



TOWN OF CLAREMONT

SPECIAL COUNCIL MEETING

MINUTES

MONDAY 28 NOVEMBER, 2016

Stephen Goode

CHIEF EXECUTIVE OFFICER

Date:

DISCLAIMER

Would all members of the public please note that they are cautioned against taking any action as a result of a Council decision tonight until such time as they have seen a copy of the Minutes or have been advised, in writing, by the Council's Administration with regard to any particular decision.

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28 NOVEMBER, 2016
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1 DECLARATION OF OPENING

His Worship the Mayor, Mr Jock Barker, welcomed members of the public, staff and Councillors and declared the meeting open at 7:02PM

2 RECORD OF ATTENDANCE/APOLOGIES

ATTENDANCE

Mayor Barker

Cr Peter Browne

West Ward

Cr Peter Edwards

West Ward

Cr Karen Wood

West Ward

Cr Chris Mews

South Ward

Cr Paul Kelly

South Ward

Cr Jill Goetze

South Ward

Cr Bruce Haynes

East Ward

Cr Kate Main

East Ward

Mr Stephen Goode (Chief Executive Officer)

Mr Les Crichton (Executive Manager Corporate and Governance)

Mr David Vinicombe (Executive Manager Planning and Development)

Three members of the public

No members of the press

APOLOGIES

Cr Alastair Tulloch (Leave of Absence)

3 DISCLOSURE OF INTERESTS

NIL

4 PUBLIC QUESTION TIME

NIL

5 PUBLIC STATEMENT TIME

Mr Ben Doyle, Director, Planning Solutions, PO Box 2709, Cloisters Square, Perth.

Re: Item 6.1.1, North East Precinct Lot 509 (13) Davies Road, Claremont - Proposed Seven Storey Mixed Use Development.

Mr Doyle spoke in favour of the proposed development application.

6 REPORTS OF THE CHIEF EXECUTIVE OFFICER**6.1 PLANNING AND DEVELOPMENT****6.1.1 NORTH EAST PRECINCT LOT 509 (13) DAVIES ROAD, CLAREMONT - PROPOSED SEVEN STOREY MIXED USE DEVELOPMENT**

Attachments – Public:	Location and Submission Map Photograph Application report including Traffic Impact Assessment, Acoustic report and Waste Management Strategy Claremont on the Park Architect – Letter of Approval Claremont NEP General Design Guidelines Checklist & Lot 509 Site Specific Checklist from Claremont on the Park Architect
Attachments Restricted:	Plans PTA Submission
Responsible Officer:	David Vinicombe Executive Manager Planning and Development
Author:	David Vinicombe Executive Manager Planning and Development and Nick Bakker Senior Planner
Proposed Meeting Date:	28 November 2016
Date Prepared:	22 November 2016
Planning Application No.:	DA 2016.00148
90 Days Due Date:	15 December 2017 - not including “stop days”
Property Owner:	Blackburne Property Group
Submitted By:	Planning Solutions
Lot No.:	509
Area of Lot:	4,913m²
Zoning:	Development Zone
Financial Implications:	Nil
Enabling Legislation:	Planning and Development Act 2005 (PDA) Planning and Development (Development Assessment Panel) Regulations 2011 (DAP Regs) Town Planning Scheme No. 3 (TPS3) <i>Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regs)</i> Claremont North East Precinct (NEP) Structure Plan (SP) Claremont NEP Design Guidelines (DGs) and Detailed Area Plans (DAPs) Residential Design Codes (RDC)

Summary

- Application has been received for a proposed seven storey (with mezzanine level on the ground floor) mixed use development on Lot 509 located at the intersection of Davies Road and Shenton Road, within the North East Precinct (NEP) Claremont on the Park development.
- The proposal is to be considered by the Metropolitan West Joint Development Assessment Panel (JDAP) as the total cost of the development exceeds \$10m (\$50m).
- The proposed development contains five ground floor commercial tenancies, two ground floor retail tenancies, 143 multiple dwellings between the mezzanine and sixth storey and residential amenities on a seventh storey.
- With exception to the variations detailed below, the proposal is consistent with the requirements of the TPS3, NEP Structure Plan (SP), Detailed Area Plans (DAPs), Design Guidelines (DGs) and Residential Design Codes (RDC).
- Variations to requirements relating to visitor parking numbers and location, dwelling mix, height, supermarket and retail floorspace, commercial floorspace, vehicle access, floor levels, oval interface, awning height and solar access are supported.
- Other proposed variations relative the provision of storage dimensions, and energy efficiency are not supported and conditions are proposed to redress these matters.
- Four surrounding land owners were consulted and one submission of conditional support was received from the Public Transport Authority (PTA).
- It is recommended that the Officers' Report recommending conditional approval of the development be forwarded to the JDAP.

Purpose

For Council to:

- (i) Consider the officer recommendation for the proposed mixed used development.
- (ii) Be informed that the application has been referred to the JDAP for determination in accordance with the *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regs).

