



City of Nedlands

Planning and Development Reports

Committee Consideration – 14 November 2017

Council Resolution – 28 November 2017

Table of Contents

Item No.		Page No.
PD47.17	(Lot 583) No. 111 Circe Circle South, Dalkeith – Proposed street setback area fencing.....	2
PD48.17	(Lot 2) No. 10a Swansea Street, Swanbourne – Two-storey grouped dwelling.....	8
PD49.17	(Lot 124) No. 34 Loftus Street, Nedlands – Short-term accommodation	18
PD50.17	(Lot 53) No. 6 Croydon Street, Nedlands – Short-term accommodation	23
PD51.17	(Lot 388) No. 103 Hardy Road, Nedlands – Short-term accommodation (retrospective).....	28
PD52.17	Long-term Street Trading License Application for temporary food stall in front of Kirkwood Deli.....	36

Council: 28 November 2017

PD47.17	(Lot 583) No. 111 Circe Circle South, Dalkeith – Proposed street setback area fencing
Committee	14 November 2017
Council	28 November 2017
Applicant	Building Corporation WA T/A Giorgi
Landowner	M Gilbert
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/235
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Site photographs 2. Applicant's justification 3. Officer comment on justification

1.0 Executive Summary

A development application has been received for street setback area fencing at the property.

Solid fencing to a height of 1.8m is proposed along the western side boundary within the front setback area in lieu of a maximum solid height of 1.2m. Solid fencing to a height of 1.8m is also proposed in the north-eastern corner of the lot within the front setback area, for the purposes of installing a meter box and bin store. Compliant open style brick and infill fencing is proposed for the remainder of the front boundary.

The application was advertised for the above variations. During the advertising period one objection was received.

It is recommended that the application be approved by Council as the proposal is unlikely to have a significant adverse impact on the local amenity and is consistent with the development in the immediate proximity.

2.0 Recommendation to Committee

Council approves the development application dated 9 August 2017, with amended plans dated 6 September 2017, to construct street setback area fencing at (Lot 583) No.111 Circe Circle South, Dalkeith, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. This planning approval only pertains to the street setback area fencing.
3. All footings and structures shall be constructed wholly inside the site boundaries of the Certificate of Title.
4. The street setback area fencing must be finished to an acceptable standard to the satisfaction of the City.
5. The proposed bin store shall remain open and not be enclosed by a roof.
6. The fencing infill as shown on the approved plans being visually permeable in accordance with the Residential Design Codes 2015 and the City's Local Planning Policy – Fill and Fencing.

Advice Notes specific to this proposal:

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

3.0 Site Details

Lot area	1011.7m ²
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 site is regular in shape and is situated to the west of the intersection of Circe Circle South and Curlew Road. A dwelling is currently being constructed at the property.

An aerial image showing the location of the property follows:



4.0 Background

A single house was approved for the property in November 2014. Subsequently amended development applications were approved in October 2016 and July 2017. The house is currently under construction.

5.0 Specific Application Details

The applicant seeks approval to install fencing within the 9m street setback area, details of which are as follows:

- Solid brick fencing to a height of 1.8m is proposed along the western side boundary, in lieu of a maximum solid height of 1.2m; and
- Solid fencing to a height of 1.8m is proposed in the north-eastern corner of the lot in lieu of a maximum solid height of 1.2m, for the purposes of installing a meter box and bin store.

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

- *“The western neighbour permanently parks a caravan directly adjacent to the western side boundary. A solid wall would have no impact on the neighbouring property’s amenity”;*
- *“The solid fencing proposed in the north-east corner of the lot is proposed to conceal bins and house the meter box. The eastern neighbouring property has solid brick walls along the adjoining boundary and front return. There will therefore be no impact on the neighbouring property’s amenity”.*

- *“There are a number of examples of solid fencing in the front setback area on other properties in Circe Circle South in the immediate area”.*

Refer to attachment 2 for a full copy of the applicant’s justification letter including images of existing solid walls in the surrounding area.

6.0 Consultation

The development application was advertised to affected landowners for comment. The following is a summary of the concerns raised:

- Compromises the established streetscape:
- May set a precedent for other potential developers:

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

7.0 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.”

In accordance with provisions (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity.

Officers have assessed the proposal and consider the following with regards to the potential impact on the amenity of the area:

- The majority of the fencing on the front boundary complies with the City’s Fill and Fencing Policy and proposed solid fencing to a height of 1.2m, and visually permeable infill to a height of 1.8m;
- There are a number of solid side boundary fencing examples with height greater than 1.2m in Circe Circle within close proximity to the subject site.
- The development is consistent with the surrounding fencing development.

- The portion of solid fencing in the corner of the lot facing the street for the bin store is minor with a width of 2.2m. The solid wall for the meter box is perpendicular to the street, largely reducing the impact.
- The proposal complies with sightline requirements for fencing within 1.5m of the driveway.
- Each application is assessed on its merits and in the context of the surrounding development. Therefore, approving the application would not create a precedent for properties further down the street or in other streets where no solid fencing exists.

For these reasons, it is unlikely that the solid fencing will have a detrimental impact on the amenity of the surrounding area or streetscape of Circe Circle South.

7.3 Fill and Fencing Local Planning Policy

The proposal is not compliant with the following provisions of Fill and Fencing Council Policy as follows:

Policy Requirement	Proposed	Complies?
4.3 In primary street setback areas, solid fencing to a maximum height of 1.2m above natural ground level, and visually permeable fencing to a maximum height of 1.8m above natural ground level.	<ul style="list-style-type: none"> • Solid fencing to a height of 1.8m along the western side boundary within the front setback area; and • Solid fencing in the front setback area in the north-eastern corner of the lot to a height of 1.8m. 	No
<p>Variations</p> <p>When considering variations to the policy requirements, due regard is to be given as to its likely impact on the local amenity.</p>		
<p>Administration Comments</p> <p>Solid fencing is proposed for a portion of the front boundary and along the western side boundary within the front setback area. The remaining fencing is brick and open style and is considered to positively contribute to the streetscape and provide adequate surveillance to the street. In addition, the two-storey dwelling being constructed on the property provides for increased surveillance.</p> <p>The first 1.5m of fencing on the western side boundary is visually permeable to comply with sightline requirements.</p> <p>The solid fencing is consistent with the prevailing development in close proximity to the property and is therefore supported.</p>		

8.0 Budget / Financial Implications

N/A

9.0 Risk Management

N/A

10.0 Conclusion

It is considered the solid fencing on the western boundary provides privacy to the property without compromising the amenity of the street. The section of solid fencing on the front boundary is considered marginal and is not expected to have a noticeable impact. Accordingly, it is recommended that the application be approved by Council.

Photo of 111 Circe Circle



Photo facing 109 Circe Circle



Photo facing 113 Circe Circle



Proposed Boundary Wall 111 Circe Circle South

We understand a neighbour has objected to our proposed solid west wall between house and boundary at 111 Circe Circle South, and also the proposed solid wall on the northern frontage, screening the proposed bin store.

The reasons for the proposal are as follows:

- 1) There is no opportunity to screen a permeable west wall with vegetation as there is an adjacent driveway
- 2) A solid west wall will mirror the existing solid east wall, providing an aesthetically more pleasing symmetry to the property
- 3) A solid west wall will provide some privacy to the north-facing garden which our children will use as a play area, whilst the partly permeable northern frontage still adheres to the principles of visibility of the house structure from the street
- 4) A solid west wall screens our current view of an old, ugly and quite dilapidated caravan which is normally stored on the driveway of the property at 109 Circe Circle
- 5) A solid west wall will more substantially resist any potential damage to our property from the caravan when it is manoeuvred. We previously have had to repair the water meter located some distance in from our boundary; we were told by the plumber that the damage was almost certainly incurred by a heavy vehicle running over it. A masonry fence will be substantially cheaper to repair than metal infill panels.
- 6) The neighbour at 109 Circe Circle previously owned a large and noisy motorbike, which he chose to start, noisily, at 6am most days. We would appreciate acoustic privacy from this kind of intrusion. A solid fence will help with this.
- 7) We would like screening from the vehicles belonging to the neighbour at 109 Circe Circle, which he chooses to park in the street rather than on his property.
- 8) Screening the bin store is as per R code principles which state they should be screened
- 9) It is fatuous to suggest that our proposal will set a precedent. The two houses to east and two houses to the west of 111 Circe Circle, along with the five houses opposite have in total of twelve boundary lines between house and street. Of these twelve boundaries, seven include a fence which is solid and full height or near full height. The precedent has well and truly already been set. Furthermore, the property at 115 Circe Circle has several metres of solid fence on its frontage onto Circe Circle. The small solid component we propose to screen our bin store is substantially smaller than this.

Fencing between 92 & 94 Circe Circle



Photo 2 of fencing between 92 & 94 Circe Circle



Fencing between 90 & 92 Circe Circle



Fencing between 88 & 90 Circe Circle



Fencing between 113 & 115 Circe Circle



Fencing between 96 & 98 Circe Circle



115 Circe Circle



Officer comment on existing solid front setback area fencing in the surrounding area

Fencing on eastern side boundary of No.90 Circe Circle S

Fencing approved with permeable infill within the front setback area. Solid fencing has not been approved.

Fencing on eastern and western side boundaries of No.92 Circe Circle

Approval issued for solid fencing to both side boundaries to a height of 1.8m. Permeable fencing approval on the front boundary.

Fencing on the western side boundary of 98 Circe Circle

A retaining wall is approved on the western boundary to a maximum height of 1.5m.

Fencing on the western side of No. 113 Circe Circle

Solid fencing to a height of 1.8m is approved within the front setback area along the western side boundary.

Fencing on the western side boundary of No.115 Circe Circle

Solid fencing to a height of 1.8m is approved within the front setback area along the western side boundary.



PD48.17	(Lot 2) No. 10a Swansea Street, Swanbourne – Two-storey grouped dwelling
Committee	14 November 2017
Council	28 November 2017
Applicant	Summit Projects
Landowner	Ms S J Collins
Director	Peter Mickleson – Director Planning & Development
Reference	DA17/132
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. Applicant justification 2. Site Photographs

1.0 Executive Summary

Development approval is being sought for a two-storey grouped dwelling, with the covered car parking for the dwelling being within the common property driveway.

The development proposes variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) regarding lot boundary setbacks, street surveillance and outdoor living areas. The application was therefore advertised to affected landowners and two objections were received.

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

2.0 Recommendation to Committee

Council approves the development application dated 07 June 2017 with amended plans received 05 October 2017 for a two-storey grouped dwelling at (Lot 2) No. 10a Swansea Street, Swanbourne 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. This development approval only pertains to the proposed grouped dwelling and carport.**
- 3. The carport within the common property must be constructed at the same time as the dwelling and maintained at all times by the owner of Survey-Strata Lot 2 while there is a dwelling on Survey Strata Lot 2.**

4. Prior to occupation of the dwelling, the owner shall execute and provide to the City a notification pursuant to s.70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers that the retention and maintenance of the carport in the common property area is subject to the restriction set-out in condition no. 3.
5. The carport shall not accommodate a door or visually impermeable gate.
6. All footings and structures to buildings, retaining walls and fences shall be constructed wholly inside the site boundaries of the Certificate of Title.
7. The north facing windows to the upper floor of the dwelling shall be modified to be minor openings by either being fixed obscure or located 1.6m above the upper floor finished floor level.
8. All fencing, visual privacy screens and obscure glass panels to Major Openings and/or Active Habitable Spaces, as shown on the approved plans and required as per conditions of planning approval, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2015*. The fencing, visual privacy screens and obscure glass panels shall be installed and remain in place permanently, unless otherwise approved by the City.
9. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.

Advice Notes specific to this approval:

1. Any construction in the verge will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to construction.
2. 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.
3. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.
4. 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.

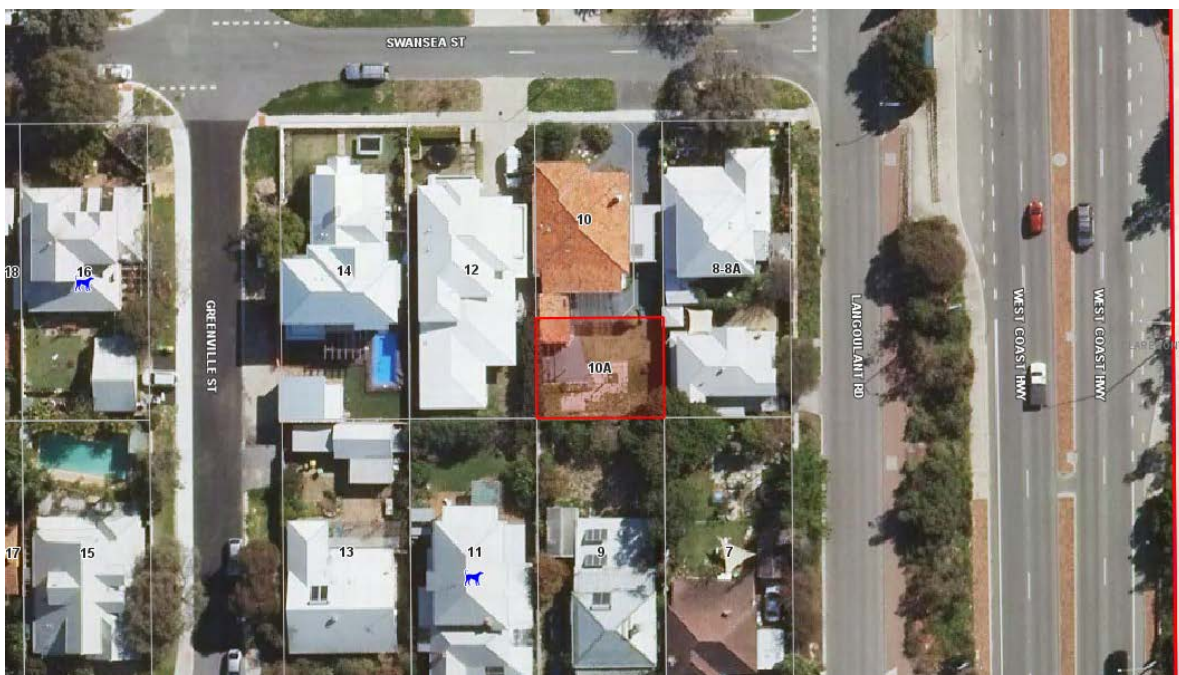
5. This decision does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.
6. This decision constitutes planning approval only and is valid for a 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.

3.0 Site Details

Lot area	180m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R40
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 a result of a survey strata subdivision which has a common property driveway along the eastern side of the parent lot. The lot is relatively flat and the existing dwelling on the front strata lot is currently being extended.

An aerial image showing the location of the property follows.



4.0 Background

A survey strata subdivision application was lodged with the Western Australian Planning Commission (WAPC) in August 2016. The City's recommendation was for refusal due to concerns that the lot would not be able to accommodate development compliant with the City's Town Planning Scheme No. 2 and the R-Codes. The WAPC approved the subdivision contrary to the City's recommendation.

Clearance of the conditions placed on the subdivision approval was granted by the City in late March 2017 with the lots created in April 2017.

Prior to the subdivision, the existing dwelling on the front strata lot received approval for additions and alterations to the existing house in December 2014 with further modifications approved in early March 2017.

In the consideration of the current development application for the proposed grouped dwelling for the rear strata lot, the City has confirmed that the carport for the proposed dwelling can be constructed in the common property area subject to permission from the other strata owner, a strata by-law being provided, condition of planning approval and s.70A notification being placed on the title. The applicant has satisfied these requirements to allow the City to be able to consider the carport within the common property driveway area.

