



D64.11 – Attachment 1
Locality Plan (aerial)



City of Nedlands

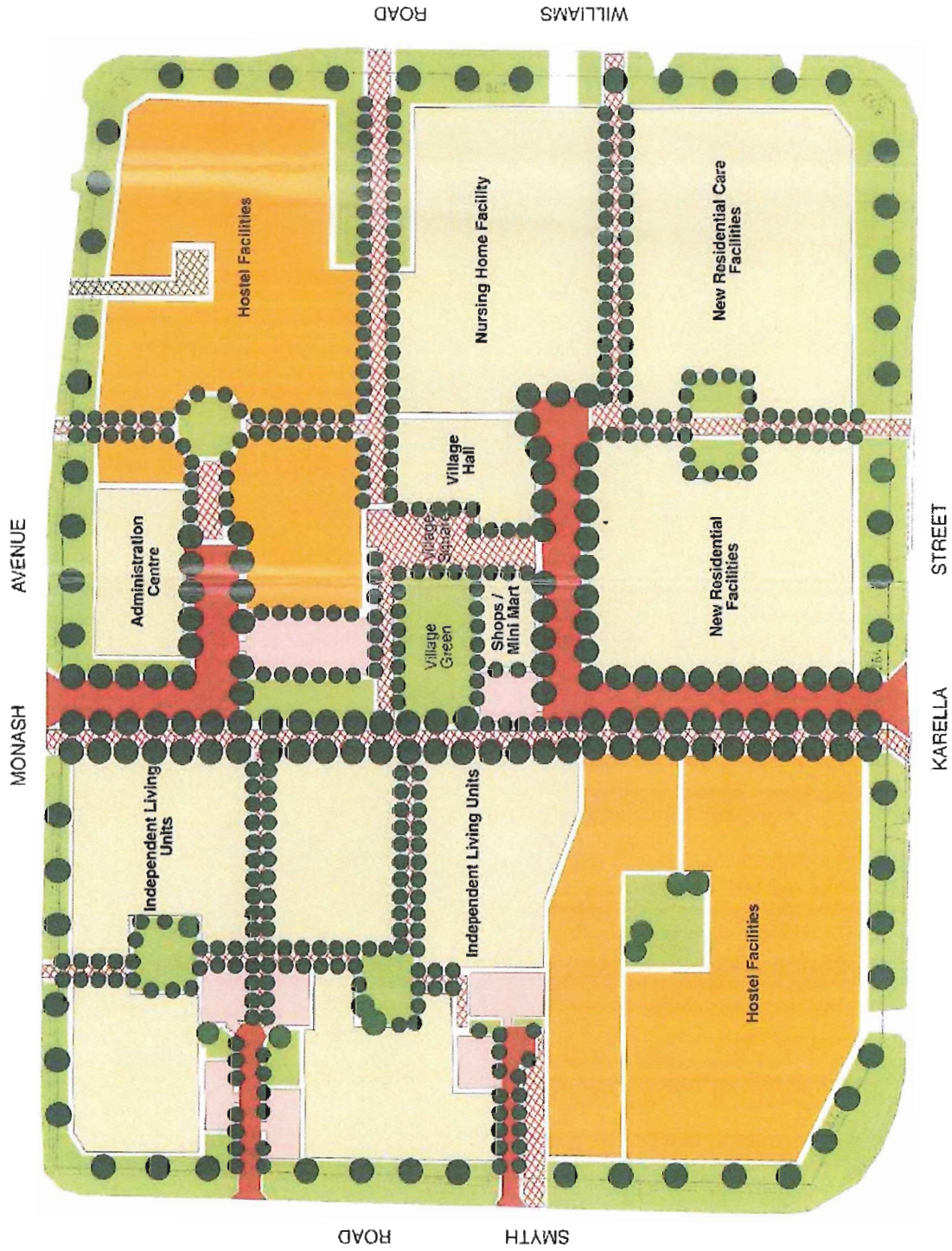
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The Subject Site

Thursday, November 10, 2011

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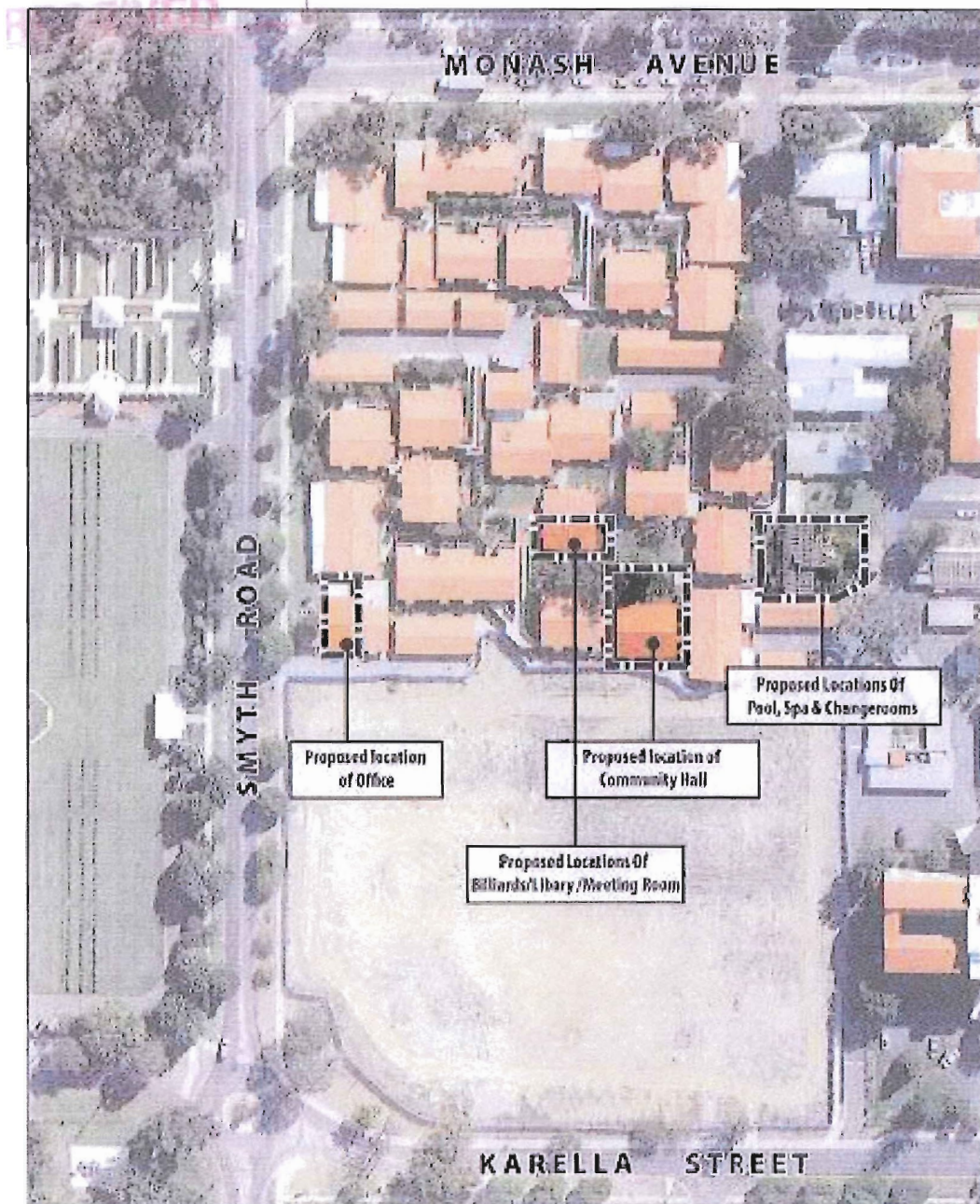




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 THE PLANNING GROUP

HOLLYWOOD VILLAGE - MASTERPLAN

Attachment 2



Source: Planning

D64.11 – Attachment 3 Plans of the proposal

24/1/10 planning or existing zoning legislation. The drawing does not constitute a contract or any other binding or any kind of obligation.

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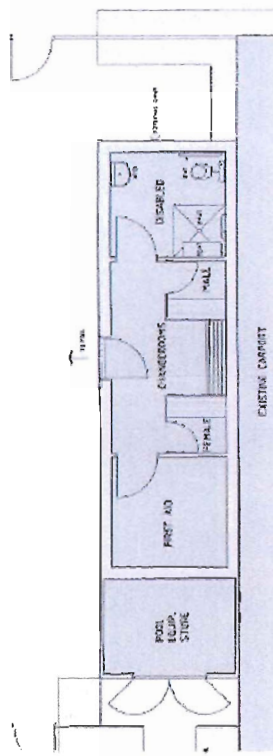
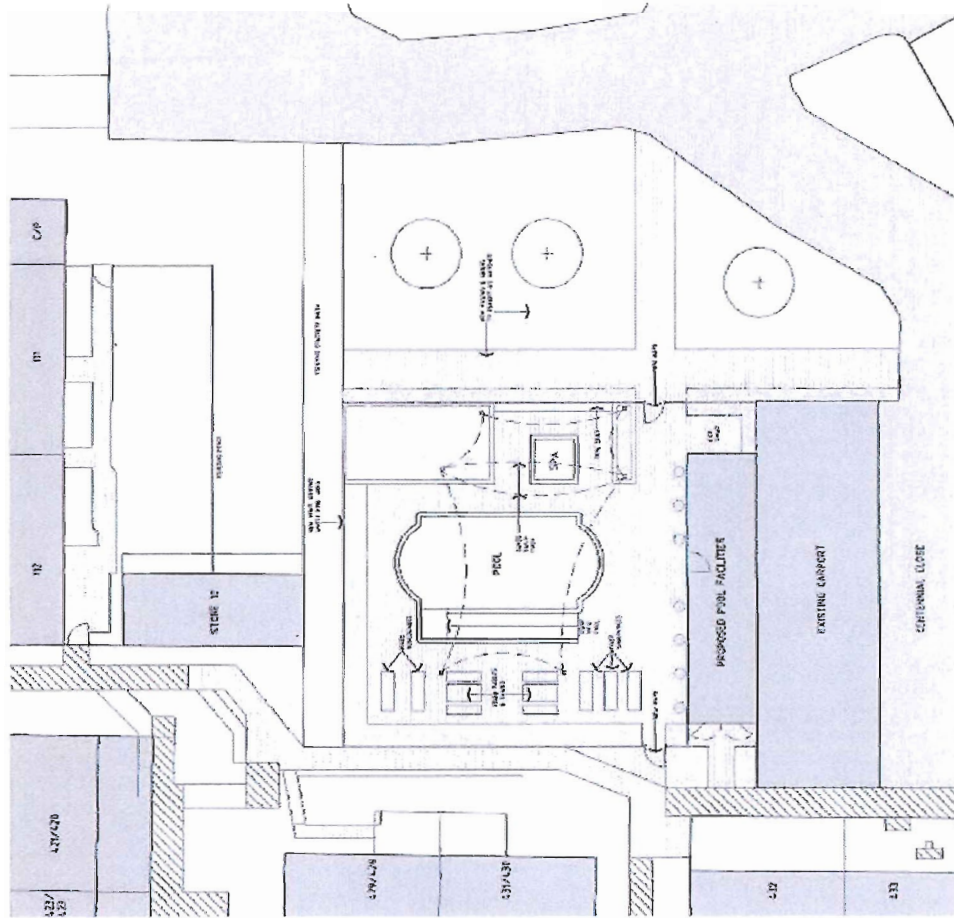


Figure 1
Location Plan
DA - Lot 2237 Monash Avenue, Nedlands

Date: 18 June 2011 Designer: ER
Scale: NTS @ A4 Drawn: +
Drawing No: 711-104 P/LA Location H0611 of

1000171104 P/LA
AND JOURNAL OF WORK





POOL & POOL FACILITIES
SITE PLAN & FURNITURE
SCALE 1/8"



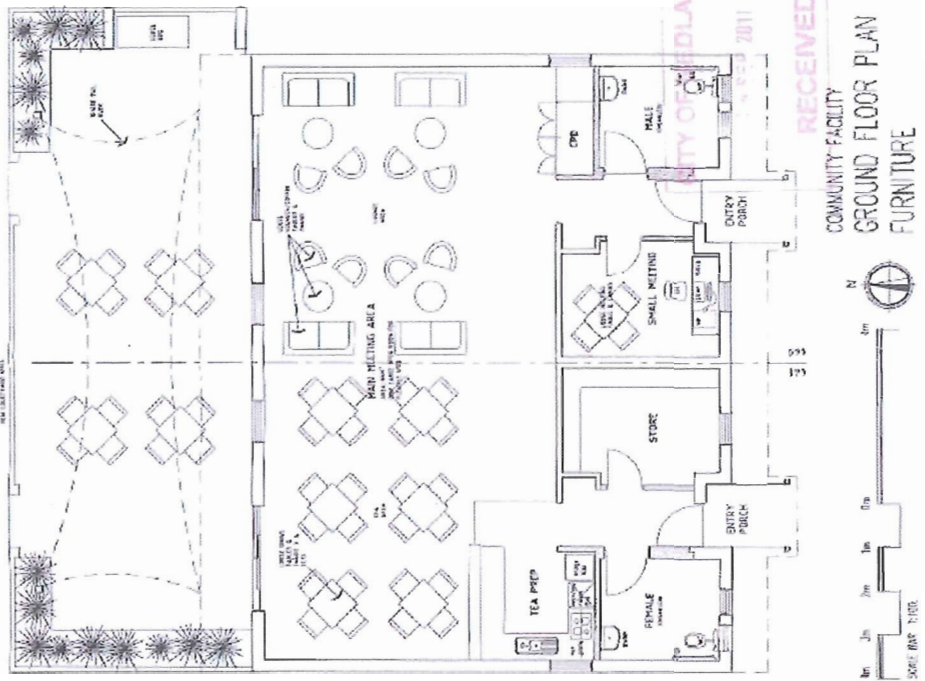
PREPARED BY:
**HOLLYWOOD CENTENNIAL CLOSE
NEW POOL, ALT'S & ADD'S**
118-120 MOUNSH AVENUE, MEDLANDS, WA

**OLDFIELD KNOTT
ARCHITECTS PTY. LTD.**
587 HAY STREET, DALGLISH, 6008
P.O. BOX 842, SUBIACO, W.A. 6004
TEL: (08) 9381 6788 FAX (08) 9381 6819
EMAIL: oik@oldfieldknott.com.au

NO.	ISSUE FOR PLANNING AMENDMENT	DATE	BY	CHKD.

