



City of Nedlands

# Planning and Development Reports

**Committee Consideration – 8 June 2021**

**Council Resolution – 22 June 2021**

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<b>Committee</b>	8 June 2021
<b>Council</b>	22 June 2021
<b>Applicant</b>	H Golestani
<b>Landowner</b>	Go Develop Louise St P/L
<b>Director</b>	Tony Free – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia.</p>
<b>Report Type</b>	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.
Quasi-Judicial	
<b>Reference</b>	DA21/61309
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to the application proposing five dwellings.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Local Planning Scheme Regulations 2015 Clause 67 (2) Assessment</li> <li>2. Administration State Planning Policy 7.0 Assessment</li> <li>3. Applicant State Planning Policy 7.0 Assessment</li> <li>4. Renders (Artist Impression)</li> </ol>
<b>Confidential Attachments</b>	<ol style="list-style-type: none"> <li>1. Plans</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to consider a Development Application for the construction of five grouped dwellings at No.15 Thomas Street, Nedlands.

This site is zoned 'Residential' and is coded R60 by City of Nedlands Local Planning Scheme No.3 (the Scheme). Each dwelling proposes three bedrooms, a study, two bathrooms and two car parking bays. Dwellings 1-4 are proposed to be two storeys in height with the rear dwelling to be three storeys.

The application was advertised to neighbouring landowners in accordance with Council's Local Planning Policy – Consultation of Planning Proposals due to departures to the deemed-to-comply provisions for building height, visual privacy and

lot boundary setbacks. At the close of the advertising period no submissions had been received.

As a result of Administration's assessment, amended plans were submitted on 9 April 2021 and 25 May 2021, incorporating the following changes to the proposed design:

- Additional screening to all north facing balconies;
- Increased landscaping to the north of the subject site;
- Removal of south facing balconies;
- Decrease in building height for all units of 400mm for Units 1-4 and 600mm for Unit 5;
- Reduction in the front fencing height from 1.5m to 1.2m;
- Removal of the visitor bay and replaced with mature landscaping within the front setback area; and
- Additional landscaping to the southern common property driveway strip.

It is recommended that the application be approved by Council as it has been assessed as satisfying the design principles of the Residential Design Codes (R-Codes) Volume 1. It is also considered that the development is unlikely to have a significant adverse impact on the local amenity and character of the streetscape and neighbouring properties.

## **Recommendation to Committee**

**In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 4 March 2021 in accordance with the plans date stamped 25 May 2021 (DA21/61309) for five (5) grouped dwellings at Lot 72 (No.15) Thomas Street, Nedlands, subject to the following conditions:**

- 1. This approval is for a 'Residential' (Grouped Dwellings) land use and development as defined under the City's Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
- 2. This approval is limited to the construction of 5 grouped dwellings only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.**
- 3. 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.**
- 4. All footings and structures shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**
- 5. Prior to occupation of the development, all major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level, as shown on the plans, shall be set back in accordance with clause 5.4.1 of the Residential Design Codes Volume 1, in direct line of sight within the cone of vision from the lot boundary, a minimum distance as prescribed in C1.1 of Clause 5.4.1 –**

**Visual Privacy of the Residential Design Codes. Alternatively, the major openings are to be screened in accordance with the Residential Design Codes by either;**

- a) fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
- b) Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
- c) A minimum sill height of 1.60 metres as determined from the internal floor level; or**
- d) an alternative method of screening approved by the City of Nedlands.**

**The required setbacks and/or screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

- 6. 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 in:**
  - a. Face brick;**
  - b. Painted render;**
  - c. Painted brickwork; or**
  - d. Other clean material as specified on the approved plans.**

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

- 7. The parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004 prior to the occupation or use of the development.**
- 8. Waste management for the development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.**
- 9. Bin stores shall be located behind the street alignment, screened so as not to be highly visible from the street or common property and constructed to the City's satisfaction.**
- 10. All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
- 11. Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
- 12. Prior to the occupation of the development, all structures within the 1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m height to the satisfaction of the City of Nedlands.**

13. Prior to occupation, each grouped 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.
14. All landscaping shall be installed and maintained in accordance with the approved landscaping plan dated 25 May 2021, or any modification approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.

