



City of Nedlands

Planning and Development Reports

Committee Consideration – 11 April 2017
Council Resolution – 26 April 2017

Table of Contents

Item No.		Page No.
PD15.17	(Lot 7) No. 32A Jutland Parade, Dalkeith – Amendments to DA16/055 (Additions and Alterations to Single House).....	2
PD16.17	(Lot 66) No. 28 Shann Street, Floreat – Alterations to Approved Garage.....	13
PD17.17	(Lot 67) No. 30 Shann Street, Floreat – Single Storey Single House.....	19
PD18.17	(Lot 85) No. 55 Hobbs Avenue, Dalkeith – Proposed Two Storey Single House.....	26

Council: 26 April 2017

PD15.17	(Lot 7) No. 32A Jutland Parade, Dalkeith – Amendments to DA16/055 (Additions and Alterations to Single House)
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Committee	11 April 2017
Council	26 April 2017
Applicant	Boughton Architecture
Landowner	S S Folwell
Director	Peter Mickleson – Director Planning & Development Services
Reference	JU2/32A – DA17/035
Previous Item	PD27.16 – 28 June 2016
Delegation	This is an application for amendments to a development application previously approved by Council. As the original application was approved by Council contrary to the officer recommendation for refusal, the amendment application is also referred to Council for determination.
Attachments	<ol style="list-style-type: none"> 1. Applicant justification 2. Site photographs 3. Department of Parks and Wildlife comment

1.0 Executive Summary

The applicant is proposing amendments to the previously approved plans for additions and alterations to the existing single house. Amendments to the previously approved plans include further alterations to the existing dwelling within the 7.5m rear setback area and modified/additional lot boundary setback and visual privacy setback variations.

Development which is not setback 7.5m from the rear lot boundary does not comply with cl. 5.10.3 (b) of the City's Town Planning Scheme No. 2 (TPS2) and therefore is recommended for refusal as there is no discretion provided by TPS2 to allow consideration of this variation.

2.0 Recommendation to Committee

Council refuses the development application dated 17 February 2017 for Amendments to DA16/055 for Additions and Alterations to a Single House at (Lot 7) No. 32A Jutland Parade, Dalkeith, for the following reasons:

- 1. The proposed alterations are not permitted within the 7.5m rear setback area as per Clause 5.10.3 (b) of the City's Town Planning Scheme No. 2 with the Council having no discretion to consider variations to this clause.**

3.0 Site Details

Lot area	810.4m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R12.5
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	Yes
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is a battle-axe lot with direct frontage to the river. When the property was originally subdivided (during the 1960's), the river reserve was ceded with the State government and therefore in comparison to neighbouring properties further west, the rear lot boundary is approximately 10m further from the river foreshore.

The topography of the lot is steep with a 7m slope from the river up to the rear of No. 32 (effective lot area of the subject property).

An aerial image showing the location of the property follows.



4.0 Background

The original application was referred to Council in June 2016 at the request of the applicant. Administration recommended refusal of the application as the proposal included new building works (alterations of the existing building) with a setback of less than 7.5m to the rear lot boundary which is a requirement of the City's TPS2 cl 5.10.3 (b) and there is no discretion to vary this setback requirement.

Council approved the development application subject to conditions. The applicant has obtained a building permit and commenced works for partial demolition and site works. As part of producing working drawings for the remainder of the works and from further investigations into the existing building, the applicant considers that modifications to the approved plans are required. The modifications do not largely deviate from the original design concept.

5.0 Specific Application Details

The application seeks approval for amendments to the approved additions and alterations to the existing single house. The proposed amendments to the previously approved plans are as follows:

- Level 1
 - Building of boat store up to eastern lot boundary in lieu of 0.8m setback approved
 - Internal increase adjacent to living room area
- Level 2
 - Small increase to study area internally above the increased area adjacent to the level 1 living room
 - Blade wall opening reduced to terrace area
- Level 3
 - Increase in entry FFL from 18.72 to 18.884
 - Increase in garage FFL from 18.97 to 19.058
 - Increase in living and terrace 1 FFL from 18.37 to 18.627
 - Internal modification to bed 1 ensuite
 - New fixed obscured window proposed to kitchen/scullery on the eastern elevation
 - 0.193m increase in the height of the northern boundary wall
 - 0.121m increase in western boundary wall height
 - Reduction in western window to master suite robe and ensuite
 - Blade wall opening reduced
- Level 4
 - Increase in roof terrace FFL from 22.063 to 22.228
 - Increase in roof terrace area
 - Change in stairwell and stairwell window length and width
 - Reduction in drying court for AC unit area
 - New pool equipment store adjacent to ac unit area
 - Change in stairwell width
- Other
 - Roof location change over the rear terrace
 - 0.2m reduction in the roof height towards the rear of the dwelling
 - Decrease in full-height glazing to southern elevation
 - Increased copper cladding and reduced ceramic tiling

The applicant has provided a written statement by way of justification in support of the development application, which is provided as an attachment to the report.

6.0 Consultation

The development application was referred to the Department of Parks and Wildlife – Rivers and Estuaries Division (DPAW – formerly Swan River Trust) for comment. DPAW has advised they have no objections to the proposed development subject to various conditions and advice notes (see alternate recommendation).

The development application was also advertised to neighbouring occupiers and landowners for comment for the additional reasons:

- The property is within the controlled development area and subject to the special procedures within Cl. 6.3.3 of the City's TPS2;
- The amendments propose further alterations to the existing building within the 7.5m rear setback Controlled Development Area rear setback area;
- The proportions of the materials of construction are proposed to change; and
- The amendments proposed further variations to the deemed to comply provisions of the R-Codes for lot boundary setbacks and visual privacy.

Three non-objections and no comments or objections were received by the City.

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

Regulations Clause	Assessment Comment
<p>Clause 67 under Schedule 2 (Deemed Provisions) of the Regulations stipulates that in considering a development application due regard is to be given to the following matters, amongst others:</p> <p>(m) <i>the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development</i></p> <p>(n) <i>the amenity of the locality including the following:</i></p> <ol style="list-style-type: none"> <i>environmental impact of the development;</i> <i>the character of the locality;</i> 	<p>The dwelling is located with the property to the north being some 5-6m or so higher than the subject property making the dwelling largely not visible from their dwelling. Additionally, the property to the west has a large vacant rear yard area adjacent to the subject property, further ensuring the visibility of the development as viewed from neighbouring properties is minimised.</p> <p>The property to the east (30A) can be considered the most impacted by the proposal given the similar lot configuration. The extensions to the dwelling are over 6m away from the lot boundary and the alterations only marginally reduce the lot boundary setbacks to the existing dwelling, however the proposed relocation of the building services (air conditioning units and hot water systems) from the eastern side of the dwelling into the new roof area will improve the appearance of the dwelling as seen from the neighbouring property.</p>

iii. social impacts of the development	The character of the locality is not considered to be compromised because of the proposed development with the dwelling being a suitable scale, height and location in relation to neighbouring properties and the river location, especially when comparing to existing and proposed approved developments within the area to the west.
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7.2 Town Planning Scheme No. 2

7.2.1 Amenity

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

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

The development is for alterations and additions to the existing dwelling. The single dwelling residential land use of the land is not proposed to be altered with the appearance of the development consistent with a single residential land use. Therefore, it is considered that the development will not have an adverse impact on the amenity of the locality.

