

JUSTIFICATION FOR NON-COMPLIANT MATTERS

Despite the preparation of amended plans, the application proposes the following variations to the 'deemed to comply requirements' of the R-Codes:

- i) R-Code Element 5.1.4 C4 – 'Open space';
- ii) R-Code Element 5.3.1 C1.1 – 'Outdoor living area';
- iii) R-Code Element 5.4.1 C1.1 – 'Visual privacy'; and
- iv) City of Joondalup HOA Local Planning Policy, Clauses 1.2 & 1.3 – 'Urban Design – Public Domain interface';
- v) City of Joondalup HOA Local Planning Policy, Clause 5.1 - 'Street setback'.
- vi) City of Joondalup HOA Local Planning Policy, Clauses 6.3 & 6.4 – 'Side & rear setbacks – Side setbacks'; and
- vii) City of Joondalup HOA Local Planning Policy, Clause 7.1 – 'Residential Parking – Location';

The following table provides justification for those aspects of the grouped dwelling development on the subject land seeking a variation to the 'deemed to comply requirements' of the relevant planning framework.

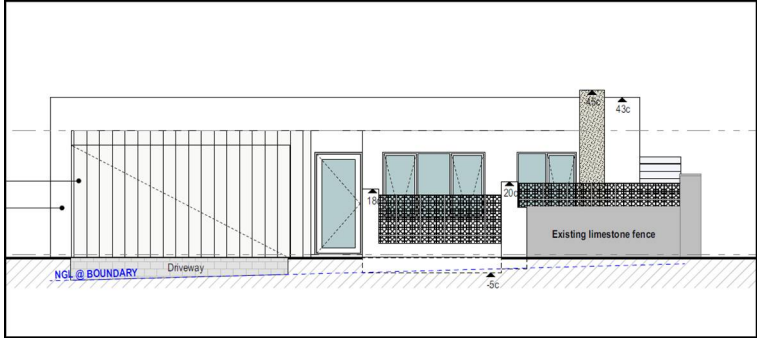
Table 1 - Justification

R-CODE DESIGN ELEMENT & 'DESIGN PRINCIPLES'	PROPOSED VARIATION TO 'DEEMED TO COMPLY REQUIREMENTS'	JUSTIFICATION
<p>R-Code Element 5.1.4 C4 – 'Open space'</p> <p><i>P4 Development incorporates suitable open space for its contexts to:</i></p>	<p>The application proposes that the new dwelling on Lot B will comprise 42% (132.75m²) open space in lieu of 50% (157.87m²) required by the 'deemed to comply requirements' of Element 5.1.4 C4 of the R-Codes.</p>	<p>1. The proposed variation to the open space requirements for the new dwelling on Lot B will not result in it having an adverse impact on the streetscape and/or any dwellings on the adjoining properties in terms of bulk and scale. Furthermore, the new dwelling has been designed to comprise a usable internal living area to meet the modern needs of the future occupants and to meet the minimum room sizes prescribed within the City's Local Planning Policy (i.e. the increased site coverage is due to</p>

