



Development Services Reports

Committee Consideration – 29 November 2011
Council Resolution – 13 December 2011

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D64.11	No. 118-120 (Lot 888) Monash Avenue, Nedlands – Change of Use (from Aged Persons Dwellings) to Communal Facilities & Office-General
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Committee	29 November 2012
Council	13 December 2012

Applicant	TPG Town Planning & Urban Design
Owner	Retirement Care Australia Pty Ltd
Officer	Matt Stuart – Senior Statutory Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	MO1/118-01
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination, due to the level of community interest revealed during the consultation phase.

Recommendation to Committee

Council approves an application for Change of Use (from Aged Persons Dwellings) to Communal Facilities and Office-General at No. 118-120 (Lot 888) Monash Avenue, Nedlands, in accordance with the application and plans dated 14 September 2011, with the following conditions:

1. All stormwater from building, paved areas and driveways shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event; and soak-wells shall be a minimum capacity of 1 m³ for every 80 m² of paved or roofed surface on the property.
2. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes

As a result of community consultation conducted as part of processing this application, the local residents are unified in expressing significant concerns regarding the size and useability of the communal facilities, and poor communication regarding all redevelopment matters. Accordingly, the City recommends that the Landowner take steps in addressing these issues in a meaningful way, in order to promote community wellbeing.

a. Building:

- i. More detailed plans are required for a complete assessment under the Building requirements;**
- ii. Universal access to all buildings will be required;**
- iii. Universal toilet facilities for all buildings are required; and**
- iv. Protection to openings from fire source features and adjoining buildings could be an issue and design modification may be required.**

b. Environmental Health:

- i. Prior to the City issuing a development approval, an applicant shall lodge with the City an Application for Food Premises Alteration / Fit-out which an Environmental Health Officer at the City is satisfied demonstrates food safety outcomes;**
- ii. 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;**
- iii. Prior to commencing a Food Business, the premises shall receive an inspection from an Environmental Health Officer at the City which cites the Food Business may commence operation;**
- iv. Prior to commencing a Food Business, a documented Food Safety Program which meets the requirements of the Australian New Zealand Food Standards Code Standard 3.2.1 Food Safety Programs, shall be deemed satisfactory by an Environmental Health Officer at the City;**

- v. 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;
- vi. 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;
- vii. Fixtures, fittings and equipment that are designed to be connected to a sewage and waste water disposal system and discharge sewage or waste water shall be connected to a sewage and waste water disposal system;
- viii. 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 it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
- ix. 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;
- x. Premises shall have a separate cleaners or sluice sink located outside of any area where open food is handled;
- xi. Designated storage areas for cleaning chemicals and equipment and personal belongings shall be available and separate from any food preparation or food storage area;
- xii. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres per second;
- xiii. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia;
- xiv. A sanitary convenience shall not have an entrance opening from a habitable room, a room used for the manufacture or storage of food for human consumption or a room used as a factory workshop or workplace, except through an airlock which has a floor area of at least 1.85 m² and direct ventilation to open air;

- xv. **Access to any public sanitary convenience shall not be through or pass adjacent to, without complete physical segregation from, any food preparation, storage, packing or handling area;**
- xvi. **A staff sanitary convenience hand wash basin shall be located adjacent to the sanitary convenience and shall be connected to a supply of warm running potable water;**
- xvii. **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 1.8 m from any building and at least 1.8 m from the boundary of the block;**
- xviii. **The applicant is advised to consult the City's Visual and Acoustic Privacy Advisory Information in relation to selecting and locating any air-conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated;**
- xix. **The City does not recommend any air-conditioner, swimming pool or spa mechanical equipment is installed near a property boundary where it is likely noise from such mechanical equipment in these locations will intrude on neighbouring properties;**
- xx. **Prior to selecting a location to install an airconditioner, applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide on air-conditioner placement so as to prevent noise affecting neighbouring properties;**
- xxi. **Prior to installing an air-conditioner or swimming pool or spa mechanical equipment, applicant is advised to consult residents of neighbouring properties and if necessary take measures to prevent noise affecting neighbouring properties;**
- xxii. **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;**

- xxiii. Removal and disposal of ACM shall be in accordance with *Health (Asbestos) Regulations 1992, Regulations 5.43 - 5.53 of the Occupational Safety and Health Regulations 1996, Code of Practice for the Safe Removal of Asbestos 2nd Edition, Code of Practice for the Management and Control of Asbestos in a Workplace and any Department of Commerce Worksafe requirements;***
- xxiv. Where there is over 10 m² of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business;**
- xxv. A construction management plan shall detail how proposed site works will be managed to minimise environmental impacts and shall address but not be limited to:**
- 1) Staging plan for the entire works;**
 - 2) Applicable timeframes and assigned responsibilities for tasks;**
 - 3) On-site storage of materials and equipment;**
 - 4) Parking for contractors;**
 - 5) Waste management;**
 - 6) Management of noise in accordance with the requirements of the *Environmental Protection (Noise) Regulations 1997;***
 - 7) Management of vibrations; and**
 - 8) Complaints and incidents;**
- xxvi. An internal laundry shall be provided which has a minimum floor area of 3 m² and minimum width of 1.5 m:**
- 1) Where a laundry is situated adjacent to a kitchen, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof / ceiling, or an opening which is not more than 1220 mm wide and has a door which when closed completely fills the opening.**

Strategic Plan

KFA 3: Built Environment

- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 4: Community Wellbeing

- 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.

KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 118-120 (Lot 888) Monash Avenue, Nedlands
 Zoning MRS: Urban
 Zoning TPS2: Special Use (see Schedule V)
 Lot Area: 74,147 m² (7.415ha.)

The site has frontages to Monash Avenue to the north, Williams Road to the east, Karella West to the south and Smyth Road to the west, as seen in the location plan (refer to attachment 1).

History

2002	Council approved Master Plan for Hollywood retirement village (Master Plan dated August 2001)
2003	Gazetted Scheme Amendment 193 to rezone Hollywood Village from Residential R25 to 'Special Use'
2007	Proposed new Master Plan considered by Council and supported for public consultation – has not been progressed by the Applicant.
2008	Demolished approximately 25 units – Centennial Close, Crossleigh Units and Waringa Dementia Hostel Development Approval granted to replace dementia care buildings on the south western corner – Approval now expired, dementia care buildings not built.
2011	Subdivision approved by WAPC for two lots and four lots In November at a special Council meeting, the Council approved a temporary car park in the south-eastern quadrant of the site, for a temporary car park for use by the QEII Hospital.

Statutory Framework

Town Planning Scheme No. 2

The site is zoned Special use under the City of Nedlands Town Planning Scheme No. 2 and is subject to Schedule V.

Schedule V states:

- (i) the following are 'P' permitted uses:
 - Aged Persons Dwellings
 - Aged Persons Hostel
 - Residential Building
 - Nursing Home
 - Public Utility
- (ii) the following are IP (incidental) uses:
 - Consulting Rooms
 - Office-General
 - Office-Professional
 - Office-Service
 - Medical Centre
 - Shop
 - Car Park
 - Place of Public Worship
- (iii) All other uses are not permitted unless identified in the approved Master Plan, and then the proposed use shall be subject to the provisions of Clause 6.3.3 and 6.3.4 of the Scheme.
- (iv) the height of building(s) and the number of storeys shall be in accordance with the approved Master Plan for the subject site.
- (v) The vehicular access points are to be restricted to those locations stipulated on the approved Master Plan.
- (vi) All development shall be subject to development standards outlined in Clause 5.4.1, Table II and Schedule 3 (T.P.S No. 2) unless otherwise stipulated on the approved Master Plan.

Master Plans

Master plans outline the long-term intent for the site at the time the plans were prepared.

Current Master Plan

The current master plan was approved by Council in 2002, which is dated August 2001 (the Master Plan, refer to attachment 2).

This Master Plan provides an indicative outline of the proposed future use of the site at that time. The main focus of the Master Plan was to improve the urban design aspects of the current aged person development, with some changes to the location of facilities within the site.

There is a central community area containing a 'Village Centre' with shops, Village Hall and a Village Square, with various residential facilities on different parts of the site, including 'Institutional' living, independent living units, hostel facilities and an administration centre.

Several buildings on the site have now been demolished and the Master Plan has not been implemented any further.

Draft Master Plan

In 2007, a new master plan was considered by Council and consequently was supported for public consultation. The draft master plan retains 87 of the existing independent living units, creates a single-storey village centre, a 285 bed hospice/hostel, and four (4) new six-storey buildings for independent living in the form of multiple dwellings. There are also communal facilities and a manager's office.

Subdivision Approval

In March 2011, the Western Australian Planning Commission (WAPC) approved the site to be subdivided into two lots and four lots. The subdivision has created a separate lot on the corner of Smyth Road and Karella Street of 1.38 ha, whereas the remaining lot is 6.03 ha. Only the two lot subdivision has been cleared and Certificate of Titles (Titles) being sought.

Memorial

There is a Memorial on the Title. This Memorial has been imposed under the *Retirement Villages Act 1992* and its purpose is to establish proper administrative processes between the residents and the operators of the Village. The Memorial does not address land use. Land use is covered under separate legislation (the *Planning and Development Act 2005*).

This application does not affect, and is not affected by, the Memorial.

Proposal Detail

The proposal involves a change of use from the existing aged persons' dwellings to communal facilities and an office, as well as a new pool, all as depicted in the submitted plans (refer to attachment 3). More specifically, the proposal includes:

- A community hall, shade-sail and landscaping (by refurbishing 2 existing units);

- A billiards, library and meeting room (by refurbishing 1 existing unit);
- An office (by refurbishing 1 existing unit); and
- Pool facilities including a pool, spa, shade-sail, landscaping and change room with pool equipment store within a single-storey building (by developing vacant land).

Furthermore, the site photographs show the relationship of the site with the surrounding built environment (refer to attachment 4).

Referrals

Property Services

The City's Building section recommends the following:

- Standard conditions (see Recommendation to Committee section);
- More accurate plans are required for an assessment under building requirements;
- Universal access to all buildings will be required;
- Universal toilet facilities for all buildings are required; and
- Protection to openings from fire source features and adjoining buildings could be an issue and design modification may be required.

Accordingly, advice notes are recommended to resolve this matter.

Sustainable Nedlands

The City's Environmental Health section recommends standard conditions (see Recommendation to Committee section). Topics include food premises, sanitary, soak-wells, noise, asbestos and construction management.

Accordingly, advice notes are recommended to resolve this matter.

Consultation

Required by legislation:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Scheme cl. 6.3- special procedures:	9/11/2011 – 14/11/2011	
Required by City of Nedlands policy:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Comments received: 50 from a petition (dated August 2011) and 49 as responses to the City's consultation letters.

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

Design Issues	
Summary of comments received	Officers technical comment
<p>Issue: Master Plan</p> <p>How will it work?</p>	<p>Not Upheld</p> <p>The Scheme does not control the location of land uses within the site as per the Master Plan (see Statutory Framework and Discussion sections).</p>
<p>Issue: Land Use</p> <p>It is a pity that residential units may be used for other purposes.</p> <p>The friendly village feel will be lost.</p>	<p>Not Upheld</p> <p>The proposed land uses are considered compliant with the Scheme.</p>
<p>Issue: Over 55's</p> <p>The village is only for over 55's.</p>	<p>Not Upheld</p> <p>The facilities are related to retirement village purposes.</p>
<p>Issue: Availability elsewhere onsite</p> <p>Other options would be result in far larger facilities.</p>	<p>Not Upheld</p> <p>There are no planning requirements to provide communal facilities. Whilst this may be a valid concern, this is a civil matter between the residents and the Landowner. Notwithstanding, an advice note is recommended to address this issue.</p>
<p>Issue: Loss of Community Functioning</p> <p>The loss of residential units causes this.</p>	<p>Not Upheld</p> <p>The functioning of the community will be enhanced by the inclusion of communal facilities.</p>
<p>Issue: Size of the Communal Hall</p> <p>It will not hold expected numbers of people (100).</p> <p>The kitchen will not accommodate the kitchen and dishwashing needs.</p> <p>The billiards room is too small to play.</p>	<p>Not Upheld</p> <p>There are no planning requirements to provide communal facilities. Whilst this may be a valid concern, this is a civil matter between the residents and the Landowner. Notwithstanding, an advice note is recommended to address this issue.</p>

<p>The library is too small to accommodate its property.</p> <p>A bandaid solution.</p>	
<p>Issue: Location of the Pool</p> <p>Too close to residents' dwellings.</p> <p>Will destroy a pleasant and shady area.</p>	<p>Not Upheld</p> <p>The location of the proposed land use is considered compliant with the Scheme.</p>
<p>Issue: Odour of the Pool</p> <p>Sick of the current smell.</p>	<p>Not Upheld</p> <p>The pool will be in a different location. The impact upon new residents can be managed by the Landowner.</p>
<p>Issue: Size of the Pool</p> <p>Existing pool and change rooms are far greater in size.</p> <p>The area is too small for an adequate pool.</p>	<p>Not Upheld</p> <p>There are no planning requirements to provide communal facilities. Whilst this may be a valid concern, this is a civil matter between the residents and the Landowner. Notwithstanding, an advice note is recommended to address this issue.</p>
<p>Issue: Level of Exposure of the Pool</p> <p>Elderly people do not like to display themselves.</p> <p>Need enclosure for use throughout the year.</p> <p>Need protection from rain storms.</p> <p>An enclosed facility is standard at other villages.</p>	<p>Not Upheld</p> <p>There are no planning requirements to provide communal facilities. Whilst these may be valid concerns, this is a civil matter between the residents and the Landowner. Notwithstanding, an advice note is recommended to address this issue.</p>
<p>Issue: Construction Issues</p> <p>It may be dangerous to construct due to the proximity of below ground units.</p>	<p>Noted</p> <p>Not a planning issue, to be assessed at the building licence phase.</p>
<p>Issue: Current use of Dwellings</p> <p>A unit is being converted into an office whereas there are ample facilities elsewhere on the site.</p>	<p>Noted</p> <p>The Applicant has chosen a different approach, which has been assessed accordingly.</p>

<p>Issue: Current use of Dwellings</p> <p>A unit is being used by a family with children.</p> <p>A unit is being used by a staff member with a cat.</p>	<p>Upheld</p> <p>These land uses require planning approval, however a recent investigation by the City's Compliance Coordinator did not reveal any current planning offences and consequently this matter has been closed. Furthermore, an office is part of this application.</p>
<p>Issue: Availability of Retirement Dwellings</p> <p>The landowner is reducing the numbers of residents.</p> <p>There is an urgent need in the community.</p> <p>Why can't empty units be occupied by much needed new residents?</p> <p>The units have not been available to the public for 7-8 years.</p>	<p>Not Upheld</p> <p>The proposed land uses are considered compliant with the Scheme. Notwithstanding, this is a civil matter.</p>
<p>Issue: The Availability of the Librarian</p> <p>The librarian is not prepared to work at night in a building other than her residence.</p>	<p>Not Upheld</p> <p>There are no planning requirements to provide communal facilities. Whilst this may be a valid concern, this is a civil matter between the residents and the Landowner. Notwithstanding, an advice note is recommended to address this issue.</p>
<p>Issue: Privacy</p> <p>Adverse impact.</p>	<p>Not Upheld</p> <p>Visual privacy relates to viewing platforms greater than 0.5 m above NGL.</p>
<p>Issue: Blocking Vision and Views</p> <p>Pool and community hall will do so.</p>	<p>Not Upheld</p> <p>Not a planning consideration. Notwithstanding, the existing buildings and pool room has a similar effect.</p>

<p>Issue: No Visitor Parking.</p>	<p>Not Upheld</p> <p>Visitor car parking is linked to the number of dwellings. As the number of dwellings is being reduced, then the planning requirements have been satisfied.</p>
<p>Issue: Support from the Residents</p> <p>This proposal was rejected by 80% of the residents at the Residents meeting.</p>	<p>Not Upheld</p> <p>Noted, but not a statutory planning requirement, nor decision making body.</p>

<p>Landowner Issues</p>	
<p>Summary of comments received</p>	<p>Officers technical comment</p>
<p>Issue: Change of Ownership</p> <p>Was happy with the service from the Salvation Army when they were the Landowner.</p> <p>Dropping standards and facilities.</p>	<p>Not Upheld</p> <p>A civil matter and not a planning consideration.</p>
<p>Issue: Intensions of the Landowner</p> <p>They want to fragment the village for financial gain.</p> <p>Want to know what is happening to the vacant lot and the blue fence which has been in place for 3 years.</p> <p>There is no security for the future.</p>	<p>Not Upheld</p> <p>The Landowner intends to redevelop the site, which involves numerous aspects. When applications are received, neighbour consultation will be initiated by the City as required. Otherwise, a civil matter and not a planning consideration.</p>
<p>Issue: The Memorial on Title</p> <p>The Landowner is trying to remove the memorial on the Certificate of Title pertaining to the retirement village.</p>	<p>Not Upheld</p> <p>The Landowner disputes this and this is a civil matter. Notwithstanding, the Minister for Lands has written to the local MLA in late 2011, advising that the memorial will be duplicated onto any newly created lots. An application has not been received to remove any memorials, and if one were received it would face significant challenges.</p>

<p>Issue: Private Contracts</p> <p>My contract says this is a retirement village, no change of use.</p>	<p>Not Upheld</p> <p>The facilities are related to retirement village purposes. Notwithstanding, this is a civil matter and not a planning consideration.</p>
<p>Issue: Broken Promises by the Landowner</p> <p>Regarding the new nursing home with up market facilities 6 years ago. Once the old facility was demolished, they cancelled the new.</p> <p>Residents moved out of the old facilities only due to the promise of new facilities.</p> <p>In recent years, demolition has been staged thereby reducing the numbers of residents, with this proposal furthering that impact.</p>	<p>Not Upheld</p> <p>A civil matter, however the City has been advised that an application is to be lodged on in or about January 2012.</p>
<p>Issue: Lack of Respect by the Landowner</p> <p>Contempt for residents.</p>	<p>Not Upheld</p> <p>A civil matter and not a planning consideration.</p>
<p>Issue: Poor Communication from the Landowner</p> <p>The Landowner was not courteous as it did not discuss this application before or after it was lodged, which is required by the Retirement Villages Act and the Code of Fair Trading.</p>	<p>Not Upheld</p> <p>The Landowner disputes this. Regardless, the City has sent letters to Landowners, held meetings onsite and at the City's offices to answer any queries. Furthermore, this is a civil matter as the City does not administer this Act or Code. It is understood that enquiries have been made to various other bodies to resolve issues of this nature, including Ministers and the SAT.</p>
<p>Issue: Building Maintenance</p> <p>Broken air conditioner and a flapping awning.</p>	<p>Not Upheld</p> <p>A civil matter and not a planning consideration.</p>
<p>Issue: The Council's ability to resolve Civil Matters</p> <p>The Council has it within its powers, do as we ask.</p>	<p>Not Upheld</p> <p>A civil matter and not a planning consideration, nor a Council matter.</p>

Legislation

- City of Nedlands Town Planning Scheme No. 2 – Schedule V
- Residential Design Codes of WA 2010
- Council Policy 6.4 – Neighbour Consultation

Budget/financial implications

The application is for works to be constructed on a private lot, and not at the City's expense.

Risk Management

Nil.

Discussion

The existing development on the site currently features a variety of land uses associated with a retirement village, as depicted in the site photographs (refer to attachment 4).

The proposal involves a change of use from the existing aged persons' dwellings to communal facilities and an office, as well as a new pool, all as depicted in the submitted plans (refer to attachment 3).

This application has a long history and technical planning issues, which need to be considered in detail, as discussed below.

Land Use

The site is within a 'Special Use' zone, which has associated planning controls under Schedule V of the Scheme.

The communal hall, billiards / library / meeting room and pool facilities are considered to be a land use of communal facilities, which is a 'Use Not Listed' under clause (iii) of Schedule V. This clause prohibits such land uses unless it has been subjected to special neighbour consultation and included in the Master Plan. As the consultation has been completed (see Consultation section), and the land use is included in the master plan (Village Hall, i.e. communal facilities), it therefore complies with the Scheme.

The office is an 'IP' (incidental) land use under clause (ii) of Schedule V and therefore complies with the Scheme.

Location of Land Uses

Further to clause (vi) of Schedule V as quoted below, this clause provides development controls on the site in addition to clauses (i) – (v) (i.e. land use, building heights and crossovers respectively).

