



## 97 (Strata Lots 1-4) and 105 (Lot 500) Stirling Highway, Nedlands – Reconsideration of Refusal for Mixed Use Development

### State Administrative Tribunal Reconsideration – Responsible Authority Report (Regulation 12)

<b>DAP Name:</b>	Metro Inner-North
<b>Local Government Area:</b>	City of Nedlands
<b>Summary of Modifications:</b>	Reduction in total number of dwellings from 301 to 231. Increase in car parking from 455 to 504. Reduction in number of towers from 4 to 3 (removal of 11 storey inner east tower). Reorientation of eastern tower and reduction in height from 26 to 24 storeys plus rooftop communal open space. Reduction in height of inner tower from 19 to 1 storeys plus rooftop communal open space. Reduction in height of western tower from 24 to 22 storeys plus rooftop communal open space. Increase in minimum setbacks to Baird Avenue and northern (rear) boundary. Reduction in restaurants/cafes from 6 to 4. Inclusion of 4 shops on ground floor. Relocation of community purpose from first floor to ground floor. Increase in office tenancies from 9 to 11 on mezzanine and first floor with increase in office floor area from 2,109m <sup>2</sup> to 3,434m <sup>2</sup> .
<b>Applicant:</b>	Urbanista Town Planning
<b>Owner:</b>	Nedlands Rental Property Pty Ltd (Lots 1-4) Allrange Holdings Pty Ltd (Lot 500)
<b>Value of Development:</b>	\$320 million <input checked="" type="checkbox"/> Mandatory (Regulation 5) <input type="checkbox"/> Opt In (Regulation 6)
<b>Responsible Authority:</b>	City of Nedlands
<b>Authorising Officer:</b>	Mark Goodlet, Chief Executive Officer
<b>LG Reference:</b>	DA20-56259
<b>DAP File No:</b>	DAP/20/01770
<b>SAT File No (DR reference):</b>	DR161/2020
<b>Date of Decision under Review:</b>	17 July 2020
<b>Application for Review Lodgement Date:</b>	23 July 2020
<b>Attachment(s):</b>	1. Development Plans 2. Proponent's Planning Report

	<ol style="list-style-type: none"> <li>3. Comparison Report of refused versus current proposal</li> <li>4. Landscaping Plans</li> <li>5. Feature Survey</li> <li>6. Urban Context Report</li> <li>7. Urban Design Report – Character and Context</li> <li>8. Transport Report / Traffic Impact Assessment</li> <li>9. Parking Management Plan</li> <li>10. Green Star Pathway Report</li> <li>11. Net Zero Carbon CADDs Report</li> <li>12. Waste Management Plan</li> <li>13. Acoustic Design Report</li> <li>14. Proponent’s Community Consultation Documents</li> <li>15. Development Summary</li> <li>16. Previous Determination Notice</li> <li>17. Aerial Locality Plan</li> <li>18. Zoning Plan</li> <li>19. Summary of Submissions</li> <li>20. Detailed architectural submission</li> <li>21. Applicant’s response to submission</li> <li>22. Main Roads WA Advice</li> <li>23. State Design Review Panel Advice</li> <li>24. Architectural Design Review SPP7.0 Assessment</li> <li>25. Applicant’s response to Architectural Design Review</li> <li>26. R-Codes Assessment</li> <li>27. Community Benefit Statement</li> </ol>	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

**Responsible Authority Recommendation**

For Council consideration.

That the Insert DAP Name Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR SAT Reference Number of Year, resolves to:

**Reconsider** its decision dated Choose date and **Choose decision type** decision for DAP Application reference Insert DAP reference number and Choose plan details plans (Plan No, Rev No - if applicable) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (delete for WAPC applications) and the provisions of

Clause no. of the LG Name Choose scheme details Planning Scheme No. no.,  
Choose Conditions/Reasons details:

**Choose Conditions/Reasons** If a refusal, please delete points 1 and 2 below.

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme. Include for LG RARs where land is zoned 'Urban' under the MRS and the conditional Clause 26 of the MRS apply. Delete if a separate decision of the WAPC is needed.
2. This decision constitutes planning approval only and is valid for a period of Number years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

### Advice Notes

Please consider carefully the need for advice notes and ensure that they are relevant to and amplify the recommended approval. Where advice notes are used, please do not refer to specific condition numbers unless absolutely necessary.

- 1.
- 2.

### Reasons for Responsible Authority Recommendation

Complete this section where the Council resolution differs from the Officer Recommendation and provide the reasons as shown in the Council minutes here. The Officer Recommendation section below, including reasons, will also need to be completed.

Include a brief summary of key issues and provide clear and succinct reason/s for the recommendation. If the recommendation is for a refusal, this section may be used to emphasise the reasons in the recommendation if required.

### Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Urban and Primary Regional Roads
Local Planning Scheme	City of Nedlands Local Planning Scheme No.3
Local Planning Scheme Zone/Reserve	Mixed Use R-AC1 and Primary Regional Roads
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan Land Use Designation	N/A
Use Class (proposed) and permissibility:	Residential (Multiple Dwelling) - P Office – P Shop - P Restaurant/café – P

	Motor vehicle, boat or caravan sales – A Community Purpose - A
Lot Size:	6,044m <sup>2</sup>
Net Lettable Area (NLA):	4,764m <sup>2</sup> (non-residential uses)
Plot Ratio:	5.5 calculated (Applicant states 5.2)
Number of Dwellings:	231
Existing Land Use:	Motor vehicle, boat or caravan sales Shop
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input checked="" type="checkbox"/> State Design Review Panel <input checked="" type="checkbox"/> Other – single practitioner review
Bushfire Prone Area	No
Swan River Trust Area	No

### Proposal:

A podium and tower mixed-use development is proposed for the 6,044m<sup>2</sup> site comprising Strata Lots 1-4 (97) and Lot 500 (105) Stirling Highway, Nedlands. The subject site is bounded by Stirling Highway to the south, Dalkeith Road to the east and Baird Avenue to the west.

The main components of the development are outlined below:

Proposed Land Use	Residential (231 Multiple Dwellings) Office (11 tenancies with 3,434m <sup>2</sup> NLA total) Motor vehicle sales (2 tenancies with 641m <sup>2</sup> NLA total) Shop (4 tenancies with 295m <sup>2</sup> NLA total) Restaurant/café (4 tenancies with 230m <sup>2</sup> NLA total) Community Purpose (164m <sup>2</sup> NLA)
Proposed Net Lettable Area	6,764m <sup>2</sup> (non-residential uses)
Proposed No. Storeys	East Tower – 24 storeys (24 floors) Inner Tower – 17 storeys (17 floors) West Tower – 22 storeys (22 floors)
Proposed No. Dwellings	231

### Basements

There are 4 basement levels located wholly below ground. These will house 504 car parking spaces that will be accessed from the street by two ramps, one each connecting to Dalkeith Road and Baird Avenue. A total of 270 spaces are allocated for residential parking, with the remaining 234 allocated to the commercial (non-residential) portion of the development.

In addition to car parking, there are 116 residential bicycle spaces and associated end of trip facilities located on Basement Level 1.

### Ground Floor (Storeys 1-2)

The ground floor comprises a mix of non-residential uses. These include motor vehicle sales tenancies (2), shop tenancies (4) and restaurant/café tenancies (4). Also included on the ground floor is a community purpose space that is intended to be provided to the local government for community use. The ground floor includes a north facing public piazza / alfresco area and pedestrian link between Dalkeith Road and Baird Avenue.

The height of the ground floor (9m) exceeds the 5m allowance for a storey contained in the R-Codes). Given this, the ground floor has been counted as two storeys for the purposes of height calculation, inclusive of the mezzanine.

#### *Mezzanine / Level 1*

A total of 11 office tenancies are proposed for the mezzanine and Level 1.

#### *Level 2*

This is the first of the residential levels and includes the communal swimming pool and 12 apartments.

#### *Levels 3-13*

These are residential levels comprising 14-17 apartments on each level within 3 towers.

#### *Level 15*

This level is the top level of the inner tower, which will comprise a communal children's play area. A total of 10 apartments are located on this level in the east and west towers.

#### *Levels 16-19*

These levels comprise 8 apartments per level within the east and west towers.

#### *Level 20*

The top level of the west tower comprises a range of 'wellness' communal facilities, including outdoor gym / yoga, plunge pool and relaxation lounge. This level of the east tower includes 2 apartments.

#### *Level 21*

This level comprises 2 apartments in the east tower.

#### *Level 22 (Rooftop)*

The top level of the east tower will incorporate communal open space. This will include indoor and outdoor lounges, some of which are intended to be bookable by residents.

The proposal is explained in the following attachments:

- Development Plans **Attachment 1**
- Proponent's Planning Report **Attachment 2**
- Comparison Report of refused versus current proposal **Attachment 3**
- Landscaping Plans **Attachment 4**
- Feature Survey **Attachment 5**
- Urban Context Report **Attachment 6**
- Urban Design Report – Character and Context **Attachment 7**
- Transport Report / Traffic Impact Assessment **Attachment 8**
- Parking Management Plan **Attachment 9**
- Green Star Pathway Report **Attachment 10**

- Net Zero Carbon CADDs Report **Attachment 11**
- Waste Management Plan **Attachment 12**
- Acoustic Design Report **Attachment 13**
- Proponent's Community Consultation Documents **Attachment 14**
- Development Summary **Attachment 15**

**Background:**

History of Application

This application was first considered by the Metro Inner-North JDAP on 17 July 2020. The Panel resolved to refuse the application on the following grounds:

1. The proposed development on a major landmark site with significant street frontage to Stirling Highway across the full width of a street block from Baird Avenue to Dalkeith Road within the core of the new Nedlands Town Centre:
  - a. fails to meet the vision for a new activated and vibrant Nedlands Town Centre; and
  - b. will result in an undesirable precedent for other development which will in turn fail to activate or meet the vision of a new vibrant Town Centre for Nedlands.
2. The proposed Plot Ratio of 5.8:1 will result in excessive building bulk contrary to the amenity of the areas which includes "the present and likely future amenity" of the area having regard to the vision for the development of a new Nedlands Town Centre. 'Amenity' as defined under Schedule 2 of the deemed provisions for Local Planning Schemes inserted into LPS 3.
3. The proposed Plot Ratio of 5.8:1 will result in excessive building bulk contrary to the orderly and proper planning of the area as envisioned in a new activated Nedlands Town Centre.
4. The parking shortfall will result in an overspill of cars searching for car parking spaces in the surrounding residential streets contrary to:
  - a. the amenity of the area;
  - b. the amenity of the existing and future residents; and
  - c. contrary to the orderly and proper planning of the area.
5. The proposed development fails to satisfy the clause 9 'Aims' of the City's LPS3 to:
  - a. protect and enhance local character and amenity;
  - b. respect the community vision for the development of the district;
  - c. achieve quality residential built form outcomes for the growing population; and
  - d. develop and support a hierarchy of activity centres.
6. Building Envelope
  - a. The development does not meet element objective O2.2.1 for Building Height as the proposed height is inconsistent with the future scale and character of the street and local area.
  - b. The development does not meet element objective O2.3.1 for Street Setbacks as there is insufficient setback to the secondary streets of Dalkeith

Road and Baird Avenue for the residential (tower) components of the development.

- c. The development does not meet element objective O2.4.1 for Side and Rear Setbacks as the development does not provide an adequate separation to neighbouring properties, in particular the rear setback to the East and Inner East Towers.
- d. The development does not meet element objective O2.4.2 for Side and Rear Setbacks as the development does not provide a rear setback that is consistent with the desired streetscape character.
- e. The development does not meet element objective O2.4.3 for Side and Rear Setbacks as the development does not accommodate an appropriate deep soil area that reinforces the landscape character of the area.
- f. The development does not meet element objective O2.4.4 for Side and Rear Setbacks as the development does not achieve an appropriate transitional scale with adjoining areas.

#### 7. Building Massing

- a. The development does not meet element objective O2.5.1 for Plot Ratio as the proposal does not fit comfortably within the building envelope (to the extent this can be determined); that the massing of the buildings is not suitable, and as such the proposal is considered to represent over development of the site. Consequently, it is considered that the overall bulk and scale of development is not appropriate for the existing or planned character of the area.
- b. The development does not meet element objective O2.7.1 for Building Separation as it is considered that the proposed building mass of the East and Inner East towers are insufficiently set back from the northern boundary and are not stepped back further up the building in proportion to building height.
- c. The development does not meet element objective O2.7.2 for Building Separation as building separation for the Inner East and East towers does not adequately respond to and is not in proportion to the proposed building height.

#### 8. Internal and External Amenity

- a. The development does not meet element objective O2.6.1 for Building Depth as the apartment layouts do not support optimisation of daylight and solar access and natural ventilation to the single aspect apartments (33% of total units).
- b. The development does not meet element objective O2.6.2 for Building Depth as the articulation of building form to allow adequate access to daylight and natural ventilation where greater building depths are proposed is limited for apartments in storeys 4-10.
- c. The development does not meet element objective O3.2.1 for Orientation as solar and daylight access within the development is not optimised, particularly for storeys 4-10.
- d. The development does not meet element objective O4.1.1 for Solar and Daylight Access as the development is not considered to optimise the number of apartments which received winter sunlight.
- e. The development does not meet element objective O4.1.2 for Solar and Daylight Access as windows have not been positioned to optimise daylight access for habitable rooms on south facing apartments.

- f. The development does not meet element objective O4.2.1 for Natural Ventilation as the number of apartments that are naturally ventilated is not maximised (38% not naturally ventilated).
- g. The development does not meet element objective O4.2.2 for Natural Ventilation as 38% of all apartments do not optimise natural ventilation of habitable rooms.
- h. The development does not meet element objective O4.2.3 for Natural Ventilation as single aspect apartments do not maximise and benefit from natural ventilation.

9. Parking Provision

- a. The development does not comply with clause 32.1(1) of City of Nedlands Local Planning Scheme No.3 and City of Nedlands Local Planning Policy – Car Parking as there is a shortfall of 165 car parking spaces.
- b. The development does not comply with clause 32.2(2) and (3) in that shared car parking provision has not been justified against the Scheme requirements.
- c. No provision has been made for residential visitor parking in accordance with Element 3.9 of SPP7.3 Residential Design Codes Volume 2.

10. Planning

- a. The development does not adequately satisfy clause 67 of Schedule 2 'Deemed Provisions' of the Planning and Development (Local Planning Schemes) Regulations 2015 with respect to:
  - i. Subclause (a) as the development does not:
    - 1. Achieve the aims or provisions of the City's LPS3 pursuant to clause 9 as the development does not:
      - 1. Protect and enhance local character and amenity as the proposed scale (varying between 11 and 26 storeys), bulk and massing of the podium/tower form exceeds the existing low height built form character.
      - 2. Respect the community vision for the development of the district as the development does not reflect the currently-endorsed community vision for the district (Local Planning Strategy 2017);
      - 3. Integrate land use and transport systems as it does not demonstrate sufficient car parking provision to cater for the development.
  - ii. Adequately satisfy all objectives of the Mixed Use zone pursuant to clause 16 of the City's Local Planning Scheme No. 3 as the development does not facilitate well-designed development of an appropriate scale which is sympathetic to the desired character of the area.
  - iii. R-Codes Vol. 2 Elements 2.2 (Building Height), 2.3 (Street Setback), 2.4 (Side and Rear Setbacks), 2.5 (Plot Ratio), 2.6 (Building Depth), 2.7 (Building Separation), 3.2 (Orientation), 4.1 (Solar and Daylight Access) and 4.2 (Natural Ventilation).



- ii. Subclause (b): the proposal is inconsistent with the requirements of orderly and proper planning with respect to the building height, setbacks, plot ratio, building depth, building separation, orientation, solar and daylight access and natural ventilation, and potential for unreasonable adverse impacts on car parking provision in the locality;
- iii. Subclause (c): the proposal does not adequately address:
  - i. State Planning Policy 7.0 (Principle 3 Built Form and Scale and Principle 6 Amenity)
  - ii. State Planning Policy 7.3 Residential Design Codes Volume 2 Elements 2.2 (Building Height), 2.3 (Street Setback), 2.4 (Side and Rear Setbacks), 2.5 (Plot Ratio), 2.6 (Building Depth), 2.7 (Building Separation), 3.2 (Orientation), 4.1 (Solar and Daylight Access) and 4.2 (Natural Ventilation);
- iv. Subclause (g): the proposal is not generally consistent with the Car Parking Local Planning Policy in that there is a shortfall of non-residential car parking;
- v. Subclause (m): the proposal does not appropriately respond to the physical and strategic site context or the built form expectations applicable under LPS3 and as guided by the R-AC1 code, having regard to the building envelope and building massing;
- vi. Subclause (n): the proposal will adversely impact the amenity of the locality as the proposal is wholly disproportionate to the existing suburban character of Stirling Highway and given the application site is not located in the CBD, a metropolitan centre, major tourism node, a transit oriented development, or adjacent to a high amenity resource (e.g. frontage to a river, coast or regional open space)
- vii. Subclause (s): the provision of non-residential car parking is insufficient to meet the likely demand created by the proposed uses;
- viii. Subclause (zc): the State Design Review Panel does not support the development as it does not meet the criteria of good design for the majority of the Design WA design principles and does not provide sufficient amenity for future residents of the development or the greater community who will engage with the development as part of the emerging Neighbourhood Centre.

