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***Agenda***

***Special Council Meeting***

***19 November 2020***

Dear Council member

A Special Meeting of the City of Nedlands is to be held on Tuesday 19 November 2020 in the Adam Armstrong Pavilion, Beatrice Road, Dalkeith commencing at 7.00 pm for the purpose of considering the following items:

1. Scheme Amendment No. 8 – Alexander Road, Dalkeith, down coding – Final Adoption
2. Development Application, 9-11 Doonan Road Nedlands - 9 Grouped dwellings
3. Responsible Authority Report - 13 Vincent Street, Nedlands
4. Responsible Authority Report - 5 Hillway, Nedlands
5. Responsible Authority Report - 21-23 Louise Street, Nedlands
6. Any available Responsible Authority Reports

Due to COVID Restrictions the 2m², with 1.5 metre social distancing rule applies. Once the venue is at capacity no further admission into the room will be permitted.

The public can continue to participate by submitting questions and addresses via the required online submission forms at:

<http://www.nedlands.wa.gov.au/intention-address-council-or-council-committee-form>

<http://www.nedlands.wa.gov.au/public-question-time>



Mark Goodlet

Chief Executive Officer

13 November 2020

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**City of Nedlands**

**Notice of a special meeting of Council to be held in the Council chambers, Nedlands on Thursday 19 November 2020 at 7.00 pm for the purpose of** **considering the following items:**

1. **Scheme Amendment No. 8 – Alexander Road, Dalkeith, down coding – Final Adoption**
2. **Development Application, 9-11 Doonan Road Nedlands - 9 Grouped dwellings**
3. **Responsible Authority Report - 13 Vincent Street, Nedlands**
4. **Responsible Authority Report - 5 Hillway, Nedlands**
5. **Responsible Authority Report - 21-23 Louise Street, Nedlands**
6. **Any available Responsible Authority Reports**

###### Special Council Agenda

# Declaration of Opening

The Presiding Member will declare the meeting open at 7.00 pm and will draw attention to the disclaimer below.

# Present and Apologies and Leave of Absence (Previously Approved)

**Leave of Absence** None.

**(Previously Approved)**

**Apologies** Councillor N R Youngman Dalkeith Ward

**Disclaimer**

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

# Public Question Time

A member of the public wishing to ask a question should register that interest by notification in writing to the CEO in advance, setting out the text or substance of the question.

The order in which the CEO receives registrations of interest shall determine the order of questions unless the Mayor determines otherwise. Questions must relate to a matter affecting the City of Nedlands.

# Addresses by Members of the Public

Addresses by members of the public who have completed Public Address Session Forms to be made at this point.

# Disclosures of Financial Interest

The Presiding Member to remind Councillors and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

# Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Councillors and Staff of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Councillors and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x ….. I disclose that I have an association with the applicant (or person seeking a decision). This association is ….. (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

# Declarations by Members That They Have Not Given Due Consideration to Papers

Members who have not read the business papers to make declarations at this point.

# Consideration of Submissions on Scheme Amendment No. 8 – Amendment to Density Coding on Alexander Road, Philip Road, Waratah Avenue and Alexander Place, Dalkeith

|  |  |
| --- | --- |
| **Special Council Meeting** | 19 November 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | Nil |
| **Previous Item** | 26 May 2020 Item PD19.20 |
| **Attachments** | 1. Amendment 8 Document 2. Schedule of Submissions |
| **Confidential Attachments** | Nil. |

**1.0 Executive Summary**

The purpose of this report is for Council to undertake its obligations in accordance with Regulation 50 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). This will require Council to consider submissions received on proposed Amendment No.8 to Local Planning Scheme No.3 (the Scheme). Council will then consider whether to support or not to support the Amendment.

Amendment No. 8 (Attachment 1) was prepared by Council at its Ordinary Meeting on 26 May 2020. After consideration by the Environmental Protection Authority, the Amendment was advertised for public comment as a ‘standard’ amendment. At the close of advertising, 92 submissions had been received, of which 87 are supportive of the Amendment. A total of 4 objections were received. One submission expressed neither support or objection.

Consistent with Western Australian Planning Commission (WAPC) advice received regarding Amendment No.7, Administration is recommending that the Amendment is not supported at this time. Progressing the Amendment in its current form is likely not to be supported by the WAPC and potentially the Minister for Planning. It is recommended that any future modification of the densities surrounding the Waratah Village local activity centre be supported by sufficient planning justification to ensure the amendment has a high chance of success. This justification includes built form modelling and consideration of densities for the entire Waratah Village precinct rather than one specific area as currently proposed.

In the event Council resolved to support the amendment, it is recommended that the Amendment Resolution be modified to include 32 Philip Road, Dalkeith as an affected property. This property is included in the amendment map, but the address was omitted from the resolution.

**Recommendation to Council**

**Council:**

1. **pursuant to Regulation 50(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015,* considers the submissions received on Amendment No.8 to Local Planning Scheme No.3 as contained at Attachment 2.**
2. **pursuant to Section 75 of the *Planning and Development Act 2005*, and Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*,does not support Amendment No.8 to Local Planning Scheme No. 3 on the grounds that:**
3. **Insufficient justification of the proposed residential densities has been prepared to date to support the amendment in its current form; and**
4. **Any review of residential densities in the Waratah Village Precinct is more appropriately required to consider the precinct as a whole and take into account built form modelling outcomes.**
5. **pursuant to Regulation 53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, forwards Amendment No.8 to Local Planning Scheme No.3 to the Western Australian Planning Commission.**

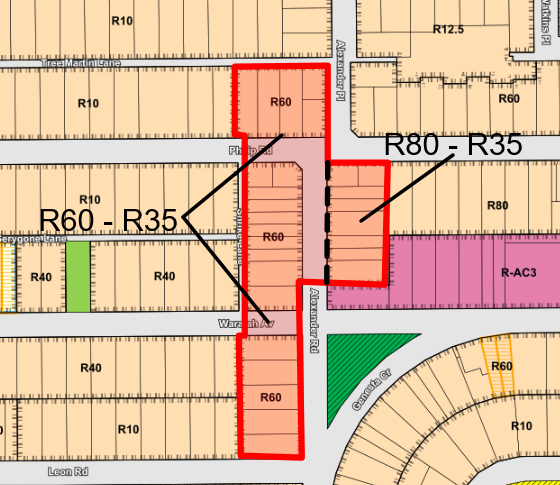
**2.0 Amendment Details**

On 26 May 2020, Council resolved as follows:

“Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005*, adopt Amendment No. 8 to Local Planning Scheme No. 3 by:
2. modifying the residential density code from R60 to R35 for the following properties:
   1. 1, 3, 3A, 5A, 5B, 7A, 7B, 9, 15, 17, 19 and 21 Alexander Road, Dalkeith;
   2. 107 and 108 Waratah Avenue, Dalkeith;
   3. 29, 31, 33 and 35 Philip Road, Dalkeith; and
   4. 7 Alexander Place, Dalkeith.
3. modifying the residential density code from R80 to R35 for the following properties:
4. 4A, 4B, 6, 8A, 8B and 10 Alexander Road, Dalkeith; and
5. 26 and 28 Philip Road, Dalkeith.
6. in accordance with regulation 35(2) *Planning and Development (Local Planning Schemes) Regulations 2015*, the City believes that Amendment No. 8 to Local Planning Scheme No. 3 is a Standard Amendment, as it is an amendment:
7. that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
8. that would have minimal impact on land in the scheme area that is not the subject of the amendment;
9. that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
10. that is not a complex or basic amendment.
11. pursuant to section 81 of the *Planning and Development Act 2005*, refers Amendment No. 8 to Local Planning Scheme No. 3 to the Environmental Protection Authority.
12. subject to section 84 of the *Planning and Development Act 2005* advertises Amendment No. 8 to Local Planning Scheme No. 3 in accordance with regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Council Policy – Community Engagement.”

The advertised Amendment Area is shown below.



The amendment seeks to reduce the residential density of a number of properties centred on Alexander Road, Dalkeith. The amendment is proposing to reduce the density from R60 or R80 to R35. If approved, the impact of the reduced density will be:

* Removal of the consideration of multiple dwelling developments against SPP 7.3 Residential Design Codes Volume 2, with all residential development proposals to be considered under Volume 1 of the Codes;
* Increase in average lot area per dwelling unit for single and grouped dwellings from 120m² (R80) or 150m² (R60) to 260m² (R35);
* Decrease in gross development yield of 47%, from 137 dwellings under the current densities to 73. It is noted that yield for multiple dwellings in R60 and R80 may be higher due to the use of plot ratio and minimum apartment sizes in lieu of average lot area per dwelling; and
* Increase in potential for land use conflict with the creation of a R-AC3 / R35 interface where one property could be developed up to 6 storeys (R-AC3) with the neighbouring property limited to 2 storeys (R35). There is also a similar interface issue between R80 (4 storeys) and the proposed R35 area (2 storeys).

Administration considers that in order to be successful, all densities in and around the Waratah Village Neighbourhood Activity Centre should be considered in the light of the built form modelling currently underway. The amendment as currently proposed will create additional land use conflict potential due to the interface between R35 and R80 and R-AC3 density areas. This interface could see building heights of a maximum of 4-6 storeys on one site and 2 storeys on an adjoining site. This is considered to be contrary to the objective of ensuring appropriate transition in densities and resultant built form outcomes.

The gross dwelling yield within the Amendment Area is reduced by nearly half. This equates to a loss of 64 dwelling units, based on gross yield (i.e. total land area divided by minimum average lot area per dwelling). Average lot areas will increase from 120m² or 150m² to 260m². The placement of a R35 density will also introduce a minimum lot area of 260m² for multiple dwellings, which removes an incentive to create multiple dwellings with additional yield compared to a grouped dwelling development.