Under clause 5.5.2, council approval is required if a building (including additions) is constructed of brick stone or concrete, other than in the case of:

- a) *An outbuilding complying with the R-Codes and not exceeding 37m² in floor area;*
- b) *The upper floor of a dwelling of which the external walls of the ground floor are to be, or have been, constructed of brick, stone or concrete; or*
- c) *A historic building.*

The proposal seeks to use ceramic tiles and copper as cladding to the existing dwelling to improve the energy efficiency of the dwelling and better waterproof the dwelling. The materials will better blend into the river environment with the ceramic tiles to be a medium-dark grey and the copper slightly tarnished/weathered. The amount of copper cladding is proposed to be increased from the original approval and hence further comment was sought from neighbouring occupiers and landowners in relation to this change and as stated above, no comment or objection was received.

7.2.2 Controlled Development Area

Scheme Provision	Proposed	Complies?
<p><u>Clause 5.10.2 (a)</u></p> <p><i>The Council shall consider the effect of development on the amenity of the surrounding area, the visual effect of the development as perceived from the Swan River and the effect on the amenity of the parks and recreation reserves in that area in accordance with Council policy from time to time determined for each Controlled Development Area.</i></p>	See below comment.	Yes
<p><u>Clause 5.10.3 (b)</u></p> <p><i>For the purpose of this clause the rear boundaries of certain lots shall be as delineated in Appendix I and the rear setback applicable to boundaries of lots so delineated shall be 7.5m.</i></p>	The existing dwelling is already within the 7.5m rear setback. The proposal seeks to further alter the existing dwelling within the 7.5m rear setback.	No
<p>Administration Comments</p> <p>The scale and height of the development is consistent with other developments within the locality. The development will not appear substantially different as viewed from the river except for the roof modifications (with the height of the roof at the rear section of the house proposed to be 0.2m lower than that approved). Additionally, the dwelling's setback to the river is consistent with what is proposed/permitted within the locality further west.</p> <p>The appearance of the building will be improved with the materials of construction being complementary to the river landscape and the modernisation of a building falling into disrepair.</p> <p>This rear setback requirement was introduced after the original dwelling was built. New development (namely building work) is required to be setback 7.5m to the rear lot boundary. The scheme is silent on the circumstances for alterations to existing buildings which do not comply with this 7.5m setback requirement and the scheme does not provide discretion to approve 'development' within the 7.5m rear setback.</p> <p>It should be noted that development on lots to the west of the subject property along Jutland Parade have not ceded land as river reservation and hence the controlled development area 7.5m rear setback is much closer to the river. Therefore, if this development was proposed on any of these lots, it would be compliant with this clause of the City's TPS2.</p> <p>The impacted neighbouring landowners/residents provided no comment or objections to the amendments proposed within the controlled development rear setback area.</p>		

7.2.3 Building Height

Scheme Provision	Proposed	Complies?
<u>Clause 5.11 (i)</u> <i>No site shall be developed or building constructed to contain more than two storeys directly above each other in the case of residential use, excluding areas for plant and equipment storage, toilets and the parking of wheeled vehicles.</i>	The extension of the level 1 lounge is proposed for new cabinetry and a fire place under the level 2 study.	Yes
Administration Comments <p>The applicant has advised that the small increase to the lounge room is required due to some structural issues with the lounge room wall. The area will be used for additional cabinetry/storage and a fireplace with a headroom of 1.75m. There will be no external change to the building and no increase to the functional living area for the level 1 lounge room, with the additional area not able to be classified as habitable space under building regulations.</p> <p>This space is considered to be non-habitable and hence compliant with the City's requirement for no more than two levels of habitable space.</p>		

7.3 Residential Design Codes (State Planning Policy 3.1)

7.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
The garage wall is required to be setback 1.5m to the northern side boundary.	The garage wall is approved with a nil setback, but there is a 0.193m height increase proposed.	No
The store wall is required to be setback 1.1m to the western side boundary.	The store wall is approved with a nil setback, but there is a 0.121m height increase proposed.	No
The boat store wall is required to be setback 1m to the eastern side boundary.	The boat store wall was approved with a 0.8m side setback with the amendment proposing to have the boat store located up to the lot boundary.	No
Design Principles <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 		

Buildings built up to boundaries (other than the street boundary) where this:

- *Makes more effective use of space for enhanced privacy for the occupant/s outdoor living areas;*
- *Does not have any adverse impact on the amenity of the adjoining property;*
- *Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *Positively contributes to the prevailing development context and streetscape.”*

Administration Comments

The slight increases in the boundary wall heights to the northern and western boundary walls are minor in nature and largely due to moving from conceptual to working design. The impact of the additional height is considered to be minor in nature as the height will not appear substantially different from the previously approved heights and the areas adjacent are non-habitable/active spaces ensuring that privacy is maintained and the impact of building bulk is minimised.

The boat store wall is now located up to the eastern side boundary as this structure needs to be rebuilt due to encroachments into the river reserve (as per DPAW conditions on previous approval). The terrace is approved above the boat store and up to the lot boundary with retaining underneath. The boat store increase seeks to make effective use of space, utilising the space between the retaining wall approved on the lot boundary and the previously approved boat store location with no change in the appearance of the development as viewed from the neighbouring property to the east.

The adjacent neighbouring landowners were consulted by the City for 21 days with all directly impacted landowners providing no objections to these amendments.

7.3.2 Visual privacy

Deemed-to-Comply Requirement	Proposed	Complies?
The upper floor roof terrace is proposed to be slightly increased with the new small section having a visual privacy setback of 7.3m.	Raised outdoor living areas are required to be setback 7.5m from lot boundaries.	No

Design Principles

Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:

“Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:

- *Building layout and location;*
- *Design of major openings;*
- *Landscape screening of outdoor active habitable spaces; and/or*
- *Location of screening devices.*

Maximum visual privacy to side and rear boundaries through measures such as:

- *Offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- *Building to the boundary where appropriate;*
- *Setting back the first floor from the side boundary;*
- *Providing higher or opaque and fixed windows; and/or*
- *Screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters)."*

Administration Comments

The setback variation is minor in nature with the setback proposed not appearing different from a compliant setback of 7.5m. The area adjacent on the neighbour's property is currently used for car parking – ensuring that the neighbour's privacy is maintained. The impacted neighbouring landowner has provided no objection to the reduced visual privacy setback proposed.

8.0 Budget / Financial Implications

Should Council refuse the application, there may be costs incurred through an appeal of Council's decision.

9.0 Risk management

There are no known risks for the City.

10.0 Conclusion

The application is for amendments to previously approved Alterations and Additions to the existing dwelling. Some of the alterations are to the rear portion of the dwelling and hence building (development) is proposed to have a setback less than 7.5m to the rear lot boundary, contrary to the TPS2 Controlled Development Area provisions. The applicant has advised that the amendments are mostly minor in nature and namely due to moving from conceptual designs to working drawings in a complex project.

Notwithstanding that the amendments are not considered to have an adverse impact on the amenity of the locality nor adjoining properties, some of the amendments will involve further alteration to the existing building within the 7.5m Controlled Development Area rear setback, which is not permitted under the City's TPS2. The development application is therefore recommended for refusal as there is no discretion within the Controlled Development Area TPS2 provisions to consider development within the 7.5m rear setback area.

