

Development Services Reports


Committee Consideration – 12 April 2011
Council Resolution – 27 April 2011

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D27.11	No. 101 (Lot 621) Tyrell Street Nedlands - Addition of Garage Door to Existing Carport
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Committee	12 April 2011
Council	27 April 2011

Applicant	Graham Randall Oates
Owner	Graham Randall Oates
Officer	Elle O'Connor - Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	DA11/18 : TY1/001 : M11/05840
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to approve an application once objections have been received.

Recommendation to Committee

Council approves the application for a garage door to be constructed on the existing carport located at No. 101 (Lot 621) Tyrell Street, Nedlands in accordance with the application dated 19 January 2011 subject to the following conditions:

- 1. The garage door be constructed of materials that allow for 75% permeability to the satisfaction of the City; and**
- 2. any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

Strategic Plan

- KFA 3: Built Environment
 - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.
- KFA 5: Governance
 - 5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: 101 (Lot 621) Tyrell Street, Nedlands
 Zoning MRS: Urban
 Zoning TPS2: Residential R10
 Lot Area: 1012 m²

The owner submitted an application to the City for a carport with a solid garage door on 31 April 2010. This application was referred to Council as it did not comply with Clause 6.3.1 of the Residential Design Codes (RCodes) as the carport proposed a nil setback to the northern boundary in lieu of a 1.5 m setback. One (1) objection was received.

Planning approval was granted at the Ordinary Council Meeting held on 24 August 2010 with a nil setback to the northern boundary subject to carport having no garage door. The condition to have the front of the carport open was imposed in order to reduce the impact of building bulk to the neighbouring property. The owner was advised that they could construct a gate to 1.8 m.

The owner has now submitted another application which proposes to enclose the front of the new constructed carport with a solid garage door.

Proposal Detail

The application proposes to enclose the front of the existing carport with a solid garage door for security purposes. The carport is setback 16. m from the street boundary, is 3.53 m in width and 9.84 m in length. The structure is 2.5 m in height from the finished floor level of the driveway. The existing carport has a nil setback to the northern side boundary.

Consultation

Required by legislation: Yes No

Consultation type: Letter to affected parties

Dates: 9 February 2011 – 23 February 2011

Comments received: One (1) Objection Received

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

Issue	Support
<p>Amenity/Building Bulk</p> <p>The objector is concerned that the visual appearance of the structure will adversely affect the amenity of their garden.</p>	<p>The addition of a solid garage door on the existing carport will affect the amenity of the neighbouring property as it will contribute to the overall bulk of the structure which is located on their boundary.</p>

<p>The proposed structure is too imposing as it is situated on the boundary and will impose further if enclosed by a garage door. The metal sheeting, tubes and piping on the boundary already affect the amenity and use of their active habitable outdoor space.</p> <p>They feel that the structure will adversely affect the amenity of their home and garden and consequently devalue their property.</p>	<p>The principle objective of the RCodes zoning system is to ensure that the design and planning of residential development occurs in a way that is fitting to the needs of its occupants and protective of the amenity of its locality. The carport was initially approved with a side setback variation on the condition that the front of the structure would remain open, protecting the amenity of the locality.</p> <p>Notwithstanding this, if the garage door be constructed with visually permeable material, the impact will not be as significant, meeting the security need but not adding bulk to the street.</p>
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Legislation

- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes 2010 (RCodes)
- Council Policy 6.4 – Neighbour Consultation

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Proposed Solid Garage Door

Buildings are setback to assist in the impacts of building bulk on adjoining properties. Clause 6.3.1 of the RCodes requires structures of this particular length and height to be setback 1.5 m from side boundaries. The existing carport abuts part of the adjoining owner's active habitable outdoor space. The intentions of the RCodes in this low density zoning is to preserve privacy and space amongst neighbouring properties. Buildings on boundaries are not permitted as of right in these particular zones, as such structures are obtrusive, and not in the intention of Residential R10 Zones.

The existing carport was approved to be built on the boundary under the condition that the carport would be open at the front and rear, in order to reduce the impact of building bulk on the adjoining owner's property.

By enclosing the front of the carport with a solid garage door, the structure becomes more like a garage on the boundary rather than a carport on the boundary. Due to this, the adjoining property will be affected by building bulk.

Notwithstanding this, as the owner is concerned about security, if the garage door be constructed of materials that allow for 75% visually permeable, the impacts of building bulk will be reduced and sufficient security will be provided.

Conclusion

The existing carport does not meet the acceptable development criteria of Clause 6.3.1 of the RCodes, and was therefore only approved with the condition that the structure remains open.

The applicant was aware of this condition, however, has now applied for a solid garage door to be installed on the carport for security purposes. For these reasons it is recommended that the application for a solid garage door not be supported and that a 75% permeable door be approved as this option will provide both security and will not contribute to building bulk.

Attachments

1. Locality Plan
2. Site Plan
3. Elevation Plan
4. Photos of the Existing Carport

D28.11	No. 10 (Lot 248) Bellevue Avenue, Dalkeith – Proposed Amendments to Existing Development Application
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Committee	12 April 2011
Council	27 April 2011

Applicant	Oswald Homes
Owner	Mohammad Tufail Bin Mahmud
Officer	Coralie Anderson - Senior Statutory Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref	DA10/639
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The application has been referred to Council as objections have been received and many elected Members have requested the application be determined at Council.

Recommendation to Committee

Council approves an application for amendments to an existing development approval located at No. 10 (Lot 248) Bellevue Avenue, Dalkeith in accordance with the application and plans dated 3 December 2010 and the amended plans dated 18 February 2011 subject to the following conditions:

1. This approval is only for the amendments listed below:
 - a. additional two (2) bedrooms and bathroom above the rear garage;
 - b. additional Attic level;
 - c. redesign Bedroom 1, Ensuite, and WIR on first floor;
 - d. addition of Study on first floor;
 - e. lift between ground and first floor;
 - f. stairs flight to garage at rear; and
 - g. modification to stairs within the dwelling.

2. The use of the attic level shall be restricted to the use as depicted in the plans dated 18 February 2011 i.e. 'storage'.
3. Prior to the issue of a Building Licence for the development the owner shall execute and provide to the City a notification pursuant to Section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers that the use of basement level and attic is subject to the restriction set out in condition 2. above.
4. Without further planning approval, Bedroom 6 and Bedroom 7 shall not be used as Ancillary Accommodation.
5. All storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a 10 year recurrent storm event and the capacity of soakwells shall be a minimum of 1 cubic metre for every 80 m² of paved or roofed surface on the property.
6. The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building/roof to reduce the reflectivity to a level acceptable to Council.
7. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes

- a. Property owners are required by law to ensure that mechanical devices located on their property such as air conditioners do not create unreasonable noise to neighbouring properties. It is strongly advised that consultation be undertaken with the air conditioner installer and adjoining neighbour(s) prior to installation of any airconditioner equipment.
- b. In the event of a noise complaint being received by the City, remedial action (including potential relocation or other attenuation measures) may be required or the air conditioner may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document and also the online fairair noise calculator online at www.fairair.com.au. Further advice can be sought from Acoustic Engineers who are listed in the Yellow Pages under "Acoustical Consultants".

Strategic Plan

KFA 3: Built Environment

- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No. 10 (Lot 248) Bellevue Avenue, Dalkeith
(Refer to attachment 1 for a Locality Plan)

Zoning MRS: Urban

Zoning TPS2: R10

Lot Area: 911 m²

In January 2010 a planning application for a Two Storey dwelling, with a garage and pool at the rear of No. 10 Bellevue Avenue, Dalkeith was submitted to the City. The application was placed on two storey notification and no objections were received.

As the application complied with the acceptable development provisions of the Residential Design Codes (RCodes) and the relevant provisions of the Town Planning Scheme No. 2 (TPS2) it was approved under delegation on the 31 May 2010.

In December 2010 a planning application was made for amendments to the approved plans. These amendments included additional bedrooms on top of the rear garage and an attic level utilised for storage in the main residence. The rear setback of the bedrooms above the garage did not comply with acceptable development of the RCodes and this was advertised to the adjoining neighbours for comment.

Objections were received to the rear setback variation and as a result the applicant amended the plans so the bedrooms were setback the required distance. The application now complies with the acceptable development provisions of the RCodes and the objection was dismissed.

A letter was sent to the neighbours that objected informing of them of the compliant plans. Three neighbours submitted new objections to the proposal.

Proposal Detail

The application is for amendments for the following:

- a. additional two (2) bedrooms above the approved rear garage;
- b. additional Attic level in residences used for storage;
- c. redesign Bedroom 1, Ensuite, and WIR on first floor;

- d. addition of Study on first floor;
- e. lift between ground and first floor;
- f. stairs flight to garage at rear; and
- g. modification to stairs within the residence.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Two storey notification	21 January 2011 – 4 February 2011
Advertising	20 January 2011 – 3 February 2011
Advertising (round 2)	24 February 2011 – 10 March 2011

The application for amendments originally proposed two bedrooms above the garage with a rear setback of 1.7 m. The acceptable development provisions of Clause 6.3.1 require a rear setback of 4.0 m. This setback variation was advertised on 20 January 2010 and four (4) objections were received.

As a result of the objections the applicant amended the plans so the bedrooms were setback the required distance. The application then complied with the acceptable development provisions of the RCodes.

A following letter was sent to the neighbours informing of the modifications to the plans. Three objections were submitted at this stage.

Comments received: three (3) objections

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

Summary of comments received	Officers technical comment
<p>Issue Concerns with overlooking from the approved residence and the proposed amendments.</p>	<p>Dismiss The approved dwelling and proposed amendments comply with the acceptable development provisions of the RCodes in relation to overlooking.</p>
<p>Issue The bedrooms above the garage used as an 'additional family living' (Ancillary Accommodation)</p>	<p>Dismiss Additional family living is permitted. It is not self contained accommodation. It is two bedrooms only. A condition will be placed on the approval letter advising that a further Planning application is required if this area is proposed to be used as ancillary accommodation.</p>

<p>Issue Questioned if the Attic Level would only be used for storage as it was indicated on the approved plan.</p>	<p>Dismiss The attic level is proposed to be used as storage and this will be a condition of planning approval. It will also be a condition that a section 70A is place on the title to advise any prospective buyers that the attic is restricted to this use.</p>
<p>Issue Concerns that under-handed techniques were used by the applicant specifically in relation to the applicant's applying for amendments to the approved plans.</p>	<p>Dismiss It is common and accepted practice for amendments to be made to approved planning applications. Any planning applications for amendments are assessed against the same provisions as new applications and advertising undertaken as required.</p>
	<p>The applicant has confirmed the ownership of the property has changed during the construction phase and these amendments have been applied for at the new owners request.</p>

Legislation

- Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes 2010 (RCodes)
- Council Policy 6.4 Neighbour Consultation

The application complies with all the above relevant legislation, including the acceptable development criteria of the RCodes.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Issue: Amenity

<p>Requirement:</p>	<p>Clause 5.5.1 of the TPS2 states:</p> <p><i>“Without limiting the generality of Clause 6.5 the 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 factor inconsistent with the use for which the lot is zoned.”</i></p>
<p>Officer technical comment:</p>	<p>The proposed amendment is considered to satisfy this clause as follows:</p> <p>External Appearance</p> <ul style="list-style-type: none"> • The dwelling design complies with the development requirements of the RCodes and the TPS2. The external material will be rendered brick and tile roof.
	<ul style="list-style-type: none"> • The application is for amendments to development that has already received planning approval by the City. The amendments result in minor changes to the external appearance of the development. • The main external changes proposed by the amendments are the addition of the attic level and the bedrooms above the garage. • The attic level will be located within the roof structure of the residence. The height of the dwelling still complies with the height limits of TPS2. • The roof structure has been modified to accommodate two dormer windows on the front and rear elevations. The roof and these additional windows complement of the dwelling. • The external appearance of the proposed bedrooms above the garage complements the design of the development. Further the bedrooms comply with the specific legislation, particularly in relation to overlooking and setbacks.

	<p>Traffic Congestion and Hazard</p> <ul style="list-style-type: none">• The proposed application is for amendments to a residential building on an R10 lot. The type of development will not cause and increase of traffic congestion in the area or pose any traffic hazards. <p>Noise</p> <ul style="list-style-type: none">• The proposed dwelling is use for a residential purpose and will not impact the area in terms of noise. <p>Any factor inconsistent with the use for which the lot is zoned</p> <ul style="list-style-type: none">• The site is zoned Residential R10 and the proposed development will be used for a residential purpose.
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Conclusion


Given the proposal is an amended application for an existing planning approval and complies with all the relevant planning legislation, the application is recommended for approval.

Attachments

1. Locality Plan
2. Site Plan
3. Ground Floor Plan
4. Garage Ground/Floor Plan & Attic Floor Plan
5. Upper Floor Plan
6. Roof Plan
7. Front and Rear Elevations
8. Side Elevations

D29.11	No. 2 (Lot 379) Alexander Road Dalkeith - Three Storey Dwelling, Pool and Front Fence
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Committee	12 April 2011
Council	27 April 2011

Applicant	Milankov Designs
Owner	Amanda Turner
Officer	Coralie Anderson -Senior Statutory Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	DA09/254 : DA09/252 : AL2/2
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to determine an application once objections have been received.