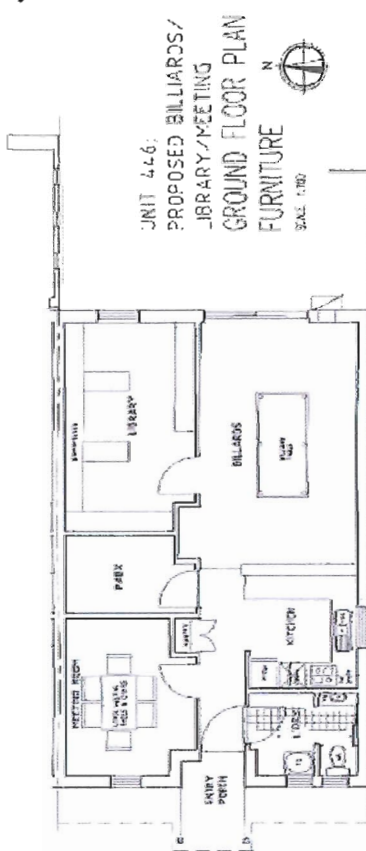
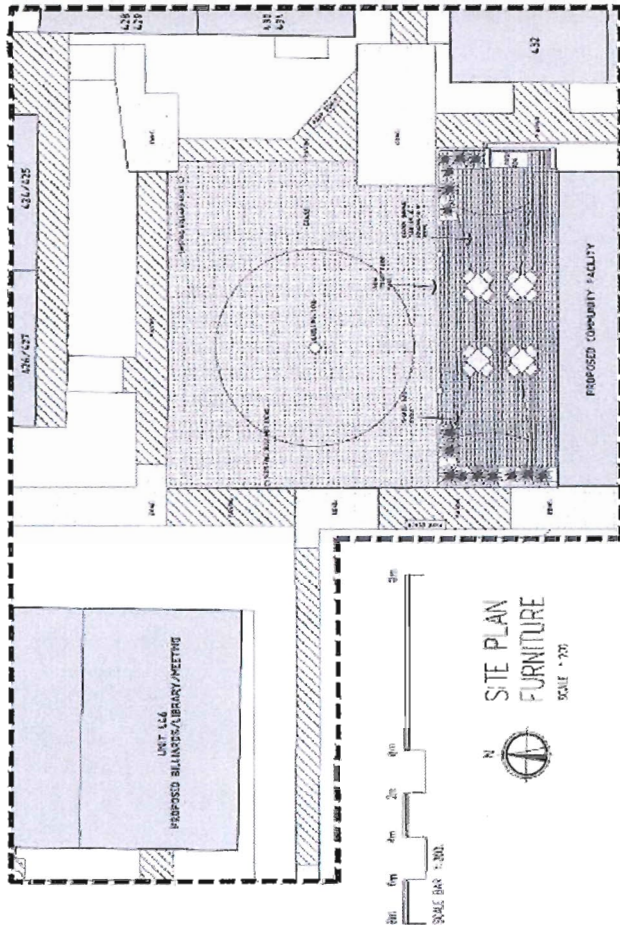
GROUND FL'R & SITE PLAN: LOOSE FURNITURE		DRAWING NO.	REV.
SCALE	CHECKED	JOB NO.	
AS SHOWN	HW	11052	SK.03
DATE	DRAWN		

RECEIVED



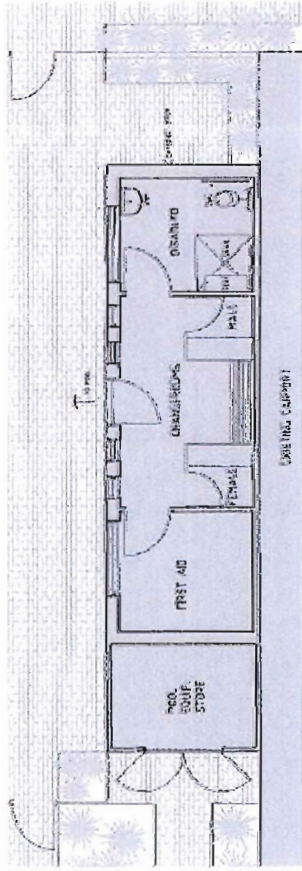
No.	AMENDMENT	DATE	CHKD
1	NO. OF TABLES INCLUDED	04/22/08	CM
2	SMALL MEETING ONLY MAP TYPED INTO WALL REMOVED	04/22/08	CM
3	REMOVAL OF BATHROOM, CASH CHANGE OF FOOD LOCATION, REMOVAL OF PARK SHADE, UNIT RINGS IN LL, ADDITION OF BAY WALL TO SOUTH OF LL.	12/19/07	CM

GROUND FL'R & SITE PLAN: LOOSE FURNITURE	
SCALE 1:100 @ A3	JOB NO. 11052SK.02
CHECKED MW	DRAWING NO. C
DATE SEE AMEND	DATE SEE AMEND
DRAWN CUR	DATE SEE AMEND

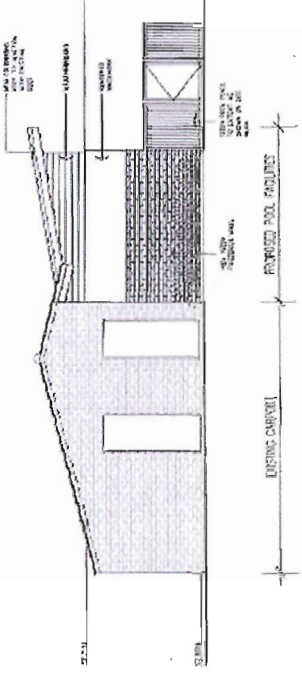


PROJECT:
**HOLLYWOOD CENTENNIAL CLOSE
NEW POOL, ALT'S & ADD'S**
1178-120 MONASH AVENUE, MEDLANDS, WA

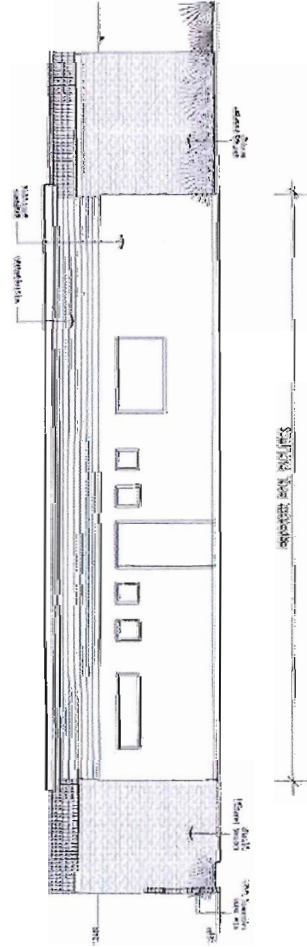
**OLDFIELD KNOTT
ARCHITECTS PTY. LTD.**
567 HAY STREET DACKLISH, 6008
P.O. BOX 849, SUMMAGE, W.A. 6004
TEL: (08) 9381 8788 FAX (08) 9381 4615
EMAIL: o.k.a@oknkt.com.au



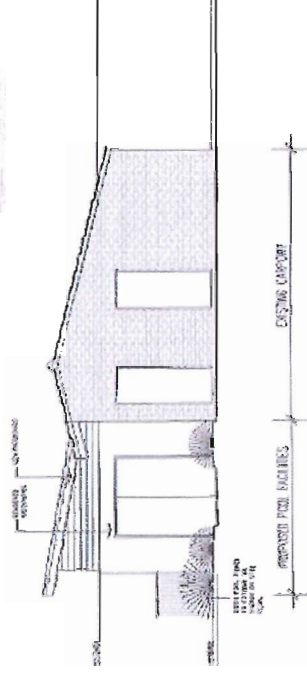
POOL FACILITIES
GROUND FLOOR PLAN
SCALE 1:100



ELEVATION 2 (EAST)
SCALE 1:100



ELEVATION 1 (NORTH)
SCALE 1:100



ELEVATION 3 (WEST)
SCALE 1:100

PROJECT	HOLLYWOOD CENTENNIAL CLOSE NEW POOL, ALT'S & ADD'S 118-120 NEWBUSH AVENUE, MELBURN VIC			
DATE	11/05/2004	DRAWING NO.	11052SK.04	
SCALE	AS SHOWN ON DRAWING	CHECKED BY	M.M.	
DATE	11/05/2004	DRAWN BY	M.M.	
SEE ATTEND	RE.	DATE	11/05/2004	
NO.	AMENDMENT	DATE	11/05/2004	
<p>PROJECT: HOLLYWOOD CENTENNIAL CLOSE NEW POOL, ALT'S & ADD'S 118-120 NEWBUSH AVENUE, MELBURN VIC</p> <p>DATE: 11/05/2004</p> <p>SCALE: AS SHOWN ON DRAWING</p> <p>CHECKED BY: M.M.</p> <p>DRAWN BY: M.M.</p> <p>SEE ATTEND: RE.</p> <p>NO.: AMENDMENT</p> <p>DATE: 11/05/2004</p> <p>DRAWING NO.: 11052SK.04</p> <p>PROJECT: HOLLYWOOD CENTENNIAL CLOSE NEW POOL, ALT'S & ADD'S 118-120 NEWBUSH AVENUE, MELBURN VIC</p> <p>DATE: 11/05/2004</p> <p>SCALE: AS SHOWN ON DRAWING</p> <p>CHECKED BY: M.M.</p> <p>DRAWN BY: M.M.</p> <p>SEE ATTEND: RE.</p> <p>NO.: AMENDMENT</p> <p>DATE: 11/05/2004</p> <p>DRAWING NO.: 11052SK.04</p> <p>PROJECT: HOLLYWOOD CENTENNIAL CLOSE NEW POOL, ALT'S & ADD'S 118-120 NEWBUSH AVENUE, MELBURN VIC</p> <p>DATE: 11/05/2004</p> <p>SCALE: AS SHOWN ON DRAWING</p> <p>CHECKED BY: M.M.</p> <p>DRAWN BY: M.M.</p> <p>SEE ATTEND: RE.</p> <p>NO.: AMENDMENT</p> <p>DATE: 11/05/2004</p> <p>DRAWING NO.: 11052SK.04</p>				



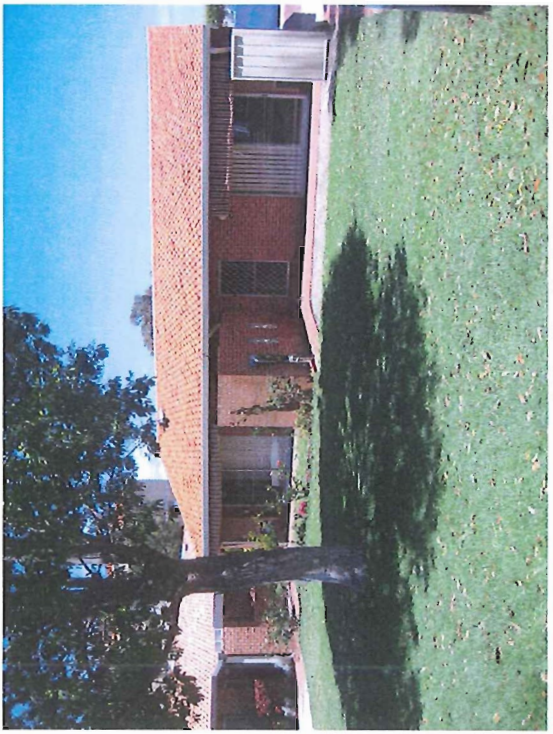
The Proposed Library Building



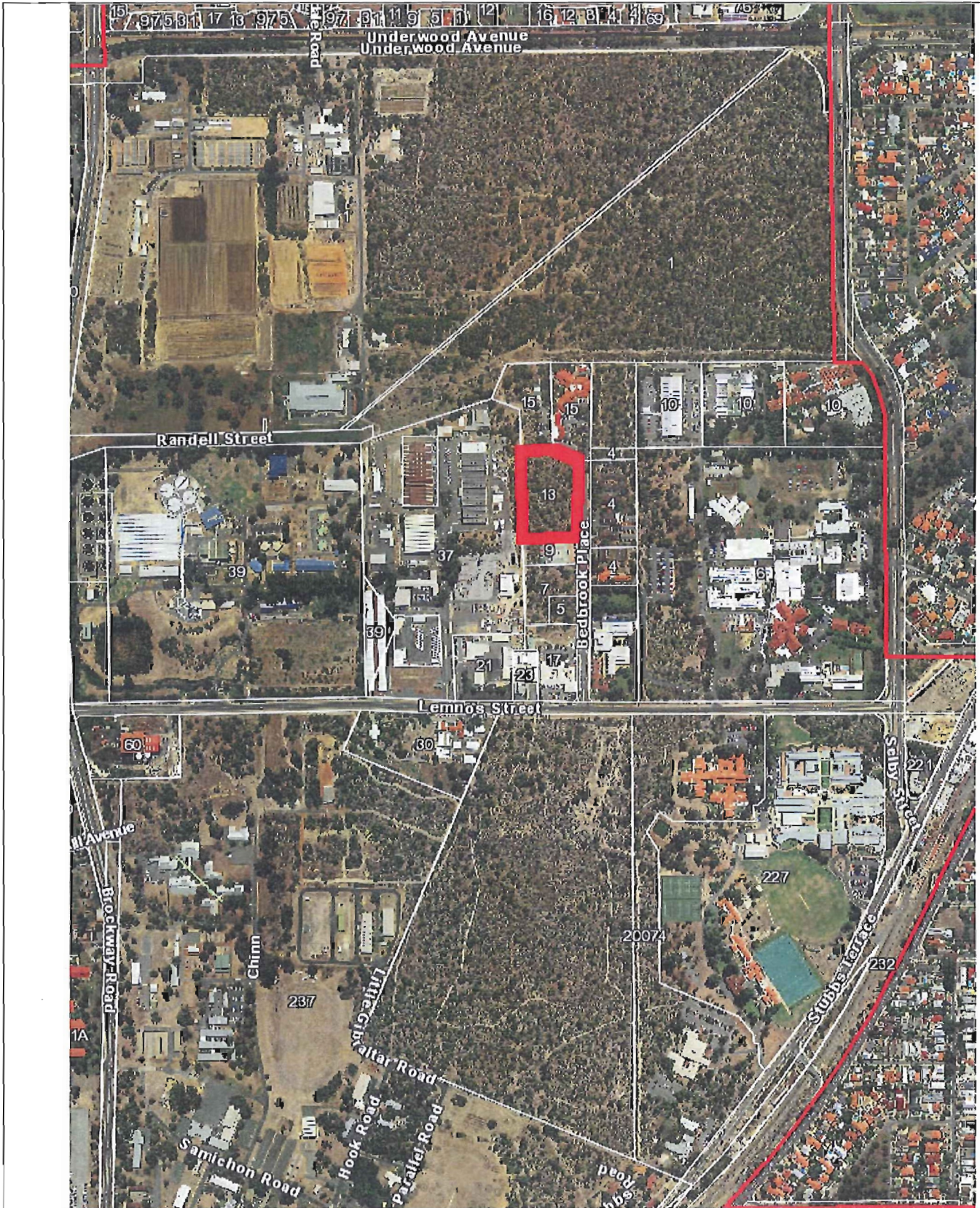
The Proposed Pool Area



The Site (west)



The Proposed Communal Facility Building and Grounds



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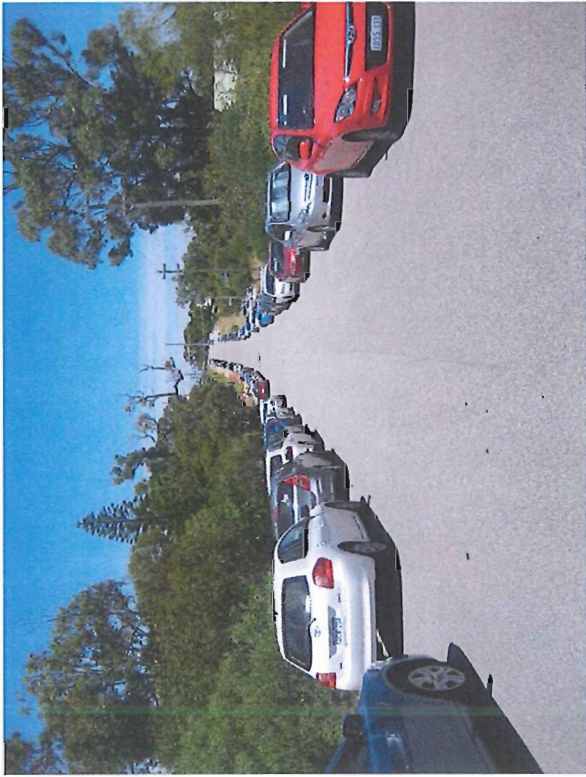
1m contours

November 07, 2011

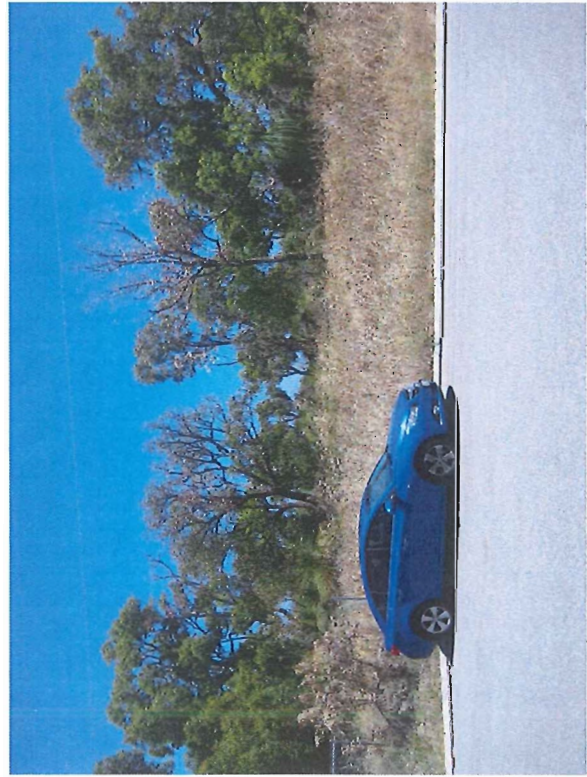
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**D65.11 – Attachment 1
Locality Plan (Aerial)**



