

Planning and Development Reports

Committee Consideration – 9 June 2020

Council Resolution – 23 June 2020

Table of Contents

Item No. Page No.

[PD25.20](#_Toc41555839) [No. 45 Portland Street, Nedlands – Additions to Single House and Site Works 2](#_Toc41555840)

[PD26.20](#_Toc41555841) [No. 95 Victoria Ave, Dalkeith - Additions to Single House 16](#_Toc41555842)

[PD27.20](#_Toc41555843) [No. 18 Odern Crescent, Swanbourne - Two-Storey Single House with Undercroft Basement and Swimming Pool 26](#_Toc41555844)

[PD28.20](#_Toc41555845) [No.64 Gallop Road, Dalkeith – 6 x Two Storey Grouped Dwellings with Basement Car Parking 38](#_Toc41555846)

[PD29.20](#_Toc41555847) [Local Planning Scheme 3 – Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements 51](#_Toc41555848)

[PD30.20](#_Toc41555849) [Local Planning Scheme 3 – Local Planning Policy: Short Term Accommodation - Amendments 62](#_Toc41555850)

|  |  |
| --- | --- |
| **PD25.20** | **No. 45 Portland Street, Nedlands – Additions to Single House and Site Works** |
|  | |
| **Committee** | 9 June 2020 |
| **Council** | 23 June 2020 |
| **Applicant** | Brendon Riley |
| **Landowner** | Brendon Riley |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  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. |
| **Reference** | DA19-41656 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Applicant’s Justification Report |
| **Confidential Attachments** | 1. Plans 2. Submission and Arborist Report 3. Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine a development application received from the applicant on 8 November 2019 for proposed additions to a Single House and site works at No. 45 Portland Street, Nedlands.

The applicant is proposing the additions of a carport, storage shed (outbuilding), swimming pool, decking and front fencing at the subject property. Due to the slope of the site, there is also retaining, and associated site works proposed.

The application was advertised to adjoining neighbours in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. The application was advertised to a total of five (5) adjoining landowner and occupiers. One (1) objection was received during the consultation 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.

1. **Recommendation to Committee**

**Council approves the development application dated 8 November 2019, with amended plans received on 19 February 2020 for the additions to the single house, including the associated site works on Lot 88 on Plan 3062, No. 45 Portland Street, Nedlands, subject to the following conditions and advice:**

* 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 additions of a carport, a shed, fencing, retaining walls and associated site works as indicated on the determination plans.**
  3. **All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
  4. **Prior to occupation of the development the finish of the parapet wall is to be finished externally to the same standard as the rest of the development or in:**
  5. **Face brick;**
  6. **Painted render;**
  7. **Painted brickwork; or**
  8. **Other clean material as specified on the approved plans and maintained thereafter to the satisfaction of the City of Nedlands.**
  9. **Prior to occupation of the development, all major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback line shall be screened in accordance with the Residential Design Codes by either;**

1. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
2. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
3. **a minimum sill height of 1.60 metres as determined from the internal floor level, or**
4. **an alternative method of screening approved by the City of Nedlands.**

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

* 1. **Fences within the primary street setback area shall not exceed 1.8m in height from natural ground level and are to be visually permeable in accordance with the Residential Design Codes (v1, 2019) above 1.2m in height from natural ground level (refer to advice note 2).**
  2. **The outbuilding shall not be utilised for habitable or commercial purposes without further planning approval being obtained.**
  3. **All stormwater from the development, which includes permeable and nonpermeable areas shall be contained onsite.**
  4. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street, secondary street to the satisfaction of the City of Nedlands.**

**Advice Notes specific to this proposal:**

* + - 1. **In relation to Condition 4, the dividing fencing is seen to meet the requirement of providing sufficient screening from the raised outdoor living area (decking), with the dividing fencing shown to be at least 1.6m in height above the finished floor level. The dividing fencing is to be at least 75% obscure, permanently fixed, made of a durable material and is to restrict view in the direction of overlooking into an adjoining property. Should the dividing fencing be removed / altered in the future, sufficient screening is to be provided as a replacement to comply with the screening provisions of Clause 5.4.1 – Visual Privacy of the R-Codes (Volume 1).**
      2. **In relation to Condition 6, "Visually Permeable" means the vertical surface has:**
* **Continuous vertical gaps of 50mm or greater width occupying not less than one third of the total surface area;**
* **Continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or**
* **A surface offering equal or lesser obstruction to view as viewed directly from the street.**
  + - 1. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
      2. **All crossovers to the street(s) 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.**
      3. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Works Application (NSWA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
      4. **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.**
      5. **An exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:**
* **outside of balcony/verandah areas (if applicable) and below the height of a standard dividing fence within a side or rear setback area;**
* **or within a screened rooftop plant area or nook.** 
  + - 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.  Soakwells of adequate capacity to contain runoff from a 20-year recurrent storm event. 4 Soak-wells shall be a minimum capacity of every 80m2 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.**
  1. **Where the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**

**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.**

* 1. **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 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.**

* 1. **Adequate dust control measures to be undertaken in accordance with the Environmental Protection Act 1986 (and associated Regulations) and the Health Local Laws 2000.**
  2. **The landowner is advised that all mechanical equipment (e.g. air-conditioner, swimming pool or spa) is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
  3. **Any significant noise generating equipment that installed shall comply fully with the maximum assigned levels of the Environmental protection (Noise) Regulations 1997.**
  4. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**

1. **Background**

**3.1 Land Details**

The subject site is located at No. 45 Portland Street, Nedlands. The land is formally identified as Lot 88 on Plan 3062.

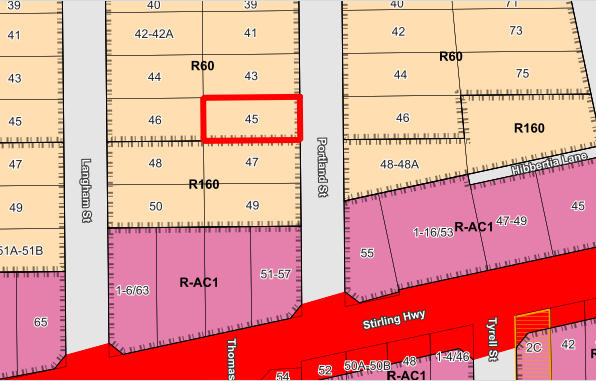
The land covers an area of 905.5sqm and has a 20.1m eastern frontage to Portland Street. It is currently occupied by a single storey single dwelling on the land between landscaped front and rear gardens. A driveway is located on the north-eastern corner of the property without front fencing.

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 905.5m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential |
| **Use Class** | Permitted (P) |

**3.2 Locality Plan**

Following the gazettal of the Local Planning Scheme No. 3 (LPS 3) on 16 April 2019, the subject properties to the north of No. 49 Portland Street were up coded from the R12.5 density which was allocated in Town Planning Scheme No 2 (TPS 2). With the gazettal of LPS 3, the subject property of No. 45 Portland Street was up coded to a density of R60.

As shown in the map below, the properties to the north, east and west to No. 45 Portland Street have a density of R60. The properties to the south of No. 45 Portland Street have a density of R160. The subject property is approximately 80m directly to the north of Stirling Highway.



The subject property is surrounded by Single Houses and a locality that displays residential characteristics. There is a mix of dwelling styles along Portland Street, including single storey and two-storey single houses. The subject property has a downward slope from the southern lot boundary to the northern lot boundary.



1. **Application Details**

The applicant seeks development approval for additions to a single house and associated site works, details of which are as follows:

* Front fencing
* Carport addition along southern lot boundary.
* Shed / Storage (outbuilding) addition along northern lot boundary.
* Swimming pool addition on northern lot boundary.
* Decking associated with the swimming pool on northern lot boundary.
* Retaining on northern lot boundary.
* Brick lot boundary fence along northern lot boundary.

**4.1 Background Details**

The application was lodged to the City of Nedlands on 8 November 2019. The application was assessed against the R-Codes and relevant Local Planning Policies. The application was informally advertised over the Christmas period to the adjoining landowners. Following consultation with the adjoining landowners, the plans were amended, with several changes made including:

* Re-location of the carport to the southern lot boundary
* Relocation of the outbuilding from the northern lot boundary to provide a setback to the northern lot boundary
* Changes to the colours and materials schedule

Amended plans for this development application were received on 19 February 2020 and the application was re-assessed against the R-Codes and relevant Local Planning Policies. The application was formally advertised by way of letter, with plans published on Your Voice. The outcome of the advertising is presented in Section 5.0 below.

1. **Consultation**

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

* Lot Boundary Setbacks
* Site Works
* Retaining Walls

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to five (5) adjoining landowner 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** | **Officer Response** | **Action Taken** |
| The proposed development is unfair and unreasonable as it does not protect the amenity of the residential area or the character of the residential area. | Refer to detailed assessment against the Design Principles of the R-Codes for Lot Boundary Setbacks, Site works and Retaining Walls under Section 6.2 of this report. The Design Principles discuss the compatibility of the development within the residential area. | Development complies with design principles – no action required. |
| The development does not respond to the local context where the adjoining property interfaces with the rear yard of the adjoining neighbouring lot in terms of bulk, scale and height. | Refer to detailed assessment against the Design Principles of the R-Codes under Section 6.2 of this report. | Complies with design principles – no action required. |
| An alternative design would have a lesser impact on the amenity of the adjoining property:   * if the pool was repositioned, * if the decking and pool were located central to the property or setback from common boundaries and * if the development respected and responded to the existing contours and levels on the land to minimise earthworks and retaining. | The applicant was provided with a second opportunity to amend the plans after the advertising period of the application was complete.  The applicant chose to continue with the design of the development as presented with the plans attached with this report as the applicant had already once amended their plans after the first round of advertising during the Christmas break.  The City of Nedlands does not have a Detailed Area Plan or Local Development Plan to specify the location of particular development within the lot for this property.  As such, the City cannot require the specific positioning of development. Therefore, the development proposal is assessed as presented against the R-Codes.  In addition, the applicant has advised that the location of the pool and the east – west orientation of the pool along the northern boundary was chosen to benefit from the northern orientation to the sun. Furthermore, the swimming pool chosen is a lap pool which would not fit in a north – south orientation. | No action required. |
| Objection to nil setbacks proposed by the decking and retaining wall to support the pool on the northern lot boundary which presents excessive scale and bulk, impacting on amenity and availability of natural light. | Refer to detailed assessment against the Design Principles of the R-Codes for lot boundary setbacks under Section 6.2 of this report | Complies with design principles – no action required. |
| Design does not respond to natural features of the lot and the fill proposed is not minimal. Site works should be limited to 0.5m. | Refer to detailed assessment against the Design Principles of the R-Codes for Site Works under Section 6.2 of this report | Complies with design principles – no action required. |
| Retaining wall will detrimentally impact the adjoining property as it will damage two significant trees and the scale of the boundary wall and fence. | Refer to detailed assessment against the Design Principles of the R-Codes for retaining walls under Section 6.2 of this report. | Complies with design principles – no action required. |
| The objector provided an Arborist Report in relation to the impact of the proposed development on the trees of the adjoining property. | The Arborist Report indicates that “it can be reasonably assumed that minimal impact would be experienced by the Jacaranda or the Hibiscus if works only occurred within 45 Portland and that appropriate measures are taken to not disturb spoils or roots beyond the fence line.” The arbour report is contained in **Confidential Attachment 3.**  The Arborist Report recommendation 2 states that all construction is to be restricted to the property boundary of No. 45 Portland Street.  Therefore, as a part of the recommendation of the development application, all works proposed are to be wholly contained within the property’s lot boundaries.  The report also explains that the sinker roots which are vertical roots that strongly contribute to the tree stabilisation are “within the boundary of No. 43 Portland Street and further root zone exploration would be required to verify the existence of such roots within No. 45 Portland Street.”  The Arborist Report recommendations will be presented to the applicant so as to encourage the applicant to take measures to reduce the impact of the construction upon the neighbouring property. | Condition no. 3 recommended |
| Incidental note on retaining walls: The existing retaining wall shown on drawing DA.08A has been cracked and deflected due to the tree roots of the Liquidambar tree on the boundary of No. 45 Portland Street which would need to be replaced - it could not be retained as suggested on the drawing. | Noted | 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.