(vi) All development shall be subject to development standards outlined in Clause 5.4.1, Table II and Schedule 3 (T.P.S No. 2) unless otherwise stipulated on the approved Master Plan.

The development controls of clause (vi) are as follows:

- Clause 5.4.1 – these tables control plot ratio, building setbacks and a variation subclause;
- Schedule 3 – car parking bays;
- Unless otherwise stipulated in the approved Master Plan.

It is considered that there are two ways to read this clause:

1. The development controls of the Scheme pertain to defined values of plot ratio, building setbacks and car parking, unless the Master Plan varies them. Accordingly, the Master Plan is a conceptual plan or vision, and is generally not about specifics; or
2. The Master Plan is more than conceptual, it dictates actual locations and orientation, supplemented by the development controls of plot ratio, building setbacks and car parking under the Scheme.

If Council were inclined to interpret option 1 as being correct, then the location and orientation of the proposed communal facilities is not controlled by the Master Plan, and therefore the proposal *complies* with the Scheme.

Conversely, if Council were inclined to interpret option 2 as being correct, then the opposite is true and the location and orientation is controlled, and therefore the proposal *does not comply* with the Scheme.

In considering these two options, it should be noted that in the November 2011 Special Council Meeting, the Council deemed it appropriate to approve a temporary car park on the same subject site, in a location stipulated by the Master Plan for differing land uses ('New Residential Care Facilities' and 'Nursing Home Facility'). Accordingly, it could be considered that Council has already made a decision in-line with option 1; and therefore this application should be considered with consistency.

The Council has previously adopted the Master Plan, which has provided the Landowner some certainty in what Development Applications are likely to be supported in the future. However, the Master Plan was endorsed approximately nine (9) years ago, with various factors to development changing since then. Noting the argument made in relation to the inability of the Scheme to control the location of land uses, it is

considered that the Master Plan has served its purpose and that the Applicant is not bound by the location of land uses.

At the time of writing this report, the Applicant and residents of the site are waiting for a decision to be handed down from the State Administrative Tribunal (SAT) in relation to an alleged breach of contract, in part relating to a lack of facilities onsite. The Development Application before Council proposes to address this alleged inadequacy.

Respondents to the neighbour consultation carried out by the City revealed a significant and determined opposition to this proposal (see Consultation section), however it is considered that most of the issues are civil matters. This is evidenced by the fact that the City was not involved in the SAT hearing, nor are there any compliance matters being sought of, or pursued by the City. Reason being is that there are no local planning provisions to require a minimum floorspace of communal facilities.

The size of these facilities are not as per previous commitments to, and expectations of the residents, however neither is the scale of development on the site since the dementia care buildings have been demolished, as well as other buildings on site.

This application proposes communal facilities that are reasonable in size and central to residents. They are robust in design in so much that they can be converted back to residential units, perhaps at a time when larger and purpose built facilities are built in the future.

Car Parking

As this proposal involves the ceasing of four (4) residential units, and each unit is required to have one bay each, it is considered that the proposed office will have an adequate supply of bays within the site, and therefore complies with the Scheme.

Other Issues

Noting that this is a 7.415 ha site, the proposed plot ratio, residential density, building height, and building setbacks are either not relevant, or significantly within conformity of the Scheme.

Conclusion

The Applicant proposes to construct a number of communal facilities at the Hollywood Retirement Village in Nedlands.

This application has a long history and technical planning issues, which need to be considered in detail.

Essentially, it is understood that the history pertains to conflicts between a significant number of residents and the current Landowner (Regis). There are significant claims and counter claims, however it is considered

that they are all civil matters and do not have relevance to the statutory planning issues.

The driver of this proposal is an ongoing SAT matter that relates (in part) to an alleged lack of communal facilities onsite; which will be assisted by an approval of this application.

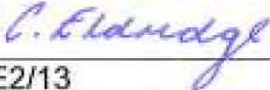
The planning issues are technical as a result of the wording of the Scheme, however the advice from the Administration is that the proposal complies with the Scheme, and it is therefore recommended to approve this application with standard conditions and advice notes. It is also recommended to place an additional note to encourage the Landowner to take steps in addressing these issues in a meaningful way, in order to promote community wellbeing.

Attachments

1. Location plan (aerial)
2. Master Plan (current)
3. Plans of the proposal
4. Photographs of the site and surrounds

D65.11	No. 13 (Lot 11194) Bedbrook Place, Shenton Park – Industrial-light (Pathology, Collection & Infusion Centres) within a Two-Storey Building
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Committee	29 November 2011
Council	13 December 2011

Applicant	TPG Town Planning & Urban Design
Owner	Palmyra Pty Ltd
Officer	Jennifer Heyes – Manager Planning Services
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	BE2/13
Previous Item No's	N/A
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to approve an application where valid objections have been received.

Recommendation to Committee

Council approves an application for Industrial - light (Pathology, Collection & Infusion Centres) within a Two-Storey Building at No.13 (Lot 11194) Bedbrook Place, Shenton Park, in accordance with the application and plans dated 16 November 2011 with the following conditions:

- 1. The four (4) existing mature trees identified on the site plan shall be retained and maintained to the satisfaction of the City.**
- 2. The existing remnant vegetation located within 4.5 m of the rear boundary shall be retained, and the area of existing unvegetated land within this 4.5 m area shall be revegetated, to the satisfaction of the Council.**
- 3. The existing trees and areas of remnant vegetation to be retained shall be protected prior to, and during demolition and construction (refer advice note 1).**
- 4. Prior to the commencement of clearing of the land, a detailed landscape plan shall be submitted and approved by the City.**

The landscape plan shall:

- a. **identify the four (4) existing mature trees to be retained;**
 - b. **identify the existing remnant vegetation within 4.5 m of the rear boundary;**
 - c. **identify any other remnant vegetation that will be maintained on the site, especially in areas surrounding the existing mature trees which are to be retained; and**
 - d. **identify other areas of landscaping in accordance with landscape plan submitted with the application.**
5. **All landscaping and revegetation shall be carried out in conjunction with, and to the satisfaction of the City, using best practice principles for landscaping and revegetation (refer advice note 2).**
 6. **The landscaping is to be established prior to the development being first occupied and thereafter maintained the satisfaction of the City throughout the life of the development.**
 7. **The verge parking spaces shall be constructed to Council's specifications by the applicant/owner and at the applicant/owner's cost.**
 8. **The parapet wall shall be finished to a quality finish and to a professional standard to the satisfaction of the City.**
 9. **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.**
 10. **All stormwater from building, paved areas and driveways shall be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 10 year recurrent storm event; and soak-wells shall be a minimum capacity of 1 m³ for every 80 m² of paved or roofed surface on the property.**
 11. **Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

Advice Notes

- 1. It is the Applicant's responsibility to obtain all required State and Federal environmental approvals, including DEC Clearing Permits.**
- 2. In relation to condition 3, it is expected that fencing be used to protect the existing remnant vegetation during construction and the area around the trees be fenced off at least 1 m beyond the drip line (area directly located under the outer circumference of the tree branches, i.e. the canopy) to protect the tiny rootlets that take up water for the tree.**
- 3. In relation to condition 4, best practice principles and techniques shall include:**
 - a. Undertaking initial weed control where required to reduce a weed seed bank;**
 - b. Translocate topsoil and leaf litter layer to the cleared area to prevent soil movement, maintain leaf litter cover for reptile movement, and transfer seed bank to assist with revegetation;**
 - c. A combination of planting and direct seeding may be required dependent on species available for planting;**
 - d. Use of local endemic plant species where possible;**
 - e. If direct seeding, then use local provenance seed only (collected from local bushland areas such as Shenton Park);**
 - f. Maintain the cover and structure of existing remnant vegetation:**
 - i. upper (trees), Mid (shrubs) and Low (understorey) layers;**
 - ii. achieve density similar to that of surrounding remnant vegetation (could take up to five (5) years); and**
 - g. Provide maintenance to ensure plant survival and prevent weed encroachment.**
- 4. The site has special environmental qualities of a local and regional nature, specifically that it is an ecological linkage between larger sites in the immediate vicinity with high quality remnant vegetation. Although an eco-link has been provided to some degree, the City strongly encourages the applicant to**

reconsider at least a minimum 10 m wide eco-link along the western side of the lot.

5. **Following a referral to the Water Corporation (re: the odour buffer), the following advice note is provided:**
 - a. **The primary use of the development is to remain of a light industrial nature.**
6. **Following a referral to the EPA, the following advice note is provided:**
 - a. **The EPA expects that the proposal will be implemented in an environmentally responsible way.**

Strategic Plan

KFA 2: Natural Environment

- 2.2 Prepare and implement management plans for natural areas.
- 2.3 Promote, maintain and protect existing plant diversity (both native and introduced) in the City.

KFA 3: Built Environment

- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.

KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 13 (Lot 11194) Bedbrook Place, Shenton Park
Zoning MRS: Urban
Zoning TPS2: Light Industry
Lot Area: 1.2 ha (12,032 m²), subdivided into 8,000 m²

The site has a frontage to Bedbrook Place to the east, located adjacent to the Alzheimer's Association WA to the south, a Water Corporation facility to the west and the Cancer Foundation to the north, as seen in attachment 1.

The site is currently natural bushland, as depicted in the site photographs (refer to attachment 2).

In August 2010, a subdivision application was lodged for 2 Freehold (Green) Titles of 4,032 m² and 8,000 m², with the later being the portion pertaining to this application. Subsequently in March 2011, the WAPC approved the subdivision application with standard conditions; however new Certificate of Titles have not yet been issued.

Proposal Detail

In November 2010, the City received a planning application for the land use of 'Industrial – light' (Pathology, Collection & Infusion Centres) within a two-storey building, as depicted in the submitted plans (refer to attachments 3 - 6). Furthermore, the site photographs show the relationship of the site with the surrounding built and natural environments (refer to attachment 2).

The proposal involves the following three activities:

1. Diagnostic laboratory and stores;
2. Collection centre; and
3. Infusion centre.

Diagnostic Laboratory and Stores

Located on the upper floor with 2,243 m² of Gross Floor Area (GFA), the activities in the laboratory are diverse, but revolve around the diagnostic testing of human specimens. Up to 165 staff would work over two shifts, plus 24 couriers on the day shift. Accordingly, this equates to approximately 106 staff during the day and 83 staff during the night.

The stores and refuse areas are associated with the laboratory, with an expected 7 - 10 deliveries a day. Operating hours are expected to be 7 days a week from 5.00 am to 12.00 pm. The laboratory is considered to be the primary land use for the site and this application.

Collection Centre

Located on the ground floor with 1,410 m² of GFA shared with the infusion centre, the collection centre will employ specialist pathologists attending to patients and collecting samples for the laboratory. It is expected that they will see an average of 75 patients a day at 20 minutes each. Operating hours are expected to be Monday to Friday from 7.30 am to 6.00 pm and Saturday from 8.00 am to 1.00 pm.

Infusion Centre

Located on the ground floor with 2,243 m² of GFA shared with the collection centre, the infusion centre involves 2 pathologists from the laboratory attending to patients with urgent and clinically-critical results. It is expected that they will see three (3) patients a day at 2 - 2.5 hours each. Operating hours are expected to be Monday to Thursday from 9.30 am to 5.00 pm and Friday from 8.00 am to 5.00 pm.

Referrals

Water Corporation

In December 2010, the Water Corporation (WaterCorp) were consulted as a neighbouring landowner, however their comments are of a referral-agency nature.

WaterCorp supports the application and recommends that the City include advice on any approval issued, detailing that the primary use of the development is to remain of a light industrial nature. Accordingly, an advice note is recommended to this end.

Environmental Protection Authority

In January 2011, the application was referred to the Environmental Protection Authority (EPA; a State agency) to comment on the proposal. In February 2011, the EPA reviewed the application and concluded that an assessment is not required under Part IV of the *Environmental Protection Act 1986*, as seen in attachment 7 (emphasis added).

*"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 the 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 it's statutory functions with regards to the property**"*

The EPA further advises the City that regardless of the lack of EPA formal assessment, "...*the EPA expects that the proposal will be implemented in an environmentally responsible way*". Accordingly, an advice note is recommended to this end.

Minister's Appeal on the EPA Decision

In March 2011, four environmentally-based associations appealed to the Minister for Environment regarding the aforementioned EPA decision. In June 2011, the Minister dismissed the appeal (refer to attachment 8) with the following conclusion in summary:

- The key issues relate to the biodiversity value of the site, and what the impact will be upon regionally significant ecological linkages (eco-link);
- The EPA was justified in determining that this proposal is not so significant to warrant formal assessment under the Act;
- The ecological linkages are best considered through the planning process, noting that the *Western Suburbs Greening Plan* seeks to do so;

- Approvals for clearing native vegetation are routinely subject to conditions to offset the loss of vegetation;
- A Cockatoo recovery plan has been developed to address feeding and nesting issues; and
- The EPA has advised that the Cockatoo plan and strategic assessment provisions under State and Commonwealth legislation will be utilised by decision-makers to ensure the protection of the species.

Department of Sustainability, Environment, Water, Population and Communities (DoSEWPC)

In September 2011, the Department of Sustainability, Environment, Water, Population and Communities (DoSEWPC; a Commonwealth agency) reviewed the application and concluded that an assessment is not required under the *Environmental Protection and Biodiversity Conservation Act 1986*, as seen in attachment 9.

City's Bush Care Officer

In November 2011, the City's Bush Care Officer advised as follows:

- It is recommended that the green corridor is established prior to the development being approved;
- Please note the Office of the Environmental Protection Authority stated that clearing can not be undertaken until Clearing Permit is applied for through the Department of Environment and Conservation;
- This area has also been identified as Greenway 19 under the State Greenways Plan (A Strategic Plan for Perth's Greenways) and the Perth Biodiversity Projects Conservation Priorities for the Perth and Peel Region as it acts strongly connecting the surrounding larger patches of bushland even though their shape and size are smaller;
- The Graceful Sun Moth survey found one (1) Graceful Sun Moth. ENV advised that it is not possible to estimate the size of the population or significance of Lot 11194 to the population. Further advice and a licence may be required by the DEC regardless of whether an exemption applies under the *Environmental Protection Act 1986*. The DEC may want to know about the impact of this development on the Graceful Sun Moth and assess the validity of the survey; and
- The landowner needs to be advised to seek advice from the DEC prior to development rather than the City advising the landowner that they will not need a clearing permit under the *Environmental Protection Act 1986*.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Council Policy 6.4 Neighbour Consultation

The application was advertised by letter (10) and sign (1) to surrounding landowners.

Consultation period: 25 November 2010 – 17 December 2010

Comments received: 3

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

Summary of comments received	Officers technical comment
<p>Issue: Greenway</p> <p>Bushland is highly fragmented and has been described as the 'most serious threat to biodiversity and the primary cause of the present extinction crisis'.</p> <p>Facilitates the movement of birds, reptiles, frogs, insects and plants. A refuge or corridor during and after a bushfire and storms.</p>	<p>Not Upheld</p> <p>It is noted that the Minister for Environmental reviewed an appeal on this matter, and found that it had no merit (attachment 8).</p>
<p>Issue: Three (3) species of endangered Cockatoos</p> <p>We have destroyed their habitat to such an extent that they cannot replace their numbers.</p> <p>Listed as a threatened species and therefore will require federal approval.</p>	<p>Not Upheld</p> <p>It is noted that the Minister for Environmental reviewed an appeal on this matter, and found that it had no merit (attachment 8).</p> <p>It is noted that the DoSEWPC has determined that an assessment is not required (attachment 9).</p>
<p>Issue: Rainbow Bee-eaters</p> <p>These tunnelling birds use this bushland.</p>	<p>Noted</p>
<p>Issue: Proposed significant retention of existing vegetation</p> <p>Claimed, but not substantiated by the plans.</p>	<p>Noted</p>

Issue: Aboriginal heritage	Not Upheld
They would consider the site of special significance.	Not listed by the Department of Indigenous Affairs, no evidence to support.

Legislation

- *Environment Protection and Biodiversity Conservation Act 1999*
- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Council Policy 4.14 Greenways Corridor
- Council Procedures 4.14 Greenways Corridor
- Council Policy 6.4 Neighbour Consultation

Budget/financial implications

The application is for works to be constructed on a private lot, and not at the City's expense.

Risk Management

It is the applicant's responsibility to seek all required State and Federal environmental approvals, including DEC Clearing Permits. An Advice Note has been drafted to this effect and forms part of the recommendation to Council.

Discussion

Land Uses

The proposed land use of 'Industrial – light' is classified as a 'P' (Permitted) land use in Table 1 (Use Class Table) of TPS2. The land uses for the collection centre, infusion centre and stores could be considered to be ancillary to the laboratory, and therefore do not require separate assessment under Table 1. Accordingly, the use is regarded as complying with the Scheme.

Alternatively, it is considered that the collection and infusion centres are of such a nature that they can be considered as a 'Use Not Listed' under TPS2. Council can grant approval for uses not listed in accordance with Part 6 of the Scheme.

Car Parking

The proposal includes a car parking facility with the capacity for 140 bays. Table 2 of the Scheme requires 2.2 car bays for each 100 m² of Gross Leasable Area (GLA); or 1 per employee, whichever is the greater.

It is well established that for a development with only one tenant or user, the measurements GLA and GFA are essentially equal. It is also noted that this proposal involves a maximum of 106 staff.

Noting that this proposal includes 3,653 m² of GFA, it is considered that the Scheme requires this development to have 81 car bays under the floorspace method; and 106 car bays under the employee method, therefore 106 is required.

It is considered that public transport in the area is not reliable, especially during a night shift; and that there will be a low take-up of walking and cycling (in line with established trends in Perth). Furthermore, it is noted that it is expected that the site will process 'an average' of 75 patients per day. It is considered that the proposed number of bays is sufficient to service the employees and patients and also complies with the Scheme.

However, the applicant has stated that one of the key issues for this site is to provide sufficient parking for their staff. They have stated that they have a high number of female staff who will be working shifts. The intention is therefore to provide ample and secure carparking for all their staff. A security fence is proposed at a distance inside the site that will allow for security for staff cars whilst still allowing access for day time visitors to the collection centres. Approximately 20 spaces will be set aside at the front of the building (in front of the security fencing) for the collection centre visitors. The remainder of the parking will be for employees and will be located behind security fencing.

In addition to the onsite parking, and in consultation with the City's officers, the applicant has proposed parking in the street verge, directly in front of the building. The intent is that this parking will help compensate for the bays that were relocated from the rear of the site for an eco-link.

It is considered that this is an appropriate outcome, provided the carparks are constructed by the applicant at their cost and to the City's specifications, but at this stage the Council does not have any jurisdiction to allow the parking spaces to be dedicated specifically to this business. The car bays will be located on a public road and as such will be able to be used by anyone. Notwithstanding this, it is expected they will be able to be utilised mostly by visitors and/or staff of the Clinipath, given their location directly outside the entrance to the site and given the other sites in Bedbrook Place have their own parking.

Plot Ratio

Noting that the site is a considerable 8,000 m² and the proposed floorspace is 3,653 m², the proposal is well within the plot ratio limit of 0.75, and therefore complies with the Scheme.

Height

As the proposed building heights are all within the various primary street, wall and overall height limits, it is considered that the application complies with the Scheme.

Environmental Strategy and Policy Framework

There are various strategies and policies which are relevant to this application which needs to be considered as follows:

State Greenways Plan

State Greenways Plan 'A Strategic Plan for Perth's Greenways' (the Greenways Plan) was released at the end of 1998. The Greenways Plan builds on and connects areas of remnant vegetation, wetlands and walking trails within the Metropolitan Region. Priority was given to identifying strategic Greenways that provide east-west corridors that link the coast to freshwater and bushland habitats, linkages along foreshore areas and between wetlands and between large areas of remnant vegetation.

The Greenways Plan identified the site as part of 'Greenway 19', however it only serves to identify the site at a strategic State-planning level.

Western Suburbs Greening Plan

The Western Suburbs Greening Plan (the Greening Plan) is an environmental strategy produced by the Western Suburbs Regional Organisation of Council (WESROC) and the Town of Cambridge. The City of Nedlands is a member of WESROC.

The Greening Plan is said to provide a new direction in conservation planning, including the protection and promotion of greenways to provide an overarching direction that enables all levels of society (including Local Government) the opportunity to contribute to enhancing environmental values. Furthermore, it provides a platform to meet the challenges posed by climate change.