Bedbrook Place (midday on a weekday)



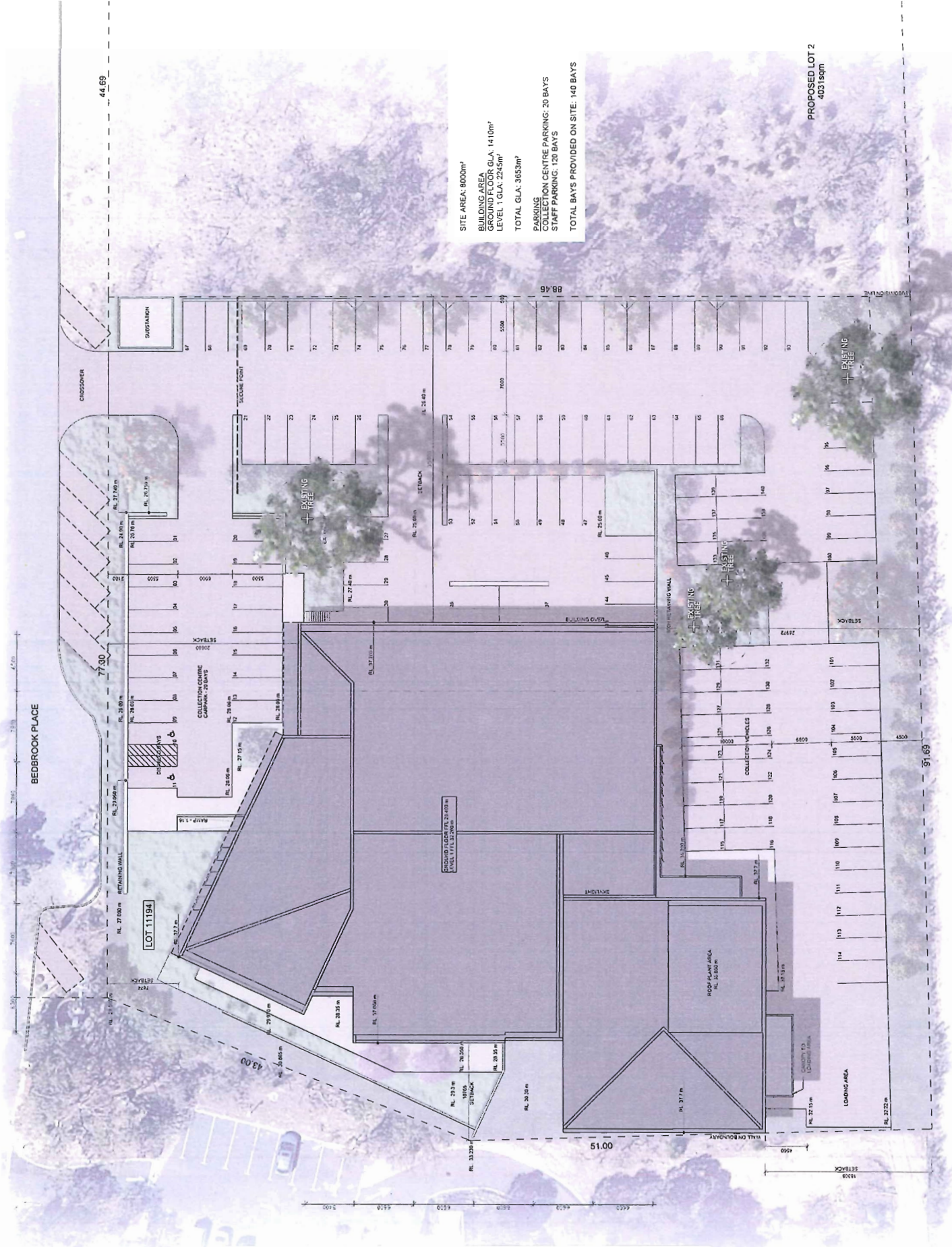
Bedbrook Place and the Site (east)



The Site (east)



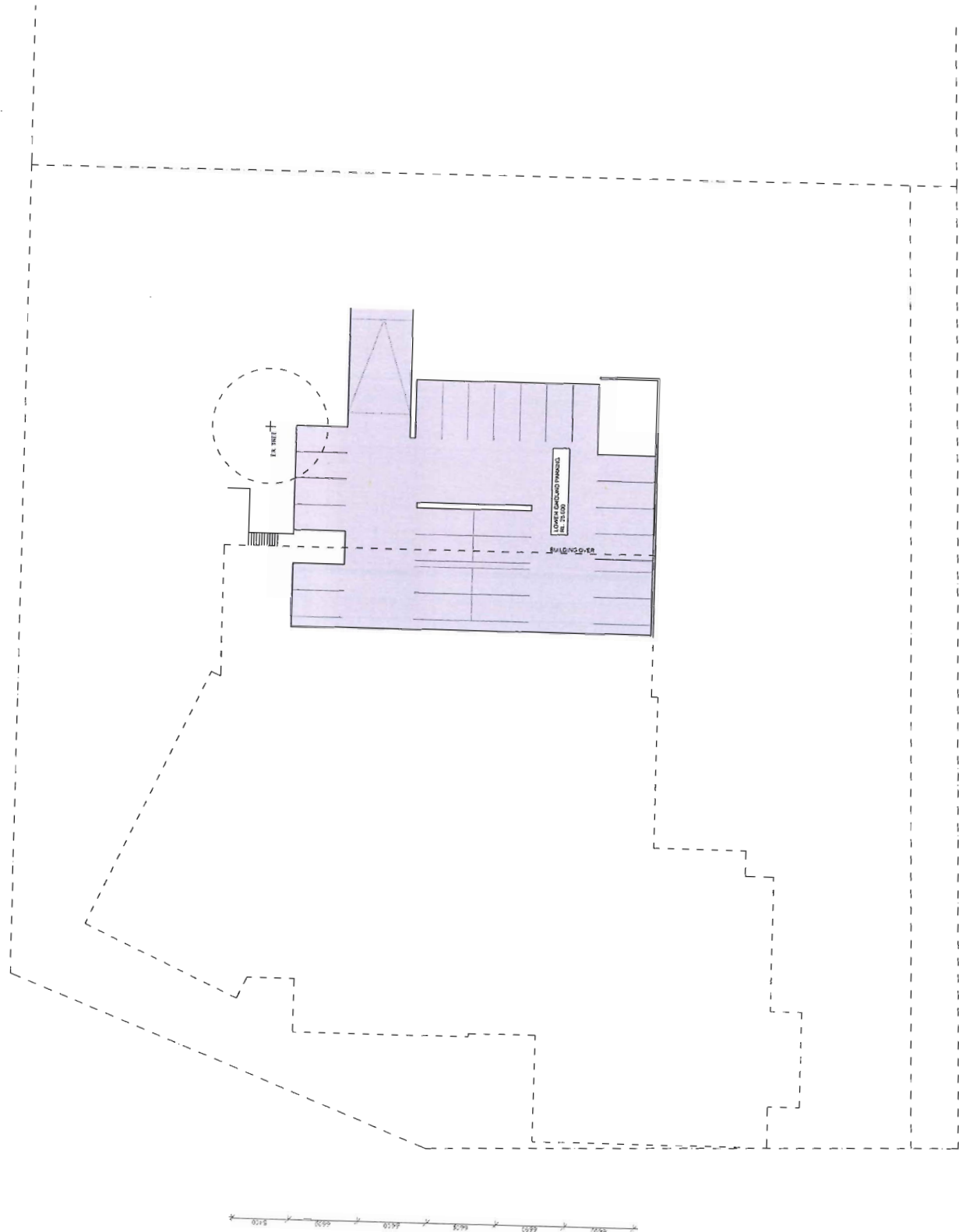
The Site (central)



SITE AREA: 8000m²
 BUILDING AREA
 GROUND FLOOR GLA: 1410m²
 LEVEL 1 GLA: 2245m²
 TOTAL GLA: 3655m²
 PARKING
 COLLECTION CENTRE PARKING: 20 BAYS
 STAFF PARKING: 120 BAYS
 TOTAL BAYS PROVIDED ON SITE: 140 BAYS

PROPOSED LOT 2
 4021sqm

D65.11 – Attachment 3
Site Plan



D65.11 – Attachment 4
Floor Plans



Scale: 1200 @ A1
 Date: 16/11/11

42412 rev
DA2.04 1

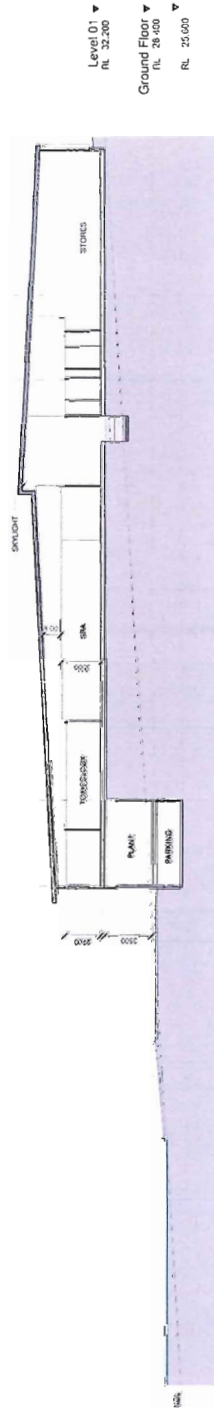
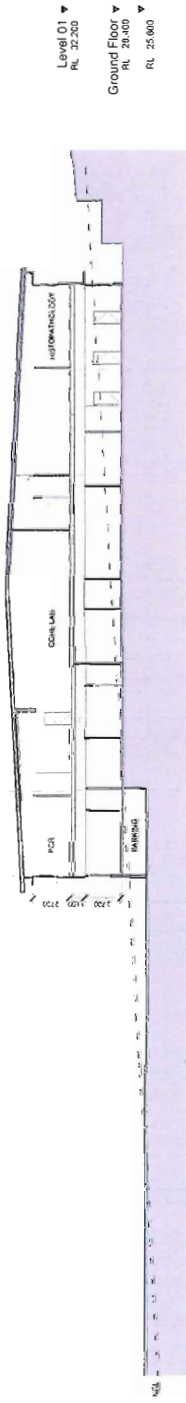
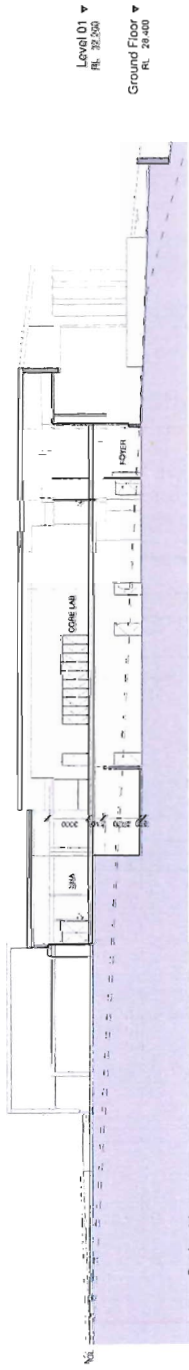


2
DAS.01

3
DAS.01

SITE AREA: 8000sqm
 BUILDING AREA: 1410sqm
 GROUND FLOOR GLA: 1410sqm
 LEVEL 1 GLA: 2243sqm
 TOTAL GLA: 3653sqm

- AMENITIES
- CLINIC
- LAB
- LAB OFFICE
- OFFICE
- PLANT
- PUBLIC
- STAFF COMMON
- STORE
- WORKROOM
- WORKSTATIONS



PLANTING THEME LEGEND

- Boundary tree planting**
 - Banksia merziesii
 - Banksia attenuata
- Car park trees**
 - Eucalyptus todioides
- Small trees**
 - Hakea laurina
 - Callistemon viminalis (tree form)
- Feature trees**
 - Corymbia catiphiylla
- Courtyard tree**
 - Jacaranda mimosifolia
- Feature Plants**
 - Xanthorrhoea prescii (salvaged)
- Paving / Pedestrian**
 -
- Porous Paving Under Parking**
 -

Installation
 Majority of the planting should be installed late autumn - early winter after building completion, subject to city building licence requirements. Some high presentation areas may be planted prior subject to irrigation requirements. All planting areas are to given a light, inermm mulching prior to building occupation if the areas will not be planted within 3 months of occupation.
 All stonings shall be mulched.
 Water sensitive low phosphate slow release fertilizer only for native plants. TerraCotom treatment for all new planting.
 All irrigation is to be hydro-zoned to separate watering stations conforming to the understory planting themes.

**D65.11 – Attachment 6
 Landscape Plans**



UNDERSTORY PLANTING THEMES

High presentation
 The high presentation planting will be low planting and species selection will favor native plants that have year round appeal and are neat in appearance. Some species will require a higher level of maintenance to maintain optimum appearance.
 Typical species:-
 Adiantum Coral Carpet
 Argemone cultivars
 Dianella Little River
 Dianella Little River
 Hemiconia purpurea
 Leucophaea brownii
 Lyallodendron costale
 Westringia White Rambler
 Thyasmea saxicola

Staff Courtyard
 The small area of the lower terrace to the staff courtyard will be planted with a softer mix of natives and exotics and will require a higher level of maintenance (minimum 4 times per week, during summer) to be protected from wind and water sun and will be the main external amenity area for building occupants.
 Typical species:-
 Argemone p. ornamentalis
 Albionia obtusiloba
 Murrumbidgee Peppercorn
 Murrumbidgee Peppercorn
 Murrumbidgee Peppercorn
 Murrumbidgee Peppercorn

Neat presentation
 The neat presentation planting will be low planting adjacent to car parking located from south west. Australian native plant species and exotics will be used to create a neat look and require the minimum of resources to maintain a neat tidy appearance.
 Typical species:-
 Ficus modesta
 Grevillea crinitifolia prostrate form
 Eremophila gibbera prostrate form

Biodiversity planting
 The planting will be a more mixed selection of Swan coastal /Coastal dune system species to complement the woodland tree species. This theme will include more shrub planting.
 Typical species:-
 Acacia lasiocarpa
 Dryandra laevis
 Grevillea crinitifolia
 Grevillea prostrata
 Leucophaea brownii
 Scaevola aemula



Office of the Environmental Protection Authority

The Atrium,
Level B, 168 St Georges Terrace,
Perth, Western Australia 6000.
Telephone: (08) 6467 5600.
Facsimile: (08) 6467 5336.

Postal Address: Locked Bag 93,
Coles Street, Perth, Western Australia 6000.
Website: www.epa.wa.gov.au

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Chief Executive Officer
City of Nedlands
PO Box 9
NEDLANDS WA 6909

Your Ref: WA10/385; M11/00527
Our Ref: A360889
Enquires: Amy Sgherza, 8467 5424
Email: Amy.Sgherza@epa.wa.gov.au

Dear Sir/Madam

**PUBLIC ADVICE UNDER SECTION 39A(7)
Environmental Protection Act 1986**

PROPOSAL: PROPOSED CLINIPATH PATH PATHOLOGY –
DIAGNOSTIC LABORATORY, WITH ASSOCIATED
COLLECTION AND INFUSION CENTRE

LOCATION: PT LOT 11194 (NO.13 BEDBROOK PLACE)

LOCALITY: SHENTON PARK

PROPONENT: CLINIPATH PATHOLOGY

DECISION: NOT ASSESSED – NO ADVICE GIVEN

Further to the Environmental Protection Authority (EPA) letter of 28 February 2011 with regard to the above proposal, the Office of the EPA (OEPA) advises that the Minister for Environment recently dismissed the appeals against the EPA's determination that the proposal should be treated as *Not Assessed - No Advice Given*).

