



City of Nedlands

# Planning and Development Reports

**Committee Consideration – 3 December 2019**

**Council Resolution – 17 December 2019**

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**Council: 17 December 2019**

<b>PD48.19</b>	<b>No. 3 Circe Circle, Dalkeith – Additions to a Single House (Carport and Primary Street Fencing)</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	Alex and Ruth Temelcos
<b>Landowner</b>	Alex and Ruth Temelcos
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right 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.
<b>Reference</b>	DA19/36044
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Applicant Submission in Support of the Development Proposal</li> <li>1. Plans (Confidential)</li> <li>2. Assessment (Confidential)</li> <li>3. Submission (Confidential)</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a Development application received from the applicant on the 20 May 2019, for a proposed carport and primary street fencing to a single residential property at No. 3 (Lot 749) Circe Circle, North Dalkeith.

The carport is proposed to occupy a floor area of 45.93m<sup>2</sup>, be setback 4.56m from the primary street and be setback 1.0m from the northern (side) boundary.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy - Consultation of Planning Proposals. One (1) objection was received during the advertising period.

It is recommended that the application be approved by Council, following conditions which modify the development proposal.

## 2.0 Recommendation to Committee

**Council approves the development application dated 20 May 2019, to install a carport within the front setback area at No. 3 (Lot 749) Circe Circle, Dalkeith, subject to the following conditions and advice/for the following reasons:**

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval only pertains to the addition of a carport to a single dwelling, as indicated on the plans attached.
3. Revised drawings shall be submitted with the Building Permit application, to the satisfaction of the City, incorporating the following modifications as shown in red on the approved plans:
  - a) The proposed primary street fencing is to provide a minimum 1.5m visual truncation area in accordance with Clause 5.2.5 of the R-Codes (Sight Lines), where the driveway/crossover intersects with the proposed primary street fencing.
4. The carport shall remain open on all sides and shall not accommodate a door.
5. All footings and structures shall be constructed wholly inside the site boundaries of the property's Certificate of Title.
6. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.

**Advice Notes specific to this proposal:**

1. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Improvement Application and/or a Crossover Permit to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
2. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.
3. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m<sup>3</sup> for every 80m<sup>2</sup> of calculated surface area of the development.
4. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

### 3.0 Background

#### 3.1 Land Details

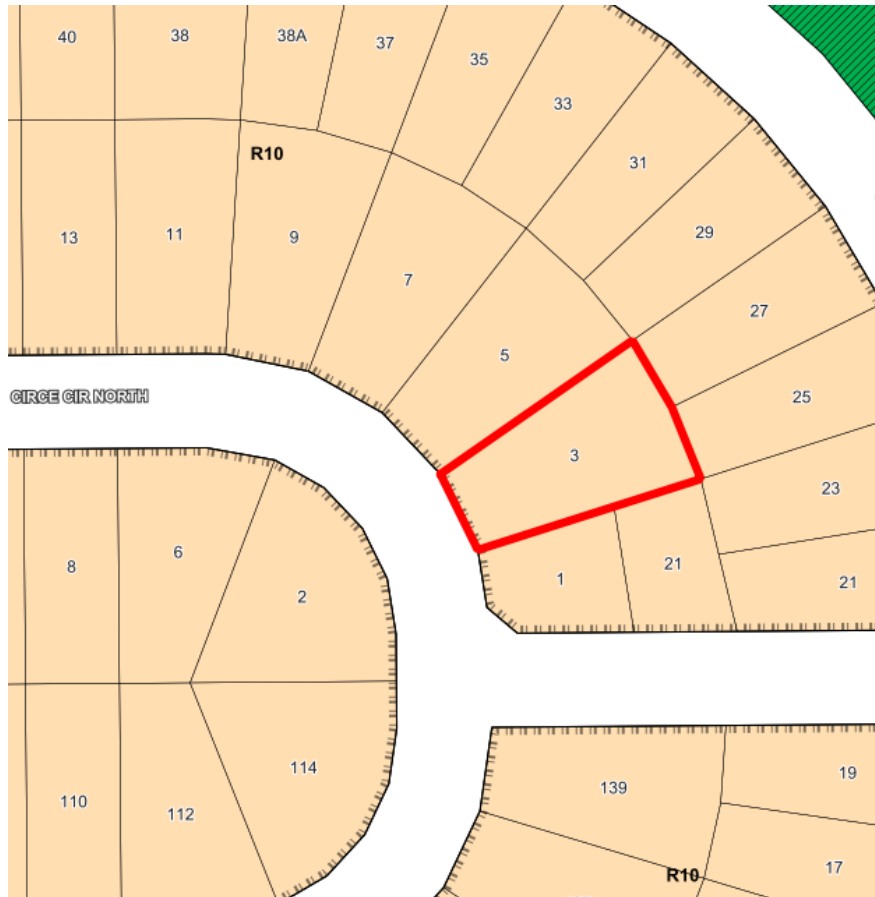
<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R10
<b>Land area</b>	1287.4
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Residential Single House
<b>Use Class</b>	Residential

#### 3.2 Locality Plan

The subject site is located within the suburb of Dalkeith, to the east of Dalkeith Primary School and to the south-east of the Waratah Local Centre. Circe Circle maintains a consistent streetscape, with minimal intrusions into the primary street setback area, resulting in a consistent streetscape character. The subject property is zoned Residential, R10, in accordance with Local Planning Policy No. 3 (LPS 3), permitting a single residential house.







#### 4.0 Application Details

The applicant seeks development approval for a carport and primary street fencing, details of which are as follows:

- The proposed carport seeks to occupy an area of 45.93m<sup>2</sup>, with 36m<sup>2</sup> being within the front setback area.
- The proposed carport has a width of 8.5m with a depth of 5.4m.
- The proposed carport is to be setback 4.56m from the primary street.
- The proposed carport is to be setback 1.0m from the northern lot boundary.
- The proposed primary street fencing is to be solid to a height of 1.6m for the northern 1.12m portion of the proposed fencing.

By way of justification in support of the development application the applicant has provided a design principles assessment and addressed the submissions received. This has been included as an attachment (Attachment 1) to this report.

#### 5.0 Consultation

The applicant is seeking assessment under the Design Principles of the R-Codes for the following:

- Primary Street Setback
- Solid Primary Street Fencing

The development application was therefore advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 6 residents and

landowners. One (1) objection was received with five (5) non-responses during the consultation period.

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

Submission	No. of times issue raised	Officer Response	Action Taken
The carport is substantially forward of the 9.0m required under an R10 density code as outlined within the City of Nedlands Local Planning Scheme No. 3	1	<p>The City of Nedlands Local Planning Scheme No. 3 (LPS3) modifies the primary street setback requirements as outlined within the Residential Design Codes for properties with a Residential Density code of R15 or less, to 9.0m.</p> <p>The City is currently advertising a Draft Residential Development Policy, to modify the primary street setback requirements for carports located on properties with a residential density code of R15 or less. This policy seeks to reduce the required primary street setback of carports to 3.5m in lieu of the 9.0m as required under LPS3.</p>	The proposed carport complies with the Draft Residential Development Policy, due regard should be taken of this policy in consideration in determining this application. No action required.
The proposed carport occupies more than half of the lot frontage	1	<p>The proposed carport is 8.5m in width, with the primary street lot boundary having a width of 18.5m. The proposed carport occupies 46% of the primary street frontage.</p> <p>Carports are permitted to occupy up to 50% of the primary street frontage.</p>	The proposed carport design is compliant with the R-Code requirements. No action required.
The proposed carport exceeds 36m <sup>2</sup> as required under the Draft Residential Development Policy	1	<p>The proposed carport occupies an area of 45.93m<sup>2</sup>, with a floor area of 36m<sup>2</sup> within the front setback area.</p> <p>The draft residential development policy permits a maximum 36m<sup>2</sup> of carport within the front setback area.</p>	The proposed carport is compliant with the Draft Residential Development Policy, with the proposed development not exceeding 36m <sup>2</sup> within the front setback area. No action required.
The proposed carport does not enhance the amenity or aesthetics of the area. In fact, it detracts from the streetscape, removes	1	The proposed carport does not exceed 50% of the primary street frontage as permitted under the Draft Residential Development Policy.	The carport width is compliant with the City's Draft Residential Development Policy and the R-

large existing trees which provide for good amenity, and provide a dominating 8.50m wide structure to park three vehicles.			Codes. No action required.
It is clear that the proposed carport is not consistent with the established or desired 9m setback streetscapes	1	The proposed carport is setback in excess of the requirements of the Draft Residential Development Policy, featuring a 4.56m setback in lieu of 3.5m required under the draft policy.	The proposed carport setback is compliant with the draft residential development policy. No action required.
The proposed development does not contribute to, nor is consistent with, an established streetscape. It is clear on this basis, that the proposed 4.556m setback is not consistent with the established streetscape and does not comply with this design principle.	1	The proposed carport is setback in excess of the requirements of the Draft Residential Development Policy, featuring a 4.56m setback in lieu of 3.5m required under the draft policy.	The proposed carport setback is compliant with the draft residential development policy. No action required.
The proposed development is not a minor projection. It is 8.50m long and extends into the setback area which many residences in the street comply with. In our view, it detracts from the character of the streetscape which has generous setback areas, and landscaping.	1	The proposed carport does not exceed 50% of the primary street frontage as permitted under the Draft residential Development Policy.	The proposed carport setback is compliant with the draft residential development policy. No action required.

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

## 6.0 Assessment of Statutory Provisions

### 6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates 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.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

## 6.2 Residential Design Codes – Volume 1 (State Planning Policy 7.3)

The applicant is seeking assessment in accordance with the Design Principles of the R-Codes for primary street fencing as addressed in the below table:

### Primary Street Fencing – 5.2.4 Street Walls and Fences

<b>Design Principles</b>
<p>The application seeks assessment under the design principles which are as follows:</p> <p>“Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:</p> <ul style="list-style-type: none"> <li>• for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and</li> <li>• for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.”</li> </ul>
<b>Deemed-to-Comply Requirement</b>
<p>Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.</p>
<b>Proposed</b>
<p>The proposed primary street fencing is to be solid for the northern 1.12m, with a height of 1.6m. The remainder of the proposed primary street fencing is compliant.</p>
<b>Administration Assessment</b>
<p>The solid portion of the primary street fencing is proposed to be utilised for the installation of a meter box. The existing development context of Circe Circle demonstrates a precedent of solid primary street fencing. The proposed fencing design does not negatively impact the surveillance of the street, nor the front setback area. Due to the small portion of the proposed primary street fencing, its low height and an existing precedent for solid primary street fencing it is considered that the development proposal will have a negligible impact on the character or amenity of the existing/future streetscape. Condition 3 (recommended should this application be approved) requires the proposed plans to be modified to ensure compliance with the Australian Standards for sightlines at vehicle access points.</p>

### Primary Street Setback – 5.1.2 Street Setback

<b>Design Principles</b>
<p>The application seeks assessment under the design principles which are as follows:</p> <p>P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>• contribute to, and are consistent with, an established streetscape;</li> <li>• provide adequate privacy and open space for dwellings;</li> <li>• accommodate site planning requirements such as parking, landscape and utilities; and</li> <li>• allow safety clearances for easements for essential service corridors.</li> </ul> <p>P2.2 Buildings mass and form that:</p> <ul style="list-style-type: none"> <li>• uses design features to affect the size and scale of the building;</li> <li>• uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>• minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</li> <li>• positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</li> </ul>

<b>Deemed-to-Comply Requirement</b>
Buildings are required to be setback a minimum of 9.0m from the primary street for properties zoned R15 or less.
<b>Proposed</b>
The proposed carport is to be setback 4.56m from the primary street.
<b>Administration Assessment</b>
The City has completed a Draft Residential Development Policy which seeks to modify the deemed to comply setback requirements for properties zoned R10-R15 from the 9.0m primary street setback to 3.5m for carport structures. The proposed carport is proposed to be setback 4.56m from the primary street and meets the requirements of the draft policy. Having due regard to the draft policy, the carport setback is considered an acceptable development outcome.

## 7.0 Conclusion

The proposed carport is compliant with the R-Codes and the City of Nedlands Draft Residential Development Policy, in terms of setbacks and floor area.

The proposed primary street fencing design is required to be revised in order to meet the Australian Standards for sightlines and vehicle manoeuvring areas. The proposed solid portion of the primary street fencing is considered to be an acceptable outcome and does not negatively impact the amenity or character of the existing streetscape.

Considering the above, **approval** for the development proposal is recommended subject to the Conditions recommended above.

10/10/2019

## Submission for Support

Planning Application: Carport and Front Boundary Fence  
Address: 3 Circe Circle, Dalkeith 6009.

Dear Scott van Ireland,

For the attention of the council,

My name is Michael Temelcos, a recent architecture graduate and along with my family, have been residents at number 3 Circe Circle, Dalkeith for over 10 years. Having recently lodged a planning application for a carport and front fence addition we would greatly appreciate your time to read the following submission for support.

We understand the City of Nedlands Council has a plethora of significant planning related issues currently under assessment, especially given the newly implemented *Local Planning Scheme No 3*. Therefore, we would not like to prolong nor overcomplicate what was intended to be a simple carport and front fence application.

In summary, the single objection indicated that our proposal, *“is too close to the street, too wide and detracts from the existing streetscape.”*

We believe this statement to be incorrect and not indicative of the design principles of the R-codes, Local Planning Scheme No. 3 and the City's draft Residential Development Policy.

Having had countless email discussions and phone conversations with both Planning and the Technical Services Department various amendments were implemented until all parties involved were satisfied with the final planning application document.

According to the R-codes our carport application is indeed not “too wide” as stated in section 5.2.1 Deemed to comply C 1.5.

*“Carports within the street setback area...provided that the width of the carport does not exceed 50 percent of the frontage at the building line and the construction allows an unobstructed view between the dwelling and the street, right-of-way or equivalent.”*

The proposed carport width occupies 44% of the frontage along the building line, well within the requirement.



The R-Codes state the following deemed to comply requirements regarding the proximity to the street:

*“5.2.1 P1 The setting back of carports and garages to maintain clear sight lines along the street and not to detract from the streetscape or appearance of dwellings; or obstruct views of dwellings from the street and vice versa.”*

Our proposed carport maintains clear sight lines along the street whilst not obstructing any views of the dwelling from the street or vice versa, due to its positioning in line with the existing gutter of the verandah.

Below are photographs of various carports positioned within the 9m front setback area.



**40 Circe Circle**  
~ 1-2m from front boundary



**51 Circe Circle**  
~ 3-4m from front boundary



**83 Circe Circle**  
Carport posited 1-2m from front boundary, on a newly built home with an underground garage.



**94 Circe Circle**  
~ 2-3m from front boundary





**80 Circe Circle**  
~ 1m from front boundary



**98 Dalkeith Rd**  
~ 2-3m from front boundary



**12 Rene St**  
~ 2-3m from front boundary



**29 Philip Rd**  
~ 2m from front boundary



**75 Dalkeith Rd**  
Currently under construction ~2m  
from front boundary



**117 Dalkeith Rd**  
Currently under construction ~1-2m  
from front boundary



In regards to the objection stating our proposal '*detracts from the existing streetscape*' it is evident that the streetscape is a melting pot of various design languages from a variety of decades, dating back to the early 1900's.

Below are various images of homes located on or near by Circe Circle indicating that there is no one single design language that ties all these homes together, these homes are quite simply an expression of an individuals imagination.







In summary, we have spent many months designing a carport that not only pays respect to our existing 1930's Californian bungalow but also sits softly on the site in order to be as unobtrusive as possible to its surrounding environment. We have proposed a slimline steel carport with a simple column and beam design in order to minimise any visual bulk, whilst allowing maximum views of our front elevation from the street.

We believe our carport addition and front fence will lift the overall streetscape by;

- Positioning our vehicles off the existing driveway and neatly into the carport.
- Providing continuity with our neighbours adjacent by means of a front boundary fence
- Allowing for further mature trees to be planted along the side boundary, as is evident on the south boundary where we planted four mature pear trees upon moving in 10 years ago.
- Allowing for further landscaping of hedges and creeping plants to be located along the front boundary fence.
- Prevent our puppy dog from running out onto the road and into neighbouring properties, greatly reducing the risk of any incident occurring.

<b>PD49.19</b>	<b>No. 2 Burwood Street, Nedlands – Additions to a Single House (Ancillary Dwelling and Carport)</b>
<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	Michael Cardinale
<b>Landowner</b>	John Edwards
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right 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.
<b>Reference</b>	DA19/37053
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to the City's Administration recommending refusal for elements of this application.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Landowner Justification Letter</li> <li>1. Alternate Recommendation (Confidential)</li> <li>2. Plans (Confidential)</li> <li>3. Assessment Sheet (Confidential)</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a development application received from the applicant on the 1 July 2019, for a proposed garage conversion to an ancillary dwelling and an additional carport at 2 Burwood Street, Nedlands.

The proposed carport is to be setback 1.5m from the primary street lot boundary.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy - Consultation of Planning Proposals. No objections were received during the advertising period.

It is recommended that the application for the Ancillary Dwelling be approved by Council subject to conditions outlined below and that the proposed Carport, setback at 1.5m from the primary street boundary be refused due to streetscape impact

## 2.0 Recommendation to Committee

1. **Council refuses the proposed installation a carport within the front setback area for the following reasons:**



- a) **The City of Nedlands Draft Residential Development Policy varies the primary street setback requirement for carports on properties zoned R15 or less from 9.0m to a minimum of 3.5m (Clause 4.2). The applicant can provide a compliant 3.5m primary street setback, however, has proposed a 1.5m primary street setback which is inconsistent with this policy.**
  - b) **The proposed carport does not meet the objectives of the Draft Residential Development Policy or the objectives of the Residential Zone as outlined in LPS3. The proposed carport development is not considered to be appropriate in scale, bulk or setbacks as viewed from the street.**
2. **Council approves the proposed garage conversion to an ancillary dwelling subject to the following conditions and advice notes be observed for the partial approval:**

#### **Conditions**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to a garage conversion to an ancillary dwelling and the installation of a carport as indicated on the plans attached.**
3. **All footings and shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**
4. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

#### **Advice Notes specific to this proposal:**

1. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m<sup>3</sup> for every 80m<sup>2</sup> of calculated surface area of the development.**
2. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
3. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**

Removal and disposal of ACM shall be in accordance with Health (Asbestos) Regulations 1992, Regulations 5.43 - 5.53 of the Occupational Safety and Health Regulations 1996, Code of Practice for the Safe Removal of Asbestos 2<sup>nd</sup> Edition, Code of Practice for the Management and Control of Asbestos in a Workplace, and any Department of Commerce Worksafe requirements.

Where there is over 10m<sup>2</sup> of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.

4. The applicant is advised to consult the City’s Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.

Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at [www.fairair.com.au](http://www.fairair.com.au) and use this as a guide to prevent noise affecting neighbouring properties.

Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.

5. A sewage treatment and effluent disposal system or greywater reuse or treatment system shall not be installed unless an Approval to Construct or Install an Apparatus for the Treatment of Sewage has been issued by the City beforehand.
6. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

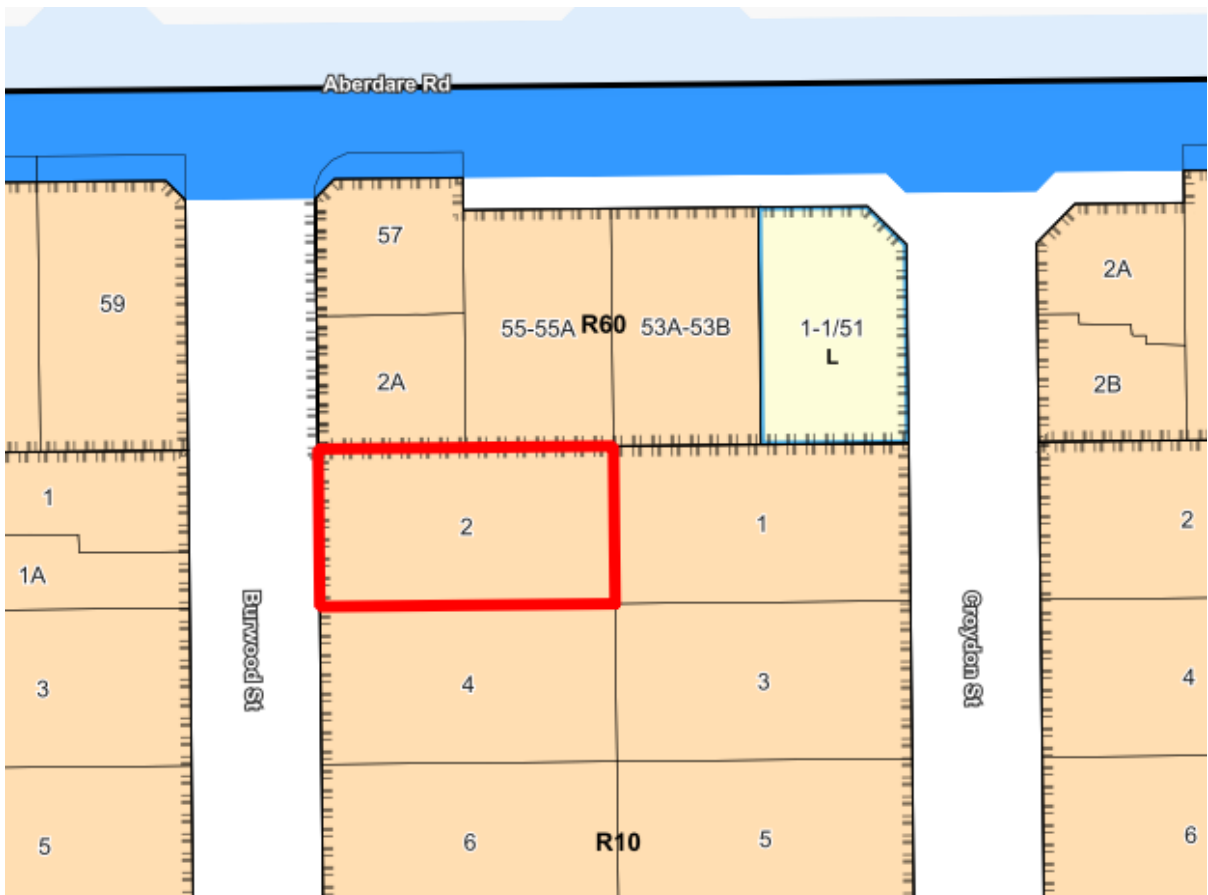
### 3.0 Background

#### 3.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R10
<b>Land area</b>	1115m <sup>2</sup>
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Single Residential
<b>Use Class</b>	P

### 3.2 Locality Plan

The subject site fronts Burwood Street and is zoned Residential, R10. To the north of the subject lot, is residential land zoned R60. Aberdare Road, to the north of the site represents the border between the City of Nedlands and the City of Subiaco.



## **4.0 Application Details**

The applicant seeks development approval to convert a garage to an ancillary dwelling and install a carport to a single residential dwelling, details of which are as follows:

- The applicant proposes to convert the existing garage into an ancillary dwelling. The proposed conversion includes the addition of storerooms, bathroom, kitchen and bedroom. No change to the existing building's footprint is proposed, with minimal external modifications being proposed.
- The proposed ancillary dwelling is fully compliant with the R-Codes and LPS3.
- The applicant has proposed the installation of a new, double carport addressing the primary street (Burwood Street). The proposed carport is to be installed in the north-western corner of the lot, being setback 1.5m from the northern and western (primary street) boundaries.
- The carport is to be integrated into the primary street fencing and accommodate a visually permeable door, addressing the primary street.

By way of justification in support of the development application the applicant has provided a justification letter. This letter has been provided as an attachment to this report.

## **5.0 Consultation**

The applicant is seeking assessment under the Design Principles of the R-Codes for the following:

- Carport primary street setback

The development application was therefore advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 17 neighbouring owners and occupiers. No submissions were received during the consultation period.

## **6.0 Assessment of Statutory Provisions**

### **6.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates 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.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

### **6.2 Policy/Local Development Plan Consideration**

#### **6.2.1 Residential Design Codes – Volume 1 (State Planning Policy 7.3)**

The applicant is seeking assessment under the Design Principles of the R-Codes for primary street setbacks as addressed in the below table/s:

## Primary Street Setbacks

<b>Design Principles</b>
<p><b>5.1.2 Street setback</b></p> <p><b>P2.1</b> Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>• contribute to, and are consistent with, an established streetscape;</li> <li>• provide adequate privacy and open space for dwellings;</li> <li>• accommodate site planning requirements such as parking, landscape and utilities; and</li> <li>• allow safety clearances for easements for essential service corridors.</li> </ul> <p><b>P2.2</b> Buildings mass and form that:</p> <ul style="list-style-type: none"> <li>• uses design features to affect the size and scale of the building;</li> <li>• uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>• minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</li> <li>• positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</li> </ul>
<b>Deemed-to-Comply Requirement</b>
<p>The R-Codes require a minimum 7.5m primary street setback for buildings. The City of Nedlands Local Planning Scheme No. 3 (LPS3) modifies the primary street setback requirements from 7.5m to 9.0m for properties zoned R10, R12.5 and R15.</p>
<b>Proposed</b>
<p>The submitted plans indicate the carport proposes a 1.5m primary street setback.</p>
<b>Administration Assessment</b>
<p>R10 zoned properties are characterised by generous primary street setbacks to their respective primary streets and neighbouring properties. The proposed carport setback represents a 7.5m primary street setback shortfall as required by LPS3. The proposed primary street setback of 1.5m is uncharacteristic of development within the R10 density code, being more in keeping with development typologies of R60 and R80 zoned land.</p> <p>The applicant has land available behind the proposed carport which could be utilised to provide a greater primary street setback than the 1.5m proposed. The applicant could install a double carport (6m x 6m) within the front setback area and provide a 7.3m primary street setback.</p> <p>The proposed carport setback of 1.5m is not characteristic of property zoned R10 or consistent with the prevailing existing streetscape of Burwood Street.</p>

## 6.2.2 Local Planning Policy – (Draft) Residential Development Policy

<b>Policy Objective</b>
<p><b>3.1</b> To enhance the amenity and aesthetics of areas within the City.</p>
<p><b>3.2</b> To provide for residential development that is consistent with established or desired streetscapes.</p>
<p><b>3.3</b> To reduce the dominance (scale, mass and bulk) of buildings as viewed from the street.</p>
<p><b>3.4</b> To provide for building heights which are consistent with the character of the area and the topography of the site.</p>
<p><b>3.5</b> To prevent inappropriate buildings within rear setback areas in order to protect the amenity of surrounding properties and maintain the spacious green character of the City.</p>

<b>Policy Requirement</b>
<p><b>4.2</b> Setback of garages and carports</p> <p><b>4.2.1</b> In addition to Clause 26(1)(b) of LPS 3, Clause 5.2.1 of the R-Codes is amended to include the following additional deemed-to-comply requirements:</p> <p><b>C1.6</b> On land coded R10, R12.5 and R15, other than lots identified in Schedules 2 &amp; 3 of LPS 3, carports may be setback forward of the 9m primary street setback line provided that the following is met:</p> <ul style="list-style-type: none"> <li>i. the width of the carport does not exceed 50 percent of the lot frontage, and the carport allows an unobstructed view between the dwelling and the street, right-of-way or equivalent;</li> <li>ii. the carport is setback a minimum of 3.5m from the primary street;</li> <li>iii. the carport is not greater than 36m<sup>2</sup> in floor area as measured from the outside of the posts;</li> <li>iv. Side setbacks as per the R-Codes;</li> <li>iv. the carport complies with Table 1 - Maximum carport height;</li> <li>v. the carport cannot be accommodated behind the street setback line and compliant with side setback provisions of the R-Codes.</li> </ul>
<b>Proposed</b>
The submitted plans indicate a proposed 1.5m primary street setback.
<b>Administration Assessment</b>
<p>The submitted plans are inconsistent with the City's Draft Residential Development Policy, proposing a 1.5m primary street setback in lieu of the required 3.5m. The residential development policy seeks to protect and enhance the streetscape character and ensure future development meets the requirements of the property's land zoning. The proposed carport would become a dominant intrusion into the established streetscape of Burwood Street, setting a precedent of development not only forward of the 9.0m required by LPS3 but forward of the 3.5m required under the residential development policy.</p> <p>The proposed carport development is inconsistent with the existing streetscape character of Burwood Street and does not meet the desired future primary street setbacks outlined within the City's Draft Residential Development Policy.</p>

## 7.0 Conclusion

The development application lodged by the applicant can be split into two (2) elements, a proposed garage conversion into an ancillary dwelling and installation of a new carport within the primary street setback area. The proposed garage ancillary conversion is supported by the City. The proposed primary street setback to the carport is not supported by the City.

