**Agenda**

**Special Council Meeting**

**18 January 2022**

**Notice of Meeting**

**To Mayor & Councillors**

A Special Meeting of the City of Nedlands is to be held on Tuesday 18 January 2022 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm for the purpose of:

1. Consideration of Responsible Authority Report for Mixed Use Development at 24 Leura Street, Nedlands;

2. Consideration of Responsible Authority Report for Mixed Use Development at 91 Broadway, Nedlands;

3. Consideration of Development Application for 6 Grouped Dwellings at 24 Louise Street, Nedlands;

4. Consideration of Development Application for 5 Grouped Dwellings at 18 Cooper Street, Nedlands;

5. Consideration of Development Application for Single House at 24A Lisle Street, Mt Claremont;

6. Consideration of Development Application for Additions to Single House at 86 Watkins Road, Dalkeith; and

7. Integrated Transport Strategy.

A blue line drawn on a white background

Description automatically generated with low confidence

Bill Parker

Chief Executive Officer

13 January 2022

**Information**

Special Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public question time at a Special Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: [Public question time | City of Nedlands](https://www.nedlands.wa.gov.au/public-question-time)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**Disclaimer**

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

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

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# Declaration of Opening

The Presiding Member will declare the meeting open at 6pm and will draw attention to the disclaimer below.

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

**Apologies** Councillor J D Wetherall Hollywood Ward

# Public Question Time

Public questions submitted to be read at this point.

# Addresses by Members of the Public

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

# Disclosures of Financial Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

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

# RFT ITS-22.01 City of Nedlands Integrated Transport Strategy

|  |  |
| --- | --- |
| **Meeting & Date** | Special Council Meeting - 18 January 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Director** | Andrew Melville - Acting Director Technical Services |
| **CEO** | Bill Parker |
| **Attachments** | Nil. |
| **Confidential Attachments** | 1. RFT 2021-22. 01 – Integrated Transport Strategy - Evaluation and Recommendation Report |

**Executive Summary**

The City commenced a tender process to the market and publicly invite bids from suitably qualified and experienced contractors to provide Consultancy Services for the preparation of City of Nedlands Integrated Transport Strategy (ITS).

The ITS will provide a clear framework for the future planning and development of the City’s transport system and will be based on research, data analysis, stakeholder, and community input. It will recommend transport and land use actions and priorities to achieve sustainable growth and development within the City of Nedlands.

Traffic Impact Studies (TIS) for four Precinct Plans (Stirling Highway, Broadway, Hollywood Hampton & Waratah Precinct) also form part of the scope of works for this tender. The City officers have identified these four Precincts for more detailed traffic assessment in light of anticipated future traffic generation due to land use zones changes as per the City of Nedlands Planning Scheme No.3. TIS will provide information of the existing road network performance, future needs to accommodate the increased traffic demand and management strategies to service the community transport requirements.

Four submissions were received by the closing date of Friday 5th November 2021.

This tender process has now been finalised and Council is requested to accept the evaluation and recommendation for award of the new contract to Arup Australia Pty. Ltd. The attached RFT 2021-22.01 Tender Evaluation and Recommendation Report is provided to assist Councillors with this decision.

**Recommendation to Council**

**Council:**

1. **approves the award of the contract for Preparation of City of Nedlands’ Integrated Transport Strategy, to Arup Australia Pty Ltd, in accordance with the City’s Request for Tender number RFT 2021-22.01 and comprising of that request, the City’s Conditions of Contract, the Arup Australia Pty Ltd tender submissions inclusive of the Schedule of Rates, and all post tender clarifications and negotiations;**
2. **instructs the CEO to arrange for a Letter of Acceptance to be sent to Arup Australia Pty Ltd to be executed; and**
3. **instructs the CEO to arrange for all other tender respondents to be advised of the tender outcome.**

**Voting Requirement**

Simple Majority

**Discussion/Overview**

The request for tender was advertised in The West Australian on 7th October 2021 and closed on 5th November 2021. Four (4) submissions were received in response to advertised tender. The submissions were rated against the following criteria:

* Demonstrated Understanding (20%)
* Organizational Capabilities (30%); and
* Performance (50%).

Subsequent to the closure of the tender period, the evaluation panel completed the analysis and evaluation of the submissions. At the conclusion of the process Arup Australia Pty. Ltd. was nominated as the preferred supplier to prepare the City of Nedlands’ Integrated Transport Strategy.

Arup Australia Pty. Ltd. demonstrated a good capacity to deliver the proposed works and have completed similar local government projects. Arup Australia Pty. Ltd. have experienced and qualified personnel, giving confidence that they can complete the works safety and to an appropriate standard.

Arup Australia Pty. Ltd. has also developed the City of Nedlands Traffic Model which will inform the ITS preparation process. The successful delivery of the City of Nedlands Traffic Model and close collaboration with the consultant provides additional confidence to the City on the capabilities of the Arup Australia Pty Ltd consultants.

There is currently a high demand for Engineering Consultants within the market, and this is reflected in the lack of submissions for the works and higher than estimated tendered prices. However, Arup Australia’s quote is within the expected range anticipated by City Officers.

Negotiations with the tenderer were completed following their submission, and negotiations under Local Government Act requirements were completed to revise the costs to allow WSP Engineering Consultants to undertake peer review of the ITS within the allocated budget.

A peer review is an essential component of the ITS development to ensure any potential errors are eliminated and potential improvements to the ITS are identified by an expert third party consultancy, leading to an improved overall outcome from the ITS.

Works are expected to start in mid-January 2022 and be completed, including third party review by December 2022.

The outcome of traffic studies undertaken by adjoining local governments such as City of Perth will inform the Nedlands ITS. These studies will act as inputs into the ITS development process, leading to a more robust ITS, as changes outside of the Nedlands local government area, will impact the City of Nedlands transport network performance.

References provided by the City of Joondalup and WA Department of Transport recommended Arup Australia Pty. Ltd., and both have engaged this Consultant for similar works.

Following the due diligence processes that the City has undertaken, the City is confident that Arup Australia Pty. Ltd. can complete the scope of work to the required standards, and their offer represents good value for money to the City within the market.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

A comprehensive community engagement plan form part of the ITS preparation process. Arup Australia Pty. Ltd. will engage a subcontractor with the core competency of community consultation to complete the consultation process. The City officers and public members will be extensively involved as a part of ITS development process.

**Strategic Implications**

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

Revision of residential codes to achieve the higher population density outcomes through LPS3 has put lot of stress of existing transport infrastructures. A need has been identified to have a strategic document to inform the future transport related funding decisions. The ITS will allow City officers to adopt a holistic approach to achieve safe, efficient, connected, and sustainable movement outcomes for the City as envisaged in Nedlands 2028.

**Who benefits?**

The City of Nedlands community will benefit with the implementation of the action plan devised based on holistic approach adopted in the ITS.

The ITS will allow the City and other stakeholders to make informed decisions to achieve strategic transport objectives.

The ITS will provide a strategic basis to attract additional funding from various funding sources to upgrade and modernise the City’s Transport Infrastructure.

**Does it involve a tolerable risk?**

The RFT and Minor Works Contract Conditions are set up to ensure the consultant is accountable for the delivery of the program. The consultant will ensure delivery of the ITS by the required completion date. The risks including delayed project delivery have been reviewed and are acceptable to the City.

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

Specialist City officers have the necessary skills to expertly advise Council on the best consultant to supply the services at best value to the city.

**Does this affect any CEO Key Result Areas?**

No.

**Budget/Financial Implications**

**Can we afford it?**

The Budget allocated for these works is $245,000. The Tendered price is lower than the estimate.

|  |  |  |  |  |
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| **Company** | **Tender Price (Inc GST)** | **Negotiated Price (Inc GST)** | **Budget** | **Difference** |
| Arup Australia  Pty Ltd | $184,085.00 | $184,085.00 | $245,000.00 | -$60,915.00 |

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

Nil.

**Conclusion**

Arup Australia Pty Ltd has completed Integrated Transport Strategies for other metropolitan local governments. Arup Australia Pty. Ltd. has also developed the City of Nedlands Transport Model which will inform the ITS development process. Arup Australia Pty. Ltd. has the required skills and experience necessary to complete the works and are therefore the recommended tenderer for this scope of works.

To effectively manage the delivery of City of Nedlands ITS, it is recommended that Council award this contract to Arup Australia Pty. Ltd.

# Consideration of Responsible Authority Report for 14 Multiple Dwellings, 10 Holiday Accommodation (Short Stay), 4 Offices and Café at 24 Leura Street, Nedlands

|  |  |
| --- | --- |
| **Council** | 18 January 2022 |
| **Applicant** | Planning Solutions |
| **Landowner** | G1 Property Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-69390 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the matter relates toa JDAP application. |
| **Attachments** | 1. Responsible Authority Report and Attachments |
| **Confidential Attachments** | 1. Submissions |

**Executive Summary**

The purpose of this report is for Council to consider the Development Assessment Panel application that proposes 14 Multiple Dwellings, 10 Holiday Accommodation (short-stay dwellings), 4 Offices and a Café at 24 Leura Street, Nedlands. Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat by 31 January 2022.