It should be noted that the EPA set level of assessment as *Not Assessed - No Advice Given*, however, in his Appeal Determination, the Minister for Environment requested that public advice be provided to the City of Nedlands regarding the significance of the ecological linkage values on site.

Accordingly, the OEPA provides the following advice:

ADVICE AND RECOMMENDATIONS

1. Environmental Issues

a. Native Vegetation – Ecological Linkages

2. Advice and Recommendations regarding Environmental Issues

a. Native Vegetation – Ecological Linkages

Lot 11194 is identified as part of a Regional Greenway in the *Western Suburbs Greening Plan*, which was prepared by the Western Suburbs Regional

Organisation of Councils, of which the City of Nedlands is a member. The Western Suburbs Greening Plan is a strategic planning document providing a direction in conservation planning and identifies three categories of ecological linkages: Regional Greenways, areas for securing linkages and areas for developing linkages.

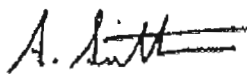
Whilst Bush Forever does not identify Lot 11194 for protection, the land is identified as being part of a possible regionally significant ecological linkage between Underwood Avenue Bushland, Shenton Bushland, Bold Park and Kings Park. During development of the site the EPA expects that the City of Nedlands will consider the local and regional values of the site consistent with the intent of the *Western Suburbs Greening Plan* and take this Plan into consideration when fulfilling its statutory functions with regards to this property.

The EPA notes that the proposal involves the clearing of native vegetation. Please visit the Department of Environment and Conservation's website at the following web address <http://www.dec.wa.gov.au/content/view/2914/2079/> for information on the provisions of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and the procedures in relation to applying for a Clearing Permit. The Department of Environment and Conservation will make a decision to grant or refuse a permit. The decision of the EPA to not assess your proposal carries no presumption about the outcome of an application for a Clearing Permit.

It should be noted that clearing cannot be undertaken until the clearing permit application process is concluded.

The EPA expects the relevant decision-making authorities to consider and implement this advice through the approvals process. If you have any enquiries, please contact the person cited above.

Yours faithfully



Anthony Sutton
Director
Assessment and Compliance Division

19 July 2011

CC: Clinipath Pathology



Government of Western Australia
Office of the Appeals Convenor
Environmental Protection Act 1986

Our ref: 029-032/11
Your ref:
Enquiries: Anna Oxford
Telephone: (08) 6467 5190
Date: 1 July 2011

Mr Graham Foster
Chief Executive Officer
City of Nedlands
PO Box 9
NEDLANDS WA 6009

CITY OF NEDLANDS	
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Dear Mr Foster

APPEALS AGAINST DECISION NOT TO ASSESS DIAGNOSTIC LABORATORY AND ASSOCIATED COLLECTION AND INFUSION CENTRE, BEDBROOK PLACE, SHENTON PARK

As you are aware, appeals were lodged with the Minister for the Environment against the decision of the Environmental Protection Authority not to assess the above proposal.

The Minister has now determined the appeals, and a copy of the Minister's decision is attached, together with a copy of the Appeals Convenor's Report. The Minister's decision is also available to the public in the Department of Environment and Conservation's library as well as our website.

If you have any queries in relation to this matter, please contact this office on 6467 5190.

Yours sincerely

Jean-Pierre Clement
A/APPEALS CONVENOR

Att

a, Perth, Western Australia 6000
5190 Facsimile (08) 6467 5199
in@appealsconvenor.wa.gov.au
www.appealsconvenor.wa.gov.au

D65.11 – Attachment 8
Minister for Environment's Decision
on Appeal on EPA Decision



COPY

Environmental Protection Act 1986

Hon Bill Marmion MLA
Minister for Environment

MINISTER'S APPEAL DETERMINATION

**AGAINST THE ENVIRONMENTAL PROTECTION AUTHORITY
DECISION NOT TO ASSESS
DIAGNOSTIC LABORATORY AND ASSOCIATED COLLECTION
AND INFUSION CENTRE PART ON PART LOT 11194 (NO 13)
BEDBROOK PLACE, SHENTON PARK**

Purpose of this document

This document sets out the Minister's decision on appeals lodged against the decision of the Environmental Protection Authority (EPA) not to assess the above proposal. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellants:	Friends of Shenton Bushland Inc Friends of Underwood Avenue Bushland Wildflower Society of Western Australia Urban Bushland Council of WA
Proponent:	Clinipath Pathology
Proposal description:	Diagnostic Laboratory and Associated Infusion Centre Part Lot 11194 (13) Bedbrook Place, Shenton Park
Minister's Decision:	The Minister dismissed the appeals
Date of Decision:	27 June 2011.

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the EP Act), the Minister obtained a report from the EPA on the matters raised in the appeals. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeals.

The Minister acknowledged that the City of Nedlands had referred the proposal to the EPA pursuant to section 38 of the EP Act. In accordance with section 39A of the EP Act, the EPA must decide whether to assess the proposal referred. The

significance; and as such it considers that formal environmental impact assessment is not warranted.

The EPA did note however, that Lot 11194 is identified as part of a Regional Greenway in the *Western Suburbs Greening Plan*, which was prepared by the Western Suburbs Regional Organisation of Councils, of which the City of Nedlands is a member.

The Western Suburbs Greening Plan is a strategic planning document providing a direction in conservation planning and identifies three categories of linkages: Regional Greenways, areas for securing linkages and areas for developing linkages.

Whilst Bush Forever does not identify Lot 11194 for protection, the Minister noted from the Appeals Convenor's report that the land is identified as being part of a possible regionally significant ecological linkage between Underwood Avenue Bushland, Shenton Bushland, Bold Park and Kings Park.

The Minister also noted that there are policy measures outlined in section 5.2 (Local Bushland) of SPP 2.8 that apply to all areas of bushland outside of *Bush Forever* areas within the Perth Metropolitan Region, which recognises that the consideration of surrounding land-uses and connectivity between sites is important. SPP 2.8 also recommends that for sites other than *Bush Forever*, proposals or decision-making should support a general presumption against the clearing of bushland for areas containing the following environmental values:

- Threatened Ecological Community's (TECs);
- Threatened and poorly reserved plant communities;
- Declared Rare Flora (DRF) or specially protected fauna (and where possible priority or significant flora or fauna);
- Listed lakes or wetlands and wetland dependant vegetation; and
- Vegetation complexes where less than 10 per cent of the original extent currently remains.

A Flora and Vegetation Assessment undertaken on behalf of the proponent identified that there were no plant species listed as 'threatened' pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* or as 'rare' pursuant to the *Wildlife Conservation Act 1950* located onsite, and the likelihood of the site supporting them is low. In addition, the vegetation recorded was not considered to represent a 'Threatened' or 'Priority Ecological Community'. The assessment identified one Priority species, and that the vegetation of the site is most similar to Floristic Community Type Swan Coastal Plain 28, both of which are well represented in protected *Bush Forever* sites in the area. Furthermore, the vegetation complex Karrakatta Complex Central and South exceeds the 10% recommended retention level for constrained areas.

In regards to the appellants' concerns to Carnaby's Black Cockatoo and the Graceful Sun Moth, the Minister noted that ENV Australia undertook a Carnaby's Black Cockatoo habitat assessment, based on guidelines provided by the Federal Department of Sustainability, Environment, Water, Population and Communities; and completed a survey for the Graceful Sun-Moth using Department of Environment and Conservation (DEC) guidelines.



Appeals Convenor
Environmental Protection Act 1986

FILE COPY

SCANNED

**REPORT TO THE
MINISTER FOR ENVIRONMENT**

APPEAL IN OBJECTION TO DECISION NOT TO ASSESS

**DIAGNOSTIC LABORATORY AND ASSOCIATED COLLECTION AND
INFUSION CENTRE
PART LOT 11194 (NO 13) BEDBROOK PLACE, SHENTON PARK**

PROPONENT: CLINIPATH PATHOLOGY

Appeal numbers 29 to 32 of 2011

June 2011

Y913 1.117

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EXECUTIVE SUMMARY

This report relates to appeals lodged in objection to the Environmental Protection Authority's (EPA) decision not to assess the proposal by Clinipath Pathology (the proponent) to develop a Diagnostic Laboratory and Associated Collection and Infusion Centre on Part Lot 11194 (No 13) Bedbrook Place, Shenton Park.

Four appeals were received in objection to the EPA's decision not to assess the proposal.

The key issues raised by the appeals relate to the biodiversity values of the site; and how the proposed development may impact on regionally significant ecological linkages which lie between four *Bush Forever* sites: Underwood Avenue Bushland, Shenton Bushland, Bold Park and Kings Park; as this and other proposals are being considered by the EPA in isolation.

Appellants requested that the Minister for Environment direct the EPA to formally assess the proposal; and in doing so to consider the whole of Lot 11194 and the potential impacts associated with the removal of native vegetation and its context regionally.

Taking into account the information presented in these appeals, it is considered the EPA was justified in determining that this proposal is not so significant to warrant formal assessment under Part IV of the *Environmental Protection Act 1986*.

In relation to concerns raised in appeals about cumulative impacts of clearing native vegetation in the area, it is acknowledged that whilst the proposal the subject of this appeal is not so significant as to warrant formal assessment, the combined effect of a number of proposals by different proponents may cause significant deterioration in the values of the *Bush Forever* sites by diminishing connectivity. These impacts are considered to be best taken into consideration through the planning process, and in this regard, it is noted that the *Western Suburbs Greening Plan* seeks to enhance the values of ecological linkages within the region to maintain and enhance biodiversity levels.

It is also noted that approvals for clearing native vegetation within the Perth region (whether for new subdivisions; extraction of basic raw materials etc) are routinely subject to conditions to offset the loss of the vegetation. If a consistent approach is not adopted, there is a potential for inequities to arise.

In addition, and as noted by the EPA, the Carnaby's Black Cockatoo Recovery Plan has been developed to address the regional loss of feeding and nesting resources. The overall goal of the Plan is to protect, conserve and where possible, increase existing populations of Carnaby's Black Cockatoo in critical areas across their breeding range and in some parts of their non-breeding range. The EPA has advised that the Plan, in combination with strategic assessment provisions under State and Commonwealth legislation, will be utilised by relevant decision makers to ensure that a strategic approach is undertaken to the protection of this species.

RECOMMENDATION

For the reasons stated above, it is considered the EPA was justified in determining not to assess the proposal, and as a result, it is recommended that the appeals be dismissed.

However, in noting that it is not the EPA's intention to provide public advice, it is recommended that the Minister requests the EPA to, consistent with its response to the appeals, provide advice to the City of Nedlands that consideration should be given to the

ecological linkage values identified in both *Bush Forever* and the *Western Suburbs Greening Plan* when fulfilling its statutory functions with respect to the proposal.

In relation to cumulative impacts of clearing proposals within the Perth region, it is recommended that consideration be given to identifying the most appropriate mechanisms for such native vegetation to be considered in decision making processes. In this regard, the EPA's advice in respect to management of Carnaby's Black Cockatoo habitat is noted and endorsed.

INTRODUCTION

This report relates to appeals lodged in objection to the Environmental Protection Authority's (EPA) decision not to assess the proposal by Clinipath Pathology (the proponent) to develop a Diagnostic Laboratory and Associated Collection and Infusion Centre on Part Lot 11194 (No 13) Bedbrook Place, Shenton Park.

The EPA advertised its decision of "Not Assessed – No Advice Given" on 28 February 2011. Four appeals were from:

- Friends of Shenton Bushland Council Inc.;
- Friends of Underwood Avenue Bushland;
- Wildflower Society of Western Australia (Inc); and
- Urban Bushland Council of Western Australia.

This document is the Appeals Convenor's formal report to the Minister for Environment under section 109(3) of the *Environmental Protection Act 1986* (the EP Act).

BACKGROUND

Lot 11194 Bedbrook Place, Shenton Park is situated approximately five kilometres west of the Perth Central Business District, within the City of Nedlands. Underwood Avenue Bushland (*Bush Forever* site 119) is located to the north and Shenton Park Bushland (*Bush Forever* site 218) to the south (Figure 1).

Lot 11194 is bound by Bedbrook Place on its eastern boundary and developed properties on all other sides and as such represents an isolated vegetation remnant within an urban area.

Lot 11194 is zoned 'urban' under the provisions of the Metropolitan Region Scheme (MRS); and 'light industrial' under the City of Nedlands Town Planning Scheme No.2 (TPS2). The 'light industry' zone also makes provisions for various 'AA' uses, which are uses that are not permitted unless approval is granted by the Council exercising discretion. The proposed development would be a 'P' permitted land use in the 'light industry' zone as the proposed development complies with the definition of 'light industry' in TPS2.

Lot 11194 has a total area of 1.2031 hectares (ha). On 30 March 2011, the Western Australian Planning Commission (WAPC) approved a subdivision application to subdivide Lot 11194 into two green titles with areas of 8000m² and 4031m² (Figure 2).

In November 2010, the proponent lodged a development application with the City of Nedlands proposing to construct a Diagnostic Laboratory and Associated Collection and Infusion Centre on the northern portion of Lot 11194, being 8000m².

The proposed development will require the clearing of approximately 0.8ha of native vegetation for the construction of a two-storey building, which includes offices, clinic, amenity areas, laboratory, workrooms store areas and workstations; and 140 car park bays to be located to the east, west and south of the building (Figure 3).

Figure 1: Location of Lot 11194 Bedbrook Place, Shenton Park (Source: ENV Australia, 2010)

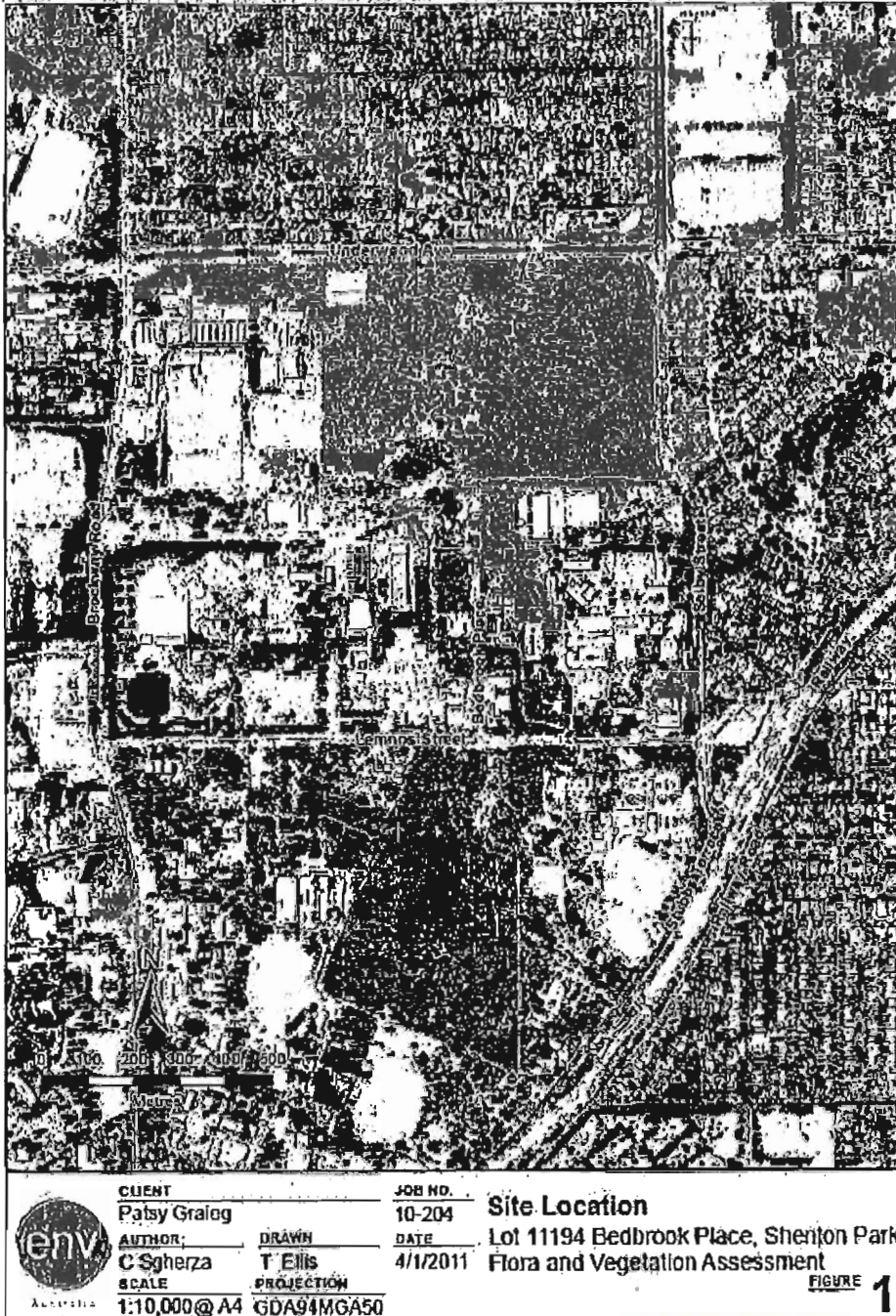


Figure 2: Green Title Subdivisions

(Source: Hanes Sharley, 2010)