<ul style="list-style-type: none"> • <i>reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> • <i>provide access to natural sunlight for the dwelling;</i> • <i>reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</i> • <i>provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> • <i>provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> • <i>provide space for external fixtures and essential facilities.</i> 		<p>providing better and usable internal spaces).</p> <ol style="list-style-type: none"> 2. Other than the new deck area for the existing dwelling on Lot A, the development on Lot 326 complies with the visual privacy provisions of the R-Codes. The non-compliant matter will be address in more details further within this report. 3. The outdoor living area for the new dwelling is sufficient for the needs of the future occupants. In addition, the outdoor living area is considered to be functional, adaptable and will meet the modern needs of the future occupants. 4. The overall development on Lot 326 meets the 'deemed to comply requirements' of Element 5.4.2 C2.1 ('Solar access for adjoining sites') of the R-Codes and will not detrimentally impact access to light and ventilation for any existing dwellings on any adjoining properties. 5. The subject land is located within close proximity to various public open space reserves within the immediate area which is capable of providing for the active recreational needs of the occupants of the development. 6. It is noted that the City has previously granted support for variations to the open space provisions where the development has provided adequate outdoor areas for the dwelling and where adequate landscaping has been provided. The proposed development on the subject land provides good private space (i.e. an outdoor area to the rear of the dwelling and a large front yard area) and the provision of landscaping to provide for improved amenity of the dwelling. In addition, the overall development will include sufficient landscaping within the front setback area and the planting of two (2) mature trees on Lot B. As such, the proposed development has merit. 7. In addition to the above point, the outdoor living area for the dwelling has been designed to comprise northern orientation to obtain access to the northern winter sun. 8. It is contended that the proposed variation to the open space provisions for the new dwelling on Lot B (being single storey) is a better outcome for the adjoining properties than a two storey dwelling with greater bulk and compliant open space. 9. In addition to the above point, the proposed development will result the construction of a new dwelling within the rear portion of the subject land that will allow for the activation of the right of way. <p>Having regard for all of the above it is contended that the open space provided for the new dwelling on Lot B is sufficient for the future occupants of the dwelling, it satisfies the 'design principles criteria' of Element 5.1.4 of the R-Codes and may therefore be supported and approved by the City.</p>
<p>R-Code Element 5.3.1 C1.1 – 'Outdoor living area'</p>	<p>The application proposes that the following aspects of the new dwelling on Lot B do not meet the 'deemed to comply requirements' of</p>	<ol style="list-style-type: none"> 1. The new dwelling has been designed to comprise a rear outdoor living area and a large front yard area comprising a further 25m² resulting in adequate usable outdoor habitable space for the dwelling.

<p><i>“P1.1 Outdoor living areas which provide spaces:</i></p> <ul style="list-style-type: none"> • <i>capable of use in conjunction with a habitable room of the dwelling;</i> • <i>open to winter sun and ventilation; and</i> • <i>optimise use of the northern aspect of the site.”</i> 	<p>Element 5.3.1 C1.1 of the R-Codes:</p> <p>i) The outdoor living area will comprise an area of 23m² in lieu of 30m²; and</p> <p>ii) The minimum dimension of the outdoor living area will be 3.426 metres in lieu of 4 metres.</p>	<ol style="list-style-type: none"> 2. The dedicated rear outdoor living area for the new dwelling has been designed to be used in conjunction with a habitable room (i.e. meals room), providing a functional/usable entertaining area for the future occupants. 3. The coverage of the outdoor living area for the new dwelling on Lot B provides protection from the elements/weather for the future occupants, therefore allowing the area to be used all year round. In addition, the covered outdoor living area will provide for a large entertainment area for visitors to the dwelling (in conjunction with the internal and external areas). 4. Sufficient open space is provided for the new dwelling to meet the needs of the future occupants. 5. The outdoor living area for the new dwelling will also include the planting of a mature tree to enhance the amenity of the area. 6. The new dwelling has been provided with a drying court area separate to the dedicated outdoor living area. The separation of these areas will improve the amenity and functionality of the dwelling and minimizes potential constraints to the use of the dedicated outdoor living area. 7. The proposed outdoor living area provided for the new dwelling has been located to capture the northern winter sun and will allow for natural light to penetrate into the internal living area of the dwelling (see Development Plans). 8. It is also noted that the City of Joondalup, along with other local authorities, have approved variations to the size and dimension of the outdoor living area in the past where the area is exposed to the northern winter sun. Given the configuration of the outdoor living area for the new dwelling on Lot B, there is merit for the variation to be granted in this instance. <p>Having regard for the above it is contended that the extent of variations to the area and minimum dimension of the outdoor living area for the new dwelling on Lot B satisfies the ‘design principles criteria’ of Element 5.3.1 of the R-Codes, will be usable to the future occupants of the dwelling, has access to the northern winter sunlight and may therefore be approved by the City.</p>
<p>R-Code Element 5.4.1 C1.1 – ‘Visual privacy’</p> <p><i>“Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i></p> <ul style="list-style-type: none"> • <i>building layout and location;</i> • <i>design of major openings;</i> 	<p>The application proposes that a portion of the 7.5 metre ‘cone of vision’ from new deck addition to the existing dwelling on Lot A on the subject land will extend over Lot B within the same development contrary to the ‘deemed to comply requirements’ of Element 5.4.1 C1.1 of the R-Codes.</p>	<ol style="list-style-type: none"> 1. The proposed new deck addition to the existing dwelling on Lot A has been designed to seek views towards the ocean and not directly overlook the rear yard area of the existing dwelling on the adjoining eastern property (i.e. the deck provides a screen along the eastern side and complies with the provisions in regard to Lot 327 (No.116) Clontarf Street) 2. In addition to the above point, the deck area is not accessed from any habitable spaces or internal rooms associated with the existing dwelling. Given this, it can be assumed that the deck area will not be frequently used by the occupants of the existing dwelling throughout the year. 3. Other than new deck addition to the existing dwelling on Lot A, the overall development on the subject land complies with the visual privacy provisions of the R-Codes 4. That portion of the ‘cone of vision’ from the new deck addition