Whilst the Greening Plan has been produced in part by the City to provide strategic local planning direction on environmental issues, and there is an obligation of the Council to attempt to align its policies to it, this has not yet been done.

Notwithstanding this, the EPA expects that Council will consider (see Referrals section; emphasis added) "...the local and regional values of the site consistent with the **intent** of the Western Suburbs Greening Plan".

Whilst it is clear that the intent of the Greening Plan can be interpreted as protecting areas of bush for eco-links, which is highly relevant to this application; it is unclear as to the weight this should be given without further policies to implement it.

City of Nedlands Policy 4.14 Greenways Corridors

The Council is also guided by Policy 4.14 Greenways Corridors (the Greenways Policy), which has an associated Procedure Manual. This policy and procedure includes a greenway from Bold Park to Kings Park, which includes the road reservation of Bedbrook Place (which the site fronts). However, the procedure focuses on the verges within Crown land, with only encouragement to adjoining landowners to plant native flora.

State Planning Policy 2.8 & Bush Forever

State Planning Policy 2.8 'Bushland Policy for the Perth Metropolitan Region' (SPP2.8) is a strategic policy guiding State and local planning systems.

One of the key initiatives of this policy is the listing of properties under the State planning requirements of 'Bush Forever'; however the site is not listed and is therefore not constrained (see EPA section for further information).

At a local level, another key initiative is the promotion of local biodiversity and bushland protection strategies, in line with SPP2.8. These in turn would require statutory planning control mechanisms, such as Scheme or policy provisions. To date, no such mechanisms have been formally endorsed by Council and the WAPC.

Notwithstanding, SPP2.8 does guide Council by assessing the merits of the application, with or without such strategies (p. 2751):

"The lack of a formally endorsed local bushland protection strategy should not, in itself, be a reason to refuse a planning proposal. Each proposal should be considered on its merits, with particular regard to specific policy measure 5.2 (iv) below, and existing planning processes or studies that identify significant bushland for protection."

Clause 5.2 (iv) includes a general presumption against bush clearance, covered by various pieces of legislation, administered by Commonwealth and State agencies (see Referrals section). In addition, vegetation complexes (systems) are protected based upon a percentage of original vegetation (p. 2757, emphasis added):

*"Vegetation complexes **where less than 10 per cent of the original extent currently remains** (this generally correlates with vegetation on the eastern side of the Swan Coastal Plain portion of the Perth Metropolitan Region)."*

The site is located within the Central and Southern Karrakatta Complex, with the EPA currently advising that the complex currently has greater than 10 % remnant vegetation (18 %). Accordingly, the application is not constrained by this measure. Whilst some weight has been given by others to the fact that only 7.7 % is currently protected by Bush Forever, this is a matter for the EPA to resolve, and should not be construed as a constraint to this application.

In addition, SPP2.8 specifically mentions the protection of eco-links (p. 2751, emphasis added):

*"Proposals or decision-making should— (v) **Proactively seek to safeguard, enhance and establish ecological linkages** between Bush Forever areas; and between Bush Forever areas and those areas identified for protection through the implementation of the specific policy measures in this section."*

Whilst due consideration is required of the eco-link, the statutory control for this is unclear. In response to this and following lengthy discussions with the City, the applicants have provided a 4.5 m strip of land which will be retained without development and will be revegetated to facilitate this ecological link.

Draft City of Nedlands Biodiversity Policy

The City has drafted a Biodiversity Policy, which does include an ecological link on the subject site, however the current status of this policy is that neighbour consultation has closed and the policy will be presented to Council at a later date.

Perth Biodiversity Projects Conservation Priorities for Perth and Peel

The site has been listed to be retained and enhanced under the recently released Perth Biodiversity Projects Conservation Priorities for Perth and Peel (Biodiversity Priorities). However, advice from the Project Manager at the Western Australian Local Government Association (WALGA) is that its intent is to provide regional context and a source of information to support decision making.

Flora & Fauna Surveys

A flora and vegetation survey was undertaken by the applicant's consultant, which did not identify any constraints to development.

A Black Cockatoo habitat assessment was undertaken by the applicant's consultant, which found no evidence of any roosting sites or constraints to development.

Syrinx Environmental's Advice on Preliminary Information

In March 2011, Syrinx Environmental was engaged by the City and advised on the environmental aspects of the proposal, having completed a low level flora and fauna survey of the site. Consequently, they provided the following recommendations in summary:

- Remnant Cockatoo and reptile foraging habitat should be retained;
- Retain all significant trees;
- The bushlands in Shenton and Underwood Avenues should be assessed as the foraging habitats on the site may be in the best condition;
- The habitat of all species should be considered, not just the significant species;
- Proposed landscaping should be local-native species only;
- The 'biodiversity planting' area in the western portion of the site should incorporate existing vegetation and be increased in width for the purpose of an ecological link; and

- Additional information is required to confirm that a Threatened Ecological Community (TEC) is not present on the site, as there is evidence to suggest that there is.

In March and April 2011, a Graceful Sun Moth (GSM) survey was undertaken by the Applicant's consultant, with the following conclusion in summary:

- Only 1 GSM was caught, indicating that a population of GSM's occur in the immediate vicinity as their dispersal ability is limited; and
- It is not possible to estimate the size of the population or the significance of the site to the population.

Syrinx Environmental's Advice on Subsequent Information

In November 2011, Syrinx Environmental advised the City on additional information received. Consequently, they provided the following recommendations in summary:

- The site is locally significant due to the Local Government Biodiversity Planning Guidelines, Perth Biodiversity Planning Guidelines and the Western Suburbs Greening Plan;
- There is a lack of site specific information relating to fauna, and that it is likely that there are significant species on the site;
- An eco-link through the site is preferable;
- The proposal will compromise the local environmental values, particularly a functional eco-link between Bush Forever-listed, remnant vegetation in the vicinity;
- It is unfortunate that the Applicant is unwilling to compromise in order to amend the plans to provide a minimum 15m wide eco-link on the western side of the site;
- If the eco-link is not provided, then the Applicant should commit to providing resources to undertake revegetation and maintenance in restoring this link elsewhere; and
- The City should develop a Local Biodiversity Strategy / Policy to assist with future planning applications to ensure such matters are covered by suitable guidance.

Taking into account all of the above, and the fact that the applicants have provided a 4.5 m strip of land which can act as a small eco-link at the rear of the property, it is considered that the proposal complies with all statutory planning requirements in relation to environmental issues.

Conclusion

There are environmental impacts associated with this proposal due to existing flora and fauna, proximity of larger bushlands and the site being an eco-link between them. These issues have involved various organisations throughout all levels of government. The advice from these organisations has been to rely on the local planning system, which falls upon Council to decide upon.

There are various pieces of legislation, policies and procedures covering environmental matters for the consideration of Council, however none are of a statutorily binding nature that would prevent an approval of the current proposal.

Consideration has been given to these environmental matters, and in response the applicant will be retaining four (4) significant trees within the site and have provided a 4.5 m strip of land adjoining the rear boundary. This strip will be retained with remnant vegetation and revegetated to facilitate an eco-link/greenway, based upon SPP2.8 and the intent of the Greening Plan and advice from the EPA.

In considering the land use under Part 6 of TPS2, it is considered that the use of the site as a Pathology and Collection centre is appropriate for the area and the nature and intensity of the use will not detrimentally affect the locality in terms of its hours of operation, illumination or emissions.

Furthermore, the height, setbacks and plot ratio will be in keeping with the general character of the locality; and the vehicular access, pedestrian access and circulation will not create any danger or disruption.

The proposed development will service the needs of the district's residential population and is generally in keeping with town planning intentions for the locality, as required by Part 6 of the Scheme.


For these reasons, the application is recommended for approval, subject to conditions outlined in the recommendation.

Attachments

1. Locality plan (aerial)
2. Site photographs
3. Site Plan
4. Floor Plans
5. Elevation Plans
6. Landscape Plans
7. EPA decision
8. Minister for Environment's decision on Appeal on EPA decision
9. DoSEWPC decision

D66.11	No.48 (Lot 222) Riley Road, Dalkeith - Proposed Two Storey Dwelling
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Committee	29 November 2011
Council	13 December 2011

Applicant	Arkitek 10
Owner	Patrick Flynn & Fong Peng Hon
Officer	Elle O'Connor – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	RI1/48 : DA11/59 : M11/23610
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The application is referred to Council as it does not comply with the standards of the City's Town Planning Scheme No. 2, the Residential Design Codes 2010 and the City of Nedlands Local Planning Policy 6.23.

In instances where discretion to the acceptable development criteria is sought officers do not have delegation to refuse an application.

Recommendation to Committee

Council refuses an application for a two storey dwelling located at No.48 (222) Riley Road, Dalkeith in accordance with the application and plans dated 5 May 2011 and the amended plans dated 25 October 2011 for the following reasons:

1. **The proposed screen walls in the front setback do not comply with the acceptable development or performance criteria of Clause 6.2.5 of the Residential Design Codes and will detract from the open nature of the streetscape;**
2. **The proposed fill and retaining located within 3 m of the primary street alignment does not comply with the acceptable development or performance criteria of Clause 6.6.1 of the Residential Design Codes;**
3. **The proposed portico does not comply with the City of Nedlands Local Planning Policy 6.23 'Carports and Minor Structures Forward of the Primary Street Setback';**

4. **The rear setback of the dwelling does not assist in ameliorating the impacts of building bulk on adjoining properties;**
5. **The external appearance of the development and cumulative effect of all the variations will have an adverse impact on the amenity of the surrounding area;**
6. **The proposal will not be orderly and proper planning.**

Strategic Plan

KFA 3: Built Environment

- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 48 (Lot 222) Riley Road, Dalkeith
(attachment 1 - Location Plan)

Zoning MRS: Urban

Zoning TPS2: Residential R10

Lot Area: 1011.8 m²

Proposal Detail

The application is for a new two storey dwelling and swimming pool at No. 48 Riley Road, Dalkeith. The site at present consists of an old single storey dwelling that is proposed to be demolished.

Consultation

Required by legislation: Yes No

The proposed variations to the Residential Design Codes (RCodes) and City Policies were advertised to the adjoining properties for a period of 14 days.

Required by City of Nedlands policy: Yes No

Two Storey Advertising 22 March to 5 April 2011

Advertising Variations 2 August to 16 August 2011

Advertising (Additional) Variations 26 October to 8 November 2011

Comments received: Nil (0) objections

Legislation

- Town Planning Scheme No.2 (TPS2)
- Residential Design Codes 2010
- City of Nedlands Local Planning Policy 6.23 Carports and Minor Structures Forward of the Primary Street Setback

The application proposes the following variations to Policy 6.23 and Clause 6.3.1 (Table 1) of the RCodes;

1. Over height solid screen walls within the 9 m front setback (Clause 6.2.5).
2. Fill and retaining over 0.5 m within 3 m of the primary street alignment (Clause 6.6.1).
3. An over height and oversize portico structure in the 9 m front setback (Local Planning Policy 6.23).
4. A two storey rear setback variation of 3.14 m in lieu of 4.12 m (Clause 6.3.1).

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Front Fence and Screen Walls

Requirement	<p>The acceptable development criteria of Clause 6.2.5 (Street walls and fences) of the RCodes states:</p> <ul style="list-style-type: none"> • Front walls and fences within the primary street setback area are visually permeable 1.2 m above natural ground level.
Applicants Proposal	<p>The proposed screen walls in the 9 m front setback are solid to a maximum height of 2.8 m.</p>
Applicant justification summary	<p><i>"In response, we can confirm that this is incorrect as the plans which form part of this Application, indicate that the front fencing is entirely consistent with Clause</i></p>

	<p>6.2.5 (of the RCodes). The Acceptable Development Standard at Clause 6.2.5 requires, 'Front walls and fences within the primary street set back area that are visually permeable 1.2 m above natural ground level.' (There is no mention at Clause 6.2.5 of the maximum height of 1.8 m.)"</p>
<p>Officer comment</p> <p style="text-align: right;">technical</p>	<p>Clause 6.2.5 states that there is a maximum solid height of 1.2 m required.</p> <p>The proposed plans clearly indicate solid screen walls in the front setback area to a maximum height of 2.8 m (refer to attachment 3 – Screen Walls).</p> <p>Clause 6.2.5 relates to all fencing and walls in the 9 m front setback, including privacy screen walls.</p> <p>The proposed fence on the front boundary line is compliant as it is solid to 1.2 m and visually permeable to 1.8 m from natural ground level. However, the privacy screens directly behind the permeable fence (but in the front setback area) are solid to a maximum height of 2.8 m from natural ground level which effectively defeats the purpose of the front fence being permeable.</p> <p>As the screen walls are in the front setback and are solid above 1.2 m, they do not comply with clause 6.2.5.</p> <p>It is recognised, as the subject lot is north facing the applicant wishes to provide privacy to the north facing outdoor entertaining area. However, it is considered that sufficient privacy can be accomplished without constructing over height solid screen walls in the front setback that detract from the streetscape.</p> <p>For example, this can be achieved with landscaping and vegetation. If the applicant desires complete privacy with solid walls, the entertaining area can be set back 9 m.</p>

Fill in Front Setback

<p>Requirement</p>	<p>The acceptable development criteria of Clause 6.6.1 (Excavation or fill) of the RCodes states:</p> <p>Excavation or filling between the street alignment and building, or within 3 m of the street alignment, whichever the lesser, not exceeding 0.5 m, except where necessary to provide for pedestrians or vehicles, or natural light for a dwelling.</p>
<p>Applicants Proposal</p>	<p>Proposed fill and brick buildup 0.82 m above natural ground level within 3 m of the street alignment.</p>
<p>Applicant justification summary</p>	<p><i>"In response to Clause 6.6.1, we advise in the first instance that this Clause has nothing to do with this residence as it applies to 'fill and retaining'. Staff's concerns relate to part of the swimming pool structure (i.e. the eastern end of the pool). We note that (consistent with Council's relevant policy) the western end of this pool is at ground level and this site is sloping, which has resulted in the eastern end of this pool being above natural ground level. In the circumstances of this site, the design (and relative heights) of the pool are entirely legitimate. (We note in the RCodes that the term 'Building' actually excludes swimming pools so any reference to 'Buildings' excludes the proposed pool.)</i></p> <p><i>(Sub-clause A1.1 of Clause 6.6.1 puts this pool in context in our opinion, where this Clause advises that excavation or filling between the street alignment and 'Building' (the home) is not to exceed 0.5 m, '... except where necessary to provide access for pedestrians or vehicles ...'. This appears to us to indicate that Clause 6.6.1 anticipates excavated or filled land over which pedestrians or vehicles might move. Clearly that is not the case for swimming pools. Further, the actual 'fill' associated with the swimming pool is definitely less than 500 mm (as shown on the drawing). Natural ground level is being maintained outside of the pool and between the pool and the front fence.)"</i></p>

<p>Officer technical comment</p>	<p>The pool structure is not of concern; it is the raised finished floor level (fill) and subsequent retaining walls surrounding the pool that do not comply with Clause 6.6.1.</p> <p>The finished paved level and brick buildup surrounding the pool is 0.82 m above natural ground level within 3 m of the street alignment. These levels are clearly indicated on the proposed plans.</p> <p>Furthermore, the fill and retaining above 0.5 m within 3 m of the street alignment is not a necessary design option to provide for pedestrian or vehicle access.</p> <p>This fill and retaining within 3 m of the street alignment, in conjunction with the over height solid screen walls will detract from the amenity of the area as this portion of Riley Road is very open in nature as highlighted in attachment 2 (Aerial Photograph – Front Setbacks).</p>
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Portico

<p>Requirement</p>	<p>Local Planning Policy 6.23 allows for minor structures including porticos to be constructed within the 9 m front setback subject to:</p> <ul style="list-style-type: none"> • The structure not exceeding 6 m²; • The structure not exceeding 3.5 m in height; • The structures does not detract from the visual amenity of the streetscape; and • The structure compliments the residence and uses similar materials and construction methods.
<p>Applicants Proposal</p>	<p>The proposed portico located in the front setback is 8.3 m² and 4.5 m in height with an open pergola attached.</p>

<p>Applicant summary</p>	<p>justification</p>	<p><i>"The proposed dwelling (with which the portico forms part) has been designed as a single storey structure towards the street frontage. It has been designed to harmonise with neighbouring structures and does not compete with them, for prominence. Rather, the intention has been to design a 'low key' and unassuming structure which will blend into the residential streetscape of Riley Road.</i></p> <p><i>The proposed, integrated portico has similarly been designed to be unimposing with the height of it being considerably lower than that of other residence. Similarly, it is not at all inconsistent with the residential structures in the immediate vicinity of that the subject of this proposal, including the residences on either side of the subject land and the three residences on the immediate opposite (northern) side of Riley Road. (Please refer to Photographic Plates annexed in original copy).</i></p> <p><i>We note from the drawings describing the proposed new residence, that the property experiences a fall from west to east of approximately 1.35 m. This suggests that the height of the porch above finished floor level is compliant. We note that the Policy Manual is silent in relation to how the height of the portico is measured. It is therefore not unreasonable to assume that it is measured above finished floor level, rather than natural ground level."</i></p>
<p>Officer comment</p>	<p>technical</p>	<p>Clause 5.3.3 of the City of Nedlands Town Planning Scheme No.2 requires a 9 m front setback in order to retain the open nature and character of the streetscape. Local Planning Policy 6.23 gives Council discretion to vary the front setback provisions set out in clause 5.3.3 in relation to minor structures, provided the present open character and street amenity is not compromised, subject to the following requirements:</p> <ul style="list-style-type: none"> • The structure does not exceed 6 m²: <p>The proposed portico is 8.3 m².</p>

	<ul style="list-style-type: none"> • The structure does not exceed 3.5 m in height: <p>The proposed portico is 4.5 m in height.</p> <ul style="list-style-type: none"> • The structures do not detract from the visual amenity of the streetscape: <p>All carports and minor structures along this portion of Riley Road have been approved in accordance with the requirements of Local Planning Policy 6.23. Therefore, there is no precedent on this portion of Riley Road to allow for an oversized and over height portico to be constructed in the front setback. As shown in attachment 2 (Aerial Photograph – Front Setbacks) the area is very open in nature and the existing streetscape along Riley Road is currently characterised by large open street frontages.</p> <p>The applicant also proposes to locate the outdoor entertaining area in the front setback as the lot is north facing. The proposed outdoor entertaining area consists of a swimming pool, decking, large louvered pergola, solid screen walls and excessive fill and retaining.</p> <p>The large portico in conjunction with the decking, pergola (setback at 6m from the front boundary), solid screen walls, fill and retaining will have a detrimental effect on the open nature of Riley Road and will be a noticeable structure amongst the surrounding 9m frontages. The cumulative effect of the structures in the front setback area, including the portico, will impact on the open nature of the residential streetscape of Riley Road.</p>
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Reduced Rear Setback

<p>Requirement</p>	<p>Clause 6.3.1 of the RCodes requires a 6 m minimum rear boundary setback. When a lot adjoins a Right-of-Way at the rear, this standard 6 m setback can be reduced by half the width of the Right-of-Way.</p> <p>The subject property adjoins a 3.8 m wide Right-of-Way. Due to this, the 6 m rear setback can be reduced to 4.1 m.</p> <p>The applicant proposes a two storey building 3.14 m from the rear boundary.</p>
<p>Applicants Proposal</p>	<p>The two storey building includes a rear triple car garage and upper floor setback 3.14 m from the laneway.</p>
<p>Performance Criteria</p>	<p><i>Clause 6.3.1 Performance Criteria P1 Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties; and</i> • <i>Assist in protecting privacy between adjoining properties.</i>
<p>Applicant/Owner justification summary</p>	<p><i>"Rear Set Back</i></p> <p><i>Clause 6.3.1 A1(v) of the RCodes states, 'the stated setback distances may be reduced by half the width of an adjoining Right-of-Way, pedestrian accessway or battleaxe leg, to a maximum reduction of 2 m.'</i></p>