Administration recommends Council adopt the Officer Recommendation to defer the application for 120 days to allow for the submission of amended plans addressing the City’s concerns regarding bulk and scale, height, onsite car parking and landscaping.

**Recommendation to Council**

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 14 Multiple Dwellings, 10 Holiday Accommodation, 4 Offices and a Café at 24 Leura Street, Nedlands as follows:**

**Defer DAP Application reference DAP/21/02103 and accompanying plans date stamped 21 December 2021 (Attachment 2) for 120 days in accordance with section 5.10.1a of the DAP Standing Orders 2020, for the following reasons:**

**a. To enable modifications to be undertaken to make the development more in keeping with the bulk, scale and character of the area.**

**b. To enable modifications to improve landscaping and onsite car parking provision, or reduce car parking demand.**

1. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 14 Multiple Dwellings, 10 Holiday Accommodation, 4 Offices and a Café at 24 Leura Street, Nedlands.**

**Application Details**

The proposal is for a mixed-use development over 7 storeys comprising 14 multiple dwellings, 10 holiday accommodation dwellings (short stay dwellings), 4 offices and one café located at No. 24 Leura Street, Nedlands.

**Consultation**

In accordance with the deemed provisions and the City’s Local Planning Policy - Consultation of Planning Proposals, the development was advertised for a period of 28 days, from 29 October to 26 November 2021.

Public consultation consisted of:

* Letters posted to all landowners and occupiers (including City of Perth residents on the eastern side of Hampden Road) within a 200m radius of the site;
* A sign on site was installed at the site’s street frontage for the duration of the advertising period;
* An advertisement was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* Notice placed in the “Post” local newspaper;
* Posted on the City’s social media platforms;
* Notice on the Noticeboard at the City’s Administration Office; and
* Community information session held on Wednesday 17 November.

Upon conclusion of advertising, a total of 12 responses were received, comprising 11 objections and one statement of non-objection but including comments.

The main concerns raised in the objections included, but are not limited to:

* Height;
* Parking;
* Traffic;
* Visual privacy;
* Setbacks;
* Landscaping;
* Plot Ratio;
* Solar access
* Design; and
* Land use.

Each of these issues are discussed in the Responsible Authority Report on pages 3 and 4. All submissions on this proposal have been given due regard in this assessment in accordance with clause 67(y) of *Planning and Development (Local Planning Schemes) Regulations 2015.*

Amended plans for the proposal were submitted to the City on 21 December 2021 that differ from the advertised plans in the following ways:

* Additional 14 EV car charging units.
* Alteration of ground floor cladding materials.
* Inclusion of utilities such as water metres and fire cabinets.
* New awning over main lobby entrance.
* Reconfiguration of amenities areas and end-of-trip facilities for ground floor commercial units.
* Reconfiguration of communal open space on level 2.
* Relocation of air conditioning units adjoining the communal open space and replacement with a small pool.
* Minor internal layout changes to various units.
* Minor reconfiguration of external windows.
* Increased communal space rooftop setback.

The amendments made are not considered to trigger the need for formal re-advertising of the proposal. However, the amended plans were made available for public inspection on the City’s Your Voice website with a summary of changes proposed.

**Design Review**

The development was presented to the City’s Design Review Panel (DRP) three times. A copy of the minutes from the meeting are contained in Attachment 1 – Responsible Authority Report and Attachments. The application was assessed in accordance with State Planning Policy 7.0 – Design of the Built Environment (SPP 7.0). A summary of the two reviews is provided in the table below.

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| --- | --- | --- | --- | --- |
| 3 | Supported | | | |
| 2 | Supported with conditions / Further Information required | | | |
| 1 | Not supported | | | |
|  | | Original  21 June 2021 | Amendment 1  2 August 2021 | Amendment 2  1 November 2021 |
| Principle 1 – Context & Character | |  |  |  |
| Principle 2 – Landscape Quality | |  |  |  |
| Principle 3 – Built Form & Scale | |  |  |  |
| Principle 4 – Functionality & Build Quality | |  |  |  |
| Principle 5 - Sustainability | | None submitted |  |  |
| Principle 6 – Amenity | |  |  |  |
| Principle 7 - Legibility | |  |  |  |
| Principle 8 – Safety | |  |  |  |
| Principle 9 – Community | |  |  |  |
| Principle 10 – Aesthetics | | Not enough info |  |  |

The DRP provided the following general comments regarding the latest reviewed plans:

Positives:

* Apartment layouts generally provide good internal amenity. Diversity of accommodation is supported.
* Balcony sizes are generous.
* Increased northern exposure for living areas is positive.
* Less glazing is positive.
* Cross ventilation has improved.
* Good mix of uses on site.
* It is positive that services are generally screened.

Areas of improvement:

* Excessive plot ratio and lack of parking may be indicative of overdevelopment of the site.
* The seventh floor and plot ratio is not consistent with other similar developments within Nedlands.
* Consider an increase of parking provisions to suit uses or reduce the plot ratio to reduce parking demand.
* Bulk and height have not changed significantly [from first two reviews].
* Development could consider more deep soil areas.
* There may still be some privacy issues from the bedrooms being adjacent to communal space.

The DRP summary makes clear that the non-support for ‘Built Form and Scale’ is a result of the plot ratio having a negative impact on car parking (demand as well as supply) and lack of sufficient deep soil area. The plot ratio and the height together are also not consistent with other recent forms of development within the City.

Sustainability

The development proposes a number of initiatives in regard to energy efficiency, water management, and conservation, including:

* 5 star Green Star energy efficiency for the overall development,
* Rooftop solar panels,
* 16 EV charging stations, and
* Average 8 star NatHERS rating for the apartments, which is above the National Construction Codes minimum of 6 stars.

Administration Conclusion

The proposed development is generally visually acceptable and with good internal amenity, particularly regarding sunlight and ventilation to dwellings. The mix of dwelling sizes and the intended functionality of the proposal, in terms of providing housing and care for a range of household types, is generally supported. However, the scale of the development is not in keeping with the coding or character of the area. The City’s primary concerns are building height and plot ratio, which have flow on effects to the secondary concerns of car parking and landscaping.

The proposal exceeds the building envelope acceptable outcome controls envisaged by the R-Codes, particularly in height and plot ratio. The additional plot ratio is evidenced in the additional floor, by the fact that insufficient on-site parking is provided (and additional demand created), and a lack of deep soil area. It is acknowledged that the building proposes a range of specialist disability accommodation which necessarily requires more floor area for wider corridors, manoeuvring room in bathrooms, wider living areas, etc. However, the additional plot ratio is not attributable solely to these requirements.

It is recommended the application be deferred to allow the applicant to decrease the bulk and scale and resultant amenity impacts of the development by:

* + 1. Reducing the plot ratio;
    2. Reducing the height;
    3. Improving the interface between the units and the communal open space on level 2;
    4. Investigating opportunities for additional deep soil and vegetation areas;
    5. Increasing onsite car parking supply and/or reduce demand through reduction in commercial plot ratio area or number of dwellings.

**Recommendation to JDAP**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 31 January 2022. The following is the officer recommendation that is included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation. The officer recommendation will be contained in the rear of the report.

**Officer Recommendation**

It is recommended that the Metro Inner-North Joint Development Assessment Panel resolves to:

**1. Defer** DAP Application reference DAP/21/02103 and accompanying plans date stamped 21 December 2021 (Attachment 1) for 120 days in accordance with section 5.10.1a of the DAP Standing Orders 2020, to address the following matters:

1. To enable modifications to be undertaken to make the development more in keeping with the bulk, scale and character of the area.
2. To enable modifications to improve landscaping and onsite car parking provision, or reduce car parking demand.

# Consideration of Responsible Authority Report for 17 Multiple Dwellings and Office at 91 Broadway, Nedlands

|  |  |
| --- | --- |
| **Council** | 18 January 2022 |
| **Applicant** | Allerding and Associates |
| **Landowner** | GPG No. 10 Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-69579 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the matter relates toa JDAP application. |
| **Attachments** | 1. Responsible Authority Report and Attachments |
| **Confidential Attachments** | 1. Submissions |

**Executive Summary**

The purpose of this report is for Council to consider the Development Assessment Panel application that proposes 17 multiple dwellings and an office at 91 Broadway, Nedlands. Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat on or before 21 January 2022.

Administration recommends Council adopt the Officer Recommendation for approval.

