



Our Ref: 24-113620

Hon John Day MLA
Minister for Planning; Culture and the Arts; Science and Innovation
Level 13 Dumas House
5 Havelock St
WEST PERTH WA 6005

Dear Minister

Perceived Conflict of Interest

Thank you for your letter dated 21 March 2012 concerning your ownership of a property in Waratah Avenue, Dalkeith. Your Office has also provided me with a chronology of events surrounding your decisions on planning matters affecting properties in the same street. I have attached that chronology for reference purposes. I have accepted as correct the information contained in that chronology and have no reason to consider otherwise.

Amendment 192

From the documents provided to me the matter I understand the history of this matter to be the following:

- Prior to the City of Nedlands Town Planning Scheme No.2 Amendment 192 (referred to as Amendment 192) being raised with you it had followed a normal and exhaustive process of consultation and consideration by the City of Nedlands, the Department of Planning and the Western Australian Planning Commission (WAPC). Your office advised this process commenced in April 2010.
- Amendment 192 was considered by you on 4 May 2011. Amendment 192 relates to the insertion of a special control area to allow development over a number of lots in Waratah Avenue, Dalkeith. At this time the recommendation from the WAPC was approve Amendment 192 subject to some modifications proposed by WAPC. The recommendation was also to require the City of Nedlands to re-advertise Amendment 192 for a further period of 28 days as a result of the inclusion of those modifications.
- One of these modifications related to an increase in the overall height limit of properties in the development area to four storeys and 16.5 metres. It is noted that the current height limit is 10 metres. The Council supported a limit of 12 metres. An existing building in the development area is currently 14 metres high. The developments on these lots were to be mixed commercial and residential.

- The height issue appears to have been a particular source of contention and opposition from the City of Nedlands.
- The WAPC recommendation was designed to achieve the goals of the Central Metropolitan Perth Sub-regional Strategy, which had identified Dalkeith as a minor growth area.
- You subsequently wrote to the Mayor in January 2012 advising him that the Council had failed to comply with legislative requirements under the Town Planning Regulations 1967 and that under section 212 of the *Planning and Development Act 2005* you were providing a further 60 days for the Council to comply or you would exercise your powers under that Act to finalise Amendment 192 as modified.
- Your actions were consistent with town planning requirements, procedures and principles and consistent with usual practice. I also understand that these types of decisions are not uncommon for a Minister for Planning to consider.

I note from the chronology that when the matter was discussed with you on 4 May 2011 by the WAPC, you advised the senior WAPC officer of your interest in a property across the road from one of the development lots. I understand that the response from the Officer indicated that as far as he understood the issue and within the context of the decision being made it did not represent a conflict.

The Ministerial Code of Conduct

The Ministerial Code of Conduct requires a Minister to notify the Cabinet Secretary of the declarations made by the Minister as a Member of Parliament under the *Member of Parliament (Financial Interests) Act 1992*. In addition a Minister is required to notify the Cabinet Secretary of any changes to the annual declaration submitted to Parliament within four weeks of the changes being made.

It is noted that your Office advised that you listed the purchase of the property in your declaration dated September 2010. In accordance with the Ministerial Code of Conduct you should also have notified the Cabinet Secretary within four weeks of the purchase of the property in April 2010. I do not consider this to be a serious transgression of the Code and in the context of the above matters the declaration was provided by the time you commenced considering the Nedlands City Council matter in May 2011. However it should have been done. I would remind you to ensure that in future you notify any significant changes in your financial interests to the Cabinet Secretary within four weeks of the change.

The Ministerial Code of Conduct also requires Ministers to declare conflicts of interest to the Premier or the Cabinet Secretary within Cabinet. As this matter was not the subject of Cabinet consideration there was no need to make such a declaration. While there is no specific guidance for Ministers in relation to dealing with conflicts outside of Cabinet, in general terms however, the Ministerial Code of Conduct requires Ministers to perform their duties to the highest ethical standards.

In relation to this matter you were approving a recommendation made by an independent agency responsible for planning matters in the State and made in apparent ignorance of your interest in the property. Additionally, the WAPC framed their recommendation in accordance with publicly available planning strategies for the area. You informed a senior officer of the WAPC of your interest in the property nearby after the recommendation had been made. Your decision was consistent with policy and the WAPC recommendation.

I note again that from the information before me, the Council was not opposed to amending the Planning Scheme but the key point of contention was over a difference in the maximum allowable height of 16.5 metres compared to the existing highest building of 14 metres. To me this suggests the impact of your decision over the overall outcome of Amendment 192 was marginal.

As you have noted in your comments to Parliament it is possible that your property might experience a devaluation following the development of those lots in Waratah Avenue. It might also be possible that you might experience a potential gain in the future as the overall amenity of the development in Dalkeith improves property values. There also may be no impact. It is mere speculation to predict when or if any of these scenarios might happen and the marginality of the impact of your decision, in my mind, suggest the most likely scenario is there will be no impact.

Taking account of the above, in my view you did not and could not have contrived to arrive at a recommendation designed to provide financial benefit to you. I consider you acted with integrity by disclosing your interest. The fact that you disclosed your interest indicated to me you were alive to the issue and reached the conclusion that you could proceed. I consider that to be reasonable, however, if asked I may have suggested the matter be referred to another Minister to avoid any perception but I am not otherwise critical of the judgement call you made in this instance. I am also not convinced that devolving the decision making power on Amendment 192 to another Minister would have delivered a different answer than to support the recommendation of the WAPC.

As you are aware conflicts of interest can be actual, perceived and potential. There is nothing wrong with having a conflict of interest. The question is how they are managed. Perception is by definition not fact.

However as has occurred in this matter questions of conflict of interest can be raised leading to a perception that a conflict may exist. For Ministers and particularly a Planning Minister this can be a complex issue. While perception is important in the context of conflict, a degree of common sense should prevail otherwise Ministers will be prevented from fulfilling their responsibilities. Most Planning Ministers will, I assume, own property including a personal residence. It would, of course, be ridiculous to suggest a Planning Minister should not own property or should divest property ahead of considering planning matters. At the extreme there will be some who would suggest a perceived conflict exists whenever a Planning Minister makes a decision that affects property. For example, approving or not approving planning arrangements for a new highway that improves for office flow to a suburb, might impact on the value of properties in the area. The value impact for a particular property in the surrounding area may be positive, negative or nil. Hence the need for a common sense approach.

While I consider that your actions in this case satisfactorily dealt with the conflict of interest, I suggest there are some simple actions that you could take to assist with issues of perception. As noted above, the Ministerial Code of Conduct does not specifically deal with conflicts of interests outside of Cabinet save for the general provision requiring Ministers to perform their duties to the highest ethical standards.

In my opinion the best practice for you as Planning Minister would be for you to inform your Director General and the Chair of the WAPC of all your property interests. You should request that when matters are being considered that involve your property, or an adjoining property, or there are other factors that they may consider raise potential conflict issues, that the matter be highlighted such that it might be referred elsewhere for decision if that is appropriate.

Finally I am also available at all times to discuss such situations with you and your ministerial colleagues and to provide advice. As always, the Premier is also available to discuss these issues.

I would be happy to meet with you to discuss matters further. I have provided a copy of my advice to the Premier.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Conran', written in a cursive style.

Peter Conran
DIRECTOR GENERAL

2 April, 2012

Copy to Premier



MINISTER FOR PLANNING

CITY OF NEDLANDS TOWN PLANNING SCHEME NO.2 AMENDMENT NO.192 - FOR FINAL APPROVAL

WAPC OR COMMITTEE: **Statutory Planning Committee**
 THEN: **Minister for Planning**

REPORTING AGENCY: Department of Planning

REPORTING OFFICER: Planning Manager, Schemes and Amendments

AUTHORISING OFFICER: Director, Schemes and Appeals

AGENDA PART: B

FILE NO: TPS/0281/1

DATE: 12 April 2011

ATTACHMENT(S):
 1. Proposed Special Control Area;
 2. Aerial Photograph;
 3. Schedule of Submissions;
 4. Photographs of Site;
 5. Modified Building Envelope for Precincts 1-4.

DETAILS: (i) Amending the Scheme Text by inserting a new Clause 5.17 - Dalkeith Special Control Area Provisions; and (ii) Inserting a new Appendix VI.

ADVERTISING: 17 June 2010 to 30 July 2010 in accordance with the *Town Planning Regulations 1967* (as amended).

SUBMISSIONS: Total 68 submissions - 23 objections, 27 non-objections, 18 providing comment.

COUNCIL'S RESOLUTION: Adopt amendment with modification.

ENVIRONMENTAL CONDITIONS SET & INCORPORATED: Nil

MINISTERIALS RECEIVED: 33-08731

RECOMMENDATION:

The Western Australian Planning Commission resolves to recommend that the Minister requires the Council to readvertise the amendment subject to the following modifications, prior to final consideration:

1. increase the maximum building height to four storeys and a maximum of 16 metres for Precincts 1-4 (inclusive);
2. modify the setbacks as per the attached building envelope diagram;
3. modify the following land use classes under the proposed Use Class Table:
 - a) Grouped Dwelling and Multiple Dwelling being 'P' Uses;
 - b) Amusement Parlour and Small Bar being 'S' Uses.
4. replace Clause 2.6(a) with "Laneways shall be provided where marked on a specific Precinct Plan, with the exception of Precinct 3 Plan where the required side (north/south) laneways may be varied or not provided subject to reasonable justification".
5. replace Clause 1.5 with "Council may vary clauses in these guidelines, with the exception of building height, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, setbacks, land use and side (north/south) laneways".
6. reduce the minimum size requirement for three bedroom dwellings to 120m².



