

Planning and Development Reports

Committee Consideration – 9 March 2021

Council Resolution – 23 March 2021

Table of Contents

Item No. Page No.

[PD05.21](#_Toc65571677) [Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation) 2](#_Toc65571678)

[PD06.21](#_Toc65571679) [No. 14A Odern Crescent, Swanbourne – Single House 13](#_Toc65571680)

[PD07.21](#_Toc65571681) [No. 26 Louise Street, Nedlands – 5 x Grouped Dwellings 29](#_Toc65571682)

[PD08.21](#_Toc65571683) [Establishment of a Design Review Panel, Final Adoption of the Design Review Panel Local Planning Policy and Appointment of Panel Members 48](#_Toc65571684)

[PD09.21 RFT 2020-21.09 Natural Area Weed Control 2021-2025 62](#_Toc65571685)

[PD10.21](#_Toc65571686) [Response to Proposed Policy Framework – Cumulative Traffic Impact Assessment 66](#_Toc65571687)

|  |  |
| --- | --- |
| **PD05.21** | **Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | David Joseph |
| **Landowner** | David Joseph and Christine Joseph |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia |
| **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** | DA20-48595 |
| **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 2. Extract of 27 October 2020 OCM – Agenda containing report with recommendation to Council 3. Extract of 27 October 2020 OCM – Minutes |
| **Confidential Attachments** | 1. Plans 2. Management Plan 3. Submissions 4. Assessment 5. Petition |

1. **Executive Summary**

The purpose of this report is for Council to reconsider pursuant to the orders set by the State Administrative Tribunal a Development Application for an existing Holiday House (Short-Term Accommodation) at No. 37 Strickland Street, Mount Claremont.

At the 27 October 2020 Ordinary Council Meeting, the motion for conditional approval was lost. In accordance with Regulation 11(da) of the *Local Government (Administration) Regulations 1996*, Council stated the reason for not approving the application was due to the number and type of complaints received. As the approval motion was lost without an alternative refusal resolution, the application is legally considered to have been ‘deemed refused’ as the statutory time period in which to make a determination has expired.

Subsequent to Council’s consideration of the matter, the applicant lodged an application for review to the State Administrative Tribunal*.* The Tribunal has ordered the City consider the proposal again. This report is presented to Council to make a final determination for the proposal based on sound town planning grounds.

It is recommended that the application be approved by Council as it is considered to satisfy all the Objectives and Policy Measures for a Holiday House of the City of Nedlands Short Term Accommodation Local Planning Policy (LPP).

**Recommendation to Committee**

**Council approves the retrospective development application dated 27 May 2020 for a Holiday House at Lot 96 (No. 37) Strickland Street, Mount Claremont, subject to the following conditions and advice notes:**

1. **This approval is for a Holiday House. Development shall be in accordance with the land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.**
2. **The approval period for the Holiday House will expire 12 months from the date of this approval.**
3. **The Management Plan date stamped 24 June 2020 forms part of this approval and is to be complied with at all times to the City’s satisfaction.**
4. **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.**
5. **The proposed use complying with the Holiday House definition stipulated under the City’s Local Planning Scheme No. 3 (refer to advice note a)).**
6. **A maximum of six (6) guests are permitted on the reside at the Holiday House at any one time.**
7. **Each booking for the Holiday House must be for a minimum stay of 2 consecutive nights.**
8. **A maximum of two (2) guest vehicles for guests of the Holiday House are permitted on the premises at any one time.**

**Advice Notes specific to this proposal:**

1. **With regard to condition 1, the applicant and landowner are advised that the use Holiday House is defined as the following in accordance with the City of Nedlands Local Planning Scheme No. 3 and the City of Nedlands Short Term Accommodation Local Planning Policy:**

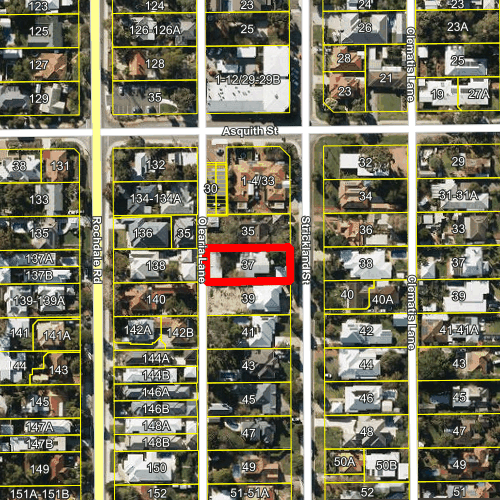
**‘Holiday House means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast’.**

1. **In relation to Condition 2, the applicant is advised that if the applicant wishes to continue the use of the land for the Holiday House after the expiry period (30 June 2022), an application to renew the approval must be submitted to the City’s Planning Department for assessment prior to the completion of the initial approval period. The applicant is advised to contact the City’s Planning Services closer to the expiry date for assistance in lodging an Amendment Development Application and the required fees for the application.**
2. **A separate development application is required to be submitted to and approved by the City prior to any increase in the maximum number of guests at the Holiday House.**
3. **The applicant is advised that any increase to the number of guest vehicles which are parked at the Holiday House will require further Development approval by the City of Nedlands.**
4. **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.**
5. **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.**
6. **Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997.***
7. **All solid waste and refuse and waste to be managed so as to not create a nuisance to neighbours (in accordance with City requirements).**
8. **No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.**
9. **Emergency exits and safety of premises to be assessed for adequacy by the Department of Fire and Emergency Services (DFES).**
10. **Should the occupancy capacity of the proposal exceed 6 persons (exclusive of the property owners) the proposal will requirement reassessment as a “lodging house” under the *Health (Miscellaneous Provisions) Act 1911* and the *City of Nedlands Health Local Laws 2017.***
11. **Where applicable the applicant shall upgrade the premises to comply with the relevant provisions applicable for a Class 1b Building, please contact the City’s Building Services for further advice.**
12. **Background**
    1. **Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R20 |
| **Land area** | 1012m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Existing – Residential and Ancillary Dwelling  Proposed – Residential and Holiday House |
| **Use Class** | Proposed – ‘A’ use class for Holiday House in a Residential zoned area. |

* 1. **Locality Plan**

The subject property is located within an area which displays a predominantly residential character with a density of R20 under LPS 3 as shown in the aerial map below.



Approximately 80m to the north of the subject property is the Mount Claremont Local Centre which consists of a diverse variety of retail and commercial tenancies as shown on the map below.



1. **Application Details**
   1. **Nature of Application**

The applicant seeks development approval for the use of the subject property for a Holiday House. As per the City of Nedlands Local Planning Scheme No. 3, a “Holiday House” is defined as:

*“a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.”*

The City of Nedlands Local Planning Scheme No. 3 defines a “Short-Term Accommodation” use as:

*“temporary accommodation provided either continuously or from time-to-time with no guest/s accommodated for periods totalling more than 3 months in any 12-month period.”*

The applicant (who is also the owner of the property) is seeking to operate the “Holiday House” at the subject property. The owners of the property will reside on site and manage the holiday house.

In the Management Plan contained as **Confidential Attachment 2** of this report, the applicant has explained:

* There will be one booking taken at a time.
* The maximum number of guests at the property will be between 4 to 6 guests and each booking will be for a minimum of 2 consecutive nights.
* The maximum number of guest cars the property will be 2 guest cars.
* The hosting requirements of the holiday house will be managed by ‘Houst’ (a management company) to take care of bookings, guest data and check in and check out dates.
* The Management Plan also contains a Code of Conduct which will be provided to all guests of the Holiday House.

The City notes that when the Short-Term Accommodation Local Planning Policy was adopted, there was an amnesty period to encourage already operating short term accommodation providers to get their necessary approvals through the Council.

Of the many already operating short term accommodation properties within the City, the applicant for this DA was one of the few owners that came forward to normalise the use of the land for the holiday house.

* 1. **History of Application**

The timeline below refers to the history of the application thus far:

|  |  |
| --- | --- |
| **May 2020** | Development application lodged to the City of Nedlands |
| **July 2020** | Application advertised to adjoining landowners and occupiers |
| **September 2020** | Application presented to Council for determination due to objections being received. At the Committee Meeting, the application was recommended for approval. At the Council Meeting on 22 September 2020, the item was deferred to October 2020 |
| **October 2020** | Application re-presented to Council for final determination, where the motion to approve was lost, and no decision was made.  The Council Minutes contained as **Attachment 3** indicated that in accordance with Regulation 11(da) of the Local Government (Administration) Regulations 1996, Council did not approve this application due to the number and type of complaints received. This is not considered a resolution to refuse the application under clause 68(2)(c) of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.   * Note: Regulation 11(da) of the Local Government (Administration) Regulations 1996 requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration |
| **December 2020** | SAT Appeal lodged by applicant for Deemed Refusal (i.e., no decision having been made within the 90-day statutory time limit). |
| **January 2021** | Directions Hearing held at SAT – Orders made that the application is to be re-presented to Council for a final determination. |
| **March 2021** | Application presented to Council for determination. |

In summary, pursuant to the Orders set by the SAT, the purpose of this report is for Council to reconsider the Development application for an existing Holiday House (Short-Term Accommodation) at the subject site and make a determination under clause 68(2) of the Deemed Provisions.

* 1. **SAT Appeal**

An Order made by the SAT requests the landowner to provide further information to the City to assist their proposal.

At the Council Meetings in 2020, submitters made a presentation to Council and stated they have filed a Police Report against the Holiday House with concerns over street drinking, antisocial behaviour and noise. To confirm these statements, the owner of the subject site visited the Wembley Police Station on 25 September 2020. The owner was advised by the police that there have been no incident reports created for the use of the site as a Holiday House.

The Assessing Officer called Wembley Police Station on 10 February 2021 to ask the Police Station to confirm if there have been any police incident reports against No. 37 Strickland Street, Mount Claremont. The Police Station confirmed that on the Statewide Database, there have been no police incident reports against the subject property in relation to street drinking, antisocial behavior or noise.

The Assessing Officer has also enquired with the City of Nedlands Rangers Department who have confirmed that Rangers have no complaints or issues for the subject property.

In light of the above findings, there have been no complaints or issues for this site to the City’s Planning Department, City’s Rangers Department, or the Police. It can therefore be considered that although the holiday house has been operating since 2019, there have been no negative impacts on the local amenity through antisocial behavior or noise.

1. **Consultation**

A Holiday House is an ‘A’ Use in a Residential Zone under the Zoning Table of the City of Nedlands Local Planning Scheme No. 3.

An ‘A’ use means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. Therefore, the development application was advertised for a period of 14 days in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. The application was advertised in July from 6 July 2020 – 20 July 2020 to a total of 38 owners and occupiers. During this consultation period, 4 objections were received.

In support of the application, the applicant has provided a letter of response, addressing the submissions received. This has been provided as **Attachment 1** of this Council Report.

In the original report to Council, a summary of the concerns/comments raised, and the City’s response and action taken is provided in the table under Section 5.0. Please refer to **Attachment 2** – 5.0 Consultation for the summary of submissions of the 4 submissions received, the officer response and action taken.

Administration notes that after the report was presented to Council in September, the application was deferred to the October meeting. On 22 October 2020, a Petition was received by the City to refuse the application with a total of 31 signatories. Council considered the Development Application at the 27 October 2020 Ordinary Meeting. The petition is contained as **Confidential Attachment 5** to this report.

1. **Assessment of Statutory Provisions**
   1. **Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67(2) (Consideration of application 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(2), due regard is to be given to the compatibility of the development and the likely effect of the proposed development’s potential impact it will upon the local amenity.

* 1. **Local Planning Scheme No. 3 – Residential Zone Objectives**

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Proposal** | **Satisfies** |
| 1. To provide for a range of housing and a choice of residential densities to meet the needs of the community; | The proposal is considered to positively contribute to the City’s housing diversity through the proposal of a Holiday House. Temporary accommodation through the proposal of a Holiday House is seen to meet the needs of the community, which seeks for a diverse range of housing options. | Yes |
| 1. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas; | Not applicable as the application is only seeking approval for the use of the existing dwelling as a Holiday House. No works are proposed as part of this development application. | N/A |
| 1. To provide for a range of non-residential uses, which are compatible with and complementary to residential development; | As above.  It is noted that the proposal for a Holiday House is seen complementary to the existing residential development on site and the residential land use in the locality of Mount Claremont.  As seen in the locality plan, the surrounding land uses all include Residential dwellings in an R20 coding. The dwelling which will be used for the Holiday House is an existing dwelling and the proposal of the Holiday House is seen to be compatible with this existing land use of the site and the adjoining residential use of the locality. | N/A |
| 1. To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks; | As above – no works are proposed as part of this development application. | N/A |

* 1. **Local Planning Policy**

**5.3.1 – Short Term Accommodation Local Planning Policy**

|  |
| --- |
| **Policy Objective** |
| 3.1 To ensure the location and scale of short-term accommodation uses are compatible with the surrounding area.  3.2 To maintain a high standard of amenity for the surrounding neighbourhood through required management controls.    3.3 To ensure properties used for a short-term accommodation uses do not have an undue impact on the residential amenity of the area by way of noise, traffic, or parking.  3.4 To establish a clear framework for the assessment and determination of applications for short-term accommodation. |
| **Policy Requirement** |
| 4.2 Applications for Holiday House, where a keeper does not reside on-site may be supported where:   1. The number of guests is limited to 6 persons; and 2. Bookings must be for a minimum stay of 2 consecutive nights. |
| **Proposed** |
| The application proposes:   * A Holiday House which proposes the owners to reside on site, * Only one booking will be taken at a time, * The maximum number of guests which will reside at the Holiday House is 6 people, * Each booking will be for a minimum stay of two consecutive nights, and * Check in time is 3PM and check out time is 11AM. |
| **Administration Assessment** |
| The application for the Holiday House is considered to meet the objectives and requirements of a Holiday House under the City of Nedlands Short Term Accommodation LPP. The applicant has demonstrated through the submitted management plan that the use of the residential dwelling as a Holiday House will likely have a negligible impact on neighbouring landowners and the surrounding amenity of the property.  As per recommended Condition 8 of the determination, the Management Plan forms part of the approval and is to be complied with at all times to the City’s satisfaction.  Administration also notes that this Application was proposed during the amnesty period which was provided by Council through the adoption of the City of Nedlands Short Term Accommodation LPP.  As per recommended Condition 2 of determination, this Approval would only be valid for 12 months. During this time, the City can keep a record of complaints or concerns raised through the use of the Holiday House. Should the applicant wish to continue operating the Holiday House after the expiry period, an Amendment to the Development application will be required to be submitted to the City for further review and assessment of the short-term accommodation, taking into consideration any complaints received during the approval period. |

