

Residential Development Assessment Sheet

Retrospective Patio

RESIDENTIAL DEVELOPMENT ASSESSMENT SHEET

APPLICATION DETAILS			
OFFICER NAME	Anjaly Vijayakrishnan	APPLICATION NO.	PA23/61
PROPOSAL	Replacement patio and patio extensions		
LOCATION	Lot 345, 1 Daran Way, Byford		
APPLICANT	Armadale Byford Patios Pty Ltd		
OWNER	Sarah Johns		
APPLICATION RECEIVED	8 February 2023	LOT AREA	545 Sq.m
ZONING	Urban Development-R20	DESIGNATION	R20 - Redgum Brook Estate
REFERRALS			
	Y / N	Comment	
DAU Comments	Y	No internal comments received	
Heritage Precinct	N		
WAPC	N		
Main Roads	N		
Heritage Council	N		
Scheme Heritage Listed	N		
Internal	Y		
Other			

Deemed Provisions – Cl 67 Matters to be considered by Local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The subject site is zoned 'Urban Development under Town Planning Scheme No. 2 (TPS2) and designated 'Residential' under the Redgum Brook Local Structure Plan. The proposal falls within the 'Residential - Single House' land use, which is a permitted use in the 'Residential' zone, as designated by the structure plan. The land use is therefore considered consistent with the planning framework.			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

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Comment: The subject site would be rezoned from 'Urban Development' to 'Residential' under LPS3. Residential single House land use is permitted within this zone.			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Refer to R-Code Assessment below			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <i>Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
f) any policy of the State	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Refer to R-Code Assessment below			
g) any local planning policy for the Scheme area	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The subject site is designated 'Residential' under the Redgum Brook Local Structure Plan, have considered structure plan in the assessment below.			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

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Comment: The application is considered compatible with development in its setting by way of siting and scale – Refer to Council Report.			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposal is considered consistent with the character and amenity of the locality – Refer to Council Report.			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment: No removal of trees proposed as part of the application.			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The existing driveway as indicated on the site plan shows access and egress to site compliant with the deemed-to-comply requirements of the R-Codes.			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
u) the availability and adequacy for the development of the following– I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

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Comment:			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
y) any submissions received on the application	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment: One objection was received to the proposal based on the impact the proposal would have on building bulk and amenity of the locality - refer to Council report.			
Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

R-CODE ASSESSMENT

5.1.2 STREET SETBACK				
5.1.3 LOT BOUNDARY SETBACK				
Replacement Patio and Patio extension	D-t-C	Proposed	OK	Comment
Setback of unenclosed porch, balcony, verandah or equivalent	Projection into street setback area to a maximum of half the primary st setback (no averaging required)	N/A	N/A	The proposal is to construct a new patio to replace the existing patio on the northern boundary (with the same dimensions), and to extend the existing patio on the western boundary. It is located well behind the primary street setback area.
Setback to Carport	m	N/A	N/A	
Secondary Street	m	N/A	N/A	
Corner truncation	m	N/A	N/A	
Surveillance of Street	Clearly definable entry point	N/A	N/A	
	M/O of Habitable room facing street or access leg			
Building Design	Is patio in a Heritage Precinct? N		Y	

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* See specific Clause provisions – 5.16

Boundary Walls	D-t-C Length	D-t-C Height	Proposed Length	Proposed Height	Comments	OK
Behind primary street setback Eaves, gutters and roofs are set back at least 450mm from the lot boundary						
Replacement patio (North)	10m	2.7m	18.9	2.8m	Roof & Eaves are setback .500mm from lot boundary	N
Patio Extension (North)	10m	2.7m	11.19	2.3m	Roof & Eaves are setback .500mm from lot boundary	N

Variation:

The replacement patio (North) and the extensions to existing patio (West) is longer than 10m and higher than 2.7m and does not comply with clause 5.1.3 C3.1(ii)

5.1.3 Lot boundary setback

P3.1 **Buildings** set back from **lot** boundaries or adjacent buildings on the same lot so as to:

- reduce impacts of building bulk on **adjoining properties**;
- provide adequate direct sun and ventilation to the building and **open spaces** on the **site** and adjoining properties; and
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

P3.2 **Buildings** built up to boundaries (other than the **street boundary**) where this:

- makes more effective use of space for enhanced privacy for the occupant/s or **outdoor living areas**;
- does not compromise the **design principle** contained in clause 5.1.3 P3.1;
- does not have any adverse impact on the amenity of the **adjoining property**;

C3.1 **Buildings** which are **set back** in accordance with the following provisions, subject to any additional measures in other elements of the R-Codes:

- buildings set back from **lot boundaries** in accordance with **Table 1** and **Tables 2a** and **2b** (refer to **Figure Series 3** and **4**);
- for **patios, verandahs** or equivalent structures, the lot boundary setbacks in Table 1 and Tables 2a and 2b may be reduced to nil to the posts where the structure*:
 - is not more than **10m in length and 2.7m in height**;
 - is located behind the **primary street setback**; and
 - has eaves, gutters and roofs set back at least 450mm from the lot boundary;
- unenclosed** areas accessible for use as **outdoor living areas**, elevated 0.5m or more above **natural ground level**, set back in accordance with Table 2b as though they have a **wall height** of 2.4m above the floor level;

