



City of Nedlands

Planning and Development Reports

Committee Consideration – 8 November 2016


Council Resolution – 22 November 2016

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Council: 22 November 2016

PD50.16	(Lot 2) No. 23 Alderbury Street, Floreat – Proposed Two Storey Single House
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Committee	8 November 2016
Council	22 November 2016
Applicant	Pinnacle Planning
Owner	M A Paino
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/232 – AL1/23
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Photo existing property viewed from Alderbury Street 2. Photo along the eastern side boundary between 23 and 21 Alderbury Street 3. Photo adjoining properties as viewed from Birkdale Street and dividing boundary 4. Photo facing south towards 96 Birkdale Street

1.0 Executive Summary

The proposal is for a two storey single house to be built on a lot that was originally developed as two grouped dwellings and was subsequently subdivided under a previous coding of R12.5/20.

The lot now has a density coding of R12.5, meaning it is smaller in area that what is usually expected within the density coding, restricting how it can be redeveloped.

The application proposes variations to the lot boundary setback, and open space requirements therefore it was advertised to impacted neighbouring landowners and 2 objections were received.

The proposal is considered to satisfy the requirements of Town Planning Scheme 2 (TPS2) and the design principles of the Residential Design Codes (R-Codes) with regard to the variations. Accordingly it is recommended that the application be approved by Council.

2.0 Recommendation to Committee

Council approves the application for a Two-Storey Single House at (Lot 2) No. 23 Alderbury Street Floreat, in accordance with the application received on 15 August 2016 and amended plans received on 6 October 2016, subject to the following conditions:

- 1. The development shall at all times comply with the approved plans.**
- 2. Any fencing proposed along the Birkdale Street boundary of the subject property is to comply with the primary street boundary fencing requirements stipulated under Council's Fill and Fencing Local Planning Policy (refer to Advice Note 1).**
- 3. All crossovers to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.**
- 4. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
- 5. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the Certificate of Title.**
- 6. All proposed obscure glass panels to Major Openings and/or Active Habitable Spaces, shown on the approved drawings shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2015* (R-Codes). The structures shall be installed prior to the dwellings practicable completion and remain in place permanently, unless otherwise approved by the City.**
- 7. All street trees in the verge are to be retained and shall not be removed without written approval from the Manager Parks Services.**

Advice Notes specific to this approval:

- 1. With regard to Condition 2, the applicant is advised that this requirement applies in this circumstance due to the existing solid portion of the wall along the Alderbury Street boundary being greater in height than that permitted under Council's Fill and Fencing Local Planning Policy. In accordance with this Policy fencing consisting of the following can be considered, for which development approval will need to be sought and obtained prior to constructing:**
 - a) Brick piers to a maximum height of 2.1 metres from natural ground level and a maximum width of 0.5m.**
 - b) Solid fencing (infill) to a maximum height of 1.2 metres above natural ground level, and visually permeable fencing (infill) to a maximum height of 1.8m above natural ground level.**

- c) Within the 1.5m truncation areas for the driveway, the following obstructions are deemed acceptable by the City:
- i. 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
 - ii. All other solid structures to be reduced to a height of no greater than 0.75 metres above natural ground level; and
 - iii. All visually permeable structures
2. Any construction in the nature-strip / verge (including footpaths) will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to construction.
 3. The applicant is advised to grade the garage towards the strip drain to reduce chances of stormwater flooding the house.
 4. 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.
 5. 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.
 6. 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 2nd 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 10m² of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.

7. The City does not recommend any air-conditioner, swimming pool or spa mechanical equipment is installed near a property boundary where it is likely noise from such mechanical equipment in these locations will intrude on neighbouring properties. Prior to selecting a location to install an air-conditioned, applicant is advised to consult the online fairair noise

calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties. Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, applicant is advised to consult residents of neighbouring properties and if necessary take measures to prevent noise affecting neighbouring properties.

8. 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 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2 and the R-Codes.

KFA: Governance and Civic Leadership

Regular review of the City's local laws and policies ensures that they remain relevant and meaningful to the local community.

4.0 Legislation

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Residential Design Codes of WA 2015 (R-Codes).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

Within current approved budget:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Requires further budget consideration:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

6.0 Risk management

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

7.0 Background

Lot area	457m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential 12.5
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

The subject property contains a single storey dwelling with relatively flat topography across the site falling slightly eastwards, as shown of the locality plan below. An aerial image showing the location of the property follows.



In 1995 when the density coding of the property was R12.5/20, the City granted approval for two grouped dwellings at (Lot 1) No.21 and (Lot 2) No.23 Alderbury Street in accordance with the City's Grouped Dwelling Development Policy and TPS No.2 provision 5.3.1. The dwellings were constructed to the R20 requirements.

In 1996, the Western Australian Planning Commission endorsed the Survey-Strata of the two properties which does not include any common property, essentially creating two single lots.

In 2000 TPS 2 was amended resulting in the dual density coding for the locality being changed from R12.5/20 to R12.5.

The R-Codes prescribe a minimum lot size of 700m² for this density, yet this site has a lot size of 457m². This is 243m² less than the minimum lot size for a property of this density.

Additionally, the property is located on a precedence street in accordance with Clause 5.3.3 (b) of TPS No.2 as more than half the of the lots on Alderbury Street have dwellings which are setback less than 9m. As such the primary street setback of 7.5m is applicable and this can be further reduced in accordance with the R-Codes.

8.0 Application Details

The proposal is to demolish the existing single storey house and construct a two storey house. In summary, the details of which are following:

- The primary setback to the property is 6.5m with a porch proposed in front of this to be setback 5m from Alderbury Street.
- An existing 1.8m high brick screen wall located along Alderbury Street is to remain, with no fencing proposed along Birkdale Street.
- A garage is proposed to be setback 1.5m from the secondary street (Birkdale Street).
- The rear setback on the ground floor is proposed to be between 1.2m and 3.3m, and 3.9m – 7.4m for the proposed upper floor.

9.0 Consultation

9.1 Reasons for Public Consultation

The development application was advertised to affected landowners for comment due to the following variations:

- Lot boundary setback (east) – The proposed ground floor wall is proposed to be 1.1m from the boundary in lieu of the required 1.5m.
- Rear setback ground floor (south) – A minimum 1.2m rear setback is provided in lieu of the required 6m.
- Rear setback upper floor (south) – A minimum 3.9m rear setback is provided in lieu of the required 6m.
- Open space – 243m² provided in lieu of 251m² (R12.5). A 8m² variation.

