

PS ref: 9162
City ref: 5.2024.205.1

22 August 2024

City of Vincent
PO Box 82
Leederville WA 6902

Attention: Karsen Reynolds, A/Manager Development and Design

Dear Karsen,

**LOTS 273 (367) FITZGERALD STREET, NORTH PERTH
DEVELOPMENT APPLICATION – VIEWING TOWER
RESPONSE TO PUBLIC SUBMISSIONS**

Planning Solutions acts on behalf of Celsius, the proponent of the proposed development and associated viewing structure on the land identified as Lot 273 (367) Fitzgerald Street, North Perth (**subject site**). An application for temporary development approval for the structure is currently being assessed by the City of Vincent (**City**).

We refer to the summary of public submissions received from the City on 19 August 2024. In response to the matters raised, we are pleased to provide the following submission in support of the application lodged.

RESPONSE TO PUBLIC SUBMISSIONS

A written response to the submissions received during the public consultation period is provided in **Table 1** below. It is noted that despite the City issuing 320 referral letters to neighbouring properties, only 24 submissions were received (a response rate of 7.5%, assuming that all submissions were received from residents within 200m, which in reality is likely to be an over-representation). We are aware of objectors using social media to encourage others to lodge objections, and despite these efforts the response rate remains extremely low. This response rate clearly suggests that there is a small but vocal group of residents who are aggrieved by the substantive development approval and are using this application to frustrate the ultimate development.

Table 1 – Response to public submissions

Submission Summary	Applicant Response
Comments in Support	
<ul style="list-style-type: none">Thew viewing platform provides the ability for potential buyers with a better understanding of the location.The proposal assists with facilitating a high-quality redevelopment of the site. This should be supported given it means more residents supporting local businesses and invigorating the area, which benefits everyone.We are in a housing crisis and developers should be encouraged to build more housing. This proposal assists with this mission.We should be making it easier for developers to sell apartments, not make them jump through more hoops.	Comments of support noted.

Submission Summary	Applicant Response
Comments in Objection	
<p><u>Building Height</u></p> <ul style="list-style-type: none"> The structure is too tall and well over the permitted height of 14.3m. The additional 6.5m / 41% in height renders the tower even more visually intrusive. The structure is imposing and dominates the sky view from surrounding backyards. The viewing tower is an eye sore to the local area and degrades the character and identity of the neighbourhood. The height and form of the structure is not consistent with and does not respond to the desired future scale and character of the street and local area. The viewing tower has no compatibility with the surrounding streetscape. There has been no landscaping incorporated to enhance the amenity of the public domain. 	<p>The structure is temporary in nature and has a maximum height lower than the mixed use development approved on the subject site. The purpose of the viewing tower is to show prospective purchasers the views that will be enjoyed from the proposed building and, as such, the viewing tower will logically reflect the height of the approved development.</p> <p>The subject site is approved for substantive development, and the viewing tower is related to that development. It would not make sense to provide landscaping to a temporary structure on a site that is likely to become a construction site in the very near future. The substantive development, when complete, will contain a significant amount of landscaping.</p>
<p><u>Land Use</u></p> <ul style="list-style-type: none"> The viewing tower land use which is located next to residential areas does not meet the needs of the community. The proposal does not meet the objectives of the Commercial Zone. The operating hours are excessive. They mean that residents do not have any period of time during the week where they could be free from visitors and staff intrusions upon their amenity. Hours of operation should be reduced and should be restricted to only a few hours on the weekend. Concerns more than 3 people would use the viewing tower at any one time. 	<p>The structure is temporary in nature and is intended to provide prospective purchases the opportunity to observe the view from the approved development. The structure will be used during regular business hours and home open times.</p> <p>The site has been approved for a mixed use development, comprising a variety of commercial and residential uses that entirely align with the objectives of the Commercial zone.</p> <p>The viewing tower will be utilised for only short periods at any time, by appointment only. It is not clear why the objector preference would be for the tower to be used at weekends, when residents are generally more likely to be at home.</p>
<p><u>Fence</u></p> <ul style="list-style-type: none"> The fencing is too high and should not exceed 1.2 metres solid. The perimeter fencing is unsightly. Reducing the solid portion of fencing would allow greater surveillance and reduce opportunities for crime. The fence height does not support the City's policy position which specifically seeks to "eliminate opportunities for concealment". The fencing is not compatible with the general streetscape. The fencing blocks sightlines to view traffic at the Raglan Road and Fitzgerald Street intersection, making it more dangerous as it is obstructing visibility. The fence should be changed to be visually permeable. 	<p>The fencing is typical for a development site, where it is important to limit access and screen construction activities and materials from the public realm. Noting comments below in respect to the safety of the site, including unauthorised access of the structure, it is imperative that the fence is of a height and materiality that does not allow access.</p> <p>Accordingly, the site is secured by a 2.1m Colorbond fence and access is restricted to gate that is locked at all times apart from when the platform is in use and under supervision. This balances the amenity of the site with public safety. The fence does not provide any external areas of concealment, in accordance with the City's policy framework.</p> <p>In addition, a sign will be erected to meet AS 1319-1194 warning members of the public that unauthorised entry is prohibited.</p> <p>The fencing is also outside the visual truncation required for the intersection of Raglan Road and Fitzgerald Street. Ultimately, the platform design and construction has been certified by a qualified Building Certifier and meets all required Australian Standards.</p>

