

Planning and Development Reports

Committee Consideration – 12 February 2013
Council Resolution – 26 February 2013

Table of Contents

Item No.		Page No.
PD01.13	No. 64 (Lot 4) Jutland Parade, Dalkeith – Proposed Three Storey Dwelling & Swimming Pool.....	2
PD02.13	No. 64 (Lot 5) Jutland Parade, Dalkeith – Proposed Three Storey Dwelling & Swimming Pool.....	18
PD03.13	No. 43 (Lot 4) Philip Road, Dalkeith – Additions (Two-Storey) to Single House.....	32
PD04.13	No. 10 Selby Street, Shenton Park – Adoption of Proposed Outline Development Plan for Para-Quad Association of Western Australia.....	37
PD05.13	Proposed Draft 2012 Municipal Inventory – Heritage.....	41
PD06.13	Approval in Principle for Proposed Scheme Amendment of No. 17 (Lot 12241) John XX111 Avenue, Mount Claremont, from “Public Purpose” to “Special Use – Storage Facility”	49
PD07.13	Proposed Parking and Parking Facilities Local Law 2013	53
PD08.13	Lots 4 & 105 Underwood Avenue, Shenton Park – Proposed Outline Development Plan for the University of Western Australia Biological Resources Support Facility	57

PD01.13	No. 64 (Lot 4) Jutland Parade, Dalkeith – Proposed Three Storey Dwelling & Swimming Pool
----------------	-----------------------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	Milankov Designs and Project Management
Owner	M B Hartono & I Budiastro
Officer	Laura Sabitzer – Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File ref.	DA12/196 : JU2/64U4
Previous Item No's	-
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act 1995</i> .

Purpose

This application is referred to Council for recommendation as officers have no delegation to recommend approval for an application once objections have been received.

As the site is located on land partly within the Swan River Trust's Development Control Area, Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

Recommendation to Committee

Council:

Approves the application under the City of Nedlands Town Planning Scheme No. 2 and recommends the Western Australian Planning Commission approve the application under the Metropolitan Regional Scheme for the proposed three storey dwelling and swimming pool at No. 64 (Lot 4) Jutland Parade, Dalkeith in accordance with the plans received 13 November 2012 subject to the following conditions:

- 1. The eastern window of Bedroom 3 on the mid floor shall be modified to a non major opening, in accordance with the *Residential Design Codes of WA*;**

2. All visual privacy screens and/or obscure glass panels to Major Openings and/or Active Habitable Spaces shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes of WA*. The structure(s) shall be installed prior to the occupation of the dwelling and remain in place permanently, unless otherwise approved by the City;
3. The use of the lower floor level shall be restricted to the uses depicted on the approved plans. Prior to occupation of the development the owner shall execute and provide to the City a notification pursuant to s. 70A of the Transfer of Land Act 1893 to be registered on the title to the land as notification to prospective purchasers that the use of the lower floor level is subject to the restriction set out above;
4. A grated channel strip-drain shall be constructed across the driveway, aligned with and wholly contained within the property boundary, and the discharge from this drain to be run to a soak-well situated within the property;
5. All stormwater from the development which includes permeable and non-permeable areas shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event; and soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development;
6. All footings and structures to retaining walls and dividing fences shall be constructed wholly inside the site boundaries of the Certificate of Title;
7. Further planning approval from the City is required for any fill or retaining walls on the lot other than that shown on the approved plans;
8. The pergolas shall remain with an open-framed roof, permeable to water;
9. The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building / roof has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building / roof to reduce the reflectivity to a level acceptable to Council; and
10. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes specific to this approval:

- 1. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres/second.**
- 2. All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.**
- 3. All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
- 4. The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to selecting and locating any air-conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated. The City does not recommend installing any equipment near a property boundary where it is likely noise in these locations will intrude on neighbouring properties.**
 - a. Prior to selecting a location to install an air-conditioner, applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties.**
 - b. Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, the applicant is advised to consult residents of neighbouring properties and if necessary take measures to suppress noise.**
- 5. During a development, any swimming pool/pond on site, whether retained, partially constructed or finished shall be kept dry or the water maintained of a quality which ensures it is not liable to breed mosquitoes.**
- 6. This approval does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.**

7. Building over easements for public utilities may require approval from the relevant authority.

Strategic Plan

KFA 3: Built Environment

3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No.64 (Lot 4) Jutland Parade, Dalkeith
(Refer to attachment 1)

Zoning MRS: Urban

Zoning TPS2: Residential, R12.5 coding

Lot Area: 813 m²

In 2005, the Western Australian Planning Commission (WAPC) approved a 5 lot survey strata subdivision application at No. 64 Jutland Parade, Dalkeith.

The City has previously granted planning approval for three storey dwellings at Nos. 1/64, 2/64 & 3/64 Jutland Parade, Dalkeith.

In May 2012, the City received development applications for three storey residences at Nos. 4/64 & 5/64 Jutland Parade, Dalkeith (refer to PD02.13 for report on 5/64 Jutland Parade).

The proposed dwelling is located on a lot partly located within the Swan River Trust (SRT) Development Control Area. In accordance with the *Swan and Canning Rivers Trust Act 2006* and the procedures at Clause 30A of the Metropolitan Regional Scheme (MRS), Council is to provide a recommendation on the proposal to the WAPC, who will determine the application.

Proposal Details

This report is in relation to a proposal at No.4/64 Jutland Parade. This strata lot is located to the western side, at the rear (river end) of the site.

Refer to attachments 1 - 3 for the locality & strata lot plans.

The proposal is for a three storey dwelling, with two levels of living space and a basement level. The basement level consists of areas for plant & equipment and storage.

The application also proposes a swimming pool at the southern end of the lot.

Refer to attachments 4 – 6 for plans of the proposed development.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Notification period: 16 November 2012 – 7 December 2012

As the development is located in the City of Nedlands Controlled Development Area (CDA) the application is required to be advertised for a period of 21 days to surrounding landowners.

Comments received: Two (2) objections

Note: A full copy of all relevant consultation feedback received by the City has been given to the City’s Councillors prior to the meeting.

Summary of comments received	Officers technical comment
<p>Overlooking - the mid floor balcony and the ground floor alfresco area will overlook our property and will greatly affect our privacy.</p>	<p>Not upheld – the proposed overlooking variations to R Codes Clause 6.8.1 A1 are considered to meet the relevant performance criteria. This is examined further in the Discussion section.</p> <p>It is noted that R Codes Clause 6.8.1 does not provide for the complete protection of privacy and visual interaction between properties. Rather the objective of the Clause is to minimise the impact of the development on the visual privacy of nearby residents.</p>
<p>Dividing wall height - express concern over the height of the boundary wall proposed and requests that Council ensures that it complies with the relevant legislation.</p>	<p>Noted – the proposed section of the dividing wall between 4/64 & 66 Jutland Parade complies with TPS2 cl. 5.6.4 and Council’s Fill & Fencing Policy.</p> <p>The proposed dividing wall is no higher than 1.8m above the natural ground levels, as defined in TPS2.</p>
<p>Visual amenity - the scale of development is inconsistent with that of surrounding housing</p>	<p>Noted - it is accepted that the proposed residence is closer to the river than the surrounding</p>

<p>and as a result will be very prominent and visually obtrusive when viewed from the river.</p> <p>The majority of existing development in this locality is setback some distance from the river. The subdivision approval which created the subject sites has resulted in the opportunity for development to be located well forward of the prevailing setbacks of existing development to the river</p> <p>Given the open, spacious nature of the current built environment in this area, Council should require the applicant to reconsider the scale of the proposed developments to be more sympathetic to their prominent location.</p>	<p>residences however other properties on the southern side of Jutland Parade are setback a similar distance from the river (refer to attachment 2). The development is not considered to be out of scale with other properties in the locality.</p> <p>TPS2 has provisions regarding the preservation of amenity in the locality (cl. 5.5.1) and the Controlled Development Area (cl. 5.10.2). These provisions are examined below in the Discussion section. It is noted that these considerations are examined at the scale of the locality rather than just the properties in the immediate vicinity of the site. Referring to attachment 2, it is apparent that other properties along Jutland Parade, especially lots which have been subdivided, have developed with a similar setback from the lot boundary adjacent to the river.</p> <p>The 5 lot survey strata subdivision which was approved in 2005 resulted in the creation of Lots 4 & 5 which are located to the south, adjacent to the river. The owners of Lots 4 & 5 are entitled to develop and build residences on these lots.</p> <p>It is also noted that east of Lot 5, the lot at No. 62 Jutland Parade is currently vacant (refer to attachment 1). It is expected that a residence of a similar scale to the residence proposed at 4/64 Jutland Parade will eventually be constructed on this site.</p> <p>There is opportunity for the surrounding lots to develop to a similar scale, closer to the river. In accordance with Swan River Trust's Policy, the current setback requirement from the lot boundary adjacent to the river is a minimum of 10m.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>The current height requirements as per TPS2 allows for development of comparable height.</p>
<p>Building height - both of the proposed developments are three storeys. This is not consistent with cl. 5.11 of TPS2 or the two storey scale of the prevailing residential development in this area.</p> <p>It is acknowledged that views do not carry a proprietary right however the proposed height will result in a loss of easterly views from our residence.</p>	<p>Not upheld – The proposed development complies with cl. 5.11 of TPS2 (Maximum Building Height).</p> <p>In relation to the number of storeys, the residence is compliant with cl. 5.11.i which allows:</p> <p><i>“two storeys directly above each other in the case of residential use...excluding areas or plant and equipment, storage, toilets and the parking of wheeled vehicles”.</i></p> <p>The dwelling is three storeys in total, with two levels of living space and a basement level. The basement level consists of areas for plant & equipment and storage, which are areas excluded from cl.5.11.i.</p> <p>It is noted that the residence at No. 60 Jutland Parade is three storeys in height. Furthermore, there are many examples of residences along Jutland Parade and in the locality which are three storeys high.</p> <p>TPS2 at cl.5.11 also requires the calculation of wall height (no greater than 8.5m) and overall height (no greater than 10m) which is assessed from the ‘mean natural ground level’ (the geometric horizontal centre of the lot). As this lot is a strata lot, the City has obtained legal advice which confirms that the mean natural ground level is taken from the centre of the parent lot rather than the centre of the strata lot (refer to attachment 7). The site slopes steeply towards the rear and the natural ground levels are significantly lower for Lots 4 & 5 than Lots 1, 2 & 3. In this case, it</p>

	has resulted in the mean natural ground level being taken from a higher point, than if the site was subdivided as freehold title.
--	-----------------------------------------------------------------------------------------------------------------------------------

Legislation

- *Swan and Canning Rivers Trust Act 2006*
- *Metropolitan Region Scheme (MRS)*
- *City of Nedlands Town Planning Scheme No.2 (TPS2)*
- *Residential Design Codes (R Codes)*
- Council Policy Fill and Fencing
- Council Policy Neighbour Consultation – Planning Applications

The application proposes the following variations to the R Codes:

- Clause 6.3.1 A1 Buildings setback from the boundary
- Clause 6.6.1 A1.4 Excavation or fill
- Clause 6.8.1 A1 Visual privacy

Budget/financial implications

The application is for works to be constructed on a private lot, and therefore has no financial implications for the City.

