

Planning and Development Reports

Committee Consideration – 14 April 2020

Council Resolution – 28 April 2020

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| **PD09.20** | **Memorandum of Understanding Remnant Bushland Cottesloe Golf Club** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Memorandum of Understanding - Contribution to Remnant Bushland Management within Reserve 9299 |

1. **Executive Summary**

Crown Reserve 9299, vested to the City of Nedlands and leased to Cottesloe Golf Club, contains remnant bushland that requires management in accordance with the Cottesloe Golf Course Remnant Bushland Management Plan 2015. A Memorandum of Understanding (MOU) between the City of Nedlands and the Cottesloe Golf Club has been developed outlining the financial contribution from both parties to manage the remnant bushland within Reserve 9299. Administration requests Council to authorise the Chief Executive Officer to sign the MOU provided in Attachment 1.

1. **Recommendation to Committee**

**Council authorises the Chief Executive Officer to sign the Memorandum of Understanding for the contribution to remnant bushland management within Reserve 9299 between the City of Nedlands and the Cottesloe Golf Club (Inc).**

1. **Discussion/Overview**

Reserve 9299 is a Crown reserve with the designated purpose of “Recreation”. Management and control of the reserve is vested in the City of Nedlands. The management order includes a power to lease subject to the approval of the Minister for Lands.

Cottesloe Golf Club (Inc) has held leasehold tenure on the Reserve since 1932. The current lease of Reserve 9299 by Cottesloe Golf Club (Inc) commenced on 1 March 2012. The Lease has an initial term of 21 years with a further term of 21 years. A condition of both the previous and current leases required the preparation of a remnant bushland management plan.

Sections 10.5 and 10.6 of the current lease contain conditions relevant to the management of remnant bushland on the course, relevant sections are detailed below.

10.5 Maintain Surroundings

1. The Lessee must regularly inspect and maintain in good condition at its cost and in accordance with the Management Plan for the remnant bushland any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens lawns, shrubs, hedges and trees.
2. The Lessee must not remove or do anything to damage any vegetation, including in particular any remnant natural bushland, without the prior written consent from the Lessor.
3. Any pruning of trees must be undertaken by a qualified tree surgeon.
4. If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
5. The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
6. The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor in accordance with subclause (2) above, except where necessary for urgent safety reasons.

10.6 Management Plan for Remnant Bushland

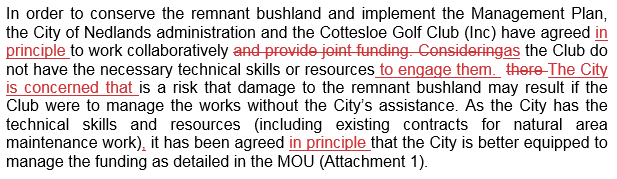
1. The intention of the following provision is to retain remnant bushland wherever possible, within the constraints of providing and maintaining a workable golf course.
2. The Lessee must comply with, and implement at all times, the Management Plan in respect of remnant bushland vegetation approved by the Lessor.
3. The Management Plan shall be prepared and agreed by the parties within 6 months, unless the Lessor consents to extend that period.
4. It is a condition of this Lease that the remnant bushland within the Premises must be managed in accordance with the approved Management Plan.
5. If at any time in the future the Management Plan is terminated or no longer has effect, approval will be required from the Lessor for the removal or alteration of any remnant bushland within the Premises.

In 2015 the Cottesloe Golf Club (Inc) submitted the Cottesloe Golf Course Remnant Bushland Management Plan 2015 which the City accepted. The Management Plan (currently under review) outlines the requirements in relation to the management of remnant bushland on Reserve 9299.

The remnant bushland on Reserve 9299 is considered locally and regionally significant for a number of reasons:

* The north western portion forms part of Bush Forever Site 315;
* The bushland forms ecological linkages with the coastal greenway, Bold Park, Lake Claremont, Kings Park and various local greenways;
* It contains the Cottesloe Complex-Central and South vegetation complex that is currently below the threshold suggested for retention of an ecological community; and
* It contains some areas of good condition bushland.

The City of Nedlands administration and the Cottesloe Golf Club (Inc) have agreed in principle to work collaboratively to conserve the remnant bushland and implement the Management Plan as the Club do not have the necessary technical skills or resources to undertake or supervise the works. The City is concerned that there is a risk that damage to the remnant bushland may result if the Club were to manage the works without the City’s assistance. Considering the City has the technical skills and resources (including existing contracts for natural area maintenance work), it has been agreed in principle that the City is better equipped to manage the funding as detailed in the MOU (Attachment 1).



1. **Key Relevant Previous Council Decisions:**

Nil

1. **Consultation**

There have been ongoing discussions with Cottesloe Golf Club on this issue which has involved the development of a Memorandum of Understanding.

1. **Strategic Implications**

The community will benefit from this project as it will result in the City’s implementation of the Strategic Community Plan 2018-2028. The MOU fits well with the City’s vision and strategic priorities as the Strategic Community Plan refers to “Great Natural and Built Environment” and includes:

* A vision that “Our city will be environmentally sensitive, beautiful and inclusive place”;
* Values that “We protect our enhanced, engaging community spaces, heritage, the natural environment”; and
* Priorities that comprise of “Retaining Remnant Bushland and Cultural Heritage”.

Furthermore, key actions were identified in the Strategic Community Plan to contribute to retaining remnant bushland as a strategic priority. They are listed below:

* Revegetate remnant bushland areas;
* Develop greenway corridors;
* Undertake tree planting in public areas;
* Restore coastal and estuarine areas; and
* Maintain parks and other green spaces.

Management and control of the remnant bushland onsite has been vested to the City of Nedlands. Therefore, there are potential reputational risks if the City does not assist the Club, as this will result in:

* Further degradation of the remnant bushland as a result of ongoing environmental weed invasion;
* Reduction in the quality of the vegetation community which is currently below the threshold suggested for retention of an ecological community;
* Damage to native vegetation due to the Club’s lack of technical expertise if they were to coordinate the works without the City’s assistance; and
* Decline in the condition of Bush Forever Site 315 and other remnant bushland areas on the course as the Club may not undertake the work without the City’s assistance.

1. **Budget/Financial Implications**

The City will require $8,000 (ex GST) to be budgeted annually through the City of Nedlands operational budget with an annual increase of Perth CPI as of 1 July 2021. The funding request will be provided to Council for consideration through the 2020-21 budget process as a new operational initiative and annually at each successive year’s annual budget process including the request for a CPI increase. This will have a 0.03% impact on rates unless the funding can be accommodated through the existing City of Nedlands annual budget.

The Cottesloe Golf Club (Inc) have agreed to provide $6,000 (ex GST) annually from the 1 July 2020 to the 30 June 2025 with an annual increase of Perth CPI as of 1 July 2021. Their contribution has been confirmed on the MOU (Attachment 1). A large portion of the City’s contribution will involve administrative, or “on costs”.

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| **PD10.20** | **Scheme Amendment No. 5 – 14 & 16 Napier Street, Nedlands** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Scheme Amendment No. 5 Report |

1. **Executive Summary**

The purpose of this report is for Council to provide consent to prepare (adopt) proposed Scheme Amendment No. 5 to Local Planning Scheme 3 (LPS 3).

The amendment proposes a minor correction of an administrative mapping error by rezoning 16 Napier Street, Nedlands to ‘Residential’ with an R15 density code and reserving 14 Napier Street, Nedlands for ‘Drainage / Waterway’. Currently, a drainage sump is located on 14 Napier Street, Nedlands and a dwelling on 16 Napier Street, Nedlands indicating the initial zoning and reserving was a drafting error.

The amendment is considered a basic scheme amendment as it is to correct an administrative error. As per the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) a basic amendment does not require advertising.

1. **Recommendation to Committee**

**Council:**

1. **Pursuant to Section 75 of the Planning and Development Act 2005, adopts an Amendment to Local Planning Scheme 3 by:**
   1. **Reclassifying 14 Napier Street, Nedlands from the Residential Zone to the ‘Drainage / Waterway’ Local Scheme Reserve;**
   2. **Removing the residential density code of R15 from 14 Napier Street, Nedlands;**
   3. **Rezoning 16 Napier Street, Nedlands from the ‘Drainage / Waterway’ Local Scheme Reserve to ‘Residential’; and**
   4. **Amending the LPS 3 Scheme Map to reserve 14 Napier Street, Nedlands for ‘Drainage / Waterway’ and zone 16 Napier Street, Nedlands to ‘Residential’ with an R15 residential density code.**
2. **In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 section 35(2), the City contends that the amendment is a Basic Amendment for the following reasons:**
3. **An amendment to correct an administrative error.**
4. **Pursuant to Section 81 of the Planning and Development Act 2005 (P&D Act 2005), refers Scheme Amendment 5 to the Environmental Protection Authority.**
5. **Amendment Details**

Currently, 16 Napier Street, Nedlands is reserved ‘Drainage / Waterway’ and 14 Napier Street is zoned ‘Residential’ with a denisty code of R15, as shown in Figure 1.

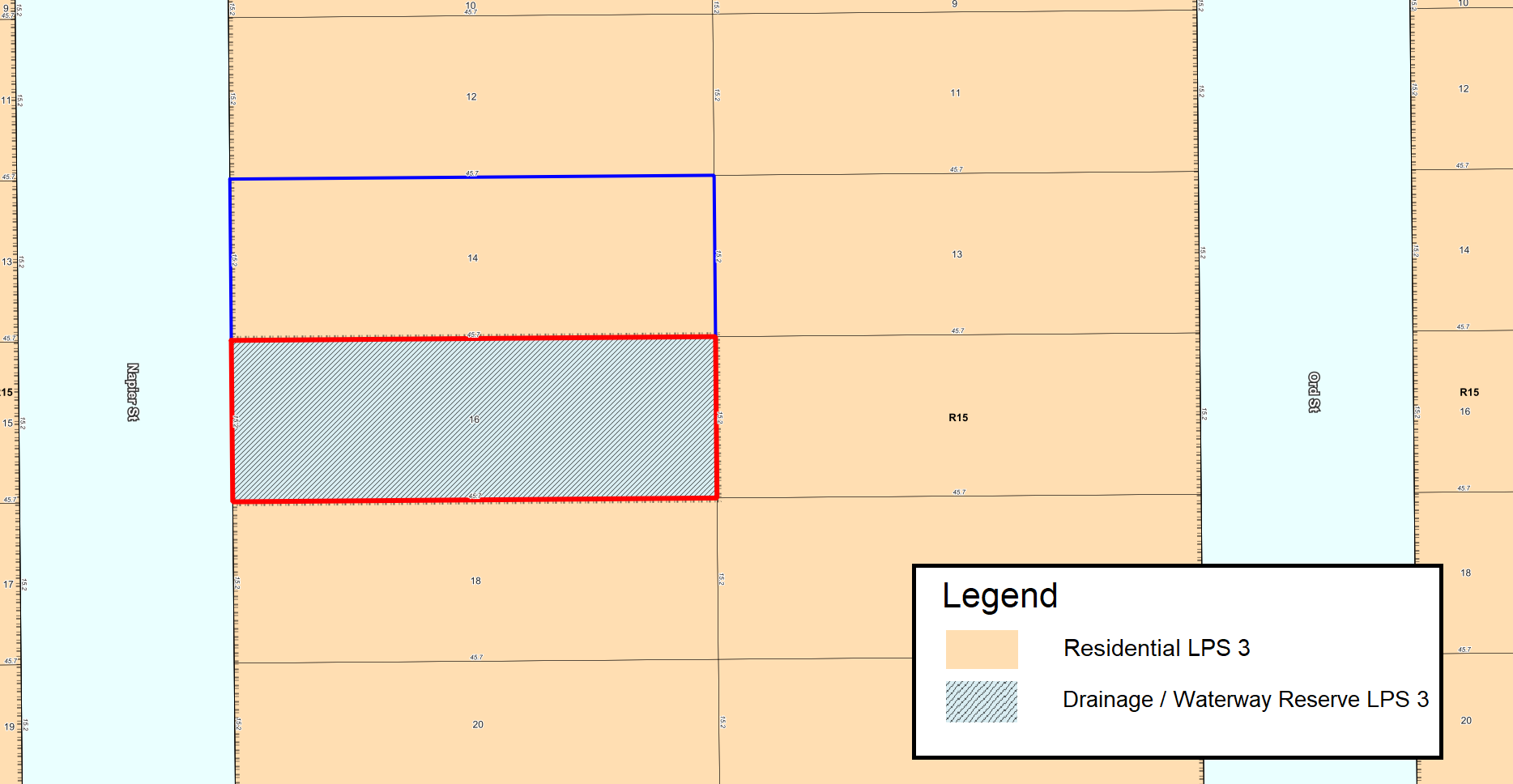


Figure 1: Zoning Map Napier Street, Nedlands LPS 3

Figure 2 shows an existing dwelling located at 16 Napier Street, Nedlands and the adjacent northern lot, 14 Napier Street, Nedlands as an existing drainage sump owned by the City of Nedlands.

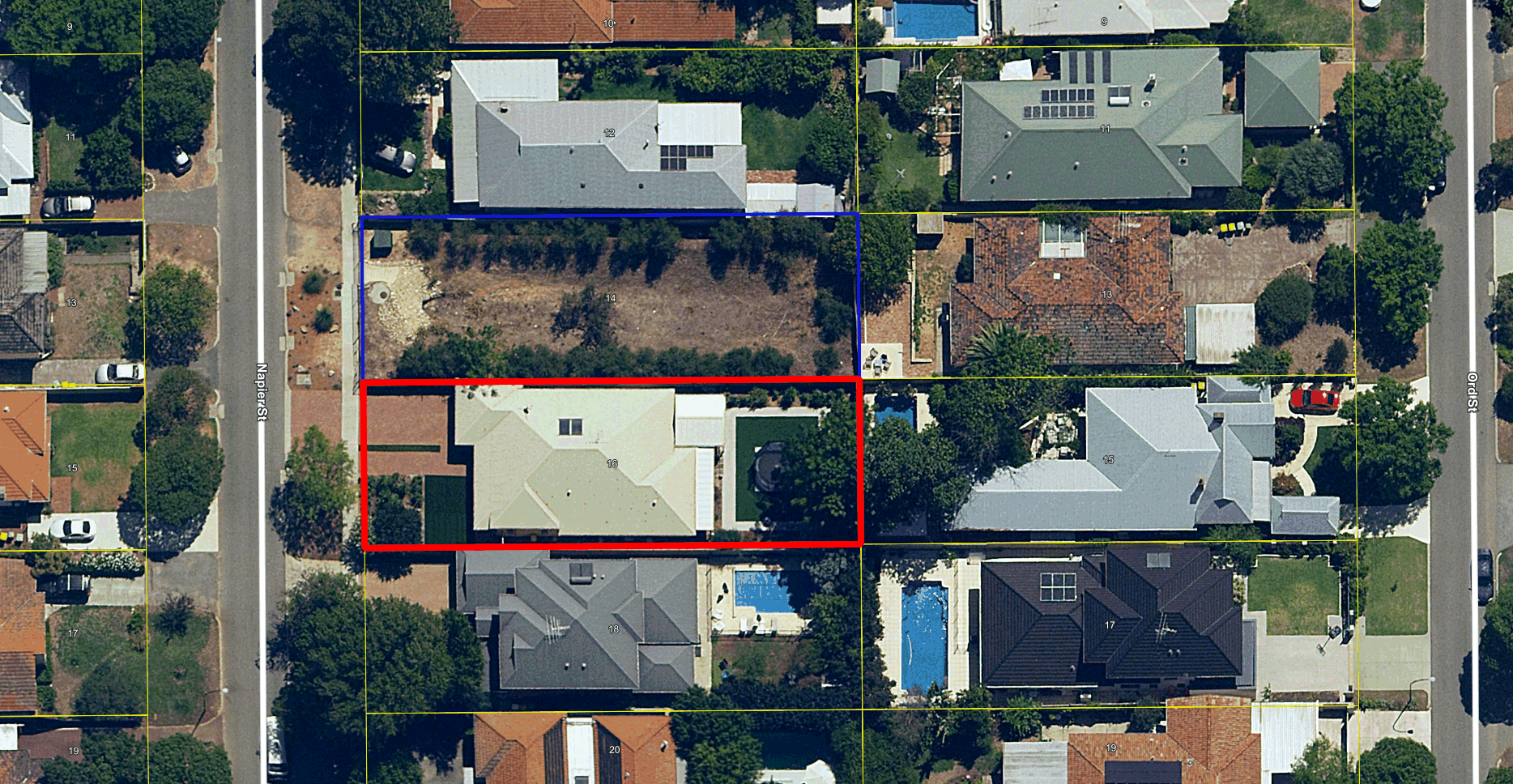


Figure 2: Aerial view of 14 and 16 Napier Street, Nedlands

Figure 3 shows a street level perspective of 14 Napier Street, Nedlands as a sump which is fenced off and maintained by the City for drainage and the managing of surface runoff.



Figure 3: Street View of 14 Napier Street, Nedlands

The current placement of a sump at 14 Napier Street, Nedlands and a dwelling at 16 Napier Street, Nedlands demonstrates that the initial LPS 3 reserving and zoning was erroneous in respect of these two lots. Switching the two lots’ reservation and zoning is warranted as a basic amendment to rectify this error.

The proposed amendment to the LPS 3 Scheme Map will nullify compliance issues surrounding any future residential development at 16 Napier Street that would currently be deemed incompatible with the objective of the ‘Drainage / Waterway’ reserve.

The amendment qualifies as a basic amendment because the sites were clearly switched as a mistake during the preparation of the Scheme Map. A simple administrative error was evidently made but was not identified throughout the preparation process of LPS 3. It has since been brought to the City’s attention.

Basic amendment process dictates that the proposed amendment be sent to the EPA as per s.81 of the P&D Act 2005. Environmental conditions set by the EPA will be incorporated into the amendment as directed. The City will provide the amendment with EPA conditions (if any) to the Western Australian Planning Commission (WAPC) who will consider the amendment and make recommendations (if any). The amendment is then submitted by the WAPC to the Minister for Planning who will decide whether to approve or reject the amendment.

1. **Consultation**

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

1. **Budget / Financial Implications**

There will be a minor cost incurred with gazettal of the amendment. This will be borne by the adoption advertising budget.

1. **Conclusion**

The proposed Scheme Map amendment is minor and will have no impact on surrounding lots. From the justification in the Scheme Amendment Report provided as Attachment 1, it is likely that the subject zoning and reservation may have been an administrative error. As such, it is recommended that Council resolve to adopt this amendment to reserve 14 Napier Street, Nedlands ‘Drainage / Waterway’ and remove the R15 density coding and zone 16 Napier Street ‘Residential’ with an R15 density code.

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| **PD11.20** | **Local Planning Scheme 3 – Local Planning Policy: Residential Aged Care Facilities** |
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| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | PD52.19 – OCM 17 December 2019 |
| **Attachments** | * 1. Tracked Changes Draft Residential Aged Care Facilities Local Planning Policy (LPP)   2. Draft Residential Aged Care Facilities Local Planning Policy (LPP) |

1. **Executive Summary**

The purpose of this report is for Council to adopt the Residential Aged Care Facilities Local Planning Policy required under Local Planning Scheme No 3 (LPS 3).