The City recommends a partial approval for the development application, approving the proposed garage to ancillary conversion and refusing the proposed carport.

The proposed 1.5m primary street setback to the carport is inconsistent with the established and desired streetscape of Burwood Street and does not meet the objectives of the City of Nedlands Local Planning Scheme No. 3 or the City's Draft Residential Development Policy. The proposed 1.5m primary street setback, in combination with the proposed carport door would contribute to a significant intrusion into the street's established streetscape character. The subject property has the capacity to provide a 3.5m primary street setback to a double carport (6m X 6m), ensuring compliance with the City's Draft Residential Development Policy.



Considering the above, due to the significant intrusion of the proposed carport within the front setback area and the ability for the applicant to provide a compliant 3.5m primary street setback, which is consistent with the City's Draft Residential Development Policy, it is recommended that the Council **REFUSES** the application for a carport addition and **APPROVES** the proposed garage to ancillary dwelling conversion.

Attachment for Development Application 2 Burwood St Nedlands 6009  
no DA19/37524

Specific Request – variation to set back of car port from boundary from 3.5m to 1.5m.

Purpose of Building Application

- To provide accommodation for elderly family member with significant health problems, recent major heart surgery.
- To enclose the front of the block to allow safe use of this space for my young children. This in the context of increased traffic on Burwood St related to Hospital development.
- To allow undercover secure parking while retaining practical access to the paved area in front of house for boat and trailer parking.

Problem

With a 3.5m set back the rear of car port encroaches too close to the front of the house creating an acute angle to access the paved area in front of the house currently used for boat and trailer parking. It would make it nearly impossible to use this area. I have no accessible alternative space.

In addition, the position crowds and shadows the front of the house and is aesthetically unacceptable.

Pretext and Rationale for Variation

-The site of the proposed car port directly adjoins property that was re-zoned to R60 in April 2019.

-There is usually a principle in planning of transition. My property is R10 directly next to R60.

-There are existing local precedence. I was able to find several examples within a very short distance from my property.

Example 1: 2B Burwood St. the house recently built on the original block that adjoins my property on the corner of Burwood and Aberdare road. Approximately 20m from the car port that I propose. A fully enclosed garage with no truncation and a set back of less than 1.5m was built this year (see photo 1 and 2).

Photo 1



Photo 2





Example 2: 9 Burwood St. A car port has less than a 2m set back from the pedestrian foot path. 70m from my property (see photos 3 and 4).

Photo 3



Photo 4



Example 3: 94 Aberdare Road. 50m from my property, a fully enclosed garage with no set back from the foot path (see photo 5).

Photo 5





Example 4: 2B Campsie St. The roof line of the car port is around 1 m from the boundary (see photo 6 and 7).

photo 6





Photo 7



Example 5: The property next to No 18 Campsie St on the corner with Verdun St has a car port with a solid door and a set back of just under 1.5m on Campsie St ,a similar distance from the corner of the street as the car port I have proposed (see photos 8 and 9).

Photo 8





Photo 9





Example 6: the property on the corner of Kitchener and Verdun St closest to Burwood St has a car port set back around 1m from the Verdun St foot path. There are others, such as 12 and 10A Kitchener St with set back of around 2m to car ports, and others under 3.5m.

I have only included the most obvious examples.

Safety consideration

- There is no pedestrian foot path in front of my property.
- The existing large brick gate post and 180m brick wall which can now obscure vision (see photo 10) will be demolished to allow a truncation to the 1.5m set back and be replaced by a visually permeable fence. In addition, the proposed car port door will be visually permeable. The same as the fence panels.

Photo 10



I hope that you don't find it unreasonable to consider these factors in your adjudication over my application. It will be difficult for me to go ahead with this build without all the element as they have been designed.

Sincerely

Dr John Edwards

<b>PD50.19</b>	<b>No. 85 Clifton St, Nedlands – Change of Use (Residential to Short Term Accommodation, Holiday House)</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	Karen Morris
<b>Landowner</b>	Karen Morris
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right 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.
<b>Reference</b>	DA19/38823
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Management Plan</li> <li>2. Applicant Justification</li> <li>1. Assessment Sheet (Confidential)</li> <li>2. Submissions (Confidential)</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a retrospective Development application received from the applicant on the 16 August 2019, for an existing short-term accommodation to a residential property at No. 85 Clifton St, Nedlands.

Short term accommodation is an 'A' use under the City of Nedlands Local Planning Scheme No. 3 (LPS3). As such, the application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy - Consultation of Planning Proposals. Two (2) objections were received during the advertising period.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is unlikely to have a significant adverse impact on the local amenity and character of the locality.

## **2.0 Recommendation to Committee**

**Council approves the retrospective development application dated 16 August 2019 for short term accommodation at 85 Clifton St, Nedlands, subject to the following conditions and advice notes:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the use of 85 Clifton St, Nedlands as short-term accommodation.**
- 3. A maximum of 6 guests are permitted on the premises at any one time.**
- 4. The Management Plan forms part of this approval and is to be complied with at all times to the City's satisfaction.**
- 5. All car parking associated with the short-term accommodation being contained on site.**
- 6. The proposed use complying with the Holiday House definition stipulated under the City's Local Planning Scheme No. 3 (refer to advice note 1).**
- 7. No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.**
- 8. Service and/or delivery vehicles are not to service the premises before 7.00 am or after 7.00 pm Monday to Saturday, and/or before 9.00 am or after 7.00 pm on Sundays and Public Holidays unless otherwise approved by the City beforehand.**

**Advice Notes specific to this proposal:**

- 1. With regard to condition 6, the applicant and landowner are advised that the use Holiday House is defined as the following in accordance with Local Planning Scheme No. 3:  
  
'Holiday House means a single dwelling on one lot used to provide short-term accommodation for persons other than the owner of the lot'.**
- 2. This decision does not obviate rights and responsibilities of strata owners under the Strata Titles Act 1985, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.**
- 3. Noise levels are to comply with the Environmental Protection (Noise) Regulations 1997.**

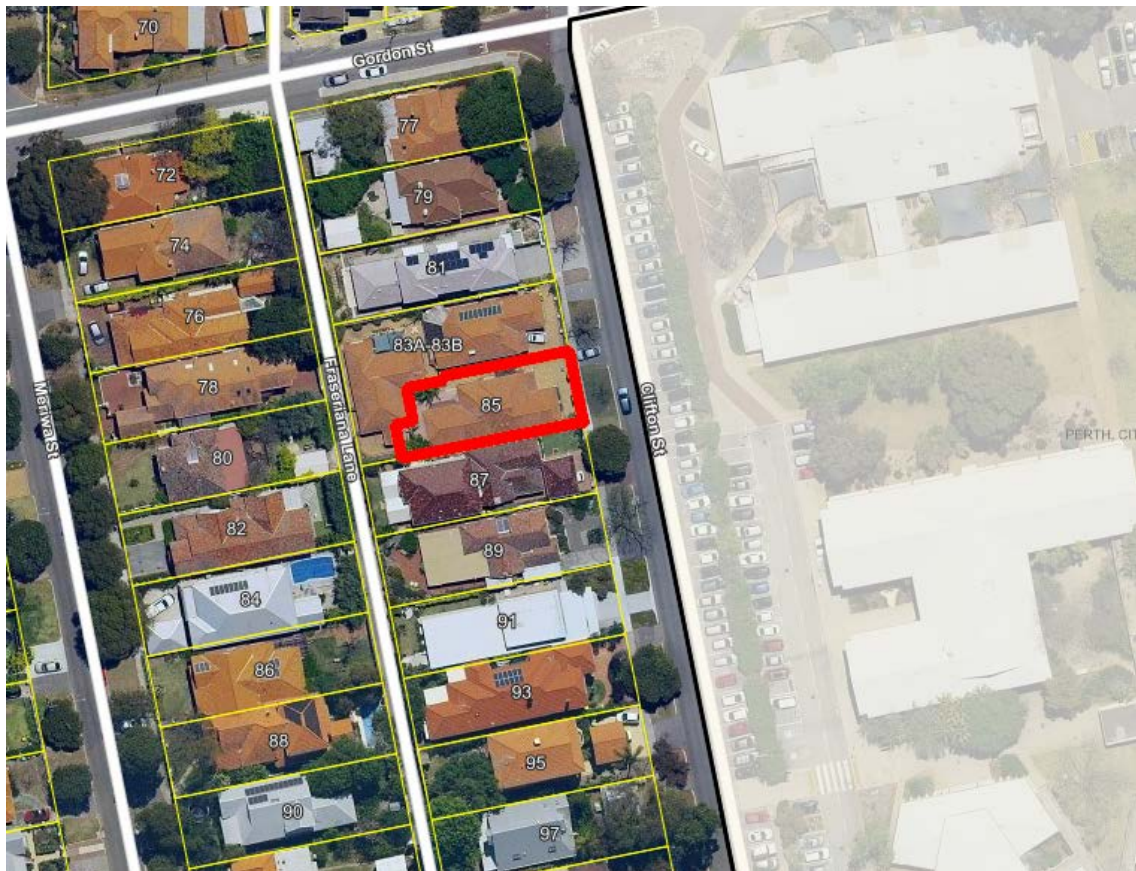
### 3.0 Background

#### 3.1 Land Details

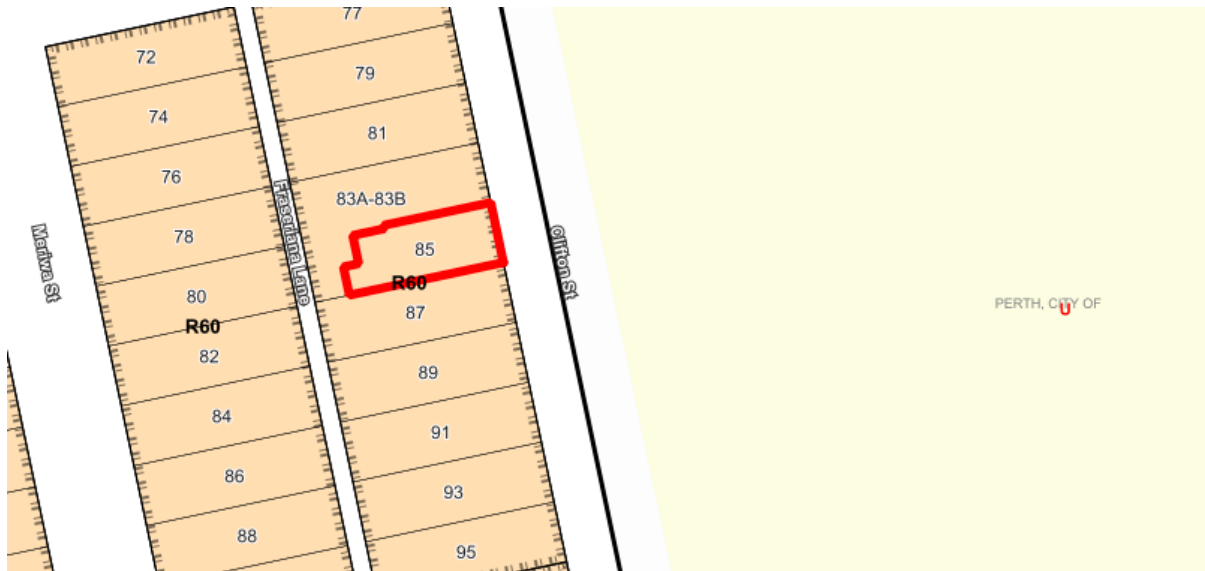
<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R60
<b>Land area</b>	358m <sup>2</sup>
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Existing – Residential Proposed – Residential and Short-Term Accommodation
<b>Use Class</b>	Proposed – ‘A’ use class for short term accommodation in a residential zoned area

#### 3.2 Locality Plan

The property at 85 Clifton St, Nedlands has its primary frontage addressing Clifton St. This street represents the boundary between the City of Perth and the City of Nedlands Local Government Areas. The subject property is part of a three-lot strata/grouped dwelling development.







#### 4.0 Application Details

The applicant seeks retrospective development approval for a change of use from residential to short-term accommodation (Holiday House), details of which are as follows:

- 85 Clifton St, Nedlands has been operating as short accommodation (on 'Air BnB') since 2016.
- The applicant seeks retrospective approval for the use of the subject property as a 'Holiday House', operating as an 'Air BnB' for approximately 50% of the year and a single residential house, whilst not tenanted as short-term accommodation.
- A minimum booking of 3 days applies for all tenants.
- A maximum of 6 guests are permitted on site at any one time.
- LPS3 defines a 'Holiday House' as, "a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast."
- LPS3 defines 'short-term accommodation' as, "temporary accommodation provided either continuously or from time-to-time with no guest/s accommodated for periods totalling more than 3 months in any 12-month period."

By way of justification, in support of the retrospective development application the applicant has provided a letter of response, addressing the submissions received. This has been provided as an attachment to this report.

#### 5.0 Consultation

The applicant is proposing a change of use to 'Holiday House' from residential. A 'Holiday House' is a 'A' use under LPS3.

An 'A' use, 'means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions'.

The development application was therefore advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 75 neighbouring owners. During the consultation period, two (2) objections were received as per below pie graph.





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

Submission	No. of times issue raised	Officer Response	Action Taken
The proposed short-term accommodation will result in additional traffic movements and noise.	1	The proposed management plan indicates that the entire property is to be used as a holiday house, with no subletting of individual rooms proposed. Due to this configuration, it is likely that the property would be occupied by a single family or group, which would access the property via 1 or 2 vehicles. Residential dwellings are required to provide onsite parking for a minimum of two vehicles. The resulting traffic movements associated with the operation of the property as a holiday house are in keeping with those expected for a single residential dwelling and are unlikely to increase congestion and traffic movements in the area.	Condition 5 has been recommended, ensuring all car parking associated with the Holiday House are contained on-site.
Commercial activities should not be supported in a residential area as they attract higher traffic volumes and create additional noise.	1	To the east of the subject property is UWA campus. This campus attracts a high volume of vehicular traffic and commercial activity. A Holiday House is utilised for the similar purposes as a residential property, to house people, albeit on a short-term basis. The shorter time frames of a Holiday House are unlikely to have a negative impact on surrounding	Condition 4 has been recommended, requiring that the provisions of the management plan are adopted and enforced by the landowner, to mitigate

		properties when compared to the permitted use of the property as a rental property.	potential negative amenity impacts and risks associated with the operation of short-term accommodation
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Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.

## 6.0 Assessment of Statutory Provisions

### 6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates 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.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's, scale, and the potential impact it will have on the local amenity.

### 6.2 Local Planning Scheme No. 3

#### Part 3 Clause 16 (Objective of Zone) (Residential)

The residential zone objectives seek to provide a range of housing and to provide a range of no residential uses which are compatible with, and complementary to residential areas.

The application for Short Term Accommodation (Holiday House) is considered to satisfy the objectives of the residential zone. Short term accommodation provides a unique housing typology, which is considered to be complimentary to surrounding residential land uses.

### 6.3 Policy/Local Development Plan Consideration

#### 6.4.3 Local Planning Policy – Short-Term Accommodation Policy

Policy Objective	
3.1	To ensure the location and scale of short-term accommodation uses are compatible with the surrounding area.
3.2	To maintain a high standard of amenity for the surrounding neighbourhood through required management controls.
3.3	To ensure properties used for a short-term accommodation uses do not have an undue impact on the residential amenity of the area by way of noise, traffic, or parking.
3.4	To establish a clear framework for the assessment and determination of applications for short-term accommodation.

<b>Policy Requirement</b>	
4.2	Applications for Holiday House, where a keeper does not reside on-site may be supported where: <ol style="list-style-type: none"> <li>a) The number of guests is limited to 6 persons; and</li> <li>b) Bookings must be for a minimum stay of 2 consecutive nights.</li> </ol>
<b>Proposed</b>	
The proposed change of use application to short-term accommodation features the following: <ul style="list-style-type: none"> <li>• Guests numbers are restricted to a maximum of 6 individuals</li> <li>• Parties are prohibited.</li> <li>• A three-day minimum booking period applies.</li> </ul>	
<b>Administration Assessment</b>	
The application for a change of use is considered to meet the objectives and requirements of a Holiday House under the short-term accommodation policy. The applicant has demonstrated through the submitted management plan that the use of the residential dwelling will likely have a negligible impact on neighbouring landowners and the surrounding amenity of the property.	

## 7.0 Conclusion

The application for a change of use from residential to short-term accommodation (Holiday House) is considered to satisfy the objectives and requirements of the City of Nedlands Local Planning Scheme No. 3 and the City of Nedlands (Draft) Short Term Accommodation Policy.

The proposed configuration of the single dwelling as a Holiday House is unlikely to cause additional traffic movements which are out of keeping with a single residential property. Considering the locality, the presence of UWA to the east of the subject site as a commercial centre, will likely further reduce the perceived impact of the proposed Holiday House. Having given due regard to the submissions received, the application's management plan and the surrounding context of the development, **approval** for this application is recommended.

**RE: 85 Clifton Street, NEDLANDS: Retrospective Development Application**

The owner has not been previously aware that registration of houses offering short stays is required, and the council website only mentioned that visitors to Nedlands are encouraged and that registration for food serving accommodation types was required. The need to register may not be well known in the community.

The owner has set the house up for short-stay "holiday" accommodation and now seeks retrospective development approval for same.

This property has been successfully operating since 2017 meeting some of the demand for short-stay accommodation in Nedlands. No complaints about any tenants have been received. Most tenants have required accommodation near hospitals and UWA.

To date the home owner has let the house for short term rentals approximately 50% of the time only. For the remaining half of the year the house has been held privately, and used privately. The home owner will be temporarily moving into the property soon for a time while repairing and redecorating principal place of residence. Short-term rental option does provide the owner with flexibility in this regard.

The property consists of a three-bedroom freestanding residential house on a green title block of land (358m<sup>2</sup>) which is fully fenced off and gated around the entire perimeter of the lot (ie no shared areas, walls, carparks or facilities). There are two parking spaces within the confines (border) of the property. The property is situated around the corner and less than one block from the Stirling Highway/UWA public transport route, thereby easily accessible to public transport, and has been recently reclassified for higher density development with R60 Code (I believe). There have been no complaints at all from neighbours about any of the tenants to date.

Nature of short-term rental agreements (whole of house, no food served):

1. Control of guest/tenant numbers is required by owner and is achieved by placing a limit of 5-6 family members/guests, which forms part of the formal contract agreement.
2. The tenant agrees formally that he/she recognises that functions/parties at the property are strictly prohibited, and the stay is for private purposes only and agreed guest numbers only (5-6 or less).
3. The list of house-rules includes the statement that: "Disturbance to neighbours (eg. excessive noise) may result in termination of rental agreement."
4. There are no weekender type bookings as a 3-day minimum booking applies. Average length of any one stay is estimated at around 6-7 days.
5. To further filter for responsible tenants a damage deposit bond is collected. To date there has been no need to claim against any bond.

The above rules/stipulations/agreements are very strict.

It would be very difficult to achieve the same level of tenant control with a long-term tenancy as the above types of strict and limiting agreements are not common in long term leases.

Should you have any further questions please don't hesitate to ask.

Yours Sincerely, Karen Morriss (owner).

## 7.0 MANAGEMENT PLAN

- a. *Establishing the maximum number of guests which will stay, in addition to (if applicable) those which reside at the property on a permanent basis.*

Maximum guest number is 6 and this is set and not negotiable, family/group signs off on this stipulation. There has never actually been a family or group of 6 book this property, most families are smaller. Very commonly there are bookings with mother, father, and child.

- b. *Establishing a code of conduct detailing the expected behaviour and obligations of guests. The code of conduct shall be displayed in a prominent position within the premises.*

The following council relevant code of conduct stipulations are signed off on by the family/group at the time of the booking and a copy of these stipulations is provided on the kitchen bench in the form of a printout as well as in the house guide also prominently located in the kitchen.

(i) No parties/functions/events, (ii) for domestic use only, (iii) agreed occupancy numbers only, (iv) disturbance to neighbours (eg. excessive noise) may result in termination of rental agreement, (v) Quiet time after 10pm.

- c. *Details of how complaints regarding anti-social behaviour, car parking and noise, amongst other matters, will be managed by the landowner(s).*

Car Parking: As per information provided previously two carparks exist within the border of the property, a further carparking spot is available on the drive-way as per council stipulations and the guest/s is advised that council requires that the footpath should not be blocked (by text message and house guide).

I would expect families/groups would use my family home as per any other home in the street, including coming and going from the property as any family would, families are busy, no matter whether they are residing at their own home or in a short stay environment. I encourage families to stay at my property and on Airbnb my property features as a family friendly home. The majority of bookings thus far have been families. The following information applies to any possible to anti-social behaviour (there have been no complaints of anti-social behaviour at my property):

Anti-social behaviour is not acceptable, and preventative measures include as per above (i) termination of rental agreement (this is in writing), (ii) collection of a damage deposit bond, and (iii) stipulation of no parties or events (iv) quiet time after 10pm. I am the owner/manager of the property and live a few streets away. I am able to attend the property should that be required and I drive past the property daily to ensure all looks in order.

I would expect, no matter where the anti-social behaviour is occurring whether that be in any home in any street, that the police would be called if there is the possibility of violence or harm. I have provided in the property guide for guests all Australian emergency phone numbers, particularly relevant for any guests who come from another country who may not know these phone numbers.

- d. *The contact details of the landowner(s) if a neighbour wants to lodge a complaint.*

Happy to provide to council, and to date I have been at the property every day that it is not leased (~50% of the year).

- e. *Details regarding guest check-in and check-out procedures (i.e. days and times).*

Check-in from 3pm, check-out prior to 10am. There is no ban on any particular day for either of these processes, there is no constant stream of people coming and going as a three-day minimum length stay applies and this is a family house and not a weekender. Typically, a family “checks-in” on average once or twice a month. As previously mentioned, Airbnb type bookings have accounted for around 50% of the occupancy days at the property.

- f. *Details of how car parking for those staying at the property and (if applicable) those residing at the property on a permanent basis, will be managed by the landowner(s). The measures proposed are to ensure vehicles will always have easy access to on site car parking spaces.*

Car Parking: As per information provided previously two carparks exist within the border of the property, a further carparking spot is available on the drive-way attached to the property as per council guidelines and the guest/s is advised that council requires that the footpath should not be blocked (house guide). Information is provided to the guest/s on how to use the gates. By far the vast majority of guest groups are families and they either have no car or one car. If emergency parking is required then

my verge could be used, also over the road from the property are a large number of carparks which are unused during the evenings and weekends. There is no shortage of parking options at the property.

- g. *Details of how the guests will be informed of the requirements for parking.*

Please see above information, which covers this aspect.

- h. *Details regarding how guests are expected to maintain the property.*

Guests are instructed to leave the property largely as found (neat, tidy and in good repair). General maintenance of the property rests with myself and the guest has all my contact details should any part of the property require attention.

- i. *Details whether pets and guests associated with those staying at the property will be permitted, and if so, how this will be managed.*

No pets allowed at the property, that is signed off by the tenant in writing. Guest numbers are strict and that is signed off by the tenant at the time of booking. From time to time guest/s of the tenant/s (such as grandmother, friends) may visit the property. These guests of guests are welcome, however do not form any part of the aforementioned booked guest/s.

- j. *Details of compliance with Strata By-laws (if applicable) in the form of a statement of compliance.*

N/A

- k. *To provide details of waste disposal.*

Instructions on all matters of waste disposal are at the property in the guide including the council calendar for collections. I have no expectation that tenants will remember to put the bins out and I always send a text message reminder on bin day as to which bins to put out and where.

**RE: 85 Clifton St, Nedlands (DA19-38823) justification letter**

The house has been managed as a short-stay since 2017 with zero complaints, and I would like to ask council to please support this application in full. I would also like to mention that the registering with council of short stay homes (where no food is served) was not a requirement according to the council website at the time this property was set up in 2017, and I have only been recently made aware of this requirement.

**RESPONSE TO SAFETY CONCERNS AND UNACCEPTABLE NOISE CONCERNS:**

Is there any reliable data available to council that quantifies the occurrences of violent and/or unsafe behaviour and unacceptable noise nuisances, and whether there is a positive correlation with either short-term tenants, long-term tenants, or owner occupiers? Perhaps this is something for council to look into, maybe the police would have some of the data? I do not have any knowledge or expertise with these statistics, but would note that anecdotal perceptions and actual reality may differ. I do not know how to respond to these general concerns without relevant reliable data.

I have submitted the management plan I have been using to keep my property running well and safely and ask that councillors read the details of that plan, as it is unusually strict for an Airbnb listing, and it filters and limits bookings. The plan has worked very well, and the damage deposit bond I request at every booking (for the last two years) has so far always been returned in full to the tenants, as there has been no damage, no anti-social behaviour, and no anti-social noise.

As a property owner I do not wish for abnormal noise, damage, or fears for safety of neighbours or tenants. That is the case whether my property is rented short term, long term, or used privately. My actual experience has been that a short-stay property is easier to control and maintain (compared to long term leasing) because of the ability to manage the leasing environment strictly, quickly, and closely.

**RESPONSE TO CONCERNS OF INCREASED MOVEMENT OF PEOPLE:**

Movement of people at my property is domestic in nature, and would certainly not be deemed unacceptable, as families tend to come and go from all properties in any street you could name, and my own house is no different. A family arriving at my house once or twice a month on average should not cause concern to anyone. The property is leased only around 50% of the time (these are the figures to date for this year), and because of this there tends to be far less "people" activity than there would perhaps be from other permanent long-term tenants/residents in any street who would access and use a property multiple times every single day. Also, the house is solid brick, free-standing and well offset, green titled, and with no shared facilities, parking, or walls.

Thank you for considering this application.  
Karen Morriss, owner 85 Clifton Street, Nedlands.



<b>PD51.19</b>	<b>No. 7 Nidjalla Loop, Swanbourne – Additions to a Single House (Privacy Screen)</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	Niche Living
<b>Landowner</b>	Halina and Paul Bitdorf
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right 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.
<b>Reference</b>	DA19/38434
<b>Previous Item</b>	DA16/307
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Applicants Justification</li> <li>1. Assessment (Confidential)</li> <li>2. Plans (Confidential)</li> <li>3. Submission (Confidential)</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a Development application received from the applicant on the 9 August 2019, for a proposed privacy screen to a single residential property at No. 7 (Lot 12) Nidjalla Loop, Swanbourne.

The application proposes a 4.67m tall privacy screen, to be located on the northern property boundary, with a nil lot boundary setback.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy - Consultation of Planning Proposals. One (1) objection was received during the advertising period.

