



City of Nedlands

Planning and Development Reports

Committee Consideration – 13 August 2019

Council Resolution – 27 August 2019

Table of Contents

Item No.		Page No.
PD29.19	No 2. Bellevue Avenue, Dalkeith - Front Fence	2
PD30.19	No. 47 Alderbury St, Floreat – Additions to Single Dwelling (Retrospective)	9
PD31.19	Local Planning Scheme 3 – Local Planning Policy Short- Term Accommodation.....	19
PD32.19	Petition 8a Alexander Road, Dalkeith – Height Variation	22
PD33.19	Scheme Amendment No. 1 – Amendment to Clause 32.4(5)	26

Council: 27 August 2019

PD29.19 No 2. Bellevue Avenue, Dalkeith - Front Fence	
Committee	13 August 2019
Council	27 August 2019
Applicant	MNB Residential
Landowner	B D Kumar & V K Govindappa
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil.
Report Type Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
Reference	DA19/35612
Previous Item	Nil.
Delegation	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Site Photographs provided by Applicant 2. Applicants Justification

1.0 Executive Summary

The purpose of this report is for Council to determine a development application received from the applicant on 24 April 2019, for a portion of front fencing along Bellevue and Brockman Avenue which is proposed to be solid and 1.8m in height.

The front fence at 2 Bellevue Avenue has previously been approved receiving both planning approval and building approval with a more visually permeable configuration. Since approval, the landowners have decided to install a swimming pool at the corner street setback area of Bellevue and Brockman Avenue which requires a different type of fencing than previously approved to comply with the pool fencing regulations. An application has been received to assess the solid portion of the wall which also seeks to provide for privacy and screening to the swimming pool.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy – Consultation of Planning Proposals as the development requires assessment under the Design Principles of the Residential Design Codes for street walls and fences. One objection was received for the proposed solid fencing. The objection relates to the implications of the solid fencing on the safety of vehicles and cyclists, the development not adhering to the Residential Design Codes requirements and the implications of solid walls on the future context of the neighbourhood.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is unlikely to have a significant adverse impact on the local amenity and is consistent with the local character of the locality.

2.0 Recommendation to Committee

Council approves the development application dated 24 April 2019 to construct a portion of solid fencing at Lot 251, No. 2 Bellevue Avenue, Dalkeith, subject to the following conditions and advice

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval;**
- 2. This development approval only pertains to a solid portion of the wall to be constructed to a height of 1.8m above the level in the verge adjacent along Bellevue Avenue and Brockman Avenue;**
- 3. All structures associated with retaining walls and fences, shall be constructed wholly inside the site boundaries of the property's Certificate of Title; and**
- 4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

Advice Notes specific to this proposal:

- 1. The applicant is advised that a separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level;**
- 2. The applicant is advised that any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing;**
- 3. The applicant is advised that no street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Works approval; and**
- 4. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

3.0 Background

3.1 Land Details

Metropolitan Region Scheme Zone	Urban
Local Planning Scheme Zone	Residential
R-Code	R10
Land area	918.1m ²
Additional Use	No
Special Use	No
Local Development Plan	No
Structure Plan	No
Land Use	Residential (Single Dwelling)
Use Class	P- Permitted

3.2 Locality Plan

The subject lot is a corner property and accommodates a two-storey single house which is currently under construction. The property is located with Bellevue Avenue to the north, Brockman Avenue to the east and Ringneck Lane to the south. The subject property is surrounded by residential dwellings and a locality that displays residential characteristics.



4.0 Application Details

The applicant seeks development approval to construct a solid portion of front fencing, with a portion of the fencing along the corner elevation of Bellevue and Brockman Avenue to be visually impermeable (solid) at a height of 1.8m above natural ground level. The only portion of the fence which will be solid is the section immediately adjacent to a future swimming pool as shown in the site photos provided by the applicant (Attachment No. 1).

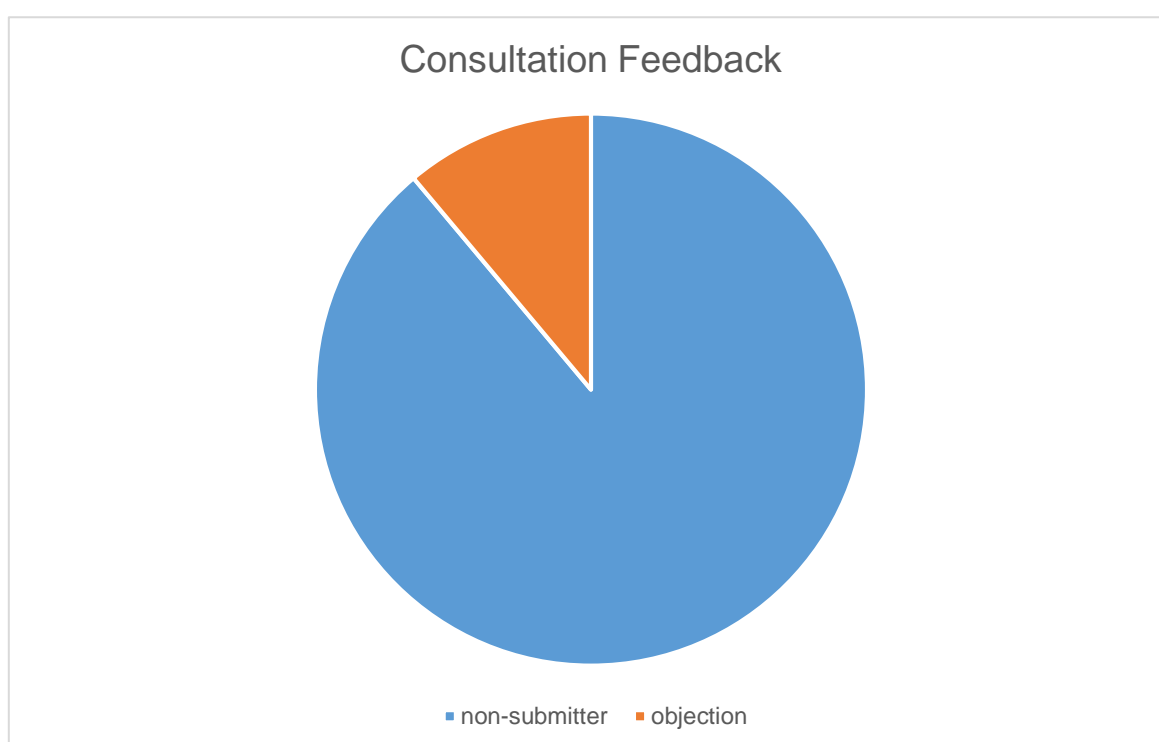
By way of justification in support of the development application the applicant has provided a design principle assessment provided as an attachment to this report (Attachment No. 2).

5.0 Consultation

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

- Street Walls and Fences

The development application was advertised in accordance with Council's Local Planning Policy - Consultation of Planning Proposals to 9 residents and landowners. 1 objection was received and there were 8 non-submitters as illustrated on the pie graph below.



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

Submission	Officer Response	Action Taken
The solid wall on a corner property will block the views of traffic passing down the streets, causing danger for vehicles or cyclists	<p>Only a portion of the wall along the corner elevation of Bellevue and Brockman Avenue is solid. The remainder of the fencing along the street frontages is compliant with the requirements of the R-Codes for Street Walls and Fences.</p> <p>This solid section is set well away from the vehicular and pedestrian access points of the house and therefore will have no impact on any of these important access points in terms of safety or surveillance.</p>	The sightlines at the intersection and at vehicle access points comply with the deemed to comply criteria – no action required.

	<p>In terms of passing traffic, the street verge along the solid portion of the fencing is setback over 6m from the street. The solid portion of the wall is setback 10.5m at the apex of the corner intersection of Bellevue and Brockman Avenue. The property also has a curved truncation to ensure sightlines at the intersection of Bellevue and Brockman Avenue are safe for vehicles and pedestrians. Therefore, even with the increased height being proposed this will have negligible impact to passing vehicles in terms of visual safety.</p>	
<p>The owners of the new house under construction had the opportunity to build the swimming pool to the rear of the property where it would have appropriate screening. Proposing a swimming pool in the front setback area is not allowed under the codes.</p>	<p>The R-Codes do not prevent or discourage construction of a swimming pool within the front setback area. The pool has been designed to be located within this area in order to take best advantage of the northern aspect of the lot which will allow the pool to be used for a longer period of the year as it will be exposed to full sunlight. It is considered that this fencing is necessary for privacy and screening of the outdoor recreation for the subject property.</p> <p>In order to ensure privacy for the occupants of the home, the portion of the wall directly adjacent to the pool is proposed to be solid. The applicant has ensured that the fencing is only solid where necessary and the remainder of the fencing is to remain with the infill panels to maintain a high level of surveillance from the dwelling to the street and vice versa.</p>	<p>The swimming pool location complies with the deemed to comply criteria of the R-Codes – no action required.</p>
<p>The guidelines prevent solid fences on the front boundary, so walls do not predominate the streets. The solid wall will set a precedence in the street</p>	<p>The R-Codes prescribe a maximum solid wall height of 1.2m above natural ground level, measured from the primary street. However, the R-Codes also allow for discretion by determining whether the proposal meets the Design Principles for street walls and fences. The application is considered to be compliant with the Design Principles of the R-Codes, which will be explained in further detail in Section 6 below.</p> <p>There is an existing precedence of solid walls in the street. 25 Waratah Avenue to the south, 23 Waratah Avenue to the south east, 3 Bellevue Avenue to the north east and 1 Brockman Avenue to the north all have solid fences.</p>	<p>The height of the fencing is considered to comply with design principles – no action required.</p>

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

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

6.4 Policy/Local Development Plan Consideration

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

The applicant is seeking assessment under the Design Principles of the R-Codes for street walls and fences as addressed in the below table:

Clause 5.2.4 Street Walls and Fences

Proposed
A portion of the fencing along the corner elevation of Bellevue Avenue and Brockman Avenue is proposed to be visually impermeable (solid) at a height of 1.8m above natural ground level. The only portion of the fence which will be solid is the section immediately adjacent to a future swimming pool.
Design Principles
The application seeks assessment under the design principles which are as follows: “P4- Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need: <ul style="list-style-type: none"> • for attenuation of traffic impacts where the street is designated as a primary or district; • distributor or integrator arterial; and • for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.”
Deemed-to-Comply Requirement
Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street sides of the fence.
Administration Assessment
The main reasons for the solid fencing, deemed to comply requirement for front fencing to be a maximum of 1.2m in height is to allow passive surveillance of the street from the dwelling, while also maintaining an open streetscape. The application proposes only a portion of the fencing along the corner elevation of Bellevue Avenue and Brockman Avenue to be solid where it is immediately adjacent to the proposed swimming pool. The remainder of the fencing will be visually permeable to ensure there is street surveillance from the main dwelling to the street and vice versa. The single house on the lot under construction at the site is two-storey. The upper floors along the elevations of Bellevue and Brockman Avenue both consist of major openings which overlook onto the street to permit surveillance. It is considered that even with the portion of the wall being solid to a height of 1.8m, there will still be passive surveillance to the street from the major openings of the upper floor and major openings of the ground floor to Brockman Ave where not adjacent to the swimming pool.