Background

The land is described as Lot 509 Davies Road, Claremont and is zoned "Development" under TPS3. The Development zone is subject to the Claremont NEP Structure Plan (SP) that was initially endorsed by Council on 2 December 2008 and the Western Australian Planning Commission (WAPC) in August 2010. Council endorsed variations to the SP in December 2012 and the WAPC endorsed in part the Council supported SP in April 2013. The WAPC decision in particular disagreed with setback and tree retention requirements for this site, however Council resolved on 2 July 2013 to acknowledge and accept the WAPC's determination of these matters.

Lot 509 is 4,913m² in area, with frontages to both Davies and Shenton Roads, and is situated at the south-western corner of the Claremont on the Park development.

The applicant presented the key development proposals contained in this application to a Council briefing on 20 June 2016. A Briefing Session was also conducted by Council staff on the specifics of the proposed development on 14 November 2016.

From a legislative point of view, the application is required to be assessed by a JDAP. Given the estimated cost of development (i.e. greater than \$10 million), the application under the DAP Regs is listed as a "Mandatory Development Assessment Panel Application" and therefore must be considered and determined by a JDAP on behalf of Council.

The following table outlines key dates regarding this proposal:

Date	Item/Outcome
20 June 2016	Applicant briefs Council on project
16 September 2016	Development Application received by Council
21 September 2016	Application undergoes internal DCU assessment
23 September 2016	Town lodged the application to JDAP and requested a 'Stop the Clock' for applicant to submit additional information
30 September 2016	Advertising commenced
14 October 2016	Advertising closed
1 November 2016	Additional information received from applicant
14 November 2016	Council briefed on details of application by EMPD
18 November 2016	Additional information received from applicant
22 November 2016	Council report finalised

Past Resolutions

The NEP SP was initially approved by Council at its 2 December 2008 OCM and subsequently endorsed by the WAPC on 16 June 2010.

The Design Guidelines (DGs), which were adopted as Council Policy on 18 December 2012, aim to encourage high quality architectural expression, form and consistency throughout the NEP. The DGs outline the design intent for all development within the NEP and collectively ensures that the principles and objectives are being met. As a Local Planning Policy, advertised and adopted at that time under clause 82 of TPS3 (now in accordance with deemed provision 4 of the LPS Regs), any variation to the DGs must have regard to the provisions and the objectives the Policy is designed to achieve.

The Detailed Area Plans (DAPs) outline the mandatory fundamental development controls to address the specific requirements of the individual lots. As the DAPs form part of the SP, variations are required to be undertaken in accordance with SP requirements, now subject to deemed provision 27(1) of the *Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regs). The provision requires Council to have regard to, but not be bound by the DAP/SP when deciding on an application.

Consultation

The application was advertised in accordance with Local Planning Policy LG525 'Advertising of Planning Applications'.

Four neighbours and occupants were consulted and one submission of conditional support was received from the Public Transport (PTA), which advised that it supports transport oriented design near train stations, and makes the following comments:

- *Given its vicinity to the station, Section 70A Notifications (on Titles) will be applicable to advise potential purchasers that the amenity of the site (apartments specifically) may be affected by rail noise and vibration,*
- *The Developer will need to engage a suitably qualified consultant to undertake an Acoustic report for review by the PTA and*
- *At least 2 months prior to construction, the developer or its contractor must submit an application to the PTA for approval to work in close proximity to the electrified rail. Safety measures will be required to be put in place to ensure rail operations (and third party work) is not compromised, and no workers are harmed (cranes used on site during construction could swing into the path of overhead electrical rail assets).*

A full copy of the submission is attached to this report.

Discussion

Description

This application seeks approval for a seven storey mixed use development comprising a mix of commercial and retail tenancies on the ground floor and mezzanine level with multiple dwellings located on the mezzanine level to sixth storey. Associated vehicle parking, services and amenities are located within the two basement levels and ground floor of the building. The seventh storey contains a small area of common facilities for the multiple dwellings.

Note – although the development is for a seven storey building (with two level basement and mezzanine level), the first storey of the development is called “ground floor” on the plans, and the subsequent floors (one to six) make up the second to seventh storeys.

The ground floor consists of a mix of commercial and retail uses with a total of seven tenancies ranging in size from 17m² to 1,077m² for the IGA supermarket (plus 218m² back of house) and a 124m² liquor store. A total of approximately 301m² commercial and 1,201m² retail (plus 218m² back of house) floor space is provided on the ground floor. All commercial and retail tenancies will have direct access from the public realm, separate to the residential entry lobbies.

A mezzanine level within the ground floor comprises a mix of three multiple dwellings, plant room, stores and 245m² additional back-of-house offices for the ground floor IGA retail tenancy.

The commercial and retail tenancies are proposed to be tenanted by the following uses:

- Commercial Tenancy 1 will be a 123m² café located at the corner of Shenton Road and Shenton Walk which is designed to maximise exposure to pedestrian traffic.
- Commercial Tenancy 2 is proposed to be a 38m² office occupied by Amana Living, a large not-for-profit provider of care and services for the ageing population.

- Commercial Tenancy 5 is a 17m² tenancy is expected to be utilised as a shared meeting room.
- The large 1,077m² super market and the 124m² liquor store tenancy is proposed to be owned by IGA and run by a single operator.
- Prospective tenants for the remaining commercial tenancies (3 - 55m² and 4 – 38m²) facing Davies Road are yet to be secured.