**Recommendation to Council**

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 17 Multiple Dwellings and an Office at 91 Broadway, Nedlands as follows; and**

**approves DAP Application reference DAP/21/02110 and accompanying plans (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Nedlands Planning Scheme No. 3, subject to the following conditions:**

**General**

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.**
2. **This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.**

**Noise**

1. **Prior to the issue of a Building Permit, the applicant is to lodge with the City an acoustic report prepared by a suitably qualified and licenced acoustic consultant demonstrating compliance of the Development with the requirements of the *Environmental Protection (Noise) Regulations 1997* to the satisfaction of the City’s Health Services.**
2. **Prior to the issue of a Building Permit, a noise management plan is to be submitted and approved by the City of Nedlands detailing measures that will be undertaken to ensure noise levels during operation of the development are kept within levels prescribed in the *Environmental Protection (Noise) Regulations 1997* to the specifications and satisfaction of the City of Nedlands.  The noise management plan shall be adhered to at all time**

**Waste Management**

1. **Prior to the issue of a Building Permit, an amended Waste Management Plan is to be submitted and approved by the City of Nedlands. The approved Waste Management Plan shall be complied with at all times to the satisfaction of the City of Nedlands.**

**Design**

1. **Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.**
2. **Prior to occupation of the development the finish of the parapet walls is to be finished in accordance with the hereby approved plans.**
3. **All screening and obscure glazing shown on the approved plans to be installed prior to occupation and maintained at all times thereafter.**
4. **Prior to the issue of a building permit, the western-facing balustrades of the balconies on all units shall be solid material or obscure glazed to provide visual screening of the balcony areas when viewed from adjoining properties, to the satisfaction of the City of Nedlands.**

**Building**

1. **Prior to the issue of a Demolition Permit and/or a Building Permit, a Demolition and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the demolition and construction process to the satisfaction of the City.**
2. **Prior to the issue of a Building Permit, a geotechnical report covering the development area is to be prepared by a suitably qualified practitioner at the applicant’s cost, to the satisfaction of the City of Nedlands. The report will give due consideration to any potential impacts on neighbouring properties including but not limited to: ground water management, excavation or modifications to existing ground levels; vibration or consolidation of material throughout the demolition and construction phase of the project. The geotechnical report will identify any remedial treatments required to mitigate any adverse impacts and will be lodged with the building permit application, together with certification that the design is suitable for the site conditions as outlined in the geotechnical report.**
3. **Prior to the commencement of excavation works, a dilapidation report shall be submitted to the City of Nedlands for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:** 
   1. **Lot 517 (No. 20) Kingsway, Nedlands**
   2. **Lot 516 (No. 22) Kingsway, Nedlands**
   3. **Lot 515 (No. 24) Kingsway, Nedlands**
   4. **Lot 536 (No. 89) Broadway, Nedlands**
   5. **Lot 538 (No. 93) Broadway, Nedlands**

**In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.**

1. **External lighting shall comply with the requirements of Australian Standard 4282 – Control of Obtrusive Effects of Outdoor Lighting to the satisfaction of the City of Nedlands.**
2. **A minimum of 20% (4) units are to be designed at building permit stage to the Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia) and implemented prior to occupation.**
3. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
4. **All building works to be carried out under this development approval are required to be contained within the site boundaries of the subject lot.**

**Landscaping**

1. **Landscaping shall be installed and maintained in accordance with the approved Landscape Plan prepared by Propagule, received 27 October 2021. Any modifications to the plans are subject to approval by the City of Nedlands.**
2. **Prior to the issue of a Building Permit, a Landscape Management Plan shall be prepared by a suitably qualified consultant and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants.**
3. **Prior to occupation, the approved Landscape Plan, including any modifications approved by the City of Nedlands, is to be implemented and maintained for the life of the development to the satisfaction of the City of Nedlands.**
4. **Prior to occupation, all communal and private open space areas shall include a tap connected to an adequate water supply for the purpose of irrigation.**

**Vehicle Access and Parking**

1. **Prior to the issue of a Building Permit, the applicant is to provide a Road Safety Audit, to the satisfaction of the City of Nedlands.**
2. **All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.**
3. **Prior to the occupation of the development, the carpark must provide one (1) car parking space dedicated to people with disabilities, in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off street parking for people with disabilities, and which is linked to the main entrance of the development by a continuous accessible path of travel designed and constructed in accordance with Australian Standard AS 1428.1 2009, Design for access and mobility, Part 1: General Requirements for access New building work.**
4. **The vehicle ramp to the basement and circulation areas are to be constructed in accordance with Australian Standard 2890.1-2004 - Off-street car parking to the satisfaction of the City of Nedlands**
5. **Prior to occupation of the development, all bicycle parking spaces shall be provided and installed to the satisfaction of the City of Nedlands and maintained for the lifetime of the development.**
6. **Prior to occupation of the development, all car parking bays designated for visitors/staff shall be clearly marked or signage provided and maintained thereafter by the landowner to the satisfaction of the City of Nedlands**
7. **Prior to occupation of the development, the crossover is to be modified/upgraded and verge and kerb reinstated at the applicant’s cost and to the satisfaction of the City of Nedlands.**

**Sustainability**

1. **Prior to occupation of the development, the recommendations contained within the CADDS Sustainability Design Strategy dated received 27 October 2021, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**

**Legal**

1. **Prior to occupation of the development, the landowner(s) shall enter into a Deed of Indemnity with the City, which indemnifies both the City and its waste collection contractors from claims relating to any damage, injuries or death that may be caused as a result of the on-site waste collection process.**
2. **Prior to occupation of the approved development, the applicant/owner shall enter into a deed of agreement with the City of Nedlands whereby the owner:** 
   1. **Indemnifies the City against any loss or damage to any road reserve or other property of the City or to any person or property of any person arising out of the installation of the approved awning constructed over the road reserve immediately adjacent the land where the awning will be located or the use of the road reserve in connection with the approved development;**
   2. **Agrees to take out and maintain a policy of public liability with a reputable insurer in an amount satisfactory to the City to insure the City and the owner against all claims for loss or damage or injury occurring to any road reserve or property of the City or any person or property of any person as a result of the construction of the development or in respect of the use of that portion of the awning constructed over the road reserve immediately adjacent to the land in connection with the development;**
   3. **Agrees to maintain the development at its cost; and**
   4. **Agrees that the City can require the awning be removed and for the road reserve to be re-instated within a reasonable time.**

**The agreement shall be prepared by the City’s solicitors to the satisfaction of the City and enable the City to lodge an absolute caveat over the land. The applicant/owner shall be responsible to pay all costs associated with the City’s solicitor’s costs and incidentals to the preparation of (including all drafts) and stamping of the agreement and the lodgement of the absolute caveat.**

1. **Instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 17 Multiple Dwellings and an Office at 91 Broadway, Nedlands.**

**Application Details**

The application is for a proposed six storey multiple dwelling development, comprising 17 multiple dwellings and an office at Lot 531 (No.91) Broadway, Nedlands.

**Consultation**

In accordance with the deemed provisions and the City’s Local Planning Policy - Consultation of Planning Proposals, the development was advertised for a period of 28 days, from 12 November 2021 to 10 December 2021.

Public consultation consisted of:

* Letters sent to all landowners and occupiers within a 200m radius of the subject site;
* A sign on site was installed at the site’s street frontage;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period; and
* A notice was placed in *The Post* newspaper.

At the conclusion of the advertising period, the City received three submissions, two in support, and one objection. The key concerns in the objection related to:

* Height, bulk and scale;
* Traffic;
* Overshadowing; and
* Loss of tree canopy.

These matters have been addressed within the Responsible Authority Report. All submissions on this proposal have been given due regard in this assessment in accordance with Clause 67(y) of the *Planning and Development (Local Planning Schemes Regulations) 2015.*

Amended plans for the proposal were submitted to the City on 20 December 2021 that differ from the advertised plans in the following manner:

* Increase in size of the office tenancy.
* Increase in the width of the crossover to 6m.
* Minor alterations to fix inconsistencies between plans.

The amendments did not trigger the need for formal re-advertising of the proposal.

**Design Review**

The application was referred to the City’s Design Review Panel (DRP) prior to lodgement on 6 September 2021. The application was assessed in accordance with State Planning Policy 7.0 – Design of the Built Environment (SPP 7.0). A summary of the review is provided in the table below.

|  |  |  |
| --- | --- | --- |
|  | Supported | |
|  | Further Information Required | |
|  | Not supported | |
| SPP 7.0 Principles | Evaluation | Comments |
| 1. Context and Character |  | The design broadly responds to context and character of the local area. Further analysis of local context needed at street level. |
| 1. Landscape Quality |  | Concern about the narrowness of planters. More information required regarding reticulation and maintenance. |
| 1. Built Form and Scale |  | Appropriate for the site. Complements approved developments adjoining in terms of bulk and scale. |
| 1. Functionality and Built Quality |  | Largely efficient and effective. Further details on car charging stations for car stackers to be supplied. |
| 1. Sustainability |  | ESD report provided. Recommend passive shading solutions/devices for north, west and east façades. |
| 1. Amenity |  | Average communal spaces that compromise amenity. |
| 1. Legibility |  | Clear entry points with direct line of sight. |
| 1. Safety |  | Safe communal open spaces that provide opportunity for passive surveillance. |
| 1. Community |  | Communal spaces facilitate social interaction. Active office space and great streetscape activation. Further details on the adaptability of the commercial space. |
| 1. Aesthetics |  | Positive development scale, bulk, mass, and symmetry. Curved glazing is both a successful initiative and important characteristic of the façade. |

In response to the 6 September 2021 DRP comments, the following amendments to the plans were made:

* Addition of a roof top communal space to address DRP comments regarding communal amenity and landscape quality.
* Alterations to ground floor layout to improve the functionality of the office space and bike bays.
* Alterations to first floor circulation area and storage rooms.
* Redesign of second floor street facing balconies and on-structure planting to address comments relating to landscape quality.