1. **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 under the Design Principles of the R-Codes for lot boundary setbacks, site works and retaining walls as addressed in the below assessment tables:

**Clause 5.1.3 – Lot Boundary Setbacks:**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  “P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:   * 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.   P3.2 Buildings built up to boundaries (other than the street boundary) where this:   * makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas; * does not compromise the design principle contained in clause 5.1.3 P3.1; * does not have any adverse impact on the amenity of the adjoining property; * ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and * positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.” |

|  |
| --- |
| **Deemed-to-Comply Requirement** |
| The deemed to comply setback for the decking on the northern lot boundary is 1.5m.  The deemed to comply setback for the retaining on the northern lot boundary is 1.5m.  Building on boundary is only deemed to comply when building on boundary is proposed to one lot boundary.  Building on boundary is only deemed to comply when building on boundary is proposed behind the front setback area. |
| **Proposed** |
| A nil setback is proposed to the northern lot boundary by the decking.  A nil setback is proposed to the northern lot boundary by the retaining.  Building on boundary is proposed to two lot boundaries – to the northern lot boundary (decking and retaining) and to the southern lot boundary (carport).  The building on boundary to the southern elevation for the carport is proposed within the front setback area. |
| **Administration Assessment** |
| The lot boundary setback provisions are considered to successfully meet the Design Principles for Clause 5.1.3 of the R-Codes as per the assessment provided below.  The nil setback proposed by the decking and the retaining on the northern lot boundary, with the brick screening wall on top of the retaining has a total height of 3.13m above the NGL of the northern lot boundary. This total height of 3.13m is lower than a typical single storey wall height of 3.5m above NGL. This total height of 3.13m is considered to be relatively standard for a residential property and as such, is not considered to add any significant building bulk to the adjoining properties around No. 45 Portland Street, Nedlands. Additionally, the deemed-to-comply wall height for building on boundary for an R60 zoning is 3.5m. The total height of the building on boundary along this elevation is 3.13m which is lower than the deemed-to-comply provisions.  In relation to building bulk, there is an existing garage on the property at No. 45 Portland Street which is located along the northern boundary. This application proposes the removal of this garage and it will be replaced with a carport; however, this carport will be located on along the southern lot boundary. The removal of the garage from the northern lot boundary will reduce the building bulk impacts upon the northern adjoining property.  The nil setback proposed by the decking and the retaining on the northern lot boundary with a maximum height of 3.13m with the brick boundary fencing on top is not considered to impact on the sun and ventilation to the building as the structures are located on the boundary fence. Additionally, any overshadowing from the building on the boundary will fall within the lot itself due to the orientation of the lot being an east – west orientation.  The proposed brick boundary fence over the retaining and decking along the lot boundary will eliminate any overlooking onto adjoining properties. Therefore, it is highly unlikely to result in any loss of privacy or amenity to the adjoining properties.  The decking and retaining are considered to make more effective use of space along the northern lot boundary for the swimming pool which is orientated so as to benefit from the northern sun exposure. This will benefit the landowners in being able to more effectively use their outdoor living area.  The decking and retaining along the northern lot boundary will still provide direct sun to major openings to the habitable rooms on the adjoining property to the north as the overshadowing of the decking and retaining will fall within the lot. The provision of the screen wall on top of the decking will provide additional screening so as not to result in any overlooking or loss of privacy upon the neighbouring property at No. 43 Portland Street, Nedlands.  Additionally, the northern property at No. 43 Portland Street, Nedlands has a swimming pool in the north eastern corner of the property in the front setback area. The proposed retaining in this application which is on the northern boundary of 45 Portland Street and the southern boundary of No. 43 Portland Street is unlikely to detrimentally impact on the direct sun exposure to the adjoining northern lot.  This application proposes building on boundary on two lot boundaries- along the northern and southern lot boundaries. The retaining and decking is proposed along the northern lot boundary whereas the carport is proposed to be located on the southern lot boundary. The re-location of the parking facility to the southern lot boundary will assist in reducing any building bulk upon the northern lot and therefore, the application seeks to reduce the impact of building bulk upon the northern property.  It should be noted that the amount of building on boundary on the southern lot boundary is for a total length of 6.8m which equates to only 15% of the total southern lot boundary length. The proposal of the second building on boundary in lieu of one building on boundary is considered to be minor in scale.  The carport has a maximum wall height of 2.5m above NGL and is not considered to unduly impact on building bulk when viewed from the adjoining property to the south, as the carport location is within the front setback area. Therefore, the carport will not negatively impact on any direct sun and ventilation to the southern property as the carport abuts a driveway to the south. Furthermore, it does not negatively impact on any sun exposure to major openings to habitable rooms or outdoor living areas to the southern property.  The carport is a non-habitable structure and abuts a driveway and therefore is not going to result in any overlooking or loss of privacy to the southern property.  Due to the existing house on the lot, a small portion of the carport is located within the front setback area. This density has an R-Code of R60 which requires a 2m primary street setback. 0.5m of the carport length is within the primary street setback area. This setback will ensure that Bedroom 1 at the front of the property will still have a setback to the carport wall and it will also ensure that there is space between the carport and the existing dwelling to allow for a passage along the southern side to access the rear backyard. By moving the carport back 0.5m towards the dwelling, the carport roof would clash with the fascia of the existing dwelling.  Typically, building on boundary is deemed-to-comply behind the front setback area. The minor intrusion of the carport which has a total area of 4m2 within the primary street setback area has been compensated for an equal area of open space of >4m2 as per the provisions of Clause 5.1.2 – Street Setbacks of the R-Codes. As such, the street setback is deemed-to-comply.  The proposed additions which meet the Design Principles for Clause 5.1.3 – Lot Boundary Setbacks for the above-mentioned reasons are considered to contribute to the prevailing and future development context and streetscape of the locality. The additions are seen to be in keeping with the character of a residential locality and are unlikely to unduly impact the amenity of the area.  The proposal is seen to be complementary to the existing locality which typically displays single residential dwellings. With an increased density of R60 as a result of the gazettal of LPS 3, there will be higher density development within this area and this proposal is seen to be in keeping with the density provisions of an R60 zoning. |

**Clause 5.3.7 – Site Works:**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  “P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.  P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.” |
| **Deemed-to-Comply Requirement** |
| Site works are deemed to comply when raised to a maximum of 0.5m above natural ground level. |
| **Proposed** |
| The walkway along the northern lot boundary is raised 0.82m above natural ground level.  The decking along the northern lot boundary is raised 0.89m above natural ground level. |
| **Administration Assessment** |
| The proposed site works are considered to successfully meet the Design Principles for Clause 5.3.7 of the R-Codes as the proposed site works are seen to correspond to the natural features of the site. The additional maximum fill of 0.39m above the deemed-to-comply fill of 0.5m is considered to be minimal within the site which slopes downwards from the southern lot boundary to the northern lot boundary.  The site works are associated with the walkway and the decking which lead to the swimming pool area. These site works are considered to be appropriate in levelling out the site around the pool for ease of use and practicality. This site work will improve the relationship between the interior and exterior whilst expanding the function and accessibility of the outdoor and pool area.  The site works which propose a higher finished level respect the natural ground level at the boundary of the site and do not materially impact the view from the street, with the site works being in excess of 10m from the primary street lot boundary.  As such, the site works are considered to be acceptable for this development proposal. |

**Clause 5.3.8 – Retaining Walls:**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  “P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.” |
| **Deemed-to-Comply Requirement** |
| Retaining walls on the lot boundary are deemed to comply when the retaining is 0.5m high or less. |
| **Proposed** |
| A 1.33m high retaining wall is proposed on the northern lot boundary due to the sloping nature of the subject property. |
| **Administration Assessment** |
| The proposed retaining wall with a maximum height of 1.33m is proposed due to the sloping nature of the block along the middle of the northern lot boundary. Additionally, the swimming pool proposed along this boundary requires the existing retaining to be removed and replaced with structurally sound retaining to support the proposed works along this boundary.  The retaining is seen to allow the effective use of the land for the benefit of the residents, with a levelled outdoor living area and for the use of the swimming pool. It is considered that this retaining wall is unlikely to detrimentally impact the adjoining properties.  It is noted that the property to the north at No. 43 Portland Street has a swimming pool and an outdoor living area in the north eastern corner of the property in the front setback area. The proposed retaining in this application which is on the northern boundary of 45 Portland Street and the southern boundary of No. 43 Portland Street is unlikely to detrimentally impact on the amenity of the adjoining northern lot.  Furthermore, the retaining wall is considered to meet the Design Principles of Clause 5.3.7 – Site Works as discussed above.  In relation to Clause 5.4.1 – Visual Privacy of the R-Codes, the proposed retaining wall does not result in any overlooking into adjoining properties. In fact, the retaining, with a boundary fence on the retaining will further assist in the screening of the decking and swimming pool area which are proposed in this development application. It is noted that the application is fully compliant with the relevant deemed-to-comply provisions of the R-Codes for Visual Privacy.  As such, the retaining wall is considered to be acceptable for this development proposal. |

1. **Conclusion**

As per the Administration assessment provided above, the proposal is unlikely to have a significant adverse impact on the local amenity of the area. The proposed residential additions including the carport addition, outbuilding, decking, swimming pool and associated site works are considered to be compatible within the residential zone with an R60 density and will complement the existing development within the locality.

It is considered that the additions to the single house are unlikely to negatively impact on the streetscape of Portland Street, with the additions of the carport and the fencing along the primary street setback area.

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

|  |  |
| --- | --- |
| **PD26.20** | **No. 95 Victoria Ave, Dalkeith - Additions to Single House** |
|  | |
| **Committee** | 14 June 2020 |
| **Council** | 28 June 2020 |
| **Applicant** | Dr Rosemary Turner |
| **Landowner** | Dr Rosemary Turner & Dr J Harvey Turner |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  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. |
| **Reference** | DA19-35834 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Applicant letter of support for the development proposal |
| **Confidential Attachments** | 1. Plans 2. Submissions 3. Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine an application for additions to a single house at 95 Victoria Ave, Dalkeith received from the applicant on 6 June 2019.

The application was advertised to adjoining neighbours in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. One (one) objection was 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 is consistent with the local character of the locality.

1. **Recommendation to Committee**

**Council approves the development application dated 6 June 2019 to install a garage and rooftop garden at Lot 6, 95 Victoria Ave, Dalkeith, 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 installation of a garage and rooftop garden as indicated on the plans attached.**
3. **Revised drawings shall be submitted with the Building Permit application, incorporating the following modifications as shown in red on the approved plans, to the satisfaction of the City:**
4. **Clear 1.5m visual truncation areas are to be provided at the entry to the garage.**
5. **Secondary street fencing is to be reduced in height to a maximum of 1.8m above natural ground level, from the street side of the proposed fence.**
6. **All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
7. **Prior to occupation of the development the northern and western elevations of the roof top garden shall be screened in accordance with the Residential Design Codes by either;**
8. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
9. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
10. **a minimum sill height of 1.60 metres as determined from the internal floor level, or**
11. **an alternative method of screening approved by the City of Nedlands.**

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

1. **This approval is limited to the installation of a garage and rooftop garden only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.**
2. **The ground floor structure (garage and potting shed) shall not be utilised for habitable or commercial purposes without further planning approval being obtained.**
3. **Prior to the occupation of the development, all structures within the 1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m height to the satisfaction of the City of Nedlands (see condition 3).**
4. **The laneway adjacent to the eastern boundary of the subject property being widened in accordance with the approved plans by the landowner by transferring the land required to the Crown under Clause 32.3 of the City’s Local Planning Scheme No. 3*.* The land to be ceded free of cost and without any payment of compensation by the Crown.**
5. **Prior to occupation of the development, the portion of the laneway adjacent to the subject property and any portion of the subject property required for laneway widening is required to be sealed, drained and paved to the satisfaction of the City.**
6. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite (refer advice note aa)**

**Advice Notes specific to this proposal:**

1. **This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.**
2. **This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**
3. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**
4. **This planning approval has been issued on the basis of the plans hereby approved. It is the responsibility of the applicant to ensure that the approved plans are accurate and are a true representation of all existing and proposed development on the site, and to ensure that development proceeds in accordance with these plans.**
5. **There may be matters which impact on proceeding with the approved development which are not shown on the approved plans (e.g. verge infrastructure, retaining walls). Such matters may need to be separately addressed before the approved development can proceed. It is the responsibility of the applicant to ensure that these matters are addressed prior to the commencement of the development hereby approved.**
6. **The applicant is advised that all development must comply with this planning approval and approved plans at all times. Any development, whether it be a structure or building, that is not in accordance with the planning approval, including any condition of approval, may be subject to further planning approval by the City.**
7. **The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting f a Building Permit. Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.**
8. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above approved ground levels.**
9. **The applicant is advised that the approved garage and potting shed is not approved for habitation, commercial or industrial purposes. Change to the use of this building may require further development approval.**
10. **A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
11. **The swimming pool barrier is to comply with Australian Standard 1926.1. A building permit application for the swimming pool barrier must be submitted and the building permit issued prior to filling the swimming pool with water.**
12. **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.**