## Voting Requirement

Simple Majority

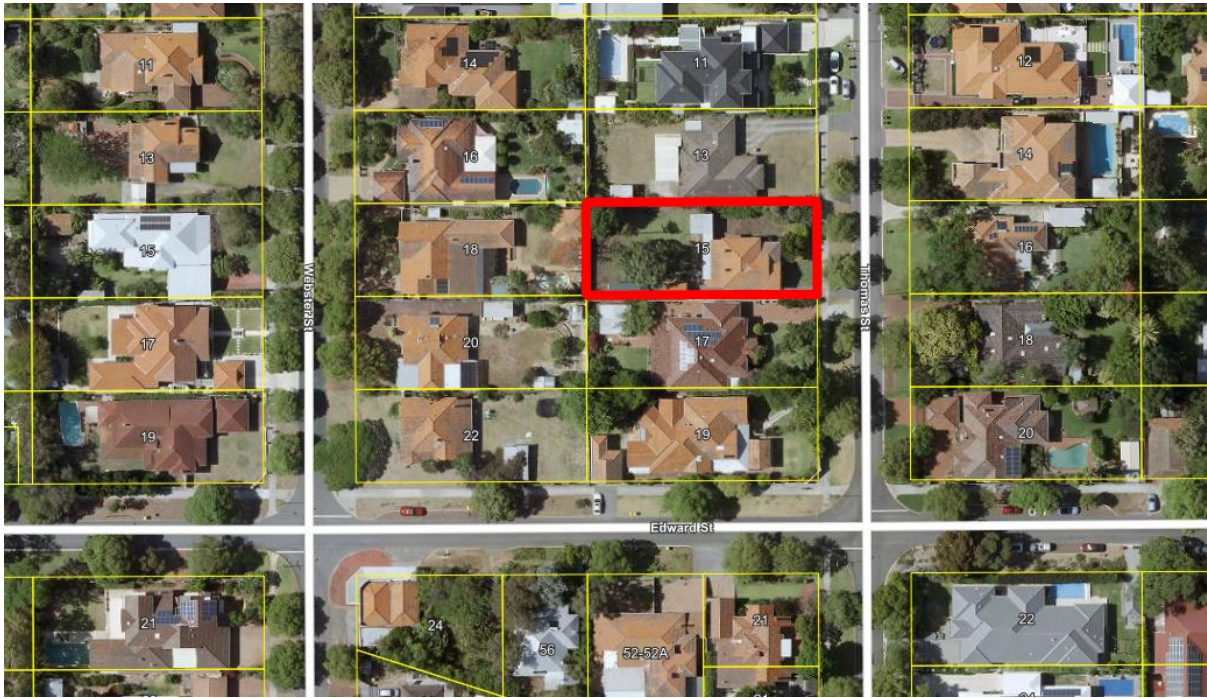
## 2.0 Background

### 2.1 Land Details

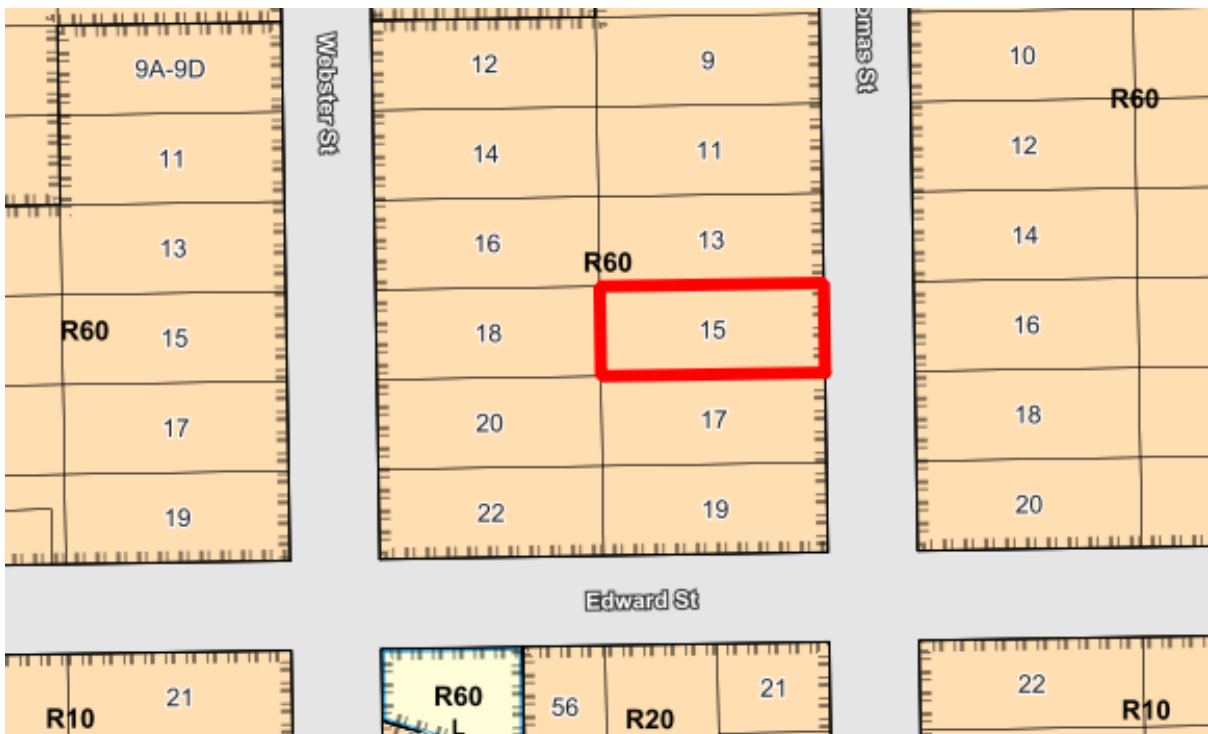
<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R60
<b>Land area</b>	1012m <sup>2</sup>
<b>Additional Use</b>	No
<b>Special Use</b>	No
<b>Local Development Plan</b>	No
<b>Structure Plan</b>	No
<b>Land Use</b>	Residential (Grouped Dwelling)
<b>Use Class</b>	'P' – Permitted Use

### 2.2 Locality Plan

The subject lot is located at No.15 Thomas Street, Nedlands and is approximately 200m south of Stirling Highway and 40 metres north of Edward Street. The property contains an existing single storey residence and the land slopes gradually from the west to the east by approximately 1m.



The area is surrounded by existing single residential houses, ranging between 1-2 storeys in height. The properties in this area are coded R60. There have been recent approvals granted by the Joint Development Assessment Panel at No.14-16 Webster Street for 10 x two storey grouped dwellings and No.18-20 Webster Street for 10 x three-storey grouped dwellings.



### **3.0 Application Details**

The application seeks development approval for the construction of 5 grouped dwellings on the subject site, details of which are as follows:

- Each dwelling proposes three bedrooms, a study, two bathrooms and a double garage;
- Dwellings 1-4 are proposed to be two storeys in height with the rear dwelling to be three storeys;
- Access is proposed from the existing crossover (south);
- Storage areas are located inside each dwelling and a communal waste store is proposed.

As a result of Administration's assessment, amended plans were submitted on 9 April 2021 and 25 May 2021, incorporating the following changes to the proposed design:

- Additional screening to all north facing balconies;
- Increased landscaping to the north of the subject site;
- Removal of south facing balconies;
- Decrease in building height for all units of 400mm for Units 1-4 and 600mm for Unit 5;
- Reduction in the front fencing height from 1.5m to 1.2m;
- Removal of the visitor bay and replaced with mature landscaping within the front setback area; and
- Additional landscaping to the southern common property driveway strip.

