



City of Nedlands

Planning and Development Reports

Committee Consideration – 13 November 2018

Council Resolution – 27 November 2018

Table of Contents

Item No.		Page No.
PD56.18	Proposed Additions to Existing Educational Establishment, No. 75 (Lot 529) Broadway, Nedlands	2
PD57.18	Proposed Addition (Carport) to Existing Single House, No. 83 (Lot 433) Circe Circle South, Dalkeith	13
PD58.18	Retrospective Shade-Cloth Addition to Existing Fence, No. 23 (Lot 115) Browne Avenue, Dalkeith.....	18
PD59.18	Two Storey Single House, No. 6 (Lot 89) Colin Street, Dalkeith.....	23
PD60.18	Two Storey House with Under-Croft, No. 1 (Strata Lot 3) Birrigon Loop, Swanbourne	30
PD61.18	Proposed Warehouse, No. 17 (Lot 12241) John XXIII Avenue, Mount Claremont	38
PD62.18	Local Planning Policy – Exempt Development.....	45
PD63.18	Local Planning Policy - Reduction of Front Setbacks	48
PD64.18	Civic Design Awards	51
PD65.18	Permit to Use Nature Strip	53

Council: 27 November 2018

PD56.18	Proposed Additions to Existing Educational Establishment, No. 75 (Lot 529) Broadway, Nedlands
----------------	--

Committee	13 November 2018
Council	27 November 2018
Applicant	Alliance Francaise de Perth
Landowner	Ashley Richards and Associates
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/30545
Previous Item	Item D3.08 – February 2008
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Photographs of the subject property

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 15 August 2018 for additions to the existing educational establishment building at No. 75 Broadway, Nedlands

The application involves the construction of a new car park with revised car parking bays including a Universal Access Car parking (Acrod) Bay designed to Australian Standards, the construction of a ground floor function room at the rear of the building, and additional classrooms on the upper floor.

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. Six (6) objections, 2 non-objections and 1 submission which provided comments were received.

The proposal includes the following variations to Town Planning Scheme No. 2 (TPS 2):

- Carparking bays
- Setback variations to side and rear lot boundaries
- Plot ratio area.

Considering the scale and nature of the proposal it is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the development application received on 15 August 2018 with amended plans received on 30 August 2018, for additions to the existing educational establishment at (Lot 529) No. 75 Broadway, Nedlands, subject to the following conditions and advice:

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **A maximum of 7 staff and 48 students are permitted on site at any one time.**
3. **Classes not being held at the same time as the function room being used.**
4. **Classes only being permitted to be held at the following times:**
Monday to Thursday from 9.30am until 12.30pm, and from 6.00pm to 9.00pm.
Friday and Saturday from 9.30am to 12.30pm.
5. **The function room only being used for events associated with the educational establishment.**
6. **The function room only being used between 5.00pm and 7.00pm on a Friday.**
7. **The proposed function room only being permitted to be used by staff and students during break times from classes, and for the educational establishment's annual exam ceremonies.**
8. **All car parking bays, manoeuvring areas and vehicular access ways shown on the approved site plan being constructed, marked, sealed and drained prior to the practicable completion of the proposed development, and be maintained thereafter by the landowner to the City's satisfaction.**
9. **All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite**
10. **Service and/or delivery vehicles shall not to service the premises before 7:00am or after 7:00pm Monday to Saturday or before 9:00am or after 7:00pm on any Sunday or public holiday, unless otherwise approved by the City.**

Advice Notes specific to this proposal:

1. **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.**
2. **A separate development applicant is required to be lodged with and approved by the City prior to installing any additional signage on the property.**
3. **Noise levels are to comply with the Environmental Protection (Noise) Regulations 1997.**

4. **Plans being provided as part of the building permit application are to show the following details, amongst others, to demonstrate compliance with the *Health (Public Building) Regulations 1992*:**
 - a) **Details of emergency exits (location, signage, doors (width, hardware, egress and direction of door);**
 - b) **Details of any existing or proposed emergency lighting system that may be present;**
 - c) **Details of the proposed “use” of the public assembly rooms that are indicated on the attached plans, including likely accommodation numbers;**
 - d) **Details of any fire control systems that are to be installed within the building;**
 - e) **Details of treads and risers on exit stairs (depth and height), including balustrading and handrails;**
 - f) **Details of emergency evacuation plan (that will be prepared for the building);**
 - g) **Details of flammability testing for any curtains or drapes that are provided; and**
 - h) **Sanitary facilities details (number, gender, lighting).**
5. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
6. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**

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

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

7. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
8. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.**

An agreement will be necessary from Public Transport Authority before the City can consider approving the NSDA due to an existing bus stop potentially being impacted.

9. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.

3.0 Background

3.1 Land Details

Land area	880m ²
Local Planning Scheme Zone	Residential R35
Metropolitan Region Scheme Zone	Urban

3.2 Previous applications

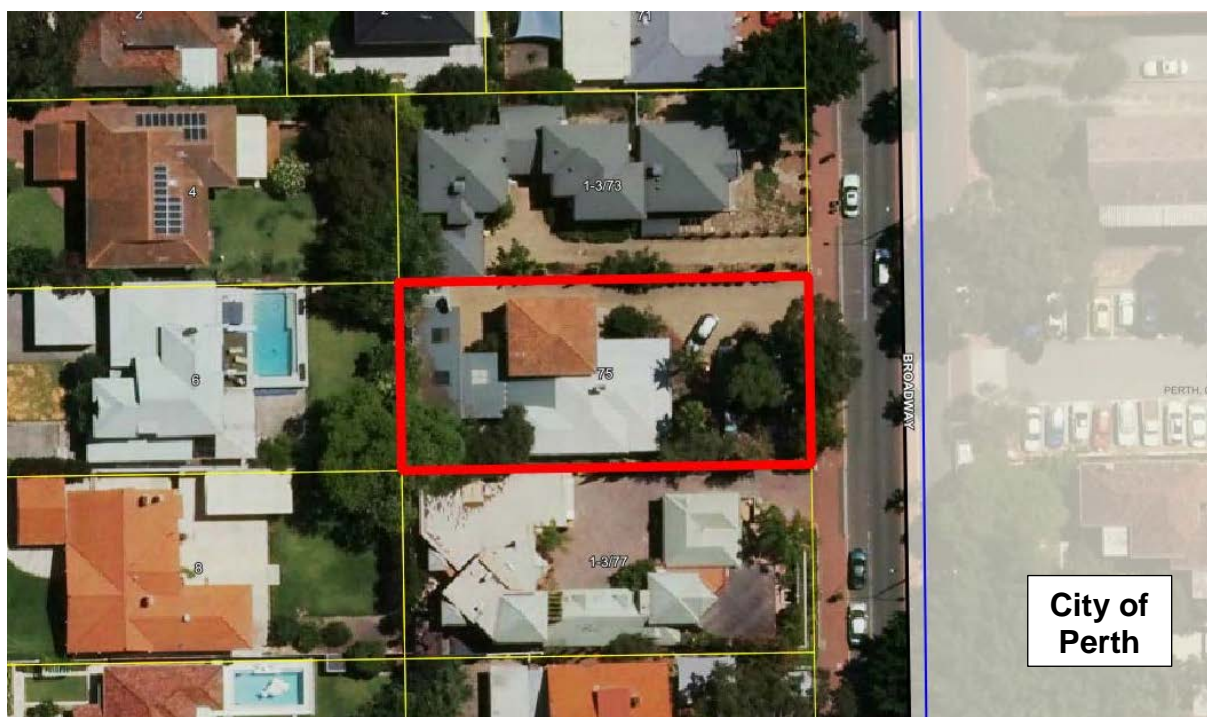
In 1993, development approval was granted for an educational establishment to operate at the property, being a change of use to an additional use. Thirteen car bays were to be provided on site.

In February 2008, Council resolved to approve a development application for additions to all 3 floors of the existing building at the property. The following variations were proposed:

- a) A shortfall of 8 car bays (13 bays available, 21 bays were required).
- b) Setbacks of 2.35m and 4.4m from the northern lot boundary in lieu of 5m.

The development did not substantially commence within 2 years of the approval being granted and therefore expired.

3.3 Locality Plan



4.0 Application Details

The applicant currently seeks development approval for additions to the rear and the upper storey of the existing building, details of which are as follows:

- A total of 10 car bays (including 1 disabled bay) are proposed to be constructed at the front of the building. A shortfall of 2 car bays would exist if the application was approved by Council.
- A ground floor function room, toilets and a storeroom are proposed at the rear of the building on the ground floor. This being approximately 140sqm in area and able to accommodate up to 80 people.
- The upper storey of the building is proposed to be extended towards the southern lot boundary to create 4 additional classrooms (resulting in 8 classrooms in total).
- The rear additions to the building are proposed to be setback 1m from the southern lot boundary, and 3m from the northern lot boundary, both in lieu of 5m.
- The rear additions to the building are proposed to be setback 1m from the western (rear) lot boundary in lieu of 5m.
- The proposal resulting in a plot ratio area of 0.63 (approximately 700sqm) in lieu of 0.5.
- The upper storey additions to the building are proposed to be setback 2.1m from the southern lot boundary, and 2.6m from the northern lot boundary, both in lieu of 5m.
- The rear additions are proposed where currently a patio and an annex structure exist. The patio structure being approximately 3.7m in height, and setback 0.8m from the rear lot boundary and 3.5m from the southern lot boundary. The annex being approximately 3.4m in overall height with a setback of approximately 0.3m from the rear and northern lot boundary.
- Six staff and 1 intern are to be on site at any one time. The landowner has advised that 4 staff drive to the site, the other staff use public transport.
- The landowner has advised that 6 parking bays are available for contract teachers and students or persons dropping off / picking up students from classes.
- The landowner has advised that students numbers are not proposed to be increased, and that the following number of students attend the classes:

Mondays:

9.30am to 12.30pm – up to 14 students

6.00pm to 9.00pm – up to 48 students

Tuesdays:

9.30am to 12.30pm – up to 38 students

6.00pm to 9.00pm – up to 38 students

Wednesdays:

9.30am to 12.30pm – up to 20 students

6.00pm to 9.00pm – up to 21 students

Thursdays:

9.30am to 12.30pm – up to 35 students

6.00pm to 9.00pm – up to 30 students

Fridays:

9.30am to 12.30pm – up to 24 students

Saturdays:

9.30am to 12.30pm – up to 32 students

- The landowner has advised the following regarding the proposed function room:

“The rear space is a social area for our students to have a break during their classes and it will be used for that purpose. We want to enclose it to avoid noise when people are having conversations and to use the walls as an appropriate exhibition space”.

“We organise an AF Exam Ceremony for approximately 80 people on a Friday afternoon, once a year, for the last 40 years and it has never caused any problems with our neighbours”.

- An Acoustic Report commissioned by the applicant concludes that the use is unlikely to create any significant noise issues.
- A parking management plan commissioned by the applicant advises that the function room will be used twice a year for events between 5.00pm and 7.00pm on Fridays. The parking management plan concludes that:

“Given the following information provided by the proponent, KCTT believe that this provision is sufficient to cater for the requirements of the development, special events included:

No changes of the current land use or expansions of the current land use are proposed. Furthermore, the conditions of operation for the subject development have been consistent over the past couple of decades.

*Given the development is existing, provided information from practice suggest that the actual parking demand for staff members is 4 parking bays, since 4 out of 7 staff members arrive by their personal passenger vehicle. This fact significantly reduces the above calculated parking requirement. **

Therefore, 6 parking bays are available for contract teachers and students or persons dropping off / picking up students from classes. Since the majority of the language school’s students are too young to drive, most of them arrive to the school using the surrounding public transport network.

Broadway provides on-street parking throughout its length near the subject site.

The major once-a-year event (Alliance Francaise Exams Ceremony – mid November) will accommodate up to 80 people with staff members included. Late November event will accommodate up to 60 persons. Given that students arrive to these events with their families, it can be assumed that the average occupancy will be 3-4 persons per vehicle. This equates to 25 vehicles/parking bays required assuming all visitors will arrive with passenger

vehicles (see the below calculations which are conducted for the scenario with up to 80 persons at the subject development).”

5.0 Consultation

The application was advertised in accordance with the requirements of Council’s Neighbour Consultation Policy. Six (6) objections, 2 non-objections and 1 submission which provided comments were received. The following is a summary of the concerns raised:

- Adverse impact on the local amenity.
- Adverse noise impact to the surrounding area.
- Insufficient parking provided.
- Potential damage to trees on an adjoining property.
- The stability of the land near to a side lot boundary due to there not being a retaining wall.
- The potential visual impact of the development due to the proposed lot boundary setbacks.

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

6.2 Metropolitan Region Scheme

The subject site is zoned ‘Urban’ under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Residential R35.

The following variations are sought as part of this application:

- A total of 10 on site car parking bays in lieu of 12 bays.
- The rear additions to the building being proposed to be setback 1m from the southern lot boundary, and 3m from the northern lot boundary, both in lieu of 5m.
- The rear additions to the building being proposed to be setback 1m from the western (rear) lot boundary in lieu of 5m.
- A plot ratio area of 0.63 in lieu of 0.5 being proposed.

- The upper storey additions to the building being proposed to be setback 2.1m from the southern lot boundary, and 2.6m from the northern lot boundary, both in lieu of 5m.

6.3.1 Amenity

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

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

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

6.3.2 Additional Use Requirements

Schedule 1 (Additional Uses) of Town Planning Scheme No. 2 (TPS 2) stipulates that a professional office is an additional use permitted on the property.

Clause 3.7 TPS 2 allows Council to consider other uses on a property where additional use provisions apply under Schedule 1 (Additional Uses) of TPS 2.

In accordance with Table 3 (Additional Use Requirements) of TPS 2 the following requirements apply, which in accordance with clause 5.4.1.3 (Application of Standards) Council may vary:

TPS 2 – Table 3 (Additional Use) Requirements	Proposed	Complies?
Street setback – 6m	16m	Yes
Side setback where the lot adjoins any Residential zone – 5m	Ground Floor - South lot boundary – 1m North lot boundary – 3m	No
	Upper Floor - South lot boundary – 2.1m North lot boundary – 2.6m	No
Rear setback – 8m average 5m minimum	Average – 1m	No
	Minimum – 1m	No
Maximum plot ratio – 0.5	0.63	No

6.3.3 Car Parking

TPS 2 – Schedule 3 (Car Parking) Requirements	Required Amount of Car Bays	Proposed	Complies?
Educational Establishment 2 bays per staff member plus 2 additional bays for each 10 provided. Additional bays to be set aside for students, teachers or visitors.	6 staff = 12 bays Additional bays required = 2 bays 14 bays required in total	10 bays	No
Function Rooms At the City's discretion as no requirement for the use stipulated.	Up to 80 people to attend functions		No

6.3.4 Building Height

TPS 2 – Maximum Building Height Requirements	Proposed	Complies?
Three storeys for non-residential uses.	3 storeys	Yes
Maximum wall height of 8.5m from mean natural ground level.	6.8m	Yes
Maximum overall building height of 10m from mean natural ground level.	9.2m	Yes
Portion of building nearest to the street not to exceed 8.5m in overall height when measured from the mean level of the lot boundary at the primary street frontage.	5.2m	Yes

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

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

9.1 Car Parking

During the advertising period concerns were raised regarding the availability of car parking when the function room is being used.

