**

Planning and Development Reports

Committee Consideration – 14 May 2019

Council Resolution – 28 May 2019

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**Council: 28 May 2019**

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| **PD16.19** | **No. 50/145 Stirling Highway, Nedlands – Proposed Additional Customer Seating** |
|  | |
| **Committee** | 14 May 2019 |
| **Council** | 28 May 2019 |
| **Applicant** | G Fatouros |
| **Landowner** | L Silby and M Gibson |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | *When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.* |
| **Reference** | DA18/32355 |
| **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. Photograph of the subject property 2. Applicant’s car parking bay survey |

1. **Executive Summary**

The purpose of this report is for Council to consider a development application received on 2November 2018 to increase the customer seating numbers from 85 to 113 for the restaurant (Chelsea Pizza) at No. 50/145 Stirling Highway, Nedlands.

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council’s Neighbour Consultation Policy due to the proposal resulting in a further shortfall in the number of onsite car parking bays required under Town Planning Scheme No. 2 (TPS 2).

Three (3) objections were received during the advertising period.

Considering the nature and the scale of the proposal, and that its peak hours of operation are likely to differ to nearby businesses there is likely to be an ample amount of car bays available on site. It is therefore recommended that the application be approved by Council.

1. **Recommendation to Committee**

**Council approves the development application dated 2 November 2018 to increase the number of customer seats from 85 to 113 at Lot 50 (No. 50/145) Stirling Highway, Nedlands, subject to the following conditions and advice notes:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **A maximum of 113 seats being permitted for the restaurant.**

**Advice Notes**

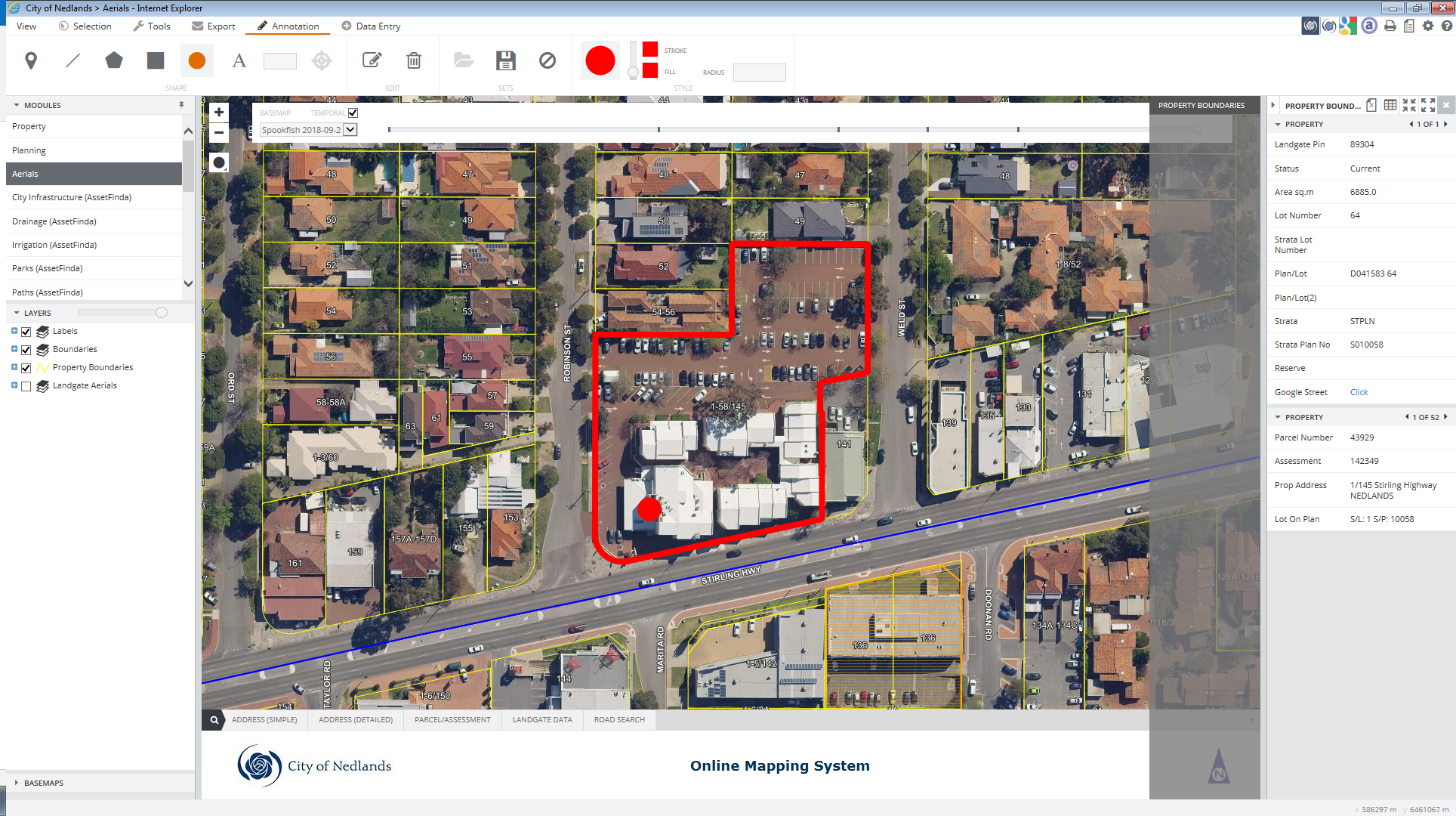
1. **The landowner is advised that use of the outdoor seating area is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
2. **A separate application is required to be lodged and approved prior to the erection/installation of any signage on the lot.**
3. **A separate development application is required to be submitted to and approved by the City prior to increasing seating numbers any further.**
4. **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
5. **This decision does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.**
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. **Background**

