**AGENDA**

**Council Meeting Agenda Forum**

**26 April 2023**

**Notice of Meeting**

**To Mayor & Councillors**

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Wednesday, 26 April 2023 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

This meeting will be livestreamed [Livestreaming Council & Committee Meetings » City of Nedlands](https://www.nedlands.wa.gov.au/council/council-meetings/livestreaming-council-committee-meetings.aspx)



Bill Parker

Chief Executive Officer

20 April 2023

**Information**

Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public question time at a Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: [Public question time | City of Nedlands](https://www.nedlands.wa.gov.au/public-question-time)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**Disclaimer**

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

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# Declaration of Opening

The Presiding Member will declare the meeting open at 6.00 pm and will draw attention to the disclaimer on page 2.

# Present and Apologies and Leave of Absence (Previously Approved)

**Leave of Absence** Councillor N R Youngman Dalkeith Ward

**(Previously Approved)** Councillor O Combes Hollywood Ward

**Apologies** None as at distribution of this agenda.

# Public Question Time

Questions received from members of the public will be read at this point.

The order in which the CEO receives questions shall determine the order of questions unless the Mayor determines otherwise. Questions must relate to a matter affecting the City of Nedlands.

# Addresses by Members of the Public

Addresses by members of the public who have completed Public Address Registration Forms to be made at this point.

# Requests for Leave of Absence

Any requests from Council Members for leave of absence will be dealt with at this point.

# Petitions

Petitions to be tabled at this point.

# Disclosures of Financial Interest

The Presiding Member to remind Council Members and Staff of the requirements of Section 5.65 of the Local Government Act to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

# Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Council Members and Staff of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the Local Government Act.

Council Members and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x ….. I disclose that I have an association with the applicant (or person seeking a decision). This association is ….. (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

# Declarations by Members That They Have Not Given Due Consideration to Papers

Members who have not read the business papers to make declarations at this point.

# Confirmation of Minutes

# Ordinary Council Meeting Minutes – 28 March 2023

The minutes of the Ordinary Council Meeting held 28 March 2023 are to be confirmed.

# Special Council Meeting Minutes – 23 March 2023

The minutes of the Special Council Meeting held 23 March 2023 are to be confirmed.

# Announcements of the Presiding Member without discussion.

Any written or verbal announcements by the Presiding Member to be tabled at this point.

# Members Announcements without discussion.

Written announcements by Council Members to be tabled at this point. Council Members may wish to make verbal announcements at their discretion.

# Matters for Which the Meeting May Be Closed

For the convenience of the public, the following Confidential items are identified to be discussed behind closed doors, as the last items of business at this meeting.

Nil.

# En Bloc Items

That the officer recommendations for Items 15.1, 16.1, 16.2, 16.3, 16.4, 16.5, 17.1, 17.2, 17.3, 18.1, and 18.2, be adopted en bloc and all remaining item will be dealt with separately.

# Minutes of Council Committees and Administrative Liaison Working Groups

# Minutes of the following Committee Meetings (in date order) are to be received:

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council’s approval should be presented to Council for resolution via the relevant departmental reports).

**The Minutes of the following Committee Meetings (in date order) be received:**

**Metropolitan Regional Roads Group Meeting** **23 March 2023**

Unconfirmed, circulated to Councillors on 20 April 2023

# Divisional Reports - Planning & Development Report No’s PD13.04.23 to PD17.04.23

# PD13.04.23 Consideration of Development Application – Residential - Single House at 52 (Lot 80) Jutland Parade, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | Urbanista Town Planning |
| **Information Provided** | All relevant information required has been provided. |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans dated 20 February 2023 3. Landscaping Plans dated 24 October 2022 4. Applicants’ response to request for information and submissions 5. CONFIDENTIAL Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for a single house at 52 Jutland Parade, Dalkeith. This proposal is presented to Council due to the proposal receiving objections within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for the following aspects of the proposal:

* Eastern and western lot boundary setbacks (see report section 5.1.3 Lot boundary setbacks).
* Building height (see report section 5.1.6 Building height).
* Floor area of the carport (see report section 5.2.1 – Setback of garages and carports)
* Amount of landscaping within the street setback area (see report section 5.3.2 – Landscaping)
* Amount of fill and retaining (see report section 5.3.7 – Site works)

**Recommendation**

**That Council in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 20 February 2023 for a Residential – Single House at 52 Jutland Parade, Dalkeith, subject to the following conditions:**

**General Conditions**

1. **This approval relates only to the development as indicated on the approved plans dated 20 February 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
4. **Prior to the issue of a building permit, a Geotechnical Report covering the development area is to be prepared by a suitably qualified practitioner at the applicant’s cost, to the satisfaction of the City of Nedlands. The report will give due consideration to any potential impacts on neighbouring properties including but not limited to: ground water management, excavation or modifications to existing ground levels; vibration or consolidation of material throughout the demolition and construction phase of the project. The Geotechnical Report will identify any remedial treatments required to mitigate any adverse impacts and will be lodged with the building permit application, together with certification that the design is suitable for the site conditions as outlined in the Geotechnical Report.**
5. **Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:**
6. **face brick;**
7. **painted render;**
8. **painted brickwork; or**
9. **other clean finish as specified on the approved plans.**

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

1. **Prior to occupation, the balcony located on the south elevation as annotated in red on the approved plans shall be screened to prevent overlooking to 50A (Lot 13) Jutland Parade, Nedlands, in accordance with the Residential Design Codes by either;**
2. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
3. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
4. **a minimum sill height of 1.6 metres above the finished floor level; or**
5. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to the issue of a building permit, the landscape plan prepared by Tristan Peirce Landscape Architecture is to be amended to align with the approved development plans. Prior to occupation, landscaping shall be completed in accordance with the amended landscape plan or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
2. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**DBCA Conditions**

1. **All works are to be undertaken in accordance with a Construction Environmental Management Plan approved by the Department of Biodiversity, Conservation and Attractions.**
2. **Stormwater runoff from constructed impervious surfaces generated by small rainfall events (that is, the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at source as much as practical and will not be permitted to enter the river untreated to the satisfaction of the Western Australian Planning Commission on the advice of the Department of Biodiversity, Conservation and Attractions.**
3. **No dewatering effluent is to enter the River, either directly or indirectly (via the stormwater system), unless approved by the Department of Biodiversity, Conservation and Attractions**
4. **No pool water/backwash from the swimming pool is to be discharged onto the land, into the River or the local government drainage system.**
5. **The applicant shall implement appropriate on-site measures to ensure that:**
6. **no construction material, sediment or rubbish enters the River, Parks and Recreation reserve or stormwater system, as a result of the works to the satisfaction of the Western Australian Planning Commission based on advice from the Department of Biodiversity, Conservation and Attractions; and**
7. **during the works no vehicular access associated with the construction is permitted within the Parks and Recreation reserve without the prior approval of the manager of the reserve (Western Australian Planning Commission).**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R12.5 |
| **Land area** | 1,959m2 |
| **Land Use** | Residential (Single House) |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 52 Jutland Parade, Nedlands, within the street block bound by Victoria Avenue to the west and Wattle Avenue to the east (**Attachment 1**). The lot is regular in shape, with a 20.1m frontage and a total area of 1,959m². The site abuts the Swan River on the southern boundary and the southern-most 85m2 of land is reserved by the Metropolitan Region Scheme (MRS) as “Parks and Recreation”.

The site features a natural slope of approximately 20m from the Jutland Parade frontage down to the Swan River boundary. It is noted that some site works have been undertaken on the lot prior to this application. This application has been assessed on the site levels prior to the demolition of the previous single house, based on the site survey dated 21 December 2017.

**Application Details**

The application for a single house was lodged on 24 October 2022. Following the initial consultation period, the applicant submitted amended plans on 20 February 2023 (**Attachment 2**) and additional justification (**Attachment 4**) to address concerns raised by the City and public submissions.

The changes proposed by the amended plans are summarised as follows:

* reduction in maximum height from 12.9m to 11.8m
* building shifted to the north to reduce the extent of fill required throughout the site
* increase in landscaping within the front setback area from 42% to 48%
* carport reduced in height to 3.5m to meet the deemed-to-comply height provision
* street fence amended to meet the deemed-to-comply provisions. Amended to a maximum height of 1.8m, with all sections perpendicular to the street having a solid height no greater than 1.2m high
* increase in size of pool and outdoor living area.
* modifications to internal layout of Level 1 and introduction of a south facing balcony
* modifications to internal layout of Ground Level and extension to south facing balcony
* modifications to garage layout and car lift.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Local Planning Scheme No. 3**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies 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. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the amenity of adjoining properties.

**Design Review Panel**

Whilst there is no statutory requirement to do so, the applicant requested that the application be reviewed by the City’s Design Review Panel (DRP).

The application was referred to the DRP once with a final review by the DRP Chair. A summary of the DRP advice is provided in **Table 1** below. The DRP assesses proposals against State Planning Policy 7.0 Design of the Built Environment (SPP 7.0). This policy provides a broad framework to achieve good design outcomes within the built environment and is applicable to all levels of the planning hierarchy. SPP 7.0 typically holds more weight for large scale strategic planning or complex development applications where there is the lack of a more specific planning framework. In the case of single houses, SPP 7.0 should be read in conjunction with R-Codes and applicable local planning policies.

|  |  |  |
| --- | --- | --- |
| **Table 1: DRP Design Quality Evaluation** | | |
|  | Supported | |
|  | Further Information / Condition Required | |
|  | Not supported | |
| SPP 7.0 Principles | 5 December 2022 | DRP Chair review 9 March 2022 |
| 1. Context and Character |  |  |
| 1. Landscape Quality |  |  |
| 1. Built Form and Scale |  |  |
| 1. Functionality and Built Quality |  |  |
| 1. Sustainability |  |  |
| 1. Amenity |  |  |
| 1. Legibility |  |  |
| 1. Safety |  |  |
| 1. Community |  |  |
| 1. Aesthetics |  |  |

The proposal is considered to satisfy the outstanding SPP 7.0 design principles for the following reasons:

**Built Form and Scale**

The DRP Chair comments on this principle noted that the building height and setbacks “still greatly exceed the limits identified in the planning scheme and are likely, in my opinion, to adversely impact the neighbouring properties”.

Officer Comment:

There is no further commentary regarding exactly how the proposal would impact on the neighbouring properties. As detailed further in this report, the proposed height and setbacks do not impact on adjoining properties in terms of overshadowing, visual privacy, or access to views of significance. The proposal is commensurate with the pattern of built form within the locality and has no adverse impact on the streetscape or riverscape. The proposal is considered to meet the design principles of clause 5.1.3 Lot boundary setback and 5.1.6 Building height.

**Amenity**

The final DRP Chair comments on this principle noted concerns with visual privacy.

Officer Comment:

As detailed further in this report, the areas of overlooking to the west do not impact upon any outdoor living areas or active habitable spaces and thereby meet the design principles of clause 5.4.1 Visual Privacy. To the east, the areas of overlooking can be addressed via a condition of approval.

**Sustainability**

Whilst there are no specific sustainability requirements for single houses, it is acknowledged that the application proposes several sustainability initiatives including:

* Approximately 50kW of PV on the roof.
* 200kWh battery storage to store green energy,
* Rainwater harvesting and storage for use in reticulation and pool top-up.
* Electric vehicle charging.
* High levels of insulation.
* Double glazing.

**State Planning Policy 7.3 - Residential Design Codes – Volume 1**

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to lot boundary setbacks, building height, setback of garages and carports, landscaping, site works and visual privacy. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

**Clause 5.1.3 – Lot boundary setbacks**

The application requires a design principles assessment for the eastern and western lot setbacks to side boundaries. The design principles for lot boundary setbacks consider:

* the impact on adjoining properties in terms of building bulk;
* access to sunlight and ventilation; and
* visual privacy.

The proposal meets the design principles for the following reasons:

* All walls feature multiple articulations, with variations in setbacks and materials, and feature openings to break up the perception of building bulk.
* The setbacks do not unduly impact any adjoining property in relation to visual privacy. All openings on the side elevations achieve the deemed-to-comply criteria. Openings to the southern elevation are discussed in below in Clause 5.4.1 – Visual Privacy.
* The setbacks do not result in undue impacts to solar access, and the proposal meets the deemed-to-comply overshadowing provisions. Notwithstanding, the proposal has been designed to mitigate overshadowing to 50A Jutland Parade, as the most-impacted property, via the alignment of the eastern central courtyard with the rear courtyard of 50A Jutland.
* The bulk of the building features side lot boundary setbacks between 1.2 to 2.2m. Some short portions of boundary wall are proposed to a maximum height of 3.1m associated with the underground garage. This is commensurate with the pattern of built form within the locality, whereby buildings typically have narrow side setbacks to maximise views to the river. Examples of the setbacks within the immediately adjacent locality are provided below:
  + 50A Jutland – Nil eastern side setback to garage. 1.5m eastern side setback to dwelling.
  + 50 Jutland - Nil eastern side setbacks to workshop. 1.2m eastern side setbacks to dwelling.
  + 56 Jutland - Nil eastern side setback to garage. 2.0m eastern side setback to dwelling.