- The function room is not proposed to be used at the same time as classes being held.
- The applicant has advised that student and staff numbers are to remain unchanged compared to what they are currently. Therefore, the shortfall in car parking bays on site is to remain unchanged.

- The following street car parking restrictions apply nearby to the property:
City of Nedlands side of Broadway - Two hours free parking between Monday and Friday 8.00am to 6.00pm and on Saturday 8.00am to 1.00pm.
City of Perth side of Broadway - One-hour free parking between Monday and Friday 8.00am to 5.00pm and on Saturday 8.00am to 1.00pm.
- According to the City's records no parking complaints have recently been received regarding car parking associated with the property.
- The parking management plan commissioned by the applicants identifies various locations where public parking is available nearby.
- When exam ceremonies are held it is likely that families and/or friends of students attending will travel in the same vehicle.
- Broadway is deemed to be a high frequency bus route.
- According to the parking management plan provided two annual events will be held in the function room between 5.00pm and 7.00pm on Fridays. This will differ to the peak hours of operation for nearby non-residential uses. Therefore, adequate amounts of public car parking is likely to be available.

Considering the above, parking is unlikely to become a significant issue due to the availability of car bays on and off site, and the frequency these are likely to be available for students and those associated with nearby properties.

9.2 Noise

The applicant has submitted an Acoustic Report which confirms that the proposal would most likely comply with the Environmental Protection (Noise) Regulations 1997.

9.3 Built Form

The proposal complies with TPS 2 except for the following:

- The rear additions to the building are proposed to be setback 1m from the southern lot boundary, and 3m from the northern lot boundary, both in lieu of 5m.
- The rear additions to the building are proposed to be setback 1m from the western (rear) lot boundary in lieu of 5m.
- The proposal resulting in a plot ratio area of 0.63 in lieu of 0.5.
- The upper storey additions to the building are proposed to be setback 2.1m from the southern lot boundary, and 2.6m from the northern lot boundary, both in lieu of 5m.

The property is currently coded R35. Having regard to the Residential Design Codes, if the proposal was for a residential use (e.g. a single dwelling):

- 57.5% open space would remain if the development was approved;
- A wall of up to 3.5m in height and up to 17m in length with windows of more than 1sqm would be required to be setback between 1m and 1.5m from the rear lot boundary.
- A wall of up to 3.5m in height and up to 10m in length with windows of more than 1sqm would be required to be setback 1.5m from the northern lot boundary.
- A wall of up to 3.5m in height and up to 10m in length with obscured windows would be required to be setback 1.5m from the southern lot boundary.

- A wall of up to 6m in height and up to 9m in length with windows which have sills 1.6m above the finished floor level would be required to be setback 1.5m from the southern lot boundary.

The appearance of the additions will therefore likely be similar to that of a compliant dwelling based on the R35 requirements.

The overall height of the proposed rear ground floor addition will be similar in height to the patio which currently exists.

The likely visual impact of the proposed rear additions will be minimised due to solid dividing fencing, and the finished ground level of the property being approximately 1.8m lower than the land to the west and up to 1.2m lower than the land to the south.

9.4 Other Matters

During the advertising period concerns were raised regarding:

- Potential damage to trees on an adjoining property.
- The stability of the land near to a side lot boundary due to there not being a retaining wall.

With regard to potential damage to the root system belonging to trees on private property this is not a matter Council is required to have regard to when determining development applications in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The stability of the land will be considered at the building permit application stage if the development application is approved by Council.

Considering the scale and nature of the proposal it is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

Below – Photograph of the property from Broadway



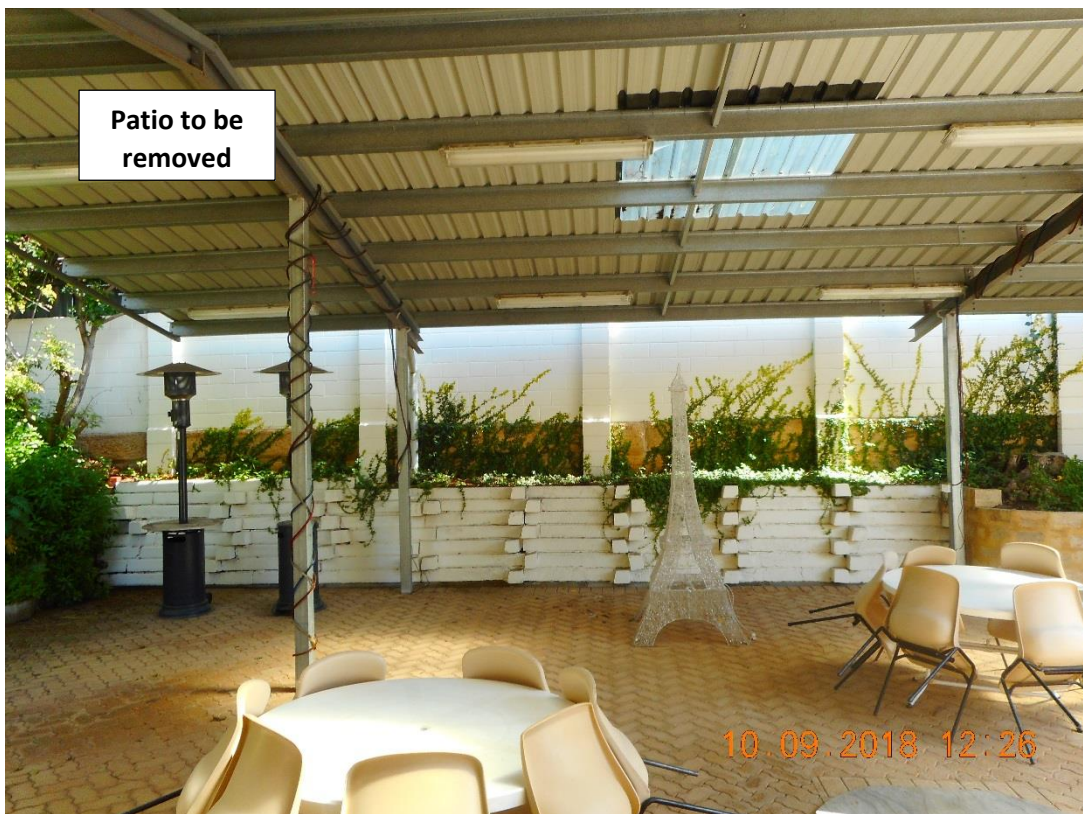
Below – Photograph of the property's street setback area



Below – View along the property’s northern (side) lot boundary



Below – View towards the property’s western (rear) lot boundary



Below – View towards the property’s southern (side) lot boundary



Below – View towards the property’s northern (side) lot boundary



PD57.18	Proposed Addition (Carport) to Existing Single House, No. 83 (Lot 433) Circe Circle South, Dalkeith
----------------	--

Committee	13 November 2018
Council	27 November 2018
Applicant	Complete Approvals
Landowner	K Vidler
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/31147
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1d) of the City's Instrument of Delegation, Council is required to determine the application when refusal is recommended, and discretion exists for Council to approve the variations under the City's Town Planning Scheme No. 2, Council Policies and/or the Residential Design Codes.
Attachments	1. Photograph showing the carport's proposed location

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 7 September 2018 for a double carport to be constructed within the street setback area at No. 83 Circe Circle South, Dalkeith.

The proposed carport would result in there being 55% open space on the property in lieu of the required 60% in accordance with the Residential Design Codes (R Codes)

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. No submissions were received during the advertising period.

It is recommended that the application be refused by Council as it is considered to not satisfy the design principles of the Residential Design Codes (R-Codes) and is inconsistent with the local development context.

2.0 Recommendation to Committee

Council refuses the development application dated 7 September 2018, with amended plans received on 12 September 2018, for a proposed carport at (Lot 433) No. 83 Circe Circle South, Dalkeith, for the following reasons:

- 1. The proposal does not satisfy the design principles stipulated under clause 5.1.4 (Open Space) of the Residential Design Codes due to the amount of open space reduction being excessive and not consistent with the expectations of the R10 density coding.**
- 2. The proposal does not satisfy provisions (c) and (n) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the amount of open space proposed will negatively impact the character of the locality. Approving such a variation would set an undesirable precedent.**

3. Open space of 55% in lieu of 60% on an R10 coded property does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.

3.0 Background

3.1 Land Details

Land area	1,011m ²
Local Planning Scheme Zone	Residential – R10
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

In May 2012, development approval was granted for a single dwelling (with an undercroft double garage) on the property proposing 59% open space in lieu of 60%.

The applicant seeks approval for a double carport to be constructed within the street setback area.

The carport is proposed to be setback 4m from the property's street lot boundary, setback 1.5m from the eastern (side) lot boundary and be 35.7 m² in area. If approved by Council 55% open space would exist on the property.

The existing undercroft double garage is proposed to remain and continue to be used for parking purposes.

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

“The proposed patio (carport) has been designed to make more effective use of the small amount of space available for enhanced privacy for the occupant(s), reduce building bulk and will still allow adequate natural sunlight for the dwelling, and also provide opportunities for the occupant(s) to use this space for outdoor pursuits and access within/around the site in accordance with the local planning framework allowable tolerances.”

5.0 Consultation

The application was advertised in accordance with the requirements of Council's Neighbour Consultation Policy. No submissions were received during the advertising period.

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Residential R10.

6.3.1 Amenity

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

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

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

6.3.2 Carports

In accordance with clause 5.6.2 the following requirements apply:

- a) *“the roof plan area of the carport shall not be greater in area than 36m²;*
- b) *no fence or wall erected or used in conjunction with the carport shall be more than 1.8m above natural ground level measured at the centre of the carport; and*
- c) *no gate erected in front of the carport shall be more than 1.8m above natural ground level or shall open in such a manner as to obstruct vision through an area enclosed by a 1.5m x 2.5m truncation to each side of the driveway at the street boundary.*
- d) *the carport shall be open on all sides unless constructed adjoining a boundary fence or wall of a building, in accordance with Council policy.”*

6.4 Residential Design Codes - State Planning Policy 3.1

6.4.1 Open Space

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R10, a minimum of 60% open space is required as per Table 1	The proposed development would result in 55% open space remaining.	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P4 Development incorporates suitable open space for its context to:</i></p> <ul style="list-style-type: none"> <i>• reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> <i>• provide access to natural sunlight for the dwelling;</i> <i>• reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</i> <i>• provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> <i>• provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> <i>• provide space for external fixtures and essential facilities.”</i> 		

6.5 Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street Setback

Policy Requirements	Proposed	Complies?
Carports will only be approved forward of the primary street setback provided a minimum of 5 years has elapsed since the issue of a building licence by the City for the existing dwelling on the lot.	The house on the subject property was approved in May 2012.	Yes
The side of the carport facing the street to be open.	To be open on all sides apart from where attached to the house.	Yes
Primary street setback – 3.5m	4m	Yes
Side boundary setback – 1m	1.5m	Yes

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

Having had regard to the matters stipulated under the Regulations the following is advised:

- The proposal complies with the setback, building height, overshadowing, sight line and roof area requirements, and is proposed to be unenclosed on all sides. Therefore, the appearance of the structure would unlikely have a significant impact on the streetscape.
- If the application is approved 55% open space would exist on the property which equates to 442sqm in total, which would be a similar amount expected on a property coded R12.5 or higher.
- Nearby residential properties currently have at least 60% open space available according to the City's records.
- The property already has two covered car spaces available, being an under-croft garage behind the street setback area. Insufficient justification has been provided as to why the open space variation should be supported despite the existing double garage remaining.

Considering the local development context and the density coding of the property a further reduction in the amount of open space would set an undesirable precedent. It would not be consistent with the expectations of the R10 density code for the local area.

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

PD57.18 - Attachment 1
Photograph showing the carport's proposed location



PD58.18	Retrospective Shade-Cloth Addition to Existing Fence, No. 23 (Lot 115) Browne Avenue, Dalkeith
Committee	13 November 2018
Council	27 November 2018
Applicant	Sze Man Suen
Landowner	Sze Man Suen
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/30069
Previous Item	N/A
Delegation	In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Site Photographs 2. Fencing Examples

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received on 23 July 2018, for a retrospective shade-cloth addition to an existing approved tennis court fence at a residential property on No. 23 Browne Avenue, Dalkeith.

The shade-cloth is located along the eastern (front) boundary and partially on the northern (side) boundary with a solid height ranging from 2m to 2.7m in lieu of 1.2m as required under the City’s Fill and Fencing Local Planning Policy (LPP).

The application was referred to adjoining landowners for a period of 14 days in accordance with Council’s Neighbour Consultation Local Planning Policy. Four (4) objections were received.

The appearance of the shade-cloth is deemed to have an adverse impact on the local amenity. It is recommended that the application be refused by Council as it is inconsistent with Clause 5.5 Preservation of Amenity in the City’s Town Planning Scheme No.2 (the Scheme) and the City’s Fill and Fencing LPP.

2.0 Recommendation to Committee

Council refuses the development application for a shade-cloth on the existing fencing located at the side and front of (Lot 115) No.23 Browne Avenue, Dalkeith, received on 23 July 2018, on the following grounds:

1. **The development is inconsistent with clause 5.5.1 of the City of Nedlands Town Planning Scheme No. 2 as the development has an adverse effect on the amenity of the surrounding area.**
2. **The development is inconsistent with the City of Nedlands Fill and Fencing Local planning Policy as:**
 - a) **The fencing is visually impermeable above 1.2m to a height ranging from 2m to 2.7m above natural ground level; and**
 - b) **The material is not identified as an accepted material.**

3. The proposal does not satisfy provisions (g) and (n) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the appearance of the shade cloth proposed negatively impacts the character of the locality. Approving such a variation would set an undesirable precedent.

3.0 Background

3.1 Land Details

Land Area	1,011m ²
Local Planning Scheme Zone	Residential R10
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

The applicant seeks retrospective development approval for a shade-cloth addition to existing tennis court fencing located along the eastern (primary street) and the northern (side) boundary of the property.

The shade-cloth ranges from 2m to 2.7m in height for a length of 29.55m on the eastern (front) boundary and length of 2.87m on the northern (side) boundary and serves to provide privacy for the occupants of the dwelling.

5.0 Consultation

The application was referred to adjoining landowners for a period of 14 days in accordance with Council's Neighbour Consultation Local Planning Policy. Four (4) objections were received. The following is a summary of the concerns received:

- Visual appearance
- Material inconsistent with City policy
- Not visually permeable above 1.2m

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) of the Regulations stipulates those matters that are required to be given due regard to the extent relevant to the application.