FOR TONY EVANS
SECRETARY
WESTERN AUSTRALIAN PLANNING COMMISSION

14 APR 2011

RECOMMENDATION APPROVED

*subject to advertising
of modifications occurring
for 18 days.*



MINISTER FOR PLANNING

4 / 5 / 2011

REC'D 5/5/11 H



SUMMARY:

The key points relating to this report are:

- The amendment proposes to introduce a special control area over the commercial properties along Waratah Avenue, Dalkeith.
- The proposed special control area provisions are a set of development guidelines that will facilitate future mixed use development on the subject land.
- Dalkeith is identified in the Central Metropolitan Perth Sub-regional Strategy as a Minor Growth Area.
- A number of modifications are recommended in order to better utilise the redevelopment opportunity and increase residential densities.
- It is recommended that the amendment be supported subject to modification and readvertising.

DETAILS:

The amendment proposes to introduce a Special Control Area (SCA) over 12 lots along Waratah Avenue, Dalkeith (**Attachment 1 - Proposed SCA**):

- Precinct 1 - No. 79 Waratah Avenue;
- Precinct 2 - No. 81 Waratah Avenue;
- Precinct 3 - No. 87, 89, 91, 93, 93A, 95A Waratah Avenue;
- Precinct 4 - No 101 Waratah Avenue; and
- Precinct 5 - No. 129, 131, 133 Waratah Avenue.

BACKGROUND:

The subject land accommodates ageing commercial development and is generally surrounded by residential land uses (**Attachment 2 - Aerial Photograph**). The land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Retail Shopping' under the City of Nedlands Town Planning Scheme No.2 (TPS No.2).

In 2005 the City conducted a Housing Diversity Study, which identified the subject site as being suitable for redevelopment subject to establishing SCA guidelines.

The amendment proposes to include the Dalkeith SCA Provisions in TPS No.2 as a new Clause 5.17 and Appendix VI. The 'Retail Shopping' zone will remain and the proposed new provisions are a set of development guidelines that will guide land uses, car parking, building height, residential density and amenity amongst others.

CONSULTATION:

The City has undertaken extensive community consultation in the development of the SCA provisions. The amendment was advertised in two newspapers, all landowners within Dalkeith were notified of the proposal by way of letter and the City conducted a community open day at the Dalkeith Hall. A total of 68 submissions was received, comprising of 23 objections, 27 non-objections and 18 providing comment

(Attachment 3 - Schedule of Submissions). A summary of the submissions and the responses of the Council and WAPC are provided below:

- (a) Submission: Concern with regard to the proposed height believing 12 metres is too high.
Council: The current height limit for this area is 3 storeys and it is considered appropriate to retain this to integrate with the existing and future residential area. The current 10 metre limit, however, does not provide for good quality commercial development which often has higher ceiling heights than residential. In addition, the existing Dalkeith Village (Tudor building) is approximately 14 metres and this is widely accepted by the community.
WAPC: See comment below with regard to proposed height.
- (b) Submission: Concern with regard to the proposed frontage setbacks being minimal.
Council: The setback to Waratah Avenue is currently nil, an additional 2 metres allows for cafe seats and goods from shops to be displayed outside on the pedestrian walkway and create a more open streetscape.
WAPC: Agree with Council - recommend that the submission be dismissed.
- (c) Submission: No cash in lieu of car parking should be allowed in this precinct.
Council: Cash in lieu for parking should not be taken unless there is an already approved alternative parking or transport solution agreed by Council. There should be discretion for Council to vary car parking to accommodate innovative solutions rather than cash in lieu which leaves the burden on Council to do works.
WAPC: Agree with Council - recommend that the submission be dismissed.
- (d) Submission: Concern with laneways:
 - request fences be allowed between laneways and rear of commercial properties.Council: The provision requiring open developments along laneways is to increase safety and security of the public and the commercial tenancies.
 - prefer a single laneway from Alexander to Adelma.Council: Given the land ownership, land uses and zonings a single laneway connecting Adelma to Alexander is unachievable.
 - request that access be available for Philip Road residents.Council: Clarify in provisions that once constructed and gazetted Philip Road residents can have access off the laneway into the rear of their properties.
WAPC: Agree with Council - recommend that the submission be partially upheld.
- (e) Submission: Request for minimum dwelling size to be 100-120m² as 75m² is too small for Dalkeith.
Council: The aim of the provision is to provide the opportunity for greater housing diversity (one bedroom - minimum 75m²; two bedroom - 100m²; three bedroom - 150m²). The proposed 75m² is adequate for a large one bedroom apartment.

WAPC: Agree with Council - recommend that the submission be dismissed. Although, it is considered that the minimum size requirement for the three bedroom dwellings should be slightly reduced (see WAPC Modification).

(f) Submission: Built form does not integrate with surrounding areas.

Council: The land is subject to TPS design provisions as they apply to surrounding areas. The setback, open space and landscaping requirements set parameters to have buildings designed in an open setting. The provisions have a greater front and rear setback and higher landscaping requirement than at present, therefore, future development will integrate more cohesively with surrounding areas.

WAPC: Agree with Council - recommend that the submission be dismissed.

The Department of Planning (DoP) received a separate submission from the landowners of Precinct 3. The submission outlines the landowners intent to redevelop Precinct 3 and highlights elements of the proposal that require further consideration. The submission is summarised below:

- (i) Land use - The submitter objects to grouped and multiple dwelling uses being discretionary land uses. It is noted that Council modified the advertised amendment to allow discretion of land use when amalgamation occurs. However, it is considered reasonable to modify the proposed Use Class Table to allow grouped and multiple dwelling uses to become permitted land uses (see WAPC Modification).
- (ii) Laneways - The submitter suggests changes to the proposed network of laneways by reducing unnecessary side laneways (north/south), thereby reducing the number of crossovers fronting Waratah Avenue and creating a more pedestrian friendly streetscape. It is considered reasonable to allow the potential for the number of side laneways for Precinct 3 to be reduced (see WAPC Modification).
- (iii) Building height - The submitter objects to the 3 storey height limit and recommends a new height of 4 storeys to provide sufficient floor space for the development to be viable (see WAPC Modification).
- (iv) Car parking - The submitter objects to the advertised car parking requirement of 8.3 bays per 100m². The car parking requirement has been reduced to 4 bays per 100m² and it is noted that Council modified the advertised amendment to allow discretion of the car parking requirement when amalgamation occurs.

Council Modification

Following advertising the Council resolved to include Nursery in the Use Class Table as a 'P' use as there is an existing plant nursery on subject land.

RELATION TO LEGISLATION:

- *Planning and Development Act 2005 – Part 5 - Town Planning Regulations*

STRATEGIC CONTEXT:

The following strategies and policies have been taken into consideration in preparing this report:

- **Directions 2031**
- **Central Metropolitan Perth Sub-regional Strategy**

OFFICER'S COMMENTS:

Directions 2031 & Central Metropolitan Perth Sub-regional Strategy

Planning for additional dwelling growth in the central sub-region will be based on identifying redevelopment opportunities to increase densities in appropriate locations. This will encourage a more compact and sustainable urban form while promoting development that provides for housing choice and diversity in response to changing community needs.

Furthermore, the intensification of development in the central sub-region will benefit from the existing high levels of amenity and it is the intention of the Strategy to provide infill opportunities while preserving the character of established suburbs. The subject land is well located offering high amenity by being in an established suburb that is in close proximity to the river and has access to local services.

The Sub-regional Strategy has set a housing target of 3500 additional dwellings for the City of Nedlands and identifies Dalkeith as a Minor Growth Area (10-399 additional dwellings) with a projected additional 40 dwellings for Waratah Avenue shops. There is opportunity for the subject land to provide a greater number of dwelling units consistent with the Minor Growth Area projections, and to further assist the City in achieving its overall required housing target.

Local Planning Strategy

Local planning strategies are required to include data on housing and population issues at the local level, along with actions for addressing them. The City's Local Planning Strategy (LPS), which is yet to be advertised for public comment or endorsed by the WAPC, acknowledges the City's ageing population with a significant increase in the 60-69 age group. The older population are residing in larger family homes and are forced to leave the locality when seeking to downsize as there are limited smaller housing types in the Nedlands area.

The LPS notes that there is an opportunity for a mixed use area on Waratah Avenue to contribute to increased commercial viability, vibrancy and housing choice.

WAPC Modification

Local governments are responsible for developing realistic, market-oriented plans and strategies to encourage innovative infill and as part of this the local governments need to advocate the housing needs of future generations.

The proposed SCA presents the opportunity for Dalkeith to provide suitable housing products for its residents, in accordance with the LSP, as well as assisting in meeting the desired housing targets of the new state strategies. In order to achieve this, the following modifications are recommended:

- (a) Height: The amendment proposes a maximum building height of 3 storeys and 12 metres. Precincts 1-4 (inclusive) are capable of accommodating an extra storey to a maximum of 16.5 metres with appropriate setbacks, without unduly affecting the amenity of adjoining or nearby residents. (The new proposed height is a result of a 4 metre commercial storey plus 3.2 metre residential storeys and associated roofline). It is considered that the following provides justification for the recommended height increase:
- the topography and southern orientation of the site results in no significant overshadowing to adjacent properties (Waratah Avenue road reserve is over 20 metres wide);
 - an existing building on the subject land is approximately 14 metres high, which is accepted by the community (**Attachment 4 - Photographs of Site**); and
 - there is an area of public open space on the opposite side of Waratah Avenue with large street trees along the southern side of the street, all of which assist in reducing any adverse impact on surrounding properties.

