**

Planning and Development Reports

Committee Consideration – 14 August 2018

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**Council: 28 August 2018**

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| **PD36.18** | **(Lot 601) No. 2A Korel Gardens, Swanbourne – Two Storey Single House** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | Westlake Corp Pty Ltd (Trendsetter Homes) |
| **Landowner** | Mr A R & Ms K F Johnson |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA18/28993 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Site Photographs 2. Applicant Justification |

1. **Executive Summary**

A development application has been received for a two-storey single house at the subject property. The development proposes lot boundary setback and visual privacy variations to the deemed-to-comply provisions of the R-Codes.

Neighbouring landowners and residents were invited to comment on these variations with the consulted neighbouring landowners providing three (3) objections and one comment as well as one nearby resident not consulted by the City also providing an objection.

The lot boundary setback variations allow the dwelling to have a north-eastern facing outdoor living area and compliant vehicle manoeuvring to allow entry to the street in forward gear. The proposed lot orientation ensures no neighbouring lot is overshadowed by more than 10% of their lot area. The visual privacy variations proposed are to non-sensitive areas on neighbouring properties or provide windows which are obscured or are more than 1.6m above the dwelling’s finished floor level to ensure privacy is maintained between the subject property and neighbouring properties.

The parent lot was subdivided contradictory to the City’s recommendation for refusal on the basis that the lots could not accommodate compliant development – namely in relation to the non-discretionary 9m front setback for the front lot boundary and the discretionary 6m rear setback for both lots. As the lots have been created, a single house must be accommodated on each of the lots.

If the City were to require compliance with the 6 metre rear setback requirement, this would severely impact on the development potential of the subject lot given the less than 13m width of the north-eastern side lot boundary . To ensure compliant manoeuvring and adequate space is provided for outdoor living areas, a lesser rear setback has been proposed. The City has assessed the proposal taking into consideration the lot constraints that exist and has considered that although there are numerous variations proposed, the proposal complies with with the design principles of the Residential Design Codes and therefore is recommended for approval subject to conditions.

1. **Recommendation to Committee**

**Council approves the development application received 18 May 2018 with amended plans dated 5 July 2018 to construct a Two Storey Single House at (Lot 601) No. 2A Korel Gardens, Swanbourne, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to the proposed dwelling, associated site works, fencing and swimming pool.**
3. **The parapet wall being finished to a professional standard within 14 days of the proposed development’s practicable completion and be maintained thereafter by the landowner to the City’s satisfaction.**
4. **All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
5. **The bed 4 north facing awning window shall be obscured and restricted to an opening of less than 0.3m.**
6. **All fencing, visual privacy screens and obscure glass panels to Major Openings and Unenclosed Active Habitable Spaces as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2018*. The fencing, visual privacy screens and obscure glass panels shall be installed prior to the development’s practicable completion and remain in place permanently, unless otherwise approved by the City.**
7. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice Notes specific to this proposal:**

1. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
2. **The crossover to the street shall be constructed to the Council’s Crossover Specifications and the applicant / landowner to obtain levels for the crossover from the Council’s Infrastructure Services under supervision onsite, prior to commencement of works.**
3. **All swimming pool waste water shall be disposed of into an adequately sized, dedicated soak-well located on the same lot. Soak-wells shall not be situated closer than 1.8m to any boundary of a lot, building, septic tank or other soak-well.**
4. **All swimming pools, whether retained, partially constructed or finished, shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.**
5. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m**P**3**P **for every 80m**P**2**P **of calculated surface area of the development.**
6. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
7. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**

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

**Where there is over 10m**P**2**P **of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.**

1. **The applicant is advised to consult the City’s Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.**

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

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

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

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| **Lot area** | 590mP2 |
| **Metropolitan Region Scheme Zoning** | Urban |
| **Town Planning Scheme No. 2 Zoning** | Residential – R12.5/20 |
| **Detailed Area Plan/Outline Development Plan** | No |
| **Controlled Development Area** | No |
| **State Heritage Listed** | No |
| **Listed in Municipal Heritage Inventory** | No |

The subject property is of battle-axe configuration with the slope of the land having a 2m fall from the battle-axe leg down to the rear north-east corner. The subject site is vacant and will share the battle-axe leg with No. 2 Korel Gardens (the front lot) which is likely to be developed concurrently with the subject property.

An aerial image showing the location of the property follows.



1. **Background**

The original single house on the property was damaged by fire and demolished in 2015. The property was subsequently subdivided in 2017 in accordance with an approved subdivision which was granted by the WAPC in 2016. The City as a referral agency to the WAPC recommended that the subdivision be refused in accordance with clause 5.3.1 (d) of the City’s Town Planning Scheme No. 2 (TPS2), and also due to concerns regarding ability for two dwellings to comply with the relevant provisions of the City’s TPS2 and the deemed to comply provisions of the R-Codes. The WAPC approved the subdivision.

The subject property’s zoning is R12.5/20. The approved subdivision utilised the R20 density code which allows the application of the R20 density code provisions within the R-Codes for open space and outdoor living areas, however clause 5.3.1 (b) (iii) require that setbacks are as per the R12.5 density code which is further explained below.

1. **Specific Application Details**

The applicant seeks approval to construct a two-storey single house at the subject property, which proposes the following deemed-to-comply variations:

* The garage is proposed to be have a nil lot boundary setback in lieu of 1m to the south-western side lot boundary;
* The ground floor is proposed to have a 1.2m lot boundary setback in lieu of 1.5m to south-western side lot boundary;
* The upper floor is proposed to have a 2.32m lot boundary setback in lieu of 3.7m to the north-western side lot boundary;
* The upper floor is proposed to have a 2.9m lot boundary setback in lieu of 3.3m to the north-eastern side lot boundary;
* The ground floor is proposed to have a 1m lot boundary setback in lieu of 6m to the south-eastern rear lot boundary;
* The upper floor is proposed to have a 1.5m lot boundary setback in lieu of 6m to the south-eastern rear lot boundary;
* The upper floor bedroom 4 is proposed to have a visual privacy setback of 2.6m in lieu of 4.5m to the south-western side lot boundary;
* The master suite has a minimum visual privacy setback of 2.7m in lieu of 4.5m to the northern-western side lot boundary; and
* The upper floor master bedroom is proposed to have a minimum visual privacy setback of 3.05m in lieu of 4.5m to the north-eastern side lot boundary.

The application was advertised with a nil setback to the rear lot boundary on the ground floor and a clear awning window to bed 4. As a result of the submissions received, the applicant has provided revised plans and has elected to increase the ground floor setback to 1m to the rear lot boundary and to obscure the bed 4 awning window.

By way of justification in support of the development application, the applicant has provided a justification report which has been provided as an attachment to this report (Attachment no. 2).

1. **Consultation**

The development application was advertised to affected landowners for comment in accordance with Council’s Neighbour Consultation Policy due to the proposed lot boundary and visual privacy deemed to comply variations listed above. During the consultation period 5 submissions were received, however one made comments only and another was from a nearby resident not consulted by the City of Nedlands (not a neighbouring landowner). The following is a summary of the concerns raised:

* The lot should not have been allowed to be subdivided as the lot configuration being battle-axe is inconsistent with the other subdivided properties in the area – being of side-by-side orientation. The lot orientation results in development within area which would otherwise be the 6m rear setback area.
* The size of the home is very large being 5 bedrooms on a smaller lot area. The dwelling should be of a more modest size to suit the size of the lot and reduce the number of variations as a result.
* The dwelling size, orientation and variations proposed threaten the amenity of neighbouring properties and the overall character of the locality being a low-density family friendly suburb.
* The development will set an undesirable precedent for future development in the locality.
* The location of the dwelling towards the south-western side of the lot advantages the subject property having a north-eastern outdoor living area, at a detriment to surrounding neighbouring landowners in terms of bulk, scale, privacy and overshadowing;
* The slope of the land has properties to the south and east being lower than the subject property – increasing the prominence of the proposed lot boundary setback variations in terms of bulk and perceived privacy.
* Submitters believe that a more compliant dwelling can be built on the property by changing the orientation of the house to be located in a more north-eastern position.

The submissions have been addressed in the assessment section below.

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

1. **Assessment of Statutory Provisions**

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

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

**7.2 Town Planning Scheme No. 2**

**7.2.1 Amenity**

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

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

The application has been assessed in accordance with this clause and for the following reasons the proposal does not cause amenity impacts relating to traffic, external appearance, noise or any other factor.

The open space provided is 57.45% which is well in excess of the 50% required within the R20 density code (37.92mP2P less building floor space area than permitted). The upper floor has been designed to ensure that overshadowing of neighbouring properties is fully compliant – with less than 10% overshadowing proposed as well as all openings are designed to prevent direct and indirect overlooking. The proposed openings over 1.6m above the finished floor level and obscured windows provided where within the 4.5m of the rear lot boundary.

The finished floor level of the dwelling is at 20.0 AHD (Australian height datum) which is the lowest which can be provided given the maximum 5% gradient permitted within the vehicle manoeuvring area in accordance with Australian Standard (AS2890.1). The proposed level ensures that no more than 0.5m of fill and retaining is proposed above natural ground level within 1m of any lot boundary.