It is important to note that deemed-to-comply lot boundary setbacks are determined on the maximum height of the wall. Given the steep slope of the land, the proposed walls vary in their height as measured from natural ground level, up to a maximum of 5.2m over the length of the wall (ground floor western wall). Were the setbacks to be determined on the average wall height, many of the walls would meet the deemed to comply provisions.

**Clause 5.1.6 – Building height**

The application proposes a maximum building height of 11.8m. The design principles for building height consider the impact on the amenity of adjoining properties and public spaces in relation to:

* access to direct sunlight into buildings and open spaces;
* access to direct sunlight into habitable rooms; and
* access to views of significance.

The proposal meets the design principles for the following reasons.

In relation to adjoining public spaces, the proposed height is not considered to have a detrimental impact on the streetscape or riverscape. As viewed from the street, the building has a height of 5.9m above the street level and presents as a modest two storey building. This is commensurate with the existing streetscape. As viewed from the river, the visual amenity of the riverscape is determinate on advice provided by the Department of Biodiversity Conservation and Attractions (DBCA). As further detailed below, the DBCA has advised that it has no objections to the proposal, subject to general construction conditions.

In relation to amenity, the proposed height does not unduly restrict access to sunlight or ventilation for adjoining properties. Overshadowing from the proposal at mid-winter meets the deemed-to-comply criteria. As demonstrated in **Figure 1** below, whilst the courtyards to 50A Jutland will be overshadowed in the afternoons, the courtyard would also be fully overshadowed by an 8.5m wall height. In this regard the additional height proposed by this development does not unduly impact the adjoining property beyond what would be reasonably expected from a deemed-to-comply building height.

Map

Description automatically generated

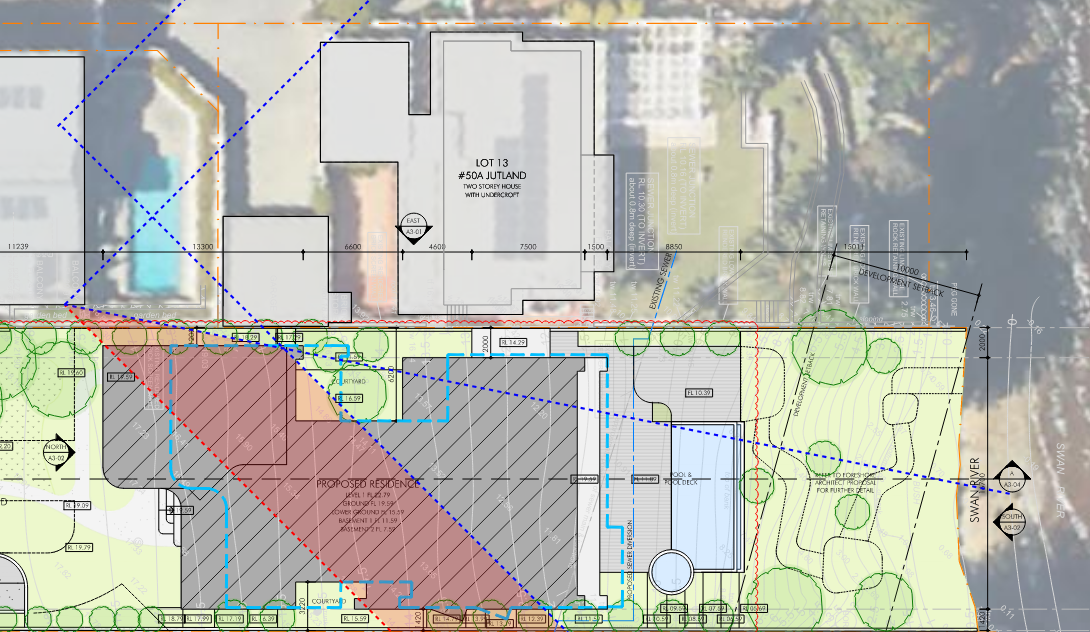
**Figure 1 –** Approximate overshadowing at 4pm on the Spring equinox. Grey represents overshadowing from the proposal. Red dashed line represents overshadowing by an 8.5m building height. Both outdoor living areas (OLA) overshadowed by an 8.5m wall height.

In considering views, the design principle only considers ‘views of significance’. It has been established by the State Administrative Tribunal (SAT) that this may include views through to water bodies, in this case the Swan River. However, does not include views of other properties, or views to the sky. Given the site is presently vacant, any development will impact on existing views to some extent. In this context, it must be assessed whether there is a loss of views of significance beyond that which would be also impacted by building with a deemed-to-comply 8.5m height.

In considering the immediately surrounding development, the only property which may experience an impact on views of significance, because of the additional height, is 50 Jutland Parade.

In the SAT decision Warden and Town of Mosman Park [2019] WASAT 88, it was stated that “the requirement is not to 'maintain views' but rather it is to 'maintain access to views', where appropriate. The words used support the conclusion that the design principle is not focused on maintaining views exactly as they exist at a point in time prior to the development under consideration occurring” and that “what level of access to views should be maintained, where appropriate, will be a question of fact and degree depending on the circumstances”.

It is acknowledged that given the height of the proposed building, 50 Jutland Parade will lose some views from the upper floor south facing balcony. Note that views from the lower floor balcony would be obstructed by a deemed-to-comply 8.5m high building, and thereby it is unreasonable to expect these views be maintained. **Figure 2** below reflects views from a 90° cone of vision from the upper floor balcony (aligning with the view measure used when assessing visual privacy).



**Figure 2 –** View corridors from the upper floor balcony of 50 Jutland Parade dotted in blue. Area of lost views highlighted in red. All other views maintained.

As demonstrated some views will be lost to the west when standing on the western side of the balcony. This current view is primarily over the vacant 52 Jutland Parade lot, and 56 Jutland Parade, with views through to the river beyond. However, when standing in the centre or the eastern side of the balcony, a full 90° viewing range is maintained. Whilst it is acknowledged that the existing view from the western side of the upper floor balcony will be impacted, it is reiterated that the design principle is not focused on maintaining views exactly as they exist prior to the development. Further, the R-Codes explanatory guidelines clearly state that the R-Codes Volume 1 cannot guarantee the protection of views. 50 Jutland Parade maintains ample access to uninterrupted views to the Swan River from the upper floor balcony. The height proposed is not considered to unduly impact access to views of significance.

Jutland Parade is characterised by large single houses. Given the steep slope of the lots abutting the Swan River, it is common for developments to exceed the deemed-to-comply height provisions. Directly abutting the subject site, 50 Jutland Parade has a 10.2m maximum wall height and a 10.7m maximum overall height. The house currently under construction at 68 Jutland Parade has a 10.7m maximum wall height and a 11.3 maximum overall height. The existing houses at 36, 38 and 40 Jutland Parade have an approximate 12.5m maximum wall height and 13.6m maximum overall height.

**Clause 5.2.1 – Setback of garages and carports**

The application proposes a carport in the front setback area measuring 60m2 in area in lieu of 36m2. The design principles for the setback of carports considers vehicular sightlines and pedestrian safety, and views of the dwelling from the street and vice versa. The proposal meets the design principles for the following reasons:

* the carport is setback 3.8m from the street which exceeds the deemed-to-comply and ensures that vehicular and pedestrian sightlines are unobstructed
* the carport is minimal and open framed in its design, ensuring that views through to the main dwelling are provided
* as viewed from the street the carport occupies less than 50% of the street frontage, thereby does not present excessive bulk onto the streetscape.

**Clause 5.3.2 – Landscaping**

The application proposes 48% (87m2) landscaping in the front setback area in lieu of 50% (90.5m2). The design principles for landscaping consider the appearance of the development for residential amenity, contribution to the streetscape, and enhancement of tree canopy. The proposal meets the design principles for the following reasons:

* Between the street alignment and the dwelling, the application includes more than 470m2 of soft landscaping, inclusive of 42 new trees. This adequately offsets the minor 3.5m2 shortfall in landscaping within the defined street setback area, and positively contributes to the streetscape.
* The site is cleared and contains no existing vegetation. Prior to its clearance, the 2017 survey indicates that the site contained six trees and some large bushes. This application proposes over 70 new trees throughout the site, which will effectively enhance the tree canopy from the pre-development condition and contribute to a local sense of place.
* The application proposes a high-quality landscape plan prepared by Tristan Peirce Landscape Architecture (Attachment 3) which will provide a high level of amenity for residents and ensure compatibility with local microclimates.

The landscaping plan prepared by Tristan Peirce Landscape Architecture was based on the original plans at lodgement and has not been updated to reflect the plans dated 20 February 2023. A condition of approval is recommended that the landscaping plan be updated prior to application for a building permit and implemented prior to occupation for the life of the development.

**Clause 5.3.7 – Site works**

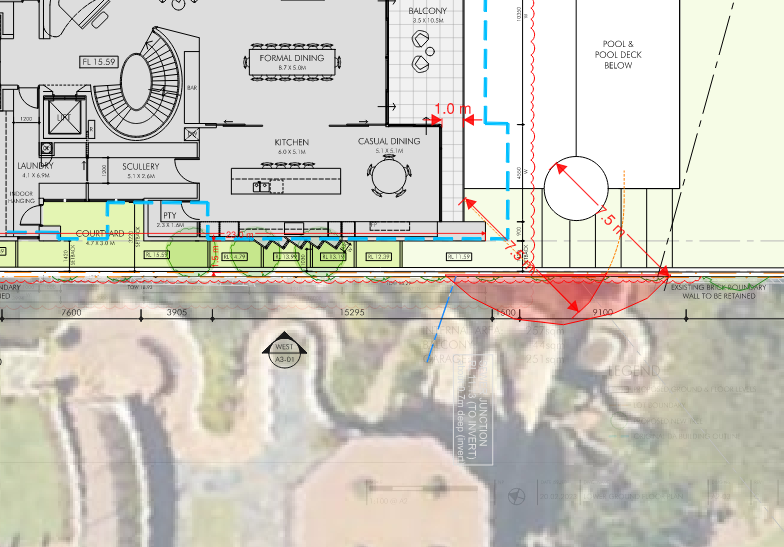
The application proposes site fill up to 1.9m within 2m of the lot boundary. The design principles for site works consider the proposal’s response to the natural features of the site and ensuring that the site can be used effectively without detrimentally impacting adjoining properties. The proposal meets the design principles for the following reasons:

* The site features a natural slope of approximately 20m from the Jutland Parade frontage down to the Swan River boundary. Given this topography, it is expected that site works beyond the deemed-to-comply would be required to ensure that the site can be effectively used by residents. Whilst the design features portions of fill up 1.9m, portions of cut up to 3.5m are also proposed. This demonstrates that the site works proposed are in response to the natural site levels, and have balanced the amount of cut and fill required throughout the site, whilst ensuing useability.
* The areas of site work which exceed the deemed-to-comply occur within the side setback areas to the east and west lot boundaries. These areas are non-habitable and result in no overlooking concerns to adjoining properties. All site works are kept below the height of the existing boundary fence and thereby will not visually present as building bulk.
* The site works respect the natural ground level at the street boundary and all finished levels are below that of the street. This will ensure a consistent streetscape elevation with adjoining properties.

**Clause 5.4.1 – Visual privacy**

The application proposes balconies and a raised outdoor living area (pool deck) which are not setback 7.5m from adjoining lot boundaries, in accordance with the deemed-to-comply visual privacy criteria. The design principles for visual privacy consider the impact of any direct overlooking of active habitable spaces and outdoor living areas on adjoining properties. The proposal meets the design principles for the below reasons.

In relation to 56 Jutland Parade, the 7.5m cone of vision from the south facing balconies and pool decking only overlooks a winding pedestrian path down to the river foreshore (see **Figure 3**). This is not an area of active habitable space nor an outdoor living area, and additionally is screened by dense vegetation. The balconies have been designed with architectural nibs to the side facades, to restrict any direct overlooking and ensure and potential views to the adjoining property are oblique. Further, where the overlooking occurs, the balconies are only between 1.0m and 1.5m in depth, thereby they are unlikely to be used frequently or for extended periods of time, thereby limiting the actual impact of any overlooking.



