



Murray River Council

3 February 2025

Re: 39 Vinecombe Lane variation request – side setback

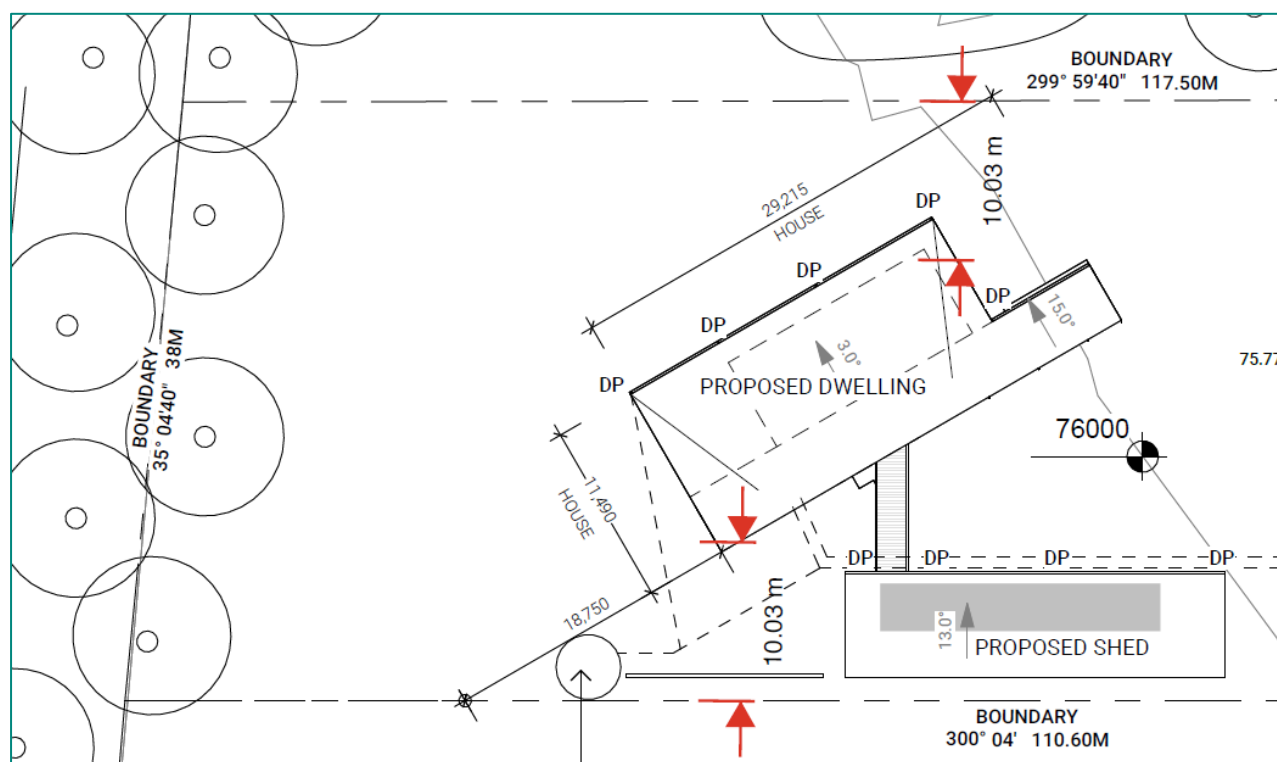
Dear Assessment Officer,

The purpose of this letter is to provide justification for a variation to the development standards for side setbacks for the abovementioned development application. The proposed application is for a dwelling house and shed. The dwelling and shed has been architecturally designed, with the external facade of the proposed dwelling house to be Concrete Block and Timber Wall Cladding and Metal Roof Sheetting.

The two proposed variations are as follows:

Control	DCP Requirement	Proposed	Extent of Variation
Side Setback – Northern Boundary	10m	7.48	2.62m – 26%
Side Setback – Southern Boundary	10	9.34	0.76 – 7.6%

Figure 1 – Extent of encroachment on setback



The variation has been proposed so as to maximise light, energy efficiency and views to Hudson Creek. To achieve this, the house has been angled so that the living areas face to the north-west. As a result, a very small portion of the dwelling on both the southern and northern boundaries encroach upon the 10 metre setback required by **Clause B1.3(4)** of the *Wakool Development Control Plan 2013*.