5.0 Specific Application Details

The applicant seeks approval to construct a two-storey grouped dwelling with the covered car parking for the dwelling provided as a carport within the common property. The development proposes variations to the deemed-to-comply provisions of the R-Codes as follows:

- Lot boundary setbacks –
 - The ground floor is proposed to be setback 1.3m in lieu of 1.5m to the northern side lot boundary;
 - The upper floor is proposed to be setback 1.3m in lieu of 1.6m to the northern side lot boundary; and
 - The carport for the dwelling is proposed to be within the common property vehicle access leg with a nil setback to the eastern and western lot boundaries in lieu of only one boundary having a nil setback.
- Street surveillance – the carport is proposed to be located within the common property driveway obstructing visibility and easy access to the pedestrian entry for the dwelling.
- Outdoor living area – the alfresco is proposed to cover over one third of the required 20sqm outdoor living area, leaving 11.95m² uncovered area in lieu of 13.33m².

By way of justification in support of the development application the applicant has provided justification which has been provided as an attachment to this report.

6.0 Consultation

The development application was advertised to affected landowners for comment due to the proposed deemed-to-comply variations as listed above. The following is a summary of the concerns raised:

- *“The proposed carport will contribute to the building bulk on the adjoining property and have an adverse and negative impact to the development design and streetscape.”*
- *“Buildings are required to be setback from lot boundaries to maintain the amenity of the streetscape and views along the street by ensuring that associated outbuildings and other fixtures attached to buildings do not detract from the neighbouring properties. If the proposed carport is approved with nil setback, then this requirement will be negated.”*
- *“The carport will effectively block most of natural light and sunlight to the major openings of my dwelling adjacent to the proposed carport with the length of the proposed carport almost more than the entire length of my house.”*
- *“The passive solar advantages of sunlight will also be reduced if not totally diminished along the lower level of the entire boundary of my house by reducing access to day-light, ventilation and winter sun.”*
- *“Given the proposed proximity of both the driveway and proposed carport there are additional concerns regarding cross-ventilation fire and safety risks. In addition, fumes from cars entering and leaving the proposed property will make opening of this window virtually impossible thus contributing to a health risk.”*
- *“Increased noise will contribute to stress levels and disturbed sleep. If the proposed car parking for 10A was wholly within strata lot 2, then these concerns regarding increased noise and related disturbance would not be an issue. The common property driveway should not be used for a carport.”*
- *“Car parking consumes space and does not generally make a positive contribution to the streetscape. Consequently, the location is a major factor in amenity as well as security and safety. In this instance, it is also intrusive both visually and acoustically.”*
- *“It is appropriate to design homes that ensure that a clear view exists between the building, the main entry and the street. This not only provides opportunity for incidental street surveillance but also contributes to the streetscape amenity. In this proposal, this does not occur and but rather discourages it.”*
- *“Furthermore, due to the lack of visibility from the street there is reduced sense of safety or provision of a deterrence to criminal activity.”*
- *“The proposed design of the carport fails to consider adequate car parking, manoeuvring and likely servicing needs for example contractors, removalists and emergency service vehicles. Provision for servicing should allow for the vehicles to enter and leave in forward gear and provide adequate vehicle headroom. Hence, the lack of proposed space for servicing needs will result in servicing needing to be accommodated within the street, which can adversely impact pedestrian and vehicle movement.”*
- *“We strongly object to the proposed outdoor living space being not compliant with code. This variation has an adverse and negative impact on our dwelling.”*
- *“We value our open space and generous size blocks which are one of the reasons people choose to live in that area.”*

The City initially advertised plans which also proposed an open space variation and visual privacy variations. The plans have since been amended to remove these variations as a result of the feedback from neighbour consultation. The objections received in relation to these previously proposed variations have not been listed in the above summary.

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

7.0 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.”

Although the design of the dwelling is not ideal with the carport located in the common property driveway, the small size of the rear block (at the minimum lot area permitted for the zoning) coupled with the rear and side sewer lines significantly restricts the ability to provide a more standard grouped dwelling with attached garage. The design attempts to make effective use of space with north facing outdoor living area, and reduces the impact of building bulk by proposing no boundary wall development.

The site cover is compliant, and the major openings have been designed (and modified) to ensure that privacy is maintained between the dwellings. Therefore, it is considered that the design and size of the dwelling is consistent with the zoning and the intended development context of the locality as a medium density area.

7.3 Residential Design Codes (State Planning Policy 3.1)

7.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Buildings setback from the side and rear lot boundaries in accordance with Table 2A for wall lengths with no major openings.	The ground floor is proposed to be setback 1.3m in lieu of 1.5m to the northern side lot boundary;	No
	The upper floor is proposed to be setback 1.3m in lieu of 1.6m to the northern side lot boundary;	No
Walls may be built up to a lot boundary behind the street setback in areas codes R30 and higher to one side boundary only.	The carport for the dwelling is proposed to be within the common property vehicle access leg with a nil setback to the eastern and western lot boundaries in lieu of only one boundary having a nil setback	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> <p><i>Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more effective use of space for enhanced privacy for the occupants or outdoor living areas;</i> • <i>does not have an adverse impact on the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> • <i>positively contributes to prevailing development context and streetscape.”</i> 		
<p>Administration Comments</p> <p>The ground and upper floor have reduced setbacks to the northern side boundary to try and make effective use of space on the lot constrained by the sewer infrastructure along the southern and western side lot boundaries.</p> <p>The northern neighbouring property will not be impacted in terms of access to sunlight and ventilation due to the lot orientation and there will be no loss in privacy with the dividing fencing screening the ground floor major openings and the upper floor having hi-lite windows only.</p>		

The carport is an open structure and is permitted to be built up to one lot boundary. The setback is taken from the posts with an eave overhang permitted 0.75m into the setback area. Therefore, if the posts were setback 1m and the eaves setback 0.25m from the lot boundary, the setback provided would be compliant without much change to the impact of the structure as viewed from the neighbour's property. The carport is an open structure and is required to be provided for the rear dwelling in accordance with cl. 5.5.6 of the City's Town Planning Scheme No. 2.

The sewer infrastructure running along the rear and western side lot boundaries prevents boundary wall development and the northern lot boundary has a setback to provide winter sun into the dwelling. Therefore, provision of covered car parking within strata lot 2 would prevent the provision of functional sized rooms and a well orientated and dimensioned outdoor living area for the dwelling.

The carport is a non-habitable area and the area could be used for car parking regardless of cover being provided. The impacted neighbouring strata property to the east of the carport has the entry to the dwelling adjacent to the carport and the western neighbour has access to northern and western sun through the build-up provided under the dwelling.

This area was previously occupied by a carport to the front house prior to subdivision and hence the impact of a slightly longer structure in the same location will have negligible impact on the neighbouring properties.

In relation to the neighbour comments, the carport location complies with the vehicle access requirements of the R-Codes and the construction material (being steel) ensures there will be adequate fire separation to comply with the relevant legislative requirements. In relation to noise and fumes, the area occupied by vehicle parking would in any other circumstance/design still be used for vehicle access and hence the location of the carport would have negligible impact on neighbouring properties in terms of noise and fumes.

7.3.2 Street surveillance

Deemed-to-Comply Requirement	Proposed	Complies?
The street elevation(s) of the dwelling to address the street with clearly definable entry points visible and accessed from the street.	The entry to the dwelling is obstructed by the carport in the common property access leg.	No
At least one major opening from a habitable room of the dwelling faces the street and the pedestrian or vehicular approach to the dwelling.	The family room major opening is obstructed by the carport in the common property access leg.	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Buildings designed to provide for surveillance (actual or perceived) between individual dwellings and the street and between common areas and the street, which minimise opportunities for concealment and entrapment.”</i></p>		

Administration Comments

The carport does block clear visibility to the entry into the dwelling, however visitors can be guided by the letterbox and the width of the carport at 3.5m allows a standard vehicle to be parked without fully obstructing pedestrian access to the entry of the dwelling. Once past the carport, there are both minor and major windows facing the area adjacent to the front of the dwelling to provide surveillance between the dwelling and the common property.

The additional width of the driveway will still permit access to the front door and the design of the dwelling offers surveillance opportunities of the area in front of the dwelling and within the common property area to minimise opportunities for concealment and entrapment.

Arguments could be made either way for increased or decreased opportunities for crime based on the location of the carport, however in terms of planning controls, the entry to the dwelling can be found by visitors and there are passive surveillance opportunities adjacent to the entry of the dwelling to give actual and perceived surveillance of the approach to the dwelling.

7.3.3 Outdoor living areas

Deemed-to-Comply Requirement	Proposed	Complies?
Outdoor living area provided which is 20sqm in area and two thirds of the area without permanent roof cover.	The outdoor living area has 11.95m ² of uncovered area in lieu of 13.33m ² .	No
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“Outdoor living areas which provide spaces:</i></p> <ul style="list-style-type: none"> • <i>capable of use in conjunction with a habitable room of the dwelling;</i> • <i>open to winter sun and ventilation; and</i> • <i>optimise use of the northern aspect of the site.”</i> 		
<p>Administration Comments</p> <p>The outdoor living area complies with the minimum dimension and area requirements with the variation limited to the amount of covered area provided. The alfresco area is large enough to provide cover to a small table and chairs whilst only proposing an additional 1.38m² of cover. The outdoor living area location faces directly north so as to optimise the use of the northern aspect of the site and also be open to winter sun and ventilation. Additionally, the outdoor living area is accessed from the dwelling directly from the ground floor dining room, ensuring that the outdoor living area is capable of use in conjunction with a habitable room of the dwelling.</p> <p>In relation to the objections received, subsequent to neighbour consultation, the site cover has been reduced for the development to comply with the open space requirements of the R-Codes. The outdoor living area location is required to maximise the northern aspect and hence relocation to another position on the property will result in a negative design outcome for the dwelling and non-compliance with the design principles. The outdoor living area variation is considered to be minor in nature and will result in improved functionality for the dwelling by providing a covered area large enough for outdoor entertainment.</p>		

8.0 Budget / Financial Implications

N/A

9.0 Risk Management

N/A

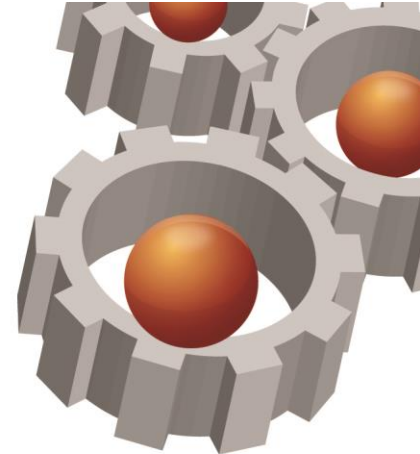
10.0 Conclusion

The proposed grouped dwelling is considered to meet the relevant design principles of the R-Codes as the design protects privacy and reduces the impact of building bulk and scale. The design makes effective use of space with north facing outdoor living area, no boundary wall development and compliant open space – all difficult to achieve given the constraints of the site from sewer infrastructure.

Further to the above, whilst it is noted that the carport location is unconventional, the City can consider the location within the common property driveway with appropriate planning controls. The carport location and the design of the dwelling is considered to not detrimentally impact the amenity of the neighbouring properties and is consistent with the intended medium density development context of the locality. Accordingly, it is recommended that Council approves the application.



City of Nedlands
Received
04 July 2017



Our Ref: 679

4 July 2017

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

Attn: Kate Bainbridge

Sent via email: kbainbridge@nedlands.wa.gov.au

Dear Sir/Madam,

10A Swansea Street, Swanbourne – Planning Justification

Dynamic Planning and Developments Pty Ltd (DPD) acts on behalf of Summit Projects, the applicant for the proposed grouped dwelling at 10A Swansea Street, Swanbourne (herein referred to as the 'subject site').

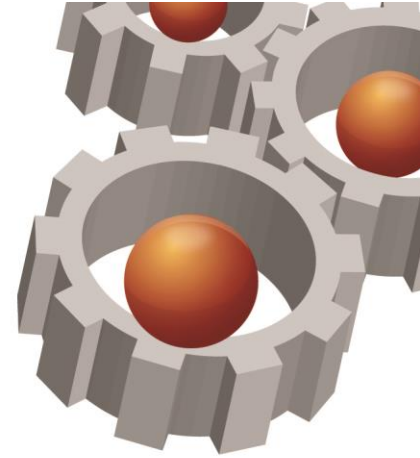
We refer to the Council's email correspondence dated 9 and 23 June 2017 which outlines a number of variations/issues which the City has encountered through an assessment of the proposal. For clarity and brevity, we respond to each item below in the order outlined in the aforementioned email.

1. Two (2) covered car parking bays are required to be provided for each dwelling exclusively within the property boundaries as per cl. 5.5.6 of the R-Codes;

Clause 5.3.3 of the R-Codes relates to the provision of sufficient on-site parking bays. In this regard it should be noted that the R-Codes defines 'site' as follows:

In the case of a grouped dwelling, the area occupied by the dwelling together with any area allocated (whether by way of strata title or otherwise) for the exclusive use or benefit of that dwelling.

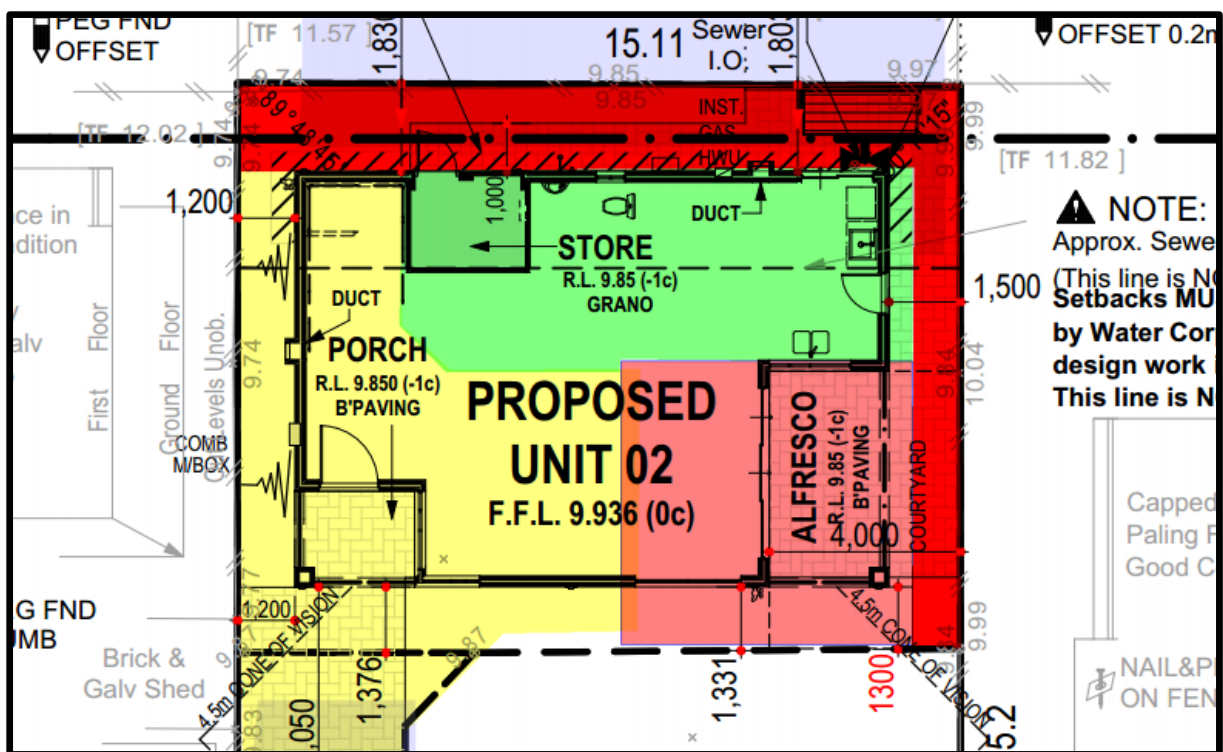
As discussed in our meeting on 22 June 2017, the proprietor of lot 2 is granted exclusive use of the common property lot 3 in accordance with Strata By-Law No. 16 which is included in **Attachment 1**. In light of the definition of 'site' above, given that two covered parking bays are proposed within common property lot 3, the proposal is considered to meet the requirements of clause 3.3.5.