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

If Council does not support the development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is ancillary to an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Residential R10.

6.3.1 Amenity

Under clause 5.5.1 of the Scheme, Council may refuse to approve any development if:

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

6.4 Policy Considerations

6.4.1 Fill and Fencing - Local Planning Policy

Policy Requirements	Proposed	Complies
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.	Visually impermeable above 1.2m from natural ground level to a height ranging from 2m to 2.7m above natural ground level.	No
A person shall not erect a dividing or boundary fence that is not of a material acceptable to the City. Each of the following is an acceptable material for a fence on a Residential lot: a) A timber fence (consisting of pickets or overlapping panels); or b) A fence constructed of corrugated reinforced cement sheeting; or c) A fence constructed of masonry, stone or concrete; d) A metal panel fence; or e) A wrought iron fence.	Shade-cloth attached to existing tennis court fence.	No

7.0 Budget / Financial Implications

N/A

8.0 Risk Management

N/A

9.0 Administration Comment

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

9.1 Inconsistent with Planning Framework

- The development is inconsistent with the visual permeability requirements (visually permeable above 1.2m) of clause 4.3 in the City's Fill and Fencing LPP
- The materials used are not those deemed as an acceptable material under clause 7.2 of the City's Fill and Fencing LPP

9.2 Incompatibility with Local Amenity

- The shade cloth is deemed to be having an unacceptable impact on the streetscape as:
 - The materials used (shade-cloth) are inconsistent with the prevailing form of development for front fencing materials; and
 - Is detrimental to the external appearance and character of the locality
- Existing front fencing within the locality can be characterised by (see Attachment 2):

- Low, open and visually permeable
- Generally, of brick and pier construction
- General absence of solid materials above 1.2m

The three existing trees located in front of the fence on Browne Avenue are of a deciduous variety (see Attachment 1). As such, the screening measures they provide is limited to certain periods of the year. Their screening capacity is further limited by the spacing between each tree, which is approximately 12m. These factors, when coupled with the stark contrast between the proposed materials and the existing materials used along Browne Avenue, provides minimal mitigation to the adverse impacts on visual amenity.

Considering the above, the appearance of the shade-cloth material fencing is deemed to have an adverse and detrimental impact on the local amenity.

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





06.09.2018 15:40



06.09.2018







PD59.18	Two Storey Single House, No. 6 (Lot 89) Colin Street, Dalkeith
----------------	---

Committee	13 November 2018
Council	27 November 2018
Applicant	Atrium Homes (WA) Pty Ltd
Landowner	Honest Holdings Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/31114
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Site Photograph

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 6 September 2018 for a proposed two-storey single house at 6 Colin Street, Dalkeith.

The development proposes variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for:

- Boundary setbacks (Ground and Upper Floor)
- Balcony setbacks
- Porch finished floor levels.

The application was advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. Four objections were received during the advertising period.

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

2.0 Recommendation to Committee

Council approves the development application dated 6 September 2018 with amended plans received on 19 September 2018 to construct a Two Storey Single House at No. 6 (Lot 89) Colin Street, Dalkeith subject to the following conditions and advice:

- 1. The development shall always 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 proposed single dwelling.**
- 3. All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**

4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.

Advice Notes specific to this proposal:

1. 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. All crossovers to the street(s) shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.
3. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
4. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
5. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
6. The applicant is advised to consult the City's Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.

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

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

7. 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

Lot area	826m ²
Local Planning Scheme Zone	Residential R12.5
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

The subject property has recently been subdivided with the parent lot now being 4 and 6 Colin Street. The development application is for a single house on the southern new lot. The house which existed on the parent lot has been demolished and the site is therefore now vacant.

The applicant seeks approval to construct a two-storey single house. The development proposes variations to the deemed to comply provisions of the Residential Design Codes as follows:

- A ground floor nib wall being proposed to be setback 0.9m in lieu of 1.1m to the northern side lot boundary.
- The ground floor being proposed to be setback 1.2m in lieu of 4.5m to the northern side lot boundary.
- An upper floor nib wall being proposed to be setback 0.9m in lieu of 1.4m to the northern side lot boundary
- The upper floor being proposed to be setback 1.15m in lieu of 5.7m to the northern side lot boundary.

- The ground floor being proposed to be setback a minimum of 1.3m in lieu of 6m to the rear lot boundary.
- The upper floor being proposed to be setback a minimum of 3.9 in lieu of 6m to the rear lot boundary.
- A ground floor porch is proposed to be raised more than 0.5m above natural ground level and setback 1.2m in lieu of 7.5m to the northern side lot boundary.
- An upper floor balcony is proposed to be setback 1.15m in lieu of 7.5m to the northern side lot boundary.

5.0 Consultation

The development application was advertised in accordance with Council's Neighbour Consultation Policy. Four objections were received, and the following is a summary of the concerns raised:

- The development potentially having a significant visual impact on the neighbouring properties due to the proposed reduced lot boundary setbacks.
- Overlooking onto an adjoining property.

Note: A full copy of all relevant consultation feedback received by the City, and the applicant's responses to the objections received, have 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.

If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

6.3.1 Amenity

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

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

6.4 Policy Considerations

6.4.1 Residential Design Codes (State Planning Policy 3.1)

Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Side setbacks – as per Table 2A and 2B	<p>A ground floor nib wall being proposed to be setback 0.9m in lieu of 1.1m to the northern side lot boundary.</p> <p>The ground floor being proposed to be setback 1.2m in lieu of 4.5m to the northern side lot boundary.</p> <p>An upper floor nib wall being proposed to be setback 0.9m in lieu of 1.4m to the northern side lot boundary.</p> <p>The upper floor being proposed to be setback 1.15m in lieu of 5.7m to the northern side lot boundary.</p>	No
Rear setback required – 6m	<p>The ground floor being proposed to be setback a minimum of 1.3m in lieu of 6m to the rear lot boundary.</p> <p>The upper floor being proposed to be setback a minimum of 3.9 in lieu of 6m to the rear lot boundary.</p>	
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i></p> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> <p><i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> <i>• makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> <i>• does not compromise the design principle contained in clause 5.1.3 P3.1;</i> <i>• does not have any adverse impact on the amenity of the adjoining property;</i> <i>• ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> <i>• positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”</i> 		

7.3.2 Visual privacy

Deemed-to-Comply Requirement	Proposed	Complies?
<p>Raised unenclosed active habitable spaces are setback 7.5m from the portion of a lot boundary behind the front setback area.</p>	<p>A ground floor porch is proposed to be raised more than 0.5m above natural ground level and setback 1.2m in lieu of 7.5m to the northern side lot boundary.</p> <p>An upper floor balcony is proposed to be setback 1.15m in lieu of 7.5m to the northern side lot boundary.</p> <p>No privacy screening is proposed for both raised areas.</p>	<p>No</p>
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i></p> <ul style="list-style-type: none"> • <i>building layout and location;</i> • <i>design of major openings;</i> • <i>landscape screening of outdoor active habitable spaces; and/or</i> • <i>location of screening devices.</i> <p><i>P1.2 Maximum visual privacy to side and rear boundaries through measures such as:</i></p> <ul style="list-style-type: none"> • <i>offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;</i> • <i>building to the boundary where appropriate;</i> • <i>setting back the first floor from the side boundary;</i> • <i>providing higher or opaque and fixed windows; and/or</i> • <i>screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).”</i> 		

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

The lot is an irregular shape with the lot being wider and not as deep as other lots within the locality of the same size and coding. A sewer main also exists within the southern portion of the lot, further restricting the layout of the site.

This contributes to the requirement for a rear and side setback variations which seek to maximise space for a rear outdoor living area within the north-eastern portion of the lot. Both variations are prevalent within the locality and therefore are unlikely to cause a significant impact on the amenity of the streetscape or neighbouring properties.

Regarding the visual privacy setback variations for the front porch and balcony, the adjoining lot which will be impacted is currently vacant. Based on the approved plans for the neighbouring property no major openings and/or outdoor living areas will be overlooked therefore the variation is unlikely to cause a significant impact on the amenity of the neighbouring property.

The development is deemed to satisfy the relevant design principles of the R-Codes therefore it is recommended that Council approves the application.



PD60.18	Two Storey House with Under-Croft, No. 1 (Strata Lot 3) Birrignon Loop, Swanbourne
----------------	---

Committee	13 November 2018
Council	27 November 2018
Applicant	G and J Barley
Landowner	G and J Barley
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/29005
Previous Item	Nil
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Photographs of the subject property 2. Applicant's justification

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on the 18 May 2018, for a proposed two storey single house with under-croft at (Strata Lot 3) No. 1 Birrignon Loop, Swanbourne.

The following variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) are proposed:

- The ground floor is proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- The upper floor is proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- Approximately 37.25% open space being proposed in lieu of 40%.
- Fill of up to 2.6m in height above natural ground level in lieu of 0.5m being proposed within the eastern portion of the property.
- The northern side of the house being proposed to be setback 3.2m in lieu of 3.3m from the northern lot boundary.

The plans being presented to Council for this application were advertised to affected neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One objection was received during the advertising period.

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

2.0 Recommendation to Committee

Council approves the development application dated 21 May 2018 to construct a two-storey single house with under-croft at (Strata Lot 3) No. 1 Birrignon Loop, Swanbourne, subject to the following conditions and advice:

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

2. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
3. All visual privacy screens to Unenclosed Active Habitable Spaces as shown on the approved plans, shall be installed to prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2018*. The visual privacy screens shall be installed prior to the development's practicable completion and remain in place permanently, unless otherwise approved by the City.
4. All footings and structures shall be constructed wholly inside the site boundaries of the property's Certificate of Title.
5. Where two storeys are directly above, the use of the basement level shall be restricted to the uses of plant and equipment, storage, toilets and/or the parking of wheeled vehicles. Prior to occupation of the dwelling the owner shall execute and provide to the City a notification pursuant to s. 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers that the use of the basement level is subject to the restriction set-out above.

Advice Notes specific to this approval:

1. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
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 Development approval.
3. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
4. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
5. All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.

6. The landowner is advised that all mechanical equipment (e.g. air-conditioner, swimming pool or spa) is required to comply with the Environmental Protection (Noise) Regulations 1997, in relation to noise.
7. The swimming pool, whether partially constructed or finished, shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.
8. 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.
9. 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

Land area	504sqm
Local Planning Scheme Zone	Residential R30
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

The applicant seeks approval to construct a single house, details of which are as follows:

- The house is proposed to be two storeys.
- The basement level is proposed to contain car parking, storerooms and a toilet.
- Vehicle access to the house is proposed from both streets.
- Fencing is proposed along both street boundaries, as well as the eastern (side) lot boundary.

5.0 Consultation

Plans originally received as part of the application proposed the following variations:

- The ground floor being proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- The upper floor being proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- Approximately 36.18% open space being proposed in lieu of 40%.
- Fill of up to 2.6m in height above natural ground level in lieu of 0.5m being proposed within the eastern portion of the property.
- The upper floor being proposed to be setback 3.8m in lieu of 4m from the primary street boundary.
- Primary street fencing being proposed to be 1.2m in height in lieu of 1.1m.
- The northern side of the house being proposed to be setback 3.2m in lieu of 3.3m from the northern lot boundary.

The development application was advertised in accordance with Council's Neighbour Consultation Policy. During the advertising period 3 objections and 1 non-objection were received. The following is a summary of the concerns received:

- The scale of the building potentially being excessive.
- The design of the house resulting in habitable rooms on its northern side being overshadowed.
- The potential visual impact of the fill.
- The potential visual impact of the proposed street boundary fencing.

Subsequently amended plans were provided which proposed the following variations:

- The ground floor is proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- The upper floor is proposed to be setback 1.6m in lieu of 6m from the northern lot boundary.
- Approximately 37.25% open space being proposed in lieu of 40%.
- Fill of up to 2.6m in height above natural ground level in lieu of 0.5m being proposed within the eastern portion of the property.
- The northern side of the house being proposed to be setback 3.2m in lieu of 3.3m from the northern lot boundary.

The amended plans were advertised in accordance with Council's Neighbour Consultation Policy. During the advertising period 1 objection was received. The following is a summary of the concerns received:

- The scale of the building potentially being excessive.
- The potential visual impact of the fill.

Council is being asked to consider the amended plans received.

The applicant has provided a detailed justification in support of the amended plans (refer to Attachment 2).

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

In accordance with the Swanbourne Design Guidelines the application was referred to the Mirvac Design Committee. No concerns were raised.

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.

If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

6.3.1 Amenity

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

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

6.3.1 Maximum Building Height

In accordance with clause 5.11:

“No site shall be developed or building constructed:

- i. to contain more than two storeys directly above each other in the case of residential use or three storeys in the case of other uses, excluding areas for plant and equipment, storage, toilets and the parking of wheeled vehicles;*
- ii. with the height of any part of an exterior wall greater than 8.5m from mean natural ground level at the base of the walls; and*
- iii. to exceed 8.5 metres in overall height facing the primary street frontage, measured from the mean level of the lot boundary at the primary street frontage; and*
- iv. so that any point of the building exceeds a height of 10m, measured from the mean natural ground level around the base of the building or from such other level determined by Council.”*

6.4 Policy Consideration

6.4.1 Swanbourne Design Guidelines A

Guideline Requirement	Proposed	Complies?
Primary street setback – 4m minimum	4m	Yes
Secondary street setback – 1.5m minimum	1.5m	Yes
Primary street fencing – 1.1m maximum height	1.1m above Natural ground level	Yes
Garage - setback 4.5m from the primary street of 0.5m behind the dwelling	0.5m behind the dwelling	Yes
Building setback from eastern lot boundary – 1m minimum	1m	Yes
Open Space – 40% minimum	37.25%	No
Outdoor living area – 24sqm minimum	36sqm	Yes
Visual sight lines – 1m x 1m	1m x 1.5m	Yes
Building height –		
Maximum of 2 storeys up to 10m in overall height	Two storeys, 9.5m in overall height	Yes
Maximum wall height of 8.5m from mean natural ground level	8.5m above mean natural ground level	Yes
Objectives for Development		
<i>“The design for the dwelling on the Lot shall ensure:</i>		
<i>i. a contemporary architectural built form where the elevations on all sides are consistent in design quality, composition and detailing.</i>		
<i>ii. a response to the surrounding context of the Public Open Spaces and streetscapes.”</i>		

6.4.2 Residential Design Codes (State Planning Policy 3.1)

Lot Boundary Setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
In accordance with Table 2b of the R-Codes walls up to 25m in length and up to 8.5m in height are required to be setback 3.3m from a side lot boundary.	Northern lot boundary. Entire side of the house is proposed to be setback 3.2m from the boundary.	No
In accordance with Table 2b of the R-Codes walls up to 17m in length and up to 8.5m in height are required to be setback 2.6m from a side lot boundary.	Northern lot boundary. The balcony belonging to bedroom 2 is proposed to be setback 1.6m from the boundary.	No
In accordance with Table 2a of the R-Codes walls up to 25m in length and up to 5.5m in height are required to be setback 6m from a lot boundary.	Northern lot Boundary. The ground floor of the house is proposed to be setback 1.6m from the boundary.	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i></p> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		

Site Works

Deemed-to-Comply Requirement	Proposed	Complies?
All filling behind the street setback area and within 1m of a lot boundary, not to be more than 0.5m above natural ground level.	Fill of up to 2.6m above natural ground level is proposed within the eastern portion of the lot.	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</i></p> <p><i>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.”</i></p>		

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

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

Proposed Amount of Open Space

The open space variation proposed is as a consequence of the eastern portion of the property being proposed to be raised above 0.5m from natural ground level, which would enable the outdoor living area to be at the same level as the proposed house.