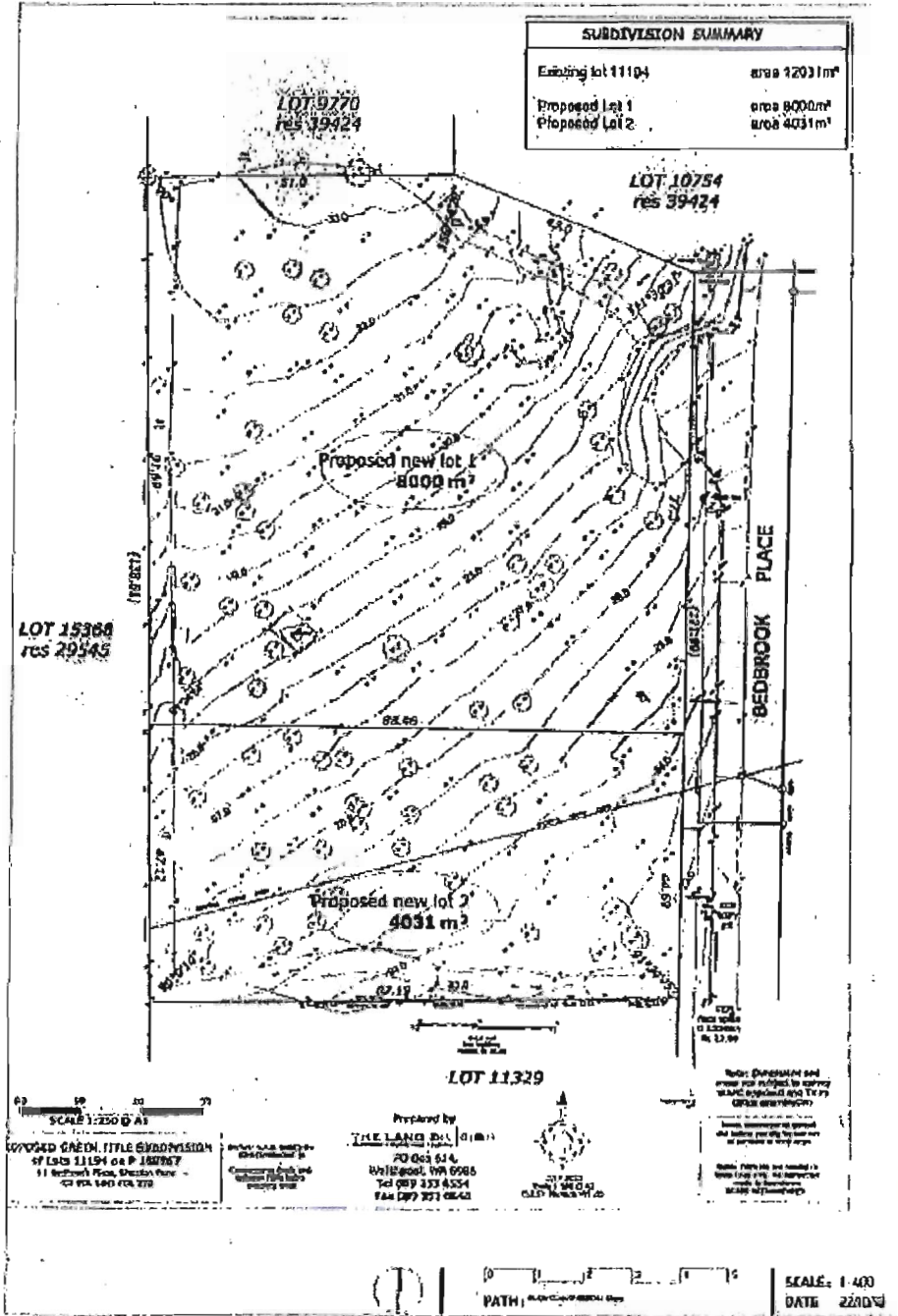
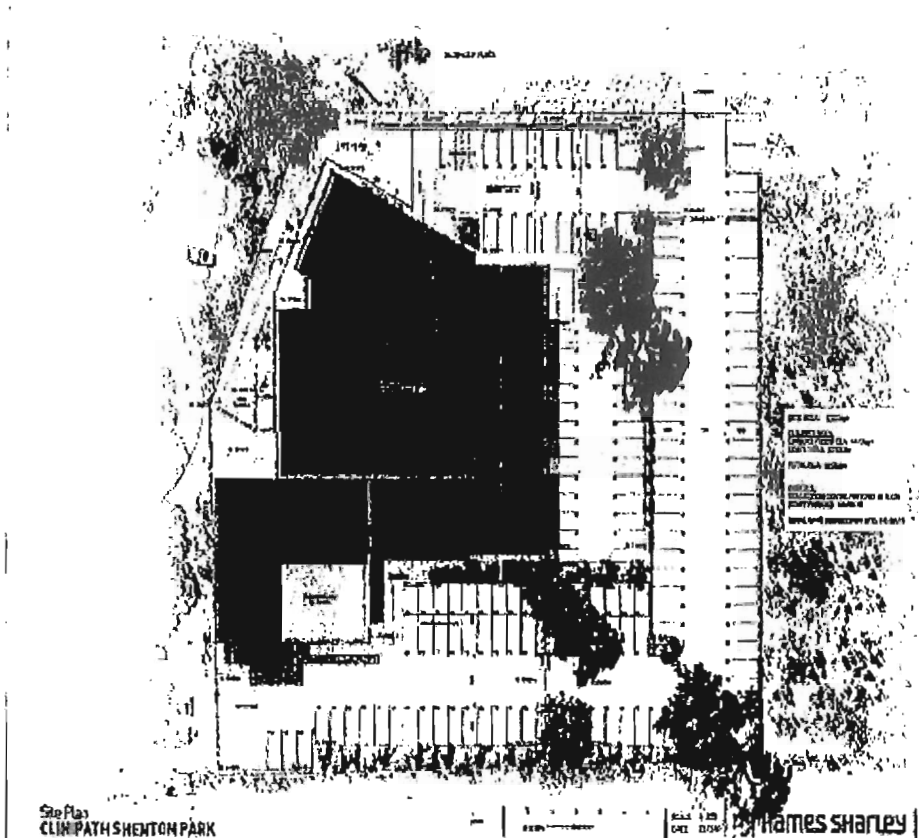


Figure 3: Site Plan of Proposed Development

(Source: James Sharley, 2010)



OVERVIEW OF APPEAL PROCESS

Pursuant to section 106 of the EP Act, a report was obtained from the EPA on the matters raised in the appeals. In accordance with normal procedures, the proponent was also given a summary of the appeals so that it could respond to the issues raised during the appeal investigation process.

Representatives of the Office of the Appeals Convenor held discussions with the appellants and representatives for the proponent. A site visit was also undertaken of the proposal area. Further discussions were also held with officers of the City of Nedlands, the Office of the EPA and the Federal Department of Sustainability, Environment, Water, Population and Communities (DSEWPC).

The environmental appeals process is a merits based process. For appeals against EPA decision not to assess, the Appeals Convenor normally considers questions of environmental significance, relevance of factors, additional information not considered by the EPA, and whether other approvals processes can adequately address the relevant environmental factors without the need for formal assessment by the EPA.

DECISION ON WHETHER OR NOT TO ASSESS A PROPOSAL

Part IV of the EP Act establishes procedures for the EPA to carry out environmental impact assessment in Western Australia. The *Environmental Impact Assessment (Part IV Division 1) Administrative Procedures 2010* (the Administrative Procedures) sets out the procedures adopted by the EPA for dealing with referrals and the assessment of proposals covered by Division 1 of Part IV of the EP Act, and outlines the various levels of assessment.

Pursuant to clause 8.2 of the Administrative Procedures, the EPA makes its decision on whether or not to assess a proposal based on the potential impacts(s) of the proposal on the environment, with reference to the information in the referral form, and any further information it has obtained from the proponent, relevant government agencies or any other person.

GROUNDS OF APPEAL

The appellants are seeking for the Minister to allow the appeals and direct the EPA to formally assess the proposal, and in doing so to consider the whole of Lot 11194 in its regional context.

The appellants' concerns relate to the following factors:

1. Regionally significant ecological linkage;
2. Loss of habitat for endangered species;
3. Failure to consider the development proposal over the whole site; and
4. Percentage remaining of Karrakatta Central & South complex.

Each of the above grounds of appeal is addressed in turn, followed by an overall conclusion.

GROUND 1 – REGIONALLY SIGNIFICANT ECOLOGICAL LINKAGE

The appellants are concerned that the development site is part of a regionally significant ecological linkage between *Bush Forever* sites, Kings Park and Bo'd Park. Appellants submitted that this linkage facilitates the seasonal movement of birds, reptiles, frogs, invertebrates and pollen; and thus assists ecological functioning in a fragmented landscape. It also acts a refuge or corridor to the adjacent bushland in times of threat, such as fire and storm weather events.

The appellants also submitted that without the retention of this linkage, Kings Park will continue to lose species and hence biodiversity value; and that this is contrary to the EPA's objective of retaining species and biodiversity value as per its Environmental Protection Bulletin No 8 *South West Regional Ecological Linkages* (EPA Bulletin No.8).

The appellants also asserted that the development site is within a Regional Greenway corridor linking *Bush Forever* site 119 (Underwood Avenue Bushland) to *Bush Forever* site 218 (Shenton Bushland), and that this corridor continues to be eroded by ongoing development proposals.

The appellants contended that the entire lot, and its intrinsic biodiversity values and its position in the landscape adjacent to and linked with other bushland and remnants, should be considered by the EPA.

The appellants also contended that the EPA's decision to 'Not Assess' this proposal in the context of the whole linkage and retention of the biodiversity of the four *Bush Forever* sites involved is inconsistent with EPA Bulletin No 8, which states:

'...However, elsewhere on the Swan Coastal Plain native vegetation is highly fragmented, therefore the maintenance of conservation reserves and all existing bushland patches, and the strategic restoration of ecological linkage function between them is a priority.'

The appellants submitted therefore, that the EPA in line with this policy should have formally assessed this proposal as a 'quick no' via an assessed on referral information so that the advice is legally binding.

EPA advice

The WAPC recently released State Planning Policy 2.8 *Bushland Policy for the Perth Metropolitan Region* (SPP 2.8). This document aims to provide a policy and implementation framework that will ensure bushland protection and management issues in the Perth Metropolitan Area are appropriately addressed and integrated with broader land use planning and decision making, to secure long term protection of biodiversity and environmental values.

In response to the appellants' concerns the EPA advised that SPP 2.8 does not identify Lot 11194 Bedbrook Place as a *Bush Forever* site nor a site of regional significance. The EPA also advised that formal environmental impact assessment by the EPA is therefore not warranted.

The EPA notes, however, that the site is identified as part of a Regional Greenway in the *Western Suburbs Greening Plan*, which was prepared by the Western Suburbs Regional Organisation of Councils (WSROC), of which the City of Nedlands is a member. The EPA advised that it expects that the City of Nedlands will take the *Western Suburbs Greening Plan* into consideration when fulfilling its statutory functions with respect to the site.

Proponent's response

The proponent acknowledged that Lot 11194 is located within the Greenway corridor between Underwood Avenue Bushland and Shenton Bushland.

In the 2011 Flora and Vegetation Assessment, undertaken by ENV Australia Pty Ltd (ENV Australia), the site is described as being "an isolated vegetation remnant within an urban area". The same report detailed that "Disturbances include invasion by introduced species, rubbish and clearing. Smaller areas, including a fire break around the boundary of the survey area and an area in the north-eastern corner, were described as being in Completely Degraded condition".

The proponent submitted that the loss of this area will not significantly reduce the biodiversity of the Shenton Park area. The subject site is located in the centre of an industrial zone between two areas of bushland which are only approximately 500 metres apart. The proponent noted that Underwood Avenue Bushland and Shenton Bushland are protected under *Bush Forever*.

The proponent asserted that in considering the proposal, the EPA would have accounted for surrounding land uses and values.

The proponent also submitted that there are strands of bushland, east of the subject site, running almost the entirety of the distance between Underwood Avenue Bushland and Shenton Bushland, which would naturally act better as an ecological linkage assisting flora and fauna movement and biodiversity in the area.

Consideration

By this ground of appeal, appellants submitted that the proposed development will disrupt an

important ecological linkage in a largely fragmented landscape, and that as a result, the impact of the proposal warrants formal assessment by the EPA.

In considering this ground of appeal, the EPA and proponent noted that the site is within Greenway 19, which is understood to link Bold Park to Kings Park (see Figure 4). The purpose of the Greenway is to provide linkages between bushland areas to enable fauna movement, as well as for aesthetic functions within an urban landscape.

The EPA also noted that the site is identified as part of a Regional Greenway in the *Western Suburbs Greening Plan*, and that it expects the City of Nedlands will take this Plan into consideration when fulfilling its statutory functions with respect to the property (see Figure 5).

The *Western Suburbs Greening Plan* also describes the site as containing high density of native vegetation, as shown in Figure 6.

During the appeal investigation, the City of Nedlands indicated that it was in the process of studying the potential for a green corridor between Shenton Bushland and Underwood Avenue Bushland. The City noted that the property the subject of this appeal is part of the study area, and a portion of the rear of the lot has been identified as part of the corridor.

In addition to the identification of the site as a Greenway, *Bush Forever* identifies a "potential regionally significant bushland linkage" between Bold Park and Kings Park, which broadly includes the area the subject of this appeal (see Figure 7).

Bush Forever identifies a number of different types of linkages between *Bush Forever* sites, with the following content relevant in the context of this ground of appeal:

... the consideration of the surrounding land uses and connectivity between [*Bush Forever*] Sites is important in the selection of conservation areas and the design of a conservation area network. Some Sites are of particular significance as they provide corridors through otherwise highly cleared lands and provide linkages of regional significance.

Map 7 (Existing and Potential Bushland/Wetland Linkages in the Perth Metropolitan Region) shows the major linkages between Sites. The linkages are defined in three categories:

- (iii) Regionally significant potential bushland/wetland linkage - potentially regionally significant bushland/wetland linkages being those regional scale links that follow existing features or bridge gaps between existing regionally significant areas of bushland/wetland. As stated, these linkages could potentially form links and with some management and/or revegetation could be restored (page 71, Part A *Bush Forever*).

