

Planning and Development Reports

Committee Consideration – 14 May 2013
Council Resolution – 28 May 2013

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PD16.13 Proposed Light Rail System for Perth - Metro Area Express (MAX)
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Committee	14 May 2013
Council	28 May 2013
Applicant	City of Nedlands
Owner	N/A
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	TPN/112
Previous Item	Nil.

Executive Summary

This report is presented for Council consideration so that Council can communicate its expectations in relation to the alignment of the proposed Metro Area Express (MAX).

Recommendation to Committee

Council

1. supports the proposed alignment of MAX along Hampden Road and Broadway;
2. requests that the Hampden Road and Broadway leg of the system be completed at the earliest possible date.

Strategic Plan

KFA: Transport

KFA: Governance and Civic Leadership

Background

The State Government's guiding document for public transport entitled "*Public Transport for Perth in 2031 – Mapping out the future for Perth's Public Transport Network*" provides for a proposed light rail intended to connect the QEII/UWA activity centre with the northern and eastern suburbs of Perth via Mirrabooka and Curtin University respectively.

The system is proposed to be completed in two stages. It is expected that the first stage will be operational by 2018 and will include access to QEII.

The second stage is proposed to be operational before 2031 and includes the link between QEII, most likely along Hampden Road and Broadway.

The State Government has commenced the planning phase of the project.

Key Relevant Previous Council Decisions

Nil

Legislation / Policy

N/A

Discussion

Due to its alignment the MAX system affects numerous local government areas.

Since the State Government's announcement there have been a number of information sessions and workshops that the City has been a part of, although the project is still in the very early stages of the planning phase. The purpose of these meetings has been to assist with the more detailed planning aspects of the proposed system such as its alignment, possible location of stations and design principles for the stations etc.

Although it is expected that the planning for the overall system will be completed prior to 2016, the Hampden Road/Broadway leg will only be implemented after stage 1. Accordingly this section is of lower priority in the program.

No details have yet been discussed regarding the stage 2 portion of the MAX system. It is therefore not clear what the system's alignment will be, where the stations will be located or where the system is expected to ultimately terminate.

Once a number of options and details are finalised, the MAX planning team intends to conduct information sessions with all affected councils.

Consultation

The MAX planning team have held a number of information sessions and workshops with affected local governments.

Conclusion

Although there is the intention to extend the light rail system into Broadway in stage 2, there is an element of risk that it may not happen.

Highlighting expectations helps to mitigate this risk and it is therefore recommended that Council advises the State Government of its preferences in relation to the MAX system.

Consultation Process

What consultation process was undertaken?

The project is not yet at the stage to undertake public consultation. When it reaches that stage the State Government and not the City will be driving the consultation process.

Budget / Financial Implications

There are no budget/financial implications for the City other than staff time.

Risk management

The risk of not advising the State Government of the City's wishes is minimal.

Attachments

Nil

PD17.13 No. 73 (Lot 41) Stirling Highway & 105 (Lot 42) Smyth Road, Nedlands – Proposed Child Day Care Centre and Two Storey Building

Committee	14 May 2013
Council	28 May 2013
Applicant	Buggles Childcare
Officer	Laura Sabitzer – Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	DA12/468 : ST6/73
Previous Item	Nil.

Executive Summary

This application is for a proposed Child Day Care Centre catering for up to 62 children in a proposed purpose built two storey building.

It has been referred to Council for determination, as officers have no delegation to determine an application once objections have been received.

The proposed Child Care Centre use in a Residential zoning can be approved if the application is considered appropriate by Council. The proposal's impact in terms of the built form, traffic and noise, as well of its affect on surrounding properties and the locality has been assessed. It is regarded that the proposal will not adversely affect the adjoining properties or the locality.

Recommendation to Committee

Council approves an application for a proposed Child Day Care Centre and two storey building at Nos. 73 (Lot 41) Stirling Highway & 105 (Lot 42) Smyth Road, Nedlands in accordance with the application received 27 November 2012 and plans received 5 April 2013 the following conditions:

1. The hours of operation shall be limited to 6.30am to 6.30pm Monday to Friday and 8.30am to 6.30pm Saturday.
2. The facility shall operate with a maximum of sixty-two (62) children and thirteen (13) staff at one time.
3. Lot 41 & Lot 42 shall be amalgamated into a single lot on one Certificate of Title prior to the issue of a Building Permit

4. **No part of the development is to be constructed within the proposed Metropolitan Region Scheme Primary Regional Road reservation, including the proposed truncation (refer to Advice Note 1).**
5. **The portion of Lot 41 identified as proposed Primary Regional Roads reservation in Metropolitan Region Scheme 1210/41 Rationalisation of Stirling Highway Reservation is to be ceded and vested in the Crown for the public purpose of regional road, such land is to be ceded free of cost and without any payment of compensation by the Crown (refer to Advice Note 1).**
6. **The landscaping shall be established prior to the occupation of the building and thereafter maintained to the satisfaction of the City throughout the life of the development.**
7. **The bicycle racks, shown on the site plan, shall be installed prior to the occupation of the building and remain in place permanently.**
8. **The car-parking bays shall be marked onsite as indicated on the approved site plan and such marking shall be subsequently maintained so that the delineation of bays remains clearly visible at all times (refer to Advice Note 4).**
9. **The parking area shall have an internal turn around bay that enables vehicles to turn around and exit the development in a forward direction (refer to Advice Note 4)**
10. **The car park is to be enclosed on the north and west boundary with either laminated glass or block glass to contain noise to the satisfaction of the City.**
11. **Where the development necessitates the removal or relocation of the City's infrastructure the developer shall bear the full cost of the City's Works**
12. **The Child Day Care Centre is to comply with the *Environmental Protection (Noise) Regulations 1997* (refer to Advice Note 5).**
13. **Boundary walls shall be finished to a quality finish and professional standard, to the satisfaction of the City.**
14. **All footings and structures to retaining walls, fences and boundary walls shall be constructed wholly inside the site boundaries of the Certificate of Title.**
15. **All vehicle access to the site shall be restricted to the proposed crossover on Smyth Road.**
16. **The crossover shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works (refer to Advice Note 4).**
17. **Concrete footpaths shall be retained across crossovers.**
18. **The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building / roof has or will have a significant detrimental effect upon**

the amenity of neighbouring properties, the Council may require the owner to treat the building / roof to reduce the reflectivity to a level acceptable to Council.

19. The storm water disposal system shall cater for a 20 year storm event with an overland path provided, or shall cater for a 100 year storm event.
20. Any additional development, which is not in accordance with the approved plans or above conditions, requires further approval by the City.

Advice Notes specific to this approval:

1. Main Roads advises that the existing 28m Primary Regional Road Reservation over Lot 41 is proposed to be significantly reduced to 2.7m (as measured from the Stirling Highway title boundary of Lot 41) plus truncation as part of Metropolitan Region Scheme Amendment 1210/41 Rationalisation of Stirling Highway Reservation.
2. Any proposed signage requires a separate planning application and sign licence application to be submitted and issued by the City.
3. The identified car bays shown on the site plan, are to be marked according to the following purposes:
 - a. bays 1, 3, 4, 5, 6, 7, 12 & 13 are to be designated for staff,
 - b. bays 6 & 7 on the site plan are for small cars only, and
 - c. bay 11 on the site plan is an accessible parking bay.
4. The crossover is to match the existing footpath levels and is to be constructed with a bund to prevent water entering the property from Smyth Road.
5. The City notes that the ND Engineering Noise Impact Assessment received 5 February 2013, provides the following recommendation in order to assist in achieving compliance with the *Environmental Protection (Noise) Regulations 1997*:
 - a. Staff are not to arrive on site prior to 0600 hours and must be off site by 1900 hours.
 - b. Children are not permitted outdoors (including play areas) prior to 0700 hours excluding the car park.
 - c. Parents are not to drop their children off prior to 0700 hours.
 - d. The north-west sand pit concentrated play area is not to have swings, slides or forts.
 - e. Fixed play equipment is to be non metallic and non fixed metal play equipment is to have filled hollow sections using expanding foam or sand.
 - f. Play equipment is not to be used on brick or paved areas.
 - g. External windows and doors are to be closed when playing music (consideration given to the use of evaporative air conditioners as these require external windows to remain open).

