

# Planning and Development Reports

**Committee Consideration – 10 September 2019**  
**Council Resolution – 24 September 2019**

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**Council: 24 September 2019**

<b>PD34.19</b>	<b>No. 20 Nardina Crescent, Dalkeith – Additions to Single House</b>
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<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Applicant</b>	Snell Building Services
<b>Landowner</b>	J Liu & Z Gu
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
<b>Reference</b>	DA19/35759
<b>Previous Item</b>	Nil.
<b>Delegation</b>	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
<b>Attachments</b>	1. Applicant's Justification 2. Site Photographs

## 1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 7 May 2019 for additions to a two-storey single house at No. 20 Nardina Crescent, Dalkeith.

A design principle assessment was carried out in relation to the lot boundary setbacks and building height. It is recommended that the application be approved by Council, subject to conditions because the proposed development meets the relevant design principles for lot boundary setbacks and building height.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy – Consultation of Planning Proposals. One objection was received during the advertising period. The same objector submitted a second submission after the advertising period had completed.

It is considered that the proposed development satisfies the design principles of the R-Codes and is unlikely to have a significant adverse impact on the local amenity of the area and therefore should be approved by Council.



## **2.0 Recommendation to Committee**

**Council approves the development application dated 7 May 2019, with amended plans received on 9 August 2019 for additions to a single house at No. 20 Nardina Crescent, 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 additions to the single house and associated site works;**
- 3. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property's Certificate of Title; and**
- 4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice Notes specific to this proposal:**

- 1. A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level;**
- 2. All 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 Improvement approval;**
- 3. All swimming pool wastewater shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well;**
- 4. 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;**
- 5. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m<sup>3</sup> for every 80m<sup>2</sup> of calculated surface area of the development;**

6. 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;
7. The applicant is advised to consult the City's Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours;

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

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

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

### 3.0 Background

#### 3.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R10
<b>Land area</b>	1171.1m <sup>2</sup>
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Residential
<b>Use Class</b>	P

#### 3.2 Locality Plan

The subject property is relatively flat and accommodates an existing two-storey single house and associated dividing fencing. The subject property is surrounded by residential dwellings and in a locality that displays primarily residential characteristics.



## 4.0 Application Details

The applicant seeks development approval for additions to a two-storey single house at No. 20 Nardina Crescent, Dalkeith, details of which include the following:

- Three bedrooms to the upper floor,
- Four bathrooms to the upper floor,
- Games room to the upper floor,
- Additional ground floor stair well leading to the upper floor extension.

By way of justification in support of the development application, the applicant has submitted a design principles assessment provided as an attachment to this report (attachment 1).

## 5.0 Consultation

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

- Lot boundary setbacks
- Building Height

The development application was therefore advertised in accordance with Council's Neighbour Consultation Policy to two residents and landowners. One objection was received during the advertising period. The same objector submitted a second submission after the advertising period had completed, in conjunction to the first submission. As such, there was one submission with an objection and there was one non-submitter from neighbour consultation carried out.

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

Submission	Officer Response	Action Taken
<p>The addition will impact upon the privacy of the objector's property due to 7 windows which face into the backyard, pool and alfresco of the property.</p> <p>The application does not meet the Design Principle for Clause 5.1.3 of the R-Codes due to overlooking. It has been requested that screening measures be put in place to address our concerns.</p>	<p>The application is compliant with Clause 5.1.4- Visual Privacy of the R-Codes. The upper floor additions are setback at a sufficient distance to prevent any overlooking issues to the eastern property. The upper floor additions along the western elevation are all minor openings because the windows are highlight windows.</p> <p>It should be noted that all openings of bedroom additions of the upper floor along the eastern elevation are located in excess of 9m from the eastern lot boundary. The games room is setback 4.746m from the eastern lot boundary. The applicant provided amended plans on 9 August 2019 making the games room opening along the upper floor eastern elevation a minor opening.</p> <p>The visual privacy component of the development is assessed against Clause 5.1.4- Visual Privacy of the R-Codes. Since the application is entirely compliant with the requirements of visual privacy, an assessment against the design principles of other clauses of the R-Codes such as Clause 5.1.3 as stated in the objection is not required to assess the visual privacy.</p> <p>The R-Codes require permanent screening when major openings are not setback according to the deemed-to-comply setback requirements for Clause 5.1.4- Visual Privacy. The application is compliant with the deemed-to-comply setback requirements and as such, no screening is required to restrict views within the cone of vision from any major openings.</p> <p>However, to address the objection received, the applicants submitted amended plans to make the games room window a minor opening. This is because the games room is located in the closest proximity to the eastern lot boundary whereas the rest of the habitable rooms on</p>	<p>All the windows of the upper floor additions facing east are compliant with the requirements of visual privacy and no screening measures are required- no action is required.</p>

	the upper floor of the eastern elevation are setback considerably from the lot boundary.	
<p>The proposed eastern side setback of 4.746m in lieu of the required 6.6m will present excessive building bulk when viewed from the property and is unnecessary given the scale of the already dominant two storey dwelling on site.</p> <p>The application does not meet the Design Principle for reducing building bulk on adjoining properties, resulting in an impact on the amenity of the property.</p>	<p>The impacts of building bulk upon the eastern lot boundary are considered to be minor. The additions to the dwelling and elevations which feature multiple major openings and setbacks allow the perception of building bulk to be broken up. Additionally, the varying setbacks and the design of the dwelling will help to add visual depth to the dwelling.</p> <p>There is some vegetation located along the lot boundary to the east on the neighbour's property. This vegetation will act as additional screening for the proposed additions. This vegetative screening is considered to reduce the impact of the building bulk on the property to the east.</p>	<p>The setback is considered to comply with the design principles of the R Codes and therefore no action is required.</p>
<p>The building height of 6.3m in lieu of 6m will result in excessive building bulk when viewed from the eastern property.</p>	<p>The elevation of the dwelling which has a building height of 6.3m is setback at a minimum distance of 12.69m from the eastern lot boundary. The maximum setback provided from the eastern elevation is 16m. It is considered that the additional 0.3m in building height over a minimum setback of 12.69m is unlikely to present any building bulk issues to the eastern property.</p>	<p>The building height is considered to comply with the design principles- no action required.</p>

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

## **6.0 Assessment of Statutory Provisions**

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

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

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

## 6.2 Policy/Local Development Plan Consideration

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

The applicant is seeking assessment under the Design Principles of lot boundary setbacks and building height of the R-Codes as addressed in the below tables:

#### Clause 5.1.3 Lot Boundary Setbacks

<b>Design Principles</b>
<p>The application seeks assessment under the design principles which are as follows:</p> <p>P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none"> <li>• reduce impacts of building bulk on adjoining properties;</li> <li>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</li> <li>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</li> </ul>
<b>Deemed-to-Comply Requirement</b>
<p>The required upper floor setback is 6.6m from the eastern lot boundary.</p> <p>The required upper floor setback is 3.3m from the western lot boundary.</p>
<b>Proposed</b>
<p>The minimum upper floor setback proposed to the eastern lot boundary is 4.746m</p> <p>The minimum upper floor setback proposed to the western lot boundary is 1.8m</p>
<b>Administration Assessment</b>
<p>The minimum setback provided to the east is 4.746m from the upper floor addition of the Games Room and Bathroom 8 which has a total wall length of 8.79m with a non-major opening. As there are varying setbacks along the eastern elevation, if this wall was assessed independently with a length of 8.79m and a height of 6.3m with a non-major opening, a setback of 1.2m would be required. The provided setback of 4.476m is much greater than the required 1.2m from an individual setback assessment.</p> <p>Considering this individual setback, the upper floor elevation of the games room which is closest to the eastern lot boundary poses minimal building bulk to the adjoining eastern property. The remainder of the upper floor additions which consist of bedrooms and bathrooms are setback at a minimum distance of 12.69m from the eastern lot boundary. With the provision of a 12.69m setback to the east, the proposed upper floor additions are unlikely to result in any building bulk to the east.</p> <p>There is some vegetation located along the lot boundary to the east and south. This vegetation will act as additional screening for the proposed additions. This vegetative screening is considered to reduce the impact of the building bulk of the proposed development.</p> <p>The upper floor additions are setback 1.8m from the western lot boundary in lieu of the deemed to comply requirement of 3.3m. It is considered that an encroachment of 1.5m to the western lot boundary acceptable given that the property to the west is also a two-storey house. The property to the west at No. 2 Viking Road, Dalkeith is also setback approximately 1.5m to the subject property at No. 20 Nardina Crescent, Dalkeith. It is considered that the upper floor additions will not unduly result in building bulk issues upon the western property.</p> <p>The development proposes various habitable rooms facing north on the upper and ground floors. This allows for the effective passive solar design given the large major openings facing north in conjunction with uncovered usable open space. Additionally, the proposed</p>

development is fully compliant with the provisions of Clause 5.4.2 – Solar Access for Adjoining Sites. As such, no adjoining site will be denied any measurable and adequate access to direct sun.

In the context of ventilation, the proposed development is compliant with Clause 5.1.4 – Open Space, features no boundary walls, and an alfresco open on three sides. This permits adequate airflow around the dwelling and also on neighbouring properties.

Additionally, all other openings have been adequately setback from their respective boundaries as to avoid overlooking to the southern, eastern and western lots. The proposed development is compliant with Clause 5.1.4- Visual Privacy. As such, the proposed development respects the visual privacy of the adjoining sites with large setbacks provided to the eastern lot boundary and southern lot boundary and minor openings through highlight windows which face west.

### Clause 5.1.6 Building Height

<b>Design Principles</b>
<p>The application seeks assessment under the design principles which are as follows:</p> <p>P6 Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:</p> <ul style="list-style-type: none"> <li>adequate access to direct sun into buildings and appurtenant open spaces;</li> <li>adequate daylight to major openings into habitable rooms; and</li> <li>access to views of significance.</li> </ul>
<b>Deemed-to-Comply Requirement</b>
<p>For pitched roof designs, the maximum wall height is 6m as measured from natural ground level directly beneath the wall.</p>
<b>Proposed</b>
<p>The wall height to the eastern elevation is 6.3m.</p> <p>The wall height to the western elevation is 6.9m.</p>
<b>Administration Assessment</b>
<p>Town Planning Scheme No. 2 was repealed on the 16th April 2019 with the gazettal of Local Planning Scheme No. 3 which does not contain building height provisions for single and grouped dwelling developments, hence the City is required to use the Residential Design Codes for assessing residential building height.</p> <p>Until such time as a local planning policy is adopted which modifies the building height requirements, the City is required to use the R-Codes provisions. On the Special Council Meeting of 2 May 2019, the Council adopted a Local Planning Policy for Residential Development which includes that building height be assessed in accordance with Category B of the R Codes, with height measured in accordance with Figure series 7 and Table 3 which specifies a wall height of 6m and roof height of 9m for pitched roof designs as measured above natural ground level directly below the wall and roof pitch.</p> <p>At the Ordinary Council Meeting of 25 June 2019, the Council:</p> <ol style="list-style-type: none"> <li>resolves that, notwithstanding the removal of building height provisions from transitioning from Town Planning Scheme 2 to Local Planning Scheme 3, the height limits in Clause 2 below are to be taken as default policy provision for residential developments up to and including single and grouped dwellings; and</li> <li>determines that the Residential Development Local Planning Policy should specify height limits for single and grouped dwellings in the residential zone as follows: <ol style="list-style-type: none"> <li>Maximum Building Heights: <ol style="list-style-type: none"> <li>Top of external wall (roof above) 8.5m</li> <li>Top of external wall (concealed roof) 8.5m</li> </ol> </li> </ol> </li> </ol>

The intention of this resolution is to ensure the height limits for residences that have been in place since 1985 continue unchanged, notwithstanding any new flexibility and/or constraints arising from adoption of the new Local Planning Scheme 3 by the City of Nedlands.

Since 1985, Town Planning Scheme No. 2 has allowed an 8.5m wall and 10m building height for all development which were established prior to the R-Codes. Under the new Local Planning Scheme 3, maximum height limits for residential development default to those specified in the R-Codes, resulting in lower maximum heights of 6m and 9m respectively. This change will create anomalies in the streetscape with differing two-story building heights as well as an increased number of referrals of development applications to Council for determination.

The reduction in residential building heights in an area where larger than average homes have been the norm will create in effect two classes of residence thereby on average reducing the values of new affected properties. Reduced height may also result in lower internal ceiling heights (more boxy rooms) with less efficient ventilation and sense of space.

There is now discretion for decision makers to vary the maximum heights specified in the R-Codes under LPS 3, unlike the situation under TPS 2.

The elevation of the dwelling which has a building height of 6.3m is setback at a minimum distance of 12.69m from the eastern lot boundary. The maximum setback provided from the eastern elevation is 16m. It is considered that the additional 0.3m in building height over a minimum setback of 12.69m is unlikely to result in any negative impact upon the access to direct sun into buildings and open spaces to the property to the east.

A 6.9m building height is proposed to the west. However, there are varying building heights along this elevation, with the maximum height being 6.9m. The remainder of the building heights vary from 5.96m and 6.3m. The varying building heights respond to the natural contour of the land and allow for some depth to the building façade from the west.

The proposed upper floor additions are located primarily towards the middle and rear of the existing single house. The dwelling itself to the Eastern property is located towards the front (north of the property). It is considered that the additional building height of 0.3m is unlikely to negatively adequate daylight to major openings into habitable rooms for the eastern property at No. 18 Nardina Crescent, Dalkeith.

As shown in the locality plan of this report, the subject lot is bounded by residential land uses and there are no particular views of significance. As such, the proposed additions to the single house are not considered to unduly impact on any access to views of significance for the adjoining properties.

The lot boundary setbacks to the northern, southern and rear lot boundaries and the open space provided for the lot also meets the deemed to comply requirements. The building height is therefore considered to within the context of the locality and addresses the contours of the land.

The wall heights proposed are assessed as being within the context of the locality. The building height provision of 8.5m for a pitched roof is prevalent within the locality of Dalkeith which was previously applicable Town Planning Scheme No. 2. This had been in place prior to the R-Codes coming into effect and therefore the 8.5m wall height and 10m roof height are well established throughout the locality. It is considered that the proposed development meets the design principle and is appropriate to the local context of the site.



## **7.0 Conclusion**

The proposed development is considered to satisfy the design principles of the R-Codes for the lot boundary setbacks and building height as presented in section 6.2.1 of this report. Considering the nature and the scale of the development, the site layout and the local development context, the development will conform to the anticipated development context and is unlikely to have a detrimental impact on the local amenity.

In light of the above, it is recommended that Council approves the application subject to conditions.

**Date: 12/08/19**

City of Nedlands  
71 Stirling Highway, Nedlands.  
Western Australia. 6909

**Ref: Planning Application – Lot 780 (#20) Nardina Crescent, Dalkeith.**

Dear Assessing Officer,

I am writing this letter of justification on behalf of the owners of the afore-mentioned property, for items in the proposed design, which do not comply with the acceptable provision of the residential design codes. I ask for your discretion in assessing these items based on the evidence below.

**Proposed design does not comply with:**

*Part 5 (5.1.4) "Lot Boundary Setback"*

***Upper floor setback 4.7467m to eastern side lot boundary (In lieu of 6.6m)***

***Upper floor setback 1.8m to western side lot boundary (In lieu of 3.3m)***

- A. Although non-compliant, the proposed boundary setback provides adequate passive solar access and ventilation to the adjoining dwelling in accordance with design principles of part 5 (5.1.4) P3.1
- B. The proposed additions utilizes obscured glazing and hi-lite windows in order to avoid any potential overlooking to adjoining neighbours in accordance with design principles of part 5 (5.1.4) P3.1
- C. The size and scale of the additions are consistent with the bulk and prevailing context of the adjoining properties – therefore will have no negative impact on the current or future potential development in accordance with design principles of part 5 (5.1.4) P3.1

**Proposed design does not comply with:**

*Part 5 (5.1.6) "Building Height"*

***Wall height to eastern elevation 6.3m (In lieu of 6.0m)***

***Wall height to eastern elevation 6.9m (In lieu of 6.0m)***

- A. Although non-compliant, the proposed boundary setback provides adequate passive solar access and ventilation to the adjoining dwelling outdoor areas and major openings in accordance with design principles of P6

- B. The proposed no-compliant building height is consistent with the adjoining dwellings and will have no impact on any views of significance.

I believe the variations to the residential design codes as part of the proposed design will have little or no negative impact to either the streetscape or neighbouring residents, but will in fact improve the amenity of the existing property for the occupants as well as provide greater privacy and sound barrier between the adjoining neighbours. I trust I have provided sufficient information, and look forward to your favourable response; however should you require any additional information or clarification please do not hesitate to contact me.

Kind regards,

Michael Yurisich

Building Designer

mike@yuro.com.au

m: 0417 965 653

p: 9296 1239

SITE PHOTOS RECEIVED FROM APPLICANT









<b>PD35.19</b>	<b>No. 52 Stirling Highway, Nedlands – Single House</b>
<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Applicant</b>	SSB Pty Ltd t/a Content Living the Home Builder
<b>Landowner</b>	Stirling High Pty Ltd
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
<b>Reference</b>	DA19/34537
<b>Previous Item</b>	Nil.
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application when discretion exists to approve the application and the officer recommendation is for refusal.
<b>Attachments</b>	1. Site Photographs 2. Main Roads Comment

## 1.0 Executive Summary

The purpose of this report is for Council to determine a development application received from the applicant on the 15 February 2019, for a proposed single house at No. 52 Stirling Highway, Nedlands.

The single house is proposed on property which is zoned Mixed Use and is subject to the provisions of the City's Local Planning Scheme No. 3. These provisions, clause 32.4 (2) and (3) specify that within the Mixed-Use zone, residential uses are not permitted on the ground floor facing the primary street and buildings are to have an active frontage to the primary street. Therefore, the single house does not comply with the provisions of the Scheme.

The application was advertised to adjoining neighbours within 100m of the subject property in accordance with the City's Local Planning Policy – Consultation of Planning Proposals. Two submissions of no objection were received during the consultation period.

This is a very important application (a possible “test case”) in that it is the first time Council have been asked to determine an application that is in conflict with its adopted Local Planning Strategy. How Council determines this application is likely to impact on subsequent applications of a similar nature and set the scene for how Administration deals with applications that it has delegated authority to determine.

Although, in this case, the development complies with the provisions of the R-Codes, it does not comply with the City's Local Planning Strategy which identifies Stirling Highway as a 'Targeted Infill Urban Growth Area'. The proposed "under-development" of this site with a single house instead of more dense development anticipated in the Local Planning Strategy poses the question that if more single houses are approved in this zone will the density the City is required to accommodate be pushed further into the suburbs away from Stirling Highway?

After very careful consideration it is recommended that the application be refused as the development does not comply with the scheme provisions nor the objectives of the Mixed-Use zone. The objectives of the Mixed-Use zone require active frontages at street level, a mixture of land uses and a scale of new development sympathetic to the desired character of the area. The development of a single house will reduce the City's ability to meet density targets and create an undesirable residential amenity for the property when neighbouring properties are developed in the future at a much higher density. (i.e. a 4-story wall on all boundaries as of right)

## 2.0 Recommendation to Committee

**Council refuses the development application dated 15 February 2019 at Lot 14, No. 52 Stirling Highway, Nedlands, for the following reasons:**

- 1. The development is inconsistent with the City's Local Planning Strategy which outlines Stirling Highway as being an Urban Growth Corridor to facilitate the majority of in-fill housing for the municipality;**
- 2. As per clause 32.4 (2), residential uses are not permitted on the ground floor facing the primary street;**
- 3. As per clause 32.4 (3), the development does not have an active frontage facing Stirling Highway;**
- 4. The development does not meet the objectives of the zone as follows:**
  - a) To facilitate development of an appropriate scale which is sympathetic to the desired character of the area;**
  - b) To provide a variety of active uses on street level which are compatible with residential and other non-active uses on upper levels; and**
  - c) To allow for the development of a mix of varied but compatible land uses.**

## 3.0 Background

### 3.1 Land Details

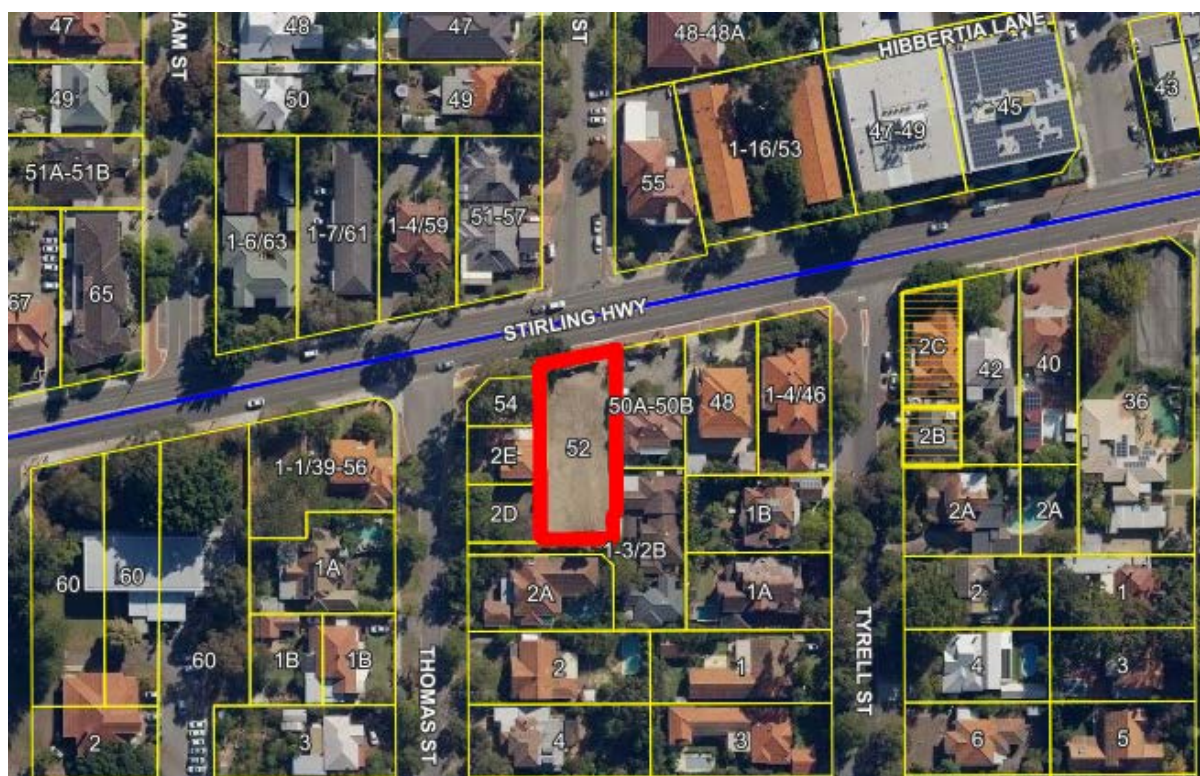
<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Metropolitan Region Scheme Reserve</b>	Primary Regional Road
<b>Local Planning Scheme Zone</b>	Mixed Use
<b>R-Code</b>	R-AC1
<b>Land area</b>	1044m <sup>2</sup>
<b>Additional Use</b>	No



<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Existing – Vacant Proposed – Residential
<b>Use Class</b>	Proposed – P

### 3.2 Locality Plan

The subject site is zoned Mixed Use with a density code of R-AC1 under Local Planning Scheme No. 3 (LPS 3). The site is located on the southern side of Stirling Highway, within the street block bounded by Thomas Street and Tyrell Street. The lot has a total area of 1044m<sup>2</sup> with approximately 221.8m<sup>2</sup> of land reserved for Primary Regional Roads under the Metropolitan Region Scheme (MRS). The site is positioned within the street block and has a single primary street frontage and vehicle access to Stirling Highway. The lot is currently vacant and has a slight slope down away from Stirling Highway to the rear of the lot.



The development application was lodged when Town Planning Scheme No. 2 was still in force. The City referred the application to Main Roads (MRWA) for comment for the required 30 days and also assessed the application against TPS 2 and the Residential Design Codes. The initial proposal was more likened to two grouped dwellings with two kitchens and two laundries in separate parts of the house only connected by a doorway. This could not comply with the planning legislation nor building legislation and therefore amended plans were requested.

Amended plans which clearly demonstrated only one house were not received until April 2019 and therefore the development could no longer be considered under TPS 2 and hence required assessment under the new Local Planning Scheme No. 3 (LPS 3) which was gazetted on 16 April 2019.

## **4.0 Application Details**

The applicant seeks development approval for a single storey single house with:

- 5 bedrooms and bathrooms;
- One laundry;
- Painting room and adjacent cleaning room;
- Study, music room and formal sitting;
- Sitting and kitchen in open plan area;
- Entertaining space;
- Double garage; and
- Two entry points

The applicant has not provided a justification against the scheme provisions for the development.

## **5.0 Consultation**

The development is seeking discretion against scheme provisions clause 32.4 (2) and 32.4 (3) for the following:

- Lot boundary setbacks
- Visual Privacy

The development application was therefore advertised in accordance with City's Local Planning Policy – Consultation of Planning Proposals to all residents, business owners and landowners within 100m of the subject property. No objections and two non-objections were received. The content of the non-objections is namely in favour of the development of the lot and preference for single storey development generally in the area.

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

## **6.0 Assessment of Statutory Provisions**

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

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

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

## 6.2 Local Planning Strategy – 2017

Although the development complies with the provisions of the R-Codes, it does not comply with the City's Local Planning Strategy which identifies Stirling Highway has a 'Targeted Infill Urban Growth Area'. The strategy envisages that Urban Growth Areas will contain the most intense development in the City of Nedlands.

Under part 5.1 Population and Housing, the strategy aims to facilitate potential realisation of the specified housing targets and to pursue diverse high intensity development within Urban Growth Areas (particularly Stirling Highway). The strategy cites that the Local Government is to develop controls to ensure key sites are not underdeveloped, thus ensuring existing residential character is protected long term and development is focused in a few specified locations.

Part 5.9.10 of the strategy sets out includes planning the highway as a high intensity, predominantly medium rise Urban Growth Area within the City of Nedlands.

The subject site is assigned a density code of R-AC1, the highest density code provided for by the Residential Design Codes. The site is in a key strategic location to deliver significant residential redevelopment to meet the needs of the City's growing population and contribute to the City's dwelling targets assigned by Perth and Peel @ 3.5million. With a plot ratio of 3.0 assigned to the R-AC1 density, there is potential for the site to accommodate up to approximately 35 new dwellings. It is also noted the site is within a 400m walkable catchment of the 'Nedlands Town Centre', being located approximately 290m away.

The scale of development anticipated by the State Planning Framework, Local Planning Strategy and Local Planning Scheme for the Stirling Highway corridor is one that is much higher and more intense than the current suburban context and promotes higher density apartment-style housing in more intensive multi-level forms. If Stirling Highway were to develop with single storey or even only a two-storey format it would be an under-realisation of the strategic expectations of this targeted infill urban growth area. As such, the proposal represents a significant under-development of the site and does not achieve a level of development appropriate for the growth corridor.

## 6.3 Local Planning Scheme No. 3

Part 3 clause 16 – Table 2 – Zone objectives

The objectives of the Mixed-Use zone are as follows:

- *"To provide for a significant residential component as part of any new development.*
- *To facilitate well designed development of an appropriate scale which is sympathetic to the desired character of the area.*
- *To provide for a variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.*
- *To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health and safety of its residents."*

Part 4 clause 32 – Table 6 - Additional site and development requirements

Clause 32.4 sub clause 2 and 3 are relevant to this application and are listed as follows:

*“(2) Residential uses are not permitted on the ground floor facing the primary or secondary streets, except where the use faces a right-of-way or laneway in the Mixed-Use zone, or where identified in an approved local planning policy.*

*(3) Buildings are to have active frontages to the primary and/or secondary street, except where a use faces a right-of-way or laneway.”*

Approval of the application would create a significant undesirable precedent in the consideration of similar proposals on all other sites directly adjacent to Stirling Highway. As a result, there would be significant risk to the City in achieving the dwelling targets set out by the wider Regional Planning Framework.

It is noted that although LPS 3 provides for discretion in considering variations to Clause 32 requirements, there is currently no guidance provided in the planning framework about how to apply discretion in relation to these specific requirements. A decision to vary these Scheme requirements from the outset of the Scheme’s gazettal without further planning guidance will likely create an undesirable development precedent.

Further to this, when considering the objectives of the Mixed-Use zone, there may be opportunities to deliver developments in select locations of only residential land use but the form of this type of development is required to have appropriate density to ensure the residential amenity of development on the highway is consistent and of an appropriate scale to mitigate the impacts of noise and other environmental factors from being within close proximity of the highway. Further to this, the locations where this may be appropriate have not yet been determined as the City is currently undertaking work in this area which may result in Precinct Plans being created for sections of the highway.

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

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

As the development is a single house within the R-AC1 density code, the development complies with the deemed to comply criteria which would usually be applicable for a much smaller lot.

### **6.4.2 Rail and Road Transport Noise – State Planning Policy 5.4**

A noise-sensitive development is defined within the policy as any proposed development for a noise-sensitive land use that would normally require planning approval by a local government authority or the WAPC. The Policy states that discretion may be exercised by a local government authority to apply this policy in the case of an application for a building permit for a single house that would not ordinarily require planning approval but would be subject to critical levels of noise given its location adjacent to a major transport corridor.

For residential buildings, acceptable indoor noise levels are LAeq(Day) of 40dB(A) in living and work areas and LAeq(Night) of 35dB(A) in bedrooms.

The following table outlines the acceptable noise criteria.

Time of day	Noise Target	Noise Limit
Day (6 am–10 pm)	LAeq(Day) = 55dB(A)	LAeq(Day) = 60dB(A)
Night (10 pm–6 am)	LAeq(Night) = 50dB(A)	LAeq(Night) = 55dB(A)

The applicant has not provided any details as to how compliance will be achieved with this policy and therefore should this development proceed, a noise assessment is required to be submitted demonstrating either acceptable noise levels are achievable inside and outside the development or the noise can be managed through other methods as specified within the implementation guidelines.

## 7.0 Conclusion

The development does not comply with the development provisions nor the mixed-use zone objectives of Local Planning Scheme No. 3. The applicant has not submitted justification to support what can be considered a significant under-development of the property. The non-objections received were due to the neighbouring landowners wanting to keep the area as a low-density area which is contrary to the Local Planning Strategy adopted by Council and the WAPC and the associated zoning and scheme provisions applicable in Local Planning Scheme No. 3.

A decision to approve this development which varies numerous Scheme requirements and objectives of the Mixed-use zone from the outset of the Scheme's gazettal without further planning guidance will likely create an undesirable development precedent and reduce the City's ability to meet density targets within the urban growth corridor, placing further pressure on areas which are less suitable for increased density to be rezoned in the future.







**mainroads**  
WESTERN AUSTRALIA

Enquiries: Lucas Hodgson on (08) 9323 4806  
Our Ref: 05/81 (D19#235235)  
Your Ref: DA19-34537

25 March 2019

Chief Executive Officer  
City of Nedlands  
PO Box 9  
NEDLANDS WA 6909  
Email: - council@nedlands.wa.gov.au (via email)

ATTENTION: JAMES FLETCHER

Dear Sir

**PROPOSED SINGLE HOUSE AND ANCILLARY DWELLING – LOT 7 (52)  
STIRLING HWY, NEDLANDS**

In response to your correspondence received on 5 March 2019, Main Roads has no objections subject to the following conditions being imposed.

1. The driveway is to be modified in accordance with the attached plan dated 25 March 2019 to provide sufficient width and depth for vehicles to access the property. This is to remain consistent with Main Roads Driveway Policy Sections 5.1.1 and 5.1.2.
2. The landowner/ applicant shall make good any damage to the existing verge vegetation within the road reserve.

Advice Notes:

1. The applicant should note that the above property is affected by a 10.5 metre Primary Regional Road reservation in the existing Metropolitan Region Scheme (MRS) as per Land Protection Plan 1.7137-1 enclosed and will be required for road purposes at some time in the future.
2. The project for Stirling Hwy is not listed in Main Roads current 4 year estimated construction program and is therefore considered long term. Please be aware project timing is subject to change and Main Roads assumes no liability for any change to the timing information provided.

Should the City disagree with or resolve not to include as part of its conditional approval any of the above conditions or advice, Main Roads requests an opportunity to meet and discuss the application further, prior to a final determination being made.

Main Roads requests a copy of the City's final determination on this proposal quoting the file reference above.



If you require any further information please contact Planning Information Officer Lucas Hodgson on (08) 9323 4806 or via email at [lucas.hodgson@mainroads.wa.gov.au](mailto:lucas.hodgson@mainroads.wa.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read "Zeljko Zagorac".

Zeljko Zagorac  
**Statutory Road Planning Manager**

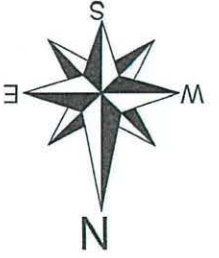
Enc.

Main Roads mark up 25-3-19

Mark up Land Protection Plan 1.7137-1



LEGEND	SEC Dome
○	Power Pole
□	Phone Pits
□	Water Conn.
TP 10.00	Top Pillar/Post
TW 10.00	Top Wall
TR 10.00	Top Retaining
TF 10.00	Top Fence



PROJECT No. M01217 SHEET No. 01 of 09  
SITE PLAN  
DRAWN: ES DATE: OCT 18 REV # A  
SCALE: 1:200 CHK: MH

VARIATION DATE DRAWN  
These are the plans referred to in the Building Contract

CLIENT: \_\_\_\_\_  
CLIENT: \_\_\_\_\_  
BUILDER: \_\_\_\_\_  
DATE: \_\_\_\_\_  
No further structural changes  
© COPYRIGHT

ZONING R35  
DAP NO  
STRUCTURE PLAN YES  
BLOCK AREA 1044m<sup>2</sup>  
LEGEND  
TOF - TOP OF FOOTING  
TOW - TOP OF WALL  
TBA - TO BE ADVISED  
NOTES:

TERMITES TREATMENT TO BE CHEMICAL TREATMENT IN ACCORDANCE WITH NATIONAL CONSTRUCTION CODE 2016, PART 3.1.3, PART 2.1.1 & PART 1.0.7 USING THE TERMICO MANAGEMENT PLAN

CLIENT NOTE: REPAIRS / REINSTATEMENT TO DAMAGED KERBS AND / OR FOOTPATHS WHERE NECESSARY IS THE RESPONSIBILITY OF THE OWNER

CLIENT NOTE: BEWARE OF UNDERGROUND SERVICE RUN-INS WHEN DIGGING

CLIENT NOTE: STORMWATER DISPOSAL (BY OWNER) SHALL BE IN ACCORDANCE WITH THE COUNCIL APPROVED PLANS & CONDITIONS OF APPROVAL AND ANY SPECIFIED STRUCTURAL ENGINEER'S REQUIREMENTS (REFER TO ADDENDA)

NOTE: SOME BUILDING MATERIALS WILL BE PLACED IN THE VERGE RESERVE DURING THE COURSE OF CONSTRUCTION

NOTE: (IF APPLICABLE) PLASTIC GRATES TO THE BASE OF THE DOWNPIPES WITH STORMWATER PIPING TO RUN CLEAR OF ANY PAVED / CONCRETE AREAS

CLIENT NOTE: BUILDER RECOMMENDS FOR CLIENT TO CONTACT THE ADJOINING LAND OWNER TO DISCUSS THEIR PROPOSED SITE LEVELS AS RETAINING MAY BE MINIMISED AND / OR

CLIENT NOTE: OF FENCE TO BUILD THE BUILDING GAIN PER OWNER'S NOTICE P-INSTANT -WIND C

NOTE: ALL DOWNPIPES CONNECTED TO SOAKWELLS WITH PVC STORMWATER PIPE BY BUILDER

DISCLAIMER: Due to lack of survey marks/pegs, all building offset dimensions & features are approximate only and positioned from existing pegs/fences and walls which may not be on the correct alignment and are to be verified when repegged. Any design that involves additions to any structures shown or portion of structures remaining after any demolition has taken place requires boundaries to be repegged and exact offsets provided to your designer/architect before any plans are produced and before any work is started on site.