The mezzanine level (part of ground floor) and floors one to five (second to sixth storey) propose to contain a total of 143 multiple dwellings, comprising the following mix of dwelling types:

- 41 one-bedroom dwellings, ranging in size from 55 - 63m².
- 75 two-bedroom dwellings, ranging in size from 64 - 98m².
- 27 three-bedroom dwellings, ranging in size from 102 - 138m².

The seventh storey (sixth floor) proposes to contain communal facilities for the multiple dwellings inclusive of a theatre/lounge room, a library/lounge area, a communal dining room and outdoor theatre/balcony.

Vehicular access to the residential and commercial on-site car parking is provided from Davies Road. A service vehicle exit crossover is also provided to Davies Road, 25m south of the designated NEP DAP crossover location.

A total of 260 car parking bays are proposed within the subject site, comprising 38 commercial/retail and five residential visitor bays on the ground floor, 12 residential visitor bays on the first level of basement and 205 residential bays across the two basement levels.

The two level basement, ground and ground floor mezzanine levels are proposed to include 143 bicycle racks and 143 storage areas.

Compliance

The proposal has been assessed against the TPS3, Residential Design Codes (RDC) and the NEP SP, DAPs and DGs for the subject site. It is noted that the RDC provisions with regard to multiple dwellings apply to augment the various NEP requirements wherever the NEP requirements do not address RDC requirements (e.g. visitor parking).

This report will detail variances to these requirements rather than detailing the proposal's compliance with all these requirements. The applicant's submission (attached) however details how the proposal complies with the various development requirements. It is noted that the NEP DG and DAP requirements include significant duplication. Accordingly, to reduce the content of this report, cross referencing will be made on duplicated requirements rather than repeating the specific comments which apply to each.

TPS3 - Land Use

In accordance with Table 1 of TPS3, the permitted uses within the 'Development' zone are to be determined with reference to the designations in the approved SP. The SP identifies the subject site as 'Mixed Use'. There is no 'Mixed Use' land use classification under TPS3. However the SP notes that mixed use land use are intended to accommodate a mixture of residential development with small scale retail/commercial uses. The predominant uses identified under the SP for this

precinct include residential, retail, hospitality based retail (i.e. cafes and restaurants), office, commercial, civic and community and entertainment uses. The proposed retail, office, restaurant and multiple dwelling uses are individual uses considered consistent with a mixed use development under the SP.

TPS3 - Parking Requirements

A detailed parking assessment is provided below under the section dealing with the NEP SP and DG requirements. It is noted that there are discrepancies between the SP and DG parking requirements relative to existing TPS3 parking requirements for the shop ("Retail Store" under TPS3 - 1 bay per 16.67m² GLA c.f. "Retail" under SP – 1 bay per 50m²), cafe ("Restaurant" under TPS3 - 1 bay per 12.5m² GLA or 1 bay for every four seats other than alfresco areas, whichever the greater c.f. "Commercial" under SP – 1.5 bays per 100m²), and commercial office ("Office" under TPS3 – 1 bay per 30m² c.f. "Commercial" under SP – 1.5 bays per 100m²) uses.

The variances are due to the NEP being promoted as a Transit Orientated Development (TOD) with typical parking concessions applying due to the site's proximity to the Claremont Railway Station. The variances were identified in the development approval issued for the Claremont Football Club's Stadium development. As a result of the inconsistencies, the variances were addressed in Amendment No. 130 which provides for the SP parking requirements to over-ride the TPS3 parking requirements. Amendment No. 130 has been approved by the Minister for Planning subject to modifications and is currently awaiting gazettal action. While not likely to be an issue when this development is occupied, a technical condition should be applied to require the retail and commercial tenancies to comply with TPS3 parking requirements (as was applied in the Claremont Football Club Stadium approval).

Residential Design Codes

The NEP DGs outline that the requirements of the RDC apply in all respects except where modification is indicated within the DGs. Where there is inconsistency between the RDC and NEP requirements, the requirements of the SP and DGs prevail.

There are two specific non-compliant elements of the RDCs which are not covered by the provisions of the SP and DGs for Lot 509. These include the deemed-to-comply requirements of clause 6.3.3 'Parking' (visitor) which requires 36 visitor bays and clause 6.4.6 'Utilities and facilities' which requires storage areas to be provided for all dwellings which are 4m² and which achieve a minimum internal dimension of 1.5m. These matters may be addressed by consideration of the relevant design principles in the RDC.

- Visitor parking - It is proposed to provide 17 visitor parking bays (five on the ground floor and 12 on the upper basement level – all in front of security gates for the development. The remaining 19 visitor bays are proposed to be accommodated as reciprocal parking within the 38 retail/commercial bays. It was initially proposed that all of the commercial/retail bays would accommodate reciprocal residential visitor parking bays. It is considered that although residential visitor parking would predominantly occur after normal business hours, the extended trading hours which would apply to the IGA retail and possibly the cafe and liquor store could reduce the capacity to use these bays as residential visitor bays.