**Recommendation to JDAP**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on or before 21 January 2022. The following is the officer recommendation that is included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation. The officer recommendation will be contained in the rear of the report.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve or refuse the application.

The application for a mixed use, six storey development is considered consistent with the City’s statutory and strategic planning framework, will have minimal undue adverse impact upon adjoining properties, and achieves a high-quality design outcome. The development is consistent with the expected future scale of development within the area given the transition from ‘Residential R35’ to ‘Mixed Use R-AC3’. The proposal meets all Element Objectives of the R-Codes and generally responds well to the environment, particularly the large rear setback to the lower-coded single houses to the west. The proposal has been amended to respond to the recommendations of the City’s DRP and the City.

For the above reasons, it is recommended Council adopt the Officer Recommendation contained in the Responsible Authority Report to approve the development.

# PD1.22 Consideration of Development Application – 6 Grouped Dwellings at 24 Louise Street, Nedlands

|  |  |
| --- | --- |
| **Council** | 18 January 2022 |
| **Applicant** | Big Sky Homes Pty Ltd |
| **Landowner** | Joydem Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-68599 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to one or more objections being received and that the proposal includes five or more dwellings. |
| **Attachments** | 1. Aerial Image and Zoning Map  2. Development Plans  3. 3D Architectural Renders |
| **Confidential Attachments** | 1. Submissions |

**Executive Summary**

The purpose of this report is for Council to determine a development application for 6 grouped dwellings at 24 Louise Street, Nedlands.

The application was advertised to adjoining neighbours in accordance with Council’s Local Planning Policy (LPP) – Consultation of Planning Proposals due to the need to consider lot boundary setbacks, wall height, landscaping, visitor parking, and visual privacy against the design principles of the R-Codes. At the close of the advertising period, three submissions were received objecting to the setbacks, height, visual privacy, and car parking. As objections have been received and the application proposes more than five dwellings, this application is presented to Council for determination.

If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Recommendation to Council**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application in accordance with the plans date stamped 30 November 2021 for 6 grouped dwellings at 24 Louise Street, Nedlands, subject to the following conditions:**

1. **Prior to occupation, the north elevation of balconies in Units 2-6; the south elevation first floor lounge of Units 1, 2 and 5; the south elevation bedroom 3 of Unit 6, the south elevation of the balcony of Unit 1; and the east elevation kitchen window of Unit 6, as annotated in red on the plans, shall be screened in accordance with the Residential Design Codes by either;**
2. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
3. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
4. **a minimum sill height of 1.6 metres above the finished floor level; or**
5. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation, landscaping shall be completed in accordance with the approved plans or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
2. **Prior to the issue of a demolition permit and/or a building permit, a Demolition and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**
3. **Prior to the issue of a Building Permit, a list of sustainability initiatives shall be submitted and approved to the satisfaction of the City. Initiatives contained within the list are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
4. **The waste management plan prepared by Big Sky Developments prepared September 2021 forms part of this development approval and shall be complied with at all times to the satisfaction of the City of Nedlands.**
5. **All storm water discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 1011 m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ Permitted Use |

**Locality Plan**

The subject lot is located on the east of Louise Street, Nedlands, and is 230 metres south of Stirling Highway near the intersection of Louise Street and Jenkins Avenue.

The site has a lot area of 1011m2, with an east-west orientation and is currently vacant. The natural ground level slopes up approximately 1.5 metres from southwest to northeast. The area is characterised by predominantly single storey single houses*.* Construction is currently underway on the lot to the immediate south for five, two storey grouped dwellings. The properties in this area are coded R60 (Attachment 1). Several larger scale developments have been approved by JDAP on nearby lots including:

* 13 Vincent Street – 5 storey multiple dwelling development
* 17-19 Louise Street – 6 storey multiple dwelling development
* 21-23 Louise Street – 3 storey grouped dwellings and 3 storey multiple dwellings

**Application Details**

The application seeks development approval for 6 grouped dwellings with a common property driveway. Five of the dwellings are three storey, and the one at the rear is two storeys.

**Consultation**

**Community**

The applicant is seeking assessment under the design principles of the R-Codes for the following:

* Lot boundary setbacks;
* Wall height;
* Visitor parking; and
* Visual privacy.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 16 adjoining and nearby properties. The application was advertised for a period of 14 days from 13 October to 27 October 2021. At the close of the advertising period, 3 objections were received.

The following is a summary of the concerns/comments raised and the City’s response and action taken in relation to each issue:

1. The townhouses exceed the height limit for flat roofs and create additional building bulk and scale to adjoining properties.

Amended plans were submitted on 30 November and 17 December 2021 reducing the maximum height of all the buildings. As a result of the sloping natural ground level, parts of some of the units are still above the wall height outlined in the City’s local planning policy. The wall height is discussed in further detail below.

1. The reduced lot boundary setbacks will have detrimental impacts on noise, privacy, and amenity, particularly from the second storeys.

The amended plans have altered some windows such that they are no longer considered “major openings” and therefore do not impact visual privacy as defined by the R-Codes. It is recommended that a condition is imposed requiring screening the few remaining windows that pose direct overlooking issues. As lot boundary setbacks are partially based on whether there are any major openings, the condition will result in all lot boundary setbacks meeting the deemed to comply provisions of the R-Codes.

1. The development fails to ensure privacy to adjoining lots.

It is recommended that a condition is imposed requiring screening the few remaining windows that pose direct overlooking issues. This would eliminate visual privacy issues and enable the development to meet the deemed to comply provisions.

1. The development removes a mature jacaranda tree and only includes small trees, most of which are located to the south and will have insufficient sunlight. The landscaping is inadequate and should comply with the draft medium density codes.

The landscaping meets the deemed to comply provisions of Volume 1 of the R-Codes. The medium density codes are still being formulated by the Department of Planning Lands and Heritage and cannot be used to assess current applications.

1. The development will overshadow the outdoor living areas of the approved grouped dwellings to the south.

The R-Codes measures overshadowing to the parent lot in the case of grouped dwellings. The proposed development overshadows 42.7% of the adjoining lot, which is below the deemed to comply provision maximum of 50%.

1. The lack of sufficient visitor bays will add to congestion and require visitors to park on the street.

The development is less than 250 metres from a high frequency bus stop, and the reduction in visitor bays is supported. Onsite car parking is discussed in further detail below.

On 30 November and 17 December 2021, amended plans were submitted that included the following changes:

* Reduction in the overall height of all dwellings from a maximum of 9.9m to a maximum of 8.9m, with over half of the development now having a wall height equal to or less than 8.5m.
* Removal of the architectural feature projection of Units 1 and 4.
* Visual privacy screening provided to the Unit 6 ground floor bedroom and first floor Bedroom 3.
* Additional landscaping to the overall development.

**Assessment of Statutory Provisions**

**Local Planning Scheme No.3 (LPS3)**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application.  Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

**Design Review Panel (DRP)**

The application was reviewed by the DRP at the 4 October 2021 meeting. A summary of the final comments are provided below:

|  |  |  |
| --- | --- | --- |
| 3 | Supported | |
| 2 | Supported with conditions / Further Information required | |
| 1 | Not supported | |
| Principle 1 – Context & Character | |  |
| Principle 2 – Landscape Quality | |  |
| Principle 3 – Built Form & Scale | |  |
| Principle 4 – Functionality & Build Quality | |  |
| Principle 5 - Sustainability | | No information provided |
| Principle 6 – Amenity | |  |
| Principle 7 - Legibility | |  |
| Principle 8 – Safety | |  |
| Principle 9 – Community | |  |
| Principle 10 – Aesthetics | |  |

The applicant has submitted amended plans including additional landscaping and has provided information about the sustainability initiatives proposed, which include a wall insulation of a higher energy rating than the minimum R1.5.

**State Planning Policy 7.3 - Residential Design Codes – Volume 1**

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) apply to all single and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway. The proposed development is seeking a design principle assessment pathway for a part of this proposal.

An assessment is sought under the design principles of the R-Codes for building height and onsite parking. A condition is recommended to require screening to all the major openings that present a departure from the deemed to comply provisions (refer to Condition 1). The screening will also have the effect of making all lot boundary setbacks meet the deemed to comply provisions.

The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. All other areas meet the deemed-to-comply provisions.