A copy of the decision, including the plans as refused by the JDAP are included in **Attachment 16**.

#### Application to the State Administrative Tribunal

Subsequent to the refusal determined by the JDAP, the proponent lodged an application for review of the decision on 23 July 2020. A series of mediation sessions took place on 18 September, 2 October, 23 October and 4 November 2020.

The State Administrative Tribunal (SAT) has made orders inviting the decision-maker, under Section 31 of the *State Administrative Tribunal Act 2004* (SAT Act) to reconsider its decision. The decision-maker may:

- affirm the previous decision,
- vary the decision, or

- set aside the decision and substitute a new decision.

Revised plans for the development were received by the City on 18 November 2020 and form the basis of this assessment report.

### Summary of changes

There are a range of changes to the development proposal since it was last considered by the Panel. The most significant of these are summarised below. The proponent has prepared a Comparison Report highlighting the changes. This is included at **Appendix 3**.

#### *Reduction in number of apartments*

The original proposal included 301 apartments. This has since been reduced to 231, comprising 29 single bedroom, 110 two bedroom, 84 three bedroom and 4 four bedroom.

#### *Reduction in height*

The overall height of the development has been reduced from a maximum of 26 storeys to 24 storeys. The measurement of 'storeys' is based upon the definition contained in the Residential Design Codes Volume 2 and differs from the 'levels' used by the proponent.

The east tower will be 24 storeys and a maximum of 83.3m above the natural ground level. This is a reduction of 2 storeys and 5.5m in height.

The inner tower will be 17 storeys and a maximum of 58.7m above the natural ground level. This is a reduction of 2 storeys and 5.1m in height.

The west tower will be 22 storeys and a maximum of 77.0m above the natural ground level. This is a reduction of 2 storeys and 2.1m in height.

#### *Increase in number of car parking spaces*

The number of car parking spaces has been increased from 455 to 504. This has been achieved through the creation of a fourth basement level. The previously-proposed car stackers have been removed from the application.

#### *Reduced plot ratio*

The proponent has advised that the plot ratio for the development has reduced from 5.8 to 5.2. The officer assessment has identified a plot ratio of 5.5.

#### *Removal of inner east tower and reorientation of east tower*

The 11 storey inner east tower included in the original proposal has been removed. This has allowed the east tower to be reoriented to be parallel with Stirling Highway. A separation distance of 14.3m – 17.8m is now provided between the east and inner towers.

#### *Changes in setbacks*

The Baird Avenue setback has been increased from a minimum of 1.1m to a minimum of 2.1m.

The northern (rear) setback has been increased as follows:

- West tower – from 14.6m to 15m (to balconies).

- Inner tower – from 18m to 18.5m (to balconies).
- East tower – from 7.0m to 7.5m – 13.5m (to balconies).

The Dalkeith Road setback has been increased for Levels 2 and above from 0.9m to 3.6m – 9.5m. The podium levels remain with a nil setback.

The reorientation of the east tower so that it is parallel to Stirling Highway has required the minimum setback to the future road widening boundary to be reduced. The east tower will now be 1.9m from the future lot boundary instead of ranging from 2.1m – 7.3m.

#### *Changes in commercial uses*

There has been a reduction in the number of restaurant/café tenancies from 6 to 4. The footprint of the motor vehicle sales tenancies has been reduced from 1,080m<sup>2</sup> to 641m<sup>2</sup>. A total of 295m<sup>2</sup> of shop space in 4 tenancies is to be provided on the ground floor.

The community purpose space originally located on the mezzanine level is now located on the ground floor. The area of community purpose has reduced from 166m<sup>2</sup> to 164m<sup>2</sup>.

The number of office tenancies has increased from 9 to 11. Total office floor space has increased from 2,104m<sup>2</sup> to 3,434m<sup>2</sup>.

#### *Changes in facades*

The facades for the development have been further refined, particularly for the east tower. Each of the three towers present an individual façade treatment.

### Site Description, Development Context and Landscape Features

#### *Site Description*

The site is 6,044m<sup>2</sup> in area, is relatively flat and currently comprises two freehold lots. The eastern lot (Strata Lots 1-4 on Lot 100) is 2,017m<sup>2</sup>. Cancellation of the strata plan and amalgamation of the two freehold lots will be required to accommodate the development. The western lot (Lot 500) is 4,027m<sup>2</sup> and is not strata titled.

#### *Current Development*

The site is currently developed for commercial purposes. The eastern lot is currently occupied by a bicycle sales store (shop). The western lot and portion of the eastern lot is occupied by a motor vehicle sales showroom and yard (motor vehicle, boat and caravan sales). The buildings on the property are relatively modern in construction and are 'fit for purpose' for the current commercial operations. All buildings and improvements on the site are proposed to be demolished to accommodate the development.

#### *Access*

The site fronts Stirling Highway with additional frontage to Dalkeith Road (east) and Baird Avenue (west). Vehicle access is predominantly from the side roads, although a crossover onto Stirling Highway provides bollarded access/egress into the car yard.

#### *Surrounding Development*

The site is located within the street block bounded by Stirling Highway to the south, Dalkeith Road to the east, Bedford Street to the north and Baird Avenue to the west.

An aerial locality plan is provided in **Attachment 17**. All other properties within the street block are residential. The properties immediately to the north of the site are currently developed for grouped dwellings.

The opposite side of Stirling Highway is developed with a range of commercial properties, including the Windsor Cinema complex. A mix of commercial and residential development is found on the northern side of Stirling Highway to the east and west of the site.

#### *Existing Landscaping / Vegetation*

There is no significant landscaping or vegetation on the site due to its predominant use as a motor vehicle sales business. There is an existing landscaping strip along the Stirling Highway frontage of the site that incorporates low shrubs.

#### *Heritage*

There are two places currently listed on the State Register of Heritage Places that are located relatively close to the site. The first is the Peace Memorial Rose Garden located on Stirling Highway approximately 130m to the southwest of the site. The second place is the Captain Stirling Hotel located on Stirling Highway approximately 100m to the east of the site.

#### *Zoning*

The site is zoned Mixed Use by City of Nedlands Local Planning Scheme No.3 (the Scheme) with a density code of R-AC1. This zoning and density is in place on all properties fronting Stirling Highway in the locality. Properties immediately to the rear (north) of the site are zoned R160. Zonings in the vicinity are shown on **Attachment 18**.

#### *Existing Character*

The applicant has prepared a context and character analysis at **Attachment 7**.

The properties fronting Stirling Highway are characterised by a trapezoidal shape caused by the highway being on a northeast-southwest axis with intersecting roads remaining on a north-south axis. This has caused buildings fronting the highway to utilise a range of rectilinear and non-rectilinear forms to address the lot shape. This has created the opportunity for serration both within a building and also within a street block. Front setbacks to the highway also vary throughout the streetscape.

Stirling Highway properties provide a range of uses including retail, showroom, residential, entertainment, hospitality, and office. Baird Avenue and Dalkeith Road are both residential in nature except for the corner properties on Stirling Highway. The scope of development remains modest in nature with building height limited in most cases to two storeys. The largest buildings currently in the vicinity are the Windsor Cinema and Cullen McLeod building with an approximate height of 4 storeys. Both of these buildings are located opposite the site.

There is a wide range of architectural styles given many properties have been redeveloped over time. Examples of 'Art Deco' or similar-era architecture are found on commercial buildings on the southern side of Stirling Highway. The current buildings on the site are of more modern construction with the dominant building being the car showroom. Residential properties in the vicinity present a wide range of architectural styles with examples of original housing, refurbished/expanded original housing and newer housing. Residential development remains at relatively low density given previous low density Scheme controls that remained in place until 2019.

Landscaping of commercial properties is relatively limited due to the generally larger buildings and need for onsite car parking. Relatively large front setbacks for residential properties on the side streets provides for landscaping that presents a 'leafy green' streetscape. This is supplemented by landscaping of backyards. An exception to the landscaped front and rear yards is found with the grouped dwelling developments that immediately abut the site to the north. These developments have smaller front and rear setbacks with a resultant reduction in landscaped area.

#### *Future Character*

At the time of finalising this report policy work is underway to define the desired future character. The City has engaged consultants to undertake a Local Character and Distinctiveness study. Based on that work, Administration has prepared draft Local Planning Policy – Context and Character for the Town Centre which seeks to define the desired future character for the proposed Town Centre. Council will consider the policy at its February meeting for the purposes of adopting it to advertise. While JDAP can not give due regard to this policy as it has not been adopted or advertised, it is evidence that the planning framework as it relates to the Town Centre will soon be resolved.

The City has adopted for advertising the Nedlands Town Centre Precinct Plan Local Planning Policy (NTCPP) which has been advertised. Consultants are also working on built form modelling to test several scenarios including the provisions of the Draft NTCPP and the R-Codes Volume 2. The built form modelling currently underway is testing built form scenarios which relate to context, character as well as built form and scale against the existing R Code and Scheme Controls, that of the current draft NTCPP and a medium intensity scenario which will assist the City in testing and evaluating building envelope options and to determine the desired future character of the Nedlands Town Centre. This will assist the City in defining the appropriate built form responses to create a local planning framework which will be robust whilst providing an evidence-based approach to the establishment of any augmentation to the R Codes or the Scheme. Once this work is complete it will be presented back to Council for further consideration, which may involve substantial amendments to the NTCPP.

Although little weight can be afforded to draft LPP – NTCPP, the policy provides a number of cues to the future character of the precinct. The plan identifies the site as part of the Town Core sub-precinct, which will be a residential core with ground and first floors activated (cafes / offices). The key characteristics of each sub-precinct are likely to remain unchanged. The objectives of the Town Core are:

- Require ground and first floors to be activated with restaurants, offices and cafes on the corner away from the noise of Stirling Highway;
- Support multi-purpose spaces to be used for small business hubs;
- Require increased densities above ground and first floors; and
- Relocate bus stops to be within Town Heart and Town Core.

It is anticipated that the Town Core sub-precinct would accommodate high density development along the Stirling Highway Activity Corridor as prescribed as a Mixed Use zone, coded R-AC1 for the length of Stirling Highway. There is currently no clearly defined node and the NTCPP seeks to establish a local planning framework to support the development of a specific 'City Centre' for Nedlands with the Captain Stirling Hotel and Windsor Cinema buildings being landmark developments and representative of Nedlands character. In context of LPS3 and the designation of an Activity Centre

Corridor, the defining of future desired character has formed an integral component of the development of a Precinct Plan LPP.

As such, through development of the NTCPP it was identified that the site of Chellingworth Motors had strategic importance given it is afforded three street frontages and access to a signalised intersection. The plan, therefore, includes provisions that support a higher and more dense development for this site than the rest of the Town Centre.

#### *Consideration of draft Policies*

Due regard to draft local planning policies in the assessment of this development has taken place consistent with a resolution of Council on 28 April 2020 to give due regard to all policies, including those in draft form. Consideration of draft policies has been weighted in accordance with the principles of certainty and imminency.

#### Dwelling Target

The WAPC has set dwelling targets for each local government in order to achieve the outcomes of *Perth and Peel @ 3.5 million*. The Department of Planning, Lands and Heritage has advised as follows:

*...the Perth and Peel @ 3.5 Million infill dwelling targets represent the minimum expected dwelling yield and need to be considered in conjunction with the principles of urban consolidation outlined in Perth and Peel @ 3.5 Million and other relevant WAPC policies in the development of local planning frameworks.*

The City of Nedlands minimum target is 2,540 by 2031. This development proposes 231 and will contribute a significant proportion towards meeting this target.

#### Building Height

The normal acceptable outcome for building height in the R-AC1 area is 9 storeys. However, clause 26(3) of the Scheme removes acceptable outcome A2.2.1 from areas coded R-AC1 within the City of Nedlands. In effect, there is no default height guidance in which to assess applications. Instead, the requirements of the Element Objectives O2.2.1-O2.2.4 are applied.

In the absence of an acceptable outcome height limit, the City prepared height guidance within the draft Nedlands Town Centre Precinct Plan. This recommended a building height of 16 storeys be applied to the subject site. In addition, a bonus of 4 storeys could be applied where community benefit was demonstrated. The Department of Planning, Lands and Heritage subsequently advised the City that it is inappropriate for a local planning policy to control height where this contradicts a Scheme provision.

Given the Department's advice, the City is left with a position where there is no default or acceptable outcome guidance on building height. In lieu of this, the City has assessed building height against Element Objectives O2.2.1-O2.2.4 and O2.5.1 with particular reference to "desired future scale and character of the street". This is explored further in this report.

#### **Legislation and Policy:**

##### Legislation

- *Planning and Development Act 2005 (P&D Act)*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)*
- *Planning and Development (Development Assessment Panel) Regulations 2011*
- *Metropolitan Region Scheme*
- *City of Nedlands Local Planning Scheme No. 3 – clauses 9, 16, 18, 32 and 34*

#### State Government Policies

- *State Planning Policy 4.2 Activity Centres (SPP 4.2)*
- *State Planning Policy 5.4 – Road and Rail Noise*
- *State Planning Policy 7.0 – Design of the Built Environment (SPP7.0)*
- *State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments (R-Codes Vol. 2)*

#### Local Policies

- *Local Planning Policy – Consultation of Planning Proposals*
- *Local Planning Policy - Parking*
- *Local Planning Policy – Waste Management*
- *Draft Nedlands Town Centre Precinct Plan*

### **Consultation:**

#### Public Consultation

Advertising of the application was required by clause 64 of the Deemed Provisions (Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015). In accordance with the City's Local Planning Policy – Consultation of Planning Proposals, the development proposal is considered a Complex Application. Given the limited assessment period provided for the revised plans, the normal 21 day advertising period was reduced to a total of 19 days from 21 November 2020 until 10 December 2020. Advertising consisted of:

- Mail drop to all City of Nedlands properties;
- An advertisement was published on the City's website with all documents relevant to the application made available for viewing during the advertising period;
- An advertisement was placed in *The Post* newspaper published on 21 November 2020;
- A notice was affixed to the City's noticeboard at the City's Administration Offices;
- A community information session was held by City Officers on 3 December 2020, where approximately 30 residents attended.

Administration received a total of 223 submissions during the public consultation period, of which 10 submissions were in support of the application and the remaining 213 submissions objected to the proposal. A total of 13 submissions were received from within a 200m radius of the site. A total of 118 submissions were received from within a 1km radius of the site. It is noted that 51 of the submissions received were based on a 'pro forma' submission.

A summary of submissions is provided as **Attachment 19**. The key issues raised by more than 10% of submissions are summarised below. Other issues are included in the summary of submissions. An updated version of a detailed submission that was provided to the JDAP in full as part of the initial consideration has been provided at **Attachment 20**. The applicant's response to this submission is included at **Attachment 21**.

