



City of Nedlands

Planning and Development Reports

Committee Consideration – 10 April 2018

Council Resolution – 24 April 2018

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Council: 24 April 2018

PD12.18	(Lot 5146) No. 2 Alfred Road, Claremont – Increase in Staff and Children Numbers for a Child Day Care Centre (Retrospective)
Committee	10 April 2018
Council	24 April 2018
Applicant	R Skinner
Landowner	A Skinner
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/253
Previous Item	Nil
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	<ol style="list-style-type: none"> 1. Photograph of the subject property 2. Photographs of the Parking Situation on 19 October 2017 3. Photographs of the Parking Situation on 24 October 2017 4. Photographs of the Parking Situation on 25 October 2017 5. Photographs of the Parking Situation on 21 March 2018 6. Photographs of the unauthorised patio structures 7. Noise Management Plan (received on 7 March 2018) 8. Photographs of the unauthorised shade sail structure 9. Photograph of the unauthorised sign

1.0 Executive Summary

Retrospective development approval is being sought to:

- a) increase the number of staff from 4 to 10;
- b) increase the number of children from 39 to 46.

at the property which is currently occupied by the Tiny Beez child day care centre. The child day care centre was approved in September 1987.

The number of staff and children currently on site was brought to the City's attention as a consequence of concerns being received regarding parking difficulties in the local area. The City was advised that the situation was being caused by vehicles associated with the child day care centre.

The proposal was advertised to nearby landowners for comment, and during the advertising period 7 objections and 2 non-objections were received.

It is recommended that the application be approved by Council as the proposed number of staff and children is deemed to not be having a significant adverse impact on the local amenity, as ample parking is available for residents and for those associated with the child day care centre.

Also if the measures recommended in the patio acoustic assessment and the noise management plan received by the City are implemented noise associated with the child day care centre is unlikely to have a significant adverse impact on nearby residents.

2.0 Recommendation to Committee

Council approves the retrospective development application to increase staff and children numbers at (Lot 5146) No. 2 Alfred Road, Mount Claremont, in accordance with the amended plans received on 7 December 2017, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. The on site car-parking bays being maintained by the landowner to the City's satisfaction.
3. A maximum of 10 staff and 46 children on the premises at any one time.
4. The child day care centre only being permitted to operate between 7.00am and 6.00pm Monday to Friday (excluding public holidays).
5. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
6. The landowner complying with the noise management plan received on 7 March 2018 (Attachment 7) to the City's satisfaction.
7. Absorptive lining being applied to the underside of the patios' roof frame within 28 days from the date of this decision, in accordance with the Patio Acoustic Assessment dated 9 February 2018, to the City's satisfaction.
8. The absorptive lining applied to the underside of the patios' roof frame is to remain and be maintained by the landowner thereafter to the City's satisfaction.

Advice Notes specific to this proposal:

1. A separate application is required to be lodged and approved by the City prior to increasing staff and/or children numbers for the child day care centre in future.
2. 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.
3. The landowner is advised that all mechanical equipment and activities on the property are required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.
4. The applicant shall make application to the City's Building Services for a Building Permit, to acknowledge the unauthorised works.

3.0 Site Details

Lot area	860m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R40
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is located at the end of a cul-de-sac section of Alfred Road, opposite Stubbs Terrace Reserve No. 1. Surrounding properties contain single and grouped dwellings. Nearby is the Karrakatta Train Station.

An aerial image showing the subject property and the surrounding area is below.



4.0 Background

The premises were approved to be used as a child day care centre in September 1987. According to the application up to 4 staff were to be on the premises. It was a condition of the approval that the number of children be limited to 35.

In May 1998, development approval was granted for the maximum number of children on the premises to be increased from 35 to 39. Approval was not sought to increase the number of staff on the premises.

No development approval has been granted since for the number of staff and/or children to be increased.

5.0 Specific Application Details

The applicant seeks retrospective approval to:

- a) increase the number of staff from 4 to 10; and
- b) increase the number of children from 39 to 46

at a child day care centre which is an 'AA' use in the Residential zone under Town Planning Scheme No. 2 (TPS 2).

No changes are proposed to the hours of operation nor to the number of car bays currently available on site.

6.0 Consultation

During the advertising period 7 objections and 2 non-objections were received.

The following is a summary of the concerns received:

- Noise levels being considered to be excessive, potentially as a result of a patio being constructed near the north western (side) boundary of the subject property.
- Parking being in short supply for residents. Parking restrictions along Alfred Road are suggested.
- Parents visiting the child day care centre parking on verges and damaging sprinklers.
- The increase in staff and children numbers resulting in waste bins overflowing and litter blowing onto nearby properties.
- The proposal potentially affecting the value of nearby properties.
- A portable sign being placed on the reserve opposite the child day care centre.

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

By way of justification in support of the proposal, the applicant has advised the following:

“Staff who are on opening and closing shifts park directly in the centre carpark for health and safety reasons.”

“I am aware that a lot of local commuters travelling by train to work, park their cars along this section to avoid car parking fees at the station.”

“We only have 2 staff driving to work Monday to Friday, and our cook Monday to Thursday from only 8.30am till 12.30pm.”

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

In accordance with provisions (n), (s), (t) and (u) of the Regulations Schedule 2 Part 9 Clause 67, due regard is to be given to the likely effect of the proposal on the local amenity, the proposed means of access, and potential traffic impacts. Where relevant, these matters are discussed in the following sections.

7.2 Town Planning Scheme No. 2

7.2.1 Car Parking and Traffic Safety

No car parking requirements are stipulated under TPS 2 for child day care centres therefore the number of car bays required is at the City's discretion.

It should be noted that the WAPC's Child Care Centre Bulletin recommends that the minimum parking requirement for a child care centre, including staff parking, will be 1 car bay per 5 children, as such 10 (9.2) car bays are required. A total of 8 car bays are available on site. Therefore a deficit of 2 car bays exists.

A car bay exists within the adjoining portion of road reserve which partially encroaches onto the subject property.

The following on street car parking restrictions exist within the local area:

- i. Cul-de-sac section of Alfred Road – No stopping at all times.
- ii. Alfred Road (between Brockway Road and Stubbs Terrace) – No parking restrictions.
- iii. Stubbs Terrace – No stopping at all times.

Administration Comments

In response to the concerns regarding car parking availability and traffic safety, the following is advised:

- The local area was visited by City Officers on different days and times to ascertain whether any parking difficulties exist, particularly along the section of Alfred Road near to the child day care centre. Photographs taken during the visits are shown in Attachments 2 to 5.

During the visits vehicles associated with the child day centre were not seen to be parking on verges adjacent to residential properties.

The majority of the car parking bays on the child care centre site were vacant, and the majority of nearby car parking spaces along Alfred Road (between Stubbs Terrace and Brockway Road) were also vacant.

- Residents along the northern side of Alfred Road have covered car spaces for 2 vehicles on their property, access to which is obtained from rear laneways. Vehicles associated with the child day care centre were not observed as preventing access to these garages and/or to driveways for other properties.

- Since receiving this application in August 2017 no complaints have been received regarding car parking associated with the child day care centre.
- The nature of the use means that when parents drop off and collect their children from the child day care centre their vehicles are likely to only be parked for a short period of time, meaning that car bays are frequently available.

Taking this into consideration, an ample amount of car parking spaces are available for the child day care centre and nearby residents despite the increase in staff and children numbers.

There is no evidence to suggest that the vehicles parking along the section on Alfred Road near to the subject property are all associated with the child day care centre. It is likely that the majority of these vehicles belong to commuters using the nearby train station.

7.2.2 Amenity

Under clause 5.5.1 of TPS 2 Council may refuse to approve any development if:

“in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.”

Unauthorised Patio Structures

During the advertising period concerns were raised regarding noise levels being excessive, potentially as a result of a patio structure being constructed adjacent to the north western (side) boundary of the property, and another patio structure at the rear of the child day care centre building. Refer to Attachment 6 for photographs of the patio structures concerned.

According to the City’s records no approvals had been granted previously for these structures, which were constructed between February 2015 and September 2015 according to the City’s aerial imagery.

Amended plans were requested and subsequently provided by the applicant which show the unauthorised structures.

Despite a child day care centre being a non-residential use the provisions of the Residential Design Codes (R-Codes) apply to the patio structures due to the property being zoned Residential under TPS 2.

As discussed under section 8.0 of this report, the patio structures comply with the deemed-to-comply provisions of the R-Codes.

Despite this, their location, size and purpose (being to accommodate the children), potentially resulted in excessive noise levels. Therefore an acoustic assessment was requested and was subsequently provided which recommends various measures so that activities on the property comply with the

Environmental Protection (Noise) Regulations 1997: One measure is to apply absorptive lining to the underside of the patios' roof frame.

The applicant subsequently provided a noise management plan (refer to Attachment 7) which was prepared in conjunction with the acoustic assessment. The measures outlined in this management plan are consistent with the recommendations in the acoustic assessment.

If the application is approved by Council it is recommended that appropriate conditions be included requiring the measures outlined in the acoustic assessment and the noise management plan to be implemented to ensure compliance with the Noise Regulations.

Non-Compliant Shade Structure

During an inspection of the property by the City it was noted that a shade structure existed at the rear of the property which had been attached to the dividing fencing with 4 Alfred Road (refer to Attachment 8). The structure did not comply with the Building Code of Australia requirements, therefore the City requested the landowner to remove it. The structure was subsequently removed.

8.0 Residential Design Codes

8.1 Lot Boundary Setbacks

Deemed-to-Comply Requirement	Proposed	Complies
<p>In accordance with clause 5.1.3 of the R-Codes structures such as patios on an R40 coded property may be built up to a lot boundary behind the street setback area not higher than 3.5m, for two-thirds the length of the lot boundary behind the front setback, to one side boundary only.</p> <p>They are also to comply with the overshadowing requirements.</p> <p>Note: The term 'up to a lot boundary' means a wall, on or less than 0.6m from any lot boundary, other than a street boundary.</p>	<p>The patio structures are setback 0.5m from the north western (side) lot boundary, and their total length is 15.28m.</p> <p>The length of the north western (side) lot boundary behind the street setback area is 42m.</p> <p>Taking this into consideration, the patio structures occupy 36.3% of the lot boundary's length.</p> <p>The height of the patio structures nearest to the north western lot boundary is between 2.6m and 3.3m above natural ground level.</p> <p>Being on the northern side of the property means that the patio structures concerned comply with the overshadowing requirements.</p>	Yes

8.2 Open Space

Deemed-to-Comply Requirement	Proposed	Complies
In accordance with table 1 of the R-Codes properties with an R40 coding are to have 45% open space.	The total area of the existing buildings on the property is 343.3sqm. Approximately 60% open space is therefore provided.	Yes

9.0 Other Matters of Concern

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

- The increase in staff and children numbers resulting in waste bins overflowing and litter blowing onto nearby properties.
- The proposal potentially affecting the value of nearby properties.
- A portable sign being placed on the reserve opposite the child day care centre.

During the advertising period it was also suggested that either parking permits or time restrictions be introduced along the northern side of Alfred Road..

9.1 Waste Bin Concerns

The matter was investigated by the City and no overflowing bins have been observed to date.

Bins belonging to the child care centre were however being placed on the verge 2 days prior to their waste collection day, which breached the City's Waste Local Law.

The child care centre has since been asked to place their waste bins on the verge on their scheduled waste collection day (being on Mondays) and there is no evidence that this request has not been adhered to. The City will continue to monitor the situation.

9.2 Property Value Concerns

The potential impact proposed development may have on nearby property values is not a matter due regard is to be given to when determining the application under the Regulations.

9.3 Signage on Stubbs Terrace Reserve

A portable sign advertising the child day care centre had been placed on Stubbs Terrace Reserve opposite the subject property (refer to Attachment 9).

This has since been removed by the applicant and they have been advised that should they wish to place the sign on the verge immediately adjoining their property a Nature Strip Development Application would need to be approved by the City.

9.4 Request for Parking Restrictions

The request for parking permits or time restrictions to be introduced along the northern side of Alfred Road has been considered by the City.

It was noted during inspections of the local area that the existing parking situation is not preventing vehicles from accessing the residential properties. The request for parking permit or time restrictions is therefore not currently supported by administration.

10.0 Budget / Financial Implications

N/A

11.0 Risk Management

N/A

12.0 Conclusion

There is deemed to be an ample amount of parking available for residents, visitors to the residential properties nearby, and for those associated with the child day care centre.

If the measures recommended by the patio acoustic assessment and the noise management plan are implemented noise levels are likely to be compliant with the Noise Regulations and therefore not have a significant adverse impact on nearby residents.