In considering the extent of commercial/retail parking to be accommodated under the reciprocal parking arrangements, it is noted that the total number of residential bays (205) exceeds the SP parking requirement (163 bays) by 42 bays, and the RDC requirement (150 bays) by 55 bays. The additional parking has been provided by the developer to address market requirements to supply two bays each for the larger dwellings. As a result of the additional parking, the combined requirements for residential and visitor parking bays under both the SP requirements and RDC requirements are significantly exceeded, by 23 bays under SP and 36 bays under RDC. In this context, the over provision of parking on site is considered reasonable justification to support a reduction in the provision of specific visitor bays and use of 19 commercial/retail bays for reciprocal use. The additional parking on site has the capacity to address any shortfall during peak parking periods, as does public parking provided in close proximity to the development site.

- Utilities and facilities (stores) - The plans show a total of 143 storage rooms (1 per dwelling) spread over the basements, ground floor and mezzanine levels - ranging in size from 4 – 9m². The stores meet the minimum area requirement, however a number of the stores do not provide the minimum 1.5m internal dimension. The width requirement is considered to be a critical matter in meeting the design principles associated with the RDC requirement. As such, the stores which do not meet the minimum width should be redesigned to achieve this standard and the development approval should include a condition that all stores are to provide a minimum internal dimension of 1.5m as required by the RDC.

Structure Plan

Specific requirements of the SP are satisfied with exception of the requirement for a maximum 800m² supermarket on Lot 509. The retail floor space contained in the proposed IGA tenancy is 1077m² – a 277m² (34.6%) increase is proposed. This is supported on the basis that total retail is only varied by 21m² and the total retail and commercial floorspace is less than the maximum allowed under the DAP requirements as detailed below.

Detailed Area Plan – Lot 509

The proposal complies with the DAP requirements for Lot 509 with exception to the matters as outlined in the Table below.

Detailed Area Plan (Lot 509)			
Design Element	Development Requirement	Proposal	Compliance / Comment
Target Dwelling Yield	119 dwellings based on 93m ² per dwelling. This dwelling size was not supported by the WAPC and Council has accepted this position. Notwithstanding, the target dwelling yield in the DAP has not been altered and exists as an aspirational target for the lot.	143 dwellings (increased dwelling yield of 20%)	<u>Does not comply</u> Increased development yields to reflect the WAPC and Council decision on average dwelling size has been applied to Lots 503, 504 and 505 and is acknowledged. Given that WAPC did not approve the average dwelling size of 93m ² and

			Council has accepted this position, it is equally arguable that the dwelling yield does not constitute a variation.
Maximum Floor Space Allocation	Retail: 1,180m ² Commercial: 1,750m ²	1,201m ² retail floor space (plus 463m ² back of house) for the IGA and liquor store tenancies. 301m ² commercial floor space.	<u>Does not comply</u> The additional retail floor space primarily consists of the back of house areas and provides a minor 21m ² increase in retail floor space available for public access. <u>Does not comply</u> The significant shortfall in commercial floorspace has resulted from the necessity to accommodate parking and service provision on the ground floor. Notwithstanding, the provision of commercial floor space is not a critical land use consideration and there is ample opportunity within other sites to increase the commercial floor space within the NEP.
Building Height	Minimum 4 storeys and maximum 5 storeys along Davies Road. Minimum 5 storeys and maximum 6 storeys along Shenton Road and remainder of site.	The building proposes 6 storeys along Davies Road inclusive of a concealed mezzanine level. The Shenton Road frontage and remainder of the site is predominantly six storeys, with the exception of the rooftop communal facilities on the south-east corner of the building which presents as a seventh storey.	<u>Does not comply</u> The height of the proposed development reflects the character envisaged for the locality as outline in the NEP SP. Height variations are supported – see detailed comments below under the DG requirements.
Setbacks	Buildings to have a zero setback to the boundary for a min. 70% of the building façade.	The proposal incorporates a zero setback to various portions of the building, including the IGA supermarket and liquor	<u>Does not comply</u> Although the development does not achieve the minimum 70% nil setback

	<p>Small setbacks to a max. 3m permitted to allow for architectural articulation of the façade and the provision of recessed building entries and landscape elements.</p>	<p>store tenancies, mezzanine level dwellings, and portions along the northern and eastern façades, equating to approximately 57% of the building façade. Setbacks of 1.1m – 2.8m proposed for commercial tenancies 3 and 4.</p> <p>Setbacks of 3m to 7.4m are incorporated into the building façade, adjacent to Commercial Tenancy 1.</p>	<p>requirement, the building façade has been designed to incorporate a high level of activity at the street level. Full height glazing is provided to all commercial and retail tenancies to maximise exposure and provide visual connections with the public realm. A condition is proposed to ensure that all retail shop and cafe front windows remain clear and unobstructed to maintain activation of the commercial spaces with the streetscape and the public realm.</p> <p>The increased setback to Commercial Tenancy 1 allows for a sheltered gathering space to be provided between the entry/exit point to the IGA supermarket and the adjacent café. This space is expected to be commonly activated by customers utilising and accessing the various commercial and retail offerings along this frontage.</p> <p><u>Does not comply</u></p> <p>The 3m setback from Commercial Tenancy 1 to Shenton Walk provides the necessary space to accommodate an alfresco seating area for the café, providing further activation of the space.</p> <p>The minor setbacks to Commercial Tenancies 2 and 5 allow for a canopy overhang above the tenancy entrances, without intruding into the designated construction zone surrounding the subject site.</p> <p>The proposed development is considered to achieve the</p>
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			active edges objectives of the DGs.
Vehicle Access location	Vehicular access point to be provided from Davies Road as illustrated on the DAP.	The location of the proposed vehicular access point is consistent with the DAP, however an additional service vehicle exit-only crossover is proposed, with exit north and south onto Davies Road.	<u>Does not comply</u> Additional exit point for service and waste collection vehicles supported – see detailed comments below under the DG requirements.