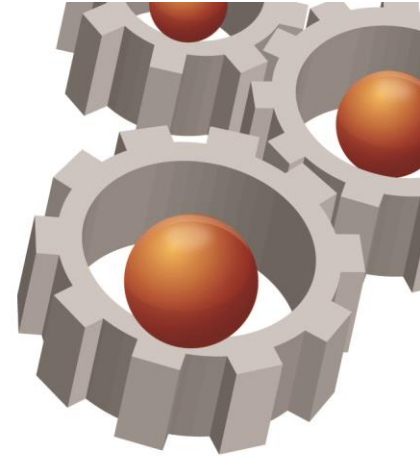


2. *There is no right under the strata by-laws for covered car parking to be provided within the common property area. It is the City's preference to have the car parking provided within the area of exclusive use of the subject property. If you wish to proceed with this design, a justification should be submitted demonstrating how it is not possible to provide covered car parking on the subject property noting that cost is not a valid planning reason;*

It is noted that the existing strata by-law does not allow for covered vehicle parking to be provided within common property lot 3. However, given that the owner(s) of lot 1 have endorsed the proposed plans, it is reasonable to assume that they will not object to the common property being used for this purpose. The proprietor of lot 2 is willing to amend the by-laws to allow for covered vehicle parking within common property lot 3. If a letter of consent is provided from the proprietor of lot 1, it is considered that the City of Nedlands can include an appropriate condition of approval requiring the Strata By-Laws to be modified accordingly.

Whilst the City's preference to provide the necessary parking within the boundaries of lot 2 is noted, this is not considered to be a practical development outcome due to the size of lot 2 and the significant constraints affecting the development potential of the lot. A rough sketch is provided below which illustrates the likely development outcome if parking were to be provided entirely within the boundaries of lot 2. Please note that the areas are indicative only but can effectively demonstrate the site's constraints.





The image above has been colour coded to reflect the development outcome for each portion of the site. A description of each colour is provided below:

- Pink: Location of covered two-bay parking structure.
Yellow: Necessary unobstructed maneuvering space to allow vehicles to turn and exit the site in forward gear.
Red: Development exclusion area due to Water Corporation sewer and private sewer lines.
Green: Remaining developable area (~40-45sqm).

The illustration above clearly demonstrates that providing the necessary parking within the boundaries of lot 2 would significantly constrain the extent of developable area remaining for the dwelling. Whilst we respect the City's preferences on this matter, the applicant and the proprietor of lot 2 are not willing to accept such a compromised development outcome given that the R-Codes clearly permits vehicle parking to be provided within the lot 3, subject to a minor modification of the Strata By-Laws. DPD therefore argues that the proposed covered parking bays are suitably located in accordance with the parameters set under the R-Codes.

3. *The carport needs to be fire rated wholly within the property boundary to comply with the BCA requirements for fire separation;*

The proposed carport will be constructed of Colorbond which is a non-combustible steel structure. The carport is therefore compliant with the BCA requirements for fire separation which will be demonstrated at the building certification stage.

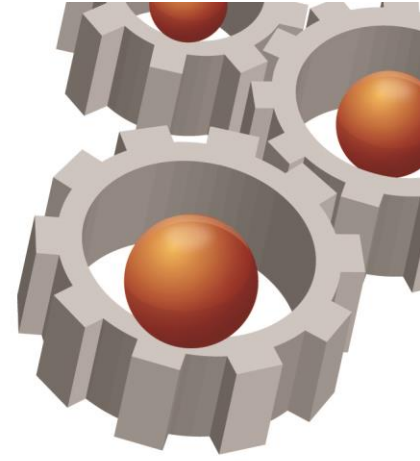
4. *The ground and upper floors are setback 1.3m in lieu of 1.5m to the northern side lot boundary;*

The setback variations highlighted by the City are noted. Where a variation to the deemed-to-comply requirements of the clause 5.1.3 is sought, the Design Principles of the R-Codes require buildings be setback from boundaries or adjacent buildings 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*

The proposed setback variations from the northern lot boundary are considered to meet the abovementioned Design Principles based on the following reasons:

- A development approval for a double storey extension has recently been approved on lot 1. This extension is directly adjacent to the proposed development and is setback 1.02m from the lot boundary. Elevation plans illustrating the ultimate development outcome for lot 1 and



2 relative to the lot boundary are illustrated in the image below. In addition, a site plan illustrating the development outcome of both lots 1 and 2 is included in **Attachment 2**;

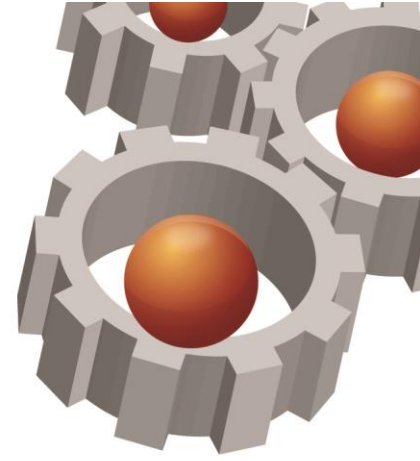


- As illustrated in the image above and in **Attachment 2**, the development context for both lots 1 and 2 is comparable, with both properties proposing two storey structures within 1.5m of the lot boundary. This consistency ensures that the proposed setback variation for lot 2 will not detrimentally impact lot 1 in terms of building bulk;
- The proposed development on lot 2 is located to south of the lot boundary in question and will therefore cause no overshadowing on the adjacent property;
- The impacts of the setback variation on lot 1 in terms of visual privacy will have be discussed in further detail in point 8 below;
- In addition to the above, the landowners of the affected adjoining property have endorsed the proposed plans which further illustrates that the proposed setback variation will not detrimentally impact the adjoining property.

5. The carport proposes building to two lot boundaries in lieu of one lot boundary;

Whilst this concern is technically correct, it is important to note that the carport is proposed to be built up to external lot boundary and one internal strata lot boundary. The proposed boundary wall on the external lot boundary is within the height and length deemed-to-comply parameters of clause 5.1.3 of the R-Codes and is therefore not considered to detrimentally impact the adjacent property (8 Swansea Street, Swanbourne).

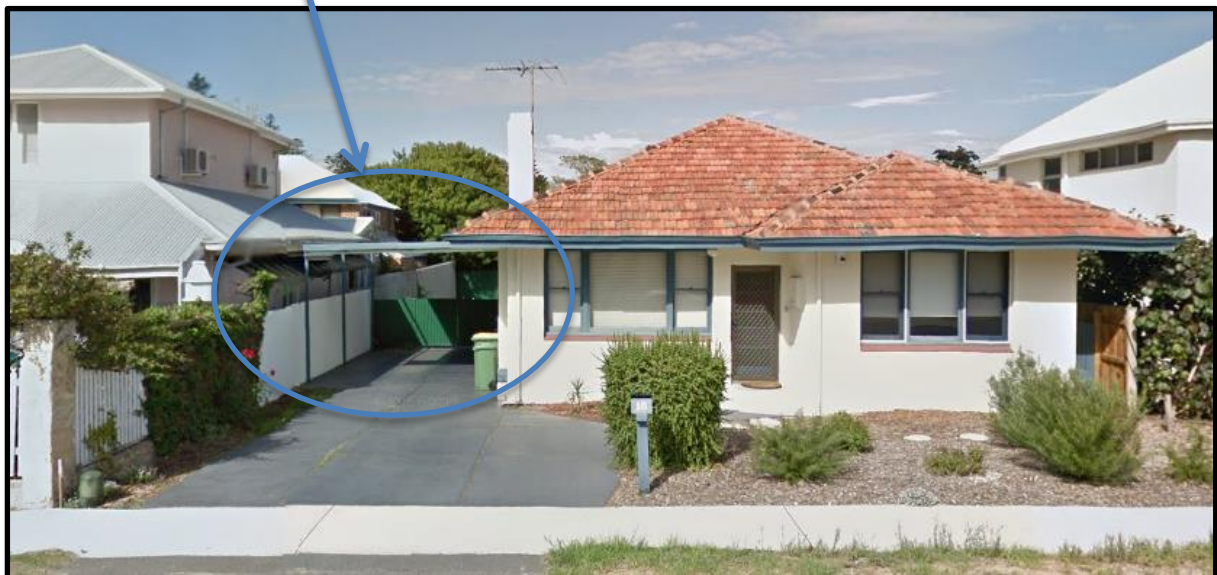
Given that the landowners of the lot 1 adjoining property have endorsed the proposed plans and that this second boundary wall is within the height and length parameters specified under clause 5.1.3 of the R-Codes, DPD argues that the second internal boundary wall will not detrimentally impact the amenity of lot 1. Furthermore, whilst no formal arrangements are in place within the City of Nedlands planning framework, it is common practice for local governments to accept walls to two side



boundaries within Residential R40 zones if consent is provided from one of the adjoining landowners and where both walls meet the height and length parameters specified under clause 5.1.3. Examples of this include Local Planning Policies in the Cities of Wanneroo, Gosnells and Canning.

In addition to the above, it should also be noted that prior to subdivision, a similar carport was previously attached to the existing dwelling on lot 1 in the same location as illustrated in the image below:

Previous Carport

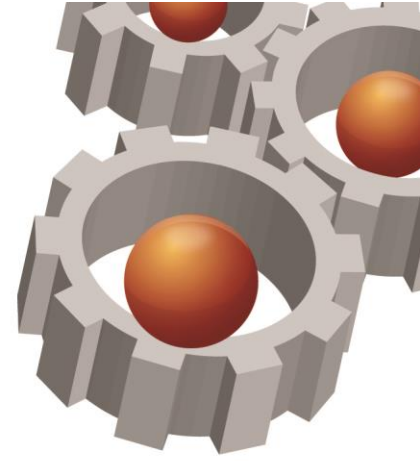


When considering that the proposed carport is, in effect, replacing a carport that was previously constructed in the same location, it is unlikely that either adjoining property will be aggrieved by the extent of boundary wall proposed as part of this application.

6. With the carport being within the common property area, the front lot is actually still compliant with the open space requirements of the R40 density code, however the open space for Lot 2 does not comply at 43%. Please note that the upper floor above the alfresco and porch does not permit these areas to be excluded from site cover;

DPD disagrees with the interpretation of open space requirements above. In accordance with the definition provided under the R-Codes, 'open space' includes:

- *verandahs, patios or other such roofed structures not more than 0.5m above natural ground level, unenclosed on at least two sides, and covering no more than 10 per cent of the site area or 50m² whichever is the lesser.*



The proposed alfresco and porch are consistent with the specifications outlined above. This definition does not specify that if an upper storey development is located above an alfresco, the alfresco will no longer be considered as open space.

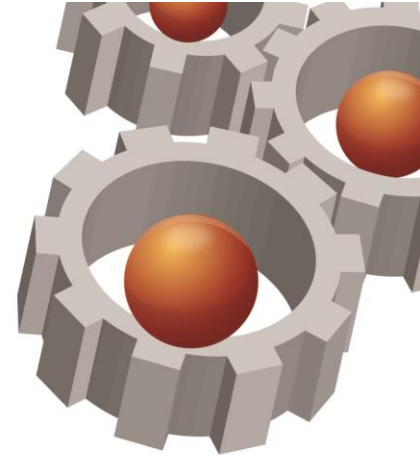
DPD therefore considers the alfresco and porch to be 'open space' in accordance with the definition provided under the R-Codes and as such, the extent of open space provided for lot 2 is 111.105sqm which represents 50.1% of the site area allocated to the lot in accordance with clause 5.1.1 of the R-Codes. A breakdown of these calculations is provided below. The proposed development is therefore considered to comply with the deemed-to-comply requirements of clause 5.1.4 of the R-Codes.

Site Area Calculations	
Strata Lot 2 Site Area	180.11sqm
CP Strata Lot 3CP Lot 3 Site Area (50% share)	41.88sqm
Total Site Area	221.99sqm

Open Space Calculation	
Proposed Dwelling Area (Excluding Alfresco and Porch)	91.35sqm
Proposed Carport Area (50% share)	19.425sqm
Total Site Cover	110.775sqm (49.9%)
Total Open Space	111.105sqm (50.1%)

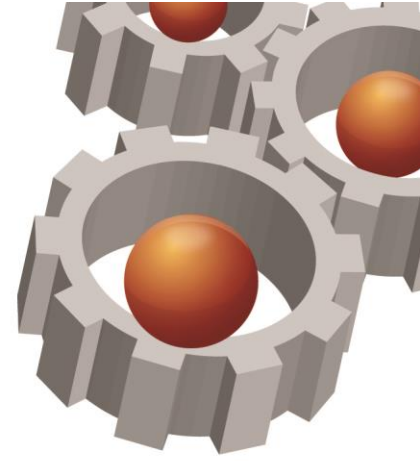
Notwithstanding, should the City disagree with DPD's interpretation above and maintain the original position that only 43% open space is being proposed, the City has the ability to assess the variation against the design principles. Where a variation to the deemed-to-comply requirements of the clause 5.1.4 is sought, the Design Principles of the R-Codes require developments to incorporate 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.*



If the City maintains its original position in relation to the deemed-to-comply requirements for open space, DPD considers that the proposed 2% meets the abovementioned Design Principles based on the following reasons:

- The proposed dwelling is a battle-axe development which will be setback 25m from the primary street lot boundary and will be largely screened from view by the existing front dwelling when viewed from the street. The only structure being proposed within close proximity of the street is the carport which is setback 7.5m from the primary street boundary open on all sides. The proposed development is therefore considered to have a negligible visual impact on the streetscape and will maintain existing and/or desired streetscape character of the locality.
- The proposed dwelling has been setback from all side boundaries which ensures that access to natural sunlight for the dwelling is provided from all sides. As illustrated on the elevations plans, numerous windows are provided for both storeys on all sides to maximise the dwelling's exposure to natural sunlight. Furthermore, the proposed development optimises the northern aspect of the site by locating the outdoor living area adjacent to the northern boundary. This will allow additional sunlight to infiltrate into the roofed alfresco and porch area during winter months.
- The proposed development meets the height, length and setback parameters specified under Table 2a of the R-Codes for the southern, eastern and western lot boundaries. The only proposed setback variations are to the internal northern strata lot boundary and as noted above, the adjoining landowners have endorsed these variations. With this in mind and given that the majority of surrounding dwellings are double storey (including both dwellings immediately adjacent to the subject site), the proposed development is considered to meet the expectations of the applicable density code and the surrounding locality in terms of building bulk. In addition, whilst lot 2 is entitled to a single storey boundary wall in accordance with clause 5.1.3 of the R-Codes, the proposed development has been setback from all lot boundaries which reduces the impacts of building bulk on adjacent properties.
- By setting the building back from all lot boundaries, the proposal provides an attractive setting for the dwelling whereby landscaping and vegetation can be incorporated adjacent to all lot boundaries. Furthermore, as noted above, due to the extensive street setback of the proposed dwelling, the development will have a negligible impact on the existing streetscape.
- The development proposes >23sqm of core outdoor living area which complies with the minimum area requirements prescribed under Table 1 of the R-Codes. Furthermore, additional setback areas are provided between the dwelling and all lot boundaries which provides additional active and passive open space for residents. The proposed development is therefore considered to provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site.
- The lot boundary setback areas provided on all sides of the dwelling provide adequate space for external fixtures and essential facilities.



