




Planning and Development Reports

Committee Consideration – 1 December 2015
Council Resolution – 15 December 2015

Table of Contents

Item No.		Page No.
PD50.15	51 Aberdare Road, Nedlands - Change of Use from Consulting Rooms to Fast Food Outlet (Coffee Shop).....	2
PD51.15	(Lot 372) No. 16A Broome Street, Nedlands – Change of Use (Use not Listed – Short Stay Accommodation).....	11
PD52.15	(Lot 650) No. 101 Thomas Street, Nedlands – Additions (Garage) To Single House.....	22
PD53.15	(Lot 245) No. 12 Carrington Street, Nedlands – Patio	28
PD54.15	(Lot 1402) No. 147B Rochdale Road, Mt Claremont – Carport, Shade Sails and Retrospective Solid Fencing	35
PD55.15	Proposed Basic Scheme Amendment No. 207 of Town Planning Scheme No. 2 – Modification to Clause 2.5 (c) of the Dalkeith Redevelopment Special Control Area Provisions	43
PD56.15	(Lot 300) No. 3/29 Asquith Street, Mount Claremont – Proposed Change of Use (From Lunch Bar to Restaurant)	47
PD57.15	Boundary Adjustment - 120 Montgomery Road Mt. Claremont	54

PD50.15	51 Aberdare Road, Nedlands - Change of Use from Consulting Rooms to Fast Food Outlet (Coffee Shop)
----------------	---

Committee	1 December 2015
Council	15 December 2015
Applicant	S & P Serrd Pty Ltd
Owner	S & PI Serra Family Trust
Officer	Kate Bainbridge – Senior Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA15/275 – AB2/51
Previous Item	Nil.
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Floor Plan 3. Applicant submission

1.0 Executive Summary

Under Town Planning Scheme No. 2 (TPS2), the subject property has an additional use of 'Shop'. In accordance with Clause 3.7 of TPS2, the City can consider the change of one additional use to another, subject to consultation. The proposal was advertised for 21 days in accordance with TPS2 to surrounding impacted neighbouring landowners with a sign also placed on site. Ten submissions were received with eight being objections to the proposal. The other two submissions stated no objection/support for the proposal.

The application has been referred to Council for determination, as officers do not have the delegation to determine an application under instrument of delegation 6A, where specific objections have been received.

The most appropriate land use classification for the proposed business is a 'Fast Food Outlet' under TPS2 as the subject property is not within a commercial or industrial area in order to be considered to meet the 'Lunch Bar' definition.

A 'Fast Food Outlet' is an 'X' land use in all zones with the exception of the Development Zone within the City of Nedlands. Additionally it is considered that the proposal has an inadequate number of car parking bays to facilitate the proposal with the 8 car parking bays adjacent to Aberdare Road being within the road widening reservation and Croydon Street having no on-street car parking available. Therefore it is recommended that Council refuse the application due to the inappropriate land use and inadequate car parking facilities, or if the council wishes to approve the application, the numbers of tables and chairs are restricted.

2.0 Recommendation to Committee

1. Council refuses the application for a change in additional use from Consulting Rooms to Fast Food Outlet (Coffee Shop) at (Lot 1) No. 51 Aberdare Road, Nedlands for the following reasons:
 - a) The proposed land use is inconsistent with Clause 5.5.1 of the City's Town Planning Scheme No. 2 and Clause 67 (m) (n) (s) (t) and (y) of Schedule 2 – Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the land use is considered inappropriate for the zoning and there is inadequate car parking to facilitate the proposal.
 - b) An insufficient number of car bays are provided for the proposed use, thus potentially creating safety and amenity issues for pedestrians and other road users due to vehicles being illegally parked.

Or Alternate Recommendation:

2. Council approves the application for a change in additional use from Consulting Rooms to Fast Food Outlet (Coffee Shop) at (Lot 1) No. 51 Aberdare Road, Nedlands subject to the following conditions and advice:
 - a) The development shall at all times comply with the approved plans, the exception being that a maximum of 2 tables and 4 chairs are only permitted on the premises for customers.
 - b) The premises only being used for the preparation and sale of take-away coffee, sandwiches and similar foodstuffs and beverages which is in a form ready to be consumed without further preparation off the premises (refer advice note 1).
 - c) No unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
 - d) The operating hours of the fast food outlet are restricted to:
 - i. Monday and Friday 7.00am to 4.00pm; and
 - ii. Saturday 7.00am to 2.00pm.
 - e) Service and/or delivery vehicles shall not service the premises before 7.00am or after 7.00 pm Monday to Saturday, or before 9.00 am or after 7.00 pm on Sundays and Public Holidays/

Advice Notes specific to this approval:

- a) **With regard to Condition 2, the applicant is advised that take-away coffee, sandwiches and similar foodstuffs and beverages are only permitted to be served to customers in containers, packaging and/or wrapping, not on plates.**
- b) **The applicant is advised that a separate development application is required to be submitted and approved by the City if they intend on either of the following:**
 - i. **Serve food/beverages which cannot be consumed off the premises; and/or**
 - ii. **Increase the seating area and/or seating numbers on the premises.**
- c) **If either of the above apply the use would then be deemed to be a restaurant under Town Planning Scheme No. 2.**
- d) **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
- e) **The Fast Food Outlet complying with Australian Standard AS1668.2 – 2012 and AS 2444-2001, and all the City's Environmental Health requirements attached to this development approval.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2.

4.0 Legislation

- *Planning and Development Act 2005 (Act).*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- Metropolitan Region Scheme (MRS).
- Town Planning Scheme No. 2 (TPS2).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

6.0 Risk management

N/A

7.0 Background

7.1 Site Description

Lot area	822m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	R10 with Additional Use of 'Shop'
Detailed Area Plan/Outline Development Plan	Yes
Controlled Development Area	No

The subject site has frontages to Aberdare Road and Croydon Street with the existing building having four tenancies including a hairdressers, a delicatessen and a retail shop. The existing tenancy (no. 3) is currently vacant, however has an approval in place for consulting rooms. There are 16 bays available on the subject property. Additionally, eight car bays are located within Aberdare Road which will be removed when the road is widened.

An aerial image showing the location of the property follows.



8.0 Discussion

The application seeks approval to change the additional use permitted from Consulting Rooms to Fast Food Outlet for tenancy 3 at the subject property. The three other tenancies on the subject property still retain the original Additional Use of 'Shop'.

The proposal is for a takeaway coffee shop with 'minimal sitting'. In determining its land use classification under TPS2 the proposal cannot be deemed a lunch bar as it needs to be in an industrial or commercial area if it is classed as a lunch bar, where as the site is in a residential area. The Restaurant land use does not permit primary consumption off-site ie. takeaway. Therefore the proposed land use is deemed to be a 'fast food outlet' as food is proposed to be primarily consumed off the premises.

The 'Fast Food Outlet' land use is not permitted in the Residential zone, however an additional use may be changed to another additional use with the approval of Council after consultation with the community in accordance with Clause 3.7 and Part 6 of TPS2 (now contained within Clause 64 of Schedule 2 – Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*). When considering a change from one additional use to another, the proposed additional use should be considered less detrimental to the amenity of the locality than the existing additional use and considered under Clause 67 of the "Deemed Provisions" which list more general matters such as amenity, parking, access, traffic etc.

The details of the application are as follows:

- a) The hours of operation are proposed to be between Monday and Friday 7.00am to 4.00pm, and Saturday and Sunday 7.00am to 2.00pm.
- b) A total of 5 staff on site at any one time.
- c) The peak hours of operation are anticipated to be in the morning and at lunch.
- d) Tables able to accommodate up to 20 persons are proposed to be available based on plans provided by the applicant.
- e) A takeaway counter is proposed at the front of the building.
- f) Cake, drink and savoury meals will be able to be purchases for consumption on and off the premises.

8.1 Consultation

8.1.1 External Consultation

The proposal was referred to the Department of Planning for comment as the property relies on car parking located within the MRS road reservation area for future widening and there is proposed to be an increase in car parking demand as a result of the change of use. The department had no objections given access is not proposed to be altered and the change of use is not considered to adversely impact traffic volumes in the area.

8.1.2 Neighbour Consultation

The development application was advertised to affected landowners for comment for 21 days in accordance with Clause 6.3.1 of TPS2. Additionally a sign was placed on site to inform regular patrons of the corner shop and residents within the City of Subiaco of the proposal. Ten (10) submissions were received during the consultation period with 8 being objections to the development. The following is a summary of the concerns raised:

- I. Car parking is considered inadequate to accommodate another business.
- II. The business will generate additional traffic which will have a negative impact upon the 'side streets' adjacent to Aberdare Road.
- III. The businesses will generate additional noise from operations and traffic.
- IV. There are already a number of coffee shops within the area.
- V. There is a lack of toilet facilities and ACROD access.
- VI. The storage of rubbish may be unsightly.
- VII. There will be a decrease in security and privacy from increased foot traffic in the area.
- VIII. There will be a decrease in residential property values as a result of the proposal operating.

The impact of the proposed Fast Food Outlet on the demand for car parking, traffic and amenity of the locality is discussed in the following sections.

With regard to other matters raised within the submissions, the City can advise the following:

- Noise is governed under Environmental Health Regulations. Should the proposal be approved the City can investigate any breaches of noise, however the anticipated levels of noise can be considered consistent with the other shops on the subject property especially if the number of tables and chairs are limited.
- Planning cannot regulate the market to ensure there is a mixture of land uses present in areas (i.e. remove competition), but rather to ensure only appropriate land uses are approved.
- The car parking provided is already in place and therefore the City cannot retrospectively require compliance with AS2890.1 for ACROD car parking unless there are modifications proposed to the car parking area. The fit-out would need to comply with the NCC/BCA for toilet facilities and ACROD access which is assessed under the building permit application.
- If approved by Council, the storage of rubbish would need to be in accordance with Environmental Health requirements.
- The increase of pedestrian traffic during the day would likely have a positive impact on security and passive surveillance. There currently are shops in operation at the subject property which attract foot traffic and therefore it is not expected there would be a decrease in privacy as a result of one tenancy being used as a coffee-shop.
- Property values are not considered to be within the realm of planning decision making or other considerations as per Clause 6.4.2 of TPS2.