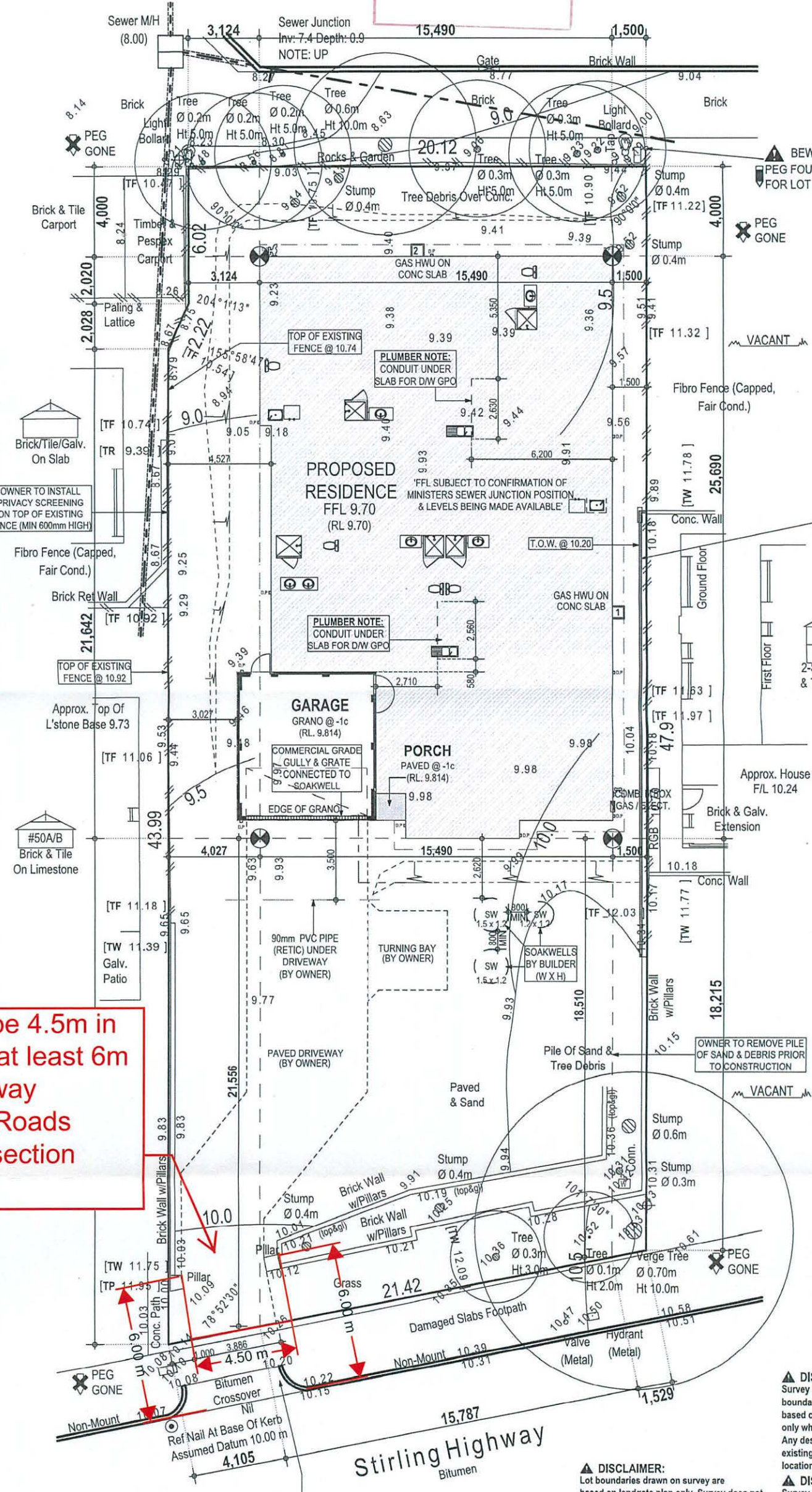
SOIL DESCRIPTION  
Sand Trace Organic Material  
Refer to Survey

Scale 1:200  
0 2 4 6 8

Main Roads  
plan markup in Red  
25-3-19

CITY OF NEDLANDS  
15 FEB 2019

Grano / Paving Areas	AREA	Perimeter
GARAGE	36.64	24.22
PORCH	1.57	5.02



CLIENT NOTE:  
PROPOSED RETAINING WALL BY OWNER  
OWNER TO PROVIDE STRUCTURAL ENGINEER'S CERTIFICATION STATING THE WALL HAS BEEN CONSTRUCTED IN ACCORDANCE WITH THE SUPPLIED DETAILS AND THAT IT IS SUITABLE TO SUPPORT ANY PROPOSED LOADS PLACED ON IT PRIOR TO THE BUILDER COMMENCING CONSTRUCTION  
NOTE: NO FORM OF PANEL & POST RETAINING IS TO BE USED TO RETAIN HEIGHTS GREATER THAN 900mm AS THIS WILL AFFECT THE DESIGN OF THE FOUNDATIONS

PROPOSED RETAINING WALL (S) BY OWNER PRIOR TO CONST. (SEPERATE APPLICATION)  
THE LENGTH OF THE WALLS SHOWN ARE APPROXIMATE ONLY AND SHOULD BE CONFIRMED ON SITE BY THE RETAINING WALL CONTRACTOR

SET-OUT PEGS BY LICENSED SURVEYOR (4 OFF)

2-Storey Brick & Tile On Slab

Approx. House F/L 10.24

Brick & Galv. Extension

OWNER TO REMOVE PILE OF SAND & DEBRIS PRIOR TO CONSTRUCTION

VACANT

Stirling Highway

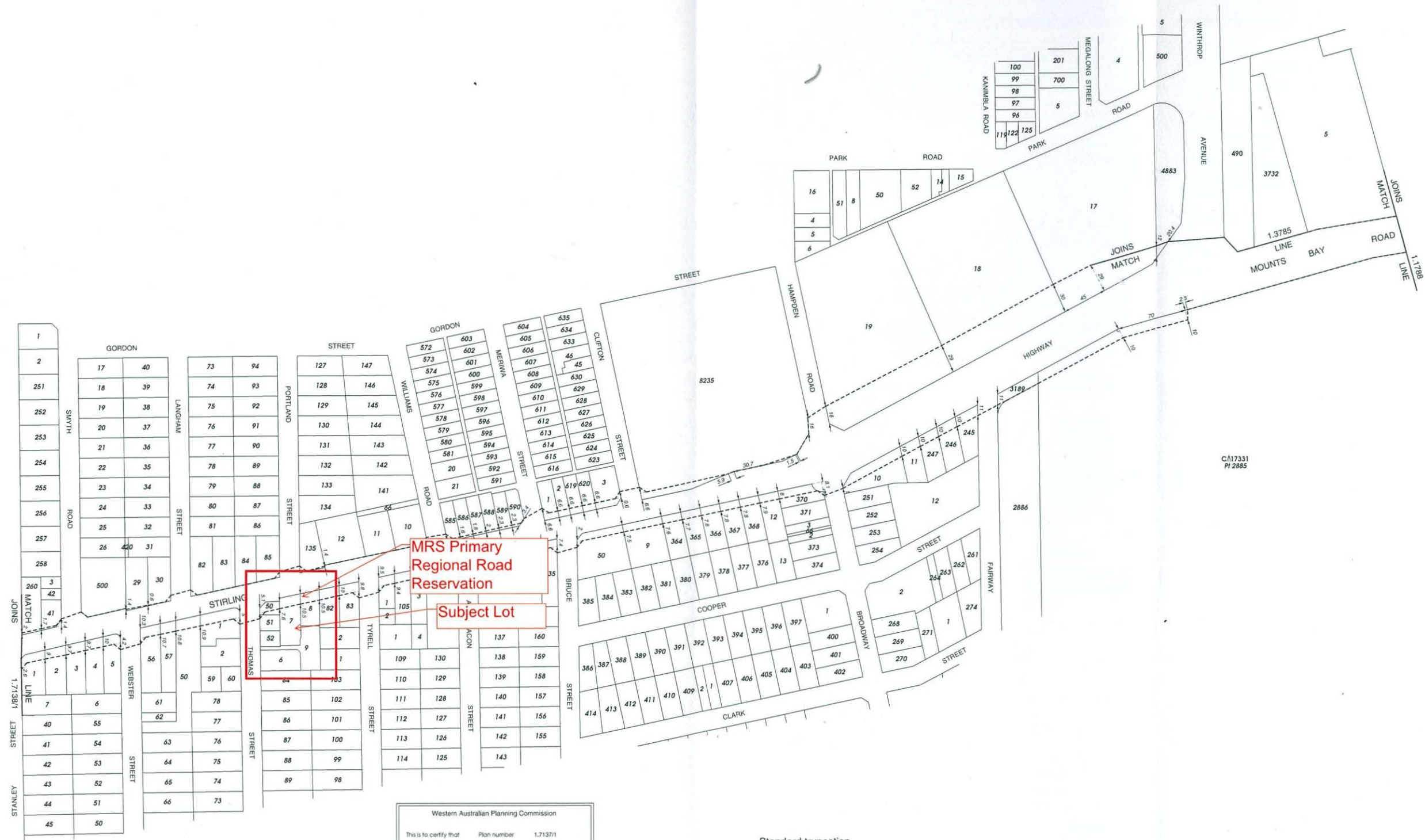
BEWARE: POSSIBLE SERVICE RUN IN & COST

DISCLAIMER: Cottage & Engineering surveys accept no responsibility for any physical on site changes to the parcel or portion of the parcel of land shown on this survey including any adjoining neighbours levels and features that have occurred after the date on this survey. All Sewer details plotted from information supplied by Water Corporation.

BUILDER TAKES NO RESPONSIBILITY FOR ANY DAMAGE TO EXISTING KERBING & CROSSOVER DURING CONSTRUCTION

DISCLAIMER: Lot boundaries drawn on survey are based on landgate plan only. Survey does not include title search and as such may not show easements or other interests not shown on plan. Title should be checked to verify all lot details and for any easements or other interests which may affect building on the property.





Legend

proposed reservation boundary - - - - -

Western Australian Planning Commission

This is to certify that Plan number 1.7137/1

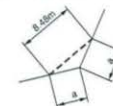
was APPROVED by RESOLUTION of a meeting

held on 25 / 08 / 2015 Minute No. WAPC 235.10.2

Signed *[Signature]* Authorised Officer

Effective: 30/01/2017

Standard truncation



Note: all truncations are standard unless otherwise shown



1.7137 - 1 Jan  
25 Sep 2015  
Produced by Mapping & GeoSpatial Data Branch, Department of Planning, Perth WA  
On behalf of the Western Australian Planning Commission  
Base information supplied by Western Australian Land Information Authority. LI 430-2009-6



Stirling Highway - Lot 5 to Stanley Street  
Primary Regional Roads - proposed land requirement

Project manager: J. O'Hurley  
Draftsperson: T. Lynch  
Examined:  
Revised:  
Date:



Scale 1:2000

Plan number  
**1.7137/1**

File number: 809/2/1/91  
Perth 1:2000 sheets 10.22 & 11.22  
Metropolitan Region Scheme 1:25000 sheet 15  
Amending plan 2.08012  
Changes plan 1.7144/1

**Supersedes plan  
1.7137**

<b>PD36.19 No. 100 Stirling Highway, Nedlands – Roof Sign (Retrospective)</b>	
<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Applicant</b>	Element
<b>Landowner</b>	Independent Cinemas Pty Ltd
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Report Type</b>  Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
<b>Reference</b>	DA19/36628
<b>Previous Item</b>	PD23.18 Municipal Inventory– May 2018 PD06.19 Request to remove deed – February 2019
<b>Delegation</b>	Refusal of applications where discretion exists for Council to approval the variations under the City's Local Planning Scheme No. 3 or policies.
<b>Attachments</b>	1. Site Photograph – January 2019 2. Listing on Municipal Inventory 3. Applicant's report 4. Main Roads comment

## 1.0 Executive Summary

The purpose of this report is for Council to determine a retrospective development application received from the applicant on the 12 June 2019, for an existing roof sign to the 'Windsor Cinema' at No. 100 Stirling Highway, Nedlands.

The application was advertised to adjoining neighbours in accordance with clause 5.3 of the City's Local Planning Policy – Consultation of Planning Proposals. No submissions were received during the consultation period. The application was also referred to Main Roads for comment with submission of no comment/objection received.

It is recommended that the application be refused by Council as the development does not comply with the provisions of the City's Signs Local Planning Policy, namely the size of the signage and also the signage being for third party advertising and not in relation to the business on site. The City has no ability to take into consideration the success or failure of a business based on the source of income from unauthorised development nor the ability to consider the land use as a 'community benefit'.



## 2.0 Recommendation to Committee

Council refuses the retrospective development application dated 12 June 2019 for a Roof Sign at No. 100 (Lot 123) Stirling Highway, Nedlands, for the following reason:

1. The roof sign does not comply with the City's Local Planning Policy – Signs objective "to avoid the proliferation of signs or signage which are not relevant to the business", as the signage relates to third party advertising.

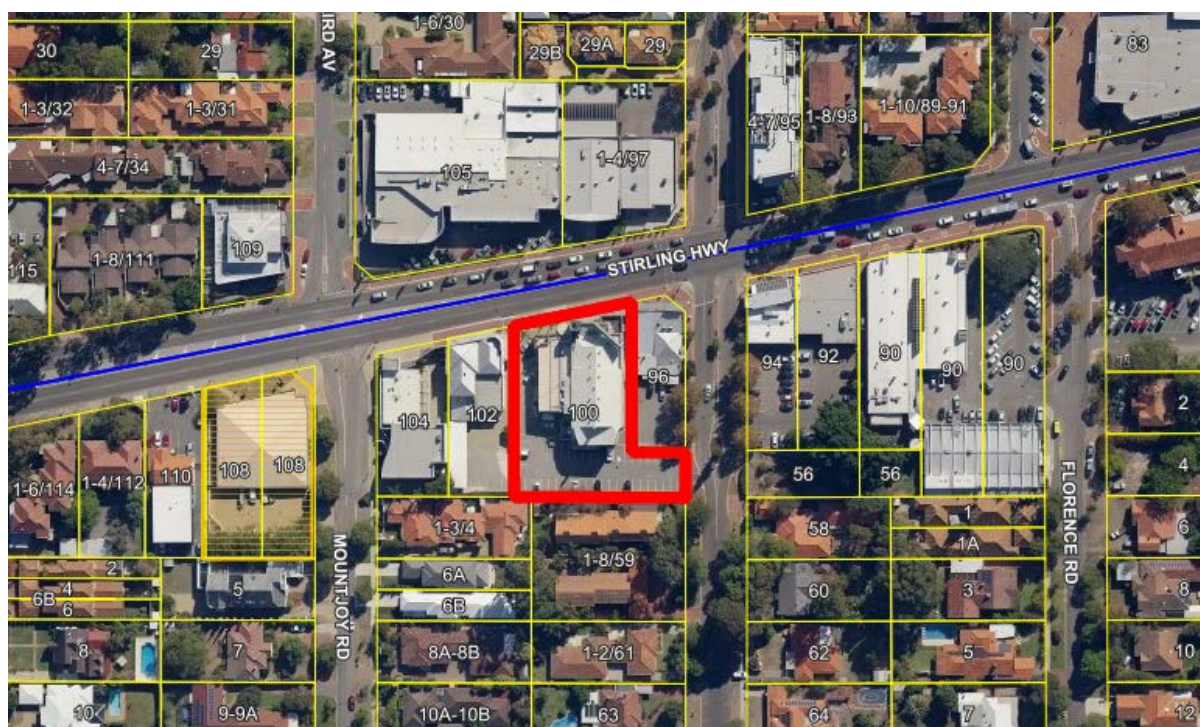
## 3.0 Background

### 3.1 Land Details

Metropolitan Region Scheme Zone	Urban
Metropolitan Region Scheme Reserve	Primary Regional Road
Local Planning Scheme Zone	Mixed Use
Land area	2532m <sup>2</sup>
Additional Use	No
Special Use	No
Local Development Plan	No
Structure Plan	No
Land Use	Cinema/theatre
Use Class	X – non-conforming use rights exist as a result of LPS 3 gazettal in April 2019

### 3.2 Locality Plan

The subject property is located on Stirling Highway within close proximity of the Dalkeith Road intersection.



Council approved a 9m x 1.8m roof sign at the Windsor Cinema in 1986. It was subsequently brought to the City's attention that a 12m x 3m unauthorised roof sign existed at the property. The Minister instructed for the sign to be removed following an appeal by the landowner.

The roof sign concerned was allowed by the City to remain subject to a legal agreement (deed) being prepared between the City and the landowner. The deed was drafted by the City's solicitors in 1996 and signed by both the City and Independent Cinemas Pty Ltd – the current owners of the site.

The deed details conditions such as the Windsor Theatres listing on the Municipal Inventory as well as restrictions around the appearance of the sign and the location of the advertisement on the sign. The deed stipulates that the deed will be abolished if the roof sign is removed. The sign remains in place and an image of the sign at present can be seen in Attachment 1.

At the Council Meeting on the 22 May 2018 Council resolved to allow properties where an owner objects to the listing on the Municipal Inventory to have their address removed from the list. A listing on the Municipal Inventory does not prohibit, restrict, or otherwise alter the development potential of the place.

The applicant wishes to remove their property at 100 Stirling Highway Nedlands (the Windsor Cinema) from the Municipal Inventory and subsequently remove the deed. Removal of the Windsor Cinema from the Municipal Inventory will require removal of the deed.

In order to remove the deed from the certificate of title, the sign must be removed or obtain development approval. If this application is approved, the City can agree to the removal of the deed from the certificate of title. If the application is refused, the City may issue directions to remove the sign or continue to have the deed over the property.

## **4.0 Application Details**

The applicant seeks retrospective development approval for a roof sign, details of which are as follows:

- 43.69m<sup>2</sup> area;
- 15.26m in height above natural ground level
- 4.6m above the building directly below the sign; and
- Displays third party advertising not relevant to the operations of the approved cinema land use.

By way of justification in support of the retrospective development application the applicant has provided justification which is provided as an attachment to this report (Attachment no. 3).

## **5.0 Consultation**

The applicant is seeking assessment under the Objectives of the City's Local Planning Policy – Signs for the following:

- Area of the signage;
- Height of the roof sign above the building;
- Display of third-party advertising.

The development application was therefore advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to residents/landowner and businesses within 100m of the subject property. No submissions were received during the consultation period.

The application was also referred to Main Roads for comment as the subject property is partially reserved for Regional Roads under the Metropolitan Region Scheme. Main Roads have advised they have no objection to the development (See Attachment 4).

## **6.0 Assessment of Statutory Provisions**

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

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

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

#### **Perceived community benefit**

Further to this, clause 67 (v) states that the City may take into consideration "the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses". The applicant has advised that the signage creates an additional income stream for the landowner which assists the landowner in operating the business. However the sign displays material which is not in relation to the approved cinema land use and hence the sign cannot be considered to benefit the cinema land use but rather the owner – who may or may not elect to have profits from the signage flow into the cinema revenue. Therefore, it cannot be claimed that the signage has a community benefit to allow the cinema to continue operating as the signage only benefits the landowner.

#### **Length of time signage on site**

The length of time that the signage has been on site without a development approval is not able to be taken into consideration when determining this application. The signage is currently unauthorised, and no action has been taken to rectify this solely based on the deed over the property. If there was no deed, compliance action likely would have been undertaken to ensure compliance with the relevant planning legislation.

## 6.2 Policy/Local Development Plan Consideration

### 6.2.3 Local Planning Policy – Signs

Policy Objective
<p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following objectives:</p> <ul style="list-style-type: none"> <li>• To ensure that signs do not adversely impact on the amenity of the surrounding area.</li> <li>• To avoid the proliferation of signs nor signage which are not relevant to the business.</li> <li>• To ensure that commercial signs are generally located in non-residential areas.</li> <li>• To ensure that signs do not detract from the level of safety for drivers, cyclists and pedestrians.</li> <li>• To ensure that signage directs pedestrian and vehicular traffic appropriately and is proportionate to the scale of the building.</li> </ul>
Policy Requirement
<p>Clause 4.2 states: All signs:</p> <ul style="list-style-type: none"> <li>(a) Shall be in keeping with the scale and form of the building;</li> <li>(b) Shall not be in any position where it obstructs the site lines of vehicles and/or pedestrians; and</li> <li>(c) Shall not contain any discriminatory or offensive material;</li> <li>(d) Shall be displayed at the site to which it relates with the exception of Sponsorship Signage (cl. 4.8.)</li> </ul> <p>Note: a sponsorship sign is defined as a sign which is for a financial or other benefit to a sporting or community club but is not directly related to the functions or activities of the club. As the business is not a sporting or community club, the business is not eligible for the sign to be considered sponsorship signage.</p> <p>Clause 4.4.6 is relevant for roof signs and states:</p> <ul style="list-style-type: none"> <li>(i) Shall have regard to the amenity of any nearby residential zoned properties;</li> <li>(ii) Shall comply with the building heights which are applicable for the property; and</li> <li>(iii) Roof signs should not exceed a maximum area of 5m<sup>2</sup> and a maximum height of 2m above the roof level.</li> </ul>
Proposed
<p>The sign is proposed to be 43.69m<sup>2</sup> area in lieu of 5m<sup>2</sup> in area.</p> <p>The sign is proposed to be 4.6m above the building directly below the sign in lieu of 2m. The height of the signage is 15.26m in height above natural ground level. The height complies with the building height permitted along Stirling Highway as clause 26 (3) of Local Planning Scheme No. 3 specifies there is currently no building height restriction.</p> <p>The signage displays material which is not in relation to the cinema (i.e. third-party advertising).</p>
Administration Assessment
<p>The height of the signage coupled with the area of the signage is substantially more than what the policy permits and hence the sign can be considered to have greater proportions than the scale and size of the building.</p> <p>The displays third party advertising not relevant to the operations of the approved cinema land use does not comply with the objective of the policy. The success or failure of a business should rely on the functions of the business only and any other approved use on site – not through means of unauthorised development and uses on site.</p>

At the state administrative tribunal, the use of policy in decision making is only given weight to the review if the policy is consistently applied. If Council elects to approve this application, the policy will not have as much weight as decisions from its inception would have been made contrary to the objectives and provisions. Therefore, if Council elects to approve this application, to ensure that the policy continues to have weight and reflects decision making from Council, administration would recommend amendment to the policy in the future to allow third party advertising and permit larger areas and heights for roof signs. This may result in a proliferation of third-party advertising along the highway.

## **7.0 Conclusion**

The roof sign does not meet the provisions of the City's Local Planning Policy – Signs in relation to area, height above the building and display of third-party material. When considering 'variations' to the provisions of this policy, the application is required to be assessed under the objectives of the Policy. The sign also does not comply with the objectives of the policy. A review of other relevant planning legislation has outlined there is no valid planning reason for the sign to be approved. Based on this, the sign is recommended for refusal.

If the application is refused, the applicant is in a fortunate position compared to others due to the existing deed agreement allowing the retention of the signage without development approval. If the landowner wishes to have the deed removed without a development approval, the sign must be removed.

If Council elects to approve the sign, conditions of development approval can be provided upon request.







<b>PLACE NAME</b>	Windsor Cinema
<b>OTHER NAMES</b>	-
<b>PIN No.</b>	-
<b>LAND DESCRIPTION</b>	-
<b>ADDRESS</b>	98 Stirling Hwy, Nedlands
<b>WARD</b>	Melvista
<b>HCWA DATABASE No.</b>	1831
<b>CONSTRUCTION DATE</b>	1937
<b>PERIOD/ STYLE</b>	Inter-War Functionalist
<b>CONSTRUCTION MATERIALS</b>	Brick, Render, Metal
<b>PLACE TYPE</b>	Individual Building
<b>PRESENT USE</b>	SOCIAL RECREATIONAL: Theatre or Cinema
<b>HISTORICAL USE</b>	SOCIAL RECREATIONAL: Theatre or Cinema
<b>HERITAGE LISTINGS</b>	Classified by National Trust (WA)
<b>HISTORIC THEMES</b>	SOCIAL & CIVIC ACTIVITIES: Sport, recreation & entertainment
<b>HISTORICAL ASSOCIATIONS</b>	A R Baxter-Cox: Architect W H Ralph & Sons: Builder William Leighton: Architect

## HISTORICAL NOTES

The Windsor Theatre was designed by Perth architectural firm Baxter Cox & Leighton. The firm was also responsible for the two-storey commercial building next door (1937-38) that was built around the same time. Despite this connection there is little in common between the two buildings in terms of their external facades or how they relate, or may have related, to each other.

The Windsor Theatre was built in 1937 by W H Ralph and Sons. W H Ralph was a prominent builder involved in the construction of a number of places throughout the Nedlands/Dalkeith area, including the Nedlands Council Offices. Built for E P Nelson of Claremont District Pictures, the Windsor Theatre was one of a number of theatres constructed in Perth during the Inter-War period. The theatre was officially opened on 10 September 1937 by the Chairman of the Nedlands Road Board, Mr Bennett. When the Windsor opened for business it had both an outdoor picture garden as well as an indoor auditorium. The combination of both services proved very successful. The auditorium could seat at least 800 people, a much larger number than the nearby Broadway Theatre.

After a reduction in patronage the picture gardens fell into disuse. It is thought that the introduction of colour TV contributed to this decline. The last remnants of the picture gardens were demolished in 1988. Part of the old outdoor picture garden is the site of the "twin" picture theatre. This new cinema was designed with the intention of making the building viable. It has a capacity to seat 210 people. The old auditorium has seating arrangements for 500. The cinema continues to operate to this day (2012).

There has been some conjecture about the architect responsible for the design of the Windsor Theatre, whether it was A R Baxter-Cox or William Leighton.

## PHYSICAL DESCRIPTION

Windsor Cinema 98 Stirling Highway, is a prominent two-storey masonry building displaying characteristics of Inter-War style. The cinema is built to the front lot line, and is a prominent landmark on Stirling Highway.

The first floor parapet wall, which conceals the metal clad roof, steps in and out along the front elevation, with a curved portion, with curved balcony, at the western end. Above the ground floor, which largely comprises contemporary shop entries, the front elevation has projecting, corbelled panels, inscribed horizontal banding, and a three storey flat tower with inscribed Art Deco inspired moulding extending the height of the tower. The balcony balustrading is a simple metal horizontal style, echoing the nautical influences often seen in Functionalist architecture. Entry to the cinema is via four pairs of contemporary metal framed doors, with a projecting corbelled arch over.

## STATEMENT

Windsor Cinema has some aesthetic significance as a fine example of an Inter-War cinema, with fine detailing and proportion.

Windsor Cinema has some aesthetic significance for its contribution to the streetscape, which has an Inter-War influence.

Windsor Cinema has some historic significance for its association with well known local architect W.G. Leighton.

Windsor Cinema has some social significance as a place of entertainment for locals since 1937.

<b>MANAGEMENT CATEGORY</b>	Retain as B
<b>DESIRED OUTCOME</b>	-
<b>SURVEY/ASSESSMENT DATE</b>	2 December 2011



Our Ref: 19-115

6 June 2019



Chief Executive Officer  
City of Nedlands  
71 Stirling Highway  
Nedlands WA 6909

Attention: Kate Bainbridge – Coordinator Statutory Planning

Dear Kate

**LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT  
APPLICATION FOR THIRD-PARTY ROOF SIGN**

This submission has been prepared by **element** on behalf of Independent Cinemas Pty Ltd, being the landowner of Lot 123 (No. 100) Stirling Highway, Nedlands (the subject site) in support of a retrospective development application for the existing third-party advertising signage atop of the roof.

*Refer to Appendix 1 – Retrospective Development Plan*

In accordance with the City of Nedland's development application submission requirements, please find enclosed:

- A completed and signed City of Nedlands Application Form and Metropolitan Region Scheme Form 1;
- A cheque to the City for \$450.00 being the amount payable for a retrospective development application (cost under \$50,000.00);
- A copy of the current Certificate of Title; and
- Development plans.

**Site Description**

The subject site is located within the suburb of Nedlands and is generally bound by Stirling Highway to the north, adjoining residential properties to the south, adjoining commercial properties to the west and east as well as Dalkeith Road from which vehicle access is derived.

The subject site has a total land area of 2,532m<sup>2</sup> and contains the Windsor Cinema and associated parking at the rear.

Certificate of Title and landowner details are summarized in the table below.

Table 1 – Landowner Details

Lot	Street Address	Diagram	Volume/Folio	Registered Proprietor
123	100 Stirling Highway, Nedlands	10957	1452/663	Independent Cinema Pty Ltd