The purpose of this policy is to provide guidance and development requirements for operators seeking to establish a residential aged care facility land use within the City of Nedlands.

This policy was presented to Council at its Meeting on the 17 December 2019 where Council resolved for this item to be advertised to the public. The policy was subsequently advertised to the public for a period of 21 days ending on the 8 February 2020.

1. **Recommendation to Committee:**

**Council proceeds to adopt the Residential Aged Care Facilities Local Planning Policy, with modifications as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii).**

1. **Background**

A product of the gazettal of LPS 3 in April 2019 was that an Additional Use for residential aged care facilities was approved over several sites within the City. Residential aged care facilities are defined in LPS3 as,

A residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.

It does not include aged and dependent persons dwellings as defined by the R Codes and is not retirement accommodation. LPS3 hasno requirement for a Local Development Plan or other development provisions on the subject sites. Due to this, administration resolved to prepare a policy addressing residential aged care facility land uses and providing parameters which will guide the development and re-development of sites for the purposes of the land use Residential Aged Care. The draft policy has been prepared in response to a proponent's intention to apply to develop a residential aged care facility on a site within the City, and the current absence of any specific development requirements for this proposal.

Residential aged care facilities are capable of approval within the Residential and Mixed-Use zones, where they are listed as ‘A’ uses, requiring the local government to exercise its discretion regarding the use within these zones. In all other zones residential aged care facilities are an ‘X’ use and are therefore not permitted.

With the gazettal of LPS 3 the following sites were granted a Residential zoning and an Additional Use, which states that residential aged care facilities are a Permitted use on the following sites:

* Lots 101 (118) and 102 (108) Monash Avenue Nedlands
* Lot 103 (15) Karella Street Nedlands
* Lot 416 (1) Heritage Lane Mount Claremont
* Lot 11605 (17) Lemnos Street Shenton Park
* Lots 12830 (5), 12829 (7), 11329 (9), 701 (11), 702 (13A), 703 (13B), 9722 (6) and 10024 (4) Bedbrook Place Shenton Park
* Lots 104 (53) and 105 (57) Lisle Street Mount Claremont
* Lot 93 (125) Alfred Road Mount Claremont
* Lot 169 (80) Mooro Drive Mount Claremont
* Lot 25 (69) Melvista Avenue Nedlands
* Lots 10 (16) and 11(18) Betty Street Nedlands
* Lots 19 (73) and 18 (75) Doonan Road Nedlands

It is anticipated that the City may receive applications for residential aged care facilities at these sites in the future. This policy is crucial in helping to guide decision making and advise the community of Council’s position in relation to residential aged care facilities.

1. **Detail**

This policy applies to all residential aged care facility proposals as defined under LPS 3 within the Residential and Mixed Use zones.

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish or redevelop residential aged care facilities within the City of Nedlands, and to help officers assess development applications for residential aged care facilities in line with Council’s position.

The Western Australian Planning Commission (WAPC) released their Draft Position Statement: Residential Aged Care in October 2019. This document outlines the WAPC’s interim requirements to support the provision of residential aged care facilities within the local government planning framework. The documents intent is to encourage the appropriate supply of residential aged care facilities within Western Australia.

The City’s draft policy seeks to respond to the position statement by clearly stating design criteria for residential aged care facilities within the City. These design criteria are based upon the standards of the Residential Design Codes and include height, setbacks and plot ratio. Further specific design criteria have been included for visual privacy, landscaping, boundary fencing, location of services, traffic impact, pedestrian access, signage and car parking. The policy focusses on these aspects of development as it is considered that they have the greatest potential to impact the residential amenity of the surrounding area. Car parking, and the potential traffic generated by a residential aged care facility, have the potential to significantly impact upon the residential amenity of an area. The policy requires that vehicle parking areas shall be located to the rear of a residential aged care facility, and that a development application for such a facility must include a Traffic Impact Assessment, in order to mitigate this potential impact.

It is noted that the City would treat a development application for a residential aged care facility as a complex application in terms of the requirements of Local Planning Policy Consultation of Planning Proposals.

The policy requires the submission of a waste and traffic management plan with development applications, which will set out details of how waste and traffic will be managed to minimise their impact on the adjoining properties. This is considered particularly important due to the potentially high amount of waste and traffic generated by a residential aged care facility.

1. **Consultation**

In line with Council’s December 2019 resolution, the Policy was advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City’s Consultation LPP from 18 January to 8 February 2020. A notice was published in the newspaper, details were included on the City’s website and the YourVoice engagement portal.

No submissions were received during the advertising period.

The policy is being presented to Council following the conclusion of the advertising period. Council can now choose how to progress with the policy. It is recommended that the policy is adopted with the modifications proposed in Attachment 2.

As per Residential Design Codes Volume 2 part 1.2.3, this policy may be adopted by the Council without further consent from the WAPC, as it concerns commercial style development to which the built form requirements of the Residential Design Codes are not automatically applicable.

1. **Statutory Provisions**

**Planning and Development (Local Planning Schemes) Regulations 2015**

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) Schedule 2, Part 2, Clause 4(3), sets out that after the expiry of the 21-day advertising period, the local government must review the proposed policy in light of any submissions made and resolve to:

a) Proceed with the policy without modification;

b) Proceed with the policy with modification; or

c) Not to proceed with the policy.

Administration recommends that Council resolves to proceed with the Residential Aged Care LPP with modifications as shown in Attachment 2.

The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP.

1. **Conclusion**

The Residential Aged Care Facilities LPP is the best mechanism to guide decision making and advise the community of the Council’s position in relation to development applications for residential aged care facilities throughout the City.

It is recommended that Council endorses administration’s recommendation to adopt the Residential Aged Care Facilities LPP with modifications as shown in Attachment 2.

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| **PD12.20** | **Local Planning Scheme 3 – Local Planning Policy: Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | SCM 30 January – Item 8 |
| **Attachments** | 1. Draft Doonan Road, Jenkins Avenue, Vincent Street Laneway and Built Form Requirements LPP – technical changes 2. Draft Doonan Road, Jenkins Avenue, Vincent Street Laneway and Built Form Requirements LPP 3. Summary of Submissions 4. Submissions (CONFIDENTIAL) |

1. **Executive Summary**

The purpose of this report is for Council adopt the Doonan Road, Jenkins Avenue, Vincent Street Laneway and Built Form Requirements Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

This Policy details the requirements relating to the ceding and creation of a laneway between the properties at 16 and 18 Doonan Road Nedlands and 19 and 21 Vincent Street Nedlands located parallel to Jenkins Avenue, running east to west. The Policy also details the built form requirements for properties abutting the proposed laneway. This Policy has been created as a measure to capture the ceding of land and construction of a laneway abutting the properties mentioned in response to developers seeking to subdivide and develop to the new density code. This subsequently may result in an undesirable development of maximum width crossovers to both Doonan Road and Jenkins Avenue.

The aim of the Policy is to protect and maintain the existing landscaped and tree lined streetscapes whilst minimising the amount of crossover, driveways and hardstand needed along Doonan Road, Vincent Street and Jenkins Avenue.

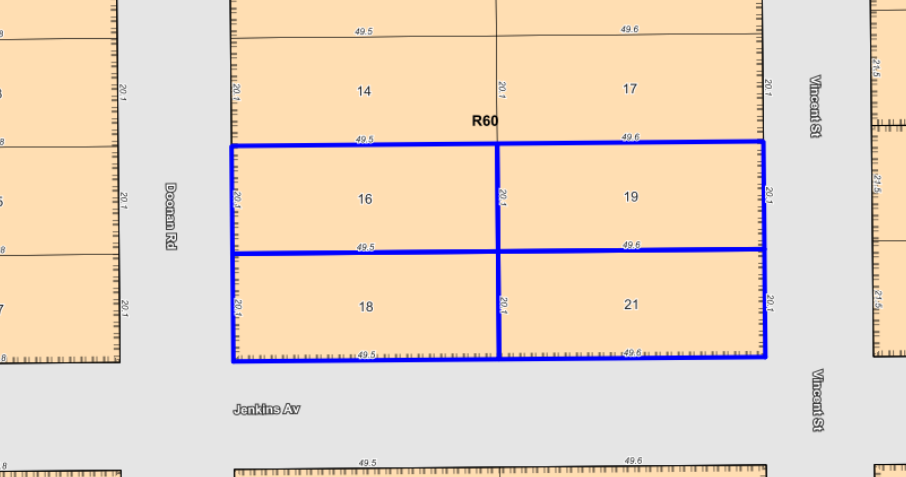
1. **Recommendation to Committee**

**Council:**

1. **Proceeds to adopt the Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements Local Planning Policy, with modifications as set out in Attachment 2, including the following 9 modifications in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii);**
2. **modification be made to Paragraph 2.1: Clarification that the policy applies to subdivision applications and development applications for ALL new Dwellings;**
3. **modification be made to Paragraph 4.1.2: Clarification that land comprising the laneway will be ceded free of cost and as a condition of subdivision or development approval being granted pursuant to the provisions of Clause 32.3 of Local Planning Scheme No. 3;**
4. **modification be made to Paragraph 4.1.3: Deletion of redundant clause as it is covered in 4.1.2;**
5. **modification be made to Paragraph 4.1.5 and 4.1.6: Inclusion of discretion by inserting “to the satisfaction of the City”;**
6. **modification be made to Paragraph 4.1.8: Removal of specific reference to bollard lighting to enable more flexibility around the provision of the form of lighting;**
7. **modification be made to Paragraph 4.2.1: Inclusion of discretion by inserting “unless otherwise agreed to by the City”;**
8. **modification be made to Paragraph 4.2.3: Clarification of fencing requirements in accordance with relevant Residential Design Codes Vol. 1 or 2;**
9. **modification be made to Paragraph 4.2.7: Clarification of tree expectations and inclusion of discretion by inserting “to the satisfaction of the City.”; and**
10. **modification be made to Paragraph 5.1: Clarification of information to be provided on a Landscape Plan.**
11. **Refers the Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements. Local Planning Policy to the Western Australian Planning Commission for final approval in accordance with State Planning Policy SPP7.3, Residential Design Codes Volume 1 2019 Clause 7.3.2**
12. **Background**

The properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands have been up coded to R60 under the City’s recently adopted Local Planning Scheme No. 3 (LPS 3). This allows the properties to develop approximately 5/6 grouped dwellings (townhouses) at 2 storey height limits or approximately 6-10 multiple dwellings (apartments) over a 3-storey height limit.

The properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands are shown in the below image.



Within the City’s new Local Planning Scheme No. 3 (LPS 3) Clause 32.3 allows the City to require that a developer create a laneway and cede and construct that Laneway at the developers cost for the purpose of creating rights of way or laneways which are identified by the scheme or a, structure plan, local development plan, activity centre plan or local planning Policy at the time of the owner developing or subdividing the land. Therefore, if the City chooses to adopt this Policy the City will have the head of power under Clause 32.3 to acquire the land and require developers to construct the laneway as designated to the City’s specifications at the time of subdivision or significant redevelopment.

The City has recently considered a subdivision referral from the West Australian Planning Commission (WAPC) for a 5-lot subdivision at 18 Doonan Road whereby significant concerns were raised by administration due to the subsequent streetscape impact this proposal will likely cause to Jenkins Avenue. This subdivision has subsequently been approved by the WAPC despite concerns raised by the City’s Administration. Discussions with the Department of Planning Lands and Heritage (DPLH) as to why the subdivision was still supported was due to the fact that the City’s Policy was not at final adoption stage and that they would like to see the City further flesh out the need and nexus as to why laneways are required in these circumstances. Following this conversation, the City will be progressing a Laneway Strategy and a Scheme Amendment to add more power to Clause 32.3 of LPS 3.

Although the subdivision has already been approved Clause 32.3 of LPS 3 allows for a development application to also be a trigger. With this Policy adopted as final the City will again ask for the ceding and construction of the laneway at development application stage.

18 Doonan Road and it’s interface with Jenkins Avenue transitions density from R60 to R10 on the South side of Jenkins Avenue. The subdivision approved by the WAPC is for 5 green title lots. The indicative development application for these lots shown to Administration proposes 5 double width crossovers with 4 double width crossovers planned to Jenkins Avenue. Administration believes that this would pose an undesirable streetscape outcome and that garage and crossovers should be located to the rear and front a new laneway.

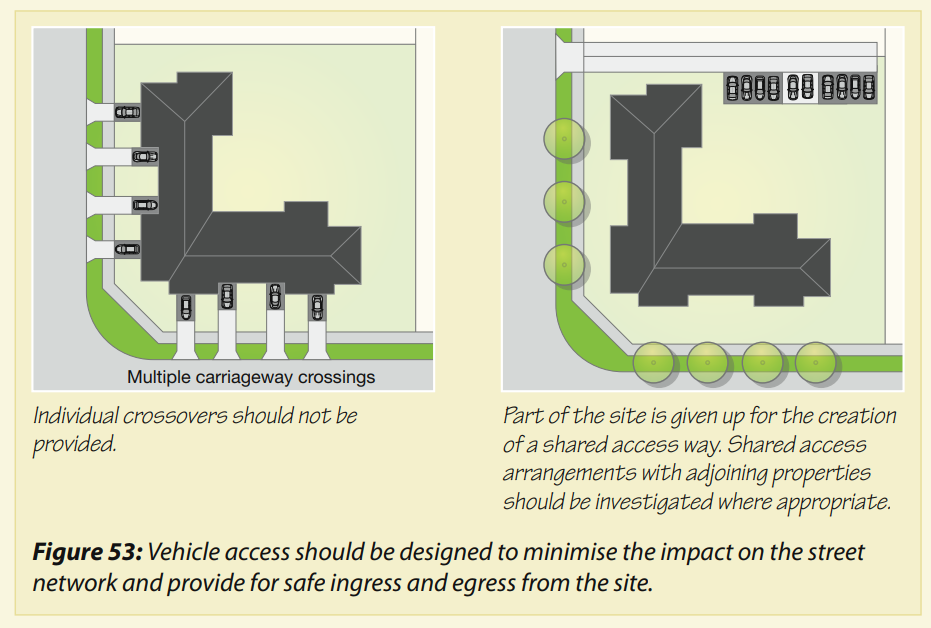
This proposed laneway will seek to connect Doonan Road with Vincent Street. This Policy therefore has been put forward as a measure to aid the City in identifying the required land between these lots for a laneway to be created and constructed which will then remove the requirement for a large number of crossovers to the existing street. The laneway created will result in only one crossover/entry point being required at Doonan Road and one at Vincent Street, therefore removing up to 15 direct vehicle crossings. The proposal also opens development opportunity to the subject lots to the north as they will have a newly created frontage to a laneway if and when they choose to develop or subdivide in the future.

1. **Detail**

This draft Policy details the laneway requirements for the proposed laneway between Doonan Road and Vincent Street. The draft Policy sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and development. The Policy requires a 3.5m strip of land to be designated from each of the properties through the centre boundary line. Once each property has ceded 3.5m a 7.0m wide laneway will be created which will be constructed to the City’s specifications including being sealed, drained and with lighting and landscaping. In the interim a the 3.5m ceded portion may act as a one-way access like that of a battle-axe driveway.

The benefits of a laneway servicing these properties is not only the minimisation of crossovers to the street but also the potential for the properties to the north 16 Doonan Road and 19 Vincent Street who were formerly land locked to develop green title lots. Currently without the designated Laneway those lots will only have been able to be subdivided as survey strata lots with a common property driveway (battle-axe configuration) or a maximum of two street frontage green title lots. The laneway will create lesser hardstand area than what would currently be required for a battle-axe style development with a common driveway. This is because Clause 5.3.5 in the Residential Design Codes Volume 1 states that a driveway serving 4 or less dwellings must have a driveway of no less than 3m and in the case of a driveway serving 5 or more dwellings it must accommodate two way access therefore would require 6m or the ability to manoeuvre to allow for vehicles to enter and exit in forward gear.

The explanatory guidelines of the Residential Design Codes Volume 1 Clause 6.5 Vehicular Access Figure 53 shown below discusses that individual crossovers to the street should not be provided instead consolidated access is encouraged. This Clause discusses the detrimental impact that multiple crossovers has on the amenity and streetscape. The Clause discusses that too many crossovers cause loss of kerbside parking space, lack of space for street trees and furniture, interruption to pedestrian use of footpaths and increased hazards for cyclists. The method encouraged is that what the Policy seeks to enforce, of vehicle access located to the rear of the site where possible and to encourage shared access by utilising an aggregate vehicle access solution for future lots.



The built form controls factored within the Policy are to encourage activated frontages and that the laneway to not be a solid wall of garages, instead having a street like appearance with pedestrian access and visual surveillance opportunities to and from the laneway from the adjacent dwellings. The development or subdivision of properties on 16 Doonan Road and 19 Vincent Street will create opportunities for lots/dwellings to have their primary frontage to the laneway. Where lots are developed for single dwellings the laneway would be developed having the appearance of a minor street including landscaping, pedestrian friendly access-ways and major openings from buildings overlooking the laneway. This will mean that although the main purpose is for vehicle access to dwellings, as well as removal of potentially multiple crossovers from the street that it will continue to maintain the elements of traditional Nedlands street appearance which is pedestrian friendly, green, landscaped and a tree lined built environment.

The Policy through built form controls aims to encourage a pedestrian friendly, landscaped street appearance within the laneway. This is done through mandating fencing to the laneway to be in line with the primary street fencing requirements being open in style to allow for passive surveillance. A clear definable pedestrian entry way is to be provided from the laneway and this is to encourage the space to not be car dominated and pedestrian friendly, it is also proposed that visual surveillance from a habitable room from the dwelling(s) be provided to look out to the laneway.

Without this Policy in place, the City lacks the ability to apply LPS 3 Clause 32.3 mandating the ceding of land for the creation of a laneway. If the properties chose to subdivide first, which is the case with 18 Doonan Road, this is approved by the West Australian Planning Commission (WAPC) and not the City. The WAPC’s position is that the City can deal with multiple crossovers at the development application which the City intends to do now the subdivision has been approved. Legal advice obtained by the City suggests that the once the Policy is adopted as final along with Clause 32.3 under LPS 3 they City has grounds to require the laneway at development application stage.

The argument has been expressed that the landowners bought this site for its development potential which it wishes to maximise. This is not a valid planning consideration and given that the role of local government planning is to protect the interests of the City holistically a proactive approach is being applied.

The current local planning framework is evolving and unresolved. Any purchase of development sites within the density transition areas cannot solely rely on LPS3 as a guaranteed development pathway as the City is currently formulating localised planning Policy responses to better augment the R-Codes to suit City of Nedlands and it’s localised streetscape, desired future character and best practice urban design for this area.

The application of this Policy over the four parent lots will seek to avoid the construction of up to 8 double crossovers to Jenkins Road over the two parent lots if redeveloped in accordance with the newly adopted and higher R60 coding.