	<p><i>Applying this guide, a rear set back of this property of 4.12 m (from the rear boundary) is required. That is however, discretionary.</i></p> <p><i>We seek a further reduced set back of 1 m (to 3.14 m) for the following reasons:</i></p> <ol style="list-style-type: none"> 1. <i>Precedent</i> <p><i>Precedent has already been established on land adjacent to this Right-of-Way (Frogmouth Lane) to enable lesser setbacks for double storey developments with a garage and upper storey, over. Please refer to the attached photographic plates. Approved setbacks in this locality, range from 1.5 m to 3 m.</i></p> <ol style="list-style-type: none"> 2. <i>Amenity and Solar Access</i> <p><i>With the proposed increased reduction in the setback, there is minimal impact on the amenity of the immediately adjoining neighbours. This is primarily because the subject site is oriented north-south and the shadow cast on June 21, falls into the Right-of-Way and not onto outdoor living areas, major openings to habitable rooms, balconies and verandahs of neighbouring properties, in accordance with the Performance Criteria as prescribed in Clause 6.9.1 P1 and A1 of the RCodes.</i></p> <ol style="list-style-type: none"> 3. <i>Privacy Requirements</i> <p><i>Pursuant to Clause 6.8.1 Visual Privacy of the RCodes, direct overlooking of active habitable spaces and outdoor living areas of neighbouring properties is minimised by the use of obscure glass in the ensuite bathroom window and provision of permanent vertical screening of the (master bedroom) balcony.</i></p> <p><i>There are no major openings overlooking the outdoor living areas of the subject site's neighbours."</i></p>
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<p>Officer comment</p> <p>technical</p>	<p>The acceptable development criteria of the RCodes require a standard setback of 6m. The standard 6 m rear setback can be reduced by half the width of the adjoining Right-of-Way as permitted by Clause 6.3.1 A1(v). In this case, this results in a required setback of 4.1 m. The applicant is applying to further reduce the rear setback to 3.14 m from Frogmouth Lane.</p> <p>In the applicant's justification, they consider that there are other buildings nearby with varied setbacks. Council records have been checked. These records show that No.s 42 and 44 Riley Road obtained approval for overheight outbuildings in the 1980's. Both overheight outbuildings are detached from the dwelling and comply with all performance criteria for outbuildings. Single-storey outbuildings not attached to the dwelling i.e. a garage or garden shed are exempt from the rear setback requirements.</p> <p>Notwithstanding this, it is also noted that rear setback variations are assessed on a case by case basis. Examples of variations in the vicinity does not mean that the City should approve others. However, it is considered in any case that this two storey development is clearly different to single storey outbuildings which are permitted in the rear setback.</p> <p>The applicant is proposing that the two storey portion of the new dwelling be constructed at the rear of the lot and partly in the rear setback. This two storey portion is proposed to be 5.6 m in height from the natural ground level, consisting of a Triple Garage, Bedroom, Balcony, Study and Ensuite.</p> <ul style="list-style-type: none"> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties</i> <p>The proposed development is not considered to comply with all the performance criteria. Due to the north facing orientation of the lot, the rear setback variation will not create any sun and ventilation issues.</p>
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	<p>However, the bulk and scale of the building in the rear setback is considered to have a negative impact on adjoining owners. The portion of the dwelling within the rear setback is proposed to be 5.6m in height and 12 m in length.</p> <p>This variation will be especially noticeable along Frogmouth Lane which currently consists of small detached sheds and outbuildings (see attachment 3 – Photographs of Frogmouth Lane). It is also considered that the rear setback variation in conjunction with the front setback variation will cause the exterior of the dwelling to appear exceptionally bulky and overdeveloped.</p>
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Town Planning Scheme No.2 (TPS2)

Clause 5.5.1 of TPS2 states that *"...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..."*

The proposed noncompliant structures in the front setback in addition to the two storey rear setback variation will cause the property to appear overdeveloped. This bulky structure will be visible from both Riley Road and Frogmouth Lane. Due to this, it is considered that this external appearance is not in keeping with locality. The locality is open in nature, with surrounding properties being setback from lot boundaries, especially front and rear setbacks.

Conclusion

The application does not comply with the intent of the Local Planning Policy 6.23, Clauses 6.3.1, 6.2.5 and 6.6.1 of the RCodes and Clause 5.5.1 of the City's Town Planning Scheme and it is therefore recommended for refusal.

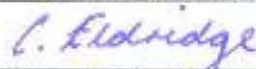
The large size and length of the lot provides ample space for the dwelling to be designed in accordance with the RCodes and City Policies. The external appearance of the development and cumulative effect of all the variations will have an adverse impact on the amenity of the surrounding area.

Attachments

1. Locality Plan
2. Aerial Photograph – Front Setbacks
3. Screen Walls
4. Photographs of Frogmouth Lane
5. Proposed Site Plan
6. Ground & Upper Floor Plan
7. Elevation Plans

D67.11	No.33 (Lot 1) Park Road, Nedlands - Proposed Two Storey Dwelling
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Committee	29 November 2011
Council	13 December 2011

Applicant	Michael John Hain
Owner	As above
Officer	Elle O'Connor - Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	PA1/33 : DA11/259 : M11/23642
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The application is referred to Council as it does not comply with the standards of the City's Town Planning Scheme No. 2 and the Residential Design Codes 2010.

In instances where discretion to the acceptable development criteria is sought officers do not have delegation to refuse an application.

Recommendation to Committee

Council refuses an application for a two storey dwelling located at No.33 (Lot 1) Park Road, Nedlands in accordance with the application dated 14 June 2011 and the amended plans dated 8 November 2011 for the following reasons:

1. The proposed open space does not comply with the acceptable development or performance criteria of Clause 6.4.1 of the Residential Design Codes and will detract from the open nature of the streetscape;
2. The overall bulk and scale of the proposed development in relation to the adjoining boundaries and surrounding area is considered to cause an adverse affect on the amenity of the adjoining owners;

3. The overall appearance, particularly the bulk and scale of the proposed development when viewed together with the reduced setbacks and open space is not in keeping with the existing character of the locality; and

4. The proposal will not be orderly and proper planning.

Strategic Plan

KFA 3: Built Environment

- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.6 Promote programs and policies to facilitate environmentally responsible and sustainable buildings and building practices.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No.33 (Lot 1) Park Road, Nedlands
 (Refer to Locality plan – attachment 1)
 Zoning MRS: Urban
 Zoning TPS2: R25
 Lot Area: 320 m²

Proposal Detail

No. 53 Clifton Street, Nedlands was subdivided into 3 separate lots (approximately 320 m² each) in the late 1980's. The rear lot is No. 33 Park Road, located on the corner of Park Road and Fraseriana Lane in Nedlands. This application is for a two storey dwelling to be constructed at No.33 Park Road, Nedlands.

Consultation

Required by legislation: Yes No

The proposed variations to the Residential Design Codes (RCodes) and City Policies were advertised to the adjoining properties for a period of 14 days.

Required by City of Nedlands policy: Yes No

Two Storey Advertising 29 June to 13 July 2011

Advertising Variations 11 October to 25 October 2011

Comments received: Nil (0) objections

Legislation

- City of Nedlands Town Planning Scheme No.2 (TPS2)
- Residential Design Codes (RCodes)

The application complies with the above legislation, with the exception of two (2) variations to the acceptable development criteria of the RCodes. The variations are listed below:

1. The proposed garage has a primary street setback of 1.5 m in lieu of 4.5 m from Park Road (Clause 6.2.3).
2. The proposed dwelling has a total site cover of 172 m² (53.7 %) allowing for 46.3 % open space. The RCodes require a minimum of 50 % open space (Clause 6.4.1).

Discussion

Issue: Front Setback of Garage

Requirement	The acceptable development criteria of Clause 6.2.3 (Setback of garages and carports) of the RCodes requires garages to be setback 4.5 m from the primary street boundary.
Applicants Proposal	The proposed garage is setback 1.5 m from the primary street boundary.
Performance Criteria	<i>Clause 6.2.3 Performance Criteria</i> <i>P3 The setting back of carports and garages so as not to detract from the streetscape or appearance of dwelling, or obstruct views of dwellings from the street and vice versa.</i>
Applicant justification summary Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.	<i>"A Variation is being sought for the reduced setback to the garage as per the Residential Design Codes. We believe the variation being sought meets the performance criteria stated in the Residential Design Codes based on the following reasons:</i> <i>The proposed development is being built in an already established residential area and there are several neighbouring properties on the same street that have built their garage on the Park Road boundary. Therefore there would be a consistent pattern of garages within the setback area on Park Road in Nedlands. Below are a few addresses noted of the properties in close proximity of the</i>

	<p><i>proposed development that seem to have their garage built close to the Park Road Boundary:</i></p> <ul style="list-style-type: none"> • <i>48, 49 & 50 Leura Street</i> • <i>58 Clifton Street</i> • <i>48 & 49 Meriwa Street</i> • <i>47, 56 & 58 Williams Road</i> • <i>16 Portland Road</i> <p><i>These above mentioned properties form consistency in the streetscape meaning number 33 Park Road will not look out of place by being built within the setback area.</i></p> <p><i>The area, dimensions and the shape of the site make it difficult to comply with the general building setback requirements. The block is only 320 m² in total, not to mention the 3 m sewer easement at the rear of the block. To comply with the front and side setbacks as well as not encroaching on the sewer easement at the rear would mean the owners at 33 Park Road would only be allowed to build on 151 m² (47 %) and they would have hardly any open space to the rear as well. The dimensions and shape of this site also contribute some difficulty when trying to comply with the street setbacks. For instance having the garage on the right hand side of the property as well as the being 6m from the front boundary means the biggest garage possible for that property would be approximately 6.5 m long, leaving no room for any storage space which is important for the smaller sized sites.</i></p> <p><i>Although the garage would be in the front setback area, it would not obstruct the views of the street from the dwelling. There is the guest bedroom on the ground floor which has a great view for surveillance of the street as well as the first floor living room and master bedroom having plenty of windows overlooking the street as well.</i></p>
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	<p><i>The garage will not detract the streetscape being built in the front setback area as the garage is only 6 m wide and the garage door being 4.8 m wide. The frontage of the property is 13.55 m which means that even the overall width of the garage does not intrude on the maximum 50 % of the frontage, and in fact is only 44 %, with the garage door only being 35 % of the total frontage."</i></p>
<p>Officer technical comment</p>	<p>The proposed development is considered to comply with the performance criteria mentioned above as the reduced setback will not detract from the streetscape or the dwelling.</p> <p>The subject lot is the only property with a primary frontage to Park Road (see attachment 2 – Aerial Photograph). Due to this, all other surrounding dwellings along Park Road have a secondary street setback, not primary. Properties in the locality are zoned R25, the required secondary street setback for this zoning is 1.5 m. As all other dwellings along Park Road have a minimum setback of 1.5 m from the street, the 1.5 m setback of the garage to Park Road will not detract from the street or dwelling.</p> <p>Notwithstanding this, the reduced front setback contributes to the total site cover of the dwelling on the lot and therefore if the front setback was to comply it would increase the amount of open space on the site.</p>

Issue: Open Space Variation

<p>Requirement</p>	<p>Table 1 of the RCodes requires a minimum open space of 50 % for properties zoned R25.</p>
<p>Applicants Proposal</p>	<p>The application proposes 46.3 % open space, an additional 12 m² of site cover.</p>
<p>Performance Criteria</p>	<p>Performance Criteria: Clause 6.4.1;</p> <p>Objectives: 6.4 <i>"To ensure that private and communal open space is set aside and landscaped to provide for attractive streetscapes, attractive settings to compliment the buildings, privacy, direct sun, and the recreational needs of the</i></p>

	<p><i>residents.”</i> <i>“Sufficient open space around buildings:</i></p> <ul style="list-style-type: none"> • <i>To complement the building;</i> • <i>To allow attractive streetscapes; and</i> • <i>To suit the future needs of residents, having regard to the type and density of the dwelling.”</i>
<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>The proposed development has increased the size of the building by 4 % (13.9 m²) meaning the open space provision to this building is now at 46 % in lieu of 50 % as required by the Residential Design Codes.</i></p> <p><i>The extra space has been put in to the garage as storage space which is highly regarded as being essential to smaller lots such as this one. Without this space, there is no room to have garden equipment such as lawn mowers and hedge trimmers which help maintain the amenity and attractiveness of the property. There is no room for a future garden shed to store these types of essentials, as the only place suitable for one would be at the rear of the property which would encroach on the sewer easement as well as the outdoor living area.</i></p> <p><i>A shed to the rear would also overshadow and disrupt ventilation to the family room windows as it would be on the northern boundary.</i></p>
<p>Officer technical comment</p>	<p>The proposed development does not comply with the acceptable development provisions for open space.</p> <p>The proposed development is not considered to comply with either the performance criteria or the objectives of the RCodes as follows:</p> <ul style="list-style-type: none"> • <i>To complement the building; and</i> • <i>To allow attractive streetscapes.</i> <p>It is considered that the areas of open space around the dwelling have not been designed to adequately complement the building or the streetscape. The east and west side walls are</p>

	<p>located on the boundary and the front setback is reduced, this will create an overdeveloped, bulky façade from the street as there is minimal space for landscaping. This lack of open space in the front and side setbacks, cumulatively, will not complement the building design or streetscape.</p> <p>The City is required to ensure a consistent approach that the minimum amount of open space should be provided on all residential developments to ensure protection of the existing residential amenity.</p> <p>If the City was to approve this application it may then be expected that Council would approve other similar proposals to vary the minimum open space requirements. This would lead to an overall decrease in open space of the area and may reduce the residential amenity of the area taking into account the density zoning of the locality (R25).</p> <p><i>To suit the future needs of residents, having regard to the type and density of the dwelling.</i></p> <p>The dwelling has been designed to push all boundary walls to their extremities as both side walls are on the boundary and the front setback has been reduced. Building on the boundary and reducing the open space, limits the opportunity and potential for renovations or extensions in the future to cater for the residents changing lifestyle.</p> <p>Therefore it is considered that the proposed reduction in open space to 46.3 % (12 m² less than required under the RCodes) does not comply with the performance criteria of the RCodes.</p>
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The recommendation is to refuse the application due to the cumulative impacts of the proposed variations. The alternative option considered was a conditional approval subject to the 50 % open space being provided. This is not recommended as to achieve this; a significant redesign of the proposed dwelling is required due to the site constraints. The resulting house design has not been assessed for potential impacts on amenity and can therefore not be approved.

Conclusion

Clause 5.5.1 of TPS2 states that *"...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..."*

Although it is considered that the boundary wall setbacks technically comply with the acceptable development and performance criteria of the RCodes, the nil boundary setbacks in conjunction with the reduced open space of 46.3 % will adversely affect the amenity of the surrounding area.

In addition to the effect on the streetscape, it is also considered that the open space variation will restrict future uses of the site and the needs of residents.


The City is required to ensure a consistent administration of planning requirements to ensure overall protection of residential amenity. If the City was to approve this application it may then be expected that Council would approve other similar proposals to vary the minimum open space requirements. Reduction of open space on these sites will result in an incremental change to the character of the neighbourhood, adversely affecting the amenity of the area. Given the above, the application is therefore recommended for refusal.

Attachments

1. Locality Plan
2. Aerial Photograph
3. Site Survey Plan
4. Floor Plan
5. South and West Elevation Plan
6. North and East Elevation Plan

D68.11	No.57 (Lot 751) The Avenue Nedlands - Proposed Additions and Alterations (including New Garage, New Rear Balcony, Extension to Existing Front Balcony and Internal Alterations)
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Committee	29 November 2011
Council	13 December 2011

Applicant	Addstyle Constructions
Owner	Peter & Nora Foley
Officer	Nick Bakker - Planning Officer
Director	Carlie Eldridge - Director Development Services
Director Signature	
File ref	TH1/57
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for consideration as officers have no delegation to approve an application once valid objections have been received.

Recommendation to Committee

Council approves an application under the City's Town Planning Scheme No. 2 (TPS2) for proposed additions and alterations to an existing three storey dwelling at No.57 (Lot 751) The Avenue, Nedlands in accordance with the application dated 11 July 2011 and the amended plans dated 30 August 2011 and 7 November 2011 attached hereto, subject to the following conditions:

1. Visual screening is to be provided on the north eastern elevation of the proposed rear balcony and new portion of front balcony, to a height of 1.65 m above finished floor level, in accordance with Clause 6.8.1 of the Residential Design Codes (RCodes) (refer Advice Note a. below).
2. This approval does not include ancillary accommodation (refer to Advice Note b. below).

3. All stormwater from building, paved areas and driveways shall be contained on site by draining to soak wells of adequate capacity to contain runoff from a 10 year recurrent storm event; and soak wells shall be a minimum capacity of 1.0 m³ for every 80 m² of paved or roofed surface on the property.
4. 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.
5. The use of the converted garage on the ground floor level shall be restricted to the uses as depicted in the plans dated 7 November 2011 i.e. Plant Room and Storage.
6. Prior to the issue of a Building Licence for the development the owner shall execute and provide to the City a notification pursuant to section 70A of the *Transfer of Land Act 1893* to be registered on the title to the land as notification to prospective purchasers that the use of the converted garage on the ground floor level is subject to the restriction set out in Condition 5 above.
7. A grated channel strip-drain shall be constructed across the driveway, aligned with and wholly contained within the property boundary. The discharge from this drain to be run to a soak-well situated within the property.
8. Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes

- a. Amended plans shall be submitted prior to or in conjunction with, the Building Licence to show adequate privacy screening to the balconies as per Condition 1. (as marked in red on the approved plans).
- b. The applicant is advised that further planning approval is required for any portion of the dwelling to be used as ancillary accommodation.

- c. All internal WC's and ensuites without window access to outside air must be serviced by mechanical ventilation, which is ducted to outside air and the minimum rate of air change must be equal or greater than 25 litres per second.
- d. Ensure that airconditioner unit(s) comply with relevant Australian Standards and that noise emissions comply with the *Environmental Protection (Noise) Regulations 1997*.
- e. It is strongly advised that consultation is undertaken with the installer and adjoining neighbour(s) prior to installation of air-conditioning equipment. In the event of a noise complaint being received by the City, remedial action (including potential relocation or other attenuation measures) may be required or the airconditioner may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document and also the fairair noise calculator online at www.fairair.com.au.

Strategic Plan

KFA 3: Built Environment

- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No.57 (Lot 751) The Avenue Nedlands
Zoning MRS: Urban
Zoning TPS2: R12.5
Lot Area: 1012 m²

Proposal Detail

The application is for additions and alterations to an existing three storey dwelling which is located within the City's Controlled Development Area. The application consists of the following additions:

- Extensions to the ground floor at the front of the dwelling comprising of two (2) new bathrooms, and a new two (2) car garage.
- Extensions to the first floor consisting of a new master bedroom, increasing the size of the front balcony and a new balcony to the rear of the dwelling.

The application also proposed the following internal alterations:

- Converting the existing ground floor bathroom and part of the laundry into a new kitchen;
- Converting the existing ground floor wc and part of the laundry into a new bathroom; and
- Converting the existing garage into a workshop.

Consultation

Required by legislation: Yes No

As the development is located in the City of Nedlands Controlled Development Area (CDA), the application is required to be advertised for a period of 21 days to adjoining landowners and occupiers. There were also a number of variations to the Residential Design Codes (RCodes) which were advertised at the same time as the 21 day CDA advertising period.

CDA Advertising 5 September 2011 to 26 September 2011

Required by City of Nedlands policy: Yes No

Comments received:

Two objections were received following the 21 advertising period.