It is recommended that the application be refused by Council as the application is not considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is likely to have a detrimental impact on the local amenity of adjoining property owners.

## 2.0 Recommendation to Committee

1. Council refuses the development application dated 9 August 2019 to install a privacy screen at No. 7 (Lot 12) Nidjalla Loop, Swanbourne for the following reasons:
  - a) The proposed screen is classified as ‘building on boundary’ and is not compliant with State Planning Policy 7.3 Residential Design Codes in terms of scale and setback requirements.
  - b) The proposed privacy screen does not meet the objectives of the City’s Fill and Fencing Policy, clauses 2.0 and 9.0.

### Advice Notes

2. The applicant is advised that the City deems the screen to be unnecessary due to the screen obscuring non-habitable rooms, and therefore those rooms are not subject to visual privacy provisions as described by State Planning Policy 7.3, Residential Design Codes Volume 1.

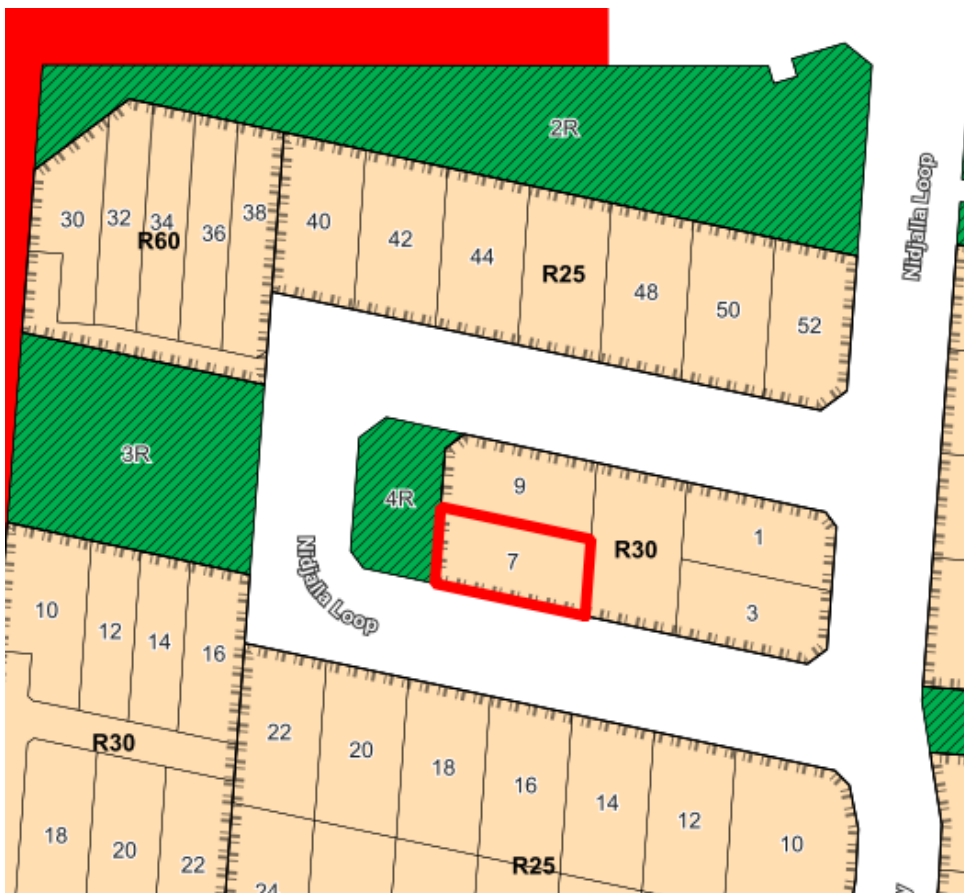
## 3.0 Background

### 3.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R30
<b>Land area</b>	310m <sup>2</sup>
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	Swanbourne Design Guidelines
<b>Land Use</b>	Residential
<b>Use Class</b>	Residential

### 3.2 Locality Plan

7 Nidjalla Loop, Swanbourne is a residential zoned property with an existing single house, located within the Coastal Ward of the City of Nedlands. To the north of the site is the Cottesloe Golf Course and to the east of the site is the Swanbourne Primary School. The property has a direct frontage to Nidjalla Loop.



## 4.0 Application Details

The applicant seeks development approval to install a screen wall to the north of the lot, details of which are as follows:

- The proposed screen wall is to be 4.67m above the Finished Floor Level (FFL) within 7 Nidjalla Loop.
- The proposed screen wall is to have a width of 4.48m
- The proposed screen wall is to be located on the northern lot boundary with a nil lot boundary setback.
- The proposed screen wall is to be contained wholly within 7 Nidjalla Loop’s lot boundary.

By way of justification in support of the development application, the applicant has provided a design principle assessment, addressing the submissions received. This has been provided as an attachment to this report (Attachment 1).

## 5.0 Consultation

The applicant is seeking assessment under the Design Principles of the R-Codes for the following:

- Building on Boundary
- Dividing Fence Height

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to neighbouring owners and occupiers. One (1) objection was received during the consultation period.

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

Submission	No. of times issue raised	Officer Response	Action Taken
The proposed screen wall is not compliant with the City of Nedlands Fill and Fencing Policy	1	<ul style="list-style-type: none"> <li>• The City of Nedlands Fill and fencing Policy permits dividing fencing to a maximum height of 1.8m above any approved cut and/or fill levels at a property boundary.</li> <li>• The proposed screen wall, whilst not a ‘dividing fence’ is located on the northern property boundary, abutting the current dividing fence. The proposed screen wall exceeds the permitted dividing fence height by 2.87m and is considered to be excessive in this instance.</li> </ul>	Recommendation that the application be refused.
The screen wall blocks access to light and ventilation.	1	<ul style="list-style-type: none"> <li>• The screen wall is proposed to be constructed on the northern property boundary. Overshadowing, as a result of the proposed screen wall structure does not extend beyond the boundaries of the lot.</li> </ul>	Recommendation for refusal.

		<ul style="list-style-type: none"> <li>The proposed screen wall structure is to be 40% permeable, being constructed of a semi-permeable metal mesh. This material choice should permit the passage of air, reducing the possible impact on neighbouring property's access to ventilation.</li> </ul>	
The proposed screen will detract from the amenity of neighbouring properties.	1	The proposed screen wall is 4.67m tall by 4.48m wide and will be a significant structure located with a nil lot boundary setback to 9 Nidjalla Loop. The structure is inconsistent with its surroundings. There is no statutory requirement under the R-Codes of City of Nedlands Local Planning policy to screen bathrooms or stairwells.	Recommendation for refusal
The proposed screen wall is unnecessary	1	The proposed screen wall would obscure a bathroom and stairwell of the neighbouring lot. Under State Planning Policy 7.3 Residential Design Codes, a bathroom and staircase are not considered to be 'habitable rooms' and are therefore not subject to visual privacy setback and/or screening requirements. Considering the above, no screening is required under the R-Codes for the openings to these spaces.	Recommendation for refusal

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

## 6.0 Assessment of Statutory Provisions

### 6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates 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.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

### 6.2 Policy/Local Development Plan Consideration

#### 6.2.1 Residential Design Codes – Volume 1 (State Planning Policy 7.3)

The applicant is seeking assessment under the Design Principles of the R-Codes for lot boundary setbacks, as addressed in the below table:



## Lot Boundary Setbacks

<b>Design Principles</b>
<p>P3.2</p> <ul style="list-style-type: none"> <li>• Buildings built up to boundaries (other than the street boundary) where this:</li> <li>• makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</li> <li>• does not have any adverse impact on the amenity of the adjoining property;</li> <li>• ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted.</li> </ul>
<b>Deemed-to-Comply Requirement</b>
<p>An R30 zoning permits structures to be built up to a single lot boundary provided:</p> <ul style="list-style-type: none"> <li>• the boundary wall does not exceed 2/3 of the length of the lot boundary</li> <li>• the average boundary wall height does not exceed 3.0m</li> </ul>
<b>Proposed</b>
<p>Proposed screen wall to be constructed with a nil lot boundary setback to the northern lot boundary. The screen wall is proposed to have a height of 4.67m and a length of 4.43m.</p>
<b>Administration Assessment</b>
<p>The existing property contains boundary walls which address two (2) lot boundaries. As a result, there are no additional 'deemed to comply' boundary walls permitted for the property.</p> <p>The proposed screen wall is 4.67m high for its entire length of 4.48m. The screen wall structure exceeds the average 3.0m height requirement for a boundary wall. The proposed screen wall does not meet the deemed to comply standards of the R-Codes under clause 5.1.3, P3.2 Lot Boundary Setback.</p> <p>The screen wall is considered to be excessive in height and not compliant with the requirements for a boundary wall structure when assessed independently and in conjunction with the existing residence.</p>

### 6.3 Local Planning Policy – City of Nedlands Fill and fencing Policy

<b>Policy Objective</b>
<p>To outline the City's requirements with regard to fill and the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained. The City values the protection of the quality of the streetscape and the amenity of owners and occupants by minimising the visual impact of fill and/or fencing whilst allowing for adequate surveillance of public places.</p>
<b>Policy Requirement</b>
<p>Dividing fences shall have a maximum height of 1.8m above any approved or deemed-to-comply fill or retaining under the R-Codes.</p>
<b>Proposed</b>
<p>The proposed screen will have a height of 4.67m above the finished ground level (FGL) within 7 Nidjalla Loop</p>
<b>Administration Assessment</b>
<p>The proposed screen wall is considered to be excessive in height and out of character for the surrounding streetscape and development context. The proposed screen wall is to be 2.87m above the maximum permitted dividing fence height. The proposed structure is likely to negatively affect the surrounding amenity of neighbouring property owners and is unnecessary to prevent overlooking, as the structure screens non-habitable rooms of the neighbouring property.</p>

## 7.0 Conclusion

The proposed screen wall is assessed as superfluous and is not required for the purposes of visual privacy screening. The stated intent for the screening function is to prevent overlooking from the neighbouring property's bathroom and stairwell is not accepted as sufficient justification, and as the stated overlooking is not from 'habitable rooms' under the R-Codes, and therefore not subject to visual privacy provisions.

The proposed screen wall is therefore considered to be excessive in height, being 2.87m taller than the permitted maximum dividing fence height. The subject lot has exceeded its permitted boundary wall development, resulting in any new boundary wall structures being considered an over-development of the site. Considering the above, the City recommends that the application be **refused** as the proposed structure is likely to negatively impact the amenity of neighbouring properties.

City of Nedlands

Friday 11<sup>th</sup> October 2019

Planning Department

71 Stirling Hwy Nedlands WA 6009

Att: Mr. Scott van Ierland:

**Development Application - 7 Nidjalla Loop, Swanbourne (DA19/38434)**

We would like to make formal submission for the approval of the 'Privacy screen' as set out in the referred application above. We would like the City to consider the following:

1. DA2016/307 - Approval has been received.
2. The adjoining property owners do not agree to attach the screening structure to the parapet wall, due to engineering requirements to 100% free standing structure, the materials have been changed to assist in the reduced wind loading.
3. The current Development Application shows no fixing to any common wall or fence line. The structure is completely supported and contained.
4. The material used for the screen has been changed from Frosted glass to 40% Permeable screening. This will increase the amount of light through the screen.
5. The engineering (below ground) has been adjusted accordingly as per detailed submission.
6. Refer attached visual, sunlight and ventilation diagram.
7. Overall amenity has been 100% maintained with consideration to outlook, bulk and scale.

To summarize:

When considering previous DA approval, the current submission has simply changed the material used as the screen, (refer attached) and the below ground engineering. The size, structure and scale of the current submission remains unchanged. In fact, the overall project will be beneficial to both parties as all consideration has been given to achieve this result.

Yours Sincerely,

**Projex Management and Construction PTY LTD**

<b>PD52.19</b>	<b>Local Planning Scheme 3 - Local Planning Policy - Residential Development: Single and Grouped Dwellings</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Previous Item</b>	Item 6 – 2 May 2019 - Special Council Meeting PD27.19 – 23 July 2019 – Ordinary Council Meeting PD40.19 – 24 September 2019 – Ordinary Council Meeting
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Residential Development: Single and Grouped Dwellings LPP - tracked changes</li> <li>2. Draft Residential Development: Single and Grouped Dwellings LPP</li> <li>3. Submission</li> <li>4. Fill and Fencing LPP – Comparison Table</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to adopt the draft Residential Single and Grouped Dwelling Development Local Planning Policy (draft LPP), following advertising. The draft LPP has been modified by Administration following advertising.

The draft LPP provides guidance and supplementary requirements to the Local Planning Scheme No. 3 (LPS 3) and State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol.1) in relation to single and grouped dwelling. The policy does not apply to multiple dwellings or mixed-use developments which are captured by the Residential Design Codes Volume 2 - Apartment Design (R-Codes Vol. 2).

The draft LPP was first adopted for consent to advertise to the community at the Special Council Meeting held on 2 May 2019. The draft LPP was advertised for a period of 21 days with 14 submissions being received.

Following advertising, the draft LPP was modified by Administration and presented back to Council on several occasions as discussed in this report. It was most recently presented to the Council Meeting in September 2019 where Council resolved to make further modifications and re-advertise.

Following Council's resolution, the draft LPP was then re-advertised for a period of 21 days. Further modifications were made to the draft LPP following advertising, and this modified version is now being presented to Council for final adoption. If adopted, a section of the LPP relating to landscaping will need to be forwarded to the Western Australian Planning Commission (WAPC) for approval prior to it having effect.



## 2.0 Recommendation to Committee

1. Council proceeds to adopt the Residential Development: Single and Grouped Dwellings Local Planning Policy, with modifications as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii);
2. Refers the Residential Development: Single and Grouped Dwellings Local Planning Policy to the Western Australian Planning Commission for final approval in accordance with State Planning Policy SPP7.3, Residential Design Codes Volume 2 – Apartments 2019 Clause 1.2.3 and the City’s Local Planning Scheme No 3 Clause 32.4(5); and
3. Revokes the current Fill and Fencing Local Planning Policy in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 6.

## 3.0 Background

The draft LPP has been modified several times since being presented to the Special Council Meeting 2 May 2019. A summary of these modifications is provided below.

### 2 May 2019 – Special Council Meeting

Council resolved to prepare and advertise a series of policies, including the draft Residential Development LPP, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4. Council resolved to adopt the draft Residential Development LPP with a number of modifications.

Issue	Presented to Council	Amendment by Council
Carport setback from primary street	2.5m.	3.5m.
Building Height	8.5m wall height & 10m to roof pitch (deemed to comply heights as were applicable in TPS 2).	6m wall height & 9m to roof pitch (as per R-Codes Vol. 1).
Further guidance required for variations to 9m front setback clauses in LPS3.	Local Housing Objectives included as cl. 4.1.1 of the policy to provide further guidance for the assessment of development applications proposing less than 9m front setback.	cl. 4.1.1 deleted. Proposed reductions to 9m front setback to be assessed against only the Design Principles of R-Codes.
St. Johns Wood & Hollywood	Location specific clauses have precedent.	None, as this clause was already provided in the Residential Development LPP.
Landscaping	No provisions proposed. Officers did not consider landscaping requirements were required for single dwellings. Existing landscaping provisions for grouped dwellings are contained in the R-Codes.	Provision inserted to require 20% minimum landscaping requirement for all single house and grouped dwelling proposals.

The draft LPP was advertised for a period of 21 days with 14 submissions being received.

### **25 June 2019 – Council Meeting**

A Notice of Motion was placed which moved the following.

“Council:

1. resolves that, notwithstanding the removal of building height provisions from transitioning from Town Planning Scheme 2 to Local Planning Scheme 3, the height limits in Clause 2 below are to be taken as default policy provision for residential developments up to and including single and grouped dwellings; and
2. determines that the Residential Development Local Planning Policy should specify height limits for single and grouped dwellings in the residential zone as follows:
  - i. Maximum Building Heights
    - a. Top of external wall (roof above) 8.5m
    - b. Top of external wall (concealed roof) 8.5m
  - ii. Top of pitched roof 10.0m  
Gable walls above eaves height:  
  
Less than 9m long: exempted  
Greater than 9m long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height.
  - iii. Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.

CARRIED 10/1  
(Against: Mayor Hipkins)”

In response to the above resolution of Council, the building height provisions in the draft LPP were amended to reflect the approved changes.

### **23 July 2019 – Council Meeting**

Following review of the submissions received and further investigation of the policy provisions, the draft LPP was further modified by Administration prior to the July 2019 Council Meeting. The changes were:

- Added guidance for assessing applications which seek a reduction to the 9m front setback requirement;
- Added guidance for assessment of buildings within the 6m rear setback area for low density lots; and
- Inserting building heights to reflect those previously applied under Town Planning Scheme No. 2 (TPS 2) as per the Council’s 25 June 2019 Notice of Motion.

This modified version of the draft LPP was presented to Council for adoption to readvertise at its 23 July 2019 meeting, where Council resolved as follows:

“That Council proceed to the next item of business.

CARRIED 10/2  
(Against: Crs. Wetherall & Smyth)”

### **6 August 2019 – Council Briefing**

The draft LPP was presented to a Council Briefing session on 6 August 2019 for further discussion. This discussion focussed on the following components of the draft LPP:

- Development within the front setback area;
- Carports within the front setback area;
- Building heights (acknowledging previous resolution on this matter); and
- Buildings within the rear setback areas.

### **24 September 2019 – Council Meeting**

Following the 6 August 2019 Council Briefing, further modifications were made to the draft LPP based on suggestions from the Mayor and further review by Administration. The draft LPP was presented back to the Council on 24 September 2019, where Council resolved as follows:

“Council Resolution / Committee Recommendation

Council proceeds with the draft Residential Single and Grouped Dwelling Development Local Planning Policy, with modifications as set out in Attachment 1, with the deletion of clause 4.1.1 and in clause 4.4.2 (a) deletion of the words “ancillary dwelling”, and re-advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(2).

CARRIED EN BLOC 11/1  
(Against: Cr. Hodsdon)”

The draft LPP was modified as per Council’s resolution and re-advertised for a period of 21 days.

Further modifications were made to the LPP following re-advertising and the draft LPP is now being presented to Council for final adoption. If adopted, a section of the LPP relating to landscaping will need to be forwarded to the Western Australian Planning Commission (WAPC) for approval prior to it having effect.

The most recent modifications to the draft LPP are discussed in further detail in the Discussion section of this report.

## 4.0 Discussion

Administration proposes several modifications to the LPP following re-advertising, including a number of minor modifications, as well as modifications relating to front setback provisions.

### Minor modifications

The minor modifications to the LPP are outlined in Attachment 1 and are discussed in the table below.

Clause	Proposed modification	Justification
2.1 – application of policy	Reword application area from 'within all densities in the Scheme area' to 'anywhere the R-Codes Vol. 1 apply'	Improves clarity.
4.1.1 (a) – street setback	Replace 'more than 50%' with '50% or more'.	Specify that the clause can be applied if exactly 50% of dwellings have a setback of less than 9m.
4.2.1 C1.6 – carports	Add 'unenclosed' to carport.	Specify that carports subject to this clause do not have walls.
	Add vii – carports not to have visually permeable doors.	Carports with visually permeable doors are not considered appropriate to be exempt from needing development approval.
4.3.2 C2.5 – pergolas and vergolas	Delete.	Pergolas and vergolas are not classified as 'buildings' under the R-Codes and therefore are not subject to development control.
4.3.2 C2.6 - gatehouses	Reword and add maximum width requirement.	<ul style="list-style-type: none"> <li>Clarify that gatehouses are subject to sightline provisions in the R-Codes</li> <li>Avoid excessively wide gatehouses, which detract from the streetscape</li> <li>Specify that dimensions are measured from the street</li> <li>Provide reference to new figure illustrating gatehouse requirements</li> </ul>
4.4.1 C3.1vii – pool fencing	Reword.	To require that the setback considers laneway widening, to allow pool fencing within the lot boundary and to replace 'fill' with 'site works'.
4.4.2 – buildings in rear setback area	Modify list to be 'and/or'	Clarify that more than one circumstance can be used to support buildings being located in the rear setback area.
4.6 – street fencing	Reword.	Specify maximum height of fencing is 1.8m.
4.6.1 C4.1(i) and (ii) – piers in a front fence	Add reference to piers forming part of vergolas and pergolas.	Whilst pergolas and vergolas are not subject to development control, if they have piers forming part of a front fence, then those piers are subject to development control.
4.6.1 C4.3 – fencing to	Remove reference to 6.2.3.	Part 6 of the R-Codes has since been replaced with Volume 2, relating to apartments which are not subject to this policy.



secondary streets	Clarify that height is measured from secondary street side of fence.	Ensure consistency with how height of primary street fencing is measured.
4.7 – sightlines	Delete preamble.	Not required – already covered by R-Codes.
	Reword C5.1.	Improves clarity.
	Delete C5.1(ii).	Solid fencing is not permitted in the front setback area.
	Reword C5.1 (iii).	Improves clarity.
4.8 – landscaping	Reword.	Specify that clause applies to single and grouped dwellings, excluding multiple dwellings which are subject to Volume 2 of the R-Codes.
	Add reference to explanatory assessment guide for grouped dwellings.	Clarify that required landscaping is to be provided for each grouped dwelling site (rather than being measured over the whole site).
Boundary Fencing	Delete requirements for boundary fencing.	Avoid duplication of existing provisions in the Dividing Fences Act 1961.
7.0 – figures	Re-number figures and add figure illustrating gatehouse provisions.	Ensure consistency with the order figures are referenced in the policy.

### Development within the front setback area

Under Clause 26 of LPS 3 the front setback requirement under the R-Codes for R10, R12.5 and R15 densities has been modified (from an average 7.5m setback in the R-Codes Vol.1) to be a minimum of 9m.

As the 9m front setback is a discretionary requirement (rather than a non-discretionary requirement as previously under TPS 2), there is already the ability for landowners to seek approval for a reduced setback through an assessment under the Design Principles of the R-Codes Vol.1.

Under the Design Principles, there are considerations for when a reduced front setback is acceptable, however, Administration recommends further guidance is provided in the draft LPP to qualify how a 'prevailing development context and streetscape' is interpreted for the purpose of this assessment. This will ensure that the assessment of an established streetscape is consistent.

Under TPS 2 and the previous TPS 2 front setback policy, a reduced front setback was permitted where more than half the lots on the same side of the street block had a setback of less than 9m. Notably, TPS 2 and the policy did not specify how much the front setback could be reduced in these instances.

Clause 4.1.1 of the LPP presented at the 24 September 2019 Council Meeting set out that an established streetscape of less than 9m is described as occurring when more than 50% of the dwellings on one side of the street are forward of the 9m setback line, which is consistent with TPS 2 and the previous TPS 2 front setback policy.

Clause 4.1.1 differs from TPS 2 and the previous TPS 2 front setback policy as it specifies how much the front setback can be reduced when 50% of the dwellings are forward of the 9m setback line. When this occurs, the setback of the proposed dwelling is considered to be appropriate if it accords with the average setback distance of the dwellings on that side of the street. By considering the existing setbacks of dwellings on the street, this provision allows for an equitable assessment of a proposal for a reduced setback.

At the 24 September 2019 Council Meeting, Council resolved to delete clause 4.1.1 of the draft LPP, for the reason that it would allow dwellings to progressively encroach into the front setback area. In the absence of this clause, the assessment of a reduced setback is dependent on the Design Principles of the R-Codes which are broad in nature. Therefore, Administration considers that this clause should be retained in the draft LPP.

### **Fill and Fencing Local Planning Policy**

The City's current Fill and Fencing Local Planning Policy requires revoking upon adoption of the new Residential Development Local Planning Policy. If both policies are in effect concurrently there are issues with the two policies conflicting with one another. The clauses under the Fill and Fencing Policy which have been carried across or are covered under the Residential Design Codes or other legislation are shown in Attachment 4. Administration believes that the necessary provisions have been carried across under the new Local Planning Policy and other provisions which have not are adequately covered under separate legislation.

## **5.0 Consultation**

The draft LPP was advertised for a period of 21 days, prior to being presented to Council at its 23 July 2019 meeting. A total of 14 submissions were received during this time, which were considered in the 23 July 2019 report Council.

Following the 24 September 2019 Council meeting, Council's modifications were incorporated into the LPP and it was re-advertised for a period of 21 days. During this time, one submission was received, which raised a number of concerns with, and suggested modifications to, the draft LPP. The submission, and Administration's response is summarised in the table below.

<b>Submission</b>	<b>Administration's response</b>
The LPP would be easier to assess if a comparison table was provided in the policy, comparing the proposed provisions to the existing provisions in the R-Codes.	Noted. The LPP makes specific reference to those clauses of the R-Codes which it seeks to replace or add to, but it does not replicate those clauses in the LPP. This approach is considered appropriate, as it balances brevity of the LPP and clarity as to which clauses of the R-Codes are being replaced or added to.
Where modifications to the R-Codes are proposed in the LPP, specific objectives should be provided for each modification.	The City's LPP template provides for objectives at the start of the policy (clause 3.0) which apply to the policy as a whole.
Objects to clause 4.1.2 of the LPP, which allows reduced street setbacks for lots with site constraints, as it seems to allow for awkwardly shaped and undersized lots to be developed	Irrespective of clause 4.1.2, lots will still need to comply with the minimum site area requirements of the R-Codes to be developed for grouped dwellings. Where clause 4.1.2 of the LPP is applied to a grouped dwelling development, the

as grouped dwellings. Only large lots should be suitable for grouped dwellings.	clause requires that the reduced setback is only considered where the impact of bulk and scale on the streetscape is minimised.
Allowing smaller blocks to have a reduced front setback is discrimination against larger lots.	Reduced street setbacks are also possible for larger lots by meeting the Design Principles of the R-Codes.
The reduced front setback provision should be capped to not allow a setback reduction of more than 40%.	Administration does not intend to quantify the maximum reduction in street setback allowed under clause 4.1.2. Instead, the appropriate setback would be assessed on a case-by-case basis, considering the impact of bulk and scale on the streetscape.

## 6.0 Budget/Financial Implications

Nil.

## 7.0 Statutory Provisions

### Planning and Development (Local Planning Schemes) Regulations 2015

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) Schedule 2, Part 2, Clause 4(3), sets out that after the expiry of the 21-day advertising period, the local government must review the proposed policy in light of any submissions made and resolve to:

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

Administration recommends that Council resolves to proceed with the Residential Development LPP with modifications as shown in Attachment 1.

The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP.

### Elements requiring WAPC approval

As per clause 7.3.1 (a) of the R-Codes Vol.1, provisions relating to landscaping are not listed as an element that a Local Government can amend without the approval of the WAPC.

Accordingly, WAPC approval is required prior to the proposed clause 4.8 relating to landscaping of the draft LPP, taking effect. Once the draft LPP is adopted by Council, it will be forwarded to the WAPC for approval of this clause. All other parts of the LPP will be operational upon Council adoption.

## 8.0 Conclusion

The Residential Development LPP provides guidance and supplementary requirements to LPS 3 and R-Codes Vol.1 in relation to single and grouped dwelling development.

The proposed modifications include guidance for assessing applications which seek a reduction to the 9m front setback requirement alongside other minor modifications.

Following re-advertising one submission was received, which has been addressed in this report.

Once adopted, the LPP will be referred to the WAPC for approval in accordance with clause 7.3.1 (a) of the R-Codes, given that it seeks to incorporate provisions relating to landscaping.

It is recommended that Council adopts the draft LPP with the modifications as set out in Attachment 1, and directs Administration send the draft LPP to the WAPC for final approval.