**3.0 Consultation**

The proposed amendment was advertised for public comment in accordance with the Regulations and Council’s Community Engagement Policy for a period of 42 days ending on 28 August 2020. At the close of submissions, a total of 92 submissions had been received. Of these submissions, 87 were in support, 4 objecting and 1 neither support nor objection.

A schedule of submissions is included at Attachment 2.

One modification is recommended to the amendment in the light of the submissions. This submission identified that 32 Philip Road, Dalkeith was not listed in the Amendment Resolution. However, the property is included in the amendment map that is incorporated into the amendment. It is recommended that should Council support the amendment that it recommends it is modified by inclusion of 32 Philip Road, Dalkeith in part a) iii) of the resolution. In accordance with the Regulations, it is not possible for Council to directly modify the amendment. Rather, Council will need to support the Amendment in accordance with Regulation 50(3)(b), proposing that it be modified to include 32 Philip Road, Dalkeith.

It is prudent for Council to consider recent advice provided by the WAPC relating to Amendment 7. This amendment is similar to Amendment 8 in that it seeks to reduce the residential density of properties without strategic justification through built form modelling. The WAPC advised of its position that Amendment 7 was a complex amendment and required re-advertising. It further noted that it “…strongly considers that the amendment is to be consistent with, and informed and substantiated by outcomes of the impending strategic analysis to be undertaken by the City…” It is likely that the WAPC will expect a similar level of strategic analysis for Amendment 8 given it seeks to reduce residential density in a similar manner to Amendment 7.

In the light of the WAPC advice, Administration recommends that Amendment 8 is not supported in accordance with Regulation 50(3)(c) of the Regulations. It is recommended that a whole-of-precinct assessment be undertaken in the light of the built form modelling currently underway prior to preparation of any future amendment to reduce densities in the Waratah Village Precinct. It is anticipated that the built form modelling will be completed, and a draft Precinct Structure Plan considered by Council by mid-2021.

Regardless of the issues described in this report relating to this scheme amendment, the public submissions on Scheme Amendment 8 indicate an overwhelming support for it. Council may therefore wish to submit this Scheme Amendment to the WAPC, in support of its community. As such an alternative recommendation to allow this to happen is provided below:

Alternate Recommendation to Council:

Council:

1. pursuant to Regulation 50(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015,* considers the submissions received on Amendment No.8 to Local Planning Scheme No.3 as contained at Attachment 2.
2. pursuant to Section 75 of the *Planning and Development Act 2005*, and Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*,supports Amendment No.8 to Local Planning Scheme No. 3 subject to the following proposed modification:
   1. Inclusion of 32 Philip Road, Dalkeith in clause 1(c) of the Amendment Resolution in order to ensure the Resolution and the Amendment Map are consistent.
3. pursuant to Regulation 53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, forwards Amendment No.8 to Local Planning Scheme No.3 to the Western Australian Planning Commission.

**4.0 Strategic Implications**

**How well does it fit with our strategic direction?**

This amendment is consistent with the City’s endorsed Local Planning Strategy.

**Who benefits?**

The general Nedlands Community benefit from this Scheme Amendment.

**Does it involve a tolerable risk?**

There is a risk that the Amendment will not be supported by the Western Australian Planning Commission (WAPC) or approved by the Minister for Planning. This risk is increased as the amendment is not supported by built form modelling or takes into account all densities in and around the Waratah Village Neighbourhood Activity Centre.

**Do we have the information we need?**

A Scheme Amendment Document and Schedule of Submissions have been prepared and are included at Attachments 1 and 2 respectively.

**5.0 Budget/Financial Implications**

**Can we afford it?**

Costs associated with this Scheme Amendment include the cost of printing and sending out letters for advertising in accordance with regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and City of Nedlands Local Planning Policy – Consultation of Planning Proposals. Other costs include staff time that is redirected from other programmed tasks including the Waratah Village Precinct Local Plan Local Planning Policy.

**How does the option impact upon rates?**

The effect on rates in the event that the residential densities are reduced is not known at this stage. Any positive or negative effect of the amendment on Gross Rental Value may have a consequent impact on rates income over time.

# No. 9 and 11 Doonan Road, Nedlands – 9 x Grouped Dwellings

|  |  |
| --- | --- |
| **Special Council Meeting** | 19 November 2020 |
| **Applicant** | Element |
| **Landowner** | Salander Property Pty Ltd  Cuba 79 Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA20-50983 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the number of dwellings and objections being received |
| **Attachments** | 1. Applicant’s Planning Report 2. Development Plans 3. Perspectives of Proposal 4. Landscape Plans 5. Acoustic Report 6. Traffic Impact Statement 7. Waste Management Plan 8. Summary of Submissions and Response |
| **Confidential Attachments** | 1. Planning Assessment (CONFIDENTIAL) 2. Submissions (CONFIDENTIAL) |

1. **Executive Summary**

The purpose of this report is for Council to determine a Development Application received from the applicant on the 15 July 2020, for proposed nine (9) two-storey grouped dwellings located at Lots 81 and 80 (No. 9 and 11) Doonan Road, Nedlands.

The application was advertised to adjoining neighbours in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. At the close of the advertising period 8 submissions were received; 5 objections, 1 support but raised concerns and 2 neither support nor object but raised concerns.

Amended plans were received on the 9 November 2020, in response to public submissions and comments received from Administration. It is recommended that this application be approved by Council as it is now considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is unlikely to have a significant adverse impact on the local amenity.

**Recommendation to Council**

**Council approves the development application dated 15 July 2020 and revised plans dated 9 November 2020 for nine (9) Grouped Dwellings at Lots 81 and 80 (No. 9 and 11) Doonan Road, Nedlands, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential (Grouped Dwelling)’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City of Nedlands.**
2. **Landscaping shall be installed and maintained in accordance with the Landscape Plans prepared by ALFALFA dated 18 September 2020 and updated as follows:**
3. **The deep soil areas and proposed 13 medium trees and 13 small trees shown on the Landscape – Deep Soil Areas Plan dated 9 November 2020 is to be reflected and updated in the Landscaping Plans package;**
4. **A Tree Protection Zone (TPZ) be provided around the three (3) street trees along Doonan Road; and**
5. **A detailed tree and plants species schedule to ensure appropriate tree species will grow to full maturity and root systems that will not impact upon existing infrastructure.**

**Shall be implemented and thereafter complied with by the landowner(s) for the life of the development to the satisfaction of the City of Nedlands.**

1. **The Acoustic Report prepared by EcoAcoustics dated 18 September 2020 forms part of this development approval and shall be complied with at all times to the satisfaction of the City of Nedlands. Recommendations contained within the Acoustic Report to achieve compliance with the *Environmental Protection (Noise) Regulations 1997* are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
2. **Waste management for the development shall comply with the approved Waste Management Plan prepared by Talis dated 18 September 2020 and updated as follows:**
   1. **The bin storage area dimensions and size shown in the development plans package dated 9 November 2020, is to be updated in the Waste Management Plan.**

**The Waste Management Plan shall be implemented and thereafter complied with by the landowner(s) for the life of the development to the satisfaction of the City of Nedlands.**

1. **The location of any bin stores shall be behind the street alignment so as not to be visible from the street or public place and constructed in accordance with the City’s Health Local Law 1997.**
2. **Prior to occupation of the development all fencing/visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas as annotated on the development plans dated 9 November 2020, shall be screened in accordance with the Residential Design Codes by either;** 
   1. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level; or**
   2. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure; or**
   3. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
   4. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation of the development, the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
   1. **Face brick;**
   2. **Painted render;**
   3. **Painted brickwork; or**
   4. **Other clean material as specified on the approved plans.**

**And maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development, the proposed car parking and vehicle access areas shall be sealed, drained, paved and line marked in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City of Nedlands.**
2. **Prior to occupation of any part of the development, the two (2) visitors car parking bays shown on the approved plans shall be surface marked "visitors only" and sign posted accordingly and thereafter maintained by the responsible entity (strata/corporate body) for the life of the development to the satisfaction of the City of Nedlands.**
3. **Prior to the construction or demolition works, a Construction Management Plan shall be submitted and observed at all times throughout the construction process to the satisfaction of the City of Nedlands.**
4. **Prior to the occupation of the development, a Lighting Plan is to be submitted and approved by the City and maintained for the duration of the development to the satisfaction of the City of Nedlands.**
5. **All stormwater generated from the development shall be contained on site.**
6. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
7. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street or secondary street to the satisfaction of the City of Nedlands.**
8. **Prior to occupation of the development, Lot 81, (No. 9) Doonan Road, Nedlands and Lot 80 (No. 11) Doonan Road, Nedlands, are to be legally amalgamated.**
9. **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.**
10. **This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**

**Advice Notes specific to this proposal:**

1. **The applicant is advised that in relation to Condition 2, the Landscaping Plans shall also detail a maintenance plan for all proposed landscaping on site and contingencies for replacement of dead and diseased plants.**
2. **The applicant is advised that in relation to Condition 12, the Construction Management Plan is to address but is not limited to the following matters:**
   1. **Construction operating hours;**
   2. **Contact details of essential site personnel;**
   3. **Noise control and vibration management;**
   4. **Dust, sand and sediment management;**
   5. **Stormwater and sediment control;**
   6. **Traffic and access management;**
   7. **Protection of infrastructure and street trees within the road reserve and adjoining properties;**
   8. **Dilapidation report of adjoining properties;**
   9. **Security fencing around construction sites;**
   10. **Site deliveries;**
   11. **Waste management and materials re-use;**
   12. **Parking arrangements for contractors and subcontractors;**
   13. **Consultation plan with nearby properties; and**
   14. **Complaint procedure.**
3. **The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.**
4. **Any development in the nature-strip (verge), including crossovers, will require a Nature Strip Works Application (NSWA) and Vehicle Crossover (VC) Application to be lodged with, and approved by, the City's Technical Services department, prior to commencing construction.**
5. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
6. **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 guide to prevent noise affecting neighbouring properties Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.**
7. **The landowner is advised that dividing fencing between properties is a civil matter between abutting landowners in accordance with the Dividing Fences Act 1961. It is the responsibility of the landowner to obtain any necessary approvals from adjoining landowners or satisfy any other obligations under the Dividing Fences Act 1961.**
8. **Background**

**2.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | No. 9 – 920.7m2  No. 11 - 920.7m2  Total: 1,841.4m2 |
| **Additional Use** | No |
| **Special Use** | No |
| **Local Development Plan** | No |
| **Structure Plan** | No |
| **Land Use** | Existing – Residential (Single House)  Proposed – Residential (Grouped Dwelling) |
| **Use Class** | P – Permitted |

**2.2 Locality Plan**

The proposed development comprises of two allotments Lots 80 and 81 (No. 9 and 11) Doonan Road, Nedlands (the subject site).