Summary of comments received	Officers technical comment
<p>Issue: Noise</p> <p>Comment: <i>"Object to the garage side setback of 1.15 m from the north east boundary in lieu of the 1.5m required under the residential design codes. At Present it is used as the main traffic area to the house and is very noisy. The 1.15 m side setback will not buffer the noise."</i></p>	<p>Dismiss:</p> <p>It is not considered that the proposed reduced setback will have any additional impact in terms of noise. The solid masonry wall facing the neighbouring property will act as a buffer and reduce the impact of sound on the neighbouring property.</p> <p>It is also considered the area of the variation is minor. Table 2 of the RCodes requires walls with a height greater than 3.5 m above natural ground level (ngl) to have an increased setback. A small portion of the wall has a</p>

	<p>maximum height of 4 m above ngl which dictates the 1.5 m setback. This wall height is as a result of the sloping land along this boundary and attachment 2 illustrates a majority of the wall being less than 3.5 m above ngl.</p> <p>If the wall had a maximum height of 3.5 m above ngl then the required setback would be 1 m.</p>
<p>Issue: Privacy</p> <ul style="list-style-type: none"> • Comment from the north eastern side neighbour: <p><i>"Object to the proposed rear balcony setback 6.45 m from the north east side boundary. This is an invasion of privacy as it will look directly into the back yard and outdoor living/entertaining area. The affected property is a single storey residence and the land lies downhill from No.57.</i></p> <p><i>The proposed overlooking from the front balcony will also have an adverse affect on the property."</i></p> <ul style="list-style-type: none"> • Comment from the rear neighbour: <p><i>"The proposal will affect the quality of living as it will impact on privacy. Especially the proposed verandah/balcony at the rear will overlook into the entertainment area, kitchen and meals area."</i></p>	<p>Condition:</p> <p>As the proposed balconies do not comply with the Acceptable Development or Performance Criteria of the RCodes, it is recommended that the balconies be screened in accordance with the privacy provisions of the RCodes.</p> <p>Condition: As above.</p> <p>Dismiss:</p> <p>The proposed rear extensions have a minimum setback of 13.85 m from the rear property boundary. Therefore is considered to comply with the privacy provisions under the Acceptable Development and Performance Criteria of the RCodes.</p>
<p>Issue: Value of neighbouring properties</p> <p>The proposal will have a negative financial effect on the property to the rear.</p>	<p>Dismiss:</p> <p>Property value is not a valid planning concern, not withstanding this, the development complies with the RCodes in relation to the rear property and as such the effect is considered acceptable.</p>

<p>Issue: Views</p> <p>The proposal will affect the outlook and block precious views of the surrounding area including river views.</p>	<p>Dismiss:</p> <p>Impact on views is taken into consideration when assessing developments located in the City's TPS2 Controlled Development Area (CDA). The CDA requires that no development is located within 7.5 m of the rear boundary. However, in this case the proposed development is not located within this area and therefore the river views are not affected.</p> <p>In addition, the provisions of the RCodes do not protect private views and land owners are permitted to build two storey dwellings subject to compliance with the RCodes and TPS provisions.</p> <p>Given the scale of the additions and the setback of the proposed variations in relation to the adjoining property it is not considered the proposal will have any impact on views.</p>
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Legislation

- Town Planning Scheme No.2
- Residential Design Codes 2008
- Council Policy 6.4 Neighbour Consultation

The application complies with the above legislation, with the exception of three minor variations to the Acceptable Development Criteria (ADC) of the RCodes. The variations are listed below:

1. The proposed Garage has a north east side setback of 1.15 in lieu of the 1.5 m required under the RCodes.
2. The proposed front balcony has a setback of 6.4 m from the north eastern property boundary in lieu of the 7.5 m required under the RCodes.

3. The proposed rear balcony has a setback of 6.5 m from the north eastern property boundary in lieu of the 7.5 m required under the RCodes

Discussion

Issue: Garage Side Setback Variation

Requirement	The proposed garage requires a minimum 1.5 m setback from the north eastern boundary as per Clause 6.3.1 and Table 2a of the RCodes.
Applicants Proposal	The proposed garage a minimum setback of 1.15 m from the north eastern boundary.
<p>Applicant justification summary</p> <p>Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>"The mass and form of the proposal have been given careful consideration. Footprint of the double garage has been staggered to moderate the impact of the building on the existing streetscape. A feature recess has been incorporated into the design to break up the front elevation and prevent the potential dominance as viewed from the street. The layout has been prepared to maximize and exploit the quality and amenity of the Existing Dwelling and to add considerable Improvement to the property and Nedlands area as a whole.</i></p> <p><i>In order for a 1.15 m setback to be permitted the wall height is required to be no more than 3.5 m above natural ground level. Proposal is for a 3.86m high wall which exceeds the height limit by 360 mm. The deviation of the permitted height for the setback results from the effort to maintain the natural ground level. This results in less demolition, material wastage and is overall more practical. A reduction in setback is required in order for this to be achieved.</i></p> <p><i>The proposed location and setback of the garage will have little to no effect on the amount noise transfer between properties. The development is of masonry construction. The acoustic properties are such that the level of noise caused by parking vehicles will have no affect on the amenity and quality of living to the residence at 55 The Avenue. Furthermore, garage position is adjacent the neighbouring property's front yard and not any openings to habitable rooms."</i></p>

<p>Performance Criteria</p>	<p><i>Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.</i>
<p>Officer technical comment</p>	<p>Given that the proposed garage side setback of 1.15 m does not comply with the Acceptable Development Criteria of the RCodes the application was assessed under (and is considered to comply with) the Performance Criteria, as follows:</p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> <p>The proposed north east side setback has minimal impact on the access to direct sun and ventilation of the building as the proposed garage is located to the front of the existing dwelling leaving adequate open areas with access to northern sun around the property.</p> <ul style="list-style-type: none"> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> <p>The proposed garage is not considered to have any impact on the provision of sun and ventilation to the adjoining property as it is single storey and located on the southern side of the adjoining property.</p>

	<ul style="list-style-type: none"> • Assist in ameliorating the impacts of building bulk on adjoining properties; • Assist in protecting privacy between adjoining properties. <p>Given the size and location of the proposed garage in relation to the neighbouring property it is not considered to have an adverse impact in terms of bulk and privacy on the adjacent property.</p>
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Issue: Overlooking from the upper balconies

RCodes Requirement Acceptable Development	The upper balconies require a privacy (cone of vision) setback of 7.5 m or required to be screened in accordance with Clause 6.8.1 of the RCodes.
Applicants Proposal	<ol style="list-style-type: none"> 1. The proposed front balcony has a setback of 6.4 m from the north eastern property boundary. 2. The proposed rear balcony has a setback of 6.5 m from the north eastern property boundary.
Applicant justification summary	<p><i>"The property to the north east is located in a low density area. Outdoor living space is not limited and protection from overlooking is not necessary for extensive areas of garden. Overlooking occurs into the neighbouring properties garden not into active habitable areas. Outdoor entertaining on the first floor will be predominantly to the front of the house where the balcony is significantly larger, and with access to views. It is therefore considered that the rear balcony will be occupied infrequently, without noise and by relatively few people.</i></p> <p><i>Cone of vision from the alfresco balcony overlaps an area of 3.6 m² into the front yard of the residence located to the north east. The front yard is visible from the street and general public, therefore control of overlooking into this area would be ineffective in terms of privacy protection. View from the alfresco balcony does not overlook into any active habitable spaces or outdoor living areas and therefore complies with the acceptable development provisions."</i></p>

<p>Performance Criteria</p>	<p>Clause 6.8.1 states:</p> <p><i>"Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimized by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscaping, or remoteness</i></p> <p><i>Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscure glass."</i></p>
<p>Officer technical comment</p>	<p>As both of the proposed balconies are directly accessible from major living rooms (i.e. dining and lounge) it is likely that they will be used regularly.</p> <p>The applicant has noted that the balconies do not directly overlook any major active habitable areas of the neighbouring property. However, it is considered the proposed location of the balconies in relation to the dining and lounge rooms will result in more frequent use which will exacerbate the impact on the adjoining neighbour's privacy.</p> <p>Furthermore, the location of the balconies are located adjacent to the outdoor living areas of the neighbouring, which will be overlooked.</p> <p>It is therefore recommended a condition be placed on the approval that the privacy screen shown on the plans along the north eastern side of the balconies, in accordance with the RCodes.</p>

Conclusion

Given the above discussion it is considered the proposal complies with the City's Town Planning Scheme and the Residential Design Codes.


It is therefore recommended Council approve the application with a condition that screening be installed along the north eastern side of the proposed balconies in accordance with the RCodes.

Attachments

1. Locality Plan
2. Elevation of Garage Wall Showing Portion Higher than 3.5 m
3. Existing Site Survey Plan
4. Proposed Site Survey Plan
5. Existing Ground Floor Plan
6. Existing First and Second Floor Plan
7. Proposed Ground Floor Plan
8. Proposed First Floor Plan
9. Side Elevation Plans
10. Front and Rear Elevation Plans

D69.11	Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5)
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Committee	29 November 2011
Council	13 December 2011

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Laura Sabitzer – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref.	CRS/065
Previous Item No's	D49.11 Policy Review – Built Environment Policies
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

At the Council meeting on the 22 March 2011 Council instructed administration to prepare a draft policy for Council Consideration relating to side and rear setbacks on low density lots.

Recommendation to Committee

Council endorses the proposed Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5).

Strategic Plan

KFA 5: Governance

- 5.1 Manage the City's resources in a sustainable and responsible manner.
- 5.4 Monitor and review business processes, systems, structure and policies to ensure effective service delivery and organisational performance.

Background

Council Resolution from 22 March 2011.

Council Resolution

A new policy be discussed with Councillors at a Policy Intent Workshop by the end of June 2011 with the draft objectives below as a starting point and subsequently Administration prepare a draft policy for Council consideration.

Draft Objectives

1. To guide the exercise of discretion for variations within low density zones of the Residential Design Codes and the operation of the amenity clause 5.5 in Town Planning Scheme No. 2;
2. To preserve the open and spacious character of the City of Nedlands; and
3. To assist in the maintenance of privacy and prevention of overlooking of back yards.

Administration drafted a policy which was discussed at the Policy Intent Workshop in June 2011. No amendments to the draft were suggested at the workshop.

The Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5) was presented to Council in August 2011, to receive consent to commence public consultation.

Council Resolution from 23 August 2011.

Council Resolution

Council approves for the purpose of public consultation the proposed Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5).

As a result, the proposed draft local planning policy has undergone public consultation in accordance with Clause 8.3.2 of Town Planning Scheme No.2.

Proposal Detail

The proposed Local Planning Policy (LLP) will clarify where discretion should be applied to rear and side setbacks in low density residential zone. The purpose of the policy is to preserve the open and spacious character of the City and the residential amenity of this low density zonings.

Consultation

Council approved the proposed draft local planning policy for the purpose of public consultation at the Council meeting on 23 August 2011. The public consultation of the LLP occurred in accordance with Clause 8.3.2 of Town Planning Scheme No.2. The proposed local planning policy was advertised for public comment for a period of 21 days, from 10 October 2011 to 31 October 2011.

The City received no submissions regarding the proposed local planning policy.

Legislation

- Town Planning Scheme No. 2 (TPS2)
- *Planning and Development Act (2005)*
- Residential Design Codes 2010 (RCodes)

Local planning policies are created under Part VIII of Town Planning Scheme No 2 (TPS2) and once adopted are enforceable in accordance with the scheme.

Part 5 of the RCodes outlines the provisions and restrictions of LPP's. Only specific development provisions within the RCodes can be varied or changed.

Currently side and rear setbacks in low density zonings are determined under the provisions of Part 6 of the RCodes.

Budget/financial implications

Nil

Risk Management

The additional performance criteria contained in this new LPP reduces the risk of parapet walls which may detract from the open streetscape character of the City.

Discussion

The RCodes provides specific design elements for residential development in Part 6. Under each design element there are acceptable development provisions and performance criteria provisions. Development that complies with the acceptable development provisions are deemed to comply with the performance criteria. Any development that does not comply with the acceptable development provisions is required to be assessed against the performance criteria.

Part 5 of the RCodes provides for Council's to make LPP's and outlines which acceptable development provisions can be varied or replaced by LPP's.

Point 3 of the Council resolution related to "assisting the maintenance of privacy and preventing overlooking of backyards". In this regard, it is advised that privacy and overlooking is assessed under Clause 6.3 "Privacy Requirements" of the R Codes. Part 5 of the RCodes does not allow the acceptable development provisions of Clause 6.3 to be changed or modified.

Notwithstanding this, the performance criteria of Clause 6.3.1 do restrict overlooking into active outdoor areas and therefore addresses the concerns with overlooking into rear yards.

The provisions for side and rear setbacks for R10 and R12.5 properties are outlined in Clause 6.3.1 and Clause 6.3.2 of the RCodes.

The acceptable development provisions of Clause 6.3.1 are as follows:

- rear setback of 6 m, excluding outbuildings;
- side setbacks are determined based on table 2a and 2b of the RCodes. The minimal side setback required under these tables is 1 m; and
- side and rear setback distance to be reduced by half the width of an adjoining right-of-way, pedestrian access way or battleaxe leg, to a maximum reduction of 2 m.

Under the acceptable development provisions of Clause 6.3.2, walls built up to the boundary are only permitted as-of-right in these zones if the wall on the boundary abuts another wall on the boundary of similar or greater dimensions.

Under Part 5 of the RCodes, the acceptable development provisions of Clause 6.3.1 cannot be varied or modified. However, additional acceptable development provisions and performance criteria can be provided if these aspects are not provided for anywhere else in the RCodes.

This means, the minimum side and rear setbacks for these zonings (1 m and 6 m respectively) under the acceptable development provisions cannot be modified. Further, the provision to reduce the setback if abutting a laneway must also be retained.

Under part 5 of the RCodes the acceptable development provisions of Clause 6.3.2 which relates to parapet walls can be varied or modified. However, as parapet walls in low density zonings are already not permitted under the acceptable development provisions there is no requirement to change the acceptable development of this clause.

As a result, of not being able to vary or modify the acceptable development provisions, instead the policy provides additional Performance Criteria to both Clause 6.3.1 and 6.3.2. This will provide additional criteria to guide the exercise of discretion for variations relating to setbacks and parapet walls to preserve the amenity of these low density areas.

The additional Performance Criteria recommended are as follows:

6.3.1

Buildings setback from the Boundary

P1 Buildings setback from the boundaries other than street boundaries so as to:

- contribute to the desired streetscape.
- assist in contributing to the open and spacious character of the locality.
- Assist in providing a landscaped setting for the building.
- Assist in the protection of mature trees.

When assessing the Developments Applications under Clause 6.3.2 of the RCodes, the following additional Performance Criteria are to be used in the recommendation and determination.

6.3.2

Buildings setback from the Boundary

P2 Buildings up to the boundaries other than the street boundary where it is desirable to do so in order to:

- contributed to the desired streetscape.
- maintain a sense of open space between buildings.
- assist in contributing to the open and spacious character of the locality.
- assist in providing a landscaped setting for the building.
- assist in the protection of mature trees.

Conclusion

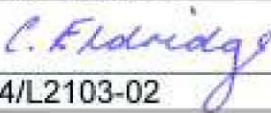
The proposed local planning policy provides further criteria to assess side and rear setback and parapet wall variations in low density zonings. The intent of the policy is to preserve the amenity and, the open and spacious nature of these residential areas. Accordingly, it is recommended that Council endorses the Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5).

Attachments

1. Draft Setback and Buildings on the Boundary in Low Density Zones (R10 & R12.5)

D70.11	Lot 2103 Brockway Road, Mt. Claremont – Proposed Limited Outline Development Plan for the University of Western Australia Sports Hockey Precinct
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Committee	29 November 2011
Council	13 December 2011

Applicant	CLE Town Planning and Design
Owner	University of Western Australia
Officer	Gabriela Poezyn - Manager Strategic Planning Jason Moore - Trainee Planning Officer
Director	Carlie Eldridge
Director Signature	
File ref.	BR4/L2103-02
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is so that the proposed Limited Outline Development Plan (ODP) for the University of Western Australia (UWA) Sports Hockey Precinct at Lot 2103 Brockway Road, Mt. Claremont to guide the upgrade of the Hockey Precinct, is adopted by Council.

Recommendation to Committee

Council:

1. Approves pursuant to Clause 3.8.7 of the City's Town planning Scheme the Limited ODP for the UWA Sport Hockey Precinct Located at Lot 2103 Brockway Road, Mt. Claremont as outlined in the document entitled 'UWA Sports Park Hockey Precinct Limited Outline Development Plan' date August 2011 from CLE Town Planning and Design.
2. Forward the document to the WAPC for adoption of the ODP document.

Strategic Plan

- KFA 3: Built Environment
- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

Background

Property Address: Portion of Lot 2103 Brockway Road, Mt Claremont
Zoning MRS: Urban
Zoning TPS2: Development Zone
Lot Area: 3.5 ha (land within limited Outline Development Plan)

Location

The UWA Sports Park is used for recreation purposes and is included within Lot 201 Stephenson Avenue, Mt Claremont. The entire Sports Park comprises a total area of 48.98 ha (refer to attachment 1).

The Hockey Precinct, the portion of the Sports Park which is the subject of the limited ODP, is located in the southern portion of the Sports Park and comprises 3.5 ha. The precinct includes the artificial turf surface and grassed playing fields, existing clubrooms, amenities, supporting infrastructure, access, permanent and temporary parking.

History

Significant planning has occurred for the overall area over the past decade. This has included:

2002 – 2004	Shenton Park Structure Plan
2004 – 2005	Mt Claremont Sports Precinct Structure Plan
2005 – 2006	AK Reserve/UWA Sports Park Master Plan

The proposed development of the Hockey Precinct as indicated in the Limited ODP aligns with the previous planning for the area.

Town Planning Scheme No. 2 (TPS2)

The current stage is the final stage of the process outlined in Town Planning Scheme No. 2 under Clause 3.8 for the adoption of an ODP.

Proposal Detail

Purpose of ODP

The purpose of the proposed Limited ODP is to guide the upgrade of the Hockey Precinct.

Which include the following:

- As a priority, replacing the existing grassed hockey field with new international standard blue artificial turf and associated infrastructure (including runoff areas and surrounds, lighting towers, water storage and other standard services) in Precinct A.
- In the long term, formalise parking and extend various facilities around the clubrooms in Precinct B.

- General maintenance and upkeep of the current artificial turf surface and surrounds in Precinct C.

The range of uses and activities will not change, however, at the hockey club, but the facility will be substantially improved.

The overall intent of the ODP is to enable the expansion and consolidation of an existing recreation use (UWA Sports Park Hockey Precinct) as part of the subsequent development approval process for which funding has been received and there is a short delivery timeframe. An overall ODP for the whole site is currently being prepared by UWA.

Structure of ODP Document

The document submitted by the applicant (refer to attachment 4) includes two parts. (refer to attachment 2)

Part 1 is the background section and includes:

Part 2 shows the actual proposed ODP addresses the following:

- a. Existing site conditions and land uses

The existing Hockey Precinct, which comprises of:

The existing artificial turf to the east of grandstand/amenity area on the western edge of the field. Immediately adjacent is the hockey parking area, which at present caters for 71 vehicles. Vehicle access is provided directly from the main internal Sport Park road running east west. To the west of the car park is the existing grass hockey field which is to be upgraded to artificial turf.

There are a number of trees that are scattered around the precinct in a parkland setting. The ODP recognises the need to consider retention of the more significant trees.

As part of the upgrade, the incumbent recreation uses and activities will not change.

- b. Roads and access

The Hockey Precinct has immediate and very efficient access provided by the main internal Sports Park road, which links to Stephenson Avenue and Brockway Road. The area has excellent vehicle access via the main internal road system.

The proposed developments envisioned in the ODP are not expected to expand the UWA Hockey Club, no additional users will be attracted.

c. Parking management

Ample parking is provided the Sports Park for all users during the day as well as meeting the general demand for Challenge Stadium, Basketball and Athletics Stadiums, Rugby facilities and the UWA Sports Park. The current roads and access provisions are therefore not expected to be compromised by this proposal.

Parking is reciprocal and is managed by:

- Venues West (Challenge Stadium, Basketball and Athletics Stadiums, Rugby facilities); and
- UWA Sport and Recreation (balance of the Regional Sporting Precinct).

To ensure formal parking management is coordinated between the two organisations a Precinct Working Committee has been operating. This committee allows for individual users and clubs to coordinate and plan events and activities.

Within the Hockey Precinct, at present there are:

- 71 documented paved and informal bays (in reality there are many other informal spaces around the playing areas).
- Within walking distance of the precinct there are another 568 bays available if there is an overflow in parking demand.

d. Planning precincts

The Outline Development Plan for the Hockey Precinct identifies three precincts – Precinct A; Precinct B; and Precinct C. These precincts are shown in attachment 4.

Precinct A contains the existing grassed hockey field.

- The ODP proposes that this field will be upgraded to an international standard field with associated infrastructure including runoff areas and surrounds, lighting towers, water storage and other standard services.
- This upgrade is classified as a priority in the document.

Precinct B generally includes the existing clubrooms and parking area.

- The ODP proposes that in the long-term this precinct will be upgraded to formalise parking and extend facilities.

Precinct C contains the current artificial turf surface and surrounds.

- No immediate redevelopment is proposed other than maintenance and upkeep.

All existing and any new uses will continue to be related to the ongoing use of the precinct for recreation purposes.

e. General

The UWA Hockey Club has advised that total patron numbers for the turf and grass can vary from 50 during a training session to a maximum of up to 600 on a club game day. The maximum number would represent a brief spike as numbers typically fluctuate over the course of the day.

It is noted that the club is not proposing to attract additional users as a result of the proposed upgrades.