## LOCAL PLANNING POLICY – RESIDENTIAL DEVELOPMENT: SINGLE AND GROUPED DWELLINGS

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### 1.0 PURPOSE

- 1.1 To provide guidance and supplementary requirements to Local Planning Scheme 3 (LPS 3) and State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol.1) in relation to single and grouped dwelling developments within the City of Nedlands.
- 1.2 To ensure consistent assessment and decision-making in the application of the LPS 3 and R-Codes Vol. 1.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all single and grouped dwelling developments ~~within all densities in the Scheme area~~ anywhere the R-Codes Vol. 1 apply.
- 2.2 This Policy is read in conjunction with R-Codes Vol.1 and Clause 26 of LPS 3 which relates to street setbacks, setbacks of garages and carports, and open space.
- 2.3 Where this Policy is inconsistent with a Local Development Plan or Local Planning Policy that applies to a specific site, area or R-Code, the provisions of that specific Local Development Plan or Local Planning Policy shall prevail.
- 2.4 When considering developments which do not meet the deemed-to-comply provisions of this policy, the proposal is to be assessed against the relevant objectives, local housing objectives of this policy and the design principles of the R-Codes Vol. 1.

### 3.0 OBJECTIVES

- 3.1 To enhance the amenity and aesthetics of areas within the City.
- 3.2 To provide for residential development that is consistent with established or desired streetscapes.
- 3.3 To reduce the dominance (scale, mass and bulk) of buildings as viewed from the street.
- 3.4 To provide for building heights which are consistent with the character of the area and the topography of the site.
- 3.5 To prevent inappropriate buildings within rear setback areas in order to protect the amenity of surrounding properties and maintain the spacious green character of the City.





## 4.0 POLICY MEASURES

### LPS 3 modification of R-Codes

#### 4.1 Street setback

4.1.1 The following Local Housing Objective qualifies a 'prevailing development context and streetscape' as provided for under Design Principle P2.2 of 5.1.2 Street setback, to guide decision-making in the assessment of a development application for a dwelling setback less than 9m to the primary street as specified in Clause 26(1)(a)(i) of LPS 3:

(a) Where 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, a dwelling may be setback to correspond with the average setback of dwellings (excluding carports and minor projections) fronting that side of the street (refer Figure 1).

4.1.14.1.2 The following Local Housing Objective provides guidance for decision-making in considering a development application which does not meet the Design Principles of 5.1.2 Street Setback:

(a) Where 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), which prevents the setback of a dwelling being consistent with an established streetscape, a reduced setback may be considered appropriate where the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape.

#### 4.2 Setback of garages and carports

4.2.1 In addition to Clause 26(1)(b) of LPS 3, Clause 5.2.1 of the R-Codes is amended to include the following additional deemed-to-comply requirements:

C1.6 On land coded R10, R12.5 and R15, other than lots identified in Schedules 2 & 3 of LPS 3, unenclosed carports may be setback forward of the 9m primary street setback line provided that the following is met:

- i. the width of the carport does not exceed 50 percent of the lot frontage, and the carport allows an unobstructed view between the dwelling and the street, right-of-way or equivalent;
- ii. the carport is setback a minimum of 3.5m from the primary street;
- iii. the carport is not greater than 36m<sup>2</sup> in floor area as measured from the outside of the posts;
- iv. Side setbacks as per the R-Codes;
- v. the carport complies with Table 1 - Maximum carport height;



- vi. the carport cannot be accommodated behind the street setback line and compliant with side setback provisions of the R-Codes.
- vi-vii. The carport does not contain a visually permeable door.

**Table 1 – Maximum carport height**

Carport type	Wall height	Building height
Pitched Roof	3.0m	4.5m
Flat Roof	N/A	3.5m
Skillion Roof	N/A	3.5m (high side)

### R-Code amendments

The following provisions replace or augment the deemed-to-comply requirements of the R-Codes and include Local Housing Objectives to provide guidance for decision making in the determination of a development application. Where a development does meet the deemed-to-comply provisions contained in this Policy, a development application is required which will be assessed by the relevant local housing objectives, design principles of the R-Codes and objectives of this policy.

#### 4.3 Street setback

4.3.1 Clause 5.1.2 C2.4 of the R-Codes is replaced with the following deemed-to-comply requirements:

C2.4i. 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 projects does not exceed 50% of the building façade as viewed from the street.

C2.4ii. For lots with a density code greater than R15, projections greater than 1m and exceeding 50% of the building façade may project into the street setback area provided an equivalent open space area is under Clause 5.1.2 C2.1iii.

4.3.2 Clause 5.1.2 is modified to include the following deemed-to-comply requirements:

~~C2.5 Pergolas and vergolas to be set back behind the primary street setback line.~~

C2.65 Subject to Clause 5.2.5 of the R-Codes, Gate houses are permitted within front setback areas to a maximum building height of 3.5m, maximum width of 2m and total area of 4m<sup>2</sup>, as measured from the street and outside of the posts (refer to Figure 2).

#### 4.4 Lot boundary setback

4.4.1 Clause 5.1.3 C3.1 of the R-Codes is modified to include the following additional deemed-to-comply requirements:



C3.1vi. Where a site abuts a laneway less than 6 meters wide, building 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 4.3).

C3.1vii. Subject to C3.1(vi), Aa swimming pool fence/barrier and pool pump screens behind the street setback line are permitted within the lot and up to lot boundaries to a maximum height of 1.8m, above any approved site works.

4.4.2 The following Local Housing Objectives provide further guidance for decision-making (in the determination of a development application) in relation to buildings (other than outbuildings) within the rear setback area on lots with a density of R15 or less.

(a) On land coded R15 or less, detached buildings in the rear setback area may be considered for the purposes of a patio, 'pool house', or similar where:

- the immediate locality is characterised by buildings within rear setback areas; ~~or~~
- the building provides for more effective use of space on-site for outdoor living areas; and/or
- the cumulative bulk and distribution of all buildings on site has a reduced impact on neighbouring properties.

(b) On land coded R15 or less 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 (a).

#### 4.5 Building Heights

4.5.1 Clause 5.1.6 C6 of the R-Codes is replaced with the following deemed-to-comply requirement:

C6 Buildings which comply with Table 2 – Maximum building heights below:

**Table 2 – Maximum building heights**

Maximum building heights	
Top of external wall (roof above) (i)	8.5m
Top of external wall (concealed roof)	8.5m
Top of pitched roof (ii)	10m

(i) Gable walls above eaves height:



- Less than 9m long: exempted
- Greater than 9m long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height.

(ii) Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.

4.5.2 Clause 5.1.6 is modified to include in the deemed-to-comply requirements:

C6.1 Architectural features and building projections (such as, but not limited to lift shafts and feature walls) are permitted to project above the external wall height to a maximum height of 10m provided the feature does not exceed 3m in width.

Note: Methodology of building height assessment is as per the R-Codes.

4.6 Street walls and fences (including gates)

~~The R-Codes permit f~~Fencing within front setback areas is permitted to be a maximum of 1.2m solid and visually permeable infill above, to a maximum height of 1.8m, measured from the primary street side of the fence. Fencing is also permitted in accordance with the following (refer ~~figures~~ Figures 2-4 and 35).

4.6.1 Clause 5.2.4 of the R-Codes is modified to include the following additional deemed-to-comply requirements:

C4.1i. Fencing/wall Ppiers, including those forming part of a pergola or vergola, to be a maximum of 0.5m wide and deep and 2.1m in height above natural ground level; and

C4.1ii. Fencing/wall Ppiers, including those forming part of a pergola or vergola, are to be separated by no less than 1.5m.

C4.2 For the purposes of housing a utility/meter box, solid fencing within the primary setback area is permitted where it is:

- a maximum 1m 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.

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 C4.1) and comply with clause 5.2.5 & ~~6.2.3 (sight lines)~~ of the R-Codes, as amended by this policy.

C4.4 Fencing within the primary street setback area shall be constructed of brick, stone, concrete, timber, wrought iron, tubular steel or glass.

4.7 Sight lines



~~Where a driveway meets a public street, walls and fences must be truncated or designed in accordance with the following requirements.~~

4.7.1 Clause 5.2.5 of the R-Codes is modified to include the following additional deemed-to-comply requirements:

~~C5.1 The following is permitted within 1.5m of a vehicle access point. Within the 1.5m truncation area stipulated under C5, the following obstructions are acceptable:~~

~~i. one pier with a maximum width and length of 0.5m; and/or~~

~~ii. solid fencing encroaching a maximum length of 0.5m.~~

~~ii. C5.2 Within the visual truncation area visually permeable in-fill fencing is permitted to a maximum of 1.8m in height, in addition to 0.75m high solid fencing, both measured from natural ground level.~~

4.8 Landscaping

4.8.1 Clause 5.3.2 of the R-Codes is modified to include the following additional deemed-to-comply requirement:

~~C3 All residential properties. Single and grouped dwelling developments require a minimum of 20% of the site area as landscaping, measured in accordance with clause 7.2 of this policy.~~

4.9 Vehicular access

In relation to the location of a vehicle entry point, the following Local Housing Objectives provide guidance for decision-making (in the determination of a development application) in considering a secondary or primary street in lieu of access from a laneway.

4.9.1 In relation to Clause 5.3.5 vehicle access C5.1, where a lot abuts a laneway or public right-of-way, vehicle access may be considered from the secondary or primary street where:

- (a) The laneway is less than 5m in width;
- (b) The laneway is not appropriately sealed and drained; or
- (c) Vehicle access from the laneway will result in removal of mature trees on the private property worthy of retention.

### ~~Boundary fencing~~Dividing Fences

Dividing Fencing behind 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.

### ~~4.10 Boundary Fences~~

~~4.10.1 A screen/fence setback less than 1m to a side or rear lot boundary, behind the primary street setback line shall:~~





~~(a) Be a maximum height of 1.8m above deemed-to-comply fill or retaining; and~~

~~(b) Be constructed of brick, stone, concrete, timber, corrugated reinforced cement sheeting, wrought iron or metal sheeting.~~

~~4.10.2 Where a proposal does not meet the requirements set out in 4.9.1 a development application is required with supporting justification in relation to the proposed material and/or height.~~

### Development abutting a laneway

4.10 Where a property abuts an unconstructed laneway, landowners are advised to contact the City’s Technical Services team with regards to appropriate finished floor levels of dwellings and garages to mitigate potential stormwater drainage impacts.

## 5.0 RELATED LEGISLATION

5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.2 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
- Local Planning Scheme No. 3
- State Planning Policy 7.3 - Residential Design Codes - Volume 1

## 6.0 DEFINITIONS

6.1 For this policy the following definitions apply:

Definition	Meaning
<b>Boundary Fence</b>	A fence set back less than 1m from a dividing lot boundary, behind the street setback line.
<b>Dividing Fence</b>	As per Dividing Fences Act 1961.
<b>Gate house</b>	A roofed open-sided entry feature usually incorporated into front fencing.
<b>Patio</b>	An unenclosed structure covered in a water impermeable material which may or may not be attached to a dwelling.
<b>Vergola</b>	A patio with an open-close/louvered roof system. Also known as a solar patio.



6.2 A word or expression that is not defined in the Policy has the same meaning as it has in the R-Codes.

### 7.0 EXPLANATORY ASSESSMENT GUIDE

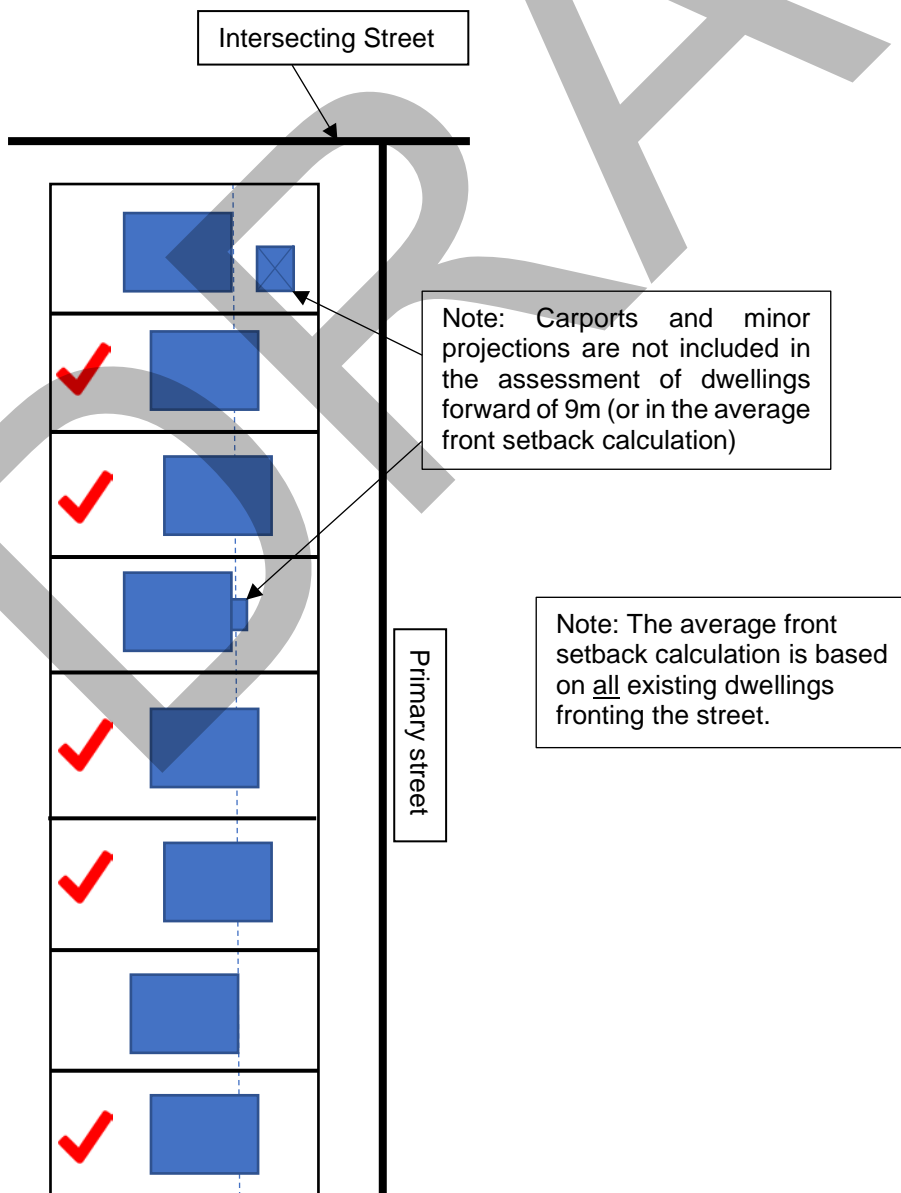
The following is an explanatory guide only to provide clarity of the method for assessment of various provisions of the R-Codes.

7.1 For the purposes of assessing lot boundary setbacks to a screen or fence:

- (a) Where setback 1m or greater from a side lot boundary, a screen/fence 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.

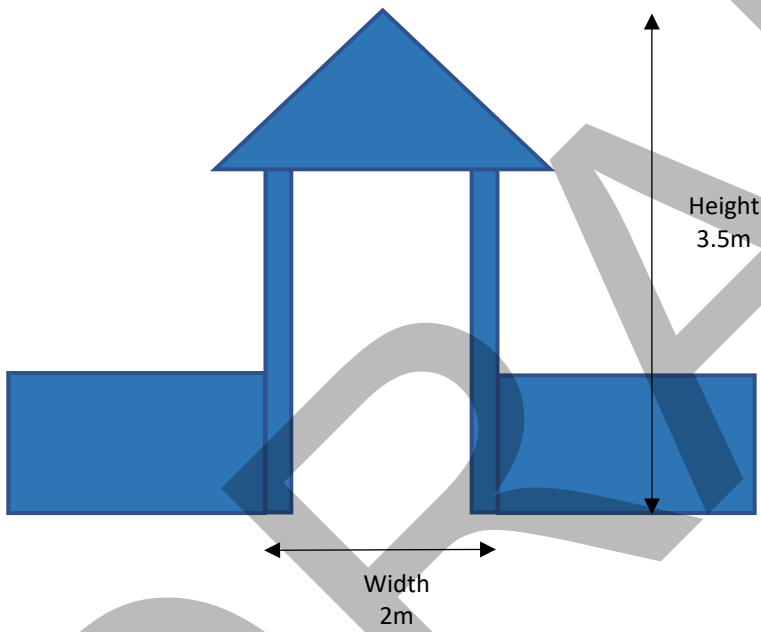
7.2 For the purposes of assessing landscaping provision for grouped dwellings, 20% landscaping shall be provided on each grouped dwelling site and the site area for each grouped dwelling shall include the proportionate share of common property.

**Figure 1 – Street Setback**

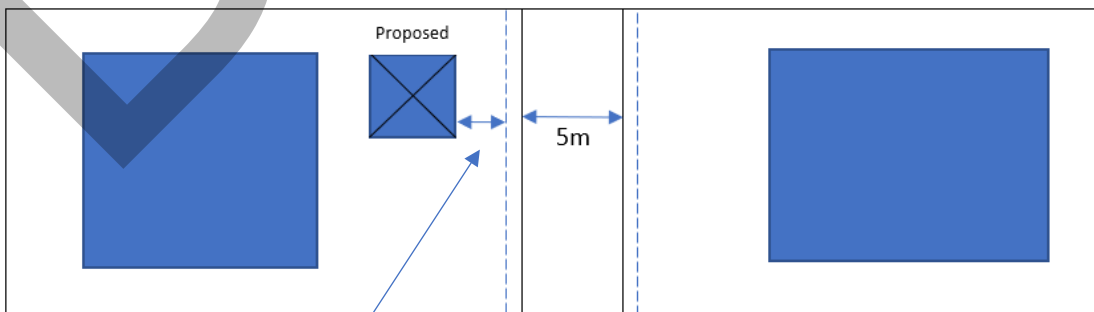




**Figure 2 – Gatehouses**



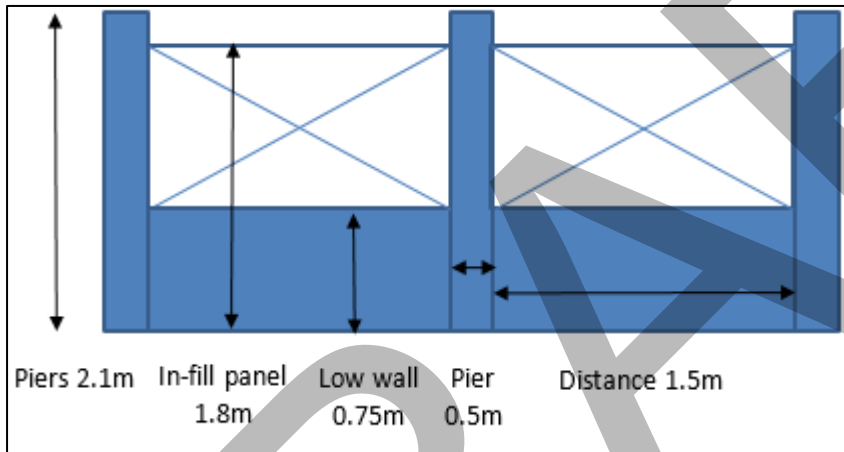
**Figure 3 – Setback of buildings to laneways less than 6m wide**



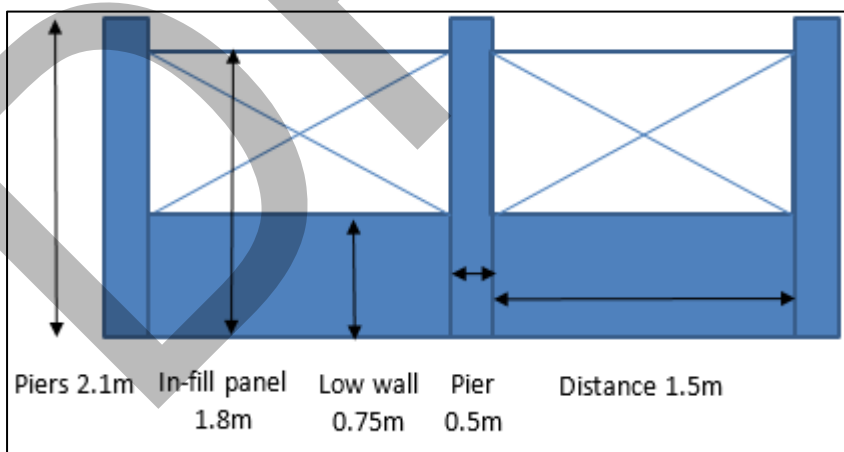


Setbacks for new buildings are determined 0.5m from the laneway boundary to provide for future widening either side (to 6m)

**Figure 4 – Primary street setback area fencing**



**Figure 5 – Fencing within 1.5m of a vehicle access point**





DRAFT

Council Resolution Number	PDX.XX
Adoption Date	Date and Item Number of Council Meeting
Date Reviewed/Modified	DD MM YYYY





## LOCAL PLANNING POLICY – RESIDENTIAL DEVELOPMENT: SINGLE AND GROUPED DWELLINGS

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### 1.0 PURPOSE

- 1.1 To provide guidance and supplementary requirements to Local Planning Scheme 3 (LPS 3) and State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol.1) in relation to single and grouped dwelling developments within the City of Nedlands.
- 1.2 To ensure consistent assessment and decision-making in the application of the LPS 3 and R-Codes Vol. 1.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all single and grouped dwelling developments anywhere the R-Codes Vol. 1 apply.
- 2.2 This Policy is read in conjunction with R-Codes Vol.1 and Clause 26 of LPS 3 which relates to street setbacks, setbacks of garages and carports, and open space.
- 2.3 Where this Policy is inconsistent with a Local Development Plan or Local Planning Policy that applies to a specific site, area or R-Code, the provisions of that specific Local Development Plan or Local Planning Policy shall prevail.
- 2.4 When considering developments which do not meet the deemed-to-comply provisions of this policy, the proposal is to be assessed against the relevant objectives, local housing objectives of this policy and the design principles of the R-Codes Vol. 1.

### 3.0 OBJECTIVES

- 3.1 To enhance the amenity and aesthetics of areas within the City.
- 3.2 To provide for residential development that is consistent with established or desired streetscapes.
- 3.3 To reduce the dominance (scale, mass and bulk) of buildings as viewed from the street.
- 3.4 To provide for building heights which are consistent with the character of the area and the topography of the site.
- 3.5 To prevent inappropriate buildings within rear setback areas in order to protect the amenity of surrounding properties and maintain the spacious green character of the City.



## 4.0 POLICY MEASURES

### LPS 3 modification of R-Codes

#### 4.1 Street setback

4.1.1 The following Local Housing Objective qualifies a 'prevailing development context and streetscape' as provided for under Design Principle P2.2 of 5.1.2 Street setback, to guide decision-making in the assessment of a development application for a dwelling setback less than 9m to the primary street as specified in Clause 26(1)(a)(i) of LPS 3:

- (a) Where 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, a dwelling may be setback to correspond with the average setback of dwellings (excluding carports and minor projections) fronting that side of the street (refer Figure 1).

4.1.2 The following Local Housing Objective provides guidance for decision-making in considering a development application which does not meet the Design Principles of 5.1.2 Street Setback:

- (a) Where 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), which prevents the setback of a dwelling being consistent with an established streetscape, a reduced setback may be considered appropriate where the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape.

#### 4.2 Setback of garages and carports

4.2.1 In addition to Clause 26(1)(b) of LPS 3, Clause 5.2.1 of the R-Codes is amended to include the following additional deemed-to-comply requirements:

- C1.6 On land coded R10, R12.5 and R15, other than lots identified in Schedules 2 & 3 of LPS 3, unenclosed carports may be setback forward of the 9m primary street setback line provided that the following is met:
  - i. the width of the carport does not exceed 50 percent of the lot frontage, and the carport allows an unobstructed view between the dwelling and the street, right-of-way or equivalent;
  - ii. the carport is setback a minimum of 3.5m from the primary street;
  - iii. the carport is not greater than 36m<sup>2</sup> in floor area as measured from the outside of the posts;
  - iv. Side setbacks as per the R-Codes;
  - v. the carport complies with Table 1 - Maximum carport height;



- vi. the carport cannot be accommodated behind the street setback line and compliant with side setback provisions of the R-Codes.
- vii. The carport does not contain a visually permeable door.

**Table 1 – Maximum carport height**

<b>Carport type</b>	<b>Wall height</b>	<b>Building height</b>
Pitched Roof	3.0m	4.5m
Flat Roof	N/A	3.5m
Skillion Roof	N/A	3.5m (high side)

**R-Code amendments**

The following provisions replace or augment the deemed-to-comply requirements of the R-Codes and include Local Housing Objectives to provide guidance for decision making in the determination of a development application. Where a development does meet the deemed-to-comply provisions contained in this Policy, a development application is required which will be assessed by the relevant local housing objectives, design principles of the R-Codes and objectives of this policy.

**4.3 Street setback**

4.3.1 Clause 5.1.2 C2.4 of the R-Codes is replaced with the following deemed-to-comply requirements:

C2.4i. 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 projects does not exceed 50% of the building façade as viewed from the street.

C2.4ii. For lots with a density code greater than R15, projections greater than 1m and exceeding 50% of the building façade may project into the street setback area provided an equivalent open space area is under Clause 5.1.2 C2.1iii.

4.3.2 Clause 5.1.2 is modified to include the following deemed-to-comply requirements:

C2.5 Subject to Clause 5.2.5 of the R-Codes, gate houses are permitted within front setback areas to a maximum building height of 3.5m, maximum width of 2m and total area of 4m<sup>2</sup>, as measured from the street and outside of the posts (refer to Figure 2).

**4.4 Lot boundary setback**

4.4.1 Clause 5.1.3 C3.1 of the R-Codes is modified to include the following additional deemed-to-comply requirements:

C3.1vi. Where a site abuts a laneway less than 6 meters wide, building 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 3).

C3.1vii. Subject to C3.1(vi), a swimming pool fence/barrier and pool pump screens behind the street setback line are permitted within the lot and up to lot boundaries to a maximum height of 1.8m, above any approved site works.

4.4.2 The following Local Housing Objectives provide further guidance for decision-making (in the determination of a development application) in relation to buildings (other than outbuildings) within the rear setback area on lots with a density of R15 or less.

(b) On land coded R15 or less, detached buildings in the rear setback area may be considered for the purposes of a patio, 'pool house', or similar where:

- the immediate locality is characterised by buildings within rear setback areas;
- the building provides for more effective use of space on-site for outdoor living areas; and/or
- the cumulative bulk and distribution of all buildings on site has a reduced impact on neighbouring properties.

(c) On land coded R15 or less 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 (a).

4.5 Building Heights

4.5.1 Clause 5.1.6 C6 of the R-Codes is replaced with the following deemed-to-comply requirement:

C6 Buildings which comply with Table 2 – Maximum building heights below:

**Table 2 – Maximum building heights**

Maximum building heights	
Top of external wall (roof above) (i)	8.5m
Top of external wall (concealed roof)	8.5m
Top of pitched roof (ii)	10m

- (i) Gable walls above eaves height:
- Less than 9m long: exempted
  - Greater than 9m long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height.
- (ii) Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.



4.5.2 Clause 5.1.6 is modified to include in the deemed-to-comply requirements:

- C6.1 Architectural features and building projections (such as, but not limited to lift shafts and feature walls) are permitted to project above the external wall height to a maximum height of 10m provided the feature does not exceed 3m in width.

Note: Methodology of building height assessment is as per the R-Codes.

#### 4.6 Street walls and fences (including gates)

Fencing within front setback areas is permitted to be a maximum of 1.2m solid and visually permeable infill above, to a maximum height of 1.8m, measured from the primary street side of the fence. Fencing is also permitted in accordance with the following (refer Figures 4 and 5).