The applicant has also addressed the submissions received within Attachment 3 of this report.

8.2 Town Planning Scheme No. 2

The following provisions of TPS 2 apply to the proposal.

8.2.1 Existing Car Parking Demand

Sixteen (16) car parking bays are available on the subject property, and 8 bays are currently available in the road reservation adjacent to the subject property (refer to Attachment 1). However will be removed when Aberdare Road is widened. No other on-street car parking is permitted within the vicinity of the subject property as Croydon Street prohibits on-street car parking. Currently 8 bays are required for the consulting rooms and 24 bays required for all tenancies of the subject property. 5 bays were required for the preceding shop land use and 21 bays for all tenancies. Therefore there is an existing shortfall of 8 car parking bays based on the previous planning approvals for the property not including the 8 bays in the MRS road widening reservation adjacent to the subject property.

The 'Fast Food Outlet' land use does not have any car parking provision within Schedule III of TPS 2, therefore the number of car bays required is at Council's discretion. In recommending whether the provision of car bays is sufficient for the proposed use, the City has reviewed surrounding local governments' parking requirements for the use Fast Food Outlet, and the following car parking requirements apply:

Local Government	Car Parking Provision	Car Parking Requirement	Car Parking Shortfall
City of Subiaco	<i>Fast Food Outlet</i> 1 per 4m ² eating area (if any) with a minimum of 4 spaces 33m ² seating area	9 (8.25) bays required	9 bays
Town of Claremont	<i>Fast Food Outlet</i> One for each 7m ² of gross leasable area. Unit 3 gross leasable area = 57m ²	9 (8.14) bays required	9 bays
Town of Cambridge	<i>Take-away Food Outlet</i> 1 space/5m ² of seating area & 1 space/3m ² of counter/queuing area 33m ² seating area 15m ² counter area	12 (11.6) bays required	12 bays

The proposal will have up to 5 staff and the proposal will have 20 seats which is indicative of the number of customers anticipated at any given time. Given there are no on-street car parking bays to accommodate any overflow of car parking and 8 bays may be not available for the property in the future (for the road widening) the proposed 'Fast Food Outlet' is likely to cause a car parking problem in the locality. The applicant has not provided any supporting documentation to stipulate how all required car parking for the site can be accommodated on site.

8.2.2 Amenity and other TPS2 provisions

TPS 2 Provision	Assessment/Comment
<p>Under clause 5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.</p>	<p>The subject property has an additional use of 'Shop' applicable to the residentially zoned property. The purpose of the additional use is to allow for a 'Shop' to operate within the residential zone and Clause 3.7 of the Scheme permits the City to consider other additional uses. Although not specifically mentioned, the purpose of this clause is likely to permit other similar uses (such as consulting rooms and offices) which have the same or lesser impact on the surrounding residential properties. The clause should not be used to permit land uses which would otherwise not be permitted such as a 'Fast Food Outlet' which is only discretionary within the development zone and not permitted in all other zones.</p> <p>A Fast Food Outlet is considered to be a more intense use of the unit compared with Consulting Rooms.</p> <p>Therefore the land use is not considered suitable within the residential zone and likely to have a negative impact on the amenity of the locality compared to more suitable additional uses of Shop, Office or Consulting Room.</p>
<p>Under clause 67 (matters to be considered by local government) of the 'deemed provisions'; in considering an application for development approval, the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application –</p>	<p>As discussed above, it is considered that the land use is inappropriate within the Residential zone.</p> <p>Additionally, given the number of staff, seating and lack of on-street car parking on Croydon Street, it is considered that there is inadequate car parking available for the proposal which will become worse when Aberdare Road is widened.</p>


<p>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p> <p>(n) the amenity of the locality including the following:</p> <ul style="list-style-type: none"> i. environmental impacts of the development; ii. the character of the locality; iii. social impacts of the development; <p>(s) the adequacy of</p> <ul style="list-style-type: none"> i. the proposed means of access to and egress from the site; and ii. arrangements for the loading, unloading, manoeuvring and parking of vehicles; <p>(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probably effect on traffic flow and safety; and</p> <p>(y) submissions received on the application.</p>	<p>The lack of car bays may result in vehicles parking illegally nearby, which will create safety issues for pedestrians and other road users, particularly when customers make use of the take-away component.</p> <p>There is no documentation from the application to support any claim that the car parking provided on site is adequate for the proposal or that traffic movements will not be disruptive to normal traffic movements or existing traffic flow.</p> <p>The submissions received from the community were in majority against the proposal namely due to car parking and traffic concerns.</p>
--	---

9.0 Conclusion

The 'Fast Food Outlet' is considered a more intense land use than a 'Shop' or 'Consulting Rooms' given the higher turnover of customers and therefore the land use is likely to have a greater impact on the amenity of the residential locality. Additionally, it is considered that there is inadequate car parking available for the proposal given 8 of the bays available to the subject property are within the road widening area adjacent to Aberdare Road and there is no other on-street car parking available within the vicinity of the subject property.

Based on the above, it is recommended that the application be refused by Council or if the Council wishes to approve the application, the number of seats be reduced to ensure the use remaining predominantly for takeaway and not dine-in like a restaurant.

PD51.15	(Lot 372) No. 16A Broome Street, Nedlands – Change of Use (Use not Listed – Short Stay Accommodation)
----------------	--

Committee	1 December 2015
Council	15 December 2015
Applicant	D A Bell
Owner	D A Bell
Officer	Kate Bainbridge – Senior Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA15/358; BR7/16A
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Floor Plan 3. Applicant submission 4. Applicant response to submissions

1.0 Executive Summary

The applicant seeks approval for a partial change of use from a Senior Persons Dwelling to a 'Use Not Listed' (Short Stay Accommodation) for the front portion of the dwelling.

The application was advertised to surrounding neighbours for 21 days and five submissions were received (one support, four objections). The objections primarily related to:

- Existing and potential further parking issues;
- Deviation from the residential land use;
- The site being a grouped dwelling/duplex and hence unsuitable for this land use;
- Potential adverse impact on other properties; and
- Belief that the short stay accommodation is already operating.

In accordance with delegation 6A, the Council's determination is required as neighbour objections have been received and cannot not be resolved by the applicant through any modification to the proposal.

The application is recommended for approval due to the low impact nature of the proposal – being one bedroom in an existing dwelling with additional car parking available in excess to the two bays on site for the residential component which will still be in operation. The recommendation for approval is subject to conditions of approval.

2.0 Recommendation to Committee

Council approves the application for a Change of Use (Use Not Listed – Short Stay Accommodation) at (Lot 372) No. 16A Broome Street Nedlands, in accordance with the application and plans received on 02 October 2015 2015, subject to the following conditions:

- 1. No more than two guests shall be accommodated at the premises at any given time.**
- 2. The maximum period a guest/s can stay at the premises is three consecutive months in a calendar year.**
- 3. Within 21 days of the date of approval, the applicant is to prepare a Management Plan and submit it to the City for approval. The Management Plan is to detail the process of managing:**
 - a) Noise;**
 - b) Complaints;**
 - c) Maintenance;**
 - d) Security;**
 - e) Behaviour; and**
 - f) Car parking.**

The Management Plan is to be prepared to the City's satisfaction, is to be implemented immediately after approval, and is to remain in place at all times.

- 4. Guests are to park on the subject property in the available on-site car parking at all times.**
- 5. A fire and emergency response plan is required to be clearly displayed in a conspicuous location within the dwelling, plus:**
 - a) Each bedroom is to be fitted with a hard wired smoke detector;**
 - b) A fire extinguisher, in a clearly visible location, is to be maintained in proper working order; and**
 - c) Outside barbeques are to be gas or electric.**
- 6. A guest register is to be maintained by the operator, which records the name, contact details and period and duration of stay for all persons occupying the premises.**

Advice Notes

- 1. Room sizes shall allow for a minimum 14m³ of air space per person in accordance with the Health Act 1911.**
- 2. Guests are to be made aware of the 'house rules' applicable to guests in relation to noise and disturbance to mitigate impact to surrounding neighbours.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2, contributing to well-planned and managed development in the City of Nedlands.

4.0 Legislation

- *Planning and Development Act 2005 (Act).*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

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

Should Council elect to refuse the application, the applicant will have appeal rights to the State Administrative Tribunal. Should an appeal be lodged, there may be costs incurred through this process.

6.0 Risk management

Nil.

7.0 Background

7.1 Site Description

Lot area	507.1sqm
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

The subject property has an 'Additional Use' approved as a 'Senior Persons' Dwelling' and has a 'duplex' configuration with a shared driveway with no. 16B Broome Street (also a 'Senior Persons' Dwelling). The proposal is to use the front portion of the dwelling for Short Stay Accommodation and retain the rear portion of the dwelling for residential purposes.

An aerial image showing the location of the property follows.



8.0 Discussion

The proposal involves the partial change of use (use not listed - short stay accommodation) of the existing Senior Persons Dwelling, as depicted in the submitted plans (**Attachment 1 and 2**).

The proposed land use of 'short stay accommodation' is not listed on 'Table 1 – Use Class Table' of TPS2.

Where a use is not listed on 'Table 1 – Use Class Table' of TPS2, it is designated an 'AA' symbol, which means that the use is not permitted unless approval is granted by the Council, after following the special procedures specified in cl. 64 of the Regulations and after taking into account the considerations specified in cl. 67 of the Regulations.

The existing dwelling contains three bedrooms, with the bedroom at the front of the dwelling along with the living room, dining room, ensuite and kitchenette to be used for the Short Stay Accommodation and the rear of the house – two bedrooms, bathroom, kitchen and family room – to be maintained for residential purposes. The applicant has indicated that the short stay accommodation will only be available to two guests at any given time.

