

**9.3 NO. 80 (LOT: 102; D/P: 413590) AUCKLAND STREET, NORTH PERTH - PROPOSED SINGLE HOUSE SECTION 31 RECONSIDERATION**

**Ward:** North

- Attachments:**
1. Consultation and Location Plan
  2. Development Plans
  3. Applicant Reconsideration Report
  4. 20 June 2023 Council Minutes and Deferred Plans
  5. Auckland Street Render and Perspective
  6. Summary of Submissions - Administration Response
  7. Summary of Submissions - Applicant Response
  8. Clause 67 of the Deemed Provisions and Residential Zone Objectives - Administration Assessment
  9. Determination Advice Notes

**RECOMMENDATION:**

That Council, in accordance with Section 31 of the *State Administrative Tribunal Act 2004*, SETS ASIDE its decision dated 20 June 2023 and SUBSTITUTES its new decision to, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVE the application for a Single House at No. 80 (Lot: 102; D/P: 413590) Auckland Street, North Perth in accordance with the plans shown in Attachment 2 with the associated determination advice notes in Attachment 9, subject to the following conditions:

**1. Development Plans**

This approval is for Single House as shown on the approved plans dated 29 May 2023 and 6 October 2023. No other development forms part of this approval;

**2. External Fixtures**

All external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive, to the satisfaction of the City;

**3. Colour and Materials**

The colours, materials and finishes of the development shall be in accordance with the approved schedule of finishes which forms part of this approval. The development must be finished, and thereafter maintained, in accordance with the schedule provided to and approved by the City, prior to occupation of the development;

**4. Visual Privacy**

Prior to occupancy or use of the development, all privacy screening shown on the approved plans shall be installed and shall be visually impermeable and is to comply in all respects with the requirements of Clause 5.4.1 (Visual Privacy) of the Residential Design Codes Volume 1 deemed-to-comply provisions, to the satisfaction of the City;

**5. Boundary Walls**

The surface finish of boundary walls facing an adjoining property shall be of a good and clean condition, prior to the practical completion of the development, and thereafter maintained, to the satisfaction of the City. The finish of boundary walls is to be fully rendered or face brick, or material as otherwise approved, to the satisfaction of the City;

**6. Street Walls and Fences**

The gate and/or fencing infill panels above the approved solid portions of wall shall be visually permeable in accordance with the Residential Design Codes, to the satisfaction of the City;

**7. Stormwater**

Stormwater from all roofed and paved areas shall be collected and contained on site. Stormwater must not affect or be allowed to flow onto or into any other property or road reserve;

**8. Landscaping**

**8.1** An updated detailed landscape and reticulation plan for the development site and adjoining road verge, to the satisfaction of the City, shall be lodged with and approved by the City prior to lodgement of a Building Permit. The plan shall be drawn to a scale of 1:100 and show the following:

- The location and type of existing and proposed trees and plants;
- Spacing between and pot size of proposed trees and plantings;
- Low maintenance groundcover and shrubs, such as native *hibberta scandens* (Snake Vine) or *grevillea obtusifolia* (Gin Gin Gem);
- Areas to be irrigated or reticulated;
- The provision of a minimum 15 percent deep soil and planting areas, as defined by the City's Policy No. 7.1.1 – Built Form; and
- The provision of trees to maximise canopy coverage within deep soil and planting areas and within the front setback area. The tree species are to be in accordance with the City's recommended tree species list; and

**8.2** All works shown in the plans as identified in Condition 8.1 above shall be undertaken in accordance with the approved plans to the City's satisfaction, prior to occupancy or use of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers; and

**9. Car Parking and Access**

**9.1** The layout and dimensions of all driveways and parking areas shall be in accordance with AS2890.1; and

**9.2** All driveways, car parking and manoeuvring area(s) which form part of this approval shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner/occupier to the satisfaction of the City.

**EXECUTIVE SUMMARY:**

The purpose of this report is to reconsider a development application for a two storey single house at No. 80 Auckland Street, North Perth (the subject site) at the invitation of the State Administration Tribunal (SAT).

The subject site is an irregularly shaped R20 coded lot, measuring 353 square metres in area. The lot features a wider lot frontage compared to its lot depth and has an angled street boundary alignment to Auckland Street. It has a 26.2 metre frontage to Auckland Street, with a depth of 18.3 metres along its northern boundary and a depth of 10.0 metres along its south boundary. The subject site slopes down by 2.2 metres from its northern side boundary to its southern side boundary. The site is also affected by a 2.5 metre wide sewer easement that runs along the full extent of its rear boundary.

The subject site has previously received various development approvals for the construction of a single house. The approval history includes both single and double storey designs, all of which feature a similar site planning response and building layout to the subject proposal. The primary differences are the streetscape presentation and roof form.

At its Ordinary Meeting on 20 June 2023, Council resolved to defer the development application for a two storey Single House on the subject site for the following reason:

*'To allow the applicant to consider a greater graduation of the development as it transitions to the south. This is both distance from the street horizontally across the development as well as greater articulation of the development in setbacks between the ground floor and upper floor.'*

A copy of the minutes of the 20 June 2023 Ordinary Meeting and plans considered at that meeting (the previous proposal) are included as **Attachment 4**.

The landowner lodged an application with the State Administrative Tribunal (SAT) on 7 August 2023 appealing Council's decision on the grounds of a 'deemed refusal'. This is because the statutory timeframe in which the application is to be determined had been exceeded. A mediation session was held on 29 August 2023 and Council has been invited by the SAT to reconsider its decision pursuant to Section 31 of the *State Administrative Tribunal Act 2004*.

The applicant has submitted amended plans for Council to consider. Changes from the previous proposal include the following:

- Setback of the ground floor Alfresco to the southern lot boundary increased from 1.5 metres to 2.8 metres.
- Alfresco roof form change from a pitched roof to a flat roof. The former pitched roof had a maximum height of 4.2 metres. The proposed flat roof has a height of 3.1 metres.
- Ground floor setbacks from Auckland Street as follows:
  - Setback of the Garage to Auckland Street increased from 3.44 metres to 3.48 metres.
  - Setback of Staircase to Auckland Street decreased from 4.36 metres to 4.34 metres.
  - Setback of Living Room to Auckland Street increased from 2.92 metres to 2.97 metres.
  - Setback of Dining Room to Auckland Street increased from 2.92 metres to 3.0 metres.
  - Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
- Upper floor setbacks as follows:
  - Setback of the upper floor Bed 3 behind the ground floor predominant building line ~~increased~~ ~~decreased~~ from ~~4.34~~ ~~1.70~~ metres to 1.66 metres.
  - Setback of the upper floor Staircase behind the ground floor predominant building line decreased from 1.44 metres to 1.37 metres.
  - Setback of the upper floor Sitting Room behind the ground floor predominant building line increased from 0.67 metres to 1.12 metres.
  - Setback of the upper floor Bed 1 behind the ground floor predominant building line increased from 1.29 metres to 1.49 metres.
  - Setback of the upper floor Balcony behind the ground floor predominant building line increased from 0.58 metres to 1.0 metre.
- Garage width reduced from 6.7 metres to 6.4 metres.
- Setback of the ground floor boundary wall of the Garage increased from nil to 0.5 metres to the northern lot boundary.

These changes have been made to the proposal by the applicant following SAT mediation in response to Council's reasons for deferral, with some of these changes being more substantial than others.

These changes would assist in providing greater graduation of the proposed development as it transitions to the south, distance from the street horizontally and greater articulation of the development in setbacks between the ground floor and upper floor.

Discretion is being sought in respect to the same planning elements in the R Codes and Built Form Policy, with the exception of the upper floor setback of the balcony relative to the ground floor building line that now meets the deemed-to-comply standard. The proposal seeks a design principles assessment in relation to street setback, lot boundary/boundary wall setbacks, outdoor living areas and landscaping.

Administration recommended approval of the previously deferred proposal and the changes made as part of the amended plans would have the effect of improving the development outcome. The application would continue to meet the applicable deemed-to-comply or design principles/local housing objectives of the R Codes and the City's Built Form Policy.

Administration maintains its support for the development proposal.

It is recommended that Council's decision of 20 June 2023 be set aside and be substituted with a new decision to approve the application.

#### PROPOSAL:

The application proposes a two storey single house on a vacant lot at No. 80 Auckland Street, North Perth. The proposed development plans are included as **Attachment 2**.

The applicant's supporting report of the proposed development is included as **Attachments 3**.

A scaled streetscape elevation is contained in **Attachment 5**. The streetscape elevation found within **Attachment 3** is not to scale and is not accurate.