Recommendation to Committee

Council approves an application for a Three Storey Dwelling, Pool and Front Fence located at No. 2 (Lot 379) Alexander Road, Dalkeith in accordance with the application dated 23 June 2009 and the amended plans dated 23 September 2010 subject to the following conditions:

1. **the use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building/roof has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building/roof to reduce the reflectivity to a level acceptable to Council;**

2. **all storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a 10 year recurrent storm event and the capacity of soakwells shall be a minimum of one (1) cubic metre for every 80 m² of paved or roofed surface on the property;**

3. the use of the basement level shall be restricted to the uses as depicted in the plans submitted dated 23 September 2010 i.e. Garage, Store, Cellar, Workshop and Toilet;
4. prior to the issue of a Building Licence for the development the owner shall execute and provide to the City a notification pursuant to Section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers that the use of is subject to the restriction set out in condition 3 above;
5. all crossovers to street shall be constructed to the Council's Crossover Specifications and the applicant/owner to obtain levels for crossovers from the Council's Infrastructure Services under supervision on-site, prior to commencement of works;
6. front walls and fences in the primary street setback shall be a maximum height of 1.8 m above natural ground level at the base of the wall and visually permeable in accordance with the Residential Design Codes (RCodes);
7. walls and fences to be truncated or reduced to no higher than 0.75 m within 1.5 m of where walls and fences adjoin vehicle access points;
8. any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further development approval.

Advice Notes

- a. All internal water-closet's (WC's) and ensuites without window access to outside air must be serviced by mechanical ventilation, which is ducted to outside air. The minimum rate of air change must be equal or greater than 25 litres per second.
- b. Any pump or pump enclosure and filter equipment for the swimming pool/spa pool should be carefully located so as to ensure that a nuisance is not caused by unreasonable noise or vibration. Should noise levels exceed those stipulated in the *Environmental Protection (Noise) Regulations 1997*, equipment may require relocation or other attenuation measures, or the equipment may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document.
- c. All swimming pool waste water is to be disposed of into an adequate dedicated soakwell located on the same lot, or in a manner approved by the City's Sustainable Nedlands department.

- d. **Property owners are required by law to ensure that mechanical devices located on their property such as air conditioners do not create unreasonable noise to neighbouring properties. It is strongly advised that consultation be undertaken with the air conditioner installer and adjoining neighbour(s) prior to installation of any airconditioner equipment.**

In the event of a noise complaint being received by the City, remedial action (including potential relocation or other attenuation measures) may be required or the air conditioner may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document and also the online fairair noise calculator online at www.fairair.com.au. Further advice can be sought from Acoustic Engineers who are listed in the Yellow Pages under "Acoustical Consultants".

Strategic Plan

KFA 3: Built Environment

- 3.5 Develop and implement precinct plans for key areas in the City.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

The lot has been approved to be subdivided into the following two lots:

Property Address: No. 2 Alexander Road, Dalkeith
(Refer to attachment 1 for a Locality Plan)

Zoning MRS: Urban

Zoning TPS2: R20

Lot Area: 489 m²

The subject property is located in the Alexander Road Design Guideline and Detailed Area Plan (DAP) locality. These guidelines are in Appendix V of the City of Nedlands Town Planning Scheme No. 2 (TPS2) (attachment 2). The guidelines were gazetted in 2005 via Town Planning Scheme Amendment 148. The zoning of the lot still remained as R10 at this time.

On the 26 September 2008 No. 2 Alexander Road was approved to be subdivided into two lots.

Then on the 13 April 2010 an omnibus Scheme Amendment No.190 was approved by the Minister of Planning and the zoning of the lot was changed to R20.

The subdivision has been cleared and titles for the new lots are expected to be issued shortly. The two new lots will be known as No. 2 Alexander Road and No. 26 Philip Road (refer to attachment 1, Locality Plan).

Proposal Detail

This application is for development on the newly subdivided lot No. 2 Alexander Road. This lot has a front setback to Alexander Road and a secondary street setback to Philip Road.

The application is for a Three Storey Dwelling, including a Basement Garage, pool and front fencing.

Refer to attachment 3 - 8 for plans of the proposed dwelling.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Two storey notification 13 September 2010 – 27 September 2010
 Advertising 30 September 2010 – 14 October 2010

The variations to No. 2 Alexander Road and No. 26 Philip were advertised together and objections related to both proposed dwellings.

Comments received: Four (4) Objections

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

Summary of comments received	Officers technical comment
<p>Issue</p> <p>Overshadowing</p> <p>Total cumulative percentage overshadowing of No. 4A Alexander Road of 71.7% from two dwellings;</p> <p>Overshadowing excessive and beyond tolerance – scale and setbacks at No. 2 Alexander requires revision;</p> <p>Fill of the lot and the slope in the natural ground level of Alexander Road contributes to the overshadowing</p>	<p>Dismiss</p> <p>As the lots are subdivided the City is required under the RCodes to assess the overshadowing from each dwelling separately.</p> <p>The dwelling complies with the height limit as per the TPS2 and the setbacks to the southern boundary comply with the acceptable development provisions of the RCodes.</p> <p>The overshadowing from this proposed dwelling does not comply with the acceptable development criteria but is considered to comply with the Performance Criteria of the RCodes and this is discussed further in the report.</p>

Issue	Dismiss
<p>Size and Scale of Dwellings are too large for the locality;</p> <p>Three Storeys;</p> <p>Almost 50% site coverage;</p> <p>Aim of DAP to provide smaller lots for residence approaching retirement;</p>	<p>The development complies with the open space and height provisions of the RCodes and TPS2 and therefore it is considered the dwelling is an appropriate size and scale for the lot.</p>

Legislation

- Town Planning Scheme No. 2 (TPS2)
- Alexander Road Design Guidelines and Detailed Area Plan (attachment 2)
- Residential Design Codes 2008 (RCodes)
- Council Policy 6.4 Neighbour Consultation

The application complies with the above legislation, with the exception of variation to the acceptable development criteria of the RCodes as listed below:

1. The proposed overshadowing from No. 2 Alexander is 152.40 m² (30%) of the adjoining southern lot. The acceptable development criteria of Clause 6.9.1 permits a maximum of 25% overshadowing.
2. Eastern Setbacks
 - a. Ground Floor - the required eastern ground floor setbacks are 1.8 m (study) and 1.6 m (balance). The eastern ground floor setback is proposed at 1.0 m (study) and 1.5 m (balance).
 - b. Upper Floor - the required eastern upper floor setbacks are 2.8 m (balcony), 3.0 m (bedroom 3) and 2.1 m (balance). The eastern upper floor setback is proposed at 1.0 m (bedroom 3), 1.5 m (balcony and balance).
3. Retaining walls on the eastern boundary (over 0.5 m in height) - 1.5 m setback required – nil proposed.
4. Fill within 1.0 m of the eastern boundary – maximum of 0.5 m fill permitted – 0.8 m fill proposed.
5. Cone of vision (overlooking) - eastern paving area – 7.5 m required – nil proposed.
6. Cone of vision (overlooking) – Bedroom 3 and Study – 4.5 m required – 1.5 m proposed.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

The variations to the acceptable development provisions of the RCodes are discussed below:

Issue: Overshadowing

<p>Requirement:</p>	<p>Clause 6.9.1 of RCodes states:</p> <p><i>“Notwithstanding the boundary setbacks in design element 6.3, development in climatic zones 4, 5 and 6 of the state shall be designed that its shadow only cast at midday 21 June onto any other property does not exceed the following limits:</i></p> <p><i>On adjoining properties coded R25 and lower – 25 per cent of the site area.”</i></p>
<p>Applicants Proposal:</p>	<p>The dwelling proposes to overshadow 152.40m² of the 505.5m² lot to the south.</p> <p>Therefore 30% of the adjoining lot.</p>
<p>Performance Criteria:</p>	<p>6.9.1 Solar Access for adjoining Site</p> <p><i>“Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:</i></p> <ul style="list-style-type: none"> • <i>Outdoor living areas;</i> • <i>Major openings to habitable rooms;</i> • <i>Solar collectors; or</i> • <i>Balconies or verandahs</i>
<p>Applicant justification summary:</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>“We are of the view, for the reasons explained below, that the proposed development satisfies the Performance Criteria of the RCodes in relation to overshadowing.</i></p> <p><i>The abutting site is subject to the provisions of the DAP, and contains a two (2) storey single dwelling that has been constructed subsequent to the introduction of the DAP.</i></p>

	<p><i>You will note that the DAP requires a two (2) metre solar setback to the northern boundary of this site. However, Council has approved significant variations to this setback provision, with the front portion of the dwelling incorporating a nil setback, and the rear portion of the dwelling constructed approximately 1.1 metres from the northern boundary.</i></p> <p><i>The approval of setback variations as outlined above has subjected the dwelling abutting the subject site to increased overshadowing, given the building is located closer to the northern boundary than the uniform two (2) metre solar setback specified in the DAP. Whilst it is acknowledged that the calculation of overshadowing relates to site area, irrespective of building location, it is important to outline that approximately 18.4m² of the dwelling on the abutting site is located within the two (2) metre solar setback area.</i></p>
	<p><i>As noted above, the RCodes makes provision for the application of Performance Criteria to satisfy the overshadowing provision. Specifically, the Performance Criteria take into account the portions of the abutting site that are subject to overshadowing. With respect to the shadow cast by the proposed Single Dwelling located on the western portion of the subject site (Turner Residence), the components of the abutting site (and specifically the dwelling) include:</i></p> <ul style="list-style-type: none"> <i>• Garage servicing the dwelling located on a nil setback;</i> <i>• Highlight window to Walk in Robe (non-habitable space);</i> <i>• Highlight window of Bedroom 1; and</i> <i>• Partial shadowing of window of Bedroom 1.</i> <p><i>A review of the plans and elevations of the dwelling on the abutting site confirms that the majority of openings affected by shadowing cast by the proposed dwelling is limited to non-habitable rooms, including highlight</i></p>

	<p><i>windows to Bedroom 1, and the Walk in Robe associated with Bedroom 1. The shadow cast by the proposed dwelling is limited to approximately 50% of the major opening to Bedroom 1 of the abutting dwelling. This is the only shadowing to a major opening cast by the proposed dwelling. In addition, the proposed dwelling does not overshadow the balcony located at the front of the dwelling on the abutting site, providing adequate solar access to this portion of the abutting dwelling.</i></p> <p><i>The DAP incorporates lots that are orientated in a primarily east/west configuration. This has the consequence of making overshadowing to northern facing aspects of dwellings within the DAP area inevitable (and unavoidable). With respect to the dwelling located on the abutting site, this has the implication of predisposing north facing aspects of the dwelling, whether they are habitable or nonhabitable rooms to overshadowing. In this instance, the design of the proposed dwelling seeks to minimise the impact of overshadowing on the abutting dwelling by focussing the shadowing to the garage, and other non-habitable elements of the dwelling, which is evident given overshadowing cast by the proposed dwelling is primarily limited to non-habitable rooms, a boundary parapet wall, and portions of the roof of the abutting dwelling.</i></p>
	<p><i>Based on the above, the proposed variation to the overshadowing requirement established in the Acceptable Development Standards of the R Codes is considered to be justified as it satisfies the Performance Criteria."</i></p>
<p>Officer technical comment:</p>	<p>As per the Alexander Road DAP requirements the dwelling has a front setback to Alexander Road of 6 m and a secondary street setback to Philip Road of 3 m. This means the bulk of the building is located to the southern side of the lot, increasing the overshadowing on to the adjoining neighbour. Notwithstanding this, it is considered the overshadowing complies with the Performance Criteria of the RCodes.</p>

	<p>The majority of the proposed dwelling overshadows minor openings or blank walls on both the ground and upper floor of the adjoining dwelling. This includes garage parapet wall, ensuite, walk in robe, and highlight window of Bedroom 1 on the ground floor and a bathroom window on the upper floor.</p> <p>Only a small portion of another large window to Bedroom 1 on the ground floor is also overshadowed. This is considered acceptable as this room can still received direct sunlight from the remainder of the window and another east facing window and door.</p> <p>The shadow cast does not reach to the upper storey balcony and there are no other northern windows on the upper floor. Also, none of the adjoining properties outdoor living areas are overshadowed.</p> <p>No solar collectors will be overshadowed.</p>
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Issue: Eastern Setbacks

<p>RCodes Requirement Acceptable Development</p>	<p>The required eastern ground floor setbacks are 1.8 m (study) and 1.6 m (balance).</p> <p>The required eastern upper floor setbacks are 2.8 m (balcony), 3.0 m (bedroom 3) and 2.1 m (balance).</p>
<p>Performance Criteria</p>	<p><i>Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.</i>

Applicants Proposal	<p>The eastern ground floor setback is proposed at 1.0 m (study) and 1.5 m (balance).</p> <p>The eastern upper floor setback is proposed at 1.0 m (bedroom 3), 1.5 m (balcony and balance).</p>
Officer technical comment	<p>These setback variations only affect the new lot that will be created at No. 26 Philip Road which is a vacant lot. It is difficult to assess the impact of the setbacks on this vacant lot.</p> <p>However, a planning application for No.26 Philip is currently with the City for assessment as the dwelling on the subject lot and at No.26 Philip Road are being developed together and designed by the same Architect.</p> <p>Given this, the dwellings have been designed to ameliorate the impacts of building bulk and protect privacy between the two properties.</p>
	<p>Further, as this is the eastern side, direct sunlight to the adjoining or subject property will not be affected. The setbacks are also sufficient to allow ventilation to both dwellings.</p>

Issue: Overlooking

Requirement: Acceptable Development	<p>Clause 6.8.1 requires a 4.5 m cone of vision setback for Bedroom 3 and Study and a 7.5m cone of vision setback for the eastern paved area.</p>
Applicants Proposal:	<p>Bedroom 3 and Study have provided a 1.5 m cone of vision setback.</p> <p>The paved area has provided a nil cone of vision setback.</p>
Performance Criteria:	<p>Clause 6.8.1 states:</p> <p><i>Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimized by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscaping, or remoteness</i></p> <p><i>Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscure glass.</i></p>