Issue raised in Objection	Officer Response
<p><b>Traffic</b>  <i>Will generate unmanageable traffic pressure</i>  <i>Impacts on residential streets to the north.</i>  <i>Risk to safety and amenity of surrounding streets.</i>  <i>Stirling Hwy and intersections already too congested.</i>  <i>Cumulative impact with other new developments not taken into account.</i>  <i>Traffic Impact Assessment inadequate / not using correct guidelines.</i>  <i>Need for a City-wide traffic assessment / modelling</i>  <i>Need to cul-de-sac Baird Avenue</i>  <i>Will impact on surrounding bicycle network</i></p>	<p>It is noted that traffic is a significant concern for the community.</p> <p>Stirling Highway is currently a busy road with impacts on side streets leading into it. The impact of this development on traffic has been outlined by the applicant in a Traffic Impact Assessment. This assessment has been reviewed by the City and Main Roads.</p> <p>The traffic impact of the development will be a significant factor in the assessment.</p> <p>The traffic impacts of the development are outlined in the RAR.</p>
<p><b>Building height</b>  <i>Excessive height</i>  <i>Will be tallest along entire Stirling Highway</i>  <i>Out of context, not appropriate to its setting</i>  <i>Does not warrant bonus height</i>  <i>Maximum heights of 4-10 storeys cited.</i></p>	<p>It is noted that building height is a significant concern for the community.</p> <p>An assessment of building height is outlined in the RAR and the R-Codes Assessment.</p>
<p><b>Character, Context and Amenity</b>  <i>No relation to, or not in keeping with local context and character.</i>  <i>Overwhelms neighbouring and adjoining properties.</i>  <i>Not aesthetic</i>  <i>Not in keeping with the existing context and character</i>  <i>Impacts on amenity of locality</i>  <i>Impacts on streetscape</i>  <i>Will create an undesirable precedent</i>  <i>Referencing UWA architecture is out of immediate context</i>  <i>More appropriate for a CBD or train station location.</i></p>	<p>It is noted that the development being out of character or context with the locality is a significant concern for the community.</p> <p>Context and character is a key consideration of the development against the 10 principles contained in State Planning Policy 7.0 <i>Design of the Built Environment</i>.</p> <p>An assessment of context and character and character is included in the RAR and also considered in the R-Codes assessment.</p> <p>Consideration of amenity is enshrined in the R-Codes assessment.</p>
<p><b>Bulk and Scale</b>  <i>The bulk and scale is inconsistent with the surrounding locality.</i>  <i>Does not demonstrate Good Design</i>  <i>Amendments do not reduce the overall bulk and scale of the development</i>  <i>Undesirable, out of context, insensitive to existing or possible built form</i>  <i>Scale more appropriate in a CBD area</i>  <i>The bulk and scale is excessive.</i></p>	<p>The overall bulk of the building has been reduced by the deletion of the inner east tower and provision of a gap between towers. However, the overall scale of the development remains considerable due to the relatively low reduction in tower height of 2 storeys. The bulk and scale of the development will be the largest seen on Stirling Highway to this date.</p>



Issue raised in Objection	Officer Response
	<p>This element is closely aligned with community concerns regarding building height and plot ratio.</p> <p>The appropriateness of the bulk and scale is considered in both the assessment against SPP 7.3 and the R-Codes.</p>
<p><b>Plot ratio</b>  <i>Exceeds plot ratio allowance of 3.0</i>  <i>Community benefit not proven to support 5.2 plot ratio.</i></p>	<p>The current acceptable outcome for plot ratio for the site is 3.0. Whilst a development can be considered with a higher plot ratio, it is assessed against the element objective. This requires the bulk and scale of the development to be appropriate for the existing or planned character of the area.</p> <p>The calculated plot ratio taking into account the current site area is 5.5 (applicants state 5.2). The element objective for plot ratio has not been met for this proposal.</p> <p>Refer to the R-Code assessment for further discussion on compliance with the element objectives for plot ratio (Element 2.5).</p>
<p><b>Car parking and bicycle parking insufficient</b>  <i>Insufficient on site parking</i>  <i>Insufficient off site parking on surrounding roads and car parks</i>  <i>Will increase traffic congestion in surrounding streets</i>  <i>Construction parking will impact on neighbours</i></p>	<p>The number of car parking spaces has been increased from 464 to 504. This increase, as well as the decrease in the number of apartments by 70 has allowed a greater number of commercial car parking spaces than was previously proposed. There remains a number of technical shortfalls in parking when assessed against the R-Codes and Car Parking Policy. In particular, residential visitor parking is to be shared with commercial visitor parking and the number of bays provided for the restaurant uses is lower than policy requirements.</p> <p>Car parking is explored further in this report.</p>
<p><b>Visual privacy and Overlooking</b>  <i>Overlooks surrounding properties</i>  <i>Direct views into private areas of neighbouring properties</i>  <i>Insufficient visual privacy setbacks</i></p>	<p>Visual privacy is assessed against Element 3.5 of the R-Codes Volume 2.</p> <p>The West and Inner Towers comply with the relevant acceptable outcome setbacks contained in Table 3.5 and Table 2.7 of the R-Codes Volume 2. The visual privacy setbacks for the East Tower do not meet the acceptable outcomes for Storeys 4-21.</p> <p>The visual privacy arrangements for the development have been assessed against element objective O3.5.1 in lieu of the acceptable outcomes and are considered to meet the objective, with conditions.</p> <p>Refer to the R-Code assessment for further discussion on compliance with the element objectives for visual privacy (Element 3.5).</p>

Issue raised in Objection	Officer Response
<p><b>Tree canopy and deep soil areas / Lack of green space / open space</b>  <i>Does not meet requirements of Element 3.3 of the R-Codes.</i>  <i>No ability for mature tree canopies and high quality landscaping.</i>  <i>Lack of vegetation / open space</i>  <i>Vegetation on the buildings is likely to fail</i>  <i>Relies on road widening area for deep soil areas</i></p>	<p>The tree canopy and deep soil areas proposed have been assessed as compliant with the element objectives of Element 3.3 of the R-Codes Volume 2. It is noted that there is currently minimal landscaping on the site, with the proposed landscaping to expand the amount of vegetation.</p> <p>Refer to the R-Code assessment for further discussion on compliance with the element objectives for tree canopy and deep soil areas (Element 3.3) and landscape design (Element 4.12).</p>
<p><b>Noise</b>  <i>Public areas, Level 1 terraces and apartment balconies present a source of noise.</i>  <i>External dining areas, pedestrian traffic and waste collection vehicles compromises neighbouring property's expectations of peace, comfort and amenity.</i>  <i>Ambient noise from air-conditioners, rubbish trucks, more people</i>  <i>Noise from traffic and cars</i></p>	<p>Noise from the proposed food and beverage tenancies and public plaza will be a particular consideration. A revised Acoustic Report has been provided that will form the basis of a more detailed noise management plan in the event of approval.</p> <p>A more detailed assessment of noise can be found at Element 4.7 of the R-Codes Volume 2. The development has been found to be able to meet this element, subject to conditions relating to noise management.</p>
<p><b>Setbacks / Building Separation</b>  <i>Too close to the highway</i>  <i>Lack of building separation to northern neighbours</i></p>	<p>Issues relating to setbacks and building separation are discussed in Elements 2.3, 2.4 and 2.7 of the R-Codes Volume 2.</p> <p>The assessment has concluded that a number of element objectives relating to street setback, side and rear setback and building separation have not been met by this proposal.</p> <p>Refer to the R-Code assessment for further discussion on compliance with the element objectives for street setback (Element 2.3), side and rear setback (Element 2.4) and building separation (Element 2.7).</p>
<p><b>Overshadowing</b>  <i>The development will overshadow surrounding residential properties and businesses.</i>  <i>Inappropriate amount of overshadowing.</i>  <i>Impact of overshadowing on the Peace Memorial Rose Garden</i></p>	<p>The development has been assessed as meeting the overshadowing provisions of Acceptable Outcome A3.2.3.</p> <p>It is noted that the properties most affected are located immediately south of the site and are commercial. Whilst overshadowing extends further than the immediately neighbouring properties to the south, shading remains consistent with the acceptable outcome limits. It is noted that the closest residential properties to the site are located to the north and are not affected by overshadowing.</p>

Issue raised in Objection	Officer Response
	Partial overshadowing of the Peace Memorial Rose Garden is limited to a relatively short period of time in the morning during winter. Advice from the City's parks and gardens section indicates that the amount of shading will not impact on the plantings within the garden.
<b>Insufficient / minimal changes</b> <i>There are minimal or insufficient changes from the initial proposal</i>	The revised application has been assessed against the Scheme and relevant State Planning Policies and Local Planning Policies. This assessment is not limited to the changes made between the initial and revised proposals. Rather, the assessment considers the revised development in its entirety.

### Referrals/consultation with Government/Service Agencies

#### *Main Roads WA*

Main Roads has advised that it has no objection to the proposal, subject to conditions relating to the following matters (**Attachment 22**):

- The land required for the widening of Stirling Highway being set aside as a separate lot and ceded free of cost to the Western Australian Planning Commission;
- No part of the building/development to be located within the road widening area;
- A landscape plan for the temporary landscaping of the road widening area being provided to the satisfaction of the City of Nedlands in consultation with Main Roads;
- No alteration of ground levels within the road widening area;
- An acoustic report consistent with SPP 5.4 Road and Rail Noise being provided to the satisfaction of the City of Nedlands in consultation with Main Roads and the measures being subsequently certified as having been implemented;
- A section 70A notification being placed on the title(s) for the site advising that the lots are situated in the vicinity of a transport corridor and are currently affected, or may in future be affected by transport noise;
- Redundant crossovers are to be removed and the verge reinstated;
- No earthworks shall encroach onto the Stirling Highway road reserve or the widened road reservation;
- No stormwater drainage is to be discharged into the Stirling Highway road reserve; and
- No waste collection to take place from Stirling Highway.

Each of the matters above can be accommodated by a suitable condition on any approval granted by the Panel.

Main Roads advised that the upgrading of Stirling Highway is not in Main Roads' current 4-year forward estimated construction program and that all projects not listed are considered long term. Main Roads further advised that disabled access is required to be achieved from the ultimate road design. Main Roads notes that this matter will be addressed in the building approval stage.

*Department of Planning, Lands and Heritage (Heritage) (DPLH)*

The DPLH advised that it declines to provide comment. It has noted that the Windsor Theatre opposite the site has been assessed as of not being of state significance. It has also noted that the impact on the nearby state-registered Peace Memorial Rose Garden is 'minimal'.

There is no requirement for conditions to be placed in favour of heritage matters in the event of approval.

*Water Corporation*

Water Corporation advised on the original proposal that reticulated water and sewerage is currently available throughout the subject area. If its assets are affected, the developer may be required to fund new works or the upgrading of existing works and protection of all works.

Due to the increase in development density, upgrading of the current system may be required to prevent existing customers being affected by the proposed development and ensure proposed demands are met for the development. A contribution for water, sewerage and drainage headworks may also be required due to the proposed density increase, and increased demand for servicing.

There is no requirement for conditions to be placed in the favour of Water Corporation in the event of approval, as any subsequent building application will be required to be considered by it.

















*Public Transport Authority*

The Public Transport Authority provided advice for the original proposal relating to the bus stop that is located adjacent to the site. It advised of the requirements surrounding the temporary relocation of the stop during construction. However, it has advised that the stop is to be retained in its current location once construction ends.

State Design Review Panel Advice

The State Design Review Panel (SDRP) has considered the application and its various iterations on four different occasions (20 August 2019, 15 October 2019, 17 December 2019 and 19 January 2021). The latest SDRP report is included at **Attachment 23**.

The outcomes of the previous SDRP reviews are tabulated below:

	DR1 20 Aug 19	DR2 15 Oct 19	DR3 17 Dec 19	DR4 19 Jan 21
 <i>Supported</i>				
 <i>Pending further attention</i>				
 <i>Not yet supported</i>				
 <i>Yet to be addressed</i>				
Principle 1 – Context & Character				
Principle 2 – Landscape Quality				
Principle 3 – Built Form & Scale				

Principle 4 – Functionality & Built Quality				
Principle 5 – Sustainability				
Principle 6 – Amenity				
Principle 7 – Legibility				
Principle 8 – Safety				
Principle 9 – Community				
Principle 10 – Aesthetics				

In its summary comments for DR4 on 19 January 2021, the Panel noted that the amendments made since the development application was lodged have improved aspects of the proposal, particularly in terms of the ground floor plane. The Panel noted the reduction in tower heights and provision of greater tower separation. However, the Panel considered these improvements to not significantly alter the recommendations of previous reviews.

The Panel advised that previous urban design frameworks have suggested a mid-rise, compact urban form for sites along Stirling Highway. It noted that *Design WA* supports this compact type for R-AC1 zonings in mid-rise urban centres and corridors. The Panel contends that the proposed scale and building typology (podium and tower with nil basement setbacks) is considered suitable for a CBD, or major metropolitan centre but not for Local Town Centre located on an Activity Corridor without a TOD context.

The Panel acknowledges the difficulties of progressing development for this site in the absence of a confirmed local planning framework. However, the Panel is concerned that there remains no strategic justification for a building of this scale in this location and the proposal does not deliver the level of amenity appropriate for development of this nature. Addressing bulk and scale will assist with improving the design quality of the project overall.

#### Local Government Design Review

The City of Nedlands does not currently have an operating Design Review Panel. In order to provide design input into the assessment, the City has engaged a practicing architect to assess the development against the principles of good design contained in State Planning Policy 7.0 *Design of the Built Environment*. The City undertook this review due to uncertainty of whether the SDRP would be able to

A copy of the full assessment and the Applicant’s response is included at **Attachments 24 and 25** respectively. The outcomes of the review are tabulated below:

	<i>Supported</i>
	<i>Pending further attention</i>
	<i>Not yet supported</i>
	<i>Yet to be addressed</i>
	Review
Principle 1 – Context & Character	
Principle 2 – Landscape Quality	
Principle 3 – Built Form & Scale	
Principle 4 – Functionality & Built Quality	
Principle 5 – Sustainability	
Principle 6 – Amenity	
Principle 7 – Legibility	

Principle 8 – Safety	
Principle 9 – Community	
Principle 10 – Aesthetics	

It is acknowledged that the two reviews conducted have produced differing outcomes. The SDRP have assessed the current proposal against its previous findings and is a consensus view involving a panel. The SDRP have also considered the strategic justification and planning framework when forming its view. The single-practitioner review is based on the current proposal only and has focussed on the design elements. The SDRP review is considered to be the more robust of the two and is also in accordance with the design review guide for a range of views to be caucused prior to a consensus response being determined. The SDRP review has statutory weight by clause 67(zc) of the Deemed Provisions. This clause provides for the decision maker to take into account the advice of a design review panel. The single-practitioner design review, whilst undertaken by a suitably-qualified person, is not the result of a panel deliberation process. A panel process is considered the appropriate standard for design review.

### Planning Assessment:

#### Addressing of the reasons for refusal

The table below identifies each reason for refusal and how the current proposal addresses these. Where necessary, each of the reasons is then further discussed in this assessment.

Refusal Number	Refusal Reason	Comment
1.	<p>The proposed development on a major landmark site with significant street frontage to Stirling Highway across the full width of a street block from Baird Avenue to Dalkeith Road within the core of the new Nedlands Town Centre:</p> <p>a) fails to meet the vision for a new activated and vibrant Nedlands Town Centre; and</p> <p>b) will result in an undesirable precedent for other development which will in turn fail to activate or meet the vision of a new vibrant Town Centre for Nedlands.</p>	<p>Activation at ground level has been improved through the introduction of shop tenancies in lieu of the entire Stirling Highway frontage being used for motor vehicle sales. However, the main areas of activation remain on the northern elevation away from the street. This is a deliberate design decision given the level of traffic noise and congestion on Stirling Highway.</p> <p>Maintaining a limited motor vehicle sales presence on the ground floor is considered appropriate given the historic use of the site.</p> <p>This refusal reason is considered to be adequately addressed by the revised plans.</p>

2.	The proposed Plot Ratio of 5.8:1 will result in excessive building bulk contrary to the amenity of the areas which includes “the present and likely future amenity” of the area having regard to the vision for the development of a new Nedlands Town Centre. ‘Amenity’ as defined under Schedule 2 of the deemed provisions for Local Planning Schemes inserted into LPS 3.	<p>Plot ratio has been reduced to 5.5 (calculated by the City) or 5.2 (applicant stated).</p> <p>This is not considered sufficient to remove excessive building bulk in a manner that will reflect the amenity of the area, including the present and likely future amenity. Refer to Planning Assessment section on amenity.</p> <p>This refusal reason is considered to not be satisfied by the revised plans.</p>
3.	The proposed Plot Ratio of 5.8:1 will result in excessive building bulk contrary to the orderly and proper planning of the area as envisioned in a new activated Nedlands Town Centre.	<p>Plot ratio has been reduced to 5.5 (calculated by the City) or 5.2 (applicant stated).</p> <p>This is not considered sufficient to remove excessive building bulk in a manner that will reflect the orderly and proper planning of the area.</p> <p>This refusal reason is considered to not be satisfied by the revised plans.</p>
4.	<p>The parking shortfall will result in an overspill of cars searching for car parking spaces in the surrounding residential streets contrary to:</p> <ul style="list-style-type: none"> <li>a) the amenity of the area;</li> <li>b) the amenity of the existing and future residents; and</li> <li>c) contrary to the orderly and proper planning of the area.</li> </ul>	<p>The total number of car parking spaces has been increased from 464 to 504. The total number of commercial parking spaces has increased from 67 to 234.</p> <p>As discussed in the car parking section below, there are still shortfalls of parking when compared to the requirements of the City’s Car Parking Local Planning Policy. Additionally, it is proposed to share residential and commercial visitor parking utilising a Parking Management Plan. Shared parking is contemplated by clause 32.2 of the Scheme.</p> <p>It is considered that there is sufficient car parking provided to address this reason for refusal.</p>
5.	<p>The proposed development fails to satisfy the clause 9 ‘Aims’ of the City’s LPS3 to:</p> <ul style="list-style-type: none"> <li>a) protect and enhance local character and amenity;</li> </ul>	<p>The revised development is considered not to adequately address this reason for refusal. In particular, protecting and enhancing local character and</p>