The property can accommodate two vehicles in the existing double garage for the residential component of the dwelling, with one additional car parking bay available on the subject property in front of the garage available for guests. The crossover is shared between the subject property and the neighbouring property at no. 16B and therefore there is no additional on-site car parking available which would not obstruct the residential parking or neighbouring property access.

The proposal does not include any signage as guests will be booked in prior to attending the site.

Short stay accommodation is generally considered a component of tourism planning. The Western Australian Planning Commission (WAPC) has published a planning bulletin (*Planning Bulletin 99*) and guidelines (*Holiday Home Guidelines - short stay use of residential dwellings*) which provide guidance on the assessment of short stay accommodation proposals. The bulletin and guidelines primarily focus on location, amenity and management considerations.

In the absence of any of the City's specific controls regarding short stay accommodation, the WAPC bulletin and guidelines have been utilised to guide the City's assessment.

8.1 Management/Maintenance

In order to ensure that the property is appropriately managed and maintained, should the application be approved, it is considered appropriate to apply a condition requiring the applicant submit a management plan detailing the process of managing:

- Noise
- Complaints
- Maintenance
- Security
- Behaviour
- Car parking
- Fire and emergency response

This will establish the parameters of how the premises are to be managed and maintained and will assist in minimising the impact on the locality. This approach is recommended by the WAPC guidelines.

8.2 Safety/Security

Whilst it is noted that short stay tenants usually have a limited connection to the community and have the potential to disrupt the area, given that the permanent residents will remain in occupation at the rear of the dwelling, the safety/security of the neighbouring residents will not be impacted by the short stay tenants.

In order to assist in managing security, should the application be approved, it is recommended that a condition be applied to the approval requiring a guest register to be kept, which provides contact details for all persons occupying the premises. This approach is recommended by the WAPC guidelines.

8.3 Appropriateness of Land Use

To ensure that the function of the short stay accommodation will not create a higher likelihood of disturbances to the local amenity, 'house rules' and a management plan will ensure that should hours of the tenants be irregular and there being other such disturbances, the City will have means to conduct compliance to ensure the conditions of planning approval are adhered to.

The planning bulletin and guidelines provide certain criteria to assist in determining whether the location of the site is appropriate for tourism accommodation. These criteria include:

1. Zoning - tourist accommodation should be located within preferred areas identified in the local planning strategy or a local planning policy.
2. Amenities - tourist accommodation should be located within close proximity to key tourism attractions such as the beach or town centre.
3. Transport - tourist accommodation should be located within close proximity to road links and public transport.
4. Tenure - the use of grouped or multiple dwellings will generally not be supported for holiday home accommodation given the potential impacts on adjoining residents, unless all owners are in agreement.

Regarding the above, administration considers the following:

1. Zoning - the City's planning regulations do not provide any control or guidance on appropriate tourist accommodation locations.
2. Amenities - the subject property is located within 1km from Hollywood Hospital, 1.4km from UWA, 1.5km from QEII and 3km of Kings Park and the Claremont Town Centre.
3. Transport - the subject property is located within 300m of Stirling Highway which has high frequency bus routes to Perth and Fremantle and is within 1km of Karrakatta Train Station.
4. Tenure - the property is a grouped dwelling and the agreement of the neighbour has been obtained.

Given the above, the land use of the short stay accommodation in this location is considered appropriate.

8.4 Precedence

The City needs to consider whether the approval of the proposal would set an adverse precedence in the area. The increase in rental return for short stay accommodation (compared to long term rentals) could potentially result in similar proposals which could lead to an increase in the potential for impacts on the amenity of the area. However each individual proposal will need to be assessed on their merits. In this circumstance, the presence of the permanent occupants reduces the impact of the short stay accommodation and will ensure car parking is regulated, movements of the guests are not disruptive, and noise is kept within normal residential levels.

8.5 Noise

As discussed earlier in the report, noise is considered a relevant consideration given the site conditions and the function of short stay accommodation. Noise can be regulated by the permanent residents and the management plan requirements ensures that should there be a breach, then compliance can be conducted to rectify any noise issues.

It should also be noted that the Applicant's letter describes the proposal in more detail (**Attachment 3**).

8.6 Amenity

TPS 2 Provision	Assessment/Comment
Under clause 5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.	The proposed use is deemed to not have an adverse impact on the amenity of the locality as the external appearance of the dwelling is not proposed to be altered, there is additional car parking available on site and the scale of the short stay accommodation is relatively minor in nature with only one bedroom available for the short stay accommodation and a maximum of two guests at any given time.

Regulations – Cl. 37 Provision	Assessment/Comment
(m) The compatibility of the development with its setting, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.	The external built form is not proposed to be modified and the proposal is of a low impact with only one room available for a maximum of two guests.
(n) The amenity of the locality including the character to the locality and the social impacted of the development.	The proposal is considered to be consistent with the residential zoning of the locality and will provide a service to the community at minimal impact to surrounding land owners.
(s) The adequacy of the proposed means of access and egress from the site and arrangements for the manoeuvring and parking of vehicles.	There is adequate access and parking space for the property to accommodate an additional vehicle required for the Short Stay Accommodation.
(t) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probably effect on traffic flow and safety.	Only one additional vehicle is proposed as part of the application. This will not impact upon congestion or car parking within the locality as there is adequate provision for parking on site.
(y) Any submissions received on the application.	The submissions received for the application are addressed in the consultation section of this report.

8.7 Car Parking

As the use is not listed within the City's TPS2, there are no specified car parking requirements, however an appropriate car parking requirement is 1 bay per bedroom use for the Short Stay Accommodation. The subject property has two car parking bays in the garage for the residential component and one bay available in front of the garage for the short stay accommodation. Therefore it is considered that there is adequate on-site car parking for the proposal.

8.8 Consultation

The development application was advertised to affected landowners for comment for 21 days in accordance with 3.6 and Clause 64 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The following is a schedule of the concerns raised:

Submitter no.	Concerns Raised	Administration Response
1	Without further explanation of what is mean by 'short stay accommodation' and confirmation that the subject property is not gazetted as over 55's and the occupants can demonstrate that they have full facilities for ablution and kitchenette for proposed paying guests – I object to the application proceeding (<u>Note</u> : as the comments relate the issues that can be addressed then this objection can be potentially rescinded upon the submission of additional information)	<p>Short Stay Accommodation in this circumstance is the use of the front portion of the house for a maximum of two guests to stay on a short term basis with the maximum period of time permitted being 3 consecutive months for any guest.</p> <p>The property is approved with an additional use as a 'Senior Person's Dwelling'. The applicant has provided confirmation that there is a resident in occupation of the dwelling who is over 55. The application does not seek to discontinue this use but rather also operate a Short Stay Accommodation in the front portion of the dwelling. This can be considered under Clause 3.6 and 3.7 of TPS2.</p> <p>The floor plan demonstrates an ensuite and kitchenette being provided for the guests of the short stay accommodation.</p>
2	The owner has been operating 16A Broome Street as Short Term Stay over the last several weeks. All guests either park on the street verge or road despite the double garage on the duplex site.	The applicant has informed the City that there have been non-paying guests staying at the dwelling who are friends and relations of the applicant. Further to this, the City was unable to find the property on popular short stay accommodation websites to suggest it is being used for Short Stay

	<p>I recommend council reject the owner's application on the following basis:</p> <ul style="list-style-type: none"> - Not permitted under clause 3.6 of the City's TPS2 - Duplex site unsuitable for this type of business - Adversely affects residences in surrounding homes 	<p>Accommodation prior to obtaining planning approval from the City.</p> <p>The street has a number of vehicles parked in the street namely from overflow parking from Carrington Street industrial/commercial area and also residents with inadequate car parking on site. The subject property has space for one vehicle for guests in addition to two spaces for residents. A condition of planning approval is recommended to ensure that guests are directed to park on the subject property rather on the street.</p> <p>The land use can be considered under Clause 3.6 of TPS2 subject to consultation with the community.</p> <p>The subject site is of a 'duplex' configuration, however there is adequate on site car parking and space within the dwelling to accommodate the proposal.</p> <p>The proposal is considered to be consistent with the residential zoning and will provide short stay accommodation within the locality without altering the built form or requiring additional facilities and services of standard residential housing stock.</p> <p>In terms of noise – this can be addressed through a management plan and guests being made aware of 'House Rules' provided by the applicant, however it is anticipated that land use will not generate additional noise due to permanent residents also being at the subject property at the same time as guests of the Short Stay Accommodation.</p>
<p>3</p>	<p>Potential guests will park on the street as there is inadequate space on the property with the garage and extra parking space already in use. This is directly outside our house, causing congestion/bottleneck on an already busy street, and increasingly danger to entry/exit of our driveway.</p>	<p>The street has a number of vehicles parked in the street namely from overflow parking from Carrington Street industrial/commercial area and also residents with inadequate car parking on site. The subject property has space for one vehicle for guests in addition to two spaces for residents. A condition of planning approval is recommended to ensure that guests</p>

	<p>Paying guests have already stayed at the property and they are required to park on the street outside our property. This has already caused us concern in terms of congestion/road hazard as cars have been left there up to a week.</p>	<p>are directed to park on the subject property rather on the street.</p> <p>The applicant has informed the City that there have been non-paying guests staying at the dwelling who are friends and relations of the applicant. Further to this, the City was unable to find the property on popular short stay accommodation websites to suggest it is being used for Short Stay Accommodation prior to obtaining planning approval from the City.</p>
4	<p>This is a residential area with many families with young children. Allowing a commercial venture such as this in our neighbourhood would change the dynamic allowing strangers to frequent the neighbourhood.</p> <p>We also believe this would devalue our properties.</p> <p>In addition while it is stated that this is adequate parking in practice we have noted cars parking on the street for extended periods. For us, this makes it difficult coming in and out of our driveway.</p>	<p>The frequenting of guests on a frequent basis is common practice for many residential dwellings, regardless of any commercial venture taking place. The proposal is considered to be consistent with the residential zoning and will provide short stay accommodation within the locality without altering the built form or requiring additional facilities and services of standard residential housing stock.</p> <p>Property value is not a valid planning consideration. The City can make no comment or take this into consideration for decision making.</p> <p>The street has a number of vehicles parked in the street namely from overflow parking from Carrington Street industrial/commercial area and also residents with inadequate car parking on site. The subject property has space for one vehicle for guests in addition to two spaces for residents. A condition of planning approval is recommended to ensure that guests are directed to park on the subject property rather on the street.</p>
5	Support/No Objection	Noted.