	<p><i>Where these are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.</i></p> <p><i>Where opposite windows are offset from edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.</i></p>
<p>Officer technical comment:</p>	<p>This overlooking will be onto the newly created lot at No. 26 Philip Road. As mentioned previously this lot is currently vacant and therefore difficult to assess the overlooking against the Performance Criteria.</p> <p>No. 2 Alexander Road and No. 26 Philip have been design together to ensure privacy between these properties is maintained.</p>
	<p>An application is currently with the City for No. 26 Philip at this stage which shows the study and bedroom 3 window will overlook blank walls that are proposed on the western elevation of No. 26 Philip.</p> <p>Further, overlooking must be assessed from the eastern paved area as it is raised more than 0.5 m above the natural ground level. However, this area will only act as a path down the eastern side of the dwelling and not be a habitable area or space.</p> <p>Given this, the windows and paved areas are considered to comply with the performance criteria of the RCodes.</p>

Issue: Retaining wall and fill on eastern boundary

<p>RCodes Requirement Acceptable Development</p>	<p>Clause 6.6.1 required fill within 1.0 m of the common boundary is a maximum of 0.5 m.</p> <p>Clause 6.63 requires all retaining walls above 0.5 m from the natural ground level is setback from the boundary. The retaining wall on the eastern boundary requires a 1.5 m side setback.</p>
<p>Performance Criteria</p>	<p><i>Clause 6.3.3. states:</i></p> <p><i>Retaining walls be designed or setback to minimise the impact on adjoining properties.</i></p> <p><i>Clause 6.6.1 states:</i></p>

	<i>Development that retains the visual impression of the natural level of the site, as seen from the street or other public places, or from an adjoining property.</i>
Applicants Proposal	The retaining and fill is above 0.5 m from the natural ground level and located on the eastern boundary.
Officer technical comment	<p>Again, these variations only relate to the newly created lot at No. 26 Philip Road and the fill and retaining complies with the Performance Criteria of the RCodes.</p> <p>The levels of the subject property have been designed to reflect the proposed levels at No.26 Philip Road and therefore will not have adverse impact on this adjoining lot.</p>

Conclusion

The application complies with the relevant legislation and performance criteria, particularly in relation to the overshadowing. Given this compliance the application is recommended for approval.

Attachments

1. Locality Plan
2. Alexander Road Design Guidelines and Detailed Area Plan
3. Site Plan and Overshadowing Plan
4. Basement Floor
5. Ground Floor
6. Upper Floor
7. North and West Elevations
8. South and East Elevations

D30.11	No. 38 (Lot 50) Jutland Parade, Dalkeith – Proposed Four Storey Dwelling (including Swimming Pool, Front Fence, Landscaping and Fill)
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Committee	12 April 2011
Council	27 April 2011

Applicant	Milankov Designs and Project Management
Owner/s	Robert Franco
Officer	Nick Bakker - Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref	DA10/92
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to refuse applications.

Recommendation to Committee

Council refuses an application under the City of Nedlands Town Planning Scheme No. 2 (TPS2) and recommends that the Western Australian Planning Commission (WAPC) refuse the application under the MRS for the proposed four storey dwelling (including swimming pool, front fence, landscaping and fill) at No. 38 (Lot 50) Jutland Parade, Dalkeith in accordance with the application dated 5 March 2010 and amended plans dated 27 January 2011, on the grounds that:

- a. the proposed dwelling is contrary to Clause 5.11 i) of TPS2 in that more than two residential storeys are proposed, and there is no discretion under TPS2 for this provision to be varied;
- b. the proposed dwelling is contrary to Clause 5.11 ii) of TPS2, in that the height of exterior walls exceed 8.5 m from mean natural ground level at the base of the walls, and there is no discretion under TPS2 for this provision to be varied;

- c. the proposed dwelling meets neither the Acceptable Development provisions nor the Performance Criteria under Clause 6.3.1 of the Residential Design Codes in relation to side setbacks;
- d. the bulk and scale of the proposed development is excessive, and adversely affects amenity of neighbouring properties;
- e. the development proposes excessive fill and retaining (up to 7.0 m), contrary to clause 5.10.3(a) of TPS2 in relation to the Controlled Development Area;
- f. the development will have an adverse impact on the amenity of the surrounding area as viewed from the Swan River and associated parks and recreation reserves, contrary to clause 5.10.2(a) of TPS2 in relation to the Controlled Development Area.

Strategic Plan

KFA 3: Built Environment

To provide a built environment and land use planning framework which:

- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No. 38 (Lots 50) Jutland Parade, Dalkeith
Zoning MRS: Urban
Zoning TPS2: Residential – R12.5
Lot Area: 1,706 m²

The proposed dwelling is located on a lot partly located within the Swan River Trust (SRT) Development Control Area. The SRT Development Control Area (DCA) is located over the rear portion of the lot. No development is proposed within the Development Control Area itself.

Clause 29 of the Metropolitan Regional Scheme (MRS) requires the application for approval under the MRS to be referred to the WAPC for determination in accordance with clause 30A of the MRS.

The City referred the application to the WAPC along with an MRS Form 1 and a full copy of the plans on 27 October 2010.

Proposal Detail

A proposal for 3 multi-storey dwellings was submitted to the City as three separate development applications, with one dwelling proposed at No. 38 (lot 50) Jutland Parade and two dwellings proposed at No. 40 (lot 51) Jutland Parade, on a proposed two lot subdivision.

This report is in relation to the application at No. 38 Jutland Parade which proposes a 4 storey dwelling located to the rear (river end) of the lot. The front area of the site is proposed as landscaping with the dwelling located 35 m from the front (street) boundary.

Consultation

Required by legislation: Yes No

CDA Advertising: 16 July 2010 to 6 August 2010

As the development is located in the City of Nedlands Controlled Development Area (CDA) the application is required to be advertised for a period of 21 days to adjoining landowners and occupiers. No submissions were received in relation to this dwelling.

Legislation

- Town Planning Scheme No. 2
- Residential Design Codes 2008
- Council Policy 6.4 Neighbour Consultation

Discussion

Issue: Clause 5.11 – Number of Storeys Directly Above Each Other

<p>Requirement</p>	<p>Clause 5.11 i) of TPS2 states;</p> <p><i>"No site shall be developed or building constructed:</i></p> <p><i>to contain more than two storeys directly above each other in the case of residential use or three storeys in the case of other uses, excluding areas used for plant and equipment, storage, toilets and the parking of wheeled vehicles."</i></p>
<p>Applicants Proposal</p>	<p>The proposed dwelling at No. 38 Jutland has 4 storeys directly above each other described in the plans as consisting of the following:</p> <p>Cellar Level With a wine cellar, pool pump room, lobby, water closet and comm. room.</p>

	<p>Basement Level With a terrace, undercover outdoor area, store room, document store, arts and artifacts store, garden store, pool store, lobby and wash room.</p> <p>Ground Floor With a number of living areas, balconies, alfresco area, kitchen and dining area, study, garage and store.</p> <p>Upper Floor With a number of bedrooms, bathrooms, balconies and a sitting room.</p>
<p>Applicant justification summary</p>	<p>The applicant has provided no justification in relation to this issue.</p>
<p>Officer technical comment</p>	<p>The proposed dwelling is not considered to comply with Clause 5.11 i) of TPS2 which does not allow for more than two storeys directly above each other in residential areas unless the additional storey is used for plant and equipment, storage, toilets and the parking of wheeled vehicles (only).</p> <p>The list below outlines concerns associated with this Clause on each individual level of the dwelling;</p> <p>Cellar Level The 'Wine Cellar' was shown with a pool table on the original plans submitted with the application. The pool table has now been removed from the latest plans and is shown as a large 'cellar'.</p> <p>Basement Level The pool is surrounded by roofed paving areas referred to on the basement level plans as undercover outdoor area, which is located directly beneath habitable rooms on the ground and upper floors.</p> <p>The 'Plant and Equipment Store', 'Open Store' and 'pool store' open out and have direct access to the outdoor paving areas and appear to service the pool.</p>

	<p>Ground Floor</p> <p>All of the rooms on the ground floor which are located directly above the paved outdoor area and open stores on the undercroft level are habitable (i.e. alfresco, meals, kitchen, family and balconies).</p> <p>Upper Floor</p> <p>All of the rooms on the upper floor which are located directly above the undercroft and ground floor levels are habitable (i.e. beds 1 & 2, sitting and balconies).</p> <p>The applicant amended the original plans to show the lower levels with various types of store rooms e.g. open stores, arts and artefact store etc. However given the size, design and location of some of the stores it is considered unlikely that these proposed stores will function, or are intended to function, as one of the uses outlined in Clause 5.11 i).</p> <p>Aside from the above, the basement level contains a large area of 'undercover outdoor area' which is clearly not provided for in Clause 5.11 i).</p> <p>Given that there is no discretion in TPS2 to vary this provision it is considered Council is not in a position to support this dwelling and refusal is recommended as the proposal is contrary to Clause 5.11 i).</p>
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Issue: Clause 5.11 - Maximum Wall Heights

Requirement	<p>Clause 5.11 ii) of TPS2 states;</p> <p><i>"No site shall be developed or building constructed:</i></p> <p><i>with the height of any part of an exterior wall greater than 8.5 m from mean natural ground level at the base of the wall"</i></p>
Applicants Proposal	<p>The dwelling at No. 38 Jutland has a proposed rear wall height of 14.5 m above the mean natural ground level as measured from the base of the wall as marked on the rear elevation plan in attachment 10.</p>

<p>Applicant justification summary</p>	<p>The applicant believes the definition of mean natural ground level under Clause 1.8 of the City's TPS2 should be used to determine the rear wall height. Clause 1.8 'Interpretations' of TPS2 defines mean natural ground level as:</p> <p><i>"those levels as depicted by contour lines at 1 metre intervals on the Land and Surveys Department public plans Series B.G 2000 34 as applicable to the Scheme Area measured at the geometric horizontal centre of the lot."</i></p> <p>The applicant provided justification in a letter prepared by a planning consultant. The letter explains that if the height of the rear wall was to be determined using the above definition of mean natural ground level then the wall height would not exceed the 8.5 m required under Clause 5.11.</p>
<p>Officer technical comment</p>	<p>When determining the height of the rear wall the City measures the wall height from the mean natural ground level at the base of the wall. This is the practice for every development application assessed against this Clause of TPS2.</p> <p>The City received legal advice regarding this matter, which supports the City's practice.</p> <p>If the applicant's methodology is applied the words 'at the base of the walls' within Clause 5.11 ii) become meaningless. A sensible meaning should be given to those words, as a matter of statutory interpretation.</p> <p>Based on a review of the history of this Clause, the applicant's methodology does not conform to the intention behind Clause 5.11 ii), and the City's method of measuring mean natural ground level is considered to be correct.</p> <p>Using the current practice of measuring wall height and taking into account the legal advice received, the proposed wall height is well over of the 8.5 m permitted under Clause 5.11 (ii) (i.e. 6 m above the permitted 8.5 m).</p>

Issue: Residential Design Codes – Side Setback Variations

<p>Requirement</p>	<p>The proposed dwelling is required to be setback from the side boundaries in accordance with Clause 6.3.1 of the RCodes. Development meets the acceptable development provisions of the Codes if it complies with the relevant tables and figures of the RCodes (as explained below). If development does not meet these provisions it must instead comply with the following performance criteria:</p> <p><i>“Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> <p><i>Assist in protecting privacy between adjoining properties.</i></p>
<p>Applicants Proposal</p>	<p>The proposed variations to the acceptable development provisions of the Residential Design Codes are listed below:</p> <p>Western Setback</p> <ul style="list-style-type: none"> • The proposed pool pump store has a nil setback in lieu of the required 1.6 m. • The proposed undercroft level outdoor area has a 1.5 m setback in lieu of the required 2.6 m. • The proposed ground floor wall alfresco to pantry has a 1.536 m setback in lieu of the required 7 m.