10.1 Recommended Conditions if Application is Approved

If Council resolves to approve the application the following wording and conditions are recommended:

Council approves the development application dated 08 February 2017 for Amendments to DA16/055 (Alterations and Additions to Single House) at (Lot 7) No. 32A Jutland Parade, Dalkeith, subject to the following conditions and advice:

Conditions:

1. This development approval only applies to the amendments to the previously approved plans for DA16/055.
2. The development shall at all times comply with the approved plans.
3. Following a referral to the Department of Parks and Wildlife, the following conditions are included:
 - a) No building materials, soil, rubbish or any other deleterious matter shall be placed on the Parks and Recreation reservation or be allowed to enter the river as a result of the works;
 - b) Should dewatering be required, the proponent shall prepare and submit a dewatering management plan to the Department of Parks and Wildlife. No works shall commence prior to the approval of the dewatering management plan by the Department of Parks and Wildlife;
 - c) Stormwater drainage shall be contained on site;
 - d) The development shall be connected to the reticulated sewerage system prior to first occupation;
 - e) The applicant shall decommission, and backfill with clean material, any existing on-site effluent disposal systems; and
 - f) No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.
4. All fencing, visual privacy screens and obscure glass panels to major openings and/or active habitable spaces, shown on the approved drawings, shall be fixed in place and be made to prevent overlooking in accordance with the visual privacy requirements of the Residential Design Codes 2015 (R-Codes). The structures shall be installed and remain in place permanently, unless otherwise approved by the City.
5. All footings and structures to boundary walls, fences and retaining walls shall be constructed wholly inside the site boundaries of the Certificate of Title.
6. All internal driveways (including circulation ramps) are to be designed to meet Australian Standards AS2890.1:2004.
7. The void area is not permitted to be converted for use other than storage and/or plant and equipment storage in order to comply with Clause 5.11 i) of the City's TPS2.

Advice Notes specific to this proposal:

1. Prior to further construction commencing, the applicant is required to obtain a building permit from the City of Nedlands.
2. Proposed dividing fences which comply with the City's TPS2 (no more than 1.8m above natural ground level) do not require further planning approval.
3. This approval does not authorise any works to the existing retaining walls or stairs located within the adjacent Crown Reserve 24959.

4. The applicant is advised that it is an offence under the Swan and Canning Rivers Management Regulations 2007 to destroy, pull up, cut back or harm any tree, shrub, aquatic plant or other perennial plant that is in the Riverpark or the Swan Canning Development Control Area.
5. This approval does not pertain to any works within the nature-strip/verge. Any works in the nature-strip/verge (including footpaths) will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to the commencement of any works on site or within the nature-strip/verge.
6. All swimming pools, whether being removed, 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.
7. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, at least 1.8m from the boundary of the block.
8. 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.
9. The landowner is advised to limit construction noise and hours as per the *Environmental Protection (Noise) Regulations 1997*.
10. Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill in accordance with *Health (Asbestos) Regulations 1992*, Regulations 5.43 - 5.53 of the *Occupational Safety and Health Regulations 1996*, *Code of Practice for the Safe Removal of Asbestos 2nd Edition*, *Code of Practice for the Management and Control of Asbestos in a Workplace*, and any Department of Commerce Worksafe requirements.
11. This decision constitutes planning approval only and is valid for a period of two years from the original date of planning approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

project: FOLWELL RESIDENCE

to: CITY OF NEDLANDS

att: KATE BAINBRIDGE

32A JUTLAND PARADE DALKEITH REVISIONS TO PLANNING APPROVAL

Level 1 Alterations to the East Wall of the Living Room Area.

Level 3 Increased Floor Levels

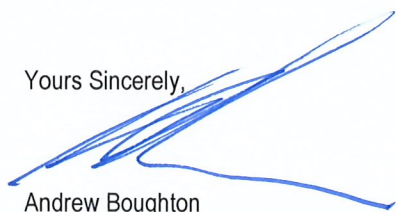
Roof

Copper and Ceramic Cladding

architecture | planning | interiors

Please do not hesitate to contact me if you have any further queries on with regards to these proposed

Yours Sincerely,

A handwritten signature in blue ink, appearing to be 'Andrew Boughton', written over the 'Yours Sincerely,' text.