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



Date Taken: Thursday 19 October 2017
Time Taken: 5.30pm





Date Taken: Tuesday 24 October 2017
Time Taken: 7.30am





Towards northern side of Alfred Road

24/10/2017



Banksia Drive

Westward along Alfred Road

24/10/2017

Date Taken: Wednesday 25 October 2017
Time Taken: 4.30pm





Towards northern
side of Alfred
Road

25/10/2017

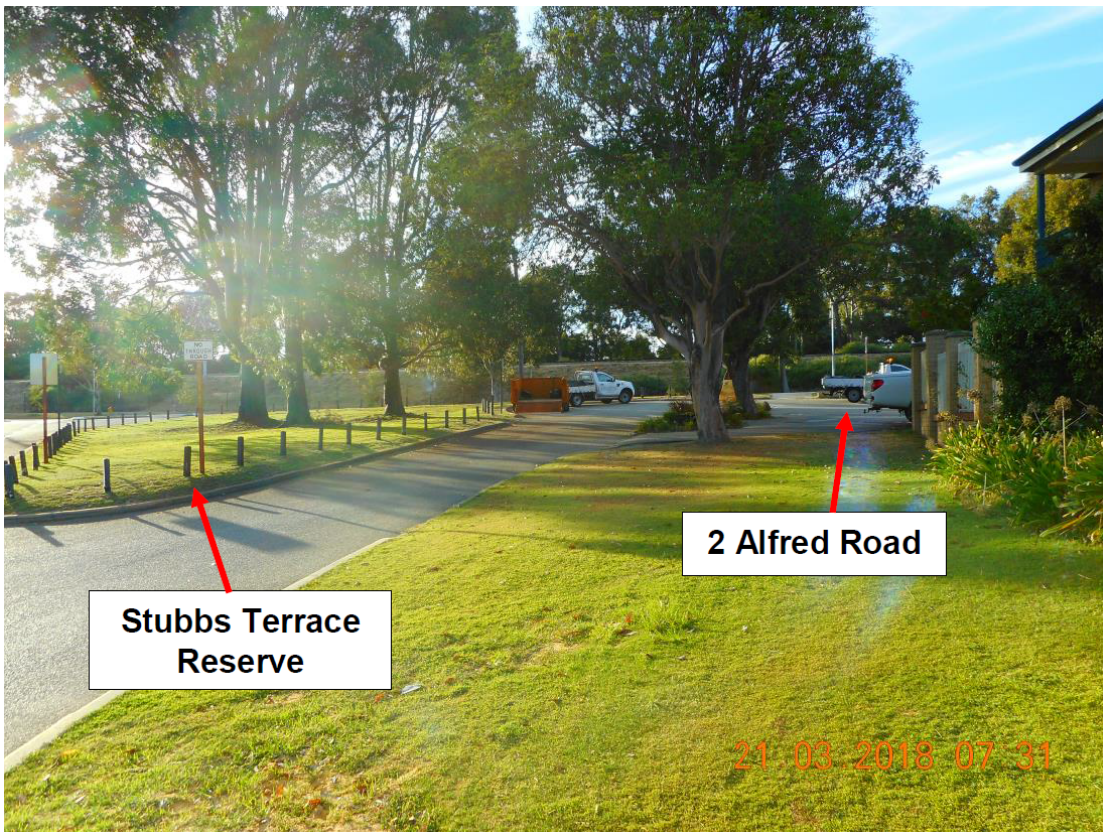


Banksia Drive

Westward along
Alfred Road

25/10/2017

Date Taken: Wednesday 21 March 2018
Time Taken: 7.31am



Eastward along
Alfred Road







Noise Management Plan

TinyBeez Education & Care Centre Claremont is located on the corner of Alfred Road and Stubbs Terrace Claremont.

The nearest noise sensitive 'residential' premises, relevant to the two new patios, are located adjacent to the Western side of the property.

The main noise source at the site associated with the two new patios will be:

a. Children's voices categorised by age groups:

- Kindy 3 - 5 years old, 18 total utilising rear patio; and
- Toddlers 2 - 3 years old, 15 total utilising rear patio; and
- Babes 0.5 - 2 years old, 12 total utilising the side patio.

b. Occasional music with the music being non-impulsive by nature.

Noise emissions from the CCC patio areas are expected to occur Monday to Friday between 0700 to 1745 hours. Children are not permitted outdoors (carpark excluded) prior to 7:00am and after 5:45pm Monday-Friday. The service is closed on Saturdays, Sundays and public holidays so there is no noise to be expected at these times.

The residents immediately to the Western side of the property adjacent to the patios will be provided with the direct mobile phone contact details to the Directors of the Childcare centre rather than having them deal with staff directly in order to voice their concerns if they are having any issues with noise.

If a child is crying outdoors the staff at the childcare centre will immediately take the child inside the building to prevent disturbing nearby residents and close any open doors or windows.

Other noise emissions raised by the resident adjacent to the Babes side patio is staff and children singing for birthday parties and having music playing. Any parties or celebrations and any music being played must be indoors with external windows and doors shut during the period of these celebrations.

The staff at TinyBeez Education & Centre Claremont will do their utmost to adhere to this noise management plan at all times.





PD13.18	(Lot 786) No. 5 Minora Road, Dalkeith – Proposed Cabana
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Committee	10 April 2018
Council	24 April 2018
Applicant	Germano Design P/L
Landowner	B Saleeba
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2018/28
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Photographs of the cabana's proposed location

1.0 Executive Summary

Development approval is being sought to construct a cabana at the rear of the property.

The cabana is proposed to be setback 2.3m in lieu of 6m from the northern (rear) boundary.

One objection and one submission which provided comment on the proposal were received during the advertising period.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes).

The structure is proposed to be unenclosed on all sides except for a 4sqm portion where a sink and a fridge are to be installed, and as such will not contribute significant bulk in the rear setback area. It also responds to the local development context.

Given this, the proposal is unlikely to have a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the development application to construct a cabana at the rear of (Lot 786) No.5 Minora Road, Dalkeith, received on 27 February 2018, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval pertains to the proposed cabana only.**
- 3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**

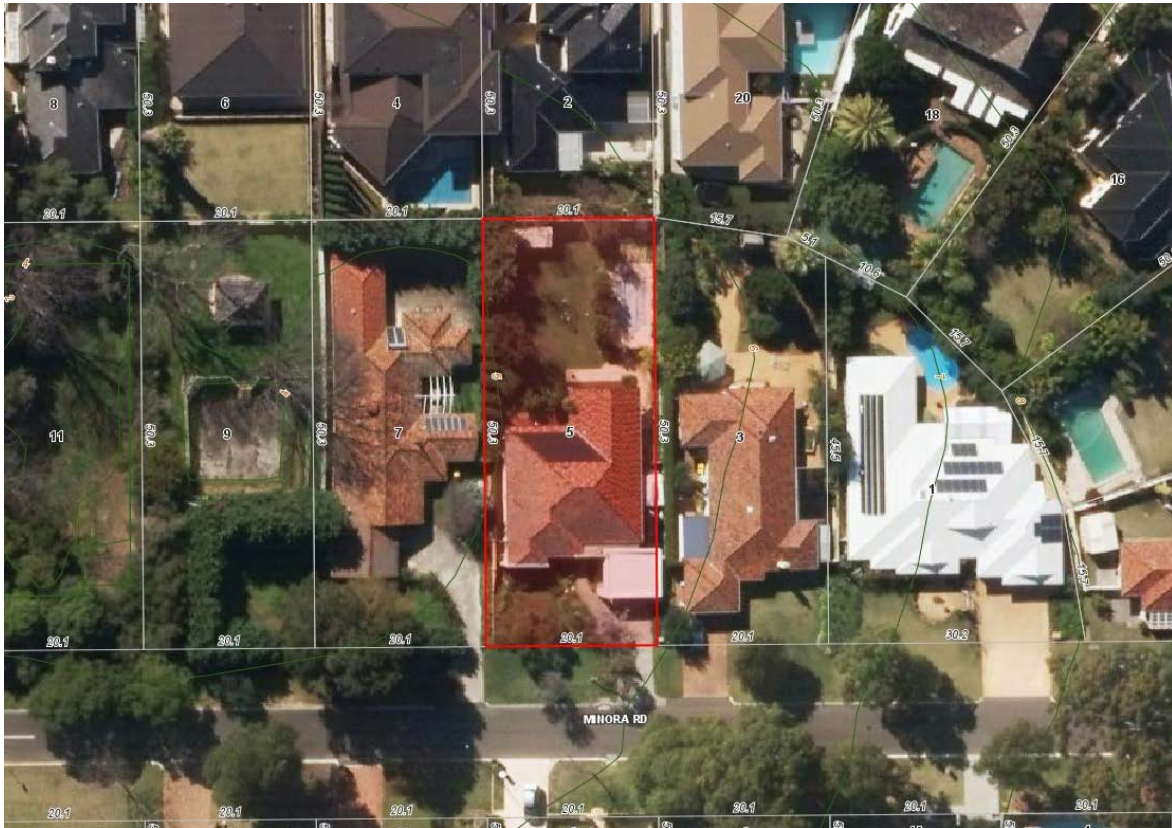
Advice Notes specific to this approval:

1. Stormwater to be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. 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, at least 1.8m from the boundary of the block. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
2. The swimming pool shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.
3. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

3.0 Site Details

Lot area	1,011m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those nearby contain single dwellings and associated outbuildings. The subject property's topography is relatively flat as shown on the locality plan on the following page.



4.0 Background

In November 2017, development approval was granted for additions and alterations to the existing single dwelling at the subject property. These are in the process of being constructed.

5.0 Specific Application Details

The applicant seeks development approval to construct a cabana at the rear of the property.

The cabana is proposed to consist of a 17sqm roofed structure which is to be unenclosed on 3 sides. A sink and a fridge are proposed to be installed on the structure's northern side.

The existing ground levels are not proposed to be raised.

6.0 Consultation

One objection and one submission which provided comment on the proposal were received during the advertising period.

The following is a summary of the concerns received:

- The structure is not being setback a compliant distance from the rear boundary.
- Potential overlooking into adjoining backyards.

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

By way of justification in support of the application the applicant has advised the following:

“We cannot move the cabana forward as it would then be in the pool and serve no real purpose.”

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Town Planning Scheme No. 2

7.2.1 Amenity

Under clause 5.5.1 of TPS 2 Council may refuse to approve any development if:

“in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.”

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

The cabana is proposed to be setback 2.3m in lieu of 6m from the northern (rear) boundary.

Having had regard to the matters stipulated under the Regulations and the submissions received, the following is advised:

- The structure is proposed to be setback 1m from the eastern (side) boundary, 2.3m from the northern (rear) boundary and 13.5m from the western (side) boundary.

The proposal complies with the side lot boundary setback and building height requirements.

Solid dividing fencing of between approximately 1.8m and 2.2m in height above natural ground level exists along the lot boundaries which will partially screen the proposed cabana.

On some of the adjacent properties mature vegetation exists within close proximity to where the cabana is proposed.

Considering the above, the cabana will be partially screened from the adjoining properties.

- The structure is proposed to be 17sqm in area, 3.2m in height above natural ground level, and setback 1m from the nearest side lot boundary.

By way of comparison, the R-Codes permit an outbuilding of up to 60sqm and 4.2m in overall height to be setback as close as 1m from the side and rear boundaries.

- Some of the nearby properties contain development other than outbuildings, setback less than 6m from the rear boundary (e.g. 1 and 7 Minora Road, and 4 Viking Road).
- The finished floor level of the cabana is not proposed to be raised by more than 0.5m above natural ground level and therefore complies with the overlooking requirements.

Considering the above, the appearance and the location of the proposed cabana is unlikely to have a significant adverse impact on the local amenity.

7.3 Residential Design Codes - State Planning Policy 3.1

7.3.1 Lot Boundary Setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R10, the rear lot boundary setback required is 6m as per Table 1	The cabana is proposed to be setback 2.3m in lieu of 6m from the rear (northern) lot boundary	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P3.1 – Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		
<p>Administration Comments</p> <p>The proposed cabana which will encroach into the rear setback area complies with the side lot boundary setback, overlooking, overshadowing and building height requirements.</p> <p>As advised under the previous section of this report, the appearance of the cabana will unlikely have a significant adverse impact on the local amenity due to its scale and location. Any visual impact will also be minimised due to the existence of solid dividing fencing and mature vegetation.</p> <p>Taking into consideration the above, the proposal satisfies the design principles.</p>		

8.0 Budget / Financial Implications

N/A

9.0 Risk Management

N/A

10.0 Conclusion

The reduced rear (northern) boundary setback will unlikely have a significant adverse impact on the amenity of adjoining properties due to the structure being open on 3 sides, being 17sqm in area, and being sufficiently screened by solid dividing fencing and vegetation on adjoining properties.

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

Below - View towards the eastern (side) boundary



Below - View towards the northern (rear) boundary



Below - View towards the western (side) boundary



PD14.18	Scheme Amendment No. 213 – High Amenity Corner Lots
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Committee	10 April 2018
Council	24 April 2018
Applicant	Hemsley Planning
Landowner	Various
Director	Peter Mickleson – Director Planning & Development Services
Reference	Nil
Previous Item	Nil
Attachments	1. Scheme Amendment No. 213

1.0 Executive Summary

The purpose of this report is for Council to consider a proposed scheme amendment to Town Planning Scheme No. 2 (TPS 2). The amendment proposes to insert clause 5.3.12 and Appendix VII into TPS 2, to allow subdivision of corner lots located near parks, transit corridors and shops.

The proposed amendment is not consistent with State Planning Policy, most notably State Planning Policy 4.2 – Activity Centres (SPP 4.2) and Liveable Neighbourhoods. The amendment aims to achieve aspects of State Planning Policy, yet is not consistent with walkable catchment and lot size figures stated within these documents.

The proposed amendment is not consistent with the City of Nedlands Local Planning Strategy (the Strategy). The Strategy aims to consolidate infill within the City's targeted growth areas such as Stirling Highway, Hampden Road and Broadway, not throughout the established residential areas.

At the Ordinary Meeting in May 2015, Council resolved to not adopt further amendments due to the preparation of draft Local Planning Scheme No. 3 (LPS 3).

For the above reasons, the proposed scheme amendment is recommended not to be adopted.

2.0 Recommendation to Committee

Council:

1. **Considers the amendment is a Complex Amendment for the following reason:**
 - a) **The amendment is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission.**
2. **Refuses to adopt Scheme Amendment No. 213 to Town Planning Scheme No. 2 for the following reasons:**

- a) **Council resolved at its May 2015 Ordinary Meeting not to adopt further amendments to Town Planning Scheme No. 2 due to the preparation of Local Planning Scheme No. 3;**
 - b) **The proposed amendment is not consistent with State Planning Policy; and**
 - c) **The proposed amendment is not consistent with the City of Nedlands Local Planning Strategy.**
3. **Does not proceed to advertise Scheme Amendment No. 213 to Town Planning Scheme No. 2.**

3.0 Amendment Details

3.1 Explanation

The proposed amendment seeks to provide infill in established residential areas within the City of Nedlands, on corner lots located near 'high amenity areas' such as parks, transit corridors and shops. Each of the 'high amenity areas' include 'walkable catchments' which indicates the distance from each of these areas within which corner lot subdivision would be permitted.

The proposed scheme provisions aim to allow subdivision of lots in high amenity areas at the R20 site area requirements (average lot size 450m²) where normally they would not be permitted.

The proposal also aims to control certain built form requirements, such as: limiting crossover width, boundary walls and ancillary dwellings and introducing upper level setbacks.

The proposed amendment includes an appendix to be inserted into TPS 2, which distinguishes where the above provisions are to apply.

The subject lots within this scheme amendment are not individually identified, rather they need to meet the criteria of proposed Appendix VII (Attachment 1 – Scheme Amendment Report) relating to amenity. These include:

- Lots located within 200m of a park, larger than 2000m²;
- Lots located within 400m of the Stirling Highway Road Reserve; or
- Lots located within 600m of retail/shopping, larger than 900m².

