

AGENDA

Council Meeting Agenda Forum

11 October 2022

Notice of Meeting

To Mayor & Councillors

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Tuesday 11 October 2022 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.



Bill Parker
Chief Executive Officer
6 October 2022

Information

Council Meeting Agenda Forum are run in accordance with the City of Nedlands Governance Framework Policy. If you have any questions in relation to the agenda, procedural matters, addressing the Council or attending these meetings please contact the Executive Officer on 9273 3500 or council@nedlands.wa.gov.au

Public Question Time

Public Questions are dealt with at the Ordinary Council Meeting.

Deputations

Members of the public may make presentations or ask questions on items contained within the agenda. Presentations are limited to 5 minutes. Members of the public must complete the online registration form available on the City's website: [Public Address Registration Form | City of Nedlands](#)

Disclaimer

Members of the public who attend Council Meetings Agenda Forum should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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1. Declaration of Opening

The Presiding Member will declare the meeting open at 6.00 pm and will draw attention to the disclaimer on page 2.

2. Present and Apologies and Leave of Absence (Previously Approved)

**Leave of Absence
(Previously Approved)** Nil.

Apologies None as at distribution of this agenda.

3. Public Question Time

Public questions will be dealt with at the Ordinary Council Meeting.

4. Deputations

Deputations by members of the public who have completed Public Address Registration Forms.

5. Requests for Leave of Absence

Any requests from Council Members for leave of absence will be dealt with at the Ordinary Council Meeting.

6. Petitions

Petitions will be dealt with at the Ordinary Council Meeting.

7. Disclosures of Financial Interest

The Presiding Member to remind Council Members and Staff of the requirements of Section 5.65 of the Local Government Act to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

8. Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Council Members and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the Local Government Act.

Council Members and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x I disclose that I have an association with the applicant (or person seeking a decision). This association is (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

9. Declarations by Members That They Have Not Given Due Consideration to Papers

This item will be dealt with at the Ordinary Council Meeting.

10. Confirmation of Minutes

This item will be dealt with at the Ordinary Council Meeting.

11. Announcements of the Presiding Member without discussion.

This item will be dealt with at the Ordinary Council Meeting.

12. Members Announcements without discussion.

This item will be dealt with at the Ordinary Council Meeting.

13. Matters for Which the Meeting May Be Closed

For the convenience of the public, the following Confidential items are identified to be discussed behind closed doors, as the last items of business at this meeting.

Nil.

14. En Bloc Items

This item will be dealt with at the Ordinary Council Meeting.

15. Minutes of Council Committees and Administrative Liaison Working Groups

15.1 Minutes of the following Committee Meetings (in date order) are to be received:

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council's approval should be presented to Council for resolution via the relevant departmental reports).

This item will be dealt with at the Ordinary Council Meeting.

16. Divisional Reports - Planning & Development Report No's PD66.10.22 to PD71.10.22

16.1 PD66.10.22 Consideration of Development Application – Signage at 47 Aberdare Road, Nedlands

Meeting & Date	Council Meeting - 25 October 2022
Applicant	RJ.S & CY Pty Ltd
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
Report Author	Roy Winslow – Manager Urban Planning
Director	Tony Free – Director Planning and Development
Attachments	1. Aerial Image and Zoning Map 2. Development Plans

Purpose

The purpose of this report is for Council to consider a retrospective development application for a temporary hoarding sign at 47 Aberdare Road, Nedlands.

Recommendation

That Council in accordance with Clause 68(2)(c) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, Council refuses the development application in accordance with the plans date stamped 11 August 2022 for Signage at 47 Aberdare Road, Nedlands, for the following reasons:

1. The sign is inconsistent with the objectives of the City's Local Planning Policy – Signs as it is excessive in size and will have an adverse impact on the amenity and character of the residential neighbourhood, and;
2. The sign is inconsistent with the aims of the City's Local Planning Scheme No. 3 as it does not enhance or protect the local character and amenity.

Voting Requirement

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and policies applicable to the matter and given such weight in making the decision as the relevant laws and policies permit them to be given.

Background

Land Details

Metropolitan Region Scheme Zone	Urban / Other Regional Road
Local Planning Scheme Zone	Residential / Other Regional Road
R-Code	R60
Land area	1045m ²
Land Use	Residential – Multiple Dwellings
Use Class	'P' – Permitted Use

The site is located at 47 Aberdare Road, Nedlands. The lot is 1,045m² in area and is relatively flat, with a fall in ground level of approximately 0.5m from north to south. The site is burdened by a Metropolitan Region Scheme (MRS) Other Regional Road (ORR) reserve on its northern boundary, which is 4m in width and encompasses 92m² of land.

The site, excluding the MRS reserve, is zoned Residential by LPS3 with a residential density coding of R60 and has its sole street frontage to Aberdare Road. Directly abutting the site to the south are residential lots coded R10, across Aberdare Road the lots are coded R20. The site is currently vacant with the exception of the unapproved signage for which retrospective development approval is being sought.

Background

On 10 May 2022, the Metro Inner-North Joint Development Assessment Panel approved a development application (DAP/22/02160) at 47 Aberdare Road for a three storey building comprising 12 multiple dwellings.

The City became aware that a sign advertising the approved development had been erected on site without development approval. On 12 July 2022, in accordance with s. 214(3) of the *Planning and Development Act 2005*, the City issued a direction to either remove the hoarding sign within 60 days or lodge an application for retrospective development approval within 30 days.

30 days after the direction was issued, a development application was subsequently lodged.

Application Details

The application seeks development approval for a hoarding sign at 47 Aberdare Road, Nedlands. The sign is 7m in width and 2.6m in height including the support posts. The sign displays promotional material relating to the approved development application. The application is retrospective as the sign has already been erected on site.

Discussion

Assessment of Statutory Provisions

The proposal has been assessed in accordance with the Scheme, the City's Signs Local Planning Policy (Signs LPP), and the matters to be considered of clause 67(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). Because the sign is located entirely within the Other Regional Road reservation, the City's regulatory framework does not hold much authority but has nonetheless been used as a guide.

Local Planning Scheme No. 3

The sign is located wholly within the Road Reserve and is not zoned by the Scheme. In the absence of any zone objective, the proposal has been assessed against the aims of LPS3. The proposal is inconsistent with the following aim of LPS3:

- a. Protect and enhance local character and amenity

In relation to local character and amenity, the sign is located in a predominantly residential area. Large advertising signage is not typical or expected residential development and is not compatible with the desired streetscape. The visual impact of the sign may present as a nuisance to surrounding residential development. In this regard the proposal is not considered to protect nor enhance local amenity.

Signs Local Planning Policy (Signs LPP)

The proposal is defined as a 'hoarding sign' as per the City's Signs LPP. The Signs LPP states that hoarding signs are permitted, subject to development provisions, on all zoned land except the Residential zone. The proposed sign is located on land which is not zoned by the Scheme.

In the absence of development controls for hoarding signs on reserved land, the development is to be assessed against the objectives of the Signs LPP. The sign does not meet the following objective of the policy:

- 3.1 To ensure that signs do not adversely impact on the amenity of the surrounding area.

In relation to 3.1, the sign is considered to adversely impact the amenity of the surrounding residential area due to its size. The sign is 7m in width and obscures 30% of the lot frontage. At 2.6m, the sign's height is considered excessive.

Consultation

The development application was not advertised to the community. Comment was not sought from adjoining owners and occupiers as the development is not considered appropriate for the locality and should be removed.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

- Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.
- Values** **Great Natural and Built Environment**
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.
- Priority Area** Urban form - protecting our quality living environment

Budget/Financial Implications

N/A

Legislative and Policy Implications

Because the development is located entirely within an Other Regional Road reservation and on land that is not zoned by LPS3, Council is requested to make a decision in accordance with MRS [delegation DEL2022/03](#) (Delegation).

If Council wishes to approve the development, the proposal will first have to be referred to the Department of Planning, Lands and Heritage (DPLH) for transport planning related comments in accordance with section B of the Delegation. For this reason, Council may resolve to defer the application to allow for referral of the development application or refuse the development.

Decision Implications

If Council resolves to refuse the proposal, the applicant will be directed to remove the development and restore the land as nearly as practicable to its condition immediately before the development started. As a direction to remove the development has already been issued, the applicant will have 30 days to remove the sign. The applicant will have a right of review to the State Administrative Tribunal (SAT).

If Council wishes to approve the development, the application will have to be deferred to seek DPLH referral comments. Subject to the referral comments, the development application can

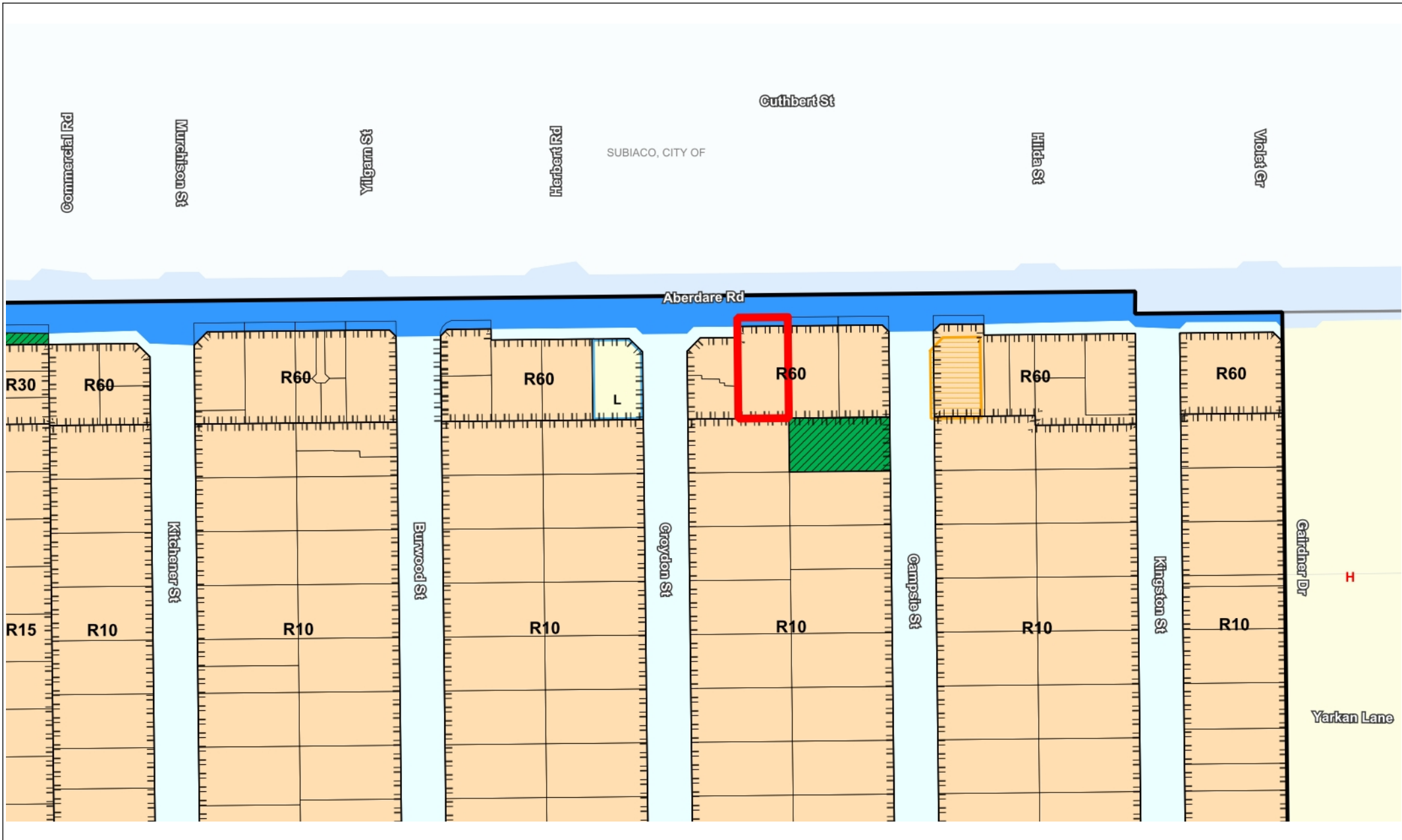
be approved by Council at the next available Council Meeting in accordance with the Council Resolution made on 27 July 2021 which requires hoarding signs 5m² or greater be presented to Council for determination. When approval is granted, the development can proceed after receiving a Building Permit and necessary clearances. Should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the SAT.

Conclusion

The application for temporary signage has been presented for Council consideration as the sign exceeds 5m². The proposal is inconsistent with the aims of LPS3 and the Signs LPP. It is recommended that Council refuse the application.

Further Information

Nil.



City of Nedlands

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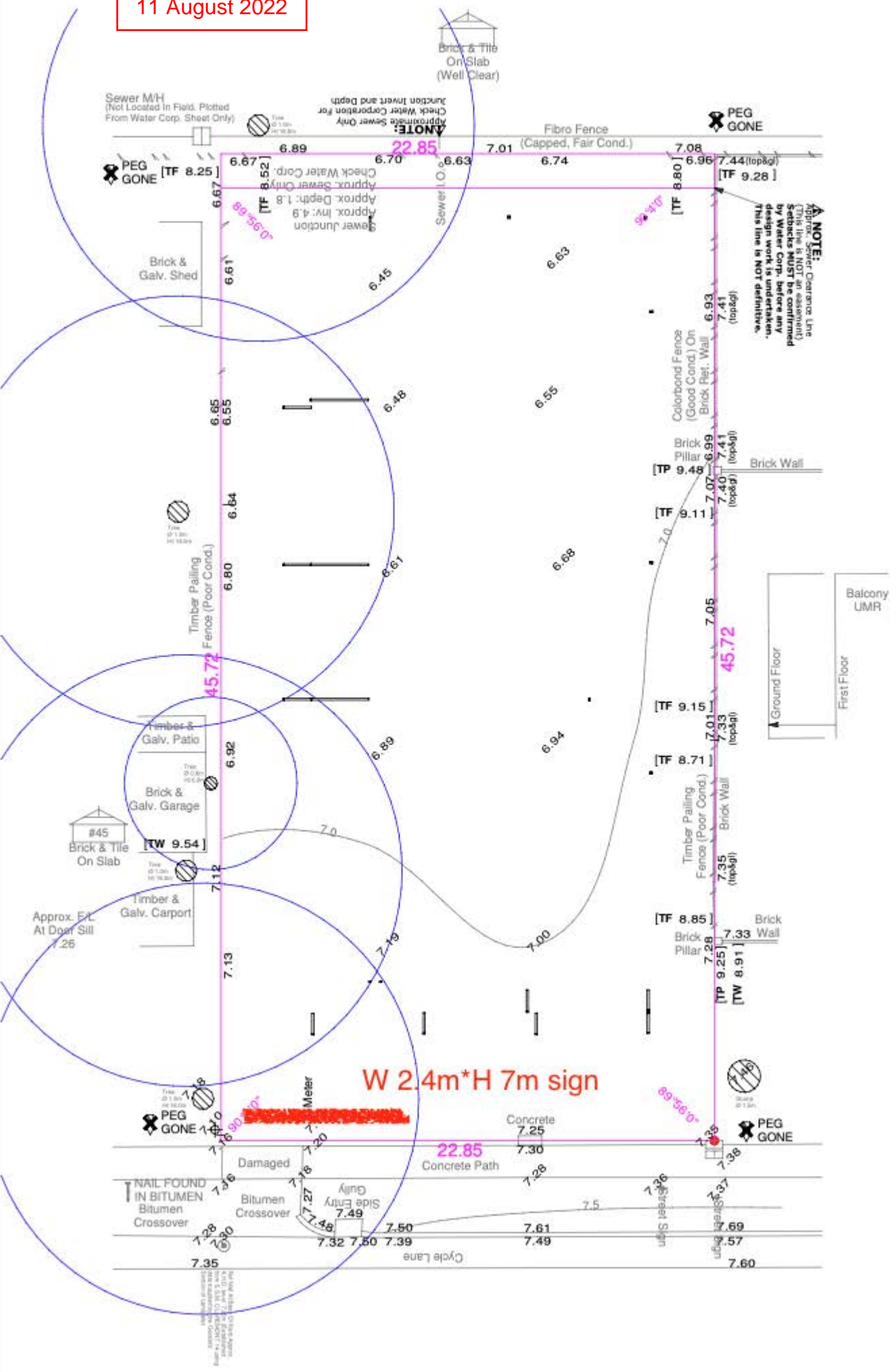
8/09/2022

1:2257



SITE SURVEY

City of Nedlands
Received
11 August 2022



NOTE: Approx. Sewer Clearance Line (This line is NOT an easement) Setbacks MUST be confirmed by Water Corp. before any design work is undertaken. This line is NOT definitive.

W 2.4m*H 7m sign

PROPERTY ADDRESS: 101A/102A/103A/104A/105A/106A/107A/108A/109A/110A/111A/112A/113A/114A/115A/116A/117A/118A/119A/120A/121A/122A/123A/124A/125A/126A/127A/128A/129A/130A/131A/132A/133A/134A/135A/136A/137A/138A/139A/140A/141A/142A/143A/144A/145A/146A/147A/148A/149A/150A/151A/152A/153A/154A/155A/156A/157A/158A/159A/160A/161A/162A/163A/164A/165A/166A/167A/168A/169A/170A/171A/172A/173A/174A/175A/176A/177A/178A/179A/180A/181A/182A/183A/184A/185A/186A/187A/188A/189A/190A/191A/192A/193A/194A/195A/196A/197A/198A/199A/200A/201A/202A/203A/204A/205A/206A/207A/208A/209A/210A/211A/212A/213A/214A/215A/216A/217A/218A/219A/220A/221A/222A/223A/224A/225A/226A/227A/228A/229A/230A/231A/232A/233A/234A/235A/236A/237A/238A/239A/240A/241A/242A/243A/244A/245A/246A/247A/248A/249A/250A/251A/252A/253A/254A/255A/256A/257A/258A/259A/260A/261A/262A/263A/264A/265A/266A/267A/268A/269A/270A/271A/272A/273A/274A/275A/276A/277A/278A/279A/280A/281A/282A/283A/284A/285A/286A/287A/288A/289A/290A/291A/292A/293A/294A/295A/296A/297A/298A/299A/300A/301A/302A/303A/304A/305A/306A/307A/308A/309A/310A/311A/312A/313A/314A/315A/316A/317A/318A/319A/320A/321A/322A/323A/324A/325A/326A/327A/328A/329A/330A/331A/332A/333A/334A/335A/336A/337A/338A/339A/340A/341A/342A/343A/344A/345A/346A/347A/348A/349A/350A/351A/352A/353A/354A/355A/356A/357A/358A/359A/360A/361A/362A/363A/364A/365A/366A/367A/368A/369A/370A/371A/372A/373A/374A/375A/376A/377A/378A/379A/380A/381A/382A/383A/384A/385A/386A/387A/388A/389A/390A/391A/392A/393A/394A/395A/396A/397A/398A/399A/400A/401A/402A/403A/404A/405A/406A/407A/408A/409A/410A/411A/412A/413A/414A/415A/416A/417A/418A/419A/420A/421A/422A/423A/424A/425A/426A/427A/428A/429A/430A/431A/432A/433A/434A/435A/436A/437A/438A/439A/440A/441A/442A/443A/444A/445A/446A/447A/448A/449A/450A/451A/452A/453A/454A/455A/456A/457A/458A/459A/460A/461A/462A/463A/464A/465A/466A/467A/468A/469A/470A/471A/472A/473A/474A/475A/476A/477A/478A/479A/480A/481A/482A/483A/484A/485A/486A/487A/488A/489A/490A/491A/492A/493A/494A/495A/496A/497A/498A/499A/500A/501A/502A/503A/504A/505A/506A/507A/508A/509A/510A/511A/512A/513A/514A/515A/516A/517A/518A/519A/520A/521A/522A/523A/524A/525A/526A/527A/528A/529A/530A/531A/532A/533A/534A/535A/536A/537A/538A/539A/540A/541A/542A/543A/544A/545A/546A/547A/548A/549A/550A/551A/552A/553A/554A/555A/556A/557A/558A/559A/560A/561A/562A/563A/564A/565A/566A/567A/568A/569A/570A/571A/572A/573A/574A/575A/576A/577A/578A/579A/580A/581A/582A/583A/584A/585A/586A/587A/588A/589A/590A/591A/592A/593A/594A/595A/596A/597A/598A/599A/600A/601A/602A/603A/604A/605A/606A/607A/608A/609A/610A/611A/612A/613A/614A/615A/616A/617A/618A/619A/620A/621A/622A/623A/624A/625A/626A/627A/628A/629A/630A/631A/632A/633A/634A/635A/636A/637A/638A/639A/640A/641A/642A/643A/644A/645A/646A/647A/648A/649A/650A/651A/652A/653A/654A/655A/656A/657A/658A/659A/660A/661A/662A/663A/664A/665A/666A/667A/668A/669A/670A/671A/672A/673A/674A/675A/676A/677A/678A/679A/680A/681A/682A/683A/684A/685A/686A/687A/688A/689A/690A/691A/692A/693A/694A/695A/696A/697A/698A/699A/700A/701A/702A/703A/704A/705A/706A/707A/708A/709A/710A/711A/712A/713A/714A/715A/716A/717A/718A/719A/720A/721A/722A/723A/724A/725A/726A/727A/728A/729A/730A/731A/732A/733A/734A/735A/736A/737A/738A/739A/740A/741A/742A/743A/744A/745A/746A/747A/748A/749A/750A/751A/752A/753A/754A/755A/756A/757A/758A/759A/760A/761A/762A/763A/764A/765A/766A/767A/768A/769A/770A/771A/772A/773A/774A/775A/776A/777A/778A/779A/780A/781A/782A/783A/784A/785A/786A/787A/788A/789A/790A/791A/792A/793A/794A/795A/796A/797A/798A/799A/800A/801A/802A/803A/804A/805A/806A/807A/808A/809A/810A/811A/812A/813A/814A/815A/816A/817A/818A/819A/820A/821A/822A/823A/824A/825A/826A/827A/828A/829A/830A/831A/832A/833A/834A/835A/836A/837A/838A/839A/840A/841A/842A/843A/844A/845A/846A/847A/848A/849A/850A/851A/852A/853A/854A/855A/856A/857A/858A/859A/860A/861A/862A/863A/864A/865A/866A/867A/868A/869A/870A/871A/872A/873A/874A/875A/876A/877A/878A/879A/880A/881A/882A/883A/884A/885A/886A/887A/888A/889A/890A/891A/892A/893A/894A/895A/896A/897A/898A/899A/900A/901A/902A/903A/904A/905A/906A/907A/908A/909A/910A/911A/912A/913A/914A/915A/916A/917A/918A/919A/920A/921A/922A/923A/924A/925A/926A/927A/928A/929A/930A/931A/932A/933A/934A/935A/936A/937A/938A/939A/940A/941A/942A/943A/944A/945A/946A/947A/948A/949A/950A/951A/952A/953A/954A/955A/956A/957A/958A/959A/960A/961A/962A/963A/964A/965A/966A/967A/968A/969A/970A/971A/972A/973A/974A/975A/976A/977A/978A/979A/980A/981A/982A/983A/984A/985A/986A/987A/988A/989A/990A/991A/992A/993A/994A/995A/996A/997A/998A/999A/1000A

7m

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2.4M

City of Nedlands
Received
11 August 2022

16.2 PD67.10.22 Consideration of Development Application –Single House at 24 Rockton Road, Nedlands

Meeting & Date	Council Meeting – 25 October 2022
Applicant	Black Pearl Homes
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
Report Author	Roy Winslow – Manager Urban Planning
Director	Tony Free – Director Planning and Development
Attachments	1. Aerial Image and Zoning Map 2. Development Plans 3. Architectural Perspective 4. CONFIDENTIAL ATTACHMENT - Submissions

Purpose

The purpose of this report is for Council to consider a development application for a single house at 24 Rockton Road, Nedlands.