Claremont NEP Design Guidelines

As per the requirements of the DGs, the proposal has also been assessed by a Claremont on the Park Architect. It is noted that the previous Claremont on the Park Architect (Chris Maher) is now employed at Hames Sharley, being the architects for this proposed development. In response to this, LandCorp engaged Graham Taylor from Taylor Robinson Architects to assess the proposal and make comment. Attached is a Schedule of the DG and DAP requirements and the Claremont on the Park Architect's comments. It is noted that with regards to a couple of the DG and DAP requirements relating to vehicle access point and continuous awnings, the Town has come to an alternative conclusion on whether the DAP requirements are satisfied and these have been addressed in the report and by modifications to the plan. The proposal is supported by the Claremont on the Park Architect noting that it varies some of the DG and DAP requirements, but meets the objectives and intent of the DGs.

The proposal complies with the NEP DG requirements with the exception of the following:

4.9.1 Vehicular Access

The Lot 509 DAP contained within the DGs indicates a single vehicular access point for the subject site. The proposed development incorporates a crossover point situated in accordance with the DAP, as well as an additional service vehicle "exit-only" crossover.

Full interaction between customer, visitor, residential and commercial vehicles is not considered a practical outcome for this tight corner site. A separate loading dock area and exit is desirable to separate the non-commercial traffic from commercial traffic and has been assessed to meet Council's engineering requirements subject to a condition which addresses sight-lines at the exit point of the service driveway.

5.1.2 Heights

The table below provides a breakdown of the proposed building heights assessed against the DAP requirements which are to be complied with in accordance with the DG requirements.

Building Element	Building height permitted	Building Height proposed	Complies
North-east	5-6 storeys	6 storeys	Complies
North-west	4-5 storeys	6 storeys	Does not comply – 1 storey above maximum
East	5-6 storeys	6 storeys	Complies

South-east	5-6 storeys with portion 4-5 storeys	7 storeys	Does not comply – 1 storey above maximum (partially 2 storeys at the eastern edge)
South	5-6 storeys	6 storeys	Complies
West	4-5 storeys	6 storeys	Does not comply – 1 storey above maximum

As outlined above, the building height variation applies to the north-west and west elevations where a one storey variation is proposed, and the south-east elevation where partial one and two storey variations are proposed.

The NEP SP provides the following objectives regarding building heights:

- To provide sufficient access to sun, breezes, views and privacy.
- Maintain the character envisaged for the Claremont NEP.

The highest point of the six storey building is situated toward the corner element. The proposed additional building height allows for an architectural statement to be created as envisaged by the NEP DGs for this corner. The proposed development has been intentionally designed with a consistent height of six storeys along the road frontage of the site. If the development were to comply with the building height requirements of the DAP, this would result in upper floor dwellings having outlook over the rooftop of lower levels of the building. This is not considered an ideal outcome in a premium location. The design of the building and provision of rooftop facilities also seeks to maximise views towards the river.

The additional floorspace proposed on the sixth and seventh storeys amounts to approximately 1,430m². As the building is designed as two separate towers above the ground floor retail/commercial podium to allow for sun and ventilation to penetrate all areas of the development, approximately 2,280m² has been extracted from the building bulk associated with the height constraints. This results in a net reduction in building bulk of approximately 850m² through the development.

The communal facilities on the seventh floor would have ideally added additional bulk to the corner to emphasis the corner element requirement of the DAP, however access in this location is restricted to stairways (and not lifts). The roof of the communal facilities has been setback 4m from the front elevation and therefore unlikely to be visible from ground level. Alternative locations for the communal facilities were considered by the applicant. Inclusion of the facilities on the podium deck was considered inappropriate in terms of noise impacts on the inward facing dwellings. Locating the communal facilities facing the oval would impact on the amenity and value of the premium dwellings facing the oval. If not supported in the proposed location, the provision of these facilities may become questionable. Plans have been modified to setback the roof structures of the facilities 4m from the front facade in order to reduce the impact of the facilities on the streetscape. The setback communal facilities are therefore supported at the south-eastern corner of the site rather than the Davies and Shenton Road intersection as they are minor and do detract from the development and impact on the streetscape.

The subject site is situated in a landmark position within the wider Claremont NEP, and the additional height proposed allows for an architectural statement to be created. The development provides for architectural articulation as a visual marker within the surrounding context and allows the precinct to be easily identifiable without detriment to local amenity or streetscape.

5.1.3 Floor Levels

The commercial ground floors may only be raised a maximum of 0.6m above the natural ground level (NGL) at the property boundary. The IGA tenancy proposes a raised floor level to a maximum of 0.75m above the NGLs corner in the corner of the site.