**Clause 5.1.6 – Building height**

The development proposes a maximum wall height of 8.9m. The design principles provide for building height that does not create an adverse impact on the amenity of adjoining properties or the streetscape. The height is considered to meet the design principles for the following reasons:

* The original plans showed all units with the same finished floor ground floor levels. Amended plans have been submitted on several occasions staggering the finished floor heights to respond to the slope of the ground and reducing the floor to ceiling heights. The result is a decrease in the maximum height from 9.9m to 8.9m.
* Due to the slope of the natural ground level, more than fifty percent of the development has a wall height equal to or less than 8.5m.
* The outdoor living areas are located to the south of the site, between the proposed units and the adjoining lot, and will act as a buffer to the properties to the south.
* The additional building height will create no adverse impact on direct sun to major openings or outdoor living areas of adjoining sites.
* The development meets the deemed to comply provisions of the R-Codes for lot boundary setbacks, visual privacy, and solar access.

**Clause 5.3.3 – Parking**

The development proposes one visitor car parking bay. The design principles provide for adequate on-site parking, with consideration given to a reduction in parking based on the site’s proximity to public transport and available street parking. The visitor parking proposed meets the design principles for the following reasons:

* The lot is located less than 250 metres from a high frequency bus route on Stirling Highway that provides an alternate means of transport.
* The proximity to the high frequency bus route results in the need for only a single bay in each unit in order to meet the deemed to comply provisions for onsite parking. The development proposes two bays for each unit and can therefore be assessed as having 6 car bays beyond the minimum.

An alternate option is to replace the visitor bay with additional landscaping, consistent with some of Council’s recent decisions. Should Council wish to do so, an additional condition is provided as follows:

Prior to the issue of a building permit, an amended landscaping plan is to be provided replacing the visitor car bay with soft landscaping to the satisfaction of the City of Nedlands.

**Amenity**

The deemed-to-comply provisions of the R-Codes set out objective criteria which, when met, are considered to deliver an acceptable amenity outcome. Volume 1 deals more with spatial elements of buildings rather than appearance and provides no controls or incentives for higher level design outcomes. Only when elements require a design principle assessment can local governments make an assessment on the amenity impact of that element.

In the case of the current application, a judgement on amenity can be made regarding the building height and the visitor car parking bay.

**Sustainability Initiatives**

The applicant proposes a higher energy rating for the development through the use of wall insulation above the standard R1.5 rating.

A condition of approval has been included to provide more detail on the sustainability initiatives and to ensure they are implemented.

**Statutory Implications**

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

If Council resolves to approve the proposal, the applicant will have the ability to proceed with the development of the site with the six grouped dwellings after receiving their Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for six grouped dwellingshas been presented for Council consideration due to objections being received and that the proposal includes more than five dwellings. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and as such is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the Residential Design Codes.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration’s recommendation.

# PD02.22 Consideration of Development application – 5 Grouped Dwellings at 18 Cooper Street, Nedlands

|  |  |
| --- | --- |
| **Council** | 18 January 2022 Special Council Meeting |
| **Applicant** | Peter Webb & Associates |
| **Landowner** | Yuki Yama Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally,  this relationship is consistent with the limitations placed on  such relationships by the Codes of Conduct of the City and  the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/68037 |
| **Previous Item** | DA19/38065 |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the proposal of five dwellings |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. Design Review Panel Assessment Minutes 4. Architectural Perspective Drawings |
| **Confidential Attachments** | * + - 1. Submissions       2. Applicant’s Response to Submissions |

**Executive Summary**

The purpose of this report is for Council to determine a development application for five grouped dwellings at 18 Cooper Street, Nedlands.

The site has a current approval for a three storey development of 10 multiple dwellings. The five grouped dwellings proposed in this application are also three storey.

The application was advertised to adjoining neighbours in accordance with the City of Nedlands Local Planning Policy (LPP) – Consultation of Planning Proposals due to the need to consider design principles for lot boundary setbacks, wall height, roof height, garage setback and visitor parking. Two submissions were received objecting to the proposal. As objections have been received, this application is presented to Council for determination.

If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes). Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Recommendation to Council**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 1 September 2021 in accordance with plans date stamped 5 November 2021 for five grouped dwellings at 18 Cooper Street, Nedlands and subject to the following conditions:**

1. **Prior to occupation, a notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be prepared or vetted by the City’s solicitors at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):**

**“This lot is situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction”.**

1. **Prior to the issue of a building permit, an acoustic report and noise management plan shall be prepared by a suitably qualified party certifying that the proposal incorporates sufficient sound attenuation measures in accordance with the quiet house design requirements as identified in State Planning Policy 5.4 – Road and Rail Noise.**
2. **All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with the *Environmental Protection (Noise) Regulations 1997*.**
3. **Prior to the issue of a demolition permit and/or a building permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**
4. **Prior to occupation, the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:**
5. **Face brick;**
6. **Painted render;**
7. **Painted brickwork; or**
8. **Other clean material as specified on the approved plans;**

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

1. **Prior to occupation, landscaping is to be installed in accordance with the approved Landscape Plan date stamped 5 November 2021 and maintained to the satisfaction of the City of Nedlands for the lifetime of the development. Any modification to the approved Landscape Plan will require endorsement and approval by the City of Nedlands.**
2. **The development shall comply with the approved Waste Management Plan dated 17 December 2021 to the satisfaction of the City of Nedlands. Any modification to the approved Waste Management Plan will require further approval by the City.**
3. **The development shall comply with the targets of the approved Sustainability Report dated 5 November 2021 to the satisfaction of the City of Nedlands. Any modification to the approved Sustainability Report will require further approval by the City.**
4. **Prior to occupation, new or modified vehicle crossovers shall be constructed to the City’s specification and thereafter maintained to the satisfaction of the City of Nedlands.**
5. **Prior to occupation, all visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas, as annotated on the approved plans, shall be screened in accordance with the Residential Design Codes (Volume 1) by either:**
6. **Fixed obscure or translucent glass to a height of 1.6 metres above finished floor level;**
7. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
8. **A minimum sill height of 1.6 metres as determined from the internal floor level; or**
9. **An alternative method of screening approved by the City.**

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

1. **Prior to occupation, suitable arrangements being made to ensure that structures and equipment which encroach Lot 395 (18) Cooper Street and Lot 394 (20) Cooper Street are protected with appropriate easements.**
2. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**

1. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 911m2 |
| **Land Use** | Existing – Single House  Proposed – Grouped Dwellings |
| **Use Class** | ‘P’ Permitted Use |

**Locality Plan**

The subject site is located at 18 Cooper Street, Nedlands and is 110m south of Stirling Highway and 90m west of Broadway. The site is located on the south side of Cooper Street.

The site is 911m2 in area and contains a single house. The site is relatively flat with a slight fall of 0.7m from west to east.

The area is characterised by single houses that are predominantly single storey. There are commercial properties located at the intersection of Cooper Street and Broadway to the east of the site. The properties in this area are coded between R60 and R-AC1. The lot directly to the east of the subject site is coded R160. All lots on the northern side of Cooper Street are coded R160 and R-AC1. Refer to the Zoning Plan contained in Attachment 1.

**Existing Approvals**

The site has a current approval for 10 multiple dwellings. This application was approved by the Joint Development Assessment Panel (JDAP) on 11 December 2019 (DA19/38065).

The western adjoining site, 20 Cooper Street, has a JDAP approval for 10 multiple dwellings. An amendment to the 20 Cooper Street approval was recently approved by the JDAP at its meeting of 16 November 2021.This site is in the same ownership as the subject site and the two developments share the same driveway.

**Application Details**

The application seeks development approval for the construction of five grouped dwellings which are all three storey. One unit proposes to obtain vehicle access from Cooper Street, with the remainder of the four units obtaining vehicle access from a common property access leg accessible from Cooper Street.

**Consultation**

**Public Consultation**

The application seeks design principle assessment for the following elements:

* Street Setbacks;
* Lot Boundary Setbacks;
* Building Height;
* Setback of Garage (Unit 1);
* Outdoor Living Area (Unit 2); and
* Visitor Parking.

The application was advertised for 14 days from 15 November 2021 to 29 November 2021, in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals.

Two submissions were received objecting to the proposal. The key concerns raised within the submissions were:

1. The development is not in keeping with the residential amenity and density due to a bulky development which is out of place.

The site has been recoded from R12.5 to R60 and the area is undergoing a transition to higher density development. The R-Codes permit future development to occur in a scale and form similar to the subject proposal, and the development is considered to reflect the future character of the area.

1. Lack of landscaping, mature trees and tree canopy.

The development achieves the deemed-to-comply provisions of the R-Codes in relation to landscaping. All street trees and an existing mature tree on site (Cape Lilac), are to be retained. The application proposes 10% deep soil area and 28% permeable paving of the site. The landscaping is considered a positive outcome and has been supported by the City’s Design Review Panel.

1. The development proposes excessive height which is inconsistent with adjacent developments.

The proposal is considered to achieve the design principles in relation to Building Height. Refer to design principle assessment provided below.