- The amount of the lot proposed to be occupied by the building complies with the open space requirements.
- The proposed finished ground level will not result in any overlooking onto residential lots.
- The finished ground level is approximately 0.5m lower than the level of the adjoining residential lot to the north (42 Birrigon Loop).
- Any impact on the local amenity the fill may have will be minimised due to 1.8m high fencing along the Narla Road boundary.
- Adjoining the property's eastern lot boundary is public open space which contains mature vegetation.
- The site layout proposed will allow for adequate passive surveillance of the adjoining public open space and streets.

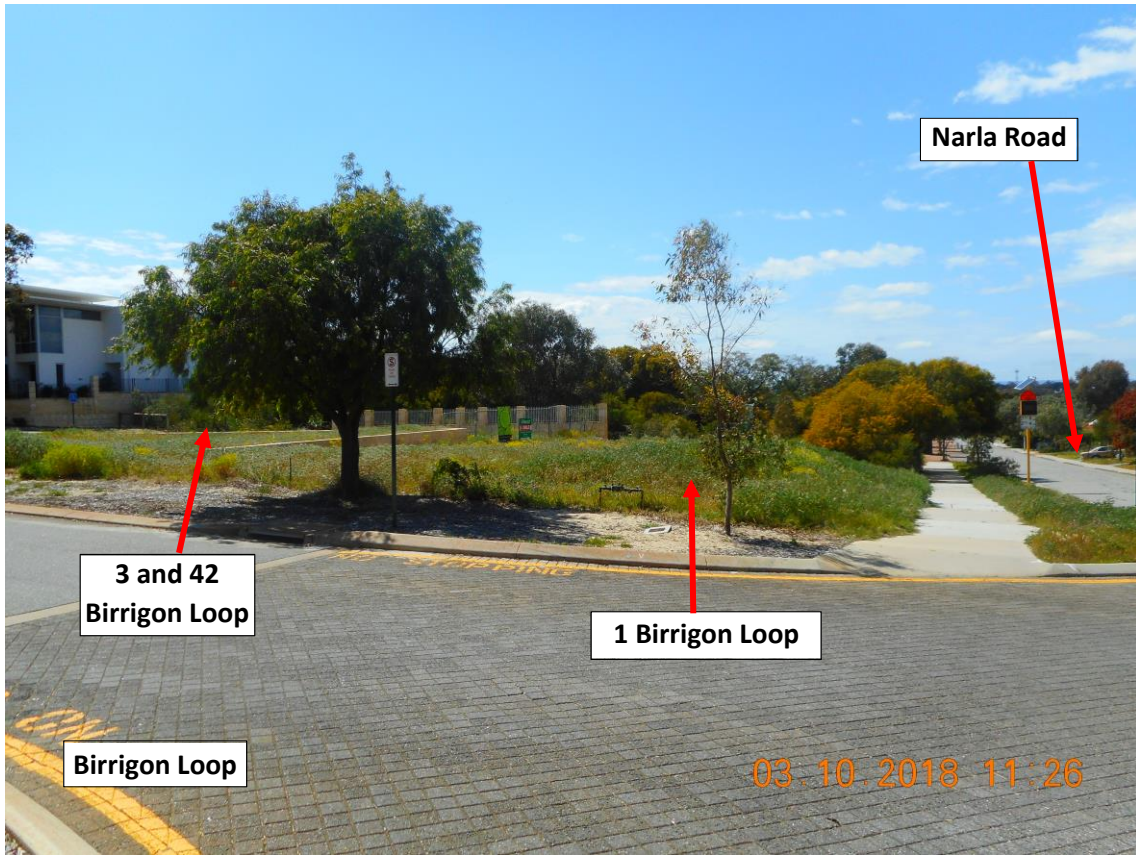
Considering the above, the proposal is deemed to satisfy the applicable design principles of the R-Codes and the objectives of the Swanbourne Design Guidelines.

Proposed Setbacks from the Northern Lot Boundary

- The proposal complies with the building height, overlooking and overshadowing requirements.
- The finished ground level is approximately between 0.5m and 0.6m lower than the level of the adjoining residential lots to the north (3 and 42 Birrigon Loop).
- The lot is quite narrow, being approximately 15m in width. Despite this, the remainder of the development complies with the rear lot boundary and street setback requirements.

Considering the above, the proposal is deemed to satisfy the applicable design principles of the R-Codes.

The nature and the scale of the development means that it is unlikely to have a significant impact on the local amenity and/or set an undesirable precedent. Accordingly, it is recommended that Council approves the application.



29 September 2018

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

Attention: Kate Bainbridge – Senior Statutory Planning Officer

Dear Kate

**APPLICATION FOR DEVELOPMENT APPROVAL
PROPOSED SINGLE DWELLING
STRATA LOT 3 (NO.1) BIRRIGON LOO, SWANBOURNE
CITY OF NEDLANDS**

Reference is made to the development application for the abovementioned property and our recent discussions wherein the City requested additional justification in regard to the following variations to the 'deemed to comply requirements' of the R-Codes:

- i) R-Code Element 5.1.4 C4 – 'Open space'; and
- ii) R-Code Element 5.3.7 C7.3 – 'Site works'.

Having regard for the City's request in this matter, the following information is provided in support of the application and addressing the relevant 'design principles criteria' of Element 5.1.4 C5 & Element 5.3.7 C7.3 of the R-Codes:

1. As the City is aware, the subject land formed part of one (1) original lot that was set aside by the property developer ('Mirvac Developments') to allow for the construction of a grouped dwelling development and is located within the 'Swanbourne Design Guidelines' area (Precinct 9). The 'parent lot' was recently subdivided by Mirvac Developments to create three (3) survey strata lots, which have been on-sold to individual landowners. When creating the lots, the developer constructed the appropriate retaining walls and associated fill for Strata Lots 1 & 2 to provide a flat 'building lot' (see Figures 1 & 2). Unfortunately, the developer failed to undertake similar works to Strata Lot 3, which has now unfairly burdened the property with a 3 metre fall over a distance of 16 metres (see Figure 1 and survey plan).
2. In light of the current form of the site compared to Strata Lot 1 & 2, it is confusing to understand how the survey strata subdivision was granted clearance when Strata Lot 3 was not completed to a satisfactory standard or consistent with the other two (2) adjoining lots. Given the somewhat mistake made during the issuance of a clearance, the current land owner is now required to construct the necessary retaining walls (including the installation of fill) to accommodate the development of the site. In turn, this has triggered a number of variations to the 'deemed to comply requirements' of the R-Codes. It is contended that if the retaining works had been undertaken at subdivision stage, then the current landowner would not be seeking the aforementioned variations.



Figure 1 – The subject land was not complete during the subdivision stage, with the adjoining strata lots being created as a flat building site. This included the construction of appropriate retaining wall and fill. The subject land has been unfairly burdened by the developer.



Figure 2 – Adjoining Strata Lots 1 & 2. Fill and retaining had been undertaken at subdivision stage.

3. The proposed variation to the open space requirements for the new dwelling is only due to the fill being required to be provided on the land to create a level building lot. If the lot was created in accordance with Strata Lots 1 & 2 (i.e. level set with retaining/fill), the proposed new dwelling on Strata Lot 3 would comply. Notwithstanding this, the variation being sought is considered minor and will not have a detrimental impact on the local streetscape or any adjoining properties in terms of its bulk and scale.
4. The proposed dwelling has been designed to effectively use all space for the benefit of the future occupants of the dwelling.

5. The proposed outdoor living area provided for the new dwelling is sufficient in area and is accessed by the internal living area. Furthermore, the outdoor living area has been located to capture the winter sun.
6. The proposed new dwelling on Strata Lot 3 meets the 'deemed to comply requirements' of Element 5.4.2 C2.1 (i.e. 'Solar access for adjoining sites') of the R-Codes and will not detrimentally impact access to light and ventilation for the existing dwellings on any adjoining properties. In addition, the proposed new dwelling is consistent with the scale of other dwellings approved within the estate. Figure 1 (background lot) illustrates a dwelling of similar scale and nature that has been constructed within the estate.
7. It is contended that the proposed outdoor living area provided for the new dwelling is sufficient for the needs of its future occupants and is functional.
8. In addition to the above, the proposed new dwelling on Strata Lot 3 abuts a public open space reserve, which is capable of supplementing the day-to-day recreational needs of the future occupants of the proposed new dwelling.
9. The proposed retaining walls along the rear of the property will provide for improved passive surveillance of the adjoining public open space reserve. In regard to the retaining wall along the land's Narla Road frontage, it is contended the walls are minor in nature and will not have an adverse impact on the adjoining properties in terms of bulk and scale.
10. The location of the retaining wall and fill for the new dwelling assists with providing an effective use of all available space and the creation of adequate internal and external living areas.
11. The proposed retaining wall and fill on the subject land will not have an adverse impact on the on any outdoor living areas or any major openings to habitable rooms for the proposed dwellings on the adjoining strata lots.
12. A review of the submissions received by the City during the public advertising period, has identified that a number of comments made are unsubstantiated, are ambiguous, are irrelevant and incorrect. Given this and in light of the information provided within this submission, the comments made during the advertising period should be dismissed.

Conclusion

Given the physical constraints burdening the subject land as a result of the incomplete creation of the lot by the developer of the estate, it is contended that the proposed new dwelling satisfies the relevant 'design principles criteria' of the R-Codes, will not have an adverse impact on the local streetscape or the adjoining properties and my therefore be approved by the City,

In light of the above justification provided in this correspondence, we respectfully request the City's favorable consideration and approval of the Application for Development Approval for the construction of a new single dwelling on Strata Lot 3 (No.1) Birrignon Loop, Swanbourne at its earliest convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact me on 0407384140 or carlof@people.net.au.

Yours faithfully,



Carlo Famiano
Principal Town Planner
CF Town Planning & Development
Town Planning & Development

PD61.18	Proposed Warehouse, No. 17 (Lot 12241) John XXIII Avenue, Mount Claremont
----------------	--

Committee	13 November 2018
Council	27 November 2018
Applicant	CLE Town Planning and Design
Landowner	Parisi Holdings Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/30857
Previous Item	Item PD33.15 – July 2015
Delegation	In accordance with Clause 6.7.1d) of the City’s Instrument of Delegation, Council is required to determine the application due to the development exceeding the maximum height provisions of Town Planning Scheme No. 2.
Attachments	1. Photographs of the subject property

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 29 August 2018 for a warehouse proposed at No. 17 John XXIII Avenue, Mount Claremont.

The application involves the construction of a three-storey warehouse on a property which is not zoned under Town Planning Scheme No. 2 (TPS 2). In such cases variations to the requirements which would usually apply to such development can be considered.

The proposal includes the following variations to TPS 2:

- Maximum building height.
- Car parking bays.

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council’s Neighbour Consultation Policy. No submissions were received.

Considering the scale and nature of the proposal it is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the development application received on 29 August 2018 with amended plans received on 19 October 2018, for a warehouse at No. 17 (Lot 12241) John XXIII Avenue, Mount Claremont, 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. **A maximum of 3 staff being on site at any one time.**

3. **The warehouse is only permitted to operate between Monday to Sunday 6.00am to 7.00pm.**
4. **The landscaping being planted within 60 days of the development's practicable completion, and be maintained thereafter, by the landowner to the City's satisfaction.**
5. **An amended landscaping plan being submitted to and approved by the City prior to work commencing, which shows at least 2 trees being provided for within the car parking area in accordance with Council's Landscaping Plan Local Planning Policy.**
6. **All car parking bays, manoeuvring areas and vehicular access ways shown on the approved site plan being constructed, marked, sealed and drained prior to the practicable completion of the proposed development, and be maintained thereafter by the landowner to the City's satisfaction.**
7. **All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
8. **No items being stored externally on the property which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.**

Advice Notes specific to this proposal:

1. **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.**
2. **A separate development applicant is required to be lodged with and approved by the City prior to installing any additional signage on the property and/or installing any boundary fencing.**
3. **Noise levels are to comply with the Environmental Protection (Noise) Regulations 1997.**
4. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**

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

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

5. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
6. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
7. **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
8. **Designated storage areas for cleaning chemicals and equipment and personal belongings shall be available and separate from any food preparation or food storage area.**

3.0 Background

3.1 Land Details

Land area	3,523m ²
Local Planning Scheme Zone	No Zone
Metropolitan Region Scheme Zone	Urban

3.2 Previous applications

In May 2015, the City was invited by the WAPC to provide comment on MRS Amendment No. 1275/57 Central Districts Omnibus 4. As part of this amendment it was proposed to transfer the subject property from the Public Purpose (Hospital) reservation to the Urban zone.

The scheme amendment document from the WAPC stated that “in-principle support for the reclassification of the land was given by WAPC in December 2005” following submissions to an adjoining structure plan process at the Mount Claremont Sports Precinct. The support was conditional on ensuring that detailed planning was integrated into the wider planning of the adjacent land.