Risk management

Nil

Discussion

Variation: R Codes – Side setbacks

Requirement:	To meet the acceptable development provisions the proposal is to be setback in accordance with Table 2a or Table 2b, of the R Codes. Where the proposed setback does not comply the proposal is assessed under the Performance Criteria of Clause 6.3.1.
Proposal:	The variations to the acceptable development provisions are as follows: Eastern Setback <ul style="list-style-type: none"> • The mid floor wall - balcony to laundry, is setback 1.3m in lieu of minimum 2.9m. • The ground floor wall - living room to courtyard, is setback 1.5m in lieu of minimum 4.3m.

	<ul style="list-style-type: none"> • The ground floor balcony is setback 3.8m in lieu of minimum 4.6m.
<p>Performance criteria:</p>	<p><i>“Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.”</i>
<p>Officer technical comment:</p>	<p>The proposed development is considered to comply with the performance criteria mentioned above, for the following reasons:</p> <ol style="list-style-type: none"> 1. The setback variations will not detrimentally affect access to direct sun or ventilation to the property or the adjoining property. 2. The walls are articulated and the façade uses a variety of materials (i.e. stone cladding, rendered brick and glass) which reduces the visual impact of building bulk. 3. The variations occur due to the walls containing windows to habitable rooms (i.e. major openings). The proposed setbacks would comply or be considered as minor variations if the walls contained no major openings. 4. The proposed setbacks allow for the protection of privacy between the dwelling. As the residences for No. 4/64 & No.5/64 Jutland Pde have been designed concurrently, due regard has been given towards privacy (i.e. major openings are located opposite blank walls or non major openings). This is discussed further in the visual privacy section.

	Please note: The affected property to the east, No. 5/64 Jutland Parade, Dalkeith has the same owners as No. 4/64 Jutland Parade. The variations are acceptable to the owners who are aware and have signed consent to the proposed variations.
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Variation: R Codes – Excavation or fill

Requirement:	The R Codes at Clause 6.6.1 A1.4 requires fill to not exceed 0.5m within 1.0m of a common boundary. Where the proposed setback does not comply the proposal is assessed under the Performance Criteria of Clause 6.6.1.
Proposal:	Fill is up to 0.74m within 1.0m of the western boundary (between 4/64 & 66 Jutland Parade).
Performance criteria:	<i>“Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property”.</i>
Officer technical comment:	The fill is considered to comply with the relevant performance criteria for the following reasons: <ol style="list-style-type: none"> 1. The lot cannot be viewed from the street, and the location of the over height fill will not be able to be viewed from the river. 2. An existing dividing wall, abutting the location of the proposed fill, ranges from 4.1m - 7.1m in height above the proposed filled level. This means that the over-height fill does not result in overlooking to the adjoining property. 3. The height of the existing dividing fence prevents one site being viewed as being higher than another. The visual impression of the site's subdivision levels are retained. 4. The adjoining property has rocky embankments adjacent to the location of the proposed over-height fill. Refer to attachment 1. This embankment is at a higher level than the proposed fill level.

Variation: R Codes – Visual privacy (overlooking)

Requirement:	To meet the acceptable development provisions major openings and unenclosed outdoor active habitable spaces with a finished floor level greater than 0.5m above natural ground level are to be setback from boundaries between 4.5m – 7.5m, depending on the nature of the room.
--------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	Where the proposed setback does not comply the proposal is assessed under the Performance Criteria of Clause 6.8.1.
Proposal:	<p>The variations to the acceptable development provisions are as follows:</p> <p>Overlooking to 66 Jutland Parade</p> <ul style="list-style-type: none"> • The balcony on the mid floor is setback 4.5m in lieu of minimum 7.5m within the cone of vision. • The alfresco on the ground floor is setback 4.5m in lieu of minimum 7.5m within the cone of vision. <p>Overlooking to 5/64 Jutland Parade</p> <ul style="list-style-type: none"> • Bed 3 on the mid floor is setback 1.8m in lieu of minimum 4.5m within the cone of vision. • Balcony 2 on the mid floor is setback 1.9m in lieu of minimum 7.5m within the cone of vision. • The living room on the ground floor is setback 1.8m in lieu of minimum 6m within the cone of vision. • The courtyard on the ground floor is setback 1.8m in lieu of minimum 7.5m within the cone of vision. • The balcony on the ground floor is setback 3.8m in lieu of minimum 7.5m within the cone of vision.
Performance criteria:	<p><i>“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscaping, or remoteness.</i></p> <p><i>Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscure glass.</i></p> <p><i>Where these are used, they should be integrated with the building design and have minimal impact on residents’ or neighbours’ amenity.</i></p> <p><i>Where opposite windows are offset from edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.”</i></p>
Applicant justification summary:	In regard to the overlooking variations to 66 Jutland Parade:

<p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p>The cone of vision encroachment falls within an area which can be considered a garden/lawn area with no obvious or permanent outdoor living areas.</p> <p>Other outdoor living areas exist closer to the residence and the sources of overlooking are far removed and maintains privacy to the overlooked area.</p>
<p>Officer technical comment:</p>	<p>Overlooking to 66 Jutland Parade</p> <p>The overlooking variations when looking to the south from the balcony (mid floor) and alfresco (ground floor) are considered to comply with the relevant performance criteria.</p> <p>Whilst the balcony and alfresco overlooks a portion of the adjoining property's rear lawn area, this area is not the main outdoor living area for the property.</p> <p>The rear lawn area is not readily accessible from the dwelling and is located approximately 40m from the rear of the dwelling. The explanatory guidelines of the R Codes acknowledges that, "<i>protection from overlooking is not required for outdoor living areas...not readily accessible from the dwelling</i>".</p> <p>The plans show the balcony and alfresco with permanent vertical screening on the western side to prevent direct (frontward) views to the adjoining the property. The variation occurs when a person is on the balcony or alfresco and looks to the south, towards the river. Refer to attachment 5 to view cone of vision encroachment.</p> <p>As the main outdoor living area of the adjoining property is not impacted, it is considered that the proposed overlooking variation is appropriate.</p> <p>Overlooking to 5/64 Jutland Parade</p> <p>Overall the proposed direct overlooking variations are considered to comply with the performance criteria.</p> <p>The areas of the adjoining property which are within the 'cone of vision' area are as follows.</p> <ul style="list-style-type: none"> - Bed 3 when looking to the east overlooks a bedroom at the adjoining property. In light of this, it is recommended that this window is conditioned to be obscured and fixed or a highlight window to prevent direct overlooking into a major opening at the adjoining property. Refer to Condition (1).

	<ul style="list-style-type: none"> - Balcony 2 when looking to the east and south overlooks a blank wall with a small window to the ensuite (non major opening). <p>Balcony 2 also overlooks open space at the adjoining property, however this open space is not the main outdoor living area for the property. The adjoining property's main outdoor living areas are expected to be the covered balcony & alfresco on the mid and ground floors as well as areas around the swimming pool. The explanatory guidelines of the R Codes notes that, the intended outdoor areas to be protected from overlooking are likely to be occupied for extended periods of time and are areas where it is reasonable to expect a relatively high degree of privacy.</p> <ul style="list-style-type: none"> - The living room when looking to the east and south overlooks a non major opening (highlight window) at the adjoining property. - The courtyard when looking to the east overlooks the stairwell window, which is not a major opening. Stairwells are not classed as habitable rooms, and therefore any windows to stairwells are non major openings. - The balcony when looking to the east overlooks a non major opening (highlight window) at the adjoining property. <p>It is recommended that the eastern window of Bed 3 on the mid floor is fixed and obscured or a highlight window to prevent direct overlooking into a major opening at the adjoining property (bedroom window). Refer to condition 1. This condition will enable the variation to comply as the window would not overlook any active habitable spaces or main outdoor living areas of the adjoining property.</p> <p>Please note: The affected property to the east, No. 5/64 Jutland Parade, Dalkeith has the same owners as No. 4/64 Jutland Parade. The variations are acceptable to the owners who are aware and have signed consent to the proposed variations.</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Issue: TPS2 cl. 5.10 - Controlled Development Area (CDA)

