

3 May 2018

Chief Executive Officer  
City of Vincent  
PO Box 82  
LEEDERVILLE WA 6902

Attention: Clair Morrison - Urban Planner

Dear Clair

**APPLICATION FOR DEVELOPMENT APPROVAL  
PROPOSED SINGLE DWELLING (TWO STOREY)  
STRATA LOT 2 (NO.33A) REDFERN STREET, NORTH PERTH  
CITY OF VINCENT**

We act on behalf of the landowner/s as their consultant town planners and refer to the City's email correspondence dated 28 April 2018 regarding the abovementioned application wherein it:

- i) advised that the proposed new dwelling on Strata Lot 2 does not meet the 'deemed to comply requirement' of the Residential Design Codes of Western Australian ('R-Codes') with particular reference to:
  - a) Element 5.1.4 C4.1 – 'Open space';
  - b) Element 5.3.1 C1.1 – 'Outdoor living areas';
  - c) Element 5.3.7 C7.3 – 'Site works';
  - d) Element 5.3.8 C8 – 'Retaining walls'; and
  - e) Element 5.4.1 C1.1 – 'Visual privacy'.
- ii) advised that the proposed new dwelling on Strata Lot 2 does not meet the 'deemed to comply criteria' of the City's Local Planning Policy No.7.1.1 – 'Built Form Policy' with particular reference to:
  - a) Clause 5.3.1 – 'Lot boundary setback';
  - b) Clause 5.7.2 – 'Setback of garages & carports'; and
  - c) Clause 5.14.1 & 5.14.2 – 'Landscaping'.
- iii) requested the preparation and submission of amended plans or a detailed statement addressing the relevant 'design principles criteria' of the R-Codes, including the provision of written justification in support of any variations to the City's Local Planning Policy.

Having regard for the abovementioned matters amended plans are enclosed herewith in support of the application for the proposed new dwelling on the subject land. In addition we hereby submit the following information for the City's consideration in determining the application.

**Point 1: R-Code Element 5.1.4 C4.1 – ‘Open space’**

Amended plans have been prepared (see copies attached herewith) reducing the floor level of the outdoor living area to ensure that it does not exceed a height of 500mm above natural ground level (NGL) and therefore is not included as part of the site coverage calculations.

Notwithstanding the above, the application proposes that the new dwelling on Strata Lot 2 will comprise 44.33% (i.e. 98.85m<sup>2</sup>) open space in lieu of 45% (i.e. 100.35m<sup>2</sup>) required by the ‘deemed to comply requirements’ of Element 5.1.4 C4.1 of the R-Codes.

In determining the suitability of the abovementioned variation in the context of the relevant ‘design principles criteria’ contained at Element 5.1.4 of the R-Codes, the following justifications are provided for the City’s consideration:

1. The proposed variation to the open space requirements for the new dwelling (i.e. 0.67% or 1.5m<sup>2</sup>) is considered minor and will not have a detrimental impact on the local streetscape or any adjoining properties in terms of its bulk and scale.
2. The proposed outdoor living area and balcony provided for the new dwelling is sufficient in area and is accessed by the internal living areas. Furthermore, the outdoor living area has been located to capture the winter sun (i.e. orientated north), with the balcony orientated towards Macri Lane to improve passive surveillance of the Lane.
3. The proposed new dwelling on Strata Lot 2 meets the ‘deemed to comply requirements’ of Element 5.4.2 C2.1 (i.e. ‘Solar access for adjoining sites’) of the R-Codes and will not detrimentally impact access to light and ventilation for the existing dwellings on any adjoining properties. In fact, the dwelling will not cast a shadow over any of the adjoining properties at 12 noon on 21 June (i.e. winter solstice).
4. The subject land is located approximately 275 metres south-east of Kyilla Park (i.e. public open space), which is capable of supplementing the day-to-day recreational needs of the future occupants of the dwelling. In addition, a small public space is available at the eastern end of Macri Lane to provide additional respite area for the future occupants of the dwelling.
5. The open space provided for the new dwelling is considered functional, adaptable and will provide an attractive outdoor living area for its future occupants.

Having regard for the above it is contended that the open space provided for the proposed new dwelling on Strata Lot 2 satisfies the ‘design principles criteria’ of Element 5.1.4 of the R-Codes, will not result in the dwelling having a detrimental impact on the streetscape and may therefore be approved by the City.

**Point 2: R-Code Element 5.3.1 C1.1 – ‘Outdoor living areas’**

The application proposes that the outdoor living area for the new dwelling will comprise a minimum dimension of 3.419 metres in lieu of a minimum dimension of 4 metres required by the ‘deemed to comply requirements’ of Element 5.3.1 C1.1 of the R-Codes.

