

Planning and Development Reports

Committee Consideration – 4 December 2018

Council Resolution – 18 December 2018

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PD66.18	No. 29A Carrington Street, Nedlands – Proposed Animal Establishment (Dog Day Care) (Use Not Listed)
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Committee	4 December 2018
Council	18 December 2018
Applicant	Canine Lounge
Landowner	A and D Oggenis
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/31110
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Photograph of the subject property

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received on 6 September 2018 for a dog day care to operate at 29A Carrington Street, Nedlands.

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy due to the proposal being classified as a use not listed under Town Planning Scheme No. 2 (TPS 2).

Twelve (12) objections and 1 non-objection were received during the advertising period.

Considering the scale and nature of the proposal it is assessed that the proposal is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the development application dated 6 September 2018 to operate a dog day care business at Lot 387 (29A) Carrington Street, Nedlands, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite**
- 3. No animals shall be kept on the premises overnight.**
- 4. No more than two staff members being on site at any given time.**
- 5. A maximum of 30 dogs are permitted on site at any one time.**

6. The recommendations in the environment noise assessment prepared by EcoAcoustics dated 23 August 2018 being implemented prior to the business commencing, and be complied with thereafter by the applicant, to the City's satisfaction.
7. The recommendations under sections 3 to 6 of the waste management plan prepared by Move Consultants dated August 2018 being implemented prior to the business commencing, and be complied with thereafter by the applicant, to the City's satisfaction.
8. An amended site plan being provided as part of the building permit application which shows at least 1 acrod (disabled) car parking bay being provided on site in accordance with AS 2890.6 2009 and AS 1428.1 2009.
9. The acrod bay is to be provided on site prior to the use commencing.
10. Prior to the use commencing 2 of the onsite car parking bays being marked by the applicant as being for staff only, to the City's satisfaction.
11. The onsite car parking bays for the unit being continually maintained by the applicant to the City's satisfaction.
12. The use only being permitted to operate between Monday and Friday 7:30am and 6:00pm (excluding public holidays).
13. No dogs being kept on the premises outside of the permitted operating hours.
14. Dog care spaces are to be booked in advance with no 'same day' 'drop-ins' permitted.
15. Service and/or delivery vehicles shall not to service the premises before 7:00am or after 7:00pm Monday to Saturday or before 9:00am or after 7:00pm on any Sunday or public holiday, unless otherwise approved by the City.
16. The signage being maintained by the applicant to the City's satisfaction.

Advice Notes specific to this proposal:

1. 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.
2. A separate development applicant is required to be lodged with and approved by the City prior to installing any further signage not part of this approval, and if the number of dogs and/or staff stipulated in this approval is proposed to be increased.
3. Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997*.

4. **The business shall not commence operating unless a Trade Waste Permit has been issued by the Water Corporation and/or the Water Corporation is satisfied with the premises' drainage to sewer;**
5. **No washing or cleaning activity or disposing of liquid wastes is to occur outside the building, or anywhere except as permitted by the Water Corporation;**
6. **Arthropod pests and rodents shall be controlled such they are not harboured or allowed to breed at the premises;**
7. **The premises shall be kept clean and sanitary and waste shall be kept frozen and contained in bags in dedicated freezers inside the premises building. Frozen bagged waste shall only be placed in rubbish bins on collection day;**
8. **The applicant should ensure that they comply with the Pet Industry Association's Standards and Guidelines for Best Practice - Boarding Facilities/Establishments and Doggy Day Care Centres.**

3.0 Background

3.1 Land Details

Land area	696m ²
Local Planning Scheme Zone	Light Industry
Metropolitan Region Scheme Zone	Urban

3.2 Previous Application

In February 2004, approval was granted for a hire service business at the premises with a shortfall of 4 car bays on site. The approved plans show 3 car bays adjacent to the Carrington Street side of the property, with a loading area/bay immediately adjacent to the property shown. This use has since ceased to operate.

3.3 Locality Plan



4.0 Application Details

The applicant seeks approval for a dog day care to operate from the premises, details of which are as follows:

- Up to 30 dogs per day are proposed at the premises;
- A maximum of 2 staff are proposed to be on site at any one time;
- The proposed hours of operation are between Monday and Friday 7.30am to 6.00pm (excluding public holidays);
- Drop-off and pick-up times are proposed to be between 7.30am and 8.30am, and 4.30pm and 6.00pm. Half day care is also proposed to be available, with drop-off and pick-up times between 12.00pm and 1.00pm;
- Dog care spaces are proposed to be booked in advance with no 'same day' 'drop-ins' permitted;
- A Waste Management Plan and an Environmental Noise Assessment were commissioned by the applicant which show that the use would comply with the requirements;
- A traffic Engineering Review commissioned by the applicant concludes that the use is unlikely to create traffic and/or parking issues; and
- Three on site car parking bays are proposed to be available on the Carrington Street side of the property. Four street car parking bays are proposed to immediately adjoin the building where previously a loading bay/area was approved to be located.

5.0 Consultation

The application was advertised in accordance with clause 2.1 of Council's Neighbour Consultation Policy. Twelve (12) objections and 1 non-objection were received during the advertising period. The following is a summary of the concerns raised:

- Potential car parking issues if the application is approved;
- Vehicles reversing onto Carrington Street potentially creating safety issues;
- Potential noise impacts on nearby properties;
- Dogs potentially remaining on the premises overnight if not collected by their owners;
- Potential impact on property prices;
- Dogs being escorted to and from the building potentially being a risk to passers-by.
- There already being similar uses nearby already; and
- Use of Carrington Street dog park by the dog day care.

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

Under the Regulations a dog day care is deemed to be an animal establishment which under the Regulations is defined as being the following:

“animal establishment means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre.”

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Light Industry.

A 'Dog Day Care' (Animal Establishment) is a use not listed under TPS 2.

6.3.1 Amenity

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.”

In accordance with provisions (m), (n) and (s) of the Regulations clause 67, due regard is to be given to the potential impact the proposal will have on the local amenity, and the availability of car parking bays.

6.3.2 Car Parking

Under Schedule III (Carparking Requirement by Use Class) of TPS 2 no requirements are stipulated for such a use therefore the required number of bays is at Council's discretion.

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

Having had regard to the matters stipulated under the Regulations and the submissions received, the following is advised:

9.1 Car Parking

The proposed car parking supply for the site is 3 on-site bays for staff, located at the front of the premises.

Four (4) street car parking bays are adjacent to the premises.

A 4-car bay shortfall currently exists for the entire property.

Parking on Carrington Street limited to 30 minutes between 8am and 6pm Monday to Friday and 8am to 1pm on Saturday.

It is anticipated that clients will spend a maximum of 5 minutes during drop off and collection times. Dog care spaces are booked in advance with no same day 'drop-ins' permitted.

Service and delivery vehicles are proposed to undertake activities outside of peak periods.

A traffic engineering review (TER) was provided by the applicant to demonstrate how vehicle movements and parking can be accommodated for the business. The review concludes that peak hour traffic and parking for morning and afternoon drop-off and collection can be accommodated based on available parking on Carrington Street.

The City engaged a Traffic Consultant to review the TER received and they advised the following:

“We agree that the total trips would remain well below the WAPC assessment threshold of 100 trips per day.”

“This is a change of use. It does not appear that the TER has deducted the previous use from the existing background traffic. This reinforces the view that the traffic impact would be minimal.”

“We concur that sight distance is adequate at this location.”

“We agree that the parking supply proposed is sufficient for normal use. The random nature of customer arrival times means that there is a probability of the parking demand exceeding supply for short periods of time. This is unlikely to have a significant impact due to the availability of nearby street parking and the short-term nature of customer parking.”

“The TER asserts that short term parking by business clients is a reasonable use of the public street. We concur because:

- *In a commercial area, with street frontage, it is normal for business customers to use street parking; and*
- *The forward bays of the tandem arrangement would be used by staff and the rear tandem bays would generally be used by customers who stay for a very short time. Blocking in is unlikely.”*

Considering the above, the proposal is unlikely to have a significant impact on the availability of car parking within the local area and/or on traffic safety.

9.2 Noise

The applicant has submitted an Environmental Noise Assessment which was reviewed and is considered to sufficiently address the noise related concerns.

If the application is approved a condition of approval is recommended requiring that the business (applicant) comply with the management recommendations included in the Environmental Noise Assessment at all times which include the following:

- Internal pens are to have soft fall floors, such as rubber matting or the like;
- Investigations to be made into the installation of an acoustically absorptive panelling on either the ceiling or walls. Such products could include:
 - perforated timber panelling internally lined with insulation;
 - Basotect (or similar) panels cut into shapes and directly fixed to the walls;
 - Autex ABC absorptive panels directly fixed to the walls/ceiling; or
 - Rigid wall insulation panels (black faced) cut into shapes and directly fixed to the walls.

Any noise from barking dogs will be managed in terms of the recommendations contained in the Noise assessment.

The Noise Assessment also advises that the dog day care centre proposed will not allow for the overnight boarding of dogs within the premises.

Considering the above, the proposal will comply with the *Environmental Protection (Noise) Regulations 1997* if the recommendations contained within the Noise Assessment are implemented.

Concerns were raised during the advertising period regarding dogs potentially remaining on the premises overnight if not collected by their owners and the noise issues this may create. The applicant has advised the following in response:

“Under no circumstances will dogs stay overnight at the premises. This would be ignoring my duty of care to them. Each owner will have to provide contact details of two additional people who will be allowed to pick up the dog and will be contacted if the primary carer has not picked up the dog. There will be a late pickup fee payable as well as the risk of being banned from using the facility. If, despite these precautions, the dog is still not collected, I will take it home with me overnight.”

If the application is approved by Council, it is recommended that a condition be included stating that no dogs are to remain on the premises outside of operating hours.

9.3 Waste Management

The applicant has submitted a waste management plan which was reviewed, and this is considered to be acceptable to the City.

If the application is approved by Council, it is recommended that a condition be included which requires the landowner to implement the management recommendations included under sections 3 to 6 of the waste management plan.

9.4 Other Matters

During the advertising period concerns were received in relation to:

- the potential impact on property prices;
- there already being similar uses nearby already; and
- use of the nearby dog park by the business.

Council is not required to have regard to matters relating to potential impacts on property prices and/or similar uses already existing when determining the application, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Regarding those associated with the proposed business using the Carrington Street dog park, there is no restriction prohibiting the applicant from using the park to exercise dogs as long as it is in accordance with the City's Dogs Local Law.

Considering the scale and nature of the proposal it is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

PD66.18 - Attachment 1
Photograph of the subject property



PD67.18	No. 2/23 Carrington Street, Nedlands – Proposed Additional Customer Seating (Retrospective) for Brick Alley Café – Change of Use Restaurant
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Committee	4 December 2018
Council	18 December 2018
Applicant	L and F Martin
Landowner	L and F Martin
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/29389
Previous Item	Item PD06.18 – February 2018
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Photographs of the subject property

1.0 Executive Summary

The purpose of this report is for Council to consider a retrospective development application received from the applicant on 7 June 2018 for 13 additional customer seats to remain at 2/23 Carrington Street, Nedlands. The land use approved for the site is "Lunch Bar" however the site is currently operating as a café (restaurant) within the Light Industrial area which is a prohibited land use and therefore cannot be approved.

Plans received for the application were advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One (1) objection was received during the advertising period which raised concerns regarding:

- Potential car parking issues if the application is approved.
- Potential noise impacts on nearby properties.

Given that the scale of the land use has exceeded its current approval by which reclassifies the land use from "lunch bar" to 'restaurant' the City is concerned about potential land use conflicts within this light industry zoned site and does not believe that a restaurant café is an appropriate land use for this zone. Accordingly, it is recommended that the Council refuse the application for retrospective additional seating which reclassifies the land use to restaurant (including café) which is a prohibited land use in the Light Industry zone.

Under draft Local Planning Scheme No. 3, the property is proposed to be zoned Service Commercial. Within this zoning, a restaurant/café would not be permitted.

2.0 Recommendation to Committee

Council refuses the retrospective development application dated 7 June 2018 to increase the number of customer seats from 6 to 19 resulting in a Change of Use from Lunch Bar to Restaurant at Lot 102 (2/23) Carrington Street, Nedlands, for the following reasons:

1. The current retrospective operating land use being deemed to be a restaurant which is a use not permitted within the Light Industry zone under Table 1 (Use Class Table) of Town Planning Scheme No. 2.
2. The development and use are contrary to the terms of an approved development application for a lunch bar and contrary to conditions attached to that approval in accordance with Clause 6.6b of Town Planning Scheme No. 2.
3. A restaurant (café) land use located in a light industrial zone contravenes orderly and proper planning and gives rise to potential future and current land use conflict in the light industrial zone.
4. As a restaurant the proposal land use does not comply with Schedule III – Car Parking Requirement by Use Class of Town Planning Scheme No.2 representing a 17-car parking bay shortfall.
5. The proposal does not satisfy provisions (m), (n) and (s) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal will likely create car parking issues within the locality considering its nature and scale.

Advice to Applicant

1. The current approval for lunch bar dated February 2018 remains valid and the conditions associated with land use and numbers of customer seating forms part of that approval and shall be complied with. The applicant is required to remove the additional unauthorised seating including outdoor tables and chairs within 14 days of receipt of Council's decision in order to avoid compliance action in accordance with the *Planning and Development Act 2005*.
2. The applicant is advised that if it wishes to operate a Café "Restaurant" on this site in this light industrial zone that they may apply for an application to amend the Town Planning Scheme for an Additional Use "Restaurant" and provide all relevant information to the City in accordance with the *Planning and Development Local Planning Scheme Regulations (2015)* Through that statutory process the City will consider whether or not in this particular instance, a Café "Restaurant" land use should be permitted as an exception to the Scheme, Table 1 Use Class Table and determine whether or not it is appropriate within the light industry zone.
3. The applicant is advised that the existing wall signage on the external façade of the building is to be removed within 14 days from the date of this decision to the City's satisfaction. Alternatively, a separate (retrospective) development application is required to be submitted within 14 days from the date of this decision for it to possibly remain.