9.2 Comments Received

Two objections were received during the consultation period.

The following is a summary of the concerns raised:

- The reduced setback increasing the visual impact (building bulk) of the development on adjoining properties.
- The proposal not complying with the open space requirements.
- The proposal resulting in the property becoming over developed and therefore being out of character for the locality.
- The reduced side setback limiting the amount of sunlight for adjoining properties.

9.3 Amended Plans Received / Justification Provided

Subsequent to concerns raised by the affected landowners, the applicant amended the plans to increase the amount of open space proposed and increase the rear setback on both the ground and upper floor. However, as the proposal is still not deemed-to-comply with the provisions of the R-Codes, variation is sought.

By way of justification in support of the development application and in response to the concerns raised during the consultation period the applicant has provided justification.

The following is a summary addressing the proposed variations:

Rear setback

- The applicant considers the site presents constraints due to lot size, orientation and setbacks.
- The setback to the rear of the building ranges from 1.2m to 3.3m which is consistent with a lot of applicable size being coded R20.
- The proposal is compliant with shadow and visual privacy provisions, due to the setback of the upper floor, placing the building bulk away from the southern boundary.

Open Space

- The proposal does not impede solar access to the proposed dwelling or neighbouring dwellings.
- The proposal is of a suitable bulk and scale as height requirements are met.
- There is considered to be nil impact with respect to the variation sought.

Note: Due to the length of correspondence received by the City a full copy of all relevant justification, consultation and feedback received has been given to the Councillors prior to the Council meeting.

The potential impact of the proposal on the local amenity is discussed in the following section of the report.

10.0 Statutory Provisions

The relevant provisions of the Residential Design Codes (R-Codes) and Town Planning Scheme No. 2 (TPS 2) which are not being met by the proposal are addressed in the following sections.

10.1 State Planning Policy 3.1 – Residential Design Codes

10.1.1 Side Boundary Setback

Deemed-to-Comply Requirement	Proposed	Complies
The eastern wall 9.5m in length and 3.5m in height is required to be setback 1.5m from the boundary, in accordance with Table 2a of the R-Codes.	The eastern wall is setback 1.1m in lieu of the required 1.5m to be adjacent to the eastern boundary.	No

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment	Satisfies
Impact of Building Bulk	The proposed wall is single storey and will be mostly screened by an existing solid dividing fence. The upper storey section which is adjacent to the boundary is set a minimum 3m. Note, a minimum 1.2m setback to the upper floor would be compliant and have much more of an impact.	Yes
Access to direct sunlight and ventilation	The adjoining property is located to the east of the proposed dwelling, as such overshadowing is assessed as being compliant. The proposed side setback variation of 400mm will not restrict access to sunlight or limit ventilation to the neighbouring property.	Yes
Overlooking and privacy loss	No fill in excess of 0.5m above natural ground level is proposed, therefore the visual privacy provisions of the R-Codes are compliant. Additionally the bedroom window is a hi-lite, therefore the wall shall not contain any major openings.	Yes

10.1.2 Rear Boundary Setback

The proposal is not compliant with the following Deemed-to-Comply provisions of the R Codes:

Deemed-to-Comply Requirement	Proposed	Complies
The ground and upper floors are required to be setback 6m from the rear boundary in accordance with Table 1 of the R-Codes.	The ground floor is proposed to be setback 1.2m (minimum) from the rear boundary. The upper floor is proposed to be setback 3.9m (minimum) from the rear boundary.	No

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment	Satisfies
Impact of Building Bulk.	<p>The existing house at No.23 Alderbury has a 1m setback from the boundary with 96 Birkdale Street, and is therefore closer than what the proposed house will be.</p> <p>The proposed ground floor is adjacent to a two storey house at 96 Birkdale Street which has a double garage setback 138mm to 1.9m from its northern boundary (due to the angle of the lot), and facing the same boundary has a bedroom (with no windows) an ensuite with two frosted windows and a lounge room with an unfrosted window. The outdoor living area on this lot is not adjacent to the northern boundary. What visual impact the proposed development will have on the neighbours' amenity is therefore not likely to be significant.</p> <p>It should be noted that if this property were zoned R20 the setbacks would be considered on the individual lengths of wall, rather than requiring an overall rear setback. This would be resulting in a 300mm variation being proposed to the rear boundary due to the angled nature of the site. Considering this, the proposed setback variations are not deemed to be significant.</p> <p>Subsequent to the concerns received, amended plans were submitted that further increase the setbacks from the southern boundary and reduce the open space variation.</p>	Yes
	<p>Due to the angle of the southern boundary 7.5m² of the upper level is located within the rear setback area comprising of a portion of the guest bed. The location of the upper storey within this setback will be adjacent to the existing garage built up to the boundary at No.96 Birkdale.</p> <p>Considering the above, what impact the proposed development will have on the neighbours' amenity is not likely to be significant.</p>	Yes
Access to direct sunlight and ventilation	Overshadowing will be compliant with the provisions of the R-Codes.	Yes

Overlooking and privacy loss	<p>No fill in excess of 0.5m above natural ground level is proposed, the visual privacy provisions of the R-Codes are compliant.</p> <p>The upper floor has no major openings facing the southern boundary in accordance with the definitions of the R-Codes. A hi-lite window to a guest bedroom and a full face window to the staircase / landing are proposed. These are deemed-to-comply.</p>	Yes
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10.1.3 Open Space

The proposal is not compliant with the following Deemed-to-Comply provisions of the R Codes:

Deemed-to-Comply Requirement	Proposed	Complies
In accordance with Table 1 of the R-Codes 55% open space is required for properties coded R12.5	The dwelling proposes 53% open space.	No