The majority of submissions received during the advertising period of LPS 3 discussed concerns in relation to increased crossovers and hardstand to the street, reduction of trees and the degradation of the Nedlands green leafy suburban character due to inappropriate development and subdivision within the up coded areas. Without a local planning Policy mandating a laneway in this location the proposed development and subdivision proposals will result in a poor redevelopment precedent. The significant increase in crossovers will compromise the orderly and proper planning for this precinct and sets a poor precedent for minimisation of crossovers to the street. This does not accord with the future desired streetscape character for Doonan Road, Jenkins Avenue or Vincent Street.

It is envisaged that this process will be repeated for corner redevelopment lots within the density transition up coded areas applicable under LPS 3 and that through precinct planning processes, a series of new laneways will be identified and established through local planning policies. A future goal for the City would also be to investigate the possibility of these laneways being used for waste and other services to remove vehicle movements from the main streets.

1. **WAPC Approval**

If Council adopts this LPP, the standards in relation to Vehicle Access, Outdoor Living Areas and Landscaping will not be enforceable until such time as the Western Australian Planning Commission (WAPC) approves the LPP.

This is because under Part 7.3 of the Residential Design Codes Volume 1 these areas can only be amended is approval from the WAPC is granted.

Accordingly, once a final version is adopted by Council post advertising, the LPP will be referred to the WAPC in order to seek their approval for provisions related to Vehicle Access, Outdoor Living Areas and Landscaping. This report, together with Council’s resolution on the report, will also be referred to the WAPC.

1. **Modifications to the Policy**

* Addition of objective 3.9 ‘ensure future development respects the existing context of the locality and the objectives of the Safe Active Streets Program.
* Addition of tree replacement requirements to clause 4.1.7 ‘Where a tree dies within the two-year establishment period, the tree shall be replaced at the relevant landowner’s cost.’
* Addition of 4.3 ‘Variation to this Policy’ which outlines the requirements of applicants and the City in considering variations to the Policy.

1. **Consultation**

In line with Council’s January 2020 resolution, the Policy was advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City’s Consultation LPP from 15 February 2020 till 7 March 2020. A notice was published in the newspaper, and details were included on the City’s website and the Your Voice engagement portal. The four affected landowners have been notified of this report and were sent a letter during the advertising of this Policy notifying them.

During the advertising period the City received a total of 64 Submissions, a few of these which had been submitted on the wrong Policy or were duplicates. These are summarised and have been responded to in the Summary of Submissions included at Attachment 3. Council is also provided with full copies of all original submissions. The majority of submissions showed support for the Policy in relation to reducing the number of crossovers especially on Jenkins Avenue believing that this would enhance and protect the amenity and streetscapes of the area. A graphical summary of submissions has been included below:

1. **Statutory Provisions**

**Planning and Development (Local Planning Schemes) Regulations 2015**

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) Schedule 2, Part 2, Clause 4(3), sets out that after the expiry of the 21-day advertising period, the local government must review the proposed Policy in light of any submissions made and resolve to:

a) Proceed with the Policy without modification; or

b) Proceed with the Policy with modification; or

c) Not to proceed with the Policy.

Administration recommends that Council resolves to proceed with the Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements. LPP with modifications as shown in Attachment 2.

The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP.

**City of Nedlands Local Planning Scheme No. 3**

Under Clause 32.3 of the City of Nedlands Local Planning Scheme No. 3 the City requires the ceding of land for laneways identified through a Local Planning Policy. This Policy will give effect to this clause and require developers to cede land identified for a laneway at development or subdivision approval stage. Clause 32.3 is shown below.

**Clause 32.3**

Ceding of rights-of-way and laneway widening.

1. The owner of land affected by a right-of-way or laneway identified by the scheme, structure plan, local development plan, activity centre plan or local planning Policy is to, at the time of developing or subdividing the land:
2. cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
3. construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
4. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.
5. **Conclusion**

The Doonan Road Laneway and Built Form Requirements LPP is the preferred mechanism to provide for the enforcement of Clause 32.3 in the City’s Local Planning Scheme No. 3 to create a laneway through the properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands. The main outputs of the PPolicy are to minimise the number of crossovers to the street and to encourage built form provisions that will provide for a laneway which has the appearance of a Nedlands local street rather than a blank wall of garages. Without a local planning Policy, the City will lack the mechanism to enforce the provision of a laneway to service the subject sites and therefore will have no mechanism to limit 5 or 6 crossovers being approved.

As such, it is recommended that Council endorses Administration’s recommendation to adopt the Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements LPP.

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| **PD13.20** | **Local Planning Scheme 3 – Local Planning Policy: Taylor Road – Dalkeith Road Laneway and Built Form Requirements** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil. |
| **Attachments** | 1. Draft Taylor Rd to Dalkeith Road and Built Form Requirements Local Planning Policy (LPP) 2. Plans of Subdivision proposals addressing Jenkins Ave (CONFIDENTIAL) |

1. **Executive Summary**

The purpose of this report is for Council to prepare and adopt for advertising the Taylor Road – Dalkeith Road Laneway and Built Form Requirements Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

This policy details the requirements relating to the ceding of private land and creation of an east-west laneway between Taylor Road to Dalkeith Road, running parallel to the north of Jenkins Avenue. It also outlines the built form requirements for properties abutting the proposed laneway.

This policy has been created as a mechanism to enable the ceding of land and construction of a laneway abutting the abovementioned properties (defined in Figure 1). The policy responds to future development and subdivision under the new density code. The policy seeks to mitigate the undesirable development of maximum width crossovers to Jenkins Avenue and streets aligned perpendicular to Jenkins Avenue.

The aim of the policy is to protect and maintain the existing landscaped and tree lined streetscapes, whilst minimising the extent of crossovers, driveways and hardstands along Jenkins Avenue.

1. **Recommendation to Committee**

**Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, the Taylor Road – Dalkeith Road Laneway and Built Form Requirements Local Planning Policy.**

1. **Background**

The properties to the north of Jenkins Avenue, between Taylor Road and Dalkeith Road (shown on Figure 1 below) have been up-coded to a density of R60 under the City’s currently adopted Local Planning Scheme No. 3 (LPS3). This allows the properties to develop approximately 6 grouped dwellings (townhouses) at 2 storey height limits or approximately 6-10 multiple dwellings (apartments) over a 3-storey height limit.

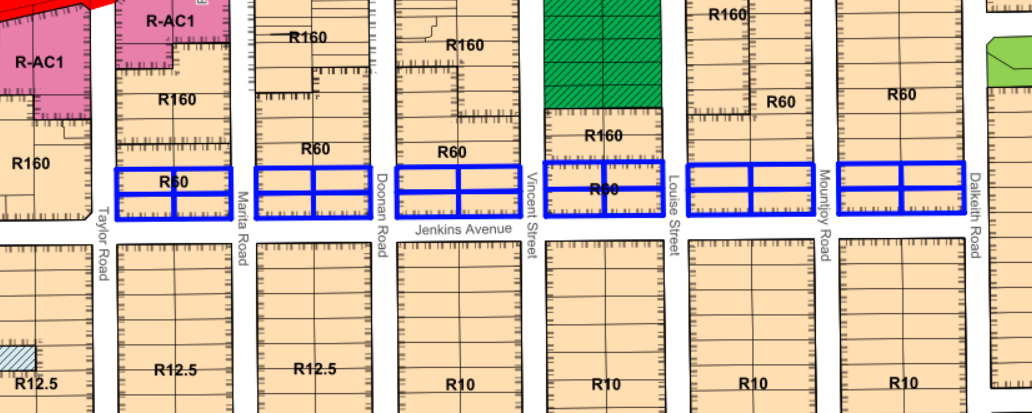


Figure 1: Properties to the north of Jenkins Avenue, between Taylor Road and Dalkeith Road.

Within the City’s new Local Planning Scheme No. 3 (LPS3), clause 32.3 allows the City to require that a developer create a laneway and cede and construct that laneway at the developer’s cost for the purpose of creating rights of way or laneways which are identified by the scheme or, a structure plan, local development plan, activity centre plan or Local Planning Policy at the time of the owner developing or subdividing the land. Therefore, if Council chooses to adopt this policy, the City will have the head of power under clause 32.3 of LPS 3 to acquire the land and require landowner(s) and/or developer(s) to construct the laneway to the City’s specifications at the time of subdivision or significant redevelopment.

The City has received three (3) subdivisions, each proposing a total of five (5) lots, creating a total of fifteen (15) newly subdivided lots which all obtain vehicle access from Jenkins Avenue. Significant concerns were raised by Administration due to the likely subsequent streetscape impact on Jenkins Avenue.

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

The properties to the North of Jenkins Avenue have a higher density code through the adoption of LPS 3. As shown in the map above, the properties North of Jenkins Avenue, between Taylor Road and Dalkeith Road have a density code of R60 and greater. On the other hand, the properties to the South of Jenkins Avenue between Taylor Road and Dalkeith Road have a density code of R12.5 and lower.

The subdivision applications being received by the City indicate that the properties which are seeking a five (5) lot subdivision, will all require double width, 6.0m wide crossovers to Jenkins Avenue. Administration considers that this would pose an undesirable streetscape outcome and that garages and crossovers should be located to the rear of the property with access from a new laneway. This proposed laneway will seek to connect Taylor Road to Dalkeith Road.

This policy has been put forward to aid the City in identifying the required land between these lots to create and construct a laneway. This will then remove the requirement for a large number of crossovers addressing Jenkins Avenue. The laneway created will result in one crossover/entry point being required on each road, running parallel to Jenkins Ave, therefore removing up to potentially sixty (60) double width crossovers along Jenkins Avenue, if each of the existing lots was to subdivide into five (5) lots, with each new lot gaining access from Jenkins Avenue. The proposal also establishes development opportunity for the properties to the north of the laneway which will benefit from a newly created laneway (street) frontage when they are the subject of a future development or subdivision.

1. **Detail**

This policy details the requirements for the proposed laneway between Taylor Road and Dalkeith Road. It sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and subsequent development. The policy requires a 3.5m wide strip of land to be ceded by each of the affected properties, measured from the centre boundary line. Once each property has ceded 3.5m, a 7.0m wide laneway will be created, which will be constructed to the City’s specifications including being sealed, drained and provided with lighting and landscaping. In the interim, the 3.5m ceded portion may act as a one-way access, akin to a battle-axe driveway.

The graphic below (Figure 2) indicates the proposed laneway location, marked by a red dashed line. The properties outlined in blue are affected by this policy and will be required to cede land at the time of subdivision or significant redevelopment. (significant redevelopment includes demolition, construction of a new single house, creation of grouped or multiple dwellings or other development outlined by the City of Nedlands.)

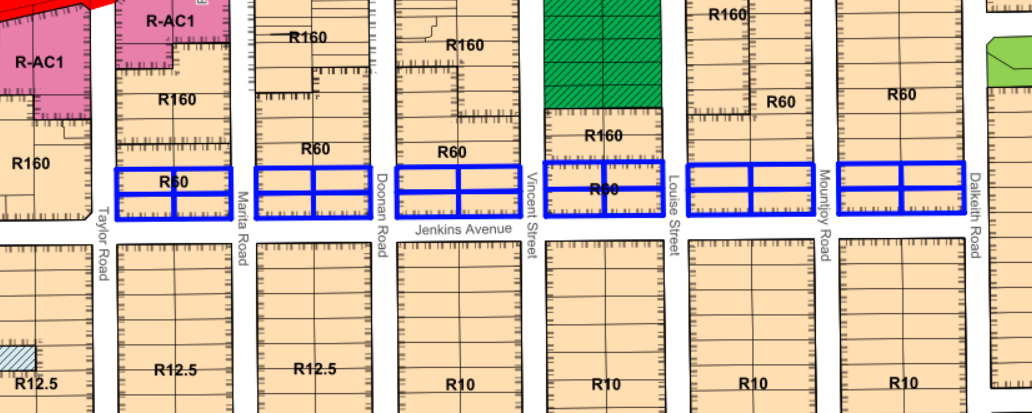


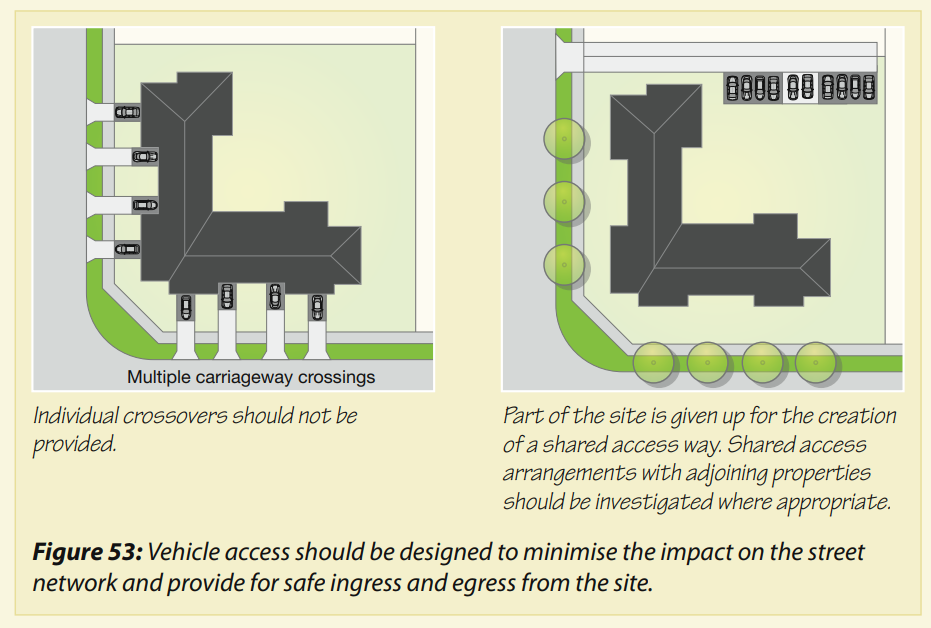
Figure 2: Proposed laneway location for properties to the north of Jenkins Avenue, between Taylor Road and Dalkeith Road.

The benefits of a laneway servicing the abovementioned properties is not only the minimisation of crossovers to Jenkins Avenue and the streets perpendicular to Jenkins Avenue. The Policy will also unlock the potential for the properties to the north of the laneway, which are currently land locked, to be developed as street fronted lots and in many instances as freehold titled lots. Without the designated laneway, where more than two lots side-by-side are sought, these lots can only be subdivided as survey strata lots with a common property driveway (battle-axe configuration) or a maximum of two street frontage freehold green title lots.

The laneway will result in a reduced hardstand area compared to what is currently required for a battle-axe style development with a common driveway. Clause 5.3.5 in the Residential Design Codes Volume 1 requires a driveway serving four (4) or less dwellings to have a driveway of no less than 3m. In the case of a driveway serving five (5) or more dwellings it must accommodate two-way access. Therefore, the laneway will ultimately require 6m or the ability to manoeuvre to allow for vehicles to enter and exit in forward gear. This proposal will also create a thoroughfare for both vehicles, cyclist and pedestrians, in lieu of what would be pseudo private cul-de-sacs as a result of multiple battle-axe driveways.

The explanatory guidelines of the Residential Design Codes Volume 1 - Clause 6.5 Vehicular Access - Figure 53, reproduced below, illustrates how the WAPC through State Planning Policy encourages consolidated street access in lieu of individual crossovers, which are discouraged. This figure identifies the detrimental impact caused by multiple crossovers on the amenity and streetscape, noting too many crossovers cause loss of kerbside parking space, lack of space for street trees and furniture (verge waste collection), interruption to pedestrian use of footpaths and increased hazards for cyclists.

This proposed policy is seen to be consistent with the provisions of Figure 53 – Clause 6.5 of the explanatory guidelines of the Residential Design Codes Volume 1. As such, this policy will ensure that vehicle access is located to the rear of properties where possible and encouraging shared access by utilising an aggregate vehicle access solution for future lots.



The built form controls in the policy seek to encourage activated frontages. The laneway is not to present as a solid wall of garages and crossovers, but instead is to maintain a street-like appearance with pedestrian access and amenity, street trees. lighting and visual surveillance opportunities to and from the laneway and adjacent dwellings to establish positive Crime Prevention Through Environmental Design (CPTED) principles.

The removal of crossovers from Jenkins Ave is consistent with the objectives of the Safe Active Streets Program which is currently being developed along Jenkins Avenue. The Department of Transport (DoT) is working with the City of Nedlands in the Safe Active Streets Program to progress a safe active street through various phases of design, consultation, construction and activation.

Safe active streets are cycle routes on quiet local streets, where speeds are reduced to 30 km/h to allow for a safer shared street space. With lower traffic speeds, the streets are much safer for pedestrians and riders of all ages and abilities, as well as for people driving. Safe active street routes also form part of wider bicycle networks, connecting to off-road shared paths and linking community amenities such as schools, railway stations or shops. At major entry points to the safe active streets, blue-and-white Safe Active Street road patches, 30 km/h speed limit signs and raised platforms help to slow traffic and alert people that they are in a bicycle and pedestrian friendly space.

The removal of additional crossovers will help mitigate vehicle, pedestrian and cyclist interactions by reducing points of conflict along Jenkins Avenue. As such, this policy is seen to complement the Safe Active Street along Jenkins Avenue which seeks to lower traffic speeds, creating a much safer environment for pedestrians and cyclists.

The development or subdivision of properties to the north of Jenkins Ave will create opportunities for some lots/dwellings to have their primary frontage to the laneway. For these properties, the laneway will be developed with the appearance of a minor street including landscaping, pedestrian friendly access-ways and major openings from buildings overlooking the laneway. This will mean, that although its primary purpose is providing vehicle access to dwellings, the laneway will avoid potential multiple crossovers to the street, as well as maintaining the character of Nedlands’ traditional streetscape, being pedestrian friendly, green, landscaped, tree lined and passively observed by surrounding properties.

The policy, through its built form controls, aims to encourage a pedestrian friendly, landscaped street appearance along the laneway. This is done by mandating that fencing to the laneway remains consistent with primary street fencing requirements, being open in style to allow for passive surveillance. A clear definable pedestrian entry way is to be provided from the laneway and this is to encourage legibility and ease of access as well as avoiding the frontage from being car dominated. It also mandates passive visual surveillance of the laneway from habitable rooms of the dwelling(s).

Without this policy in place, the City lacks the ability to apply LPS 3 clause 32.3 mandating the ceding of land for the creation of a laneway. If the properties were subdivided first, as has been the case on lots such as at 18 Doonan Road, the application would be determined by the West Australian Planning Commission (WAPC) and not the City. It is understood that the WAPC’s position is that the City can deal with multiple crossovers at the development application stage. However, once new lots area created through the subdivision process, the City may be unable to refuse access to each lot and multiple crossovers will likely be built. It is also unlikely that were a future subdivision application lodged, the WAPC would impose a future condition requiring the preparation of a Local Development Plan (LDP) to alternatively control and guide future development. The City has previously tried to negotiate the requirement for an LDP; however, this approach was not supported by the Commission. The lack of alternative comprehensive planning tools creates challenges for the City to achieve a holistic, long term planning approach.

The adoption of this LPP allows the City to negotiate and require both a more responsive and appropriate streetscape and built form outcome at the time of redevelopment.

The current local planning framework is evolving and unresolved. Any purchase of properties within the density transition areas cannot solely rely on LPS3 as a guaranteed development pathway as the City is currently formulating localised planning policy responses to better augment the R-Codes to suit City of Nedlands, it’s localised streetscape, desired future character and best practice urban design for this area.