1. *The* development *will result in adverse impact on traffic on local streets.*

The site has an existing approval for 10 multiple dwellings. This application proposes five grouped dwellings, which will result in less vehicles using the local street network. The application has included a Transport Impact Statement which demonstrates that the local road network can accommodate the additional traffic generated from the proposal.

1. Impact of overshadowing on adjacent properties.

The development achieves the deemed-to-comply provisions of the R-Codes in relation to overshadowing and is not considered to unduly impact adjoining properties.

**Assessment of Statutory Provisions**

**Local Planning Scheme No.3**

Schedule 2, Clause 67(2) *Consideration of application by Local Government* – identifies matters which are required to be given due regard to in assessing the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to scale, bulk and appearance, and the potential impact it will have on the local amenity.

**State Planning Policy 7.0**

This application was referred to the City’s Design Review Panel (DRP) on 18 October 2021. Amended plans were received on 5 November 2021 in order to address the advice and recommendations by the Design Review Panel. A copy of the Design Review Panel comments is contained in Attachment 3.

The amended plans were reviewed by the DRP Chair on 24 November 2021. The following is a summary of the advice provided by the DRP.

|  |  |  |  |
| --- | --- | --- | --- |
| 1 | Supported | | |
| 2 | Supported with conditions | | |
| 3 | Not supported | | |
| 0 | Additional information required | | |
|  | | Original Plans –  1 September 2021 | Amended Plans –  5 November 2021 |
| 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 | |  |  |

The final comments on the proposal are as follows:

“The proponent has responded positively and effectively to the comments and Recommendations of the DRP. In particular, they have:

* Improved the design of the streetscape by amending the front elevation, the carport to unit 1 and crossover.
* Provided a satisfactory Environmentally Sustainable Development (ESD) report from a consultant.
* Increased the material articulation to the front third of the mews.
* Improved the design of the landscaping and the garage doors.
* Included a satisfactory context analysis prepared by an urban design consultant.
* Provided satisfactory detailed written justifications in response to all DRP suggestions.

Having considered the revised proposal against the DRP Comments and Recommendations the DRP Chair believes the proposal is now SUPPORTABLE.”

**State Planning Policy 7.3**

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) applies to single houses and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways, by either meeting the deemed-to-comply provisions or via a design principle assessment pathway. This application seeks a design principle assessment for street setbacks, lot boundary setbacks, height (wall and roof), garage setback, outdoor living area and parking. All other areas meet the deemed-to-comply provisions.

**Clause 5.1.2 – Street Setbacks:**

The application seeks a design principle assessment for the setbacks proposed to the common property driveway. The design principles require the development to be consistent with the established streetscape and not visually imposing from the street. The application meets the design principles for the reasons outlined below:

* The setbacks provided to the internal common property driveway do not directly face the primary street. The development presents appropriately to the public realm and achieves deemed-to-comply setbacks to Cooper Street. The setbacks seeking discretion to the common property driveway will have a negligible impact on the existing or future streetscape or character of Cooper Street.
* The bulk of the development is positioned towards the common property driveway to increase side lot boundary setbacks to adjoining properties. This facilitates more efficient use of outdoor living areas (such as Units 1, 3 4 and 5) for residents, whilst maintaining the amenity and privacy of adjoining properties.
* The common property driveway is lined with four Dracaena trees, one citrus tree and two Native Frangipanis. Vertical landscaping is also proposed along the solid wall of Unit 2 addressing the common property. The entire driveway is paved with permeable paving. All these landscaping features reduce the bulk onto the internal driveway. In conjunction with the retention of the existing two street trees, the development positively contributes to the character of Nedlands as a ‘leafy green suburb’.
* The development proposes windows from habitable rooms and outdoor living areas facing the common property driveway, which provides effective passive surveillance, whilst also being setback appropriately for visual privacy.
* The streetscape is not dominated by building services, vehicle entries, blank walls, or infrastructure. Where the units have access to the common property driveway, all respective garages face onto the internal driveway, which is a positive outcome for the Cooper Street streetscape.
* Each site can accommodate parking, landscaping and utilities.
* The development is well articulated with varying wall lengths and openings on the façade of all floors to break up the building bulk. A range of materials are proposed such as red brick, render, Colourbond garage doors and timber-look slat screens.

**Clause 5.1.3 – Lot Boundary Setbacks:**

The following lot boundary setbacks seek a design principle assessment:

* Unit 1 – balcony to kitchen on first floor (east): 1.5m setback
* Unit 1 – void to bed 2 on second floor (east): 1.5m setback

The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The application achieves the design principles for the reasons outlined below:

* The application seeks discretion for setbacks for the wall length between the Unit 1 balcony and dining room on the first floor. The remainder of the eastern elevation on the first floor achieves the deemed-to-comply setback.
* The application also seeks discretion for setbacks for the wall length between the Unit 1 void and bedroom on the second floor. The remainder of the eastern elevation on the first floor achieves deemed-to-comply setbacks.
* The eastern elevation is well articulated with varying setbacks, openings and a variety of materials which assists in breaking up the building bulk. It is considered that the setbacks proposed will not negatively impact the adjoining property in relation to bulk.
* Ventilation is maintained by the setback of 1.5m on the first floor and second floor. Solar access is ensured as the subject site is orientated north – south. Overshadowing for the entire proposal achieves the deemed-to-comply provisions.
* All major openings to habitable rooms on the first floor and second floor are provided with highlight windows or fixed obscure screening to 1.6m above the finished floor level. The balcony is provided with screening to ensure visual privacy is maintained.

**Clause 5.1.6 – Building Height:**

The development proposes a maximum wall height of 10.2m and a pitched roof height of 11.2m. The existing approval for multiple dwellings provides an overall height of 11.2m. Figure 1 shows the building envelope at the primary street elevation of the proposed building in comparison to the building envelope of the existing approval (shown in the hatched red line).

Figure 1: Comparison of proposed and approved building façade at subject site.

Diagram

Description automatically generated

The design principles provide for building height that does not create an adverse impact on the amenity of adjoining properties or the streetscape. The application achieves the design principles for the reasons outlined below:

* The subject site is coded R60, and the abutting eastern site is coded R160. The R-Code density of the street increases to the east towards Broadway to R-AC3. All lots along the northern side of Cooper Street are coded R160. The character of the street is likely to change given the density coding. The proposed building height is not considered to adversely impact the amenity of the streetscape, including the road reserve, which will see an increase in density as the street is developed to its potential.
* The building height does not adversely impact the amenity of the adjoining properties or the streetscape. The adjoining properties are still afforded adequate direct sun into buildings and open spaces.
* The majority of the shadow proposed by the application is confined to the rear setback areas of the adjoining site.
* The development does not compromise access to view of significance.
* The development achieves the deemed-to-comply provisions in relation to overshadowing.

**Clause 5.2.1 – Setbacks of Garages and Carports:**

The garage of Unit 1 proposes a 2.5m setback to Cooper Street. The design principles provide for a garage setback which maintains clear sight lines between the dwelling and the street, ensure appropriate vehicle parking on a driveway and garage setbacks which do not create an adverse impact on the streetscape and appearance of dwellings. The application achieves the design principles for the reasons outlined below:

* The garage is setback to maintain clear sight lines along the street. The proposed setback ensures there is no obstruction of views of the dwelling from the street and vice versa.
* The garage is setback in line with the dwelling.
* The development maintains all mature street trees along the verge.
* It is considered with the landscaping proposed in the front setback area, the retention of the existing mature trees and a garage setback of 2.5m addressing 29% of the lot frontage positively contributes to the streetscape and the proposed development.
* The garage setback ensures that vehicle parking on the driveway is unlikely to impede on the pedestrian path.

**Clause 5.3.1 – Outdoor Living Areas:**

The application seeks a design principle assessment for the outdoor living area of Unit 2. The design principles provide for outdoor living areas which provide sufficient space and northern orientation for entertaining, leisure and connection to the outdoors. The application meets the design principles for the reasons outlined below:

* Unit 2 is provided with a 26m2 balcony on the first floor which is north facing. The balcony is of a sufficient size and dimensions (4.0m x 6.5m) to provide a functional and usable space. The balcony can accommodate a six-seat outdoor table, with additional remaining space available for outdoor pursuits.
* The outdoor living area is capable of use in conjunction with the primary living space of the dwelling.
* The outdoor living area is north facing which will allow for winter sunlight exposure.

**Clause 5.3.3 – Car parking:**

The development proposes no visitor parking bays. The design principles provide for adequate on-site parking, with consideration given to a reduction in parking based on the site’s proximity to public transport and available street parking. The visitor parking proposed meets the Design Principles for the reasons outlined below:

* There is adequate on-street parking within the vicinity. On street parking is provided on Cooper Street to the south. This parking is restricted to 1hr during business hours (8am – 5pm, Monday to Friday) with unrestricted street parking outside these times.
* The site is 100m from a high frequency bus route on Stirling Highway and the new Purple CAT services on Broadway, which is approximately 20 minutes to Perth CBD. The proximity of the bus stop means the onsite parking criteria of the R-Codes state only a single bay is necessary per dwelling. However, each dwelling is provided with two resident car parking bays. A total of ten resident bays are provided in lieu of five resident bays as recommended by the R-Codes. This provides the ability for visitors to park in the garages if desired.