Requirement:	Clause 5.10 of the City's TPS2, relating to the CDA, requires that any development on this property is to be considered under Clause 5.10.2 and meet the provisions outlined in Clause 5.10.3.
---------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>Clause 5.10.2 of the City's TPS2 states;</p> <p><i>"Without limiting the generality of Clause 6.5 in determining an application for approval of development in a Controlled Development Area:</i></p> <p><i>a. the Council shall consider the effect of the development on the amenity of the surrounding area, the visual effect of the development as perceived from the Swan River and the effect on the amenity of the parks and recreation reserves in that area in accordance with Council policy from time to time in each Controlled Development Area;"</i>and</p> <p><i>b. "the Council may refuse development approval or impose conditions on a development approval where it considers that the amenity of the area may be detrimentally affected by the proposal."</i></p> <p>Clause 5.10.3 of TPS2 states;</p> <p><i>"Within a CDA the following provisions shall apply:-</i></p> <p><i>a. the Council shall not permit the ground level of any lot to be raised by an amount greater than 0.5 m above natural ground level whether by means of a retaining wall or not, unless it is satisfied that such changes in level will not unduly affect the amenity of the area including amenity of neighbouring properties.</i></p> <p><i>b. for the purpose of this clause the rear boundaries of certain lots shall be delineated in Appendix 1 and the rear setback applicable to boundaries of lots so delineated shall be 7.5m..."</i></p>
<p>Applicants Proposal:</p>	<p>The proposal is for a three storey residence, which can be viewed from the Swan River.</p> <p>Fill is up to 0.74m within 1.0m of the western boundary (between 4/64 & 66 Jutland Parade). All other ground levels are proposed at a height no greater than 0.5m above natural ground level.</p> <p>The dwelling has a 10 m setback from the rear boundary fronting the river, therefore is setback behind the 7.5m CDA setback area.</p>
<p>Officer technical comment:</p>	<p><i>Amenity</i></p> <p>It is considered that the amenity of the surrounding area is not detrimentally affected by the proposed development. The development is considered to be in character with other properties in the locality.</p>

	<p>Whilst it is accepted that the proposed residence is closer to the river than the surrounding residences, other properties in the surrounding area, namely the southern side Jutland Parade, are setback a similar distance from the river (refer to attachment 2).</p> <p>In regard to the visual effect of the development when viewed from the Swan River, the residence is considered to be in keeping with other developments in the locality that border the Swan River. The development is of a similar scale and the façade adjacent to the river is not visually obtrusive. The building height is in accordance with Clause 5.11 of TPS2 and the height of the proposed residence is comparable with the heights of other residences in the surrounding area.</p> <p>Fill The proposed fill of 0.74m above natural ground level (in this case the approved subdivision levels) is not considered to adversely affect the adjoining property.</p> <p>The proposed variation is deemed to be minor and the visual impact of the fill is screened by an existing high dividing wall which ranges from 4.1m - 7.1m in height. The height of the existing wall prevents the site being viewed as being higher than another as well as preventing overlooking into the adjoining property.</p> <p>Rear setback The dwelling has a 10 m setback from the rear boundary adjacent to the river. This is more than the minimum 7.5m CDA setback area.</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Amenity and Other Considerations under the Scheme

Preservation of Amenity

TPS2 clause 5.5.1 under section 5.5 *Preservation of Amenity* states:

'Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.'

The external appearance of the residence is regarded to not adversely affect the amenity of the area. The building height complies with TPS2 and the scale and aesthetic of the building is in keeping with other residential developments in the locality.

The traffic and noise generated as a result of the proposal would be consistent with the expected traffic and noise levels in a residential zone.

The proposal is not considered to have an adverse affect on the amenity of the surrounding area or the locality.

Consideration of Applications

TPS2 clause 6.4.1 under section 6.4 *Consideration of Applications* states:

'In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.'

The land is zoned Residential R12.5, and the proposed 'Dwelling House' use is a use consistent for which the land is zoned.

The proposal has been assessed and is deemed to be in accordance with the Scheme (TPS2). It is considered that the proposed development is appropriate, subject to the recommended conditions.

Conclusion

This development application is for a three storey dwelling and swimming pool on a lot which was created as part of 5-lot survey strata subdivision.

As discussed above, the variations to the acceptable development provisions of the Residential Design Codes meet the relevant performance criteria. The property is located in the City's Controlled Development Area and the development is deemed to be in accordance with Clause 5.10 of the City of Nedlands Town Planning Scheme No.2.

It is considered that the proposal will not adversely impact the amenity of the surrounding area or the locality, including the visual impact of the development when viewed from the Swan River. Accordingly, the application is recommended for approval to the Western Australian Planning Commission, subject to conditions.

Attachments

1. Locality Plan at 1:1000
2. Locality Plan at 1:2500
3. Parent Site Plan
4. Site Plan
5. Floor Plans (Lower, Mid & Ground)
6. Elevation Plans
7. Site Plan showing Mean Natural Ground Level

PD02.13	No. 64 (Lot 5) Jutland Parade, Dalkeith – Proposed Three Storey Dwelling & Swimming Pool
----------------	-----------------------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	Milankov Designs and Project Management
Owner	M B Hartono & I Budiastro
Officer	Laura Sabitzer - Planning Officer
Director	Peter Mickleson - Director Planning & Development
Director Signature	
File ref.	DA12/196 : JU2/64U4
Previous Item No's	-
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for recommendation as officers have no delegation to recommend approval for an application once objections have been received.

As the site is located on land partly within the Swan River Trust's Development Control Area, Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

Recommendation to Committee

Council:

Approves the application under the City of Nedlands Town Planning Scheme No. 2 and recommends the Western Australian Planning Commission approve the application under the Metropolitan Regional Scheme for the proposed three storey dwelling and swimming pool at No. 64 (Lot 5) Jutland Parade, Dalkeith in accordance with the plans received 13 November 2012 subject to the following conditions:

- 1. All visual privacy screens and/or obscure glass panels to Major Openings and/or Active Habitable Spaces shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes of WA*.**

The structure(s) shall be installed prior to the occupation of the dwelling and remain in place permanently, unless otherwise approved by the City.

- 2. The use of the lower floor level shall be restricted to the uses depicted on the approved plans. Prior to occupation of the development the owner shall execute and provide to the City a notification pursuant to s. 70A of the Transfer of Land Act 1893 to be registered on the title to the land as notification to prospective purchasers that the use of the lower floor level is subject to the restriction set out above.**
- 3. A grated channel strip-drain shall be constructed across the driveway, aligned with and wholly contained within the property boundary, and the discharge from this drain to be run to a soak-well situated within the property.**
- 4. All stormwater from the development which includes permeable and non-permeable areas shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event; and soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.**
- 5. All footings and structures to retaining walls and dividing fences shall be constructed wholly inside the site boundaries of the Certificate of Title.**
- 6. Further planning approval from the City is required for any fill or retaining walls on the lot other than that shown on the approved plans.**
- 7. The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building / roof has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building / roof to reduce the reflectivity to a level acceptable to Council.**
- 8. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

Advice Notes specific to this approval:

1. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres/second.
2. All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.
3. All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
4. The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to selecting and locating any air-conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated. The City does not recommend installing any equipment near a property boundary where it is likely noise in these locations will intrude on neighbouring properties.

Prior to selecting a location to install an air-conditioner, applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties.

Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, the applicant is advised to consult residents of neighbouring properties and if necessary take measures to suppress noise.

5. During a development, any swimming pool/pond on site, whether retained, partially constructed or finished shall be kept dry or the water maintained of a quality which ensures it is not liable to breed mosquitoes.
6. This approval does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.
7. Building over easements for public utilities may require approval from the relevant authority.

Strategic Plan

KFA 3: Built Environment

3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No.64 (Lot 5) Jutland Parade, Dalkeith
(Refer to attachment 1)

Zoning MRS: Urban

Zoning TPS2: Residential, R12.5 coding

Lot Area: 836 m²

In 2005, the Western Australian Planning Commission (WAPC) approved a 5 lot survey strata subdivision application at No. 64 Jutland Parade, Dalkeith.

The City has previously granted planning approval for three storey dwellings at Nos. 1/64, 2/64 & 3/64 Jutland Parade, Dalkeith.

In May 2012, the City received development applications for three storey residences at Nos. 4/64 & 5/64 Jutland Parade, Dalkeith (refer to PD01.13 for report on 4/64 Jutland Parade).

The proposed dwelling is located on a lot partly located within the Swan River Trust (SRT) Development Control Area. In accordance with the *Swan and Canning Rivers Trust Act 2006* and the procedures at Clause 30A of the Metropolitan Regional Scheme (MRS), Council is to provide a recommendation on the proposal to the WAPC, who will determine the application.

Proposal Details

This report is in relation to a proposal at No.5/64 Jutland Parade. This strata lot is located to the western side, at the rear (river end) of the site.

Refer to attachments 1 - 3 for the locality & strata lot plans.

The proposal is for a three storey dwelling, with two levels of living space and a basement level. The basement level consists of areas for plant & equipment and storage.

The application also proposes a swimming pool at the southern end of the lot.

Refer to attachments 4 – 6 for plans of the proposed development.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No
 Notification period: 16 November 2012 – 7 December 2012

As the development is located in the City of Nedlands Controlled Development Area (CDA) the application is required to be advertised for a period of 21 days to surrounding landowners.

Comments received: One (1) objection

Note: A full copy of all relevant consultation feedback received by the City has been given to the City’s Councillors prior to the meeting.