1. **All swimming pool wastewater shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.**
2. **All swimming pools, whether retained, partially constructed or finished, shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.**
3. **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 by the City of Nedlands.**
4. **The contractor/developer shall protect the City’s street trees from any damage that may be caused by the scope of works covered by this contract for the duration of the contract. All work carried out under this contract is to comply with the City’s policies, guidelines and Australian Standards relating to the protection of trees on or adjacent to development sites (AS 4870-2009).**
5. **To prevent stormwater flowing into the property from the laneway, ground levels of garages and outbuildings with car parking are encouraged to have the finished floor level higher than the level in the laneway adjacent to the building or a grated channel strip-drain constructed across the driveway, aligned with and wholly contained within the property boundary, and the discharge from this drain to be run to a soak-well situated within the property.**
6. **A new crossover or modification to an existing crossover will require a separate approval from the City of Nedlands prior to construction commencing.**
7. **All works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, also require a separate approval from the City of Nedlands prior to construction commencing.**
8. **Where works are proposed to a building permit shall be applied for prior to works commencing.**
9. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
10. **All ramps to the basements/mezzanine and circulation areas are to be constructed in accordance with the Australian Standard AS2890.1 (as amended) to the satisfaction of the City of Nedlands.**
11. **All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 (as amended) to the satisfaction of the City of Nedlands.**
12. **Prior to occupation, the loading bays, car-parking bays and manoeuvring areas are to be constructed, sealed, kerbed, drained and clearly marked in accordance with AS2890.1 (as amended) and maintained to the satisfaction of the City of Nedlands.**
13. **In relation to condition 11, the applicant is advised that 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 1.0m3 for every 80m2 of calculated surface area of the development.**
14. **Background**

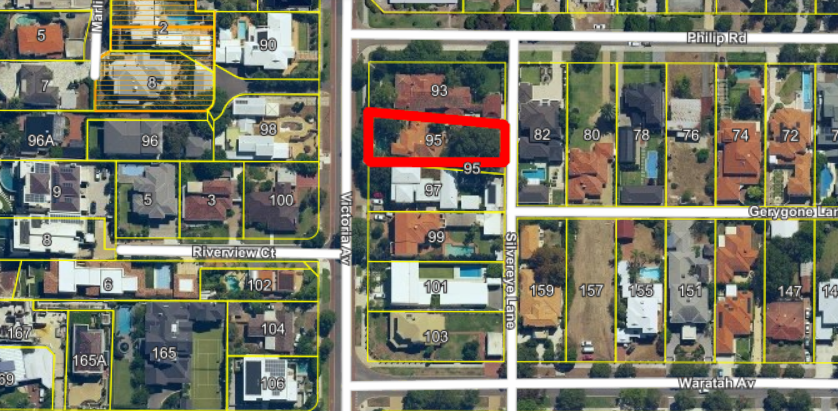
**3.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R10 |
| **Land area** | 1113m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential Single Dwelling |
| **Use Class** | P |

**3.2 Locality Plan**

The subject property has direct frontage onto Victoria Ave, with a secondary street frontage onto Silvereye Lane. The subject property is zoned R10 and features a single house, being characteristic of the zoning and locality. The proposed development addresses the eastern lot boundary, Silvereye Lane.





1. **Application Details**

The applicant seeks development approval to construct a garage, potting shed and rooftop garden at the rear of the property, addressing Silvereye Lane, details of which are as follows:

* The development proposes a minimum of 1.1m lot boundary setback to all property boundaries.
* The application proposes a minimum 3.0m secondary street setback to Silvereye Lane.

By way of justification in support of the application the applicant has provided supporting materials. These can be found as an attachment to this report.

1. **Consultation**

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

* Visual Privacy

The development application was therefore advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 3 owners and landowners. Two (2) objections were 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 size of the proposed secondary street fence is too tall. | 2 | Following receipt of amended plans, the secondary street fence height has been reduced to a maximum height of 1.9m. | Recommend condition 3, to reduce secondary street fencing to a maximum height of 1.8m. This height is in accordance with the deemed to comply provisions of the City’s Residential Development Policy. |
| The rooftop garden will permit overlooking of neighbouring properties. | 2 | Amended plans have been received proposing screening of neighbouring properties.  One minor overlooking element exists towards the northern lot. The cone of vision overlooks the neighbouring landowner’s garage/driveway off Silvereye Lane. These areas are not deemed habitable and are visible from the existing laneway. Considering the additional screening proposed and overlooking of unhabitable spaces the visual privacy assessment of this application is considered to be an acceptable design outcome. | Recommendation for approval for the development proposal subject to conditions. |
| The nil lot boundary setback should not be supported as it will dominate the laneway. | 1 | Amended plans have been received, proposing a minimum 3.0m secondary street setback of the proposed structure. Rear setback has been made compliant. | Recommendation for approval for the development proposal subject to conditions. |

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

1. **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.

**6.3 Policy/Local Development Plan Consideration**

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

The applicant is seeking assessment under the Design Principles of the R-Codes for Visual Privacy as addressed in the below table:

**Visual Privacy**

|  |
| --- |
| **Design Principles** |
| 5.4.1 Visual privacy  P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:   * + - building layout and location;     - design of major openings;     - landscape screening of outdoor active habitable spaces; and/or     - location of screening devices.   P1.2 Maximum visual privacy to side and rear boundaries through measures such as:     * + - offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;     - building to the boundary where appropriate;     - setting back the first floor from the side boundary;     - providing higher or opaque and fixed windows; and/or     - screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters). |
| **Deemed-to-Comply Requirement** |
| C1.1 Major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback line are:   1. set back, in direct line of sight within the cone of vision, from the lot boundary.   The deemed to comply visual privacy setback for outdoor living areas which are elevated greater than 0.5m above natural ground level is 7.5m. |
| **Proposed** |
| The submitted plans propose a minimum 1.43m visual privacy setback of the northern lot in lieu of 7.5m required. |
| **Administration Assessment** |
| The proposed visual privacy intrusion overlooks a garage and rear access driveway of Silvereye Lane. Neither structure is considered a ‘habitable space’. The garage features no major openings addressing the southern property (subject site) and the driveway is publicly visible from Silvereye Lane. Considering the above and the extensive use of privacy screening by the applicant, the visual privacy intrusion is considered a technical variation, proposing a negligible impact on the adjoining land owners, with no loss of amenity or privacy envisaged as a result of the proposed development. All visual privacy screening is proposed to be re-enforced as a condition of development approval and subject to full compliance with the requirements of State Planning Policy 7.3 Residential Design Codes Volume 1. |

1. **Conclusion**

Following receipt of amended plans, the applicant has made considerable efforts to facilitate near full compliance with State Planning Policy 7.3 Residential Design Codes Volume 1 and relevant City of Nedlands Local Planning Policy.

The applicant has addressed visual privacy concerns raised by adjoining landowners through the use of visual privacy screening and additional lot boundary setbacks.

Considering the technical nature of the outstanding minor visual privacy setback shortfall, which overlooks a garage roof and driveway of the northern property, the development is considered to be an acceptable outcome and impose a negligible impact on adjoining landowners, being characteristic of the locality and streetscape.

Considering the above and having due regard to relevant planning policy, legislation and possible amenity impacts of adjoining landowners, it is recommended that Council resolves to approval the development application subject to the conditions and advice notes outlined above.

|  |  |
| --- | --- |
| **PD27.20** | **No. 18 Odern Crescent, Swanbourne - Two-Storey Single House with Undercroft Basement and Swimming Pool** |
|  | |
| **Committee** | 9 June 2020 |
| **Council** | 23 June 2020 |
| **Applicant** | Mercedes Group Pty Ltd (Zorzi) |
| **Landowner** | Janet Di Virgilio |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  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. |
| **Reference** | DA19-43473 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received |
| **Attachments** | 1. Applicant’s Original Planning Report & Response to Submissions |
| **Confidential Attachments** | 1. Plans 2. Submissions 3. Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development Application received from the applicant on the 24 December 2019, for proposed two storey single house with undercroft basement

The application was advertised to adjoining neighbours in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. At the close of advertising a total of 4 submissions were received; 2 objections, 1 in support and 1 providing comments.

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/consistent with the local character of the locality.

1. **Recommendation to Committee**

**Council approves the development application dated 24 December 2019 for a Two-Storey Single House with Undercroft Basement and Swimming Pool at Lot 69 (No.18) Odern Crescent, Swanbourne, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential (Single House)’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **Prior to the issue of a Building Permit, a detailed landscaping plan and management plan, prepared by a suitable landscape designer, shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
3. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**

* **Face brick;**
* **Painted render**
* **Painted brickwork; or**
* **Other clean material as specified on the approved plans;**

**And maintained thereafter to the satisfaction of the City of Nedlands**

1. **Prior to occupation of the development, the proposed car parking and vehicle access areas shall be sealed, drained, paved and line marked in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City.**
2. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street or secondary street to the satisfaction of the City.**
3. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
4. **Prior to the construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City of Nedlands. The approved Construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
5. **The location of any bin stores shall be behind the street alignment so as not to be visible from the street or public place and constructed in accordance with the City’s Health Local Law 1997.**
6. **All stormwater generated from the development shall be contained on site.**
7. **Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.**
8. **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.**
9. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**

**Advice Notes specific to this proposal:**

1. **The applicant is advised that in relation to Condition 7 the Construction Management Plan is to address but is not limited to the following matters**
2. **Construction operating hours;**
3. **Contact details of essential site personnel;**
4. **Noise control and vibration management;**
5. **Dust, sand and sediment management;**
6. **Stormwater and sediment control;**
7. **Traffic and access management;**
8. **Protection of infrastructure and street trees within the road reserve and adjoining properties;**
9. **Dilapidation report of adjoining properties;**
10. **Security fencing around construction sites;**
11. **Site deliveries;**
12. **Waste management and materials re-use**
13. **Parking arrangements for contractors and subcontractors;**
14. **Consultation plan with nearby properties; and**
15. **Complaint procedure.**
16. **Any development in the nature-strip (verge), including footpaths, will require a Nature Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to commencing construction.**
17. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
18. **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 and use this as 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.**
19. **Background**

**3.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R12.5 |
| **Land area** | 825m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential (Single House) |
| **Use Class** | Residential (Single House) – ‘P’ use |

**3.2 Locality Plan**

The subject lot is located at the corner of Odern Crescent and Walba Way in the suburb of Swanbourne. The proposed lot configuration is irregular and contains an existing single dwelling. To the north of the site is The Shorehouse restaurant and the Nedlands Surf Lifesaving Club and west is the Indian Ocean. The site directly abuts two residential properties south of the site; 20A & 20B Odern Crescent and 3 Walba Way.



1. **Application Details**

The applicant seeks development approval for the development of a two-storey single house with undercroft parking at No.18 Odern Crescent, Swanbourne details of which are as follows:

* A basement level which provides for parking of vehicles, a fitness room, wine cellar and storage facilities. Access to the basement level is via Odern Crescent with an additional onsite parking bay proposed on Walba Way;
* A swimming pool, sundeck and terrace are located within the primary setback area on Odern Crescent and forms its entrance to the ground floor level which includes informal and formal living, dining room, kitchen and guest bedroom;
* The first storey includes a large balcony which is directed towards the Indian Ocean and 3 bedrooms and bathrooms; and
* 32 solar panels are proposed on the roof with additional landscaping proposed on Odern Crescent and Walba Way inclusive of a vertical garden on the façade facing the secondary street.

1. **Consultation**

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

* Street Setbacks
* Lot Boundary Setbacks
* Sight Lines
* Site Works
* Retaining Walls
* Visual Privacy

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to nine occupiers and landowners between the 11 March 2020 to 25 March 2020. At the close of advertising 4 submissions were received: 2 objections, 1 in support and 1 providing comments.