The Sub-regional Strategy advocates appropriately scaled infill development and the productive use of upper storey building space for offices and housing to significantly increase the mix and efficiency of land use. Placement of taller buildings toward the centre of a site by stepping the height up gradually to break up the mass of the new structure visually constitutes an effective strategy for intensifying land use without undermining a locality's human scale. The impact of the recommended additional storey will have minimal affect on nearby properties and the additional bulk will also be minimal as a result of the recommended building envelope. It is considered that the character of the suburb will be maintained.

The landowners of Precinct 3 have expressed concern at the proposed three storey height limit as it will considerably restrict development potential and the maximum number of units that could be provided. Additionally, they advise that a sufficient amount of total floor space is required in order for any development with a below ground car park to be viable. The proponents have advised that they are unlikely to develop the site with the current three storey height limit.

It is also noted that in April 2007 Koltaz Smith (planning consultants) were commissioned by the City to prepare an Urban Design Study and Built Form

Design Guidelines for this location. The report recommended a maximum building height of five storeys and 19 metres for most of the sites, and four storeys and 15 metres for the remainder. This study demonstrated that many of the lots are suitable for accommodating up to five storeys of development.

In light of the above, it is recommended that the proposed height of Precincts 1 to 4 be modified to four storeys and maximum building height of 16.5 metres with setbacks as below (and Precinct 5 to remain as proposed). It is considered that this provides an appropriate middle ground between the proposed amendment, the Koltaz Smith recommendation and the landowner submission (based on their proposed development concept for Precinct 3).

It is considered that the additional storey can be provided without creating significant negative impacts on the amenity of the area. To ensure that any impacts are minimised, the front boundary setbacks should be increased for each floor of height.

- (b) **Setbacks:** The proposed setbacks are generally considered acceptable, however, as a result of the recommended height increase to four storeys, the setbacks are also recommended to be adjusted slightly (**Attachment 5 - Modified Building Envelope for Precincts 1-4**).

- (c) **Laneways:** Clause 2.6(a) states:

"Laneways shall be provided where marked on a specific Precinct Plan."

The Precinct 3 Plan incorporates two side laneways (the only precinct with two laneways adjoining Waratah Avenue). The landowners of Precinct 3 advise that both side laneways are not considered desirable for their future development proposal which aims to create a more pedestrian friendly development and streetscape by reducing the number of crossovers onto Waratah Avenue. It is considered reasonable to modify Clause 2.6(a) requiring the provision of the side laneways of Precinct 3 to be discretionary.

- (d) It is recommended that the proposed Clause 1.5 Discretion be modified to include side laneways to account for point (c) above. Additionally, the City did not provide justification for the proposed clause, which only enables the Council to exercise discretion (of certain clauses) when amalgamation of lots occurs. It is considered that discretion should be permitted without the requirement for lots to be amalgamated. The clause is considered confusing and the restriction is unnecessary. Therefore, it is recommended that Clause 1.5 be modified as follows:

"Council may vary clauses in these guidelines, with the exception of building height, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, setbacks, land use and side (north-south) laneways".

- (e) Additionally, it is recommended that a number of land use classes be modified under the proposed Use Class Table for the following reasons:
- (i) Grouped and Multiple Dwellings are currently proposed 'S' uses (that is, not permitted unless notification/advertising has occurred). As the amendment and SCA provisions aim to create an urban village centre with mixed use development comprising of primarily commercial and residential uses it is a general expectation (of landowners, developers, as well as residents) that grouped and multiple dwellings will be permitted uses in the precincts. It therefore appears unnecessary to class the uses as 'S' uses. It is recommended that both Grouped Dwellings and Multiple Dwellings be modified to 'P' uses.
 - (ii) The advertised amendment proposed Amusement Parlour and Small Bar as 'S' and 'D' uses respectively. Both land uses are appropriate for a mixed use precinct, however, the Dalkeith community object to the uses and consequently the City changed them to 'X' uses with no planning justification for the change. It is recommended that Amusement Parlour and Small Bar be 'S' uses which allows the City discretion subject to giving special notice during the assessment of any future development proposal.
- (f) The proposed minimum size requirement of 150m² for three bedroom dwellings is a considerable floor area for a unit. The landowners concept plan for Precinct 3 has demonstrated that three bedroom dwelling units can be development at much less than 150m². It is recommended that the requirement be reduced to 120m² accordingly.

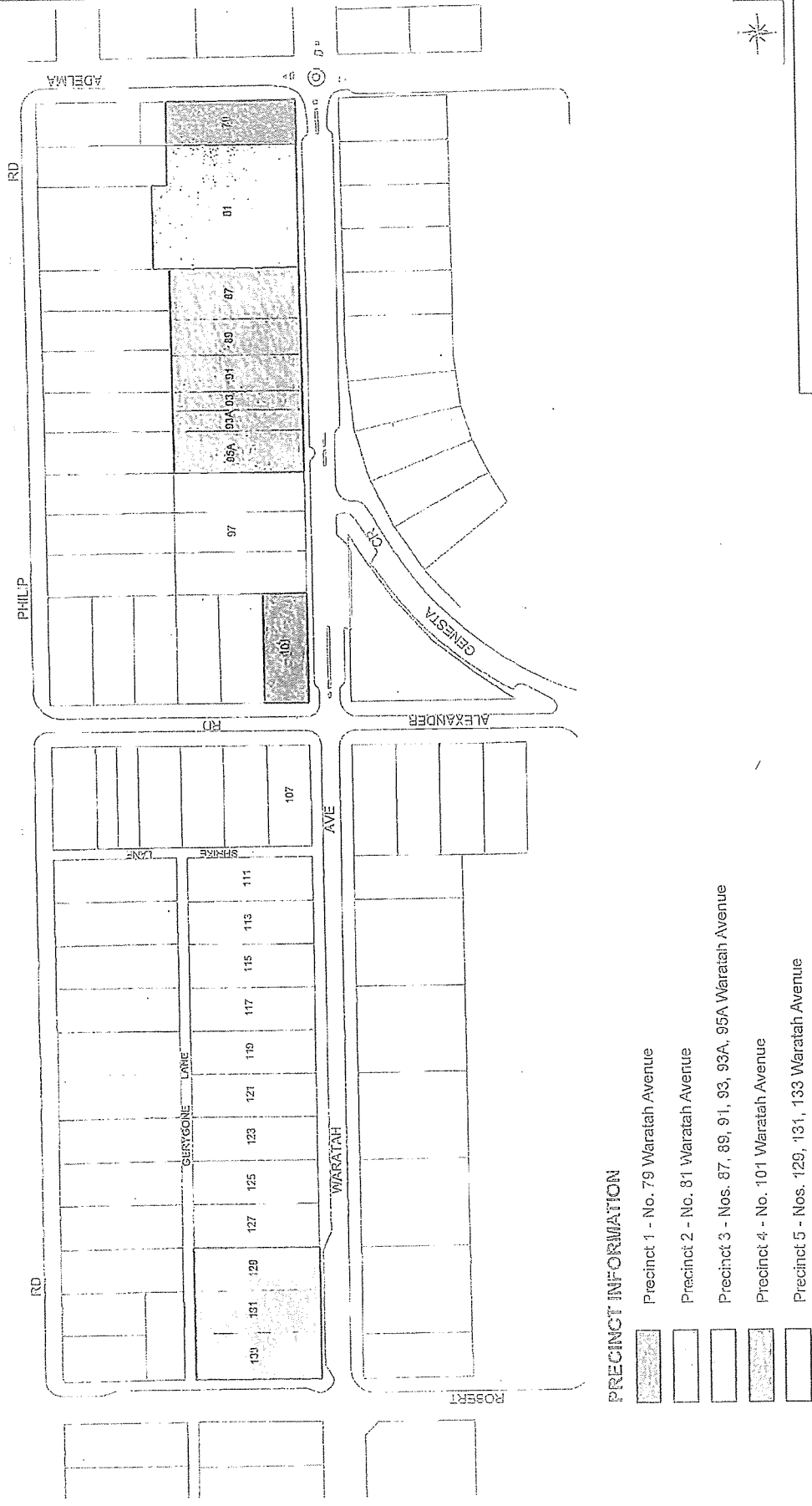
The abovementioned matters were not adequately addressed in the submitted amendment documentation and the City was requested to provide further information and planning rationale behind the limited height, discretion clause, and changes in land use permissibility (amongst other matters). The City advised that the final Dalkeith SCA Provisions were a negotiated outcome between the Dalkeith community and the City and no further detailed justification was forthcoming.

The Dalkeith community is evidently against any building height increases and it is considered that the readvertising of the proposed modifications is unlikely to illicit any new responses. However, as the modification to the proposed height limit is considered to be a substantial change to the original proposal, it is recommended that the modifications be advertised for public comment.