**Figure 3 –** Overlooking impact to 56 Jutland. Cone of vision intrudes into non-habitable spaces only.

In relation to 50A Jutland Parade, the 7.5m cone of vision from the south facing balconies and pool decking, provides indirect overlooking over a primary outdoor living area (see **Figure 4**). This is not considered to achieve the design principle and a screening condition is recommended (see condition six).

Diagram

Description automatically generated

**Figure 4 –** Overlooking impact to 50A Jutland Parade. Cone of vision intrudes into outdoor living area (OLA).

**Consultation**

**Public Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 28 adjoining properties. The application was advertised for a period of 14 days from 30 November 2022 to 14 December 2022. At the close of the advertising period, 13 objections were received.

Following the initial consultation period, the applicant submitted amended plans to address concerns raised by the City and public submissions. The amended plans introduced new variations to the deemed-to-comply provisions of the R-Codes and required re-advertising to adjoining landowners only. The application was advertised for a period of 14 days from 22 February 2022 to 8 March 2023. At the close of the advertising period, six objections were received.

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

1. Excessive building bulk

The elevations of the proposal are designed with multiple articulations, variations in setbacks and materials, and feature openings, to break up the perception of building bulk. Whilst the building seeks discretion in relation to height and setbacks, it is important to acknowledge that purely because a building is visible, this does not necessarily correlate to building bulk. The areas of discretion are considered to meet the design principles of clause 5.1.3 Lot boundary setback and 5.1.6 Building height, as detailed earlier in this report. The application proposes a building bulk which is commensurate with the context of the locality.

1. Excessive building height

The amended plans have shifted the building to the north which has reduced the maximum building height by 1.1m. The amended plans are considered to meet the design principles of clause 5.1.6 Building height, as detailed earlier in this report.

1. Impacts on views

Whilst the proposal may impact on existing views, the design principle is not focused on maintaining views exactly as they exist prior to the development. The design of the proposal ensures that adjoining properties maintain adequate uninterrupted access to direct views of significance. This is detailed in the clause 5.1.6 Building height discussion earlier in this report.

1. Excessive size of carport

The amended plans have reduced the overall height of the carport to achieve the deemed-to-comply. The amended plans are considered to meet the design principles of clause 5.2.1 Setback of garages and carports, as detailed earlier in this report.

1. Impact on riverscape

Concerns with the setback from the river, visual impact of the building from the river, and foreshore planting obstructing views.

The proposal is setback beyond the required 10m DBCA setback from the river. The visual amenity of the riverscape is determinate on advice provided by the DBCA. The DBCA have advised that it has no objections to the proposal, subject to general construction conditions. The riverscape landscaping forms part of a separate approval which has been approved by the DBCA subject to conditions. Obstruction of views as a result of landscaping is not a planning consideration.

1. Overlooking

The amended plans are considered to meet the design principles of clause 5.4.1 Visual Privacy, as detailed earlier in this report, or otherwise can be addressed via a condition of approval.

1. Overshadowing

The proposal results in 5.6% overshadowing to the adjoining property, which is under the 25% allowable under the deemed-to-comply. It is further noted that this overshadowing predominantly impacts non-habitable spaces.

**Department of Biodiversity Conservation and Attractions**

The application was referred to the DBCA pursuant to Clause 30A(2)a(i) of the MRS, as the proposed development is on land that is partially within the Swan Canning Development Control Area (DCA). The DBCA advised that it had no objections to the proposal, subject to relevant conditions and advice notes.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment.

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for a single house has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration’s recommendation.

**Further Information**

**Question**

Councillor Mangano – what are the proposed levels of the front verge relative to the 2017 levels?

**Officer Response**

The 2017 survey shows the previously existing house on the site, setback at 9 metres with a finished floor level of 20.40(AHD). The proposed visitor parking area on the submitted plans shows a finished level of 20.00.

The submitted plans show the vehicle crossover point at the property boundary being at a level of 20.50, the 2017 survey plan shows levels at the same location of 20.50 (AHD).

The 2017 survey plan shows the previous driveway on the eastern boundary with levels of 21.5 (AHD) at the footpath, 21.00 (AHD) on the verge, 20.50 (AHD) on the driveway itself. The proposed pedestrian crossover shown on the submitted plans shows the path at a level of 20.50 falling to 20.25.

**Question**

Please clarify if there are any boundary walls that have a zero setback or any parapet walls?

**Officer Response**

There are walls built to the boundary on the eastern and western boundaries of the site, with these being either underground, or adjacent to an existing building (garage to the east) and / or below the height of an existing boundary fence. There is only one section of a wall (total length 5.2 metres) which is on the boundary, with a small section of the wall being above the height of the existing boundary fence. This wall is on the eastern boundary and is associated with the sauna and bathroom. If the wall was associated with a non-habitable structure, it would meet the R-Code deemed-to-comply criteria for an outbuilding. Essentially, it is possible to build a higher deemed-to-comply wall on the boundary than what is proposed.

**Question**

Councillor Coghlan – is there a policy which has a protection for viewing corridors, potentially a historic policy?

**Officer Response**

Officers have reviewed the list of Local Planning Policies that were in operational dating back to 2018 and cannot identify any that relate to the protection of views.

Parts of the City close to the Swan River, including this section of Jutland Parade were subject to a "Controlled Development Area" in Town Planning Scheme No.2. This requirement appears to have been in place from 1990 until the revocation of Scheme 2 in 2019.

The controlled development area required any development within it to have "Council's special approval". The Scheme required Council to consider:

* the effect of the development on the amenity of the surrounding area,
* the visual effect as perceived from the Swan River and
* the effect on the amenity of the parks and recreation reserves in that area.

There was no reference to protection of views.

**Question**

Councillor Amiry – requested confirmation that the natural ground level shown on the plans is as per the levels prior to the earthworks of early 2021.

**Officer Response**

The natural ground level shown on the submitted plans are referenced from a survey which shows the previous dwelling on the site, thus reflecting the levels of the site as of 2017.

# PD14.04.23 Consideration of Development Application for a Home Business at 18 Boronia Avenue, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 26 April 2023 |
| **Applicant** | K Vijayan |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plan 3. CONFIDENTIAL Map of Objectors 4. CONFIDENTIAL Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for a Home Business at 18 Boronia Avenue, Nedlands. The application is presented to Council as objections have been received. It is noted that the business has been operating with a previous time limited approval.

**Recommendation**

**That Council, in accordance with clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 25 January 2023 for a ‘Home Business’ at 18 Boronia Avenue, Nedlands, subject to the following conditions:**

1. **this development approval only relates to the ‘Home Business’. The use shall be in accordance with the land use definition within City of Nedlands Local Planning Scheme No.3, approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.**
2. **no materials and/or equipment associated with the home business are to be stored in areas that are visible from the street or neighbouring properties, or be located in areas set aside for the parking or access of vehicles or pedestrians.**
3. **this decision constitutes planning approval only and is valid for a period of three years from the date of the approval, after which the Home Business is to cease operating or a seek a new approval from the City of Nedlands.**
4. **service and/or delivery vehicles are not to service the premises before 7.00am or after 7.00pm Monday to Saturday, and/or before 9.00am or after 7.00pm on Sunday and Public Holidays.**
5. **the Home Business is to be operated only by the applicant, K. Vijayan, who must remain a permanent resident on site at the subject premises. The operation of the Home Business by any other person, or its operation at any other premises, is not permitted by this approval.**

**Voting Requirement**

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decisions must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgements in the decision must be confined to those permitted to be considered under the laws and policies applicable to the matter and given such weight in making the decision as the relevant laws and policies permit them to be given.

**Background**

Land details

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R10 |
| **Land area** | 776m2 |
| **Land Use** | Home Business |
| **Use Class** | ‘A’ Use |

The site is located east of Boronia Avenue approximately 120m north of Carrington Street. The lot is regular in shape and has a total area of 776m2.The property is zoned Residential R10.

**Application Details**

Since 2013, the applicant/owner has had approval to operate a ‘Home Business’ from 18 Boronia Avenue, Nedlands. The business is for preparing flour-based sweets in the 15m2 kitchen area of the dwelling. The products are supplied to selected shops and not sold on-site.

As there is a time limit on the approval, this application seeks to continue operating the ‘Home Business’ operation. One employee will commute to the property for work. The hours of operation are Tuesday to Friday from 10am – 4pm. There will be no retail sale from the site. The applicant has been operating with development approvals for a Home Business with the most recent issued in 2019.

**Discussion**

**Local Planning Scheme No. 3 - Land Use Permissibility**

A ‘Home Business’ is an ‘A’ use within the Residential zone. This means that the use is not permitted unless the Local Government has exercised its discretion by granting approval after conducting public consultation. A ‘Home Business’ is defined as a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession –

1. Does not involve employing more than 2 people who are not members of the occupier’s household; and
2. Will not cause injury to or adversely affect the amenity of the neighbourhood; and
3. Does not occupy an area greater than 50m2; and
4. Does not involve the retail sale, display, or hire of any goods unless the sale, display or hire is done only by means if the internet; and
5. Does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
6. Does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight: and
7. Does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.

As outlined in this report, the proposed home business use is consistent with the above Scheme requirements.

**Objectives**

The application has been assessed against each objective of the Residential zone and is considered consistent with the objectives of the Residential zone as detailed below.

|  |  |
| --- | --- |
| **Table 1: Assessment on Residential zone objectives** | |
| **Objective** | **Officer comment** |
| To provide a range of housing and a choice of residential densities to meet the needs of the community. | Not applicable |
| To facilitate and encourage high quality design, and streetscapes throughout the residential area | There are no works proposed as part of this application, and the dwelling maintains it role as part of the existing high-quality streetscape. |
| To provide for a range of non-residential uses, which are compatible with and complementary to residential development. | The operation is located within the kitchen on a part time basis. It is not considered to cause injury or adversely affect the amenity of the neighbourhood. In this regard the application is considered to provide a suitable non-residential use which is both complementary with and compatible to the locality. |
| To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks. | As above, there are no works proposed as part of this application, and the proposal will have no impact in terms of bulk, scale, height, street alignment and setbacks. |

**City of Nedlands Local Planning Policy – Parking**

The City’s Parking LPP states that for a Home Business additional parking is required to cater for the number of staff and customers coming to the property, over and above the parking required for the dwelling.

The application states that one employee will travel to the Home Business, with no customer visitation. Therefore, one additional car space is required.

|  |  |
| --- | --- |
| 2+ bedroom dwelling requirement | 2 car bays |
| Parking LPP requirement | 1 car bay |
| Supplied | 3 car bays (2 undercover, 1 exposed) |

**Consultation**

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to landowners and occupants within 100m radius of the site. The application was advertised for a period of 14 days from 20 February 2023 to 6 March 2023. At the close of the advertising period four objections were received. The following is a summary of the concerns/comments raised and the Officer response in relation to each issue:

1. The proposal negatively impacts the amenity of the residential area

The home business has been operating for an extended period of time. The City has no record of complaints having been received relating to the operation. The operation is located within the confines of the dwelling and operates only during daylight hours using the domestic kitchen. There is no traffic generated over and above that expected from a single dwelling of the size involved.

1. The fire risk from a commercial kitchen in a residential area is considered too high

The operation of the kitchen for purposes of the home business are of a size and nature ancillary to the main use of the premises as a dwelling. The undertaking of the home business does not trigger requirements to upgrade the dwelling or fire safety systems under the National Construction Code. The production of sweets does not create greater additional risk to adjoining landowners than the operation of a domestic kitchen within a dwelling.

1. The cleanliness and quality of the kitchen is unknown

The owners are required to meet environmental health requirements and to lodge a Food Business Registration Form. As part of this the City will regularly inspect the kitchen.

1. Time of delivery and type of vehicle is unknown

The applicant has advised that deliveries will be once a month during business hours. This vehicle has been described as a delivery van and as such will be less than 4.5 tonnes satisfying the requirements of a home business in the LPS3.

1. Concerns about odour affecting the surrounding residents

In recent years, there have been no complaints regarding odour due to the operation of the Home Business.

1. Concerns of how the statutory time limit will be enforced

As per condition 3, the applicant can only operate for 3 years and then is required to cease operating or apply for a fresh approval.

1. Noise pollution from the business has not been appropriately considered

The business will be operating in normal business hours (10am-4pm) and the noise of cooking would not be out of place in a residential area. The type of operation does not require the use of machinery that would generate undue noise or vibration. Scheme requirements and the Environmental Protection (Noise) Regulations 1997 will ensure that the noise emissions from any operation within a residential zone is commensurate with the protection of residential amenity.

1. The increase in traffic is considered detrimental to the residential area

The increase in traffic is negligible, as there will be one delivery vehicle once a month, and the applicant will deliver the sweets offsite once a week. There is one employee accessing the property by car each day, which is consistent with residential use of the premises.