	<ul style="list-style-type: none"> <li>b) respect the community vision for the development of the district;</li> <li>c) achieve quality residential built form outcomes for the growing population; and</li> <li>d) develop and support a hierarchy of activity centres.</li> </ul>	<p>amenity and respecting the community vision for the development of the district.</p>
6.	<p><u>Building Envelope</u></p> <ul style="list-style-type: none"> <li>a) The development does not meet element objective O2.2.1 for Building Height as the proposed height is inconsistent with the future scale and character of the street and local area.</li> <li>b) The development does not meet element objective O2.3.1 for Street Setbacks as there is insufficient setback to the secondary streets of Dalkeith Road and Baird Avenue for the residential (tower) components of the development.</li> <li>c) The development does not meet element objective O2.4.1 for Side and Rear Setbacks as the development does not provide an adequate separation to neighbouring properties, in particular the rear setback to the East and Inner East Towers.</li> <li>d) The development does not meet element objective O2.4.2 for Side and Rear Setbacks as the development does not provide a rear setback that is consistent with the desired streetscape character.</li> <li>e) The development does not meet element objective O2.4.3 for Side and Rear Setbacks as the development does not accommodate an appropriate deep soil area that reinforces the landscape character of the area</li> <li>f) The development does not meet element objective O2.4.4 for Side and Rear Setbacks as the development does not achieve an appropriate transitional scale with adjoining areas.</li> </ul>	<p>The revised proposal has been assessed against the Element Objectives of the R-Codes.</p> <p>The revised proposal is not considered to meet Element Objective O2.2.1 relating to building height.</p> <p>Whilst a departure from acceptable outcomes for street setbacks is required, the revised proposal is considered to meet Element Objectives O2.3.1-O2.3.4.</p> <p>The revised proposal does not adequately address Element Objectives O2.4.1, O2.4.2 and O2.4.4 relating to side and rear setbacks.</p>
7.	<p><u>Building Massing</u></p> <ul style="list-style-type: none"> <li>a) The development does not meet element objective O2.5.1 for Plot Ratio as the proposal does not fit comfortably within the building envelope (to the extent this can be determined); that the massing of the buildings is not suitable, and as such the proposal is considered to represent over development of the site. Consequently, it is considered that the overall bulk and scale of development is</li> </ul>	<p>The revised proposal has been assessed against the Element Objectives of the R-Codes.</p> <p>The revised proposal is not considered to meet Element Objective O2.5.1 relating to plot ratio.</p> <p>The revised proposal is not considered to meet Element</p>



	<p>not appropriate for the existing or planned character of the area.</p> <p>b) The development does not meet element objective O2.7.1 for Building Separation as it is considered that the proposed building mass of the East and Inner East towers are insufficiently set back from the northern boundary and are not stepped back further up the building in proportion to building height.</p> <p>c) The development does not meet element objective O2.7.2 for Building Separation as building separation for the Inner East and East towers does not adequately respond to and is not in proportion to the proposed building height.</p>	<p>Objectives O2.7.1 and O2.7.2 relating to building separation.</p>
<p>8.</p>	<p><u>Internal and External Amenity</u></p> <p>a) The development does not meet element objective O2.6.1 for Building Depth as the apartment layouts do not support optimisation of daylight and solar access and natural ventilation to the single aspect apartments (33% of total units).</p> <p>b) The development does not meet element objective O2.6.2 for Building Depth as the articulation of building form to allow adequate access to daylight and natural ventilation where greater building depths are proposed is limited for apartments in storeys 4-10.</p> <p>c) The development does not meet element objective O3.2.1 for Orientation as solar and daylight access within the development is not optimised, particularly for storeys 4-10.</p> <p>d) The development does not meet element objective O4.1.1 for Solar and Daylight Access as the development is not considered to optimise the number of apartments which received winter sunlight.</p> <p>e) The development does not meet element objective O4.1.2 for Solar and Daylight Access as windows have not been positioned to optimise daylight access for habitable rooms on south facing apartments.</p> <p>f) The development does not meet element objective O4.2.1 for Natural Ventilation as the number of apartments that are</p>	<p>The revised proposal has addressed the reasons for refusal relating to Building Depth, Orientation, Solar and Daylight Access and Natural Ventilation.</p>

	<p>naturally ventilated is not maximised (38% not naturally ventilated).</p> <p>g) The development does not meet element objective O4.2.2 for Natural Ventilation as 38% of all apartments do not optimise natural ventilation of habitable rooms.</p> <p>h) The development does not meet element objective O4.2.3 for Natural Ventilation as single aspect apartments do not maximise and benefit from natural ventilation.</p>	
9.	<p><u>Parking Provision</u></p> <p>a) The development does not comply with clause 32.1(1) of City of Nedlands Local Planning Scheme No.3 and City of Nedlands Local Planning Policy – Car Parking as there is a shortfall of 165 car parking spaces.</p> <p>b) The development does not comply with clause 32.2(2) and (3) in that shared car parking provision has not been justified against the Scheme requirements.</p> <p>c) No provision has been made for residential visitor parking in accordance with Element 3.9 of SPP7.3 Residential Design Codes Volume 2.</p>	<p>The revised proposal has addressed the previous parking shortfall by a combination of the provision of additional car parking spaces and shared parking management.</p>
10.	<p><u>Planning</u></p> <p>a) The development does not adequately satisfy clause 67 of Schedule 2 'Deemed Provisions' of the Planning and Development (Local Planning Schemes) Regulations 2015 with respect to:</p> <p>i. Subclause (a) as the development does not:</p> <p>i. Achieve the aims or provisions of the City's LPS3 pursuant to clause 9 as the development does not:</p> <ol style="list-style-type: none"> <li>1. Protect and enhance local character and amenity as the proposed scale (varying between 11 and 26 storeys), bulk and massing of the podium/tower form exceeds the existing low height built form character.</li> <li>2. Respect the community vision for the development of the district as the development does not reflect the currently endorsed community</li> </ol>	<p>Subclauses (a), (b), (c), (m) and (n) remaining not satisfied by the revised proposal.</p> <p>Refer to the assessment of the proposal against clause 67 of the Deemed Provisions elsewhere in this report for details.</p>

	<p>vision for the district (Local Planning Strategy 2017);</p> <p>3. Integrate land use and transport systems as it does not demonstrate sufficient car parking provision to cater for the development.</p> <p>ii. Adequately satisfy all objectives of the Mixed Use zone pursuant to clause 16 of the City's Local Planning Scheme No. 3 as the development does not facilitate well-designed development of an appropriate scale which is sympathetic to the desired character of the area.</p> <p>iii. R-Codes Vol. 2 Elements 2.2 (Building Height), 2.3 (Street Setback), 2.4 (Side and Rear Setbacks), 2.5 (Plot Ratio), 2.6 (Building Depth), 2.7 (Building Separation), 3.2 (Orientation), 4.1 (Solar and Daylight Access) and 4.2 (Natural Ventilation).</p> <p>ii. Subclause (b): the proposal is inconsistent with the requirements of orderly and proper planning with respect to the building height, setbacks, plot ratio, building depth, building separation, orientation, solar and daylight access and natural ventilation, and potential for unreasonable adverse impacts on car parking provision in the locality;</p> <p>iii. Subclause (c): the proposal does not adequately address:</p> <p>i. State Planning Policy 7.0 (Principle 3 Built Form and Scale and Principle 6 Amenity).</p> <p>ii. State Planning Policy 7.3 Residential Design Codes Volume 2 Elements 2.2 (Building Height), 2.3 (Street Setback), 2.4 (Side and Rear Setbacks), 2.5 (Plot Ratio), 2.6 (Building Depth), 2.7 (Building Separation), 3.2 (Orientation), 4.1 (Solar and Daylight Access) and 4.2 (Natural Ventilation);</p> <p>iv. Subclause (g): the proposal is not generally consistent with the Car Parking Local Planning Policy in that there is a shortfall of nonresidential car parking;</p>	
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	<p>v. Subclause (m): the proposal does not appropriately respond to the physical and strategic site context or the built form expectations applicable under LPS3 and as guided by the R-AC1 code, having regard to the building envelope and building massing;</p> <p>vi. Subclause (n): the proposal will adversely impact the amenity of the locality as the proposal is wholly disproportionate to the existing suburban character of Stirling Highway and given the application site is not located in the CBD, a metropolitan centre, major tourism node, a transit oriented development, or adjacent to a high amenity resource (e.g. frontage to a river, coast or regional open space)</p> <p>vii. Subclause (s): the provision of non-residential car parking is insufficient to meet the likely demand created by the proposed uses;</p> <p>viii. Subclause (zc): the State Design Review Panel does not support the development as it does not meet the criteria of good design for the majority of the Design WA design principles and does not provide sufficient amenity for future residents of the development or the greater community who will engage with the development as part of the emerging Neighbourhood Centre.</p>	
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**State Planning Policy 5.4 – Road and Rail Noise (SPP 5.4)**

The site is located within 200m of Stirling Highway, which is identified as an ‘Other significant freight/traffic route’. As such the requirements of SPP 5.4 apply to the subject application as it is classed as a ‘Noise sensitive land use’ and not a form of development that is exempt.

The intent of the Policy is to protect the community from unreasonable levels of transport noise whilst also protecting strategic and significant freight transport corridors from incompatible urban encroachment. SPP 5.4 aims to address the impacts of noise at development application stage and encourage best practice noise mitigation design and construction standards.

A noise-sensitive development is defined within the policy as any proposed development for a noise-sensitive land use that would normally require planning approval by a local government authority or the WAPC.

For residential buildings, acceptable indoor noise levels are LAeq(Day) of 40dB(A) in living and work areas and LAeq(Night) of 35dB(A) in bedrooms.

The following table outlines the acceptable noise criteria.

Time of day	Noise Target	Noise Limit
Day (6 am–10 pm)	LAeq(Day) = 55dB(A)	LAeq(Day) = 60dB(A)
Night (10 pm–6 am)	LAeq(Night) = 50dB(A)	LAeq(Night) = 55dB(A)

In the event of approval, it is considered appropriate to impose a condition requiring the development to comply with the provisions of this policy.

### SPP7.0 Design of the Built Environment

The City has undertaken an assessment of the development against SPP7.0. In undertaking this assessment the City has considered the advice of the State Design Review Panel, the advice of the single-practitioner design review and the City's landscape review in accordance with the provisions of Schedule 1, clause 67(zc) of LPS3 and Clause 67(zb) of the 'Deemed Provisions'. The City's assessment is summarised below.

Design Principle	Assessment
1. Context and character	<p><b>Not satisfied</b></p> <p><i>Context</i> With respect to local context, the subject land is clearly a within a strategic site at the municipal level due to the following:</p> <ul style="list-style-type: none"> <li>• It is coded R-AC1, which as a general guide anticipates an indicative scale of development of 9 storeys and a plot ratio of 3.0. It is noted that the 9 storey height acceptable outcome does not apply to this site.</li> <li>• The site benefits from three road frontages, including an approx. 102m primary frontage to Stirling Highway - an identified Urban Corridor under <i>Perth and Peel @3.5million</i> and benefits from high frequency bus routes.</li> <li>• The site forms part of the Nedlands Town Centre / Neighbourhood Centre and the Stirling Highway Urban Growth Area under the LPS, which is to accommodate about 75% of the WAPC future 4400 dwelling growth target and about half of all dwellings assigned to the four urban growth areas in the City.</li> </ul> <p>Whilst the site is strategic at the local level, it does not meet the criteria of a high density urban centre as defined by the R-Codes. Appendix A2 identifies high-density urban centres as having excellent multi-modal transit services and include public open space and a high concentration of community infrastructure. High density urban centres are largely commercial centres with some residential development. Examples include the CBD, city centres, strategic metropolitan centres (Joondalup), secondary centres (Claremont), inner city urban corridors, designated specialised centres and station precincts (Subiaco, Canning Bridge). <b>The distinguishing factors for a high density centre is the precondition of having public open space, excellent multi modal transport, and high</b></p>

**concentration of community infrastructure within the centre; rather than being proximate to such features.**

By comparison, Mid-rise urban centres include town / district centres, urban corridors, activity centres and station precincts. They are highly walkable with close proximity to high frequency transit services, public open space, commercial and/or retail uses and community infrastructure. Currently, this site more readily fits the criteria of a mid-rise urban centre as outlined above. This is consistent with the SDRP review (outlined above). In its advice, the SDRP stated:

*The proposed scale and building typology (podium and tower with nil basement setbacks) are considered suitable for a CBD, or major metropolitan centre but not for a Local Town Centre located on an Activity Corridor without a TOD context...the Panel is concerned that there remains no strategic justification for a building of this scale in this location and the proposal does not deliver the level of amenity appropriate for development of this nature.*

The site is located within an Urban Corridor. Urban corridors are identified as an urban consolidation precinct by the *Perth and Peel @ 3.5 Million Framework* and *SPP 7.2 Precinct Design*. Urban corridors provide connections between activity centres and maximise the use of high-frequency and priority public transport. Urban corridors shown in the framework represent significant opportunities to accommodate increased higher density residential development near high frequency public transport. Whilst the site is within an urban corridor and is suitable for redevelopment at a higher density, the proposed scale is not justified given the absent preconditions of high density urban centres. For comparison purposes, buildings proposed of this scale are commensurate with the design guidelines for city centre and waterfront redevelopments. Examples include:

- Elizabeth Quay (Perth City Centre Waterfront) – 2-6 storey podium, heights range from 12 to 36 storeys.
- Perth Link (Perth City Centre) – 4-6 storey podium, heights ranging from 10 to 30 storeys.
- Scarborough Beach (Coastal, tourist node, public open space) – maximum building height 12 – 18 storeys.

#### *Character*

The proposed scale (varying between 16 and 23 storeys), bulk and massing of the podium/tower form considerably exceeds the existing low-height built form character. The maximum building height in the locality currently is 4 storeys (office building on north east corner of Stirling Highway and Dalkeith Rd). The prevailing character on Stirling Highway is a mix of building types and scales generally 2 storeys in height.

Future character for the town centre has not been resolved at this time. The City is carrying out detailed planning for Stirling Highway and the Nedlands Town Centre precinct. This is consistent with section 2.1.1 of SPP7.3, which refers to the need to carry out strategic precinct planning to identify the context and desired character for redevelopment areas. It is important to note the advice from the SDRP which stated that the proposed scale and podium and tower typology is inappropriate in this context.

There is no adopted planning instrument that adequately and appropriately defines the desired character of the Nedlands Town Centre. A local planning policy for local character and distinctiveness is to be considered

	<p>for public advertising by Council in February 2021. The built form modelling for the town centre is ongoing at this time with an anticipated completion in the second quarter of 2021.</p> <p>The approval of the development has the potential to undermine the ongoing precinct planning process for the Nedlands Town Centre. A major change to the built form of a street can cause a prejudicial change to character. The approval of the development would set a precedent for building height and scale along Stirling Highway and would have a substantial impact on the streetscape and future character of the locality. It would also provide a precedent in terms of building separation, plot ratio and height, among other matters. There is currently no guidance on the application of development incentives through primary control variations or bonuses, which would justify significant departures from acceptable outcomes for plot ratio, building separation and setbacks. The net outcome is that a development approval may jeopardise detailed planning outcomes for the balance of the Nedlands Town Centre, in addition to the Stirling Highway precinct more generally, rendering it largely redundant.</p> <p>The justification of the proposed scale is based upon the lack of a default height control and the first iteration of the advertised draft Nedlands Town Centre Precinct Plan (NTCPP) (6.0 plot ratio; 16 storeys plus bonus height). This plot ratio provision has since been replaced in the draft NTCPP with a proposed 3.0 plot ratio. The NTCPP, whilst advertised, is currently undergoing rigorous review that includes built form modelling. The built form modelling is designed to test the height and plot ratio provisions of the draft policy to ensure they are based on 'sound' planning principles and affect orderly and properly planned built form outcomes. The current NTCPP is not certain or imminent and should be afforded limited weight in any determination. <u>The default plot ratio for this site is 3.0 in accordance with Acceptable Outcome A2.5.1 of the R-Codes and is in the absence of a default height, is effectively a de facto height control.</u> If the development were to achieve a plot ratio of 3.0 it would be approximately 16 storeys high. Even then, the proposed bulk and scale must be appropriate to the planned character for the area, including as a mid-rise urban centre. Clearly a proposed building with 24 floors exceeds all default provisions of the primary controls and the default character set out in the R-Codes.</p>
<p>2. Landscape Quality</p>	<p><b>Satisfied with conditions</b></p> <p>The application proposes considerable landscaping both on ground and on structure, located in the public domain (street frontages and rear laneway), on top of the podium, on residential balconies and on the roof top communal opens spaces. Collectively the landscaping proposed will enhance the streetscape and pedestrian amenity; enhances amenity for residents both within apartments and using the roof top communal spaces.</p> <p>Whilst the City agrees that a street-based landscape strategy in conjunction with a reduced building footprint, (as opposed to planting on structure within a high-density development) would assist with better integration of the development with the established leafy character of the suburb, the City notes that the proposed landscape strategy adequately addresses the following points with respect to Elements 3.3 and 4.12:</p> <ul style="list-style-type: none"> <li>▪ The development will result in a significant improvement in tree canopy given there are no trees existing on the site</li> </ul>