The applicant has also addressed the submissions received which is provided as Attachment 4 to this report.

9.0 Conclusion


The proposal is for a Change of Use (Use Not Listed - Short Stay Accommodation) on (Lot 372) No. 16A Broome Street, Nedlands.

The location of the site is considered appropriate due to its close proximity to public transport and amenities, with the nature of the accommodation having permanent residents also occupying the dwelling ensuring reduced impact to the other residential properties in the area.

Furthermore, the approval of the short stay accommodation in this location, is not considered to be setting an adverse precedence due to the individual merits of the proposal – being only one bedroom, the availability of additional on-site car-parking and permanent residents also in occupation of the dwelling.

Accordingly, the application is recommended to the Council for approval subject to conditions.

PD52.15	(Lot 650) No. 101 Thomas Street Nedlands – Additions (Garage) To Single House
----------------	--

Committee	1 December 2015
Council	15 December 2015
Applicant	Santelli Building Co Pty Ltd
Owner	C J Simpson
Officer	Julian Berzins – Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2015/312 – TH5/101
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Floor Plan and Elevations 3. Engineering Details 4. Photograph of 101 Thomas from the secondary Street (Melvista Avenue) 5. Photograph of 101 Thomas facing east from 106 Webster Street 6. Photograph of 106 Webster Street and 101 Thomas Street along the dividing boundary 7. Elevations showing extent of height variation

1.0 Executive Summary

The proposal is to remove an existing double garage and erect a new double garage in its place. The proposal involves variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) in terms of a 3.2m wall height in lieu of 2.4m wall height and a 5.1m roof height in lieu of 4.2m.

Where an objection has been received, administration does not have the delegation from Council to determine the application and therefore the application is referred to Council for determination.

The variation is considered to be compliant with the relevant design principles of the R-Codes. Accordingly, the application is recommended to Council for approval.

2.0 Recommendation to Committee

Council approves the application for a garage at (Lot 650) No. 101 Thomas Street, Nedlands, in accordance with the application received on 2 September 2015 and amended plans received on 19 October 2015, subject to the following conditions:

- 1) The development shall at all times comply with the approved plans.
- 2) This planning approval pertains to the garage only.
- 3) All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.

Advice Notes specific to this approval:

- 1) In accordance with the *Dividing Fences Act (1961)* the applicant / landowner is advised that as the western garage boundary wall forms part of the dividing fence they will need to consult with the neighbouring landowner(s) prior to any works being undertaken that may affect or undermine its structural integrity.
- 2) Prior to a demolition permit being issued by the City the applicant / landowner shall provide confirmation that the structural integrity of the existing wall will be maintained should any changes be proposed.
- 3) All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
- 4) Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.

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.

Where there is over 10m² of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.

- 5) **This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2, contributing to well-planned and managed development in the City of Nedlands.

4.0 Legislation

- Planning and Development Act 2005 (Act).
- Metropolitan Region Scheme (MRS).
- Residential Design Codes 2013 (R-Codes)
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

6.0 Risk management

Nil.

7.0 Site Description

Lot area	1011m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

8.0 Background

A garage exists in the north-west corner of the property which was originally approved by the Nedlands Road Board in 1953 and constructed with a parapet wall along the western boundary (attachment 4). In 1991 the City approved plans for the garage to be re-built in the same location with a gabled roof and loft space above, however it was never built and the approval has since expired. The application submitted in September 2015 is of similar design to that approved previously (attachment 1 and 2). A 3.2m high masonry wall exists along the rear boundary. The subject property is located on the corner of Thomas Street and Melvista Avenue, taking access off Melvista Avenue. An aerial image showing the location of the property follows.



9.0 Discussion

The application is for a two car garage with a gable roof as depicted in the submitted plans (attachment 1 and 2). The garage is proposed to have a 3.2m wall height, a 5.1m roof height, a 37m² floor area, a 13.1m secondary street setback, and a 1m setback from the rear and side boundaries.

9.1 Consultation

Original plans submitted in September 2015 proposed the garage to be built up to the western boundary, the retention of the existing parapet wall and the installation of a gutter system atop. The development application was advertised to affected landowners for comment due to the proposed garage having a nil setback in lieu of 1m from the western (rear) boundary. Two objections were received.

Following the applicant being informed of the adjoining landowners concerns amended plans were received in October. The garage is now proposed to be setback 1m from the rear and side boundary and the existing parapet wall is to be retained. The amended plans were advertised and one objection was received. The following is a summary of the concerns received:

- The structure will impede our view to the east and restrict the amount of light entering our pool, outdoor living area and house.
- Object to any change to the height or appearance of the existing boundary wall.

The potential impact on the neighbours' amenity is discussed in the following sections.

9.2 State Planning Policy 3.1 – Residential Design Codes

The proposal is compliant with the deemed-to-comply provisions of the R-Codes with the exception of the following:

Deemed-to-Comply Requirement	Proposed
<p>Outbuildings that:</p> <ul style="list-style-type: none"> • Are not attached to a dwelling; • Are non-habitable; • Collectively do not exceed 60m² in area or 10 per cent in aggregate of the site area, whichever is lesser; • Do not exceed a wall height of 2.4m; • Do not exceed a ridge height of 4.2m; • Are not within the primary street setback area; • Do not reduce the amount of open space required in Table 1; and • Comply with the setback requirements of Tables 2a and 2b. 	<p>The outbuilding complies with all the deemed-to-comply provisions except for:</p> <ul style="list-style-type: none"> • The proposed wall height is 3.2m; and • The proposed ridge height is 5.1m.

Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment
<p>Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.</p>	<p>The proposed wall height exceeds the height requirement of an outbuilding by 1.2m as this is the requirement for a 'shed' or garage not attached to a dwelling. The wall height will be fully screened by the existing 3.2m parapet wall on site, seen in attachment 5. Due to the existing parapets location the wall height will not have any visual impacts on the neighbouring properties. Additionally, It is to be setback 1m from the parapet wall, further reducing the impact.</p>

	<p>The uppermost pitch of the proposed gable roof exceeds a deemed-to-comply ridge height of an outbuilding by 0.92m. This area of variation is considered relatively minor in relation to the remainder of the garage, as seen in attachment 7. The roof will be seen from the neighbouring property when looking east, however with the covered alfresco area being 11m from the dividing boundary this is considered acceptable.</p>
--	---


10.0 Other matters

During the consultation period (discussed in section 9.1) concerns were raised by the neighbouring landowner regarding alterations being made to the existing dividing wall. The City advises that any changes to the wall will need to ensure the structural integrity is maintained as part of a separate approval to be issued.

11.0 Conclusion

The proposal is to remove an existing double garage and erect a new double garage in its place. The proposal involves variation to the deemed-to-comply provisions of the R-Codes in terms of wall and roof height. The variations are considered to be compliant with the relevant design principles of the R-Codes as discussed above. Accordingly, the application is recommended to Council for approval.

PD53.15 (Lot 245) No. 12 Carrington Street, Nedlands – Patio

Committee	1 December 2015
Council	15 December 2015
Applicant	A Kovidis and A Bacik
Owner	A Kovidis and A Bacik
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2015/400
Previous Item	Nil.
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Elevations 3. Photograph of the patio's proposed location towards the rear boundary 4. Photograph of the patio's proposed location towards the east (side) boundary

1.0 Executive Summary

A development application to construct a gable roof patio at the rear of the property has been received.

The patio is compliant with the deemed-to-comply provisions of the Residential Design Codes (R-Codes) with the exception of a proposed rear setback of 4.3m in lieu of 6m. The application was advertised to the impacted neighbouring landowners and 2 objections were received.

Where an objection has been received, administration does not have the delegation from Council to determine the application and therefore the application is referred to Council for determination.

The patio is considered to meet the relevant 'design principles' of the R-Codes and provisions of the City's Town Planning Scheme No. 2 (TPS2), it is therefore recommended that the application be approved by Council.

2.0 Recommendation to Committee

Council approves the development application to construct a patio at (Lot 345) No. 12 Carrington Street, Nedlands, in accordance with the application received on 28 October 2015 subject to the following conditions and advice notes:

- 1. The development shall at all times comply with the approved plans.**
- 2. This development approval pertains to the patio only.**
- 3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**

Advice Notes specific to this approval:

- 1. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
- 2. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2 and the R Codes.

4.0 Legislation

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (**MRS**).
- City of Nedlands Town Planning Scheme No. 2 (**TPS2**).
- Residential Design Codes of WA 2013 (**R-Codes**).
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

6.0 Risk management

Nil.