The proposed location of the boundary wall to the south-western neighbour is located away from sensitive areas on their property and given the difference in the finished floor levels of the dwellings (south-western neighbour is higher) and the existing mature trees on the neighbour’s property, the impact of the boundary wall is significantly lessened. The location of the boundary wall also permits compliant vehicle manoeuvring whilst maximising space on the ground floor and open area in the north-eastern corner of the site for an outdoor living area.

The R12.5/20 coding requires the application of setbacks as per the R12.5 density code. The development requires a 6m rear setback to comply with the Scheme (TPS2) and boundary walls are not permitted. It is noted however that thesetback requirements of the Scheme can be varied if considered compliant with the design principles of the R-Codes for lot boundary setbacks. All other assessment provisions applicable (lot area, open space, outdoor living areas and overshadowing) are assessed as per the R20 density code. If the City were able to apply the R20 setback provisions, the proposed rear setbacks would fully comply given the revised plan which removed the second boundary wall. It is therefore considered that the development will not have an adverse impact on the amenity of the neighbouring landowners and the character of the locality and should be approved.

**7.3 Residential Design Codes (State Planning Policy 3.1)**

**7.3.1 Lot boundary setbacks**

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| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Boundary walls only permitted where adjacent to an existing or simultaneously constructed boundary wall of similar dimensions. | The garage is proposed to have a nil lot boundary setback in lieu of 1m to the south-western side lot boundary and is not proposed to be constructed adjacent to an existing or proposed boundary wall of similar dimensions. | No. |
| Rear lot boundary setback 6m. | The ground floor is proposed to have a 1m lot boundary setback in lieu of 6m to the south-eastern rear lot boundary. |
| The upper floor is proposed to have a 1.5m lot boundary setback in lieu of 6m to the south-eastern rear lot boundary. |
| Walls setback from side lot boundaries in accordance with Table 2A and 2B. | The ground floor is proposed to have a 1.2m lot boundary setback in lieu of 1.5m to south-western side lot boundary. |
| The upper floor is proposed to have a 2.32m lot boundary setback in lieu of 3.7m to the north-western side lot boundary. |
| The upper floor is proposed to have a 2.9m lot boundary setback in lieu of 3.3m to the north-eastern side lot boundary. |
| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:*   * + - *reduce impacts of building bulk on adjoining properties;*     - *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*     - *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*   *P3.2 Buildings built up to boundaries (other than the street boundary) where this:*   * + - *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*     - *does not compromise the design principle contained in clause 5.1.3 P3.1;*     - *does not have any adverse impact on the amenity of the adjoining property;*     - *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*     - *positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”* | | |
| **Administration Comments**  UBoundary wall to south-western side lot boundary  The placement of the garage in this location allows compliant manoeuvring, with significant modifications/reductions to the ground floor area required to facilitate a larger setback to the side lot boundary or even the garage location being to the north-western side lot boundary. The boundary wall is for a garage and is not permitted as a right where the R12.5 density code provisions apply (as per clause 5.3.1 (b) (iii) of TPS2).  The reduced setback provides for a more effective use of space on an irregular shaped lot and allows more sunlight into the north-eastern part of the lot where the outdoor living area is located. The adjacent area on the neighbouring property is side setback area only, away from the majority of major openings and the outdoor living area of the dwelling. The boundary wall is a considerable distance away from the road, ensuring that the prevailing streetscape pattern is open in nature with space around the dwellings maintained.  URear setback  The rear setback requirement is 6m as per the R12.5 density code. This is due to Clause 5.3.1 (b) (iii) of TPS2 requiring setbacks to be as per the lower density code for split coded properties. As the R-Codes specify the rear setback the 6m deemed to comply setback requirement can be varied if compliant with the design principles of the R-Codes for lot boundary setbacks.  Compliance with a 6m rear setback would make this property undevelopable. The provision of a larger setback to the rear boundary would likely result in either a smaller north-eastern outdoor living area or relocation of the outdoor living area to the south of the subject property. This would reduce the positive passive solar design aspects of the proposed dwelling and result in co-location of three outdoor living areas which may be of more impact on the amenity of neighbouring landowners than a building with no major openings.  The ground floor elevations have only minor openings and the upper floor has one major opening to the upper floor for the master suite which faces a solid section of wall and minor openings only of the rear neighbour’s dwelling. This ensures that privacy will be maintained between properties. | | |
| UGround floor south western side lot boundary  The ground floor is proposed to have a minimum setback of 1.2m in lieu of 1.5m to the south western side lot boundary. The larger setback is required due to the guest bedroom major opening. The major opening will be fully screened by the proposed dividing fence. The finished floor level of the neighbouring dwelling is higher than the subject site. This will ensure no loss of direct sunlight which further reduces the impact of the setback variation.  UUpper floor north-eastern side lot boundary  The section of the upper floor which proposes a reduced setback to the master bedroom is setback 2.9m in lieu of 3.3m. The larger setback requested is due to the proposed major opening, however the opening overlooks vacant rear yard area and the overlooking is indirect in nature will occur.  The building has been articulated to reduce bulk and there is no loss of sunlight to the north-eastern neighbour as a result of the reduced setback.  UUpper floor north-western side lot boundary  The setback of 2.23m to the north-western side lot boundary in lieu of the required 3.7m is also due to the upper floor major opening to the master suite as well as the bedroom 2 major opening. No sensitive spaces are proposed to be overlooked by the major openings. The building bulk has been articulated with large setbacks provided for the majority of the upper floor and the lot orientation ensures no loss of sunlight to the north-western neighbouring property. | | |

**7.3.2 Visual privacy**

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| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Major openings to bedrooms are required to have a 4.5m visual privacy setback. | The upper floor bedroom 4 is proposed to have a minimum visual privacy setback of 2.6m in lieu of 4.5m to the south-western side lot boundary. | No |
| The upper floor master bedroom has a minimum visual privacy setback of 2.7m in lieu of 4.5m to the northern-western side lot boundary. |
| The upper floor bed 2 has a minimum 4m visual privacy setback in lieu of 4.5m to the north-western side lot boundary. |
| The upper floor master bedroom has a minimum visual privacy setback of 3.05m in lieu of 4.5m to the north-eastern side lot boundary. |
| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*   * *building layout and location;* * *design of major openings;* * *landscape screening of outdoor active habitable spaces; and/or* * *location of screening devices.*   *P1.2 Maximum visual privacy to side and rear boundaries through measures such as:*   * *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;* * *building to the boundary where appropriate;* * *setting back the first floor from the side boundary;* * *providing higher or opaque and fixed windows; and/or* * *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).”* | | |
| **Administration Comments**  The window to bedroom 4 on the north-west elevation is proposed to be obscured and is also an openable awning window. As the window is openable it is not considered a minor opening and subject to the visual privacy requirements of the R-Codes. Although the window is obscured, to prevent any actual overlooking as a result of opening the window, a condition of planning approval is recommended to restrict the awning window to an opening of 0.3m or less.  The master bedroom is proposed to overlook vacant rear yard area of the north-eastern neighbouring property only, ensuring sensitive spaces (outdoor living areas and major openings to habitable rooms) on the north-eastern neighbour’s property are not impacted.  The rear window to the master suite is setback over 4.5m from the rear lot boundary. This ensures compliance with the visual privacy requirements of the R-Codes. However, the line of sight is to a blank wall on the south-western neighbour’s property also ensuring sensitive spaces on the neighbour’s property are protected.  As of the date of writing this report, the northern neighbouring property (no. 2 Korel Gardens) does not have a current approval for a new dwelling on this property. Regardless of this, the north facing master suite bedroom window is located further to the west to ensure that the proposed dwelling’s major openings are protected from overlooking and the bed 2 major opening is proposed to look over garage roof space only. | | |

**7.4 Local Planning Policy – Fill and Fencing**

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| **Policy Requirement** | **Proposed** | **Complies?** |
| Dividing Fencing 1.8m in height is permitted on top of retaining with a maximum height of 0.5m without an over-height dividing fence agreement. | A maximum of 0.5m of fill and retaining is proposed to the side and rear lot boundaries with a 1.8m high dividing fence proposed on top of the retaining. | Yes |

1. **Other Issues Raised**

*During the advertising period the submissions received in relation to the proposed development also raised the following concerns:*

* Transfer of value from neighbouring properties to subject property (i.e. de-valuation of neighbouring properties) and price of the block to reflect the size of the proposed dwelling.

The de-valuation of a property as a result of a development is subjective and therefore is not able to be considered in a planning consideration. Further to this, the proposed development complies with the open space requirements and does not propose any variations which the City cannot consider under the design principles of the R-Codes (all discretionary variations).

* Damage to dwelling as a result of neighbouring and proposed construction.

This is a separate issue which is addressed by the builders and landowners during the construction phase. A dilapidation report can assist in settling disputes between landowners arising from damage to neighbouring properties during construction.

1. **Budget / Financial Implications**

N/A

1. **Risk management**

N/A

1. **Conclusion**

The subject site has been created as a result of the subdivision which has been approved by the WAPC and subsequently, the City is now required to assess an application for development in accordance with the Scheme. The proposed lot boundary setback variations are to be expected given the irregular lot dimensions created by the subdivision and provisions of the Scheme which require the deemed-to-comply setbacks to be applied as per the R12.5 density code for a lot with an area permitted within the R20 density code. It is proposed that the City be applying the R20 lot boundary setback requirements, the boundary wall to the south-western side lot boundary would therefore be fully compliant and the rear setbacks would also be predominantly compliant.

