

Submission on City of Nedlands Local Planning Scheme No. 3

Development Requirements in R10 to R20 Residential Zones

Recommendation

That clause 26. Modification of the R-Codes, sub-clause (1) be changed to the following:

- (1) In relation to residential zoned land coded R10, R12.5, R15 and R20, clauses 5.1.2, 5.1.3, 5.1.4 and 5.3.3 of the R-Codes are modified by replacing deemed-to-comply requirements, where there is a conflict, with:

Minimum building setbacks (m)

- Primary Street
 - basement not permitted within front building setback area
 - ground floor 9.0
 - first floor and above 12.0
- Side
 - basement nil
 - ground floor 2.5 on one side and 1.5 on the other
 - first floor and above 1.5 per floor, minimum of 3.0
- Rear
 - basement not permitted within rear building setback areas
 - ground floor 6.0
 - first floor and above 12.0

Variations to minimum building setbacks

There is the presumption that specified setbacks apply to new builds on cleared sites without any reduction, averaging, intrusion (including balconies but excluding eaves) or other variation or boundary parapet walls, provided that:

- a) the building setback from a secondary street shall be in accordance with Table 1 of the R-Codes
- b) the minimum building setback may be increased where sloping land or floor height above natural ground level has an adverse impact on neighbour privacy;
- c) a single storey building comprising a garage or carport may be constructed with a minimum setback of 1.0m where access is from an adjoining laneway and another setback is increased in compensation;
- d) where a lot has a frontage of less than 20m, the minimum setback on both sides for the ground floor shall be 1.5m;
- e) where a lot has been subdivided into two or more lots, specified setbacks shall apply to the parent lot and there may be boundary parapet walls between all subdivided lots;

- f) where an existing dwelling contains fewer than two covered car spaces and they cannot be located elsewhere on site, an open carport for a maximum of two vehicles may be located in the front setback area with a minimum street setback of 1.5m and a minimum side setback of 1.0m;
- g) Council may vary any setback, arising from:
 - a. extensions to an existing building considered reasonable,
 - b. topography or existing trees,
 - c. an under-sized or irregular shaped lot, or
 - d. any other reason
- h) this policy does not apply to outbuildings as defined by the R-Codes;

Open space

Half of the open space specified in Table 1 of the R-Codes shall be provided and maintained as landscaping, where:

- a) landscaping is defined as in the R-Codes and includes lawns, plants, trees, rockeries, water features and swimming pools;
- b) footpaths and driveways in front building setback areas may be counted as landscaping, provided the amenity of the streetscape is maintained; and
- c) the portion of the lot between the street boundary and the setback line is to be designed and developed to the satisfaction of the Council as landscaping or natural planting.

Parking

The minimum number of covered on-site car parking spaces shall be as follows:

- a) in R10 coded areas – 3 for each single family dwelling, provided that one may be behind another
- b) in R12.5, R15 and R20 coded areas – 2 for each single family dwelling
- c) in R10 to R20 coded areas – 1 for each ancillary dwelling occupied by unrelated persons
– 1 for each aged persons' dwelling

Planning Justification

Background

The R-Codes specify building setbacks from boundaries, open space, landscaping and car parking requirements. Council has discretion to vary these requirements, in accordance with its planning scheme. Although the R-Codes offer general guidelines for variations, these are often inappropriate for Nedlands' large lots. TPS2 specifies and allows variation of front setbacks, assisted by a local planning policy and this is proposed to carry through in LPS3. Although

landscaping is required to be in keeping with the general character of the locality when considering all development applications, there are no specific landscaping requirements for R10 to R20 residential zones.

In the 1960s a mandatory state-wide requirement was introduced for every residential development to provide 50 percent of the lot area to be landscaped. While houses were relatively small, there was little difficulty in satisfying this requirement. However as houses grew in size over the years, landscaping was progressively reduced and ultimately replaced with an open space requirement, which can include car parking and paved areas, to the exclusion of any landscaping.

Recently the Council of the City of Nedlands has considered variations of the R-Codes, both formally through adoption of scheme amendments and informally through discretionary decisions, with and without supporting policies.

Current Situation

The City of Nedlands does not have a consistent and comprehensive approach when considering exemptions and exercising discretion to vary building setback requirements.

It does exercise control over landscaping of non-residential development and requires planting plans. However the R-Codes only require landscaping of higher density residential development and the City does not request landscaping for single houses.

