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***Minutes***

***Special Council Meeting***

***29 September 2020***

**Attention**

**These Minutes are subject to confirmation.**

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the Ordinary Meeting of Council following this meeting to ensure that there has not been a correction made to any resolution.

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**City of Nedlands**

**Minutes of a Special Meeting of Council held at 6:00 pm on Tuesday 29 September 2020 in the Ellis Room at Bendat Basketball Centre, 201 Underwood Avenue, Floreat for the purpose of considering Florence Road Public Realm Plan and proposed development at 18 Doonan Road Nedlands (5 Single Dwellings) and any available Responsible Authority Reports.**

# Declaration of Opening

The Presiding Member declared the meeting open at 6.06 pm and drew attention to the disclaimer below.

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

**Councillors** Her Worship the Mayor, C M de Lacy (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mrs L M Driscoll Director Corporate & Strategy

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

**Public** There were 30 members of the public present and 11 online.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil.

**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.

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# 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.

## Mr Simon Michael, 15 Stanley Street, Nedlands

Question 1

Has council modelled congestion at the uncontrolled Stanley Street / laneway intersection with the sole Woolworths access from the laneway (ie after deletion of Florence Road access and without the unapplied/undeveloped northern Stanley St access), to assess traffic stacking/speed, turn priority/negotiation and volume constraint outcomes, particularly during a 3hr PM peak period?

Answer 1

No.

Question 2

Given Council proposes to push excessive traffic volumes onto Stanley St, will Stanley St be formally re-designated as a Neighbourhood Connector Road and what is the process?

Answer 2

This is unknown at this stage. It depends on the decision on the Woolworths proposal.

Question 3

Will traffic be given through priority to Stanley St at Edward St (and removing the give way sign, which it surreptitiously switched from a stop sign recently) to facilitate faster and higher traffic flow?

Answer 3

Same as answer 2.

# 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.

Mr Robert Adam, 14 Stanley Street, Nedlands Item 6

(spoke in opposition to the recommendation)

Mr Barry Nunn, 15 Loneragan Street, Nedlands Item 6

(spoke in opposition to the recommendation)

Moved – Councillor Mangano

Seconded – Councillor Bennett

**That Council agree to suspend standing order 3.4 (4) to allow the following speaker.**

**CARRIED UNANIMOUSLY 13/-**

Mr Simon Michael, 15 Stanley Street, Nedlands Item 6

(spoke in opposition to the recommendation)

Mr Quentin Lau, Architect for 18 Doonan Road, Nedlands Item 7.1

(spoke in opposition to the recommendation)

Mr Charlie Ball, 18 Doonan Road, Nedlands Item 7.1

(spoke in opposition to the recommendation)

# Disclosures of Financial / Proximity 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.

There were no disclosures of financial interest.

# Disclosures of Interests Affecting Impartiality

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

## Councillor Youngman – Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways

Councillor Youngman disclosed an impartiality interest in Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways. Councillor Youngma disclosed that he has a sister who lives at the southern end of Stanley Street, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Youngman declared that he would consider this matter on its merits and vote accordingly.

## Mayor de Lacy – Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways

Mayor de Lacy disclosed an impartiality interest in Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways. Mayor de Lacy disclosed that she was a paid member of the MINJDAP when this item was considered, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor de Lacy declared that she would consider this matter on its merits and vote accordingly.

## Councillor Smyth – Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways

Councillor Smyth disclosed an impartiality interest in Item 6 - Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways. Councillor Smyth disclosed that she was a paid member of the MINJDAP when this item was considered and this item may or may not be presented to MINJAP again in the future, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

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

Nil.

# Nedlands Town Centre – Florence Road Public Realm Plaza and Laneways

|  |  |
| --- | --- |
| **Council** | 29 September 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Peter Mickleson – Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. McDowell Affleck – Laneway (Florence Road to Dalkeith Road) Layout Plans 2. Cardno - Technical Memorandum - Florence Road Public Realm Preliminary Design & Florence Road Traffic Review. 3. Place Laboratory – Florence Road Town Centre Plaza – Concept Design Report |

**Councillor Youngman – Impartiality Interest**

Councillor Youngman disclosed that he has a sister who lives at the southern end of Stanley Street, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Youngman declared that he would consider this matter on its merits and vote accordingly.

**Mayor de Lacy – Impartiality Interest**

Mayor de Lacy disclosed that she was a paid member of the MINJDAP when this item was considered, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor de Lacy declared that she would consider this matter on its merits and vote accordingly.

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed that she was a paid member of the MINJDAP when this item was considered and this item may or may not be presented to MINJAP again in the future, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

**Regulation 11(da) - Council determined that it wished additional traffic modelling to be undertaken, to clarify reporting requirements, to lessen the impact on Stanley Street residents, and to state its preference for a straight through laneway rather than a dog leg laneway.**

Moved – Councillor Senathirajah

Seconded – Councillor Smyth

**That the Recommendation to Council be adopted subject:**

**Clause 6 being amended as follows:**

1. **Instructs the CEO to provide a further progress report/s on clauses 1 to 5 above, to Council; and**

**Clause 1 being amended as follows:**

1. **Authorise the CEO to commence negotiations with the owner of Lots 3 & 4 (Number 90) Stirling Highway, adjoining Lot 51 (Number 56) Dalkeith Road, regarding the future ownership/lease/use of the remnant portion of this City owned lot;**

Amendment

Moved - Councillor Mangano

Seconded - Councillor Youngman

**That the Stanley Street and Dalkeith Road laneway be made straight between Stanley Street and Dalkeith Road.**

**The AMENDMENT was PUT and was**

**CARRIED 8/5**

**(Against: Mayor de Lacy Crs. McManus Hodsdon**

**Wetherall & Senathirajah)**

Amendment

Moved - Councillor Youngman

Seconded - Councillor Mangano

**That an additional clause 8 be added as follows:**

1. **Authorise the CEO to commence negotiations with the proponents/landowners of the Captain Stirling/Woolworths and Aldi development for the following additional options:**
2. **New Scenario 11 that uses the same features as Scenario 9 but includes a southbound lane closure on Stanley Street at Laneway 02 (southern border of house number 10). Also, the intersection of Stanley Street and Stirling Highway needs to be LEFT IN and LEFT OUT; and**
3. **New Scenario 12 includes a cul-de-sac in Florence Road and Stanley Street at the south end of the development.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 13/-**

Moved – Councillor Bennett

Seconded – Councillor Coghlan

**That standing order 10.11(2) be suspended to allow a 3rd amendment.**

**CARRIED 11/2**

**(Against: Crs. McManus& Wetherall)**

Amendment

Moved - Councillor Bennett

Seconded - Councillor Mangano

**That a new scenario 13 be added to clause 8 as follows:**

1. **New scenario 13 to include vehicular access and entry to the two sites from Stirling Highway.**

**The AMENDMENT was PUT and was**

**CARRIED 10/3**

**(Against: Mayor de Lacy Crs. McManus & Wetherall)**

**The Substantive was Put and was**

**CARRIED UNANIMOUSLY 13/-**

**Council Resolution**

**Recommendation to Council**

**Council:**

1. **authorises the CEO to commence negotiations with the owner of Lots 3 & 4 (Number 90) Stirling Highway, adjoining Lot 51 (Number 56) Dalkeith Road, regarding the future ownership/lease/use of the remnant portion of this City owned lot;**
2. **adopts ‘in-principle’ the Laneway design (Florence Road to Dalkeith Road) including drainage, carriageway and tie-in works (as prepared by McDowell Affleck);**
3. **adopts ‘in-principle’ the Florence Road Plaza (as prepared by Place Laboratory) and that this concept design be incorporated into the draft Nedlands Town Centre Precinct Plan to enable community consultation when the Precinct Plan is re-advertised;**
4. **authorises that the City’s position with respect to the Laneway Design (Florence Road to Dalkeith Road) and the Florence Road Town Centre Plaza be communicated to the Metro Inner-North Joint Development Assessment Panel, the State Administrative Tribunal and to the proponents/landowners of the Captain Stirling/Woolworths and Aldi developments;**
5. **authorises the CEO to commence negotiations with the proponents/landowners of the Captain Stirling/Woolworths and Aldi development for a Memorandum of Understanding (and possible future Legal Agreement) to cover the implementation, funding and timing of the public works for the Nedlands Town Centre – Florence Road Plaza and associated Laneways including:**
6. **The laneway, drainage and tie-in works from Stanley Street to Florence Road (Captain Stirling/Woolworths);**
7. **The laneway, drainage and tie-in works from Florence Road to Dalkeith Road (Aldi/City of Nedlands);**
8. **Florence Road Plaza urban design and landscape works; and**
9. **instructs the CEO to provide a further progress report/s on clauses 1 to 5 above, to Council; and**
10. **notes that a further report will be presented to Council in October 2020 addressing the development of a contributions framework/plan for public and community infrastructure associated with Local Planning Scheme No 3.**
11. **authorises the CEO to commence negotiations with the proponents/landowners of the Captain Stirling/Woolworths and Aldi development for the following additional options:**
12. **New Scenario 11 that uses the same features as Scenario 9 but includes a southbound lane closure on Stanley Street at Laneway 02 (southern border of house number 10). Also, the intersection of Stanley Street and Stirling Highway needs to be LEFT IN and LEFT OUT;**
13. **New Scenario 12 includes a cul-de-sac in Florence Road and Stanley Street at the south end of the development; and**
14. **New scenario 13 to include vehicular access and entry to the two sites from Stirling Highway.**
15. **Resolves that the Stanley Street and Dalkeith Road laneway to be made straight between Stanley Street and Dalkeith Road.**

Recommendation to Council

Council:

1. authorise the CEO to commence negotiations with the adjoining owner of Lot 51 (Number 56) Dalkeith Road regarding the future ownership/lease/use of the remnant portion of this lot;
2. Adopt ‘in-principle’ the Laneway design (Florence Road to Dalkeith Road) including drainage, carriageway and tie-in works (as prepared by McDowell Affleck);
3. Adopt ‘in-principle’ the Florence Road Plaza (as prepared by Place Laboratory) and that this concept design be incorporated into the draft Nedlands Town Centre Precinct Plan to enable community consultation when the Precinct Plan is re-advertised;
4. Authorise that the City’s position with respect to the Laneway Design (Florence Road to Dalkeith Road) and the Florence Road Town Centre Plaza be communicated to the Metro Inner-North Joint Development Assessment Panel, the State Administrative Tribunal and to the proponents/landowners of the Captain Stirling/Woolworths and Aldi developments;
5. Authorise the CEO to commence negotiations with the proponents/landowners of the Captain Stirling/Woolworths and Aldi development for a Memorandum of Understanding (and possible future Legal Agreement) to cover the implementation, funding and timing of the public works for the Nedlands Town Centre – Florence Road Plaza and associated Laneways including:
6. The laneway, drainage and tie-in works from Stanley Street to Florence Road (Captain Stirling/Woolworths);
7. The laneway, drainage and tie-in works from Florence Road to Dalkeith Road (Aldi/City of Nedlands); and
8. Florence Road Plaza urban design and landscape works.
9. Instructs the CEO to provide a further report/s to Council should negotiations outlined in items 1 and 5 above progress positively; and

Notes that a further report will be presented to Council in October 2020 addressing the development of a contributions framework/plan for public and community infrastructure associated with Local Planning Scheme No 3.

**Executive Summary**

This report provides further information and seeks Council’s direction on several important matters relating to the public realm and traffic access in the Nedlands Town Centre including:

1. Laneway (Florence Road to Dalkeith Road) and recommended options for the City’s land (Lots 50 and 51 (Number 56) Dalkeith Road), including authorising the initiation of negotiations with the adjoining landowner abutting Lot 51.
2. Florence Road Plaza - Urban Design Concept.
3. Authorising the CEO to enter negotiations with key adjoining landowners to develop the enabling Memorandum of Understanding as the basis for a future agreement to support delivery and funding of required future Nedlands Town Centre – Florence Road Plaza and Laneways (Stanley Street to Florence Road and Florence Road to Dalkeith Road).

The proposed works are an integral part of the draft Nedlands Town Centre Precinct Plan and required to facilitate the Town Centre and integrate the proposed Woolworths/Captain Stirling development and the Aldi development.

**Discussion/Overview**

**Background**

On 29 June 2020 the Metro Inner-North JDAP (the JDAP) unanimously deferred consideration of the Woolworths Development Application for 90 days for the following reasons:

1. To provide greater certainty on the traffic, transport, and access issues.
2. To provide further information on heritage issues; and
3. To address the integration of the project in the Nedlands Town Centre.

The JDAP considered that there was insufficient information on three key items to decide on the proposal and deferred the matter to allow time for further information to be provided. The JDAP intended the matter would be re-presented to it no later than 29 September 2020, however the applicant (Urbis) advised on 21 July 2020 that it has now sought a review of the application at the State Administrative Tribunal (SAT) believing this path would provide a more timely decision making process. The matter has been scheduled for mediation in mid-October.

It should be noted that the City of Nedlands is not directly a party to the SAT proceedings. However, it remains necessary for the City to undertake further work to provide advice back to the JDAP and the SAT in respect to the two public realm aspects for the development of this precinct:

* The laneway between Florence Road and Dalkeith Road, and the use of City land, Lot 50 and 51 (Number 56) Dalkeith Road (the sump), recently acquired by the City as part of a land-swap for this purpose from Water Corporation.
* The urban design treatment of Florence Road between the proposed Woolworths development and the proposed Aldi development (consistent with the draft Nedlands Town Centre Precinct Plan), known as the Florence Road Plaza.