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment	Satisfies
Reflects the existing or desired streetscape	<p>The existing property was developed to the R20 standards that permitted 228m² of open space.</p> <p>Although the property is currently zoned R12.5, it is noted that the proposed open space would be compliant with the R20 requirement and is 8m² less than the current R12.5 requirement.</p> <p>It is considered the variation is minor in nature given the lot area of 457m² and the property is 343m² less than the average R12.5 lot size. As such, it is considered that the proposal meets the Design Principles.</p>	Yes
Access to natural sunlight for the dwelling	The covered alfresco area and front yard located to the north of the property will utilise the northern sun.	Yes
Reduces building bulk and is consistent with the	As demonstrated above, bulk to the adjoining properties has been reduced through	Yes

expectations of the applicable density code	increasing the rear setback and reducing site coverage from the plans originally submitted.	
Provides an attractive setting for buildings, landscape, vegetation and streetscape	It is considered that the dwelling will be of a high standard and consistent with the expectations of the Floreat locality. It is also compliant with the street setback requirements of the R-Codes.	Yes
Opportunities for residents to undertake outdoor pursuits on site	The alfresco area and open courtyard area within the front setback will allow for this.	Yes
Provides space for external fixtures and essential facilities	As seen on the ground floor plan, there is space around the dwelling for external fixtures and essential facilities which can be screened from view from the street.	Yes

10.2 Town Planning Scheme No. 2

10.2.1 Amenity

TPS 2 Provision	Assessment/Comment	Complies
Under clause 5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.	<p>The built form is considered to be consistent with other developments within the locality particularly along Birkdale Street, where a number of two storey dwellings have been built.</p> <p>As discussed in this report being 243m² less than the minimum lot size for a property of this density offers significant constraints in designing a fully compliant house.</p> <p>Whilst it is noted variation to the deemed-to-comply provisions of the R-Codes exist with regard to lot boundary setbacks and open space available on site, the proposal is considered to meet the design principles of the R-Codes.</p>	Yes

10.3 Planning and Development (Local Planning Schemes) Regulations 2015

Regulations Clause	Assessment Comment	Satisfies
<p>Clause 67 under Schedule 2 (Deemed Provisions) of the Regulations stipulates that in considering a development application due regard is to be given to the following matters, amongst others:</p> <p>m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including but not limited to, the likely effect of height, bulk scale, orientation and appearance of the development.</p>	<p>The appearance of the proposed development is not outside of the development context of the locality, with a number of two storey dwellings along both Alderbury Street and Birkdale Street.</p> <p>The setback of the dwelling has been increased adjacent to the neighbouring property to the south to reduce the impact of building bulk and also ensure the neighbouring dwelling will receive adequate sunlight. The upper floor is limited in size within the rear setback and is largely consistent with the existing single storey development on site.</p> <p>It is also noted that a number of corner lots within the locality that were originally developed as grouped dwellings are now undersized single lots.</p>	Yes

11.0 Other Matters of Concern

During the consultation period, concerns were received with regard the to proposed floor level of the garage. In accordance with the site survey provided to the City the floor level of the garage is to be less than 500mm above the natural ground level and is compliant with the site works provision of the R-Codes.

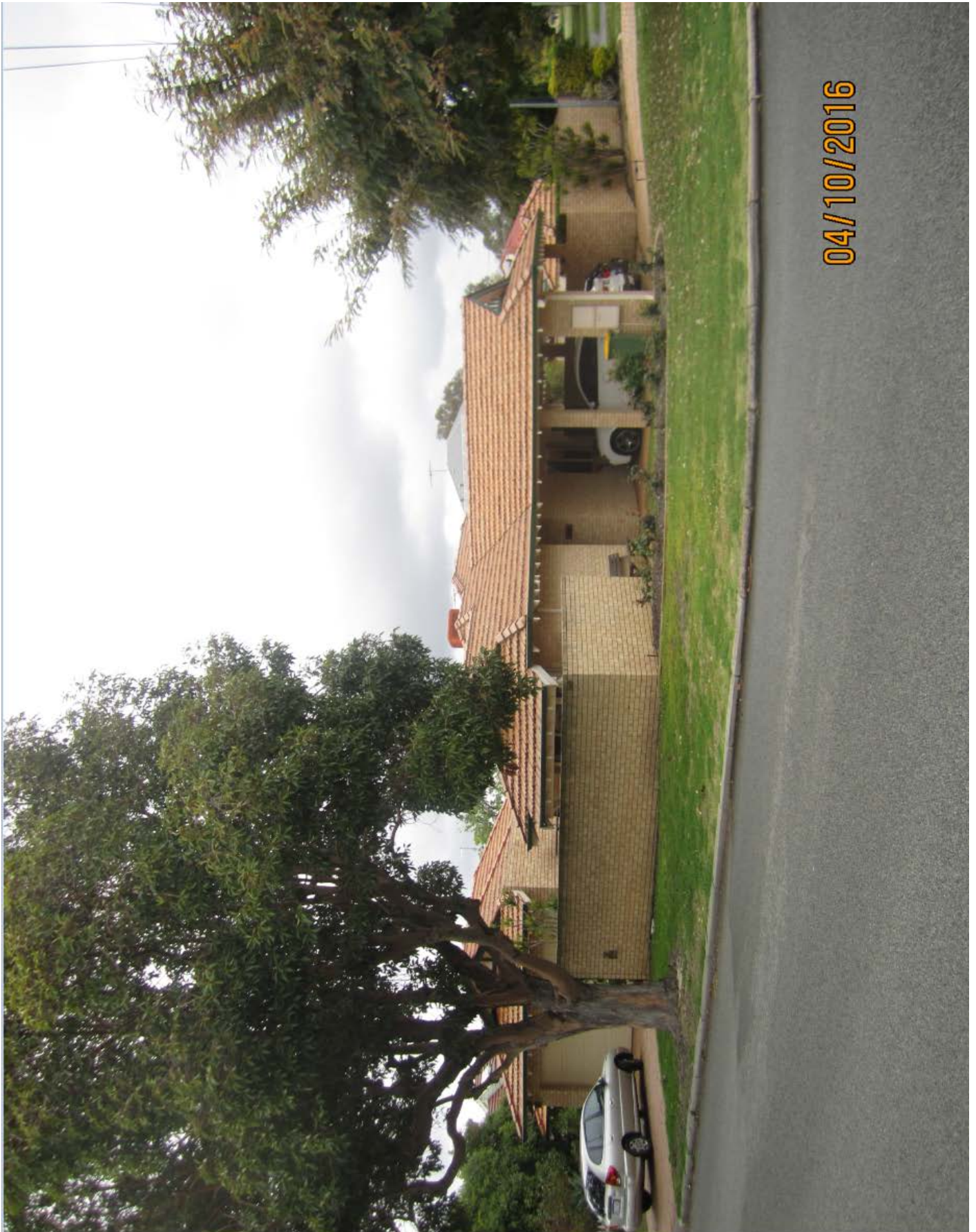
Additionally, concerns were raised regarding potential overlooking from the flat roof garage and the potential of this being used as a balcony. This is not currently proposed and if the development is approved and such development occurs afterwards, the City will take appropriate action.