4.6.1 Clause 5.2.4 of the R-Codes is modified to include the following additional deemed-to-comply requirements:

- C4.1.i. Fencing/wall piers, including those forming part of a pergola or vergola, to be a maximum of 0.5m wide and deep and 2.1m in height above natural ground level; and

- C4.1.ii. Fencing/wall piers, including those forming part of a pergola or vergola, are to be separated by no less than 1.5m.

C4.2 For the purposes of housing a utility/meter box, solid fencing within the primary setback area is permitted where it is:

- i. a maximum 1m in width;
- ii. a maximum 1.8m in height;
- iii. perpendicular to the street; and
- iv. setback at least 1.5m from where a vehicle access point intersects with a public street on any property.

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 C4.1) and comply with clause 5.2.5 of the R-Codes, as amended by this policy.

C4.4 Fencing within the primary street setback area shall be constructed of brick, stone, concrete, timber, wrought iron, tubular steel or glass.

#### 4.7 Sight lines

4.7.1 Clause 5.2.5 of the R-Codes is modified to include the following additional deemed-to-comply requirements:

C5.1 Within the 1.5m truncation area stipulated under C5, the following obstructions are acceptable:

- i. one pier with a maximum width and length of 0.5m; and/or





- ii. Visually permeable in-fill fencing to a maximum of 1.8m in height, in addition to 0.75m high solid fencing, both measured from natural ground level.

#### 4.8 Landscaping

4.8.1 Clause 5.3.2 of the R-Codes is modified to include the following additional deemed-to comply requirement:

- C3 Single and grouped dwelling developments require a minimum of 20% of the site area as landscaping, measured in accordance with clause 7.2 of this policy.

#### 4.9 Vehicular access

In relation to the location of a vehicle entry point, the following Local Housing Objectives provide guidance for decision-making (in the determination of a development application) in considering a secondary or primary street in lieu of access from a laneway.

4.9.1 In relation to Clause 5.3.5 vehicle access C5.1, where a lot abuts a laneway or public right-of-way, vehicle access may be considered from the secondary or primary street where:

- (d) The laneway is less than 5m in width;
- (e) The laneway is not appropriately sealed and drained; or
- (f) Vehicle access from the laneway will result in removal of mature trees on the private property worthy of retention.

### **Dividing Fences**

Dividing Fencing behind 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.

### **Development abutting a laneway**

4.10 Where a property abuts an unconstructed laneway, landowners are advised to contact the City's Technical Services team with regards to appropriate finished floor levels of dwellings and garages to mitigate potential stormwater drainage impacts.

## **5.0 RELATED LEGISLATION**

5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.2 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
- Local Planning Scheme No. 3
- State Planning Policy 7.3 - Residential Design Codes - Volume 1

## 6.0 DEFINITIONS

6.1 For this policy the following definitions apply:

Definition	Meaning
<b>Boundary Fence</b>	A fence set back less than 1m from a dividing lot boundary, behind the street setback line.
<b>Dividing Fence</b>	As per Dividing Fences Act 1961.
<b>Gate house</b>	A roofed open-sided entry feature usually incorporated into front fencing.
<b>Patio</b>	An unenclosed structure covered in a water impermeable material which may or may not be attached to a dwelling.
<b>Vergola</b>	A patio with an open-close/louvered roof system. Also known as a solar patio.

6.2 A word or expression that is not defined in the Policy has the same meaning as it has in the R-Codes.

## 7.0 EXPLANATORY ASSESSMENT GUIDE

The following is an explanatory guide only to provide clarity of the method for assessment of various provisions of the R-Codes.

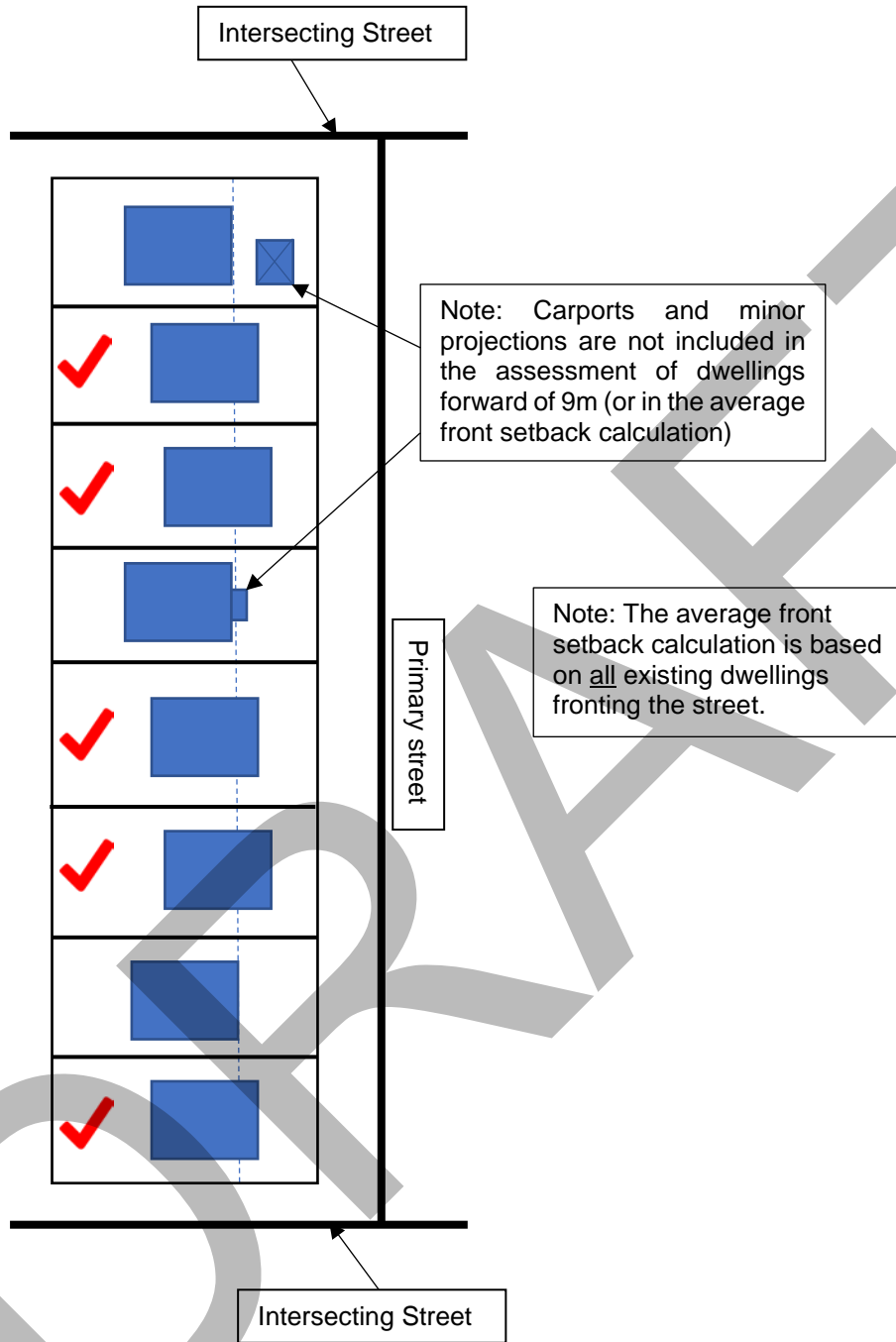
7.1 For the purposes of assessing lot boundary setbacks to a screen or fence:

- Where setback 1m or greater from a side lot boundary, a screen/fence 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.

7.2 For the purposes of assessing landscaping provision for grouped dwellings, 20% landscaping shall be provided on each grouped dwelling site and the site area for each grouped dwelling shall include the proportionate share of common property.

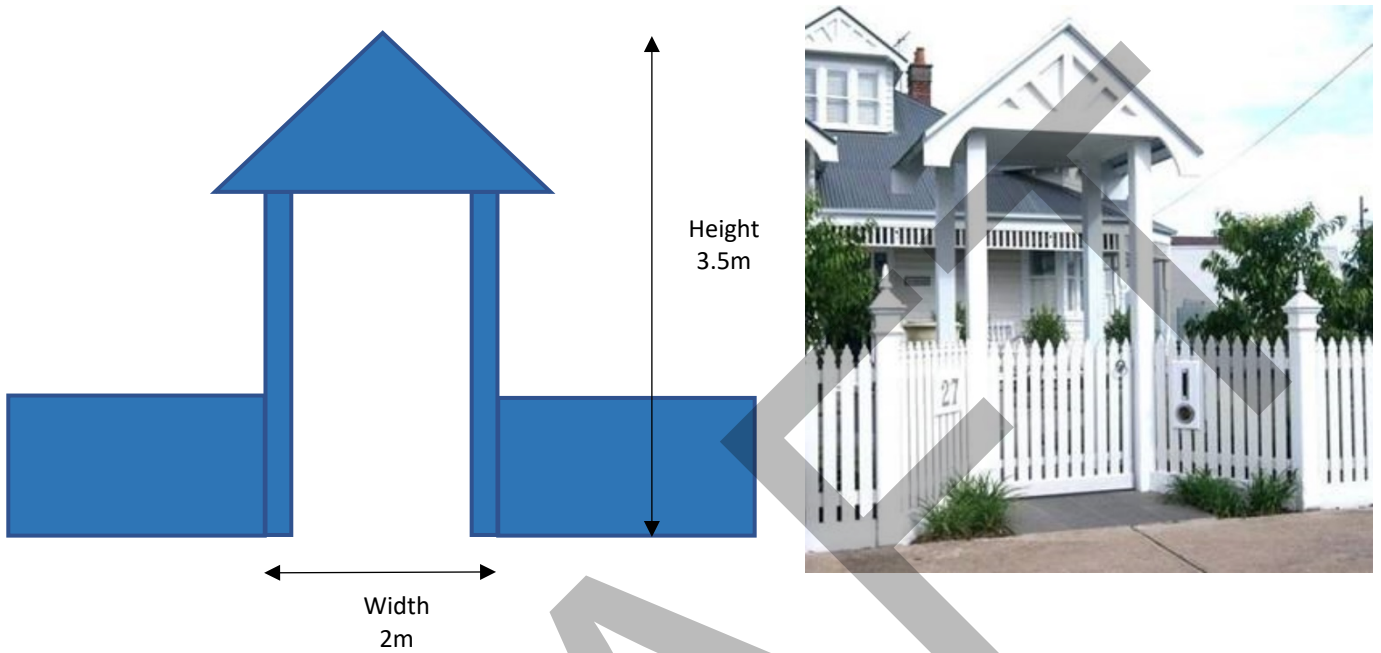


Figure 1 – Street Setback

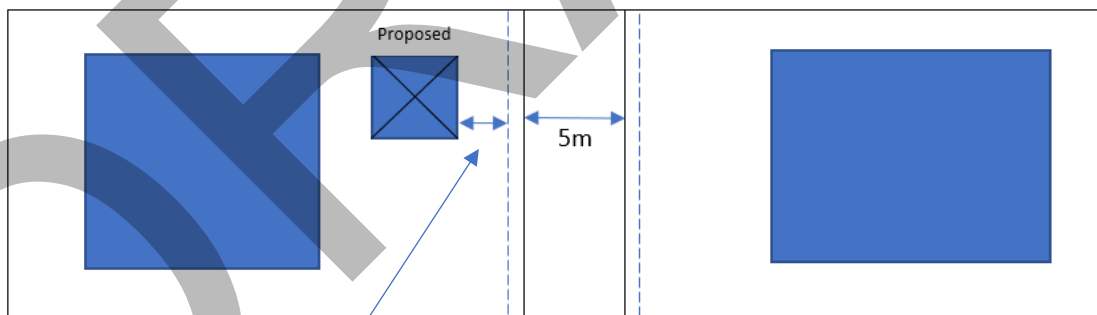




**Figure 2 – Gatehouses**



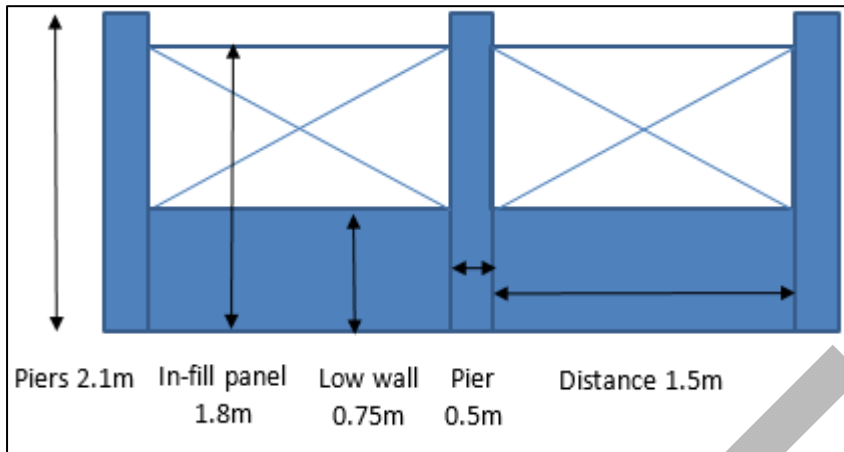
**Figure 3 – Setback of buildings to laneways less than 6m wide**



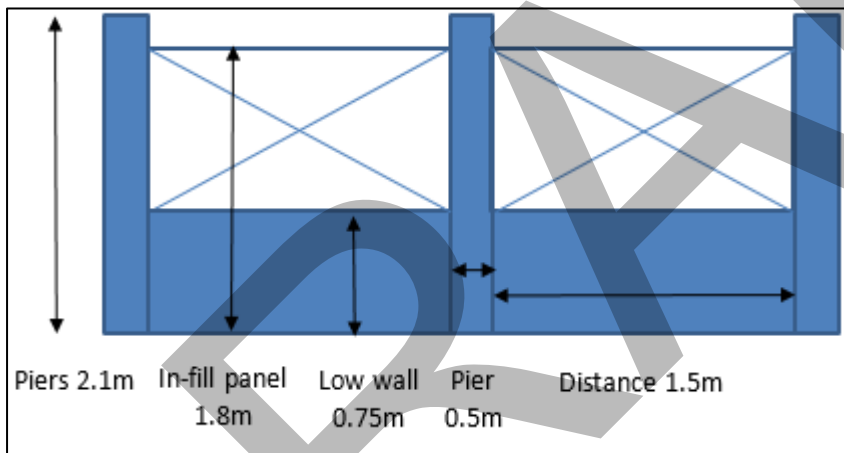
Setbacks for new buildings are determined 0.5m from the laneway boundary to provide for future widening either side (to 6m)



**Figure 4 – Primary street setback area fencing**



**Figure 5 – Fencing within 1.5m of a vehicle access point**



Council Resolution Number	PDX.XX
Adoption Date	Date and Item Number of Council Meeting
Date Reviewed/Modified	DD MM YYYY



**LPP Residential Development: Single and Grouped Dwellings  
Feedback from Ian and Anne Love  
70 Kingway Nedlands (zoning R60)**

**Our General Comments**

We believe it would be easier to assess the proposed changes if the City could add to the explanatory document a table with illustrative examples setting out the current position relative to LPS 3 and SPP R-Codes on the one side and the proposed modifications on the other.

It would be helpful if the objectives of the modification could be articulated. For example, we do not know the objective of modification 4.1 so it is impossible to measure if the objective will be met by the proposed modification.

**Our Specific Comments**

In Black = Heading Topic Explanation

In Blue = Proposed Modification by City of Nedlands

In Red = Feedback from Ian and Anne Love

In Pink Italics = Suggested Modification wording

**4.1 Street setback**

The following Local Housing Objective provides guidance for decision- making in considering a development application which does not meet the Design Principles of 5.1.2 Street Setback:

(a) Where 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), which prevents the setback of a dwelling being consistent with an established streetscape, a **reduced setback may be considered appropriate** where the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape.

We object to this concession of a reduced setbacks on the basis that it will lead to crowded blocks with oversized buildings. The provisions of LPS 3 and the R-Codes are already very generous in the area of setbacks.

This said, we accept that there may be situations where reduced setbacks make sense. However, the way this modification is drafted seems to take blocks that are too small or awkwardly shaped and make them suitable for group dwellings by changing the setbacks. This is the wrong way around. In our view only the bigger blocks with reasonably standard shapes and orientations should be suitable for group dwellings. This would maintain the amenity of the area but allow higher density levels.

The way the modification is drafted is loose, it does not define any of the important terms such as 'irregular configuration', or 'considerably undersized'.

A block that is 'considerably undersized' for example is not a block that is suitable for grouped dwellings. It is also not acceptable to allow those with small blocks to build with smaller setbacks than those with large blocks, this is discriminating against those with large blocks.

We believe this modification should read as follows.

*'Where a lot is of sufficient size (minimum 1000sqm for Group Dwellings and 800sqm for Single Residential) and it has a significant site constraint, such as an irregular configuration or topography, which prevents the setback of a dwelling being consistent with an established streetscape, a reduced setback may be considered in exceptional circumstances only. However, in no cases will the reduced setback be more than 40% of the required setback (ie set back 10m, maximum reduced setback = 6m). This modification will be reviewed after 24 months of operation to assess the extent to which it has achieved its objectives.'*

- End -

## Fill and Fencing Local Planning Policy Clauses in relation to Residential Development Local Planning Policy

Clause from Fill and Fencing LPP	Proposed Provision under Residential Development LPP	Reason/Justification for the Change
4.1 Dividing Fences shall have a maximum height of 1.8m above any approved or deemed-to-comply fill or retaining under the R-Codes.	Dividing Fencing behind 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.	As stated in the Residential Development LPP Dividing Fences are governed by the Dividing Fences Act 1961. The City does not need to control this through the policy.
4.2 Brick piers to a maximum height of 2.1 metres from natural ground level for fencing in primary and secondary street setback area(s).	4.6.1 Clause 5.2.4 of the R-Codes is modified to include the following additional deemed-to-comply requirements: C4.1i. Fencing/wall piers, including those forming part of a pergola or vergola, to be a maximum of 0.5m wide and deep and 2.1m in height above natural ground level;	This has been carried across in the new policy under clause 4.6.1 C4.1i.
4.3 In primary street setback areas, solid fencing to a maximum height of 1.2 metres above natural ground level, and visually permeable fencing to a maximum height of 1.8m above natural ground level.	4.6 Street walls and fences (including gates) Fencing within front setback areas is permitted to be a maximum of 1.2m solid and visually permeable infill above, to a maximum height of 1.8m, measured from the primary street side of the fence. Fencing is also permitted in accordance with the following (refer Figures 4 and 5).	This has been carried across to the new policy under clause 4.6
4.4 Dividing fences are not to be higher than 0.75 metre above natural ground level, within 1.5 metres of where it adjoins vehicle access points where a driveway meets a public street and where two streets intersect.	Dividing Fencing behind 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.  4.7.1 Clause 5.2.5 of the R-Codes is modified to include the following additional deemed-to-comply requirements:	As stated in the Residential Development LPP Dividing Fences are governed by the Dividing Fences Act 1961. The City does not need to control this through the policy. Sightlines have been carried across and are covered under clause 4.7

	<p>C5.1 Within the 1.5m truncation area stipulated under C5, the following obstructions are acceptable:</p> <ul style="list-style-type: none"> <li>i. one pier with a maximum width and length of 0.5m; and/or</li> <li>ii. Visually permeable in-fill fencing to a maximum of 1.8m in height, in addition to 0.75m high solid fencing, both measured from natural ground level.</li> </ul>	
<p>4.5 Within the 1.5m area stipulated under clause 4.4 of this policy, the following obstructions are deemed acceptable by the City:</p> <ul style="list-style-type: none"> <li>a) One pier with a maximum height of 2.1 metres above natural ground level with a length and width of no greater than 0.5m; and</li> <li>b) All other solid structures to be reduced to a height of no greater than 0.75metres above natural ground level; and</li> <li>c) All visually permeable structures to a maximum height of 1.8 metres above natural ground level.</li> </ul>	<p>4.7.1 Clause 5.2.5 of the R-Codes is modified to include the following additional deemed-to-comply requirements:</p> <p>C5.1 Within the 1.5m truncation area stipulated under C5, the following obstructions are acceptable:</p> <ul style="list-style-type: none"> <li>i. one pier with a maximum width and length of 0.5m; and/or</li> <li>ii. Visually permeable in-fill fencing to a maximum of 1.8m in height, in addition to 0.75m high solid fencing, both measured from natural ground level.</li> </ul>	<p>Sightlines have been carried across and are covered under clause 4.7</p>
<p>5.1 In cases where fill and/or retaining is proposed to exceed 0.5m above natural ground level, development approval is required to be obtained from the City.</p>	<p>This has not been carried across under the new LPP.</p>	<p>This is covered under the Residential Design Codes Volume 1 where it states:</p> <p>5.3.7 C7.1 Excavation or filling between the street and building or within 3m of the street alignment, whichever is lesser, shall not exceed 0.5m, except where necessary to provide for pedestrian or vehicle access, drainage works or natural light for dwelling.</p> <p>C7.2 excavation or filling within a site and behind the street setback line limited by compliance with building height limits and building setback requirements.</p> <p>5.3.8 C8 Retaining walls greater than 0.5m in height set back from lot boundaries in accordance with the</p>

		setback provisions of Table 1. Retaining walls 0.5m or less in height may be located up to the lot boundary.
<p>5.2 In order to achieve a balanced streetscape and prevent a site from adversely affecting the amenity of neighboring properties, where fill and/or retaining is proposed to exceed 0.5m above natural ground level, the following is required to be complied with:</p> <ul style="list-style-type: none"> <li>a) the applicable provisions of TPS 2; and</li> <li>b) the design principles stipulated under clauses 5.1.3 (Lot Boundary Setback), 5.3.7 (Site Works) and 5.3.8 (Retaining Walls) of the R-Codes; and</li> <li>c) the deemed-to-comply provisions stipulated under clause 5.4.1 (Visual Privacy) of the R-Codes; and</li> <li>d) does not exceed the mean level of the lot boundary at the primary street frontage; and</li> <li>e) the finish floor level of any building does not exceed 0.1m above the mean level of the lot boundary at the primary street frontage.</li> </ul>	This has not been carried across under the new LPP as it is covered under the design principles of the Residential Design Codes Volume 1.	This clause replicates and refers to and replicates the Residential Design Codes Volume 1. Repetition is not needed therefore this has not been carried across under the new LPP.
5.3 Retaining walls are required to be finished to the City's satisfaction.	Objective 3.1 To enhance the amenity and aesthetics of areas within the City.	This can be addressed through compliance and Amenity provisions. The City does not have an issue with the maintenance or finishes of people's fences.
5.4 Fill that is not directly related to, or associated with, a bona fide use of a property or that is of a scale exceeding what could reasonably be considered as for domestic purposes, will be deemed to be the use "Storage Yard" under the City's Town Planning Scheme No. 2	This has not been carried across under the new LPP.	This can be addressed through the Development Application process as fill and retaining that is of a scale exceeding what could reasonably be considered as for domestic purposes would require a Development Application.
Clause 6 relating to Neighbour Consultation	This is covered under the Consultation Local Planning Policy	This is covered under the Consultation Local Planning Policy
Clause 7 in relation to Material Requirements	This has not been carried across to the new policy	This can be addressed through the Development Application stage and through Amenity provisions. The City does not have an issue with the materials that people construct fencing out of. In relation to the commercial

		requirements that have been carried across commercial developments are not exempt from planning approval therefore concerns can be addressed at the development application stage.
Clause 8 in relation to Maintenance of Fences	This has not been carried across to the new policy	This can be addressed through compliance and Amenity provisions. The City does not have an issue with the maintenance of people fences.
Clause 9 in relation to Amenity	Covered in Objective 3.1 To enhance the amenity and aesthetics of areas within the City.	Amenity should be covered in a broad objective. This has been carried across as an objective under the new LPP.
Clause 10 in relation to Application Requirements	This is covered in the City's Development Application Checklist.	This is covered in the City's Development Application Checklist.
Clause 11 in relation to Standard Conditions and Advice Notes	This has not been carried across to the new policy	This is addressed through the Development Application process and through the Standard Conditions and Advice Notes and not required in the new LPP.



<b>PD53.19</b>	<b>Local Planning Scheme 3 – Local Planning Policy Waste Management and Guidelines</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Previous Item</b>	PD38.19 – OCM 24 September 2019
<b>Attachments</b>	1. Draft Waste Management LPP 2. Draft Waste Management Guidelines

## 1.0 Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) the Waste Management and guidelines Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

This policy details the requirements relating to waste management and minimisation which is to be considered in the design of any proposed development within the City of Nedlands.

This policy was presented to Council at their Council Meeting on 24 September 2019 where Council resolved for this item to be deferred to a Council Briefing. Following this decision Council was briefed on this matter at the 5 November Council Briefing Session.

The policy seeks to augment section 4.17 Waste Management of the Residential Design Codes Volume 2, augmentation of this section requires the West Australian Planning Commissions (WAPC) approval. Once the policy is adopted by Council, it will be forwarded to the WAPC for approval.

## 2.0 Recommendation to Committee

**Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, the Waste Management and Guidelines Local Planning Policy (refer to Attachments 1 & 2).**

## 3.0 Background

Waste Management Plans have been required by the City on an ad hoc basis for development applications which the City believes will generate surplus waste above the normal household. Prior to Local Planning Scheme No.3 (LPS 3) there were fewer opportunities to develop grouped or multiple dwellings, therefore the waste management of development of that nature was dealt with on a case by case basis.

The City has had issues in the past with regarding surplus rubbish bins being placed on the verge and blocking areas used by both pedestrians and vehicles with no set guideline being adhered to.

The proposed policy guidelines will support a higher standard of waste management with associated benefits for the community and it will also benefit property developments for developers by clearly setting out what is expected by the City as a minimum standard.

With the introduction and application of the City's new Local Planning Scheme No.3 (LPS3) this has introduced greater opportunities for the development of grouped and multiple dwellings as well as large-scale mixed-use development. This has necessitated the need for a Local Planning Policy and subsequent technical Guidelines to set out the requirements for waste management plans, when they must be prepared, and what specifications are expected by the City.

#### **4.0 Detail**

The policy details the requirements for waste management and minimisation which are to be considered in the design of any proposed development in accordance with the City's Waste Minimisation Strategy 2017-2020.

All aspects of waste management should be considered in the initial design stage of a development, including but not limited to waste generation, recycling, storage, truck accessibility and collection options.

Early consideration of waste management requirements will ensure effective integration of facilities into the design, so that visual amenity, convenience, efficiency and health and safety is maintained at a high standard for the development.

The policy details when a waste management plan is required and the overall objectives of waste management within the City, whereas the guidelines component (Appendix One) provide the technical information in relation to the City's specifications for waste management and what must be included in the waste management plan.

#### **5.0 Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City's Consultation LPP. This will include a notice being published in the newspaper, details being included on the City's website and the Your Voice engagement portal. In accordance with the City's Consultation LPP we will not undertake advertising between December 15 and January 15.

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

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

As per Residential Design Codes Volume 2 part 1.2.3, section 4.17 Waste Management is an element that a Local Government cannot amend without WAPC approval. Accordingly, WAPC approval is required prior to these provisions taking effect. Once the policy is adopted by Council, it will be forwarded to the WAPC for approval.

## **6.0 Statutory Provisions**

Planning and Development (Local Planning Schemes) Regulations 2015

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

Once Council resolves to prepare a local planning policy it must publish a notice of the proposed policy in a newspaper circulating in the area for a period not less than 21 days.

## **7.0 Conclusion**

The Waste Management LPP and guidelines are the preferred mechanism to guide decision making and advise the community of the Council's position in relation to waste management within the City and what the waste management plans must cover. In order to properly manage an increased number of applications for medium and higher density, the City is required to manage waste using current best practice. This policy and associated guidelines provide the necessary framework to manage appropriate information and advice regarding waste.