As outlined in the 28 July 2020 CEO report, for valid planning conditions to be imposed for these works it is necessary for Council to have plans developed, together with a cost estimate for the works.

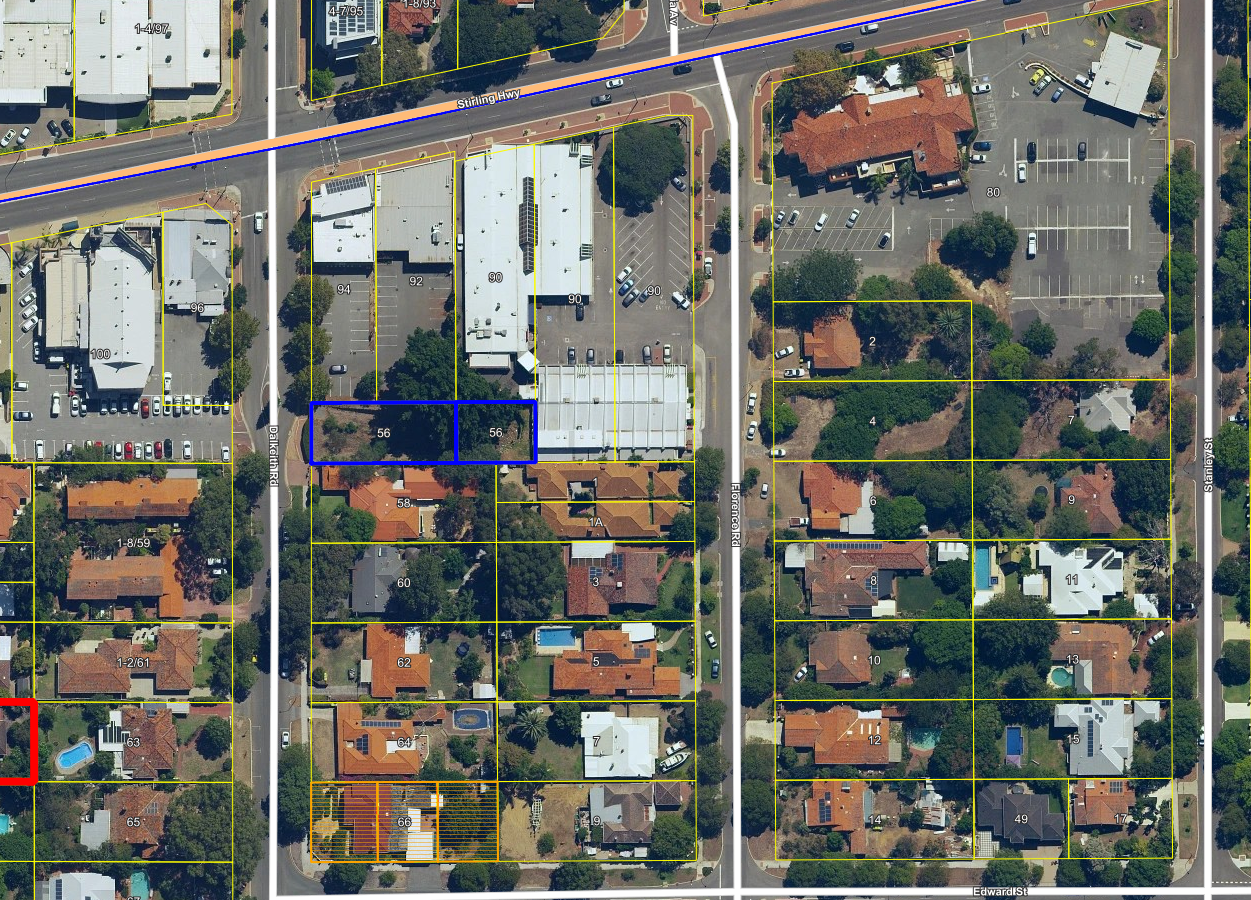
It should also be noted that previously, on 14 November 2018 (under Town Planning Scheme No. 2), the JDAP granted Aldi received development approval for their supermarket proposal located on the west side of Florence Road, at 90 Stirling Highway. This approval included a condition (Condition 5) which requires:

“Prior to occupation of the development, the applicant is to enter into a Deed of Agreement with the City of Nedlands to ensure that, should access be made available to Dalkeith Road in the future, the proposed development is able to facilitate public through access from Dalkeith Road to Florence Road. The Deed of Agreement is to be prepared at the applicant’s cost”.

**Florence Road to Dalkeith Road Laneway and Council Land, Number 56 (Lots 50 and 51) Dalkeith Road**

The Nedlands Town Centre Precinct Plan and Local Planning Policy – Dalkeith Road to Stanley Street Laneway and Built Form Requirements identifies the provision of a laneway to provide access to this part of the town centre. The laneway is intended to provide an alternative vehicle access route to the town centre which will supplement the use of Stirling Highway. It will also provide rear service access to commercial (such as Aldi and Woolworths) and future high-density residential redevelopment of this area, including access to car parking and loading areas associated with these premises.

The laneway between Florence Road and Dalkeith Road is proposed to have a 10-metre-wide reservation, and allow for two-way traffic, shared pedestrian/bicycle path and landscaping edge (including an acoustic wall). The eastern section of this lane will be developed on land currently owned by Aldi, while the western section will be developed on City owned land at Number 56 Dalkeith Road (Lots 50 and 51).



**Figure 2 – Aerial Photo of Number 56 Dalkeith Road required for future laneway connecting Dalkeith Road and Florence Road**

**Options for future of 56 Dalkeith Road (Lots 50 and 51)**

With the establishment of the vehicle access arrangements between Florence Road and Dalkeith Road, Lots 50 and 51 will be encumbered or reduced in size to facilitate the laneway. In terms of future development options, an initial assessment of the site indicates the remnant portions of land appear too small and too narrow to facilitate a viable stand-alone development even considering using ‘air-rights’ to develop above the laneway.

It is suggested that further investigate is needed to determine the optimal opportunities for the remnant land portions of Lots 50 and 51. One possible outcome is acquisition (at a future time) by the adjoining landowners and incorporating the remnant land into an integrated redevelopment of the adjoining sites. This is likely to provide the best urban design and future redevelopment outcome for the City and the Town Centre.

* **Lot 50** – land area: 561.5 m2. LPS3 zoning R-AC1.

Laneway area: 10.0m x 36.737m = 367.37m2

Remnant portion: 5.284m x 36.737m = 194.12m2

Lot 50 abuts Numbers 92 and 94 Stirling Highway (to the north) and fronts Dalkeith Road. It is understood there is no immediate plans for redevelopment of the adjoining sites. The remnant portion of Lot 50 is 194.12m2 and it is recommended this site be created as a separate land parcel and held by the City. This will enable future redevelopment/use and ownership options to be further explored.

* **Lot 51** (abutting Aldi) – land area: 308.6m2. LPS3 zoning R-AC1.

Laneway area: 10.0m x 20.12m = 201.2m2

Remnant portion: 5.284m x 20.12m = 107.4m2

Lot 51 abuts the Aldi site at 90 Stirling Highway and is effectively land-locked (i.e.. it does not have separate direct street frontage). To facilitate the development of the laneway and the future operation of the Aldi development, including the delivery area and car park which will be accessed via the laneway, the remnant portion of Lot 51 (107.4m2) will be required to enable access for the Aldi loading area (in place of the currently approved turn-table). It is recommended the City obtain valuations for this land and commence discussions with the adjoining owner regarding the remnant portion of Lot 51 (approximately 107.4m2) regarding its future use. Options include lease or sale of this site. A future sale would need to meet sale of land requirements under the Local Government Act 1995 and the future use of this site would be subject of a separate future report to Council.

**Florence Road to Dalkeith Road Laneway - Design Concept, Costings and Contributions**

The City commissioned McDowell Affleck (engineers) to prepare concept designs and costings for development of the laneway on Lot 50 and 51 (Number 56) Dalkeith Road. Part of these works includes redesigning and relocating the existing open drainage sump into underground storage located in the Dalkeith Road road reserve to enable the laneway to be developed. The concept design drawings are provided in Attachment 1. The required works include:

* Construction/installation of underground stormwater storage located in the Dalkeith Road road reserve.
* Construction of the laneway carriageway (including pedestrian pathway, lighting, drainage and landscaping) on the City’s land (Lots 50 and 51) – 56 Dalkeith Road (note this laneway will continue through to Florence Road through the rear of the Aldi site); and
* Modification and tie in works to Dalkeith Road including removal of the current traffic island and carriageway tie in with the new laneway;
* Modification and tie in works to the boundary of the Aldi site including drainage and carriage way tie ins.

The opinion of probable cost of these works is $2.944 million.

The laneway between Florence Road and Dalkeith Road is required to service the Woolworths and Aldi developments (customer carparking, truck deliveries and waste management), as well as providing local access to this part of the Nedlands Town Centre. It is proposed to seek contributions from Woolworths and Aldi for the construction cost of the drainage and laneway construction. The exact amounts of these contributions are still to be negotiated. It is proposed that a Memorandum of Understanding be negotiated between the parties (Woolworths, Aldi and the City) in this regard. This is discussed further later in this report.

Given there is also a community benefit to the construction the laneway (including construction/installation of underground stormwater storage) the City would be required to make a funding contribution. The City’s funding contribution could be recouped as the Nedlands Town Centre develops through a Development Contributions Plan. The formulation of a Development Contributions Plan under the City’s New Local Planning Scheme No.3 will be the subject of a future report to Council in October. A Development Contributions Plan is facilitated via a Complex Scheme Amendment process.

**Florence Road Town Centre Plaza - Urban Design and Costings**

The City commissioned Place Laboratory (urban and landscape designers) to prepare a detailed concept for the urban design enhancements to Florence Road (between the Captain Stirling/Woolworths development and the Aldi development). This detailed concept is known as the Florence Road Plaza.

Importantly, the design concept has been heavily informed by detailed local traffic review and modelling undertaken for the City by engineers, Cardno (detailed a Technical Note - Attachment 2). The modelling concluded the preferred option to create a shared Florence Road Town Centre Plaza was a one-way (southbound) option, consistent with the initial concept plan that formed part of the draft Nedlands Town Centre Precinct Plan.

The Florence Road Plaza Concept report prepared by Place Laboratory is provided in Attachment 3. The plan allows for a Florence Road Plaza with a significantly improved pedestrian/community environment and one-way southbound traffic on this section of Florence Road. From the Florence Road residential area located to the south of the commercial precinct, a one-way northbound lane is proposed. The northbound lane terminates at the southern edge of the commercial precinct eliminating direct through traffic to the residential streets but allowing residents to exit the precinct and access the town centre. While further design development will be necessary, the design concept is consistent with the draft Nedlands Town Centre Precinct Plan and provides a sound basis for the cost estimate and for wider community engagement.

Key features of the Florence Road Plaza plan include:

* A street with a focus on creating a vibrant place for people with a plaza space (with flush surfaces) and community multiple gathering nodes suitable for many types of organised (markets and food stalls), play spaces, seating, bike parking and places for casual community activities and meeting points;
* Extensive landscaping reinforcing the leafy character of Nedlands and providing shade to the public spaces;
* A safe crossing point between Captain Stirling/Woolworths and Aldi developments with a low-speed one-way vehicle environment;
* Integration with the Captain Stirling/Woolworths development including integrating stairs and street furniture treatments;
* Integration with the Aldi development – including the gathering nodes proposed opposite the Aldi commercial development fronting Florence Road, and the existing significant tree on the Aldi site (cnr. Florence Road and Stirling Highway); and
* Opportunities for a future Florence Road street kiosk and space for temporary activation (e.g. festive food vans, markets and events);
* Bays for commercial servicing and short-term car parking have also been provided, but not to dominate the street as car parking is provided on the development sites.

The opinion of probable cost for the Florence Road Plaza component of the project is $3.96 million (excluding GST) but which includes a contingency amount of $888,514.

It is proposed that Woolworths and Aldi would undertake, or fund, streetscape interface works associated within the pedestrian footpath zone of the road reserve, while the City would be responsible for the road carriageway and drainage/service modifications.

**Memorandum of Understanding and future Agreement to facilitate implementation of the Nedlands Town Centre – Florence Road Precinct Works**

The implementation of this section of the Nedlands Town Centre, the Florence Road Town Centre Plaza (and the associated laneways) includes the following key elements:

1. Laneway, drainage and tie-in works - Stanley Street to Florence Road: associated with the Woolworths/Captain Stirling development.
2. Laneway, drainage and tie-in works - Florence Road to Dalkeith Road: associated with the Aldi development and required to service the Woolworths development. This also includes extensive drainage storage works under Dalkeith Road to relocate the current drainage sump and accommodate stormwater from the catchment at this low-point.
3. Florence Road Plaza – Urban design improvements to create a shared pedestrian/vehicle space and vibrant community plaza located in Florence Road between the Woolworths/Captain Stirling and the Aldi developments.

Because the public realm contains various elements and landowners, a coordinated approach is required to ensure certainty of delivery and funding for all parties (Woolworths, Aldi and the City). It is recommended the CEO be authorised to negotiate a draft Memorandum of Understanding (MOU) with the adjoining landowner parties/development proponents (Woolworths/Property Owner and Aldi) to cover the above scope of public works. This MOU would address timing and delivery responsibilities, and importantly the responsibility for funding contributions. This will ensure that the laneways and Florence Road Town Centre Plaza are developed in a coordinated way and that timing of delivery is aligned with the private developments of Woolworths and Aldi to enable their operation, while minimising construction impacts on the Nedlands community.