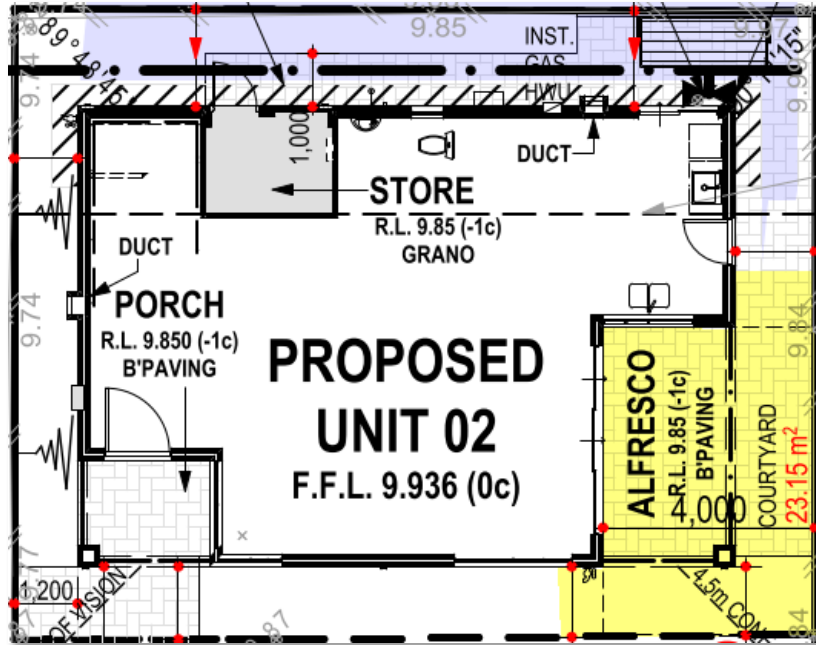
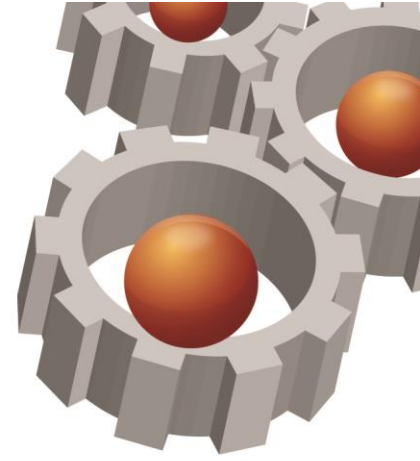
In addition to the above, it should be noted that the only reason the variation is being proposed is because clause 5.5.6 of TPS 2 requires two covered parking bays to be provided for each new dwelling, regardless of location. Under clause 5.3.3 of the R-Codes, the subject site only requires one parking bay to be provided due to the proximity of the Swanbourne train station and surrounding high frequency bus routes. However, due to the requirements of clause 5.5.6 of TPS 2, an additional covered parking bay is required to be provided. This clause of TPS 2 is therefore considered to encourage overdevelopment of a site which would ordinarily not be required under the standard provisions of the R-Codes. Whilst DPD does not dispute the need to satisfy the requirements of TPS 2, clause 5.5.6 should be considered by the City when exercising its discretion against the open space requirements of the R-Codes.

7. The uncovered outdoor living area is 11.95sqm in lieu of the required 13.33sqm;

DPD disputes the calculation of the uncovered outdoor living area above. In this regard, it is important to note that the R-Codes defines outdoor living area as follows:

- *The area external to a single house, grouped or multiple dwelling to be used in conjunction with that dwelling such that it is capable of active or passive use and is readily accessible from the dwelling.*

It is acknowledged that the core outdoor living area is 5.83m x 4.0m and that of this core area, only 12sqm is uncovered. However, DPD also considers that portions of the building setback areas, which adjoin the core outdoor living area to the north and west, are also capable of active and passive use and readily accessible from the dwelling. It is therefore considered that these areas should also be defined as outdoor living area. The image below illustrates the extent of additional space which could be considered as outdoor living area (highlighted in yellow).



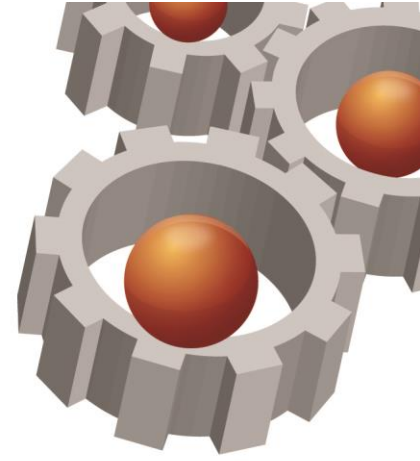
It is reasonable to assume that the additional areas illustrated above are capable of being used and enjoyed either actively (i.e. barbeque area or seating area) or passively by residents and visitors. If these additional portions of building setback area are considered as outdoor living area, the extent of uncovered outdoor living will be between 15-20sqm which satisfies the deemed-to-comply requirements of clause 5.3.1 of the R-Codes.

Notwithstanding, should the City disagree with the interpretation above, the City has the ability to assess the variation against the design principles. Where variation to the deemed-to-comply requirements of the clause 5.3.1 is sought, the Design Principles of the R-Codes require outdoor living areas which provide spaces:

- *capable of use in conjunction with a habitable room of the dwelling;*
- *open to winter sun and ventilation; and*
- *optimise use of the northern aspect of the site.*

DPD considers that the proposed outdoor living area meets the abovementioned Design Principles based on the following reasons:

- The outdoor living area directly adjoins, and is capable of being used in conjunction with, the dining/family room of the dwelling;
- The outdoor living area is open on the northern and western side and is therefore adequately ventilated;



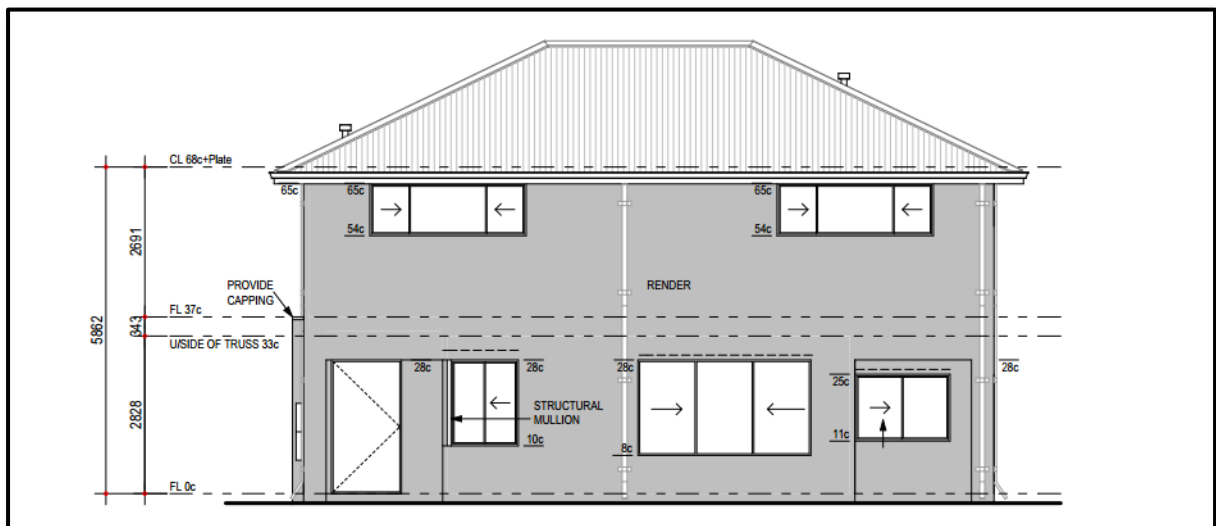
- The outdoor living area is located on the northern lot boundary of the site and is therefore open to winter sun and optimises the northern aspect of the site; and
- The additional building setback areas which adjoin the core outdoor living area provide additional active and passive open space which may be used and enjoyed by residents and visitors.

In light of the above, DPD considers the proposed outdoor living area to meet the requirements of clause 5.3.1 of the R-Codes.

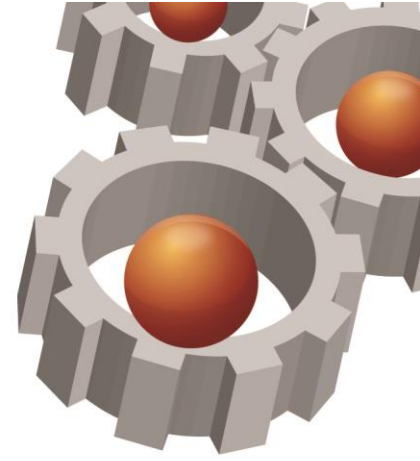
8. The street surveillance does not comply with the entry and major openings facing the approach being obstructed by the carport;

Whilst it is acknowledged that the proposed carport impacts the surveillance between the street and the dwelling, DPD argues that the proposal complies with the deemed-to-comply requirements of clause 5.2.3 of the R-Codes for the following reasons:

- The porch and entry to the dwelling are clearly visible and identifiable from the street and the common property vehicle approach. Whilst the carport is located between the street and the porch/entry, the carport is open on all sides which ensures that sightlines can be maintained through the structure (refer to image below).



- Major openings from the ground floor family room and upper floor bed 3 provide direct surveillance of the street and the pedestrian and vehicular approach to the dwelling. With these major openings being provided on both the ground and upper floors, effective surveillance is achieved despite the presence of the carport (i.e. ground floor sightlines are maintained through the carport given that it is open on all sides and upper floor sightlines project over the carport roof to the street and vehicular/pedestrian approach. In addition to



these primary major openings, additional surveillance of the vehicular/pedestrian approach to the dwelling is achieved from the ground floor dining room and the upper floor bed 1.

Notwithstanding the above, the City has the ability to assess a variation against the design principles. Where variation to the deemed-to-comply requirements of the clause 5.2.3 is sought, the Design Principles of the R-Codes require:

- *Buildings designed to provide for surveillance (actual or perceived) between individual dwellings and the street and between common areas and the street, which minimise opportunities for concealment and entrapment.*

DPD considers that the proposed dwelling meets the abovementioned Design Principles based on the following reasons:

- As outlined above, major openings from four habitable rooms directly face the street and vehicle/pedestrian approach to the dwelling. These major openings are located on both the ground and upper floors which further improves surveillance by providing a range of viewpoints from the dwelling and also improves perceived surveillance from the perspective of the street.
- Whilst a carport is located between the street and the dwelling, it is important to note that the carport is open on all sides which allows sightlines to be maintained through the structure. Furthermore, the carport is single storey only which allows sightlines to project over the carport roof from the upper floor bedrooms of the dwelling.
- Due to the open design of the carport and the multitude of major openings from the dwelling, the possibility of concealment and entrapment is negligible.

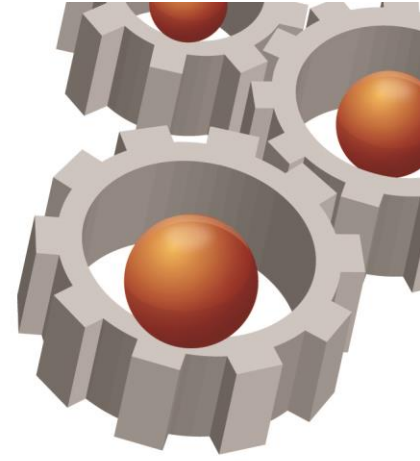
9. Bedroom 1 and 3 have windows less than 1.6m above the upper floor FFL and a setback of 1.3m to the northern side lot boundary and therefore do not comply with the 4.5m visual privacy setback required.

The setback variations highlighted by the City are noted. Where a variation to the deemed-to-comply requirements of the clause 5.4.1 is sought, the Design Principles of the R-Codes require buildings be setback from boundaries or adjacent buildings so as to:

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.*

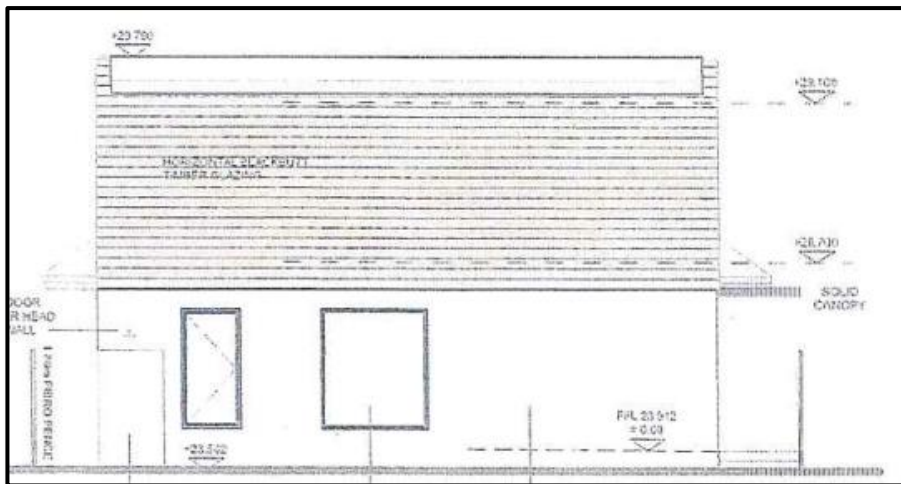
P1.2 Maximum visual privacy to side and rear boundaries through measures such as:



- *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).*

The proposed setback variations from the northern lot boundary are considered to meet the abovementioned Design Principles based on the following reasons:

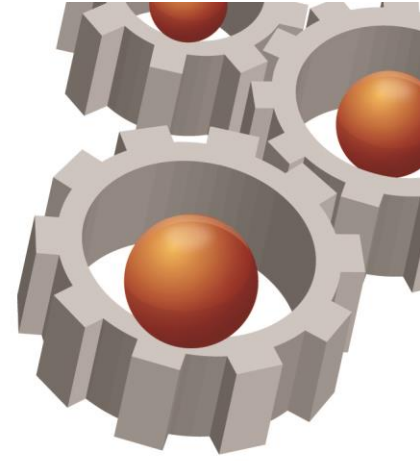
- As noted above, a development approval for a double storey extension has recently been approved on lot 1. This extension is directly adjacent to the proposed development and is setback 1.02m from the lot boundary. The southern elevation of this extension which faces the subject site is a blank wall with no major or minor openings as illustrated in the image below.



- All overlooking from the subject site from windows of bed 1 and bed 3 will fall on this blank wall and as a result, no overlooking of active habitable spaces will occur. The extent of overlooking is illustrated in blue in the image below;



DYNAMIC PLANNING
AND DEVELOPMENTS



- The outdoor living area of the lot 1 is located within the street setback area and will therefore be unaffected by the extent of overlooking;
- The installation for screening devices for the proposed major openings would be redundant given that the approved development on the adjoining property will already provide effective screening for all active habitable spaces; and
- The landowners of the affected adjoining property have endorsed the proposed plans and are therefore satisfied that the proposal will not compromise the visual privacy of their property.

In light of the above, we request that the Town favourably consider the subject proposal based on the merits of the proposal as submitted and the supporting information provided as part of this submission.

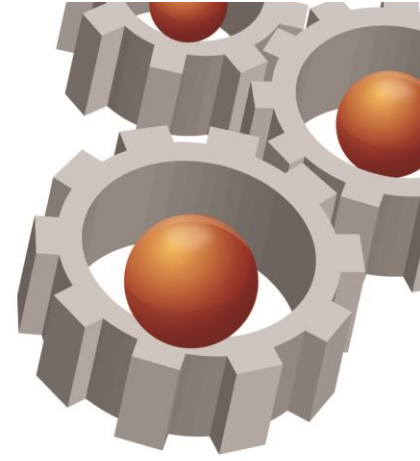
If you have any queries or require any clarification in regard to the matters raised, please do not hesitate to contact the undersigned on 9275-4433.