Further to the above, the visual privacy variations do not result in a loss of privacy to neighbouring landowners with no major openings or outdoor living areas being overlooked on neighbouring properties. Therefore, the development is considered to comply with the design principles and therefore recommended for approval subject to conditions.

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| **PD37.18** | **(Lot 54) No. 14 Odern Crescent, Swanbourne – Amendment to DA18/28369 (Two Storey Single House with Under-croft)** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | Element Advisory Pty Ltd |
| **Landowner** | A M Cullen & M E Hands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA18/29077 |
| **Previous Item** | PD07.18 – 27 March 2018 |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Site Photographs |

1. **Executive Summary**

A development application has been lodged to amend approved plans for a two-storey single house with an under-croft garage. The original plans were approved under delegated authority in December 2017 with two subsequent amendments also approved. One amendment was approved by Council in March 2018 and another subsequent amendment was approved under delegated authority in April 2018.

The application proposes to increase the front balcony and as a result creates a street setback variation to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) with the minimum setback proposed to be 3.44m in lieu of 3.75m. One objection was received in relation to the proposed minimum front setback variation.

The proposed variation is considered to be minor in nature due and has negligible impact upon the streetscape given the open style of the balcony and the relatively small amount of balcony area projecting forward of the 3.75m (equating to 0.21mP2P of balcony area). As such the development is considered to comply with the City’s TPS2 and the Design Principles of the R-Codes and therefore it is recommended that the application be approved by Council.

1. **Recommendation to Committee**

**Council approves the development application dated 23 May 2018 for Amendments to DA18/28369 (Two Storey Single House) at (Lot No. 54) No. 14 Odern Crescent, Swanbourne, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **The previous development approval (DA18/28369, dated 18 April 2018) and conditions there-in, remain in effect. This excludes the plans approved as part of the previous development application.**

**Advice Notes specific to this proposal:**

1. **This decision constitutes planning approval only and is valid for a period of two years from the date of the original approval (18 December 2017). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**
2. **Site Details**

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| **Lot area** | 885mP2 |
| **Metropolitan Region Scheme Zoning** | Urban |
| **Town Planning Scheme No. 2 Zoning** | Residential |
| **Detailed Area Plan/Outline Development Plan** | No |
| **Controlled Development Area** | No |
| **State Heritage Listed** | No |
| **Listed in Municipal Heritage Inventory** | No |

The property is relatively level with the existing dwelling proposed to be demolished. A subdivision application has been approved by the Western Australian Planning Commission with a side-by-side lot configuration. A subdivision clearance application is yet to be lodged with the City at the time of writing this report. The assessment has been based on the lot in its entirety.

An aerial image showing the location of the property follows.



1. **Background**

The original development application was lodged with the City in October 2017. This application was advertised with the following variations to the deemed-to-comply provisions of the R-Codes:

* Reduced minimum front setback;
* Boundary wall to western side lot boundary; and
* Reduced visual privacy setback to western side lot boundary.

As objections were received to the variations, the variations were removed by the applicant from the proposal to allow approval under delegated authority in December 2017.

The first amendment to the development approval was lodged with the City in January 2018 and approved by Council at its March 2018 meeting with the following variations:

* Boundary wall to western side lot boundary; and
* Reduced visual privacy setback to western side lot boundary.

These are 2 of the 3 variations that were previously applied for, objected to and removed from the application lodged in October 2017.

Another amendment application was lodged and approved under delegated authority in April 2018 for the following amendments:

* Increased size of balcony towards eastern side of the lot; and
* Increase to the size of the kitchen window.

The application that is subject of this report was lodged with the City in May 2018 proposing a reduced minimum primary street setback of 3.44m in lieu of 3.75m. This variation is discussed in more detail further in the report.

1. **Specific Application Details**

The application seeks approval to amend the approved plans by increasing the size of the upper floor balcony. The minimum primary street setback is proposed to be 3.44m in lieu of 3.75m as a result.

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

* *“The encroachment reduces as you go west so only approximately 0.21m*P*2*P *is forward of the 3.75m front setback line, representing less than 2% of the overall balcony area.*
* *Is very minor to the extent that the 310mm encroachment into the 3.75m front setback zone will be imperceptible from the street.*
* *Provides improved articulation and enhanced symmetry of the building to the primary street, enhancing the Odern Crescent streetscape.*
* *Will represent a lightweight minor projection that is visually unobtrusive, but that will still add interest and reflect the character of the street without impacting on the appearance of bulk over the site.*
* *Is appropriate to its location, which is already proposed to be occupied by an approved balcony.*
* *Will respect adjoining development, where habitable rooms and outdoor living areas are well set back from the balcony location on both of the neighbouring properties to the east and west.*
* *Is roofed, so will facilitate the weather protection and enhanced usage of the balcony area, providing enhanced casual surveillance benefits to the street environment and coastal dune area to the north.”*

1. **Consultation**

The development application was advertised to affected landowners for comment due to the minimum primary street setback proposed to be 3.44m in lieu of 3.75m. The following is a summary of the concerns raised:

* *“I have already objected to a reduced setback;*
* *I believe the setback should be 7.5, same as my property, only a questionable by-law has allowed 3.75m; and*
* *This will adversely affect the streetscape and block my North-east outlook to the park.”*

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

1. **Assessment of Statutory Provisions**

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

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

**7.2 Town Planning Scheme No. 2**

**7.2.1 Amenity**

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

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

The proposed variation is considered to be minor in nature as the protruding portion of the balcony is open in nature and is only for a small section equating to 0.21mP2P of area. This variation will not be distinguishable from a compliant setback of 3.75m with the minimum setback being larger than the secondary street setback on the western adjoining neighbouring property ensuring that the impact of the streetscape is negligible. Taking this into consideration the proposed variations are unlikely to have significant adverse impact on the locality amenity.

**7.3 Residential Design Codes (State Planning Policy 3.1)**

**7.3.1 Street setback**

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| --- | --- | --- |
| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Minimum 3.75m  Average 7.5m | Minimum 3.44m  Average >7.5m | No |
| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P2.1 Buildings set back from street boundaries an appropriate distance to ensure*  *they:*   * *contribute to, and are consistent with, an established streetscape;* * *provide adequate privacy and open space for dwellings;* * *accommodate site planning requirements such as parking, landscape and utilities; and* * *allow safety clearances for easements for essential service corridors.*   *P2.2 Buildings mass and form that:*   * *uses design features to affect the size and scale of the building;* * *uses appropriate minor projections that do not detract from the character of*   *the streetscape;*   * *minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and* * *positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”* | | |
| **Administration Comments**  The streetscape only consists of three properties with Allen Park across the road and two street intersections either side of the neighbouring properties. The western property has their secondary street to Odern Crescent with a minimum setback of less than 3m provided and the eastern property has a minimum setback of 3.75m to solid parts of the building. The proposed reduced minimum setback is to an open balcony with only a small corner setback less than 3.75m, with the rest of the balcony and all enclosed sections all setback 3.75m.  The balcony has been screened to prevent overlooking and more than the required 50% open space has been provided for the dwelling. The balcony adds architectural feature and breaks up the building form and mass as viewed from the street. The reduced primary street setback will not set an undesirable precedent, with any future development to either comply with the 3.75m minimum and 7.5m average required or to justify a variation through the abovementioned design principles. | | |

1. **Budget / Financial Implications**

N/A

1. **Risk management**

N/A

1. **Conclusion**

The proposed reduced front setback is minor in nature with less than 0.21mP2P of balcony area proposed within the front setback area. The balcony area is open in style and will have negligible impact upon sensitive areas (outdoor living areas and major openings) of the adjacent neighbouring properties.

As such, the variation is not considered to negatively impact the amenity of neighbouring landowners and streetscape and therefore the amendment is considered compliant with the Design Principles of the R-Codes. Accordingly, it is recommended that the application be approved by Council.

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| **PD38.18** | **(Lot 329) No. 9 Bedford Street, Nedlands – Additions (Patio and Carport) to Single House** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | Great Aussie Patios |
| **Landowner** | A W & D L White |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA18/29007 |
| **Previous Item** | Nil. |
| **Delegation** | Administration has elected not to exercise delegation under clause 6.7.1 due to the nature of the variations proposed and conditions of approval requiring alteration to the development. |
| **Attachments** | 1. Site photographs. |

1. **Executive Summary**

A development approval is being sought for a carport and patio addition at the subject property. The patio is proposed to be to the rear of the existing dwelling and is fully compliant with all relevant provisions. The carport is proposed to be accessed from Bedford Street with a fully compliant 6.5m front setback, however the carport is proposed to have a 0.5m setback (eave setback 0.5m and post on the boundary) to the eastern side lot boundary and be constructed of sheet metal in lieu of materials and colours to match the existing dwelling.

The carport does not comply with the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for lot boundary setbacks to the eastern side lot boundary and vehicle access as well as the side lot boundary setback requirement for carports specified in the City’s Local Planning Policy 6.23 – Carports and Minor Development Forward of the Primary Street Setback.

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

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

1. The eastern side lot boundary setback for the carport is increased to 0.9m (as measured to the post and eave);
2. The carport colours and materials of construction to compliment or match the existing dwelling; and
3. The eastern side lot boundary setback to the driveway is increased to 1m.