#### BACKGROUND:

<b>Landowner:</b>	Number 80 Pty Ltd
<b>Applicant:</b>	Coastview Australia Pty Ltd
<b>Client:</b>	Number 80 Pty Ltd
<b>Date of Application:</b>	25 November 2022
<b>Zoning:</b>	MRS: Urban LPS2: Zone: Residential R Code: R20
<b>Built Form Area:</b>	Residential
<b>Existing Land Use:</b>	Vacant
<b>Proposed Use Class:</b>	Single House
<b>Lot Area:</b>	353m <sup>2</sup>
<b>Right of Way (ROW):</b>	No
<b>Heritage List:</b>	No

#### Site Context and Zoning

The subject site is bound by Auckland Street to the west, a vacant site that is currently undergoing construction of a two-storey single house to the north, and single storey single houses to the east and south. Beyond Auckland Street to the west is the Gill Street Car Park which is a local reserve for public open space. A location plan is provided as **Attachment 1**.

The subject site and surrounding properties are zoned Residential R20 under the City's Local Planning Scheme No. 2 (LPS2) and are located within the Residential Built Form Area under the City's Policy No. 7.1.1 – Built Form (Built Form Policy), with a building height standard of two storeys.

#### Existing Streetscape

Auckland Street is characterised by a mixture of contemporary and Californian Bungalow housing styles that range between one and two storeys in height. Where provided, there are both examples of upper floors that are set back, as well projecting forward of the building alignment on the ground floor.

The streetscape features carports and garages with varying front setbacks at ground level, as well as uncovered car parking areas in the front setback area. Where front fencing is provided, they are generally low street walls or visually permeable fencing on top of street walls.

Front setback areas of homes are landscaped and Auckland Street is lined with established street trees. Gill Street Car Park located directly opposite the subject site features mature trees and plantings around its perimeter, with car parking located central to the site.

#### Lot Creation and Site Characteristics

The subject site was created through a subdivision approved by the Western Australian Planning Commission in 2016. This was contrary to the City's recommendation.

The City was a referral agency in the consideration of the subdivision application. In its referral response, the City did not support the proposed subdivision. This is because the proposed lot sizes would not comply with the average lot sizes prescribed for R20 coded lots under the R Codes.

The approved subdivision resulted in the creation of two lots, one being the subject site and the other being No. 31 Gill Street, which adjoins the property to the north. The primary street frontage of the subject site was formerly the secondary street frontage of the parent lot prior to subdivision occurring.

The subject site is currently vacant, with the previous house and associated structures on the parent lot having been demolished in 2018. The site slopes down by 2.2 metres from its northern to southern boundaries.

The subject site is irregularly shaped as a result of the angled alignment of Auckland Street and the dimensions of the lot. The subject site presents a 26.2 metre frontage to Auckland Street, with a northern side boundary depth of 18.3 metres and a southern side boundary depth of 10.0 metres. This means that the lot has a wider street frontage than it has lot depth.

#### Sewer Easement

The subject site is affected by a 2.5 metre wide sewer easement which runs along the full extent of the rear lot boundary. The sewer main is owned by the Water Corporation.

The Water Corporation confirmed that:

- There is a 0.15 metre diameter PVC sewer main running parallel along the inside of the rear boundary approximately 1 metre away and at a depth of approximately 1 metre;
- Encroachment into the easement is possible, so long as the building is no closer than 0.6 metres to the centreline of the sewer main; and
- There is a maintenance shaft located at the south-eastern corner of the subject site, which would require a setback of 1 metre from any building to the edge of the maintenance shaft.

#### Previous Development Approvals

##### *Subject Site*

Since the subject site was created following subdivision approval issued in 2016, the following development approvals have been granted under delegated authority by Administration for the site:

- A development approval issued in 2018 for a single storey single house. The application was lodged in July 2018 and approved in October 2018. This approval has expired.
- A development approval issued in 2020 for a two storey single house. Application was lodged in June 2020 and approved in July 2020. This approval is valid until 10 July 2024 and was issued during the Minister for Planning's Notice for Exemptions from Planning Requirements during State of Emergency.
- A development approval that was issued in 2021 for an amendment to the previous 2020 approval. Application was lodged in April 2021 and approved in June 2021. This amended approval is valid until 10 July 2024 and was issued during the Minister for Planning's Notice for Exemptions from Planning Requirements during State of Emergency.

Each of these development approvals reflect a single house with similar site planning, building footprints and with reduced street setbacks. The building height and roof form have changed over the course of these development approvals.

The 2018 approval was a single storey dwelling with a similar floor plan layout to the ground floor of the current proposal and had a pitched roof. This application received one submission that provided comment but neither supported nor objected to the proposal.

Subsequent approvals in 2020 and 2021 included a second storey with the ground floor largely reflecting the 2018 approval and had flat roofs. The 2020 application did not receive any submissions during community consultation and the 2021 application was not advertised. The 2021 application was not advertised because it was generally consistent with the previously approval.

The following key planning elements did not meet the deemed-to-comply standards in the 2020 and 2021 approvals:

- Primary Street Setback (including setbacks to the porch, upper floor walls and upper floor balcony);
- Lot Boundary Setback (including boundary walls);
- Building Height; and
- Open Space.

The current application proposes greater street setbacks than what has previously been approved. The current application is also compliant with the deemed-to-comply standard for building height with a gable roof form, as well as deemed-to-comply standards relating to open space.

#### *Adjoining Property – No. 31 Gill Street*

No. 31 Gill Street was the other lot created through the 2016 subdivision approval.

A development application was lodged in October 2021 for a two storey single house at No. 31 Gill Street, adjoining the subject site to the north.

The application as approved in May 2022. The following key planning elements did not meet the deemed-to-comply standards in the approval:

- Primary Street Setback (including setbacks to the garage, porch and upper floor balcony);
- Lot Boundary Setback (including boundary walls);
- Building Height;
- Open Space; and
- Overshadowing.

An amended development application was lodged in May 2023 seeking approval for an increase to the height of a boundary wall and to incorporate a moat around the swimming pool. This amended application was approved in June 2023.

#### *Processing Timeframes of Applications*

Queries have been raised in respect to processing timeframes of these previous approvals.

Processing timeframes for development applications by the City are reflective of staff resourcing as well as development assessment practices.

Compared to the average processing timeframe for all development applications processed in the 2019/20FY, the average processing days for development applications determined in 2021/22 and 2022/23FY's have grown.

The main reason for this is staff turnover. At the start of the COVID pandemic there was very low staff turnover and so applications were being assessed more efficiently and without the need to train up and reallocate applications to new staff. In 2021 and 2022 staff turnover increased significantly across the development industry. The City has lost experienced staff and had to train up and reallocate applications to new staff. This resulted in inefficiencies with processing applications. Processing timeframes for applications have started to reduce with greater staffing stability.

The City has also been seeking to improve its development assessment practices since 2021 to better inform its decision making. This has included introducing Design Review Panel review of single houses, as well as undertaking additional rounds of community consultation if amendments are made to plans after the application has been lodged as per the City's more recently adopted Community and Stakeholder Engagement Policy. These improved practices have had an implication on processing timeframes for applications.

### Deferred Proposal

At its Ordinary Meeting on 20 June 2023, Council resolved to defer its consideration of the development application for a two storey single house at the subject site for the following reason:

*'To allow the applicant to consider a greater graduation of the development as it transitions to the south. This is both distance from the street horizontally across the development as well as greater articulation of the development in setbacks between the ground floor and upper floor.'*

### State Administrative Tribunal Appeal & Process

The SAT is an independent body that can review decisions made in relation to applications for development approval. If an applicant would like a review of a decision made by the City on a development application, they can apply to the SAT to appeal.

On 7 August 2023 following Council's deferral of the application, the landowner lodged an appeal to the SAT as a 'deemed refusal'. This is given the statutory timeframe of 90 days in which the application is to be determined under the *Planning and Development (Local Planning Schemes) Regulations 2015* had been exceeded.

Following appeal, the applicant and the City agreed to proceed to a mediation session. The purpose of mediation is to resolve a dispute by settlement between the parties, designed to help the parties find constructive solutions to their problems.

A mediation session was held on 29 August 2023 with the City's Officers and two Councillors in attendance. At the conclusion of the mediation, the SAT issued orders inviting the City to reconsider its decision by 1 December 2023 pursuant to Section 31 of the *State Administrative Tribunal Act 2004*. The City was invited to reconsider its decision, as the applicant agreed to make amendments to the proposed plans in efforts to address Council's reasons for deferral.