*Refer to Appendix 2 – Certificate of Title*

*Refer to Figure 1 – Location Plan*

*Refer to Figure 2 – Aerial Plan*

*Refer to Figure 3 – Site Plan*

Chief Executive Officer  
City of Nedlands

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY  
ROOF SIGN

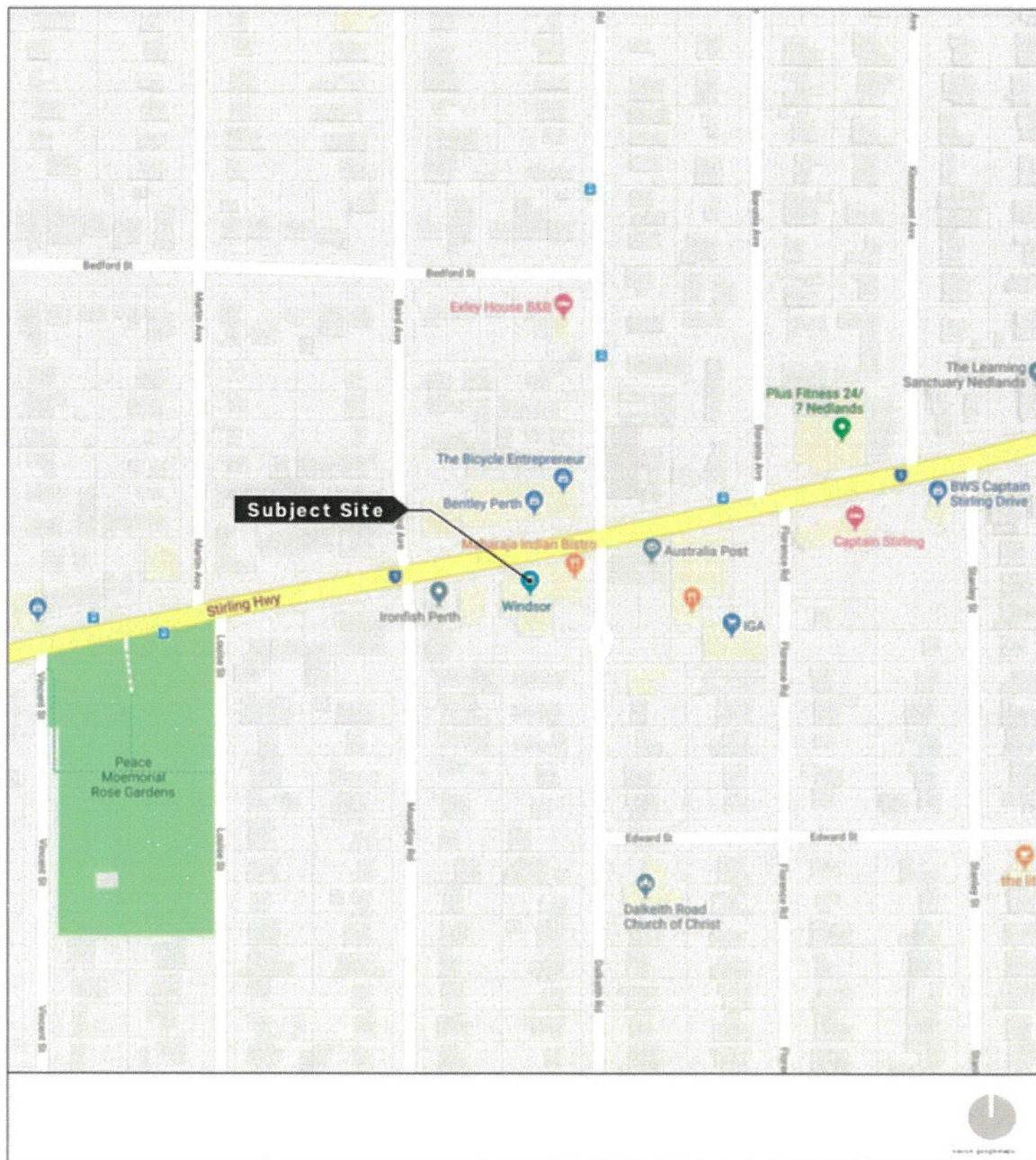


Figure 1 - Location Plan



Chief Executive Officer  
City of Nedlands

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY  
ROOF SIGN

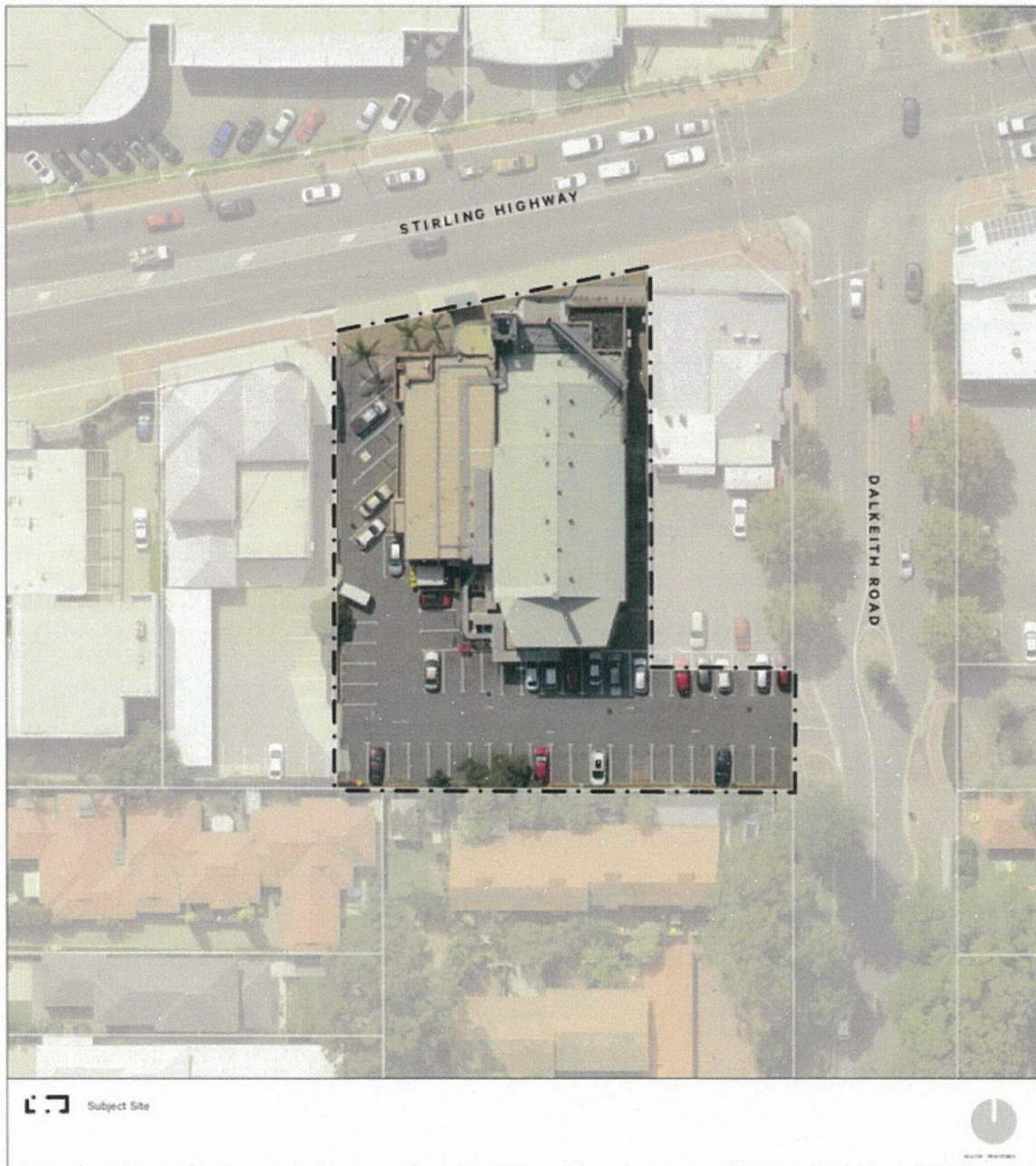


Figure 2 - Aerial Plan

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY  
ROOF SIGN

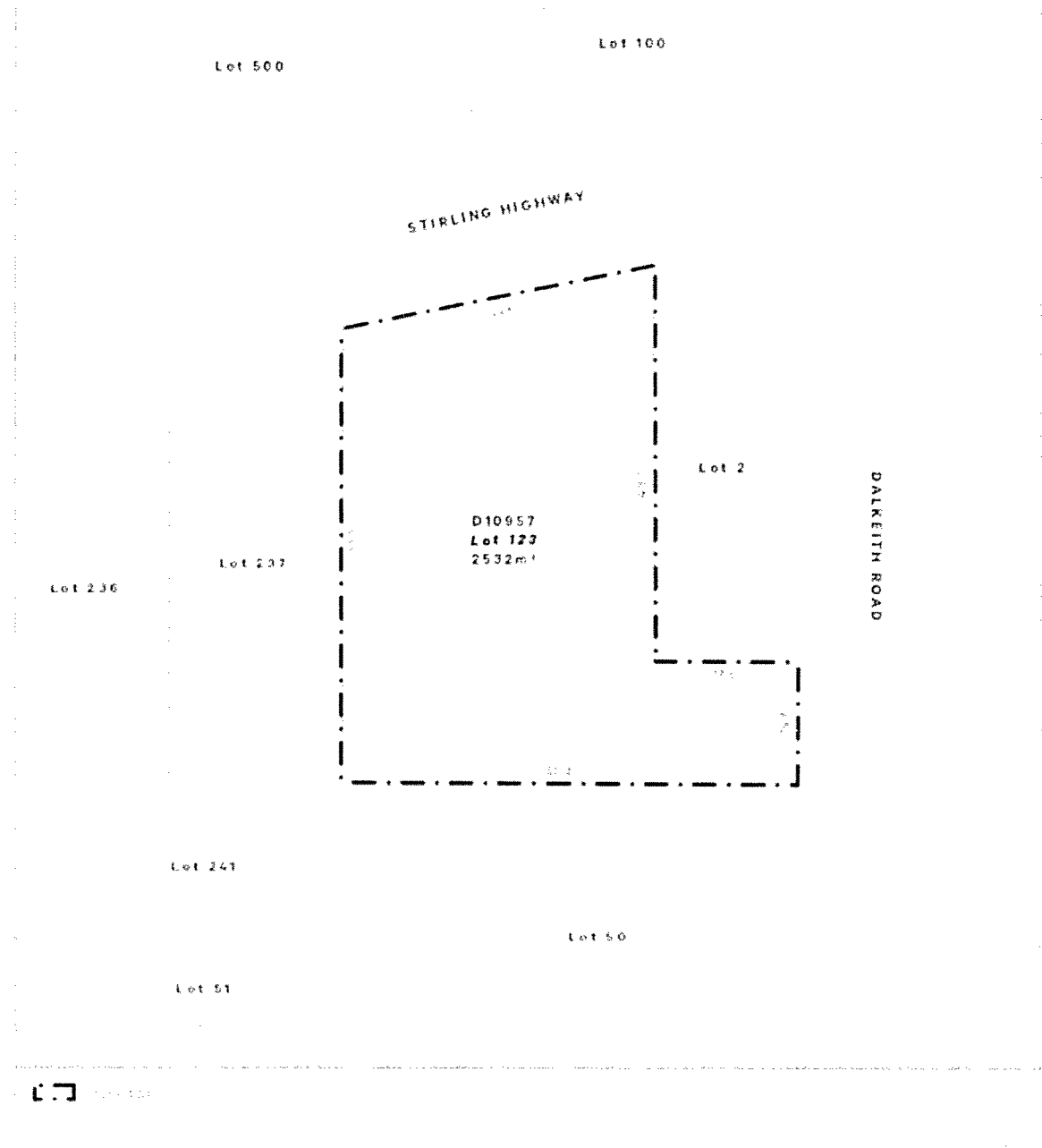


Figure 3 – Site Plan



Chief Executive Officer  
City of Nedlands

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY  
ROOF SIGN

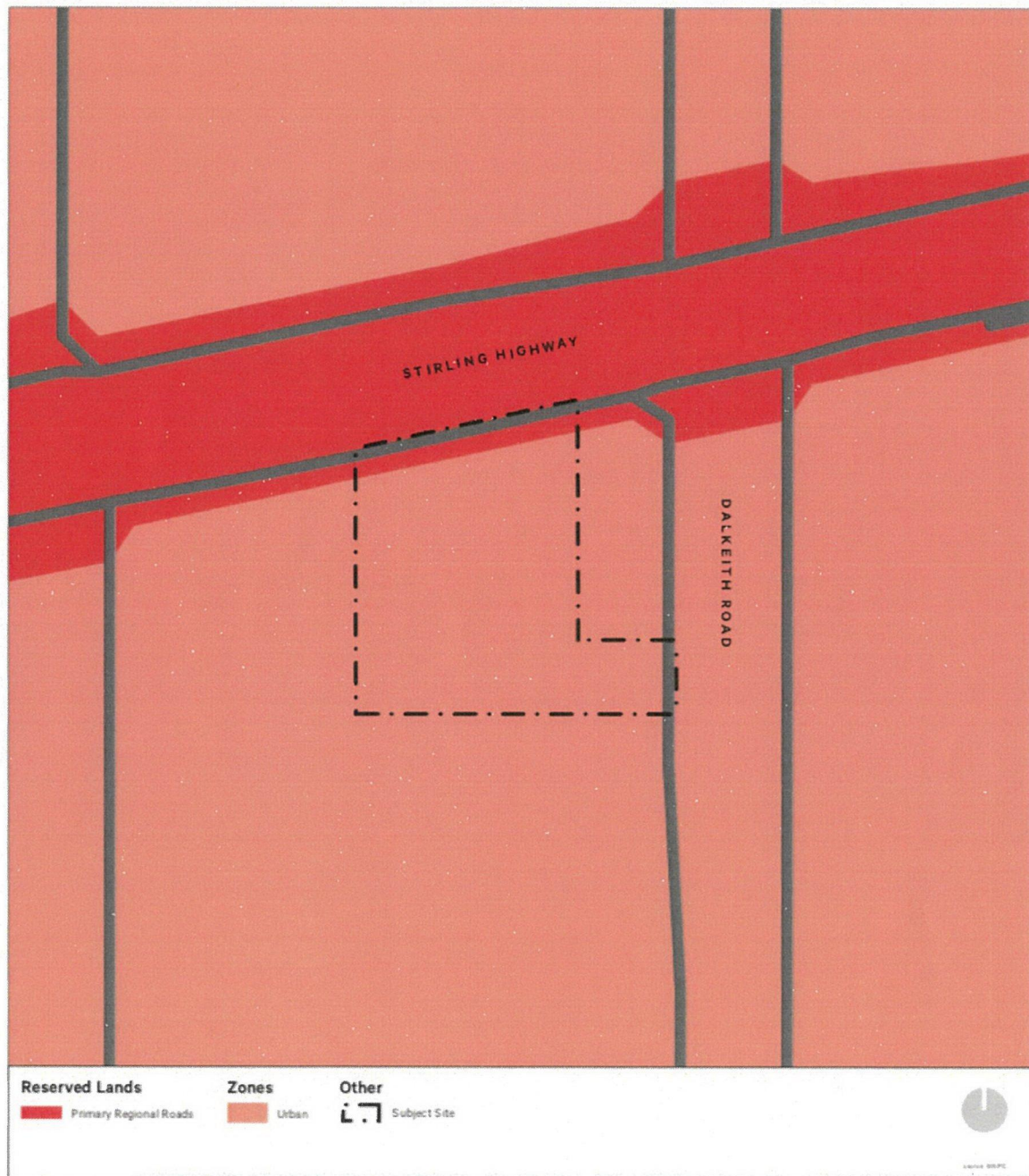


Figure 4 – Metropolitan Region Scheme Extract



LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY  
ROOF SIGN

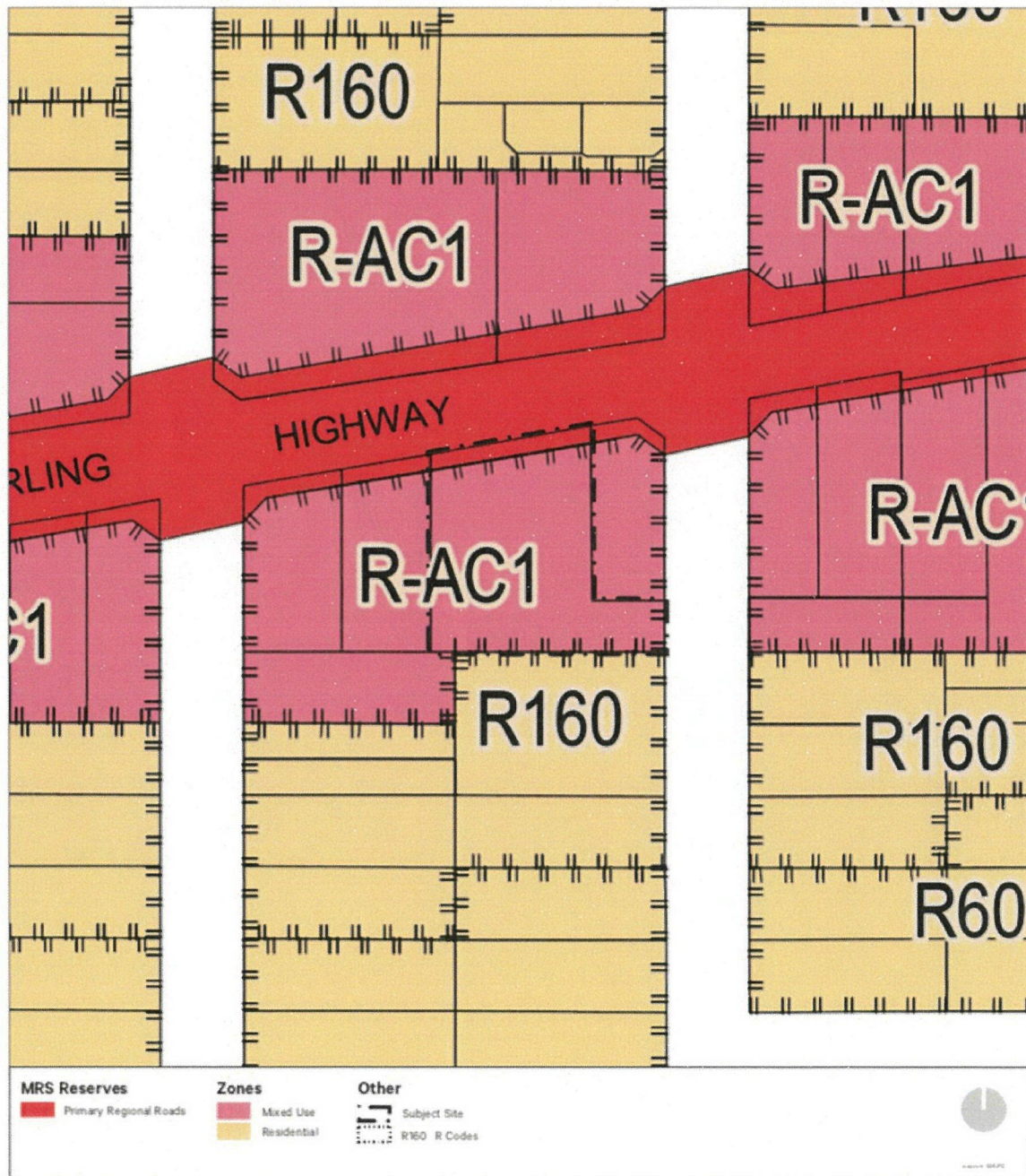


Figure 5 – City of Nedlands Local Planning Scheme No. 3 Extract



## Background

The Windsor Theatre was originally constructed in 1937 and contained both an outside picture garden and internal auditorium. Overtime, the building has been modified and modernised in response to the demands of the market, altering the integrity of the building and therefore its heritage significance.



Figure 6 – Existing 'Windsor' Signage in 1981

Figure 6 above shows the original 'Windsor' sign on the roof of the building in 1981, which is believed to have been in place since the building was erected in 1937. At some time around 1986, the original signage was replaced and third-party advertising signage was erected by a signage company. Minutes from the Town Planning, Building and Committee meeting of 25 November 1986 provide some discussion on the change at this time and recommended, *'That a licence be granted for a roof sign in accordance with the provision of the signs by-laws'*, at the time. This confirms the appropriateness of the existing third party signage and is also considered to confirm it as being lawful.

*Refer to Appendix 3 – Minutes of Town Planning, Building and Committee (25 November 1986)*

In 1997, the validity of the existing approval was raised by City of Nedlands Administration, which resolved to serve a notice under Section 401 of the *Local Government (Miscellaneous Provision) Act 1960* on the owner and the Sign Agent, for erecting a roof sign without first obtaining a building licence. An appeal was lodged with the Minister for Local Government and subsequent disputes had ultimately resulted in the Minister giving the Council until the end of August 1999 to decide if it has changed its view, with enforcement action being placed on hold.

On 24 August 1999, a report prepared for consideration by Council discussed the existing signage and suggested an alternative recommendation to potential refusal of the signage, allowing for the existing signage to remain at the subject site where a legal agreement recognised the heritage value of the Theatre by including it in the City's Heritage Inventory as well as protecting the heritage character and amenity of the sign including such things as the message displayed, the condition and appearance of the structure and the type and lighting of the display. The following discussion within the report relates to the alternative recommendation, confirming the ongoing allowance for the existing roof signage and its appropriateness to remain:

*"A third possible approach is that the Council might generally firm up its policies and laws in regard to roof signs, but allow the Windsor Theatre sign to remain as a special exception, having regard to the circumstances, including the existence of the sign for many years, the heritage value of the theatre building and in that connection agreements and concessions provided by the owner to protect the heritage building and otherwise improving the amenity impact. Any such arrangement would be confirmed in a formal legal agreement".*

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY ROOF SIGN

The alternative recommendation was carried and a legal agreement was subsequently prepared between the City and the landowner, allowing the existing sign to remain.

*Refer to Appendix 4 – Agenda Report 24 August 1999*

*Refer to Appendix 5 - Minutes of Ordinary Council Meeting 24 August 1999*

The deed and ongoing use of the signage has ultimately enabled the landowner to generate an income from the signage to be able to continue to maintain the Windsor Theatre to an appropriate condition. It is our understanding that there have been a number of attempts to include the building on the City's heritage list, however, this has not yet occurred due to the building not meeting the threshold to be placed on the State Register of Heritage Places, and as such, the building was never placed on the City's local heritage list.

On 12 February 2019, the Council unanimously approved the landowners request to remove the existing deed between the landowner and the City, subject to a retrospective development application for the existing roof sign being approved by the City. This is not considered to construe the appropriateness of the existing sign at the subject site on the basis that the previous approval considered third party signage as being appropriate and the subsequent deed related to the building in and signage in its existing form. The building and its heritage value today is logically of the same significance as it was at the time of the deed being written and entered into between the City and the landowner, as is the appropriateness of the signage in this location, which has been operating lawfully without issue in this location for over 20 years.

### **Proposed Retrospective Development**

This application seeks retrospective planning approval for the existing third-party advertising signage affixed to the roof of the Windsor Theatre. The existing signage has one advertising surface being 12 metres in length and 3 metres in height. The bottom extent of the signage is approximately 11.82 metres above ground level. The signage faces north east, with content only being able to be read by those travelling in a westerly direction along Stirling Highway and/or southerly direction along Dalkeith Road. The existing signage is externally illuminated to be able to be read at night time.

*Refer to Appendix 1 – Retrospective Development Plan*

This application does not propose to alter the existing signage in any way and simply seeks to formalise the existing signage at the subject site. This is being undertaken in accordance with the 12 February 2019 Nedlands Council Committee Meeting whereby Council unanimously adopted the following recommendation in relation to the existing signage at the subject site:

- 1. approves the landowner's request for the Deed between the City and Independent Cinemas Pty Ltd in relation to the roof sign at the Windsor Cinema, Lot 123 (No. 100) Stirling Highway, Nedlands to be removed subject to a retrospective development application for the roof sign being approved by the City; and*
- 2. notes that Council's decision to approve the landowner's request should not be construed as meaning that the retrospective development application will be approved. The application will be determined having regard to the matters listed under the Planning and Development (Local Planning Schemes) Regulations 2015. It is recommended that the landowner engages a Town Planning Consultant to assist with the preparation of the application.*

*Refer to Appendix 6 – Council Committee Minutes 12 February 2019*

## Planning Framework and Assessment

### Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and abuts Stirling Highway, which is reserved under the MRS as a Primary Regional Road (PRR). A 4.5m portion of the subject site is impacted by the PRR reservation.

The Western Australian Planning Commission (WAPC) Delegation 2017/01 Powers of Local Governments and Department of Transport (DEL 2017/01) outlines that the local government is delegated the responsibility of determining the proposed development, who will be required to refer the application to Main Roads Western Australia for comment, who are anticipated to have regard to its *Policy and Application Guidelines for Advertising Signs*. This is discussed in more detail below.

*Refer to Figure 5 – Metropolitan Region Scheme Extract*

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

Under the City of Nedlands (the City) Local Planning Scheme No.3 (LPS3), the subject site is zoned 'Mixed Use' and is prescribed a density of RAC1.

*Refer to Figure 6 – City of Nedlands Local Planning Scheme No. 3 Extract*

Whilst third party advertising was found by the Supreme Court to potentially constitute an independent use of land, the State Administrative Tribunal has previously considered the matter in its decision DR 65 of 2013 APN Outdoor vs the City of Cockburn, where it found that the use was not a relevant commercial use regulated by the Scheme, but was rather an innominate use which could be dealt with as a use not listed. This is considered the same in this instance given the existing signage is not considered to reasonably fall within any of the land use terms within Division 2 of the City's LPS3.

As the existing development is not a defined land use and is therefore not given a use permissibility within the City's Zoning Table under clause 17, the proposed development will need to be considered against the objectives of the zone, in accordance with clause 18 (4), which states:

- 18      (4) *The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -*
- (a)      *determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or*
  - (b)      *determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or*
  - (c)      *determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.*

The objectives of the 'Mixed Use' zone are outlined in the City's LPS3 as follows:

- *To provide for a significant residential component as part of any new development.*
- *To facilitate well designed development of an appropriate scale which is sympathetic to the desired character of the area.*
- *To provide for a variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.*
- *To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.*

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY ROOF SIGN

The majority of the objectives of the Mixed Use zone as outlined above are not directly applicable to the existing signage at the subject site, however, it is considered that the signage:

- does not prevent a future significant residential component as part of a new development from occurring;
- has been in place for a number of years, having no impact on the character of the area and is regularly maintained to an appropriate standard of amenity and safety;
- has no impact on the ability for a number of varied uses to be accommodated on the subject site and will not generate nuisances detrimental to the amenity of the district or to the health and safety of its residents on the basis that the signage:
  - has been operating in this location for a number of years without complaint from any visitors to the area, adjoining and nearby landowners within the district;
  - is approximately 50 metres away from the nearest residential property and does not face directly to these properties;
  - Is in keeping with the visual amenity of the area along Stirling Highway where there are numerous commercial properties and associated signage;
  - Does not sit above the taller architectural element of the Windsor Theatre and does not dominate the building;
  - does not create any noise pollution and external illumination is controlled so as to not have any detrimental impacts on adjoining landowners; and
  - has no impact on the health, welfare and safety of residents with traffic safety data revealing no correlation between the existing signage and vehicle crash statistics as discussed in more detail below.

City of Nedlands Council Policy Manual – Advertising Signs on Zoned and Reserved Lands (Except Road Reserves) Local Planning Policy

The City's Local Planning Policy relating to advertising signs (Signage Policy) sets out a number of standards and requirements that are applicable to particular signage types and sets out the following objectives:

- *Ensure the display of advertisements on sites does not adversely impact on the amenity of the surrounding land;*
- *Protect the significance of heritage places or buildings;*
- *Ensure that advertisement signs do not detract from the level of safety for drivers, cyclists and pedestrians by obstructing sight lines and distracting road users; and*
- *Ensure that commercial advertising signs are generally located in non-residential areas.*

The existing signage is considered to be consistent with the abovementioned general objectives for the following reasons:

- As previously alluded to, the signage does not face existing nearby residential properties and is in keeping with the commercial amenity of Stirling Highway where there are a number of commercial signs;
- The existing signage does not impact the existing building and income generated by the sign enables the Windsor Theatre to be appropriately maintained into the future.
- The signage has been operating in this location for a significant period of time without any issue in terms of driver or pedestrian safety; and
- The commercial nature of the sign is appropriately located within a commercial area and is considered to be entirely appropriate.

The existing signage at the subject site is considered to fall most closely within the following definitions provided under the Signage Policy:

**Roof Sign** – *A sign which protrudes above the building's roof line. Excludes a tethered sign(s).*

*"A sign which protrudes above the building's roof line. Excludes a tethered sign(s).*



LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY ROOF SIGN

The City's Signage Policy does not stipulate any specific location or built form requirements that apply to roof signs. The Signage Policy does outline that roof signs, *'shall be assessed on a case by case basis having regard to the size and height above natural ground level, and the potential impact it may have on the streetscape and the amenity of nearby residential properties'*. This is addressed in discussion below.

Section 4.2 of the Signage Policy sets out general requirements that are additional to the sign type specific requirements. Responses are provided against each of the requirements as follows:

- a) Advertisement signage is to be located on the site to which it relates;*

The proposed sign has the ability to advertise products and/or services that relate to the land in which it is situated on as well as a number of other services and/or products that are not necessarily related to the site. The proposed sign and content are not dissimilar from numerous other examples that can be found Australia wide and also within the Perth metropolitan area.

While there may be no direct relationship between the advertisement and the land, this is not considered to result in any detrimental impact to the site or surrounds and have no impact on safety or amenity. The subject site is afforded excellent frontage to Stirling Highway, with the existing signage and content is designed to be easily read, understood and dismissed. In this respect, the content being advertised is not considered to have any significant difference from a movie sign that could be displayed in this location.

- b) Advertisement signage is only to be located within the boundaries of the land;*

The existing signage is wholly contained within the subject site.

- c) Advertisement signage is not to detract from the building's design;*

The existing signage is fixed to the existing building roof structure and is located below the higher architectural feature of the Windsor Theatre building. Whilst it is not incorporated within the design of the building itself having been erected after the building construction, the signage is not considered to detract from the building design and is read separately.

- d) Advertisement signage is not to pose a threat to public safety or health and shall not have any sharp or pointed projections below a height of 2.75metres from ground level;*

The above is envisaged to relate to signage located within the public realm, such as awning signage and is therefore not particularly relevant to this application. Notwithstanding this, the existing signage poses no threat to public safety.

- e) Advertisement signage shall not be in any position where it obstructs the view from a street and/or the site lines of vehicles and/or pedestrians; and*

The location of the existing signage does not obstruct the view of motorists or pedestrians from the street or any other sight lines in any way.

- g) Advertisement signage shall not contain any discriminatory or offensive material.*

The existing sign has been operating in this location for over 30 years. All advertising content displayed will continue to be regulated by relevant advertising legislation that controls content across Australia.



### Main Roads (Control of Advertisements Regulations 1996)

The City is required to refer the application to Main Roads Western Australia (MRWA) in accordance with the WAPC's Delegation DEL 2017/01 for comment, which will have regard to its *Policy and Application Guidelines for Advertising Signs* (the Guidelines), that aim to manage and control advertising within the boundaries of State roads, as well as advertising beyond but visible from state roads.

The Guidelines outline a number of general safety and efficiency criteria that apply to all sign types and locations, as well as specific conditions relating to road user safety for signs beyond state road reserves but still visible from State roads. Relevant provisions in the Guidelines are detailed and addressed below.

#### *3.1.2 Physical Characteristics*

The size and shape of the proposed sign is within the limits of the accepted industry standards. There will be no flashing lights and there will be no potential for the signage to be construed as emergency service or special purpose vehicle warning lights.

#### *3.1.3 Crash History*

A desktop search of MRWA Intersection Crash Ranking system online and data made available through MRWA Asset and Geospatial Information (AGI) team, data reveals that there has been a total of 57 crashes between 1 January 2014 to 31 December 2018 at the intersection of Stirling Highway and Dalkeith Road. Only 15.8% of these crashes required medical attention, with no hospital or fatalities being recorded.

In comparison to other intersections, considering the severity of the crash history in this location and that the intersection has not been identified within Main Roads WA State Black Spot Program, the intersection is not considered dangerous. Available data does not provide any correlation between existing crashes and the existing signage that forms part of this application.

On the basis of the above, the existing signage is not considered to have contributed to any of the minor crashes that have occurred within this location and will likely not be a contributing factor as part of any future crash scenarios.

### *5.3 Conditions relating to Road User Safety*

#### *5.3.1 Display*

The existing advertising is not considered to cause driver distraction due to its size, orientation or iridescence and will not dazzle or distract drivers being static and externally illuminated only.

The existing signage is not able to be viewed behind any traffic control devices at the traffic lights at the Stirling Highway/Dalkeith Road intersection at any point and therefore, the location of the existing sign does not interfere with or confuse the clarity of traffic control devices or the readability of the road layout.

Advertising content and text size will be controlled to ensure compliance with the Guidelines. This will ensure minimal text (if required within advertising) is easily read and understood by passing motorists at normal road operating speeds.

#### *5.3.2 Location*

The location of the existing sign does fall within the device restriction area when assessed against criteria in Appendix A, Figure 1 being Diagram 2 "Cross Road". Notwithstanding this, the existing sign is not directly visible from the intersection given its location atop of the existing building and therefore,

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY ROOF SIGN

noting the diagram is used as a guide it is acknowledged that this diagram and the Guidelines in general have no regard to the position of a sign within a landholding and specifically its height above ground level. In this respect, although the sign is located within the device restriction area, the Guidelines have no regard to existing topography and/or the height of a sign within this device restriction area. In this instance, the existing sign is not visible from the intersection given its height above ground level and therefore is considered to be appropriate.

The existing position of the sign on the roof of the building does not block or impede driver sightlines and is considered safe and appropriate, having regard to there being limited complaint or crashes related to the existing signage over a significant period of time.

### 5.3.3 Content

Any proposed changes to the advertising sign will ensure there will be no content that may be mistaken for traffic signals, emergency signage or driver instructions. All text will be at an appropriate scale to ensure it is easily read.

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

At the 12 February 2019 Nedlands Council Committee Meeting, Council noted that an application for the existing signage will be determined having regard to matters listed under the *Planning and Development (Local Planning Schemes) Regulations 2015*. In this respect, the following matters are considered to be matters that the local government will have regard to. Responses are provided against each of the relevant matters below.

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*

This has previously been addressed above.

- (g) *any local planning policy for the Scheme area;*

This has previously been addressed above.

- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

The existing signage has been operating in this location for a number of years, replacing an existing roof sign associated with the Windsor Theatre. The signage does not impact on adjoining land by virtue that it is oriented toward Stirling Highway only, having no impact on those adjoining residential properties. The signage is well maintained, and this ensures there are no detrimental visual impacts on the locality resulting from its appearance.

- (n) *the amenity of the locality including the following —*
  - (i) *environmental impacts of the development;*
  - (ii) *the character of the locality;*
  - (iii) *social impacts of the development;*

The existing sign is not considered to have any impact on the amenity of the immediate area in that it does not result in any environmental impacts, the character of the area is unchanged and remaining in a commercial precinct where the existing sign is clearly in context within its setting, and it is not considered to have any social impact.

- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*

Chief Executive Officer  
City of Nedlands

LOT 123 (NO. 100) STIRLING HIGHWAY, NEDLANDS – RETROSPECTIVE DEVELOPMENT APPLICATION FOR THIRD-PARTY ROOF SIGN

The suitability of the existing development in this location is reflected in the ongoing successful operation of the signage over a significant number of years. The existing signage has not caused or been directly associated with any known health or safety issues in this location. As previously discussed, vehicle crash statistics are insignificant and show no correlation between nearby crashes and the existing signage.

### **Conclusion**

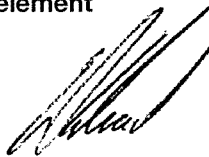
Based on the above assessment, the existing advertising sign is considered to be consistent with the relevant provisions that guide the decision maker in determining the appropriateness of the signage at this location. The signage has been operating in this location for over 30 years, without complaint and is not considered to have any detrimental impact on the amenity of the locality, character and health or safety matters as emphasised by its ongoing successful operation.

The existing sign is entirely appropriate in this location and does not impact driver safety for reasons alluded to in the above assessment as well as existing precedent being set by similar signage types across the metropolitan area that are continuing to demonstrate there is no impact on driver distraction or road safety. The existing sign emphasises this further by locating and successfully operating here for over 30 years without any impact on road safety conditions.

We trust the information provided will assist the City in assessing the existing signage and we look forward to the City's favourable consideration of this application.

Should you have any queries or require clarification on any of the matters presented herein please do not hesitate to contact Mr Lewis Shugar or the undersigned on (08) 9289 8300.

Yours sincerely  
**element**

A handwritten signature in black ink, appearing to read 'David Read', with a stylized flourish at the end.

David Read  
Director



**mainroads**  
WESTERN AUSTRALIA

Enquiries: Adrian Ortega on (08) 9323 6451  
Our Ref: 19/4341; D19#541558  
Your Ref: DA19-36628

2 August 2019

City of Nedlands  
Received  
05 August 2019

Chief Executive Officer  
City of Nedlands  
PO Box 9  
NEDLANDS WA 6909

Attention: Kate Bainbridge

**REFERRAL RESPONSE - RETROSPECTIVE SIGNAGE - LOT 123 (100) STIRLING  
HIGHWAY NEDLANDS**

In response to your correspondence received on 1 July 2019, Main Roads has no objection to the proposal.

The support of this approval and access arrangement is valid for a period of two (2) years from the date of this letter. Any changes or date extensions relating to this development application must be referred to Main Roads for comment and recommendation.

Main Roads requests a copy of the City's final determination on this proposal to be sent to [planninginfo@mainroads.wa.gov.au](mailto:planninginfo@mainroads.wa.gov.au) quoting the file reference above.

Yours sincerely,

  
Zejko Zagorac  
**STATUTORY ROAD PLANNING MANAGER**

<b>PD37.19</b>	<b>Scheme Amendment No. 2 – Lot 325-329 Bedford Street, Nedlands</b>
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<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Applicant</b>	Hex Design & Planning
<b>Landowner</b>	Various
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Reference</b>	Nil.
<b>Previous Item</b>	Nil.
<b>Attachments</b>	1. Scheme Amendment No. 2 Applicants Report

## 1.0 Executive Summary

The purpose of this report is for Council to provide consent to advertise (initiate) the proposed Scheme Amendment No. 2 to Local Planning Scheme 3 (LPS 3).

The amendment has been prepared by Hex Design and Planning on behalf of the five landowners that reside at No 1, 3, 5, 7 & 9 (Lots 325-329) Bedford Street, Nedlands. The amendment proposes to rezone the subject land, from 'Residential R10' to the 'Residential R60'.

The amendment is considered a standard scheme amendment as it is an amendment that is consistent with the City's Local Planning Strategy that has been endorsed by the Western Australian Planning Commission (WAPC) and is an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.. As per the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) Part 5, Division 3, Section 47 a standard amendment requires advertising to the public.

## 2.0 Recommendation to Committee

**Council:**

1. **Initiates Scheme Amendment 2 to Local Planning Scheme No. 3 Pursuant to Section 75 of the Planning and Development Act 2005, and by:**
  - a) **Amending the Scheme Map by rezoning Lots 325-329 Bedford Street, Nedlands, from 'Residential R10' to 'Residential R60';**
2. **Considers that the amendment is a Standard Amendment in accordance with Planning and Development (Local Planning Schemes) Regulations 2015 regulation 35 (2), for the following reasons:**
  - a) **The proposed amendment is consistent with the Council's Local Planning Strategy which has been endorsed by the Commission; and**

- b) The proposed amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
3. Forward Local Planning Scheme Amendment 2 – Bedford Street to the Environmental Protection Authority pursuant to Section 81 of the Planning and Development Act 2005; and
  4. Advertise Local Planning Scheme Amendment 2 for a period of 42 days in accordance with Regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Nedlands Local Planning Policy, Consultation of Planning Proposals Subject to Section 84 of the Planning and Development Act 2005.

### 3.0 Background

#### 3.1 Land Details

Land Area	5063m <sup>2</sup>
Metropolitan Region Scheme Zone	Urban
Local Planning Scheme No. 3 Zone and Density Code	Residential R10
Proposed Local Planning Scheme No. 3 Zone and Density Code	Residential R60

#### 3.2 Locality Plan



Figure 1: Locality Plan

The subject land is 5,063m<sup>2</sup> in area and is located on Bedford Street, Nedlands, running the entire length of the northern side of the road reserve between Baird Avenue and Dalkeith Road. As shown in Figure 1.



It is surrounded by predominantly a mix of medium and low density residential development. This can be seen in Figure 2 showcasing the medium density built form existing on the southern side of Bedford Street at R60 and the eastern side of Dalkeith Road at R60. The lower density to the northern boundary of the subject site currently has a density code of R10 under LPS 3.