The slope of natural ground level at the property boundary results in varying floor levels for the commercial and retail tenancies. The footpath at the corner of the site adjacent to the IGA tenancy sits at a low point of 15m AHD, sloping up along both Davies and Shenton Roads. The IGA tenancy is raised a maximum 0.75m above NGL at the corner due to the slope of the site.

Although the 0.75m exceeds the maximum 0.6m specified by the DGs, it is noted that the variation applies only to a small portion of the overall development, and all pedestrian access points have been designed to match the adjacent footpath level. Substantial glazing to the commercial tenancies ensures the building adequately addresses the public realm at ground level, and provides activation and natural surveillance of the ground plane.

5.2.3 Oval's Edge Interface Zone

The finished floor level of first residential level is required to be 0.9m - 1.5m above the proposed finished landscape level at the development lot boundary fronting the oval. The dwellings and outdoor courtyards on the mezzanine level are situated 1.68m – 1.95m above the landscaped level surrounding the oval.

The proposed variation is minor and is considered acceptable given the sloping nature of the subject site. The residential terraced courtyards to the mezzanine level dwellings are designed with vertical slatted fences to ensure visual permeability and maintain active frontages.

5.3.1 Solar Access

The DGs require at least 70% of dwellings to have outdoor areas that benefit from a northerly aspect. The design guidance for solar access recommends that no more than 10% of all dwellings should have solely south facing primary living spaces.

The proposed development incorporates 78 north-facing dwellings, equating to 54.5% of the total number of dwellings. This represents a variation of 15.5% to the required 70%, or 25 dwellings. A total of 25 dwellings have solely south facing primary living spaces along the Shenton Road frontage, equating to 17.5% of dwellings.

The applicant has indicated that the siting, dimensions and depth of the subject site presented challenges in achieving the minimum 70% north-facing dwellings. The applicant's comments included the following:

“The subject site is situated at a prominent corner location, and has been designed to address both street frontages, as required by the Design Guidelines. The development seeks to achieve a balance between allowing for adequate solar access to apartments, and having apartment balconies overlooking both street frontages, which run along the western and southern boundaries of the subject site. In order to achieve the 70% north-facing apartments stipulated in the Design Guidelines, the development would need to be re-oriented, with apartments facing away from the street, which would create inactive and unengaging frontages to Davies and Shenton Roads.”

The built form has been specifically designed with the building bulk separated into three portions. The breaking up of the built form apart allows for sun and ventilation penetration, and the development has been designed to allow the sun to penetrate communal and lobby spaces as a priority. The broken built form also allows sea breezes to permeate throughout the building. Whilst not technically north facing, all internal-facing apartments within the development will benefit from sunlight and ventilation due to the breaks in the northern façade of the building.”

Given the above, the solar access provisions of the DGs are considered acceptable in the context of the subject site.

5.3.5 Street Overhangs and Shading

The DGs set out the design specifications for street level awnings, being a minimum width of 2m, at a minimum 2.7m and maximum 3.5m above the footpath for all buildings with commercial functions at ground level. The proposed development incorporates awnings along the Davies and Shenton Road frontages which are 2m in width, and extend from a minimum 3m to a maximum 4.2m and 5m above the crossovers and 6.4m in height to add southern light and articulate the facade corner element. The variations are supported on the basis that they maintain the continuous awning for pedestrian movement balancing out with commercial vehicle height clearances and accentuating the corner element.

5.5.4 Storage

The DGs refer to a requirement for a minimum width of 1.5m for stores which are discussed in the RDC detail above and are subject to modification and an appropriate condition to be included in the development approval.

Other variances

The following aspects of the application do not presently satisfy the DG requirements due to the lack of information provided by the applicant. Notwithstanding, these requirements may be conditioned in the development approval to ensure compliance. These matters include:

4.10 Signage

The application provides for retail and commercial tenancies, but does not propose signage details. The applicant advises that individual tenancy signs will be subject to separate approval and do not form part of this application. A condition to reflect this is proposed to be included in the development approval.

4.7 Public Art

The NEP DGs outline the following Development Controls regarding the provision of public art integration into multiple dwelling/ mix use developments:

- *Developments other than a single dwelling shall contribute some form of public art to the public realm on or adjacent to their lot to the value of 1% of total construction cost.*
- *LandCorp will be provided with 25% (or 0.25% of total construction cost) of the abovementioned contribution, which will be retained within a consolidated fund and utilised to deliver precinct-wide public art. The remaining 75% (or 0.75% of total construction cost) will remain as the public art contribution for implementation by the Developer.*

- *Public art elements shall be submitted for the approval of the Claremont on the Park Architect along with application for Design Guidelines approval.*

The applicant is yet to confirm details of the public art provision to be integrated into the development. However the applicant has indicated that *“the project is currently in discussions with Artist’s representative to engage and integrate the art component as early as possible.”* Accordingly a condition of development approval is proposed which ensures appropriate public art is provided as per the above requirements.

5.3.6 Energy Efficiency

Clause 5.3.6 of the DGs requires all development to achieve a “plus 1” energy rating standard. However Council may support development at the prevailing energy rating standards where it can satisfactorily be demonstrated that the higher standard is impractical or detrimental to other design outcomes for the development.