### **4.0 Consultation**

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

- Clause 5.1.2 – Street Setback
- Clause 5.1.3 – Lot Boundary Setback
- Clause 5.1.4 – Open Space
- Clause 5.1.6 – Building Height
- Clause 5.3.1 – Outdoor Living Areas
- Clause 5.4.1 – Visual Privacy

The development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to the owners and occupiers of five (5) adjoining properties. The advertising period was for 14 days from 22 April 2021 to 6 May 2021. No submissions were received during the consultation period.

### **5.0 Assessment of Statutory Provisions**

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

Schedule 2, clause 67(2) (Consideration of the application by the Local Government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in Attachment 1.

## 5.2 Policy Considerations

### 5.2.1 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 Attachment 2. The applicant's assessment is contained in Attachment 3.

### 5.2.2 Residential Design Codes – Volume 1 (State Planning Policy 7.3)

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) apply to all single and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways. This can be undertaken by either meeting the deemed-to-comply provisions or undertake a Design Principle assessment.

The application is seeking an assessment under the Design Principles of the R-Codes for Street Setback, Lot Boundary Setback, Open Space, Building Height, Outdoor Living Areas and Visual Privacy, as addressed in the tables below.

#### i. Street Setback

<b>Proposed</b>
<p><u>Unit 1:</u></p> <ul style="list-style-type: none"> <li>The first floor has a nil setback to the common property driveway in lieu of 1.0m deemed-to-comply.</li> </ul> <p><u>Units 2-5:</u></p> <ul style="list-style-type: none"> <li>The first and second floor have a nil setback to the common property driveway in lieu of 2.5m deemed-to-comply.</li> </ul>
<b>Administration Assessment</b>
<p>The setbacks are considered to meet the Design Principles as:</p> <ul style="list-style-type: none"> <li>The reduced setbacks are to the internal common property driveway only and do not directly face the primary street (Thomas Street). The reduced setbacks are not considered inconsistent with the development's streetscape context. This is because additional mature trees are proposed in front of each dwelling, along the common property driveway and additional planting on structure (at a rate of approximately 20% landscaping per lot). This is considered to soften the built form whilst contributing and maintaining the leafy green character of Nedlands.</li> <li>The development utilises a range of materials, architectural treatments and increased setbacks to other levels. Collectively this is considered to minimise perceived building bulk as viewed from the street.</li> <li>The bulk of the development is focused towards the common property driveway as a means to increase the setbacks to adjoining properties. This also allows for outdoor living areas to be orientated to the north.</li> <li>Provision has been made for windows to face the common property driveway which is considered to make a positive contribution to the streetscape in terms of public surveillance and activity. The setback from the upper floor level also allows for a covered pedestrian entry to the units.</li> </ul>



- Each site can accommodate parking, landscaping and utilities and there are no easements or essential service corridors to apply.

## ii. Lot Boundary Setback

<b>Proposed</b>
Unit 1 & 5 propose a boundary wall to the northern lot boundary. The walls have an average height of 3.3m and 3.2m, respectively, in lieu of an average of 3.0m deemed-to-comply.
<b>Administration Assessment</b>
The building on boundary is considered to meet the Design Principles as: <ul style="list-style-type: none"> <li>• Both walls do not exceed the deemed-to-comply maximum height of 3.5m (3.5m and 3.3m proposed). The combined building on boundary wall length is 11m (6.75m and 4.25m) and are considered relatively short in length and are confined to the ground floor only. The boundary walls have been designed to be complimentary to the remainder of the development proposal, resulting in a minimised impact on the overall bulk. Overall, there is an average setback of 2.8m to the northern lot boundary.</li> <li>• The boundary walls are considered to allow for an efficient use of space, especially with respect to the outdoor living areas of Units 1 and 5 which maximise the northern aspect of the site for natural sunlight and ventilation. Due to the design and location of the boundary walls, there will be no additional shadow cast to any adjoining property.</li> <li>• The proposed boundary walls contain no major openings and therefore there will be no overlooking or loss of privacy to the adjoining northern landowner.</li> </ul>