The site the subject of this appeal is to the south of *Bush Forever* Site 119 (Underwood Avenue Bushland) and to the north of *Bush Forever* Site 218 (Shenton Bushland). In relation to linkages, the *Bush Forever* Site Description for Site 119 states:

Linkage: adjacent bushland/canopy to the south; part of Greenway 19 (Tingay, Alan & Associates 1998a); part of a regionally significant potential bushland/wetland linkage (Part A, Map 7)

The *Bush Forever* Site Description for Site 218 states:

Linkage: adjacent bushland/canopy to the north, south, east and west; part of a regionally significant potential bushland/wetland linkage (Part A, Map 7)

Both sites are identified as being within the potential regionally significant bushland linkage as shown in Figure 7. Both descriptions also appear to contemplate the land the subject of this appeal being part of the same potential linkage, being to the south of site 119 and the north of site 218. As noted above, the land is also within Greenway 19.

Figure 5 – Greening plan for the western suburbs

(Source: Ecoscape, 2002)

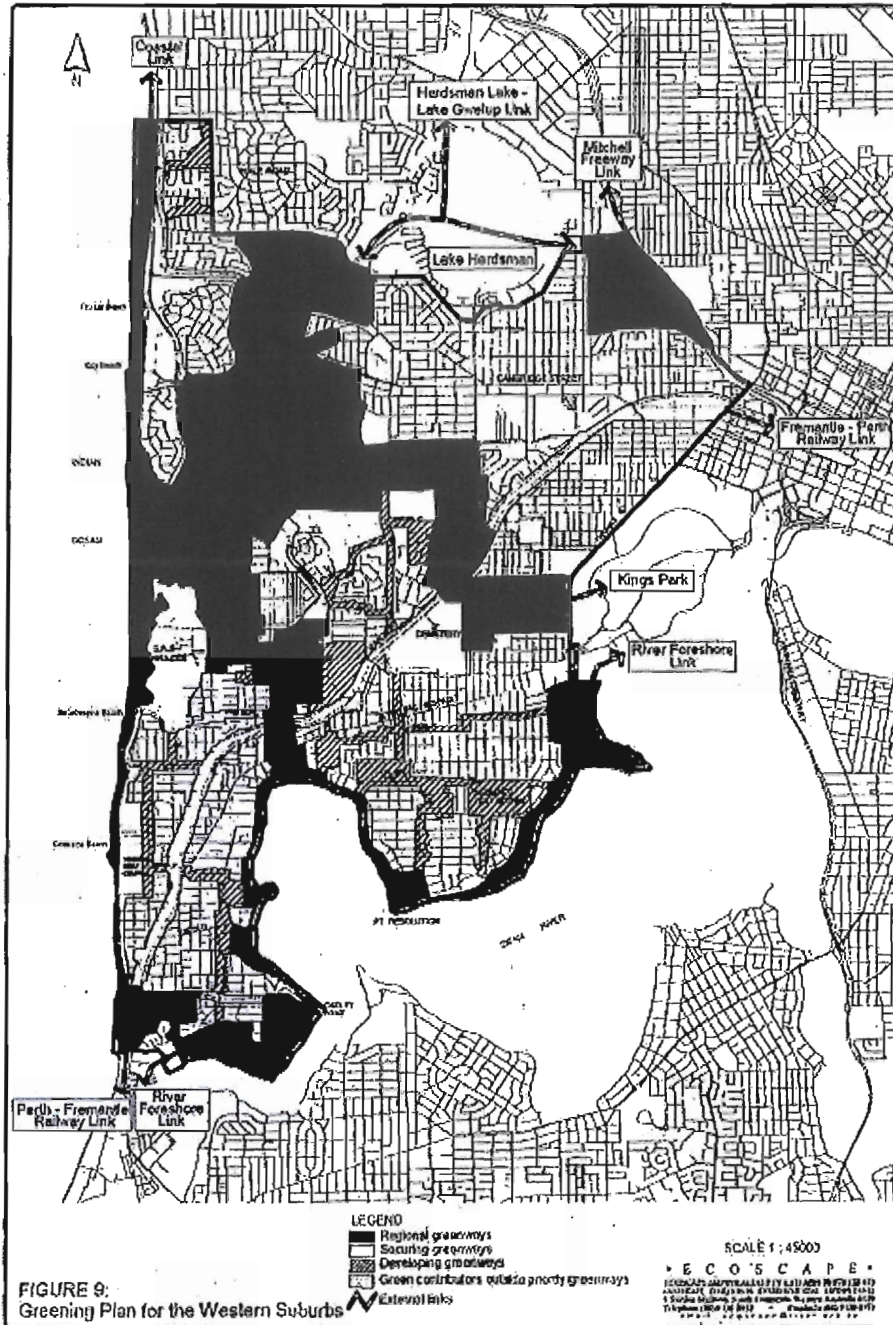


FIGURE 9:
 Greening Plan for the Western Suburbs

Figure 6 – Vegetation density within the western suburbs

(Source: Ecoscope, 2002)

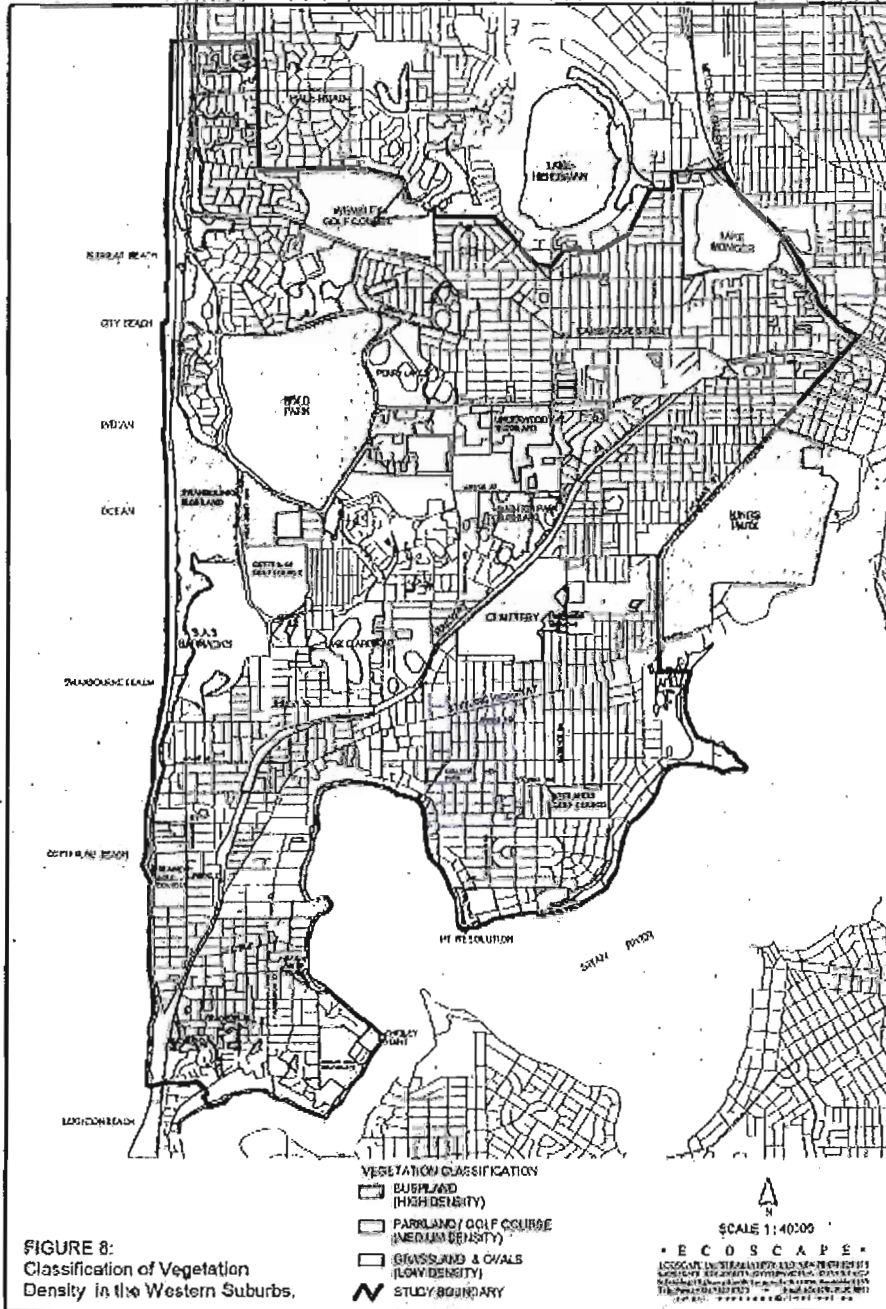
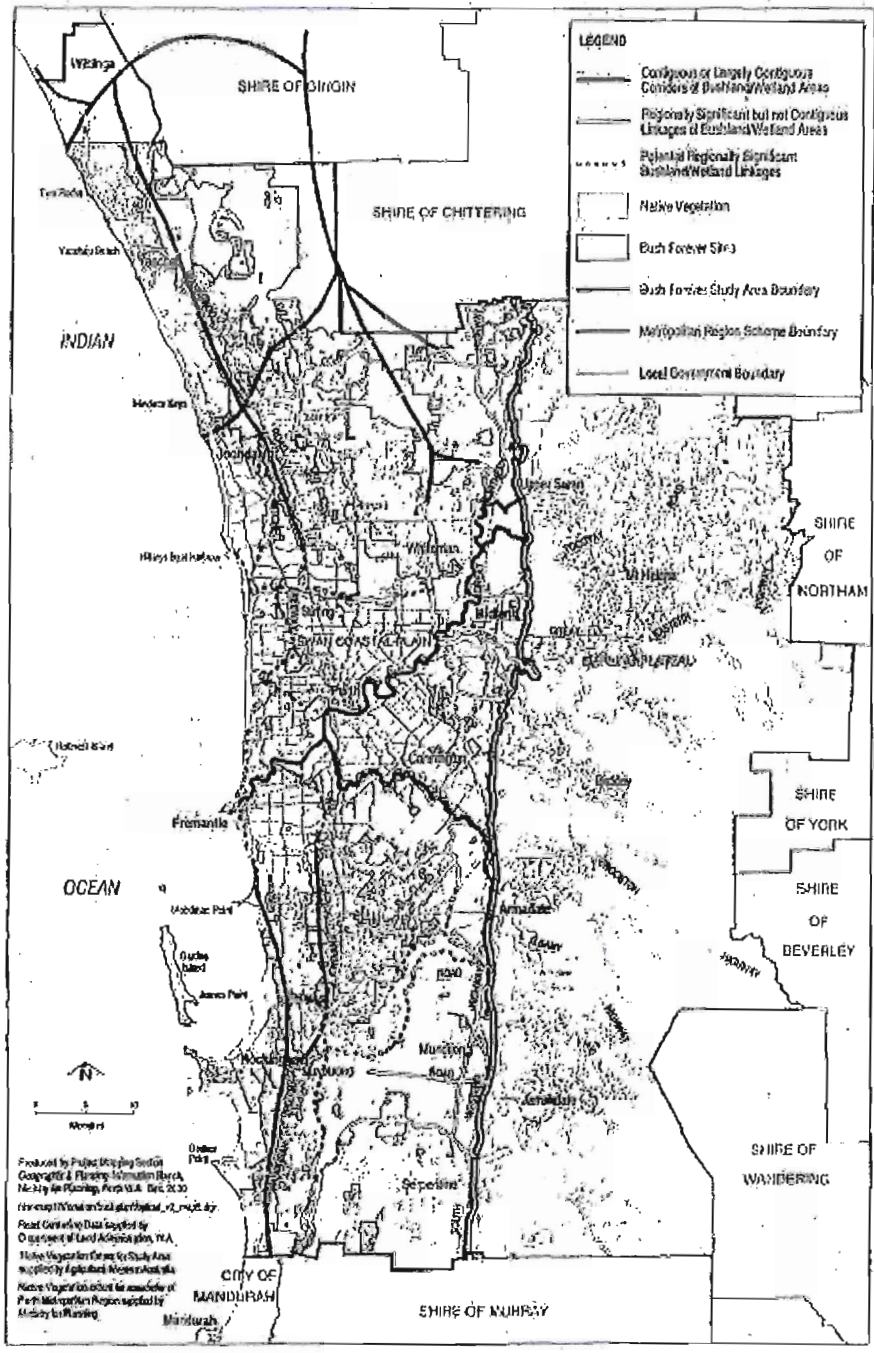


Figure 7 - Existing and potential bushland/wetland linkages in Perth (Source: Bush Forever, 2000)



In light of this background, it appears the site has value as being part of a linkage between larger areas of remnant vegetation which are identified under *Bush Forever*. This status does not however appear to afford any formal protection, other than being identified as a matter that should be considered through planning instruments and related decisions. In this regard, it is understood the City of Nedlands will be assessing the local environmental impacts of the proposal through the planning application.

The value of the site as an ecological linkage may also be a relevant consideration where clearing associated with the proposal is subject to regulation under the State clearing laws or the Federal *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

GROUND 2 – LOSS OF HABITAT FOR ENDANGERED SPECIES

The appellants reiterated that the site acts as a refuge and wildlife corridor to the adjacent and nearby bushland in times of threat from fire and storm weather events.

The appellants expressed concern that the EPA has not taken into account the fact that the site provides habitat for the two species, (*Calyptorhynchus latirostris*) Carnaby's Black Cockatoo and (*Symenon Gratiola*) the Graceful Sun Moth, listed as 'endangered' under the EPBC Act; and another species, (*Merops ornatus*) the Rainbow Bee Eater, that is listed as a migratory species under the EPBC Act.

The appellants stated that Carnaby's Black Cockatoos and Rainbow Bee Eaters have been observed feeding and or nesting on the subject site; and the site is also a breeding area for the Graceful Sun Moth.

One appellant asserted that a flock of Carnaby's Black Cockatoos roost near Perry Lakes; fly into Underwood Avenue Bushland, then into the bushland along Bedbrook Place to feed, before flying into Shenton Bushland.

The appellants contended that the loss of vegetation from the subject site will further endanger these and other fauna species; and they consider the proponent's proposal to retain three Jarrah trees is inadequate to protect food resources and the ecological linkage.

One appellant questioned how habitat trees can be retained if a diagnostic laboratory is built and that even if this were possible, this in no way compensates for the loss of the bushland and its value to flora and fauna.

EPA advice

The EPA reiterated its advice in respect to Ground 1 of the appeal that the site is identified as part of a Regional Greenway in the *Western Suburbs Greening Plan*. The EPA stated that it expects that the City of Nedlands will take this Plan into consideration when fulfilling its statutory functions with respect to any development of the site.

The EPA advised that the *Wildlife Conservation Act 1950* establishes statutory restrictions on the taking of listed fauna. Implementation of the proposal will have to comply with the provisions of the *Wildlife Conservation Act 1950*. In addition, the EPA noted that the proponent will need to satisfy the requirements of the EPBC Act.

The EPA also advised that ENV Australia undertook a flora and vegetation assessment of the site in November 2010. The assessment recorded 55 taxa from 19 families and 43 genera. No plant species listed as 'Declared Rare' under the *Wildlife Conservation Act 1950* or 'Threatened' under the EPBC Act were recorded. Approximately 36 individuals of a 'Priority Flora' (Priority 4) species, *Jacksonia sericea*, were recorded along the eastern boundary of

the site. ENV Australia notes that *Jacksonia sericea* is well represented in the Shenton Park area. It is known to occur within four the *Bush Forever* sites in the local area, two of which are reserves, and therefore is protected within three kilometres of the site. Furthermore, the EPA noted that no Threatened Ecological Communities or Priority Ecological Communities were present.

The EPA noted that ENV Australia also undertook a Carnaby's Black Cockatoo habitat assessment of the development site in 2010. The assessment concluded that the proposal does not involve any clearing of known breeding trees of suitable size; does not involve clearing of a known roosting site (including individual trees used for roosting); will not alter the hydrology or fire regimes so that Carnaby's Black Cockatoo habitat becomes degraded or destroyed; and will not have a significant impact on the species.

The EPA additionally advised that a Carnaby's Black-Cockatoo Recovery Plan (the Plan) has been developed to address the regional loss of feeding and nesting resources on the Cockatoos. The overall goal of the Plan is to protect, conserve and where possible, increase existing populations of Carnaby's Black Cockatoo in critical areas across their breeding range and in some parts of their non-breeding range. The Plan recognises the importance of maintaining both breeding and foraging areas for the Cockatoos.