The proposed amendment identifies 470 individual corner lots within the specified proximity of 'high amenity areas', which would achieve subdivision capability. Resulting in an additional 470 dwellings within the City of Nedlands (These figures have been established by the applicant and have not been assessed as part of this report).

3.2 Proposed amendment text

Proposed provisions to be inserted into TPS 2:

“5.3.12 Notwithstanding the provisions of the Residential Design Codes or any other provision specified elsewhere in the scheme, the following development standards shall apply to High-Amenity corner lots as specified in Appendix VII. Lots are permitted to be subdivided and/or developed at R20 site area requirements subject to the following provisions:

- a) In respect to subsequent development, all Development Applications shall be assessed against the applicable underlying R-Code and its specific provisions with the exception of Clause 5.1.1 of the Residential Design Codes of Western Australia;*
- b) In respect to subsequent development:*
 - crossover width shall not exceed 4.5 m for each dwelling;*
 - no on boundary walls shall be permitted;*
 - upper level walls shall be setback 3 m from side boundaries;*
 - ancillary dwellings shall not be permitted; and*
 - The dwelling having its frontage to the original secondary street, the primary street setback may be reduced to conform to the applicable secondary street setback as defined by the Residential Design Codes of Western Australia.*

APPENDIX VII HIGH AMENITY CORNER LOT SUBDIVISION PROXIMITY PROVISIONS

- 1. Corner lots which meet the following criteria can be subdivided and or developed in accordance with provisions outlined in Clause 5.3.12:*
 - 1.1. The lot is located within 200 m of a parcel or adjoining parcels of land zoned ‘Parks and Recreation’ under the Metropolitan Region Scheme and/or ‘Recreation’ under the City’s Town Planning Scheme No. 2 (TPS 2) which are combined to form a contiguous minimum lot area of 2000 m²;*
 - 1.2. The lot is located within 400 m of the Stirling Highway Road Reservation; or*
 - 1.3 The lot is located within 600 m of a parcel or adjoining parcels of land zoned ‘retail shopping’ under the Scheme which are combined to form a contiguous minimum combined area of 900 m².”*

4.0 Discussion

4.1 State Planning Framework

The proposed amendment is not consistent with the state planning framework, including:

- Perth and Peel @ 3.5 million, Central Sub Regional Planning Framework (Draft 2015);
- State Planning Policy 4.2 - Activity Centres;
- Liveable Neighbourhoods; and
- Draft Development Control Policy 2.2 – Residential Subdivision (May 2017).

4.1.1 Perth and Peel @ 3.5 million

Perth and Peel @ 3.5 million identifies key public transport corridors as providing significant opportunities to accommodate increased medium-rise higher density residential development. Corridors provide connections between activity centres and maximise the use of high-frequency public transport. Corridors shown in Perth and Peel @ 3.5 million represent existing and future corridors served by good quality, high-frequency public transport.

Perth and Peel @ 3.5 million states ‘approximately 215,000 new dwellings will be built in the Central sub-region and the remainder in the outer sub-regions. Future infill growth will make much better use of existing infrastructure and amenities and promote increased density and diversity of mixed-use development. In particular, turning key transport corridors into multi-functional corridors is crucial in the development of a more compact urban form.’

A fundamental consideration will be to minimise the impact on existing suburbs and to retain their character and amenity by:

“Identifying the most appropriate areas where urban consolidation could occur (such as activity centres, public transport corridors, station precincts).”

The proposed amendment seeks to place infill throughout the City, which is in direct conflict with Perth and Peel @ 3.5 million. The amendment does propose infill located within the catchment of the Stirling Highway Road Reserve, which will be realised with gazettal of draft LPS 3.

4.1.2 State Planning Policy 4.2 – Activity Centres

State Planning Policy 4.2 – Activity Centres (SPP 4.2) is mainly concerned with the distribution, function, broad land use and urban design criteria of activity centres. There are seven (7) types of activity centres:

- Perth Capital City;
- Strategic metropolitan centres;
- Secondary centres;
- Specialised centres;
- District centres; and
- Neighbourhood centres (supplemented by local centres).

Neighbourhood Centres are considered larger than 1500m² (as per SPP 4.2 Table 2 Activity Centres Hierarchy) and have a walkable Catchment for residential density targets of 200m.

Within the City of Nedlands, the following are recognised Neighbourhood Centres:

- Captain Stirling site
- Broadway
- Dalkeith strip
- Hampden Road
- Broadway Fair (within City of Perth Local Government area)

Local Centres are defined as ‘any centre with a shop-retail floorspace under 1500m² NLA’. SPP 4.2 is silent on Local Centres and does not specify a walkable Catchment for residential density.

Within the City of Nedlands, the following are recognised Local Centres:

- Loch Street
- Steve’s Hotel
- Princess Road
- Asquith Street
- Floreat
- North Street
- Croyden Street
- Waratah Avenue West
- Webster Street
- Bruce Street
- Browns Garage

Although the proposed amendment applies SPP 4.2 principles, in terms of density around centres, it deviates from the recommended figures relating to walkable catchments and their application to the type of centre. The amendment proposes density within 600m of the Retail Shopping zoned lots with a minimum size of 900m². This does not relate to SPP 4.2 which specifies a 200m catchment around neighbourhood centres with an area greater than 1500m². There is no justification provided for the deviation from this policy.

4.1.3 Liveable Neighbourhoods

Liveable Neighbourhoods addresses both strategic and operational aspects of structure planning and subdivision development. The purpose of the policy is to better structure new urban development on greenfield and large urban infill sites.

Administration are using Liveable Neighbourhoods as an assessment tool for the proposed scheme amendment due to the lack of policy which relates to walkable catchments for transit corridors.

Liveable Neighbourhoods recommends a 250m walkable catchment around Transit Corridors, with the amendment proposing a 400m walkable catchment.

4.1.4 Public Open Space (POS)

There is currently no State policy which exists for density in relation to POS. Whilst intuitively it appears a good idea, and may well have merit, there is little to guide how this could be done. Given the lack of any compelling supporting justification on this element, it is considered premature to support the component of the amendment which proposes density within 200m of POS with a minimum size of 2000m².

4.2 Local Planning Framework

4.2.1 Local Planning Strategy

The Strategy was adopted by Council in August 2016 and subsequently endorsed by the Western Australian Planning Commission in September 2017.

The Strategy sets out the long term strategic direction for land use and development within the City of Nedlands and gives clarity on how the City seeks to respond to the requirements of the State, including achieving specified housing targets.

The Strategy identifies targeted infill areas predominantly along Stirling Highway, Hampden Road and Broadway. The intention of the strategy is to pursue diverse high intensity development within these specified 'Urban Growth Areas' and develop appropriate 'Transition Zones' into existing low density residential areas. The focus of density in defined high amenity, accessible, well serviced areas allows for the retention of existing residential character and lot configurations in the City's established residential areas.

The proposed amendment is not consistent with the Strategy and proposes for low density infill to be provided on corner lots throughout the City's existing residential areas.

The primary objective of Part 5.1 (Population and Housing) of the Strategy is:

“To facilitate potential realisation of the specified housing targets through a strategic approach that aims to conserve and enhance the quality of the City of Nedlands' existing attractive residential neighbourhoods. Strongly encourage development of a considerable number of additional dwelling units of a diverse nature within the targeted infill areas.”

The amendment proposes to place infill throughout the City's existing residential neighbourhoods, being outside of the targeted infill areas identified by the Strategy. The amendment provides largely for two lot subdivisions of an average lot size of 450m² in accordance with the site area requirements of the R20 density. The amendment does not provide for a diversity of dwelling types or conserve the existing residential streetscapes.

The Local Planning Strategy's Intention for Urban Design, Character and Heritage states:

*“Retain and enhance the character and streetscape of the City's existing residential areas whilst promoting best practice urban design principles in targeted infill areas” and to
“Ensure the Local Planning Scheme and other development controls are in place to retain and enhance the existing character of each identified precincts.”*

Whilst the development provisions of the lower density code are proposed to be applied under the proposed amendment, the character of the established residential area will be impacted, and established streetscapes would be altered.

4.2.2 Town Planning Scheme No. 2

The proposed amendment may cause unintentional Scheme text/map issues relating to:

- The 9m front setback clause;
- Which lots the high amenity provisions are applicable; and
- Application of Controlled Development Area (CDA) setback provisions.

It is unsure whether the proposed amendment provisions would supersede the existing 9m front setback requirement under TPS 2. Reverting to the applicable average front setback under the R-codes would change the streetscape, however, applying the 9m front setback could inhibit development and likely result in a poor built form outcome.

It is unsure whether lots need to be completely included within the specified catchment areas for the high amenity provisions to apply.

It is also unsure whether the amendment provisions would supersede the 7.5m CDA setback provisions. If the CDA setbacks apply, it could be difficult for these lots to be developed with grouped dwellings and/or subdivided.

Proposed provisions relating to the above would need further refinement if Council adopt the proposed amendment.

4.2.3 Draft Local Planning Scheme No. 3

The proposed amendment is not consistent with the City of Nedlands draft LPS 3. LPS 3 proposes infill within the City's targeted growth areas such as Stirling Highway, Hampden Road and Broadway as identified in the City's Local Planning Strategy.

The amendment proposes the following provisions:

- 1.2 *The lot is located within 400 m of the Stirling Highway Road Reserve;*
or
1.3 *The lot is located within 600 m of a parcel or adjoining parcels of land zoned 'retail shopping' under the Scheme which are combined to form a contiguous minimum combined area of 900 m²."*

LPS 3 has addressed the intent of these clauses, but proposes infill in locations which better reflect State Planning Policies and the City's Strategy as explained throughout the discussion.

5.0 Legislation / Policy

- *Planning and Development Act 2005 (P&D Act)*
- *Metropolitan Region Town Planning Scheme Act 1986*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *City of Nedlands Town Planning Scheme No. 2 (TPS No. 2)*

6.0 Consultation

What consultation process was undertaken?

Before the scheme amendment is adopted, there is no requirement for public consultation.

Required by legislation: Yes No
Required by City of Nedlands policy: Yes No

If Council resolves to adopt and proceed to advertise this amendment there is a statutory process to follow that requires environmental review, referrals to agencies likely to be affected by the proposed scheme amendment and advertisement of the proposed scheme amendment for public inspection as per Part 5, Divisions 3 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations).

7.0 Budget / Financial Implications

Within current approved budget: Yes No
Requires further budget consideration: Yes No

Should Council adopt the amendment, public advertising is required. The financial implications for the City are considered minimal and can appropriately be accommodated within the budget.

The landowner has paid the initial estimate of fees for the proposed amendment.

8.0 Risk management

If Council resolves to not adopt this proposed scheme amendment, the Minister for Planning may instruct that the amendment be prepared. Section 76 of the *P&D Act* states that where the Minister is satisfied on any representation that the local government has failed to prepare or adopt a proposal which “ought to be adopted”, the Minister may order the local government to do so.

9.0 Conclusion

Administration does not support the proposed scheme amendment to allow corner lot subdivision for lots located near parks, transit corridors and shops on the basis that it is not consistent with State Planning Policy and the City’s Local Planning Strategy. Council also resolved at its May 2015 Ordinary Meeting not to adopt further amendments to Town Planning Scheme No. 2 due to the preparation of Local Planning Scheme No. 3.

The proposed amendment seeks to place infill throughout the City, which is in conflict with Perth and Peel @ 3.5 million which identifies infill growth to be focused around key public transport corridors.

The proposed amendment does apply State Planning Policy - 4.2 Activity Centres (SPP 4.2) and Liveable Neighbourhood principles yet it deviates from the recommended figures relating to walkable catchments. In regards to parks, there is currently no State policy which exists for density in relation to public open space.

The proposed amendment will change the existing character of the established residential area. It also conflicts with the City’s Local Planning Strategy where targeted infill areas have been established and consulted with the community.

The amendment does propose infill located within the catchment of the Stirling Highway Road Reserve, which will already be realised with gazettal of Local Planning Scheme 3.

Received
9 February
2018



City of Nedlands Town Planning Scheme No. 2 Amendment No. 213

Corner Lots



February 9, 2018

Prepared for David Venn and Kimberley Venn

Introduction

Project Details

Corner Lots
Prepared for David Venn and Kimberley Venn
Project #: J000189
Date Issued: 9/02/2018 12:09 PM
Revision: 5
Prepared by: AH
File name: AMD 213 CITY OF NEDLANDS.DOCX

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Planning and Development Act 2005

RESOLUTION TO PREPARE AMENDMENT TO LOCAL PLANNING SCHEME

CITY OF NEDLANDS

TOWN PLANNING SCHEME NO. 2

AMENDMENT NO. 213

RESOLVED that the local government pursuant to section 75 of the Planning and Development Act 2005, amend the above Local Planning Scheme by inserting the following provisions:

5.3.12 Notwithstanding the provisions of the Residential Design Codes or any other provision specified elsewhere in the scheme, the following development standards shall apply to High-Amenity corner lots as specified in Appendix VII. Lots are permitted to be subdivided and/or developed at R20 site area requirements subject to the following provisions:

- c) In respect to subsequent development, all Development Applications shall be assessed against the applicable underlying R-Code and its specific provisions with the exception of Clause 5.1.1 of the Residential Design Codes of Western Australia;
- b) In respect to subsequent development:
 - crossover width shall not exceed 4.5 m for each dwelling;
 - no on boundary walls shall be permitted;
 - upper level walls shall be setback 3 m from side boundaries;
 - ancillary dwellings shall not be permitted; and
 - The dwelling having its frontage to the original secondary street, the primary street setback may be reduced to conform to the applicable secondary street setback as defined by the Residential Design Codes of Western Australia.

APPENDIX VII HIGH-AMENITY CORNER LOT SUBDIVISION PROXIMITY PROVISIONS

1. Corner lots which meet the following criteria can be subdivided and or developed in accordance with provisions outlined in Clause 5.3.12:
 - 1.1 The lot is located within 200 m of a parcel or adjoining parcels of land zoned 'Parks and Recreation' under the Metropolitan Region Scheme and/or 'Recreation' under the City's Town Planning Scheme No. 2 (TPS2) which are combined to form a contiguous minimum lot area of 2000 m²;
 - 1.2 The lot is located within 400 m of the Stirling Highway Road Reserve; or
 - 1.3 The lot is located within 600 m of a parcel or adjoining parcels of land zoned 'retail shopping' under the Scheme which are combined to form a contiguous minimum combined area of 900 m².