	<ul style="list-style-type: none"> <li>▪ The proponent has achieved the minimum standard for the required Tree Canopy on site.</li> <li>▪ The proponent has also specified species suitable for transplant within the future road widening location which is supported.</li> <li>▪ The extensive planting on structure (approximately 2,500m<sup>2</sup>) was supported by the City's consultant landscape architect and considered it feasible given the proposed peer-reviewing of plant species, strata bylaws framework to control maintenance and an annual review of the landscaping proposed.</li> <li>▪ The City's consultant landscape architect has reviewed the landscaping strategy proposed, and advised that the proponent has presented several approaches within this design that are highly supported including: <ul style="list-style-type: none"> <li>- A diverse variety of communal spaces, including spaces for children,</li> <li>- The use of large trees in a corridor and within DSZ to the front of the building,</li> <li>- Consideration of future road widening,</li> </ul> </li> <li>▪ A well-considered ongoing maintenance and landscape strategy to ensure the site is well maintained and landscape approaches are implemented.</li> </ul> <p>Several issues were raised by the City's landscape review, however many of these can be appropriately managed through conditions in the event of approval:</p> <ul style="list-style-type: none"> <li>▪ A horticulturist should be appointed to peer review species selection, especially of all trees to confirm ability to grow to maximum height given shade patterns and restricted soil zones across site.</li> <li>▪ The proponent should explore opportunities to introduce larger trees to upper floors to provide green relief to these spaces.</li> <li>▪ The proponent should consider at detailed design stage the provision of play equipment for babies and toddlers within the play space, along with climbing frames for older children. The backyard has also traditionally provided children with opportunity to have some control over their outdoor environment play elements that can be personalised (cubbies, tepees), allow some change and flexibility (building blocks, sand pits) or outdoor art spaces are encouraged.</li> <li>▪ Shade and wind studies on all outdoor communal spaces should be undertaken to ensure they are lit and protected from wind sufficiently to create a comfortable environment (especially with pools and play spaces) and support healthy plant growth.</li> <li>▪ A sustainability plan should be prepared for landscaped and communal spaces which specifically addresses Water Management and Conservation.</li> <li>▪ Given the importance of landscape to this project, it is considered critical that the landscaping proposed is delivered and maintained in perpetuity and not diminished post DA during the detailed design phase. A landscaping condition is recommended in the event approval</li> </ul>
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	<p>is granted, which includes requirements for the landscaping as proposed to be implemented.</p> <ul style="list-style-type: none"> <li>▪ The diagonal pedestrian connection from the intersection of Dalkeith road and Stirling Highway is a positive urban design outcome and better supports the north facing public realm. Reducing the overall bulk, mass and scale of the development would further assist this approach to public spaces.</li> </ul>
<p>3. Built form and scale</p>	<p><b>Not satisfied</b></p> <p>The revised tower arrangement has sought to address built form and scale. The removal of a tower has improved building separation. This is accentuated by reorienting the axis of the east tower to provide a visual distinction between the two main height components of the development (east and west towers).</p> <p>Notwithstanding this, the bulk and massing of the proposed tower structures remains inconsistent with the expectations for development in a mid rise urban centre and corridor versus a high density urban centre . It does not reflect the existing Nedlands character and the proposed scale, massing and bulk is excessive in the site’s local context .</p> <p>The intended built form outcome for a high density urban centre within the R-AC1 code (via primary controls) is clearly to achieve appropriately separated towers above an expansive podium. This building form aids the achievement of internal and external amenity benefits (opportunity for natural ventilation, solar and daylight access, breaks in potential overshadowing of the public realm, view corridors, perceived visual bulk).</p> <p>. Separation between the towers would additionally reference the existing development rhythm and scale along the highway.</p> <p>Reducing the plot ratio down to 3.0-4.5 and providing additional physical breaks between the towers would remove about 6-8 stories from the current design and immediately improve the proposal’s contextual response.</p>
<p>4. Functionality and build quality</p>	<p><b>Satisfied with conditions</b></p> <p>The functionality of the basement car park ramps and access has been questioned by the single-practitioner design review. The review also raised concerns with how BCA compliance may affect the functionality of access/egress into the development.</p> <p>The SDRP3 raised concerns with the feasibility and quality of the finishes with respect to whether they are realistic and economically feasible as presented in the renders. The OGA notes that without a high quality finish, the amenity of the development will be diminished. In the event of an approval a condition is recommended that a schedule of high quality finishes, colours and materials be submitted to the City of Nedlands for approval prior to the issue of a building permit.</p>
<p>5. Sustainability</p>	<p><b>Satisfied with conditions</b></p> <p>The City notes the Applicant’s commitment to implement a ‘Green Star Strategy’ framework if approval is granted. The Applicant’s Energy Efficiency Report identifies sustainable opportunities that may be integrated</p>

	<p>in the design to achieve a 5 Star 'Design and As Built Rating' with evidence demonstrating compliance with the design intent will be provided at the stages of Building Permit and Practical Completion.</p> <p>The energy efficiency report recommends several initiatives and indicates that (amongst other things) the following is achievable:</p> <ul style="list-style-type: none"> <li>• 7 star average NATHERS rating;</li> <li>• WELS ratings of 3-5 stars; and</li> <li>• Net zero carbon CADS.</li> </ul> <p>A condition is recommended in the event approval is granted requiring the proponent to provide evidence demonstrating how a 5 Star 'Design and As Built Rating' has been achieved.</p> <p>A condition is also recommended in respect of potable water conservation and the collection and reuse of runoff as discussed above under Principle 2 – Landscaping.</p>
6. Amenity	<p><b>Partially satisfied</b></p> <p>The City notes the mix of uses will contribute to viability of the Neighbourhood Centre and diversity of offer, benefiting the existing and future residential community. It also notes the 231 dwellings comprise a mix of 10 different apartment typologies.</p> <p>Comfortable and generous apartments are supported although kitchen layout and areas need further consideration as do some balcony sizes. The current orientations generally provide good solar amenity for occupants, with good northern light access. The amenity of visitors and users of the ground floor plane is well resolved. However, consideration should be given to separating commercial and residential lobbies and lifts.</p> <p>However, as identified through the SPP7.3 R-Code Vol 2 assessment, the proposal will result in unreasonably adverse external amenity impacts relating to Elements 2.2 Building height, 2.4 Side and rear setbacks, 2.5 Plot ratio and 2.7 Building separation. Previous internal amenity issues relating to solar and daylight access and natural ventilation have been addressed by the revised plans.</p> <p>The City agrees that these deficiencies would be significantly alleviated by reducing the scale and plot ratio of the proposal, reducing the building footprint. The introduction of a physical break between the towers has improved access to daylight, cross ventilation and outlook and reduced the potential for acoustic impacts, benefiting future residential amenity.</p>
7. Legibility	<p><b>Partially satisfied</b></p> <p>The City contends that a building of this scale and density (outside of the Perth CBD, Primary, Secondary or District Level Centre) is inappropriate and does not positively contribute to the required hierarchy of centres that should be made manifest along Stirling Highway.</p> <p>The City notes the following positive attributes:</p> <ul style="list-style-type: none"> <li>▪ entrance lobbies onto side streets and reorganised ground plane</li> <li>▪ improved legibility via modulation of the podium component.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ The diagonal through-site connection to the rear public realm promoting greater legibility for the site and centre.</li> <li>▪ The proposal adequately satisfies Elements 3.6 Public domain interface, 3.7 Pedestrian Access and entries, 4.5 Circulation and common spaces as per the City's SPP7.3 R-Codes Vol. 2 assessment.</li> </ul> <p>Design of the arches and materiality difference between podium and towers as a design element provide good legibility separating the lower levels with the upper levels, clearly signifying different land uses and public permeability and directionality to accessways. The treatment of the central pedestrian spine will be an essential detail to ensure appropriate way finding to the northern restaurants and retail uses.</p> <p>Whilst the proposal addresses site specific legibility outcomes, the City considers that the scale and density of development proposed misses a critical opportunity to effectively transition the built form from Stirling Highway to the surrounding residential land to the north (R160 and R 60 sites). A reduced plot ratio and footprint would also provide enhanced scope for on-street landscaping that reduces the dependence on planting on structure solutions.</p>
8. Safety	<p><b>Satisfied with conditions</b></p> <p>The City contends that security and safety have been improved at the ground plane, with a better-defined public realm, including Stirling Highway Piazza gardens, landscaping and public through link to activated rear laneway (with carpark access). This position is supported through the City's SPP7.3 R-Codes Vol. 2 assessment (Elements 3.6 Public domain interface, 3.7 Pedestrian Access and entries, 4.5 Circulation and common spaces).</p> <p>Residents will access the building from the public domain via two residential lobby's, which have associated reception areas. Access to the apartments will then be via lifts. These measures enhance the safety and privacy for residents.</p> <ul style="list-style-type: none"> <li>▪ Access for residents and visitors on the ground floor will be via staffed reception/ lobby areas, accessed from the secondary streets, as well as via lifts from the basement car parking.</li> <li>▪ The residential lobby's and reception areas are visually accessible from the secondary streets and will incorporate materiality, signage, and landscaping to ensure they present well to the public domain.</li> <li>▪ The network of circulation corridors is functionally designed with convenience, legibility, and universal access for residents (with conditions).</li> <li>▪ The circulation corridors radiating out from the various lift cores have adequate sight lines and are limited in length, enhancing amenity for residents while providing opportunity for social interaction.</li> <li>▪ The design incorporates on-ground and significant on-structure landscaping and provides active frontages to the three adjoining streets, as well as the rear (proposed) laneway. These measures will collectively enhance the amenity and safety of the public domain</li> </ul>
9. Community	<p><b>Partially satisfied</b></p>

	<p>The proposal makes a significant contribution to communal space within the development, in part addressing the future resident's 'internal' community needs. Approximately 2,485m<sup>2</sup> of residential communal open space is proposed for the development, which is well in excess of the minimum amount required for a development of this scale (of 300m<sup>2</sup>). Of note, it is landscaped, diverse, can be conditioned to ensure accessibility and safety standards are met and that any adverse acoustic impacts are mitigated. The spaces include:</p> <ul style="list-style-type: none"> <li>▪ Outdoor space to the north on the ground floor with an east-north cross site connection has the potential to encourage social engagement in an inclusive, effective manner.</li> <li>▪ The proposed mix of Food and Beverage, community purpose, retail and dedicated communal spaces will contribute to community benefit.</li> <li>▪ Roof top communal spaces atop each of the towers which promote social interaction and incorporate a range of high end amenities within landscaped settings for the residents, including swimming pools, BBQ areas, an assortment of lounges, an outdoor gym and a children's playground.</li> </ul> <p>Notwithstanding the above, the overwhelming bulk, mass and scale of the development will negatively and unreasonably impact the amenity of the broader local community. Consequently, the internalised community benefits described above do not adequately compensate for the lost internal and external amenity benefits or support the proponent's case for a development 'bonus.'</p> <p>The City agrees with the SDRP (DR3) that:</p> <ul style="list-style-type: none"> <li>▪ The development approach will not optimally contribute to the emerging Town Centre and</li> <li>▪ This project could act as a demonstration project which exhibits optimised density with no loss of amenity.</li> </ul>
10. Aesthetics	<p><b>Satisfied</b></p> <p>The outcome is elegant and coherent with the design strategy employed. The design addresses multiple scales and appears to have taken into account the surrounding local landmark context. As the space provides an 'urban' style podium with hardscaped planes, terraces and rooftops of varying hierarchy of access, public art appears could be integrated well into this environment.</p>

### State Planning Policy 7.2 Precinct Design

SPP 7.2 and its associated guidelines have been recently introduced by the state government. Whilst the policy relates primarily to the creation of precinct plans, it does require subdivision and development to apply the policy and guidelines where a precinct plan is not in place. Consequently, the Proponent has prepared an assessment of the development against the six design elements of urban ecology, urban structure, public realm, movement, land use and built form. This assessment is included in the Proponent's Planning Report at **Attachment 2**.

The City's comments on the extent the development addresses the design elements is outlined below.

#### *Design Element 1: Urban Ecology*

O1.1 To protect, enhance and respond to the ecological systems of the precinct.	The site is a previously developed commercial site with no natural vegetation remaining. The site is located abutting a busy highway with limited ecological linkages. The development is proposing an increase in landscaped areas, which will be beneficial to precinct ecology.
O1.2 To enhance sense of place by recognising and response to Aboriginal, cultural and built heritage.	There is no Aboriginal heritage on or near the site that is known to the City. The development attempts to respond to nearby built heritage, particularly UWA.
O1.3 To reduce the environmental and climate change impacts of the precinct development.	The development proposes to be WA's first net zero carbon building. It also seeks to meet a relatively high energy efficiency rating.

### *Design Element 2: Urban Structure*

O2.1 To ensure the pattern of blocks, streets, buildings and open space responds and contributes to distinct, legible precinct character.	The development does not seek to create new street layouts. However, it incorporates a pedestrian laneway at the rear of the site that will create greater permeability through the town centre precinct. Pedestrian linkages through the site at ground level will be legible with activation to all three street frontages.
O2.2 To promote an urban structure that supports accessibility and connectivity within and outside the precinct.	The development is designed to be accessible, with linkages integrated into the surrounding pedestrian network.
O2.3 To ensure the urban structure supports the built form, public realm and activity intended for the precinct.	No precinct plan has been developed at this time.
O2.4 To ensure an adaptable urban structure that can respond to and facilitate change within a precinct.	The development is unlikely to be adaptable in terms of the residential land use. There will be a greater level of land use flexibility in the commercial levels, particularly the ground floor.

### *Design Element 3: Public Realm*

O3.1 To ensure the public realm is designed to promote community health and wellbeing.	<p>The development includes a public piazza located on the northern elevation of the ground floor. Also included at this level is a community purposes space, although there is currently no agreement for the use of this facility by the local government.</p> <p>The main public areas are located on the northern side of the building and are located away from the noise and fumes of Stirling Highway.</p>
O3.2 To enable local character and identity to be expressed in public realm to enhance a sense of place.	The podium levels of the development have been designed to reflect local architectural character. The inclusion of a public piazza area and pedestrian linkages from each of the surrounding streets will provide a sense of arrival.
O3.3 To ensure that key environmental attributes are protected and enhanced within the public realm.	As the site is completely cleared from natural attributes currently, the development will be seeking to re-establish landscaping to the site.

O3.4 To ensure the public realm is designed to be inclusive, safe and accessible for different users and people of all ages and abilities.	The public areas of the site are fully accessible.
O3.5 To ensure public realm design is integrated with the built form, movement network and landscape of the precinct.	The public areas are fully integrated into the development and are connected to the surrounding street network. The proposed landscaping is intended to provides a 'leafy green' character to an existing clear-fell site.

#### *Design Element 4: Movement*

O4.1 To ensure the movement network supports the function and ongoing development of the precinct.	The movement network proposed is limited to the site itself and the access points into the site. The proposed vehicle and pedestrian access points are considered appropriate. However, there remains some matters relating to traffic impact that have not been resolved to the City's satisfaction.
O4.2 To ensure a resilient movement network that prioritises affordable, efficient, sustainable and healthy modes of transport.	The development includes bicycle parking and end of trip facilities. It is also located adjacent to a number of bus routes, including high frequency routes.
O4.3 To enable a range of transport choices that meet the needs of residents, workers and visitors.	The site is located in an area that provides transport choice. However, the scale of the development would be better served by a heavy rail or light rail service.
O4.4 To ensure the quantity, location, management and design of parking supports the vision of the precinct.	There is currently no precinct vision. Overall, the proposed parking provision is considered to be appropriate to support the development.

#### *Design Element 5: Land Use*

O5.1 To ensure current and planned land uses respond to the needs and expectations of the community.	The proposed land uses in the development are permissible by the Scheme. This objective would be more appropriate when considering land uses over an entire precinct rather than a single site.
O5.2 To ensure the planned land use types contribute positively to the precinct character and amenity.	The precinct character and level of amenity has not been determined. However, the scale of the development is not considered to be consistent with the likely future character of the precinct.
O5.3 To achieve a mix of land uses and activity that supports the precinct vision.	The precinct vision has not been identified at this time. However, the mix of land uses is consistent with the general expectations for a town centre precinct.

#### *Design Element 6: Built Form*

O6.1 To ensure that the built form is responsive to the purpose, context and intended character of the precinct.	The bulk and scale of the development is considered to be inconsistent with the purpose, context and intended character of a suburban town centre. The proposed plot ratio of 5.5 (5.2 by applicant calculations) and overall height is considered to be excessive outside of a CBD or major activity node.
O6.2 To ensure building placement, scale and massing is appropriate for the intended precinct and streetscape character.	The scale of the development is considered excessive. Whilst the site lends itself well to a significant building due to its prominence

	within the town centre, the bulk and scale proposed is more appropriate in a CBD, activity node or transit-oriented development.
O6.3 To ensure that built form design reduces energy demand across the precinct by facilitating climate-responsive design.	The development seeks to become WA's first net zero carbon apartment building.
O6.4 To ensure that built form design is responsive to the streetscape and contributes to a safe and comfortable public realm.	The podium levels of the development are designed to provide a high level of public amenity. The overall building design is not responsive to the existing streetscape given that its scale will exceed all other buildings in the town centre.

