

Planning and Development Reports

Committee Consideration – 12 June 2018

Council Resolution – 26 June 2018

Table of Contents

Item No.		Page No.
PD24.18	(Lot 277) No. 176 Stirling Highway, Nedlands – Proposed Change of Use (From Restaurant to Shop and Office - General).....	2
PD25.18	(Lot 276) No. 25 Webster Street, Nedlands – Retrospective Additions to Single House	9
PD26.18	(Lot 222) No. 3 Whitfeld Street, Floreat– Proposed Single Dwelling	17
PD27.18	(Lot 556) No. 13 Minora Road, Dalkeith – Single Dwelling	26
PD28.18	(Lot 629) No. 92 Thomas Street, Nedlands – Proposed Patio.....	33
PD29.18	(Lot 14867) No. 55 Jutland Parade, Dalkeith – Proposed Additions to Clubhouse	39

Council: 26 June 2018

PD24.18	(Lot 277) No. 176 Stirling Highway, Nedlands – Proposed Change of Use (From Restaurant to Shop and Office - General)
----------------	---

Committee	12 June 2018
Council	26 June 2018
Applicant	Altus Planning
Landowner	G Sgroi and P Lo
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA18/28153
Previous Item	Nil
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Photograph of subject property from Rockton Road

1.0 Executive Summary

Development approval is being sought for a shop and an office to operate from the premises which are currently used as a restaurant (Gargano).

No car parking bays exist on the property due to the site layout therefore the application was advertised to nearby landowners and occupants for comment. During the advertising period 3 objections were received.

It is recommended that the application be approved by Council as considering the nature and scale of the proposed use it is unlikely to have a significant adverse impact on the local amenity in terms of car parking, traffic volume and/or noise.

2.0 Recommendation to Committee

Council approves the development application for the proposed change of use (from restaurant to shop and office - general) at (Lot 277) No. 176 Stirling Highway, Nedlands, in accordance with the application received on 10 April 2018, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. The proposed use complying with the Shop and Office - General definition stipulated under the City's Town Planning Scheme No. 2 (refer to advice note 1).**
- 3. A maximum of 5 staff on the premises at any one time.**
- 4. The shop and office only being permitted to operate between the following times:**
Monday to Thursday – 10.00am and 9.00pm
Friday and Saturday – 9.00am and 9.00pm
Sunday – 11.00am and 7.00pm

5. **Service and/or delivery vehicles shall not service the premises before 7:00am or after 7:00pm Monday to Saturday or before 9:00am or after 7:00pm on any Sunday or public holiday, unless otherwise approved by the City.**
6. **The service and delivery vehicles associated with the proposed shop and office being of a size able to be parked within a car parking bay without encroaching into adjoining bays.**

Advice Notes specific to this proposal:

1. **With regard to Condition 2, the applicants are advised that the use Shop and Office - General are defined as being the following under the City's Town Planning Scheme No. 2:**

Office: General - means a building wherein is carried on the business of administration, the carrying on of agencies, typist and secretarial services, and services of similar nature or, where not conducted on the site thereof, the administration of, or the accounting in connection with any industry or other business, the administration of commercial transactions generally, civic and public authority offices, and offices generally, but shall exclude Service Offices and Professional Offices;

Shop - means any building wherein goods or services are exposed or offered for sale by retail and without limiting the generality of the foregoing shall include:

shops for the sale of foodstuffs generally, clothing, drapery, furniture and furnishings, footwear, hardware, electrical goods, sporting goods, toys and second-hand goods; jewellers, chemists, stationers, newsagents, variety stores, photographic studios and supplies, florists, dry-cleaning agencies, barbers and hairdressers; and liquor stores;

but shall not include a service office, a general office, a professional office or a market;

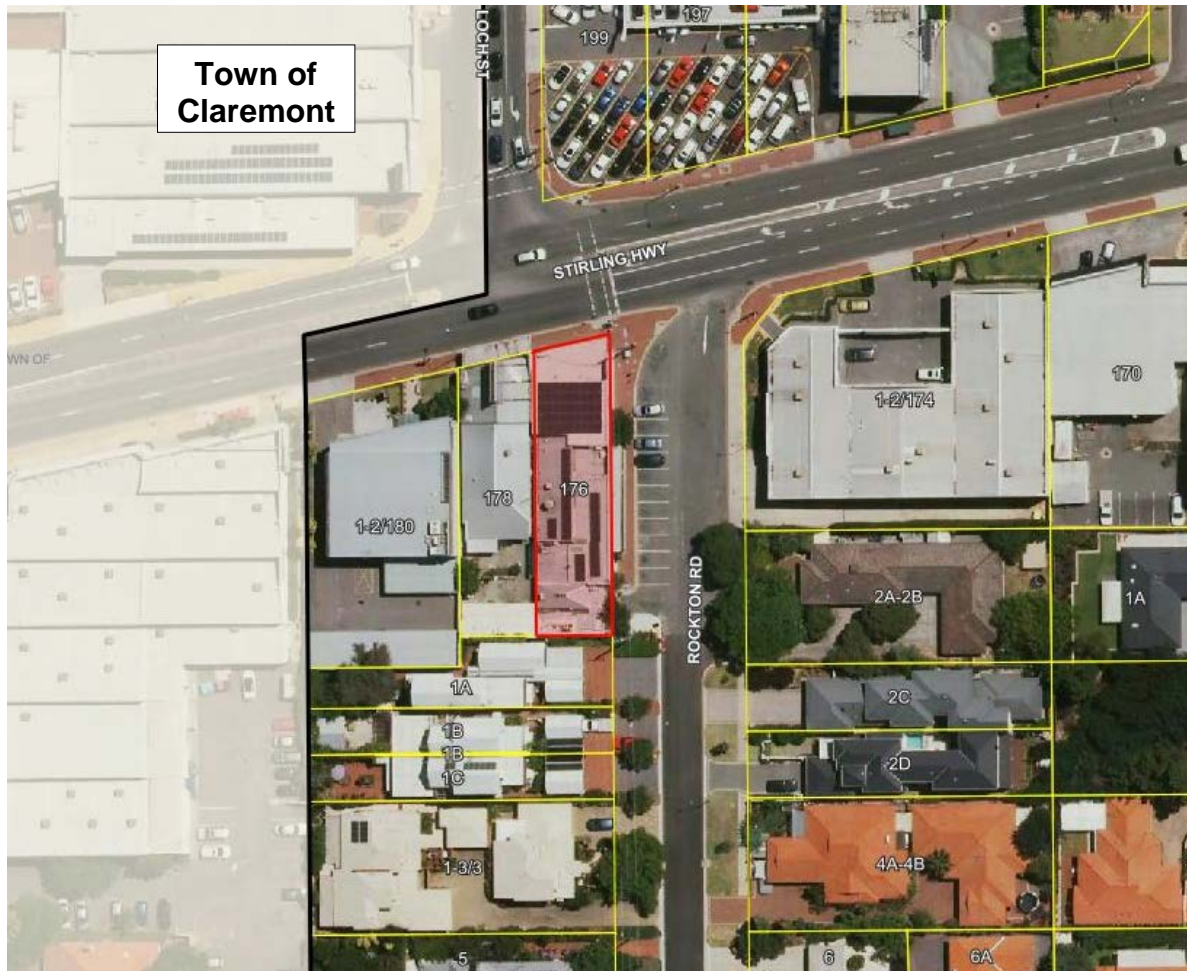
2. **A separate application may be required to be lodged and approved prior to the erection/installation of any signage on the lot.**
3. **A separate application will be required to be lodged and approved prior to increasing the number of staff and/or prior to changing the hours of operation.**
5. **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
6. **As a food business, an *Application for Food Premises Alteration/Fit-out* is required to be submitted to the City's Environmental Health Section for assessment and approval prior to any intended alteration works (advice note A4). The current cost of this application is \$275 and is likely to increase after 30 June 2018.**

7. Prior to operating the food business, a ***Food Business Registration / Notification Form*** is required to be lodged with the City. The food business cannot operate unless it receives a Certificate of Registration of a Food Business from the City and or is deemed exempt. The current cost for submitting a ***Food Business Registration / Notification Form*** is \$168 if it is to be registered or \$61 if it is deemed exempt. These fees are likely to increase after 30 June 2018.
8. Designated storage areas for cleaning chemicals and equipment and personal belongings shall be available and separate from any food preparation or food storage area.
9. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
10. The landowner is advised that the uses are required to comply with the ***Environmental Protection (Noise) Regulations 1997***, in relation to noise.
11. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

3.0 Site Details

Strata Lot area	506m ²
Metropolitan Region Scheme Zoning	Urban and Primary Regional Road
Town Planning Scheme No. 2 Zoning	Retail Shopping
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those to the east and west fronting Stirling Highway contain commercial uses (e.g. shops and offices). Properties to the south contain single and grouped dwellings as shown on the locality plan on the following page.



4.0 Background

In March 1991, Council resolved to approve a development application for the existing building to be used as a restaurant with a maximum of 100 seats. No parking bays were proposed to be available on site.

In April 1993, Council resolved to approve a development application for various additions to the restaurant with a maximum of 140 seats. No parking bays were proposed to be available on site.

5.0 Specific Application Details

This applicant seeks development approval to change the use of the premises from a restaurant to a shop and an office, details of which are as follows:

- The shop is proposed to be used as a liquor store.
- The office will be used for administration purposes associated with the shop.
- Up to 5 staff will be on site at any one time.
- The shop and office are proposed to operate between the following times:
Monday to Thursday – 10.00am and 9.00pm
Friday and Saturday – 9.00am and 9.00pm
Sunday – 11.00am and 7.00pm
- No signage is currently proposed.

- The applicant has advised that deliveries will be via a standard Mitsubishi vehicle (as is the case with their client's current operation in Mount Lawley) and therefore will be able to park in one of the car bays immediately adjacent to the subject premises without encroaching into other bays.
- The standard delivery times are proposed to be between 10.00am to 12.00pm.

6.0 Consultation

During the advertising period 3 objections were received.

The following is a summary of the concerns received:

- There being a number of liquor stores already operating nearby.
- The potential increase in traffic creating safety issues for road users.
- The uses potentially resulting in car parking issues.
- Noise levels associated with the shop's operation potentially being excessive.

The application was also referred to Main Roads WA for comment due to the property being affected by the proposed widening of Stirling Highway. No concerns were raised.

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

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Town Planning Scheme No. 2

7.2.1 Car Parking

The following amount of car parking bays are required for the existing use based on the most recent development approval granted:

Car Parking Required		Car Parking Bays Provided on Lot	Shortfall on Lot
<i>Restaurant</i> 1 bay per 4 persons based on a Council Policy at the time.	35 bays (140 seats in total).	Nil	35 bays

The following car parking requirements apply to the proposed uses:

Car Parking Required		Car Parking Bays Available	Shortfall on Lot
<i>Shop</i> 8.3 bays per every 100sqm	25 bays Based on the 294sqm floor area	Nil	30 bays
<i>Office</i> 4.75 bays per 100sqm of floor area	5 bays Based on the 97sqm floor area		

Twelve (12) car bays exist adjacent to the property's Rockton Road boundary.

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

- Stirling Highway – No parking at all times.
- Western side of Rockton Road (3 bays adjacent to the subject property) – 15 minutes between Monday and Friday 8.00am to 6.00pm, on Saturdays 8.00am to 1.00pm.
- Western side of Rockton Road (9 bays adjacent to the subject property) – 2 hours between Monday and Friday 8.00am to 6.00pm, on Saturdays 8.00am to 1.00pm.
- Eastern side of Rockton Road (directly opposite the subject property) – No parking at all times.
- Western side of Rockton Road (towards Jenkins Avenue) – No parking at all times.
- Eastern side of Rockton Road (towards Jenkins Avenue) - 2 hours between Monday and Friday 8.00am to 6.00pm, on Saturdays 8.00am to 1.00pm.

Administration Comments

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

- Compared with the existing use, parking bays are likely to be occupied for a shorter amount of time and be available on a more frequent basis.
- A number of customers are likely to visit the premises from nearby properties which are within walking distance and therefore are unlikely to use private vehicles to visit.
- The nature of the proposed use means that only a few vehicles will likely need to be parked near to the premises, and if they do, the bays are likely to only be occupied for relatively short periods of time unlike the current restaurant use.
- Up to 5 staff are proposed to be on the premises.
- A total of 12 car bays exist immediately adjacent to the property. With the exception of 178 Stirling Highway which contains a shop, nearby commercial properties contain their own on-site car parking bays.
- The peak hours of operation for the proposed shop is likely to differ to nearby businesses.