The Plan aims to address:

- habitat management within priority areas;
- management of feeding habitat within priority areas;
- monitoring of populations;
- community involvement; and
- captive Breeding Programs.

It is intended that the Plan combined with strategic assessment provisions under State and Commonwealth legislation, will be utilised by the relevant decision makers to ensure that a strategic approach is undertaken to the protection of this species.

The EPA concluded that it does not consider that the small loss of foraging habitat caused by this proposal warrants formal environmental impact assessment.

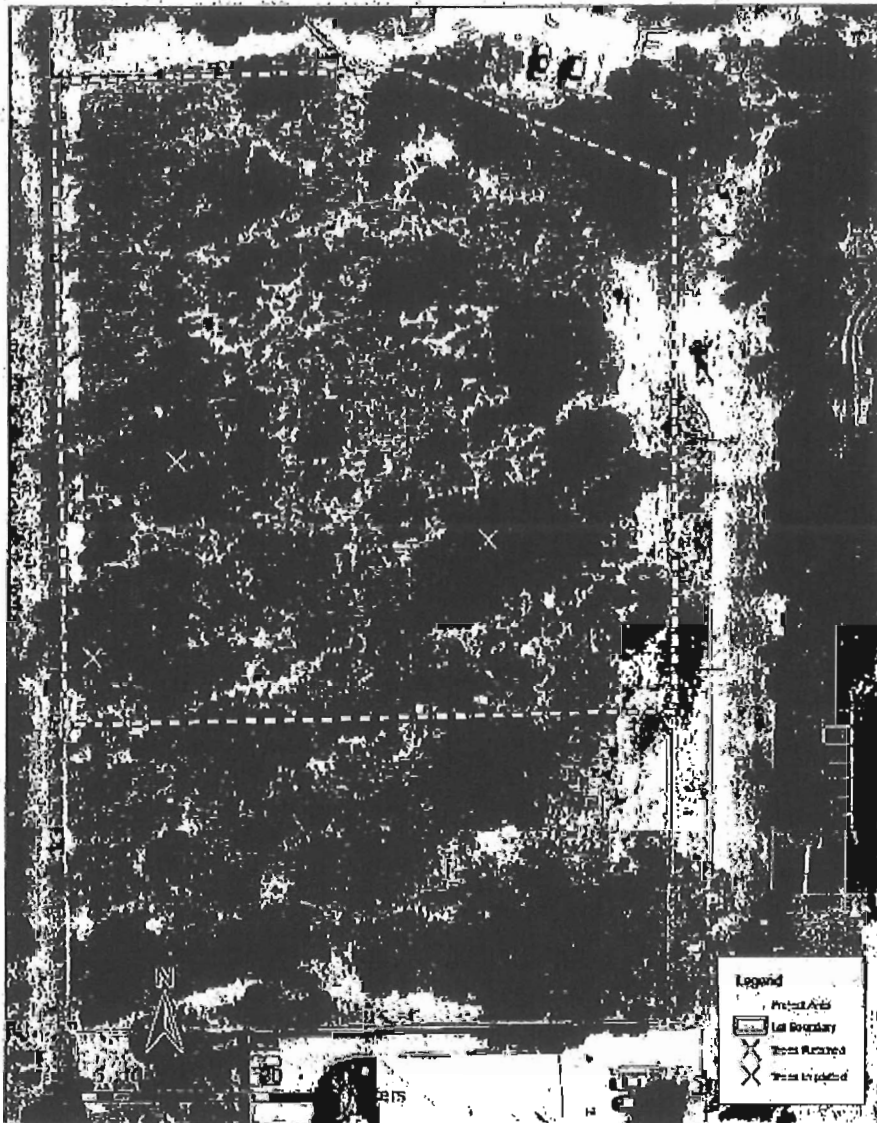
Proponent's response

With regards to the loss of habitat for Carnaby's Black Cockatoo, the proponent submitted that only four potential Carnaby's habitat trees were identified by ENV Australia onsite; and that three of those are being retained in the development design (Figure 8). In addition, the Black Cockatoo assessment undertaken by ENV Australia states that the tree proposed to be cleared "is not a tree used for breeding" and "there was no evidence recorded of black cockatoos roosting in the project area".

Whilst no guidelines have been released to guide development and protection of this species by State or Commonwealth Government as yet, the proponent is committed in using species in the landscaping design from a species list targeting Black Cockatoo breeding, foraging and roosting preferences, including Jarrah.

Figure 8: Location of Jarrah trees retained and impacted

(Source: ENV Australia, 2010)



In relation to the Graceful Sun-Moth, the Department of Environment and Conservation (DEC) has released *Conservation Advice for Graceful Sun-Moth – January 2011*. In this advice, the DEC stated that the 2009 and 2010 survey results for the species has "significantly extended the known range of Graceful Sun-Moth". The advice also specifies that "coastal dunes appear to be the preferred habitat of the species".

In addition, under the advice titled Proposed response to development impacting on Graceful Sun-Moth it states "...impact on some populations of Graceful Sun-Moth will not cause extinction of the species and DEC considers that, if such decisions do not result in significant loss of habitat, this would not substantially increase the level of endangerment."

The proponent advised that ENV Australia completed its last of six Graceful Sun-Moth surveys in April 2011 as per DEC guidelines, and located only one Graceful Sun-Moth during all surveys (Figure 9).

Figure 9: Location of Graceful Sun-Moth

(Source: ENV Australia, 2010)



The proponent noted that the EPA has not identified any guidelines in relation to the Graceful Sun-Moth; however it appears that a small amount of disturbance to the species habitat will not result in species extinction. On this basis, the proponent considers that the small size of the site is unlikely to facilitate a viable and sustainable population of the Graceful Sun-Moth.

With regards to the Rainbow Bee-eater, the proponent understands that it is a migratory and very versatile species. Therefore, the proponent considers it will also be able to utilise surrounding native vegetation which exists within 300-400 metres of the site; and is protected in perpetuity under *Bush Forever*.

Consideration

By this ground of appeal, appellants contended that clearing native vegetation at the site would adversely affect habitat for two species of listed fauna (Carnaby's Black Cockatoo and the Graceful Sun Moth) and one migratory species (Rainbow Bee Eater). Appellants contended that the EPA should have assessed the proposal on the basis of the potential impacts to these species if the proposal is implemented.

In its response to the appeals, the EPA advised that the flora and vegetation assessment undertaken by the proponent, no declared rare flora and no Threatened Ecological Communities or Priority Ecological Communities were identified. Approximately 36 individuals of a 'Priority Flora' (Priority 4) species, *Jacksonia sericea*, were recorded along the eastern boundary of the site, however the EPA noted that this species is well represented in the Shenton Park area and is known to occur within four of the *Bush Forever* sites in the area.

In relation to habitat values specifically, the EPA noted that the proposal does not involve any clearing of known Carnaby's Black Cockatoo breeding trees of suitable size; does not involve clearing of a known roosting site (including individual trees used for roosting); will not alter the hydrology or fire regimes; and will not have a significant impact on the species.

The proponent's advice was consistent with that of the EPA, with the proponent additionally noting that only four potential Carnaby's habitat trees were identified onsite; and that three of those are being retained in the development design (Figure 8). The proponent also committed to using species in the landscaping design which targets Black Cockatoo breeding, foraging and roosting preferences, including Jarrah.

In relation to the Graceful Sun-Moth, the proponent noted the DEC *Conservation Advice for Graceful Sun-Moth, January 2011*. In this advice, the proponent noted that the 2009 and 2010 survey results for the species has "significantly extended the known range of Graceful Sun-Moth" and specifies that "coastal dunes appear to be the preferred habitat of the species". In addition, under the advice titled Proposed response to development impacting on Graceful Sun-Moth it states "...impact on some populations of Graceful Sun-Moth will not cause extinction of the species and DEC considers that, if such decisions do not result in significant loss of habitat, this would not substantially increase the level of endangerment."

The proponent advised that its environmental consultant completed the last of six Graceful Sun-Moth surveys in April 2011 as per DEC guidelines, and located only one Graceful Sun-Moth during all surveys (Figure 9).

With regards to the Rainbow Bee-eater, the proponent stated that as it is a migratory and very versatile species it will also be able to utilise surrounding native vegetation which exists within 300-400 metres of the site.

The majority of vegetation at the site is described by the proponent's environmental consultant as being in "good to very good condition". The site was subject to an assessment for impacts to Black Cockatoo habitat, which found four mature jarrah trees on site which may have future breeding potential. The assessment noted that three of these trees were to be retained, and that as a result, it was considered the proposal would not have a significant impact on Black Cockatoos.

The Black Cockatoo habitat assessment undertaken by the proponent quoted criteria attributed to the Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) to identify whether an action was likely to have a significant impact on one or more of the black cockatoo species present in Western Australia. This includes:

- any clearing of breeding habitat in woodland stands of 0.5 hectares or more that contains 3 or more breeding trees of suitable size (i.e. diameter at breast height greater than 500mm);
- any clearing of known breeding trees of suitable size;
- clearing of more than 1 ha of foraging habitat;
- clearing of known roosting site;
- creation of a new gap of more than 4 kilometres between patches of black cockatoo habitat.

In officer level discussions between the Office of the Appeals Convenor and DSEWPC, the above criteria were confirmed, though no formal guidelines are in place at this stage.

As the proponent has indicated, the site is greater than 0.5 ha and contains possible breeding trees. As such, it would likely meet the criteria for referral under the EPBC Act as a controlled action. The proponent has indicated however that as three of the four identified breeding trees will be retained, the criteria noted above is not made out, and referral would not be required.

Under the EPBC Act, the responsibility for referring a controlled action rests with the proponent. As such, the question as to whether or not the proposal requires referral under the EPBC Act is a matter for the proponent and DSEWPC. It is unclear from the information provided in appeals as to how the modifications to the property may change surface hydrology or otherwise impact on the three jarrah trees sought to be retained. It is possible, for example, that works associated with levelling the site and bituminising the car park will adversely affect the three retained trees. It is also unclear as to whether there maybe other matters of national environmental significance triggered under the EPBC Act.

From a State perspective, the EPA advised that a Carnaby's Black-Cockatoo Recovery Plan has been developed to address the regional loss of feeding and nesting resources, with the aim of the Plan being to protect, conserve and where possible, increase existing populations of Carnaby's Black Cockatoo in critical areas across their breeding range and in some parts of their non-breeding range.

The EPA advised that the Plan, combined with strategic assessment provisions under State and Commonwealth legislation, will be utilised by the relevant decision makers to ensure that a strategic approach is undertaken to the protection of this species.

It is also noted that the City of Nedlands has statutory authority in respect to planning approvals for the site. As noted in respect to Ground 1 of the appeals, the site has also been identified as having value as a linkage, which the EPA expects to be considered by the City of Nedlands through the relevant planning processes.

Taking the above into account, it is considered that the site contains habitat of value to native fauna, including species of conservation significance.

GROUND 3 – FAILURE TO CONSIDER THE WHOLE SITE

The appellants submitted that the proponent is seeking to avoid environmental assessment by putting forward a proposal of less than one hectare, even though the long-term plans involve development of the whole of Lot 11194, which is greater than one hectare.

The appellants noted that clearing of more than one hectare of foraging habitat is over the significant impact threshold using EPBC Act criteria.

The appellants asserted that the development application should be viewed as a staged application which would amount to over one hectare not 0.8 hectare as claimed.

EPA advice

The EPA acknowledged that Lot 11194 Bedbrook Place has a total area of 1.2031 hectares but advised that the proposal the subject of this appeal is limited to 8000m² in the northern portion of the lot.

The EPA noted that the referral documentation included architectural drawings and plans, including car park requirements. There is no suggestion in any of the documentation that the proposal will ultimately extend beyond the 8000m² identified in the referral.

The EPA also advised that a subdivision application has been submitted to the WAPC to transfer the 8000m² development area to the proponent.

Proponent's response

The proponent stated that the WAPC recently approved a subdivision application to divide the site into two green title lots with areas of 8000m² and 4000m². Once divided, the northern portion of the site which is 8000m² in area will be transferred to the proponent. The proponent advised that the current landowners of Lot 11194 will retain ownership of the southern 4000m² portion of the site.

The proponent advised that the development application lodged with the City of Nedlands in November 2010 relates to the proposed development of a Diagnostic Laboratory, with an Associated Infusion Centre on the 8000m² lot only, and the EPA made its decision in accordance with the development application (plans and report) lodged with the City of Nedlands. The southern 4000m² portion of the site does not form any part of the application currently with the City of Nedlands.

Furthermore, the proponent submitted that the proposed development is consistent with the planning intent for the area and planning framework applicable to this site, with a diagnostic laboratory being a permitted land use within the 'light industry' zone under the City of Nedlands TPS 2.

Consideration

By this ground of appeal, appellants have contended that the subdivision of the land into lots with a size of less than one hectare was intended to avoid environmental impact assessment.

It is understood this ground of appeal relates to the threshold for referral of controlled actions to DSEWPC under the EPBC Act and to the exemption from the requirement for obtaining a

clearing permit under the EP Act for certain proposals involving the removal of less than one hectare of native vegetation.

In determining the significance of a proposal, the Administrative Procedures provides that the EPA will consider (among other things) the extent to which other statutory decision-making processes meet the EPA's objectives and principles for environmental impact assessment.

For the reasons stated earlier in this report, it is possible the proposal will require referral under the EPBC Act in respect to direct and indirect impacts to Black Cockatoo breeding habitat or impacts to other listed species. In this regard, it is noted that the threshold for referring a proposal impacting on potential breeding trees is 0.5 ha. The 1 ha figure identified by the appellants appears to relate to the referral of proposals impacting on foraging habitat.

It is also noted that the clearing of native vegetation is subject to section 51C of the EP Act, which makes it an offence to remove native vegetation unless the clearing:

- is done in accordance with a clearing permit;
- is of a kind that is exempt under Schedule 6 of the Act; or
- is of a kind prescribed in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (the Clearing Regulations) and is not done in an environmentally sensitive area.

Appellants expressed concern that the proposed clearing is exempt under the Clearing Regulations on account of the fact that the area to be cleared is below one hectare. It appears this contention refers to Item 1 of regulation 5 of the Clearing Regulations, which provides that the owner of property on which the clearing is to take place, is exempt from requiring a permit for the following:

Clearing of a site for the lawful construction of a building or other structure on a property, being clearing which does not, together with all other limited clearing on the property in the financial year in which the clearing takes place, exceed 1 ha, if —

- (a) the clearing is to the extent necessary; and
- (b) the vegetation is not riparian vegetation.

In this case, it is understood clearing of less than one hectare is proposed for the purpose of the construction of a Diagnostic Laboratory, with an Associated Infusion Centre. As such, it is possible that the clearing may not require a permit. This is a matter for the DEC however, as this exemption only applies where the land is not within an "environmentally sensitive area". It is beyond the scope of this report to consider whether or not the site is within an environmentally sensitive area.

In addition to the Clearing Regulations, the proposal is subject to planning laws. As noted above, SPP 2.8 supports:

... the preparation of local bushland protection strategies by all local governments in the Perth Metropolitan Region. This will enable the identification of locally significant bushland sites for protection and management outside Bush Forever areas. The need for such strategies was identified in *Bush Forever*, the Urban Bushland Strategy and the State Planning Strategy. In addition, the National Local Government Biodiversity Strategy (Australian Local Government Association 1999) identified the need to prepare local biodiversity strategies. Bushland is an important component of biodiversity and therefore local bushland protection strategies should form part of a wider local biodiversity strategy, or similar, where possible. (emphasis added)

The City of Nedlands is the relevant local government in respect to this site, and has a decision making role in respect to the proposal under TPS 2. As noted under SPP 2.8, it is open to the City of Nedlands to prepare a bushland protection strategy for the identification of

locally significant bushland. The site has also been identified as part of a Greenway, and the City of Nedlands has advised that the site is within a potential green corridor which is currently being examined.