3.0 Background

3.1 Land Details

Land area	1,392m ²
Local Planning Scheme Zone	Light Industry
Metropolitan Region Scheme Zone	Urban

3.2 Previous Application

In February 2018, Council resolved to approve an application for a lunch bar to operate at the subject property. This was subject to the following conditions, amongst others:

- “1. The development shall at all times comply with the approved plans;
2. The proposed use complying with the lunch bar definition stipulated under the City's Town Planning Scheme No. 2 (refer to advice note 1).”
- “5. A maximum of 6 seats being available for customers.”
- “8. The lunch bar only being permitted to operate between Monday and Friday 6.00am to 5.00pm, and Saturdays 7.00am to 4.00pm.”

Subsequently the City became aware during an inspection of the premises that 19 customer seats were available.

3.3 Locality Plan



4.0 Application Details

The applicant currently seeks retrospective development approval for additional customer seating but has not indicated that this will result in a land use re-classification to “restaurant”. The details of which are as follows:

- The applicant has stated that the premises are proposed to continue to be used as a lunch bar and be operated by 3 staff, 2 of whom are also employed to work in a commercial kitchen at Unit 1;
- Pre-packaged food such as toasties and sandwiches, cooked breakfasts, coffee and soft drinks are proposed to be available for customers;
- A maximum of 19 seats are proposed to be available for customers; and
- The use is proposed to operate between Monday and Friday 6.30am to 2.00pm, and Saturdays 7.30am to 1.00pm.

With the exception of the hours of operation and the proposed number of customer seats the way the business operates is to remain unchanged compared to when it was approved by Council previously as a lunch bar.

5.0 Consultation

The application was advertised in accordance with clause 2.1 of Council’s Neighbour Consultation Policy. One (1) objection was received. The following is a summary of the concerns raised:

- Potential car parking issues if the application is approved.
- Potential noise impacts on nearby properties.

In addition to the submission a petition was received from the applicant which contains 103 signatures in support of the proposal.

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

6.2 Metropolitan Region Scheme

The subject site is zoned ‘Urban’ under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Light Industry.

The uses Lunch Bar and Restaurant are defined as being the following under clause 1.8 (Interpretations) of TPS 2:

“Lunch Bar - means premises used for the preparation and/or sale of take-away sandwiches and similar foodstuffs within industrial and commercial areas in a form ready to be consumed without further preparation off the premises.”

“Restaurant - means a building wherein food is prepared solely for sale and consumption within the building or portion thereof and (without limiting the generality of the foregoing) the expression includes a licensed restaurant, or cafe. The expression also includes a restaurant at which food for consumption outside the building, or portion thereof, is sold where the Council is of the opinion that the sale of food for consumption outside the building is not the principal part of the business. The expression shall also include an outdoor establishment and in that case for the purpose of this definition, the outdoor eating area shall be treated as being within the building of the restaurant;”

6.3.1 Amenity

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.”

In accordance with provisions (m), (n) and (s) of the Regulations clause 67, due regard is to be given to the potential impact the proposal will have on the local amenity, and the availability of car parking bays.

6.3.2 Car Parking

Under Schedule III (Carparking Requirement by Use Class) of TPS 2 no requirements are stipulated for a lunch bar therefore the required number of bays is at Council's discretion.

As a restaurant land use the requirement for car parking is 1 bay per 2.6m² of restaurant seating area, or 1 per 2 persons, whichever is greater. Persons means the number of persons for which a building has been designed or for whom seating is provided. Employee means any person employed in the building.

The seating area is approximately 32m² and 19 customer seats are proposed, therefore requires 19 car parking bays to be provided and contained on site.

The applicant has provided 2 on site car bays and therefore does not comply with the requirements of TPS 2.

6.3.3 Contravention and Non-Compliance

Clause 6.6 of the Scheme states that:

Subject to the Act a person shall not:

b) erect, alter or add to any building or carry out any other development or use contrary to the provisions of the Scheme or contrary to the terms of any approval by Council or the approved plans, or contrary to any condition attached to such approval.

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

The retrospective approval sought does not comply with Clause 6.6b of the Scheme whereby the application is contrary to the provisions regarding land use and Table 1 and is operating contrary to conditions imposed relating to land use type and numbers of seating. It is a condition of Council's previous approval that the use complies with the lunch bar definition under TPS 2. The definition specifically refers to the preparation and/or sale of take away sandwiches and similar foodstuffs. The applicant has submitted that Cooked breakfasts are available for customers. These are not deemed to be "similar foodstuffs" under the lunch bar definition. There is no reference in Council's previous decision to cooked breakfasts being able to be served nor does it accord with a lunch bar "take away" focussed land use.

Upon inspection and review of the menu available online, the operating business "Brick Alley Café" is serving a wider range of food beyond that would be expected from a lunch bar and more aligned with what you would find from a café restaurant as alluded to in the name of the business.

From the inspection the cafe is operating as a sit down, eat and drink experience with the option of taking food and drink away, including tables and chairs set up in the private lane way. The operation is not designed as a "lunch bar" for convenient packaged food and is clearly named as a café.

Operating as a restaurant means that potentially customers are likely to remain on the premises for longer compared with a lunch bar which is primarily take away food, and therefore nearby car parking bays are likely to become less frequently available for this and other nearby businesses. It is however noted that the business services local employees in surrounding businesses who may already be parking in the local area on another site or on the street. This, however, does not negate the non-compliance with car parking requirements for the restaurant (café) land use as required by the Scheme.

The tables and chairs present in the common driveway are not permitted. This is not the intention of the common driveway as it is to provide for vehicular and pedestrian access to all light industrial tenancies. This gives the City cause for concern in terms of potential land use conflict situations with current and potential future light industrial land uses. In effect a café restaurant is operating in a light industrial factory unit and permitted uses such as mechanical repair or panel beating could in the future potentially co-locate within the subject site and this is not deemed to be orderly and proper planning.

In addition to the above, signage exists at the premises stating “Brick Alley Café”. The TPS 2 definition for the restaurant land use includes a café.

The number of customer seats is proposed to be increased from 6 to 19 which aligns with to what can be expected for a cafe ‘restaurant’ land use.

The City has no discretion in the Scheme to approve a prohibited land use. The alternative pathway for the applicant is to apply to the City for an “Additional Use” by way of amending the Scheme. The City would then need to determine whether the land use is appropriate given the context of light industry and potential land use conflicts that may exist or be approvable in the future in a nearby proximity.

As the City has approved a lunch bar, which is deemed to be approvable and suitable in the Light Industry zone it is recommended by the City to the Applicant to comply with their original approval of February 2018 and revert their operations to a true “lunch bar” which is focussed on take away food sales rather than café / restaurant “sit down” meals.

Considering the above, the use is now deemed to be defined a restaurant which is not permitted within the Light Industry zone under TPS 2. According it is recommended that the retrospective application be refused.



PD68.18	No. 42 Kirwan Street, Floreat – Additions (Two Carports) to Existing Single Dwelling
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Committee	4 December 2018
Council	18 December 2018
Applicant	Classic Home & Garage Innovations Pty Ltd
Landowner	G Van Ierland and S Griffiths
Director	Peter Mickleson – Director Planning & Development
Reference	DA18-31588
Previous Item	Nil
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Photographs of the carports' proposed locations

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received from the applicant on 27 of September 2018, for two proposed carports at 42 Kirwan Street, Floreat.

The development proposes variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for lot boundary setbacks.

As part of the application one objection and one non-objection regarding the setback variations were received.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes and is unlikely to have a significant adverse impact on the local amenity as considered under the City of Nedlands Town Planning Scheme No.2 (the Scheme).

2.0 Recommendation to Committee

Council approves the development application dated 27 September 2018 for additions (two carports) to the existing single dwelling at Lot 179 (42) Kirwan Street, Floreat, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the carports behind the street setback area, one being adjacent to the property's eastern lot boundary and the other being adjacent to the western lot boundary.**
- 3. All footings and structures to the Carports, shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**
- 4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

Advice Notes specific to this proposal:

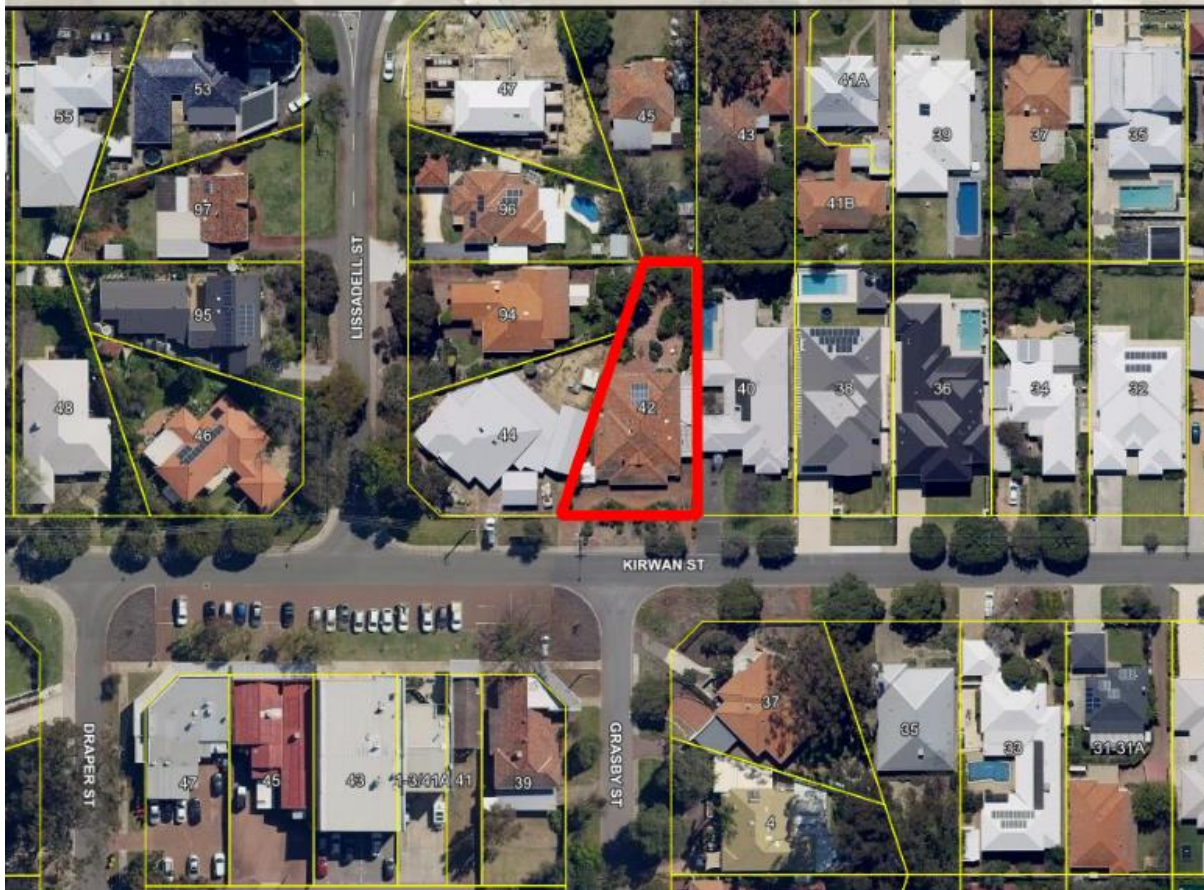
1. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
2. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.
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. 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.
4. 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 Background

3.1 Land Details

Land area	875m ²
Local Planning Scheme Zone	Residential R12.5
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

The applicant seeks approval to construct two carports, details of which are as follows:

- The proposed carports are to be flat roofed and located behind the property's street setback area.
- A carport is proposed to be setback 0.5m in lieu of 1m from the eastern (side) lot boundary.
- Another carport is proposed to be setback between 0.7m and 1m in lieu of 1m from the western (side) lot boundary.
- No alterations are proposed to be made to the existing driveways and/or crossovers.

5.0 Consultation

As part of the application one objection and one non-objection regarding the setback variations were received. The only concern raised was that the carport proposed adjacent to the western lot boundary was not setback in accordance with the requirements.

Note: A full copy of all relevant submissions received by the City has been given to the Councillors prior to the Council meeting.

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

6.3.1 Amenity

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."

6.4 Policy Consideration

6.4.1 Residential Design Codes (State Planning Policy 3.1) - Lot Boundary Setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
C3.1 Buildings which are setback in accordance with the following provisions, subject to any additional measures or elements in the R-Codes: i. Buildings setback from lot boundaries in accordance with Table 1, Tables 2a and 2b (refer to Figure Series 3 and 4).	A carport is proposed to be setback 0.5m in lieu of 1m from the eastern (side) lot boundary. Another carport is proposed to be setback between 0.7m and 1m in lieu of 1m from the western (side) lot boundary.	No

Design Principles

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

“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- reduce impacts of building bulk on adjoining properties;*
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”*

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

Having had regard to the matters stipulated under the Regulations and the submissions received, the following is advised:

9.1 Building Bulk

The proposed carports minimise the impact of building bulk on the adjoining properties in the following ways:

- Do not comprise large expanses of unarticulated blank wall surface;
- Are open ‘lightweight’ within height requirement; and
- Do not abut or adjoin any habitable rooms with major openings or any outdoor living areas.