Only a portion of the wall along the corner elevation of Bellevue and Brockman Avenue is solid. The remainder of the fencing along the street frontage is compliant with the requirements of the R-Codes for Street Walls and Fences.

This solid section is set well away from the vehicular and pedestrian access points of the house and therefore will have no impact on any of these important access points in terms of safety or surveillance.

There is a variety of trees located on the verge adjacent to the subject property which will act as a visual screen to the proposed portion of solid wall and the trees will visually provide for break up the solid portion of the wall.

As described by the applicant, the location of the swimming pool has been chosen to maximise the northern aspect of the lot which will allow the pool to be used more efficiently through the year with improved sunlight exposure. The applicant has addressed the need for necessary privacy and screening of outdoor living areas for a street through the proposal of this application.

In light of the above, the application is considered to satisfy the design principles for street walls and fences of the R-Codes. The proposed fencing does not restrict the opportunities for passive surveillance from the dwelling to Bellevue and Brockman Avenue. The proposed development does not negatively impact on the streetscape due to the presence of a wide verge which will allow the solid wall to be setback from the street and the presence of trees which will act as a buffer and provide screening of the solid portion of the wall.

7.0 Conclusion

The proposed development is considered to satisfy the design principles of the R-Codes for street walls and fences. Considering the nature and the scale of the development, the dwelling orientation on the lot and the existing streetscape, the development will conform with the local development context and is unlikely to have a detrimental impact on the amenity of the local neighbourhood.

Considering the above, it is recommended that Council approves the application subject to conditions.

2 Bellevue Avenue, Dalkeith





MNB RESIDENTIAL

Melissa Taylor

E: mnbresidential@hotmail.com

P: 0439 989 967

5/07/2019

City of Nedlands
Po Box 9,
NEDLANDS WA 6909

To whom it may concern:

RE: Proposed Front Fence LOT 251 Bellevue Avenue, Dalkeith

Please find attached a Development Application for a proposal at the above address. Your approval is sought for the following variations that have been addressed under the relevant Design Principles of the Residential Design Codes.

Please note that the front fence at the above address has previously had a building approval completed under BA33402. Since this approval the client has decided to install a pool to the Bellevue street setback area and therefore, they have amended the front fence to have a solid wall to the truncation in order to increase the level of privacy to this area. For this we are seeking a concession under the deemed to comply and the LPP as per the below.

5.2.4 Street Walls and Fences & 4.3 LPP Fill and Fences **-Portion of Front Fence to be solid to 1.8m in lieu of 1.2m**

It is understood that the main reasons for the requirement for the fencing to be low and permeable are to allow passive surveillance of the street from the dwelling, while also enhancing the overall streetscape. It can be seen that while the client is proposing street fencing to the full length of both the primary and the secondary streets the only portion that is proposed to be solid is the section immediately adjacent to the proposed swimming pool.

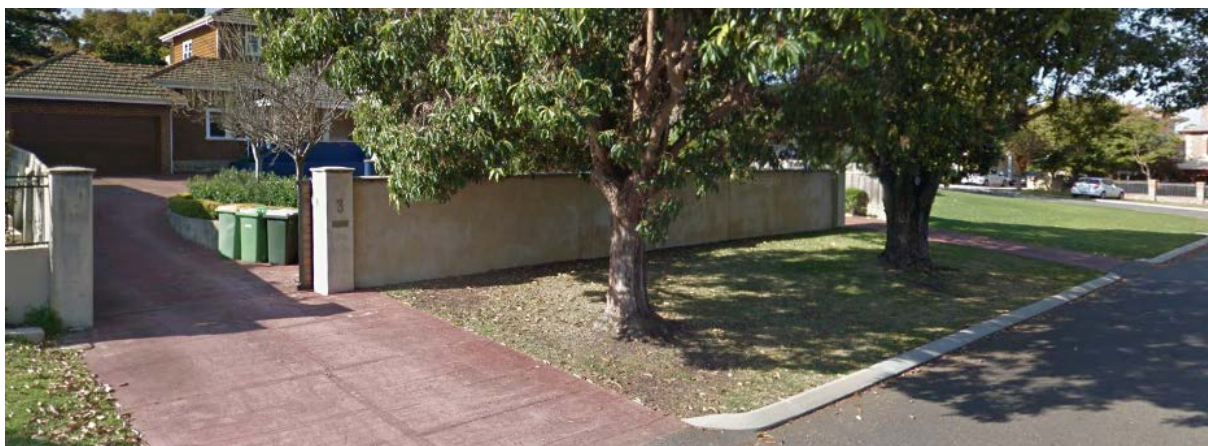
This section is set well away from the vehicular and pedestrian access points of the home and therefore will have no impact on any of these important access points in terms of safety or surveillance. In terms of passing traffic the street verge at the point where this solid section is proposed is over 6.0m at the closest point while at the apex of the corner it reaches 10.5m. Therefore, even with the increased height being proposed this will have no impact to passing vehicles in terms of visual safety. It is understood that there has been a neighbour objection in terms of the potential impact to safety for passing vehicles. It should be noted that there are 13 trees located on the verge of this property. All of which are far closer to the street than the proposed wall. It is believed that these have a greater impact on the vehicular safety than the proposed wall ever could. It can be seen from the image below that the trees along Brockman and to the corner have a far greater impact in terms of safety as they are only 2-3 meters from the verge in lieu of the proposed wall which is 1.05m at the corner.



The pool has been designed to be located within this area in order to take best advantage of the northern aspect of the lot which will allow the pool to be used for a longer period of the year as it will be exposed to full sunlight.

In order to ensure privacy for the occupants of the home we have made the portion directly adjacent to the pool solid, however, we have ensured that it is only where necessary and the remainder of the fencing is to remain with the infill panels to maintain a high level of surveillance from the dwelling to the street and vice versa. In doing this it also decreases any negative building bulk that could potentially be felt as the open style fencing either side softens the elevation of the fencing. It should also be noted that in this location there are a number of verge trees that can be seen from the site plans and aerial photography that are remaining. These will screen a large section of this solid portion of the fence and will help to decrease any potential bulk as well. As the dwelling consists of two storeys the portion above the solid section will still be able to maintain a high level of surveillance also.

It is also important that the fence contributes to a consistent streetscape and it can be seen that there are a number of other dwellings on Bellevue Avenue that have front fences. Number 3 Bellevue terrace, which is directly across the road, actually has a solid fence for majority of his front boundary which can be seen in the image below:



City of Nedlands
Received
26 June 2019

It is felt that the proposed fencing is a positive outcome which enables the occupants to have a high degree of privacy to their pool area while also contributing positively to the overall streetscape. For these reasons it is believed that this variation should be considered minor and acceptable and therefore be supported.

If you require any further information please contact me at mnbresidential@hotmail.com or by phone at 0439 989 967.

Kind Regards,

Melissa Taylor
Senior Planning Officer
MNB Residential

PD30.19	No. 47 Alderbury St, Floreat – Additions to Single Dwelling (Retrospective)
Committee	13 August 2019
Council	27 August 2019
Applicant	Greg Cowie Homes
Landowner	Deborah Fraser
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil.
Report Type	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
Reference	DA19/35178
Previous Item	Nil
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received
Attachments	<ol style="list-style-type: none"> 1. Site Photographs 2. Applicant Design Principle Justification and Response to Objectors

1.0 Executive Summary

The purpose of this report is for Council to determine a retrospective development application for additions to the existing single dwelling at no. 47 Alderbury Street, Floreat.

This retrospective development application seeks approval for fill and retaining within the street setback area, primary and secondary street boundary fencing and over-height dividing fencing to the eastern lot boundary. The development application results from the construction being inconsistent with an existing planning approval issued in 2017 for the dwelling and street boundary fencing which did not include any fill and retaining within the street setback area and the swimming pool being in a different location.

The fill and retaining has been installed up to both the primary and secondary street boundaries to a height of 0.65m above natural ground level with solid boundary fencing installed above this retaining, addressing both the primary and secondary street to a height of 2.45m above the street side of the fencing (height is inclusive of fill and retaining). The original planning approval indicated primary street fencing to be solid to a height of 1.2m, with visually permeable infill panels above to a height of 1.8m and secondary street fencing to a solid height of 1.8m as measured from natural ground level from the street side of the fencing which complied with the deemed to comply provisions of the R-Codes and the City's Fill and Fencing Local Planning Policy.

The application was advertised to adjoining neighbours in accordance with the City's Local Planning Policy – Consultation of Planning Proposals as the development requires assessment under various Design Principles of the R-Codes and the over-height dividing fencing requires assessment under the objectives of the City's Fill and Fencing Local Planning Policy. One objection has been received relating to the height and lack of visual permeability of the primary and secondary street fencing.

It is recommended that the application be approved by Council, subject to a condition being applied seeking to modify the fencing to reduce the impact of the fencing on the established streetscape and to ensure that the streetscape amenity of the locality is maintained.