In this circumstance, the proposed subdivisions and subsequent redevelopments of properties to the north of Jenkins Ave have the capacity to create 60, double crossovers (a total possible width of 360m) where there are currently 12. The application of this policy will seek to avoid the construction of 60 double crossovers to Jenkins Ave.

The majority of submissions received during the advertising period of LPS 3 discussed concerns in relation to increased crossovers and hardstand to the street, reduction of trees and the degradation of the Nedlands ‘green leafy suburban character’ due to inappropriate development and subdivision within the up-coded areas. Without a local planning policy mandating a laneway in this location, future development and subdivision proposals will result in a poor redevelopment precedent for the minimisation of crossovers across the City. The significant increase in crossovers will also compromise the orderly and proper planning for this precinct and does not accord with the desired streetscape character for Jenkins Ave or the locality.

If this policy is adopted for advertising, as per the Administration’s recommendation, it can be given due regard during the assessment of development applications and subdivision referrals. It is envisaged that this process will be repeated for other corner redevelopment lots within the density transition up-coded areas applicable under LPS 3 and that through future precinct planning processes, a series of new laneways will be identified and established through local planning policies. A future goal for the City would also be to investigate the possibility of these laneways being used for waste and other services to remove vehicle movements from the main streets.

1. **WAPC Approval**

If Council adopts this LPP for the purpose of advertising, the standards in relation to Vehicle Access, Outdoor Living Areas and Landscaping will not be enforceable until such time as the Western Australian Planning Commission (WAPC) approves the LPP. This is because under Part 7.3 of the Residential Design Codes Volume 1, these areas can only be amended when approval from the WAPC is granted.

Accordingly, once a final version of the policy is adopted by Council following advertising, the LPP will be referred to the WAPC in order to seek its approval for provisions related to Vehicle Access, Outdoor Living Areas and Landscaping. This report, together with Council’s resolution, will also be referred to the WAPC.

1. **Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City’s Consultation of Planning Proposals LPP. This will include a notice being published in the newspaper, details being included on the City’s website and the Your Voice engagement portal.

The affected landowners and occupiers of this LPP will be consulted during the advertising of this policy.

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

1. Proceed with the policy without modification.
2. Proceed with the policy with modification; or
3. Not to proceed with the policy.
4. **Statutory Provisions**

**Planning and Development (Local Planning Schemes) Regulations 2015**

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

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

**City of Nedlands Local Planning Scheme No. 3**

Under clause 32.3 of the City of Nedlands Local Planning Scheme No. 3, the City requires the ceding of land for laneways identified through a Local Planning Policy. This policy will give effect to this clause and require developers to cede land identified for a laneway before development or subdivision approval will be granted. Clause 32.3 is shown below.

**Clause 32.3**

Ceding of rights-of-way and laneway widening.

1. The owner of land affected by a right-of-way or laneway identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy is to, at the time of developing or subdividing the land:
2. cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
3. construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
4. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.
5. **Conclusion**

The Taylor Road to Dalkeith Road Laneway and Built Form Requirements LPP is the preferred mechanism to enable the enforcement of clause 32.3 in the City’s Local Planning Scheme No. 3 to create a laneway through the properties identified in Figure 2 between Taylor Road and Dalkeith Road running parallel to the north of Jenkins Avenue.

The primary purposes of the policy are to minimise the number of crossovers to the street and to encourage built form provisions that will provide for a laneway which has the appearance of a Nedlands local street rather than a blank wall of garages and multiple crossovers along Jenkins Avenue.

Without a local planning policy, the City will lack the mechanism to require the provision of a laneway to service the subject sites, and / or limit the approval of multiple crossovers in the event an application for grouped dwellings or multiple dwellings or subdivision approval is applied for first. The City has already received three (3) subdivision applications for various properties identified in Figure 2. Therefore, this Policy has been prepared for imminent adoption for advertising in order to avoid a sub-optimal development and built form outcome.

As such, it is recommended that Council endorses Administration’s recommendation to prepare (adopt to advertise) the Taylor Road to Dalkeith Road Laneway and Built Form Requirements LPP.

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| **PD14.20** | **Scheme Amendment No. 4 – Amendment to Table 3 – Zoning Table- Fast Food Outlet Prohibition** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Scheme Amendment No. 4 Report |

1. **Executive Summary**

The purpose of this report is for Council to provide consent to advertise (initiate) the proposed Scheme Amendment No. 4 to Local Planning Scheme No. 3 (LPS3).

The amendment proposes changes to Table 3 – Zoning Table. The amendment proposes that Fast Food Outlets will be a non-permissible (‘X’ use) in all zones within the City except for the Urban Development Zone. This will require modification of the permissibility of the use class for the Mixed Use and Neighbourhood Centre Zones.

The amendment is considered a Standard Amendment as it satisfies the following criteria of the Regulation 34 of the Planning and Development (Local Planning Scheme) Regulations 2015:

1. an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
2. an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
3. an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
4. an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
5. any other amendment that is not a complex or basic amendment.
6. **Recommendation to Committee**

**Council:**

1. **Pursuant to Section 75 of the Planning and Development Act 2005, adopt an Amendment to Local Planning Scheme 3 by:**

**Amending Table 3 – Zoning Table so that Fast Food Outlet is an ‘X’ use (Not Permitted) in all zones within the City except for the Urban Development Zone. This will require modification of the permissibility of the use class for the Mixed Use and Neighbourhood Centre Zones.**

1. **In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 section 35(2), the City contends that the amendment is a Standard Amendment for the following reasons:**

**It satisfies the following criteria of Regulation 34 of the Planning and Development (Local Planning Scheme) Regulations 2015:**

1. **an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;**
2. **an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
3. **an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;**
4. **an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;**
5. **any other amendment that is not a complex or basic amendment.**
6. **Pursuant to Section 81 of the Planning and Development Act 2005, refers Scheme Amendment 4 to the Environmental Protection Authority.**
7. **Subject to Section 84 of the Planning and Development Act 2005 advertises Scheme Amendment 4 – Fast Food Outlets in accordance with Regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Council Policy – Community Engagement.**
8. **Amendment Details**

Table 3 – Zoning Table controls the type of land uses that are permissible in each zone within the City. Currently, Table 3 states that fast food outlets are a non-permissible use (‘X’ use) in the Residential, Local Centre, Service Commercial and Private Community Purpose zones, and a discretionary use requiring advertising (A use) in the Mixed Use and Neighbourhood Centre zones.

This amendment seeks to make Fast Food Outlets a non-permissible use (‘X’ use) in all zones within the City. The built form associated with a drive through fast food outlet is incompatible with the existing and desired character of the Mixed Use areas of the City. A stand alone, ‘box’ style outlet with drive through facilities will not be complementary to the proposed mix of multi storey, commercial and residential properties that will define these areas. The potential for the intensification of land use that is associated with fast food outlets, including increased noise and traffic, will have a negative impact on the amenity of the Mixed Use zones.

The City’s recent experience with development applications for large box style commercial developments on major thoroughfares is that the applicant is seeking to not provide a significant residential component in their development. This inhibits the City from meeting its dwelling targets along major corridors that are zoned for Mixed Use, such as Stirling Highway, Broadway and on a smaller scale, Waratah Avenue.

This potential built form outcome does not align with the objectives of the zone, or the desired future character of the area. Comparatively, a take away only food place with no drive through facility, situated as the ground floor tenancy of a mixed use building will not have an impact on the development contributing to the objectives of the zone, nor will it compromise the development potential of a site. This style of take away food use is therefore seen as far more compatible with the objectives of the zone and is in keeping with the desired future character of the City’s Mixed Use areas.

As per the Scheme Amendment Justification Report provided as Attachment 1, it is considered that this amendment to Table 3 – Zoning Table also aligns with the responsibilities of a Local Government as per the WA Local Government Act 1995. The Act requires a Local Government to be actively concerned with the needs of the community and provides an avenue to care for their wellbeing through planning legislation. This amendment is for a community purpose and, in light of this legislation, it is reasonable for the City of Nedlands to be concerned with the health and wellbeing of their community.

1. **Consultation**

If the Scheme Amendment is granted consent to advertise, the City will refer the application to the Environmental Protection Authority (EPA) in accordance with Section 81 of the Planning and Development Act 2005.

The application is required to be advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). The consultation of this Scheme Amendment is in line with the ‘consult’ engagement process under the City’s Community Engagement Council Policy. Advertisement of a standard amendment is as follows:

* The City must prepare a notice in a form approved by the West Australian Planning Commission (WAPC) giving details of the purpose, where the amendment may be inspected and to whom and during what period submissions can be made.
* The City must then advertise the amendment by publishing the notice in the newspaper, display the notice in the Administration building, provide a copy to all public authorities which are likely to be affected and publish a copy on the City’s website.
* The advertising period can be no less than 42 days commencing on the day that the notice is published in a newspaper circulating in the scheme area.

Once submissions are received the City must acknowledge in writing the receipt of each submission.

A 60-day consideration period for a standard scheme amendment applies after the end of the submission period, in which the City must consider all submissions and Council must pass a resolution to support, support with modifications or not support the proposed amendment.

Once Council has made their decision on the scheme amendment, all documents will be referred to the WAPC and they will deliver a recommendation to the Minister for Planning. The Minister will then make the final decision on the proposed scheme amendment.

1. **Strategic Implications**

This Scheme Amendment proposes changes that are consistent with the zoning in the City’s previous Town Planning Scheme No. 2. This proposed amendment is consistent with discussions that Administration has had with Council in relation to the use of Fast Food Outlets. Provision exists within the Planning and Development (Local Planning Schemes) Regulations 2015 for the City to seek amendments to the permissibility of uses through a Scheme Amendment process.

1. **Budget / Financial Implications**

Nil.

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| **PD15.20** | **Scheme Amendment No. 7 – Amendment to Density Coding on Broadway, Hillway, Kingsway, Edward and Elizabeth Street** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Scheme Amendment No. 7 Justification Report 2. Scheme Amendment No. 7 Maps of Proposed Density Changes |

1. **Executive Summary**

The purpose of this report is for Council to provide consent to prepare (adopt) the proposed Scheme Amendment No. 7 to Local Planning Scheme No. 3 (LPS3).

Local Planning Scheme No. 3 (LPS3) was gazetted on 16 April 2019. Modifications from the Minister for Planning introduced changes to the Scheme that increased the density coding along sections of Broadway and surrounding streets Kingsway, Hillway, Elizabeth Street and Edward Street, Nedlands as follows:

* Numbers 2 to 36 Kingsway and 42 to 96 Kingsway: increased from R12.5 to R60;
* Numbers 1 to 5 Hillway: increased from R12.5 to R-AC3;
* Numbers 7 to 23 Hillway: increased from R12.5 to R60;
* Numbers 69 to 131 Broadway: increased from R35 to R-AC3;
* Numbers 133 to 139 Broadway: increased from R12.5 to R-AC3;
* Number 2 Edward Street: increased from R12.5 to R60; and
* Numbers 1, 1A and 1B Elizabeth Street: increased from R35 to R-AC3.

At its Meeting held on the 25 February 2020, Council resolved to propose an amendment to lower the density code of the above properties. The City’s resolution reads:

‘Council resolves to prepare a scheme amendment to LPS3 to rezone:

* Numbers 2 to 96 Kingsway from R60 to R40
* Numbers 69 to 139 Broadway, and 1 and 3 Hillway from R-AC3 to R-AC4
* Numbers 5 to 23 Hillway from R60 to R40’

Administration have investigated this proposal, and recommends changes to the wording of this resolution to ensure consistency with the Scheme’s existing density codes, correct planning terminology and to avoid the exclusion of adjoining properties in this proposed re-coding that could result in ‘orphan’ density codes along these streets. The recommended revised wording of the scheme amendment is:

Council resolves to prepare a scheme amendment to LPS3 to change the density coding of subject properties as follows:

* Numbers 2 to 36 Kingsway and 42 to 96 Kingsway from R60 to R40;
* Numbers 7 to 23 Hillway from R60 to R40;
* Numbers 1 to 5 Hillway from R-AC3 to R-AC4;
* Numbers 69 to 139 Broadway from R-AC3 to R-AC4;
* Numbers 2 Edward Street from R-AC3 to R-AC4; and
* Numbers 1, 1A and 1B Elizabeth Street from R-AC3 to R-AC4.

The City considers the amendment to be a Complex Amendment as it satisfies the following criteria of the Regulation 34 of the Planning and Development (Local Planning Scheme) Regulations 2015:

1. an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
2. an amendment that is not addressed by any local planning strategy;
3. an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
4. **Recommendation to Committee**

**Council:**

1. **Pursuant to Section 75 of the Planning and Development Act 2005, adopt an Amendment to Local Planning Scheme 3 by:**
   1. **Changing the residential density coding of subject properties as follows:**

**Numbers 2 to 36 Kingsway and 42 to 96 Kingsway, Nedlands from R60 to R40;**

**Numbers 7 to 23 Hillway, Nedlands from R60 to R40;**

**Numbers 1 to 5 Hillway, Nedlands from R-AC3 to R-AC4;**

**Numbers 69 to 139 Broadway, Nedlands from R-AC3 to R-AC4;**

**Numbers 2 Edward Street from R-AC3 to R-AC4; and**

**Numbers 1, 1A and 1B Elizabeth Street from R-AC3 to R-AC4.**

1. **In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 section 35(2), the City believes that the amendment is a Complex Amendment for the following reasons:**
   1. **an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
   2. **an amendment that is not addressed by any local planning strategy; and**
   3. **an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;**
2. **Pursuant to Section 81 of the Planning and Development Act 2005, refers Scheme Amendment 7 to the Environmental Protection Authority.**
3. **In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 section 37(2) submit 2 copies of the proposed Scheme Amendment 7 to the West Australian Planning Commission for approval to advertise.**
4. **Subject to Section 84 of the Planning and Development Act 2005 advertises Scheme Amendment 7 in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Council Policy – Community Engagement.**
5. **Amendment Details**

Should the City’s Council resolve to proceed with Administration’s recommended scheme amendment, the wording will be:

To prepare a scheme amendment to LPS to change the residential density coding of subject properties as follows:

* Numbers 2 to 36 Kingsway and 42 to 96 Kingsway, Nedlands from R60 to R40;
* Numbers 7 to 23 Hillway, Nedlands from R60 to R40;
* Numbers 1 to 5 Hillway, Nedlands from R-AC3 to R-AC4;
* Numbers 69 to 139 Broadway, Nedlands from R-AC3 to R-AC4;
* Numbers 2 Edward Street, Nedlands from R-AC3 to R-AC4; and
* Numbers 1, 1A and 1B Elizabeth Street from R-AC3 to R-AC4.

If approved by the Western Australian Planning Commission (WAPC) the proposal will result in decreases in height and plot ratio, and in some instances increases in rear setbacks, as per the indicative built form measures of State Planning Policy 7.3 – Residential Design Codes Volume 2.

1. **Consultation**

In accordance with the requirements of the Regulations, should Council resolve to advertise this amendment, the City is required to send two copies of the proposed amendment to the WAPC seeking approval to advertise it to the public. The request for approval to advertise the amendment must be sent to the WAPC within 21 days of the Council resolution.

If the WAPC do not consent to the amendment being advertised, the processing of the scheme amendment will cease at this point.

1. **Strategic Implications**

This Scheme Amendment is consistent with discussions that Administration has had with Council in relation to zoning in the subject area. Provision exists within the Planning and Development (Local Planning Schemes) Regulations 2015 for the City to seek amendments to zoning through a Scheme Amendment process.

1. **Budget / Financial Implications**

Nil.

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| **PD16.20** | **No. 6 Alexander Road, Dalkeith – 4 x Multiple Dwellings** |
|  | |
| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Applicant** | Dr Bay Yeo |
| **Landowner** | BHY Holdings Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA19/40779 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received |
| **Attachments** | 1. Site photographs 2. Location plan 3. Aerial 4. Development plans dated 18 February 2020 5. Applicant planning report 6. Schedule of submissions 7. Architect and landscape peer review 8. Acoustic report 9. Waste management plan 10. Sustainability report 11. Landscape plan 12. Administration’s Assessment of SPP 7.3 – R-Codes Vol 2 13. Submissions (CONFIDENTIAL) |

1. **Executive Summary**

The purpose of this report is for Council to determine an application received from the applicant on 15 October 2019, for a multiple dwelling development at 6 Alexander Road, Dalkeith. Originally comprising five storeys and five multiple dwellings, however, has been since reduced to four storeys and four multiple dwellings. The latest amended plans were received on 18 February 2020.

The application was advertised as a complex application pursuant to LPP – Consultation of Planning Proposals. A total of 78 individual submissions were received, in addition to one petition. Of the individual submissions received, 74 submissions objected to the proposal and 4 submissions supported the proposal. All petitioners objected to the proposal.

It is recommended that the application be approved as it is considered to meet the provisions of Local Planning Scheme No. 3 (LPS 3) and element objectives of the Residential Design Codes Volume 2 – Apartments (R-Codes).