**Strategic Implications**

**Vision** Our city will be an environmentally sensitive, beautiful, and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment, and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may resolve to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

If Council resolves to approve the proposal, the use can proceed.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for the addition of a Home Business land use to existing Residential (‘Single House’) development has been presented for Council consideration due to objections being received. The proposal is considered to meet the development provisions of the City’s local planning framework and, as such, is unlikely to have a significant adverse impact on the local amenity of the area.

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

**Further Information**

Nil.

# PD15.04.23 Adoption of the amended Signage and Advertisements Local Planning Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning & Development |
| **Attachments** | 1. Signage and Advertisements Local Planning Policy |

**Purpose**

The purpose of this report is for Council to adopt the draft amendments to the Signage and Advertisements Local Planning Policy, following advertising, which resulted in one submission being received.

**Recommendation**

**That Council adopts the Signage and Advertisements Local Planning Policy in accordance with Regulation 4(3)(b) of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 as attached.**

**Voting Requirement**

Simple Majority.

**Background**

The current Signs Local Planning Policy (the Policy) was adopted at the Ordinary Council Meeting held on 23 July 2019. A review of the Policy has been undertaken in the context of the Council resolution dated 27 July 2021, which reflects the development pressure Nedlands is currently facing, with attention to construction signs and property transaction signs. Council adopted the draft amended Policy for advertising on 25 October 2022 (**refer to Attachment 1**).

**Discussion**

The content of the Policy has been reviewed in the context of the legislative planning requirements and practical application of the existing provisions.

The Amendments seek to provide a contemporary and concise set of provisions to assist the City in the assessment of signage proposals.

**Key changes**

The key elements of the Policy include:

1. Policy Title

The policy title has been revised from “Signs Local Planning Policy” to “Signage and Advertisements Local Planning Policy” to align with the statutory terminology used by the Planning and Development (Local Planning Schemes) Regulations 2015 relating to Advertisements.

The Regulations also contain a definition of “heritage-protected place”, and this new terminology is proposed to be included in the Policy.

2. Objectives

The objectives of the Policy are worded to highlight the importance of minimising the adverse impacts of signage and advertisements on the amenity of residential areas and heritage-protected places.

The objectives seek to limit commercial signage to areas zoned for non-residential uses and reduce the proliferation and cumulative impact of signage across the City.

3. Exemptions/Non-Exemptions

Temporary advertisements and election advertisements are exempt under the Regulations and the Policy has been updated to reflect this.

4. Where approval is required

All signs on “heritage protected places” require development approval, as do signs which emit light (refer to section 4.1 (i) and (vii)).

Appendix A provides a list of the different signs, including a definition and an image of an example of that form of signage.

If the sign meets the requirements listed under “Development Provisions for Exemption” then approval is not required.

**Consultation**

The draft Amendments were advertised from 4 November 2022 to 2 December 2022 in accordance with the City’s Consultation – Local Planning Policy. The amended Policy was advertised through a notice in the *Post* newspaper and on the City’s Your Voice website.

At close of advertising 1 submission was received stating the following:

“too restrictive and prescriptive, and yet the likes of McDonald's, Bunnings, are allowed to build signs that don't comply with the requirements of the policy; which suggests no policy at all is required”.

City Officers provide the following response:

Notwithstanding that there is neither a McDonalds nor a Bunnings within the City of Nedlands, a Policy cannot be overly prescriptive such that it fetters discretion. Advertisements that do not meet the exemption criteria of Appendix 1 may still be approved subject to a development application demonstrating the signage will meet the Objectives and General Requirements of the Policy.

**Concept Forum of 20 September 2022**

The policy was presented at the concept forum of 20 September 2022 where the following key provisions were highlighted:

1. Construction Site and Development Signs

For a Construction site and Development Sign, if the sign is:

* More than 5 square metres in area or
* More than 2 metres above the natural ground level

then development approval will be required, or if more than one sign per street frontage is requested.

2. Digital Signs

All digital signs will require a development application to be lodged, with the exception of window signs less than 5 square metres where located in the window of an approved or exempt business.

3. Property Transaction Signs

The definition of a property transaction sign is to be updated to include the words ‘coming soon’ and the sign is to be removed within 14 days of settlement or leasing of the property.

Development approval is required if the proposed property transaction sign has an area of more than 3 square metres.

4. Roof Sign

Development approval is required if:

* the total height of the building and the sign (combined) exceed the building height for the applicable property
* the sign exceeds 5 square metres in area.

**Deemed to Comply or Acceptable Outcomes Criteria**

Deemed to comply or acceptable outcomes criteria are not considered appropriate in respect to a signage policy, as “exempt” provisions (effectively deemed to comply / acceptable outcomes) already exist in the Regulations and draft policy. It is important to provide consistency, certainty, and clarity in the application of such a policy.

However, previous legal advice received by the City confirms that a local planning policy cannot fetter discretionary consideration. In other words, a planning policy cannot be used to ban advertisements over a certain size, for example. Application for signage and advertisements that exceed the exemption criteria may still be approved provided they meet the objectives of the policy (Clause 3) as well as the general requirements for all signage and advertisements (Clause 4).

Following advertising, minor modifications were made to ensure the definition of heritage-protected place included reference to the Regulations, and the photo of the digital sign was changed to reflect the large LED billboards that are intended to be captured.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment.

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Regulation 4(3) of the [Planning and Development (Local Planning Schemes) Regulations 2015](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45565.pdf/$FILE/Planning%20and%20Development%20(Local%20Planning%20Schemes)%20Regulations%202015%20-%20%5B00-m0-00%5D.pdf?OpenElement) requires that, after advertising, Council is to consider any submissions received and resolve to:

a) Proceed with the policy without modification;

b) Proceed with the policy with modification; or

c) Not proceed with the policy.

**Decision Implications**

If Council resolves to endorse the recommendation without modifications, the Policy will become operative and replace the existing Policy criteria after public notice has been given.

If Council resolves to endorse the recommendation with modifications, and the modifications are significant, the Policy should be re-advertised prior to being put back to Council for adoption. If the modifications are minor the draft Policy will become operative and replace the existing Policy after public notice has been given.

If Council resolves not to endorse the recommendation, the existing Policy will remain in use by the City when assessing Development Applications for signage and advertisements.

**Conclusion**

The Policy has been reviewed and updated to provide applicants with clear and concise provisions to support applicants in determining their approval obligations for proposed signage and advertisements. It also guides the assessment of development applications for proposed signage and advertisements by the City. It is recommended that Council adopts the Recommendation and formally adopts the amended Policy.

**Further Information**

**Question**

Councillor Smyth – Community Canvas plastic sheeting signs how is this addressed in the policy?

**Officer Response**

This policy deals with permanent signage on zoned land, the City has a Community Signage Policy, which deals with signs relating to community events.

**Question**

Digital signs – Can additional information be provided in relation to digital signage provisions within the Policy and the City’s ability to control signage within the road reserve of major roads.

**Officer Response**

The City is not the decision-maker for Primary Distributor roads including West Coast Highway and Stirling Highway. Nor does the City’s scheme or policies apply to these roads as they sit outside of the local planning scheme area. These road reserves are reserved as “Primary regional roads” under the Metropolitan Region Scheme. Only where the City and Main Roads are fully in agreement on a recommendation does the City retain delegation to issue a decision. Otherwise, the City acts as a referral body and may comment on the proposal but the final decision is with the Western Australian Planning Commission. City Officers use the City’s Local Planning Scheme and policies as a guide when making a recommendation to the Commission but they are non-binding.

A planning policy cannot be used to ban signs over a certain size for example, the policy as written for digital signs is very restrictive in terms of what is exempt from approval. The sign must be associated with an approved business and must be in the window of the business, must be parallel to the road, be not more than 5 square metres in size and not cover more than 25% of the window glazing.

# PD16.04.23 Consideration of Adoption of draft Nedlands Stirling Highway Activity Corridor- Residential Precinct Local Planning Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest in this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Draft NSHAC-R Precinct – Local Planning Policy 2. Summary of Submissions and Officer Responses |

**Purpose**

The purpose of this report is for Council to consider final adoption of the draft Nedlands Stirling Highway Activity Corridor – Residential (NSHAC-R) Precinct Local Planning Policy (the Policy) after community consultation which resulted in five submissions. The policy can be summarised as follows;

**Policy objectives** include:

1. Retain and enhance the Precinct’s tree lined streetscape; and
2. Allow for additional dwellings in a manner that respects the context and character of the area.

**Future Character**

The NSHAC Residential Precinct will consist of local, leafy streets designed for walking, providing respite from the traffic and busyness of the Highway. Future development will encourage public realm interfaces that provides comfortable and attractive pedestrian journeys through the neighbourhood.

Local streets will function as the green ‘ribs’ of the NSHAC Precinct. Trees, especially well-established, mature trees, will be valued and preserved wherever possible. Trees are a critical part of the material heritage and identity of place in the NSHAC Residential Precinct, and their presence is highly valued by the local community. A variety of endemic and water-wise plants will be planted throughout the private realm to safeguard the natural biodiversity within the City.

These outcomes are sought to be achieved by requiring:

* 4 metre front street setbacks
* Increased rear setbacks
* for multiple dwellings the following apply:
* the front and rear setbacks areas shall be utilised for the inclusion of deep soil areas and tree plantings. This allows for a landscaped buffer between the proposed development and the rear adjoining site/s, softening the interface with the street. Where possible, deep soil areas should be located against lot boundaries
* a minimum total of 20% of the site area (area of parent lot/s) is to be provided as landscaping. This total shall include at least 15% of the site area to be deep soil area
* the required deep soil area may be reduced to 10% of the site area if a significant existing tree is retained on site, or if a large tree is planted on site.

**Recommendation**

**That Council:**

1. **adopts those elements of the draft Nedlands Stirling Highway Activity Corridor – Residential Precinct Local Planning Policy (Attachment 1) that do not require Western Australian Planning Commission approval in accordance with regulation 4(3) of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;**
2. **requests the CEO to give notice to the Western Australian Planning Commission (WAPC) requesting approval to amend elements of the Residential Design Codes Volumes 1 and 2 within the draft Nedlands Stirling Highway Activity Corridor - Residential Precinct Local Planning Policy (Attachment 1) and adopts these elements in the event of the WAPC approval; and**
3. **revokes the Local Planning Policy – Peace Memorial Rose Garden Precinct, Nedlands.**

**Voting Requirement**

Simple Majority.

**Background**

The Nedlands Stirling Highway Activity Corridor – Residential (NSHAC-R) Precinct includes the R60 and R160 coded lots directly north and south of Stirling Highway. The only built form controls currently in place for the NSHAC-R Precinct are the R-Codes. This Policy seeks to modify the built form controls within the NSHAC-R Precinct to reflect the local context and character of the area, as well as support the future growth of the city. It is not seeking to make changes to the zoning or density gazetted in the City’s Local Planning Scheme No. 3.

The Policy is based on extensive research and consultation with community and industry experts to provide appropriate built form outcomes for the NSHAC-R Precinct. The City contracted consultants to undertake Local Distinctiveness and Context Analysis work in August 2020. This was followed by Built Form Modelling and a Community Engagement Program in 2021.

The Policy was adopted for advertising at the Ordinary Council Meeting of 27 September 2022 **(refer to Attachment 1).** The Policy was advertised from 21 October 2022 to 9 December 2022 with the community invited to comment on the draft Policy. The submissions received have been taken into consideration in the preparation of the Policy and a summary is included at **Attachment 2**.

**Discussion**

Most of the Policy will come into effect once Council adopts the Policy and gives public notice. However, the Policy seeks to amend some elements of the R-Codes Volumes 1 and 2 that require Western Australian Planning Commission (WAPC) approval.

The following elements of the Policy require WAPC approval to come into effect and are highlighted in the Policy within **Attachment 1**:

**General Provisions**

Clause 4.2: Sustainability

Clause 4.4: Landscaping

Clause 4.7: Vehicle Access (Volume 1 – Single houses and grouped dwellings only)

Clause 4.8: Car and Bicycle Parking

**5.1.3 Primary Controls**

Rear setbacks for Single and Grouped Dwellings Residential R60 / R160 being the following clauses:

Clause DC 1.5

Clause DC 2.5

**Tree Canopy and Deep Soil Areas**

5.3 Multiple Dwellings – Clause 3.3

**Landscaping**

5.4 Single Houses and Grouped Dwellings – Clause 5.3.2

In the event of the WAPC approving the elements listed above, they will come into effect at that point in time.