Clause B.1.3(6) – Variation of Setbacks

Clause B1.3(6) notes that Council may consider a setback reduction where the proponent can demonstrate the following:

<i>The shape of the lot and/or site constraints affect the placement of the building;</i>	<p>The placement of the dwelling has been chosen to balance the following factors:</p> <ul style="list-style-type: none"> • Maximise solar access and views to the Creek; • Maintaining the established black box vegetation located towards the eastern end of the sites northern boundary; • Making use of the existing filled building pad to minimise the need for additional fill <p>This placement achieves the best outcomes and amenity for the dwelling site, with minimal impact on the surrounding neighbours.</p>
<i>There is sufficient setback for privacy and amenity of neighbouring dwellings;</i>	<p>In this instance, the affected neighbour to the north is a public reserve, and the encroachment is only approximately 7.25sqm of the dwelling, the vast majority of which is a veranda. Therefore, the control is unnecessary as there is no dwelling or private residence that may be impacted by the small encroachment onto the required setback.</p> <p>Similarly, only 0.46sqm of the dwelling encroaches onto the required southern boundary setback and the remainder of the dwelling complies with the required setback. The encroaching portion of the dwelling has no windows or doors, and will be buffered by proposed landscaping, the proposed concrete breezeway wall and existing vegetation on the neighbours boundary. Therefore, sufficient setback is provided to maintain the privacy and amenity of the southern neighbour.</p>
<i>BCA requirements are met (particularly for fire rating);</i>	Complies. All buildings comply with National Construction Code requirements for setbacks.
<i>Clause A1.7 – Variations to the controls in this DCP are addressed</i>	This is addressed below.

Clause A.1.7 Variation to the controls in this DCP, requires the following is provided in support of a variation request:

- Assessment against the objectives the LEP, DCP and the control;
- Demonstration that compliance with the control is unreasonable or unnecessary
- Justification that the control will improve the overall design, not adversely impact on local amenity and benefit the broader community.

Clause 1.7 Requirements	
<p><i>Provide a justification as to why the proposed development does not meet the prescriptive or performance-based criteria that clearly demonstrates:</i></p> <p><i>a) The proposed development meets the aims of WLEP2013 and the DCP (where relevant);</i></p>	<p>The main aim of the Wakool LEP that is relevant to this application is to ‘encourage sustainable economic growth and development within Wakool’.</p> <p>Relevant aims of the DCP include:</p> <ul style="list-style-type: none"> - ‘Ensure that development <u>enhances the character and desired qualities of the Shire</u> including, but not limited to, the river and landscape settings, its heritage items and historic streetscapes, its town and village character, and the rural setting’; - ‘Encourage development <u>that responds to its context and is compatible with the existing and desired built environment, local infrastructure, landscape, and public domain</u>’. <p>As already noted, the side setback variation seeks to balance the applicants desire for views of the Creek whilst also ensuring an orientation that maximises northern light. To achieve this, the dwelling has been oriented to the north-west. The proposed location of the dwelling allows the established remnant black box vegetation towards the eastern end of the sites northern boundary to be retained which also contribute positively to the sites landscape setting and streetscape character. The placement of the dwelling is therefore considered to be consistent with the aims of the WLEP2013 and DCP.</p>
<p><i>b) The proposed development meets the objective for the control (if one exists)</i></p>	<p>Objective(s): Buildings should be setback from the lot boundaries:</p> <ul style="list-style-type: none"> a) To maximise amenity for the proposed dwelling and any adjacent dwellings (including, but not limited to, separation from road noise, adjacent building noise, privacy, reasonable views, and overshadowing); b) To allow for sufficient fire protection and/or address fire requirements; c) To allow an area for landscape on the site for environmental and privacy benefits and to reduce the visual impacts of any building(s); d) To ensure the proposed building is consistent in setback (and the appearance of bulk and scale) with the adjacent buildings whilst defining the street edge and creating desirable street proportions; e) To provide some articulation and/or variation to the building elevations to provide visual interest. <p>The proposed side setbacks satisfies the objectives of the clause because:</p>