Recommendation

That Council in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 30 September 2022 for a Single House at 24 Rockton Road, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 30 September 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
3. Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:
 - a. Face brick;
 - b. Painted render;
 - c. Painted brickwork; or
 - d. Other clean finish as specified on the approved plans.

And are to be thereafter maintained to the satisfaction of the City of Nedlands.

4. Prior to occupation, the privacy screens to the Kitchen, Master Bedroom, Bed 2 and Bed 3 as annotated in red on the approved plans shall be screened in accordance with the Residential Design Codes by either;
 - a. fixed and obscured glass to a height of 1.6 metres above finished floor level; or
 - b. fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or
 - c. a minimum sill height of 1.6 metres above the finished floor level; or
 - d. an alternative method of screening approved by the City of Nedlands.

The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.

5. Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
6. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.

Voting Requirement

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

Background

Land Details

Metropolitan Region Scheme Zone	Urban
Local Planning Scheme Zone	Residential
R-Code	R12.5
Land area	461m ²
Land Use	Residential – Single House
Use Class	'P' – Permitted Use

The site is located at 24 Rockton Road, Nedlands. The site is on the eastern side of Rockton Road opposite the Western Power Nedlands Substation. The lot is rectangular with a 10m frontage and an area of 461m². The land is sloping, with a 2m fall from west to east. The lot is currently vacant.

The lot has density coding of R12.5. The site originally featured 2 grouped dwellings in a 'built strata' scheme configuration. The grouped dwellings were demolished in approximately July 2021 and the site was converted to a survey strata scheme, resulting in two lots (24 and 26 Rockton Road) with a density coding of R12.5. In accordance with State Planning Policy 7.3: Residential Design Codes (R-Codes), the minimum size for an R12.5 lot is 700m². The lot is undersized for the R12.5 code, being 461m². This size lot is more typical of the R20 code.

Application Details

The application seeks development approval for the construction of a two storey single house at 24 Rockton Road, Nedlands. During the community consultation period, a set of preliminary development plans for a two storey single house on the southern adjoining lot at 26 Rockton Road were provided by the neighbouring landowner. The assessment has considered these preliminary plans where appropriate.

Discussion

Assessment of Statutory Provisions

If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

Local Planning Scheme No. 3

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

State Planning Policy 7.3 - Residential Design Codes – Volume 1

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

Given the lot size is less than what is provided for R12.5 in the R-Codes, a number of design principle assessments are required. The proposed development is seeking a design principle assessment pathway for street setback, lot boundary setback, landscaping, site works, visual privacy and solar access. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

Clause 5.1.2 – Street setback

The dwelling proposes a minimum primary street setback of 7m. The design principles require the development to be consistent with and contribute to the established streetscape and not be visually imposing from the street. The application meets the design principles as:

- The proposal satisfies policy measures 4.1.1 of the Residential Development Local Planning Policy as 54% of the houses on the eastern side of Rockton Road have a setback of less than 9m with an average of 7.5m. The proposed setback of 7.0m on the ground floor and 7.6m on the upper floor is largely consistent with the established streetscape.
- As per policy measure 4.1.2 of the Residential Development LPP, a reduced street setback can be considered if the lot is considerably undersized for its density coding. If the density coding of the lot were commensurate with its size, the proposed street setback would be deemed-to-comply.
- The building uses design features that minimise its impact on the street. The street façade includes an entry archway on the ground floor and articulation on the upper floor to create visual interest.
- The proposal maintains deemed-to-comply outdoor living areas and open space.

Clause 5.1.3 – Lot boundary setbacks

The following lot boundary setbacks seek a design principle assessment:

- The northern wall on the ground floor proposes a minimum 1.0m setback
- The northern wall on the upper floor proposes a minimum 1.8m setback
- A boundary wall is proposed to the southern lot boundary.

The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation, minimising overlooking and allowing effective use of space for privacy and outdoor living areas.

North

The northern setbacks achieve the design principles as:

- The ground floor elevation is articulated with setbacks from 1.0m to 4.0m. The taller portions of the wall are broken up with varying materials, such as cement render and metal cladding. Any bulk from the upper floor wall is unlikely to be perceived by the adjoining property as there is only one major opening on the ground floor and the proposed wall is further setback where it is adjacent to the neighbouring balcony (see Figure 1 below).



Figure 1: the house on the adjoining northern lot at 22 Rockton Road.

- Ventilation is maintained by the varied setbacks on the ground floor and the 1.8m setback on the upper floor.
- The wall is to the northern boundary so does not result in overshadowing.
- Overlooking is minimised as the major openings on the ground floor will be screened by a dividing fence or the existing garage wall towards the rear of the lot on the adjoining site. There are no major openings on the upper floor.

South (boundary wall)

The application proposes a garage built up to the southern boundary. The development achieves the design principles as:

- The location of the boundary wall to the south improves solar access to the northern portion of the house.
- The boundary wall allows for the provision of a double car garage and an adequately sized study room.
- Boundary walls are a feature of the established streetscape. Several lots on Rockton Road have boundary walls visible from the street, including 18, 16 and 12 Rockton Road.
- The boundary wall is a typical size for a garage, being 7.2m in length and 3.2m in height. If the residential density coding of the lot were commensurate with its size, this aspect of the proposal would be deemed-to-comply.

Clause 5.2.1 – Setback of garages

The garage is setback 7.7m from Rockton Road. The garage satisfies the design principles as the setback does not interfere with sight lines along the street and footpath. The proposal achieves the deemed-to-comply vehicular sightlines. The garage will not be the dominant visual feature from the street as the garage is setback 0.7m behind the study window on the

ground floor. The upper floor features architectural projections forward of the garage door to create visual interest.

Clause 5.3.2 - Landscaping

The application proposes 37% landscaping within the front setback area.

The design principles provide for retention or planting of vegetation and a positive contribution to the streetscape. The proposed landscaping meets the design principles as:

- The front setback area features an entry path of mulch and vegetation separated by steppingstones. This entry path has been discounted from landscaped area but will practically contribute to the sense of greenery and permeability in the front setback area.
- The site includes 30m² of landscaped area behind the street setback area along the side and at the rear of the house. This provides residents with landscape features that offset the hardscaped surface within the front setback area.
- The design proposes a tree within the front setback area which further contributes to a sense of greenery and creates visual interest when viewed from the street. The proposal also includes two new trees within the site: one to be planted in a small courtyard along the southern boundary and one to be planted in the landscaping at the rear.

Clause 5.3.7 – Site Works

The development proposes retaining walls to a maximum height of 0.6m along the northern and southern lot boundaries. The site slopes 2m from the west to the east. The proposal responds to this slope as the house features three different finished floor levels that step down with the natural slope of the land. The retaining meets the design principles as it responds to the natural slope of the site, only exceeds a height of 0.5m for short lengths and does not create undue building bulk or over-height walls.

Clause 5.4.1 – Visual privacy

The following major openings on the ground floor are seeking a design principle assessment:

- Kitchen window overlooking the southern lot.
- Master Bedroom window overlooking the northern lot.
- Living Room window overlooking the northern lot.

The design principles for visual privacy consider the minimal overlooking of active habitable spaces and outdoor living areas of adjacent dwellings and maximum visual privacy to side and rear boundaries. The application meets the design principles as:

- All relevant openings are on the ground floor and a standard height dividing fence will partially or entirely obscure views and ensure privacy for adjoining landowners.
- The cone of vision from the Kitchen window is reduced by a fixed privacy screen. Further, the preliminary plan provided by the landowner of 26 Rockton Road shows that any overlooking from the Kitchen will only impact a wall without major openings.
- The cone of vision from the Master Bedroom window does not impact outdoor living areas or major openings as it falls almost entirely over the existing boundary wall on the adjacent northern lot.

- The view from the Living Room window will be obscured by proposed landscaping. Any overlooking will be further minimised as the window is perpendicular to the lot boundary, so overlooking is oblique rather than direct.

Clause 5.4.2 – Solar access for adjoining sites

The development proposes 37% shadow over the lot at 26 Rockton Road to the south. The design principles for solar access consider effective solar access for the development and the impact of solar access for neighbouring properties by considering existing outdoor living areas, major openings to habitable rooms and solar collectors on adjoining sites.

Consideration must be given to the lot constraints. The relatively small lot size, lot width and east-west orientation makes it difficult for a two-storey house to achieve deemed-to-comply solar access without compromising liability and amenity for residents. The application meets the design principles as:

- Based on the preliminary plan provided by 26 Rockton Road, the shadow from the proposal will fall over 16% of the uncovered portion of the outdoor living area, leaving approximately 80m² of the uncovered outdoor living unaffected by overshadowing. The shadow will fall over less than half of the alfresco area and will not affect any north facing major openings.
- Due to the two storey height, the shadow from the proposal will not affect any future roof mounted solar collectors.
- The shadow that falls over the adjoining outdoor living area is minimised as it is cast by a single storey wall.
- It is acknowledged that a single storey house would result in less shadow to the south. However, altering the design to a single storey house in an attempt to meet the deemed-to-comply provision for overshadowing would likely result in a building that occupies a substantial portion of the site with less corresponding open space and landscaping potential. Whilst a two-storey dwelling creates greater overshadowing, it provides a better overall level of amenity for residents.

Consultation

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 29 adjoining owners and occupiers. The application was advertised for a period of 14 days, from 20 July 2022 to 2 August 2022. At the close of the advertising period, three objections were received.

The following is a summary of the concerns/comments raised and the response and action taken in relation to each issue:

1. The street setback should be 9.0m.
The proposed setback is supported as the development proposal is consistent with the immediate development context and is unlikely to negatively impact the amenity of adjoining landowners or the streetscape. See Clause 5.1.2 assessment above.
2. Stormwater and pool water should be contained on site and drained properly.

A condition of development approval is recommended that requires all stormwater be contained on site. The pool will have to comply with applicable Building and Environmental Health regulations.

3. Windows and outdoor areas on the ground and upper floors will overlook adjoining properties.
All windows from the upper floor satisfy the deemed-to-comply provisions in relation to visual privacy. The proposed overlooking is supported from ground floor openings as they achieve the design principles of clause 5.4.1 Visual privacy as per the assessment above.
4. Lot boundary setbacks proposed to the southern boundary will adversely impact the amenity of adjoining occupants.
All lot boundary setbacks to the southern lot satisfy the deemed-to-comply provisions, except for the boundary wall. The proposed boundary wall is considered to achieve the design principles. See Clause 5.1.3 assessment above.
5. Overshadowing should achieve the deemed-to-comply provisions.
The development proposal is seeking a design principle assessment for the solar access to the adjoining southern site. The overshadowing is supported as the shadow reasonably avoids the indicative outdoor living area and major openings of the adjoining lot. See Clause 5.4.2 assessment above.
6. Dividing fencing should be full height along the entire length of the northern lot boundary. As indicated on the amended plans, a dividing fence along the northern boundary will be erected subject to discussion with the neighbouring landowner. Dividing fencing is a civil matter between two landowners and is governed by the Dividing Fences Act 1961.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Vision	Our city will be an environmentally-sensitive, beautiful and inclusive place.
Values	Great Natural and Built Environment We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.
Priority Area	Urban form - protecting our quality living environment

Budget/Financial Implications

Nil.

Legislative and Policy Implications

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](#). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

Decision Implications

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

Conclusion

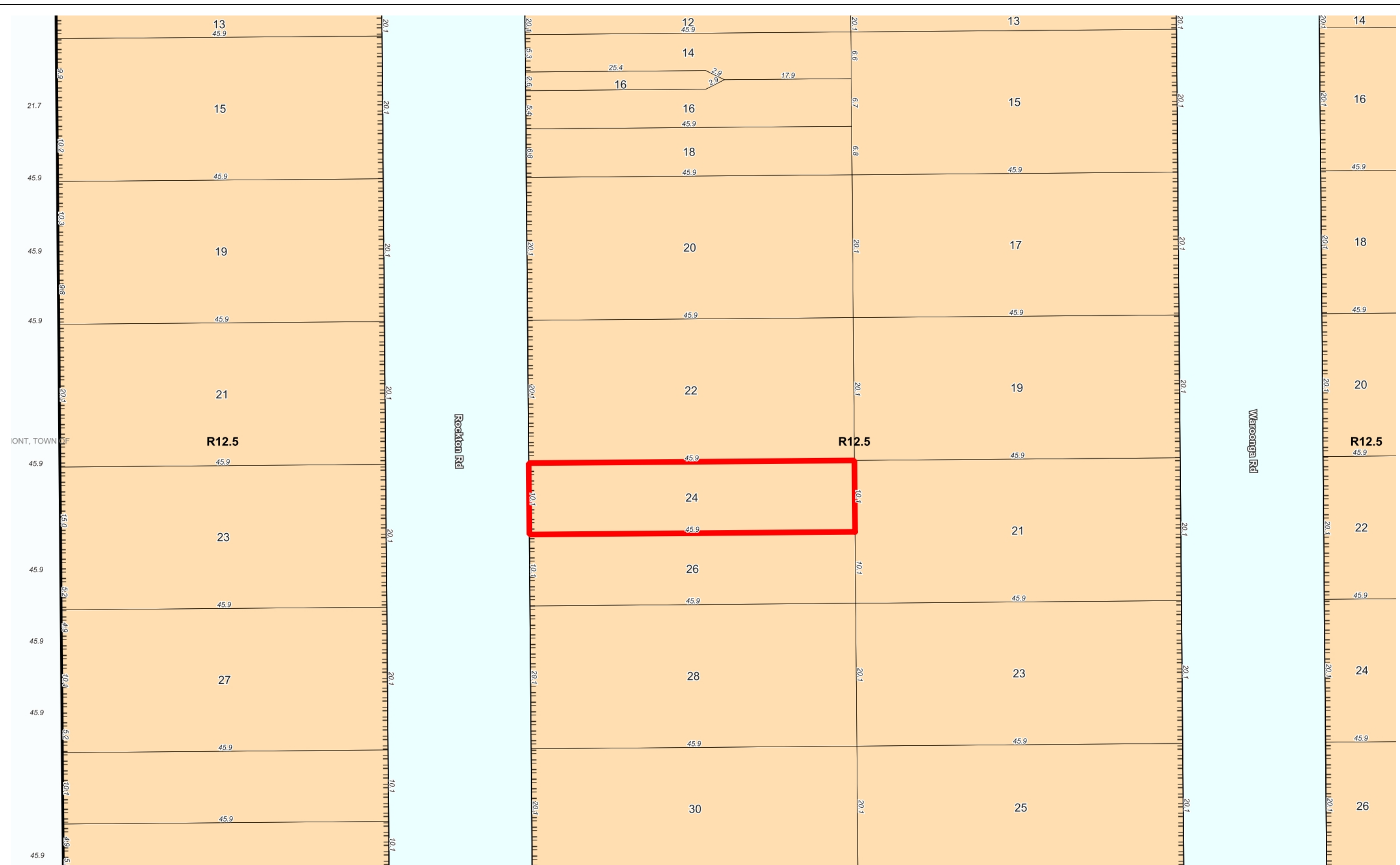
The application for a single house has been presented for Council consideration due to objections being received. The proposal meets the design principles of the R-Codes and as such will not have an adverse impact on the amenity of adjoining lots. The proposal is considered consistent with the immediate locality and established streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions contained in the recommendation.

Further Information

Nil.





LEGEND

- extent of proposed development
- 10 contour lines
- 8.55 existing ground levels (maintained)
- extent of overshadowing (@12pm- 21 June)

DEVELOPMENT SUMMARY

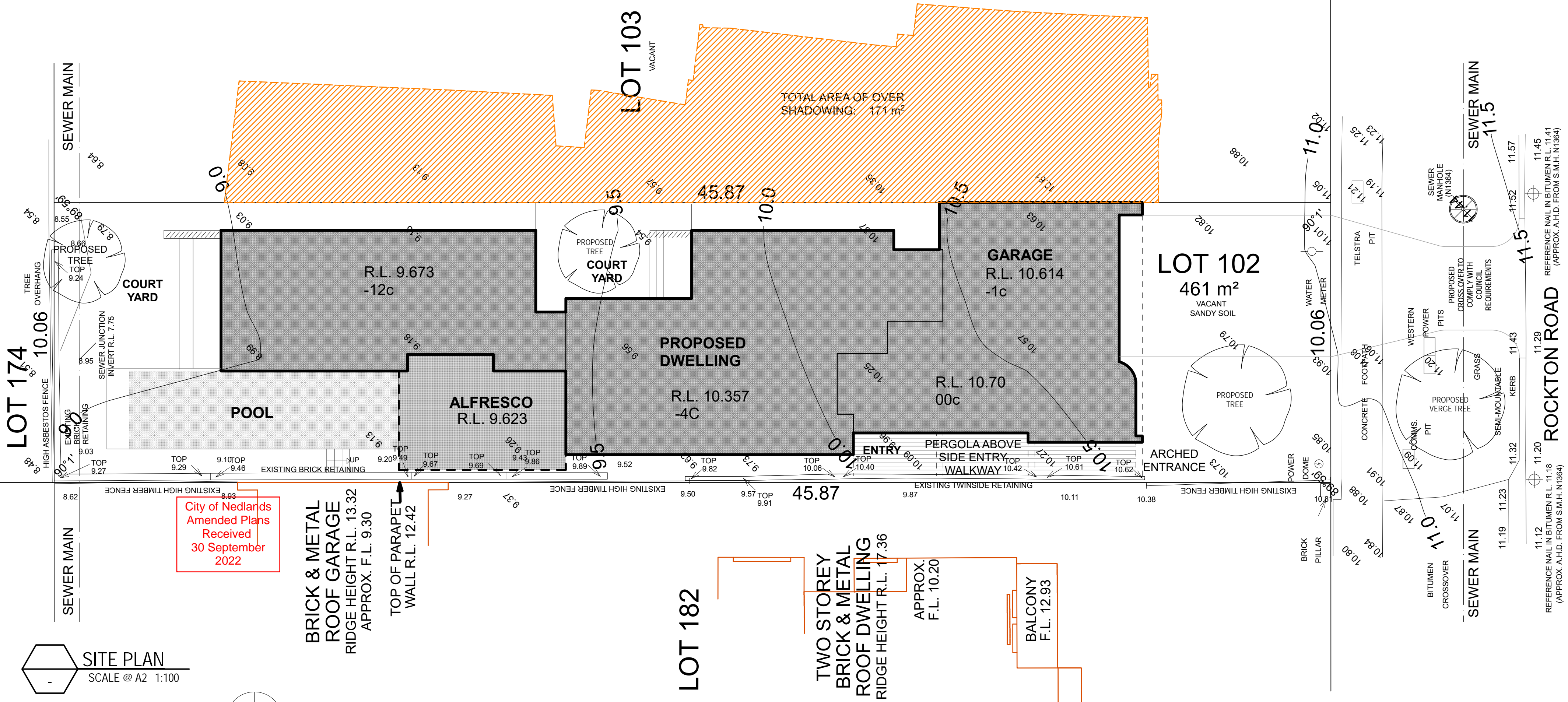
SITE AREA: 461 m²
 LOT ZONING: R12.5

TOTAL G.FLOOR AREA: 207 m²
 TOTAL SITE COVERAGE: 45% OF SITE AREA
 TOTAL OPEN SPACE: 254 m² (55% OF SITE AREA)

UNENCLOSED COVERED OUTDOOR LIVING (ALFRESCO): 23 m²

LOT 180
 RENDERED
 BRICK & TILE
 ROOF DWELLING

CARPORIT
 RIDGE HEIGHT
 R.L. 14.41



**BRICK & METAL
 ROOF GARAGE**
 RIDGE HEIGHT R.L. 13.32
 APPROX. F.L. 9.30

TOP OF PARAPET
 WALL R.L. 12.42

LOT 182

**TWO STOREY
 BRICK & METAL
 ROOF DWELLING**
 RIDGE HEIGHT R.L. 17.36

APPROX.
 F.L. 10.20

BALCONY
 F.L. 12.93

REV	DATE	DESCRIPTION	BY
TP 5	30/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 4	14/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 3	25/08/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 2	11/07/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 1	17/05/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS

**DEVELOPMENT
 APPLICATION
 NOT FOR CONSTRUCTION**

Project Name
FULLER & TIAN RESIDENCE
 24 ROCKTON ROAD, NEDLANDS



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 Designer: Jay Seyedi

Drawing Title:
SITE PLAN

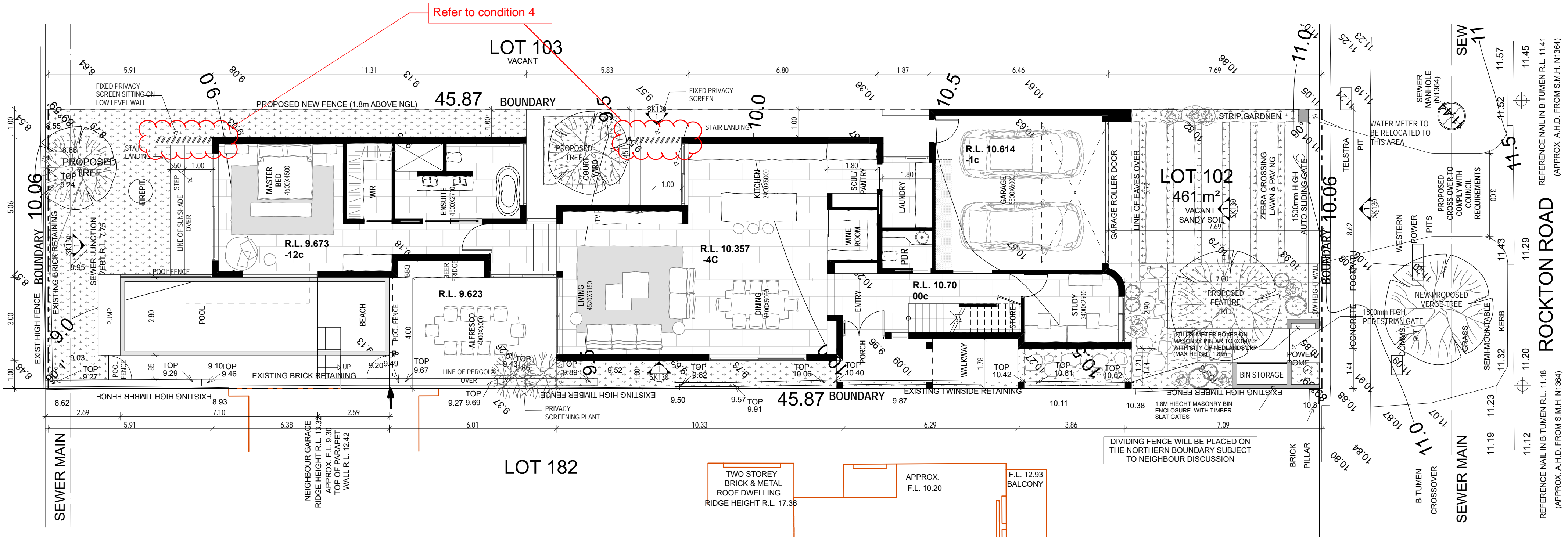
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Project No: 2022/101