1. **Recommendation to Committee**

**Council approves the development application dated 15 October 2019 with amended plans being received on 18 February 2020, to construct four (4) multiple dwellings on Lot 381 on Plan 3395 at 6 Alexander Road, Dalkeith, subject to the following conditions and advice:**

1. **At Building permit stage, the hereby approved development shall not exceed 15m in height.**
2. **This decision constitutes planning approval only and is valid for a period of two (2) years from the date of approval. If the subject development is not substantially commenced within the two (2) year period, the approval shall lapse and be of no further effect.**
3. **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.**
4. **This approval is for Multiple dwellings. Development shall be in accordance with this land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval.**
5. **Prior to occupation of the development the finish of the parapet walls is to be finished in accordance with the hereby approved plans.**
6. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
7. **A Demolition and Construction Management Plan being provided to the City which addresses the control of; vibration, dust, noise, waste, sand, sediment, temporary fencing, hoardings, gantries, site access / egress, site deliveries, heavy construction machinery, traffic control shall be provided to the City with or before the demolition permit and building permit approval applications are submitted and shall be implemented to the satisfaction of the City.**
8. **Prior to the lodgement of a Building Permit, an arborist report shall be submitted to the City, demonstrating that the construction and built development will not adversely affect the health of any tree located on the verge.**
9. **The Acoustic report prepared Herring Storer Acoustics forms part of this approval. The recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City.**
10. **Prior to occupation of the development any new or modified crossover associated with the hereby approved development must receive separate approval from the City.**
11. **Prior to the application of a building permit, the proposed car parking and vehicle access areas shall be sealed, drained, paved and line marked in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City.**
12. **The waste management plan forms part of this development approval and shall be complied with at all times to the satisfaction of the City.**
13. **Prior to commencement of development, a detailed landscaping plan prepared by a competent landscape designer shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
14. **Prior to occupation, the applicant shall arrange a suitably qualified consultant to prepare a lighting plan which demonstrates that the proposed development will not cause adverse amenity impacts on the surrounding locality and comply with the relevant Australian Standard;**
15. **A full site plan indicating the proposed siting of lighting columns including details of their proposed height;**
16. **Times of operation;**
17. **A Management Plan to detail the methods that will be employed to mitigate the impacts of light penetration and glare to the occupiers of adjacent property, including the use of an automatic timing device;**
18. **Details of orientation and hooding and/or other measures to minimise their impact in the interests of pedestrian and/or vehicular safety and amenity; and**
19. **Details where the proposed floodlighting is sited in close proximity to residential property, the spread of lighting from the lighting installation must be restricted in accordance with the relevant Australian Standard.**
20. **All major openings, balconies, and private open space are to comply with the visual privacy setbacks to adjoining properties in accordance with Table 3.5 of State Planning Policy Residential Design Codes Volume 2 - Apartments or shall be screened by either:**
21. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
22. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
23. **a minimum sill height of 1.60 metres as determined from the internal floor level, or**
24. **an alternative method of screening approved by the City.**

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

1. **At Building Permit Stage, one (1) multiple dwelling on the hereby approved development plans shall meet ‘Silver Level’ requirements as defined in the Liveable Housing Design Guidelines.**

**Advice Notes**

1. **The applicant is advised that the development is subject to a Building Permit.**
2. **In relation to condition (7), the applicant is advised that the landscaping plan is to address the recommendations outlined in the Landscape peer review.**
3. **In relation to condition (9), the applicant is advised that as part the Building Permit, a long section of the car park driveway is to be submitted to Technical Services to ensure the vehicle access and circulation areas comply with the AS2890.1.**
4. **The applicant is advised that where a pool is removed, it shall be filled with clean free draining fill and compacted in 300mm layers. A passing compaction test from a suitable qualified structural engineer is required prior to new structures being built in the location of the old pool.**
5. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
6. **Where building works are proposed to the building/tenancy a building permit shall be applied for prior to works commencing. Where required an Occupancy Permit shall be obtained prior to occupying the premises.**
7. **As per the recommendations contained within the acoustic report prepared by Herring Storer Acoustics - Acoustic assessment (by a suitably qualified acoustic consultant) is to be carried out for all mechanical equipment/plant once designed (including the use of the waste compactor, exhaust fans, air conditioners and any other plant) demonstrating compliance with the Environmental Protection (Noise) Regulations 1997.**
8. **The enclosure for the storage and cleaning of waste receptacles to be provided on the premises, and managed, as per the requirements of the City’s Health Local Laws 2017:**
9. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
10. **Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate;**
11. **Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;**
12. **Easily accessible to allow for the removal of the receptacles;**
13. **Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City;**
14. **Provided with a tap connected to an adequate supply of water; and**
15. **Adequately ventilated, such that they do not create a nuisance to residences (odour).**
16. **The applicant is advised that the development is to comply with the requirements of the Health Act (Laundries and Bathrooms) Regulations and Health Local Laws 1017;**
17. **Laundries are not to be situated in a room where food is prepared, stored or consumed. Where situated adjacent to a kitchen or room where food is stored, prepared or consumed, the facilities are to be separated by a wall, or other approved partition which shall be at least 1.8 metres high (i.e. extending from the floor to the roof or ceiling), and where an opening permitting communication between the laundry and kitchen is provided, the opening shall not extend for more than half the width of the room and it shall not be more than 1.2 metres wide. The door which when closed shall completely fill the opening.**
18. **The applicant is advised that in relation to the demolition works;**
19. **All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/ applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.**
20. **The applicant is advised that in order for the pool to be demolished - swimming pool waste Water is to be appropriately disposed of and is not to be discharged into the Water Corporation Sewerage System, City Stormwater drainage system or discharged freely off the residential lot.**
21. **The applicant/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.**
22. **The applicant is advised that 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.**
23. **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.**
24. **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.**
25. **The applicant is advised that the development is to be provided with suitable enclosures for the storage and cleaning of waste receptacles on the premises per the following requirements:**
26. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
27. **Walls not less than 1.8m in height and access of not less than 1m in width fitted with a self-closing gate;**
28. **Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;**
29. **Easily accessible to allow for the removal of the receptacles;**
30. **Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City;**
31. **Provided with a tap connected to an adequate supply of water; and**
32. **Adequately ventilated to mitigate odour.**
33. **The applicant is advised to consult the City’s Acoustic Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration 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.**
34. **The applicant is advised that where floodlighting is proposed, the applicant shall seek independent expert advice from a suitably qualified consultant detailing the particulars of the application, specifications of the type of floodlight proposed and certifying that the proposed lighting will not cause adverse amenity impacts on the surrounding locality and comply with the relevant Australian Standard;**
35. **A full site plan indicating the proposed siting of lighting columns including details of their proposed height;**
36. **Times of operation;**
37. **A Management Plan to detail the methods that will be employed to mitigate the impacts of light penetration and glare to the occupiers of adjacent property, including the use of an automatic timing device;**
38. **Details of orientation and hooding and/or other measures to minimise their impact in the interests of pedestrian and/or vehicular safety and amenity; and**
39. **Details where the proposed floodlighting is sited in close proximity to residential property, the spread of lighting from the lighting installation must be restricted in accordance with the relevant Australian Standard.**
40. **The applicant is advised that developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, they need to contract a carrier to install telecommunications infrastructure in their new development. If you choose National Broadband Network (NBN) to service your development, you will need to enter into a developer agreement with NBN. The first step is to register the development via**

[**http://www.NBNco.com.au/develop-or-plan-with-the-NBN/new-developments.html**](http://www.NBNco.com.au/develop-or-plan-with-the-NBN/new-developments.html)

**Once registered NBN will be in contact to discuss the specific requirements for the development. NBN requires you to apply at least six months before the required service date. All telecommunications infrastructure should be built to NBN guidelines found at**

[**http://www.NBNco.com.au/develop-or-plan-with-the-NBN/new-developments/builders-designers.html**](http://www.NBNco.com.au/develop-or-plan-with-the-NBN/new-developments/builders-designers.html)

1. **The applicant is advised that all works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, also require a separate approval from the City prior to construction commencing.**
2. **The applicant is advised that a new crossover or modification to an existing crossover will require a separate approval from the City prior to construction commencing.**
3. **The applicant is advised that the contractor/developer shall protect the City’s street trees from any damage that may be caused by the scope of works covered by this contract for the duration of the contract. All work carried out under this contract is to comply with the City’s policies, guidelines and Australian Standards relating to the protection of trees on or adjacent to development sites (AS 4870-2009).**
4. **The applicant is advised that all street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City and paid for by the owner of the property where the development is proposed, unless otherwise approved by the City.**
5. **Background**

**3.1 Land Details**

The subject site is located at 6 Alexander Road, Dalkeith. The land is formally identified as Lot 381 on Plan 3395 and is unaffected by encumbrances or notifications on title. It is owned by BHY Holdings Pty Ltd.

The land covers an area of 1,012sqm and has a 20-metre western frontage to Alexander Road. It is currently occupied by a single storey, pitched roof dwelling, sited centrally on the land between landscaped front and rear gardens including raised garden beds. A driveway and crossover is located to the south-west corner of the property without a front fencing. Two large canopy trees are located in the front verge along Alexander Road.

The land is not the subject of any recent previous application.

Site Photos are included as **Attachment 1**.

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| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R80 |
| **Land area** | 1012m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Residential (Multiple dwellings) |
| **Use Class** | Permitted (P) |

**3.2 Locality Plan**

3.2.1 Site surrounds

Following the gazettal of the Local Planning Scheme No. 3 (LPS 3) on 16 April 2019, the residential dwellings to the north and south were up coded to R80, and to the east the residential dwellings were up coded to Residential R60. The land to the south-east has been rezoned RAC-3 and forms the Waratah Village.

The land to the west contains a mix of redeveloped two storey contemporary homes, original character homes, duplex that are built to boundary or share a common wall and a development site.

The land to the north at no. 4B Alexander Road and south at no. 8A Alexander Road have been developed with double storey, contemporary townhouse style dwellings. Both adjoining dwellings are set back approx. 6m to the street, providing for driveway access and a limited amount of landscape area. The dwelling at no. 4B Alexander Road features a skillion roof whilst a flat roof is found at 8B Alexander Road.

The dwelling at no. 4B Alexander Road is partially set back from the common boundary at ground level between nil and 3.5m and approximately 2.2m at first floor. There is a 7.5m boundary wall situated at the approximate midpoint of the common boundary and one south facing non- habitable window located at first floor that interfaces with the application site. The dwelling’s primary open space is located to the east (rear) of the dwelling.

The dwelling at no. 8A Alexander Road is set back between 2m and 3.7m from the common boundary. There are three north facing windows located at the first floor which in interface with the application site. The dwelling’s primary open space includes a north facing metal patio and rear outdoor area which features a swimming pool in the rear north-east corner of the site. A double string solar panel arrangement is centrally located on the dwelling roof, set back approx. 4m south of the common boundary.

To the east, the land interfaces with the rear landscaped garden at 24 Philip Road which includes a large canopy tree at the south-west corner and abuts the application site.

To the south-east, the land interfaces with at grade car parking associated the Dalkeith Hall located at 97-99 Waratah Avenue.

The streetscape is described as varied, unlike some of the intact character streetscapes within the City. The size, style and character of the homes, hardscape features and vegetative characteristics differ depending on what side of the road and end one is. A streetscape analysis is contained as **Attachment 1**.

3.3.3 Local Context

The application site is located in an existing residential neighbourhood which has undergone some more recent subdivision and redevelopment, having been up coded from R10, R20 and R25 to R80 and R60, is intended to accommodate additional built form and density.

There is a mix of lot sizes, lot widths and dwelling styles along the section of Alexander Road proximate to the application site; located between Philip Road and Waratah Avenue. The street accommodates a mix of dwelling styles. There are examples of recently constructed contemporary double storey duplex / townhouse style developments with skillion or flat rooves, double width garages and driveways and both high permeable and low wall front fencing. There are also remnant examples of single storey interwar and post war dwellings with gabled rooves, single width driveways and low or absent front fencing.

The dwellings generally maintain a detached appearance when viewed from the street being set back from side and rear boundaries. Although there are variations to the extent of front setbacks, the surrounding dwellings sit within a landscaped setting, which is further reinforced by several mature canopy street trees, and the recent planting of new street tree stock.

A location plan and aerial map are included as **Attachment 2 and 3 respectively**.

1. **Application Details**

The applicant seeks development approval for a multiple dwelling development comprising four multiple dwellings over four storeys (see **Attachment 4**), details of which are as follows:

* 4 x 3 Bedroom multiple dwellings.
* Basement garage comprising 8 resident car parking bays and 4 visitor bays.

Following public consultation, the applicant submitted an amended set of development plans on 18 February 2020, upon which the following assessment is based. The amended plans included the following modifications:

* A maximum building height of 15 metres which is consistent with the primary control in Table 2.1;
* A 3.5m average side setback for the building, which is consistent with the primary control in Table 2.1;
* An increased front setback at Level 2 to 5.8m. The average setback is now more than triple the default 2m setback in Table 2,1;
* An increased southern boundary setback of 5.5m to the Master Bedroom at Level 4 to reduce bulk;
* An annotated visitor intercom station at Ground Level;
* Provision of a 1.8m high frameless glass fence at Ground Level adjacent to the eastern edge of the refuse store;
* Annotated ceiling height RLs on elevations;
* Provision of an independent street entrance for Unit 1 at the north-west of the site;
* Additional screening annotations to the north facing balconies at Levels 2 to 4 to address perceived privacy concerns; and
* Minor amendments to façade detailing on the southern elevation to reduce the perception of bulk.

By way of justification in support of the development application the applicant has provided an element objective assessment and addressed the submissions received and appended as **Attachments 5 and 6** to this report.

1. **Consultation**

The development application was advertised as a complex application in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 280 residents, business owners and landowners. A total of 79 individual submissions and two petitions were received, 75 of the individual submissions objected to the proposal, and 4 submissions supported the proposal. All persons noted on the petitions objected to the proposal. The submissions are shown graphically in the below pie graph:

The submissions received in support of the application include that:

* The development represents a good example of multiple dwellings with open space, landscaping and high amenity for ‘downsizers;’ and
* The development achieves the objectives of the Residential Zone, provides basement parking, a high level of parking, includes architectural merit, and sustainable and economic benefits of more residents to support local businesses

A summary of the objections and issues raised in the objections along with Administration’s response and action taken in relation to each issue:

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| **Submission** | **Officer Response** | **Action Taken** |
| **Building height** inconsistent with existing streetscape and community interest, does not meet element objectives | Refer to the detailed assessment of Element 2.2 Building height at section 6.3.1 below. | Complies with element objectives – no action required. |
| Two-three storey development requested | Refer to the detailed assessment of Element 2.2 Building height at section 6.3.2 below. | Complies with element objectives – no action required |
| Street setback | Refer to the detailed assessment of Element 2.3 Street setback at section 6.3.2 below. | Complies with element objectives – no action required |
| Side setbacks | Refer to the detailed assessment of Element 2.4 Orientation at section 6.3.2 below. | Complies with element objectives – no action required |
| Overshadowing / daylight and solar (solar panel) access | Refer to the detailed assessment of Element 3.2 Orientation at section 6.3.2 below. | Complies with the element objectives. No action required. |
| Building depth | The proposed dwellings are designed as multiple aspect apartments which together with generous sized rooms and high ceilings (approx. 3.1m) ensures ample opportunity for solar and daylight access and natural ventilation. There are no single aspect apartments proposed and the proposal meets the Natural Ventilation and Daylight objective. Varied building depths provide articulation of the building form and achieve appropriate internal and external residential amenity i.e. daylight/solar access and natural ventilation objectives. | Complies with element objectives – no action required. |
| Provision of adequate car parking | The proposal provides three (3) resident car bays per dwelling and 1 visitor bay per dwelling in a basement carpark exceeding the parking ratios under Table 3.9 of the Acceptable Outcomes of R-Codes Vol. 2. | Complies with element objectives – no action required. |
| Traffic and impacts on pedestrians and cyclists | A development of four dwellings will not adversely affect the surrounding road network. The City is not able to require a traffic impact assessment as it falls below the 10-dwelling threshold outlined in the State Government Transport Impact Assessment Guidelines. | No action required. |
| Amenity impacts | Refer to the detailed assessment at section 6.3.1 below. | No action required. |
| Landscaping and Deep Soil Area provision, loss of tree canopy and vegetation, creation of heat island effect | Refer to the landscaping plan contained as **Attachment 11** and the detailed assessment of Element 3.3 at section 6.3.1 below. | Condition no. 11 recommended. |
| Outlook | The amended proposal provides average side boundary setbacks of 3.5m and a rear setback of 8.4m above level 1. The sufficient separation is provided to enable reasonable outlook within and external to the proposal. | Complies with element objectives – no action required. |
| Visual privacy | Refer to the detailed assessment of Element 3.5 at section 6.3.1 below. | Condition no. 13 recommended. |
| Architectural design merit | Refer to the detailed assessment of at section 6.3.1 below | No further action required. |
| Plot ratio and bulk and scale impacts | Refer to the detailed assessment of Element 4.10 at section 6.3.1 below. | No further action required. |
| Waste management related amenity impacts | Refer to the assessment of Element 4.17 at section 6.3.1 below. | Condition no. 10 recommended. |
| Energy efficiency | The submission was in support of proposed energy efficient features of the design | Complies with element objectives – no action required. |
| Appropriateness of land use and or density | The proposed four storey and four multiple dwelling development is consistent with development expectations for the R80 density code. | Complies with element objectives – no action required. |
| Property values | Property value impacts do not represent a valid planning matter against which developments should be considered. | No action required. |
| Noise related amenity impacts | Refer to the detailed assessment of Element 4.7 at section 6.3.1 below. | Condition no. 12 recommended |
| Achievement of LPS 3 aims and objectives | The proposal is consistent with the relevant aims and objectives of LPS 3. | No action required. |
| Satisfaction of SPP 7.0 | The proposal satisfies the broad objectives of SPP7.0 when considered in accordance with the recommended conditions. | No further action required. |

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

The City provided a list of key issues that were informed by the responses.

1. **Assessment of Statutory Provisions**

**6.1 Planning and Development (Local Planning Schemes) Regulations 2015**

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

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

**6.2 Local Planning Scheme No. 3**

The development proposal has been considered in accordance with the provisions of LPS 3, the assessment of which is provided in the table below.

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| **Clause** | **Provision** | **Satisfies / Does not Satisfy** |
| 9. Aims of Scheme | Protect and enhance the local character and amenity. | Satisfies  The City has not yet defined the character of this precinct. However, whilst building height exceeds the existing single and double storey dwellings in the street, the proposed four (4) storey building height remains consistent with the building height expectations of the R80 density code. With one dwelling proposed on each level, the overall dwelling yield is lower than many recent received grouped dwellings applications in this area. By maintaining generous boundary setbacks especially at ground level and in the front setback, the proposal also creates meaningful opportunities for landscaping and canopy tree planting which will replicate the City’s leafy residential character as viewed from the street.  A detailed assessment of internal and external amenity is provided below. |
|  | Respect the community vision for the development of the district. | The development will increase the number of people with access to community facilities, parks and strengthening the vitality of the Waratah Village. |
|  | Achieve quality residential built form outcomes for the growing population. | The City’s architectural peer review supported the proposal as a quality-built form outcome. |
|  | To develop and support a hierarchy of activity centres. | Not applicable  The site is not located next to the UWA-QEII Specialised Activity Centre. However, the development will provide a higher number of dwellings to support the Mixed-Use Waratah Village which abuts the application site to the south-east. |
|  | To integrate land use and transport systems. | The proposal is generally consistent with the development expectations attributable to the R80 higher density code. The R80 coded land, forms part of a transitional area around the Waratah Village. The proposal therefore supports the provision of higher density development around a mixed-use node and along a transport corridor being within 120m of Waratah Avenue. |
|  | Facilitate improved multi-modal access into and around the district. | Not applicable. |
|  | Maintain and enhance the network of open space. | Not applicable.  The development does not impact the network of open space within the City. |
|  | Facilitate good public health outcomes. | Not applicable  The development is not considered to impact public health outcomes within the City. |
|  | Facilitate a high-quality provision of community services and facilities. | Not applicable  The development is not considered to impact public health outcomes within the City. |
| 16. Objectives of the Residential Zone | To provide for a range of housing and a choice of residential densities to meet the needs of the community. | Partially satisfied.  The proposal includes four (4) x three large (approx. 291sqm) bedroom dwellings in a multiple dwelling configuration. Whilst the proposal does not present diverse mix of dwelling options itself, it will contribute to the achievement of greater residential densities and housing choice at the community level. |
|  | To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. | Satisfied.  As noted above, the peer review is supportive of the design, streetscape presentation and built form. |
|  | To provide for a range of non-residential uses, which are compatible with and complementary to residential development. | Not applicable. |
|  | To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks. | The amended development is now considered to strike a balance between achieving the built form expectations of the R80 density code and responding appropriately to the local context. |
| 17. Zoning table | Land use Permissibility (P) | Satisfied.  Residential is a ‘P’ use in the Residential Zone. |

**6.3 Policy/Local Development Plan Consideration**

**6.3.1 State Planning Policy 7.0 Design of the Built Environment**

This state-wide policy provides the broad framework for the design of the built environment and applies to all levels of the planning hierarchy including development applications. An architectural peer review of the proposed development against the ten design principles of SPP7.0 being context and character; landscape quality; built form and scale; functionality and build quality; sustainability; amenity; legibility; safety; community; and aesthetic was undertaken on behalf the City. The peer review was carried out by a professional architect and landscape architect experienced in medium density development and is appended to this report as **Attachment 7**.

