for site works including retaining walls, fill and excavation between the street boundary, and street setback and lot boundaries to be a height of 0.5 metres above or below the natural ground level, except where it is necessary to provide for pedestrian universal and/or vehicular access, drainage or access of natural light to a dwelling.

The proposed fill in front of the dwelling associated with the pedestrian entrance meets the deemed-to-comply requirements; however the proposed excavation works on the western portion of the site and within the verge requires a performance assessment against the relevant design principles.

The proposed excavation is considered to meet the design principles for the following reasons:

- The excavation restores a natural fall towards the river.
- The excavation results in increased setbacks to the street compared to the existing dwelling.
- This front setback area will be developed with a substantial amount of landscaping both in front of and on top of the retaining wall, which softens the impact on the street.
- The textured finish of the retaining wall, which allows for it to blend into the development;
- The applicant has indicated that balustrading will not be required on top of the raised outdoor area due to the extent of landscaping provided however this detail will be finalised at the building permit stage. In order to ensure that any required balustrading does not have a bulk impact on the street, a condition has been applied requiring this to be a clear material such as glass.

As noted above the fill associated with the proposed pedestrian entrance meets the relevant deemed to comply provisions. Despite this, the height of the balustrade exceeds the deemed to comply provisions for fence height in LPP 3.1. This policy states that fence height is measured from the natural ground level at the verge and includes the height of retaining walls. The proposed balustrade is one metre high and constructed of clear glass. This is considered to meet the relevant design principle which requires street fencing to be low in height to permit surveillance of the street. In addition to the above, the landscaping is proposed in front of the retaining wall, reducing its visual bulk and enhancing the streetscape interface, consistent with the design principle.

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Figure 6: Render of the proposed development displaying the raised podium on the western boundary and the pedestrian entrance to the centre



Figure 7: View of the middle portion of the existing home as viewed from Dee Rd

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Figure 8: Existing driveway serving the above ground garage on the eastern boundary



Figure 9: Area of retaining and fill which is to be removed within the verge and front setback on the western boundary

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Figure 10: Access leg servicing the rear neighbour at 40B Fraser Rd. This access leg will alleviate the bulk impact from the proposed development

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

Given the design principle assessment that has been applied in this case concludes that the development is acceptable in principle, it is recommended that approval for the development be granted, subject to conditions.

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OFFICER RECOMMENDATION (3969)

APPROVAL

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.
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 crossover shall be designed to be;
 - A maximum width of 4.5m;
 - 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 crossover is to be constructed prior to the initial occupation of the development to the satisfaction of the City.

4. The street walls and fencing marked in red on the approved plans are required to comply with the definition of 'Visually Permeable' found in *State Planning Policy 7.3 Residential Design Codes Volume 1*, to the satisfaction of the City.
5. 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.
6. All balustrading located within the front setback area is to be constructed of a clear material to the satisfaction of the City.
7. 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.
8. Construction is not permitted to obstruct traffic without prior written consent from the City's Technical Services department. Should the construction require a lane or road closure, a Traffic Management Plan is required to be approved by the City prior to any such works.
9. 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.

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- 10. Prior to the initial occupation of the development, the on-site tree (as marked in red on the approved plans) shall be planted and maintained thereafter in perpetuity, to the ongoing satisfaction of the City.**

- 11. 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.**