Taking the above into consideration, the proposed use is unlikely to create parking difficulties for nearby businesses and/or residents.

8.0 Other Matters of Concern

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

- There being a number of liquor stores already operating nearby.
- Noise levels associated with the shop's operation potentially being excessive.

8.1 The Existence of Other Liquor Stores

The existence of other liquor stores nearby is not a matter due regard is to be given to when determining the application under the Regulations.

8.2 Noise Levels

There is no evidence to suggest that noise levels are likely to increase if the application was approved by Council.

Currently the restaurant at the property has an outdoor alfresco dining area which is no longer to be used, therefore if anything, noise levels are likely to decrease if the application is approved by Council.

9.0 Budget / Financial Implications

N/A

10.0 Risk Management

N/A

11.0 Conclusion

Considering the nature and scale of the proposed use it is unlikely to have a significant impact on the local amenity.

Customers are unlikely to be on the premises for long periods of time therefore car parking bays off site are likely to be frequently available, meaning that an adequate amount of bays will likely be available for the proposed shop, office and nearby businesses. The proposed uses are deemed to be less intensive than the current restaurant use.

Accordingly, it is recommended that Council approves the application.



PD25.18 (Lot 276) No. 25 Webster Street, Nedlands – Retrospective Additions to Single House	
Committee	12 June 2018
Council	26 June 2018
Applicant	Alyssa Moir (Landowner)
Landowner	Edmund Family Holdings Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Reference	DA18-28018
Previous Item	Nil.
Delegation	Administration has elected not to exercise delegation under clause 6.7.1 due to the construction already have commenced and the nature of the variations proposed.
Attachments	1. Site photographs 2. Applicant justification

1.0 Executive Summary

Retrospective development approval is being sought for completed decking and verandah additions to the existing single dwelling, a partially commenced pool alfresco addition as well as proposed screening and additional over-height dividing fencing at the subject property.

The development does not comply with the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for lot boundary setbacks, open space and visual privacy nor City's Fill and Fencing Local Planning Policy.

The application was advertised to neighbouring landowners for comment by the landowners of the subject property and no objections were received to the development.

It is recommended that the application be approved subject to modifications as follows:

- a) The pool alfresco open on the eastern elevation;
- b) The proposed additional over-height dividing fencing being removed from the plans;
- c) The proposed screening to the southern side lot boundary being reduced in length by 1m.

These modifications will reduce the open space variation and decrease the impact of building bulk on the northern and southern neighbouring properties and, ensure greater compliance with the relevant Design Principles of the R-Codes and the City's Fill and Fencing Local Planning Policy. The application is recommended for approval subject to these modifications being shown on the building approval certificate and building permit applications.

2.0 Recommendation to Committee

Council approves the retrospective development application dated 04 April 2018 for additions to the single house at (Lot 276) No. 25 Webster Street, Nedlands, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. Revised plans shall be submitted with the application for a Building Approval Certificate and Building Permit, incorporating the following modifications as shown in red on the approved plans to the satisfaction of the City:
 - a) The alfresco to be open sided on the eastern elevation;
 - b) The additional over-height dividing fencing being removed from the plans for the northern side lot boundary; and
 - c) The screen on the southern elevation being reduced by 1m in length.
3. The proposed screening on the southern elevation of the dwelling shall be installed within 30 days of this approval.
4. All fencing and visual privacy screens to unenclosed active habitable spaces as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2018* and remain in place permanently, unless otherwise approved by the City.
5. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.

Advice Notes specific to this proposal:

1. The applicant shall make application to the City's Building Services for a Building Approval Certificate, to acknowledge any unauthorised works.
2. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.

3.0 Site Details

Lot area	1011.7m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

Beneath the existing dwelling is approximately 1m of build-up due to the slope from the front of the property down to the rear of the property. There is existing over-height dividing fencing around the rear yard area at a maximum height of 2.27m above natural ground level and the rear pool area was filled to a maximum height of 0.47m above the natural ground level.

An aerial image showing the location of the property follows (taken February 2018).



4.0 Background

The landowners arranged lodgement of a building permit on 22 March 2018 for additions to the existing dwelling which include a rear bay window, decking extensions, rear verandah extension, screening adjacent to the southern side boundary, over-height dividing fencing to the northern side lot boundary and detached pool alfresco.

A planning check confirmed that development approval was required due to a number of variations to the deemed-to-comply provisions of the R-Codes of which the applicant was advised and subsequently the City received a development application for the proposed works on 4 April 2018.

The City identified that the proposed works result in variations to the deemed-to-comply provisions of the R-Codes in terms of lot boundary setbacks, open space and visual privacy as well as a variation to the City's TPS2 and Fill and Fencing Local Planning Policy with over-height dividing fencing to the northern side lot boundary. The applicant conducted their own neighbour consultation, with no objections received from all consulted neighbouring landowners.

The City conducted a site inspection on 14 May 2018 to assist with the assessment process. On site it came to the City's attention that the works had already commenced with the pool house slab already laid and the decking and verandah completed. The screening has not yet been installed or commenced. Refer to attachment 1 for photographs taken during the inspection.

5.0 Specific Application Details

The applicant seeks retrospective approval for additions to the existing single house, details of which are as follows:

- Bay window to the rear of the dwelling;
- Decking extensions to the northern side of the existing decking and rear of the dwelling;
- Rear verandah extension around the rear decking extension;
- Screening adjacent to the southern side boundary;
- Over-height dividing fencing to the northern side lot boundary; and
- Detached pool alfresco.

In support of the retrospective development application, the applicant has provided justification provided as an attachment to this report (Attachment no. 2). It should be noted that the applicant justification contains statements which the City believes to be incorrect in relation to the timing of development commencing, lodgement of applications and the impact of the natural ground level assessment. However, this information does not impact upon the consideration of the retrospective works under the City's TPS2 and the deemed-to-comply provisions of the R-Codes.

6.0 Consultation

The applicant conducted the neighbour consultation. All neighbouring landowners required to be consulted with provided no objections to the variations.

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

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Town Planning Scheme No. 2

7.2.1 Amenity

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

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

The proposed development as proposed is likely to contribute to a significant loss in open space and additional building bulk as viewed from neighbouring properties. It is recommended that the development is modified to increase the open space and reduce the building bulk to be consistent with the local development context.

A site visit has confirmed that the decking (already constructed) overlooks the southern neighbouring landowner's outdoor living area, however the existing dividing fencing (approved at a maximum height of 2.27m in November 2017) and separation provided to the northern lot boundary provides adequate privacy without the need for an addition to the existing over-height dividing fence to make the fencing 2.86m above natural ground level.

Only the outdoor living area requires protection from overlooking with outbuildings likely to be infrequently used. Therefore, a slight decrease in the length of the proposed screen to the southern lot boundary is recommended which will increase minor indirect overlooking of the outbuilding, but also reduce the impact of building bulk and reduce overshadowing to the southern neighbour's active outdoor living area.

Opening up the rear pool alfresco area will create a feeling of more open-ness in the rear yard area and also allow additional open space (covered area at less than 0.5m above natural ground level can be included in open space up to a maximum of 50m²). With these recommended minor modifications, the open space will be increased, and the building bulk as viewed from neighbouring properties decreased to better comply with the design principles of the R-Codes and the City's Fill and Fencing Policy.

7.3 Residential Design Codes (State Planning Policy 3.1)

7.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Buildings setback from the lot boundaries in accordance with Table 1.	The pool house is proposed to be setback 1m in lieu of 6m from the rear lot boundary.	No
Buildings setback from the lot boundaries in accordance with Table 2A (no major openings).	The dwelling is setback 0.93m in lieu of 5.4m to the southern side lot boundary.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties."</i> 		
Administration Comments <u>Rear lot boundary setback</u> The pool alfresco is proposed to have a 1m setback in lieu of 6m to the rear lot boundary. The alfresco has an external appearance of an outbuilding as viewed from neighbouring properties with similar wall height and dimensions of an outbuilding and solid walls proposed to the western and southern lot boundaries. The location in the south-western corner of the property is adjacent to outbuildings on all three directly adjacent properties.		

The development is therefore not largely visible from neighbouring properties, within the development context of the locality, will not impact upon neighbouring lots' access to sunlight and ventilation and will not result in any overlooking or loss in privacy.

Southern side lot boundary setback

The extension of the dwelling at the rear is in line with the existing dwelling setback. Although there are no major openings proposed in the additions (due to the screening proposed), there is in the existing wall length which along with the wall height being over 3.5m substantially increases the required setback. The southern neighbouring dwelling will not be impacted as a result of the additions as the additions are away from the dwelling and also the outdoor living area of the neighbouring property will still have adequate access to sunlight during the winter months. The development is single storey and the wall height is mostly less than 3.5m for the majority of the wall length, ensuring that the impact of building bulk is minimised.

7.3.2 Open space

Deemed-to-Comply Requirement	Proposed	Complies?
Open space in accordance with Table 1.	53.87% in lieu of 60% open space provided (62m ² additional site cover)	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>"P4 Development incorporates suitable open space for its context to:</i> <ul style="list-style-type: none"> <i>reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> <i>provide access to natural sunlight for the dwelling;</i> <i>reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</i> <i>provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> <i>provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> <i>provide space for external fixtures and essential facilities."</i> 		
Administration Comments The definition of open space does not include decking and verandah areas where the finished floor level is more than 0.5m above natural ground level or alfresco areas which are enclosed on more than two sides or carports. The decking is approximately 1m above the natural ground level and the rear pool alfresco is proposed to be enclosed on three sides. Even if the decking was not already built, it would be impractical to lower the decking given the finished floor level of the dwelling is raised above ground level 1m and there is existing approved decking to the north of the dwelling. The pool alfresco can be opened on a second side which will provide an additional 17.5m ² of open space bringing the open space up to 55.6% (44.5m ² additional site cover). There is ample open space around the dwelling with a large front setback, open space between the pool area and the rear of the dwelling and the decking area – be it raised above the ground level – is still capable of use as outdoor living area. The dwelling orientation allows for sunlight into the main living areas of the dwelling and the outdoor living area. The dwelling has a larger footprint due to the single storey configuration and is consistent with the larger style of home being built in the immediate locality.		

Therefore, with the alfresco being made open on two sides, the variation is considered to still allow functional outdoor living area and open space for the dwelling, reflective of the development context of the locality.