The changes made to the proposal following mediation are summarised as follows:

- Setback of the ground floor Alfresco to the southern lot boundary increased from 1.5 metres to 2.8 metres.
- Alfresco roof form change from a pitched roof to a flat roof. The former pitched roof had a maximum height of 4.2 metres. The proposed flat roof has a height of 3.1 metres.
- Ground floor setbacks from Auckland Street as follows:
  - Setback of the Garage to Auckland Street increased from 3.44 metres to 3.48 metres.
  - Setback of Staircase to Auckland Street decreased from 4.36 metres to 4.34 metres.
  - Setback of Living Room to Auckland Street increased from 2.92 metres to 2.97 metres.
  - Setback of Dining Room to Auckland Street increased from 2.92 metres to 3.0 metres.
  - Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
- Upper floor setbacks as follows:
  - Setback of the upper floor Bed 3 behind the ground floor predominant building line ~~increased~~ ~~decreased~~ from ~~4.34~~ 1.70 metres to 1.66 metres.
  - Setback of the upper floor Staircase behind the ground floor predominant building line decreased from 1.44 metres to 1.37 metres.
  - Setback of the upper floor Sitting Room behind the ground floor predominant building line increased from 0.67 metres to 1.12 metres.
  - Setback of the upper floor Bed 1 behind the ground floor predominant building line increased from 1.29 metres to 1.49 metres.
  - Setback of the upper floor Balcony behind the ground floor predominant building line increased from 0.58 metres to 1.0 metre.
- Garage width reduced from 6.7 metres to 6.4 metres.
- Setback of the ground floor boundary wall of the Garage increased from nil to 0.5 metres to the northern lot boundary.

The amended plans for Council's reconsideration are included in **Attachment 2** and the applicant's supporting information contained in **Attachment 3**.

Section 31 of the *State Administrative Tribunal Act 2004* sets out that the SAT can invite the decision-maker to reconsider its decision. In reconsidering its decision Council may do one of the following:

- Refuse the development application; or
- Set aside the deferral that was taken as a 'deemed refusal' and substitute a new decision by approving the development application subject to conditions.

If Council resolves to set aside the 'deemed refusal' decision and approve the proposed development, then it is available to the applicant to withdraw the SAT application in the instance they are satisfied with the conditions imposed on the approval. The applicant would also have the option to continue pursuing the matter through SAT if they were not satisfied with any of the conditions imposed.

If Council resolves to refuse the proposed development, a directions hearing is scheduled for 8 December 2023 whereby the SAT could make orders for the matter to be listed for a final hearing to occur in 2024. A final hearing involves the SAT determining the application in the absence of the applicant and the City being able to mediate an outcome.

## DETAILS:

### Summary Assessment

The table below summarises the planning assessment of the amended proposal following SAT mediation against the provisions of the City's Policy No. 7.1.1 – Built Form and State Planning Policy 7.3 – Residential Design Codes Volume 1 (R Codes). The table also includes the assessment of the proposal that was previously deferred by Council.

In each instance where the amended proposal requires the discretion of Council, the relevant planning element is further detailed in the Detailed Assessment section following from this table.

Planning Element	Deemed-to-Comply	Requires the Discretion of Council	
		Deferred Proposal	Amended Proposal
Street Setback		✓	✓
Front Fence	✓		
Building Setbacks/Boundary Wall		✓	✓
Building Height/Storeys	✓		
Open Space	✓		
Outdoor Living Areas		✓	✓
Landscaping (R Codes)		✓	✓
Visual Privacy	✓		
Vehicle Parking & Access	✓		
Solar Access	✓		
Site Works/Retaining Walls	✓		
External Fixtures	✓		
Surveillance	✓		

### Detailed Assessment

The R Codes and Built Form Policy have two pathways for assessing and determining a development application, being a deemed-to-comply pathway or a design principles and local housing objectives pathway.

The deemed-to-comply standards are one way of satisfactorily meeting the design principles or local housing objectives and are often quantitative measures.

Design principles and local housing objectives are qualitative measures which describe the outcome that is sought rather than the way that it can be achieved.

If a planning element of an application meets the applicable deemed-to-comply standard/(s) then it is satisfactory and not subject to Council's discretion for the purposes of assessment against the Built Form Policy and R Codes.



If a planning element of an application does not meet the applicable deemed-to-comply standard/(s) then Council's discretion is required to decide whether the element meets the applicable design principles and local housing objectives.

The planning elements of the application that do not meet the applicable deemed-to-comply standards and require the discretion of Council are as follows:

<b>Street Setback</b>		
<b>Deemed-to-Comply Standard</b>	<b>Deferred Proposal</b>	<b>Amended Proposal</b>
<b>Built Form Policy Clause 5.1</b>		
Dwelling Primary Street Setback: 7.7 metres	Living and Dining Rooms Setback: 2.9 metres	Living Room Setback: 2.95 metres Dining Room Setback: 3.0 metres
Unenclosed Porch/Veranda Primary Street Setback: 3.85 metres	Porch Setback: 2.6 metres Alfresco Setback: 3.0 metres	Porch Setback: No change. Alfresco Setback: 3.85 metres. This meets the deemed-to-comply standard.
Walls on upper floors to be setback 2.0 metres behind the ground floor building line.	Upper Floor Sitting Room is setback 0.66 metres behind the ground floor building line.	Upper Floor Sitting Room is setback 1.12 metres behind the ground floor building line.
Balconies to be setback 1.0 metre behind the ground floor building line.	Balcony is setback 0.6 metres behind the ground floor building line.	Balcony is setback 1.01 metres behind the ground floor building line. This meets the deemed-to- comply standard.
<b>Lot Boundary Setback</b>		
<b>Deemed-to-Comply Standard</b>	<b>Deferred Proposal</b>	<b>Amended Proposal</b>
<b>R Codes Volume 1 Clause 5.1.3</b>		
<u>Northern Lot Boundary Setback:</u> Ground Floor Bed/Study: 1.5 metres	<u>Northern Lot Boundary Setback:</u> Ground Floor Bed/Study: 1.2 metres	<u>Northern Lot Boundary Setback:</u> No change.
<u>Northern Boundary Wall:</u> Boundary walls are not to be located within the front setback area (7.7 metres).	<u>Northern Boundary Wall:</u> Garage/Store boundary wall is located within the front setback area.	<u>Northern Boundary Wall:</u> No change.
<b>Outdoor Living Areas</b>		
<b>Deemed-to-Comply Standard</b>	<b>Deferred Proposal</b>	<b>Amended Proposal</b>
<b>R Codes Volume 1 Clause 5.3.1</b>		
Outdoor living area to be behind the street setback area (7.7 metres).	A portion of outdoor living area is located within the street setback area.	No change.
<b>Landscaping</b>		
<b>Deemed-to-Comply Standard</b>	<b>Deferred Proposal</b>	<b>Amended Proposal</b>
<b>R Codes Volume 1 Clause 5.3.2</b>		
No more than 50% of street setback area to consist of impervious surfaces.	The street setback area consists of 81.1% as impervious surfaces.	The street setback area consists of 75.8% as impervious surfaces.

The above elements of the proposal do not meet the specified deemed-to-comply standards and are discussed in the Comments section below.

**CONSULTATION/ADVERTISING:**

The application has been advertised three times during its course of assessment.

Application as Originally Submitted

The plans in the application as originally submitted underwent 14 days community consultation between 25 January 2023 and 8 February 2023 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The method of consultation for this first round of consultation included a notice on the City's website and seven letters being sent to owners and occupiers of adjoining and adjacent properties, in accordance with the City's Community and Stakeholder Engagement Policy.

At the conclusion of the first consultation period, the City received nine submissions, all of which objected to the proposal.

Following this initial community consultation period, amended plans dated 24 April 2023 and additional information were submitted by the applicant in response to the community submissions and the City's comments.

The amended plans were advertised for a period of seven days between 3 May 2023 and 10 May 2023, with letters sent to previous submitters and a notice displayed on the City's website in accordance with the Community and Stakeholder Engagement Policy.

At the conclusion of this second community consultation period, the City received five submissions, all of which objected to the proposal.

The application was subsequently considered by Council and deferred.

Amended Plans following SAT Mediation

Following Council's deferral of the application and the subsequent SAT mediation, amended plans and supporting information were submitted to the City.

These amended plans proposed no new or greater departures to the deemed-to-comply standards of the Built Form Policy and R Codes than the previous plans. This means that no greater discretion is being sought as part of the amended proposal.

The standards of the Community and Stakeholder Engagement Policy does not prescribe that an application is to be readvertised where there are no new or greater departures to the deemed-to-comply standards.

Given the community interest in the application and the principles of the Community and Stakeholder Engagement Policy, the City advertised the amended plans and accompanying information for a period of seven days between 2 October 2023 and 8 October 2023.

This included letters being sent to previous submitters and a notice displayed on the City's website in accordance with the Community and Stakeholder Engagement Policy. This is consistent with the City's approach to advertising of amended plans received during assessment of the application in May 2023.

At the conclusion of the consultation period, the City received five submissions, all of which objected to the proposal. One of the submissions received was prepared by a law firm on behalf of two of the neighbouring properties.

Key matters raised during the consultation period are summarised as follows:

- The revised proposal includes minimal changes and do not address the reasons for deferral.
- The development would set a negative precedent.
- The ground and upper floor setbacks would not protect the Auckland Street streetscape or amenity of adjoining dwellings and neighbours.
- Visual privacy and overshadowing concerns.
- Questions regarding proposed extent of boundary fencing and pool fence compliance.
- Concerns with the development's consistency with the City's planning scheme aims and neighbourhood character.
- Opposition to the inaccuracies within the applicant's justification report.