The recommended modifications will increase the eastern side boundary setback provided and will improve the appearance of the development. The existing streetscape will be maintained, bringing the carport into compliance with the Design Principles of the R-Codes and objective of the City’s Local Planning Policy 6.23. The application is recommended for approval subject to the modifications being shown on the building permit application to the satisfaction of the City.

1. **Recommendation to Committee**

**Council approves the development application received 21 May 2018 with amended plans received 26 June 2018 for additions (carport and patio) to the existing single house at (Lot 329) No. 9 Bedford Street, Nedlands, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to the proposed patio and carport.**
3. **Revised drawings shall be submitted with the Building Permit application, to the satisfaction of the City, showing modifications to the carport and driveway as follows:** 
   1. **The eastern side lot boundary setback for the carport is increased to 0.9m (as measured to the post and eave);**
   2. **The carport colours and materials of construction to compliment or match the existing dwelling; and**
   3. **The eastern side lot boundary setback to the driveway is increased to 1m.**
4. **The existing garage spaces are to be retained as covered car parking spaces.**
5. **All sides of the carport shall remain open and shall not accommodate a door.**
6. **All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
7. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

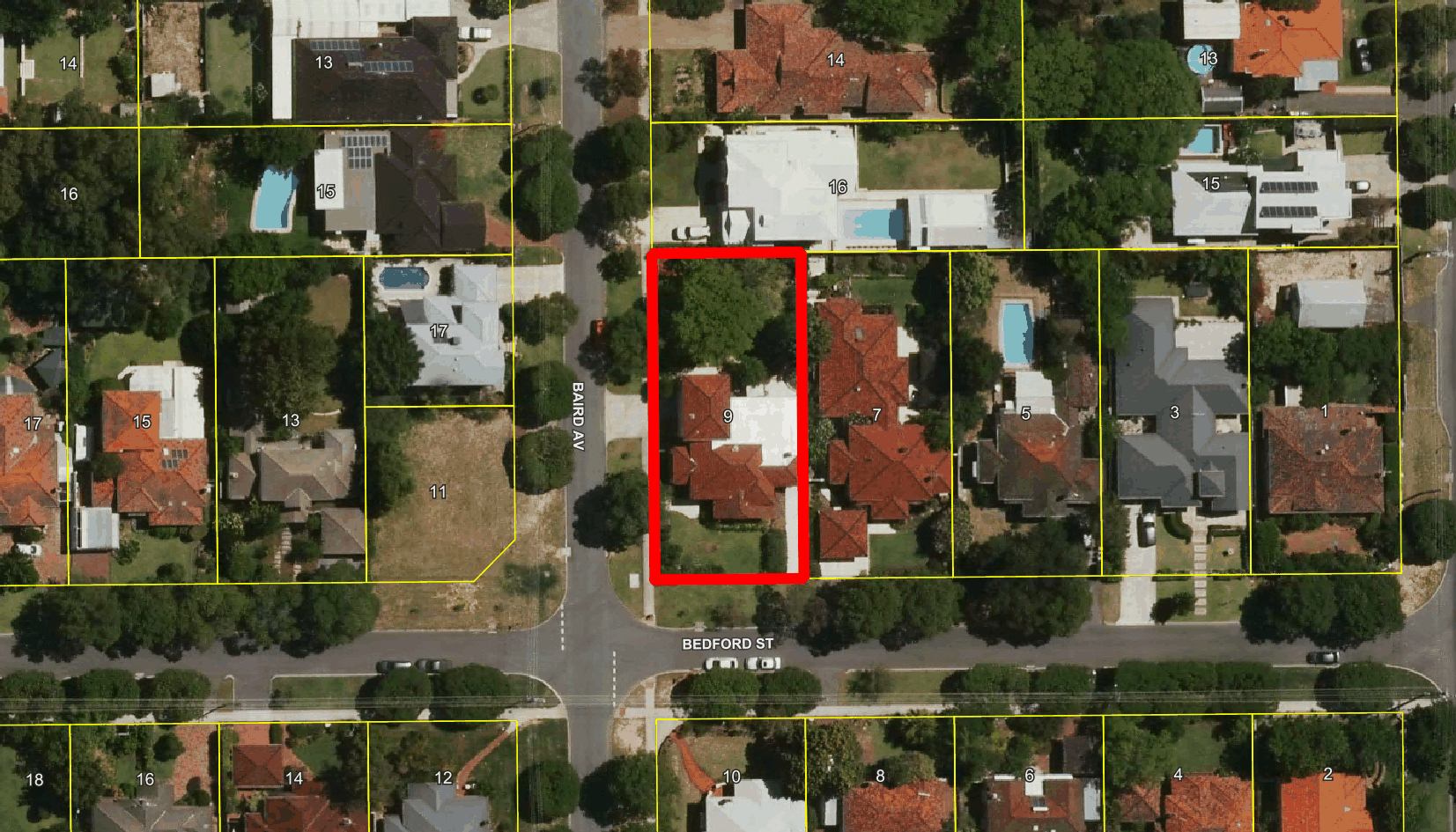
**Advice Notes specific to this proposal:**

1. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
2. **All crossovers to the street(s) shall be constructed to the Council’s Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council’s Infrastructure Services under supervision onsite, prior to commencement of works.**
3. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
4. **Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
5. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m**P**3**P **for every 80m**P**2**P **of calculated surface area of the development.**
6. **This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**
7. **Site Details**

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| --- | --- |
| **Lot area** | 1011.7mP2 |
| **Metropolitan Region Scheme Zoning** | Urban |
| **Town Planning Scheme No. 2 Zoning** | Residential – R10 |
| **Detailed Area Plan/Outline Development Plan** | No |
| **Controlled Development Area** | No |
| **State Heritage Listed** | No |
| **Listed in Municipal Heritage Inventory** | No |

There is a gradual 1.5m slope from the south-west corner up to the north-east corner of the subject property. The carport is proposed to be positioned where there is currently a boat parked on the property.

An aerial image showing the location of the property is on the following page.



1. **Specific Application Details**

The applicant seeks approval to construct patio and carport additions to the existing single house. The patio is proposed to be on the northern rear end of the dwelling and is fully compliant with the deemed to comply provisions of the R-Codes.The carport is proposed to be accessed from Bedford Street and will be partially within the 9m front setback area with a 6.5m front setback (3.5m minimum setback permitted) and 0.5m setback to the eastern side lot boundary . The development proposes the following variations:

* Vehicle access from the primary and secondary street in lieu of access solely from the secondary street; and
* Carport eastern side setback of 0.5m in lieu of 1m.

The applicant has not provided any justification in support of the variations.

1. **Consultation**

The development application was advertised to affected landowners for comment due to the proposed variations to the vehicle access and lot boundary setbacks. No comments were received during the consultation period.

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

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.

**6.2 Town Planning Scheme No. 2**

**6.2.1 Amenity**

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

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

Clause 5.6.2 of the City’s Town Planning Scheme No. 2 (the Scheme) permits the provision of carports within the front setback area for existing dwellings. The intent of this provision is to allow existing dwellings without covered car parking behind the front setback area or without the ability to have a covered car parking behind the front setback area, to have covered spaces where otherwise there would be an open front setback area.

The subject dwelling has covered car parking already provided behind the front setback within a garage accessed from the secondary street. The approval of additional covered car parking spaces which do not comply with the R-Codes or the City’s Local Planning Policies are likely to result in a poor streetscape outcome with the proliferation of covered spaces and vehicle access points.

To mitigate the impacts of the additional spaces which is in contravention of the intent of the provisions of the Scheme, the carport should be re-designed to be more compliant with the policy provisions with a setback of 0.9m from the side lot boundary and constructed of similar or compatible materials and colours to the main dwelling conditioned as part of the recommended approval.

An increased side setback of 0.9m will still be able to cover two vehicles with AS2890.1 requiring a minimum 5.1m width for two bays adjacent to a dwelling, when open on the other (eastern) side. These bays will be in addition to the existing bays accessed from Baird Avenue which are required to be retained as covered car parking as per clause 5.5.6 of the City’s TPS2.