In relation to relaxation of the front setback, the R-Codes allow intrusions and discretion to vary. A direct outcome is that the spatial character of streetscapes is being progressively eroded. This results from buildings, particularly porches, carports and garages, being permitted within the setback area. Porches may be double-storey and carports may have minimal setbacks as developers take advantage of loose specifications or gaps in policies.



Double-storey Porch

If an application for such development is refused, the decision can be reviewed by the State Administrative Tribunal. Unless the rationale for Council's refusal is fully documented in supporting policies, the review will favour the applicant. Over the years, the discretion to vary front setbacks has produced such poor results that the opportunity for relaxation of front setbacks in low density residential areas has been omitted from LPS3.



Garages in front setback area, Dalkeith Road



In relation to side and rear setbacks, these are specified in the R-Codes. The rear is set at 6m in R10 to R15 zones or, depending on the height and length of walls and the size of window openings, same as the side setback. Projections such as chimneys can be built in setback areas. Where there are no or only small openings, walls can be constructed on or close to boundaries. While this may not affect privacy, loss of light can be an issue.

The result can certainly be overbearing and contrary to neighbourhood amenity.

Loss of light resulting from reduced setbacks with minor openings, Browne Avenue



Overbearing walls with minor openings, rear of Gallop Road



Side and rear setbacks may be reduced by half the width of an adjoining right-of-way, to a maximum reduction of 2m. While this may be appropriate for small lots, it unnecessarily increases the building area on large lots. It could equally be argued that where a building adjoins a right-of-way, the setback should be increased, rather than decreased.

Nil side setback, corner Victoria Avenue and Tree Martin Lane

Applicants have the option of designing according to deemed to comply provisions or design principles. Where proposed buildings are in accord with deemed to comply requirements, there is no argument; approval is guaranteed. Where applicants request assessment according to

design principles, specified criteria have to be satisfied and assessment is subjective. The City's Administration advises whether the design principles are satisfied.



Rear setback reduced (LHS), via design principles, Walba Way

In low density areas zoned R10 to R20, most applicants opt for the design principles approach. It is common for applicants to request variation of side and/or rear setbacks, along with many other variations. Often the assessments are affected by nearby building precedents. Variations tend to be cumulative – the more there are in an area, the greater the number of requests. Council's decisions at meetings can be influenced by presentations from applicants and objectors. Council has generally supported setback variations where the lot is small or irregularly shaped or the development application is for extension of an existing building

In recent months there have been several applications to build side boundary walls in R10 zoned areas with new-build constructions. In similar circumstances, Council has not been consistent in its decision-making, resulting in uncertainty for applicants and extra costs if plans have to be redrawn.

In relation to landscaping, the City of Nedlands does not currently have any requirements for low-density detached housing. Previously, when a standard requirement applied of 50 percent of every residential lot having to be landscaped, this provided something of a brake on how much of each lot could be occupied by buildings.

Now there is an open space requirement, the definition of which has been manipulated to allow more of each lot to be covered by buildings. For example, setbacks can be reduced where adjoining a right-of-way (see above) and open-sided roofed *al fresco* areas are not counted as open space. It is now possible for lots to be completely covered by buildings and hard surfaces, without any landscaping at all.



Building to all minimum setbacks, requiring open space provision on roof



Hard surfaces cover whole lot, Brockman Avenue

Because of high car ownership and use in western suburbs and resulting car parking pressures, it is now common for front setback areas to be totally paved.



the
the

Paved front setback area, Thomas Street

The R-Codes allow the minimum number of on-site car spaces to be reduced where dwellings are within 800m of a train station on a high frequency rail route or 250m of a high frequency bus route. However more than two-thirds of households in the City now have more than two cars, increased street parking restrictions and the fact that most houses are designed to accommodate only two covered car spaces has led to paving of front setback areas so that more cars can be parked on-site. .

Even where front setbacks are landscaped, the current fashion of heavy concrete or brick planters adds to urban heat retention and inhibits tree growth. More could be done to encourage provision of trees and greenery, if only for amenity reasons.