If negotiations progress successfully, the draft MOU would be presented to Council for approval. It is anticipated this would then lead to the drafting of a multi-party legal agreement, which would also be presented to Council for approval. It is proposed the City will lead the development of the draft MOU (utilising the City’s Lawyers, McLeod’s) as the City will play a lead role in the ultimate delivery of this enabling public infrastructure which is required to facilitate the Captain Stirling/Woolworths and Aldi developments as part of the broader Nedlands Town Centre precinct. It is anticipated the cost developing the MOU and the future legal agreement would be shared by the parties.

**Key Relevant Previous Council Decisions:**

At the 28 July 2020 Council meeting, Council last considered the Nedlands Town Centre – Florence Road Precinct and resolved to:

1. authorise the CEO to investigate and prepare costed concepts for:
   1. development of the laneway connection between Dalkeith Road and Florence Road, Nedlands;
   2. future use and development of the Lots 50 and 51 (Number 56) Dalkeith Road and resolution of the drainage function;
   3. traffic, engineering and urban design works associated with the proposed Florence Road ‘main street’; and
2. requests the concepts and costings for Dalkeith - Florence Road laneway, future use of lots 50 and 51 Dalkeith Road, drainage, and Florence Road ‘main street’ be presented to Council in September.
3. allocates funds of $70,000 to enable concepts and costings to be prepared, with the budget adjustment to be made in the 2020-21 mid-year budget review; and
4. instructs the CEO to provide a further report to Council on the development of a contribution framework/plan for public and community infrastructure associated with Local Planning Scheme No 3 by October 2020.

This report responds to items 1, 2 and 3 above. A future report will address item 4 relating to the development contribution framework associated with Local Planning Scheme No.3.

**Consultation**

Initial consultations have occurred with Woolworths and Aldi in respect to the development of concept plans for the laneways, Florence Road Town Centre Plaza urban design and a possible Memorandum of Understanding.

While both Woolworths and Aldi indicated a desire to maintain two-way traffic in Florence Road, this is inconsistent with the Draft Nedlands Town Centre Precinct Plan and the key objective of creating a community plaza focused on activity and people. Traffic analysis undertaken for the City by engineers, Cardno indicates this precinct, including Florence Road and the proposed laneways will function effectively with one-way vehicle traffic (southbound) in this section of Florence Road (as detailed in Attachment 2).

Detailed informal consultation with the adjoining proponents (Woolworths and Aldi) is yet to occur, however the City officers have provided a copy of the Florence Road Plaza plan prior to the 29 September 2020 Special meeting of Council. The City’s officers will engage further with these parties in line with the Council’s decision on this matter.

The plans provide the basis for further negotiations with the adjoining landowners/proponents. Further community consultation will however be required to progress the detailed urban design of the Florence Road Plaza and it is proposed that this occur as part of the re-advertising of the draft Nedlands Town Centre Precinct Plan. It is proposed this consultation be undertaken after the Captain Stirling/Woolworths development application has been determined.

**Strategic Implications**

The development of the laneway connection (Florence Road to Dalkeith Road) and the Florence Road Plaza urban design are consistent with the Draft Nedlands Town Centre Precinct Plan and their development needs to be timed to align with the development of the Aldi and Woolworths/Captain Stirling proposals.

This report provides the basis for the City to respond to the issues of concern provided by the JDAP and the basis for contributions to be negotiated from adjoining developments towards essential public infrastructure associated with these proposals (Woolworths and Aldi). Should Council not proceed with these actions at this time, the development of this part of the Nedlands Town Centre is likely to be impeded and the City may need to undertake and fund these works without significant contributions that may be possible as part of a development approval.

**Budget/Financial Implications**

The estimated cost of the public works (as detailed earlier in the report) is summarized below:

* Laneway & Drainage Works (on City Land 56 Dalkeith Road and in the Dalkeith Road road reserve) - $2.944 million
* Florence Road Urban Plaza Works - $3.96 million (excluding GST) but which includes a contingency amount of $888,514.

A further report dealing with the proposed MOU will also address the funding contributions from the development proponents (Aldi and Woolworths) and the financial contribution required from the City. This will enable the City to fully assess the likely financial implications and future budget implications.

It should be noted that the City has not budgeted for these works. It is anticipated the works will need to occur during the next two financial years (2021/22 and 2022/23) and be timed to align with the construction of the Aldi and Woolworths developments. This is subject to confirmation from Aldi and Woolworths on their development timing. It is proposed that the City’s funding contributions would need to be from normal annual capital budget expenditure allocations.

It is also anticipated that a report will be presented to Council in October 2020 addressing the matter of Development Contributions under Local Planning Scheme 3. A development contribution plan once in place will also provide opportunity for the city to obtain contributions towards funding for public/community infrastructure, such as the infrastructure required to enable the Nedlands Town Centre.

Moved – Councillor Coghlan

Seconded – Councillor Wetherall

**That item 7.1 be considered in open Council.**

**CARRIED UNANIMOUSLY 13/-**

# Confidential Items

# 7.1 18 Doonan Road, Nedlands – X 5 Single Houses SAT Section 31

|  |  |
| --- | --- |
| **Council** | 29 September 2020 |
| **Applicant** | Summit Developments |
| **Landowner** | Elberton Property 13 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** | SAT Matter DR148/2020 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the State Administrative Tribunal Order made pursuant to s31(1) of the State Administrative Tribunal Act dated 9 September 2020, Council is invited to reconsider its decision (Deemed Refusal) relating to 18 Doonan Road, Nedlands |
| **Confidential Attachments** | 1. Applicant’s justification report dated May 2020 2. Summary of submissions 3. Original application plans including landscape plan dated 20 May 2020 4. Amended plans received 24 August 2020 5. Amended plans submitted 23 September 2020 6. Copy of Submissions 7. WAPC approved subdivision plan 8. Assessment |

Moved – Councillor McManus

Seconded – Councillor Wetherall

That the Recommendation to Council be adopted.

(Printed below for ease of reference)

Lost 2/11

(Against: Crs. Horley McManus Smyth Bennett Mangano Youngman Hodsdon Poliwka Wetherall Coghlan & Senathirajah)

**Regulation 11(da) – Council determined that the inconsistencies of this development with the Local Planning Framework were not sufficient to refuse the application and therefore approved it.**

Moved - Councillor Hodsdon

Seconded – Councillor Youngman

**Council Resolution**

**That Council approves the development application dated 20 May 2020, as amended 23 September 2020, for the development of five (5) x Single houses at 18 Doonan Road, Nedlands, subject to the following approval conditions and advice notes:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval pertains to the construction of 5 single houses only.**
3. **Prior to the lodgement of an application for a Building Permit, the lots subject to the subdivision approval dated 17 February 2020, are to be created as green title lots, with Titles being issued.**
4. **Prior to the lodgement of an application for a Building Permit, a revised site plan incorporating the following modifications shall be submitted to the satisfaction of the City of Nedlands:**
   * 1. **The current Safe Active Streets road upgrades to Doonan Road and Jenkins Avenue,**
     2. **Driveways must have a minimum 0.5m offset from each lot boundary;**
     3. **Crossovers may only have a maximum 1:4 angle changes within the property; and**
     4. **Crossover splays to have 0.5m width to minimize the conflict area with on-street parking vehicles.**
5. **All boundary walls shown on the approved plans are to be constructed simultaneously.**
6. **Prior to the lodgement of an application for a Building Permit, an amended landscaping plan, prepared by a suitable landscape designer, shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
7. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
8. **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:**
9. **Face brick,**
10. **Painted render,**
11. **Painted brickwork; or**
12. **Other clean material as specified on the approved plans**
13. **and maintained thereafter to the satisfaction of the City of Nedlands.**
14. **This approval is limited to the construction of 5 single houses only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.**
15. **Any fences within the primary street setback area shall not exceed 1.8m in height from natural ground level and are to be visually permeable in accordance with the Residential Design Codes (v1, 2019) above 1.2m in height from natural ground level (refer to advice note s).**
16. **Any secondary street fence is not to exceed 1.8m in height from natural ground level.**
17. **Prior to occupation, each dwelling is to have an adequate area set aside for clothes drying screened so as to not be highly visible from any adjacent public place in accordance with the requirements of the Residential Design Codes to the satisfaction of the City of Nedlands.**
18. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite (refer advice note ‘t’).**
19. **The location of any bin stores shall be behind the street alignment so as not to be visible from a street or public place and constructed in accordance with the City’s Health Local Law 1997 (refer advice note ‘u’).**
20. **A deep soil zone, is to be established and maintained around each existing tree shown for retention, outlined in red on the approved plans for the duration of the development to the satisfaction of the City of Nedlands. The following restrictions and conditions apply to the tree protection zone:**
21. **Install protective fencing to prevent any damage to the trees in general accordance with Section 4.3 of AS4970-2009.**
22. **Provide signage identifying the 'Tree Protection Zone' on exclusion fencing;**
23. **No materials are to be stored within the TPZ;**
24. **No vehicles or machines are to be driven or parking within the TPZ;**
25. **Ensure trees are protected from harm during works on site; and**
26. **No tree roots within the TPZ are to be cut or damaged.**
27. **If works are required within the tree protection zone, a tree protection plan shall be prepared by the applicant's arborist to the City's specifications and approved by the City of Nedlands prior to works commencing. A tree protection plan shall also be prepared if tree roots outside of the TPZ are proposed to be cut.**

**Advice Notes:**

1. **This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.**
2. **This planning decision is confined to the authority of the Planning and Development Act 2005, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**
3. **This decision constitutes planning approval only and is valid for a period of four 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.**
4. **This planning approval has been issued on the basis of the plans hereby approved. It is the responsibility of the applicant to ensure that the approved plans are accurate and are a true representation of all existing and proposed development on the site, and to ensure that development proceeds in accordance with these plans.**
5. **There may be matters which impact on proceeding with the approved development which are not shown on the approved plans (e.g. verge infrastructure, retaining walls). Such matters may need to be separately addressed before the approved development can proceed. It is the responsibility of the applicant to ensure that these matters are addressed prior to the commencement of the development hereby approved.**
6. **The applicant is advised that all development must comply with this planning approval and approved plans at all times. Any development, whether it be a structure or building, that is not in accordance with the planning approval, including any condition of approval, may be subject to further planning approval by the City.**
7. **Where building works are proposed a building permit shall be applied for prior to works commencing.**
8. **The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit. Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.**
9. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above approved ground levels.**
10. **The dwellings shall not be used as a display home without obtaining further development approval.**
11. **The proposed buildings shall not be used as an ancillary dwelling or short-term accommodation without obtaining further development approval.**
12. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**

1. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved by the City of Nedlands.**
2. **The contractor/developer shall protect the City’s street trees from any damage that may be caused by the scope of works covered by this contract for the duration of the contract. All work carried out under this contract is to comply with the City’s policies, guidelines and Australian Standards relating to the protection of trees on or adjacent to development sites (AS 4870-2009).**
3. **The existing crossover is to be removed and the nature-strip / verge reinstated with grass or landscaping.**
4. **A new crossover or modification to an existing crossover will require a separate approval from the City of Nedlands prior to construction commencing.**
5. **All works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, also require a separate approval from the City of Nedlands prior to construction commencing.**
6. **In relation to (condition 6) the landscaping plan is to include but is not limited to information relating to species selection, reticulation, details of existing vegetation to be retained, treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc) and soil depth.**
7. **Visually permeable is a term used in reference to a wall, gate, door, screen or fence that the vertical surface when viewed directly from the street or other public space has:**
   1. **continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;**
   2. **continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or**
   3. **a surface offering equal or lesser obstruction to view.**
8. **In relation to condition 13, the applicant is advised that all downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**
9. **All units are to be provided with a bin store which meets the following requirements:**
   1. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
   2. **Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate;**
   3. **Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;**
   4. **Easily accessible to allow for the removal of the receptacles; and**
   5. **Provided with a tap connected to an adequate supply of water.**

**CARRIED 10/3**

**(Against: Mayor de Lacy Crs. Horley & Bennett)**

Recommendation to Council

That Council:

1. refuses to approve the development application dated 20 May 2020, as amended 23 September 2020, for the development of five (5) x Single houses at 18 Doonan Road, Nedlands due to non-compliances with the following elements of the R-Codes as they relate to Lot 1 and Lot 2:
2. Clause 5.1.4 Open space, Design principle P4;
3. Clause 5.3.1 Outdoor living areas, Design Principle P1.1; and
4. Clause 5.4.2 Solar access for adjoining sites, Design Principles P2.1 and P2.2.
5. advises in principle support for a further modified development application for the development of five (5) x Single houses at 18 Doonan Road, Nedlands, which addresses the non-compliances identified, and so as to provide adequate solar access to the development. The modifications may include:
6. An east facing window to the ground level living area on Lot 2;
7. Permeable east and west walls on south facing level 1 balconies (Lots 3 to 5); and
8. Improved effective solar access and protection for Lot 2.
9. gives the CEO delegated authority to approve a modified development application which is generally in accordance with Recommendation 2, subject to the following approval conditions and advice notes, or alternative or additional conditions the CEO deems appropriate:
10. 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.
11. This development approval pertains to the construction of 5 single houses only.
12. Prior to the lodgement of an application for a Building Permit, the lots subject to the subdivision approval dated 17 February 2020, are to be created as green title lots, with Titles being issued.
13. Prior to the lodgement of an application for a Building Permit, a revised site plan incorporating the following modifications shall be submitted to the satisfaction of the City of Nedlands:
    * 1. The current Safe Active Streets road upgrades to Doonan Road and Jenkins Avenue,
      2. Driveways must have a minimum 0.5m offset from each lot boundary;
      3. Crossovers may only have a maximum 1:4 angle changes within the property; and
      4. Crossover splays to have 0.5m width to minimize the conflict area with on-street parking vehicles.
14. All boundary walls shown on the approved plans are to be constructed simultaneously.
15. Prior to the lodgement of an application for a Building Permit, an amended landscaping plan, prepared by a suitable landscape designer, shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.
16. All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.
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18. Face brick,
19. Painted render,
20. Painted brickwork; or
21. Other clean material as specified on the approved plans
22. and maintained thereafter to the satisfaction of the City of Nedlands.
23. This approval is limited to the construction of 5 single houses only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.
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27. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite (refer advice note ‘t’)
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34. Ensure trees are protected from harm during works on site; and
35. No tree roots within the TPZ are to be cut or damaged.
36. If works are required within the tree protection zone, a tree protection plan shall be prepared by the applicant's arborist to the City's specifications and approved by the City of Nedlands prior to works commencing. A tree protection plan shall also be prepared if tree roots outside of the TPZ are proposed to be cut.