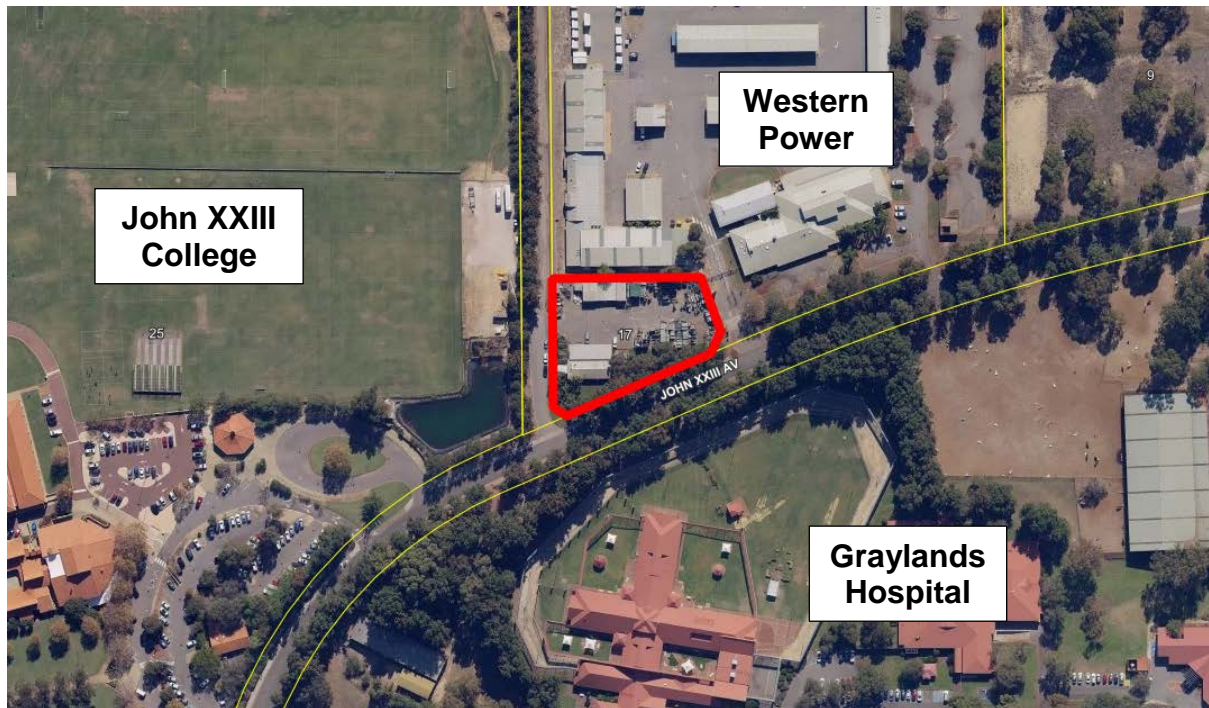
Council resolved the following with regard to the proposed amendment affecting Lot 12241 John XXIII Avenue:

“Does not support Metropolitan Region Scheme Amendment 1275/57 – Proposal 21 to transfer Lot 12241 John XXIII Avenue, Mount Claremont from the Public Purpose (Hospital) reservation to the Urban zone, as the Council resolved in 2013 to support the change in-principal prior to undertaking a local scheme amendment for the site to be Special Use – Storage Facility and request that the matter be further investigated.”

Despite this, the Minister for Planning approved the amendment in July 2016, resulting in the land being unzoned under TPS 2.

The property once contained buildings and associated car parking previously used by Alinta Gas as its depot but is now under private ownership and is used by a landscaping company.

3.3 Locality Plan



4.0 Application Details

The applicant currently seeks development approval to demolish all existing buildings on the property and replace with a warehouse, details of which are as follows:

- A self-storage facility consisting of three levels of units and an administrative office for the business is proposed.
- The building is proposed to be 12.8m in height above mean natural ground level.
- The building is proposed to have a wall height of 11.2m.
- The facility is proposed to operate seven days a week from 6.00am to 7.00pm.
- The facility will be managed by three people, comprising two administrative staff and a groundskeeper/cleaner.
- Sole access to the subject site is proposed to be obtained from John XXIII Avenue, which is the only abutting public road.
- Five car parking bays are proposed on site, with space available in front of each storage unit for a car to park whilst allowing enough space for another car to pass unobstructed. In accordance with TPS 2 as a consequence of the development having a gross floor area of approximately 6,300sqm a minimum of 139 bays are required.
- The external car parking area is proposed to be landscaped.

5.0 Consultation

The application was advertised in accordance with the requirements of Council's Neighbour Consultation Policy. No submissions were received.

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under Clause 1.8 (Interpretation) of TPS 2 the use Warehouse is defined as being the following:

“Warehouse - means a building used for the storage and/or wholesale sale of goods and can include a bulk store or depot.”

Under the provisions of the Scheme the subject site is not zoned, therefore Council is able to consider the following variations being sought as part of this application:

- The building is proposed to be 12.8m in height above mean natural ground level in lieu of 10m.
- The building is proposed to have a wall height of 11.2m in lieu of 8.5m.
- Five car parking bays are proposed on site in lieu of 139 bays. This being due to a gross floor area of approximately 6,300sqm being proposed.

6.3.1 Amenity

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

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

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

6.3.2 Car Parking

TPS 2 Requirement	Car Bays Required in Total	Car bays proposed to be available	Shortfall
<u>Warehouse</u> 2.2 bays per 100sqm GFA or 1 per employee. Whichever is greater. GFA being the greater in this case.	6,300sqm GFA = 139 bays minimum	5 bays	134 bays

6.3.3 Building Height

TPS 2 – Maximum Building Height Requirements	Proposed	Complies?
Three storeys for non-residential uses.	3 storeys	Yes
Maximum wall height of 8.5m from mean natural ground level.	11.2m	Yes
Maximum overall building height of 10m from mean natural ground level.	12.8m	Yes

6.4 Landscaping Plans – Local Planning Policy

Policy Requirements	Proposed	Complies?
One shade tree being provided for every 4 continuous open car parking bays.	Nil	No

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

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

9.1 Land Use

The proposed building is to be used as a self-storage facility. As its primary purpose is for storage it is deemed to be a warehouse under TPS 2 therefore the application has been assessed against the criteria

9.2 Car Parking

A total of 5 parking bays are proposed, one of which will be a universally-accessible bay. These -are located to the left of the entry adjacent to the office. The number of parking bays provided is based on the number of staff (being 3 at any given point in time) and likely tenant demand.

The applicant has advised that evidence from similar self-storage facilities elsewhere indicates that tenant visitation is low.

Access to the storage units is likely to be infrequent, occurring only when the tenancy commences and ends rather than on a regular basis.

When access does occur, tenants prefer to park close to their units, for obvious logistical reasons, rather than in bays located elsewhere on the site. The internal driveway proposed has been designed to be wide enough to facilitate parking and unobstructed vehicle movement.

Considering the nature of the use the number of car parking bays required under TPS 2 is deemed to be excessive. Self-storage facilities generate much less demand for parking than conventional showrooms or warehouses.

9.3 Building Height

The property is surrounded by the following:

- To the north and east is a Western Power depot on land reserved (anomalously) for 'Public Purposes-Hospital' under the MRS.
- To the west is John XXIII College. The nearest building on the campus is over 200 metres away and separated from the development site by a playing field, car-park and private road.
- To the south, over John XXIII Avenue, is a secure wing of Graylands Hospital. Two rows of mature trees, one on each side of John XXIII Avenue, separate the two premises.

As such, any impact on neighbouring properties will likely be limited. There is no residential development on nearby properties.

The development site is screened from the only public road in the area (John XXIII Avenue) by a row of mature street trees. These will be enhanced through landscaping provided on site.

Considering the scale and nature of the proposal it is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

Below – View along John XXIII Avenue



Below – Subject property as seen from John XXIII Avenue



Below – Opposite the subject property (Graylands Hospital)



PD62.18 Local Planning Policy – Exempt Development	
Committee	13 November 2018
Council	27 November 2018
Director	Peter Mickleson – Director Planning & Development
Reference	LPP Exempt Development
Previous Item	Nil.
Attachments	1. Draft Local Planning Policy - Exempt Minor Development

1.0 Executive Summary

The purpose of this report is for Council to consider draft Local Planning Policy - Exempt Development (draft LPP).

The draft LPP specifies what forms, and under what circumstances, development will be exempt from requiring development approval. The intent of this policy is to reduce the instances where the City receives a development application for structures that have no detrimental impact on the amenity of the locality.

The draft LPP elaborates on, and adds to, forms of development that are exempt under the Residential Design Codes of Western Australia (R-Codes).

It is recommended that Council gives consent for the draft LPP to be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) Schedule 2, Part 2, Clause 4.

2.0 Recommendation to Committee

Council provides consent for draft Local Planning Policy - Exempt Development to be advertised 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

The City regularly receives development applications for forms of development which are unlikely to have any significant impact on the local amenity due to their location, scale and nature. In some cases, the development will not even be visible from the street and/or a neighbouring property.

The draft LPP proposes to outline under which circumstances such development does not require development approval.

4.0 Policy Details

The draft LPP prescribes criteria whereby certain development types will be exempt from requiring development approval in instances where an approval would otherwise be required.

The draft LPP includes provisions relating to the following forms of development:

- Animal Enclosures
- Garden Ornaments
- Screen Walls and Fencing
- External Fixtures – Solar Panels
- External Fixtures – Satellite Dishes
- Flagpoles and Flags
- Fill and Retaining
- Permanent Outdoor Cooking Facilities
- Gatehouses
- Shade Sails
- Street Walls, Piers and Fences
- Non-Residential External Building Alterations
- Pool Pump Sheds
- Carports
- Cubby Houses

Details on what forms these development types must take in order to be exempt from Development Approval is specified in the Policy, see Attachment 1.

The policy has also been formatted to follow a new Local Planning Policy template that follows current best practice.

5.0 Consultation

If Council resolves to prepare the draft LPP, 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.

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; or
- b) Proceed with the policy with modification; or
- c) Not to proceed with the policy.

6.0 Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

Schedule 2, Part 7, Clause 61 of the Regulations stipulates that development approval is not required to be obtained for works specified in a local planning policy as not being required.

6.2 Town Planning Scheme No. 2

This policy does not conflict with TPS2 and only seeks to operate in accordance with existing standards as set out in TPS2 and existing Local Planning Policies.

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

The draft LPP will ensure the City has an appropriate local planning framework in place by which to exempt forms of development from requiring development approval, which are unlikely to have any significant impact on the local amenity. As such, it is recommended that Council resolves to prepare the draft LPP, to be advertised by Administration.

LOCAL PLANNING POLICY – EXEMPT DEVELOPMENT

1.0 PURPOSE

- 1.1 This policy provides guidance regarding the exercise of discretion in accordance with the City of Nedlands Town Planning Scheme No. 2 (the Scheme) as well as defining what type of development is exempt from a development application in accordance with Clause 61 (1)(i) & 61 (2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

2.0 APPLICATION OF POLICY

- 2.1 This policy applies to all development on land that is within the Scheme area of the City of Nedlands.

3.0 OBJECTIVES

- 3.1 To allow minor development to proceed without requiring development approval where it will not have a detrimental impact on the amenity of adjoining and nearby properties, the streetscape, the neighbourhood, or the City as a whole.
- 3.2 To ensure development is compatible in its setting and consistent with prevailing forms of authorised development.

4.0 POLICY MEASURES

- 4.1 Development that complies with the following policy measures specified in clause 4.1.1 – 4.1.16 will be exempt from requiring development approval.

4.1.1 Animal Enclosures

- (a) Where located on a Residential zoned property;
- (b) Where setback 2m from lot boundaries;
- (c) Where the development satisfies part 5.4.3 Outbuildings C3 i - vii of the deemed-to-comply requirements of the R-Codes; and
- (d) Where it is used for domestic (non-commercial) purposes.

Note: *Animal enclosures must also comply with relevant environmental health requirements and local laws.*

4.1.2 Garden Ornaments

- (a) Where located on residential zoned land;
- (b) Where built to a maximum 4m² in area;
- (c) Where built to a maximum 2.4m in height above natural ground level (except planter boxes may only be 1m in height above natural ground level);
- (d) Where it is located outside of the 1.5m visual truncation area, where a vehicle access point meets a public street;



- (e) Where it does not result in the finished ground level being raised by more than 0.5m above natural ground level; and
- (f) Where at least one major opening from a habitable room of the dwelling, facing the primary street remains unobstructed.

4.1.3 Dividing Fencing

- (a) Where fencing behind the primary street and secondary street setback areas complies with Clause 5.6.4 of the Scheme.

4.1.4 External Fixtures – Solar Panels

- (a) Where it is located on a non-residential property;
 - (i) behind the street setback area;
 - (ii) not visible from the street;
 - (iii) integrated with the building; and
 - (iv) complies with clause 5.11 of the Scheme.

4.1.5 External Fixtures – Satellite Dishes

- (a) No more than one (1) per property.
- (b) Where not ground mounted:
 - (i) located behind the street setback area;
 - (ii) integrated with the building;
 - (iii) a maximum 1.8m in diameter; and
 - (iv) not visible from the street.
- or
- (c) Where ground mounted:
 - (i) located behind the street setback area;
 - (ii) a maximum 1.8m in diameter;
 - (iii) not visible from the street; and
 - (iv) setback from lot boundaries the same distance as the external fixture's height above natural ground level (i.e. 2m in height = 2m lot boundary setback).

4.1.6 Flagpoles and Flags

- (a) Where there are no more than one (1) per property;
- (b) Where it is a maximum 6m in height above natural ground level;
- (c) Where it is setback a minimum 1.5m from any lot boundary; and
- (d) Where it does not include or display commercial advertising material.

4.1.7 Fill and Retaining

- (a) Where not exceeding 0.5m above natural ground level.

4.1.8 Permanent Outdoor Cooking Facilities

- (a) Where located behind the street setback area; and



- (i) is a maximum 1.8m in height (excluding a chimney or flue) above natural ground level; or
- (ii) when exceeding 1.8m in height (excluding a chimney or flue) above natural ground level – setback in accordance with Table 2a of the R-Codes.

4.1.9 Gatehouses

- (a) Where it is a maximum 4m² in area as measured from the outside of the posts; and
- (b) A maximum 3.5m in height above natural ground level as measured to the roof pitch.

4.1.10 Pergolas (including Shade Sails)

- (a) Where compliant with Schedule 2 Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

4.1.11 Street Walls, Piers and Fences

- (a) Where compliant with Part 4.0 Fencing Height Requirements of the Fill and Fencing Policy; and
- (b) For the purposes of housing a utility/meter box a Street Wall or Fence within the front setback area where it is:
 - (i) a maximum 1m in width;
 - (ii) a maximum 1.8m in height;
 - (iii) perpendicular to the street; and
 - (iv) setback 1.5m from where a vehicle access point intersects with a public street.

4.1.12 Non-Residential External Building Alterations

- (a) Where it is to window glazing or entry points to a building and:
 - (i) the building footprint is not altered;
 - (ii) the height of the building is not altered;
 - (iii) is not a roller shutter, grille or external security feature; and
 - (iv) is not a minor projection greater than 750mm.

4.1.13 Pool Pump Sheds

- (a) Where compliant with the provisions part 5.4.3 Outbuildings of the Residential Design Codes.

4.1.14 Carports

- (a) Where development on Residential properties is:
 - (i) located within the street setback area of a Residential Dwelling and complies with clause 5.6.2 of the Scheme and the City's Carports and Minor Structures Forward of the Primary Street Setback Local Planning Policy; or



- (ii) located behind the street setback area and complies with the deemed-to-comply requirements of the R-Codes.

4.1.15 Cubby Houses

- (a) Where there are no more than one (1) per property;
- (b) Where it is a maximum 6m² in area;
- (c) Where it is located behind the street setback area;
- (d) Where it is setback from lot boundaries in accordance with Table 2a of the R-Codes;
- (e) Where it has a finished floor level no more than 0.5m above natural ground level or any deemed-to-comply or approved fill and/or retaining; and
- (f) Where it is a maximum 2.4m in height above natural ground level or any deemed-to-comply or approved fill and/or retaining.