<ul style="list-style-type: none"> • <i>landscape screening of outdoor active habitable spaces; and/or</i> • <i>location of screening devices.”</i> 		<p>to the existing dwelling on Lot A will extend over the roof structure of the new dwelling on Lot B. This is due to the level of the existing dwelling on Lot A being approximately 3 metres higher than the finished floor level of the proposed new dwelling on Lot B (see Development Plans and in particular Elevation 4). As such, it is contended that the extent of overlooking from the rear part of the proposed new addition to the existing dwelling on Lot A will not have an adverse impact on any sensitive habitable spaces associated with the proposed new dwelling on Lot B.</p> <p>Having regard for the above it is submitted that the portion of the ‘cone of vision’ extending from the new deck addition to the existing dwelling on Lot A over a portion of adjoining Lot B to the south satisfies the ‘design principles criteria’ of Element 5.4.1 of the R-Codes, is unlikely to impact the amenity of the proposed dwelling on the adjoining property, is not excessive and may therefore be approved by the City,</p>
<p>City of Joondalup Housing Opportunity Area Local Planning Policy, Clause 1.3 – ‘Urban Design – Public Domain Interface’</p> <p>Objectives:</p> <ul style="list-style-type: none"> • <i>Contribute to the activation and vitality of the public realm.</i> • <i>Promote building interfaces that support interesting, attractive, safe streets and public spaces for residents, workers, commuters and visitors.</i> • <i>Buildings are to enhance the hierarchical system of landscaped streets and public spaces that give expression and character to the public domain.</i> • <i>Ensure building design facilitates the creation of street level activity and visual connections</i> 	<p>The application proposes that the new dwelling on Lot B will comprise blank walls and associated features exceed 20% of the front façade contrary to the ‘deemed to comply requirements’ of Clause 1.3 of the City’s Policy (i.e. up to 41.55%).</p>	<ol style="list-style-type: none"> 1. The proposed new dwelling has been designed to include major openings to habitable rooms and an active/landscaped front yard area orientated towards the right of way (i.e. street) to allow for an element of connectivity and improved passive surveillance of the street. 2. The new dwelling on Lot B provide activation of the right of way, which the current development does not provide. As such, the new dwelling is a good planning outcome along the right of way. 3. Despite the extent of solid wall along the front facade, the dwelling will comprise adequate windows and the front door (i.e. defined entry point) orientated towards the right of way to address the street (see Figure 1). In addition, a defined entry point for the dwelling has been provided to highlight the path to the front door. As such, the dwelling will have a good interface with the right of way. 4. The new dwelling on Lot B has been designed to provide for adequate setback to the right of way, minimize the hardstand area and allow for landscaping to be provided within the front setback area (i.e. 50% of the front setback area being landscaped). These aspects will enhance the appearance of the dwelling when viewed from the right of way. 5. The proposed variation to the maximum permitted blank walls along the front façade for the new dwelling is unlikely to have a detrimental impact on the amenity of the local streetscape or any adjoining properties in terms of bulk and scale. In addition, the dwelling is reflective of similar designs emerging within the HOA’s to allow for garaging and privacy for the occupants. 6. The new dwelling will include extensive landscaping within the front setback area to soften any impact the blank walls to the dwelling facade may have on the street. 7. Given the inclusion of major openings and a front yard area for the dwelling orientated towards the right of way, the new dwelling on Lot B will provide a clear link between the public and private realms.