The Amendment is basic/standard/complex under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:

- The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
- The amendment is consistent with the intent of the scheme.

Dated this _____ day of _____ 20 ____

(Chief Executive Officer)

Introduction

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1

Introduction

Introduction

Hemsley Planning acts on instruction from David Venn and Kimberley Venn, long-term residents of the City of Nedlands. Kimberly Venn (Kim) maintains a statutory life interest in the family home he previously shared with his late wife, whilst the property is controlled by surviving family members including David.

Hemsley Planning have prepared the following report in support of a request for the City of Nedlands to initiate a Scheme Amendment to Local Planning Scheme No. 2 (LPS2).

The Scheme Amendment gives rise to the 'Missing Middle Housing' movement, improving the efficiency of corner lots in proximity to defined high-amenity areas, currently zoned less than R20. The higher, R20 coding applied is proposed to be subject to adherence to accompanying built-form requirements, limiting dwelling mass, size, and impact on adjoining lots to ensure protection of the City's existing urban character.

This report addresses and discusses matters relevant to the proposal, including:

- Location analysis and parameters;
- Built-form provisions and outcomes;
- Yield prediction; and
- Relevant planning framework context.

Basis for Amendment

The objective of this Scheme Amendment is to equitably distribute housing-diversity in higher amenity areas in the City of Nedlands, with the express intent to avoid the erosion of the highly-valued existing character of the suburban residential environment. The Amendment affords Nedlands residents an ability to 'age in place.'

The Local Planning Strategy based its assumptions on 2011 statistics. Since the 2011 Census data was released, the population of Nedlands has dropped by 587 persons, to 21,121, whilst the average age has remained at 41 over the course of 5 years. Combined, the data suggests an inability for the Local Authority area to accommodate those seeking to age in place.

Aging in place involves helping older residents remain in their community, whilst also addressing the long-term economic, social, and environmental health of both current and future generations at every age. In addition to aging in place, the Amendment provides improved housing choices which may be more practical for many existing landowners to pursue compared to relocating.

Corner lots are targeted as subdivision will have frontage to two streets and can resolve a number of existing streetscape design issues by addressing the secondary street without compromising the existing character. The concept of improved corner lot density has been successfully implemented into the Schemes of the City of Belmont, City of Gosnells, Town of Bassendean, and most recently, the Town of Cambridge in November 2016.

The Amendment can alleviate the burden of LPS3 to rezone for apartment developments along Stirling Highway, required to achieve infill targets set by the WAPC.

2

Location Analysis

Existing Character

The City of Nedlands affords its residents an excellent standard of living, in part, through its enduring ability to retain and enhance its local character and streetscapes in residential areas. These areas are characterised by:

- 20 m primary street frontages;
- 20 m wide road reserves;
- 900 m² - 1,000 m² (¼ acre) allotments;
- 9 m primary street setbacks;
- No on boundary walls;
- 1.5 m secondary street setbacks; and
- Generously proportioned family homes.

Any new controls or modifications to the Planning Scheme must be implemented to ensure new development does not conflict with, or undermine neighbourhood character and context.

Current Deficiencies

The existing character of the City of Nedlands has potential to be eroded through a lack of the Council's ability to exert subjective built-form control brought about by the Deemed Provisions of the State's Planning Regulations in 2015. Currently, planning approvals for single

dwelling are able to be circumvented where they are compliant with the built-form provisions of the R-Codes. This is resulting in poor design-outcomes on corner lots where there is limited control over the size of a dwelling.

A further deficiency is seen in the secondary street frontages of 50 m+ deep allotments. These frontages offer little, to no natural surveillance of the public realm, and are generally screened by 1.8 m high boundary fences. Figures 1 and 2 illustrate a typical secondary street urban outcome in the City of Nedlands. Such outcomes are still facilitated by current deemed to comply provisions of the R-Codes,



Figure 1 Typical secondary street character

As the WAPC approves subdivision, only seeking comment from an affected local authority, we believe the preparation of a defensive planning framework in the form of a Scheme Amendment would assist in the City asserting control over corner lot subdivision.

New planning controls can ensure new development does not conflict with, or undermine, neighbourhood character and heritage conservation values.



Figure 2 Diagram of the typical existing urban character in the City of Nedlands

Proximity to Amenity

The City of Nedlands has a high level of amenity generated by existing infrastructure and services providing most benefit to those who are fortunate enough to live in the walkable proximity. By increasing population around existing community assets and infrastructure, the City will increase the efficiency resultant from their increased use and patronage. Increasing the population within walkable catchments of public transport and activity centres is aligned with the intent State Planning Policy 4.2 – Activity Centres, and increases natural surveillance over public open space, with Liveable Neighbourhoods.

Specific provisions are listed and dictate the ability of an individual corner allotment to qualify for a higher R-Code as assessed against further built-form provisions also proposed in this Scheme Amendment request.

Amenity	Proximity	Specific Provisions	Rationale
<p><u>Functional Public Open Space (POS)</u></p> 	<p>200 m 2.5 minute walk</p>	<p><i>Within 200 m of a parcel or adjoining parcels of land zoned 'Recreation' and/or 'Parks and Recreation,' which are combined to form a contiguous minimum lot area of 2000 m².</i></p>	<ul style="list-style-type: none"> Improves nature surveillance; Increases use of existing assets; Open space offsets smaller allotments; 200 m is a highly convenient walking distance and facilities more than 1 visit per day; POS less than 2000 m² offers less function; and Encourages healthier lifestyles.
<p><u>Public Transport</u></p> 	<p>400 m 5 minute walk</p>	<p><i>Within 400 m of Stirling Highway road reservation edge.</i></p>	<ul style="list-style-type: none"> Increases use and patronage of existing infrastructure; Encourages a decrease reliance on local roads and private vehicles; 400 m is considered walkable within 5 minutes and facilitates a comfortable daily walk; and Improves population within walkable catchment.
<p><u>Retail Shopping</u></p> 	<p>600 m 7.5 minute walk</p>	<p><i>Within 600 m of a parcel or adjoining parcels of land zoned 'Retail Shopping' combined to form a contiguous minimum lot area of 1000 m².</i></p>	<ul style="list-style-type: none"> Decreases reliance on private vehicles and parking in retail areas; 600 m facilitates bi-weekly pedestrian trips; Improves sense of community and place; and Retail Shopping on land less than 1000 m² is unlikely to provide sufficient convenience.

High-Amenity Areas

The previously listed amenity factors and corresponding proximity perimeters are illustrated by the figure below. The proposal will allow a more even distribution of dwelling diversity throughout the City compared that which is proposed in LPS3.

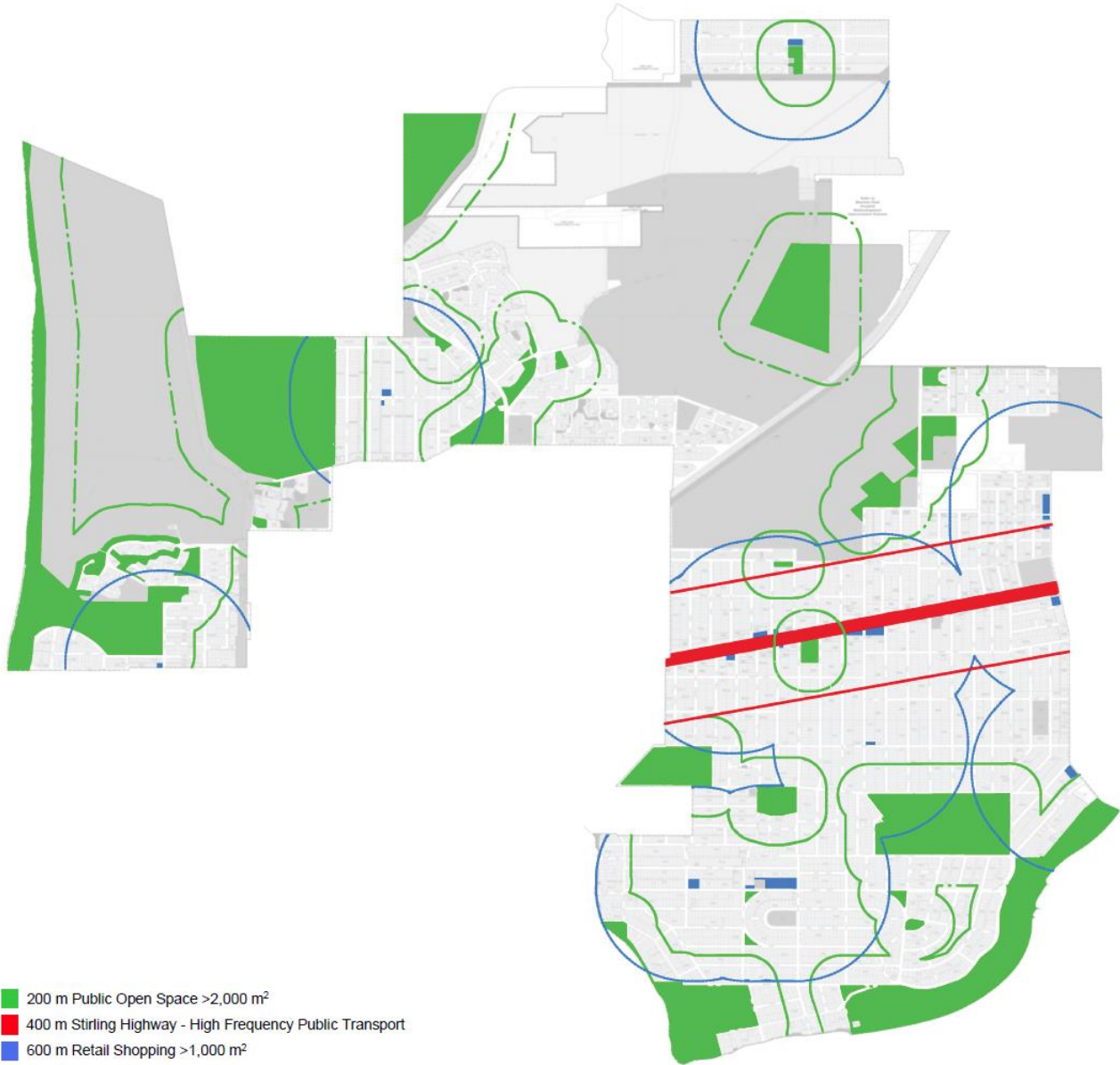


Figure 3 Qualifying amenity features and corresponding outlines of specified proximity (Source: Modified composite of publicly available City of Nedlands LPS2 Maps)

Location Analysis

Projected Yield

Using the City of Nedlands LPS2 maps, 678 individual corner allotments are identified as being within specified proximities to defined amenity features, and having a maximum applicable R-Code less than R20. Based on individual lot area alone, it is calculated that approximately 470 lots would achieve subdivision capability as those lots are presently 900 m² or greater. These lots would subsequently be capable of delivering a net increase of 470 dwellings.

Of added benefit is delivery of 940 dwellings on comparatively smaller lots, contributing improved housing diversity.

The predicted figure is calculated on a lot having a size equal to, or greater than 900 m², and not already having an Additional Use permitting a duplex development or an existing non-conforming use of two dwellings.

Additional dwellings could be created for allotments which are smaller than 900 m² if agreements can be made with an adjoining land owner to amalgamate and subdivide. We believe this is likely to result in a limited opportunity due to difficulties in coordinating between land owners.

3

Built-Form

Built-Form

Existing & Permitted Built-Form

Existing planning controls in the City of Nedlands facilitate development of corner lots which are not reflective of the existing neighbourhood character, which is responsible for making the City a unique and a sought-after place to live. Single dwelling developments are currently being approved without subjective planning scrutiny as they are relying upon deemed-to-comply provisions. We contend that such approved single dwelling developments do not always meet the intent of the LPS2, being;

"It is proposed to maintain the existing character and density of residential land with only such non-residential uses as are necessary to service the needs of the district's residential population, except for those uses which may be located along major transport routes within the Scheme area."

Intent of Scheme - City of Nedlands LPS2 CI 1.3

Whilst the provisions included in the Scheme Amendment request will not fully prevent future development similar to the dwelling (pictured below) occurring, market forces will likely encourage development which reflects the existing neighbourhood character and rhythm of the streetscape.



Figure 4 A recently approved dwelling corner Waratah and Alexander Road, Dalkeith

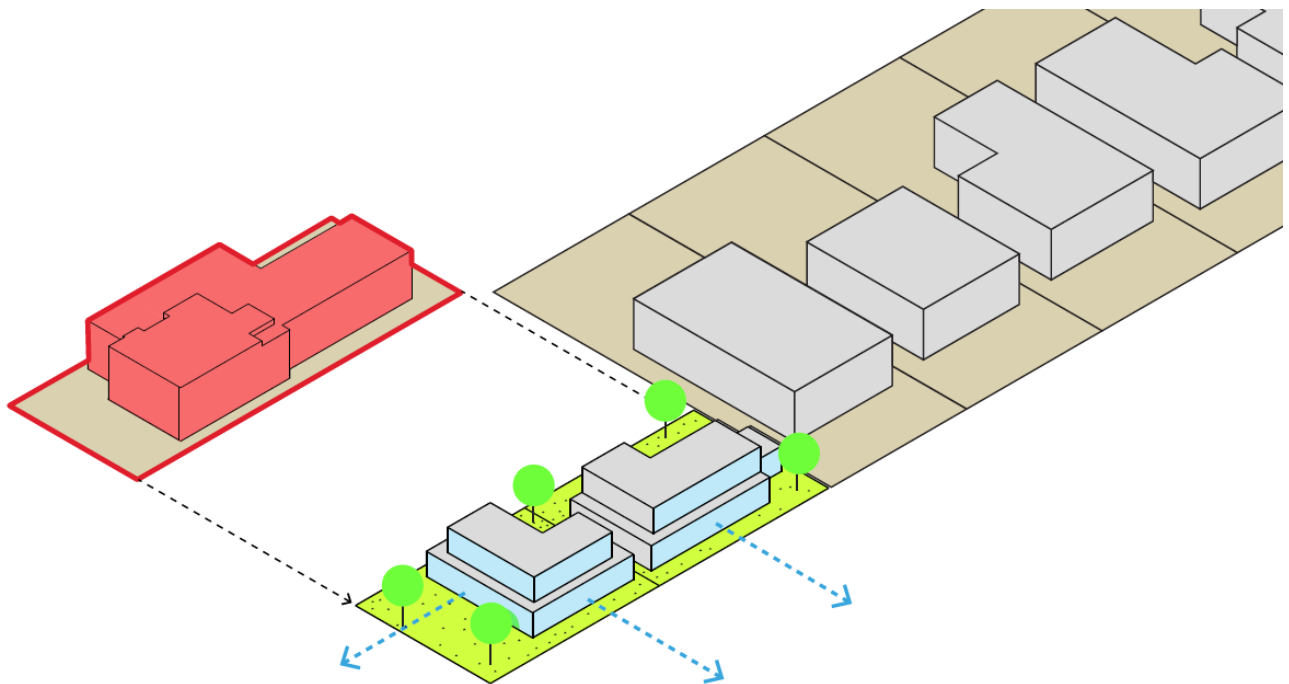


Figure 5 Preferred development outcome facilitated by the Scheme Amendment in the same location.