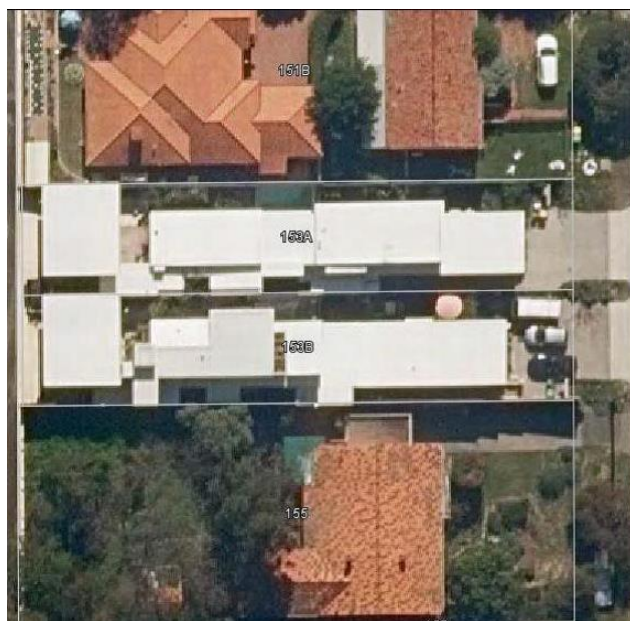
*Concrete planters,
Minora Road*

In all wards of the City of Nedlands trees and landscaping are disappearing for various reasons. Concerted efforts are required to protect what vegetation remains and to encourage new plantings.



Tree canopy 505m²
 Lot area 1,000m²

2008



Tree canopy 0m²
 Lot area 500m² x 2

2014

Mount Claremont



Tree canopy 155m²
 Lot area 837m²

2008



Tree canopy 5m²
 Lot area 837m²

2014

Dalkeith

With both building setbacks and landscaping, opportunity can be taken of LPS3 to overcome deficiencies of past and present development requirements

Objectives

First and foremost Council needs a comprehensive set of residential development requirements covering low density housing codes R10 to R20 suitable for the special circumstances of the upper income western suburbs. Properly chosen, it could accommodate individual lots of higher coding eg. 1000 m² lots that have been subdivided into two, without the need for Additional or Special Use zones. These would be a frame of reference to guide the exercise of discretion in both the R-Codes and the new LPS3. Building setbacks – front, side and rear, are just one part of a package of development provisions that decide the size and form of what is built on any site.

An important secondary objective is to use development controls to retain and protect local identity. Most of the City's mature trees on private property in residential areas occur within front and rear setback areas. Basements are not controlled by the R-Codes and do not usually occur with low density housing but are common in the western suburbs. Enforcing setback requirements for basements helps to retain trees and increased upper floor setbacks can constrain over-building that results in conflict of scale with neighbours. Large front and rear setbacks give increased distance between major rooms of buildings facing each other across streets or backyards. They allow extensive gardens, with space to accommodate large trees. Wide streets with generous front setbacks and mature trees best exemplify the character of the City of Nedlands.

To assist in the maintenance of natural light, ventilation and privacy and prevention of overlooking of back yards are the traditional reasons for building setbacks, now less relevant because they can be satisfied by use of technology or avoided by design. Traditionally houses have been sited close to streets, leaving backyards for more private activities. Unfortunately the privacy of backyards is threatened by the increased number of two-storey buildings. Upper floor setback requirements can assist here, with increased separation between neighbours. The retention of backyards trees also aids backyard privacy.

It is essential that any adopted setback controls allow designers freedom to move and guarantee the right to build accommodation in keeping with that of the locality. This does not mean large houses can be built on small lots. The size and scale of houses must relate to lot area. There could be special consideration of irregularly shaped or subdivided lots, for example to allow a duplex with a joint boundary wall, thereby alleviating the need in R10 coded areas to have spot or additional use rezonings to R20 density.

Bernard Salt quotes the average size of a newly constructed free standing Australian house, including garage, in 2016 was 192m² and in Perth just under 240m², after declining from 244m² in 2006. An examination of recent Dalkeith two-storey approvals, some with basements, showed a variation of between 470m² and 963m², with an average of 698m².

Setbacks in low density residential areas ultimately adopted have to allow for two-storey houses in excess of 700m² on R10 coded lots and half that on R20 coded lots. If the same setback requirements were to apply from R10 through to R20 coded lots, there would be no alteration in streetscape appearance with a change of density, which would allow more compatible integration when localities are in transition. When R10 coded lots transition to R20, it is desirable that the same building setbacks, landscaping and car parking provisions apply, offering the possibility of either side-by-side configuration or the house-behind-a-house option.