The applicant has indicated that it is anticipated that the design will push for a high level of energy efficiency through its design but will not be assessed against the “plus 1” or Greenstar. Discussions with the applicant indicate that it is intended that the development will satisfy this requirement, although the documentation included with the application does not verify this.

This requirement has been consistently applied to all JDAP recommendations for the residential dwellings developments in the NEP. A condition which requires design details to be provided with the building application indicating compliance with the Design Guideline requirements for a 6 Star individual and 7 Star collective average rating under Section J of the *National Construction Code 2013* to the satisfaction of the Town of Claremont has been recommended. The applicant has provided no justification (as required above) to justify a variation in this requirement. Accordingly a condition to require the “plus 1” standard is proposed.

5.3.8 Lighting

Motion sensors are required for common areas and lighting is to be provided under the awnings to illuminate the footpath below for effect and security. The applicant advises that motion sensors will be installed to all common areas inclusive of residential lobbies and that lighting is to be concealed under the verandah roof overhangs to the footpath. A condition to reflect this requirement is proposed to be included in the development approval.

Officer Recommendation to JDAP

As this application is to be determined by the JDAP, Council is required to submit its recommendation and accompanying report to the JDAP. The officer’s recommendation to the JDAP is as follows:

Recommend that the Western Joint Development Assessment Panel approve the proposed seven storey mixed use development containing 143 multiple dwellings, commercial/retail tenancies and all associated car parking subject to the following conditions and advice notes:

1. In all other respects, development is to occur in accordance with the drawings submitted with the application for development approval (Development Application 2016.00175), as amended by these conditions.
2. Prior to the issue of a Building Permit, final details of the proposed materials, colours and finishes of the proposed development compliant with the

requirements of Clauses 76 and 77 of the Town of Claremont Town Planning Scheme No. 3 to be submitted and approved by the Town of Claremont.

3. All facades of commercial and retail tenancies on the ground floor facing the public realm as indicated on the approved plans are to be provided with an open shop front and not to be obscured with obscure glazing/film or shelving in order to maintain street activation of the shop and commercial frontages and a high level of pedestrian interface to the satisfaction of the Town of Claremont.
 4. Prior to application for a Building Permit, final details of the proposed vehicle entry and exits are to be provided inclusive of high quality finishes for the driveway, walls and ceiling back to rear of commercial tenancies 3 and 4 and the security gate for the commercial service vehicle exit to be submitted and approved by the Town of Claremont.
 5. The commercial vehicle egress driveway is to be redesigned to provide for relocation/redesign of the column in the truncation area to provide for unobstructed sight-lines in accordance with Australian Standard AS 2890.
 6. Vehicle crossovers are to be designed, constructed and maintained in accordance with the Town of Claremont crossover requirements and are to be provided at the same grade as the adjoining footpath to ensure continuity for pedestrians to the satisfaction of the Town of Claremont.
 7. Prior to occupancy, the development is to comply with Town Planning Scheme No. 3 parking requirements.
 8. Provision of 205 residential car parking bays on site with a minimum of one car parking bay per dwelling and a minimum of 17 visitor parking bays being provided in front of security gates.
 9. A minimum of 38 retail and commercial parking bays are to be provided on the ground floor level with the commercial parking bays to be specifically allocated for two tenant and three customers bays.
 10. The dimensions of all car parking bays, aisle widths and circulation areas complying with the Australian Standard AS/NZS 2890.1/2004.
 11. Prior to the issue of a Building Permit, design details are to be provided with the building application indicating compliance with the Design Guideline requirements for a 6 Star individual and 7 Star collective average rating under Section J of the *National Construction Code 2013* to the satisfaction of the Town of Claremont.
 12. Prior to the issue of a Building Permit for the proposed development, details of the proposed public art work, consistent with Council's Design Guideline requirements for the North East Precinct, to be submitted and approved by the Town of Claremont. All approved art work on site is to be installed prior to occupation to the satisfaction of the Town of Claremont.
 13. Prior to the issue of a Building Permit, a Lighting Plan is to be prepared and approved to the satisfaction of the Town of Claremont. The Lighting Plan shall cover all public areas of the building including stairwells, entry points and the building perimeter, showing suitable levels and types of lighting to ensure maximum visibility and safety for pedestrians and users of the site in accordance with the Australian Standards.
 14. Prior to occupancy of the commercial tenancies, application is to be made for and approval of signage proposals consistent with Council's Design Guideline
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requirements for the North East Precinct to the satisfaction of the Town of Claremont.