4.1.16 Signage

- (a) Where compliant with Part 5.0 of the Advertisement Signs Local Planning Policy.

5.0 DEVELOPMENT APPLICATION REQUIREMENTS

5.1 Where a proposed development does not meet the exemption measures, a Development Application is required with a completed City of Nedlands Development Application Checklist.

6.0 RELATED LEGISLATION

6.1 This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

6.2 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:

- City of Nedlands Town Planning Scheme No.2
- State Planning Policy 3.1 – Residential Design Codes
- Any relevant State or Local Planning Policies

6.3 Where this Policy is inconsistent with the provisions of a specific Policy, Design Guideline or Local Development Plan that applies to a site or area, the provisions of that specific Policy, Design Guideline or Local Development Plan shall prevail.

7.0 DEFINITIONS

7.1 For this Policy the following definitions apply:

Definition	Meaning
------------	---------



Animal Enclosure	An enclosed structure for keeping small animals, and includes aviaries but, excludes stables.
Building	As per the R-Codes.
Development	As per the <i>Planning and Development Act 2005</i> .
Dividing Fence	As per the <i>Dividing Fences Act 1961</i> .
External Fixture	Utilities.
Fence	Any structure used or functioning as a barrier, irrespective of where it is located, includes any gates and excludes fill and retaining wall.
Flagpole	A structure design to support a flag and containing nothing other than a flag.
Garden Ornament	An item used for garden or landscape enhancement and decoration and includes water fountains, bird baths and feeders, sundials, planter boxes and outdoor sculptures.
Natural Ground Level	As per the R-Codes.
Fixed Outdoor Cooking Facility	A permanent cooking apparatus and includes barbeques (BBQ), pizza ovens, outdoor ovens and stoves.
Primary Street	As per the R-Codes.
Screen Wall	A structure used for screening purposes and includes trellises but excludes include a dividing fence or street wall.
Small Animal	As per City of Nedlands Health Local Law.
Street Setback Area	As per the R-Codes.
Works	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .

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

PD63.18	Local Planning Policy - Reduction of Front Setbacks
----------------	--

Committee	13 November 2018
Council	27 November 2018
Director	Peter Mickleson – Director Planning & Development
Reference	Nil.
Previous Item	Nil.
Attachments	1. Amended LPP Reduction of Front Setbacks

1.0 Executive Summary

The purpose of this report is for Council to consider minor amendments to the existing Local Planning Policy - Reduction of Front Setbacks (LPP)

This LPP clarifies the two circumstances where the 9m front setback of Town Planning Scheme No. 2 (TPS2) can be varied.

The layout has been updated to fit a new Local Planning Policy template which is based on best practice formatting, however the provisions and requirements of the Policy have not been changed other than the following:

- a) Requirement to submit aerial photographs illustrating the street profile where a variation is being sought; and
- b) Maps showing the areas affected by the LPP have now been attached.

Due to the minor nature of the amendments to the LPP, Council can amend the policy without advertising under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) Schedule 2, Part 2, Clause 5(2).

It is recommended that the draft the LPP be adopted by Council without advertising.

2.0 Recommendation to Committee

Council proceeds with the amendment to Local Planning Policy - Reduction to Front Setbacks without modification.

3.0 Background

In July 1998 the LPP was adopted and has been reviewed six times since, the most recent being in October 2006. The policy establishes the circumstances where Council may exercise its discretion under Clause 5.3.3 of TPS2 to reduce front setback requirements for primary buildings in Residential areas.

4.0 Policy Details

In accordance with TPS2, the Council may vary the 9m front setback requirement in the case of new large-scale subdivisions and where more than half the lots on the same side of the street block have a lesser than 9m setback. TPS2 details are outlined under section 6.2 of this report.

This policy currently lists the new large-scale subdivisions to which the reduced setbacks apply. They are mostly for areas in new Mt Claremont (St. John's Wood, Poplar Grove, Westminster Gardens etc) but the maps detailing these areas are not included within the policy.

The policy has been amended to include the maps to ensure that the information is easily legible.

The policy now also requires an applicant to submit aerial photographs of the street profile, where they are seeking to vary the setback requirement, so that a comparison between their proposal and the wider street layout can be understood.

The policy has also been updated to fit a new Local Planning Policy template that follows current best practice and there are some changes to rectify grammatical errors which increase the level of clarity in the operation of the policy.

There are no changes to the required setbacks, no introduction of further variations or any increase to the areas to which it applies. The 9m setback required under TPS2 still stands and prevails and applies to the same extent to which it always has and will not be affected by these updates.

5.0 Consultation

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) state the procedure for amending a local planning policy in Schedule 2, Part 2, Clause 5(2) stating:

“The local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.”

In this instance, the operative provisions of the policy remain unaffected. It is considered the addition of updated maps and re-formatting to a new layout is a minor amendment and as such does not need to be advertised.

If Council does not follow administrations recommendation and instead resolves to advertise the amendment, the policy 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.

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; or
- b) Proceed with the policy with modification; or
- c) Not to proceed with the policy.

6.0 Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

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

Schedule 2, Part 7, Clause 61 of the Regulations stipulates that development approval is not required to be obtained for works specified in a local planning policy as not being required.

6.2 Town Planning Scheme No. 2

Under the provisions of TPS2 clause 5.3.3 states:

5.3.3 Notwithstanding the provisions of the Residential Planning Codes a person shall not commence or carry out the development of any land within a Residential zone:

- (a) by the erection of a building used for residential purposes at a distance of less than 9m from a street alignment unless otherwise provided in the Scheme. Council may vary this requirement for development within new large scale comprehensively designed subdivisions. AMD 25 GG 14/9/90*
- (b) on lots on one side of a section of a street which runs between two cross streets where more than half of the lots have dwellings thereon which are set back less than 9m, the Council may permit the erection or extension of a dwelling to be closer than 9m to the street boundary;*
- (c) maximum building heights for residential development shall be determined in accordance with the provisions of Clause 5.11 of this Scheme.*

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

The amendment to this policy will provide certainty on where reduced setbacks are permitted and does not introduce any new or change any existing provisions of TPS2. As such it is recommended that Council resolves to proceed with the amendment to the policy without modification.

LOCAL PLANNING POLICY - REDUCTION OF FRONT SETBACKS

1.0 PURPOSE

1.1 The purpose of this policy is to establish the circumstances when Council may exercise its discretion under Clause 5.3.3 of Town Planning Scheme No. 2 (TPS2) to reduce front setbacks.

2.0 APPLICATION OF POLICY

2.1 This policy applies to all development on land that is zoned Residential within the City of Nedlands.

3.0 OBJECTIVES

3.1 The aim of this policy is to preserve the spacious landscaped character of the City's streetscapes.

4.0 POLICY MEASURES

4.1 Clause 5.3.3 of TPS2 requires a 9m primary street setback with variations permitted in accordance with clause 5.3.3 (a) and clause 5.3.3 (b) of TPS2.

4.2 For the purpose of clause 5.3.3 (a) of TPS2 new large-scale subdivisions, where the front setback requirement has been reduced, are as follows and shown on the maps:

Location	Setback Provisions
St Johns Wood (Area 1) excluding Jubaea Gardens	7.5m absolute
St Johns Wood (Area 2)	6.0m pursuant to the R-Codes
Popular Grove	4.0m, 2.0m to Carport
Westminster Gardens	6.0m pursuant to the R-Codes
Mt Claremont Redevelopment	6.0m pursuant to the R-Codes
Seawood Village	6.0m absolute
305 and 307 Stubbs Terrace	As per R-Codes

4.3 For the purpose of clause 5.3.3 (b) of TPS2:

- a) In Residential R10 areas, the minimum front setback shall be 7.5m absolute, irrespective of whether more than half the lots on the same side of the street block have a lesser setback.



- b) In all other cases, where more than half the lots on the same side of the street block have a setback less than 9m in accordance with this policy, the Council shall permit a reduced minimum front setback in accordance with the provisions of the Residential Design Codes - Acceptable Development Criteria.

***Note 1:** For the purpose of varying the minimum front setback in accordance with this Policy, existing buildings on the same side of the street block are to be measured between the front wall of the dwelling and the street alignment and shall exclude verandas, detached garages and carports and gatehouses.*

***Note 2:** Additional development application requirements apply under 8.1 where an application is seeking consideration under 5.3.*

5.0 VARIATIONS TO POLICY

- 5.1 Variations to this Policy shall be assessed against clause 5.3.3 of TPS2 to determine if variation is capable of being considered.
- 5.2 Where a variation to this Policy can be considered under clause 5.3.3 of TPS2, the variation will be assessed against the objectives of this Policy and the provisions of TPS2.
- 5.3 Applicants seeking variations to this Policy are required to submit a detailed written statement addressing each of the objectives of this policy for the City's assessment.

6.0 CONSULTATION

- 6.1 Advertising to adjoining owners and occupiers will not be required where a development application is considered in accordance with this policy and meets all of the Policy Measures.
- 6.2 Where a development application seeks to vary a Policy Measure, and in the opinion of the City the variation may have an adverse impact on the amenity of an adjoining property or the streetscape, the City will undertake consultation and notification of neighbouring landowners and occupiers in accordance with the City's policy for Consultation and Notification of Planning Proposals.

7.0 ADDITIONAL DEVELOPMENT APPLICATION REQUIREMENTS

- 7.1 Where an application is applying for a reduction to the 9m front setback under clause 4.3 of this policy, the following are required in addition to the information and material required for submission under the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2) Part 8) Cl. 63:
- 7.2 Aerial photographs illustrating the street profile of existing setbacks of the street block within which the development proposal is located.



8.0 DEFINITIONS

8.1 For the purpose of this policy the following definitions apply:

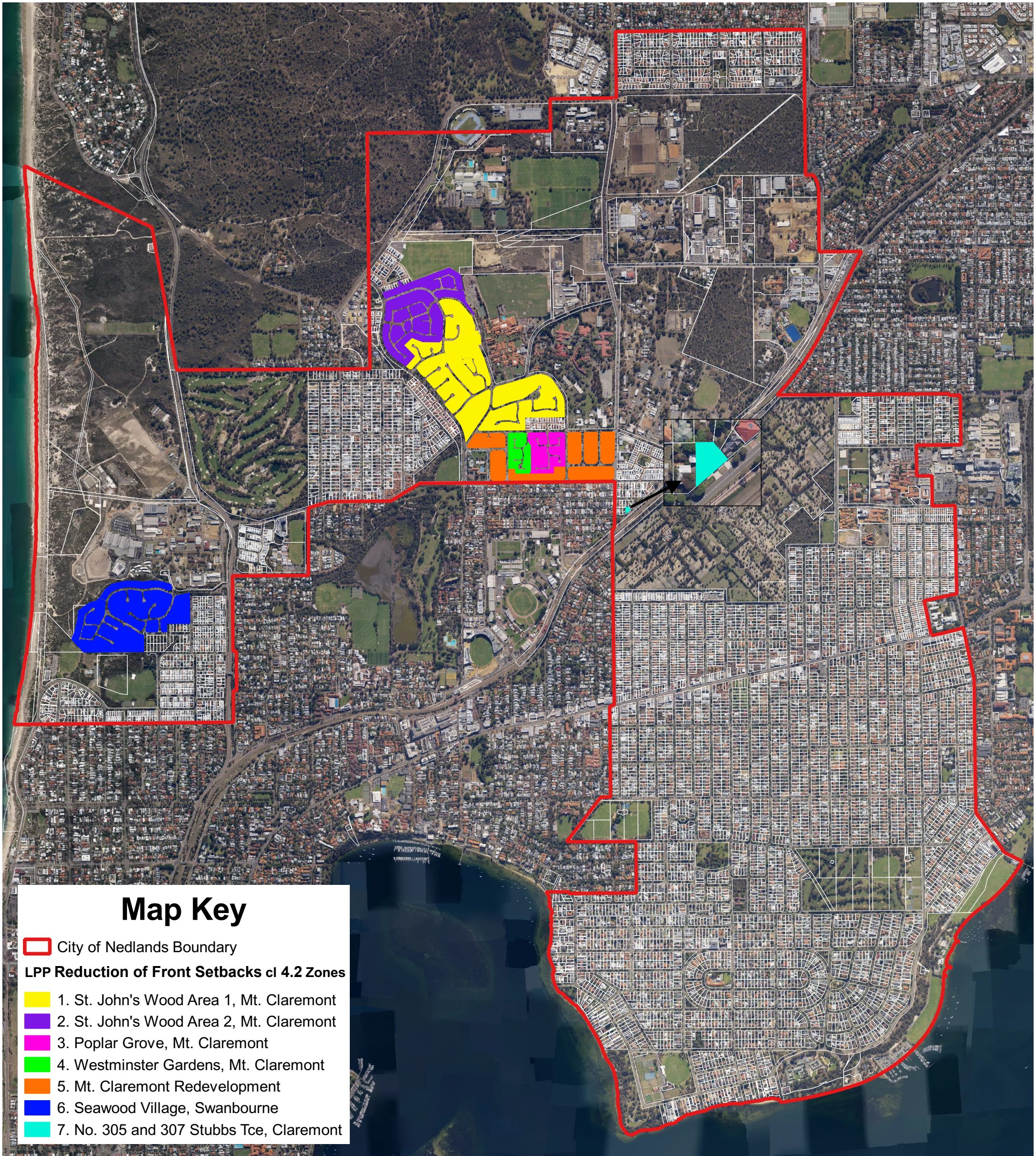
Definition	Meaning
Absolute	Not subject to any variation or averaging.

9.0 LEGISLATION

- 9.1 This policy is adopted under the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 – Deemed Provisions.
- 9.2 This policy is to be read in conjunction with the City’s Town Planning Scheme No. 2 (TPS2) and other general local planning policies that may apply.
- 9.3 This policy is to be read in conjunction with State Planning Policy 3.1 – Residential Design Codes (R-Codes).
- 9.4 Where this policy is inconsistent with the provisions of a specific policy or local development plan that applies to a particular site or area; the provisions of that specific policy, design guideline or local development plan will prevail.