Andrew Boughton

for
Boughton Architecture

CITY OF NEDLANDS

19 FEB 2016

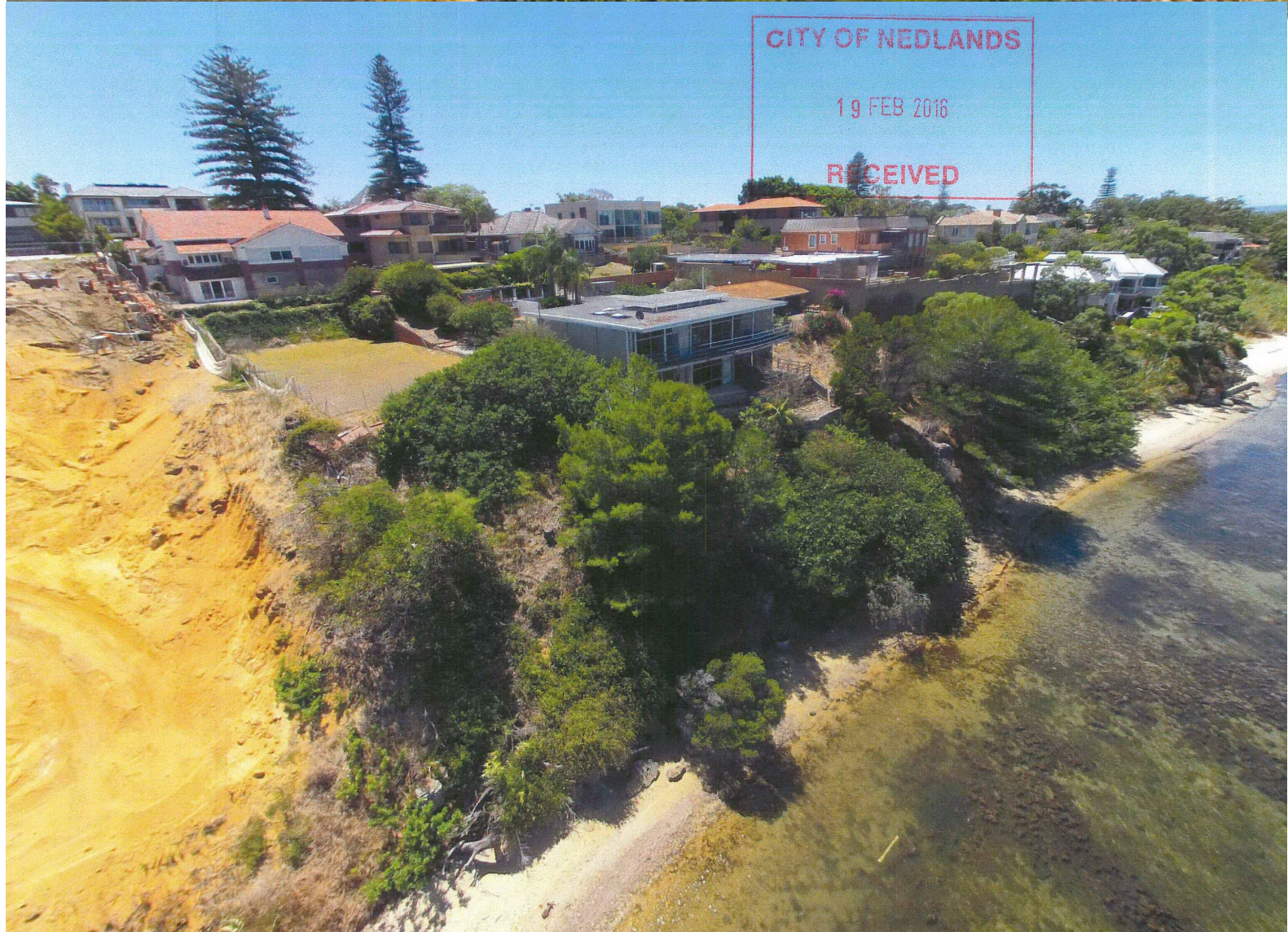
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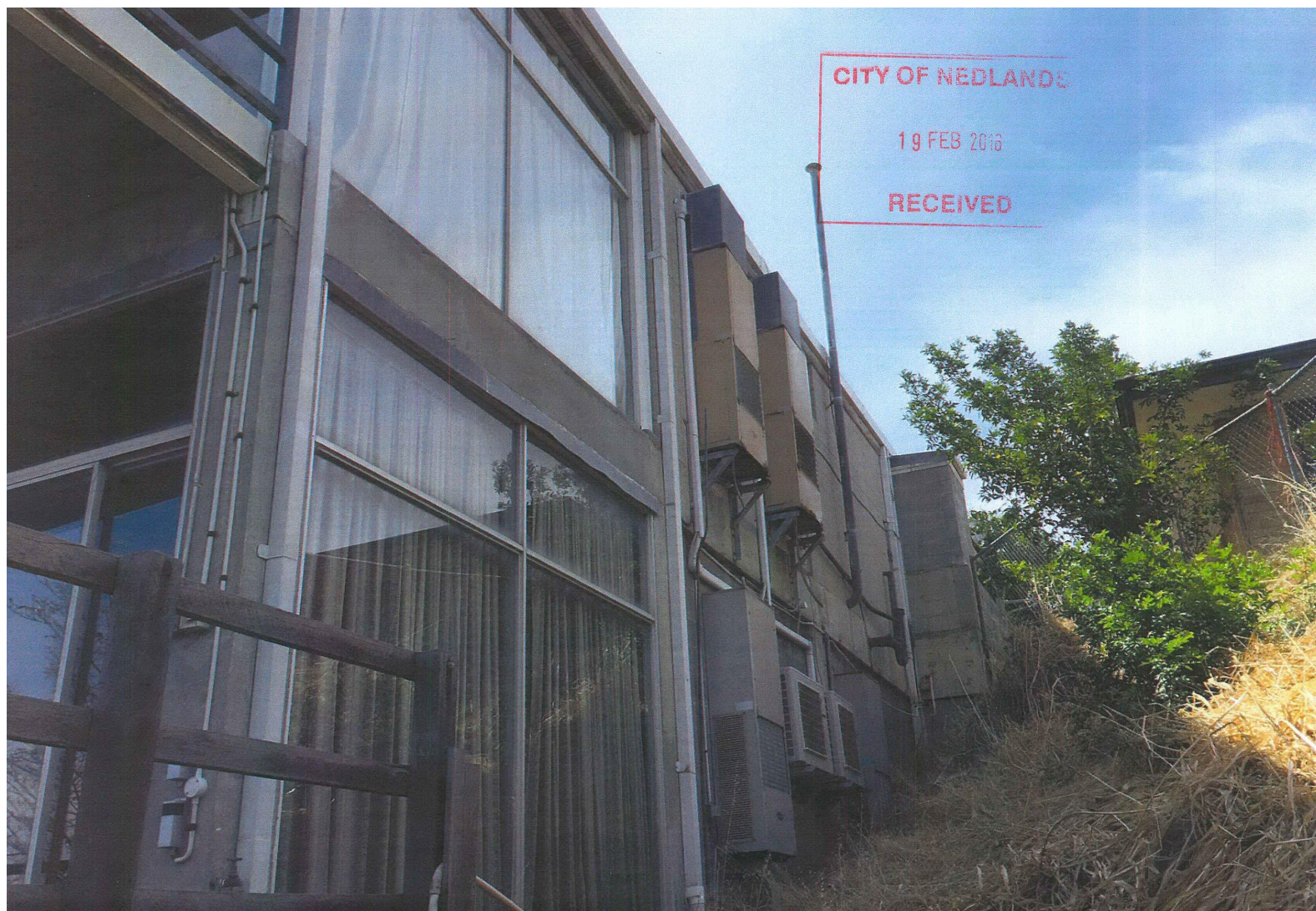


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Government of **Western Australia**
Department of **Parks and Wildlife**
Rivers and Estuaries Division

Your ref: DA2017/35 – Ju2/32A
Our ref: 2016/0947
Enquiries: Tammy Kostas
Phone: 9278 0973
Email: rivers.planning@dpaw.wa.gov.au

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

Attention: Kate Bainbridge

Dear Mr Trevaskis

**AMENDMENTS TO DA16/55– ADDITIONS AND ALTERATIONS TO EXISTING RESIDENCE
– LOT 7 (32a) JUTLAND PARADE DALKEITH**

Thank you for providing the Swan River Trust (the Trust) with the opportunity to comment on the amended plans for the above-mentioned development approval. The amended plans were referred to Department of Parks and Wildlife, Rivers and Estuaries Division (Parks and Wildlife) on 2 March 2017.

As previously discussed, a small portion of the existing boat store (the front wall and door) is located over the lot boundary, protruding into the foreshore reserve. It is noted that the structure has been modified on the amended plans so that it is located wholly within the subject lot. No amendments are proposed to the existing stairs and terrace walls located between the residence and the foreshore reserve, and development setbacks from the proposed residence and Parks and Recreation reservation boundary remain the same as those previously approved under DA16/55.

Officers from the Department of Parks and Wildlife, Rivers and Estuaries Division have reviewed the amended application on behalf of the Trust and do not consider it likely to have any adverse impact on the Swan Canning Development Control Area. As such, the department has no objection to the proposed development subject to the following conditions:

CONDITIONS

1. No building materials, soil, rubbish or any other deleterious matter shall be placed on the Parks and Recreation reservation or be allowed to enter the river as a result of the works.
2. Should dewatering be required, the proponent shall prepare and submit a dewatering management plan to the Department of Parks and Wildlife. No works shall commence prior to the approval of the dewatering management plan by the Department of Parks and Wildlife.
3. Stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system.

Rivers and Estuaries Division
Locked Bag 104, Bentley Delivery Centre, Western Australia 6983
Phone: (08) 9219 9000 Fax (08) 9325 7149 Email: @dpaw.wa.gov.au
www.dpaw.wa.gov.au

4. The development shall be connected to the reticulated sewerage system prior to first occupation.
5. The applicant shall decommission, and backfill with clean material, any existing on-site effluent disposal systems.
6. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.

ADVICE TO APPLICANT

1. This approval does not authorise any works to the existing retaining walls or stairs located within the adjacent Crown Reserve 24959.
2. The applicant is advised that it is an offence under the *Swan and Canning Rivers Management Regulations 2007* to destroy, pull up, cut back or injure any tree, shrub, aquatic plant or other perennial plant that is in the Riverpark or the Swan Canning Development Control Area.

If you have any queries regarding this matter, please contact Tammy Kostas, Environmental Officer (Statutory Assessments), on 9278 0973. In all correspondence please quote the above reference number.

Yours sincerely



Glen McLeod-Thorpe
Manager, Statutory Assessments

As delegate of the Swan River Trust
Under Section 28B (2) of the SCRM Act 2006

20 March 2017

PD16.17	(Lot 66) No. 28 Shann Street, Floreat – Alterations to Approved Garage
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Committee	11 April 2017
Council	26 April 2017
Applicant	S Fewings
Landowner	S and C Fewings
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2017/50
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1 of the City's Instrument of Delegation, Council is required to determine the application as discretion exists for Council to approve the variation under the City's Town Planning Scheme No. 2.
Attachments	<ol style="list-style-type: none"> 1. Photograph of 28 Shann Street currently 2. Photograph of the view towards the western boundary of 28 Shann Street

1.0 Executive Summary

Development approval is being sought to reduce the approved setback of a garage from the property's western (side) boundary from 1m to nil.