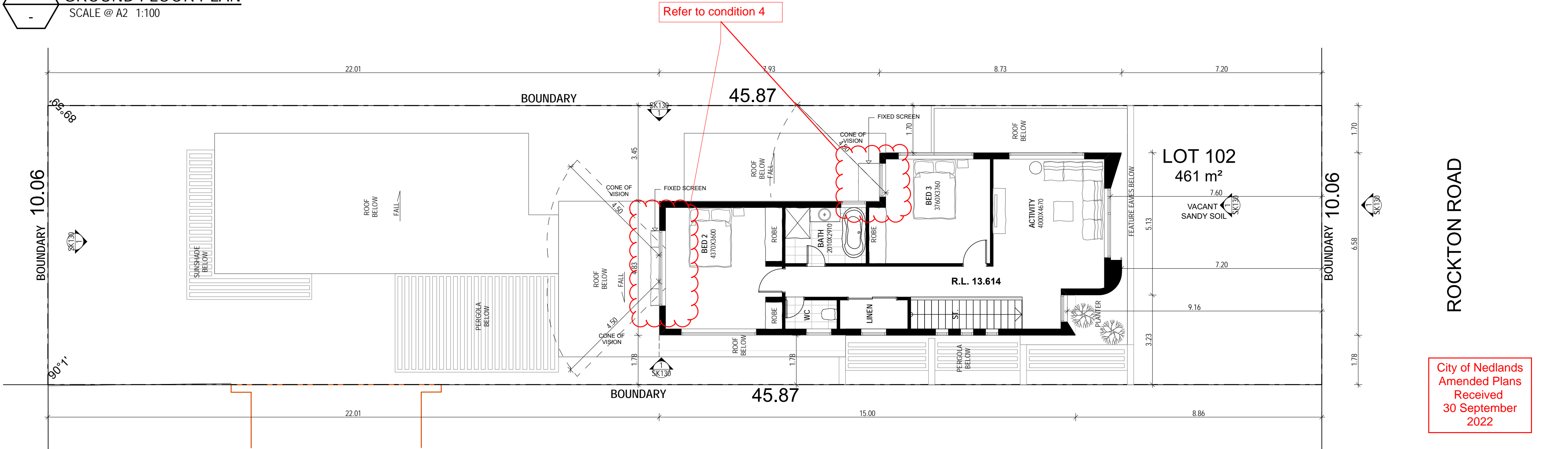
Scale: as noted

Rev: TP 5

Drawing No.: **SK100**



1 GROUND FLOOR PLAN
SCALE @ A2 1:100



2 FIRST FLOOR PLAN
SCALE @ A2 1:100

TP 5	30/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 4	14/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 3	25/08/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 2	11/07/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 1	17/05/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
REV	DATE		BY

DEVELOPMENT APPLICATION
NOT FOR CONSTRUCTION

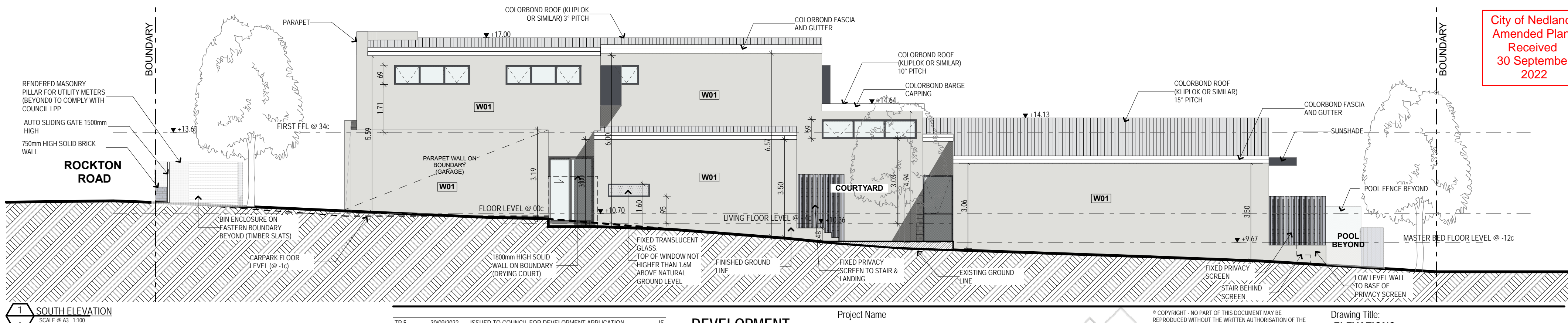
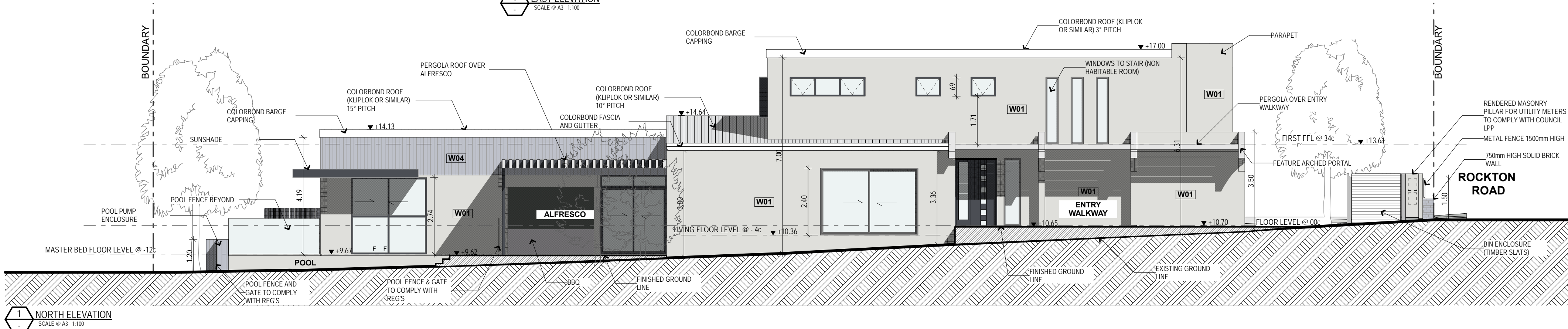
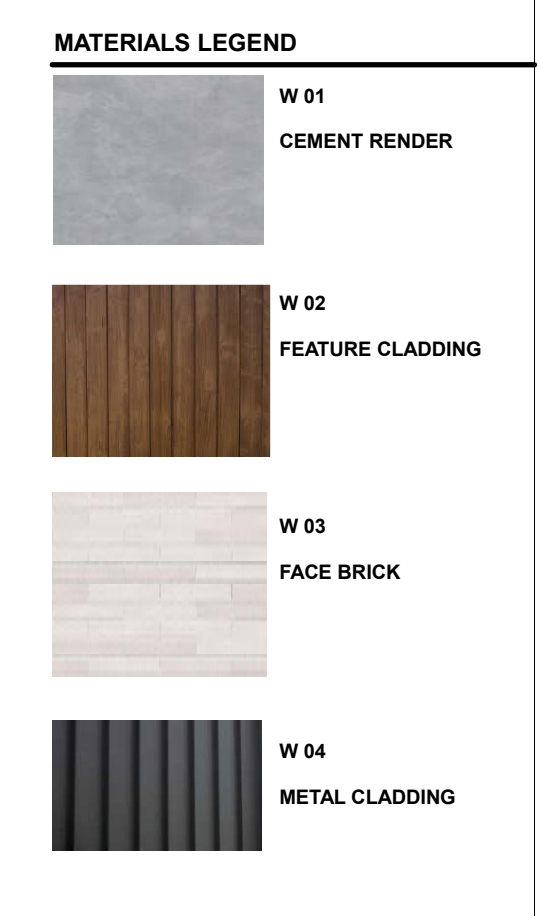
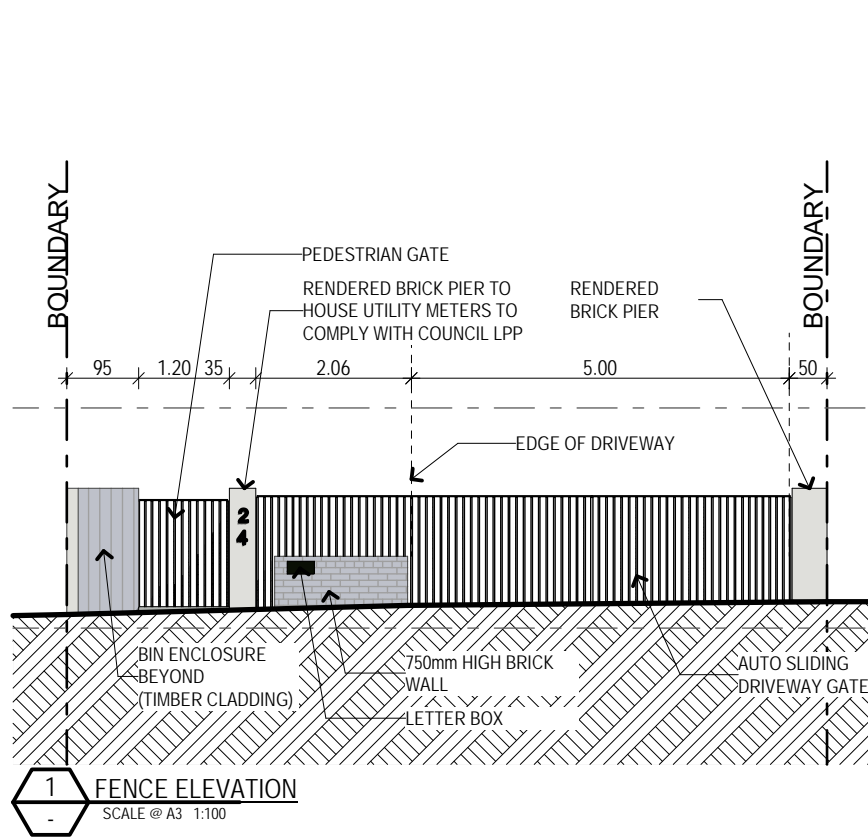
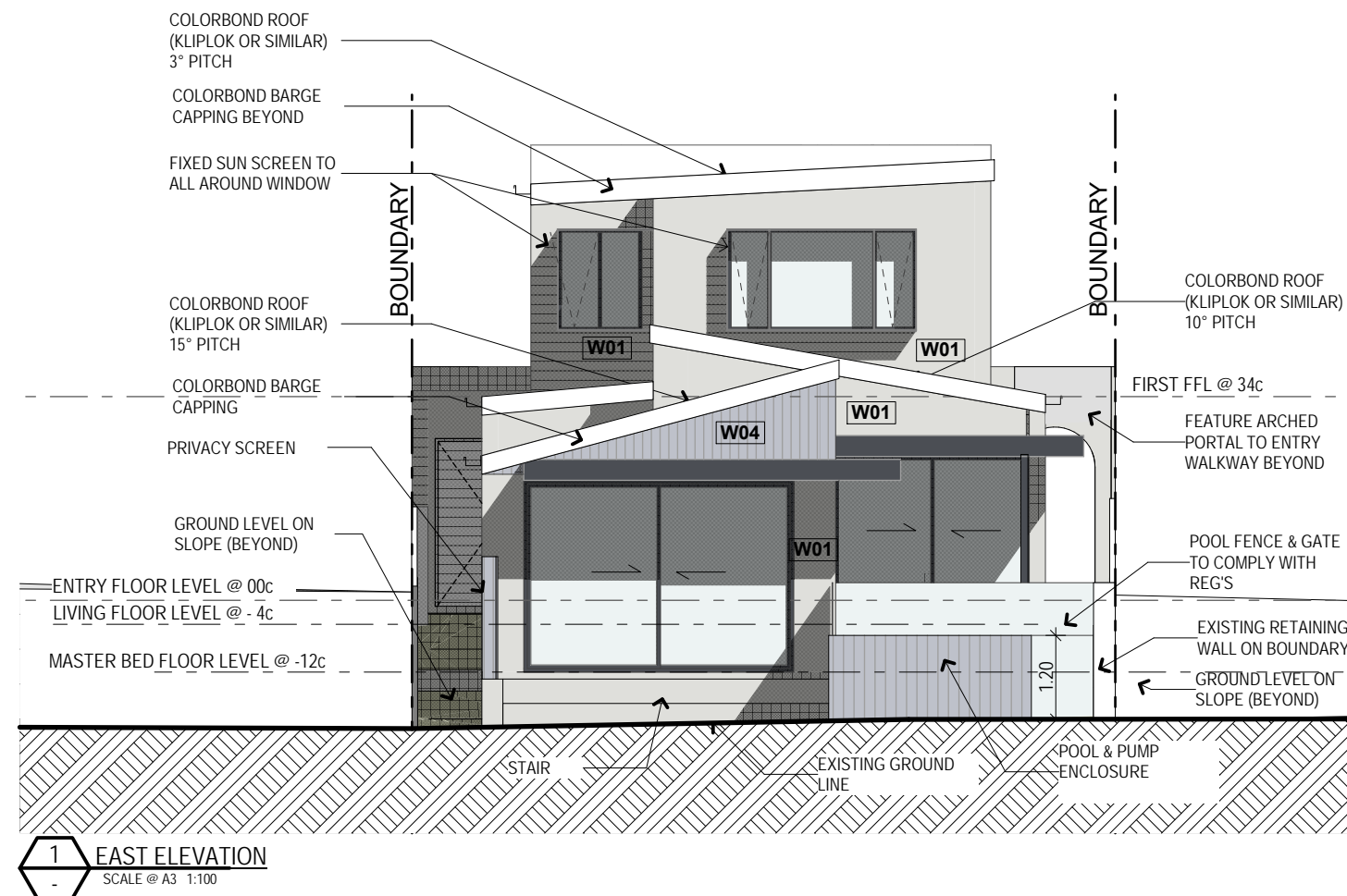
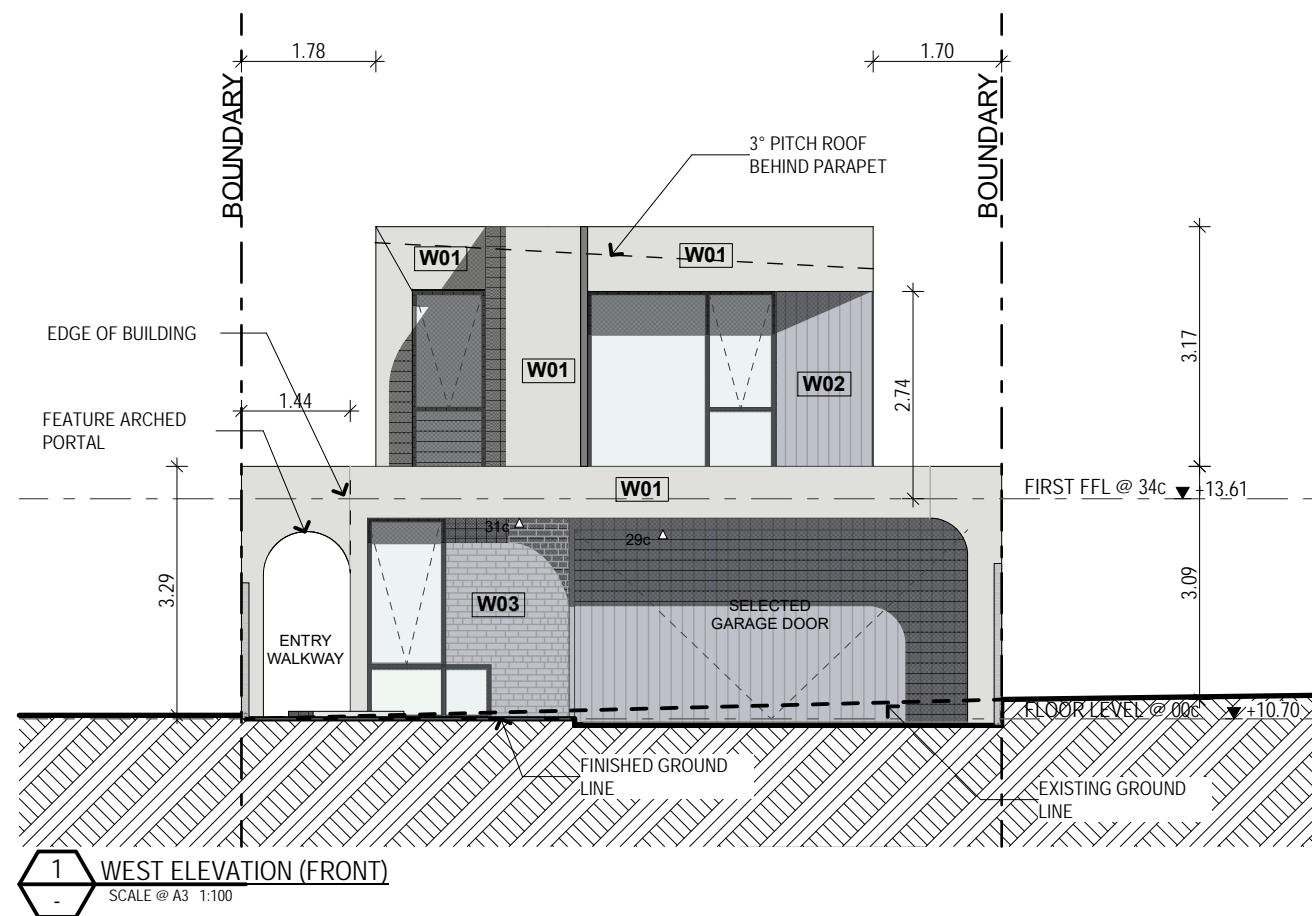
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Drawing Title:
FLOOR PLANS
Status: CONCEPT DESIGN NOT FOR CONSTRUCTION
Project No: 2022/101
Scale: as noted
Rev: TP 5
Drawing No.: **SK101**

City of Nedlands Amended Plans
Received 30 September 2022



City of Nedlands
Amended Plans
Received
30 September
2022

REV	DATE	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	BY
TP 5	30/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
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TP 1	17/05/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS

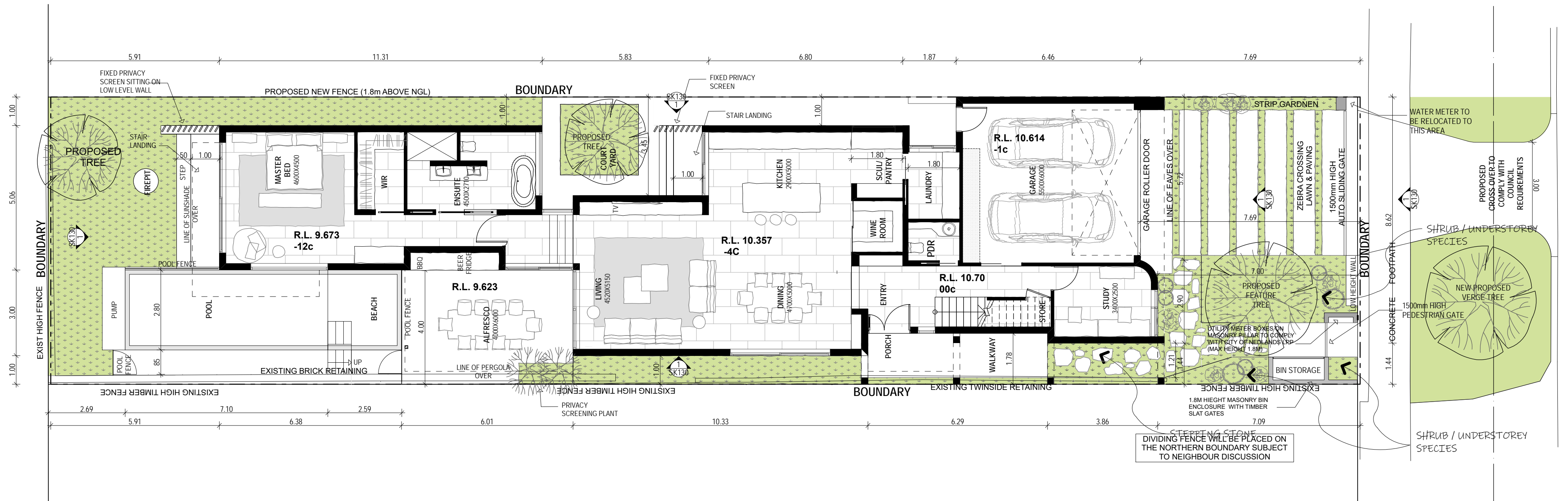
DEVELOPMENT APPLICATION
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Drawing Title:
ELEVATIONS
Status: CONCEPT DESIGN
NOT FOR CONSTRUCTION
Project No: 2022/101
Scale: as noted
Rev: TP 5
Drawing No.: **SK130**



1 LANDSCAPE PLAN
SCALE @ A3 1:100

City of Nedlands
Amended Plans
Received
30 September
2022

REV	DATE	DESCRIPTION	BY
TP 5	30/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS
TP 4	14/09/2022	ISSUED TO COUNCIL FOR DEVELOPMENT APPLICATION	JS

**DEVELOPMENT
APPLICATION
NOT FOR CONSTRUCTION**

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Designer: Jay Seyedi

Drawing Title:
LANDSCAPE PLAN

Status: CONCEPT DESIGN
NOT FOR CONSTRUCTION

Project No: 2022/101

Scale: as noted Rev: TP 5

Drawing No.: **SK200**



16.3 PD68.10.22 Amendments to Local Planning Policy – Residential Development

Meeting & Date	Council Meeting - 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
Report Author	Roy Winslow, Manager Urban Planning
Director	Tony Free, Director Planning and Development
Attachments	1. Draft LPP – Residential Development

Purpose

Amendments to the Local Planning Policy – Residential Development (the Policy) are being presented to Council for adoption for the purpose of community consultation. The proposed changes simplify and rationalise the criteria and provide updates to improve planning outcomes.

Recommendation

That Council:

- adopts the draft amendments to the Local Planning Policy – Residential Development for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015; and
- notes that the advertising period will be for a minimum of 28 days.

Voting Requirement

Simple Majority

Background

The current City of Nedlands Residential Development Policy was adopted on 17 December 2019. The Policy applies to all development assessed under Volume 1 of the Residential Design Codes (R-Codes). Some of the Policy provisions supersede the R-Codes, while other provisions provide guidance for assessment. Where a proposal does not meet the deemed-to-comply criteria within the policy, it is assessed against any design guidance in the Policy and the design principles of the R-Codes.

The Policy has been operative for about three years and is in need of a general review and update. Council also passed a resolution regarding additional solar access protections and building height that are addressed below. In updating the policy, the format has been amended to reflect the format of the draft precinct policies for Hollywood-Hampden, Waratah and Broadway. Provisions have also been re-ordered to match the order that they appear in the R-Codes.

The proposed Residential Development Policy will initially apply to all single houses and grouped dwellings throughout the City. However, any specific local planning policy will supersede the draft Policy. The City is currently advertising specific local precinct planning policies for Waratah, Hollywood-Hampden, and Broadway precincts, and is in the process of preparing a local planning policy for residential areas north and south of Stirling Highway. Once these policies are adopted, the draft Residential Development Policy would then only impact properties outside of these areas.

The Policy may have to be reviewed once the WA R-Codes Medium Density Policy comes into effect (expected in 2023) to ensure consistency for single houses and grouped dwellings on lots coded R30 and above that fall outside the precinct areas.

Discussion

Amendments to the Policy have been made in order to improve planning outcomes and fix issues that have been identified in the nearly three years since the Policy was first adopted. The changes are identified below.