**5.3.2 – Parking Local Planning Policy**

|  |
| --- |
| **Policy Objective** |
| 3.1 To facilitate the development of sufficient parking facilities for cars and other wheeled vehicles. |
| **Policy Requirement** |
| For a Holiday House, the Parking LPP prescribes that 1 car parking bay is required per guest bedroom, in addition to any bays required under the R-Codes for the dwelling. |
| **Proposed** |
| As per the plans, 4 rooms will be used for the Holiday House. These rooms include Bedroom 2, 3, 4 and 5.  On point 2 of the Management Plan, the applicant (and landowner) has advised that there will be a maximum of 2 guest cars on the property.  As per the requirements of the R-Codes, 2 car parking bays are required for the dwelling. Therefore, a total of 4 car parking bays are required for this proposal.  The subject property has 3 carports at the rear of the site abutting Olearia Lane to the rear and there is a double carport for 2 cars at the front of the property facing Strickland Street. Therefore, a total of 5 car parking bays are provided on the subject property. |
| **Administration Assessment** |
| The application for a Holiday House is considered to meet the objectives and requirements of a Holiday House under the City of Nedlands Parking LPP. The applicant has demonstrated through the submitted Management Plan contained as **Confidential Attachment 2** that the use of the residential dwelling as a Holiday House will likely have a negligible impact on neighbouring landowners and the surrounding amenity of the property.  As per recommended Condition 7 of the determination, a maximum of 2 guest vehicles are permitted for the guests of the Holiday House at any given time.  As per recommended Condition 8 of the determination, the Management Plan (which also indicates that a maximum of 2 guest cars are permitted on the property) forms part of the approval and is to be complied with at all times to the City’s satisfaction.  As per recommended Condition 9, all guest vehicles shall be parked within the property boundaries of the subject site and no guest parking is permitted on the verge or street. |

1. **Conclusion**

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

The application for a retrospective Holiday House is considered to satisfy the objectives and requirements of the City of Nedlands Local Planning Scheme No. 3, the City of Nedlands Short Term Accommodation Local Planning Policy and the City of Nedlands Parking Local Planning Policy.

Through the proposed Management Plan submitted by the applicant (and owner of the subject property), the applicant has demonstrated that the Holiday House is unlikely to have an undue impact on the residential amenity of the area by way of noise or parking. The Holiday House proposes sufficient parking facilities on the site for the operation of the Holiday House.

As per the Management Plan submitted with this application, the owners will reside on site which will allow for any potential neighbour concerns of the Holiday House to be readily addressed in comparison to a proposal for an unsupervised Holiday House.

Accordingly, it is recommended that the application be approved for fixed-term period of 12 months, subject to Conditions and Advice Notes.

|  |  |
| --- | --- |
| **PD06.21** | **No. 14A Odern Crescent, Swanbourne – Single House** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | Humphrey Homes |
| **Landowner** | Tracie Louise Cielak |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **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** | DA20/53238 |
| **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. Site Photographs 2. Applicant Justification and Response to Submissions 3. Clause 67 (2) Assessment 4. Local Planning Scheme No. 3 Assessment 5. Administration Summary of Submission and Officer Response |
| **Confidential Attachments** | 1. Plans 2. Summer Overshadowing Diagram 3. Submissions 4. Approved Plan of Subdivision 5. Lot Boundary Setback Assessment 6. Visual Privacy Setback Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development Application received from the applicant on 28 August 2020, for a proposed two storey single house at No. 14A Odern Crescent, Swanbourne.

The subject site is considered to be significantly constrained by the lot configuration and lot area when considering the residential density coding R12.5.

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 period, a total of 4 submissions were received: 1 in support and 3 objections.

Due to objections being received, this application is presented to Council for determination.

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), appropriately respond to the significant site constraints of the lot and is unlikely to have a significant adverse impact on the local amenity and character of the locality.

**Recommendation to Committee**

**Council approves the development application dated 28 August 2020, with amended plans received on 22 February 2021, for a two-storey single house at Lot 102 (No. 14A) Odern Crescent, Swanbourne, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential’ land use as defined under the City of Nedlands Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **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.**
3. **This decision constitutes planning approval only and is valid for a period four (4) 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. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
5. **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 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.**

1. **Prior to occupation of the development, the screening as shown on the approved plans to the southern, eastern and western elevations installed in accordance with the Residential Design Codes by either:**

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

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

1. **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 to the satisfaction of the City.**
2. **Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City.**
3. **Prior to the occupation of the development, all structures within the 1.5m x1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m in height to the satisfaction of the City.**
4. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice Notes:**

1. **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.**
2. **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.**
3. **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 of 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.**
4. **The applicant is advised to liaise with the eastern and western adjoining property owners regarding the possible retention or replacement of the existing dividing fences along the common lot boundaries. Please refer to the *Dividing Fences Act 1961* for the rights and responsibilities of landowners regarding dividing fences. Information is available at the following website:** [**http://www.commerce.wa.gov.au/building-commission/dividing-fences-0**](http://www.commerce.wa.gov.au/building-commission/dividing-fences-0)
5. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby 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.**
6. **All street tree assets in the nature-strip (verge) shall not be removed or damaged. Any approved street tree removals shall be undertaken by the City and paid for by the owner of the property where the development is proposed, unless otherwise approved by the City.**
7. **All works within verge (i.e., road, kerbs, footpath, verge, crossover) will require separate approval from the City prior to construction commencing.**
8. **Where building works are proposed a building permit shall be applied for prior to works commencing.**
9. **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 unless otherwise approved as part of this determination.**
10. **In relation to condition 9, 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.**
11. **Background**
    1. **Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R12.5 |
| **Land area** | 351m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential Single House |
| **Use Class** | ‘P’ (Permitted Use) |

On 23 December 2016, the Western Australian Planning Commission granted subdivision approval for two freehold lots at No.14A and 14B Odern Crescent, Swanbourne, with site areas of 351m2 and 536m2 respectively.

In accordance with State Planning Policy 7.3 – Residential Design Codes (Volume 1), an R12.5 density code would ordinarily require an average lot of 800m2 and minimum of 700m2. Both lots are significantly undersized when considering their R12.5 residential density code and are rather better represented by an R30 and R17.5 density code. No change to the coding of the subject sites has occurred following the subdivision approval and the issuing of titles, with both lots retaining their original R12.5 residential density code.

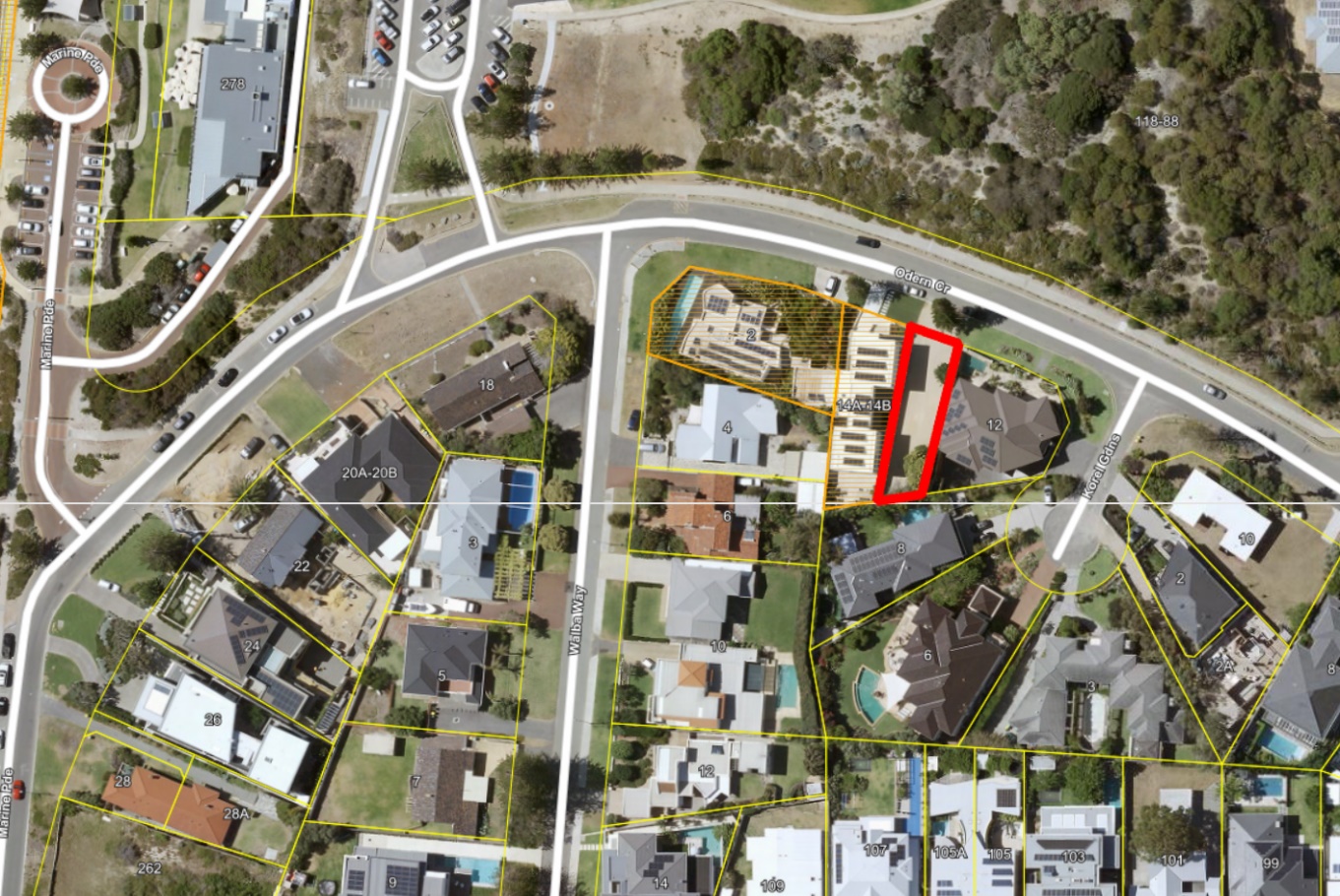
In 2017, the adjoining dwelling located at No.14B Odern Crescent, received development approval by Council and is nearing completion. This development also proposed variations to the primary street setback of 3.6m in lieu of 9m.

* 1. **Locality Plan**

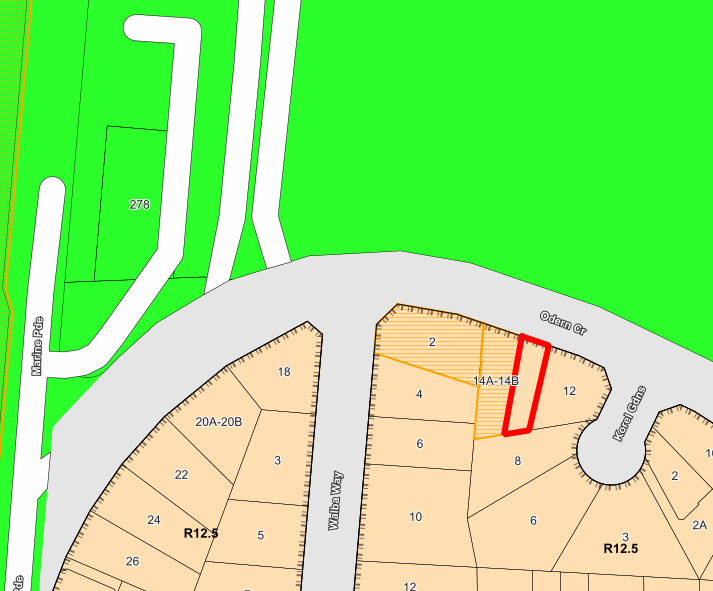
The subject site is located at No.14A Odern Crescent, Swanbourne. The lot has an area of 351m2 and a 10.85m wide primary street frontage and is oriented north-south. There is approximately a 0.7m fall towards the western boundary.

The locality of the subject site is characterised by large, two storey single houses with an average lot area of approximately 850m2. To the north of the subject site is the WA Bridge Club and the Swanbourne Nedlands Surf Life Saving Club. To the west of the subject site lies Swanbourne Beach.

The immediate western neighbour of the subject site (No.14B Odern Crescent) has been created through the approval of the same subdivision as the subject lot and has received development approval which construction is nearly completed.



As shown in the graphic below, the subject site and adjoining properties are coded R12.5.



1. **Application Details**

The applicant seeks development approval for the construction of a single house, details of which are as follows:

* A two-storey single house comprising of two bedrooms, a library, study, scullery balcony and roof top terrace; and
* Single width vehicle access proposed along the western lot boundary. Two car parking bays are provided in a tandem car parking arrangement.

By way of justification in support of the development proposal the applicant has provided a Design Principles assessment and response to submissions. This has been provided as an attachment to this report (**Attachment 2**).

1. **Consultation**

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

* Clause 5.1.2 - Primary Street Setback
* Clause 5.1.3 - Lot Boundary Setbacks
* Clause 5.1.4 - Open Space
* Clause 5.4.1 - Visual Privacy

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals for a period of 14 days to 5 adjoining landowners/occupiers. At the close of advertising period, a total of 4 submissions were received: 2 in support and 2 objections.

Due to the number of submissions and issues raised, the City has provided a separate schedule of submissions as an attachment to this report (**Attachment 5**).

*Note: A full copy of all consultation feedback received by the City has been given to the Councillors prior to the Council meeting as a Confidential Attachment.*

1. **Assessment of Statutory Provisions**
   1. **Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Consideration of application by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. The City considers that the development meets these objectives, particularly in relation to height, scale and landscaping and overall amenity. Refer to **Attachment 3** for the full assessment against the relevant provisions.

* 1. **Local Planning Scheme No. 3**

**5.2.1 – Clause 9: Aims of the Scheme**

The City considers that the development meets the Aims of the Scheme, as identified in **Attachment 4**.

**5.2.2 – Clause 16: Residential Zone Objectives**

The City considers that the development meets the ‘Residential’ zone objectives, as identified in **Attachment 4**.