- h. **Music is not permitted outside.**
 - i. **Music is to be kept at 60 Db and is to be non impulsive with minimal bass.**
 - j. **Children are permitted to play outside for up to 2 hours per day typically in 30 minute sessions.**
 - k. **Play times are to be staggered between the age groups.**
 - l. **Air conditioner units shall be of the inverter type with quiet/night time mode that will be used at all times when operating.**
 - m. **Air conditioner units must not be located within 6m of a residential boundary. The maximum practical distance from residential premises is to be observed, as well as using the building as a shield where possible.**
 - n. **Air conditioning units are to have a maximum Sound Pressure Level of 61dB (A) at 1 metre when operating at rated conditions.**
 - o. **Exhausts fan units are to be contained in the ceiling space and then ducted to the outside. There are to be no exhaust units on the roof of the premise.**
 - p. **Should the kitchen require a commercial kitchen exhaust canopy (kitchen equipment with inputs greater than 8KW or 29MJH gas) this must be located more than 6m from residential boundary and discharge vertically. Maximum practical distance from residential premises is to be observed.**
 - q. **Commercial kitchen exhausts are to have a maximum speed of 960rpm. The Sound Pressure Level not exceeding 52Db(A) at 3.0 metres at the operating speed.**
6. **Prior to the commencement of a food business:**
- a. **The proprietor shall lodge with the City a *Food Business Registration / Notification Form*.**
 - b. **The proprietor shall lodge with the City an application for *Food Business Alteration/Fit Out* along with the associated documentation; including fit out plans to a scale of 1:50 for the kitchen, milk room/store and any other food handling areas within the premise.**
 - c. **Upon commencement of a Food Business, a Food Safety Program which meets the requirements of the *Australian New Zealand Food Standards Code Standard 3.2.1 Food Safety Programs* shall be implemented and maintained.**
 - d. **The premises shall receive an inspection from an Environmental Health Officer at the City which cites the Food Business may commence operation.**
 - e. **Adjacent to any food preparation area, there shall be a dedicated stand alone hand wash basin connected to a supply of warm running potable water, which can be operated other than by hand.**
7. **Food handling areas within the premise are to meet the requirements of the *Australian New Zealand Food Standards Code*.**

8. **Liquid waste which includes kitchen, scullery and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage shall be disposed of by discharging into the sewerage system in a manner approved by the Water Corporation.**
9. **The applicant is advised to consult the Water Corporation with respect to the disposal of industrial waste and the provision of a grease trap / grease arrestor where necessary.**
10. **Designated storage areas for cleaning chemicals and equipment and personal belongings shall be available and separate from any food preparation or food storage area.**
11. **An enclosure for the storage and cleaning of waste receptacles shall be provided on the premises, per the requirements as follows:**
 - a. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
 - b. **Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self closing gate;**
 - c. **Smooth and impervious floor not less than 75mm thick and evenly graded to a approved liquid refuse disposal system;**
 - d. **Easily accessible to allow for the removal of the receptacles;**
 - e. **Provided with a ramp into the enclosure having a gradient of no steeper than 1:8;**
 - f. **Provided with a tap connected to an adequate supply of water.**
12. **All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
13. **The landowner is advised to limit construction noise and hours as per the *Environmental Protection (Noise) Regulations 1997*.**
14. **Noise from service and/or delivery vehicles should be mitigated and such vehicles should not service the premises before 7.00 am or after 7.00 pm Monday to Saturday, or before 9.00 am or after 7.00 pm on Sundays and Public Holidays.**

Strategic Plan

KFA: Natural and Built Environment

Background

Property addresses	No. 73 (Lot 41) Stirling Hwy, Nedlands & No. 105 (Lot 42) Smyth Rd, Nedlands
Lot area	Lot 41 - 560 m ² Lot 42 - 236 m ² Total area = 796 m ²
Zoning:	
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Residential R35

A Child Day Care Centre within a purpose built two storey building is proposed at Nos. 73 Stirling Highway & 105 Smyth Road Nedlands. The centre will be licensed for up to 62 children and requires 13 staff to be on-site at one time. The proposed hours of operation are Monday to Friday from 6:30am to 6:30pm and Saturday from 8:30am to 6:30pm.

The development site has a frontage to Stirling Highway to the south and Smyth Road to the east (Figure 1). Vehicular access to the site is from Smyth Road. A total of 13 car bays are proposed on-site, including 1 accessible bay.

The subject sites are currently vacant. Additionally the adjoining lots to the north and west are also vacant. The lots surrounding the site are zoned Residential (with exception of the Council administration building which is zoned Residential with an Additional Use of Office). The *Draft Special Control Area Provisions – Stirling Highway Redevelopment* identifies the site and adjoining lots as having a future land use of Commercial / Mixed Use.



Figure 1: Location Plan

Under the City of Nedlands Town Planning Scheme No.2, a Child Day Care Centre use in a Residential zone is an 'AA' use. This is a discretionary use and is not permitted unless approved by Council.

Legislation / Policy

- City of Nedlands Town Planning Scheme No.2 (**Scheme**)
- *Environmental Protection (Noise) Regulations 1997* (**Noise regulations**)
- Western Australian Planning Commission - Planning Bulletin 72/2009 Child Care Centres (**CCC bulletin** – refer to **Attachment 5**)
- Draft Special Control Area Provisions – Stirling Highway Redevelopment (**Draft SCA**)*
** these draft provisions were endorsed by Council in 2009 and are proposed for inclusion in Town Planning Scheme No.3.*
- Council Policy – Neighbour Consultation (**Neighbour Consultation policy**)

Discussion

A Child Day Care Centre is listed as an 'AA' use in a Residential zone under the Scheme. Council may approve the use if it is considered appropriate, following the application being advertised for 21 days to surrounding landowners.

The Scheme and Council's Policies do not contain specific provisions for a Child Day Care Centre. However, the CCC bulletin (written by the Western Australian Planning Commission) provides guidance on specific planning considerations and assessment of Child Care Centres in Western Australia, and is applicable to this assessment.

Additionally the Scheme provisions of preservation of amenity, consideration of applications and orderly & proper planning; are considered to determine if the use is suitable for the zoning and whether the proposal will adversely impact the locality.

1. Location of child care centre

The CCC bulletin outlines aspects of an appropriate location for a Child Care Centre. According to the CCC bulletin, a Child Care site should be:

- *Distributed strategically to provide the maximum benefit to the community it serves.*
- *Within easy walking distance or part of appropriate commercial, recreational or community nodes and educational facilities.*
- *Located in areas where adjoining uses are compatible with child care.*
- *Serviced by public transport (where available).*
- *Considered suitable from a traffic engineering / safety point of view.*
- *Of sufficient size & dimension to accommodate development and not affect amenity of area.*

In response, the site is serviced by high frequency bus services on Stirling Highway and is within walking distance of a commercial node (Captain Stirling

Shopping Centre) and community node (the City's Administration Building and Nedlands Library).

The adjoining sites are currently vacant and are zoned Residential. However, the draft SCA provisions identifies that the future land uses of the adjoining sites as commercial / mixed use. The affect on the adjoining sites needs to be considered in terms of both the existing and potential future uses of the site.

With regard to traffic engineering and safety the site can be accessed safely and traffic generated will be of an acceptable level. The site is considered to be of a sufficient size and dimension to accommodate the development. Both these issues are discussed in greater detail below.

The CCC bulletin also lists locations where a Child Care Centre would not be suitable (i.e. in heavy industry area, sites with contaminated soils). The proposed location does not fall into a category where the site for the Child Care Centre would be unsuitable. Therefore, assessment under section 3.3 (Location of Child Care Centres) of the CCC bulletin has concluded that the proposed Child Day Care Centre location is appropriate.

2. Site characteristics & design of centre

The CCC bulletin notes that sites should be of a sufficient size and suitable shape to accommodate the building and structures, parking for staff and parents, outdoor play areas and landscaping. It states, "*as a general rule sites in a residential area should be of regular shape and greater than 1000 sq m*".

If the application is to be approved, it is recommended that Lot 41 & Lot 42 are to be amalgamated (refer to Condition 3). The amalgamated lot would be regular in shape however the site area would be 796 sq m in lieu of the suggested minimum 1000 sq m. Although, the site area is less than the recommended site area, the proposed design of this building does differ from the standard built form of a child care centre, with the building being two storeys rather than single storey. Furthermore, the child care building, car park, outdoor play areas and landscaping are of sufficient size and are suitably located within the site area. It is noted that the *Child Care Services Act 2007* addresses matters such as minimum indoor and outdoor space requirements, shade, fencing and play equipment; which the applicant is required to adhere to.

In terms of the design of the centre, the CCC bulletin suggests that the visual appearance of the development should reflect the character of the area, enhance its amenity and be considered appropriate for regular use by children. The building will be purpose built for the Child Care Centre meaning that due regard has been given in creating a built environment appropriate for children and for the requirements of the organisation. The external appearance of the proposed building is of contemporary style and uses a variety of materials and proportions. The proposed building aesthetic will enhance the amenity of the development and the streetscape. The building design is in keeping with the style of recent commercial developments along Stirling Highway.

3. Parking

The Scheme has no prescribed car parking requirement for a Child Day Care Centre use. Therefore the number of car bays to be provided is at the discretion of Council. The CCC bulletin recommends that parking should be provided at a rate of 1 bay per 5 children. The centre will be licensed for a maximum of 62 children, therefore according to the bulletin a minimum of 13 bays would be required. The application meets this requirement by proposing a total of 13 car bays including 1 tandem bay and 1 accessible bay. Refer to Attachment 2 for the car parking configuration.