Notwithstanding the elements of the Policy which require WAPC approval, there are significant elements within the Policy which strengthen the Council position when determining applications or proving a recommendation to other bodies such as JDAP. These include:

* Desired Future Character Statements
* Building heights
* Front setbacks
* Vehicle access

**Modifications to the Policy**

The following modifications have been made to the Policy following advertising:

* Maximum solar absorptance ratings were added to Clause 4.5.2 to strengthen the Policy provision to avoid dark roof materials and reduce the urban heat island effect.
* In response to feedback received through the submission process, the primary street setback for R160 lots has been increased to 4 metres for the first 3 storeys and remains at 5m for greater than or equal to four storeys.
* Multiple Dwellings on R160 sites adjoining R60 sites are limited to a four storey height.
* Multiple Dwellings along Jenkins Avenue between Bay Road and Taylor Road are limited to four storeys.
* Minor formatting changes have been made to the Policy post advertising to establish clarity and consistency in Policy wording and structure.
* The Green Star Rating for commercial developments has been reduced to 5 Green Stars to provide consistency across the precinct policies. Further work in the sustainability space will be undertaken in due course to strengthen the City’s position on sustainability and policy provisions.

**Consultation**

Following adoption for advertising at the Ordinary Council Meeting of 27 September 2022 the Policy was advertised in accordance with the City’s Consultation of Planning Proposals Local Planning Policy, which involved the following:

* 42-day advertising period
* Letters to notify owners and occupiers within the precinct
* Notice in the ‘Post’ newspaper
* Notice on the City’s Notice Board
* Notice on the City’s Your Voice engagement portal
* Social media
* Community engagement sessions held on 9 November 2022 and 30 November 2022.

Eight people attended the community engagement sessions across the two dates. During these sessions the community had the opportunity to view the Policy and supporting documents. There were officers from the City available to address any questions community members had.

During the advertising period five submissions were received by the City. These comprised one submission in support of the Policy and four submissions which neither opposed nor supported the Policy but provided comment. A summary of the submissions along with officer comments can be found at **Attachment 2.**

The following are the key issues raised during the advertising period:

1. Onerous landscaping provisions, especially for smaller developments.

Officer Response

Stakeholder consultation on the formulation of this Policy and past experience with development applications highlighted the desire to maintain and enhance the leafy green character and biodiversity of the Precinct. Increasing landscaping requirements to exceed those of the R-Codes will help to achieve this. Requiring a landscaping plan will compel new development to consider and demonstrate how it will achieve the required deep soil area to permit landscaping to be viable into the future.

1. The proposed increase in minimum street setbacks in the Policy will force development to the rear of the lot.

Officer Response

The Policy proposes increases in the primary street setbacks for R160 multiple dwellings as well as R160 and R60 single houses and grouped dwellings. It also increases or allows for an average rear setback for all lots in the precinct. Allowing for averaging rear setbacks will encourage development to be designed to retain significant existing trees and create areas for deep soil landscaping.

1. Application of this Policy against all subdivision and development applications is excessive. The requirements of this Policy should at most be considered against applications for substantial redevelopment of site and residential developments, only when exceeding a threshold (i.e. 10 dwellings).

Officer Response

Officers consider that to assist in the retaining the City’s landscape character the Policy must apply to all development within the area. Developments of less than 10 dwellings, including the many examples of developments for 4 to 8 dwellings currently encountered play an important role in shaping the future character of Nedlands. Existing single houses proposing extensions and alterations are unlikely to be much impacted by the Policy, unless those extensions are significant.

1. The primary street setback should be increased to 4m for multiple dwelling developments less than or equal to 3 storeys and 5m for 4 and 5 storeys. Multiple dwellings are likely to be taller and therefore need a greater setback. If a large tree is retained the setback can be reduced from the proposed 3m to 2m.

Officer Response

Agreed. Currently the R-Codes Vol. 2 allows for a primary street setback for multiple dwellings in the R160 coded areas at 2 metres. Post advertising the minimum primary street setback for multiple dwellings on R160 coded lots has been increased to 4 metres for the first 3 storeys and remains at 5m for greater than or equal to four storeys.

**Matters raised at the Concept Forum of 21 March**

1. Transition between R160 and R60 lots (E.g. If an R160 block is adjacent to a R60 block then the maximum height allowable is 4 storeys not 5).

Officer Response

Agreed. It is recommended that the Policy be modified to include a limitation on the building height for Multiple Dwellings on R160 sites adjacent to R60 sites to four storeys.

It is noted that there is currently a ‘hard transition’ in densities between the three primary residential density codes within the Policy Area. The general principle used when considering development on a lot with a neighbouring property of a lower density is to be satisfied that the impacts of the greater density are not unduly transmitted to the neighbouring lot. Placing a four storey height acceptable outcome on a R160 lot that adjoins a R60 lot as a default provision is supported.

It should be noted that the placement of a modified height acceptable outcome does not automatically restrict height to four storeys as the R-Codes do not provide prescribed limits. Acceptable outcomes are default provisions to assist in satisfying the element objectives.

2. Transition between R160 Lots and R12.5 lots across Jenkins Road at the western end.

Officer Response

Agreed. It is recommended that the Policy be amended to limit the building height for the R160 sites on Jenkins Avenue between Bay Road and Taylor Road to four storeys.

**Discussions with Department of Planning, Lands and Heritage**

Officers from the City have met with representatives from the Department of Planning, Lands and Heritage (DPLH) to discuss the Policy and proposed amendments to R-Code provisions requiring the approval of the WAPC, as outlined in the discussion above. The draft Policy proposes general provisions relating to sustainability which seek to exceed the R-Codes and National Construction Code provisions. These provisions echo community input from the engagement process during Policy development and in accordance with Council’s direction. As outlined above in the Discussion, these elements (General Provisions 4.2) will come into effect should approval be granted by the WAPC.

In line with Council’s resolution of 27 September 2022 a discussion paper on the merits and implications of the Policy’s proposed star rating for building sustainability will be prepared to strengthen the City’s position. However, discussions with DPLH have indicated that the WAPC is unlikely to support sustainability initiatives for residential development that go beyond the existing R-Codes provisions and the National Construction Codes.

Provisions for landscaping, tree canopy and deep soil areas are other significant elements which will require WAPC approval. The position of the WAPC on these provisions is unknown. The policy proposes a minimum of 20% of each site area to be provided as landscaping. A minimum 15% of the total site area is to be deep soil area. The required deep soil areas may be reduced by 5% where a significant existing tree is retained on site or a large tree is planted on site. This is a significant increase over the Acceptable Outcomes outlined in the R-Codes Vol. 2, which requires a minimum 10% deep soil area or 7% if an existing tree is retained on site.

The requirements within the Policy are linked to the front and rear setback provisions and consistent with community feedback received. While Council, via the Policy, controls the front setback, the WAPC is required to approve amendments to the side and rear setbacks for single and grouped dwellings (Clause 5.2 Primary Controls within the Policy). If the WAPC does not approve the proposed rear setbacks outlined in the Policy it may impact upon landscaping outcomes.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Reflects Identities**

We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

**Priority Area** Urban form - protecting our quality living environment

Encouraging sustainable building

**Budget/Financial Implications**

Minor expense will be attributed to typesetting of the Policy. This expense will be accommodated by the adopted Urban Planning budget.

**Legislative and Policy Implications**

The preparation and adoption of a built form local planning policy provides for clearer guidance for built form within the NSHAC-R Precinct area.

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.wa.gov.au/government/document-collections/planning-and-development-local-planning-schemes-regulations-2015) allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area. Following the advertising period, the Policy is to be presented back to Council to consider any submissions received and to:

1. Proceed with the Policy without modification; or
2. Proceed with the Policy with modification; or
3. Not proceed with the Policy.

Regulation 4(3A) of the Deemed provisions has the effect that elements of the Policy requiring WAPC approval will not come into effect unless and until the WAPC has granted approval.

**Decision Implications**

If Council resolves to endorse recommendation elements of the Policy not requiring WAPC approval will come into effect immediately. Those elements requiring approval by the WAPC will not come into effect upon receiving the approval. If the WAPC requires substantial amendments, those amendments will be referred back to Council for review before taking effect.

If Council doesn’t endorse the recommendation the Policy will not progress.

**Local Planning Policy – Peace Memorial Rose Garden Precinct, Nedlands**

At the 3 September 2020 Special Council Meeting, Council adopted the Local Planning Policy – Peace Memorial Rose Garden Precinct, Nedlands. Though the policy was adopted, it is not currently being given weight in the assessment of development applications for lots directly east, west and south of the Peace Memorial Rose Garden, because:

* The Policy was adopted with significant modifications following the advertising period, which warranted further community consultation.
* The Policy was not based on built form modelling, as recommended by the State Design Review Panel.

If Council resolves not to endorse the recommendation of this report, there will be no Policy in place with specific built form controls for the NSHAC-R Precinct that could be given weight in a planning assessment. Effectively, all built form controls will remain as per the existing R-Codes.

**Conclusion**

After significant research and consultation with the community, the resulting NSHAC-R Precinct Local Planning Policy provides a contextually appropriate and nuanced built form guide for the growth of the NSHAC-R Precinct. As such, it is recommended that Council adopt the recommendation to endorse the Policy.

**Further Information**

**Question**

Mayor Argyle – Can additional information be provided in relation to the restriction of white roofs.

**Officer Response**

Council at its meeting of November 2021 requested details on how the various planning instruments that are available to Council could be used to reduce non-renewable energy use, with via development approvals. Clause 4.5.2 of this Policy seeking to achieve this outcome by introducing solar absorptance requirements for roof material. A low solar absorptance level reduces the flow of heat from solar radiation better than a high solar absorptance roof. A roof with a solar absorptance value of less than 0.4 typically corresponds to a roof of light colour such as white, off-white or cream. Typical absorptance values based are as follows:

|  |  |
| --- | --- |
| **Colour** | **Value** |
| Slate (dark grey) | 0.90 |
| Red, green | 0.75 |
| Yellow, buff | 0.60 |
| Zinc aluminium — dull | 0.55 |
| Galvanised steel — dull | 0.55 |
| Light grey | 0.45 |
| Off white | 0.35 |
| Light cream | 0.30 |

Photovoltaic panels or similar are excluded from this provision.

# PD17.04.23 Consideration of Development Application – Residential - Four Grouped Dwellings at 10 Louise Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | Sincerity Development Pty Ltd |
| **Information Provided** | All relevant information required for this assessment has been provided by the applicant. |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans dated 4 April 2023 3. Architectural Perspectives dated 4 April 2023 4. Landscaping Plan dated 4 April 2023 5. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for four grouped dwellings at 10 Louise Street, Nedlands. This proposal is being presented to Council for consideration due to the proposal receiving objections within the consultation period.

This application was tabled for consideration at the 28 March 2023 Ordinary Meeting, at which it was deferred to allow for further information to be provided.

**Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 4 April 2023 for four grouped dwellings at 10 Louise Street, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 28 March 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a building permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**
4. **Prior to occupation, the roof terraces for Units 2 and 3 are to be screened to the extent shown on the approved plans and in accordance with the Residential Design Codes by;** 
   1. **fixed and obscured glass to a minimum height of 1.6 metres above finished floor level; or**
   2. **fixed screening devices to a minimum height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
   3. **a minimum sill height of 1.6 metres above the finished floor level; or**
   4. **an alternative method of screening approved by the City of Nedlands.**

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

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

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

1. **Prior to the issue of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted and approved by the City of Nedlands.**
2. **Prior to occupation, landscaping shall be completed in accordance with the approved Landscaping Plan. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
3. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
4. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**
5. **Prior to the issue of a Building Permit, an Ecologically Sustainability Development (ESD) report prepared by a suitably qualified person shall be submitted and approved to the City of Nedlands. Recommendations contained within the report are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
6. **Prior to the issuing of a Building Permit, an acoustic report and noise management plan shall be prepared by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures in accordance with the quiet house design requirements as identified in State Planning Policy 5.4 – Road and Rail Noise.**
7. **All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with Environmental Protection (Noise) Regulations 1997.**
8. **Prior to occupation of the development, a notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):**

**“This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction.”**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R160 |
| **Land area** | Parent Lot: 1,012m2  Strata Lot 1: 214 m2  Strata Lot 2: 216 m2  Strata Lot 3: 217 m2  Strata Lot 4: 213 m2 |
| **Land Use** | Residential  (Grouped Dwellings) |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 10 Louise Street, Nedlands and is 90m south of Stirling Highway (**Attachment 1**). The site has been recently subdivided into four strata lots and a common property driveway. The site is relatively flat with a slight fall of 0.6m from west (front) to east (rear).

The locality is predominantly characterised by single residential houses between one to two storeys. The properties in this area are coded R60 or R160 and are expected to undergo a gradual transition to a higher density and scale of development.