**3.1 Land Details**

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| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use – RAC1 |
| **Land area** | 6,885m2 |
| **Additional Use** | Yes – Car Park (northern portion of the property only)*]* |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Restaurant |

**3.2 Locality Plan**

The restaurant forms part of the commercial complex known as Chelsea Village near to the Robinson Street and Stirling Highway intersection. The subject property and those to the east and west contain office and shop uses which are likely to have different peak hours of operation to the subject premises considering their nature. Properties to the north contain mostly single houses.



**Location of restaurant**

1. **Application Details**

The applicant seeks approval to increase the number of customer seats from 85 to 113 with an additional 90m2 seating area proposed outside of the Restaurant.

No additional car parking bays are proposed to be made available on the property as part of the application.

The application was lodged as a consequence of a Liquor Licence application being received which included an outdoor seating area for which development approval had not been granted previously.

A decision regarding the Liquor License application will not be made until the current development application for the outdoor seating area is determined.

Having inspected the property it is noted that 3 tables already exist adjacent to the premises (refer to attachment 1), however there is no record of them being approved previously.

The applicant has advised the following by way of support in favour of their application:

*“Staff vary from night to night, with a maximum of 12 staff on our busier nights. Not all staff drive cars individually, with some choosing to carpool or take public transport.”*

*“Chelsea Pizza trades from 5.00pm to 11.00pm Monday to Thursday, and Saturdays. Please note that these trade hours are in opposition with other trades in the Chelsea complex, allowing staff and customers the use of a mainly free carpark area. We are open from 12.00pm on Fridays and Saturdays, however these shifts operate with fewer staff and serve fewer customers, with such shifts mainly used for weekly food preparation.”*

In addition to this the applicant provided a car parking bay survey (refer to attachment 2) which concludes the following:

*“We understand that Chelsea Pizza has applied for additional al fresco seating equivalent to 18 additional seats. Based on a parking ratio of 2.1 customers per vehicle, this would generate additional demand for some 9 parking bays. The car park had at least 100 vacant bays throughout the survey period, hence, it is forecast to still have over 90 vacant bays were the additional seating approved.*

*From a parking capacity perspective, there is no issue approving the additional al fresco seating and this report fully supports the application.”*

The survey was conducted on a Saturday between 6.00pm and 8.00pm which is deemed by the applicant to be the business’s peak hours of operation.

1. **Consultation**

The application was advertised in accordance with clause 2.1 of Council’s Neighbour Consultation Policy. Three (3) objections were received during the advertising period. The following is a summary of the concerns raised:

* Potential car parking issues if the application is approved;
* Signage associated with the restaurant being placed on the public footpath.
* The sale of “cheap” alcohol on the premises.
* Ant-social behaviour allegedly caused by patrons.
* Safety issues due to the area being close to Stirling Highway.
* The area being too small for the seating.

Signage within road reserves is currently dealt with in accordance with Council’s Nature Strip Works Application Policy and its Thoroughfare Local Law. The City has been informed about the signage concerns so that the matter can be investigated.

Council is not required to have regard to matters relating to the sale of alcohol and/or alleged anti-social behaviour when determining the development application, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Anti-social behaviour is a management and a police matter.

Matters relating to the sale of alcohol will be considered by the Department of Racing, Gaming and Liquor if it receives an application from the applicant in accordance with Section 40 of the *Liquor Control Act 1988*.

The application was also referred to Main Roads WA for comment due to the property abutting Stirling Highway which is a Primary Regional Road Reserve under the MRS. No concerns were raised regarding the proposal.

*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.

In accordance with provisions (n) and (s) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed use on the local amenity, and the availability of car parking.

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

**6.2.1 Land Use**

A restaurant/ cafe is defined as being the following under LPS 3:

***“Restaurant/ Cafe*** *- means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the Liquor Control Act 1988.*

The land use is not proposed to change as part of this development application.