9.2 Access to Direct Sunlight and Ventilation

The proposed carports maintain access to direct sunlight and ventilation to the adjoining properties in the following ways:

- The orientation of the property is north-south;
- The carports are located on the eastern and western lot boundaries and therefore do not restrict access to direct northern sunlight; and
- The open nature of the structures does not restrict ventilation or access to prevailing winds.

9.3 Minimising Loss of Privacy

The proposed carports minimise the extent of overlooking and loss of privacy to the adjoining dwellings in the following ways:

- Are non-habitable structures for the purpose of housing vehicles;
- Do not abut or adjoining any habitable rooms or outdoor living areas;

- Are situated adjacent to vehicle entry points and garages on both lot boundaries; and
- Existing dividing fencing along the western boundary provides effective screening.

9.4 Amenity

The proposed carports do not have an adverse impact on the amenity of adjoining properties or the locality as:

- They satisfy the relevant design principles of the R-Codes (as above);
- It is a form of development consistent with residential built form and consistent with the locality;
- They have minimal impact as viewed from the streetscape due to extensive screening vegetation along Kirwan Street; and
- They do not interfere with the residential use or occupation of outdoor living areas on adjoining properties.

9.5 Other Considerations

The following factors are taken into account in deeming the acceptability of the proposed carports:

- 42 Kirwan Street is situated immediately opposite a 'T' junction and as such vehicle access is limited to the periphery of the lot;
- A letter of non-objection was provided with the application for the eastern carport;
- The lot is irregular in shape, with an angled western lot boundary;
- Aligning buildings and structures to an oblique lot boundary while maintaining perpendicular development to the street frontage minimises development options; and
- The extent of the setback intrusion for the western lot boundary amounts to the north-western corner of the proposed carport.

In addition to satisfying the design principles of the R-Codes, the proposed carports are deemed to satisfy the amenity considerations provided in the Scheme. Accordingly, it is recommended that the Council approved the proposed development.



Image 1 (Proposed Location of Western Carport)



Image 2 (Proposed Location of Western Carport)



Image 3 (Proposed Location of Eastern Carport)



Image 4 (Proposed Location of Eastern Carport)



Image 5 (Street View of 42 Kirwan Street)

PD69.18	No. 50 Florence Road, Nedlands – Amendment to Existing Approval (DA17/306)
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Committee	4 December 2018
Council	18 December 2018
Applicant	Kensington Design Australia
Landowner	D Ganley and R Ganley
Director	Peter Mickleson – Director Planning & Development
Reference	DA18-30985
Previous Item	Item PD02.18 - 27 February 2018
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	1. Site photographs

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received on 3 September 2018. The application proposes amendments to an approval for additions to the existing dwelling at 50 Florence Road, Dalkeith, which were previously approved by Council in February 2018. The components of the previous approval include a carport within the front setback area, a shed and patio at the rear of the property and additions to the rear of the existing dwelling.

The amendment seeks approval to remove the outbuilding and patio from the existing approval as well as minor alterations to setbacks. The setback alterations propose a variation to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for lot boundary setbacks.

The application was advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One objection was received during the advertising period.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes and is unlikely to have a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the development application dated 3 September 2018 for Amendments to DA17/306 (additions to the existing dwelling) at Lot 389 (50) Florence Road, Dalkeith, subject to the following conditions and advice:

- 1. The previous development approval (DA17/306, dated 7 March 2018) and conditions there-in, remain in effect. This application excludes the plans approved as part of the previous development application.**

Advice Notes specific to this proposal:

- 1. 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 Background

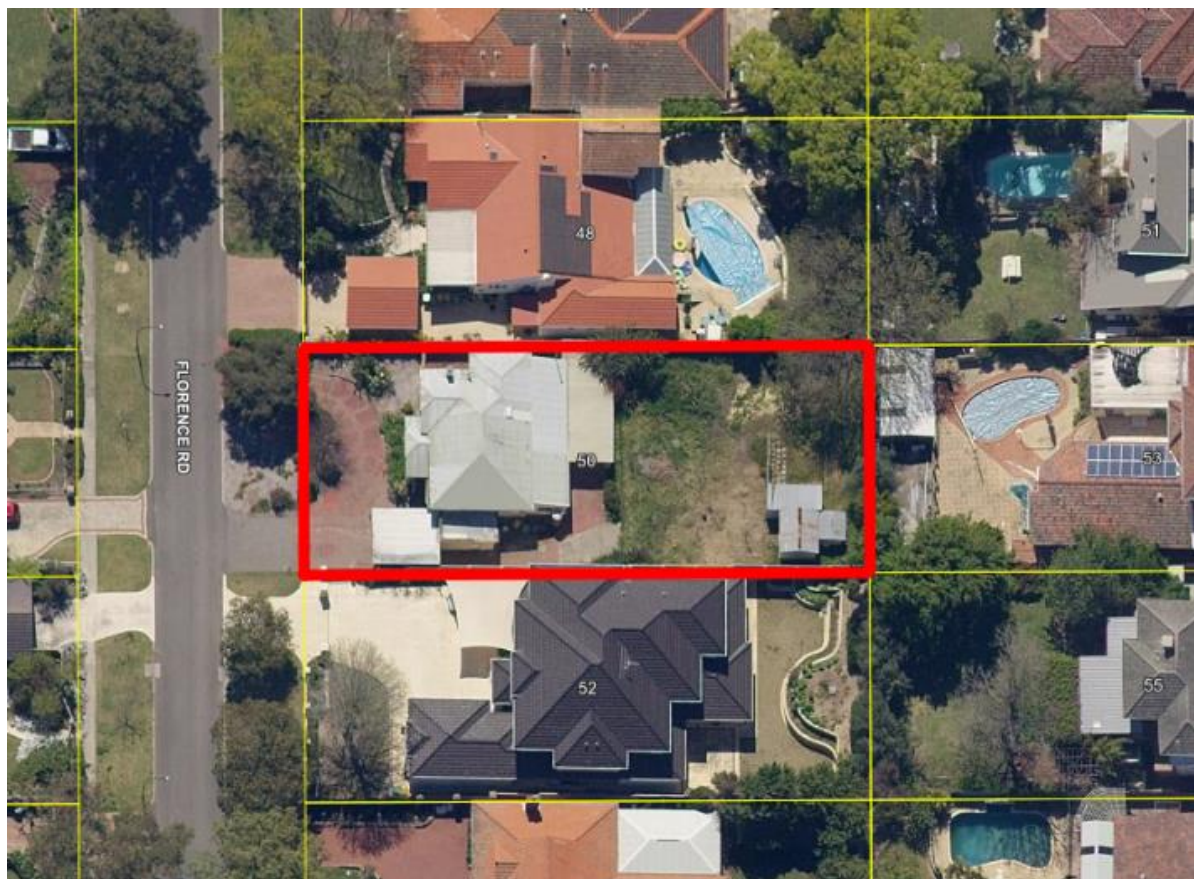
3.1 Land Details

Land area	1,011.7m ²
Local Planning Scheme Zone	Residential R10
Metropolitan Region Scheme Zone	Urban

3.2 Previous Application

A previous development application proposed to construct a single storey addition to the rear of the dwelling, a carport within the street setback area, an outbuilding 33m² in size up to the lot boundary and a patio at the rear of the property. On 27 February 2018 Council approved the development application subject to conditions. All but one variation was approved. Council conditioned the outbuilding proposed up to the lot boundary to be setback 1m from the lot boundary.

3.3 Locality Plan



4.0 Application Details

The applicant seeks approval for amendments to an existing development approval, details of which are as follows:

- Removal of a proposed shed (outbuilding) and pavilion from the plans;
- Minor internal alterations of bed 3 changing locations with the bathroom so as to be located further west;

- Reduced setback of bedrooms 2, 3 and bathroom from 3.2m to 2.77m to the southern lot boundary; and
- Alterations to the existing garage is currently setback 2m to a setback distance of 0.644m to the southern lot boundary.

5.0 Consultation

The development application was advertised in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One objection was received. The following is a summary of the concerns raised relevant to the proposal:

- Concerns over glare from Colorbond roof from the carport and house;
- Request to relocate carport to northern boundary on the grounds of comprising building bulk and inconsistency with streetscape; and
- Request for garage to be setback in accordance with the Residential Design Codes (R-Codes).

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

6.3.1 Amenity

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."

6.4 Policy Consideration

6.4.1 Residential Design Codes (State Planning Policy 3.1)

Lot Boundary Setback (5.1.3)

Deemed-to-Comply Requirement	Proposed	Complies?
C3.1, i Buildings setback from lot boundaries in accordance with Table 1, Tables 2a and 2b (refer to Figure Series 3 and 4) Wall height(m) 3.5 or less by 13m length = 1.5m	Garage setback 0.644m to the southern lot boundary	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: Buildings set back from lot boundaries or adjacent buildings on the same lot so as to: <ul style="list-style-type: none"> • reduce impacts of building bulk on adjoining properties; • provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • minimise the extent of overlooking and resultant loss of privacy on adjoining properties. 		

7.0 Other Issues Raised

N/A

8.0 Budget / Financial Implications

N/A

9.0 Risk management

N/A

10.0 Administration Comment

Having had regard to the matters stipulated under the Regulations and the submissions received, the following is advised:

The submissions received during the advertising period refers to the location of the carport on the submitted plans. The proposed carport was approved by Council on 27 February 2018 in the indicated location. The carport does not comprise a part of this proposal.

10.1 Building Bulk

The proposed garage does not contribute unduly to building bulk on the adjoining property for the following reasons:

- Proportional to the length of the lot boundary the garage does not comprise large expanses of blank unarticulated wall surface;
- It is single storey in height;
- It is situated behind an existing 1.8m high brick wall along the shared lot boundary;
- The topography of 50 and 52 Florence Road slopes upward in an easterly direction, which results in the garage being between 0.5m and 1m below that of the main portion of the adjoining two storey dwelling;
- It does not abut any habitable rooms with major openings or outdoor living areas; and
- It is located behind the street setback and to be screened by the approved carport, mitigating its appearance as viewed from the street.

10.2 Access to Direct Sunlight and Ventilation

The proposed garage does not restrict access to direct sunlight and ventilation to the adjoining property as:

- It does not directly adjoin a habitable room with major openings or outdoor living areas and therefore does not affect any habitable living spaces;
- It is within the overshadowing requirements of the R-codes; and
- It is situated on a portion of the lot which does not restrict the adjoining property's access to prevailing winds.

10.3 Minimising Loss of Privacy

The proposed garage minimises the extent of overlooking and loss of privacy of the adjoining dwelling as:

- It does not include any windows facing the adjoining property;
- It is not a habitable room and therefore not subject to the visual privacy requirements of the R-Codes;
- The existing brick wall (dividing fence) provides satisfactory screening to mitigate the impact of the garage; and
- The garage is positioned in a location which is 0.5m – 1m below that of the main portion of the adjoining dwelling due to the sloping topography of the lots.

10.4 Amenity

The proposed garage does not detrimentally impact on the amenity of the adjoining property of the locality as:

- It satisfies the design principles of the R-Codes; and
- It is located behind the street setback and an approved carport; thus, it's built form is mitigated as viewed from the street.

10.5 Other Considerations

The proposed alterations to Bedrooms 2, 3 and the bathroom previously approved by Council on 27 February 2018 do not vary the requirements of the R-Codes. Accordingly, it is recommended that the proposed amended development application be approved.



Image 1 (Facing East from Florence Road)



Image 2 (Facing South-East from Florence Road)



Image 3 (Facing East from Florence Road)



Image 4 (Facing West from 50 Florence Road)



Image 5 (Facing South-West from 50 Florence Road)



Image 6 (Facing North-East from the verge of 52 Florence Road)

PD70.18	No. 7 Nardina Crescent, Dalkeith – Proposed Street Boundary Fencing (Retrospective)
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Committee	4 December 2018
Council	18 December 2018
Applicant	C Wang
Landowner	C Wang
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/334
Previous Item	Item PD34.18 – July 2018
Delegation	Council has been requested by the SAT to reconsider its decision pursuant to Section 31(1) of the <i>SAT Act 2004</i> .
Attachments	1. Photographs of the subject property

1.0 Executive Summary

The purpose of this report is for Council to reconsider a retrospective development application for street boundary fencing which exists at 7 Nardina Crescent, Dalkeith, which Council resolved to approve at its July 2018 meeting subject to the following condition and advice, amongst others:

Condition:

- “3. Amended plans being provided as part of the Building Certificate Application which shows the following alterations:*
- a) The pillar for the letterbox on the northern side of the drive way being 0.5m in width; and*
 - b) The fencing on the southern side of the driveway consisting of one brick pier 1.9m in height and 0.5m in width, solid infill of 0.75m in height, and visually permeable infill up to 1.8m in height above natural ground level (refer to advice note 1).”*

Advice Notes specific to this approval:

- “1. The applicant is advised that a wall for the gas and electric meter is able to be located within the street setback area subject to being solid up to 1.8m in height, 1m in width, right aligned to the street, and not being closer than 1.5m from where a driveway meets the crossover on the subject property and/or an adjoining property.”*

An appeal was lodged with the State Administrative Tribunal (the SAT) regarding Condition 3 and the proposal was discussed at a Mediation Hearing.

Amended plans have been received which show:

- The pillar for the letterbox on the northern side of the drive way being 0.5m in width;
- The fencing on the southern side of the driveway consisting of one brick pier 1.9m in height and 0.75m wide; and
- Visually permeable fencing of 1.8m in height within 1.5m of where the driveway meets the crossover.

After being reconsidered the matter is likely to go back to a Directions Hearing and/or a Full Hearing at the SAT, or the appeal maybe withdrawn by the applicant, depending on Council's decision.

There is no statutory requirement for the amended plans to be advertised in accordance with Council's Neighbour Consultation Policy.