Although the number of car bays provided on-site complies with the CCC bulletin parking standard, it is noted that from a practical sense there will be 13 bays on-site (one of which is a accessible bay) and 13 staff, where it is assumed the majority of staff would want to drive to work. Additionally, car parking would be needed for parents to drop off and collect their children from the centre. During peak drop off and pick up times it is envisaged that the on-street car bays in Smyth Road (which will be reduced from 8 to 6 bays due to the crossover location) and parking at the Council's Administration building would be utilised. The on-street bays with the Stirling Highway Parking Trial currently have a three hour time restriction meaning that there will be high turnover of bays, which would be ideal for use as drop off and pick up bays. The traffic impact assessment identifies that the drop off and pick up times are typically between 7am – 10am and 3pm -6pm.

The applicant recognises that staff parking on-site will be limited. Referring to Attachment 2, 7 on-site bays will be marked for staff use, with the remaining bays for drop off/pick up and 1 disabled bay. The other staff will be encouraged to use alternative transport modes with the applicant confirming that they will provide staff subsidies to cover public transport costs and will provide an area for bicycle parking.

Whilst it is acknowledged that parking for staff and visitors to the Child Day Care Centre will be minimal, the application does meet the recommended car parking standard of the CCC bulletin with 13 bays provided on-site. Coupled with access to on-street car bays, the site being in proximity to high frequency bus services and the applicant encouraging staff to use alternate modes of transport to vehicles; on balance Administration is of the opinion that the parking provision is adequate. This view is affirmed by the traffic impact assessment on the proposal and the City's Technical Services section.

4. Traffic

In relation to traffic, the Scheme at cl. 6.4.2 requires that, "*the vehicular flow to and from the subject land will not be disruptive to existing traffic*" and "*that any traffic generated must be capable of being accommodated within existing streets*".

Additionally, the CCC bulletin notes that a child care centre should be approved only if it can be demonstrated that it will have a minimal impact on the functionality and amenity of the area and will not create or exacerbate any

unsafe conditions for children and families using the centre, or for pedestrians or road users.

A traffic impact assessment of the proposal has concluded that the traffic generated by the development can be accommodated with the existing road network and that there will be minimal impact to the existing traffic in the local road network. Examination of the Stirling Hwy and Smyth Road intersection determined that with the proposal the intersection would operate at an acceptable level. It was determined that no changes to the local road network would be required as a result from the proposed traffic generation of the proposal.

The application was referred to Main Roads who deemed that the proposal is acceptable subject to conditions and advice notes (refer to Attachment 4). Relating to traffic, it is conditioned that all vehicle access to the site shall be restricted to the proposed crossover on Smyth Road.

For these reasons, the traffic which is generated from the site is considered to be of an acceptable level, which will not impact the functionality of roads in the area.

5. Noise

The CCC bulletin provides the following guidance in relation to limiting the noise impact of child care centres on adjacent properties and also to limit any noise impact from external sources on the child care centre:

- *Suitable hours of operation of child care centre 7:00am – 7:00pm Monday – Saturday;*
- *Noise-generating activities of the child care centre, such as outdoor play areas, parking areas and plant and equipment be located away from noise-sensitive areas (i.e. houses).*
- *Where noise-generating activities are located close to noise-sensitive areas, appropriate noise mitigation is to be undertaken.*
- *Design and construction of buildings may include noise-mitigation measures to reduce impact on external sources and to achieve acceptable indoor noise limits.*

The proposed hours of operation are Monday to Friday from 6:30am to 6:30pm and Saturday from 8:30am to 6:30pm. With exception of the 6:30am start on weekdays, the proposed operating hours are in accordance with the CCC bulletin. To alleviate the impact of the early start on the adjoining properties it is recommended parents do not drop off their children prior to 7:00am.

The applicant has submitted a noise impact assessment on the proposal, which was reviewed by the City's Environmental Health section. The assessment identified that nearest noise sensitive areas was No. 75 (Lot 260) Stirling Hwy and No. 103 (Lot 3) Smyth Rd. Noise mitigation is recommended to minimise the noise emissions from noise generating activities (such as the use of the car parking area and the outdoor play area) to the adjoining lots.

The development is required to comply with the Noise regulations. The noise impact assessment concluded that with the implementation of recommendations, the Child Day Care Centre would comply with the Noise regulations during the proposed operating hours. The recommendations relate to operational & mechanical noise in addition to noise generated from the outdoor play area and car park. Refer to recommended conditions 12 & 13 and advice note 4 which relate to noise mitigation.

6. Building setbacks and height

Under the current statutory framework there are no specific setback, plot ratio or site coverage controls for the proposed building. The setback and open space provisions of the Residential Design Codes of WA (RCodes) are not applicable because the building proposed is not residential development. Additionally, as the lot is zoned Residential, the setback and plot ratio controls outlined in Table II of the Scheme do not apply. As a result, these items are determined at the discretion of Council.

The proposed setbacks of the development are as follows (refer to Attachment 2):

Elevation	Proposed setback
Front (south)	3m from proposed road widening reservation
Rear (north)	1m
Side (west)	nil
Side (east)	nil

Council when considering the building setbacks proposed is to have regard to the Scheme at cl. 6.4.2 (b) which states,

*“the plot ratio, site coverage, **setbacks**, height, landscaping and parking provisions are in keeping with the general character of the locality [emphasis added]”.*

Whilst the Draft SCA provisions which are not in effect but can be used as guidance notes the following minimum setback requirements; front 3m, rear 1m, side - adjoining another lot nil and side - secondary street nil.

As discussed previously, the site is currently zoned Residential but the site has been earmarked for a future Commercial / Mixed use zoning. The proposed building is in accordance with the minimum setbacks identified in the Draft SCA provisions. The proposed setbacks are in keeping with recent commercial developments along Stirling Highway.

The adjoining site to the west (side) and north (rear) are currently zoned Residential (proposed Commercial / Mixed Use zoning) with a two storey nil setback wall proposed on the western boundary and a 1m setback to the northern boundary. It is noted that it is generally not appropriate to have a two storey building setback nil to 1m from a boundary which abuts residential property. However, in this instance it is foreseeable that the adjoining lots will

contain commercial/mixed use development in the future. The adjoining lots are currently vacant, however it is envisaged that future development would propose nil to 1m boundary setbacks.

i. Adjoining property (west) - 75 Stirling Highway

The Child Day Care Centre building proposes a nil setback from the boundary of No. 75 Stirling Highway. The Draft SCA provisions identify this lot for future commercial/mixed use and would allow development with nil side setbacks. As this adjoining lot is currently vacant it is foreseeable that future development of this site, whether residential or commercial, would seek a nil to 1m side setback. A parapet wall would be advantageous as it allows for the effective use of space and privacy between the properties.

ii. Adjoining property (north) – 103 Smyth Road

The proposal seeks a 1m setback (excluding stairwell) from the boundary of No. 103 Smyth Road. This lot is currently vacant and is zoned Residential under the Scheme. However it is predicted that development of this site would occur over the southern portion of the lot. This is because the lot is subject to sewerage easements which apply to the northern and eastern areas of the site. Whilst the Draft SCA provisions propose a 7m wide laneway through the northern portion of this lot and earmarks the sites for commercial/mixed use purposes.

The Child Day Care development will not adversely affect the adjoining lots in terms of overshadowing, privacy, access to direct sunlight and ventilation. As the adjoining lots are to the north and west of the subject lot, they are not subject to direct overshadowing from the development. Direct sunlight and ventilation would be available to future buildings on the adjoining lots as access to northern light and prevailing winds from the west will be retained. The proposed walls are blank, with exception of openings to the ground floor car parking area, which allows for privacy. The development has 1.8m screen walls on the ground and upper levels, which prevents overlooking to the adjoining properties. In this case, the proposed setbacks are deemed to not adversely affect adjoining properties.

The proposed building height is in accordance with the Scheme's requirements. The proposed building is two storeys and up to 8.43m high. The Scheme allows for a building up to three storeys with the wall height up to 8.5m and overall height up to 10m.

Whilst in this instance the proposed building is not subject to specific setback, plot ratio or site coverage controls, it is considered to be in keeping with the character of the locality and is consistent with the built form of other developments along Stirling Highway.

7. Preservation of amenity

Scheme clause 5.5.1 (Preservation of amenity) states:

'Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the

amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.'

The external appearance of the building is contemporary in nature, featuring a variety of materials and colours. The proposed building is in keeping with other developments along Stirling Highway and is deemed to not adversely affect the general locality. The predicted levels of traffic and noise generated from the proposal have been discussed above, and are considered to be of an acceptable level. It has been concluded that traffic generated from the proposal will have minimal impact to the existing traffic situation in the area. Noise can be mitigated to an acceptable level and meets the Noise regulations if the recommended conditions and advice notes relating to noise mitigation are implemented.

Overall, it is considered that the proposal will not adversely affect the amenity of the surrounding area or the locality.

8. Consideration of applications

Scheme clause 6.4.1 (Consideration of applications) states:

'In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.'