Advice Notes:

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8. The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit. Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.
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11. The proposed buildings shall not be used as an ancillary dwelling or short-term accommodation without obtaining further development approval.
12. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
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    1. continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;
    2. continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or
    3. a surface offering equal or lesser obstruction to view.
20. In relation to condition 13, the applicant is advised that all downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.
21. All units are to be provided with a bin store which meets the following requirements:
    1. Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;
    2. Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate;
    3. Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;
    4. Easily accessible to allow for the removal of the receptacles; and
    5. Provided with a tap connected to an adequate supply of water.
22. **Executive Summary**

The purpose of this report is for Council to reconsider the proposed development application for five (5) Single houses at 18 Doonan Road, Nedlands.

The land was approved for a five lot, green title subdivision by the Western Australian Planning Commission (WAPC) on 17 February 2020. A reconsideration request to remove original condition 4 relating to vehicle crossovers was subsequently approved by the WAPC on 14 May 2020.

Administration did not initially accept this application in April and May 2020 because:

* the information submitted for the application was considered incomplete;
* the parent lot had not been formally subdivided to accommodate the five (5) x Single house development as proposed; i.e. titles had not yet been created; and
* the application was contrary to the City’s adopted Local Planning Policy- Doonan Road Laneway and Built Form Requirements.

Administration’s position was interpreted as a ‘Deemed Refusal’ of the application. On 9 July 2020, the Applicant applied to the State Administrative Tribunal (the SAT) for a review of the City’s decision on the original application dated 20 May 2020 (**Attachment 3**).

The matter was listed for consideration at a Directions Hearing on 31 July 2020, during which the Tribunal ordered that the Applicant confirm the landowner’s consent to the development application and the predevelopment site levels. The matter was then programmed through to a final hearing on 27 October 2020.

Amended development plans were received by the City on 24 August 2020 (**Attachment 4**) and advertising commenced for a period of 14 days on 27 August 2020. Three (3) submissions were received relating to overdevelopment, deficiency in open space and green areas, and consequent heat island effect, excessive crossovers and increased risk to pedestrians and cyclists.

A preliminary assessment by the City’s officers was carried out on 27 August 2020 for the purpose of advertising. In the event the development application is accepted as pertaining to five (5) Single houses and is conditioned to ensure that the titles are created for the five lots prior to the issue of a building permit, the following deficiencies were identified:

1. Inconsistency with the Council adopted Local Planning Policy – Doonan Road Laneway and Built Form Requirements,
2. Inconsistency with clause 32.3 of LPS 3 ‘Ceding of rights-of-way and laneway widening,
3. Inconsistency with the Safe Active Streets Program,
4. Inconsistency with the deemed-to-comply requirements and non-compliance with the Design Principles of R-Codes Vol. 1 in relation to the following design elements:
   1. Clause 5.1 Context objectives
   2. Clause 5.1.3 Lot boundary setback deemed-to-comply requirements C3.1(i) for buildings setback from lot boundaries and C3.2 for building on boundary and Design Principles P3.1 and P3.2
   3. Clause 5.1.4 Open space deemed-to-comply requirement C4 and Design Principle P4
   4. Clause 5.3.1 Outdoor living areas deemed-to-comply requirement C1.1 and Design Principle P1.1
   5. Clause 5.4.2 Solar access for adjoining sites deemed-to-comply requirement C2.1 and Design Principle P2.1 and P2.2
5. Inconsistency with SPP7.0 Design of the Built Environment with respect to Element 4 – Functionality and build quality and Element 6 – Amenity.

On 9 September 2020 and following discussions between the parties, the SAT ordered that pursuant to section 31(1) of the State Administrative Tribunal Act 2004 (WA), the respondent be invited to reconsider its decision at its meeting on 29 September 2020.

At the Ordinary Council Meeting on 22 September 2020, Council resolved to revoke the City’s LPP - Doonan Road Laneway and Built Form Requirements.

On 23 September 2020, the Applicant submitted amended plans addressing the identified inconsistencies with the R-Codes Vol.1 (**Attachment 5**).

Notwithstanding the WAPC’s approval of the five (5) lot subdivision in February 2020 and the revocation of proposed and the revoked LPP – Doonan Road Laneway and Built Form Requirements and the design modifications proposed in the amended plans, Administration recommends that Council:

1. Refuses to approve the development application dated 20 May 2020, as amended 23 September 2020, for the development of five (5) x Single houses at 18 Doonan Road, Nedlands due to non-compliances with the following elements of the R-Codes as they relate to Lot 1 and Lot 2:
   1. Clause 5.1.4 Open space, Design principle P4;
   2. Clause 5.3.1 Outdoor living areas, Design Principle P1.1
   3. Clause 5.4.2 Solar access for adjoining sites, Design Principles P2.1 and P2.2

1. Advises in principle support for a further modified development application for the development of five (5) x Single houses at 18 Doonan Road, Nedlands, which addresses the non-compliances identified, and so as to provide adequate solar access to the development. The modifications may include:
   1. An east facing window to the ground level living area on Lot 2;
   2. Permeable east and west walls on south facing level 1 balconies (Lots 3 to 5); and
   3. Improved effective solar access and protection for Lot 2.
2. Gives the CEO delegated authority to approve a modified development application which is generally in accordance with Recommendation 2, subject to approval conditions and advice notes, or alternative or additional conditions the CEO deems appropriate.
3. **Background**

**3.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 994sqm |
| **Land Use** | Five (5) x Single houses |
| **Use Class** | P |

**3.2 Subject site**

The land the subject of the application, ‘the site,’ comprises Lot 13, No. 18 Doonan Road, Nedlands. It has an area of 994sqm and a regular rectangular configuration. The land benefits from dual road frontages, to Jenkins Avenue to the south and Doonan Road to the west. The land was formerly occupied by a Single house but is now vacant having been recently cleared of all structures and vegetation. The land has an existing crossover to Jenkins Avenue. The predevelopment site levels have been modified through demolition and the site falls gently to the south-west corner.

**3.2 Subdivision**

The land was approved for a five lot, green title subdivision by the Western Australian Planning Commission (WAPC) on 17 February 2020. The subdivision plan is still awaiting the clearance of conditions imposed by the WAPC and therefore Certificates of Title have not yet been issued for the approved lots. The approved Subdivision Plan is included as **Attachment 7** to this report.

The City’s Administration supported the initial subdivision when it was referred in 2019. A reconsideration request to remove original condition 4 relating to vehicle crossovers was subsequently approved by WAPC on 14 May 2020. Administration did not support the reconsideration request due to conflict between the proposed crossovers and the construction/objectives of the Safe Active Streets Program along Jenkins Avenue.

The WAPC approved plan of subdivision allows for the creation of five green title lots ranging in size from 192sqm to 201sqm. Two of the lots (Lot 1 and Lot 2) have an east-west orientation and front Doonan Road. The remaining lots, Lot 3 to 5, are north-south oriented lots with a street frontage to Jenkins Avenue.

Although the proposal is for five (5) Single houses and the individual lots have not yet been titled, it is possible that if supported, the application be conditioned to ensure that a building permit is not issued until titles have been issued.

**3.3 Site surrounds**

The land interfaces with single houses to the north (16 Doonan Road), north-east (19 Vincent Street), to the west and north west (17 and 15 Doonan Road respectively) and south (19 and 22 Doonan Street and 23 Vincent Street).

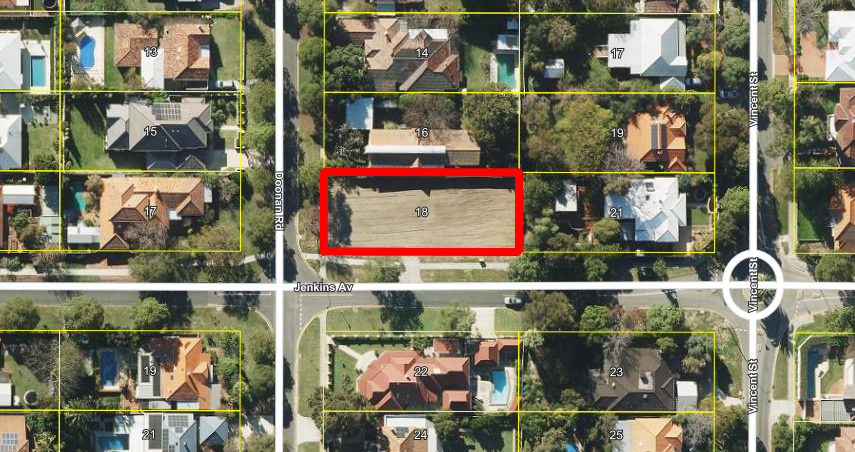


Figure 1 – Aerial Plan

The land immediately surrounding the site comprises a traditional residential neighbourhood, characterised by detached, single and two storey Single houses, sited between generous vegetated front and rear gardens. Vehicle access for corner lots fronting Jenkins Avenue comprises either one crossover to Jenkins Avenue or one to the secondary street (Doonan Road, Vincent Street or Martha Road). The Jenkins Avenue verge incorporates a footpath on the northern side and is well vegetated with limited hard landscaping (paved crossovers). This contributes significantly to Nedlands existing ‘leafy green’ streetscape character.

Future character is informed by the site’s density code and proximity to Stirling Highway. The site is located approximately 200m to the south of Stirling Highway. It, together with the properties located between 8 and 16 Doonan Road and 15 and 21 Vincent Street, sit within the Second Transition Area under the City of Nedlands Local Planning Strategy having been up coded from Residential R10 to Residential R60 when LPS 3 was gazetted in April 2019. The land further north, and up to Stirling Highway, is zoned Residential R160 and Mixed Use Zone RAC-1 respectively. The interfacing land to the immediate south and south-east of the site on Jenkins Avenue is zoned Residential R10. The land to the south-west is zoned Residential R12.5 under LPS 3. The application site, therefore, provides a transition, stepping down from the mixed use and high density residential land to the north and the low density traditional residential neighbourhood to the south.

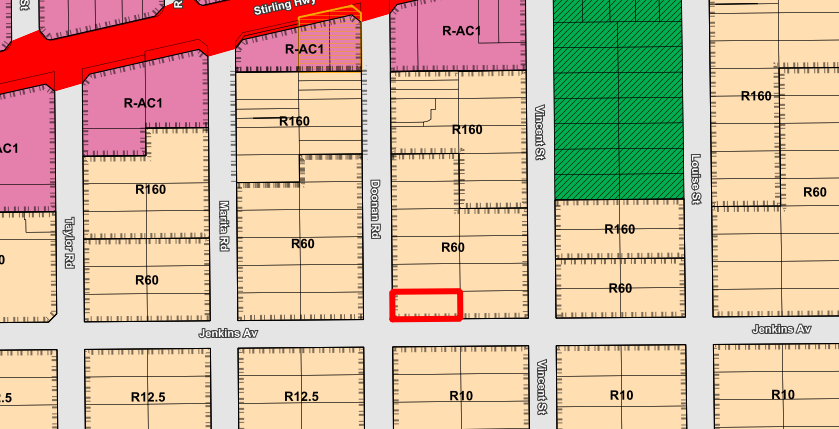


Figure 2 – Zoning Map (Excerpt)

Indicative evidence of the emerging future character of the surrounding area is provided in Figure 3 below which identifies recent WAPC subdivisions approvals (green) and current applications under assessment (blue). The application site is shown in red.

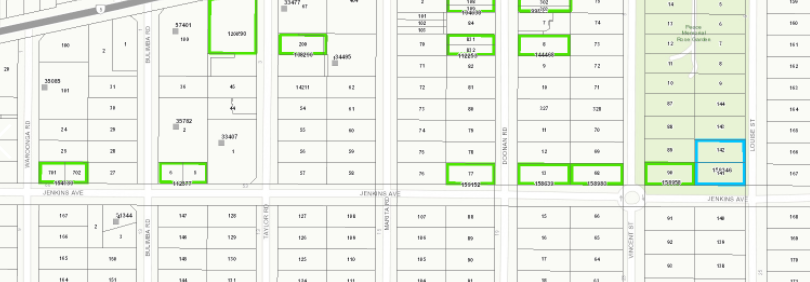


Figure 3 – WAPC subdivisions recent approved (green) or under assessment (blue) (August 2020)

Jenkins Avenue, together with Elizabeth Street, also forms the identified ‘Safe Active Streets’ route within the City of Nedlands. The programme is a joint initiative between the Department of Transport and the City which commenced in 2018 and is designed to allow pedestrians, motorists and bike riders to travel safer and easier. Jenkins Avenue comprises Stage 2 of the programme which modifies the existing road to encourage slow traffic speeds via:

* Introducing a 30km/h speed zone
* Raising platforms at intersections
* Narrowing lane widths by introducing embayed parking and plantings
* Changing stop/give-way signs to give priority to movements along the safe active street
* Using traffic islands and medians to restrict car movements at intersections, while allowing movements in all directions for people on foot and on bikes
* Introducing new pedestrian or bike crossings.