It is recommended that the amended plans be approved by Council as they are considered to comply with Council's Fill and Fencing Local Planning Policy (Fencing LPP) and satisfy the design principles of the Residential Design Codes (R-Codes).

2.0 Recommendation to Committee

Pursuant to Section 31(1) of the *State Administrative Tribunal Act 2004 (WA)*, Council approves the development application with amended plans received on 2 November 2018 for proposed street boundary fencing at (Lot 3) No. 7 Nardina Crescent, Dalkeith, subject to the following conditions and advice notes:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the fencing which exists along the Nardina Crescent and Minora Road boundaries of the property.**
- 3. The alterations to the letterbox pillar and to the fencing on the southern side of the driveway, as shown on the approved plans, being undertaken by the landowner within 28 days of this decision, to the City's satisfaction.**
- 4. The unauthorised step which encroaches into the Nardina Crescent road reserve being removed by the landowner of 7 Nardina Crescent, Dalkeith, within 28 days of this decision, to the City's satisfaction.**
- 5. The alterations required to be made to the fencing specified under Condition 3 of this approval decision being made within 28 days of the Building Certificate being issued by the landowner to the City's satisfaction, or by an alternative date agreed to in writing by the City.**
- 6. All footings and structures to the fencing shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**

Advice Notes specific to this approval:

- 1. A separate development application is required to be submitted to and approved by the City prior to erecting any further fencing within the street setback area(s) which does not form part of this approval, is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
- 2. The applicant shall make application to the City's Building Services for a Building Permit, to acknowledge any unauthorised works.**

3.0 Background

3.1 Land Details

Land area	850m ²
Local Planning Scheme Zone	Residential R10
Metropolitan Region Scheme Zone	Urban

3.2 Previous Decision by Council

In July 2018, Council resolved to approve solid sections of fencing up to 1.9m in height above natural ground level in lieu of 1.8m along both street boundaries of the subject property.

It is a condition of this decision that a 0.7m wide brick pier on the northern side of the driveway be reduced to 0.5m in width. It is required that a 2.29m high, 1.4m wide brick wall within the 1.5m truncation area on the southern side of the driveway be reduced to 1.9m in height and 0.5m in width and consist of solid infill up to 0.75m in height and visually permeable infill up to 1.8m in height above natural ground level.

3.3 Locality Plan



4.0 Application Details

Amended plans have been received from the applicant which show the following:

- The pillar for a letterbox on the northern side of the drive way being 0.5m in width;

- The fencing on the southern side of the driveway consisting of one brick pier 1.9m in height and 0.75m wide; and
- Visually permeable fencing of 1.8m in height within 1.5m of where the driveway meets the crossover.

During a SAT Mediation hearing held at the property it was noted that steps leading to the main entrance of the dwelling encroach within the Nardina Crescent road reserve. Despite being asked to be, these have not been shown on the site plan provided.

5.0 Consultation

There is no statutory requirement for the amended plans to be advertised.

When the original plans considered by Council previously were advertised one non-objection was received during the advertising period.

6.0 Assessment of Statutory Requirements

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) of the Regulations stipulates those matters that are required to be given due regard to the extent relevant to the application.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

If Council does not support the proposed amended plans the matter will likely be determined by the SAT at a Final Hearing.

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is zoned Residential R10.

6.3.1 Amenity

Under clause 5.5.1 of Town Planning Scheme No. 2 (TPS 2) 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."

6.4 Residential Design Codes - Sight Lines

In accordance with clause 5.2.5 C5 of the R-Codes walls, fences and other structures are to be truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences or other structures adjoin vehicle access points where a driveway meets a public street.

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

“P5 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.”

6.5 Fill and Fencing Local Planning Policy

An objective of the Fencing LPP is to ensure that the amenity of neighbouring properties and the streetscape is maintained.

The Fencing LPP stipulates that within 1.5m of where the fencing adjoins a vehicle access point the following obstructions are deemed acceptable:

“4.5 Within the 1.5m area stipulated under clause 4.4 of this policy, the following obstructions are deemed acceptable by the City:

- a) One pier with a maximum height of 2.1 metres above natural ground level with a length and width of no greater than 0.5m; and*
- b) All other solid structures to be reduced to a height of no greater than 0.75 metres above natural ground level; and*
- c) All visually permeable structures to a maximum height of 1.8 metres above natural ground level.”*

Any fencing and/or fill which does not meet these requirements shall:

- a) Meet the design principles of the R-Codes;
- b) Be assessed in terms of the developments impact upon the streetscape; and;
- c) Be advertised in accordance with Council’s Neighbour Consultation Policy.

7.0 Budget / Financial Implications

N/A

8.0 Risk Management

N/A

9.0 Administration Comment

Having had regard to the matters stipulated under sections 6.1 to 6.4 of this report the following is advised:

- Reducing the width of the existing letterbox pillar on the northern side of the driveway means that it will comply with the Fencing LPP;

- The visually permeable fencing which is proposed to encroach within 1.5m of where the driveway meets the crossover complies with the Fencing LPP;
- It is proposed to reduce the width of the wall on the southern side of the driveway by almost half which would improve sight lines for drivers leaving the property;
- No footpath exists along the verge adjoining the property therefore pedestrian movements and volumes are likely to be relatively low through this section of Nardina Crescent;
- There is a distance of approximately 20m between the subject property's crossover and the nearest crossover on an adjoining property (being at 5 Nardina Crescent to the south) therefore the proposal is unlikely to create safety issues for vehicles leaving nearby properties; and
- The portion of verge where the crossover for 7 Nardina Crescent is located is approximately 7.5m wide meaning that drivers leaving the property will have unobstructed views in both directions of the street being entering onto the road.

Considering the above, the amended plans are deemed to satisfy the provisions of the Fencing LPP and the R-Codes. Accordingly, it is recommended that the amended plans be approved by Council.

If Council approves the application, it is recommended that a condition be included requiring the existing steps which encroach into the Nardina Crescent road reserve be removed.



PD71.18	No. 82 Kingsway, Nedlands – Front Fencing Addition to Single House
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Committee	4 December 2018
Council	18 December 2018
Applicant	Walter Hunter and Penny Watson Architects
Landowner	Mr J M & Mrs J O'Dea
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/31279
Previous Item	Nil
Delegation	<i>In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.</i>
Attachments	1. Site and Streetscape Photographs

1.0 Executive Summary

The purpose of this report is for Council to consider a Development Application received on the 13th of September 2018, for a proposed Front Fence to a residential property at No. 82 Kingsway, Nedlands.

The front fence is permeable along the front boundary above a low solid wall 0.6m in height and existing solid side fencing which is currently at 1.5m in height is proposed to be increased in height to 1.8m.

- The subject site is within the Controlled Development Area (CDA)
- The application was advertised to adjoining neighbours due to the solid side fencing exceeding 1.2m in height as measured above natural ground level.
- One objection was received during the advertising period.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) and the objectives of the City's Local Planning Policy for Fill and Fencing.

2.0 Recommendation to Committee

Council approves the development application dated 13 September 2018 for a Front Fence addition to an existing Single House at Lot 673 (No. 82) Kingsway, Nedlands, subject to the following conditions and advice:

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the proposed front fencing as shown on the approved plans.**
- 3. All footings and structures to the fencing shall be constructed wholly inside the site boundaries of the property's Certificate of Title.**

Advice Notes specific to this proposal:

1. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.
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 Background

3.1 Land Details

Land area	910.5m ²
Local Planning Scheme Zone	Residential – R12.5
Metropolitan Region Scheme Zone	Urban

The subject property is relatively flat within the front setback area.

3.2 Locality Plan



4.0 Application Details

The applicant seeks approval to replace the existing timber front fence with a new masonry front fence with permeable in-fill and increase the existing solid fencing along the side lot boundaries to 1.8m within the front setback area. The existing solid fencing along the side lot boundaries is 1.5m in height.

5.0 Consultation

The development application was advertised in accordance with Council's Neighbour Consultation Policy and clause 6.3.1 of the Scheme. One submission of objection was received during the consultation period. The following is a summary of the concerns raised:

- *"I believe that the relevant guidelines are reasonable and soundly based on a number of factors including safety when reversing vehicles from driveways, security in terms of eyes on the street and providing a pleasant streetscape without high visual barriers.*
- *The existing side fences are significantly higher than the policy permits.*
- *The City should enforce these policy guidelines equally for all residents as they are quite reasonable requirements.*
- *I don't see how the proposed higher fences provide any practical benefit to the applicants and I strongly object to the proposal."*

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

If Council does not support the proposed development, there is a right of review (appeal) to the State Administrative Tribunal (SAT) under Part 14 of the *Planning and Development Act (2005)*

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2 - Amenity

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.”

6.4 Policy Consideration

6.4.1 Residential Design Codes (State Planning Policy 3.1) - Street walls and Fences

Deemed-to-Comply Requirement	Proposed	Complies?
Solid fencing permitted to be 1.2m in height above natural ground level.	Existing solid fencing along the side lot boundaries are proposed to be increased to be 1.8m in height above natural ground level.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“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:</i> <ul style="list-style-type: none"> <i>• for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and</i> <i>• for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.”</i> 		

6.4.2 Local Planning Policy – Fill and Fencing

Policy Requirement	Proposed	Complies?
In primary street setback areas, solid fencing to a maximum height of 1.2 metres above natural ground level, and visually permeable fencing to a maximum height of 1.8m above natural ground level.	Fencing to a maximum height of 1.8m is proposed to the side lot boundaries.	No
Policy Objectives The following objectives are stipulated under the Policy: <i>“To outline the City’s requirements with regard to fill and the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained.”</i>		

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

Having had regard to the matters stipulated under the Regulations and the submissions received, the following is advised:

The provision of solid fencing within the streetscape is not uncommon with numerous examples of solid fencing along the side and front lot boundaries (see Attachment 1). The solid front fencing is setback over 1m from vehicle access points to ensure compliant sightlines at these vehicle access points and passive surveillance is not compromised with permeable fencing proposed to the front boundary to allow clear line of sight from the dwelling to the street. The north-eastern side lot boundary has both the subject property and neighbouring property's carports adjacent and hence is not an open area of the streetscape with the fencing providing additional privacy for the residents.

The perpendicular nature of the solid fencing along the side lot boundaries to the street ensures that the open nature of the streetscape is maintained while providing additional privacy to the residents from neighbouring properties. Based on the above findings, it is considered that the additional solid fencing height will not compromise the amenity of the streetscape nor the passive surveillance and vehicle sightlines of both the subject property and neighbouring properties. Therefore, the development application is recommended for approval subject to conditions.

9.1 Recommended Conditions if Application is Refused

If Council resolves to refuse the over-height solid fencing along the side lot boundaries, the following additional condition is recommended as the rest of the front fencing is fully compliant with all relevant standards and should be able to proceed without requiring further development approval.

1. Revised drawings shall be submitted with the Building Permit application, to the satisfaction of the City, removing the fencing modifications along the side lot boundaries within the front setback area or showing the fencing as being compliant with the City's Fill and Fencing Local Planning Policy.



Photo 1: Boundary between subject property and side neighbouring proposed no. 80 Kingsway



Photo 2: Subject property (existing front fence to be replaced)



Photo 3: Boundary between subject property and side neighbouring property no. 84 Kingsway



Photo 4: Boundary between no. 64 and no. 66 Kingsway showing solid fencing



Photo 5: Boundary between no. 66 and no. 68 Kingsway showing solid fencing to no. 66.



Photo 6: Boundary between no. 68 and no. 66 Kingsway showing solid fencing to no. 68



Photo 7: No. 57 Kingsway with solid front fencing for portion of front lot boundary



Photo 8: Boundary between No. 74 Kingsway and 72 Kingsway with solid fencing between



Photo 9: Boundary between No. 74 Kingsway and No. 76 Kingsway showing solid fencing



Photo 10: Boundary between No. 61 and No. 63 Kingsway showing solid fencing



Photo 11: No. 78 Kingsway with solid front fencing for portion of frontage



Photo 12: Boundary between no. 84 and no. 84 Kingsway showing solid fencing



Photo 13: Boundary between no. 73 and 75 Kingsway showing solid fencing



Photo 14: Boundary between no. 86 and no. 88 Kingsway showing solid fencing



Photo 15: Boundary between no. 73 and 75 Kingsway showing solid fencing



Photo 16: No. 77 Kingsway with solid fencing



Photo 17: No. 83 Kingsway with solid fencing to side boundary

PD72.18	No. 11B Brockway Road, Mount Claremont – Two Storey Single House
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Committee	4 December 2018
Council	18 December 2018
Applicant	Webb and Brown-Neaves Pty Ltd
Landowner	S Poliwka
Director	Peter Mickleson – Director Planning & Development
Reference	DA18/29985
Previous Item	Nil.
Delegation	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Site Photograph

1.0 Executive Summary

The purpose of this report is for Council to consider a development application received on 17 July 2018 for a proposed two-storey single house at 11B Brockway Road, Mount Claremont.

The development proposes variations to Council's Local Planning Policy 6.18 – Reduction of Front Setbacks (LPP 6.18) and the deemed-to-comply provisions of the Residential Design Codes (R-Codes) for:

- Boundary setbacks (ground floor)
- Overshadowing
- Porch finished floor levels
- Average front setback.

The application was advertised to adjoining neighbours in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One objection and one non-objection were received during the advertising period.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is unlikely to have a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the development application dated 17 July 2018 with amended plans received on 18 September 2018 to construct a Two Storey Single House at (Lot 700) No. 11B Brockway Road, Mount Claremont subject to the following conditions and advice:

- 1. The development shall always comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 2. This development approval only pertains to the proposed single dwelling.**

3. All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the property's Certificate of Title.
4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
5. The parapet walls being finished to a professional standard within 14 days of the proposed development's practicable completion and be maintained thereafter by the landowner to the City's satisfaction.