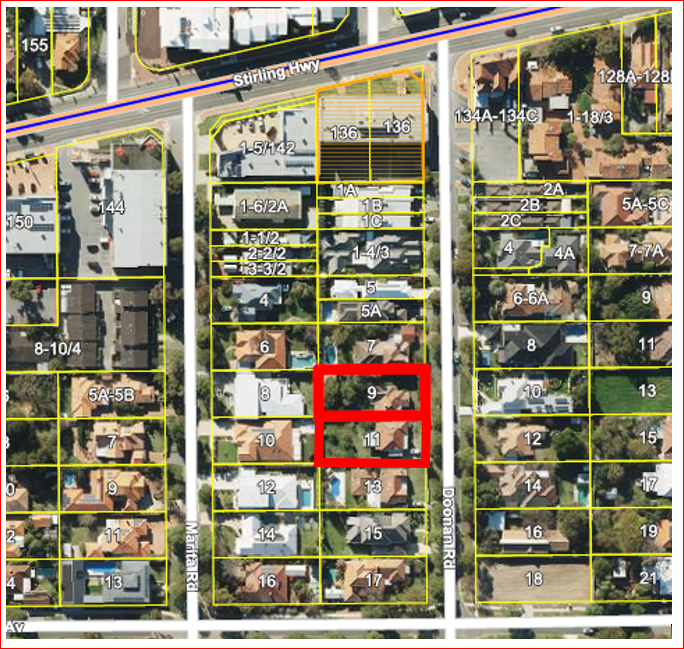


Figure 1 – Aerial Map

The subject site is located on the West side of Doonan Road and is surrounded by predominately single residential houses which have a current density coding of R60 to the northern, western and southern boundaries. The subject site abuts one property with a higher density coding of R160 on the north-western corner (6 Marita Road, Nedlands).

The subject site is located within a block bound by Stirling Highway to the north, Doonan Road to the east, Jenkins Avenue to the south and Marita Road to the west. The densities within the street block transition from R-AC1 along Stirling Highway intended for Mixed Use and Multiple Dwelling developments to R160 for lots located in the middle of the block and then to a density coding of R60. Lots south of Jenkins Avenue have a retained density coding of R12.5.

The topography of the subject site includes a level change of approximately 2.8m and falls from Doonan Road to the rear western lot boundary.

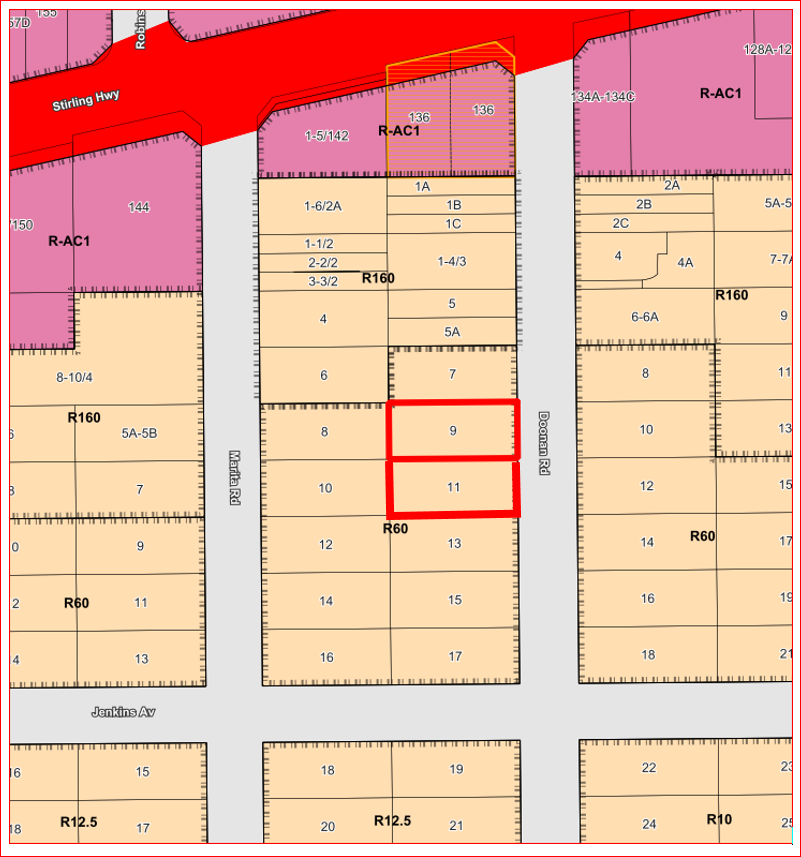


Figure 2 – Zoning Map

1. **Application Details**

The applicant seeks development approval, following the demolition of the existing single dwellings for the construction of 9 two storey grouped dwellings, details of which are as follows:

* Two-storey grouped dwellings each of which comprise three (3) bedrooms, two (2) bathrooms and living areas;
* A centrally located vehicle access driveway will service all nine of the grouped dwellings, reducing the number of crossovers to one on Doonan Road, whilst being able to retain all three (3) existing street trees on the verge;
* Each grouped dwelling will have access to a double garage;
* Two (2) visitor parking bays are located within the front setback area;
* A bulk waste storage area is located to the south of Unit 1;
* A bin storage area will accommodate nine (9) 360L bins and two (2) 240L bin and is located to the north of Unit 5;
* A total of 13 medium trees and 13 small trees are provided in deep soil areas for the proposed development; and
* All proposed deep soil areas are uninhibited by development and will support trees to grow to full maturity.

By way of justification in support of the development application the applicant has provided a design principles assessment which is attached to this report (refer to **Attachment 1**).

1. **Consultation**

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

* Street setbacks;
* Lot boundary setbacks;
* Street walls and fences;
* Outdoor living areas;
* Site works;
* Retaining walls; and
* Visual privacy.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 33 occupiers and landowners between 2nd to 15th October 2020, for a period of 14 days. It is noted that at the close of the advertising a total of 8 submissions were received (and 1 late submission); 5 objecting, 1 support but raised concerns and 2 neither support nor object but raised concerns.

Due to the length of submissions, the summary of submissions is presented as a separate attachment to this report. Refer to **Attachment 8** for the submission table which outlines the comments received and Administration’s response to each submission, as well as the applicant’s response.

All issues raised from the submissions have been considered in this report.

It is noted that the applicant has provided amended plans dated 9 November 2020 in order to respond to community concerns and reduce the extent of the variations sought. The plans have been modified in the following manner:

* Eliminate visual privacy variation identified for Unit 9 upper floor balcony by providing 1.6m high screening;
* Reduce the retaining wall heights along the western lot boundary;
* Additional landscaping details required under Scheme Amendment 9;
* Addition of a gas and electrical services area to the east of Unit 5;
* Address vehicle access requirements to satisfy the City’s Technical Services Department requirements; and
* Increase the bin storage area to satisfy the City’s Waste Services requirements.