Proposals

In residential zones coded R10, R12.5 and R15, unless there are extenuating circumstances, it is proposed that the ground floor front setback for all buildings be 9.0m and the setback for higher floors be 12.0m. This is a common building form for many new houses today, where the upper floor has a greater front setback than the lower floor. Houses with double height front facades and porches could still be constructed but they would have to be located 12m from the street.



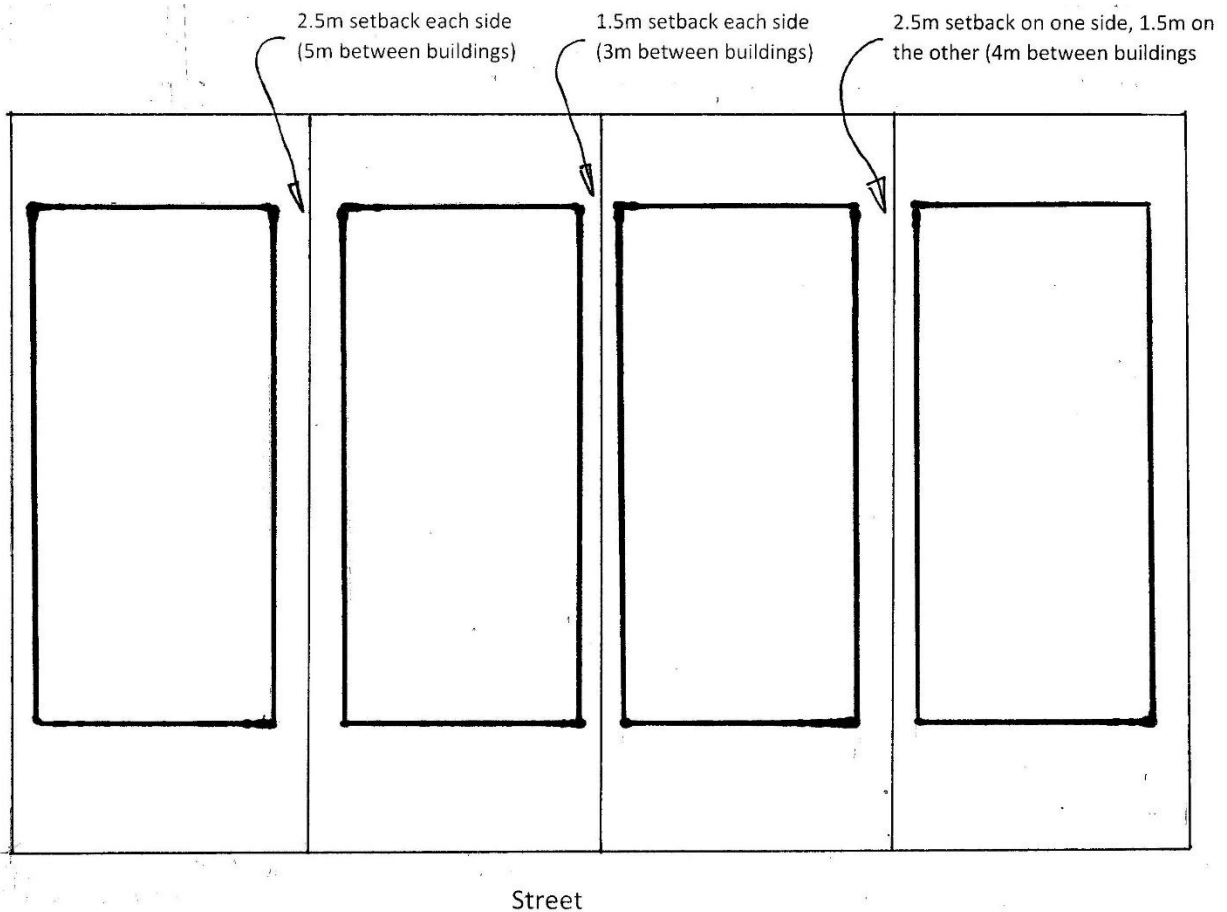
Typical modern house with upper storey front setback



Basement behind front setback line

So as not to disturb trees in the front setback area, either existing or future, basements should not be permitted forward of the street setback line. This is not an imposition as the requirement for a ramp down to basement level has to be located in the front setback area and basements rarely now extend forward of the front of the building.