<p>between internal areas of buildings and the external public realm.</p> <ul style="list-style-type: none"> • Provide opportunities for casual surveillance from buildings into the public realm that are sympathetic to the desired character for the area. <p>Maintain a clear but integrated distinction between the public and private realm</p>		<p>Having regard for the above information it is contended that the extent of blank wall along the front façade of the new dwelling on Lot B satisfies the Objectives of Clause 1 of the City's Local Planning Policy, will not have any impact on the streetscape or the adjoining properties and may therefore be approved by the City.</p>  <p>Figure 1 – The front façade of the new dwelling on Lot B will provide for good Activation and passive surveillance of the right of way, along with the use of varying materials.</p>
<p>City of Joondalup Development in Housing Opportunity Areas Local Planning Policy, Clause 5.1 – ‘Street setback’</p> <p><i>Building orientation must consider the site, the street and neighbouring buildings to maximise residential amenity, including urban form to the street, landscape area, tree provision/retention, solar access and visual privacy.</i></p>	<p>The application proposes that a portion of the new dwelling will comprise a minimum front setback to the right of way of 3.45 metres in lieu of 4 metres required by the 'deemed to comply requirements' of Clause 5.1 of the City's Policy.</p>	<ol style="list-style-type: none"> 1. The proposed primary street setback variation for the new dwelling on Lot B will not result in a detrimental impact on the local streetscape or the amenity of any adjoining properties. 2. The development will provide activation of the right of way, which currently has little activation and surveillance. It is viewed that whilst a reduced front setback is being sought for the new dwelling on Lot B, the development is a good planning outcome along the right of way in terms of activation and enhancing the streetscape. 3. The proposed new dwelling on Lot B will have a varying setback along the right of way frontage, with parts of the dwelling comprising a setback greater than 4 metres. In addition, the dwelling will include major openings orientated towards the right of way to assist with providing improved passive surveillance of the public realm. 4. The proposed new dwelling on Lot B will comprise landscaping and two (2) trees within the front setback area to soften any impact the dwelling may have on the local streetscape. 5. The reduced front setback of the new dwelling will not interfere with the outlook from any future dwellings on the adjoining properties over the right of way. 6. The new dwelling on Lot B meets the 'deemed to comply requirements' of Element 5.4.1 C1.1 ('Visual privacy') and Element 5.4.2 C2.1 ('Solar access for adjoining sites') of the R-Codes. 7. Lot B does not comprise any significant vegetation worthy of retention. 8. The design of the new dwelling makes effective use of all available space and provides for the creation of adequate