Built-Form

Creating Missing Middle Housing

Missing Middle Housing provides location responsive housing which is compatible with existing surrounding housing, but provides better density. Improved density does not all ways have to correlate to more built up area, however, the City of Nedlands lacks locally prepared built-form controls to ensure this. The successful provision of Missing Middle Housing should demonstrate it will respond to its immediate built context. It can be characterised by dwellings with the following characteristics:

- Smaller building footprints;
- Walkability and high-amenity locations;
- More affordable accommodation that residents 'want' to live in;
- Comparable or lower 'perceived density;' and
- Simple, small, and well (preferably architect) designed.

Typically, 'improvements' on Perth's low-density suburban areas has been delivered through 'blanket' rezoning without the concurrent introduction of area specific built-form planning controls. Such practises quickly dismantled existing neighbourhood character and did not offer housing diversity by protecting the integrity of large lots which are equally important as smaller lots in ensuring housing diversity. Regardless of whether it be apartment development, or a two-lot subdivision, the introduction of improved density needs to be accompanied by built-form controls to ensure the protection of existing urban character.

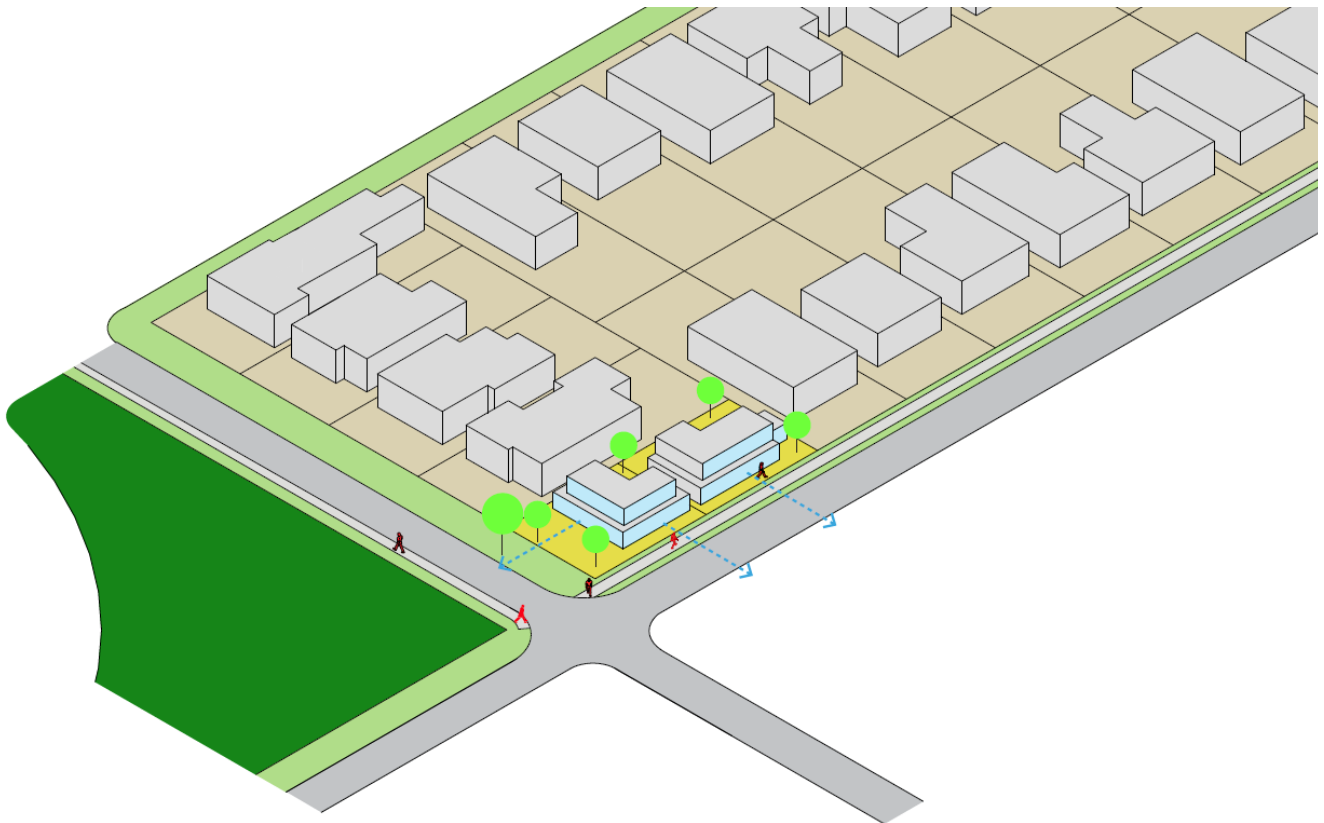
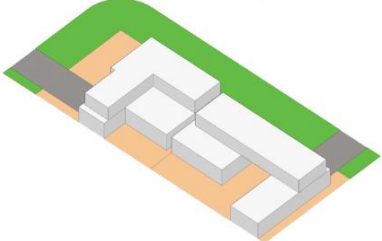
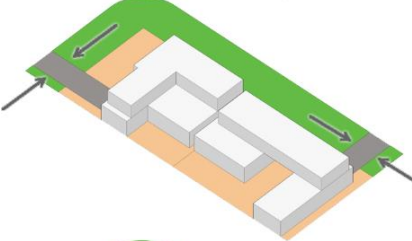
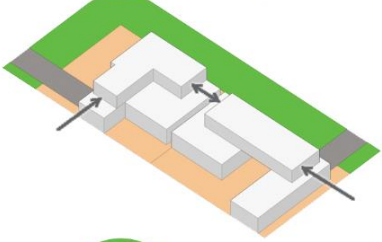
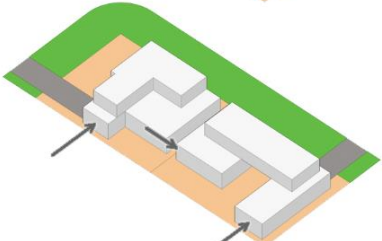
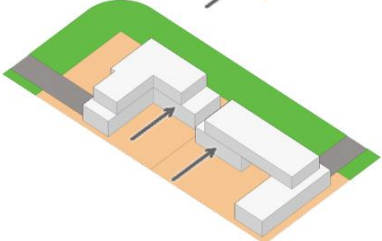
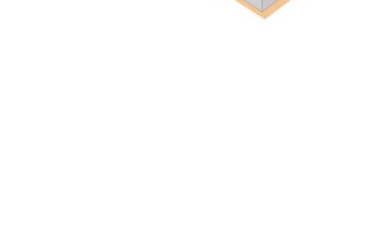


Figure 6 Built form outcome deliverable through Scheme Amendment 213.

Proposed Built-Form Requirements

The following table outlines specific built-form provisions to ensure dwelling diversity maintains existing neighbourhood character.

Restrictions	Built-Form Response	Rationale
<p>1. Subsequent development shall be assessed against the applicable underlying R-Code and its specific provisions;</p>		<ul style="list-style-type: none"> Ensures existing neighbourhood character is maintained;
<p>2. Crossover widths shall not exceed 4.5m for each subsequently constructed dwelling;</p>		<ul style="list-style-type: none"> Improves ground water recharge; Reduces urban heat island effect; Increases landscaping;
<p>3. Upper level walls setback 3m from side boundaries;</p>		<ul style="list-style-type: none"> Better reflects built form expectations included in adopted draft LPS3, seeking to main neighbourhood character;
<p>4. No on boundary walls shall be permitted in subsequent development;</p>		<ul style="list-style-type: none"> Ensures neighbourhood character is maintained and remove discretion to vary the requirements of the R-Codes;
<p>5. Subsequent development must achieve deemed-to-comply Open Space requirements for the base/underlying R-Code; and</p>		<ul style="list-style-type: none"> Ensures a built form outcome consistent with the existing character; Maintains urban tree canopy cover; and
<p>6. No ancillary dwellings (granny flats) shall be permitted in subsequent development.</p>		<ul style="list-style-type: none"> LPS2 requires a minimum 730 m² for ancillary dwellings, the R-Codes requires 450 m². Provision protects against further changes to deemed provisions resulting in 900 m² lots, hosting four dwellings.

Case Study - Barcoo Avenue Precinct

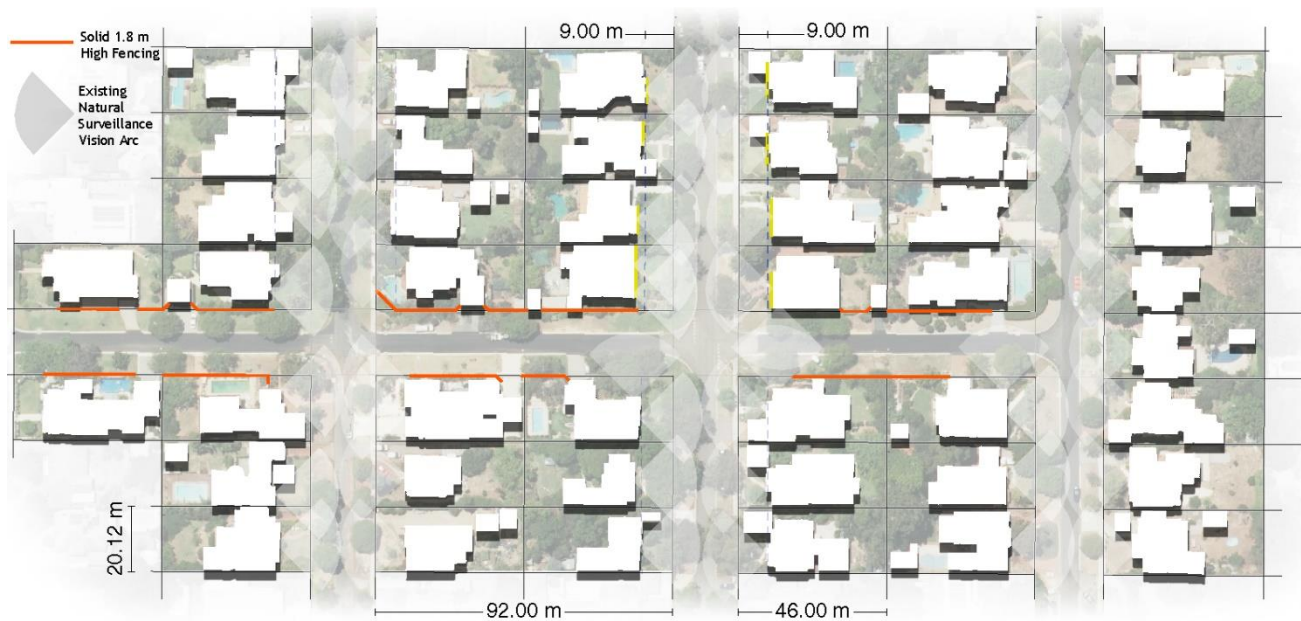


Figure 7 Typical Nedlands LGA existing urban environment

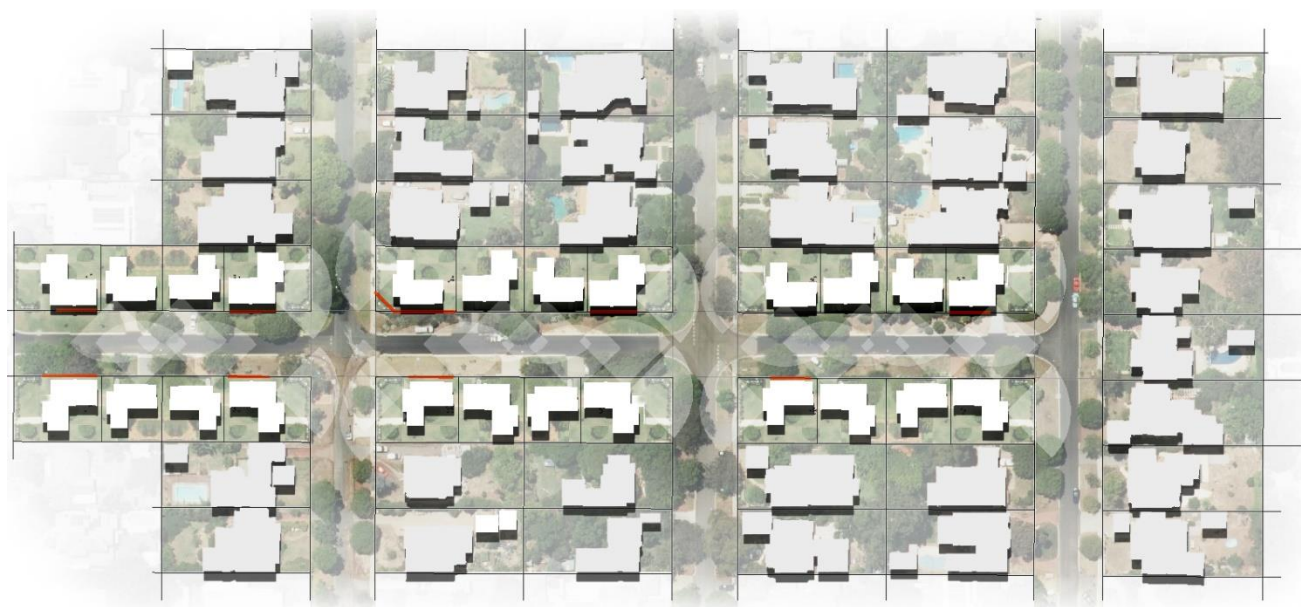


Figure 8 Modelled urban environment based on the provisions proposed Scheme Amendment

Benefits

- Significantly improved natural surveillance and public safety of secondary street pedestrians;
- Rhythm of existing streetscape development maintained and extended with streetscape activation of secondary streets;
- Increased efficiency of existing road infrastructure.