Figure 2: Subject site and surrounding density codes

## 4.0 Amendment Details

The applicant is requesting a scheme amendment for the purposes of upcoding Lots 325-329 Bedford Street, Nedlands from R10 to R60. This will allow for more dwellings to be developed on the sites. The difference between the R10 and R60 density can be seen in the below table.

R-Code Development Guidelines	R10	R60
<b>Building Height</b>	2 Storeys	2 storeys for Grouped dwellings 3 storeys for Apartments (both discretionary)
<b>Average Lot Size (Single and Grouped)</b>	1000m <sup>2</sup>	150m <sup>2</sup> (5% variation can apply with WAPC Approval) Corner lots can apply for minimum lot size DC2.2, with WAPC approval.
<b>Minimum Lot Size (Single and Grouped)</b>	875m <sup>2</sup>	120m <sup>2</sup> (5% variation can apply with WAPC Approval)
<b>Plot Ratio (Apartments)</b>	N/A	0.8 (discretionary)
<b>Rear Setback</b>	6m (discretionary)	As per wall length and wall height for Grouped dwellings 3m for Apartments (both discretionary)
<b>Primary Street Setback</b>	9m (discretionary)	2m (discretionary)

An R60 density code allows for the development of single houses, grouped dwellings and multiple dwellings (apartments). As the lots are approximately 1000m<sup>2</sup> in size in accordance with the R60 density code redevelopment potential of approximately 6 grouped dwellings or 8 apartments on each lot is possible.

Under the current R10 code only a single house could be developed on each lot. As per the Residential Design Codes Volume 1 aged dependant persons dwellings can be developed on a lot of any density and the site area required within Table 1 can be reduced by up to one third. This would mean for an R10 lot of 1000m<sup>2</sup> two aged dependant persons dwellings could be developed. Ancillary dwellings up to 70m<sup>2</sup> can also be developed in conjunction with a single house where the lot is over 450m<sup>2</sup>. Both aged dependant persons dwellings and ancillary dwellings would be assessed in accordance with the provisions of the R10 density code in relation to bulk, height and setbacks.

## **5.0 Assessment against Planning Framework**

### **5.1 Metropolitan Region Scheme**

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

### **5.2 Perth and Peel @ 3.5 Million (2018)**

Perth and Peel @ 3.5 Million is a strategic planning document which aims to ensure that there will be suitable land identified for future housing and employment to accommodate a population of 3.5 million in the Perth and Peel area by 2050.

The City of Nedlands is prescribed a density target of an extra 4,400 dwellings by the year 2050, which is expected to be met by the density which was provided through the recently gazetted LPS 3. The proposed amendment would seek to contribute up to an approximate of additional 30-40 dwellings which will contribute towards reaching this dwelling target.

### **5.3 City of Nedlands Local Planning Strategy (2017)**

The subject land is located with the 'Nedlands North' area as identified in the City of Nedlands Local Planning Strategy, which seeks to provide targeted infill along the growth corridor of Stirling Highway. The Local Planning Strategy illustrates a second density transition zone which could extend to these lots, this is shown in Figure 3 below. The objective of the transition zone is to act as a buffer between the urban growth areas of intense redevelopment along and near Stirling Highway and the low density suburban residential areas. It is expected that the transition zones will contain a mixture of dwelling types. The subject amendment seeks to create a consistent streetscape for this section of Bedford Street, rather than one side of the street being low density R 10 and the alternate side of the street containing medium density with greater building height and lesser street setback.

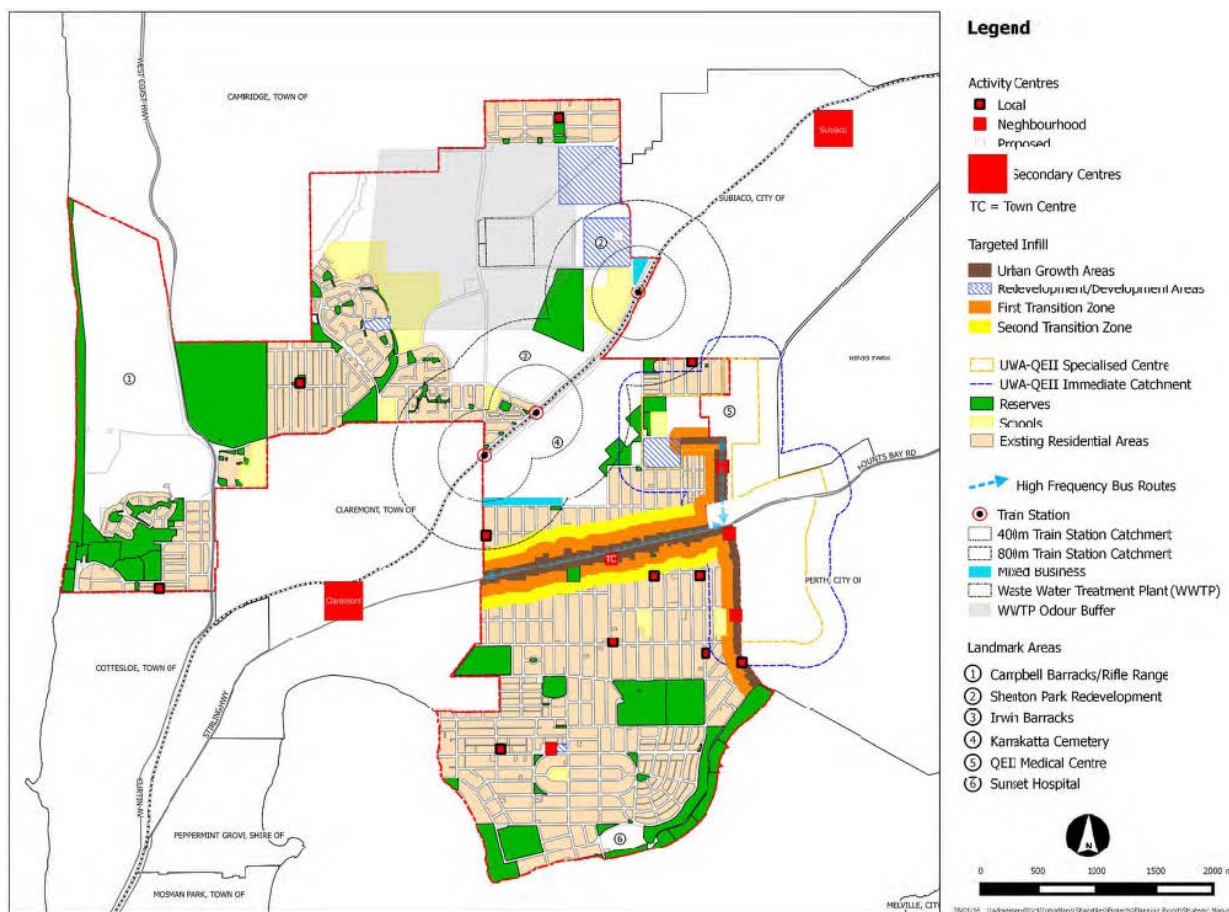


Figure 3: Local Planning Strategy Map

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

##### December 2016: Council Originally adopted LPS 3

The originally adopted version of LPS 3 shows that the subject sites were listed in a Special Control Area (SCA) which allowed the properties to develop to R50 if they developed prior to subdividing. This version of the scheme was not supported by the Commission and did not progress.

##### December 2017: Advertised LPS 3

The advertised draft LPS 3 proposed that the subject sites be coded R60 along with all other properties within that street block, as shown in Figure 4 below.



Figure 4: Advertised LPS 3

### July 2018: Administration Modifications for Council

Whilst the modifications proposed by Administration were not supported by Council, it is worth including in this report as it offers an alternative that may be worth exploring through this scheme amendment process. The modifications proposed by Administration for the Special Council Meeting in July 2018 showed that the subject sites were applied with a dual density code of R10/R40. This would have meant that all development would comply with the lower density code (R10), unless the lot had a minimum area of 1800m<sup>2</sup> and the development had a maximum of one consolidated vehicular access point for each street frontage of the lot.

This would have meant that the subject properties could only develop to the R40 density if amalgamation occurred as all subject lots are 1010m<sup>2</sup> – 1020m<sup>2</sup>. The R40 coding is also a lower density than proposed by the applicant having a two-storey height limit similar to that of the existing R10 to the north. The dual density can be seen in Figure 5 below. It is worth noting that dual or split density coding is no longer supported by the WAPC or the Minister for Planning and therefore this provision never progressed.



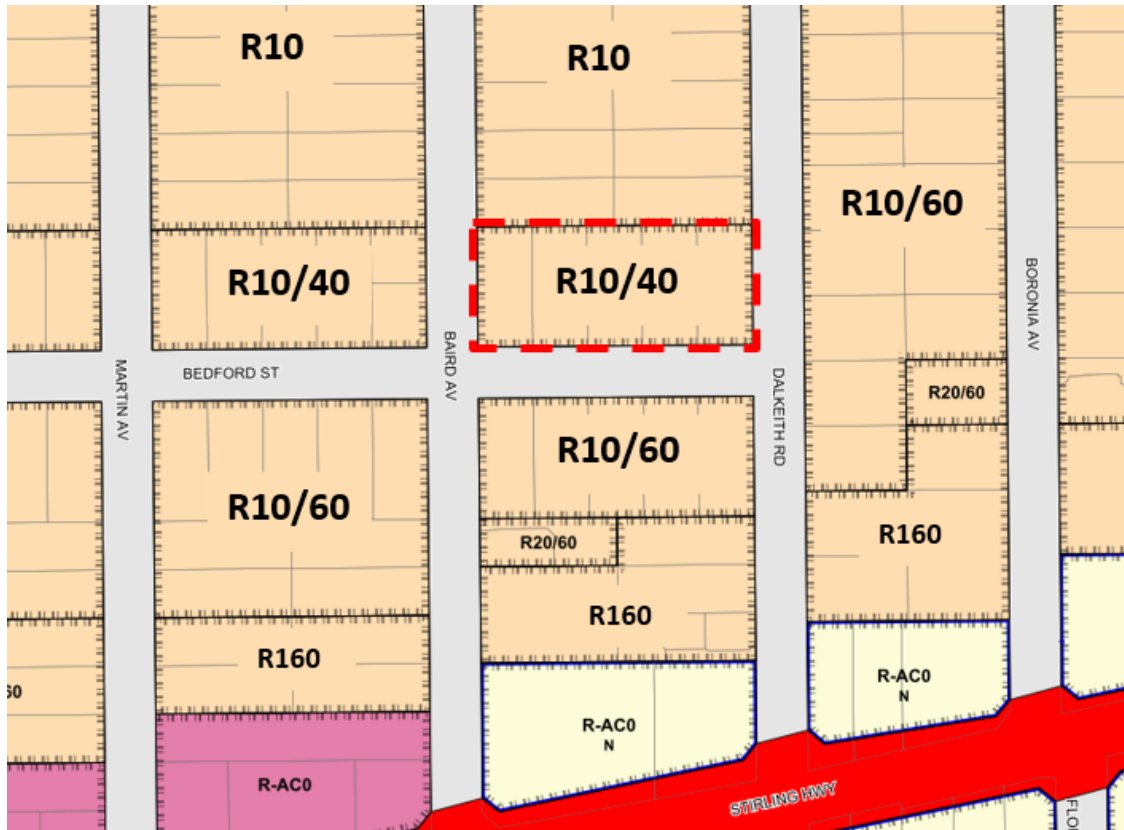


Figure 5: Modifications made by Administration

### April 2019: Gazetted LPS 3

LPS 3 was gazetted on 16 April 2019 and is in effect. Under LPS 3 the subject sites are zoned R10. As shown in Figure 6 the density has been pulled back and the roads used as borders to form a clear delineation between densities.

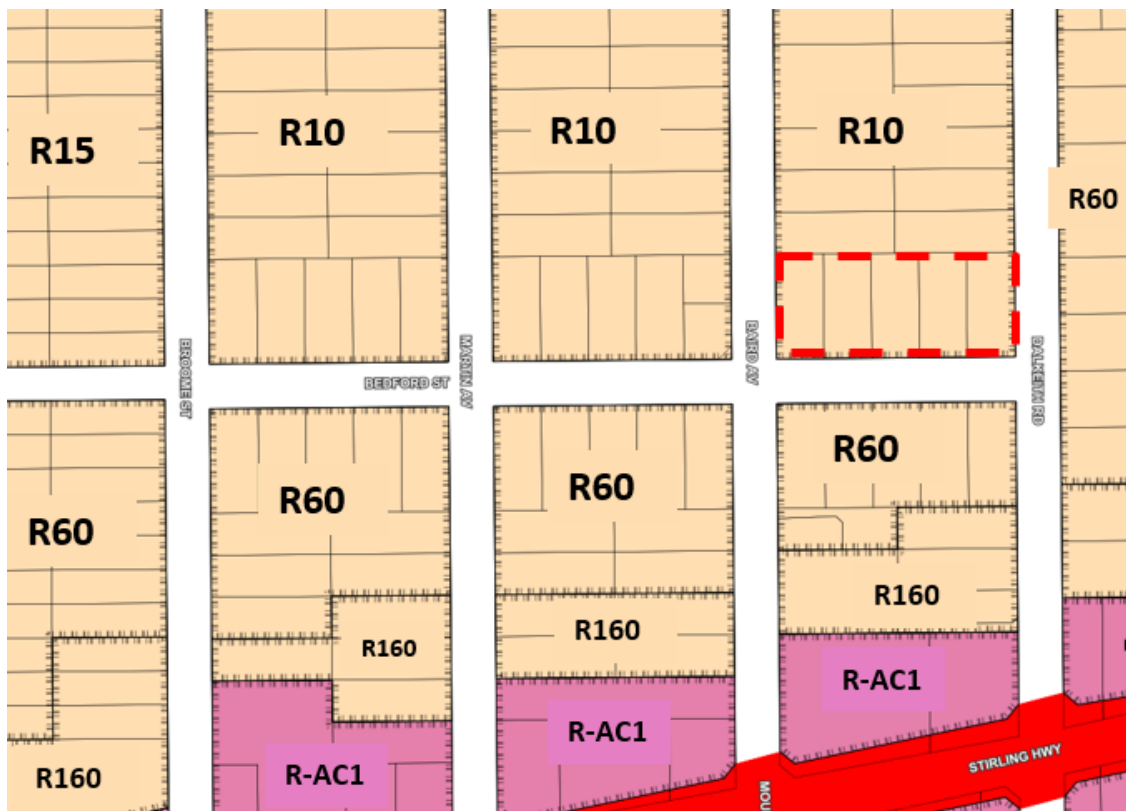


Figure 6: Subject site as per gazetted LPS 3

## **6.0 Consultation**

If the Scheme Amendment is granted consent to advertise the City will refer the application to the Environmental Protection Authority (EPA) who can advise of any environmental conflicts.

The application is required to be advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). The consultation of this Scheme Amendment will also be conducted in accordance with the City's Consultation of Planning Proposals Local Planning Policy. Advertisement of a standard scheme amendment under the Regulations is as follows:

- The City must prepare a notice in a form approved by the West Australian Planning Commission (WAPC) giving details of; the purpose, where the amendment may be inspected and to whom and during what period submissions can be made.
- The City must then advertise the amendment by publishing the notice in the newspaper, display the notice in the Administration building, provide a copy to all public authorities which are likely to be affected and publish a copy on the City's website.
- The advertising period can be no less than 42 days commencing on the day that the notice is published in a newspaper circulating in the scheme area.

The City's Consultation of Planning Proposals Policy also requires letters to owners and occupiers within a 100m radius, a sign on site and social media advertising.

Once submissions are received the City must acknowledge in writing the receipt of each submission.

The consideration period for a standard scheme amendment is 60 days, after the end of the submission period, the City must consider all submissions and Council must pass a resolution to support, support with modifications or not support the proposed amendment.

Once Council has made a decision regarding initiation of the scheme amendment, all documents will be referred to the WAPC and they will deliver a recommendation to the Minister for Planning and Transport. The Minister will then make the final decision on the proposed scheme amendment.

## **7.0 Budget / Financial Implications**

Application fees are paid by the applicant to initiate and to commence a scheme amendment, therefore only administration resource allocation as an associated expense is required.

## **8.0 Risk Management**

Nil.

## **9.0 Regulatory Process**

Once the Scheme Amendment is granted consent to advertise the City will refer the application to the EPA who can advise of any environmental conflicts.

Once the City has received approval to proceed from the EPA, the City will then undertake advertising, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). The City will then consider all submissions received and propose changes if necessary.

The amendment will then be put to Council where they can:

- Support; or
- Support with modifications; or
- Not support the amendment.

Modifications to the proposed scheme amendment can only be made by Council in its deliberations following submissions, and if significant modifications are proposed, re-advertising can be undertaken.

If Council support the amendment it is then referred onto the WAPC who will make a recommendation to the Minister. The Minister then will support, support with modifications or not support the amendment.

## **10.0 Administration Comment**

Administration considers the proposed Scheme Amendment is in line with the higher order State planning strategies and policies and the City's Local Planning Strategy. It is recognised that this location is at the very edge of the transition area from higher density codes to the lower density suburban areas.

All previous draft versions of LPS 3 had identified the subject properties as being proposed to be up coded in some manner and part of a final density transition zone.

The biggest difference occurs between the advertised draft LPS 3 and the proposed scheme amendment, which is that the advertised draft LPS 3 applied R60 to the whole street block (north to Carrington Street and east to Broome Street). This would therefore have eliminated any potential conflict between the subject sites and the adjoining properties to the north and would have maintained a consistent streetscape on both sides of Bedford Street.

The subject properties however were ultimately not up coded and have remained at the R10 density code under the gazetted LPS 3.

The proposed scheme amendment seeks to up code only those five properties fronting Bedford Street between Dalkeith Rd and Baird Ave whilst the remaining properties along Bedford Street and the adjoining properties to the north remain coded R10.

Up coding the properties to R60 would harmonise the streetscape along Bedford Street as the properties on the southern side are coded R60, thus a better interface between the properties on the southern side would be created. Although, if a consistent streetscape along Bedford Street is desired, the City should investigate

extending the R60 density to all lots on the northern side of Bedford Street from Broome Street to Dalkeith Road.

An issue identified by upcoding the subject lots to R60 would be the volume of dwellings and building bulk on the site would be significantly different from the adjoining northern properties. Specifically, there would not be a 6m rear setback to the properties to the north and there is the potential for three-storey multiple dwellings under the R60 code. This interface between the proposed R60 and existing R10 densities would need to be further managed through the planning framework and Administration would suggest a Local Development Plan may be the most appropriate mechanism by which to specify building controls. This issue can be resolved as part of the scheme amendment process and does not preclude the proposal from proceeding.

Considering the above, Administration believes that there are planning merits for the proposal that warrant it being advertised to the community, to seek their feedback on the proposed upcoding. Therefore, it is recommended that Council adopt to initiate the proposed scheme amendment for advertising and referral to the EPA.





## LOT 325-329 BEDFORD STREET, NEDLANDS

# CITY OF NEDLANDS LOCAL PLANNING SCHEME NO. 3 AMENDMENT REQUEST REPORT

CITY OF NEDLANDS

14 JUN 2019



Prepared by:

Hex Design and Planning  
29A Bartlett Crescent  
KARRINYUP WA 6018

T: +61 438 000 235  
E: [sheldon@hexdesignplanning.com.au](mailto:sheldon@hexdesignplanning.com.au)

Prepared for:

Various Land Owners

June 2019

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CITY OF NEDLANDS

14 JUN 2019

Version	Comment	Prepared By	Reviewed By	Review Date	Approved By	Issue Date
Revision 1	Draft	SD	SD	7/6/19	SD	
Revision 1	Final	SD	SD	10/6/19	SD	11/6/19

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## APPENDICES

APPENDIX A – CERTIFICATES OF TITLE

APPENDIX B – ADVERTISED LPS3

CITY OF NEDLANDS

14 JUN 2019



# 1 PURPOSE OF REPORT

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This submission has been prepared by Hex Design and Planning on behalf of the five (5) abutting landowners that reside at Bedford Street, Nedlands. The lots encompass No 1, 3, 5, 7 & 9 respectively (Lots 325-329) and represent the subject land.

The recoding of the subject land has been proposed to facilitate targeted infill, avoid ad hoc planning and not reflect a spot rezoning proposal. The consolidated 5 lot parcel is considered order and proper planning, providing a zone transition between an R10 coded area to the north and R60 coded properties on the south side of Bedford Street and the east side of Dalkeith Road immediately opposite the subject land.

The subject land is located within several street blocks between Bedford Street and Carrington Street to the north which were proposed to be recoded R60 under the draft Local Planning Strategy (LPS) adopted by Council of the City of Nedlands (the City) in 2017, but not in the final LPS nor the recently adopted Local Planning Scheme No.3 (LPS 3), despite being located on the border of the First and Second Transition Zones for Targeted Infill in the draft LPS.

The purpose of this report is to provide the City and the Department of Planning, Lands and Heritage (DPLH) with sufficient information to initiate an amendment to the City's LPS 3 over the subject land.

This report sets out the background to and rationale for rezoning the subject land to a higher residential coding, which the site had previously been identified for.

The purpose of this amendment is to rezone the subject land, being approximately 5,063m<sup>2</sup> from the 'Residential – R10' zone to the 'Residential – R60' zone, (refer to **LPS 3 Amendment Plan**).

CITY OF NEDLANDS

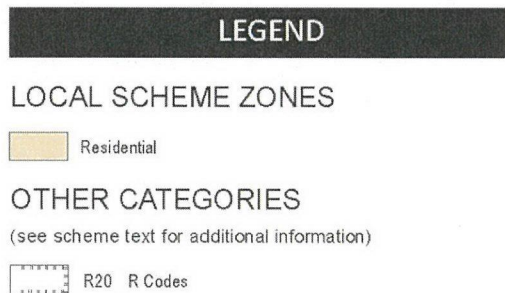
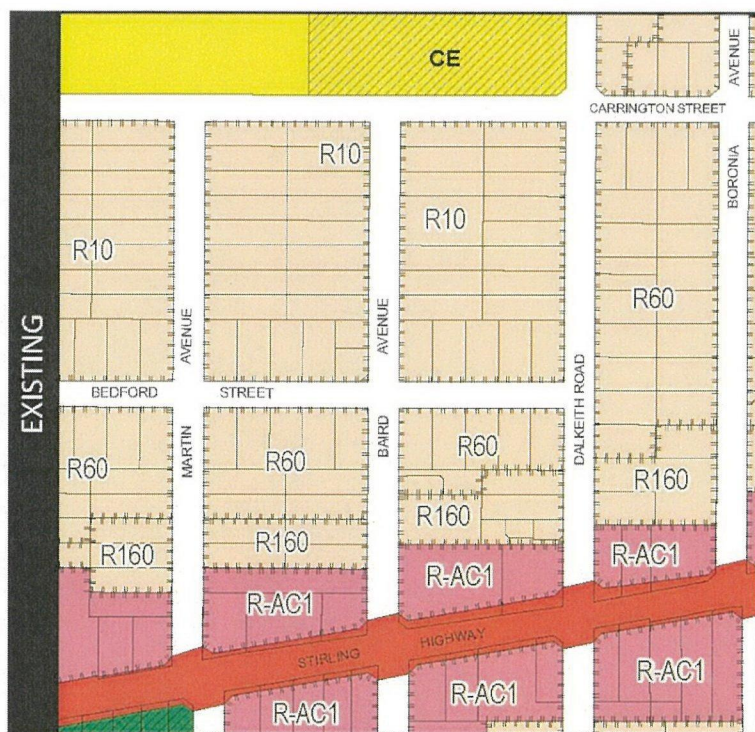
14 JUN 2019



# CITY OF NEDLANDS

## LOCAL PLANNING SCHEME No.3

### Amendment No. XX



CITY OF NEDLANDS  
14 JUN 2019

## 2 SUBJECT LAND AND CONTEXT

CITY OF NEDLANDS

14 JUN 2019

### 2.1 SUBJECT LAND

The subject land is 5,063m<sup>2</sup> in area and is located on Bedford Street, Nedlands, running the entire length of the northern side of the road reserve between Baird Avenue and Dalkeith Road. (refer **Figure 1 – Location Plan**).

The subject land is approximately 6.5 kilometers south-west of the Perth CBD and approximately 270m from the City of Nedlands Council Office.

The land is bound by Bedford Street to the south; Baird Avenue to the west and Dalkeith Road to the east. The land is in close proximity to Stirling Highway to the south (180m), providing access to the wider areas of Claremont 2km to the west, and the Broadway Shopping Strip 1.2km to the south east.

The site is in relatively close proximity to the Loch Street Train Station (1.2km to the north west), and is highly serviced by the bus network along Stirling Highway.

The subject land is predominantly surrounded by a mix of medium-high and low density residential development, acknowledging that the area is currently subject to change in densities and will evolve in the near future to provide for medium to high residential density development.

The location of the subject land within its local context is shown in **Figure 2 – Local Context Plan**.

### 2.2 LEGAL DESCRIPTION, OWNERSHIP & CURRENT LAND USE

The subject land is legally described as Lots 325-329 on Plan 3492, held on five separate Certificates of Title. Particulars regarding the individual lots is included in Table 1. Refer to **Appendix A – Certificate of Titles**.



Subject Land – Landgate



Table 1 – Subject Land Details

<i>Lot</i>	<i>Volume</i>	<i>Folio</i>	<i>Area SQM</i>
325	1523	236	1019
326	1048	327	1011
327	1042	550	1011
328	1050	259	1011
329	1794	631	1011
Subject Land			<b>5063</b>

The subject land is owned by private residents who have resided in the area for some time, having purchased their properties prior to the adoption of City of Nedlands Local Planning Scheme No.3.

The subject land is currently occupied by 5 individual residential dwellings and a flat (refer to **Figure 3 – Aerial**).

## 2.3 SURROUNDING TRAFFIC AND TRANSPORT ENVIRONMENT

The subject land has excellent access to the regional road network, with access to Stirling Highway. Stirling Highway is classified as a Primary Regional Road and caters for various means of transport accessing the wider area.

The site is in relatively close proximity to the Loch Street Train Station (1.2km to the north west), is highly serviced by the bus network along Stirling Highway (180m to the south) and Dalkeith Road, which has a bus stop in either direction within 150m of the westernmost property within the subject land.







**Figure 1 - Location Plan**  
 Lot 325-329 Bedford Road, Nedlands

Scale NTS@A4 | Date June 2019 | Project AGRNEAMD



Hex Design and Planning  
 30 N 24621 142 299  
 20 N 24621 142 299  
 T: +61 8 9234 1618  
 M: +61 438 000 295  
 E: chris@hexdesignplanning.com.au

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**Figure 2 - Local Context Plan**  
Lot 325-329 Bedford Road, Nedlands

CONCEPT PLAN FOR DISCUSSION PURPOSES ONLY

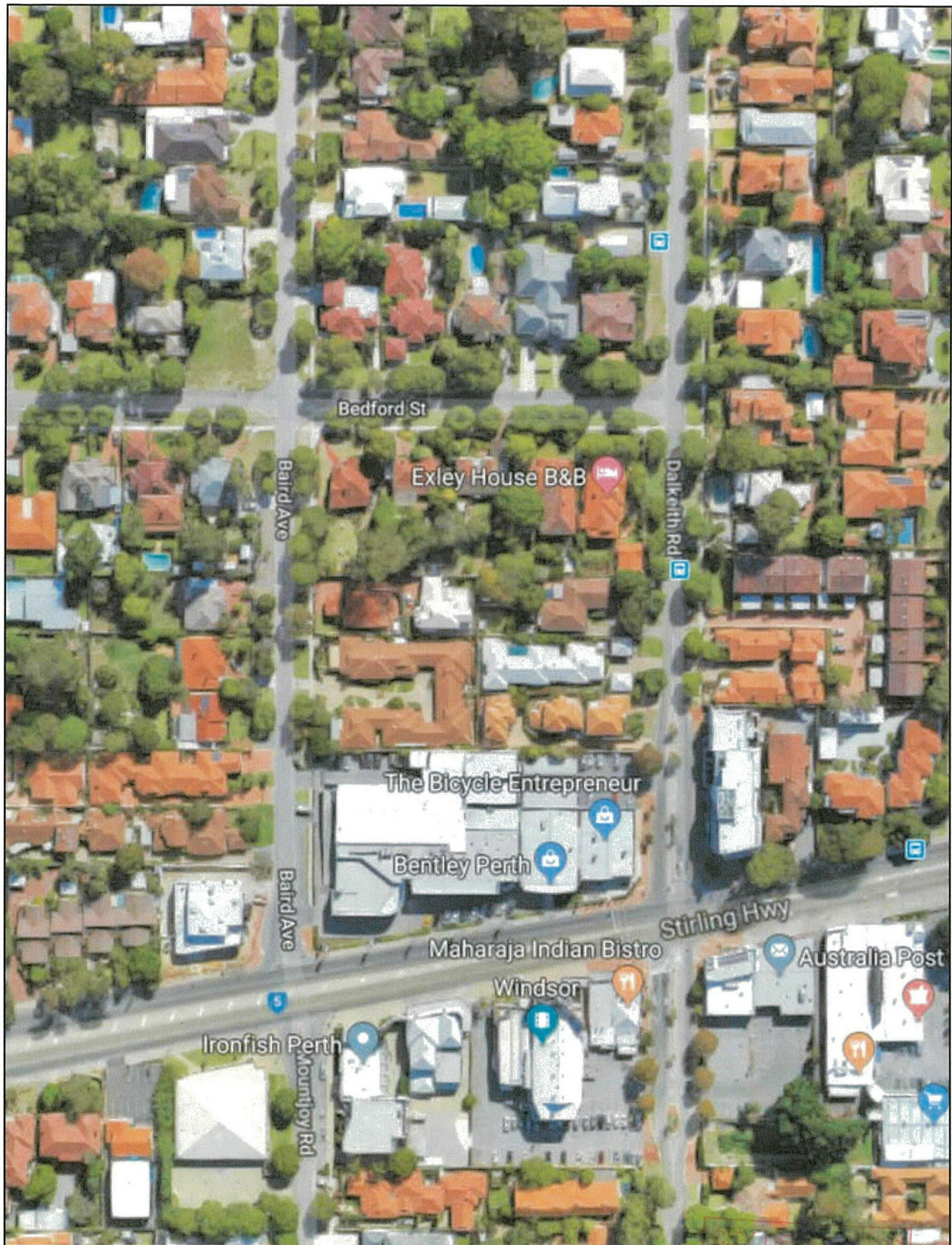
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Hex Design and Planning  
ABN 24 627 142 292  
27 x Bedford St, Nedlands  
Perth WA 6009  
T +61 8 9234 1919  
M +61 8 9234 1919  
E info@hexdesignandplanning.com.au

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**Figure 3 - Local Context Aerial**  
 Lot 325-329 Bedford Road, Nedlands



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He Design and Planning  
 2/114-116, 117/118  
 2/114-116, 117/118  
 T +61 8 9334 1519  
 M +61 438 000 256  
 E chris@hdxdesignplanning.com.au

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CITY OF NEDLANDS

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**Figure 4 - Subject Land**  
Lot 325-329 Bedford Road, Nedlands

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Hex Design and Planning  
ABN 24 627 142 202  
20 N Barrett Crescent  
Farnham WA 6010  
T +61 8 9394 1618  
M +61 438 000 205  
E [info@hexdesignplanning.com.au](mailto:info@hexdesignplanning.com.au)

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## 3 PLANNING CONSIDERATIONS

### 3.1 STATUTORY PLANNING FRAMEWORK

#### 3.1.1 METROPOLITAN REGION SCHEME

The subject land is zoned 'Urban' in the Metropolitan Region Scheme (MRS) which is appropriately zoned to facilitate the continued development of the land at a higher residential density. (refer **Figure 5 – Metropolitan Region Scheme Zoning Map**).

#### 3.1.2 CITY OF NEDLANDS LOCAL PLANNING SCHEME NO. 3

The subject land is currently zoned 'Residential R10' under the City of Nedlands Local Planning Scheme No.3 (LPS 3) (refer **Figure 5 – City of Nedlands - Local Planning Scheme 3**).

### 3.2 STRATEGIC PLANNING FRAMEWORK

#### 3.2.1 PERTH AND PEEL @ 3.5 MILLION FRAMEWORK

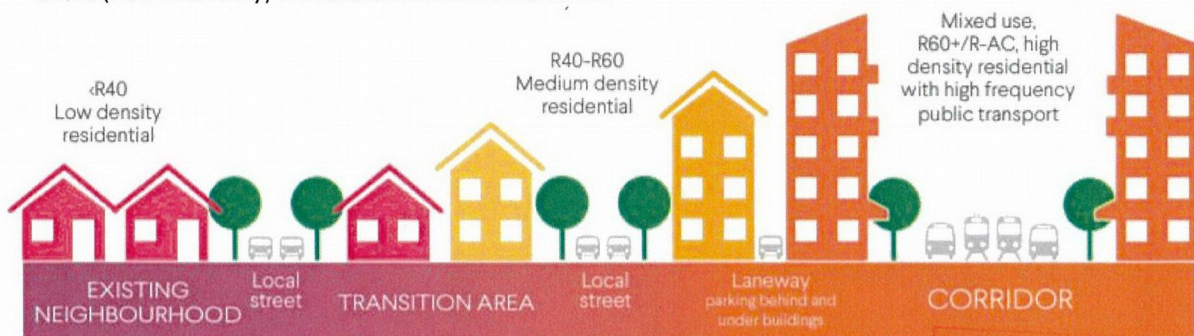
Perth and Peel @ 3.5million suite of strategic land use planning documents aim to ensure there will be sufficient suitable land identified for future housing and employment to accommodate 3.5 million people by 2050.

The subject land is included in the Central Sub-Regional Planning Framework, and is along the Urban Corridor of Stirling Highway. The presence of high-frequency public transit along Stirling Highway is an important consideration in determining whether a corridor is suitable for a more compact and diverse urban form.

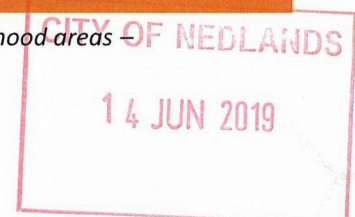
A high frequency public transit service is one where one or more modes of travel (for example, bus, rail) are used in combination to:

- provide high levels of service frequency at all times of the week and generally higher frequency in peak periods;
- provide access to a reasonable variety of destinations including through multi-modal links (the movement of people by more than one method of transport); and
- operate with a high level of priority over private vehicles wherever possible.