12.0 Conclusion

The proposal is considered to satisfy the provisions of TPS 2, and the design principles of the R-Codes relating to lot boundary setbacks and open space as building bulk is limited to the outdoor living areas and active habitable spaces on adjoining properties and the proposal is compliant with overshadowing and overlooking provisions.

Additionally, the proposed dwelling will also not have a significant impact on the streetscape due to its external appearance and is consistent with many other two storey houses within the area.

Accordingly it is recommended that the application be approved by Council.



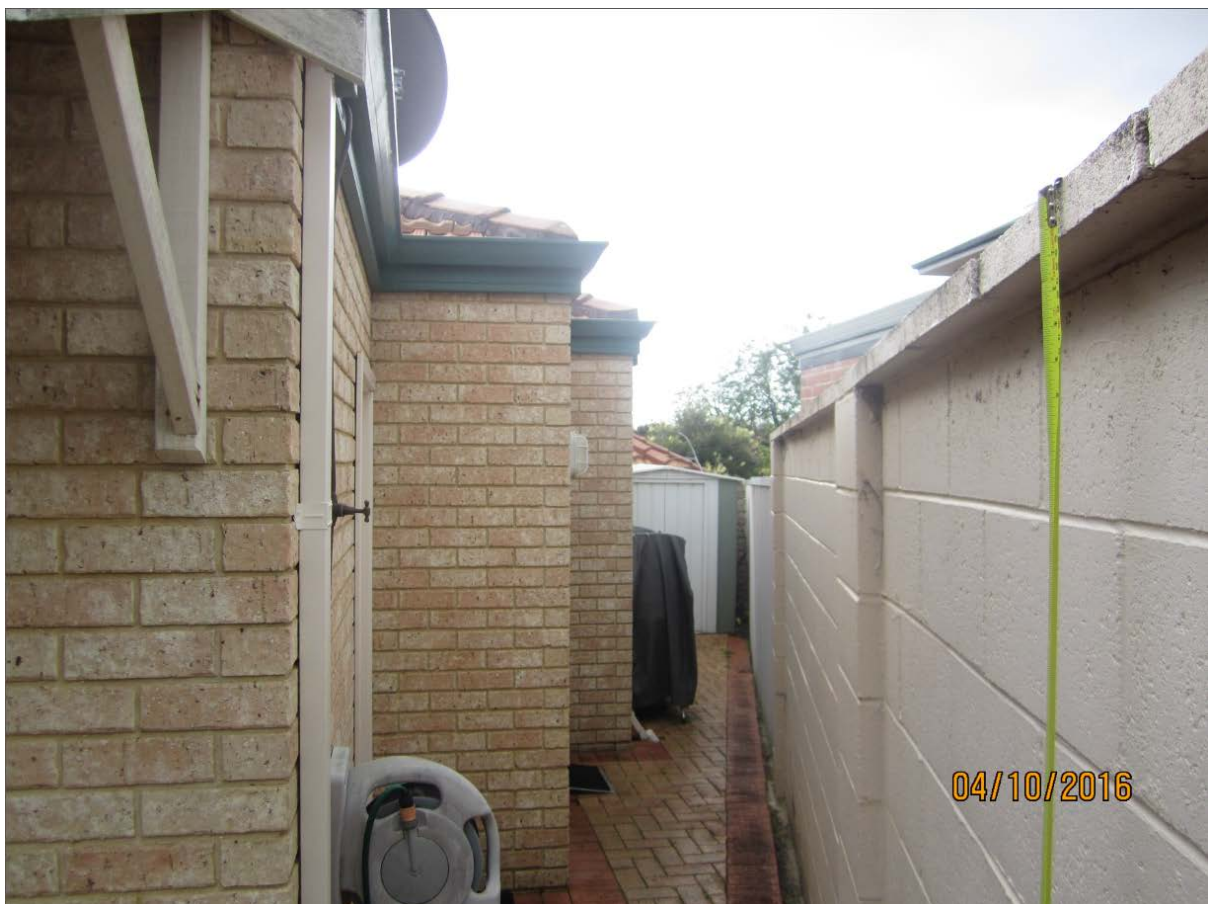
1. Facing North



2. Facing South




Facing east on Birkdale Street toward 23 Alderbury Street (tiled roof) and 96 Birkdale Street (Tin Roof)





PD51.16	(Lot 585) No. 51 Kingsway, Nedlands – Proposed Carport (Retrospective) and Patio
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Committee	8 November 2016
Council	22 November 2016
Applicant	Mo Zhai Design
Owner	L Chen and D Majri
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/269 – KI3/51
Previous Item	Nil
Attachments	1. Photograph of Carport from Kingsway

1.0 Executive Summary

In May 2016, Council resolved to approve a development application for a carport and patio on the property. Subsequently as a result of concerns being received, the City became aware that construction of the carport had commenced without a building permit having been granted, and the carport was not being constructed in accordance with the development approval.

Retrospective development approval is therefore being sought for the existing carport to remain, and approval is also being sought for amendments to be made to the patio which is yet to be constructed.

The application was advertised for comment for the following reasons:

- a) The property falls within a Controlled Development Area under Town Planning Scheme No. 2 (TPS 2);
- b) Amendments being made to the patio, which is still proposed to have a nil setback in lieu of 1.5m from the northern (side) boundary as per Council's previous approval; and
- c) The carport being proposed to be setback 3m in lieu of 3.5m from the street boundary.

During the advertising period 2 objections were received.

The application has been referred to Council for determination as officers do not have delegation to approve an application when an objection has been received.

The proposed amendments to the patio are considered to satisfy the design principles of the Residential Design Codes (R-Codes). The carport is also considered to satisfy the requirements of TPS 2 and Council's Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street Setback (Carport Policy). It is therefore recommended that the application be approved by Council.

2.0 Recommendation to Committee

Council approves the development application for the patio and the existing carport at (Lot 585) No. 51 Kingsway, Nedlands, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. This development approval pertains to the patio and carport only.**
- 3. All sides of the carport shall remain open, including the front facing the street.**
- 4. The colour of the carport's roof blending with the existing dwelling's roof on the subject property, to the City's satisfaction.**
- 5. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**

Advice Notes specific to this approval:

- 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.**
- 2. All street trees in the verge are to be retained and shall not be removed without prior written approval from the City's Manager Parks Services.**
- 3. 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 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2 and the R-Codes.