7.3.2 Visual privacy

Deemed-to-Comply Requirement	Proposed	Complies?
Raised outdoor living areas are setback 7.5m to lot boundaries or screened to a minimum height of 1.6m above the raised level.	<p>The rear unscreened section of the verandah is proposed to have a 7m setback in lieu of 7.5m to the southern side lot boundary (without recommended reduction to the screening).</p> <p>The raised decking area is proposed to have a 3.4m setback in lieu of 7m to the northern side lot boundary.</p>	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i></p> <ul style="list-style-type: none"> <i>• building layout and location;</i> <i>• design of major openings;</i> <i>• landscape screening of outdoor active habitable spaces; and/or</i> <i>• location of screening devices.</i> <p><i>P1.2 Maximum visual privacy to side and rear boundaries through measures such as:</i></p> <ul style="list-style-type: none"> <i>• offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;</i> <i>• building to the boundary where appropriate;</i> <i>• setting back the first floor from the side boundary;</i> <i>• providing higher or opaque and fixed windows; and/or</i> <i>• screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).”</i> 		
<p>Administration Comments</p> <p>A screen is proposed adjacent to the southern side boundary in line with the existing dwelling to screen the rear verandah (retrospective) and prevent a substantial amount of overlooking from the rear verandah. The area impacted on the southern neighbour's property is side setback to an outbuilding.</p> <p>It is recommended that the screening is reduced by 1m as this will reduce the bulk of the screen as viewed from the southern neighbouring landowner and will only allow a marginal increase in overlooking of an area in front of the outbuilding. The shortened screen will still protect privacy between the properties to ensure that active habitable space (such as bedrooms, living areas and outdoor living areas) are protected from overlooking.</p> <p>Over-height dividing fencing is proposed to the northern side lot boundary to prevent overlooking from the decking area to the northern neighbouring property. A portion of the decking was previously approved with a minimum 5m setback to the northern side lot boundary. A site visit has confirmed that the existing 2.27m high dividing fence and vegetation of the northern neighbour's property provides a high level of privacy between the properties, therefore even without the proposed over-height dividing fence, the decking does not directly overlook into outdoor living area of active habitable spaces on the neighbour's property.</p>		

7.4 Local Planning Policy – Fill and Fencing

Policy Requirement	Proposed	Complies?
Over-height dividing fencing applications are required to be accompanied by an over-height dividing fencing agreement where the fencing exceeds 1.8m above approved levels (up to 0.5m above NGL).	An over-height dividing fence agreement has been signed by the northern neighbouring landowner. However, the fencing at 2.86m above natural ground level is well in excess of the standard 1.8m high dividing fencing.	No.
Policy Objective The following objective is stipulated under the Policy: <i>“To outline the City’s requirements with regard to fill and the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained.”</i>		
Administration Comments The existing fencing is already more than 1.8m above natural ground level at 2.27m. Visiting the site, it can be observed that the existing over-height dividing fencing along with the neighbour’s landowner’s vegetation, there is adequate privacy afforded between the subject property and the northern neighbouring property without the provision of additional fencing. The provision of additional fencing will cast a greater shadow onto the subject property – reducing sunlight into the subject property and also creating additional bulk as viewed from the northern neighbour’s property. The landowners of the subject property have advised that the fencing is only proposed to comply with the visual privacy requirements with their preference not to have the fencing. The landowners have placed 4 large pots in the intention of planting trees to provide additional screening along the northern lot boundary. Given the existing dividing fencing, proposed planting on the subject property and existing landscaping on the northern neighbour’s property, it is recommended that the proposed over-height dividing fencing is not approved as part of this application.		

8.0 Budget / Financial Implications

N/A

9.0 Risk management

N/A

10.0 Conclusion

Small modifications to the development will ensure the development will better comply with the relevant design principles of the R-Codes for lot boundary setbacks and open space and the City’s Fill and Fencing Policy with increased open-ness and reduction in the appearance of building bulk as viewed from neighbouring properties.

Accordingly, it is recommended that the application be approved by Council subject to modifications to remove the proposed over-height dividing fencing to the northern side lot boundary from the application, reduce the length of the screen adjacent to the southern side lot boundary and have the eastern side of the alfresco open.



14/05/2018 08:32

Photo 1 – view towards rear of property showing completed decking



14/05/2018 08:38

Photo 2 – completed verandah to the rear of the dwelling (view facing south)



Photo 3 – completed decking under verandah (view towards south)



Photo 4 – proposed location of pool house in south-west corner of the property (slab already laid)



Photo 5 – trees proposed to be planted in large pots adjacent to northern side lot boundary



Photo 6 – View to northern neighbour's lot from decking



Photo 7 – View towards front of the property from the rear of the decking (shows level difference)



Photo 8 – existing fencing provides sufficient privacy from decking to northern neighbouring lot



Photo 9 – view towards rear of southern neighbouring property from decking (screen not yet built)



Photo 10 – View of rear yard of southern neighbour's property from decking (screen not yet built)

Our Ref: 00/000 RC

16 May 2018

Attention: Kate Bainbridge, via email: kbanbridge@nedlands.wa.gov.au

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

Dear Kate

APPLICATION FOR DEVELOPMENT APPROVAL – 25 WEBSTER STREET NEDLANDS – POOL ALFRESCO AND LANDSCAPING

The owners of the abovementioned property have recently submitted an application to the City of Nedlands (the 'City'), via their building surveyor, Building Lines, for approval of works at the rear of an existing single dwelling, comprising:

1. Construction of a proposed covered alfresco structure enclosed on three sides (the 'pool alfresco'), and;
2. Existing works associated with recently constructed raised deck and extension of a verandah around the western side of the rear of the dwelling (the 'raised deck' and 'extension to verandah').

The works are all part of a comprehensive, high quality landscaping package for the rear of the dwelling to optimise use of the open space at the rear of dwelling for the entire family through all seasons of the year and through the years as the family grows. The works were recently commenced without planning approval on advice from the builder's building surveyor, with the requirement for planning approval only brought to the owner's attention upon submission of plans for the construction of the pool alfresco, at which time all work ceased and an application for planning approval was lodged. TBB were also subsequently appointed to provide advice to the owners.

It is unfortunate that the earlier advice was not correct and resulted in works commencing to the extent that the raised deck and verandah are complete and materials have already been purchased for the construction of the pool alfresco, albeit construction hasn't commenced. However, the owners wish to now act on the correct advice and seek both retrospective approval to the completed works and approval to commence construction of the pool alfresco.

The owners have been working closely with the City's planners in an effort to address all of the City's Scheme and Policy requirements and have been advised that the works will result in the need to seek variations to the deemed to comply requirements of the R-Codes as they relate to:

1. The minimum total open space as a percentage of the site. A minimum of 60% is required for land zoned R10 and approximately 53.89% is proposed (ie 545.33m² of open space in lieu of the required 607.2m², or 61.87m²);
2. The minimum rear setback for the pool alfresco. A minimum of 6m is required for land zoned R10 and 1m is proposed. The height of the wall is 2.195m at the rear and no openings (windows or doors) are proposed on this side.

The following rationale is provided for the variations to the deemed to comply requirements of the R-Codes:

Taylor Burrell Barnett Town Planning & Design

PO Box 7130 Cloisters Square, Perth Western Australia 6850

Telephone (08) 9226 4276 Facsimile (08) 9322 7879 admin@tbbplanning.com.au

Toddville Prospecting Pty Ltd ABN 74 831 437 925

The minimum total open space as a percentage of the site

As can be seen from the photos below (Figures 1 & 2), the deck is of a high quality and is raised to enable greater integration and use of the outdoor living areas in conjunction with the habitable rooms of the house. A generous eaves overhang is provided protection (from rain and harsh sun) to major openings facing west and north. As can be seen in the existing site plans (prior to the recent works), the raised deck, in part, covers existing concrete paving and steps, and the height of the deck has been necessitated to match the levels of the existing house, to ensure safe access for all of the family, including young children.

In accordance with the R-Codes, the covered and raised deck contribute towards site cover and therefore impact on the minimum total required open space due to the deck being over 0.5m in height above natural ground level. Furthermore, according to the City's Planning Scheme, natural ground level is assumed to be historical levels depicted on Lands and Surveys Department public plans BG 2000 34, which appear to show the natural ground level at 26.2m to 26.3m AHD. As can be seen from the floor levels of the existing dwelling, the natural ground level depicted on the historical plans may not be an accurate representation of the levels for this site.

In any case, the deck is appropriately setback from the property boundaries so as not to impact on privacy and amenity of adjacent properties and written consent has been obtained to the development from adjacent owners (note: letters of written consent already forwarded to the City). Furthermore, there is the opportunity to plant vegetation along the northern boundary to increase privacy, which is planned as can be seen with the placement of large pots suitable for mature plantings in Figure 3.

In accordance with Clause 5.3.1 of the RCodes, the deck and verandah provide for an outdoor living area which: optimises use of the northern aspect of the site; provides for an outdoor living area that is capable of use in conjunction with the habitable rooms of the dwelling, and is open to winter sun and ventilation.



Figure 1 – Photo of deck and verandah extension on western and northern side of house (looking south east towards existing house)



Figure 2 – Photo of deck and verandah extension on northern side of house (looking west)



Figure 3 – Photo looking west along northern boundary with pots along northern boundary which are proposed to be planted with mature trees

The total amount of new raised deck under cover of the verandah is approximately 24.5m², bearing in mind some of this area was already raised and paved adjacent to the dwelling as shown in the existing site plan. The total amount of new raised deck which is not covered is approximately 27.9m², again, some of this area was already raised and paved adjacent to the existing verandah to step down to a paved area. Together, the additional deck and extension of the verandah result in approximately 56.21% open space, instead of the required minimum 60%.

With the inclusion of the pool alfresco (approximately 23.5m²), it is acknowledged that the amount of open space will reduce to approximately 53.89%, if the pool alfresco is enclosed on more than two sides, which is proposed in this case. If two sides are left unenclosed (or a removal panel is affixed), instead of only the one side in this case, then the pool alfresco may be credited towards open space (up to 50m² of the total area of roofed structures not more than 0.5m above natural ground level in accordance with the R-Codes), resulting in the open space calculation reverting back to 56.21%.

It is the owners' preference to have three sides of the pool alfresco enclosed to provide privacy and weather protection. This is not considered unreasonable given the proposed use of the structure in association with the pool, including use as a change room and with high quality internal fixtures.

In my opinion, although the deemed to comply requirement is not met, the variation is minor and the development is able to comply with the design principle of 5.1.4 – Open Space in the R-Codes, as the development incorporates suitable open space for its context to:

- *Reflect the existing and/or desired streetscape character or as outlined under the local planning framework.* In this regard the works are at the rear of the dwelling and will therefore have no impact on the streetscape.
- *Provide access to natural sunlight for the dwelling.* In this regard, the design of the deck and verandah ensures access to natural sunlight and the pool alfresco is separate from the dwelling and has no impact on natural sunlight.
- *Reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework.* There is no increase in building bulk as the structures are open and made of light weight materials. It should be noted that there is no extension to the dwelling.
- *Provide an attractive setting for the building, landscape, vegetation and streetscape.* AS can be seen in the photos, the works complement the existing dwelling, are of a high standard, are constructed of high quality materials and make for a very attractive setting for the dwelling, particularly combined with the extensive landscaping, including existing and proposed plantings. Furthermore, the attractive streetscape remains unimpacted.
- *Provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site.* The proposed works will maximise opportunities for all members of the family to use the hard and soft spaces external to the dwelling for a range of outdoor activities and provide unfettered access around the site, particularly providing for ease of access to the most highly utilised parts of the backyard – the northern and western sides of the house comprising the outdoor living areas adjacent to the habitable rooms.
- *Provide space for external fixtures and essential services.* There remains sufficient space (more than 500m² due to the size of the lot) for any necessary additional fixtures or essential services, noting that these works will provide for all of the external fixtures considered necessary in any case.

For these reasons, we seek the City's approval to the open space variation.



The minimum rear setback for the pool alfresco

In our opinion, the pool alfresco should be classified as an outbuilding as it is *'an enclosed non-habitable structure that is detached from any dwelling'*, as defined by the R-Codes. It should be noted that 'enclosed' is not the same as 'fully enclosed', with the R-Codes defining enclosed as *'an area bound on three or more sides by a permanent wall and covered in a water impermeable material'*. This being the case, we submit that the pool alfresco should be considered under Clause 5.4.3 of the R-Codes whereby setbacks are in accordance with Tables 2a & 2b (which determines the setback based on the height and length of the wall with or without major openings) and not Table 1 (which refers to 6m minimum for R10). In this regard, a setback of 1m is permitted as the wall length is less than 9m and the height of the wall is less than 3.5m.

However, if the City takes a different opinion after reviewing our advice, we submit that the 1m setback to the rear will have no impact on the amenity of the surrounding area and wish to highlight to the City that the adjoining owners have acknowledged the 1m setback proposed and provided written consent. Furthermore, as can be seen in Figure 4, below, the location of the pool alfresco is not inconsistent with the location of similar structures at the rear of adjacent dwellings.



Figure 4 – Photo looking south west towards the nearing properties' rear yards where similar structures are located well within 6m of the rear boundaries.

Conclusion

We trust the information provided greatly assists the City in making a favourable determination on the application for approval of existing and proposed works in the rear yard of 25 Webster Street, Nedlands. Should you have any queries or require any further information prior to the Council meeting, please do not hesitate to contact the undersigned on 9226 4276.

Yours faithfully
TAYLOR BURRELL BARNETT

Rachel .