In determining the suitability of the abovementioned variation in the context of the relevant ‘design principles criteria’ contained at Element 5.3.1 of the R-Codes, the following justifications are provided for the City’s consideration:

1. The variation to the minimum dimension of the outdoor living area for the new dwelling is considered minor (i.e. 581mm) and will not undermine the usability of this area by the future occupants of the dwelling.
2. The outdoor living area for the new dwelling has been designed to be used in conjunction with a habitable room (i.e. living room), providing a functional/usable entertaining area for the future occupants of the dwelling.

3. The new dwelling will be provided with a drying court area separate to the outdoor living area. The separation of these areas improves the amenity and functionality of the dwelling and minimises potential constraints to the use of the dedicated outdoor living area.
4. The outdoor living area provided for the new dwelling meets the 'deemed to comply requirements' of Element 5.3.1 C1.1 of the R-Codes in terms of minimum area. In fact the proposed area of the outdoor living area is greater than the R-Code requirements (i.e. 21.2m<sup>2</sup> in lieu of 20m<sup>2</sup>). Furthermore, there is a further 11.5m<sup>2</sup> of usable area adjacent the bedroom/study and connecting to the outdoor living area.
5. In addition to the above, the dwelling is also provided with a 10.5m<sup>2</sup> balcony along its frontage to Macri Lane. Whilst this area is not included as part of the dedicated outdoor living area required by Element 5.3.1C1.1 of the R-Codes, it does provide additional usable area for the occupants of the dwelling. As such, it is contended that the dwelling comprises ample outdoor living areas to meet the modern needs of its future occupants.
6. The proposed outdoor living area provided for the new dwelling has been located to capture the winter sun (i.e. on the northern side of the dwelling). In addition, a portion of the area is covered to facilitate usage throughout the year and provide some cover from the elements.

Having regard for the above it is contended that the proposed dimension of the outdoor living area for the new dwelling on Strata Lot 2 satisfies the 'design principles criteria' of Element 5.3.1 of the R-Codes, is sufficient to accommodate the needs of the future occupant of the dwelling and may therefore be approved by the City.

**Point 3: R-Code Element 5.3.7 C7.3 – 'Site works'**

Amended plans have been prepared (see copies attached herewith) reducing the extent of retaining walls/fill for the proposed new dwelling along the southern, northern and eastern boundaries to comprise a maximum height of less than 500mm from natural ground level (NGL) in accordance with the 'deemed to comply requirements' of Element 5.3.7 C7.3 of the R-Codes.

**Point 4: R-Code Element 5.3.8 C8 – 'Retaining walls'**

Amended plans have been prepared (see copies attached herewith) reducing the height of the retaining walls/fill to be built up the side and rear boundaries to less than 500mm in accordance with the 'deemed to comply requirements' of Element 5.3.8 C8.1 of the R-Codes (i.e. the retaining walls no longer require a setback from the boundaries).

**Point 5: R-Code Element 5.4.1 C1.1 – 'Visual privacy'**

Amended plans have been prepared (see copies attached herewith) reducing the level of the outdoor living area to less than 500mm above NGL, therefore the outdoor living area now complies with the visual privacy provisions of the R-Codes.

Reference is made to the City's assessment identifying that the 'cone of vision' from the meals room of the new dwelling will extend over Strata Lot 1 on the same strata development.

It is significant to note that Element 5.4.1 C1.1 of the R-Codes specifically refers to the 'cone of vision' extending over the "lot boundary". The definition of 'Lot' stated in the R-Codes and the *Planning and Development Act (2005)* exclude a lot in relation to a strata scheme/development. This matter has been discussed in previous decision by the State Administrative Tribunal (SAT), wherein SAT recognised that the 'lot boundary', as defined by the Codes, excludes the internal boundaries of a strata plan.

In light of the above, it is contended that the overlooking from the meals room over the internal strata boundary (i.e. over Strata Lot 1) meets the 'deemed to comply requirements' of Element 5.4.1 C1.1 of the R-Codes and that no further amendments are required regarding this matter.

Notwithstanding the above, the application proposes that a portion of the 7.5 metre 'cone of vision' from the balcony will extend over the adjoining western property.