Major amendments

1. Height

Council resolved to eliminate the existing height controls within the current Policy and revert to the default Table B controls of the R-Codes. A comparison between the existing height settings of the Policy and the R-Codes are shown in the below table:

Element	Existing Policy Height	R-Codes Volume 1 Height
Wall height (roof above)	8.5m	7m
Wall height (gable, skillion and concealed roof)	8.5m	8m
Roof height	10m	10m

Table 1: Policy versus R-Codes heights

Should Council adopt the height settings of the R-Codes, it would reduce the deemed-to-comply wall heights across the City. It is recommended that the height settings remain as they are in the Policy, with the inclusion of additional design guidance provided for the assessment of building height that exceeds the Policy criteria. This is recommended for the following reasons:

- The City of Nedlands height controls were originally enshrined in Council's former Town Planning Scheme No. 2. Dwellings have been developed to this greater deemed-to-comply allowance for several decades, with the design response well enshrined throughout the City.
- The areas of Swanbourne, Dalkeith and the dunes areas around Mt Claremont, among other places, tend to have larger houses owing to the steep slope of the natural ground level of the sites (particularly near the river and the ocean) and the general expectations of residents. Reducing the current deemed-to-comply heights to meet the R-Codes would disadvantage newer houses and additions to existing houses compared to any immediate neighbours. The deemed-to-comply height reduction would also impact any house on a lot with steeply sloping ground level, particularly those near the Swan River and the ocean. Any reduction in the current heights is likely to result in more houses seeking a design principles assessment.
- The City of Nedlands traditionally has higher quality development with better amenity than the R-Codes allows. A key measure of indoor liveability is floor to ceiling heights. Larger floor to ceiling heights make house interiors seem more spacious, and allow for better sunlight access and ventilation through the use of larger windows. Retaining the increased wall heights will continue to encourage high quality housing.

Given the longstanding nature of the height controls in place in Nedlands, their general acceptance by the community, and the improved internal amenity outcomes, removal of the local planning policy height provisions is not recommended.

However, it is recommended that further controls be provided to ensure greater protection for solar access to adjoining properties.

2. Solar access

An additional deemed-to-comply requirement and associated design guidance is proposed to protect existing solar collectors on adjoining lots. The deemed-to-comply provision is adopted from the draft Medium Density Codes and provides for a minimum four hours of sunlight to reach existing solar panels on adjoining lots during midwinter. This additional provision applies regardless of whether the new house achieves the deemed-to-comply threshold for overshadowing of adjoining lots.

Additional guidance has been adopted from the State of Victoria Planning Practice Note 88 to help consider whether solar panel location is reasonable and appropriate for purposes of a design principles assessment. For instance, consideration can be given to whether the panels are located high on the roof, whether the adjoining building is set back appropriately, etc.

Protection of solar panels is an important change to the way applications are assessed under the current R-Codes. Currently, if a development achieves the deemed-to-comply for overshadowing, there is no discretion to consider where the shadow falls or what it impacts.

Officers also considered provisions for the protection of future solar panels and major openings to living areas on adjoining southern lots. However, such provisions were considered too complex to be effective and would hamper good outcomes for the following reasons:

- Providing for future solar panels on adjoining southern lots would have the effect of preventing overshadowing to any roof, as solar panels could potentially be placed anywhere on the roof. This would burden any proposals for two storey development that abut single storey development and potentially lead to poorer quality outcomes. Further, there is no guarantee that an existing property would add solar panels in the future. This is especially true as the single storey houses likely to be affected are predominantly older housing stock with a higher probability of being redeveloped in the short to mid-term, which would render any roof consideration moot.
- Some existing major openings may be located too close to boundaries to avoid any degree of overshadowing. This would require substantial setbacks, particularly for upper floors, and may again lead to poorer quality outcomes through the provision of larger unusable space given over to side setbacks.

Protecting sunlight to major openings and future solar panels as deemed-to-comply criteria would add a degree of complexity to an assessment that the Western Australian Planning Commission (WAPC) would be unlikely to support. It would be difficult to determine what an “acceptable” overshadowing would be, and even more complex to manage and assess both for Officers and applicants.

Protecting existing solar panels is a much more feasible control and is important to safeguard existing development. The draft provisions are also consistent with the draft Medium Density policy proposed by WAPC. However, this provision of the policy will require approval from the WAPC before it can be adopted by Council.

3. Landscaping

The R-Codes have a deemed-to-comply provision stating that the primary street setback is to consist of at least 50% impervious surfaces. The R-Codes also include swimming pools, barbecue areas and playgrounds in the definition of landscaping. This lends confusion as to what type of “landscaping” is acceptable. The draft Policy defines “impervious surfaces” as:

“Generally vegetated areas not occupied by water impermeable roofed structures except roof eaves, and includes but is not limited to garden beds, ground covers, shrubs and trees, lawn, rockeries and ornamental ponds; but **excludes**: swimming pools, artificial turf, turf-cell, pavement, gravelled or pebble areas or the like.”

This change is recommended to ensure that proposed landscaping meets the generally expected definition of landscaping, meaning vegetation or similar “natural areas” rather than hardscape such as pools, etc. As per the Deemed provisions, this change to the landscaping provisions of the R-Codes will require approval from the WAPC.

Criteria for landscaping in the rear cannot be imposed through a policy because, unlike landscaping within the street setback, there is no existing R-Codes criteria for local government to modify that pertains to rear landscaping. The R-Codes states that if a single house meets all the deemed-to-comply criteria it does not require development approval unless otherwise required by the scheme. Therefore, any criteria within a policy that requires landscaping in the rear would sit outside the R-Codes and would be unable to be enforced.

4. Garage width

Garage width allowances have been increased for narrow lots (less than 10m frontage). The changes would allow these lots to have a garage and supporting structures that are 6m wide as viewed from the street (compared to the existing 60% frontage). This would be permitted where an upper floor or balcony extends over more than half the width of the garage, and the garage is set back 1m behind the main wall of the house. This change would apply where there is no available laneway. A 6m wide garage is the minimum width to achieve the Australian Standards for internal car bays.

5. Undersized lots

Provisions are recommended to modify deemed-to-comply criteria for lots that are undersized relative to their density code. A few blocks within Swanbourne contain numerous lots that are undersized (refer Figure 1 below).



Figure 1: Lots in blue are Swanbourne lots undersized for their density code.

The draft amendments would allow these lots (and any other undersized lots throughout the City) to meet the deemed-to-comply criteria associated with the density code that relates to their actual lot size for open space and lot boundary setbacks. In effect, this would allow the R15 lots in Figure 1 above to achieve R20 deemed-to-comply criteria for some items. Importantly, the lot boundary setback modification would only apply where the adjoining impacted lot was similarly undersized or of a higher code, otherwise the setbacks would revert to those associated with the R15 coding.

For example, take the lot on the corner of Jameson Street and Iolanthe Street in Figure 1 above. This lot and the adjoining southern lot both have a site area of approximately 473 square metres, which is commensurate with a lot coded R20. The lot to the east has a site area of approximately 591 square metres, which is consistent with its assigned density code of R15.

Under the proposed Policy, the corner lot would be allowed to meet the deemed-to-comply criteria for open space and southern lot boundary setbacks commensurate with a R20 density. Rear setbacks against the lower coded R15 lot would still need to meet the deemed-to-comply provisions for rear setbacks on a R15 coded lot (Notwithstanding that a development could seek a design principles assessment).

These undersized lots predominantly have existing houses that already achieve these outcomes. The draft Policy will allow consistent assessment methodology for new single houses or additions on these lots with the intent that they will have comparable outcomes to the existing houses along the street.

6. Minor amendments

A number of minor amendments are proposed including:

- Front fencing requirements have been modified and simplified as follows:
 - There is currently a requirement that pillars be separated by 1.5 metres. This doesn't take into account pedestrian gates and, in any event, is unnecessary as the remaining criteria provide for visual permeability. This pier separation requirement is recommended to be deleted.
 - Meter boxes are recommended to be allowed to have a width of 1.2m in lieu of the current 1m when perpendicular to the street. This is based on officer experience and will allow these minor works (which have minimal impact on the street) to be exempt from requiring approval.
- Vehicular access requirements have been modified to clarify that where a house has a common property driveway, the house is to use that driveway rather than apply for an additional driveway and crossover.
- Carport criteria in areas coded R15 and lower have been clarified as design guidance rather than deemed-to-comply criteria. This is because the primary street setbacks for carports in areas coded R15 and lower are set out in the City's scheme, and policies cannot alter a scheme.
- Screening that is detached from but adjacent to a dividing fence is now considered as if it were a wall for setback purposes. Currently, it is unclear whether these freestanding structures require planning approval at all.

- Additional design guidance to assist in a design principles assessment has been provided for building height, vehicular access, and solar access.

WAPC Approval

The R-Codes sets out which items the local government may not change without approval from the WAPC. The draft amendments seek to change the following items that will require WAPC approval:

- Landscaping
- Vehicular access; and
- Solar access.

After adoption by Council, the Policy will be forwarded to the WAPC for approval of the above three sections. Under the Deemed provisions, the WAPC must approve the above amendments before they can go into effect.

Consultation

In drafting the Policy, the following questions were raised by Elected Members at the Concept Forum of 15 September 2022:

1. How can a 10m high wall work within the overshadowing requirements of the R Codes?

No matter the wall height, development will still have to achieve either the deemed-to-comply criteria or the design principles of the R-Codes. This may mean that higher walls would have to be set back further from boundaries, not be as long, etc.

2. Can areas of Camelia Avenue Mt Claremont that appear to have incorrect zoning also be included in the undersize lot area?

The criteria for undersized lots will be available for all undersized lots throughout the City, not just the lots identified in Figure 1 above.

3. Can the policy place restrictions on rear crossovers that access reserves?

Reserves are generally controlled by the City, with any access requiring permission, usually in the form of a crossover permit. Crossovers are controlled by the City's Technical Services department and do not form part of this Policy.

4. Can the policy consider hard landscaping restrictions in rear setbacks also?

The proposed changes to modify landscaping build on the existing R-Codes criteria for landscaping within the front setback. There is no mechanism for controlling hardstand in backyards for single houses or grouped dwellings beyond the general requirement that all stormwater is to be maintained onsite.

5. Can a figure (meters) be added to the (percentage) of garage frontage?

The draft Policy has now been amended to stipulate that lots with small (less than 10m) frontage will be permitted to have a 6m wide (previously 75% frontage) garage as viewed from the street, subject to meeting specific criteria. This is the minimum width to allow two internal car bays to meet Australian Standards.

If Council endorses the recommendation, the draft Policy will be advertised for community comment for a period of not less than 28 days.

Once advertising has closed, submissions will be reviewed and possible modifications made. Council may then adopt the Policy and refer required sections to the WAPC for approval. Those sections will not take effect unless and until the WAPC approves them. If the WAPC approves the sections, they can automatically be incorporated into the Policy.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Vision Our city will be an environmentally-sensitive, beautiful and inclusive place.

Values **Great Natural and Built Environment**
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

Reflects Identities
We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

Priority Area Urban form - protecting our quality living environment

Budget/Financial Implications

Nil.

Legislative and Policy Implications

Clause 5 of the Deemed provisions within the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) provides requirements and processes for amending a local planning policy. The Deemed provisions requires that, where parts of a proposed policy require WAPC approval, those parts will not become operable until approval has been granted by the WAPC. Once adopted by the WAPC and Council, the entire Policy will apply to any development to which the R-Codes Volume 1 applies.

Decision Implications

If Council endorses the recommendation, the draft Policy will be advertised for community comment for a period of not less than 28 days.

If Council does not endorse the recommendation to advertise, the amendments will not be progressed, and the current policy will remain as is.

Conclusion

It is recommended that Council adopts the draft Policy for community consultation.

Further Information

Nil.



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Draft Residential Development - Local Planning Policy

1 PURPOSE

1.1 To provide guidance and supplementary requirements to Local Planning Scheme No. 3 (LPS 3) and State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) in relation to single houses and grouped dwelling developments within the City of Nedlands.

2 APPLICATION OF POLICY

2.1 This Policy applies to all development to which State Planning Policy 7.3 Residential Design Codes Volume 1 applies.

2.2 This Policy is read in conjunction with the R-Codes and Clause 26 of LPS 3.

2.3 This Policy amends, replaces or provides additional deemed-to-comply requirements of the R-Codes specific to the Nedlands context as shown in Table 1 below:

Table 1: R-Codes requirements that are varied or replaced by this Policy

Design Element	Additional design principles consideration	Deemed-to-comply requirements altered	Additional Deemed-to-comply requirements
5.1.2 Street setback	Yes	See footnotes in section 5.1 C2.1* C2.4	See footnotes in section 5.1 C2.5 C2.6 C2.1iii
5.2.1 Setback of garages and carports	Yes	See footnotes in section 5.1 C1.1* C1.2*	See footnotes in section 5.1
5.1.3 Lot boundary setback	Yes	See footnotes in section 5.1	C3.5
5.1.4 Open space	No	--	C4.1*
5.1.6 Building heights	Yes	C6	C6.1
5.2.2 Garage width	No	--	C2.1
5.2.4 Street walls and fences	No	C4.2	C4.2i C4.3
5.2.5 Sight lines	No	--	C5.1
5.3.2 Landscaping	No	C2.2ii	--
5.3.5 Vehicle access	Yes	--	C5.1i
5.4.2 Solar access	Yes	--	C2.3

* Denotes those items varied through the LPS3 and discussed below.

**Draft Residential Development - Local Planning Policy****3 RELATIONSHIP TO OTHER POLICIES AND LEGISLATION**

- 3.1** This Policy has been prepared in accordance with Clause 4 of the Deemed provisions of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 3.2** This Policy should be read in conjunction with the following planning instruments, and its requirements apply unless specifically stipulated elsewhere in any of the below:
- *Planning and Development Act 2005*
 - *Planning and Development (Local Planning Schemes) Regulations 2015*
 - *State Planning Policy 7.3 – Residential Design Codes Volume 1*
 - *State Planning Policy 7.2 – Precinct Design*
 - *City of Nedlands Local Planning Scheme No. 3*
- 3.3** Where this Policy is inconsistent with a Local Development Plan, Precinct Plan or Local Planning Policy that applies to a specific site, precinct, area or R-Code, the provisions of that specific Local Development Plan, Precinct Plan or Local Planning Policy shall prevail.

4 OBJECTIVES

- 4.1** To maintain the spacious green character, and enhance the amenity and aesthetics of the City.
- 4.2** To ensure development does not detrimentally impact the amenity of adjoining properties or the streetscape.
- 4.3** To provide for residential development that is consistent with established or desired future streetscapes.
- 4.4** To reduce the dominance (scale, mass and bulk) of buildings as viewed from the street.
- 4.5** To provide for building heights which are consistent with the character of the area and the topography of the site and do not have an adverse impact on adjoining properties.

5 AMENDMENTS TO THE RESIDENTIAL DESIGN CODES

The following provisions replace or augment the deemed-to-comply requirements of the R-Codes. Where deemed-to-comply provisions are additional to the R-Codes, they follow on from the R-Codes numbering for that particular element.

Where a development does not meet the deemed-to-comply provisions contained in this Policy and the Scheme, a development application is required which will be assessed against the relevant design principles of the R-Codes and objectives of this policy.

5.1 Deemed-to-comply Provisions

R-Codes Clause	Element	Deemed-to-comply requirement
5.1.2	Street setback	<ul style="list-style-type: none"> • Minimum 9m for land coded R10, R12.5 and R15.^{1,2,3} • As per R-Codes for all other codes.^{1,2,3}
		C2.4 Except on land coded R10, R12.5 and R15, a minor incursion such as a porch, balcony, verandah, architectural feature or the equivalent may (subject to the Building Code of Australia)



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		<p>project into the primary street setback area to a maximum of half the required primary street setback provided an equivalent open space area is provided under clause 5.1.2 C2.1iii.</p> <p>C2.5 For lots coded R15 and lower, a minor incursion such as a porch, balcony, verandah, architectural feature or the equivalent may project not more than 1m into the street setback area provided that the total of such projections does not exceed 50% of the building façade as viewed from the street.</p> <p>C2.6 Subject to clause 5.2.5 of the R-Codes as modified by this policy, gate houses are permitted within primary and secondary street setback areas to a maximum building height of 3.5m, maximum width of 2m and total area of 4 square metres, as measured from the street and outside of the posts (refer to Figure 3 in Appendix).</p>								
<p>5.1.3</p>	<p>Lot boundary setbacks</p>	<ul style="list-style-type: none"> As per R-Codes.² <p>C3.5 A swimming pool fence/barrier and pool pump screens behind the street setback line may be located up to the lot boundaries to a maximum height of 1.8m above any approved site works.²</p>								
<p>5.1.4</p>	<p>Open space</p>	<p><i>As per clause 26(2) of the LPS3, for land coded R30 or less, an additional deemed-to-comply requirement is added:</i></p> <p>C4.1 Open areas of accessible and useable flat roofs of dwellings (ie."roof terrace" including roof gardens, roof pools, viewing platforms or other roof-top recreational use and development), are excluded from being credited towards open space provision.</p>								
<p>5.1.6</p>	<p>Building height</p>	<p>C6 Buildings which comply with the following heights, except where stated otherwise in the scheme, a more specific local planning policy, structure plan, or local development plan:</p> <table border="1" data-bbox="667 1574 1465 1787"> <thead> <tr> <th>Element</th> <th>Height above natural ground level</th> </tr> </thead> <tbody> <tr> <td>Wall height (gable, skillion and concealed roof)</td> <td>8.5m</td> </tr> <tr> <td>Roof height</td> <td>10m</td> </tr> <tr> <td>Wall height (roof above)</td> <td>8.5m</td> </tr> </tbody> </table> <p>C6.1 Architectural features and building projections (such as, but not limited to, lift shafts and feature walls) may project above the external wall height to a maximum height of 10m provided the feature does not exceed 3m in width.</p>	Element	Height above natural ground level	Wall height (gable, skillion and concealed roof)	8.5m	Roof height	10m	Wall height (roof above)	8.5m
Element	Height above natural ground level									
Wall height (gable, skillion and concealed roof)	8.5m									
Roof height	10m									
Wall height (roof above)	8.5m									



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5.2.1	Setback of garages and carports	<ul style="list-style-type: none"> • Minimum 9m primary street setback for land coded R10, R12.5 and R15.^{1,2,3} • 1.5m secondary street setback for land coded R10, R12.5 and R15.^{1,2} • As per R-Codes for all other codes.²
5.2.2	Garage width	<ul style="list-style-type: none"> • As per R-Codes, plus: <p>C2.1 For lots with a frontage of less than 10m and no access to a secondary street or a laneway greater than 4m in width, garage doors and supporting structures facing the primary street may be a maximum of 6 metres wide as viewed from the street provided the upper floor or balcony extends for more than half the width of the garage and supporting structures, the entrance to the dwelling is clearly visible from the primary street, and the garage is set back from the street at least 1 metre more than the main wall of the ground or first floor of the dwelling (excluding a patio, verandah, balcony or similar).</p>
5.2.4	Street walls and fences	<p>C4.2 Solid pillars that form part of front fences not more than 2.1m above natural ground level provided the horizontal dimension of the pillars is not greater than 500mm by 500mm and pillars are separated by visually permeable fencing in line with C4.1 of the R-Codes.⁴</p> <p>C4.2i For the purposes of housing a utility/meter box, solid fencing within the primary setback area may be:</p> <ul style="list-style-type: none"> • a maximum 1.2m in width; • a maximum 1.8m in height; • perpendicular to the street; and • setback at least 1.5m from where a vehicle access point intersects with a public street on any property. <p>C4.3 Fencing to secondary streets, laneways and boundaries to reserves shall be a maximum of 1.8m in height above natural ground level, measured from the secondary street, laneway or reserve side of the fence (piers permitted as per clause C4.2 above) and comply with clause 5.2.5 of the R-Codes, as amended by this Policy.</p>
5.2.5	Sightlines	<p>C5.1 Within the 1.5m truncation area stipulated under C5, the following obstructions are acceptable:</p> <ol style="list-style-type: none"> i. one pier with a maximum length and width of 0.5m; and/or ii. Solid fencing up to 0.75m in height with visually permeable in-fill fencing to a maximum of 1.8m in height, both measured from natural ground level on the vehicle access side.
5.3.2	Landscaping	<p>In relation to clause 5.3.2 C2.2ii of the R-Codes, the term “impervious surfaces” means: Generally vegetated areas not occupied by water impermeable roofed structures except roof eaves, and includes but is not limited</p>



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		to garden beds, ground covers, shrubs and trees, lawn, rockeries and ornamental ponds; but excludes : swimming pools, artificial turf, turf-cell, pavement, gravelled or pebble areas or the like.
5.3.5	Vehicular Access	C5.1i Where a common property accessway is available to the dwelling, vehicle access is to be provided from the common property access way instead of the public road (see Figure 4 of Appendix).
5.4.2	Solar access	C2.3 Buildings are configured to maintain minimum four hours per day solar access on 21 June for existing solar collectors for adjoining properties.

¹ As per Clause 26(1)(a) of the LPS 3, the provisions for averaging and reductions (cl. 5.1.2 C2.1 i – iv, and cl. 5.2.1 C1.1 – C1.5 of the R-Codes) do not apply to lots coded R10, R12.5 or R15. Excludes lots identified in Schedule 2 of LPS 3 – St John’s Wood and Schedule 3 – Hollywood.

² Where a site abuts a laneway less than 6 metres wide, setback provisions are to be determined after allowing for any future laneway widening requirement from the lot, assuming equal widening on both sides of the laneway where appropriate (refer to Figure 2 in Appendix).

³ In reference to street setback reductions allowed under clause 5.1.2 C2.1iii of the R-Codes, any common property access legs are not to be included as part of the compensating area of open space when calculating reduced street setbacks.

⁴ Replaces R-Codes deemed-to-comply requirement of the same number.



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5.2 Design Guidance

The following Design Guidance assists in the design principles assessment of the R-Codes.

1. Street setbacks

The local government may consider a street setback reduction in the following circumstances:

1.1 Existing Streetscape:

- i) 50% or more of dwellings (excluding carports and minor projections) on one side of a street block bound by intersecting streets, have a setback of less than 9m to the primary street boundary; and
- ii) The proposed setback corresponds with the average setback of dwellings (excluding carports and minor projections) fronting the same side of the street and within the same block (refer Figure 1 in Appendix).

1.2 Site constraints:

- i) A lot has a significant site constraint including but not limited to an irregular configuration, topography changes or being considerably undersized for the assigned density code; and
- ii) the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape and adjoining lots.

2. Setback of garages and carports

- 2.1 On land coded R10, R12.5 and R15 (other than lots identified in Schedules 2 and 3 of LPS 3) the local government may consider that carports within the front setback area achieve the design principles of the R-Codes where such carports meet the following criteria:
- i. the width of the carport does not exceed 50 percent of the lot frontage;
 - ii. the carport allows an unobstructed view between the dwelling and the street, right-of-way or equivalent;
 - iii. the carport is set back a minimum of 3.5m from the primary street;
 - iv. the carport is not greater than 36m² in floor area as measured from the outside of the posts;
 - v. the carport meets the deemed-to-comply provisions for lot boundary setbacks under the R-Codes as modified by this Policy;
 - vi. the carport meets the provisions of Table 2 - Maximum carport height below;
 - vii. the carport is unenclosed, and where a door is proposed, the door meets the deemed-to-comply provisions for a primary street fence under the R-Codes as modified by this Policy.