	<ul style="list-style-type: none"> • The proposed ground floor terrace to alfresco (balance) has a 2.774 m setback in lieu of the required 9.3 m. • The proposed upper floor bed 2 has a 1.5m setback in lieu of the required 6 m. • The proposed upper floor bed 4 has a 1.5 m setback in lieu of the required 3.3m. • The proposed upper floor bed 2 to front balcony (balance) has a 2.7 m setback in lieu of the required 9 m. <p>The western property is owned by the same family as No. 38 and all of the RCode variations along the western boundary were therefore acceptable to that owner.</p> <p>Eastern Setback</p> <ul style="list-style-type: none"> • The proposed ground floor wall family to balcony has a 1.6 m setback in lieu of the required 1.8 m. • The proposed ground floor study has a 1m setback in lieu of the required 1.1 m. • The proposed ground floor wall store to balcony (balance) has a 3 m setback in lieu of the required 3.8 m. • The proposed upper floor bed 3 to balcony (balance) has a 3.19 m setback in lieu of the required 6 m. • The raised level of the swimming pool results in fill on the eastern boundary to approximately 5.5 m above the NGL. This is well in excess of the maximum fill of 500mm required under the RCodes. <p>The above variations were advertised to the owner of the eastern property, no objection was received.</p>
<p>Applicant justification summary</p>	<p>The applicant provided no justification for the setback variations under the RCodes</p>

<p>Officer technical comment</p>	<p>The proposed development has been considered under the abovementioned performance criteria.</p> <p>The proposed dwelling at No. 38 Jutland Parade is set down from the street level and is lower than the property to the east. The dwelling is also separated from the proposed dwellings at No. 40 Jutland Parade to the west by an access easement and will therefore provide adequate direct sun and ventilation to the proposed buildings and surrounding properties.</p> <p>The issue related to the bulk and size of the building has been discussed in relation to Clause 5.11 of TPS2. The proposed number and the extent of the side setback variations proposed on this 1706 m² block are considered to exacerbate the impact of the bulk of the dwelling on the adjoining properties. Therefore the proposed dwelling is not considered to meet the performance criteria in this regard.</p> <p>The proposed dwelling is designed with privacy screening and obscure glazing to protect the privacy of adjoining properties.</p> <p>Therefore it is considered the proposed dwellings meet the performance criteria in this regard.</p>
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Issue: Clause 5.10 Controlled Development Area (CDA)

<p>Requirement</p>	<p>Clause 5.10 of the City's TPS2, relating to the CDA, requires that any development on this property is to be considered under Clause 5.10.2 and meet the provisions outlined in Clause 5.10.3.</p> <p>Clause 5.10.2 of the City's TPS2 states;</p> <p><i>"Without limiting the generality of Clause 6.5 in determining an application for approval of development in a Controlled Development Area:</i></p> <p><i>a. the Council shall consider the effect of the development on the amenity of the surrounding area, the visual effect of the</i></p>
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	<p><i>development as perceived from the Swan River and the effect on the amenity of the parks and recreation reserves in that area in accordance with Council policy from time to time determined for each Controlled Development Area;</i></p> <p><i>b. if the Council so requires, the applicant shall furnish such further information, as deemed necessary by Council to determine the application (including perspectives and elevations, or any other data);</i></p> <p><i>c. the Council may refuse development approval or impose conditions on a development approval where it considers that the amenity of the area may be detrimentally affected by the proposal.</i></p> <p>Clause 5.10.3 of TPS2 states;</p> <p><i>"Within a CDA the following provisions shall apply:-</i></p> <p><i>a. the Council shall not permit the ground level of any lot to be raised by an amount greater than 0.5 m above natural ground level whether by means of a retaining wall or not, unless it is satisfied that such changes in level will not unduly affect the amenity of the area including amenity of neighbouring properties.</i></p> <p><i>b. for the purpose of this clause the rear boundaries of certain lots shall be delineated in Appendix 1 and the rear setback applicable to boundaries of lots so delineated shall be 7.5m..."</i></p>
<p>Applicants Proposal</p>	<p>The application proposes areas of fill and retaining up to approximately 7 m above NGL located towards the rear of the dwelling.</p> <p>The dwelling has a 10 m setback from the rear boundary fronting the river, therefore is well setback behind the 7.5m CDA setback area.</p>

<p>Applicant justification summary</p>	<p>The applicant has provided no justification in relation to this issue.</p>
<p>Officer technical comment</p>	<p>When considering the proposal under the above Clause/s the main issues are related to the scale and bulk of the dwelling. The key factors that contribute to the excessive scale and bulk are:</p> <ol style="list-style-type: none"> 1. The proposed dwelling is four storeys and does not comply with Clause 5.11 i) of TPS2; 2. The resulting height of the rear wall of the dwelling is 14.5 m above mean natural ground level; 3. The amount of fill located towards the rear of the dwelling is well in excess of the 0.5 m provided for under Clause 5.10.3 (a); and 4. The proposed non-complying side setbacks under the RCodes. <p>All of these factors contribute to the bulk of the dwelling, and the proposal is considered to be contrary to the following provisions of Clause 5.10 "<i>Controlled Development Area</i>":</p> <p>Clause 5.10.2 (a) The bulk and scale of the dwelling is considered to have an adverse impact on the amenity of the surrounding area as viewed from the Swan River and the associated parks and recreation reserves.</p> <p>Clause 5.10.3 (a) The level of fill and retaining located towards the rear of the dwelling (i.e. 7 m on the western boundary and 5.5 m on the east boundary) is well in excess of the 0.5 m required under Clause 5.10.3 (a).</p>

Conclusion

The application is not considered to be in compliance with TPS2, including a number of non-discretionary scheme provisions, and is recommended for refusal for the following summarized reasons:

1. The proposed dwelling consists of 4 storeys directly above each other. Clause 5.11 i) of the City's TPS2 requires that no dwelling is to contain more than two storeys directly above each other, excluding areas used for plant and equipment, storage, toilets and the parking of wheeled vehicles.

The dwelling does not meet the provisions of this Clause as the proposed 'undercover outdoor area' on the basement level is located directly below a bedroom on the upper floor and the kitchen/meals area on the ground floor, and it is considered that other areas will function as habitable rooms, rather than for storage.

2. The height of the rear wall is 14.5 m as measured from the mean natural ground level at the base of that wall. The proposed wall exceeds the height limit of 8.5 m required under Clause 5.11 ii) by 6 m. This height is disproportionate to other dwellings in the City and is considered to have an adverse visual impact when viewed from both the river and the surrounding properties.
3. As mentioned above there are four key factors contributing to the bulk of the dwelling which are all considered to not comply with various Scheme and RCodes provisions. Therefore the bulk of the dwelling is considered unacceptable under the Performance Criteria of the RCodes and the provisions under Clause 5.10 of TPS2.

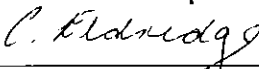
Given the issues discussed above and that there is no discretion to vary a number of the non-complying Scheme provisions the application is recommended for refusal.

Attachments

1. Locality Plan
2. Site Plan
3. Cellar Floor Plan
4. Basement floor plan
5. Ground Floor Plan
6. Terrace Garden Plan
7. Upper Floor Plan
8. North and West Elevation Plans
9. South and East Elevation Plans
10. Rear Elevation Plan Showing 8.5 m Maximum Wall Height

D31.11	No. 40 (Lot 51) Jutland Parade, Dalkeith – Proposed 2x Multi Storey Dwellings (including Swimming Pools, Front Fence, Landscaping and Fill)
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Committee:	12 April 2011
Council:	27 April 2011

Applicant:	Milankov Designs and Project Management
Owner/s:	Robert Franco
Officer:	Nick Bakker - Planning Officer
Director:	Carlie Eldridge - Director Development Services
Director Signature:	
File ref:	DA10/90 : DA10/91
Previous Item No's:	Nil
Disclosure of Interest:	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to refuse applications where discretion exists.

Recommendation to Committee

1. Council refuses an application under the City of Nedlands Town Planning Scheme No. 2 (TPS2) and recommends the Western Australian Planning Commission (WAPC) refuse the application under the MRS for the proposed three storey dwelling (including swimming pool, front fence, landscaping and fill) at No. 40 (Lot 51/ proposed Lot 61) Jutland Parade, Dalkeith in accordance with the application dated 5 March 2010 and amended plans dated 27 January 2011 and 22 February 2011, on the grounds that:
 - a. Clause 5.3.1(a) of TPS2 does not allow two dwellings to be approved on the same R12.5 lot, and as subdivision of Lot 51 to create two new lots has not been completed, the proposal must be refused.
 - b. the proposed dwelling is contrary to Clause 5.11 i) of TPS2 in that more than two residential storeys are proposed, and there is no discretion under TPS2 for this provision to be varied;

- c. the proposed dwelling is contrary to Clause 5.11 ii) of TPS2, in that the height of exterior walls exceed 8.5m from mean natural ground level at the base of the walls, and there is no discretion under TPS2 for this provision to be varied;
 - d. the proposed dwelling does not comply with the 9 m front setback requirement under Clause 5.3.3 (a) of TPS2, and there is no discretion under TPS2 for this requirement to be varied;
 - e. the development proposes a 'non-accessible roof deck' and privacy screen within the CDA rear setback area, and there is no discretion available to allow development within that setback;
 - f. the proposed dwelling meets neither the Acceptable Development provisions nor the Performance Criteria under clause 6.3.1 of the Residential Design Codes in relation to side setbacks.
2. Council refuses an application under the City of Nedlands Town Planning Scheme No. 2 ("TPS2") and recommends the Western Australian Planning Commission (WAPC) refuse the application under the MRS for the proposed four storey dwelling (including swimming pool and fill) at No. 40 (Lot 51/ proposed Lot 62) Jutland Parade, Dalkeith in accordance with the application dated 5 March 2010 and amended plans dated 27 January 2011, on the grounds that:
- a. Clause 5.3.1(a) of TPS2 does not allow two dwellings to be approved on the same R12.5 lot, and as subdivision of Lot 51 to create two new lots has not been completed, the proposal must be refused.
 - b. the proposed dwelling is contrary to Clause 5.11 i) of TPS2 in that more than two residential storeys are proposed, and there is no discretion under TPS2 for this provision to be varied;
 - c. the proposed dwelling is contrary to Clause 5.11 ii) of TPS2, in that the height of exterior walls exceed 8.5m from mean natural ground level at the base of the walls, and there is no discretion under TPS2 for this provision to be varied;
 - d. the proposed dwelling meets neither the Acceptable Development provisions nor the Performance Criteria under Clause 6.3.1 of the Residential Design Codes in relation to the side setbacks;

- e. the development will have an adverse impact on the amenity of the surrounding area as viewed from the Swan River and associated parks and recreation reserves, contrary to clause 5.10.2(a) of TPS2 in relation to the Controlled Development Area;
 - f. the bulk and scale of the proposed development is excessive, and adversely affects amenity of neighbouring properties.
3. Council determines pursuant to Note 2 of Appendix 1 of TPS2 that in light of the approval to subdivide Lot 51 (40) Jutland Parade into proposed Lots 61 and 62:
- a. the southern boundary of proposed Lot 61 shall be regarded as the rear boundary for the purposes of determining where the rear setback shall be applied pursuant to clause 5.10.3(b) of TPS2; and
 - b. for proposed Lot 62, the existing rear boundary shown in Appendix 1 of TPS2 for Lot 51 shall remain the rear boundary for the purposes of determining where the rear setback shall be applied pursuant to clause 5.10.3(b) of TPS2.

Strategic Plan

KFA 3: Built Environment

To provide a built environment and land use planning framework which:

- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No. 40 (51) Jutland Parade, Dalkeith
Zoning MRS: Urban
Zoning TPS2: Residential – R12.5
Lot Area: Existing Lot 51 = 1921 m²
Proposed Lot 61 = 700 m²
Proposed Lot 62 = 1215 m²

For the purpose of this report, proposed Lot 61 is referred to as No. 40 Jutland Parade (Block 1) and proposed Lot 62 is referred to as No. 40 Jutland Parade (Block 2).

The proposed dwellings are located on a lot partly located within the Swan River Trust (SRT) Development Control Area. The SRT Development Control Area (DCA) is located over the rear portion of the lot. No development is proposed in the DCA itself.

Clause 29 of the Metropolitan Regional Scheme (MRS) requires the application for approval under the MRS to be referred to the WAPC for determination in accordance with clause 30A of the MRS.

The City referred the applications to the WAPC along with an MRS Form 1 and a full copy of the plans on 27 October 2010.

Proposal Detail

A proposal for three multi-storey dwellings was submitted to the City as three separate development applications, with one dwelling proposed at No. 38 (lot 50) Jutland Parade and two dwellings proposed at No. 40 (lot 51) Jutland Parade.

No. 40 (Lot 51) Jutland Parade is currently a single title lot and the City's TPS2 precludes the approval of two dwellings (i.e. grouped dwellings) on one lot in R12.5 zones.

However, the City has also received a subdivision application to create two green title lots on this site. Although the applications cannot at present be approved under TPS2, for the purpose of this report and the recommendation to the WAPC, they have been assessed in light of the proposed subdivision. As a result the City will provide two separate recommendations, one for each proposed dwelling.

No. 40 Jutland Parade (Block 1)

The dwelling on Block 1 would be located on a proposed 700 m² lot which is the minimum site area required under the Residential Design Codes for lots zoned R12.5.

The proposed dwelling is a total of three storeys, including a basement level with a nine car garage, storage and an outdoor swimming pool to the rear.

The dwelling is located at the northern end of the existing site and fronts Jutland Parade. Access to the garage is via a 4.3 m wide access easement proposed down the eastern side of the lot,

No. 40 Jutland Parade (Block 2)

The dwelling on Block 2 would be located on a proposed 1215 m² lot. Access to the dwelling is via the same access easement.

The proposed dwelling is a total of four storeys including a cellar level and a basement level. The cellar level comprises of a pool plant room,

cool room, water closet and cellar. The basement level consists of a pool terrace, store room, arts and artifacts store, bathroom, pool store and an outdoor swimming pool to the rear.

Consultation

Required by legislation: Yes No

CDA Advertising 16 July 2010 - 6 August 2010

As the development is located in the City of Nedlands Controlled Development Area (CDA) the application is required to be advertised for a period of 21 days to adjoining landowners and occupiers.

Comments received: One (1) objection relating to No. 40 (Block 1) Jutland Parade.

The concerns raised in this objection relate to the setback variations and possible reduced river outlook from a property on the opposite side of Jutland Parade. As part of the mandatory CDA advertising period the application was advertised to all properties across the road. However the side setback variations were not advertised to these properties as the impact of the reduced side setback is considered to affect the side neighbours, not the neighbours on the opposite of the street.