RACHEL CHAPMAN
DIRECTOR

PD26.18 (Lot 222) No. 3 Whitfeld Street, Floreat–Proposed Single Dwelling	
Committee	12 June 2018
Council	26 June 2018
Applicant	Plunkett Homes
Landowner	Y Chew and S Etherington
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2018/24
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1d) of the City's Instrument of Delegation, Council is required to determine the application when refusal is recommended and discretion exists for Council to approve the variations under the City's Town Planning Scheme No. 2, Council Policies and/or the Residential Design Codes.
Attachments	1. Photographs of the subject property 2. Applicant's justification

1.0 Executive Summary

Development approval is being sought to construct a single storey dwelling at the property which proposes the following variations:

- a) Fill and retaining walls of between 0.7m and 1.7m in height above natural ground level at the front, eastern side and rear of the dwelling.
- b) Solid fencing of 1.8m in height being proposed on the retaining wall along the eastern side of the dwelling behind the street setback area, resulting in an overall (combined) height of up to 3.5m in lieu of 1.8m above natural ground level.
- c) Solid fencing of 1.8m in height being proposed on the retaining wall at the rear side of the dwelling behind the street setback area, resulting in an overall (combined) height of up to 2.7m in lieu of 1.8m above natural ground level.
- d) A wall for a storeroom being proposed to have a nil setback in lieu of 1m from the western lot boundary.

One objection was received during the advertising period regarding overlooking from the development. Amended plans were subsequently received which now comply with the deemed-to-comply provisions of the *Residential Design Codes 2018 (R-Codes)* in terms of visual privacy.

It is recommended that the application be refused by Council as the height of the proposed fill, retaining and associated fencing is considered to not satisfy the design principles of the R-Codes nor Council's Fill and Fencing Local Planning Policy (Fill and Fencing LPP).

The cumulative impact of the fill, retaining and fencing height variations along the eastern and rear side of the proposed dwelling is likely to have an adverse impact on the amenity of the properties adjoining the eastern boundaries.

On nearby properties which have been redeveloped over recent years the developers have cut into the high side of the properties and deposited fill not exceeding 0.5m in height elsewhere. Given this, the appearance of the fill proposed on the subject property as seen from the street will therefore be out of context for the locality.

Considering its scale, location, and the existence of similar development on nearby properties, the proposed boundary wall for the storeroom is unlikely to have a significant adverse impact on the local amenity and therefore is deemed to satisfy the applicable design principles of the R-Codes.

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

2.0 Recommendation to Committee

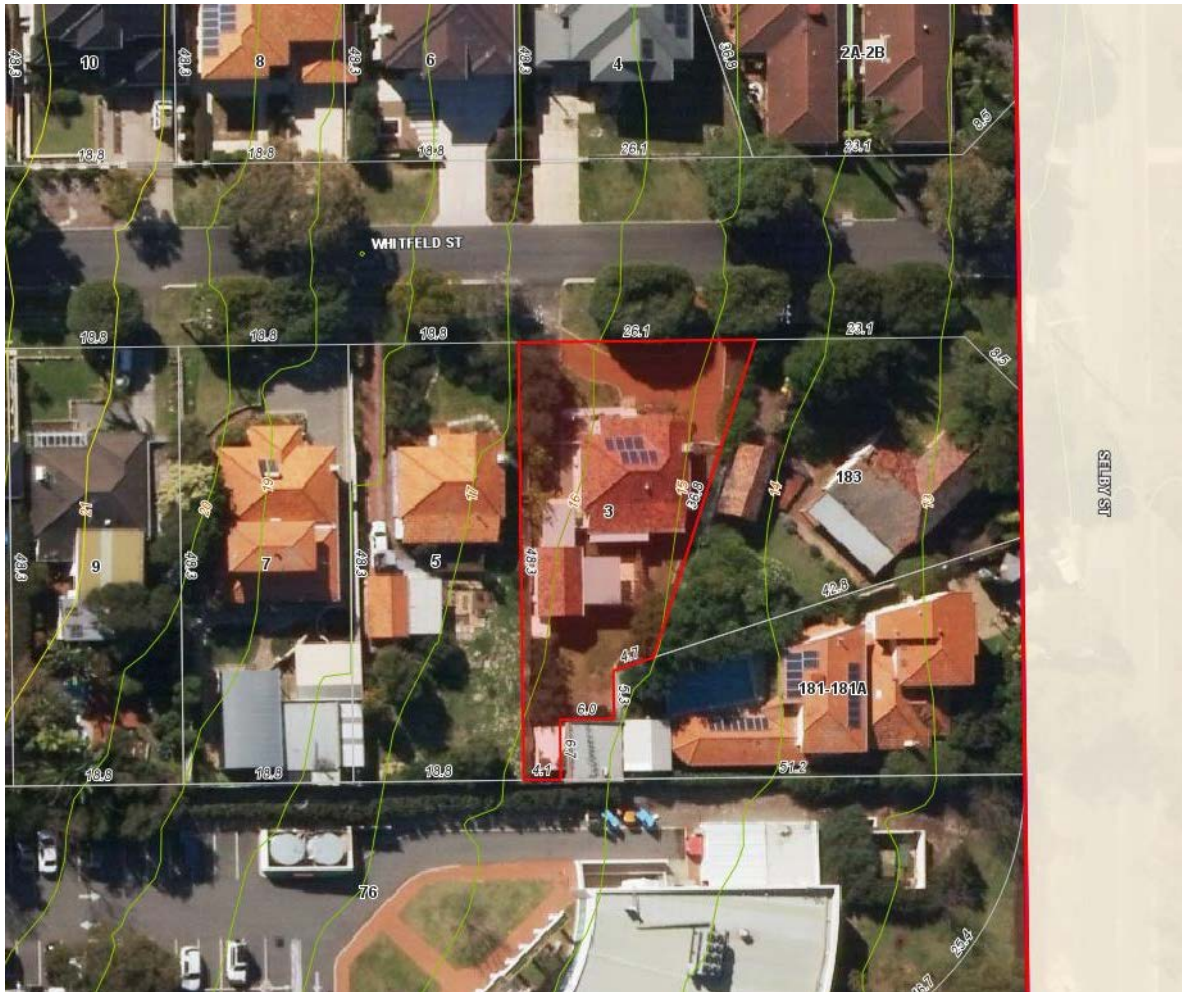
Council refuses the development application dated 19 February 2018, with amended plans received on 4 May 2018, for a proposed single dwelling at (Lot 222) No. 3 Whitfeld Street, Floreat, for the following reasons:

- 1. The development will adversely affect the amenity of the local area as it will increase the bulk and scale due to the height of the fill, retaining walls and fencing proposed within and behind the street setback area.**
- 2. The proposal does not satisfy the design principles stipulated under clause 5.3.7 (Site Works) and 5.3.8 (Retaining Walls) of the *Residential Design Codes 2018* due to the height of the fill not responding to the natural features, and the amount being excessive.**
- 3. The proposal does not satisfy provisions (m), (n) and (s) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the amount of fill proposed will negatively impact the character and the amenity of the locality.**
- 4. Retaining walls of between 0.7m and 1.7m in height above natural ground level at the front, side and rear of the dwelling, and solid fencing along the retaining walls at the side and rear of the dwelling, which will result in combined heights of 2.7m and 3.5m above natural ground level, does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.**

3.0 Site Details

Lot area	808m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R12.5
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those nearby contain single dwellings and associated outbuildings. The subject property's topography falls towards its eastern boundary as shown on the locality plan which is below.



4.0 Specific Application Details

Development approval is being sought to construct a single storey dwelling on the property, details of which are as follows:

- Fill and retaining walls of up to 0.7m in height above natural ground level in lieu of 0.5m is proposed within the eastern portion of the street setback area.
- Fill and retaining walls of up to 1.7m in height above natural ground level in lieu of 0.5m is proposed along the eastern side of the property.
- The fill is proposed in an attempt to make the land the same level as the western side of the property.
- Fill and retaining walls of up to 0.9m in height above natural ground level in lieu of 0.5m is proposed at the rear of the dwelling.
- Solid fencing of 1.8m in height being proposed on the retaining wall along the eastern side of the dwelling behind the street setback area, resulting in an overall (combined) height of up to 3.5m in lieu of 1.8m above natural ground level. The fencing is proposed in order to prevent overlooking into 183 Selby Street to the east.

- Solid fencing of 1.8m in height being proposed on the retaining wall at the rear of the dwelling behind the street setback area, resulting in an overall (combined) height of up to 2.7m in lieu of 1.8m above natural ground level. The fencing is proposed in order to prevent overlooking into 181A Selby Street to the east.
- A wall for a storeroom being proposed to have a nil setback in lieu of 1m from the western lot boundary.

By way of justification in support of the development application the applicant has provided a design principle justification which is provided as an attachment to this report (Attachment 2).

The applicant has advised in their justification that the retaining walls can be made to be no greater than 0.5m in height, however a significant amount of excavation would be necessary elsewhere on the property.

The applicant refers to a property nearby where they believe a similar amount of fill and retaining exists (e.g. 6 Whitfeld Street). It should however be noted that on this property the developer cut into the high side of the property and deposited fill not exceeding 0.5m in height on the opposite side of the property.

Subsequently the adjoining properties were excavated and filled in the same manner (8 and 10 Whitfeld Street).

5.0 Consultation

One objection was received during the advertising period regarding overlooking from the development. Amended plans were subsequently received which now comply with the deemed-to-comply provisions of the R-Codes in terms of visual privacy.

An over height fencing agreement form signed by the owners of 183 Selby Street (the neighbours to the east of the property) was not received by the City.

A boundary wall agreement form signed by the owner of 5 Whitfeld Street (the neighbours to the west of the property) was received in relation to the proposed boundary wall on the western boundary.

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

6.0 Statutory Requirements

The following requirements apply to the development being proposed:

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

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

6.2 Town Planning Scheme No. 2

Amenity

Under clause 5.5.1 of Town Planning Scheme No. 2 (TPS 2) Council may refuse to approve any development if:

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

6.3 Residential Design Codes

Lot Boundary Setbacks

In accordance with Figure 4 and Table 2A of the R-Codes the proposed boundary wall is required to be setback 1m from the western (side) boundary.

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

“P3.1 – Buildings set back from lot boundaries so as to:

- reduce impacts of building bulk on adjoining properties;*
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

Site Works and Retaining Walls

In accordance with clause 5.3.7 of the R-Codes fill within 1m of a lot boundary behind the street setback area shall not exceed 0.5m in height.

In accordance with clause 5.3.8 and table 2A of the R-Codes the retaining walls are required to be setback 1.5m from the eastern lot boundary.

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

“5.3.7 Site works

P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.

P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.”

“5.3.8 Retaining walls

P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.”

6.4 Fill and Fencing Local Planning Policy

An objective of Council's Fill and Fencing LPP is to ensure that the amenity of neighbouring properties and the streetscape is maintained.

The Fill and Fencing LPP stipulates that the maximum height of fencing behind street setback areas is restricted to 1.8m above natural or approved ground levels. Fill is not permitted to exceed 0.5m in height above natural ground level.

Any fencing and/or fill which does not meet these requirements shall:

- a) Meet the design principles of the R-Codes;
- b) Be assessed in terms of the developments impact upon the streetscape; and
- c) Be advertised in accordance with Council's Neighbour Consultation Policy.

6.5 Discussion

Having had regard to the matters stipulated sections 6.1 to 6.4 of this report the following is advised:

Fill, Retaining and Fencing Behind the Street Setback Area

According to the survey plan provided as part of the application currently the finished ground level on the subject property is up to 0.54m higher than 183 Selby Street which adjoins the eastern boundary. The finished ground level adjacent to the eastern lot boundary is proposed to be raised to 1.7m in height, an increase in level of 1.16m.

The appearance of the retaining walls and solid fencing's combined height would be similar to that of a boundary wall for a single storey building. A boundary wall is not permitted on properties with an R12.5 density coding.

Existing vegetation within the rear portion of the property is proposed to be removed, and a limited amount of vegetation exists on the adjoining properties to the east.

Considering the above, the development is likely to have a significant visual impact on the adjoining neighbours to the east and therefore does not satisfy the design principles of the R-Codes nor the provisions of TPS 2 and the Fill and Fencing LPP.

Fill Within the Street Setback Area

The amount of fill proposed within the eastern portion of the street setback area is inconsistent with what has been approved previously on nearby properties, which does not exceed 0.5m in height according to the City's records.

Insufficient justification has been provided as to how fill of this height satisfies the applicable Planning requirements.

The proposed fill's location and height is likely to have a significant impact on the streetscape and set an undesirable precedent.