Administration's responses to the summary of submissions received during all three consultation periods are provided in **Attachment 6**. The applicant's response to the summary of submissions is provided as **Attachment 7**.

### Design Review Panel (DRP):

Referred to DRP: Yes

The proposal was referred to a member of the City's DRP Chairperson on three occasions prior to the SAT appeal. The [DRP Section](#) of Administration's previous report on the application that was considered by Council at its 20 June 2023 Ordinary Meeting outlines the development's progress through the design review process.

The DRP Chair had not provided comments on the final set of plans that were presented to Council at its Ordinary Meeting on 20 June 2023. In its report to Council, Administration had included responses to the remaining principles of good design that did not receive support from the DRP Chair.

Following mediation, the amended plans dated 6 October 2023 were referred to the City's DRP Chair for review. This means that the DRP Chair's comments reflect changes made as part of the amended plans following SAT mediation, as well as the final set of plans that Council had previously considered and deferred.

The DRP Member provided the following comments in respect to the positive aspects of the proposal as considered against the 10 Principles of Good Design:

- Context and Character: The addition of a streetscape elevation, the use of brick at ground level (rather than at upper level) and a materials schedule is positive.
- Landscape Quality: The additional soft landscaping and planting that has been added is supported.
- Sustainability: The solar panels and additional landscaping that have been included are positive.
- Aesthetics: The combination of the addition of the streetscape elevation, 3D render and use of brick at lower level rather than at upper level are positive.

In relation to the principles of good design that have not been fully supported, the DRP Chair provided the following comments for further consideration:

- Built Form and Scale: It is acknowledged that the site is an awkward irregular shape however the proposal is seeking a number of significant planning framework variations including primary street setback, porch setback, upper floor setback alignment, boundary walls in the front setback and the side setback.
- Amenity:
  - Bedrooms that rely solely on high level or frosted windows (in lieu of a major opening) is not something that the DRP supports as it limits the amount of natural light and outlook provided to these rooms.
  - Bedrooms smaller than 3 metres in dimension is not something that the DRP typically supports.
  - All living areas and bedrooms have very limited north light access predominantly facing south and/or west.

A summary of the DRP progress is shown in the table below.

Design Review Progress				
	<i>Supported</i>			
	<i>Pending further attention</i>			
	<i>Not supported</i>			
	<i>No comment provided / Insufficient information</i>			
	DRP Chairperson			
	<i>Referral 1 – Plans dated 25 November 2022</i>	<i>Referral 2 – Plans dated 29 March 2023</i>	<i>Referral 3 – Plans dated 24 April 2023</i>	<i>Referral 4 – Plans dated 6 October 2023</i>
Principle 1 – Context & Character				
Principle 2 – Landscape Quality				
Principle 3 – Built Form and Scale				
Principle 4 – Functionality & Built Quality				
Principle 5 – Sustainability				
Principle 6 – Amenity				
Principle 7 – Legibility				
Principle 8 – Safety				
Principle 9 – Community				
Principle 10 – Aesthetics				

The table below provides a summary of the outstanding DRP Chairperson comments and Administration’s response to these.

Principle 3 – Built Form and Scale	
DRP Chairperson Comments	Administration Response
<ul style="list-style-type: none"> <li>It is acknowledged that the site is an awkward irregular shape however the proposal is seeking a number of significant planning framework variations including primary street setback, porch setback, upper floor setback alignment, boundary walls in the front setback and the side setback.</li> </ul>	<ul style="list-style-type: none"> <li>The application is seeking a design principles and local housing objectives assessment for various planning elements as required under the R Codes and Built Form Policy. The acceptability of these aspects of the application as considered against the applicable design principles and local housing objectives is referred to in the Comments section below and detailed in the previous officer report to Council.</li> <li>The proposed single house has been designed to respond to the primary street setbacks of the adjoining properties. This is detailed in the Comments section. The proposed rear setbacks comply with the deemed-to-comply standards of the R Codes.</li> <li>The proposed development meets the deemed-to-comply standards for building height and open space of the R Codes and Built Form Policy. These controls inform the building envelope of the site. Street setback also inform the developable area of the site and this is considered further in the Comments section and in considering the site characteristics.</li> </ul>

Principle 6 – Amenity	
DRP Chairperson Comments	Administration Response
<ul style="list-style-type: none"> <li>Bedrooms that rely solely on high level or frosted windows (in lieu of a major opening) is not something that the DRP supports as it limits the amount of natural light and outlook provided to these rooms.</li> <li>Bedrooms smaller than 3m in dimension is not something that the DRP typically supports.</li> <li>All living areas and bedrooms have very limited north light access predominantly facing south and/or west.</li> </ul>	<ul style="list-style-type: none"> <li>The R Codes and Built Form Policy do not include a deemed-to-comply standard for minimum bedroom dimension and does not restrict the provision of high level windows to bedrooms.</li> <li>The DRP Chair comments relate to Bedroom 4 having a minimum width of 2.92m. All other bedrooms have a minimum dimension of at least 3m.</li> <li>Bedroom 4 area has increased from 10.27m<sup>2</sup> to 11.56m<sup>2</sup> with a minimum dimension of 2.92m and would be functional and capable of use.</li> <li>DRP Chair comments relate to Bedroom 4 having a hi-light window with no major openings. All other bedrooms include a major opening.</li> <li>The high level window to Bedroom 4 is to the eastern wall and provides access to morning sun all year round and is operable to enable ventilation. It would not result in overlooking to the eastern adjoining property.</li> </ul>

**LEGAL/POLICY:**

- Planning and Development Act 2005;*
- State Administrative Tribunal Act 2004;*
- Planning and Development (Local Planning Schemes) Regulations 2015;*
- City of Vincent Local Planning Scheme No. 2;
- State Planning Policy 7.3 – Residential Design Codes;
- Community and Stakeholder Engagement Policy; and
- Policy No. 7.1.1 – Built Form Policy.

*Planning and Development Act 2005*

In accordance with Schedule 2, Clause 76(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*, and Part 14 of the *Planning and Development Act 2005*, the applicant has applied to the SAT for a review of Council's decision to defer the development application at its 20 June 2023 meeting.

*State Administrative Tribunal Act 2004*

The SAT may invite the decision-maker to reconsider its decision during SAT appeal proceedings. Section 31 of the SAT Act sets out that upon being invited by the SAT to reconsider its decision, the decision-maker may:

- affirm the decision; or
- vary the decision; or
- set aside the decision and substitute its new decision.

*Planning and Development (Local Planning Schemes) Regulations 2015*

In accordance with [Clause 67\(2\)](#) of the Deemed Provisions in the Planning Regulations and in determining a development application, Council is to have due regard to a range of matters to the extent that these are relevant to the development application.

Council is to have due regard to a range of matters to the extent that these are relevant to the development application.

The matters for consideration relevant to this application relate to the compatibility of the development within its setting, amenity and character of the locality, history of the site, the City's local planning scheme, State and local planning policies, submissions received on the application and advice from the DRP.

An assessment of the proposal as considered against these matters that are to be given due regard in the determination of the application is included in **Attachment 8**.

#### Local Planning Scheme No. 2

The objectives of the Residential zone under LPS2 are a relevant consideration for the application. These objectives are:

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community;*
- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;*
- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development;*
- *To promote and encourage design that incorporates sustainability principles, including but not limited to solar passive design, energy efficiency, water conservation, waste management and recycling;*
- *To enhance the amenity and character of the residential neighbourhood by encouraging the retention of existing housing stock and ensuring new development is compatible within these established areas;*
- *To manage residential development in a way that recognises the needs of innovative design and contemporary lifestyles; and*
- *To ensure the provision of a wide range of different types of residential accommodation, including affordable, social and special needs, to meet the diverse needs of the community.*

An assessment of the proposal as considered against these objectives of the Residential zone is included in **Attachment 8**.

#### Auckland Street Character Retention Area

The City has received a nomination for Auckland Street to be a Character Retention Area. Administration is currently progressing consideration of the Character Retention nomination. This is not a due regard matter for consideration of the current application, as the Character Retention Area nomination is not yet seriously entertained. This is because it has not been endorsed by Council for advertising and is neither certain nor imminent. It is anticipated that this will be presented to Council within the coming months for consideration to advertise.

#### **Delegation to Determine Applications:**

This matter is being referred to Council for determination in accordance with the City's Register of Delegations, Authorisations and Appointments.

This is because the delegation to Administration to determine applications does not extend to requests from the SAT for a reconsideration of a Council decision under Section 31 of the SAT Act.

The application also received more than five objections during a previous community consultation period.

#### **RISK MANAGEMENT IMPLICATIONS:**

There are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

#### **STRATEGIC IMPLICATIONS:**

This is in keeping with the City's Strategic Community Plan 2022-2032:

#### Innovative and Accountable

*Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.*

**SUSTAINABILITY IMPLICATIONS:**

The City has assessed the application against the environmentally sustainable design provisions of the City's Policy No. 7.1.1 – Built Form. These provisions are informed by the key sustainability outcomes of the City's Sustainable Environment Strategy 2019-2024, which requires new developments to demonstrate best practice in respect to reductions in energy, water and waste and improving urban greening.