4.0 Legislation / Policy

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Residential Design Codes of WA 2015 (R-Codes).
- Council Policy – Neighbour Consultation.
- Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street Setback (Carport Policy).

5.0 Budget / Financial Implications

Within current approved budget: Yes ☐ No ☐ N/A ☒

Requires further budget consideration: Yes ☐ No ☐ N/A ☒

6.0 Risk management

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

7.0 Background

Property address		(Lot 585) No. 51 Kingsway, Nedlands
Lot area		880m ²
Zoning/ Reserve	MRS	Urban
	TPS 2	Residential R12.5

The property contains a single dwelling and associated outbuildings as shown on the locality plan on the following page. The natural ground level of 51 Kingsway is approximately 0.3m higher than 49 Kingsway.

Timber fencing of approximately 1.8m in height, and a garage with a parapet wall approximately 7m in length and 3m in height, exist along the dividing lot boundary between 49 and 51 Kingsway. Along the portion of dividing fencing not adjoining the parapet wall a screen/latticing of approximately 0.6m in height has been erected, which is partially covered by vegetation. The overall height of this dividing fencing and screen/latticing is approximately 2.4m.



8.0 Application Details

The applicant seeks retrospective development approval to for an existing carport, and approval for amendments to be made to a patio approved by Council in May 2016 but is yet to be constructed. The following alterations to the application approved by Council in May 2016 are proposed:

- a) The carport's front setback being reduced from 3.5m to 3m. Council's Carport Policy requires a 3.5m street setback;
- b) The carport's roof area being reduced from 36sqm to 35.9sqm;
- c) The overall height of the carport being reduced from 3.5m to 3.1m;
- d) The appearance of the carport's posts being changed;
- e) The patio roof's setback from the northern (side) boundary being increased from 0.3m to 0.5m;
- f) The height of the patio's posts being reduced from 3.8m to 3m; and
- g) The angle of the patio's roof being increased from 3 degrees to 5 degrees.

All other aspects of the development are to remain unchanged.

9.0 Consultation

The development application was advertised to affected landowners by the City for 21 days for comment. Two objections were received during the consultation period which raised the following concerns:

- a) Failure to comply with the approved development application granted previously.

- b) The non-compliant carport structure being inappropriate due to not being sympathetic and aesthetically consistent with the streetscape and “relevant” for a house of this period.
- c) The carport’s roof not being in keeping with other carports in the area.
- d) The carport having been constructed over a brick hardstand without any evidence of soakwells being put in place.
- e) The proposed patio potentially not being constructed in future in accordance with any plans approved.

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

The impact the carport is having on the local amenity is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and Carport Policy provisions which are not being met by the proposal are addressed in the following sections.

10.1 State Planning Policy 3.1 – Residential Design Codes

10.1.1 Lot Boundary Setback

Deemed-to-comply Requirement	Proposed
5.1.3 Lot Boundary Setback Buildings setback from lot boundary in accordance with Tables 2a and 2b.	The patio is proposed to have a nil setback in lieu of 1.5m from the northern (side) boundary

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment Comment	Satisfies
Buildings set back from lot boundaries so as to: <ul style="list-style-type: none"> • Reduce impacts of building bulk on adjoining properties; • Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • Minimise the extent of overlooking and resultant loss of privacy on adjoining properties. 	<p>The following alterations are proposed to the patio approved previously by Council:</p> <ul style="list-style-type: none"> a) The patio roof’s setback from the northern (side) boundary being increased from 0.3m to 0.5m; b) The height of the patio’s posts being reduced from 3.8m to 3m; and c) The angle of the patio’s roof being increased from 3 degrees to 5 degrees. 	Yes

	<p>The proposed alterations mean that the patio will be less visible to the adjoining neighbours.</p> <p>What visual impact, if any, it has will not be significant due to the existence of an existing garage with a parapet wall approximately 7m in length and 3m in height along the dividing lot boundary between 49 and 51 Kingsway.</p> <p>Also along the portion of dividing fencing not adjoining the parapet wall a screen/latticing of approximately 0.6m in height has been erected on top of a 1.8m high fence, which is partially covered by vegetation.</p> <p>The natural ground level is not proposed to be altered as part of the application therefore no visual privacy concerns exist.</p> <p>Considering the above, the proposed alterations to the patio satisfy the design principles of the R-Codes.</p>	
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10.2 Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street Setback

Carport Policy Requirement	Proposed	Complies
A carport being setback a minimum of 3.5m from the primary street boundary.	The carport is proposed to have a 3m setback in lieu of 3.5m from the primary street boundary.	No

Variations to the Carport Policy requirements can be considered subject to satisfying the following:

Variation Provision	Assessment Comment	Satisfies
Where an application does not comply with the setback requirements it will be evaluated to determine whether the variation will have an impact on the adjoining property or the streetscape.	<p>The overall height of the carport has been reduced from 3.5m to 3.1m.</p> <p>Its area (being 35.9sqm) is also compliant with TPS 2.</p> <p>Its 1m side setback is compliant with the Carport Policy.</p>	Yes

	<p>There are examples on properties nearby (i.e. 57, 61 and 63 Kingsway) of authorised carports being setback closer than 3m from the primary street boundary.</p> <p>The roof of the carport shall be Colorbond ‘Deep Ocean’ which is the same as the dwelling’s roof.</p> <p>Considering the above, the carport will not have a significant impact on the streetscape.</p>	
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11.0 Other Matters of Concern

During the advertising period concerns were also received with regard to:

- a) Stormwater potentially not being contained on site due to the currently absence of soakwells; and
- b) The proposed patio potentially not being constructed in future in accordance with any plans approved.

The concerns relating to stormwater shall be addressed through the inclusion of an appropriate condition if the application is approved by Council.

If the proposed development is approved and later found to have not been constructed in accordance with the approved plans the City has the ability to take appropriate enforcement action if required.

12.0 Conclusion


The proposal is deemed to satisfy TPS 2, the Carport Policy and the design principles of the R-Codes by virtue of the patio’s roof being setback further from the lot boundary than that approved previously. The carport will also not have a significant impact on the streetscape due to its appearance and its overall height being reduced.