Proposed Boundary Wall

The wall is proposed to be 5.3m in length and will be 2.3m in height above natural ground level due to the topography of the land. It will be partially screened by solid dividing fencing of approximately 1.8m in height.

Boundary walls for garages exist on nearby properties (e.g. 6, 8 and 10 Whitfeld Street) which are similar in scale.

The boundary wall is proposed to be setback 10.1m from the street boundary, being setback a further 1.1m than the required street boundary setback stipulated under TPS 2.

The lot is an irregular shape and therefore restricts how the property may be redeveloped. Relocating the storeroom to elsewhere on the property may result in a setback variation(s) which may have a greater impact on the neighbours' amenity.

A signed boundary wall agreement form was received from the adjoining landowners.

Considering the above, the boundary wall is unlikely to have a significant adverse impact on the local amenity and/or the streetscape due to its scale and location, and also being similar to development which exists on nearby properties.

7.0 Budget / Financial Implications

N/A

8.0 Risk Management

N/A

9.0 Conclusion

The reduced side setback of the proposed storeroom is unlikely to have a significant adverse impact on the amenity of adjoining properties considering its scale, location and height above natural ground level.

However, the bulk and scale of the retaining walls and solid fencing along the eastern and rear side of the dwelling will have a significant visual impact on the adjoining properties and create an undesirable precedent.

The amount of fill visible from the front of the property will also have an undesirable impact on the streetscape. Accordingly, it is recommended that the application be refused by Council.

Notwithstanding this, it is noted that there is the opportunity for the western half of the site to be cut into, which would ensure that the finished levels of the remainder of the site would not need filling to be more than 0.5m above natural ground level. This would then be consistent with the work which has occurred on nearby properties over recent years.

It was suggested to the applicant that the proposed finished ground levels be lowered so as not to exceed 0.5m in height above natural ground level, however amended plans were not subsequently provided which show this due to the amount of excavation which would need to be undertaken on the western half of the site.

9.1 Recommended Conditions if Application is Approved

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

Council approves the development application dated 19 February 2018, with amended plans received on 4 May 2018, for a proposed single dwelling at (Lot 222) No. 3 Whitfeld Street, Floreat, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. All visual privacy screening and fencing being installed prior to practicable completion of the development and be maintained thereafter by the landowners, to the City's satisfaction.
3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
4. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property's Certificate of Title.
5. The parapet wall being finished to a professional standard within 14 days of the proposed development's practicable completion and be maintained thereafter by the landowner to the City's satisfaction.

Advice Notes specific to this approval:

1. Stormwater to be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, at least 1.8m from the boundary of the block. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
2. The redundant crossover(s) shall be removed and the nature-strip (verge) reinstated to the City's satisfaction.
3. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
4. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.

5. Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.

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

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

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





Monday 19 March 2018

City of Nedlands
PO Box 9
NEDLANDS WA 6909



To Whom It May Concern,

**Lot 222 (No. 3) Whitfeld Street, Floreat
Proposed Single Residential Dwelling**

This letter has been produced in support of the abovementioned proposal with respect to variations to the deemed-to-comply provisions of the Western Australian Residential Design Codes (R-Codes) for:

- Clause 5.1.3 – Lot Boundary Setback;
- Clause 5.3.7 – Site Works;
- Clause 5.3.8 – Retaining walls; &
- Clause 5.4.1 – Visual Privacy.

The proposal is also subject to the provisions of the City of Nedlands Town Planning Scheme No.2 and the City of Nedlands Fill and Fencing Local Planning Policy.

Background

1. The subject site is zoned 'Residential' and designated a density coding of R12.5 under the provisions of the City of Nedlands Town Planning Scheme No. 2
2. The subject site is 808m² in area, and is of an irregular shape.
3. The subject site has an effective lot frontage of 26.15m to the primary street.
4. The lot suffers from topographical variations which influences development on the site.
5. The lot can achieve views of significant public open space (Bold Park) located to the south.



Figure 1: Subject Lot Aerial

Variations to R-Codes

Clause 5.1.3 Lot boundary setback

R-Codes Clause 5.1.3 deemed-to-comply provision C3.2 recognises compliance where:

- C3.2** *Walls may be built up to a lot boundary behind the street setback (specified in Table 1 and in accordance with clauses 5.1.2, 5.2.1 and 5.2.2), within the following limits and subject to the overshadowing provisions of clause 5.4.2 and Figure Series 11:*
- i. where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension;*
 - ii. in areas coded R20 and R25, walls not higher than 3.5m with an average of 3m or less, up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback, to one side boundary only;*
 - iii. in areas coded R30 and higher, walls not higher than 3.5m with an average of 3m or less, for two-thirds the length of the balance of the lot boundary behind the front setback, to one side boundary only; or*
 - iv. where both the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application.*

The proposal features a wall no higher than 3m and no longer than 5.9m to be built on the western boundary. Given that boundary walls are not permitted 'as of right' for dwellings coded lower than R20 under the R-Codes deemed-to-comply requirements, a variation is proposed.

R-Codes Clause 5.1.3 provides the following Design Principles which can be addressed to achieve compliance;

- P3.1** *Buildings set back from lot boundaries so as to:*

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

P3.2 *Buildings built up to boundaries (other than the street boundary) where this:*

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *positively contributes to the prevailing development context and streetscape.*

Clause 5.3.7 Site Works & Clause 5.3.8 Retaining Walls

R-Codes Clause 5.3.7 deemed-to-comply provision C7.3 recognises compliance where:

C7.3 *Subject to subclause C7.2 above, all excavation or filling behind a street setback line and within 1m of a lot boundary, not more than 0.5m above the natural ground level at the lot boundary except where otherwise stated in the scheme, local planning policy, local structure plan or local development plan.*

R-Codes Clause 5.3.8 deemed-to-comply provision C8.2 recognises compliance where:

C8.2 *Where a retaining wall less than 0.5m high is required on a lot boundary, it may be located up to the lot boundary or within 1m of the lot boundary to allow for an area assigned to landscaping, subject to the provisions of clause 5.3.7.*

Retaining walls and site works have been proposed in order to achieve a functional floor plan and useable spaces with even finished floor levels. The proposal features retaining walls and site fill within 1m of a lot boundary in excess of 0.5m high from the natural ground level. The retaining walls subject to the proposed variation in particular are along the eastern lot boundaries, with one being approximately 30m long and reaching a maximum height of approximately 1.3m above the natural ground level, and another approximately 2.5m long and up to 0.85m above the natural ground level. Accordingly, site works and retaining wall variations are proposed.

R-Codes Clause 5.3.7 recognises compliance for the proposed cut / fill of the proposal where the following design principles are met:

P7.1 *Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*

P7.2 *Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.*

R-Codes Clause 5.3.8 – Retaining walls design principles recognises compliance where:

P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.

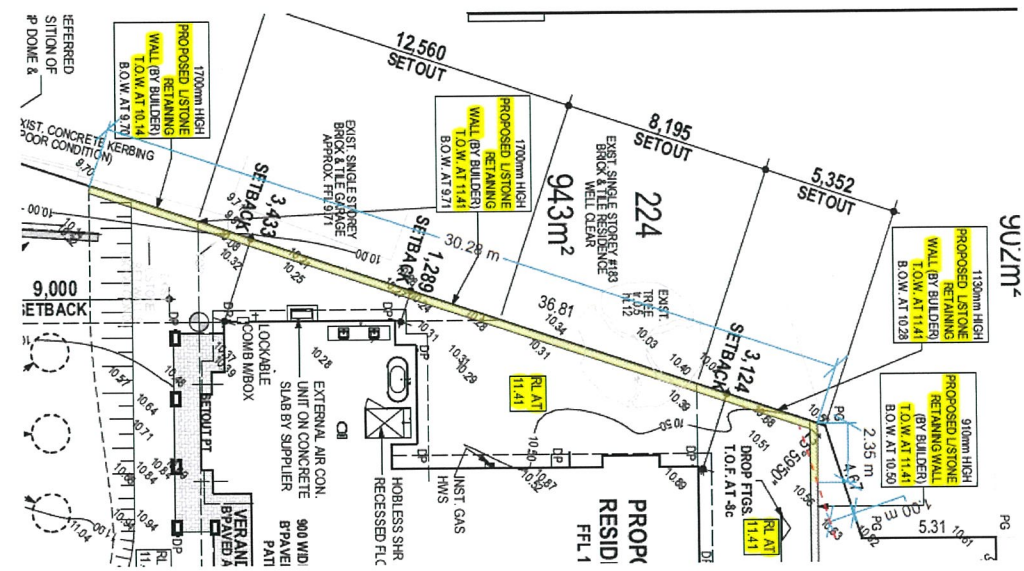


Figure 2: Proposed retaining walls within 1m of the eastern lot boundaries.

Clause 5.4.1 Visual Privacy

R-Codes Clause 5.4.1 deemed to comply requirements recognise compliance where;

C1.1 Major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback line are:

- set back, in direct line of sight within the cone of vision, from the lot boundary, a minimum distance as prescribed in the table below (refer Figure Series 10):

Types of habitable rooms/ active habitable spaces	Location	
	Setback for areas coded R50 or lower	Setback for areas coded higher than R50
Major openings to bedrooms and studies	4.5m	3m
Major openings to habitable rooms other than bedrooms and studies	6m	4.5m
Unenclosed outdoor active habitable spaces	7.5m	6m

or;

- are provided with permanent screening to restrict views within the cone of vision from any major opening or an unenclosed outdoor active habitable space.

C1.2 Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6m in height, at least 75 percent obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking into any adjoining property.

R-Codes Clause 5.4.1 provides the following Design Principles which can be addressed to achieve compliance;

- *building layout and location;*
- *design of major openings;*
- *landscape screening of outdoor active habitable spaces; and/or*
- *location of screening devices.*

- offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;
- building to the boundary where appropriate;
- setting back the first floor from the side boundary;
- providing higher or opaque and fixed windows; and/or
- screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).



Justification

The following justification is provided in line with the design principles of the R-Codes to demonstrate proposal's compliance.

Clause 5.1.3 Lot boundary setback

Buildings built up to boundaries (other than the street boundary) where this: *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*

The irregular shape of the lot constrains the configuration of the proposed dwelling. Due to the eastern boundary's irregular shape, the building must be designed with maximum floor space to the west to achieve an optimal rectilinear layout. By proposing that the garage wall be built up to the west boundary, the proposal allows for a larger outdoor living area to the south and additional open space to the east to provide sufficient room for outdoor pursuits within the lot. The location of the boundary wall is conducive to the effective use of the lot.

Does not compromise the design principle contained in clause 5.1.3 P3.1;

The proposal does not impose significant building bulk towards the adjoining properties. The proposed boundary wall is not greater than 3m high and no longer than 5.9m. The building bulk of the proposal is consistent with the context of Whitfeld Street. The adjoining property will not be dwarfed by the proposal. The proposed boundary wall does not feature any major or minor openings to allow for overlooking and it is therefore aligned with this design principle.

The adjoining property possess one major opening facing the proposed boundary wall, however only a minor portion of the proposed boundary wall will be opposite this opening. The adjoining property to the west is setback at 1.5m allowing for adequate ventilation and solar access maintaining its amenity and function.

Does not have any adverse impact on the amenity of the adjoining property;

The proposal does not adversely impact on the amenity of the adjoining property. The proposed garage wall to be built up to the western boundary does not feature any major or minor openings that could allow for the amenity of the adjoining property to be impacted in terms of visual privacy.

The adjoining property to the west is unlikely to be impacted as the outdoor living area of the adjoining lot is located towards the rear portion of the property and does not abut the proposed boundary wall. The eastern facing façade of the western neighbouring property features only one major opening. Only a minor portion of the proposed boundary wall will be opposite this opening.



Figure 4: Subject Lot and Adjoining Lot Aerial

Nonetheless, this opening will maintain access to direct sunlight, especially given that it is located more than 1.5m from the shared lot boundary, and since the proposed dwelling will feature only a single storey.

Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted;

Direct sunlight to the adjoining property is not restricted by the proposal. Both the subject lot and side adjoining lots are orientated facing north. As a result of this, neither lots will be denied of favourable northern solar access. Moreover, as discussed previously, the western neighbouring dwelling will not be denied solar access from its eastern elevation.