### State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments (R-Codes Volume 2)

R-Codes Volume 2 applies to all multiple dwellings (apartments) in areas coded R40 and above, within mixed used development and activity centres. The purpose of the document is to provide 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, land tenure, density, place context and scheme objectives;
- to encourage design consideration of the social, environmental and economic opportunities possible from new housing, and an appropriate response to local context;
- to encourage design that considers and respects local heritage and culture; and
- to facilitate residential development that offers future residents the opportunities for better living choices and affordability when seeking a home, as well as reduced operational costs and security of investment in the long term.

The development is consistent with the objectives cited above, except for providing residential development of an appropriate design. The reasons for not meeting this objective are discussed in the assessment of the proposal against the element objectives.

### Local Planning Scheme

The application has been assessed against the relevant clauses of the *City of Nedlands LPS 3*, being clauses 9, 16-18, 25, 26, 32, and Schedule 1.

Item	Requirement	Proposal
Clause 9 – Aims of Scheme	Protect and enhance local character and amenity	<b>Not satisfied</b>  The proposed scale (up to 23 storeys), bulk and massing of the podium/tower form considerably exceeds the existing low height built form character. Refer to Officer assessment against SPP7.0 Context and character.

Item	Requirement	Proposal
	Respect the community vision for the development of the district	<p><b>Not satisfied</b></p> <p>The current community vision for the development of the district is the Local Planning Strategy, endorsed in 2017. The Strategy envisages the Stirling Highway corridor to be a high intensity, predominantly medium rise Urban Growth Area. The current development is equivalent to a higher-density urban centre form that exceeds the height and bulk parameters of the R-Codes Volume 2 (as expressed in Part 2 and the context and character outlined in Appendix A2). The defined character for the High Density urban centre is <i>“characterised by podium and tower developments that support highly activated and pedestrianised street frontages. New residential development should contribute to an attractive, dynamic and liveable city environment.”</i></p> <p>It is acknowledged that there is a current misalignment between the City’s Local Planning Strategy and the zonings imposed on the City via Local Planning Scheme No.3.</p>
	Achieve quality residential built form outcomes for the growing population	<p><b>Satisfied</b></p> <p>There are 231 apartments proposed in the development. A dwelling mix of 1, 2, 3 and 4 bedroom apartments are provided, with 68% of the units achieving Silver Level for universal access. This dwelling mix will cater for a wide range of household types and demographics. .</p>
	To develop and support a hierarchy of activity centres	<p><b>Satisfied</b></p> <p>The proposed mix of non-residential uses will contribute to the diversity of commercial development within the Nedlands Town Centre.</p> <p>The residential component of the development will place a significant resident population within the Town Centre itself, which will support the role and function of the centre.</p>
	To integrate land use and transport systems	<p><b>Partially satisfied</b></p> <p>The development will benefit from its location along Stirling Highway, an identified high frequency bus route. However, the proposal is heavily reliant on private vehicle use (providing 504 car bays on site) and will result in a significant increase in the volume of traffic on the surrounding road network.</p>
	Respond to the physical and climatic conditions	<p><b>Satisfied</b></p> <p>The east-west axis of the development means that 11% of all apartments will have no direct sunlight on 21 June. This is less than the 15% allowable as an acceptable outcome.</p> <p>In relation to natural ventilation, 75% of apartments on the first 9 storeys are capable of natural ventilation. This is greater than the minimum 60% provided as an acceptable outcome.</p> <p>The pedestrian plaza and many of the restaurant/cafes / shop tenancies are located with northern light access to provide an attractive and functional outdoor setting.</p>



Item	Requirement	Proposal
		A 'Green Star Strategy' is proposed to ensure the development meets energy efficiency and water management objectives.

Item	Requirement	Proposal
Clause 16 – Mixed Use Zone Objectives	To provide for a significant residential component as part of any new development	<p><b>Satisfied</b></p> <p>A total of 231 apartments are proposed for the site, which is currently commercial in nature. The residential component contributes to a significant component of the development.</p>
	To facilitate well designed development of an appropriate scale which is sympathetic to the desired character of the area.	<p><b>Not satisfied</b></p> <p>The proposed plot ratio of the development is calculated at 5.5 (Applicant states 5.2). This exceeds the acceptable outcome of 3. The plot ratio creates an excessive bulk and scale that does not reflect the higher density urban centre designation contained in the R-Codes. The scale appears 'out of place' with the general low-height nature of the locality. The bulk and scale proposed is more consistent with a CBD area or area of high amenity, such as a transit or tourist node.</p> <p>The intended built form outcome for high density urban centre or corridor forms within the R-AC1 code is clearly to achieve slender tower forms above an expansive podium. This style of building form aids the achievement of internal and external amenity benefits (opportunity for natural ventilation, solar and daylight access, breaks in potential overshadowing of the public realm, view corridors, perceived visual bulk).</p>
	To provide for a variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.	<p><b>Satisfied with conditions</b></p> <p>Activation of the ground floor is focused on the northern side of the development where the restaurant/café and retail tenancies are proposed. The Stirling Highway frontage will be activated by shop tenancies and to a lesser extent, the motor vehicle sales. There is appropriate connection between the highway and the activated northern side of the building through a pedestrian spine from the Dalkeith Road intersection under the building and through to the northern piazza.</p> <p>The street level uses are compatible with the residential uses on upper floors due to appropriate separation of uses being proposed. Whilst food and beverage and office uses are commonly seen in mixed use development, the presence of motor vehicle sales is considered more novel. However, this use is not expected to impact on the amenity of residents as it will take the form of an indoor showroom, which reduces the number of vehicles on display and traffic generated by the use. A condition ensuring street level windows</p>

Item	Requirement	Proposal
		and openings remain visually permeable will ensure adequate activation is achieved.
	To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.	<p><b>Satisfied with conditions</b></p> <p>The proposal will contribute a mix of commercial land uses appropriate to the future Nedlands Town Centre setting. The land use mix is consistent with the role and function of the neighbourhood centre classification. The future amenity of the area could be additionally controlled by conditions relating to compliance with the Environmental Noise Regulations and controlled operating hours associated with the restaurants and cafes, which are also likely to be subject to future liquor licensing applications, where licensing is desired.</p>

Item	Requirement	Assessment
<p>Clause 17-18</p> <p>Land Use Permissibility:</p> <p>Medical centre – ‘D’ use</p> <p>Recreation – Private - ‘A’ use</p>	<p>‘D’ uses are not permitted unless the local government has exercised its discretion by granting development approval.</p> <p>‘A’ are not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.</p>	<p><b>Satisfied</b></p> <p>The motor vehicle, boat or caravan sales and community purpose (A) uses are considered appropriate uses for the Town Centre.</p> <p>The motor vehicle, boat or caravan sales and community purposes uses were advertised to the community for a period of 28 days (initial) and 19 days (revised), more than the 21 days required by the City’s <i>Local Planning Policy – Consultation of Planning Proposals</i>. No objections to this particular component of the application were received.</p>
<p>Clause 25(1) – 26(3)</p> <p>R-Codes and Modifications of R-Codes</p>	<p>The R-Codes modified as set out at clause 26(3) are to be read as part of the scheme.</p>	<p><b>Partially satisfied</b></p> <p>Refer to separate assessment of the R-Codes Vol. 2 provided later in this report and at <b>Attachment 26</b>.</p>
<p>32.1 – Car parking</p>	<p>(1) Except for development to which the R-Codes apply, every development shall provide on-site car parking spaces in accordance with any applicable local planning policy adopted by the local government.</p> <p>(2) The requirement to provide on-site car parking spaces is subject to:</p> <p>(a) the local government agreeing to or requiring a cash-in-lieu payment pursuant to sub-clause 3;</p>	<p><b>Satisfied</b></p> <p>Refer to separate assessment against LPP – Parking provided later in this report.</p>

Item	Requirement	Assessment
	<p>(b) the local government accepting a shared car parking arrangement pursuant to clause 32.2; and</p> <p>(c) any requirement to provide car parking spaces in a structure plan, local development plan or activity centre plan which applies to the development, in which case the requirement in the structure plan, local development plan or activity centre plan prevails to the extent of any inconsistency.</p>	
32.2 – Shared car parking	<p>(1) Where an application for development approval is made for a non-residential use which does not provide the required number of on-site car parking spaces, the local government may permit part or all of the shortfall to be provided through an agreement to share car parking space(s) on an adjacent site (Shared Site).</p> <p>(2) When considering whether to permit a proposal for shared car parking, the local government must:</p> <p>(a) be satisfied that the hours of peak operation of the proposed development and those of the Shared Site do not substantially overlap.</p> <p>(b) be satisfied that adequate car parking will always be available for both the development site and the Shared Site.</p> <p>(c) be satisfied that the relationship between the development site and the Shared Site is such that the shared car parking space(s) is likely to be used by people visiting the development site; and</p> <p>(d) have regard to other relevant considerations in any applicable local planning policy.</p>	<p><b>Not satisfied</b></p> <p>The proposed parking provision is based on not providing stand-alone residential visitors spaces. Rather residential visitors would use spare residential spaces or commercial visitors parking. Notwithstanding this, there is a shortfall of car parking for non-residential uses of 165 based on the City's LPP. The effective parking shortfall based on likely demand has been calculated by traffic consultants as between 70 and 100 bays.</p> <p>There is insufficient information provided in the development application to address the requirements of clause 32.2(2) and (3). Therefore, the City is unable to determine if a shared car parking arrangement will still operate effectively notwithstanding the shortfall in bays.</p>

Item	Requirement	Assessment
	<p>(3) An application for development approval which proposes shared parking must include:</p> <p>(a) information addressing the matters in the preceding sub-clause 2;</p> <p>(b) a draft parking management plan; and</p> <p>(c) any other relevant material referred to in an applicable local planning policy.</p>	
<p>Clause 32.3 Ceding of rights-of-way and laneway widening</p>	<p>(1) The owner of land affected by a right-of-way or laneway identified by the scheme or local planning policy is to, at the time of developing or subdividing the land:</p> <p>(a) cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and</p> <p>(b) construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.</p> <p>(2) The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.</p>	<p><b>Satisfied</b></p> <p>No rear laneway is indicated by the Scheme or a local planning policy. However, the proponents are prepared to create a, easement over the rear vehicle / pedestrian laneway to ensure appropriate public access is always maintained. This will also allow for future development to the north of the site to activate to the laneway.</p>
<p>32.4 (2) – No residential uses on the ground floor</p>	<p>Residential uses are not permitted on the ground floor facing primary and/or secondary streets, except where the use faces a right-of-way or laneway in the Mixed Use zone, or where identified in an approved local planning policy.</p>	<p><b>Satisfied</b></p> <p>No residential uses are proposed on the first three storeys of the development.</p>
<p>32.4 (3) – Active Frontages</p>	<p>Buildings are to have active frontages to the primary and/or secondary street, except where a use faces a right-of-way or laneway.</p>	<p><b>Satisfied with conditions</b></p> <p>Active frontages to the street can be afforded through appropriate conditions of approval. The presence of the motor vehicle sales tenancies on the ground floor will be particularly challenging. However, the reduction in activation on the southern side of the development is offset by activation of the northern side, which is a more attractive location. The northern side will focus on the restaurant/café and shop uses, with a pedestrian linkage to the Dalkeith Road</p>

Item	Requirement	Assessment
		intersection and to both Dalkeith Road and Baird Avenue.
32.4 (4) – Minimum tenancy depth	Minimum tenancy depth facing a street is 10m.	<p><b>Partly satisfied</b></p> <p>Commercial tenancies T7, T8 and T9 have achieved a minimum depth of 10m. Corner Tenancy T10 has a 7.3m depth to Stirling Highway. However, it achieves an 22.3m depth to Dalkeith Road.</p> <p>Restaurant/café Tenancy T1 achieves a 3.6m depth to Baird Avenue, being intended as a predominantly take away café outlet. Restaurant/café Tenancy T6 achieves a 7.3m depth to Dalkeith Road.</p> <p>The proposed tenancy sizes are considered 'fit for purpose'. However, the ability to change the use of the restaurant/café tenancies in the future will be limited due to their relatively small size. Should this development be approved, variation of the requirements of clause 32.4(4) will be required under clause 34 of the Scheme.</p>
32.4 (5)	In relation to development that are not subject to the R-Codes, where development standards are not specified in an approved structure plan, local development plan and/or activity centre plan, the development standards are subject to the applicable R-Codes.	There is no current structure plan or similar affecting the site. The provisions of the R-Codes have been applied to this development.

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

The City has assessed the application in accordance with clause 67 of *Planning and Development (Local Planning Schemes) Regulations 2015*. Where relevant, these matters are discussed in the following assessment.

Provision	Assessment
(a) <i>The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area</i>	<p><b>Not satisfied</b></p> <p>Refer to assessment of clause 9 of LPS – Aims of Scheme and objectives of the Mixed-Use Zone.</p>
(b) <i>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</i>	<p><b>Not satisfied</b></p> <p>The development proposal has not achieved all relevant Element Objectives of the R-Codes Vol. 2. The development is not consistent with building height, side/rear setbacks, plot ratio and building</p>

<i>other proposed planning instrument that the local government is seriously considering adopting or approving</i>	separation, for a site coded R-AC1, abutting the R160 density code.
<i>(c) Any approved State Planning Policy</i>	<b>Not satisfied</b>  There are various Principles and Elements which have not been achieved in SPP7.0 and SPP 7.3 R-Codes Vol 2.
<i>(d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d):</i>	<b>Not applicable</b>
<i>(e) any policy of the Commission;</i>	<b>Not applicable</b>
<i>(f) any policy of the State;</i>	<b>Not applicable</b>
<i>(g) any local planning policy for the Scheme area;</i>	<b>Satisfied</b>  The previous shortfall in car parking has been addressed. See discussion elsewhere in this report..
<i>(h) any structure plan, activity centre plan or local development plan that relates to the development;</i>	<b>Not applicable</b>
<i>(i) any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;</i>	<b>Not applicable</b>
<i>(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;</i>	<b>Satisfied with conditions</b>  It is proposed that the area of the site within the MRS primary regional road reserve is created as a separate lot and ceded to the WAPC.
<i>(k) the built heritage conservation of any place that is of cultural significance;</i>	<b>Satisfied</b>  The development is considered to not adversely affect existing Places included on the State Register of Heritage Places (Peace Memorial Rose Garden and Captain Stirling Hotel).

<p>(l) <i>The effect of the proposal on the cultural heritage significance of the area in which the development is located</i></p>	<p><b>Satisfied</b></p> <p>There are no identified areas of heritage significance in the vicinity of the development. The impact on individual places is limited to overshadowing effects.</p>
<p>(m) <i>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;</i></p>	<p><b>Not satisfied</b></p> <p>The bulk and scale of the development is not consistent with the expected future development form for the R-AC1 code, does not reflect existing or future precedents for this locale and does not reflect the current or future desired Nedlands character – the draft NTCPP, even if given limited weight, does not advocate this built form outcome.</p> <p>The intended built form outcome for high density urban centre or corridor forms within the R-AC1 code is clearly to achieve slender tower forms above an expansive podium. This style of building form aids the achievement of internal and external amenity benefits (opportunity for natural ventilation, solar and daylight access, breaks in potential overshadowing of the public realm, view corridors, perceived visual bulk).</p>
<p>(n) <i>the amenity of the locality including the following —</i>  <i>(i) environmental impacts of the development.</i>  <i>(ii) the character of the locality; (iii) social impacts of the development;</i></p>	<p><b>Not satisfied</b></p> <p>The proposed scale (varying between 16 and 23 storeys), bulk and massing of the podium/tower form far exceeds the existing low height-built form character. It also far exceeds the anticipated future character as guided by SPP7.3, being a high-density urban form as depicted in Appendix A2.</p> <p>The proposal is wholly disproportionate to the suburban character of Stirling Highway and entirely unsubstantiated given the application site is not located in the CBD, a metropolitan centre, major tourism node, a transit oriented development, or adjacent to a high amenity resource (e.g. frontage to a river, coast or regional open space). There are no certain public transport plans, including a light-rail service, along Stirling Highway. No reasonable comparisons can be made to South Perth or Canning Bridge which are served by multiple public transport modes including rail (Canning Bridge) and have waterfront presence or proximity. Stirling Highway is limited to a high frequency bus route, which does not currently support TOD style development of the magnitude proposed – the application site is not comparable to Subi Centro and a high frequency bus service is not interchangeable with train station development.</p>