**Sustainability Initiatives**

The development incorporates a Sustainable Design Strategy that identifies how the design will meet sustainable objectives and targets for the site. The development is designed to target a minimum of a 6 Star NatHERS rating and an average of 7 Star NatHERS rating for the overall site.

The development will be provided with solar hot water units, solar panels, water efficient appliances and equipment and use of glass with light transmission to achieve the targets identified in the Sustainable Design Strategy. The design of the development optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.

**Statutory Implications**

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

If Council resolves to approve the proposal, the applicant will have the ability to proceed with the development of the site with the five grouped dwellings after receiving their Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

The current approval for 10 multiple dwellings is still a valid approval for the site which can be acted upon. In the event of a refusal, the applicant will still have an ability to act upon the approval for the 10 multiple dwellings at the subject site.

**Conclusion**

The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and as such is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the Residential Design Codes.

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

# PD03.22 Consideration of Development Application – Single House at 24a Lisle Street, Mount Claremont

|  |  |
| --- | --- |
| **Council** | 18 January 2022 |
| **Applicant** | Blend Residential Design |
| **Landowner** | C and H Page |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/69677 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. Architectural Perspective Drawings |
| **Confidential Attachments** | 1. Submission |

**Executive Summary**

The purpose of this report is for Council to determine a development application for a single house at 24a Lisle Street, Mount Claremont.

The application was advertised to adjoining neighbours in accordance with the City of Nedlands Local Planning Policy (LPP) – Consultation of Planning Proposals due to the need to consider design principles for a number of elements of the Residential Design Codes (R-Codes). One submission was received objecting to the proposal. As an objection has been received, this application is presented to Council for determination.

If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council. The application is recommended for approval as it is considered to satisfy the design principles of the R-Codes. Further, the development is not considered to have an adverse impact on the local amenity and character of the locality.

**Recommendation to Council**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 13 October 2021 in accordance with amended plans date stamped 15 December 2021 for a single house at 24a Lisle Street, Mount Claremont subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 15 December 2021. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **Prior to occupation, walls on or adjacent to boundaries are to be finished externally to the same standard as the rest of the development in:**
3. **Face brick;**
4. **Painted render;**
5. **Painted brickwork; or**
6. **Other clean material as specified on the approved plans;**

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

1. **Landscaping shall be installed and maintained in accordance with the approved plans, including the planting of one (1) tree with a minimum planting area of 2m x 2m. All landscaping shall be maintained for the lifetime of the development thereafter, to the satisfaction of the City.**
2. **Prior to occupation, the screening as annotated on the approved plans shall be provided in accordance with the Residential Design Codes (Volume 1) by either:**
3. **Fixed and obscured glass to a height of 1.6 metres above finished floor level;**
4. **Fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material;**
5. **A minimum sill height of 1.6 metres as above the finished floor level; or**
6. **An alternative method of screening approved by the City.**

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

1. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**

1. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R20 |
| **Land area** | 506m2 |
| **Land Use** | Existing – Vacant  Proposed – Single House |
| **Use Class** | ‘P’ Permitted Use |

**Locality Plan**

The subject site is located at 24a Lisle Street, Mount Claremont. The site is 506m2 in area and is currently vacant.

24 Lisle Street, Mount Claremont was recently subdivided into two lots with a side-by-side configuration. This application relates to the southern lot of the subdivision. The site is orientated east-west and is bound by Lisle Street to the west and Agonis Lane to the east. The site slopes from east to west with a fall of approximately 4m.

The area is characterised by single houses and built strata lots directly to the south. The properties in this area are coded between R12.5 and R20. An Aerial Map and Zoning Plan are contained in Attachment 1.

**Application Details**

The application seeks development approval for a single storey single house which fronts the primary street and proposes a garage accessed from the rear laneway – Agonis Lane. A multipurpose area is proposed above the garage.

**Consultation**

The application was advertised for 14 days from 22 November 2021 to 6 December 2021, in accordance with the City’s Local Planning Policy – Consultation of Planning Proposals.

One submission was received objecting to the proposal. The key concerns raised within the submission were:

1. Insufficient setbacks to the southern lot boundary.

The proposal is considered to achieve the design principles in relation to lot boundary setbacks. Refer to section 5.2.1 of this report.

1. High wall heights at the front of the dwelling rather than following the natural contour of the land.

Amended plans were received on 15 December 2021 to reduce the wall height of the master bedroom to ensuite wall from 3.9m to 3.5m. The setback provided from the master bedroom to ensuite wall now achieves the deemed-to-comply setback.

1. Overshadowing of the adjoining property’s outdoor living area.

The development achieves the deemed-to-comply provisions of the R-Codes in relation to overshadowing.

1. Visual privacy impacts caused by overlooking from windows.

The development achieves the deemed-to-comply provisions of the R-Codes in relation to visual privacy.

1. Lack of open space proposed.

Amended plans were received on 15 December 2021 which increased open space. The development achieves the deemed-to-comply provisions of the R-Codes in relation to open space.

**Assessment of Statutory Provisions**

**Local Planning Scheme No.3**

Schedule 2, Clause 67(2) *Consideration of application by Local Government* – identifies matters which are required to be given due regard to in assessing the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to scale, bulk and appearance, and the potential impact it will have on the local amenity.

**State Planning Policy 7.3**

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) applies to single houses and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways, by either meeting the deemed-to-comply provisions or via a design principle assessment pathway. This application seeks a design principle assessment for lot boundary setbacks, boundary wall (length and height), site works and retaining walls. All other areas meet the deemed-to-comply provisions.

**Clause 5.1.3 – Lot Boundary Setbacks:**

The following lot boundary setbacks seek a design principle assessment:

* The kitchen proposes a 1.1m setback to the north.
* The master bedroom to bedroom 3 wall proposes a 1.0m setback to the south.
* The boundary wall on the north proposes a height of 4.3m and occupies 52% of the lot length.

The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The application achieves the design principles for the reasons outlined below:

Kitchen wall setback to the northern lot boundary.

* The ground floor wall of the kitchen is a typical and expected height for a single storey wall on a sloping site. The R-Codes explanatory guidelines note that single storey walls are not usually problematic in terms of impact on adjoining sites.
* The design principle assessment is triggered by the kitchen sliding door being defined as a ‘major opening’. The adjoining site to the north has approval for a single house which is currently under construction. The northern house proposes a 1.7m high boundary wall where abutting the proposed kitchen, thereby the kitchen opening will be effectively screened.
* Major openings are not generally considered to add to the perception of building bulk. Given the 1.1m setback, the kitchen wall with a major opening is unlikely to contribute to bulk.
* The setback proposed is unlikely to negatively impact upon the northern neighbour as it will abut the boundary wall proposed by the northern house.
* Ventilation is maintained by the setback of 1.1m. Solar access is ensured as the boundary wall is located to the north of the subject site. Overshadowing for the proposal achieves the deemed-to-comply.
* The kitchen is not raised more than 0.5m above natural ground level, thereby visual privacy is maintained.

The master bedroom to bedroom 3 wall proposes a 1.0m setback to the south.

* The elevation is well articulated, via the use of varying setbacks and multiple openings, which assists in breaking up the building bulk. The proposal is not considered to negatively impact the adjoining property in relation to bulk.
* Ventilation is maintained by the setbacks ranging from 1m to 1.7m.
* Solar access to adjoining sites is maintained and overshadowing achieves the deemed-to-comply provisions.
* The windows to the habitable rooms are not raised more than 0.5m above natural ground level thereby visual privacy is maintained.

The boundary walls on the north proposes a height of 4.3m and occupies 52% of the lot length.

* The proposed boundary walls to the north allows for more effective use of space for enhanced privacy for the occupants of the house.
* The proposal allows for effective use of space for the outdoor living area. The boundary walls provide space towards the rear of the site, between the house and the garage, to be used for an outdoor living area for outdoor pursuits. A total of 80m2 of north facing outdoor living area is provided, which exceeds the deemed-to-comply and is a positive outcome for the proposal.
* Due to the slope of the site from east to west, the house under construction to the north has approved retaining walls along the boundary. The dividing fencing which would be installed above the retaining will act as a screen and ensure that there is minimal impact of building bulk to the northern lot.
* Varying setbacks, a louvred alfresco and open outdoor living area to the north will ensure that adequate direct sun and ventilation are provided to the building and open spaces on the site.
* The boundary walls to the north are unlikely to have an adverse impact on the amenity of the adjoining northern property.