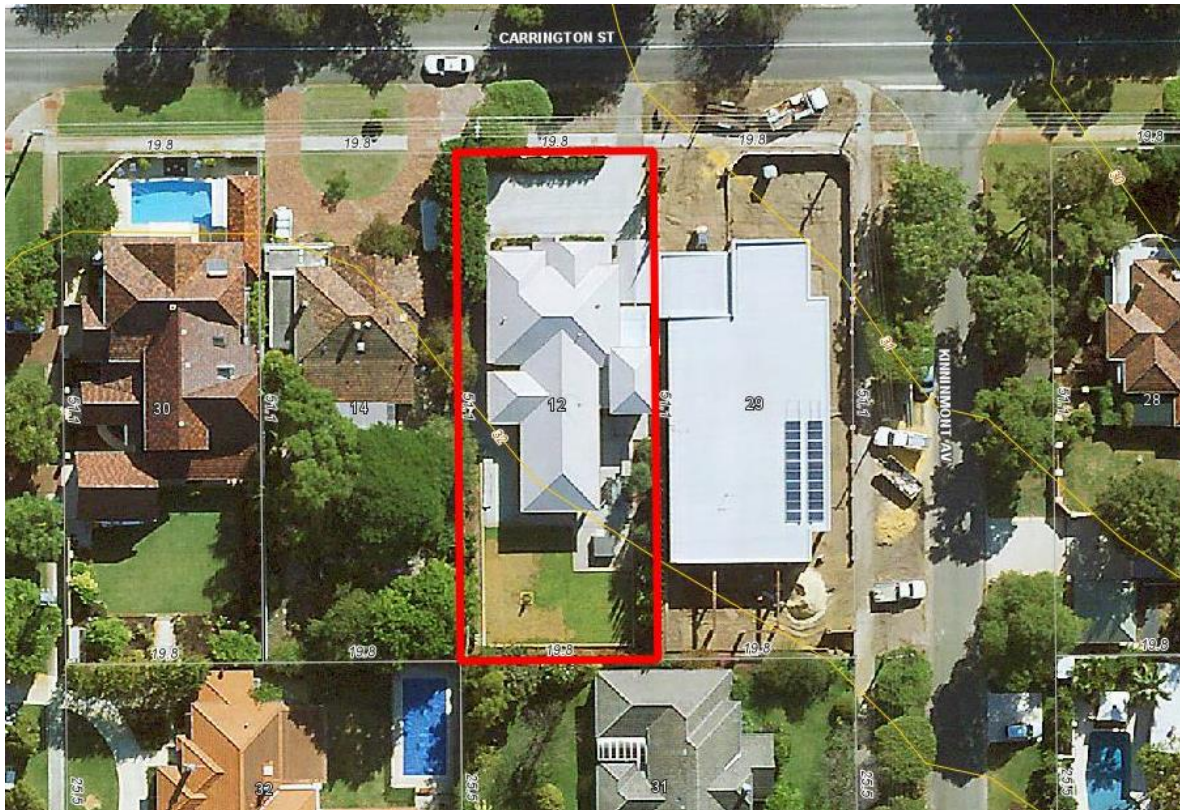
7.0 Background

7.1 Site Description

Lot area	1,011m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

The subject property contains a two storey single dwelling and its topography is relatively flat as shown in the locality plan on the following page. Solid fencing of approximately 1.8m in height exists along the rear dividing boundary and solid fencing of between 1.6m and 1.8m in height exists along the east (side) dividing boundary. Mature landscaping exists along the east and rear boundaries of the subject property, and along the rear boundaries of the properties adjoining the rear and west (side) boundaries.

The area where the patio is proposed to be located has been paved and limestone blocks have been laid around the perimeter of the paved area. It should be noted that the area adjacent to the limestone blocks has not been backfilled and therefore the blocks do not act as retaining walls. Reticulation is in the process of being laid adjacent to the rear boundary with the intention of landscaping this area further. Refer to Attachments 3 and 4.



8.0 Discussion

The development application seeks approval to construct a gable roofed patio at the rear of the property, details of which are as follows:

- The patio is proposed to be setback 4.3m from the rear boundary and setback 3.2m from the east (side) boundary.
- The area where the patio is proposed to be located will not be raised more than 0.5m above natural ground level.
- The patio is proposed to have a post height of 2.4m and a roof height of 3.4m above natural ground level.
- The roof of the patio will be constructed using Colorbond the colour of which will be 'surfmist' (a dark cream colour).

The development complies with the TPS2 and the deemed-to-comply provisions of the R-Codes, with the exception of the patio being proposed to have a rear setback of 4.3m in lieu of 6m.

8.1 Consultation

The development application was advertised to the affected landowners by the City for 14 days for comment. Two objections were received during the consultation period.

The following is a summary of the concerns received:

- a) The visual impact of the patio being unacceptable due to its proposed rear setback and the difference in natural ground levels between the subject property and those adjoining;
- b) Privacy becoming an issue as a consequence of the patio's construction;
- c) Materials used to construct the patio being reflective; and
- d) An existing alfresco on the property allegedly being enclosed without the City's approval.

By way of justification in support for the application, the applicant has advised the following:

- a) There being no visual impact on the neighbours adjoining the east boundary due to an open carport/pergola structure being within close proximity to the patio's proposed location;
- b) There currently being overlooking from the dwelling adjacent to the rear boundary; and
- c) Current and future landscaping on the property will minimise the potential visual impact of the patio on neighbouring properties.

Concerns received with regard to the alleged unauthorised enclosure of an alfresco structure on the property will be investigated separately. The impact the patio will potentially have on the neighbours' amenity is discussed in the following section.

8.2 State Planning Policy 3.1 – Residential Design Codes

The proposal is compliant with the deemed-to-comply provisions of the R Codes with the exception of the following:

Deemed-to-comply Requirement	Proposed
The patio structure is required to be setback a minimum of 6m from the rear boundary in accordance with Table 1 of the R-Codes.	The patio is proposed to be setback 4.3m in lieu of the required 6m from the rear boundary.


Variations to the deemed-to-comply requirements can be considered subject to satisfying the following design principle provisions:

Design principles	Assessment/Comment
Reduce impact of building bulk	<p>Existing solid fencing and landscaping will minimise the potential visual impact of the patio on adjoining properties.</p> <p>The patio will be unenclosed on all sides and the colour and materials of the structure will adequately blend with existing development on the property, and not result in significant glare onto adjoining properties.</p> <p>The patio will be partially screened by solid fencing of approximately 1.8m in height along the dividing boundaries, and mature landscaping along the east (side) boundary of the subject property. Refer to Attachments 3 and 4.</p> <p>The overall height and roof area of the patio is less than that allowed for an outbuilding under the R-Codes which permits outbuildings to have a roof height of 4.2m and a floor area of 60sqm. Outbuildings of such size are permitted to be setback only 1m from side and rear boundaries without the need to obtain development approval in most cases. Therefore in comparison, the proposed patio would have less of a visual impact compared with an outbuilding if constructed on such a property.</p> <p>Considering the above, the proposed patio satisfies this design principle.</p>
Adequate direct sun and ventilation to the building and open spaces on the property and those adjoining.	<p>The R-Codes permit up to 25% of a property with an R10 density coding to be overshadowed. Less than 25% of the property adjoining the rear boundary will be overshadowed as a consequence of the patio if approved by Council.</p>
Minimise the extent of overlooking and loss of privacy on adjoining properties.	<p>No fill in excess of 0.5m above natural ground level is proposed on the property therefore the visual privacy provisions of the R-Codes are complied with.</p>

9.0 Conclusion

The proposal is to construct a gable roofed patio at the subject property. The proposal involves a variation to the deemed-to-comply provision of the R-Codes being the reduced rear lot boundary setback. The variation is considered to be compliant with the relevant design principles of the R-Codes. Accordingly, the application is recommended to Council for approval.

PD54.15	(Lot 1402) No. 147B Rochdale Road, Mt Claremont – Carport, Shade Sails and Retrospective Solid Fencing
----------------	---

Committee	1 December 2015
Council	15 December 2015
Applicant	N Glazer
Owner	N Glazer & M De Bruijn
Officer	Julian Berzins – Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	R03-147B
Previous Item	Nil.
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Carport / Alfresco Roof Plan Elevations 3. Front Fence Elevations 4. House Elevations 5. Photograph of 147B Rochdale Road from Primary Street 6. Photograph of existing fencing facing 149 Rochdale Road 7. Photograph of existing fencing facing 147A Rochdale Road 8. Photograph of existing driveway at 149 Rochdale Road 9. Site Photo Streetscape facing south 10. Site Photo Streetscape facing north 11. Applicants Justification

1.0 Executive Summary

The proposal is for a carport and shade sails to be constructed at the rear of the property and for retrospective development approval to retain existing solid fencing infill within the street setback area (attachments 1 - 4).

The application was advertised to the affected neighbouring landowners and one objection was received in relation to the setback of the carport and visual sightlines.

Where an objection has been received, administration does not have the delegation from Council to determine the application and therefore the application is referred to Council for determination.

The carport is considered to comply with the Rochdale Road Detailed Area Plan under Appendix V of Town Planning Scheme No.2 (TPS 2). As a result, the carport

component of the application is recommended for approval. However, the solid fencing infill panels located within the primary street setback do not satisfy the relevant design principles of the R-Codes or the Fill and Fencing Policy, it therefore is recommended that the solid fencing infill component be refused by Council.

2.0 Recommendation to Committee

Council:

- 1. Refuses the component of the application to retain existing solid fencing infill within the primary street setback area of (Lot 1402) No. 147B Rochdale Road, Mount Claremont, received 18 August 2015 with amended plans received 21 August 2015 , for the following reasons:**
 - a) The proposal not satisfying the design principles stipulated under clauses 5.2.4 (street walls and fences) and 5.2.5 (sight lines) of the Residential Design Codes and not complying with the City’s Fill and Fencing Local Planning Policy, due to the solid fencing infill not positively contributing to the streetscape.**

Advice Notes specific to this refusal:

- i) The applicant / landowner is advised that if the solid fencing infill within the primary street setback area is not removed within 28 Days from the date of this decision, the City may issue a Planning Infringement Notice (PIN) as an offence under Regulation 42 of the Planning And Development Regulations 2009 has been committed. A PIN carries an initial penalty of up to \$500.00 and can be issued on multiple occasions by the City prior to taking legal action.**
- 2. Approves the rear extension (carport and shade sails) component of the application for additions to the three storey dwelling at (Lot 1402) No. 147B Rochdale Road, Mount Claremont, received 18 August 2015 with amended plans received 21 August 2015, subject to the following conditions and advice:**
 - a) The development shall at all times comply with the approved plans.**
 - b) This planning approval only pertains to the proposed carport and shade sails.**
 - c) All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, at least 1.8m from the boundary of the block.**
 - d) All sides of the carport shall remain open, including the front facing the street, in accordance with the City of Nedlands Policy 6.23 Carports and Minor Structures Forward of the Primary Street Setback.**
 - e) Shade sail structures not to be roofed using water impermeable material.**

Advice Notes specific to this approval:

- i) All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**

- ii) This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2, contributing to well-planned and managed development in the City of Nedlands.