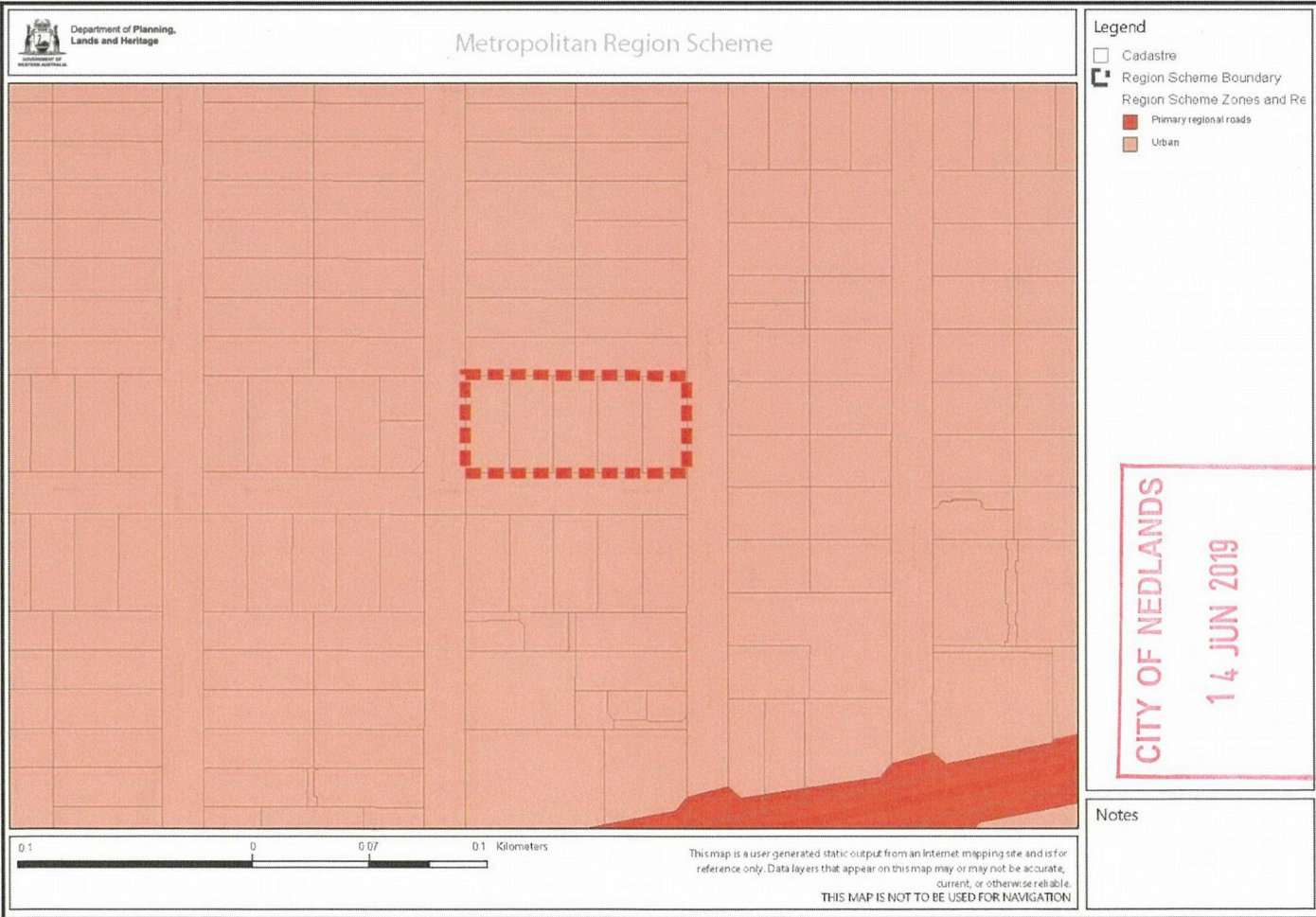
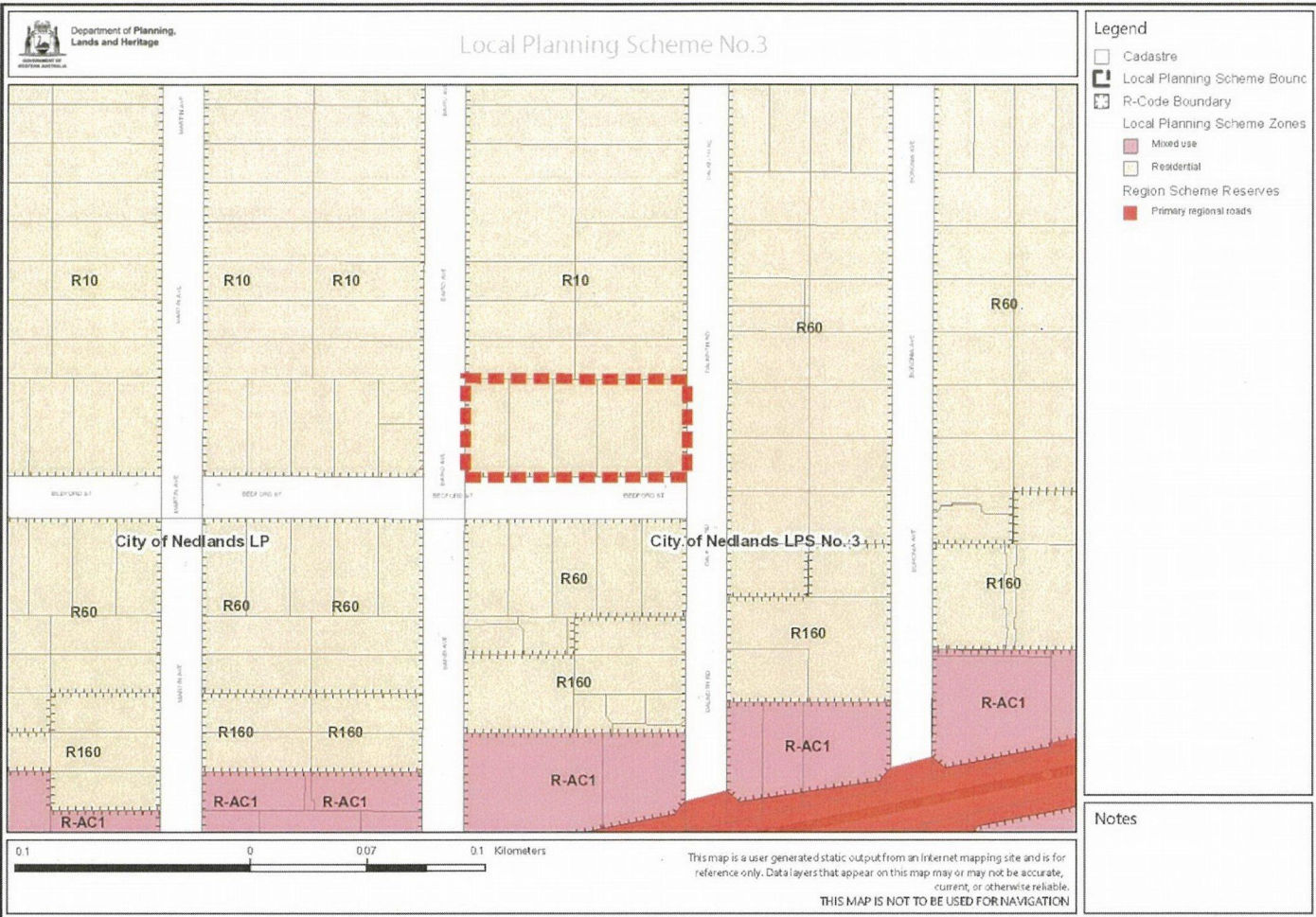
Development along these identified urban corridors is encouraged to provide a transition back to existing neighborhood area, and reflect a residential density of R40-R60. This transition is proposed to occur mid street block (rear boundary) and not at the street interface.



*Cross section illustrating proposed interface from corridors to adjacent neighborhood areas – (source Sub Regional Planning Framework)*







**Figure 5 - MRS and LPS3 Zoning**  
Lot 325-329 Bedford Road, Nedlands

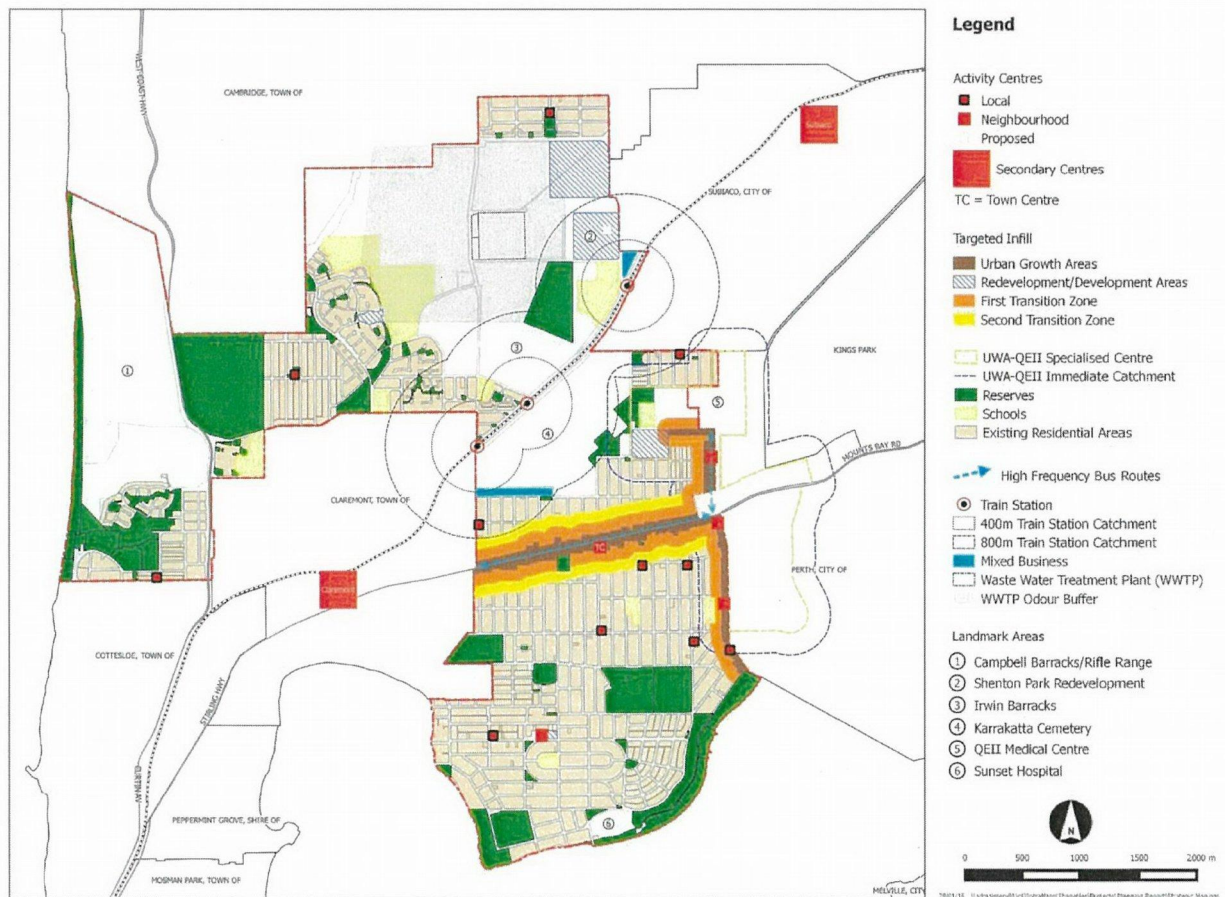


### 3.2.2 CITY OF NEDLANDS LOCAL PLANNING STRATEGY (2017)

The City of Nedlands Local Planning Strategy was endorsed by the Council on 17<sup>th</sup> March 2016 and by the Western Australian Planning Commission (WAPC) on the 26<sup>th</sup> September 2017. The purpose of the Strategy is to enable the Council and the community to determine the vision and strategic planning direction for the City of Nedlands in implementing their strategy towards 2030 and to provide the strategic basis of LPS 3.

The subject land is located with the Nedlands North area as identified in the City of Nedlands Local Planning Strategy, which sought to provide targeted infill in response to criticism that the City was resistant to densification. It is acknowledged that this document was used as the basis for the preparation of LPS3, and notes that the objectives pursuant to the area in which the site is located was to be explored.

The subject land is on the border of the First and Second Transition Zones as identified by the draft LPS. *Local Planning Strategy Map (2017)*



The Strategies that are applicable to the subject site and which should be noted include:

- Retain and enhance the character and streetscape of the existing residential areas outside Urban Growth Areas and Transition Zones.
- Within the Transition Zones adjoining Stirling Highway, ensure the height, scale and bulk of redevelopment smoothly integrates back to the established residential character of the area.
  - o Facilitate medium rise, medium intensity predominately residential redevelopment within the first Transition Zone.
  - o Facilitate low rise, diverse residential built form within the second Transition Zone.

The proposed rezoning is considered consistent with the objectives of the Central Sub-Regional Frameworks and, more specifically, that of the City's draft Local Planning Strategy.





## 4 REZONING PROPOSAL

The request to rezone the subject land from Residential R10 to R60, has arisen due to the recent adoption of LPS 3 by Council and subsequent endorsement by the Western Australian Planning Commission.

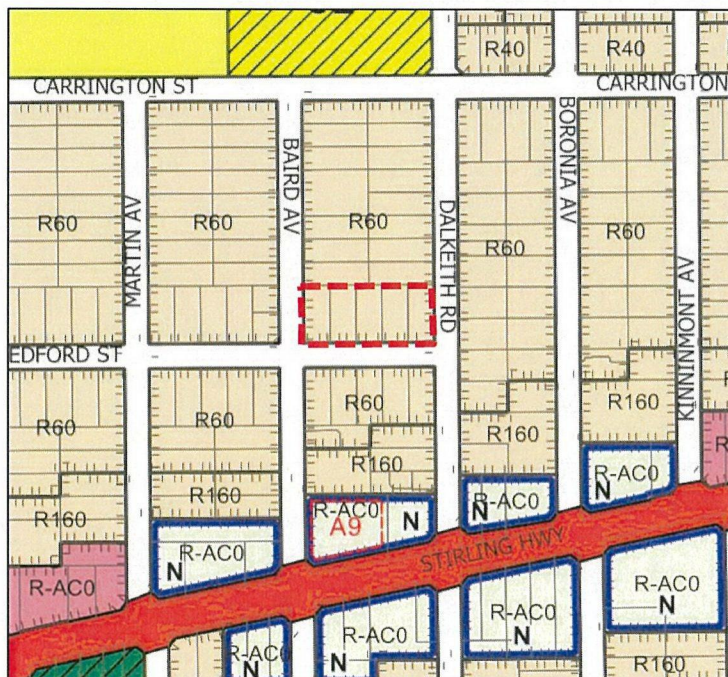
### 4.1 CITY OF NEDLANDS ADVERTISED LOCAL PLANNING SCHEME NO.3

The City of Nedlands prepared their Local Planning Scheme No.3, following the finalization of the Local Planning Strategy in 2017. The Scheme was prepared in 2017 and advertised for public comment in November 2017.

Following substantial community engagement, a version of LPS3 was endorsed by the City of Nedlands and subsequently forwarded to the Western Australian Planning Commission for approval.

The version of LPS3 originally prepared reflected the objectives of the Local Planning Strategy and identified the subject land (and all land between Bedford Street and Carrington Street to its north) as Residential R60 (Appendix B – Advertised LPS3).

The proposed density that was originally supported by Council proposed an R60 density code over the wider area, reflecting the transition zone that is referenced by the WAPC's Central Sub Regional Framework, and is considered appropriate.

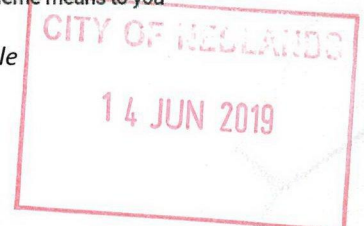


Draft LPS3 as Advertised

#### Life Cycle

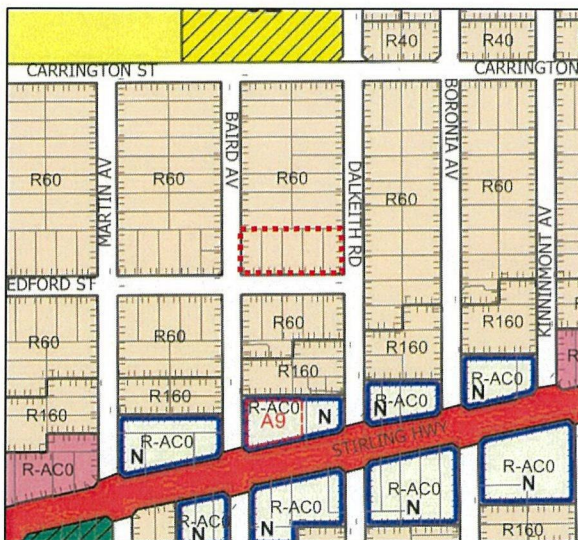
- ✓ Submissions invited (November 2017)
- ✓ Open Days held on draft LPS3 (February/March 2018)
- ✓ Assessment of submissions (April 2018)
- ✓ Presentation of engagement outcomes, report and proposed draft scheme to Council (July 2018)
- ✓ Report and scheme referred to WAPC (July 2018)
- ✓ WAPC Statutory Planning Committee meets (December 2018)
- ✓ Minister approves LPS3 (late January 2019)
- ✓ City making modifications as required by Minister (March 2019)
- ✓ Scheme being prepared for Gazettal (March-April)
- ✓ Government Gazettal of new scheme
- Community engagement on what the new scheme means to you

#### LPS Life Cycle

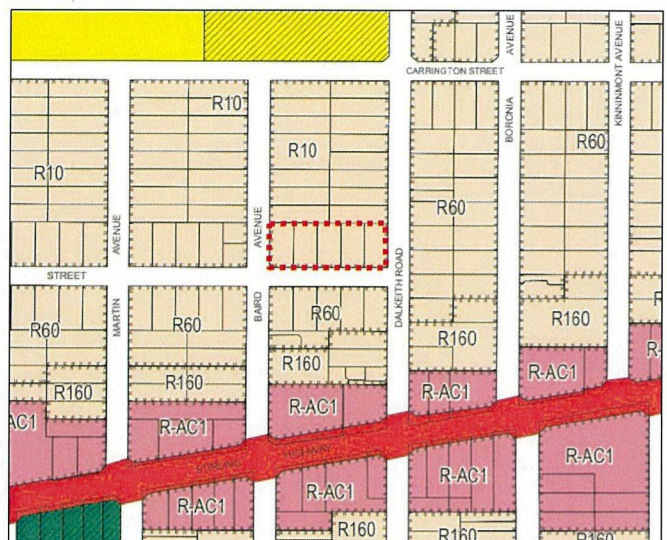




The following two images show the difference between the advertised and final adopted LPS3.



*Draft LPS3*



*Adopted LPS3*

Whilst the street blocks north of Bedford Street were originally proposed as Residential R60, these were subsequently retained as Residential R10 in their entirety. Lots which meet the same location criteria as the subject land along Dalkeith Road retained the proposed R60 coding, even though many of the up coded lots are located further away from Stirling Highway and other criteria that should substantiate the zoning.

The southern side of Bedford Street immediately opposite the subject land was, however, recoded to R60 under the finalized LPS. With the subject land directly fronting this area, it is considered appropriate to code both sides of Bedford Street R60 to facilitate a consistent built form and streetscape on Bedford Street.

We envisage that was the intent of the advertised LPS3, and request that this be reintroduced back into LPS3 via this amendment.

The subject land represents a defined street block end, which will in turn assists in the density coding transition. Any future R60 development that would be pursued within the subject land would front Bedford Street, and be opposite development of a similar density (which currently is not the case).

It is also noted that any increase in development on the subject land will not impact on the abutting properties to the north, with no overshadowing cast over these lots. With the sun angle from the north, any cast shadow will be south across Bedford Street, with no amenity impact to nearby residents.

Any subsequent development would be subject to the development criteria as prescribed by the Residential Design Code and any applicable Council policies.

CITY OF NEDLANDS

14 JUN 2019



## 5 CONCLUSION

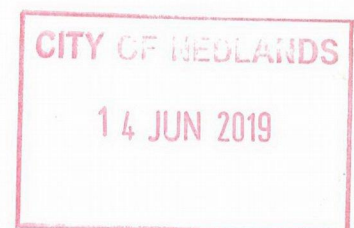
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The information and justification provided in this report is submitted to support the rezoning of Lots 325-329 Bedford Street, Nedlands, from 'Residential R10' to and a 'Residential R60' under the provisions of the City of Nedlands LPS 3.

The proposed zonings are appropriate and should be supported by the City of Nedlands and the WAPC for the following reasons:

- The land is highly accessible, given its proximity to Stirling Highway and associated modes of transport that utilize this corridor;
- Is consistent with the 'Targeted Infill' objectives of the City of Nedlands' draft Local Planning Strategy;
- Is consistent with the objectives of the Western Australian Planning Commission's Central Sub Regional Framework;
- Reflects the residential density that is adjacent to the subject land on the immediate southern side of Bedford Street;
- Provides a defined 'street block' end to facilitate order and proper planning, by facilitating a change of residential coding over all five (5) lots;
- Reflects the density coding that was originally advertised as part of LPS3, though was not adopted (with no reason apparent);
- Is located closer to Stirling Highway than other R60 coded lots in the immediate vicinity of the subject land;
- Does not detrimentally impact on residents in the immediate locality, with no potential for shadow cast from increased density;
- Is reflective of similar residential densities in the immediate locality (including the length of Dalkeith Road opposite the subject land);
- Will provide a consistent streetscape and built form on both sides of Bedford Street; and
- The scale and mass of development that would result from an R60 coding will be in character with the surrounding area, with all development still subject to development provisions of the Residential Design Code and Council policies.

Based on the information and justification provided in this report we respectfully request that Council initiates and the WAPC supports the rezoning of Lots 325-329 Bedford Street, Nedlands, from 'Residential R10' to 'Residential R60' under the provisions of the City of Nedlands LPS 3.



---

## APPENDIX 1 – CERTIFICATES OF TITLE

---



WESTERN



AUSTRALIA

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

REGISTER NUMBER

**327/P3492**DUPLICATE  
EDITION**3**

DATE DUPLICATE ISSUED

**13/11/2015**VOLUME  
**1042**FOLIO  
**550**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 327 ON PLAN 3492

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

KENNETH HERVEY MACLEAY  
ELIZABETH ANN MACLEAY  
BOTH OF 73 ALDERBURY STREET, FLOREAT PARK  
AS JOINT TENANTS

(T D963068 ) REGISTERED 13/12/1988

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1042-550 (327/P3492)  
PREVIOUS TITLE: 983-149  
PROPERTY STREET ADDRESS: 5 BEDFORD ST, NEDLANDS.  
LOCAL GOVERNMENT AUTHORITY: CITY OF NEDLANDS





WESTERN



AUSTRALIA

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

REGISTER NUMBER <b>326/P3492</b>	
DUPLICATE EDITION <b>2</b>	DATE DUPLICATE ISSUED <b>20/11/2001</b>

VOLUME  
**1048**FOLIO  
**327**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 326 ON PLAN 3492

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

ANDREW DONALD GRAHAM  
DANIELLE MAREE SULLIVAN  
BOTH OF 3 BEDFORD STREET, NEDLANDS  
AS JOINT TENANTS

(T H865140 ) REGISTERED 10/9/2001

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

1. H930523 MORTGAGE TO WESTPAC BANKING CORPORATION REGISTERED 19/11/2001.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1048-327 (326/P3492)  
PREVIOUS TITLE: 797-109  
PROPERTY STREET ADDRESS: 3 BEDFORD ST, NEDLANDS.  
LOCAL GOVERNMENT AUTHORITY: CITY OF NEDLANDS



WESTERN



AUSTRALIA

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

REGISTER NUMBER

**328/P3492**DUPLICATE  
EDITION**N/A**

DATE DUPLICATE ISSUED

**N/A**VOLUME  
**1050**FOLIO  
**259**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 328 ON PLAN 3492

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

BARRY SOON LENG LIM  
JANE CAROLINE CLEMENTS  
BOTH OF 7 BEDFORD STREET, NEDLANDS  
AS JOINT TENANTS

(T H487168 ) REGISTERED 28/6/2000

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

1. \*N441771 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA REGISTERED 23/9/2016.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1050-259 (328/P3492)  
PREVIOUS TITLE: 983-149  
PROPERTY STREET ADDRESS: 7 BEDFORD ST, NEDLANDS.  
LOCAL GOVERNMENT AUTHORITY: CITY OF NEDLANDS

NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING  
N441771

CITY OF NEDLANDS

14 JUN 2019

WESTERN



AUSTRALIA

REGISTER NUMBER <b>325/P3492</b>	
DUPLICATE EDITION <b>2</b>	DATE DUPLICATE ISSUED <b>25/3/2004</b>

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME  
**1523**FOLIO  
**236**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 325 ON PLAN 3492

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

ANGELA BETH DON OF 1 BEDFORD STREET, NEDLANDS

(T I699296) REGISTERED 18/11/2003

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1523-236 (325/P3492)  
PREVIOUS TITLE: 1048-326  
PROPERTY STREET ADDRESS: 1 BEDFORD ST, NEDLANDS.  
LOCAL GOVERNMENT AUTHORITY: CITY OF NEDLANDS





WESTERN



AUSTRALIA

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

REGISTER NUMBER	
329/P3492	
DUPLICATE EDITION	DATE DUPLICATE ISSUED
1	13/11/2017

VOLUME  
1794FOLIO  
631

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 329 ON PLAN 3492

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

ANDREW WILLIAM WHITE  
DEBRA LEIGH WHITE  
BOTH OF 9 BEDFORD STREET NEDLANDS WA 6009  
AS JOINT TENANTS

(T N762339) REGISTERED 10/11/2017

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:**  
(SECOND SCHEDULE)

1. \*O165373 MORTGAGE TO NATIONAL AUSTRALIA BANK LTD REGISTERED 5/6/2019.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1794-631 (329/P3492)  
PREVIOUS TITLE: 1239-529  
PROPERTY STREET ADDRESS: 9 BEDFORD ST, NEDLANDS.  
LOCAL GOVERNMENT AUTHORITY: CITY OF NEDLANDS

NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING  
O165373

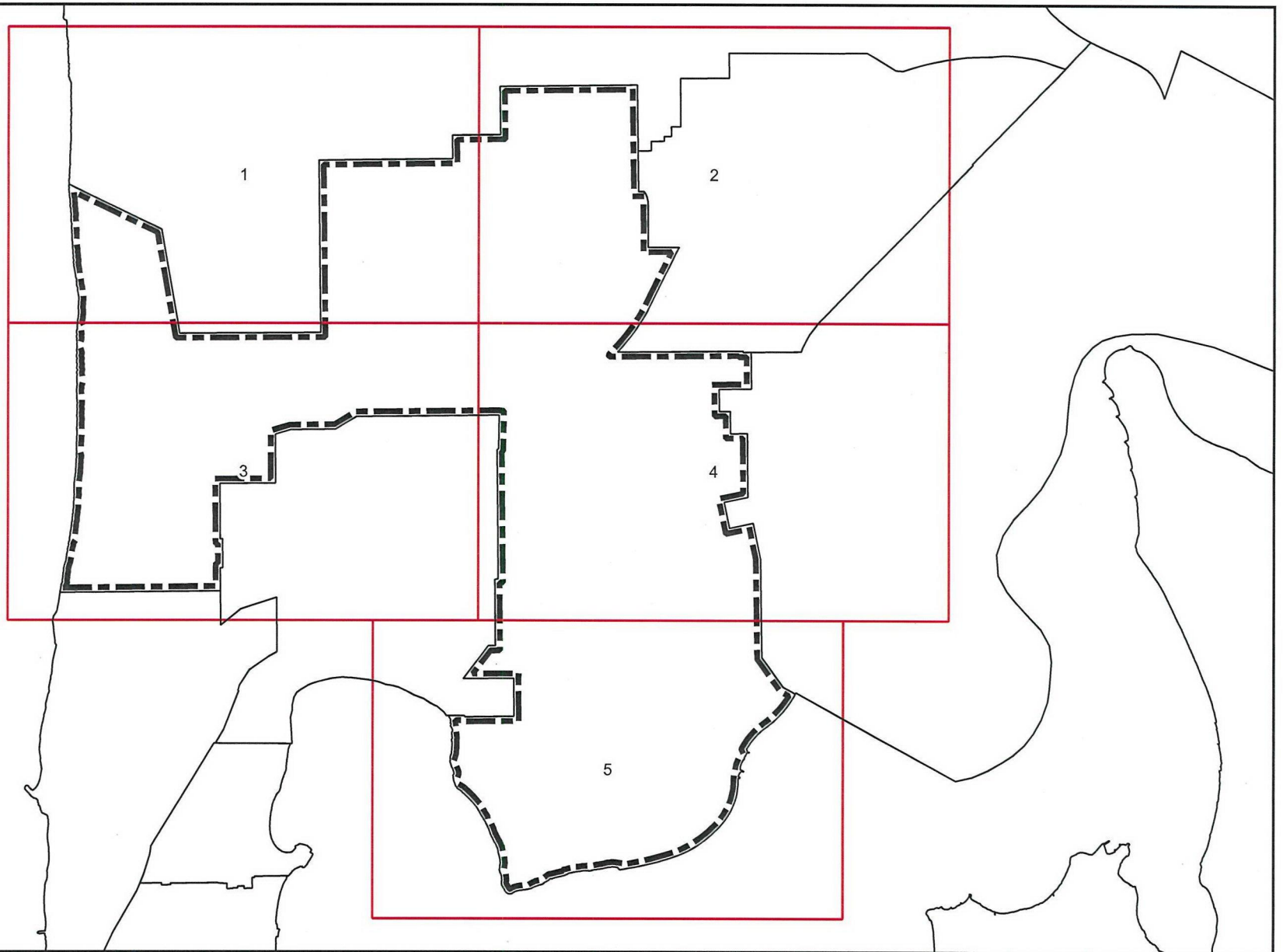


## APPENDIX 2 – ADVERTISED LPS3

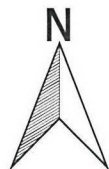
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CITY OF NEDLANDS

14 JUN 2019



CITY OF NEDLANDS  
14 JUN 2019






1 0 1 2 km




CITY OF NEDLANDS  
LOCAL PLANNING SCHEME NO 3  
SHEET INDEX



## Legend

-  Scheme Boundary
-  Local Government Boundary
-  LPS3 Rcodes

### LPS 3 Additional Information

-  Additional Use
-  Restricted Use
-  Special Control Area - Development Control Area/Plan
-  Special Control Area - Environment
-  Special Control Area - General

### LPS 3 Zones

-  Local Centre
-  Neighbourhood Centre
-  Light Industry
-  Mixed Use
-  Private Community Purpose
-  Residential
-  Service Commercial
-  Special Use Zone
-  Urban Development

### LPS 3 Reserves

-  Cemetery
-  Civic and Community
-  Drainage/Waterway
-  Education
-  Environmental Conservation
-  Government Services
-  Infrastructure Services
-  Local Distributor Road
-  Local Road
-  Public Open Space
-  Recreational

### MRS

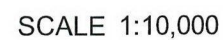
-  Industrial
-  Other regional roads
-  Parks and recreation
-  Parks and recreation - restricted public access
-  Primary regional roads
-  Public purposes
-  Railways
-  Urban
-  Urban deferred
-  Waterways

CITY OF NEOLANDS

14 JUN 2019

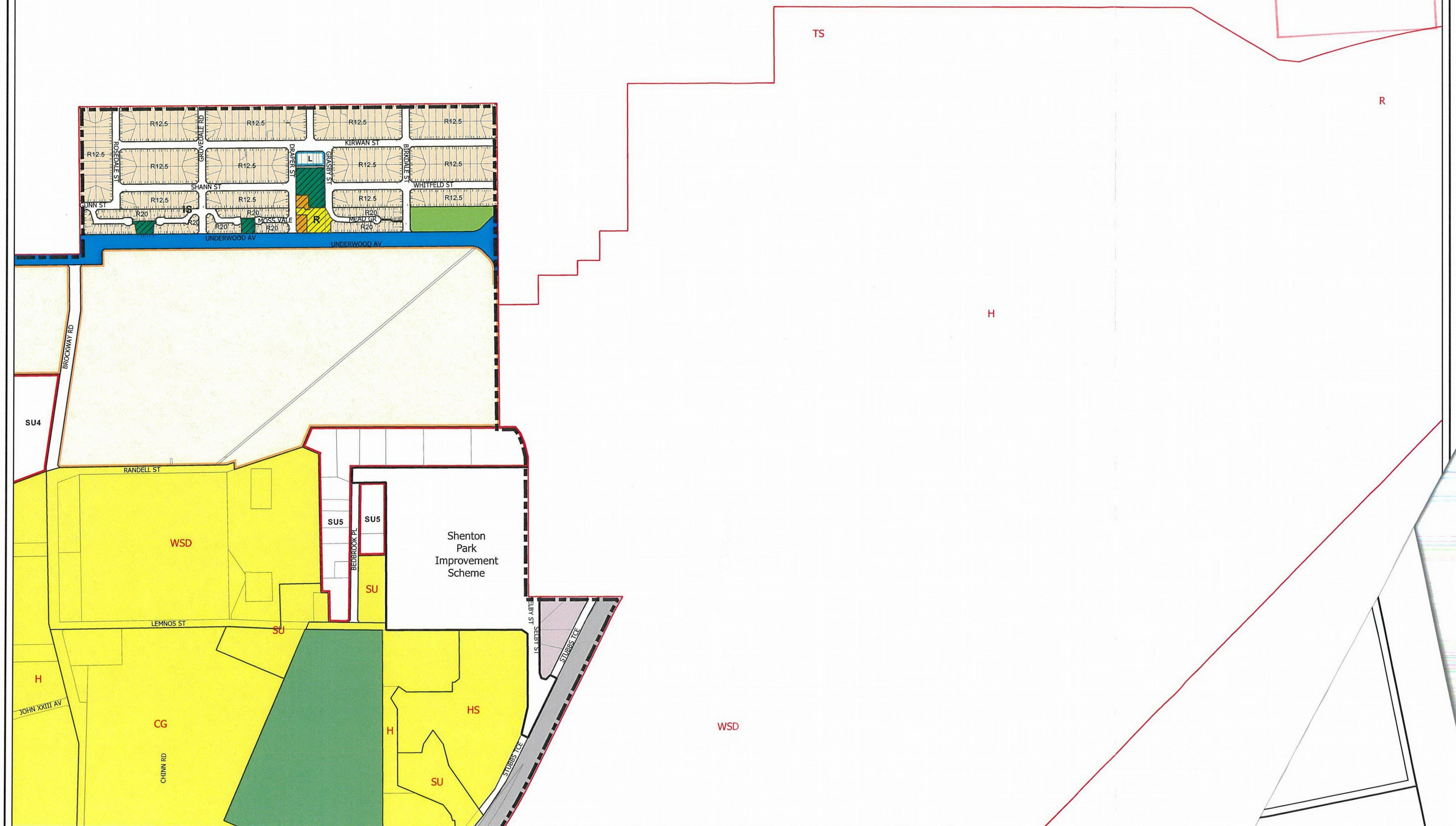


14 JUN 2019

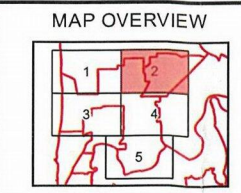
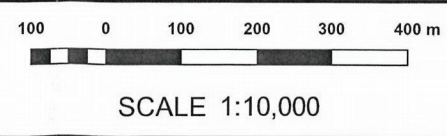