Table 2 – Maximum carport height

Carport type	Wall height	Building height
Pitched Roof	3.0m	4.5m
Flat or Skillion Roof	N/A	3.5m



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<p>3. Lot setbacks boundary</p>	<p>3.1 The local government may consider buildings (other than outbuildings) within the rear setback area on lots with a density of R15 or less for the following:</p> <ul style="list-style-type: none"> i. Buildings in the rear setback area may be considered where: <ul style="list-style-type: none"> a) the immediate locality is characterised by similar-sized buildings within rear setback areas; b) the building provides for more effective use of space on-site for outdoor living areas; and c) the cumulative bulk and distribution of all buildings on site has a reduced impact on neighbouring properties. ii. On land which abuts a laneway or right-of-way to the rear boundary, single-storey carports and garages may be considered with a minimum setback of 1.5m in accordance with the objectives set out in (i) above and any modifications from allowance for a laneway (Refer to footnote 2 of clause 5.1 of this Policy).
<p>4. Building height</p>	<p>4.1 When assessing design principles for building and/or wall height in relation to amenity impacts, the local government may consider:</p> <ul style="list-style-type: none"> a) Slope of the natural ground level; b) Heights of existing development on lots immediately abutting the site; c) Impact on adjoining properties from setbacks, visual privacy and overshadowing as a result of the height.
<p>5. Vehicular access</p>	<p>5.1 In relation to Clause 5.3.5 C5.1 of the R-Codes, where a lot abuts a laneway or public right-of-way (other than a common property driveway as above), vehicle access may be considered from the secondary or primary street where:</p> <ul style="list-style-type: none"> a) The laneway is less than 4m in width; and b) The laneway is not appropriately sealed and drained; <p>OR</p> <ul style="list-style-type: none"> c) Vehicle access from the laneway will result in removal of mature trees on the private property worthy of retention.



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<p>6. Solar access</p>	<p>5.1 In assessing the overshadowing impacts to solar panels under the design principles, the following factors may be considered:</p> <ul style="list-style-type: none"> a) The extent of existing overshadowing of the solar collector from existing buildings or permanent structures. b) Whether the new development meets the side and rear setback and north-facing windows standards of the R-Codes. c) Whether the protections of the existing solar collector will unreasonably constrain or compromise the proposed development. d) The type of existing solar collector. A multiple string system is less affected by shading than a single string which is more vulnerable to shading, or any other system features such as micro inverters or bypass diodes which can operate with partial shading. e) Whether the siting of the existing solar collector takes into account the potential future development of adjoining properties promoted or permitted under LPS 3. f) The extent to which the existing solar collectors have been appropriately located to protect them from overshadowing through placement higher on the roof and further from existing boundaries (Refer to Figure 5 in the Appendix).
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6. UNDERSIZED LOTS

For an existing approved freehold or survey strata lot that is below the minimum lot size for the density that applies to that lot as shown in Table 1 of the R-Codes, the City can consider lot boundary setbacks and open space commensurate with that associated with the density in Table 1 that matches the existing lot size. Lot boundary setbacks under this clause may only be considered where the adjoining affected lot is also of a similar equivalent density or higher. *(For street setbacks, refer to clause 5.2 above.)*

Example:

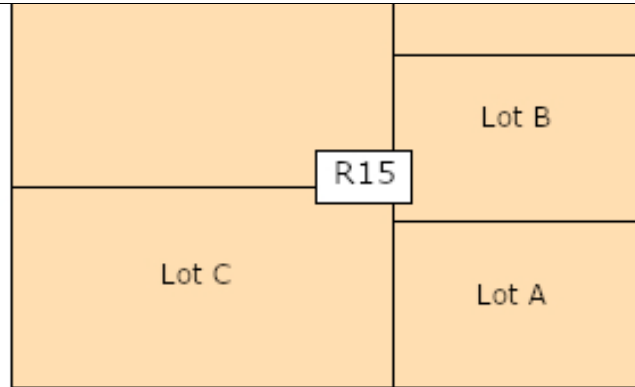
Lots A, B and C are zoned Residential R15.

Lots A and B have a site area of 450m², which is within the minimum site area for a lot zoned R20 as shown in Table 1 of the R-Codes.

Lot C has a site area of 580m², which is within the minimum site area for the R15 density as shown in Table 1 of the R-Codes.



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With respect to a development proposed on Lot A, the City can consider reduced lot boundary setbacks in line with R20 requirements to lot B. Lot setbacks to the rear (Lot C) are subject to the setbacks of the R15 coding.

7. DEVELOPMENT ABUTTING A LANEWAY

Where a property abuts an unconstructed laneway, finished floor levels of dwellings and garages are to be designed to mitigate potential stormwater drainage impacts.

8. SCREENING

A screen/fence not attached to a dividing fence (for example: freestanding screen or screen attached to the dwelling) is considered under the R-Code definition of a 'wall', being a structure appurtenant to a dwelling, and is subject to Clause 5.1.3 C3.1i of the R-Codes for the purposes of lot boundary setback requirements.

9. DIVIDING FENCES

Dividing fencing outside the street setback area is subject to the requirements of the Dividing Fences Act 1961 (the Act). This Policy does not interpret any matters considered under the Act and where there is a conflict between the Act and this Policy, the Act shall prevail.

10. DEFINITIONS

For this policy the following definitions apply:

Dividing Fence As per Dividing Fences Act 1961.

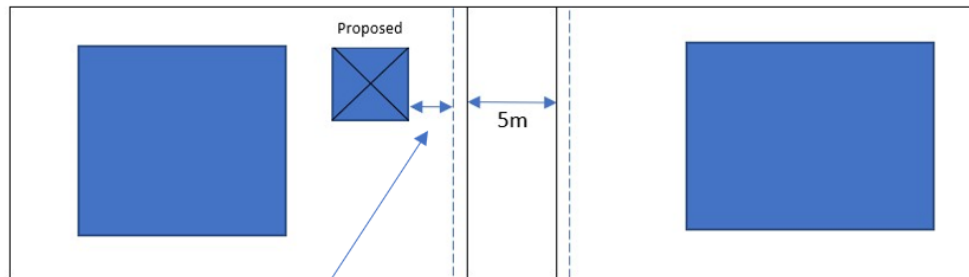
Gate house A roofed open-sided entry feature usually incorporated into front fencing.

All other definitions are as defined in the R-Codes or the Scheme.



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11. APPENDIX



Setbacks for new buildings are determined 0.5m from the laneway boundary to provide for future widening either side (to 6m)

Figure 1: Setbacks from laneways for future widening.

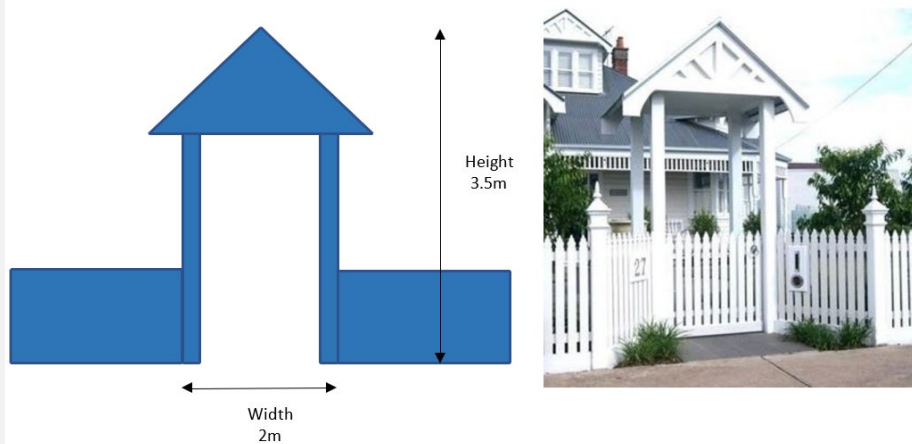


Figure 2: Gatehouse example



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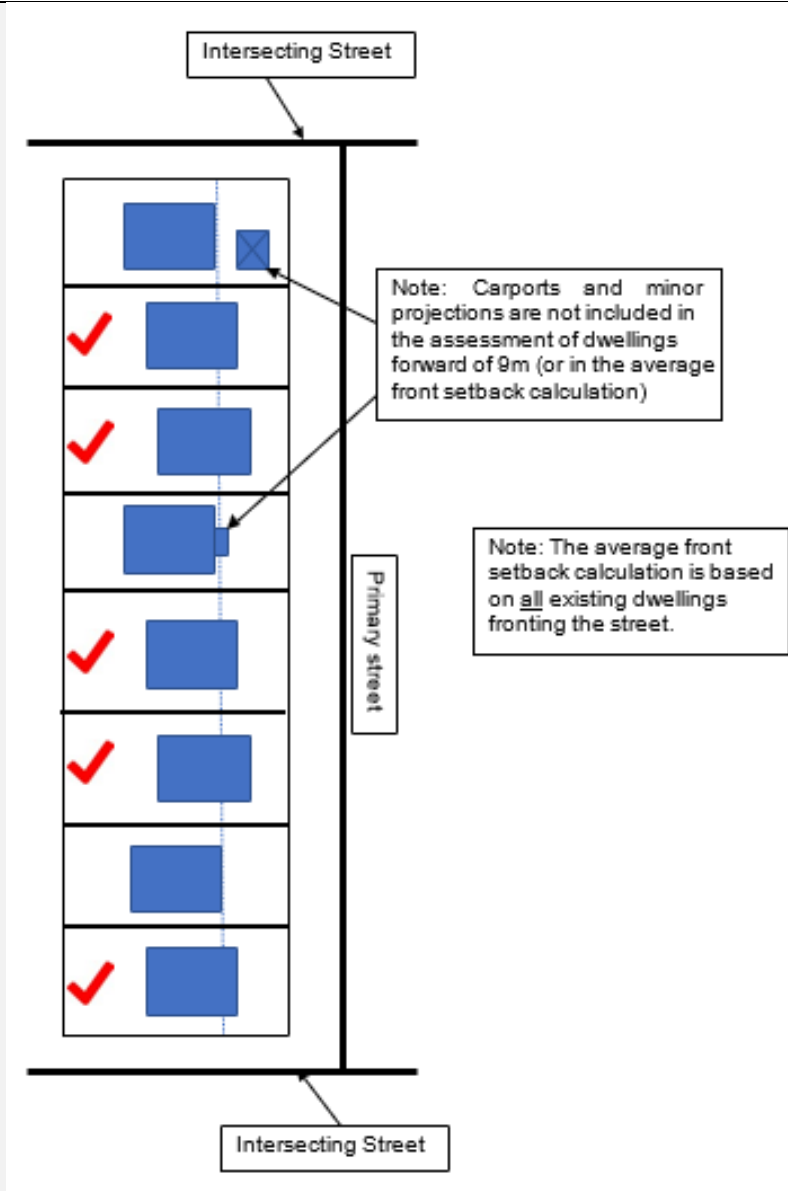


Figure 3: Street setbacks for averaging.



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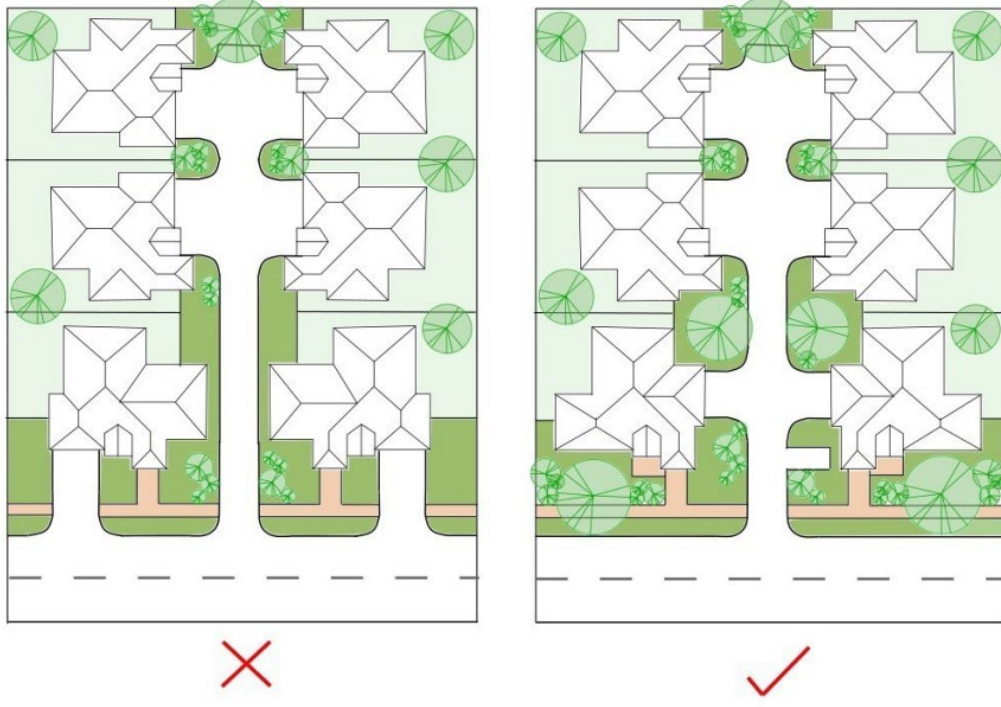
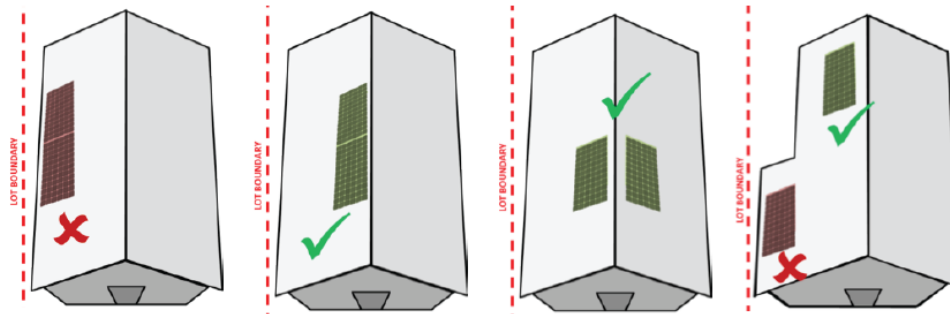


Figure 4: Vehicular access where common property is provided.



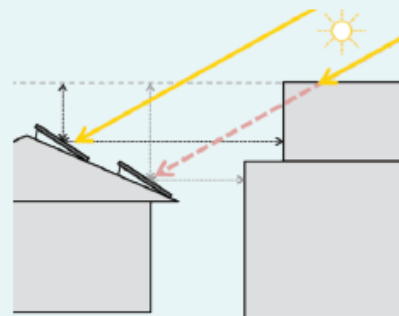
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Higher on the roof peak



Locating panels higher on the roof line will:

- (a) increase the separation between the panels and any neighbouring development and
- (b) reduce the height that any neighbouring development extends above the panels, minimising the likelihood of overshadowing.



Set as far back from the lot boundary as possible

Setting the panels as far back from the lot boundary as possible (either by moving them to roof panes with a greater setback or placing them further back on the roof) will increase the distance between your panels and any potential source of neighbouring overshadowing, giving a greater degree of protection.

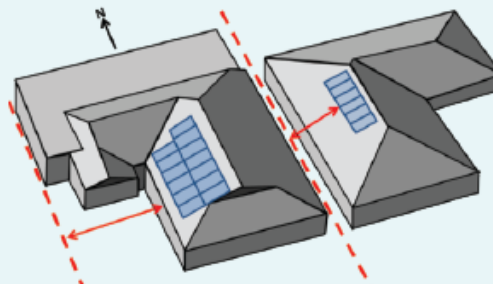


Figure 5: Appropriate locations for solar panels.

Council Resolution Number	PD52.19
Adoption Date	OCM 17 December 2019
Date Reviewed/Modified	

16.4 PD69.10.22 Statutory Planning Controls for the Conservation of Heritage and Character

Meeting & Date	Council Meeting – 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.
Report Author	Roy Winslow, Manager Urban Planning
Director	Tony Free, Director Planning and Development
Attachments	1. Schedule of Submissions

Purpose

The purpose of this report is to:

- Address the 26 April 2022 Council resolution relating to heritage protection to Allen Park, Dalkeith/Nedlands Foreshore, Nedlands Baths and the Tawarri Reception Centre;
- Outline the Statutory Planning framework for heritage protection; and
- Outline the potential for planning controls to conserve heritage and character.

Recommendation

That Council acknowledges:

1. Its statutory requirements under the Heritage Act 2018 and the Planning and Development (Local Planning Schemes) Regulations 2015;
2. That a further Discussion paper will be presented at a Concept Forum regarding the potential protection of the Nedlands character via Character Areas;
3. That community engagement is an integral part of heritage protection;
4. That a Discussion paper will be presented at a concept the City's Local Heritage Survey will need to be updated in the future; and
5. Submissions received following consultation on the Dalkeith/Nedlands Foreshore, Nedlands Baths and Tawarri Reception Centre and thanks those submitters for their comments.

Voting Requirement

Simple Majority.

Background

Heritage Classification in Western Australia

Heritage listings within Western Australia broadly fall into three categories.

The first is the Local Heritage Survey (previously the Municipal Heritage Inventory). This is a starting resource for local heritage planning and itself has no statutory role. The Local Heritage Survey assists local governments in making decisions reflecting local heritage values and supports the creation of a heritage list or heritage areas.

The second is the Heritage List, which is a list of places compiled under a local governments Local Planning Scheme. These places are given certain protection under the Scheme such as the requirement for development approval for most works as well as demolition. The Heritage List is derived from those places within the Local Heritage Survey with the highest levels of heritage significance.

The third is the State Register of Heritage Places, which is a statutory list of places that generally is the best representation of the story of Western Australia's history and development. State heritage listing, like the local Heritage List, is afforded a higher level of protection by the Heritage Act 2018.

Local Heritage Survey (LHS)

It is a statutory requirement for all Local Governments to establish and maintain a LHS in accordance with the Heritage Act 2018.

The City's first MHI contained 144 places and was first adopted by Council in 1999. In 2018, the MHI was reviewed and endorsed by Council after consultation with affected landowners and included a total of 112 places. The Department of Planning, Lands and Heritage recommends that Local Governments review their LHS every 5-8 years.

Heritage List

The City's Heritage List identifies places which are of cultural heritage significance and worthy of conservation and heritage protection. It is a statutory requirement for all Local Governments to establish and maintain a Heritage List in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (Deemed Provisions).

The City maintains a Heritage List in accordance with the Deemed Provisions. The Heritage List was last reviewed in 2017 and contains 21 places.

26 April 2022 Council Resolution

At the 26 April 2022 Ordinary Council Meeting Council resolved:

Council:

1. requests that the CEO advertises seeking early public comment submissions from the Nedlands community proposing establishment of concept Heritage precincts to protect

areas consisting of concentrated heritage and character sites of significance to the Nedlands community in the following areas;

- a. Nedlands Foreshore and surrounds
 - b. Allen Park and surrounds
2. requests that the CEO advertises seeking early public comment submissions from the Nedlands community proposing stronger Heritage protections for the following locations;
- a. the Nedlands Baths, more recently known as JoJo's Cafe and Aqua Viva Reception Venue
 - b. the Tawarri Reception Centre
 - c. any other Nedlands foreshore sites or surrounds of heritage significance to the Nedlands community
3. requests that the CEO brings a report of these early public submissions to the Council by the July 2022 Ordinary Council Meeting.

A response to each part of the resolution is discussed further in this report, including the findings of consultation.

Discussion

Heritage within the Nedlands Context

The gazettal of the City's Local Planning Scheme No. 3 in 2019 saw an increase in density throughout many areas which were identified for character protection within the 2014 review of the Municipal Heritage Inventory. Currently there are no statutory heritage protections for streetscapes or character areas within the City. As a result of the zoning and density changes, the City could lose many character areas and heritage properties which are not currently protected from redevelopment and intensification. There are two pathways that could be used to protect these streetscapes: Heritage Area designation, or Character Area designation.

Heritage Area

A Heritage Area is a collection of houses which has been assessed as having cultural heritage significance and, in the opinion of Council, requires special planning controls to conserve and enhance the cultural heritage significance of the area.

Heritage Areas would not prohibit development but would aim to ensure new development is designed to be respectful and sympathetic to the existing heritage values of the area. However, a Heritage Area is afforded additional legislative power such as requiring development approval on sites where they may already meet the deemed to comply criteria of the R-Codes as well as requiring landowners to submit for the approval to demolish their property. A Heritage Area would focus more on the significance of the street rather than the individually heritage listed properties. This generally means that, when considering a development application, the primary concern would relate to items that could potentially impact the streetscape appearance. This may include things like the location of a second

floor so it doesn't overwhelm the house, or controls on extensions forward of the dwelling such as porches and carports.

Character Area

A Character Area is a lower level of protection and would operate by providing design guidelines for development, through a local planning policy. However, it would not have the legislative power to stop the demolition of buildings nor would it require development approval if a development meets specific deemed to comply provisions. A Character Area would instead focus on the redevelopment of properties within a precinct.

A Character Area would likely provide additional development requirements for street-fronting design elements such as street and lot boundary setbacks, building heights, front fencing, street surveillance and carport and garage location. A Character Area would make new development more sensitively designed to the character of its street, but would not be as far reaching as a Heritage Area designation.

Heritage Value and condition for Allen Park, Swanbourne

Allen Park is a 13.6ha reserve which contains a mixture of sports grounds and bush with Melon Hill as the prominent natural landmark. Four buildings, 'Tom Collins House', 'Mattie Furphy House', 'Tom Fricker House' and the 'Friends of Allen Park Cottage' are located on the reserve and identified within the City's LHS. A fifth building, 'Mayo House' no longer exists as it was destroyed by fire in 2007. 'Tom Collins House' and 'Mattie Furphy House' have individual listings on the heritage list and state heritage register.

In 2020, the City undertook building condition inspections of 'Tom Collins House' and 'Mattie Furphy House', which concluded that they were in either in good or fair to good condition. 'Mattie Furphy House' was in better condition of the two, requiring only monitoring of external concrete slabs for uneven surfaces. 'Tom Collins House' inspection identified external painting as an item which would need to be addressed due to some areas of cracking and swelling. In February 2022, the City undertook building condition inspections of 'Tom Fricker House' and concluded that apart from minor maintenance issues, the building noted as showing signs of aging but is in a neat and tidy condition overall.

Owing to the heritage significance of 'Tom Collins House', 'Mattie Furphy House' and 'Tom Fricker House' the continual maintenance and review of these structures and allocation of funding determined by the condition of each building, is recommended.

Dalkeith/Nedlands Foreshore, Nedlands Baths and Tawarri Reception Centre

The Dalkeith/Nedlands foreshore, Tawarri Reception Centre and Nedlands Baths were all listed on the municipal inventory in the initial review of the inventory in 1999. As such, they were recognised as having a considerable level of heritage significance. However, these properties were not included in the 2018 adoption of the municipal inventory (now known as the Local Heritage Survey).

As the City's Local Heritage Survey is reaching five years since review and noting absences from the Survey such as the Nedlands Baths and Foreshore area, it is proposed that a discussion paper be presented at a concept forum for the potential of updating the Local Heritage Survey.

Consultation as part of the Council resolution

The City undertook public consultation following the 26 April 2022 Council resolution, seeking the community's views and comments on providing stronger heritage protection to the following sites:

- Dalkeith/Nedlands Foreshore and surrounds;
- Allen Park and surrounds;
- Nedlands Baths (including JoJo's Café and Aqua Viva Reception Centre); and
- Tawarri Reception Centre

A total of 12 submissions were received, with six supporting and six objecting further heritage protection measures on site. A summary of these submissions is included in **Attachment 1**.

Consultation

Should Council wish to introduce statutory development provisions for the retention of cultural heritage significance and character, this can be achieved through the introduction of Heritage or Character Areas. Either a Heritage Area or Character Area would require significant consultation with the community and would include community forums whereby affected landowners would be able to speak directly with an officer of the City, posts to social media, door knocking and letter drops to take landowners and occupiers on the journey of separate heritage or character protection.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Vision Our City will be an environmentally-sensitive, beautiful and inclusive place.

Values **Great Natural and Built Environment**
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

Priority Area Urban form - protecting our quality living environment

Budget/Financial Implications

There is no allocation of funds for Heritage projects within the 2022/23 budget.