4.0 Legislation

- Planning and Development Act 2005 (Act).
- Residential Design Codes 2013 (R-Codes).
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Council Policy – Fill and Fencing
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

6.0 Risk management

Nil.

7.0 Site Description

Lot area	501m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential
Detailed Area Plan/Outline Development Plan	Yes
Controlled Development Area	No

The subject property is bound by Rochdale Road to the east and Acacia Lane to the west. The property contains a three storey single dwelling (refer to attachment 5). The topography of the land falls from west to east around 8m across the site.

8.0 Background

In March 2015, development approval was granted by the City for street fencing, a patio and air conditioning units on the property. The street fencing was approved as being visually permeable above 1.2m and truncated to no higher than 750mm within 1.5m of where walls and fences adjoin vehicle access points, including neighbouring properties, which adjoin the northern and southern boundaries. It was subsequently brought to the City’s attention that solid infill had been installed along the fencing without approval being obtained.

An aerial image showing the location of the property follows.



9.0 Discussion

The applicant seeks approval to construct a carport and three shade sails to the rear of the existing three storey dwelling, and seeks retrospective approval to retain existing solid fencing infill within the primary street setback area (refer to attachments 5 and 6).

The single carport is proposed to be located adjacent to the southern boundary, and be 4.9m in length and 2.6m in height with a skillion roof. The shade sails will be 4m in height above the natural ground level.

Solid fencing has been installed within the primary street setback area which is 1.8m in height above the natural ground level, and is synthetic turf.

The development complies with the TPS2, Council Policies and the deemed-to-comply provisions of the R-Codes, with the exception of the carport being proposed 0m from the southern boundary in lieu of the required 1m. Additionally, the now solid fencing infill within the primary street setback is 1.8m in height in lieu of 1.2m (solid infill height limit) and 1.8m in height in lieu of 0.75m within the truncated area.

By the way of justification in support of the development application the applicant has provided comment (see attachment 11). A summary of the comments is listed below:

Proposed Carport:

- The carport is proposed to be constructed of steel post and a flat roofed frame.
- The carport is proposed to be 2.6m in maximum height, with most of the structure screened from view via a 1.8m high dividing fence.
- The carport does not reduce sun and ventilation to the site or open space on the adjoining property (adjoining an existing outbuilding).

Proposed Infill Panels:

- The City has previously approved the side boundary wall.
- The existing Rochdale Road reserve (5.2m in length) is large enough to safely enter and exit the adjoining property.
- The solid infill will not compromise passive surveillance.
- The infill panels assist in enhancing the streetscape by providing high quality built form and materials. This improves the look and general amenity of the streetscape.

9.1 Consultation

The development application was advertised to affected landowners for comment and one objection and one non-objection were received. The following is a summary of the concerns raised:

- The solid fencing infill obstructing driver sightlines.
- The carport being setback less than 1m from the side boundary.

Note: the proposal was originally advertised to the neighbouring landowner in accordance with the setback requirement taken from the R-Codes for lot boundary

setback. In this instance the Rochdale Road design guidelines under TPS 2, which permits zero lot lines on the southern boundary prevails over the requirements of the R-Codes.

The potential impacts on the neighbour’s amenity is discussed in the following sections.

9.2 Town Planning Scheme No.2

The following provisions of TPS 2 apply to such proposals.

TPS 2 Clause	Assessment Comment
<p><i>“5.5.1 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.”</i></p>	<p>The infill panels placed onto the existing fencing as seen in attachment 5 compromises provisions of the R-Codes and Council policy.</p> <p>Considering the above, the proposed solid infill has an unacceptable impact on the amenity of 149 Rochdale Road and the streetscape and set an undesirable precedence if approved by Council. If the existing infill panels were removed, the impact of the fence will be reduced.</p>
<p><i>“6.5.1 The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area.”</i></p>	<p>As discussed above, it would not be orderly and proper planning to further compromise the neighbouring landowner’s sight line by permitting solid infill to be placed along the fence.</p>

TPS 2 Clause	Assessment Comment
<p>Appendix V Residential Design Guidelines and Detailed Area Plan Rochdale Road Locality: <i>“Zero lot lines are permitted on the southern boundary of each allotment.”</i></p>	<p>The proposed carport is to be on the southern boundary and thus is compliant.</p>

9.3 State Planning Policy 3.1 – Residential Design Codes

The proposal is compliant with the deemed-to-comply provisions of the R-Codes with the exception of the following:

9.3.1 Sight Lines

Deemed-to-Comply Requirement	Proposed
<p>Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect.</p>	<p>The portion of fencing infill within the truncation area is 1.8m in height above the natural ground level in lieu of 0.75m and thus does not comply.</p>

Variations to the deemed-to-comply requirements can be considered subject to satisfying the following design principles.

Design Principles	Assessment/Comment
Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of way, communal streets, crossovers and footpaths.	The existing wall height has been constructed in accordance with a previous development approval. However, placing solid infill panels along the wall is contrary to the planning approval and approved plans. The solid infill compromises the sightline when reversing from the adjoining neighbour's driveway.

9.3.2 Street Walls and Fences

Deemed-to-Comply Requirement	Proposed
Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.	The existing dividing fence that extends to the property boundary is 1.8m in solid height and does not comply with the 1.2m requirement.

Variations to the deemed-to-comply requirements can be considered subject to satisfying the following design principles.

Design Principles	Assessment/Comment
<p>Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:</p> <ul style="list-style-type: none"> • for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and • for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial. 	<p>The property does not adjoin a road designated as a primary, district distributor or integrator arterial road.</p> <p>Neither property has its designated outdoor living area adjoining Rochdale Road.</p>

9.4 Council Policy – Fill and Fencing

The proposal is compliant with the provisions of Council Policy Fill and Fencing with the exception of the following:


Policy Provision	Proposed	Assessment/Comment
<p>Primary Street Fences, other than the portion abutting a vehicle access point where greater restrictions apply (refer Fences Abutting Vehicle Access Points), shall be built in accordance with the following requirements:</p> <p>a) the height of solid fencing shall be to a maximum of 1.2 metres from natural ground level;</p> <p>b) the height of visually permeable fencing to a maximum height of 1.8 metres from natural ground level; and</p>	<p>The solid height of the fence infill is 1.8m from the natural ground level, with no visual permeable sections along the fence.</p>	<p>There are a number of older fences within the locality that are solid in excess of 1.2m.</p> <p>These fences differ in age with construction in the early 1990's and solid fencing screening outdoor living area for front battle-axe subdivisions.</p> <p>However, overall the streetscape does not have a precedence for solid fencing within the primary street setback area.</p> <p>The existing solid infill compromises the sightline when reversing from the adjoining neighbour's driveway.</p>

10.0 Conclusion

The proposal is for a carport and shade sails to be constructed at the rear of the property and retain solid fencing infill within the primary street setback area. The carport and shade sails comply with the R-Codes and TPS 2. Therefore it is recommended that this component of the application be approved by Council.

The solid fencing infill does not satisfy the design principles of the R-Codes in terms of sightlines and its impact on the streetscape. It is therefore recommended that this component of the application be refused by council.

PD55.15	Proposed Basic Scheme Amendment No. 207 of Town Planning Scheme No. 2 – Modification to Clause 2.5 (c) of the Dalkeith Redevelopment Special Control Area Provisions
----------------	---

Committee	1 December 2015
Council	15 December 2015
Applicant	City of Nedlands
Owner	N/A
Officer	Kate Bainbridge – Senior Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	PLAN-PA-00012
Previous Item	14.1- 13 December 2011
Attachments	1. Amendment Report

1.0 Executive Summary

The purpose of this report is to recommend to Council the preparation of a ‘basic’ Scheme Amendment in relation to the Dalkeith Redevelopment Special Control Area Provisions (Originally Amendment No. 192)

Although Council has recently resolved not to pursue any further amendments to TPS2, the new *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations) which came into force on the 1 October this year provide a mechanism for administrative errors to be changed without the need to go through the full scheme amendment process. The changes to Regulations have created three streams of amendments with one of the purposes to permit Scheme Amendments which are basic in nature – such as administrative changes only – to be progressed more simply and quickly.

In accordance with legal advice received in 2012 with regard to Amendment No. 192, it has been identified that there are wording anomalies in Clause 2.5 (c) which limit the power of Clause 1.5 of the general provisions to permit discretion to vary the required setbacks within the Dalkeith Redevelopment Special Control Area provisions. This amendment seeks to rectify this anomaly to ensure consistency within the provisions.

The reason for the Western Australian Planning Commission (WAPC) suggesting this scheme amendment be progressed is to provide certainty for the landowners of the

area. Landowners are in the early stages of planning for the site and would appreciate more certainty whilst they are working on preliminary designs. The current anomalies will be expected to be rectified in TPS No.3 however, despite the recent developments on TPS No.3, the final gazettal is still not expected for some time to come.

A basic amendment can be expected to be completed in 2-3 months. This could result in the Scheme being amended by as early as March 2016.

A copy of the proposed scheme amendment report is an attachment to this report.

If Council resolves to 'prepare' the amendment, it will then be referred to the EPA to determine if assessment is required and also the Western Australian Planning Commission for consideration.