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

State Planning Policy 7.3 (Volume 1) of the Residential Design Codes (R-Codes) apply to single and grouped dwellings. The application is seeking an assessment under the Design Principles of the R-Codes for primary street setbacks, lot boundary setbacks, open space and visual privacy as addressed in the tables below.

**Clause 5.1.2 – Street Setback**

|  |
| --- |
| **Deemed-to-Comply Requirement** |
| Clause 26 of the City’s LPS3 modifies the R-Code requirements for ‘primary street setbacks’ by replacing the deemed-to-comply requirement of clause C2.1 to have a minimum 9m setback. |
| **Proposed** |
| The submitted plans propose a minimum 5.6m setback at ground level (master bedroom) and 4m setback at first floor level (balcony). |
| **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. |
| **Administration Assessment** |
| The development is considered to respond to the prevailing streetscape context.  Assessment of P2.1   * The prevailing streetscape character is typified by primary street setback intrusions, ranging between a minimum 2.4m primary street setback and a maximum 7.6m primary street setback. This reduced primary street setback precedence is supported by all dwellings addressing Odern Crescent, to the west of Korel gardens and east of Walba Way. * The approved dwelling at No. 14B Odern Crescent (the development’s ‘sister’ lot) is nearing completion of construction and was approved with a minimum 3.6m primary street setback to both the ground floor and first floors of the dwelling. * The approved dwelling at No. 12 Odern Crescent presents a minimum 4.1m primary street setback to Odern Crescent. * The proposed primary street setbacks have been designed to appropriately interface with the western adjoining lot, No. 14B Odern Crescent. * Considering the lots’ undersized nature, in accordance with Clause 4.1.2 of the City of Nedlands Residential Development Policy, a reduced primary street setback is considered reasonable and appropriate for the subject site.   The blue line on the graphic below represents the 9.0m primary street setback line addressing Odern Crescent, between Korel Gardens and Walba Way.     * The proposed primary street setback intrusion responds to the established neighbouring properties’ primary street setbacks. * The privacy impact has been reduced through screening to maintain appropriate visual privacy. * Open space is considered to respond to the design principles, please see section iii. below. * The proposed dwelling design is considered to respond to all site planning requirements, including vehicle access, parking, landscaping and utility services. These site planning requirements are appropriately screened from the street interface where possible. * No easements are present within the property’s Certificate of Title. |

|  |
| --- |
| Assessment P2.2   * The principle primary street setback intrusion is primarily present due to a proposed first floor balcony addressing the primary street. This balcony is considered to appropriately support good design and planning outcomes, providing passive surveillance of the streetscape, supporting CPTED principles. * The proposed balcony is open to the streetscape and provides architectural relief and visual interest to the primary street dwelling façade. * The dwelling’s design utilises a single width driveway, abutting the western lot boundary. The vehicle access arrangements are proposed to occupy less than one third of the lot’s frontage. * The ground floor of the dwelling is proposed to be occupied with a sheltered pedestrian entry and master bedroom overlooking the primary street frontage. * Considering the established streetscape precedent set by the immediate western and eastern dwellings, visual interest to the streetscape and passive surveillance of the public realm, the proposed primary street setback incursions are considered to appropriately respond to the established character and desired future character of the streetscape and the local planning framework. |

1. **Lot Boundary Setback**

|  |
| --- |
| **Development Proposal and ‘Deemed to Comply’ Requirement** |
| *Refer to Confidential Attachment - Lot Boundary Setback*  South (Rear):   * Ground Floor (entire length) setback at 3.5m in lieu of 6m – *iii on attached plans* * First Floor (entire length) setback at 3.9m in lieu of 6m – *ix on attached plans*   East (Side):   * Ground Floor (master to stair) setback at 1m in lieu of 1.5m – i on attached plans * Ground Floor (library to laundry) setback at 1m in lieu of 1.1m – ii on attached plans * First Floor (terrace to stairs) setback 1.05m in lieu of 2.5m – iv on attached plans * First Floor (court) setback 3.5m in lieu of 4.3m – v on attached plans * First Floor (study to Helena) setback 1m in lieu of 1.2m – vi on attached plans   West (Side):   * First Floor (Helena to bath) setback 1.17m in lieu of 1.3m – vii on attached plans * First Floor (dining to balcony) setback 1.5m in lieu of 7.7m – viii on attached plans   Building on Boundary   * Garage (west) – 17.8m long x 3.5m tall boundary wall proposed addressing the western lot boundary. No boundary walls are permitted as a right under a R12.5 residential density code – *x on attached plans* |
| **Design Principles** |
| 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. |
| **Administration Assessment** |
| Having regard to the Design Principles of State Planning Policy 7.3, Residential Design Codes Volume 1, the proposed development is considered to appropriately respond to the development site and associated site constraints, namely the significantly undersized R12.5 lot.  **Rear Lot Boundary Setback (iii and ix):**  A property coded R12.5 is required to provide a minimum 6.0m rear lot boundary setback to maintain an open character. However, the City must consider the surrounding area to determine whether or not the deemed to comply should be upheld.  An overview of the surrounding properties reveals an established precedent of development within the 6.0m rear setback area.   * + Eastern neighbour (No. 12 Odern Crescent) Minimum 3.2m rear lot boundary setback provided.   + Southern neighbour (No 8 Korel Gardens) Minimum 2.4m rear lot boundary setback provided.   + Western neighbour (No. 14B Odern Crescent) Minimum 6.0m rear lot boundary setback provided.   + No. 2 Walba Way – Minimum 2.4m rear lot boundary setback provided.   The above rear lot boundary setback assessment of neighbouring lots has been shown graphically on the image below.     * From the above assessment of the immediate surrounding development context, it is demonstrated that the locality is characterised by rear lot boundary setback intrusions. The development proposal is considered to respond to the prevailing development context and provide a suitable rear lot boundary setback. * Had the development been assessed under the previous R12.5/R20 code, the development would satisfy the ‘deemed to comply’ requirements of these tables/figure series. * The rear neighbouring property owner has withdrawn their objection, following amendments to the first-floor design. No objections remain outstanding for the proposed rear lot boundary setback intrusion.   Assessment of C3.1   * The applicant has proposed a minimum 3.5m rear lot boundary setback for the ground floor and a minimum 3.9m rear lot boundary setback for the first floor. * Both the ground floor and first floor rear lot boundary setbacks achieve a maximum and average setback of 4.2m and 4.8m respectively. * The articulated wall is considered to be setback far enough from the rear lot to provide satisfactory areas of open space and landscaping which help to reduce the overall impact of building bulk. * The rear elevation casts shadow onto the neighbouring property, however, overall complies with element 5.4.2 – Solar access to adjoining properties. The area subject to shadow is primarily the southern neighbour’s pool. The City has taken into account the likelihood that this area is less affected by winter shadow as usage of the pool is most likely to occur in summer. There is no shadow cast onto the pool area in summer as demonstrated in CONFIDENTIAL ATTACHMENT – Summer Overshadowing Diagram. * The rear elevation major openings exceed the deemed to comply requirements for element 5.4.1 – Visual privacy; thereby maintaining privacy to the rear lot.   **Eastern Lot Boundary (i, ii, iv, v and vi):**  Assessment of P3.1   * The applicant is considered to have made a significant effort in minimising the proposed building bulk addressing the eastern lot boundary. The proposal makes use of building articulation on both the ground floor and first floor to reduce the perceived impact of building bulk on the eastern landowner (No. 12 Odern Crescent). Along the eastern elevation of the development, an approximate average 1.3m eastern lot boundary setback for both the ground floor and first floor of the dwelling has been proposed. The adjoining eastern lot (No. 12 Odern Crescent) has a natural ground level of between 0.75m – 1.1m higher than the natural ground level located within the subject site. This in turn reduces the perceived impact of building bulk addressing the eastern lot boundary. * The articulation of the eastern elevation is considered to maintain access to natural light and ventilation, whilst minimising the extent of direct overlooking and loss of privacy for adjoining properties. * The existing development at No 12. Odern Crescent addresses the subject site with a blank brick wall, with lot boundary setbacks of between 1.1m – 2.2m along the wall’s length. No detrimental impact to visual privacy is envisaged as a result of the proposed lot boundary setbacks in this instance. * The proposed eastern lot boundary setback shortfalls are considered to be technical variations of the R-Codes. The applicable Figure Series 4 only allows walls to be articulated under specific circumstances. The development proposal is considered to have provided significant articulation along the eastern lot boundary (courtyard, library and staircase). However, the aggregate impact of these articulations cannot be considered as a deemed to comply lot boundary setback requirement as walls along a single elevation are only permitted to be articulated at one point along their length to allow Figure Series 4 to be applied. * The adjoining neighbour to the east did not object to the proposed lot boundary setback variations.   **Western Lot Boundary (vi, viii and X):**   * The proposed western lot boundary is divided into two sections comprising of building on boundary (garage) and the remainder of the western elevation (master, laundry and the first floor). It is noted that the adjoining neighbour provided support of the proposal.   **vi and viii - Lot Boundary Setback:**  Assessment of P3.1   * The western elevation has been articulated to provide architectural relief for the western lot, reducing the perceived impact of building bulk addressing the western lot boundary. * The primary western lot boundary setback shortfall results from the first-floor balcony addressing the western lot boundary. This balcony is classified as a ‘major opening’ under the R-Codes and triggers a lot boundary setback assessment to be completed using Table 2B of the R-Codes. The utilisation of Table 2B in calculating the required ‘deemed to comply’ lot boundary setback requirements places a more onerous setback requirements on the built form based entirely on the presence of a ‘major opening’. Should the ‘major opening’ be removed from the western elevation the required lot boundary setback is reduced from 7.7m to 3.8m. * The dwelling design of the western lot, No.14B Odern Crescent interfaces with the subject site by means of a two-storey solid wall, containing no major openings and minimal highlight windows. As a result of the limited site interface with the subject site the preservation of the western lot’s access to natural light and ventilation is considered to be maintained as a consequence of the development proposal. * No detrimental impact to visual privacy is considered to result from the development proposal addressing No.14B Odern Crescent. * The proposed first floor western lot boundary setback variations are considered to be technical variations under Figure Series 4 of the R-Codes. Across the first floor, western elevation, the development proposes a minimum 1.2m lot boundary setback, with an average western lot boundary setback exceeding 1.5m.   **X - Boundary Wall:**   * A R12.5 density code requires a minimum 1.0m lot boundary setback to all side lot boundaries, with no right to a boundary wall, unless abutting an existing boundary wall of equal or greater length on a neighbouring lot. * The development proposes a 17.8m long boundary wall, with a maximum height of 3.6m addressing the western lot boundary. This boundary wall houses a tandem garage. * Considering the narrow nature of the lot (10.8m) and the lot being significantly undersized for its coding, the proposed boundary wall is considered to make more effective use of space for the site, having no negative visual privacy implications addressing the western lot. * The boundary wall is proposed to address the western lot boundary and is restricted in height to a maximum of 3.6m. * The proposed boundary wall addresses the western lot boundary and is unlikely to detrimentally affect the western landowner’s access to natural light and ventilation. * The minimum lot frontage for a R12.5 coded lot is 17.0m, whist the minimum primary street frontage required for a R20 coded property is 10.0m. In order to facilitate development on narrow lots (such as those coded R20 and higher) the R-Codes allow for a ‘deemed to comply’ boundary wall, provided the boundary wall does not exceed one-third of the length of a lot boundary (excluding the front setback area). A R12.5 coded lot has no such right to a boundary wall. * The narrow lot width of the subject site, combined with no ‘deemed to comply’ right to a boundary wall, makes it difficult for a fully ‘compliant’ development to be created on the site. * As both 14B and 14A Odern Crescent were originally created under a R12.5/R20 split coding, it is reasonable to consider the ‘deemed to comply’ requirements for a boundary wall to be considered under the ‘Design Principles’ for this application. * The western elevation addresses the ‘sister’ lot of the original subdivision, No. 14B Odern Crescent. The interface between the two original subdivided lots is similar to that of a ‘terraced home’ configuration. * By locating the proposed boundary wall against the lot boundary of the sister lot of the proposed development, the prevailing character of the neighbouring properties is maintained, with perceived building bulk being confined within the original lot, pre-subdivision. This is consistent with the development typology established within the site’s immediate development context. * It is noted that the western property owner (No 14B Odern Crescent) submitted a letter of unconditional support for the development proposal during the consultation period.   No objections were received during the consultation period regarding the proposed boundary wall or western lot boundary setbacks.   * In light of the above, the application is considered to successfully meet the Design Principles for Clause 5.1.3 – Lot Boundary Setbacks. |

**Open Space (Site Coverage)**

|  |
| --- |
| **Deemed-to-Comply Requirement and Proposed** |
| 55% of the site’s area as ‘open space’ as per Table 1, with 45% proposed. |
| **Design Principles** |
| P4 Development incorporates suitable open space for its context to:   * reflect the existing and/or desired streetscape character or as outlined under the local planning framework; * provide access to natural sunlight for the dwelling; * reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework; * provide an attractive setting for the buildings, landscape, vegetation and streetscape; * provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and * provide space for external fixtures and essential facilities. |
| **Administration Assessment** |
| Assessment of P4   * The subject site’s area (351m2) is under half the average lot area requirement for an R12.5 coded lot. The City of the view that the proposed design, when considering the site constraints, is consistent with the prevailing streetscape character. The locality is characterised by substantial, high-quality two storey homes. While there are setback shortfalls proposed, the building envelope of the house is, on balance, consistent with the character of the area. * The original coding for the subject site at the time the subdivision was approved was R12.5/R20. The ‘deemed to comply’ open space requirement for a R20 coded lot is 50%. * The development proposal includes provision of a first-floor balcony and rooftop terrace along the northern elevation. These two outdoor living areas are designed to be used in conjunction with the primary living space for the dwelling, also obtaining northern aspect. * The dwelling’s design is considered to maximise access to northern light wherever possible, providing suitable active outdoor living areas and primary living areas addressing the north of the site. * The design has made appropriate use of articulation along the dwelling’s side and rear lot boundaries to reduce the perceived impact of building bulk to adjoining properties. * The dwelling’s design features an open primary street frontage, framed by a first-floor balcony addressing the primary street. The proposed cladded balcony is considered to provide an attractive primary street elevation, minimising perceived build bulk of the development proposal. * The dwelling is proposed to feature four outdoor living areas including:   + Eastern Court   + Rear Garden   + First-Floor Balcony   + Second-Floor Rooftop Terrace   The provision of four outdoor living areas is considered to provide adequate space for recreational outdoor activity.  Having regard to the above, the proposed open space provision is considered to appropriately respond to the site’s constraints, representing an appropriate interface with neighbouring lots and supporting the desired future character of the streetscape. |