**PUBLIC HEALTH IMPLICATIONS:**

This is in keeping with the following priority health outcomes of the City's *Public Health Plan 2020-2025*:

**FINANCIAL/BUDGET IMPLICATIONS:**

Should this application proceed to a full SAT hearing, the City may incur a cost related to the engagement of a consultant which would be met through the existing Operational Budget.

**COMMENTS:**Summary Assessment

In assessing the amended proposal against the planning framework, the application is recommended for approval. The following key comments are of relevance:

- Changes have been made to the proposal by the applicant following SAT mediation in response to Council's reasons for deferral. Council's reasons for deferral relate to considering 1. greater graduation as it transitions to the south, 2. distance from the street horizontally, and 3. greater articulation of the development in setbacks between the ground floor and upper floor.
- The following changes to the amended plans have been made in response to considering greater graduation at it transitions to the south:
  - Setback of the ground floor Alfresco to the southern lot boundary increased from 1.5 metres to 2.8 metres.
  - Alfresco roof form change from a pitched roof to a flat roof. This has reduced the height from the former pitched roof of a maximum height of 4.2 metres to the proposed flat roof with a height of 3.1 metres.
  - Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
- The following changes to the amended plans have been made in response to considering distance from the street horizontally, with ground floor setbacks from Auckland Street as follows:
  - Setback of Living Room to Auckland Street increased from 2.92 metres to 2.97 metres.
  - Setback of Dining Room to Auckland Street increased from 2.92 metres to 3.0 metres.
  - Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
  - Setback of the Garage to Auckland Street increased from 3.44 metres to 3.48 metres.
  - Garage width reduced from 6.7 metres to 6.4 metres.
  - Setback of the ground floor boundary wall of the Garage increased from nil to 0.5 metres to the northern lot boundary.

Aside from the increase to the Alfresco street setback, these other ground floor setback changes are relatively minor.

- The following changes to the amended plans have been made in response to considering greater articulation of the development in setbacks between the ground floor and upper floor, with upper floor setbacks as follows:
  - Setback of the upper floor Bed 3 behind the ground floor predominant building line ~~increased~~ ~~decreased~~ from ~~4.34~~ 1.70 metres to 1.66 metres.
  - Setback of the upper floor Staircase behind the ground floor predominant building line decreased from 1.44 metres to 1.37 metres.
  - Setback of the upper floor Sitting Room behind the ground floor predominant building line increased from 0.67 metres to 1.12 metres.
  - Setback of the upper floor Balcony behind the ground floor predominant building line increased from 0.58 metres to 1.0 metre.
  - Setback of the upper floor Bed 1 behind the ground floor predominant building line increased from 1.29 metres to 1.49 metres.
- These changes made to the proposal would have the effect of improving the development outcome.

- The amended proposal would not substantially change the overall development. The site planning and building form remains similar to the previously deferred plans, with the exception of the roof form of the alfresco area changing from a pitched roof to a flat roof.
- Discretion is being sought in respect to the same planning elements in the R Codes and Built Form Policy, with the exception of the upper floor setback of the balcony relative to the ground floor building line that now meets the deemed-to-comply standard.
- Council is to consider the appropriateness and acceptability of the overall amended development proposal. This is informed by the extent to which Council is satisfied changes made to the proposal by the applicant has addressed Council's previous reasons for deferral of the application. This also needs to be balanced with the other aspects of the development proposal that did not form part of Council's reasons for deferral.
- Administration recommended approval of the previously deferred proposal. In considering the changes made that would improve the development outcome, Administration maintains its recommendation to approve the application. The following key comments are a summary of Administration's reasons for the application to be approved:
  - The site planning and aspects of the proposal where discretion is being sought are primarily the result of the irregular lot shape and site characteristics.
  - Changes have been made to the alfresco area to increase the sense of openness and reduce building bulk as the dwelling transitions to the south. This has been achieved through increased setbacks and a revised roof form.
  - The design response of the proposed development has been guided by adjoining properties to the north and south along Auckland Street. This has informed street setbacks to the ground floor and the siting of two storey and single storey building height on the property. This is to moderate the impact of the proposed development on the streetscape and these adjoining properties. The horizontal stepping back of the dwelling also improves the streetscape transition.
  - The dwelling meets visual privacy (overlooking) deemed-to-comply standards. The outdoor living area would not unduly impact the amenity of the adjoining southern property given it is immediately adjacent to a driveway and car parking area that is visible from Auckland Street.
  - The proposal complies with solar access (overshadowing) deemed-to-comply standards to the southern adjoining property.
  - The proposed dwelling meets the building height deemed-to-comply standards.
  - Garage setback meets the deemed-to-comply standards, with a reduced width to further assist in ameliorating the building bulk impacts associated with garage doors as it presents to Auckland Street.
  - The upper floor setback and balcony setback have been increased to assist with reducing building bulk. The balcony setback behind the predominant building line complies with the deemed-to-comply standard.
  - Articulation, design treatments and varied setbacks break up the building mass, better differentiating between the ground and upper floors and reducing solid blank walls which reduces the impacts of building bulk.

#### Amended Plans Considered Against Council's Reasons for Deferral

Council's reasons for deferral are as follows:

*'To allow the applicant to consider a greater graduation of the development as it transitions to the south. This is both distance from the street horizontally across the development as well as greater articulation of the development in setbacks between the ground floor and upper floor.'*

Council's reasons for deferral have been summarised into three key areas. The assessment below relates to the amended plans submitted by the applicant following SAT mediation. and how they address Council's reasons for deferral. In this assessment, Council's deferral reasons have been summarised into three key components, as well as the inclusion of the applicant's justification and the concerns raised during community consultation.



1. Further consideration to the graduation of the development as it transitions to the south

The applicant has made the following changes to the amended plans that relate to the proposed development's relationship with the southern adjoining property:

- Setback of the ground floor Alfresco to the southern lot boundary increased from 1.5 metres to 2.8 metres.
- Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
- Alfresco roof form change from a pitched roof to a flat roof. This has reduced the height from the former pitched roof of a maximum height of 4.2 metres to the proposed flat roof with a height of 3.1 metres.