Side setbacks are proposed as a minimum of 1.5m on one side and 2.5m on the other for the ground floor. A setback of 1.5m either side of a boundary fence is considered the lower limit to provide light and privacy, appropriate for large lots. The reason for different ground floor side setbacks on each side is to provide variety in the streetscape. Additionally, if there is an adjacent two-storey building or an existing tree close to the boundary, there could be the greater setback of 2.5m on that side, with the lesser setback of 1.5m on the other side.



Varied side setbacks R10 Lots 1000m² (20m frontage)

Recognising that a side setback of 2.5m could be an unreasonable requirement for lots with a frontage of less than 20m, in such cases the 1.5 ground floor setback would apply on both sides.



For upper floors, the side setback requirement is 1.5m per floor, with a minimum of 3.0m on both sides. Once again, this is often how new houses are currently built, with the upper story further from the boundary to provide more upper level separation and a better angle of light penetration for neighbours.

Typical upper storey side setbacks

Where a parent lot has been subdivided into two or more lots, specified setbacks apply to the parent lot and there may be boundary parapet walls between subdivided lots. This recognises the reduced building area of small lots and allows different building options of duplexes and other forms of grouped houses.

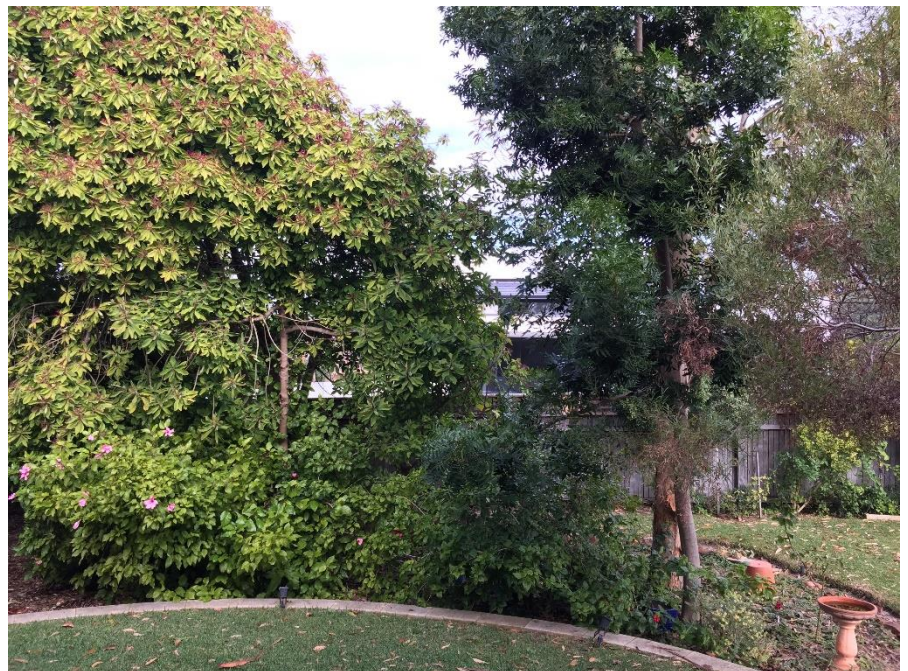


Three lots with parapet walls, Waratah Avenue

This concession would be beneficial where a standard lot with a 20m frontage has been split lengthwise. The two half lots could have an adjoining parapet wall, with the same side setbacks (2.5m and 1.5m) and building area as the parent lot. Alternatively, the two lots could be developed separately, with 1.5m setbacks on both sides, if desired.

On the assumption that there would be few trees close to side boundaries where the main footprint of the house is located, basements should be permitted without any setback from side boundaries.

The ground floor rear setback is proposed as 6.0m unless a garage or carport adjoins a right-of-way, when it can be reduced to 1.0m. In this case, the required landscaping is to be provided elsewhere on-site. The rear setback for the first and higher floors is proposed as 12.0m to reduce overlooking of backyards. The retention and provision of landscaping adjoining the rear boundary is encouraged, which aids backyard privacy.