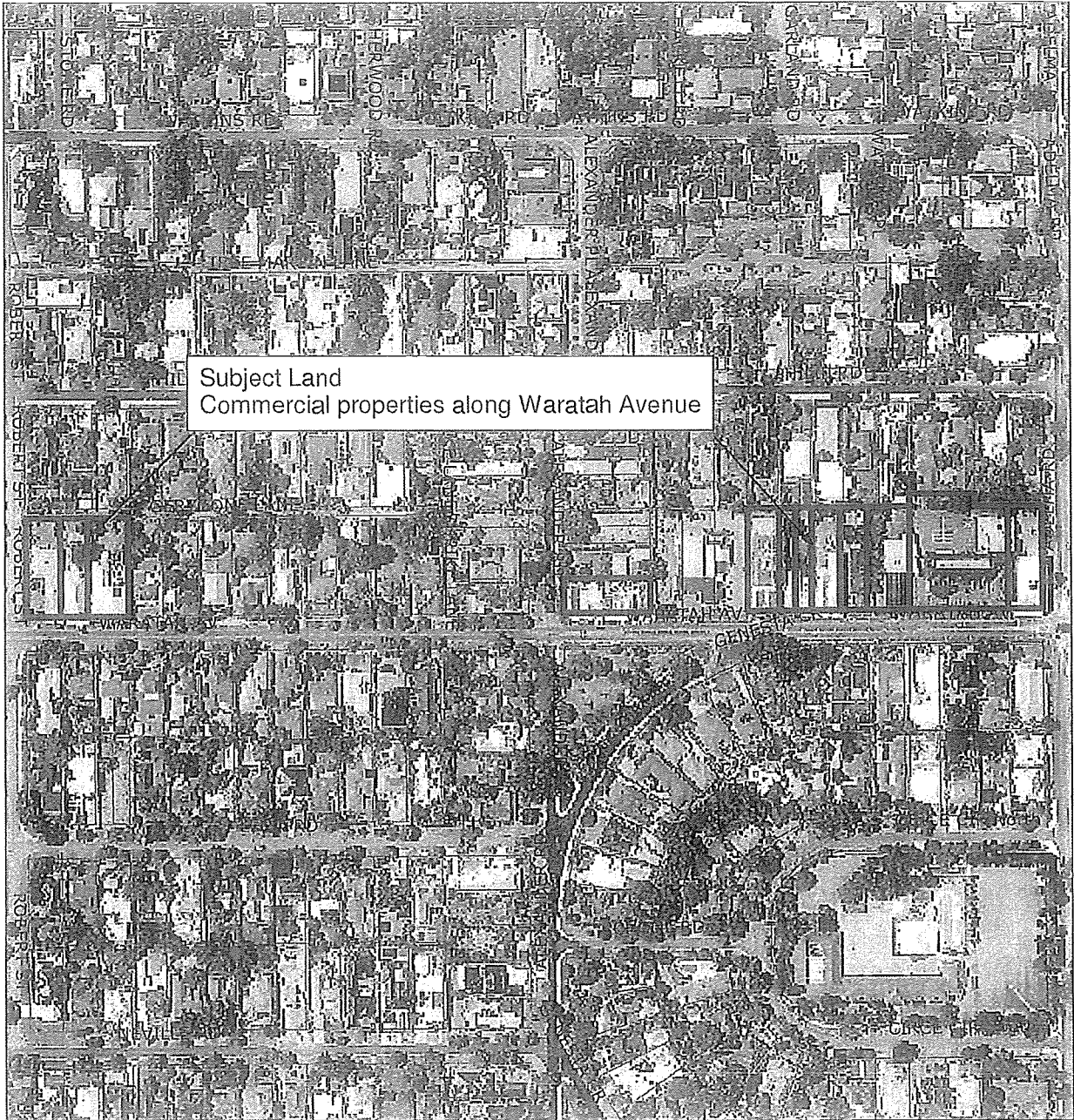
CONCLUSION:

It is recommended that the amendment be modified and readvertised for public comment.

Figure 1 – Special Control Area Boundary



DALKETH REDEVELOPMENT PROJECT
WARATAH AVENUE, DALKETH
BOUNDARY AND PRECINCT PLAN




Suburbs
 Cadastre

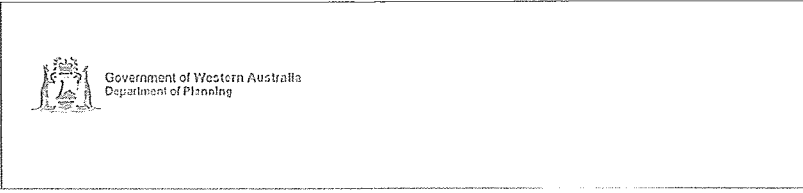
2009 Metro Peel Aerial Photography

Scale 1:3,452
0 50 m

Prepared by: kbeach
Prepared for:
Date: Tuesday, February 15, 2011 14:31
Plot Identifier: P20110215_1429



DP INTERNAL USE ONLY



On completion of the scheme amendment process, the provisions will also be included into Draft Town Planning Scheme No. 3, which is currently awaiting consent to advertise from the Western Australian Planning Commission.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type

A Community Engagement Plan was been prepared and approved for this project and consultation undertaken in accordance with this.

Consultation was approved and undertaken in June and July 2010. Letters were sent to all Dalkeith residents 17 June 2010 with a closing date for feedback/submissions of 30 July 2010. In addition a community open day was held Sunday 4 July 2010 and statutory advertising undertaken in The West Australian and The Post newspapers.

Comments received

The feedback received has been collated on issues raised and is discussed below:

Summary of comments received: Issue: Height	Officers technical comment: Dismiss/Condition/Support
Want a 2 storey height limit	Dismiss The current height limit for this area is three storeys and it is considered appropriate to retain this to integrate with the existing and future developed residential area.
Want 10m height limit to remain for precinct at Robert Street so as to be in keeping with a predominantly residential area	Dismiss The current height limit of 10metres does not provide for good quality commercial development which often has higher ceiling heights than residential. In addition the existing Dalkeith Village (Tudor building) is approximately 14metres and this is widely accepted by the community.
Support 12m maximum height	Support
Maximum height should be that of existing Tudor building	Dismiss The existing building is 14m and not supported by the community for the remainder of the area.
Issue: Setbacks	Dismiss/Condition/Support
Propose to have plot ratio back and setbacks variable for better outcome	Dismiss The provisions are designed with a built form outcome to create a desired amenity and to provide some certainty to the community and Council. Removing setbacks and reintroducing plot ratio provides a level of uncertainty

REPORTS -- DS -- 14.09.10 / 28.09.10

	around the built form and does not provide for cohesiveness between lot developments.
Believe that 2m setback to Waratah isn't enough	Dismiss The setback to Waratah Avenue at present is Nil, an additional 2m allows for café seats and goods from shops to be displayed outside the pedestrian walkway and create a more open streetscape.
Issue: Landuse	Dismiss/Condition/Support
Preference for 100% commercial or 100% residential development	Dismiss This does not align with the vision for the area or the feedback throughout the many stages over the past decade on this area. Mixed use developments are broadly supported to provide greater housing choice and it was felt that 3 storey 100% commercial was not in keeping with a local village area.
Support for mixed use	Support
Support for no 100% residential	Support
Object to veterinary being a use allowed in the precinct due to health and noise concerns Amendment has residential as a discretionary use requiring advertising, Want residential as a P use as recommended by Administration.	Dismiss This use is considered appropriate for a commercial area. This use is integrated across the city in residential, mixed use and commercial areas. Noise is managed by legislation. Dismiss The residential use is still allowed but requires advertising. This would occur anyway given it would be 2 storeys or over within this precinct.
Issue: Carparking	Dismiss/Condition/Support
Does not want R Codes carparking requirements as too low. Wants bays not used by residents available to visitors. No cash in lieu of carparking should be allowed for this precinct.	Support Current provision in advertised draft much higher than R Codes, TPS 2 or recommended carparking levels. Support Cash in lieu for parking should not be taken unless there is an already approved alternative parking or transport solution agreed to by Council. There should be discretion for Council to vary carparking to accommodate innovative solutions rather than cash in lieu which leaves the burden on Council to do works.
Issue: Landscaping	Dismiss/Condition/Support
Request for restriction on development to retain existing trees.	Dismiss It is not considered practical or enforceable to require the retention of trees in a commercial area. Landscaping requirements will ensure adequate landscaping occurs on redeveloped sites. There is an incentive to retain significant existing trees in that it gives Council the ability to have discretion on some elements on the guidelines.
Request fences be allowed between laneways and rear of commercial properties	Dismiss The provision requiring open developments along laneways is to increase safety and security of the