2.0 Recommendation to Committee

Council retrospectively approves the development application dated 27 March 2019 for Additions to Single Dwelling including dividing fencing, primary street fencing, secondary street fencing, fill and retaining at No. 47 Alderbury Street, Floreat, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval;**
- 2. This development approval only pertains to the street boundary fencing, eastern side boundary fencing and site works and retaining walls within the street setback areas as shown on the approved plans;**
- 3. Revised drawings shall be submitted with the Building Approval Certificate application, to the satisfaction of the City, demonstrating the following:**
 - a) The fencing within the primary street setback area being visually permeable 1.2m above natural ground level, measured from the primary street side of the front fence; and**
 - b) The secondary street fencing outside of the pool area being reduced to a maximum height of 2.1m above the Alderbury street side of the fencing.**
- 4. Remedial works required to bring all unauthorised works into conformity with this planning approval, shall be completed within 30 days from the date of this approval;**
- 5. All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the property's Certificate of Title; and**
- 6. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

Advice Notes specific to this proposal:

- 1. The applicant shall make application to the City's Building Services for a Building Approval Certificate, to acknowledge the unauthorised works;**
- 2. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Works approval;**
- 3. This development approval does not remove any other legal obligations under the *Dividing Fencing Act 1961*; and**
- 4. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

3.0 Background

A development application was received on 3 March 2017, for a two-story single dwelling at 47 Alderbury Street Floreat. Lissadell Street was designated as the primary street for this property, with Alderbury Street being the designated secondary street. The original plans indicated (by means of text) that boundary fencing, addressing Alderbury Street would be solid to 1.8m in height above the level at the street boundary, and fencing addressing Lissadell Street (and the truncation) would be solid to a height of 1.2m in height, with visually permeable infill panels above to a height of 1.8m above the level at the street boundary. The application was approved under delegation.

A building Permit was lodged with the City on 24 December 2017. The building permit included revised plans for front boundary fencing addressing Alderbury and Lissadell Street indicating the boundary fencing addressing both Lissadell and Alderbury Street to have a total height of 2.45m due to the introduction of retaining within the street setback area. Fencing addressing Lissadell Street was indicated to be visually permeable above 1.85m. The building permit was approved and issued on 10 January 2018.

On 27 March 2019, the City received a retrospective development application for over-height dividing fencing, between 45 and 47 Alderbury Street (the eastern lot boundary of the subject property). The plans submitted as part of the development application indicated that the street fencing did not match the development approval and therefore the applicants were given option to remove the unauthorised development and comply with the original approval or include the fencing and retaining in this retrospective development application.

A building permit does not overrule a planning approval, instead there is a requirement that Building Permits must reflect any previous development approvals associated with the development proposal. Under section 20 of the *Building Act 2011* and regulation 18 of the *Building Regulations 2012*, it is a requirement that building works comply with "other written laws", this includes any planning approvals issued in accordance with the *Planning and Development Act 2005*.

The original planning approval does not indicate any fill within the front setback area. The retrospective development application indicates retaining walls to a height of 0.65m have been constructed. The deemed to comply maximum height of fill is 0.5m, any fill exceeding this requires a development application, planning approval and an associated building permit prior to their construction.

The applicants advised that due to the location of the pool being moved closer to Lissadell Street, the finished ground level was increased in this location and the requirement for 1.8m high fencing from the inside of the pool area to the lot boundary increased the required fencing height from the levels approved in the development application. For this reason, the applicants have elected to include all the unauthorised development in this retrospective development application as the current design complies with pool fencing regulations.

Further to the above, a site visit noted that the 'visually permeable infill panels' installed are not compliant as the gaps provided do not meet the definition of visually permeable within the Residential Design Codes.

Please see Attachment 1 for the site inspection images.

3.1 Land Details

Metropolitan Region Scheme Zone	Urban
Local Planning Scheme Zone	Residential
R-Code	R12.5
Land area	943m ²
Additional Use	No
Special Use	No
Local Development Plan	No
Structure Plan	No
Land Use	Residential (Single Dwelling)
Use Class	P – Permitted

3.2 Locality Plan

The subject property is a corner lot addressing both Alderbury and Lissadell Street. Lissadell Street has been designated the primary street frontage for the property, with Alderbury Street as the secondary street. Alderbury Street represents the border between the City of Nedlands and the Town of Cambridge. Properties to the north of Alderbury Street are under the jurisdiction of the Town of Cambridge and properties to the south of Alderbury Street are located within the City of Nedlands.



4.0 Application Details

The applicant seeks retrospective development approval for over-height dividing fencing, street boundary fencing and site works and retaining walls within the front setback area, details of which are as follows:

- Retaining and fill has been constructed up to the northern and western street boundaries to a height of 0.65m above natural ground level;
- Solid fencing addressing the primary street, Lissadell Street, has been installed to a height of 2.45m above natural ground level as measured from the street side of the street boundary;
- Solid fencing addressing the secondary street, Alderbury Street, has been installed to a height of 2.45m above natural ground level as measured from the street side of the street boundary; and
- Dividing fencing has been installed along the eastern side lot boundary to a height of 2.35m above natural ground level.

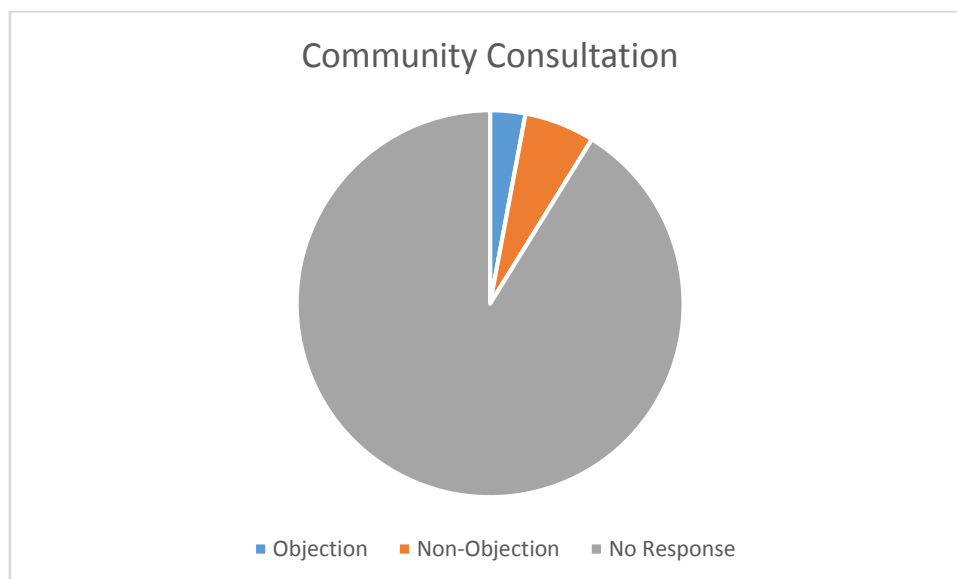
By way of justification in support of the retrospective development application the applicant has provided a design principle assessment and addressed the submissions received during community consultation as an attachment to this report (See attachment 2).

5.0 Consultation

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

- Street walls and Fencing;
- Site works;
- Setback of Retaining Walls; and
- Dividing Fencing Height.

The development application was advertised in accordance with the City's Local Planning Policy – Consultation of Planning Proposals to 34 residents and landowners. One (1) written objection relating to the solid nature of the boundary fencing and its height was received and two (2) non-objections were received. Please see the below pie graph for the outcome of the community consultation:



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

Submission	Officer Response	Action Taken
The over-height solid fencing goes against the general openness of the neighbourhood.	<p>The R-Codes and the City's Fill and Fencing Local Planning Policy are in place to preserve and protect the established streetscape character and openness of street frontages within the City of Nedlands. The requirement for visually permeable primary street fencing seeks to promote passive surveillance of the streetscape and reduce the presence of bulk addressing the street, producing an open and friendly community aesthetic.</p> <p>Fencing addressing the secondary street is permitted to be solid to a height of 1.8m to allow for screening and privacy of outdoor living areas and habitable spaces from the street. The restrictions of boundary wall heights and the requirement for visual permeability are in place to maintain a unique and open streetscape character within the Nedlands region.</p>	The officer recommendation is to increase the amount of visually permeable fencing to the primary street to better comply with the City's Fill and Fencing Local Planning Policy.
The solid fencing is disruptive to the established Nedlands streetscape character	The R-Codes and the City's Fill and Fencing Policy are in place to preserve and protect the established streetscape character and openness of street frontages within the Nedlands region. The requirement for visually permeable primary street fencing seeks to promote passive surveillance of the streetscape and reduce the presence of bulk addressing the street, producing an open and	The officer recommendation is to decrease the height of the secondary street fencing and increase the amount of visually permeable in-fill to the primary

	<p>friendly community aesthetic. The City's officers believe that a great proportion of visually permeable fencing will reduce the bulk and scale as viewed from the street.</p> <p>The restrictions of boundary wall heights and the requirement for visual permeability are in place to maintain a unique and open streetscape character within the Nedlands region.</p>	<p>street setback area fencing to reduce bulk and scale and improve passive surveillance from the dwelling.</p>
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Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

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

6.2 Policy/Local Development Plan Consideration

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

The applicant is seeking assessment under the Design Principles of the R-Codes for [over-height boundary fencing, non-visually permeable primary street fencing, over-height fill and over-height retaining] as addressed in the below table/s:

Clause 5.2.4 – Street walls and fences

Proposed
The fencing addressing the primary street (Lissadell Street) has been installed to a solid height of 2.45m from natural ground level as measured from the street side of the lot boundary.
Design Principles
<p>The application seeks assessment under the design principles which are as follows:</p> <p>“P4 – Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:</p> <ul style="list-style-type: none"> • for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and • for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.”
Deemed-to-Comply Requirement
C4 – Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.