Submission Summary	Applicant Response
<p><u>Visual Privacy</u></p> <ul style="list-style-type: none"> The viewing tower overlooks surrounding residential properties and compromises their privacy. Direct overlooking to backyards and windows of adjoining properties. There is no screening provided to reduce overlooking into surrounding properties. Screening should be provided to reduce views downwards into surrounding residential properties. It is an invasion of privacy to allow people to be able to look directly downwards into peoples backyards, 	<p>The viewing tower is well outside the cone of vision used to determine visual privacy for developments pursuant to the provisions of the <i>Residential Design Codes - Volume 2</i>. The viewing tower does not contain any 'habitable rooms', and will be accessed infrequently and for short periods of time.</p> <p>The R-Codes make it clear that absolute privacy is not a realistic expectation in a suburban context, and it is entirely common for properties to be visible from surrounding dwellings. It is not anticipated that prospective purchasers accessing the viewing tower will have any desire to look into the surrounding properties, and the main focus is expected to be towards views of significance.</p>
<p><u>Car Parking</u></p> <ul style="list-style-type: none"> There are already plenty of parking bays across the property, do not support them providing more. The proposal requires the use of on-street parking, limiting options for local residents. Visitors parking on the street has been detrimental to surrounding residential properties. 	<p>There are no new bays being provided. All bays are existing and service the commercial tenancy at 369 Fitzgerald Street. This application is not changing the current parking on site. Ultimately, all buildings and improvements on the site will be removed to construct the approved development.</p> <p>The subject site is located within a District Centre. It is entirely reasonable for visitors to premises within the District Centre to utilise on-street parking in that area.</p>
<p><u>Street Trees</u></p> <ul style="list-style-type: none"> The construction of the viewing tower resulted in damage to the street trees. 	<p>This comment is not substantiated.</p>
<p><u>Antisocial Behaviour & Safety</u></p> <ul style="list-style-type: none"> The viewing tower has already experienced antisocial behaviour including graffiti and trespassing. Concerns relating to public safety risk from people trespassing on the site. Concerns there are no barriers in place to reduce trespassers from climbing up the tower unauthorised. The proposal presents an unacceptable hazard to the community. The high fencing allows people to get into the site and be hidden from the street, with a risk that crime and/or antisocial behaviour occurring due to this. The graffiti on the signage encourages more antisocial behaviour in the area. Dumping of garbage has increased over the fence. Concerns regarding the need for people to climb up the number of steps proposed. 	<p>This comment is not substantiated.</p> <p>Conversely, the structure has been designed in a manner to mitigate antisocial behaviour. Specifically:</p> <ul style="list-style-type: none"> As discussed above, the structure is protected by a fence to ensure no unauthorised use of the tower. The fence is of a height and materiality which eliminates any unauthorised entry, with a lock provided on the gate. This is entirely consistent with other viewing structures installed throughout the City and broader metropolitan region. This is also consistent with fencing and safety measures for any construction site. The fence and signs have anti-graffiti coating installed so graffiti can be cleaned off as it arises. When in use, the structure provides passive surveillance over the property and surrounding streets. When not in use, as the lot is cleared, it is entirely visible from the street (noting the site is bound by three street frontages). Ultimately, placing a fence around the structure and not the entire lot is considered a superior outcome for streetscape amenity. <p>Notwithstanding the above, the viewing structure is the initial stage in the ultimate development of the site which when complete, will ultimately help to resolve issues of anti-social behaviour in this area.</p> <p>This site and area of Fitzgerald Street is home to many buildings that have reached the end of their useful life. As a result they are sitting vacant and derelict which is likely to contribute to issues in the area. The approved development will deliver over 160m of activated commercial frontage as well as a significant number of apartments creating passive surveillance to the street. The new development proposes a significant number of café and restaurant tenancies that will</p>

Submission Summary	Applicant Response
	<p>provide day and night time activation of the site which will again greatly assist in reducing anti-social behaviour.</p> <p>It is the strong view that there is no evidence to show the temporary viewing structure has caused an increase in anti-social behaviour in the area. If anything, the temporary structure will increase activity and passive surveillance on a site that is currently sitting vacant <i>with no surveillance</i>.</p>
<p><u>General</u></p> <ul style="list-style-type: none"> Do not support the viewing tower because it is facilitating the future redevelopment of the site which is not supported. If this application is approved, it sends a clear message to the community that developers are given much greater leeway in breaching guidelines than local residents are afforded. The viewing tower should have been lodged before the tower was constructed and sets an undesirable precedent for future similar situations. 3 months was a sufficient time for the viewing tower to be in-place and additional time provides adverse amenity impacts to the surrounding area. The approval should not exceed more than 6 months. Adequate time has already been provided to showcase views to potential buyers. Concerns relating to the structural integrity of the structure, including impacts from wind. 	<p>A mixed use development on the subject site was approved by the Metro Inner Joint Development Assessment Panel on 30 November 2023.</p> <p>The temporary viewing structure allows prospective purchases to have a realistic perspective of views from the approved development and is entirely consistent and standard with developments of this nature.</p> <p>The structure is currently exempt pursuant to the City's <i>Local Planning Policy: Planning Exemptions</i>. This application simply allows the structure to continue to be used for an additional 9 months. This provides the applicant sufficient time to undertake marketing and sales prior to development.</p> <p>The structure has been designed to meet all relevant Australian Standards and will not be impacted by wind.</p>

CONCLUSION

We trust the information provided above addresses the summary of public submissions received and provides sufficient clarity and certainty in the development proposed.

It is clear that the objections are generally unfounded, and the primary motivation for the objections to the viewing tower is clearly a desire to inconvenience the proponent in the hope of obstructing the substantive development which has already been approved. We submit the objections should be dismissed.

Accordingly, we respectfully request the City's officers continue their assessment of the proposal and approved the development.

Should you have any queries or require further clarification in regard to the proposal, please do not hesitate to contact the writer.

Yours faithfully,

p.p 

NATHAN MAAS
SENIOR PLANNER