Summary of comments received	Officers technical comment
<p>Visual amenity - the scale of development is inconsistent with that of surrounding housing and as a result will be very prominent and visually obtrusive when viewed from the river.</p> <p>The majority of existing development in this locality is setback some distance from the river. The subdivision approval which created the subject sites has resulted in the opportunity for development to be located well forward of the prevailing setbacks of existing development to the river</p> <p>Given the open, spacious nature of the current built environment in this area, Council should require the applicant to reconsider the scale of the proposed developments to be more sympathetic to their prominent location.</p>	<p>Noted - it is accepted that the proposed residence is closer to the river than the surrounding residences however other properties on the southern side of Jutland Parade are setback a similar distance from the river (refer to attachment 2). The development is not considered to be out of scale with other properties in the locality.</p> <p>TPS2 has provisions regarding the preservation of amenity in the locality (cl. 5.5.1) and the Controlled Development Area (cl. 5.10.2). These provisions are examined below in the Discussion section. It is noted that these considerations are examined at the scale of the locality rather than just the properties in the immediate vicinity of the site. Referring to attachment 2, it is apparent that other properties along Jutland Parade, especially lots which have been subdivided, have developed with a similar setback from the lot boundary adjacent to the river.</p> <p>The 5 lot survey strata subdivision which was approved in 2005 resulted in the creation of Lots 4 & 5 which are located to the south,</p>

	<p>adjacent to the river. The owners of Lots 4 & 5 are entitled to develop and build residences on these lots.</p> <p>It is also noted that east of Lot 5, the lot at No. 62 Jutland Parade is currently vacant (refer to attachment 1). It is expected that a residence of a similar scale to the residence proposed at 4/64 Jutland Parade will eventually be constructed on this site.</p> <p>There is opportunity for the surrounding lots to develop to a similar scale, closer to the river. In accordance with Swan River Trust's Policy, the current setback requirement from the lot boundary adjacent to the river is a minimum of 10m. The current height requirements as per TPS2 allows for development of comparable height.</p>
<p>Building height - both of the proposed developments are three storeys. This is not consistent with cl. 5.11 of TPS2 or the two storey scale of the prevailing residential development in this area.</p> <p>It is acknowledged that views do not carry a proprietary right however, the proposed height will result in a loss of easterly views from our residence.</p>	<p>Not upheld – The proposed development complies with cl. 5.11 of TPS2 (Maximum Building Height).</p> <p>In relation to the number of storeys, the residence is compliant with cl. 5.11.i which allows:</p> <p><i>“two storeys directly above each other in the case of residential use...excluding areas or plant and equipment, storage, toilets and the parking of wheeled vehicles”.</i></p> <p>The dwelling is three storeys in total, with two levels of living space and a basement level. The basement level consists of areas for plant & equipment and storage, which are areas excluded from cl.5.11.i.</p> <p>It is noted that the residence at No. 60 Jutland Parade is three storeys in height.</p>

	<p>Furthermore, there are many examples of residences along Jutland Parade and in the locality which are three storeys high.</p> <p>TPS2 at cl.5.11 also requires the calculation of wall height (no greater than 8.5m) and overall height (no greater than 10m) which is assessed from the 'mean natural ground level' (the geometric horizontal centre of the lot). As this lot is a strata lot, the City has obtained legal advice which confirms that the mean natural ground level is taken from the centre of the parent lot rather than the centre of the strata lot (refer to attachment 7). The site slopes steeply towards the rear and the natural ground levels are significantly lower for Lots 4 & 5 than Lots 1, 2 & 3. In this case, it has resulted in the mean natural ground level being taken from a higher point, than if the site was subdivided as freehold title.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Legislation

- *Swan and Canning Rivers Trust Act 2006*
- *Metropolitan Region Scheme (MRS)*
- *City of Nedlands Town Planning Scheme No.2 (TPS2)*
- *Residential Design Codes (R Codes)*
- Council Policy Fill and Fencing
- Council Policy Neighbour Consultation – Planning Applications

The application proposes the following variations to the R Codes:

- Clause 6.3.1 A1 Buildings setback from the boundary
- Clause 6.8.1 A1 Visual privacy

Budget/financial implications

The application is for works to be constructed on a private lot, and therefore has no financial implications for the City.

Risk management

Nil

Discussion

Variation: R Codes – Side setbacks

Requirement:	<p>To meet the acceptable development provisions the proposal is to be setback in accordance with Table 2a or Table 2b, of the R Codes.</p> <p>Where the proposed setback does not comply the proposal is assessed under the Performance Criteria of Clause 6.3.1.</p>
Proposal:	<p>The variations to the acceptable development provisions are as follows:</p> <p>Eastern Setback</p> <ul style="list-style-type: none"> • The mid floor wall – ensuite 3 to bed 3, is setback 1.2m in lieu of minimum 2.0m. • The ground floor wall – wet kitchen to kitchen, is setback 1.2m in lieu of minimum 3.8m. • The ground floor living, is setback 1.8m in lieu of minimum 2.8m.
Performance criteria:	<p><i>“Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.”</i>
Officer technical comment:	<p>The proposed development is considered to comply with the performance criteria mentioned above, for the following reasons:</p> <ol style="list-style-type: none"> 1. The setback variations will not detrimentally affect access to direct sun or ventilation to the property or the adjoining property.

	<p>2. The walls are articulated and the façade uses a variety of materials (i.e. stone cladding, rendered brick and glass) which reduces the visual impact of building bulk.</p> <p>3. The variations occur due to the walls containing windows to habitable rooms (i.e. major openings). The proposed setbacks would comply or be considered as minor variations if the walls contained no major openings.</p> <p>4. The proposed setbacks allow for the protection of privacy between the dwelling. As the residences for No. 4/64 & No.5/64 Jutland Pde have been designed concurrently, due regard has been given towards privacy (i.e. major openings are located opposite blank walls or non major openings). This is discussed further in the visual privacy section.</p> <p>Please note: The affected property to the west, No. 4/64 Jutland Parade, Dalkeith has the same owners as No. 5/64 Jutland Parade. The variations are acceptable to the owners who are aware and have signed consent to the proposed variations.</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Variation: R Codes – Visual privacy (overlooking)

Requirement:	<p>To meet the acceptable development provisions major openings and unenclosed outdoor active habitable spaces with a finished floor level greater than 0.5m above natural ground level are to be setback from boundaries between 4.5m – 7.5m, depending on the nature of the room.</p> <p>Where the proposed setback does not comply the proposal is assessed under the Performance Criteria of Clause 6.8.1.</p>
Proposal:	<p>The variations to the acceptable development provisions are as follows:</p> <p>Overlooking to 4/64 Jutland Parade</p> <ul style="list-style-type: none"> • Bed 3 on the mid floor is setback 1.2m in lieu of minimum 4.5m within the cone of vision. • The wet kitchen on the ground floor is setback 1.5m in lieu of minimum 6m within the cone of vision. • The living room on the ground floor is setback 1.8m in lieu of minimum 6m within the cone of vision.

	<ul style="list-style-type: none"> • The dining room on the ground floor is setback 5m in lieu of 6m within the cone of vision.
<p>Performance criteria:</p>	<p><i>“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscaping, or remoteness.</i></p> <p><i>Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscure glass.</i></p> <p><i>Where these are used, they should be integrated with the building design and have minimal impact on residents’ or neighbours’ amenity.</i></p> <p><i>Where opposite windows are offset from edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.”</i></p>
<p>Officer technical comment:</p>	<p>Overlooking to 4/64 Jutland Parade</p> <p>The proposed direct overlooking variations are considered to meet the above mentioned performance criteria.</p> <p>This is because the proposal does not overlook active habitable spaces or main outdoor living areas of the adjoining property. The proposal has been designed to minimise the direct overlooking of frequently used areas at the adjoining property.</p> <p>The areas of the adjoining property which are within the ‘cone of vision’ area are as follows.</p> <ul style="list-style-type: none"> - Bed 3 when looking to the west overlooks a bedroom at the adjoining property. The adjacent bedroom window at No. 4/64 Jutland Pde is recommended to have a condition requiring that the window is a non major opening (refer to Report PD01.13). This would prevent the bedroom windows at each property looking directly at each other. - The wet kitchen window when looking to the west overlooks a courtyard at the adjoining property. This courtyard area is not the main outdoor living area for the property. The explanatory guidelines of the R Codes notes that, the intended outdoor areas to be protected from overlooking are likely to be occupied for extended periods of time and are areas where it is reasonable to expect a relatively high degree of privacy.

	<ul style="list-style-type: none"> - The main outdoor living areas for the property are a balcony and an alfresco located on the mid and ground floors and the outdoor area near the swimming pool. These areas are expected to be used more frequent compared to the courtyard area because these areas have view to the river, are larger in size & can be easily accessed from habitable rooms. - The living room when looking to the west overlooks a paved area and stairs at the adjoining property. This area is open space and not a defined outdoor living area for the property. - The dining room when looking to the south, overlooks a small area (less than 1 sq m) of the adjoining property's rear area. The overlooked area is close to the boundary and is well setback from the adjoining property's swimming pool. <p>Please note: the affected property to the west, No. 4/64 Jutland Parade, Dalkeith has the same owners as No. 5/64 Jutland Parade. The variations are acceptable to the owners who are aware and have signed consent to the proposed variations.</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Issue: TPS2 cl. 5.10 - Controlled Development Area (CDA)

<p>Requirement:</p>	<p>Clause 5.10 of the City's TPS2, relating to the CDA, requires that any development on this property is to be considered under Clause 5.10.2 and meet the provisions outlined in Clause 5.10.3.</p> <p>Clause 5.10.2 of the City's TPS2 states;</p> <p><i>“Without limiting the generality of Clause 6.5 in determining an application for approval of development in a Controlled Development Area:</i></p> <ul style="list-style-type: none"> a. <i>the Council shall consider the effect of the development on the amenity of the surrounding area, the visual effect of the development as perceived from the Swan River and the effect on the amenity of the parks and recreation reserves in that area in accordance with Council policy from time to time in each Controlled Development Area;”and</i> b. (c) <i>“the Council may refuse development approval or impose conditions on a development approval where it considers that the amenity of the area may be detrimentally affected by the proposal.”</i>
---------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>Clause 5.10.3 of TPS2 states;</p> <p><i>“Within a CDA the following provisions shall apply:-</i></p> <p><i>a. the Council shall not permit the ground level of any lot to be raised by and amount greater than 0.5 m above natural ground level whether by means of a retaining wall or not, unless it is satisfied that such changes in level will not unduly affect the amenity of the area including amenity of neighbouring properties.</i></p> <p><i>b. for the purpose of this clause the rear boundaries of certain lots shall be delineated in Appendix 1 and the rear setback applicable to boundaries of lots so delineated shall be 7.5m...”</i></p>
<p>Applicants Proposal:</p>	<p>The proposal is for a three storey residence, which can be viewed from the Swan River.</p> <p>The dwelling has a 10 m setback from the rear boundary fronting the river, therefore is setback behind the 7.5m CDA setback area.</p>
<p>Officer technical comment:</p>	<p>Amenity</p> <p>It is considered that the amenity of the surrounding area is not detrimentally affected by the proposed development. The development is considered to be in character with other properties in the locality.</p> <p>Whilst it is accepted that the proposed residence is closer to the river than the surrounding residences, other properties in the surrounding area, namely the southern side Jutland Parade, are setback a similar distance from the river (refer to attachment 2).</p> <p>In regard to the visual effect of the development when viewed from the Swan River, the residence is considered to be in keeping with other developments in the locality that border the Swan River. The development is of a similar scale and the façade adjacent to the river is not visually obtrusive. The building height is in accordance with Clause 5.11 of TPS2 and the height of the proposed residence is comparable with the heights of other residences in the surrounding area.</p> <p>Rear setback</p> <p>The dwelling has a 10 m setback from the rear boundary adjacent to the river. This is more than the minimum 7.5m CDA setback area.</p>

Amenity and Other Considerations under the Scheme

Preservation of Amenity

TPS2 clause 5.5.1 under section 5.5 *Preservation of Amenity* states:

'Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.'