In a Residential zone, a Child Day Care Centre use is listed in the Scheme as an 'AA' discretionary use. Council may approve the use if it is considered appropriate. The Council is exercising its discretion is to have due regard to the provisions listed at cl. 6.4.2 of the Scheme. This clause provides condition and standards that 'AA' uses are to meet.

The City's has assessed the proposal against the provisions which are applicable to this application, which can be viewed at the table below. Overall, it is considered that the proposal does satisfy the provisions of the Scheme at cl. 6.4.2. It is noted that the majority of the provisions listed are considered at the extent of the locality.

Clause	Requirement	Assessment
6.4.2 (a)	<i>The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, illumination, emission of any kind and the effect of any use or development within the locality.</i>	The proposed use and development is considered to not detrimentally affect the locality. Noise from the building can be mitigated to an acceptable level to be in accordance with the Noise regulations. It is recommended that Council imposes the suggested conditions and advice notes in

		<p>regard to noise if the application is approved.</p> <p>Additionally, the Child Day Care Centre proposes to operate weekdays 06:30 – 18:30 and Saturdays 08:30 – 18:30. The proposed operating hours are generally in keeping with the CCC bulleting which notes that Child Care Centres can operate between 07:00 – 19:00, Monday to Saturday.</p> <p>Whilst the Child Day Care Centre proposes operation from 06:30, it is recommended that children are not dropped off to the centre prior to 07:00.</p> <p>The centre operating on Saturday is considered to be in keeping with many other uses along Stirling Highway which operate on Saturdays too.</p>
<p>6.4.2 (b)</p>	<p><i>The plot ratio, site coverage, setbacks, height, landscaping and parking provisions are in keeping with the general character of the locality.</i></p>	<p>The plot ratio, site coverage, setbacks & height of the proposed building are deemed to be in keeping with the general character of the locality and/or Scheme requirements. Refer to Building Setbacks and Heights section for discussion.</p> <p>In relation to landscaping, the ground floor and first floor plans propose landscaping (refer to Attachment 2). This landscaping will allow for an attractive streetscape and environment around the building. A condition is recommended that requires the landscaping to be established prior to the occupation of the building and to ensure that it is maintained.</p> <p>There is provision for 13 car bays on-site, with supplementary parking on Smyth Road. The number of bays and parking</p>

		configuration is considered to be in keeping with other businesses in the locality. Refer to Parking section for further discussion.
6.4.2 (c)	<i>The form, layout, appearance and materials of any building is in keeping with the existing character of the locality.</i>	The proposed building is contemporary in design and uses a variety of materials and colours (refer to Attachment 2). The bulk, scale and external appearance of the building is in keeping with other recent developments along Stirling Highway. Additionally, the building also meets the intended built form requirements of the Draft SCA provisions.
6.4.2 (d)	<i>The vehicle and pedestrian access, including on-site circulation and provision for deliveries will not create any danger.</i>	<p>The vehicle access is via Smyth Road, which is in line with Main Roads and the City's requirements.</p> <p>The City's Engineering section has reviewed the plans and has advised that the parking is in line with the relevant Australian Standards and that adequate sightlines exist at the parking egress and on the corner of the lot. The footpath on Stirling Highway and Smyth Road is to be retained which will guide pedestrian movement and access into and around the site.</p> <p>It is therefore considered the proposal will not produce any danger to vehicle or pedestrian access.</p>
6.4.2 (e)	<i>The vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns</i>	The Traffic Impact Assessment deemed that the proposal will result in minimal impact to the existing traffic situation. Refer to Traffic section for further information.
6.4.2 (f)	<i>That any traffic generated must be capable of being accommodated within the existing streets</i>	The traffic generated can be accommodated within the existing road network. Refer to Traffic section for further information.
6.4.2 (h)	<i>The proposed development or use is necessary to service the needs of the district's</i>	There are a limited number of child care centres within the locality. It is considered that there

	<i>residential population...</i>	is demand for child care centres in the local area from the City's residents.
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9. Orderly & Proper Planning

Scheme clause 6.5.1 under section 6.5 (Determination by Council) states:

'The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area'.

In response, the proposal is considered to satisfy the relevant Scheme provisions and is generally consistent with the CCC bulletin. It is deemed that the proposed development and use represents orderly and proper planning, subject to the recommended conditions.

Consultation

There were four (4) submissions received during the community consultation period; one (1) in support of the proposal and three (3) objections. A summary of the objections received and the City's response can be viewed at Attachment 3. Refer to the Consultation Process section for details as to how consultation was conducted.

As a portion of the Lot 41 falls within the 'Primary Regional Road' reserve, the application was referred to Main Roads for comment. The application is acceptable to Main Roads subject to stated conditions and advice notes, which can be found at Attachment 4.

Conclusion

The proposed Child Day Care Centre in a Residential zoning is listed as an 'AA' discretionary use in the Scheme. This means that Council can contemplate and approve the Child Day Centre use in the current zoning if it is considered appropriate.

Overall the Scheme requires the proposed development and use to be assessed in terms its affect on the locality and whether it is in keeping with the general character of the locality. As discussed above, the application is considered to be acceptable in terms of traffic, parking, noise, built form and operating hours.

Whilst the development site is zoned Residential, the location of the proposal is along Stirling Highway which is an area of transition with the Draft SCA provisions proposing a Commercial / Mixed use zoning for site and the adjoining lots.

The proposal is considered to meet the objectives of the CCC bulletin, with the location deemed appropriate and it is deemed that the proposed will not adversely impact its surrounds.

For the reasons outlined above, the proposed Child Day Care Centre and two storey building is recommended for approval subject to recommended conditions and advice notes.

Consultation Process

What consultation process was undertaken?

Required by legislation: Yes No
(Scheme)

Required by City of Nedlands policy: Yes No
(Neighbour Consultation policy)

As a portion of the site is within the 'Primary Regional Road' reserve, the application was also referred to Main Roads for comment.

How and when was the community consulted?

The application was advertised to the public from 20 February 2013 – 13 March 2013. Public consultation included the following:

- Letters sent to land owners surrounding the development site;
- Development notification signs on-site
- Plans and supporting information made available at the City's Administration Centre.

In total four (4) submissions were received; one (1) in support of the proposal and three (3) objections. A summary of the objections received and the City's response can be viewed at Attachment 3.

Budget / Financial Implications

The application is for works to be constructed on a private lot, and therefore has no budget / financial implications for the City.

Risk management

Not Applicable

Attachments

1. Locality plan
2. Development plan
3. Summary of submissions received
4. Main Roads comment
5. Planning Bulletin 72/2009 Child Care Centres (CCC bulletin)

PD18.13 2012/13.10 Natural Area Maintenance Services

Committee	14 May 2013
Council	28 May 2013
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Vicki Shannon
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	TEN/344
Previous Item	D102.09 Bushland Maintenance Services TEN/2009/10.05 - 26 November 2009

Executive Summary

This report seeks Council approval to award a tender to Green Skills Inc for natural area maintenance services within the City.

Recommendation to Committee

Council:

1. **agrees to award tender number 2012/13.10 to Green Skills Inc for the provision of natural area maintenance services in accordance with their submitted price schedule; and**
2. **authorises the Chief Executive Officer to sign an acceptance of offer for this tender.**

Strategic Plan

KFA: Natural and Built Environment

Background

Tenders for natural area maintenance services were advertised on 16 March 2013. Three tenders were received and evaluated according to the City of Nedlands evaluation guide for tender documents. Tenders were received from the following companies:

1. Green Skills Inc;
2. Natural Area Maintenance Services; and
3. Ghems Revegetation Environmental.

The City of Nedlands has six natural areas and several small greenways covering an area of approximately 58Ha. This tender requested quotations for the provision of natural area maintenance services on an “as required” basis for a period of one year with the option to extend the contract for a second or third year.

The services required include activities such as environmental weed control, fire management, revegetation programs, erosion control and other general activities necessary to maintain or improve natural areas and greenways within the City.

Legislation / Policy

Local Government Act (1995) and the Local Government (Functions and General) Regulations 1996 as well as City of Nedlands Purchasing Policy.

Discussion

The City of Nedlands administration carried out a review of all tenders received for natural area maintenance services (2012/13.10). All companies were evaluated with the criteria documented in the invitation to tender which included:

- | | | |
|---------------------------------------|-----------|-----|
| • Relevant Experience | Weighting | 30% |
| • Key Personnel skills and experience | Weighting | 5% |
| • Tenderer’s Resources | Weighting | 10% |
| • Demonstrated Understanding | Weighting | 10% |
| • Risk Assessment | Weighting | 5% |
| • Tendered price | Weighting | 40% |

The evaluation was conducted separately by three officers for the qualitative criteria. The qualitative criteria was assessed according to the ability of each company to address the criteria. All companies were scored according to their ability to meet the City’s requirement to carry out natural area maintenance services in the City’s natural areas and greenways.