The neighbours affected by the setback variation have signed the plans stating that they have no objection to the proposed variation.

It is recommended that the application be refused by Council as it is considered to not comply with the design principles of the Residential Design Codes (R-Codes), due to the location of the garage and the likely impact this will have on the streetscape.

A development application has also been received by the City for a proposed garage with a nil setback (boundary wall) at 30 Shann Street (the neighbouring property), a separate report on which has been prepared for consideration at this meeting.

2.0 Recommendation to Committee

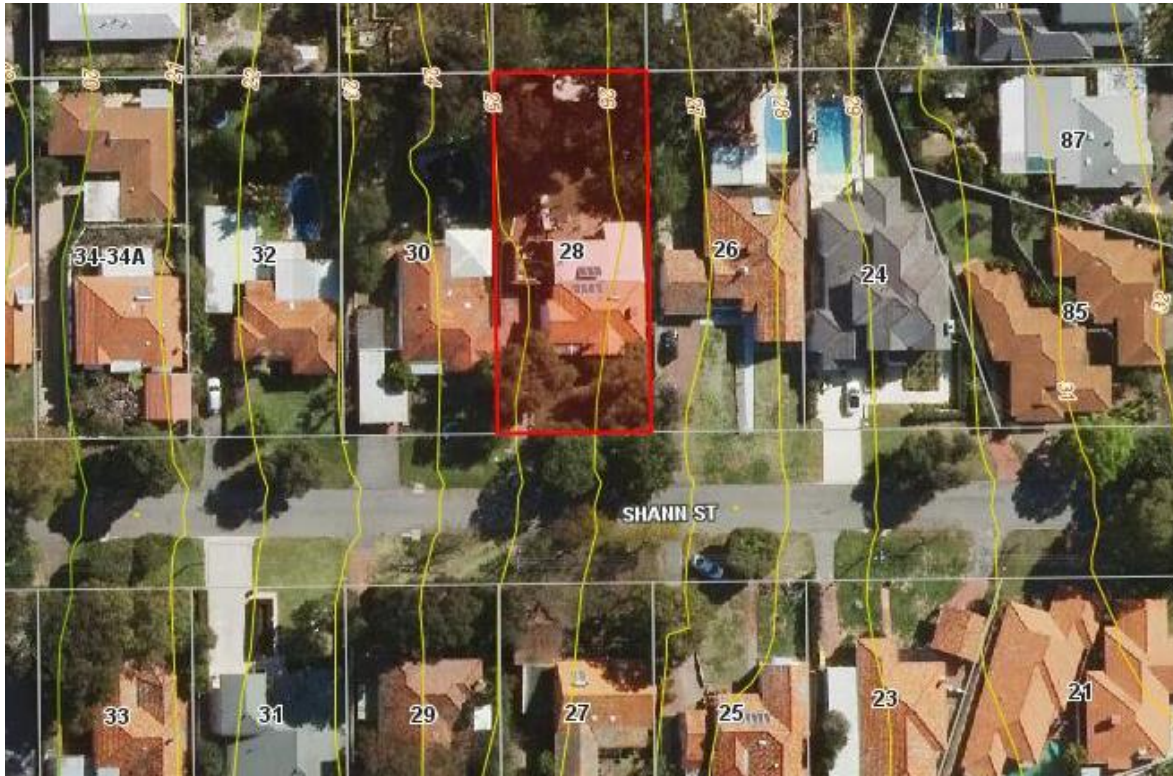
Council refuses the development application for the alterations being made to the proposed garage at (Lot 66) No.28 Shann Street, Floreat, received on 1 March 2017, for the following reasons:

1. The proposal not satisfying the design principles stipulated under clause 5.1.3 (Lot Boundary Setback) of the Residential Design Codes due to the proposed nil boundary setback of the garage not positively contributing to the streetscape and prevailing development context;
2. The proposal setting an undesirable precedent in terms of a boundary wall being visible from the primary street on a low density property;
3. The boundary wall in the R12.5 zone does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2; and
4. The proposal not satisfying provisions (m) and (n) of the Planning and Development (Local Planning Schemes) Regulations 2015 cl.67, as the proposal for a boundary wall is incompatible with low density zone and will negatively impact the character of the locality.

3.0 Site Details

Lot area	991m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R12.5
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is currently vacant and its topography slopes from east to west. Surrounding properties contain single dwellings and associated outbuildings, as shown on the locality plan on the following page.



4.0 Background

In November 2016, development approval was granted for a single dwelling on the property. This included a garage being proposed to be setback 1m in lieu of 1.5m from the western boundary. The dwelling which existed at the property has since been demolished.

5.0 Specific Application Details

The applicant seeks approval to extend a garage which was approved as part of a separate application and is yet to be constructed, towards the property's western boundary.

The garage is proposed to have a wall height of 2.7m above natural ground level, be 7.5m in length, and have a nil side setback in lieu of the required 1.5m.

6.0 Consultation

The neighbours affected by the setback variation have signed the plans stating that they have no objection to the proposed variation.

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

- a) *"Makes more efficient use of the space for enhanced privacy.*
- b) *Does not have any adverse impact on the amenity of the adjoining property.*
- c) *Does not impact on direct sun to major openings to habitable rooms and outdoor areas of the adjoining property.*

- d) *We consider the proposal is consistent with existing and proposed developments in the vicinity and will not distract from the existing streetscape.*
- i *30 Shann Street — we are aware the adjoining owners are also applying for a garage boundary wall*
 - ii *24 Shann Street — An existing garage boundary wall.*
 - iii *34b, 35 & 30 Shann Street — Carports well forward of the front setback*
- e) *The design has been developed with consideration to minimise the impact on the streetscape by:*
- i *Setting the proposed boundary wall 13500 mm back from the front boundary, minimising its height to 2743 mm and length to 7550 mm.*
 - ii *The boundary wall is located behind a proposed open carport.*
 - iii *Proposing a low pitch skillion roof.*
 - iv *Lowering the floor level of the garage by 4 courses (343 mm) from the proposed floor level of the residence.”*

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Residential Design Codes - State Planning Policy 3.1

7.2.1 Side Boundary Setback

Deemed-to-Comply Requirement	Proposed	Complies
In accordance with Table 2a of the R-Codes the garage is required to be setback 1.5m from the western boundary.	The garage is proposed to have a nil setback from the western boundary.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following design principle provisions: <i>“Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		

Administration Comments

If the boundary wall is approved, it would set an undesirable precedent which may result in a proliferation of boundary walls usually associated with areas of higher residential density coding's.

A development application has recently been received by the City for a new single dwelling on 30 Shann Street. This also proposes a garage boundary wall which will be visible from the street, however it will be on the opposite side of the lot. Bedroom windows are proposed to be within close proximity to the garage proposed at 28 Shann Street.

The vast majority of properties facing Shann Street do not have boundary walls visible from the street. Nearby properties have carports within their primary street setback areas however as these are open sided they do not have as significant an impact on the streetscape compared with what the proposed garage would do if constructed on the western boundary.

As shown on plans approved previously for the property, there is an ample amount of space available for the garage to be setback from the western boundary.

Construction of the new house has not yet commenced and as such, if a larger garage is required the building layout could be amended to ensure compliance with the lot boundary setback requirements.