**6.3 Residential Design Codes (State Planning Policy 3.1)**

**6.3.1 Lot boundary setbacks**

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| --- | --- | --- |
| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Building setback from side lot boundaries in accordance with Table 2A and 2B. | The carport is proposed to be setback 0.5m in lieu of 1m and no existing boundary walls adjacent to the proposed carport on the eastern neighbour’s property. | No |
| Walls may be built up to a lot boundary behind the street setback where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension. |

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| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same*  *lot so as to:*   * *reduce impacts of building bulk on adjoining properties;* * *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and* * *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*   *P3.2 Buildings built up to boundaries (other than the street boundary) where this:*   * *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;* * *does not compromise the design principle contained in clause 5.1.3 P3.1;* * *does not have any adverse impact on the amenity of the adjoining property;* * *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and* * *positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”* |
| **Administration Comments**  As specified earlier in the report, the front setbvack of 6.5m is fully compliant, with only the side setback of 0.5m in lieu of the required 1m being non-compliant.  A boundary wall is defined as a building setback less than 0.6m from the side lot boundary as per C3.3 of the R-Codes. Therefore, the proposed carport with posts of boundary and eave setback 0.5m is considered to be building to boundary.  Boundary wall development is not largely evident within the immediate locality however there are some examples of garages built up to the boundary behind the front setback and carport additions built up to the side lot boundary with eave setback to comply with fire separate requirements (usually 0.5m as proposed). However, these examples are of a higher quality built-form, designed to integrate with the existing dwellings to positively contribute to the streetscape.  The carport addition is proposed to be constructed of sheet metal and metal posts which do not match or complement the existing brick and tile dwelling and the setback of 0.5m is proposed to provide maximum coverage of the car parking spaces where there is ability to provide a larger setback and still comply with the relevant AS2890.1 for car parking spaces with a setback of 0.9m. A setback of 0.9m is closer to the required setback of 1m and will still provide coverage for vehicles in accordance with AS2890.1 with the carport having an open side to the eastern side lot boundary.  Therefore, it is recommended that the carport materials of construction are altered as such and the setback increased to ensure the open streetscape is maintained and reduced impact on the amenity of the eastern neighbour and immediate locality. |

**6.3.2 Vehicle access**

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| --- | --- | --- |
| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Vehicle access is to be obtained from the secondary street. | Vehicle access is proposed from the primary and secondary streets. | No |

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| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P5.1 Vehicular access provided for each development site to provide:*   * *vehicle access safety;* * *reduced impact of access points on the streetscape;* * *legible access;* * *pedestrian safety;* * *minimal crossovers; and* * *high quality landscaping features.”* |
| **Administration Comments**  The subject property is located on a corner lot with an existing double width vehicle access from Baird Avenue to the existing garage. The second access point is proposed to be from the primary street and remove an existing street tree. The City’s Parks team have reviewed the proposal and have no objections to the street tree being removed subject to Nature Strip Development Application being lodged.  A number of other corner properties within the locality have two access points and the proposed new access is away from the corner intersection. The reduced setback to the garage access from Baird Avenue means there are no uncovered spaces available for guests and additional vehicles on the subject property and therefore the provision of an additional access point on a different street frontage will provide legible and safe access for additional vehicles whilst not proposing any additional pedestrian conflict with no footpath on Bedford Street. |

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

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| --- | --- | --- |
| **Policy Requirement** | **Proposed** | **Complies?** |
| The side setback to a carport is 1m | 0.5m. | No |
| Any structures located in the primary street setback area shall use similar materials and construction methods as the main building. | Flat roof carport with sheet metal roof whereas dwelling has tiled pitched roof. | No |
| **Policy Objectives**  The following objectives are stipulated under the Policy:  *“To ensure that the present open character and street amenity of the City of Nedlands is not compromised by the construction of carports and other small structures within the primary street setback area.”* | | |
| **Administration Comments**  See above lot boundary setback comments.  Although there are existing covered car parking spaces provided on the property, the TPS2 and policy provisions do not prevent the provision of a carport within the front setback. As the carport will not be the only covered car parking spaces on the property, to ensure that the open character and street amenity is maintained, a higher standard of construction and larger setback is recommended to be implemented through conditions of development approval. | | |

1. **Budget / Financial Implications**

N/A

1. **Risk management**

N/A

1. **Conclusion**

The recommended modifications to the development proposal will ensure that the development will better comply with the relevant design principles of the R-Codes for lot boundary setbacks and the City’s Local Planning Policy 6.23 with increased open area around the dwelling and more complementary design to the existing dwelling – reducing the impact of the development on the immediate streetscape amenity.

Accordingly, it is recommended that the application be approved by Council subject to modifications to increase the eastern side lot boundary setback for the carport to 0.9m and driveway to 1m as well as the use of complementary colours and materials to the existing dwelling.

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| **PD39.18** | **(Lot 396) No. 64 Florence Road, Nedlands – Two Storey Single House** |
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| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | Atrium Homes |
| **Landowner** | Mr W Pangestu |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA18/28642 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Site Photographs 2. Applicant Justification |

1. **Executive Summary**

A development application has been received for a two-storey single house at the subject property. The development proposes lot boundary setback and visual privacy variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) as follows:

1. Ground floor lot boundary setback variations are proposed to the northern and southern lot boundaries, these are a result of the slope across the lot with the wall height being taken from the highest point in the wall length – greatly increasing the required setback under the deemed to comply provisions of the R-Codes.
2. Upper floor setback variation is proposed to the Southern elevation which is only 0.04m less than the deemed-to-comply requirement., This ensures that the variation is not discernible from a compliant lot boundary setback.
3. Visual privacy variations to the southern lot boundary from the front porch and living room is limited to overlooking of a blank wall on the southern neighbour’s property, ensuring privacy is maintained between the properties.

The development is considered to comply with the design principles and therefore is recommended for approval subject to conditions.

Neighbouring landowners and residents were invited to comment on these variations with one objection received to the proposed northern side lot boundary setback variation during the consultation period.

1. **Recommendation to Committee**

**Council approves the development application dated 01 May 2018 to construct a two-storey single house at (Lot 396) No. 64 Florence Road, Nedlands, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to the proposed single house, front fence and associated site works.**
3. **All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
4. **All fencing, visual privacy screens and obscure glass panels to Major Openings and Unenclosed Active Habitable Spaces as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2018*. The fencing, visual privacy screens and obscure glass panels shall be installed prior to the development’s practicable completion and remain in place permanently, unless otherwise approved by the City.**
5. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice notes:**

1. **The dwelling shall not be used as a display home without further approval from the City being obtained.**
2. **All crossovers to the street(s) shall be constructed to the Council’s Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council’s Infrastructure Services under supervision onsite, prior to commencement of works.**
3. **The redundant crossover(s) shall be removed and the nature-strip (verge) reinstated to the City’s satisfaction.**
4. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
5. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
6. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m**P**3**P **for every 80m**P**2**P **of calculated surface area of the development.**
7. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
8. **The applicant is advised to consult the City’s Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.**

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

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

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

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| **Lot area** | 1011.7mP2 |
| **Metropolitan Region Scheme Zoning** | Urban |
| **Town Planning Scheme No. 2 Zoning** | Residential – R10 |
| **Detailed Area Plan/Outline Development Plan** | No |
| **Controlled Development Area** | No |
| **State Heritage Listed** | No |
| **Listed in Municipal Heritage Inventory** | No |

The property upwardly slopes 3m from the street to the rear of the lot and has been vacant since late 2015.

An aerial image showing the location of the property is on the following page.



1. **Specific Application Details**

The applicant seeks approval to construct a two-storey single house and front fence with the following deemed-to-comply variations proposed:

* The bulk of the ground floor wall length is proposed to be setback 2.1m in lieu of 5.4m to the northern side lot boundary;
* The entire ground floor is proposed to have a minimum setback of 1.5m in lieu of 4.5m to the southern side lot boundary;
* The bulk to the upper floor is proposed to have a 2.26m setback in lieu of 2.3m to the southern side lot boundary;
* The ground floor porch floor level is raised more than 0.5m above natural ground level and is therefore subject to a 7.5m visual privacy setback requirement. The setback provided is 1.5m to the southern side lot boundary; and
* The living room floor level is also raised more than 0.5m above natural ground level and is therefore subject to a 6m visual privacy setback requirements. The setback provided is 1.75m to the southern side lot boundary.

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

1. **Co****nsultation**

The development application was advertised to affected landowners for comment for the abovementioned deemed-to-comply variations. One objection was received to the northern side lot boundary setback being 2.1m in lieu of 5.4m. The following is a summary of the concerns raised:

* *“The close setback which is less than the standard required 5.4m will reduce the amenity of my lot.*
* *It will cut out light and privacy and create a crammed in feeling and impact on the lifestyle of my property.*
* *The power room and stores are located only 1m from my side boundary and the kitchen wall only 2.4m. This is too close as it reduces the amenity of my property.*
* *There are windows overlooking my property.”*

The above comments are addressed in the comments section below of the report.

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

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.

**6.2 Town Planning Scheme No. 2**

**6.2.1 Amenity**

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

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

The dwelling has been designed to reduce the change in level across the site with a small build-up (fill) proposed under the dwelling at the front and a small amount of excavation (cut) proposed towards the rear. This design although typical of the area, creates lot boundary setback variations due to the increased wall height and presence of major openings. These variations are discussed in further detail below and are considered to comply with the design principles.

In terms of visual privacy provisions, the proposed dwelling overlookings to the southern neighbouring property, however thisis to a blank wall which ensures no loss of privacy and overshadowing and open space for the dwelling is fully compliant with the deemed-to-comply provisions of the R-Codes.