In determining the suitability of the proposed 'overlooking' in context with the relevant 'design principles criteria' contained at Element 5.4.1 of the R-Codes, the following justifications are provided for the City's consideration:

1. The proposed new dwelling has been designed to effectively locate all major openings to habitable rooms in a manner which avoids overlooking the rear yard areas of the adjoining residential properties. This has been achieved by the use of obscure glass windows and highlight windows.
2. The balcony of the new dwelling provide improved passive surveillance over Macri Lane, which currently comprises little active frontages and poor passive surveillance.
3. Those portions of the 'cone of vision' extending over the adjoining properties are not considered to be excessive or detrimental in terms of visual privacy impacts and are generally consistent with other similar residential developments approved by the City in the immediate locality (including widows for the existing dwelling on adjoining No.35 Redfern Street overlooking the subject land).
4. The open balcony (i.e. no screening) provides improved ventilation for the upper floor of the proposed dwelling.
5. With respect to any potential impacts on the amenity of adjoining Lot 30 (No.35) Redfern Street (i.e. western property), the following points are submitted in support of the proposal:
  - i) The adjoining property comprises a large outbuilding abutting the common boundary with the subject land, which provides screening of the new dwelling on Strata Lot 2 and prevent direct overlooking of the adjoining property (see Figure 1 – Aerial Site Plan);
  - ii) Given the above point, the 'cone of vision' from the balcony extends over the outbuilding structure on adjoining Lot 30. Given this fact, it is concluded that the overlooking from the balcony of the new dwelling will not have any adverse impacts on any major openings to habitable rooms or outdoor living areas associated with the existing dwelling on adjoining Lot 30;
  - iii) The owners of adjoining Lot 30 have reviewed the plans and raise no objections to the extent of overlooking from the balcony. A copy of the signed plans are attached herewith for the City's reference and records; and
  - iv) Given the above points, it is contended that the proposed 'overlooking' is unlikely to have any detrimental impacts in terms of visual privacy for the current occupants of adjoining Lot 30.

Having regard for the above it is submitted that the portion of the 'cone of vision' extending from the proposed new dwelling on Strata Lot 2 over the adjoining western property satisfies the 'design principles criteria' of Element 5.4.1 of the R-Codes, will not have a detrimental impact on the amenity of the adjoining property, will not have an impact on the amenity of the adjoining properties, will provide improved passive surveillance of Macri Lane and may therefore be approved by the City.



Figure 1 – Aerial Site Plan

**Point 6: Clause 5.3.1 of the City's LPP No.7.1.1 ('Built Form' Policy) - 'Lot boundary setback'**

The application proposes the following variations to the 'deemed to comply requirements' of Clause 5.3.1 of the City's Policy No.7.1.1:

- i) the bedroom 3/study wall (ground floor) will comprise a setback from the northern internal strata boundary of 1.919 metres in lieu of 2 metres;
- ii) the void wall (upper floor) will comprise a setback from the northern internal strata boundary of 3.419 metres in lieu of 3.5 metres; and
- iii) the entire wall (upper floor) will comprise a setback from the western side boundary of 1.2 metres in lieu of 3.4 metres.

In determining the suitability of the abovementioned variations in context of the relevant 'design principles' contained at Clause 5.3.1 of the City's Policy, the following justifications are provided for the City's consideration:

1. The setback variations to the rear internal strata lot boundary (i.e. 81mm) is considered minor and will not have an adverse Impact on the adjoining properties or the local streetscape in terms of bulk and scale.
2. The proposed variations to the side and rear setbacks can be attributed to the shallow depth of Strata Lot 2 (i.e. 15.314 metres). Given this constraint, there is a predisposition to variations to the R-Codes in terms of setbacks and therefore there is merit for the City to grant such variations to the required setback provisions.
3. The proposed new dwelling on Strata Lot 2 meets the 'deemed to comply requirements' of Element 5.4.2 C2.1 ('Solar access for adjoining sites') of the R-Codes and will not detrimentally



impact access to light and ventilation for the existing dwellings on any adjoining properties. In fact, the proposed dwelling will not overshadow the adjoining properties at 12 noon on 21 June (i.e. winter solstice).