Yours faithfully,

EDWARD O'CONNELL
TOWN PLANNER



DYNAMIC PLANNING
AND DEVELOPMENTS



ATTACHMENT 1
STRATA BY-LAW NO. 16

| Suite 15/29 Collier Road Morley WA 6062 | P.O. Box 688 Inglewood WA 6932 † (08) 9275 4433 ‡ (08) 9275 4455

DYNAMIC CREATIVE PROACTIVE INNOVATIVE PASSIONATE

FORM 21

NOTIFICATION OF CHANGE OF BY-LAWS

Strata Titles Act 1985

Section 42

THE OWNERS OF 10 SWANSEA STREET, SWANBOURNE, SURVEY-STRATA PLAN NO. 73804 hereby certify:

- * that by a unanimous resolution duly passed at a meeting of the strata company on the tenth day of May 2017 which became unconditional on tenth day of May 2017 the by-laws in Schedule 1 to the Act as they applied to the strata company, were amended, repealed or added to as follows:-

The following by-laws are hereby added -

16. EXCLUSIVE USE OF COMMON PROPERTY LOT 3

In accordance with section 42(8) of the Act, the proprietor of lot 2 is hereby granted exclusive use of that part of common property lot 3 ("CP 3") that is delineated on the attached plan at Annexure "A" as "EX 2" ("Exclusive Use Area") and shall -

- (a) at all times and at its costs be responsible for all newly installed driveways, paving, drainage, landscaping fixtures and structures on the Exclusive Use Area;
- (b) keep the Exclusive Use Area in a clean, neat and tidy condition;
- (c) use the Exclusive Use Area for the purpose of vehicle and pedestrian access and egress;
- (d) until the building additions on lot 1 are complete, allow reasonable vehicle and pedestrian access over the Exclusive Use Area by vehicles and tradesmen so that the proprietor of lot 1 can complete its building additions. Any damage to the Exclusive Use Area is to be made good at the proprietor of lot 1's costs;
- (e) indemnify and keep indemnified the strata company against any loss, damage or claim made against the strata company as a result of any act occurring on the Exclusive Use Area;
- (f) at its cost, insure CP 3 on behalf of the strata company against all claims for damages, loss, injury or death arising from the use of CP 3 by having the required legal liability insurance in place;
- (g) in accordance with section 123(4) of the Act, in relation to the Exclusive Use Area, the proprietor of lot 2 is deemed the owner of the land for the purposes of the Dividing Fences Act 1961.

17. EXEMPTIONS FOR LOT 1

In accordance with section 42B of the Act, the proprietor of lot 1 shall;

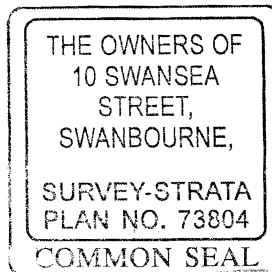
- (a) be exempt from contributing to any costs associated with the insurance, repair and maintenance of any landscaping, fixtures and structures on the Exclusive Use Area;
- (b) except as permitted in by-law 16(d) not be permitted to enter or use the Exclusive Use Area without the prior permission of the proprietor of lot 2.

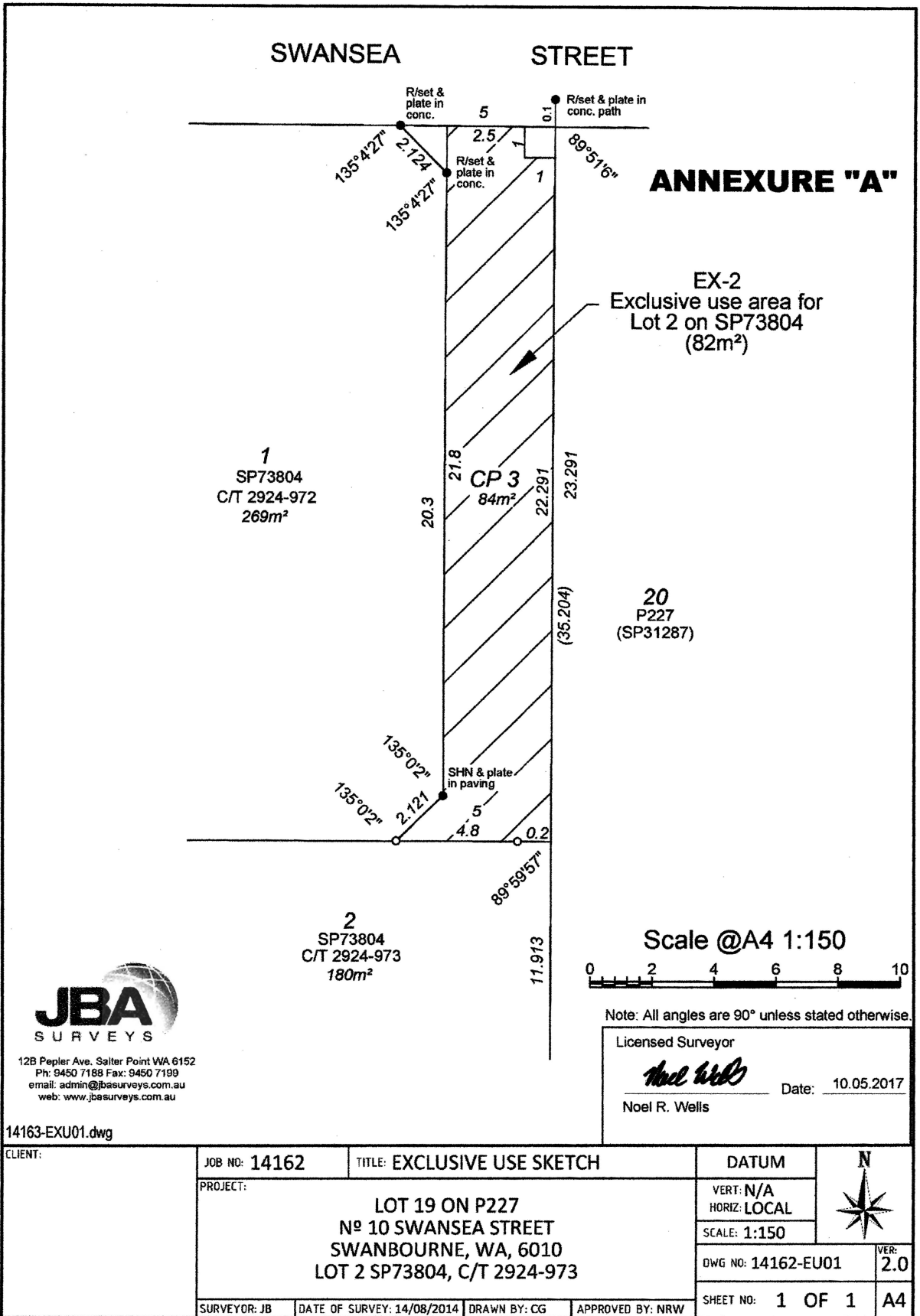
- * that by a unanimous resolution duly passed at a meeting of the strata company on the tenth day of May 2017 which became unconditional on the tenth day of May 2017 the by-laws in Schedule 2 to the Act as they applied to the strata company, were amended, repealed or added to as follows:--

Schedule 2 by-laws 1, 2, 3, 5, 6, 9, 10, 13 and 14 are repealed.

The common seal of THE OWNERS OF 10 SWANSEA STREET, SWANBOURNE, SURVEY-STRATA PLAN NO. 73804 was hereunto affixed on the tenth day of May 2017 in the presence of:

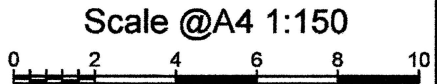

.....
Neil Diarmuid Halpin
Sole Member of Council





12B Pepler Ave. Salter Point WA 6152
 Ph: 9450 7188 Fax: 9450 7199
 email: admin@jbasurveys.com.au
 web: www.jbasurveys.com.au

14163-EXU01.dwg



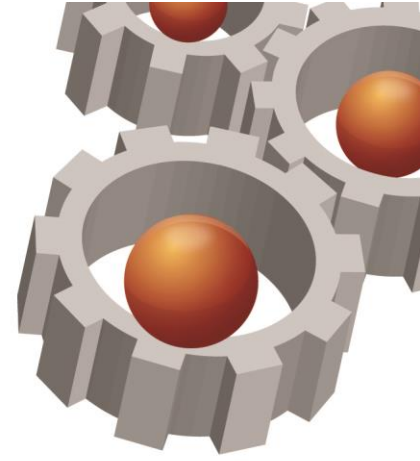
Note: All angles are 90° unless stated otherwise.

Licensed Surveyor
Noel Wells
 Noel R. Wells Date: 10.05.2017

CLIENT:	JOB NO: 14162	TITLE: EXCLUSIVE USE SKETCH	DATUM	
	PROJECT: LOT 19 ON P227 No 10 SWANSEA STREET SWANBOURNE, WA, 6010 LOT 2 SP73804, C/T 2924-973		VERT: N/A	
			HORIZ: LOCAL	
	SURVEYOR: JB		DATE OF SURVEY: 14/08/2014	DRAWN BY: CG
			SCALE: 1:150	
			DWG NO: 14162-EU01	VER: 2.0
			SHEET NO: 1 OF 1	A4



DYNAMIC PLANNING
AND DEVELOPMENTS



ATTACHMENT 2
SITE PLAN

| Suite 15/29 Collier Road Morley WA 6062 | P.O. Box 688 Inglewood WA 6932 † (08) 9275 4433 ‡ (08) 9275 4455

DYNAMIC CREATIVE PROACTIVE INNOVATIVE PASSIONATE

LEGEND		SEC Dome
		Power Pole
		Phone Pits
		Water Conn.
		Top Pillar/Post
		Top Wall
		Top Retaining
		Top Fence

SURVEYOR NOTES:

DISCLAIMER:
Lot boundaries drawn on survey are based on landgate plan only. Survey does not include title search and as such may not show easements or other interests not shown on plan. Title should be checked to verify all lot details and for any easements or other interests which may affect building on the property.

DISCLAIMER:
Cottage & Engineering surveys accept no responsibility for any physical on site changes to the parcel or portion of the parcel of land shown on this survey inc. any adjoining neighbours levels and features that have occurred after the date on this survey. All Sewer details plotted from inform. supplied by Water Corp.

DISCLAIMER:
Survey shows visible features only & will not show locations of underground pipes or conduits for internal or mains services. Verification of the location of all internal & mains services should be confirmed prior to finalisation of any design work.

DISCLAIMER:
Due to lack of survey marks/pegs, all building offset dimensions & features are approximate only and positioned from existing pegs/fences and walls which may not be on the correct alignment are to be verified when repegged. Any design that involves additions to any structures shown or portion of structures remaining after any demolition has taken place requires boundaries to be repegged and exact offsets provided to your designer/architect before any plans are produced and before any work is started on site.

DO NOT SCALE FROM THIS DRAWING
All Sub-contractors to check dimensions & notes prior to initiating works. Any discrepancies to be notified to the Site Supervisor without delay.
ALL DIMENSIONS TO BRICKWORK.

SUN SHADOW AT NOON 21 JUNE

EXCLUSIVE LOT AREA	180.11 m ²
CPA	41.88 m ²
TOTAL SITE AREA	221.99 m ²
BUILDING AREA	91.35 m ²
OPEN SPACE	58.85 %
HOUSE AREA	91.35 m ²
PLOT RATIO	0.41

CONSTRUCTION NOTES:

ENGINEER NOTE:
- PILING TO ENGINEERS DETAILS AS INDICATED BY:
- CONFIRM EXTENT OF PILING. / / / /

PLUMBING NOTES:
- CONNECT ALL DOWNPIPES TO STORMWATER SOAKWELLS AS PER SHIRE REQUIREMENTS.
- ALL STORMWATER & SURFACE WATER DRAINAGE TO BE INSTALLED IN ACCORDANCE WITH A.S. 3500.3:2003, CLAUSE 3.1.2.1 & 3.1.2.5 BCA VOL. 2 AND LOCAL AUTHORITY REQUIREMENTS.
- REFER TO PLUMBING PLAN FOR SEWER AND STORMWATER LAYOUTS.

BRICKPAVER NOTE:
- BRICK PAVING TO DRIVEWAYS, PATHS, CARPORTS. EXTENT AS INDICATED.
- WIDTHS OF BRICK PAVED PATHS TO BE APPROX. 1.0m WIDE UNLESS OTHERWISE INDICATED.
- MAINTAIN NOMINATED PAVING LEVELS FOR STORMWATER RUN OFF.

BUILDER: _____
CLIENT(S): _____
WITNESS: _____

I/We, the owners of Strata Lot 1 have reviewed these plans and are aware of the full size windows to the bedrooms on the Upper Floor and the reduced setback from the internal strata boundary.

I/We have no objections to these variations to the Codes.

Signed: _____
Date: _____

COTTAGE & ENGINEER SURVEY Licensed Surveyors 87-89 Guthrie Street, Osborne Park, Western Australia. Telephone: (08) 9446 7361 Facsimile: (08) 9445 2998. Email: perth@cottage.com.au Website: www.cottage.com.au	AREA: 531m ² SHIRE: WED. PARISH D.PLAN: 227 C/T VOLUMN: 1118 FOLIO: 168 MSD REF: 370-14/43	ROAD DESCR.: BITUMEN KERBING: NON-MOUNT FOOTPATH: CONC. SOIL: RTS DRAINAGE: GOOD VEGETATION: RTS	GAS: YES WATER: YES ELECTRICITY: U/G PH/COMMS: YES SEWER: YES COASTAL: YES	SSA/OLD AREAS: OLD A. C/JOB#: 416213 DATE: 28-APR-17 SCALE: 1:200 DRAWN: T-POLMEAR	UNLOGGED SURVEY STRATA PLAN: - ORIGINAL LOT: - LOT MISCLOSE: 0.000 SSL 1 MISCLOSE: - SSL 2 MISCLOSE: -																								
	Tangent Nominees Pty Ltd (A.C.N. 008 865 585). Trustee For Summit Homes Group Trust.		DRAWN: PR DESIGNED: ALI CHECKED: DM DATE: 3-MAY-17 MODEL: SPECIAL		SCALE: 1: 200 SHEET: 2 OF 7 SIZE: A3 COPYRIGHT: 2017 ©		<table border="1"> <tr><th>Issue Name</th><th>Drawn</th><th>Date</th><th>Issue Name</th><th>Drawn</th><th>Date</th></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </table>	Issue Name	Drawn	Date	Issue Name	Drawn	Date																
Issue Name	Drawn	Date	Issue Name	Drawn	Date																								

