

6th August 2026

City of Swan

via: planning.lodgement@swan.wa.gov.au

ATTENTION: PLANNING SERVICES

RE: 14 PROPOSED GROUPED DWELLINGS (7 SMALL DWELLINGS) – No. 37 FERGUSON STREET, MIDDLE SWAN

Proposal

The vision for this project is to provide a genuine variety of housing product to suit differing household needs. This unique application proposes 14 Grouped Dwellings which is made up of the following:

- 7 Small Dwellings
- 3 Grouped Dwellings at Silver Level standard (Type C)
- 4 typical Grouped Dwellings

Zoning

The subject land is 4148m² and is assigned an R20/35 density code pursuant to the City of Swan Local Planning Scheme No. 17 (LPS 17).

Clause 5.2.5b – LPS 17

At the time this clause was originally drafted / gazetted I have no doubt that the intent was to ensure that a minimum of one alternative dwelling is provided to enable a mixture of dwelling typologies. The only types of alternative dwellings that existed at the time of gazettal were Single Bedroom Dwellings and Aged or Dependant Persons Dwelling.

Due to lack of uptake of Single Bedroom Dwellings & Aged Dwellings the 2024 R-Codes introduced additional dwelling typologies being Small Dwellings and Accessible Dwellings.

We note that the WAPC in approving subdivisions under Clause 5.2.5b have used wording such as the following for Restrictive Covenants post the 2024 R-Codes:

“This lot is not to be developed for any purpose other than a single bedroom dwelling, or any other development approval as the local government may grant.” (emphasis added in bold – source WAPC: 1041-24)

Due to Single Bedroom Dwellings & Aged Dwellings no longer being fit for purpose, they are proposed to be abolished in the draft R-Codes (I am a member of the industry Stakeholder Reference Group).

Small Dwellings (and Accessible Dwellings) are a form of alternative dwelling typologies and therefore clearly fit the intent of Clause 5.2.5b. The City has previously agreed as per DA-423/2023/A where a Change of Use Application (for a development previously subject to Clause 5.2.5b and pre 2024 R-Codes) to revert from an Aged Persons Dwelling to an 'Accessible Dwelling' (post 2024 R-Codes) was supported.

Use Not Listed vs Grouped Dwelling (Small Dwelling)

There are a number of Local Planning Schemes that have not yet been updated to include the contemporary alternative dwelling typologies. My experience is that such Local Governments have considered the new alternative dwelling typologies to be a 'subset' of a Grouped Dwelling as the closest practical form of definition / interpretation in their respective LPS (as opposed to 'Use Not Listed' to avoid unnecessary public advertising).

- LPS 17, Schedule 1(b) Land Use Definitions – 'Grouped Dwelling' has the same meaning as in the R-Codes.
- R – Codes, A1 Definitions – Grouped Dwelling – a dwelling that is one of a group of two or more dwellings on the same lot....
- R – Codes, A1 Definitions – Small Dwelling – a single house or **grouped dwelling**....(emphasis added in bold).

Proposed Small Dwellings

A total of 7 Small Dwellings are proposed which will provide a much needed variety of housing typologies to assist varying household needs and budgets. The Design Review Panel were very supportive and encouraging of this particular aspect of the application.

The Small Dwellings seek a minor 2.4m² variation to the 70m² internal floor area permitted under the R-Codes. The minor variation enables a more functional laundry space and a second shower to be provided which will improve functionality of the 2 bedroom Small Dwellings over their life cycle.

It is a good planning outcome that the development is comprised of 50% alternative dwellings (considerably more than the minimum required under Clause 5.2.5b) and this should therefore be both welcomed and encouraged by the City. This is additional rationale for the minor floor area variation to be supported.

Site Area Requirements – Part D R-Codes

The 7 x Small Dwellings comply with minimum lot size requirements (143m² required – 169m² provided) and the 7 x 'normal' Grouped Dwellings comply with minimum lot size requirements (220m² required – 238m² proposed) at the R35 density code.

The development complies with average lot size requirements (215m² required – 296m² proposed).

Bush Fire

As BAL 40 extends into the rear portion of the property (refer to BMP) only non-habitable structures are proposed in the affected area as per Australian Standards.

Landscaping

5 x existing trees are to be retained. Above average green space is proposed in the access leg and front sections of the dwellings to assist with aesthetics and a welcoming / community feel within the development.

An extensive number of native trees are proposed onsite and also an additional native verge tree (200L). Landscaping has a native theme throughout with trees / plants / groundcovers with mulch. Evergreen Flowering Ash have been proposed for the garden areas due to the shade they provide.

Other

Good passive surveillance is provided to both the street and Common Property. Living areas front on to north facing Gardens. A combination of render and face brick is proposed which further results in the development being of a high than normal standard for the locality.