4. Other than the front balcony, the proposed new dwelling on Strata Lot 2 meets the 'deemed to comply requirements' of the Element 5.4.1 C1.1 ('Visual privacy') of the R-Codes.
5. It is considered that those portions of the proposed development comprising reduced setbacks from the side and rear boundaries are consistent in terms of their design, bulk and scale with other similar residential developments approved by the City in the immediate locality. Particular reference is made to the over height parapet wall on adjoining Lot 32 (No.31) Redfern Street that abuts the subject lot, which would have a greater impact on the surrounding environment than the setback variations being sought as part of this application.
6. The design of the new development provides for the effective use of all available space and the creation of adequate internal and external living areas which will benefit the future occupants.
7. The extent of the setback variation from the western side boundary (upper floor) is due to the balcony being unscreened. As previously mentioned within this submission, the unscreened balcony does not have an adverse impact on the adjoining western property and assists with providing improved passive surveillance over Macri Lane.
8. That portion of the new dwelling on Strata Lot 2 proposes a reduced setback from the northern internal strata boundary abuts the rear setback area of the existing dwelling on adjoining Strata Lot 1 (No.33) Redfern Street (see Figure 1 - Aerial Site Plan). In addition, the proposed variation is only 81mm. Given these facts, it is contended that proposed dwelling will not have an adverse impact on any habitable spaces associated with the existing dwelling on adjoining Strata Lot 1.
9. That portion of the new dwelling proposing a reduced setback from the western side boundary abuts an outbuilding for the existing dwelling on adjoining Lot 30 (No.35) Redfern Street built up to the common boundary (see Figures 1 & 4). Given this fact, it is contended that proposed reduced setback of the dwelling from the western side boundary will not have an adverse impact on any outdoor living areas or major openings to the habitable rooms associated with the existing dwelling on adjoining Lot 30.
10. The City is advised that the owners of adjoining Lot 30 have reviewed the plans and raise no objection to the setback variations being sought. A copy of the plans signed by the adjoining owner/s is attached herewith for the City's reference and records.

Having regard for the above it is contended that the portions of the proposed new dwelling on Strata Lot 2 comprising a reduced setback from the side and rear boundaries are consistent with other developments within the locality, will not have an adverse impact on the local streetscape or adjoining properties, it satisfies the 'design principles' of Clause 5.3.1 of the City's Policy No.7.1.1 and may therefore be supported and approved by the City.

**Point 7: Clause 5.7.2 of the City's LPP No.7.1.1 ('Built Form' Policy) - 'Setback of garages & carports'**

The application proposes that the garage for those new dwelling on Strata 2 will be located forward of the building alignment (excluding the porch) in lieu of being located 500mm behind the building alignment as required by the 'deemed to comply requirements' Clause 5.7.2 of the City's Local Planning Policy No.7.1.1.

In determining the suitability of the abovementioned variation in context of the relevant 'design principles' contained at Clause 5.7 of the City's Policy, the following justifications are provided for the City's consideration:

1. The proposed garage is forward of the building line by only 400mm, is in-line with the garage of on the adjoining western property and behind the garage on the adjoining eastern property (see Figures 3 & 4). Given this, it is contended that the proposed garage setback will not have an

adverse impact on the Macri Lane streetscape, which comprises very little dwellings that are orientated towards the Lane.

2. The setback of the garage for the proposed dwelling is consistent with the current built form along this portion of Macri Lane and will not result in the dwelling having a detrimental impact on the local streetscape or the amenity of any adjoining properties. In addition, the setback for the entire dwelling along the land's Macri Lane frontage is varying, provides articulation and visual interest when viewed from the lane.
3. The proposed new dwelling has been designed to include a major opening to a habitable room orientated towards Macri Lane and a balcony over the garage. As such it is contended that the design of the proposed new dwelling on Strata Lot 2 will result in a positive contribution to the streetscape and will result in improved passive surveillance to Macri Lane. Furthermore, the balcony assists with reducing the bulk and scale of the garage when viewed from Macri Lane.
4. The proposed new dwelling (specifically the garage) will not have any adverse impacts on the Macri Lane streetscape in terms of its overall bulk and scale and is generally consistent with other similar residential developments along Macri Lane that comprise reduced or nil setbacks to garages (see Figure 3 – Aerial Site Plan, Figures 2, 3 & 4). It is significant to note that Macri Lane was historically been a rear laneway that serviced dwellings orientated towards Redfern and Elizabeth Streets. As such, the Macri Lane streetscape contains an eclectic mix of outbuildings and rear boundary fences. Given these facts, the setback of the garage for the new dwelling will not have a detrimental impact on the secondary street in terms of bulk, scale and appearance.
5. The design of the new dwelling is consistent with a number of other dwellings approved along Macri Lane (i.e. No.75 Macri Lane), which contains a garage either forward of the building line or in line with the building. As such, it is contended that the built form of the new dwelling is consistent with other dwellings along the street approved by the City.
6. The garage setback for the proposed new dwelling will not have an adverse impact on the visual outlook from any adjoining properties on the street. In fact both adjoining properties are oriented towards Redfern Street and have no frontage to Macri Lane.
7. The location of the proposed garage results in the effective use of all available space and provides for the creation of adequate internal and external living areas which will benefit all future occupants.
8. The proposed garage setback variation can be attributed to the shallow depth of Strata Lot 2 (i.e. 15.314 metres), which places a constraint on the future development of the land.
9. A garage door is required for the new dwelling to provide security for the future occupants of the dwelling, given the lack of passive surveillance over Macri Lane. Given this, the option of removing the door or installing a visually permeable door will compromise the security and safety of the occupants of the dwelling.
10. Adequate landscaping will be provided within the front setback area of the proposed dwelling to assist with soften any impact the garage may have on Macri Lane.