Administration Assessment
<p>The front fence lacks visual permeability as viewed from the primary street and has an imposing presence on the streetscape given the surrounding streetscape is open in nature with permeable fencing or no fencing provided. Therefore, a condition of development approval is recommended to modify the fence to have a greater proportion of visually permeable in-fill.</p> <p>It is recommended that the solid portion is reduced with visually permeable in-fill provided 1.2m above natural ground level as measured from the primary street side of the front fence. The location of the permeable in-fill can be placed in a way so as to ensure that the fencing will still comply with the pool fencing regulations.</p>

Clause 5.3.7 – Site works & Clause 5.3.8 – Retaining walls

Proposed
<p>Fill and retaining is proposed to be 0.65m above natural ground level within the street setback areas.</p>
Design Principles
<p>The application seeks assessment under the design principles which are as follows:</p> <p>“P7.1 – Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</p> <p>P7.2 – Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street”</p> <p>“P8 – Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.”</p>
Deemed-to-Comply Requirement
<p>C7.1 – Excavation or filling within 3m of the street alignment shall not exceed 0.5m, except where necessary to provide for pedestrian or vehicle access, drainage works or natural light for a dwelling.</p> <p>C8 – Retaining walls greater than 0.5m in height set back from lot boundaries in accordance with the setback provisions of Table 1. Retaining walls 0.5m or less in height may be located up to the lot boundary.</p>
Administration Assessment
<p>The requirements for the setback of retaining walls are in place to promote responsive design outcomes to work with the existing topography rather than make extensive modification to the existing landscape and topography present across a lot. The setback of both fill and retaining seeks to minimise the impact of site works on the streetscape.</p> <p>The additional height of the retaining above the deemed to comply level on its own is not significant and facilitates a level and usable space in conjunction with the dwelling. However, the presence of this over-height fill and retaining has created the need for increased street boundary fencing height, in order to comply with the Australian Standard for pool fencing.</p> <p>It is recommended that the fill and retaining are approved in their current location and at their current levels as the impact of this fill and retaining can be minimised through modification to the installed boundary fencing heights and permeability.</p>

6.2.3 Local Planning Policy – Fill and Fencing Policy

Policy Purpose	
To outline the City's requirements with regard to fill and the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained.	
Policy Statement	
The City values the protection of the quality of the streetscape and the amenity of owners and occupants by minimising the visual impact of fill and/or fencing whilst allowing for adequate surveillance of public places.	
Policy Requirement	
4.0	Fencing Height Requirements
4.1	Dividing fences shall have a maximum height of 1.8m above any approved or deemed-to-comply fill or retaining under the R-Codes.
4.2	Brick piers to a maximum height of 2.1 metres from natural ground level for fencing in primary and secondary street setback area(s).
4.3	In primary street setback areas, solid fencing to a maximum height of 1.2 metres above natural ground level, and visually permeable fencing to a maximum height of 1.8m above natural ground level.
Proposed	
<ul style="list-style-type: none"> Primary street fencing is proposed to be solid to a height of 2.45m from natural ground level, when viewed from the street. Secondary street fencing is proposed to be solid to a height of 2.45m from natural ground level, when viewed to from the street. Dividing fencing to the eastern lot boundary is proposed to be solid to a height of 2.35m. 	
Administration Assessment	
Please see above comment in relation to the fencing within the primary street setback area.	
<p>The secondary street fencing is 1.8m above the fill and retaining. This fencing provides compliance with pool fencing regulations and also provides privacy to the pool area and backyard area. The fencing to Alderbury Street which is outside of the pool area can be reduced slightly to reduce the bulk and scale of the fencing as viewed from the street whilst still providing privacy for the outdoor area of the dwelling. Accordingly, a condition is recommended to this effect.</p> <p>It should be noted that the street is lower than the subject property due to the slope of the land and therefore there is built in privacy for the outdoor area with any additional privacy able to be obtained more appropriately through landscaping rather than fencing.</p> <p>The dividing fencing to the eastern side lot boundary is mainly an issue between the two landowners (no. 45 and no. 47 Alderbury Street) which is to be negotiated under the requirements of the <i>Dividing Fencing Act 1961</i>. The City advertised the additional height and did not receive an objection to the dividing fencing which is currently installed at 2.35m. As the additional height is localised to the two properties and there is no immediate impact on the streetscape or amenity of the locality, the City recommends approval for this aspect of the development without modification being required.</p>	

7.0 Conclusion

The height and lack of visual permeability of the fencing to the street is considered to have a negative impact on the streetscape and therefore, the officer recommendation is to increase the permeability of the front fencing and decrease the height of the secondary street fencing outside of the pool area. This will ensure compliance with the pool fencing regulations, improves passive surveillance of the street and reduction of bulk and scale as viewed from the street. The additional dividing fencing height to the eastern side lot boundary is considered to be acceptable and is recommended for approval without further modification.

Considering the above, it is recommended that Council approves the application subject to the recommended conditions.











47 Alderbury Street
Floreat
Nedlands WA 6014

Wednesday 17 July 2019

Mr Scott van Ierland
City of Nedlands
PO Box 9
Nedlands WA 6909

Dear Mr van Ierland

47 Alderbury Street – Retrospective Development Application

1. I write in response to your request to provide a detailed design principle justification to address the submission received objecting to the retrospective development application at 47 Alderbury Street, Floreat.
2. By way of background, I understand that two letters were received in support of the retrospective development application and one letter was received objecting to the application.
3. The objection letter contained two objections which you summarised in your email of 10 July 2019, as “Non-Visually-Permeable-Fencing” and “Inconsistent Streetscape”. As specifically requested, we address the two objections raised as follows:

Non-Visually-Permeable-Fencing

4. We have installed solid infill panels on the Lissadell street boundary because of our concern about pool safety, as a noise barrier and for visual privacy around our pool.
5. The infill panels front a busy roundabout with full visibility into our private pool area.
6. Furthermore, the solid infill panels provide some noise protection from the busy Alderbury Street and Lissadell Street roundabout.
7. At our meeting on Friday 12th July, in consideration of finding a “mutually agreed acceptable outcome”, we confirmed our offer to change the existing infill panels to “visually permeable fencing”.

Inconsistent Streetscape

8. Our understanding is that the ‘inconsistent streetscape’ objection relates to the level of ‘bulk’ addressing the streetscape. We understand that this concerns the Alderbury Street boundary wall and we comment on this objection as follows:
9. The concern noted by the objector about the ‘bulk’ addressing the streetscape is a subjective comment. We fail to appreciate how the perceived ‘bulk’ will have any negative impact on any local residents. Furthermore, we believe that the ‘bulk’ is appropriate in the location on the increasingly busy Alderbury Street and Lissadell Street intersection.
10. Importantly, the height of the Alderbury street boundary wall, was constructed on the basis of the approved building license drawings.
11. Had the height of the wall not been approved, we may well have reconsidered the orientation of our living areas and the location of the pool.
12. The height of the Alderbury Street boundary wall is 1800mm high on the inside of the property.
13. It needs to be noted that we have planted a number of mature indigenous trees on the verge to improve the streetscape aesthetics and soften the impact of the wall. This will improve over time as the trees mature.

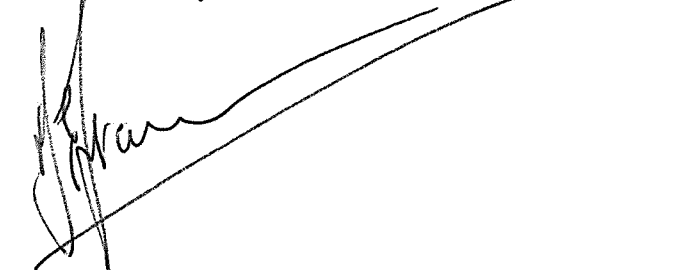
14. There is a bus stop directly outside 47 Alderbury Street and passengers on the bus would have a direct view into our living room, dining room, main bedroom, studio, outdoor living area and pool area if the wall was any lower.
15. We maintain that the current wall height is required to maintain some privacy from the regular bus service (every 15 minutes at times) on Alderbury Street.
16. We believe that in total, there are 48 daily bus movements outside our house commencing before 6am am and continuing through the day until after 8pm at night. These movements include the associated noise of braking and accelerating both at the bus stop and at the roundabout directly outside our boundary. The wall at its present height, goes some way to reduce the associated noise impact of these bus movements.
17. Our privacy would be severely compromised if the wall was to be any lower.
18. Furthermore, the value of our investment in the property would be significantly prejudiced if the wall was to be any lower.
19. Based on the above points we believe it is appropriate to maintain the wall at the current height.

We appreciate the opportunity to address the written objections.

Please let me know if you require further information.

Thank you

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Deborah Fraser', is written over a long, sweeping horizontal line that extends across the page.

Deborah Elizabeth Fraser
Owner 47 Alderbury Street, Floreat.

Tel: 0438 392 354

PD31.19	Local Planning Scheme 3 – Local Planning Policy Short-Term Accommodation
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Committee	13 August 2019
Council	27 August 2019
Director	Peter Mickleson – Director Planning & Development
Reference	Nil
Previous Item	PD21.18 – Draft Short-Term Accommodation Local Planning Policy
Attachments	1. Draft Short-Term Accommodation LPP

1.0 Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) the Short-Term Accommodation Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish short-term accommodation land uses within the City of Nedlands.

2.0 Recommendation to Committee

Council prepares and advertises the Short-Term Accommodation Local Planning Policy for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4.

3.0 Background

Following consideration of a number of development applications for short-term accommodation, Council, in May 2018, resolved for administration to prepare report addressing short-term accommodation land uses. The resolution is as follows:

“Council Resolution

Council requests the CEO to prepare a draft report relating to “short term accommodation” (STA) in single residential zonings including duplexes that reflects the main residential precincts across the City of Nedlands. The outcomes from this report will form the basis of a policy for inclusion in the draft LPS3 when it is available for public consultation.

The response from Administration should:

- 1. Include a working definition of STA.*
- 2. Include a procedure for Community Consultation from well-informed electors for support or non-support of STA within precincts.*
- 3. Include relationship between short term accommodation (no services provided other than accommodation - with proprietor present and proprietor absent) and the currently approved “bed and breakfast” style of short-term accommodation in residential precinct (proprietor present).*

4. *Suggest rules pertaining to any approved short-term accommodation including a management plan and conditions under which an STA approval may be terminated and how compliance will be achieved.*
5. *Include whether the WA Government has any plans to regulate STA within the metropolitan area within the coming year or as part of the recently announced review of the Local Government Act 1995; and*
6. *Investigate current advertisements for short-stay accommodation in the City of Nedlands and report on their status of approval.”*

The policy was prepared and presented to Council at the May 2018 Ordinary Council meeting for approval to advertise. The policy was prepared in response to Councils motion, the increasing number of short-term accommodation development applications received by the City, and the absence of any specific policy requirements. At the time there were no short-term accommodation land use definitions under Town Planning Scheme 2 (TPS 2) and the policy sought to clarify the land uses and apply standardised provisions. Council resolved it no longer wished to adopt a short-term accommodation local planning policy under TPS 2.

With the gazettal of LPS 3 short-term accommodation land uses are now defined and are capable of approval within the Residential, Mixed use and Local Centre zones. It is anticipated that the City will receive applications for short-term accommodation land uses and it would be prudent to guide decision making and advise the community of Councils position on these uses.

4.0 Detail

This policy applies to all short-term accommodation proposals, within all zones, captured by the following land use categories as defined in LPS 3:

- Bed and breakfast;
- Holiday house;
- Holiday accommodation; and
- Serviced Apartments.

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish short-term accommodation uses within the City of Nedlands and to help officers assess short term accommodation development applications in line with Councils position.

The policy clearly states location criteria for all short-term accommodation uses as well as design criteria for serviced apartments. The policy also sets out car parking, signage and consultation requirements for short-term accommodation uses.