**6.3 Residential Design Codes (State Planning Policy 3.1)**

**6.3.1 Lot boundary setbacks**

|  |  |  |
| --- | --- | --- |
| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Buildings setback from the side lot boundaries in accordance with Table 2A & 2B.  Figure series 3 determines height and figure series 4 determines the articulation for assessment. | The bulk of the ground floor wall length is proposed to be setback 2.1m in lieu of 5.4m to the northern side lot boundary. | No |
| The entire ground floor is proposed to have a minimums setback of 1.5m in lieu of 4.5m to the southern side lot boundary. |
| The bulk to the upper floor is proposed to have a 2.26m setback in lieu of 2.3m to the southern side lot boundary. |
| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:*   * *reduce impacts of building bulk on adjoining properties;* * *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and* * *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.* | | |
| **Administration Comments**  UNorthern lot boundary setback  The ground floor has two sections of the wall length setback 1m from the northern side lot boundary. The portion of the wall length between these two sections is proposed to have a minimum setback of 2.1m. The wall height at the front of the dwelling is 4.3m due to the concealed roof of the garage and the slope of the lot – increasing the required setback for the rest of the dwelling to 5.4m. Most of the wall length has a wall height less than 3.5m and the major openings are proposed to be fully concealed by the dividing fence. The lot orientation ensures that the northern neighbouring lot will not lose access to northern sun during winter months and the east-west orientation ensures that cross ventilation will also not be impacted. The dwelling has been articulated to break up building bulk and designed to ensure no loss of privacy between the lots.  USouthern lot boundary setbacks  The wall length contains major openings and the wall height at the front of the dwelling is 4m which increases the required setback to 4.5m. Only the very front portion of the ground floor is over 3.5m in height with the rest of the wall length having a height of less than 3.5m. The major openings in the wall length are either screened by the dividing fence or overlooking blank wall on the southern neighbour’s property. The overshadowing to the southern neighbour is under the permitted 25% at 16.22% with the southern neighbour retaining access to northern sun during winter months for a number of hours throughout the day. The lot orientation ensures that the neighbouring dwelling will not have their cross ventilation impacted and the shorter wall length ensures that building bulk is minimised.  The upper floor total length is 16.63m and the maximum wall height is just under 7.5m and therefore the required setback is 2.3m in lieu of the 2.26m setback provided. The setback variation will not be discernible from a compliant setback and will not result in reduced amenity to the southern neighbouring landowner in terms of loss of privacy or an overshadowing variation. | | |

**6.3.2 Visual privacy**

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| **Deemed-to-Comply**  **Requirement** | **Proposed** | **Complies?** |
| Outdoor living areas raised more than 0.5m above natural ground level setback 7.5m from side and rear lot boundaries.  Living rooms, kitchens and dining rooms with a finished floor level (FFL) more than 0.5m above natural ground level setback 6m from side and rear lot boundaries. | The ground floor porch floor level is raised more than 0.5m above natural ground level and is therefore subject to a 7.5m visual privacy setback requirement. The setback provided is 1.5m to the southern side lot boundary. | No |
| The living room floor level is also raised more than 0.5m above natural ground level and is therefore subject to a 6m visual privacy setback requirements. The setback provided is 1.75m to the southern side lot boundary. |
| **Design Principles**  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  *“P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*   * *building layout and location;* * *design of major openings;* * *landscape screening of outdoor active habitable spaces; and/or* * *location of screening devices.*   *P1.2 Maximum visual privacy to side and rear boundaries through measures such as:*   * *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;* * *building to the boundary where appropriate;* * *setting back the first floor from the side boundary;* * *providing higher or opaque and fixed windows; and/or* * *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).”* | | |
| **Administration Comments**  The porch and living room are proposed to overlook a blank wall of the southern neighbour’s dwelling ensuring that major openings and outdoor living areas are protected from any overlooking. Further to this, the porch is unlikely to be used for outdoor living due to the smaller dimensions and is not directly accessible from the living areas of the dwelling. | | |

1. **Budget / Financial Implications**

N/A

1. **Risk management**

N/A

1. **Conclusion**

The proposed lot boundary setback variations on the ground floor to the northern and southern side lot boundaries are as a result of the sloping site with only the front section of the dwelling having a wall height over 3.5m which increases the required setback under the deemed-to-comply provisions for the rest of the ground floor. The majority of the wall height on the ground floor is below 3.5m and the variations will not result in a loss of privacy and sunlight or have an adverse impact in terms of building bulk.

The upper floor setback variation is only 0.04m less than the required deemed to comply setback and the visual privacy variations to the south will only overlook a blank wall on the southern neighbour’s lot.

The development is therefore considered to be compliant with the design principles of the R-Codes and hence recommended for approval, subject to conditions.

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| **PD40.18** | **(Lot 211) No. 11 Lupin Hill Grove, Nedlands – Home Business (Eye Lash Extensions)** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | E and Y Kurniawan |
| **Landowner** | E and Y Kurniawan |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA18/29084 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Photograph of subject property |

1. **Executive Summary**

Development approval is being sought for a home business (eye lash extensions) to operate at the subject property.

A home business is an ‘AA’ use on properties zoned Residential under Town Planning Scheme No. 2 (TPS 2), which means that the use is not permitted unless development approval is granted. The application was advertised to nearby landowners and occupants for comment. During the advertising period 1 objection and 3 non-objections were received.

Concerns raised were with regard to potential parking, traffic and noise issues associated with the home business.

It is recommended that the application be approved by Council as considering the nature and scale of the proposed use it is unlikely to have a significant adverse impact on the local amenity. It is recommended that the approval be for a 12-month period. The home business would not be able to continue operating beyond this unless further approval is obtained.

1. **Recommendation to Committee**

**Council approves the development application for a home business (eye lash extensions) to operate at (Lot 211) No.11 Lupin Hill Grove, Nedlands, received on 17 May 2018, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **The home business approval being valid for a period of 12 months from the date of Council’s decision in accordance with Council’s Home Business Policy, after which time it is not permitted to continue operating unless a separate planning application has been approved.**
3. **The proposed use complying with the home business definition stipulated under the City’s Town Planning Scheme No. 2 (refer to advice note 1).**
4. **Customers visiting the property by prior appointment only.**
5. **Customer vehicles being parked on site only.**
6. **The home business only being permitted to operate between the following times:**

**Monday to Friday - 8.30am and 7.00pm.**

**Saturday and Sunday - 8.30am and 5.00pm.**

**Advice Notes specific to this approval:**

1. **With regard to Condition 2, The applicant is advised that the use ‘Home Business’ is defined as being the following under the City’s Town Planning Scheme No. 2:**

***“Home Business - means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:***

***i) does not employ more than 2 people not members of the occupier's household;***

***ii) will not cause injury to or adversely affect the amenity of the neighbourhood;***

***iii) does not occupy an area greater than 50 square metres;***

***iv) does not involve the retail sale, display or hire of goods of any nature;***

***v) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and***

***vi) does not involve the use of an essential service of greater capacity than normally required in the zone.”***

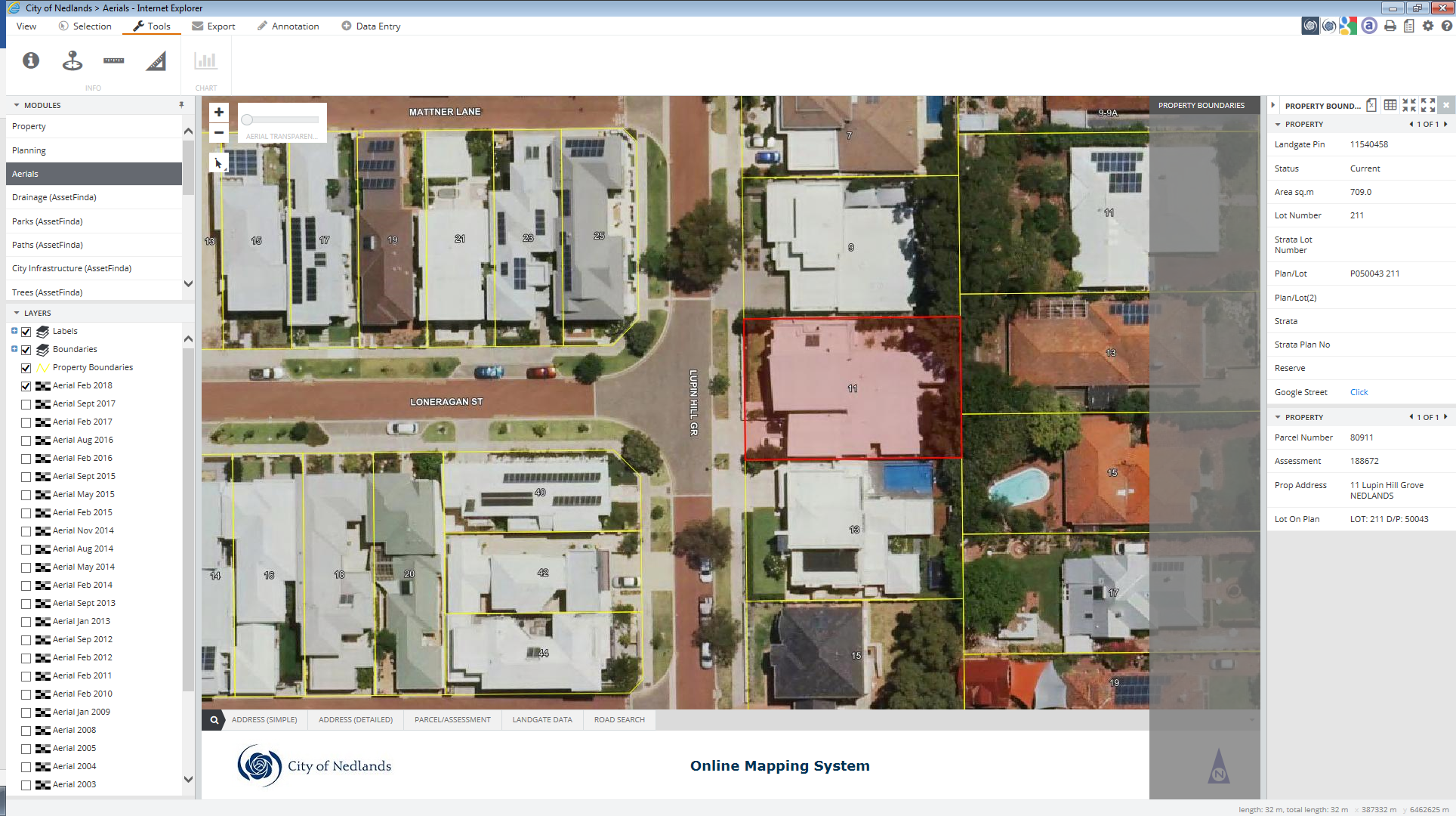
**2. Noise levels are to comply with the *Environmental Protection (Noise) Regulations* *1997*.**

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

1. **Site Details**

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| **Lot area** | 709mP2 |
| **Metropolitan Region Scheme Zoning** | Urban |
| **Town Planning Scheme No. 2 Zoning** | Residential R15 |
| **Detailed Area Plan/Outline Development Plan** | No |
| **Controlled Development Area** | No |
| **State Heritage Listed** | No |
| **Listed in Municipal Heritage Inventory** | No |

The subject property and those nearby contain single dwellings and associated outbuildings as shown on the locality plan below.