LOCAL PLANNING SCHEME MAP NO 1 OF 5

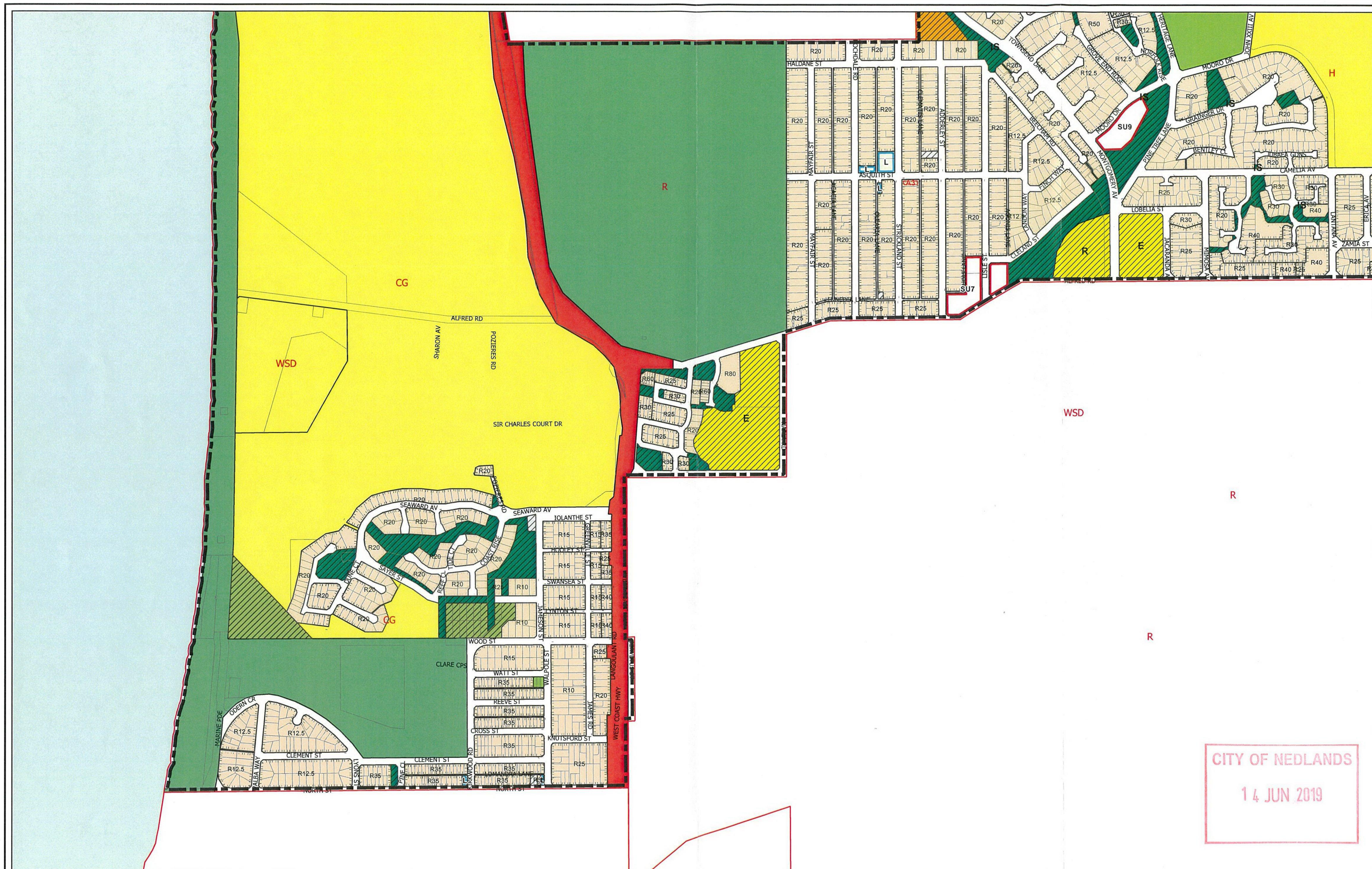




**CITY OF NEDLANDS  
LOCAL PLANNING SCHEME NO 3**







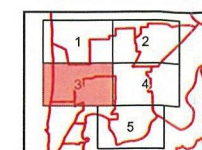
**CITY OF NEDLANDS  
LOCAL PLANNING SCHEME NO 3**



SCALE 1:10,000



## MAP OVERVIEW



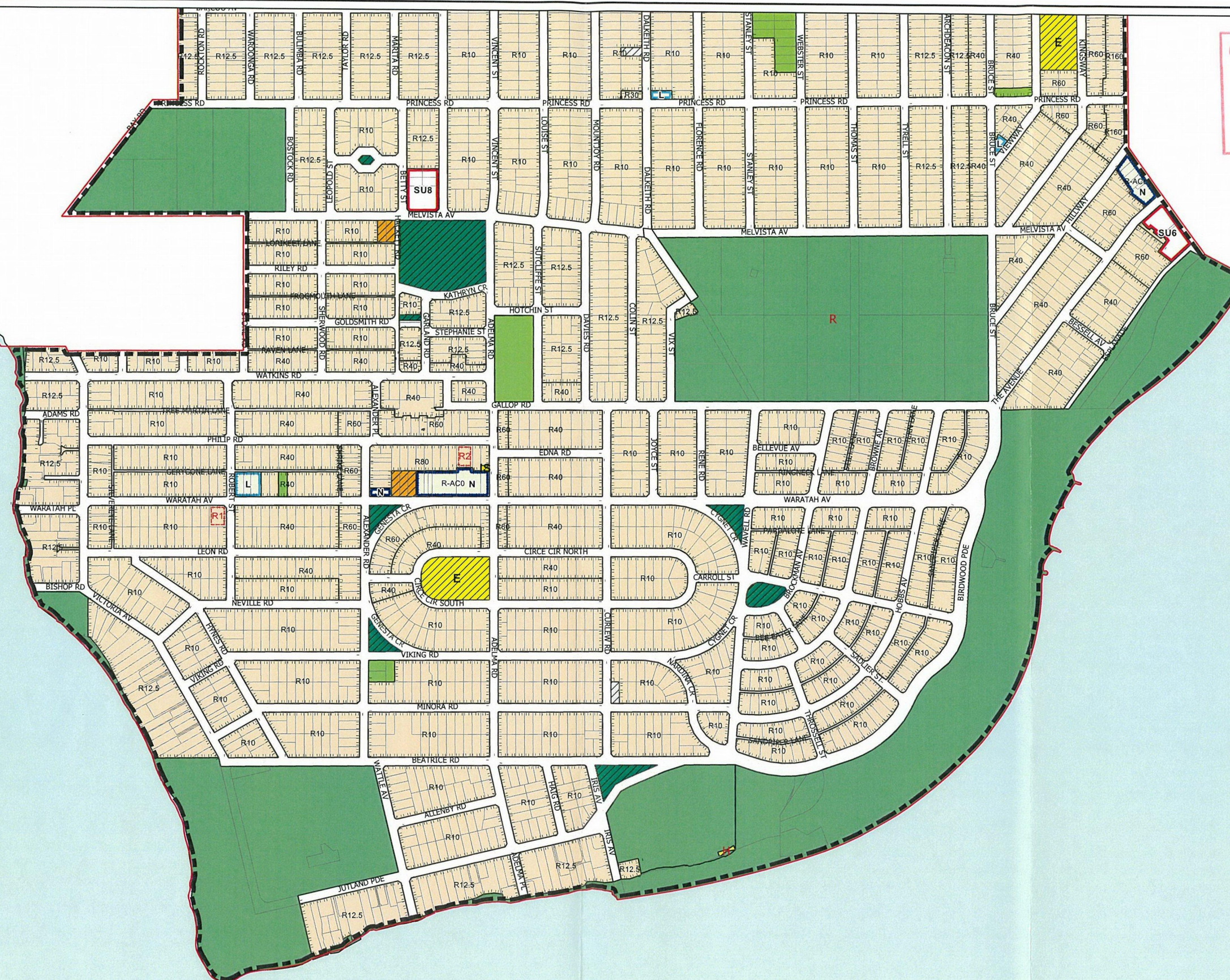
LOCAL PLANNING SCHEME MAP NO 3 OF 5







14 JUN 2019



100 0 100 200 300 400 m

SCALE 1:10,000



LOCAL PLANNING SCHEME MAP NO 5 OF 5



<b>PD38.19</b>	<b>Local Planning Scheme 3 – Local Planning Policy Waste Management and Guidelines</b>
<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Reference</b>	Nil
<b>Previous Item</b>	Nil
<b>Attachments</b>	1. Draft Waste Management LPP 2. Draft Waste Management Guidelines

## 1.0 Executive Summary

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

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

## 2.0 Recommendation to Committee

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

## 3.0 Background

Waste Management Plans have been required by the City on an ad hoc basis for development applications which the City believes will generate surplus waste above the normal household. Prior to Local Planning Scheme No.3 (LPS 3) there weren't many opportunities to develop grouped or multiple dwellings, therefore the waste management of these developments were dealt with on a case by case basis.

Previously the City has had issues with a surplus of bins being placed onto the verge and blocking areas used by both cars and pedestrians. Previously there has not been a set guideline for people and business to adhere to.

The proposed policy guidelines will aid in waste management being undertaken at a high standard for the community and will also be beneficial for developers as it will clearly set out what is expected by the City as a minimum standard.

With LPS 3 this has introduced more opportunities for the development of grouped and multiple dwellings as well as large-scale mixed-use developments. This has necessitated the need for a Local Planning Policy and subsequent Guidelines to set out the procedure and requirements for waste management plans, when they must be prepared and what specifications are expected by the City.

## **4.0 Detail**

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

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

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

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

## **5.0 Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City's website and the Your Voice engagement portal.

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

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

## **6.0 Statutory Provisions**

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

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

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

## **7.0 Conclusion**

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

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





## LOCAL PLANNING POLICY – WASTE MANAGEMENT GUIDELINES

---

### 1.0 PURPOSE

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

### 2.0 APPLICATION OF POLICY

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

### 3.0 OBJECTIVES

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

### 4.0 POLICY MEASURES

- 4.1 Waste Management Plans



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

(a) Residential

- (i) 4 or more multiple dwellings;
- (ii) 4 or more grouped dwellings;
- (iii) 4 or more aged or dependant persons dwellings/beds;
- (iv) Accommodation uses;
- (v) All proposals where there is insufficient lot, road or verge frontage for collection vehicle access (as determined by the City).

(b) Mixed Use Developments

- (i) All mixed-use developments.

(c) Commercial, Industrial and Other Non-Residential Development

- (i) All non-residential development that will generate waste.

(d) Any other proposal the City considers will affect waste avoidance and resource recovery in the development.

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

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

- (a) Land use type;
- (b) Bin Access and Storage;
- (c) Waste generation/Capacity;
- (d) Truck accessibility and manoeuvring;
- (e) Internal service collection;
- (f) Waste systems;
- (g) Signage;
- (h) Collection/Placement options; and
- (i) Additional waste requirements.

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



## 5.0 RELATED LEGISLATION

- 5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- 5.2 This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
- (a) State Planning Policy 7.3 – Residential Design Codes Volume 1
  - (b) State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments
- 5.3 This policy should be read in conjunction with the City of Nedlands Waste Management Guidelines.

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





## APPENDIX ONE WASTE MANAGEMENT GUIDELINES

---

### 1.0 INTRODUCTION

- 1.1 These guidelines are intended as a guide for developers, architects, waste consultants and planning permit applicants in the City of Nedlands.

### 2.0 PURPOSE

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

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

(a) Residential

- (i) 4 or more multiple dwellings (multi-unit dwelling);
- (ii) 4 or more grouped dwellings (multi-unit dwelling);
- (iii) 4 or more aged or dependant persons dwellings/beds (multi-unit dwelling);
- (iv) Accommodation uses;
- (v) All proposals where there is insufficient lot, road or verge frontage for collection vehicle access (as determined by the City).

(b) Mixed Use Developments

- (i) All mixed-use developments.

(c) Commercial, Industrial and Other Non-Residential Developments

- (i) All non-residential developments that will generate waste.

- (d) Any other proposal the City considers will affect waste avoidance and resource recovery in the development.

- (e) Change of use applications that will not result in increased waste collection requirements or frequency as determined by the City are not required to submit a Waste Management Plan.

*Note: Multi-unit developments with multiple towers will need to address waste and recycling requirements for each tower.*

- 2.2 The Waste Management Plan should include background details of the following:

- (a) Development type (multi-residential, mixed use or commercial);



- (b) Number of storeys;
- (c) Number of dwellings or units (studio, one, two or three bedrooms, etc);
- (d) Size of each commercial tenancy; and
- (e) Commercial usage type (café, restaurant, office, retail, etc.).

### 3.0 WASTE AND RECYCLING GENERATION

#### 3.1 Residential

- 3.1.1 The City shall provide waste services to all rateable properties as a part of its statutory requirements under the *Waste Avoidance and Resource Recovery Act 2007*, the *Health Act 1911* and *Waste Local Law 2017*.
- 3.1.2 The City's collection services operate Monday to Friday for residential and commercial properties. Subject to the City's approval, some weekday public holiday collections may be extended to weekends. i.e. Easter Friday.
- 3.1.3 The City's minimum residential waste and recycling allocation per rateable property is 1 x 120 litres per week for waste and 1 x 240 litres per fortnight for recycling. The waste and recycling requirements for residents in multi-unit dwellings are as shown in Table 1 below.

**Table 1**

Dwelling size	Waste (litres per /week)	Recycling (litres per fortnight)
Single dwelling	60	240
Studio/One bedroom	80	240
Two Bedroom	120	240
Three plus bedrooms	120	240

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

#### 3.2 Commercial

- 3.2.5 Waste and recycling generation for commercial developments are expected to be developed by the applicant and supported by waste generated modelling by a qualified waste consultant. The waste and recycling available bin sizes for commercial properties as shown in Table 2 below.

**Table 2**

Waste Bin Size (litres)	Recycling bin size (litres)
240L	240L





660L	660L
1100L	1100L

- 3.2.6 Commercial properties are not required to utilise the City's waste services and can seek private commercial waste collection arrangements.
- 3.2.7 Should the owner/s wish to utilise the City's commercial waste service, a written request is required, and approval will be considered at the sole discretion of the City.
- 3.2.8 However, commercial developments are required to adhere to the residential waste management requirements.

*Note- The City's residential collection service must not be obstructed and take precedence over any other collection and deliveries. e.g. commercial waste collection and delivery drop offs.*

#### 4.0 BIN SIZE AND COLOUR

- 4.1 The Waste Management Plan must provide details on the number of bins and their size. The City may at its discretion provide a multi-unit development with larger bins (660 litre or 1100 litre). The size and quantities of bins depends on the size of the development and the estimated waste and recycling volumes. The City's standard bin sizes and dimensions are shown in Table 3 and 4 below.

**Table 3**

Waste Stream	Colour
Waste	Dark green body with red lid
Recycling	Dark green body with yellow lid
Green Waste (Optional Service)	Dark green body with lime green lid

**Table 4**

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

#### 5.0 COLLECTION FREQUENCY

- 5.1 The City currently offers weekly waste collection and fortnightly recycling collections to residential properties. The City can provide residential waste and recycling collections up to 2 times per week depending on the density of the development.
- 5.2 City of Nedlands collects residential waste at the following frequencies:
- (a) 1 to 55 apartments = 1 collection per week



- (b) 56 to 250 apartments = 2 collections per week

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

## **6.0 INTERNAL SERVICE COLLECTION**

6.1 Internal service collections should be provided for 4 or more multiple and grouped dwellings, all mixed use developments, all commercial developments and any other proposals where there is insufficient lot, road or verge frontage for collection or vehicle access as determined by the City. Transfer of bins within the bin location and to the waste presentation point should only be undertaken by the City's waste contractor.

6.2 Internal service collection should follow the below:

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

*Note -All multi dwelling developments attract an annual inside service fee in addition to annual waste charges. Residents and/or caretakers are not responsible for the presentation and removal of the bins from/to bin storage/collection location.*

## **7.0 WASTE TRUCK ACCESSIBILITY AND MANOEUVRING-**

7.1 Any development of 4 or more dwellings shall require waste trucks to service all waste from within the property as verge presentation is not permitted. The design shall demonstrate the City's minimum compliance requirement of:

- (a) Waste trucks must enter and exit the site in a forward gear, with all manoeuvring done on site and submission of swept path analysis using waste truck length of 10m;
- (b) Rear lifts waste trucks will need a clearance height of minimum 4 metres clear of awnings, upper floors etc;
- (c) Both the driver and passenger should be able to safely alight and board the vehicle before and after collection, allowing both doors to fully open; and



- (d) Access for both the driver and passenger to access the rear of the vehicle with a minimum of 800mm with 3m operating space at the rear of the vehicle.

## 8.0 BIN STORAGE AREA

- 8.1 Depending on the number of dwellings residents may have individual bin areas or shared communal bin areas shown in Table 5 below.

**Table 5**

Development Type	Bin area	Bin Size		
		Waste	Recycling	Green waste
1-4 dwellings	Individual	120L	240	240
5-9 dwellings Shared	Shared Communal	240L	240L	240L
10 or more dwellings Shared	Shared Communal	660L/1100L	660L/1100L	240L

- 8.2 Developments with shared bins must include an easily accessible communal bin storage area within the development. In the case of mixed-use developments separate residential and commercial bin storage areas are required.
- 8.3 A bin storage area (or enclosure) must be provided on the premises where bins are stored and collected from as per the following requirements:
- (a) Easily accessible to allow for the removal of the receptacles;
  - (b) Adequate circulation space for manoeuvring bins within the storage area must be allowed;
  - (c) Provide for collection that limits pedestrian and vehicle disruption;
  - (d) The bin storage area is to be provided with a permanent water supply and drainage facility; for washdown. The bin area is to be screened by a gate, brick walls or other suitable materials to a height not less than 1.8m;
- Note-for further clarification, please refer to the City's Environmental Health Services.*
- (e) Each waste stream must be separated and clearly labelled;
  - (f) Residential waste needs to have a separate area from commercial waste;
  - (g) Developments that include residential dwellings shall include a dedicated area for the temporary storage of large bulky items awaiting disposal
  - (h) Design should not encourage the emission of odour outside the bin enclosure area;





- (i) Bin storage areas shall be located within the building (not on the verge), so they are not visible from the public realm, or screened from public view with a quality material compatible with the building design
- (j) The bin area is to be accessible via a suitably constructed service road that will allow waste truck vehicle movement;
- (k) Provided with a ramp into the bin storage area having a gradient of no steeper than 1:8 unless otherwise approved by the City; and
- (l) Where a mixed-use development is proposed (residential and any other use), the residential waste and recycling bin storage areas are to be self-contained and separate from commercial bin storage areas.
- (m) For all properties that have lockable waste presentation point, the City requires relevant access i.e. key or remote device.

## **9.0 COLLECTION OF BINS**

- 9.1 Bins, ready for collection, shall be presented in a manner that has minimal impact on the public realm.
- 9.2 Where it cannot be demonstrated that the required number of bins for 4 dwellings or less can be practically accommodated on the verge for collection, bin storage areas shall be designed to allow for collection of waste from within the site.
- 9.3 Any development of 4 or more dwellings, a bin storage area shall be designed to allow collection of all waste bins from within the site. All waste bins shall not be placed on the verge area for collection.
- 9.4 All residential properties must utilise the City's waste service. However, commercial properties can engage private contractors for the services

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

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

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

- 10.2 The following waste options exist for multi-unit developments:

- (a) Option 1: Use 660L bins for waste and 660L bins for recycling with bins stored in communal storage area(s). Residents may be required to carry all waste and recycling from their dwelling direct to the bin storage area(s).



- (b) Option 2: A single waste chute leading to a central waste collection area in the basement or ground level and a recycling bin on each floor level.
- (c) Option3: A dual chute system for waste and recycling leading to a central waste and recycling collection area in the basement or ground level.

10.3 For options 10.2(b) and 10.2(c) detailed descriptions of the waste systems must be provided, including but not limited to:

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

## 11.0 WASTE CHUTE

11.1 The minimum waste system requirement based on Multiple Dwelling development size shown on Table 6 below.

**Table 6**

Number of floors/storeys	Preferred Waste System
<10	Resident accessible bin store at ground level or basement level
>10	Single waste chute and recycling bin on each level; or Dual chutes providing for both waste and recycling on each level

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

11.3 Where waste chutes are utilised, the approved waste compacted by a ratio of 2:1.

11.4 Chutes must be ventilated to ensure that air does not flow from the chutes through the service openings. All ongoing maintenance of chute systems, including cleaning is the responsibility of the building manager/strata management.

11.5 The City is aware of emerging technology regarding organic waste management. Alternate technology for the diversion of organic from landfill will be considered in place of a triple chute system.

## 12.0 WASTE COMPACTORS



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

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

### **13.0 SIGNAGE**

- 13.1 Signs will be required within the bin storage area to encourage correct recycling and reduce contamination.
- 13.2 Clear signage and coloured bins (red for waste) and (yellow for recycling) to be placed in each bin storage area on each level.

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

- 14.1 Development shall allocate a dedicated area to place bulk bins (twice a year) for bulk rubbish collections. The City offers two hard waste collections and two green waste collections for residents.
- 14.2 The City's bulk collection contractor will provide a 10m<sup>2</sup> bulk bin during the bulk collection (twice per annum). Hard waste items from multi-unit developments are not permitted to be placed on the verge area for collection.
- 14.3 On-site hard waste storage must be provided as follows:
  - (a) 1 to 55 apartments = Minimum area of 5m<sup>2</sup>
  - (b) 56 - 200 apartments = Minimum are of 10m<sup>2</sup>
- 14.4 A hard waste collection area must be provided for collection contractors that is immediate to the truck collection location. High rise hard waste collections are usually coordinated by the building manager.

### **15.0 COMPLIANCE WITH WASTE MANAGEMENT PLAN**

- 15.1 Responsibility for ensuring compliance with the Waste Management Plan and the cleaning of the bin storage area/s and facilities must be allocated to a





person of appropriate authority (i.e. property manager, strata manager, caretaker).

## **16.0 NOTIFICATION ON TITLE**

### **16.1 Section 70A Notification for Waste**

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

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

### **16.2 Entry to private property**

16.2.1 The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development. An indemnity provided by the City is required to be signed by the responsible entity prior to waste collections services being provided, which indemnifies both the City and its waste collection contractors from claims relating to damage caused through the collection process

## **17.0 ADDITIONAL INFORMATION REQUIRED**

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

- (a) Typical commercial floor showing garbage and recycling drop-off points;
- (b) Bin rooms including any bins and compactors;
- (c) Bin presentation location (on-site) with bin alignment shown;
- (d) Residential and commercial floor levels illustrating waste and recycling storage;
- (e) Bin storage areas including any chutes, carousels and bins;
- (f) Bin numbers and size of bins;
- (g) Bin presentation location with bin alignment shown;
- (h) Ramp grades;



- (i) Access to bin storage area and/or chutes; and
- (j) Swept path analysis illustrating sufficient access to collect bins.

17.2 The City recommends all multi-unit developments provide space for one charity bin. Charity bins are available in various sizes with 1m<sup>2</sup> being adequate for most developments. Most charities offer a free service including supply and collection of bins.

## 18.0 DISCLAIMER

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

## 19.0 DEFINITIONS

Multiple Dwellings	A dwelling in a group of more than one dwelling on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio area of any other but: <ul style="list-style-type: none"><li>- Does not include grouped dwelling; and</li><li>- Includes any dwellings above the ground floor in a mixed use development.</li></ul>
Grouped Dwelling	A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above or below another, except where special conditions of landscape or topography dictate otherwise and includes a dwelling on a survey strata with common property.
Multi-unit Dwelling	4 or more multiple dwellings 4 or more grouped dwellings 4 or more aged or dependant persons dwellings/beds



## 20.0 APPENDICIES

### 20.1 Waste Management Plan Template

#### 20.1.1 Land Use Type

- (a) *Development type (multi-residential, mixed use or commercial);*
- (b) *Number of storeys;*
- (c) *Number of dwellings or units (studio, one, two or three bedrooms, etc);*
- (d) *Size of each commercial tenancy;*
- (e) *Commercial usage type (café, restaurant, office, retail, etc.).*

#### 20.1.2 Waste and Recycling Generation

*How much waste will be generated; by general waste, recycling, green waste and bulk waste.*

#### 20.1.3 Bin Size and Colour

*How many bins will be used at the site, what size and colour will be used.*

#### 20.1.4 Collection Frequency

*What frequency will waste be collected, by the City or an independent supplier.*

#### 20.1.5 Internal Service Collection

*How will the development address internal service collection if required.*

#### 20.1.6 Waste Truck Accessibility and Manoeuvring

*If required for internal service, has manoeuvring been considered and accessibility for waste collection.*

#### 20.1.7 Bin Storage Area

*Details about the bin storage area including, size, waste stream separation, method of storage and access for waste collection.*

#### 20.1.8 Collection of Bins

*How bins will be presented for collection and where.*

#### 20.1.9 Waste Systems for Multi-Unit Dwellings

*Detailed description of the waste systems required for multi-unit dwelling is applicable.*

#### 20.1.10 Waste Chute

*Applicable to Multiple Dwelling development where chutes are required, specifications of chutes will need to be addressed.*

#### 20.1.11 Waste Compactors

*Where applicable specifications in relation to compactor design and function.*

#### 20.1.12 Signage

*What signage will be used within the bin storage area.*

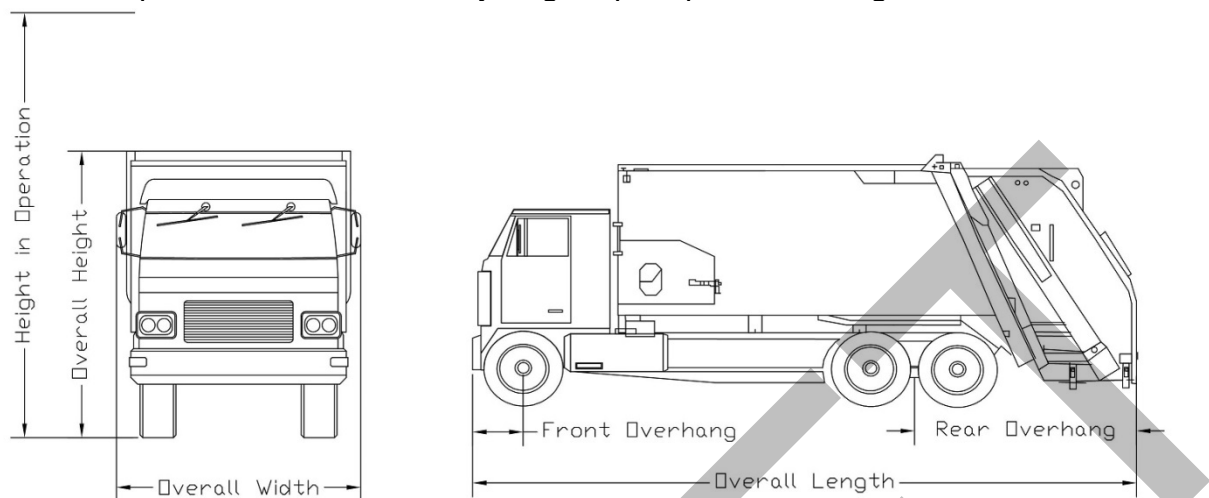
#### 20.1.13 Bulk Waste

*How will bulk waste be dealt with, residential properties only.*





## 20.2 Example of waste bin and recycling drop off points at living levels



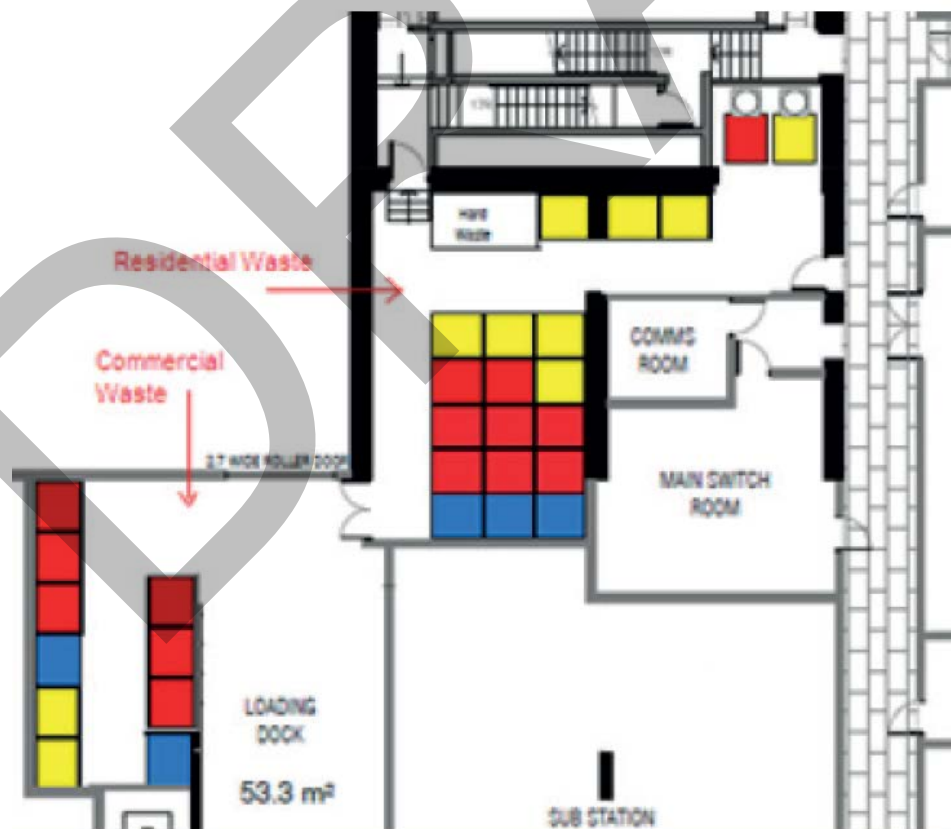
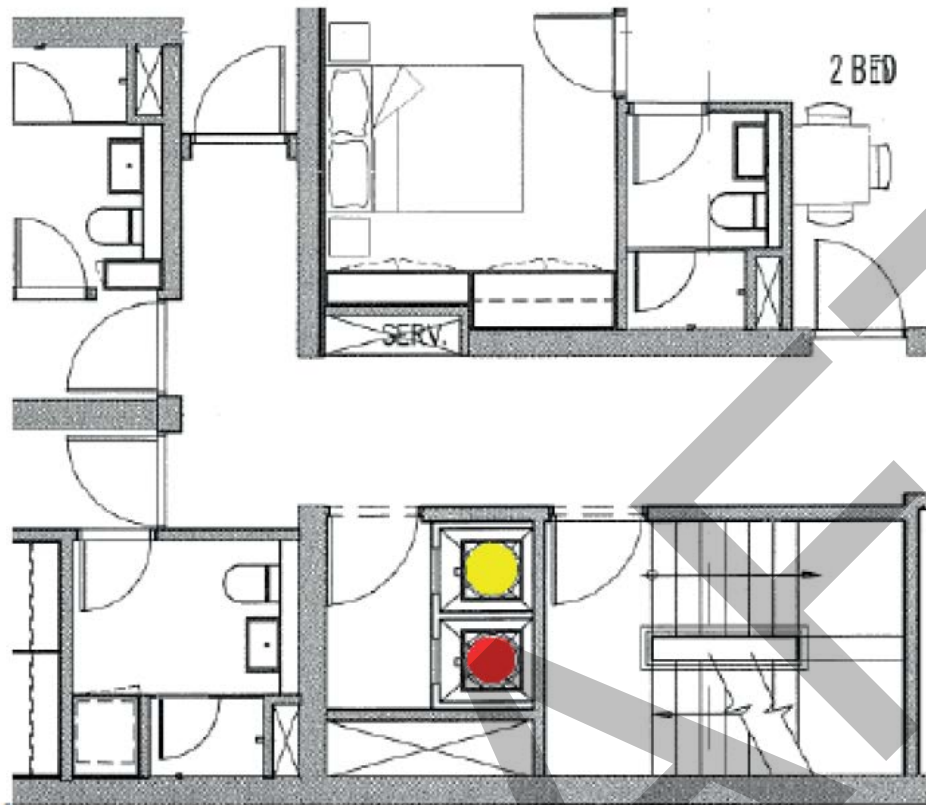
Vehicle Dimensions

## 20.3 Collection Vehicle Specifications based on Rear loader truck

Parameter	Vehicle Dimension (m)	Required Clearance (m)
Overall length	8.5	10.0
Overall width	2.5	3.0
Overall height	2.5	4.0
Height in operation	3.5	4.0



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



<b>PD39.19 Local Planning Scheme 3 – Local Planning Policy Parking</b>	
<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Reference</b>	Nil
<b>Previous Item</b>	Item 6 – 2 May 2019 - Special Council Meeting PD25.19 – 23 July 2019 – Ordinary Council Meeting
<b>Attachments</b>	1. Draft Parking Local Planning Policy (TPS 2 parking ratios with no other standards) 2. Draft Parking Local Planning Policy (TPS 2 parking ratios and other standards)

## 1.0 Executive Summary

The purpose of this report is for Council to adopt the Parking Local Planning Policy (LPP). The purpose of the Parking LPP is to define the appropriate number of car parking bays for the land uses contained within the City's Local Planning Scheme No. 3 (LPS 3).

The Parking LPP has been modified following Council resolution from 23 July 2019, to reflect the parking requirements from Town Planning Scheme No. 2 (TPS 2).

Council is being presented with two versions of the Parking LPP, included as Attachment 1 and Attachment 2. Both versions reflect the parking ratios of TPS 2, however Attachment 2 also includes standards beyond just car parking. The recommendation is that Council adopts the version which only contains the car parking ratios from TPS 2 with no additional standards, as set out in Attachment 1.

Once adopted, the Parking LPP will need to be referred to the West Australian Planning Commission (WAPC) for approval. This is because the LPP seeks to amend Part 3.9 of State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments (R-Codes Vol.2) with non-residential parking standards.

## 2.0 Recommendation to Council

### Council

1. **Proceeds to adopt the Parking Local Planning Policy, with modifications set out in Attachment 1, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii); and**



2. Refers the Parking Local Planning Policy to the Western Australian Planning Commission for final approval in accordance with State Planning Policy SPP7.3, Residential Design Codes Volume 2 – Apartments 2019 Clause 1.2.3 and the City’s Local Planning Scheme No 3 Clause 32.4(5).

### **Alternate Recommendation**

#### **Council**

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

## **3.0 Background**

### **2 May 2019 – Special Council Meeting**

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

The LPP was modified via Council’s Resolution so that the parking standards for the Office and Shop land uses reflected the Town Planning Scheme 2 (TPS 2) prior to advertising for community consultation.

Following advertising, submissions were made on the LPP stating that the parking requirements were too onerous. As such, Administration recommended modifications, specifically the parking ratios for the Office and Shop land uses were proposed to be modified to align with the original ratios presented at the 2 May 2019 meeting.

### **23 July 2019 – Ordinary meeting of Council**

The modified LPP was presented to Council for adoption at its 23 July 2019 meeting, where it was resolved that:

“Council Resolution

Council approves the parking requirements as stated in Town Planning Scheme 2 as the Parking Policy, pending finalisation of a revised policy.”

## 6 August 2019 - Council Briefing

Administration sought further clarification in order to resolve how Council envisioned the finalisation of a revised policy.

It was pointed out that the land uses have changed between TPS 2 and LPS 3, and as such it was suggested that the Parking LPP should apply the TPS 2 parking standards as closely as possible to the new LPS 3 land uses.