<p>(o) <i>the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;</i></p>	<p><b>Not applicable</b></p>
<p>(p) <i>whether adequate provision has been made for landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved</i></p>	<p><b>Satisfied</b></p> <p>There is currently limited landscaping on the site. There are no significant trees that require consideration. The proposal utilises a mix of deep soil area and landscaping on structure to implement a comprehensive landscaping plan.</p>
<p>(q) <i>the suitability of the land for the development considering the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;</i></p>	<p><b>Satisfied</b></p> <p>The site is located away from natural risks and has been previously developed.</p>
<p>(r) <i>the suitability of the land for the development taking into account the possible risk to human health or safety;</i></p>	<p><b>Satisfied</b></p> <p>The development, if approved, will be constructed to all relevant codes, standards, and regulations to ensure there is no undue risk to human health or safety.</p>
<p>(s) the adequacy of —  (i) the proposed means of access to and egress from the site; and  (ii) arrangements for the loading, unloading, manoeuvring, and parking of vehicles;</p>	<p><b>Satisfied</b></p> <p>The access and egress to the site is adequate. Additional information on vehicle access to the motor vehicle sales tenancies will be required as a condition in the event of approval.</p> <p>Provision for commercial vehicles has been made in the design.</p>
<p>(t) <i>the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probably effect on traffic flow and safety</i></p>	<p><b>Partially satisfied</b></p> <p>The Traffic Impact Assessment was reviewed by City traffic engineers. There are a number of matters that remain outstanding relating to the assumptions used that may affect the total traffic generation.</p> <p>Main Roads Western Australia MRWA have no objection to the development.</p>
<p>(u) <i>the availability and adequacy for the development of the following —</i>  (i) <i>public transport services;</i>  (ii) <i>public utility services;</i>  (iii) <i>storage, management and collection of waste;</i>  (iv) <i>access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);</i>  (v) <i>access by older people and people with disability;</i></p>	<p><b>Satisfied with conditions</b></p> <ul style="list-style-type: none"> <li>(i) the site is located on a number of bus routes, including a high frequency route (998/999).</li> <li>(ii) The site is serviced by all utilities, with any required upgrade to be at the cost of the developer.</li> <li>(iii) The proposal meets the waste management Element Objectives of the R-Codes Volume 2, subject to conditions.</li> </ul>



	<p>(iv) A total of 170 bicycle bays and end of trip facilities have been provided.</p> <p>(v) The development will be universally accessible, with 68% of the apartments meeting Silver Level requirements.</p>
<i>(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;</i>	<p><b>Satisfied</b></p> <p>There will be no loss of a community service of benefit by redevelopment of the site. The proposal includes a community purpose meeting room, which will enhance the level of community service compared to the existing development.</p>
<i>(w) the history of the site where the development is to be located;</i>	<p><b>Satisfied</b></p> <p>The site is currently used for commercial purposes, with the motor vehicle sales yard and showroom a long-standing use. All improvements on the site are relatively modern (i.e. are not the original structures on the site).</p>
<i>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on individuals</i>	<p><b>Satisfied</b></p> <p>The development will be a very prominent building in the locality. This prominence and the generally large bulk and scale is likely to have a polarising effect on the community. This is reinforced by the number of objections received on the proposal (518 for the initial and 213 for the revised proposal).</p>
<i>(y) any submissions received on the application</i>	<p><b>Satisfied</b></p> <p>The City received 223 submissions, all of which have been given due consideration in the assessment of this application.</p> <p>It is noted that 213 (96%) of submissions were objections to the development raising a range of concerns.</p>
<i>(za) the comments or submissions received from any authority consulted under clause 66;</i>	<p><b>Satisfied</b></p> <p>Comments from external agencies have been considered in this assessment.</p>
<i>zb) any other planning consideration the local government considers appropriate</i>	<p><b>Not applicable</b></p> <p>There are no adopted policies in which the City can give due regard to.</p>
<i>zc) any advice of the Design Review Panel</i>	<p><b>Satisfied</b></p> <p>The State Design Review Panel has considered the proposal a total of four times. A single-practitioner review has also been conducted. The outcomes of the reviews have been discussed elsewhere in this report.</p>

The Local Planning Strategy identifies the site as situated within the Urban Growth Area of the Stirling Highway Precinct. The proposal has been assessed in accordance with the relevant objectives of the precinct below.

Objective	Officer Response
Plan Stirling Highway as a high intensity, predominantly medium rise Urban Growth Area within the City of Nedlands.	<p><b>Objective not met</b></p> <p>The development is high rise rather than medium rise as envisaged by the Local Planning Strategy.</p>
Provide Transition Zones abutting Stirling Highway to incrementally integrate development intensity into the surrounding precincts.	<p><b>Not applicable</b></p> <p>The transition zone is located immediately to the north of the site on adjoining properties.</p>
Focus compatible development around identified residential and non-residential pockets, acknowledging that the intensity of redevelopment will vary along the Highway in response to the predominant land use.	<p><b>Objective met</b></p> <p>The development will provide both residential and non-residential uses within a well-located site within the identified Nedlands Town Centre.</p>
Investigate opportunities to provide rear laneway access as part of development along Stirling Highway.	<p><b>Objective met</b></p> <p>The development incorporates a rear pedestrian laneway that links Dalkeith Road and Baird Avenue. The outer ends of the laneway will be used for vehicle access into the development but will not provide through vehicle movements except for service vehicles. It is proposed that this laneway is protected by easement to ensure public access.</p>

### Local Planning Policies

#### *Local Planning Policy – draft Nedlands Town Centre Precinct Plan (NTCPP)*

The draft NTCPP has been advertised for public comment and is not considered to be seriously entertained and it is not imminent or certain at this stage. Final adoption of the NTCPP is anticipated to take place in late 2020 once built form modelling and a distinctiveness study are completed and the community further consulted. Council resolved on 23 June 2020 to make one change to the advertised version of the NTCPP. It has resolved to advertise a change to the maximum plot ratio for the Town Core sub-precinct, which will also affect the development site. The proposed change is to reduce the plot ratio from 6.0 to 3.0. As this change has not been advertised at the time of this assessment, it cannot be considered seriously entertained at this time. Therefore, an acceptable outcome plot ratio of 6.0 has been considered against the element objectives.

The provisions of the draft NTCPP have been considered as appropriate within the assessment of this development. In most cases, the provisions of the draft NTCPP are complimentary to the provisions of the R-Codes, as well as providing additional design guidance for the non-residential elements of the development. The City has obtained advice from the WAPC that indicates the proposed building height provisions in the draft NTCPP are not to be applied as these are contrary to clause 26(3) of LPS3.

### *Local Planning Policy – Car Parking*

The Local Planning Policy has been adopted to control on-site car parking provision in accordance with clause 32.1(1) of LPS3. Compliance with the policy provisions is discussed later in this report.

### *Local Planning Policy – Waste Management*

The City has prepared and approved a policy addressing waste management. The provisions of the policy encourage internal servicing where development proposes dwellings more than 5 dwellings. It is noted that the policy does not change the Acceptable Outcomes (A4.17.1-A4.17.3) contained within Element 4.17 – Waste Management, rather it is to be read as the “local government requirements”. The application has been assessed by Waste Services in accordance with LPP – Waste Management. The City is of the view that the submitted Plan is generally consistent with the requirements. Final approval of the Plan can occur as a condition in the event approval is granted.

### R-Code Element Objective Non-Compliances

This section of the report will deal with the non-compliances that have been identified through the assessment. A full assessment of the proposal against SPP 7.3 Residential Design Codes Volume 2 is included at **Attachment 26**.

#### *Plot Ratio (Element 2.5)*

Element objective O2.5.1 has not been satisfied by this development.

*O2.5.1 The overall bulk and scale of development is appropriate for the existing or planned character of the area.*

Plot ratio is defined as the ratio of the gross area of buildings on a development site to the area of land in the site boundaries.

Notwithstanding a draft version of the Nedlands Town Centre Precinct Plan (NTCPP) proposed an acceptable outcome plot ratio of 6.0, this has since been reduced in the draft to 3.0. The draft NTCPP is currently being tested, along with two other built form scenarios. Community engagement and public consultation will then inform the final built form settings for the Town Centre. Draft NTCPP is, therefore, not considered certain or imminent as it is subject to change.

The plot ratio acceptable outcome (A2.5.1) of the R-Codes of 3.0 is the default standard. The amended development proposal states a plot ratio of 5.18 (5.2). However, detailed officer assessment has identified plot ratio as approximately 5.5. The City’s assessment is supported by the Element Intent section for plot ratio which reads: “The plot ratio area includes the gross floor area of all dwellings and commercial spaces.”

The original proposal had a plot ratio of 5.8, thus an effective reduction of 0.3 in plot ratio is now proposed (0.6 based on Applicant’s calculations).

As described in the Element Intent, plot ratio is the method of establishing an allowable volume of development within the 'container' of the building envelope. The 'building envelope' indicates the maximum extent of development for a site and is defined by a combination of building height limits and setbacks from street and side and rear boundaries.

Planning guidance (PG2.5.1) suggests testing the desired built form outcome against the plot ratio to ensure it is coordinated with the building envelope, height, depth, setbacks and other site requirements, and further, indicates the allowable plot ratio should fit comfortably within the building envelope.

It is an unusual situation that exists whereby acceptable outcome building height controls have been removed from the local planning framework for the subject land. As such, there is in effect a planning framework in operation which defines the 'container' of the building envelope in terms of street, side and rear boundary setbacks with no default height control in place. As such, it is not possible to use conventional means to assess the proposed plot ratio, other than considering the proposed height, bulk and scale in accordance with SPP7.0 design principles, as they relate to 'Context and Character' and 'Built Form and Scale' in particular. As there is no specified height setting within Mixed Use R-AC1, Plot ratio is the primary limiting control to a development's scale and as noted previously, critical to the assessment of building height as well as bulk and scale.

To inform that consideration, it is noted that the advice received from the SDRP indicates that there remains inadequate strategic justification for a building of the scale proposed in this location. Further, the current proposal does not achieve transitional scale with the adjoining areas and is likely to be remain 'out of place'.

Without a resolved precinct policy, reference is made to the City's endorsed Local Planning Strategy. This document was endorsed by the City and WAPC in 2017 and encompasses the current strategic intent for planning in the vicinity of the site. The Strategy identifies Stirling Highway as a high intensity, predominantly medium rise Urban Growth Area. This development exceeds the parameters of 'medium rise', which is defined by the R-Codes Appendix A2 as buildings of up to 6 storeys. Whilst the Strategy envisaged this form of development, the Scheme has provided for no 'height limit', depending instead on plot ratio and setbacks.

It is argued that in the absence of a resolved planning framework that amends or replaces the default plot ratio requirements, there is no justification for the massing, bulk or scale of the development in its current guise.

The proposal does not fit comfortably within the default building envelope (when considered by defacto plot ratio). The massing of the buildings is not suitable in the context of the site and the existing character of the area. Whilst the site is a strategic redevelopment site, there is a lack of strategic justification against the opportunities and constraints of the locality for the extent of proposed bulk and scale. This indicates that the development is unlikely to be consistent with the planned future character of the area once this is further established and represents the over development of the site.

Consequently, it is considered that the overall bulk and scale of development is not appropriate for the existing or planned character of the area.

### *Building Height (Element 2.2)*

Element objective O2.2.1 has not been satisfied by this development.

*O2.2.1 The height of development responds to the desired future scale and character of the street and local area, including existing buildings that are unlikely to change.*

The application proposes development comprising of three residential towers set upon a 3 storey podium, meaning the following building heights are proposed, as referenced in 'storeys':

- East tower: 23 storeys plus rooftop;
- Inner tower: 16 storeys plus rooftop;
- West tower: 21 storeys plus rooftop.

The applicant contends the development comprises tower heights ranging from 15-22 storeys (with an average of 14.75 storeys), however this is incorrect as:

- it doesn't reflect the fact that the mezzanine floor should also be included as a floor in its own right (as discussed below);
- the storeys should be counted from the ground floor up, and not commence above the podium as indicated by the applicant.

LPS3 zones the land along both sides of Stirling Highway Mixed-Use (R-AC1) zone. Pursuant to clause 26(3) of LPS3, Acceptable Outcome A2.2.1 is replaced with:

*"The default Acceptable Requirement for building height limit (storeys) as set out in Table 2.1: Primary Controls Table does not apply."*

The current draft NTCPP sought to create a precinct based activity centre (Town Centre) on Stirling Highway, generally defined by following the Mixed Use zone boundary to the north and south of Stirling Highway; being framed to the west by Louise St/Martin Ave and to the east by Langham Street/Nedlands Library.

The subject site is located within the proposed 'Town Core' sub-precinct between Baird Ave and Dalkeith Road, on the northern side of Stirling Highway. The Town Core sub-precinct is located at a natural low point in the surrounding undulating topography, corresponding with the tallest buildings anticipated the precinct plan.

Built form requirements outlined in the NTCPP include (among others) Plot Ratio: 3.0 and building height (in storeys): *16 storeys + height bonus*. However, as noted on the Built Form Plan in the NTCPP, building height controls will not be given any statutory weight in the assessment of development applications. This is because, as advised by the WAPC, a local planning policy prepared for the Nedlands Town Centre should not seek to control building height, as such controls would be inconsistent with clause 26(3) of the City's LPS3.

The draft NTCPP is not considered a seriously entertained planning proposal as it is not imminent or certain at this stage. The City is currently modelling different built form scenarios. Once the economic modelling has been finalised, these scenarios will be considered by the Town Centre Community Reference Group and Community Working Group. The preferred built form settings will then be advertised before Council makes its decision. The current draft is, therefore, subject to change.

Notwithstanding augmented A2.2.1, the development must achieve the element objective. In order to determine whether the development achieves this objective the JDAP must consider what is the desired future scale.

Administration has prepared draft Local Planning policy which seeks to define desired future scale and character of the street and local area can be understood by reference to the local planning framework, which comprises of:

- The City of Nedlands Local Planning Scheme No.3 (LPS3); and
- The draft Nedlands Town Centre Precinct Plan (NTCPP).

In this respect it is noted that were the height provisions of the NTCPP in effect:

- the application fails to satisfy the mandatory Community Benefit measures outlined in the draft NTCPP in order to open up a pathway to claim up to a 25% height bonus.
- the proposal has not achieved Design Excellence, as defined by the State Design Review Panel.
- there is no provision in the draft NTCPP for the 'averaging' of building height. If one was to average the height of the building based on Storeys, the correct average height would be 20 storeys, not 14.75.

Given the inability to directly apply any statutory weight to the building height controls outlined in the draft NTCPP, the consideration of the proposed building height will need to be informed more broadly by the outcome of the assessment of this application against the other relevant provisions of SPP7.3, the 10 design principles outlined in SPP7.0, and the provisions of LPS3, as they relate to surrounding residential land which is outside the draft NTCPP.

As such, Element Objective 2.2.1 is relevant to the assessment of this application, which is considered as follows.

The suitability of the site for high density mixed-use development is not in question. However, the form, massing and scale of development must be carefully considered in context with its location and existing and future development. Various iterations of plans for this development have been considered by the State Design Review Panel (SDRP) on four occasions, most recently on 19 January 2021.

The advice received from the SDRP is discussed in and appended to the RAR. This identifies concerns about excessive bulk, mass and scale of the development, given the context of the site and surrounding area, indicating the R-Codes has suggested a high density urban centre along Stirling Highway, which is supported by Design WA. However, other approaches could be feasible where they deliver high quality urban design outcomes. The current proposal does not meet current good design

requirements for an alternative to mid-rise compact urban form for the following reasons.

- the current proposal does not achieve a transitional scale with adjoining areas, and is likely to remain 'out of place'. Tower forms at the height and bulk proposed, amplify the problem of transition for a development lot of this size.
- The proposal does not provide a positive contribution to the established Nedlands identity with respect to bulk, mass and scale, and risks detracting from the identity of this future neighbourhood centre.
- The proposed building typology and scale is considered more suitable for a CBD location, riverfront or major metropolitan centre, not an emerging Local Neighbourhood Centre located on an activity corridor and outside of a TOD context.

Based on SDRP advice, it is considered that the development does not achieve design excellence.

It is noted that the single-practitioner design review obtained by the City has not raised the same level of concern with the development as the SDRP has. However, it does identify that the proposed bulk and scale is comparative to that seen in the Perth CBD. It also notes that the bulk and scale provides a good level of amenity given its ability to achieve views to surrounding features. This may provide an indication that the bulk and scale (and height) has been chosen with the aims of achieving high quality outlooks rather than reflect any strategic justification for the size based on the character and context of the locality.

Concerns relating back to building height are also reinforced through this assessment of the proposal against other Element Objectives, such as **2.5 Plot Ratio**, and **2.7 Building Separation** as discussed later in this assessment. These elements provide their own controls that affect building height, notwithstanding there is no acceptable outcome building height provision applicable. The City contends that notwithstanding there is no default height 'limit' in place, plot ratio and building separation require consideration as part of determining building height. In relation to plot ratio, the calculated 5.5 (applicant 5.2) is considered inappropriate in the context of the likely future character of the area.

Given that plot ratio in this instance is a substitute height control within Mixed Use R-AC1, the development would achieve the intended scale at approximately 16 storeys. The applicant may argue that removal of the upper podium levels would reduce the excess in plot ratio and building height and achieve a more appropriate scale. The City contends that podiums are a critical design element of this building typology, outlined in both the R-Codes and LPP – NTCPP. A single storey podium would provide a poor street interface and remove the important base element of façade design.

It is noted that there is no acceptable outcome height applicable to this development. Notwithstanding this, the element objective is still relevant to the assessment. Critically, the proposed height is not supported by the State Design Review Panel as being inconsistent with the future scale and character of the street and local area. The SDRP goes further to state that the scale of the development is more consistent with a CBD location or other site of significance.