1. **Specific Application Details**

The applicant seeks development approval to operate a home business (eye lash extensions) at the property.

Details of the application are as follows:

* The home business is proposed to only be operated by those residing at the dwelling.
* Customers are proposed to visit by prior appointment only.
* The home business is proposed to operate between Mondays and Fridays 8.30am to 7.00pm, and on Saturday and Sundays 8.30am to 5.00pm.
* The home business is proposed to be operated within an existing 18sqm room inside the dwelling.
* No signage is proposed. The home business is proposed to be advertised online.

1. **Consultation**

One objection and 3 non-objections were received during the advertising period.

The concerns received were with regard to the home business potentially creating parking, noise and traffic issues.

The applicant has provided response to the concerns raised as follows:

UParking:

* *“There is ample street parking outside our home. The street side parking directly outside our property alone I estimate can park up to 3 sedan sized cars. The only time I have seen this street side parking occupied is when there are sporting events at the nearby park (I estimate twice a month at most).*
* *We already have 2 valid permits to park our cars on the street.*
* *There will only be one client at a given time and therefore a maximum of 1 additional car in the vicinity. All clients are required to book ahead of time. There will never be any overlapping clients.*

UNoiseU:

* *The business will be conducted in the privacy of our own home and there are no noise emitting tools/equipment used. I can guarantee that no noise will be heard from outside our home.*
* *My business operations will be very private and won't interfere with the public i.e. no visibility from outside and no noise will be heard.”*

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

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) of the Regulations stipulates those matters that are required to be given due regard to the extent relevant to the application.  Where relevant, these matters are discussed in the following sections.

**6.2 Town Planning Scheme No. 2**

**6.2.1 Amenity**

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

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

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the compatibility of the proposed development within its setting and the potential impact it will have on the local amenity.

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

* The home business is operating within 1 room equating to approximately 18sqm in total. No outdoor activities associated with the home business are proposed to be undertaken.
* The following car parking restrictions exist within close proximity to the property:

Eastern side of Lupin Hill Grove – 2-hour parking between Monday to Friday 8.00am and 5.00pm.

Western side of Lupin Hill Grove – No parking permitted.

Northern and southern side of Loneragan Street - 2-hour parking between Monday to Friday 8.00am and 5.00pm within marked car parking bays.

There is space for 2 customer vehicles to park on the property’s driveway. Two car spaces exist within a garage for those residing at the property to park their vehicles.

The home business is being operated by those residing at the property, and customers are proposed to visit the property by prior appointment only

Considering the above, the operation of the home business is unlikely to have a significant adverse impact on the local amenity and is consistent with the home business definition stipulated under TPS 2.

If the application is approved by Council, it is recommended that it be for a 12-month period.

1. **Budget / Financial Implications**

N/A

1. **Risk Management**

N/A

1. **Conclusion**

Considering the nature and the scale of the proposed home business is it unlikely to have an adverse impact on the local amenity.

The proposal complies with the home business requirements stipulated under TPS 2.

It is recommended that the application be approved by Council for 12 months. The home business would not be able to continue operating beyond this unless further approval is obtained.

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| **PD41.18** | **Cottesloe Golf Club – Proposed Works for Reserve 9299** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Applicant** | Cottesloe Golf Club Inc. |
| **Landowner** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Previous Item** | PD33.13 on 20 August 2013 |
| **Attachments** | 1. Proposed Works and Form 1 Application for Development Approval including Management Plan for Remnant Bushland |

1. **Executive Summary**

Cottesloe Golf Club as lessee of Reserve 9299 have applied to the City for landlord approval to complete the final stage of the course masterplan. The proposed works are the redevelopment of 5 course holes and involve re-contouring and realigning existing fairways and greens, construction of new paths, installation of a new gate in the car park, tree removal and replanting. Administration has worked with the Club to get the detail of works to a position Administration supports. This detail is now presented to Council for its consideration.

1. **Recommendation to Committee**

**Council:**

1. **As landlord of Reserve 9299, being the Cottesloe Golf Course, endorses the proposed works by Cottesloe Golf Club Inc. as outlined in Attachment 1; and**
2. **Instructs the Chief Executive Officer to sign the Form 1 Application for Development Approval, as representative of the landlord.**
3. **Background**

Reserve 9299 is a Crown reserve with designated purpose of “Recreation”. Management and control of the reserve is vested in the City of Nedlands through a management order (the Order). The Order includes a power to lease for the designated purpose for a term not exceeding 42 years subject to the approval in writing of the Minister for Lands being first obtained.

The current lease of Reserve 9299 by Cottesloe Golf Club Inc. (the Club) commenced on 1 March 2012 (the Lease). The Lease has an initial term of 21 years with a further term of 21 years. Item 6 of the schedule to the Lease records the permitted purpose as “Golf Course, Golf Club and uses reasonably ancillary thereto”.

Cottesloe Golf Club has held leasehold tenure on this site since 1932.

In 1996 the General Committee of the Cottesloe Golf Club appointed respected Golf Course Architect Graham Marsh from Graham Marsh Golf Design to provide a master plan for the ongoing improvement of the Cottesloe Golf Club with a particular brief on overcoming potential safety concerns to residents who border the course, members in general play and proximity to roads that border the course.

The Master Plan was approved by members at a General Meeting and work commenced in 1998 with a view to all works being completed prior to the Club’s centenary in 2008. The progression of the master plan works took longer than the original timeframe with 12 holes completed prior to the Centenary Year.

The Board of the Cottesloe Golf Club approved the completion of the remaining works under the master plan in early 2010 and commenced planning for the commencement of works in two stages. Back nine works incorporating holes 12, 13 and 14 were completed in 2014 following development approval in 2013.

As part of the 2013/14 redevelopment project 85 trees were planned for removal and for every tree removed, two were to be planted at a size of 500L in the immediately following winter. The 2013/14 works also involved the removal of remnant vegetation.

In 2015 the Club submitted a Remnant Bushland Management Plan (the Plan) which the City accepted. The Plan satisfies a condition of the Club’s Lease which requires this management tool. The Plan documents the areas on the Course that are deemed to be areas of Remnant Bushland. The Plan outlines requirements for management of these defined areas. A copy of the Plan is included in Attachment 1 – the Club’s proposed works.

Now the Club plan to complete the final stage of the course redevelopment for the front nine holes 3, 5, 6, 7 and 8.

The Club have met with City officers to discuss the detail of these plans. Administration personnel involved have been from Technical Services, Planning and Environmental Conservation teams. This item relates to the City’s approval as Management Body and landlord of the land.

1. **Discussion**

The Club propose to do works onsite to complete its masterplan for redevelopment of the course. The works involve realignment of fairways, new paths, a new gate in the car park, recontouring, tree removal and tree replacement. Pursuant to Lease obligations the Club must receive written approval from the City as lessor before undertaking any alterations to the lease premises. Prior to undertaking any alterations approved by the City as lessor, the Club must also obtain relevant statutory approvals. Development approval will be required for this project and the approval body is the West Australian Planning Commission.

To consider whether appropriate to approve the Club’s proposed alterations to the Lease premises Administration staff from Technical Services, Planning, Environmental Conservation and Leased Assets teams met on several occasions with Club representatives to discuss the Club’s plans. Through this process the plans have been refined to ensure a satisfactory environmental outcome. This has been determined using the following criteria:

* Compliance with the Club’s Management Plan for Remnant Bushland for the lease premises.
* Environmental Offsets. Where works will result in significant environmental impact there must be action to counterbalance such. The Club’s proposed works involves tree removal and to offset this impact the City required tree replacement in an amount like that required by other government entities such as Department of Water, Environment and Regulation (DWER). As required by DWER the offset should be proportionate to the level of impact and significance of the environmental value being impacted. A suitable offset must be designed to counterbalance the impact and take account of any risk of failure in implementing the offset. For this item, Administration considered an appropriate tree replacement plan to be in the amount of two 500L trees for every tree removed or alternatively three 200L trees for every tree removed.
* Requirements imposed on the Club in this project be consistent with previous requirements for approved works onsite.

Administration staff were mindful that the reserve and lease premises is a working golf course and as such there will be course works required. These works must be balanced with environmental considerations to ensure a satisfactory outcome.