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

1. **Assessment of Statutory Provisions**

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

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

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

**5.2 Local Planning Scheme No. 3**

**5.2.1 – Clause 9: Aims of Scheme**

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Proposal** | **Satisfies** |
| 1. Protect and enhance local character and amenity | The surrounding area is characterised by commercial tenancies along Stirling Highway which is within 150m of the subject site. A number of grouped dwelling developments exist adjacent to the commercial tenancies within the R160 density coding.  Surrounding the subject site there are still a number of residential single houses characterised by one or two storeys with a mix of original and contemporary dwellings styles.  The City acknowledges that the proposed built form, which responds to the Residential R60 code is a departure from the existing built form in that it is proposing grouped dwellings. However, the development is limited to two storeys in height and additional landscaping provided, rendering it relatively consistent and sympathetic with the existing streetscape. This is considered more appropriate than multiple dwellings which could be developed. | Yes |
| 1. Respect the community vision for the development of the district; | The development is not considered to adversely affect the community vision for the development of the district in that it reflects the endorsed Local Planning Strategy.  The Draft Local Planning Policy – Melvista West Transition Zone seeks to establish a localised planning response for the Melvista West Transition Zone. The subject site is located within this precinct. A discussion of the policy is provided later in the report. | Yes |
| 1. Achieve quality residential built form outcomes for the growing population; | The built form of the development has been assessed and is considered to achieve or can be made to achieve all relevant design principles of the R-Codes Vol. 1 and is consistent with the expectations of the Residential R60 density coding. | Yes |
| 1. To develop and support a hierarchy of activity centres; | The medium-rise development is consistent with the intent of the R60 density code identified by Local Planning Scheme No. 3. | Yes |
| 1. To integrate land use and transport systems; | The development is located approximately 150m from Stirling Highway which is serviced by a number of buses including Bus 102, 103, 107 and high frequency Bus 998. | Yes |
| 1. Facilitate improved multi-modal access into and around the district; | The site is well located to walking networks including a pedestrian footpath which is located directly on the other side of Doonan Road. | Yes |
| 1. Maintain and enhance the network of open space; | The development does not impact the City’s network of open space. | Yes |
| 1. Facilitate good public health outcomes; | The development is not considered to adversely affect the desired public health outcomes. | Yes |
| 1. Facilitate a high-quality provision of community services and facilities; | The development is not considered to adversely affect the community services or facilities and will contribute to ensuring their viability. | Yes |
| 1. Encourage local economic development and employment opportunities; | The development is considered to positively contribute to the support of local businesses, during and post-construction. | Yes |
| 1. To maintain and enhance natural resources; | The development retains three (3) street trees, which is considered a positive outcome for this type of application. In addition, a total of 13 medium trees and 13 small trees are provided in deep soil areas for the proposed development which will assist and reinforce the leafy green character of the locality. | Yes |
| 1. Respond to the physical and climatic conditions; | The development maintains solar access to adjoining properties by having appropriate setbacks. The dwelling design encompasses cross ventilation and adequate ceilings to allow for effective air circulation. | Yes |
| 1. Facilitate efficient supply and use of essential infrastructure; | The development does not negatively impact this objective. | Yes |

**5.2.2 – Clause 16: Residential Zone Objectives**

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Proposal** | **Satisfies** |
| To provide for a range of housing and a choice of residential densities to meet the needs of the community; | The proposal is considered to provide a type of housing that will contribute to the City’s housing diversity. | Yes |
| To facilitate and encourage high quality design, built form and streetscapes throughout residential areas; | The development has achieved a quality design, with an appropriate built form and streetscape presentation with a landscaped emphasis to the street and the adjoining sites. | Yes |
| To provide for a range of non-residential uses, which are compatible with and complementary to residential development; | This objective is not applicable to the subject application. | N/A |
| To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks; | The development is considered to strike the balance between the existing streetscape character and the future character of this area. Grouped Dwellings in this locality are considered more appropriate than Multiple Dwellings which could be developed on the site. | Yes |

**5.3 Policy/Local Development Plan Consideration**

**5.3.1 Design of the Built Environment (State Planning Policy 7.0)**

The applicant has prepared a submission in response to State Planning Policy 7.0 (refer to **Attachment 1**). Administration considers that the proposed development adequately responds to the variations proposed and on balance is considered appropriate in its context.

|  |  |
| --- | --- |
| **Design Principle** | **Officer Comment** |
| * + 1. **Context and Character** | The built form is considered to be sympathetic to its surrounding development and is developing to the higher density coding potential. A combination of materials and existing style is present within the locality which this design draws on. The incorporation of varying material elements and building height of only two storeys, visible from the primary street is considered to soften the built form. |
| * + 1. **Landscape Quality** | A revised Landscape Plan and Development Plans have been provided which includes the retention of three (3) existing street trees and a total of 13 medium trees and 13 small trees provided in deep soil areas for the proposed development.  This landscape design and tree provision is considered to enhance and maintain the established streetscape which recognises the landscaping significance within Nedlands. |
| * + 1. **Built Form and Scale** | The two storey grouped dwellings are considered sympathetic and characteristic of the existing and emerging dwellings within the locality and is not considered to negatively impact the surrounding properties by way of building height, setbacks or overshadowing. |
| * + 1. **Functionality and Build Quality** | A mix of materials and design provide a well detailed build. The proposal includes sizable bedrooms and open plan living areas making the dwellings functional and accessible dwelling for all demographics. |
| * + 1. **Sustainability** | Predominately north facing outdoor living areas are provided for the proposed dwellings where possible and design is supported as it maximises the northern aspect of the site.  The proposed number of trees and vegetation proposed in the outdoor living areas will create a cooler summertime environment for residents. |
| * + 1. **Amenity** | Based on the design elements, the built form, scale and revised landscaping provision of more trees, provide an improved built form to that of the existing dwellings on site. |
| * + 1. **Legibility** | The design provides for a clear and definable pedestrian and vehicle entrances which provides for a clear delineation of spaces from the public and private realm. |
| * + 1. **Safety** | Major openings and balconies are provided to the public realm and designed to offer for passive surveillance of the street and common property driveway. |
| * + 1. **Community** | The development provides for medium density dwelling diversity improving the range of housing available in the area and accommodating for a wider range of demographics. |
| * + 1. **Aesthetics** | Contrasting renders and materials, multiple openings facing the street add visual interest to the design which is considered complementary to the streetscape. |

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

The applicant is seeking assessment under the Design Principles of the R-Codes for Street Setbacks, Lot Boundary Setbacks, Open Space, Outdoor Living Areas and Setback of Garages and Carport as addressed in the below tables:

**Clause 5.1.2 – Street setbacks**

|  |
| --- |
| **Design Principles** |
| *P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:*   * *contribute to, and are consistent with, an established streetscape;* * *provide adequate privacy and open space for dwellings;* * *accommodate site planning requirements such as parking, landscape and utilities; and* * *allow safety clearances for easements for essential service corridors.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply requirements for grouped dwellings, where a dwelling has its main frontage to a communal street. The setback may be reduced to 2.5m or 1.5m to a porch, veranda, balcony or the equivalent. |
| **Proposed** |
| 1. Units 4 and 9 ground floor stores are setback 1.0m in lieu of 2.5m from the common property driveway. 2. Units 2, 3 and 4 upper floors bathrooms are setback 1.0m in lieu of 2.5m from the common property driveway. 3. Units 2, 3, 4, 6, 7, 8 and 9 upper floors balconies are setback 1.0m in lieu of 1.5m from the common property driveway. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:   * The setback variations face the internal common property driveway and does not directly face the primary street. The reduced setbacks to an internal common property driveway is therefore not considered to impact adjoining neighbours. The majority of the façade is otherwise activated and orientated towards the primary street. * The two storey bulk is predominately fixated towards the common property driveway as a means to increase setbacks to adjoining landowners located to the northern and southern lot boundaries. * The proposal still provides compliant open space requirements (meets 40% minimum) and does not result in direct overlooking to adjoining neighbouring properties. Furthermore, there is no direct overlooking across each dwelling and therefore it to allows for sufficient internal privacy. * Provision has been made for windows to face the common property driveway which is considered to make a positive contribution to the streetscape in terms of public surveillance and activity. * The development utilises a range of materials and architectural treatments thereby minimising any perceived bulk as viewed from the street. The height of the development is consistent with the surrounding area and is below the permitted 10m height limit. * Each site can accommodate parking, landscaping and utilities and there are no easements or essential service corridors to apply. Additional landscaping and deep soil areas by way of planning a number of medium and small trees for the development which further soften the built form and contribute and maintain the leafy green character of the locality.   Accordingly, the street setbacks are not considered incongruous within its setting that would prejudice the objectives of the zone and as such, considered to meet the Design Principles |

**Clause 5.1.3 – Lot boundary setbacks**

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| **Design Principles** |
| *P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:*   * *reduce impacts of building bulk on adjoining properties;* * *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and* * *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*   *P3.2 Buildings built up to boundaries (other than the street boundary) where this:*   * *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;* * *does not compromise the design principle contained in clause 5.1.3 P3.1;* * *does not have any adverse impact on the amenity of the adjoining property;* * *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and* * *positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply lot boundary setbacks are set out in accordance with Table 2a.  The deemed to comply requirements allow for boundary walls to be located on one side boundary only in areas coded R30 and higher. |
| **Proposed** |
| 1. Unit 4 upper floor is setback 1.5m in lieu of 1.9m from the western lot boundary. 2. Unit 9 upper floor is setback 1.5m in lieu of 1.7m from the western lot boundary. 3. Boundary walls proposed on the northern, western and southern lot boundaries in lieu of one side only. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  The upper floor setback from the western lot boundary represents a setback variation of 0.4m from Unit 4 and 0.2m from Unit 9 based on the length and height of the wall. If the applicant were to articulate the western wall of Unit 4 and 9, it may result in the wall being setback closer to the northern and southern lot boundaries.  The location of the upper western wall of Unit 4 and 9 does not contribute to any overlooking or overshadowing impacts, or loss of ventilation on the subject site or the adjacent lot.  Regarding the boundary wall proposed on the northern, western, and southern lot boundaries in lieu of one side only. The boundary walls allow for an efficient use of space, especially with respect to the outdoor living area. The proposed boundary walls do not contain any major openings on the walls and as such, will result in no overlooking and resultant loss of privacy to the adjacent lots.  The proposed boundary walls are all between 2.9m – 3.1m high from Natural Ground Level and will not impact overshadowing to the adjacent southern lot as it is compliant under Clause 5.4.2. As such, the boundary walls does not unduly compromise the direct sun and ventilation to the building and open spaces of the adjacent lots. |