The broad principles under SPP7.0 are expanded upon and outlined specifically for apartment developments in SPP7.3 R-Codes Volume 2. An assessment of R-Codes Volume 2 is provided below.

**6.3.2 State Planning Policy 7.3 Residential Design Codes – Volume 2 Apartments**

Pursuant to Clause 25 of LPS 3, the R-Codes are to be read as part of the Scheme.

The R-Codes Volume 2 applies to all multiple dwellings (apartments) in areas coded R40 and above, within mixed used development and activity centres. The purpose of this document is to provide a comprehensive basis for control of residential multiple dwelling development.

When assessing applications for development, the City must have regard to the following policy objectives:

* to provide residential development of an appropriate design for the intended residential purpose, land tenure, density, place context and scheme objectives;
* to encourage design consideration of the social, environmental and economic opportunities possible from new housing, and an appropriate response to local context;
* to encourage design that considers and respects local heritage and culture; and
* to facilitate residential development that offers future residents the opportunities for better living choices and affordability when seeking a home, as well as reduced operational costs and security of investment in the long term.

The R-Codes Volume 2 is a performance-based policy and includes 33 Element Objectives with corresponding Acceptable Outcomes and Planning Guidance. Applications for development approval need to demonstrate that the design achieves the objectives of each design element.

Acceptable Outcomes are default provisions to assist in satisfying the objectives. Whilst addressing the Acceptable Outcomes is likely to achieve the Objectives, they are not a ‘deemed to comply’ pathway and the proposal will be assessed in the context of the entire design solution to ensure the Objectives are achieved. Proposals may also satisfy the Objectives via alternative means or solutions.

In order to achieve the Element Objectives, proposals may require additional and/or alternative design solutions in response to site conditions, streetscape and design approach where specified in the local planning framework.

The proposed development is considered to be consistent with all the policy objectives of the R-Codes Vol 2, cited above. The proposal balances the development expectations of the R80 density code, which partly inform the future character of the area, with local context and existing neighbourhood character considerations.

The proposed limited number and large apartments intended to meet the ‘luxury’ apartment market, are considered to appeal to a wide range of demographics, including existing residents considering downsizing. There are no heritage listed properties within the street or identified cultural heritage areas within this immediate locality. The recommendation of this report includes conditions that seek to ensure the long-term reduction of operational costs of running the building and protection of internal and external amenity.

In broad terms, the assessment of the proposal against the R-Codes Vol 2 can be defined in terms of the proposal’s form and scale as well as its impact on existing and future levels of external and internal amenity. Each of these are considered in detail below. The remaining elements are contained as **Attachment 12**.

**Building Form and Scale**

Building form and scale considerations are informed by the proposed building envelope and massing, as guided by the default provisions of Table 2.1 Primary Controls.

The building envelope is a function of building height and setbacks whilst building mass is informed by plot ratio, building depth and building separation. These elements form Part 2 Primary Controls under the R-Codes.

On balance, the proposal meets the default provisions (Acceptable Outcomes) for the majority of Elements 2.2-2.7, other than for Element 2.5 Plot Ratio. That notwithstanding, the proposal meets all objectives for these elements having regard to the local context and existing and future character considerations. On this basis, the building form and scale are considered acceptable. A detailed assessment against these elements is provided below.

Element 2.2 – Building Height

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| **Element Objectives** |
| O 2.2.1 The height of development responds to the desired future scale and character of the street and local area, including existing buildings that are unlikely to change.  O 2.2.2 The height of buildings within a development responds to changes in topography.  O 2.2.3 Development incorporates articulated roof design and/or roof top communal open space where appropriate.  O 2.2.4 The height of development recognises the need for daylight and solar access to adjoining and nearby residential development, communal open space and in some cases, public spaces. |
| **Acceptable Outcomes** |
| Development complies with the building height limit (storeys) set out in Table 2.1, except where modified by the local planning framework, in which case development complies with the building height limit set out in the applicable local planning instrument.  Table 2.1 allows for 4 storey or 15m. |
| **Proposed** |
| The proposal has a height of 4 storey and a measured height of 15m. |
| **Administration Assessment** |
| The proposal as amended in February 2020 demonstrates compliance with the default development standards under Table 2.1 for building height. In addition, the proposal generally satisfies the Element Objectives as set out below.  The proposed 4 storey, 15m development is consistent with the default development standards for the R80 code which is the indicative starting point when establishing the development expectations for this transitional area.  The amended proposal seeks to respond to the local residential context, through the provision of a graduated front setback where the fourth storey balcony presents as a recessive element in the streetscape being set back beyond Levels 2 and 3 and approx. 8.2m from the street. The proposal seeks to achieve a ‘streetwall’ type effect to three storeys, which is one storey above the ‘as of right’ two storey height limit permissible in lower coded areas. This is considered an appropriate transitional height in the context of existing single and double storey dwellings on Alexander Road, the RAC-3 coded Waratah Village to the south-east and lower coded R60 land to the west.  In addition, the proposal responds sensitively to the local character of the area, presenting as a contemporary styled, detached dwelling with 3.5m average side setbacks, generous landscaped front and rear gardens, a concealed roofline common to recently constructed development in the street, low front fencing and single crossover leading to basement car parking.  However, the amended proposal does exceed plot ratio by 0.15 (approx. 152sqm or almost half a floor plate) and will contribute to overshadowing of 8A and 8B Alexander Road as measured at 12pm at the Winter solstice. However, hourly shadow diagrams indicate that over the course of the day, the rear open space at 8A Alexander Road will retain solar access between 9am and before 2pm, although the north facing patio will be wholly shaded by 11am as of 21 June which is the worst case shadow scenario. The solar panels will be wholly shaded between 9am and 1pm, dropping to 91% shadow between 2pm and 4pm.  In this instance, the extent of shadow cast to the south is exacerbated by the previous subdivision and development of 8A and 8B Alexander Road, with 8A Alexander Road being sited within 2m of the common boundary and with private open spaces in the form of a patio and pool area located along the common boundary or at the north-west of the property. If the solar panels on the adjoining property were to be alternatively located at the eastern end of the dwelling’s roof, the shadow diagram indicates some capacity for solar access between at least 9am and 11am at the Winter Solstice.  Objective 2.2.4 seeks to ensure that the height of the proposal development recognises the need for daylight and solar access to adjoining residential development.  It is considered that the proposal does demonstrate recognition of the need for daylight and solar access to the south by achieving a minimum 3.5m average setback to the southern boundary above the ground floor and providing extensive rear setbacks which will ensure solar access is retained to the rear primary open space 8A Alexander Road between 9am and 2pm and to the patio between 9am and 11am.  The proposal has been amended during the application process to remove one level, achieving the minimum 3.5m average boundary setback and provides an increased southern boundary setback of 5.5m to the master bedroom at Level 4, none of these measures have resulted in a significant improvement in solar access to the adjoining property. In order to substantially reduce the impact of overshadowing to 8A Alexander Road, a reduced building height (to two storeys) is likely required, or a combination of increased boundary setbacks (above the minimum 3.5m average setback to the southern boundary) and a reduced plot ratio would likely be required. To eliminate any shading of 8A Alexander Road, the proposed development would need to be set back 20m, that is, outside of the cadastral boundary of the application site.  A reduction of building height to 2 storeys is considered unreasonable given upcoding of the application site under LPS 3. Further, the impact of overshadowing should be weighed against the fact that the recent development of the land to the south has resulted in a maximum building envelope with a north facing patio set back 2m to the boundary, which to some extent, exacerbates the overshadowing impact of any development be it two storey of four. As a reference, the dividing fence already overshadows 25% of 8A Alexander Road. |

Element 2.3 – Street Setback

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| **Element Objectives** |
| O2.3.1 – The setback of the development from the street reinforces and/or complements the existing or proposed landscape character of the street  O2.3.2 – The street setback provides a clear transition between the public and private realm.  O2.3.3 – The street setback assists in achieving visual privacy to apartments from the street.  O2.3.4 – The setback of the development enables passive surveillance and outlook to the street. |
| **Acceptable Outcomes** |
| A2.3.1 Development complies with the street setback set out in Table 2.1, except where modified by the local planning framework, in which case development complies with the street setback set out in the applicable local planning instrument.  Table 2.1 allows for a minimum 2m primary street setback. |
| **Proposed** |
| The proposal achieves an average front setback of 7m. At ground level the dwelling is set back 8.8m to the street. |
| **Administration Assessment** |
| The proposal, as amended in February 2020, demonstrates compliance with the default development standards under Table 2.1 for Street setbacks. In addition, the proposal generally satisfies the Element Objectives given:   * At ground floor, the landscaping both hard and soft achieves a consistency with the landscape character of the street. The building has articulated elements with cantilevered balconies. * Several retaining walls and landscaping therein, delineate the public realm from the private realm. * The street setback provides for an appropriately setback terrace which is slightly elevated, with landscaping demarcating the public and private realms. * Habitable rooms/balconies interface with the street. * It is noted that the development proposal is now setback at triple the acceptable outcome, which achieves a consistency with the average setback of the street, particularly with respect to the recently redeveloped properties within the street. |

Element 2.4 – Side and Rear Setbacks

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| **Element Objectives** |
| O2.4.1 – Building boundary setbacks provide for adequate separation between neighbouring properties.  O2.4.2 – Building boundary setbacks are consistent with the existing streetscape pattern or the desired streetscape character.  O2.4.3 – The setback of development from side and rear boundaries enables retention of existing trees and provision of deep soil areas that reinforce the landscape character of the area, support tree canopy and assist with stormwater management.  O2.4.4 –The setback of development from side and rear boundaries provides a transition between sites with different land uses or intensity of development. |
| **Acceptable Outcomes** |
| A2.4.1 Development complies with the side and rear setbacks set out in Table 2.1, except where modified by the local planning framework, in which case development complies with the side and rear setbacks set out in the applicable local planning instrument. Or a greater setback is required to address 3.5 Visual Privacy.  Table 2.1 allows for a minimum 3m rear and side boundary setbacks and a 3.5m average boundary setback. |
| **Proposed** |
| Excluding the covered walkway, the main building achieves the Table 2.1 default provisions referred in the Acceptable Outcomes for side and rear setbacks. The main building itself also achieves the 3.5m average setback. The walkway could be made compliant by building it to boundary, which is permitted under the R80 density code, however this is considered a poorer outcome as it would have a greater impact on the southern neighbour and would remove landscaping along the boundary. |
| **Administration Assessment** |
| In addition to the achievement of the Acceptable Outcome, the proposal adequately addresses the Element Objectives given that:   * The Alexander Road streetscape is varied, reflecting the varied lot configuration and dwelling characteristics. Most dwellings have 1m-1.5m side boundary setbacks, however some have less. * Just under half the properties within Alexander Road have development setback less than 6m from the rear boundary. * In light of the above, the development is considered to exceed the general setbacks of the street and achieves consistency with the streetscape. * Although no existing trees are proposed, generous DSA is proposed particularly to the rear with 2 medium and one large tree and significant landscaping. * The upper floor setback will help in transitioning the proposal down to the single dwellings, albeit these are unlikely to remain. The Level 4 setback particularly to the south-east of the dwelling will provide additional transition to the adjoining property at 8A Alexander Road. |

Element 2.5 – Plot Ratio

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| **Element Objectives** |
| O2.5.1 – The overall bulk and scale of development is appropriate for the existing or planned character of the area. |
| **Acceptable Outcomes** |
| Development complies with the plot ratio requirements set out in Table 2.1, except where modified by the local planning framework, in which case development complies with the plot ratio set out in the applicable local planning instrument.  Table 2.1 allows for a Plot Ratio of 1:1.0. |

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| **Proposed** |
| The proposal provides for a Plot Ratio of 1:15, exceeding the default provision of Table 2.1by approx. 152sqm. |
| **Administration Assessment** |
| The amended proposal exceeds the default plot ratio control by approx.152sqm, the equivalent to half a floor of the proposed development.  The Element Objective is that the overall bulk and scale of the development is appropriate for the existing or planned character of the area.  The proposal includes a high degree of articulation on the northern side, with the private open space reducing the overall bulk presented to the adjoining property to the north. The street presentation is largely open, having glazed balustrades preventing bulk being presented to the street. The southern elevation has had several design improvements to add modulation of that elevation.  The Planning guidance for this element suggests the built form outcome should be tested against the proposed plot ratio to ensure it is co-ordinated with the building envelope, height, depth and setbacks amongst other site requirements. The plot ratio area is to sit comfortably within the building envelope to allow for building elements and service areas not included in the plot ratio calculation and to allow for building articulation.    The proposed plot ratio exceeds the anticipated volume of development for the R80 coding. In order to achieve the default plot ratio control, a further reduction in building height and/or additional boundary setbacks would be required. Considered on its own, the plot ratio suggests the development as proposed is too large for its context. The massing of the development easily fits within the desired building envelope demonstrated by the fact that the main building meets the default provisions and Element Objectives for Building height, Street setback and Side and rear setbacks. Despite presenting additional plot ratio area, the building is of an appropriate scale, has successfully mitigated the perception of bulk and is appropriate to the existing and planned character of the area.  The development is considered to meet the element objective. |

Element 2.6 Building Separation

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| **Element Objectives** |
| O2.7.1– New development supports the desired future streetscape character with spaces between buildings.  O2.7.2 – Building separation is in proportion to building height.  O2.7.3 – Buildings are separated sufficiently to provide for residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.  O2.7.4 – Suitable areas are provided for communal and private open space, deep soil areas and landscaping between buildings |
| **Acceptable Outcomes** |
| A2.7.1 – Development complies with the separation requirements set out in Table 2.7. |
| **Proposed** |
| The proposal satisfies Table 2.7. |
| **Administration Assessment** |
| The proposal satisfies the Acceptable Outcomes to achieve adequate levels of internal separation. In respect of external separation, the proposal satisfies the objectives for Element 2.4 Side and rear setbacks and 3.5 Visual Privacy (with screening) as discussed above and below respectively. The increased southern boundary setback at Level 4 further improves residential amenity to the south with regard to outlook. Increased northern boundary setbacks would improve the extent of external separation to the north and avoid the need for screening.  With respect to O2.7.4 there is more than double the required Deep Soil Area (DSA), including nine small trees, two medium trees and one large tree, with significant landscaping within the generous setbacks. |

**Amenity Considerations**

Amenity considerations are informed by a combination of elements that assess the impact of a development on future residents and on surrounding properties.

External amenity considerations are informed by the development’s orientation (overshadowing), landscaping contribution (tree canopy and deep soil areas), visual privacy (overlooking), interface to the public realm (Public domain interface), pedestrian and vehicle access and car and bicycle parking.

In relation to Element 3.6 Public domain interface, the proposal satisfies the acceptable outcomes and objectives given the proposal strikes a balance between visual privacy and passive surveillance, promoting opportunities for social interaction, ensuring residents’ perceptions of safety and security, and contributing to streetscape amenity. The ground level dwelling is raised 0.5-1m above ground level and balustrading to the street features a mix of low height retaining wall and permeable balustrades to upper level balconies. At ground level the proposal will read as a residential development with a landscaped front setback with a separate side pedestrian access provided for Unit 1. Service elements such as the booster cupboard and mailboxes are both easily identified and integrated into the façade design along the property frontage. Together with front setback landscaping, the basement car parking and concealed bin storage, enhances the amenity of the adjoining public domain.

In response to Element 3.7 Pedestrian Access, although the lobby is not directly visible from the street, sufficient cues along the southern boundary including the covered and plant lined ramp, will ensure building’s main entrance is identifiable from the street. Separate gate with stair access is provided to Unit 1 along the northern boundary. The provision of lighting as part of the landscape proposal will further enhance the legibility of pedestrian access and is recommended as a condition of approval. Visitor access to the basement car park and lobby will be managed by an intercom system.

With respect to Element 3.8 Vehicle Access, the proposal generally satisfies the Acceptable Outcomes. One vehicle access point is proposed which is easily identifiable from the street and minimises the visual impact of vehicle access at the street via the integrated basement vehicle access. A minimum width driveway of 4.4m is proposed and the design ensures there is adequate visibility for pedestrians, cyclists and vehicles with a truncated wall at the street edge. An intercom system is provided to allow access to visitor basement car parking.

The proposal also generally satisfies the Acceptable Outcomes of Element 3.9 Car and bicycle parking given that:

* Secure, undercover bicycle parking is provided in line with Table 3.9 and accessed via a continuous path of travel from the vehicle/bicycle entry point
* Secure car parking exceeds the requirements of Table 3.9 being 4 resident spaces and 1 visitor space as the development proposes 8 resident spaces and 4 visitor spaces. Visitor spaces will be clearly signed and accessible via an intercom management system.
* The basement is set back from the boundary to preserve opportunity for DSA and stormwater management principles.
* The basement is located outside the street setback and not visually prominent from the street. Although the basement car park protrudes more than 1m above ground it is screened by the boundary fence and ameliorated by landscaping the front setback and provides a level of physical separation to the driveway and protection from light spill.
* Basement ventilation which is integrated into the façade design can be provided as a future condition of approval.

However, the basement ramp, car park design and circulation spaces are to demonstrate compliance with AS2890.1 (as amended) and Council’s standard condition is recommended in the event the application is approved.

Many of the submissions received during public consultation objected to the proposal due to unreasonable external amenity impacts, particularly in relation to orientation, visual privacy and landscaping. These elements are discussed in detail below.