Short-term accommodation uses will be initially approved for a 12-month period. Following this initial 12-month period, a subsequent development approval will be required to be submitted for the renewal of the approval for the short-term accommodation which may then be on a permanent basis. As part of assessing whether permanent approval should be granted, Council can take into account any substantiated complaints received during the initial 12-months.

The policy requires the submission of a management plan which shall set out contact details of the property manager and basic administration of the premises. This is considered particularly important when the land owner does not reside on-site.

The policy also provides a template for a management plan to show applicants what information is expected to be provided in the management plan which will accompany an application for short-term accommodation.

5.0 Consultation

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

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

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

6.0 Statutory Provisions

Planning and Development (Local Planning Schemes) Regulations 2015

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

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

7.0 Conclusion

The Short-term Accommodation LPP is the best mechanism to guide decision making and advise the community of the Council position in relation to development applications for short-term accommodation throughout the City.

As such, it is recommended that Council endorses Administration's recommendation to provide (consent to advertise) the Short-term Accommodation LPP.



LOCAL PLANNING POLICY – SHORT TERM ACCOMMODATION

1.0 PURPOSE

- 1.1 The purpose of this policy is to provide guidance and development provisions for operators seeking to establish short-term accommodation within the City of Nedlands.

2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all short-term accommodation proposals captured by the following land use categories as defined in Local Planning Scheme No. 3, within all zones:
- Bed and breakfast;
 - Holiday house;
 - Holiday accommodation; and
 - Serviced Apartments.
- 2.2 Where this Policy is inconsistent with a Local Development Plan or Local Planning Policy that applies to a specific site, area or R-Code, the provisions of that specific Local Development Plan or Local Planning Policy shall prevail.

3.0 OBJECTIVES

- 3.1 To ensure the location and scale of short-term accommodation uses are compatible with the surrounding area.
- 3.2 To maintain a high standard of amenity for the surrounding neighbourhood through required management controls.
- 3.3 To ensure properties used for a short-term accommodation uses do not have an undue impact on the residential amenity of the area by way of noise, traffic, or parking.
- 3.4 To establish a clear framework for the assessment and determination of applications for short-term accommodation.

4.0 POLICY MEASURES

Holiday house

- 4.1 Applications for Holiday House where a keeper resides on-site are generally supported in all zones where allowed under the scheme.
- 4.2 Applications for Holiday House, where a keeper does not reside on-site may be supported where:
- (a) The number of guests is limited to 6 persons; and
 - (b) The property is located within 250m of a high frequency bus stop or 800m of high frequency train station or 400m of a Hospital or University; and
 - (c) Bookings must be for a minimum stay of 2 consecutive nights.

Notes: A Holiday house land use relates to short term accommodation within a single house. Where a variation is sought, Clause 11.1 of this policy applies.



Holiday accommodation

- 4.3 Applications for Holiday Accommodation where a keeper resides on-site are generally supported in all zones where allowed under the scheme.
- 4.4 Applications for Holiday Accommodation, where a keeper does not reside on-site may be supported where:
- (a) The occupancy is limited to 6 persons or less; and
 - (b) The property is located within 250m of a high frequency bus stop or 800m of high frequency train station or 400m of a Hospital or University; and
 - (c) Bookings must be for a minimum stay of 2 consecutive nights.

Notes: A *Holiday Accommodation land use relates to short term accommodation within grouped or multiple dwellings.*

Where a variation is sought, Clause 11.1 of this policy applies.

Bed and Breakfast Requirements

- 4.5 Management:
- (a) The keeper of the bed and breakfast accommodation must always reside at the premises while the Bed and Breakfast is in operation;
 - (b) Breakfast is required to be provided to guests;
 - (c) Breakfast (and other meals if provided) are provided to bed and breakfast guests only;
 - (d) Access to a separate bathroom must be provided for bed and breakfast guests; and
 - (e) Access to a dining area and laundry facilities should be provided for bed and breakfast guests.

Serviced Apartments

- 4.6 Design:
- (a) Applications for Serviced Apartments shall be subject to the siting and design requirements applicable to the site for Multiple Dwellings under the Residential Design Codes (excluding Plot Ratio requirements), and any relevant Precinct Policy, Local Planning Policy or Local development Plan applicable for the area; and
 - (b) Applications for Serviced Apartments shall include within the entrance, foyer or lobby a reception desk which shall always be attended by staff when apartment check-ins and check-out can occur.



4.7 Servicing Strategy:

4.7.1 In addition to the Management Plan in accordance with Clause 7.1, all applications for Serviced Apartments shall include a Servicing Strategy detailing the level of servicing containing, but not limited to the following:

- (a) Opening hours for guest check-ins and checkouts;
- (b) Method of reservations/bookings;
- (c) Means of attending to guest complaints;
- (d) Cleaning and laundry services, where available;
- (e) Company name and relevant experience of management/operator; and
- (f) Management and accommodation of servicing vehicles within the context of the overall car parking for the development.

5.0 CAR PARKING

5.1 Car parking is to be in accordance with the requirements of the Parking Local Planning Policy including but not limited to the following parking ratios:

Land Use	Minimum no. of Car Parking Bays Required	Minimum no. of Bicycle Parking Bays
Bed and breakfast Holiday accommodation Holiday house	1 car bay per guest bedroom; in addition to the number of car bays required under the R-Codes for the dwelling.	Nil
Serviced Apartments	1 car bay per unit; and 1 car bay per 2 staff members.	1 bicycle space per 5 guest rooms. (minimum 1 space per serviced apartment)

SIGNAGE

5.2 Signage is limited to, 1 x Name Plates and wall signs and 1 x Portable sign (within property boundary) and is to be in accordance with the requirements of the Signs Local Planning Policy.

6.0 CONSULTATION

6.1 Consultation with affected landowners will be undertaken in accordance with the City's Consultation of Planning Proposals Local Planning Policy.

6.2 Applications where a short-term accommodation uses are listed as 'A' in the Zoning Table of the Scheme or where a variation is proposed to this Policy are to be advertised in accordance with the requirements of the Consultation of Planning Proposals Local Planning Policy.



7.0 MANAGEMENT PLAN

7.1 The Management Plan report is to include the following, **as a minimum**:

- (a) Establishing the maximum number of guests which will stay, in addition to (if applicable) those which reside at the property on a permanent basis.
- (b) Establishing a code of conduct detailing the expected behaviour and obligations of guests. The code of conduct shall be displayed in a prominent position within the premises.
- (c) Details of how complaints regarding anti-social behaviour, car parking and noise, amongst other matters, will be managed by the landowner(s).
- (d) The contact details of the landowner(s) if a neighbour wants to lodge a complaint.
- (e) Details regarding guest check-in and check-out procedures (i.e. days and times).
- (f) Details of how car parking for those staying at the property and (if applicable) those residing at the property on a permanent basis, will be managed by the landowner(s). The measures proposed are to ensure vehicles will always have easy access to on site car parking spaces.
- (g) Details of how the guests will be informed of the requirements for parking.
- (h) Details regarding how guests are expected to maintain the property.
- (i) Details whether pets and guests associated with those staying at the property will be permitted, and if so, how this will be managed
- (j) Details of compliance with Strata By-laws (if applicable) in the form of a Statement of Compliance.

Notes: An example of a Management Plan is shown in Appendix 1.

8.0 BUSHFIRE MANAGEMENT

8.1 Where a property is within a designated Bushfire Prone Area, applications for Development approval will be required to comply with State Planning Policy (SPP 3.7) Planning in Bushfire Prone Areas, and any building requirements as required by the Building Code of Australia.

8.2 Short term accommodation is a vulnerable land use under SPP3.7 and may require a Bushfire Management Plan (BMP) submitted by a certified Level 2 or 3 Bushfire Management Consultant to the satisfaction of the City. Where a property is within a Bushfire Prone Area the application may require a referral to the Department of Fire and Emergency Services (DFES). The City will take into consideration comments from DFES in making their determination.

9.0 OTHER CONSIDERATIONS – HEALTH AND BUILDING APPROVAL

9.1 The applicant is advised to consult with the City's Building Services & Environmental Health Services to determine if a Building Permit, Food Business Registration or Aquatic facilities approval is required for a short-term accommodation use.



10.0 APPROVAL PERIOD

- 10.1 The City may grant temporary development approval for short-term accommodation uses for an initial 12-month period.
- 10.2 Following this initial 12-month period, a subsequent development approval will be required to be submitted for the renewal of the approval for the short-term accommodation which may then be on a permanent basis.
- 10.3 As part of considering a renewal, the City will give regard to any substantiated complaints against the operation of the short-term accommodation in accordance with the conditions of its development approval. Should a subsequent approval be granted, this may also be for a time limited period if the City is not satisfied that the use has not caused amenity impacts on neighbouring properties.

11.0 VARIATIONS TO POLICY

- 11.1 Where a variation to this policy is sought, consideration shall be given to objectives of the policy.

12.0 ADDITIONAL DEVELOPMENT APPLICATION REQUIREMENTS

- 12.1 In addition to the general requirements for an application for development approval, the following are required:
 - (a) Detailed management plan, as per clause 9.1.
- 12.2 In Strata Title situations the consent of the Strata Company is required in accordance with the provisions of the Strata Titles Act 1985 and associated By-Laws. The Strata Company are to complete and sign the landowner section of the City's Development Application Form prior to lodgement.

13.0 RELATED LEGISLATION

- 13.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- 13.2 This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
 - Planning and Development (Local Planning Schemes) Regulations 2015
 - Local Planning Scheme No. 3
 - State Planning Policy 7.3 – Residential Design Codes
 - State Planning Policy 3.7 – Planning in Bushfire Prone Areas
 - Parking Local Planning Policy
 - Consultation of Planning Proposals Local Planning Policy
 - Signs Local Planning Policy

**14.0 DEFINITIONS**

14.1 For this policy the following definitions apply:

Definition	Meaning
Bed and breakfast	Means a dwelling - (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and, (b) containing not more than 2 guest bedrooms.
Grouped dwelling	As per the R-Codes, being, a dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise and includes a dwelling on a survey strata with common property.
Guest	Means a person who accommodates a short-term accommodation for a fee.
Keeper	Means a person who permanently resides on site and is responsible for its upkeep and management of the accommodation.
Holiday accommodation	Means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot.
Holiday house	Means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.
Multiple dwelling	As per the R-codes, being, a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio of the dwelling is vertically above any part of the plot ratio area of any other but: <ul style="list-style-type: none"> • does not include a grouped dwelling; and • includes any dwellings above the ground floor in a mixed-use development.
Serviced Apartment	Means a group of units or apartments providing- (a) self-contained short stay accommodation for guests; and (b) any associated reception or recreation facilities.
Single house	As per the R-Codes, being, a dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property.
Self-contained	Means accommodation having its own kitchen, bathroom and bedroom facilities.
Short term accommodation	Means temporary accommodation provided either continuously or from time to time with no guest/s accommodated for periods totalling more than 3 months in any 12-month period.
Strata Company	Means a body corporate constituted under section 32 of the Strata Titles Act 1985 whether for a strata scheme or a survey-strata scheme. Council of Owners means an elected representative council of a strata company constituted or deemed to have been constituted under the Strata Titles Act 1985.