Administration staff are now satisfied with the Club’s plans in Attachment 1. The Club have committed to replacing the 42 trees for removal with 126 trees of six different locally occurring native species (in a size of at least 200L each) - being a 3:1 tree replacement plan. It is noted that the Club’s proposal includes removal of more than 42 trees but that includes several dead trees and 1 Golden Wattle tree which is considered a weed. The Club has advised that they intend to increase the size of replacement trees where possible. Administration have agreed to replacement plantings taking place over 3 years which will ensure a diversified stock of multi-age trees. This staged replanting will also enable the Club to monitor plantings and better manage conditions. The Club have agreed that no trees will be planted in or close to the edge of Remnant Bushland areas. The 2013/14 approved works to redevelop holes 12, 13 & 14 included a 2-tree replacement approach where for every 1 of the 85 trees removed 2 trees were planted.

Administration staff are satisfied that the detail of proposed works by the Cottesloe Golf Club complies with the Management Plan for Remnant Bushland in that the works will not impact areas of Remnant Bushland and no replacement trees will be located in or near these areas.

Administration made specific requirements of the Club to comply with specific Australian standards which have been included in the plans at Attachment 1. The applicable standards relate to:

* AS4970 - Protection of Trees on Development Sites;
* AS4373 - Pruning of Amenity Trees; and
* AS4454 - Compost, soil conditioners and mulches.

1. **Key Relevant Previous Council Decisions**

PD33.13 on 20 August 2013 – Council endorsed the Club’s proposed landscaping works for holes 12, 13 & 14. These works involved the removal of 85 trees and the relocation of remnant vegetation to another location on the golf course. In Council’s resolution it also reminded the Club of its Lease obligations for the site and specifically the agreement of a Management Plan for Remnant Bushland onsite.

1. **Consultation**

City officers have met on several occasions and liaised via telephone and email with representatives of the Cottesloe Golf Club regarding the detail of proposed works on the course.

At Administration’s request, the Club have made several amendments to the proposed works to ensure that standards for environmental conservation are met.

1. **Budget/Financial Implications**

There are no financial implications for the City to consider as the project works will be fully funded by the lessee Club.

1. **Conclusion**

The Cottesloe Golf Club is preparing to complete its masterplan for redevelopment of the course and the works outlined in this item comprise the final stage. The works involve tree removal and the environmental impacts of this are to be offset by a triplicate tree replacement program. The tree replacement program is staged over 3 years to ensure an efficiently managed approach to planting which should ultimately increase and diversify tree stock at the course. The Club will need to obtain development approval for the proposed work in addition to landlord approval to undertake alterations to the premises.

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| **PD42.18** | **Review of Western Central Local Emergency Management Arrangements** |
|  | |
| **Committee** | 14 August 2018 |
| **Council** | 28 August 2018 |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Attachments** | 1. Copy of the Western Central Local Emergency Management Arrangements dated June 2018 (Appendix Six and Seven excluded as some contact details are private contact numbers that only Hazard Management Agency need to access). |

1. **Executive Summary**

The *Emergency Management Act 2005* (the Act) establishes the roles and responsibility of local government in relation to emergency management. The three main responsibilities under the Act being:

* To establish and support a local emergency management committee;
* To ensure that local emergency management arrangements are prepared, reviewed and maintained for its district; and
* To manage Recovery following an emergency affecting the community in its district.

Eight local governments from the Central Metropolitan Police District have combined to form the Western Central Local Emergency Management Committee (WCLEMC), completing the requirement of local government to establish a local emergency management committee.

The WCLEMC consists of representatives from the towns of Cambridge, Claremont, Cottesloe and Mosman Park, the cities of Vincent, Nedlands and Subiaco and the Shire of Peppermint Grove. In addition to local government, the WCLEMC is comprised by representation from Police, Department of Fire and Emergency Services, Department of Communities, Department of Biodiversity, Conservation and Attractions, State Emergency Service, Office of Emergency Management, Red Cross and State Health. This regional structure has been approved by the State Emergency Management Committee (SEMC).

Responsibility for convening, resourcing and hosting meetings rotates between the eight local government members on a two-year cycle and is currently with the Town of Claremont.

The WCLEMC, on behalf of the eight local governments, and within the framework and guidelines set out in the Act and State Emergency Management policies and procedures, initially created a consolidated set of local emergency management arrangements. These were approved by the Council on 21 July 2009 and subsequently reviewed in 2013 and again adopted by the Council on 28 May 2013.

The Arrangements have been reviewed by the WCLEMC and are presented to the council for adoption in accordance with Part 3 Division 2 of the *Emergency Management Act 2005*. This current review was triggered by both time and the adjustment to the boundary of the City of Subiaco by the City of Perth Act.

1. **Recommendation to Committee**

**That Council in accordance with Part 3, Division 2 of the *Emergency Management Act 2005*, adopt the Western Central Local Emergency Management Arrangements dated June 2018**

1. **Discussion/Overview**

Whilst local government is required to ensure the development of local emergency arrangements, this responsibility is effectively discharged through the WCLEMC.

Respective local governments do not therefore have a direct role in the development of the local emergency arrangements, albeit the Act and associated policies require their approval by the local government. In practice, this is achieved through local government representation on the LEMC.

Direct response to a local emergency is the responsibility of the relevant Hazard Management Agency; the organisation which, because of its legislative responsibility or specialised knowledge, expertise and resources has the capacity to combat the condition creating the emergency. For example, the Hazard Management Agency for fire is the Department of Fire and Emergency Services. The arrangements contemplate local government providing resources to support and assist the Hazard Management Agency, but only if requested, and then subject to availability. The only circumstance in which local government becomes the Hazard Management Agency is for fires outside Gazetted Fire Districts, predominantly in outer metropolitan areas and in rural Western Australia.

The current WCLEMC felt that the 2013 arrangements were unnecessarily lengthy and contained superfluous text that made identification of pertinent information more difficult. As a consequence, the review was to be guided by the following set of principles:

* Brevity is preferred.
* Use of tabulation rather than lengthy text.
* Avoid inclusion of information that is contained in other documents that should be readily accessible by Hazard Management Agencies.
* Key references, being contacts and resource lists, need to be readily accessible.
* Recovery planning, although outlined in the Part Four of the arrangements, was to be the responsibility of the individual local governments.

The arrangements outline the responsibilities of the individual stakeholders, as well as defining potential hazards and hazard management agencies and cover the following elements of emergency management:

* Part One Introduction
* Part Two Planning
* Part Three Response
* Part Four Recovery
* Part Five Exercising and Reviewing
* Part Six Appendices, including schedules of resources, contact detail, risk treatment plans, special needs groups, contacts and resources, Local Recovery Plans and detail of nominated Local Recovery Coordinators and their contact numbers.

The revised Local Emergency Management Arrangements 2018 are now complete. They have been assessed against the State Emergency Management Committee’s compliance checklist and need to be formally approved by each Council prior to submission to the District Emergency Management Committee for recording.

In the event of an emergency within the City's boundaries, it may be necessary to commit resources, physical, financial and/or human, to support the activity of the Hazard Management Agency. It should also be noted that the member local governments have agreed, enhancing regional cooperation, to assist each other in the event of an emergency that exceeds the capacity of the impacted district. This agreement if reflected in the Partnering Agreement attached as Appendix 10 to the Arrangements.

The Director Technical Services is the City’s Local Recovery Coordinator and would be called out by the Local Emergency Coordinator to attend the Incident Support Group to assist with the provision of support services, and then to make the transition to Recovery after the emergency event has been contained or controlled.

Initially, that officer’s role would be to support the Hazard Management Agency wherever possible and then coordinate the transition from Response or combat, to Recovery, with support from other officers that have been assigned responsibility for the various Recovery functions.

1. **Consultation**

The arrangements have been prepared in conjunction with seven other local governments and relevant stakeholders that constitute membership of WCLEMC. It is recommended that the completion of the arrangements be advertised in City publications and that a link to the document be included on the City’s website.

1. **Assessment of Statutory Provisions**

The *Emergency Management Act 2005* requires local governments to complete 3 specified functions:

* Establish and support local emergency management committees.
* Ensure the preparation of Local Emergency Management Arrangements.
* Plan for and be responsible for Local Recovery Arrangements.

Although review of the Arrangements will be a continuous process, adoption of the revised set of Arrangements will ensure the City and the seven partnering local governments are compliant with the legislation.

1. **Strategic Implications**

Local government’s role is essentially focused on community leadership, management and planning, in conjunction with relevant stakeholders through the Western Central Local Emergency Management Committee; offering the community a level of assurance that agencies have a degree of preparedness and response capability should a significant emergency impact the district.

1. **Budget / Financial Implications**

The costs associated with local government’s role in emergency management are contained within the operating budget programme. There are opportunities to recover some costs associated with support of the Response phase and the Recovery of a community after a declared emergency event.

1. **Conclusion**

Whilst local government is required to ensure the development of local emergency arrangements, this responsibility is discharged through the WCLEMC.

Respective local governments do not therefore have a direct role in the development of the local emergency arrangements, albeit the Act and associated policies require their approval by the local government. In practice this is achieved through local government representation on the LEMC.

The 2009 Arrangements have been reviewed as a statutory requirement by the WCLEMC and are presented to the Council for adoption in compliance with the *Emergency Management Act 2005.*