Plans for the section of Jenkins Avenue in the vicinity of the application site show a parking embayment and a speed hump located along the site’s southern road frontage. The embayment is in the location of proposed crossovers to Jenkins Avenue.

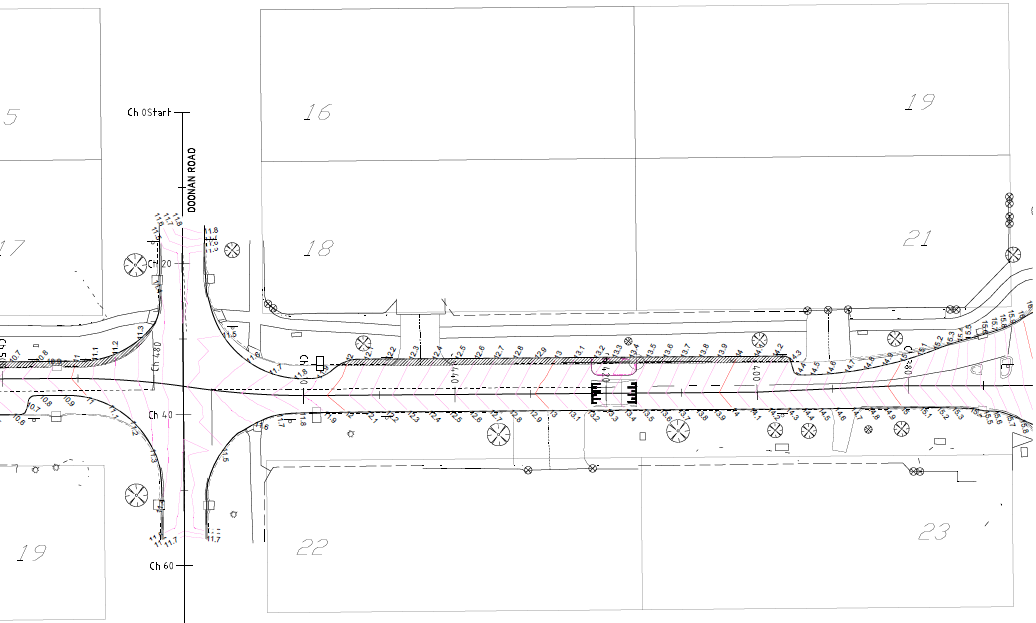


Figure 3 – Safe Active Streets current design for No. 18 Doonan Road

1. **Application Details**

The Applicant seeks development approval for the construction of five (5) two storey, Single houses. Each dwelling comprises:

* An open plan living, dining and kitchen at ground level and three bedrooms, a sitting area and study nook above.
* A store with future lift provision is provided for each dwelling.
* Vehicle parking is provided in the form of a double car garage.
* An alfresco area is accessible from the ground floor living area and is covered by the cantilevered upper floor.
* Each main bedroom is also provided with a balcony that overlooks the street.
* Five (5) new crossovers are proposed; one (1) to Doonan Road (Lot 1) and four (4) to Jenkins Avenue. The existing crossover is to be removed.
* The existing verge street trees will be retained on Doonan Road and Jenkins Avenue and two new street trees are proposed on Jenkins Avenue.
* The dwellings feature a contemporary design including a variety of roof forms included pitched rooves and are to be primarily constructed of brick, render and Colorbond.
* The rear and side boundary setbacks are intended to be landscaped with a mix of small shrubs in planters. Limited landscaping opportunity is provided in the primary street setback.

The applicant originally attempted to submit a justification report in May 2020 in support of the application. This is provided as **Attachment 1** to this report. A copy of the plans dated 20 May 2020 is provided as **Attachment 3**.

On 23 September 2020, amended plans (**Attachment 5**) were submitted to the City which featured the following modifications:

|  |  |
| --- | --- |
| Lot 2 | * Increased dining room window on south elevation (2.91m wide x 2.4m high). * Increased living room window on west elevation (2.4m wide x 2.4m high). * Glazed front door. * Increased (by 0.4m) north boundary setback (laundry and powder room) |
| Lots 3 to 5 | * An additional window (approx. 0.6m wide x 2.1m high) to the northern wall on the eastern end in each dining room. * Glazed front door. |
| Lot 4 | * Reversed townhouse design to co-locate boundary walls and the proposed crossover on adjoining lots. * Glazed front door. |

1. **Consultation**

Upon receipt of the amended application plans on 24 August 2020 (**Attachment 4**), the application was were assessed against State Planning Policy 7.3 – Residential Design Codes (Volume 1) (the ‘R-Codes’). The application seeks assessment under various Design Principles of the R-Codes, the following of which triggered advertising under the City’s Local Planning Policy - Consultation:

* Clause 5.1.3 – Lot boundary setbacks
* Clause 5.1.4 – Open space

The amended application was also considered against the City’s Local Planning Policy – Doonan Road Laneway and Built Form Requirements. It was deemed to be inconsistent with the policy given the absence of a rear laneway which would provide vehicle access from Doonan Road and avoid crossovers to Jenkins Avenue. It is noted that this policy was revoked by Council on 22 September 2020.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals by way of letter and online notice for a period of 14 days. The application was advertised to eight (8) owners and occupiers adjoining or adjacent to the site.

During the consultation period, three (3) objections were received, none of which were identified as relating directly to immediate adjoining occupants or owners. The key issues raised in the submissions were:

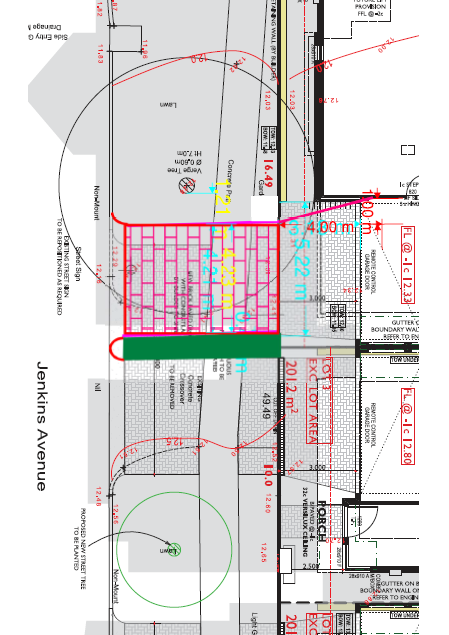
* Overdevelopment (density, bulk and scale)
* Character (streetscape and built form)
* Open space
* Lack of green areas
* Amenity (noise, ventilation)
* Overshadowing
* Vehicle access (number of crossovers)
* Increased traffic flow, conflict and adverse parking impacts

A summary of submissions is attached separately, as **Attachment 2** to this report which outlines the comments received and Administration’s response to each submission.

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

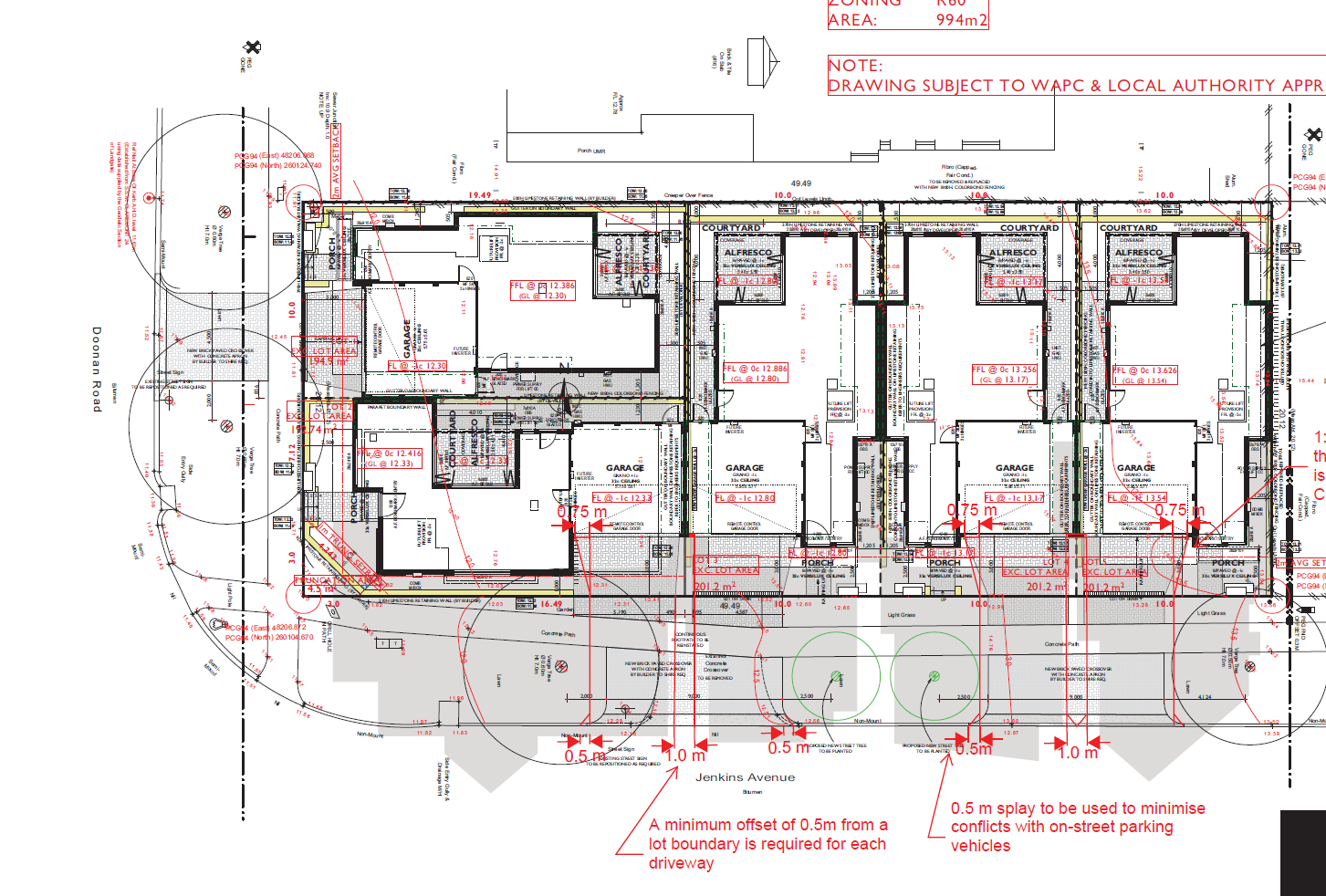
The amended application was also referred internally for comment by the City’s Building, Environmental Health and Technical Services and Parks Departments. No concerns were raised by Building. Parks indicated that:

* The northern most street tree on Doonan Road is dead and is to be removed by the City.
* The crossover between Lots 2 and 3 should be modified to include a green break and avoid a continuous 9m crossover length as required by the R Codes.



Technical Services indicated that:

* The Jenkins Avenue Safe Active Street road upgrade is currently underway, and a revised drawing is required to confirm the intersection of proposed crossovers with the embayment design along Jenkins Avenue. The current driveway configuration only allows spaces between the crossovers to be used by small cars, as AS2890.5 indicates a minimum on-street parking bay width is 5.4 metres.
* Driveways must be offset min 0.5m offset from each lot boundary.
* Crossovers can only have a maximum 1:4 angle changes within the property.
* Crossover splays to have 0.5m width to minimize the conflict area with on-street parking vehicles.
* Lots 4 and 5 crossovers to be adjacent to each other to improve the safety and on-street parking configuration on Jenkins Avenue. This will provide an approximately 9 metre wide on-street parking space between Lots 3 and 4. Having a continuous parking space (rather than two separated spaces) is considered to be a better parking configuration from both the operation and safety perspective.