Case Study - South Mason's Gardens Precinct



Figure 9 Modelled urban environment based on proposed Scheme Amendment.

Benefits

- Dramatically improved natural surveillance of public realm, therefore increased public safety of public open spaces and secondary street patrons;
- Improved use of existing road infrastructure;
- Rhythm of streetscape development maintained with streetscape activation of secondary streets; and
- Improved patronage of existing assets and public open space.

4

Scheme Provisions

Proposed LPS2 Modifications

It is proposed that the City of Nedlands Local Planning Scheme No. 2 is amended to include the following provisions:

5.3.12 Notwithstanding the provisions of the Residential Design Codes or any other provision specified elsewhere in the scheme, the following development standards shall apply to High-Amenity corner lots as specified in Appendix VII. Lots are permitted to be subdivided and/or developed at R20 site area requirements subject to the following provisions:

- a) In respect to subsequent development, all Development Applications shall be assessed against the applicable underlying R-Code and its specific provisions with the exception of Clause 5.1.1 of the Residential Design Codes of Western Australia;
- b) In respect to subsequent development:
 - crossover widths shall not exceed 4.5 m for each Dwelling;
 - no on boundary walls shall be permitted;
 - upper level walls shall be setback 3 m from side boundaries;
 - Ancillary Dwellings shall not be permitted; and
 - The Dwelling having its frontage to the original secondary street, the primary street setback may be reduced to conform to the applicable secondary street setback as defined by the Residential Design Codes of Western Australia.

AMD 212 GG XX/XX/XX

APPENDIX VII HIGH AMENITY CORNER LOT SUBDIVISION PROXIMITY PROVISIONS

AMD 212 GG XX/XX/XX

1. Corner lots which meet the following criteria can be subdivided and or developed in accordance with provisions outlined in Clause 5.3.12:
 - 1.1 The lot is located within 200 m of a parcel or adjoining parcels of land zoned 'Parks and Recreation' under the Metropolitan Region Scheme and/or 'Recreation' under the City's Town Planning Scheme No. 2 (TPS2) which are combined to form a contiguous minimum lot area of 2000 m²;
 - 1.2 The lot is located within 400 m of the Stirling Highway Road reserve; or
 - 1.3 The lot is located within 600 m of a parcel or adjoining parcels of land zoned 'retail shopping' under the Scheme which are combined to form a contiguous minimum combined area of 900 m².

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Statement of Support

Strategic Planning Framework

State Planning Framework (Draft 2016)

The State Planning Framework outlines the primary policies and strategies used to clarify and inform the public and those administering planning instruments of the framework of policies and strategies that are used to make planning decisions.

Local authorities must have 'due regard' to the provisions that form part of this framework in preparing planning schemes and scheme amendments, and making decisions on planning matters.

The Commission will assess local government local planning scheme amendments against the State Planning Framework to ensure the local planning framework is consistent with state and regional policies.

State Planning Strategy 2050 (2014)

The State Planning Strategy forms a blueprint for Western Australia's future and growth. The Strategy delivers an 'urban footprint' established to contain and service population growth and distribution. The key aspirations of the strategy, with regard to population growth and distribution includes the optimisation of infill and higher density where appropriate.

State Planning Policy 3 Urban Growth & Settlement (2006)

This policy aims to facilitate sustainable patterns of urban growth and settlement by establishing requirements for sustainable settlements and communities and the broad policy in accommodating growth and change.

The key relevant objective to this proposal is to:

"Promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demand whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community."

Directions 2031 & Beyond (2010)

Directions 2031 and Beyond (Directions 2031) operates as the State's highest level spatial framework and strategic plan, providing guidance in relation to the desired future of the Perth Metropolitan and Peel Region.

Directions 2031 discourages a 'blanket' up-coding of large areas of inner suburbs as it does not enhance the character of neighbourhoods. It prefers the implementation of 'the connected city scenario' which seeks a 50 per cent improvement on current density trends and has set a target of 47 per cent or 154,000 of the required 328,000 dwellings as infill development, with 121,000 of these to be located in the central sub-region.

Perth & Peel @ 3.5 Million (Draft 2015)

The draft Regional Planning Strategy identifies that there is enough undeveloped land within the existing spatial plan to accommodate a projected population of 3.5m, if infill and density targets are met. When adopted, more consolidated development patterns should provide the capacity for a more equitable, sustainable and liveable future.

The proposed amendment will create accommodation corresponding to the principals and objectives of the document. The strategy outlines the importance of development in close proximity to existing public transport infrastructure, amenity and retail areas.

Statement of Support

Central Metropolitan Perth Sub-Regional Strategy (2010)

The Central Metropolitan Perth Sub-Regional Strategy (Sub-Regional Strategy) is a product of Directions 2031 and provides a framework for delivering the objectives of Directions 2031.

The strategy sets housing targets for individual local governments and 'Future Growth Areas.' Of the 121,000 additional dwelling target for the metro central area, the City of Nedlands' housing target is a moderate 3,500 with 2,590 additional dwellings to be provided by 2031 with an additional 910 dwellings to be provided after 2031. The density targets are to encourage a mix of housing types while recognising the character of detached housing stock in established suburbs.

Central Sub-Regional Planning Framework (Draft 2015)

The central sub-regional planning strategy applies to the City of Nedlands, it was produced by the WAPC in order to provide additional guidance and *'address issues that extend beyond local government boundaries and that require a regional response, as well as commonly shared issues'*.

The framework encourages 'more small and diverse housing types' and cites the 'location as the most important factor in housing decisions' for most, with many prepared to trade off house size or type in order to live in their preferred area.

The high-amenity locations identified in the proposal will provide a unique housing choice underpinned by housing diversity in a highly centralised location.

City of Nedlands Local Planning Strategy (2016)

The following guiding principles were applied in the preparation of the Local Planning Strategy:

- Protect and enhance local character;
- Achieve quality residential built form outcomes for the growing population;
- Encourage local economic development and employment opportunities; and
- Facilitate efficient supply and use of essential infrastructure.

The proposed Scheme Amendment is consistent with the strategic objectives of the Local Planning Strategy.

In the Strategy, the City considers the *'WAPC dwelling targets to be aspirational projections, rather than soundly based demand-driven estimates.'* However, it places the onus upon developers to achieve targets which will be *'largely be dependent on the propensity of property developers to invest.'* The proposed Scheme Amendment diversifies the investment base required to achieve greater housing diversity.

Statement of Support

City of Nedlands Local Housing Strategy (2001)

The Local Housing Strategy recognised the need to provide an improved mix of housing types to adapt to the changing demographics of the area, whilst ensuring any outcomes did not compromise the existing residential character of the area.

The proposal seeks to deliver a solution to this previously identified problem.

City of Nedlands Transport Strategy (2006)

The City of Nedlands has a well-established, but and an underutilised public transport service. The City of Nedlands straddles Stirling Highway which facilitates a high frequency bus service. Despite its lower densities which typically affect the provision of widely available and frequent public transport services, the City of Nedlands is comparatively well serviced by both buses as a result of its proximity to Perth, UWA and QEII Hospital.

The Scheme Amendment seeks to capitalise upon existing services and increase patronage of existing public transport services.

Statutory Planning Framework

City of Nedlands Local Planning Scheme No. 2 (1985)

The proposal is seeking to amend specific provisions of the City of Nedlands Town Planning Scheme No. 2 (TPS2).

The intent of the Scheme is as follows:

"It is proposed to maintain the existing character and density of residential land with only such non-residential uses as are necessary to service the needs of the district's residential population, except for those uses which may be located along major transport routes within the Scheme area."

The proposal maintains density in line with the intent of the Scheme. Whilst an average area for R12.5 is 800 m², a 5% variation clause of the R-Codes, currently applied liberally by the WAPC, would see a 760 m² average lot area being approved.

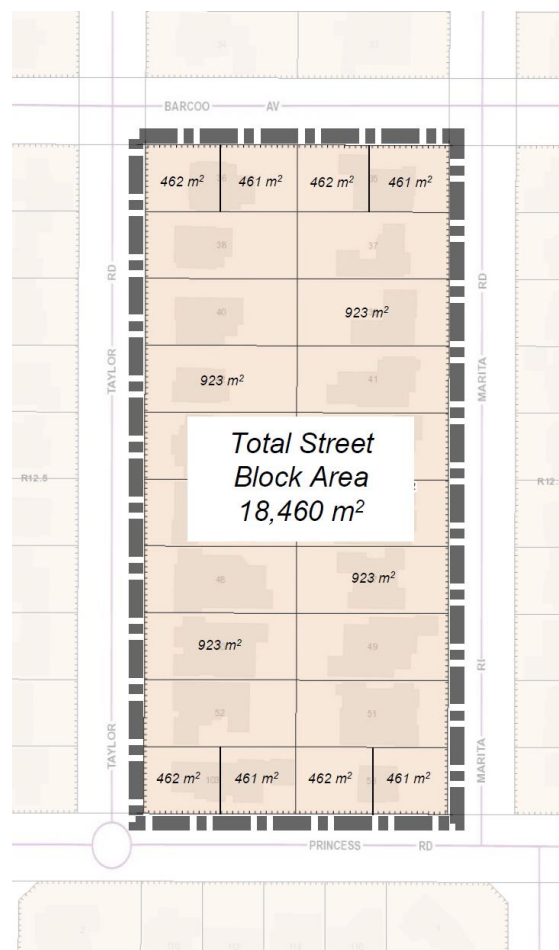


Figure 10 The average lot area on sample street block is 769.1 m²

The proposed Scheme Amendment will maintain the existing character and density of residential land.

Statement of Support

Draft City of Nedlands Local Planning Scheme No. 3 (2016)

The proposed Scheme Amendment is consistent with the objectives of the Residential zone of the as yet advertised Draft Local Planning Scheme No. 3 (TPS3). The objectives are as follows:

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community;*
- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;*
- *To provide for a limited range of non-residential uses, which are compatible with and complementary to residential development; and*
- *To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks*

Development Control Policy 2.2 – Residential Subdivision (2017)

This policy sets out the WAPC's requirements for the subdivision of land into residential lots. It is intended that, when read together with other WAPC policies, they create a flexible policy framework for the use of statutory planning powers within which, the creation of a wide range of lot and housing types is possible.

A key policy objective is 'to facilitate the supply of residential lots in a range of shapes and sizes that reflect the statutory provisions of local planning schemes — including the R-Codes, the availability of reticulated sewerage, and the need for frontage to public roads.'

The policy outlines the following specific requirements to facilitate variations greater than five per cent to average lot size as stipulated in the R-Codes.

The following criteria are applicable:

- *A residential coding of R10 to R30 applies to the land;*
- *The site is a corner lot with frontage to more than one road (excluding a regional road) or has dedicated road access or right-of-way access to both front and rear boundaries;*
- *The proposed lots comply with the minimum frontage requirements specified in Table 1 of the R-Codes and are regular in shape;*
- *Crossovers and driveways to the proposed lots are provided in accordance with Australian Standard (AS) 2890 and the R-Codes; and*
- *Any corner truncation is excluded from the calculation of the average lot size.*

The policy proposes further enhancement WAPC's ability to approve subdivision to facilitate the supply of residential lots in a range of shapes and sizes.

Statement of Support

Similar Local Government Scheme Provisions

Similar Scheme provisions have been incorporated into the planning framework of other Perth metropolitan local governments which have a grid-network pattern of development, similar to that of the City of Nedlands. Such provisions have been implemented to increase dwelling diversity, without compromising the existing streetscape patterns. The provisions proposed in the Scheme Amendment reflect the need for tighter controls without ambiguity or discretion ensuring the provisions are used to reflect the intent of the scheme provision, and are not eroded over time. A summary of comparable scheme provisions is provided in the table below.

Local Authority & Scheme Provision	Summary of Provisions
<p>Town of Cambridge</p> <p>Nov 2016</p> <p>LPS 1 Clause 20(4)</p>	<p>Corner lots R20 → R30 in the Wembley Precinct may be comprehensively developed at R30 density standards if, and only if:</p> <ul style="list-style-type: none"> ▪ Every dwelling is designed and built to face a street frontage and both street frontages are developed with dwellings that face the street; ▪ An integrated redevelopment of the whole of the lot is proposed; ▪ The density bonus does not apply to vacant subdivision; ▪ No more than one crossover per street shall be permitted; and ▪ The façade on each level facing the side street must have at least one habitable room with a clear view of the street.
<p>City of Belmont</p> <p>2011 (amended 2017)</p> <p>LPS 15 Clause 5.3.2(2)</p>	<p>Corner lots R20 → R30 if:</p> <ul style="list-style-type: none"> ▪ Low quality dwelling incapable of being upgraded to a standard commensurate with new development is demolished. ▪ poorly sited dwelling which fail to maximise opportunities in relation to proposed lot boundaries; is demolished; ▪ The created lots are of a regular shape, or it can be demonstrated that a dwelling can be accommodated on any new lot; and ▪ The amalgamation of abutting lots in order to create a larger lot for the purpose of development and/or subdivision at a higher density is not consistent with the intent of the clause.

Statement of Support

Local Authority & Scheme Provision	Summary of Provisions
<p>City of Gosnells</p> <p>2011</p> <p>TPS 6 & LPP 4.8</p>	<p>Corner lots R20 → R30 if:</p> <ul style="list-style-type: none"> ▪ Lot is no greater than 1500 m²; ▪ Any proposed lot or site area created through a density bonus subdivision and/or development is less than 600 m²; ▪ New and/or existing dwellings are capable of being accommodated on their own individual green title, or strata titled lot; ▪ New dwellings are to be a minimum of two storeys where a proposed lot or site area has a frontage of 10 m; and ▪ Solid fencing up to 1.8 m high erected along no more than 50% of the length of the secondary street boundary and 100% permeable to primary street.
<p>Town of Bassendean</p> <p>2008</p> <p>LPS10 - Clause 5.3.1.3</p>	<p>Corner lots R17.5 or R20 → R25 if:</p> <ul style="list-style-type: none"> ▪ Heritage objectives are not compromised; ▪ The existing streetscape is being preserved; ▪ The proposal demonstrates elements of water sensitive urban design; ▪ The amalgamation of abutting lots in order to create a larger lot for the purpose of development and/or subdivision at a higher density is not consistent with the intent of the clause.