Consultation

After receiving consent from the Western Australian Planning Commission (WAPC) to advertise the proposed ODP on 11 October 2011, the proposal was advertised for public comment for the period of 31 October to 14 November 2011.

The City has received no submissions regarding the proposed ODP.

Legislation

- Town Planning Scheme No. 2 (TPS2)

Budget/financial implications

Nil

Risk Management

Not adopting this ODP would undermine the City's planning process for orderly and proper planning.

Discussion

Previous studies completed

A broader ODP process has been commenced for UWA's Shenton Park land holdings including UWA Sports Park and the area east of Brockway Road. The proposed ODP has been lodged prior to the conclusion of this process as the upgrade to the hockey facilities is urgent.

Notwithstanding the interim nature of the proposed ODP, the planning for the future upgrade of the Hockey Precinct is consistent with significant planning that has occurred for the area over the past decade.

Given the history of planning for the overall area and that the proposed upgrades are consistent with this planning, it is recommended that the ODP can be supported.

Proposed development

The future works outlined in the proposed ODP align with the established recreational use of the area. They are considered to be appropriate for the site and are therefore supported.

Parking management

Parking management for the site is well established through a committee that coordinates reciprocal parking arrangements between the different managing bodies that use the overall area (Venues West and UWA).

This arrangement, which has worked successfully for some time, means that there are 639 parking bays available to the users of these facilities (71 located within the Hockey Precinct and 568 within the Regional Sporting Precinct).

As the nature of the development that will be enabled by the ODP is not expected to increase the demand for parking, it is expected that:

- The proposed development included in the ODP will not negatively affect the ability of the committee to continue managing parking efficiently; and
- The current arrangements can continue to operate.

Parking assessment

The UWA Hockey Club has advised that total patron numbers for the turf and grass can vary from 50 during a training session to a maximum of up to 600 on a club game day. The maximum number would represent a brief spike as numbers typically fluctuate over the course of the day.

Based on the above ratio and the figures provided by the club and assuming the worst case scenario, 600 patrons on a club game day would require 120 parking bays. Taking into account the 71 Hockey Precinct bays and the 568 overflow bays that are available, it can be concluded that parking supply will meet parking demand.

Impact on surrounding property owners

The site is located in the southern portion of the Regional Sporting Precinct, south of Challenge Stadium and west of McGillivray Oval. It is located a significant distance away from any residential property.

Given the nature of the proposed works indicated in the ODP and that the site is accessible from Stephenson Avenue (to the west) and

Brockway Road (to the east), there will be a negligible impact on surrounding property owners.

Conclusion

The proposed ODP is welcome because it will ensure that future development of the Hockey Precinct can now commence to provide a comprehensive outcome.

The works included in the proposed limited ODP are not expected to reduce the amenity of the area and will eventually result in improved facilities for the current people using the hockey facilities.

Attachments

1. Aerial Photograph
2. ODP Document

D71.11	Lot 12040 Heritage Lane Mt Claremont - Proposed subdivision into three lots for complex formerly known as Swanbourne Hospital for the Insane
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Committee	29 November 2011
Council	13 December 2011

Applicant	The Planning Group
Owner	Swanbourne Estate Developments Pty Ltd
Officer	Gabriela Poezyn - Manager Strategic Planning
Director	Carlie Eldridge - Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref.	WAPC/145074
Previous Item No's	No previous subdivision application for this parcel of land has been received, although this land was part of the subdivision applications for the northern and southern wings
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to provide Council comments to the WAPC in regard to the proposed subdivision.

Recommendation to Committee

Council:

1. **Does not support the proposed subdivision of Lot 12040 Heritage Lane into three (3) green title lots for the following reasons:**
 - a. **The subdivision cannot legally be approved in the absence of a Council adopted Outline Development Plan (ODP);**
 - b. **The subdivision is contrary to orderly and property planning of the area as it prevents coordinated development;**
 - c. **The proposed layout causes the following issues:**
 - i. **It is not logical particularly the interrelationship between lots 2 and 3.**

ii. **Pedestrian Access:** It will threaten the delivery of a pedestrian access in an east/west direction across the site, which had been identified as being significant for the amenity of the existing residents of the area as required by Town Planning Scheme No 2.

iii. **Landscaped setting:** It will not be possible to deliver of the park-like landscaped setting for the historic buildings which will undermine the heritage value of the site as required by Town Planning Scheme No 2.

iv. **Vehicle Access:**

Lots 1 & 2:

The proposed vehicle access to lots 1 and 2 which has been limited to Abbey Gardens only is not acceptable for the following reasons:

- 1) The concept deviates from existing planning for the area (development plan and LPS, which are the product of extensive public consultation) which stipulates that vehicle access be primarily from Heritage Lane with no access from Abbey Gardens except for service vehicles for Montgomery Hall.
- 2) Additional traffic volumes generated by proposed uses on Lots 1 and 2 may be inappropriate for the surrounding residential streets like Abbey Gardens and St John's Wood Boulevard.

v. **Parking:**

Lot 1: Being segregated it would not be possible for a future Montgomery Hall use to rely on any of the other parcels of land to assist with carparking, which current planning required to be provided on the southern wing or elsewhere on the areas that are now proposed lots 2 and 3.

Lot 2: Very limited area is available for on-site parking on Lot 2 given that the building for proposed Lot 2 extends boundary to boundary.

- vi. **Heritage Values:** The introduction of new boundary lines will require demolition of existing heritage fabric, for the boundary between Lot 1 and 2, and alterations to the existing buildings to meet fire requirements and will diminish the heritage values of the historic buildings.
 - vii. **Stormwater:** Each site would be required to retain its own stormwater on site, which has already proved to be difficult with the construction of the lots in the northern wing, and be a challenge particularly for proposed lot 2.
2. **Advises the WAPC of its decision under 1 above.**
3. **In the alternative, recognising that the WAPC may wish to approve to subdivision proposal, advise the WAPC that the the following conditions should be imposed (to be read in conjunction with the plan attached as attachment 4):**
- a. **The applicant prepare a Detailed Area Plan for adoption by the City which, when adopted, will guide the comprehensive redevelopment of the site. As a minimum the Detailed Area Plan shall show the following:**
 - i. **Details of any development proposals including adaptive reuse of the heritage buildings and any proposed new development noting that all development shall respect the existing heritage buildings;**
 - ii. **Proposed use of all existing and revamped facilities;**
 - iii. **Total intensity of proposed development (expressed as the number of proposed dwellings for residential uses and development standards as outlined in Town Planning Scheme No. 2 for non-residential uses);**
 - iv. **Location of all proposed parking facilities so all the parking needs from the three proposed lots are met on each individual site;**
 - v. **all vehicle access and vehicle movement arrangements for Lots 2 and 3, which shall be provided exclusively from Heritage Lane;**

- vi. all pedestrian/bicycle access ways which will form the basis of access easements throughout the site that are intended to facilitate east/west movement through the site, and appreciation of the historic buildings;
 - vii. all areas proposed to be used for public and private open space;
 - viii. landscaping plans that show the retention of all existing vegetation, proposed soft and hard landscaping of all proposed public and private open space, surface treatment of proposed walkways, proposed hedges, post boxes and any proposed street furniture; and
 - ix. time frames for implementation of the Detailed Area Plan.
- b. Vehicle access easements be imposed over proposed lot 3 in favour of proposed lot 2 so vehicle access to lot 2 can be provided from Heritage Lane.
 - c. Openings within the existing buildings are to be protected in accordance with part C3.2 of the Building Code of Australia – LG Clearance required.
 - d. The existing buildings are to achieve the required FRL's as stipulated in specification C1.1 of the Building Code of Australia relevant to the type of Construction. – LG clearance required.
 - e. Stormwater drainage to comply with AS/NZS 3500.3 to be contained onsite.
 - f. Easements to be imposed over all sites to secure east/west pedestrian and bicycle movement across the sites in accordance with the Detailed Area Plan required under 3(a) above .
 - g. An access pathway be constructed by the developer to the satisfaction of the City to link The Marlows to Heritage Lane.
 - h. Easements be imposed as shown in the attached plan to ensure that there is no vehicle access to Lot 2 from Charles Lane Extension or Abbey Gardens.

- i. **Proposed treatment of the land immediately adjacent to the northern boundary between the subject lot and the northern subdivision wing (marked A) and between the subject site and the southern subdivision wing (marked B) to accommodate the requirement of the detailed area plans for the subdivision wings that the single lots respectively facing onto these boundaries address these areas.**
- j. **No building or part thereof shall be demolished.**
- k. **The titles of the proposed lots be endorsed to prohibit the construction of that any barriers on the proposed subdivision lines.**
- l. **The developer be required to enter into a legal agreement or similar with the City which commits the developer to the redevelopment of the heritage buildings and surrounding areas within a prescribed time frame.**

Strategic Plan

The proposed subdivision detracts from the following aspects of the key focus area Built Environment in the City's Strategic Plan.

KFA 3: Built Environment

- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Zone: Special use as outlined under Clause 5.15 of the City's Town Planning Scheme No. 2 (TSP2).
Lot Frontage: Numerous frontages. Main frontage is to Heritage Lane.
Area: 2.4819 ha

History

A full summary of the history of development planning and proposals for the site is attached (refer to attachment 2).

Proposal Detail

This application is the second application for the subdivision of Lot 12040.

The first subdivision was for the creation of six (6) and eight (8) lots in the "northern" and "southern" wings of the lot 12040, which were approved by the WAPC in August 2009. Work is currently underway to meet the conditions of subdivision in order to be able to create the lots.

Under the earlier subdivisions the parcel of land currently under consideration was identified as Lot 416 (1.6789 ha).

The current subdivision application is for the creation of three lots. (refer to attachment 2 for plans and justification for proposal).

The lots are flagged to be used as follows:

Proposed lot	Proposed size in m ²	Buildings included in land parcel	Anticipated uses
Lot 1	3 327	Montgomery Hall	Private community use, café, meeting rooms, museum, theatrette
Lot 2	5 632	Main Hospital buildings	Residential buildings
Lot 3	7 830	Administration buildings	Medical centre of similar office consulting rooms

According to the application the subdivision is necessary as each of these lots will be developed by separate entities and the process for strata subdivision would create an overly complex system.

The applicant's report supporting the subdivision is attached as attachment 3.

The City also received revised plans on 14 November 2011 which are attached at attachment 5.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

As the WAPC is the determining agency with subdivisions the City does not undertake a consultation process.

Legislation

The proposal is determined under the *Planning and Development Act 2005* (as amended).

Other applicable legislation is the City of Nedlands Town Planning Scheme No. 2 (TPS2) and Old Swanbourne Hospital Precinct Local Planning Policy.

The Heritage Act 1990 (WA), as the property is listed on the State Heritage register and the City of Nedlands Municipal Heritage Inventory.

Budget/financial implications

Budget: No budget implications as the City's process are dealt with in-house.

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial: This proposal has not financial implications for the City.

Risk Management

As the WAPC can proceed to determine this proposal without the City's input if the City's comment has not been received by the due date which is 6 December 2011, Administration has secured an extension to 14 December 2011.

Discussion

The subdivision cannot legally be approved in the absence of a Council adopted Outline Development Plan (ODP)

As the land is zoned "Development", the land requires an ODP as a basis for subdivision and development as a requirement of TPS2.

In determining an ODP the Council has the option to either not proceed with the ODP or to refer the ODP to the Western Australian Planning Commission for adoption. The second part of this sentence implies that the City agrees with the ODP that it request the WAPC to adopt. There are no provision that gives the WAPC the power to approve an ODP that the City has not agreed to forward to the WAPC for approval.

In this instance an ODP has been created and advertised, and the City referred the document to the WAPC with numerous changes. This document is therefore the document that the City agreed to and requested the WAPC to adopt.

The WAPC however disregarded Council's requests and the State Planning Committee (SPC) of the WAPC accepted an ODP document that does not align with content of the ODP that the City had sanctioned.

As there is no power for the WAPC to approve an ODP over the City. Contrary to the information provided by the applicant in their submission to support the subdivision, there is currently no Council approved ODP in place for this site.

The SAT in its decision on the Old Swanbourne Hospital confirmed that it is not possible to approve a development application on land zoned 'development' in the absence of an ODP. Although the SAT did not make this determination in regard to subdivision. However given that the wording of clause 3.8.7 that the ODP states that an ODP be "... *the basis for approval of subdivision and development application within the area covered by the plan*" the same principle that the SAT applied to development applications is likely to apply to subdivisions.

Approval of this subdivision would be illegal as it would be contrary to the town planning scheme, given that no Council approved ODP exists and therefore the preconditions for subdivision as required by the town planning scheme have not been met.

Subdivision prevents coordinated development

It was recognized early in the planning process that comprehensive planning would be required in order to maximise the use of this site without losing its heritage value. This resulted in its current zoning, which not only automatically requires comprehensive planning in the form of an ODP, but also a development plan and requires that the details of the development plan be captured in a local planning policy.

Neither the development plan in Town Planning Scheme No 2, local planning policy nor any of the past ODP's that were considered by Council, or the one that went through the public consultation process, and was considered by the SPC of the WAPC contemplated the possibility of subdivision of the lot containing the heritage building. This subdivision is proposed without context.

This proposal is contrary to the orderly and proper planning of the area. Not only does this proposal not align with any of the existing planning for the area but segmenting the site will severely hinder comprehensive redevelopment of the site and undermine the heritage values, particularly in the absence of a comprehensive plan that makes provision for this subdivision.

Issues with the proposed layout

The proposed subdivision layout is not logical especially in regards to proposed lots 2 and the interrelationship between lots 2 & 3.

Segregation of the lot into three portions will result in uncoordinated development of this lot and create the following issues:

- a. Pedestrian Access: It will threaten the delivery of a pedestrian access in an east/west direction across the site, which had been identified as being significant for the amenity of the existing residents of the area.
- b. Landscaped setting: It will not be possible to delivery of the park-like landscaped setting for the historic buildings which will undermine the heritage value of the site.
- c. Vehicle Access:

Lots 1 & 2:

The proposed vehicle access to lots 1 and 2 which has been limited to Abbey Gardens only is not acceptable for the following reasons:

- i. The concept deviates from existing planning for the area (development plan and LPS, which are the product of extensive public consultation) and stipulate that vehicle access be primarily from Heritage Lane with no access from Abbey Gardens except for service vehicles for Montgomery Hall.
 - ii. Additional traffic volumes generated by proposed uses on Lots 1 and 2 may be inappropriate for the surrounding residential streets like Abbey Gardens and St John's Wood Boulevard.
- d. Parking:
- Lot 1: Being segregated it would not be possible for a future Montgomery Hall use to rely on any of the other parcels of land to assist with carparking, which current planning required to be provided on the southern wing or elsewhere on the areas that are now proposed lots 2 and 3.
- Lot 2: Very limited area is available for on-site parking on Lot 2 given that the building for proposed Lot 2 extends boundary to boundary.
- e. Heritage Values: The introduction of new boundary lines will require demolition of existing heritage fabric, for the boundary between Lot 1 and 2, and alterations to the existing buildings to meet fire requirements and will diminish the heritage values of the historic buildings.
 - f. Stormwater: Each site would be required to retain its own stormwater on site, which has already proved to be difficult with the construction of the lots in the northern wing, and be a challenge particularly for proposed lot 2.

In the event of a Possible Approval

The legal position described above also existed at the time when the WAPC supported the subdivision of the north and south wings. However the WAPC circumvented the legal limitation on the basis of the age of the town planning scheme, using section 138(3) of the *Planning and Development Act 2005*. It is possible that the WAPC would apply the same rationale to subdivision and approve the creation of either three or two lots.

It is therefore recommended that conditions for subdivision approval are provided to the WAPC. The conditions are derived from three areas of consideration:

1. Facilitate Comprehensive redevelopment

The following conditions are recommended to attempt to facilitate comprehensive re-development of the site:

- a. The applicant prepare a Detailed Area Plan for adoption by the City which, when adopted, will guide the comprehensive redevelopment of the site. As a minimum the Detailed Area Plan shall show the following:
 - i. details of any development proposals including adaptive reuse of the heritage buildings and any proposed new development noting that all development shall respect the existing heritage buildings;
 - ii. proposed use of all existing and revamped facilities;
 - iii. total intensity of proposed development (expressed as the number of proposed dwellings for residential uses and development standards as outlined in TPS2 for non-residential uses);
 - iv. location of all proposed parking facilities so all the parking needs from the three proposed lots are met on site;
 - v. all vehicle access and vehicle movement arrangements for Lots 2 and 3, which shall be provided exclusively from Heritage Lane;
 - vi. all pedestrian/bicycle access ways which will form the basis of access easements throughout the site that are intended to facilitate east/west movement through the site, and appreciation of the historic buildings;
 - vii. all areas proposed to be used for public and private open space;

- viii. landscaping plans that show the retention of all existing vegetation, proposed soft and hard landscaping of all proposed public and private open space, surface treatment of proposed walkways, proposed hedges, post boxes and any proposed street furniture; and
 - x. time frames for implementation of the Detailed Area Plan.
- b. Vehicle access easements be imposed over proposed lot 3 in favour of proposed lot 2 so vehicle access to lot 2 can be provided from Heritage lane.

Point b. was incorporated into the revised plan indicating that the developer is in agreement with this condition.

2. Compliance of existing buildings

The following conditions are recommended so that necessary works to the existing buildings are done to ensure that they are brought into compliance in regard to minimum safety requirement such as building and fire requirements:

- a. openings within the existing buildings are to be protected in accordance with part C3.2 of the Building Code of Australia – LG Clearance required;
- b. the existing buildings are to achieve the required FRL's as stipulated in specification C1.1 of the Building Code of Australia relevant to the type of Construction. – LG clearance required; and
- c. stormwater drainage to comply with AS/NZS 3500.3 to be contained onsite.

3. Impose safeguards to secure the amenity of the area

The following conditions are recommended to impose safeguards to secure the amenity of the area.

- a. Easements to be imposed over all sites to secure east/west pedestrian and bicycle movement across the sites.
- b. An access pathway be constructed by the developer to the satisfaction of the City to link The Marlows to Heritage Lane.
- c. Easements be imposed as shown in the attached plan to ensure that there is no vehicle access to Lot 2 from Charles Lane Extension or Abbey Gardens.

- d. Proposed treatment of the land immediately adjacent to the northern boundary between the subject lot and the northern subdivision wing (marked A) and between the subject site and the southern subdivision wing (marked B) to accommodate the requirement of the detailed area plans for the subdivision wings that the single lots respectively facing onto these boundaries address these areas.
- e. No building or part thereof shall be demolished.
- f. The titles of the proposed lots be endorsed to prohibit the construction of that any barriers on the proposed subdivision lines.
- g. The developer be required to enter into a legal agreement or similar with the City which commits the developer to the redevelopment of the heritage buildings and surrounding areas within a prescribed time frame

The proposition of a P.A.W from Abbey Gardens was incorporated into the revised plans (refer to attachment 5) which indicates that developer is in agreement with this provision.

Conclusion


While some form of subdivision is anticipated in due course, preferably after comprehensive redevelopment of the site has occurred or at very least once some comprehensive planning is in place, subdivision of this lot at this time is premature and has many unresolved issues that may have long term detrimental outcome for the site and the surrounding area.

Accordingly it is recommended that this subdivision proposal is not supported.

However noting the possibility that the WAPC may be mindful to support the proposal possible conditions of subdivisions are provided.

Attachments

1. Site Plan
2. History of developments on site
3. Proposed subdivision and supporting information
4. Map accompanying possible conditions
5. Revised proposal received 14 November 2011

D72.11	Alteration of Council's Delegated Authorities
Committee	29 November 2011
Council	13 December 2011
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Matthew Deal – Manager Property Services
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	CRS/058
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to alter Councils Delegated Authority Register to reflect the changes required by the implementation of the new Building Act replacing the current delegations.

Recommendation to Committee

Council amends the following Delegated Authorities upon the implementation of the *Building Act 2011*:

1. **7A - Legislative Building Control as per attachment 1.**
2. **7B - Endorsement of Strata Titles as per attachment 2.**
3. **9B - Prosecution Officers as per attachment 3.**

Strategic Plan

KFA 5: Governance

- 5.6: Ensure compliance with statutory requirements and guidelines.

Background

A new Building Act was passed on 23 June 2011 and is schedule to come into operation from 1 January 2012 with a proposed phased implementation over a period of 12 months.