Legislative and Policy Implications

Under Schedule 2, Part 2, Clause 3(1) of the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#), the City may prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.

Under Schedule 2, Part 3, Clause 9 of the Planning and Development (Local Planning Schemes) Regulations 2015, the City may designate an area as a Heritage Area subject to consultation with affected landowners.

Decision Implications

Nil.

Conclusion

Built heritage and character are key to the City's identity and should be preserved, whether the City approaches this through heritage area protection or as character areas, both of which would require the development of separate local planning policies.

Owing to the current age of the endorsed Local Heritage Survey, a report will be presented to council in 2023 ensuring all properties worthy of recognition are listed.

Further Information

Nil.

Schedule of Submissions Heritage Protection Survey



City of Nedlands
nedlands.wa.gov.au

Question	Submissions
Dalkeith/Nedlands Foreshore	
Would you support stronger heritage protection for the Dalkeith/Nedlands Foreshore and surrounds?	Yes – 6 submissions (50%) No – 6 submissions (50%)
Please provide detail on why you think the Dalkeith/Nedlands foreshore has heritage importance and/or cultural significance to the Nedlands community. This may include a personal recollection of this site. If you do not support further heritage protection for this area you may also provide your comments below	It's an area with lots of trees and parkland, I am not sure if that's part of the heritage protection, but I think it's important to keep the old and new trees, and even plant more. I don't mind the buildings on that area.
	Under-utilised. Please give us some things to use like cafes and TOILETS. If parks and outdoor spaces are to be used by anyone (especially families with small children) toilets need to be readily available.
	I don't think it has any heritage value of significance.
	It is reclaimed land where is the heritage value?
	The natural environment is lovely, in great condition and I use it daily. The man made infrastructure is appalling. I strongly support heritage protection for Sunset but all other sites like Tawarri, Jo Jos are simply sad and broken and need developer dollars to generate real amenity. I dont see any hertiage value in the underlying infrastructure - the concrete cancer riddled dome at Tawarri. Harrumph. MOREOVER, why are the yacht clubs not held to account for their shocking visuals, decrepit fencing etc? They provide amenity for a very select few yet they seem to have escaped any scrutiny. Some boats appear not to have moved for 10 years. Finally. look at Middle Head in Sydney to see how Sunset can be resuscitated to a great community amenity.
The site is habitat for seabirds and marsh dwelling birds. It is a rare space where river and natural foreshore come together in this area It is constantly used and appreciated by locals and many visitors outside Nedlands on weekends especially. The proposed development of the old Tawarri site would completely change the face and use of the area.	

Schedule of Submissions
Heritage Protection Survey



City of Nedlands
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	The entire foreshore of the river is vital to life in the river. It should all be protected.
	It is a community meeting place and has been for years. It should be shared and accessed by the whole community (young, old, furry) for years to come, not just those who can afford it. The beautiful green, wide open spaces are becoming less and less so they should be protected.
	This is a beautiful and unique natural area in the middle of the city which also makes it quite rare. This area provides environmental services and countless aesthetic values to hundreds of thousands of residents and tourists each year. My own personal connection includes many childhood memories exploring and playing throughout the foreshore area and learning first hand about natural ecosystems whilst spending time with my Father who was a research scientist at UWA. Now as an adult, this area is a retreat and a sanctuary that I considered myself to be very privileged to live nearby. I feel a spiritual connection to the area and spending time here provides me with a great sense of relief from the commotion of modern city life. The natural heritage of this area needs to be protected and enhanced. Developing infrastructure, business and buildings of any kind will inevitably detract from the true natural value of this area. Contrary to some misguided thought, it does not need any anthropogenic interference in the form of more concrete, paths etc which contribute to degradation of the area. But better conservation efforts would be very wise.
	Dalkeith/Nedlands foreshore has heritage importance and cultural significance to the Nedlands community and to the wider community who have used the foreshore in association with river activities including recreation, for more 120+ years and Noongar people whose associations with the river and foreshore are of continuing significance
Allen Park and surrounds	
Would you support stronger heritage protection for Allen Park and surrounds? This may include the coastal reserve and	Yes – 6 submissions (50%) No – 6 submissions (50%)

Schedule of Submissions Heritage Protection Survey



City of Nedlands
nedlands.wa.gov.au

<p>Swanbourne/Nedlands Surf Life Saving Club.</p>	
<p>Please provide detail on why you think Allen Park and surrounds precinct has heritage importance and/or cultural significance to the Nedlands community. This may include a personal recollection of this site. If you do not support further heritage protection for this area you may also provide your comments below.</p>	<p>Same for the trees, and nature parts, they have to keep intact. For the buildings there are some significant buildings near Allan Park, those old writer cottages, they need protection too.</p> <p>Please go ahead and build the childrens respite centre as planned. As a local parent of young children, I cannot think of a better place for such a facility. Claiming the location is detrimental to the future young patients who would use the facility is really clutching at selfish straws. The only thing that that duney wasteland around the rugby/bridge club is used for currently is "antisocial" (fun, normal, teenage) behaviour. There is plenty of room for all, press on.</p> <p>I don't think they have any heritage value of significance.</p> <p>Its parkland where is the heritage value?</p> <p>Its there for the people - be they rugby players, surfers or bridge players. Let's broaden our inclusivity and drop the NIMBYism. Nothing in this site hsd genuine heritage - I think houses near Furphy were relocated. Let it grow organically - the site hasnt exactly exploded with development in the last decade. Again, NIMBYism trying to hide beneath the cloak of heritage protection.</p> <p>This is part of an eco-corridor that extends through to Kings Park. Wildlife needs these corridors. There are remnants of the original vegetation and some very old trees. These are vitally important for Carnaby's Cockatoos and other native birds that need them for food and nesting hollows.</p> <p>It includes areas of remnant bushland that have been valued and appreciated by the community for generations which should be conserved, and sporting and recreational facilities that serve the local and wider communities.</p>
<p>Nedlands Baths</p>	

Schedule of Submissions Heritage Protection Survey



City of Nedlands
nedlands.wa.gov.au

<p>Would you support stronger heritage protection for Nedlands Baths (including JoJo's Cafe and Aqua Viva Reception Area)?</p>	<p>Yes – 6 submissions (50%) No – 6 submissions (50%)</p>
<p>Please provide detail on why you think the Nedlands Baths has heritage importance and/or cultural significance to the Nedlands community. This may include a personal recollection of this site. If you do not support further heritage protection for this area you may also provide your comments below.</p>	<p>The jetty and the restaurant are significant to protect.</p>
	<p>The baths are gone. So are the people who used them. Can we please have some facilities for currently living people to use.</p>
	<p>I think its current level of protection is strong enough.</p>
	<p>Its tired not significantly old building</p>
	<p>If you give it heritage protection it will remain in its sad, busted-arse condition for the next 30 years. I love the old school river baths concept that it evokes but we need to bring it into the 21st century and my guess is that it would fail water quality guidelines. So we end up back to no incentive for development (and I dont see Council trying to lead the way here). Hence, open it up to some people prepared to actually do something and not leave a broken hulk to rot.</p>
	<p>I believe the proposed development for the Nedlands Baths area is excessive, with greater pressure being put on the natural environment surrounding it.</p>
	<p>Historical significance.</p>
	<p>I've spent much time in that area and previous response applies (It is a community meeting place and has been for years. It should be shared and accessed by the whole community (young, old, furry) for years to come, not just those who can afford it. The beautiful green, wide open spaces are becoming less and less so they should be protected.)</p>
	<p>These facilities need to be upgraded as opportunities allow.</p>
<p>The Swan River holds great significance for local Aboriginal people, the Whadjuk Noongar people</p>	

Schedule of Submissions

Heritage Protection Survey



City of Nedlands
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	Nedlands Baths is a landmark on the Swan River and an important surviving example of early twentieth century swimming baths, although it no longer serves that purpose, and is a significant part of the history of Nedlands and the Swan River.
Tawarri Reception Centre	
Would you support stronger heritage protection for Tawarri Reception Centre?	Yes – 6 submissions (50%) No – 6 submissions (50%)
Please provide detail on why you think the Tawarri Reception Centre has heritage importance and/or cultural significance to the Nedlands community. This may include a personal recollection of this site. If you do not support further heritage protection for this area you may also provide your comments below.	I say yes, but alone if there is something significant left of the old hot springs building construction. I must say I have had a look at the proposal for the new hot springs and those boxy square buildings are the most ugly unattractive design I've seen of spa facilities in the world. If there was proposed something outstanding significant, a future heritage building, yes, I can understand that, but this doesn't look any appealing at all.
	The only time I have used this foreshore was when I was seeking complete serenity and solitude because it is guaranteed to be a deserted wasteland.
	I don't think it has any heritage value of significance. It's a derelict building which should be demolished.
	Its an asbestos derelict building.
	Tawarri is decrepit and has been for the 15 years I have lived in Dalkieth. People loved it because they went there for weddings, christenings, wakes etc when there were very few other options in Perth (now there are hundreds). The new facility can become a social hub in 21st century surrounds - so why not let it happen? The current building is an eyesore and often home to itinerant campers / squatters. Nedlands can do better! Finally, try being a parent of a teenage kid looking for a vacation job in the western suburbs. There is no economic opportunity outside of the highway and Claremont Quarter. About time Council actually embraced an idea rather than just criticise. Applies equally to mums of school aged kids seeking employment.

Schedule of Submissions

Heritage Protection Survey



City of Nedlands
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	<p>The old Tawarri building and precinct had a small footprint and didn't impinge on the natural environment surrounding it. The new proposal is excessive- bricks and mortar, paths, roadways, noise and restrictive access to the river. People don't visit Perth from overseas to go to hot springs- Canada, NZ maybe but Perth? A cafe in the style of Zamia in Kings Park would be preferable on the site.</p>
	<p>This will help Tourism W.A</p>
	<p>It is a community meeting place and has been for years. Generation after generation has frequented the area and enjoyed it. It should be shared and accessed by the whole community (young, old, furry) for years to come, not just those who can afford it. The beautiful green, wide open spaces are becoming less and less so they should be protected. Personally, I've spent a lot of time down with friends, family including those who are no longer with it. It's always been a place of calming respite.</p>
	<p>Tawarri is an old building of no use to the community. It should be upgraded to improve the local amenities.</p>
	<p>This area needs to be a high conservation area in line with the diverse and threatened ecology living in the surrounds. Development of this area is extremely irresponsible when environmental values are disregarded and would be remembered as a particularly appalling decision by State Government / Local Councils for many generations to come</p>
	<p>For many years the Tawarri Reception Centre was a popular venue for many social activities for the community of Nedlands and the wider community. In its heyday, it was considered to be a special place and much admired for its amenity and its beautiful setting by the Swan River was especially appreciated.</p>

16.5 PD70.10.22 Adoption for Advertising of Local Planning Policy – Signage and Advertisements

Meeting & Date	Council Meeting – 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants.
Report Author	Roy Winslow – Manager Urban Planning
Director	Tony Free – Director Planning & Development
Attachments	1. Local Planning Policy – Signage and Advertisements

Purpose

The purpose of this report is for Council to adopt for advertising the draft Local Planning Policy – Signage and Advertisements (the Policy), included as **Attachment 1**.

Recommendation

That Council:

1. adopts the draft **Local Planning Policy – Signage and Advertisements** for the purpose of advertising in accordance with **Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015**.
2. notes that the advertising period for the draft **Local Planning Policy – Signage and Advertisements** will be for a minimum of **21 days**.

Voting Requirement

Simple Majority

Background

The current Signs Local Planning Policy (the Policy) was adopted at the Ordinary Council Meeting held on 23 July 2019. A review of the Policy has been undertaken in the context of the Council resolution dated 27 July 2021, which reflects the development pressure Nedlands is currently facing, with attention to construction signs and property transaction signs. The review also includes amending the Register of Delegation in relation to construction site, property transaction and hoarding signs 5 square metres or larger. The Policy has been updated in line with the resolution as discussed below.

Discussion

The content of the Policy has been reviewed in the context of the legislative planning requirements and practical application of the existing provisions.

The updated Policy seeks to provide a more contemporary and concise set of provisions to assist the City in the assessment of signage proposals.

The key elements of the Policy include:

1. Policy Title

The policy title has been revised from “Signs Local Planning Policy” to “Signage and Advertisements Local Planning Policy” to align with the statutory terminology used by the Planning and Development (Local Planning Schemes) Regulations 2015 relating to Advertisements.

The Regulations also contain a definition of “heritage-protected place”, and this new terminology is proposed to be included in the Policy.

2. Objectives

The objectives of the Policy are worded to highlight the importance of minimising the adverse impacts of signage and advertisements on the amenity of residential areas and heritage-protected places.

The objectives seek to limit commercial signage to areas zoned for non-residential uses and reduce the proliferation and cumulative impact of signage across the City.

3. Exemptions/Non-Exemptions

Temporary advertisements and election advertisements are exempt under the Regulations and the Policy updated to reflect this.

4. Where approval is required

All signs on “heritage protected places” require development approval, as do signs which emit light (refer to section 4.1 (i) and (vii)).

Appendix A provides a list of the different signs, including a definition and an image of an example of that form of signage.

If the sign meets the requirements listed under “Development Provisions for Exemption” then approval is not required.

The following key Provisions are highlighted:

1. Construction Site and Development Signs

For a Construction site and Development Sign, if the sign is:

- More than 5 square metres in area or
- More than 2 metres above the natural ground level

then development approval will be required, or if more than one sign per street frontage is requested.

2. Digital Signs

All digital signs will require a development application to be lodged, with the exception of window signs less than 5 square metres in area located in the window of an approved or exempt business.

Property Transaction Signs

The definition of a property transaction sign is to be updated to include the words 'coming soon' and the sign is to be removed within 14 days of settlement or leasing of the property.

Development approval is required if the proposed property transaction sign has an area of more than 3 square metres.

3. Roof Sign

Development approval is required if:

- the total height of the building and the sign (combined) exceed the building height for the applicable property
- the sign exceeds 5 square metres in area.

Deemed to Comply or Acceptable Outcomes Criteria

Deemed to comply or acceptable outcomes criteria are not considered appropriate in respect to a signage policy, as "exempt" provisions (effectively deemed to comply / acceptable outcomes) already exist in the Regulations and draft policy. It is important to provide consistency, certainty, and clarity in the application of such a policy.

However, previous legal advice received by the city confirms that a local planning policy cannot fetter discretionary consideration. In other words, a planning policy cannot be used to ban advertisements over a certain size, for example. Application for signage and advertisements that exceed the exemption criteria are assessed against the objectives of the policy (Clause 3) as well as the general requirements for all signage and advertisements (Clause 4).

Consultation

If Council resolve to adopt the Policy for advertising it will be advertised in accordance with the City's Local Planning Policy – Consultation of Planning Proposals, which involves the following methods of consultation:

- Minimum 21-day advertising period
- Notice in the local newspaper
- Notice on the City's Notice board
- Notice on the City's Your Voice engagement portal
- Notice on the City's social media channels

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Vision	Our city will be an environmentally-sensitive, beautiful and inclusive place.
Values	<p>Great Natural and Built Environment We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.</p> <p>Reflects Identities We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.</p>
Priority Area	Urban form - protecting our quality living environment

Budget/Financial Implications

If Council proceeds with the Policy, there will be no immediate cost to the City other than those associated with advertising.

Legislative and Policy Implications

Clause 3(1) of the Deemed Provisions of Schedule 2 of the Regulations allows the City to prepare an LPP in respect to any matter related to the planning and development of the Scheme area. The review and amendments made to the existing Signs Local Planning Policy are significant and as such require the Policy to be advertised. Once Council resolves to prepare an LPP, in accordance with Clause 4 of the Deemed Provisions it must publish a notice of the proposed policy in a newspaper circulating the area for a period of not less than 21 days and seek submissions. Further detail on the advertising of the Policy is provided in the Community Consultation section above.

Following the advertising period, the Policy will be presented back to Council to consider any submissions received and to:

- a) Proceed with the policy without modification;
- b) Proceed with the policy with modification; or
- c) Not proceed with the policy.

Decision Implications

If Council resolves to prepare the Policy, it will be advertised in accordance with the process outlined above.

If Council resolves not to endorse the recommendation, the Policy will not be advertised or progressed. Doing so will mean the existing Policy will remain in use by the City when assessing Development Applications for signage and advertisements.

Conclusion

The Policy has been reviewed and updated to provide applicants with clear and concise provisions to support applicants in determining their approval obligations for proposed signage and advertisements. It also guides the assessment of development applications for proposed signage and advertisements by officers. It is recommended that Council adopts the Recommendation and formally advertises the Policy.

Further Information

Nil.



LOCAL PLANNING POLICY – Signage and Advertisements

1.0 PURPOSE

1.1 The purpose of this policy is to:

- i. Define Signage and Advertisements that are exempt from development approval;
- ii. Establish general requirements which apply to Signage and Advertisements;
- iii. Provide guidance for determining applications for non-exempt Signage and Advertisements.

2.0 APPLICATION OF POLICY

2.1 This policy applies to all land zoned by City of Nedlands Local Planning Scheme No. 3 (LPS3) and does not apply to road reserves or any other reserves under LPS3 or the Metropolitan Region Scheme (MRS).

2.2 All Signage and Advertisements are exempt from requiring development approval unless specifically required by this policy.

3.0 OBJECTIVES

3.1 To ensure that Signage and Advertisements do not adversely impact on the amenity of the surrounding area or any heritage-protected place;

3.2 To avoid proliferation of Signage and Advertisements that may contribute to visual clutter or are not relevant to the business at a site;

3.3 To ensure Signage and Advertisements are generally located in non-residential areas;

3.4 To ensure that Signage and Advertisements do not detract from the level of safety for motorists, cyclists and pedestrians; and

3.5 To ensure that Signage and Advertisements are proportionate to the scale of the site to which they relate.



4.0 GENERAL REQUIREMENTS FOR ALL SIGNAGE AND ADVERTISEMENTS

4.1 All Signage and Advertisements shall –

- i. not be detrimental to a heritage-protected place;
- ii. be in keeping with the scale and form of the building on which it is placed or to which it relates;
- iii. located and designed so as not to obstruct the sight lines of vehicles and/or pedestrians;
- iv. not contain any discriminatory or offensive material;
- v. be located wholly within the property boundary;
- vi. be adequately maintained to the satisfaction of the local government;
- vii. not emit a flashing or moving light, emit noise, contain reflective, retro-reflective or fluorescent materials, or include any form of animation, variable or electronically variable content except where specifically exempted elsewhere in this policy; and
- viii. not contain third party Advertisements or Signage that does not directly relate to a business or approved development located at the property.

5.0 EXEMPT SIGNAGE AND ADVERTISEMENTS

5.1 All Signage and Advertisements are exempt from development approval, except where the signage or advertisement –

- i. is associated with a heritage-protected place;
- ii. does not meet the General Requirements of section 4.0 above;
- iii. includes a digital billboard or other fixed sign that includes variable messages except where specifically exempted; and
- iv. does not meet the Development Provisions for Exemption as specified in Appendix A or does not reasonably fall within any of the categories.

5.2 Pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015* the following Advertisements are also exempt –

- i. Temporary Advertisements where in existence for less than 48 Hours in any 12 month period; and
- ii. Election Advertisements where:



- The Advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918*, the *Electoral Act 1907* or the *Local Government Act 1995*; and
- The primary purpose of the Advertisement is for political communication in relation to the election, referendum or poll; and
- The Advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted.

6.0 DEVELOPMENT APPLICATION REQUIREMENTS FOR NON-EXEMPT SIGNAGE AND ADVERTISEMENTS

- 6.1 Development Applications are required to be lodged with the local government for all non-exempt Signage and Advertisements as set out in 5.0 above.
- 6.2 In addition to the standard City of Nedlands Development Application Form 1, as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*, all applications for Advertisements are required to complete and submit the additional information for Development Approval for Advertisement Form (contained in Appendix B).
- 6.3 Applicants are required to submit:
- i. A detailed written statement addressing each of the objectives of the policy as set out in 3.0 above;
 - ii. Details of the period of time for which the Sign or Advertisement is required;
 - iii. A scaled dimensioned plan showing the size, height above ground, colours, materials, illumination and content of the Sign or Advertisement.
- 6.4 Where in the Local Government's opinion the application may have an adverse impact on the amenity of an adjoining property or the streetscape, the Local Government may notify and undertake consultation with adjoining landowners and occupiers.



7.0 ASSESSMENT OF NON-EXEMPT SIGNAGE AND ADVERTISEMENTS

- 7.1 Development Applications are required for all non-exempt Advertisements as set out in 5.0 above.
- 7.2 When assessing a development application for Signage and Advertisements the local government will consider:
- i. The objectives of the policy as set out in 3.0 above;
 - ii. The general requirements for Advertisements as set out in 4.0 above;
 - iii. Whether the Advertisements are in keeping with the scale and design of the building or lot, and is not considered excessive in size in order to fulfill its purpose;
 - iv. Whether the Advertisements rationalise existing Advertisements and results in the removal of redundant Advertisements; and
 - v. Whether the unique topography or configuration of the lot, building or other approved structure necessitates a different location, configuration or size of the Advertisements.
- 7.3 Non-compliance with the relevant exemption criteria is not a reason to refuse a proposed sign or advertisement.
- 7.4 Where more than one sign definition applies, the provisions for all of the relevant sign types applies.

8.0 RELATED LEGISLATION

- 8.1 This policy has been prepared in accordance with Clause 4 of the Deemed Provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 8.2 This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:



- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Nedlands Local Planning Scheme No. 3
- State Planning Policy 7.3 – Residential Design Codes

9.0 DEFINITIONS




9.1 For this policy the following definitions apply –





Definition	Meaning
Advertisement	<p>Any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes-</p> <ul style="list-style-type: none"> a) Any hoarding or similar structure used, or adapted for use for the display of advertisements; and b) Any airborne device anchored to any land or building used or the display of advertising; and c) Any vehicle or trailer or similar object placed so as to serve the purpose of displaying advertising.
Heritage-protected place	<p>A heritage-protected place is a place —</p> <ul style="list-style-type: none"> (a) that is entered in the State Register of Heritage Places under the Heritage Act 2018 section 42; or (b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or € that is the subject of an order under the Heritage Act 2018 Part 4; or (d) that is the subject of a heritage agreement that has been certified under the Heritage Act 2018 section 90; o€(e) that is included on a heritage list as defined in clause 7; or (f) that is within a heritage area as defined in clause 7.

9.2 A word or expression that is not defined in the Policy has the same meaning as it has in the Scheme.



APPENDIX A – SIGNAGE AND ADVERTISEMENTS CATERGORIES AND EXEMPTION REQUIREMENTS

Construction and Development signs		
Definition	A sign that provides detail or promotional material of the project, professional consultants, contractors and/or builders; displayed prior to or during construction of a building, development or subdivision.	 <p>Construction sign</p>  <p>Development sign</p>
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Wholly contained within the property boundaries; ii. Maximum of one sign per street frontage; iii. Maximum height of 2.0m above natural ground level; iv. Maximum area of 5m²; v. Single sided; and vi. To be removed within 14 days from the date of practical completion of the development 	
Permitted Locations	All zones	
Digital sign		
Definition	A sign that incorporates images or text that are illuminated and may move or change. This also includes signs with variable messages.	
Development Provisions for Exemption	<p>If associated with an approved or exempt business and all of the following apply:</p> <ul style="list-style-type: none"> i. The sign is a window sign and meets exemptions for a window sign below; ii. The lot is not located in or facing a Residential zone; iii. There is only one digital sign displayed in the tenancy; iv. The sign is not more than 5m²; and v. The sign is attached to a window parallel to the road. 	