The price schedule was scored with the lowest price offered allocated the full weighting of 40%. The price rating for item 2 in the price schedule (hourly rate for the supply of general staff) was used to calculate the price weighting as this item will be the most used under the contract. Prices used were all based on the supply of one person per hour. The lowest price submitted was by Green Skills Inc for \$35.75, they scored the full weighting of 40%. The highest price submitted received a 20% weighting which resulted in a differential of 20% between the highest and lowest prices.

The results of the three officers were averaged to obtain a single score of which was then given a percentage based on the weighting that was stated in the

tender. The resulting scores of the three tenders ranged from a lowest score of 64% and a highest score of 89%. The scores are listed as follows:

<u>Tenderer</u>	<u>Total Score</u>
Green Skills Inc	89%
Natural Area Management Services	67%
Ghems Revegetation Environmental	64%

Consultation

Required by legislation: Yes No
 Required by City of Nedlands policy: Yes No

The services provided through this tender will undertake natural area maintenance services to implement natural area management plans and the City's Greenways Corridors Policy. The management plans and Greenway Corridors policy were endorsed by Council and developed through consultation with natural area friends groups, relevant government departments and the wider community.

Budget / Financial Implications

Within current approved budget: Yes No
 Requires further budget consideration: Yes No

The cost of this tender is included in the 2013/2014 natural areas operational budget. This will allow the City to implement natural area management plans and conserve and restore its natural areas with best practise and value for the City's expenditure.

Risk management

Tenderers were requested to confirm their risk profile through submission of a risk assessment which was evaluated as part of their tender submission. Information requested in the risk assessment included the provision of details such as tenderers profile, contact details, corporation information, subcontractors, financial position, conflicts of interest and insurance details.

Conclusion

Green Skills Inc have provided natural area maintenance services to the City of Nedlands for the past eight (8) years. During this time they have provided an excellent service in supplying natural area maintenance staff on an "as required" basis.

Natural area management is seasonal with the majority of work being undertaken from June to December. Work teams are often required at short notice; during these times Green Skills Inc have provided environmentally minded casual staff to undertake natural area maintenance within the City under supervision from City staff.

After evaluation of their tender submission it is recommended that Green Skills Inc be awarded the tender for natural area maintenance services (2012/13.10). The commencement of this tender is the 1 June 2013, with the option to extend the contract for a further two (2) years at the discretion of the City.

Attachments

Nil

PD19.13 Review of Western Central Local Emergency Management Arrangements

Committee	14 May 2013
Council	28 May 2013
Applicant	City of Nedlands
Officer	Andrew Melville
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	EMM/004-08-8
Previous Item	CP32.09

Executive Summary

A Local Government is required to ensure the development of local emergency arrangements however the responsibility is discharged through the Western Central Local Emergency Management Committee (LEMC).

The Council does not therefore have a direct role in the development of the local emergency arrangements, albeit the Act and associated policies require their approval by Council. In practice the Act's requirements are achieved through City representation on the LEMC.

The Western Central Emergency Management Arrangements have been reviewed by the LEMC and are now presented to the Council for adoption in accordance with the *Emergency Management Act 2005*.

The purpose of these emergency management arrangements is to document the management of identified risks and provides specific detail on:

- The Prevention of
- Preparation for
- Response to; and
- Recovery from any emergency affecting the Western Central Community.

Recommendation to Committee

Council

1. **adopts the Western Central Local Emergency Management Arrangements dated March 2013; and**
2. **acknowledges that, in the event of an emergency situation, the City of Nedlands may incur essential costs for which no budget item has been identified.**

Strategic Plan

KFA: Governance and Civic Leadership

Background

The *Emergency Management Act 2005* (the Act) establishes the roles and responsibilities of local government in relation to emergency management. The three main responsibilities under the Act are:

- To establish and support a local emergency management committee;
- To ensure that local emergency management arrangements are prepared, reviewed and maintained for its district; and
- To manage recovery following an emergency affecting the community in its district.

Eight local governments from the Central Metropolitan Police District have combined to form the Western Central Local Emergency Management Committee (WCLEMC), completing the requirement of local government to establish a local emergency management committee. The WCLEMC includes representatives from the Towns of Cambridge, Claremont, Cottesloe and Mosman Park, the Cities of Vincent, Nedlands and Subiaco and the Shire of Peppermint Grove. In addition to local government, the WCLEMC is comprised by representation from Police, Department of Fire and Emergency Services, Department for Child Protection, State Emergency Service, State Emergency Management Secretariat, Red Cross and Department of Health. This regional structure has been approved by the State Emergency Management Committee (SEMC).

The WCLEMC (on behalf of the eight local governments, within the framework and guidelines set out in the Act and *State Emergency Management* policies and plans) initially created a consolidated set of Local Emergency Management Arrangements that were approved by the City of Nedlands on 21 July 2009. The 2009 Arrangements have been reviewed as a statutory requirement by the WCLEMC and are presented to the Council for adoption in accordance with Part 2 Division 3 of the *Emergency Management Act 2005*.

Key Relevant Previous Council Decisions:

At its meeting held on 21 July 2009 Council resolved the following in relation to the 2009 WCLEMC Arrangements:

COUNCIL RESOLUTION / COMMITTEE RECOMMENDATION / RECOMMENDATION TO COMMITTEE
(a) Council adopts the Western Central Local Emergency Management Arrangements 2009; and
(b) acknowledges that, in the event of an emergency situation, the City of Nedlands may incur essential costs for which no budget item has been identified.

Discussion

Whilst local government is required to ensure the development of local emergency arrangements, this responsibility is discharged through the WCLEMC.

Respective local governments do not therefore have a direct role in the development of the local emergency arrangements, albeit the Act and associated policies require their approval by the local government. In practice this is achieved through local government representation on the LEMC.

Direct response to a local emergency is the responsibility of the relevant Hazard Management Agency (HMA), the organisation which, because of its legislative responsibility or specialised knowledge, expertise and resources has the capacity to combat the condition creating the emergency. For example, the HMA for fire is the Department of Fire and Emergency Services. The Arrangements contemplate local government providing resources and support to assist an HMA, but only if requested and then subject to availability. The only circumstance in which local government becomes the HMA is for fires outside Gazetted Fire Districts and this occurs predominantly in rural districts.

The current WCLEMC determined that the 2009 Arrangements were unnecessarily lengthy and contained superfluous text that made isolation of pertinent information more difficult, as a consequence the review was to be guided by the following set of principles:

- Brevity is preferred.
- Use of tabulation and dot points rather than lengthy text.
- Use matrix where possible.
- Avoid inclusion of information that is contained in other documents that may not be of direct use during an operation.
- Key references being contacts and resource lists need to be readily accessible.
- Recovery Planning, although outlined in the Part Four of the Arrangements, was to be the responsibility of individual local governments.

The Arrangements outline the responsibilities of the individual stakeholders as well as defining potential hazards and Hazard Management Agencies and cover the following elements of emergency management:

- Part One Introduction
- Part Two Planning
- Part Three Response
- Part Four Recovery
- Part Five Exercising and Reviewing
- Part Six Support plans
- Part Seven Appendices, including district maps, local government profiles, risk treatment plans, contacts and resources and detail of Local recovery Coordinators and their contact numbers.

The review of the *Local Emergency Management Arrangements 2013* is complete where they have been assessed in accordance with the State Emergency Management Committee's compliance checklist and they are now required to be approved by each member local government.

In the event of an emergency within the City's boundaries, it may be necessary to commit resources, financial and/or human, to support the activity of the HMA. The Director Technical Services is the City of Nedlands' emergency contact. This position would be called out by the Local Emergency Coordinator to attend the Control Centre and work with the Incident Support Group, assisting with the provision of support services to then make the transition to recovery, after the emergency event has been contained or controlled.

Initially, that officer's role would be to support the HMA wherever possible and then coordinate the transition from response to recovery with support from other managers that have been assigned responsibility for the various recovery functions.

Consultation

Required by legislation: Yes No
 Required by City of Nedlands policy: Yes No

The arrangements have been prepared in conjunction with 7 other local governments and relevant stakeholders that constitute membership of WCLEMC in accordance with legislative requirements.

Legislation / Policy

The *Emergency Management Act 2005* requires local governments to complete 3 specified functions:-

- Establish and support local emergency management committees.
- Ensure the preparation of Local Emergency Management Arrangements.
- Plan for and be responsible for Local Recovery Arrangements.

Although review of the plan will be a continuous process, adoption of the initial set of Arrangements will ensure the City of Nedlands and the 7 partnering local governments are compliant with the legislation.

Budget/Financial Implications

Within current approved budget: Yes No
 Requires further budget consideration: Yes No

The costs associated with local government's role in emergency management are contained within the Field Service operating programme. There are opportunities to recover some costs associated with support of the response phase and the recovery of a community after an emergency event.

Risk Management

Local government's role is essentially focused on community leadership, management and planning in conjunction with relevant stakeholders through the WCLEMC, offering the community a level of reassurance that agencies have a degree of preparedness and response capability should a significant emergency eventuate.