Accordingly it is recommended that the application be approved by Council.



PD51.16 - Attachment 1
Photo of Carport from Kingsway

PD52.16	(Lot 413) No. 47 Stanley Street, Nedlands – Proposed Patio
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Committee	8 November 2016
Council	22 November 2016
Applicant	Modern Decoration Pty Ltd
Owner	B and D Van Nispen
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/297 – ST2/47
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Photograph of the proposed patio's location towards the southern boundary of 47 Stanley Street. 2. Photograph of the proposed patio's location towards the western boundary of 47 Stanley Street.

1.0 Executive Summary

A development application has been received to construct a patio at the rear of the subject property.

The application was advertised for comment as the patio is proposed to be setback 4.1m in lieu of 6m from the rear (western) boundary. During the advertising period one objection and one non-objection were received.

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

The proposed patio is deemed to satisfy the design principles of the Residential Design Codes (R-Codes). It is therefore recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the development application to construct a patio at (Lot 413) No. 47 Stanley Street, Nedlands, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. This development approval pertains to the patio only.**
- 3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**

Advice Notes specific to this approval:

- 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.**
- 2. 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 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the requirements of TPS 2.

4.0 Legislation / Policy

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Nedlands Town Planning Scheme No. 2 (TPS 2).
- Residential Design Codes (R-Codes).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

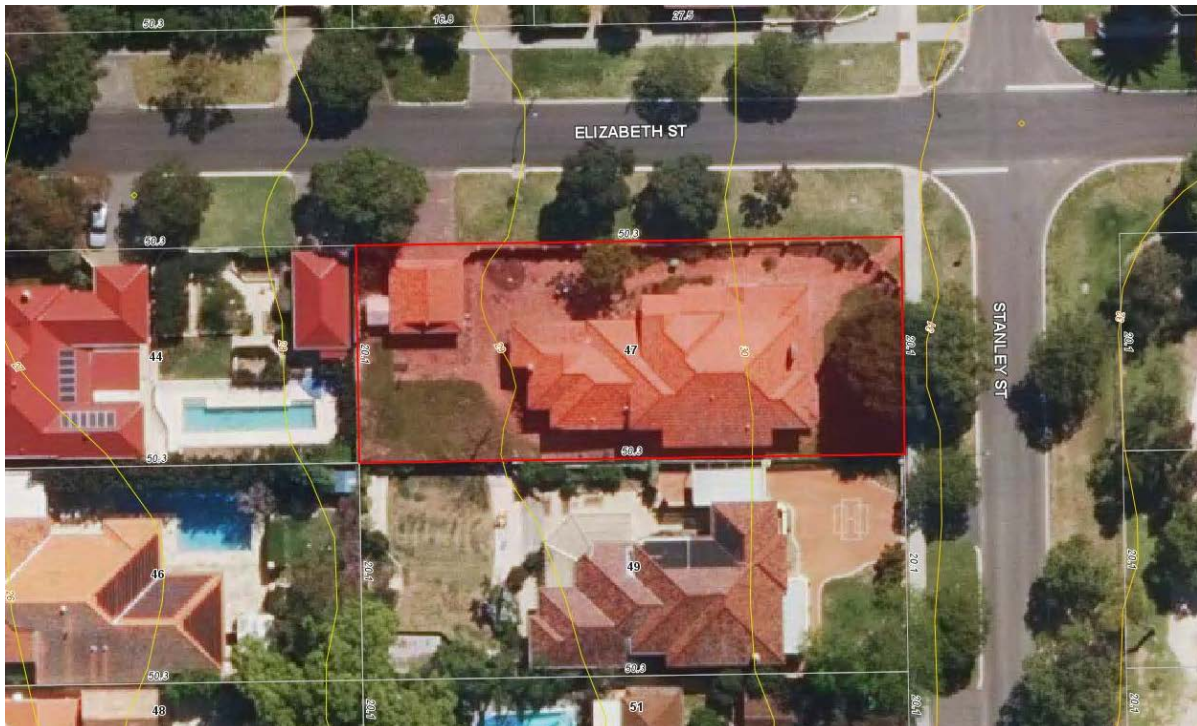
6.0 Risk Management

Not applicable.

7.0 Background

Property address		(Lot 413) No. 47 Stanley Street, Nedlands
Lot area		1,011m ²
Zoning/ Reserve	MRS	Urban
	TPS 2	Residential R10

The property contains a single dwelling and associated outbuildings. Its topography is relatively flat as shown on the locality plan below. Solid dividing fencing of approximately 1.8m in height exists along the dividing lot boundaries. The properties adjoining the western lot boundary contain mature vegetation adjacent to their rear boundaries.



8.0 Application Details

The applicant seeks development approval to construct a patio at the property, details of which are as follows:

- A flat roofed patio is proposed to be constructed at the rear of the property.
- The patio is proposed to be 15.8sqm in area, have a roof sloped at 7 degrees and be 2.76m in overall height above natural ground level.
- The patio is proposed to be setback 1m from the southern (side) boundary, 4.1m from the western (rear) boundary and 14.8m from the secondary street (Elizabeth Street) boundary.
- The patio is proposed to be constructed adjacent to an existing authorised below ground swimming pool.

9.0 Consultation

The application was advertised to nearby landowners for comment due to the patio being proposed to be setback 4.1m in lieu of 6m from the rear boundary. During the advertising period 1 objection and 1 non-objection was received. The following is a summary of the concerns raised:

- a) The visual impact of the patio due to the reduced rear setback; and
- b) The patio overshadowing the adjoining property.

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

The potential impact the patio may have on the adjoining landowners is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of Town Planning Scheme No. 2 (TPS 2) and the R-Codes which are not being met by the proposal are addressed in the following sections.