1. **Assessment of Statutory Provisions**

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

Schedule 2 ‘Deemed Provisions,’ Part 9, clause 67 (Matters to be considered by local government) identifies those matters that are required to be given due regard in the consideration of the subject application. The City has assessed the application in accordance with Schedule 2, the assessment of which is provided in the table below:

|  |  |
| --- | --- |
| **Provision** | **Assessment** |
| * + 1. the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area; | Refer to Section 6.2.1 below for an assessment against of clause 9 of LPS 3 – Aims of Scheme. |
| * + 1. the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving; | The development proposal, if modified as per the recommendation to council, will either achieve the deemed-to-comply requirements or adequately satisfy all the relevant design principles of the R-Codes. It has a form and scale generally consistent with the future character within the Residential R60 density code. |
| * + 1. any approved State planning policy; | The development proposal is assessed against State Planning Policy 7.0 – Design of the Built Environment, with a detailed assessment provided against the 10 Design Principles under Section 6.3.1 of this report.  The development proposal is assessed against State Planning Policy 7.3 – Residential Design Codes (Volume 1), with a detailed assessment provided against the 10 Design Principles under Section 6.3.2 and **Attachment 1** of this report. |
| (g) any local planning policy for the Scheme Area | The proposal is considered to be compliant with the City of Nedlands Residential Development Local Planning Policy. The *Local Planning Policy – Doonan Road Laneway and Built Form Requirements* was revoked at the Council meeting of 22 September 2020. |
| (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; | The Zoning Table in LPS 3 classifies all residential development as a ‘P’ use in the Residential Zone.  If supported, each of the dwellings are recommended to be conditioned to require the simultaneous construction of boundary walls. The proposed modifications in the September 2020 amended plans realign the boundary walls on Lots 3 to 5 improving the internal and external amenity. These modifications bring the proposal into closer compliance with the deemed-to-comply requirements and or Design Principles relating to lot boundary setbacks under the R-Codes. The development satisfies the default building height and design principles for street setbacks.  The development is consistent with the expected built form of the medium density code (R60) to which it relates. |
| (n) the amenity of the locality including the following —   1. environmental impacts of the development; 2. the character of the locality; 3. social impacts of the development; | 1. The proposal can be supported with a condition requiring an updated landscaping plan to be submitted to the City for approval in accordance with the design modifications in the amended plans dated 23 September 2020. 2. The proposed two storey Single houses are examples of a ‘low rise’ compact built form on green titles where three storey multiple or grouped dwellings could otherwise be developed. The building design responds to the future character of this locality, providing a transition between high density development anticipated along Stirling Highway and the lower density, traditional residential neighbourhoods to the south. The building typology is consistent with the objective for the Second Transition Zone under the City’s Local Planning Strategy. 3. The development will contribute to housing diversity, providing smaller single house options on green title lots. The development provides an opportunity for existing residents in the City of Nedlands to downsize in the area and live within walking distance of a range of recreation, community and commercial and public transport services. The proposal will also generate additional activity and activation along Jenkins Avenue, traditionally a secondary street with limited activation, via windows and pedestrian access points oriented to Jenkins Avenue. Greater opportunity for passive surveillance reinforces the aims of the Safe Active Streets Programme. |
| (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation should be preserved. | The site has been recently cleared with all vegetation being removed. A landscape plan was included in the May 2020 submission which included a planting schedule and identified landscaping opportunities to the rear and sides of the lots. Limited opportunity is provided for landscaping in the front setback.  A condition is recommended to require the submission of an updated landscape plan consistent with amended plans and internal referral comments to provide a green break between the crossovers for Lots 2 and 3. It is noted that the proposal does not require the removal of any street trees and supplements the existing verge plantings with two new small canopy trees. The dead street tree on Doonan Road will be replaced by the City. |
| (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals; | The development is not considered to adversely affect the community vision for the development of the district given it is broadly consistent with the endorsed Local Planning Strategy.  The proposed development contributes to the provision of additional dwellings that addresses changing demographic needs in the area. It will provide more diverse housing options to help existing residents downsize and remain in the area, as well as enabling new residents to enter the area, moving into more affordable houses as compared to the large traditional dwelling lots. The increased density will be delivered in a location proximate to Stirling Highway and is well serviced by a range of commercial, educational, and recreational facilities nearby. |

**5.2 Local Planning Scheme No. 3**

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Proposal** | **Satisfies** |
| 1. Protect and enhance local character and amenity | The surrounding area is characterised by detached brick and tile Single houses set between generous vegetated front and rear gardens and accessed by one crossover per lot. The surrounding existing character reflects the previously R10 density coding. The future character is informed in part by the current R60 density code under LPS 3 and the Second Transition Zone under the City’s Local Planning Strategy.  Whilst the proposed two storey single houses (on green title lots) reference built form characteristics and design elements common to the local character, the development also recognises the site’s strategic role providing a transition to and integrating with the residential hinterland to the south. The amended plans dated 23 September 2020 together with recommended relevant conditions improve the proposal’s consistency with the local character and reduce amenity impacts. | Yes |
| 1. Respect the community vision for the development of the district; | The development will not adversely affect the community vision for the development of the district as it is consistent with the endorsed Local Planning Strategy. The proposed development is also seen to complement the City of Nedlands Strategic Community Plan 2013 – 2020 in that the development contributes to the provision of additional dwellings and an increased density in a location proximate to parks, schools, commercial services, and public transport. | 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 the 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 site’s proximity to Stirling Highway ensures the proposal will contribute to the consolidation of the future development of the corridor, including the Nedlands Town Centre. | Yes |
| 1. To integrate land use and transport systems; | The development is located on Jenkins Avenue, an identified Safe Active Street route. The proposal will support greater connectivity between the residential neighbourhoods and local amenities and encourage use of non-motorised transport modes. The medium density site is within walking distance (approx. 200m) of high frequency public transport services that operate along Stirling Highway. | Yes |
| 1. Facilitate improved multi-modal access into and around the district; | The subject site is located close to walking and cycle networks. Jenkins Avenue and Elizabeth Street is the Safe Active Streets route in the City of Nedlands. Jenkins Avenue was deemed the preferred location due to existing low traffic volumes and low traffic speeds to allow for the implementation of the safest and most coherent route that will promote access to the greatest number of local amenities (schools, shops, university, sports fields, parks). | Yes |
| 1. Maintain and enhance the network of open space | The proposed 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, including support for businesses located along Stirling Highway and within the Nedlands Town Centre. | Yes |
| 1. To maintain and enhance natural resources; | The development retains all verge trees, one of which (north on Doonan Road) is dead and will be replaced by the City of Nedlands. The additional planting of street trees will make a positive contribution to reinforcing streetscape character and is supported. | Yes |
| 1. Respond to the physical and climatic conditions; | The development makes provision for solar panels and seeks to optimise the lot’s northern aspect. The amended plans include additional north facing windows to ground level dining rooms in units 3 to 5 at to improve solar access to the dwellings and an enlarged windows and glazed door are proposed to optimise sun and daylight to the dwelling on Lot 2. Additional modifications are recommended to better provide and protect solar access to the development and in particular Lot 2. The cantilevered upper floors will provide shade to the alfresco open spaces in the summer months.  The dwelling design makes provision for cross ventilation and adequate ceilings to allow for effective air circulation. | Yes |
| 1. Facilitate efficient supply and use of essential infrastructure; | The development can be adequately serviced and does not negatively impact this objective. | Yes |

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

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Proposal** | **Satisfies** |
| 1. To provide for a range of housing and a choice of residential densities to meet the needs of the community; | The proposal makes a positive contribution to the City’s housing diversity. | Yes |
| 1. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas; | With further modifications relating to solar access to unit 2, the development will achieve an acceptable design, with a built form that responds to the R60 density code. The modifications already proposed (to reverse the design on Lot 4) make notable improvements to the streetscape character. These changes consolidate vehicle access, increase fenestration to Jenkins Avenue and Doonan Road, provide greater activation and opportunity for passive surveillance. These changes also improve the utility of on-street car parking and maximise opportunity for contiguous verge planting.  The proposed Single houses are intended to be developed on green title lots. It is noted that whilst a multiple or grouped dwelling outcome may have achieved a smaller footprint and allowed a greater proportion of landscaping at the subject site, it would introduce a different building typology and a three storey scale of development. This outcome would contrast noticeably with the typical single or two storey dwelling found in traditional residential neighbourhoods. | Yes |
| 1. 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 as this application only proposes the use of the land for Residential purposes. | N/A |
| 1. To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks; | The two storey, green title, brick /render and Colorbond Single house development achieves a balance between the existing streetscape character and the future character of this area, as informed by the R60 density code.  The City considers that the amended plans of 23 September 2020 better complement and enhance the local character. It generally, with the exception of solar access to unit 2, improves internal and external amenity through the consolidation of crossovers, co-location of boundary walls, increased number of north facing windows, and improved size of existing windows to the street interface on Lot 2.  With further modifications relating to solar access on Lot 2, the proposal is considered able to adequately satisfy the relevant Design Principles as detailed in Section 6.3.2 of this report. | Yes |

**5.3 Policy/Local Development Plan Consideration**

* + 1. **State Planning Policy 7.0 – Design of the Built Environment**

The intent of State Planning Policy 7.0 is to address design quality and built form outcomes in Western Australia. The Policy aims to deliver the broad economic, environmental, social and cultural benefits that derive from good design outcomes and supports consistent and robust design review and assessment processes in the State.

Administration has assessed this application against the 10 Design Principles of the State Planning Policy 7.0 in the table below:

|  |  |
| --- | --- |
| **Design Principle** | **Officer Comment** |
| 1. **Context and Character**   Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place. | In light of the five lot WAPC subdivision approval in February 2020, the subsequent five (5) single houses development, as amended on 23 September 2020, adequately references attributes of the existing character whilst meeting the future built form expectations for an R60 coded site. The subject land was up coded following the gazettal of LPS 3 from R10 to R60. The up coding represents a significant jump in respect of scale and density. It also reflects the site’s strategic transitional function, integrating the higher density development at the Stirling Highway edge and the traditional R10-R12.5 residential neighbourhood to the south. Whilst the land could have been developed for three storey apartments or grouped dwellings, the proposal retains a partially detached, two storey scale and design features (articulated and varied pitched and skillon roofscape, porch entries and driveways, materials and finishes brick/render and Colorbond) common to traditional nearby residential neighbourhoods.  In respect of landscaping, the existing character is heavily influenced by the ‘green’ treed streetscape composed of street trees and unbroken planted verges. The existing character is also noted for generous vegetated front setbacks. Other than a portion of the upper level at unit 2, the proposed development meets the deemed-to-comply requirements for street setbacks under the R Codes as they relate to the R60 density code. Whilst open space calculations, as applied consistent with the City’s recent practice, demonstrate the proposal does not comply with the deemed-to-comply pathway, the proposal adequately meets the Design Principles for all dwellings other than unit 2. Modifications to unit 2 are recommended to enable the development to fully achieve this design principle.  The proposal, as amended, also consolidates access points, maximises the planted verge and on-street parking opportunities. The proposal is supported by a landscape plan, which is to be modified in accordance with the amended plans of 23 September 2020 by way of condition and includes the planting of two new street trees along Jenkins Avenue.  The amended design will make a positive contribution to the emerging future character of the streetscape and surrounding area. |
| 1. **Landscape Quality**   Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context. | In making its recommendation to Council, Administration has considered the proposed landscape plan dated May 2020, and the Applicant’s intention to retain existing street trees, plant two additional small canopy trees along Jenkins Avenue, and consolidate crossovers to Lots 4 and 5 under the amended plans submitted in September 2020. Whilst the landscaping treatments contrast with the existing character of effectively R10 residential development under TPS2, the proposal meets the landscape requirements under the R Codes Vol 1 for Single house developments in the R60 density code. The retention, replacement, and reinforcement of street trees through new plantings is a good design outcome which recognises the landscaping significance of the trees to local character, providing shade and reducing the urban heat island effect. |
| 1. **Built form and scale**   Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area. | The proposal is seen to provide an appropriate built form and scale for an R60 density, with two-storey single houses that are designed to reference elements of existing development and the emerging future character in the locality.  Although some boundary setback variations to the deemed-to-comply requirements are required, the magnitude of the variations are limited to no more than 0.5m. Where boundary walls are proposed, the design maximises the co-location of the boundary walls, which are recommended to be simultaneously constructed by condition. The parapet walls are located behind the front setback areas and designed to optimise solar access ventilation and reduce building bulk on adjoining properties. The proposal satisfies the Design Principles relevant to clause 5.1.2 Lot boundary setbacks. |
| 1. **Functionality and build quality**   Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life cycle. | The development has been designed with aging-in-place in mind, with all dwellings having capacity for a lift should the need arise. The provision of the lifts enables the dwellings to be flexible and adaptable to maximise their utilisation and accommodate appropriate future requirements without the need for major modifications. Equally, each of the dwellings contain three bedrooms and multiple internal living spaces to accommodate the needs of different demographics.  All rooms are of an appropriately size and the layout is legible providing a functional environment and spaces suited to their intended purpose. The principle is considered to have been met as the design provides functionality and build quality without detriment to the appearance, functionality, and serviceability of the dwellings.  Although the outdoor alfresco is covered by the cantilevered upper floor and there is limited ‘open’ space as compared with traditional residential single house developments, the format of the proposed open space is acceptable to the R60 density code and appropriate to the likely future residents of the development. Opportunity for planting in retained planters also exists. |
| 1. **Sustainability**   Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes. | The development retains two trees on the Jenkins Avenue verge, provides two additional street trees and some, albeit limited, additional landscaping generally along the side and rear boundaries. The May 2020 landscape plan makes provision for the incorporation of drip feed irrigation to planter beds. The September 2020 design modifications provide improved solar access to habitable living rooms (units 3 to 5) and daylight (unit 2) via additional fenestration and support the use of natural light and ventilation. The cantilevered alfresco spaces will ensure outdoor spaces are shaded during the summer months.  This principle is considered to have been met as the design responds to site conditions by providing appropriate orientation and natural ventilation. |
| 1. **Amenity**   Good design provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors, and neighbours, providing environments that are comfortable, productive and healthy. | The proposed design generally provides a successful mix of indoor and outdoor living areas, having regard to the likely demographic and downsizing needs of future residents. Modifications made in September 2020 to increase the number of ground level north facing openings will improve solar access for future residents. Additional modifications are recommended to unit 2 to provide and protect solar access to this dwelling and outdoor living area.  The development itself contributes to the vitality of the locality, providing improved passive surveillance of the street edges and supports the medium-density housing options proximate to Stirling Highway.  The modified design of unit 2 (in amended plans dated September 2020) seeks to offset shadow impacts and constrained solar access through increased openings to both Doonan Road and Jenkins Avenue. Whilst these openings and glazed front door will not significantly increase solar access, they will provide greater daylight into the dwellings.  Given the lot layout approved under the WAPC subdivision approval, significant solar access improvements on Lot 2 are only likely to be achieved through the redesign of the upper level on Lot 1 and the relocation of the alfresco area to the east on Lot 2. Costs associated with these works include the likely loss of a bedroom on Lot 1 and the loss of the southern street tree on Doonan Road should the garage and crossover be relocated to this street edge.  With further modifications, the September 2020 amended design is capable of achieving reasonable internal and external amenity outcomes on each of the five lots. In general, the dwelling design is functional and includes the provision of appropriate levels of acoustic protection, visual privacy, adequate storage space, accessibility. |
| 1. **Legibility**   Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around. | All dwellings have clear street access via a defined pedestrian path. Each dwelling provides a major opening from a habitable room of the dwelling facing the street and pedestrian and vehicular driveway.  This principle has been met as the design makes the site easy to navigate, with recognisable entry and exit points and being well-connected to Doonan Road and Jenkins Avenue. |
| 1. **Safety**   Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use. | Each dwelling has a major opening or balcony facing the driveway or street, providing adequate passive surveillance. Furthermore, there are no areas capable of being used for concealment.  Although the proposal provides crossovers over the Safe Active Streets on-street parking embayment, if approved, the application will not be conditioned to require the removal of the embayment. Rather the crossovers are intended to, in practical sense, extend out over the embayment to the road reserve. Line marking and signage can be used to prohibit the general public from parking across adjacent to the crossover in the embayment space. The September 2020 amended plans proposed the consolidation of the crossovers for Lots 4 and 5. This modification is supported given that it will result in a longer embayment space and avoid two undersized on-street parking spaces that would otherwise result in encroachment of the crossovers by standard sized cars.  This principle has been met as safety and security is promoted by maximising opportunities for passive surveillance of public and communal areas and minimising areas of concealment. The design provides a positive, clearly defined relationship between public and private spaces and addresses the need to provide optimal safety and security both within a development and to the adjacent public realm. |
| 1. **Community**   Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction. | The development contributes to medium density housing diversity within the City, improving the range of housing availability in the area and accommodating for a wider range of demographics.  The provisions of lifts in each of the units also encourages ‘aging in place’ and attracting residents looking to downsize in the local area.  This principle has been met as the new development has the capacity to adapt to changing demographics, an ageing population, new uses and people with disability. The design provides a housing choice for different demographics and accommodating all ages and abilities. |
| 1. **Aesthetics**   Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses. | The proposed materials are considered high-quality and the development is consistent with the contemporary style of residential development in the surrounding area.  The retention of the two existing street trees, planting of two new street trees in the Jenkins Avenue verge and some albeit limited landscaping in the front setback area supports the ‘green’ ‘treed’ streetscape. The streetscape is important because it frames and softens the development as viewed from the street. |