		<p>internal and external living areas which will benefit the future occupants.</p> <p>9. The proposed development will comprise sufficient space to accommodate any required easements within the front street setback area required by any relevant servicing authorities.</p> <p>Having regard for the above it is contended that the proposed variation to the minimum front setback of the new dwelling on Lot B addresses the Objectives of Clause 5 of the City's Local Planning Policy, does not undermine the Policy, will not have a detrimental impact on the streetscape or the adjoining properties and may therefore be approved by the City.</p>
<p>City of Joondalup Housing Opportunity Area Local Planning Policy, Clauses 6.3 & 6.4 – ‘Side & Rear Setbacks’</p> <p><i>Objectives</i></p> <p><i>Dwellings are to be designed to respond to passive solar design principles, including orienting outdoor and indoor living spaces towards north, orienting mass and windows to capture prevailing breezes and controlling solar access to the west and east to limit heat</i></p>	<p>The application proposes that the following aspects of the development on subject land will not meet the ‘deemed to comply requirements’ of Clauses 6.3 & 6.4 of the City's Policy:</p> <p>i) A portion of the existing dwelling on Lot A will be built up to the eastern side boundary will comprise a length greater than 9 metres;</p> <p>ii) A portion of the upper floor deck area of the existing dwelling on Lot 1 will comprise a minimum setback from the eastern side boundary of 1 metres in lieu of 2 metres; and</p> <p>iii) The proposed new dwelling on Lot B will be built up to two (2) lot boundaries in lieu of one (1) lot boundary.</p>	<p><u>Lot boundary setbacks (Upper Floor – Lot A)</u></p> <ol style="list-style-type: none"> 1. The lot boundary setback variation being sought from the upper floor of the deck area from the lot's eastern lot boundary is considered to be minor in nature and will not have an adverse impact on the adjoining properties and/or the streetscape in terms of bulk and scale. Furthermore, the section of wall seeking a variation comprises a length of only 3 metres. 2. Other than the offending wall, the proposed development has been designed to provide adequate lot boundary setbacks. 3. That portion of the upper floor deck for the existing dwelling on Lot 1 with a reduced setback from the eastern side boundary will abut the pedestrian access leg and bin store for the proposed new dwelling on adjoining Lot B which is part of this application (see Figure 3 – Aerial Site Plan & Development Plans). Given this, the proposed setback variation for the deck will not have an adverse impact on any habitable spaces associated with the new dwelling on Lot B. 4. In addition to the above point, the setback variation will not impact the existing dwelling on Lot 327 (No.116) Clontarf Steet that is located beyond the pedestrian access leg for Lot B. Furthermore, the deck area is screened to avoid any overlooking of Lot 327. <p><u>Parapet Wall Variations (Lots A & B)</u></p> <ol style="list-style-type: none"> 5. The use of a parapet wall for the overall development on the subject land will assist with providing sufficient internal and external living areas for the occupants of the dwellings. 6. It should be noted that the parapet wall for the existing dwelling on Lot A is located along the pedestrian access leg for Lot B within the same development. Furthermore, the plans have been amended to cut the eaves overhang over the pedestrian access leg as requested by the City to provide adequate clearance and avoid any encroachment. 7. The use of two parapet walls for the new dwelling on Lot B will assist with providing for the creation of good internal living spaces for the future occupants of that dwelling and allow for the provision of an alfresco that will provide coverage of the outdoor space throughout the year.

		<p>8. The proposed parapet walls will assist with providing an element of privacy between the new dwelling on Lot B and the adjoining properties.</p> <p>9. That portion of the new dwelling on Lot B to be built up to the western side boundary will abut an outbuilding associated with the existing single detached dwelling on adjoining Lot 325 (No.112) Clontarf Street, which is also constructed on the same lot boundary (see Figure 3 – Aerial Site Plan). As such, it is contended that the proposal will not have an adverse impact on any key sensitive habitable spaces associated with the existing dwelling on adjoining Lot 325.</p> <p>10. That portion of the new dwelling on Lot B to be built up to the northern internal lot boundary will abut the retaining wall associated with the existing dwelling on Lot A within the same development (see Development Plans). It should be noted that the existing dwelling will comprise level of approximately 3 metre higher than the finished floor level of the proposed new dwelling on Lot B.'</p> <p>11. The use of a parapet wall for the garage will avoid the provision of a 1 metre setback area that will be underutilized land.</p> <p>12. The wall length of the proposed parapet wall complies with the 'deemed to comply requirements' of Clause 6.4 of the City's Policy.</p> <p><u>Review of Variations</u></p> <p>13. The overall development on the land (including both the existing dwelling and the new dwelling) complies with Element 5.4.2 of the R-Codes (i.e. 'Solar access for adjoining sites') and will not impact access to light and ventilation for any existing dwellings on any adjoining properties. In fact, the overall development on Lot 326 will not cast a shadow over the adjoining properties at 12 noon on 21 June (i.e. winter solstice)</p> <p>14. The design of the dwelling on the subject land provides for the effective use of all available space and the creation of adequate internal and external living areas which will benefit the future occupants of the dwelling.</p> <p>15. Other than the minor extent of overlooking from the new deck area addition on Lot A over Lot B, the overall development on Lot 326 complies with the visual privacy provisions of the R-Codes.</p> <p>Having regard for the above it is contended those portions of the development seeking variations to lot boundary setbacks and parapet walls satisfy the Objectives of Clause 6 of the City's Policy, will not have an adverse impact on the local streetscape, will not adversely impact the existing/future dwellings on the adjoining properties and may therefore be approved by the City.</p>
<p>City of Joondalup Housing Opportunity Area Local Planning</p>	<p>The application proposes that the garage to the new dwelling on Lot B will comprise a minimum front</p>	<p>1. The new dwelling on Lot B has frontage to a right of way, with the previous development on the land comprising a garage with a 1.47 metre setback (see Figure 2). In addition, there are a number of existing dwellings along the right of way that</p>