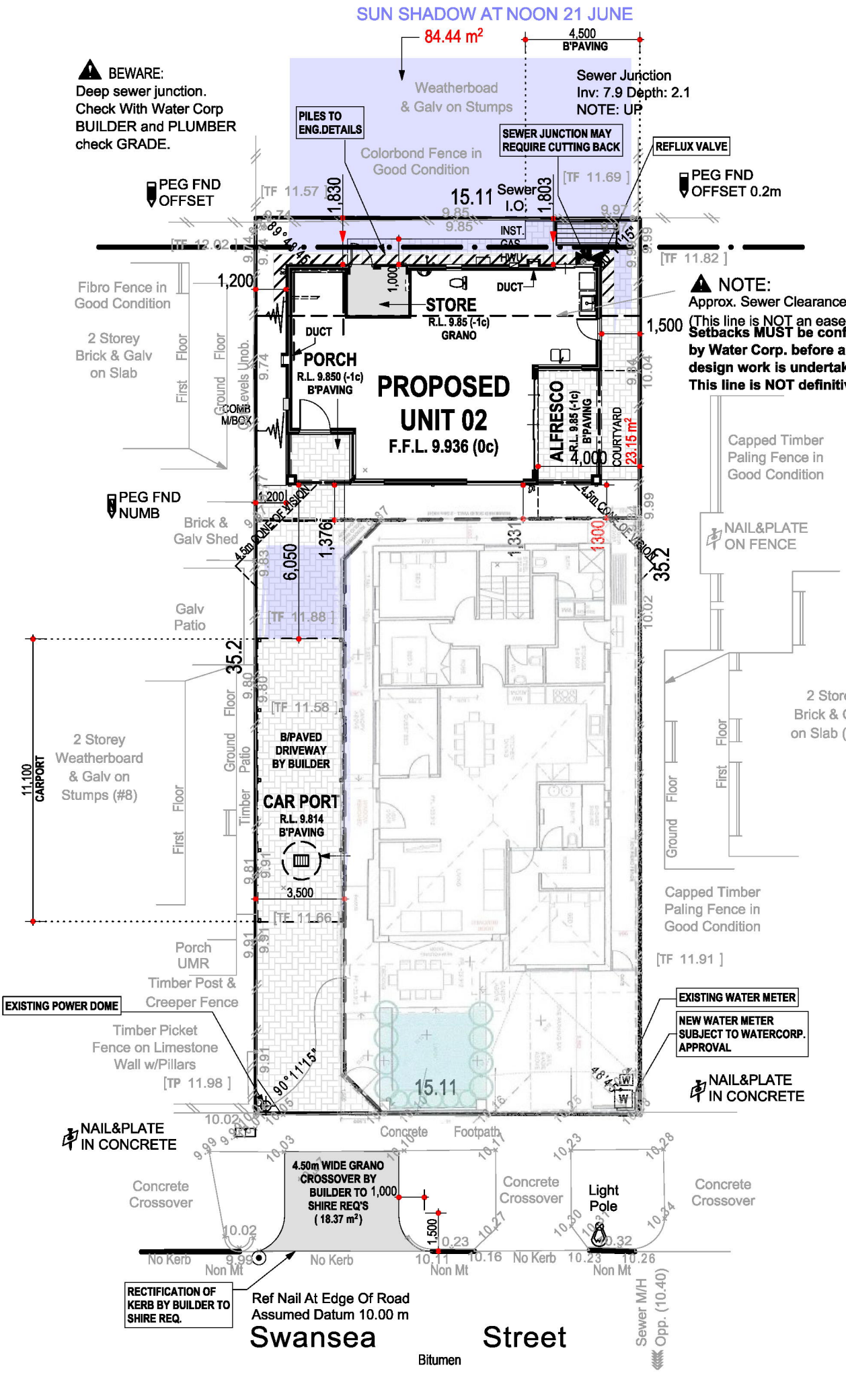
SUMMIT PROJECTS

83 McCoy Street Myaree, W.A. 6154.
T: (08) 93170100 Web: www.summitprojects.com.au

PROPOSED RESIDENCE FOR:
COLLINS

ADDRESS:
**LOT 19 (#10) SWANSEA STREET
SWANBOURNE**

SITE PLAN		JOB NO: 152566	
------------------	--	-----------------------	--



10A Swansea Street, Swanbourne









PD49.17	(Lot 124) No. 34 Loftus Street, Nedlands – Short-term accommodation
Committee	14 November 2017
Council	28 November 2017
Applicant	J A Rowe
Landowner	J A Rowe
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/252
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. Proposed management plan from the applicant 2. Additional justification provided by the applicant

1.0 Executive Summary

Development approval is being sought for a bedroom and bathroom in the existing dwelling at the property to be used as short-term accommodation. The landowners are proposing to remain living at the property.

The application was advertised for comment due to the use 'short-term accommodation' not being listed under Table I (Use Class Table) of Town Planning Scheme No. 2 (TPS 2). During the advertising period four (4) objections were received.

It is recommended that the application be approved by Council as it is unlikely to have a significant adverse impact on the local amenity being relatively small scale and sufficient parking being provided on site.

2.0 Recommendation to Committee

Council approves the development application for short-term accommodation at (Lot 124) No. 34 Loftus Street, Nedlands, received on 24 August 2017, 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 approved management plan being complied with at all times to the City's satisfaction.**
- 3. All car parking associated with the short-term accommodation being contained on site.**

Advice Notes specific to this approval:

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

3.0 Background

In July 2017 Council requested Administration to prepare a draft report relating to short-term accommodation, the outcomes of which, were to form the basis for a local planning policy to be included in draft Local Planning Scheme No.3 (LPS3).

A memorandum report was sent to Councillors on 14 August 2017 and a draft LPS3 policy is in progress.

4.0 Site Details

Lot area	696m2
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 property is located amongst other residential lots of a similar size containing single dwellings and associated outbuildings.



5.0 Specific Application Details

The applicant seeks approval for the rear portion of the existing dwelling to be used for short-term accommodation. Up to 2 adults are proposed to be accommodated at the property in addition to the two landowners who also reside at the address.

A management plan has been prepared by the applicant (refer to Attachment 1) which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

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

'There should be a great deal less noise going from a large family of between 5-7 adults to just 3-4 adults.'

'I propose to advertise through Airbnb who have police clearance and identity checks. House rules will apply on our Airbnb bookings, stating no noise after 9pm and no parties or gatherings or events.'

'We live in the home and will be supervising the 1-2 short-stay people.'

'We have 2 cars in total. There is ample room if the guest or guests have a car, plus an extra bay for visitors. We would, however, envisage that being in Loftus Street, this room rental would mostly appeal to those using public transport, as we are a 3-minute walk to Stirling Highway buses and a 5-minute walk to the Loch Street train station. In the past with long term room boarders, the room appealed to them due to the convenience of public transport.'

6.0 Consultation

The development application was advertised to affected landowners for comment. Four (4) objections were received during the advertising period. The following is a summary of the concerns raised:

- Traffic and parking impacts on the street;
- Security in the neighbourhood;
- Noise; and
- Other businesses area already operating at the address

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

7.0 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.”

In accordance with provisions (n, s, t, & u) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity.

Concerns received during the advertising period were in relation to traffic and car parking, security, noise and home businesses at the address. In response to the concerns the following is advised:

- As mentioned under section 5.0 of this report, a management plan has been prepared by the applicant which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

Based on the management plan the use will be relatively small in scale. The number of guests proposed to be accommodated, being a maximum of 2, will likely mean that the local amenity will not be significantly impacted upon by cars parking and/or noise if approved by Council. The additional traffic volumes and movements generated as a consequence of the proposal are likely to be minimal.

- Four parking bays are available within the property boundaries. The maximum number of guests means that there is an adequate amount of space for all vehicles to park on site including the 2 landowner's vehicles.

There are 3-hour parking restrictions from 8am – 5pm Monday to Friday along the eastern side of Loftus Street nearest to the property. Despite this, it is the administration's preference that vehicles associated with the use only park on site so as to have less of an impact on nearby residents. If the application is approved by Council, it is recommended that a condition be included requiring vehicles be parked on site.

If vehicles are parking illegally in the street, enforcement action can be taken in accordance with Council's Parking Local Law.

- If noise complaints are received by the City they will be investigated, and enforcement action taken, if necessary, in accordance with the *Environmental Protection (Noise) Regulations 1997* as with any residential noise complaint.

- The issue of neighbourhood security was raised in the submissions. The landowner has advised the room will be advertised through Airbnb to people who have a police clearance and identity checks. In addition, the landowners permanently reside at the property and will be there whilst the short-term resident(s) are staying at the address. It is not expected the proposal will impact on security of neighbouring residents.
- It was raised in the submission that there are other businesses currently operating at the address. The landowner is a teacher and tutors children from a tenancy in Osborne Park. It was advised, in 2016 a couple of children were tutored at the property in Loftus Street one afternoon a week, however, since December 2016 the tutoring has occurred in Osborne Park. The other landowner is a mobile electrician and runs the business from a premise in Bibra Lake. This business has never been run from home. The landowner has advised they have two vehicles parked at the property (a car and a van).

8.0 Budget / Financial Implications

N/A

9.0 Risk Management

N/A

10.0 Conclusion

The proposed development is unlikely to have an adverse impact on the local amenity due to its residential nature and small scale.

It is also worth noting that the applicant will be residing on the same property where the short-term accommodation is located. Therefore, the management plan is more likely to be enforced.

For these reasons it is considered that the use of portion of the building as short-term accommodation is unlikely to have a greater impact on the local amenity in terms of noise, car parking or traffic generation, compared with if it was resided in on a more permanent basis.

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

Approval for short term and long term rental of a bedroom in my home

How many people proposed to reside at 34 Loftus St.

My home has four large bedrooms and a study. Currently we have 2 people (a couple in the master bedroom) residing in this large house. In the past, I had myself, my partner, my 3 adult children and 2 of their partners, totalling 7 adults in 4 large bedrooms. These family members have all now left home.

I propose to increase the current 2 adults living here, to one or two extra adults to stay in one bedroom for short or long term stays. There are two bathrooms; one for us and one for the individual or couple.

Management Plan

NOISE:

There should be a great deal less noise going from a large family of 7 adults to just 3-4 adults. I propose to advertise through Airbnb who have Police clearance and Identity checks. I will advertise for quiet, peaceful respectful adults to share our home with 2 quiet adults. House rules will apply on Airbnb bookings, stating for NO noise after 10pm, no parties or gatherings or events. We also have double glazed windows for the rooms at the front of the home and these are obviously sound proof. Since 1-2 people will be sharing our home with us, I can't see it could be a problem.

CAR PARKING:

This will not be a problem and have should have absolutely no impact on parking in the street, as we have parking for 4 cars on our property. Although some of our neighbours adult children park on the street, we have front yard paved parking for 4 cars. We have had this for 15 years.

We only have 2 cars in total. There is ample room if the guest or guests did have a car. We would envisage that being in Loftus Street, this room would appeal to those using public transport, as we are a 3 minute walk to Stirling Highway buses and a 5 minute walk to the Loch St train station.

GENERAL MAINTENANCE:

Both our indoors and the outdoor garden maintenance is done by us, the couple living in the home. We maintain our gardens, lawn, verge, etc (we have a bore) to a high standard. I garden and clean, so 1-2 guests will have little impact on home maintenance. The bedroom and bathroom are already existing in the home. Guests will have access to our kitchen, laundry and clothes line.

Addressing the 3 neighbours' submissions:

34 Loftus Street SHORT TERM STAYS.

Our large family home has four large bedrooms and a study which can easily fit a total of 3-4 people. Currently we have 2 people (a couple in one of the master bedrooms) residing in this large house. In the past, I had myself, my partner, my 3 adult children and 2 of their partners, totalling 7 adults in 4 large bedrooms. These adult children have now left home. I propose to increase the current 2 adults living here, to one or two extra adults to stay in one of the master bedrooms for short or long term stays. There are two bathrooms; one for us and one for the individual or couple.

Management Plan

NOISE:

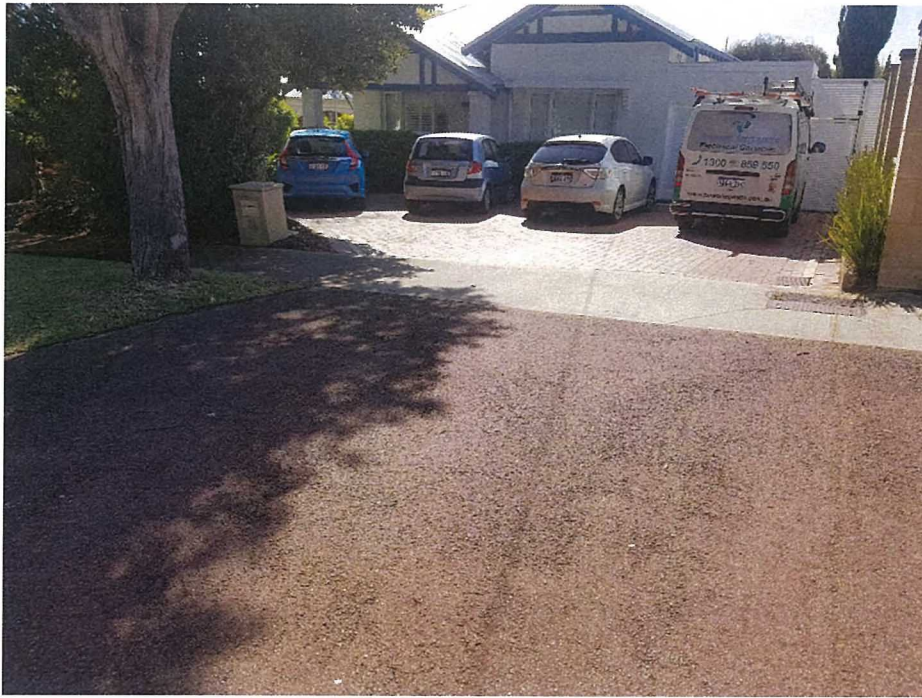
There should be a great deal LESS noise going from a large family of between 5-7 adults to just 3-4 adults. I propose to advertise through Airbnb who have Police clearance and Identity Checks. I will advertise for quiet, peaceful, respectful adults to SHARE our home with us who are also just 2 quiet adults. House rules will apply on our Airbnb bookings, stating for NO noise after 9pm, NO parties or gatherings or events. The higher up market price will reflect the 5 star luxury bedroom and bathroom accommodation. We also have double glazed windows in our home and these are obviously sound proof. Since 1-2 people will be sharing our home with us, I can't see how potential noise could be a problem at all. We live in the home and will be supervising the 1-2 short stay people; and they would be told to leave by us and Airbnb IF they broke the house rules.

CAR PARKING:

See the photo page attachment and the frontage council plan map.

Parking will not be a problem and will have absolutely no impact on parking in the street, as we can actually park 6 cars on our property, although 4 officially fit the Nedlands measurement guidelines. Although some of our neighbours park on their verges and crossover driveways, and also park on the street, we have NO need to do this as we have a large front yard red brick paved parking area. It meets Nedlands criteria of measurements with each of the 4 park bays being a minimum of 5.4 X 2.4 metres. We have had this front parking for 15 years. Each car can very easily reverse out of their bay into the 4.5 metre crossover council driveway.

We only have 2 cars in total. There is ample room if the guest or guests did have a car, plus an extra bay for visitors. We would, however, envisage that being in Loftus Street, this room rental would mostly appeal to those using public transport, as we are a 3 minute walk to Stirling Highway buses and a 5 minute walk to the Loch St train station. In the past with long term room boarders, the room appealed to them due to the convenience of public transport.



This photo shows the red brick (driveway quality) paving at 34 Loftus Street that has been utilised by the family for over 15 years. As seen here, a large van plus 3 sedans fit easily in the 4 car bays. Each bay has more than the 5.4 X 2.4 minimum council prescribed allowance. It also shows the landscaped hedges and gardens that screen the area for privacy from the street. Unlike our neighbours who do not provide their own adequate parking, and often park in their crossover driveways and verges; we have no need to do either. We have 2 cars, plus a bay for the room renter, plus a spare for visitors. There is also room for 2 visitors' sedans to park on the paving behind 2 cars.