REPORTS – DS – 14.09.10 / 28.09.10

Want 5m rear setback to be required to be landscaped.	public and the commercial tenancies. Support This area is required to be landscaped. This does allow hard and soft surfaces but not buildings. As with existing developments carparking and driveways are in the rear setback area.
Define in ground landscaping Issue: Heritage	Condition A definition is proposed to be added to the provisions for clarification. Dismiss/Condition/Support
Would like Dalkoth Village development heritage listed	Dismiss This is not part of these provisions but can be looked at as part of the TPS 3 heritage review.
Issue: Laneways Prefer Single Laneway from Alexander to Adelma	Dismiss Given the land ownership, land uses and zonings a single laneway connecting Adema to Alexander is unachievable. The City's Hall and Medlands Community Care site is in the middle and not suitable with those uses for a road through them.
Clarify that laneways are funded and constructed by developers in Clause 2.6.	Support Clarify in the provisions that this is a non discretionary requirement for developers to fund laneway construction.
Bellivo 6m laneway not wide enough for trucks and they will use Waratah Avenue	Dismiss The laneways meet Australian Standards and are adequate for trucks. Buildings are required to design vehicle entrances into their properties with adequate turning access. In addition there is the 1m landscape strip against the rear fences and an additional 1.5m setback with the commercial properties to buildings.
Clarify access from new laneways will be available for Phillip Road residents	Condition Clarify in provisions that once constructed and gazetted Phillip Rd residents can have access off the laneway into the rear of their properties.
Believe laneways are unworkable and should be deleted to create more developable area	Dismiss The laneways increase pedestrian safety and amenity on Waratah Avenue and increase privacy through greater setbacks along the rear.
Support for mandatory laneways to manage amenity, safety and vehicles Issue: Built Form	Support Dismiss/Condition/Support
Loft not supported as it was not part of DRASC committee recommendation to Council	Dismiss The scheme amendment was initiated with the draft provisions by Council for feedback. Lofts are also not mentioned in the provisions. Built form is defined by height and setbacks.
Loft not supported as its appears to be a fourth floor	Dismiss Lofts are also not mentioned in the provisions. Built form is defined by

<p>Loft not supported as its adds to parking pressure</p>	<p>height and setbacks.</p> <p>Dismiss The provisions set out carbays required on floor area therefore if lofts are built the additional carbays are required.</p> <p>Lofts are also not mentioned in the provisions built form is defined by height and setbacks.</p>
<p>Overlooking should not occur from new developments</p>	<p>Dismiss The privacy and overlooking provisions of the R Codes and TFS apply.</p>
<p>Built Form does not integrate into surrounding areas</p>	<p>Dismiss The area is subject to TPS design provisions as they apply to surrounding areas. The setback, open space and landscaping requirements set parameters to have buildings designed in an open garden setting. The provisions have a greater front and rear setbacks and higher landscaping requirement than at present so future development will integrate more cohesively.</p>
<p>In commercial area have 2 storey commercial fronting Waratah with townhouses or villas behind</p>	<p>Dismiss Owners of properties are able to develop 2 storey commercial if they would like. Grouped and multiple dwellings are also allowed so townhouses and villas are able to be considered by Council.</p>
<p>Issue: Amalgamation of Lots</p>	
<p>Concerns over the ability to amalgamate lots from Waratah Avenue to Phillip Road</p>	<p>Dismiss Amalgamation and subdivision is governed by the WAPC and as such lots can be amalgamated. The provisions set out safeguard controls for the City which state that if lots within the now precinct are amalgamated with lots outside of it the lower coding applies to the whole lot. This is to ensure no expansion of the mixed use commercial area through lot amalgamation.</p>
<p>Clause 14 should not reference TPS 3 when included in TPS 2.</p>	<p>Support This clause will be clarified for TPS 2.</p>
<p>Issue: Signage</p>	
<p>There are no signage requirements in guidelines</p>	<p>Condition The provisions do set out requirements for shop front windows to have a minimum of 70% glazed with clear glass.</p> <p>Signage is also control by Local laws.</p> <p>Additional conditions recommended for signage:</p> <p>New clause: Signs a) Signs shall be integrated into the facades or below the awnings of the building. b) Signage to maintain a minimum clearance of 3.0 metres above the finished pavement level. c) Signage shall not be illuminated.</p>

	<p>d) All other signage requirements shall be in accordance with the City's requirements.</p> <p>e) Parapet walls shall not be used for any form of advertising at any time during or after construction.</p> <p>f) no roof signs, billboards or hoardings are allowed</p> <p>g) 75% of the total shop front clear glazed window is to remain free from advertising, solid materials, solid furniture on or directly adjacent to the clear glazed windows to ensure an open streetscape.</p>
Issue: Discretion	Dismiss/Condition/Support
Concern that Landscaping, carparking and land use can be varied under Clause 1.5 detailing Councils discretion.	<p>Condition</p> <p>The discretion clause is poorly worded and has been amended in the final provisions to be clear on what discretions are included.</p>
Discretion should be allowed as per Administrations original recommendation to ensure innovative solutions can be considered especially when lots are amalgamated.	<p>Support</p> <p>The discretion clause is recommended to be amended to allow for some discretion where an innovative solution may be proposed.</p>
Issue: Dwelling Size	Dismiss/Condition/Support
Request for minimum dwelling size to be 100-120sqm as 75sqm is too small for Dalkeith and believe 75sqm is a bedsit.	<p>Dismiss</p> <p>Provisions: 1bed - min 75sqm 2 beds - 100sqm 3 beds -150sqm</p> <p>The aim of the provisions is to provide the opportunity for greater housing diversity. Setting a high minimum size of 100sqm does not allow for a variety of dwelling types. 75sqm is adequate for a large one bedroom apartment. Bedsits are generally 50sqm or less and are not allowed.</p>
Prefer minimum 3 bed 2 bathroom dwellings	<p>Dismiss</p> <p>As above</p>
Issue: Traffic	Dismiss/Condition/Support
Traffic Management- believe additional roundabouts may be required/beneficial	<p>Support</p> <p>Consideration of traffic management is currently an issue with traffic speeds and a review of this is recommended by Traffic Management Committee.</p>
Issue: Development Potential- ability to implement provisions	Dismiss/Condition/Support
Amendment includes unrealistic development standards, including setbacks, building height, landscaping, and carparking, landuse and laneway requirements and removes Councils discretion to approve variations.	<p>Condition</p> <p>The provisions are considered generally to be implementable. Some minor changes are recommended to allow amalgamated lots to be developed through discretion to achieve better built form outcomes.</p>
The amendment provides no incentives to consolidate lots in order to achieve better design outcomes	As above
Issue: General Comments	Dismiss/Condition/Support
Support redevelopment as the area is now beyond its used by date	Support
Want changes in TPS 3 instead of TPS 2	Support

	The changes will also be included in TPS No. 3
Believe the proposed guidelines are a very conservative response to the needs of the community as it is a social and commercial hub of the Dalkeith precinct. Precinct Area	Dismiss The guidelines are the result of extensive consultation and reflect the broader views as received by Council.
Expand the precinct to include lots between 2 commercial components along Waratah Avenue	Dismiss/Condition/Support Dismiss Council removed this area and also have a current decision not to alter any residential zonings in Dalkeith.
Residential Lot on Alexander Road behind corner commercial lot should be included so as to expand precinct and allow for better function.	Dismiss Council removed this area and also have a current decision not to alter any residential zonings in Dalkeith.
Too conservative	Dismiss The guidelines are the result of extensive consultation of the community and reflect the broader views as received by Council.
Redevelopment of surrounding residential area could add significant merit and benefit ageing population by greater housing diversity than just adding apartments.	Dismiss Council removed this area and also have a current decision not to alter any residential zonings in Dalkeith.
Want corner blocks in Dalkeith considered for development 2/3 blocks from existing corner block	As above
Want existing blocks in Dalkeith with rear lanes to be able to subdivide into 2 lots	As above
Want 2 blocks to be able to be amalgamated and subdivided into 3 lots	As above
Consider future use of half site in future	Dismiss The half site will be considered but separate to this scheme amendment.
Believe original proposal for area (Koltasz Smith) should be reconsidered for area	Dismiss Council have considered this design and other information and are now considering the provisions in the scheme amendment that reflect the information received to date in the decision making process.

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

Legislation

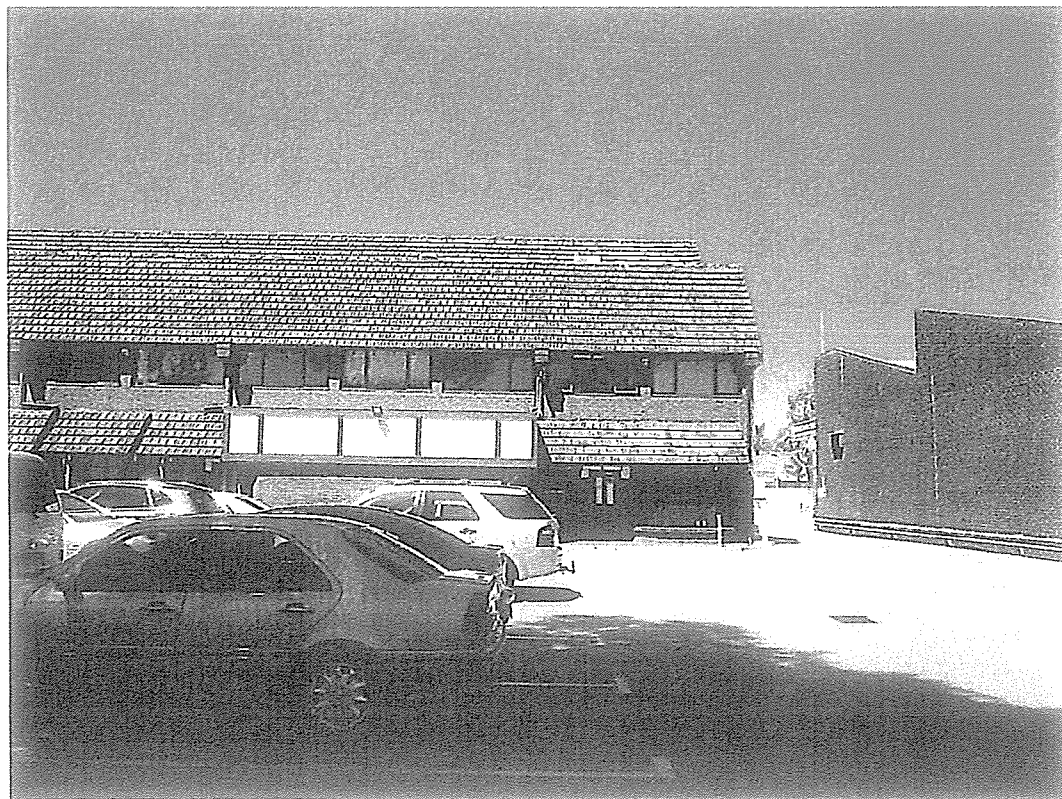
The following legislation applies in this instance.