*Side and Rear Setbacks (Element 2.4)*

It is noted that only a rear setback applied to this site given there are roads abutting on three sides. Element objectives O2.4.1, O2.4.2 and O2.4.4 have not been satisfied by this development.

*O2.4.1 Building boundary setbacks provide for adequate separation between neighbouring properties.*

Appropriate building setback will be informed by the need to maintain adequate building separation, visual privacy, and daylight access between the development site and the adjoining R160 properties to the north.

As the adjoining residential R160 land is located to the north of the development, it is considered that solar access to that land will not be compromised by the proposed building setback from the side boundary.

The setback of the of the upper storeys of the east tower provide inadequate building separation (as discussed under Element 2.7) to the adjoining land given the scale of development proposed (12m recommended, minimum 7.5m or 11m average provided).

As the Acceptable Outcomes A2.4.1 and A2.4.2 are not met, and the Objectives for 2.7 Building Separation not satisfied, it is considered the objective O2.4.1 is not satisfied. A more detailed assessment of separation is provided in element 2.7.

*O2.4.2 Building boundary setbacks are consistent with the existing streetscape pattern or the desired streetscape character.*

As viewed from Dalkeith Road, the 24-level tower will provide only 7.5m in setback from the rear boundary, which on balance is not considered sufficient for a building of this scale. The development does not provide an appropriate transition between the site and the adjoining land coded R160, which has an intended building height of 5 storeys. The City has no current draft planning instrument that seeks to significantly increase the building height of the land to the north. Therefore, greater setback of the upper tower is needed to make the development consistent with future development on the properties to the north. A more detailed assessment of the development's transition is discussed in O2.4.4. In its current form, the eastern tower will negatively impact the Dalkeith Road streetscape and urban form of the Town Centre.

*O2.4.4 The setback of development from side and rear boundaries provides a transition between sites with different land uses or intensity of development.*

As indicated earlier under Element 2.3.1, the City concurs with the SDRP review which found that the development does not achieve an appropriate transitional scale with adjoining areas. This is taken to include reference to the adjoining R160 land to the north and is further reinforced as the Objectives for Element 2.7 Building Separation have not been met.

While the podium setback is considered sufficient to maintain privacy to the adjoining R160 land (both existing and redeveloped), the setback of the tower elements should be in proportion to building height, which does not appear to be the case as the setback



proposed of the towers is vertically uniform for the entire building height. This is particularly a concern given the proposed 11m average setback of the East tower from the northern boundary, given the proposed height of 83.2m (reduced from 88.5m originally).

In this regard, towers of 17, 21 and 23 storeys represent an abrupt transition in building form considering the potential future 5 storey building height on the adjoining R160 land to the north. To accommodate this abrupt change in height, the rear setback for the development should accommodate the envisaged setbacks of Elements 2.4 side and rear setbacks, 2.7 building separation and 3.5 visual privacy. In this case, a minimum setback of 12m for storeys 9 and above is recommended. This affects the East Tower. See Element 2.7 for more discussion on this matter.

#### *Building Separation (Element 2.7)*

Element objectives O2.7.1 and O2.7.2 have not been satisfied by this development.

*O2.7.1 New development supports the desired future streetscape character with spaces between buildings.*

Separation within site:

Building separation within the site does not comply with Acceptable Outcome 2.7.1 as follows:

- Inner and east tower, Storeys 5-8: 16.4m average proposed in lieu of 18m.
- Inner and east tower, Storeys 9-16: 16.4m average proposed in lieu of 24m

The west and east towers have ample separation (38.6m average) to ensure privacy and amenity for residents.

The calculation of building separation has been based on all elevations to the towers having major openings to habitable rooms. This position has been taken as the size of the openings on the west elevation of the east tower and east elevation of the inner tower cannot be confirmed as minor openings.

Notwithstanding that there is likely to be major openings facing onto adjacent towers, these are not the main aspects of the apartments concerned. Rather, the apartments are oriented either north or south. This reduces the impact of the reduced separation when compared to apartments with main living or outdoor living areas facing one another.

The separation between the inner and east towers has been introduced with the current proposal. The effect is the breaking up of the development in a more effective manner than previously proposed. The proposed separation between the towers and the apartment orientation is considered to meet this objective.

Separation to adjoining boundaries:

The development does not comply with Acceptable Outcome 2.7.1 as the separation proposed between the east tower and the northern boundary for storeys 9-23 is 11m average in lieu of 12m minimum separation. Table 2.7 allows for averaging of the building separation, subject to compliance with visual privacy, daylight "and the like".

The element objectives for Visual Privacy, Solar and Daylight Access and Natural Ventilation have been achieved for this development.

The future streetscape character of the locality is not resolved at this time. However, the Scheme provides for a 'higher density urban centre' (R-AC1) on the site and 'high density urban residential' (R160) on the neighbouring site to the north. The critical area of concern for building separation to the adjoining properties is the first 5-6 storeys. This is due to the acceptable outcome for building height being 5 storeys for the abutting properties to the north (R160). It is noted that the building separation for the first 8 storeys of the development meets the acceptable development provisions, thereby taking into account the future 'building envelope' on the R160 properties. The east tower building separation for Storeys 9 and above is an average of 11m (ranging from 8.8m to 13.2m). This has been increased from the initial proposal of 7m for the east tower. Whilst the increased separation is acknowledged, the overall large height of the east tower (23 storeys plus roof top community space) requires separation to increase as the building gets higher. The inability to meet acceptable outcomes for building separation appears to be related to the overall excessive bulk and scale of the building (plot ratio).

#### *Development Incentives for Community Benefit (Element 2.8)*

Element 2.8 of the R-Codes relates to development incentives for community benefit. The intent of the Element is to provide guidance for local government on relevant considerations to establish development incentives that may be provided in exchange for community benefit in nominated areas. Such an approach was proposed in the draft Nedlands Town Centre Precinct Plan (NTCPP). The draft NTCPP proposed a community benefit model to allow for building height bonus. However, as discussed elsewhere in this report, the draft NTCPP is not certain or imminent and is given limited weight in this assessment.

A number of public submissions raised a concern with any application of a 'bonus' for height or plot ratio being applied due to there being limited community benefit in the development. The Proponents have produced a community benefit statement for the development, which is included at **Attachment 27**. This statement includes a list of measures included within the development and the level of community benefit for each. These measures include a community purpose space that is intended to be given over to the City free of charge. At the time of assessment, no agreements are in place for this facility. Other community benefits proposed by the applicant include the public piazza and laneway. The laneway is proposed to be protected by an easement ensuring public access in the event of approval.

At the time of assessment, the City does not have a community benefit policy in place to guide application of Element 2.8. It is noted that the Proponent has included a number of indirect community benefits, such as high quality architecture and provision of commercial premises. A policy framework will be required to appropriately address the application of community benefit. Incentives will need to be identified and weighted to reflect local priorities. It will also be necessary to ensure there is a balance between the incentive provided and the community benefit afforded.

The current application is not seeking a development incentive, such as a height or plot ratio bonus. Instead, the development is being assessed against the Scheme, and relevant elements of the R-Codes relating to height, bulk and scale. The development is also being assessed against the 10 principles of good design contained in SPP 7.0

*Design of the Built Environment.* Any provision of community benefit is being provided without an incentive.

#### R-Code matters with initial proposal that have been adequately addressed

There were a number of matters that formed part of the reasons for refusal on the initial proposal. These were:

- Street Setback (Element 2.3)
- Building depth (Element 2.6)
- Orientation (Element 3.2)
- Solar and Daylight Access (Element 4.1)
- Natural Ventilation (Element 4.2)

Assessment of the revised proposal against the element objectives of the R-Codes has identified that the above Elements have now been appropriately addressed.

#### *Street Setback (Element 2.3)*

The previous application proposed 0.9m setbacks to Dalkeith Road and Baird Avenue for the tower elements. This was considered insufficient to achieve Element Objective O2.3.1 in that the setbacks are to reinforce and/or complement the existing or proposed landscape character of the street. The 0.9m tower setbacks did not reflect the position of the site as the gateway to the residential area to the north.

The revised proposal has addressed this issue by increasing the setbacks to Dalkeith Road and Baird Avenue to an average of 7.2m and 2.1m respectively. This is considered to appropriate achieve O2.3.1.

#### *Building Depth (Element 2.6)*

Element Objectives O2.6.1-O2.6.3 were not achieved for the previous proposal. All three element objectives require solar and daylight access and natural ventilation to be optimised by the development. The previous proposal did not demonstrate this as Elements 4.1 Solar and Daylight Access and 4.2 Natural Ventilation had not been achieved. These elements are interrelated to building depth. In addition to not achieving the other related elements, the previous proposal did not achieve the Acceptable Outcome for building depth. This combination of factors prevented the development from achieving the building depth element objectives. This is due to the development not demonstrating that solar and daylight access and natural ventilation has been optimised (O2.6.1 and O2.6.3). The previous proposal also did not provide sufficient building articulation to reduce the number of south-facing single aspect apartments (O2.6.2).

The revised proposal has reduced the total number of south-facing single aspect apartments from 50 to 34. There has been an overall reduction in the number of single aspect apartments from 33% (100) to 28% (65). This has been achieved by the inclusion of building separation between the towers. This has allowed a greater number of apartments to be provided with a dual aspect. It is noted that building depth exceeds the 20m provided as acceptable development. Notwithstanding this, the element objectives for solar and daylight access and natural ventilation have been achieved.

Given the reduction in the number and proportion of single aspect apartments and the increased articulation that has been provided, the revised proposal is considered to achieve building depth element objectives.

### *Orientation (Element 3.2)*

The previous proposal failed to demonstrate that building layouts optimised solar and daylight access within the development (Element Objective O3.2.1). This was due to the prevalence of south-facing single aspect apartments that did not receive any sunlight on 21 June (29%).

The revised proposal is considered to achieve Element Objective O3.2.1 as the proportion of apartments that will receive no sunlight on 21 June has reduced to 11%, which is below the 15% acceptable outcome for solar and daylight access (A4.1.1(b)). The development is now considered to optimise solar and daylight access.

### *Solar and daylight access (Element 4.1)*

This element is related to Element 3.2 Orientation. For similar reasons to Element 3.2, the previous proposal did not satisfy Element Objectives 4.1.1 and 4.1.2 due to the high proportion (29%) of apartments with no sunlight access on 21 June.

The revised proposal has reduced this proportion to 11%, which is less than the 15% provided as acceptable outcome A4.1.1(b). It is noted that 63% of apartments will receive at least 2 hours of sunlight, which is less than the 70% minimum provided by Acceptable Outcome A4.1.1(a). However, the development is considered to achieve the element objectives as:

- Due to the orientation of the site, achieving a minimum 2 hours for all units is harder to achieve. The majority of apartments are now designed and oriented to maximise the number of north facing apartments (58%). This is in part contributed to the rotation of the Eastern Tower.
- An additional 13% (30) apartments will receive at least 1 hour of sunlight to a habitable room or private open space.
- All apartments offer large balconies with most receiving direct sunlight. These balconies are considered extended living areas.
- Each habitable room is provided with at least one window. The design is not reliant on skylights or lightwells.

The development is now considered to optimise the number of dwellings receiving winter sunlight, with windows designed and position to optimise daylight access to habitable rooms.

### *Natural Ventilation (Element 4.2)*

The previous proposal incorporated natural ventilation into 62% of apartments. For the first 9 storeys of the development, this proportion reduced to 45%. The acceptable outcome is 60% for the first 9 storeys. This low proportion was not considered to maximise the number of apartment with natural ventilation (O4.2.1). Due to the relatively high number of apartments without natural ventilation, Element Objective O4.2.2 was not achieved (individual dwellings are designed to optimise natural ventilation). It was also considered that single aspect apartments were not designed to maximise and benefit from natural ventilation (O4.2.3).

The revised development is now considered to achieve all element objectives of Element 4.2. The overall proportion of apartments on the first 9 storeys that achieve natural ventilation has increased from 45% to 75%. Openable windows and doors have been included within the design to improve natural ventilation across each apartment type (with the exception of Apartment Types A1, A2 & B2). Habitable rooms now have at least 2 openings and have a minimum distance of 2.1m , thereby achieving

Acceptable Outcome A4.2.1. Single aspect apartments have been reoriented in the east tower to take advantage of prevailing winds.

### Traffic Impact

Traffic is a significant concern raised in submissions on the proposal. Ensuring traffic impacts from a development are managed appropriately is a critical component of the planning assessment process. During the initial assessment, a Traffic Impact Assessment for the development was reviewed by the City and its consultants. This review identified no significant concerns with the assessment. Consequently, traffic impact was not a reason for refusal when the application was determined.

The revised application required the Traffic Impact Assessment to be updated. This updated assessment was subsequently reviewed by City of Nedlands traffic engineers. The review was undertaken in accordance with the WAPC Traffic Impact Assessment Guidelines. Concerns were identified relating to some of the traffic assumptions used in the assessment. Discussions have taken place between the City and the traffic consultants for the proposal. Whilst some matters have been resolved, a number remain outstanding.

The additional information provided by the consultant provided justification for some items. However, the City is still concerned with the Assessment, particularly with the SIDRA (intersection analysis) input parameters and lack of future year analysis (10 years after full opening).

The long term analysis is a requirement under the WAPC Guidelines, as it will determine the medium/long term impacts of the proposed development. As the Responsible Road Authority, the City considers this scenario testing extremely important. It will provide the City with an indication of whether or not the development is likely to trigger the need for additional improvements to the transport network over the next ten years. The assessment assumed no background traffic growth during the 2022 peak hour (opening year) and did not include future analysis (10 years after opening) due to a broader area modelling study not being available to consider future volume.

In this regard, the City commissioned an external traffic consultant in mid-2019 to undertake the City-wide traffic modelling reflecting both MRWA ROM data and the City's LPS3. This traffic modelling work has been conducted in consultation with Main Roads, and the outputs include 2025, 2035 and 2055 future traffic forecasts.

The draft modelling report was provided to the City on 15 January 2021, and the City is now in the position to share future forecast volume with the applicant.

The findings from the City models are as follows:

- The City's models do not include similar scale development at its location, as the comparison between the proposed demographic and LPS3 has shown that the proposed development is higher than what is proposed for the zone.
- The City's traffic models indicate that the intersection volume could increase approximately 6.7 percent by 2025 and 10.5 percent by 2035 during peak hours. The modelling report also indicates that the Dalkeith Road / Stirling Highway intersection will continue to approach capacity, and by 2035 will be operating at capacity with vehicles likely to experience a significant delay during peak hours.

When the Stirling Highway intersections operate at capacity, the development vehicles will likely use alternative routes, such as Dalkeith Road and Baird Avenue, which will lead to Carrington Street, Loch Street and Smyth Road. The City needs to fully understand the potential impact of the proposed development on its road network over the short and long term. However, without future background assumption and lack of long term analysis, this is not feasible.

As such, it is evident that there is still a need for the applicant to undertake future testings reflecting background growths prior to approval of the development. Therefore, the City recommends the Assessment be modified to include a future analysis reflecting future forecast volume in order to better understand the likely impact of the proposed DA on the local road network.

It is noted that traffic impact was not a reason for refusal for the previous proposal. However, further investigation has identified a number of concerns as raised above. The concerns are not considered to be of sufficient strength to warrant refusal of the application, had traffic been the only matter affecting the application. However, it is considered of sufficient concern that the concerns with the Traffic Impact Assessment be included as an advice note in the event of refusal. The City further contends that the matters that remain outstanding should be addressed prior to an approval being considered.

Parking

The previous proposal resulted in a parking shortfall of 165 spaces when assessed against the City’s Car Parking Local Planning Policy. The practical shortfall based on parking demand modelling was identified as 70-100 spaces. The parking provision for the non-residential portion of the revised proposal has been assessed against the Car Parking Local Planning Policy and parking demand modelling. The residential car parking component is assessed against Element 3.9 of the R-Codes.

The non-residential car parking provision for the revised proposal is outlined below:

Car Parking Requirements			Level
<b>Commercial Uses</b>			
Motor vehicle, boat, or caravan sales  T7: 387m <sup>2</sup> T8: 254m <sup>2</sup> <b>641m<sup>2</sup></b>	<ul style="list-style-type: none"> <li>2.2 per 100m<sup>2</sup> NLA or 1 per employee (whichever is greater)</li> <li>1 space in every 3 to be set aside for employees</li> </ul>	14.1 bays = <b>15 bays</b>  = 5 bays (4 provided)	Basement B01
Shop  T2: 26m <sup>2</sup> T3: 81m <sup>2</sup> T10: 160m <sup>2</sup> <b>267m<sup>2</sup></b>	<ul style="list-style-type: none"> <li>8.3 per 100m<sup>2</sup> of net lettable area</li> <li>1 space in every 5 to be set aside</li> </ul>	22.2 bays = <b>23 bays</b>  = 5 bays (6 provided)	Basement B01