Advice Notes specific to this proposal:

1. A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.
2. All crossovers to the street(s) shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.
3. Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
4. 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. 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.
5. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
6. The applicant is advised to consult the City's Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.

Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide to prevent noise affecting neighbouring properties.

Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.

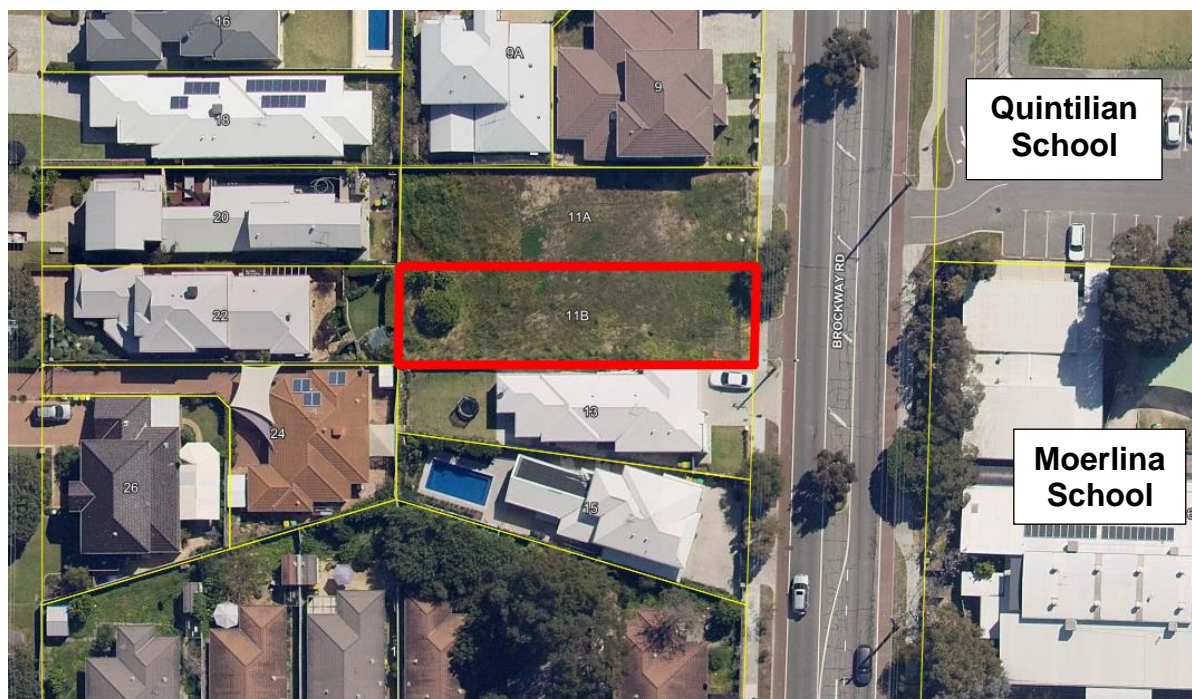
7. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

3.0 Background

3.1 Land Details

Lot area	452m ²
Local Planning Scheme Zone	Residential R25
Metropolitan Region Scheme Zone	Urban

3.2 Locality Plan



4.0 Application Details

The applicant seeks approval to construct a two-storey single house. Details of which are as follows:

- A ground floor theatre room is proposed to have a nil setback in lieu of 1m from the northern (side) lot boundary.
- A garage having a parapet wall on the southern (side) lot boundary adjacent to a parapet wall for an existing garage on the adjoining lot.
- The development resulting in up to 34.8% of the adjoining lot being overshadowed in lieu of 25%.
- The development having an average front setback of 5.9m in lieu of 6m.

5.0 Consultation

The development application was advertised in accordance with clause 2.1 of Council's Neighbour Consultation Policy. One objection and one non-objection were received, and the following is a summary of the concerns raised:

- The development overshadowing and affecting natural ventilation to living areas on an adjoining lot.
- Overlooking onto an adjoining lot.

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

6.0 Assessment of Statutory Provisions

6.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

In accordance with provisions (m) and (n) of the Regulations clause 67, due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

6.2 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.3 City of Nedlands Town Planning Scheme No. 2

6.3.1 Amenity

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."

6.4 Policy Considerations

6.4.1 Residential Design Codes (State Planning Policy 3.1) - Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
<p>Walls may be built up to a lot boundary behind the street setback:</p> <p>Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension.</p> <p>In areas coded R20 and R25, walls not higher than 3.5m with an average of 3m or less, up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback, to one side boundary only.</p> <p>Where point a) does not apply the wall is to be setback in accordance with Table 2A or 2B of the R-Codes.</p>	<p>A ground floor theatre room is proposed to have a nil setback in lieu of 1m from the northern lot boundary.</p> <p>A garage is proposed to have a parapet wall on the southern (side) lot boundary adjacent to a parapet wall for an existing garage on the adjoining lot.</p>	<p>No</p> <p>Yes</p>
<p>Design Principles</p> <p>Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:</p> <p><i>“P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i></p> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> <p><i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> <i>• makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> <i>• does not compromise the design principle contained in clause 5.1.3 P3.1;</i> <i>• does not have any adverse impact on the amenity of the adjoining property;</i> <i>• ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> <i>• positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”</i> 		

6.4.2 Visual privacy

Deemed-to-Comply Requirement	Proposed	Complies?
<p>Raised habitable spaces with major openings are to be setback from the portion of a lot boundary behind the front setback area in accordance with the following:</p>	<p>An upper storey sitting room is proposed to have a window with a sill 1.6m above the finished floor level, which is therefore not deemed to be a major opening under the R-Codes.</p>	<p>Yes</p>

Bedrooms – 4.5m setback Siting rooms – 6m setback	Upper storey bedrooms at the rear of the dwelling are proposed to have cones of vision of 4.6m and 4.9m from the nearest lot boundaries.	Yes
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6.4.3 Overshadowing

Deemed-to-Comply Requirement	Proposed	Complies?
Development can overshadow up to 25% of an adjoining property which is coded R25.	The development resulting in up to 34.8% of the adjoining lot being overshadowed in lieu of 25%.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P2.1 Effective solar access for the proposed development and protection of the solar access.</i> <i>P2.2 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:</i> <ul style="list-style-type: none"> • <i>outdoor living areas;</i> • <i>north facing major openings to habitable rooms, within 15 degrees of north in each direction; or</i> • <i>roof mounted solar collectors.”</i> 		

6.5 Local Planning Policy 6.18 – Reduction of Front Setbacks

Policy Requirement	Proposed	Complies?
Mount Claremont – 6m average front setback as per the R-Codes	An average front setback of 5.9m is proposed therefore Council is to have regard to the design principles under the R-Codes.	No
Design Principles of the R-Codes Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:</i> <ul style="list-style-type: none"> • <i>contribute to, and are consistent with, an established streetscape;</i> • <i>provide adequate privacy and open space for dwellings;</i> • <i>accommodate site planning requirements such as parking, landscape and utilities; and</i> • <i>allow safety clearances for easements for essential service corridors.”</i> 		

7.0 Budget / Financial Implications

N/A

8.0 Risk management

N/A

9.0 Administration Comment

9.1 Lot Boundary Setback of Theatre Room

The ground floor theatre room is proposed to be setback approximately 15.5m from the street boundary, therefore it is unlikely to have a significant impact on the streetscape.

The reduced setback will not result in any non-compliant amount of overshadowing onto the adjoining lot.

The wall will occupy approximately 12% of the total lot boundary's length, and the adjoining lot impacted is currently vacant.

A boundary wall agreement for the theatre room was received during the advertising period.

9.2 Overshadowing

The overshadowing variation is largely because of the lots concerned being relatively narrow (approximately 11m in width).

The amount of overshadowing proposed which is in excess of what the R-Codes permit equates to approximately 40sqm.

Based on the information provided and having referred to the City's records for the adjoining lot, approximately 49sqm of the dwelling's roof on the adjoining lot is likely to be overshadowed, and no outdoor living areas and/or solar collectors will be overshadowed.

Even if the development was designed to be compliant with the overshadowing requirements it is likely that the same rooms concerned on the adjoining lot would be overshadowed due to their close proximity to the lot boundary and the narrow width of the subject lot and the neighbouring lot. Considering this, the amount of overshadowing proposed is unlikely to have a detrimental impact on the neighbours.

9.3 Average Front Setback

Considering the scale of the development and the variation it is unlikely to have a detrimental impact on the streetscape.

The development is deemed to satisfy LPP 6.18 and the relevant design principles of the R-Codes therefore it is recommended that Council approves the application.



PD73.18	Scheme Amendment No. 214 – Lot 381 (No.45) Carrington Street, Nedlands
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Committee	4 December 2018
Council	18 December 2018
Applicant	CF Town Planning and Development
Landowner	Mr B Gray – Pine Ridge Holdings Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Previous Item	Nil.
Attachments	1. Scheme Amendment No. 214 Report 2. Applicants Further Information

1.0 Executive Summary

The purpose of this report is for Council to provide consent to advertise (initiate) proposed Scheme Amendment No. 214 to Town Planning Scheme No.2 (TPS2).

The proposed amendment is seeking to add an Additional Use to Lot 381 (No. 45) Carrington Street, Nedlands, to allow a Child Day Care Centre land use to be approved in order to facilitate a re-development of the site in the future. This addition use will be added to Schedule I (Additional Uses) in TPS2. Under TPS2, within the 'Light Industrial' zone, a 'Child Day Care Centre' is not permitted ("X").

It is recommended that Council provide consent to advertise for the purposes of initiating the scheme amendment.

2.0 Recommendation to Committee

Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, initiate an Amendment to Town Planning Scheme No. 2 by:
 - a) Amending the Scheme Text by inserting into Schedule I - Additional Uses entry 'A 115' over Lot 381 (45) Carrington Street, Nedlands for 'Child Day Care Centre'; and
 - b) Amend the Scheme Map accordingly.
2. In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* section 35(2), the City believes that the amendment is a Standard Amendment for the following reasons:
 - a) the proposed amendment is consistent with a local planning strategy which has been endorsed by the Commission;
 - b) the proposed amendment will have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - c) the proposed amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

3. Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Scheme Amendment 214 – Carrington Street to the Environmental Protection Authority.
4. Subject to Section 84 of the *Planning and Development Act 2005* advertises Scheme Amendment 214 – Carrington Street in accordance with Regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Council Policy – Community Engagement.

3.0 Background

3.1 Land Details

Land Area	696m ²
Town Planning Scheme No. 2 Zone	Light Industrial
Metropolitan Region Scheme Zone	Urban

3.2 Previous Resolution

At the Council Meeting on the 26 May 2015 Council resolved to not initiate any further amendments to TPS2. Due to Councils decision on the 31 July 2018 to not support LPS3 and the uncertainty surrounding LPS3, Administration recommends that the City does adopt for advertising (initiate) this amendment irrespective of the resolution made on the 26 May 2015.

3.3 Locality Plan



The subject site is located within an existing light industrial/commercial development located on Carrington Street in the suburb of Nedlands, immediately south of the Karrakatta Cemetery and adjacent to existing low-density residential development. It is important to note that adjoining lots numbered 49-51 and 47 are currently zoned

Light Industry with the Additional Use of 'child day care centre' existing. These sites are also currently operating as one child care centre across the three lots.

4.0 Amendment Details

The applicant is requesting a scheme amendment for the purposes of adding an Additional Use over Lot 381 (No. 45) Carrington Street (adjoining the existing Additional Use of child care centre) to allow for the consideration of use of a Child Day Care Centre on the site. The subject site is zoned 'Light Industrial' under the City's current TPS2.

The applicant has discussed with the City their future redevelopment intention which is to amalgamate the site with Lot 380 (No. 47) Carrington St, adjacent and demolish the current buildings to redevelop one child care centre over the two sites. As this is a Scheme Amendment request the development component does not form part of this current proposal. Further detailed plans for any future redevelopment will be shown through the development application process at a later stage.

Preliminary internal consultation with the City has been undertaken and no issues have been raised at this stage. It has been acknowledged by the applicant that further in-depth technical reports in relation to noise, traffic and any other health related studies relating to the previous industrial use on the site will need to be undertaken at the development application stage, see Attachment 2 for more information.

5.0 Consultation

If the Scheme Amendment is granted consent to advertise the City will refer the application to the Environmental Protection Authority (EPA) who can advise of any land use conflicts given the location is in an existing industrial zone.

The application is required to be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). The consultation of this Scheme Amendment is in line with the 'consult' engagement process under the City's Community Engagement Council Policy. Advertisement of a standard amendment is as follows:

- The City must prepare a notice in a form approved by the West Australian Planning Commission (WAPC) giving details of; the purpose, where the amendment may be inspected and to whom and during what period submissions can be made.
- The City must then advertise the amendment by publishing the notice in the newspaper, display the notice in the Administration building, provide a copy to all public authorities which are likely to be affected and publish a copy on the City's website.
- The advertising period can be no less than 42 days commencing on the day that the notice is published in a newspaper circulating in the scheme area.

Once submissions are received the City must acknowledge in writing the receipt of each submission.

The consideration period for a standard scheme amendment is 60 days after the end of the submission period, in which the City must consider all submissions and Council

must pass a resolution to support, support with modifications or not support the proposed amendment.

Once Council has decided on the scheme amendment, all documents will be referred to the WAPC and they will deliver a recommendation to the Minister for Planning. The Minister will then make the final decision on the proposed scheme amendment.

6.0 Assessment against Planning Framework

6.1 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposal is an urban use and is therefore consistent with the zoning classification under the MRS.