### 4.0 Discussion

Based on Council's 23 July 2019 resolution, and the 6 August 2019 Council Briefing session, Administration has modified the Parking LPP so that it is reflective of the parking standards set out in TPS 2, Schedule 3.

The TPS 2 parking standards have been applied to the LPS 3 land uses as closely as possible within the modified Parking LPP, as outlined in the table below.

TPS 2 Land Use	Comparable LPS 3 Land Use/s	TPS 2 Parking requirement to be applied in Parking LPP
Religious purposes	Civic use Community purpose Funeral parlour Place of worship Reception centre	1 bay per 4 persons.
Educational establishment	Educational establishment	
Primary	Primary	1.2 bays per staff member.
Secondary	Secondary	2 bays per staff member PLUS 1 per rostered canteen worker PLUS 2 for each 10 provided (or part thereof).
Licenced premises	Small bar Tavern	1 bay per bedroom PLUS 1 per each 1.3m <sup>2</sup> of bar and public areas PLUS and 1 per each employee on duty.
Restaurant	Lunch bar Restaurant/café Fast food outlet	1 bay per 2.6m <sup>2</sup> of restaurant seating area OR 1 per 2 persons (whichever is greater).
Light industry	Industry - light	2.2 bays per each 100m <sup>2</sup> of gross leasable floor area OR 1 per employee (whichever is greater).
Hospital	Consulting rooms Hospital Veterinary centre Medical centre	12 bays OR 1 bay per every 4 beds (whichever is greater).
Motor repair station	Motor vehicle repair Motor vehicle wash Service station	5 bays per each working bay PLUS 1 bay per employee.
Office/ professional office	Office	4.75 bays per every 100m <sup>2</sup> of gross leasable floor area.

Public amusement	Amusement parlour Art gallery Betting agency Cinema/theatre Club premises Exhibition centre Recreation – private	1 bay per 2 persons.
Shop	Convenience store Liquor store – small Market Shop	8.3 bays per every 100m <sup>2</sup> of leasable floor area.
Showroom/ warehouse	Bulky goods showroom Garden centre Motor vehicle, boat or caravan sales Trade display Trade supplies Warehouse/storage	2.2 bays per every 100m <sup>2</sup> gross leasable floor area OR 1 per employee (whichever is greater).

It is noted that the following LPS 3 land uses have no comparable land uses within TPS 2:

- Animal establishment;
- Bed and breakfast;
- Child care premises;
- Family day care;
- Holiday accommodation;
- Holiday house;
- Home business;
- Hotel;
- Motel;
- Residential aged care facility; and
- Serviced apartment.

For these land uses, the parking standards are proposed to remain unchanged from the LPP which was considered by Council at its 23 July 2019 meeting.

The parking requirements set out in TPS 2 also included guidance on how floor areas should be measured for certain land uses (such as gross leasable floor area). The parking requirements contained within the LPP have been updated to reflect the new terminologies for floor areas under LPS 3.

Council is being presented with two versions of the Parking LPP, included as Attachment 1 and Attachment 2. Both versions reflect the parking ratios of TPS 2, however Attachment 1 only contains the car parking ratios from TPS 2 with no additional standards. Attachment 2 also includes standards beyond just car parking which could be considered to represent better “planning practice” based on current thinking.



If Council is of the view to adopt the additional provisions contained within Attachment 2, an alternate recommendation has been included to this effect. These additional provisions relate to maximum number of car bays, parking reductions, bicycle, motorcycle and special purpose parking, end of trip facilities, cash-in-lieu, shared car parking, parking layout and design and parking and transport assessments. The inclusion of these additional provisions would provide Council with guidance to facilitate and promote alternative modes of transport and provide guidance for reducing the impact of parking facilities and access ways on the character and amenity of an area.

### **WAPC Approval**

When Council adopts this LPP, regardless of which version, all provisions can be applied immediately to land zoned Private Community Purposes and Service Commercial under LPS 3.

However, the parking standards will not be enforceable within the Neighbourhood Centre, Local Centre and zones until such time as the WAPC approves the LPP. This is due to Clause 32.4(5) of LPS 3 which states that, where standards are not contained within a Structure Plan, Activity Centre Plan or Local Development Plan, all non-residential developments within Mixed Use, Neighbourhood Centre and Local Centre zones are subject to the standards of the R-Codes.

The Parking LPP seeks to amend Part 3.9 – Car and bicycle parking of the R-Codes Vol. 2 with non-residential parking ratios, which, under Part 1.2.3 of the R-Codes Vol. 2 requires WAPC approval.

Accordingly, once adopted by Council, the LPP will be referred to the WAPC in order to seek their approval for provisions related to parking standards within the Mixed Use, Local Centre and Neighbourhood Centre zones. This report, together with Council's resolution on the report, will also be referred to the WAPC.

## **5.0 Consultation**

The Parking LPP was advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4 from the 18 May 2019 until the 8 June 2019.

One submission was received in relation to the Parking LPP during the advertising period. This submission, which raised concern with some of the proposed parking standards, was considered in the previous report presented to Council on 23 July 2019. Following Council's resolution at this meeting, the LPP was further modified to reflect the TPS 2 parking requirements, which is now being presented back to Council for final adoption.

## **6.0 Budget/Financial Implications**

Nil.

## **7.0 Statutory Provisions**

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

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

- i) Proceed with the policy without modification;
- ii) Proceed with the policy with modification; or
- iii) Not to proceed with the policy.

## **8.0 Conclusion**

The Parking LPP is an integral policy under LPS 3 as it provides standards for non-residential car parking within the City of Nedlands. The modifications made to the LPP are reflective of Council's 23 July 2019 resolution to have the LPP reflect the parking standards of TPS 2.

Two versions of the LPP are being presented to Council. Attachment 1 includes only the TPS 2 parking ratios, with no additional standards. Attachment 2 includes the TPS 2 parking ratios as well as additional provisions relating to maximum number of car bays, parking reductions, bicycle, motorcycle and special purpose parking, end of trip facilities, cash-in-lieu, shared car parking, parking layout and design and parking and transport assessments.

Once adopted, the LPP will be referred to the WAPC for approval in accordance with Part 1.2.3 of the R-Codes Vol. 2, given that it seeks to amend Part 3.9 of R-codes Vol. 2 with non-residential parking standards.



## LOCAL PLANNING POLICY – PARKING

### 1.0 PURPOSE

- 1.1 The purpose of this policy is to define standards for car parking for non-residential developments.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all non-residential development on land that is reserved or zoned under Local Planning Scheme 3 (LPS 3), within the City of Nedlands.
- 2.2 This policy is to be read in conjunction with LPS 3 and State Planning Policy 7.3 – Residential Design Codes Volumes 1 & 2 (R-Codes).
- 2.3 Where this policy is inconsistent with the provisions of a specific Local Planning Policy, Precinct Plan or Local Development Plan that applies to a particular site or area, the provisions of that specific Local Planning Policy, Precinct Plan or Local Development Plan will prevail.

### 3.0 OBJECTIVES

- 3.1 To facilitate the development of sufficient parking facilities for cars.

### 4.0 POLICY MEASURES

#### 4.1 Minimum parking requirements

- 4.1.1 All development shall provide car parking on-site in accordance with Table 1, unless otherwise approved by the City.

**Table 1: Parking Requirements**

Land Use	Minimum no. of Car Parking Bays Required
Amusement parlour Art gallery Betting agency Cinema/theatre Club premises Exhibition centre Recreation – private	1 per 2 persons.
Animal Establishment	1 per employee; <b>and</b> 1 drop off/pick up bay per 6 animals.
Bed and breakfast Holiday accommodation Holiday house	1 per guest bedroom, in addition to any bays required under the R-Codes for the dwelling (if applicable).
Hotel Motel	1 per 5 guest rooms <b>and</b> 1 per 2 employees.





Bulky goods showroom Garden centre Motor vehicle, boat or caravan sales Trade display Trade supplies Warehouse/storage	2.2 per 100m <sup>2</sup> net lettable area <u>or</u> 1 per employee (whichever is greater).  1 space in every 3 to be set aside for employees.
Child care premises	1 per employee; 1 per every 6 children in attendance; <u>and</u> 1 drop off/pick up bay per 30 children (or part thereof).
Civic use Community purpose Funeral parlour Place of worship Reception centre	1 per 4 persons.
Consulting rooms Hospital Veterinary centre Medical centre	12 <u>or</u> 1 per every 4 beds (whichever is greater).
Convenience store Liquor store – small Market Shop	8.3 per 100m <sup>2</sup> of net lettable area.  1 space in every 5 to be set aside for employees.
Lunch bar Restaurant/café Fast food outlet	1 per 2.6m <sup>2</sup> of restaurant seating area <u>or</u> 1 per 2 persons (whichever is greater).
Educational establishment - Pre-primary/ Primary  - Secondary/ Tertiary/ Technical	1.2 per employee.  2 of every 10 spaces (or part thereof) to be set aside for visitors.  2 per employee; 1 per rostered canteen worker <u>and</u> an additional 2 for each 10 provided (or part thereof).  Additional spaces to be set aside for visitors.
Family day care	1 bay in addition to the requirements of the R-Codes for the dwelling.
Home business	Additional spaces as required by the number of staff and customers coming to the property, in addition to the requirements of the R-Codes (where applicable).
Industry - light	2.2 per 100m <sup>2</sup> of net lettable area <u>or</u> 1 per employee (whichever is greater).  1 space in every 3 to be set aside for employees.
Motor vehicle repair Motor vehicle wash Service station	5 per working bay <u>and</u> 1 per employee.
Office	4.75 per 100m <sup>2</sup> of net lettable area.  2 spaces in every 3 to be set aside for employees.



Residential aged care facility	1 per 3 beds <b>and</b> 1 per 2 employees.
Serviced apartment	1 per unit <b>and</b> 1 per 2 employees.
Small bar Tavern	1 per 1.3m <sup>2</sup> of bar and public areas (excluding toilets); <b>and</b> 1 per employee.

Notes:

- a) **Persons** means the number of persons for which a building has been designed or for whom seating is provided. **Employee** means any person employed in the building.
- b) Where spaces are to be set aside for visitors or employees, they must be clearly marked as such.

## 4.2 Land uses which are not listed within Table 1

- 4.2.1 Where a land use is not listed within Table 1 of this Policy, the parking ratio will be determined having regard to the objectives of this policy, similar uses and surrounding uses. This is the same as 'Uses not Listed' within LPS 3.

## 5.0 VARIATIONS TO THIS POLICY

- 5.1 Where a proposal does not increase an existing approved shortfall of car parking (in accordance with the car parking requirements in Table 1) then the proposal is not considered a variation to this Policy.
- 5.2 Variations to this Policy shall be determined in accordance with the objective of this Policy.
- 5.3 Applicants seeking variations to this Policy are required to submit a detailed written statement addressing the objective of this policy for the City's assessment.

## 6.0 RELATED LEGISLATION

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Local Planning Scheme No. 3
- State Planning Policy 7.3 – Residential Design Codes

Council Resolution Number	PD XX.XX
Implementation Date	DRAFT FOR ADVERTISING
Date Adopted	XX XX XXXX



## LOCAL PLANNING POLICY – PARKING

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### 1.0 PURPOSE

1.1 The purpose of this policy is to:

- define standards for parking, vehicle access and parking facilities to ensure developments are constructed to a high standard and managed to reduce any potential detrimental impacts to the surrounding area; and
- encourage the provision of services that enable and promote alternative modes of transport (including cycling, walking, public transport and motorcycles) and adaptability to changes in technology.

### 2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all development on land that is reserved or zoned under Local Planning Scheme 3 (LPS 3), within the City of Nedlands.
- 2.2 This policy is to be read in conjunction with LPS 3 and State Planning Policy 7.3 – Residential Design Codes Volumes 1 & 2 (R-Codes).
- 2.3 Where this policy is inconsistent with the provisions of a specific Local Planning Policy or Local Development Plan that applies to a particular site or area, the provisions of that specific Local Planning Policy, or Local Development Plan will prevail.

### 3.0 OBJECTIVES

- 3.1 To facilitate the development of sufficient parking facilities for motor vehicles, motorcycles/scooters and bicycles.
- 3.2 To ensure safe, convenient and efficient access for pedestrians, cyclists and motorists.
- 3.3 To ensure a high standard of design of parking facilities, including adequate landscaping.
- 3.4 To promote the use of alternative modes of transport.
- 3.5 To ensure that parking facilities and access ways do not have a detrimental impact on the character and amenity of an area.





## 4.0 POLICY MEASURES

### PARKING REQUIREMENTS

#### 4.1 Minimum parking requirements

4.1.1 All development shall provide parking on-site in accordance with Table 1, unless otherwise stated within this policy or approved by the City.

**Table 1: Parking Requirements**

Land Use	Minimum no. of Car Parking Bays Required
Amusement parlour Art gallery Betting agency Cinema/theatre Club premises Exhibition centre Recreation – private	1 bay per 2 persons.
Animal Establishment	1 bay per employee; <b>and</b> 1 drop off/pick up bay per 6 animals.
Bed and breakfast Holiday accommodation Holiday house	1 bay per guest bedroom, in addition to any bays required under the R-Codes for the dwelling (if applicable).
Hotel Motel	1 bay per 5 guest rooms <b>and</b> 1 bay per 2 employees.
Bulky goods showroom Garden centre Motor vehicle, boat or caravan sales Trade display Trade supplies Warehouse/storage	2.2 bays per 100m <sup>2</sup> net lettable area <b>or</b> 1 bay per employee (whichever is greater).  1 bay in every 3 bays to be set aside for employees.
Child care premises	1 bay per employee; 1 bay per every 6 children in attendance; <b>and</b> 1 drop off/pick up bay per 30 children (or part thereof).
Civic use Community purpose Funeral parlour Place of worship Reception centre	1 bay per 4 persons.
Consulting rooms Hospital Veterinary centre Medical centre	12 bays <b>or</b> 1 bay per every 4 beds (whichever is greater).



Convenience store Liquor store – small Market Shop	8.3 bay per 100m <sup>2</sup> of net lettable area.  1 bay in every 5 bays to be set aside for employees.
Lunch bar Restaurant/café Fast food outlet	1 bay per 2.6m <sup>2</sup> of restaurant seating area <u>or</u> 1 bay per 2 persons (whichever is greater).
Educational establishment  - Pre-primary/ Primary        - Secondary/ Tertiary/ Technical	1.2 bays per employee.  2 bays of every 10 bays (or part thereof) to be set aside for visitors.  2 bays per employee; 1 bay per rostered canteen worker <u>and</u> an additional 2 bays for each 10 bays provided (or part thereof).  Additional bays to be set aside for visitors.
Family day care	1 bay in addition to the requirements of the R-Codes for the dwelling.
Home business	Additional bays as required by the number of staff and customers coming to the property, in addition to the requirements of the R-Codes (where applicable).
Industry - light	2.2 bays per 100m <sup>2</sup> of net lettable area <u>or</u> 1 bay per employee (whichever is greater).  1 bay in every 3 bays to be set aside for employees.
Motor vehicle repair Motor vehicle wash Service station	5 bays per working bay <u>and</u> 1 bay per employee.
Office	4.75 bays per 100m <sup>2</sup> of net lettable area.  2 bays in every 3 to be set aside for employees.
Residential aged care facility	1 bay per 3 beds <u>and</u> 1 bay per 2 employees.
Serviced apartment	1 bay per unit <u>and</u> 1 bay per 2 employees.
Small bar Tavern	1 bay per 1.3m <sup>2</sup> of bar and public areas (excluding toilets); <u>and</u> 1 bay per employee.

## 4.2 Maximum number of car parking bays

4.2.1 The maximum number of car parking bays provided shall be no more than twice the minimum figure from Table 1.

## 4.3 Reductions to minimum number of car parking bays



- 4.3.1 The City may consider the following reductions to car parking bays required by Table 1 of this Policy. The number of car parking bays required in accordance with Table 1 may be reduced where the criteria in Table 2 is satisfied. These reductions apply to all uses except for Residential land uses.
- 4.3.2 The maximum reduction to the required car parking of Table 1 for developments is 30% (i.e. a minimum of 70% of the Table 1 car parking requirement must be provided).

**Table 2: Car Parking Reductions**

Performance Criteria	Reduction Percentage
Within 400m of a train station entrance*	20%
Within 800m of a train station entrance*	10%
Within 250m of a stop on a high frequency bus route*	10%
Within 400m of a stop on a high frequency bus route*	5%
<i>Note 1: *The distance is measured from the pedestrian entry at lot boundary using the road system (walkable catchment).</i>	

#### **4.4 Bicycle parking spaces and end of trip facilities**

- 4.4.1 Bicycle parking is to be located on-site and shall ensure public access and universal access is available at all times.
- 4.4.2 The ratio of long-term bicycle parking for staff and short-term bicycle parking for visitors shall be demonstrated by the applicant based on the land use and the scale of the proposal to the satisfaction of the City.
- 4.4.3 Where 5 or more long term bicycle parking bays are required to be provided, end-of-trip facilities are to be provided. End of trip facilities are to be designed in accordance with the following criteria:
- (a) A minimum of one unisex shower, change room, for every 10 bicycle parking bays up to a maximum of 6 male and 6 female showers (or 12 unisex); and
  - (b) A locker of functional and suitable size to be provided for every bicycle parking bay provided.
- 4.4.4 All required end of trip facilities shall be appropriately located to ensure easy access from bicycle parking areas and be in common property if shared by more than one tenancy.
- 4.4.5 All end of trip facilities are required to be designed in accordance with the relevant Australian standards and Building Codes including universal access.
- 4.4.6 Bicycle parking spaces and end of trip facilities are only required to be provided for new developments and not where a change of use is proposed in an existing building.





#### **4.5 Motorcycle bays**

- 4.5.1 Motorcycle (includes Scooter and Moped) parking spaces are to be provided at the rate specified in Table 1 of this Policy, in addition to the minimum car and bicycle parking requirements.
- 4.5.2 Motorcycle bays are only required to be provided for new developments and not where a change of use is proposed in an existing building.

#### **4.6 Special purpose car parking bays**

- 4.6.1 Service/Loading Bays – Where a service/loading bay is required for a land use it is to be provided in addition to the minimum number of car parking bays required under Table 1. A variation to this requirement may be appropriate where it can be demonstrated, through a Parking Management Plan, that a service bay is either not required due to the type of land use, can be shared with visitor parking or may be located off-site.
- 4.6.2 Drop Off/Pick Up Bays – To be provided as per Table 1 in either a separate area or bays which are specifically signed and designed for this purpose.
- 4.6.3 Waiting bays – Car parking bays shall be provided for ‘waiting purposes’ in addition to the parking required in Table 1 of this policy for uses which have a significant portion of business through pick-up and/or have a drive-through component. These bays shall be available in a location convenient for the user to ensure efficient use of the bay and are to be occupied for a maximum of 5 minutes, with signage provided to this effect.

#### **4.7 Change of use applications**

- 4.7.1 Change of use applications require compliance with the requirements of this policy, unless specified. This may require sites to be upgraded to provide additional car parking bays. All car parking bays and circulation areas are required to be designed in accordance with the relevant Australian standards and Building Codes including universal access (ACROD Bays).

#### **4.8 Land uses which are not within table 1**

- 4.8.1 Where a land use is not listed within Table 1 of this Policy, the parking ratio will be determined having regard to the objectives of this policy, similar uses and surrounding uses. This is the same as ‘Uses not Listed’ within Local Planning Scheme No. 3.

#### **4.9 Cash-in-lieu**

- 4.9.1 The purpose of clause 4.9 is not to replace the developer’s responsibility to provide sufficient on-site parking, but rather to allow for development to occur where the full amount of parking cannot reasonably be provided on site. Cash-in-lieu operates as a mechanism for the City to provide for public car parking infrastructure nearby, in accordance with an adopted Car Parking Strategy or Plan.



4.9.2 Cash-in-lieu of parking will only be considered where a proposal is unable to meet the car parking requirements in Table 1 (i.e. after any reductions in accordance with Table 2) of this Policy and shall be applied in accordance with a Car Parking Strategy or Plan adopted by Council.

4.9.3 Where Cash-in-lieu is deemed acceptable by the City, it is to be applied in accordance with clause 32 of Local Planning Scheme No. 3.

#### **4.10 Shared car parking**

4.10.1 Development applications proposing shared car parking must demonstrate compliance with clause 32 of LPS 3.

4.10.2 Where car parking is proposed to be shared between tenancies on the same lot or between separate lots (strata or parent), a Parking Management Plan is required to be provided as per the provisions of this policy.

### **PARKING LAYOUT AND DESIGN**

#### **4.11 Application of R-Codes Vol. 2**

4.11.1 For all development in all zones, vehicle access and parking design are to be provided in accordance with Part 3.8 and 3.9 of the R-Codes Vol. 2, except where specified in this Policy.

#### **4.12 Vehicle access**

4.12.1 Driveways and Crossovers (where applicable) shall be:

- (a) Setback of 0.5m to a side boundary;
- (b) Setback of 1.0m to the nearest point of a street pole;
- (c) Setback of 2.0m to the nearest point of a street tree unless removal or reduced setback approved through a Vehicle Crossover Permit;
- (d) Setback 1.5m to a side entry drainage pit as measured from the crossover (not the splay);
- (e) Aligned at right angles to the street, and parallel in width;
- (f) Designed for vehicles to enter the street in a forward gear; and
- (g) A minimum of 3m and maximum of 6m in width.

4.12.2 Any variation to the above clause requires a Vehicle Crossover Permit to be issued by the City prior to approval of the Development Application. Compliance with the above will still require a Vehicle Crossover Permit, however this can be issued after the development application.

4.12.3 Entry and exit points are to be designed to minimise:



- (a) Potential traffic or pedestrian/cyclist hazards;
- (b) Potential traffic congestion;
- (c) Interference with public transport facilities; and
- (d) Potential impact on City infrastructure (including street trees).

4.12.4 Where a site has access from a number of streets (including Laneways and Rights of Ways) access is to be obtained from the lowest hierarchy road where possible.

#### **4.13 Design of parking areas**

4.13.1 Any redundant crossover/s are to be removed and the verge and kerb reinstated to the City's satisfaction.

4.13.2 All new parking areas (including car, bicycle and motorcycle parking) shall be designed to comply with the Australian Standards including universal access.

4.13.3 Change of use applications which requires the provision of additional parking, shall upgrade any existing car parking in accordance with the relevant Australian Standards including universal access.

4.13.4 All parking areas (including car, bicycle and motorcycle parking) are to be sealed, drained, marked and maintained thereafter by the landowner to the City's satisfaction.

4.13.5 Car parking areas for customers and staff shall be designed so that they are not located within the street setback area and are not visually prominent from the street where possible/practical. Where practical, access to parking areas should be separate from the service access and (un)loading areas.

4.13.6 Visitor and customer parking shall be publicly accessible at all times and shall not be located behind a gate (or similar), unless it can be appropriately managed through building systems (such as intercom) or other such method approved by the City.

4.13.7 Car parking in tandem or in mechanical stacking is permitted when able to be sufficiently managed by the tenant/landowner. This is required to be demonstrated in a Parking Management Plan.

4.13.8 Developments shall be designed to accommodate on-site traffic queuing. Where vehicles are required to queue (such as waiting for a car park door to open), it must be done within the property boundaries and not on a public street or road reserve.

4.13.9 All loading bays shall be provided at grade within the property with enough clearance above the bay to accommodate small commercial vehicles (such as a vehicle used in residential relocations).





#### **4.14 Service access**

- 4.14.1 Service access to be provided to the rear or beneath a building for loading and unloading of goods where possible.
- 4.14.2 Service access shall be designed to segregate vehicles, both moving and stationary, from parking areas and access ways provided for general parking.
- 4.14.3 Loading/unloading areas should not be located so as to cause breach of the relevant noise regulations in relation to adjoining residential properties and proposed residential components for mixed use developments.

#### **4.15 Signage**

- 4.15.1 Way finding signage including entry and exit points and vehicle circulation patterns are to be clearly indicated through appropriate signage to the City's satisfaction.
- 4.15.2 In a mixed-use development, car parking bays should be clearly marked or signposted differentiating between residential car parking bays, visitor car bays and the non-residential car parking bays to the City's satisfaction.
- 4.15.3 Directional signage shall be provided indicating way finding directions to access points and exits as well as towards specific tenancies (where applicable) to the City's satisfaction.

#### **4.16 Lighting**

- 4.16.1 Where 10 or more car bays are provided, car park lighting is required. Lighting is to be designed so as not to negatively impact upon residential properties, either on or adjoining the subject property.

### **PARKING AND TRANSPORT ASSESSMENTS**

#### **4.17 Parking management plan**

- 4.17.1 A Parking Management Plan (non-technical) is required:



- (a) Where a proposal seeks shared car parking;
- (b) Where a proposal seeks alternative methods of car parking (including, but not limited to car stackers and/or turntables);
- (c) Where car parking is proposed to be in tandem;
- (d) When a car sharing program is proposed;
- (e) When special purpose car parking bays are proposed to be located off-site; or
- (f) Where a proposal seeks a variation to Table 1: Minimum Car Parking Requirements (including where reductions are sought in accordance with Table 2).

4.17.2 The City may also require a Parking Management Plan for large-scale Child care premises and Educational establishments to manage drop-off/pick up areas.

4.17.3 A Parking Management Plan shall detail how parking for the proposed development will be managed and identify practical strategies to minimise parking conflicts including between users.

4.17.4 A Parking Management Plan should include but is not limited to the following:

- (a) Description of the development;
- (b) Vehicle access and parking arrangements;
- (c) Hours of operation;
- (d) Provision for service vehicles;
- (e) Estimate of daily traffic volumes;
- (f) Type of car parking spaces (for example tenant/staff spaces, customer spaces, spaces for persons with a disability, loading spaces, motorcycle/scooter spaces and bicycle spaces);
- (g) Location of nearest bus stops/train station and the level of accessibility;
- (h) Pedestrian access and level of accessibility (e.g. footpaths and condition of footpaths);
- (i) Cycle access and level of accessibility (e.g. bicycle paths and condition of bicycle paths);
- (j) Where car stackers are proposed, details on how the system will be operated;
- (k) For reciprocal car parking, details demonstrating that the peak hours of operation of the different uses on the land are different or do not substantially overlap; and
- (l) Any other information deemed necessary by the City.

#### **4.18 Transport impact assessment and transport impact statement**

4.18.1 A Transport Impact Statement or Assessment is required for moderate to high impact development applications as defined by the Western Australian Planning Commission's Transport Impact Assessment Guidelines.

4.18.2 The Transport Impact Assessment or Statement shall be prepared by qualified person in accordance with the Western Australian Planning Commission's Transport Impact Assessment Guidelines.



## 5.0 VARIATIONS TO THIS POLICY

- 5.1 Where a proposal does not increase an existing approved shortfall of car parking (in accordance with the car parking requirements in Table 1) then the proposal is not considered a variation to this Policy.
- 5.2 Variations to this Policy shall be determined in accordance with the objectives of this Policy.
- 5.3 Applicants seeking variations to this Policy are required to submit a detailed written statement addressing each of the objectives of this policy for the City's assessment.

## 6.0 RELATED LEGISLATION

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Local Planning Scheme No. 3
- State Planning Policy 7.3 – Residential Design Codes
- Australian Standards. Including but not limited to:
  - AS2890.1 – Off Street Parking
  - AS2890.2 – Commercial vehicles
  - AS2890.3 – Bicycle Parking Facilities

## 7.0 DEFINITIONS

7.1 For the purpose of this Policy the following definitions apply:

Definition	Meaning
End of trip facilities	Facilities which enable cyclists to shower and change at the beginning or end of their journey. The facilities include separate male and female change rooms, showers and storage lockers.
High frequency bus route	As per the R-Codes.
High impact development application	> 100 vehicle trips in the development's peak hour
Long Term Bicycle Parking Facilities	Long term bicycle parking facilities include those of a security Level A and B in accordance with AS 2890.3 (as amended).
Mechanical parking devices	Includes, but is not limited to, car stackers, car turntables and car lifts.
Moderate impact development application	10 -100 vehicle trips in the development's peak hour
Net Lettable Area (NLA)	As per Local Planning Scheme No. 3.
Redundant Crossover	A crossover is considered to be redundant when it is not connected to a driveway or





	will being a development approval or approved to be re-purposed as car parking within the verge through a Nature Strip Works Application (NSWA).
Short Term Bicycle Parking Facilities	Short term bicycle parking facilities include those of a security Level C in accordance with AS 2890.3 (as amended) which does not permit obstruction of car parking bays or vehicle/pedestrian circulation areas.

Council Resolution Number	PD XX.XX
Implementation Date	DRAFT FOR ADVERTISING
Date Adopted	XX XX XXXX

<b>PD40.19</b>	<b>Local Planning Scheme 3 – Local Planning Policy - Residential Development: Single and Grouped Dwellings</b>
<b>Committee</b>	10 September 2019
<b>Council</b>	24 September 2019
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Reference</b>	Nil
<b>Previous Item</b>	Item 6 – 2 May 2019 - Special Council Meeting PD27.19 – 23 July 2019 – Ordinary Council Meeting
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Residential Single and Grouped Dwelling Development Local Planning Policy</li> <li>2. Draft Residential Single and Grouped Dwelling Development Local Planning Policy with tracked changes</li> <li>3. Administration responses to the Mayor's suggested Local Planning Policy modifications</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to adopt the Residential Single and Grouped Dwelling Development Local Planning Policy (Residential Development LPP), as contained in Attachment 1, for the purpose of readvertising.

The Residential Development LPP provides guidance and supplementary requirements to Local Planning Scheme 3 (LPS 3) and State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol.1) in relation to single and grouped dwelling developments in all densities. The policy does not apply to multiple dwellings or mixed-use developments which are captured by Volume 2 of the R-Codes.

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

The Residential Development LPP has been modified several times since being advertised for public comment. Attachment 2 contains a tracked change version of the Residential Development LPP which incorporates all changes supported by Administration. The proposed modifications are considered to be substantial in nature and therefore warrant advertising the Residential Development LPP again for public comment. Accordingly, it is recommended that Council adopts the draft Residential Development LPP, as contained in Attachment 1, for the purpose of readvertising.

## 2.0 Recommendation to Council

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

## 3.0 Background

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

### 2 May 2019 – Special Council Meeting

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

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



## 25 June 2019 – Council Meeting

At the Council meeting on 25 June 2019 the following resolution was adopted:

“Council:

1. resolves that, notwithstanding the removal of building height provisions from transitioning from Town Planning Scheme 2 to Local Planning Scheme 3, the height limits in Clause 2 below are to be taken as default policy provision for residential developments up to and including single and grouped dwellings; and
2. determines that the Residential Development Local Planning Policy should specify height limits for single and grouped dwellings in the residential zone as follows:
  - i. Maximum Building Heights

a) Top of external wall (roof above)	8.5m
b) Top of external wall (concealed roof)	8.5m
  - ii. Top of pitched roof 10.0m  
Gable walls above eaves height:  
  
Less than 9m long: exempted  
Greater than 9m long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height.
  - iii. Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.”

In response to this resolution of Council, the Building Height provisions have been amended to include the above.

## 23 July 2019 – Council Meeting

Following review of the submissions and further investigation of the policy provisions, the Residential Development LPP was further proposed to be modified by Administration as follows:

- Added guidance for assessing applications which seek a reduction to the 9m front setback requirement;
- Added guidance for assessment of buildings within the 6m rear setback area for low density areas; and
- Inserting building heights to reflect those previously applied under Town Planning Scheme No. 2 (TPS 2) alongside other modifications.

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

“That Council proceed to the next item of business.”

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

Just prior to the 23 July 2019 Council meeting, the Mayor provided Administration with several suggested amendments to the Residential Development LPP. These suggested amendments, together with Administration's responses are contained within Attachment 3. A number of these suggestions Administration can agree to and they have been incorporated into the draft Policy in Attachment 1.

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

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

These matters are discussed below.

### **4.0 Discussion**

#### **Development within the front setback area**

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

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

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

Under TPS 2 and the previous TPS 2 front setback policy, a reduced front setback was only permitted where more than half the lots on the same side of the street block had a setback of less than 9m. Notably, TPS 2 and the policy did not specify how much the front setback could be reduced in these instances. The draft Residential Development LPP sets out that an established streetscape of less than 9m is described as occurring when more than 50% of the dwellings on one side of the street are forward of the 9m setback line, which is consistent with TPS 2 and the previous TPS 2 front setback policy.

The draft Residential Development LPP differs from TPS 2 and the previous TPS 2 front setback policy as it does now specify how much the front setback can be reduced when 50% of the dwellings are forward of the 9m setback line. When this occurs, the setback of the proposed dwelling is considered to be appropriate if it accords with the average setback distance of the dwellings on that side of the street.

By considering the existing setbacks of dwellings on the street, this provision allows for an equitable assessment of a proposal for a reduced setback.

This provision exists in the Residential Development LPP as policy measure 4.1.1 (a). In the absence of this provision, the assessment of a reduced setback is dependent on the Design Principles of the R-Codes which do not define what constitutes a prevailing streetscape.

### **Carports within the front setback area**

The 9m front setback requirement also applies to garages and carports, so should an application for a reduced front setback be received for a garage or carport that is not Deemed to Comply it would have to be assessed as a reduced setback and an assessment under the Design Principles of the R-Codes applied.

The draft Residential Development LPP seeks to replicate the old policy by allowing an additional Deemed to Comply pathway for carports to be permitted, as of right, within the front setback area. This provision does not apply to garages, which will still have the 9m front setback applied. This means that if a carport satisfies the requirements of this provision, then the carport is Deemed to Comply, and development approval would not be required.

One of the requirements is that if there is space for a carport behind the 9m setback line, then it is preferred that the carport be located in that area, that is, behind the 9m front setback line. Any proposal for a carport within the front setback area would not be Deemed to Comply and require a development application and assessment against the corresponding Design Principles of the R-Codes.

This provision exists as policy measure 4.2.1 in the Residential Development LPP. It is noted that this proposed Deemed to Comply pathway is for carports only. Garages within the front setback area would still require a development application and assessment against the corresponding Design Principles of the R-Codes.

### **Building Heights**

The advertised policy requires R-Code Vol. 1 wall and building heights of:

- 6m to top of walls; and
- 9m to the top of the roof.

Following advertising, fourteen submissions were received seeking the wall and building height measurements applicable under TPS 2 to be reinstated under LPS 3.

Since 1985, TPS 2 permitted an 8.5m wall and 10m building height for all buildings within the City. These TPS 2 heights were established prior to the R-Codes and were non-discretionary.

Under LPS 3, there are no residential heights specified in the Scheme and as a result, wall and building heights for residential development default to those specified in the R-Codes, resulting in lower Deemed to Comply heights of 6m and 9m respectively.

It is considered appropriate, given the Nedlands context of large, architecturally designed homes, for it to be permitted to build to a greater building height than that specified by the R-Codes.



The application of building heights as per the R-Codes (i.e. 6m and 9m) would result in advertising of applications that would previously have been Deemed to Comply and may result in an increase in the number of referrals of development applications to Council for determination.

In order to allow the 8.5m and 10m wall and building height provisions to have effect, these height limits need to be specified in the policy. Accordingly, the policy is recommended to permit 8.5m wall heights and 10m top of roof heights. These provisions exist as policy measure 4.5.1.

This matter has now been addressed through Council's resolution of 25 June 2019 which re-instates the height limits that applied under TPS2.