A summary of the submissions is provided below:

|  |  |
| --- | --- |
| **Concern raised** | **City Comments** |
| The overall building height is 639-519mm over height for a two-storey development based on the existing ground levels. Impacts to views and visual bulk of the building  **#1 submission received** | Clause 4.5.1 of the City’s Residential Development Local Planning Policy replaces clause 5.1.6(C6) of the R-Codes which allows for the maximum building height for a concealed roof to be 8.5m building height, in lieu of 7m. As the maximum wall height is 8.4m it complies.  The design of the building provides for articulated walls which breaks up the building bulk whilst also providing view corridors of the Indian Ocean and Swanbourne Beach. As the development meets the prescribed building heights and open space provisions it is considered acceptable and compliant. |
| Impacts on overshadowing to the adjoining southern property  **#1 submission received** | Clause 5.4.2 (C2.1) of the R-Codes requires buildings to be designated so that its shadow cast at midday, 21 June does not exceed 25 per cent of the adjoining southern property. As the cast of the shadow is at a maximum of 12.7 per cent it complies. |
| Impacts on lot boundary setbacks due to the bulk and limited wall articulation  **#1 submission received** | This is discussed in the content of the report under 5.2.2 – Residential Design Codes – Volume 1 (State Planning Policy 7.3). |
| Safety impacts to pedestrians due to the location of the designated visitor parking bay  **#1 submission received** | This is discussed in the content of the report under 5.2.2 – Residential Design Codes – Volume 1 (State Planning Policy 7.3). |
| The development does not comply with the primary street setback requirements as the dwelling is incorrectly orientated to Odern Crescent not Walba Way  **#1 submission received** | The property is located at No.18 Odern Crescent, Swanbourne with Odern Crescent being classified as the primary street, which is also where the major entry (front door) is proposed to be located. As such, the City considers this entirely compliant. |
| The subject lot is located within a Bushfire Prone Area and therefore development should be constructed in accordance with the relevant standards  **#1 submission received** | In accordance with Schedule 2, Part 10A, Clause 78B of the *Planning and Development (Local Planning Schemes) Regulations 2015,* as the subject site is less than 1,100m2 (825m2) this Part does not apply for assessment under a development application process and therefore construction standards cannot be applied. |
| The crossover location of Odern Crescent is immediately adjacent to a one-way treatment. Concerns with sight lines with on-coming traffic.  **#1 submission received** | The application has been referred to the Technical Services Department. No objections were received regarding its location. |
| The City should remove the one-way treatment and re-design the exits from the upper car park to improve safety and permeability for vehicles searching for parking.  **#1 submission received** | Not subject to this application. However, these comments have been forwarded onto the Technical Services Department who have advised there are no issues. |
| Landowners should be restricted from complaining about the Swanbourne Nedlands Surf Life traffic and parking.  **#1 submission received** | Not a valid objection. |

It is noted that a variation to the planter box and eave overhang (street setbacks), sight lines to the secondary car bay(sight lines) 0.2m2 visual privacy intrusions (visual privacy setbacks) were not advertised due to the nature and scale of this variation proposed and therefore the exercise of discretion not to advertised was applied.

1. **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)(n)(p) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development’s height, scale and landscaping and the potential impact it will have on the local amenity.

**6.2 Policy Consideration**

**Design of the Built Environment (State Planning Policy 7.0)**

The City considers that the proposed development adequately responds to the 10 Design Principles in summary –

|  |  |
| --- | --- |
| **Design Principle** | **Officer Comment** |
| 1. **Context and Character** | A number of surrounding properties, particularly on Odern Crescent/ Marine Parade exhibits similar design features and materials and therefore is considered sympathetic to the local area |
| 1. **Landscape Quality** | Over provision of landscaping (28% in lieu of 20%) has been provided which includes a mix of vegetation types and design (including a vertical garden to the secondary street facade) as well as additional landscaping proposed on the nature strip (verge) of both Odern Crescent and Walba Way |
| 1. **Built form and scale** | The two-storey single dwelling is a respectful and characteristic of the existing dwellings within the locality and does not negatively impact the surrounding properties by way of overshadowing, under provision of open space or is over height |
| 1. **Functionality and build quality** | The level of finish of the build proposed is of a high standard. A mix of materials, wall articulation and design features add visual interest whilst providing for well-designed living spaces |
| 1. **Sustainability** | 32 solar panels are proposed providing for a reduction in greenhouse gases as well as the design of outdoor living areas maximise the northern aspect of the site |
| 1. **Amenity** | The design, landscaping quality and scale provide for an improved built form to that of the existing dwelling that is respectful to the amenity of the locality |
| 1. **Legibility** | The design provides for a combination of pedestrian and vehicle entrances which is clearly defined and provides for a clear delineation of spaces from the public and private realm. A combination of lifts, stairs and entrances have been provided |
| 1. **Safety** | Major openings are provided to the public realm. The open aspect of the fencing on the primary street are designed to offer secure locations for passive surveillance if the street |
| 1. **Community** | This principle is not considered applicable |
| 1. **Aesthetics** | Contrasting renders and materials, extensive vertical garden, multiple openings, varying roof height and curved walls add visual interest to the design which is complementary to the locality |

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

The applicant is seeking assessment under the Design Principles of the R-Codes for Street Setbacks, Lot Boundary Setbacks, Sight Lines, Site Works, Retaining Walls and Visual Privacy as addressed in the below tables:

By way of justification in support of the development application the applicant has provided a design principles assessment provided as an attachment to this report as well as addressed the submissions received as part of the advertising period (Attachment 1).

**5.1.2 - Street Setbacks**

|  |
| --- |
| **Design Principles** |
| P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:   * + contribute to, and are consistent with, an established streetscape;   + provide adequate privacy and open space for dwellings;   + accommodate site planning requirements such as parking, landscape and utilities; and   + allow safety clearances for easements for essential service corridors.   P2.2 Buildings mass and form that:   * + uses design features to affect the size and scale of the building;   + uses appropriate minor projections that do not detract from the character of the streetscape;   + 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   + positively contributes to the prevailing or future development context and   + streetscape as outlined in the local planning framework. |
| **Deemed-to-Comply Requirement** |
| C2.4 (i) - 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. |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + The planter box and eaves on the first storey protrudes 0.75m within the primary street setback area and comprises of 79% of the building façade   + The eaves on the first storey protrudes 0.75m within the secondary street setback area and comprise of 100% of the building facade |
| **Administration Assessment** |
| Administration consider that the proposed development meets Design Principles as –   * + Although the building façade has eaves and a planter box which protrude within the front setback area, it is considered to be designed and integrated into the building design as an architectural feature and is not considered to detrimentally impact the size or scale of the building as it does not increase the building footprint and is further compliant with open space and landscaping provisions;   + With particular reference to the primary street façade, the planter box provides for visual interest whilst softening the built form and is not considered incongruous with its setting or would detract from the character of the locality;   + Additional landscaping is further provided within the primary and secondary street setbacks, which is integrated within the building design and on the verge within Walba Way and Odern Crescent.   Accordingly, it is concluded, that the eave overhang meets the relevant Design Principles |

**5.1.3 – Lot Boundary Setbacks**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  P3.1 - Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:   * + 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. |
| **Deemed-to-Comply Requirement** |
| C3.1 (i) – buildings set back from lot boundaries in accordance with Table 1 which requires a minimum 6m from the rear (southern) boundary at 3 Walba Way. |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + The entire length of the ground floor level is setback at varying distances with the closest set back at 2.3m from the southern boundary, in lieu of 6m. These are annotated on the plans as ‘lounge’ and ‘kitchen/laundry’ |
| **Administration Assessment** |
| The adjoining lot to the south of the subject land, have objected to the setback siting concerns regarding the buildings bulk and overshadowing. Administration consider that the proposed setback meets the Design Principles as -   * + Due to the irregular configuration of the subject property, the walls on the ground level are off angled and diagonal, thereby reducing the appearance of building bulk on adjoining properties and providing for varying setbacks. Furthermore, the proposal provides for additional open space and landscaping than the minimum requirement under the R-Codes;   + The ground floor setbacks are considered sufficient to ensure adequate light and ventilation to the proposed building and its associated outdoor living areas, given overshadowing is compliant at 12.7% (maximum 25%) and that overshadowing itself is not contributed by this setback. Notwithstanding, only a portion of the swimming is overshadowed with the remaining outdoor area accessible to direct sunlight.   + The major openings to rooms are obscured by a diving wall of at least 1.8m in height and will not result in privacy concerns as it is compliant; and   + There are examples of similar variations within the locality. It is further noted that the setbacks of the existing house at No.18 Odern Crescent at ground level, are not dissimilar to the proposed development.   Accordingly, it is concluded that the proposed setback meets the relevant Design Principles for lot boundary setbacks. |

**5.2.5 – Sight Lines**

|  |
| --- |
| **Design Principles** |
| P5 – Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, right-of-ways, communal streets, crossover and footpaths |
| **Deemed-to-Comply Requirement** |
| C5 – Walls, fences and other structures, truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + A solid 1.8m high wall is within 1.5m of the vehicle access way on Walba Way. |

|  |
| --- |
| **Administration Assessment** |
| The adjoining landowner to the south at 3 Walba Way submitted an objection to the proposed sight lines due to the concerns with pedestrian safety. Administration consider that the proposed development meets Design Principles as –   * + The pedestrian path is located east of Walba Way, on the opposite side of the road. As such, it is not considered to prejudice this aspect of the Design Principles.   + Technical Services have not raised any issues in relation to the visitor bay location given the low volume of traffic and pedestrian activity directed to the footpath on the opposite side of the road. Particularly given this is a visitor bay, its frequency of use would also be low; and   + Albeit that the closest part of the bay is 800mm to the southern boundary, there is also a minimum 6m wide verge which provides a direct view onto Walba Way for oncoming traffic.   Accordingly, it is concluded to meet the relevant Design Principles for sight lines. |

**5.3.7 – Site Works & 5.3.8 – Retaining Walls**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  **Site Works**  P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.    P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.  **Retaining Walls**  P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having regard to clauses 5.3.7 |
| **Deemed-to-Comply Requirement** |
| **Site Works**  C7.1 - Excavation and filling between the street and building, or within 3m of the street alignment, whichever is the lesser, shall not exceed 0.5m, except where necessary to provide for pedestrian or vehicle access, drainage works or natural light for a dwelling  **Retaining Walls**  C8 – Retaining walls greater than 0.5m in height set back from lot boundaries in accordance with the setback provisions of Table 1. Retaining walls 0.5m or less in height may be located up to the lot boundary |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + The proposal features site fill and retaining wall 1.87m along the Odern Crescent street boundary at a height of 0.8m; and   + Excavation of 1.75m – 3.55m for the basement level |
| **Administration Assessment** |
| Administration consider that the proposed site works meets the Design Principles as –   * + The fill/retaining is necessary due to the sloping topography of the site. The fill/retaining can be effectively used for the benefit of residents as it maximises the northern aspect of the site to be used for the main outdoor living area. The materials, design and landscaping treatments have been used to appropriately respond to the site context   + With respect to the excavation, the development has been designed to appropriately respond to the topography and respects the natural ground level at the boundary when viewed from the street. The basement level has been predominately designed for the purpose of a garage and is not considered visually obtrusive when viewed from the street and this design is common within the locality. As this property is on the ‘lower side’ its impact to adjoining landowners is minimal.   Accordingly, it is concluded to meet these Design Principles. |

**5.4.1 – Visual Privacy**

|  |
| --- |
| **Design Principles** |
| P1.2 – Maximum visual privacy to side and rear boundaries through measures such as:   * + Offsetting the location of ground and first floor windows so that viewing is oblique rather than direct   + Building to the boundary where appropriate   + Setting back the first floor from the side boundary   + Providing higher or opaque and fixed windows; and/or   + Screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters). |
| **Deemed-to-Comply Requirement** |
| C1.1 – Major openings an unenclosed active habitable space, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback line are:   1. Set back in direct line of sight within the cone of vision from the lot boundary at a minimum of 7.5m |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + A portion of the first storey balcony (facing west at 20 Odern Crescent) is set back at a 7.48m within the cone of vision |
| **Administration Assessment** |
| Administration consider that the proposed development meets Design Principles as –   * + The variation occurs from a 1.9m portion of the upper floor balcony, in which out of the 7.5m cone of vision, 0.2m2 is directed to the adjoining western lot and is considered minor, particularly given there is boundary fencing which assists in reducing any overlooking;   + The 0.2m2 portion does not impact on any active habitable spaces or outdoor living areas of the adjacent property;   + The balcony has been designed to orientate towards to the view of the Indian Ocean not south-west to the adjoining property;   + With the exception of this portion of the balcony, all windows from habitable rooms are appropriately designed to be set back from the lot boundaries to be compliant and without reliance on screening.   Accordingly, it is concluded to meet the relevant Design Principles |

1. **Conclusion**

This application is for proposed Two-Storey Single House with Undercroft Basement and Swimming Pool located at No. 18 Odern Crescent, Swanbourne which is coded R12.5.

The development application is fully compliant with the Residential Design Codes (R-Codes) 'deemed-to-comply' provisions with the exception of the design principles assessment items relating to lot boundary setbacks, street setbacks, vehicles access, site works, retaining and visual privacy.

The application was advertised to surrounding residents and at the close of advertising 4 submissions were received including 2 objections, 1 in support and 1 providing comments. Issues raised included the building size and appearance, height, setbacks, overshadowing and concerns with sight lines.