15. All signage is to be kept clean, intact and free of graffiti/vandalism at all times and any such graffiti or vandalism being removed within 48 hours.
16. All residential storage areas are to be provided with a minimum internal dimension of 1.5m with a minimum area of 4m² to the satisfaction of the Town of Claremont.
17. All servicing areas and other parts of the land or building, which are likely to be untidy in appearance, are to be completely screened from public view and from view from adjoining properties. Details are to be provided with an application for a building permit.
18. Prior to the issue of a Building Permit, a final Landscaping and Reticulation Plan for the whole development is to be submitted and approved by the Town of Claremont with the approved landscaping to be installed prior to occupation of the development and maintained thereafter to the satisfaction of the Town of Claremont.
19. A Site, Traffic and Noise Management Plan for the construction of the proposed development including tradespersons and delivery vehicles is to be provided and approved by the Town of Claremont prior to the issue of a building permit and implemented for the duration of construction. The plan is to also include details on the 2m wide construction zone, along the sites boundary adjoining the oval, being provided for temporary use by the developer to facilitate the construction process.
20. All stormwater is to be contained on site. Details are to be provided with an application for a Building Permit and approved to the satisfaction of the Town of Claremont.
21. Prior to the issue of a Building Permit for the proposed development on Lot 509, Davies Road, the owner shall enter into a Deed with the Town of Claremont whereby the owner:
 - (a) Indemnifies the Town of Claremont and its officers, employees and contractors in respect of any potential damage that may occur within the land to any property or person relative to the performance of waste collection services for the occupants of the subject development.
 - (b) Agrees to take out and maintain a policy of public liability insurance to the satisfaction of the Town of Claremont in respect of all claims arising out any loss or damage occurring on the land in the course of the waste collection services by the Town of Claremont employees, officers or contractors.
 - (c) Agrees to provide internal storage for all waste on site and to maintain all common accessways on the land so as to permit the Town of Claremont employees, officers or contractors to gain access to the land for the purposes of collecting rubbish and carrying out waste management services on the land.

The agreement shall be prepared by Council's solicitors to the satisfaction of the Town of Claremont. The legal agreements is to be prepared at the applicant's cost and registered as an absolute caveat on the relevant Certificates of Title to the satisfaction of the Town of Claremont.

22. Prior to the occupation of any part of the proposed development the owner shall grant to the Town of Claremont an easement in gross for vehicular access purposes pursuant to Section 195 of the *Land Administration Act 1997* over the common accessways and waste storage areas forming part of the proposed development in accordance with the specifications and to the satisfaction of the Town of Claremont to ensure that Town of Claremont officers, employees and contractors may access the waste storage areas and common accessways for the purposes of collecting rubbish and carrying out waste management services on the land. The Easement shall be prepared by Council's solicitors and the owner shall be responsible to cover all associated costs.
23. Compliance with the Public Transport Authority requirements as follows:
- a) Given its vicinity to the station, Section 70A Notifications (on Titles) will be applicable to advise potential purchasers that the amenity of the site (apartments specifically) may be affected by rail noise and vibration,
 - b) The Developer will need to engage a suitably qualified consultant to undertake an Acoustic report for review by the PTA and
 - c) At least 2 months prior to construction, the developer or its contractor must submit an application to the PTA for approval to work in close proximity to the electrified rail. Safety measures will be required to be put in place to ensure rail operations (and third party work) is not compromised, and no workers are harmed (cranes used on site during construction could swing into the path of overhead electrical rail assets).
24. This approval is valid only if the development is commenced within 24 months of the date of approval.

Advice Notes:

- (i) This is not an approval to commence development. A Building Permit must be obtained from the local government's Building Services prior to the commencement of any building works.
- (ii) The applicant/owner is advised of the following health requirements from the Town's Health Services. For further information please contact the Town's Health Services on 9285 4300.
 - The development and use of the land is required to comply with the *Environmental (Noise) Regulations 1997*.
 - The applicant is required to remove any hazardous materials encountered during construction/demolition at their own expense and in accordance with the Code of Practice on Safe Removal of Asbestos (NOHSC: 2002 (1988) as stipulated by the *Occupational Health and Safety Regulations 1996*, and disposed of in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2004*.
 - All plant and machinery (such as air-conditioners and pool pumps) are to be suitably sound proofed to comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* and so as not to cause an adverse impact on the amenity of any adjoining residential properties.

- Under the *Environmental Protection (Noise) Regulations 1997* no work is to be permitted or suffered to be carried out:
 - a) Before 7.00am or after 6.00pm Monday to Saturday inclusive; or
 - b) On a Sunday or on a public holiday.
- (iii) If the applicant is aggrieved by this determination a right of review may exist under the *Planning and Development Act 2005*. An application for review must be lodged with the State Administrative Tribunal (www.sat.justice.wa.gov.au) within 28 days of the determination.

Summary

Based on the above, it is recommended that the above recommendation be supported by Council and the officer's report be forwarded to the JDAP.

Voting Requirements

Simple majority decision of Council required.

Moved Cr Mews, seconded Cr Browne

THAT Council:

1. **Support the officer recommendation to the Metropolitan West Joint Development Assessment Panel that Development Approval be granted for the proposed seven storey mixed use development containing 143 multiple dwellings, commercial/retail tenancies and all associated car parking at Lot 509 (13) Davies Road, Claremont, subject to the conditions and advice notes detailed in the Council report.**
2. **Authorise the Executive Manager Planning and Development to forward a report on the application to the Metropolitan West Joint Development Assessment Panel.**

**CARRIED(194/16)
(NO DISSENT)**

7 DECLARATION OF CLOSURE OF MEETING

There being no further business, the presiding member declared the meeting closed at 7.15PM.

Confirmed this day of 2016.

PRESIDING MEMBER