This photo is taken from an angle showing 4 cars easily parked with ample space between them. Note, there is still plenty of room for the 4 council bins on the left. The bins are often stored around the side and back of the house, leaving even more room for cars. As seen here, each car can very easily reverse out into a large 4.5metre crossover council driveway. Note also, the well cared for bore reticulated gardens and verge. The verge and driveway do not need to be used for our parking. The draw card for our address is that it is very close to Stirling Highway buses and the Loch St train station, thus appealing to short stays who would most likely use public transport, just as past long term room renters have.

PD50.17	(Lot 53) No. 6 Croydon Street, Nedlands – Short-term accommodation
Committee	14 November 2017
Council	28 November 2017
Applicant	C Rees
Landowner	C Rees
Director	Peter Mickleson – Director Planning & Development Services
Reference	DA2017/238
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 property 2. Proposed management plan from the applicant

1.0 Executive Summary

Development approval is being sought for a portion of the existing building at the property to be used as short-term accommodation.

The application was advertised for comment due to the use 'short-term accommodation' not being listed under Table I (Use Class Table) of Town Planning Scheme No. 2 (TPS 2). During the advertising period 2 objections and 1 non-objection were received.

It is recommended that the application be approved by Council as it is unlikely to have a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the development application for (Lot 53) No.6 Croydon Street, Nedlands, to be used as use not listed (short-term accommodation), received on 14 August 2017, 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 approved management plan being complied with at all times to the City's satisfaction.**
3. **All car parking associated with the short-term accommodation being contained on site.**

Advice Notes specific to this refusal:

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

3.0 Background

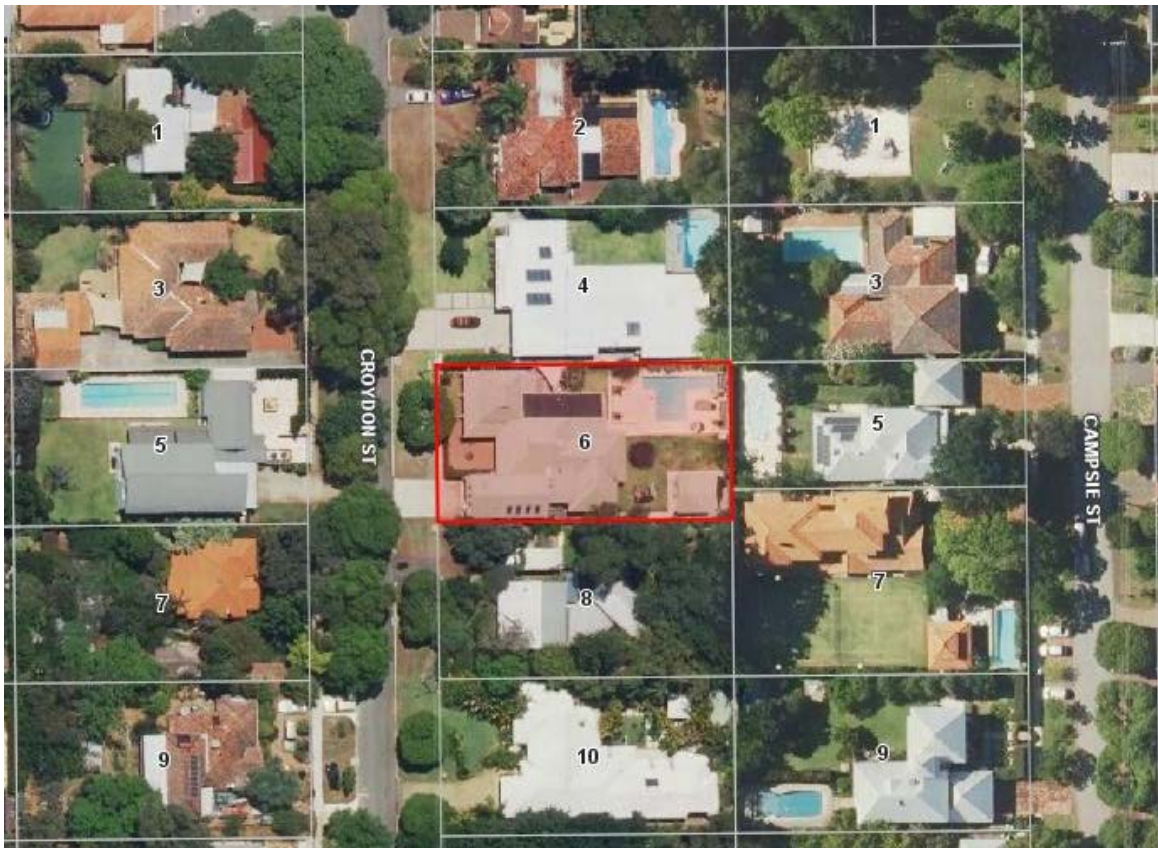
In July 2017 Council requested Administration to prepare a draft report relating to short-term accommodation, the outcomes of which, were to form the basis for a local planning policy to be included in draft Local Planning Scheme No.3 (LPS3).

A memorandum report was sent to Councillors on 14 August 2017 and a draft LPS3 policy is in progress.

4.0 Site Details

Parent lot area	1,115m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R10
Detailed Area Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those surrounding contain single dwellings and associated outbuildings, as shown in the aerial image below.



5.0 Specific Application Details

The applicant seeks approval for the north-western corner of the dwelling to be used as short-term accommodation, whilst the remainder of the building will be used as a dwelling.

Up to 3 adults, or 2 adults and 2 children are proposed to be accommodated in the portion of the building proposed to be used as short-term accommodation. The remainder of the building will be occupied by the landowner.

A management plan has been prepared by the applicant (refer to Attachment 2) which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

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

“It is expected that the apartment will provide convenient short-term accommodation for people visiting the local hospitals or UWA.

Additionally, the area is well serviced by public transport, providing easy access to Perth City and Fremantle. With Kings Park within walking distance, the apartment is also suitable for holiday makers.

It is expected that there will be no adverse effect on neighbours or the amenity of the surrounding area and that the period of any short-term stays will vary from one night to several weeks.”

6.0 Consultation

Two (2) objections and 1 non-objection were received during the advertising period.

The following is a summary of the concerns received:

- The proposal would potentially change the character of the area from purely being residential to partially commercial.
- The number of persons staying on a relatively small property.
- Vehicles parking along the street where restrictions exist.

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

7.0 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) 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.

7.2 Town Planning Scheme No. 2

7.2.1 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 (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity, traffic generation, parking availability and the proposed means of access and egress from the property.

Concerns received during the advertising period were in relation to the proposal potentially changing the character of the area if approved by Council, and vehicles parking where restrictions exist. In response to the concerns the following is advised:

- As mentioned under section 5.0 of this report, a management plan has been prepared by the applicant which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

Based on the management plan the use will be relatively small in scale. The number of guests proposed to be accommodated, being a maximum of 4, will likely mean that the local amenity will not be significantly impacted upon by cars parking and/or noise if approved by Council. The additional traffic volumes and movements generated as a consequence of the proposal are likely to be minimal.

- There is space for up to 6 cars to park on the property, including space on the adjoining portion of verge for one vehicle. The size of the property and the proposed maximum number of guests means that there is an adequate amount of space for all vehicles to park on site.

Car parking restrictions along the section of Croydon Street nearest to the property mean that vehicles can park on the verge, not on the road. Despite this, it is administration's preference that vehicles associated with the use only park on site so as to have less of an impact on nearby residents.

If the application is approved by Council, it is recommended that a condition be included requiring vehicles be parked on site.

According to the management plan, guests will be directed to park within the carport on the property, or one behind the other if they have 2 vehicles, to ensure that they have unrestricted access to and from a car parking space.

- If noise complaints are received by the City they will be investigated, and enforcement action taken, if necessary, in accordance with the *Environmental Protection (Noise) Regulations 1997* as with any residential noise complaint.

Considering the above, the proposal is unlikely to have a greater impact on the local amenity compared with if the dwelling was resided in on a permanent basis.

8.0 Budget / Financial Implications

N/A

9.0 Risk Management

N/A

10.0 Other Matters of Concern

During the advertising period concerns were also received regarding the number of people on a relatively small property.

In total up to 6 people are proposed to reside at the property. This does not breach any legislation administered by the City other than requiring a development application under TPS 2.

11.0 Conclusion

The proposal is unlikely to have a significant adverse impact on the local amenity due to its residential nature and scale.

For these reasons it is considered that the use of portion of the building as short-term accommodation is unlikely to have a greater impact on the local amenity in terms of noise, car parking or traffic generation, compared with if it was resided in on a more permanent basis.

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



RECEIVED
10/10/17

10/10/2017

City of Nedlands

Planning Department.

RE: Application and management plan for short term accommodation - 6 Croydon Street Nedlands.

Kate Bainbridge,

Approval is sought to rent out a portion (the 'apartment') of the main residence at 6 Croydon St. Nedlands for short term accommodation. The rooms that form the apartment are denoted with stars in the attached house plan.

The space consists of

- A master bedroom with a King size bed suitable for two people.
- A living area with a couch that converts to a double bed, suitable for 1 adult or 2 children.
- A kitchen/dining room with table and seating for 4 guests.
- A bathroom/laundry.

The apartment has its own entry off of the front verandah and is shut off from the main house via a deadlocked door. Check in times shall be from 2pm and checkout times shall be 10am.

The accommodation is suitable for at most 3 adults or 2 adults and 2 children having only one bedroom and a sofa bed in the lounge room.

The renting of the property shall be managed by myself, the owner via websites such as Airbnb, Stayz, etc.

The following rules will be stipulated in the listings.

- Maximum occupancy of 3 adults or 2 adults and 2 children
- No pets allowed.
- No smoking in the apartment.
- No parties or excessive noise.
- Off street parking for two cars at most.
- Guests are to be respectful of neighbours at all times.
- Failure to adhere to the house rules may result in termination of a guests stay.

The monitoring of the adherence to the house rules will be undertaken by myself, the owner, on a daily basis as I shall be residing under the same roof and able to act swiftly should any guests cause a nuisance. If required, in extreme cases, I reserve the right to terminate the guests stay.

It expected that the apartment will provide convenient short term accommodation for people visiting the local hospitals from country regions. Given the proximity to the hospitals, many people coming for this purpose may not need to hire a vehicle and so not suffer greater expense during their stay.

Additionally the area is well serviced by public transport, providing easy access to Perth city and Fremantle.

With Kings Park within walking distance, the apartment is also suitable for holiday makers.

It is expected that there will be no adverse effect on neighbours or the amenity of the surrounding area and that the period of any short term stays will vary from one night to several weeks.

Management Plan.

1. The gardens and apartment shall be maintained by myself, the owner to ensure that they are presentable for the local amenity.
2. Guests will be advised prior to their booking/stay that the area is a quiet residential area and that no excessive noise will be tolerated and that parties are not permitted.
3. Guest numbers shall not exceed 4 and guest vehicles shall not exceed 2.
4. House rules will be stipulated on any hosting websites used as well as within the apartment.
5. Any maintenance required shall be carried out between 8am and 5pm.
6. Rubbish bins shall be maintained by myself, the owner on a regular basis.
7. Record of all guests and contact details shall be retained.

Complaint Management.

Prior to beginning operation, the local residents shall be informed of the complaint management procedure by way of a letter drop. The letter will inform the locals of the rules that guests are expected to abide by and how complaints can be lodged. Please see Appendix A for the proposed letter.

This letter shall be issued to properties in Croydon Street adjoining, directly and diagonally opposite number 6. Specifically, numbers 3,4,5,7 and 8 Croydon Street. Should this selection of properties not be satisfactory, the letter drop will be extended to cover the requirements of the Nedlands City council.

As the owner and operator, I shall be personally responsible for managing and investigating any complaints. Complaints are to be made via email to croydonshortstays@gmail.com and complainants shall be kept informed of the outcomes via reply email. As well as the email record of complaints and correspondence, a digital log of all complaints and resolutions shall be created and maintained by me in Excel format.

To assist in investigating any complaints, should they occur, complainants will be asked to provide the following information.

- Name and contact details
- Nature of the complaint
- Time and period of occurrence
- Any other pertinent information.

In investigating any complaints, the guests will be approached and questioned and if found to be in breach of any of the house rules, they shall be informed that any repeat offences may result in the termination of their stay.

Parking

The residence has adequate parking for 4 - 6 vehicles, with only 2 vehicles parked there currently. No action is required to accommodate additional vehicles and guests will be directed to park in one side of the carport (In tandem if they have 2 vehicles), leaving the other side of the carport for the 2 vehicles of the property owners. This will ensure neither guests nor residents can block the other in. Guests will be advised that there is no parking on the road and fines are likely to be issued if they park there.

Fire alarms and safety measures

The apartment is fitted with a hard wired smoke alarm in the central kitchen/dining room such that every room is at most one room away from the smoke alarm.

Prior to beginning operation, an additional fire alarm shall be installed in the bedroom and a lighting system installed that will activate in the event of the fire alarm sounding. The fire alarms throughout the house shall be interconnected, such that if an alarm sounds in the main house, the alarm in the short term accommodation will also sound and vice versa.

Contact details and emergency numbers shall be provided within the apartment.

Fire Separation.

The north wall of short term accommodation is the required 900mm distance from the boundary. I have spoken to Paul Busby of the Nedlands City Council and he has informed me that fire walls are not required in this situation, but it is required that the smoke alarms in the two separate areas be inter-connected such that an alarm in one area will trigger the alarm in the other area.

Bathroom/Laundry area

As is required, the bathroom/laundry is fitted with a washing machine and a 40L laundry basin. The laundry floor is impervious (tiled), with an even fall to floor water plumbing which is suitably trapped and discharged to water corporation sewer.

Aquatic Facility

I seek exemption by the Chief Health Officer of running an aquatic facility for the following reasons.

- There will be no guest access to a pool, spa or other body of water and as such, it would not be considered an aquatic facility.
- Guests will access the short term accommodation via the front of the property and have no access to the rear of the property where a pool is situated.
- Only persons who have a long-term connection with the facility and their guests are permitted to have access to it.
- The health and safety of the persons using the facility will not be compromised.
- It is in the public interest to exempt the facility.
- Additionally, all further requirements as listed at http://ww2.health.wa.gov.au/Articles/A_E/Aquatic-facilities-at-short-stay-accomodations shall be adhered to.

Rubbish and Recycling.

Guests will be provided with general waste and recycling bins within the apartment with large bins externally within the boundary fence of the property.

The property is currently supplied with a 240 l. general waste bin provided by the Nedlands city council which shall be adequate for excess waste generated.

Parties and Gatherings

The apartment is not to be used for parties or gatherings at any time. Given that I, the owner, am residing under the same roof and that the size of the apartment it is not suitable for parties, it is unlikely that the apartment will be rented for this purpose. Additionally, in investigating any complaints, the guests will be approached and questioned and if found to be in breach of the house rules, it will result in the termination of their stay.

Response to Objection.

One objection to the proposed short term accommodating was received during the consultation period which stated:

“The proposal will change the character & community of the street by changing it from purely residential to partially commercial – i.e. paid accommodation”.

In response to this, I claim that there will be little to no obvious evidence of the service being provided and hence will not have any effect on the character and community of the street.

The property has parking available for 4 -6 cars with only two parked there regularly being those of the permanent residents. One or two additional cars shall not seem out of the ordinary, with many houses in the street regularly having 3 or more cars parked at their residences.

The day to day coming and going of the guests during their stay is expected to be minimal and also will barely be noticeable by local residents.

Croydon Street already has a semi commercial feel given that there are 4 businesses already operating less than 100 meters from the proposed short term accommodation. Additionally there are child care facilities and hospitals directly opposite the far end of the street.

Should this proposal not be accepted, the accommodation shall be rented out on a long term basis which will likely result in more cars being parked at the premises, more regularly as well as my not being able to impose such strict restriction on the use of the property and behaviour of the tenants.