**Clause 5.2.4 – Street walls and fences**

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| **Design Principles** |
| *P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:*   * *for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and* * *for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply fencing within front setback areas is permitted to be a maximum of 1.2m solid and visually permeable infill above.  The deemed to comply requirements for the purposes of housing a utility/meter box, solid fencing within the primary street setback area is permitted where it is:   * A maximum 1.0m in width; and * A maximum 1.8m in height. |
| **Proposed** |
| 1. A portion of solid primary street fencing in front of Unit 1 is to be 1.4m high in lieu of 1.2m maximum. 2. The utility meter box/services fencing enclosure located within the front setback area is:  * 3.0m wide in lieu of 1.0m maximum width; and * 2.06m high in lieu of 1.8m maximum height. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  The proposed portion of solid primary street fencing in front of Unit 1 is 1.4m high in lieu of 1.2m and represents a minor variation of 0.2m additional solid fencing. Consideration should be given that the front fencing is necessary to screen the outdoor living area of Unit 1 and the majority of fencing in front of Unit 5 is compliant.  The utility meter box/services fencing enclosure located within the front setback area is 3.0m wide and 2.06m high is necessary to be able to accommodate 9 electrical and 9 gas metre boxes for the development. The brick screen will match the rest of the development and as such is considered appropriate not to detract from the character of the streetscape. |

**Clause 5.3.1 – Outdoor living areas**

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| **Design Principles** |
| *P1.1 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.*   *P1.2 Balconies or equivalent outdoor living areas capable of use in conjunction with a habitable room of each dwelling, and if possible, open to winter sun.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply requirement for outdoor living areas is to have a minimum length and width dimensions of 4.0m. |
| **Proposed** |
| 1. Unit 5 outdoor living areas only has a minimum width dimension of 2.98m in lieu of 4.0m. 2. Units 6, 7, and 8 outdoor living areas only have a minimum width dimension of 2.67m in lieu of 4.0m. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  As the outdoor living area connects to the kitchen/dining and main living area (habitable rooms), it is considered capable of use in conjunction with these rooms.  Whilst Unit 5, 6, 7 and 8 outdoor living areas are located towards the southern lot boundary, the sizable length of these outdoor areas exceed 4.0m and are usable are open to winter sun and assist in good ventilation.  All outdoor living areas in the development meet the minimum 16m2 requirement and it is considered large enough to be functional and usable whilst also maintaining privacy between each dwelling and the adjoining southern lot. All outdoor living areas are considered to be highly accessible and provide adequate shade during the summer period. |

**Clause 5.3.7 – Site works**

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| **Design Principles** |
| *P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*  *P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply requirements allow excavation or filling between the street and building, or within 3.0m of the street alignment, whichever is the lesser, to not exceed 0.5m.  The deemed to comply requirements allow filling behind a street setback line and within 1.0m of a lot boundary, not more than 0.5m above the natural ground level at the lot boundary. |
| **Proposed** |
| 1. Proposed excavation within the front setback of 0.80m in lieu of 0.5m. 2. Units 5, 6, 7, 8, 9 proposed filling between 0.57m – 0.7m high in lieu of 0.5m on the southern lot boundary from the Natural Ground Level. 3. Unit 9 proposed filling 0.55m high in lieu of 0.5m on the western lot boundary from the Natural Ground Level. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  The proposed excavation within the front setback area of 0.8m in lieu of 0.5m, is considered to be a minor variation of 0.3m and is considered necessary to respond to the natural ground levels (NGL) of the subject site. The site slopes by approximately 1.0m from along Doonan Road from the north to the south. The excavation will not impact upon the NGLs at the primary street lot boundary nor will impact the streetscape as viewed from the street.  In regards to the proposed fill between 0.57m to 0.7m along the southern lot boundary and 0.55m along the western lot boundary, it is due to the topography of the subject site which includes a level change of approximately 2.8m and falls from Doonan Road to the rear western lot boundary. The proposed fill is stepped down from Doonan Road to respond to the NGL for each unit and will not impact the streetscape along Doonan Road. |

**Clause 5.3.8 – Retaining walls**

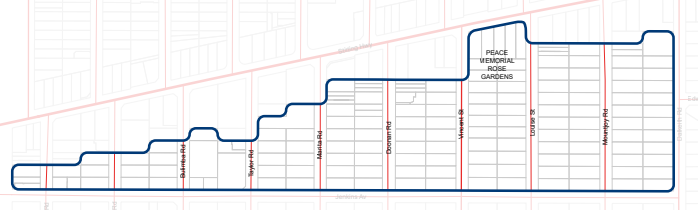
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| --- |
| **Design Principles** |
| *P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply requirements allow retaining walls set back from lot boundaries in accordance with the setback provisions of Table 1.  The deemed to comply requirements allow a retaining wall less than 0.5m high is required on a lot boundary, it may be located up to the lot boundary or within 1.0m of the lot boundary to allow for an area assigned to landscaping. In this case all proposed retaining walls exceed 0.5m on the northern, southern, and western lot boundaries. |
| **Proposed** |
| 1. Units 1, 2, 3 and 4 proposed height of retaining walls varies between 0.74m – 0.89m high in lieu of 0.5m high on the northern lot boundary. 2. Units 5, 6, 7, 8 and 9 proposed height of retaining walls varies between 0.57m – 0.70m high in lieu of 0.5m high on the southern lot boundary. 3. Unit 9 proposed height of retaining wall is 0.55m high in lieu of 0.5m high on the western lot boundary. 4. All retaining walls greater than 0.5m high are located on the lot boundaries in lieu of being setback 1.0m. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  Due to the sloping nature of the site which changes significantly from the east (high) to the west (low) by 2.8m, the proposed varying retaining wall heights between 0.55m to 0.89m is necessary to respond to the natural topography of the site, particularly along the northern and southern boundaries of the subject site where the development is excavating below the Natural Ground Level (NGL) and retaining is required.  The proposed retaining walls is necessary to response to the topography of the site and will not detrimentally affect the adjacent neighbour on the northern, southern, and western lot boundaries. The retaining walls is used effectively by creating more space in the outdoor living area for each unit. |

**Clause 5.4.5 – Utilities and facilities**

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| --- |
| **Design Principles** |
| *P4.2 External location of storeroom, rubbish collection/bin areas, and clothes drying areas where these are:*   * *convenient for residents;* * *rubbish collection areas which can be accessed by service vehicles;* * *screened from view; and* * *able to be secured and managed.* |
| **Deemed-to-Comply Requirement** |
| The deemed to comply requirements for storerooms is to be a minimum dimension of 1.5m when provided external to a garage and 1.0m when provided within a garage and an internal area of at least 4m2, for each grouped dwelling |
| **Proposed** |
| 1. Unit 5, 6, 7 and 8 store widths are proposed to be less than 1.5m. 2. Unit 5, 6, 7 and 8 store area are proposed to be less than 4.0m2. |
| **Administration Assessment** |
| Administration consider that the development meets the Design Principles as follows:  Whilst Units 5, 6, 7 and 8 stores are less than 4.0m2 and proposed width to be less than 1.5m, it is considered the storerooms are still usable and convenient for residents. The additional store located in the outdoor living areas on the southern lot boundary will provide additional storage space for residents.  All stores are screened from the primary street, secure and individually managed by each resident. |

**5.3.3 Draft Local Planning Policy – Melvista West Transition Zone**

The Draft Local Planning Policy – Melvista West Transition Zone (Draft Melvista West Policy) seeks to establish a localised planning response for the Melvista West Transition Zone (area shown below in Figure 3). The subject site is within this precinct.



**Subject site**

Figure 3 – Draft Melvista West Policy area boundary

As illustrated above, the draft Melvista West Policy precinct boundary excludes the areas of Mixed Use R-AC1 zoned-properties adjacent Stirling Highway.

The draft Melvista West Policy was adopted for advertising by Council at its 3rd September 2020 Special Council Meeting. Advertising of this policy has now closed. In its report for this item, Administration noted that the draft policy will form a “starting point” for development guidance in the precinct, and will be subject to further revisions through built form modelling, legal and architectural review, external referrals, horticultural and heritage advice, as well as community engagement.

The Melvista West Policy seeks to augment provisions to the deemed to comly provisions of R-Codes Vol. 1 as outlined below:

* Street setback;
* Lot boundary setback;
* Building height;
* Setback of garages and carports;
* Landscaping;
* Design of car parking spaces; and
* Vehicle access.

Pursuant to clause 67(b) of the deemed provisions, in considering an application for development approval, due regard is to be given by the decision-maker to the requirements of any planning instrument that the local government is seriously considering adopting or approving.

‘Due regard’ requires the decision maker to give proper, genuine and realistic consideration to the draft policy, however, the weight which is given to that consideration is a matter for the decision-maker.

The legal principles that are applied when assessing the weight afforded to a draft instrument, such as a local planning policy, are explained in the SAT’s decision in ***Nicholls and Western Australian Planning Commission [2005] WASAT 40***. Those principles require four factors to be given consideration to, which are:

1. *the degree to which the draft assesses the specific application;*
2. *the degree to which the draft is based on sound town planning principles;*
3. *the degree to which the ultimate approval of the draft could be regarded as ‘certain’; and*
4. *the degree to which the ultimate approval of the draft could be regarded as ‘imminent’.*

With respect to the above factors, the City will only comment on the third and fourth matters.  As noted above, the provisions of the draft Melvista West Policy are still subject to change as a result of rigorous testing, peer review and community engagement. Given that this policy is a “starting point” for development guidance in the precinct the degree of certainty and imminence of the policy is questionable.  Therefore, the City’s position is that the weight given to the draft Melvista West Policy should not prevail over the weight afforded to the relevant design principles provisions in the R-Codes Vol. 1 in determining whether or not the application has met the deemed to comply as the draft policy is neither certain in its final form nor is it imminent in terms of adoption. For this reason, the proposal has not been assessed against the draft Melvista West Policy.