**6.2.2 Car Parking**

The following table show the car parking assessment undertaken for the proposal:

|  |  |
| --- | --- |
| **Criteria** | **Assessment** |
| Car Parking Requirement in Draft Local Planning Policy | 1 car bay per 30m2 of Net Leasable Area |
| Proposed NLA increase | Approx. 90m2 additional seating area |
| Required number of car parking bays as part of this application | 3 bays |
| Existing Shortfall | 123 bays |
| Proposed new shortfall | 126 bays |

The assessment was conducted based on the proposed Local Planning Policy – Parking which is currently still in draft form but referenced within the City’s Local Planning Scheme No. 3.

The City’s previous car parking assessment did not permit as of right the ability to consider the natural reciprocity in larger centres such as Chelsea Village – whereby people often may come to the property and use several different tenancies, creating an efficiency in the use of the car parking. Additionally, the sharing of car parking was not previously able to be observed as of right – such as Chelsea Village being open when many of the tenancies are closed and hence not competing for car parking. When taking this into consideration the technical shortfall may be a lot less.

The applicant engaged a qualified traffic consultant who observed during the proposed peak hours of operation on a Saturday 6 – 8pm, there were over 100 car parking bays available and hence the additional seating area proposed outside is unlikely to increase the perceived shortfall on site due to opposing hours of operation to other tenancies on site.

1. **Conclusion**

A current technical car parking shortfall of 123 car bays exists on the property. If the application was approved by Council, the car parking shortfall would increase to 126 bays based on the draft Local Planning Policy – Parking.

The proposed increase in the shortfall of the amount of car bays required will unlikely result in car parking and traffic management issues for nearby residents and/or businesses due to the restaurant’s peak hours of operation differing to other businesses nearby which include office and shop uses. Accordingly, it is recommended that Council approves the application.

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| **PD17.19** | **No. 14 Nardina Crescent, Dalkeith – Amendments to DA18/33719 (Two Storey Single Dwelling)** |
|  | |
| **Committee** | 14 May 2019 |
| **Council** | 28 May 2019 |
| **Applicant** | Oswald Homes |
| **Landowner** | P J & J M England |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type** | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA19/35204 |
| **Previous Item** | Nil. |
| **Delegation** | No delegation exists under Local Planning Scheme No. 3 at the time of writing this report. |
| **Attachments** | 1. Site Photographs 2. Submission table |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development application received from the applicant on 28 March 2019, for an amendment to the approved two storey single house at No. 14 Nardina Crescent, Dalkeith.

The original application was advertised to neighbouring landowners for comment in accordance with clause 2.1 of Council’s Neighbour Consultation Policy as the applicant was seeking assessment under the design principles for lot boundary setbacks. One objection was received from a neighbouring landowner to the setback proposed to the northern side lot boundary. This objection was addressed through an amendment to the ground floor family room window to ensure that the dwelling complied with the deemed to comply lot boundary setback requirements to the northern side lot boundary. This amendment permitted the application to the approved under delegation.

This application now seeks to revert back to what was initially proposed which is the ground floor family room minor opening reverting back to being a major opening. As an objection was received to this aspect of the development originally, Council determination is required for the proposed amendment.

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

1. **Recommendation to Committee**

**Council approves the development application dated 28 March 2019 for Amendments to DA18/33719 (Two Storey Single House) at Lot 783 No. 14 Nardina Crescent, Dalkeith, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **The previous development approval (DA18/33719, dated 07 March 2019) 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 development approval only and is valid for a period of two years from the date of the original development approval (07 March 2021 expiry date). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**
2. **Background**

**3.1 Land Details**

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| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R10 |
| **Land area** | 1171.1m2 |
| **Land Use** | Residential (Single Dwelling) |
| **Use Class** | P |

**3.2 Locality Plan**

The subject property has direct frontage onto Nardina Crescent with the nearest cross street being Minora Road. There is approximately 3m difference between the front and the rear of the property with the property sloping towards the rear of the property.



The City issued development approval for the proposed two storey single house on the 07 March 2019 following the lodgement of amended plans to address an objection received during the consultation period.

This development application relates only to one amendment to the approved plans being a change to the ground floor family room north-facing window from a minor opening to a major opening. This amendment requires assessment under the design principles for lot boundary setbacks. This design modification was in the plans previously advertised to neighbouring landowners and was previously objected to.

1. **Application Details**

The applicant seeks development approval to amend the approval for a two storey single house at the subject property. The amendment is to change the family room window from a minor opening to a major opening. A major opening is defined within the R-Codes as follows:

*“A window, door to other opening in the exterior wall of a habitable room that provides external means of light or view for that room or space, but does not include an opening or openings that:*

* *In aggregate do not exceed 1m2 in any such wall, (provided that adjoining or contiguous windows at the junction of two walls forming an internal angle of 90 degrees or less shall be aggregated); or*
* *Are glazed in an obscure material and are not able to be opened; or have a sill height not less than 1.6m above floor level.”*