The application has been referred to Council for a decision by virtue of objections being received. Administration consider that the development satisfies the design principles of the Residential Design Codes and is unlikely to have a significant adverse impact on the local amenity

It is recommended that Council approve the application, subject to standard conditions.

|  |  |
| --- | --- |
| **PD28.20** | **No.64 Gallop Road, Dalkeith – 6 x Two Storey Grouped Dwellings with Basement Car Parking** |
|  | |
| **Committee** | 9 June 2020 |
| **Council** | 23 June 2020 |
| **Applicant** | MW Investments Number 10 Pty Ltd |
| **Landowner** | MW Investments Number 10 Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  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. |
| **Reference** | DA20-45492 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the number of dwellings and an objection being received |
| **Attachments** | 1. Applicant’s Justification and Assessment Against State Planning Policy 7.0 |
| **Confidential Attachments** | 1. Plans 2. Waste Management Plan 3. Acoustic Report 4. Submissions 5. Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development Application received from the applicant on the 3 March 2020, for proposed development of six two-storey grouped dwellings located at No.64 Gallop Road, Dalkeith.

The application was advertised to adjoining neighbours in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. At the close of the advertising period 2 submissions were received; 1 supporting to the development and 1 objection.

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/consistent with the local character of the locality.

1. **Recommendation to Committee**

**Council approves the development application dated 3 March 2020 and revised plans received on the 2 April 2020 for six Grouped Dwellings at Lot 680 (No.64) Gallop Road, Dalkeith, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential (Grouped Dwelling)’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **Prior to the issue of a Building Permit, a detailed landscaping plan and management plan, prepared by a suitable landscape designer, shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
3. **Prior to the occupation of the development the responsible entity (strata/corporate body) shall provide detailed specification on the confirmed waste compactor for 240L bins and written service agreement.**
4. **Waste management for the development shall comply with the approved Waste Management Plan (prepared by Talis – Revision A) to the satisfaction of the City of Nedlands.**
5. **The responsible entity (strata/corporate) shall be liable for all bin replacement costs and/or repair costs relating to any damage which my occur as a result of the bin compaction process.**
6. **The location of any bin stores shall be behind the street alignment so as not to be visible from the street or public place and constructed in accordance with the City’s Health Local Law 1997.**
7. **All stormwater generated from the development shall be contained on site.**
8. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
9. **Prior to occupation of the development all fencing/visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas as annotated on the approved plans shall be screened in accordance with the Residential Design Codes by either;**
10. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
11. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
12. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
13. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
2. **Face brick;**
3. **Painted render**
4. **Painted brickwork; or**
5. **Other clean material as specified on the approved plans;**

**And maintained thereafter to the satisfaction of the City of Nedlands**

1. **Prior to occupation of the development, the proposed car parking and vehicle access areas shall be sealed, drained, paved and line marked in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City.**
2. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street or secondary street to the satisfaction of the City.**
3. **Prior to the construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City of Nedlands. The approved Construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
4. **Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.**
5. **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.**
6. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**

**Advice Notes specific to this proposal:**

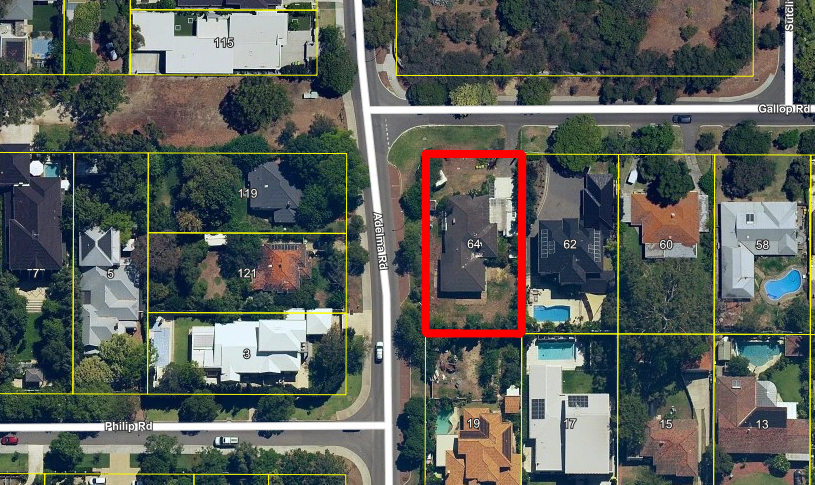
1. **The applicant is advised that in relation to Condition 2, the landscaping plan shall detail the following:**
   1. **Species and maturity of landscaping within the front setback areas which have a minimum pot size of 100L;**
   2. **Species and maturity of landscaping proposed on the nature strip (verge) which have a minimum pot size of 200L;**
   3. **Species and maturity of landscaping within each lot;**
   4. **Maintenance plan for all proposed landscaping on site and contingencies for replacement of dead and diseased plants**
2. **The applicant is advised that in relation to Condition 13 the Construction Management Plan is to address but is not limited to the following matters**
3. **Construction operating hours;**
4. **Contact details of essential site personnel;**
5. **Noise control and vibration management;**
6. **Dust, sand and sediment management;**
7. **Stormwater and sediment control;**
8. **Traffic and access management;**
9. **Protection of infrastructure and street trees within the road reserve and adjoining properties;**
10. **Dilapidation report of adjoining properties;**
11. **Security fencing around construction sites;**
12. **Site deliveries;**
13. **Waste management and materials re-use**
14. **Parking arrangements for contractors and subcontractors;**
15. **Consultation plan with nearby properties;**
16. **Complaint procedure;**
17. **The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.**
18. **Any development in the nature-strip (verge), including footpaths, will require a Nature Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to commencing construction.**
19. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
20. **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 and use this as 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.**
21. **Background**

**3.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 1,103m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential (Single House) |
| **Use Class** | Residential (Single House) – ‘P’ use |

**3.2 Locality Plan**

The subject lot is located at the corner of Adelma Road to the west and Gallop Road to the north in the suburb of Dalkeith. To the north is the Carmelite Monastery and further south is Waratah Avenue. There is existing embayment parking located directly to the west and south-west of the development site.



1. **Application Details**

The applicant seeks development approval, following the demolition of the existing single dwelling, for the development of six, two storey (6) grouped dwellings, including basement car parking located at No.64 Gallop Road, Dalkeith, details of which are as follows:

* Two-storeys terraced styled dwellings which face directly onto Adelma Road to the west. A new pedestrian pathway to the dwellings are proposed which delineate the entry to each dwelling.
* A basement level is proposed which provides for car parking and storage facilities. Access to the basement level is via maintained via the existing crossover located on Gallop Road. 2 parking bays are provided for each dwelling;
* Each unit comprises of a ground floor with open plan living (kitchen, dining & living) with either a study or guest bedroom, as well as an outdoor alfresco area. The upper floor provides for an additional three bedrooms and a family lounge area; and
* The bin storage is located south of the site

By way of justification in support of the development application the applicant has provided a design principles assessment provided as an attachment to this report as well as addressed the submissions received provided as an attachment to this report.

1. **Consultation**

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

* Lot Boundary Setbacks
* Landscaping
* Visitor Parking
* Site Works & Retaining Walls

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to eight occupiers and landowners between the 30 April 2020 to the 14 May 2020. It is noted that at the close of advertising 2 submissions were received; 1 in support and 1 objecting. No submissions were received from surrounding landowners.

|  |  |
| --- | --- |
| **Submission** | **City’s Response** |
| Support the development as it is an example of the type of development needed within the locality  **#1 Submission** | **Noted** |
| Whether the road is designed to accommodate the projected number of vehicles and concerns with the projected traffic within the area  **#1 Submission** | **Not Supported**  In accordance with the Transport Impact Assessment Guidelines (Volume 4), due to the type of use and number of dwellings proposed it is classified as a ‘low impact’ and no further transport information is required. The application has further been referred to the City’s Technical Services Department which have no objection to this development, thereby, Adelma Road can reasonably accommodate the number of vehicles as part of this development. |
| Whether local schools have the capacity to cater for additional students  **#1 Submission** | **Not a valid objection to this proposal**  Overall, a schools’ capacity is governed by the Department of Education |
| Whether sewerage and water systems can cater for the increased dwellings at these locations  **#1 Submission** | **Not a valid objection to this proposal**  However, it is noted for this specific application, the applicant would require consulting with the Water Corporation. The overall strategic approach to catering with the increased demand is also managed by the Water Corporation, in consultation with the City’s Technical Service Department |
| How the number and types of these dwellings provide benefits to current residents within the locality  **#1 Submission** | **Comments**  The increased density is required by the State as per Directions 2031 to cater for the projected number of future residents within the Perth Metropolitan Area. The density provides housing opportunities for downsizes, students and families. |

1. **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)(n)(p) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development’s height, scale and landscaping and the potential impact it will have on the local amenity.

**6.2 Policy Consideration**

**6.2.1 Design of the Built Environment (State Planning Policy 7.0)**

The applicant has prepared a submission in response to State Planning Policy 7.0 (Attachment 1). Administration has undertaken an assessment on this Policy and on balance considers that the proposed development adequately responds to the variations proposed and on balance is considered appropriate in its context.

|  |  |
| --- | --- |
| **Design Principle** | **Officer Comment** |
| 1. **Context and Character** | The built form is considered to be sympathetic to its surrounding development. A combination of materials and existing style is present within the locality |
| 1. **Landscape Quality** | Whilst the landscaping is below the 20% as per the City’s Policy, Administration consider that there is a mix of species, design as well as additional landscaping proposed on both Adelma and Gallop Road. A revised landscaping plan is recommended as a condition of planning approval which include the planting of mature species within the front setback area of the verge in order to maintain the established streetscape |
| 1. **Built form and scale** | The two-storey single dwelling is a respectful and characteristics of the existing dwellings within the locality and does not negatively impact the surrounding properties by way of overshadowing, under provision of open space or is over height. It is considered acceptable in its context. |
| 1. **Functionality and build quality** | The level of finish of the build proposed is of a high standard which is exhibited within the locality. A mix of materials provide a well detailed build and well-designed living spaces. |
| 1. **Sustainability** | Partially north facing outdoor living areas and design is supported as it maximises the northern aspect of the site. |
| 1. **Amenity** | Architecturally designed building which provide for generous active outdoor habitable spaces. Based on the design elements, the landscaping quality-built form and scale providing for an improved built form to that of the existing dwelling and is not considered to negatively impact the public realm. |
| 1. **Legibility** | The design provides for a clear and definable pedestrian and vehicle entrances which provides for a clear delineation of spaces from the public and private realm. A combination of lifts and stairs have been provided to the site |
| 1. **Safety** | Major openings are provided to the public realm and designed to offer for passive surveillance if the street. |
| 1. **Community** | This principle is not considered applicable. |
| 1. **Aesthetics** | Contrasting renders and materials, multiple openings facing the street, varying roof height and cured walls add visual interest to the design which is complementary to the locality. |

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

The applicant is seeking assessment under the Design Principles of the R-Codes for Street Setbacks, Landscaping and Car Parking as addressed in the below table/s:

**5.1.2 - Street Setbacks**

|  |
| --- |
| **Design Principles** |
| P2.1 - Buildings set back from street boundaries an appropriate distance to ensure  they:   * + contribute to, and are consistent with, an established streetscape;   + provide adequate privacy and open space for dwellings;   + accommodate site planning requirements such as parking, landscape and utilities; and   + allow safety clearances for easements for essential service corridors.   P2.2 Buildings mass and form that:   * + uses design features to affect the size and scale of the building;   + uses appropriate minor projections that do not detract from the character of the streetscape;   + 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   + positively contributes to the prevailing or future development context and   + streetscape as outlined in the local planning framework. |
| **Deemed-to-Comply Requirement** |
| C2.2: Buildings set back from the secondary street boundary in accordance with Table 1.  C2.4 (i) - 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. |

|  |
| --- |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + The planter box wall to Unit 1 is setback at 0.57m in lieu of 1m from the secondary street   + The eaves to Unit 1 on the first storey overhang at 1.06m into the secondary street boundary and covers 100% of the building façade |
| **Administration Assessment** |
| Administration consider that the proposed development meets the Design Principles as -   * + The planter box to Unit 1 relates to a portion of wall at a length of 3.15m which represents a minor portion of the existing wall length. In accordance with the landscaping plan the planter box will be obscured by hedging and as such is considered appropriate not to detract from the character of the streetscape. It is further used for additional landscaping within the property boundary;   + The eave overhang to Unit 1 proposes a variation of 0.31m. This is considered a minor portion of the façade which is not considered to detrimentally impact the streetscape of the locality. The eave uses design features which reflect the size and scale of the building and is not used as a means to increase the building footprint. It is further screened by trees and landscaping proposed within the verge and underneath the eaves at ground level.   Accordingly, it is considered that this variation meets the Design Principles. |