**5.3.4 Local Planning Policy – Waste Management Plan**

A Waste Management Plan (WMP) has been prepared by Talis dated 18 September 2020 which proposes a communal bin storage area and bulk waste storage area to be located on the subject site, in line with the City’s Local Planning Policy – Waste Management Plan (WMP Policy). The proposed waste bins comprise of the following:

* Three (3) 360L refuse bins, collected once each week;
* Six (6) 360L recycling bins, collected fortnightly;
* Two (2) 240L FOGO bins, collected once each week;
* A total of nine (9) 360L bins and two (2) 240L bins is proposed in the bin storage area; and
* A 10m3 bulk waste skip bin will be provided in the bulk waste storage area for the temporary storage of bulk waste. Bulk waste removal will be monitored by the strata/corporate body as required.

Clause 3.1.5 of the Waste Management Guidelines recommends a maximum of 4 x 240L waste bins and 4 x 240L recycling bins to be placed on the verge for kerbside collection, in which more than 8 bins would require internal service arrangements. The intent of this provision is to preserve the amenity of the streetscape and avoid a proliferation of bins on collection day.

Although the proposal includes 3 waste and 6 recycling bins at 360L and 2 FOGO bins, on aggregate and with two lots being amalgamated, on some weeks the number of bins collected from the verge will be a minimum of 5 bins (3 x 360L and 2 x 240L) and every other week a maximum of 11 bins (9 x 360L and 2 x 240L). Consideration should be given that there is sufficient capacity on the verge to accommodate the maximum number of bins and on alternative weeks.

The City’s Waste Services Unit have reviewed the WMP and development plans and are satisfied with the location of bin and bulk storage areas and collection on Doonan Road.

A condition to ensure waste management for the development shall comply with the Waste Management Plan prepared by Talis dated 18 September 2020 and updated to reflect the bin storage area dimensions and size shown in the development plans package dated 9 November 2020, is recommend to ensure waste will be managed appropriately within the proposed development.

* + 1. **Scheme Amendment 9 – Deep Soil Plantings Requirements for Single and Grouped Dwellings**

At the Council Meeting held on the 27 October 2020, Council adopted Scheme Amendment 9 (SA9) to add deep soil provisions for Single and Grouped Dwellings in areas coded R40, R60, R80 and R160.

An assessment against the requirements of SA9 Requirements is provided in the table below:

|  |  |  |
| --- | --- | --- |
| **SA9 Requirements** | **Proposed** | **Satisfied** |
| **Unit 1 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 188m2 or 18.8m2 DSA required.  Proposed: 32m2 or 17% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 1 medium tree proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 small and 1 medium trees proposed within the FSA | Yes |
| **Unit 2 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 169m2 or 16.9m2 DSA required.  Proposed: 19m2 or 11% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 2 medium trees proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 3 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 169m2 or 16.9m2 DSA required.  Proposed: 19m2 or 11% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 2 medium trees proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 4 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 196m2 or 19.6m2 DSA required.  Proposed: 30m2 or 15.3% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 1 small trees and 2 medium trees proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 5 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 189m2 or 18.9m2 DSA required.  Proposed: 33m2 or 17.4% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 2 medium trees proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 small tree and 1 medium tree proposed within FSA | Yes |
| **Unit 6 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 157m2 or 15.7m2 DSA required.  Proposed: 13m2 or 8% DSA | No |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 1 medium tree proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 7 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 157m2 or 15.7m2 DSA required.  Proposed: 13m2 or 8% DSA | No |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 1 medium tree proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 8 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 157m2 or 15.7m2 DSA required.  Proposed: 13m2 or 8% DSA | No |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 1 medium tree proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |
| **Unit 9 –** | | |
| SA9 requires a minimum 10% deep soil (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) and, | Lot area – 190m2 or 19m2 DSA required.  Proposed: 21m2 or 11% DSA | Yes |
| 1 medium tree or small trees to suit the area and, | 2 small trees and 1 medium tree proposed within the site. | Yes |
| A minimum of 2 small trees or 1 medium tree within the front setback area (SA9 remains silent on whether this requirement relates to each individual lot or the parent lot) | 1 medium tree proposed within FSA – (2.5m to CP access leg) | Yes |

Based on the assessment against SA9, it has been identified that Lots 6, 7 and 8 are proposing only 8% or 13m2 deep soil areas (DSA) in lieu of 10% or 15.7m2.

It is noted that SA9 provides no additional guidance in relation to the design principles should an application vary from the deemed to comply requirement. As such, the R-Codes Clause 5.3 ‘Site planning and design’ objectives for landscaping are required to be considered when assessing variations, as follows:

1. *Landscape design should optimise function, useability, privacy and social opportunity, equitable access, respect neighbours’ amenity and provide for practical establishment and maintenance.*
2. *To ensure access to housing provides for security, safety, amenity and legibility to on-site car parking areas and footpaths for residents and visitors.*
3. *To ensure each development makes a contribution to a streetscape by respecting the natural topography for each site, adjoining properties and the amenity of the locality.*
4. *To reduce the* *economic, environmental and social impacts associated with site works to facilitate housing development (e.g. via soil disturbance, groundwater impact and water use for dust suppression).*

It is considered that whilst Lots 6, 7 and 8 are proposing only 8% DSA in lieu of 10%, the proposal is considered to meet the objectives of Clause 5.3 as follows:

* The proposed DSA represents a 2% or 2.7m2 DSA variation for Lots 6, 7 and 8 which is still designed to be functional for residents and usable to plant two (2) small trees in the DSA;
* The proposed DSA will not impact upon the dwelling security, safety, amenity and legibility to on-site car parking areas and footpaths for residents and visitors;
* The proposal has been designed to reflect the natural topography of the site; and
* The proposal is not considered to impact the economic, environmental, and social impacts associated with site works to facilitate the development.

Administration consider that the development meets the objectives of Clause 5.3 ‘Site planning and design’ of the R-Codes.

A condition to ensure the proposed deep soil areas and proposed 13 medium trees and 13 small trees shown on the Landscape – Deep Soil Areas Plan dated 9 November 2020 is to be reflected and updated in the Landscaping Plans package, is recommend to ensure all DSA and trees will be planted and managed appropriately within the proposed development.

1. **Conclusion**

This application proposes nine (9) two storey grouped dwellings located at No. 9 and 11 Doonan Road, Nedlands which is coded R60.

The application has been referred to Council for a decision by virtue of the number of grouped dwellings proposed (being greater than five) and 5 objections being received. The development originally presented a number of variations at the time of advertising, particularly with respect to lot boundary setbacks, lot boundary setbacks, street walls and fences, outdoor living areas, site works, retaining walls and visual privacy.

As a result of the advertising and Administration concerns, the applicant made modifications to their plans to either remove (visual privacy variation) or reduce the extent of variations proposed. Administration now considers that the development satisfies the design principles of the Residential Design Codes and does not prejudice the intent of the zone or objectives of the Scheme. Approval with conditions is recommended.

# Responsible Authority Report – For Amendment of Approval for 15 Multiple Dwellings at No. 13 (Lot 71) Vincent Street, Nedlands

|  |  |
| --- | --- |
| **Council** | 19 November 2020 |
| **Applicant** | Urbanista Town Planning |
| **Landowner** | Eric Yii – Jye Jiun Enterprises |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Information Purposes | Item provided to Council for information purposes. |
| **Reference** | DA 20-53070 (DAP/20/01744) |
| **Previous Item** | 5 May 2020 Special Council Meeting (Item 4.2)  22 September 2020 Ordinary Council Meeting |
| **Delegation** | Not applicable – Joint Development Assessment Panel application. |
| **Attachments** | Responsible Authority Report and Attachments – available at: <https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes> |

1. **Executive Summary**

An application has been received to amend the approval for 15 Multiple Dwellings at No.13 Vincent Street, Nedlands which the Metro Inner-North Joint Development Assessment Panel (JDAP) approved on 11 May 2020. The proposed modifications which are subject to this amendment primarily include an increase to a portion of the roof height, changes to landscape design, window treatments and changes to respond to development conditions and the Building Code of Australia requirements. There are no changes to the key characteristics of the development in terms of plot ratio, number of dwellings, wall lengths, setbacks or car parking. The purpose of this report is to inform Council of Administration’s recommendation to the Panel.

**Recommendation to Council**

**That Council:**

* 1. **notes the Responsible Authority Report for the proposed amendment to the existing approval for 15 Multiple Dwellings at Lot 71 (No.13) Vincent Street, Nedlands;**
  2. **agrees to appoint Councillor (insert name) and Councillor (insert name) to co-ordinate the Council’s submission and presentation to the Metro Inner-North JDAP;**
  3. **does/does not (remove one) support approval of the amendment; and**
  4. **provides the following reasons for the Council’s position on the application**

1. **...**
2. **Background**

An application for 15 Multiple Dwellings was previously considered at the Development Assessment Panel meeting held on 11 May 2020. The Administration’s recommendation was to refuse the application due to several concerns namely with respect to height, setbacks, orientation, visual privacy, solar and daylight access, natural ventilation, and façade design. Similarly, Council considered the item on 5 May 2020 Special Council Meeting and did not support the development. At the meeting, the JDAP resolved to approve the application on 11 May 2020, subject to conditions.

1. **Proposal**

The proposed modifications subject to this amendment are summarised to below:

* An increase in roof height between 100mm - 200mm.
* Extension of breeze block wall to wrap around the lower ground car park at the north-west and south-west elevation.
* Increase width to the basement corridor from 1.2m to 1.5m to address Condition 25.
* Re-location of the visitor car parking bays from bays 9-12 to 16-19. The number of visitor car parking bays remains unchanged.
* Modifications to the landscaping design and species selection within the front setback area, communal open space and area abutting the driveway. Additional planting on structure primarily to the west and north-west.
* An increase in the finished floor level by 100mm and a 200mm overall increase to the wall height of Unit 1 (Ground Floor). In addition, the removal of the bedroom window facing east due to the re-location of the fire booster cabinet.
* An increase of 300mm in height to the southern courtyard fence to Unit 2 (Ground Floor) and replacement of fencing material from colour bond to brick.
* Modification to the size and location of openings to windows. This mainly includes additional windows to bathrooms.
* Internal modifications to units, however, the number of units and allocated bedrooms, bathrooms and overall plot ratio remains unchanged.
* Modifications to the dimensions of the storerooms at Lower Ground Level.
* Changes to the design of the building to address the Building Codes of Australia requirements.