By way of justification in support of the amendment development application the applicant has provided a design principles assessment as follows:

|  |  |
| --- | --- |
| **Design Principle** | **Applicant comment** |
| Reduce impacts of building bulk on adjoining properties. | *“Firstly, in terms of building bulk it should be noted that the wall at the closest point is 1.68m but due to the angle of the property boundary the setback increases steadily from the figure to a maximum setback of 5.6m to the corner of the guest bedroom.*  *The opening to the family itself is setback at 2.8m which exceeds the setback required under the codes is that section was looked at in isolation. Therefore, it is not believed that this wall will have a negative impact in terms of bulk on the neighbouring property.”* |
| Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties. | *“As the all is located on the northern boundary, shadow will be cast over the development site and not onto the neighbouring property. Therefore, the impact observed on June 21st at midday will be nil.”* |
| Minimise the extent of overlooking and resultant loss of privacy on adjoining properties. | *“In terms of overlooking, it can be seen that there is a dividing wall in lieu of a fence that runs along the northern boundary which has a top of wall height of 11.21 (relative level) while the family room has a finished floor level of 8.886 (relative level). Therefore, the window will be screened by a 2.324m wall and therefore will have no impact on visual amenity of the neighbouring property.”* |

1. **Consultation**

The applicant is seeking assessment under the Design Principles of the R-Codes for the lot boundary setback to the northern side lot boundary.

The development application was previously advertised in accordance with Council’s Neighbour Consultation Policy to the northern neighbouring landowner who objected to the proposed setback along with other compliant aspects of the development.

The table provided as Attachment 2 is a summary of the concerns/comments raised and the City’s response and action taken in relation to each issue.

*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.

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

**6.2 Local Planning Scheme No. 3**

No scheme provisions are applicable with the subject of the development application being a change to a window only. This is covered entirely within the Residential Design Codes.

**6.3 Policy/Local Development Plan Consideration**

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

The applicant is seeking assessment under the Design Principles of the R-Codes for the lot boundary setback to the northern side lot boundary as addressed in the below table:

**Lot Boundary Setbacks**

|  |
| --- |
| **Proposed** |
| The minimum lot boundary setback proposed for the predominance of the ground floor is 1.68m. |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  *“Buildings setback 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.”* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply setback for the bulk of the ground floor adjacent to the northern side lot boundary wall is 4.5m. |
| **Administration Assessment** |
| The lot is wider at the front of the property then the rear and therefore the setback provided is the minimum with the rest of the wall having a larger setback from the northern side lot boundary. The family room opening is to the proposed ground floor is what is requiring setback assessment under the design principles with this opening previously approved as a minor opening.  The window is a minor opening and has a substantially reduced the setback ensuring compliance with the deemed to comply requirement. This opening however is entirely screened by the existing dividing fence and hence will not appear differently to the existing approved plans. On this basis, there are no changes to privacy as a result of the minor opening to the family room being modified to being a major opening and no impact of the existing approved bulk, scale and ventilation approved as part of the initial development application. |

1. **Conclusion**

This development application seeks approval for an amendment to an existing approved two storey single house with the amendment being to the ground floor family room opening facing the northern side lot boundary. The proposed change is to make this opening a major opening instead of the previously approved minor opening. The modified window is entirely screened by the dividing fence and hence will not appear any differently than a development which has setbacks compliant with the deemed-to-comply requirements of the R-Codes.

There will be no loss in privacy as a result of this change nor change to the building bulk and ventilation as previously approved. The proposed amendment is therefore considered to comply with the design principles of the R-codes and recommended for approval subject to conditions.

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| --- | --- |
| **PD18.19** | **No. 154 Adelma Rd, Dalkeith – Amendment to DA17/127** |
|  | |
| **Committee** | 14 May 2019 |
| **Council** | 28 May 2019 |
| **Applicant** | Seacrest Homes |
| **Landowner** | 58 Ocean Drive Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | *When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.* |
| **Reference** | DA19/34565 |
| **Previous Item** | OCM 22 May 2019 – PD19.18 |
| **Delegation** | At the time of writing this report there is no delegation for officers to approve development applications.  Further to this, the existing development approval for the property was obtained through Council and therefore amendment is more appropriately determined by Council. |
| **Attachments** | 1. Site Photographs |

1. **Executive Summary**

The purpose of this report is for Council to determine a development application for amendments to the previously approved plans for a Two Storey Single House with Under-croft at No. 154 Adelma Rd, Dalkeith.

The amendments to the development are namely to the external appearance of the development, however the amendments change the lot boundary setbacks, the open space provided and the amount of overshadowing to the southern neighbouring property.

The application was advertised to adjoining neighbours in accordance with clause 2.1 of Council’s Neighbour Consultation Policy. One objection was received during the advertising period.

