

December 2022 Changes to Proposed Development at 109 Palmerston St Perth

SUMMARY

The City of Vincent at its November 2022 Council meeting voiced concerns about the scale and impact of the proposed development at 109 Palmerston St. We have addressed their concerns by:

- Increasing front setbacks by 600mm;
- Increasing side setbacks to SW boundary by 200mm;
- Increasing landscaping to front and SW boundary, including the addition of 2 small trees

1. FRONT SETBACKS

1.1 The November 2022 Council Meeting minutes expressed the following comments in relation to the front street setback:

“a) Clause 5.1 of the Built Form Policy and Clause 5.1.2 of the R-Codes in relation to Street Setbacks. The development is not set back from the street sufficiently to contribute to, or be consistent with, the established streetscape. The proposed setback from the street results in a building bulk and scale that is not consistent with, and does not contribute to the established streetscape and would adversely affect the amenity of the neighbouring property”

- In response the whole development has been shifted backwards by 600mm, increasing the front setback accordingly.
- 80% of the development now has a front setback greater than 4m. A summary of the front setback extents is shown in Table 1.

New front setback as percentage of block width	
2.5m	20%
4m	40%
Over 14m	40%

Table 1.

- There are several properties nearby that show that the proposed setbacks are consistent with the established streetscape:



Figure 1. 244 Brisbane St (Corner of Palmerston st, 3 houses away from proposed development site) has 2.5m front setbacks with 1.5m reduced setback to upper floor balconies facing Brisbane St.



Figure 2. 99 Palmerston St (3 lots away from site) has a 1.9m front setback to 3 storey elements.

Figure 3. 111 Palmerston St (next building site NE of the proposed development) has a zero setback to the garage and 1.8m front setback to 3 storey elements.

- Many of the existing older houses along the street were constructed when the area had a lower zoning and therefore larger minimum setbacks. The area is now zoned R80 along the North side of Palmerston St and R50 along the South side. It is a designated urban infill area. Our proposal is consistent with both the established streetscape and the future vision of the area.

1.2 The council commented on the extent of front landscaping as follows:

c) Clause 5.3.2 of the R Codes in relation to Landscaping. The proposed street setback would result in reduced landscaping opportunities within the street setback area. The resultant landscaping does not contribute to the appearance and amenity of the development for residents or positively contribute to the streetscape;

- By increasing the front setback by 600mm we are providing a greater deep soil area to the front garden. This will allow for the proposed landscaping tree to grow larger as well as provide space for more plants.

2. SIDE SETBACKS AND SOLAR ACCESS

2.1 The November 2022 Council Meeting minutes expressed the following comments in relation to side setbacks:

b) Clause 5.1.3 of the R Codes in relation to Lot Boundary Setbacks. The proposed development would adversely affect the amenity of the neighbouring property at No. 107 Palmerston Street because it would not maintain adequate access to direct sun into buildings and open spaces, and the proposed development has not been appropriately set back from the south western lot boundary nor designed to reduce the impacts of building bulk and scale;

- In response we have shifted the development right by 200mm. This has the following impact:
 - Side setbacks on all storeys (excluding ground floor boundary walls) have increased by 200mm. The side setback for most of the build is now 1.8m with a 1.2 minimum in parts of unit 1 and 4. In comparison the neighbouring buildings to the SW have a 1m side setback.
 - The newly increased size of the garden beds on South West boundary allows us to plant taller tree species than those previously specified. We propose replacing the existing plants with additional silver birch trees:
 - In Perth conditions are likely to reach around 6-8m in height with limited horizontal spread. This will soften appearance of the building along the South West boundary;
 - Birch trees can tolerate the tight space and shaded lighting conditions, and are shallow rooted allowing them to be planted close to buildings without causing damage;
 - Delicate branches and leaves plus columnar form make them easy to manage in a small space ;
 - White trunks branches will contrast against the building materials;
 - Increased tree canopy cover will be added to the development. We are now planting 6 new trees on the site.
 - The additional trees will compensate for the decreased deep root areas caused by increasing the front setback to the site.
- We are limited to how far we can move the development, since the built form needs to be weighted along the South West boundary. This is to protect the root zone of the large Tree of Significance (a 28m tall Moreton Bay Fig) located in adjoining Robertson Park. Protection of the tree has been a crucial concern of the development. This requirement, combined with the blocks orientation to the North of its neighbour, has resulted in proximity to the neighbour being inevitable. This is a situation unique to the site.
- Our proposal has maintained the flow of air and dappled light to the neighbouring properties by providing meaningful spacing between the units. These have been aligned with the windows of the neighbouring property, to decrease the impact of bulk and scale (Figure 5). Hit and miss brickwork feature walls to parts of this area provide visual interest and privacy.