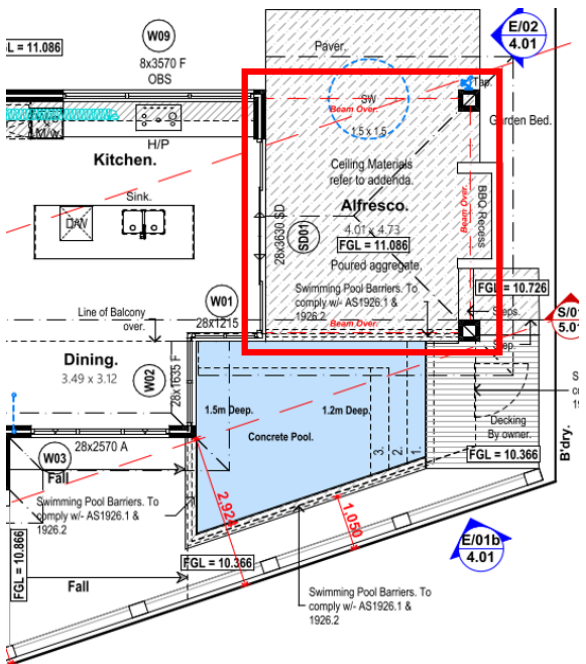


Figure 1 – Deferred Proposal

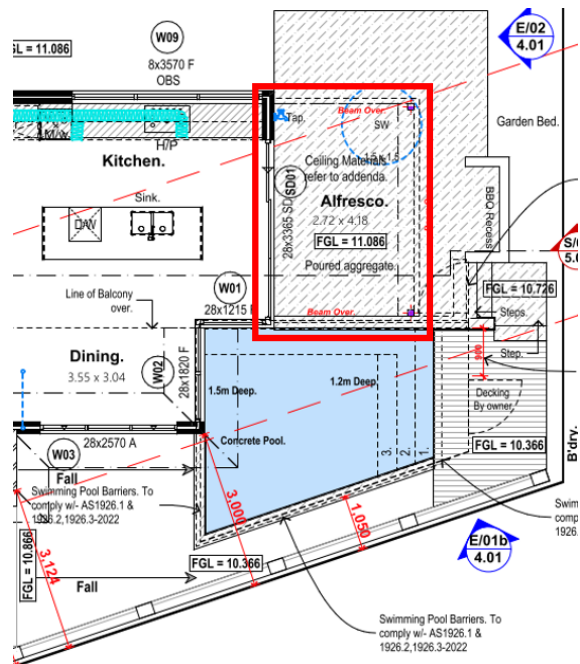


Figure 2 – Amended Proposal

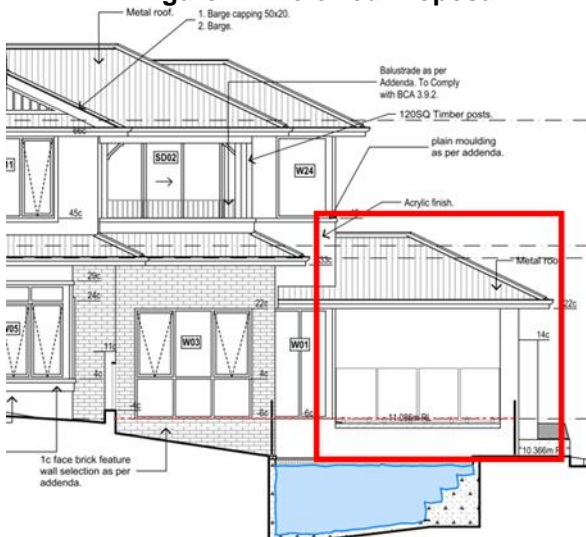


Figure 3 – Deferred Proposal

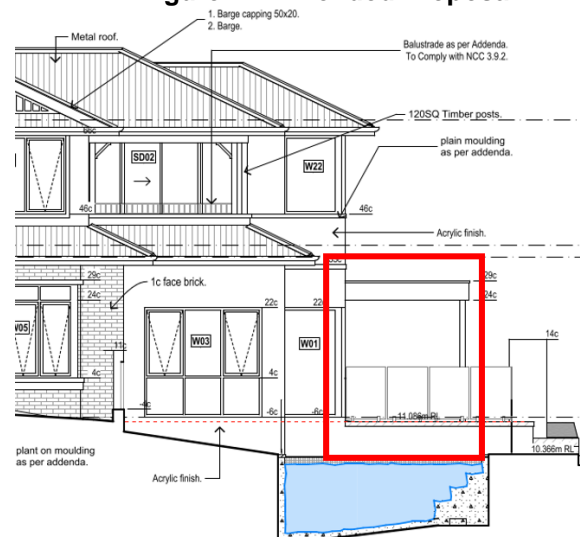


Figure 4 – Amended Proposal

Applicant Justification

The applicant's supporting information relates to these changes further reducing the perceived bulk of the dwelling. This would be from the perspective of the southern neighbours at No. 78 Auckland Street and from a two-dimensional streetscape perspective in the reduction of the dwelling's perceived width.

The applicant has noted that the adjoining property to the south has its vehicle access and garage near the common boundary with the subject site. These are considered non habitable spaces that are not used frequently nor for extended periods of time given they are visible from the street. The alfresco and outdoor living space does not have detrimental impact on the privacy of the adjoining property.

#### *Community Consultation Concerns*

Concerns raised during community consultation referred to the ground level of the southern side of the dwelling not being reduced enough. The proposed bulk and scale, and overshadowing and overlooking from the proposed dwelling would negatively impact the amenity of the southern adjoining dwelling.

#### *Administration's Comments*

- **Response to Deferral Reason:** The proposed increased setback of the alfresco from the southern adjoining property and from Auckland Street, as well as reducing the alfresco area and its height would improve graduation of the development as it transitions to the south. This would further reduce perceived impacts of building bulk and height to the southern adjoining property.
- **Response to Community Consultation Comments:** The proposal complies with the deemed-to-comply provisions of the R Codes in respect of building height, building setback to the southern lot boundary, solar access (overshadowing) and visual privacy (overlooking). This means that the proposed development would not detrimentally impact the amenity of the adjoining southern property. The increased setback of the alfresco and reducing its height has reduced overshadowing of the adjoining property by 1 square metre (0.13 percent).

The proposed transition to the southern adjoining property would continue to satisfy the design principles of the R Codes and local housing objectives of the Built Form Policy for the reasons outlined under the Street Setback section in the previous officer report to Council's Ordinary Meeting dated 30 June 2023 available [here](#).

#### 2. Further consideration to the distance from the street horizontally across the development.

The applicant has made the following changes to the amended plans that relate to the proposed development's ground floor primary street setback:

- Setback of Living Room to Auckland Street increased from 2.92 metres to 2.97 metres.
- Setback of Dining Room to Auckland Street increased from 2.92 metres to 3.0 metres.
- Setback of the Alfresco to Auckland Street increased from 3.0 metres to 3.85 metres.
- Setback of the Garage to Auckland Street increased from 3.44 metres to 3.48 metres and the Garage width reduced from 6.7 metres to 6.4 metres. The Garage has also been setback from nil to 0.5 metres from the northern side boundary.