As such, it is recommended that Council endorses administration's recommendation to prepare (adopt to advertise) the Waste Management LPP and Guidelines.



## LOCAL PLANNING POLICY – WASTE MANAGEMENT

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### 1.0 PURPOSE

- 1.1 This policy details the requirements relating to waste management and minimisation to be considered in the design of any proposed development as per the City's Waste Management Guidelines.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to the development on land that is reserved or zoned within the City of Nedlands, with the exception of:
  - (a) The erection or extension of a single house;
  - (b) The erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or grouped dwelling.
- 2.2 Where the Residential Design Codes (R-Codes) apply, this policy augments the provisions of Part 5.4.4 C4.6 of the R-Codes Volume 1 and is in addition to Part 4.17 of the R-Codes Volume 2 - Apartments.
- 2.3 Where this Policy is inconsistent with the provisions of a specific Local Planning Policy or Local Development Plan, or Precinct Plan that applies to a particular site or area; the provisions of that specific Local Planning Policy, Precinct Plan or Local Development Plan prevail.

### 3.0 OBJECTIVES

- 3.1 Provide for waste management and minimisation in a manner that protects the environment, with a greater emphasis on higher levels of resource recovery and increased recycling.
- 3.2 To minimise the impacts of waste storage and collection facilities on the streetscape, public realm, building entries and the amenity for residents.
- 3.3 To allow for occupants to have convenient, safe and equitable access to both waste and recycling facilities on site.
- 3.4 To provide for flexibility for waste management of developments.



## 4.0 POLICY MEASURES

### 4.1 Waste Management Plans

4.1.1 A Waste Management Plan shall be submitted as part of the following categories of Development Application:

- (a) Residential
  - (i) 5 or more multiple dwellings;
  - (ii) 5 or more grouped dwellings;
  - (iii) 5 or more aged or dependant persons dwellings/beds;
  - (iv) Short-Term Accommodation uses (as defined in the Short-Term Accommodation Policy);
  - (v) All proposals where there is insufficient lot, road or verge frontage for collection vehicle access (as determined by the City).
- (b) Mixed Use Developments
  - (i) All mixed-use developments.
- (c) Commercial, Industrial and Other Non-Residential Development
  - (i) All non-residential development that will generate waste.
- (d) Any other proposal the City considers will affect resource recovery.

*Note 1: Change of use applications that will not result in increased waste collection requirements or frequency as determined by the City are not required to submit a Waste Management Plan.*

4.1.2 Waste Management Plan (WMP) must include details but not limited to -

- (a) Land use type and Built Form (including but not limited to number of dwellings, bedrooms and storeys, size of commercial tenancy);
- (b) Bin Access and Storage;
- (c) Waste generation/Capacity;
- (d) Truck accessibility and manoeuvring;
- (e) Internal service collection arrangements (including swept path analysis where applicable);
- (f) Waste systems;
- (g) Signage;
- (h) Collection/placement options; and
- (i) Additional waste requirements.



4.1.3 The development shall be undertaken and operate in conformity with the Waste Management Plan approved by the City. This will be ensured in perpetuity via an appropriate condition of the development approval.

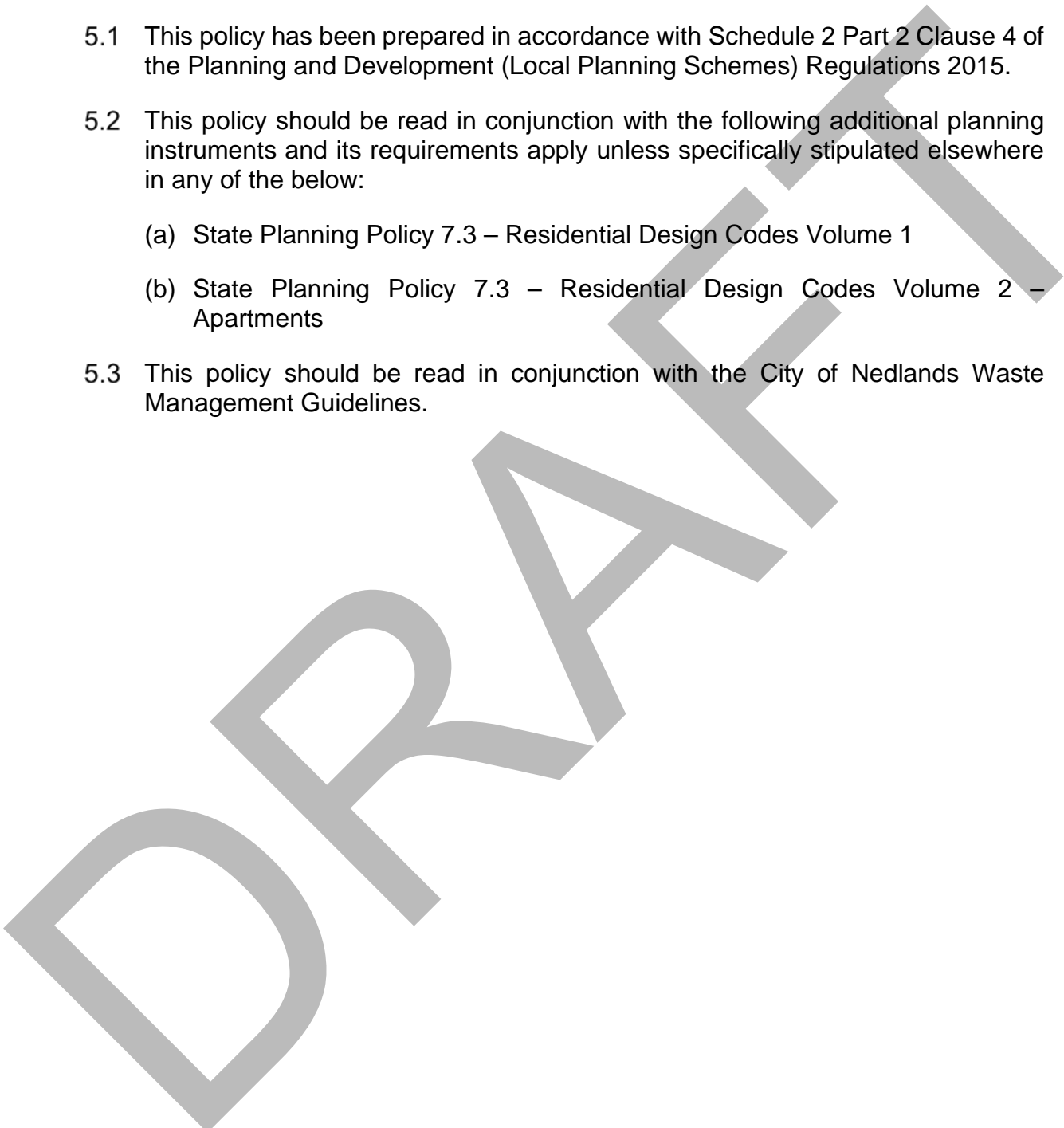
**5.0 RELATED LEGISLATION**

5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.2 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:

- (a) State Planning Policy 7.3 – Residential Design Codes Volume 1
- (b) State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments

5.3 This policy should be read in conjunction with the City of Nedlands Waste Management Guidelines.



Council Resolution Number	PDX.XX
Implementation Date	Date and Item Number of Council Meeting
Date Reviewed/Modified	DD MM YYYY





## WASTE MANAGEMENT LPP APPENDIX ONE WASTE MANAGEMENT GUIDELINES

### 1.0 INTRODUCTION

1.1 These guidelines are intended as a guide for developers, architects, waste consultants in the preparation of development applications to comply with the Waste Management Local Planning Policy.

### 2.0 PURPOSE

2.1 All aspects of waste management should be considered in the initial design phase of a development, to ensure effective integration of waste facilities into the design where visual amenity is maintained to a high standard, improves convenience, efficiency and protects the health and safety of all stakeholders.

2.2 A Waste Management Plan shall be submitted as per the Waste Management Local Planning Policy.

### 3.0 WASTE AND RECYCLING GENERATION

#### 3.1 Residential

3.1.1 The City’s collection service operates 7am-7pm on any day that is not a Public Holiday or Sunday (generally Monday to Saturday); and 9am – 7pm a Public Holiday or Sunday.

3.1.2 The City’s minimum residential waste and recycling allocation per rateable property is 1 x 120 litres per week for waste and 1 x 240 litres per fortnight for recycling. The waste and recycling requirements for residents in multi-unit dwellings are as shown in Table 1 below.

**Table 1**

Dwelling size	Waste (litres per /week)	Recycling (litres per fortnight)
Studio/One bedroom	80	240
Two Bedroom	120	240
Three plus bedrooms	120	240

3.1.3 The City provides second recycling bins to residents free of charge. Therefore, developers should consider extra space for storage of additional recycling bins. Also, green waste will also need to be catered for onsite, depending on the scale and nature of the development. The Waste Management Plan will also need to take this into consideration.

#### 3.2 Commercial



- 3.2.1 Waste and recycling generation for commercial developments are expected to be developed by the applicant and supported by waste generated modelling by a qualified waste consultant.
- 3.2.2 Commercial properties are not required to utilise the City’s waste services and can seek private commercial waste collection arrangements.
- 3.2.3 Should the owner/s wish to utilise the City’s commercial waste service, a written request is required, and approval will be considered at the sole discretion of the City.
- 3.2.4 However, commercial developments are encouraged to adhere to the residential waste management requirements to allow flexibility of choice to use the City’s service.

*Note- The City’s residential collection service timelines must not be disrupted and take precedence over any other collection and deliveries. e.g. commercial waste collection and delivery collections.*

#### 4.0 BIN SIZE AND COLOUR

4.1 The Waste Management Plan must provide details on the proposed bin sizes. The City’s available bin sizes and dimensions are shown in Table 2 and 3 below.

*Notes: Please refer to the City’s waste generation rates (table 1) to finalise bin numbers and the total bin area.*

**Table 2**

Waste Stream	Colour
Residential Waste	Dark green body with dark green/white lid
Commercial Waste	Dark green body with red lid
Recycling	Dark green body with yellow lid
Green Waste (Optional Service)	Dark green body with lime green lid

**Table 3**

Size (Litres)	Width (m)	Depth (m)	Height (m)
120	0.5	0.6	1.0
240	0.6	0.8	1.1
360	0.7	0.9	1.1
660	1.3	0.8	1.2
1,100	1.4	1.3	1.5

*Notes- The City encourages large multi-unit developments (10 or more dwellings) to utilise larger bin option (660L or 1100L).*

#### 5.0 COLLECTION FREQUENCY

5.1 The City currently offers weekly waste collection and fortnightly recycling collections to residential properties. The City can provide residential waste and recycling collections up to 2 times per week depending on the density of the development.



5.2 City of Nedlands collects residential waste at the following frequencies:

- (a) 1 to 55 apartments = 1 collection per week
- (b) 56 to 250 apartments = 2 collections per week

*Note: Additional collection frequency approval is at the City 's discretion and will incur additional fees and charges for residents.*

## 6.0 INTERNAL SERVICE COLLECTION

6.1 Internal service collection performed only by rear loader waste truck with the ability to service 240L, 360L, 660L and 1100L bins only

6.2 Internal service collections should be provided for 5 or more multiple and grouped dwellings, all mixed-use developments, all commercial developments and any other proposals where there is insufficient lot, road or verge frontage for collection or vehicle access as determined by the City. Transfer of bins within the bin location and to the waste presentation point should only be undertaken by the City's waste contractor.

6.3 The City may consider on-street collection where it is impractical or unsafe to collect within the property. Progress of a design not taking into consideration inside service requirements is not considered an acceptable reason.

6.4 Internal service collection should follow the below:

- (a) The waste presentation point shall be within the private property as verge presentation is not permitted.
- (b) The bin storage area shall be located in a position that is easy access for users and collection staff. The path for wheeling bins between the waste presentation point and the waste collection truck must be a flat surface ( $\leq 1.20$ , no steps or dock levellers) free of obstacles and a safe distance from parking bays and vehicle ramps.
- (c) The maximum walking distance between the last bin (furthest) at the bin's presentation point and the waste truck for all bin sizes and waste type shall not exceed 10 metres.
- (d) Access to the collection point must be available from 7am-4pm.

*Note -All residential developments requiring an annual internal service collection will attract a fee in addition to annual waste charges. Residents and/or caretakers will not be responsible for the presentation and removal of the bins from/to bin storage/collection location.*

## 7.0 WASTE TRUCK ACCESSIBILITY AND MANOEUVRING-

7.1 Any development of 5 or more dwellings shall require waste trucks to service all waste from within the property as verge presentation is not permitted. The design shall demonstrate the City's minimum compliance requirement of: -



- (a) Waste trucks must enter and exit the site in a forward gear, with all manoeuvring carried out on site. Submission of swept path analysis to demonstrate this is required using a waste truck length of 10m;
- (b) Rear lifts waste trucks will need a clearance height of minimum 3.8 metres and shall be clear of awnings, upper floors etc;
- (c) Both the driver and passenger should be able to safely enter and exit the vehicle before and after collection, allowing both doors to fully open; and
- (d) To allow safe operating conditions of the rear loader waste truck, there should be practical and convenient access for both the driver and passenger to access the rear of the vehicle with a minimum 800mm and a 2m operating space at the rear of the vehicle.

**8.0 EMBAYMENT OPTIONS**

8.1 Embayment options may be considered subject to approval from the City.

**9.0 BIN STORAGE AREA**

9.1 Depending on the number of dwellings residents may have individual bin areas or shared communal bin areas shown in Table 4 below.

**Table 4**

Development Type	Bin area	Bin Size		
		Waste	Recycling	Green waste
1-5 dwellings	Individual	120L/240L	240	240
6-9 dwellings Shared	Shared Communal	240L	240L	240L
10 or more dwellings Shared	Shared Communal	660L/1100L	660L/1100L	240L

9.2 Developments with shared bins must include an easily accessible communal bin storage area within the development. In the case of mixed-use developments separate residential and commercial bin storage areas are required.

9.3 A bin storage area (or enclosure) must be provided on the premises where bins are stored and collected from as per the following requirements:

- (a) Easily accessible to allow for the removal of the receptacles;
- (b) Adequate circulation space for manoeuvring bins within the storage area must be allowed;
- (c) Provide for collection that limits pedestrian and vehicle disruption;



- (d) The bin storage area is to be provided with a permanent water supply and drainage facility; for washdown. The bin area is to be screened by a gate, brick walls or other suitable materials to a height not less than 1.8m;

*Note-for further clarification, please refer to the City's Environmental Health Services.*

- (e) Each waste stream must be separated and clearly labelled;
- (f) Residential waste needs to have a separate area from commercial waste;
- (g) Developments that include residential dwellings shall include a dedicated area for the temporary storage of large bulky items awaiting disposal
- (h) Design should not encourage the emission of odour outside the bin enclosure area;
- (i) Bin storage areas shall be located within the building (not on the verge), so they are not visible from the public realm, or screened from public view with a quality material compatible with the building design
- (j) The bin area is to be accessible via a suitably constructed service road that will allow waste truck vehicle movement;
- (k) Provided with a ramp into the bin storage area having a gradient of no steeper than 1:8 unless otherwise approved by the City; and
- (l) Where a mixed-use development is proposed (residential and any other use), the residential waste and recycling bin storage areas are to be self-contained and separate from commercial bin storage areas.
- (m) For all properties that have lockable waste presentation point, the City requires relevant access i.e. key or remote device.

## **10.0 COLLECTION OF BINS**

- 10.1 Bins, ready for collection, shall be presented in a manner that has minimal impact on the public realm.
- 10.2 Where it cannot be demonstrated that the required number of bins for 4 dwellings or less can be practically accommodated on the verge for collection, bin storage areas shall be designed to allow for collection of waste from within the private site.
- 10.3 Any development of 5 or more dwellings, a bin storage area shall be designed to allow collection of all waste bins from within the site. All waste bins shall not be placed on the verge area for collection.

*Notes; The City's waste contractor will only collect allocated "City of Nedlands" bins from the Centralised Residential bin storage as inside service.*

## **11.0 WASTE SYSTEMS FOR MULTI-UNIT DWELLINGS**



11.1 Detailed descriptions of the waste systems must be provided, which shall include in-apartment source separation systems, chutes, carousels, in chute compaction equipment, transportable compactors, bin lifters and tugs or towing devices.

Developers must ensure that it is as easy to dispose of recyclable materials as a waste stream and that there is an adequate provision for the segregation of waste streams without contamination. Hard waste and charity goods should be taken to an easily accessible, secure and safe drop-off point on-site.

11.2 The following waste options exist for multiunit developments:

- (a) Option 1: Use 660L bins for waste and 660L bins for recycling with bins stored in communal storage area(s). Residents may be required to transfer all waste and recycling from their dwelling direct to the bin storage area(s).
- (b) Option 2: A dual chute system for waste and recycling leading to a central waste and recycling collection area in the basement or ground level.

*Notes; All internal bins located at each unit/level to manage the internal waste will be purchased and maintained by the developer by private arrangement.*

11.3 Detailed descriptions of the waste systems must be provided, including but not limited to:

- (a) Number of chutes;
- (b) No of bin carousels;
- (c) Compaction equipment; and
- (d) Bin tugs and towing devices.

## 12.0 WASTE CHUTE

12.1 The minimum waste system requirement based on Multiple Dwelling development size shown on Table 5 below.

**Table 5**

Number of floors/storeys	Preferred Waste System
Less than 6	Resident accessible bin store at ground level or basement level
6 or more	Dual chutes providing for both waste and recycling on each level

12.2 Termination of chutes into mobile bins is required to have skirting, or other equivalent system, to reduce any materials leaving the bin on impact. Where chute systems are installed, the City requires bins to have reinforced bases for bin longevity.





- 12.3 Where waste chutes are utilised, the approved waste compacted by a ratio of 2:1.
- 12.4 Chutes must be ventilated to ensure that air does not flow from the chutes through the service openings. All ongoing maintenance of chute systems, including cleaning is the responsibility of the building manager/strata management.
- 12.5 The City is aware of emerging technology regarding organic waste management. Alternate technology for the diversion of organic from landfill will be considered in place of a triple chute system.

### **13.0 WASTE COMPACTORS**

- 13.1 Developments over 250 apartments or a total stream volume of 25,000 litres of waste and/or 25,000 litres of recycling are required to provide a compactor. Compactors should be designed to hold at least 1 week's residential waste or multiple thereof. Waste compaction ratio is 2:1. Higher rates can result in Occupational Health and Safety issues and/or mechanical damage.
- 13.2 The compaction systems should compact directly into the receptacle to reduce the requirement to manually handle the waste receptacle. For its operational reliability, compactors require regular maintenance and sufficient space must be allocated to store at least 3 days of uncompacted waste in case the compactor is out of service.
- 13.3 Developer's shall liaise with the City to ensure the City's collection contractor vehicles can collect the compactor proposed for each development. Any compactor proposal will need to be agreed with the City.

*Note: The responsible entity (strata/corporate body) shall be liable for all bin replacement costs and/or repair costs relating to damage caused as a result of the bin compaction process.*

### **14.0 SIGNAGE**

- 14.1 Signs are encouraged within the bin storage area to encourage correct recycling and reduce contamination.
- 14.2 Clear signage and coloured bins (red for waste) and (yellow for recycling) to be placed in each bin storage area on each level.

### **15.0 BULK WASTE (Residential properties only)-**

- 15.1 Development shall allocate a dedicated area to place bulk bins (twice a year) for bulk rubbish collections. The City offers two hard waste collections and two green waste collections for residents.
- 15.2 The City's bulk collection contractor will provide a 10m<sup>2</sup> bulk bin during the bulk collection (twice per annum). Hard waste items from multi-unit developments are not permitted to be placed on the verge area for collection.



15.3 On-site hard waste storage must be provided as follows:

- (a) 1 to 55 apartments = Minimum area of 5m<sup>2</sup>
- (b) 56 - 200 apartments = Minimum are of 10m<sup>2</sup>

15.4 A hard waste collection area must be provided for collection contractors that is immediate to the truck collection location.

## 16.0 COLLECTION AND CONTRACTORS

16.1 All residential properties must utilise the City's waste service. However, commercial properties can engage private contractors for the services.

## 17.0 NOISE MANAGEMENT

17.1 If collections are to be conducted prior to 7am on weekdays in residential areas, a noise management plan is also to be submitted addressing all work collection systems referred to above. The noise management plan shall be assessed by the City of Nedlands for compliance under the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997 and is required to be approved by the City of Nedlands.

## 18.0 COMPLIANCE WITH WASTE MANAGEMENT PLAN

18.1 Responsibility for ensuring compliance with the Waste Management Plan and the cleaning of the bin storage area/s and facilities must be allocated to a person of appropriate authority (i.e. property manager, strata manager, caretaker).

## 19.0 NOTIFICATION ON TITLE

19.1 Section 70A Notification for Waste (where applicable)

19.1.1 Prior to commencement of development, the owner must register over the Certificate of Title to the land the subject of the proposed development a notification, under section 70A of the *Transfer of Land Act 1893*, notifying prospective purchaser that the refuse charges imposed on lot owners by the City as part of its annual rates and charges will be higher than standard refuse charges, due to the additional services provided by the City in respect of the collection of refuse from the development.

19.1.2 The section 70A Notification shall be prepared by the City's solicitors to the satisfaction of the City of Nedlands and all costs of and incidental to the preparation of any registration of the section 70A Notification including the City's solicitor's costs shall be met by the owner of the land.

19.2 Entry to private property.

19.2.3 The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the



development and shall indemnify the Principal and its Contractors against any and all costs, expenses, liability, loss, claims or proceedings whatsoever in respect of personal injury to or the death of any person, and in respect of any injury or damage whatsoever to any property or person, arising out of or in the course of or caused by the carrying out of work.

**20.0 ADDITIONAL INFORMATION REQUIRED**

20.1 Please ensure that all plans included in the Waste Management Plan are drawn to either a 1:100 or 1:200 to assist with the assessment process with information below:

- (a) Typical commercial floor showing waste and recycling drop-off points;
- (b) Bin rooms including any bins and compactors;
- (c) Bin presentation location (on-site) with bin alignment shown;
- (d) Residential and commercial floor levels illustrating waste and recycling storage;
- (e) Bin storage areas including any chutes, carousels and bins;
- (f) Bin numbers and size of bins;
- (g) Bin presentation location with bin alignment (verge presentation - if applicable) shown;
- (h) Ramp grades;
- (i) Access to bin storage area and/or chutes; and
- (j) Swept path analysis illustrating sufficient access to collect bins.

**21.0 DISCLAIMER**

21.1 The above information is provided as a guide only and the City of Nedlands disclaims any liability for any damages sustained by any person acting on the basis of this information. It is recommended that initial discussions with the City's Planning and Development Services and Technical Services should be held to address waste management at the early stages of the development proposal.

**22.0 DEFINITIONS**

Multiple Dwellings	As per Residential Design Codes.
Grouped Dwelling	As per Residential Design Codes.
Multi-unit Dwelling	5 or more multiple dwellings 5 or more grouped dwellings 5 or more aged or dependant persons dwellings/beds



## 23.0 APPENDIX

### 23.1 Waste Management Plan Template

23.1.1 Land Use Type

23.1.2 Waste Collection method  
*How will the internal collection operate.*

23.1.3 Bin enclosure/storage area;

23.1.4 Proposed waste system;

23.1.5 Collection frequency;

23.1.6 Waste truck manoeuvring and accessibility;

23.1.7 Waste capacity;

23.1.8 Waste presentation location;

23.1.9 Signage;

23.1.10 Bulk waste placement arrangements;

23.1.11 Waste management drawings/figures; and

23.1.12 Any additional waste requirements (e.g. bulk waste or charity bins).



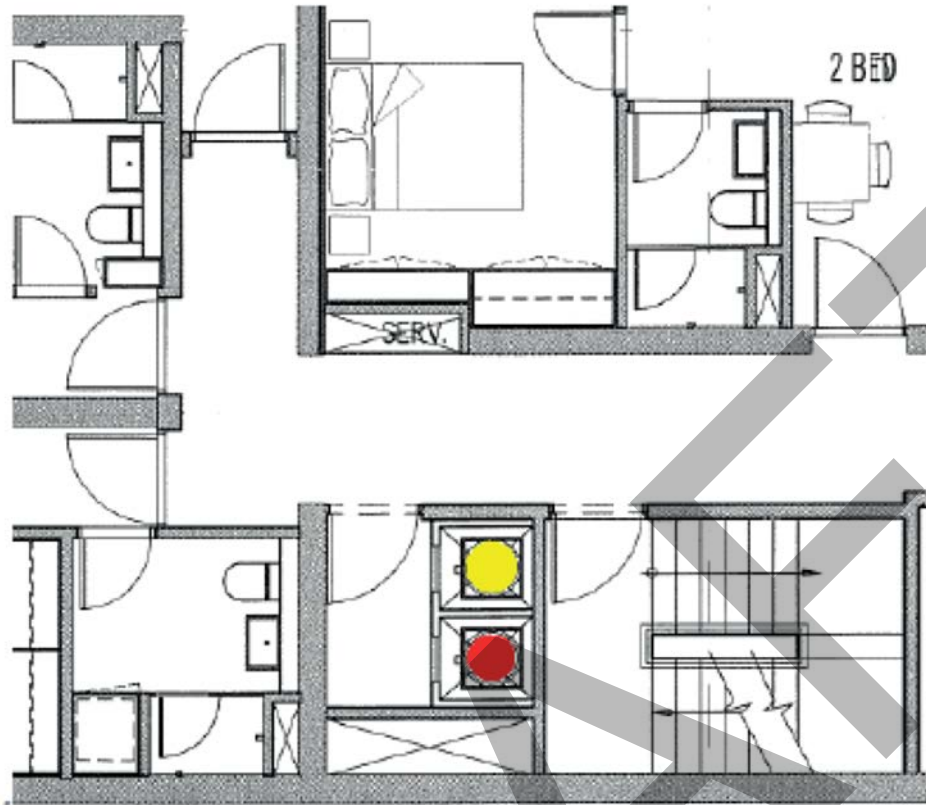
### 23.2 Collection Vehicle Specifications based on Rear loader waste truck

Parameter	Vehicle Dimension (m)	Required Clearance (m)
Overall length	8.5	10.0
Overall width	2.5	3.0
Overall height	3.0	3.8

DRAFT



23.3 Example of waste bin and recycling bin layout at bin storage area levels





<b>PD54.19</b>	<b>Local Planning Scheme 3 – Residential Aged Care Facilities</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Previous Item</b>	Nil
<b>Attachments</b>	1. Draft Residential Aged Care Facilities LPP 2. WAPC Draft Position Statement Residential Aged Care

## 1.0 Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) the Residential Aged Care Facilities Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish a Residential Aged Care Facility land use within the City of Nedlands.

## 2.0 Recommendation to Committee:

**Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, the Residential Aged Care Facilities Local Planning Policy (Attachment 1).**

## 3.0 Background

A product of the gazettal of LPS 3 in April 2019 was that an Additional Use for residential aged care facilities was approved over several sites within the City. However, LPS3 has no requirement for a Local Development Plan or other development provisions on these sites. Due to this, administration resolved to prepare a report addressing residential aged care facility land uses and providing parameters which will guide the development and re-development of sites for the purposes of the land use Residential Aged Care. The draft policy has been prepared in response to a proponent's intention to apply to develop a residential aged care facility on a residential site within the City, and the current absence of any specific development requirements for this proposal.

Residential aged care facilities are defined in LPS3 as,

‘A residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.’