**Consultation**

The application was advertised for a period of 21 days from 29 September 2020 until 21 October 2020. Due to the nature of the amendments, the following forms of notification were included:

* A total of 334 letters sent to all City of Nedlands landowners and occupiers within a 200m radius of the site informing of the application and inviting comment;
* Notification to all previous submitters on the original application;
* An advertisement was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period

At the close of advertising a total of 11 submissions were received comprising of 7 objections and 4 with partial support except for visual privacy concerns.

1. **Recommendation to JDAP**

An application under Regulation 17 of the *Development Assessment Panel Regulations 2011* is not an application for a review or reconsideration of the original decision. The assessment is based on the extent of the amendments sought. Although the City had previously recommended refusal on the original application for x 15 Multiple Dwellings, it is the City’s view that the proposed modifications sought are deemed as minor in nature. It is considered to appropriately address the Element Objectives of the R-Codes, objectives of the ‘Residential’ zone and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval is therefore recommended to JDAP. All other conditions and requirements detailed on the previous approval dated 11 May 2020 are also recommended to remain.

1. **Conclusion**

Administration have prepared a Responsible Authority Report to the JDAP recommending approval for the amendment of 15 multiple dwellings at No.13 Vincent Street, Nedlands. Council may wish to make a submission on the application to the JDAP. This submission will be presented to the JDAP for consideration at its meeting.

# Responsible Authority Report – For Amendment of Approval for 10 Multiple Dwellings at 5 Hillway, Nedlands

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| --- | --- |
| **Council** | 19 November 2020 |
| **Applicant** | Element Advisory Pty Ltd |
| **Landowner** | Hillway 20 Pty Ltd, Hillway 80 Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Information Purposes | Item provided to Council for information purposes. |
| **Reference** | DA 20-55430 (DAP/20/01741) |
| **Previous Item** | 19 May 2020 Special Council Meeting (Item 6)  22 September 2020 Ordinary Council Meeting (Item 13.14) |
| **Delegation** | Not applicable – Joint Development Assessment Panel application. |
| **Attachments** | Responsible Authority Report and Attachments – available at: <https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes> |

1. **Executive Summary**

An application has been received to amend the approval for 10 multiple dwelling at 5 Hillway, Nedlands granted by the Metro Inner-North JDAP (the Panel) on 29 September 2020. The requested amendments relate to reducing the number of dwellings from 10 to 9 by deletion of Apartment 303 from Level 4. This rear-facing apartment will be replaced by extension of the two front-facing apartments to create additional triple-aspect dwellings on this level. There is no change to plot ratio. External changes to the building are limited to deletion of the Level 4 rear outdoor living area / balcony and rearrangement of windows to reflect the revised floor plan.

Administration have prepared a Responsible Authority Report (RAR) in relation to the revised plans received on 28 October 2020.

The purpose of this report is to inform Council of Administration’s recommendation to the Panel.

**Recommendation to Council**

**That Council:**

1. **notes the Responsible Authority Report for the proposed amendment to the existing approval for 10 Multiple Dwellings at Lot 689 (No.5) Hillway, Nedlands;**
2. **agrees to appoint Councillor (insert name) and Councillor (insert name) to co-ordinate the Council’s submission and presentation to the Metro Inner-North JDAP;**
3. **does/does not (remove one) support approval of the amendment; and**
4. **provides the following reasons for the Council’s position on the application:**
5. **...**
6. **Background**

The Metro Inner-North JDAP granted conditional approval to the development of 10 multiple dwellings at the subject site on 29 September 2020. Approval is now being sought to amend the development.

Council considered the development previously on 19 May 2020 and 22 September 2020. The resolution of the latest consideration is below:

“That Council:

1. notes the Responsible Authority Report for the proposed 10 Multiple Dwellings development at Lot 689 (No.5) Hillway, Nedlands;
2. agrees to appoint Councillor Bennett and Councillor Mangano to co-ordinate the Council’s submission and presentation to the Metro Inner-North JDAP;
3. does not support approval of the development;
4. provides the following reasons for the Council’s position on the application:

The original reasons for deferral still have not been adequately addressed including excessive overshadowing of R60 zoned property to the south, significant visual privacy impacts for all surrounding neighbours, lack of building separation at Level 6 requiring articulated setbacks, poor public domain interface, lack of comprehensive context analysis, insufficient and inappropriately dimensioned deep soil areas, inappropriate bulk and scale, impact on street scape and amenity of the surrounding neighbours and does not meet the objectives of the mixed use zone;

1. requests additional conditions in the case of approval to;

1. improve visual privacy impacts on R60 residential zoned neighbours with the following conditions of increasing the level 6 setback, remove all balconies on north west (rear) side (facing Kingsway), use of privacy screening, use of frosted/opaque windows, high level windows, or planter boxes to obscure direct passive surveillance.
2. improve landscaping and deep soil areas by increasing the northwest (rear) deep soil area width to be increased from 1.5m to 5.0m to accommodate large screening trees, with screening trees that are to be mature trees having minimum dimensions of 15m tall when planted to provide immediate screening from planting.
3. relocate and screen mechanical devices or other noise generating plant/machinery on the roof to an enclosed basement location to mitigate nuisance sound and visual pollution.
4. relocate car park exhaust vent away from neighbours boundaries and provide air quality filtering.
5. provide financial compensation to neighbours requiring improvements to their property to maintain existing amenities such as visual privacy and right to quiet enjoyment. Improvements may include privacy screening, double glazed windows and doors with one-way tinting and other methods of obscuring passive visual privacy.”
6. **Proposal**

It is proposed to reduce the number of dwellings in the multiple dwelling complex from 10 as approved to 9. This will be achieved by deletion of Apartment 303 on Level 4. The floor area previously occupied by this dwelling will be taken up by expanding Apartments 301 and 302. The new layout of Apartments 301 and 302 will be similar to that on approved Apartments 401 and 402 located on Level 5.

All setbacks, wall lengths, building height, car parking and landscaping remain unaltered from the form approved. External changes are limited to Level 4 only. These changes are:

* Rear (northwest) elevation – Balcony removed, living/dining windows replaced by windows to Master Bedroom and ensuite and planter boxes and screening provided.
* Side (northeast and southwest) elevations – window changes to suit revised internal layout.

The deletion of Apartment 303 has required a change to the nominated Silver Level accessible dwellings. The approved plan indicated Apartments 101 and 303 would be constructed to Silver Level as defined by the Liveable Housing Design Guidelines. The provision of two dwellings (20% of total) met Acceptable Outcome A4.9.1(a) of the Residential Design Codes Volume 2. The revised plans now indicate that Apartments 101 and 501 will be constructed to Silver Level requirements.

The revised plans include the provision of a visitor car parking space in the ground floor car parking area. This addresses Condition 13 of the approval.

The amendment is considered to be minor in nature as it is reducing the number of dwellings without material change to the proposed building. There are no changes to the key characteristics of the development in terms of setbacks, height, bulk or landscaping.

1. **Consultation**

The proposed amendment to approved plans has not been subject to public consultation. The amendment is minor in nature and does not materially affect the characteristics of the development as previously advertised. The amendment seeks to reduce the number of dwellings and to remove a rear-facing balcony and replace with planted screening and narrow access way. This is considered to reduce the impact of the development on neighbouring properties when compared to the proposal as approved.

1. **Recommendation to JDAP**

The proposed amendments appropriately address the element objectives of the Residential Design Codes Volume 2. Reduction in the number of dwellings will result in a reduced development intensity. The removal of the rear balcony from Level 4 reduces the impact of the development on neighbouring properties as all elevated outdoor living areas are now located on the street frontage.

Given the minor nature of the proposal, Administration is recommending the application to amend the existing approval be approved by the Panel, subject to conditions.

1. **Conclusion**

Administration have prepared a Responsible Authority Report to the Metro Inner-North Joint Development Assessment Panel recommending conditional approval for the amendment of the existing approval for 10 multiple dwellings at 5 Hillway, Nedlands. Council may wish to make a submission on the application to the Panel. This submission will be presented to the Panel for consideration at its meeting.

# Responsible Authority Report – Lot 142 and 141 (21-23) Louise Street, Nedlands – Seven Grouped Dwellings and Six Multiple Dwellings

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| --- | --- |
| **Council** | 19 November 2020 SCM |
| **Applicant** | Mr Mark Young, Hillam Architects |
| **Landowner** | Maison Holdings No 3 Pty Ltd |
| **Director** | Peter Mickleson, Director Planning and Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Information Purposes | Item provided to Council for information purposes. |
| **Reference** | DAP/20/01782 |
| **Previous Item** | Nil |
| **Delegation** | Not applicable – Joint Development Assessment Panel application. |
| **Attachments** | Responsible Authority Report and Attachments – available at: <https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes> |

**Executive Summary**

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*, Administration have prepared a Responsible Authority Report (RAR) in relation to the amended plans received on 23 October 2020 for the Metro-Inner North Joint Development Assessment Panel (JDAP) Form 1 Application at Lot 142 and 141 (21 – 23) Louise Street, Nedlands. The application proposes the development of seven grouped dwellings (two storeys in height) and six multiple dwellings (three storeys in height).