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



Appendix 1 – Management Plan Template

Note: When developing a Management Plan, the headings below are to be followed as a minimum guide in terms of level of detail required by the City of Nedlands.

1.0 Introduction

Property address and overview of the short-term accommodation you wish to conduct at the property.

2.0 Check In

Check in time for guests.

3.0 Check out

Check out time for guests.

4.0 Complaints Management

How will you deal with complaints how do you wish for complaints to be received and whom to?

5.0 Use of Premises

How many people will the property be rented to at any given time and for how long?

6.0 On-Site Register

An onsite register should be provided for all residents to provide their full name, usual place of residence and check in and out dates.

7.0 Maintenance

Refers to both maintenance of the gardens and the buildings.

8.0 Guest Guide

Information to be provided in the Guest Guide e.g.:

- *Manager and contact details*
- *Code of Conduct*
- *Wi-Fi Device name and password*
- *Key lockbox code*
- *TV Information*
- *Air Conditioner operation*
- *Location of the first aid kit*
- *Extra towels and sheets*
- *Hot water systems operation*
- *Rubbish bin location*
- *Check in time*
- *Check out time*
- *Local restaurant and shopping*



- *Local parks and recreation services*
- *Important contact numbers*
- *Other major attractions*
- *Any other information required*

9.0 Managers Guide

A guide shall be prepared for the manager and kept in a folder by the manager, documenting tasks and processes for the following:

- *General hosting (Including liaisons with clients, providers and Local Government)*
- *Cleaning information between occupants*
- *Laundry requirements*
- *Garden preventative maintenance*
- *Building preventative maintenance*

10.0 Code of Conduct for Guests and Visitors

Provide information under all below headings to show how each of these requirements will be adequately managed.

10.1 General Principles

Short term Accommodation is a unique experience and the guiding principles of this Code of Conduct are as follows.

10.2 General Requirements

General Requirements Guests must adhere to.

10.3 Noise and Residential Amenity

Noise requirements for guests.

10.4 Visitors

Will visitors other than those who have booked be able to stay or visit the property?

10.5 Gathering or Functions

Are gatherings or functions allowed at the property?

10.6 Parking

How much parking is provided for guests?

10.7 Garbage and Recycling

How will rubbish and recycled goods be disposed of?



10.8 Security

What security measures will be at the property?

10.9 Smoking

Will smoking be tolerated at the property?

10.10 Pets

Will pets be allowed at the property?

10.11 Damages and Breakages

How will damages and breakages be dealt with at the property?

10.12 Compliance

How will breaches of this code of conduct be dealt with?

DRAFT

PD32.19	Petition 8a Alexander Road, Dalkeith – Height Variation
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Committee	13 August 2019
Council	27 August 2019
Director	Peter Mickleson – Director Planning & Development
Reference	Nil
Previous Item	OCM 25 June 2019
Attachments	1. Petition – Alexander Road Dalkeith – Height Variation

1.0 Executive Summary

At the Council meeting held 25 June 2019, the Chief Executive Officer tabled a petition on behalf of Ms. Maria De Carmen Tutor of 8a Alexander Road, Dalkeith with 11 signatures. The petition content is requesting a height variation to dwellings on Alexander Road, Dalkeith between Phillip Road and Waratah Avenue (house numbers 1-10). The restriction sought is to introduce a to a two-storey height limit to restrict development so that the front street elevation is in sync with the existing low-density streetscape.

Council resolved to refer the petition to Administration for comment.

Administration recommends that Council acknowledges this requests but in response take no action in relation to the request put forward in the petition given that a two-storey height limit in an R80 and R60 zoned streetscape is not deemed to be consistent with the objectives of that R Coding and that should the petitioner seek to pursue the matter, they engage a planning consultant to formulate local planning controls for the site (and surrounds).

Administration also wish to advise that they will soon be progressing a Draft Precinct Plan and associated community consultation for the Waratah Village Precinct, and such issues will be encapsulated in that process and will be discussed and debated further.

2.0 Recommendation to Committee

- 1. Council resolves to take no action with regard to the petitioner for Alexander Road height reduction at present.**
- 2. Council instructs the Chief Executive Officer to prepare a Precinct Plan for the Waratah Village Precinct, including the residential frame rezoning area with consideration being given to building heights within the precinct.**

3.0 Discussion/Overview

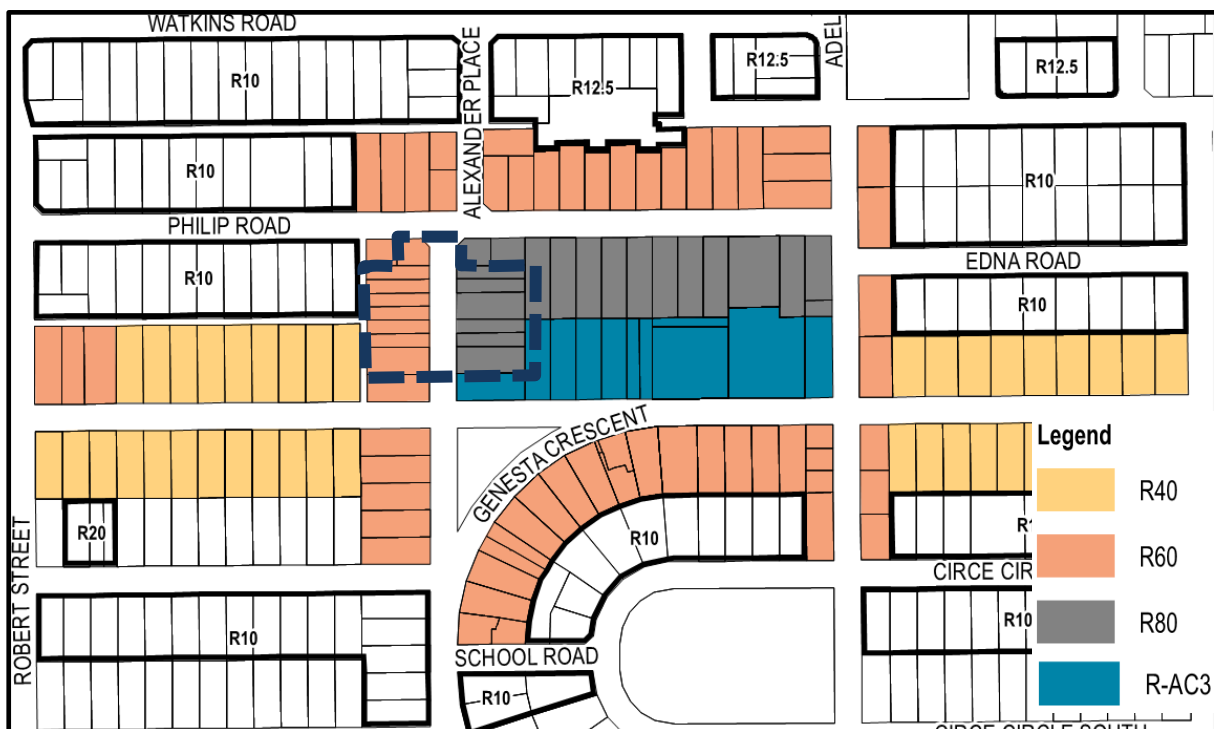
The City received a petition in May 2019 from a resident at 8A Alexander Road, Dalkeith seeking that Council act to reduce the permissible height of future development on Alexander Road, Dalkeith between Philip Road and Waratah Avenue to a 2 storey height limit so that the height is in line with the current streetscape.

The properties which would be affected by the petitions proposed height reduction are shown in figure 1 below.



The properties indicated in Figure 1 were zoned Residential R20 (eastern side of Alexander Rd) and R25 (western side of Alexander Rd) under Town Planning Scheme No. 2 (TPS 2) in 2005. Those properties are now zoned Residential R80 (eastern side of Alexander Rd) and Residential R60 (western side of Alexander Rd) under Local Planning Scheme 3 (LPS 3).

The properties on the eastern side, zoned Residential R80, abut the Waratah Ave commercial strip which is zoned Mixed Use R-AC3 and Residential R80 lots along Philip Rd. The properties on the western side, zoned R60, abut a laneway which then adjoins Residential R40 and Residential R10 properties along Philip Rd and Waratah Ave. See figure 2 below for R-Code map.



The Waratah Avenue Activity Centre, being zoned Mixed Use R-AC3, can currently seek to develop to 6-storeys as prescribed in State Planning Policy 7.3 Residential Design Codes Volume 2 Apartments (R-Codes Vol.2).

The properties on the eastern side of Alexander Road, being zoned Residential R80, can seek to develop Multiple Dwellings (Apartments) subject to the element objectives of Part 2.2 Building Height with acceptable outcomes of A2.2.1 provisions 4-storeys as per R-Codes Vol.2 or can develop Grouped or Single Dwellings to 2-storeys as per State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Vol.1).

The properties to the western side of Alexander Road, being zoned Residential R60, can develop Multiple Dwellings (Apartments) subject to the element objectives of Part 2.2 Building Height with acceptable outcomes of A2.2.1 provisions 3-storeys as per the R-Codes Vol.2 or can develop Grouped or Single Dwellings to 2-storeys as per R-Codes Vol.1. (Please note that height is performance based in R Codes V2 and not prescriptive as it was in TPS2)

R-Code permitted building heights					
Location	Philip Rd - west	Waratah Ave - west	Alexander Rd - west	Alexander Rd – east Philip Rd – east	Waratah Ave Commercial strip
R-Code	R10	R40	R60	R80	R-AC3
Permitted Building Height for Multiple dwellings (apartments)	2 storeys	2 storeys	3 storeys (discretionary)	4 storeys (discretionary)	6 storeys (discretionary)
Permitted Building Height for Grouped & Single dwellings (townhouse units)	2 storeys	2 storeys	2 storeys	2 storeys	2 storeys

The zones and R-Codes assigned under LPS 3 create a transition in height from the Waratah Avenue Activity Centre to the low-density suburban areas that surround, in a logical and stepped manner, precisely as intended by the City's Local Planning Strategy. This holds true for the development of multiple dwellings (apartments), should grouped or single dwellings be proposed, a 2 storey height limit applies.