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

Summary of comments received	Officers technical comment
<p>Issue</p> <p>Building Bulk Impact on Views</p> <p>The western side setback encroachment and the upper floor encroachments will further reduce river outlooks.</p> <p>The side setback variances should not be permitted. The owner wishes to have a larger house than the design rules permit.</p> <p>Exceeding the side setback variances is over-building on this under-size block on a scale not seen before on Jutland Parade.</p>	<p>Dismiss</p> <p>It is not considered this setback will unreasonably affect the river views.</p> <p>There are a number of side setback variations proposed at No.40 Jutland Parade (Block 1) (discussed in more detail later in the report). It is not considered the bulk of the dwelling will adversely impact on properties on the opposite side of Jutland Parade, as the house is well set down from the street level, with a front wall height of 5 m and max roof height of 7 m as viewed from the street.</p>

<p>This sets an unwelcome precedent for further dominating edifices.</p>	<p>This is not to say the overall bulk of the dwelling is not an issue for the whole site, the issue of bulk is discussed in more detail below.</p>
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Legislation

- Town Planning Scheme No.2
- Residential Design Codes 2008
- Council Policy 6.4 Neighbour Consultation

Discussion

Issue: Clause 5.11 - Number of Storeys Directly Above Each Other

<p>Requirement</p>	<p>Clause 5.11 i) of TPS2 states;</p> <p><i>"No site shall be developed or building constructed:</i></p> <p><i>to contain more than two storeys directly above each other in the case of residential use or three storeys in the case of other uses, excluding areas used for plant and equipment, storage, toilets and the parking of wheeled vehicles."</i></p>
<p>Applicants Proposal</p>	<p>Block 1</p> <p>The proposed dwelling at No. 40 Jutland (block 1) has 3 storeys directly above each other consisting of the following;</p> <p>Basement Level With a plant and equipment store, art and artefacts store, garden store, pool store, lobby, wash room, laundry and 9 car garage.</p> <p>Ground Floor With a number of living areas, balcony, terraces, alfresco area, kitchen and dining area, study, garage and movie room.</p> <p>Upper Floor With a number of bedrooms, bathrooms, balconies and a sitting room.</p> <p>Block 2</p> <p>The proposed dwelling at No. 40 Jutland (block 2) has 4 storeys directly above each other consisting of the following;</p>

	<p>Cellar Level With a wine cellar, pool pump room, storage, water closet and cool room.</p> <p>Basement Level With a pool terrace, open store room, document store, arts and artefacts store, pool store, lobby and wash room.</p> <p>Ground Floor With a number of living areas, balconies, activity room, kitchen and dining area, study, 4 car garage and store.</p> <p>Upper Floor With a number of bedrooms, bathrooms, balconies and a sitting room.</p>
<p>Applicant justification summary</p>	<p>The applicant has provided no justification in relation to this issue.</p>
<p>Officer technical comment</p>	<p>The list below outlines concerns associated with this Clause on each individual level of the dwellings:</p> <p>Block 1</p> <p>Basement Level The 'Plant and Equipment Stores' open directly out to pool deck and appear to service the pool as "outdoor" living areas.</p> <p>Ground Floor All of the rooms on the ground floor which are located directly above the paved outdoor area and open stores on the undercroft level are habitable (i.e. alfresco, meals, kitchen, study and balconies),</p> <p>Upper Floor All of the rooms on the upper floor which are located directly above the basement and ground floor levels are habitable (i.e. bed 1, sitting and balconies).</p> <p>Block 2</p> <p>Cellar Level Including cool room and a large cellar.</p>

	<p>Undercroft Two 'Open Stores' open out to pool deck paved area and appear to service the pool (i.e. Showers and bathroom attached) and will be used as outdoor living,</p> <p>Ground Floor All of the rooms on the ground floor which are located directly above the paved outdoor area and open stores on the undercroft level are habitable (i.e. alfresco, meals, kitchen, study and balconies).</p> <p>Upper Floor All of the rooms on the upper floor which are located directly above the basement and ground floor levels are habitable (i.e. bed 1, sitting and balconies).</p> <p>Due to the nature of the different levels described above the dwellings are not considered to comply with Clause 5.11 i) of TPS2 which does not allow for more than two storeys directly above each other in residential areas unless the additional storey is used for plant and equipment, storage, toilets and the parking of wheeled vehicles (only).</p> <p>Given that there is no discretion to vary this Scheme provision it is considered Council is not in a position to support this dwelling and refusal is recommended as the proposal is contrary to Clause 5.11 i).</p>
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Issue: Clause 5.11 - Maximum Wall Heights Exceeded

Requirement:	<p>Clause 5.11 ii) of TPS2 states;</p> <p><i>"No site shall be developed or building constructed:</i></p> <p><i>with the height of any part of an exterior wall greater than 8.5m from mean natural ground level at the base of the wall"</i></p>
Applicants Proposal:	<p>Block 1 The proposed dwelling at No. 40 Jutland Parade (Block 1) has a proposed rear wall height of 9 m above the mean NGL as measured from the base of the wall (0.5 m above the required 8.5 m).</p>

	<p>Block 2 The proposed dwelling at No. 40 Jutland (Block 2) has a proposed rear wall height of 14 m above the mean NGL as measured from the base of the wall (5.5 m above the required 8.5 m).</p>
<p>Applicant justification summary</p>	<p>The applicant believes the definition of mean natural ground level under Clause 1.8 of the City's TPS2 should be used to determine the rear wall height. Clause 1.8 'Interpretations' of TPS2 defines mean natural ground level as:</p> <p><i>"those levels as depicted by contour lines at 1 metre intervals on the Land and Surveys Department public plans Series B.G 2000 34 as applicable to the Scheme Area measured at the geometric horizontal centre of the lot."</i></p> <p>The applicant provided justification in a letter prepared by a planning consultant. The letter explains that if the height of the rear walls were to be determined using the above definition of mean natural ground level then the wall heights would not exceed the 8.5 m required under Clause 5.11.</p>
<p>Officer technical comment</p>	<p>When determining the height of the rear wall the City measures the wall height from the mean natural ground level at the base of the wall. This is the practice for every development application assessed against this Clause of TPS2.</p> <p>The City received legal advice regarding this matter, which supports the City's practice.</p> <p>If the applicant's methodology is applied the words 'at the base of the walls' within Clause 5.11 ii) become meaningless. A sensible meaning should be given to those words, as a matter of statutory interpretation.</p> <p>Based on a review of the history of this Clause, the applicant's methodology does not conform to the intention behind Clause 5.11 ii), and the City's method of measuring mean natural ground level is considered to be correct.</p> <p>Using the current practice of measuring wall height and taking into account the legal advice received, the proposed wall height is well over of the 8.5 m permitted under Clause 5.11 ii) (i.e. 6 m above the permitted 8.5 m).</p>

Issue: Clause 5.10 Controlled Development Area (CDA)

<p>Requirement:</p>	<p>Clause 5.10 of the City's TPS2, relating to the CDA, requires that any development on this property is to be considered under Clause 5.10.2 and meet the provisions outlined in Clause 5.10.3.</p> <p>Clause 5.10.2 of the City's TPS2 states;</p> <p><i>"Without limiting the generality of Clause 6.5 in determining an application for approval of development in a Controlled Development Area:</i></p> <ol style="list-style-type: none"> <i>a. the Council shall consider the effect of the development on the amenity of the surrounding area, the visual effect of the development as perceived from the Swan River and the effect on the amenity of the parks and recreation reserves in that area in accordance with Council policy from time to time determined for each Controlled Development Area;</i> <i>b. if the Council so requires, the applicant shall furnish such further information, as deemed necessary by Council to determine the application (including perspectives and elevations, or any other data);</i> <i>c. the Council may refuse development approval or impose conditions on a development approval where it considers that the amenity of the area may be detrimentally affected by the proposal.</i> <p>Clause 5.10.3 of TPS2 states;</p> <p><i>"Within a CDA the following provisions shall apply:-</i></p> <ol style="list-style-type: none"> <i>a. the Council shall not permit the ground level of any lot to be raised by an amount greater than 0.5 m above natural ground level whether by means of a retaining wall or not, unless it is satisfied that such changes in level will not unduly affect the amenity of the area including amenity of neighbouring properties.</i>
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	<p><i>b. for the purpose of this clause the rear boundaries of certain lots shall be delineated in Appendix 1 and the rear setback applicable to boundaries of lots so delineated shall be 7.5m...</i></p> <p>Note 2 in Appendix 1 states:</p> <p>"Where a subdivision of land takes place within the area the subject of clause 5.10, the Council shall determine which boundary shall be regarded as the rear boundary for the purposes of determining where the rear setback shall be applied."</p> <p>Separate titles have not yet been created for the two proposed lots at No. 40 Jutland Parade, but it is recommended that the Council determine that the southern boundary shall be the rear boundary for the proposed lot fronting Jutland Parade (Block 1).</p> <p>For the proposed new Block 2, the present CDA setback would remain as shown in Appendix 1.</p>
<p>Applicants Proposal</p>	<p>The dwelling at No. 40 Jutland Parade (Block 1) proposes a 'non-accessible roof deck' and privacy screen protruding 0.75 m into the 7.5m rear setback area.</p> <p>The site plan also shows fill to a maximum height of 900 mm in the rear south western corner of this lot. However, the elevation plan shows the fill in this area being a maximum of 500mm. The City requested that the applicant amend the plans to correct this discrepancy on a number of occasions, however the final plans dated 27 January 2011 still show 900mm of fill in the 7.5 m rear setback area on the site plan.</p>
<p>Applicant justification summary</p>	<p>The applicant has provided no justification in relation to this issue.</p>
<p>Officer technical comment</p>	<p>Block 1 Clause 5.10.3 of the City's TPS2 does not provide for Council to exercise discretion to approve any portion of the dwelling located in the 7.5 m DCA rear setback area. Therefore it is recommended Council does not support the portion of roof deck and privacy screen within the 7.5 m rear setback area.</p>

	<p>Given the steep slope of this block and others along the southern side of Jutland Parade, the proposed level of fill (900mm above natural ground level) surrounding the pool in the rear setback area is not considered to have an adverse impact on the amenity of the area.</p> <p>Block 2</p> <p>The proposed dwelling at No. 40 Jutland (Block 2) complies with the provisions of Clause 5.10.3. However, the proposal is contrary to the considerations relevant under Clause 5.10.2 with the main issues relating to the scale and bulk of the dwelling. The key factors that contribute to the excessive scale and bulk are:</p> <ol style="list-style-type: none"> 1. The proposed dwelling is four storeys and does not comply with Clause 5.11 i) of TPS2; 2. The resulting height of the rear wall of the dwelling is 14 m above mean natural ground level; 3. The proposed non-complying side setbacks under the RCodes. <p>All of these factors contribute to the bulk of the dwelling, and the proposal is considered to be detrimental to the amenity of the surrounding area.</p>
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Issue: Clause 5.3.3 - 9 m Front Setback

Requirement	Clause 5.3.3 a) of the City's TPS2 requires a 9 m minimum front setback.
Applicants Proposal	The dwelling at No. 40 Jutland Parade (block 1) proposes a 'non-accessible roof deck' and privacy screen protruding 0.75 m into the 9 m front setback area.
Applicant justification summary	The applicant has provided no justification in relation to this issue.
Officer technical comment	Clause 5.3.3 a) of the City's TPS2 does not provide for Council to exercise discretion to approve any portion of the dwelling located in the 9 m front setback area. Therefore it is recommended Council does not support the portion of roof deck and privacy screen within the 9 m front setback area.

Issue: Residential Design Codes – Side Setback Variations

<p>Requirement</p>	<p>The proposed dwellings are required to be setback from the side boundaries in accordance with Clause 6.3.1 of the RCodes. Development meets the acceptable development provisions of the Codes if it complies with the relevant tables and figures of the RCodes (as explained below). If development does not meet these provisions it must instead comply with the following performance criteria:</p> <p><i>"Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.</i>
<p>Applicants Proposal</p>	<p>Block 1</p> <p>Western Setback</p> <ul style="list-style-type: none"> • The proposed western upper floor balcony has a proposed side setback of 2.875 m. The acceptable development provisions of Clause 6.3.1 (Table 2) requires a minimum side setback of 3.3 m. • The proposed rear balcony was assessed using table 2e of the RCodes and has a proposed setback of nil in lieu of the required 1.3 m under the acceptable development provisions. <p>The above western side setback variations to the RCodes were advertised to the side neighbours for comment. There were no</p>

	<p>objections received regarding the side setback or overlooking variations from either of the side neighbours. However, an objection was received from a property owner across the road in relation to the side setback variations at No. 40 Jutland (Block 1) and the impact of the bulk of this dwelling on views.</p> <p>The side setback variations in question are listed below:</p> <p>Eastern Setback</p> <ul style="list-style-type: none"> • The proposed basement level wall pool pump to artefact store has a nil setback in lieu of the required 1.5 m. • The proposed ground floor alfresco has a 1m setback in lieu of the required 1.2 m. • The proposed ground floor (balance) has a 1 m setback in lieu of the required 2.8 m. • The proposed upper floor wall balcony to ensuite 2 has a 1 m setback in lieu of the required 3.7 m. • The proposed upper floor ensuite 1 has a 1 m setback in lieu of the required 1.4 m. • The proposed upper floor (balance) has a 1 m setback in lieu of the required 5.9 m. • The proposed front balcony overlooks to the east and does not comply with the 7.5m privacy (Cone of Vision) setback required under the RCodes. <p>The eastern property is owned by the same family as No. 40 and all of the RCodes variations along the eastern boundary are therefore acceptable to that owner.</p> <p>Block 2 Western Setback</p> <ul style="list-style-type: none"> • The proposed ground floor garage has a nil setback in lieu of the required 1 m. • The proposed ground floor wall (balance) has a 2.5 m setback in lieu of the required 4.8 m.
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	<ul style="list-style-type: none"> • The proposed upper floor wall (balance) has a 4.2 m setback in lieu of the required 6 m. <p>The above variations were advertised to the owner of the western property, no objection was received.</p> <p>Eastern Setback</p> <ul style="list-style-type: none"> • The proposed pool wall has a 1.5 m setback in lieu of the required 1.6 m. • The proposed ground floor formal living room has a 1.536 m setback in lieu of the required 2.5 m. • The proposed ground floor wall activity to balcony has a 1.537 m setback in lieu of the required 8 m. • The proposed upper floor wall bed 2 has a 1.536 m setback in lieu of the required 3.3m. • The proposed upper floor wall Ensuite 1 to spa has a 3.077 m setback in lieu of the required 5.5 m. • The proposed upper floor (balance) has a 4.5 m setback in lieu of the required 11 m. • The proposed upper and ground floor rear balconies overlook to the west and do not comply with the 7.5 m privacy (Cone of Vision) setback required under the RCodes. <p>The eastern property is owned by the same family as No. 40 Jutland and all of the RCodes variations along the eastern boundary have been agreed to.</p>
<p>Applicant justification summary</p>	<p>The applicant provided no justification in relation to the proposed non-complying side setbacks.</p>
<p>Officer technical comment</p>	<p>The proposed development has been considered under the abovementioned performance criteria.</p>