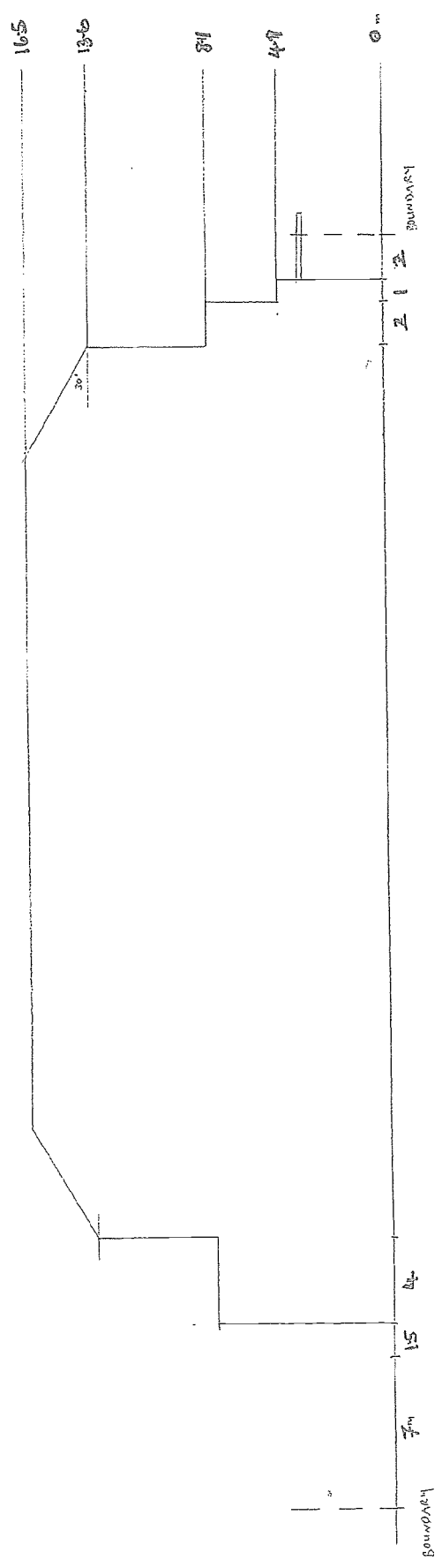
The Scheme Amendment was initiated in accordance with the Planning and Development Act 2005. The Council referred the documentation to the Environmental Protection Authority and received for approval for consultation.

Once consultation has been conducted, final endorsement is considered by Council prior to being endorsed by the Minister of Planning.

When Council passes a resolution on a scheme amendment at final approval it must have regard to regulation 17(2) of the Town Planning Regulations 1967 and word the resolution in accordance with either regulation 17(2)(a) or (b) and is to submit a copy of the resolution to the WAPC in accordance with regulation 18(1).

Tudor Building approx. 14 metres in height





260
211



MINISTER FOR PLANNING

CITY OF NEDLANDS - TOWN PLANNING SCHEME NO.2 AMENDMENT NO.192 -
FOR FINAL APPROVAL FOLLOWING READVERTISING

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: A/Planning Manager, Schemes and Amendments
AUTHORISING OFFICER: A/Director, Schemes and Appeals
AGENDA PART: B
FILE NO: TPS/0283
DATE: 7 October 2011
ATTACHMENT(S): 1. Aerial Photograph
2. Special Control Areas
3. Modified Building Envelope Diagram
Schedule of Submissions - to be tabled at meeting

DETAILS: (i) Amending the Scheme Text by inserting a new Clause 5.17 - Dalkeith Special Control Area Provisions; and
(ii) Inserting a new Appendix VI.

ADVERTISING: 29 July 2011 to 26 August 2011 in accordance with the *Town Planning Regulations 1967* (as amended).

SUBMISSIONS: Total 266 submissions.

COUNCIL'S RESOLUTION: Not to support modifications.

ENVIRONMENTAL CONDITIONS SET & INCORPORATED: Nil.

MINISTERIALS RECEIVED: 33-08731.

RECOMMENDATION:


That the Western Australian Planning Commission resolves to recommend that the Minister:

1. *requires Council to modify the amendment documents in the following manner, before final approval is given:*
 - (a) *increase the maximum building height to four storeys and a maximum of 16.5 metres for Precincts 1-3 (inclusive);*
 - (b) *modify the front and rear boundary setbacks as per the attached building envelope diagram;*

- (c) *modify the following land use classes under the proposed Use Class Table:*
 - (i) *Grouped Dwelling and Multiple Dwelling being 'P' Uses; and*
 - (ii) *Amusement Parlour and Small Bar being 'S' Uses;*
 - (d) *replace Clause 2.6(a) with "Laneways shall be provided where marked on a specific Precinct Plan, with the exception of Precinct 3 Plan where the required side (north/south) laneways may be varied or not provided subject to reasonable justification";*
 - (e) *replace Clause 1.5 with "Council may vary clauses in these guidelines, with the exception of building height, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, setbacks, land use and side (north/south) laneways"; and*
 - (f) *reduce the minimum size requirement for three bedroom dwellings to 120m².*
 - (g) *renumber Clause 5.17 to "5.16" to reflect the current Scheme numbering.*
2. *advises Council that the required modifications to the amendment provide an infill opportunity for Dalkeith to provide a greater variety of housing choice in an area identified as a minor growth area in the Central Metropolitan Perth Sub-regional Strategy.*



Neil Thomson
Acting Secretary
Western Australian Planning Commission

RECOMMENDATION APPROVED

MINISTER FOR PLANNING
Date <u>25.10.2011.</u>

Recd 26/10/11 AC

25/9

SUMMARY:

- The amendment proposes to introduce a special control area over the commercial properties along Waratah Avenue, Dalkeith.
- Dalkeith is identified in the Central Metropolitan Perth Sub-regional Strategy (the Sub-regional Strategy) as a Minor Growth Area.
- The Minister for Planning (the Minister) previously considered the amendment and required the Council to readvertise the amendment subject to modifications prior to final consideration.
- The modifications were recommended in order to better utilise the redevelopment opportunity and increase residential densities and housing choice in an area identified as a Minor Growth Area.
- It is recommended that the amendment be supported subject to the modifications as advertised.

BACKGROUND

The amendment proposes to introduce a special control area over the commercial properties along Waratah Avenue, Dalkeith. The amendment further proposes specific design control provisions that will permit mixed-use residential/commercial development to a maximum height of 12 metres (when incorporating residential development). The subject land accommodates ageing commercial development and is generally surrounded by residential land uses (**Attachment 1 - Aerial Photograph**). The land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Retail Shopping' under the City of Nedlands Town Planning Scheme No.2 (TPS No.2).

Minister's decision

The Minister previously considered the amendment and agreed with the WAPC recommendation to require the Council to readvertise the amendment subject to the following modifications, prior to final consideration:

1. Increase the maximum building height to four storeys and a maximum of 16 metres for Precincts 1-4 (inclusive) (an error in the original modification was found and the modification was revised to 16.5 metres for only Precincts 1-3 (inclusive));
2. Modify the front and rear setbacks as per the attached building envelope diagram;
3. Modify the following land use classes under the proposed Use Class Table:
 - (a) Grouped Dwelling and Multiple Dwelling being 'P' Uses; and
 - (b) Amusement Parlour and Small Bar being 'S' Uses;
4. Replace Clause 2.6(a) with "Laneways shall be provided where marked on a specific Precinct Plan, with the exception of Precinct 3 Plan where the required

side (north/south) laneways may be varied or not provided subject to reasonable justification";

5. Replace Clause 1.5 with "Council may vary clauses in these guidelines, with the exception of building height, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, setbacks, land use and side (north/south) laneways"; and
6. Reduce the minimum size requirement for three bedroom dwellings to 120m².

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development Act 2005*
Section: Part 5 Local Planning Schemes
Legislation *Town Planning Regulations 1967*
Section:

Strategic Plan
Strategic Goal: Strategic Goal 2: Planning
Outcomes: Planned Local Communities - developing a sense of place

Policy
Number and / or Name: Directions 2031
Central Metropolitan Perth Sub-regional Strategy

DETAILS:

The amendment proposes to introduce a SCA over 12 lots along Waratah Avenue, Dalkeith (**Attachment 2 - SCAs**):

- Precinct 1 - No. 79 Waratah Avenue;
- Precinct 2 - No. 81 Waratah Avenue;
- Precinct 3 - No. 87, 89, 91, 93, 93A, 95A Waratah Avenue;
- Precinct 4 - No 101 Waratah Avenue; and
- Precinct 5 - No. 129, 131, 133 Waratah Avenue.