The external appearance of the residence is regarded to not adversely affect the amenity of the area. The building height complies with TPS2 and the scale and aesthetic of the building is in keeping with other residential developments in the locality.

The traffic and noise generated as a result of the proposal would be consistent with the expected traffic and noise levels in a residential zone.

The proposal is not considered to have an adverse affect on the amenity of the surrounding area or the locality.

Consideration of Applications

TPS2 clause 6.4.1 under section 6.4 *Consideration of Applications* states:

'In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.'

The land is zoned Residential R12.5, and the proposed 'Dwelling House' use is a use consistent for which the land is zoned.

The proposal has been assessed and is deemed to be in accordance with the Scheme (TPS2). It is considered that the proposed development is appropriate, subject to the recommended conditions.

Conclusion

This development application is for a three storey dwelling and swimming pool on a lot which was created as part of 5-lot survey strata subdivision.

As discussed above, the variations to the acceptable development provisions of the Residential Design Codes meet the relevant performance criteria. The property is located in the City's Controlled Development Area and the development is deemed to be in accordance with Clause 5.10 of the City of Nedlands Town Planning Scheme No.2.


It is considered that the proposal will not adversely impact the amenity of the surrounding area or the locality, including the visual impact of the development when viewed from the Swan River. Accordingly, the application is recommended for approval to the Western Australian Planning Commission, subject to conditions.

Attachments

1. Locality Plan at 1:1000
2. Locality Plan at 1:2500
3. Parent Site Plan
4. Site Plan
5. Floor Plans (Lower, Mid & Ground)
6. Elevation Plans (North & West)
7. Elevation Plans (South, East & Screen Wall)
8. Site Plan showing Mean Natural Ground Level

PD03.13	No. 43 (Lot 4) Philip Road, Dalkeith – Additions (Two-Storey) to Single House
----------------	--------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	Hofman & Brown Architects
Owner	Julie Lilburne
Officer	Elle O'Connor – Planning Officer
Director	Peter Mickleson - Director Planning & Development
Director Signature	
File ref.	DA12/399 : PH1/43
Previous Item No's	-
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers do not have delegation to determine an application under instrument of delegation 6A, where valid objections have been received.

Recommendation to Committee

Council approves an application for two-storey additions to an existing dwelling at No. 43 (Lot 4) Philip Road, Dalkeith in accordance with the application received 8 October 2012 and the plans received 20 November 2012 subject to the following conditions:

1. **This application does not pertain to self-contained accommodation (Ancillary Accommodation). (Refer to Advice Note 1).**
2. **The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building / roof has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building / roof to reduce the reflectivity to a level acceptable to Council.**
3. **To prevent stormwater flowing into the property, Ground Levels of driveways must be 150mm higher than the Right-Of-Way.**

4. All stormwater from the development which includes permeable and non-permeable areas shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event; and soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
5. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes specific to this approval

1. The development comprises of a 4 car garage, activity room, bedroom and bathroom and does not include a kitchen or laundry. Kitchen and laundry facilities would result in the development being self-contained (Ancillary Accommodation) and would require further planning approval.
2. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres/second.
3. All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
4. The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to selecting and locating any air conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated. The City does not recommend installing any equipment near a property boundary where it is likely noise in these locations will intrude on neighbouring properties.

Prior to selecting a location to install an air-conditioner, applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties.

Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, the applicant is advised to consult residents of neighbouring properties and if necessary take measures to suppress noise.

Strategic Plan

KFA 3: Built Environment

- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No. 43 (Lot 4) Philip Road, Dalkeith
 Zoning MRS: Urban
 Zoning TPS No. 2: Residential
 Lot Area: 2359 m²

Proposal Detail

The applicant is applying for a 139.3m² two-storey detached addition to the existing dwelling.

The addition is located in the rear north-east corner of the amalgamated lot and setback 1.3m from the eastern boundary.

The addition comprises of a 4 car garage, which is accessed via Tree Martin Lane, with an Activity Room, Bedroom and Bathroom located above.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation Period – 15 October 2012 – 5 November 2012

Comments received: One (1) objection received

Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.

Summary of comments received:	Officers technical comment:
Privacy: The proposed addition is too close to the boundary and will negatively affect the privacy of the eastern adjoining property.	Dismiss: The cone of vision from Bed 7 (south) complies with all privacy requirements under the R Codes (cl 6.8.1).
Bulk & Amenity: The proposed addition will negatively impact on the amenity of the eastern neighbour as it is too close to the boundary and too bulky.	Dismiss: The eastern setback of the addition is 100mm more than what is required under Table 2a of the R Codes.

Legislation

- Residential Design Codes (R Codes)
- Policy 6.4 'Neighbour Consultation – Planning Applications'
- City of Nedlands Town Planning Scheme No.2 (TPS2) – Clause 6.4.2

Discussion

The proposed addition is not considered to fall within the definition of "Ancillary Accommodation" as it does not provide kitchen or laundry facilities and is therefore not self-contained. All other development criteria under TPS2 and the R Codes have been met.

The adjoining owner to the east is concerned that the development will negatively impact on both the privacy and amenity of his dwelling. TPS2 addresses the preservation of amenity under clause 5.5.1.

Clause 5.5.1 under section 5.5 *Preservation of Amenity* states:

'Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.'

The proposed addition is consistent with the residential zoning and it is not considered that the development will adversely affect the amenity of the surrounding area as it complies with all requirements of the R Codes and TPS2.

Furthermore, it has been recognised by the City that the subject site consists of two large amalgamated lots and can therefore be subdivided allowing for a new two-storey dwelling to be built on site in this same location.

Conclusion

The addition to 43 Philip Road, Dalkeith will not have a significant impact upon the neighbouring amenity due to the scale of the development and compliant setbacks as a two-storey dwelling could be built in this location. Privacy, direct sunlight and ventilation will not be adversely affected as the required setback under the R Codes is 1.2m and the proposed setback is 1.3m.


For these reasons, it is recommended the application be approved subject to the above conditions.

Attachments

1. Locality Plan
2. Proposed Site Plan
3. Proposed Elevations

PD04.13	No. 10 Selby Street, Shenton Park – Adoption of Proposed Outline Development Plan for Para-Quad Association of Western Australia
----------------	-----------------------------------------------------------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	Jonathan Jones (Architect)
Owner	Para Quad Association of W.A.
Officer	Michael Swanepoel – Senior Strategic Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File ref.	SE3/10; DA2011/358
Previous Item No's	PD20.12
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to adopt the proposed Outline Development Plan for the Para-Quad Association of Western Australia at 10 Selby Street, Shenton Park.

Recommendation to Committee

Council:

1. Approves the proposed Outline Development Plan for the Para-Quad Association of Western Australia at 10 Selby Street (refer attached); and
2. Instructs Administration to forward the Outline Development Plan to the Western Australian Planning Commission for final adoption.

Strategic Plan

- KFA 3: Built Environment
- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

Background

Property Address: Portion of No.10 Selby Street, Shenton Park
Zoning MRS: Urban
Zoning TPS2: Development Zone
Lot Area: 11.766 ha (land within limited Outline Development Plan)

The site, the subject of the Outline Development Plan, is located in Shenton Park. It is bordered by Lot 4 Underwood Avenue to the north, the main Para-Quad Association of Western Australia buildings and Selby Street to the east, the Royal Perth Hospital Shenton Park annex to the south and Bedbrook Place to the west.

The site has been occupied by the Para-Quad Association of Western Australia since 1953 to care for paraplegic and quadriplegics. There have been a number of minor developments on this site during this time. This is the first outline development plan for the site.

This decision by Council represents the second last stage of the process for adopting outline development plans.

Proposal detail

The proposal is for an Outline Development Plan to be adopted for the Para-Quad Association of Western Australia. The plan sets the context for a rehabilitation gym being built on the site. The gym will be used by clients and patients and will have a maximum of ten people at any one time.

The Outline Development Plan has been prepared as part of their requirements for a 'Development Zone' in the TPS2. Its brevity reflects the minimal nature of development envisioned for the site. Administration is satisfied that the proposed Outline Development Plan is reasonable given the scale of future development.

The subject site is not located within the Bedbrook biodiversity corridor.

Consultation

The proposal was advertised for a minimum of twenty one days from 17 November 2012 to 21 December 2012. It was advertised in the POST newspaper for three consecutive weeks (17 November 2012, 23 November 2012 and 30 November 2012). No submissions were received.

Legislation

Town Planning Scheme No. 2

The procedure for processing outline development plans is outlined in Section 3.8 'Development Zone' in Town Planning Scheme No. 2 (TPS2). This process is summarised below:

1. Applicant submits an ODP for Council's approval (in principle) which shall address the relevant points of Clause 3.8.2 of the TPS2;
2. If Council approves the ODP in principle it is then sent to the WAPC to seek permission to advertise;
3. If the Western Australian Planning Commission approves in principle the ODP and grants permission to advertise, the ODP is then advertised as per Clause 3.8.5 of TPS2;
4. Following the advertising period Council then considers any submissions to the ODP and amendments may be made based on these submissions; and
5. If Council approves the ODP it is then sent back to the Western Australian Planning Commission for final adoption.