Council Resolution Number	PDX.XX
Implementation Date	28 July 1998 (Report E129.98)
Date Reviewed/Modified	12 March 2002 (Report E31.02)
	10 December 2002 (Report E166.02)
	25 November 2003 (Report E109.03)
	26 October 2004 (Report E130.04)
	22 November 2005 (Report CP35.05)
	10 October 2006 (Report D77.06)

LPP Reduction of Front Setbacks cl 4.2 Policy Map

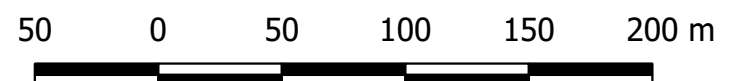


Map Key

- City of Nedlands Boundary
- LPP Reduction of Front Setbacks cl 4.2 Zones**
- 1. St. John's Wood Area 1, Mt. Claremont
- 2. St. John's Wood Area 2, Mt. Claremont
- 3. Poplar Grove, Mt. Claremont
- 4. Westminster Gardens, Mt. Claremont
- 5. Mt. Claremont Redevelopment
- 6. Seawood Village, Swanbourne
- 7. No. 305 and 307 Stubbs Tce, Claremont

Created By: A. Trant, City of Nedlands.
Date Created: 02.10.2018

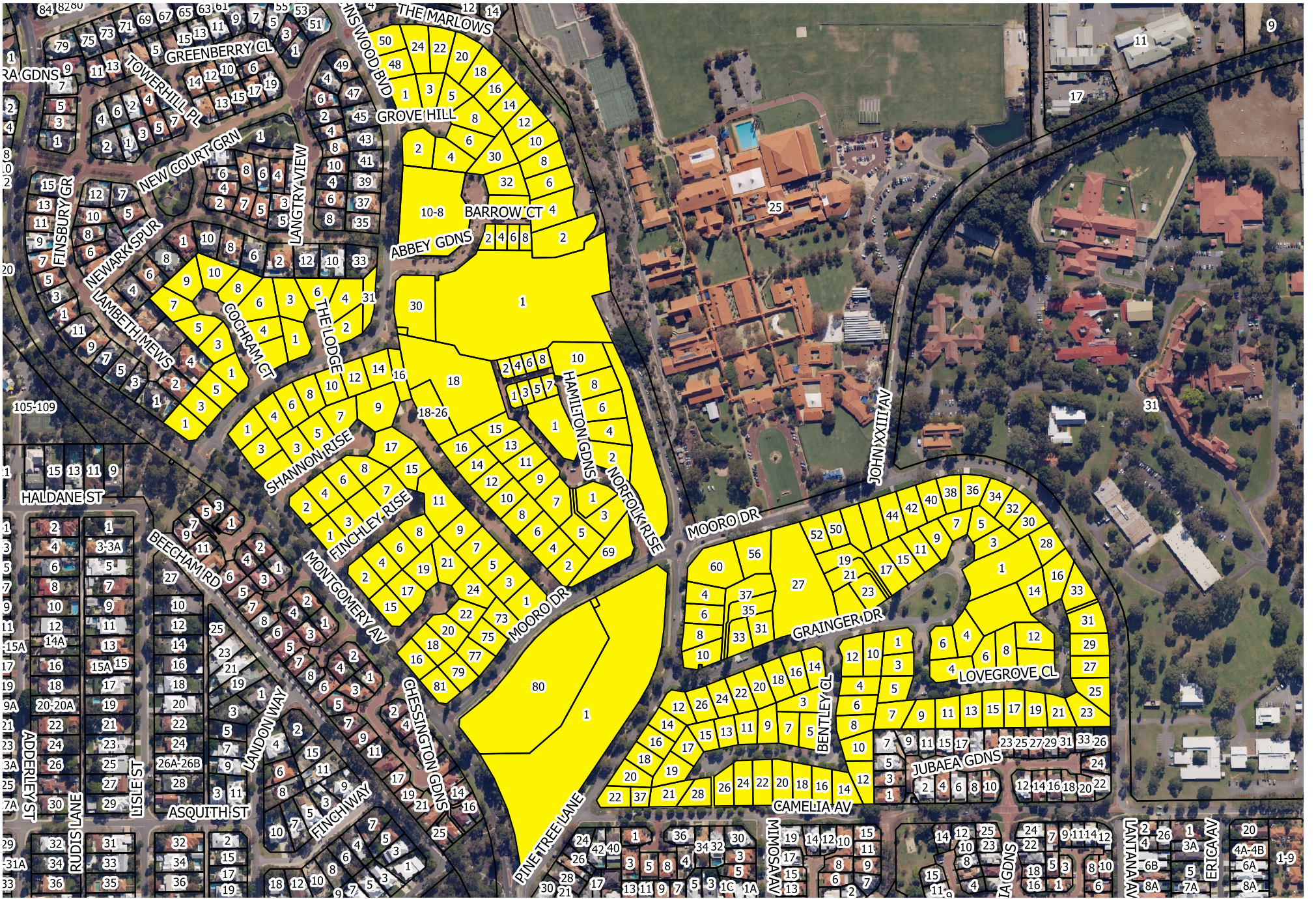
Scale: 1:22,000 @ A3



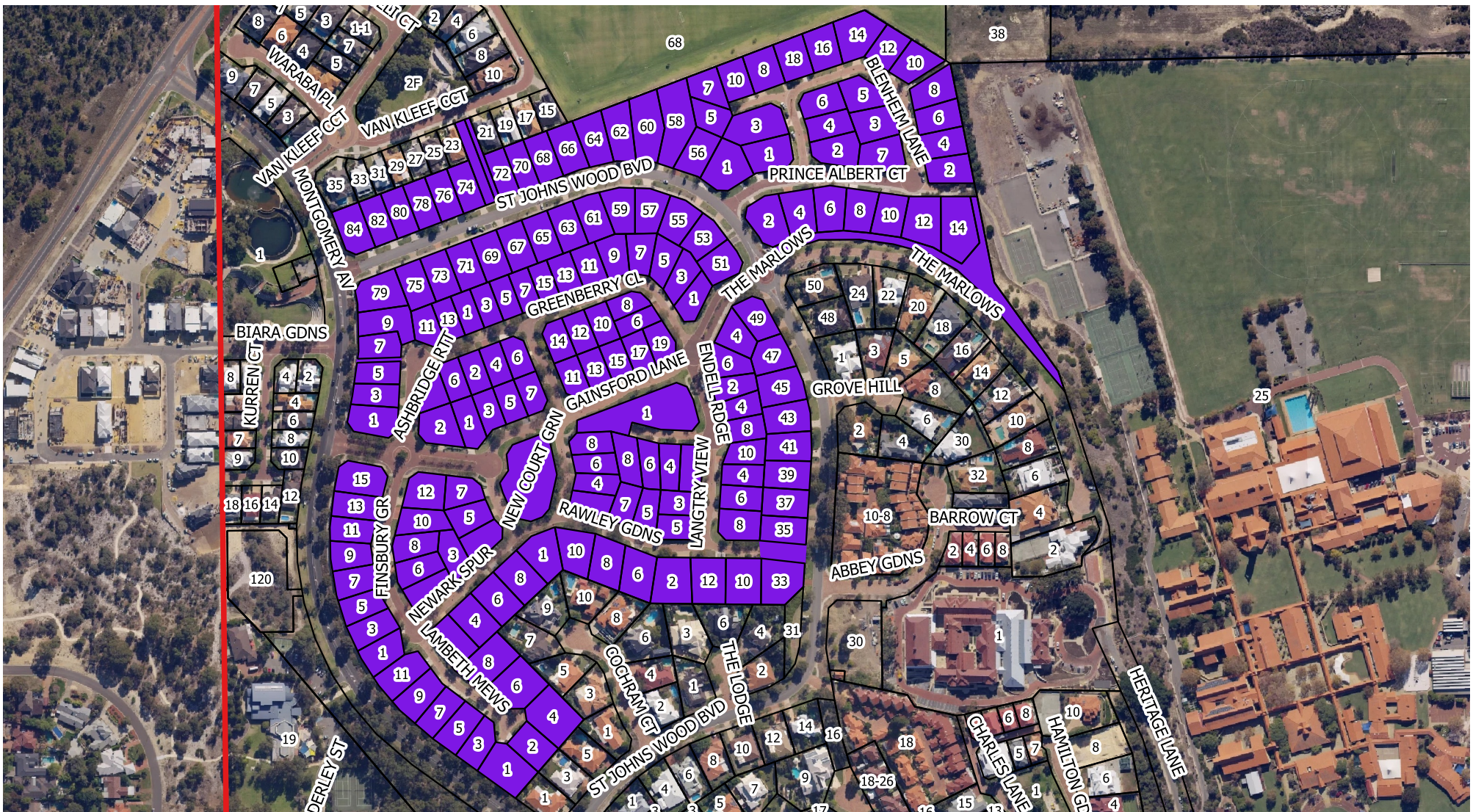


LPP Reduction of Front Setbacks cl 4.2 Policy Map

St. John's Wood Area 1



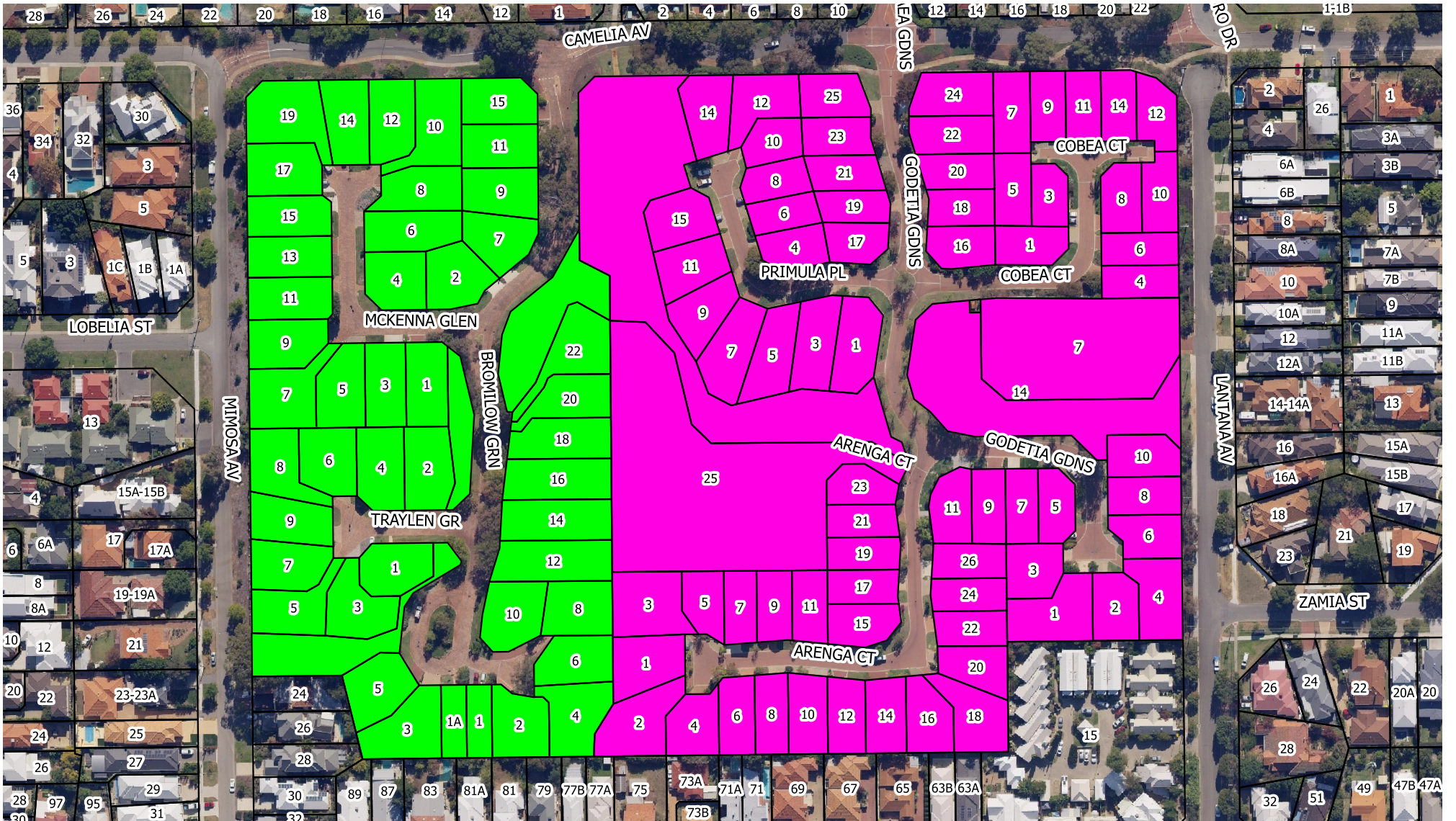
St. John's Wood Area 2



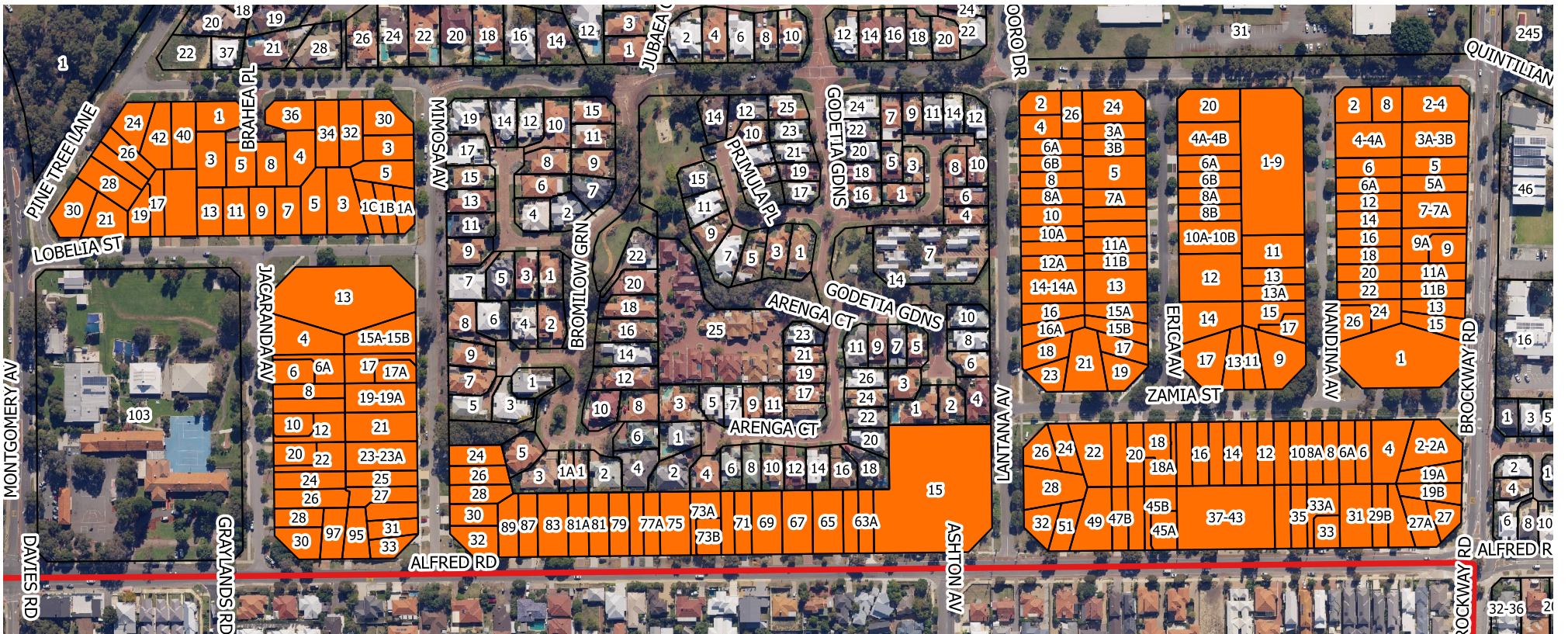


LPP Reduction of Front Setbacks cl 4.2 Policy Map

Poplar Grove and Westminster Gardens



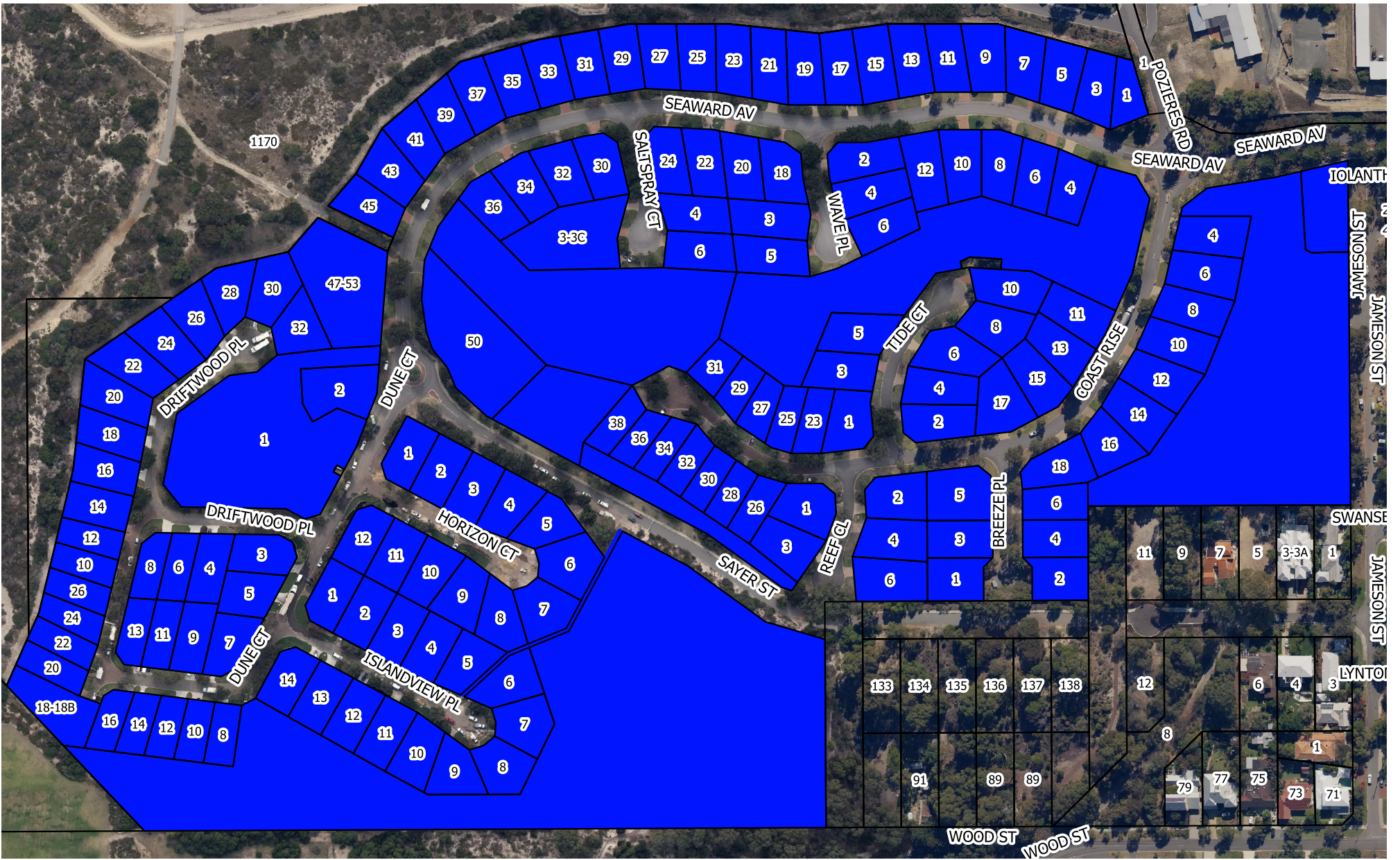
Mt. Claremont Redevelopment



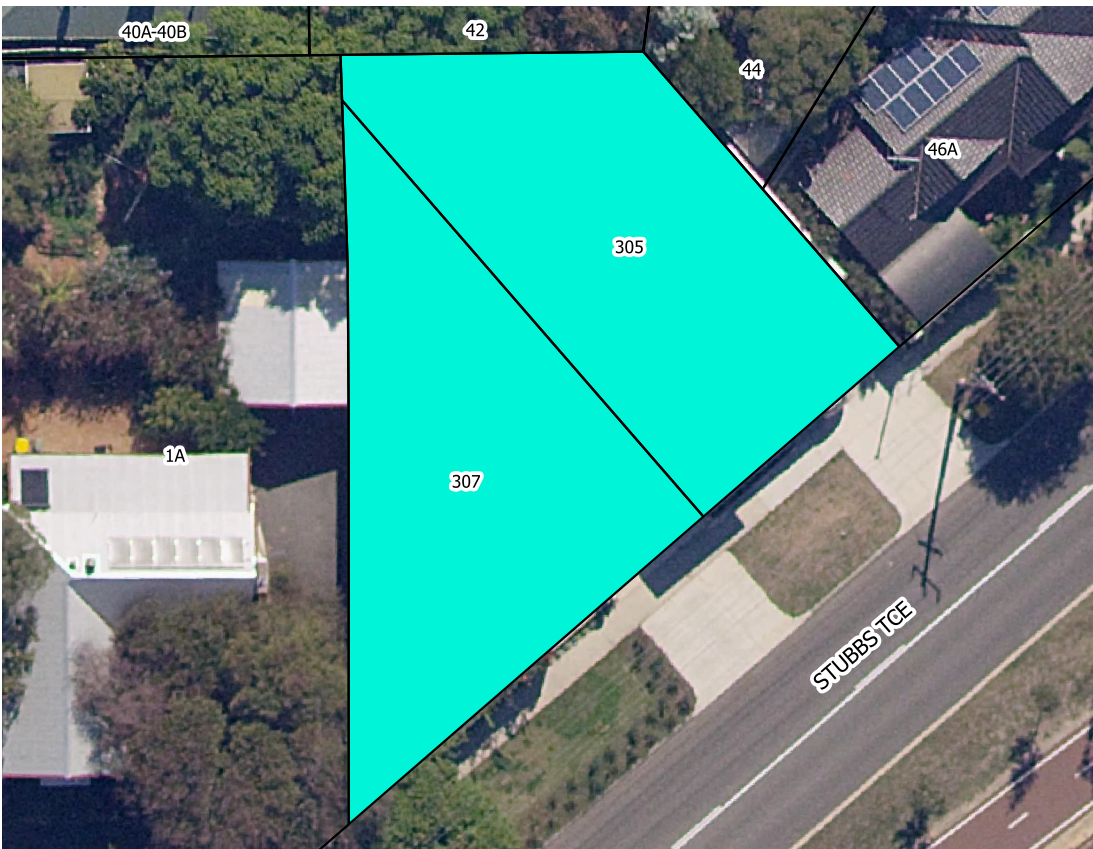


LPP Reduction of Front Setbacks cl 4.2 Policy Map

Seawood Village



No. 305 and 307 Stubbs Tce



PD64.18	Civic Design Awards
----------------	----------------------------

Committee	13 November 2018
Council	27 November 2018
Director	Peter Mickleson – Director Planning & Development
Reference	Nil.
Previous Item	PD45.17 – October 2017
Attachments	Nil.

1.0 Executive Summary

The purpose of this report is for Council to nominate two community members from the three pool members to judge the 2019 Civic Design Awards. Also, Council needs to select two Councillors to sit on the judging panel for the Civic Design Awards. The Civic Design Awards will take place in early 2019.

This request follows Council's resolution on 24 October 2017 where Council had approved for the Civic Design Awards to be implemented.

2.0 Recommendation to Committee

Council nominates two Councillors to sit on the panel for the Civic Design Awards ongoing. Also, to nominate two Community Members (of the three pool members) to sit on the Civic Design Awards judging panel for 2019.

3.0 Background

In May 2016 Council resolved that the City investigate the introduction of a system of Civic Design Awards, with certificates presented for outstanding examples of heritage restoration, contemporary design, art installations or projects otherwise contributing to the quality of the built environment within the City.

In accordance with the May 2016 Council resolution, Administration investigated and then provided Councillors with various award scheme options for consideration at a Councillor briefing. No decisions were made at this briefing, but comments were considered, and a draft system has been developed for final consideration. This was presented to Council at their meeting in October 2017, where Council resolved to progress the implementation of the Civic Design Awards beginning in 2018.

4.0 Details

The judging panel will consist of 4 members, 2 Councillors and 2 community members. Both the Councillors and community members will be chosen by Council. It is preferred that the community members will be persons who have relevant experience and/or qualifications in such fields as heritage, architecture, design, building or the like.

Following Council's resolution on the 24 October 2017 to advertise for nominees the City has received three applications for people whom wish to sit on the judging panel for the City of Nedlands Civic Design Awards:

- **Jenny Gregory:** while she does not live in the City at present, she previously lived in Nedlands for 20 years and has written extensively about the history of Nedlands. She has been a judge of the Claremont Design Awards over several years, president of the Australian Council of National Trusts and a member of the Heritage Council. She is also Emeritus Professor of History at the University of Western Australia.
- **Clive McIntyre:** is a retired engineer with over twenty-five years design and management experience who has a special interest in sustainable design and development. He has previously received two certificates of commendation at the Master Builders Awards.
- **Annabelle Thomas:** a recent Master of Architecture graduate from the University of Western Australia, who also has a Bachelor of Arts in environmental design.

The three applicants have been notified of their acceptance into the pool of nominees of whom Council must choose two of the three members they wish to sit on the judging panel for the Civic Design Awards 2019.

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

Along with the two community panel members Council must choose two Council Members to also sit on the judging panel for the Civic Design Awards ongoing.

5.0 Consultation

N/A

6.0 Budget / Financial Implications

N/A

7.0 Risk Management

N/A

8.0 Administration Comment

In order to progress the Civic Design Awards as endorsed by Council on the 24 October 2017 administration would recommend that Council nominate the judging panel for the Civic Design Awards at this meeting.