The applicant has also provided an assessment against the 10 Design Principles of the State Planning Policy 7.0 which is contained in **Attachment 1** to this report.

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

Volume 1 of the R-Codes apply to single dwellings. The document provides a comprehensive basis for control of residential development. When assessing applications for development the City must have regard to the following policy objectives:

* to provide residential development of an appropriate design for the intended residential purpose, density, context of place and scheme objectives;
* to encourage design consideration of the social, environmental and economic opportunities possible from new housing, and an appropriate response to local amenity and place;
* to encourage design that considers and respects heritage and local culture; and
* to facilitate residential development that offers future residents the opportunities for better living choices and affordability.

With the exception of solar access to unit 2, the development satisfies the objectives cited above. It is generally of an appropriate design for the R60 density code, balances the existing streetscape character with the planned character of a medium-rise transitional area between an R-AC3 zoning to the north and an R10 zoning to the south. The development proposal will cater for a wider range of demographics and responds to the local context by retaining a two-storey built form, consistent with surrounding single houses and grouped dwellings in the vicinity. With recommended conditions and modifications, the proposal is capable of satisfying all relevant scheme and Regulations provisions as well as all relevant Design Principles under the R Codes for each of the proposed dwellings.

The application requires assessment under the Design Principles of the R-Codes for as addressed in the below tables:

**Clause 5.1.2 – Street setbacks**

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| **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** |
| C2.2: Buildings set back from the primary (2m) and secondary street (1m) boundary in accordance with Table 1. |
| **Proposed** |
| The applicant seeks assessment under the Design Principles which are as follows:   * Lot 2 upper level is set back 0.62m from the secondary street (Jenkins Avenue) in lieu of 1m. |
| **Administration Assessment** |
| Having regard to Design Principles P2.1 and P2.2, the proposed secondary street setback modified in September 2020, adequately satisfies the Design Principles for the following reasons:   * The non-compliance is minor, at 0.38m, and limited to the length of the upper floor sitting room only. It will not be readily discernible from street views along Jenkins Avenue and will not adversely impact the future streetscape character. * The non-compliance is at the upper level and will not prejudice the provision of side boundary landscaping as indicated in the May 2020 landscape plan. * The non-compliance will not impact visual privacy, parking, or provision of utilities. * The minor encroachment is offset by façade articulation including fenestration, a varied palette of materials and finishes and landscaping. Increased fenestration at ground level provides increased activation and opportunity for passive surveillance. |

**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** |
| Buildings deemed-to-comply where they are set back:   * clause C3.1 (i) buildings set back from lot boundaries in accordance with Table 1, Tables 2a and 2b (refer to Figure Series 3 and 4); * clause C3.1 (ii) unenclosed areas accessible for use as outdoor living areas, elevated 0.5m or more above natural ground level, set back as though they were major openings to habitable rooms with a wall height of 2.4m above their floor level * clause C3.1(iv) minor projections such as a chimney, other architectural feature or an eaves overhang not projecting more than 0.75m into a setback area; and   Boundary walls are only deemed-to-comply:   * clause 3.2 (i). where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension; * clause 3.2 (iii) in areas coded R30 and higher, where walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the lot boundary behind the front setback and to one side boundary only |
| **Proposed** |
| The proposal includes the following variations:  Lot 1:   * 1.3m setback is proposed on the ground floor (south – laundry to dining), whereas 1.5m is deemed to comply; * 1.21m setback is proposed on the first floor (north - balcony to store), whereas 1.5m is deemed to comply; * 1.21m setback is proposed on the first floor (south – balcony to ensuite), whereas 1.3m is deemed to comply; * 2.01m setback is proposed on the first floor (south – sitting to bath 1), whereas 2.2m is deemed to comply; and * 2.01m setback is proposed on the first floor (north - study nook), whereas 2.1m is deemed to comply.   Lot 3   * 2.01m setback is proposed on the first floor (west-bath to sitting), whereas 2.2m is deemed to comply.   Lot 4   * 1.16m setback is proposed on the ground floor (west – alfresco to laundry), whereas 2.0m is deemed to comply; * 2.01m setback is proposed on the first floor (east – study nook), whereas 2.3m is deemed to comply; * 1.21m setback is proposed on the first floor (east – store to balcony), whereas 1.5m is deemed to comply; and * 2.01m setback is proposed on the first floor (west – bath to sitting), whereas 2.3m is deemed to comply.   Lot 5   * 1.5m setback is proposed on the ground floor (west – alfresco to laundry), whereas 2.0m is deemed to comply; * 2.01m setback is proposed on the first floor (east – study nook), whereas 2.1m is deemed to comply; and * 2.01m setback is proposed on the first floor (west – bath to sitting), whereas 2.2m is deemed to comply.   All lots propose two boundary walls rather than to one side boundary only and do not satisfy deemed-to-comply requirement 5.1.3C3.2iii. However, the boundary walls on Lots 3 and 4 are co-located under the September 2020 amended plans, and if conditioned to be simultaneously constructed, will satisfy the deemed to comply requirement of C3.2(i). The boundary wall non-compliance will be limited to Lot 1, Lot 2 and Lot 5 where two boundary walls are proposed and the average wall height for Lot 5 exceeds 3m (by 0.46m). |
| **Administration Assessment** |
| Having regard to Design Principles P3.1 and P3.2, the proposed lot boundary setbacks as modified by amended plans dated 23 September 2020, are considered to adequately satisfy the Design Principles for the following reasons:   * Notwithstanding the number of non-compliances with boundary setback deemed-to-comply requirements, in most instances the magnitude of the variations required are minor, varying between 0.09m and 0.5m (Unit 4, Ground Floor alfresco to laundry on west elevation). * Further and with respect to existing adjoining properties, there are only two northern boundary setback variations (0.09m to 0.29m balcony to store and study nook) and one eastern side boundary setback variation on Lot 5 (0.09m study nook at upper level) which are unlikely to generate unreasonable external amenity impacts (building bulk, solar/daylight access, shadow, ventilation). All other variations are internalised and limited to the proposed Single houses which are intended to, and recommended to, be conditioned for simultaneous construction. * The September 2020 modifications reversed the design for unit 4 such that: * The garage wall now aligns with the garage boundary wall on Lot 5; and the kitchen and laundry boundary wall aligns with the kitchen boundary wall on Lot 3.   Consequently, the boundary walls which exceed the average 3m height relate to the garages walls only and these are now co-located (Lots 2 and 3 and 4 and 5)   * The common alignment of boundary walls makes more efficient use of the site area, reduces the potential for building (visual) bulk and therefore minimises adverse amenity impacts between dwellings. It also provides greater physical separation between dwellings and consequently, opportunity for ventilation and sunlight to the dwelling and open spaces. The common alignment of the garages also results in the consolidation of crossovers, which maximises the opportunity for planted verge area, street tree planting and retention, and optimises the future use of the Safe Active Streets embayed car parking area as a longer single parking area (rather than two undersized small car bays) is achieved. * Further where a future condition is imposed to require the simultaneous construction of the boundary walls, most of the proposed lots, with the exception of Lot 1 (both walls) and Lot 5 (eastern boundary wall) would meet deemed-to-comply requirement C3.2(i). * The proposed boundary walls (particularly the east facing wall on Lot 5) do not contain any major openings on the walls and do not pose a risk of overlooking or loss of privacy on adjoining properties. None of the submissions received were identified as being made by the adjoining owner / occupant. * The (garage) boundary wall on Lot 1 will contribute to restricted solar access on Lot 2 (which is considered an adjoining property by definition under the R Codes). Although additional design measures (larger windows to the south and west and increased north boundary setback) have been proposed for unit 2 in the September 2020 amendments, further changes may be contemplated by Council to ensure maximum solar access to Lot 2 within the constraints of the approved subdivision plan. Refer to detailed discussion at Element 5.4.2 of the R-Codes Vol. 1 below. |