It does not include aged and dependent persons dwellings, as defined by the R Codes and is not retirement accommodation.

Residential aged care facilities are capable of approval within the Residential and Mixed-Use zones, where they are listed as 'A' uses, requiring the local government to exercise its discretion regarding the use within these zones. In all other zones residential aged care facilities are an 'X' use and are therefore not permitted.

With the gazettal of LPS 3 the following sites were granted a Residential zoning and an Additional Use, which states that residential aged care facilities are a Permitted use on the following sites:

- Lots 101 (118) and 102 (108) Monash Avenue Nedlands
- Lot 103 (15) Karella Street Nedlands
- Lot 416 (1) Heritage Lane Mount Claremont
- Lot 11605 (17) Lemnos Street Shenton Park
- Lots 12830 (5), 12829 (7), 11329 (9), 701 (11), 702 (13A), 703 (13B), 9722 (6) and 10024 (4) Bedbrook Place Shenton Park
- Lots 104 (53) and 105 (57) Lisle Street Mount Claremont
- Lot 93 (125) Alfred Road Mount Claremont
- Lot 169 (80) Mooro Drive Mount Claremont
- Lot 25 (69) Melvista Avenue Nedlands
- Lots 10 (16) and 11(18) Betty Street Nedlands
- Lots 19 (73) and 18 (75) Doonan Road Nedlands

It is anticipated that the City may receive applications for residential aged care facilities at these sites in the future. This policy is crucial in helping to guide decision making and advise the community of Council's position in relation to residential aged care facilities.

#### **4.0 Detail**

This policy applies to all residential aged care facility proposals as defined under LPS 3 within the Residential and Mixed-Use zones.

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish or redevelop residential aged care facilities within the City of Nedlands, and to help officers assess development applications for residential aged care facilities in line with Council's position.

The Western Australian Planning Commission (WAPC) released their Draft Position Statement: Residential Aged Care in October 2019. This document outlines the WAPC's interim requirements to support the provision of residential aged care facilities within the local government planning framework. The documents intent is to encourage the appropriate supply of residential aged care facilities within Western Australia.

The City's draft policy seeks to respond to the position statement by clearly stating design criteria for residential aged care facilities including the standards of the Residential Design Codes that development is required to comply with in terms of height, setbacks and plot ratio. Further specific design criteria have been included for visual privacy, landscaping, boundary fencing, location of services, traffic impact, pedestrian access, signage and car parking. The policy focusses on these aspects

of development as it is considered that they have the greatest potential to impact the residential amenity of the surrounding area. Car parking, and the potential traffic generated by a residential aged care facility, have the potential to significantly impact upon the residential amenity of an area. The policy requires that vehicle parking areas shall be located to the rear of a residential aged care facility, and that a development application for such a facility must include a Traffic Impact Assessment, in order to mitigate this potential impact.

It is noted that the City would treat a development application for a residential aged care facility as a complex application in terms of the requirements of Local Planning Policy Consultation of Planning Proposals.

The policy requires the submission of a waste and traffic management plan with development applications, which will set out details of how waste and traffic will be managed to minimise their impact on the adjoining properties. This is considered particularly important due to the potentially high amount of waste and traffic generated by a residential aged care facility.

## **5.0 Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Regulations. This will include a notice being published in the newspaper and details being included on the City's website & the Your Voice engagement portal.

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

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

## **6.0 Statutory Provisions**

Planning and Development (Local Planning Schemes) Regulations 2015

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

Once Council resolves to prepare an LPP it must publish a notice of the proposed policy in a newspaper circulating the area for a period not less than 21 days.

## **7.0 Conclusion**

The Residential Aged Care Facilities LPP is the best mechanism to guide decision making and advise the community of the Council's position in relation to development applications for residential aged care facilities throughout the City.

As such, it is recommended that Council endorses administration's recommendation to prepare (consent to advertise) the Residential Aged Care Facilities LPP.



## LOCAL PLANNING POLICY – RESIDENTIAL AGED CARE FACILITIES

### 1.0 PURPOSE

1.1 The purpose of this policy is to provide guidance and development provisions for operators seeking to establish residential aged care facilities within the City of Nedlands.

### 2.0 APPLICATION OF POLICY

2.1 This policy applies to all residential aged care facility proposals in Residential and Mixed-Use zones. Residential aged care facilities are defined in Local Planning Scheme No 3 (LPS3) as

*A residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.*

Where this Policy is inconsistent with a Local Development Plan, Local Planning Policy or Precinct Plan that applies to a specific site or area, the provisions of that specific Local Development Plan, Local Planning Policy or Precinct Plan shall prevail.

### 3.0 OBJECTIVES

3.1 To ensure the appearance and design of residential aged care facilities are of a high quality and do not have an undue impact on the residential amenity of the area by way of building bulk and scale, noise, traffic, or parking.

3.2 To maintain a high standard of amenity for the surrounding residential neighbourhood through required management controls.

3.3 To establish a clear framework for the assessment and determination of applications for residential aged care facilities.

### 4.0 POLICY MEASURES

4.1 Applications for Residential Aged Care Facilities are an 'A' use within the Residential and Mixed-Use zones in LPS 3. An 'A' use is defined in LPS 3 as

*'a use which is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions'.*

An 'A' use will be advertised in accordance with the City's Local Planning Policy – Consultation of Planning Proposals and may be considered by the City where the following requirements of this policy are met.



## 4.2 Design Requirements

- 4.2.1 All residential aged care facilities shall comply with the front setback and open space requirements of the City’s LPS3 Clause 26 (1) and (2).
- 4.2.2 Residential aged care facilities are a commercial land use, however on Residential and Mixed-Use zoned sites the development is required to comply with the relevant provisions of the R-Code allocated to the site, at the discretion of the City.
- 4.2.3 For subject lots of less than 2000m<sup>2</sup> and where no R-Code has been allocated to the site and the development proposed is in a single house or grouped dwelling style, the development shall meet the equivalent standards for single houses and grouped dwellings with an R80 density code as per the State Planning Policy 7.3 Residential Design Codes Volume 1 as per Clause 4.2.6.
- 4.2.4 For subject lots of less than 2000m<sup>2</sup> and where no R-Code has been allocated to the site and development is a multiple dwelling style, development shall meet the equivalent standards for Multiple Dwellings with an R60 density code as per the State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments as per Clause 4.2.6.
- 4.2.5 Where a residential aged care facility is proposed to be built on a lot larger than 2000m<sup>2</sup> and/or is adjacent to a Mixed Use area and/or is adjacent to public open space, the City may consider a higher density code where development shall meet the equivalent standards for Multiple Dwellings with an R80 density code as per State Planning Policy 7.3 Residential Design Codes -Volume 2 Apartments as per Clause 4.2.6.
- 4.2.6 Primary Controls

Single house/grouped dwellings on subject lots less than 2000m <sup>2</sup>	
Site R-Coding	R80
Building height (storeys)	2
Boundary wall height (storeys)	1
Minimum primary street setback	1m
Minimum secondary street setbacks	1m
Minimum side setbacks	As per Table 2A and 2B of SPP 7.3.
Minimum rear setback	As per Table 2A and 2B of SPP 7.3
Average side setback where building length exceeds 16m	As per Table 2A and 2B of SPP 7.3.
Notes 1 Boundary wall only permitted on one boundary, and shall not exceed 2/3 length	
Multiple dwelling style development on site less than 2000m <sup>2</sup>	
Site R-Coding	R60
Building height (storeys)	3
Boundary wall height (storeys)	1
Minimum primary street setback	2m
Minimum secondary street setbacks	2m
Minimum side setbacks	3m



Minimum rear setback	3m
Average side setback where building length exceeds 16m	3.5m
Plot ratio	0.8
Notes 1 Boundary wall only permitted on one boundary, and shall not exceed 2/3 length	
Multiple dwelling style development on sites greater than 2000m <sup>2</sup>	
Site R-Coding	R60
Building height (storeys)	3
Boundary wall height (storeys)	1
Minimum primary street setback	2m
Minimum secondary street setbacks	2m
Minimum side setbacks	3m
Minimum rear setback	3m
Average side setback where building length exceeds 16m	3.5m
Plot ratio	0.8
Notes 1 Boundary wall only permitted on one boundary, and shall not exceed 2/3 length	

### 4.3 Streetscape character

4.3.1 The design and siting of residential aged care facilities shall have regard to the existing neighbourhood character and amenity and be designed to reflect a residential appearance from the street(s), particularly regarding the following elements:

### 4.4 Building and roof form

4.4.1 Building height and setback, with height situated on the site to minimise amenity impacts to neighbouring properties and the streetscape;

4.4.2 Design detail, including façade articulation, verandas, window and door style and placement; and

4.4.3 Building materials, colours and finishes and their effect upon the developments interface with the public domain.

### 4.5 Visual Privacy

4.5.1 Where located adjacent to residential properties, residential aged care facilities are to be designed so that major openings to operational rooms or amenities frequented by staff and residents of the development that have a finished floor level raised 0.5 metres or more above natural ground level which overlook any part of an adjoining residential property behind its street setback line are to:

4.5.1.1 Be setback, in direct line of sight, a minimum of 6.0 metres from the boundary of the adjoining residential property (as measured from a 45-degree cone of vision from the external face of the opening); or





4.5.1.2 Be provided with permanent vertical screening or glazing to a minimum height of 1.6 metres above the finished floor level;

4.5.2 All unenclosed outdoor spaces (balconies, decks, verandas and the like) where the finished floor level is raised 0.5 metres or more above natural ground level which overlook any part of an adjoining residential property behind its street setback line, are to:

4.5.2.1 Be setback, in direct line of sight, a minimum of 7.5 metres from the boundary of the adjoining residential property (as measured from a 45-degree cone of vision from the external perimeter of the unenclosed outdoor space); or

4.5.2.2 Are provided with permanent screening. Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6m in height, at least 75% obscure, permanently fixed, made of durable material and restrict view.

#### 4.6 Landscaping

4.6.1 A high quality of landscaping shall be provided to soften the appearance of the development, screen car parking areas and provide an attractive aspect that is compatible with the streetscape and amenity of surrounding residential properties.

4.6.2 A minimum of twenty-five per cent (25%) of the site area is to be landscaped, and a minimum of fifty per cent (50%) of the front setback area is to be soft landscaping.

4.6.3 The development is to be designed to maximise the retention of existing mature trees on the site as well as existing Council verge trees.

4.6.4 Where a vehicle access way or car parking area is located adjacent to any residential property and is unable to be located elsewhere, it shall be setback behind a planted perimeter strip of at least 1.0 metre in width between the car park/vehicular access way and any adjoining residential property.

4.6.5 Where a car parking facility or area is provided at ground level, (open air) a landscaping plan shall be provided demonstrating appropriate planting of 1 mature tree per every 6 car parking bays with that car parking area to provide adequate shading and landscaping is encouraged to provide buffering between the facility and any adjacent residential properties.

#### 4.7 Boundary Fencing

4.7.1 New or upgraded boundary fencing should be a minimum of 1.8 metres height and be in a colour and material that are compatible to any neighbouring residential properties.

4.7.2 Boundary fencing proposed to be over 1.8 metres in height, or in a material not specified as acceptable in the City's Local Planning Policy – Fill and Fencing, shall require development approval.



4.7.3 All fencing is required to be in accordance with the Dividing Fences Act 1961.

#### 4.8 Location of Building Services and Bin Storage Area

4.8.1 Delivery, loading and building service areas are to be located so that they are not visible from the street or adjoining residential properties.

4.8.2 Bin storage areas are to be appropriately screened and located so that they do not negatively impact the amenity of surrounding residential properties by way of visual nuisance, odours or other impacts.

4.8.3 A waste management plan, detailing the management and removal of waste from the site, is required to be submitted as part of a development application in accordance with the City's Local Planning Policy Waste Management and Guidelines.

#### 4.9 Traffic Impact

4.9.1 A Transport Impact Statement (TIS) or Transport Impact Assessment (TIA) prepared by a suitably qualified independent traffic consultant is required to be submitted as part of a development application, which assesses the likely traffic impact associated with the proposed residential aged care facility development in accordance with WAPC Guidelines.

#### 4.10 Pedestrian Access

4.10.1 Pedestrian entrances into buildings shall be clearly identified to provide a well-designed and welcoming public domain interface for all users.

4.10.2 Levels shall allow dignified and equitable accessibility and unobstructed activity to flow between the development and the public domain at ground floor.

4.10.3 Pedestrian pathways on the site shall be clearly identifiable, linked with public pedestrian pathways and clearly separated from vehicle access roads, to provide a functional and safe passage to the development.

#### 4.11 Location of Vehicular Access and Car Parking

4.11.1 Vehicle parking shall be contained on-site to avoid street and verge parking associated with the use.

4.11.2 Vehicle parking areas shall be located to the rear of the site and screened from view of the neighbouring residential properties. Visitor parking in the front setback of the lot may be considered by the City.

4.11.3 Visitor car parking areas located within the front setback area shall be setback from the front property boundary behind a soft landscaping strip a minimum of 1.0 metre in width.

4.11.4 Parking ratios shall be in accordance with the City's Local Planning Policy Parking.

#### 4.12 Signage



4.12.1 All signage associated with a residential aged care facility shall be in accordance with the requirements of the City's Local Planning Policy - Signs and shall be provided as part of the development application. Where final specifications are unknown, a Signage Details Form identifying the location, size and type of external signage to be installed on the building/site is to be submitted to Council as part of the development application.

## **5.0 CONSULTATION**

5.1 Consultation with affected landowners will be undertaken in accordance with the City's Local Planning Policy- Consultation of Planning Proposals.

5.2 Where applications for residential aged care facility uses are listed as 'A' in the Zoning Table of the Scheme or where a variation is proposed to this Policy, applications are to be advertised in accordance with the requirements of the Local Planning Policy- Consultation of Planning Proposals.

## **6.0 ADDITIONAL DEVELOPMENT APPLICATION REQUIREMENTS**

6.1 In addition to the general requirements for an application for development approval, a Traffic Impact Statement of Assessment is required in accordance with Clause 4.9.1 of this policy.

6.2 The following matters are to be addressed in the applicants supporting report:

- Hours of visitation;
- Staff numbers;
- Resident numbers; and
- Parking management plan
- Landscaping plan
- Acoustic report.
- BAL Assessment and Bushfire Management Plan where a subject site is designated as within a Bushfire Prone Area.

## **7.0 OTHER CONSIDERATIONS – ENGINEERING AND TECHNICAL SERVICES, HEALTH AND BUILDING APPROVAL**

7.1 The applicant is advised to consult the City's Building Services & Environmental Health Services to determine if a Building Permit, Food Business Registration or Aquatic facilities approval is required for a residential aged care facility.



## 8.0 VARIATIONS TO POLICY

8.1 Where a variation to this policy is sought, consideration shall be given to objectives of the policy.

## 9.0 BUSHFIRE MANAGEMENT

9.1 Where a property is within a designated Bushfire Prone Area, applications for development approval will be required to comply with State Planning Policy (SPP 3.7) Planning in Bushfire Prone Areas, and any building requirements as required by the Building Code of Australia.

9.2 Residential aged care facilities are a vulnerable land use under SPP3.7 and may require a Bushfire Management Plan (BMP) submitted by a certified Level 2 or 3 Bushfire Management Consultant to the satisfaction of the City. Where a property is within a Bushfire Prone Area the application may require a referral to the Department of Fire and Emergency Services (DFES). The City will take into consideration comments from DFES in making their determination.

## 10.0 LEGISLATION

10.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

10.2 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 (Local Planning Schemes) Regulations 2015
- Local Planning Scheme No. 3
- State Planning Policy 7.3 – Residential Design Codes
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- Parking Local Planning Policy
- Consultation of Planning Proposals Local Planning Policy Signs Local Planning Policy

**11.0 DEFINITIONS**

11.1 For this policy the following definitions apply:

<b>Definition</b>	<b>Meaning</b>
Residential Aged Care Facility	As per LPS 3, being, a residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.
Multiple Dwelling	As per the R-codes, being, a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio of the dwelling is vertically above any part of the plot ratio area of any other but: does not include a grouped dwelling; and includes any dwellings above the ground floor in a mixed-use development.
Resident	Means a person who permanently resides on site.
Visitor	Means a person who temporarily visits the site, whether a family member or friend visiting a resident.
Staff	Means a person who is employed by the residential aged care facility. Includes locum health and medical practitioners who visit the site on an ad-hoc basis.
Vulnerable Land Use	As per SPP 3.7 - Planning in Bushfire Prone Areas, being, a use where persons may be less able to respond in a bushfire emergency, including: Land uses and associated infrastructure that are designed to accommodate groups of people with reduced physical or mental ability such as the elderly, children (under 18 years of age), and the sick or injured in dedicated facilities such as aged or assisted care, nursing homes, education centres, family day care centres, child care centres, hospitals and rehabilitation centres.

Council Resolution Number	PDX.XX
Adoption Date	Date and Item Number of Council Meeting
Date Reviewed/Modified	DD MM YYYY



Department of Planning,  
Lands and Heritage



# Draft Position Statement: Residential aged care

October 2019

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This document is available in alternative  
formats on application to the  
Communications Branch.



## 1. Policy intent

This document outlines the Western Australian Planning Commission's (WAPC) interim requirements to support the consideration and provision of residential aged care within the local government planning framework in Western Australia. It seeks to remove planning process barriers and encourage the provision of an appropriate supply and diversity of residential aged care options by establishing a consistent, simplified and streamlined approvals framework supported by a strategically-led system. It is proposed to complement existing government policies and services for the aged.

When reviewed and where relevant, the WAPC will support amendments to incorporate the statutory content from this Position Statement into the Planning and Development (Local Planning Schemes) Regulations 2015 as model or deemed provisions.

## 2. Residential aged care in Western Australia

Our population is ageing at a faster rate than ever before. The number of older Australians will more than double in the next 40 years. At a State level, WA Tomorrow forecasts an 86 per cent increase in people aged over 85 by 2031. The challenges arising from this trend in population demographics is often recognised as one of the megatrends affecting global society.

An ageing population impacts on all aspects of community life, including the economy, and options to address these impacts are complex and multi-faceted. The implications of inadequate planning to support the needs of our ageing population are significant and include, but are not limited to, increased Federal and State government housing and health care services and associated funding, and increased costs to retrofit existing developments to accommodate aged persons' needs.

Within the State planning framework, State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) provides density bonuses to encourage greater provision of housing developed for aged or dependent persons. However, these provisions alone are not expected to meet the growing demand and changing

needs of the industry, including increased consumer desire for choice and flexibility to age in place and expectations in relation to lifestyle, entertainment options and affordability.

The growth in an ageing population, coupled with more complex needs due to increases in life expectancy and changing patterns of disease, will result in an increased demand for options that support a flexible transition from independent living to residential aged care.

Residential aged care facilities provide a range of care options and accommodation for older people who are unable to continue living independently in their own homes. The type of care provided ranges from personal care to assist with activities of daily living through to nursing care on a 24-hour basis. Flexible aged care delivery models that provide for transitioning needs are desirable for consumers and assist in creating a competitive and viable business product.

The provision of personal and/or nursing care within residential aged care facilities is what distinguishes this type of land use from other types of accommodation for the aged, such as retirement villages where residents live independently. Retirement villages are complexes of residential units or separate complexes of residential units on common land. They may be privately owned or owned by not-for-profit organisations.

A strategically-led planning system that incorporates appropriate incentives to encourage investment in the provision of aged persons' housing and residential aged care, is considered the key to facilitating a streamlined approval process and consistent decision-making.

### 3. Application of this policy

This position statement applies to the preparation and assessment of local planning strategies, local planning schemes and local planning policies throughout Western Australia.

### 4. Policy objectives

This position statement seeks to achieve:

- consistent strategic planning consideration of aged care needs in local planning/housing strategies
- consistent statutory planning guidance to standardise aged care-related land-use definitions and zoning permissibility in local planning schemes.

All other inter-related issues that impact on seniors' housing, affordable housing and changes to the R-Codes are outside the scope of this position statement.

### 5. Policy measures

#### 5.1 Strategic planning considerations

##### Local planning strategies and/or local housing strategies

All local planning strategies and/or local housing strategies should consider, evaluate and provide for future aged care needs by incorporating a dedicated section within the strategy that details:

- existing and future projected demographic profiles for aged persons applying WAPC's WA Tomorrow data
- existing and future projected aged persons' housing and residential aged care needs across the municipality
- medium to long-term aged persons' housing and residential aged care (beds) provision targets aligned to projected future demand
- incentives intended to be outlined in local planning schemes, local planning policies and other long-term local government strategies to facilitate increased supply, including:
  - development-based incentives such as density, height and plot ratio bonuses
  - other mechanisms such as surplus land sales/lease/joint venture programs

- the identification of suitable sites based on appropriate locational criteria such as zoning, proximity and accessibility to services
- consideration of acceptable development standards, including built form outcomes, design criteria, streetscape requirements, permissible height, density and development setbacks.

Future residential aged care needs identified in local planning strategies and/or local housing strategies must translate into locations, sites and densities in local planning schemes in accordance with the statutory planning requirements below.

### Local planning policies

It is preferable for a local government's position on aged care to be formalised within a local planning strategy and/or local housing strategy. Where this is not possible, or as an interim measure, local planning policies may be used to supplement the local government's position on aged persons' housing and residential aged care facilities.

## 5.2 STATUTORY PLANNING REQUIREMENTS

### Local planning schemes

Local planning schemes should align to the local planning strategy and/or local housing strategy content to facilitate the streamlined delivery of identified aged care needs.

Where applicable, local planning schemes should contain the following land use definitions:

#### **Residential aged care facility:**

a residential facility providing personal and/or nursing care primarily to aged or dependent persons which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. This may consist of multiple components that include residential respite (short-term) care, aged or dependent persons' dwellings and a retirement village, but does not include a hospital, rehabilitation or psychiatric facility.

**Retirement village:** a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and land uses incidental and ancillary to the provision of such

accommodation, but does not include a development which includes these features as a component of a residential aged care facility.

Where applicable, 'residential aged care facility' and 'retirement village' should be classified as permitted 'P' land uses in residential zones in the local planning scheme zoning and land use classification tables, unless sufficient justification on proper and orderly planning and locational grounds is provided by the local government to otherwise allocate a discretionary 'D' or 'A' land use permissibility.

In industrial or similar zones where sensitive land use conflict exists, residential aged care facilities and retirement villages should be prohibited 'X' land uses. In all other zones, such as rural, residential aged care facilities and retirement villages should be discretionary 'D' or 'A' land uses.

Incidental and ancillary amenities and land-uses associated with and supporting residential aged care facilities and retirement villages (for example medical consulting room, pharmacy, café and the like) that are accessible for residents only should be considered and determined under the above new land-use definitions.

Amenities and land uses associated with and supporting residential aged care facilities and retirement villages that are accessible to both residents and the

general public should be considered as separate use classes and determined in accordance with the land use classification table under the local planning scheme.

All other aged care-related development proposals that fall outside the above new land use definitions should be considered and determined under the R-Codes and appropriate zoning and land use classification table in the local planning scheme.

### Development approvals for residential aged care facilities and retirement villages

Residential aged care facilities and retirement villages are encouraged within residential zones, in line with the local strategic planning framework (section 5.1).

A Local Development Plan (LDP) should be prepared if development standards for residential aged care facilities and retirement villages are not specified in the local planning scheme or strategic planning framework.

A LDP should ensure the development is compatible and integrated with streetscape(s) and existing or future desired built form of the locality. LDPs must outline built form requirements, including, but not limited to, building height bulk and scale, open space, setback, access, parking, landscaping, servicing and drainage, visual privacy, solar access and other relevant development requirements.

**Development approvals for proposals that include aged or dependent persons' dwellings assessed under the R-Codes**

Clause 5.1.1 C1.4i of the R-Codes provides a density bonus for aged or dependent persons' dwellings. If desired, this clause may be applied to eligible component(s) of a residential aged care facility or retirement village proposal. In these cases, the calculation to determine the number of permissible dwellings should be limited to the eligible portion(s) of the development only, consisting of self-contained, independent aged or dependent persons dwellings.

## **6. Definitions**

***Aged person***

a person who is aged 55 years or over.

***Dependent person***

a person with a recognised form of disability requiring special accommodation for independent living or special care.

***Residential aged care facility***

a residential facility providing personal and/or nursing care primarily to aged or dependent persons which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. This may consist of multiple components that include residential respite (short-term) care, aged or dependent persons' dwellings and a retirement village, but does not include a hospital, rehabilitation or psychiatric facility.

***Retirement village***

a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and land uses incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility.

<b>PD55.19</b>	<b>Mt Claremont North-East Structure Plan Investigation</b>
<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Previous Item</b>	OCM 26 June 2018 – 14.4 PD53.18 – 23 October 2018
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Mt Claremont subject site map</li> <li>2. Mt Claremont subject site map with zoning</li> <li>3. Letter from the City to the DPLH</li> <li>4. Response letter from the DPLH</li> </ol>

## 1.0 Executive Summary

This report details investigations into planning for the Mt Claremont East area following advice from the Department of Planning Lands and Heritage (DPLH).

This report follows a Notice of Motion by Council at its meeting of 26 June 2018 where it resolved to instruct the CEO to investigate the creation of a Local Structure Plan for the Mt Claremont North-East area and provide to Council a report that scopes the delivery of the Local Structure Plan and include with it an Engagement Strategy. There was also an investigation report on this matter put to Council on the 23 October 2018 where Council resolved for the preparation of a project plan and community engagement plan to explore further options for future development and planning for the Mt Claremont East area.

Administration have investigated the need for a Local Structure Plan for the Mt Claremont East area and gathered information from DPLH which is detailed further in this report. Following these investigations, it is recommended that Council provide its approval for the City's Administration to cease work on this project at this time as the City is unable to establish a Statutory Planning document over the land of concern.

## 2.0 Recommendation to Committee

**Council resolves to instruct the CEO to cease current work on the Mt Claremont Structure Plan Investigation until such time as critical priorities of developing Local Precinct Plans can be resolved and when a Statutory Planning Mechanism can be established over the land of concern.**

## 3.0 Background

This report follows a Notice of Motion by Council at its meeting on the 26 June 2018 where it resolved to instruct the CEO to investigate the creation of a Local Structure Plan for the Mt Claremont North-East area and provide to Council a report that scopes the delivery of the Local Structure Plan and include with it an Engagement Strategy. Following the Notice of Motion there was a report put to Council on the 23 October

2018 where Council resolved for the preparation of a project plan and community engagement plan to explore further options for future development and planning for the Mt Claremont East area. Council was also briefed on the item at the 1 October 2019 Council Briefing, where Administration discussed the view of ceasing work on the project.

The report which was put to Council in October 2018 discussed the various Strategic Master Planning documents and reports which sit over the various parcels of land within the study area as requested by the Notice of Motion. Each of the documents discussed high level plans and designs for the specific parcels which it was in relation to. This included:

- Shenton Park Study (1989)
- Shenton Park Structure Plan (2001)
- Town of Cambridge Redevelopment of Perry Lakes Stadium / AK Reserve Redevelopment Plan
- Christ Church Playing Fields Outline Development Plan (ODP)
- John XXIII College Outline Development Plan (ODP)
- Mt Claremont Sports Precinct Structure Plan
- Mt Claremont Bus Depot
- Graylands Hospital Decommissioning
- Ideas for the Subiaco Strategic Resource Precinct – Wastewater Treatment Plant

The October 2018 report also discussed the various zones and reserves within the study area. These can be viewed in Attachment 2. The land comprises of a mix of land zoned under the Local Planning Scheme No.3 (LPS 3) such as Private Community Purpose, Service Commercial and Urban Development. There is also land reserved under the Metropolitan Region Scheme (MRS) such as land reserved for Public Purposes.