<p>Policy, Clause 7.1 – ‘Residential Parking - Location’</p> <p>Objectives:</p> <ul style="list-style-type: none"> • <i>Achieve development form, scale and character that is appropriate to the context and the existing and planned character of the Housing Opportunity Area, while moderating impacts on neighbouring properties.</i> • <i>To create streetscapes framed with appropriate building form in keeping with the desired character of the Housing Opportunity Area.</i> • <i>Achieve building outcomes that promote excellent amenity for their interface to the public realm and for all neighbouring properties.</i> • <i>Provide sufficient space for onsite visitor parking.</i> 	<p>setback of 4.454 metres in lieu of 5.5 metres as required by the ‘deemed to comply requirements’ of Clause 7.1 of the City’s Policy.</p>	<p>comprise a garage setback of less than 5.5 metres.</p> <ol style="list-style-type: none"> 2. The amended plans illustrate that there is 5.5 metres between the garage and the kerb line along the right of way to accommodate a visitor car parking bay. As such, it is contended that the proposed layout satisfies the intent of Clause 7.1 of the City’s Local Planning Policy in that it caters for visitor parking. It is our understanding that this variation was discussed between the designer (Mr Joe Germano) and the City, with the City indicating that proposed garage setback and allowance for visitor parking on Lot B could be supported. 3. The reduced front setback of the garage allows for the provision of a good internal living space for the future occupants. 4. The proposed new dwelling on the land has been designed to provide an active frontage to the right of way. Along with elements of articulation and visual interest (see Figure 1). This will be a positive outcome on the right of way compared to the current built form character along the right of way. 5. Given the current built form along the right of way, the reduced front setback for the garage on Lot B will not have an adverse impact on the streetscape. 6. The location of the garage on the land will not result in the dwelling having reduced connectivity within the right of way, with the dwelling comprising major openings to habitable rooms and an active front yard area orientated towards the right of way to provide adequate passive surveillance of the public realm and activation. 7. The garage width/length complies with the Australian Standards and will provide for the parking of two (2) vehicles in a secured environment. In addition, the garage will provide protection from the elements for the vehicles owned by the occupants of the existing dwelling. 8. The garage setback will not have an adverse impact on the visual outlook from any adjoining properties over the right of way. <div data-bbox="726 1489 1497 1877" data-label="Image"> </div> <p>Figure 2 – The right of way streetscape is poor in terms of connectivity and passive surveillance (with little activation). The proposed new dwelling on the subject land will provide a positive outcome to the right of way. Note the reduced setback of various garages along the right of way.</p>
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Having regard for the above it is contended that the garage setback for the new dwelling on Lot B does not undermine the City Policy, will not have an adverse impact on the local streetscape, reflects the setback of the existing garage on the land and may therefore be approved by the City.