## iii. Open Space

<b>Proposed</b>
Units 1-4 proposed 36% in lieu of 40% deemed-to-comply.
<b>Administration Assessment</b>
Open space is considered to meet the Design Principles as: <ul style="list-style-type: none"> <li>• The development's design features a landscaped, open primary street frontage with a 3.0m primary street setback. The proposed landscaped primary street frontage is considered to provide an attractive elevation, minimising perceived building bulk.</li> <li>• As shown on the plans, each unit provides for an accessible outdoor living area with dense landscaping pockets at ground level and covered balconies on the first floor. There are leisure opportunities for a range of domestic activities such as gardening, children's play area or outdoor entertaining. Each of these areas maximise access to the northern natural sunlight. Units 2-4 provide for a larger outdoor living area for residents (at 29m<sup>2</sup>).</li> <li>• The design has made appropriate use of articulation along the dwellings' side and rear lot boundaries to reduce the perceived impact of building bulk to adjoining properties.</li> <li>• Each dwelling has provided approximately 20% of their lot area for landscaping, including provision for mature planting of small and medium trees throughout the development. The provision of landscaping is considered to soften the impact of the proposed development and appropriately respond the 'leafy green' character of Nedlands.</li> </ul>

- Across the entire development 39% open space has been provided, producing a 1% open space shortfall from the deemed-to-comply. Site cover has included the cantilevered upper floor level which is a conservative approach to the assessment.
- As a designated storeroom has been incorporated within the dwelling, this means no additional outbuildings would be required that would compromise the extent useable open space.

#### iv. Building Height

<b>Proposed</b>
Unit 5 proposes a maximum height of 9.1m in lieu of 8.5m deemed-to-comply.
<b>Administration Assessment</b>
<p>The height is considered to meet the Design Principles as:</p> <ul style="list-style-type: none"> <li>• The portion of the development which has a 9.1m wall height is confined to Unit 5 only, located at the rear of the property. The additional building height has been designed to interface with the approved JDAP development at 18-20 Webster, located at the rear of the development. Through discussions with Administration, amended plans were provided which reduced the height by 0.4m (from 9.5m to 9.1m). The building height proposed for Unit 5 is now 1.4m below the building height of the approved development at 18-20 Webster.</li> <li>• The building height does not impact on solar access to adjoining properties. The confined area of overshadowing maintains the adjoining southern lot's access to natural light and ventilation for all outdoor living areas and habitable spaces.</li> <li>• The building height is attributed by providing an increase to ceiling heights which exceed the requirements of the National Construction Code. This is encouraged as it improves natural sunlight and ventilation to the dwellings and provides a sense of spaciousness for future residents.</li> <li>• There are no identified 'views of significance' that would be impacted by the proposed development.</li> <li>• The portion of wall exceeding the deemed-to-comply of 8.5m in height provides a 3.0m setback to the northern lot boundary, 4.2m to the southern lot boundary and a minimum 1.5m lot boundary setback to the western lot boundary. Articulated walls are provided which reduce building bulk. Other than the internal setbacks to the common property driveway, all setbacks to other boundaries meet the deemed-to-comply.</li> </ul> <p>Considering the above, it is considered the development appropriately responds to the subject site in its design. The proposed additional building height is not considered to have an adverse impact on the amenity of adjoining landowners or the locality, appropriately interfacing with neighbouring approved developments.</p>