Positively contributes to the prevailing development context and streetscape

In the context of Whitfeld street, properties that have been newly developed set a precedence of building garage walls up to the boundary.



Figure 5: No. 10 & No. 8 Whitfeld Street

As demonstrated by Figure 4, No. 10 & No. 8 Whitfeld Street feature garage walls built up to the boundary. Similar to the proposed garage boundary wall, these do not impact the rear located outdoor living areas of neighbouring lots.

In order to maximise primary street frontage, it is proposed to build up the western boundary as the irregular shape of the lot to the east and rear does not allow for functional building use. Moreover, building up to the western boundary allows for the proposal to minimise the visual dominance of the main garage facade as seen from the street. The proposal further contributes to the streetscape through the following façade design elements:

- Wide, generously proportioned verandah with feature piers;
- Feature gable roofing;
- Architectural mouldings;
- Pitched, Colorbond roofing;
- Multiple major openings; and
- Contrasting renders.

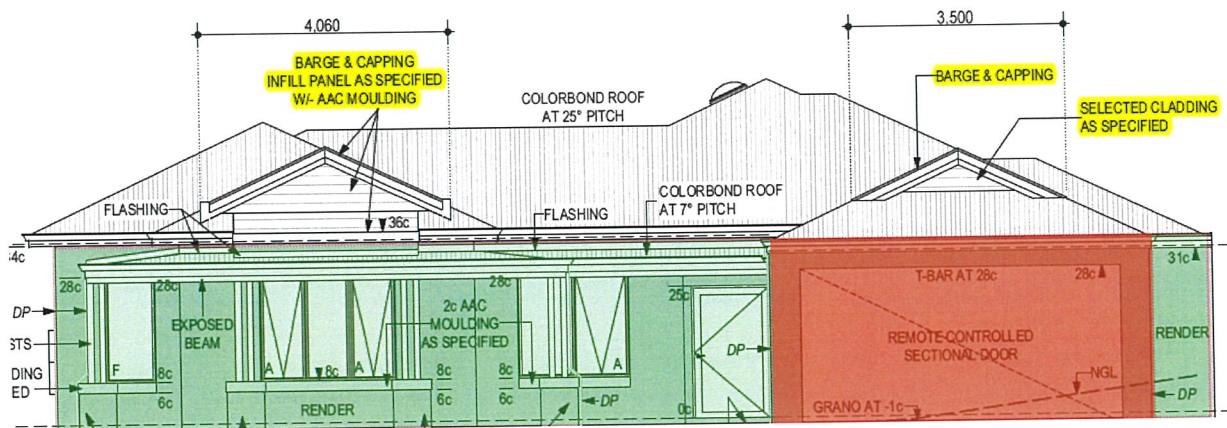


Figure 6: Proposed street facing elevation from Whitfeld Street, with the main garage façade highlighted in red, and the remaining facades highlighted in green.

Given how the proposed dwelling design addresses and contributes to visual interest and connectivity to the streetscape in numerous ways, it is considered to impart a positive impact to the prevailing vernacular residential development context.

Clause 5.3.7 Site Works

Development that considers and responds to the natural features of the site and requires minimal excavation/fill.

In order to protect and preserve the subject lot and the adjoining lots, retaining walls are required as to formalise the natural topographical slope and provide for a level pad site. The proposal in this instance, integrates with the natural topography and minimises the need for site works as the front and rear portions of the lot have been maintained in their current state.

For the proposed boundary retaining walls to achieve no greater height than 0.5m from the natural ground level will require significant excavation and fill along the distance of the boundary walls. While this can achieve the 'deemed-to-comply' requirements, it would ultimately have a much greater impact on the existing natural features of the site.

Furthermore, the proposal preserves the more prominent natural topographical features of the site as viewed from Whitfeld Street.

Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.

When viewed from the street the proposal will not counter the natural slope of the topography. As per site plans, the proposal maintains the natural slope along Whitfeld Street.



Figure 7: No. 6 Whitfeld Street.

Similar to an existing dwelling along the streetscape depicted in Figure 6, the natural slope of Whitfeld Street will be maintained by the use of retaining walls to protect and preserve the ground level height differences between the side neighbouring properties.

In addition to the preservation of the natural topography, the majority of the proposed retaining walls in excess of 0.5m from natural ground are located behind the property and not visible from Whitfeld Street. In order to minimise the appearance of retaining walls from the view of the street, the proposal features banking parallel to the street so as to maintain a more natural topographical appearance.

Clause 5.3.8 Retaining Walls

Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.

In the context of the proposal, the retaining walls allow the land to be effectively used for the benefit of the residents. The proposal to build the retaining walls in excess of 0.5m from the natural ground level allows the proposal to retain the natural ground levels either side of the lot. In addition to this, the residents benefit from privacy features of the retaining walls.

Without the ability to construct the retaining walls within 1m of the side lot boundaries, 1m wide pieces of unusable open space would be provided at the expense of the configuration of the dwelling. By proposing the retaining walls, a more functional and level floor plan, outdoor living area, and adjoining, useable open spaces can be provided. Given this, and the fact that boundary fencing along the side and rear lot boundaries

will provide visual screening to adjoining lots, the retaining walls are considered to be acceptable and worthy of obtaining development approval.

Clause 5.4.1 – Visual Privacy

P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:

Building layout and location;

The proposed dwelling is situated in a manner which makes the most of the irregular shape of the lot, existing topography, and the narrow width dimensions towards the rear of the lot. The dwelling is not orientated towards any habitable spaces of neighbouring lots, but rather, towards Whitfield Street, its own rear open space, and to the distant horizon to take advantage of significant views of Bold park towards the south.

The overlooked portion of No. 181 Selby Street, Floreat (the southern adjoining lot) from the proposed outdoor living area is limited to an area which features existing shed outbuildings and vegetation. Please refer to Figure 3 and the following images in this regard.



Figure 8: Aerial close up of the subject lot (outlined in red) in relation to the western portion of the southern adjacent lot.



Figure 9: Birdseye view of the subject site (right) in relation to the southern neighbouring lot (left, top).

Given that the areas overlooked are not considered to be active habitable spaces, and are not adjacent to the existing dwelling within the southern neighbouring lot, the proposed building layout is considered to respect the neighbours right to visual privacy.

Design of major openings;

The proposed major openings of the dwelling are designed and positioned in such a manner as to avoid any instances of overlooking into adjoining lots. The overlooking from the outdoor living area onto sheds and a vegetated area of the southern neighbouring lot is understood to be the only instance of overlooking. Boundary fencing 1.8m high will provide adequate screening for the dwelling given that the proposed dwelling will feature only a single storey.

Landscape screening of outdoor active habitable spaces; and/or

The overlooking is not considered to have a notable impact any outdoor active habitable spaces as it is restricted to outbuildings and a vegetated area, and is not orientated towards the southern neighbour's pool. Given this, and that 1.8m high fencing within the retained portions of the site will provide screening to the habitable area of neighbouring lots, there is considered to be adequate landscape screening provided.

Nonetheless, the landowner is not averse to providing some additional screening above the 1.8m fencing towards the rear of the lot should it be considered necessary for ensuring visual privacy.

Location of screening devices.

As discussed previously, the proposed boundary fencing is considered to afford adequate visual privacy to adjoining properties given that overlooking is restricted to existing shed outbuildings and a vegetated area of the southern neighbouring lot. Boundary fencing within the retained portions of the site will afford adequate privacy to the habitable areas of adjoining lots from the subject site.

P1.2 Maximum visual privacy to side and rear boundaries through measures such as:

Offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;

The overlooking from the outdoor living area is both oblique and offset, limited to a small portion of area which features outbuildings and vegetation, and is well clear of the dwelling within the southern neighbouring property.

The proposed outdoor living area will also be screened by 0.9m of fencing which is above the proposed finished ground level of the alfresco. This will ensure that the focus of view will be towards the horizon, and not downwards into the southern adjoining lot.

Building to the boundary where appropriate;

The proposed dwelling features a garage boundary wall which enables the front portion of the lot to be utilised to a greater degree so that additional open space is afforded towards the rear of the lot. Additional boundary walls are not proposed as they would lead to an increased perception of building bulk.

Setting back the first floor from the side boundary;

The proposal has been restricted to a single storey. As a result, there will be no overlooking from the dwelling.

Providing higher or opaque and fixed windows; and/or

The proposed dwelling has featured higher and/or opaque windows where appropriate. In any case, boundary fencing provides sufficient screening for ground level major openings. Major openings of the proposal are also well clear of the southern adjoining lot.

Screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).

As mentioned previously, the boundary fencing will screen 0.9m of the proposed outdoor living area and ensure that the focus on view is over towards Bold Park. In any case, existing trees within adjoining lots is understood to provide significant screening towards the southern neighbouring property's pool area (as depicted in Figure 9). Notwithstanding, the landowner is not averse to providing some additional screening should it be absolutely required and necessary.

Conclusion

The client has chosen this design to maximise their use and function of the property. The designer has been instructed to create a modestly sized home which has been thoughtfully designed by walking a fine line between achieving the most out of the site and maintaining the external amenity of the dwelling. Applying the R-Codes design principles against the proposal demonstrates that this development proposal has been able to suitably address the relevant criteria. Accordingly, the above justification is tendered for the City's approval.

Please do not hesitate to contact the undersigned, should you wish to discuss any aspects of the proposal further.

Yours faithfully,

**David D'Orazio**

MA Urban & Regional Planning (Curtin)

BAppSc (Architectural Science) (Curtin)

Statutory Planner | FORMSCAPE Built form planning solutions

Tel | +618 9355 5484

Email | david@wabca.com.au

Web | www.formscape.com.au

PD27.18	(Lot 556) No. 13 Minora Road, Dalkeith – Single Dwelling
----------------	---

Committee	12 June 2018
Council	26 June 2018
Applicant	Giorgi Architects and Builders
Landowner	H and A Somic
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2018/33
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Photographs of the subject property

1.0 Executive Summary

Development approval is being sought to construct a single storey dwelling at the property.

Portion of the development is proposed to be setback 3m in lieu of 6m from the rear (northern) lot boundary.

Two objections were received during the advertising period.

It is recommended that the application be approved by Council as it is deemed to satisfy the design principles under the R-Codes. It is unlikely to have a significant adverse impact on the local amenity considering its scale, the amount of screening which will be available, the difference in ground levels between the subject property and those adjoining, and the local development context.

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

2.0 Recommendation to Committee

Council approves the development application dated 6 March 2018 with amended plans received 17 May 2018 to construct a single dwelling at (Lot 556) No. 13 Minora Road, Dalkeith, subject to the following conditions and advice:

- 1. The development shall comply with the approved plans at all times.**
- 2. All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the Certificate of Title.**
- 3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
- 4. The pergola not being roofed with water impermeable material.**

Advice Notes specific to this approval:

- 1. Any construction in the verge will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to construction.**
- 2. The crossover to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.**
- 3. All street trees in the verge being retained and not being removed without prior written approval from the Manager Parks Services.**
- 4. A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the *Residential Design Codes (R-Codes) 2018*, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
- 5. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
- 6. All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.**
- 7. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
- 8. All swimming pools, whether retained, partially constructed or finished, shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.**
- 9. The City does not recommend any air-conditioner, swimming pool or spa mechanical equipment is installed near a property boundary where it is likely noise from such mechanical equipment in these locations will intrude on neighbouring properties.**