The City's Local Planning Strategy sets out a vision for the Mt Claremont East area which is to:

- Retain and enhance the character and streetscape of the existing residential areas.
- Comprehensively plan for the remaining non-residential areas.
- Land uses and development within this area shall not conflict with the urban character being predominantly of sporting, research and educational facilities.
- Prevent the encroachment of sensitive land uses and residential development within the Subiaco Wastewater Treatment Plant odour buffer area.
- Consider opportunities to consolidate and improve access throughout the precinct.

The issues suggested within the Notice of Motion were a lack of overall planning for the area and that many developments such as the new bus depot were not in line with the vision of the area being used for recreation and research. The issue arisen is that most of the approvals that do not conform with the Local Planning Strategy's vision for the area are within the land reserved under the MRS shown in yellow in Attachment 2. Land reserved under the MRS is not subject to development approval by the City. In this process the City is merely a referral agency on which we recommend refusal if proposals are not in line with the vision for the area. The West Australian Planning Commission (WAPC) as the approving body can then decide whether or not to take our comments on board as the Local Planning Strategy is a strategic planning instrument.



Through the Planning and Development (Local Planning Schemes) Regulations 2015 Strategic planning instruments such as strategies and master plans are not given as much weight when assessing development applications as statutory planning instruments. The City can only create a statutory planning document such as a Structure Plan for land reserved under the MRS with the approval of the WAPC and in this instance that approval has not been forthcoming.

#### **4.0 Detail**

Following Councils' resolution in October 2018 the City contacted the Department of Planning, Lands and Heritage (DPLH) to ascertain whether they would provide consent for the City to create a structure plan over the study area including the land reserved under the Metropolitan Region Scheme (MRS). This letter can be viewed in Attachment 3. The DPLH wrote back to the City to discuss that a strategic mechanism such as a master plan would be suggested whereas a statutory document such as a structure plan would not be supported.

Although another strategic planning document could be created over this land this would be given the same weight in the development application process as the Local Planning Strategy which the City already has in place. Without the ability to create a statutory planning document over the MRS reserved land Administration believe that the desired outcome of the Notice of Motion will not be achieved and therefore work on this process should cease until such time that this can be created or where the position of the DPLH changes in this regard.

#### **5.0 Consultation**

Nil.

#### **6.0 Statutory Provisions**

Planning and Development (Local Planning Schemes) Regulations 2015

A structure plan provides a basis for zoning (including residential density) and subdivision of land. Schedule 2, Part 4, clause 15 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) outlines that a structure plan may be prepared for an area that is:

- identified in a local planning scheme as being suitable for urban or industrial development (through zones such as Urban or Industrial Development);
- for other areas as identified in a scheme prior to subdivision or development of land;
- as requirement under a State Planning Policy (SPP); or
- as required by the WAPC for orderly and proper planning purposes.

#### **7.0 Budget/Financial Implications**

Due to the current capacity of the City's Urban Planning Department with the suite of documents needing to be progressed under LPS 3, if a strategic master plan document was desired by Council, the City would likely need to get an external consultant to undertake this work and this is not considered to be a strategic priority by Administration.

## **8.0 Conclusion**

Due to the inability to create a statutory planning mechanism which would hold weight through the development application process and already having the Local Planning Strategy to provide an overall vision for the area Administration would recommend that this project cease until such time that a statutory mechanism can be explored over all of the subject land.





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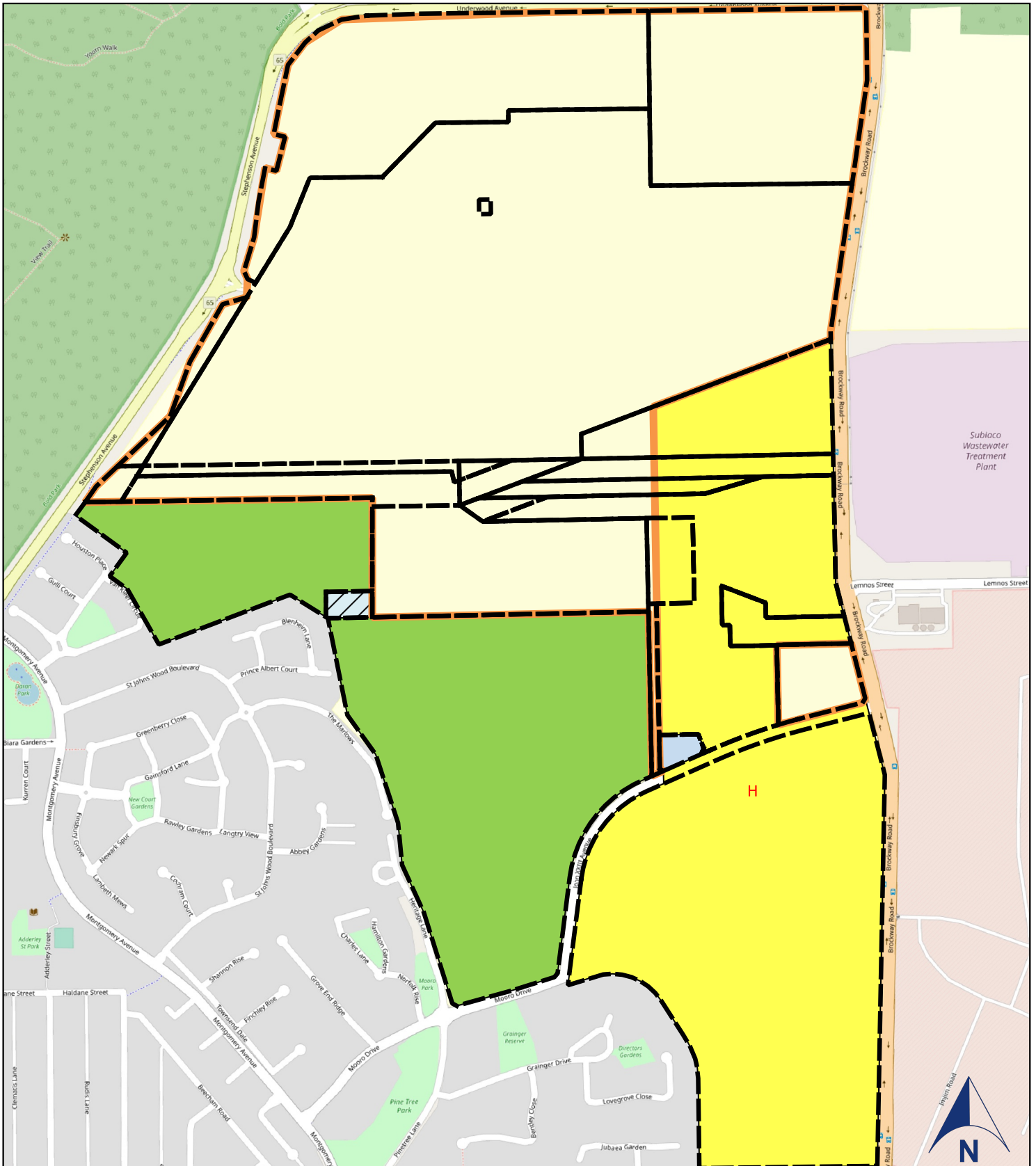


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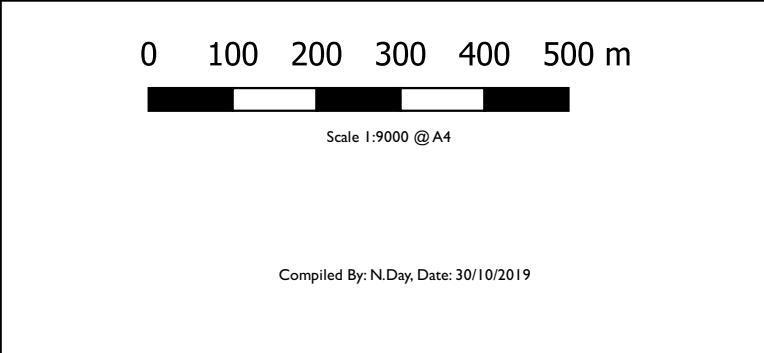











# Map 2 - Zoning within Mt Claremont Area of Interest



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- Legend**
-  Area of Interest
  - Local Planning Scheme 3:
  -  Special Control Area
  -  Private Community Purpose
  -  Service Commercial
  -  Urban Development
  -  Drainage/Waterway
  - Metropolitan Region Scheme:
  -  Public purposes



Enquiries: Ronni Crabtree 9273 3500

10 December 2018

**ATTN: Michael Daymond**

Dear Mr Daymond,

**Mt Claremont North-East Structure Plan Investigation**

I write to you today regarding the recent Council Recommendation on the 23<sup>rd</sup> October 2018 where they resolved for the City to explore options for future development and planning for the Mt Claremont North East area. The original investigation area is shown in Attachment 1, although the Council had resolved to extend the area North up Brockway Road to Underwood Avenue proceeding to Stephenson Avenue. The extended area has been shown in Attachment 2.

The investigation area is compiled of a range of different zone's and reserves both under the current City's Town Planning Scheme No.2 and the Metropolitan Region Scheme. These are shown in Attachment 3. One of the parcels also sits across both the City of Nedlands and the Town of Cambridge in the north west of the investigation area.

The need for proper and orderly planning over the investigation site has been raised by the Council. The area which was formerly the Brockway Landfill facility was closed approximately 30 years ago has remained unused and desolate in the opinion of the Council. Although contamination mediation is required on the site Council would like to see a long-term land use plan.

One option the Council is seeking to pursue is a structure plan to create a clear framework for the area. As such, the City is seeking a formal response from the Department of Planning as to whether a structure plan can be created for the area as a whole or whether the City is only able to create a structure plan over those parcels which sit within the City's local government area and are zoned development under the City's current scheme.

Should you have any further queries, please contact Ronni Crabtree on 9273 3500 or [rcrabtree@nedlands.wa.gov.au](mailto:rcrabtree@nedlands.wa.gov.au)

Kind regards

A handwritten signature in black ink, appearing to read 'Ronni Crabtree'.

Ronni Crabtree  
**Strategic Planning Officer**





City Of Nedlands

27 MAY 2019

Received  
Records Services

Your ref:  
Our ref: 853/02/08/0004P  
Enquiries: Nina Lytton (6551 9037)

City of Nedlands  
PO Box 9  
Nedlands  
WA 6909

Attn : Ronni Crabtree, Strategic Planning Officer

Dear Ms Crabtree

### **MOUNT CLAREMONT NORTH-EAST STRUCTURE PLAN INVESTIGATION**

I refer to your letter of 10 December 2018 and subsequent email correspondence, seeking the Western Australian Planning Commission's (WAPC's) agreement that a structure plan is required for the purposes of proper and orderly planning within the area generally bounded by Underwood Avenue, Stephenson Avenue, Mouro Drive and Brockway Road in Mount Claremont and Floreat (the subject area).

The subject area comprises a number of land parcels totalling approximately 175 hectares and is zoned Urban and reserved for Public Purpose - Hospital under the Metropolitan Region Scheme (MRS).

As you would be aware, since your letter, the City of Nedlands Local Planning Scheme No. 3 (LPS 3) has been gazetted. The land zoned Urban under the MRS in the subject area is now zoned Development and Private Community Purpose under LPS 3. The City is able to prepare a structure plan over Development zoned land without the approval of the WAPC, pursuant to clause 15(a) of the Deemed Provisions for Local Planning Schemes (the Deemed Provisions) contained within the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In regard to the portions of the subject area that are zoned Private Community Purpose under LPS 3 and the land that is reserved under the MRS, a structure plan can potentially be prepared over this land, subject to the WAPC forming the view that a structure plan is necessary for the purposes of proper and orderly planning in accordance with clause 15(c) of the Deemed Provisions. It is also possible for a structure plan to incorporate land within more than one local government area, subject to the agreement of the affected local governments.

A structure plan generally provides a basis for zoning (including residential density) and subdivision of land and generally relates to urban or industrial zoned land identified for future development. The Department of Planning, Lands and Heritage



(the Department) is not aware of any proposed redevelopment of the area reserved under the MRS that would necessitate the preparation of a structure plan at present. Regarding the land now zoned Private Community Purpose, owned by the Catholic Archbishop of Perth, the Department is aware of the intent for its development as Christchurch Grammar playing fields and the existence of an Outline Development Plan for that purpose.

While the area has the potential to be affected by odour associated with the Subiaco Wastewater treatment plant, appropriate management of this issue has been addressed through Special Control Area 1 (SCA1) - Subiaco Strategic Water Resource Precinct (wastewater plant odour buffer) in LPS 3. The objective of the SCA1 is to prevent the introduction and intensification of land uses or development which would be incompatible with the current and future expanded treatment plant.

Nevertheless, it is acknowledged that the area contains a mix of tenure and land uses that may benefit from a single comprehensive planning document. However, the WAPC is of the view that a structure plan may not be the best instrument for achieving that objective. The preparation of a master plan or similar document that consolidates the objectives of the various documents the City already has in place to guide its decision making in the subject area is favoured.

Please contact Nina Lytton, Senior Planning Officer on 6551 9037, should you wish to discuss this matter further.

Yours sincerely



Dale Sanderson  
Planning Director, Land Use Planning - Metro Central

21 May 2019

<b>PD56.19</b>	<b>Local Planning Scheme 3 – Local Planning Policy Waratah Village Laneway Requirements</b>
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<b>Committee</b>	3 December 2019
<b>Council</b>	17 December 2019
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Previous Item</b>	Nil
<b>Attachments</b>	1. Draft Waratah Village Laneway Requirements Local Planning Policy (LPP)

### 1.0 Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) the Waratah Village Laneway Requirements, Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

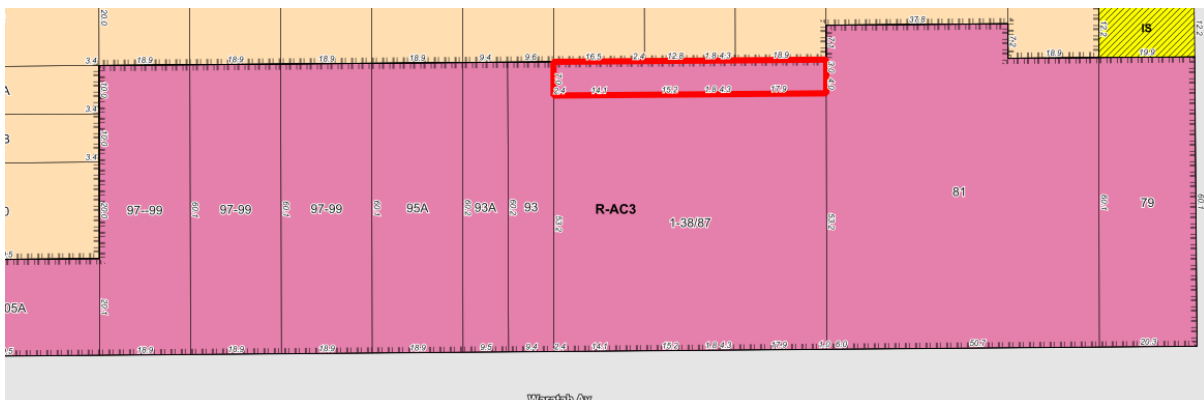
This policy details the requirements relating to the ceding and creation of a laneway for the Waratah Village. This policy has been created as an interim measure to capture the ceding of land for the laneway in Waratah Village with the absence of both the mechanisms under the previous Town Planning Scheme No. 2 (TPS 2) and the proposed Waratah Village Precinct Local Planning Policy.

### 2.0 Recommendation to Committee

**Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, the Waratah Village Laneway Requirements Local Planning Policy (Attachment 1).**

### 3.0 Background

Under TPS 2 Appendix 6 Dalkeith Redevelopment Special Control Area Provisions, the City required a 7m laneway in the location as currently suggested in the Waratah Village Laneway Requirements Policy. The following image shown below illustrates how the parcel was ceded to the City when the Waratah Apartments at 87 Waratah Avenue were developed.



The City's LPS 3 Clause 32.3 allows the City to acquire land free of cost for the purpose of creating rights of way or laneways which are identified by the scheme or a, structure plan, local development plan, activity centre plan or local planning policy at the time of the owner developing or subdividing the land.

The previous provisions outlined in the Dalkeith Redevelopment Special Control Area under TPS 2 and the identified laneway location were not carried over into LPS 3. The vision of the City is that the laneway designation would be included as part of the current work being undertaken on the Waratah Village Precinct, Local Planning Policy. The Precinct Local Planning Policy is not scheduled to be presented to Council for adoption to advertise until February 2020 at the earliest. The City has current development applications lodged within the Waratah Village precinct adjacent to the proposed laneway location, as identified under TPS 2, however, there is no mechanism to acquire the land or for it to be constructed at this time.

Therefore, this policy has been put forward as an interim measure to aid the City in gaining the land at the rear of these developments for a laneway in the absence of the Precinct Local Planning Policy.

#### **4.0 Detail**

This draft policy details the laneway requirements for Waratah Village which were previously identified under Appendix 6 of the City's TPS 2. The draft policy sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and development of the identified laneway. These provisions and the location are based on what was previously adopted in 2012 as Scheme Amendment 192 to TPS 2. Through the scheme amendment process the City consulted the community before both Council and the Minister supported the insertion of the amendment into TPS 2.

The City seeks to further engage with the community and Council in relation to the laneway location through the Waratah Village Precinct Local Planning Policy. A draft of this document will not be completed prior to the Responsible Authority Report (RAR) deadline for the Joint Development Assessment Panels (JDAP) decision on a significant development application adjacent to the proposed laneway. Without this policy in place the City lacks the ability under LPS 3 Clause 32.3 to mandate the ceding of land for the creation of a laneway through the rear of the blocks along Waratah Village not owned by the City. This could compromise the orderly and proper planning for this precinct. This policy is proposed to address this issue and its aim is to act as an interim measure to capture the development applications which will need to be determined prior to the adoption of a draft Waratah Village Precinct Local Planning Policy and so the City is still able to acquire the land for the laneway.

Part of the laneway abutting 87 Waratah Avenue was ceded free of cost to the City under TPS 2 when the site was redeveloped for the Dalkeith on Waratah Apartments. Without the other Mixed-Use landowners on Waratah Avenue ceding the land for the laneway at development stage the City will have no use for the portion at the rear of 87 Waratah Avenue which is currently land locked and only gains access to the street utilising a private agreement between two land owners.

The proposed laneway will provide improved moveability and access through the precinct. Encouraging access from the rear of developments will take vehicular pressure off Waratah Avenue and limit the number of crossovers needed from the primary frontage of the developments.

This also includes the ability to establish a pathway and access for delivery vehicles. The City aims to achieve a more pedestrian friendly and walking environment for the precinct. The desire to create a laneway across the rear of the sites was previously supported resulting in the addition of those provisions under TPS 2 and was also generally supported at the most recent engagement in relation to the Waratah Avenue Precinct Local Planning Policy undertaken in November 2019.

The proposed location of the laneway has been referenced from TPS 2. Through the Waratah Village Precinct Local Planning Policy, the City can seek to reconfigure the laneway location including in relation to its exit point through the Dalkeith Hall site owned by the City. This Policy is as discussed, an important interim measure so that the City has a mechanism to require the ceding of land identified for the laneway from developers who are looking to develop prior to the Precinct Plan being in place. Without this interim policy, the City has little power to require the ceding of land for the laneway in Waratah Village currently.

Once this policy is adopted for advertising as per Administrations recommendation it can be given due regard for development applications. The City envisages that the laneway location will be later implemented through the Waratah Village Precinct Local Planning Policy at which time this policy can be revoked upon final adoption of the precinct plan.

## **5.0 Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City's Consultation LPP. This will include a notice being published in the newspaper, details being included on the City's website and the Your Voice engagement portal. In accordance with the City's Consultation LPP we will not undertake advertising between December 15 and January 15.

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

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

## **6.0 Statutory Provisions**

### **Planning and Development (Local Planning Schemes) Regulations 2015**

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

Once Council resolves to prepare a local planning policy is must publish a notice of the proposed policy in a newspaper circulating in the area for a period not less than 21 days.

### **City of Nedlands Local Planning Scheme No. 3**

Under Clause 32.3 of the City of Nedlands Local Planning Scheme No. 3, the City requires the ceding of land of laneways identified through a Local Planning Policy. This policy will give effect to this clause and require developers to cede land identified for a laneway in the Waratah Village Precinct before development approval will be granted. Clause 32.3 is shown below.

#### **Clause 32.3**

Ceding of rights-of-way and laneway widening.

1. The owner of land affected by a right-of-way or laneway identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy is to, at the time of developing or subdividing the land:
  - a) cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
  - b) construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
2. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.

### **7.0 Conclusion**

The Waratah Village Laneway Requirements LPP are the preferred interim mechanism to provide for the enforcement of Clause 32.3 in the City's LPS 3 to create a laneway through the Waratah Village Precinct. Without this policy the City will lack the mechanism to enforce a laneway through the rear of the sites even though part of the laneway has already been ceded. The City already has a Development Application on an affected site and this policy is needed to be adopted to advertise now so that the determination of this application doesn't proceed without the ceding of land for the laneway.

As such, it is recommended that Council endorses Administration's recommendation to prepare (adopt to advertise) the Waratah Village Laneways Requirements LPP.



## LOCAL PLANNING POLICY – WARATAH VILLAGE LANEWAY REQUIREMENTS

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### 1.0 PURPOSE

- 1.1 This policy provides laneway requirements for the establishment of the Waratah Village Laneway.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to Waratah Village Laneway as shown in Figure 1. Which is located behind the mixed use precinct of Waratah Village.
- 2.2 Where this Policy is inconsistent with the provisions of a specific Local Planning Policy or Local Development Plan that applies to a particular site or area; the provisions of that specific Local Planning Policy, or Local Development Plan prevail.

### 3.0 OBJECTIVES

- 3.1 To provide for the ceding of land for the creation of the Waratah Village Laneway.
- 3.2 To provide better access throughout the Waratah Village Precinct.

### 4.0 POLICY MEASURES

#### 4.1 Laneway Requirements

- 4.1.1 Laneways shall be provided where marked on Figure 1.
- 4.1.2 Where laneway widening is identified on a site, the land should be ceded free of cost prior to development approval being granted pursuant to the provisions of Clause 32.3 of Local Planning Scheme No. 3.
- 4.1.3 The proposed laneway shall be ceded free of cost by the relevant property, with no portion being taken from existing adjacent residential properties on Philip Road.
- 4.1.4 Where a laneway is required, it shall be constructed and drained to the specification and satisfaction of the City of Nedlands prior to occupation of the development.
- 4.1.5 Laneways shall have a width of 7m, including a 1m infrastructure and servicing strip along the rear boundary.
- 4.1.6 Finished levels of the laneway shall be 150mm less than those of the adjoining property along the entire boundary.





- 4.1.7 All required laneways shall include the installation of mature trees (species specified by the City) of a minimum height of 2.4m at 3m intervals within the infrastructure and servicing strip, prior to the occupation of the development and maintained by the owner of the land for a minimum of 2 years from occupation to the satisfaction of the City.
- 4.1.8 The specifications for the laneway are to be determined and approved by the City.
- 4.1.9 The laneway shall include bollard lighting infrastructure installed within the infrastructure and servicing strip at the cost of the developer to the satisfaction of the City.
- 4.1.10 The laneway shall be constructed and funded (all costs) by the owner of the site once subdivision or development approval (whichever is granted first) is given by the City.

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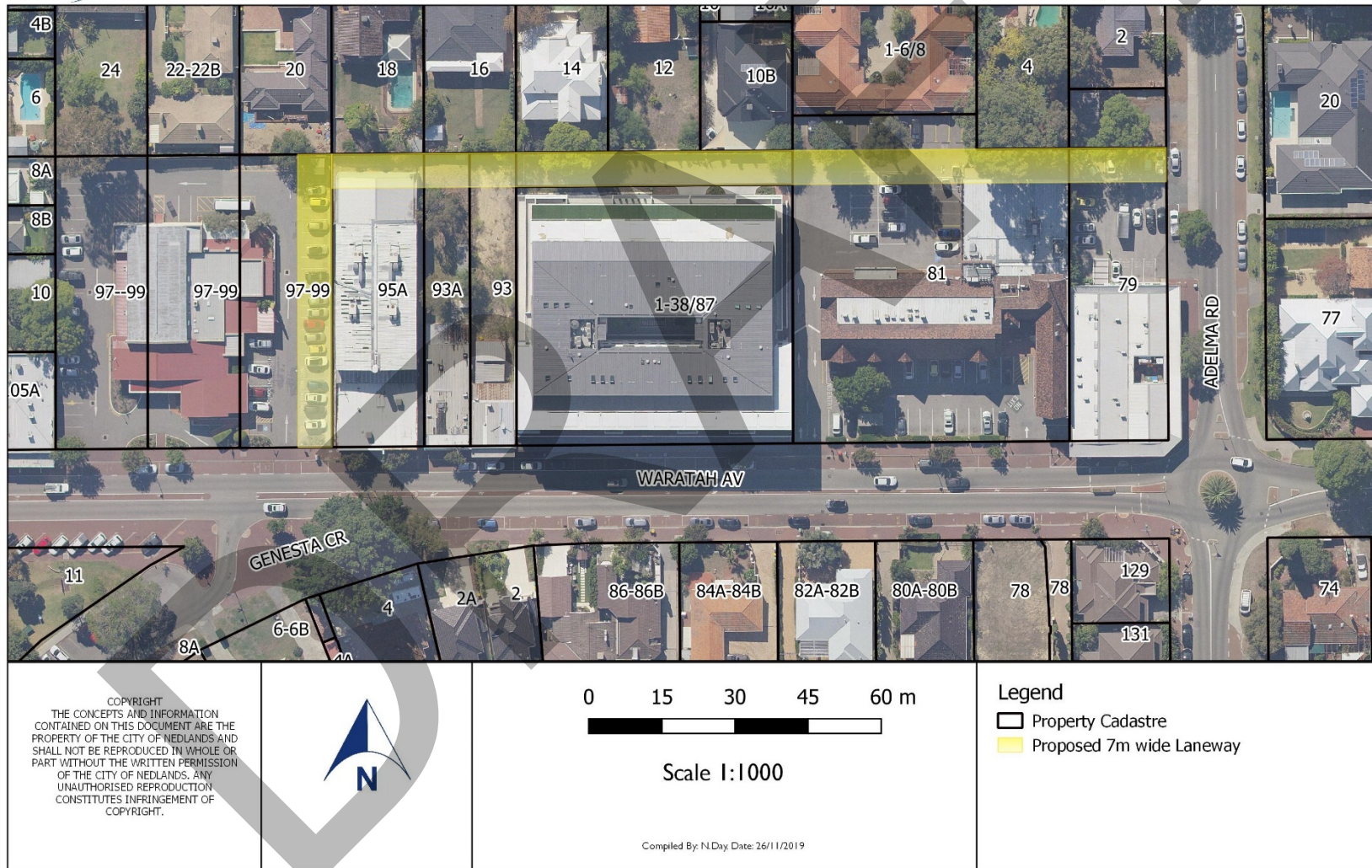


4.2 Figure 1 – Laneway Location



City of Nedlands

Figure 1 - Proposed Laneway





## 5.0 RELATED LEGISLATION

5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.2 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:

- State Planning Policy 7.3 – Residential Design Codes Volume 1
- State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments
- Local Planning Scheme No. 3

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Council Resolution Number	PDX.XX
Implementation Date	Date and Item Number of Council Meeting
Date Reviewed/Modified	DD MM YYYY