**5.3.3 – Parking**

|  |
| --- |
| **Design Principles** |
| P3.1 Adequate car parking is to be provided on-site in accordance with projected need related to:   * + the type, number and size of dwellings;   + the available of on-street and other off-street parking; and   + the proximity of the proposed development to public transport and other facilities   P3.2 Consideration may be given to a reduction in the minimum number of on-site car parking spaces for grouped and multiple dwellings provided:   * + available street parking in the vicinity is controlled by the local government; and   + the decision maker is of the opinion that a sufficient equivalent number of on-street spaces are available near the development |
| **Deemed-to-Comply Requirement** |
| C3.2 – On-site visitor car parking spaces for grouped and multiple dwelling developments provided at a rate of one space for each four dwellings, or part thereof in excess of four dwellings served by a common access. |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + No visitor bays have been provided. |
| **Administration Assessment** |
| Administration note that there is a total of four (4) on street parking bays directly in front of the site and an additional six (6) located directly south-west of the site.  Administration consider that the proposed development meets the Design Principles as -   * + Aerial photography at various months and within a 10-year period indicate a minimal reliance of these bays by surrounding residents or business operations;   + No objections have been received by residents within the locality or by the City’s Technical Service Department; and   + As the proposal involves a variation of one (1) bay, on the merits of this application, it is considered that there is sufficient number of on street spaces available in order to satisfy the design principles |

**5.3.7 – Site Works & 5.3.8 Retaining Walls**

|  |
| --- |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  **Site Works**  P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.  P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.  **Retaining Walls**  P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having regard to clauses 5.3.7 |
| **Deemed-to-Comply Requirement** |
| **Site Works**  C7.1 - Excavation and filling between the street and building, or within 3m of the street alignment, whichever is the lesser, shall not exceed 0.5m, except where necessary to provide for pedestrian or vehicle access, drainage works or natural light for a dwelling.  **Retaining Walls**  C8 – Retaining walls greater than 0.5m in height set back from lot boundaries in accordance with the setback provisions of Table 1 at 2m from the primary street boundary. |
| **Proposed** |
| The application seeks assessment under the design principles which are as follows:   * + Excavation of up 2.5m to accommodate basement parking level   + Retaining walls proposed on the primary street boundary of Units 4-6 which range from a height between 0.51m – 1.10m |
| **Administration Assessment** |
| Administration consider that the proposed site works meets the Design Principles as –   * + With respect to the excavation, the development has been designed to appropriately respond to the topography and respects the natural ground level at the boundary when viewed from the street. The land slopes approximately 1.30m from the north-east (16.68 AHD) to the south-east boundary (15.90 AHD) which is where the vehicle access and ramp to the basement is proposed. The remaining car parking area is not visible to the public realm as it is concealed from view (16.89 AHD);   + The basement level is situated on the secondary street on Gallop Road and is not considered visually obstructive when viewed from the street, given it proposes a singular access point. It has been specifically designed to accommodate the parking of 12 parking bays within the basement level, rather than constructing 6 separate crossovers for each dwelling. This is considered a preferred design approach and is supported by Administration given it appropriately maintains and protects the amenity of the streetscape and sets a desirable precedent to the locality;   + The retaining walls have designed to appropriately respond to the minor slope of the site. The retaining walls and fill have been designed to provide for additional landscaping which is considered to benefit both internal residents and the public realm.   Accordingly, the excavation, fill and retaining is considered minor in its context and appropriately responds to the site context. As such the Design Principles are considered to be satisfactorily met |

**Local Planning Policy – Residential Development**

|  |
| --- |
| **Policy Objective** |
| **R-Codes**  P2 Landscaping of grouped and multiple dwelling common property and communal open spaces that:   * + contribute to the appearance and amenity of the development for the residents;   + contribute to the streetscape;   + enhances security and safety for residents;   + provide for microclimate; and   + retain existing trees to maintain a local sense of place |
| **Policy Objective**   * + 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. |
| **Policy Requirement** |
| 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. |
| **Proposed** |
| * + Unit 1 proposes 19.29% landscaping   + Unit 2 proposes 7.78% landscaping   + Unit 3 proposes 9.74% landscaping   + Unit 4 proposes 8.50% landscaping   + Unit 5 proposes 8.57% landscaping   + Unit 6 proposes 10.63% landscaping |
| **Administration Assessment** |
| The Residential Development Policy represents a Council adopted policy position. This clause does not apply as a deemed-to-comply provision under the Residential Design Codes (Volume 1) until the Western Australian Planning Commission (WAPC) have granted approval. The City is giving due regard to this document but at present contains limited weighting due to the status of this document as the decision maker is the WAPC not the City.  “‘Landscaping’ relates to land developed with garden beds, shrubs and trees, or by the planning of lawns, and includes such features as rockeries, ornamental ponds, swimming pools, barbeque areas or playgrounds and any other such area approved by the decision-maker as landscaped area.”  It is noted that the intent of this provision, included as an amendment to Administrations recommendation to Council is to ensure that the leafy green neighbourhood is maintained as this represents a sense of place to residents within the locality. Whilst the physical area has not been provided, which is representative of the percentage, it is Administration’s view that the siting, selection and design of plant species still maintains the objective and intent of this provision.  Particularly within the front setback area the type of vegetation proposes includes a feature tree and low hedging to ensure that passive surveillance is still maintained in order to enhance the security and safety for residents. The types of trees proposed require limited maintenance which satisfies providing for a microclimate.  Due to the design, there is the inability to retain existing trees on site. Notwithstanding, it is pertinent to note that there no local law which prohibits the removal of these trees within the subject site. The applicant has provided additional landscaping that is mostly reflective or complementary of the local character to maintain a local sense of place which is supported.  The landscaping proposed, albeit of a variation, contributes to the appearance and amenity of the development for internal residents due to the soft landscaping and plant palette proposed and is therefore supported.  The development contributes to the streetscape as the proposal includes:   * + four (4) additional trees (Callistemon species) proposed to be planted within verge of Gallop Road;   + hedging and a mix of plants on the periphery of Unit 1 and at the entrance of each dwelling;   Although Callistemon species have been proposed which grow to a height of 8 metres, Administration considers that a condition could be imposed to necessitate a species that is more mature and reflective of the local landscaped character including for example, Water Gum, Ornamental Pear or Western Coolabah which could grow at a mature height of 8-10m. These species could assist in softening the building façade giving the illusion of a larger setback and would improve the pedestrian experience along Gallop Road and Adelma Road. As such, this has been included as a condition of planning approval. |

**Local Planning Policy – Waste Management Guidelines**

A Waste Management Plan has been prepared by Talis (Revision A), dated 13 February 2020 which proposes a bin storage area to be located south of the subject site and is incorporated within the building design. A total of 8 x 240L bins comprising of 2 waste bins (with compaction 2:1) and 6 recycling bins are proposed.

Clause 3.1.5 of the Waste Management Guidelines recommends a maximum of 4 x 240L waste bins and 4 x 240L recycle bins to be placed on the verge for kerbside collection in which more than 8 bins would require internal service arrangements. Although the proposal includes 2 waste bins and 6 recycling, on aggregate, it does not exceed a total of 8 bins and is therefore considered consistent with the intent of the Policy and has been supported by Technical Services. It is further noted that there is sufficient capacity on the verge to accommodate the maximum number of bins and on alternative weeks, there will be just 2 waste bins on Adelma Road.

Technical Services support to the proposed Waste Management Plan, with the exception of a manual waste compactor being proposed due to the possible damage to the bins. Administration consider that this can be adequately dealt with via a planning condition requiring an alternative bin compactor and specification to be provided prior to occupation. This is reflected in recommended Condition 3.

1. **Conclusion**

This application is for proposed six two-storey grouped dwellings located at No.64 Gallop Road, Dalkeith which is coded R60.

The application has been referred to Council for a decision by virtue of the number of grouped dwellings proposed (being greater than five) and one (1) objection being received. The development proposes minor variations to street setbacks, site works and retaining, landscaping and visitor parking bays. The application was advertised to surrounding residents and at the close of advertising two (2) submissions were received; one objection and one in support.

Administration consider that the development satisfies the design principles of the Residential Design Codes and is unlikely to have a significant adverse impact on the local amenity. Approval, with conditions is recommended.

|  |  |
| --- | --- |
| **PD29.20** | **Local Planning Scheme 3 – Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements** |
|  | |
| **Committee** | 9 June 2020 |
| **Council** | 23 June 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Reference** | Nil |
| **Previous Item** | SCM 5 March 2020 – Item 7 |
| **Attachments** | 1. Tracked Changes Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy (LPP) 2. Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy (LPP) 3. Summary of Submissions |
| **Confidential Attachments** | 1. Original Submissions 2. DA Plans – 92 Smyth Road, Nedlands |

1. **Executive Summary**

The purpose of this report is for Council to finally adopt the draft Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

This Policy details the requirements relating to the ceding of private land and creation of an east-west laneway between the properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands, located parallel to Gordon Street. It also outlines the built form requirements for properties abutting the proposed laneway.

This Policy has been created as a mechanism to enable the ceding of land and construction of a laneway abutting the abovementioned properties. It responds to future development and subdivision under the new density code, which may otherwise result in the undesirable development of maximum width crossovers to Smyth Road, Langham Street and Gordon Street.

The aim of the Policy is to protect and maintain the existing landscaped and tree lined streetscapes whilst minimising the extent of crossovers, driveways and hardstands along Smyth Road, Gordon Street and Langham Street.

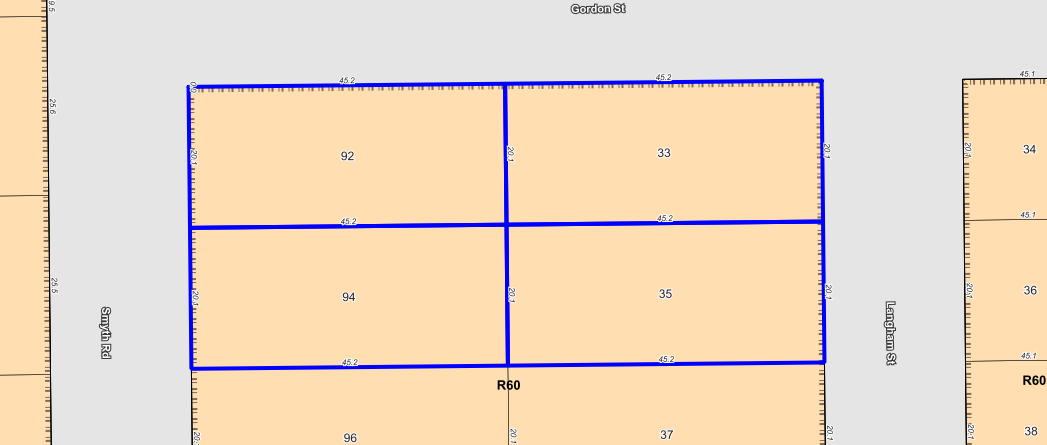
1. **Recommendation to Council**

**Council:**

1. **proceeds to adopt the Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements 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); and**
2. **refers the Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy to the Western Australian Planning Commission for final approval in accordance with State Planning Policy SPP7.3, Residential Design Codes Volume 1 2019 Clause 7.3.2.**
3. **Background**

The properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands (shown below) were up-coded to R60 under the City’s recently adopted Local Planning Scheme No. 3 (LPS3). This allows the properties to develop up to 5 grouped dwellings (townhouses) at 2 storey height limits or approximately 6-10 multiple dwellings (apartments) with height guided by Clause 2.2 of the R Codes Volume 2 with a 3 storey acceptable outcome provision.

The properties at 92 Smyth Road and 33 Langham Street are located on the southern side of Gordon Street. They are in a transitional density area and interface with lower coded (R12.5) residential properties located on the northern side of Gordon Street.



Pursuant to clause 32.3, subclause 1, of LPS3, the owner of land affected by a right-of-way or laneway identified by the scheme or, a structure plan, local development plan, activity centre plan or local planning policy is to, at the time of developing or subdividing the land:

1. Cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
2. Construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.

Therefore, if the City chooses to adopt this Policy, the City will have the head of power under clause 32.3 (1) to acquire the land and require developers to construct the laneway to the City’s specifications at the time of subdivision or significant (i.e. Multiple of Grouped Dwellings) redevelopment.