5.4.1 OPEN SPACE AND 5.3.1 OUTDOOR LIVING

	D-T-C Provision	Proposed	OK	Comment
Open Space (%)	50%	58%	Y	Total area covered- 224 m ² Site Area - 545 m ² 321/545x100=58%
Outdoor Living (m²)	30m ²	40 m ²	Y	
Min. Dimension (m)	4m	7m x 3.6m	Y	Existing
Location	Behind S. S/B	Yes	Y	

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Accessibility	Primary Living Space	Family	Y	Patio existing is accessible from habitable spaces.
Roof Coverage	At least 2/3 uncovered	26sq.m	Y	

5.1.6 BUILDING HEIGHT

	D-t-C check category under table 3	Proposed	OK	Comment
Maximum height of wall	7m	2.3m	Y	
Maximum height of building – gable, skillion or concealed	8m	N/A	N/A	
Maximum height of building – hipped and pitched roof	10m	2.8	Y	

5.4.2 SOLAR ACCESS FOR ADJOINING SITES

	D-t-C	Proposed	OK	Comment
Overshadowing	25%	N/A		Shadow falls on site
Note: R25 and lower 25%, R30 – R40 35%, R-IC or above R40 50% of adjoining site area.				

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Planning Element	Applicable Rule	Design Principles	Comment
Lot Boundary Setback	<p>R-Codes Clause 5.1.3 P3.1 & P3.2</p> <p>Patios built to boundary:</p> <p>Is not more than 10m in length and 2.7m in height</p>	<p>P3.1 Buildings set back from lot boundaries so as to:</p> <p>Reduce impacts of building bulk on adjoining properties.</p>	<p>The northern extension to the existing patio encroaches 0.5m to the northern common boundary. The wall length at this boundary is 3.6m and is open framed. This portion of the extension is proposed to be located behind an existing shed on the adjoining property where the objection was raised.</p> <p>Along the north, west and north-western boundaries of the site, a pattern of development has been established where a cluster of outbuildings are present.</p> <p>The cluster of developments form part of the vistas along these boundaries and ultimately informing the visual amenity expectations to the rear of these properties. As such, Officers consider that the patio, due to its small scale at the northern boundary, is not considered to adversely impact upon the visual amenity of the neighbouring property by way of building bulk or by its presence. The development in its proposed location amongst the pattern of existing development would ultimately appear commonplace when viewed from adjoining properties.</p> <p>In terms of the replacement patio, this proposes to maintain the 7.5m wall length, 3.1m wall width, wall height of 2.3m and ridge height of 2.8m of the existing patio. Also maintaining the 0.5m setback to the boundary. The patio is located to the side (south) of the existing dwelling on the neighbouring property. Along this side, bedrooms are present. The wall of the adjoining dwelling is set back 1.5m from the northern boundary as shown in the figure below. Views of the existing patio above the 1.8m fence line already form part of the existing vistas of the bedrooms along this wall when looking in a southern direction as the patio has existed for a period of time.</p> <p>In further reviewing the property and potential impacts of the development upon existing amenity, Officers note that the immediate outdoor living area of the dwelling faces north. The development being on the south side of the dwelling on the adjoining property will not impact upon north facing vistas of the adjoining property or can be seen from the immediate outdoor area of the dwelling. Variations to setbacks which are associated with side vistas of an adjoining property are unlikely to result in adverse amenity impacts as these areas are not typically areas of high residential amenity. As such, the patio in the proposed location is not considered to result in adverse visual amenity impacts from the reduced boundary setback.</p>

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Planning Element	Applicable Rule	Design Principles	Comment
			<p>In considering the cumulative wall length along this boundary, the development would result in a 11.1m patio wall length which is set back 0.5m along the northern boundary. Clause 5.1.3 (C3.1) (ii) exempts patios on a boundary where the cumulative wall length does not exceed 10m in length, in addition to the overall height not exceeding 2.7m. The proposal does not benefit from the exemption by 1.1m. This is considered as a minor departure from the expected form of exempt_development for patios under the R-Codes. As such, the development even when considered cumulatively along the northern boundary is not considered to impact upon the existing amenity of the adjoining neighbour's property by way of bulk and its presence.</p> <p><u>Does not have any adverse impact on the amenity of the adjoining property</u></p> <p>As mentioned in the previous section, the physical form of the development is not considered to result in adverse impacts upon the amenity of adjoining landowners. A submission, however, was received during consultation, raising concerns with likely noise disturbance associated with the use of the patio for entertainment and private recreation purposes along the northern boundary. This is due to the proximity of the proposed development to objector's bedroom and activity room.</p> <p>Officers consider that the minor difference (0.5m) between the proposed location of the patio and the 'Deemed-to-Comply' standard (1m) would not result in a difference to noise emitted from the subject site and received at the adjoining property to the north. The proposal consists of residential development and does not propose any significant noise generating activities inconsistent with existing residential amenity expectations of the locality. As such, Officers consider that the development will not result in adverse impacts to the adjoining property.</p> <p>Officers note that where a noise complaint is received by the Shire, this can be investigated under the <i>Environmental Protection (Noise) Regulations 1997</i> to ensure compliance.</p>

Conclusion:

The proposed construction of a new patio (replacement) and extensions to an existing patio will not, in the opinion of officers, result in any adverse impacts to the amenity of the adjoining property. As such, notwithstanding the objection received, Officers consider that the 'Design Principles' of the R-Codes have been satisfied