2.2 The November 2022 Council Meeting minutes expressed the following comments in relation to overshadowing:

e) Clause 5.4.2 of the R Codes in relation to Solar Access for Adjoining Sites. The development has not been appropriately designed to protect the neighbouring property's (No. 107 Palmerston Street) access to direct sunlight to outdoor living areas and major openings, and would adversely affect the amenity of the neighbouring property;

- The Design Principles in clause 5.4.2 of the R-Codes states the following:

P2.1 Effective solar access for the proposed development and protection of the solar access

P2.2 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:

- Outdoor Living areas;
- North facing major openings to habitable rooms, within 15 degrees of north in each direction; or
- roof mounted solar collectors.

- Although the deemed to comply requirements specify a maximum of 50% overshadowing from the North on the Winter Solstice, this is a 'one size fits most' approach and is not the best design solution for this site for the following reasons:

- The site is heavily overshadowed from the North by the neighbouring fig tree, therefore solar access from the North is not possible for the rear neighbouring homes or the courtyard between the homes. Figure 4 shows the overshadowing caused by the tree taken on June 3, 2022.
- The outdoor living areas of the neighbouring properties face South East (front units) and North West (rear units). This results in them having solar access in the morning and afternoon respectively. This existing solar access is preserved by our proposal.
- The neighbouring properties are setback only 1m from their North boundary. This proximity means that their North facing walls will be shaded regardless of our overshadowing percentage. Overshadowing of 20% or 60% will have the same shading effect on the North facing walls, therefore meeting the deemed to comply value of 50% would not achieve the desired outcome of the Design Principles.
- All the North facing windows on the rear neighbouring unit are overshadowed by the Fig tree in Robertson Park (Figure 4). Our development will not cast any additional overshadowing on the rear unit.
- The front RHS unit has one major opening facing North. (The other large window on the North is located on the staircase landing and is therefore not a major opening). We have preserved North facing solar access to the major opening of the front unit with a 5.6m wide gap between our units which is aligned with the window in question (Figure 5.) This room also has an additional window facing North West so it will have ample solar access during various times of the day.

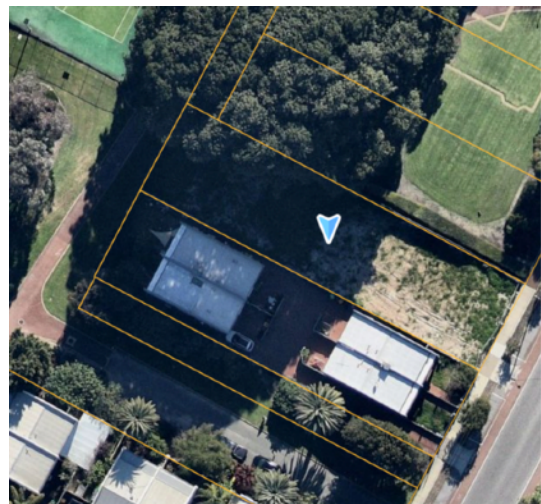


Figure 4. Overshadowing of 107 Palmerston St. caused by the Fig tree in Robertson Park June 3, 2022.

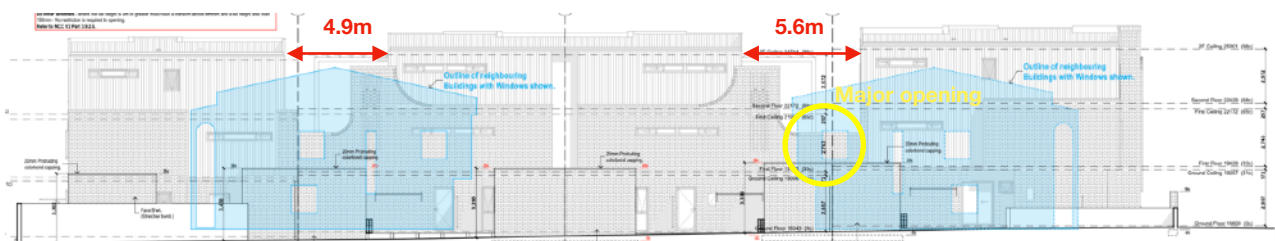


Figure 5. Location of neighbouring property windows in relation to the proposed development. The yellow circle shows the only major opening with existing North facing solar access.