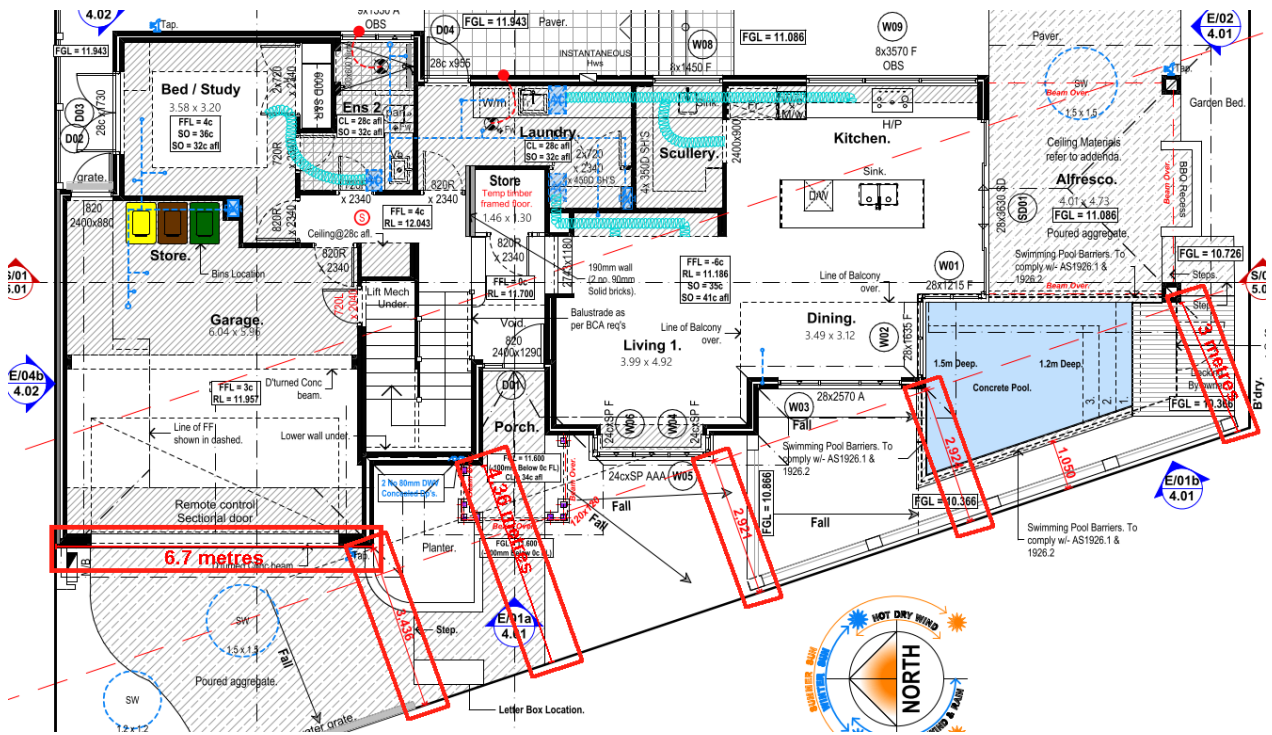


Figure 5 – Deferred Proposal

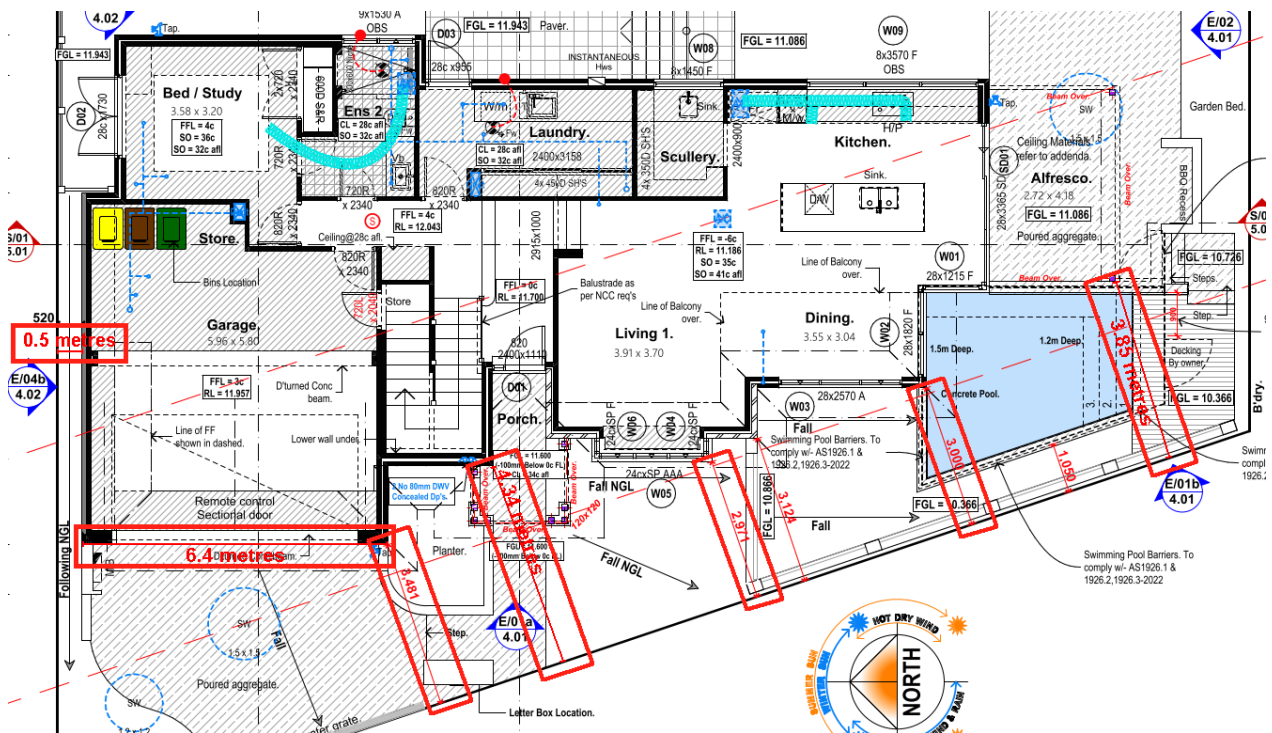


Figure 6 – Amended Proposal

*Applicant Justification*

The applicant’s supporting information refers to the garage being modified to be setback 0.5 metres away from the northern side boundary. This creates separation from and reduces the perceived impact of bulk on the adjoining northern property at No. 31 Gill Street. It also allows for adequate space for bin storage.

The garage also does not protrude forward of the dwelling alignment and occupies approximately 26 percent of the lot width in lieu of the maximum permitted 50 percent deemed-to-comply standard under the Built Form Policy.

### Community Consultation Concerns

Concerns raised during community consultation referred to the proposed ground floor setback not protecting the streetscape and amenity of Auckland Street. This is because the intensity and scale of the proposed development is contrary to the pattern of development in the broader locality. This would impact the character of the streetscape and associated built environment. Concerns referred also to the primary street setback not being maximised as the sewer easement at the rear of the property can be encroached up to 0.6 metres.

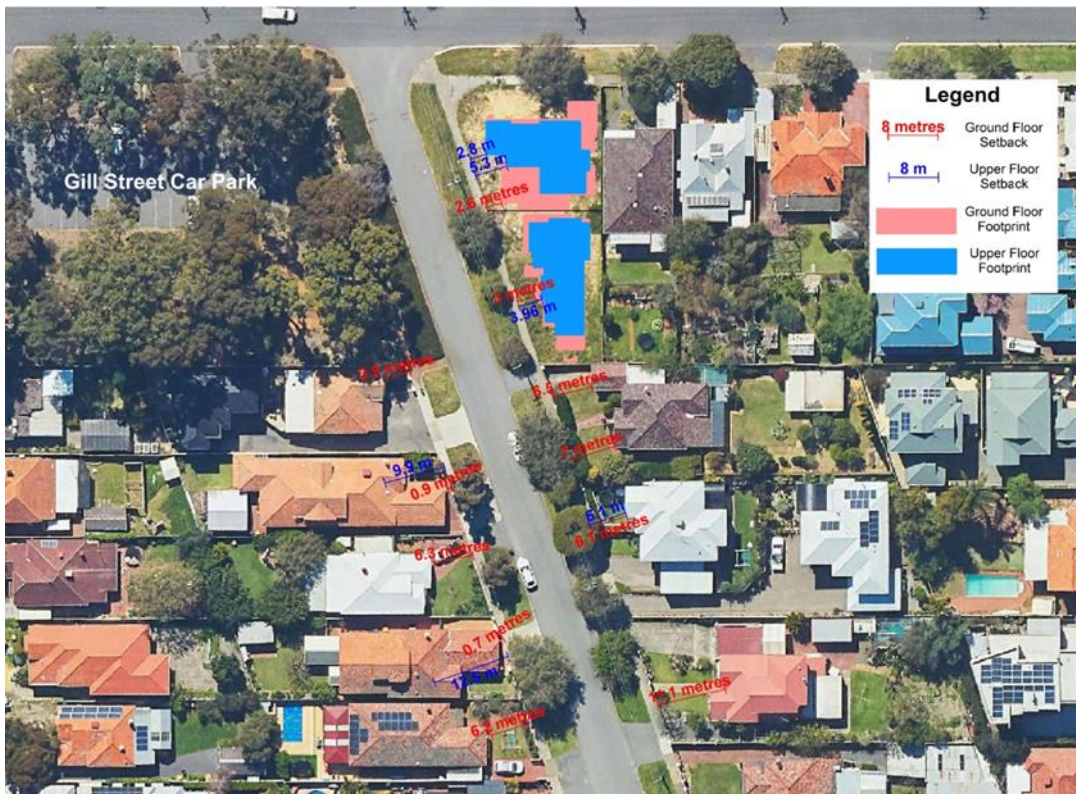
### Administration's Comments

- **Response to Deferral Reason:** The applicant has increased the street setbacks of all ground floor rooms including the Garage, Living Room and Dining Room, and the appurtenant Alfresco structure. The extent of the increase to the setback to the ground floor rooms is minor and is not substantial. The increased setback to the Alfresco structure is more substantial.
- **Response to Community Consultation Comments:** The proposed dwelling has been designed so that it responds to the irregular lot shape and site characteristics. The diagram below shows the area of the site that could be developed for buildings in considering the deemed-to-comply street setback area and the sewerage easement located to the rear boundary of the site. This developable area is approximately 27 percent of the site. In considering this, the proposal seeks discretion to develop forward of the street setback line.



The proposed dwelling has been designed to respond to the primary street setbacks of the adjoining properties along Auckland Street. The proposed dwelling has been designed to not protrude forward of the dwelling that is being constructed at No. 31 Gill Street immediately to the north. This would read as being consistent with the streetscape pattern for that site. The northern adjoining property's approved garage street setback is 2.6 metres and dwelling street setback is 2.7 metres. The proposed development has a minimum garage street setback of 3.48 metres and minimum dwelling street setback of 2.97 metres.

- The proposed dwelling complies with the deemed-to-comply standards of the R Codes in relation to building setbacks to the eastern lot boundary (rear). It would be possible for the proposed dwelling to further encroach into the easement area along the rear of the property, so long as the building is no closer than 0.6 metres to the centreline of the sewer main. The applicant is not proposing this further encroachment as part of the proposed plans. The possibility to further encroach into the easement area to the rear of the property is not a relevant planning consideration in the assessment of the acceptability of proposed street setbacks. This is because it is the role of the City to assess the proposed development and not to second guess whether there is an alternative or better proposal for the site.



The proposed street setbacks would continue to satisfy the design principles of the R Codes and local housing objectives of the Built Form Policy for the reasons outlined under the Street Setback section in the previous officer report to Council's Ordinary Meeting dated 30 June 2023 available [here](#).

3. Further consideration to providing greater articulation of the development in setbacks between the ground floor and upper floor

The applicant has made the following changes to the amended plans that relate to the proposed development's upper floor setbacks:

- Setback of the upper floor Bed 3 behind the ground floor predominant building line ~~increased~~ decreased from ~~4.34~~ 1.70 metres to 1.66 metres.
- Setback of the upper floor Staircase behind the ground floor predominant building line decreased from 1.44 metres to 1.37 metres.
- Setback of the upper floor Sitting Room behind the ground floor predominant building line increased from 0.67 metres to 1.12 metres.
- Setback of the upper floor Balcony behind the ground floor predominant building line increased from 0.58 metres to 1.0 metre.
- Setback of the upper floor Bed 1 behind the ground floor predominant building line increased from 1.29 metres to 1.49 metres.