The amendment proposes to include the Dalkeith SCA Provisions in TPS No.2 as a new Clause 5.17 and Appendix VI. The 'Retail Shopping' zone will remain and the proposed new provisions are a set of development guidelines that will guide land uses, car parking, building height, residential density and amenity amongst others.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil.

CONSULTATION:

The modifications to the amendment were advertised in the local newspaper, the City conducted a community information session and 2185 landowners were notified of the modifications. A total of 266 submissions was received (**Attachment 3 - Schedule of**

Submissions). A summary of the submissions and the responses of the Council and WAPC are provided below:

- (a) Submission: The community has stated that it has accepted the existing design guidelines that were created following extensive consultation as a negotiated outcome that will allow development at a scale that will not negatively affect the amenity of the area and its views should be respected and implemented.
Council: Supported.
WAPC: Council's planning outcomes for the Dalkeith area appear to be purely based on the landowners desires, versus any substantial planning rationale. The City has been given the opportunity to provide justification for the amendment and advised that the final Dalkeith SCA Provisions were a negotiated outcome between the Dalkeith community and the City and no further detailed justification was forthcoming. It is noted that a comprehensive planning study has been undertaken for the area and it is considered that the modified additional storey will not negatively affect the amenity of the area (with the study recommending five storeys for most of the sites).
- (b) Submission: A building height of 4 storeys (16.5m) is unacceptable and out of character with the area. The building height also raised concerns with overlooking of residential lots to the north of the sites where greater heights are proposed and concern that it will destroy the village character of the area.
Council: Supported.
WAPC: The modified height relates to the commercial properties along Waratah Avenue only and it is considered that an additional storey will not greatly impact the overall character of the Dalkeith area. With regard to privacy and overlooking, the Residential Design Codes (R-Codes) recommends privacy setbacks of 4.5 metres (bedrooms), 6 metres (other habitable rooms), 7.5 metres (balconies). It is noted that the modified third and fourth storeys are setback 12.5 metres from the adjoining property boundaries to the north, which is an extra metre than the Council's proposed setback for the third storey (11.5 metres).
- (c) Submission: Need to create a transition area around the proposed redevelopment area where heights and density are graduated to meet the current height and density requirements that apply to the remainder of the area, especially if the increased height and density is supported. Four storeys standing alone would have negative impacts.
Council: Agree with the concern that the changes proposed by the WAPC have not considered the setting within which they will be implemented and not being part of an integrated redevelopment approach will create an inappropriate outcome for the area.
WAPC: The setting has been considered and the modified building envelope and setbacks will assist in reducing any impacts on surrounding properties. The impact of the modified additional storey will have minimal affect on nearby properties and the additional bulk will also

be minimal as a result of the modified building envelope. It is considered that the character of the suburb will be maintained.

Other considerations with increasing the height:

- the topography and southern orientation of the site results in no significant overshadowing to adjacent properties (noting Waratah Avenue road reserve is over 20 metres wide);
- an existing building on the subject land is approximately 14 metres high, which is accepted by the community; and
- there is an area of public open space on the opposite side of Waratah Avenue with large street trees along the southern side of the street, all of which assists in minimising any adverse impact on surrounding southern properties.

- (d) Submission: Amusement Parlours and Small Bars are not welcome in the area as the area's need for alcohol is fully catered for by the existing bottleshops and existing licensed restaurants in the area, although some comments were in favour of small bars as a means to improve Dalkeith's "Dullsville" reputation.

Council: Noted. While the sentiment on Amusement Parlours seems clear, there appears to be ability to negotiate in regards to Small Bars.

WAPC: The advertised amendment proposed Amusement Parlour and Small Bar as 'S' and 'D' uses respectively. Both land uses are appropriate for a mixed use precinct, however, the Dalkeith community objected to the uses and consequently the City changed them to 'X' uses with no planning justification for the change.

The modification changed these uses to 'S' uses which allows the City discretion subject to giving special notice during the assessment of any future development proposal. Any application for either use would be the subject of a comprehensive development assessment where any potential amenity impacts can be considered.

- (e) Submission: The ability to allow the developer to vary laneways is not supported because it could lead to buildings with greater bulk than envisaged under the negotiated design guidelines, although a reduction of crossovers from Waratah Avenue was consider a possible bonus for creating a pedestrian friendly streetscape.

Council: Supported.

WAPC: The intent of the modification is to allow for a future development to modify the laneway placement (if necessary) to create a more pedestrian friendly development and streetscape by reducing the number of crossovers onto Waratah Avenue. This is a reasonable approach, and it is considered that any bulk as viewed by the street will be reduced by the modified setbacks and building envelope.

- (f) Submission: Reducing the minimum size of 3 bedroom dwellings from 150m² to 120m² is unacceptable as this unit size would be too small. The proposed size reduction is also not supported given that the size of single bedroom dwellings was compromised on originally.

Council: Noted.

WAPC: The modified minimum size of the three bedroom dwelling units to 120m² allows for a slightly smaller unit. It has been demonstrated that three bedroom dwelling units can be developed at much less than 150m².

- (g) Submission: Variation of the clause that allows Council to exercise discretion is not supported.

Council: The proposed changes in this regard were generally not well understood by the submitters and many comments confused Council's exercise of discretion in other circumstances.

WAPC: The discretion clause was modified to allow variation to the laneway provisions.

- (h) Submission: Grouped and Multiple Dwellings are out of character for Dalkeith although subdivision of existing lots to create single house lots approximately 500m² is supported.

Council: This comment is not relevant in the context of the proposal being advertised for public comment.

WAPC: A number of landowners are opposed to increased density provided through multiple dwellings on the subject land, but request the option to subdivide their own properties to increase density. Conversely, the landowners are concerned that the character of the area will be compromised by this proposal. It is considered that the amendment with modifications will provide for the necessary housing diversity and appropriate housing products for its residents, in accordance with the City's draft Local Planning Strategy, without unduly affecting the character of the Dalkeith suburb as a whole.

OFFICER'S COMMENTS:

Directions 2031 and the Sub-regional Strategy provide the spatial framework and strategic plan for the future growth of metropolitan Perth. Dalkeith is specifically identified as a Minor Growth Area (providing between 10-399 additional dwellings) and the Sub-regional Strategy has set a housing target of 3500 additional dwellings for the City of Nedlands.

There is opportunity for the subject land to provide a greater number of dwelling units consistent with the Minor Growth Area projections, and to further assist the City in achieving its overall required housing target and housing diversity.

The City's Local Planning Strategy (LPS), which is yet to be advertised for public comment or endorsed by the WAPC, acknowledges the City's ageing population with a significant increase in the 60-69 age group. The older population are residing in larger family homes and are forced to leave the locality when seeking to downsize as there are limited smaller housing types in the Nedlands area. The LPS notes that there is an opportunity for a mixed use area on Waratah Avenue to contribute to increased commercial viability, vibrancy and housing choice.

The amendment with modifications presents an appropriate infill opportunity for Dalkeith to provide suitable housing products for its residents, in accordance with the

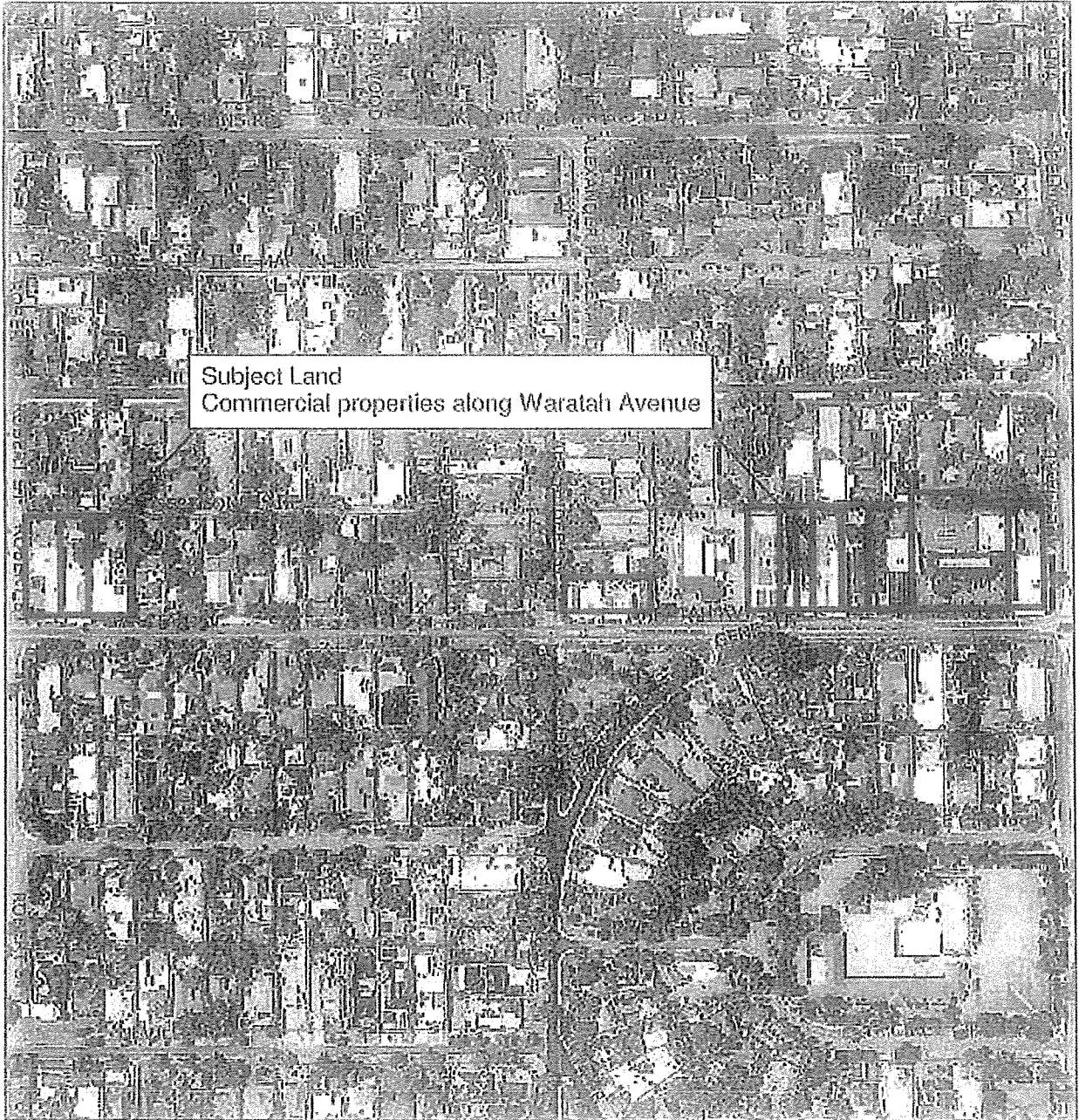
LPS, as well as assisting in meeting the desired housing targets of the new state strategies.