The clauses (3.8.3, 3.8.4, 3.8.5, 3.8.6 and 3.8.7) related to advertising of the proposal and its determination by Council are specific and do not allow for discretion.

Budget/financial implications

Nil

Risk Management

Failure to adopt the proposal would undermine the City's planning process for orderly and proper planning.

Discussion

Proposed development

The future works outlined in the proposal align with the traditional use of the site. They are considered to be appropriate and are supported.

Movement

The site is serviced by a private road which is jointly managed by the Para- Quad Association and Royal Perth Hospital Shenton Park Annex. This private road comes off Selby Street. There will be no additional through traffic created by the rehabilitation gym.

Parking

The Outline Development Plan allows for the retention of current parking as well as the addition of seventeen new car bays (including four disabled bays). The rehabilitation gym is designed to allow for a maximum of ten clients at any one time.

Given that parking supply will continue to meet parking demand it can be concluded that there will be no adverse affect on parking.

Surrounding property owners

Given the nature of the proposed works indicated in the Outline Development Plan and that the site is accessible from an internal private road there will be a negligible impact on surrounding property owners.

Conclusion


The proposed Outline Development Plan allows for future development of the site to be coordinated. The proposed works included in the proposed ODP are not expected to reduce the amenity of the area and will eventually result in improved facilities for Para-Quad Association of Western Australia patients.

Attachments

1. Locality Plan
2. Map of Surrounding Land Uses
3. Proposed Site Plan
4. Proposed Elevation Plan
5. Proposed Service Plan
6. Proposed Para-Quad ODP Text
7. Proposed Para-Quad ODP Plan

PD05.13	Proposed Draft 2012 Municipal Inventory – Heritage
----------------	-----------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File ref.	HER/017
Previous Item No's	-
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

As required by *The Heritage of Western Australia Act 1990*, the current Municipal Heritage Inventory 1999 has been reviewed resulting in the proposed Draft Municipal Inventory 2012 which is presented to Council for endorsement for public advertising.

Recommendation to Committee

Council:

1. endorses the proposed Draft Municipal Inventory 2012 for public consultation;
2. adopts the following as working documents to assist with future work to preserve the character of Nedlands.
 - a. Inventory of Character Areas;
 - b. Inventory of Historic sites (and Moveable Cultural Heritage)
 - c. Inventory of Significant Contemporary Architecture (post1952);
 - d. Inventory of Flats;
 - e. Inventory of Significant Trees;

Strategic Plan

- KFA 3: Built Environment
- 3.1 Develop and implement a new planning scheme for the City.

- KFA 6: Community Engagement
6.2 Encourage community participation in the City's decision making processes.

Background

Under *The Heritage of Western Australia Act 1990* the City is required to maintain an updated inventory of buildings within its district with cultural heritage significance. This requires review of the current inventory every 4 years.

The current register commenced in 1997 when the City engaged O'Brien Planning Consultants to prepare a Municipal Heritage Inventory (MHI), which was adopted by the Council in 2001.

Although work commenced to review the current MHI in 2008, no formal update of the 1999 inventory was done.

Apart from the statutory obligation to review the existing inventory, a comprehensive heritage list is also required for proposed Town Planning Scheme No 3. This list is derived from the municipal inventory and given that this inventory forms the basis of a statutory document it is essential that it is updated.

Accordingly, the City commenced the process to review its MHI for incorporation into proposed draft TPS3 in August 2011 and appointed Palassis Architects to undertake the review. Council at the meeting of 27 March 2012, resolved that the proposed list presented at the time is referred back for more consideration.

The key outcomes identified by the City for the review are:

1. comprehensively identify the places of cultural heritage significance within the City consistent with relevant legislation and policy requirements, and in the context of agreed aesthetic, historic, scientific and social values;
2. assess and make recommendations to Council regarding the review and update of existing places on the existing MHI;
3. identify and make recommendations to Council regarding any property, precinct or feature (i.e. tree) with heritage value not previously included on the MHI; and
4. engage in appropriate public consultation in conjunction with the City with property owners affected by (2) and (3) above.

Reviewing of MHI's and creation of Heritage Lists is generally done in accordance with common standards adopted by the Heritage Council of Western Australia (HCWA).

The City's current MHI comprises of:

- a Thematic History;
- an Inventory comprising 146 places with associated place record forms; 2 have been demolished.
- a Review List of 39 places recommended for future review;
- a List of Historic Sites (and Moveable Cultural Heritage – 20 items), and,
- a List of potential Local Heritage Areas.

The 2008 Review List:

- noted that 7 properties from the 2001 list had been demolished;
- identified 47 places as requiring review;
- identified 12 additional places as requiring consideration for listing;
- identified 29 possible precincts as it elaborates on the list of potential local heritage areas identified in the current MHI.

Proposal Detail

Following Council's March 2012 decision, the appointed heritage consultants compiled a report entitled, "City of Nedlands Heritage Inventory 2012".

Using the methodology for assessment recommended by the Heritage Council of Western Australia's information leaflets¹, the assessment has yielded a proposed draft 2012 Municipal Inventory, as well as a number of additional inventories.

The report comprises of seven chapters.

Chapters 1-4 provide the background information to the study, which includes its rationale and the findings.

Chapter 5 comprises the proposed draft 2012 Municipal Inventory which once finally adopted replaces the current MHI.

Chapter 6 comprises the proposed additional inventories identified as part of the assessment which are as follows:

- Inventory of Residential Character Areas comprising of 22 residential character areas that can potentially be preserved through the use of design guidelines.
- Inventory of Flats to recognise the contribution that the Inter-War low rise blocks of flats make to the character of Nedlands. Currently there are still 21 properties remaining, of which 10 are proposed to be included in the proposed draft 2012 municipal inventory.
- Inventory of Significant Contemporary Architecture (post1952)
- Inventory of Significant Trees
- Inventory of Historic sites (and moveable Cultural heritage).

¹ 'Basic Principles for Local Government Inventories' and 'Criteria for the Assessment of Local Heritage Places and Areas'

These inventories will form working documents for future planning for the City.

Based on the Heritage Council's recommendation that only properties that are older than 60 years are included, the proposed draft 2012 Municipal Inventory (Chapter 5 of the report) only captures outstanding buildings with heritage value that were built prior to 1952.

The inventory includes a total of 142 entries, although the number of entries on the proposed draft 2012 Municipal Inventory (Chapter 5 of the report) adds up to 146 entries. This discrepancy is due to the fact that the list is based on a street name index, which has resulted in duplicate entries for properties that have a boundary to more than one street.

Changes to the management category are proposed for 25 of these properties with 22 being upgraded and 3 downgraded. (for details refer to attachment 2).

50 new entries are recommended to be added to the inventory as they are deemed to have reached the threshold for heritage preservation. These additional places have come from:

- the Heritage Council of Western Australia's database;
- the classification register of the National Trust (WA);
- Palassis Architects physical inspections;
- Dr Taylor's research;
- the City of Nedlands Library and Local History Collection staff; and
- contributions from members of the public.

Ownership of all the properties on the proposed draft 2012 inventory is as follows:

	Total number of listing	Newly added listings
Government owned – includes schools, hospitals and land owned by the City	34	3
Privately owned non residential buildings - includes private schools, churches, clubs etc	29	1
Privately owned residential listings	79	45

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Newspaper adverts, open days and letters to affected property owners.

Dates: Not yet finalised

Legislation

- *Heritage of Western Australia Act 1990*
- *Planning and Development Act 2005*
- *Town Planning Scheme No. 2 (TPS2)*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Risk Management

Apart from failing to do a legislative duty, failure to adopt a revised Municipal Inventory risks the further degradation of the special character of Nedlands.

Discussion

Strategic Community Plan

The City's Strategic Community Plan identifies that one of the City's priorities is to meet the challenge of *"protecting the special character of Nedlands and its distinctive place in the urban fabric of the Western Suburbs and metropolitan Perth."*

As this special character is largely the result of the City's historic background Council's overall strategic priorities include *"Protecting our quality living environment"* and *"Retaining remnant bushland and cultural heritage"*. Accordingly heritage protection is one of the City's, Key Focus Areas.

The assessment and findings that have been provided by Palassis represent a very comprehensive overview of the total heritage value currently available in the city.

The resulting information is a robust database that is the product of a rigorous process where up to date standards have been applied. Given that this assessment has also yielded additional lists, this information will not only enable Council to protect properties with distinguishing features but also provides the foundation to allow for long term planning to secure the special character of Nedlands.

Heritage Protection System

The system for heritage protection in WA is subject to the provisions of the *Heritage of Western Australia Act 1990*, which, in conjunction with the planning legislation, provides for a tiered system of protection.

At the highest level is the State Heritage Register. Properties listed on this register enjoy maximum protection, including prohibition to demolish.

Subsequent tiers are at local government level using a system of management categories, which ranks heritage value and recommends action on a continuum.

The extent to which preservation is required ranges from category A to category D.

- Category A recommends the highest level of protection. It is the most restrictive level and forms the basis from which a heritage list is compiled. The heritage list is part of the town planning scheme.
- Category B recommends a high level of protection, maximum encouragement to the owners to conserve the significance of the property, and requires that a heritage assessment is undertaken before approval for redevelopment is granted.
- Category C recommends retention and conservation if possible, the undertaking of heritage assessments and creation of a photographic record if redevelopment/demolition is approved.
- Category D is for properties that make a significant but not essential contribution to the history of the area and recommends the creation of a photographic record if redevelopment/demolition is approved.

Overall the approach to achieve heritage protection is amiable and based on persuasion rather than on mandatory requirements.