	<p>The proposed dwellings at No. 40 Jutland Parade are set down from the street level and are lower than the property to the west. These dwellings are also separated from the proposed dwelling to the east by an access easement and will therefore provide adequate direct sun and ventilation to the proposed buildings and surrounding properties.</p> <p>The issue related to the bulk and size of the buildings has been discussed in relation to Clause 5.11 of TPS2. The proposed number and the extent of the side setback variations are considered to exacerbate the impact of the bulk of the dwellings on the adjoining properties. Therefore the proposed dwellings are not considered to meet the performance criteria in this regard.</p> <p>The proposed dwellings are designed with privacy screening and obscure glazing to protect the privacy of adjoining properties. Therefore it is considered the proposed dwellings meet the performance criteria in this regard.</p>
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Conclusion

The applications are not considered to be in compliance with TPS2, including a number of non-discretionary Scheme provisions and are recommended for refusal for the following summarized reasons:

1. Both of the proposed dwellings consist of more than two storeys (i.e. 3 and 4) directly above each other. Clause 5.11 i) of the City's TPS2 requires that no dwelling is to contain more than two storeys directly above each other, excluding areas used for plant and equipment, storage, toilets and the parking of wheeled vehicles.

The dwellings do not meet the provisions of this Clause as the proposed 'undercover outdoor areas' on the basement and undercroft levels are located directly below bedrooms on the upper floor and the kitchen/meals areas on the ground floor and those areas are not excluded from the number of storeys calculated under clause 5.11 i).

2. The height of the rear wall is proposed at 9 m for No. 40 Jutland (block 1) and 14 m at No. 40 Jutland (block 2) as measured from the mean natural ground level at the base of that wall.

The proposed wall exceeds the height limit of 8.5 m required under Clause 5.11 ii) by 0.5 m for No. 40 (block 1) and 5.5 m for No. 40 (block 2). These heights are considered disproportionate to other dwellings in the City especially at No. 40 (block 2), which is considered to have an adverse visual impact when viewed from the river.

3. The dwelling at No. 0 Jutland Parade (block 1) proposes a 'non-accessible roof deck' and privacy screen protruding 0.75 m into the proposed 7.5 m CDA rear setback area. Clause 5.10.3 of the City's TPS2 does not allow for any portion of the dwelling to be located in the 7.5 m DCA rear setback area.
4. As mentioned above there are three key factors contributing to the bulk of the proposed dwelling at No.40 Jutland (Block 2) which are all considered to not comply with various Scheme and RCodes provisions. Therefore the bulk of the dwelling is considered unacceptable under the Performance Criteria of the RCodes and the provisions under Clause 5.10 of TPS2.
5. The dwelling at No.40 Jutland Parade (block 1) proposes a 'non-accessible roof deck' and privacy screen protruding 0.75 m into the 9 m front setback area. Clause 5.3.3 (a) of the City's TPS2 does not allow for any portion of the dwelling to be located in the 9 m front setback area.

Given the issues discussed above and that there is no discretion to vary a number of the non-complying Scheme provisions the application is recommended for refusal.

Attachments

Block 1

1. Locality Plan
2. Site Plan
3. Basement Floor Plan
4. Ground Floor Plan
5. Upper Floor Plan
6. North and West Elevation Plans
7. South and East Elevation Plans
8. Rear Elevation Plan Showing 8.5 m Maximum Wall Height

Block 2

1. Locality Plan
2. Site Plan
3. Cellar Floor Plan
4. Basement Floor Plan
5. Ground Floor Plan
6. Upper Floor Plan
7. North and West Elevation Plans
8. South and East Elevation Plans
9. Rear Elevation Plan Showing 8.5 m Maximum Wall Height

D32.11	No. 101 (Reserve 33244) Monash Avenue - QEII Medical Centre Access and Structure Plan and Master Plan - Report and Recommendations
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Committee	12 April 2011
Council	22 April 2011

Applicant	Department of Treasury and Finance
Owner	QEII Medical Centre Trust
Officer	Jennifer Heyes - Manager Statutory Planning
Director	Carlie Eldridge - Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref	M01/R33244-05
Previous Item No's	DA10/645 : DA10/646I : DA10/382 : DA09/107
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

At the council meeting of 14 December 2010, Council requested "Administration to prepare a report and recommendations on the QEII Medical Centre Master Plan".

Recommendation to Committee

Council instructs Administration to write to the QEII Medical Trust and the Department of Treasury and Finance in regards to current and future development at the QEII Medical Centre with the following recommendations:

1. All future Development Applications incorporate but not limited to:
 - a) A Construction Management Plan, including construction traffic, noise, waste management, storage and screening.
 - b) An Acoustic Report.
 - c) A Landscaping Plan.
 - d) A Report on the impact on carparking.
2. A comprehensive Construction Management Plan be submitted for the entire site redevelopment which includes construction traffic, noise, waste management, storage and screening.

3. **Additional multi-decked and/or basement parking is incorporated into all the new buildings to provide further carparking on the site.**
4. **To resolve that the remnant bushland remain intact as identified in the original Structure Plan document and as reflected in the current Master Plan.**
5. **Explore additional height opportunities along the Winthrop Avenue edge and within the 'core' of the site, including smaller footprints and taller buildings. This would allow for additional carparking and provide the opportunity for retention of remnant bushland and greater landscape open-space.**
6. **Explore the opportunity of the Special Development Zone on the corner of Winthrop Avenue and Aberdare Road being increased in height to allow for a well designed entry statement to the site and provide the opportunity for carparking to be provided to a standard commercial carparking ratio in line with its proposed use for health related commercial uses.**
7. **The Access and Structure Plan is amended to provide for the additional height opportunities to achieve clause 5 above.**
8. **The light rail is funded and implemented prior to the Children's and Women's Hospitals being opened.**

Strategic Plan

KFA 3: Built Environment

- 3.4 **Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.**

KFA 4: Community Wellbeing

- 4.1 **Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.**

Background

Ownership	Crown land vested to the QEII Medical Centre Trust
Property Address:	101 (Reserve 33244) Monash Avenue, Nedlands
Zoning MRS:	Public Purpose - Hospital
Zoning TPS2:	MRS Public Purpose - Hospital
Lot Area:	28 hectares

Key Relevant Previous Decisions

Date	Action/Comments
June 2007	WAPC adopt the QEII Access and Structure Plan (Structure Plan).
November 2008	The Council recommends refusal for an application for a new pathology building located on the site as Council did not accept the Travel Plan and was concerned about the lack of parking on and around the site.
July 2009	The Council recommends refusal for an application for the proposed Comprehensive Cancer Centre on the QEII site based on parking issues.
April 2010	The Council recommended refusal for an application for the proposed new Western Australian Institute for Medical Research (WAIMR) and requested no further development approvals is issued until sufficient parking is provided on site and the objectives of the QEII Travel Plan have been affectively implemented.
October 2010	WAPC approve the Master Plan document as a staging and implementation plan for the redevelopment.
December 2010	The Council recommended refusal for an application for the proposed new Central Plant Facility.
March 2011	The Council recommended refusal for a temporary Child Care centre off Verdun Street.

Legislation

The QEII Medical Site is located on MRS land and as such Council is required to provide only recommendations to the Western Australian Planning Commission who determine all development applications on the site.

The Town Planning Scheme No. 2 (TPS2) and Council Policies have no statutory authority.

The 'Reid Report' health reforms released in 2004 identified the need for redevelopment of the QEII hospital site. The access and structure planning process was initiated to assess the implications of the future redevelopment.

The Structure Plan included the possibilities of King Edward Memorial Hospital and Princess Margaret Hospital being located at QEII.

The Structure Plan identifies principles and performance criteria to be addressed in master planning and detailed design.

The *Queen Elizabeth II Medical Centre Act 1966* established the Trust as a body corporate charged with “the development, management and control of those lands and for incidental and other purposes”.

Key Relevant Documents

Feb 2007 - Queen Elizabeth II Medical Centre Access and Structure Plan - Volume 1 of 2

Feb 2007 - Queen Elizabeth II Medical Centre Access and Structure Plan - Volume 2

Oct 2010 - QEII Medical Centre - Master Plan

Full copies of the above documents have been forwarded to the Councillors for their information.

QEII Access and Structure Plan

In June 2007, the WAPC adopted in principle the QEII Medical Centre Access and Structure Plan as a guide to future planning and development of the Queen Elizabeth II Medical Centre precinct. Attachment 1 is a diagrammatic summary of the Plan.

The adoption of the Access and Structure Plan was subject to several amendments and further requirements (refer Appendix 2 – WAPC - Statutory Planning Committee Record of Meeting 7226/07 held on Tuesday 19 June 2007 - Extract of Minutes relating to QEII Medical Centre Access and Structure Plan).

The main requirement of the WAPC was to request the Department of Health to prepare a staging and implementation plan to address a list of key issues. In response to this, the Department of Health developed the QEII Medical Centre Master Plan.

The Structure Plan outlines measures to be put in place to minimize the impact of development on surrounding areas, and to outline transport, access and parking measures that need to be implemented in association with ongoing development.

The Master Plan was guided by this framework and recommendations, together with the conditions of the approval by the WAPC in 2007.

The Master Plan provides for a staged redevelopment of the QEII Medical Centre. The redevelopment of the QEII Medical Centre incorporates:

- A new Children’s Hospital
- A future Women’s and Newborn Centre
- Provide ‘flagship’ facilities for a revitalised healthcare system serving the north Metropolitan Area health service (NMAHS) and the State of WA

It facilitates the implementation of recommendations 29, 31 & 33 of the 2004 Reid Report pertaining to Adult, Women's and Children's health Services.

The Master Plan study aims to progress the Access and Structure Plan.

Budget/financial implications

There are potential budget/financial impact upon the City as the use of the surrounding road network is increased and inadequate on-site carparking results in pressure on surrounding streets and competing uses for carparking.

Risk Management

The City of Nedlands is significantly impacted by the expansion of QEII, in particular in relation to parking and access. This report aims to again advise the State Government of the risks of not addressing our concerns.

Discussion

Current Status

Key components of Stage 1 redevelopment include:

- New children's hospital
- Carparking, mental health Unit
- Central plant relocation
- Western Power sub-station compound
- WAIMR
- Pathwest
- Cancer Centre
- State-wide centre for Women and new-born services
- TICHR and major upgrading of associated site facilities and services

Works are underway on an expanded Comprehensive Cancer Centre, PathWest facility and new Western Australian Institute for Medical Research, due for completion in 2012.

Construction of the new multi deck carpark is due to commence construction in 2011 followed by the new Children's hospital.

The relocation of the Central Plant will also commence shortly and the temporary carpark between the Crawford Lodge and the UWA medical Library adjacent to Monash Avenue is also expected to be approved shortly.

It is also understood that the new McDonalds House may be constructed on the site of the proposed temporary carpark once the carpark is no longer needed on completion of the multi-storey carpark.

Issues

Carparking

A Public Transport Master Plan, including a Travel Plan, Travel Smart programme and a Travel Policy is currently being implemented by the QEII Trust. The current status of the site is that carparking is at a critical stage, with staff being bussed from other sites and parking fees increasing incrementally over the next two years to make public transport a more viable option than travelling by car.

There is a temporary carparking strategy currently being written which is due to be conveyed to the City in the coming weeks. This strategy looks at all the possible options for temporary carparking whilst the redevelopment of the hospital site is undertaken.

The QEII site is proposed to have approximately 5,000 car parking spaces overall. Of the 5000 spaces, 3,500 will be in the multi-deck carpark on the corner of Winthrop Avenue and Aberdare Road, approximately 300 in the basement carpark of the children's hospital and the remaining approximately 1200 spaces spread throughout the site. Approximately 1200 carpark bays of the 5,000 will be made available for visitors.

The primary and secondary access points and circulation strategies are identified further on pages 29-31 of the Master Plan document.

Following construction of the multi-decked carpark, the main entrance to the hospital will be via a new entrance off Winthrop Avenue, nearly half way between Aberdare Road and Monash Avenue. A new set of traffic lights are proposed to be installed at this new intersection. Hospital Avenue will be reduced to service vehicles, ambulances and pedestrians only, both from Aberdare Road and Monash Avenue.

The multi-deck carpark has not yet been approved by WAPC but is expected to be approved at the 27 April 2011 WAPC Planning Committee meeting. Currently the City of Subiaco has indicated that they do not agree with the Winthrop entranceway and prefer a round-about off Aberdare Road.

The multi-deck carpark is 7 storeys in height in accordance with the maximum height set by the Structure Plan. It is recommended that that the opportunity for additional height is explored along this edge of the site. This would allow for additional carparking to be provided.

Light rail has been incorporated into both the Structure and Master Plan should the Government decide to implement this option. This is strongly supported.