Limiting building height to a maximum height of 2-storeys for multiple dwelling development in the R80 and R60 codes would limit the development potential of the affected properties and is not consistent with the density which has been provided under LPS 3. A height restriction of 2-storeys is also inconsistent with the R-Codes Vol.2 element objectives for building height which refers to the desired future scale of an area. The existing height provisions permitted by the assigned R-Codes also allow for the appropriate and adequate transition of building height from the Waratah Avenue Mixed Use area to the surrounding low-density suburban areas.

Further to this, any development for multiple dwellings must meet all the element objectives of the R-Codes Vol.2 which provides for consideration of a development and its possible impact on the adjoining properties, particularly in relation to overshadowing, overlooking, setbacks and building bulk.

In relation to the petitioner's discussion regarding development being in sync with the existing streetscape, the properties in question were part of an up coding in 2005 under TPS 2 with the houses on the East of Alexander Rd being coded R20 and those to the West of Alexander Rd being coded R25. These properties were subject to a 6m front setback as per Appendix V of TPS 2. Under LPS 3, the R80 density to the East would require a 2m primary street setback for Multiple Dwellings (Apartments) and 1m primary street setback for Grouped and Single Dwellings. The R60 density to the West would require a 2m front setback for both Multiple (Apartments), Grouped and Single Dwellings. It is anticipated that the streetscape setback of dwellings in this location will change over time as redevelopment occurs and that a reduction in the building height would not have a significant impact streetscape if the front setback still being reduced incrementally.

For these reasons, it is not considered appropriate to reduce building height in these locations and the City should not attempt to amend the Scheme in an attempt to do so. The City recognises that further work is required and at this point in time a Precinct Plan which will seek to establish both a localised strategic and statutory planning framework and controls for this area following a greater level of analysis and community feedback.

4.0 Key Relevant Previous Council Decisions:

The petition was presented to Council at the Council Meeting on 25 June 2019. Council resolved:

"That Council receive the petition and refer to administration."

5.0 Consultation

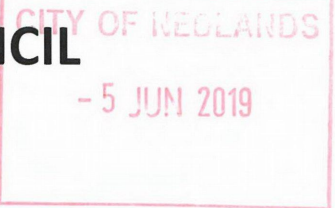
Nil.

6.0 Budget/Financial Implications

Nil.

Carmen Tutor; Maria Tutor

PETITION TO CITY OF NEDLANDS COUNCIL



DATE: MAY 2019
PETITION ORGANISER : MARIA DEL CARMEN TUTOR
ADDRESS: 8A ALEXANDER ROAD DALKEITH WA 6009
TELEPHONE NUMBER : 0418910893
EMAIL: carmen@boutiquerealestatewa.com.au

We, the undersigned, petition Council to consider our application to ask for a height variation to the local planning policy and retain the height of dwellings for Alexander Road Dalkeith, between Phillip and Waratah Avenue (house numbers 1-10) at the current 2 storey height so that the front street elevation is in sync with the existing streetscape. i. e. 10meter height to roof on the current dwellings which are mainly newly built.

We understand the zoning has changed and accept that there will be some development approved in excess of the current but ask that it is done in a sympathetic manner. #6 Alexander road (my Northern neighbour) & middle of the street has been purchased by developers who have advised me that they plan on building a 4-storey high building. This is more than DOUBLE of the current R codes and current buildings. Further, the front setback for R80 (increased from R20) will be 1 meter (currently 9 m) and the plot ratio is 100% of apartment area. The residents are devastated that the area will become dangerous and ugly with one tall block in the middle of the street. We respectfully ask for an amendment to current zoning for #6 in particular to avoid # 4, 8A & 8B being dwarfed, shaded plus overlooking issues, not to mention further noise and traffic problems.



4 Alexander 6 Alexander 8A Alexander road. Crn. Phillip & Alexander Roads

The area this refers to is a small portion of Alexander road which currently is used as access to the Waratah café and shopping strip. It becomes very busy at times, particularly early morning when people visit the cafes for coffee and lots of delivery trucks and when Dalkeith Hall is in use for exercise both in the morning and late afternoon as there is not enough parking in Waratah for cafes & shopping strip.

We, the residents are often blocked in as despite some existing "no parking" signs on the west side of the street, people park on both sides of the street creating a dangerous environment for residents and traffic jams which occur daily.



Public Parking at 8A Alexander road - some facing the wrong way.



Public parking at 8A Alexander road



5 Alexander road (opposite 8A)

Note 1:

The city of Nedlands charged me, Carmen Tutor of 8A Alexander road to put "no parking" on my driveway but not to neighbours. Further, I was fined \$65 when parked across the road once due to being blocked in my driveway. I have written to the City of Nedlands many times during the last 4 years and asked the Member for Nedlands to request assistance at Council meetings with no result.

Therefore, the management of parking in this area is not existent and can only become worse if 6 A is allowed to build according to R80 zoning creating many more cars for residents and their visitors.

CARMEN TUTOR: *Carmen Tutor*

#	Name	Address	Signatures
ALEXANDER RD. 1	Paula + Kristen Meling	1 Alexander Rd	<i>[Signature]</i>
2	ELDERLY - COULD NOT ANSWER DOOR		
3	NA		
4A	JENNIFER & ALEX CAMPBELL 3A ALEXANDER RD.		<i>[Signature]</i>
4B	DI + KEITH ALLAN	4B ALEXANDER RD DALKEITH	<i>[Signature]</i>
5A	VACANT BLOCK ONLY		
5B	VACANT BLOCK ONLY		
6A	* to be Developed into Apartments		
6B			
7	AWAY		
	JEAN THATCHER	11 HACKETT RD DALKEITH	<i>[Signature]</i>
8A	CARMEN TUTOR	8A ALEXANDER RD DALKEITH	<i>[Signature]</i>
	Jan + David Lord	21 Alexander Rd Dalkeith	<i>[Signature]</i>
	Joan Hughes	12 Torque St HACKETT	<i>[Signature]</i>
	Andrew Munro	81 Munro Road Dalkeith	<i>[Signature]</i>
	Janette Gferman	45 View Way Neilson's	<i>[Signature]</i>
8B	MARION + GEOFF CAHILL	8 B ALEXANDER ROAD DALKEITH	<i>[Signature]</i>

PD33.19	Scheme Amendment No. 1 – Amendment to Clause 32.4(5)
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Committee	13 August 2019
Council	27 August 2019
Director	Peter Mickleson – Director Planning & Development
Reference	Nil
Previous Item	Nil
Attachments	1. Scheme Amendment No. 1 Report

1.0 Executive Summary

The purpose of this report is for Council to provide consent to prepare (adopt) the proposed Scheme Amendment No. 1 to Local Planning Scheme 3 (LPS 3).

The amendment proposes a minor textual change to Clause 32.4(5) which refers non-residential developments to the requirements of the R-codes in the absence of an approved structure plan, local development plan or activity centre plan within Mixed Use, Neighbourhood Centre and Local Centre zones.

The amendment proposes to include Local Planning Policies as an instrument to contain non-residential development standards for the above zones to replace application of the R-Codes.

The amendment is considered as a basic scheme amendment as it is to correct an administrative error; make the scheme consistent with the model provisions and deemed provisions; and creates consistency with a state planning policy. As per the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) a basic amendment does not require advertising.

2.0 Recommendation to Committee

Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt an Amendment to Local Planning Scheme 3 by:
 - a) Inserting the words 'local planning policy' into clause 32.4(5) to state "in relation to developments that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan, local planning policy and/or activity centre plan, the development standards are subject to the applicable R-Code;"
2. In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 section 35(2), the City believes that the amendment is a Basic Amendment for the following reasons:
 - a) An amendment to correct an administrative error;
 - b) An amendment to the scheme so that it is consistent with the model provisions in schedule 1 or with another provision of the local planning scheme; and

- c) **An amendment to the scheme so that it is consistent with a State planning policy.**

3. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Scheme Amendment 1 to the Environmental Protection Authority.**

3.0 Amendment Details

Clause 32.4(5) of LPS 3 applies the requirements of the R-Codes to non-residential developments in Mixed Use, Local Centre and Neighbourhood Centre zones in the absence of an approved structure plan, local development plan, or activity centre plan. The clause does not include 'an approved Local Planning Policy' as an instrument to replace the application of the R-Codes in the above zones. There are many issues associated with this which are discussed within the scheme amendment report.

The main issues are summarised as follows:

- The R-Codes alone are inadequate to address all planning and design considerations for non-residential developments;
- The Mixed-Use zones within the City do not meet the criteria of the Regulations for a structure plan or activity centre plan to be prepared. A local development plan should only be applied to individual sites or localised area. A local planning policy is therefore currently the only planning instrument suitable to contain non-residential development standards in these areas;
- The only process to create a policy with non-residential standards through the clause is to amend the R-Codes as provided through Part 1.2.1 and 1.2.2;
- The R-Codes do not allow amendment to the Element Objectives and only allow amendment or replacement of the Acceptable Outcomes for each section. In many instances, the element objectives do not provide the content necessary for assessment of non-residential development.
- A policy cannot amend the R-codes to include provisions for non-residential development which are not provided for (in an existing section) in the R-Codes;
- Obtaining WAPC approval for all policies which propose non-residential development standards (which amend section contained within 1.2.2) affecting mixed use, neighbourhood centre and local centre zones within the City (which constitutes a significant proportion of all non-residential land within the City) will result in delays in establishing the local planning framework.
- There is tension between clause 32.4(5) and the deemed provisions and other scheme clauses in the ability for the City to prepare local planning policies affecting the mentioned zones.

The process in creating local planning policy through the clause is convoluted and confusing and is not how the planning framework is intended to operate. The minor textual change proposed will correct these issues.

4.0 Consultation

Under the Regulations the process for basic scheme amendments does not include consultation. The amendment is very minor and does not have implications for landowners or specific properties.

5.0 Budget / Financial Implications

Nil.

6.0 Risk Management

Nil.



City of Nedlands
Local Planning Scheme No. 3
Amendment No. 1

*Scheme Amendment rewording Clause 32.4(5) to state “in relation to developments that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan, **local planning policy** and/or activity centre plan, the development standards are subject to the applicable R-Code.”*

Planning and Development Act 2005

**RESOLUTION TO PREPARE AMENDMENT
TO LOCAL PLANNING SCHEME**

*City of Nedlands Local Planning Scheme 3
Scheme Amendment 1*

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

Inserting the words 'local planning policy' into clause 32.4(5) to state "in relation to developments that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan, **local planning policy** and/or activity centre plan, the development standards are subject to the applicable R-Code."