Vegetation screening along back boundary, rear of Minora Road

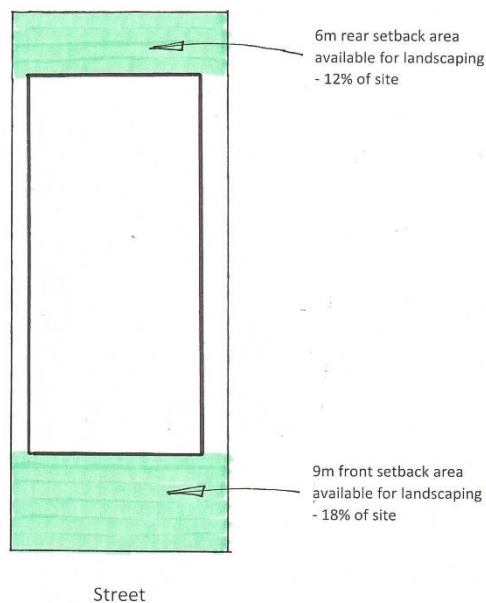
As is the case in the front setback area, basements should not be permitted within the rear setback area, where they could interfere with tree roots.

It is envisaged that there would be variations to the specified setbacks, particularly in the case of older houses. Where an existing dwelling contains fewer than two covered car spaces and

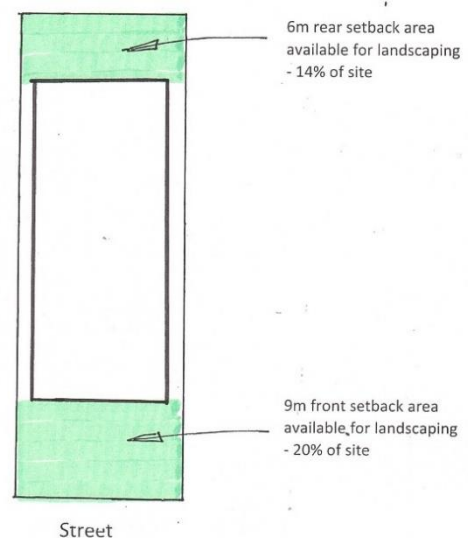
they cannot be located elsewhere on the site, an open carport for a maximum of two vehicles could be located in the front setback area. There could also be variations to setbacks arising from extensions to an existing building that does not satisfy setback requirements, topographical difficulties, the desire to retain existing trees, an under-sized or irregularly shaped lot or some other reason. In such cases there should be a report to Council for it to decide the matter.

An important part of the proposal relates to a landscaping component, which is not a new requirement but a qualification of the open space requirement. Landscaping is defined in the R-Codes to include lawns, plants, trees, rockeries, water features and swimming pools. The proposal requires landscaping for all new development in residential zones coded R10, R12.5, R15 and R20 at a rate equivalent to half the required minimum open space. Because the amount of landscaping is proportionate to the size of the lot, smaller lots coded R15 and R20 would provide less landscaping than larger lots coded R10. Building owners and designers would be free to decide where on the lot this landscaping is located. However it is anticipated that the bulk of the landscaping would be provided in front and rear setback areas. To facilitate this, footpaths and driveways in front building setback areas may be counted as landscaping, provided the amenity of the streetscape is maintained.

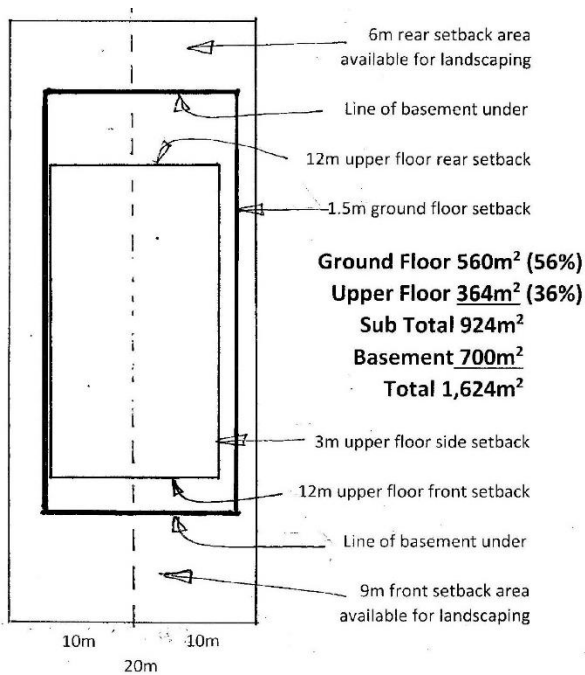
It is proposed that there is oversight of the extent of hard surfaces facing the street with a requirement that a portion of the lot between the street boundary and the setback line is to be designed and developed to the satisfaction of the Council as landscaping or natural planting. See the explanatory sketches below, where the front and rear setback areas of a standard R10 lot of 1,000m² comprise 300m² (30 percent) of the lot area. Front and rear setbacks of an R15 lot of 666m² is 225m² (34 percent) with a 15m frontage and 270m² (40 percent) with an 18m frontage but only 30 percent of the lot is required to be landscaped. Landscaping provision in R20 coded lots is half that of R10 coded lots.