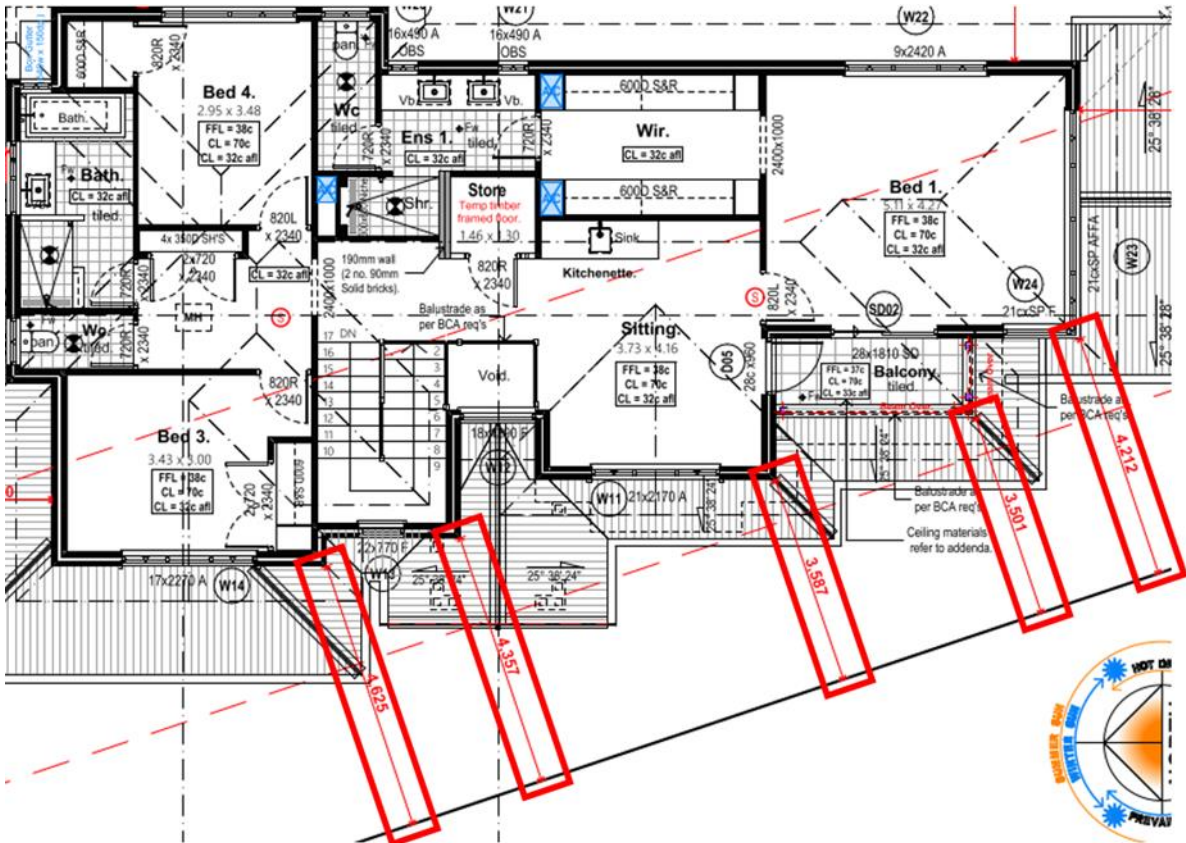


Figure 7 – Deferred Proposal

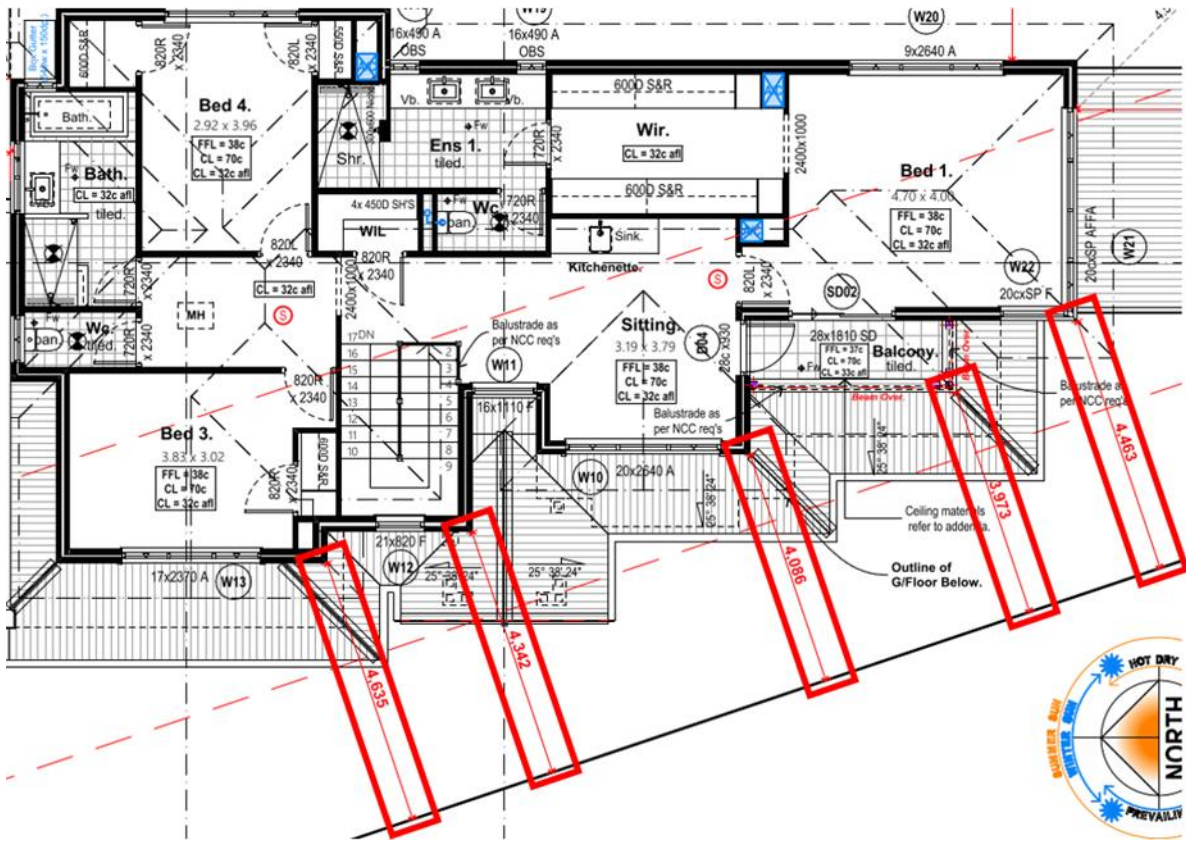


Figure 8 – Amended Proposal

Applicant Justification

The applicant's supporting information refers the increased setback providing greater articulation in setbacks between the ground and upper floors addressing the street. This clearly distinguishes the central portion of the upper floor and further minimises the visual bulk of the dwelling.

The setting back of Bedroom 1 provides minimal protrusion over the pool below whilst ensuring the bedroom is appropriately setback from the southern adjoining dwelling in terms of appropriate transition and deemed-to-comply lot boundary setbacks and visual privacy.

The additional setting back of the balcony shows a clear distinguishment between the ground and upper floors, as it is stepped back 2.1 metres from the southernmost point of the ground floor roof line.

#### *Community Consultation Concerns*

Concerns raised during community consultation referred to the proposed upper floor not being appropriately setback behind the ground floor as per the 2.0 metres deemed-to-comply standard. This would negatively impact the adjoining properties' amenity due to the excessive bulk and scale, worsened by the pitched roof, which will obstruct significant view corridors to Perth City skyline. Concerns also related to the upper floor setback departure being further exacerbated by the proposed departure to the ground floor setbacks.

#### *Administration's Comments*

- Response to Deferral Reason: The applicant has increased the upper floor setback of the sitting room to be 1.12 metres of rooms behind the ground floor predominant building line. This means that all upper floor rooms of the dwelling are a minimum 1.12 metres behind the ground floor predominant building line. The upper floor balcony setback has been increased to be 1.0 metre behind the ground floor predominant building line so that it meets the deemed-to-comply standard. These changes would further assist in delineating between the ground and upper floors. This would assist in reducing the building bulk impact to the street and provide greater visual relief.
- Response to Community Consultation Comments: The ground floor of the proposed development has been setback to ensure consistency with the ground floor setback of the northern adjoining dwelling and to step back as it transitions to the southern adjoining property.

The **majority of the** upper floor of the proposed development has been further stepped back from the ground floor. Together with the use of differing design treatments, this would distinguish between the ground and upper floors and would assist in reducing the impacts of building bulk.

The obstruction of significant views are a design principle under the R Codes relating to building height. This assessment against design principles is required only where a proposal does not comply with the building height deemed-to-comply standard. The proposal complies with the deemed-to-comply standards of the R Codes in respect to building height. This means that the consideration of the proposal in regards to views of significance is not applicable.

The proposed upper floor setbacks to the street would continue to satisfy the design principles of the R Codes and local housing objectives of the Built Form Policy for the reasons outlined under the Street Setback section in the previous officer report to Council's Ordinary Meeting dated 30 June 2023 available [here](#).

#### Previous Officer Report Comments

The previous [officer report](#) that was considered at Council's Ordinary Meeting on 30 June 2023 includes Administration's comments on the assessment and acceptability of the following matters:

- Street Setback;
- Lot Boundary Setback/Boundary Wall;
- Outdoor Living Areas;
- Landscaping; and
- Environmentally Sustainable Design.

Administration's comments in respect to these planning elements remain applicable.