The 2009 Arrangements have been reviewed as a statutory requirement by the WCLEMC and are presented to the Council for adoption in compliance with the *Emergency Management Act 2005*.

Conclusion

Whilst local government is required to ensure the development of local emergency arrangements, this responsibility is discharged through the WCLEMC.

Respective local governments do not therefore have a direct role in the development of the local emergency arrangements, albeit the Act and associated policies require their approval by the local government. In practice this is achieved through local government representation on the LEMC.

The 2009 Arrangements have been reviewed as a statutory requirement by the WCLEMC and are presented to the Council for adoption in compliance with the *Emergency Management Act 2005*.

Attachments

1. Western Central Local Emergency Management Arrangements – 7 March 2013

PD20.13	No. 11 (Lot 701) Bedbrook Place, Shenton Park - Proposed Single- Storey St John Ambulance Depot
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Council	28 May 2013
Applicant	TPG Town Planning & Urban Design
Landowner	Palmaya Pty Ltd
Officer	Matt Stuart – Senior Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	BE2/11 : DA13/104 : M13/9327
Previous Item	Nil.

Executive Summary

This application is referred to Council for information and discussion. Any comment from Council will be forwarded to the DAP with the Responsible Authority Report.

In late-2011 and mid-2012, the Council approved a Clinipath (pathology) building on the land to the north of this site, whereas this Site remains undeveloped until now. The land to the north and this site were subsequently subdivided in 2012.

Administration has recommended to the DAP that the application is approved subject to conditions.

Information & Discussion Item Only

It is advised that the City's Responsible Authority Report (dated 02 May 2013), recommends the DAP approve an application for a Single-Storey Transport Depot (St John Ambulance) at No. 11 (Lot 701) Bedbrook Place, Shenton Park, in accordance with the application (dated 15 March 2013) and amended (dated 23 April 2013).

Attachments

1. DAP Responsible Authority Report (including amended plans)

PD21.13 Unit 1 / Nos. 83, 85 & 87 (Lots 281 – 283) Stirling Hwy, Nedlands – Proposed Change of Use (from Showroom) to Health Studio & Signage

Committee	14 May 2013
Council	28 May 2013
Applicant	Australian Fitness Management c/ The Planning Group NSW
Owner	Strzelecki Holdings Pty Ltd
Officer	Laura Sabitzer – Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	DA12/468 : ST6/73
Previous Item	Nil

Executive Summary

This application is for the proposed change of use of Unit 1 from a Showroom to a Health Studio. The application also seeks approval for associated signage.

It has been referred to Council for determination, as officers have no delegation to determine an application once objections have been received.

The Health Studio is proposed to operate 24 hours, 7 days a week. It is considered that there is inadequate car bays provided to meet the demand predicted to be generated by the proposed use. As a result the application is recommended for refusal.

Recommendation to Committee

Council refuses an application for proposed change of use (from Showroom) to Health Studio and signage at Unit 1 / Nos. 83, 85 & 87 (Lots 281 – 283) Stirling Hwy, Nedlands in accordance with the application received 26 February 2013 and the plans received 26 February 2013 & 15 March 2013 for the following reasons:

- 1. An insufficient number of car bays are provided for the proposed use.**
- 2. The proposed use does not satisfy the conditions and standards of clause 5.5.1 and clause 6.4.2 of the City of Nedlands Town Planning Scheme No.2, due to insufficient car parking.**
- 3. The proposal is not orderly and proper planning.**

Strategic Plan

KFA:Natural and Built Environment

Background

Property addresses	No. 83 (Lot 281) Stirling Hwy, Nedlands, No. 85 (Lot 282) Stirling Hwy, Nedlands & No. 87 (Lot 283) Stirling Hwy, Nedlands
Lot area	Lot 281 - 1095 m ² Lot 282 - 1088 m ² Lot 283 - 1083 m ² Total area = 3266 m ²
Unit floor area	Unit 1 - 460 m ²
Zoning:	
Metropolitan Scheme	Region Urban
Town Planning Scheme No. 2	Office/Showroom

A Health Studio (gym) is proposed in Unit 1 at Nos. 83, 85 & 87 Stirling Hwy, Nedlands. The site comprises four (4) units which share an on-site car park containing 41 bays. The car park is accessed from Boronia Avenue. The other units are currently tenanted by *Surrounds Sounds*, a showroom at Unit 3 and *Butlers Barristers & Solicitors*, a professional office at Unit 4; with Unit 2 vacant.

It is noted that the owners of Nos. 83, 85 & 87 Stirling Highway have made application to the Western Australian Planning Commission to have Lot 281, 282 & 283 amalgamated. This application is yet to be finalised.

Unit 1 has a frontage to Stirling Highway and the proposed entry for to Health Studio is via the car park to the rear, as seen in the location plan (**Figure 1**). The site is located adjacent to residential land uses to the north and west and the abutting development to the east contains residential and commercial land uses.

The Health Studio proposes to operate 24 hours, 7 days a week. The gym is attended by no more than two staff members at a given time. Outside staffed hours gym members enter the premises using an electronic swipe card. The premises are monitored by a 24 hour security system. The Health Studio proposed is part of the 'Plus Fitness 24/7' chain, which currently operates over 30 gyms nationwide.



Figure 1: Location Plan

Under the City of Nedlands Town Planning Scheme No.2, a Health Studio use in an Office/Showroom zone is an 'AA' use. This means that Council may exercise its discretion to approve the use if it is considered appropriate.

Legislation / Policy

- City of Nedlands Town Planning Scheme No.2 (**Scheme**)
- Signs Local Law 2007 (**Signs Local Law**)
- Environmental Protection (Noise) Regulations 1997 (**Noise regulations**)
- Local Planning Policy 6.11 Road Widening - Stirling Highway (**Stirling Hwy policy**)
- Council Policy – Neighbour Consultation (**Neighbour Consultation policy**)

Discussion

A Health Studio is listed as an 'AA' use in an Office/Showroom zone under the Scheme. Council may approve the use if it is considered appropriate, following the application being advertised for 21 days to surrounding landowners.

The issues of car parking and noise were the main concerns identified from the consultation period and are discussed in detail below.

The Scheme provisions of preservation of amenity, consideration of applications and orderly & proper planning; have been examined to assess the appropriateness of the proposed use, whilst the proposed signage has been assessed against the requirements of the Signs Local Law.

1. Car parking

a. Existing parking situation

There are 41 car bays on-site (on lot 282 & 283) which are shared between four units at Nos. 83, 85 & 87 Stirling Hwy, Nedlands. However 3 of the 41 bays are currently used for bin storage and vehicle deliveries. The site is in the vicinity of on-street parking bays on Boronia Avenue, where there is provision for 17 bays. The on-street parking is currently (with the Stirling Highway Parking Trial) restricted to a 3 hour time limit which allows for a high turnover of parked vehicles. The number and location of car bays in vicinity of the site can be viewed at **Attachment 4**.

The complex was approved in 1995 with four Showroom tenancies with a shared a 40 bay carpark. The Scheme required for a Showroom use, parking to be provided on-site at a rate of 2.2 bays per 100m² of gross leasable floor area or 1 per employee. The gross leasable floor area of the four showrooms is 1670m² therefore the Scheme required a minimum of 37 bays on-site. The approved plans showed 40 bays, meaning that 3 additional bays were provided.

It is noted that the City does not have record of an application or approval to change the use of Unit 4 from 'Showroom' to 'Office – Professional'. This impacts the car parking calculations for the complex because the Scheme requires more bays to be provided for an Office use compared to a Showroom use (refer to **Table 1**). This means that with the existing Office use at Unit 4 and the remaining units of Showroom use, at minimum 46 bays are required on-site.

Use Class	Car parking requirement	Application of car parking requirement
Showroom/ Warehouse	2.2 per every 100m ² gross leasable floor area or 1 per employee	Unit 4 gross leasable floor area ~ 370 m ² <i>Showroom</i> 8.14 bays required
Office	4.75 per every 100m ² gross leasable floor area	Unit 4 gross leasable floor area ~ 370 m ² <i>Office</i> 17.6 bays required

Table 1: Number of bays the Scheme requires for Showroom/Warehouse and Office uses

The existing approved use of Unit 1 is a Showroom. Based on Unit 1's floor area (460m²) the existing Showroom use required approximately 10 bays. The current lease agreement for Unit 1 confirms that the proposed Health Studio has use of at least 10 of the 41 on-site car bays.

There is an existing parking issue on Boronia Avenue where commuters and staff of nearby businesses were parking on-street all day. This area has been

identified by the City as an area with limited availability of car parking and parking was one of the main concerns raised during the consultation of this application.