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

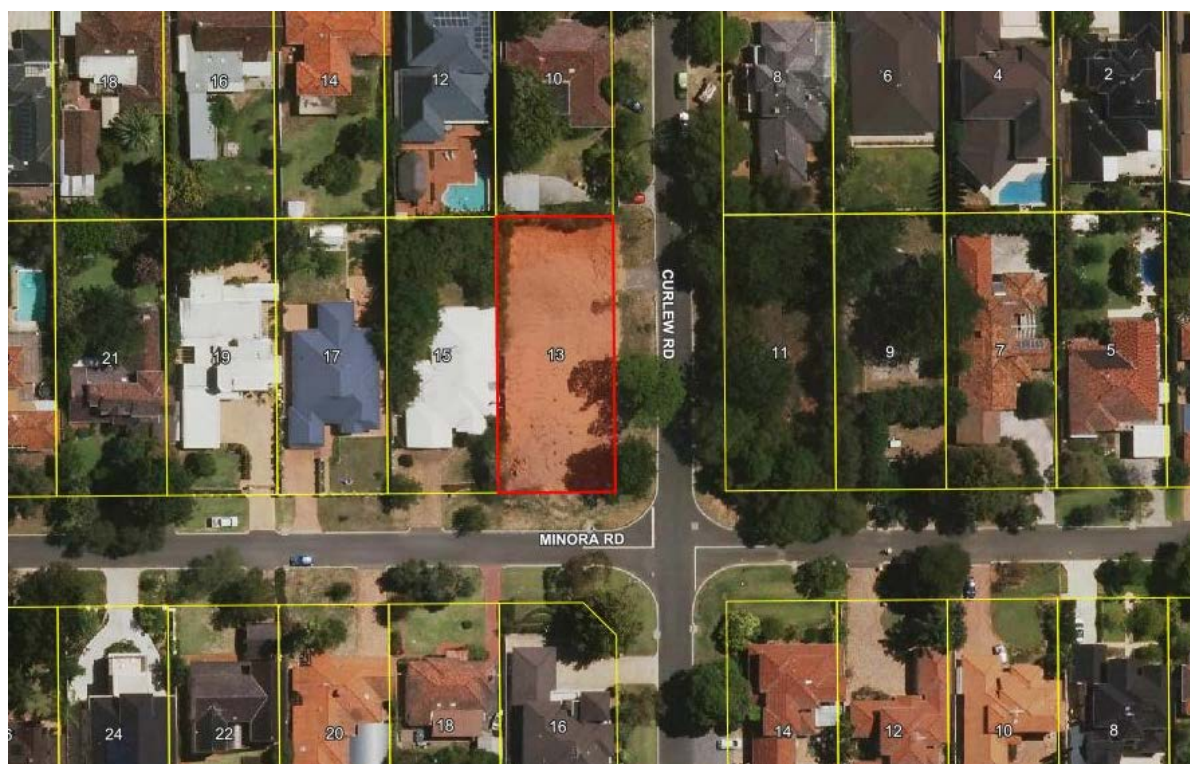
Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, applicant is advised to consult residents of neighbouring properties and if necessary take measures to prevent noise affecting neighbouring properties.

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

3.0 Site Details

Lot area	1072m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is currently vacant. Surrounding properties contain single dwellings and associated outbuildings. The topography of the land is relatively flat, although the finished ground level of those properties to the north is approximately 0.5m higher than the subject property. An aerial image showing the location of the property is below.



4.0 Specific Application Details

The applicant seeks development approval to construct a single dwelling on the property.

The dwelling is proposed to be single storey and setback 2.4m in lieu of 6m from the rear (northern) boundary.

Plans advertised showed the amount of open space proposed to be 57.1% in lieu of 60%, subsequently amended plans were provided which now comply with the open space requirements.

By way of justification in support of the proposed rear setback the applicant has advised the following:

“The proposed variation will not unduly impact the abutting dwellings by way of bulk and scale as the building is setback, single storey and landscaping is proposed around the perimeter of the lot. The proposed variation will have no impact on the abutting dwellings access to natural sunlight or ventilation as the building is single storey and setback from the boundaries in addition to the significant setbacks of the abutting dwellings. The proposed dwelling complies with the visual privacy requirements.

The proposed design allows the dwelling to take full advantage of the outlook of their backyard. It also allows for a greater setback to the secondary street, creating an open streetscape. The variation is located in the lot’s north western corner resulting in no impact on the primary streetscape. The design is not dissimilar to other existing dwellings located at 2, 4, 8, 18, 20 24 and 26 Viking Road, 20 Nardina Crescent and 7 Minora Road.”

5.0 Consultation

Two objections were received during the consultation period. The following is a summary of the concerns raised:

- The proposal potentially negatively affecting the enjoyment of adjoining properties.
- The variations not maintaining the status quo.
- Overlooking from a proposed ensuite door and window.
- That the excavation for any proposed footings and pool does not undermine the dividing fencing.
- The applicant pays for a new dividing fencing and any repairs required to be made to the existing dividing fencing.

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

6.2 Town Planning Scheme No. 2

6.2.1 Amenity

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

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

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

The portion of the dwelling which is proposed to encroach within the rear setback area would contain an ensuite and a dressing room, which equates to approximately 20sqm and is to be 3.2m in overall height. By comparison the R-Codes allow outbuildings with a floor area of up to 60sqm and a roof height of 4.2m to be setback as close as 1m from a rear boundary.

The finished ground level on the subject property is proposed to be approximately 0.4m lower than the properties to the north. Solid dividing fencing of up to 2m in height above natural ground level exists along the dividing boundaries behind the street setback areas. Mature vegetation and an outbuilding exist at the rear of 10 Viking Road to the north. The portion of the dwelling setback less than 6m from the rear boundary will therefore not be fully visible from the neighbouring properties.

Nearby properties contain patios and portions of dwellings within their rear setback areas (e.g. 12 and 18 Viking Road, and 7 Minora Road). The proposed variation is therefore deemed to be consistent with the local development context.

The proposal is compliant with the building height, overlooking, overshadowing, side lot boundary setback, and open space requirements, and therefore is unlikely to result in the enjoyment of neighbouring properties being significantly impacted upon.

Considering the above, the bulk and scale of the proposed dwelling is not likely to have a significant adverse impact on the local amenity.

6.3 Residential Design Codes (State Planning Policy 3.1)

6.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R10, the rear lot boundary setback required is 6m in Table 1 with a maximum 2m reduction permitted when the property is adjacent to a laneway.	The rear of the dwelling is proposed to be setback 2.4m in lieu of 6m from the northern (rear) boundary.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P3.1 – Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 		
Administration Comments As mentioned under the previous section of this report the scale of the development which is to be setback less than 6m from the rear boundary is less compared with what an outbuilding is able to be in the same location. The portion of the building concerned will be partially screened by an outbuilding on an adjoining property (10 Viking Road), vegetation, and solid dividing fencing. Any visual impact caused due to the rear setback variation will likely be further reduced due to the proposed finished ground level compared with that of the adjoining properties. The proposal complies with the overshadowing and overlooking requirements. Given this, the proposed rear setback variation is deemed to satisfy the design principles.		

7.0 Other Matters of Concern

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

- Overlooking from the proposed ensuite door and window.
- That the excavation for any proposed footings and pool does not undermine the dividing fencing.
- The applicant pays for a new dividing fencing and repairs required to be made to the existing dividing fencing.

7.1 Potential Overlooking

The visual privacy (overlooking) requirements of the R-Codes only apply to habitable rooms (e.g. bedrooms) and unenclosed active habitable spaces (e.g. balconies) raised more than 0.5m above natural ground level. Ensuities are not deemed to be habitable rooms and the finished ground level will not be more than 0.5m in height, therefore the overlooking requirements are complied with.

7.2 Undermining of Dividing Fencing

If Council resolves to approve the application, it is recommended that a condition be included requiring all footings and structures to be constructed wholly inside the site boundaries of the Certificate of Title.

7.3 Replacing and Repairing Dividing Fencing

The erection and/or repairing of dividing fencing is to be dealt with in accordance with the Dividing Fences Act which the City does not administer. Such issues are civil matters which neighbouring landowners are to negotiate amongst themselves

8.0 Budget / Financial Implications

N/A

9.0 Risk management

N/A

10.0 Conclusion

The proposed variation is unlikely to have a significant impact on the local amenity considering the nature and scale of it, the existence of vegetation on adjoining properties, the difference in ground levels between properties, and the local development context. It will also be partially screened by an existing outbuilding on the property adjoining the rear boundary.

Nearby properties contain various forms of development within their rear setback areas therefore it will be consistent with the local development context.

The proposal complies with the building height, overlooking, overshadowing and open space requirements. The appearance of the building setback less than 6m from the rear boundary is therefore unlikely to be imposing when viewed from the adjoining properties.

Accordingly, it is recommended that Council approves the application.

Below – View towards the western (side) boundary



Below – View towards the northern (rear) boundary



Outbuilding on
10 Viking Road

PD28.18	(Lot 629) No. 92 Thomas Street, Nedlands – Proposed Patio
----------------	--

Committee	12 June 2018
Council	26 June 2018
Applicant	Abel Roofing and Abel Patios
Landowner	M and T Senders
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2017/324
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Photographs of the patio's proposed location

1.0 Executive Summary

Development approval is being sought to construct a patio within the rear setback area of the property.

The patio is proposed to be setback 1.4m in lieu of 6m from the rear lot boundary.

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

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the *Residential Design Codes (R-Codes) 2018*.

The patio complies with the side boundary setback, open space, overlooking and overshadowing requirements, and will be unenclosed on all sides. As such, it will not contribute significant bulk in the rear setback area. It also responds to the local development context.

Given this, and the nature and the scale of the building, it is unlikely to have a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the development application for a patio to be constructed at (Lot 629) No.92 Thomas Street, Nedlands, received on 24 November 2017, with amended plans received on 19 March 2018, subject to the following conditions and advice:

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

4. This development approval does not pertain to the alignment of the dividing fencing adjacent to the property's boundary with 91 Tyrell Street.

Advice Notes specific to this approval:

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

3.0 Site Details

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

The subject property and those nearby contain single dwellings and associated outbuildings. The subject property's topography falls towards its eastern (rear) boundary. A locality plan showing the property is below.



4.0 Background

In December 2017, the City received concerns regarding work which had commenced at the subject property. During an inspection of the property it was noted that retaining walls had been constructed and fill had been deposited towards the rear of the property which did not require development approval.

The proposed patio has not been constructed to date.

5.0 Specific Application Details

The applicant seeks development approval to construct a flat roofed patio at the rear of the property.

The patio is proposed to be setback 1.4m in lieu of 6m from the rear boundary, and setback 2.7m from the nearest side boundary.

The proposed finished ground level of the patio area is to be up to 0.26m above natural ground level. A limestone wall around the patio area is proposed to be up to 0.64m above natural ground level, the area on the inside of this wall is not proposed to be backfilled.

6.0 Consultation

One objection and one submission which provided comment on the proposal were received during the advertising period. The following is a summary of the concerns received:

- The potential visual impact of the structure due to its proposed location.
- The alignment of the rear dividing fencing.
- The height of the rear dividing fencing, meaning it is potentially climbable.
- Noise from those using the proposed patio.
- Potential overlooking from the proposed patio.
- Reticulation, pool pump piping and wiring being attached to, and being within close proximity to, the rear dividing fencing.
- Potential impacts of leaf litter from a camphor laurel tree which is growing on an adjoining property, upon the maintenance of the proposed patio. The submitter has offered to arrange and pay for the trimming and clean up, subject to the arborist having access if required to the rear of 92 Thomas Street and their work being done prior to the patio being constructed.

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

7.0 Assessment of Statutory Provisions

7.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

7.2 Town Planning Scheme No. 2

7.2.1 Amenity

Under clause 5.5.1 of Town Planning Scheme No. 2 (TPS 2) Council may refuse to approve any development if:

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

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

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

- The proposal complies with the side lot boundary setback and building height requirements.
- Solid dividing fencing of up to 1.8m in height above natural ground level exists along the lot boundaries. On some of the adjoining properties the fencing appears higher due to the ground being cut into on the neighbours' side.
- On some of the adjacent properties mature vegetation exists within close proximity to where the patio is proposed.
- An outbuilding exists on 94 Thomas Street within close proximity to the patio's proposed location.
- Considering the above, the patio will be partially screened from the adjoining properties.
- The structure is proposed to be unenclosed on all sides, be 19.7sqm in area, and approximately 1.7m in height above natural ground level.
- By way of comparison, the R-Codes permit an outbuilding of up to 60sqm in area, 4.2m in overall height, and which is fully enclosed on all sides, to be setback as close as 1m from the side and rear boundaries.
- The finished floor level of the patio area (not the surrounding walls) is not proposed to be raised by more than 0.5m above natural ground level and therefore complies with the overlooking requirements.

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

7.3 Residential Design Codes - State Planning Policy 3.1

7.3.1 Lot Boundary Setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R10, the rear lot boundary setback required is 6m as per Table 1	The patio is proposed to be setback 1.6m in lieu of 6m from the rear (eastern) lot boundary	No

Design Principles

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

“P3.1 – Buildings set back from lot boundaries so as to:

- reduce impacts of building bulk on adjoining properties;*
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

Administration Comments

The proposed patio which will encroach into the rear setback area complies with the side lot boundary setback, overlooking, overshadowing and building height requirements.