Several other similarly scaled developments have been approved in the nearby locality, including:

* Five grouped dwellings at 26 Louise Street, Nedlands.
* Six grouped dwellings at 24 Louise Street, Nedlands.
* Seven grouped dwellings and six multiple dwellings at 21-23 Louise Street, Nedlands

**Application Details**

The application seeks development approval for the construction of four grouped dwellings as follows:

* Units 1 and 4 are two storey, contain four bedrooms and five bathrooms and have pedestrian entries directly accessed from Louise Street.
* Units 2 and 3 are three storey, contain four bedrooms and four bathrooms and a rooftop terrace.

All units have vehicle access via a central driveway, which has been previously created as common property by subdivision of the land into 4 strata lots.

The proposal has been subject to refinement over time as a result of design review and consultation. The current version of plans dated 28 March 2023 are included at **Attachment 2** and form the basis of Council’s consideration of this application. Architectural perspectives of the development are included at **Attachment 3**.

A number of changes were made to the plans as a result of design review in November 2022. These changes include:

* Reduction in roof pitch to Units 1 and 4 to increase views from the rear units to the Rose Gardens.
* Unit 2 window to stairwell on the third floor along the northern elevation amended to a highlight window.
* Unit 3 window to stairwell on the second and third floors along the southern elevation amended to a highlight window.
* Amended landscaping plan to increase landscaping in common property and use more native plant species.
* Additional information provided on vehicle swept paths.
* Solar panels and EV charging points within each garage.
* Entry arbours added to the front units.
* Engagement of a sustainability professional.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Local Planning Scheme No. 3**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies 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. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

**Design Review Panel**

The application was reviewed by the City’s Design Review Panel (DRP) on 6 December 2021 (prior to lodgement) and 7 November 2022. A final review of revised plans was conducted by the DRP Chair on 30 March 2023. A summary of the DRP advice is provided in the table following:

|  |  |  |  |
| --- | --- | --- | --- |
| **DRP Design Quality Evaluation** | | |  |
|  | Supported  Further Information Required  Not supported | | |
|  |
|  |
| SPP 7.0 Principles | 6 December 2021  DR1 | 7 November 2022  DR2 | 30 March 2023  (Chair Review) |
| 1. Context and Character |  |  |  |
| 1. Landscape Quality |  |  |  |
| 1. Built Form and Scale |  |  |  |
| 1. Functionality and Built Quality |  |  |  |
| 1. Sustainability |  |  |  |
| 1. Amenity |  |  |  |
| 1. Legibility |  |  |  |
| 1. Safety |  |  |  |
| 1. Community |  |  |  |
| 1. Aesthetics |  |  |  |

There was significant improvement in the overall design of the development between the three reviews.

In reviewing the current plans, the DRP Chair has made the following comments:

“I have now had a chance to study the amended plans and the response to the DRP review. Generally, the proponents have engaged with DRP comments in a constructive manner and have improved the design accordingly. I now consider that the proposal should be supported (GREEN) on 8 of the 10 Design Principles. and supported with conditions on the other 2 Principles…

…I support the current proposal with appropriate conditions for Landscape Quality and Sustainability. The proponents should be congratulated for their positive and thorough response to their last DRP review.”

Administration consider that the proposal satisfies the outstanding SPP 7.0 design principles for the following reasons:

**Landscaping**

The applicant has since appointed a Landscaping Architect (Kelsie Davies). In the event of approval, a condition is recommended to ensure the implementation of a detailed landscaping plan is submitted and approved by the City (Condition 6).

**Sustainability**

Whilst there are no specific sustainability requirements or reports for grouped dwellings, the applicant has taken on board the advice of the DRP and appointed an ESD Consultant (Leading Energy). It is acknowledged that the applicant proposes sustainability initiatives such as electric vehicle charging stations in the garage, passive solar design elements and solar panels on the roof. In the event of approval, Condition 10 is recommended to have the measures implemented, noting this not a standard requirement for grouped dwellings.

**State Planning Policy 7.3 - Residential Design Codes – Volume 1**

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setback, lot boundary setback and parking. A new version of the Codes for low and medium density development will come into effect on 1 September 2023 (R-Codes 2023). Consistent with Western Australian Planning Commission advice to local government, the City has assessed the development against the deemed-to-comply provisions of the R-Codes 2021. Where a design principle assessment has been required, due regard has been made to the relevant design principle of the R-Codes 2023.

**Street Setback**

Units 2 and 3 propose a 1.0m – 1.1m setback to the common property. The design principles for communal street setbacks consider the streetscape, privacy, site planning requirements and building mass. The development meets the design principles as:

* The setback is internal to the lot and has no adverse impact on any external lots or the streetscape.
* Open space achieves the deemed-to-comply provisions of the R-Codes.
* The proposal responds to site planning requirements, including vehicle access, parking, landscaping and utility services. These site planning requirements are appropriately screened from the street interface where possible.
* The development provides a functional 2.1m setback from the upper floor balcony to the primary street.

**Lot Boundary Setback**

Units 1 and 4 propose a 1.85m lot boundary setback to the balcony on the first floor, whilst Units 2 and 3 propose a 2.0m setback on the first floor and 2.7m setback on the second floor to both the northern and southern lots. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposed northern lot boundary setbacks are considered to meet the design principles for the following reasons:

* The proposed lot boundary setbacks do not impede on any adjoining lot’s solar access or ventilation. Solar access achieves the deemed-to-comply provisions of the R-Codes.
* The external walls feature multiple articulations along the length of the boundary, across all storeys which reduces the impact of building bulk by breaking up the mass of built form addressing the northern and southern lots.
* The proposed setbacks do not impact adjoining properties in terms of overlooking. The development satisfies the deemed-to-comply provisions of the R-Codes.
* The proposed lot boundary setbacks and boundary walls are consistent with the site’s density code and a grouped dwelling proposal.

**Parking**

The development proposes no visitor bays. The design principles for parking consider the availability of on-street parking and the proximity of the site to public transport. The proposed parking is considered to meet the design principles as outlined below.

**Availability of On-street Parking:**

Unrestricted parking is available on the eastern side of Louise Street. No stopping is permitted on the western side of Louise Street along the frontage to the Peace Memorial Rose Gardens.

Proximity to High Frequency Public Transport:

The subject site is located 100m from Stirling Highway, on which there are two ‘900 series’ high frequency bus routes – the 995 (Perth-Claremont) and 998/999 (Circle Route). The 900 series routes provide a daytime off-peak service frequency of 15 minutes in each direction, seven days a week. This exceeds the R-Codes definition of a ‘high frequency route’, which requires a 15-minute frequency only during the weekday morning and afternoon peaks of 7am-9am and 5pm-7pm respectively.

The nearest bus stops are located approximately 140m (towards Claremont/Fremantle) and 200m (towards Perth/Stirling) from the site. The service frequency in Stirling Highway is high given the combination of routes. Unlike many bus routes in Perth, there is a significant contraflow patronage that creates high frequencies in both directions of travel for both peaks. In the AM peak eastbound, there is a 995 bus to Perth every 10-13 minutes and a 998 Circle Route to Stirling every 8-15 minutes. For eastbound travel in the PM peak, the 995 operates every 12-15 minutes and the 998 every 8-18 minutes. For westbound travel, the 995 bus to Claremont operates every 10-15 minutes in the AM peak and every 6-15 minutes in the PM peak. The 999 Circle Route to Fremantle operates every 8-15 minutes during both peaks.

Where the site is located within 250m of a high frequency bus route, or multiple bus routes that, if combined, have timed stops every 15 minutes during the weekday peak periods, the deemed-to-comply parking provisions for “Location A” can be used. As outlined above, the site is located within this distance and is served by two separate bus routes that exceed the high frequency criteria. Indeed, both routes provide a minimum 15-minute frequency for at least 13 hours each weekday. Given this proximity, the deemed-to-comply parking provision for this development is 1 car parking space per dwelling. As 2 spaces are provided for each dwelling, there is ‘spare capacity’ available to accommodate visitor parking.

It is considered that the combination of the provision of the 2 car parking bays per dwelling without a visitor parking space is sufficient given the availability of on-street parking and the site’s proximity to high frequency public transport.

**WAPC Subdivision Approval**

The subdivision for four lots with common property was approved by the Western Australian Planning Commission on 1 October 2021 without provision for a visitor bay in common property, notwithstanding the deemed-to-comply requirement for a visitor bay was introduced on 2 July 2021. As the submission was approved after the deemed-to-comply provision came into effect, it is accepted that the WAPC exercised a judgement of merit and permitted the subdivision to occur without visitor parking.

**Upcoming Visitor Parking Changes**

The deemed-to-comply requirement for visitor parking in grouped dwellings was limited to five dwellings or more served by a common access before 2 July 2021. From this date, the deemed-to-comply provision was modified to allow for four dwellings served by a common driveway to include a visitor bay.

The WAPC has recently released a revised version of the R-Codes Volume 1, which will become effective on 1 September 2023. From this date, visitor parking will revert to situations where five or more dwellings are served by a common driveway. It is noted that the deemed-to-comply provision for visitor parking for this 4-unit development will become nil from 1 September 2023.

**State Planning Policy 5.4 Road and Rail Noise**

The objective of State Planning Policy 5.4 is to protect the community from unreasonable levels of transport noise and ensure transport infrastructure and land use can mutually exist within urban corridors. The subject site is within the policy “trigger distance” of Stirling Highway, which is an “other significant freight/traffic route”. Where a site is located within or partly within a trigger distance, an assessment against the state planning policy is required to determine the likely level of transport noise and management/mitigation required.

The state planning policy provides a noise target for noise-sensitive land use, such as dwellings. These targets recommend a maximum daytime and night-time decibel level of 55dB and 50dB respectively for outdoors. For indoors the daytime recommendation is 40dB for living and work areas. At night in bedrooms the recommendation is 35dB. It is recommended that a condition be placed on any approval granted by Council that an acoustic report is prepared, and all dwellings incorporate sufficient sound attenuation measures in accordance with this policy.

**Nedlands Stirling Highway Activity Corridor - Residential Local Planning Policy**

The City is currently preparing a local planning policy to augment the Residential Design Codes for development in the R60 and R160 areas of the Stirling Highway corridor. Consideration of public submissions made on the draft policy is scheduled for the April Ordinary Council Meeting. As the draft Policy had not been adopted by Council at the time of assessment of this proposal, it has been afforded little weight in the assessment. This is consistent with the legal principles of “seriously entertained planning proposals” and the consideration of “certainty and imminence”.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to five adjoining properties. The application was advertised for a period of 14 days from 16 January 2023 to 30 January 2023. At the close of the advertising period, two objections were received.

**Community Concerns/Comments**

1. Lot boundary setbacks should be increased to the southern lot boundary

The proposed setbacks to the south are consistent with the immediate development context and are unlikely to negatively impact the amenity of adjoining landowners or the streetscape. Refer to discussion on Clause 5.1.3 – Lot Boundary Setback.

1. Unit 3 terrace screening should be increased to 1.9m to prevent overlooking.

The terrace of Unit 3 is provided with a 1.6m high screen and meets the deemed-to-comply provisions of the R-Codes relating to visual privacy. The screening will be conditioned to ensure compliance.

1. Unit 2 first storey and Unit 3 second and third storey stairwell openings should be obscured to prevent overlooking.

The openings to the stairwell of Unit 2 and Unit 3 meet the deemed-to-comply provision of the R-Codes as they are not openings to habitable rooms. However, the applicant submitted amended plans after the advertising process to make these openings highlight windows to address this concern.

1. Concerns regarding the lack of a designated visitor car parking bay within the site.

The development proposal is seeking a judgement of merit for the visitor car parking. Refer to discussion on Clause 5.3.3 – Parking. It is noted that the WAPC approved the subdivision without the provision of a visitor car parking bay. As the lots and common property have been previously created, it is difficult to retrofit a visitor bay that is located within common property and available to all lots.

**Agenda Forum 14 March 2023**

1. What does Condition 5 relate to?

Condition 5 relates to the screening of the roof terrace balconies for Units 2 and 3. The screening is shown on the plans, with the Condition bolstering this by requiring the height and type of screening to meet the R-Codes requirements for screening.

1. Can we condition a louvred roof rather than solid roof?

It is understood that this relates to the upper floor balconies for Units 1 and 4 (front units). A review of the plans shows that there are two outdoor living areas for these units. The first is a ground level courtyard of 29-32m², which is approximately 60% unroofed and meets the design principles for outdoor living areas. The second area is a roofed balcony. Officers are satisfied that there is sufficient access to winter sun and natural ventilation and that the space optimizes the northern aspect of the site.

Requiring the upper level balconies to be unroofed or louvred is not necessary to achieve the requirements of the R-Codes given the presence of the ground level courtyard. Any modification of the roofline by a planning condition may have unforeseen streetscape or design implications. Officers recommend the roof of Units 1 and 4 remain unaltered.