2.0 Recommendation to Committee

Council resolves that the City of Nedlands pursuant to Section 72 of the *Planning and Development Act 2005*, amend Town Planning Scheme No. 2 by modifying Clause 2.5 (c) of Appendix VI to state the following:

“All setbacks are minimums unless stipulated on a Precinct Plan.”

The amendment is basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

- 1. The amendment is considered to rectify an administrative error to remove the conflict between Clauses 1.5 and 2.5 (c) of Appendix VI by modifying Clause 2.5 (c) to ensure Clause 1.5 is given full effect.**

3.0 Strategic Community Plan

KFA: Governance and Civic Leadership

Regular review of the City's Town Planning Scheme No. 2 ensures that it remains relevant to the local community.

4.0 Legislation

- *Planning and Development Act 2005* (Act).
- *Planning and Development (Local Planning Schemes) Regulations 2015*.
- City of Nedlands Town Planning Scheme No. 2 (TPS2).

The procedure for processing a basic scheme amendment is outlined in Part 5, Division 4 of the Regulations. Should Council elect not to 'prepare' an Amendment to the City's TPS2, under s76 of the *Planning and Development Act 2005*, the Minister for Planning may direct the City to prepare the Amendment.

5.0 Budget / Financial Implications

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

Due to the Scheme Amendment being considered basic, there are minimal costs involved with the preparation and progress of the application which can be covered within the existing approved budget.

6.0 Risk management

By failing to progress this proposal Council misses the opportunity to ensure consistency and clarity in the provisions of the Dalkeith Redevelopment Special Control Area.

7.0 Background & Discussion

The Dalkeith Special Control Area is governed by provisions contained within Appendix VI of TPS2. The conflicting clauses in question are as follows (with conflicting statements highlighted in bold.)

1.5 Discretion

*Council **may vary** clauses in these guidelines, with the exception of building height, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, setbacks and land use and side (north/south) laneways.*

2.5 Setbacks

(c) *All setbacks are minimums unless stipulated on a Precinct Plans and **are not discretionary** in order to ensure high quality amenity.*

As part of the WAPC's modifications to Amendment No. 192, Clause 1.5 was modified to permit discretion to vary some of the provisions of the Dalkeith Redevelopment Special Control Area. However, modification to Clause 2.5 (c) was overlooked and hence Clause 2.5 (c) prevails over Clause 1.5 and does not permit Council discretion to vary the setbacks required.

The City received correspondence on the 20th October 2015 from the Department of Planning requesting that the phrase "*and are not discretionary in order to ensure high quality amenity*" be deleted from Clause 2.5 (c) in order to ensure Clause 1.5 is given full effect in accordance with the intention to permit exercise of discretion with respect to setback requirements.

The Department of Planning's request is also consistent with legal advice requested by the City from McLeods Barristers and Solicitors which was received on the 28th June 2012 which also recommended that the City correct the anomaly between Clauses 1.5 and 2.5 (c) of the Dalkeith Redevelopment Special Control Area provisions.

It should be noted that the modification of Clause 2.5 (c) will not result in the setback provisions being able to be varied in all or any circumstance as Council will retain the right to refuse an application for a variation of setbacks required under the provisions.

The amendment is considered basic in nature under Clause 34 (a) and as such does not require community consultation under Division 4 of the Regulations. If Council resolves to 'prepare' the Scheme Amendment, the Scheme Amendment Report shall be forwarded to the Environmental Protection Authority (EPA) to determine if assessment is required and also to the Western Australian Planning Commission (WAPC) for further assessment/determination.

If the Scheme Amendment is approved by the Minister of Planning and then endorsed by the WAPC, the City is required to advise the community via advertisement in a Newspaper which circulates the district in accordance with Clause 64 of the Regulations.


8.0 Conclusion

The proposed Scheme Amendment is to modify Clause 2.5 (c) of Appendix VI to remove conflict with Clause 1.5 which has the purpose of permitting discretion to vary the setback requirements of the Dalkeith Redevelopment Special Control Area Provisions.

The amended is considered basic in nature as it seeks to correct an administrative error caused when there was a modification of Clause 1.5 of Appendix VI by the Western Australian Planning Commission as part of Amendment No. 192 to TPS2.

In order to provide further certainty for landowners, given that there is an error, it is recommended that Council resolves to 'prepare' the Scheme Amendment and refers to the EPA to determine if assessment is required and to the WAPC for further assessment/determination.

PD56.15	(Lot 300) No. 3/29 Asquith Street, Mount Claremont – Proposed Change of Use (From Lunch Bar to Restaurant)
----------------	---

Committee	1 December 2015
Council	15 December 2015
Applicant	K Hughie-Williams
Landowner	Burgess Rawson
Officer	Mr A D Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2015/364 – AS2/29
Previous Item	Item PD40.15 – 22 September 2015
Attachments	1. Site Plan (A3) 2. Floor Plan (A3)

1.0 Executive Summary

A development application has been received which seeks approval to allow a restaurant to operate from Unit 3 of the Mount Claremont Shopping Centre, which was approved as a lunch bar by Council at its September 2015 Ordinary Meeting.

The operation of a restaurant at the premises would result in an additional shortfall of 15 car bays, a total shortfall of 85 car bays on site, therefore the proposal was advertised to nearby landowners for comment, and during the advertising period 2 objections and 6 non-objections were received. Subsequent to this, 3 additional objections were received.

The application has been referred to Council for determination, as officers do not have the delegation to determine an application under instrument of delegation 6A, where specific objections have been received.

The restaurant results in a significant additional car parking shortfall and as such it is recommended that Council refuses the application.

1.1 Recommendation to Committee

Council refuses the application for a change in use (from a lunch bar to restaurant) at (Lot 300) No. 3/29 Asquith Street, Mount Claremont, for the following reasons:

1. An insufficient number of car bays are provided for the proposed use, thus potentially creating safety issues for pedestrians and other road users due to vehicles being illegally parked.
2. The proposed use does not satisfy the conditions and standards of clause 5.5.1 and clause 6.4.2 of the City of Nedlands Town Planning Scheme No.2, due to insufficient car parking.

1.2 Alternative Recommendation to Committee

Council approves the application for a change in use (from a lunch bar to restaurant) at (Lot 300) No. 3/29 Asquith Street, Mount Claremont, subject to the following conditions:

1. The development shall at all times comply with the approved plans, the exception being that a maximum of 6 tables and 20 chairs are only permitted on the premises for customers.
2. No unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
3. The operating hours of the lunch bar are restricted to:
 - a. Monday and Friday 7.00am to 6.30pm;
 - b. Saturday 7.00am to 4.00pm; and
 - c. Sunday 7.00am to 2.00pm.
4. Service and/or delivery vehicles shall not service the premises before 7.00am or after 7.00 pm Monday to Saturday, or before 9.00 am or after 7.00 pm on Sundays and Public Holidays;

Advice Notes specific to this approval:

1. The applicant is advised that a separate development application is required to be submitted and approved by the City if they intend on either increasing the seating area and/or seating numbers on the premises.
2. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.
3. The restaurant complying with Australian Standard AS1668.2 – 2012 and AS 2444-2001, and all the City's Environmental Health requirements attached to this development approval.

2.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the requirements of Town Planning Scheme No. 2 (TPS 2).

3.0 Legislation / Policy

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (TPS 2).
- Council Policy – Neighbour Consultation.

4.0 Budget / Financial Implications

The proposal is for works to be constructed on a private lot, and therefore has no immediate budget or financial implications for the City, however should Council refuse the application, there may be financial implications through an appeal of Council's decision.

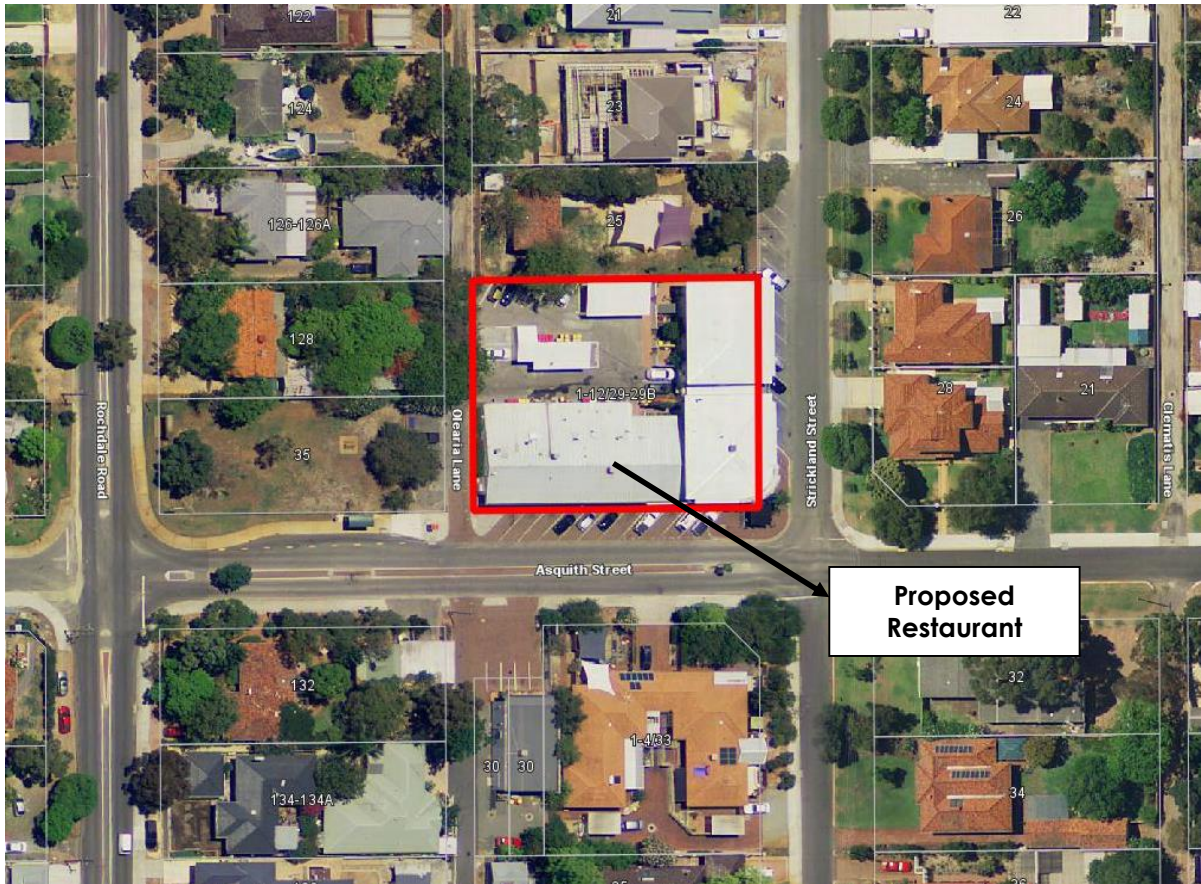
5.0 Risk Management

Not applicable.