The City received a development application in February 2020 for four (4) Grouped Dwellings at 92 Smyth Road, Nedlands which indicated four individual crossovers to Gordon Street. Significant concerns were raised by Administration at lodgement as the application would pose an undesirable streetscape outcome on Gordon Street. It is Administration’s view that garages and crossovers should be located to the rear of the property with access from a new laneway. This proposed laneway will seek to connect Smyth Road and Langham Street.

The application has since been amended to provide for five (5) grouped dwellings and rear vehicle access via the construction of a future laneway. Note: A full copy of plans and relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.

This Policy has been put forward to aid the City in identifying the required land between these lots to create and construct the laneway. The laneway created will result in one entry point on Smyth Road and Langham Street respectively, therefore avoiding up to 10 direct vehicle crossovers along Gordon Street. The proposal also opens up development opportunity for the properties to the south of the laneway (94 Smyth Road and 35 Langham Street) which will benefit from a newly created laneway frontage if and when they are subject to future Multiple and Grouped Dwelling development or subdivision.

1. **Detail**

This Policy details the requirements for the proposed laneway between Smyth Road and Langham Street. It sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and subsequent construction.

The Policy requires a 3.5m wide strip of land to be ceded by each of the affected properties, measured from the centre boundary line in order to create a 7m wide laneway. Each affected lot will cede its 3.5m wide contribution to create the laneway as a condition of future subdivision or development approval for Grouped or Multiple Dwelling development. This policy also applies to subdivision and development applications proposing the creation of a green title lot or Single House on a green title lot oriented to or accessible from the laneway. The ceded land will become a public road to be maintained by the City of Nedlands. The 7.0m wide laneway will be created and constructed to the City’s specifications including being sealed, drained, and provided with lighting and landscaping.



In a scenario where each of the affected lots are simultaneously subdivided or developed with either Grouped or Multiple Dwellings, or a Single House on a green title lot oriented to or accessible from the laneway, there is capacity for the laneway to be designed and constructed with a services core located under the laneway carriageway. This core will provide a direct servicing connection to future lots proposed at 92 and 94 Smyth Road and 33 and 35 Langham Road, enabling these lots to be subdivided as green titles.

Under this scenario, it is intended that the laneway will be developed as a 6m wide carriageway and 0.5m landscape and services strip on either side. The laneway will provide for central drainage, trees to be located at the common boundary of each created lot, 4.5m high light posts and crossovers. Each dwelling is also to be provided with a pedestrian access point to the laneway. Refer to Figure 1 below.

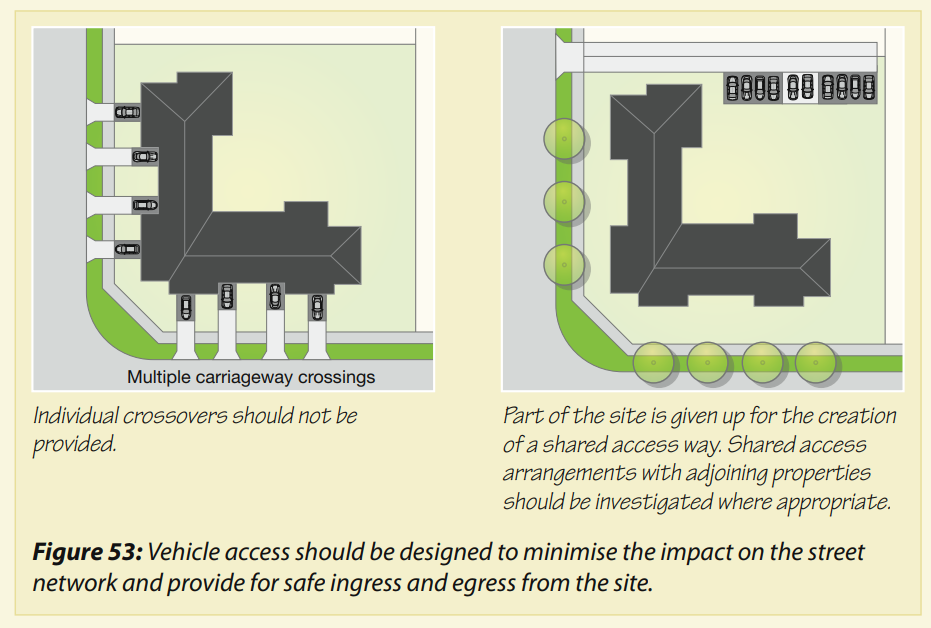
However, under a more likely interim scenario where each of the parent lots are incrementally subdivided or developed, the ceded 3.5m wide laneway parcel will provide one-way access to future dwellings, akin to a battle-axe driveway.

As the 3.5m wide laneway parcel is to be ceded to the City, it will be officially classified as a public road. Therefore, future development will need to demonstrate safe and efficient egress for members of the public (other than occupants of the dwellings) who travel down the laneway, to the satisfaction of the City.

Under the interim scenario, lots with a direct road frontage may be created as green title lots, or survey strata lots leveraging from the existing services network in the surrounding streets via a servicing easement. Unless the laneway is fully constructed between Smyth Road and Langham Street, the future lots created over 94 Smyth Road and 35 Langham Street are likely to be survey strata title lots serviced from Smyth Road or Langham Street via an easement.

The proposed laneway achieves two positive built form outcomes. Firstly, it will minimise the number of crossovers to Gordon Street.

The explanatory guidelines of the Residential Design Codes Volume 1 Clause 6.5 Vehicular Access Figure 53, reproduced below, encourages consolidated street access in lieu of individual crossovers, which are discouraged. This figure identifies the detrimental impact caused by multiple crossovers on the amenity and streetscape, noting too many crossovers cause loss of kerbside parking space, lack of space for street trees and furniture, interruption to pedestrian use of footpaths and increased hazards for cyclists. The method encouraged by Figure 53 is consistent with the proposed Policy, ensuring vehicle access is located to the rear of properties where possible, and encouraging shared access by utilising an aggregate vehicle access solution for future lots.



Secondly, the laneway will help unlock the future redevelopment potential for the south lying properties at 94 Smyth Road and 35 Langham Street. If all parent lots were developed simultaneously, these parent lots could be subdivided as green title lots. Under an interim and incremental development scenario, these lots will benefit from direct street frontage to the laneway. This provides an alternative to the creation of two green title lots oriented to Langham Street/Smyth Road or avoids the need to otherwise provide a hardstand area (common driveway) necessary to service dwellings in a battle-axe configuration. Clause 5.3.5 in the Residential Design Codes Volume 1 requires a driveway serving 4 or less dwellings to be no less than 3m wide. In the case of a driveway serving 5 or more dwellings, the driveway must accommodate two-way access. Therefore, the laneway will ultimately require 6m or the ability to manoeuvre to allow for vehicles to enter and exit in forward gear.

The built form controls in the policy seek to encourage activated frontages. The laneway is not intended to present as a solid wall of garages but instead maintain a street-like appearance with pedestrian access and amenity, and visual surveillance opportunities to and from the laneway and adjacent dwellings.

The development or subdivision of properties at 94 Smyth Road and 35 Langham Street will create opportunities for some lots/dwellings to have their primary frontage to the laneway. For these properties, the laneway will be developed with the appearance of a minor street including landscaping, pedestrian friendly access-ways and major openings from buildings overlooking the laneway. This will mean that although its primary purpose is providing vehicle access to dwellings, the laneway will avoid potential multiple crossovers to Gordon Street, as well as maintaining the character of Nedlands’ traditional streetscape, being pedestrian friendly, green, landscaped and a tree lined.

The Policy, through its built form controls, aims to encourage a pedestrian friendly, landscaped street appearance along the laneway. This is done by mandating that fencing to the laneway (for 94 Smyth Road and 35 Langham Street) remains consistent with primary street fencing requirements, being open in style to allow for passive surveillance. A clear definable pedestrian entry way is to be provided from the laneway for each lot. This is to encourage legibility and ease of access as well as reducing vehicle domination along the laneway and encouraging passive visual surveillance of the laneway from the dwellings.

Without this Policy in place, the City lacks the ability to apply LPS3 clause 32.3 to mandate the ceding of land for the creation of a laneway. If the properties were subdivided first, as has been the case on similar lots such as at 18 Doonan Road, the application would be determined by the West Australian Planning Commission (WAPC).

In the case of 18 Doonan Road, the subdivision application was approved by WAPC despite Administration’s concerns regarding the subsequent streetscape impact. The Department of Planning Lands and Heritage (DPLH) directed Administration to further flesh out the need and nexus for laneways and as such, a Laneway Strategy and Scheme Amendment are being prepared to add more power to Clause 32.3 of LPS3. Whilst the subdivision has already been approved in respect of 18 Doonan Road, clause 32.3 of LPS3 allows for a development application to also trigger the ceding of land for the purpose of a laneway.

The current local planning framework is evolving and unresolved. Any purchase of properties within the density transition areas cannot solely rely on LPS3 as a guaranteed development pathway. The City is currently formulating localised planning policy responses to better augment the R-Codes to suit City of Nedlands, its localised streetscape, desired future character, and best practice urban design for this area.

The application of this Policy will seek to avoid the construction of up to 10 double crossovers to Gordon Street if 92 Smyth Road and 33 Langham Street were redeveloped in accordance with the newly adopted and higher R60 coding.

The majority of submissions received during the advertising period of LPS3 raised concerns in relation to increased crossovers and hardstand to the street, reduction of trees and the degradation of the Nedlands green leafy suburban character due to inappropriate development and subdivision within the up-coded areas. Without a local planning policy mandating a laneway in this location, future development and subdivision proposals will likely result in a poor redevelopment precedent for the minimisation of crossovers. The significant increase in crossovers will also compromise the orderly and proper planning for this precinct and would reinforce the community’s concerns over increased crossovers and hardstand, reduction of trees and the degradation of the Nedlands green leafy suburban character.

It is envisaged that this process will be repeated for other corner redevelopment lots within the density transition up-coded areas applicable under LPS 3. Through future precinct planning processes, a series of new laneways will be identified and established through local planning policies. A future goal for the City would also be to investigate the possibility of these laneways being used for waste and other services to remove vehicle movements from the main streets.

**WAPC Approval**

If Council adopts this LPP, the standards in relation to Vehicle Access, Outdoor Living Areas and Landscaping will not be enforceable until such time as the Western Australian Planning Commission (WAPC) approves the LPP. This is because under Part 7.3 of the Residential Design Codes Volume 1, these areas can only be amended when approval from the WAPC is granted.

Accordingly, once a final version of the policy is adopted by Council, the LPP will be referred to the WAPC to seek its approval for provisions related to Vehicle Access, Outdoor Living Areas and Landscaping. This report, together with Council’s resolution, will also be referred to the WAPC.

1. **Modifications to the Policy**

The following modifications to Policy provisions are recommended:

* Correction regarding finished levels to clause 4.1.5 ‘The longitudinal gradient of the road design will be determined in accordance with detailed design. It will generally match the centreline levels to the natural ground and create an optimum longitudinal profile linking Smyth Road and Langham Street, to the satisfaction of the City of Nedlands.

This modification is recommended consistent with advice from Technical Services.

* Inclusion of additional confirmation regarding the construction of the laneway at clause 4.1.5 ‘As the land is incrementally developed or subdivided, landowners will be required to contribute proportionally to the cost of the laneway design which will be managed by the City of Nedlands.’
* Correction to clause 4.1.7 to remove the reference to ‘bollard’ lighting to allow more flexibility around the ultimate lighting design.
* Confirmation that trees are to be planted by the landowner and inclusion of addition of tree replacement requirements at clause 4.1.6 ‘Where a tree dies within the two-year establishment period, the tree shall be replaced at the relevant landowner’s cost.’
* Correction to the expression of Clause 4.2.4 ‘Where a lot has a frontage to both Gordon Street and the proposed laneway, a clearly defined pedestrian entry is to be provided and maintained from both street frontages.’

Note: Pedestrian entries (e.g. path and gate) must be separate to a garage door or vehicle access point.

* Addition of 4.3 ‘Variation to this Policy’ which outlines the requirements of applicants and the City in considering variations to the Policy.

1. **Consultation**

In line with Council’s March 2020 resolution, the Policy was 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 from 15 February 2020 till 11 April 2020. A notice was published in the newspaper, and details were included on the City’s website and the Your Voice engagement portal. The four affected landowners were notified of the Council report prior to the Special Council Meeting of 5 March. Due to the receipt of only one submission during public consultation, the affected landowners were specifically invited to comment on the proposed policy over an additional two-week period between 16 April and 30 April.

Overall a total of 4 submissions were received through public consultation, all of these from affected owners. Three submissions are from one affected property. The submissions have been summarised and provided a response in the Summary of Submissions included at Attachment 3. Council has also been provided with full copies of all original submissions as Attachment 5.