Element 3.1 – Orientation (Overshadowing)

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| **Element Objectives** |
| O3.2.1 – Building layouts respond to the streetscape, topography and site attributes while optimising solar and daylight access within the development.  O3.2.2 – Building form and orientation **minimises** overshadowing of the habitable rooms, open space and solar collectors of neighbouring properties during mid-winter. |
| **Acceptable Outcomes** |
| **A3.2.1** – Buildings on street or public realm frontages are oriented to face the public realm and incorporate direct access from the street.  **A3.2.2** – Buildings that do not have frontages to streets or public realm are oriented to maximise northern solar access to living areas.  **A3.2.3** – Development in climate zones 4, 5 and 6 shall be designed such that the shadow cast at midday on 21st June onto any adjoining property does not exceed:   * + adjoining properties coded R25 and lower – 25% of the site area1   + adjoining properties coded R30 – R40 – 35% of the site area1   + adjoining properties coded R50 – R60 – 50% of the site area1   + **adjoining properties coded R80 or higher – Nil requirements (emphasis added)**  1. Where a development site shares its southern boundary with a lot, and that lot is bound to the north by other lot(s), the limit of shading at A3.2.3 shall be reduced proportionally to the percentage of the affected properties northern boundary that abuts the development site. (Refer to Figure A7.2 in Appendix 7)   **A3.2.4**– Where adjoining sites are coded R40 or less, buildings are oriented to maintain 4 hours per day solar access on 21 June for existing solar collectors on neighbouring sites |

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| **Proposed** |
| The extent of shadow cast on the adjoining properties is significant; at 12pm at the Winter Solstice, the amended proposal will cast a significant amount of shadow over both properties 8A and 8B Alexander Road, estimated at 74.8% of the site area at 8A Alexander Road and 53.8% of 8B Alexander Road.  The shadow is cast over almost both entire dwellings at midday, including the solar panels and north facing patio at 8A Alexander Road. However, at 12pm, the 1.9m boundary fence alone will overshadow the patio and part of the rear backyard and pool. However, the rear open spaces at 8A and 8B Alexander Road are unaffected at this time. In fact, the hourly shadow analysis demonstrates that over the course of the day, the rear open space at 8A Alexander Road will retain solar access between 9am and before 2pm, although the north facing patio will be wholly shaded by 11am. The solar panels will be wholly shaded between 9am and 1pm, dropping to 91% shadow between 2pm and 4pm. |
| **Administration Assessment** |
| In terms of O3.2.1, the proposal adequately responds to the Acceptable Outcomes of this element. It faces the street and provides identifiable and direct access to the building, including separate access to the ground floor dwelling. It also provides opportunity for passive surveillance of the public realm with habitable room windows and balconies oriented to the street. The proposal also satisfies solar and daylight access objectives as applicable to internal amenity considerations as it maximises the number of dwellings and open spaces with a northern orientation.  In terms of O3.2.2, the starting point for overshadowing in Residential R80, is that development can overshadow all of the southern adjoining site area. There is consideration afforded to solar panels in A3.2.4 on sites coded R40, however no such provision applies to R80, the implications of which are significant to the subject application. That notwithstanding, it is acknowledged that the extent of shadow cast on the adjoining properties is significant and must be considered in context and against the objective.  In this instance the extent of shadow cast to the south is exacerbated by the previous subdivision and development of 8A and 8B Alexander Road, with 8A Alexander Road being sited within 2m of the common boundary and with private open spaces in the form of a patio and pool area located along the common boundary or at the north-west of the property. It is noted that the single house at 8A Alexander Road is the primary source of overshadowing to 8B Alexander Road, and that in elevation, the development does not impact 8B. Given this, the assessment will primarily relate to 8A Alexander Road. If double string solar panels on the adjoining property were to be alternatively located at the eastern end of the adjoining dwelling’s roof, the shadow diagram indicates some capacity for solar access between at least 9am and 11am at the Winter Solstice.  Using development approvals for the southern adjoining lot, the City has modelled four, three and two storey developments to determine what could reasonably be done to minimise the impact of overshadowing to the narrow southern lot. To eliminate any shading of 8A Alexander Road, the proposed development would need to be set back 20m, that is, outside of the cadastral boundary of the application site. In order for the solar panels to remain shadow free at 12pm on June 21, a four storey (15m) development would require a 12.6m setback. At three storeys (12m) the development would require a 6m setback to avoid overshadowing of the rooftop solar panels. Importantly, even a three-storey development with generous 3.5m setbacks has the same impact on the solar panels as the subject proposal. At two storeys setback 1.5m, the solar panels would be shadow-free.  Although the Acceptable Outcomes for this element are met, the proposal even as last amended, demonstrates difficulty complying with the entirety of Objective O3.2.2. The proposal cannot reasonably minimise the overshadowing of habitable rooms and solar collectors of neighbouring properties having regard to the future development expectations of the R80 code and given the siting of the adjoining property.  It does however, through generous rear setbacks, ensure reasonable solar access to the adjoining primary outdoor open spaces at the rear of 8A and 8B Alexander Road and ensures some access (between 9am and 11am) to the north facing patio over the course of the day. The shadow analysis also demonstrates there would be capacity for solar access to the solar collectors between 9am and 12pm, were they sited to the eastern extent of the adjoining dwelling roof.  Given that there is an opportunity to relocate the solar panels, it is Administration’s view that requiring the development to comply with the same height as the R20 density code to maintain the current level of panel output is unreasonable, given that the southern site has maximised its development potential under the previous code by: maximising site cover, lot boundary setbacks; and height – which has exacerbated the development’s overshadowing impact. Referring back to the Acceptable outcomes, by omission, it is clear that the R-Codes Vol.2 acknowledges that solar panels on adjoining lots will be impacted by development above two storeys. Administration is of the view that the applicant has done everything reasonably possible to minimise the extent of overshadowing given the southern property’s size, orientation and configuration. The development maintains some output on June 21 and could be further improved by relocating the panels from their current location. For the reasons outlined above, the proposal is considered to address Element 3.2. |

Element 3.3 Tree canopy and deep soil areas

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| **Element Objectives** |
| O3.3.1 – Site planning maximises retention of existing healthy and appropriate and protects the viability of adjoining trees.  O3.3.2 – Adequate measures are taken to improve tree canopy (long term) or to offset reduction of tree canopy from pre-development condition.  O3.3.3 – Development includes deep soil areas, or other infrastructure to support planting on structures, with sufficient area and volume to sustain healthy plant and tree growth. |
| **Acceptable Outcomes** |
| A3.3.1 – Retention of existing trees on the site that meet the following criteria:   * healthy specimens with ongoing viability AND * species is not included on a State or local area weed register AND * height of at least 4m AND/OR * trunk diameter of at least 160mm, measured 1m from the ground AND/OR * average canopy diameter of at least 4m.   A3.3.2 – The removal of existing trees that meet any of the criteria at A3.3.1 is supported by an arboriculture report.  A3.3.3 – The development is sited and planned to have no detrimental impacts on, and to minimise canopy loss of adjoining trees.  A3.3.4 – Deep soil areas are provided in accordance with Table 3.3a. Deep soil areas are to be co-located with existing trees for retention and/or adjoining trees, or alternatively provided in a location that is conducive to tree growth and suitable for communal open space.    A3.3.5 – Landscaping includes existing and new trees with shade producing canopies in accordance with Tables 3.3a and 3.3b.    A3.3.6 – The extent of permeable paving or decking within a deep soil area does not exceed 20 per cent of its area and does not inhibit the planting and growth of trees.  A3.3.7 – Where the required deep soil areas cannot be provided due to site restrictions, planting on structure with an area equivalent to two times the shortfall in deep soil area provision is provided.  Deep Soil Area of 10 percent is required, along with 1 large tree, with a minimum DSA of 36sqm. |
| **Proposed** |
| No existing trees are identified for retention and site investigations and the peer review indicate that there is no significant tree canopy worthy of retention, although one tree to the north of the pool may have some potential. No arboriculture advice has been provided in respect of tree removal or impact.  An amended landscape plan has not been provided which identifies the relocation of the driveway and crossover to the south-west of the application site. Updated advice is required in respect of the impact of the new crossover on the southern street tree’s root zone.  The proposed amount of DSA exceeds the minimum requirement under the Acceptable Outcomes, with the rear area allowing for nine small trees, two medium trees and the large street setback allowing one large tree. The plans indicate provision of an additional medium size tree and a small sized tree to the front setback. Proposed planting indicates a variety of deep soil and planting on structure with a hybrid planting mix and a high degree of hard landscape elements. The large tree to the rear and trees two front setback are sited close to structures. |
| **Administration Assessment** |
| Although the proposal does not seek to retain existing trees, it provides for one medium sized tree and two small trees in the rear setback and a medium sized tree in the front setback. The proposed landscaping area, especially to the rear, exceeds the DSA requirement of Element 3.3 of the R-Codes Vol.2. There may be additional capacity to increase tree canopy in the northern and southern boundary setbacks in lieu of the proposed general planting areas.  An updated landscape plan will be required as condition in the event the proposed development is approved. The landscape plan should use the site plan to correctly identify the unrestricted area available for tree canopy growth as well as include a detailed planting schedule.   * The amended landscape plan should address the following matters: * Whether the proposed driveway construction will impact existing verge street trees and if so, incorporate protection measures or pruning into the plan. * Provide additional pavement connection so bins can be wheeled easily to street verge. This could simply connect to the driveway from top of ramp. * Consideration of the existing turfed verge as a more ecologically rich and water-wise garden featuring native ground covers with stepping stones to the verge for occupant amenity however all changes to the verge are subject to a Nature Strip Works application. * The landscape plan should confirm the extent of weather-proof awning to entry and northern access and that the design provides a clear welcoming and safe pedestrian address that creates amenity. * The landscape plan should be reviewed to relocate the two trees in the front setback so they are free from balcony structures, reduce hardscaping in the northern boundary setback in favour of soft planting and larger scale tree canopy in DSA to mitigate bulk and scale between buildings and assist with privacy and over-viewing. Larger tree planting should be provided in lieu of the ‘Tropical Garden’ in the southern boundary setback over DSA. In the rear setback, more large-scale, native, canopy trees should be provided in the DSA to support local biodiversity, mitigate bulk and scale and assist with privacy and overlooking as well as urban heat reduction through shade. The extent and location of hard structures should be reviewed, and soft structures prioritised over DSA. Access to deck area should be clarified. The planting schedule should reference ecologically relevant plant material and tree selection that assists with micro-climate. Trees should be located to ensure health, future growth potential and minimise conflict with structures. The large rear tree location should be improved. * The tree canopy to the front and side setbacks could be significantly improved. The Landscape plan indicates trees over DSA in the northern side setback with limited crown capacity. It is recommended that the species be reviewed to improve the canopy outcome. The ‘Lush Tropical Garden’ along the southern boundary setback is located over precious DSA and should be maximised with a larger scale tree canopy. * The landscape design should be reviewed to consider whether site topography i.e. the low point (SE corner) could be used as a drainage point for stormwater infiltration as opposed to a below ground soak-well, which have not been identified. If soak-wells are proposed in the DSA, the size and location are to be indicated on the plan and the DSA recalculated.   Despite the above recommendations the proposal is supported, given the large area of deep soil area, the revised landscaping will easily address the above items. |

Element 3.5 – Visual Privacy

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| **Element Objectives** |
| O3.5.1 – The orientation and design of buildings, windows and balconies minimises direct overlooking of habitable rooms and private outdoor living areas within the site and of neighbouring properties, while maintaining daylight and solar access, ventilation and the external outlook of habitable rooms. |
| **Acceptable Outcomes** |
| A3.5.1 – Visual privacy setbacks to side and rear boundaries are provided in accordance with Table 3.5.  A3.5.2 – Balconies are unscreened for at least 25 per cent of their perimeter (including edges abutting a building).  A3.5.3 - Living rooms have an external outlook from at least one major opening that is not obscured by a screen.  A3.5.4 – Windows and balconies are sited, oriented, offset or articulated to restrict direct overlooking, without excessive reliance on high sill levels or permanent screening of windows and balconies. |
| **Proposed** |
| The proposal generally complies with visual privacy setbacks to the southern side and rear boundaries in accordance with Table 3.5 given that bedrooms and living areas are either oriented to the north and major openings restricted along the southern boundary. |
| **Administration Assessment** |
| A 6m cone of vision or more is provided to the rear facing balconies compliant with Table 3.5 but screening in the form of obscured glazing is proposed to the southern edges of the front and rear balconies on all levels to restrict overlooking as the cone of vision is generally limited to 5m rather than 6m at these points. The amended southern boundary setback to the master bedroom on level 4 ensures there is a cone of vision greater than the 6m requirement (7.8m) and therefore screening is not required to the southern edge of the rear balcony at this level.  On the northern boundary, screening is required to the alfresco areas, bedroom 3 balcony and the northern edges of the front and rear balconies to achieve visual privacy compliance.  Aside from the northern and southern edges of the rear balconies which is proposed to be screened with obscure glass, the screening otherwise proposed is vision control glass. It is understood that vision control glass is an adhesive film applied to the glass that restricts the  angle of the view between 50-60 degrees. Administration has concerns with the permanency and durability of the vision control glass film and in the event the application is approved, recommends screening be conditioned to comply with the R-Codes; permanently fixed screening to 1.6m above FFL.  Whilst the glazed screening presents as a light façade element in elevation, it could be avoided on the northern boundary by further recessing the Alfresco and Bedroom 3 balcony. The extent of obscure glass screening along the southern boundary is limited (2.66m) at the south-east corner of the proposed development) and is considered acceptable.  The proposal addresses the other Acceptable Outcomes, given that:   * Balconies are unscreened for more than 25% of perimeter including edges abutting the building. * Living rooms have an external outlook from at least one major opening that is not obscured by a screen. * Windows and balconies are sited oriented, offset or articulated to restrict direct overlooking without excessive reliance on high sill levels or permanent screening of windows and balconies. * All habitable rooms are separated from gallery walkway access and other open circulation space.   Overall, the proposed orientation and building design minimises the direct overlooking of habitable room windows and private outdoor living areas consistent with the objective, although the extent of screening along the northern boundary could be improved by further recessing the outdoor living areas. |

Internal Amenity

Internal amenity considers the building design from the perspective of its future residents and takes into account the anticipated level of solar and daylight access, capacity for natural ventilation, the size and layout of the proposed dwellings, provision of private open spaces, storage, dwelling mix and architectural design.

Overall, the proposal satisfies the building design element objectives and is anticipated to achieve a high level of future internal residential amenity given that:

* Each of the dwellings optimises its northern orientation with living rooms and bedrooms maintaining at least one aspect to the north, east or west.
* All dwellings have living rooms and private open spaces with at least 2 hours direct sunlight between 9am and 3pm on 21 June and every habitable room has at least one window in an external wall, visible from all parts of the room, at least 50 percent glazed.
* External shading devices have also been incorporated into the design to minimise direct sunlight to habitable rooms between late September and early March.
* The proposal optimises opportunity for natural cross ventilation for each dwelling. Habitable rooms have openings on at least two walls with a straight-line distance between the centre of the openings of at least 2.1m. The capture and use of prevailing breezes is maximised by orienting windows and controlling façade elements. Although many of the habitable (living) rooms are long, the number of windows will mitigate the length appropriately.
* The proposed dwellings have generous internal floor areas. Room dimensions can easily accommodate a variety of furniture arrangements that exceed the minimum dimension in accordance with Table 4.3a of Element 4.3 Size and Layout of dwellings for both functionality and flexibility. Living areas and bedrooms located on the external face of the building the maximise daylight and bedrooms are provided with robe spaces. Higher ceilings at 3.1m provided an additional sense of spaciousness.
* The proposed dwellings are provided with generously sized private open spaces which exceed the requirements at Table 4.4 of Element 4.4 Private Open Space and Balconies and as supplemented by the communal landscaped rear ground level garden area. Where screening is required to achieve visual privacy, the entire open space is not screened and can be managed to avoid obscuring the outlook from adjacent living rooms. Services and fixtures located in private open space are concealed from the street and integrated into the building design.
* Circulation and common spaces have been designed for universal access being accessible via a continuous path of travel from the primary entry. Circulation and common spaces are very small for a development of this size, reducing the need for passive surveillance. There are limited opportunities for concealment by virtue of their size. The (fire) stairwell has been designed and located as attractive and functional alternatives to the lift. The potential for light spill and the use of anti-slip, trip or fall materials can be further controlled through the City’s standard conditions in the event the development is approved.
* Each dwelling has exclusive use of a separate, weatherproof, bulky goods storage area conveniently and securely located in the basement. Store dimensions are consistent with Table 4.6 and basement ventilation will be controlled through the City’s standard conditions in the event the development is approved.
* Utilities are either located within the front setback, adjacent to the building entry or roof and are integrated into the building design and landscape elements such that they are accessible for servicing requirements but not visually obtrusive. Hot water units, air-conditioning condenser units and clotheslines are located to ensure safe maintenance without impacting functionality of outdoor living areas or internal storage. Laundries are conveniently located secure, weather-protected and well-vented; and are of an overall size and dimension that is appropriate to the size of the dwelling.

Other matters related to internal amenity considerations, and which were raised in the public submissions, include Element 4.7 Noise Impacts, Element 4.7 Noise Impacts, Element 4.10 Façade Design, Element 4.15 Energy Efficiency and Element 4.17 Waste Management. These are discussed in detail below.

Element 4.7 Noise Impacts

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| **Element Objectives** |
| **O4.7.1** – The siting and layout of development minimises the impact of external noise sources and provides appropriate acoustic privacy to dwellings and on-site open space.  **O4.7.2** – Acoustic treatments are used to reduce sound transfer within and between dwellings and to reduce noise transmission from external noise sources. |
| **Acceptable Outcomes** |
| **A4.7.1** – Dwellings exceed the minimum requirements of the NCC, such as a rating under the AAAC Guideline for Apartment and Townhouse Acoustic Rating (or equivalent).  **A4.7.2** – Potential noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open space and refuse bins are not located adjacent to the external wall of habitable rooms or within 3m of a window to a bedroom.  **A4.7.3** – Major openings to habitable rooms are oriented away or shielded from external noise sources. |
| **Proposed** |
| An Acoustic Report was prepared by Herring Storer for the proposal development (based on the original 5 dwelling scheme) and is contained as **Attachment 8**. The report (section 5.0) identifies the main source of noise attributed to the development to be from mechanical services being car park ventilation fans is required and from air conditioning condenser units. Noise received at neighbouring premises from these items need to comply with the assigned noise levels under the Environmental Protection (Noise) Regulations 1997.  The report states that “the air conditioning systems are not known (and not designed) at this stage, however, it would appear that the condenser units are proposed to be located on the southern side of the building on the “Drying” balconies.  Once the design of the system is finalised, an acoustic assessment will be carried out of noise emissions from the mechanical plant and any noise amelioration required will be incorporated into the design to ensure compliance with the Environmental Protection (Noise) Regulations 1997. However, we believe that compliance would be easily achieved, and any noise mitigation would be minimal, with the proposed design.  Noise emissions from the carpark exhaust fans (if required), will also need to comply with the Regulatory requirements. From previous projects, we believe that with careful fan selection and the incorporation of either 1D or 2D unpadded silencers, compliance with the Environmental Protection (Noise) Regulations 1997 is normally achieved. An assessment of noise emissions will be carried out once equipment has been selected and submitted for approval.” |
| **Administration Assessment** |
| Major openings to habitable rooms are oriented away or shielded from most external noise sources. In general, the proposal maximises the distance between significant external noise sources and habitable rooms and private open space.  The application has been considered by Council’s Environmental Health department which provides the following additional advice notes to form part of any potential approval should the application be approved:   1. As per the recommendations contained within the acoustic report prepared by Herring Storer Acoustics - Acoustic assessment (by a suitably qualified acoustic consultant) is to be carried out for all mechanical equipment/plant once designed (including the use of the waste compactor, exhaust fans, air conditioners and any other plant) demonstrating compliance with the Environmental Protection (Noise) Regulations 1997. 2. The enclosure for the storage and cleaning of waste receptacles to be provided on the premises, and managed, as per the requirements of the City's Health Local Laws 2017: 3. Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City; 4. Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate; 5. Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system; 6. Easily accessible to allow for the removal of the receptacles; 7. Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City; and 8. Provided with a tap connected to an adequate supply of water. 9. Adequately ventilated, such that they do not create a nuisance to residences (odour).   With the above changes taken into account, the development has been assessed as being capable of meeting the Noise Regulations (As amended). It is for this reason that a condition imposed requiring the Acoustic report and its recommendations form part of the recommended approval.  The element objectives are capable of being achieved. |