As advised under the previous section of this report, the appearance of the patio will unlikely have a significant adverse impact on the local amenity due to its scale and location. Any visual impact will also be minimised due to the existence of solid dividing fencing and mature vegetation.

Taking into consideration the above, the proposal satisfies the design principles.

8.0 Other Matters of Concern

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

- The alignment of the rear dividing fencing.
- The height of the rear dividing fencing near the swimming pool meaning it is potentially climbable.
- Noise from those using the proposed patio.
- Reticulation, pool pump piping and wiring being attached to, and being within close proximity to, the rear dividing fencing.

8.1 The Alignment of the Rear Dividing Fencing and the Attachment of Fixtures to the Fencing

Matters relating to the alignment of dividing fencing and fixtures being attached to it, are dealt with under the Dividing Fences Act which the City does not administer.

Due to the alignment of the fencing some of the fixtures may encroach onto an adjoining property however, they are not deemed to be a form of development which requires approval under the Regulations and therefore the provisions of TPS 2 have not been breached.

It should be noted that the proposed rear setback of the patio is being measured from the lot boundary, not the dividing fencing.

8.2 Swimming Pool Fencing Height

The fencing concerned was inspected by the City and the only issue identified was that the fence height did not provide a drop of 1.8m into the pool area and items which were potential climbable were within 0.9m of the top of the boundary fence. The appropriate action is being taken to get this matter resolved by the landowners.

8.3 Noise Concerns

There is no evidence to suggest that use of the proposed patio area will result in noise levels permitted under the *Environmental Protection (Noise) Regulations 1997* being potentially exceeded.

9.0 Budget / Financial Implications

N/A

10.0 Risk Management

N/A

11.0 Conclusion

The reduced rear (eastern) boundary setback will unlikely have a significant adverse impact on the amenity of adjoining properties due to the structure being open on all sides, its scale and purpose.

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

Below – View towards the rear boundary



Below – View along rear boundary towards the southern boundary



PD29.18	(Lot 14867) No. 55 Jutland Parade, Dalkeith – Proposed Additions to Clubhouse
----------------	--

Committee	12 June 2018
Council	26 June 2018
Applicant	Dalkeith Nedlands Bowling Club Inc.
Landowner	City of Nedlands
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA18/27848
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1 of the City's Instrument of Delegation, Council is required to consider the application when refusal is recommended, and discretion exists for Council to recommend that variations under the City's Town Planning Scheme No. 2 and/or Council Policies be approved.
Attachments	Nil.

1.0 Executive Summary

Development approval is being sought for the following:

- To install a total of 10 third party (sponsorship) signs on the existing street boundary fencing;
- To install a vehicle access gate and bollards on site; and
- Construct a verandah at the rear of the existing clubhouse.

Given that the land is reserved under the Metropolitan Region Scheme (MRS) the provisions of Town Planning Scheme No. 2 (TPS 2) do not apply, however Council can have regard to them when making its decision.

As the subject lots are reserved Parks and Recreation under the MRS Council is required to provide a recommendation to the WAPC.

The scale and location of the proposed verandah, gate and bollards is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council advises the WAPC it supports these components of the application.

The signs proposed are likely to have a significant impact on the streetscape due to the amount and location. Approval of this amount of signage would set an undesirable precedent.

The amount of signs proposed does not comply with the draft Development on Regional Reserves for Parks and Recreation Council Policy (draft Council Policy), a separate report on which has been prepared for Council's consideration in the near future following consultation. The draft Council Policy states that 3 sponsorship signs are permitted for each sporting facility as of right. Additional signs would require Council discretion. The draft Council Policy will be circulated to sporting clubs and organisations seeking their comments for a report back to Council in coming months.

Based on the draft Council Policy, it is recommended Council advises the WAPC that if the application is approved a total of 3 sponsorship signs only be installed on the street boundary fencing.

2.0 Recommendation to Committee

Council advises the Western Australian Planning Commission that it supports the proposed additions (signage, verandah, bollards and vehicle access gate) to the clubhouse at (Lot 14867) No.55 Jutland Parade, Dalkeith, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval pertains to the proposed third party (sponsorship) signage, verandah, bollards and vehicle access gates only.
3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
4. A maximum of 3 sponsorship signs, 3m x 1m in dimension, being installed inward facing either on the Jutland Parade or Victoria Avenue street boundary fencing, or in aggregate on both.
5. The signage being maintained by the applicant to the City's satisfaction.

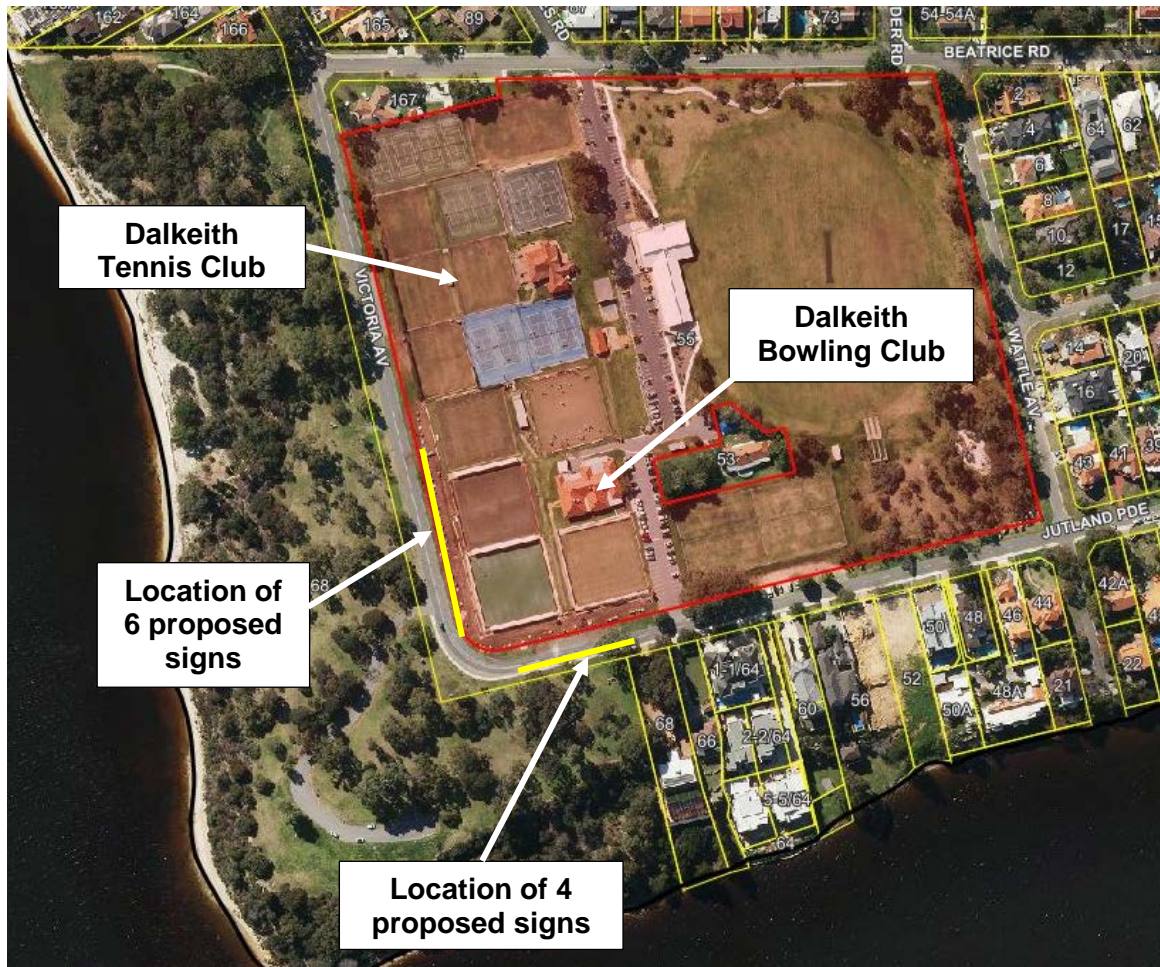
Advice Notes specific to this approval:

1. The applicant is advised that a separate development application is required to be approved prior to installing any further signage on the property which does not form part of this development approval.
2. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

3.0 Site Details

Lot area	9ha
Metropolitan Region Scheme Zoning	Parks and Recreation
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	Yes – Football change rooms only (not affected by this application)

The south western portion of the subject property is currently occupied by the Dalkeith Bowling Club. Properties opposite contain single dwellings and a significant amount of vegetation. A locality plan showing the property is below.



4.0 Specific Application Details

Development approval is being sought for the following:

- To install 4 third party (sponsorship) signs on the existing Jutland Parade street boundary fencing;
- To install 6 third party (sponsorship) signs on the existing Victoria Avenue street boundary fencing;
- To install a vehicle access gate and bollards on site; and
- Construct a verandah at the rear of the existing clubhouse.

The signs are proposed to be inward facing, non-illuminated, 3sqm in area individually (3m in length and 1m in height) and advertise sponsors of the Dalkeith Bowling Club.

The bollards are proposed to be 0.75m in height and spaced 1.5m apart near to the property's Jutland Parade boundary.

The vehicle access gate is proposed to be 0.8m high and installed towards the rear of the clubhouse.

The verandah is proposed to be constructed with a Colorbond roof and be 3.3m wide.

5.0 Consultation

There is no statutory requirement for the application to be advertised for comment by the City.

6.0 Statutory Requirements

The following requirements apply to the development being proposed:

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

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

6.2 Town Planning Scheme No. 2

Amenity

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

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

6.3 Draft Development on Regional Reserves for Parks and Recreation Council Policy

Council is not able to have regard to the draft Council Policy as it has not been adopted to date, however the following are its objectives:

- “2.1 To ensure that development on regional reserves does not adversely affect the amenity of the surrounding area.*
- 2.2 To ensure that development on regional reserves for parks and recreation is in keeping with the scale and bulk of surrounding properties.*
- 2.3 To avoid visually intrusive, and the proliferation of, signage.”*

The following provisions are stipulated under the draft Council Policy regarding sponsorship signage:

- “4.2.1 Sponsorship signage shall be located wholly within the lot boundaries and adequately maintained to the satisfaction of the City.*
- 4.2.2 Signage shall face internally to the reserve and be setback sufficiently from lot boundaries so as not to be visually prominent from the street.*

- 4.2.3 *Individual sponsorship signs shall be a maximum of 5m² in area and up to 2.7m in height from natural ground level.*
- 4.2.4 *The maximum number of sponsorship signs (fixed or moveable) shall be no greater than three signs per club. An application for a greater number of signs may be considered based on the location of signs not being visible from the street.*
- 4.2.5 *The approval of a sponsorship sign includes the content of the sign. Further approval is required for a change to the sign content.*
- 4.2.6 *Sponsorship signage relating to or promoting tobacco/alcohol products shall not be permitted.*
- 4.2.7 *Sponsorship signage which is illuminated or flashing is not permitted.”*

6.4 Discussion

Having had regard to the matters stipulated under the Regulations, TPS 2 and the draft Council Policy, the following is advised:

- The location and scale of the proposed bollards, gate and the verandah means that they will not be fully visible from the street and/or adjoining properties, and therefore are unlikely to have any significant impact on the local amenity.
- The size, location and purpose of the proposed signage is compliant with the draft Council Policy, however the amount of signs proposed does not.
- To avoid visually intrusive, and the proliferation of, signage, the draft LPP states that a club may have a maximum of 3 sponsorship signs. A total of 10 sponsorship signs are proposed, this being more than 3 times the amount allowed, and therefore is likely to have a significant impact on the streetscape. However, Council can approve additional signage if it so determines.

7.0 Budget / Financial Implications

N/A

8.0 Risk Management

N/A

9.0 Conclusion

The scale and location of the proposed verandah, bollards and gate are unlikely to have a significant impact on the local amenity.

The signs proposed are likely to have a significant impact on the streetscape considering the amount proposed and their location and would not meet the objectives of the draft Council Policy. Their approval would set an undesirable precedent.

Accordingly, it is recommended Council advises the WAPC that the verandah, gate and bollards be approved, and if the signs are approved it be for a total of 3 sponsorship signs.