The new Building Act has been developed to replace the *Building Regulations 1989* and parts of the *Local Government (Miscellaneous*

Provisions) Act 1960. The Building Act covers all building and the whole State of Western Australia, it introduces permit issuing authorities, enables private certification of design compliance and is designed to streamline and clarify the building process.

The Building approval process in Western Australia is about to undergo significant change. The changes have been discussed for many years however the Building Act has now been passed by the Government in June 2011 and is set to commence operation on the 1 January 2012.

The Regulations supporting this Act, (at the point of preparing this report) have not been released and are expected to be introduced prior to the 1 January 2012 which has made it difficult to determine the full impact on Local Government.

While this Act has been on the table for the last 20 years, the introduction of the current version of the Act and supplementary guidance information has been very quick. The speed with which it has been implemented and the lack of supporting information such as the Regulations, has made it difficult to prepare this report in a timely fashion as we are still endeavouring to understand the full implications of the Building Act for Local Government.

Proposal Detail

This report has been prepared to seek Councils approval for a number of actions that the City is required to implement in order to ensure that Property Services can continue to operate under the provisions of new Act to as close to the same extent as it currently does under the existing Act to ensure the continuation of service delivery for the regulation of building control within the City.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Legislation

This report satisfies the requirements of Section 127 of the Building Act

Budget/financial implications:

Not applicable.

Risk Management

If Council does not approve the alterations to the Delegations Register as requested the following risks may apply:

Issue/building Modifications to Delegations Register

Risk	Likelihood	Consequence	Level of risk	Risk acceptance
Administration unable to approve building permits	Almost certain	Major	20	Extreme
Administration unable to issue certificates of design compliance	Almost certain	Major	20	Extreme
Administration unable to approve Demolition permits	Almost certain	Major	20	Extreme
Administration unable to issue building occupancy permits	Almost certain	Major	20	Extreme
Administration unable to issue orders	Almost certain	Major	20	Extreme
Administration unable to revoke orders	Almost certain	Major	20	Extreme
Administration Unable to conduct compliance investigations	Almost certain	Major	20	Extreme

Discussion

The City currently has the following delegations under the provisions of the *Local Government (Miscellaneous Provisions) Act 1960* and the *Strata Titles Act 1985*:

1. 7A Legislative Building Control

To approve licences in accordance with sections 374, 374a and 377

To issue Notices under sections 401, 401A, 403, and 408

To administer the provisions of section 245A

2. 7B Endorsement of Strata Titles

To approve and sign Strata Title Certificates

3. 9B Prosecution Officers

With the introduction of the Building Act, the delegations in 7A & 7B will become redundant in that the head of power will shift from the *Local Government (Miscellaneous Provisions) Act 1960* to the Building Act, with the text in 9B being updated to reflect the new Building Act.

New delegations are therefore needed under the Building Act. Given the relevant provisions relating to delegations under the Building Act have not come into operation, the functions of the new delegations cannot be performed by officers until such time as the relevant provisions are proclaimed. It is therefore proposed that officers continue to perform such functions in accordance with existing delegations with Council adopting the new delegations to be implemented at such future time as these provisions are proclaimed.

Council is requested to approve the following new delegations as provided under the following sections of the Building Act:

- s20 - Approve or refuse a Building Permit
- s21 - Approve or refuse a Demolition Permit
- s58 - Issue an Occupancy Permit and a Building Approval Certificate
- s65 - Consider Extending the period of duration of an Occupancy permit or a Building approval Certificate
- s110 - Issue Building Orders
- s117 - Revoke Building Orders

With the introduction of the Building Act, existing authorisations will not be affected, however additional authorisations are needed for Officers to carry out the relevant provisions under the Building Act.

Given these relevant provisions have not yet come into operation, the new authorisations cannot be undertaken by officers until such time as this occurs. It is therefore proposed that Council appoint authorised officers and adopt the new authorisations to be implemented at such future time as the relevant provisions of the Building Act are proclaimed.

The following new authorisations are therefore proposed under different sections of the Building Act:

- s100 - Entry Powers
- s101 - Powers after entry for compliance
- s102 - Obtaining information and documents
- s103 - Use of force and assistance
- s106 - Apply for an entry warrant

It is therefore proposed that Council delegate the Manager Property Services as an authorised officer with the other officers provided with delegated authority to act as required upon the implementation of the Building Act and adopt the new authorisations to be implemented at such future time as the relevant provisions of the Building Act are proclaimed.

Conclusion

As per section 127 of the Building Act, Council delegate its powers as a permit authority to the Manager Property Services and selected officers.

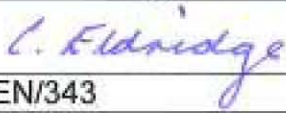
The alterations proposed to the Delegated Authority Register are required to permit the City to continue in its current format with regard to the ongoing management of building control within the City.

Attachments

1. 7A Legislative Building Control - amended
2. 7B Endorsement of Strata Titles - amended
3. 9B Prosecution Officers - amended

D73.11	Point Resolution Reserve Western Foreshore and Embankment Restoration
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Committee	29 November 2011
Council	13 December 2011

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Vicki Shannon - Bushcare Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	TEN/343
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to award the tender for the Point Resolution Reserve Western Foreshore and Embankment Restoration.

Recommendation to Committee

Council accepts the tender submitted by Syrx Environmental PI for the Point Resolution Reserve Western Foreshore and Embankment Restoration.

Strategic Plan

- KFA 2: Natural Environment
- 2.2 Prepare and implement management plans for natural areas.
 - 2.3 Promote, maintain and protect existing diversity (both native and introduced) in the City.

Background

A request for tender for foreshore and embankment restoration work along 300 linear meters (Lm) of unstable foreshore and embankment at Point Resolution Reserve was advertised on Saturday 22 October 2011. Four tenders were received and evaluated according to the City of Nedlands evaluation guide for tender documents. Tenders were received from the following companies:

1. Syrx Environmental PI
2. EMS Environmental
3. Natural Area Management and Services (NAMS)
4. Greening Australia W.A. (GAWA)

Between 2009 to 2011 a 230 Lm section of unstable foreshore and embankment along the eastern section of Point Resolution Reserve underwent foreshore stabilisation works. These works involved installing vegetated palisades, jute matting and geo fabric to stabilise the upper embankment, installing brush walling, large woody debris and rock rip rap at the bottom of the embankment to reduce wave action and densely revegetating the site with locally occurring species. These works were designed and undertaken by Syrinx Environmental PI with funding received through the Swan River Trust's Riverbank program. During this time Syrinx Environmental PI provided excellent delivery of goods and services to complete the required work.

In April 2011 the City submitted an Expression of Interest to the Swan River Trust's Riverbank program to begin restoration of the north western beach area at Point Resolution Reserve. This application was approved for \$74,250 however, following winter 2011 the south western embankment and foreshore started to noticeably erode. At a site meeting with the Swan River Trust in July 2011 a project variation was requested. The Swan River Trust approved the variation to spend the funding received to commence stage 1 of the stabilisation of the south western embankment rather than the north western beach area.

The tender advertised on the 22 October 2011 requested quotations for goods and services required to stabilise and restore 300 Lm of foreshore and embankment along the south western section of Point Resolution Reserve. This tender requested similar treatments to those designed and undertaken by Syrinx Environmental PI between 2009 - 2011.

Respondents were requested to provide:

- Details of how the embankment and foreshore are to be restored including equipment and materials to be used to undertake the restoration works;
- Recommendations for plant species for the restoration areas;
- Detailed recommendations regarding weed control including species requiring management, control methods, chemical types, application rates and timeframes;
- A daily maintenance and herbicide spraying rate (itemised separately in the budget section) if any site maintenance is required during the project timeframe and recommendations as to how the site is best maintained over time; and
- Detailed timeframes for each stage of works that are required to stabilise and restore the south western foreshore and embankment.

Key Relevant Previous Decisions

N/A

Proposal Detail

This contract is for the Point Resolution Reserve Western Foreshore and Embankment Restoration in accordance with the submitted price schedule and the specifications set out in tender RFT 2011/12.05 inclusive of all labour, services, plant and materials.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

The scope for consultation is limited for this restoration program and will be similar to those undertaken for the previous stabilisation and restoration works undertaken between 2009-2011. Nearby residents will be notified by way of a letter box drop when the driveway to the reserve is to be closed for the crane to transfer materials to the foreshore. On site signage will be installed notifying park users of the driveway closure. Advertisements will be included in the POST newspaper regarding the joint project between the City of Nedlands, the Friends of Point Resolution Reserve and the Swan River Trust.

Legislation

- *Local Government Act 1995*
- *Swan and Canning Rivers Management Act 2006*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

Stage 1 of the project has received \$74,250 from the Swan River Trust through the 2011/12 Riverbank Grants Scheme. The City provided \$78,210 as in-kind contribution to this project. The remainder of the work to be completed as stage 2 of the Point Resolution Reserve Western Foreshore and Embankment Restoration project will be applied for through the Riverbank Grants Scheme 2012/13. If, for some unforeseen reason the Swan River Trust does not provide the remaining funds of \$53,658.10 to complete stage 2 of the project the City will be able to cover the expenses through the Point Resolution Reserve natural area maintenance budget.

Risk Management

Key risk areas such as public health and safety, environment and regulatory risks have been addressed through the control measures applied through the tender documentation and evaluation process.

Discussion

The tender was advertised in the West Australian newspaper on 22 October 2011 with submissions closing at 2 pm on Tuesday 8 November 2011. The tender was evaluated by three (3) City officers in accordance with the criteria specified in the tender documentation as set out in the below table:

<p>A) Relevant Experience Describe your experience in completing /supplying similar Requirements. Tenderers must, as a minimum, address the following information in an attachment and label it "Relevant Experience":</p> <ul style="list-style-type: none"> (a) Provide details of similar work; (b) Provide scope of the Tenderer's involvement including details of outcomes; (c) Provide details of issues that arose during the project and how these were managed; (d) Demonstrate sound judgement and discretion; and (e) Demonstrate competency and proven track record of achieving outcomes. 	<p>Weighting 15%</p>	
	<p>"Relevant Experience"</p>	<p>Tick if attached <input type="checkbox"/></p>
<p>B) Key Personnel skills and experience Tenderers should provide as a minimum information of proposed personnel to be allocated to this project, such as:</p> <ul style="list-style-type: none"> (a) Their role in the performance of the Contract; (b) Curriculum vitae; (c) Membership to any professional or business association; (d) Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and (e) Any additional information. <p>Supply details in an attachment and label it "Key Personnel".</p>	<p>Weighting 10%</p>	
	<p>"Key Personnel"</p>	<p>Tick if attached <input type="checkbox"/></p>

<p>C) Tenderer's Resources Tenderers should demonstrate their ability to supply and sustain the necessary:</p> <p>(a) Plant, equipment and materials; and (b) Any contingency measures or back up of resources including personnel (where applicable).</p> <p>As a minimum, Tenderers should provide a current commitment schedule and plant/equipment schedule in an attachment and label it "Tenderer's Resources".</p>	<p>Weighting 5%</p>	
	<p>"Tenderer's Resources"</p>	<p>Tick if attached <input type="checkbox"/></p>

<p>D) Demonstrated Understanding Tenderers should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <p>(a) A project schedule/timeline (where applicable); (b) The process for the delivery of the goods/services; (c) Training processes (if required); and (d) A demonstrated understanding of the scope of work</p> <p>Supply details and provide an outline of your proposed methodology in an attachment labelled "Demonstrated Understanding".</p>	<p>Weighting 10%</p>	
	<p>"Demonstrated Understanding"</p>	<p>Tick if attached <input type="checkbox"/></p>

Price 60 %

Submissions were received from the following organisations:

1. Syrinx Environmental PI
2. EMS Environmental (EMS)
3. Natural Area Management and Services (NAMS)
4. Greening Australia W.A. (GAWA)

Results of the evaluation were as follows:

Score without Price - Experience, Skill Resources and Understanding

	Tenderer	Score
1	Syrinx	80 %
2	NAMS	70 %
3	GAWA	47%
4	EMS	25 %

Total Score - with Price

	Tenderer	Score
1	NAMS	84 %
2	Syrinx	81 %
3	GAWA	80 %
4	EMS	70 %

The recommended tenderer is Synrix Environmental PL. This tenderer although not the lowest price, is recommended for the following reasons:

- High level of relevant experience;
- Highly qualified and experienced staff allocated to project;
- Able to complete project in required timeframes and conditions; and
- Excellent demonstrated understanding of project.

Although Syrinx has the highest price this is within the stage 1 budget and below the estimated Stage 2 budget.

Syrinx is recommended to Council as they present the best value for money based on skill and experience.

Conclusion

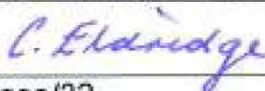
After assessment of the tenders submitted it is recommended that the submission received from Syrinx Environmental PI is accepted. This recommendation is based on the company possessing excellent experience and knowledge of the site and the soft engineering works required to stabilise and restore the embankment and foreshore at Point Resolution Reserve, therefore representing a better offer to Council than submissions with a slightly lower price.

Attachments

Nil

D74.11	Allen Park Upper Pavilion and adjacent Change room & Toilet facility, Reserve 19349 (Lot 367 on Deposited Plan 217519), Odern Crescent, Swanbourne. Proposed ten (10) year lease with the option of a further two, five (5) year terms between the City and Associates Rugby Union Football Club (Inc).
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Committee	29 November 2011
Council	13 December 2011

Applicant	Associates Rugby Union Football Club (Inc)
Owner	State of WA – Vested to City of Nedlands
Officer	Neil Scanes – Property Management Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref.	Lease/32
Previous Item No's	Item D27.09, 28 April 2009 Item 9, 7 August 1986
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This report recommends that Council approves and endorses an exclusive use ten (10) year lease with the option of two further five (5) year terms between the City and Associates Rugby Union Football Club (Inc) for the use of the Allen Park Upper Pavilion and adjacent change room & toilet facility located at Allen Park, Swanbourne.

Recommendation to Committee

Council:

1. Approves and endorses an exclusive use lease, for a ten (10) year term with the option of a further two, five (5) year terms between the City and Associates Rugby Union Football Club (Inc) as per attachment 1;
2. Grants delegation to the CEO and Mayor to sign the change room & toilet licence between the City, Swanbourne Cricket Club (Inc) and Associates Rugby Union Football Club (Inc) that will run concurrently with the lease.

Strategic Plan

This application is in accordance with the City of Nedlands Strategic Plan 2008–2013. In particular, the following objectives are addressed:

KFA 3: Built Environment

- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

KFA 4: Community Wellbeing

- 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
- 4.2 Encourage, support and provide for a range of recreation and leisure opportunities, both active and passive.

Background

Allen Park Upper Pavilion is a single storey purpose built clubroom that was constructed in 1988. Located to the south of the clubroom building is a change room & toilet facility that was constructed in 1983. This is connected to the clubroom facility to the north by a veranda.

The land on which the buildings reside is legally described as Lot 367 on Deposited Plan 217519, 367 Odern Crescent, Swanbourne being the whole of the land contained in Certificate of Title Volume LR3013 Folio 199.

Lot 367 is a Category "A" Crown Reserve (Reserve 19349) and has been vested to the City since 25 September 1936 for the purpose of "Recreation" by way of Management Order. This grants the City the power to lease Reserve 19349 for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

Associates Rugby Union Football Club (Inc) was formed in 1948. Initially the club played their games within the University of WA's grounds prior to using the Nedlands foreshore. Over the years the club used the facilities of various hotels and sportsman clubs whilst it sought to establish a permanent home to construct a club house.

Council, at its meeting of 7 August 1986 resolved that approval be given to the Rugby Club to construct the current clubroom at Allen Park, Swanbourne and that a suitable lease agreement be negotiated.

The construction of the clubroom building was completed in 1988. On 1 January 1989, the City and the Rugby Club entered into a 21 year lease agreement of the Allen Park Upper Pavilion clubroom which expired on 31 December 2010. This lease did not contain a holding over clause regarding ongoing tenancy upon expiration and the City has permitted the club ongoing tenancy subject to the same covenants and conditions detailed within that lease whilst the proposed new lease was negotiated.

The change room & toilet facility, located to the south of the clubroom and connected to the main building by a veranda, were not part of the original Rugby Club lease having been built by the City in 1986 prior to the Rugby Club constructing the clubrooms.

The proposed new lease will incorporate the change room & toilet facility into the leased area. This is due to the fact that the club is the primary user of this facility and has been for the majority of the duration of the buildings existence. Whilst the Rugby Club uses the change room & toilet block predominantly in the winter months, it should be noted that Swanbourne Cricket Club (Inc) use the change room & toilet facility in the summer months. This is a long standing arrangement that coexists between the two sporting entities and the City.

Associates Rugby Union Football Club (Inc) has written to the City to request a new lease in order to provide security of tenure for the club and clarify the future roles and responsibilities of both the City and the Rugby Club for the clubhouse and change room & toilet facility. A copy of the City's standard lease that is consistent with the standard lease template adopted by Council on 28 April 2009, Item D27.09 was sent to the club for review.

Key Relevant Previous Decisions:

- Item D27.09, 28 April 2009: Council approved the City's standard lease template; and
- Item 9, 7 August 1986: Council resolved that approval be given to the club to construct a clubroom at Allen Park and that a suitable lease agreement be negotiated.

Consultation

Required by legislation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Required by City of Nedlands policy	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

The proposed lease has been prepared in consultation with Associates Rugby Union Football Club (Inc) and is presented as attachment 1 of this report.

In addition to the Rugby Club, Swanbourne Cricket Club (Inc) uses the change room & toilet facility attached to the Allen Park Upper Pavilion club house in the summer sporting months during the rugby off season.

It is proposed that the Cricket Club enter into a licence with the Rugby Club in respect of their future use of the change room & toilet facility. The proposed licence will run concurrently with the proposed lease tenure. The Rugby Club require some form of protection in relation to the Cricket Clubs use of the facility from a liability and repair perspective.

As per schedule Item 7 of the proposed draft lease, both the cricket and Rugby Club are to enter into an independent licence regarding reasonable terms and conditions in relation to the Cricket Clubs use of the change room & toilet facility. City Administration has reviewed the draft licence and believes that it is a fair and transparent document. The City has also sought legal advice from McLeod's regarding the content of the licence. McLeod's has subsequently advised the City that the document is acceptable from the City's perspective as Lessor.

The Cricket Club has reviewed both the proposed draft lease document between the City and Rugby Club as well as the proposed licence between both sporting clubs and the City. The President of Swanbourne Cricket Club (Inc) has written to the City on 14 October 2011 to confirm that the Cricket Club has no objection to the terms of the proposed lease and licence.

The proposed licence is presented as attachment 2 of this report.

Administration has received in principal consent to the draft lease from the Minister of Lands pursuant to Section 18 of the *Land Administration Act 1997*.

Legislation

- Section 18 of the *Land Administration Act 1997*.
- *Local Government Act 1995* – Section 9.60.

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

The proposed lease specifies that Associates Rugby Union Football Club (Inc) will be responsible for all maintenance, cleaning, utility fees and insurance for the clubroom building and change room & toilet facility. The club in turn will pay only an annual peppercorn rental.

The corresponding licence that is proposed to be entered into between the City, Associates Rugby Union Football Club (Inc) and the Swanbourne Cricket Club (Inc) enables the Cricket Club to utilise the change room & toilet facility during the summer sporting months and rugby off season and therefore maintains the current status quo over use of this specific facility.

The Rugby Club has proposed that Swanbourne Cricket Club (Inc) pay an annual fee based on the allocation of costs for the running and

maintenance of the change room facility such as building insurance and utility use. This is a commercial matter which has been resolved between the rugby and Cricket Club.

The Rugby Club has proposed that the allocation of cost formula to be applied to the Cricket Club is 10 per cent of the change room & toilet operating expenses on an annual reconciled basis.

The Rugby Club has agreed to charge the Cricket Club a transitional fixed nominal fee of \$250 per annum for the first year of the licence and then re-assess once the true actual running costs of the change room facility is established. City Administration believes that this is a fair and transparent formula considering the change rooms & toilets are used on a 50/50 shared split basis between both clubs.

In addition, the City currently provides Swanbourne Cricket Club Inc with the following:

- Annual turf wicket grant of \$23,703 plus CPI;
- Provision of a City of Nedlands roller and mowers that are serviced annually by the City; and
- No charge applied by the City for use of the upper oval for training and fixtures.

Associates Rugby Union Football Club Inc on the other hand does not receive any contribution from the City.