6

Summary

Summary

The proposed Scheme Amendment in the City of Nedlands to provide a bonus R-Code for suitably sized corner lots in high-amenity areas has merit for the following reasons:

- The proposal is in line with Local and State policy and legislation, such as (2014), State Planning Policy 3 Urban Growth & Settlement (2006), Directions 2031 & Beyond (2010), Perth & Peel @ 3.5 Million (Draft 2015), Central Metropolitan Perth Sub-Regional Strategy (2010), Central Sub-Regional Planning Framework (Draft 2015), and City of Nedlands Local Housing Strategy (2001) and City of Nedlands Housing Diversity Study (2005);
- The proposal enables a diversification in housing typology within the City, providing opportunities for those wishing to downsize from large individual allotments, allowing residents to age in place, and maintain residence in the City at a more affordable price point;
- The dwelling increase meets a need identified in previous City of Nedlands studies including the 2005 Housing Diversity Study;
- The proposal will provide for more efficient service delivery and increased patronage of existing public open space;
- The existing infrastructure can support the projected increase in dwellings;
- The proposal will decrease a reliance on local roads and private vehicles, whilst encouraging walking and in turn healthier lifestyles;
- The projected increase in dwellings will not be to the detriment of the existing urban character of the City; and
- The proposal will improve natural surveillance and public safety of City of Nedlands residents.

In light of the above, following consideration of the merits of the proposal it is respectfully requested that the Scheme Amendment be supported.

PD15.18	RFP 2017-18.01 Natural Areas and Greenways Weed Control
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Committee	10 April 2018
Council	24 April 2018
Applicant	City of Nedlands
Director	Peter Mickleson – Director Planning & Development Services
Attachments	Nil

1.0 Executive Summary

To award the panel for natural areas and greenways weed control.

2.0 Recommendation to Committee

Council:

1. **Agrees to award panel no. 2017-18.01, as per the schedule of rates submitted, in the following order to:**
 - 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 sign an acceptance of offer for this panel.**

3.0 Background

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

Due to the limited timeframe required to undertake the contract work and the risk involved in only appointing only one contractor. The City has found that appointment of a panel to undertake these works is the best outcome for this contract.

4.0 Request for Panel Information

To comply with legislative requirements outlined in the Local Government Act 1995 and to ensure the best value for money for the City, this procurement went out to panel request.

Panel 2017-18.01 was advertised on 9th February 2018 in the West Australian Newspaper and on www.tenderlink.com/nedlands. The panel request period ended on 26th February 2018 and submissions were opened by officers of the City at 9:00 am on Tuesday the 27th February. Seven (7) submissions were received by the City.

Compliant submissions were received from the following companies:

1. Horizon West Landscape Construction
2. Martins Environmental Services
3. Natural Area Holdings Pty Ltd
4. Sheoaks Landscapes
5. South East Regional Centre for Urban Landcare
6. The Trustee For The Violet Family Trust
7. Wake's Contracting PL

No non-compliant submissions were received.

5.0 Evaluation

The submissions were independently evaluated by three (3) City officers in accordance with the qualitative criteria specified in the request for panel documentation, qualitative criteria was afforded a total of 70% of the total score.

The priced items were compiled into a spreadsheet for close analysis of value comparison. A price criteria score was allocated based on the best value being scored at 100% and other values scored proportionally against this price. A total of 30% weighting was allocated to the price criteria.

A confidential evaluation and recommendation report was completed and approved by the evaluation panel, Manager Health and Compliance and the Director Planning and Development. References were sought from appropriate sources for quality assurance purposes which backed up the findings of the evaluation panel.

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

6.0 Key Relevant Previous Council Decisions:

Nil

7.0 Consultation

Not required.

8.0 Budget/Financial Implications

These contract services are provided for through the annual operational budget.

9.0 Conclusion

After assessment of the panel responses it is proposed that the submissions received from South East Regional Centre for Urban Landcare (SERCUL); Wake's Contracting PL; and Natural Area Holdings Pty Ltd be accepted.

PD16.18	(Lot 101) No. 8 Bishop Road, Dalkeith – Two Storey Single House
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Committee	10 April 2018
Council	24 April 2018
Applicant	Boughton Architecture
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA17/298
Previous Item	PD03.18 – February 2018 PD10.18 – March 2018
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Site Photographs 2. Applicant's response to submissions

1.0 Executive Summary

Development approval is being sought to demolish the existing single house and construct a new two storey single house at the subject property.

At the February Council meeting, Council deferred the item to the March Committee and Council Meetings for determination.

The application proposes two lot boundary setback variations and a fill and retaining variation to the deemed-to-comply provisions of the Residential Design Codes (R-Codes), as well as over-height fencing and the dwelling being constructed of material other than brick, stone or concrete for more than 25% of the facade.

Two objections were received during the advertising period regarding the R-Code variations and over-height dividing fencing. No submissions were received regarding the material of construction. Concerns were also received regarding the front setback of the development.

With regard to the variations and the front setback concerns it is considered:

1. The proposed boundary wall to the eastern side lot boundary is of similar height to the existing dividing fence.
2. The proposed building is setback further from the northern lot boundary as the wall increases in height with the wall length shortened accordingly for this higher section of wall, ensuring compliance with the general design principle to have buildings setback further as the building height increases.
3. The fill and retaining proposed in the north-eastern corner of the property seeks only to fill back up to the level preceding the previous excavation ensuring no additional impact.
4. The proposed increase to the dividing fencing of up to 1m above the existing fence height is considered to be excessive and therefore recommended to be decreased to comply with the City's Fill and Fencing Policy requirement of 1.8m above approved levels.
5. The front setback is considered to comply with the City's Town Planning Scheme No.2.

As such the development is considered to comply with the City's TPS2 and the Design Principles of the R-Codes, with the exception of the over-height fence, and therefore it is recommended that the application be approved by Council subject to a condition to reduce the height of the proposed dividing fencing.

2.0 Recommendation to Committee

Council approves the development application received on 19 October 2017 and amended plans received 20 November 2017, for a Two Storey Single House at (Lot 101) No. 8 Bishop Road, Dalkeith, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the two-storey single house, associated dividing fencing and site works.**
- 3. Amended plans shall be submitted with the building permit showing the proposed dividing fencing to the northern and eastern side lot boundaries being a maximum of 1.8m above the higher of the ground levels at the lot boundary.**
- 4. The parapet wall being finished to a professional standard within 14 days of the proposed development's practicable completion and be maintained thereafter by the landowner to the City's satisfaction.**
- 5. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**
- 6. All visual privacy screens and obscure glass panels to Major Openings and Unenclosed Active Habitable Spaces as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2015*. The visual privacy screens and obscure glass panels shall be installed prior to the development's practicable completion and remain in place permanently, unless otherwise approved by the City.**
- 7. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
- 8. No soil, building materials, rubbish or any other deleterious matter shall be placed on the Parks and Recreation Reserve or be allowed to enter the river as a result of the demolition and construction works.**
- 9. There shall be no access to the site via the Parks and Recreation reserve unless authorised by the City of Nedlands to do so.**
- 10. No wastewater or backwash from the swimming pools are to be discharged onto the land, into the river or into the local government drainage system.**

11. **Stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system, to the satisfaction of the City of Nedlands.**

Advice Notes specific to this proposal:

1. **In relation to Department of Biodiversity, Conservation and Attractions, conditions, the following advice notes are applicable:**
 - a) **In regard to condition 11, stormwater runoff from constructed impervious surfaces generated by 1 year, 1 hour average occurrence interval (ARI) events (approximately a 15mm rainfall depth) should be retained and/or detained on the lot.**
 - b) **The applicant is advised that it is an offence under the *Swan and Canning Rivers Management Regulations 2007* to destroy, pull up, cut back or injure any tree, shrub or perennial plant that is on land within the Swan Canning Development Control Area, except with the approval of the Department of Biodiversity Conservation and Attractions or unless otherwise exempt by the Regulations.**
2. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area which is not compliant with the deemed-to-comply provisions of the Residential Design Codes.**
3. **The crossovers to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for the crossover from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.**
4. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.**
5. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
6. **All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.**

7. All swimming pools, whether retained, partially constructed or finished, shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.
8. 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.
9. 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.
10. Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.

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

Where there is over 10m² of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.

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

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

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

12. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

3.0 Site Details

Lot area	1051m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	Yes
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property contains a single dwelling which is proposed to be removed.

The subject property has previously been levelled with excavation to the east and retaining to the west – the levels of the property are not proposed to be significantly altered as part of this application. Around the property, the topography of the land slopes down from the east to west towards the river. Adjoining the total length of the property’s eastern boundary is a landscaped access leg (not constructed or used for vehicle access) of between 4m and 5m in width. The property fronts onto an unconstructed portion of road reserve.

An aerial image showing the location of the property follows.



4.0 Background

The landowner has previously obtained development approval from the City under delegated authority in 2015 for a two-storey single dwelling with a different design. The approved design included a boundary wall of 14.6m length and approximately 3.2m height (as measured above the subject property level – approximately 1.9m above the eastern neighbour's level).

The landowner has elected not to proceed with this design and the development approval has since expired.

The City's current Town Planning Scheme No. 2 (TPS2) has Controlled Development Area (CDA) provisions which the proposed design complies with.

5.0 Specific Application Details

The application seeks approval to construct a two-storey single house, swimming pools, dividing fencing and associated site works. The development proposes the following variations to the City's TPS2, deemed-to-comply provisions of the R-Codes and Fill and Fencing Local Planning Policy:

- Lot boundary setbacks:
 - The garage is proposed to be built up to the eastern side lot boundary in lieu of being setback 0.61m; and
 - The bulk of ground floor setback 3.8m in lieu of 4.4m to the northern side lot boundary;
- Site works and Setback of retaining walls – Up to 1m of fill and retaining is proposed to the northern and eastern side lot boundaries;
- Materials of construction – More than 25% of the ground floor is constructed of material other than stone, concrete or brick with the building compromising of a large amount of glazing and alternative materials such as aluminium composite panelling and split faced basalt; and
- Over-height Dividing Fencing – The dividing fencing is proposed to be 3.45m to the eastern side lot boundary and 2.95m to the northern side lot boundary as measured from the subject property's ground level (natural) in lieu of 1.8m above natural ground level.

By way of justification in support of the development application the applicant has advised the following:

- *“Front setback – Bishop Road is not a constructed carriage way for the full extent of the front boundary with access to the site is via a single lane drive built within the road reserve. We propose to provide a compliant 9.0m front setback to the garage and entrance porch and beyond this point, the building has been setback in accordance with the required side lot boundary setbacks required as per the R-Codes.*
- *Boundary wall to eastern side lot boundary – the 7.5m Controlled Development Area (CDA) setback to the western side boundary limits the building width. It is proposed to construct the garage and utility room as a wall on the boundary for a 15m length. As the proposed floor level of the new home is lower than the adjoining site, this wall is proposed to be constructed at a height no greater than the highest portion of the existing*

fence. The construction of the wall on the boundary will not adversely affect the amenity of the adjoining owner as:

- *The land immediately adjacent to the wall is a landscaped unused drive access;*
 - *The visual impact of the wall is no greater than the existing dividing fence;*
 - *Overshadowing is not impacted as the wall faces east; and*
 - *The proposed wall will not affect access to views from neighbouring properties.*
- *Building Materials – The dwelling is intended to fit discretely into the existing residential fabric. The building’s low profile and use of dark non-reflective materials and colours fit the natural colour and form of the escarpment creating a low-impact home on the bank of the swan river.”*

6.0 Consultation

The development application was advertised to affected landowners for comment as the property is within the controlled development area and there are variations proposed to the deemed-to-comply provisions of the R-Codes and TPS2. Two objections were received during the consultation with the following summarising the concerns raised:

Objection to the front boundary setback:

- *“The entirety of the southern boundary of Lot 101 (No. 8) abuts the road reserve of Bishop Rd. The full extent of this boundary is therefore the primary street boundary for the purposes of the R-Codes. As the primary street boundary, the proposed setbacks of 3m to 4m, are non-compliant with the 7.5m setback requirement of the R-Codes.*
- *The 3m and 4m setbacks proposed for the development are inconsistent with the setbacks of the adjacent residences and therefore it does not comply with the deemed-to-comply requirements of the R-Codes which are generally a minimum of 7.5m, or the design principles – given the proposed does not positively contribute to the prevailing development context and streetscape under design principle 2.2.*
- *The setbacks proposed for this development do not maintain the amenity, streetscape and views of the adjacent residences and therefore does not comply with the objectives of the R-Codes.”*

Objection to the nil setback to the eastern side lot boundary:

- *“Required access to the neighbouring landowners’ property to facilitate this boundary wall with damage likely to their landscaping and path on the neighbouring property;*
- *Further information required as to how the works will be carried out to avoid damage to landscaping the and path in the future;*
- *Potential stormwater run-off from the pitched roof of the garage which will cause damage to the landscaping – especially due to leaf litter preventing collection and storing of stormwater wholly within the subject property; and*
- *Further information required as to how stormwater will be contained on site to avoid stormwater overflow onto neighbouring property.”*

Objection to the reduced rear setback:

- *“The north and eastern walls of the ‘spa’ building will be setback only 1.5m from the northern lot boundary and 1.2m from the eastern lot boundary along with 1m of fill and retaining in this location. The combination of these factors will result in significant loss of amenity as the ‘spa’ will be visually intrusive as viewed from the neighbouring property in terms of appearance at the proposed height.*
- *The removal of the establish palm trees along the northern boundary will exacerbate the excessive height and unacceptable setbacks because there will be insufficient screening to soften the impact of the ‘spa’ building.*
- *The north-eastern part of the proposed will be located directly below the neighbouring landowners’ balcony and family/games room and hence will suffer from a loss of privacy as a result of the reduced setback.”*

Objection to the additional dividing fence height proposed to the northern rear and eastern side lot boundaries

- *“The height of the proposed dividing fencing along the eastern and northern boundaries of the property is significantly higher than the existing boundary fencing, when viewed from the impacted neighbouring property, adversely impacting the amenity of the neighbouring property.”*

The applicant has addressed the above submissions in Attachment 2 of this report.