Conditional support for the policy was expressed in three of the four submissions, pending resolution of the laneway finished levels and concessions relating to the landscape requirements applicable to future Grouped Dwelling development under the R-Codes Vol. 1. The fourth submission opposed the policy on the incorrect basis that it would require the existing dwelling to be demolished and rebuilt.

Administration has advised the respective submitters that:

* Under the policy future laneway levels are to be determined through detailed design, to generally match the centreline levels to the natural ground and create an optimum longitudinal profile linking Smyth Road and Langham Street as per amended clause 4.1.5 of the LPP.
* The policy does not require the demolition and rebuilding of the existing dwelling. Land will not be required to be ceded other than as triggered by future a subdivision or development application for Grouped or Multiple Dwellings.

In relation to the submissions expressing conditional support for the policy subject to landscape requirement concessions, it is noted that:

* The landscape requirement pursuant to clause 4.8.1 of the LPP – Residential Development: Single and Grouped Dwellings acts an additional provision to the ‘Deemed-to-comply’ provisions of clause C2 of Element 5.3.2 Landscaping under the R-Codes Vol.1.
* Future development may be assessed against either Deemed-to-comply provision C2 or Design Principle P2.
* The references made in the submission to a separate application are incorrect.
* It is not appropriate for this Policy to provide concessions specific to a future development or subdivision application. Any future development or subdivision application will be assessed against the planning framework and on its merits, as applicable at the time of assessment.

1. **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; or

b) Proceed with the Policy with modification; or

c) Not to proceed with the Policy.

Administration recommends that Council resolves to proceed with the Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements LPP with modifications as shown in Attachment 2.

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.

*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 for 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 before development or subdivision 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:
2. Cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
3. Construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
4. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.

A proposed ‘Standard’ amendment to LPS3 known as Scheme Amendment 6, is being considered by Council for consent to advertise (initiate) at the Ordinary Council Meeting on 26 May 2020. The amendment seeks to amend the wording of Clause 32.3 sub-clause (1) as follows:

‘32.3(1) **Where land is affected by and gains benefit from the provision of a** right-of-way or laneway identified by the scheme, a structure plan, a local development plan, an activity centre plan or a local planning policy, **the owner 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.’

A new sub-clause (3) is also proposed:

‘32.3(3) Where part of a lot has been transferred free of cost to the Crown for the purpose of widening a road or right-of-way or for the purpose of ceding the land for a new right-of-way or laneway, the area ceded shall be included for the purpose of calculating the minimum and average site area and plot ratio in determining development potential.’

Additional modifications to Clause 26 of LPS3 are also proposed, as follows:

‘(4) In relation to land coded R20 or greater:

1. Clause 5.3.5 (Vehicular Access) of the R-Codes is modified by including the following modifications to C5.1 and additional deemed-to-comply requirements of C5.8, C5.9 and C5.10:

C5.1 Access to on-site car parking spaces to be provided:

* + Where available, from a right-of-way available for lawful use to access the relevant lot and which is adequately paved and drained from the property boundary to a constructed street;
  + From a secondary street where no right-of-way exists;
  + From a primary street frontage where no secondary street, **communal** **street** or right-of-way exists; or
  + **Where a laneway (secondary street) is identified in accordance with Clause 32.3 (1) of the Scheme, access to on site car parking spaces is to be provided from the ceded and constructed section of the laneway where it is connected to the local road network.**

**C5.8 Vehicle access points to be designed and located to provide safe access and egress for vehicles and to avoid conflict with pedestrians, cyclists, and other vehicles.**

**C5.9 Vehicle circulation areas designed to avoid headlights shining into habitable rooms within the development and adjoining properties. C5.10 Vehicle access points are to be designed and located to reduce visual impact on the streetscape.’**

**C5.10 Vehicle access points are to be designed and located to reduce visual impact on the streetscape.’**

Proposed Scheme Amendment 6 is informed by legal advice and reinforces the City’s desire to consolidate access where the land identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy is affected by and benefits from the provision of a right-of-way or laneway. The modified wording provides more clarity and consistency to the existing scheme provision. It seeks to strengthen the connection between the requirement for the ceding of land free of cost to create a laneway and the public benefit derived from the laneway in a fair and reasonable manner.

The proposed amendment will also enable the City to protect and maintain tree lined streetscapes, while minimising the extent of crossovers, driveways and hardstands on properties identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy.

1. **Conclusion**

The Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements LPP is the preferred mechanism to enable the enforcement of clause 32.3 in the City’s Local Planning Scheme No. 3 to create a laneway through the properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands.

The primary purposes of the policy are to minimise the number of crossovers to the street and to encourage built form provisions that will provide for a laneway which has the appearance of a Nedlands local street rather than a blank wall of garages.

Without a local planning policy, the City will lack the mechanism to require the provision of a laneway to service the subject sites, and or limit the approval of multiple crossovers in the event of an application for Grouped dwellings or Multiple dwellings, or where a subdivision approval is applied for first. The City has already received a development application for 92 Smyth Road. Therefore, this Policy has been prepared for imminent adoption in order to avoid a sub-optimal development and built form outcome.

As such, it is recommended that Council endorses Administration’s recommendation to adopt the Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements LPP.

|  |  |
| --- | --- |
| **PD30.20** | **Local Planning Scheme 3 – Local Planning Policy: Short Term Accommodation - Amendments** |
|  | |
| **Committee** | 9 June 2020 |
| **Council** | 23 June 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Reference** | Nil |
| **Previous Item** | OCM 26 November 2019 – PD47.19 |
| **Attachments** | * 1. Draft Short Term Accommodation LPP with amendments – tracked changes   2. Legal Advice from Flint Legal provided by applicant for 135 Broadway Nedlands |

1. **Executive Summary**

The purpose of this report is for Council to prepare (adopt for advertising) amendments to the Local Planning Policy - Short Term Accommodation (LPP). It is proposed that the policy be modified to include several amendments. These amendments are identified on the draft revised policy at Attachment 1.

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish short-term accommodation land uses within the City of Nedlands.

If Council choose to consider the amendments to the LPP the amended version will be advertised to the community as per the requirements of the City’s Consultation of Planning Proposals Local Planning Policy and the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

1. **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, Division 2, Clause 5(1) the amendments to the Local Planning Policy - Short Term Accommodation as included in Attachment 1.**

1. **Background**

At the Council Meeting 27 August 2019 Council resolved to prepare and advertise the Short Term Accommodation Local Planning Policy 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 Short Term Accommodation LPP was amended through Council’s resolution at the Council Meeting, prior to being advertised, to:

* add an additional clause (k) in section 7.0 Management Plan 7.1 to provide details of waste disposal; and
* remove former clauses 4.2(b) and 4.4(b) which were in relation to short term accommodation uses having to be within 250m of a high frequency bus stop or 800m of a high frequency train station or 400m from a hospital or university.

At the Council Meeting 26 November 2019 Council resolved to adopt the Short Term Accommodation Local Planning Policy, post advertising. The Council’s Resolution was as follows:

1. adopts the Short-Term Accommodation Local Planning Policy, with modifications as set out in Attachment 1, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4;
2. approves a 6-month amnesty period from December 2019 until May 2020 (inclusive) for any retrospective change of use applications received for short-term accommodation uses as defined in the Short Term Accommodation Local Planning Policy where they will be charged the standard change of use fee rather than the retrospective (3 times) fee; and
3. instructs the CEO when the State Government makes amendments to the deemed provisions, the CEO is to review and amend the relevant Local Planning Policy as required for presentation to Council for approval.

It is noted that thus far, during the amnesty period from December 2019 until May 2020 (inclusive), the City has received two applications for short term accommodation.

The LPP was first tested against a complex development application with the submission of a Mixed Use development proposal at 135 Broadway Nedlands. This application was approved by the Metro West JDAP on the 3 April 2020. During the application consideration process, several key built form elements that the LPP did not address were identified. The amendments are now presented to Council seeking to rectify this.

1. **Detail**

During the application process for the approved Mixed Use development at 135 Broadway Nedlands, the applicant provided the City with advice that highlighted legal weaknesses with Clause 4.6 (a) of the LPP, which requires Serviced Apartments to comply with built form standards for Multiple Dwellings. Due to this, it is recommended that this clause be removed from the LPP. Further information regarding this matter is provided in the proposed modifications to the policy section below.

Some further amendments to the LPP relating to built form requirements for Serviced Apartments have also been included. These proposed clauses address issues including the separation of uses where Serviced Apartments and Multiple Dwellings are proposed in the same development, and visual privacy. These matters were raised during the application process for 135 Broadway Nedlands, and Administration considers that it is now pertinent to make amendments to the LPP that circumvent similar issues from occurring in future developments. Further information regarding these matters is provided in the proposed modifications to the policy section below.

1. **Consultation**

If Council resolves to prepare the amendments to the LPP it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 5(1) of the Planning and Development (Local Planning Schemes) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City’s website, Your Voice page and social media pages, in accordance with the City’s Consultation of Planning Proposals LPP.

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

1. Proceed without the amendments to the policy; or
2. Proceed with the amendments to the policy.
3. **Strategic Implications**

**How well does it fit with our strategic direction?**

The LPP – Short Term Accommodation establishes built form and development requirements for various forms of temporary accommodation within the City. The amendments to the LPP provide further guidance to applicants wishing to establish temporary accommodation, in line with community and legal feedback. This will allow the City to guide applicants to design developments in a way that is considered to be high quality and in keeping with the City’s strategic direction for key Mixed Use areas.

**Who benefits?**

The community, Council and Administration will benefit from the guidance provided by the amendments to the LPP – Short Term Accommodation, through better built form outcomes and a stronger policy framework.

**Does it involve a tolerable risk?**

The proposed amendments to the LPP – Short Term Accommodation is considered to reduce the risk associated with proposed temporary accommodation developments, through the provision of a more robust and specific planning framework.

**Do we have the information we need?**

Yes.

1. **Budget Implications**

**Can we afford it?**

The amendments to the LPP – Short Term Accommodation will have no impact upon the budget. The forecast cost associated with this proposal is for advertising costs only.

**How does the option impact upon rates?**

Nil.

**Proposed modifications to policy**

1. Removal of Clause 4.6 (a):

Applications for Serviced Apartments shall be subject to the siting and design requirements applicable to the site for Multiple Dwellings under the Residential Design Codes (excluding Plot Ratio requirements), and any relevant Precinct Policy, Local Planning Policy or Local development Plan applicable for the area;

Legal advice provided to the City (included as Attachment 2) outlines that Clause 4.6 (a) of the LPP is not based on sound town planning principles, as it seeks to apply residential development standards to a different land use, in this scenario, serviced apartments. Little weight can therefore be applied to this requirement in a judicial process, for instance if the application were to be presented to SAT. It is therefore recommended that Clause 4.6(a) be removed from the LPP.

1. Insertion of Clause 4.6 (b):

Separate entrances shall be provided for permanent and temporary residents where Serviced Apartments and Multiple Dwellings are proposed within the same development;

1. Insertion of Clause 4.6 (c):

Separation shall be provided between the Serviced Apartment and Multiple Dwelling uses, either by containing the uses on different floors or through spatial separation i.e. hallway and dividing doors between residential uses at the rear of the building and serviced apartments at the front of the building;

The addition of these clauses requires increased separation within the development between Serviced Apartments and Multiple Dwellings. This provides for the increased protection of the amenity, privacy and security of permanent residents of a proposed development.

1. Insertion of Clause 4.6 (d):

The rear interface of buildings shall not feature balconies or habitable room windows appurtenant to Serviced Apartments.

The 135 Broadway Nedlands application received intense scrutiny in relation to its impact on the visual privacy of surrounding residential properties. Although the development was largely compliant with the advised setbacks of the State Planning Policy Residential Design Codes Volume 2, the perceived visual privacy implications was a source of concern amongst community members. This requirement is intended to soften the interface between Serviced Apartments and residential properties by significantly reducing the potential for overlooking of residential dwellings.

1. **Statutory Provisions**

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

Schedule 2, Part 2, Division 2, Clause 5(1) of the Regulations, dictates that a Local Government may follow the procedure as per Schedule 2, Part 2, Division 2, Clause 4 to prepare amendments to a Local Planning Policy.

Schedule 2, Part 2, Division 2, Clause 5(1) requires that once Council resolves to prepare amendments to 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.

1. **Conclusion**

The Short Term Accommodation Policy provides the City with an operative local planning framework in place under LPS 3 to adequately address the operation and management requirements associated with Short Term Accommodation uses. The amendments proposed to the LPP provide additional framework through which the City may seek to control the built form outcomes of future developments that include a proposal for Short Term Accommodation.

It is recommended that Council endorses administration’s recommendation as set out in the resolution.