1. **Visual Privacy**

|  |
| --- |
| **Development Proposal and ‘Deemed to Comply’ Requirement** |
| Refer to **Confidential Attachment 6** - Visual Privacy Setback Assessment  First Floor   1. Helena (east) – 4.4m visual privacy setback in lieu of 4.5m 2. Study (south) – 2.3m visual privacy setback in lieu of 4.5m 3. Study (north) – 1.67m visual privacy setback in lieu of 4.5m 4. Living (east) – 2.0m visual privacy setback in lieu of 6.0m 5. Scullery (north) – 2.1m visual privacy setback in lieu of 6.0m   Second Floor   1. Roof Terrace (west) – 4.5m visual privacy setback in lieu of 7.5m required. |
| **Deemed-to-Comply Requirement** |
| * + 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). |
| **Administration Assessment** |
| The application is considered to meet the Design Principles for the reasons outlined below.   * The application proposes minimal direct overlooking of active habitable spaces and outdoor living areas of the adjacent southern, eastern and western properties. * The dwelling’s design positions all major openings to be aligned perpendicular to the adjoining lot boundary. The resulting effect of orientating windows in this manner is that all major openings contain the majority of their ‘cone of vision’ within the boundaries of the subject site. * In response to submissions received during consultation, the applicant has provided additional screening to both the proposed rooftop terrace and the first-floor balcony. This screening has primarily restricted overlooking of the eastern landowner’s (No. 12 Odern Crescent) front setback area and associated swimming pool.   + As a result of this additional screening, the rooftop terrace and first floor balcony are considered to satisfy the ‘deemed to comply’ visual privacy setback requirements addressing the eastern lot boundary. * All outstanding departures from the ‘deemed to comply’ visual requirements represent indirect overlooking only, providing only oblique viewing angles outside of the property’s Certificate of Title. * The neighbouring properties to both the east and west of the subject site front the proposed dwelling with solid walls, containing no major openings to habitable spaces along their length. * The proposed departures from the ‘deemed to comply’ development requirements are not considered to negatively impact surrounding landowner’s visual privacy, specifically in relation to outdoor living areas and active habitable spaces. * It is considered that there is minimal overlooking of major openings, active habitable spaces and outdoor living areas of the adjacent dwellings due to the proposed dwelling design, design of major openings, location of the screening devices throughout the dwelling’s design and regard to the context of neighbouring lots.   In light of the above, the application is considered to successfully meet the Design Principles for Clause 5.4.1 – Visual Privacy as it proposes minimal direct overlooking of active habitable spaces and outdoor living areas of the adjacent adjoining lots. |

**5.3.1 Residential Development Local Planning Policy**

Administration has considered the augmented deemed-to-comply criteria and housing objectives which are detailed in clause 6.3.1 – R-Codes.

Clause 4.1.2 of the City’s Residential Development Local Planning Policy considers developments which do not meet the Design Principles for Primary Street Setbacks of the R-Codes where it is an undersized for the assigned density, have significant site constraints, or are irregular sized.

The City considers that this site at 351m2 is significantly undersized for an R12.5 coded lot, which would ordinarily require an average lot area of not less than 800m2 with a minimum not area of not less than 700m2. As a result, it prevents the design to be consistent with the established streetscape of 9m, with 4m proposed to the primary street.

It is considered on the merits of this application, the reduced setback to the primary street is acceptable as overall, an appropriate bulk and scale is proposed which minimises its impact to the streetscape. It is further a consistent setback with the adjoining western site at No.14B Odern Crescent and is therefore not considered out of character to affect the amenity of the locality.

1. **Conclusion**

The proposed residential development is considered to appropriately respond to the site constraints of the lot, in both its reduced width and undersized nature, whilst respecting the existing and desired future character of the streetscape and locality.

The development proposal has been assessed against the Design Principles of the R-Codes, relevant City of Nedlands Local Planning Policies and the objectives of City of Nedlands Local Planning Scheme No. 3. The application is considered to have satisfied the requirements of these statutory documents and respond to the character of the locality.

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

|  |  |
| --- | --- |
| **PD07.21** | **No. 26 Louise Street, Nedlands – 5 x Grouped Dwellings** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | Urbanista Town Planning |
| **Landowner** | Canute Australia Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia |
| **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** | DA20-56186 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing five dwellings. |
| **Attachments** | 1. Applicant’s Report 2. Acoustic Report 3. Traffic Impact Statement 4. Landscape Plan 5. Planning and Development (Local Planning Schemes) Regulations 2015 Assessment 6. Aims of the Scheme Assessment 7. Residential Zone Objectives Assessment 8. State Planning Policy 7.0 – Design of the Built Environment Assessment 9. State Planning Policy 7.2 – Precinct Design Assessment |
| **Confidential Attachments** | 1. Plans 2. Assessment |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development Application received by the City of Nedlands on 10 November 2020, for five two-storey grouped dwellings at No. 26 (Lot 166) Louise Street, Nedlands. Each grouped dwelling within the subject site comprises three-bedroom dwellings with two bathrooms and the provision of two car parking bays in a garage provided at grade.

The original application was advertised to neighbours in accordance with the City of Nedlands Local Planning Policy – Consultation of Planning Proposals. At the close of the advertising period, no submissions were received.

Amended plans were received on 20 January 2021 and a second round of advertising was conducted to reflect these changes. At the close of the advertising period, there were no submissions received.

This application is presented to Council for determination in accordance City’s Instrument of Delegation, due to the application proposing five dwellings. 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) Volume 1 and is unlikely to have a significant adverse impact on the local amenity and character.

**Recommendation to Committee**

**Council approves the development application dated 10 November 2020, with amended plans received on 16 February 2021 for five (5) Grouped Dwellings at Lot 166 (No. 26) Louise Street, Nedlands, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential’ land use as defined under the City of Nedlands Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **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.**
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. **Prior to the issue of a Building Permit, a Waste Management Plan shall be submitted and approved to satisfaction of the City. The Waste Management Plan shall be complied with at all times to the satisfaction of the City.**
5. **The Acoustic Report dated 10 November 2020 (Attachment 2) prepared by Hewshott Acoustics forms part of this development approval and shall be complied with at all times to the satisfaction of the City. Recommendations contained within the acoustic report to achieve compliance with the *Environmental Protection (Noise) Regulations 1997* are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
6. **The Landscape Plan (Attachment 4) forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Propagule dated 28 October 2020, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
7. **In accordance with the Australian Standard AS2890.1 (as amended), all car parking and vehicle manoeuvring areas are to maintain adequate circulation space, free of intrusions such as doors and storage areas which do not compromise the minimum parking dimensions required under AS2890.1.**
8. **Prior to the issue of a Building Permit, amended plans are to be submitted with the Building Permit Application to show the doors providing access into the garages for Lot 1 and Lot 5 swing in the opposite direction, away from the manoeuvring areas for the vehicles within the garage.**
9. **Prior to construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City. The approved construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
10. **The location of any bin stores shall be located behind the street alignment, screened so as not to be highly visible from the street or public place and constructed to the City’s satisfaction.**
11. **All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
12. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
13. **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 located behind the street setback area shall satisfy the deemed to comply criteria of element 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of;**
14. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
15. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
16. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
17. **an alternative method of screening approved by the City of Nedlands.**

**The required setbacks and/or 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 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. **The parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004 prior to the occupation or use of the development.**
2. **Prior to occupation of the development, the proposed visitor car parking bay shall be provided with 1.5m x 1.5m visual truncations in accordance with AS2890.1 on both sides of the bay to the satisfaction of the City of Nedlands.**
3. **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, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street 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. **Prior to the occupation of the development, the car parking designated for visitors shall be clearly marked and signage provided to the specification and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**

**Advice Notes specific to this proposal:**

1. **The applicant is advised that this application is for 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. The City encourages the applicant to speak with each department to understand any further requirements.**
2. **The applicant is advised to provide as part of the Building Permit application, a compaction certificate from a structural engineer for the area previously occupied by the swimming pool (Units C & D). The compaction certificate is to demonstrate that the land/foundation can support the proposed development.**
3. **The applicant is advised that the proposed development does not meet the “Deemed-to-Satisfy” provisions of the NCC BCA Vol.2 2019 in following areas Part 3.7.2.2 - External walls of Class 1 buildings, Part 3.7.2.4 - Construction of external walls, Part 3.7.2.7 - Allowable Encroachments and 3.7.3.2 - Separating Walls. The proposed development is required to satisfy the Performance Requirements P2.3.1 (Part 3.7) and be determined in accordance with A2.2(3) and A2.4(3) as applicable. Where proposed works do not satisfy the “Deemed-to-Satisfy” provisions of the NCC BCA the design/proposed works must be documented in a Performance Solution and form part of the relevant Certificate of Design Compliance and Building Permit application.**
4. **The applicant is advised that in relation to Condition 4, the maximum number of bins permitted on the verge is eight (8) bins at any time.**
5. **The applicant is advised that a separate noise management plan will be required to be prepared, submitted to the City and approved by the CEO if it is desired to work outside of normal hrs of operation during construction of the project (i.e., 0700 hrs and 1900 hours on any day that is not a Sunday or Public Holiday). This will be subject to the subject to the Clause (6) of the *Environmental Protection (Noise) Regulations 1997*, that is detailed in section 3.4.1 of the acoustic report.**
6. **The proposal requires compliance with theCity’s *Health Local Laws 2017,* which requires an enclosure for the storage and cleaning of waste receptacles to be provided on the premises, per the following requirements:**
   1. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
   2. **Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate;**
   3. **Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;**
   4. **Easily accessible to allow for the removal of the receptacles;**
   5. **Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City; and**
   6. **Provided with a tap connected to an adequate supply of water.**
7. **The applicant is advised outdoor lighting installations are required to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting, such that they will not cause adverse amenity impacts on the surrounding locality, and the spread of artificial light from installations is restricted to the property.**
8. **The plans indicate the parking level will be constructed beneath the natural ground level. The proposed development is within proximity to the Swan River. In the event that dewatering is required at the site during construction the applicant is to prepare, submit, and have approved a Dewatering Management Plan by the Department of Parks and Wildlife and to the satisfaction of the Department of Water and Environmental Regulation, Swan River Trust and City.**
9. **The applicant is advised to apply dust control measures during construction in accordance with *City of Nedlands Health Local Laws 2017*and DWER requirements.**
10. **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.**
11. **The applicant is advised to consult the City’s Acoustic Advisory Information in relation to locating any mechanical equipment (e.g., air-conditioner, swimming pool or spa) such that noise, vibration 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.**
12. **All street tree assets in the nature-strip (verge) shall not be removed without prior approval from the City of Nedlands.**
13. **The existing crossover is to be removed and the nature-strip / verge reinstated in accordance with the City of Nedlands’ Nature Strip Improvement Guidelines.**
14. **A new crossover, temporary crossover or modification to an existing crossover will require obtaining a separate Vehicle Crossover Permit from the City of Nedlands prior to construction commencing.**
15. **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.**
16. **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.**
17. **The applicant is advised that in relation to Condition 8, the Construction Management Plan shall detail how proposed site works will be managed to minimise environmental impacts and shall address but not be limited to:**
18. **Staging plan for the entire works;**
19. **Applicable timeframes and assigned responsibilities for tasks;**
20. **Onsite storage of materials and equipment;**
21. **Parking for contractors;**
22. **Waste management;**
23. **Management of noise in accordance with the requirements of the *Environmental Protection (Noise) Regulations 1997*;**
24. **Management of vibrations;**
25. **Complaints and incidents; and**
26. **Site signage showing the builder’s direct contact details (telephone number and email address).**
27. **The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.**
28. **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.**
29. **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.**
30. **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 of 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.**
31. **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.**
32. **Background**
    1. **Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 1011.7m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Existing – ‘Residential’ use for a Single House  Proposed – ‘Residential’ use for Grouped Dwellings |
| **Use Class** | Permitted (P) |

* 1. **Locality Plan**

The subject site currently comprises one lot at No. 26 (lot 166) Louise Street, Nedlands which is currently vacant. The site previously contained a Single House which has recently been demolished.

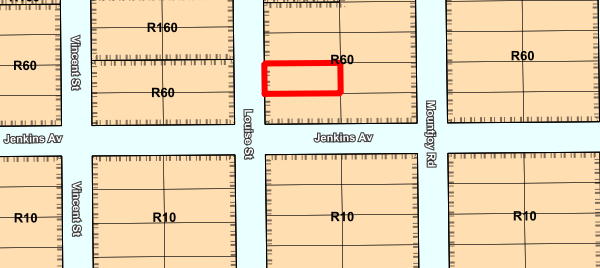
The site is oriented east-west and has its frontage to Louise Street and is bound by residential lots to the northern, eastern and southern lot boundaries.



The site slopes downwards from the north eastern corner to the south western corner of the lot. The lowest point of the site is 9.6m AHD with the highest point being 10.83m AHD. This results in a drop of 1.23m over 50m, representing a grade of approximately 2.5%.

As shown in the aerial map above, the subject property is surrounded by a mix of single houses and grouped dwellings. The Metro-Inner West Joint Development Assessment Panel (JDAP) recently approved 37 multiple dwellings at 17-19 Louise Street and 6 multiple and 7 grouped dwellings at 21-23 Louise Street directly opposite the site.

As shown in the Locality Plan below, the subject site is zoned R60. All lots to the north of Jenkins Avenue are coded R60 and above. All lots to the south of Jenkins Avenue are coded R12.5 and R10.



1. **Application Details**

The applicant seeks development approval to construct five (5) grouped dwellings, details of each are as follows:

* Two-storey grouped dwellings comprising three bedrooms, two bathrooms, a double garage, kitchen, living area, dining area, sitting room and an outdoor living area facing north;
* Consolidated vehicle access to the south of the site with a designated visitor bay proposed in front of Unit 1 and contained within the lot; and
* A communal bin store along the southern lot boundary for general waste bins and recycling bins to be located within the garages of the units.

It is noted that no subdivision application has been submitted for this site.