The Stirling Highway Parking Trial restricted the use of the on-street bays to a 3 hour parking restriction to discourage all day parking and to allow for a higher turnover of bays so that a greater number of users can access them. Whilst the parking trial discouraged all day parking on the section of Boronia Avenue in close proximity to Stirling Highway, it has resulted in the all day parking occurring further north on Boronia Avenue, outside the restricted area. Feedback from the trial has resulted in residents indicating that they believe that staffs of businesses on Stirling Highway have been parking outside the restricted areas on Boronia Avenue. The City also has photographic record of all day parking occurring outside of the restricted areas. This suggests that there is an existing situation of inadequate parking in the complex, noting that two out of the four tenancies are currently vacant.

b. Parking requirements for proposed use

The Scheme does not contain a prescribed minimum number of car bays for a Health Studio use. Therefore the number of bays required is at Council’s discretion. In recommending whether the provision of car bays is sufficient for the proposed use, the City has reviewed documented car parking standards for a Health Studio (or similar) use.

The application is for the change of use from Showroom to Health Studio. Surrounding local governments’ parking requirements for Health Studio and Showroom uses have been compared. Through examination it is apparent that a Health Studio use requires substantially more car bays to be provided than a Showroom use (refer to **Table 2**).

Local government	Car parking requirement	Application of car parking requirement
City of Subiaco	<p><i>Showroom</i> 1 bay per 50 m² net lettable area</p> <p><i>Health Studio</i> 1 bay per 15 m² net lettable area</p>	<p><i>Showroom</i> 10 bays required</p> <p><i>Health Studio</i> 31 bays required Unit 1 net lettable area = 460 m²</p>
Town of Claremont	<p><i>Showroom</i> 1 bays per 50 m² gross leasable area or 1 per 2 employees</p> <p><i>Health Studio*</i> 1 bay per 12.5 m² gross leasable area * referred as Recreation – Indoor – Active use</p>	<p><i>Showroom</i> 10 bays required</p> <p><i>Health Studio</i> 37 bays required Unit 1 net lettable area = 460 m²</p>

Table 2: Car parking requirements of surrounding local governments for uses (Showroom & Health Studio)

The Western Australian Planning Commission nominates the NSW Road Traffic Authority's *Guide to Traffic Generating Development* to be used for guidance where a local government has no parking standard for a particular use. This document recommends parking standards and outlines factors to be considered for a gymnasium use in a metropolitan sub-regional area. The document recommends for a gymnasium use that parking is provided at a:

- Minimum provision: 4.5 bays per 100m² gross leasable floor area
- Desirable provision: 7.5 bays per 100m² gross leasable floor area

Based on Unit 1's floor area of 460m² it is recommended that approximately 21 to 35 bays are to be provided for the use. The document also notes that the peak activity period for the use is between 5.30 – 6.30pm and when a gymnasium is located within a commercial complex, appropriate allowance is for dual and complementary usage. The nature of the other tenancies in the complex (i.e. showroom and legal office) does not allow for dual usage of the bays. However, there is scope to consider complementary usage, as the peak times of the Health Studio will differ from the other tenancies.

c. Applicant's justification

The applicant considers that due to the gym's minimal size, high turnover of patrons with generally short stays and low intensity operation of the gym, it is a relatively low traffic generator with minimal parking demand.

The applicant has commissioned a Parking Demand Study which identified that the peak parking times for the use is between 6.00 – 8.30pm. The other businesses in the complex currently operate within normal business hours. The Parking Demand Study also estimated that the parking demand for the site as:

- Overall peak parking demand: 18 bays
- Daytime parking demand: 9 bays

A Transport Impact Study was also commissioned by the applicant, which found that the peak usage of the gymnasium does not coincide with the opening hours of the other tenancies in the complex. It is therefore considered that in the evening and after hours the parking for the gym facility can be wholly serviced within the development site. However, the study did identify that overflow parking may be required at peaks during daytime weekday periods, which can be accommodated by the on-street parking in Boronia Avenue.

The applicant states that the number of bays that would be required for a Showroom use (existing approved use of unit) equates to 10 bays, therefore the daytime parking demand can be accommodated with the 10 allocated on-site bays. In terms of the overall peak parking demand, the peak times occur outside regular trading hours and the 41 bays in the on-site car park will be available at peak times. The applicant considers that the on-site carpark will comfortably accommodate the parking demand generated from the Heath Studio.

d. Administration's comments

The City's Technical Services department has reviewed the Parking Demand Study and Transport Impact Statement, which were submitted by the applicant.

The Parking Demand Study is based on imperial evidence from existing 'Plus Fitness 24/7' gyms in New South Wales. Whilst the Transport Impact Statement has been prepared by Perth based traffic consultants using evidentiary findings on parking usage at similar facilities and a parking count at the site in question.

Review of the documents concluded that there is considerable difference between the documented parking standards for a Health Studio use and the predicted parking demand identified in the Parking Demand Study. The Transport Impact Study uses the estimated parking demand of the Parking Demand Study which already takes into account alternative transport methods and further reduces the parking estimates to allow for alternative transport methods, thus twice using this reduction. The parking count concluded that 6 – 9 bays were available on-site during daytime periods. The day time parking demand for the use is estimated at 10 bays meaning, that using the figures provided there will be a shortage of up to 4 bays. Additionally, the comparability of the Parking Demand Study using data from New South Wales and applying it to the site, is questionable.

According to the City's review of documented car parking standards, the proposed Health Studio (floor area of 460m²) would need between 21 – 37 bays. This is considerably more than the Parking Demand Study which estimates that there will be demand will be approximately 9 – 18 bays. The documented car parking requirements relate to a standard 'Health Studio' use however each proposal is different and in this case where no minimum parking requirement exists in the Scheme, the parking requirements can be assessed according to the merits of the proposal.

It is acknowledged that there are a number of factors which may justify a reduction of car bays from the documented parking standards.

- Unlike other gyms, the proposed gym model does not offer group fitness classes which generally results in increased patronage and parking demand during the set class times.
- There is opportunity for complementary usage of the on-site carpark. The other tenancies operate during regular trading hours. The peak parking demand for the Health Studio mainly falls outside business hours. The current adjoining tenants are a showroom and legal office which operate regular trading hours. Nevertheless, it is orderly and proper planning to be mindful of the potential of the adjoining units changing tenancies and/or operating outside business hours.
- There are 17 on-street bays in Boronia Avenue which are in proximity to the site. The on-street bays have a three hour time restriction which allows for a high turnover of bays for use by visitors to local residents and to supplement parking available to customers of the nearby businesses.
- The site is serviced by frequent bus services along Stirling Highway and some patrons may choose to use public transport, walk or cycle to the gym.

As the car parking on-site is shared amongst the tenancies, car parking is assessed in terms of the whole complex, rather than the individual units. The on-site carpark was approved with the required number of car bays for the approved uses (four showrooms) plus three additional bays. The surplus three bays are

currently being used for bin storage and loading/delivery bays. This means that the additional bays are currently not being used for parking purposes.

One of units has changed use from 'Showroom' to 'Office – Professional' however the City has no record of an application or approval for this change. This impacts the calculation of car parking because the Scheme would require 18 bays for the office use of the unit whilst a showroom use only requires 9 bays. This means that there is currently a shortfall of 9 bays on-site

The Health Studio use is deemed to be a more intense use than a Showroom, which is the existing approved use of the unit. A Health Studio has regular and frequent visits by patrons. Additionally during peak times, the Health Studio would typically attract more people than a Showroom use. Therefore, being a more intense use of the site the Health Studio use would require more car bays than a Showroom use. This view was affirmed when reviewing documented car parking standards for a 'Health Studio' use compared with a 'Showroom' use. It was found that a 'Health Studio' required at least three times the amount of car bays required for a 'Showroom' use.

Using the documented parking standards for a 'Health Studio' use and including the existing 9 bay shortfall, it is calculated that there would be a 20 – 34 car bay shortfall on-site. This is considered to be a significant shortfall of parking bays.

The City's Technical Services department in discussion with a traffic engineer who has been engaged by the applicant, have identified the potential of reconfiguring the on-street car bays in Boronia Avenue to 90° angled car parking on the eastern side which would result in the net gain of 9 car bays. This design would produce 26 on-street bays along Boronia Avenue which could be used by visitors of local residents and customers of the businesses at Nos. 83, 85 & 87 Stirling Highway. Such reconfiguration would need to undergo a rigorous process of costing, community consultation and Council approval. Due to the uncertainty of the proposed design being investigated and approved, Administration advises against approving this application subject to a condition relating to the reconfiguration of on-street bays.

Although it has been outlined that there are factors with the proposal which may justify a car parking reduction, these factors combined would not result in adjustment for 20 – 34 car bays. The Scheme does not have a minimum parking standard for a 'Health Studio' use, therefore the car parking requirements are at the discretion of Council. A 'Health Studio' use is a more intense use of the unit than a 'Showroom' use and as a result requires a higher amount of car bays to be provided. It is considered that there is inadequate supply of parking to meet the predicted demand from the proposed use.

2. Noise

The use is required to comply with the *Environmental Protection (Noise) Regulations 1997* (Noise regulations). The Noise regulations prescribes the maximum noise levels for the use however it is noted that as the premise is located along Stirling Highway, the Noise regulations recognises this as an influencing factor which results in increased allowable noise levels. The City's

Environmental Health section can monitor any complaints registered by surrounding owners to assess whether the noise generated is in compliance with the Noise regulations.