Special Development Zones

A Special Development Zone is identified on the corner of Aberdare Road and Winthrop Avenue which could be made available for the development of health related commercial facilities and services.

A separate urban development feasibility study is recommended by the Master Plan for this area.

The use of this area for commercial activities related to the hospital will take some of the pressure from the adjoining residential and commercial areas for these types of uses. There is a need to plan for these land uses as the hospital increases in activity. Location of these activities on the Hospital site itself will provide the opportunity to properly design, plan and provide appropriate infrastructure (i.e. carparking) for these uses.

Currently these uses try to 'retrofit' into existing lots in Hampden Road area where carparking is already under pressure.

There is an opportunity for this area to become an entry statement to the site and therefore an additional height allowance under the Structure Plan is recommended. Additional height for the building will also provide for carparking to be provided to a commercial standard for these uses.

Construction Access

The potential impact of Construction traffic, access, noise and storage of materials has not been adequately addressed by the current documents.

A comprehensive study of the construction issues for the remainder of the redevelopment is recommended so that Council can more fully consider the potential impacts on the adjoining areas.

If this is not possible at this stage, it is recommended that the applicants are advised that detailed information is required at Development Application stage to ensure the impact of the construction on nearby residents is minimised.

Heights

Building heights are limited to four storeys adjoining perimeter streets. A ten storey height limit is set around the centre of the site and G block and tapering of building heights towards the perimeter with seven storeys to Winthrop Avenue and 6 storeys adjoining Hollywood Hospital.

For future buildings it is recommended that opportunities are explored for smaller footprints and taller buildings. This would provide opportunities for increased carparking, increased number of facilities in a reduced area and allowing potential for retention of remnant bushland and other open space.

Noise

The Master Plan shows the location of high impact uses within the 'core' of the site. This includes the relocation of the central plant facility. The Council resolved to recommend refusal on the grounds that the plant would be moved closer to nearby residents, however it was approved by the WAPC in December 2010.

It is recommended that all development approvals with the potential for noise impact are lodged with appropriate acoustic reports to ensure the proposals will not impact on nearby residents.

Remnant bushland

A remnant bushland area was identified adjacent to Crawford Lodge which is now proposed for temporary carpark. Although the Structure Plan had identified it as very good quality, the WAPC amended the Structure Plan when it was adopted by identifying this area for potential redevelopment.

Refer Appendix 2 - Clause 4, last dot point and last paragraph - *"Notional intensified development over the Crawford Lodge and remnant bushland...The commission considers that in the medium to long term, the retention of the Crawford Lodge and remnant bushland in the core of this high accessibility activity centre would represent a lost opportunity. Accordingly, the Trust is invited to explore opportunities for relocating the Crawford Lodge..."*

Notwithstanding this, the Master Plan which was adopted in 2010, also shows the remnant bushland as remaining intact. It is recommended that the Council further reiterates to the Commission that they resolve to retain this bushland.

Open space and landscaping

The Structure Plan identifies that the hospital is also within a residential setting. The Structure Plan identifies buildings along Monash Avenue and Verdun Street are required to provide a 10 m set back in 'landscape' setting to a maximum of four storeys in height.

It is recommended that landscape plans are included with all Development Applications that incorporate areas identified in the Structure and Master Plan as landscape areas.

Although height limits are set in the Structure Plan to 10 storeys at the centre of the site, it is recommended additional height is considered to allow buildings with a smaller footprint that could accommodate additional parking and allow for a small footprint facilitating greater open space on site.

Conclusion

In order to be able satisfactorily consider future development applications for the site it is recommended that the Department of Treasury and Finance ('the Applicants') are requested that all future Development Applications incorporate the additional following information:

- Construction Management Plan, including construction traffic, noise, waste management, storage and screening.
- Acoustic report.
- Proposed landscaping.
- Report on Impact on carparking at each stage.

It is also recommended that Administration write to the Department of Treasury and Finance with the following recommendations:

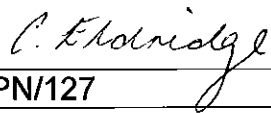
- Additional multi-decked and/or basement parking is incorporated into the new buildings to provide further carparking on the site.
- A comprehensive Construction Management Plan be submitted for the entire site redevelopment which includes construction traffic, noise, waste management, storage and screening.
- To resolve the remnant bushland remain as identified in the original Structure Plan document and as reflected in the current Master Plan.
- Explore additional height opportunities along the Winthrop Avenue edge and within the 'core' of the site, including smaller footprints and taller buildings. This would allow for additional carparking and provide the opportunity for retention of remnant bushland.
- Explore the opportunity of the special development zone on the corner of Winthrop Avenue and Aberdare Road being increased in height to allow for a well designed entry statement to the site and provide the opportunity for carparking to be provided to a standard commercial carparking ratio in line with its proposed use for health related commercial uses.
- The Access and Structure Plan is amended to provide for the additional height opportunities.
- The light rail is funded and implemented prior to the Children's and Women's Hospitals being opened.

Attachments

1. QEII Medical Centre Structure Plan - Structure Plan Summary
2. WAPC - Statutory Planning Committee Record of Meeting 7226/07 held on Tuesday 19 June 2007 - Extract of Minutes relating to QEII Medical Centre Access and Structure Plan).
3. QEII Medical Centre Master Plan - Ultimate development Diagram
4. QEII Medical Centre Master Plan - Stage 1 Development Diagram
5. QEII Medical Centre Master Plan - Stage 2 Development Diagram

D33.11	North Hollywood/Hampden/Broadway Housing Diversity Study Area – Endorsement of Questionnaire for Quantitative Public Participation.
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Committee	12 April 2011
Council	27 April 2011

Applicant	City of Nedlands
Owner	Various
Officer	Gabriela Poezyn - Manager Strategic Planning
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	TPN/127
Previous Item No's	D100.10
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

To undertake the next stage of the Hampden/Broadway/North Hollywood Precincts Study. This stage is a community survey to gauge the community's view of the possible future development of the North Hollywood, Hampden and Broadway areas, primarily to achieve greater housing diversity.

Surveys require approval of Council and accordingly the proposed survey is referred to Council to ensure that the direction taken at this stage of the study aligns with Council's strategic approach for this area.

Recommendation to Committee

Council endorse the attached survey be undertaken in accordance with the Project Plan.

Strategic Plan

- KFA 3: Built Environment
- 3.1 Develop and implement a new planning scheme for the City.
 - 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
 - 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
 - 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

- 3.5 Develop and implement precinct plans for key areas in the City.
- 3.6 Promote programs and policies to facilitate environmentally responsible and sustainable buildings and building practices.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 6: Community Engagement

- 6.1 Improve community awareness of City's directions, facilities and services.
- 6.2 Encourage community participation in the City's decision making processes.
- 6.5 Provide timely and accurate information across the organisation and externally.

Background

In 2009 the City concluded its review of Town Planning Scheme No. 2 (TPS2) and prepared a Draft Town Planning Scheme No. 3 (TPS3). Included in this new scheme, the City is required to plan for its future through review of current land uses requirements and identify opportunities to plan for the City's future desired character.

As part of the work for TPS3, Administration commenced preparing the housing diversity precincts identified by Council for greater housing choice. The first two (2) precincts being, Stirling Highway and Dalkeith (Waratah Avenue) have been progressed to West Australian Planning Commission (WAPC). The Stirling Highway Plan was approved by Council in October 2009 and Dalkeith was approved in September 2010 for WAPC consideration.

This study, which commenced as the Hampden/Broadway Precincts Study, is the next area which is being commenced as part of the Housing Diversity Study (HDS) and draft TPS3. During the first stages of this study an additional area being the North Hollywood Precinct was added by Council. The study will aim to plan for the following precinct areas as named and identified through the 2006 HDS:

- Hampden Road Precinct
- Broadway Precinct
- University Precinct (Clark, Cooper and Edward Streets)
- North Hollywood Precinct

The study is being done in accordance with the project plan dated October 2010 which comprises the following stages, with the current stage highlighted:

- Stage 1. Administration to prepare Project Plan and Community Engagement Plan
- Stage 2. Commission Research Consultant for Needs and Expectations Community Engagement
- Stage 3. Introduce the project to key stakeholders
- Stage 4. Develop a database of businesses/organisations in the Hampden/Broadway Precincts Study area
- Stage 5. Understand current uses, needs and expectations for the Hampden/Broadway Precincts Study
- Stage 6. Review Draft Project Plan
- Stage 7. Council presentations
- Stage 8. Communicate findings to key stakeholders
- Stage 9. Concept development
- Stage 10. Research consultant appointed for planning community engagement
- Stage 11. Council Endorsement
- Stage 12. Initial Concept Testing
- Stage 13. Council presentations
- Stage 14. Concept Refinement
- Stage 15. Council Endorsement
- Stage 16. Final Concept Consultation**
- Stage 17. Council presentations
- Stage 18. Final Concept Refinement
- Stage 19. Council Endorsement
- Stage 20. Communicate findings to key stakeholders

Following this project the council endorsed draft plan is forwarded to WAPC as part of draft TPS3 for consideration for approval to advertise with the whole of draft TPS3.

Proposal Detail

Following the initial concept testing which included interviews with stake holders and individuals that live in or near the study areas the initial concepts have been further refined.

The next stage is to test the refined concept. It is proposed that testing is done by way of a survey in order to allow that more people are canvassed than was possible under the qualitative research stage.

The concepts for testing are as follows:

North Hollywood Precinct

The objectives of the Precinct are:

1. High Quality Residential Housing

Four options are being tested as concepts for this precinct as follows:

1. Status Quo.
2. Incremental Subdivision: 1 large lot (over 1000 m²) into 2 medium lots (500 m²).
3. Development Along the Edge: Verdun Street and Aberdare Road adjoining and fronting lots allow large lots (1000 m²) subdivide into 3 lots (300 m²).
4. Comprehensive Redevelopment: Allow minimum development area of 3000 m² to comprehensively redevelop to townhouse/villa style development with minimum lots of 150 m².

Hampden Precinct

Monash Avenue Sub-Precinct

The objectives of the Monash Avenue Sub-Precinct are:

1. To facilitate an improved streetscape and cohesive built form.
2. To facilitate medical/education commercial development in a mixed use building.
3. To provide short-stay accommodation options and residential apartments.

The concepts being further tested are:

Facilitating mixed use development which allows retail and office with residential uses in a building up to 4 storeys with floors stepping back. Small bars are not allowed.

Hardy Road Sub-Precinct

The objectives of the Hardy Road Sub-Precinct are:

1. Multiple residential dwellings while keeping the current residential feel of the street.
2. An increase in density and housing choice with minimal impact on amenity.

The concepts being further tested are:

Hardy Street as a residential area providing for greater housing choice in a mix of townhouse, apartments and standalone small and medium lots (existing 450 m²).

Leura Street (eastern side) Sub-Precinct

The objectives of the Leura Street (eastern side) Sub-Precinct are:

1. To ensure that new development fronting Leura Street is designed in the form of a single two storey dwelling.
2. To provide opportunities for smaller retail and office uses facing onto Hampden lane.
3. To provide apartment style living as a housing choice over commercial land uses.

The concepts being further tested are:

Leura Street (eastern side) as a mixed use area with a residential streetscape character with buildings to present as two storey residential building to the street with 3 storey commercial/mixed use component to rear of lot adjoin existing laneway and the provision of additional three angle on street parking bays per property within landscaping and street trees to create an attractive streetscape character with additional parking to alleviate current parking problems.

Hampden Road Sub-Precinct

The objectives of the Hampden Road Sub -Precinct are:

1. To facilitate a high quality, walkable streetscape with retail/office tenancies front both Hampden Road and Hampden Lane being styled to create an active village feel.
2. To facilitate mixed use residential and commercial development.
3. To ensure that new residential development includes a mix of apartment sizes.

The concepts being further tested are:

Mixed use buildings with retail ground floor and residential above with balconies to the street and stepping back of each floor to create an attractive built form to 4 storeys.

Leura Street/Clifton Street (south of Park Street) Sub-Precinct

The objectives of the Leura Street/Clifton Street (south of Park Street) Sub-Precinct are:

1. To ensure new development retains existing high quality residential streetscape.
2. To provide for additional townhouse and/or maisonette style housing options.

The concepts being further tested are:

Townhouses, villas and maisonette style housing presenting to the street as 2 storeys with a setback third storey.

Broadway Precinct

Broadway Hub Sub-Precinct

The objectives of the Broadway Hub Sub-Precinct are:

1. To concentrate a mix of residential, office and retail along Broadway up to Cooper Street.
2. To ensure that new development includes a mix of apartment sizes.
3. To ensure that new development relates strongly to Broadway and Cooper Street.
4. To facilitate retail tenancies being styled to create a small shop feel.

The concepts being further tested are:

Mixed use development as an entry statement to a maximum of 6 storeys to create an entry to the city with retail ground floor offices and residential above.

Cooper/Clarke Sub-Precinct

The objectives of the Cooper/Clarke Sub-Precinct are:

1. To facilitate high quality residential streetscapes on lots facing Cooper and Clark Streets.
2. To facilitate mixed use development on lots facing Broadway, with non-residential retail tenancies on Broadway being styled to create a small shop feel.
3. To ensure that apartment style development includes a mix of apartment sizes.
4. To provide townhouse and maisonette styled housing options.

The concepts being further tested are:

A residential area providing for greater housing choice in a mix of townhouse, terraces and standalone small (250 m²) and medium lots (existing 450 m²) as well as small apartments/maisonette style housing. The built form is 2 storeys relating to the street with areas close to Broadway with a maximum of 4 storeys, transitioning to surrounding areas with a maximum of three storeys.