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

1. **Recommendation to Committee**

**Council approves the development application dated 21 February 2019 with amended plans dated 04 April 2019 to Amend the approved plans for DA17/127 (Two Storey Single House with Under-croft) at Lot 46 No. 154 Adelma Road, Dalkeith, subject to the following conditions and advice/for the following reasons:**

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 (DA17/127, dated 22 May 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:**

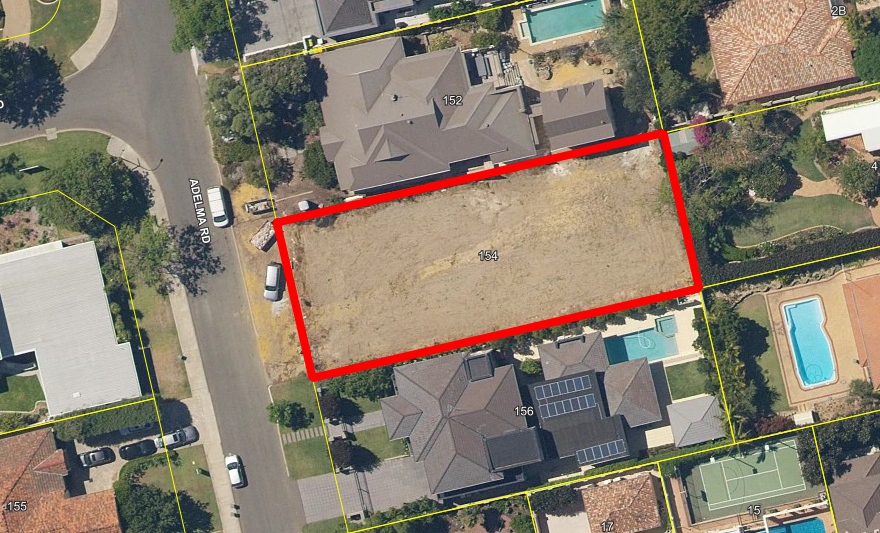
1. **This decision constitutes planning approval only and is valid for a period of two years from the date of the initial approval (22 May 2021 expiry date). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**
2. **Background**

**3.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R10 |
| **Land area** | 1011.7m2 |
| **Land Use** | Residential |
| **Use Class** | P |

**3.2 Locality Plan**

The subject property is located close to the intersection of Adelma Road and Allenby Road in Dalkeith and has a 2.5m slope from the front of the property down to the rear of the property.



The original development application was presented to Council in May 2018 following the receipt of plans which were modified to address concerns received from neighbouring landowners. The development application was approved subject to conditions.

1. **Application Details**

The applicant seeks development approval to amend the approved plans, details of which are as follows:

* Larger pond provided in new location within the front setback area which reduces the amount of soft landscaping;
* Modification to the front façade and appearance of the development as viewed from the street namely through a larger roof/eave projection;
* Minor changes to the rear fire pit; and
* Reduction in the height of the chimney and removal of second chimney to southern elevation.

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

* *“The amended design does increase the overshadowing by a small amount, but it is compliant with the R-Codes and still avoids the window for the recess area that was originally required as part of the mediated outcome last year; and*
* *The pond within the front setback area is feature to the front yard area of the dwelling and would enhance the appearance of the development.”*

1. **Consultation**

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

* Lot boundary setbacks; and
* Open space.

The development application was therefore advertised in accordance with Council’s Neighbour Consultation Policy to 9 residents and landowners. One objection was received.

The submitter elected to re-submit their initial response to the development from 2018 on the basis that the additional overshadowing re-introduces issues they believed previously somewhat resolved. The following table is a summary of the concerns/comments raised and the City’s response and action taken in relation to each issue:

|  |  |  |
| --- | --- | --- |
| **Submission** | **Officer Response** | **Action Taken** |
| The extent of the deviations from the deemed-to-comply provisions of the R-Codes relating to the lot boundary setbacks along the southern side boundary and the open space have the potential to result in considerable building bulk on the southern elevation of the proposed dwelling which is positioned directly adjacent to the southern property’s indoor and outdoor areas. This will have negative impact on the functionality and amenity of these areas. | The development results in less height adjacent to the southern side lot boundary but the length of the shadow cast being increased in length but not depth. The overshadowing is compliant with the deemed to comply provisions. The lot boundary setbacks are more compliant as a result of the modifications with the additional length being a canopy feature which is open in nature below to reduce the impact of building bulk and scale. The internal northern courtyard to the southern neighbouring dwelling will receive more sunlight as a result of the modifications, with the additional overshadowing over the front portion of the neighbouring dwelling only. | The lot boundary setbacks provided are considered to comply with the design principles – no action required. |
| There is a courtyard area on the northern side of the dwelling which is designed to maximise sunlight into the southern property’s main habitable rooms (living room, kitchen, dining room). The amount of sunlight into this area will be diminished as a result of the reduced lot boundary setbacks and additional site cover. | The amount of sunlight into this area will be increased from the previous approval. | The solar access for adjoining sites proposed will comply with the deemed to comply provisions – no action required. |
| The overshadowing will reduce sunlight to landscaping vegetation on the northern side of the lot. | The landscaping will receive the same amount of sunlight compared to the previous development approval. | As above. |
| The additional site cover represents additional bulk and scale which is its isolation may be compliant with the design principles as it is proposed to result in reduced lot boundary setbacks, represents an overdevelopment of the site. | The additional site cover is as a result of the front canopy feature which is open in nature. This will reduce the building bulk ensuring the development is consistent with the anticipated amount of open space provided within the locality. | The open space is considered to comply with the design principles – no action required. |

*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.