The applicant has outlined measures which will be employed to reduce the noise generated from the premises.

- The gym will not have a stereo speaker system installed instead low level background music will be played from a single television therefore creating a similar noise level as expected from a residence.
- The premises will use the existing air conditioning units which will not operate during the hours of 10pm – 6am.
- The proposed flooring of the gym is specially designed to absorb reportedly, 95% of the sound made by the dropping of heavy weights.

Whilst the applicant's report indicates measures that will be undertaken to reduce noise from inside the premises, it is advised if the application is approved that a noise impact assessment is commissioned. A noise impact assessment will enable the identification and management of any possible noise problems prior to them occurring. The noise from the operation of the gym inside the premises has been examined however noise generated from the use in the car park and surrounds is to be considered by the applicant. A noise impact assessment would identify strategies the applicant could engage to mitigate noise from the use. It is the applicant's responsibility to ensure that the noise from the use does not exceed the noise levels assigned in the Noise regulations.

3. Signage

The application proposes flush wall signage on the frontage, facing Stirling Highway and to the foyer entrance, to the rear of the unit. Semi-transparent and frosted signage is proposed on the windows. Refer to **Attachment 5** for details of the proposed signage.

The signage complies with the requirements for a horizontal sign and verandah signs under the City's *Signs Local Law 2007*. The proposed signage details have been referred to Main Roads who have no objections, subject to standard conditions (refer to **Attachment 7**). The proposed signage is therefore compliant and is considered suitable for approval subject to specific conditions and advice notes.

A sign licence which is administered through the City's Property Services is required to be applied for and issued prior to the erection of the signage.

4. Preservation of amenity

TPS2 clause 5.5.1 (Preservation of amenity) states:

'Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic

congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.'

Apart from the proposed signage, the application does not propose any changes to the external appearance of the building. As discussed above, the predicted level of noise is required to meet the Noise regulations and is considered to be appropriate for the zoning.

The traffic generated from the proposed use can be accommodated within the existing road network. However, it is considered that the insufficient provision of parking for the proposed use will disrupt traffic and in turn produce congestion. The lack of available car bays is likely to result in drivers circulating the area to find an available bay and disrupt traffic when waiting for a bay to be vacant. This will impact the amenity of the nearby residential properties and the other businesses in the complex.

5. Consideration of applications

TPS2 clause 6.4.1 (Consideration of applications) states:

'In considering any application for planning approval the Council may have regard to the appropriateness of the proposed use and its effect on the Scheme area, and in particular the provisions of this Scheme or any By-laws in force in the district and the relationship of these to the proposed development or use.'

A Health Studio use in an Office/Showroom zoning is listed in the Scheme as an 'AA' discretionary use. Council may approve the use if it is consider appropriate. The Council is exercising its discretion is to have due regard to the provisions listed at cl. 6.4.2 of the Scheme. This clause provides condition and standards that 'AA' uses are to meet.

The City's has assessed the proposal against the provisions which are applicable to this application, which can be viewed at the table below.

Clause	Requirement	Assessment
6.4.2 (a)	<i>The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, illumination, emission of any kind and the effect of any use or development within the locality.</i>	<p>The Health Studio proposes to operate 24 hours, 7 days a week. It is considered that such hours of operation are appropriate for a property along Stirling Highway and in an Office/Showroom zoning. It is noted that the proposed operating hours will promote passive surveillance of the surrounding area through encouraging activity after hours.</p> <p>Noise from the use is required to be in accordance with the Noise regulations. The Noise regulations assign a lower noise level at night hours, when people</p>

		are more sensitive to noise. It is considered that noise from the proposed use will not detrimentally impact the surrounding land uses.
6.4.2 (b)	<i>The...parking provisions are in keeping with the general character of the locality.</i>	<p>It is considered that there will be inadequate supply of car parking to accommodate the Health Studio use.</p> <p>There is an existing parking issue in the area, which has been identified by the City and is confirmed through comments received during consultation period. The proposed Health Studio is a more intense use of the unit, compared with the existing approved Showroom use. The complex was approved with the required number of car bays for four showroom tenancies. No additional car bays are proposed with this change of use application. Refer to the car parking section for further information.</p> <p>It is estimated that if this application is approved there will be 20 – 34 bay shortfall of car parking on-site. Car parking deficits such as this are not common in the locality.</p>
6.4.2 (e)	<i>The vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns</i>	As it is considered that there will be insufficient parking for the proposed use, this may interrupt traffic flows in the area. The lack of available car bays is likely to result in drivers circulating the area to find an available bay and disrupt traffic when waiting for a bay to be vacant.
6.4.2 (f)	<i>That any traffic generated must be capable of being accommodated within the existing streets</i>	The traffic generated from the proposal can be accommodated within the existing road network.

5. Orderly and proper planning

TPS2 clause 6.5.1 (Determination by Council) states:

'The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area.'

As discussed above, it is considered that there are insufficient bays provided to meet the predicted parking demands from the proposed Health Studio. Through analysis of the existing parking situation it has been found that there is currently a car parking shortfall of 9 bays on-site. It has been identified that there is limited availability of car parking in the area. It is not orderly and proper planning to further approve a significant reduction of car bays in an area which already experiences parking issues. Accordingly, the proposal is recommended for refusal by Council.

Consultation

There was large response from the neighbour consultation process with a total of 20 submissions received, 19 of which were objecting to the proposal. The main concerns raised were in relation to car parking, noise and proposed operating hours.

A summary of the comments received during consultation can be viewed at **Attachment 6**. Please refer to the Consultation Process section for details as to how consultation was conducted.

As the front portion of the lots fall within the 'Primary Regional Road' reserve, the application was referred to Main Roads for comment. The application is acceptable to Main Roads subject to stated conditions and advice notes, which can be found at **Attachment 7**.

Conclusion

A Health Studio use in an Office/Showroom zoning is listed in the Scheme as an 'AA' discretionary use. This means that Council can contemplate and approve the Health Studio use in the proposed location if it is considered appropriate.

A 'Health Studio' use is deemed to be a more intense use of the unit than the current approved use of a 'Showroom'. As a result the proposed use would require more car bays than the existing Showroom use. The application does not propose any additional car bays and through analysis it has been found that there is an existing parking shortfall on-site. It is considered that there is inadequate provision of car parking to meet the predicted demand from the proposed use.

As a result, it is recommended that Council does not exercise its discretion to approve the proposed change of use. The application is recommended for refusal.

Consultation Process

What consultation process was undertaken?

Required by legislation:
(Scheme): Yes No

Required by City of Nedlands policy:
(Neighbour Consultation policy) Yes No

As a portion of the site is within the 'Primary Regional Road' reserve, the application was also referred to Main Roads for comment.

How and when was the community consulted?

The application was advertised by letter to relevant landowners and occupiers surrounding the development site. The comment period was from 12 March 2013 - 2 April 2013.

In total twenty (20) submissions were received; nineteen (19) objections and one (1) provided comments but did not indicate if they were for or against the proposal.

A summary of the comments received during consultation can be viewed at **Attachment 6**.

Budget / Financial Implications

The application is for works to be constructed on a private lot, and therefore has no budget / financial implications for the City.

Risk management

Not applicable.

Attachments

1. Locality plan
2. Applicant's report
3. Plans
4. Car bays in vicinity of the site
5. Signage details
6. Summary of consultation
7. Main Roads comment

PD22.13	Nos. 87-91 (Lots 3-5) Waratah Avenue, Dalkeith – Proposed Mixed-Use Development – Reconsideration of DAP Decision via the SAT
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Committee	14 May 2013
Applicant	McDonald Jones Architects
Landowner	Waratah Ave Dalkeith Pty Ltd ATFT Waratah Ave Dalkeith Unit Trust
Officer	Matt Stuart – Senior Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	WA3/87 : DA12/156 : M13/10956
Previous Item	February 2013 Council Meeting, item 16.1

Executive Summary

This application is referred to Committee for information, regarding an invitation from the SAT to the Development Assessment Panel (**DAP**), to reconsider its planning approval of a redevelopment in Waratah Avenue, Dalkeith, and in particular Condition 2 of the approval which is the subject of the SAT review.

At the request of the DAP, the City has produced a Responsible Authority Report (**RAR**) focusing on Condition 2 of the approval.

Due to timeframes imposed by the SAT and DAP, this matter only has time to be presented to the Committee, not Council. Any comments and/or recommendations made by Committee will be forwarded with the RAR.

Information & Discussion Item only

Committee be advised of the City's Responsible Authority Report (dated 09 May 2013) to the DAP, to amend a condition on the approval for a Mixed-Use Development at Nos. 87-91 (Lots 3-5) Waratah Avenue, Dalkeith, in accordance with the application (dated 23 April 2012).

Attachments

1. DAP Responsible Authority Report