1. **Consultation**

The application was assessed against State Planning Policy 7.3 – Residential Design Codes (Volume 1). The application was advertised to seek assessment under the Design Principles of the R-Codes for the following clauses:

* Clause 5.1.3 – Lot Boundary Setbacks
* Clause 5.1.4 – Open Space
* Clause 5.2.4 – Street Walls and Fences

Round 1 Advertising:

The development application was initially advertised to 11 landowners/occupiers between 30 November 2020 to 14 December 2020 due to variations proposed under Clause 5.1.4 – Open Space and Clause 5.2.4 – Street Walls and Fences. At the close of the advertising period, no submissions were received.

Round 2 Advertising:

A second round of advertising was conducted from 29 November 2021 to 12 February 2021as amended plans were received by the City. The advertising in relation to clause 5.1.3 – Lot Boundary Setbacks as a communal bin store was now proposed on the southern lot boundary. At the close of the advertising period, no submissions were received.

1. **Assessment of Statutory Provisions**
   1. **Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Consideration of application by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. The City considers that the development meets these objectives, particularly in relation to height, scale and landscaping and overall amenity. Refer to **Attachment 5** for the full assessment against the relevant provisions.

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

**5.2.1 – Clause 9: Aims of the Scheme**

The City considers that the development meets the Aims of the Scheme, as identified in **Attachment 6**.

**5.2.2 – Clause 16: Residential Zone Objectives**

The City considers that the development meets the ‘Residential’ zone objectives, as identified in **Attachment 7**.

* 1. **Policy/Local Development Plan Consideration**

**5.3.1 State Planning Policy 7.0 – Design of the Built Environment**

The intent of State Planning Policy 7.0 is to address design quality and built form outcomes in Western Australia. In summary, the City considers that the development appropriately responds to each of the 10 Design Principles (**Attachment 8**). The applicant has also provided an assessment as contained in **Attachment 1**.

**5.3.2** **State Planning Policy 7.2 – Precinct Design**

State Planning Policy 7.2 has recently been introduced to provide guidance on the design, planning, assessment and implementation of precinct structure plans, local development plans, subdivision and development in areas identified as precincts. As the subject property is located in Rose Garden Transition area precinct, the City has undertaken an assessment against this Policy. Overall, it is considered that the proposed development meets the objectives and elements, as contained in **Attachment 9**.

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

State Planning Policy 7.3 (Volume 1) of the Residential Design Codes (R-Codes) apply to single and grouped dwellings. The application is seeking an assessment under the Design Principles for the R-Codes for street setbacks, lot boundary setbacks, open space and street walls and fences as addressed in the below tables.

Clause 5.1.2 – Street Setback

|  |
| --- |
| **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** |
| C2.1 (iv) A grouped dwelling which is not adjacent to the primary street, has its main frontage to a communal street, right of way or shared pedestrian access way; the deemed-to-comply street setback is 2.5m. |
| **Proposed** |
| The applicant seeks assessment under the Design Principles which are as follows:  Units 1-4:   * Ground: 1.7m * Upper: 2.0m |

|  |
| --- |
| **Administration Assessment** |
| The street setbacks to the common property driveway are considered to meet the Design Principles for the following reasons:   * The setback variations face the internal common property driveway and do not directly face the primary street. The reduced setbacks to an internal common property driveway are not considered incongruous with its setting. * The proposed landscaping plan is supported and contribute to the leafy-green streetscape. * The two-storey bulk is predominately massed towards the common property driveway as a means to increase side lot boundary setbacks to adjoining landowners. This in turn facilitates more efficient use of a useable outdoor living space for internal residents, whilst maintaining the amenity and privacy of adjoining sites. Collectively, this approach is considered more desirable. * Provision has been made for windows to face the common property driveway which is considered to make a positive contribution to the internal private street in terms of public surveillance and activity. Whilst the major openings facing the common property driveway provide for passive surveillance, they are also setback in compliance with the deemed-to-comply setbacks for Clause 5.4.1 – Visual Privacy. * Each site can accommodate parking, landscaping and utilities and there are no easements or essential service corridors to apply. * The design of the development incorporates various articulations of the wall lengths on the ground and upper floors so as to ensure the building mass and form is not excessive. It further provides for a range of materials and architectural treatments such as timber cladding, render face brick minimise the perception of bulk as viewed from the street. * The height of the development is consistent with the surrounding area and is below the deemed-to-comply 10m height limit. * In relation to the primary street, the streetscape is not dominated by building services, vehicle entries, blank walls, or infrastructure. All garages face onto the common property and there is no garage wall that faces the primary street. This is considered to be a positive outcome for the streetscape of Louise Street. There is a visitor bay located outside Unit 1 which is a requirement for a proposal of 5 grouped dwellings. The location of the visitor bay outside Unit 1 is seen appropriate as it ensures that visitors to the site are easily able to locate the bay.   In light of the above, the street setbacks for the units to the common property driveway are not considered incongruous within its setting that would prejudice the objectives of the zone and as such, are considered to meet the Design Principles. |

Clause 5.1.3 – Lot Boundary Setbacks

|  |
| --- |
| **Design Principles** |
| *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** |
| Boundary walls are only deemed-to-comply to one lot boundary to the parent lot |
| **Proposed** |
| Boundary walls are proposed to two boundaries – along the eastern and southern lot boundaries. The second boundary wall is deemed to be on the southern lot boundary. |
| **Administration Assessment** |
| The communal bin store located on the southern lot boundary meet the Design Principles for the following reasons:   * The development could have utilised the deemed to comply length and height permitted under Residential R60 which would have had a much greater impact on the adjoining properties. Instead, the proposed boundary walls do not exceed the 3.5m height and 3.0m average height requirements. Therefore, the proposals impact on the amenity is considered lower than what is capable under the deemed to comply. * In R60, building on boundary is permitted for two-thirds (66%) of the length of the balance of the lot boundary behind the front setback. The boundary walls along the eastern and southern boundaries are relatively short so as to minimise their impact on the overall bulk and ventilation. Only one boundary wall is presented on the eastern lot boundary of Unit 5. The boundary wall has a total length of 7.9m and represents 39% of this lot boundary. The remainder of the walls to the lot boundary are compliant with their respective deemed to comply setbacks. * Another boundary wall is presented by the communal bin store on the southern lot boundary. The bin store is of a total length of 4.5m which represents 9% of the entire southern lot. The bin store will be of a maximum height of 1.8m which is the same height as a standard Dividing Fence. * These boundary walls are considered relatively minor as a comparison to the permitted 66% building on boundary permitted. * The proposed boundary walls do not contain any major openings on the walls and as such, the boundary walls ensure there is minimal overlooking and resultant loss of privacy on adjoining properties. * The boundary walls do not exacerbate the overshadowing as per element 5.4.2 of the R-Codes Vol. 1 to the adjoining lots, with overshadowing that does not exceed the limits of Clause 5.4.2. As such, the proposed development does not unduly compromise the direct sun and ventilation to the building and open spaces upon the adjoining properties. * It is considered that the proposal of the grouped dwellings contributes to the future development context and streetscape of the locality, representing an appropriate development for the newly appointed R60 density code through the gazettal of LPS 3. |

Clause 5.1.4 – Open Space

|  |
| --- |
| **Design Principles** |
| “P4 Development incorporates suitable open space for its context to:   * reflect the existing and/or desired streetscape character or as outlined under the local planning framework; * provide access to natural sunlight for the dwelling; * reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework; * provide an attractive setting for the buildings, landscape, vegetation and streetscape; * provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and * provide space for external fixtures and essential facilities.” |
| **Deemed-to-Comply Requirement** |
| The deemed to comply open space for each lot is 40% |
| **Proposed** |
| Unit 2, 3 and 4 provide 37% open space. |
| **Administration Assessment** |
| The open space provision for Units 2-4 is considered to meet the Design Principles for the following reasons:   * The development as a whole is consistent with the existing and emerging streetscape character. It is noted that the 3% variation of open space to Units 2, 3 and 4 does not negatively impact upon the streetscape character of Louise Street. Unit 1, which addresses Louise Street, proposes a total of 43% open space which exceeds the deemed to comply requirement of 40% per lot. * A large variety of trees such as Acorn Banksia, Lime, Native Frangipani, Dracaena & Cabbage Trees, Ornamental Pear (Capital) Frangipani and Queensland Box trees proposed in in the open spaces of the site will reflect and enhance the streetscape character of Louise Street as leafy green locality. * Despite the minor variation to open space, the design of the development carefully considers the importance of the northern aspect of the site. All outdoor living areas and principal living spaces are orientated to take advantage of the northern aspect of the site which will improve the living amenity of the future residents. * The design of the development utilises multiple articulations at ground and upper floor so as to reduce the building bulk of the site onto adjoining properties. The setbacks of the development are all compliant with the deemed to comply provisions outlined under Clause 5.1.3. With compliant setbacks proposed to the lot boundaries, the City does not consider that the open space shortfall is as a result of overdevelopment of the site and this proposal is consistent with the expectations of the R60 density code. * As shown in the Site Plan and Landscaping Plan, the development provides an attractive setting for the buildings, nestled amongst a variety of trees, shrubs and vegetation which will improve the amenity of the future residents of the grouped dwellings. * The outdoor living areas which face north will provide opportunities for the residents to use these spaces for private recreation and outdoor pursuits. It is also noted that the site is within close proximity of the Peace Memorial Rose Gardens, where future residents will have access to open space for outdoor pursuits. * Administration notes that when considering the open space provision of the parent lot, the site cover is 41% of the entire lot and the remainder of the total of the site which is not occupied by buildings (open space) is 59% which is a positive outcome for the site. |

Clause 5.2.4 – Street Walls and City of Nedlands Residential Development Local Planning Policy

|  |
| --- |
| **Design Principles** |
| “P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:   * for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and * for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.” |
| **Deemed-to-Comply Requirement** |
| The maximum pier width permitted is 0.5m.  The maximum height of fencing is 1.8m |
| **Proposed** |
| A maximum pier width of 1.0 is proposed on either side of the fencing.  The maximum height of street fencing proposed is 2.0m. |
| **Administration Assessment** |
| As shown in the primary street elevation, the application proposes street fencing. There are two pillars proposed, with a total width of 1.0m with visually permeable infill panel fencing between the piers.  This type of fencing is typically seen in the locality, with solid piers and infill panels. In comparison to the entire elevation facing the primary street, the fencing height of 2.0m is considered to be low enough so as to permit surveillance and enhance the streetscape.  The piers on the sides are not considered to restrict passive surveillance to Louise Street as the majority of the facade of the fencing is composed of the infill panels which are visually permeable.  With approximately 5 trees proposed in the verge, the trees will act as vegetative screening to the pillars. As such, the fencing will not detract from the streetscape of Louise Street.  The development on the upper floor also contains major openings which face Louise Street, which will permit passive surveillance onto the street. |

* 1. **City of Nedlands Peace Memorial Rose Garden Precinct Local Planning Policy**

Local Planning Policy – Peace Memorial Rose Garden Precinct (PMRG Policy, was prepared by residents, and submitted to Council to adopt for advertising. It was submitted with the stated purpose to “ensure that the character of the well-established precinct is sustained and evolved as new development occurs”. The subject site is within this precinct. The precinct boundary is illustrated below in the map below:

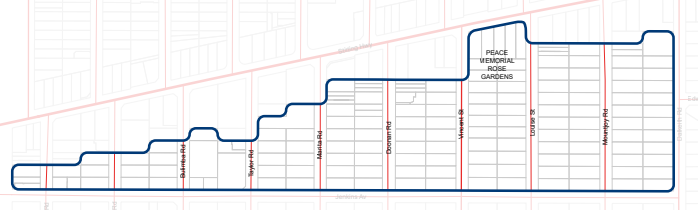


The development of the PMRG Policy can be summarised as follows:

* Original draft PMRG Policy was submitted by the community, and Council adopted this policy for advertising at its April 2020;
* As part of the April 2020 Council Resolution, there was also instruction to establish a Community Working Group (CWG) to assist with the refinement of the policy;
* Draft PMRG Policy advertised May-June 2020;
* Amended draft PMRG Policy was prepared by CWG in August 2020;
* Amended draft PMRG Policy presented to September 2020 Special Council Meeting. Administration recommended that Council not adopt the policy on the basis that:
  + Significant changes were made to the policy post-advertising, requiring further advertising;
  + The policy did not follow orderly and proper planning in its formation, as was not informed by built form modelling and testing; and
  + The policy area does not align with the boundaries of identified precincts for which strategic planning has already commenced.
* Council adopted the PMRGP Policy at the 3 September 2020 Special Council Meeting. WAPC approval is not required for any aspect of the policy.
* Legal advice was obtained by the City on 14 September 2020, which contended that the PMRG Policy ‘does not validly form part of the City’s current planning framework’. The primary reason for this advice is that the policy was prepared by landowners, rather than by the City, which is not supported by the *Planning and Development Act*. For this reason, the assessment of the amended plans does not include reference to this policy.
  1. **Melvista West Transition Zone Draft Local Planning Policy:**

The Draft Local Planning Policy – Melvista West Transition Zone seeks to establish a localised planning response for the Melvista West Transition Zone. The subject site is within this precinct.

***Image:*** *The precinct boundary of the Melvista West Transition Zone*



**Subject site**

The draft Melvista West Policy was adopted for advertising by Council at its 3rd September 2020 Special Council Meeting. Advertising of this policy has now closed. In its report for this item, Administration noted that the draft policy will form a “starting point” for development guidance in the precinct and will be subject to further revisions through built form modelling, legal and architectural review, external referrals, horticultural and heritage advice, as well as community engagement.

The Melvista West Policy seeks to augment provisions of both R-Codes Vol. 1 and Vol. 2, as outlined below.

|  |
| --- |
| **R-Codes Vol. 1 – proposed changes to deemed-to-comply provisions for:** |
| * Street setback * Lot boundary setback * Building height * Setback of garages and carports * Landscaping * Design of car parking spaces * Vehicle access |

Pursuant to clause 67(b) of the deemed provisions, in considering an application for development approval, due regard is to be given by the decision-maker to the requirements of any planning instrument that the local government is seriously considering adopting or approving.

‘Due regard’ requires the decision maker to give proper, genuine and realistic consideration to the draft policy, however, the weight which is given to that consideration is a matter for the decision-maker.