If approved the garage will be within close proximity to major openings on the adjoining property (30 Shann Street), and would therefore be quite imposing when viewed from the neighbouring property.

Considering the above, the scale and the location of the garage is likely to have a significant impact on the local amenity.

8.0 Budget / Financial Implications

Should Council refuse the application, there may be costs incurred through an appeal of Council's decision.

9.0 Risk Management

There are no known risks for the City.

10.0 Conclusion

The boundary wall would not positively contribute to the streetscape, and its approval would set an undesirable precedent for low density coded properties.

As demonstrated on the plans approved previously, there is an ample amount of space available on the property for the garage to be setback from the western boundary. Also the City has previously approved a variation for the garage to be setback 1m in lieu of 1.5m from the western boundary, which is considered adequate for the needs of the development.

The scale and the location of the proposed garage will mean that it will likely have a significant impact on the local amenity.

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

10.1 Recommendation if Application is Approved

If Council resolves to approve the garage the following wording and conditions are recommended.

Council approves the development application for the alterations being made to the proposed garage at (Lot 66) No.28 Shann Street, Floreat, received on 1 March 2017, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. This development approval pertains to the reduced side setback of the proposed garage only.
3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
4. The parapet wall being finished to a professional standard by the landowner within 14 days of the garage's practicable completion, and be maintained thereafter by the landowner, to the City's satisfaction.

Advice Notes specific to this approval:

1. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
2. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.





PD17.17	(Lot 67) No. 30 Shann Street, Floreat – Single Storey Single House
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Committee	11 April 2017
Council	26 April 2017
Applicant	Echo Home Design
Landowner	S & G Allen
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2017/17
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1 of the City's Instrument of Delegation, Council is required to determine the application as discretion exists for Council to approve the variation under the City's Town Planning Scheme No. 2.
Attachments	1. Site Photographs

1.0 Executive Summary

Development approval is being sought to construct a single storey dwelling with a proposed garage boundary wall with a nil setback in lieu of 1m from the property's western (side) boundary.

The application was advertised to affected landowners for a period of 14 days. No comments were received.

It is recommended that the application be refused by Council as it is considered to not comply with the design principles of the Residential Design Codes (R-Codes), due to the location of the garage and the likely impact this will have on the streetscape and setting undesirable precedent for boundary walls.

Note: the adjoining landowner at 28 Shann Street have a similar proposal for a garage boundary wall (a separate report previous to this item on which has been prepared for consideration at this meeting).

2.0 Recommendation to Committee

Council refuses the proposed development application for the proposed single dwelling at (Lot 67) No.30 Shann Street, Floreat, received on 30 January 2017, for the following reasons:

1. The proposal not satisfying the design principles stipulated under clause 5.1.3 (Lot Boundary Setback) of the Residential Design Codes due to the proposed nil boundary setback of the garage not positively contributing to the streetscape and prevailing development context.
2. The proposal setting an undesirable precedent in terms of a boundary wall being visible from the primary street on a low density property.
3. The boundary wall in the R12.5 zone does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.
4. The proposal not satisfying provisions (m) and (n) of the Planning and Development (Local Planning Schemes) Regulations 2015 cl.67, as the proposal for a boundary wall is incompatible with low density zone and will negatively impact the character of the locality.

3.0 Site Details

Lot area	991m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R12.5
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject site currently contains a single dwelling which is to be demolished and, an existing pool that will be retained. Its topography falls from east to west. Surrounding properties contain single dwellings and associated outbuildings, as shown on the locality plan on the following page.



4.0 Background

In January 2017, a deemed-to-comply check was lodged with the City and the applicant was advised that the only portion that was not fully compliant with the Town Planning Scheme No.2 (TPS2), applicable local planning and Council policies and the deemed-to-comply provisions of the Residential Design Codes (R-Codes) was the proposed garage.

5.0 Specific Application Details

The applicant seeks approval to construct a single storey dwelling, all of which is deemed-to-comply with the R-Codes and TPS2 with the exception of a garage store room located on the boundary. Details of which are as follows:

- The garage will have a wall height of 2.9m above the natural ground level, be 6.9m in length and have a nil setback in lieu of the required 1m from the western boundary.

6.0 Consultation

The neighbours affected by the setback variation were consulted by the City for a period of 14 days. No comments were received.

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

- *“The inclusion of a boundary wall makes more effective use of space and increases security by removing one possible point of access to the back yard.*

- *The boundary wall will not adversely affect the amenity of the neighbouring property. The boundary wall is adjacent to the neighbouring property set back approximately 2.5m.*
- *The boundary wall is less than 3m in height.*
- *The boundary wall minimises impact on the neighbouring property in terms of building bulk and has little to no impact on access to sunlight and ventilation.*
- *Numerous Floreat homes within the City of Nedlands zoned R12.5 have boundary walls, No. 4, 6 and 24 Shann Street.”*

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

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Residential Design Codes - State Planning Policy 3.1

7.2.1 Side Boundary Setback

Deemed-to-Comply Requirement	Proposed	Complies
In accordance with Table 2a of the R-Codes the garage is required to be setback 1m from the western boundary.	The garage is proposed to have a nil setback from the western boundary.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following design principle provisions: <i>“Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		

Administration Comments

If the boundary wall was approved, it would set an undesirable precedent which may result in a proliferation of boundary walls usually associated with areas of higher residential density coding's. Already evident with the current proposal for a garage boundary wall at 28 Shann Street (the neighbouring property).

The vast majority of properties facing Shann Street do not have boundary walls visible from the street. Nearby properties have carports within their primary street setback areas however as these are open sided they do not have as significant an impact on the streetscape compared with what the proposed garage would do if constructed on the western boundary.

As seen on the proposed site plan there is an ample amount of space available for the construction of an outbuilding up to 60m² in size, instead of the garages proposed location.

Considering the above, the scale and the location of the garage is likely to have a detrimental impact on the local amenity.

8.0 Budget / Financial Implications

Should Council refuse the application, there may be costs incurred through an appeal of Council's decision.

9.0 Risk Management

There are no known risks for the City.

10.0 Conclusion

The boundary wall will not positively contribute to the streetscape, and its approval would set an undesirable precedent for low density coded properties. This has been seen already with the adjoining property at 28 Shann Street amending their current planning approval to include a boundary wall (also on this agenda).

As evident on the site plan there is an ample amount of space available on the property for an outbuilding which could be up to 60m² in size.

The scale and the location of the proposed garage will mean that it will likely have a negative impact on the local amenity.

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

10.1 Recommendation if Application is Approved

If Council resolves to approve the application the following wording and conditions are recommended:

Council approves the development application for the proposed single dwelling at (Lot 67) No.30 Shann Street, Floreat, received on 30 January 2017, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. The parapet wall being finished to a professional standard by the landowner within 14 days of the garage's practicable completion, and be maintained thereafter by the landowner, to the City's satisfaction.
3. All footings and structures to retaining walls and fences, shall be constructed wholly inside the site boundaries of the Certificate of Title.
4. Front walls and fences in the primary street setback area, shall be:
 - a) With regard to walls, a maximum height of 1.8m above Natural Ground Level at the base of the wall;
 - b) With regard to brick piers, a maximum height of 2.1m above Natural Ground Level at the base of the wall;
 - c) With regard to walls, visually Permeable above 1.2m in accordance with the *Residential Design Codes 2015* and Council Policy; and
 - d) With regard to walls, truncated or reduced to no higher than 750mm within 1.5m of where walls and fences adjoin vehicle access points, including neighbouring properties.
5. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.