#### v. Outdoor Living Areas

<b>Proposed</b>
<p><u>Unit 1:</u></p> <ul style="list-style-type: none"> <li>• 10.8m<sup>2</sup> outdoor living area provided in lieu of 16m<sup>2</sup> deemed-to-comply with a minimum dimension of 3m in lieu of 4m deemed-to-comply.</li> </ul>
<p><u>Units 2-4:</u></p>

<ul style="list-style-type: none"> <li>• 29m<sup>2</sup> outdoor living area provided with a minimum dimension of 3m in lieu of 4m deemed-to-comply.</li> </ul>
<b>Administration Assessment</b>
<p>The outdoor living area dimensions are considered to meet the Design Principles as:</p> <ul style="list-style-type: none"> <li>• The proposed outdoor living areas have been designed to maximise access to northern light.</li> <li>• All outdoor living areas are designed to appropriately interface with the primary ground floor indoor living area and are capable of use in conjunction with this space.</li> <li>• Outdoor living areas achieve access to winter sun and ventilation having regard to their northern aspect.</li> <li>• The proposed outdoor living areas are capable of accommodating an outdoor table and seating, providing a suitable outdoor living and entertaining area capable of use with each dwelling.</li> </ul>

## vi. Visual Privacy

<b>Proposed</b>
Unit 5 – first floor living room proposes an opening which is setback 4.2m to the southern boundary in lieu of 4.5m deemed to comply
<b>Administration Assessment</b>
<p>The visual privacy setback is considered to meet the Design Principles as:</p> <ul style="list-style-type: none"> <li>• The visual privacy intrusion is between the boundary and the existing outbuilding on the southern adjoining property. The extent of overlooking is confined to 0.3m. It does result in any overlooking into a habitable room or active outdoor living areas and is considered minimal direct overlooking.</li> <li>• All other windows to habitable rooms and balconies have been designed to be either appropriately screened or setback to meet the deemed-to-comply provisions and are considered not to overlook adjoining properties.</li> </ul>

### 5.3.3 Local Planning Policy – Waste Management

The application was assessed against the Waste Management Local Planning Policy. The Waste Management Plan has been reviewed and is supported. A condition of the determination of the application requires the development to comply with the approved Waste Management Plan in perpetuity.

### 5.3.4 Visitor Parking

Administration has recommended the proposal is modified to remove the visitor bay to be located in the front setback area. Removal of the 22m<sup>2</sup> parking space and access will allow for additional landscaping and a medium-sized tree to be incorporated into the front setback. This will contribute towards the ‘leafy green’ streetscape found along Thomas Street. Additional soft landscaping is considered to be more consistent with the local context and character than providing paved areas for car parking within the street setback.

The impact of removal of the visitor parking space is considered to be minimal. Each dwelling on the site will be provided with two car parking spaces, which is consistent with the deemed-to-comply provisions of the R-Codes. Restricted (2-hour 8am-5pm Mon-Fri) street parking is available on the western side of Thomas Street to accommodate visitors. Whilst removal of the visitor parking space may be seen as less than ideal, it provides an improved streetscape interface between Thomas Street

and the development. Administration will continue to favour positive streetscape outcomes that attempt to better place a development within the 'leafy green' context and character of the locality.

## **6.0 Conclusion**

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

The development proposal represents an intensification of the use of the site comparatively to the current use as a single house. The proposal is considered compatible with the built form and scale envisaged by the R60 density code.

The proposal is considered to meet the key amenity related elements of R-Codes and as such is unlikely to have a significant adverse impact on the local amenity of the area, the streetscape or surrounding neighbouring properties.

The development has made extensive use of landscaping to soften the impact of the built form and appropriately respond to Nedlands' 'leafy green' character. This is further improved by removal of a paved visitor parking space within the front setback and replacement with additional soft landscaping and a medium-sized tree.

The development proposal has been assessed against the Design Principles of the R-Codes, relevant City of Nedlands Local Planning Policies and the Scheme. The application is considered to have satisfied the requirements of these statutory documents and respond to the character of the locality.

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