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

**6.2 Policy/Local Development Plan Consideration**

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

The applicant is seeking assessment under the Design Principles of the R-Codes for lot boundary setbacks and open space as addressed in the below tables:

**Lot Boundary Setbacks**

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| --- |
| **Proposed** |
| The upper floor is proposed to have the predominance of the wall setback 3m to the southern side lot boundary. This is measured to the canopy above the entry which given its size is not considered to be an eave or minor projection. |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  *“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.”* |
| **Deemed-to-Comply Requirement** |
| The upper floor setback requirement for the predominance of the upper floor is 3.5m. |
| **Administration Assessment** |
| From the originally approved plans, the height of the front chimney has been reduced and the second chimney removed from the proposal which reduces the bulk and scale of the development as viewed from the southern neighbouring property. The changes to the front façade through the provision of a larger canopy is open in nature and hence will not add additional bulk and scale nor impact upon ventilation. The additional overshadowing proposed to the southern neighbouring property is less than the permitted 25% lot area at 21.93% and will allow the same amount of sunlight into the central courtyard (be it in a slightly different location) with the additional overshadowing area namely over roof area only at the front of the dwelling. Given the above, the modifications are considered to satisfy the design principles. |

**Open Space**

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| --- |
| **Proposed** |
| The open space is proposed to be 58.7% of the lot area.  Note: the previous approval had 59% open space. |
| **Design Principles** |
| The application seeks assessment under the design principles which are as follows:  *“Development incorporates suitable open space for its context to:*   * *reflect the existing and/or desired streetscape character or as outlined under the local planning framework;* * *provide access to natural sunlight for the dwelling;* * *reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;* * *provide an attractive setting for the buildings, landscape, vegetation and* * *streetscape;* * *provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and* * *provide space for external fixtures and essential facilities.”* |
| **Deemed-to-Comply Requirement** |
| 60% of the lot area is provided as open space  Note that 50m2 of covered area at or below 0.5m above natural ground level can be included in open space. |

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| **Administration Assessment** |
| The development does not meet the deemed-to-comply requirement for open space namely due to the additional covered area which is open on two or more sides. These areas are notable to be included in the open space calculation when in excess of 50m2 in aggregate. The open space therefore requires assessment under the design principles.  The reduction in the site cover is considered to be minor in nature and as a result of the proposed new canopy at the front of the dwelling. The canopy will be open in nature and will not substantially increase the appearance of building bulk as viewed from the street and neighbouring properties. The open space was previously an issue discussed at the previous Council meetings in 2018 with the outcome of the application mediated through the provision of a landscaping plan which showed more soft landscaping within the front setback area. The addition of a larger pond area in the front setback will reduce the amount of soft landscaping.  The development will continue to have plantings within the front setback area in planters behind the front fence and therefore the development in terms of landscaping will not appear different from the previous development approval as viewed from the street. |

It should be noted that the building height was approved as part of DA17/127. No changes to building height are proposed as part of this amendment development application and are therefore not subject to re-assessment under Local Planning Scheme No. 3.

1. **Conclusion**

The proposed amendments to the development have been assessed against the residential design codes and conditions of the previous development approval have been considered with an outcome that two issues are requiring the exercise of discretion by Council. This includes the upper floor setback to the southern side lot boundary and the open space provided needing to be assessed under the design principles of the R-Codes.

The City consulted further with impacted neighbouring landowners and residents for this development application with one objection received. This objection was a re-submission of an original submission to the development previously approved which was used on the basis that the changes will cause detrimental impact to namely the amount of sunlight into the neighbouring dwelling. The overshadowing is proposed to meet the deemed to comply provisions and the additional overshadowing proposed to the previously approved development is over non-sensitive areas of the southern neighbouring property.

The changes to the lot boundary setbacks and open space proposed as part of this development application is considered to be compliant with the relevant design principles, with the change in impact compared to the existing development approval considered to be minor in nature.

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| **PD19.19** | **Natural Areas Management Plans 2019-2024** |
|  | |
| **Committee** | 14 May 2019 |
| **Council** | 28 May 2019 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Attachments** | 1. Draft Action Tables Natural Area Management Plans 2019-2024. 2. Community Engagement Report 3. Draft Natural Areas Management Plan 2019-2024 4. Draft Shenton Bushland Management Plan 2019-2024 5. Draft Allen Park Bushland Management Plan 2019-2024 6. Draft Hollywood Reserve Management Plan 2019-2024 7. Draft Birdwood Parade Management Plan 2019-2024 8. Draft Point Resolution Bushland Management Plan 2019-2024 9. Draft Mt Claremont Oval Bushland Management Plan 2019-2024. |

**Executive Summary**

The purpose of this report is to request Council’s adoption of the City of Nedlands Natural Area Management Plans 2019-2024. Seven Management Plans have been reviewed and updated in consultation with the local community. They provide a forward strategic and operational overview of the City’s six natural areas for a five-year period and are presented to Council for adoption.