Having regard for the above it is contended that the proposed variation to the garage setback for the new dwelling on Strata Lot 2 will not have an adverse impact on the streetscape, will improve passive surveillance of the street, satisfies the 'design principles' of Clause 5.7.2 of the City's Policy No.7.1.1 and may therefore be supported and approved by the City.

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**Point 8: Clause 5.14.1 & 5.14.2 of the City's LPP No.7.1.1 ('Built Form' Policy) - 'Landscaping'**

The application proposes 11% (i.e. 24.53m<sup>2</sup>) of the site area being provided with 'Deep Soil Zone' in lieu of 15% (i.e. 33.45m<sup>2</sup>) and 5% (i.e. 11.15m<sup>2</sup>) canopy coverage in lieu of 30% (i.e. 66.9m<sup>2</sup>) as required by the 'deemed to comply requirements' of Clause 5.14.1 & 5.14.2 of the City's Policy No.7.1.1.

In determining the suitability of the abovementioned variation in context of the relevant 'design principles' contained at Clause 5.14 of the City's Policy, the following justifications are provided for the City's consideration:

1. The proposed Deep Soil Zones for the proposed new dwelling on Strata Lot 2 is sufficient to enhance the development when viewed from the adjoining properties and the streetscape.
2. The variations to the landscaping requirements can be attributed to the relatively small lot area and building envelope (i.e. 162m<sup>2</sup> – minus the pedestrian access leg). Given the small building envelope area, there is a predisposition to variations to the landscaping requirements to enable a dwelling to actually be situated on the land. Given this constraint, there is merit for the City to grant such variations to the required landscaping provisions.
3. The provision of 30% canopy coverage on such a small lot with numerous structures in close proximity on the adjoining properties is difficult to physically or practically achieve. In addition, there is potential for damage to occur to buildings as larger more mature trees will have less separation to building structures. The damage could result from branches dropping on nearby structures or the root systems of the trees causing structural damage.
4. The proposed variation to the extent of Deep Soil Zone (DSZ) is unlikely to have a detrimental impact on the amenity of the local streetscape or any adjoining properties.
5. The proposed development has provided adequate DSZ and is considered to achieve the objectives set by the City to provide adequate landscaping of the land to satisfy the City's goal to provide more environmentally sensitive urban area.
6. It is contended that the extent of landscaping is consistent with the stated objectives of the City's Built Form policy and that the variation to the DSZ requirements will not comprise the objectives of the City's policy.
7. The extent of landscaping provided in support of the development has been designed to reduce/soften the impact of development on adjoining properties and the public realm. Furthermore, it is contended that the landscaping is sufficient to provide a sense of open space to the occupants of the dwelling and the surrounding properties.
8. Clause 5.14 of the City's Policy No.7.1.1 does not take into consideration lots with a relatively small area (i.e. 15% DSZ & 30% canopy coverage regardless of lot area). Given the relatively small lot area of Strata Lot 2 and the designated density coding of R40, it should be recognised and acknowledged that there is a predisposition to greater variations to the landscaping requirements to assist with the development of the land. It is contended that the requirement to accommodate the area of DSZ and canopy cover is excessive and that strict compliance with the provisions will compromise the development potential of the land and the design layout of the dwelling to the detriment of the future occupants.

Having regard for all of the above it is contended that the extent of landscaping provided in support of the new dwelling on Strata Lot 2, including the area of Deep Soil Zone and canopy cover, satisfies the 'design principles' of Clause 5.14 of the City's Policy No.7.1.1 entitled 'Built Form', will not compromise the objectives of the City's policy and may therefore be supported and approved by the City.

**Conclusion**

In light of the amended plans, above information and justifications we respectfully request the City's favorable consideration and approval of the Application for Development Approval to construct a new single dwelling on Strata Lot 2 (No.33A) Redfern Street, North Perth at its earliest convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact me on 0407384140 or [carlof@people.net.au](mailto:carlof@people.net.au).

Yours faithfully,



**Carlo Famiano**  
Principle Town Planner  
CF Town Planning & Development

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