The structure of the proposed draft 2012 Municipal Inventory differs from the structure of the current MHI as the proposed inventory also includes some group listings in addition to listings of individual properties. In relation to privately owned residential properties five groups have been identified each comprising of not more than 4 residential properties. In each instance the properties that make up a group are already a part of the current MHI.

Impact of proposed Heritage Protection

The extent heritage protection proposed for the City is conservative.

The City has a total of approximately 8565 land parcels. Less than 2% of this total is proposed to be subject to some form of heritage protection.

Taking this difference in the structure of the current and proposed inventory into account, a comparison of the current and proposed heritage protection provisions indicates that the extent of the proposed

heritage protection is similar to the amount of heritage protection that currently exists.

Management Category	Current MHI		Proposed Draft 2012 Heritage Inventory	
	Total Number of Properties per Management Category	Number of Private Residences per Management Categories	Total Numbers of Listings per Management Category	Number of Privately owned Residential listings per Management Category
A	13	5	23	7
B	88	38	85	54
C	37	16	32	18
D	4	0	2	0
Other – review/demolished etc	43	27	n/a	n/a

Furthermore, not only does the proposed draft 2012 Municipal Inventory include a limited number of entries, but the majority of the entries are in categories B, C and D where heritage protection measures are not taxing.

Additional inventories derived from Heritage Assessment

The purpose of creating additional inventories as recommended as part of the heritage assessment in chapter 6 of the report is to ensure that the elements within the City with heritage value, but that are not appropriate for inclusion in the heritage inventory, are captured.

These lists do not form part of the proposed Draft 2012 Municipal Inventory and are intended to form the basis from which additional planning for heritage protection is done as follows.

1. The Inventories of Flats and Significant Contemporary Architecture will inform future reviews of the City’s heritage inventory.
2. The Inventories of Significant Trees and Inventory of Historic sites (and moveable Cultural heritage) only affects features located on public land and will serve to inform the City’s actions in relation to these features.
3. The Inventory of Residential Character Areas will form the basis for creating a local planning policy (LPP) in each instance. As the purpose of such planning policies is to provide the planning framework to enhance the existing character of the area, it will address matters that define character such as scale and form, setbacks etc. with a focus on the streetscape.

An LPP is created in accordance with the provisions of the scheme which requires public consultation with stakeholders and property owners in the process of making or amending of a local planning policy.

Any progress in relation to any one of the residential character areas identified in the proposed inventory is subject to an additional process to the current heritage assessment process.

Where to from here?

The next stage to progress the proposed draft 2012 Municipal Inventory (chapter 5 of Attachment 1) is to advertise for public comment, in order to give stakeholders and the community the opportunity to determine which of the properties proposed listed in the draft should be included in a final inventory.

Upon completion of the advertising period, submissions will be used to review the proposed draft inventory to create a final list.

Public consultation will be done by way of notices in the media, including the City's website, and letters to property owners and will be for a period of 12 weeks in order to provide all interested parties with adequate time to comment.

Conclusion

The heritage review and recommendations comprehensively captures the heritage value in the City both in the proposed draft 2012 Municipal Inventory and the recommended additional inventories.

The number of entries for the proposed draft 2012 Municipal Inventory proposed when viewed in the context of the City and that the heritage measures that are proposed to apply are largely non obligatory.

The additional inventories are a useful supplementary tool.


Given that it is a strategic goal of Council to protect its unique character of the City, it is therefore recommended that the draft 2012 Heritage List is endorsed for public advertising, while the additional inventories are adopted to assist with future work to preserve the character of Nedlands.

Attachment

1. Heritage Consultants Report
2. Details of properties that are subject to changes in relation to Management Categories.

PD06.13	Approval in Principle for Proposed Scheme Amendment of No. 17 (Lot 12241) John XX111 Avenue, Mount Claremont, from “Public Purpose” to “Special Use – Storage Facility”
----------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	Planwest
Owner	Mr. S N Bird
Officer	Jason Moore – Strategic Planning Officer
Director	Peter Mickelson – Director Planning & Development
Director Signature	
File ref.	JO1/17
Previous Item No's	D01.10 February 2010
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to recommend approval in principle for the Scheme Amendment of No. 17 (Lot 12241) John XXIII Avenue from ‘Public Purpose – Hospital’ to ‘Special Use – Storage Facility’.

Recommendation to Committee

Council advises the WAPC that it has no objection to a proposal to amend the Town Planning Scheme No. 2 in regard to No. 17 (Lot 12241) John XXIII Avenue from ‘Public Purpose – Hospital’ to ‘Special Use – Storage Facility’.

Strategic Plan

- KFA 3: Built Environment
- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
 - 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

Background

Property Address: No. 17 (Lot 12241) John XXIII Avenue, Mt. Claremont

Zoning MRS: Public Purpose Hospital

Zoning TPS No. 2: Public Purpose Hospital
Lot Area: 3523 m²

The Subject site is currently reserved “Public Purpose – Hospital” under the Metropolitan Region Scheme which is reflected (as required) in the City’s Town Planning Scheme No 2. For a change of zoning to occur on this site, an amendment is first needed to the Metropolitan Region Scheme (MRS). Once an MRS amendment has been completed, the Town Planning Scheme can be amended.

Prior to the site being sold to a private party, the site was used as a depot for Alinta Gas.

The site is surrounded by John XXIII College to the west, a Western Power sub-station and associated facilities to the east and north and Graylands Hospital to the South. The wider locality includes a diverse range of uses such as a the Subiaco Wastewater Treatment Plant, the Brockway Municipal Waste Transfer Station, recreation facilities, research institutions, light industry and bushland.

Key Relevant Previous Decisions:

In 2005, the Mt Claremont Sports Precinct Structure Plan Study was finalised – the goal of which was to develop a framework for the future uses of the area (Mt. Claremont Sports Precinct). The WAPC has not endorsed the structure plan. It has been stated by the WAPC that “It will serve as a useful information resource and input into more detailed planning and the assessment of applications within the area”.

In 2010 a proposal was put forth to amend the MRS zoning from “Public Purpose – Hospital” to Urban. Council resolved that the use of Urban was not appropriate for the area given its proximity to Graylands Hospital, the Brockway Waste Transfer Station and the Wastewater Treatment plant; due to its location within the Odour Buffer of the Wastewater Treatment plant.

Proposal Detail

The proposal for the site is to allow for a storage unit facility only. To secure this, the application is for the rezoning to a “special use” zone. This zoning allows the uses of the site to be limited to those specified. (Refer to attachment 2).

The scheme amendment document provides indicative plans of a storage unit development. The plans show two additional buildings used as storage facilities and the use of the current building as an office. An internal road will run between the two new buildings providing access to the storage units. It is noted that even if a scheme amendment is to occur these plans are indicative. Further details of this plan can be found in (Refer to attachment 2).

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation is required, only once this proposal progresses to start an MRS and a Town Planning Scheme Amendment stage.

Legislation

City of Nedlands Town Planning Scheme No. 2

Metropolitan Region Scheme

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

This proposal will have no financial impacts on the City.

Risk Management

By failing to lend support to an appropriate scheme amendment proposal for this site the Council could be perceived as not fulfilling its role to deliver efficient and effective government of its local area.

Discussion

At this stage the City cannot initiate a scheme amendment, but merely provides its support in principle for an acceptable proposal, because an MRS amendment is required to precede any amendment of the town planning scheme.

The proposed zoning is 'Special Use – Storage Unit Facility'. A bespoke zoning of this nature is preferred as it allows Council to specify development parameters through the scheme (Schedule V) therefore creating a tailor-made response for the development of the site.

'Special Use – Storage Unit Facility' is an appropriate zoning for the site, because the use it permits is considered to be compatible with surrounding land uses for the following reasons:

- Odour buffer - The property falls within the odour buffer of the Subiaco Wastewater Treatment plant. This odour buffer area is also subject to the provisions of State Planning Policy 4.1 – State Industrial Buffer. The proposed Storage Unit Facility would comply with this policy.
- Surrounding uses – A private storage facility is compatible with the surrounding uses and would have no negative impacts on the surrounding uses.

Conclusion


Although the City is unable to progress a scheme amendment until an MRS amendment is initiated by the WAPC; the use and zoning category as recommended in this proposal is considered to be appropriate for this site. It is therefore recommended that the City advises the WAPC that it has no objection to a proposal to amend Town Planning Scheme No 2 in regard to No. 17 (Lot 12241) John XXIII Avenue from 'Public Purpose – Hospital' to 'Special Use – Storage Facility'.

Attachments

1. Locality Plan
2. Proposed Scheme Amendment Document

PD07.13	Proposed Parking and Parking Facilities Local Law 2013
----------------	---------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File ref.	LEG/003-07/01
Previous Item No's	PD36.12 – 28 August 2012 PD21.12 – 26 June 2012 14.3 – 27 April 2011 T24.10 – 14 December 2010 13.2 – 22 June 2010 7.7 – 18 May 2010 CP41.09 – 13 October 2009 14.2 – 11 August 2009
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

To provide Council with the proposed “Parking and Parking Facilities Local Law 2013” for approval to undertake state-wide public notice including community consultation as outlined under Part 3, Division 2, section 3.12 of the Local Government Act 1995.

Please note that under section 3.12(2) of the *Local Government Act 1995*, the presiding Officer read aloud the purpose and effect of the proposed local law.

Purpose: The purpose of the local law is to provide for regulation, control and management of vehicle parking within the City of Nedlands.

Effect: The effect of this local law will be to replace the existing local law entitled “Local Law - Parking and Parking Facilities” and enable up to date management of vehicle parking in the City of Nedlands.

Recommendation to Committee

Council gives state-wide public notice and advertises the proposed “Parking and Parking Facilities Local Law 2013” as shown in attachment 1 in accordance with the statutory requirements, Part 3, Division 2, section 3.12 of the *Local Government Act 1995*.

Strategic Plan

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

KFA 6: Community Engagement

6.2 Encourage community participation in the City's decision making processes.

KFA 7: Economic Development

7.2 Develop and implement a City parking strategy.

Background

At the ordinary meeting of 28 August 2012 Council approved a Parking and Parking Facilities Local Law 2012 following a review of the local law that currently controls parking in the City, which was gazetted on 8 May 2002.