	<ul style="list-style-type: none"> ▪ The setback variations do not result in any negative impacts either on the subject property or adjoining land with respect to amenity, privacy, overshadowing or noise impacts. To the contrary, the proposed side setbacks will enhance amenity to both the landowner and adjoining neighbour to the south. ▪ Allows for compliant fire protection in accordance with BCA requirements. ▪ Allows for the retention of the existing remnant black box trees along the northern property boundary which will contribute positively to the streetscape. ▪ The adjoining allotment to the north is a public reserve and therefore not developed. The adjoining site to the south is also undeveloped other than a shed which is constructed to within approximately 2m of the site's southern boundary. At 43 Vinecombe Lane, a dwelling is constructed to within 4.6m of the sites southern boundary. The siting of the dwelling is therefore considered to be consistent with adjacent buildings. ▪ The siting provides for a unique architectural design that provides a high level of visual interest through the angled positioning of the dwelling. <p>The proposed side setback is considered to be acceptable having regard to the objective of the control.</p>
<p>c) The proposed variation does not exceed any maximum variation set out in</p> <p>WLEP2013 or the DCP control (if one exists)</p>	<p>No maximum variation applies.</p>
<p>d) That compliance with the control(s) is unreasonable or unnecessary in the circumstances of the case;</p>	<p>Compliance with the building setback control in this case is considered unreasonable and unnecessary due to the unique characteristics of the property and its context. The control has been written with the objective of maximising privacy and minimising overshadowing between neighbours in Large Lot Residential developments. In this instance, the affected neighbour to the north is a public reserve, and the encroachment is only approximately 7.25sqm of the dwelling, the vast majority of which is a veranda. Therefore, the control is unnecessary as there is no private residence that may be impacted by the small encroachment onto the required setback.</p> <p>Similarly, only 0.46sqm of the dwelling encroaches onto the required southern boundary setback. This portion of the dwelling has no windows or doors, and is buffered by proposed landscaping, the proposed concrete breezeway wall and existing vegetation on the neighbours boundary which will establish into a vegetation buffer. Refer Figure 2 for image of southern boundary.</p> <p>Requiring strict adherence to the 10-meter setback would unnecessarily limit the functional use of the site, disrupting the</p>

	<p>efficient layout of the property and detracting from its rural character. Considering these factors, full compliance with the setback control is not required in this instance, as the variation will not negatively affect the overall objectives of the Development Control Plan.</p>
<p><i>e) The variation is justified not just for reasons that benefit the Proponent, but it is demonstrated how the variation will:</i></p> <p><i>i) improve the overall design.</i></p> <p><i>ii) not adversely impact on local amenity; and</i></p> <p><i>iii) benefit the community.</i></p>	<p>The reduced setback allows for the dwelling to be optimally positioned to capture northern light, enhancing both the passive solar benefits for the dwelling and the visual connection with the picturesque Hudson Creek.</p> <p>The variation does not negatively impact the local amenity or that of neighbouring properties. Given the spacious nature of the rural residential setting, the small extent of the encroachment and that the impacted neighbour is a public reserve, the proposal does not result in any loss of privacy, overshadowing, or obstruction of views for adjacent properties.</p> <p>The proposed variation benefits the broader community by preserving the rural character of the area, minimizing unnecessary land disturbance, and allows for retention of existing black box vegetation along the northern property boundary. By enabling the dwelling to be placed in a location that optimizes light and views, the development enhances the quality of life for the residents. It also avoids a scenario where the dwelling is closer to the southern boundary, where there is a private residence that may be impacted. Overall, the variation promotes a development that harmonizes with the community's values, supporting both the proponent's needs and the wider environmental and social objectives.</p>

Figure 2 – Southern Boundary



I trust this information is of assistance and provides sufficient justification for the variation to control **Clause B1.3(4) Building Setbacks**. Should you have any questions, please do not hesitate to contact the undersigned on 0447 314 359 or e.noakes@acretp.com.au.

Yours faithfully,

Eliza Noakes

Senior Town Planner