Broadway Sub-Precinct

The objectives of the Broadway Sub-Precinct are:

1. To facilitate a high quality, walkable streetscape with retail/office tenancies being styled to create a small shop feel.
2. To facilitate mixed use residential and commercial development.
3. To ensure that new residential development includes a mix of apartment sizes.

The concepts being further tested are:

Mixed Use developments along Broadway within a retail character to the street with office and residential above to a maximum of 4 storeys.

Hampden & Broadway Precincts

Within this precinct two concepts for the greater precinct are proposed to be tested, being corner lot subdivision to create small stand alone dwelling lots and second small dwelling on single lot (one title) corner lots - allowing corner lots to subdivide into two lots each facing a different street to integrate with existing streetscape with the second lot dwelling restricted to 2 storeys and 50% site cover.

Second dwelling one ownership – allowing a second small dwelling to a maximum of 100 m² on a single lot that cannot be subdivided or strata titled but provides for greater housing choices for intergenerational living and flexible living arrangements not limits to immediate family within this precinct whilst maintaining the current character through site coverage, height and setback controls and providing an additional carbay per bedroom.

Traffic and Parking

Provision of additional on street parking and traffic movements are being tested including:

One way loop off Hampden Road up Karella to Leura and down Park Road to Hampden Road to allow for additional on street parking and additional open space in the form of an urban plaza.

- Group 4
Random dwellings (1000) in the City of Nedlands.
- Group 5
Random dwellings (500) in neighbouring suburb within City of Subiaco, east of Hampden Road and Broadway.

Legislation

No legislation applies to the survey process.

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Risk Management

If the survey is not approved by Council the Hampden/Broadway/North Hollywood Precinct Study will be delayed and the project will risk not meeting the milestones communicated to and expected by the community. In addition there is a risk to meeting timelines for the WAPC on submitting the precincts for draft TPS3 and progressing all budgeted planning work for 2010/11 if timelines are delayed.

Discussion

The proposed concepts for testing have arisen from analysis of the survey data and information obtained during the background study that further testing will provide additional qualitative information to be used in the preparation of a draft plan for wide community consultation in 2011.

The concepts aim to create distinctive precinct areas with a defined character that integrates with the existing areas but allows for greater housing diversity and choice. The Hampden and Broadway Precincts form part of an identified regional precinct by the State Government in Directions 2031, the UWA – QEII specialised centre.

The North Hollywood areas was identified and included by Council for further community consultation and consideration given the impacts upon this area by the expanding hospitals especially QEII and consistent requests from residents for the area to have greater housing diversity. This process allows Council to gain a better understanding of the residents desires for this precinct into the longer term in regards to housing types, more particularly lot sizes.

The survey is distributed to all within the identified three precincts plus a sample of residents outside these areas in close proximity and within the City. The survey is also available on line for people to complete.

The survey results will provide further information to allow for the progression of a draft plan for these areas as part of TPS3. The main aim of the plan is to plan for greater housing choice in an area well located to the university, QEII, a vibrant retail precinct and good public transport along the highway and in future a proposed light rail system.

Conclusion

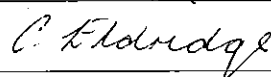
The proposed concepts are developed for testing from the survey results and the background study of the area in the context of Councils commitment to providing greater housing diversity for its communities current and future housing needs. The report requests approval for concept testing only to further inform the development of a draft plan for broad community consultation in 2011 which will form part of draft TPS3.

Attachments

1. Survey

D34.11	Refurbishment of the Maisonettes 67 (Lot 29) Stirling Highway, Nedlands
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Committee	12 th April 2011
Council	27 th April 2011

Applicant	
Owner	City of Nedlands
Officer	Matthew Deal - Manager Property Services
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	ST6/67-02 : TEN/317
Previous Item No's	D72.10
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This report recommends that Council accepts the tender submitted by Henlyn Construction Pty Ltd for the refurbishment of the Maisonettes at 67 Stirling Highway, Nedlands.

Recommendation to Committee

Council:

1. **accepts the tender from Henlyn Construction Pty Ltd for the construction of the Maisonettes at a cost of \$324,548.**
2. **agrees to allocate additional funds of \$100,000 needed to fulfil the financial requirements of the tender from the 2010/11 budget review process.**

Strategic Plan

- KFA 1: Infrastructure
 - 1.2 Design and construct infrastructure in accordance with Australian standards and guidelines.
- KFA 3: Built Environment
 - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.
- KFA 5: Governance
 - 5.1 Manage the City's resources in a sustainable and responsible manner.

Background

Property Address: 67 (Lot 29) Stirling Highway, Nedlands
Zoning MRS:
Zoning TPS2: R35
Lot Area: 1150 m²

The City of Nedlands owns the Maisonettes, designed and built in eclectic style by Horace Costello during 1934-1935 as a four unit apartment building. Constructed with red clay bricks and a timber framed, concrete tiled roof, the Maisonettes were one of the earliest blocks of 'flats' to be built in the Nedlands area.

With rounded brick arches to the walls and half-timbered gables truncated by hip roofs that are prominent on the Stirling Highway frontage, externally the Maisonettes project a mixture of Inter-War Romanesque and Inter-War Old English style.

The internal fabric demonstrates influences from both the 'Arts and Crafts' and 'Art Deco' Movements. The building retains a great consistency of detail, free of significant modifications from the original. Being located in Nedlands, the building is a valuable link in the evolution of the architectural style that defines the suburb.

The Maisonettes are recorded on the Australian Heritage Commission's *Register of the National Estate*; listed on the Heritage Council of Western Australia's *State Register of Heritage Places*; classified on the National Trust of Australia (WA) *List of Significant Heritage Places*; and listed on the City of Nedlands' *Municipal Inventory of Heritage Places*.

The Maisonettes were initially purchased by the City in March 1990 with the intent to demolish the buildings to permit the construction and expansion of the existing City of Nedlands Administration building.

The proposal caused a significant amount of public interest and outrage at the plans to demolish the Maisonettes. There was a strong movement from some Councillors, the Art Deco Society of WA, and members of the public to retain the building.

The building was nominated by the Art Deco Society of WA to be included on the State Register of Heritage places, to attempt to preserve the building. The Heritage Council was still in its infancy, and had not finalised the creation of its heritage register at the time.

After a significant amount of public interest, assessment and media attention, the Maisonettes was entered into the State Register of Heritage Places and Gazetted on the 8 January 1993.

Following the listing of the Maisonettes onto the Register, the City abandoned its plans to expand the administration building in the direction of the Maisonettes, and explored alternative solutions.

The four units of the Maisonettes were then let out to residential tenants up until June this year. Some significant structural underpinning was completed to the western elevation of the building in 1996 by the City, as the wall ties in the cavity had rusted, causing the outer leaf to rotate away from the building.

Since the building has been tenanted, the City has completed minor reactive maintenance to the building, other than last year where the bathroom to unit two was refurbished as the water proof membranes in the wet area had corroded, causing water to leak into the unit below causing damp and mildew, creating a health hazard.

Property Services included an item in the City of Nedlands 2010/2011 budget for the refurbishment of the Maisonettes, as the condition of the units had deteriorated significantly, and were approaching unliveable standards.

The building is free of any significant alterations, and is generally in its original condition. As this is the case, the City is only able to obtain a minimum rent return on the asset as the condition is so poor. Refurbishing the building, will allow the health and safety issues associated with its current condition to be removed, as well as permit the City to obtain a relevant rental return on the asset.

The City obtained quotes from three Heritage Architects, to complete an assessment of the building, and provide the City with a specification for the refurbishment to include in a tender, as well as liaise with the Heritage Council to obtain their approval.

John Taylor Architect was selected, as the preferred architect, and completed an assessment of the building (including drawings), a scope of works, a specification, Heritage Council approval, and site assessment of the refurbishment works.

The scope and specification were included in the tender document 2010/11.02 which was advertised on the 9 August 2010, with a closing date of 30 August 2010.

Administration commenced a quotation process with the companies that had originally obtain a copy of the tender document, as per the requirements of the *Local Government Act 1995* and the previous Council resolution.

Fifteen quotation requests were sent out on the 8 November 2010, with a closing date of the 17 December 2010. Two quotations were received. One from Barnett Building Co that were the only original tenderer, and

one from Robinson Buildtech. Both tender submissions were deemed to be excessive and beyond the budget limitation.

Post the Christmas break Cr Hipkins suggested to administration of the opportunity for submitting an application for a Heritage Loan subsidy from the Heritage Council.

A Heritage Loan subsidy application was submitted to the Heritage Council in January, for which the City is still waiting for a determination, but all contact with the Heritage Council on the issue has been positive.

Due to the validity of previous tender prices expiring, quotations submitted being over budget, and the current lull of building projects in the industry, administration determined to re-tender the project to find out if the prices of tenders would be more competitive.

Key Relevant Previous Decisions

Council rejects the tender submitted by Barnett Building Company, authorises administration to enter into negotiations to obtain quotations and authorises the CEO to approve quotations for the refurbishment works to the Maisonettes, from the companies that obtained copies of the original tender.

Proposal Detail

Council is requested to accept the tender from Henlyn Construction Pty Ltd for the construction of the Maisonettes at a cost of \$324,548, and agree to allocate the additional funds of \$100,000 needed to fulfil the financial requirements of the tender and ancillary professional costs from the 2010/11 budget review process.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Advertised in the West Australian Newspaper

Dates: 26 February 2011

Legislation

- *Local Government Act 1995*
- *Local Government (Functions & General) Regulations 1996*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

The tender submitted is slightly above the budget allocated for the project. Consequently further funds are required to complete the project.

Risk Management

Risk	Likelihood	Consequence	Level of risk	Risk acceptance
Risk of vandalism due to vacant units	Likely	Medium	12	High
Unable to obtain relevant rental return due to poor condition of units	Almost certain	Minor	10	Moderate
Risk of unbudgeted building maintenance	Almost certain	Medium	15	High
Complaints from tenants at the condition of the units	Likely	Minor	8	Moderate
Units unfit for occupation due to health hazards associated with leaking water, damp and mould	Likely	Major	16	Extreme
Work order issued by the Heritage Council of WA for the poor condition of the units	Possible	Minor	6	Moderate
Fined by Heritage Council for permitting units to fall into a state of disrepair	Unlikely	Medium	6	Moderate
Public criticism on the poor condition of the units	Likely	Medium	12	High
Unable to let the units out due to their condition	Possible	Medium	9	Moderate

Discussion

The tender for the refurbishment of the Maisonettes was re-advertised on the 26 February 2011, with a deadline of midday on 11 March 2011. The City received five tenders at the conclusion of the tender advertising period from:

- CPD Group
- Henlyn Construction Pty Ltd
- Robinson Buildtech
- C & S Interiors
- Macs Maintenance

All Tenders have been assessed, scored and complied with the relevant tender criteria. The prices submitted have all been submitted lower than the prices that were submitted for the original tender, and for what was submitted for quotations sought prior to Christmas. The budget allocated for the entire project including other ancillary professional costs approved by Council in the 2010/11 budget was \$260,000.

Tenders

The tenders were evaluated in accordance with the criteria documented in the tender invitation. The following table sets out the criteria used for the evaluation.

A) Relevant Experience	Weighting < 10 %>	
<p>Describe your experience in completing /supplying similar Requirements. Tenderers must, as a minimum, address the following information in an attachment and label it “Relevant Experience”:</p> <ol style="list-style-type: none"> 1. Provide details of similar work; 2. Provide scope of the Tenderer’s involvement including details of outcomes; 3. Provide details of issues that arose during the project and how these were managed; 4. Demonstrate sound judgment and discretion; and 5. Demonstrate competency and proven track record of achieving outcomes. 	<p>“Relevant Experience”</p>	<p>Tick if attached <input type="checkbox"/></p>

<p>B) Key Personnel skills and experience</p>	<p>Weighting <_10_%></p>	
<p>Tenderers should provide as a minimum information of proposed personnel to be allocated to this project, such as:</p> <ol style="list-style-type: none"> 1. Their role in the performance of the Contract; 2. Curriculum vitae; 3. Membership to any professional or business association; 4. Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and 5. Any additional information. <p>Supply details in an attachment and label it “Key Personnel”.</p>	<p>“Key Personnel”</p>	<p>Tick if attached <input type="checkbox"/></p>

<p>C) Tenderer’s Resources</p>	<p>Weighting <_10_%></p>	
<p>Tenderers should demonstrate their ability to supply and sustain the necessary:</p> <ol style="list-style-type: none"> 1. Plant, equipment and materials; and 2. Any contingency measures or back up of resources including personnel (where applicable). <p>As a minimum, Tenderers should provide a current commitment schedule and plant/equipment schedule in an attachment and label it “Tenderer’s Resources”.</p>	<p>“Tenderer’s Resources”</p>	<p>Tick if attached <input type="checkbox"/></p>

D) Demonstrated Understanding	Weighting <_10_%>	
<p>Tenderers should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <ol style="list-style-type: none"> 1. A project schedule/timeline (where applicable); 2. The process for the delivery of the goods/services; 3. Training processes (if required); and 4. A demonstrated understanding of the scope of work. <p>Supply details and provide an outline of your proposed methodology in an attachment labeled "Demonstrated Understanding".</p>	"Demonstrated Understanding"	Tick if attached <input type="checkbox"/>

E) Price	Weighting <_60_%>	
<p>Tenderers should complete the price schedule to be included in their response.</p> <ol style="list-style-type: none"> 1. Total price 	"Price"	Tick if attached <input type="checkbox"/>

Conclusion

After assessment of the tenders submitted it is proposed that the submission received from Henlyn Constructions Pty Ltd is accepted, having attained the highest score in the evaluation process by three officers. The total average score was 68% and a tender price of \$324,548.

Attachments

Nil