Christopher Rees.

topherrees@gmail.com

0401326583

Appendix A

Dear resident,

My name is Chris Rees and I am the owner of 6 Croydon St. Nedlands. This letter is to inform you that I shall be offering a short term accommodation service to people visiting the area.

The accommodation being offered shall consist of one bedroom, a living room, kitchen/dining room and a bathroom /laundry. There shall be a maximum of 4 guests permitted and it is expected that the majority of guests shall be holiday makers or people visiting the local hospitals or university.

As my family and I shall be residing in the main house, I shall be managing the accommodation and the guest's adherence to the rules myself.

To ensure that the local community is not adversely affected by this arrangement and has an avenue by which to register complaints should the need arise, please find below a list of rules and restrictions that the guests are to adhere to, and the complaint management procedure that outlines how complaints can be registered should the need arise.

RULES FOR GUESTS

- Maximum occupancy of 4 persons.
- No pets allowed.
- No smoking in the apartment.
- No parties or excessive noise.
- Off street parking for no more than two cars.
- Guests are to be respectful of neighbours at all times.
- Failure to adhere to the house rules may result in termination of a guests stay.

COMPLAINTS PROCEDURE

- All complaints shall be managed by myself and should be emailed to me at croydonshortstays@gmail.com
- When making a complaint please advise of the following:
 - Name and address of complainant.
 - Nature of complaint.
 - Date, time and period of occurrence.
 - Any other pertinent information.
- Once the matter is taken up with guests and resolved, complainants shall be informed as to any actions taken.

Kind Regards,

Chris Rees.

PD51.17	(Lot 388) No. 103 Hardy Road, Nedlands – Short-term accommodation (retrospective)
Committee	14 November 2017
Council	28 November 2017
Applicant	S de Tissera
Landowner	S de Tissera
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/240
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Photographs of the building being used as short-term accommodation as seen from Micrantha Lane 2. Proposed management plan from the applicant

1.0 Executive Summary

Retrospective development approval is being sought for an existing building at the rear of the property to continue to be used as short-term accommodation, the existence of which got brought to the City's attention due to concerns being received.

The application was advertised for comment due to the use 'short-term accommodation' not being listed under Table I (Use Class Table) of Town Planning Scheme No. 2 (TPS 2). During the advertising period 6 objections and 7 non-objections were received.

It is recommended that the application be approved by Council as it is considered that the use of the rear building as short-term accommodation is not having a greater impact on the local amenity compared with if it was resided in on a more permanent basis by additional family members.

2.0 Recommendation to Committee

Council approves the retrospective development application for the existing two-storey building at the rear of (Lot 388) No.103 Hardy Road, Nedlands, to continue to be used as short-term accommodation, received on 21 August 2017, 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. There shall only be one car permitted for those associated with the short-term accommodation, and this car shall be parked wholly on the site at all times when the short-term accommodation occupants are at the site.
3. The approved management plan being complied with at all times to the City's satisfaction, and shall include a requirement for the landowner to notify all occupants of the short-term accommodation that:
 - a) They are only permitted to bring one car to the property.
 - b) They are required to park their car wholly on site at all times when they are at the site.

Advice Notes specific to this refusal:

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

3.0 Background

In July 2017 Council requested Administration to prepare a draft report relating to short-term accommodation, the outcomes of which, were to form the basis for a local planning policy to be included in draft Local Planning Scheme No.3 (LPS3).

A memorandum report was sent to Councillors on 14 August 2017 and a draft LPS3 policy is in progress.

4.0 Site Details

Parent lot area	490m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R25
Detailed Area Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those surrounding contain single dwellings.

At the rear of the subject property is a two-storey building which is currently being used as short-term accommodation. An aerial image showing the location of this building is on the following page.



5.0 Background

In September 2016, a building permit was granted for a two-storey building at the rear of the property which is detached from the existing single dwelling. According to the approved plans the building was proposed to be used as a children’s wing.

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), as the development complied with Town Planning Scheme No. 2 (TPS 2) and the deemed-to-comply provisions of the Residential Design Codes (R-Codes) it did not require development approval.

The development was completed by April 2017.

In June 2017, the City received concerns that the building was being used as short-term accommodation due to being advertised on the Airbnb website.

A retrospective development application was subsequently received for the building to continue to be used for such purposes.

6.0 Specific Application Details

The applicant seeks retrospective approval for the existing rear building to continue to be used as short-term accommodation.

Up to 3 adults and 1 child, or 2 adults and 2 children are proposed to be accommodated.

A management plan has been prepared by the applicant (refer to Attachment 2) which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

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

“The City of Nedlands’ website states that “the City recognises the importance of tourism development and seeks to encourage the provisions of a wide range of short-term accommodation”. It also states that the City supports “home style accommodation in a residential setting, “generally supporting guest accommodation close to public transport”. The accommodation at the rear of 103 Hardy Road fulfils this criteria.”

“The location of 103 Hardy Road is particularly suitable for short-term accommodation due to its ability to service visitors to nearby hospitals.”

“Parking is provided for one vehicle in the rear building at 103 Hardy Road in the form of a lock up garage with its own discrete laneway entry on Micrantha Lane. As such, pedestrian and vehicle traffic created by guests will not impact on Hardy Road or nearby properties.”

“The building was originally designed for the owner’s son, a classical pianist, and has been insulated with acoustic bats for noise reduction. House rules include no parties/social gatherings, and keeping noise levels to an acceptable level at all times. The owner lives in the main building at the residence and will ensure compliance with these rules.”

7.0 Consultation

Six (6) objections and 2 non-objections were received during the advertising period. The following is a summary of the concerns received:

- The proposal creating car parking problems within the local area.
- Nearby residents not being consulted previously about the two-storey building prior to its construction.
- The use of the building having an impact on the privacy of adjoining properties.
- Approval not being obtained prior to being used as short-term accommodation.
- The proposed use potentially increasing the need for additional services (i.e. rubbish collection).
- The proposal potentially resulting in increased in areas such as fire, theft and accidents.
- The proposal potentially having an impact on the value of nearby properties.
- Approval of the application setting a precedent for other landowners to apply for the same use in future.

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

8.0 Assessment of Statutory Provisions

8.1 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.

8.2 Town Planning Scheme No. 2

8.2.1 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 (n), (s), (t) and (u) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity, the proposed means of access, and potential traffic impacts.

Concerns received during the advertising period were in relation to car parking difficulties associated with the short-term accommodation. In response to the concerns the following is advised:

- As mentioned under section 6.0 of this report, a management plan has been prepared by the applicant which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.
- The building contains one bedroom and the ability to also contain a sofa bed. Based on this it is likely that those residing in the building will be related to each other and therefore only need to bring one car to the property. A single car garage is available for them at the rear of the property.

To ensure that the proposal will not have a significant adverse impact on the local amenity if the application is approved by Council, it is recommended that a condition be included requiring the management plan be amended to ensure that guests only bring one car to the property and only park on site.

- It is noted that there is a limited amount of street car parking spaces in the local area due to parking restrictions and the number of vehicles being parked by those visiting Hollywood Private Hospital nearby. The availability of a single car garage at the rear of the property for guests means that there will unlikely be an increase in demand for street parking nearby.

- Monash Avenue is a bus route therefore there is the possibility that guests at the short-term accommodation will use public transport to and from the property instead of their private car.
- Piano tuition classes are held in the single dwelling at the front of the property, and operates separately to the short-term accommodation. Access to the dwelling and parking for the tuition classes is at the front of the property, whereas access to the building used as short-term accommodation and parking for guests is at the rear of the property.
- If noise complaints are received by the City they will be investigated, and enforcement action taken, if necessary, in accordance with the *Environmental Protection (Noise) Regulations 1997* as with any residential noise complaint.

Considering the above, the use of the rear building as short-term accommodation is not considered to be having a greater impact on the local amenity compared with if the dwelling was resided in on a permanent basis.

It is also worth noting that any impacts caused as a result of the detached building being used as short-term accommodation will likely be minimal as any impacts will also affect the owner of the property.

9.0 Budget / Financial Implications

N/A

10.0 Risk Management

N/A

11.0 Other Matters of Concern

During the advertising period concerns were also received with regard to the following:

- Nearby residents not being consulted previously about the two-storey building prior to its construction.
- The use of the building having an impact on the privacy of adjoining properties.
- The proposed use potentially increasing the need for additional services (i.e. rubbish collection).
- The proposal potentially resulting in increased in areas such as fire, theft and accidents.
- The proposal potentially having an impact on the value of nearby properties.
- Approval of the application setting a precedent for other landowners to apply for the same use in future.
- The installation of a light at the rear of the property.

11.1 Advertising of the Building Application

As mentioned under Section 4.0 of this report, the building complies with TPS 2 and the deemed-to-comply provisions of the R-Codes. Therefore, a development application was not required, and comments were not sought from affected landowners prior to being constructed.

11.2 Privacy Concerns

The building complies with the deemed-to-comply provisions of the R-Codes with regard to visual privacy. No alterations are proposed to be made to the building as part of this application which would change this.

11.3 Increased Demand on Services

It is likely that up to 6 people will be on site at any one time. Considering the nature and the scale of the use it is unlikely that the proposal will significantly increase the demand on public services. It should be noted that TPS 2 permits up to 6 people to reside in a dwelling.

11.4 Safety Concerns

The building complies with the building code requirements with regard to fire separation.

Considering the nature and the scale of the use there is no evidence to suggest that the use increases the potential for thefts and/or accidents in the local area.

11.5 Property Value Concerns

The potential impact proposed development may have on nearby property values is not a matter due regard is to be given to when determining the application under the Regulations.

11.6 Approval Setting a Precedent

Applications for such a use get assessed on a case by case basis, and any decision made does not set a precedent for similar proposals elsewhere. Specifically, in cases such as short-term accommodation, as the specific details of each application are different (i.e. location, size and local amenity).

11.7 Installation of Lights

No legislation exists regarding the installation of lighting on private property which the City administers.

12.0 Conclusion

The proposal is unlikely to have a significant adverse impact on the local amenity due to its residential nature and scale.

It is also worth noting that the applicant will be residing on the same property where the short-term accommodation is located. It is expected that the impacts will be minimal as any impacts will also affect the owner of the property.

For these reasons it is considered that the use of the detached building as short-term accommodation is unlikely to have a greater impact on the local amenity in terms of noise, car parking or traffic generation, compared with if it was resided in on a more permanent basis by this number of people.

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

Photographs of the building being used as short term accommodation as seen from Micrantha Lane



Management Plan Rear Building - Lot 388 (103) Hardy Road, Nedlands

This management plan is for the use of the building at the rear of the property for short term accommodation.

Car Parking

Guests will have the option to park one vehicle in the lock up garage with rear laneway entry.

Behaviour

The house rules take into consideration the amenity of adjoining and nearby properties, particularly in relation to noise and disturbance.

Guests will be accepted on the condition that they agree to abide by the house rules. A printed document displaying the house rules is in a prominent position in the dwelling. The rules include:

- No parties or social gatherings
- Respectful behaviour towards adjoining and nearby land owners and their properties
- Acceptable noise levels at all times
- No pets
- No smoking
- Security bond of \$400

Noise Issues

The building was originally designed for the owner's son to live in. He is a classical pianist. The building was insulated with special acoustic bats for noise reduction to minimise sound being emitted from the dwelling.

Guests to the building will only be accepted upon the understanding that they keep noise levels to an acceptable level at all hours. There is a strictly no parties policy. The owner of the property resides in the main house on the front of the lot. Unacceptable noise levels will primarily disturb the owner first who will ensure compliance with these rules.

PD52.17	Long-term Street Trading License Application for temporary food stall in front of Kirkwood Deli
Committee	14 November 2017
Council	28 November 2017
Applicant	La Pizzeria
Director	Peter Mickleson – Director Planning & Development
Attachments	Nil.

1.0 Executive Summary

La Pizzeria seek long-term approval for a temporary food stall to trade one evening a week, on the nature strip footpath adjacent to Kirkwood Deli facing North Street Swanbourne.

2.0 Recommendation to Committee

Council approve a Street Trading License for a period ending 30 June 2018 following receipt of the scheduled fee and in accordance with the following conditions:

- a) **A minimum 1.8 metres width of footpath is to be maintained clear between the existing footpath handrail and the trade display, as described within the Council Policy Manual;**
- b) **The temporary food stall is to be completely removed and the footpath cleaned at the end of every trade; and**
- c) **Trading is to be in accordance with relevant legislation including:**
 - i. *Food Act 2008 (WA); and*
 - ii. *Environmental Protection (Noise) Regulations 1997 (WA).*

3.0 Discussion/Overview

3.1 Background

Kirkwood Deli Proprietors had previously organised a food business, 'La Pizzeria', to undertake street trading and sell food within the City of Nedlands. This had been occurring without notification to the City or applying for relevant approvals.

On 17 February 2017, the City's Health and Compliance department informed La Pizzeria that the unapproved activity constituted an offence under section 107 of *the Food Act 2008 (WA)*. Consequently, La Pizzeria voluntarily ceased operating which avoided the City needing to undertake further enforcement action.

Following this, La Pizzeria has recently been seeking a new Street Trading License on a weekly basis to enable them to operate every Friday with approval. The City has been working with them on this process until such time as Council makes a determination on the approval or otherwise of a longer-term application.

A Street Trading License approval is currently issued using the Council's delegated authority which allows Administration to approve short-term Street Trading Licenses limiting the trade approval to a maximum of three (3) consecutive days as set by Council Resolution (Report E253.00). As this regular trading is not short-term, nor for 3 consecutive days, Administration considers it appropriate for Council to make a determination whether a long-term arrangement is appropriate.

La Pizzeria and Kirkwood Deli proprietors have advised that the community supports the food service offered, and this is demonstrated by the level of customer demand during their trading periods.

The City's Street Trading License application requires traders to have their own public liability insurance protection to indemnify the City for the duration of the Street Trading License approval. This information has been provided to the City as part of their previous applications for their temporary food stall to trade.

The Food Business 'La Pizzeria' is a separate business to Kirkwood Deli and if they were to apply to trade on council land without any affiliation with a local business, the application would automatically be denied, in order to encourage brick and mortar type businesses within the community.

The approval of a Food Business that is not registered with the City of Nedlands to undertake long-term trading on council land may encourage other mobile food vendors to request a similar approval.

The City encourages services provided to the community, such as street trading directly in front of their associated shop. The Planning department has assessed the application proposal using the City of Nedlands Town Planning Scheme No.2 as a reference. The Planning department has advised that Kirkwood Deli has an existing approval for an outdoor dining license and that an additional development application is not required for the operation of a temporary food stall involving a pizza oven.

3.2 Key Relevant Previous Council Decisions:

Nil

4.0 Consultation

The City has received a complaint from a competing pizza restaurant based within the Town of Claremont who is concerned that this activity is taking business away from existing businesses within the area.

There are two specialist pizza businesses located within the City of Nedlands. One is based on Broadway Nedlands, and the other on Stirling Highway Nedlands. There are many other cafés and restaurants throughout the City that supply pizza meals to customers.

5.0 Budget/Financial Implications

There are no direct budgetary implications that relate to this application. There is a higher than normal administrative burden associated with weekly approvals currently being sought by the applicant. The weekly approvals are expected to cease once Council has made a determination on this issue.

The food business, 'La Pizzeria' is registered with another local authority who is responsible for inspecting the food business; however, due to the frequent trading, it is appropriate for the City to also conduct food safety assessments of the business which would be undertaken in a similar manner to the monitoring of traders at the Farmer's Market.

The City's Environmental Health Officers would be expected to spend no more than four hours a year undertaking administrative and monitoring tasks associated with this application. This would be undertaken within existing budgetary considerations.