The amendment is basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- An amendment to correct an administrative error;
- An amendment to the scheme so that it is consistent with the model provisions in schedule 1 or with another provision of the local planning scheme; and
- An amendment to the scheme so that it is consistent with a State planning policy.

Dated this _____ day of _____ 20____

(Chief Executive Officer)

City of Nedlands

Local Planning Scheme No. 3 – Scheme Amendment No. 1

Scheme Amendment Report

1.0 INTRODUCTION

Local Planning Scheme No. 3 (LPS 3) was gazetted on 16 April 2019. Modifications from the Minister for Planning introduced the following Clause 32.4(5) into the Scheme relating to Mixed Use, Local Centre and Neighbourhood Centre zones:

‘32.4(5) In relation to developments that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan and/or activity centre plan, the development standards are subject to the applicable R-Code’

The City proposes to amend Clause 32.4(5) to include Local Planning Policies as an instrument to contain non-residential development standards for the above zones to replace application of the R-Codes.

The amendment is in the opinion of the City considered to be a Basic Amendment as it satisfies the following criteria of Regulation 34 of the Planning and Development (Local Planning Scheme) Regulations 2015:

- (a) An amendment to correct an administrative error;
- (b) An amendment to the scheme so that it is consistent with the model provisions in schedule 1 or with another provision of the local planning scheme;
- (e) An amendment to the scheme so that it is consistent with a State planning policy.

2.0 PROPOSAL AND JUSTIFICATION

The City proposes to reword Clause 32.4(5) of the recently gazetted LPS 3 to insert the words ‘local planning policy’ to read:

*‘In relation to developments that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan, **local planning policy** and/or activity centre plan, the development standards are subject to the applicable R-Code.’*

2.1 JUSTIFICATION

Clause 32.4(5) of LPS 3 applies the requirements of the R-Codes to non-residential developments in Mixed Use, Local Centre and Neighbourhood Centre zones in the absence of an approved structure plan, local development plan, or activity centre plan.

The clause does not include 'an approved Local Planning Policy' as an instrument to replace the application of the R-Codes in the above zones. There are many issues associated with this which are discussed below.

Within the City of Nedlands, there are Mixed Use zoned areas with specific context and character that require unique localised controls. This includes modifications to the primary controls table and other specific non-residential development provisions.

The Mixed Use zones within the City of Nedlands which are directly adjacent to Stirling Highway, Broadway, Hampden Road and Waratah Avenue do not meet criteria of the Planning and Development (Local Planning Schemes) Regulations 2015 for a activity centre plan or structure plan to be prepared. The application of a local development plan is also not the most appropriate mechanism as it should be limited to individual sites and not entire corridors or precincts. A local planning policy is therefore the most appropriate planning instrument.

In the absence of 'Local Planning Policy' under Clause 32.4(5), a local planning policy can only be prepared in accordance with Part 1 of the R-Codes to apply standards to non-residential development in the above zones (i.e. a local planning policy can only be prepared to amend the R-Codes with supplementary non-residential standards in the form provided for through Volume 2).

This is problematic for several reasons. Firstly, the R-Codes do not allow amendment to the Element Objectives and only allow amendment or replacement of the Acceptable Outcomes for each section. In many instances, the element objectives do not provide the content necessary for assessment of non-residential development.

Creation of a Policy through the R-Codes is also an issue as there will be non-residential provisions required which are not covered by sections of Volume 2. Part 1.2.4 specifically states that a local planning policy may only augment the R-codes with objectives to guide judgement about the merits of proposals relating to any aspect of **apartment** development that is not provided for under Volume 2. Unsurprisingly, a policy can therefore not amend the R-Codes to include provisions for non-residential development which is not provided for in the R-Codes. This means currently through a policy the City can only develop non-residential provisions which fit within existing sections of Volume 2.

Further to this, ordinarily a local government would not need WAPC approval to prepare a Local Planning Policy to guide non-residential requirements. WAPC approval will be required where non-residential standards are proposed in sections listed under Part 1.2.3. This will cause delays in the establishment of the local planning framework under the new Scheme and will affect any policy proposing non-residential development standards which would apply in the Mixed Use, Local Centre and Neighbourhood Centre zones.

It is considered the R-Codes alone are inadequate to address all planning and design considerations for non-residential developments, being a document prepared specifically for application to multiple dwelling developments. Retrofitting the R-Codes through a policy to contain non-residential development standards is highly confusing, and although potentially not inoperable, is not how the planning framework is intended to operate.

Issues associated with Policies applicable across the scheme area

Clause 32.4(5) creates tension with the deemed provisions in the ability for a local government to prepare a local planning policy under division 2 and consideration of that policy under clause 67(g), when it comes to application to land zoned Mixed Use, Neighbourhood Centre or Local Centre. It also creates issues and confusion in the policy's approval process and subsequent operation within these zones where a policy is also applicable to other zones within the scheme area.

It is interpreted by the definition of 'development' under the Planning and Development Act, that the clause relates to all manner of planning standards and not just those matters (sections) covered by the R-Codes.

The clause sets out that if development standards are not provided in an approved Structure Plan, Local Development Plan, or Activity Centre Plan then the standards of the R-Codes apply. The clause does not contemplate non-residential standards which are required which are not contained within the R-Codes and are not appropriate to be contained within those specific instruments. There are standards relating to specific land uses (e.g. Child care, Short term accommodation etc.) and specific types of development (e.g. signage, end of trip facilities, etc.) which are not covered by the R-Codes, cannot be contained within those instruments specified in the clause, and to add complexity, need to apply across other zones in addition to Mixed Use, Neighbourhood Centre and Local Centre zones.

As a specific example, it is common practice for Local Governments to prepare signage local planning policies. These policies typically have objectives and set out provisions relating to types of signage (e.g. Pylon Signs, Hording signs, Monolith signs etc.), dimensions and other requirements which apply throughout a scheme area.

As signage is not a matter specifically covered by the R-Codes, a policy cannot amend the R-Codes to introduce non-residential signage requirements (as discussed earlier due to the content of Clause 1.2.4 of the R-Codes). The planning instruments listed within clause 32.4(5) are not appropriate for city-wide application of signage requirements. A signage policy can therefore only be created to apply to zones other than Mixed Use, Neighbourhood Centre and Local Centre. The only alternative is that should local development plans be prepared in future, specific signage requirements could be included.

As another example, consider the City prepares a Car Parking policy containing the following:

- Objectives;
- Car Parking ratios for non-residential land uses; and
- Requirements for the provision of end of trip facilities.

Due to clause 32.4(5), for a policy to be created and apply these requirements to land zoned Mixed Use, Neighbourhood Centre and Local Centre, it must amend Part 3.9 (Car and Bicycle Parking) of the R-Codes to add supplementary Acceptable Outcomes.

Issues:

1. Confusion in the operation of the policy – A car parking policy is typically arranged with a list of land uses and associated parking ratios. If a development was proposing fewer parking spaces than required, the proposal would be assessed against the objectives of the policy. This would be how this policy would apply in zones other than Mixed Use, Neighbourhood Centre and Local Centre. However, in applying this policy to those specific zones, the Element Objectives of Part 3.9 of the R-Codes would be applicable, and the parking ratios would be considered as Acceptable Outcomes and one way of demonstrating the proposal is acceptable. The objectives of the policy would be unable to be considered in assessment of proposals in these zones as this is not provided for under Part 1.2.2 in a policy which amends Part 3.9 of the R-codes (i.e. supplemental objectives cannot be introduced through the R-codes). As such it becomes difficult to create and explain the operation of a land use-based policy which is applicable to the whole scheme area.
2. Approval process – Part 3.9 is not a part which can be amended without WAPC approval. Parking ratios are land use based which apply to all zones across the City, however, WAPC approval would only be required for the parking ratios in the policy's application to land zoned Mixed Use, Neighbourhood Centre and Local Centre. This has potential to cause significant issues should approval not be granted by WAPC for certain ratios of the policy – resulting in a policy where ratios would be applicable to some zones and not others.
3. Application issues – As 'end of trip facility' requirements are not covered by the R-Codes (outside of development incentives) and do not fit into an existing section, as discussed above, under part 1.2.4 it cannot be included in a policy and therefore these standards cannot apply within the Mixed Use, Neighbourhood centre and Local Centre zones.

Consideration as a basic amendment

An amendment to correct an administrative error;	It is considered that the absence of local planning policy as a planning instrument to contain non-residential standards was an oversight in the development of the scheme clause. The unintended consequences and complexities created can be corrected with a minor textual amendment.
An amendment to the scheme so that it is consistent with the model provisions in schedule 1 or with another provision of the local planning scheme;	<p>Clause 32(1) states that Table 6 (which includes 32.4(5)) sets out development requirements additional to those set out in the R-Codes and other instruments – including local planning policies. Clause 32(1) clearly contemplates that local planning policies may apply development requirements. As clause 32.4(5) does not include reference to local planning policies, there is tension between that provision and the overarching clause 32(1).</p> <p>The deemed provisions allow a local government to adopt local planning policies and provide that those local planning policies must be given due regard. There is a tension between, on the one hand, the City's ability to adopt local planning policies to which due regard must be given and, on the other hand the possible implication from clause 32.4(5) that a local planning policy may not make provision for development standards in any of the zones mentioned.</p>
An amendment to the scheme so that it is consistent with a State planning policy.	The amended would ensure operation of SPP 7.3 as intended.

3.0 CONCLUSION

The information and justification provided in this report is submitted to support the addition of LPP's as a planning instrument within Clause 32.4(5) of LPS 3.

The proposed textual amendment is minor and ensures operation of the planning framework as intended. From the justification in this report the City believes that the wording may have been an administrative error and requests that the WAPC support the rewording of Clause 32.4(5).

COUNCIL ADOPTION

This Basic Amendment was adopted and is recommended for approval by resolution of the Council of the City of Nedlands at the [NAME] Meeting of the Council held on the [day] day of [month], 20[year] and the Common Seal of the City of Nedlands was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....

MAYOR

.....

CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....

DELEGATED UNDER S.16 OF
THE P&D ACT 2005

DATE.....

APPROVAL GRANTED

.....

MINISTER FOR PLANNING

DATE.....