1. Copy of the Design Review Report

Since preparation of the first report on this matter, the proposal has been reviewed by the Chair of the Design Review Panel. The outcomes of this review are outlined elsewhere in this report.

1. Visitor Car Parking for Subdivision

When considering subdivisions, the WAPC have regard to the visitor car parking requirements of the R-Codes. As they currently stand, one visitor space is required for 4 dwellings served by a common lot, 2 spaces for 5-8 dwellings and 3 spaces for 9-12 dwellings. The requirement for 4 dwellings to have a visitor bay is relatively new, having been introduced on 2 July 2021. As explained elsewhere in this report, the requirement for 4 dwellings to have a visitor space as a deemed-to-comply requirement will be removed on 1 September 2023.

1. NATHERS rating changes

Dwellings are currently required to meet a 6 star NATHERS rating as a requirement of the National Construction Codes (NCC). The upcoming NCC 2022 will increase the level of energy efficiency to 7 stars. The timing for this change is subject to government confirmation. It is noted that this is a national requirement that will affect all house construction in Australia. There is no need for a planning intervention, such as a condition of approval, to trigger this requirement.

1. Definition of Location A for parking and presence of high frequency buses near site.

Officers have provided further information in this report on both the parking deemed-to-comply provisions and the presence of high frequency bus routes in the vicinity.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment.

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for four grouped dwellings has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration’s recommendation.

**Further Information**

Nil.

# Divisional Reports - Corporate & Strategy Report No CPS16.04.23 to CPS18.04.23

# CPS16.04.23 Monthly Financial Report – March 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Accountant Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Financial Activity – 31 March 2023  2. Statement of Net Current Assets – 31 March 2023  3. Statement of Comprehensive Income – 31 March 2023  4. Statement of Financial Position – 31 March 2023  5. Reserve Movements – 31 March 2023  6. Borrowings – 31 March 2023  7. Capital Works Program – 31 March 2023 |

**Purpose**

Administration is required to provide Council with a monthly financial report in accordance with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*. The monthly financial variance from the budget of each business unit is reviewed with the respective manager and the Executive to identify the need for any remedial action. Material variances are highlighted to Council in the attached Monthly Financial Report.

**Recommendation**

**That Council receive the Monthly Financial Report for 31 March 2023.**

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

The monthly financial management report meets the requirements of regulation 34(1), 34(3), and 34(5) of the *Local Government (Financial Management) Regulations 1996*.

The attached report shows the month end position as at the end of March 2023. Please note that the opening position is a preliminary result for the year ended 30 June 2022 as the Financial Statements for 2021/22 are still being finalised and as a result will be subject to change. The municipal closing surplus as at 31 March 2023 is $9,673,299 which is a $5,756,791 favourable variance, compared to a budgeted surplus for the same period of $3,916,508.

The operating revenue at the end of March 2023 was $34,104,204 which represents a $551,349 unfavourable variance compared to the year-to-date budget, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of March 2023 was $27,299,573, which represents a $1,615,896 favourable variance compared to the year-to-date budget, primarily in employee costs, and materials and contracts.

The attached Statement of Financial Activity compares Actuals with Amended Budget by Nature or Type as per regulation 34 (3) of the *Local Government Financial Management Regulations 1996*. Material variances, as defined by a previous decision of Council, from the budget of revenue and expenditure are detailed below.

**Operating Activities**

**Operating grants, subsidies, and contributions**

Unfavourable variance of $1,057,512 primarily due to timing of revenue recognition of Nedlands Community Care grants of $783,213.

**Fees and charges**

No variance analysis required as variance to budget is less than 10%.

**Service charges**

No variance analysis required as variance to budget is less than $20,000.

**Interest earnings**

No variance analysis required as variance to budget is less than 10%.

**Other revenue**

Favourable variance of $359,561 primarily due to unbudgeted sundry income in civil maintenance.

**Employee costs**

No variance analysis required as variance to budget is less than 10%.

**Materials and contracts**

Favourable variance of $1,412,201 primarily due to contract services for parks maintenance $322,365, buildings maintenance of $250,842, fleet of $147,204, arboriculture of $132,830.

**Utility charges**

Unfavourable variance of $103,404 primarily due to timing of water and electricity bills.

**Depreciation and amortisation**

No variance analysis required as variance to budget is less than 10%.

**Insurance expenses**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Interest expenses**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Other expenditure**

Unfavourable variance of $125,379 primarily due to timing of sundry purchasing in the Information Technology business unit.

**Loss on disposal of assets**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Investing Activities**

**Non-operating grants, subsidies, and contributions**

Favourable variance of $740,125 primarily due to grant revenue recognised ahead of schedule.

**Proceeds from disposal of assets**

No variance analysis required as variance to budget is less than $50,000.

**Purchase of property, plant, and equipment**

No variance analysis required as variance to budget is less than 20%.

**Purchase and construction of infrastructure**

Favourable variance of 1,129,094 primarily due to timing of accounts being settled for completed projects.

**Payments for intangible assets**

Favourable variance of $530,951 primarily due vacant positions within the OneCouncil team and rescheduling of consultant bookings.

**Financing Activities**

**Repayment of borrowings**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Recoup from self-supporting loans**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Payment for principal portion of lease liability**

No variance analysis required as variance to budget is less than $20,000.

**Transfer to reserves**

Unfavourable variance of $1,266,280 due to timing of transfers being processed.

**Transfer from reserves**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Rates**

No variance analysis required as variance to budget is less than 10%.

Outstanding rates debtors are $3,279,498 as at 31 March 2023 compared to $2,196,000 as at 31 March 2022. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **31 March 2023** | **31 March 2022** | **Variance** |
| Rates & UGP | $2,684,033 | $1,649,000 | $1,035,033 |
| Rubbish & Pool | $87,650 | $82,000 | $5,650 |
| Pensioner Rebates | $434,802 | $391,000 | $43,802 |
| ESL | $73,013 | $74,000 | ($987) |
| **Total** | **$3,279,498** | **$2,196,000** | **$1,083,498** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Full time / Part time / Casual - Total Headcount | 182.00 |
| Establishment (Budgeted FTE) | 169.04 |
| Occupied positions (FTE) | 147.97 |
| Casual positions (FTE) | 9.52 |
| Contract employees - temporary/agency (FTE) | 6.00 |
| Resignations (employee number) | 5.00 |

The figures reported are as at the end of the calendar month of March 2023.

**Consultation**

N/A

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

The 2022/23 approved budget is in line with the City’s strategic direction and was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control. The budget was based on a zero-based budgeting concept which requires all income and expenses to be thoroughly reviewed against data and information available to perform the City’s services at a sustainable level. Our operations and capital spend, and income is undertaken in line with and measured against the budget. This ensures that there is an equitable distribution of benefits in the community.

**Budget/Financial Implications**

At the Special Council Meeting on 11 August 2022, item CPS36.08.22, Council adopted the following thresholds for the reporting of material financial variances in the monthly statement of financial activity reports:

a. Operating items – Greater than 10% and a value greater than $20,000

b. Capital items – Greater than 10% and a value greater than $50,000

pursuant to regulation 34(5) of the *Local Government (Financial Management) Regulations 1996*, and *Australian Accountings Standard AASB 1031 Materiality*.

**Legislative and Policy Implications**

[*Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement)*,* and *Australian Accounting Standards.*

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as at 31 March 2023 is $9,673,299 which is favourable, compared to a budgeted surplus for the same period of $3,916,508 being a 146.99% variance.

The operating revenue at the end of March 2023 was $34,104,024 which represents a $551,349 or 1.59% unfavourable variance compared to the year-to-date budget of $34,655,373, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of March 2023 was $27,299,573, which represents a $1,615,896 or 5.59% favourable variance compared to the year-to-date budget of $28,915,469, primarily in materials and contracts and employee costs.

**Further Information**

Nil.

# CPS17.04.23 Monthly Investment Report – March 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Accountant Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Investment Report for the period ended 31 March 2023 |

**Purpose**

In accordance with the Council’s Investment Policy, Administration is required to present a summary of investments to Council on a monthly basis.

**Recommendation**

**That Council receive the Investment Report for the period ended 31 March 2023.**

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

Council’s Investment of Funds report meets the requirements of Section 6.14 of the *Local Government Act 1995.*

The Investment Policy is structured to minimise any risks associated with the City’s cash investments. The officers adhere to this Policy, and continuously monitor market conditions to ensure that the City obtains attractive and optimum yields without compromising on risk management.

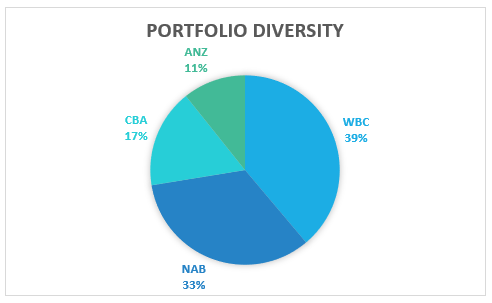
The Investment Summary shows that as at 31 March 2023 and 31 March 2022 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **31 March 2023** | **31 March 2022** |
| Municipal | $2,128,139 | $15,485,848 |
| Reserve | $ 8,373,644 | $5,328,730 |
| **Total Investments** | **$10,501,783** | **$20,814,578** |

The total interest earned from investments as at 31 March 2023 was $232,500, comprising of $178,868 received at maturity and $53,631 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB | $ 3,526,218 | 33% |
| WBC | $ 4,079,657 | 39% |
| ANZ | $ 1,126,712 | 11% |
| CBA | $ 1,769,196 | 17% |
| **Total** | **$ 10,454,851** | **100.00%** |



**Consultation**

N/A.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values**  **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

The March 2023 YTD Actual interest income from investments is $232,500 compared to the March 2023 YTD Budget of $276,870.

**Legislative and Policy Implications**

City of Nedlands - [Investment of Council Funds Policy](https://www.nedlands.wa.gov.au/documents/285/investment-of-council-funds)

**Decision Implications**

Nil.

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

Nil.

# CPS18.04.23 List of Accounts Paid – March 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Accountant |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Creditor Payment Listing – March 2023; and 2. Credit Card and Purchasing Card Payments – March 2023 |

**Purpose**

The purpose of this report is to present list of accounts paid for the month of March 2023.

**Recommendation**

**Council receives the List of Accounts Paid for the month of March 2023.**

**Voting Requirement**

Simple Majority.

**Background**

*Regulation 13* of the *Local Government (Financial Management) Regulations 1996* requires a list of accounts paid to be prepared each month, showing each account paid since the last list was prepared. This list is to include the following information:

1. the payee’s name;
2. the amount of the payment:
3. the date of the payment; and
4. sufficient information to identify the transaction.

**Discussion**

The accounts payable procedures ensure that risk is managed, and no fraudulent payments are made by the city, and these procedures are strictly adhered to by the officers. These include the final vetting of approved invoices by the Coordinator Revenue and the Manager Financial Services (or designated alternative officers).

**Consultation**

Nil.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Priority Area**

Nil.

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

In accordance with regulation 13 of the [*Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement) administration is required to present the List of Accounts Paid for the month of September 2022 to Council.

**Decision Implications**

Nil.

**Conclusion**

The List of Accounts Paid for the months of March 2023 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO09.04.23

# CEO09.04.23 Register of Outstanding Council Resolutions

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No officer involved in the preparation of this report has a declarable interest. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **CEO** | Bill Parker |
| **Attachments** | 1. Register of Outstanding Council Resolutions April 2023 (attachment to be included with Council Agenda) |

**Purpose**

For Council to consider the Register of Outstanding Council Resolutions (OCR) and the actions taken by Administration in progressing these items.

**Recommendation**

**That Council receives the Register of Outstanding Council Resolutions dated April 2023.**

**Voting Requirement**

Simple Majority.

**Background**

Council has requested that all Outstanding Council Resolutions be tabled on a monthly basis at the Ordinary Council Meeting. The first OCR report was tabled at the March Ordinary Council Meeting.

**Discussion**

Attached to the Council report is the register of OCRs for Council’s noting and consideration.

The report has been updated by officers when required.

Information will be periodically provided to Councillors on previous resolutions of Council that:

(i) have been completed since the last update and

(ii) have not yet been fully implemented. Reasons for any delays or unforeseen challenges are included.

Councillors are able to seek an update on any particular project or resolution outside of the reporting period, by contacting the CEO directly for information.

**Consultation**

Nil.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

[*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)

**Decision Implications**

Councillors have oversight of the implementation of previous Council decisions, through access to the Register and the Councillor portal. Information on decisions may be provided through the CEO Weekly update, and direct request to the CEO. The City may include the register on the website to provide transparency to the community, although the community is able to access the document through the Council agenda.