Permitted Locations	All zoned land except the Residential zone.	
Monolith signs		
Definition	A sign in-filled from natural ground level to the top of the sign and appears as a solid structure when the supporting columns cannot be seen.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Wholly contained within the property boundaries; ii. Maximum of one sign per property, which may be double sided; iii. Maximum height of 6.0m above natural ground level and a maximum width of 2.0m; iv. Minimum setback of 2.0m from adjoining sites; v. Minimum 1.5m clearance from where the driveway meets the crossover; and vi. Aligned at a right angle to street. 	
Permitted Locations	All zoned land except the Residential zone.	
Name Plate signs		
Definition	A flat, usually rectangular sign which the name of a person, company etc. is printed or engraved.	
Development Provisions for Exemption	<p>If associated with an authorised business or home business:</p> <ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of one sign per building in the residential zone and three signs per building in all other zones; and iii. Maximum of 0.2m² in area per sign. 	





Permitted Locations	All zones.	
Portable signs		
Definition	A sign which is not permanently attached to a building, structure, fence or the ground, includes 'A-frame' and 'sandwich board' signs.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of one sign per tenancy; iii. Maximum of 1.2m high x 1.2m wide; iv. Does not flash or pulsate; and v. Minimum 1.5m clearance from where the driveway meets the crossover. 	
Permitted Locations	All zoned land except the Residential zone.	
Projecting signs		
Definition	A sign which is attached to a projection or projects more than 300mm from a wall of the building below the eaves or ceiling height.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of one sign per tenancy; iii. Minimum clearance of 2.75m above natural ground level or where it can be demonstrated the sign complies with the requirements of the relevant Building Code; iv. Maximum area of 4.0m²; v. Not to project above the height of the wall to which they are attached; vi. Not to project more than 1.0m forward of the wall to which they are attached; and vii. May be internally illuminated during the operating hours of the use to which it relates. 	





Permitted Locations	All zoned land except the Residential zone.	
Property Transaction signs		
Definition	A sign designed to promote the sale or lease of a property and includes the words 'for sale', 'for lease', 'coming soon' or similar.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of 3m² in area; iii. Maximum of one sign per street frontage; and iv. To be removed within 14 days from settlement or leasing of a property. 	
Permitted Locations	All zones.	
Pylon signs		
Definition	A freestanding and elevated sign supported by one or more posts.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of one sign per site, which may be double sided; iii. Maximum height of 6.0m above natural ground level; iv. Maximum area of 4.0m²; v. Minimum setback of 2.0m from adjoining sites; vi. Aligned at a right angle to the street; vii. Minimum 1.5m clearance from where the driveway meets the crossover; viii. Minimum clearance of 2.75m above natural ground level or where it can be demonstrated the sign complies with the requirements of the relevant Building Code. 	




<p>Permitted Locations</p>	<p>All zoned land except the Residential zone.</p>	
<p>Roof signs</p>		
<p>Definition</p>	<p>Signs which protrude above the roof line or are attached to the roof</p>	
<p>Development Provisions for Exemption</p>	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Compliant with building heights which are applicable to the property; and iii. Not exceed a maximum area of 5m². 	
<p>Permitted Locations</p>	<p>All zoned land except the Residential zone.</p>	
<p>Statutory signs</p>		
<p>Definition</p>	<p>A sign required to be exhibited by, or pursuant to, any law or policy, includes all categories of signs.</p>	
<p>Development Provisions for Exemption</p>	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; and ii. Limited to the requirements of any applicable Act or Statute. 	



Permitted Locations	All zones.	
Tethered signs		
Definition	<p>A sign which is suspended from or tethered to any building/structure or pole (with or without supporting framework) and made of paper, plastic, fabric or similar materials. The term includes lighter than air aerial devices, inflatables, bunting, banners, flags and kites.</p>	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Maximum of one sign per site; iii. Where attached to the ground, a maximum height of 4.0m and maximum area of 5m²; iv. Where attached to a pole, maximum area of 3m²; v. Tethered signs which are inflatable to be limited to one sign per site, with a maximum height of 3.0m and width of 2.0m; vi. Tethered signs are not permitted to be erected on the roof of a building. 	
Permitted Locations	All zoned land except the Residential zone.	
Wall signs		
Definition	<p>A sign which is affixed to the external part of a wall of a building.</p>	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Does not project more than 300mm from the wall; iii. Maximum of two signs per tenancy; iv. Maximum area of 10m² in aggregate for a tenancy; v. Must be displayed on the wall/s of tenancy to which it relates; and vi. Must not extend above or below the wall on which it is placed. 	



Permitted Locations	All zoned land except the Residential zone.	
Window signs		
Definition	A sign painted or affixed to either the interior or exterior surface of the glazed area of a window.	
Development Provisions for Exemption	<ul style="list-style-type: none"> i. Located wholly within the property boundaries; ii. Shall not, in aggregate, cover more than 25% of the glazed area of the window; and iii. Shall not flash or pulsate. 	
Permitted Locations	All zoned land except the Residential zone.	



APPENDIX B – DEVELOPMENT APPROVAL FOR ADVERTISEMENTS FORM

Additional Information for Development Approval for Advertisements Form

1. Description of property on which advertisement is to be displayed including full details of its proposed position within that property:

.....
.....
.....

2. Details of proposed sign:

(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other):

.....

(b) Height: Width: Depth:

(c) Colours to be used:

(d) Height above ground level —

to top of advertisement:

to underside:

Materials to be used:

.....

(e) Illuminated: Yes / No

If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:

.....

3. Period of time for which advertisement is required:

.....

4. Details of signs (if any) to be removed if this application is approved:

.....

.....

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed as detailed in 4 above.



Council Resolution Number	PDXX
Adoption Date	OCM XX XXXX XX (e.g. 24 September 2019)
Date Reviewed/Modified	OCM XX XXXX XX (e.g. 24 September 2019)

16.6 PD71.10.22 Adoption of the Election Signs Council Policy

Meeting & Date	Council Meeting – 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.
Report Author	Jessica Bruce – Acting Manager Health and Compliance
Director	Tony Free – Director Planning and Development
Attachments	1. Draft Election Signs Council Policy

Purpose

The purpose of this report is for Council to adopt the Draft Election Signs Council Policy included in **Attachment 1**.

Recommendation

That Council adopts the Draft Election Signs Council Policy as per attachment 1.

Voting Requirement

Simple Majority.

Background

At its meeting of 24 May 2022 Council resolved:

That the City of Nedlands Signs Local Planning Policy Section 4.3.2(b) be amended as follows:

1. Election advertising signs not to obstruct public thoroughfares.
2. Signs need to be placed on either private property or on front boundary of property and a maximum of 1 sign per frontage; and
3. No signs to be placed on City of owned or controlled land.

During the past Federal, State and Local Government elections, free-standing election signs were erected in road reserves. The purpose of this Policy is for Council to formalise the practice of the placement of election signs for Federal, State, Local Government elections, and Referendums in road reserves. It is considered appropriate that Council should allow election signs within road reserves as it is in line with the implied freedom of political communication contained within the Australian Constitution.

The Policy establishes a clear framework regulating how, where and for what period of time election signs may be displayed whereby safety and public health are prioritised.

Discussion

The proposed draft Policy proposes the following regime:

- Election signs will be allowed in thoroughfares controlled by the City provided they meet the criteria in the Policy. Signs that do not meet the criteria in the Policy can be removed and impounded.
- Whereby election signs have been placed on the thoroughfare or on City buildings/land which demonstrates a flagrant breach of the conditions outlined in this Policy, the City may either immediately remove and impound the sign or issue an infringement notice for failure to obtain a permit in accordance with the relevant local law.
- Election signs must not be placed where it will obstruct driver's vision or pose a risk to road users, including cyclists and pedestrians. The City prioritises safety and public health.

The requirements of the Policy are that signs must be:

- At least 1.5 metres from the edge of the carriageway and 0.5 metres from the footpath;
- Erected at least 10 metres from any intersection of thoroughfares;
- Not closer than 50 metres to a signalised intersection or before any speed indicator sign;
- Not placed on a median strip, roundabout or other traffic control device;
- Not placed within an intersection;
- Not placed within 50m of a pedestrian crossing;
- Not located in, or within 50 metres of, a 40kph school zone;
- Election signs are not permitted to be placed on or within any City parks and/or reserves to ensure the safe use;
- Election signs on City facilities or City land are interpreted as having the endorsement of the City. Election signs are not permitted on or adjacent to municipal buildings and leased facilities, including but not limited to Nedlands Library, Mt Claremont Library, Nedlands Community Care, Tresillian, Point Resolution Child Care, Depot, and the Administration Building;
- The above point does not apply to any City Land or facility that is used as a polling place on an election day where election signs may be displayed;

- The following process will apply to the removal and impounding of signs:
 - i. the candidate will be notified that the sign has been removed and impounded and will be held by the City for 48 hours during which time it will be available for collection; and
 - ii. if the sign is not collected within the 48 hours, the sign may be destroyed by the City.

Consultation

The draft Election Signs Council Policy was emailed to political parties on 24 August 2022 that have run in Curtin or Nedlands electorates recently and parties represented in the Legislative Council. The Administration has received several acknowledgements of receiving the email and a forward of the draft Policy to Mr Shane Love MLA as Shadow Minister for Local Government. No further feedback on the Policy has been received by the City.

At the Concept Forum of 20 September the following matters were raised;

1. Signs being 3 metres from the carriage – the proposed policy has been modified to make this 1.5m.
2. Main Roads have a catch all provision associated with safety – under the Enforcement section of the Policy it notes “Where a sign breaches this Policy, the Local Law or any other relevant law, or **poses a health or safety hazard**, the City will exercise its powers to ensure compliance and/or remove any health and safety hazard as appropriate”.

Strategic Implications

This item relates to the following elements from the City’s Strategic Community Plan.

Vision Our city will be an environmentally-sensitive, beautiful and inclusive place.

Values **Great Governance and Civic Leadership**
We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

Priority Area

- Urban form - protecting our quality living environment

Budget/Financial Implications

No financial implications have been identified associated with the recommendations. Activities relating to compliance and enforcement of the Policy will align with the existing operational budget and resource allocation.

Legislative and Policy Implications

Subject to the terms of this Policy, a permit for election signs to be displayed on City land will not be required under the City's Local Law relating to Throughfares. Activities and signage that do not meet the provisions within the policy will be subject to the City's ordinary approval procedures in accordance with the relevant City local law.

- [Commonwealth Electoral Act 1918](#)
- [Electoral Act 1907](#)
- [Local Government Act 1995](#)
- [Local Law Relating to Throughfares 2000](#)
- [ReferendumsAct1983](#)

At the Concept Forum of 20 September additional background information was sought in relation to the court cases which have informed the Policy. With respect to this matter previous Supreme Court and High Court decisions have clarified the extent of the local government's powers to control election signs in light of the implied right to freedom of political communication. In particular, laws attempting to control or limit elections signs may not be enforceable unless they are to protect health and safety.

The High Court in the case of Australian Capital Television Pty Ltd v Commonwealth of Australia (1992) deemed there is an implied freedom of political communication ('the implied freedom') within the Australian Constitution. In this case, the majority of the High Court reasoned that representative democracy is constitutionally entrenched and there is therefore implied in the Constitution a guarantee of freedom of communication on all political matters.

The position in Western Australia was the subject of a decision by the Supreme Court in Liberal Party of Australia (WA Division) Inc v City of Armadale (2013). The City of Armadale's Local Planning Policy prohibited electoral signage in the locality of Armadale, even on privately owned land. At the hearing the City sought a compromise, as opposed to a complete ban, limiting:

- the number of electoral signs to one sign per street frontage of every lot;
- the area of the sign would not exceed 1 square metre in area; and
- the period during which the signs were erected to no more than 60 days prior to the election date.

The Court considered that the above regulatory controls were still a significant fetter against political communications in the lead up to the State election in circumstances where the only justification was the preservation of local amenity. The Court concluded that the democratic process outweighed any concerns about amenity, at least for the duration of the looming election campaign.

The City must ensure that the policy does not conflict with the provisions of the Electoral Act 1907 or the Referendums Act 1983 including any applicable subsidiary legislation. Any policy development on election signs will need to align with the Supreme Court and High Court decisions which clarify the extent of the local governments powers to control election signs in light of the implied right to freedom of political communication. In particular, rules attempting to control or limit elections signs where the only justification is preservation of local amenity may not be enforceable unless they are to protect health and safety.

Decision Implications

If adopted by Council the Policy will become an official Council Policy and will prescribe the way in which the City responds to election activities and signage. Activities and signage that do not meet the provisions within the policy will be subject to enforcement provisions under the Policy. This Policy will guide engagement with electoral candidates as it relates to political communication signage and provide them with direction to ensure compliance and the health and safety of the community.

If this Policy is refused, the placement and enforcement of election signage along with the directions given to candidates will lack solid policy foundation whereby safety and public health may be compromised.

Conclusion

The proposed Election Signs Council Policy outlines how election signs may be displayed within the boundaries of the City of Nedlands during Federal, State, Local elections, and Referendums. The Policy establishes a clear framework regulating how, where and for what period of time election signs may be displayed. The Administration has developed the Policy for the adoption by Council.

Further Information

Nil.



Election Signs Council Policy

Council Policy Objective

This Election Signs Policy (Policy) governs how election signs may be displayed on land owned and managed by the City of Nedlands (City) during Federal, State, Local Government elections and Referendums. The Policy establishes a clear framework regulating how, where and for what period of time an election sign may be displayed to minimise health and safety hazards.

Council Policy Scope

This Policy applies to political parties and candidates promoting a party or individuals participating in Federal, State, Local Government elections and Referendums.

Council Policy Statement

The City recognises the decisions of the High Court of Australia and the Supreme Court of Western Australia which protect the display of electoral advertising that is appropriate exercise of free political communication.

The City allows flexibility in relation to election signage and activities. Provided the provisions of this policy are met, election signage does not need approval from City.



Definitions

Carriageway means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles.

City land means all land held in fee simple or under the care, control or management of the City and includes road reserves.

Election day means the date of voting or polling for a Federal, State or local government election or Referendum.

Election period means the period commencing on the day of issue of the writ for the election and ending two (2) days after that election day.

Election sign means anything which presents a visual message and which advertises any aspect of a forthcoming elections for Federal, State, Local Government or Referendums and may include promoting a registered candidate or political party complying with the requirements of the *Electoral Act 1907*.

Footpath means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians

Private land means land within the boundaries of the City that is not City Land.

Sign includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols.

Thoroughfare means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.



Policy

1. Election signs on City Land

- (a) The City's Local Law Relating to Thoroughfares (Local Law) generally requires a permit for signs on or within City Land.
- (b) Subject to the terms of this Policy, a permit for election signs to be displayed on City land will not be required under the Local Law where the sign is:
 - (i) only displayed during the election period and removed within two (2) days after that election day;
 - (ii) free standing and not affixed to any existing tree, sign, post, power or light pole, or similar structure;
 - (iii) at least 1.5 metres from the edge of the carriageway and 0.5 metres from the footpath;
 - (iv) erected at least 10 metres from any intersection of thoroughfares;
 - (v) not closer than 50 metres to a signalised intersection or before any speed indicator sign;
 - (vi) not placed on a median strip, roundabout or other traffic control device;
 - (vii) not placed within an intersection;
 - (viii) not placed within 50m of a pedestrian crossing;
 - (ix) not located in, or within 50 metres of, a 40kph school zone;
 - (x) not placed so as to obstruct or impede:
 - (a) a footpath, thoroughfare or carriageway;
 - (b) the reasonable and/or safe use of City Land; or
 - (c) access to a place by any person;
 - (xi) placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing; and
 - (xii) not placed within 100 metres of any works on the City Land;



- (xiii) maintained in good condition;
- (xiv) securely installed;
- (xv) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message; and
- (xvi) not located in a position which would suggest that the sign has the endorsement of the City, including on premises leased from the City by third parties.

2. Dimensions, materials and content of election signs

All election signs must not:

- (a) be more than 1.5 square metres in area and no higher than 1.2 metres from the top of the sign to the natural ground level;
- (b) be illuminated (externally or internally), move, flash, be reflective, be fluorescent, rotate or otherwise cause a distraction to road users;
- (c) be self-adhesive;
- (d) advertise any organisation or person other than a political party or a registered candidate; or
- (e) use the City's logo or crest.

3. No election signs on City parks, reserves or City facilities

- (a) To ensure the safe use of City parks and reserves, election signs are not permitted to be placed on or within any City parks and/or reserves.
- (b) To reduce the risk that election signs on City facilities or City land are interpreted as having the endorsement of the City, election signs are not permitted on or adjacent to municipal buildings and leased facilities, including but not limited to Nedlands Library, Mt Claremont Library, Nedlands Community Care, Tresillian, Point Resolution Child Care, Depot, and the Administration Building.
- (c) Paragraph 4(b) does not apply to any City Land or facility that is used as a polling place on an election day where election signs may be displayed in



accordance with the requirements of Section 340 of the *Commonwealth Electoral Act 1918* and Section 192 of the *Electoral Act 1907*.

4. Enforcement

- (a) Where a sign breaches this Policy, the Local Law or any other relevant law, or poses a health or safety hazard, the City will exercise its powers to ensure compliance and/or remove any health and safety hazard as appropriate.
- (b) In exercising its power under clause 5(a), the City will adopt the following approach:
 - (i) where election signs are:
 - (a) displayed in a City park, reserve or on or adjacent to City municipal buildings;
 - (b) displayed on City Land and is not free standing (i.e. it is affixed to an existing tree, sign, post, power or light pole, or similar structure on City Land); or
 - (c) poses a health or safety hazard in the opinion of an authorised officer,

an authorised officer may immediately remove and impound the election sign or issue an infringement notice for failure to obtain a permit in accordance with the local law.

- (ii) notwithstanding paragraph 4(b)(i), an authorised officer may remove and impound an election sign that is not in compliance with this Policy in response to a legitimate complaint (as determined by the City at its absolute discretion), subject to advising the candidate that the sign has been removed and impounded;
- (iii) the following process will apply to the removal and impounding of signs:
 - i. the candidate will be notified that the sign has been removed and impounded and will be held by the City for 48 hours during which time will be available for collection; and
 - ii. if the sign is not collected within the 48 hours, the sign may be destroyed by the City.



- (c) Signs must comply with the requirements of the *Local Government Act 1995* and *Electoral Act 1907* in regard to electoral material and ensure that the name and address of the person authorising the sign, and where relevant the name of the printer, appear at the foot or end of the sign. Similar provisions apply in relation to State and Federal elections. The City will refer any breaches of this requirement to the relevant Returning Officer.
- (d) Some thoroughfares within the district of the City are controlled by Main Roads Western Australia (MRWA) under the *Main Roads (Control of Advertising) Regulations 1996*. MRWA should be contacted before erecting a sign on a main road.

5. Election promotion

- (a) The Australian Electoral Commission and/or the Western Australian Electoral Commission may promote an election by displaying a sign on the City Land without a permit.
- (b) This Policy does not apply to the City promoting an election by displaying a sign on City land.

Related documentation

Local Planning Policy – Signage and Advertisements

Related local Law and Legislation

Local Law relating to Thoroughfares 2000
Local Government Act 1995
Electoral Act 1907
Referendums Act 1983
Main Roads (Control of Advertising) Regulations 1996
Commonwealth Electoral Act 1918
Referendum (Machinery Provisions) Act 1984

Related delegation

Nil.



Review History

Adopted by Council DATE

17. Divisional Reports - Technical Services Report No's TS21.10.22

17.1 TS21.10.22 Repurposing of Former Tennis Courts at David Cruickshank Reserve, Dalkeith

Meeting & Date	Council Meeting – 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	Nil.
Report Author	Andrew Dickson – Project Manager (Parks Services)
Director	Daniel Kennedy-Stiff – Acting Director Technical Services
Attachments	Attachment 1 – Image of tennis court area on 5 March 2017 Attachment 2 – Image of tennis court area on 24 March 2022 Attachment 3 – Overview of proposed works

Purpose

The purpose of this report is to seek Council's endorsement for a proposed least cost solution for improving the upkeep and presentation of the former tennis courts at David Cruickshank Reserve, whilst preserving the opportunity to undertake a more comprehensive project at a later date to repurpose the area for the long term.

Recommendation

Council:

1. endorses the proposal for a least cost solution for improvements to enhance the upkeep and presentation of the former tennis courts at David Cruickshank reserve in the short term;
2. requests a capital budget item is prepared to be included in the 2022/23 midyear budget review for Council's consideration, which if approved, will provide for the proposed works to be delivered in the fourth quarter of the 2022/23 financial year; and
3. requests that a capital budget item is prepared for the 2023/24 annual budget for Council's consideration to provide for a more comprehensive design and delivery project to deliver a permanent repurposing of the former tennis courts at David Cruickshank Reserve.

Voting Requirement

Simple Majority.

Background

The David Cruickshank Reserve Enviro-scape Master Plan (EMP) concept was endorsed by Council at its meeting on 27 June 2017. When the EMP was endorsed, the Dalkeith Tennis Club (Club) lease included six (6) tennis courts at David Cruickshank Reserve (DCR) directly south of the Point Resolution Child Care building. These courts were maintained by the Club in accordance with their terms of lease with the City. On 31 October 2017, the Club formally notified the City of its intention to surrender this portion of their lease.

The City formally took back responsibility for the former lease area on 2 January 2018. As a consequence of these events, future use of the former leased tennis court area was not considered during the EMP consultation process. Other than the removal of the fencing surrounding the courts, the area has remained largely unchanged since the City assumed responsibility for its maintenance.

Previous Council resolution

Ordinary Council meeting 23 August 2022 – item 21.3 accepted

- Council Resolution

That the CEO provides a report to Council by the October 2022 OCM to provide a least cost solution to repurpose the former tennis courts in front of PRCC which were not included in the David Cruickshank Reserve Enviro Masterplan.

Discussion

DCR is classified as a 'District Park' in accordance with the City's adopted Parks and Reserves Function and Hierarchy Classifications. Repurposing of the former tennis courts needs to consider what recreational activities are already catered for at DCR and within its catchment.

A District Park typically has a catchment area of between two (2) and five (5) kilometres or a five (5) to ten (10) minute drive. District Parks will attract visitors from nearby districts and should broadly cater for surrounding communities. Parks and public open space that are within the DCR catchment area include:

- Sunset Hospital Precinct
- Point Resolution Reserve
- Bishop Road Reserve
- Sunset Foreshore
- Beaton Park (Jo Wheatley All Abilities Play Space)

- Charles Court Reserve
- Melvista Park
- College Park
- Masons Gardens
- Peace Memorial Rose Garden
- Eleven (11) 'Local and Neighbourhood Parks'
- Ten (10) foreshore reserves

Least cost solution

The proposed concept of a least cost solution for repurposing the former tennis courts may not provide for the best long term solution and may limit future opportunities for the area.

In considering the least cost requirements of Council's resolution, the Administration proposes limited intervention to enhance the upkeep and presentation of the area in the short term, maintaining the area as reticulated passive turf over the summer period. This will involve mowing once every 3-4 weeks, and watering approximately once per week. Watering need will be based on the climactic conditions being experienced at that time.

This will involve leaving the area largely unchanged, as an open grassed area for passive recreation use. The recently landscaped eco-zone surrounding the area is establishing and maturing. Additional native trees and shrubs can be extended marginally into the grassed area to lessen the geometric interface between the former courts and the new landscaping.

Any identified hazards in the area would be remediated and made safe (e.g., sudden level changes). It is proposed that reticulation in the area is renewed to deliver better presented turf through summer, and the bollards are extended to infill the current gap along the car park to prevent vehicle access. No other infrastructure need be incorporated within the area at this time. To further reduce costs, it is proposed to use City resources and equipment wherever possible to deliver works and to limit the use of contractors.