Advice Notes specific to this approval:

1. The crossover to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.
2. A separate development application is required to be submitted to and approved by the City prior to erecting any further fencing within the street setback area which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting fencing behind the street setback area which is more than 1.8m in height above natural ground level.
3. Dividing fences behind the front setback line, height no greater than 1.8m above approved levels and complying with the provisions of the Council's Fill and Fencing Policy are deemed to comply and do not require further planning approval.
4. All street trees in the verge being retained and not being removed without prior written approval from the Manager Parks Services.

5. 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.
6. All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.
7. All 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.
8. The City does not recommend any air-conditioner, swimming pool or spa mechanical equipment is installed near a property boundary where it is likely noise from such mechanical equipment in these locations will intrude on neighbouring properties. Prior to selecting a location to install an air conditioner, applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties. Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, applicant is advised to consult residents of neighbouring properties and if necessary take measures to prevent noise affecting neighbouring properties.
9. 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.
10. Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.

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

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

11. 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.

Photograph of 30 Shann Street currently



Photograph of the view towards the western boundary of 32 Shann Street



PD18.17	(Lot 85) No. 55 Hobbs Avenue, Dalkeith – Proposed Two Storey Single House
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Committee	11 April 2017
Council	26 April 2017
Applicant	Mr J Springate
Landowner	Mrs J Springate
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA17/028
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Site Photographs – view from Hobbs Avenue 2. Site Photographs – view from rear laneway 3. Site Photograph – view facing south from laneway

1.0 Executive Summary

Development approval is being sought to construct a single storey dwelling with variations to the City's Town Planning Scheme No. 2 (TPS2) for retaining within the front setback area and the deemed to comply provisions of the Residential Design Codes (R-Codes) for lot boundary setbacks, open space and vehicle access.

The application was advertised to nearby residents and landowners for a period of 14 days. Two objections were received to the proposed rear lot boundary setback variation.

The proposed variations are deemed to satisfy the provisions of TPS2 and the design principles of the (R-Codes). As the development is unlikely to have a significant impact on the local amenity, it is recommended that the application be approved by Council.

2.0 Recommendation to Committee

Council approves the development application received on 21 February 2017 with amended plans dated 13 March 2017 to construct a Two Storey Single House at (Lot 85) No. 55 Hobbs Avenue, Dalkeith, subject to the following conditions and advice:

- The development shall at all times comply with the approved plans including the amendments in red.**
- Amended plans being submitted with the building permit demonstrating the ground floor section of wall annotated in red being setback 2m from the western side boundary to the satisfaction of the City.**

- c) This planning approval only pertains to the single house, swimming pool, fencing and associated site works.
- d) All fencing, visual privacy screens and obscure glass panels to Major Openings and/or Active Habitable Spaces, shown on the approved drawings, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2015* (R-Codes). The structure(s) shall be installed and remain in place permanently, unless otherwise approved by the City.
- e) All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
- f) All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the Certificate of Title.

Advice Notes specific to this proposal:

- a) Dividing fences behind the front setback line with a height no greater than 1.8m above approved levels are deemed to comply with the scheme and do not require further planning approval.
- b) Any fencing in the primary street setback area which does not comply with the deemed to comply provisions of the R-Codes requires further development approval from the City.
- c) All street trees on the verge are to be retained and shall not be removed without written approval from the Manager Parks Services. If during the construction of the development any existing street tree is damaged or destroyed, the City shall repair or replace the street tree. The applicant shall:
 - i. be responsible for any costs associated with repair or replacement; and
 - ii. Thereafter maintain the street tree for a period of 12 months, to the satisfaction of the Environmental Coordinator.
- d) Any construction in the verge will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to construction.
- e) All crossovers being constructed and drained to the City's specifications.
- f) To prevent stormwater flowing into the property, ground levels of crossovers or driveways should have a part that is a minimum 150mm higher than the street or laneway or a grated channel strip-drain is constructed across the driveway, aligned with and wholly contained within the property boundary, and the discharge from this drain to be run to a soak-well situated within the property.

- g) 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.
- h) Stormwater shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development. 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.
- i) All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.
- j) The swimming pool fencing installed is to comply with the *Building Act 2011*, the *Building Regulations 2012* and Australian Standard S 1926.1-1992.
- k) 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.
- l) The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.

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

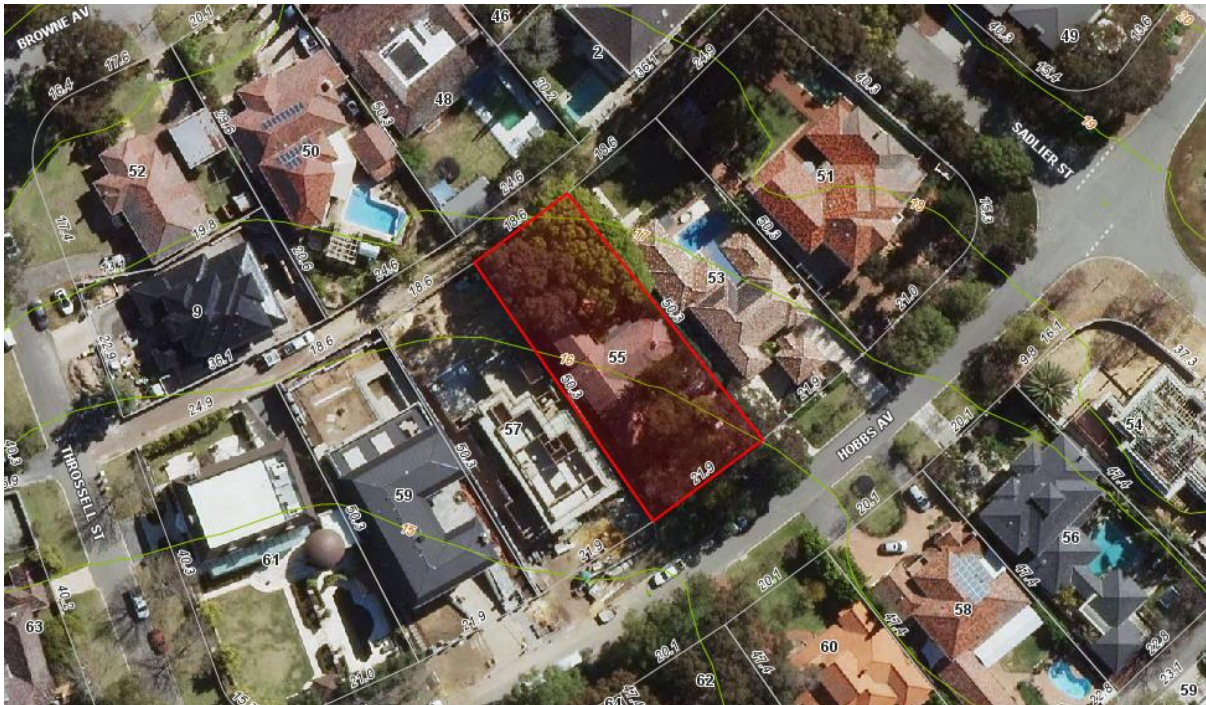
Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.

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

3.0 Site Details

Lot area	1016.8m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is vacant with the demolition of the existing dwelling earlier this year. The site's topography falls approximately 2m from the north-eastern corner in the rear down to the south-western corner in the primary street setback. Surrounding properties contain single dwellings and associated outbuildings as shown in the locality plan below.