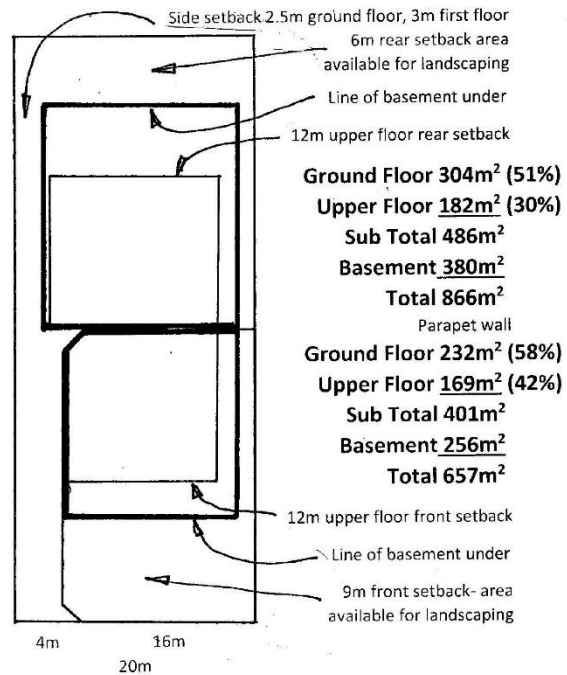
Landscaping of R10 Lot 300m² (30% of site)



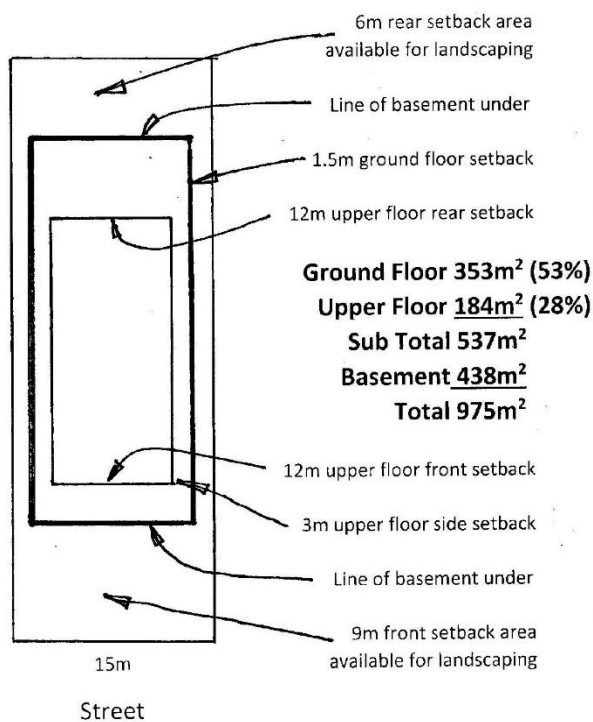
Landscaping of R15 Lot 666m² (34% of site)



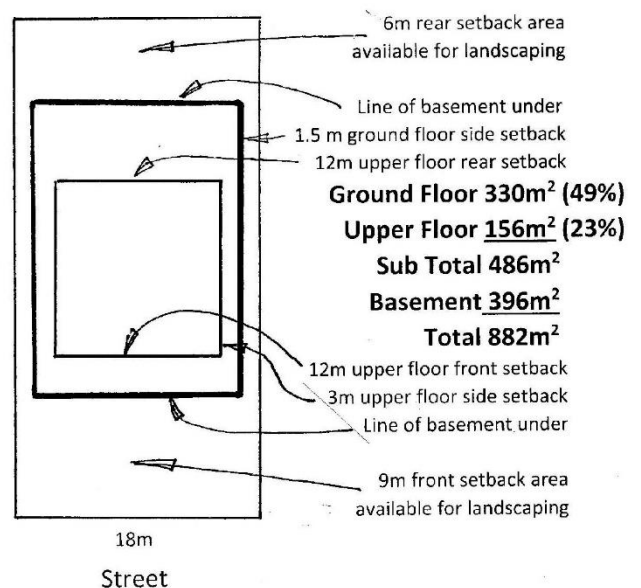
R10 Lot 1000m² (20m frontage)