10.1 State Planning Policy 3.1 – Residential Design Codes

Deemed-to-comply Requirement	Proposed	Complies
5.1.3 Lot Boundary Setback Buildings setback 1m from the lot boundary in accordance with Table 2a.	The patio is proposed to be setback 4.1m in lieu of 6m from the rear boundary.	No

Variations to this provision can be considered subject to satisfying the following design principles:

Design Principles	Assessment Comment	Satisfies
Buildings set back from lot boundaries so as to: <ul style="list-style-type: none"> • Reduce impacts of building bulk on adjoining properties; • Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • Minimise the extent of overlooking and resultant loss of privacy on adjoining properties. 	<p>Solid dividing fencing of approximately 1.8m in height above natural ground level exists along the lot boundaries which will partially screen the patio from the adjoining properties.</p> <p>The natural ground level is not proposed to be altered as part of the application therefore no visual privacy concerns exist.</p> <p>The deemed-to-comply provisions of the R-Codes permit up to 25% of an adjoining Residential property coded R10 to be overshadowed by a building. Considering the scale of the proposed</p>	Yes

	<p>patio this complies with this requirement.</p> <p>The deemed-to-comply provisions of the R-codes permit an outbuilding of up to 60sqm, with a wall height of 2.4m and a roof height of 4.2m to be setback as close as 1m from a rear lot boundary. By comparison, the patio will have less of a visual impact than this despite its reduced rear setback.</p>	
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10.2 Planning and Development (Local Planning Schemes) Regulations 2015

Clauses	Assessment Comment	Satisfies
<p>Planning and Development (Local Planning Schemes) Regulations 2015</p> <p><i>Under Schedule 2 Part 9 clause 67 (Matters to be Considered by Local Government) the following provisions (relevant to this development) are to be taken into consideration:</i></p> <p>a) <i>The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</i></p> <p>b) <i>The amenity of the locality.</i></p> <p>c) <i>Any submissions received on the application.</i></p>	<p>The patio will be partially screened by solid dividing fencing of approximately 1.8m in height above natural ground level.</p> <p>The proposal complies with the visual privacy and overshadowing requirements of the R-Codes.</p> <p>Considering the above, the proposal will not have a significant impact on the amenity of the adjoining landowners.</p>	Yes

11.0 Conclusion

The application is compliant with all the applicable requirements except for the patio being proposed to be setback 4.1m in lieu of 6m from the rear boundary.

The appearance, height and location of the patio, and the existence of solid dividing fencing of up to 1.8m in height above natural ground level, means that the proposal will not have a detrimental impact on the neighbours' amenity and is therefore deemed to satisfy the design principles of the R-Codes. Accordingly, it is recommended that the application be approved by Council.


Photograph of the proposed patio's location towards the southern boundary of 47 Stanley Street



Photograph of the proposed patio's location towards the western boundary of 47 Stanley Street



PD53.16	(Lot 64) No. 145 Stirling Highway, Nedlands – Four Non-Illuminated Hoarding Signs (Retrospective)
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Committee	8 November 2016
Council	22 November 2016
Applicant	Reynolds Strata Services
Owner	Reynolds Strata Services
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/299 – ST6/145
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Photograph of signs along the Weld Street boundary 2. Photograph of sign on the Robinson Street boundary

1.0 Executive Summary

In July 2016, the City became aware of 3 unauthorised signs having been erected on the Weld Street verge adjoining the subject property (Chelsea Village). Subsequently the City received a complaint from a resident regarding their placement, and the signs were then relocated off the verge and onto the property. The City then also became aware of 1 unauthorised sign having been placed on the property parallel to its Robinson Street boundary.

No approval for the signs was sought despite advice being provided by the City regarding the requirements. Therefore in September 2016 a Planning Infringement Notice was issued by the City and subsequently a retrospective development application was received for the signs to remain on the property.

In accordance with Council's Local Planning Policy 'Advertisement Signs on Zoned and Reserved Land (Except Road Reserves)' (Signage LPP), the signs concerned are a form of advertisement as their purpose is to provide 'direction' to the public regarding parking their vehicles on the Chelsea Village site. The Signage LPP stipulates that development approval is required for such signage.

The application was advertised to nearby residents for comment as Council's Signage Policy only permits one hoarding sign per site. During the advertising period 5 objections were received.

The application has been referred to Council for determination as officers do not have delegation to approve an application when objections have been received.

The applicant states that the signs are required due to vehicles being parked on the Chelsea Village property by those visiting other commercial properties nearby.

The current amount of signs along Weld Street is considered to have an adverse impact on the streetscape due to their size and the amount of signs within a short distance of one another. By reducing the amount of signs so that only one exists adjacent to each street boundary would address this issue.

It is therefore recommended that Council approves the application subject to 2 of the hoarding signs adjacent to the Weld Street boundary being removed.

2.0 Recommendation to Committee

Council approves the retrospective development application for the existing non-illuminated hoarding ('no parking') signs at (Lot 64) No.145 Stirling Highway, Nedlands, subject to the following conditions and advice:

- 1. Two of the existing 3 hoarding ('no parking') signs adjacent to the subject property's Weld Street boundary being removed within 28 days from the date of this decision.**
- 2. The remaining hoarding signs being maintained by the landowner to the City's satisfaction.**

Advice Notes specific to this approval:

- 1. Approval is to be sought and obtained from the City prior to erecting and/or installing any further signage.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2 and the R-Codes.

4.0 Legislation / Policy

- *Planning and Development Act 2005 (Act).*
- *Metropolitan Region Scheme (MRS).*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- *City of Nedlands Town Planning Scheme No. 2 (TPS2).*
- *Residential Design Codes of WA 2015 (R-Codes).*
- *Council Policy – Neighbour Consultation.*
- *Advertisement Signs on Zoned and Reserved Land (Except Road Reserves) Local Planning Policy (Signage LPP).*

5.0 Budget / Financial Implications

Within current approved budget:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Requires further budget consideration:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