The legal principles that are applied when assessing the weight afforded to a draft instrument, such as a local planning policy, are explained in the SAT’s decision in ***Nicholls and Western Australian Planning Commission [2005] WASAT 40***.

Those principles require four factors to be given consideration to, which are:

1. *the degree to which the draft assesses the specific application;*
2. *the degree to which the draft is based on sound town planning principles;*
3. *the degree to which the ultimate approval of the draft could be regarded as ‘certain’; and*
4. *the degree to which the ultimate approval of the draft could be regarded as ‘imminent’.*

With respect to the above factors, the City will only comment on the third and fourth matters. As noted above, the provisions of the draft Melvista West Policy are still subject to change as a result of rigorous testing, peer review and community engagement. Given that this policy is a “starting point” for development guidance in the precinct the degree of certainty and imminence of the policy is questionable. Therefore, the City’s position is that the weight given to the draft Melvista West Policy should not prevail over the weight afforded to the relevant Deemed-to-Comply provisions of the R-Codes (Vol 1) in determining whether or not the application has met the element objective(s) as the draft policy is neither certain in its final form nor is it imminent in terms of adoption. For this reason, the proposal has not been assessed against the draft Melvista West Draft Policy.

* 1. **City of Nedlands Waste Management Local Planning Policy:**

As outlined in the Consultation section of this report, the application was advertised for a second time. The initial plans of the application did not propose a communal bin store on the boundary. When the application was lodged, the City was in the process of proposing an amendment to the City of Nedlands Waste Management Local Planning Policy to be presented to the Council at the December 2020 Ordinary Council Meeting. One of the amendments to the policy was to allow for 10x bins to be presented on the verge for bin collection, therefore not requiring a communal bin store. If the amendment was successful, with adoption from Council, this application would have been able to present 10x bins on the verge without a communal bin store.

As the amendment to the Policy was not adopted at the December 2020 Ordinary Council Meeting, in January 2021, the applicant’s submitted amended plans to the City. The amended plans received in January 2021 show a communal bin store on the southern lot boundary of the site. The bin store is proposed as the applicants are seeking to address the City of Nedlands Waste Management Local Planning Policy so as not to present more than 8 bins on the verge for collection.

The applicants are required to address the City of Nedlands Waste Management LPP to ensure that there is a maximum of 8 bins presented on the verge and all other relevant provisions of the Policy. By way of Condition 4, the City has recommended that prior to the lodgement of a Building Permit, a Waste Management Plan shall be submitted and approved to satisfaction of the City of Nedlands. The Waste Management Plan shall be complied with at all times to the satisfaction of the City.

1. **Conclusion**

Whilst the proposal is a more intense form of development than what currently exists, it is compatible with the built form and scale of the redeveloped homes that predominate Louise Street and is consistent with the emerging streetscape character. The proposal is seen to be an appropriate type of development in a transitional zone between high density on Stirling Highway and lower density in Dalkeith.

The proposal meets the key amenity related elements of R-Codes Volume 1 and as such is unlikely to have a significant adverse impact on the local amenity of the area. The five two-storey grouped dwellings proposed at the subject site are considered to be consistent with the Residential R60 density code and has been designed to complement the existing streetscape. The proposal has been assessed and satisfies the design principles of the Residential Design Codes and does not prejudice the intent of the zone or objectives of the Scheme.

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

|  |  |
| --- | --- |
| **PD08.21** | **Establishment of a Design Review Panel, Final Adoption of the Design Review Panel Local Planning Policy and Appointment of Panel Members** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | Nil  “*the author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia*”. |
| **Previous Item** | OCM – 23 April 2019 - PD14.19  OCM – 17 December 2019 - Item: 16.1  SCM – 30 January 2020 - Item: 7  OCM – 30 March 2020 - Item: 14.4  OCM – 28 July 2020 - Item: 14.1  OCM – 15 December 2020 - Item:13.9  OCM – 23 February 2021 - PD02.21 |
| **Attachments** | 1. Design Review Panel – Local Planning Policy 2. Summary of comments from Office of the Government Architect |
| **Confidential Attachments** | 1. Scoring Sheets 2. Specifics of Scoring System 3. Interview Forms 4. Overview of Interviewed Applicants 5. Applicants with DRP Experience 6. Recorded Interviews (MP4 video format) |

1. **Executive Summary**

The purpose of this report is for Council to:

1. Appoint the recommended members for the City of Nedlands inaugural Design Review Panel (DRP); and
2. Adopt the DRP Local Planning Policy.

The DRP will be appointed to provide independent expert design review advice for complex planning proposals received by the City.

This matter was considered by Council at its 22 September 2020 meeting, where it was resolved to adopt the draft DRP Terms of Reference, with modifications, and to advertise the draft DRP Local Planning Policy for a period of 21 days. Council also resolved to progress with a call for expressions of interest for membership on the DRP, with final appointment of members being made by Council upon its adoption of the draft DRP Local Planning Policy.

During October 2020, invitations for expressions of interest for membership on the DRP were advertised. A total of 25 expressions of interest were received. Using selection criteria drawn from the DRP Terms of Reference, 16 of these applicants were shortlisted and interviewed. The selection panel included the Manager Urban Planning, a Principal Planner and Senior Urban Planners. All interviews were recorded, with applicant consent. These recorded interviews have been made available to Council (**Confidential Attachment 6**).

Final selection of the recommended panel members for the DRP was made by collating scores given for meeting the selection criteria and performance in the interview. A total of eight panel members are recommended to Council for consideration and appointment. This includes six general members and two specialist members, as prescribed by the DRP Terms of Reference.

The Draft DRP Local Planning Policy was also advertised for 21 days, following Council’s 22 September 2020 resolution. During this time, no submissions were received, and consequently no modifications have been made to the DRP Local Planning Policy post advertising.

At its 22 September meeting, Council resolved for the draft DRP Terms of Reference to be adopted, subject to a number of modifications. These modifications have now been made to the DRP Terms of Reference.

This Council report recommends adoption of the DRP Local Planning Policy and appointment of the recommended panel members to sit on the City of Nedlands inaugural DRP.

**Recommendation to Council**

**Council:**

1. **Proceeds to adopt the Design Review Panel - Local Planning Policy, as set out in Attachment 1, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4(3)(b)(i);**
2. **In accordance with Clause 2 of the Design Review Panel - Terms of Reference, appoints, for a period of two years, the following Design Review Panel members:**
3. **General members:**
   * **Tony Blackwell**
   * **Dominic Snellgrove**
   * **Samuel Klopper**
   * **Munira Mackay**
   * **Philip Gresley**
   * **Simon Venturi**
4. **Specialist members:** 
   * **Graham Agar**
   * **John Taylor**
5. **Instructs the Chief Executive Officer to review the Design Review Panel Local Planning Policy and funding model after six months of the operation of the Panel.**
6. **In the event that one of the preferred applicants listed in Resolution 2 above is not able to accept the role due to schedule conflicts, or a decision to not proceed with being a Design Review Panel member, delegates authority to the Chief Executive Officer to select from the remaining list of interviewed applicants, in order of highest total score to lowest total score.**
7. **Discussion/Overview**
   1. **Background**

The City continues to experience a significant number of large-scale and complex development applications following the gazettal of Local Panning Scheme No.3, which saw the introduction of higher residential densities throughout the City. These applications have a higher impact on the City’s urban form and character and are subject to the new State Planning Framework of Design WA. The input of expert design advice, such as architecture, heritage, landscape design and sustainability, supports the City to effectively assess development applications under this framework. A DRP comprising of experts in these design fields can assist with improving design outcomes and mitigating any potential impact on established neighbourhoods. Whilst the DRP will not have any decision-making power, the relevant decision maker will need to have due regard to its advice.

* 1. **Key Relevant Previous Council Decisions:**

This matter was first considered at the Ordinary Meeting held on 23 April 2019, at which Council resolved not to establish a DRP. This matter was re-tabled for consideration at the City’s December 2019 Ordinary Council meeting (Item 16.1) where the following was resolved:

“*That Council reconsider its decision PD14.19 dated 23April 2019 ‘That Council does not establish a Design Review Panel’ and resolves to:*

1. *Instructs the CEO to recommend to Council a Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals;*
2. *Instructs the CEO to prepare a Local Planning Policy outlining the types of development, policies and projects that will be referred to the Panel, a set of Design Principles that the panel will use for a basis for review and relevant operations and procedures for the panel;*
3. *The cost of the Design Review Panel be borne by the applicants;*
4. *That the Design Review Panel be reviewed in 9 months from the date of establishment; and*
5. *That the CEO investigates opportunities for a cooperative arrangement with other Western Suburbs Councils to share the use of a Design Review Panel if established*. “

A recommendation to Committee was subsequently prepared and put to Council on 30 January 2020 at a Special Council Meeting, where Council resolved to adopt the officer’s recommendation, subject to amendments as outlined below:

“*Regulation 11(da) - Council determined that the amendments better reflected the earlier intent.*

*That Council:*

1. *Adopts the City of Nedlands Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals as per attachment 2;*
2. *Prepares and advertises Design Review Panel 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 as per attachment 1;*
3. *Instructs the Chief Executive Officer to call for expressions of interest for six (6) members for the City of Nedlands Design Review Panel, with appointment to the Panel to be made by Council upon its adoption of the Design Review Panel Local Planning Policy;*
4. *Instructs the Chief Executive Officer to:*
   1. *refer the options for funding of a Design Review Panel to a Councillor Workshop to assess costs, benefits and risks, and report back to Council in March 2020 for a decision on funding; and*
   2. *make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel.*
5. *Notes that a budget amount of $30,000 is to be set aside in the Mid-Year Review to allow for the operation of the Design Review Panel from February – June inclusive; and*
6. *Instructs the Chief Executive Officer to make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel”.*

At the 31 March 2020 Ordinary Council Meeting, the Design Review Panel process ceased, with Council resolving as follows:

1. *“does not support the introduction a City of Nedlands Design Review Panel;*
2. *instructs the CEO to cease new referrals to Design Review Panels of other Local Governments and the State Design Review Panel; and*
3. *instructs the CEO to cease all work related to implementation of a Design Review Panel;*
   1. *for the City of Nedlands; and*
   2. *as a cooperative arrangement for the Western Suburbs Local Governments.”*

At the 28 July 2020 Ordinary Council Meeting, Council resolved to proceed with the DRP process. Council resolved as follows:

1. *“resolves to establish a Design Review Panel; and*
2. *instructs the CEO to; Review and revise the City of Nedlands Previously Draft Design Review Panel Terms of Reference in light of the Advice Notes below;*
3. *review and revise the Previously Draft Design Review Panel Local Planning Policy in light of the Advice Notes below;*
4. *review and reschedule a call for expressions of interest members for the City of Nedlands Design Review Panel, with appointments to the Panel made by Council following its adoption of the Design Review Panel Local Planning Policy;*
5. *Council requires funding options (Clause 4) to include 100% cost recovery for development applications, from the applicant; and*
6. *refer Design Review modes and thresholds options to a Councillor Workshop, that is based on “Design Review Guide Chapter 7” where levels of escalation and the role of a City Architect are contemplated;*
7. *Make arrangements, where appropriate, for complex planning proposals to be considered by another Western Suburbs Design Review Panel or the State Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel; and*
8. *Give due regard to the following Advice Notes concerning the implementation and management of a Design Review Panel for the City of Nedlands.*

*Advice Notes:*

1. *Council requires a Design Review Panel member to be connected to the City as either a ratepayer, resident or elector;*
2. *Council expects the Design Review Panel presiding member to be highly regarded in their profession and respected by the community;*
3. *Council requires final approval of panel members.*
4. *Council requires modes and thresholds options (Clause 5) to include:*
   1. *a tiered approach to Design Review Panel involvement diminishing with large, medium and small developments;*
   2. *consideration of a part-time City Architect role; and*
   3. *consideration of Community Reference Group role.*
5. *present a re-scoped recommendation to the September 2020 Council meeting***.”**

Based on the 28 July 2020 Council resolution, the revision of the Terms of Reference, Local Planning Policy, expressions of interest for Panel members and opportunity for an interim solution was progressed.

At the 22 September 2020 Ordinary Meeting of Council, Council resolved to proceed with the DRP process. Council resolved as follows:

* + - 1. *“adopts the City of Nedlands Draft Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals subject to the following amendments:*
      2. *at the end of Clause 1 add the words “including in the TOR an additional paragraph ‘Code of Conduct - All panel members are required to abide by the local government’s Code of Conduct.”;*
      3. *amend the TOR by adding an additional clause 2.11 to read “A chair and deputy chair will be appointed by the election of the panel.”;*
      4. *amends clause 4.2 of the TOR to remove the words “as nominated by the Director of Planning & Development”;*
      5. *in clause 2.7 of the TOR the word “preferably” be added to after the word “shall”; and*
      6. *advertises the Draft Design Review Panel 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 subject to the removal of headings under 4.0;*
      7. *instructs the Chief Executive Officer to call for expressions of interest for the City of Nedlands Design Review Panel, with appointment to the Panel to be made by Council upon its adoption of the Design Review Panel Local Planning Policy; and*
      8. *notes that a budget amount of $20,500 is to be set aside in the mid-year Review to allow for the operation of the Design Review Panel, for strategic matters, for the remainder of the financial year up to June 2021 inclusive.”*

The DRP Local Planning Policy was presented to the 15 December 2020 Council Meeting for final adoption. The report to this meeting also included a recommendation to appoint eight DRP members, following a rigorous selection process. At this meeting, Council resolved to defer the item to the February Council Meeting.

A Council Briefing session was held on 2 February 2021, where Administration provided further information about the DRP member selection process. At this session, questions were raised by Councillors as to the suitability of the selection criteria used by Administration, primarily regarding the weight given to resident/ratepayers, and those with DRP experience.

Following a review of the scoring and outcomes from the evaluation and interview processes, an error was identified in the scoring applied. This error had direct implication on those candidates that should have qualified to progress to the interview stage. In response, Administration provided Council with a memorandum on 9 February 2021, with an Alternative Recommendation for the 23 February 2021 Council Meeting to defer the item to the 23 March 2021 Council Meeting.

The following key issues were raised at the 2 February 2021 Council Briefing session:

* Some Councillors were of the view that two points was not a sufficient score for applicants who are resident/ratepayers within the City of Nedlands;
* Some Councillors were of the view that five points was an excessive score for applicants with DRP experience.
* Further detail was requested on the breakdown of the scoring system used.