R10 Lot Duplex (400m² and 500m²)



R15 Lot 666m² (15m frontage)



R15 Lot 666m² (18m frontage)

The above specifications for building setbacks and landscaping, as outlined, provide a comprehensive framework for providing certainty, considering exemptions and exercising discretion. They satisfy all the stated objectives, including easily allowing the average Dalkeith house of 698m², inclusive of a basement, on all R10, R12.5 and R15 regular shaped lots. An R10 lot of 1,000m² could accommodate a house more than twice average size. Depending on design, an average size Dalkeith house could be built on lots that have been subdivided into two, ie. R20, while still satisfying the requirement for half of the open space to be landscaped.

It is proposed that there is a minimum requirement of two covered car parking spaces for all single family dwellings in R12.5 to R20 coded areas, with one for aged person and ancillary dwellings, irrespective of proximity to public transport. There is a higher requirement in R10 coded areas – three covered spaces, to cater for the higher incidence on large lots of recreational vehicles and boats. Here, one space may be provided behind another.



Garages Used for Storage



Large lots have space for recreational vehicles

In residential areas it is proposed that non-residential uses are constructed according to residential development requirements, satisfying residential building setbacks, height limits, open space and landscaping provisions. It is only car parking where non-residential development necessitates a different specification, in lieu of number of spaces per dwelling unit.

It is proposed that in low density residential areas coded R10 to R20, the number of car spaces shall be one bay per 10m² of gross leasable area for all non-residential uses other than institutional activities such as schools and health facilities on large lots.

It is also proposed that consideration be given to other matters that affect the quality of residential areas, both low and higher density areas, such as changes of land form with cut and fill. There is a tendency with development on large lots to increase the height of buildings with fill, to make buildings more imposing and to excavate sloping ground to achieve more useable areas. Cut and fill on boundaries is a common cause of conflict between neighbours and can have severe implications for adjoining vegetation.



Tree roots lift fence after boundary excavation



Excessive tree lean results in removal

Finally it is proposed that the size, frequency and type of advertising signs be related to the nature of each residential area, with fewer, smaller and less obvious signs being permitted in low density family areas, as opposed to larger, brighter and more frequent advertising in mixed residential areas.

If LPS3 adopts a precinct format, which is recommended, the Policy Description and Development Requirements could be presented as in Attachment 1.

Attachment 1 – Proposed Low Density Precinct

Name

Policy Description:

Primarily a single family residential area, excluding short-stay accommodation but including grouped dwellings, with a spacious green character and may include other incidental uses provided they are not developed to such an intensity that they disturb the precinct. The needs of occupants with respect to education, health, recreational and cultural facilities are to be satisfied within reasonable proximity, via safe alternative transport routes. Buildings and activities should respect the land form and not impinge on neighbours or the public domain.

Development Controls:

R Code R10

Minimum building setbacks (m)

- Primary street*
 - basement not permitted within front building setback area
 - ground 9.0
 - first floor and above 12.0
- Side⁸
 - basement nil
 - ground 2.5 on one side and 1.5 on the other
 - first floor and above 1.5 per floor, minimum of 3.0
- Rear*
 - basement not permitted within rear building setback areas
 - ground 6.0; 1.0 where adjoining a laneway
 - first floor and above 12.0

* Council has discretion to vary where the lot is less than 30m deep

⁸ Provided that

- a) where a lot has a frontage of less than 20m, the minimum side setback for the ground floor is 1.5m
- b) where a lot has a frontage of less than 18m, side setbacks are to be as per the R Codes
- c) where a lot has a frontage of less than 12m, Council may allow a nil setback on one side

Minimum landscaping half of open space requirement specified in R-Codes

Maximum retaining wall height (m) 0.5m; not more than 0.25m within 1.0m of boundary of front and rear setback areas; excluding ramps to basements

Minimum car parking residential 3 covered bays for each dwelling, plus one for any ancillary, provided that one bay may be behind another

– non-residential 1 bay per 10m² gross leasable area

Advertising control Maximum size of sign 0.2m², no illuminated, animated, tower or roof signs