The purpose of this report is to inform Council of Administration’s recommendation to the JDAP.

**Recommendation to Council**

**That Council:**

1. **notes the Responsible Authority Report for the proposed seven grouped dwellings and six multiple dwellings at Lot 142 and 141 (21 – 23) Louise Street, Nedlands;**
2. **agrees to appoint Councillor (insert name) and Councillor (insert name) to coordinate the Council’s submission and presentation to the Metro Inner-North JDAP; and**
3. **provides the following reasons for the Council’s position on the application:**
4. **...**
5. **...**

**Background**

**Application History**

The following outlines a brief history of the application:

* The JDAP application for seven grouped dwellings and six multiple dwellings was lodged on 4 May 2020.
* Following public consultation, the applicant revised the plans. The City lodged the RAR with JDAP on 28 August 2020, with a recommendation to defer the application to address the following:

1. Modifications to the plans to achieve the following objectives of the following Residential Design Codes Volume 2 elements:
   1. 2.4 – Side and rear setbacks
   2. 2.5 – Plot ratio
   3. 2.7 – Building separation
   4. 3.2 – Orientation
   5. 3.7 – Pedestrian access and entries
   6. 4.1 – Solar and daylight access
   7. 4.5 – Circulation and common spaces
   8. 4.10 – Façade design
2. Modifications to the plans to achieve the deemed-to-comply and/or design principles of the Residential Design Codes Volume 1 elements:
   1. 5.1.3 – Lot boundary setbacks
   2. 5.1.4 – Open space
   3. 5.3.1 – Outdoor living areas
   4. 5.4.1 – Visual privacy

* At its meeting on 23 September 2020, JDAP resolved to defer the application for a period of 60 days to address the issues Administration identified in its recommendation.
* The City met with the applicant, and the peer design reviewer, on 5 October 2020, to discuss the possible amendments to the proposal to address the reasons for deferral.
* Amended plans for seven grouped dwellings and six multiple dwellings were submitted to the City on 23 October 2020 (**Attachment 1**). Revised technical reports were also provided. The amended plans were subject to internal referral, design and landscape design peer review, and assessment by the City. An overview of the amended plans against the JDAP’s reasons for deferral is provided below.

|  |  |  |
| --- | --- | --- |
| **JDAP Reason for Deferral** | **Modifications Made** | **Officer Comments** |
| **Apartments** | | |
| Side and rear setbacks | * Increased northern lot boundary setback from 2.3m-3m to 2.2m-4m. * Increased southern lot boundary setback from 2.5m-4.3m to 3.5m-5.3m. * The multiple dwelling floor plans have also been reconfigured so that the ground floor terraces, and upper floor balconies are now north-facing. The main internal living areas have also been relocated to the northern side of the apartment building. * The main pedestrian entry to the building has been relocated centrally, between the apartment building and grouped dwellings. | O2.4.1 **Achieved** by amended plans |
| Plot ratio | * Overall plot ratio area of the multiple dwellings has increased by 14m2 (1.4% increase). * However, the plot ratio of the apartments has decreased from 1.08 to 1.06, because reconfiguration of the site has resulted in a larger site area for the apartments. * Increased separation between the multiple dwelling building and the grouped dwellings has reduced the impact of building bulk on internal amenity. | O2.5.1 **Achieved** by amended plans |
| Building separation | * Increased separation between grouped dwellings and multiple dwelling building from 2.5m-4.3m to 3.5m-5.3m. * Grouped dwellings have been reconfigured to relocate upper floor bedroom windows, so that there is now no overlooking issues to the north. * Reconfiguration of the internal voids for the grouped dwellings, allowing for increased solar access within the units. | O2.7.2 and O2.7.3 **Achieved** by amended plans |
| Orientation | * Reconfiguration to optimise solar access. | O3.2.1 **Achieved** by amended plans |
| Pedestrian access and entries | * Primary pedestrian entry to multiple dwellings relocated centrally, between the multiple and the grouped dwellings. * Width of primary pathway to multiple dwelling entrance increased from 1.3m to 1.8m. * Opportunity for passive visual surveillance from upper floor bedroom windows of grouped dwellings and apartments over pathway. | O3.7.1 and O3.7.2 **Achieved** by amended plans |
| Solar and daylight access | * Increased northern lot boundary setback from 2.3m-3m to 2.2m-4m. * The multiple dwelling floor plans have also been reconfigured so that the ground floor terraces, and upper floor balconies are now north-facing. The main internal living areas have also been relocated to the northern side of the multiple dwelling building. * Additional ‘light-scoops’ have been added to the northern façade to increase natural light to living areas. | O4.1.1 and  O4.1.2 **Achieved** by amended plans |
| Circulation and common spaces | * Primary pedestrian entry to the apartments has been increased from 1.3m to 1.8m | O4.5.1 and O4.5.2 **Achieved** by amended plans |
| Façade design | * Increased fenestration and articulation to the northern façade. | O4.10.1 **Achieved** by amended plans |
| **Grouped dwellings** | | |
| Lot boundary setbacks | * Increased separation between the grouped dwellings and apartment building from 2.5m-4.3m to 3.5m-5.3m. * Reconfiguration of the internal voids for the grouped dwellings, allowing for increased solar access within the units. | Design Principle for 5.1.3 Lot boundary setbacks **achieved** by amended plans |
| Open space | * Open space has not been substantially increased for each unit. * Notwithstanding, improvements have been made to the outdoor living areas so that sufficient solar access is available for these spaces, as well as ground floor and upper floor internal living areas. * Increased separation between apartment building and grouped dwellings, reducing the impact of building bulk from between the two. | Design Principle for 5.1.4 Open space **achieved** by amended plans |
| Outdoor living areas | * Increased the overall size of the outdoor living area/s for three units. * Increased the uncovered portion of outdoor living areas for six units. * Relocated the upper floor overhang from the northern side to the southern side for two units. | Design Principle for 5.3.1 Outdoor living areas **achieved** by amended plans |
| Visual privacy | * Relocated bedroom windows so that there is now no overlooking from these major openings over the private open spaces of the ground floor multiple dwellings. | Design Principle for 5.4.1 Visual privacy **achieved** by amended plans |

In addition to the above, the following modifications in the amended plans are noted:

* Reduction in western lot boundary setback of multiple dwellings from 5.7m–6.5m to 4.6m-5.8m (amended setback exceeds Acceptable Outcome and achieves Element Objective);
* Reduction in primary street setback of multiple dwellings from 3.3m-5m to 3m-4.6m (amended setback exceeds Acceptable Outcome and achieves Element Objective);
* Increase in the extent of deep soil area from 7.8% of the multiple dwelling site area to 17% of the multiple dwelling site area; and
* Increase in overall number of new trees to multiple dwelling site, including the addition of a new large tree between the multiple dwelling building and the western lot boundary; and
* Reconfiguration of basement level, including increase in visitor car parking from two bays to three bays.

A full assessment of the amended plans is included as **Attachment 1**.

**Application Details**

**Multiple Dwellings**

* Located to the north of the site, with frontage to Louise Street;
* Three storeys in height;
* 6 three-bedroom dwellings;
* 14 resident car parking bays at basement level;
* 3 visitor car parking bays within the basement (shared with grouped dwellings);
* Bin store located at ground level, with bin collection from Louise Street; and
* Deep soil planting at ground level and on-structure planting for upper levels.

**Grouped Dwellings**

* Located to the south of the site, with frontage to Jenkins Avenue;
* Two storeys in height;
* 7 three-bedroom dwellings;
* 14 resident car parking bays at basement level;
* 3 visitor car parking bays within the basement (shared with apartments);
* Individual bin stores provided for each unit at ground level, with bin collection from Louise Street; and
* Landscaping provided at ground and upper levels.

Vehicle access to the subject site is proposed to be via Jenkins Avenue to a basement parking level, which is shared between the apartments and grouped dwellings.

**Consultation**

The City’s Local Planning Policy – Consultation of Planning Proposals (Consultation LPP) states that the development proposal for multiple dwellings is classified as a Complex Application.

In accordance with the Consultation LPP, the application was advertised for a period of 21 days, commencing on 13 June 2020 and concluding 4 July 2020 and included the following forms of notification:

* 124 letters were sent to City of Nedlands landowners and occupiers within a 200m radius of the site;
* A sign on site was installed on the frontage of the site;
* An advertisement was uploaded to the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* An advertisement was placed in the Post newspaper;
* Social media post on the City’s Social Media platforms;
* A notice was affixed to the City’s Noticeboard at the City’s Administration Offices; and
* An in-person community information session was held at Council Chambers on 22 June 2020.

At the conclusion of advertising, the City received 80 submissions on the proposal, 73 submissions objecting to the proposal and 7 in support. Due to the number of concerns raised during public consultation, a separate summary of the submissions is contained in **Attachment 1**.

Advertising of the amended plans was not considered necessary, given that no significant modifications (i.e. building height, plot ratio, number of dwellings) were made. Notwithstanding, the amended plans were made available for public inspection on the City’s Your Voice website.

**Recommendation to JDAP**

The issues that were raised previously as reasons for deferral have now been sufficiently addressed by the amended plans. On this basis, the RAR recommends that the application is approved, subject to conditions.

**Conclusion**

The subject site forms an important role in transitioning the built form down from the anticipated mixed-use high-density development along Stirling Highway. The proposal successfully mitigates potential conflicts in land use and built form within this transition area and is considered to contribute positively to the public realm.

There were several outstanding issues with the internal amenity of the development when this application was first considered by the JDAP, namely relating to solar access, visual privacy, outlook and pedestrian access. These issues have now been suitably addressed by the amended plans, and the application is now considered capable of approval.

# Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.