- Table 2. Summarises how we have satisfied the Design Principles of R-Codes Clause 5.4.2.

P2.1 Effective solar access for the proposed development and protection of the solar access	Our proposed development has provided North access to all living areas, master bedrooms and courtyards. Actual solar access is limited by overshadowing caused by the neighbouring Fig tree in Robertsons Park.
P2.2 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:	
-Outdoor Living areas;	Existing Outdoor Living areas are located to the North West and South East of the neighbouring properties. These are not overshadowed by our development, therefore the neighbours existing solar access is protected.
-North facing major openings to habitable rooms, within 15 degrees of north in each direction; or	There is only one major opening to a habitable room on the North side of the neighbouring property that currently has solar access. We have protected this access by creating a sizeable gap between our proposed units.
- roof mounted solar collectors.	There are no roof mounted solar collectors on the neighbouring properties. Actual overshadowing at the roof height does not overshadow the neighbouring roofs.

Table 2.

3. BUILDING HEIGHT

3.1 The November 2022 Council Meeting minutes expressed the following comments in relation to the proposed building height

d) Clause 5.3 of the Built Form Policy and Clause 5.1.6 of the R Codes in relation to Building Height. The proposed building height would contribute towards adversely affecting the amenity of the neighbouring property as outlined in Reason 2b;

- Under the City of Vincent Built Form Policy the maximum allowable height for the base of a skillion roof is 9m. The maximum height for a concealed roof under this policy is 10m. Our proposal has heights of 9.11m, 9.2 and 9.28m. The developer is willing to conceal the roof along the SW side in order to comply with the Built form Policy. However this would result in a taller overall height which despite meeting 'Deemed to Comply' standards would be counterproductive.
- The developer considered sinking the development by 200mm. However this would require excavation within the Significant Tree root zone which according to Arboreal advice would damage surface roots and impact the health of the tree.
- To decrease the overall building height we have deliberately used a low roof pitch. As a result the 3 storey development will only be around 1m taller than the adjoining 2 storey properties.

4. CHARACTER AND COMPATABILITY OF SETTING

4.1 The November 2022 Council Meeting minutes expressed the following comments in relation to the character and compatibility of the setting.

2a) Is not physically compatible with its setting nor with the adjoining development (Clause 67(2)(m) of the Deemed Provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015); and

b) Would have an adverse and detrimental impact on the amenity and character of the locality (Clause 67(2)(n) of the Deemed Provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

- The proposal has been assessed by the City of Vincent Design Review Panel. This process included the compilation of a Context and Streetscape Analysis and assessment against the "Good Design Principles".
- The Context and Streetscape Study analysed:
 - Location;
 - Scale, height and built form character of the neighbourhood;
 - Architectural Character and Dominant Materials;
 - Architectural Style and Composition;
 - Typical Roof Scape and Forms of Roof;
 - Landscape Character;
 - Front setback treatment, fencing and front garden characteristics;
 - Character of spaces between buildings; and
 - Relationship between proposed and adjoining buildings
- The design experts on the Design Review Panel considered all aspects of the context and streetscape study when assessing the proposed design. Additionally, the panel have supported the development under the principles of:
 - Context & Character;
 - Landscape Quality;
 - Built form and Scale;
 - Functionality and Build Quality;
 - Amenity;
 - Legibility;
 - Safety;
 - Community and;
 - Aesthetics
- The required involvement of the Design Review Panel acknowledges the significance of the proposed site. The panel's input has influenced the design of the development through several rounds of reviews and modifications. Their support contradicts the suggestion that the

development is not physically compatible with its setting or that it would have an adverse and detrimental impact on the amenity and character of the locality.

CONCLUSION

The developer has considered the concerns voiced by the council and community members. Modifications have been made to alleviate these concerns by increasing front and side setbacks of the development, adding more trees and improving the landscape.

It is hoped that the council recognises that the quantity of variations sought in this application is due to the unique challenges presented by the site, specifically those related to protecting the adjacent Tree of Significance. For this reason we are seeking approval based on Design Principles rather than Deemed to Comply requirements. The developer believes that the naturally shady nature of the site and adjoining property should be acknowledged when assessing this application, as should the efforts made to both protect the tree and minimise impact on the neighbours.