**Conclusion**

That the Council receives the Register of Outstanding Council Resolutions for noting.

**Further Information**

Nil.

# CEO10.04.23 Annual Report 2021/22

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 26 April 2023  Audit & Risk Committee Meeting – 20 April 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No officer involved in the preparation of this report has a declarable interest. |
| **Report Author** | Nicole Ceric – Executive Officer |
| **CEO** | Bill Parker |
| **Attachments** | 1. Annual Report 2021/22 |

**Purpose**

The purpose of this report is to present the Annual Report for the financial year 2021/22 to Council for its acceptance, and to set the date for the General Meeting of Electors.

The Annual Report, including the Audited Annual Financial Statements for the year ending 30 June 2022 will be presented to the Audit & Risk Committee on 20 April 2023 for consideration. As a consequence, this report may be updated prior to the issue of the Council Meeting Agenda.

**Audit & Risk Committee Recommendation / Recommendation**

**That Council:**

1. **accepts the Annual Report, including the Audited Annual Financial Statements for the year ending 30 June 2022.**
2. **agrees to hold the Annual General Meeting of Electors at 6:00pm, Monday, 15 May 2023 in the Council Chamber, 71 Stirling Highway, Nedlands.**

**Voting Requirement**

Absolute Majority.

**Background**

Local Governments must prepare an Annual Report for each financial year. The Annual Report is to contain the following -

* a report from the Mayor,
* a report from the Chief Executive Officer,
* an overview of the plan for the future of the district including major initiatives that are proposed to commence or continue in the next financial year,
* the Financial Report,
* Auditor’s Report prepared under section 7.9(1) or 7.12AD(1) for the financial year, and
* such other information as prescribed.

Section 5.54 of the Act requires the annual report for a financial year to be accepted by the local government no later than 31 December after that financial year, however, if the auditor’s report is not available in time for the annual report for a financial year to be accepted by 31 December, the annual report is to be accepted no later than two months after the auditor’s report becomes available.

As reported to the Audit and Risk Committee the 2021/22 Annual Financial Statements were unable to be finalised in time for the audit to be completed by 31 December 2022.

**Discussion**

The Annual Report and the 2021/22 Audited Financial Statements provide an overview of the activities of the City. The City has prepared the Annual Report in accordance with section 5.53 of the *Local Government Act 1995*.

**Consultation**

In accordance with section 5.55 of the *Local Government Act 1995*, the CEO is to give local public notice of the availability of the Annual Report as soon as practicable after the report has been accepted by the local government.

The Annual Report and the Audited Financial Statements for the year ending 30 June 2022 will be considered by the Audit and Risk Committee at its meeting on 20 April 2023.

The Annual Report will be discussed at the Annual General Meeting of Electors.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

The cost associated with the graphic design of the Annual Report and the giving of local public notice, can be met from the City’s operational budget.

**Legislative and Policy Implications**

[Section 5.53 of the *Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)requires a Local Government to prepare an Annual Report for each financial year.

Sections 5.27, 5.29, 5.53, 5.54 and 6.4 of the *Local Government Act 1995* respectively deal with the requirement for a General Meeting of Electors each financial year and the requirement for an Annual Financial Report.

**Decision Implications**

Should Council endorse the recommendation:

1. The CEO will give local public notice of the availability of the Annual Report as soon as practicable.
2. The Annual General Meeting of Electors will be convened.
3. The Annual Report will be presented at the Annual General Meeting of Electors.

If Council does not endorse the recommendation, the City will be in breach of its above statutory obligations.

**Conclusion**

Council’s acceptance of the Annual Report for the City of Nedlands for the year ended 30 June 2022 comprising the Annual Report and Financial Report is recommended.

**Further Information**

**Question**

Councillor Smyth – Can the grey boxes over the writing be removed for clearer viewing for disability access in the financial report?

**Officer Response**

The final version of the annual financial statements will have the grey shading removed.

**Question**

Councillor Mangano – Utility charges why have these gone over?

**Officer Response**

The over budget spend on utilities relates to the budget adopted for Parks Maintenance and Buildings Maintenance. For these service areas, the budget was allocated to Materials and Contracts. The over budget expenditure on Employee costs and Utilities is offset by savings in Materials and Contracts. This was addressed in the 2021/22 Mid-Year Budget review and for the 2022/23 Annual Budget.

# Council Members Notice of Motions of Which Previous Notice Has Been Given

Nil.

# Urgent Business Approved By the Presiding Member or By Decision

The following urgent items were approved by the Presiding Member.

# PD18.04.23 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 91 Broadway, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 26 April 2023 |
| **Applicant** | Allerding & Associates |
| **Information Provided** | All relevant information required has been provided. |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

**Purpose**

The purpose of this report is for Council to consider a Joint Development Assessment Panel (JDAP) application at 91 Broadway, Nedlands. Amendments are proposed to the previously approved mixed-use development of 17 multiple dwellings and an office at the subject site.

Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 28 April 2023.

Administration recommends Council adopt the Officer Recommendation for approval.

**Recommendation**

**That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the amendments to the approved mixed-use development at 91 Broadway, Nedlands as follows:**

**It is recommended that the Metro Inner-North JDAP resolves to:**

1. **Accept that the DAP Application reference DAP/21/02110 as detailed on the DAP Form 2 dated 24 January 2023 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;**
2. **Approve DAP Application reference DAP/21/02110 and accompanying plans dated stamped 6 April 2023 (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 16 of the City of Nedlands Local Planning Scheme No. 3, for the proposed amendments to the approved development of 17 multiple dwellings and an office at 91 Broadway, Nedlands.**

**Amended Conditions**

1. **Prior to the issue of a building permit, a revised Landscape Plan is to be provided to the satisfaction of the City of Nedlands.**

**New Advice Notes**

**General Advice**

1. **The applicant/owner is advised that a public open space contribution will likely be required at the subdivision stage of the development, consistent with DC 2.3 Public Open Space in Residential Areas and the Planning and Development Act 2005.**

**All other conditions and requirements detailed on the previous approval dated 1 February 2022 shall remain unless altered by this application.**

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

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| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use R-AC3 |
| **R-Code** | R-AC3 |
| **Land area** | 880m2 |
| **Land Use** | Residential (Multiple Dwellings) |
| **Use Class** | ‘P’ – Permitted Use |

**Application Details**

The “Form 2” application under regulation 17 of the Development Assessment Panel Regulations 2011 proposes:

* Removal of a two-bedroom unit on the first floor.
* Relocation of communal open space on the sixth floor to the first floor.
* Addition of a three-bedroom dwelling on the sixth floor.
* Increase in plot ratio from 2.21 to 2.26.
* Increase in height from 20.35m to 20.58m.
* Removal of 1.6m high obscure glazing to street facing balconies and front living areas of Units 5, 6, 9, 10, 14 and 16.

All other amendments to the development are considered minor and are broadly consistent with the approved development.

An application under regulation 17 is not an application for a review or reconsideration of the original decision. The proposed modifications sought are deemed minor in nature. The proposal appropriately addresses the Element Objectives of the R-Codes and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

**Existing Approvals**

An application for the development of 17 multiple dwellings and an office at this subject site was previously considered by the Joint Development Assessment Panel (JDAP). The JDAP resolved to approve the application, subject to conditions on 1 February 2022.

**Discussion**

**Assessment of Statutory Provisions**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), Residential Design Codes Volume 2 – Apartments.

**Increase in height**

The approved development proposed a maximum building height of 20.35m (measured to the roof of the fifth floor). This application proposes a maximum height of 20.58m above natural ground level at its highest point, which is the eastern portion of the sixth floor roof (exclusive of the vergola).

The approved ground floor level of the development is more than 50% below natural ground level and does not constitute a storey in accordance with the R-Codes definition. The approved original development also included the enclosed rooftop communal open space as a ‘storey’, therefore there is no increase in ‘storey height’ as part of this application and the proposal remains a six storey development. This is consistent with the Acceptable Outcomes of the R-Codes for an R-AC3 site.

**Increase in plot ratio**

The approved development proposed a plot ratio of 2.21. This application proposes an increase of plot ratio by 0.05 (50m2) to total 2.26 which equates to approximately 236m2 of additional floor space over the acceptable outcome. This is due to the removal of a two-bedroom unit on the first floor and the addition of a three-bedroom unit on the sixth floor.

The minor increase in plot ratio proposed by this amendment will not negatively impact the bulk and scale of the approved development and is appropriate for the existing and planned character of the area.

**Relocation of communal open space**

The approved development proposed the communal open space on the rooftop, in the form of a rooftop terrace. This application proposes the relocation of the communal open space to the first floor. The communal open space has increased in size from 137m2 to 165m2.

An Acoustic Report and a Noise Management Plan were placed as conditions of the approved development and will continue to apply to the amended development, if approved.

**Visual privacy**

This amended application proposes the removal of several previously approved visual privacy screens from the following areas:

* Window along the southern elevation to the living room of Unit 6 on the second floor.
* Windows along the northern and southern elevations to the living rooms and front facing balconies of Units 9 and 10 on the third floor.
* Window along the northern elevation to the living room and front facing balcony of Unit 14 on the fourth floor.
* Window along the northern elevation to the living room and front facing balcony of Unit 16 on the fifth floor.

All visual privacy alterations to windows and balconies proposed are located at the front of the development adjacent to Broadway. Overall, the removal of additional screening to these balconies is considered appropriate in this context as they are the primary outdoor living areas for the dwellings and will result in increased street activation, ventilation and direct solar access.

**Alterations to dwelling layouts**

The original application proposed 17 apartments consisting of 14 two-bedroom units and 3 three-bedroom units. This application proposes the removal of a two-bedroom unit on the first floor and the addition of a three-bedroom unit on the sixth floor. Overall, the number of apartments remains at 17 and is unchanged. The dwelling mix remains consistent with the original application with a total of 13 dwellings provided with 2 bedrooms and 4 dwellings provided with 3 bedrooms.

**Consultation**

The application was advertised for 28 days from 10 February 2023 to 10 March 2023. The application was advertised in the following manner:

* Letters sent to all landowners and occupiers within a 200m radius of the subject site;
* A sign on site was installed at the site’s street frontage;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A notice was placed in The Post newspaper published on 11 February 2023;
* A social media post was made on one of the City’s Social Media platforms;
* A notice was affixed to the City’s Noticeboard at the City’s Administration Offices; and
* A community information session was made available on 23 February 2023, however no residents were present.

Upon conclusion of advertising, a total of two objections were received.

A summary of the key issues and comments is provided below:

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| --- | --- |
| **Issue Raised** | **Officer comments** |
| The height of the building is inconsistent with the streetscape. | This application proposes a minor increase in height from 20.35m to 20.58m and remains within the expectations of the R-AC3 coding. The bulk and scale of the building remains consistent with approvals in the surrounding area. |
| Improved activation on street level. | The proposed modifications do not relate to the ground floor interface with the street and do not result in any changes to the design or office space on the ground floor of the approved development. |
| Lack of amenity for future residents. | The development satisfies the provisions of the R-Codes Volume 2 including key design elements such as solar access, ventilation, size of dwellings, visual privacy and building separation to provide high quality liveable spaces for future occupants and ensure that the development does not have an adverse impact on surrounding properties or the streetscape. |
| Performance and change in location of car stackers is concerning for vehicle manoeuvrability. | The proposed modifications do not alter the amount of parking proposed on site from the approved development. The future performance and life span of the car stackers is not a consideration that can impact the determination of this application. A condition was placed on the approved development requiring all car parking dimensions and manoeuvring areas to comply with the Australian Standard 2890.1 -2004. This will also be applied for this application. |
| Vehicle access point. | The proposed modifications do not alter the vehicle access from Broadway to the subject site from the approved development. |
| Visual privacy concerns. | This application proposes the removal of several minor visual privacy screening devices. The removal of the privacy screens is considered appropriate as it mostly avoids direct overlooking of habitable spaces and meets the element objective of Element 3.5 – Visual Privacy as outlined below. |

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form – protecting our quality living environment

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

Council is requested to make a recommendation to the JDAP in accordance with Regulation 17 of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44190.pdf/$FILE/Planning%20and%20Development%20(Development%20Assessment%20Panels)%20Regulations%202011%20-%20%5B00-n0-00%5D.pdf?OpenElement)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat by 28 April 2023. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

An application under r.17 of the Development Assessment Panel Regulations 2011 is not an application for a review or reconsideration of the original decision. The proposed modifications sought are deemed minor in nature. The proposal is considered to appropriately address the Element Objectives of the R-Codes, objectives of the ‘Residential’ zone and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

**Further Information**

N/A

# Confidential Items

Confidential items to be discussed at this point.

# Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.