Accordingly, it is recommended that Council nominates two Councillors to sit on the panel for the Civic Design Awards ongoing. Also, to nominate two Community Members (of the three pool members) to sit on the Civic Design Awards judging panel for 2019. Once this has taken place the City's administration will progress the Civic Design Awards program.

PD65.18	Permit to Use Nature Strip
----------------	-----------------------------------

Committee	13 November 2018
Council	27 November 2018
Director	Peter Mickleson – Director Planning & Development
Reference	Nil.
Attachments	Nil.

1.0 Executive Summary

The purpose of this report is to establish a new Permit to Use the Verge (PUV) to resolve current confusion that exists around the application and approval for an applicant or property owner to use the nature strip associated with their property.

2.0 Recommendation to Committee

Council adopts the creation of a Permit to Use Verge (PUV) and that a new fee is entered Council's list of fees and charges schedule:

- 1. Application fee of \$75 for the assessment to vary a standard condition or conditions of use with an additional charge of \$ 1/m²/month rental for the period of use in this case.**

3.0 Background

There are currently two applications, two sets of legislation and two fee structures in place which require consolidation. Through the creation of the PUV a single application with one permit and one fee structure has now been created and is requested to be adopted by Council.

It has come to the City's attention that some confusion has arisen regarding the items that are allowed under a Verge Materials Permit (VMP) issued by Building Services and items that are allowed under a Nature Strip Development Approval (NSDA) issued by Technical Services.

Furthermore, the legislation that covers both applications is unclear in terms of what aspects are covered under which application. Extracts of applicable legislation is provided in figure 1 below.

The issue has arisen following a rate payer requirement for a permit to place a skip bin on their verge for a few days for a site clean-up. Both the VMP and NSDA allowed a permit to place things on a verge but had evolved over time so that the VMP only applied to building materials and all other items were covered under the NSDA. This therefore created unnecessary duplicity in the process and fees.

To avoid further confusion, it is recommended that the VMP be amended to allow a permit to be obtained for the uses of the verge that are allowed under the *Local Government (Uniform Provisions) Regulations 1996* and that the NSDA allow use or development of the verge as allowed under the *Local Law Relating to Thoroughfares 2000*.

It is proposed that the original VMP application and permit be amended to a consolidated Permit to Use the Verge (PUV) and that the NSDA remain unchanged other than to clarify the items permitted to be placed on a verge falls within the requirements of the new PUV application and that now includes skip bins.

This amendment will mean that new fees and charges will be been created and will be required to be raised in the Council fees and charges schedule prior to commencement of the new amalgamated application approval process.

The temporary storage of materials fee and charges remains unchanged.

To allow the use of the verge outside the general provisions there is a need to be able to apply for consideration to vary the standard conditions of approval. This will allow an applicant to apply for items such as placing all materials, skip bins, sheds or fencing on the verge where for example, in special circumstances there is no room to place them elsewhere. This was taken from the original NSDA and now applied to the new PUV permit to maintain the use and placing of items all in the same place.

Fees and Charges

A new application fee of \$75 has been set for the initial assessment of the application and an additional use/rental charge of the verge area of \$1/m²/month in accordance with the *Local Government (Uniform Provisions) Regulations 1996* fees structure.

Approval is sought for this amendment and the additional fee raised to provide a more effective and clearer application process for application who wish to utilise a nature strip.

Assessment of Statutory Provisions

Local Government (Uniform Local Provisions) Regulations 1996:

“6 Obstruction of public thoroughfare by things placed and left – Sch. 9.1 cl. 3(1)(a)

- (1) *A person must not, without lawful authority, place on a public thoroughfare anything that obstructs it.*

Penalty: a fine of \$5000 and a daily penalty of \$500 for each day during which the obstruction continues.

- (2) *A person may apply to the local government for permission to place on a specified part of public thoroughfare one or more specified things that may obstruct the public thoroughfare.”*

Local Government Act 1995 City of Nedlands Thoroughfares Local Law:

“7. ACTIVITIES ALLOWED WITH A PERMIT – GENERAL

(1) *A person shall not, without a permit –*

- (a) *dig or otherwise create a trench through or under a kerb or footpath;*
- (b) *throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government.”*

4.0 Consultation

Consultation is not required under the relevant legislation.

5.0 Budget/Financial Implications

No financial impact to budget expenditure is anticipated. Further revenue streams are created with the addition of the new fee, the actual amount being dependent upon the take up of applications.