### **Buildings within the rear setback areas**

As the 6m rear setback requirement is a discretionary requirement under the R-Codes, there is already the ability for landowners to seek approval for a reduced setback through an assessment under the Design Principles of the R-Codes.

Council has recently received several applications for buildings within the rear 6m setback area on low density lots and has been to the State Administrative Tribunal (SAT) over these matters.

The R-Codes provide some guidance to consider a reduced setback, however, specific guidance would assist staff and Council in making consistent decisions in the future.

There are no automatic allowances being introduced through the policy. Any application for a building/structure within the rear 6m setback area will still require a development application (except outbuildings which have their own separate requirements). The R-Codes Vol. 1 Design Principles will still apply to provide guidance for assessment and the same advertising procedures will apply.

In considering an application for a building in the rear 6m setback area, some structures may be appropriate and could be approved whilst others are not and should be refused.

The types of structures which may be considered appropriate are patios, 'pool houses', ancillary accommodation (granny flats) and the like, as these are common within the City of Nedlands context and many approvals have been granted for such applications.

However, these are not proposed to be permitted 'as of right', and an application still needs to demonstrate the proposal meets the objectives of the Residential Development LPP, which includes:

- the presence of buildings on adjacent neighbouring properties;
- that the building contributes to a more effective use of space on the lot; and
- the cumulative bulk and distribution of all buildings on site warrant consideration of a reduction to the 6m rear setback.

It is in those circumstances an approval could be granted. The converse is also true, in that, should an application fail to demonstrate the above, it could be refused. Administration is of the opinion that the local housing objectives will assist staff and

Council in determining what can and cannot be approved in the rear 6m setback areas.

These provisions exist as a Local Housing Objectives under policy measure 4.4.2 (a).

## **5.0 Consultation**

The amendments resolved by Council on the 2 May 2019 were made to the Residential Development LPP and the policy was then advertised for a period of 21 days, during which 14 submissions were received.

All 14 submissions requested that Council reinstate the Administration proposed policy building heights for single and grouped dwellings being 8.5m to wall height and 10m to roof pitch. One submission raised two additional points which were in relation to landscaping and sight line requirements.

The following is a summary of the issues raised:

- Strongly object to the R-Codes building heights being applied to the City of Nedlands. Previous TPS 2 heights of 8.5m for walls and 10m for buildings should be maintained;
- Strongly support the proposed vehicle sightlines changes; and
- Strongly support the proposed landscaping provisions.

These submissions were considered in the previous report presented to Council on 23 July 2019.

## **6.0 Budget/Financial Implications**

Nil.

## **7.0 Statutory Provisions**

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

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

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

Administration recommends that Council resolves to proceed with the Residential Development LPP with modifications.

There are modifications being proposed to the Residential Development LPP that respond to submissions, but there is also new content being introduced which the public have not had the opportunity to comment on and is not considered minor.

Despite it not being set out in the Regulations, due to the number and extent of the changes being recommended to the policy, particularly the insertion of new content and provisions, the Council could resolve, and it is recommended by Administration, that the policy be readvertised for a period of 21 days, in the same format as previously advertised. However, this is a decision for Council and it could adopt the policy without further advertising.

### **Elements requiring WAPC approval**

The draft Residential Development LPP contains provisions that are not provisions that a local government can introduce without the approval of the WAPC.

As per R-Codes part 7.3.1 (a), provisions relating to Landscaping are not listed as an element that a Local Government can amend.

Accordingly, WAPC approval is required prior to these provisions taking effect. Once the policy is adopted by Council, it will be forwarded to the WAPC for approval of those provisions. All other parts of the policy will be able to operate as intended upon Council adoption.

## **8.0 Conclusion**

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

The proposed modifications include guidance for assessing applications which seek a reduction to the 9m front setback requirement, assessment of buildings within the 6m rear setback area for low density areas and inserting building heights to reflect those previously applied under TPS 2 alongside other modifications.

Following advertising fourteen submissions were received, all seeking the 8.5m and 10m wall and building heights be reinstated.

It is recommended that Council follows the Administration recommendation and that the policy be readvertised, with modifications, for a further 21 days. Council does have the option not to re-advertise if it considers the amendments to the policy to be minor.





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

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### **1.0 PURPOSE**

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

### **2.0 APPLICATION OF POLICY**

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

### **3.0 OBJECTIVES**

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



## 4.0 POLICY MEASURES

### LPS 3 modification of R-Codes

#### 4.1 Street setback

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

- (a) Where more than 50% of dwellings (excluding carports and minor projections) on one side of a street block, bound by intersecting streets have a setback of less than 9m to the primary street boundary, a dwelling may be setback to correspond with the average setback of dwellings (excluding carports and minor projections) fronting that side of the street (refer Figure 4).

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

- (a) Where a lot has a significant site constraint (including but not limited to an irregular configuration, topography changes or being considerably undersized for the assigned density code), which prevents the setback of a dwelling being consistent with an established streetscape, a reduced setback may be considered appropriate where the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape.

#### 4.2 Setback of garages and carports

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

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

**Table 1 – Maximum carport height**

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

### **R-Code amendments**

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

#### **4.3 Street setback**

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

- C2.4i. A minor incursion such as a porch, balcony, verandah, architectural feature or the equivalent may project not more than 1m into the street setback area provided that the total of such projects does not exceed 50% of the building façade as viewed from the street.
- C2.4ii. For lots with a density code greater than R15, projections greater than 1m and exceeding 50% of the building façade may project into the street setback area provided an equivalent open space area is under Clause 5.1.2 C2.1iii.

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

- C2.5 Pergolas and vergolas to be set back behind the primary street setback line.
- C2.6 Gate houses are permitted within front setback areas to a maximum building height of 3.5m and total area of 4m<sup>2</sup> as measured from the outside of the posts.

#### **4.4 Lot boundary setback**

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

- C3.1vi. Where a site abuts a laneway less than 6 meters wide, building setback provisions are to be determined after allowing for any future laneway widening requirement from the lot, assuming equal widening on both sides of the laneway where appropriate (refer to Figure 1).





C3.1vii. A swimming pool fence/barrier and pool pump screens behind the street setback line are permitted up to lot boundaries to a maximum height of 1.8m, above any approved fill.

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

- (a) On land coded R15 or less, detached buildings in the rear setback area may be considered for the purposes of a patio, 'pool house', ancillary dwelling or similar where:
- the immediate locality is characterised by buildings within rear setback areas; or
  - the building provides for more effective use of space on-site for outdoor living areas; or
  - the cumulative bulk and distribution of all buildings on site has a reduced impact on neighbouring properties.
- (b) On land coded R15 or less which abuts a laneway or right-of-way to the rear boundary, single-storey carports and garages may be considered with a minimum setback of 1.5m in accordance with the objectives set out in (a).

#### 4.5 Building Heights

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

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

**Table 2 – Maximum building heights**

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

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

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



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

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

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

The R-Codes permit fencing within front setback areas to be a maximum of 1.2m solid and visually permeable infill above. Fencing is also permitted in accordance with the following (refer figures 2 and 3).

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

C4.1i. Piers to be a maximum of 0.5m wide and deep and 2.1m in height above natural ground level; and

C4.1ii. Piers are to be separated by no less than 1.5m.

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

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

C4.3 Fencing to secondary streets, laneways and boundaries to reserves shall be a maximum of 1.8m in height above natural ground level (piers permitted as per clause C4.1) and comply with clause 5.2.5 & 6.2.3 (sight lines) of the R-Codes, as amended by this policy.

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

#### 4.7 Sight lines

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

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

C5.1 The following is permitted within 1.5m of a vehicle access point:

- i. one pier, with a maximum width of 0.5m; or
- ii. solid fencing encroaching a maximum length of 0.5m.



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

#### 4.8 Landscaping

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

- C3 All residential properties require a minimum of 20% of the site area as landscaping.

#### 4.9 Vehicular access

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

- 4.9.1 In relation to Clause 5.3.5 vehicle access C5.1, where a lot abuts a laneway or public right-of-way, vehicle access may be considered from the secondary or primary street where:
- (a) The laneway is less than 5m in width;
  - (b) The laneway is not appropriately sealed and drained; or
  - (c) Vehicle access from the laneway will result in removal of mature trees on the private property worthy of retention.

#### Boundary fencing

Dividing Fencing is subject to the requirements of the Dividing Fences Act 1961 (the Act). This Policy does not interpret any matters considered under the Act and where there is a conflict between the Act and this policy, the Act shall prevail.

#### 4.10 Boundary Fences

- 4.10.1 A screen/fence setback less than 1m to a side or rear lot boundary, behind the primary street setback line shall:
- (a) Be a maximum height of 1.8m above deemed-to-comply fill or retaining; and
  - (b) Be constructed of brick, stone, concrete, timber, corrugated reinforced cement sheeting, wrought iron or metal sheeting.
- 4.10.2 Where a proposal does not meet the requirements set out in 4.9.1 a development application is required with supporting justification in relation to the proposed material and/or height.

#### Development abutting a laneway

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





## 5.0 RELATED LEGISLATION

- 5.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- 5.2 This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
- Planning and Development Act 2005
  - Planning and Development (Local Planning Schemes) Regulations 2015
  - Local Planning Scheme No. 3
  - State Planning Policy 7.3 - Residential Design Codes - Volume 1

## 6.0 DEFINITIONS

6.1 For this policy the following definitions apply:

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

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

## 7.0 EXPLANATORY ASSESSMENT GUIDE

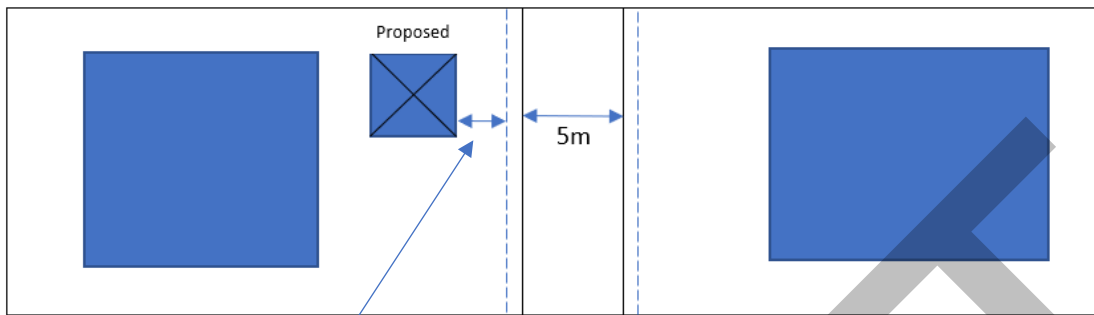
The following is an explanatory guide only to provide clarity of the method for assessment of various provisions of the R-Codes.

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

- (a) Where setback 1m or greater from a side lot boundary, a screen/fence is considered under the R-Code definition of a 'wall', being a structure appurtenant to a dwelling, and is subject to Clause 5.1.3 C3.1i of the R-Codes for the purposes of lot boundary setback requirements.

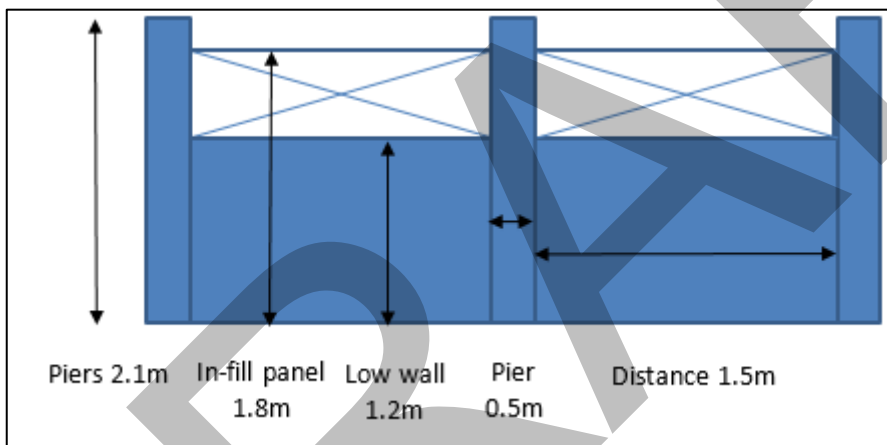


**Figure 1 – Setback of buildings to laneways less than 6m wide**

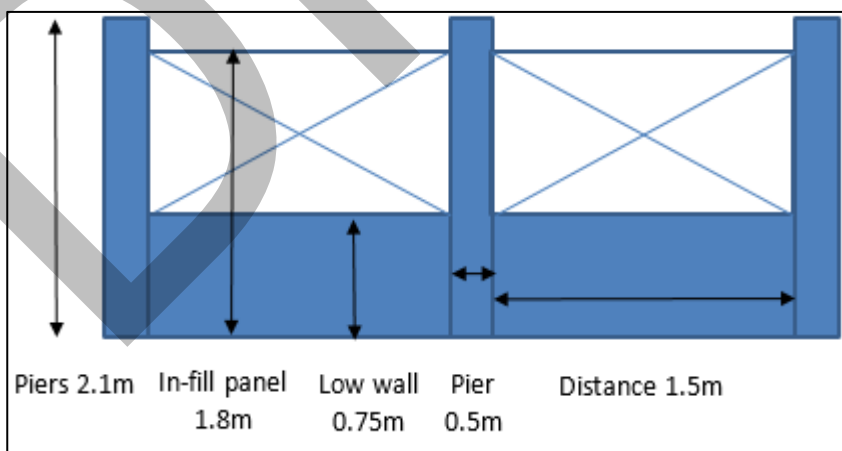


Setbacks for new buildings are determined 0.5m from the laneway boundary to provide for future widening either side (to 6m)

**Figure 2 – Primary street setback area fencing**

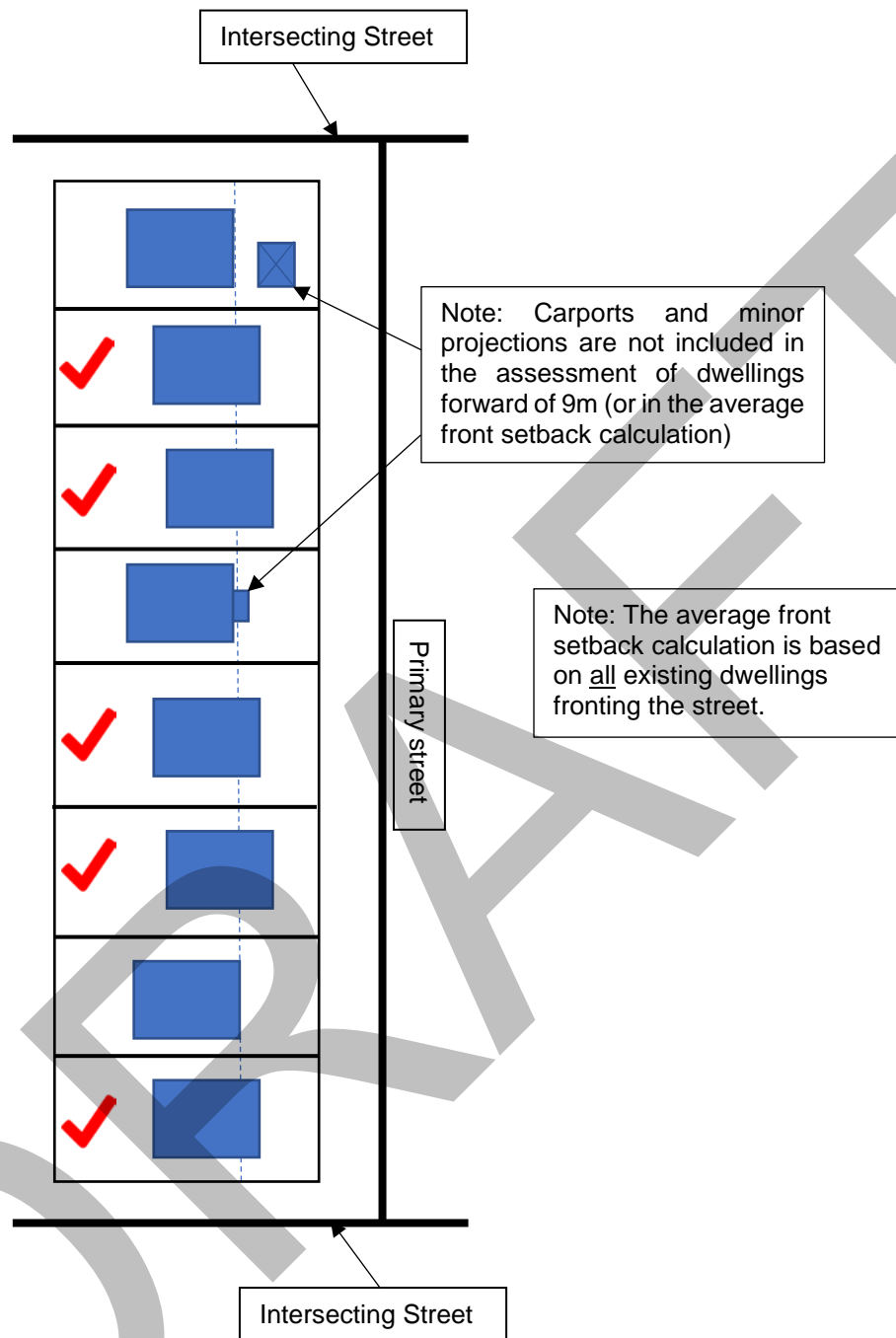


**Figure 3 – Fencing within 1.5m of a vehicle access point**





**Figure 4 – Street setback**



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





## LOCAL PLANNING POLICY - RESIDENTIAL DEVELOPMENT: ~~SINGLE AND GROUPED DWELLINGS~~

Commented [BB1]: Change made based on suggestion from the Mayor after 23 July 2019 Council meeting

### 1.0 PURPOSE

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

Commented [BB2]: Change made following advertising and presented to Council 23 July 2019

### 2.0 APPLICATION OF POLICY

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

Commented [BB3]: Change made following advertising and presented to 23 July 2019 Council meeting

### 3.0 OBJECTIVES

- 3.1 To enhance the amenity and aesthetics of areas within the City.
- 3.2 To provide for residential development that is consistent with established or desired streetscapes.
- 3.3 To reduce the dominance (scale, mass and bulk) of buildings as viewed from the street.
- 3.4 To provide for building heights which are consistent with the character of the area and the topography of the site.
- ~~3.5 To provide for appropriate buildings within rear setback areas that reflect the City's context and built form and do not detrimentally affect the amenity of the property or adjoining properties. To prevent inappropriate buildings within rear~~

Commented [BB4]: Change made based on suggestion from the Mayor after 23 July 2019 Council meeting



setback areas in order to protect the amenity of surrounding properties and maintain the spacious green character of the City

#### **4.0 POLICY MEASURES**

##### **LPS 3 modification of R-Codes**

##### **4.1 Street setback**

~~In R10, R12.5 and R15 densities, LPS 3 modifies the R-Codes with a 9m minimum primary street setback.~~

Clause 26 (1) of LPS 3 states:

~~In relation to land coded R10, R12.5 and R15, other than lots identified in Schedule 2 – St John's Wood and Schedule 3 – Hollywood:~~

~~(a) Clause 5.1.2 (Street setback) of the R-Codes is modified by replacing deemed-to-comply requirement C2.1 i to iv with:~~

~~(i) a minimum of 9m.~~

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

**Commented [BB5]:** Change made following advertising and presented to Council 23 July 2019

(a) Where more than 50% of dwellings (excluding carports and minor projections) on one side of a street block, bound by intersecting streets have a setback of less than 9m to the primary street boundary, a dwelling may be setback to correspond with the average setback of dwellings (excluding carports and minor projections) fronting that side of the street (refer Figure 4).

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

(a) Where a lot has a significant site constraint (including but not limited to an irregular configuration, topography changes or being considerably undersized for the assigned density code), which prevents the setback of a dwelling being consistent with an established streetscape, a reduced setback may be considered appropriate where the mass and form of the building is designed with an appropriate bulk and scale which minimises impact to the streetscape.

**Commented [BB6]:** Change made based on suggestion from the Mayor after 23 July 2019 Council meeting



#### 4.2 Setback of garages and carports

~~In R10, R12.5 and R15 densities, LPS 3 modifies the R-Codes with a 9m primary street setback for carports and garages. The provisions under 4.2.1 below set out when a setback of less than 9m is permitted for carports. Garages proposed within the 9m primary street setback area require a development application and shall be assessed in accordance with Clause 4.1.1 of this Policy.~~

**Commented [BB7]:** Change made following advertising and presented to Council 23 July 2019

Clause 26 (1) of LPS 3 states:

~~In relation to land coded R10, R12.5 and R15, other than lots identified in Schedule 2 – St John's Wood and Schedule 3 – Hollywood:~~

~~(b) clause 5.2.1 (Setback of garages and carports) of the R-Codes is modified by replacing deemed to comply requirements C1.1 to C1.5 with:~~

~~— C1.1 Garages and carports setback 9m from the primary street.~~

~~— C1.2 Garages and carports setback 1.5m from the secondary street.~~

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

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

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

**Commented [BB8]:** Change made following advertising and presented to Council 23 July 2019

**Commented [BB9]:** Change made based on suggestion from the Mayor after 23 July 2019 Council meeting

**Table 1 – Maximum carport height**

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

~~4.2.2 In considering a development application for a garage setback less than 9m to the primary street as specified in Clause 26(1)(b)(C1.1) of LPS 3, the Local Housing Objectives as specified in 4.1.1 and 4.1.2 of this Policy shall apply.~~

**Commented [BB10]:** Deleted as per suggestion from the Mayor after 23 July 2019 Council meeting





## R-Code amendments

The following provisions replace or augment the deemed-to-comply requirements of the R-Codes and include Local Housing Objectives to provide guidance for decision making in the determination of a development application. Where a development does ~~not comply with~~ the deemed-to-comply provisions contained in this Policy, a development application is required which will be assessed by the relevant local housing objectives, design principles of the R-Codes and objectives of this policy.

**Commented [BB11]:** Change made following advertising and presented to Council 23 July 2019

### 4.3 Street setback

~~The R-Codes provide the primary street setback required for the corresponding density. Minor incursions are permitted forward of the primary street setback are permitted in accordance with the requirements below.~~

**Commented [BB12]:** Change made following advertising and presented to Council 23 July 2019

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

- C2.4i. A minor incursion such as a porch, balcony, verandah, architectural feature or the equivalent may project not more than 1m into the street setback area provided that the total of such projects does not exceed 50% of the building façade as viewed from the street.
- C2.4ii. For lots with a density code greater than R15, projections greater than 1m and exceeding 50% of the building façade may project into the street setback area provided an equivalent open space area is under Clause 5.1.2 C2.1iii.

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

- C2.5 Pergolas ~~and vergolas to be~~ set back behind the primary street setback line.
- C2.6 Gate houses are permitted within front setback areas to a maximum building height of 3.5m and total area of 4m<sup>2</sup> as measured from the outside of the posts.

**Commented [BB13]:** Change made based on suggestion from the Mayor after 23 July 2019 Council meeting

**Commented [BB14]:** Change made following advertising and presented to Council 23 July 2019

### 4.4 Lot boundary setback

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

- C3.1vi. Where a site abuts a laneway less than 6 meters wide, building setback provisions are to be determined after allowing for any future laneway widening requirement from the lot, assuming equal widening on both sides of the laneway where appropriate (refer to Figure 1).

**C3.1vii.** ~~A swimming pool fence/barrier and pool pump screens behind the street setback line are permitted up to lot boundaries to a maximum height of 1.8m, above any approved fill.~~

**Commented [BB15]:** Change made following advertising and presented to Council 23 July 2019.

**Commented [AH16]:** with further clarity on how measured.



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

**Commented [BB17]:** Change made following advertising and presented to Council 23 July 2019

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

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

(b) On land coded R15 or less which abuts a laneway or right-of-way to the rear boundary, single-storey carports and garages may be considered with a minimum setback of 1.5m in accordance with the objectives set out in (a).

**Commented [BB18]:** Change made following advertising and presented to Council 23 July 2019

**Commented [BB19]:** Change made based on suggestion from the Mayor after 23 July 2019 Council meeting

#### 4.5 Building Heights

Building height shall be measured as per the R-Codes being as per Clause 5.1.6 and Figure Series 7.

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

C6 Buildings which comply with Table 2 – Maximum building heights below. The following maximum building heights apply:

**Table 2 – Maximum building heights**

Maximum building heights	
Top of external wall (roof above) (i)	8.56m
Top of external wall (concealed roof)	8.57m
Top of pitched roof (ii)	10.9m

**Commented [AH20]:** Updated to reflect operation of the R-Codes and standard policy wording.

The effect of the 8.5m and 10m wall and building heights remains the same.

**Commented [BB21]:** Change made following advertising and Council resolution in June from Councillor Weatherall's motion.

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

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

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

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

**Commented [AH22]:** Updated to improve clarity on how building height measured.

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

The R-Codes permit fencing within front setback areas to be a maximum of 1.2m solid and ~~up to 1.8m with~~ visually permeable infill ~~above~~. Fencing is also permitted in accordance with the following (refer figures 2 and 3).

**Commented [BB23]:** Modified to align with the clause of the R-Codes

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

- C4.1i. Piers to be a maximum of 0.5m wide and deep and 2.1m in height above natural ground level; and
- C4.1ii. Piers are to be separated by no less than 1.5m.
- C4.2 For the purposes of housing a utility/meter box, solid fencing within the primary setback area is permitted where it is:
  - i. a maximum 1m in width;
  - ii. a maximum 1.8m in height;
  - iii. perpendicular to the street; and
  - iv. setback at least 1.5m from where a vehicle access point intersects with a public street on any property.
- C4.3 Fencing to secondary streets, laneways and boundaries to reserves shall be a maximum of 1.8m in height above natural ground level (piers permitted as per clause C4.1) and comply with clause 5.2.5 & 6.2.3 (sight lines) of the R-Codes, as amended by this policy.





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

#### 4.7 Sight lines

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

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

C5.1 The following is permitted within 1.5m of a vehicle access point:

i one pier, with a maximum width of 0.5m; or

ii solid fencing encroaching a maximum length of 0.5m.

~~One pier with a maximum width of 0.5m is permitted within 1.5m of a vehicle access point.~~

Commented [AH24]: Updated to provide clarity on what is permitted and allow applicants a choice on how they design their front fencing.

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

#### 4.8 Landscaping

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

C3 All residential properties require a minimum of 20% of the site area as landscaping.



#### **4.9 Vehicular access**

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

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

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

#### **Boundary fencing**

Dividing Fencing is subject to the requirements of the Dividing Fences Act 1961 (the Act). This Policy does not interpret any matters considered under the Act and where there is a conflict between the Act and this policy, the Act shall prevail.

#### **4.10 Boundary Fences**

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

- (a) Be a maximum height of 1.8m above deemed-to-comply fill or retaining; and
- (b) Be constructed of brick, stone, concrete, timber, corrugated reinforced cement sheeting, wrought iron or metal sheeting.

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

#### **Development abutting a laneway**

4.11 Where a property abuts an unconstructed laneway, landowners are advised to contact the City's Technical Services team with regards to appropriate finished



floor levels of dwellings and garages to mitigate potential stormwater drainage impacts.

## 5.0 RELATED LEGISLATION

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

**5.2** This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Local Planning Scheme No. 3
- State Planning Policy 7.3 - Residential Design Codes - Volume 1

## 6.0 DEFINITIONS

**6.1** For this policy the following definitions apply:

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

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

## 7.0 EXPLANATORY ASSESSMENT GUIDE

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

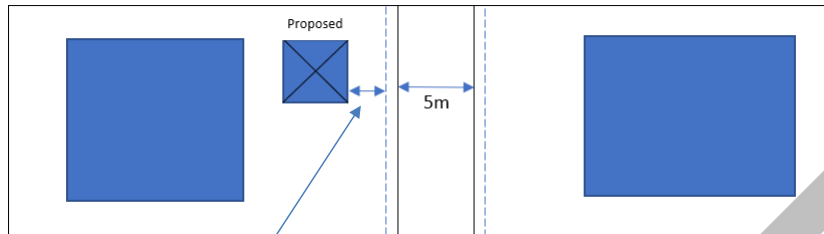
**7.1** For the purposes of assessing lot boundary setbacks to a screen or fence:

- (a)** Where setback 1m or greater from a side lot boundary, a screen/fence is considered under the R-Code definition of a 'wall', being a structure appurtenant to a dwelling, and is subject to Clause 5.1.3 C3.1i of the R-Codes for the purposes of lot boundary setback requirements.



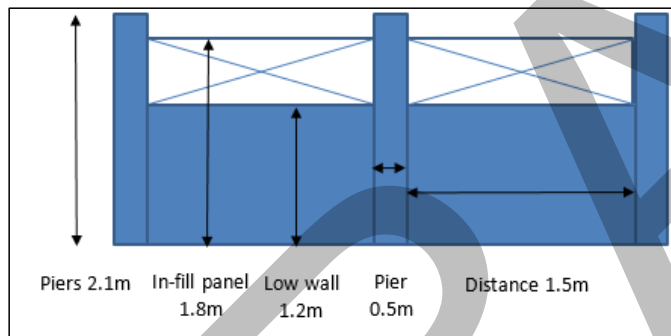


**Figure 1 – Setback of buildings to laneways less than 6m wide**



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

**Figure 2 – Primary street setback area fencing**



**Figure 3 – Fencing within 1.5m of a vehicle access point**

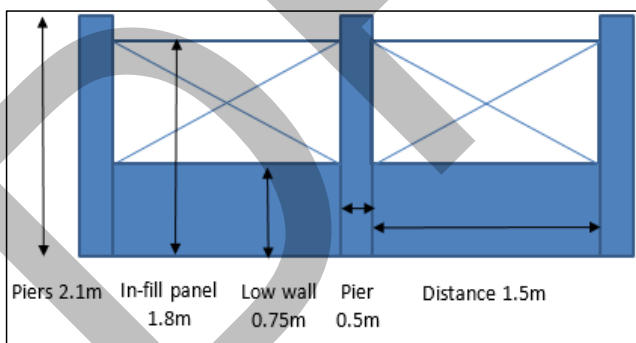
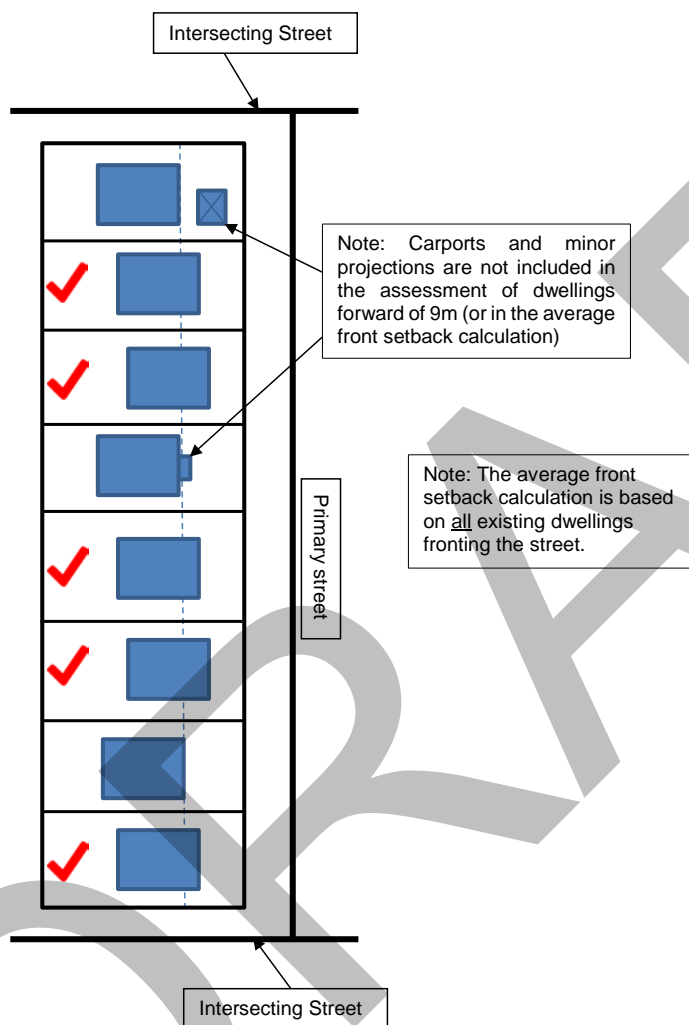


Figure 4 – Street setback



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

**PD40.19 - Attachment 3**  
**Administration responses to the**  
**Mayor's suggested LPP modifications**

	<b>Proposed Mayor Modifications</b>	<b>Officer Response</b>
1	Change the title of the policy to “Local Planning Policy Residential Development: Single and Grouped Dwellings”, which more accurately reflects its content.	This modification is supported and has been reflected in <b>Attachment 1</b> .
2	Delete clause 3.5, which provides for buildings within rear setback areas and replace it with a new clause 3.5 which specifies an objective “To retain the spacious green character of the City”.	Clause 3.5 has been updated as follows: “To prevent inappropriate buildings within rear setback areas in order to protect the amenity of surrounding properties and maintain the spacious green character of the City.”
3	Delete clause 4.1.1, which allows dwellings to encroach into the front setback area.	This modification is not supported.  This housing objective is applied where a proposal seeks a setback of less than 9m. The Design Principles of the R-codes do not define an ‘established streetscape’ and therefore could be interpreted as just being the immediate properties either side of a development site. This objective provides stricter application to where a reduced setback will be considered and states only in circumstances where more than 50% of dwellings in the street are setback less than 9m (which does not occur for the majority of streets in the City).
4	Include in the new 4.1.1 sloping ground as a possible significant site constraint.	This modification is supported and has been reflected in <b>Attachment 1</b> .
5	Add to clause 4.2.1 further sub-clauses:	
	The carport cannot be accommodated elsewhere on-site within setback requirements.	Proposed clause is supported to be re-worded to ‘the carport cannot be accommodated behind the street setback line and compliant with side setback provisions of the R-Codes’. This change is reflected in <b>Attachment 1</b> .
	The carport is for occupants of an existing dwelling where the number of car parking bays is fewer than specified.	Proposed clause is inoperable. Should the intent be that a carport is not permitted where covered parking spaces are provided behind the street setback – this is not supported. This is inconsistent with comments made on the parking policy in relation to providing minimum 3 bays and other covered spaces for boats, camper vans etc.



6	Delete clause 4.2.2, which allows garages within the front setback area.	Agree that this clause should be deleted, as there is sufficient scope to consider variations to garage setbacks under the Design Principles of the R-Codes.
7	Clause 4.3.2 should also require vergolas to be behind the setback line. This corrects an error in the recommended policy, where the meaning of vergola is defined in clause 7.1 but the word does not appear in the policy.	This modification is supported and has been reflected in <b>Attachment 1</b> .
8	Clause 4.4.2 (a) should be deleted, as it encourages buildings within the rear setback area.	This modification is not supported.  There is already the ability for landowners to seek approval for a reduced setback through an assessment under the 'Design Principles' of the R-Codes. The LPP proposes additional guidance in exercising this discretion, including the types of buildings that maybe appropriate within the rear setback area.
9	Clause 4.4.2 (b) should be amended so that garages and carports are limited to single storey in the rear setback area.	This modification is supported and has been reflected in <b>Attachment 1</b> .
10	Delete Figure 3, which encourages buildings within the front setback area.	This modification is not supported as per point 3 above.