**Clause 5.1.3 – Open space**

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| **Design Principles** |
| P4 – Development incorporates suitable open space for its context to:   * reflect the existing and/or desired streetscape character or as outlined under the local planning framework; * provide access to natural sunlight for the dwelling * reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework * provide an attractive setting for the buildings, landscape, vegetation and streetscape; * provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within and around the site; and * provide space for external fixtures and essential facilities. |
| **Deemed-to-Comply Requirement** |
| C4: Open space provided in accordance with Table 1 (refer Figure Series 6) which equates to 40% open space in the R60 code. |
| **Proposed** |
| The proposal includes the following variations:  Lot 1: Unit 1 – 195m2  Site Cover – 127.12m2  Covered Outdoor Living Area – 9.6m2  Total Site Cover – 65.2%  Open Space – 34.8%  Lot 2: Unit 2 – 192m2  Site Cover – 129.25m2  Covered Outdoor Living Area – 4.68m2  Total Site Cover – 67.32%  Open Space – 32.68%  Lot 3: Unit 3 – 201m2  Site Cover – 132.79m2  Covered Outdoor Living Area – 9.94m2  Total Site Cover – 66.1%  Open Space – 33.9%  Lot 4: Unit 4 – 201m2  Site Cover – 132.91m2  Covered Outdoor Living Area – 8.67m2  Total Site Cover – 66.06%  Open Space – 33.94%  Lot 5: Unit 5 – 201m2  Site Cover – 132.1m2  Covered Outdoor Living Area – 6.78m2  Total Site Cover – 65.72%  Open Space – 34.28%  None of the dwellings proposed satisfy the deemed-to-comply requirement. |
| **Administration Assessment** |
| Having regard to Design Principles P4 the proposal can be considered to adequately satisfy the Design Principle for all lots, other than Lot 2, for the following reasons:   * One of the main reasons why the proposal does not meet the deemed-to-comply requirement of 40% relates to the City’s adopted practice of calculating open space. Open space is defined under the R-Codes as:   *“Generally, the area of a lot not occupied by any building and includes:*   * *Open areas of accessible and useable flat roofs and outdoor living areas above natural ground level;* * *Areas beneath eaves;* * *Verandas, patios and other such roofed structures not more than 0.5m above natural ground level, unenclosed on at least two sides and covering not more than 10 percent of the site area or 50sqm whichever is the lesser;* * *Unroofed open structures such as pergolas; and* * *Uncovered driveways including access aisles in car parking areas and uncovered car parking spaces.*   *But excludes:*   * *Non-accessible roofs, verandas, balconies and outdoor living aeras over 0.5m above natural ground level; and/or* * *Covered car parking spaces and covered walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.”*   The City’s practice in calculating open space, as informed by advice from the Department for Planning, Land and Heritage (DPLH)’s R-Codes Team, is to exclude alfresco areas that are covered by cantilevered upper levels. The R-Codes remain silent on the application of the definition to exclude covered alfresco spaces and the application of the definition in this way has not to Administration’s knowledge been tested at the SAT. That notwithstanding, it has been considered a reasonable practice that aims to avoid large, covered spaces to deliver ‘open space’ on a site. It avoids covered open space that contributes more to site cover rather than areas that are ‘open to the sky’ or simply minor roofed outdoor areas (verandas, patios). In the event that SAT were to find that the proposed application of the open space definition is incorrect or unreasonable, the alfresco spaces would likely be compliant with the deemed-to-comply requirement. The alfresco spaces are less than 50sqm or 10 percent of the lot area.   * Leaving the application of the open space definition to one side, the proposed Single houses development will: * Contribute to a vegetated and landscape setting for the dwellings, which although not comparable to traditional residential neighbourhood coded R10 or R12.5, is adequate to the site’s strategic function, the R60 code and the likely demographic of future residents. * The proposed open spaces, particularly as achieved in the amended plans dated 23 September 2020, will: * contribute to improved separation between the buildings and reduce the potential for building bulk; * provide space external to the dwelling for outdoor pursuits (alfresco and rear and side boundary planters) and access around the dwellings; and * provide space for external fixtures and essential facilities. * In relation to the existing or desired streetscape character, the City has not yet established a desired future character for this area, other than as guided by the development expectations applicable under the R-Codes. In this case, given the proposed Single house use, the R-Codes Volume 1 is the operative assessment tool. The proposal is compliant with front and secondary street setbacks and generally meets the deemed-to-comply requirements, other than the upper level southern setback to Lot 2. The limited front and side street setbacks afford limited capacity for landscaping and contribution to streetscape character comparable to traditional residential dwellings with a 9m front setback. * The originally submitted landscape plan makes provision for some albeit limited landscaping in the front setback respond to site’s density code and strategic transitional function. In addition, the proposal will not require the removal of existing street trees and proposes the planting of two additional street trees. It also provides consolidated crossovers to Jenkins Avenue which supports maximum verge planting capacity. These initiatives reinforce the green leafy feel and will enhance the landscaped ‘frame’ for the development site. * With respect to access to natural sunlight, unit 1 and units 3 to 5 have north facing alfresco and landscaped areas, although it is noted that in these instances, the cantilevered upper levels will restrict the capacity for natural sunlight to permeate into the dwelling’s ground level habitable spaces via the alfresco.   In order to address this issue and maximise access to natural sunlight for each dwelling, the amended plans received in September 2020 include:   * an additional north facing window to the ground level dining room and glazed front doors in units 3 to 5 * glazed front door to Lot 1 * an additional south and west facing ground level window and a glazed front door on Lot 2.   It is noted that the dwellings are also recessed from at least one side boundary, and through design modifications that co-locate boundary walls, the development provides greater opportunity for western (Lot 3 and 5) and eastern solar access (Lot 4).  The modifications proposed for unit 1 and units 3 to 5 are supported and will adequately address the Design principle relating to natural sunlight. With regard to unit 2, the detailed shadow analysis prepared by the application demonstrates that the alfresco space will not receive solar access even at 12pm in mid-Summer. It does show however that the adjoining open space receives sunlight at 12pm in the summer and therefore an additional east facing window to the ground floor living area would improve natural sunlight to the dwelling on Lot 2. Together with the glazed front door, expanded west facing window, the east facing window would ensure the design principle P4 is satisfied for unit 2.  If Council were so minded, it may resolve to support the proposal with the additional east facing ground level living room window to improve solar access to Lot 2. |

**5.3.1 Outdoor living areas**

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| **Design Principles** |
| P1.1 – Outdoor living areas which provide spaces:   * capable of use conjunction with a habitable room of the dwellings; * open to winter sun and ventilation; and * optimise 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** |
| C1.1 requires 16sqm of outdoor living space to be provided on R60 coded land. The space is to be behind the street setback area, directly accessible from a habitable room of the dwelling, have minimum length and width of 4m and be without permanent cover for at least two-thirds of the required area. |
| **Proposed** |
| Each of the dwelling’s outdoor living spaces have permanent cover greater than one-third.  Unit 1 – 22.16m2 provided  Min dimension of 4.69m  Access from living/dining  55% uncovered  Complies - No  Unit 2 – 16.42m2 provided.  Min dimension of 4.0m.  Access from living.  33% uncovered.  Complies - No  Unit 3 – 24.09m2 provided  Min dimension of 4.79m  Access from living/dining  51% uncovered  Complies – No  Unit 4 –  24.09m2 provided  Min dimension of 4.79m  Access from living/dining  51% uncovered  Complies – No  Unit 5 –  24.09m2 provided  Min dimension of 4.79m  Access from living/dining  51% uncovered  Complies – No |
| **Administration Assessment** |
| Having regard to Design Principles P1.1 and P1.2, the proposal adequately satisfies the Design Principle, other than in respect of Lot 2, for the following reasons:   * Outdoor living space is defined as “the area external to a single house to be used in conjunction with that dwelling such that it is capable or active or passive use and is readily accessible from the dwelling.” * Each dwelling is provided with: * a ground level alfresco area that is directly accessible from an open plan living/dining/kitchen area; and * an upper level balcony directly accessible from a habitable room (bedroom). * All alfresco areas have a northern aspect and ready ventilation being open on two sides and or recessed from the side or rear lot boundaries. In respect of Lot 1 and Lots 3 to 5, the alfresco areas can be expected to receive some level of winter sun, noting that the upper level cantilevers above the alfresco space. * In respect of Lot 2 however, the east-west lot orientation, the siting of the alfresco space at the centre of Lot 2 and 1.6m from the northern boundary is problematic to achieving winter or summer solar access. The alfresco area has a partial interface with the garage boundary wall on Lot 1 and a double height wall (6.99m) on Lot 1 which will result in a shadow being cast of approximately 77% of Lot 2.   More detailed shadow analysis was prepared by the applicant which examines the extent sunlight may penetrate the ‘alfresco’ outdoor living area. It indicates the area will be completely shaded in the winter months and even at mid-summer, will not receive direct sunlight. Some sunlight will be received to the ‘open space’ in the north setback area only. The solar collectors are also identified to be in shadow. It is noted that this analysis was limited to midday and that solar analysis over the course of the day, and or at the Spring/Autumn equinoxes, was not provided. On the basis of the information provided, the design for Lot 2 even as amended in September 2020, does not appear reasonably able to satisfy Design Principle P1.1.  If Council was so minded, it may resolve to support the proposal with additional modifications that would improve solar access to the dwelling and outdoor living area on Lot 2. Refer to the discussion at Clause 4.5.2 Solar access for adjoining sites.   * With respect to P1.2, the upper level balconies to Lots 1 and 2 are oriented to the west and will allow direct winter sunlight into the master bedrooms. The balconies provided to Lot 3 to 5 are south facing and enclosed and therefore are not open to direct sunlight (in winter or summer).   P1.2 only suggests that the upper level balconies be *possibly* open to winter sun; it is not a mandated requirement. If Council was so minded, it may consider supporting proposal with a further design modification to provide a more permeable east and west upper level balcony interface that allows morning and afternoon sun into the otherwise south facing balconies. |

**Clause 5.3.7 and 5.3.8 – Site works and Retaining walls**

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| **Design Principles** |
| P7.1 – Development that considers and responds to 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.  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** |
| C7.1: Excavation or filling between the street and building, or within 3m of the street alignment, whichever is the lesser, shall not exceed 0.5m, except where necessary to provide for pedestrian or vehicle access, drainage works or natural light for a dwelling.  C8.1: Retaining walls set back from lot boundaries in accordance with the setback provisions of Table 1. |
| **Proposed** |
| * Modification of NGL within the front setback area to a maximum height of 0.73m addressing Jenkins Ave from Unit 2 (Corner of Jenkins and Doonan) * Retaining proposed addressing primary/secondary street boundary |
| **Administration Assessment** |
| Administration considers that Design principles P7.1 and P7.2 and P8.1 have been met as the extent of the variation is limited to (0.23m) and retaining/ site works will be indiscernible when compared to deemed-to-comply primary street fencing. The proposed retaining addressing Doonan Road and Jenkins Avenue will not result in any adverse amenity impact on adjoining properties and are capable of supporting landscape treatments as demonstrated in the May 2020 landscape plan. |

**5.4.2 Solar access to adjoining properties**

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| **Design Principles** |
| P2.1 – Effective solar access for the proposed development and protection of the solar access.  P2.2 – Development designed to protect solar access for neighbouring properties taking account of the potential to overshadow existing:   * Outdoor living areas * North facing major openings to habitable room windows, within 15 degrees of north in each direction; or * Roof mounted solar collectors. |
| **Deemed-to-Comply Requirement** |
| C2.1: Development in climatic zone 4, 5 and 6 of the State shall be so designed that its shadow case at midday, 21 June onto any other adjoining property does not exceed 50% of the site area on adjoining properties coded higher than R40. |
| **Proposed** |
| Unit 1 is estimated as proposing 77% (148.22m2) overshadowing of Unit 2. |
| **Administration Assessment** |
| Adjoining property is defined under the R-Codes as “Any lot:   * On which any dwelling for which provision is made in the R-Codes may be constructed under the scheme; and * Which shares a boundary or portion of a boundary with a lot on which there is a proposed residential development site or is separated from that lot by a right-of-way, vehicle accessway, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width.   Having regard to Design Principles P2.1 and 2.2, the proposal is considered to adequately meet the Design principles on Lots 3 to 5 as has been identified above. On these lots, the development has provided a northern aspect to alfresco areas and north facing dining room windows on Lots 3 to 5 which will enable effective solar access. The north-south oriented lots ensure there is no adverse impact on the protection of solar access to an adjoining lot – shadow falls to the street.  In respect of Lot 1, which it retains effective solar access, it does not ‘protect’ the solar access to neighbouring Lot 2 and therefore along with Lot 2, it cannot reasonably satisfy P2.1 or P2.2.  As discussed above, solar access issues relating to Lot 2 are heavily influenced by:   * the east-west lot orientation which was approved by the WAPC. * the upper level design of Lot 1 which extends to within 1.3m of the eastern (rear) boundary. * the design of the dwelling on Lot 2 which centralises the alfresco space, with a 1.6m setback to the northern boundary.   These factors together mean the design as amended still does not adequately ‘protect’ or provide ‘effective’ solar access to the alfresco (outdoor living area), dwelling and the solar collectors on Lot 2 as is required by Design Principles 2.1 and 2.2. It is noted however that an alternative solution to the solar collectors (relocation/inverter system selection) may be readily available.  In respect of P2.1, the design modifications to unit 2 to enlarge the west facing living room window and provide clear glazing to the door would go some way to ensuring ‘effective’ solar access to the dwelling on Lot 2 . However, an additional modification to include an east facing window to the ground floor living area would better provide effective solar access to the dwelling. The applicant’s shadow analysis demonstrates that at least at mid-summer, this window will provide direct sunlight to a main living space. If Council was so minded, it may consider supporting the development with the additional east facing window.  In respect of P2.2 and notwithstanding the east-west lot orientation was cast by the WAPC’s subdivision approval, it is not unreasonable to expect the future dwelling design to adequately respond to the site context and appropriately address the design principles.  It is acknowledged that significant redesign would be required to Lot 1 and 2 to ensure the proposal adequately addresses the protection of effective solar access (P2.2) on Lot 2. This may include:   * Relocating the alfresco area to the north-east of Lot 2. * Relocating the garage and crossover on Lot 2 to align with Lot 1. * Increasing the rear boundary setback on Lot 1 at level 1 to create a corridor of open space to allow sunlight into the north facing alfresco area on Lot 2. * Internal redesign of Lots 1 and 2.     A consequence of the above changes may also be the loss of one bedroom on Lot 1 and the existing (southern) street tree on Doonan Road. There may be other implications for lot boundary setbacks also.  Whilst the current amended plans do not adequately respond to the design principles in respect of Lot 2, if Council was so minded, it may consider supporting the development subject to design modifications and or further analysis that demonstrate improved protection for solar access to the outdoor living area on Lot 2. |

**6.4.3 Local Planning Policy – Local Planning Policy – Doonan Road Laneway and Built Form Requirements**

In accordance with Council’s resolution of 22 September 2020, the adopted Local Planning Policy – Doonan Road Laneway and Built Form Requirements has been revoked and no longer to be considered in respect of development proposed along Doonan Road.

1. **Conclusion**

This proposal is an intense form of development as compared to the site’s surrounds and the existing local character. However, the application site is coded R60 and has a strategic transitional role to play integrating higher density development along Stirling Highway and lower density R10 and R12.5 neighbourhoods to the south. The proposal is a low scale development, with a two-storey height, and references design characteristics common to the area. The proposal is generally consistent with the development expectations of the R60 density code and has been amended to respond positively to the streetscape with respect to the consolidation of crossovers and street tree planting. The proposal with the exception of solar access relating to Lot 1 and Lot 2, satisfies the design principles of the Residential Design Codes, does not prejudice the intent of the zone or objectives of the Scheme and is unlikely to have a significant adverse impact on the local amenity of the area.

Having regard to the protection and effective access to solar on Lot 2, significant modifications and or further analysis is likely required to demonstrate the design of Lots 1 and 2 can satisfy clause 5.1.4 Open space, 5.3.1 Outdoor living areas and clause 5.4.2 Solar access for adjoining sites.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 8.13 pm.