Element 4.10 Façade Design

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| **Element Objectives** |
| **O4.10.1** – Building façades incorporate proportions, materials and design elements that respect and reference the character of the local area.  **O4.10.2** – Building façades express internal functions and provide visual interest when viewed from the public realm. |
| **Acceptable Outcomes** |
| **A4.10.1** – Façade design includes:   * + scaling, articulation, materiality and detailing at lower levels that reflect the scale, character and function of the public realm   rhythm and visual interest achieved by a combination of building articulation, the composition of different elements and changes in texture, material and colour.  **A4.10.2** – In buildings with height greater than four storeys, façades include a defined base, middle and top for the building.  **A4.10.3** – The façade includes design elements that relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights  **A4.10.4** – Building services fixtures are integrated in the design of the façade and are not visually intrusive from the public realm.  **A4.10.5** – Development with a primary setback of 1m or less to the street includes awnings that:   * + define and provide weather protection to entries   + are integrated into the façade design   are consistent with the streetscape character.  **A4.10.6** – Where provided, signage is integrated into the façade design and is consistent with the desired streetscape character. |
| **Proposed** |
| In terms of A4.10.1 and A4.10.3, The façade of the development has an appropriate scale at street level, by proposing a three-storey street wall, which mimics the height of dwellings within the surrounding area.  The development over-emphasises horizontal elements which in general makes development appear lower than what it otherwise would.  In terms of A4.10.1, Building services fixtures are all integrated into the design, reducing any potential impact on the streetscape presentation. |
| **Administration Assessment** |
| The development achieves A4.10.1 and A44.10.3 which in this instance is considered to achieve O4.10.1. The development The City’s independent architecture peer review noted that the design minimises its bulk by setting back the top storey from the street, minimising its impact from flanks with good articulation, materiality and composition.  In terms of O4.10.2, the development provides an attractive contemporary façade, which presents a residential dwelling, that is consistent with the style and design of the surrounding replacement dwellings.  The element objectives are considered to be achieved. |

Element 4.15 Energy Efficiency

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| **Element Objectives** |
| **O4.15.1** – Reduce energy consumption and greenhouse gas emissions from the development. |
| **Acceptable Outcomes** |
| **A4.15.1 –**   1. Incorporate at least one significant energy efficiency initiative within the development that exceeds minimum practice (refer Design Guidance) **OR** 2. All dwellings exceed the minimum NATHERS requirement for apartments by 0.5 stars.1   Compliance with the NCC requires that development shall achieve an average star-rating across all dwellings that meets or exceeds a nominated benchmark, and that each unit meets or exceeds a slightly lower benchmark. Compliance with this Acceptable Outcome requires that each unit exceeds that lower benchmark by at least half a star. |
| **Proposed** |
| The development proposes significant amounts of solar panels, which satisfies A4.15.1(a). |
| **Administration Assessment** |
| The provision of the solar panels is considered to meet O4.15.1. In addition, the design, orientation and configuration of the apartments are considered to reduce the need for excessing lighting, heating and cooling by having a significant northern orientation and openings to all elevations to provide ventilation.  The sustainability report notes that the NATHERS rating is close to 8, well above the minimum NATHERS. The applicant sustainability report outlines the ways in which the development overachieves the NATHERS rating are contained as **Attachment 10**. A condition of approval is recommended to ensure the Sustainability report is  The element objectives are capable of being achieved. |

Element 4.17 Waste Management

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| **Element Objectives** |
| **O4.17.1** – Waste storage facilities minimise negative impacts on the streetscape, building entries and the amenity of residents.  **O4.17.2** – Waste to landfill is minimised by providing safe and convenient bins and information for the separation and recycling of waste. |
| **Acceptable Outcomes** |
| **A4.17.1** – Waste storage facilities are provided in accordance with the Better Practice considerations of the WALGA Multiple Dwelling Waste Management Plan Guidelines (or local government requirements where applicable).  **A4.17.2** – A Level 1 Waste Management Plan (Design Phase) is provided in accordance with the WALGA Multiple Dwelling Waste Management Plan Guidelines - Appendix 4A (or equivalent local government requirements).  **A4.17.3** – Sufficient area is provided to accommodate the required number of bins for the separate storage of green waste, recycling and general waste in accordance with the WALGA Multiple Dwelling Waste Management Plan Guidelines - Level 1 Waste Management Plan (Design Phase) (or local government requirements where applicable).  **A4.17.4** – Communal waste storage is sited and designed to be screened from view from the street, open space and private dwellings. |
| **Proposed** |
| Proposing four dwellings, the development complies with the provisions of draft LPP – Waste.  An appropriately sized bin store has been proposed as part of the application and reviewed by the City’s internal Waste and Health Services.  The Bin store is screened from view and accessible from the street. |
| **Administration Assessment** |
| The application complies with the requirements of draft waste policy and provides an appropriately located bin store that meets the relevant standards.  The applicant’s Waste Management Plan, contained as **Attachment 9**, was approved by the City’s Waste Services. Given that the development only contains four dwellings, it will not result in the unnecessary proliferation of bins on the verge and complies with the maximum number permitted under the city’s Waste policy. The bin storage area is appropriately sized and located so as to be not be visually obtrusive to adjoining properties and the street.  This element objectives are considered to be achieved. |

1. **Conclusion**

Administration acknowledges the proposal represents a stark change to the existing dwellings that adjoin the property. That notwithstanding, there are multiple sites within the street that are likely to take advantage of the R80 and R60 density codes over time. Alexander Road provides an important transition between the newly coded Mixed Use R-AC3 and lower density areas beyond with default height of 6 storey to a default height of 4 storey for R80.

The applicant has made considerable changes to the plans, thereby addressing the City’s concerns regarding height, bulk, scale and streetscape presentation. Importantly, the application is considered to address some of the key concerns raised during public consultation for other recent development applications, namely: basement parking, surplus car parking bays, minimal number of dwellings, large areas of landscaping and tree canopy, generous street and side setbacks and – with the exception of plot ratio – compliance with the primary controls.

Approval of the application may encourage future applicants to apply for similarly scaled developments that are more consistent with the landscape and streetscape character of Nedlands, instead of the minimum 10 dwellings that are required for DAP applications.

The changes made to the development are such that it is now considered capable of meeting all relevant element objectives and is recommended for approval, subject to conditions.

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| **PD17.20** | **Local Planning Scheme 3 – Local Planning Policy: Rose Garden Transition Area and Stirling Highway West Precincts** |
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| **Committee** | 14 April 2020 |
| **Council** | 28 April 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Reference** | Nil |
| **Previous Item** | NOM Item 14.6 OCM 25 February 2020 |
| **Attachments** | 1. ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community 2. Plan of precinct areas within the City 3. Draft Community Working Groups – Terms of Reference 4. Administration comments on ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community 5. Administration’s alternate recommendation to Council |

1. **Executive Summary**

This report is presented to Council so that it can prepare the Local Planning Policy – Rose Garden Transition Area and Stirling Highway West Precincts and proceed to advertising, to consider the draft Community Working Groups – Terms of Reference.

1. **Recommendation to Committee**

**Council:**

1. **Prepares and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2, Part 2, Clause 4, the Local Planning Policy - Rose Garden Transition Area (Attachment 1);**
2. **Adopts the Rose Garden Precinct Community Working Group – Terms of Reference (Attachment 3); and**
3. **Instructs the Chief Executive Officer to establish the Rose Garden Precinct Community Working Group in accordance with the Community Working Group Terms of Reference (Attachment 3).**
4. **Background**

At the 25 February 2020 Council Meeting, a Notice of Motion was presented to Council regarding a document prepared by members of the City of Nedlands community, entitled ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’. In regard to this document, Council resolved as follows:

‘2. As a high priority instructs the CEO to prepare a Local Planning Policy for the Peace Memorial Rose Garden Precinct taking into consideration the draft submitted as per attachment 1, and once prepared seeks Council approval in April 2020 to advertise in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015;

4. Instructs the CEO to:

1. Involve the precinct community directly in the preparation of the formal Local Planning Policy for the Peace Memorial Rose Garden Precinct, including by the establishment of a working group with precinct community representatives and by workshops with the precinct community;
2. Ensure that the preparation of the formal Local Planning Policy for the Peace Memorial Rose Garden Precinct takes into account the need to sensitively plan and manage the interfaces between adjoining zones and with adjoining precincts.’

Following the 25 February 2020 Council Meeting, the City met with members of the community to discuss the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’. Subsequently, an amended ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ was provided to the City on 19 March 2020 (Attachment 1).

The City recognises the importance of involving the community in the greater precinct planning for the City. To ensure a consistent approach in developing local planning policies for the Precincts, the City is developing a Stakeholder Engagement and Communications Framework for precinct planning that will provide an overview of and identify appropriate engagement approaches to be used for developing the precincts. It is envisaged that this will function as a reference document to inform specific engagement plans for each of the precinct plans as they are developed. The City intends to provide a report to Council for consideration in May 2020.

This purpose of this Council Report is to provide Administration’s response to these Council Resolutions and to seek advertising of the Draft Local Planning Policy.

1. **Discussion**

The 25 February 2020 Council Resolutions noted above outlines the following specific actions for Administration:

1. Establish a community working group for the Peace Memorial Rose Garden precinct;
2. Engage with the abovementioned community working group to prepare a local planning policy for the Peace Memorial Rose Garden precinct, which also considers the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community; and
3. Present the abovementioned local planning policy to Council in April 2020 for adoption to advertise.

**Existing Schedule of Work**

These actions above already form part of Administration’s schedule of work for 2020, as outlined below.

These actions above already form part of Administration’s schedule of work for 2020, as outlined below.

Local Planning Policy Review – Consultation of Planning Proposals

Administration recognises the need and value of engaging with the community in a more meaningful and collaborative way, through such mechanisms as establishing Community Reference Groups (CRGs). As part of the wider review being undertaken for the Local Planning Policy - Consultation on Planning Proposals, Administration will be developing more concise guidance relating to engagement approaches and techniques to deliver this more collaborative outcome. In regard to Community Reference Groups, specific guidelines are being developed to outline how and when CRGs are established and function. This will also include a Terms of Reference template to be used in establishing such groups, to ensure a consistent approach.

Administration intends to present the revised Local Planning Policy – Consultation of Planning Proposals to the 23 June 2020 Council Meeting for adoption to advertise.

Precinct Plan – Local Planning Policies

The City’s Local Planning Scheme No. 3 (LPS 3) was gazetted in April 2019 and as a result, properties along Stirling Highway, Hampden Road, Broadway and Waratah Avenue were rezoned to Mixed Use, and residential densities surrounding these corridors were increased. Noting the need to provide localised planning controls for these areas, Administration has split this area into a number of activity and transition precincts, with the intent to create a local planning policy for each precinct. A plan showing these identified precincts is included as Attachment 2.

The Western Australian Planning Commission (WAPC) released Draft State Planning Policy 7.2 – Precinct Design (draft SPP 7.2) in August 2019 for public comment. Draft SPP 7.2 sets out that precincts are areas that require a high level of planning and design focus due to their complexity, whether this is due to mixed use components, higher levels of density, an activity centre designation or character, heritage and/or ecological value. Draft SPP 7.2 sets out a sound methodology to follow when planning for redevelopment in infill scenarios, which includes detailed context analysis and stakeholder and community participation. Administration considers the process advocated by SPP 7.2 is a best practice model and intends to adopt this process for the development of localised planning controls for the City’s identified activity and transition precincts. Noting that draft SPP 7.2 is not yet operational, therefore Administration intends to follow the process set out in draft SPP 7.2 but adopt the localised planning controls through local planning policies, which are already afforded statutory weight under the Planning Regulations.

Administration has started the process of developing local planning policies, using the methodology set out in draft SPP 7.2, for a number of precincts within the City, as outlined in the table below.

|  |  |
| --- | --- |
| **Precinct** | **Stage of policy development** |
| Nedlands Town Centre | * Community engagement undertaken August 2019 * Draft local planning policy adopted by Council for advertising September 2019 * Draft local planning policy being advertised March – April 2020 * Detailed context analysis and built form modelling currently being undertaken to inform revision of the draft local planning policy |
| Broadway Activity and Transition Areas | * Draft local planning policy adopted by Council for advertising January 2020 (Mixed Use-zoned portion only) * Draft local planning policy advertised February – March 2020 * Detailed context analysis and built form modelling currently being undertaken to inform revision of the draft local planning policy |
| Waratah Village Activity and Transition Area | * Community engagement undertaken November 2019 * Detailed context analysis and built form modelling currently being undertaken to inform preparation of the draft local planning policy |
| Hollywood West Transition Area | * Local character studies undertaken March 2020, which will inform detailed context and character analysis for these areas. |
| Hollywood Central Transition Area |
| Hollywood East Transition Area |
| Rose Garden Transition Area |
| Melvista Transition Area |

The ‘Rose Garden Precinct’ area proposed in Attachment 1 encompasses three street blocks, bound by Stirling Highway to the north, Doonan Road to the west, Jenkins Avenue to the south, and Mountjoy Road to the east. This proposed area covers portions of two precincts identified by Administration: Rose Garden Transition Area and Stirling Highway Activity West. These precinct boundaries were established using guidance from draft SPP 7.2, which recommends consideration of a range of factors in establishing precinct boundaries, including zoning, land use transition and location of major roads. Administration recommends that policy development in this area be consistent with the precinct boundaries identified using this guidance (being the Rose Garden Transition Area and Stirling Highway Activity West precincts).

The precinct planning schedule of works to date has been designed to balance the need to ensure policy is based on sound planning grounds by following the best practice model for policy development (as identified through draft SPP 7.2), and the need to expedite policy development for all precinct areas. External consultants have also been engaged to assist Administration in undertaking community engagement, context analysis and built form modelling as part of this policy development. Commencement of policy development for the remaining activity precincts is scheduled for mid-late 2020.

**Administration Response to 25 February 2020 Council Resolutions**

1. Establish a community working group for the Peace Memorial Rose Garden precinct.

As noted above, Administration is currently in the process of reviewing the Consultation of Planning Proposals Local Planning Policy. CRGs are proposed to be included as a method of engagement for strategic planning proposals, such as precinct plan local planning policies.

Separate to this abovementioned process, and in accordance with Council’s 25February 2020 Resolution, Administration has prepared a Terms of Reference for a Community Working Group (CWG; Attachment 3) for the Rose Garden precinct. The purpose of a CWG established under these Terms of Reference is to only progress with the finalisation of the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document. Membership on the CWG is proposed to be predetermined, given the level of proactive involvement in the preparation of the draft local planning policy and the limited area the local planning policy relates to comparative to the wider City defined planning precincts. Membership to this CWG will be by direct invitation to the following members:

* Ward Councillors (x3)
* Community members who have already met with the City to discuss the community prepared local planning policy (x4)

Administration recommends that Council adopts the Terms of Reference for a CWG (Attachment 3) for the Rose Garden precinct and instructs the CEO to establish a CWG in accordance with these Terms of Reference.

1. Engage with the abovementioned community working group to prepare a local planning policy for the Peace Memorial Rose Garden precinct, which also considers the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community.

Given the required process timeframes between Council’s 25February 2020 Resolutions and the 28 April 2020 Ordinary Council Meeting, Administration has not had sufficient time to develop the Terms of Reference for establishing the Community Working Group (CWG), present these Terms of Reference to Council for adoption, and meet with the CWG to review and finalise the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community.

A final revised copy of the local planning policy was provided to Administration for review on 20March 2020, following a meeting with some of the community members involved in preparing the policy, that was held on 19 March 2020 at Ms Libby Newman's request. Subsequent to this meeting, Administration developed a Terms of Reference for the CWG (Attachment 3) to help clearly define the purpose and role of the group, including membership, and establish the expectations of the community group as far as function and conduct.

Following engagement with the CWG, Administration will present a report back to Council to consider the amended ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document.

1. Present the abovementioned local planning policy to Council in April 2020 for adoption to advertise.

Administration is presenting the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document (Attachment 1) to Council to adopt as a local planning policy and advertise for a period of 21 days. In light of the restricted time frames outlined above, no changes have been made by Administration to Version 9 of this document, which was presented to Administration on 19March 2020.

**Administration Concern with Progressing the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ Document Prepared by the Community**

Administration has reviewed the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document prepared by the community, and notes a number of concerns, as outlined in Attachment 4.

While Administration has prepared this report in response to Council’s 25February 2020 Resolution, Administration has also provided an alternate recommendation to Council (Attachment 5) to not proceed with the ‘Draft Local Planning Policy – Peace Memorial Rose Gardens Precinct, Nedlands’ document, given that it has not been based on built form modeling, or a rigorous character and context assessment of the precinct which means it will be open to avoidable challenge.

Instead, the alternative recommendation from Administration is that Council instruct the CEO to progress with the precinct planning schedule of works outlined earlier in this report. Community engagement would still be a focus of this schedule of works, through the establishment of a CRG and more extensive engagement with the community, similar to the engagement undertaken previously for the Nedlands Town Centre and Waratah Village precincts.

To expedite policy development for this area, Administration recommends that Council allocate additional budget to allow the City to engage appropriate expertise to undertake built form modelling required for the two precincts. Based on price estimates obtained for the Broadway Activity and Transition Precincts, Administration estimates that $50,000 would be needed for this purpose.

Built form modelling and character and context assessment will assist in formulating a strong and sound town planning background for establishing the local planning framework. It will form the basis for decisions as to whether to rezone, what built form primary controls should or shouldn’t be amended whilst maintaining strategic objectives outlined in the City’s adopted Local Planning Strategy and in alignment with dwelling targets under Perth to Peel @ 3.5 million policy framework. Without this work being undertaken the policy does not provide the City with a strong basis for decision makers. Testing and modelling will allow the City to form a strong position in substantiating localised planning controls as needed.

1. **Consultation**

If Council resolves to prepare the local planning policy, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City’s website and the Your Voice engagement portal.

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

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

In addition to the formal advertising of the policy, Administration will also undertake more extensive engagement with the community, similar to the engagement undertaken previously for the Nedlands Town Centre and Waratah Village precincts, as well as engagement with the CRG once established.

1. **Budget/Financial Implications**

The recommendation is this report has no budget implications other than the re-prioritising of the work programme. However, in order to expedite the policy development for the Rose Garden Transition and Stirling Highway Activity West precincts, Administration alternatively recommends that Council allocate additional budget of $50,000 to allow the City to engage appropriate expertise to undertake built form modelling of the two precincts as a matter of urgency.

1. **Statutory Provisions**

Under Schedule 2, Part 2, Clause 3(1) of the Planning and Development (Local Planning Scheme) Regulations 2015, the City may prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.

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

1. **Conclusion**

In response to Council’s 25February 2020 Resolution, Administration is presenting this report with the following recommendations:

1. Prepares and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2, Part 2, Clause 4, the Local Planning Policy - Rose Garden Transition Area (Attachment 1);
2. Adopts the Rose Garden Precinct Community Working Group – Terms of Reference (Attachment 3); and
3. Instructs the Chief Executive Officer to establish the Rose Garden Precinct Community Working Group in accordance with the Community Working Group Terms of Reference (Attachment 3).