The Rugby Club has requested that the proposed new lease be registered at Landgate. The City has no objection to the registration of the new lease at Landgate providing that all costs associated with the process, including the preparation of the necessary survey quality sketch should the City's sketch not be suitable, be incurred by the lessee.

Associates Rugby Union Football Club (Inc) will be responsible for all costs in relation to the preparation of the proposed new lease between the City and Rugby Club and for the licence between the rugby and Cricket Club.

Risk Management

There is currently no legal agreement in place between the City and Rugby Club since the expiration of the previous lease on 31 December 2010. A new lease is required to clarify and define both parties' future responsibilities.

The proposed future Allen Park re-development has been taken into consideration during the lease negotiating process. Re-development of Allen Park is currently scheduled to commence in 2022/2023 as per the City's Asset Management Policy and Strategy. The initial ten (10) year

period of the proposed lease between the City and Rugby Club is scheduled to expire on 31 December 2020.

Clause 45, "Re-development of Allen Park" has been included within the lease to enable the City to terminate the lease upon six (6) months written notice should re-development occur as per the future scheduled Allen Park re-development. At the request of the Rugby Club, this clause will only apply to the two, five (5) year lease option/renewal periods, not the initial ten (10) year tenure period of the lease. This is due to the Rugby Club investigating the possibility of re-developing the change room & toilet facility in the near future, should State and City Planning approval be granted. The initial ten (10) year tenure period will therefore enable the club to seek finance for any future re-development of the change room & toilet facility as from a "commercial" viewpoint; it would be difficult for the club to obtain funding from any source where security of tenure is not guaranteed. The lease provides the Rugby Club with the option to extend their tenure on-site from 1 January 2021 but with Clause 45 activated to enable the City to terminate the lease should this be necessary in order to proceed with any re-development of Allen Park.

It should be noted that as an integral member of any future Allen Park re-development, the Allen Park Tennis Club (Inc) lease is not scheduled to expire until 8 March 2021. There is no termination clause within that lease agreement and therefore to all intent and purposes the City would not be able to commence the Allen Park re-development prior to this date.

It is intended that Associates Rugby Union Football Club (Inc) will become a key stakeholder in any future redevelopment of Allen Park and will be consulted for their input into the development of this project in due course.

The inclusion of the change rooms & toilets into the proposed leased area will alleviate the City of the required ongoing maintenance and upkeep of this particular facility. Upon commencement of the lease, the Rugby Club will assume full responsibility for the maintenance and upkeep of this particular building as well as the clubroom.

The proposed lease and licence documentation should prevent any future conflict of interest between Associates Rugby Union Club (Inc) and Swanbourne Cricket Club (Inc) over the use of the change room facility as the Cricket Club operate in the summer months whilst the Rugby Club use the facility in winter. This has been a long standing verbal arrangement which will now be clarified in document form as per the proposed licence. The draft lease states that the City will preside over the proposed licence agreement which was drawn up between the two entities to define the terms and conditions in relation to the Cricket Clubs use of the change room & toilet facility. This licence agreement will prevent any potential future disputes over terms and conditions for the use of the change rooms.

1 Discussion

Associates Rugby Union Football Club (Inc) has been located at Allen Park, Swanbourne since 1988 following the construction of the club rooms which the club built. Subsequently, the club has implemented floodlighting, added a storeroom and veranda in 1998 and extended the storage and meeting areas in 2005.

As well as the senior teams, the club now has over 300 junior members who have become an integral part of the success of the club and the future of the club therefore looks promising. In total, the club has around 650 members.

Swanbourne Cricket Club Inc has been contacted for comment and has no objection to the proposed lease providing that they have access to the subject change room facilities in the summer months as currently stands. As per the terms of the proposed draft lease, the Rugby Club are able to impose reasonable terms and conditions onto the Cricket Club in relation to the use of the change room by way of a licence. The City is to approve the terms and conditions of the licence to ensure transparency and equality between the two parties.

Associates Rugby Union Football Club (Inc) has notified the City of their desire to construct a replacement change room & toilet facility on the footprint of the current building subject to City and State Land Services approval. The Rugby Club has been bequeathed money to undertake this task and is in the process of drawing up some initial plans relating to the proposed development. This process is likely to take a number of years in order for the club to obtain the necessary development approval and for construction to commence. In order for future development plans to progress, the club require a current lease to submit a development application for their intended project. In the interim, the club are committed to continuing to utilise the existing pavilion and incorporate the previously un-leased change room & toilet facility into the proposed leased area.

Associates Rugby Union Football Club (Inc) has written to the City to request a new lease in order to provide security of tenure for the club and clarify the future roles and responsibilities of both the City and the club for the Allen Park Upper Pavilion and adjacent change rooms & toilets. A copy of the City's standard lease that is consistent with the standard lease template adopted by Council on 28 April 2009, Item D27.09 was sent to the organisation for review.

The Club requested the following changes to the City's standard lease template:

- The term of the lease was amended from a standard 10 year lease with five year option to reflect a ten year lease with two further options of five years respectively;

- Clause 7.6 relating to Insurance has been amended so that the City must act reasonably in settling or compromising any claim having due regard to the club's interest;
- Clause 7.7(2), Lessor as attorney, has been amended to add a statement that the City agrees to act reasonably and to have due consideration to the clubs interests;
- Clause 9.1, Limit of Lessor's liability, has been amended to include City negligence;
- Clause 17(b), Damage or destruction, has been amended so that the club could submit plans for the City's approval of a suitable replacement building that complies with the legislation at that time;
- Clause 38.1, Registration of lease, was added to enable the club to register the lease at Landgate;
- Clause 40, Prior notice of proposal to change rules, has been amended to read that the club must not materially change its rules without providing the City with prior notice;
- Clause 41(c), Provision of information, has been amended so that the club do not have to release personal details of its members to the City;
- Clause 42.1(b), Consumption of Alcohol, has been changed so that consent by the City is not required for a change of the licensee or manager or approval of Responsible Service of Alcohol providers;
- Clause 44, Lessor's consent has been added in regards the proposed future re-development of the change room & toilet area;
- The standard Right to Terminate upon six months written notice clause was removed due to the clubs future site development aspirations. From a "commercial" viewpoint, it would be extremely difficult, should the need arise for the club to obtain funding from any state or federal body for the club's proposed redevelopment of the facility where security of tenure is not guaranteed. The club in turn, have agreed to take on the lease of the change room & toilet building.

The City has stipulated that the following items be included within the proposed draft lease:

- Clause 45, Re-development of Allen Park, has been inserted into the lease. This will enable the City to terminate the lease upon six months written notice in order to undertake any future Allen Park redevelopment. This clause will only apply to the two, five (5) year lease option/renewal periods and not the initial ten year lease term tenure which will act as a form of security of tenure for the club. This will enable the club to draw on bequeathed funds or apply for funding from a state/federal body in order to undertake their intended upgrade to the change room & toilet facility; and

- Item 7 of the proposed draft lease allows the club to impose reasonable terms and conditions in relation to Swanbourne Cricket Club's use of the change rooms by way of licence, provided that such terms and conditions are approved by the City in writing.

The club has written to City administration agreeing to the proposed terms of the draft lease.

Administration received in principal consent to the draft lease from the Minister of Lands pursuant to Section 18 of the Land Administration Act 1997 on 20 January 2011

Council Policy 10.5 – "Use of Council Facilities for Community Purposes" has been taken into consideration. This policy provides all guidelines regarding tenancy for exclusive use groups. It provides the tenant with exclusive use of the facility expressed in a lease "at no cost to Council", meaning the tenant maintains the facility to the City's requirement.

Conclusion

It is recommended that Council approve and endorse the proposed ten (10) year lease with the option of a further two, five (5) year terms between the City and Associates Rugby Union Football Club (Inc) as per attachment 1. This will provide the club with security of tenure whilst they continue to research and develop their plan to construct a new change room & toilet facility at the current location. Should the need arise, the City will be able to evoke Clause 45 in relation to re-development of Allen Park from 1 January 2021 in anticipation of works commencing in 2022/2023.

It is important for a club to have a base in which club spirit and tradition can be fostered and enjoyed. The proposed new lease will ensure that there is a full and continued use of the playing surface at Allen Park. This will provide the club with security of tenure and allow them input into the proposed future re-development of Allen Park.

With the club accepting the responsibility for the change room & toilet facility, this enforces the commitment that the club has for the potential future re-development of the site and demonstrates their willingness to also improve the current facilities on site.

There is no current legal agreement in place between the City and the club since the previous lease expired in December 2010. A legal document will clarify the organisations and City's responsibilities under the terms of the proposed lease for the future management of Allen Park Upper Pavilion and associated toilets and change rooms.

Despite the City charging a peppercorn rental fee there will be a net saving to the City by way of the removal of costs that would otherwise be incurred for maintenance and utilities of the change room & toilet facility.

The Rugby Club has also shown a commitment to cater for the other user of the change room & toilet facility, Swanbourne Cricket Club Inc. The proposed licence as per attachment 2 formulates the Cricket Clubs ability to use the change room & toilet facility during the summer sporting months and rugby off season and therefore maintains the current status quo between the two clubs regarding use. The cooperation between both entities in negotiating the proposed licence bodes well for future cooperation between the clubs should funding be achieved for a community hub building for all of the Allen Park entities to utilise.

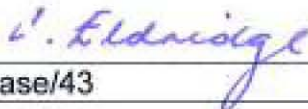
In accordance with the City's Strategic Plan, the proposed lease and licence will ensure that the local community will continue to have access to an established sporting club and facilities, promoting community interaction, health and wellbeing.

Attachments

1. Proposed Lease of the Allen Park Upper Pavilion and Adjacent Change rooms & toilets between the City and Associates Rugby Union Football Club (Inc).
2. Proposed Licence agreement for use of the change room & toilet facilities between the City, Associates Rugby Union Football Club (Inc) and Swanbourne Cricket Club (Inc).

D75.11	Lot 150, 11 Sayer Street, Swanbourne - Council business case to determine the future of the vacant residential dwelling and land held in fee-simple by the City.
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Committee	29 November 2011
Council	13 December 2011

Applicant	City of Nedlands
Owner	Freehold Land - City of Nedlands
Officer	Neil Scanes – Property Management Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref.	Lease/43
Previous Item No's	Item D31.10, 24 August 2010
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to review a business case prepared by City administration in order to authorise the next stage to be undertaken by Administration on determining the future of the vacant residential dwelling and land held in fee simple by the City at Lot 150, House Number 11 Sayer Street, Swanbourne.

Recommendation to Committee

Council:

1. **receives the business case as per attachment 1 on the future of the existing vacant residential dwelling and land that is held in fee simple by the City at Lot 150 on Deposited Plan 222332, House Number 11 Sayer Street, Swanbourne being the whole of the land contained within Certificate of Title Volume 1070 Folio 925; and**
2. **authorises City Administration to proceed with detailed investigations of option 7.8 and:**
 - a. **detail the proposed demolition of the existing vacant building to allow a two lot subdivision of the R25 Residential zoned land;**
 - b. **commission a licensed surveyor to prepare a survey of the said land;**

- c. **prepare a draft subdivision plan in accordance with the current zoning of the lot;**
- d. **prepare draft design guidelines for the lot;**
- e. **prepare a draft business / project plan in relation to option 6.8 of the business case for future Council consideration**
- f. **present a, b, c, d & e to Council for consideration within the next six (6) months.**

Strategic Plan

This application is in accordance with the City of Nedlands Strategic Plan 2008–2013. In particular, the following objectives are addressed:

KFA 5: Governance

- 5.1 Manage the City's resources in a sustainable and responsible manner.
- 5.6 Ensure compliance with statutory requirements and guidelines.
- 5.9 Identify, manage and seek to minimise risk.

Background

House Number 11 Sayer Street, Swanbourne is a vacant residential property that the City owns in fee simple being Lot 150 on Deposited Plan 222332 and being the whole of the land contained within Certificate of Title Volume 1070 Folio 925.

The property comprises of a single storey dwelling that was constructed in 1928 and resides on a 1,012 m² block of land. The land is zoned Residential R25 under the City of Nedlands current Town Planning Scheme No. 2 (TPS2).

The subject house is a timber framed single level asbestos and jarrah weatherboard construction with an iron clad roof on timber and masonry footings with timber and concrete floors. The main residence has an area of 80 m². The property contains a medium sized master bedroom and two small bedrooms, kitchen, lounge and an external combined bathroom and laundry.

The overall general condition of the property is poor with all internal rooms constituting a dated interior construction and fit out and the layout does not meet current acceptable living standards.

The City has previously leased the property on a periodic tenancy to a member of staff as part of the employee's salary package for the period 1993 to 2009. The weekly rental was set at \$140 per week based on feedback from real estate agents at that time and taking into account the

on-call status of the employee. Since November 2009, the property has remained vacant.

On 24 August 2010, Item D60.10, Council resolved the following:

Council:

- 1) *Consider the future of the vacant residential dwelling and land that is held in fee simple by the City at Lot 150 on Deposited Plan 222332, 11 Sayer Street, Swanbourne being the whole of the land contained within Certificate of Title Volume 1070 Folio 925; and*
- 2) *Authorise Administration to:*
 - a) *prepare a draft subdivision plan in accordance with the current zoning of the lot;*
 - b) *prepare draft design guidelines for the lot;*
 - c) *prepare a draft business plan in accordance with Section 3.59(2) of the Local Government Act 1995; and*
 - d) *present a), b) & c) to Council for consideration within the next six (6) months.*

A motion was put forward that the Committee recommendation be amended to incorporate an additional clause:

That the Committee Recommendation is adopted, subject to additional clause 2.d) as follows with the original clause d) re-numbered to clause e):

- 2.d) *examine the benefits of adding Lot 150 and adjoining lots to the adjacent parkland.*

This motion was lost.

Key Relevant Previous Decisions:

Item D60.10, 24 August 2010: Authorised administration to prepare a draft subdivision plan, draft design guidelines and a draft business case.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

The following City policies have been taken into consideration upon compiling the business case:

- Swanbourne Precinct Master Plan;
- Built Facility Asset Management Policy and Strategy; and
- Disposal of Acquisition of Land Policy.

The City is aware of its obligations under the *Local Government Act 1995* in relation to public consultation. Under Section 3.58 of the *Local Government Act 1995*, a disposition of land includes to sell, lease or otherwise dispose of local government property. If a local government does not dispose of property via a public auction or the public tender method, the proposal must be advertised for public comments.

Section 1.7 of the *Local Government Act 1995*, states that local public notices be published in a district newspaper, exhibited on a notice board at the local government's offices and exhibited on a notice board at every local government library.

Legislation

- Section 3.58 of the *Local Government Act 1995*
- Section 8A of the *Local Government (Functions & General) Regulations 1996*
- Section 1.7 of the *Local Government Act 1995*.

On 27 September 2011, the *Local Government (Functions & General) Regulations 1996* were amended to increase the minimum value defining a major land transaction. The minimum value at which local governments are required to prepare and advertise a business plan has been increased from \$1,000,000 to \$10,000,000 for metropolitan local governments. This amendment has improved local government's flexibility with regard to property dealings as well as the potential to result in significant savings. Section 3.59 of the *Local Government Act 1995* would therefore not apply should the City pursue a major land transaction.

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

City Administration has put forward and assessed eight potential options for the future of the site within the content of the business case. Each of the different scenarios details the financial implications of each individual option. These are required to be considered upon review of the business case.

Risk Management

The City is aware of its obligations under all relevant legislation.

Risk Management analysis has been applied to all of the eight potential options for the future of the site. The risk management analysis is detailed within the business case for each individual option scenario.

Discussion

Contrary to Council resolution D31.10, of 24 August 2010, the City is no longer required to prepare a draft business plan and advertise in accordance with Section 3.59 of the *Local Government Act 1995* due to the change in legislation of 27 September 2011. This is detailed with the legislation section of this report.

City administration has prepared an initial business case to present to Council the various options available for the future use of the said site.

The aim of the business case as per attachment 1 is to investigate and assess the various options in regards to the future of the site in order for a suitable and satisfactory outcome to be planned for and put into place that incorporates the best interests of both the City and the local community.

The purpose of this business case is to:

- Address the wide range of options that have to be considered to address the future of the subject premises;
- Summarise the strengths and weaknesses or implications of each option;
- Discard all but the most feasible options on the basis of preliminary analysis;
- Report on all significant options considered, and why any were rejected;
- Elaborate on the preferred option; and
- Highlight the consequences of not proceeding.

City administration has composed a comprehensive business case that incorporates an appropriate outcome that assesses all objectives and goals and takes into consideration achievability, necessary actions, goals and objectives, resources and budgetary requirements.

The proposed options for the future of the site as detailed within the business case are:

- 7.1, Leave site as it is;
- 7.2, Land swap;
- 7.3, Re-let property as is;
- 7.4, Re-let property with significant renovations;
- 7.5 Demolish house and turn land into bushland;
- 7.6 Demolish house and sell resultant land as one lot;
- 7.7 Demolish house and build a new single storey dwelling; and
- 7.8 Demolish house and subdivide land into two lots for residential sale.

The subject property has been vacant since November 2009. No maintenance or upkeep has been undertaken at the property since this time and the property has fallen into a state of disrepair. The buildings on site are considered sub-standard and the toilet and laundry area do not service the main formal living area adequately. The buildings do not meet current Australian building standards and there is no hard wired smoke alarms or residual current devices within the buildings as required under current legislation.

City Administration has determined through compiling the business case that the most suitable option for the future of Lot 150, 11 Sayer Street would be option 7.8 of the business case. This option is in line with the City's strategic plan.

Option 7.8 proposes that the current building and associated structures on site would be demolished and the resultant land subdivided into two lots for residential sale. This option is the most cost effective and practical of the stated options contained within the business case and would provide the City with a potential financial return in the region of \$1,925,000 from sale proceeds.

The proposal will have no detrimental impact on the provision of facilities by the City. It is expected that the funds generated from such an undertaking would be specifically committed to the long term benefit of the community. Funds would be placed into the building reserves fund in accordance with the City's Built Facility Asset Management Policy. Disposing of property and land that is no longer needed will result in more effective and efficient administrative and financial management of future projects.

The current freehold building and land is serving the City no purpose in its current state. The building and associated structures are in a dilapidated condition. The grounds of the premises are overgrown, unkept and fairly heavily wooded with weed trees and there is little, if any

remnant bushland vegetation on site. In addition, the site does not contain any habitat for threatened or endangered wildlife.

The preferred option, if approved, would reduce future facilities and maintenance expenses incurred by the City and provide a considerable fiscal return. Such a project, as identified within option 7.8 of the business case would require a minimal outlay of funds to undertake a successful sub-division development that does not direct City staff away from their daily tasks to undertake and manage such a project. In addition, by disposing of the current building and sub-dividing the resultant vacant land, the City would reduce its exposure to the current risk management and public liability susceptibility that has been identified on site at present.

In order to undertake such a project, a project plan would be required to be completed to determine the disposition of the lots in more detail. This would be based on the sites current R25 coding and would involve the preparation of a subdivision plan and design guidelines to be incorporated into the Town Planning Scheme. These would require further Council consideration.

Any resultant sales process may be managed by the City through the engagement of a suitably qualified real estate agent or using staff and other external resources.

Under the City's Disposal & Acquisition of Land policy, Land zoned as freehold land that is surplus to the City's requirements can be sold or otherwise disposed in accordance with section 3.58 of the *Local Government Act 1995*.

Option 6.8 would allow the City the ability to stipulate the type of residential housing to be developed on the sub divided land. In order to reduce the environmental impact and energy use of any future residential building, the City could consider implementing passive design, water use and re-use, energy efficiency capture and use and materials selection on any future development through design guidelines if Council chose to do so. Such considerations are an opportunity to make improvements to the efficiency of a building and reduce its ongoing drain on the environment. This can result in environmental and financial rewards. The City would potentially be able to showcase sustainable housing with the City should certain energy efficient designs be implemented in any future building design on site. For instance, the lot is orientated favourably for solar passive design and therefore any future design should incorporate this feature.

At this stage, approval is only sought to further develop option 7.8 for Council's further approval.

Conclusion

Council approval is sought to proceed with recommendation 6.8 of the business case. The City's internal policies and *Local Government Act 1995* will be adhered to in order to ensure that the City conducts an open and accountable process in the proposed disposal of this land asset that meets current legislative requirements.

Attachments

1. Council Business Case, Lot 150, House Number 11 Sayer Street, Swanbourne.
2. Process map depicting proposed future plan for action.