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

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

7.2 Town Planning Scheme No. 2

7.2.1 Amenity

Under clause 5.5.1 Council may refuse to approve any development if:

“in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.”

One of the submissions raised concerns in relation to the front setback provided being less than that required within the R-Codes for the R12.5 zone. In this case, the front setback under the R-Codes do not apply as the City’s TPS2 Clause 5.3.3 stipulates the required front setback, which is 9m from a street alignment. The concern however, more specifically relates to the front setback not being provided where it adjoins an unconstructed portion of the road reserve.

The City's TPS2 does not define the term 'street alignment'. However, the planning purpose served by setbacks from the street principally deals with visual amenity of the streetscape. The significance of issues of visual amenity of the streetscape are greatly reduced where it is a practical certainty that there will never be a street constructed adjacent to a lot.

The balance of the unconstructed road reserve contains a mature tree, stormwater drainage infrastructure and a significant slope down to the river foreshore. The slope is such, that the road reserve effectively disappears from line of sight at the end of the formed portion of road (refer Attachment 1 – site photographs). As a result, the road reserve functions essentially as a foreshore reserve.

It is therefore considered the application of the 9m setback for the area of unconstructed road reserve frontage would be unreasonable given that the road is very unlikely to be built further towards the river. Further to this, the slope of the land will ensure that the streetscape amenity will not be negatively impacted as a result of the setback being reduced.

The methodology of applying the required 9m front setback only to the portions of constructed road adjacent to the subject property has been applied previously (in 2003 & 2005) to development applications for a single dwelling at No. 3 Adema Place, Dalkeith. This property also has river frontage and a road which terminates prior the end of the road reservation. The City obtained legal advice regarding the reduced setback to the portion of land adjacent to unconstructed road reservation which advised that the City could consider the reduced setback based on the reasoning outlined in the above discussion. The development application was approved by the Western Australian Planning Commission in accordance with advice from the City in March 2006.

7.2.2 Materials of construction

TPS2 Requirement	Proposed	Complies
Clause 5.5.2 states: "Unless otherwise approved by the Council, no person shall erect or add to any building unless the external walls are constructed of brick, stone or concrete except that up to 25% of the external elevation of any wall of a building in any residential zone may be of materials other than brick, stone or concrete.	The dwelling is proposed to be constructed of more than 25% alternative materials such as full height glazing, aluminium composite panelling and split faced basalt.	No
Administration Comments This provisions under the City's TPS2 is not mandatory with the Council having discretion to approve alternate materials subject to application being made to Council. It is considered that the use of the alternate materials (glazing, aluminium composite panelling and split faced basalt) is not proposed to negatively impact the amenity of the locality with the darker colour palate being more sympathetic to the river landscape. No objections were received from neighbouring landowners in relation to the materials of construction.		

7.3 Residential Design Codes (State Planning Policy 3.1)

7.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Buildings setback in accordance with Table 2A and 2B of the R-Codes.	The garage and utility room wall is proposed to have a nil setback to the eastern side lot boundary in lieu of 0.61m (reduction permitted as adjacent to battle-axe leg)	No
	The bulk of ground floor is proposed to be setback 3.8m in lieu of 4.4m to the northern side lot boundary.	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P3.1 – Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> <p><i>P3.2 – Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more effective use of space for enhanced privacy for the occupants or outdoor living areas;</i> • <i>does not have an adverse impact on the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> • <i>positively contributes to prevailing development context and streetscape.”</i> 		
<p>Administration Comments</p> <p><u>Boundary wall to eastern side lot boundary</u></p> <p>Boundary walls are permitted under the deemed-to-comply provisions within the R12.5 zone when the boundary wall is proposed to be adjacent to existing or simultaneously proposed boundary wall of similar or greater height and length. Although the boundary wall is not adjacent to another boundary wall – it is adjacent to a dividing fence of similar height and greater length – essentially facilitating the same outcome.</p> <p>The boundary wall will not have an adverse impact on the amenity of the adjoining property being adjacent to a battle-axe drive-way leg (currently landscaped and used for pedestrian access only) and the lot orientation ensuring no overshadowing of active habitable space. Concerns received during neighbour consultation regarding stormwater overflow into the eastern neighbouring property can be addressed with condition requiring stormwater being contained on site. Stormwater being contained on site is usually achieved through guttering systems and the building design. Further to this, concerns raised during the consultation period in relation to the construction of the wall impacting upon the neighbouring property is covered in the building permit process and the construction methods used to underpin the neighbour’s levels.</p>		

Ground floor setback to northern lot boundary

As the subject property has the CDA setback applied to the western side lot boundary, the northern lot boundary functions as a side setback and the western side lot boundary functions as the rear lot boundary. For this reason, the lot boundary setback requirements applied are as per Table 2A and 2B of the R-Codes to the northern lot boundary.

The R-Codes requires the use of figure series 4c of the R-Codes for measuring the bulk of a wall length between two closer sections of wall with no major openings. Setbacks are required to be measured per a building level with the use of the total wall length and maximum wall height for the bulk of the wall setback calculation.

The section of wall with the 3.8m setback is a separate wall to the rest of the ground floor which is 3.5m in height and setback 1.5m. This portion of wall is also shorter than the entire wall length of the ground floor. If these walls were permitted to be assessed separately rather than per floor level, the lot boundary setback to the northern side lot boundary would be compliant with the deemed-to-comply provisions of the R-Codes.

The design breaks up building bulk and complies with the general principle that the longer and higher the wall, the further it should be setback with the design having the higher sections of wall shorter in length and setback further from the northern lot boundary. Directly adjacent to the subject property on the northern neighbouring property are landscaped gardens, ensuring that active habitable spaces such as outdoor living areas and habitable rooms of the dwelling will not be impacted by the reduced setback. Further to this, the height of dwelling in this location is single storey and lower than the northern neighbour's dwelling.

During the consultation period, concerns were raised in relation to the spa setback to the northern and eastern lot boundaries. This portion of the dwelling is compliant with the lot boundary setbacks of the R-Codes to the northern and eastern side lot boundaries inclusive of the proposed fill in this location.

7.3.2 Site works and Retaining walls

Deemed-to-Comply Requirement	Proposed	Complies?
Up to 0.5m of fill and retaining is permitted within 1m of lot boundaries.	Up to 1m of fill and retaining is proposed to the northern and eastern side lot boundaries	No
Retaining over 0.5m in height setback from the side and rear lot boundaries in accordance with Table 2A and 2B of the R-Codes.		
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P7.1 – Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</i></p> <p><i>P7.2 – Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.”</i></p> <p><i>“P8 – Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.”</i></p>		

Administration Comments

The fill and retaining is proposed to increase the ground level up to the level prior to excavation and therefore the proposed finished level will be level with the natural ground level at the adjoining property. This fill will therefore not have any impact on the neighbouring property and would not be considered a variation if the contour mapping was done prior to the excavation on the subject property.

7.4 Local Planning Policy – Fill and Fencing

Policy Requirement	Proposed	Complies?
Fencing over 1.8m in height above fill and retaining of a maximum of 0.5m requires an over-height dividing fence agreement to be completed by all impacted landowners.	The fencing is proposed to be 3.45m to the eastern side lot boundary and 2.95m to the northern side lot boundary as measured from the subject property ground level.	No
<p>Policy Objectives</p> <p>The following objectives are stipulated under the Policy:</p> <p><i>“To outline the City’s requirements with regard to fill and the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained.”</i></p>		
<p>Administration Comments</p> <p>The City advertised the additional dividing fencing height variation and received an objection to the additional height of up to 1m proposed to the eastern and northern side lot boundaries. The heights of the fencing have been measured from the level at the subject property, however as viewed from the neighbouring property to the north and east – the new fencing will be a maximum of 2.25m in height from the eastern elevation and a maximum of 3.8m and minimum of 2m in height from the northern elevation (including existing retaining).</p> <p>The applicant has advised in their submission that the additional height is required, to provide privacy to the ground floor of the proposed dwelling as the finished floor level of the neighbouring dwelling to the north is significantly higher than the proposed dwelling (approximately 3m higher).</p> <p>The existing dividing fencing to the eastern side lot boundary is already over 1.8m in height as measured above the higher side of the lot boundary and the fencing to the northern side of the subject property has been stepped to suit the natural ground level. Whilst the City acknowledges there may be line of sight from the northern neighbour’s dwelling into the proposed dwelling due to the slope of the land, the neighbour’s property has compliant visual privacy setbacks to lot boundaries from major openings of the dwelling and outdoor living areas to the lot boundary.</p> <p>The City believes that it is not an appropriate response to provide over-height fencing of up to 1m above existing fencing to provide privacy from a dwelling built higher on a slope, with fencing to be more appropriately stepped with the natural ground level and other measures such as landscaping or building design to address the natural overlooking in these circumstances.</p> <p>Fencing 1.8m above the higher side of the lot boundary will afford adequate privacy with additional privacy more appropriately obtained through other methods such as landscaping or obscured glazing. Therefore, a condition of planning approval has been recommended to reduce the height of the proposed dividing fencing.</p>		

8.0 Other Issues Raised

The submitters raised concerns in the submissions regarding removal of mature palm trees and modification of levels within the verge.

There are no planning controls around the removal of mature vegetation on the subject property as this does not require planning approval.

Additionally, there are no levels proposed to be modified within the road or verge. The applicant will need to apply for Nature Strip Development Approval from the City prior to commencing any works in the verge.

9.0 Budget / Financial Implications

N/A

10.0 Risk management

N/A

11.0 Conclusion

The dwelling complies with the City's height requirements being less than 8.5m total height and the controlled development area 7.5m western side setback as well as open space requirement for the R12.5 density code. The slope of the land down to the river ensures that the neighbouring properties will still have views to the river and the relatively modest upper floor and mostly west facing major openings to ensure a high level of privacy is maintained between neighbouring properties.

The fill and retaining seeks to fill up to the level preceding the previous excavation ensuring no impact on the neighbouring landowner and the boundary wall is of similar height to the existing dividing fence. The proposed building is setback further from the lot boundary where the wall height is higher, and the section of higher wall is shorter than the rest of the ground floor. Therefore, it is considered that the deemed-to-comply variations comply with the relevant design principles of the R-Codes.

The dividing fencing is considered an excessive response to the north-eastern neighbouring dwelling having a finished floor level higher than the proposed dwelling. The City recommends a condition to reduce the height of the proposed dividing fencing to comply with the City's Fill and Fencing Local Planning Policy with additional privacy able to be obtained through other measures such as landscaping or obscured glazing.

The City considers that the front setback is compliant with the City's TPS2 as the application of the 9m setback for the area of unconstructed road reserve frontage would be unreasonable given that the road is very unlikely to be built further towards the river. Further to this, the slope of the land will ensure that the streetscape amenity will not be negatively impacted as a result of the front setback requirement being reduced.

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

Image 1: End of constructed road within the Bishop Road reservation



Image 2: Stormwater drainage and steep drop down to river front



Image 3: Subject property's road frontage to Bishop Road



Image 4: Landscaped access to neighbouring property at no. 116 Victoria Road



Image 5: Existing dividing fencing along subject property's eastern side lot boundary



Image 6: Neighbouring residence to the east of the subject property



Image 7: Existing front fencing – to be retained



Image 8: view of river from existing entrance



Image 9: Controlled Development Area setback – existing dwelling demolished with new dwelling to be setback 7.5m



Submission 1

No 8 Bishop Rd is located at the end of Bishop Rd and adjoins the Swan River Rd on its long boundary, the Council Applies a 7.5 m setback to the long boundary and as such the capacity to build a home on this lot is considerably impaired by this setback. Although the road reserve abuts our southern boundary it is impractical to construct the road in this location and access to No 8 is via a single lane drive, considered a residents' only drive.

Similar lots exist within the City of Nedlands and the accepted outcome has been:

- Front set Back of 9m only applies for the extent of street access, side boundary setbacks thereafter are employed
- Rear setback is to be swapped with side setback for the extent of the river boundary
- Side setbacks in accordance with the R Codes apply to remaining boundaries

The proposed development has been extensively discussed with Council officers and is consistent with the precedents established for the development of similar lots (ref both lots at the river end of Adelma Place). The streetscape is considered atypical by the Council in the past and a reduced front setback in this location has been deemed to be permitted variation to the front setback and streetscape. As such the proposal presented to the council is consistent with the Councils established development parameters.

Submission 1 refers to loss of amenity (views). Any impact this proposal has on views to the eastern neighbour would be from major openings to windows and balconies that overlook the side boundary and as such are non-compliant with the Deemed-to-comply provisions of the R-Codes. The proposed building is located at least 14m away from the our neighbour's front balcony and is located between significant existing trees (these trees are to be retained). The existing trees limit views with the proposed building located within the cone of restricted vision as determined by the existing trees and as such has no significant impact on views.

Submission 2

Due to the limitations of the lot we seek Councils permission to Construct the Garage wall with a nil setback. Due to the significant level difference between the two lots the height of the boundary wall shall not exceed the maximum height of the existing fence and as such has no significant impact on the existing amenity of our neighbour. A previous application for this lot had a similar boundary wall approved by Council.

Setbacks and overlooking requirements to the gym and spa are complaint with the R Codes. Views the neighbour has enjoyed by overlooking the existing pool and back garden of the existing home will no longer be available. It should be noted that the neighbour has spectacular river views from the majority of the home as it too has a significant uninterrupted river frontage.

We have proposed over-height fencing to portions of the East and North Boundary. The floor level of the neighbouring home is higher than existing ground level and significantly higher than our proposed floor level. A 1.8m high fence will not prevent neighbours from looking into each other's homes from their respective ground floor levels. In the interest of protecting mutual privacy between neighbours we propose higher fences be constructed.

Submission 2 refers to a number of building and other matters, these are not specific Planning issues however we comment as follows:

- All stormwater as required by Building regulations will be contained on site
- Building of the Boundary wall could be undertaken with minimal interruption of the existing wall, landscaping and path. Construction process will be confirmed prior to commencement of Building
- Existing Palm trees are to be removed as they are located within the near vicinity of the public sewer. The proposed house is to be built over the top of the sewer and as such extensive works are required to build a tunnel over the sewer. This work precludes the retention of any of the existing landscaping in the existing pool area.