6.2 Planning Bulletin 72/2009 Child Care Centres

This planning bulletin outlines the revised child care centre guidelines and aims to:

- a) differentiate between child care related activities operating in existing residential area, such as family day care that takes place in dwellings, and non-residential child care activities;
- b) outline a consistent policy approach to planning for child care centres; and
- c) advise of planning considerations in relation to the location and development of child care centres.

6.3 City of Nedlands Local Planning Strategy

The City's Local Planning Strategy discusses the need to facilitate the natural evolution of the Carrington Street commercial strip as a mixed business area and encourage a reasonably high standard of redevelopment.

The Local Planning Strategy discusses how the biggest increase in floorspace in Carrington Street was in the Office/Business category, indicating a transition occurring in this area from an industrial/service industrial precinct to a more commercially-oriented mixed business precinct. This transition is appropriate given the location and context of the complex and the City should further facilitate this transition.

6.4 City of Nedlands draft Local Planning Scheme No. 3

The advertised draft Local Planning Scheme No.3 (LPS3) proposed to rezone the subject site from Light Industrial to Service Commercial. Child Care Premises was listed as an "X" use within the Service Commercial zone meaning that new Child Care Premises would not be permitted.

However, the existing Child Care Premises at Lots 378, 379 and 380 were included as Additional Uses and therefore permitted on those specific sites.

The modified draft Local Planning Scheme No.3 (LPS3), presented to Council at the Council Meeting on the 31 July 2018, proposed to change the permissibility of Child Care Premises to an "A" use in the Service Commercial zone, meaning that it would

be permitted where the local government granted development approval after advertising.

6.5 City of Nedlands Town Planning Scheme No. 2

Under the provisions of TPS2 the subject site is zoned Light Industrial, Child Day Care Centre is an 'X' use and therefore is not currently permitted in this zone.

7.0 Budget / Financial Implications

Nil.

8.0 Risk Management

Nil.

9.0 Administration Comment

Administration is recommending support of the Scheme Amendment proposal for Lot 381 (No.45) Carrington Street, Nedlands as:

- The Amendment is in line with the City's Local Planning Strategy.
- The Amendment would be permissible, with Council discretion and advertising, under the modified draft LPS3 with this area identified as a Service Commercial zone, moving away from the existing Light Industrial zone of the current Scheme.
- The proposal is in line with the Planning Bulletin 72/2009 Child Care Centres.

Once the Scheme Amendment is granted consent to advertise the City will refer the application to the Environmental Protection Authority who can advise of any land use conflicts given the proposals location in an industrial zone.

Once the City has received approval from the EPA, the City will then undertake advertising, subject to WAPC consent, and will report all submissions and any issues raised to Council for a final recommendation.

Considering the above, it is recommended that the Council grant consent for this scheme amendment to be advertised.



City of Nedlands
Town Planning Scheme No. 2
Amendment No. 214

*Amending the Scheme Text by inserting into Schedule I - Additional Uses entry 'A 115' over
Lot 381 (45) Carrington Street, Nedlands for 'Child Day Care Centre'; and
Amend the Scheme Map accordingly.*

Planning and Development Act 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

*Town Planning Scheme No. 2
Amendment No. 214*

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

- Amending the Scheme Text by inserting into Schedule I - Additional Uses entry A 115 over Lot 381 (45) Carrington Street, Nedlands for 'Child Day Care Centre'; and
- Amend the Scheme Map accordingly.

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

- Pursuant to section 34(b) of the Regulations the proposed amendment is consistent with the local planning strategy which has been endorsed by the Commission;
- Pursuant to section 34(e) of the Regulations the proposed amendment will have minimal impact on land in the scheme area that is not the subject of the amendment; and
- Pursuant to section 34(f) of the Regulations, the proposed amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

Dated this _____ day of _____ 20____

(Chief Executive Officer)

SCHEME AMENDMENT REPORT

CITY OF NEDLANDS LOCAL PLANNING SCHEME No.2



City of Nedlands

LOT 381 (NO.45) CARRINGTON STREET, NEDLANDS

Prepared for:

Mr Bruce Gray (Pine Ridge Holdings Pty Ltd)

Prepared by:

CF Town Planning & Development
Planning & Development Consultants

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October 2018

CF Town Planning & Development

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Appendix 1: Certificate of Title

1.0 INTRODUCTION

CF Town Planning & Development acts on behalf of current landowners (i.e. Pine Ridge Holdings Pty Ltd) of Lot 381 (No.45) Carrington Street, Nedlands and have prepared the following report requesting Council's favourable consideration and approval to the initiation of a suitable amendment to the City of Nedlands Local Planning No.2 to include the following

1. Insert an entry in Schedule No.1 entitled 'Additional Uses' by including an additional use right over Lot 381 for the purpose of 'child day care centre'; and
2. Update the Scheme Map accordingly.

The following report provides a detailed description of the subject land and its immediate surrounds as well as the planning rationale and justifications for the aforementioned scheme amendment proposal. A series of maps and plans are also provided for illustrative purposes.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact Mr Carlo Famiano on 0407384140 or carlof@people.net.au.

2.0 BACKGROUND & PURPOSE

The subject land has historically been developed and used for commercial/industrial purposes on an uninterrupted basis for a number of years. The subject land is located within an existing light industrial/commercial development along Carrington Street in the suburb of Nedlands, immediately south of the Karrakatta Cemetery and adjacent existing low density residential development.

The current landowners intend to demolish the existing improvements on the land (i.e. existing industrial development) and construct a new child day care centre in the near future.

It is significant to note that the subject land is classified 'Light Industry' zone under the City's current operative Local Planning Scheme No.2 (LPS No.2). Under the terms of the City's LPS No.2, the use of land within the 'Light Industry' zone for the 'child day care centre' purposes is identified as being not permitted ("X").

At its meeting held on 31 July 2018, the Nedlands City Council resolved to not support draft Local Planning Scheme No. 3 (LPS No.3) which was prepared to replace the existing LPS No.2 and form part of the new planning framework to guide future development within the City. Given Council's position on Draft LPS No.3 and following discussions with the planning staff at the City of Nedlands (Mr Rob Sklarski), it was recommended that an application to amend the City's current Local Planning Scheme No.2 be lodged with the City to facilitate the future development of Lot 381 for 'child day care centre' purposes.

The advertised Draft Local Planning Scheme No.3 (LPS3) has rezoned the subject site from 'Light Industrial' to 'Service Commercial'. The land use 'Child Care Premises' was listed as an "X" use within the 'Service Commercial' zone meaning that a child care premises would not be permitted on this site; unless a Scheme Amendment was proposed to add an additional use over the site.

The Modified Draft Local Planning Scheme No.3 (LPS3) which was presented to Council at its meeting held on the 31 July 2018 was proposing to change the zoning of Carrington Street from 'Light Industrial' to 'Service Commercial'. The land use 'Child Care Premises' was identified as an "A" use in the 'Service Commercial' zone, meaning that it would not be permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

The purpose of this scheme amendment is to facilitate the future re-development of the land to allow for the establishment of a 'child day care centre' on Lot 381 by providing the appropriate statutory framework to accommodate the future re-development and management of the land.

It is significant to note that adjoining Lot 380 is currently developed for 'child day care centre' purposes (known as 'Nedlands School of Early Learning'), with the facility providing a vital and much needed service within the local community.

Given the above, this application seeks the City's favourable consideration and initiation of a relevant scheme amendment to address the aforementioned proposal.

3.0 LAND DESCRIPTION

The land subject to this application is legally described as Lot 381 on Plan 112 on Certificate of Title Volume 1717, Folio 565. The land is owned in fee simple by Pine Ridge Holdings Pty Ltd (see Appendix 1 – Certificate of Title).

4.0 LOCATION

The subject land is located on the northern side of Carrington Street, immediately south of Karrakatta Cemetery and approximately 550 metres north of the Stirling Highway Activity Corridor. In addition, the subject land is located approximately 1.2 kilometres north-east of the Claremont Activity Centre and approximately 1.3 kilometres south-west of the hospital precinct that includes Hollywood Private Hospital QE2 Hospital and the Perth Children's Hospital (see Figure 1 – Location Plan). The land has direct road frontage and access to Carrington Street along its southern boundary and Government Road along its northern boundary.

It is significant to note that the subject land is located within an existing industrial strip along the northern side of Carrington Street, which provides a buffer between the cemetery and the residential development to along the southern side of Carrington Road (see Figure 2 – Aerial Site Plan).

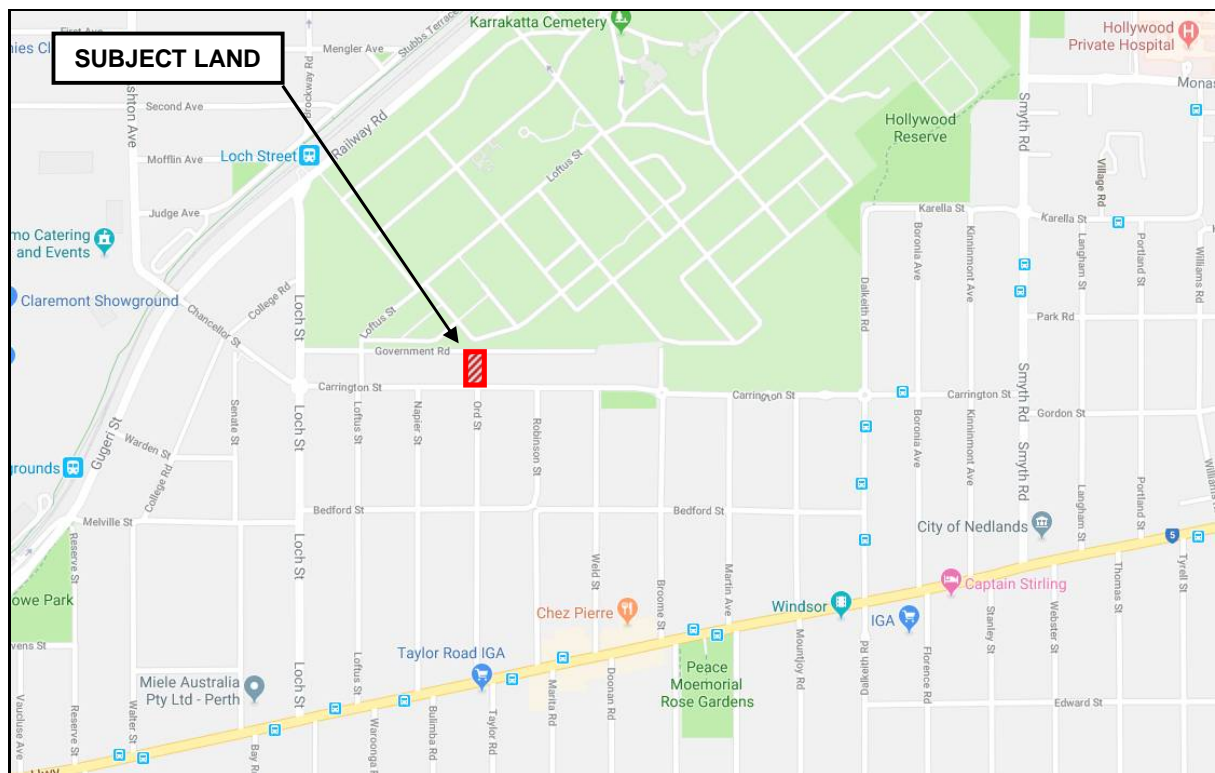


Figure 1 - Location Plan

5.0 PHYSICAL CHARACTERISTICS & EXISTING LAND USES

The subject land is rectangular in shape, covers a total area of 696m², has been cleared of any significant native vegetation and can generally be described as being undulating, with a fall from the western side boundary to the eastern side boundary.

The subject land has been extensively developed over a number of years and is currently used for light Industrial purposes. Physical improvements include two (2) single storey buildings on the land, substantial sealed and drained areas, on-site car parking area, crossovers and boundary fencing (see Figure 2 – Aerial Site Plan, Figure 3 & Figure 4).

Existing adjoining and nearby land uses are broadly described as follows:

- North: Government Road road reserve with the Karrakatta Cemetery beyond;
- West: Child day care centre;
- East: Light/service industrial development; and
- South: Carrington Street road reserve with low density residential development beyond (see Figure 2 – Aerial Site Plan).



Figure 2 - Aerial Site Plan



Figure 3 – Existing Development on Lot 381 (Carrington Street frontage)



Figure 4 – Rear portion of Lot 381 (Government Road frontage)

5.1 ESSENTIAL SERVICES

By virtue of its location in a well established part of the Perth Metropolitan Area, Lot 381 is served by or located in close proximity to a wide range of essential service infrastructure including power, water, gas, reticulated sewerage, storm water drainage and telecommunications.

The subject land is also served by an efficient local and district road network with convenient access to Loch Street, Railway Road and Stirling Highway. Public transport is available along various nearby streets and the nearby Loch Street Train Station (approximately 450 metres away).

6.0 SCHEME AMENDMENT PROPOSAL

As previously mentioned the current landowners are seeking Council's approval to the initiation of a suitable amendment to the City of Nedlands Local Planning Scheme No.2 (LPS No.2) to:

1. Amending the Scheme Text by inserting an entry in Schedule No.1 entitled 'Additional Uses' by including an additional use right over Lot 381 for the purpose of 'child day care centre'; and
2. Amend the Scheme Map accordingly.

The suggested entry into Schedule No.1 for the land is outlined below:

No.	Lot No	Street	Zone	Additional Use Permitted
TBA	Lot 381	Carrington Street, Nedlands	Light Industry	Child Day Care Centre.

7.0 STATUTORY CONSIDERATIONS

7.1 Metropolitan Region Scheme

Lot 381 is currently classified 'Urban' zone under the provisions of the Metropolitan Region Scheme (MRS). It should be noted that the zones and reservations prescribed by the MRS are broad categories only that are intentionally not precisely defined or limited in order to enable a flexible approach to strategic planning in the Perth Metropolitan Region.