The review of the current local law commenced at the ordinary Council meeting held in August 2009 where it was identified that there was a need to amend the existing Local Law to control parking on nature strips (verge) to address safety matters.

The City's 2012 Local Law was disallowed on 28 November 2012 by the Joint Standing Committee on Delegated Legislation (JSCDL) prompting the need to restart the process.

The JSCDL determined that the 2012 Local Law is invalid because the committee deemed this law to be significantly different from the proposed local law that the City had advertised in the making of the 2012 local law due to the inclusion of a new subclause 5.14(4) which provides that 'the owner or occupier of premises adjacent to a verge shall not charge a fee to authorise a person to stop on a verge ...' (clause 5.14(4)).

Proposal Detail

The proposed draft Local Law that is the subject of this report is identical to the Parking and Parking Facilities Local Law 2012 that was adopted in August 2012 except that the definition for the term "off street parking bay" has been strengthened.

Consultation

As a result of the JSCDL disallowing the gazetted parking Local Law 2012, the City is required to recommence state-wide public consultation.

The Act requires the City to:

- give notice of the purpose and effect of the proposed local law at a Council meeting;
- give state-wide public notice of its intention to make a local law; and
- display a copy of the proposed local law in any place specified in the Act and take submissions about the proposed local law up to a date not less than six weeks after the notice is given.

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Legislation

- *Local Government Act 1995: Part 3, division 2, section 3.12(1-3)*
- *City of Nedlands Parking and Parking Facilities Local Law 2002*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

- Legal costs to review documentation of the proposed Local Law; and
- Costs for advertising in the *Government Gazette*, *West Australian* and *The Post*.

Risk Management

With the 2012 Local Law having been disallowed the City has a statutory obligation to revert back to the 2002 Local Law Relating to Parking and Parking Facilities.

The 2002 Local Law is outdated and no longer meets the City's requirements. Not progressing updating the 2002 local law carries the risk that the City will be unable to appropriately address parking issues and take enforcement action.

Discussion

As the JSCDL deemed the 2012 Local Law to be 'significantly different' from what was initially advertised, the City is now required to recommence the entire 3.12. Procedure for making Local Laws process, including advertising and public consultation, in order to create a new Parking and Parking Facilities Local Law to replace the 2002 law.

The purpose of re-advertising is to ensure that public notice is given of the local law that includes clause 5.14(4).

Clause 5.14.4 was introduced in response to the recent issue whereby residents are “renting” parking space in the nature strip (verge) in front of their property to third parties. A web-site exists to facilitate this practice. This practice is also occurring within the residential property boundaries and administration will be suggesting that a new Local Planning Policy is developed to address this issue. The purpose of the new clause is to prohibit an owner or occupier of premises adjacent to the nature strip (verge) from obtaining payment from motorists in exchange for allowing them to park on the nature strip (verge) adjoining the premises.

The prescribed offence has been set to deter any property owner/resident from profiteering from Council owned land.

Change to definition – “off street parking bay”

The definition in the 2012 document states that, “*off street parking bay means a parking bay on private property*”. As this definition has been found to be too broad to clearly define the parameters within which the City can issue residential and visitor permits it has been replaced with the following more specific definition:

“off street parking bay means an area on private property that can be used to park a vehicle(s) and is not restricted to a pavement or concrete area and any one area is not restricted to one vehicle providing multiple vehicles can fit”.

Conclusion

As a result of the decision of the JSCDL, the City is required to recommence Part 3, Division 2, Section 3.12 of the *Local Government Act 1995* process


As the proposed Parking and Parking Facilities Local Law 2013 is identical to the Parking and Parking Facilities Local Law 2012, except for the minor definition change, it is recommended that the process is commenced.

Attachments

1. Parking and Parking Facilities Local Law 2013
2. Report 62 Joint Standing Committee on Delegated Legislation

PD08.13	Lots 4 & 105 Underwood Avenue, Shenton Park – Proposed Outline Development Plan for the University of Western Australia Biological Resources Support Facility
----------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Committee	12 February 2013
Council	26 February 2013

Applicant	CLE Town Planning + Design
Owner	University of Western Australia
Officer	Christie Downie – Sustainable Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File ref.	UN1/L4-09
Previous Item No's	-
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to approve in principle for advertising the proposed limited Outline Development Plan (ODP) for the upgrade and reconstruction of the University of Western Australia (UWA) Biological Resources Support Facility located along the southern boundary of Lots 4 and 105 Underwood Avenue, Shenton Park (refer attachment 1 for locality plan).

Recommendation to Committee

Council:

1. approves in principle, the limited Outline Development Plan (ODP) for the upgrade and reconstruction of the University of Western Australia (UWA) Biological Resources Support Facility, Lots 4 & 105 Underwood Avenue, Shenton Park, as per Clause 3.8.3 of Town Planning Scheme No. 2 (TPS2), for the purpose of seeking consent from the Western Australian Planning Commission (WAPC) to formally advertise the limited ODP;
2. instructs Administration to refer the limited ODP to the WAPC and to seek consent to advertise the limited ODP; and
3. instruct Administration to advertise the proposed limited ODP in accordance with Clauses 3.8.4 and 3.8.5 of TPS2, upon receiving consent to advertise from the WAPC.

Strategic Plan

KFA 3: Built Environment

- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

Background

Property Address: Portion of Lots 4 and 105 Underwood Avenue, Shenton Park.

Zoning MRS: Urban

Zoning TPS No. 2: Development Zone

Lot Area: 29 974 m² (land within limited Outline Development Plan)

Location

The area covered by the proposed limited ODP presently accommodates the UWA Biological Resources Support Facility. The site has vehicle access via Underwood Avenue. The Randall Street road reserve leading to the south-west corner of the ODP area is currently unconstructed.

Key Relevant Previous Decisions:

Located to the west of the proposed limited ODP area is the UWA Biomedical Research Facility and Field Station. A limited ODP for this facility was adopted by Council in 2004.

A subdivision approval was granted in September 2010 to allow for subdivision of the land to the north east of the ODP area (Lot 4 Underwood Avenue) for residential purposes.

The land in question is located within the odour buffer zone of the Subiaco Waste Water Treatment Plant.

This is the third ODP submitted for a portion of Lot 4 Underwood Avenue, leaving the western portion of the lot (the UWA Field Station) the only area not currently subject to an ODP.

Proposal Detail

The ODP document has been prepared as part of the requirements for a 'Development Zone' and addresses the relevant points outlined in Clause 3.8.2 of TPS2. In line with the minor nature of the proposed development the proposed limited ODP is brief.

The proposed limited ODP provides the planning framework to facilitate upgrades and replacement of the structures existing at the Biological Resources Support Facility.

The limited ODP allows for the upgrade and replacement of the existing structures within the existing boundary of the Biological Resources Support Facility which consists of a laboratory/office space, large animal pens, small animal pens/aviaries and an informal car parking area.

No new roads are proposed, as access to the site will continue to be via driveway from Underwood Avenue. The limited ODP area currently has access to all required services.

Parking is currently provided informally on site and is adequate. Given that the extent of proposed works is minimal, the proposed changes facilitated by this limited ODP will not generate an increase in parking demand.

The details in relation to the parking, design of upgraded facilities and access to additional services will be addressed as part of the development application process.

Consultation

Public consultation will commence once the WAPC has agreed to the proposal in principle. The limited ODP will be advertised for a period of 21 days in accordance with Clauses 3.8.4 and 3.8.5 of TPS2.

Legislation

*City of Nedlands Town Planning Scheme No. 2
Outline Development Plan (ODP)*

In relation to the proposed ODP and the process that is required for its adoption, Clause 3.8 of the City's TPS2 applies and specifies that the following steps are taken as part of the approval process:

1. Council approves the ODP in principle (Clause 3.8.3).
2. Council refers the document to the WAPC for approval for advertising (Clause 3.8.3).
3. Once the WAPC has granted approval in principle, advertising commences by giving notice for a period of 21 days. This notice requires an advert be placed in a local paper circulating in the district once per week for each of the three consecutive weeks (Clause 3.8.4) and also includes a sign that is displayed on the site and letters are sent to surrounding neighbours (Clause 3.8.5).
4. Once the advertising period has concluded Council considers the ODP in the light of the submissions (Clause 3.8.6).

5. Council may decide not to proceed with the proposal. If Council agrees to adopt the proposal (in its original or revised form), Council forwards the proposal to the WAPC together with the submissions (Clause 3.8.7).

No appeal rights exist should Council decide not to proceed with the proposed ODP.

Budget/financial implications

Nil

Risk Management

By failing to lend support to an appropriate limited ODP proposal for this site the Council could be perceived as not fulfilling its role to deliver efficient and effective governance of its local area.

Discussion

Due to zoning of the subject site as 'Development', an ODP must be in place before planning approval can be granted for any proposed works. The purpose of the ODP is to provide a comprehensive overview of the future development of the site.

The area is currently used for research and education relating to Australian native birds and animals as well as other livestock. This complements UWA's Biomedical Research Facility and Field Station located adjacent to the ODP area and is a compatible land use within the odour buffer zone. The limited ODP facilitates continuation of this function without expansion or intensification.

This proposed limited ODP also aligns with the Shenton Park Structure Plan, which includes these land parcels, prepared for the Department of Planning and Infrastructure in 2004.

As the extent that the limited ODP area is proposed to be used is similar to its current use it is recommended that the proposed limited ODP is supported.

Conclusion

The requirement for this ODP ensures the current educational and research functions can continue on the site which is compatible with the surrounding land uses. The ODP also does not propose extending or intensifying the use of the site.

It is therefore recommended that the proposed ODP is supported in principle and that advertising is commenced as required in Section 3.8 of TPS2.

Attachments

1. Locality Map
2. The University of Western Australia Biological Resources Support Facility – Limited Outline Development Plan.