6.0 Risk management

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

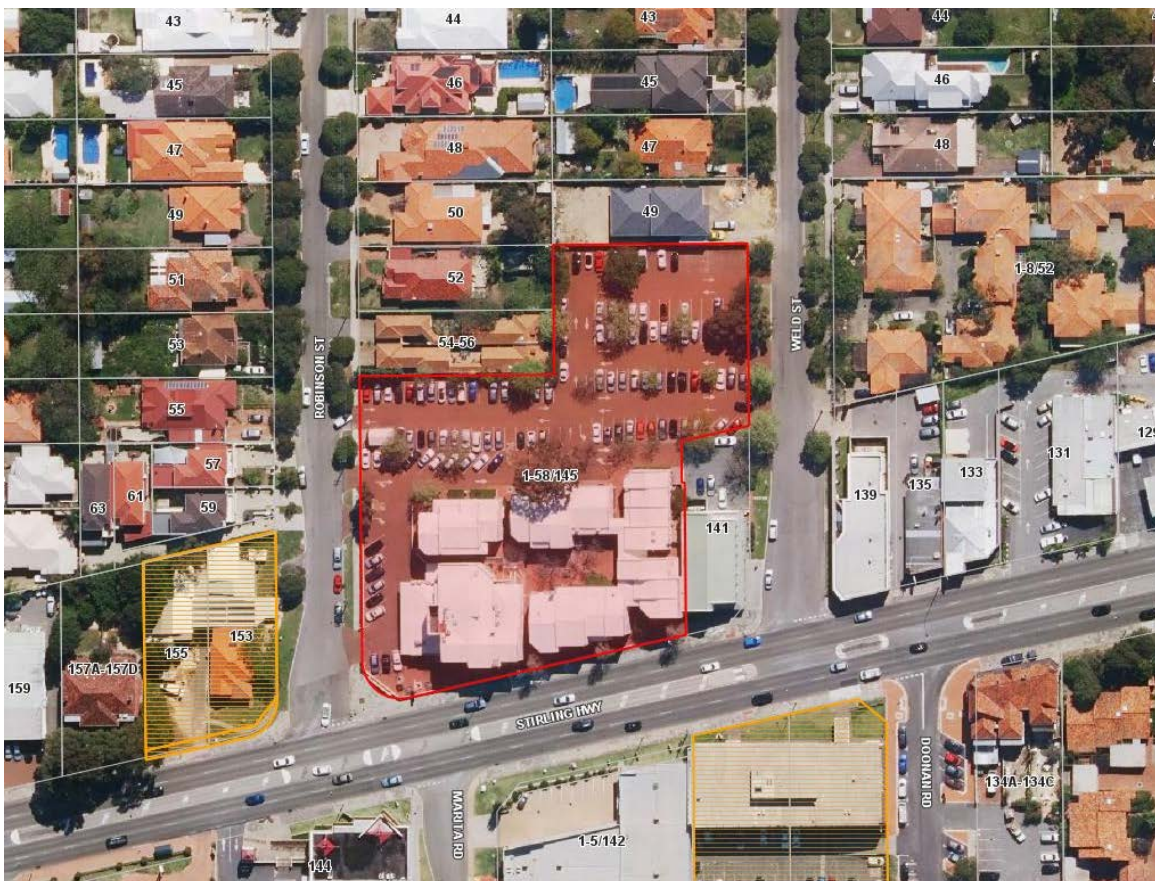
7.0 Background

Lot area	6,885m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R15 and R35
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

The subject property, known as Chelsea Village, contains various commercial uses. Surrounding properties contain residential and commercial uses. Refer to the locality plan below.

The subject property currently has a 45 car bay shortfall. Nearby commercial properties also have shortfalls in the amount of car bays required under Town Planning Scheme No. 2 (TPS 2).

Car parking restrictions apply along Weld Street and Robinson Street. The City often receives complaints regarding vehicles parking illegally and/or obstructing access to nearby residential properties.



8.0 Application Details

The applicant seeks retrospective approval for 4 non-illuminated hoarding signs to remain. Details of which are the following:

- a) Three hoarding signs exist adjacent to the property's Weld Street boundary, and one hoarding sign exists adjacent to the property's Robinson Street boundary.
- b) The signs are 2m in height and width.
- c) The underside of the signs are 0.56m above natural ground level.
- d) The purpose of the signs is to advise the general public that the car parking bays on the subject property are to only be used by those visiting Chelsea Village.

9.0 Consultation

The development application was advertised to affected landowners by the City for 14 days for comment. Five objections were received during the consultation period due to the visual impact the signs are having on the local area.

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

The impact the signs are having on the local amenity is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and the Signage LPP which are not being met by the proposal are addressed in the following sections.

10.1 Local Planning Policy - Advertisement Signs on Zoned and Reserved Land (Except Road Reserves)

The Signage LPP permits a maximum of one hoarding sign per non-residential site, up to 6m in height above natural ground level. The proposal is compliant with the policy except for the amount of signs which exist, and the underside of the signs being less than 2.75m above natural ground level. Variations to the provisions of the policy may be allowed subject to considering the impact it will have on the streetscape and the amenity of nearby landowners.

The applicant considers that the signs are required due to vehicles being parked on the Chelsea Village property by those visiting other commercial properties nearby. The Chelsea Village site currently has a shortfall in the amount of car bays required under TPS 2, as do many of the other commercial properties within the vicinity.

The current amount of signs along Weld Street is considered to have an adverse impact on the streetscape due to their size and the amount of signs within a short distance of one another. By reducing the amount of signs so that only one exists adjacent to each street boundary would have less of an impact on the streetscape and nearby residential properties.

As the signs do not encroach over any pedestrian footpaths and/or onsite car bays the height of their undersides do not create any safety issues for pedestrians despite being less than 2.75m above natural ground level. This variation is therefore considered to be acceptable.

10.2 Planning and Development (Local Planning Schemes) Regulations 2015

Under Schedule 2 Part 9 clause 67 (Matters to be Considered by Local Government) of the Planning and Development (Local Planning Schemes) Regulations 2015, the following provisions are to be taken into consideration:

- a) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.
- b) The amenity of the locality.

Signage associated with businesses is something the City receives complaints about on a fairly regular basis. Such matters are investigated when concerns are received, and where necessary, retrospective development approval is requested to be sought or alternatively landowners are requested to remove the signage. As part of the assessment process consideration is always given as to what impact the size, type and location of the signage is having on the streetscape and nearby properties.

The size and location of the signs on the subject property means that they do not obstruct driver sightlines, nor vehicular and/or pedestrian movement. However as discussed in the previous section of this report, the current amount of hoarding signs along Weld Street for the subject property, is considered to have an adverse impact on the streetscape.

By reducing the amount of signs would reduce the impact currently being had on the streetscape.

11.0 Conclusion

The proposal is for 4 non-illuminated hoarding signs to remain on the property, which is compliant with the Signage Policy apart from the total number of signs which exist.

If 2 of the existing signs adjacent to the Weld Street boundary were removed then only 1 sign will be visible from both street frontages. The resultant impact on the streetscape would therefore be the same as if there was only one such sign on the entire property.

It is therefore recommended that Council approves the application subject to the removal of 2 of the 3 signs adjacent to the Weld Street boundary.



PD53.16 - Attachment 1
Photograph of signs along the Weld Street boundary



Robinson Street