**Clause 5.3.7 – Site Works and Retaining:**

The application proposes fill and retaining along the southern lot boundary up to 0.9m above the natural ground level. The design principles for site works and retaining consider how the proposal responds to the natural features of the site to allow the land to be effectively used without compromising the amenity of the adjoining properties. The proposal achieves the design principles for the reasons outlined below:

* The site features a 3.8m natural fall of the site from east to west. The proposal responds to this natural slope by stepping down the finished floor levels from east to west. Given the natural features of the site, the proposed fill and retaining are not considered excessive.
* The proposed fill and retaining respects the natural ground level at the lot boundary as viewed from the street.
* The retaining walls result in land to be effectively used for the benefit of the residents by providing a level surface of the development of the house.
* The retaining walls are unlikely to negatively impact adjoining properties. Standard dividing fencing on top of the retaining walls will provide a separation of the site works and retaining from the proposed site to the adjoining neighbour.

**Statutory Implications**

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

If Council resolves to approve the proposal, the applicant will have the ability to proceed with the development of the single house after receiving their Building Permit.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the Residential Design Codes.

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

# PD04.22 Re-consideration of Development Application – Additions to Single House at 86 Watkins Road, Dalkeith

|  |  |
| --- | --- |
| **Council** | 18 January 2022 |
| **Applicant** | Ashley Richards & Associates |
| **Landowner** | C and S Fatouros |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**    Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/66858 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans |
| **Confidential Attachments** | 1. Submission |

**Executive Summary**

The purpose of this report is for Council to determine a development application for additions to a single house at 86 Watkins Road, Dalkeith.

The application was presented to Council at the December 2021 Ordinary Council Meeting where it was deferred to January 2022. The applicant has submitted amended plans to increase setbacks to the south and to decrease the height and overshadowing to the south.

The application is seeking an assessment of merit for setbacks and height. If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes). Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Recommendation to Council**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 29 July 2021 in accordance with the plans date stamped 10 January 2022 for additions to a single house at 86 Watkins Road, Dalkeith and subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
3. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
4. **Prior to occupation of the development the finish of the parapet walls is to be completed externally to the same standard as the rest of the development or in:**
5. **Face brick;**
6. **Painted render;**
7. **Painted brickwork; or**
8. **Other clean material as specified on the approved plans;**

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

1. **Prior to occupation of the development, all visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas, as annotated on the approved plans, shall be screened in accordance with the Residential Design Codes by either:**
2. **Fixed obscure or translucent glass to a height of 1.6 metres above finished floor level;**
3. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
4. **A minimum sill height of 1.6 metres as determined from the internal floor level; or**
5. **An alternative method of screening approved by the City.**

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

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R12.5 |
| **Land area** | 991m2 |
| **Land Use** | Residential – Additions to Single House |
| **Use Class** | ‘P’ Permitted Use |

**Locality Plan**

The subject lot is located at 86 Watkins Road, Dalkeith and is 100m east of the Swan River foreshore reserve.

The site is orientated north – south and obtains vehicle access from Watkins Road to the north. The site is currently occupied by a single house. The area is surrounded by single houses ranging between one to three-storeys. The properties in this area are coded R10 and R12.5 (Attachment 1).

**Application Details**

The application seeks development approval for additions and alterations to the existing house. There are internal changes proposed to the design of the house, the addition of a mezzanine level for storage, extensions to the south and west of the dwelling and a decrease in height from 9.9m to 9.2m. The development plans are contained in Attachment 2.

**Amended Plans**

After the application was deferred at the December 2021 Ordinary Council Meeting, amended plans were received on 10 January 2022 to make the following changes:

* Increase in upper floor setback to the southern lot boundary from 4m to 5.3m at the ensuite. The remainder of the entire upper floor elevation is now setback at 6m or higher to meet the deemed-to-comply setbacks to the south.
* Decrease in height on the southern elevation by 0.5m, from 9.7m to 9.2m.
* Decrease in overshadowing to the south by 39m2 / 10%.
* Provision of screening to the bedroom windows on the ground floor facing south.
* Provision of screening to the balcony and master bedroom on the upper floor facing south.

**Consultation**

The applicant is seeking assessment under the design principles of the R-Codes for the following:

* Lot boundary setbacks
* Building height

The development application was originally advertised in accordance with the City’s Local Planning Policy – Consultation of Planning Proposals to seven adjoining and nearby properties. The application was advertised for a period of 14 days from 28 September 2021 to 12 October 2021. At the close of the advertising period, one objection was received.

The following is a summary of the concerns/comments raised and the City’s response and action taken in relation to each issue:

1. Insufficient setbacks proposed to the rear lot boundary (south).

Amended plans were received on 10 January 2022 to increase the upper floor setback. The application originally proposed a 4m setback from the upper floor. The application now proposes a 5.3m setback to the southern lot boundary from the ensuite. The remainder of the entire upper floor is setback 6m or higher to meet the deemed-to-comply setbacks to the south. Refer to the assessment against the design principles in relation to lot boundary setback for the upper floor ensuite.

1. The building height has an adverse impact on the amenity of the adjoining property through building bulk and overshadowing of the outdoor living area.

Administration has completed an assessment of the proposal against the design principles in relation to building height which is provided below.

1. Ground floor windows from the bedrooms will affect the visual privacy of the adjoining southern property.

Amended plans were received on 10 January 2022 which propose highlight windows and a visual privacy screen to the bedrooms on the ground floor facing south. Privacy screens are also provided to the master bedroom and balcony on the upper floor facing south. The development satisfies the deemed-to-comply provisions in relation to visual privacy.

1. Insufficient setbacks and building height will overshadow the outdoor living areas of the southern adjoining property.

The existing dwelling proposes a total overshadowing of 106m2. The amended plans received on 10 January 2022 proposes 115m2 of overshadowing of the southern property. In comparison to the originally lodged application, the amended plans reduce to the extent of the overshadowing to the southern property by 39m2 / 10%. This was achieved by increasing the setbacks from the upper floor and reducing the height to the south. The development satisfies all deemed-to-comply provisions of the R-Codes in relation to overshadowing.

**Assessment of Statutory Provisions**

**Local Planning Scheme No.3**

Schedule 2, Clause 67(2) Consideration of application by Local Government – identifies those matters that are required to be given due regard to the extent relevant to the application.  Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

**State Planning Policy 7.3 - Residential Design Codes – Volume 1**

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

The proposed development is seeking a design principle assessment pathway for a part of this proposal. An assessment is sought under the design principles for the R-Codes for lot boundary setbacks and building height. As required by the R-Codes, Council in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions. All other areas meet the deemed-to-comply provisions.

**Lot Boundary Setback**

The ground floor proposes a 3.4m setback to the southern lot boundary. The ensuite on the upper floor proposes a 5.3m setback to the southern lot boundary.

Within the street block of Watkins Road and Adams Road, there is a prevailing context of greater setbacks to the west (facing the Swan River) and 9m primary street setbacks. It can be considered that the prevailing character of the area displays large setbacks to the west and to the primary street, with the majority of the development situated within the rear setback area and to the eastern portion of the site. This can be seen in the aerial image contained as Attachment 1.

The design principles provide for buildings to be setback to reduce impacts of building bulk, provide direct sunlight and ventilation and minimise the extent of overlooking. The setbacks to the south are considered to meet the design principles for the following reasons:

* The use of four setback articulations on the ground floor and upper floor reduces the impact of building bulk addressing the southern adjoining landowner by breaking up the length of the proposed walls and providing visual interest within the development when viewed from external lots.
* On the upper floor, only the ensuite wall being 3.8m in length is seeking discretion for the 5.3m setback proposed. The remainder of the entire southern elevation on the upper floor achieves the deemed-to-comply setback with a setback of 6m or more.
* The proposed setbacks do not prejudice the southern property’s solar access or ventilation. The development proposes an additional shadow of 9m2 or 1% of the southern property. With the additional shadow onto the southern adjoining lot, the development still satisfies the deemed-to-comply provisions in relation to solar access.
* There are no visual privacy issues or overlooking caused by the setbacks proposed.

**Building Height**

The design principles provide for building height that does not create an adverse impact on the amenity of adjoining properties or the streetscape. The subject site has a fall of approx. 2m from east to west. Considering the fall of the site, the proposed building height is considered to meet the design principles for the following reasons:

* The additions and alterations propose an overall reduction in the building height from the south by 0.5m. The reduction in height ensures that the adjoining eastern property maintains access to the view of the Swan River.
* The wall height creates no adverse impact on the amenity of the adjoining properties or the streetscape as the adjoining properties are still afforded with adequate direct sun to the building, its major openings and the open spaces.
* The development still satisfies the deemed-to-comply provisions in relation to overshadowing.

**Statutory Implications**

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

If Council resolves to approve the proposal, the applicant will have the ability to proceed with the works for the additions to the single house after receiving their Building Permit.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The development application was deferred at the December 2021 Ordinary Council Meeting to January 2021. Amended plans have been received to increase setbacks to the south, decrease the height to the south and decrease the overshadowing.

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

# Declaration of Closure

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