In response to the above, confidential attachments have been provided to Council with this report, which detail:

* The outcomes of applying different score values to resident/ratepayers and those with DRP experience; and
* The specifics of the scoring system used.

Three additional interviews have since been conducted. Council have been provided with the recordings of these interviews, along with interview sheets and scores, as confidential attachments.

* 1. **Comments from the Office of the Government Architect**

The Office of the Government Architect (OGA) provided comments to the City on the draft DRP Local Planning Policy and Terms of Reference on 17 September 2020. These comments were received too late to be included in the report to the 22 September 2020 Council meeting, and so are summarised below:

1. The draft DRP Local Planning Policy and Terms of Reference are generally well developed.
2. The focus on residents and ratepayers as DRP members is not supported.
3. The fully proponent-funded model is not supported.
4. Consideration should be given to reducing the threshold for grouped dwellings being presented to the DRP from ten to six to eight dwellings.

A more detailed summary of these comments, together with Administration’s response, is included as **Attachment 2**.

* 1. **Design Review Panel Selection and Appointment Process**

In response to Council’s 22 September 2020 resolution, the City advertised for expressions of interest for membership on the DRP. The advertising period ran for 21 days, ending 23 October 2020.

The City received 25 applications during the expression of interest period. A selection panel, comprising the Manager Urban Planning, Principal Planner and a Senior Urban Planner undertook a review of all applications received. It is noted that the OGA were invited to participate in the review of applications received, in line with the OGA’s Design Review Guide, however they advised that they did not have sufficient capacity to be on the selection panel. The OGA did, however, assist in distributing the advertisement for expressions of interest for DRP members to their contact list, including members of the State Design Review Panel.

* 1. **Selection Criteria**

In assessing the applications received, the City’s officers were guided by the DRP Terms of Reference, as well as the OGA’s Design Review Guide which outlines the following considerations:

* Appropriate qualifications and demonstrated expertise in the relevant professional area;
* Ability to work in a multi-disciplinary team;
* Highly regarded among professional peers;
* Demonstrated expertise in design review, design critique or the provision of strategic advice on design quality issues;
* Knowledge or understanding of the State’s Planning Framework, relevant local government policies, development controls and design issues in the local area;
* Ability to analyse, evaluate and offer objective and constructive feedback on complex design quality issues in design review, for evaluation of complex development applications and on strategic planning matters;
* Good written and verbal communication to ensure that advice provided to proponents is clear and concise; and
* Where relevant, it is desirable that the applicant is eligible for registration with an appropriate professional body or organisation in Western Australia and/or holds good standing with the relevant professional body.

Based on the above criteria, a scoring system was devised which considered expertise and general experience. Additional points were awarded for residents and/or ratepayers within the City of Nedlands, which was included as a preference in Council’s 22 September 2020 resolution (i.e., it is not a mandatory requirement for a DRP member to be a resident and/or ratepayer).

Additional points were also awarded for specific experience with design review panels. Providing design advice on large and complex planning proposals in a panel setting is a skillset in and of itself, and so selecting members with previous DRP experience will increase the likelihood of the City’s DPR running efficiently and effectively. Noting that the participation in multiple DRPs may present a capacity issue for members, candidates were queried in the interviews as to their ability to contribute to the City’s DRP in addition to other commitments. All recommended members indicated that they had capacity to take on the time commitment of the City’s DRP. Council have been provided with a list of panels that each applicant sits on as a confidential attachment.

Based on the above considerations, the following point system was used in the selection process:

* Expertise = 10 points
* General experience = 10 points
* DRP experience = 5 points
* Resident/ratepayer = 2 points

Expertise and general experience were assigned the highest scores (10 points each), in recognition of the considerations outlined in the OGA’s Design Review Guide. DRP-specific experience was awarded 5 points, noting that it is not as critical as general design experience and expertise. Being a resident/ratepayer attracted an additional 2 points, noting that this criterion is a preference only and is not a mandatory requirement. There is also potential risk for a panel being comprised of solely residents due to the higher potential of proximity conflicts of interest.

Using this scoring system, the top thirteen applicants were invited to participate in an interview. As detailed above, a further three interviews were also conducted, resulting in a total of 16 interviews being conducted. A synopsis of each candidate who was interviewed has been provided to Council as a confidential attachment.

In the interviews, each candidate was asked the following questions to enable them to demonstrate the value they would bring to the DRP.

*Q1. Please tell us a bit about your design expertise – what type of projects have you worked on, your areas of expertise, and whether you have been involved in design review previously.*

*Q2. Being a Design Review Panel member requires excellent communication skills and the ability to provide advice to many different people including industry colleagues and lesser experienced applicants who may not understand architectural and design language. Please tell us about your communication skills and whether you think you have the communication skills to provide design advice within a panel format.*

*Q3. The City of Nedlands deals with a diverse range of development, including multi-residential, mixed use and commercial. These are the type of applications which may be referred to our DRP. Do you have suitable experience and knowledge to provide expert design advice to the City of Nedlands for these types of development? And as an additional question, can you please provide an overview of how you might deal with a conflict of interest – both perceived and real? (Please prompt to support their response with examples)*

*Q4. Are you interested in acting as the Chair or Deputy Chair of the Design Review Panel? If yes, please provide examples of how you have operated in a Chair position previously.*

All interviews were conducted via MS Teams and were recorded, with the interviewees’ consent. Council has been provided with the completed interview forms and recorded interviews as confidential attachments to this report.

* 1. **Scoring**

Following completion of the interviews, the selection panel reviewed and combined all scores for each candidate. These final interview scores were then added to the initial selection criteria score, resulting in a total overall score out of 57. A summary of the breakdown of scores and the overall scoring has been provided to Council as a confidential attachment to this report.

* 1. **Recommended Members**

From the 16 candidates interviewed, the following eight members are recommended based on their overall score:

1. General members:
   * Tony Blackwell
   * Dominic Snellgrove
   * Samuel Klopper
   * Munira Mackay
   * Philip Gresley
   * Simon Venturi
2. Specialist members:
   * Graham Agar
   * John Taylor

Graham Agar and John Taylor are recommended as Specialist Members because they have more specialised areas of design expertise, including services engineering for the former and heritage and local history for the latter. Their designation as Specialist Members would not restrict the number of DRP meetings they could be selected for, but instead recognises the unique skillset they would provide.

Of the recommended members, three meet the criteria of being a resident, ratepayer or elector. The other five are from outside the City of Nedlands, but still scored higher than the remaining interviewed candidates. Four resident/ratepayer DRP candidates who were interviewed are not included in the recommended list, as their overall scores from the selection criteria and interview scores were lower than those candidates that are recommended.

Consistent with the OGA’s Design Review Guide, Administration acknowledges that “*while local knowledge is useful, a balance between local and subject expertise from outside the local government area should be sought in order to optimise the range and calibre of expertise available*”.

All disciplines listed below are represented on the recommended DRP, except for Transport Planning and Civil and/or Structural Engineering:

* Architecture
* Landscape Architecture
* Urban Design
* Heritage
* Sustainability and Environmental Design
* Service Engineering
* Accessibility
* Transport Planning
* Planning
* Public Art
* Civil and/or Structural Engineering

Of the 25 applications received, one demonstrated experience in Transport Planning, and another demonstrated experience in Civil and/or Structural Engineering. These scored towards the bottom of the overall list of applicants however, and therefore, were not considered appropriate for consideration on the DRP.

A separate resolution is recommended to Council, allowing Administration to select from the remaining interviewee list, in the event that a preferred candidate is unavailable due to scheduling conflicts or if they are no longer interested.

* 1. **Alternate Recommendation**

Based on the selection process undertaken by Administration, the eight members listed above are a recommendation only. As per the DRP Terms of Reference, members are to be appointed by Council. This means that Council can make a different selection of eight DRP members from the applications received.

Council have been provided with an alternate recommendation within this report, which provides an alternative list of DRP members based on a greater score being awarded for resident/ratepayers (six points awarded instead of two). This modified scoring system results in a greater number of resident/ratepayers on the DRP (four instead of three) Council have been provided with a candidate scoring sheet based on increased weight being given to resident/ratepayers.

* 1. **Managing Potential Conflicts of Interest**

Council has previously raised concern with the potential for conflicts of interest amongst a DRP. The OGA’s Design Review Guide contemplates such risks to the integrity of a DRP, and notes the following methods to manage the risk:

* All DRP members are to disclose any actual or perceived conflicts of interest in writing for the record. Where an interest exists, the member must:
  + Disclose the interest to the Chair as soon as possible, and before the meeting to ensure there is a quorum for all items;
  + If the interest is a pecuniary interest, the member must not take part in the consideration or discussion of the matter.
* DRP member induction should be used as an opportunity to confirm member responsibility to declare any conflicts of interests and other governance requirements including media protocols; and
* Meeting minutes are to record any conflicts of interest.

Reflective of this guidance, the DRP Terms of Reference clearly set out the responsibility of DRP members to declare any financial, proximity and/or impartiality interests in accordance with the City’s Code of Conduct at the start of the DRP meeting. Where an interest exists, the member must disclose the interest to the DRP Chairperson as soon as possible, and before the meeting to ensure there is a quorum for all items. The DRP Terms of Reference also require the meeting minute taker to record any declarations of interest.

As noted in the Selection Criteria section of this report, handling of conflicts of interest also formed part of the interview questions for DRP membership candidates. During the induction of the DRP members appointed by Council, members will be required to formally agree to the DRP Terms of Reference.

Administration is of the view that these measures will sufficiently manage the risk of conflicts of interest amongst a DRP.

1. **Consultation**
   1. **Design Review Panel Local Planning Policy**

The DRP Local Planning Policy was previously advertised for a period of 21 days, ending 7 March 2020. During this time, a total of 62 submissions were received. As Council resolved to cease establishment of a DRP following the advertising period, these submissions were not reported to Council.

The draft DRP Local Planning Policy was subsequently modified before being presented back to Council at the 22 September 2020 meeting. In accordance with the resolution from this meeting, the draft DRP Local Planning Policy was advertised for a period of 21 days. During this second advertising period, no submissions were received. No modifications have been made to the DRP Local Planning Policy post advertising.

1. **Statutory Implications**

The DRP Local Planning Policy has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Division 2.

When appointed, the advice of the DRP is to be given due regard in the consideration of applications for development approval, in accordance with Clause 67 (zc) of the *Planning and Development (Local Planning Schemes) Regulations 2015 which forms part of Schedule 1 – Supplemental provisions of LPS3, Matters to be considered by local government; (zc) any advice of the Design Review Panel.*

1. **Strategic Implications**

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

The establishment of a DRP is considered to achieve the following Planning Principles outlined in the City’s Local Planning Strategy:

* Protect and enhance local character and amenity;
* Respect the community vision for the development of the district;
* Achieve quality residential built form outcomes for the growing population; and
* Respond to the local physical and climatic conditions.

**Who benefits?**

As outlined below, the establishment of a DRP will benefit the community, decision makers, and Council/Administration.

Community

* Gaining assurance that new developments will make a positive contribution to the public realm, adjacent development, and the surrounding community.

Decision maker benefits

* Gaining expert, independent advice on the design quality of a proposal.
* Enabling the recognition of good design outcomes and, when exercising discretion, the appropriate weight that might be applied to outstanding or innovative solutions that benefit the area.
* Having confidence in resisting poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Council/Administration

* Signals importance of good design to developers.
* Great learning experience for the Planners, who can attend and gain insight into design review which will help with future complex assessments.
* By encouraging design considerations pre-lodgement, time is saved on revision of plans post-lodgement.
* Applications that are lodged are more resolved and this reduces the number of times an item has to go to JDAP and often assists in resolving design Issues which may then end up in SAT.

**Does it involve a tolerable risk?**

The risks associated with not having a DRP include the following:

* Complex applications will not be reviewed by a panel of built form design experts relating to new assessment criteria as prescribed by State Planning Policy 7.0;
* There is no ability for Council or JDAP to refuse an application based on peer review comments. The only mechanism for a decision-maker to refuse an application based on design advice is through an appointed DRP in accordance with 67 (zc) of the City’s Planning Scheme.
* Previous complex development applications were able to lodge without being subject to prior design review. This results in additional work as applicants make multiple changes during the application process to address design or planning issues. Each iteration of the plans must be reviewed by multiple internal departments and represents a significant cost to the City; and
* Without a DRP, expert advice in the areas of architecture, sustainability / energy efficiency, landscape architecture and arborists amongst others need to be engaged separately to adequately address the complex assessment items required to be vetted by the City as part of Design WA.

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

Administration’s approach to establishing a DRP has been informed by the OGA’s Design Review Guide.

1. **Budget/Financial Implications**

The Council resolved at the 28 July 2020 Ordinary Meeting of Council to pursue a proponent-funded model. The proponent is required to pay for the full costs associated with holding a DRP meeting, excluding the City’s Administrative costs. This means that for a typical meeting, the total cost borne by the City would be approximately $530 (Administrative costs), and the total cost borne by the proponents would be approximately $4,200 (DRP member costs). Noting the comments received from the OGA regarding this funding model, discussed further in **Attachment 2**, Administration recommends that this approach be reviewed after six months of DRP operation.

A detailed breakdown of these costs is provided under the Budget/Financial Implications section of the 22 September 2020 report to Council (PD45.20).

There may be instances where Council wishes to refer projects of a strategic nature to the DRP. For example, DRP review of a local planning policy or precinct plan would assist in providing best practice knowledge and understanding of context, history and future desired character of the locality. As detailed in the Budget/Financial Implications section of the 22 September 2020 report to Council (PD45.20), the estimated financial implications of the assessment of strategic proposals by the DRP is $41,000 excluding GST per annum. The Council resolved at the 22 September 2020 Ordinary Meeting of Council to allocate a half-yearly budget of $20,500 for the purpose of funding the operation of the Design Review Panel for strategic matters.