**Recommendation to Committee**

**Council adopts the seven Natural Area Management Plans including:**

1. **Natural Areas Management Plan 2019-2024;**
2. **Shenton Bushland Management Plan 2019-2024;**
3. **Allen Park Bushland Management Plan 2019-2024;**
4. **Hollywood Reserve Management Plan 2019-2024;**
5. **Birdwood Parade Management Plan 2019-2024;**
6. **Point Resolution Bushland Management Plan 2019-2024; and**
7. **Mt Claremont Oval Bushland Management Plan 2019-2024.**

**Discussion/Overview**

**Background**

As owners and land managers, Local Governments are responsible for conserving and enhancing the values of natural areas. The City of Nedlands has management responsibility for six natural areas that cover an area of approximately 60Ha. Key threats to the City’s natural areas include environmental weeds, plant pathogens, feral animals, fire risk, climate change; and illegal dumping and access.

Natural area management plans are required to provide strategic direction and guide operational management of the City’s natural areas over a five-year period. The seven Management Plans provide guidance to those involved in the management of the City’s natural areas including City of Nedlands staff, Council, Department of Defence (for Allen Park), Department of Health (for Shenton Bushland), volunteers and natural area ‘Friends of’ groups.

In 2014 the below listed Management Plans were adopted by Council:

1. Natural Areas Management Plan 2013-2018
2. Shenton Bushland Management Plan 2013-2018
3. Allen Park Management Plan 2013-2018
4. Hollywood Reserve Management Plan 2013-2018
5. Birdwood Parade Management Plan 2013-2018
6. Point Resolution Management Plan 2013-2018
7. Mount Claremont Oval Management Plan 2013-2018.

Implementation of the City’s natural area Management Plans will assist the City to:

* Improve public amenity through improvement of bushland condition and access
* Conserve biodiversity through the protection and enhancement of natural areas
* Maintain and enhance genetic diversity through the improvement of ecological corridors and habitat
* Provide management guidelines for the community and Council to manage natural areas within the City according to best practices
* Improve the resilience of natural areas in the face of a changing climate
* Reduce bushfire risk through environmental weed control
* Comply with State and Federal legislation.

**2019-2024 Management Plans**

As the 2013-2018 Management Plans were out of date the City’s Administration commenced review of the Management Plans in August 2018. This involved surveying bushland condition and environmental weeds; and collaborating with ‘Friends of’ groups to review the documents.

The seven Management Plans have drawn heavily from information compiled in previous Management Plans and management actions have been provided for:

* Shenton Bushland
* Allen Park Bushland
* Hollywood Reserve
* Birdwood Parade
* Point Resolution Bushland
* Mt Claremont Oval Bushland

The seven Management Plans have been reviewed and updated. They include an overarching Natural Areas Management Plan and a further six Management Plans for each natural area within the City as listed above. The seven Management Plans outline guiding information, strategies and management actions necessary to protect, enhance and restore natural areas and biodiversity within the City. They focus on improving bushland condition and providing management actions on:

* Management Boundaries
* Rehabilitation
* Revegetation
* Environmental Weed Control
* Plant Pathogens
* Fire Risk
* Access
* Community Involvement
* Cultural Heritage, Interpretation and Education
* Native Animals
* Feral Animals

The draft action tables from the seven Management Plans are detailed in Attachment 1. These action tables summarise the actions that are relevant to each of the seven Management Plans. The Community Engagement Report and seven Management Plans are detailed in Attachments 2-9.

There were no additional actions required to the Management Plans following feedback received from the community engagement period. However, minor modifications were made in order to finalise the documents for Council adoption. The modifications made to the seven draft Management Plans following their release for the community engagement period are listed below:

1. Minor modifications to all Management Plans to correct grammar, punctuation and formatting;
2. All Management Plans were designed and styled in accordance with the City’s style guide;
3. The Natural Areas Management Plan 2019-2024 was added as Appendix 7 to the six bushland Management Plans;
4. Minor modifications to maps such as editing fire history and access in some Plans;
5. Addition of text to monitoring of fire sites within the Point Resolution and Shenton Bushland Management Plans;
6. Minor edits to text for priority flora and fauna in the Natural Areas Management Plan;
7. Addition of an acronym and abbreviation page within all Management Plans
8. Minor edits to flora, fauna and fungi lists; and
9. Update the environmental weed control and planning context sections in the Natural Areas Management Plan following feedback from the Department of Biodiversity Conservation and Attractions.