This proposal is intended to improve the safety, appearance and presentation of the area in the short term at minimal cost. The proposed works would not be considered a long term solution. The intent is to improve the upkeep and appearance of the area whilst preserving the opportunity to explore more extensive options for repurposing the area at a later date.

Consultation

If the recommendation is adopted, the proposed least cost solution would involve community consultation based around informing the community of the purpose for the restricted works and the longer term plans for the area.

Feedback associated with recent projects at David Cruickshank Reserve has provided some ideas for the repurposing of the former tennis courts. Concepts put forward by the community following endorsement of the EMP have been generally aspirational and could not be considered to fall within the scope of a least cost solution as resolved by Council. The feedback has been useful in that it has provided a sense of community expectation for the area in the longer term.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

- Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.
- Values**
- Great Natural and Built Environment**
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.
- Great Communities**
We enjoy places, events and facilities that bring people together. We are inclusive and connected, caring and support volunteers. We are strong for culture, arts, sport and recreation. We have protected amenity, respect our history and have strong community leadership.
- Priority Areas** Renewal of community infrastructure such as roads, footpaths, community and sports facilities.
- Providing for sport and recreation

Budget/Financial Implications

Subject to Council endorsing the proposed actions within this report, the Administration proposes to submit a capital budget item to the 2022/23 midyear budget review to improve upkeep and presentation of the area as outlined. Without the benefit of current quotes, the capital budget estimate to deliver the scope of works proposed would be in the order of \$15,000 (inclusive of project management costs) +/- 30%.

It is not anticipated that the proposed improvements to the area will incur substantial additional operational costs to the City. There will be a reallocation in resources from other areas to cover the extra time required to maintain the area to a higher level of presentation, noting any impacts on other locations will be minor and likely less than \$5,000 per annum.

The officer recommendation does not propose any additional works other than the ground levelling, bollard installation and reticulation. Any works in addition to these will need to be considered and consulted on as part of a new project initiative, within the context of the Long Term Financial Plan, should Council wish to look at providing new services in this area.

Legislative and Policy Implications

- *Disability Discrimination Act 1992* (Federal) – the City is obligated to observe the accessibility design standards for public use areas legislated under the Act.
- Community Engagement Council Policy – the City is required to consult with stakeholders on all proposals and new initiatives in accordance with Council's policy.

Decision Implications

Endorsement of the recommendation will allow the City to progress a course of action to improve the upkeep and presentation of the former tennis court area as a short term solution at the least cost. It will also preserve the opportunity to deliver a more considered repurposing of the area for the long term.

If Council do not consider this proposal adequate and desire a more comprehensive repurposing of the area, either now or in the future, this will need more comprehensive consideration of available resources. To deliver a suitable long-term solution will require appropriate project planning, concept development, community consultation and adequate budget allocation to allow for project delivery.

Conclusion

The City has proposed a least cost solution for improving the appearance and upkeep of the former tennis court area at DCR. This proposal is intended to provide short term improvements to the area without comprising the future options for a more significant project to comprehensively repurpose the space if this was the long term expectation of Council and the community.

Further Information

Nil.

TS21.10.22	Repurposing of Former Tennis Courts at David Cruickshank Reserve, Dalkeith
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Meeting & Date	Council Meeting – 25 October 2022
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995	Nil.
Report Author	Andrew Dickson – Project Manager (Parks Services)
Director	Andrew Melville – Acting Director Technical Services
Attachments	Attachment 1 – Image of tennis court area on 5 March 2017 Attachment 2 – Image of tennis court area on 24 March 2022 Attachment 3 – Overview of proposed works

Purpose

The purpose of this report is to seek Council’s endorsement for a proposed least cost solution for improving the upkeep and presentation of the former tennis courts at David Cruickshank Reserve, whilst preserving the opportunity to undertake a more comprehensive project at a later date to repurpose the area for the long term.

Recommendation

Council:

1. endorses the proposal for a least cost solution for improvements to enhance the upkeep and presentation of the former tennis courts at David Cruickshank reserve in the short term;
2. requests a capital budget item is prepared to be included in the 2022/23 midyear budget review for Council’s consideration, which if approved, will provide for the proposed works to be delivered in the fourth quarter of the 2022/23 financial year; and
3. requests that a capital budget item is prepared for the 2023/24 annual budget for Council’s consideration to provide for a more comprehensive design and delivery project to deliver a permanent repurposing of the former tennis courts at David Cruickshank Reserve.

Voting Requirement

Simple Majority.

Background

The David Cruickshank Reserve Enviro-scape Master Plan (EMP) concept was endorsed by Council at its meeting on 27 June 2017. When the EMP was endorsed, the Dalkeith Tennis Club (Club) lease included six (6) tennis courts at David Cruickshank Reserve (DCR) directly south of the Point Resolution Child Care building. These courts were maintained by the Club in accordance with their terms of lease with the City. On 31 October 2017, the Club formally notified the City of its intention to surrender this portion of their lease.

The City formally took back responsibility for the former lease area on 2 January 2018. As a consequence of these events, future use of the former leased tennis court area was not considered during the EMP consultation process. Other than the removal of the fencing surrounding the courts, the area has remained largely unchanged since the City assumed responsibility for its maintenance.

Previous Council resolution

Ordinary Council meeting 23 August 2022 – item 21.3 accepted

- Council Resolution

That the CEO provides a report to Council by the October 2022 OCM to provide a least cost solution to repurpose the former tennis courts in front of PRCC which were not included in the David Cruickshank Reserve Enviro Masterplan.

Discussion

DCR is classified as a 'District Park' in accordance with the City's adopted Parks and Reserves Function and Hierarchy Classifications. Repurposing of the former tennis courts needs to consider what recreational activities are already catered for at DCR and within its catchment.

A District Park typically has a catchment area of between two (2) and five (5) kilometres or a five (5) to ten (10) minute drive. District Parks will attract visitors from nearby districts and should broadly cater for surrounding communities. Parks and public open space that are within the DCR catchment area include:

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- Sunset Foreshore
- Beaton Park (Jo Wheatley All Abilities Play Space)
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- Melvista Park
- College Park
- Masons Gardens
- Peace Memorial Rose Garden
- Eleven (11) 'Local and Neighbourhood Parks'

- Ten (10) foreshore reserves

Least cost solution

The proposed concept of a least cost solution for repurposing the former tennis courts may not provide for the best long term solution and may limit future opportunities for the area.

In considering the least cost requirements of Council's resolution, the Administration proposes limited intervention to enhance the upkeep and presentation of the area in the short term, maintaining the area as reticulated passive turf over the summer period. This will involve mowing once every 3-4 weeks, and watering approximately once per week. Watering need will be based on the climactic conditions being experienced at that time.

This will involve leaving the area largely unchanged, as an open grassed area for passive recreation use. The recently landscaped eco-zone surrounding the area is establishing and maturing. Additional native trees and shrubs can be extended marginally into the grassed area to lessen the geometric interface between the former courts and the new landscaping.

Any identified hazards in the area would be remediated and made safe (e.g., sudden level changes). It is proposed that reticulation in the area is renewed to deliver better presented turf through summer, and the bollards are extended to infill the current gap along the car park to prevent vehicle access. No other infrastructure need be incorporated within the area at this time. To further reduce costs, it is proposed to use City resources and equipment wherever possible to deliver works and to limit the use of contractors.

This proposal is intended to improve the safety, appearance and presentation of the area in the short term at minimal cost. The proposed works would not be considered a long term solution. The intent is to improve the upkeep and appearance of the area whilst preserving the opportunity to explore more extensive options for repurposing the area at a later date.

Consultation

If the recommendation is adopted, the proposed least cost solution would involve community consultation based around informing the community of the purpose for the restricted works and the longer term plans for the area.

Feedback associated with recent projects at David Cruickshank Reserve has provided some ideas for the repurposing of the former tennis courts. Concepts put forward by the community following endorsement of the EMP have been generally aspirational and could not be considered to fall within the scope of a least cost solution as resolved by Council. The feedback has been useful in that it has provided a sense of community expectation for the area in the longer term.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Vision Our city will be an environmentally-sensitive, beautiful and inclusive place.

Values **Great Natural and Built Environment**
We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

Great Communities

We enjoy places, events and facilities that bring people together. We are inclusive and connected, caring and support volunteers. We are strong for culture, arts, sport and recreation. We have protected amenity, respect our history and have strong community leadership.

Priority Areas Renewal of community infrastructure such as roads, footpaths, community and sports facilities.

Providing for sport and recreation

Budget/Financial Implications

Subject to Council endorsing the proposed actions within this report, the Administration proposes to submit a capital budget item to the 2022/23 midyear budget review to improve upkeep and presentation of the area as outlined. Without the benefit of current quotes, the capital budget estimate to deliver the scope of works proposed would be in the order of \$15,000 (inclusive of project management costs) +/- 30%.

It is not anticipated that the proposed improvements to the area will incur substantial additional operational costs to the City. There will be a reallocation in resources from other areas to cover the extra time required to maintain the area to a higher level of presentation, noting any impacts on other locations will be minor and likely less than \$5,000 per annum.

The officer recommendation does not propose any additional works other than the ground levelling, bollard installation and reticulation. Any works in addition to these will need to be considered and consulted on as part of a new project initiative, within the context of the Long Term Financial Plan, should Council wish to look at providing new services in this area.

Legislative and Policy Implications

- *Disability Discrimination Act 1992* (Federal) – the City is obligated to observe the accessibility design standards for public use areas legislated under the Act.
- Community Engagement Council Policy – the City is required to consult with stakeholders on all proposals and new initiatives in accordance with Council's policy.

Decision Implications

Endorsement of the recommendation will allow the City to progress a course of action to improve the upkeep and presentation of the former tennis court area as a short term solution

at the least cost. It will also preserve the opportunity to deliver a more considered repurposing of the area for the long term.

If Council do not consider this proposal adequate and desire a more comprehensive repurposing of the area, either now or in the future, this will need more comprehensive consideration of available resources. To deliver a suitable long-term solution will require appropriate project planning, concept development, community consultation and adequate budget allocation to allow for project delivery.

Conclusion

The City has proposed a least cost solution for improving the appearance and upkeep of the former tennis court area at DCR. This proposal is intended to provide short term improvements to the area without comprising the future options for a more significant project to comprehensively repurpose the space if this was the long term expectation of Council and the community.

Further Information

Nil.





TS21.10.22 - Attachment 3 - Overview of proposed works



18. Divisional Reports - Corporate & Strategy Report No's CPS46.10.22 to CPS49.10.22

18.1 CPS46.10.22 New Lease to Dalkeith Nedlands Bowling Club

Meeting & Date	Council Meeting – 25 October 2022
Applicant	Dalkeith Nedlands Bowling Club (inc)
Employee Disclosure under section 5.70 Local Government Act 1995	Nil.
Report Author	Peter Scasserra – Coordinator Land and Property
Director/CEO	Michael Cole – Director Corporate Services
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a new lease for the Dalkeith Nedlands Bowling Club Inc. for portion of Reserve 1668, 55 Jutland Parade Dalkeith.

Recommendation

That Council:

1. approves the disposal of a 13,860 m² (approx.) portion of Reserve 1668 (Part Lot 14867 on Deposited Plan 35721) by way of lease to the Dalkeith Nedlands Bowling Club Inc. consistent with the key terms noted within this report;
2. approves an exemption to section 3.58 of the Local Government Act 1995 pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996* for the disposal of a 13,860 m² (approx.) portion of Reserve 1668 (Part Lot 14867 on Deposited Plan 35721) by way of lease; and
3. subject to the Minister for Lands' Consent, authorises the Chief Executive Officer and Mayor to execute all documents necessary to give effect to a lease and apply the City's Common Seal.

Voting Requirement

Simple Majority

Background

Reserve 1668 (Reserve) comprises Lot 14867 on Deposited Plan 35721 and is land owned by the State of Western Australia that has been vested to the City of Nedlands (City) by way of a Management Order.

The Management Order for the Reserve provides the City with a statutory right to manage and control the Crown land for the purpose of Recreation with power to lease for any term not exceeding 21 years, subject to consent of the Minister for Lands.

Reserve 1668 currently consists of land utilised by several Sporting Clubs a Day Care Centre and Pre-School. The Sporting Clubs and Pre-School occupy their respective facilities pursuant to either a lease or management licence whilst the Day Care Centre is operated by the City of Nedlands. The management licence agreements provide a source of revenue for the City.

The proposal seeks approval from the City to lease a 13,860 m² (approx.) portion of Reserve 1668 for the purpose of lawn bowls and clubrooms to the existing Dalkeith Nedlands Bowling Club.

Considering Reserve 1668 is land classified within the Metropolitan Region Scheme (MRS) area for parks and recreation purposes, a use that is within the definition of “parks and recreation” can be considered.

The Dalkeith Nedlands Bowling Club (Club) was established in 1948, with planting of the first two greens on the then Point Resolution Reserve in September that year. Following the establishment of the adjacent Tennis Club in 1938, the subject land began to establish itself as a Community Recreation Reserve.

The Club’s official opening occurred in November 1950. By the end of the year the Club had affiliated with the Western Australian Bowling Association and was entering teams regularly in pennant competition. A third green with electric lighting was eventually added to the facility to allow for night games.

The clubhouse building was officially opened in 1955 and remained unchanged until 1958 when the architects W.G. Bennet and Associates designed changes to facilitate required upgrades and extensions.

Presently, the facility has five greens in regular use as well as the existing clubhouse that is being occupied by the Club pursuant to a lease with the City. Considering the lease expires on 24 September 2022 with no option for a further term, the Club is seeking Council approval for a new lease to secure tenure and ensure their current operations can continue for a term of 10 years with a further term of 5 years.

Discussion

Reserve 1668 is located within the locality of Dalkeith and is situated on the corner of Jutland Parade and Victoria Avenue, opposite Point Resolution Reserve. Development within and

surrounding the Reserve comprises Adam Armstrong Pavilion, Point Resolution Child Care Centre, Dalkeith Tennis Club, Dalkeith Pre-School and established single residential dwellings.

The Reserve is Crown land vested to the City by way of a Management Order. A Management Order provides a nominated management body with a statutory right to care, control and manage Crown land in accordance with any conditions on the use and development of the reserve and may grant the management body certain powers to deal with the land, such as power to lease.

The Management Order for Reserve 1668 permits the land to be used for the purpose of 'Recreation' and requires the City to seek the consent of the Minister for Lands prior to formalising any agreement for lease over the Reserve. The Club's proposal does not change the existing land use which is consistent with the MRS reservation and with the Management Order.

Reserve 1668 is also an MRS Reserve classified for parks and recreation purposes. Noting the current use of the site by other recreational and sporting bodies that provide services of benefit to the community, it is considered that a use that is within the definition of "parks and recreation" can continue to operate on the site. The MRS defines "parks and recreation" as "Land of regional significance for ecological, recreation or landscape purposes".

The Dalkeith Nedlands Bowling Club currently has 241 active members (excluding casual bowlers at functions), of which approximately one third are City of Nedlands residents. In addition to delivering sport and recreation for a wide range of community uses, their operations also provide various social and community benefits, particularly for seniors.

The recommendation proposes Council consider approving a lease for the Dalkeith Nedlands Bowling Club for a 13,860 (approx.) portion of Reserve 1668 for the purpose of lawn bowls and clubrooms and uses reasonably ancillary thereto subject to reviewing and being satisfied with the key terms and the inclusion of a redevelopment clause.

Key Terms and Special Conditions

The Key Terms have been negotiated in accordance with the City's *'Use of Council Facilities for Community Purposes Policy'*.

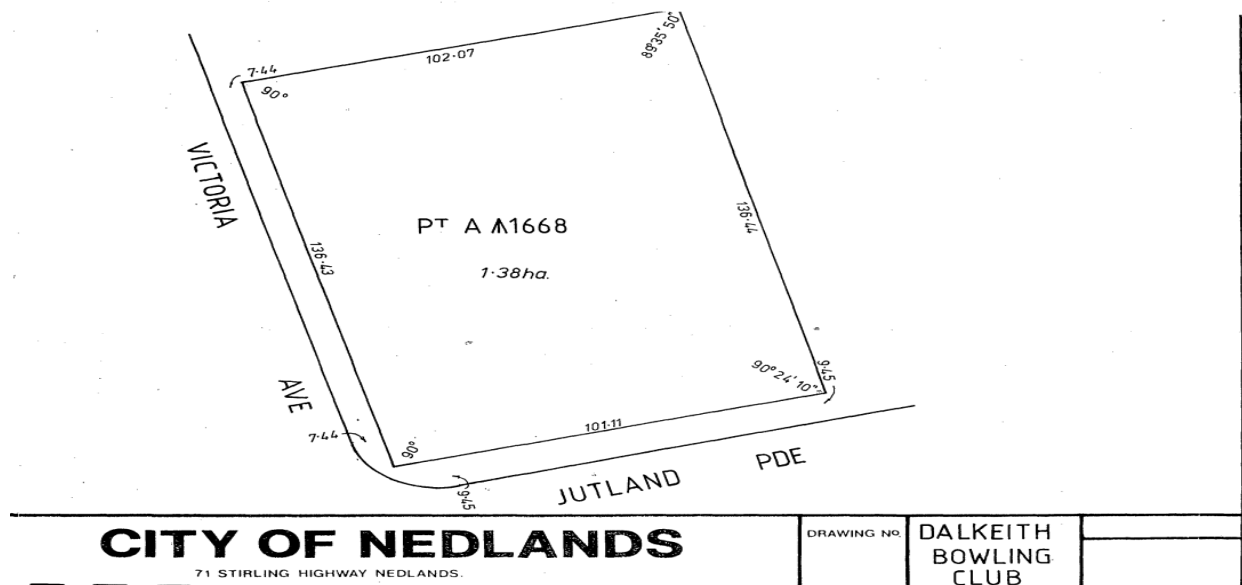
On 18 August 2022, the Dalkeith Nedlands Bowling Club's agreed to all the key terms noted within the report below to facilitate a lease.

Proposed Lease – Dalkeith Nedlands Bowling Club (Inc)	
Key Terms	
Lease Term	Details
Land	Part of Reserve 1668
Lease Area	As per Sketch (TBC)
Landlord	City of Nedlands
Tenant	Dalkeith-Nedlands Bowling Club (Inc)
Commencement Date	Upon execution by both parties
Term of Lease	10 years with an additional 5 year option

Permitted Purpose	Lawn Bowls and Clubrooms and uses reasonably ancillary thereto.
Lease Fee	Peppercorn
Rent Reviews	N/A
Outgoings	All outgoings payable by Lessee
Insurance	Building Insurance - The City will insure its interest in the building and will on-charge a pro-rata premium to the Lessee. Public Liability - The Lessee is responsible for Public Liability, however, the City will continue to hold its policy.
Maintenance	All maintenance obligations to be undertaken by the Lessee, including structural maintenance.
Works and Fit Out	N/A
Signage	With prior written consent from the Lessor and subject to the Lessors conditions.
Special Conditions	1. Subject to City of Nedlands Council approval. 2. Subject to Minister for Lands consent.

Lease Area Sketch

The current lease area sketch is displayed below.



To identify the lease area more clearly, the following lease area sketch is proposed as an annexure to the lease should Council resolve to approve a new agreement.

Lease Area – Sketch



Site Plan – Portion of Reserve 1668, 55 Jutland Parade | Dalkeith

Lease Area

Part Lot 14867 on Deposited Plan 35721 outlined in red – 13,860 m² (approx.)
Building and Verandah outlined in blue – 872 m² (approx.)

Consultation

Upon receiving the request from the Dalkeith Nedlands Bowling Club for a new lease for portion of Reserve 1668, 55 Jutland Parade Dalkeith, the City carried out the following internal engagement.

Planning Services

The City's Planning Services Team advised they have no objections to land tenure arrangement, but suggested clauses be included within the agreement to ensure the

Applicant understands no alterations or additions are to be made without statutory approvals being obtained.

Community Development

The City's Community Development Team advised they support Dalkeith Nedlands Bowling Club's request for a new lease. The request is consistent with Council's strategic priority of providing for sport and recreation.

Land & Property

The City's Land & Property Team advised they have no objections to the land tenure arrangement. The proposed lease is consistent with the terms of the current arrangement and the inclusion of the updated survey sketch is of benefit to the City. The Key Terms as proposed within this report mitigate all risk to Council and do not have any cost implications either.

Strategic Implications

This item relates to the following elements from the City's Strategic Community Plan.

Values

Great Governance and Civic Leadership

We value our Council's quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community's assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

Budget/Financial Implications

The lease as proposed would be at no cost to Council.

Should elected members agree to the recommendation as proposed, the new lease would be prepared by a solicitor and full costs would be on-charged to the proponent.

Legislative and Policy Implications

The City is bound by specific conditions under the *Local Government Act 1995* with regard to the disposal of property. Section 3.58 of the Act enables a local government to dispose of a property to the highest bidder at a public auction, by way of a public tender process or by giving local public notice of the proposed disposition and following the public consultation process as prescribed by sub-section section 3.58 (3) of the Act. In this context, disposing of a property means to 'sell, lease or otherwise dispose of, whether absolutely or not'.

Considering the Dalkeith Nedlands Bowling Club are an incorporated recreational sporting body, they are eligible for an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996*, therefore the proposed disposal of land is not required to be advertised.

Proposals to lease or licence land for a community/recreational purpose will be subject to the terms of the City's *'Use of Council Facilities for Community Purposes Policy'*.

Crown land reserves vested to the City by way of a Management Order are generally subject to conditions. Consent is required from the Minister for Lands prior to formalising any lease agreement for Reserve 1668.

Decision Implications

Should Council resolve to approve the disposal of a 13,860 m² (approx.) portion of Reserve 1668 to the Dalkeith Nedlands Bowling Club by way of lease, Officers will instruct the City's solicitor to prepare a lease in accordance with the key terms contained within this report at the full cost of the Lessee.

If Council do not resolve to approve the disposal of a 13,860 m² (approx.) portion of Reserve 1668 to the Dalkeith Nedlands Bowling Club by way of a lease, the proponent will not be able to secure tenure and will have to consider their future within the City. The lease expiry date is 27 September 2022.

Conclusion

The Dalkeith Nedlands Bowling Club have occupied the facility on portion of Reserve 1668 from circa 1950. Their lease will expire on 27 September 2022 and does not provide an option for a further term. To allow their operations to continue, the Dalkeith Nedlands Bowling Club are seeking Council approval to continue using a 13,860 m² (approx.) portion of Reserve 1668, 55 Jutland Parade Dalkeith in accordance with a lease for the purpose of lawn bowls and clubrooms and uses reasonably ancillary thereto.

Officers believe this request can be accommodated without significant changes to the current arrangement. Additionally, the proposal presents an opportunity for social engagement contributing to the health and well-being of the community.

Further Information

Nil.

18.2 CPS47.10.22 Monthly Financial Report – September 2022

This item will be dealt with at the Ordinary Council Meeting.

18.3 CPS48.10.22 Monthly Investment Report – September 2022

This item will be dealt with at the Ordinary Council Meeting.

18.4 CPS49.10.22 List of Accounts Paid – September 2022

This item will be dealt with at the Ordinary Council Meeting.

19. Council Members Notice of Motions of Which Previous Notice Has Been Given

This item will be dealt with at the Ordinary Council Meeting.

20. Urgent Business Approved By the Presiding Member or By Decision

This item will be dealt with at the Ordinary Council Meeting.

21. Confidential Items

Confidential items to be discussed at this point.

22. Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.