4.0 Specific Application Details

The application seeks approval to construct a Two Storey Single House details of which are as follows:

- Two storey section of dwelling toward the primary street with the remainder of the dwelling single storey to the rear of the property;
- Primary access from the rear laneway to four car garage;
- Secondary access from primary street for uncovered car parking;
- Centrally located north-east facing outdoor living area and swimming pool; and
- Low retaining wall in front setback with planter in front of the dwelling.

The proposed development will comply with the City's TPS2, relevant Local Planning and Council Policies and the deemed to comply provisions of the R-Codes with the exception of the following:

- Lot boundary setbacks – the rear garage is setback 1.441m in lieu of 4m to the rear laneway lot boundary.
- Open space – the site cover proposed is 40.12%, leaving 59.88% open space in lieu of the required 60% (0.12% or 1.22m² variation)
- Vehicle access – vehicle access is proposed from the rear laneway and the primary street in lieu of only the rear laneway.
- Retaining walls – planter in front of the house with a maximum height of 0.986m in lieu 0.5m.

Please note that although the plans show a section of the rear single storey portion of the house setback 1.8m from the western side boundary, the applicant has agreed to submit amended plans showing a 2m setback to the western side boundary to remove a lot boundary setback variation. A condition of planning approval is recommended accordingly.

By way of justification in support of the development application the applicant has provided a justification for the rear lot boundary setback variation below:

“The garage has been located off the rear laneway to enhance the aesthetic of the house from Hobbs Avenue and make use of the rear lane. We believe that the rear garage is in keeping with many of the other homes in the street and surrounding area which also have rear garages. We have maintained the 1.5m line of sight to the rear boundary and have also complied with the Water Corporation set back requirement to their asset.”

5.0 Consultation

The development application was advertised to affected landowners for comment on the above-mentioned variations for 14 days. The following is a summary of the concerns raised in relation to the relevant variations:

- Reduced setbacks make the laneways appear like tunnels;
- Garages should be accommodated on the property without the need of a reduced rear setback;
- The bulk of the dwelling with a reduced rear setback will negatively impact on neighbouring properties;
- The required rear setback of 4m will allow more sun into the rear garden and alfresco area of neighbouring properties.

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.

6.2 Town Planning Scheme No. 2

6.2.1 Amenity

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

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

Concerns were raised by submitters in relation to the impact of the reduced rear lot boundary setback on the appearance of the laneway and the impact on neighbouring properties' rear outdoor living area gardens. In terms of the impact on the rear laneway appearance, the rear laneway is currently only utilised for either vehicle access or is entirely closed off by the properties adjacent and hence the garage setback and use adjacent to the laneway appears to be consistent with the development in the locality.

The impact of the reduced setback on the neighbouring properties' rear alfresco areas and gardens is negligible considering the lot orientation of the subject property being mainly north-south and location of the proposed dwelling's upper floor further south into the property (closer to Hobbs Avenue) significantly reduces any overshadowing or visual privacy impact. Therefore, it is considered that the dwelling

will not have an adverse impact on the amenity of neighbouring properties and the amenity of the locality.

6.2.2 Retaining walls

Under clause 5.5.4, approval is required for any retaining over 0.5m in height and Council is to have regard to the following when determining an application for over-height retaining:

- a) *“its likely impact on the amenity or appearance of the land immediately surrounding the proposed retaining wall;*
- b) *the materials, shape, height or proximity of the retaining wall to, and their likely effect on the outlook from, surrounding land;*
- c) *the effect on the usability of the land on which the retaining wall is proposed.”*

The retaining is a planter provided for aesthetic purposes only and will not alter the natural ground level around the dwelling. The maximum height of the planter is proposed to be 0.986m and will not create overlooking or result in a reduced lot boundary setback to the side lot boundary. The additional retaining wall height is considered not to have a negative impact on the amenity of the locality, neighbouring properties or the useability of the land.

6.3 Residential Design Codes (State Planning Policy 3.1)

6.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Table 1 requires that the building is setback 4m from the rear lot boundary (6m required with 2m reduction available due to rear laneway adjacent).	The minimum rear setback provided is 1.441m in lieu of 4m.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		
Administration Comments <u>Rear lot boundary setback</u> The garage area within the 4m rear setback at approx. 40m ² means the garage takes up 52% of the rear setback area. The R-Codes encourages rear access to the property and an increase to the garage setback will create a large north-facing area of the property un-useable for outdoor living purposes. The reduced setback will not result in a loss of privacy		

given the area is non-habitable and opposite inactive area on the neighbouring properties such as a boundary wall to an ancillary building on a neighbouring property the other side of the laneway. The lot orientation ensures that the neighbouring properties will not be impacted in terms of any loss in sunlight or ventilation because of the rear lot boundary setback variation.

At a recent Council meeting a similar proposal was approved for a cabana/pool house with a nil setback to a rear laneway as it was determined that the development would not adversely impact the amenity of the neighbourhood.

6.3.2 Open space

Deemed-to-Comply Requirement	Proposed	Complies?
Properties zoned R10 are required to provide 60% open space under Table 1	The site cover proposed is 40.12%, leaving 59.88% open space.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“Development incorporates suitable open space for its context to:</i> <ul style="list-style-type: none"> <i>reflect the existing and/or desired streetscape character or as outlines under the local planning framework;</i> <i>provide access to natural sunlight for the dwelling;</i> <i>reduce building bulk on site, consistent with the expectations of the applicable density code and/or as outlines un the local planning framework;</i> <i>provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> <i>provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> <i>provide space for external fixtures ad essential facilities.”</i> 		
Administration Comments The additional site cover is 1.22m ² (0.12% variation) and can be attributed to a portion of the porch being enclosed on three sides. The existing streetscape character will not be compromised and the site cover is consistent with the expectations of the density coding and locality. The outdoor living areas are substantial and located centrally to the property to allow for northern and eastern sun throughout the year, ensuring ample opportunities for outdoor pursuits and access around the dwelling. No objections were received in relation to this variation during the City’s consultation period.		

6.3.3 Vehicle access

Deemed-to-Comply Requirement	Proposed	Complies?
Access to on-site car parking spaces to be provided from the primary street frontage where no secondary street or right on way exists.	Vehicle access is proposed from both the primary street and rear laneway.	No

Design Principles

Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:

“Vehicular access provided for each development site to provide:

- *vehicle access safety;*
- *reduced impact of access points on the streetscape;*
- *legible access;*
- *pedestrian safety;*
- *minimal crossovers; and*
- *high quality landscaping features.”*

Administration Comments

Prior to 2013, the R-Codes did not require access from the rear only where available and hence there are numerous examples within the street of access from the primary street in lieu of only rear access ensuring there will not be a negative impact on the streetscape. The dual access provides opportunity for guest parking on the property rather than on the street and secure parking from the rear laneway for the residents' vehicles. The vehicle access arrangement does not compromise vehicle access safety and will not result in any loss in pedestrian safety given no footpath in the verge adjacent on Hobbs Avenue. No objections were received in relation to this variation during the City's consultation period.

7.0 Budget / Financial Implications

Should Council refuse the application, there may be costs incurred through an appeal of Council's decision.

8.0 Risk management

There are no known risks for the City.

9.0 Conclusion

Given the recent Council decision for a development with a similar building bulk in the rear setback and the design of the dwelling mitigating the impact of building bulk and overshadowing on neighbouring properties, it is considered that the development is unlikely to have a significant impact on the neighbouring properties and the local amenity.

Given the above, the development is considered to comply with the City's TPS2 and the relevant Design Principles of the R-Codes and is therefore recommended that Council approves the application subject to the recommended conditions.