**Risk Management**

The Natural Area Management Plans include a number of actions required to protect natural areas within the City. If the Management Plans are not adopted there are risks associated with the inadequate protection and rehabilitation of native vegetation and ecosystems within the City, negative community reaction, the potential for inappropriate management practices to be implemented and less opportunity to source grant funding.

**Relevant Legislation / Council Policy**

Development of the Management Plans provide guidance for the City to comply with legislation such as the *Agriculture and Related Resources Protection Act 1976* and the *Bushfires Act 1954.* Their development also supports several Council Policies including the Bushland Path Network Policy, the Community Friends Group Policy and the Greenways Policy.

**Key Relevant Previous Council Decisions:**

At the Ordinary Council Meeting 25 March 2014, Item PD9.14, seven 2013-2018 Natural Area Management Plans were adopted by Council.

**Consultation**

Prior to being released for community engagement the seven Draft Natural Area Management Plans 2019-2024 were developed in collaboration with the City’s natural area ‘Friends of’ groups including:

* Friends of Shenton Bushland
* Friends of Allen Park
* Friends of Hollywood Reserve
* Friends of Point Resolution
* Swanbourne Coastal Alliance

Following consultation with the City’s ‘Friends of’ groups community engagement was advertised between Friday 29March to Wednesday 17April. Invitations to participate in engagement activities were publicly advertised via newspaper advertisements, on-site signage, a letter box drop to adjacent residents and emails to key stakeholders.

A range of issues and suggestions were provided by the community. Administration comment on the key issues and suggestions is summarised below. With the details of the community engagement process detailed in the Community Engagement Report (refer Attachment 2).

The key issues, suggestions and comments raised during the community engagement period is detailed below:

**General Feedback**

Generally, the overall feedback on the Management Plans was positive and the community appreciated the opportunity to provide input into the documents.

There were a number of specific ‘one off’ technical requests made for several of the Management Plans, some of these are listed below:

* A request to install interpretive signage at Allen Park and Mt Claremont Oval Bushland
* A request to remove shrubs along Alfred Road that continually self-seed on the verge
* A request that more careful maintenance work was required when vegetation along paths are pruned at Allen Park
* A request to plant everlastings every year in the garden beds at Gunners Memorial
* A request to install low black fencing along all pathways at Allen Park
* A request to upgrade the paths at Birdwood Parade and improve the most eastern path at Point Resolution
* A request for an education program to assist residents to remove noxious weeds from their verges adjacent to Mt Claremont Oval Bushland.

None of the technical requests required changes to the Management Plans and each request is to be provided an official response by the City.

**Greenways Corridors**

There were two requests relating to the importance of greenway corridors and their inclusion in Natural Areas Management Plan 2019-2024. These included:

* A request for the inclusion of Underwood Avenue Bushland into the Natural Areas Management Plan 2019-2024
* A request to recognise and formalise bushland corridors strategically and operationally.

**Response:**

In regard to recognising and formalising bushland corridors, the City develops a new greenway each year in accordance with the City’s Greenways Policy and forwards works program. The City’s Greenways Policy aims to provide corridors between remnant bushland areas on City owned land and this information is detailed in the Planning Context section of the Natural Areas Management Plan 2019-2024.

In regard to requesting the inclusion of Underwood Avenue Bushland in the Natural Areas Management Plan 2019-2024. Only bushland reserves under the City’s management control can be provided management actions in the Natural Areas Management Plans 2019-2024. As Underwood Avenue Bushland is privately owned it cannot be included.

**Cat Control**

A number of comments were received regarding concerns of the impact of feral and household cats in bushland areas.

**Response:**

This City has an ongoing feral animal control program that targets feral foxes and cats. The cat control program is undertaken so that responsible cat ownership is promoted. Therefore, when domestic cats are trapped the City’s Rangers Department check their registration and ensure they are micro chipped before returning them to their owner and educating the owner to confine their cat to their property.

**Views of the Swan River**

A number of comments were received regarding concerns that revegetation programs may inhibit residential views of the Swan River.

**Response:**

The City is working to maintain existing views of the Swan River to ensure our revegetation programs do not impact residential views of the Swan River. In order to address this, action 8 within the Birdwood Parade and Point Resolution Management Plans has been included which requires the City to ensure existing views are maintained when rehabilitation work is undertaken.

**Condition of the Paths on Melon Hill (Allen Park)**

Two responses were received with concerns regarding the condition of the paths on the Department of Defence owned land at Allen Park.

**Response:**

The paths are located on land owned by the Department of Defence. The City is continuing to liaise with the Department of Defence requesting they schedule repair and upgrade of the pathways.

**Budget/Financial Implications**

The Natural Area Management Plans 2019-2024 include a number of actions required to protect biodiversity and maintain and rehabilitate natural areas within the City. The majority of these actions will be undertaken utilising the Environmental Conservation operational budget. Other actions such as the installation of new fencing and path upgrades will be sourced through grant funding or requested through the City’s capital works budget.