The submissions received during the readvertising period provided no new responses to those from the initial advertising period and the City has not offered any planning rationale for not supporting the modifications. The Dalkeith community is evidently against any building height increases. However, the modifications are considered reasonable and will facilitate suitable development in accordance with the objectives of the State planning framework.

WAPC Modification

It is proposed to insert a new Clause 5.17 into TPS No.2. However, the Scheme does not have a Clause 5.16. It is recommended that the amendment be modified to reflect the current Scheme numbering.

It is recommended that the amendment be supported subject to modifications.



Suburbs

Cadastre

2009 Metro Pool Aerial Photography

Scale 1:3,452

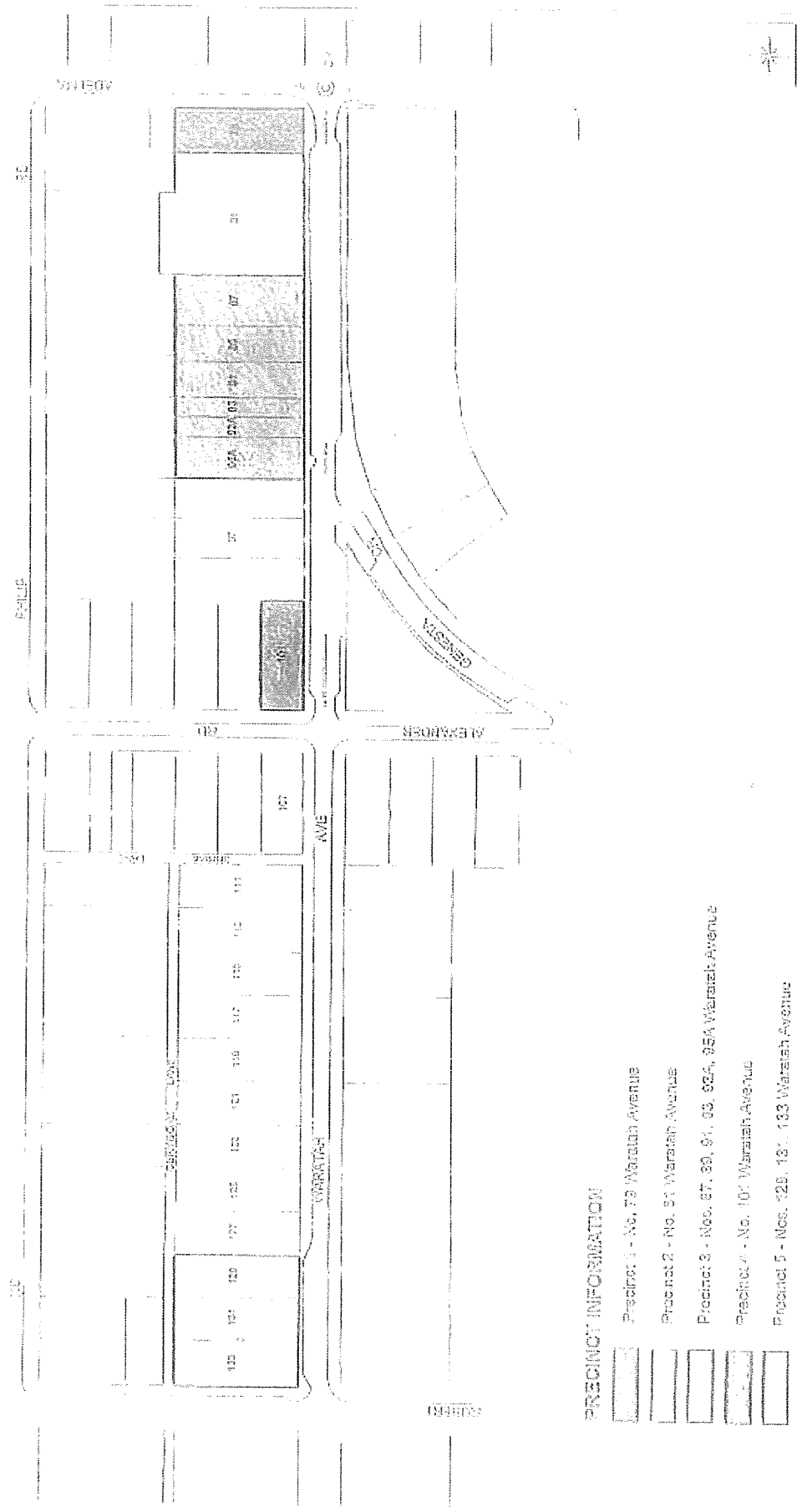
Prepared by: K. J. J. J.
Prepared for:
Date: Tuesday, February 15, 2011 11:31
File Number: P2010/01427



Government of Western Australia
Department of Planning

FOR INTERNAL USE ONLY

Figure 4 -- Special Control Area Boundary



PRECINCT INFORMATION

- | |
|--|
| |
|--|

 Precinct 1 - No. 79 Waratah Avenue
- | |
|--|
| |
|--|

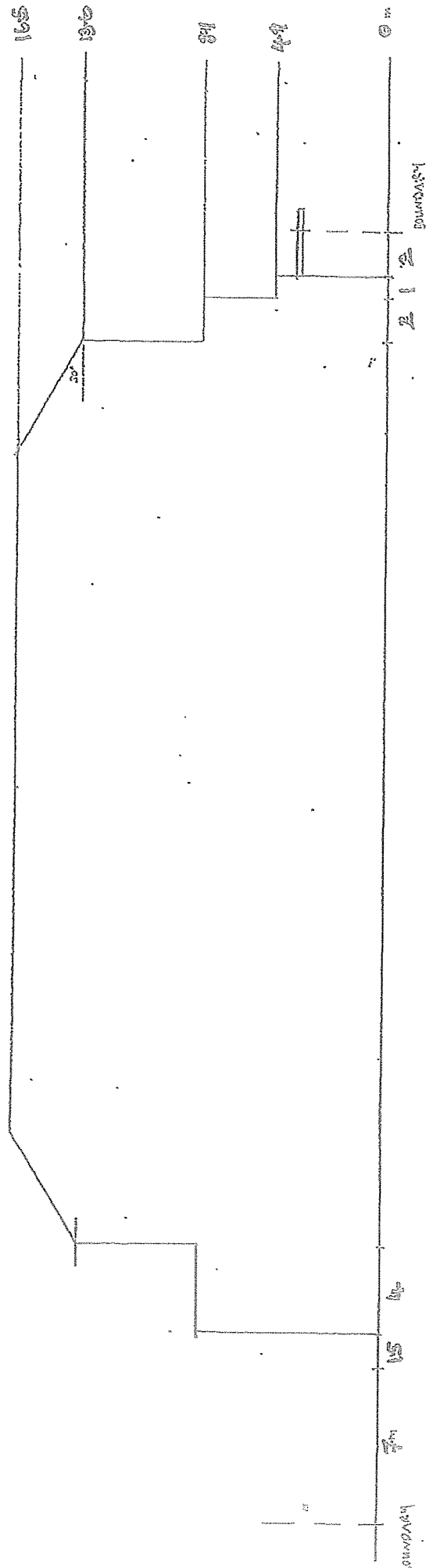
 Precinct 2 - No. 91 Waratah Avenue
- | |
|--|
| |
|--|

 Precinct 3 - Nos. 87, 89, 91, 93, 95A, 95M Waratah Avenue
- | |
|--|
| |
|--|

 Precinct 4 - No. 101 Waratah Avenue
- | |
|--|
| |
|--|

 Precinct 5 - Nos. 126, 131, 133 Waratah Avenue

DALKEITH REDEVELOPMENT PROJECT
WARATAH AVENUE, DALKEITH
BOUNDARY AND PRECINCT PLAN



Modified Building
Envelope Diagram
Precincts 1-3.

254