The EPA has also advised that the proposal is subject to the *Wildlife Conservation Act 1950* in respect to taking of flora and fauna.

From the foregoing, the proposal is subject to other laws, including planning instruments administered by the City of Nedlands. In relation to the contention in appeals that the subdivision of the property into two parcels of land with an area of less than 1 ha each was designed to avoid environmental legislation, it is noted that referral of proposals under section 38 of the EP Act has no such limit and the exemption applying under the Clearing Regulations could be exercised whether or not the land was subdivided. In relation to the EPBC Act, the guidance provided by DSEWPC identifies a 1 ha threshold for impacts on foraging habitat for black cockatoo species, but includes a lower threshold (0.5 ha) in respect to breeding habitat.

GROUND 4 - PERCENTAGE REMAINING OF KARRAKATTA CENTRAL & SOUTH

Appellants expressed concern that the site comprises vegetation of the Karrakatta complex Central and South, which was submitted is significantly under-represented in secured areas of *Bush Forever*. The appellants contended that, even if fully implemented, *Bush Forever* will only protect 7.7%, or less, of the Karrakatta Central and South complex, which is inconsistent with the *Bush Forever* objective of securing at least ten per cent of each ecological community in conservation reserves.

The appellants stated that data from the most up to date mapping by the Perth Biodiversity Project shows that there is inadequate representation and conservation of this complex. Failure to protect the remnants of this complex that do remain is at variance with the National Objectives and Targets for Conservation of Australia's biological diversity, to which the Western Australian Government is a signatory.

The appellants asserted that the EPA did not take this into account and therefore the Minister should direct that these areas be retained and protected.

EPA advice

The EPA reiterated its advice at appeal Ground 1, stating that SPP 2.8 has been prepared to provide a policy and implementation framework that will ensure bushland protection and management issues in the Perth Metropolitan Area are appropriately addressed and integrated with broader land use planning and decision making, to secure long term protection of biodiversity and environmental values.

The EPA advised that while it does establish various objectives concerning the adequate representation of ecological communities in conservation reserves, Lot 11194 Bedbrook Place is not identified as a *Bush Forever* site or a site of regional significance. Consequently, the EPA was of the view that formal environmental impact assessment is therefore not warranted.

Proponent's response

In relation to this appeal ground the proponent noted that the Flora and Vegetation assessment completed in 2011 states that 'This complex (Karrakatta Complex Central and South) exceeds the 10% recommended retention status for the *Bush Forever* study area' and that 18% of this complex remains compared to its pre-European extent within the *Bush Forever* project area, which covers most of the Perth Metropolitan Region.

Bush Forever identifies regionally significant bushland for protection, based on criteria relating to its conservation value. The proponent notes that the subject site was not identified as being required to meet the *Bush Forever* vegetation retention targets.

The proponent additionally noted that there are four *Bush Forever* sites (Underwood Avenue Bushland, Shenton Bushland, Bold Park and Kings Park) located within three kilometres of the subject site, all of which are characterised by the vegetation complex of Karrakatta Central and South.

Consideration

By this ground of appeal, appellants expressed concern that the site comprises vegetation of the Karrakatta complex Central and South, which was submitted is significantly under-represented in secured areas of *Bush Forever*, with 7.7%, or less of the complex secured.

The EPA did not assess this issue specifically, instead noting that the site was not identified as regionally significant under *Bush Forever*. The proponent noted that 18% of this complex remains, which is above the target of 10% for the *Bush Forever* study area.

As noted under Ground 2 of the appeal, the EPA stated that the Carnaby's Black Cockatoo Recovery Plan, in combination with strategic assessment processes under State and Commonwealth legislation, will be utilised by relevant decision makers to ensure that a strategic approach is undertaken to the protection of this species.

CONCLUSION

The proposed development for a Diagnostic Laboratory and Associated Collection and Infusion Centre on Part Lot 11194 Bedbrook Place, Shenton Park was referred to the EPA pursuant to section 38 of the EP Act by the City of Nedlands. In accordance with section 39A of the EP Act, the EPA must decide whether to assess the proposal referred.

The key issues raised by the appeals relate to the biodiversity values of the site; and how the proposed development may impact on regionally significant ecological linkages which lie between four *Bush Forever* sites: Underwood Avenue Bushland, Shenton Bushland, Bold Park and Kings Park; as this and other proposals are being considered by the EPA in isolation.

Appellants requested that the Minister direct the EPA to formally assess the proposal; and in doing so to consider the whole of Lot 11194 and the potential impacts associated with the removal of native vegetation and its context regionally.

Taking into account the information presented in these appeals, it is considered the EPA was justified in determining that this proposal is not so significant to warrant formal assessment under Part IV of the EP Act.

In relation to concerns raised in appeals about cumulative impacts of clearing native vegetation in the area, it is acknowledged that whilst the proposal the subject of this appeal is not so significant as to warrant formal assessment, the combined effect of a number of proposals by different proponents may cause significant deterioration in the values of the *Bush Forever* sites by diminishing connectivity. These impacts are considered to be best taken into consideration through the planning process, and in this regard, it is noted that the *Western Suburbs Greening Plan* seeks to enhance the values of ecological linkages within the region to maintain and enhance biodiversity levels.

It is also noted that approvals for clearing native vegetation within the Perth region (whether for new subdivisions; extraction of basic raw materials etc) are routinely subject to conditions to offset the loss of the vegetation. If a consistent approach is not adopted, there is a potential for inequities to arise.

In addition, and as noted by the EPA, the Carnaby's Black Cockatoo Recovery Plan has been developed to address the regional loss of feeding and nesting resources. The overall goal of the Plan is to protect, conserve and where possible, increase existing populations of Carnaby's Black Cockatoo in critical areas across their breeding range and in some parts of their non-breeding range. The EPA has advised that the Plan, in combination with strategic assessment provisions under State and Commonwealth legislation, will be utilised by relevant decision makers to ensure that a strategic approach is undertaken to the protection of this species.

RECOMMENDATION

For the reasons stated above, it is considered the EPA was justified in determining not to assess the proposal, and as a result, it is recommended that the appeals be dismissed.

However, in noting that it is not the EPA's intention to provide public advice, it is recommended that the Minister requests the EPA, consistent with its response to the appeals, to provide advice to the City of Nedlands that consideration should be given to the ecological linkage values identified in both *Bush Forever* and the *Western Suburbs Greening Plan* when fulfilling its statutory functions with respect to the proposal.

In relation to cumulative impacts of clearing proposals within the Perth region, it is recommended that consideration be given to identifying the most appropriate mechanisms for such native vegetation to be considered in decision making processes. In this regard, the EPA's advice in respect to management of Carnaby's Black Cockatoo habitat is noted and endorsed.



Jean-Pierre Clement
APPEALS CONVENOR

Prepared by:
Anna Oxford, Appeals Assessor



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Ms Karen Godridge
Senior Environmental Scientist
ENV Australia Pty Ltd
PO Box 7480
CLOISTERS SQUARE WA 6850

Date: 22 September 2011
EPBC Ref: 2011/6089
EPBC contact: Mitchell Bouma
(02) 6274 2020
mitchell.bouma@environment.gov.au

Dear Ms Godridge

Decision on referral

Development of a diagnostic laboratory, lot 700 Bedbrook Place, Shenton Park, 5.5 km west of Perth, WA (EPBC 2011/6089)

This is to advise you of my decision, under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), about the proposed action to clear native vegetation for the purpose of developing a diagnostic laboratory and health clinics at lot 700, Bedbrook Place, Shenton Park, 5.5 km west of the Perth central business district.

As a delegate of the Minister for Sustainability, Environment, Water, Population and Communities, I have decided that the proposed action is not a controlled action. This means that the proposed action does not require further assessment and approval under the EPBC Act before it can proceed.

A copy of the document recording this decision is enclosed. This document will be notified publicly on the department's website.

Please note that this decision relates only to the specific matters protected under Chapter 2 of the EPBC Act.

This decision does not affect any requirement for separate state or local government environment assessment and approvals of the proposed action.

The department has an active audit program for proposals that have been referred under the EPBC Act. You should be aware that your project may be selected for audit by the department at any time and all related records and documents may be subject to scrutiny. The audit program aims to ensure that proposals are implemented as planned. Information about the department's audit strategy is enclosed.

I have written separately to Mr Anthony Sutton of the Western Australian Office of the Environmental Protection Authority and Mr Nicholas Lucas who is the authorised representative acting on behalf of Clinipath Pathology Pty Ltd advising them of this decision.

If you have any questions about the referral process or this decision, please contact the EPBC project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Richard McAllister
Assistant Secretary
Environment Assessment Branch



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

**Notification of
REFERRAL DECISION -- not controlled action**

Development of a diagnostic laboratory, lot 700 Bedbrook Place, Shenton Park, 5.5 km west of Perth, WA (EPBC 2011/6089)

This decision is made under Section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

person named in the referral Clinipath Pathology Pty Ltd
ACN: 008 811 185

proposed action To clear native vegetation for the purpose of developing a diagnostic laboratory and health clinics at lot 700, Bedbrook Place, Shenton Park, 5.5 km west of the Perth central business district (See EPBC Act referral 2011/6089).

Referral decision: Not a controlled action

status of proposed action The proposed action is not a controlled action.

Person authorised to make decision

Name and position Richard McAllister
Assistant Secretary
Environment Assessment Branch

signature

date of decision 22 September 2011



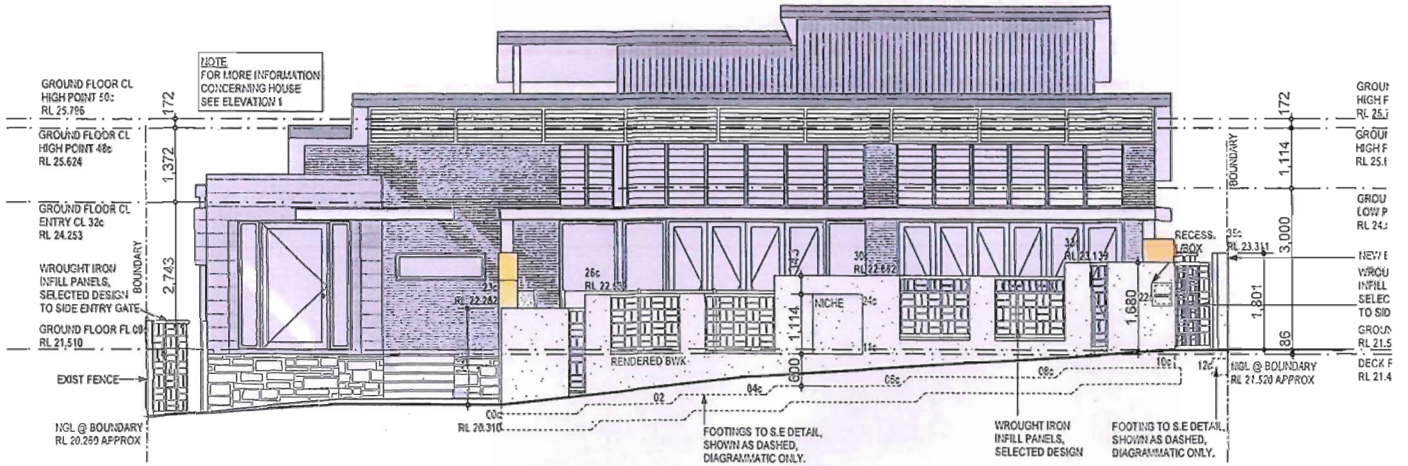
Locality Plan
1:2218

48 Riley Road, Dalkeith

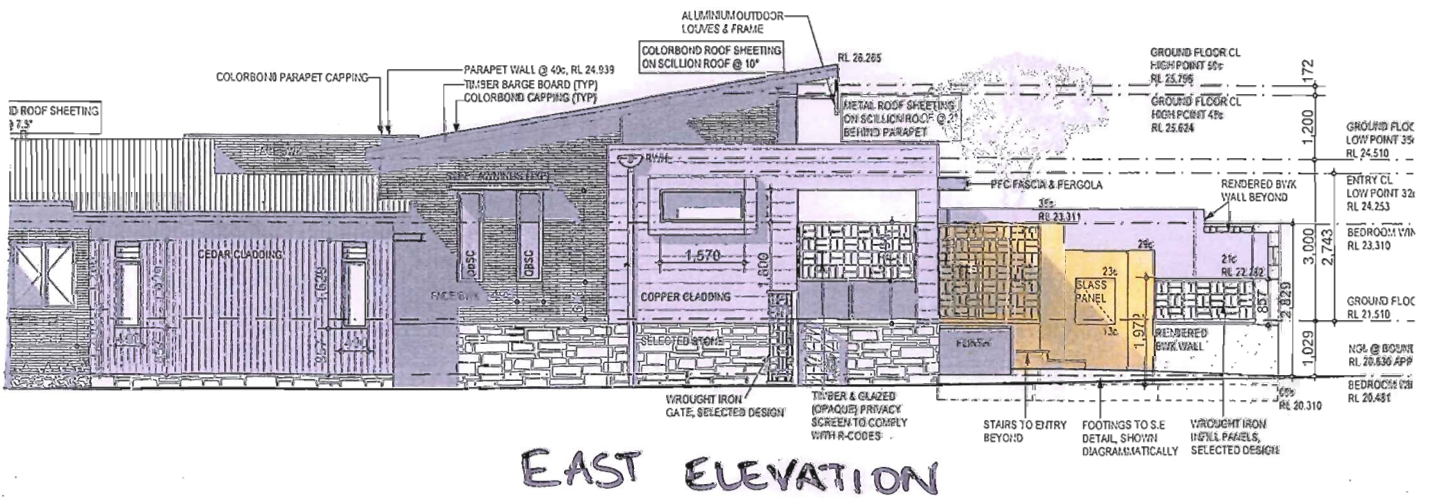




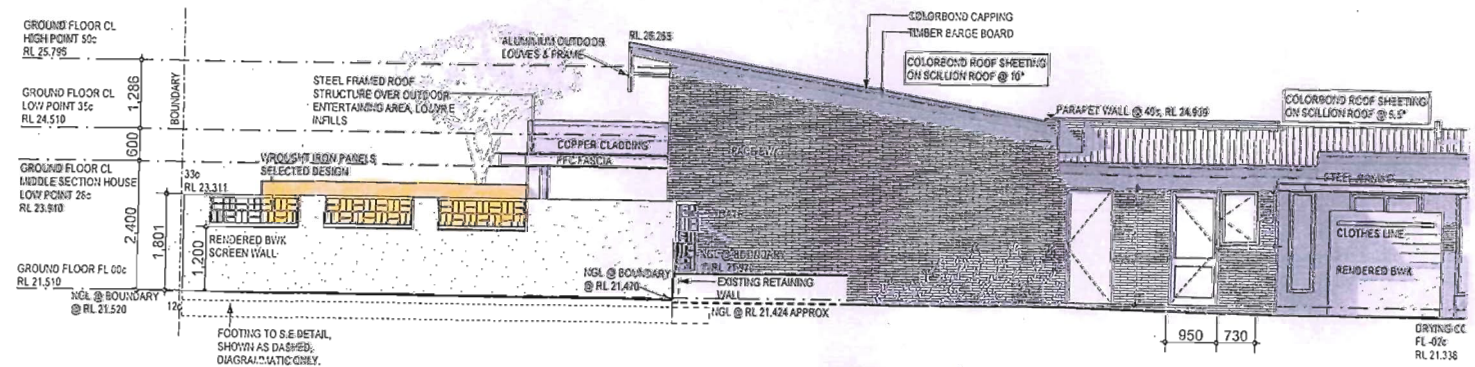
D66.11 – Attachment 2
Aerial Photograph - Front Setbacks



ELEVATION 1 WITH SCREEN WALLS
 Scale 1:100
NORTH ELEVATION
 (FROM RILEY RD)



EAST ELEVATION



WEST ELEVATION

ELEVATION 8
 Scale 1:100



D66.11 – Attachment 4
Photographs of Frogmouth Lane