6.0 Background

Property address	(Lot 300) No. 3/29 Asquith Street, Mount Claremont	
Lot area	2,023m ²	
Zoning/ Reserve	MRS	Urban
	TPS 2	Retail Shopping

The subject site has frontages to Asquith Street, Strickland Street and Olearia Lane, and the existing building on the site consists of residential and commercial premises. The commercial uses include shops, an office and the Deli Chicchi restaurant. Nearby properties contain dwellings, and commercial activities such as offices and the Annie's Child Care Centre as seen in the location plan on the next page.



7.0 Discussion

The application seeks approval to allow a restaurant to operate from Unit 3 of the Mount Claremont Shopping Centre.

Primarily customers will be able to purchase meals (e.g. cooked breakfasts) to consume on the premises and/or purchase sandwiches and similar foodstuffs which can be consumed on or off the premises.

The details of the application are as follows:

- g) The business operates between Monday and Friday 7.00am to 6.30pm, Saturday 7.00am to 4.00pm, and Sunday 7.00am to 2.00pm.
- h) A total of 9 staff shall be on site at any one time.
- i) The peak hours of operation are between 12.00pm and 1.30pm, and 5.00pm and 5.45pm daily. Fridays and Saturdays being the busiest.
- j) Tables able to accommodate up to 20 persons are proposed to be available based on details provided by the applicant.

Refer to Attachments 1 and 2.

7.1 Consultation

The proposal was advertised for 21 days to nearby landowners for comment in October and November 2015 due to a shortfall in the required amount of car bays. During the advertising period 2 objections and 6 non-objections were received. Subsequent to this, 3 additional objections were received. The following is a summary of the concerns raised:

- i. There being not enough on site car bays available;
- ii. The change in use potentially resulting in an increase in noise levels;
- iii. The shortage in car bays resulting in vehicles parking illegally along nearby streets and subsequently obstructing the sightlines of drivers leaving their residential properties; and
- iv. There currently not being enough toilets should the restaurant be approved by Council.

The impact of the restaurant on car bay demand and the area's amenity is discussed in the following sections.

7.2 Town Planning Scheme No. 2

The following provisions of TPS 2 apply to such proposals.

7.2.1 Existing Car Parking Demand

Thirteen (13) car parking bays exist on the entire site, all at the rear of the buildings (refer to Attachment 1). The existing tenancies on the property require a total of 83 car bays, a deficit of 70 car bays therefore exists. The lunch bar operating at Unit 3 requires up to 9 car bays.

In addition, 8 car bays exist on the opposite side of Olearia Lane on 35 Asquith Street, and immediately adjoining the property are 11 on street car bays along Asquith Street and 13 on street car bays along Strickland Street.

The City frequently receives complaints from residents about vehicles allegedly used by those visiting the Mount Claremont Shopping Centre, obstructing driveways, parking on registered verges and overstaying in time restricted car bays. Previously the City has received a petition containing 441 signatures from landowners requesting the City to increase the number of car parking bays for the Mount Claremont Shopping Centre. The City is currently investigating where additional on street car bays could be provided.

7.2.2 Future Car Parking Demand

The following TPS 2 car parking requirements would apply to the restaurant:

Car Parking Provision	Car Parking Requirement	Car Bay Shortfall
<p><i>Restaurant</i></p> <p>1 bay per 2.6sqm of restaurant seating area (the restaurant seating area being 62sqm); or 1 bay per 2 persons. Whichever is greater (being up to 20 persons).</p> <p>In this case the seating area is the greater.</p>	<p>24 car bays required in lieu of 9 car bays required for the existing lunch bar.</p>	<p>An additional shortfall of 15 car bays, a total shortfall of 85 car bay for the shopping centre.</p>

7.2.3 Amenity

TPS 2 Clause	Assessment Comment
<p><i>“5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned”</i></p>	<p>The City is aware of car parking difficulties within the vicinity, and the impacts this is having on the amenity of the area as reflected by the number of complaints and the petition received from nearby landowners.</p> <p>The impact of a restaurant with an additional 15 car bays required, compared with the existing lunch bar, would have a significant impact in terms of car parking given there is already a significant shortfall in the area.</p>
<p>Under clause 6.4.2 (Consideration of Applications) under TPS 2 the following provisions are to be taken into consideration:</p> <p>(a) The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental</p>	<p>Compared with the authorised lunch bar use for Unit 3, the nature of the proposed restaurant use will mean that the demand for car bays in proximity to the shopping centre shall be greater as it is a more intense use of the unit.</p>

<p>impact by way of its hours of operation, illumination, emission of any kind and the effect on any use or development within the locality;</p> <p>(b) the vehicular and pedestrian access, including on-site circulation and provision for deliveries will not create any danger; and</p> <p>(c) the vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns.</p>	
---	--

7.3 Other Matters of Concern

During the advertising period concerns were also received with regard to more toilets being required for the shopping centre and noise levels increasing due to the restaurant operating. With regard to these concerns the following is advised:

- a) There is no evidence to suggest that noise levels shall significantly increase as a consequence of operating as a restaurant compared to a lunch bar. If the application is approved by Council it would be required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- b) Adequate staff and public sanitary conveniences shall be required to be provided in accordance with the Building Code of Australia should Council approve the application.


8.0 Conclusion

A restaurant use is deemed to be a more intense use of the unit than the current approved use of a 'Lunch Bar'. It is considered that there is inadequate provision of car parking to meet the predicted demand if the use is approved by Council.

As customers primarily consume food and drink on the premises the increased frequency and longer term occupancy rate for the onsite car parking bays would result in car bays being less regularly available for customers visiting the shopping centre.

For these reasons it is recommended that the application be refused by Council. However, an alternative recommendation has been provided in case Council resolve to approve the application instead.

PD57.15	Boundary Adjustment 120 Montgomery Road Mt. Claremont
----------------	--

Committee	1 December 2015
Council	15 December 2015
Applicant	Western Power and City of Nedlands
Owner	Western Power and City of Nedlands
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	MO2/120
Previous Item	Nil

1.0 Executive Summary

Administration are seeking endorsement from Council for Western Power to proceed with the process to adjust the boundaries between two parcels of land at 120 Montgomery Road Mt. Claremont. This is in order to achieve a more useable shape to both parcels and allow the ultimate disposal by Western Power of its parcel of land which is surplus to requirements.

2.0 Recommendation to Committee

Council:

- 1. Endorses Western Power initiating the process to adjust the boundaries between its parcel of land at 120 Montgomery Road Mt. Claremont and the adjacent parcels of land vested in the City of Nedlands as Public Purpose Recreation. All costs associated with this process are to be borne by Western Power.**

3.0 Strategic Community Plan

KFA: Governance and Civic Leadership

This report addresses the good management of City assets.

4.0 Legislation

- Planning and Development Act 2005 (Act).
- City of Nedlands Town Planning Scheme No. 2 (TPS2).

5.0 Budget / Financial Implications

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

The process of a boundary adjustment as proposed by Western Power does not have a financial implication for the City as Western Power is covering all costs.

6.0 Risk management

There is minimal risk to Council in adopting the proposed recommendation as at worst it will create two more useable parcels of land with Council retaining the same amount of land as it did previously.

7.0 Discussion

There are two main parcels of land located at 120 Montgomery Road Mt. Claremont which are owned/vested in both Western Power and the City of Nedlands. The parcel belonging to Western Power was originally set aside as a potential location for power supply infrastructure. The parcel has frontage to Montgomery Road via an access way but is surrounded by a narrow strip of land vested as reserve with the City of Nedlands and has no current formalised use.



Western Power have advised that they no longer require their parcel of land and are proposing a boundary adjustment between the various parcels in order to create, in effect, two regularly shaped allotments that may have a greater variety of uses into the future.



Western Power ultimately wish to seek a re-zoning of their amended parcel of land from “Public Purposes” to a residential zoning in order to dispose of the land. The balance lot would remain as part of the Council reserve but be of a more useable shape and therefore may be able to be better utilised.

This report is simply seeking Council agreement to Western Power initiating the boundary adjustment process. The re-zoning of the land could only occur either through the development of new Local Planning Scheme 3 (LPS3) or by way of a Scheme amendment which the Council will only entertain after LPS3 is completed.

Approval from the WAPC will be necessary for the boundary realignment, which the City will be asked to provide comment on as part of the assessment process. A Bushfire Attack Level Assessment will need to be undertaken by Western Power in accordance with the WAPC’s Bushfire Protection Guidelines as the property falls within a Bushfire Prone Area, and be provided as part of the boundary re-alignment application lodged with the WAPC.

8.0 Conclusion

Administration are seeking endorsement from Council for Western Power to proceed with the process to adjust the boundaries between two parcels of land at 120 Montgomery Road Mt. Claremont. This is in order to achieve a more useable shape to both parcels and allow the ultimate disposal by Western Power of its parcel of land which is surplus to requirements.