1. **Alternative Recommendation to Council**

As discussed above, Council is provided with the following alternative recommendation, which is based on greater preference being given to resident/ratepayer members on the DRP:

Council:

1. Proceeds to adopt the Design Review Panel - Local Planning Policy, as set out in Attachment 1, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(i);
2. In accordance with Clause 2 of the Design Review Panel - Terms of Reference, appoints, for a period of two years, the following Design Review Panel members:
3. General members:
   * Dominic Snellgrove
   * Samuel Klopper
   * Craig Smith
   * Tony Blackwell
   * Munira Mackay
   * Simon Venturi
4. Specialist members:
   * John Taylor
   * Graham Agar
5. Instructs the Chief Executive Officer to review the Design Review Panel Local Planning Policy and funding model after six months of the operation of the Panel.
6. In the event that one of the preferred applicants listed in Resolution 2 above is not able to accept the role due to schedule conflicts, or a decision to not proceed with being a Design Review Panel member, delegates authority to the Chief Executive Officer to select from the remaining list of interviewed applicants, in order of highest total score to lowest total score.
7. **Conclusion**

Up-coded areas within the City are likely to experience high levels of redevelopment as a result of LPS 3. This is already being experienced with a large volume of applications lodged and a large ‘pipeline’ of proposals that are expected to be lodged in the coming months and years.

Establishing a DRP to provide independent expert architectural and design advice on large-scale and complex development that can impact the community is considered a vital step in the assessment of such proposals. As the City moves into an increasingly sophisticated planning assessment process including an increase in more intensive density and varied development typologies, the DRP becomes increasingly important. Therefore, it is imperative that the City and Administration are adequately equipped with professional expertise.

An alternative recommendation has been provided to Council, which is based on greater preference being given to resident/ratepayer members on the DRP, which results in a greater number of resident/ratepayers on the DRP.

|  |
| --- |
| PD09.21 RFT 2020-21.09 Natural Area Weed Control 2021-2025 |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | Nil. |
| **Director** | Tony Free – Director Planning & Development |
| **Attachments** | Nil. |
| **Confidential Attachments** | 1. RFT 2020-21.09 Final Evaluation Score Sheet |

1. **Executive Summary**

Part of the Environmental Conservation program requires the City to undertake control and management of environmental weeds. The purpose of this report is to request Council award the panel for natural area weed control services within the City’s bushland areas.

**Recommendation to Committee**

**Council:**

1. **Accept the recommendation to award the contract for tender number RFT 2020-21.09 Natural Area Weed Control 2021-2025 to the South East Regional Centre for Urban Landcare (SERCUL) as the first preference panel member;**
2. **Accept the recommendation to award the contract for tender number RFT 2020-21.09 Natural Area Weed Control 2021-2025 to UGC Holdings PTY LTD as the second preference panel member;**
3. **Instruct the CEO to issue contracts to South East Regional Centre for Urban Landcare (SERCUL) and UGC Holdings PTY LTD; and**
4. **Instruct the CEO to advise all other tenderers as to the outcome of Tender number RFT 2020-21.09.**
5. **Discussion/Overview**
   1. **Background**

The City has an annual program to undertake large scale perennial grass weed, broadleaf weed and bulbous weed control through its bushland areas. These works are undertaken in accordance with recommendations contained within the City’s natural area management plans.

This tender will replace the existing panel contract that is due to expire in June 2021. The existing panel contract was awarded by Council for a period of three years at the Council meeting on Tuesday, 24 April 2018 (RFP 2017-18.01 Natural Areas and Greenways Weed Control).

Weeds to be controlled under this contract are primarily Perennial Veldt Grass and annual grasses using grass selective herbicides and geophytic weeds using a combination of Metsulfuron Methyl or Metsulfuron Methyl and Glyphosate. Other annual and perennial grass weeds and broad leaf weeds may also be controlled in an infrequent or ad hoc manner as required using a combination of hand weeding and spraying with Glyphosate or Fusilade Forte. Woody weeds may also be controlled in an infrequent or ad hoc manner as required using Triclopyr.

Under this contract weed control is to be undertaken primarily in the natural areas listed:

* + Shenton Bushland;
  + Allen Park Bushland;
  + Hollywood Reserve;
  + Mt Claremont Oval Bushland Reserve;
  + Point Resolution Bushland Reserve;
  + Birdwood Parade Bushland Reserve; and
  + Swanbourne Estate Bushland.

Due to the limited timeframe required to undertake the contract work the City has determined that a panel contract is the most appropriate contract for the delivery of these services.

* 1. **Request for Tender Information**

To comply with legislative requirements outlined in the Local Government Act 1995 and to ensure the best value for money for the City RFT 2020-21.09 was advertised on 20 January 2021 in the West Australian Newspaper and on www.tenderlink.com/nedlands. The tender request period ended on 4 February 2021 with five (5) submissions received by the City.

Compliant submissions were received from the following companies:

1. Environmental Industries PTY LTD
2. LD Total
3. South East Regional Center for Urban Landcare (SERCUL)
4. UGC Holdings PTY LTD
5. Website Weed and Pest PTY LTD

No non-compliant submissions were received.

* 1. **Key Relevant Previous Council Decisions:**

PD15.18 Tuesday, 24 April 2018:

*Council:*

*1. Agrees to appoint panel no. 2017-18.01, as per the schedule of rates submitted, with the following priority:*

*a) South East Regional Centre for Urban Landcare (SERCUL);*

*b) Wake’s Contracting PL; and*

*c) Natural Area Holdings Pty Ltd.*

*2. Authorises the Chief Executive Officer to confirm members of this panel.*

1. **Consultation**

N/A

1. **Strategic Implications**

The community will benefit from this project as it will result in the City’s implementation of the Strategic Community Plan 2018-2028. The management of environmental weeds fits well with the City’s vision and strategic priorities as the Strategic Community Plan refers to “Great Natural and Built Environment” and includes:

* A vision that “Our city will be environmentally sensitive, beautiful and inclusive place”;
* Values that “We protect our enhanced, engaging community spaces, heritage, the natural environment”; and
* Priorities that comprise of “Retaining Remnant Bushland and Cultural Heritage”.

Furthermore, key actions were identified in the Strategic Community Plan to contribute to retaining remnant bushland as a strategic priority. Some of these are listed below:

* Restore coastal and estuarine areas; and
* Maintain parks and other green spaces.

Management and control of environmental weeds is required by the City to manage fire risk and also to protect and restore bushland within the City. Therefore, there are potential reputational and safety risks if the City does not manage environmental weeds in our bushland areas including:

* Increased fire risk due to accelerated fuel loads as a result of not being able to undertake broad leaf and grass weed management;
* Further degradation of remnant bushland as a result of ongoing environmental weed invasion;
* Reduction in the quality of ecological communities within the City;
* Financial loss, as the success of previous weed management programs will decline; and
* Decline in the condition of Bush Forever Sites 218, 221 and 315.

1. **Budget/Financial Implications**

These contract services are provided for through the annual operational budget which will have no impact on rates.

1. **Conclusion**

The City of Nedlands Administration requests that Council accept the recommendation for award of contracts to the South East Regional Centre for Urban Landcare (SERCUL) and UGC Holdings PTY LTD.

|  |  |
| --- | --- |
| **PD10.21** | **Response to Proposed Policy Framework – Cumulative Traffic Impact Assessment** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia |
| **Previous Item** | Nil |
| **Attachments** | 1. Special Meeting of Electors Minutes – 3 December 2020 |
| **Confidential Attachments** | 1. Legal Review of Policy Proposed at Special Meeting of Electors – 3 December 2020 |

1. **Executive Summary**

The purpose of this report is to provide Council with an update on the Council resolution of 15 December 2020 following the Special Meeting of Electors held on 3 December 2020.

Council resolved that a full independent review of the elector’s resolution be undertaken. The elector’s resolution proposed a policy relating to cumulative traffic impact assessments.

Andrew Roberts, Special Counsel from Castledine Gregory Solicitors, was commissioned to undertake a detailed assessment and provide a legal opinion on the recommendations proposed from the Special Meeting of Electors.

The intent of the proposed policy and the concern of the electors is acknowledged. The future traffic impacts of development on the local road network is a significant concern to residents and is a matter which needs to be addressed in a holistic and strategic manner.

To ensure that the matter is appropriately considered it is recommended that an information briefing session with Councilors be held to allow for a potential path forward to be discussed.

**Recommendation to Committee**

**Council:**

1. **Acknowledges the legal advice obtained from Castledine Gregory dated 12 February 2021; and**
2. **Request that an information briefing session of Councillors be held to allow for discussion on the legal advice received and for City officers to outline a path forward.**
3. **Discussion/Overview**
   1. **Background**

The City called a Special Meeting of Electors on 3 December 2020. The meeting sought Council’s support for a policy to address the cumulative impacts on traffic as a result of recent development approvals with Nedlands. The Special Meeting of Electors passed a motion that a Proposed Policy Framework – Cumulative Traffic Impact Assessment, be presented to Council for approval. **Attachment: 1 - Special Meeting of Electors Minutes**

Council resolved at its Ordinary Meeting of Council dated 15 December 2020 to instruct the CEO to undertake full independent review of the proposed policy framework.

In accordance with the Council resolution a full and thorough assessment of the Proposed Policy Framework – Cumulative Traffic Impact Assessment has been undertaken. This involved obtaining a legal opinion regarding the potential head of power and legality that could enable these recommendations to be supported either partially or in their entirety. **Confidential** **Attachment: 1 – Legal Review of Policy proposed at Special Meeting of Electors**

* 1. **Administration Comment**

There is an acknowledgement that the view expressed by the electors at the Special Meeting of Electors in December 2020 are a reflection of the concerns of some residents of the impact that development is having on the local road network. This concern is valid and needs to be addressed in a strategic manner.

It is important to acknowledge that the Perth and Peel @3.5 million as adopted by the Western Australian Planning Commission *“has been developed to deliver a more consolidated urban form and achieve a more efficient and cost-effective urban structure that minimises environmental impacts”.*

The Central Sub-regional Planning Framework identifies UWA – QEII as an activity centre which has impacts on the City, particularly within the Broadway precinct, in addition to Stirling Highway being identified as an urban corridor. With respect to activity centres the Central Sub-regional Planning Framework states the activities centres *“aim to allow more people to live closer to where they work with the aim of reducing the overall distance travelled to work. Some will build on existing infrastructure such as universities and hospitals to leverage community assets into innovative job creating activity centres”*. The Central sub-regional Framework projects an additional 6,500 jobs at the UWA-QEII activity centre by 2050, building on the existing 17,680 in 2011. These additional jobs are important to the State, particularly given the nature of the work occurring within the activity centre. These additional jobs are likely to have an impact on the Nedlands community.

The Central Sub-regional Framework projects that the City’s population will increase by 9,500 from 2011 to 2050, with an additional 12,390 dwellings projected. This will change the shape of parts of Nedlands. It will impact on the built form of the City and it will increase the housing diversity within Nedlands. Some local roads will be impacted by this increase. Council does need to put in place strategies which help to inform future decisions and help to shape this future development.

An Integrated Transport Strategy will provide Council with modelling on future traffic implications of the development possibilities as provided for within the local town planning scheme. It is very rare for every landowner to maximise the development potential of their land. This is factored into the assumptions which are fed into the modelling. When considering the future transport needs of the community and of those that move through Nedlands, particularly on Stirling Highway, all transport modes need to be considered. An Integrated Transport Strategy does this, it considers the motor vehicle as a form a transport, as well as public transport current and future options, cycling and walking, are also considered. Clearly Stirling Highway is very important in terms of moving people within Nedlands. It is also important that people can safely move north – south across Stirling Highway.

The modelling used in the Integrated Transport Strategy will form the basis on which individual traffic impact assessment for developments are based. These individual assessments will be critically reviewed by City officers, with external traffic engineers also being used to assess the traffic impact assessments submitted with development applications.

The Integrated Transport Strategy may result in a need to increase pedestrian and cycling infrastructure, it may result in a recommendation to advocate the State Government to increase public transport options for our community. It is important to consider that the strategy has a focus beyond motor vehicles and ideally it will tie all forms as transport into one transport strategy.

The Special Meeting of Electors of December 2020 reflected the challenges which Council and the Nedlands community face given the role that Nedlands is being required to play within the greater Perth metropolitan area. There are challenges associated with the changes in the permitted land uses and associated intensity of the that development. This gives raise to the need for the City of Nedlands to have appropriate strategies in place to manage that development. One of these is an Integrated Transport Strategy.

Its considered appropriate that before giving further consideration to the Proposed Policy Framework – Cumulative Traffic Impact Assessment that Councillor’s workshop with officers, the challenges with the view of formulating a path forward to allow Council to deal with these challenges in a strategic manner.

* 1. **Risk**

In the absence of an Integrated Transport Strategy which factors in Nedlands role within the greater Perth metropolitan area, a holistic response to development is less likely.

1. **Consultation**

Consultation with the key stakeholders including the Department of Transport, Main Roads WA and Public Transport Authority, in addition to as community consultation will be undertaken as part of the development of the Integrated Transport Strategy.

1. **Strategic Implications**

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

The Strategic Community Plan includes the following objectives:

* Promote a movement network that foremost enables mobility, and particularly encourages non-car modes.
* Locate land uses (particularly higher density residences) and transport networks in a way that maximises efficiency.

The development of the Integrated Transport Strategy and Transport Impact Assessments will provide a framework for State and local governments, key stakeholders, and the community to work collaboratively together, guiding investment into the future and outlining further investigative tasks required to support development of the transport network.

**Who benefits?**

A successful Integrated Transport Strategy will outline a series of initiatives and investments that will help residents, workers, and visitors to the City.

**Does it involve a tolerable risk?**

The Integrated Transport Strategy and Transport Impact Assessments will result in better informed decision making.

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

Council has agreed to a budget allocation to engage a consultant to develop the Integrated Transport Strategy and the priority Transport Impact Assessments.

1. **Budget/Financial Implications**

An estimated of $145,000 in 2020/21 and $50,000 in the 2021/22 financial year, to engage a consultant to develop both the Integrated Transport Strategy and three Transport Impact Assessments in support of the priority Precinct Plans. This was approved at the February Council meeting.

**Can we afford it?**

The Integrated Transport Plan is not specifically provided for in the Long-Term Financial Plan. However, the Integrated Transport Plans and Traffic Impact Assessments for the Precinct Plans are considered essential by the Administration to satisfy the transport objectives outlined in the Strategic Community Plan and LPS3.

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

Cost savings will be identified in the 2020/21 budget. Funding $50,000 will be required in the 2021/22 financial year will be subject to Council’s consideration as part of the 2021/22 budget process to minimize potential impact on rates.

1. **Conclusion**

The concerns of the residents as expressed at the Special Meeting of Electors are valid and should be addressed in a strategic manner, which officers consider is best handled via an information briefing of Councillors in order to allow a path forward to be established.