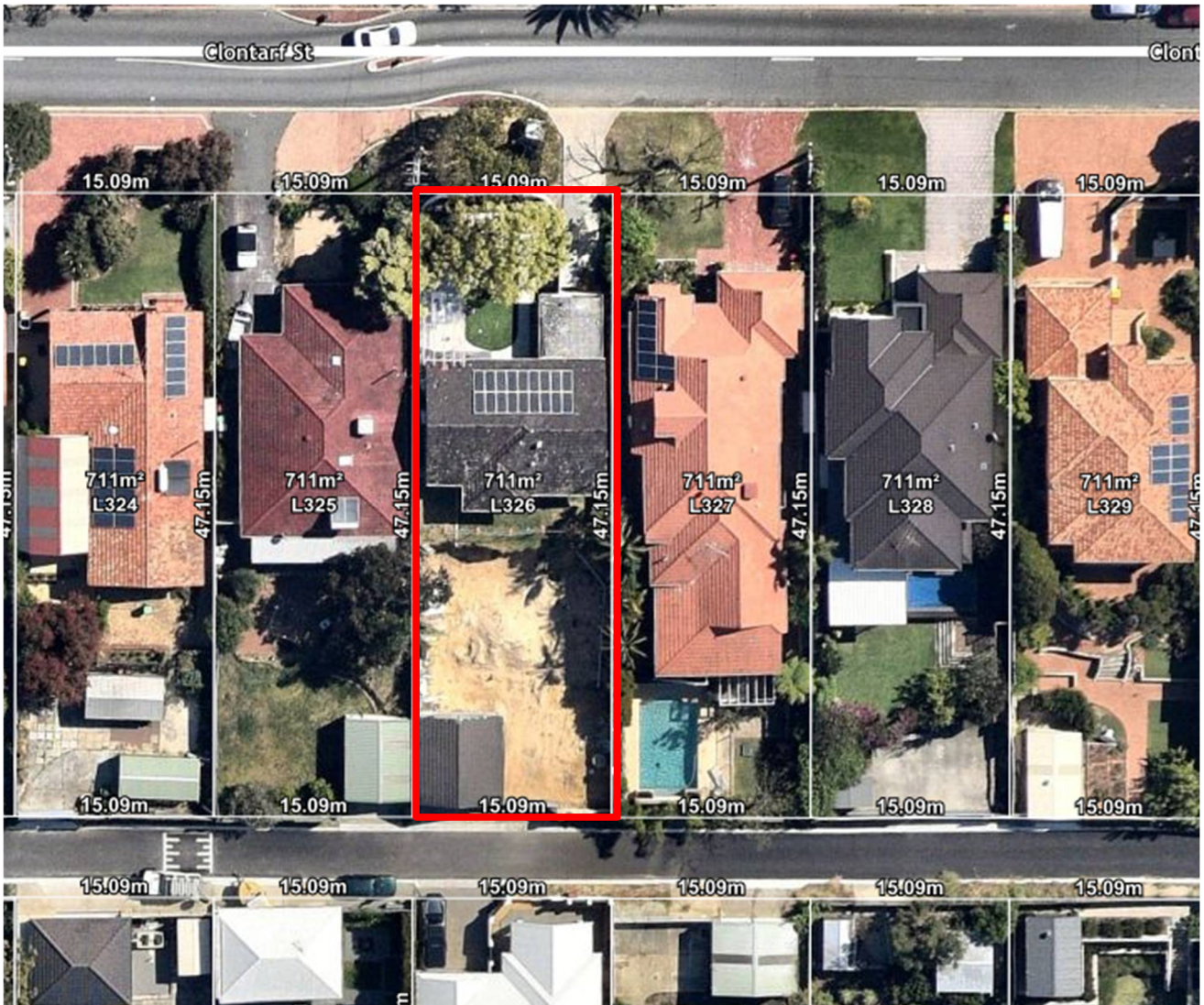


Figure 3 - Aerial Site Plan

CONCLUSION

In reviewing the proposed development it is concluded that the variations being sought as part of this application are considered to be minor in nature and will not result in the development on the subject land having an adverse impact on the local streetscape or the adjoining properties in terms of bulk and scale. In fact, the proposed development on the subject land will enhance the streetscape along the right of way and provide for good activation.

In light of the amended plans and above justification, we respectfully request the City of Joondalup's favorable consideration and approval of the Application for Development Approval for the construction of one additional grouped dwelling (i.e. a total of two grouped dwellings) on Lot 326 (No.114) Clontarf Street, Sorrento in accordance with the plans prepared in support of the application at the City's earliest convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact me on

Yours faithfully,



Carlo Famiano
Town Planner
CF Town Planning & Development

cc Mr Joe Germano (Germano Designs)

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