The following definition is provided as a guide to the stated purpose/s of the land's current 'Urban' zoning classification under the MRS:

"Urban Zone - Areas in which a range of activities are undertaken, including residential, commercial recreational and light industry."

It is contended that the proposed scheme amendment to include an 'Additional Use' to accommodate a child day care centre on the land is consistent with the defined intent of the land's current 'Urban' zoning classification under the MRS and may therefore be approved.

7.2 Current Zoning Classification - City of Nedlands Local Planning Scheme No.2

Lot 381 is currently classified 'Light Industrial' zone under the City of Nedlands current operative Local Planning Scheme No.2 (LPS No.2) (see Figure 5 – Zoning Map).

It is significant to note that adjoining Lot 380 is also classified 'Light Industrial' under LPS No.2 and comprises an entry in Schedule 1 of LPS No.2 identifying 'child day-care centre' and 'child training facility' uses as being permitted on the land (entry A101). The additional use on Lot 380 was part of Amendment No.154 that was gazetted on 24 December 2004 to facilitate the development and use of the land for a child day care centre (which is the current use of the land). It is significant to note that the additional use entry for Lot 380 does not extend over Lot 381.

Under the terms of LPS No.2, the use of land classified 'Light Industrial' zone for 'child day care centre' purposes is identified as an "X" use, meaning the use is not permitted within the zone.

The inclusion of an entry within Schedule No.1 of the City's LPS No.2 to include the uses of 'child day care' will facilitate the future re-development of the land for such purpose to provide an additional and much needed service to the local community.

7.3 Draft City of Nedlands Local Planning Scheme No.3

The advertised Draft Local Planning Scheme No.3 (LPS3) has rezoned the subject site from 'Light Industrial' to 'Service Commercial'. As part of the Draft Scheme, 'Child Care Premises' was listed as an "X" use within the 'Service Commercial' zone meaning that a child care premises use would not be permitted on this site; unless a Scheme Amendment was proposed to add an additional use over the site.

The Modified Draft Local Planning Scheme No.3 (LPS3) which was presented to Council its meeting held on the 31 July 2018 was proposing to change the zoning of Carrington Street from 'Light Industrial' to 'Service Commercial'. 'Child Care Premises' was indicated as an "A" use in the 'Service Commercial' zone, meaning that it would not be permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with Clause 64 of the deemed provisions.

Following discussions with the City regarding Council's position on Draft LPS No.3, it was established that the proposed changes to the zoning and applicable uses to the existing industrial area along Carrington Street was not a key concern raised by Council in its decision not to support LPS No.3. It was advised that the key concern held by Council regarding Draft LPS No.3 related to the intensification of residential development (i.e. increasing of residential densities) throughout the City.

In light of the above, it can be concluded that Council did not have any material concerns with the zoning changes along the Carrington Street industrial area and that this proposed Scheme Amendment to progress the future development of Lot 381 for 'child day care centre' purposes, is consistent with the City's proposed Draft Local Planning Scheme No.3.

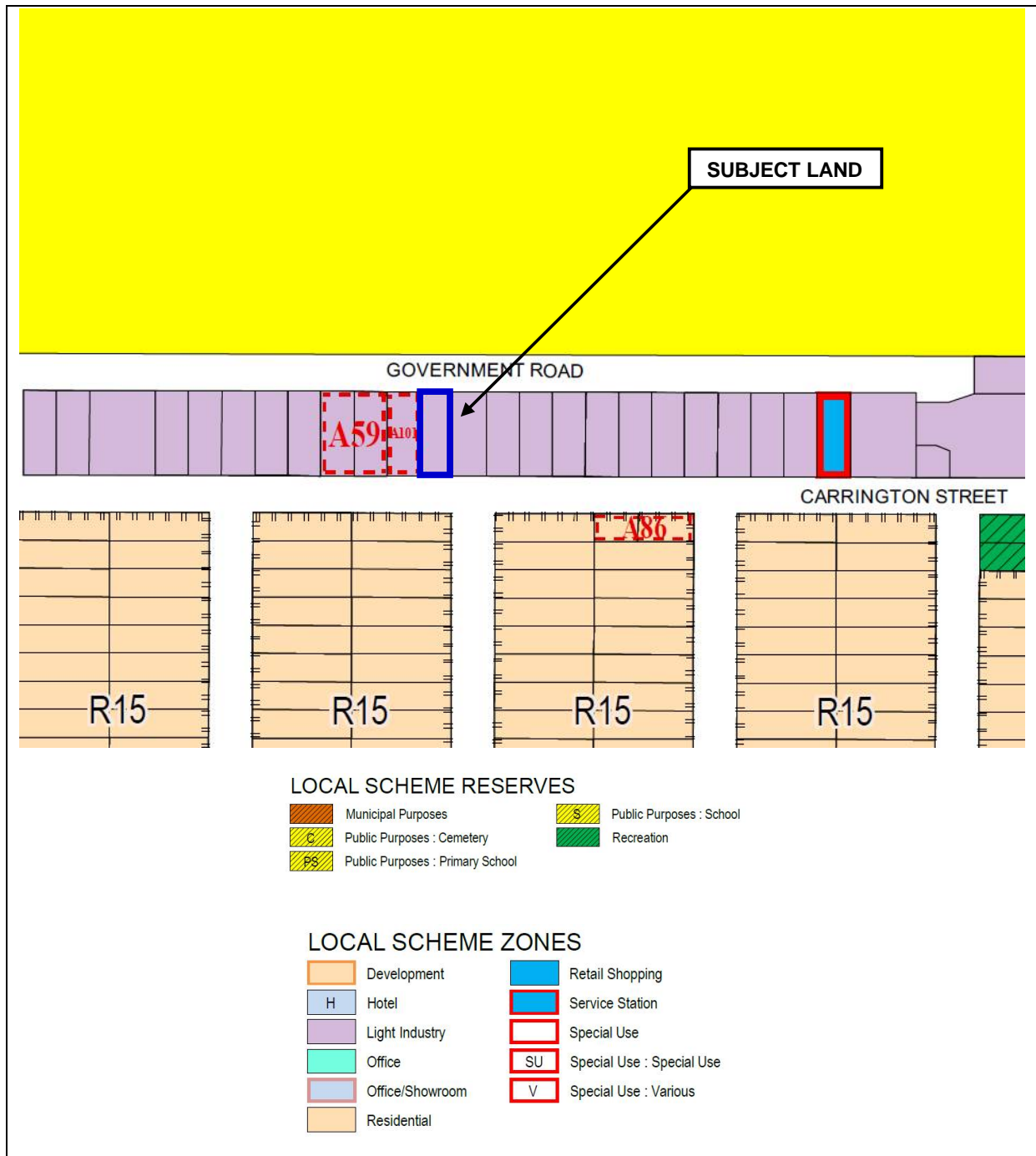


Figure 5— Zoning Map (LPS No.2)

8.0 OTHER STATUTORY & POLICY CONSIDERATIONS

8.1 Bushfire Prone Areas

The subject land has not been identified by the Department of Fire & Emergency Services (DFES) as being located within a designated 'bushfire prone area'.

8.2 WAPC Planning Bulletin No.72/2009 - 'Child Care Centres'

The Western Australian Planning Commission's (WAPC's) Planning Bulletin No.72/2009 entitled 'Child Care Centres' provides guidance to decision makers, developers and the broader community regarding the various matters required to be considered when planning for the development and use of child care centres. The objectives of this Planning Bulletin are to:

- a) *locate child care centres appropriately in relation to their surrounding service area;*
- b) *minimise the impact a child care centre has on its surrounds, in particular on the amenity of existing residential areas;*
- c) *minimise the impact the surrounds may have on a child care centre; and*
- d) *consider the health and safety of children attending the child care centre within the confines of the planning system.*

It is contended that any future use of the land for child day care centre purposes is consistent with the objectives of Planning Bulletin No.72/2009 for the following reasons:

- i) It is well located on land that is able to service the local community and local workforce;
- ii) It is a community type use that is commonly located within or adjacent residential areas throughout Western Australia;
- iii) Its location (opposite residential development and not abutting) will provide a buffer and reduce any impact on the adjacent residential area in terms of noise;
- iv) It will provide a much needed service in the Nedlands locality and will have significant benefits to the local community; and
- v) The traffic movements generated by any future centre on the land will not be excessive and will not have a detrimental impact on the surrounding road network.

9.0 SUMMARY OF JUSTIFICATIONS

The following justifications are submitted in support of the aforementioned Scheme Amendment proposal for Lot 381 (No.45) Carrington Street, Nedlands:

- The Amendment will facilitate the future development of the land to accommodate a child day care centre to provide a vital and much needed service to the local community and the employees of the adjoining industrial area.
- The subject land is ideally located in terms of its proximity to a service/industrial area that comprises a workforce that could be serviced by the future child day care centre on the land.
- Any future development of the land for child day care centre purposes will accord with the Western

Australian Planning Commission's Planning Bulletin No.72/2009 entitled 'Child Care Centres'.

- The future development of the land to include a child day care centre will provide a valuable service for those parents working within the nearby hospital precinct.
- The proposal is consistent with the City's proposed zoning and land use changes for this portion of Carrington Street outlined in the City's Draft Local Planning Scheme No.3.
- The future development of the land for child day care centre purposes will be complimentary to and will add diversity and variety to the existing business activities and land uses established in the immediate locality.
- The future development of the land will assist with the removal of industrial types uses adjacent residential dwellings along Carrington Street.
- The future redevelopment of the land will assist with improving the built form along Carrington Street, providing the opportunity for an attractive development that will improve the land's appearance when viewed from the street.

9.0 CONCLUSION

In light of the various information and justifications provided in support of the proposed scheme amendment we respectfully request the necessary approvals from the City of Nedlands, the Environmental Protection Authority, the Western Australian Planning Commission and the Minister for Planning, Lands & Heritage to amend the City of Nedlands current operative Local Planning Scheme No.2 in accordance with the proposals contained in the scheme amendment documentation.

APPENDIX 1 – CERTIFICATE OF TITLE

LT. 38

Application D185677 WESTERN AUSTRALIA

Volume 1053 Folio 416

REGISTER BOOK
VOL. 1717 FOL. 565

CERTIFICATE OF TITLE

UNDER THE "TRANSFER OF LAND ACT, 1893" AS AMENDED

I certify that the person described in the First Schedule hereto is the registered proprietor of the undermentioned estate in the undermentioned land subject to the easements and encumbrances shown in the Second Schedule hereto.

A. J. Smyth
REGISTRAR OF TITLES

Dated 22nd January, 1986

ESTATE AND LAND REFERRED TO

Estate in fee simple in portion of Swan Location 717 and being Lot 22 of Section G on Plan 112 (Sheet 2), delineated and coloured green on the map in the Third Schedule hereto, together with a right of carriageway over the portion of Lot 21 of Section G on the said Plan coloured brown on the said map hereon as set out in Transfer D185676.

FIRST SCHEDULE (continued overleaf)

Andrew Stephen, Junior, of 64 Doonan Road, Nedlands, Ronald Blackford Stephen of 54 Kingsway, Nedlands and Ian Stephen of 85 Esplanade, Rockingham, Builders, as tenants in common in equal shares.

SECOND SCHEDULE (continued overleaf)

NIL

A. J. Smyth
REGISTRAR OF TITLES

THIRD SCHEDULE

SCALE 1 : 500

ROAD

1525

696m²

21 23

457

22

1525

CARRINGTON ST

NOTE: RULING THROUGH AND SEALING WITH THE OFFICE SEAL INDICATES THAT AN ENTRY NO LONGER HAS EFFECT. ENTRIES NOT RULED THROUGH MAY BE AFFECTED BY SUBSEQUENT ENDORSEMENTS.

PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

Planning and Development Act 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

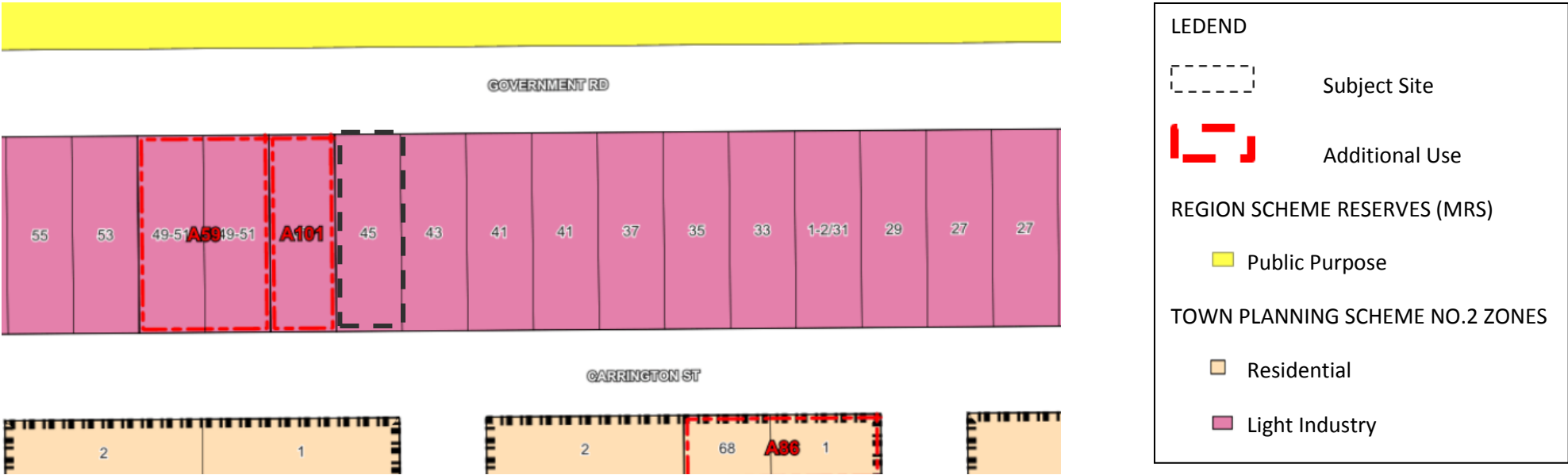
***[Name and Number of Local Planning Scheme]
[Amendment Number]***

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

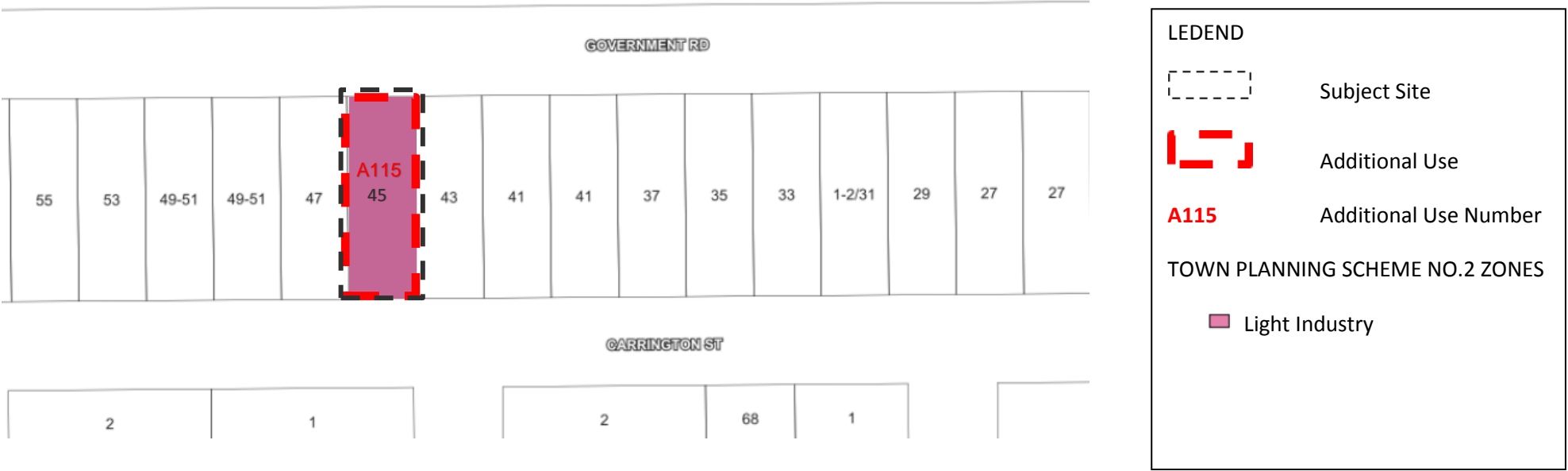
[LIST COMPREHENSIVE DETAILS OF PROPOSED AMENDMENT AS IT WAS ADVERTISED.]

DO NOT INCLUDE ANY MODIFICATIONS AS ADOPTED BY COUNCIL - TO BE INCLUDED IN SCHEDULE OF MODIFICATIONS AND NOT IN RESOLUTION]

Existing Scheme Map



Proposed Amendment Map



COUNCIL ADOPTION

This [Standard] Amendment was adopted by resolution of the Council of the [LOCAL GOVERNMENT] at the [NAME] Meeting of the Council held on the [day] day of [month], 20[year].

.....
MAYOR/SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the [LOCAL GOVERNMENT] at the [NAME] Meeting of the Council held on the [day] day of [month], 20[year], proceed to advertise this Amendment.

.....
MAYOR/SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended [for support/ not to be supported] by resolution of the [LOCAL GOVERNMENT] at the [NAME] Meeting of the Council held on the [number] day of [month], 20[year] and the Common Seal of the [LOCAL GOVERNMENT] was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
MAYOR/SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....
**DELEGATED UNDER S.16 OF
THE P&D ACT 2005**

DATE.....

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....

2 November 2018

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

Attention: Ronni Crabtree – Strategic Planning Officer

Dear Ronnie

**PROPOSED AMENDMENT (AMENDMENT NO.214)
CITY OF NEDLANDS LOCAL PLANNING SCHEME NO.2
LOT 381 (No.45) CARRINGTON STREET, NEDLANDS**

Reference is made to the City's email correspondence to this office dated 19 October 2018 wherein it requested that additional information be prepared in support of the proposed amendment to the City of Nedlands Local Planning Scheme No.2 (LPS No.2) and the potential future development of the land for 'child day care centre' purposes.

Having due regard for the City's request in this matter, the following information is provided in support of the application for the City's consideration:

Point 1: Is the land the correct size? Does it allow for car parking on-site to comply with Australian Standards?

The following information is provided for the City's consideration regarding this matter:

- i) The purpose of the scheme amendment is to facilitate the redevelopment of a new child care centre over both Lots 381 & 380 (Nos.45 & 47) Carrington Street. This will result in the removal of the existing centre on Lot 380 to allow for a new comprehensive development to be undertaken over the two (2) properties.
- ii) Lots 380 & 381 will be amalgamated to create a new lot comprising 1,392m². The subject land also comprises frontage to both Carrington Street along its southern boundary and Government Road along its northern boundary, therefore providing two vehicular access points to service the proposed development.
- iii) The purpose of this amendment is to provide a new comprehensive child care centre that will cater for the modern needs of the children attending the centre (i.e. improved internal and external play areas, improved facilities/amenities and improved traffic movements/on-site car parking).
- iv) Given the lot area and two (2) street frontages, it is contended that the subject land comprises sufficient land area to accommodate on-site car parking that will be designed in accordance with the Australian Standards.
- v) The dual street frontage does allow the opportunity for dispersing vehicle movements over the two (2) streets to limit the number of movements generated by the use along Carrington Street (see Figure 1).
- vi) Detailed plans will be prepared in support of any future development application for the land and will include a traffic statement prepared by a qualified traffic engineer to ensure

compliance with the Australian Standards in-regards to on-site car parking and vehicle manoeuvring. It should be noted that the landowner is committed to ensuring that the future development of the site will satisfies the Australian Standards for vehicle movements to provide a safe environment for the staff and customer attending the site.



Figure 1 – Dual street frontage will assist with car parking and vehicular access design

Point 2: Does the site cater for a vehicle pick up an drop off area whereby parents can exit and enter in a forward gear?

The following information is provided for the City's consideration regarding this matter:

- i) As previously mentioned, both Lots 380 & 381 will be amalgamated to providing a larger development site. Given this, a new development will be designed over the two (2) properties.
- ii) Any future development of the land will be designed to comply with the Australian Standards for vehicle parking and manoeuvring. As previously mentioned, the site comprises access to two (2) streets, which service the future development of the land. This may include the location of staff parking to the rear along Government Road and only customer/parent access from Carrington Street, therefore dispersing traffic movements.
- iii) The development will be designed to ensure vehicles will enter the Carrington Street road reserve in a forward gear, as well as providing adequate facilities for parent to drop off/pick up for children attending the centre. As the City would appreciate, a detailed design of the centre has yet to be prepared for the City's consideration due to the uncertainty of the Scheme Amendment. Once the amendment proposal has progressed further, the landowner will be in a position to prepare a design layout for the future development of the land.

Point 3: Does the operation have any buses? If so where do they park?

The following information is provided for the City's consideration regarding this matter:

- i) At this stage, the operator of the centre will not utilise a bus. Any intention to include a bus as part of the centre's service will need to be included as part of the design phase of the development.

- ii) The current centre operates a mini bus which comprises a length of approximately 5.3 metres (Toyota HiAce), which is similar to a Toyota Hilux dual cab ute that can utilise a standard car parking bay. If the current/future operator of the new centre utilises the same mini bus, it can be accommodated on-site with sufficient manoeuvring. Given this, the matter raised by the City can be adequately addressed.

**Point 4: How does this site interact with the existing operations on the other two sites?
Are the sites to be amalgamated into one childcare centre or developed on its own?**

The following information is provided for the City's consideration regarding this matter:

- i) As previously mentioned, Lots 380 & 381 will be amalgamated to allow for one (1) comprehensive child care centre to be constructed over the subject land (the new centre will be one business).
- ii) It should be noted that the existing building on Lot 380 (currently child care centre) was never purpose built or designed to be a child care centre. The existing building on the land is in poor condition and comprises numerous faults that have resulted in complaints from parents using the facilities. The new development on the land will be purposed design/built and overcome the current shortfalls of the current operations.
- iii) In addition to the above point, the existing industrial development on Lot 381 is in poor condition, has reached its use life and includes asbestos (see Figure 2). The landowner is wanting to demolish the structure and any associated to asbestos to remove any potential impacts on the surrounding area. All demolish works will be undertaken to ensure that the health requirements are strictly adhered to.
- iv) It is noted that an existing child care centre is located on No.49 & 51 Carrington Street, therefore there is currently two (2) centres operating along this part of Carrington Street. The proposed redevelopment of No.45 & 47 Carrington Street will no increased the number of centres along this position of Carrington Street.



Figure 2 – Existing building on Lot 381, which is run down and will be removed. A new development on the land will assist with improving the local streetscape.

Point 5: Have they provided a high-level Traffic Impact Assessment up front?

The following information is provided for the City's consideration regarding this matter:

- i) A high-level traffic impact assessment has not been prepared as part of the Scheme Amendment application, as a design for the new centre over the two (2) lot has not been prepared.
- ii) As the City would appreciate, a detailed design for the proposed re-development of the land has not been prepared due to the zoning/use permissibility not being in place over Lot 381 and the uncertainty associated with this application. Once the scheme amendment has progressed (greater certainty), then the landowner will be in a position to prepare plans in support of the future re-development of the subject land following consultation with the future operator of the new child care centre.
- iii) It is noted that the City will require a traffic impact assessment or statement as part of any development application lodged in support of the new development on the subject land.

Point 6: Have they provided an acoustic assessment report? How will the business be affected by the noise of the other businesses, how will the childcare effect the noise of the area?

The following information is provided for the City's consideration regarding this matter:

- i) An acoustics report has not been prepared in support of the scheme amendment application, as a design for the new centre has not been finalised at this early stage. The landowner is aware that an acoustics report will need to be prepared as part of any development application to be lodged with the City in support of the new development on the subject land. The acoustic report will provide (depending on the design layout) any need for noise attenuation that will need to be implemented as part of any new development.
- ii) As the City is aware, Lot 380 currently comprises a child care centre, which is not impacted by noise generated by vehicle movements along Carrington Street or the nearby industrial uses. In fact, this proposal includes the removal of an industrial use on Lot 381, therefore reducing any impacts of potential conflicting uses.
- iii) It is contended that the noise generated by the future child care centre would be consistent with the noise generated by the existing centre on Lot 380 and the existing centre at No.49-51 Carrington Street. In addition, the removal of the industrial use on Lot 381 will remove noise associated with industrial type uses (i.e. use of machinery) and noise generated by heavy truck movements.
- iv) It should be noted that it is not uncommon for child care centres to be located within or opposite residential development. In fact, the location of such centres within the residential area provides a much-needed service for the community.

Point 7: Is there an accumulative effect land use wise in conglomerating more than one centre together at one location? Are they all right next to each other?

The following information is provided for the City's consideration regarding this matter:

- i) As previously mentioned, the intent of the scheme amendment is to amalgamate Lots 381 & 380 to create one (1) lot to comprise a single child care centre over the subject land. The purposes are to provide an improved facility to meet the growing needs of the centre.
- ii) In light of the above, it is contended that there will not be any accumulative impact on land use generated by two (2) adjoining child care centres, which reflects the current situation along Carrington Street.

Point 8: Are there any potential land use conflicts? What are the uses current located adjacent to this development? This is a sensitive land use so does it and would it comply with EPA requirements? Especially in terms of the Panel and Paint store being located two doors away.

The following information is provided for the City's consideration regarding this matter:

- i) As the City is aware, an existing approved child care centre is located Lot 380, furthermore the proposed further development of both Lots 381 & 380 will result in the removal of the building on Lot 381 which has historically been used for industrial purposes.
- ii) There are a range of different land uses along this position of Carrington Street, including office, showroom, warehouse, child care centre and an automotive repair business (panel & paint). A majority of these uses produce minimal adverse impacts in terms of noise, dust and odour that would adversely impact the new child care centre on the subject land. The only questionable use is the automotive repairs business located east of the subject land on (No.41 Carrington Street).
- iii) In regard to the paint and paint store located two (2) properties east of the subject land, any relevant studies required by the City at development application stage will be undertaken to ensure that any potential impacts the panel & paint business may/may not have and any key works required to address any identified concerns. This could include the design layout of the new development on Lot 381 & 380 to address any odour or noise issues. Such measures may include locating the car parking area and landscaping along the eastern side of the new development to provide a buffer between the child care centre building and the current industrial use to the east. In addition, the extent of openings and outdoor areas oriented/located on the eastern side of the proposed development on the subject could be limited. Such design solutions will be considered and incorporated as part of the design/planning phase for the future development of the land.

Conclusion

It is contended that the proposed scheme amendment for Lot 381 (No.45) has merit and that any future development of the land can be undertaken to address the aforementioned matters raised by the City. The land owner is committed to improve the appearance of the development on the subject land, resulting in an improved child care centre facility and an improvement to the local streetscape.

In light of the above, we respectfully request the City's favourable consideration of the proposal and that the proposal be included in the agenda for consideration by Council at its November (if possible) or December 2018 meeting.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact me on 0407384140 or carlof@people.net.au.

Yours faithfully,



Carlo Famiano
Principle Town Planner
CF Town Planning & Development

PD74.18	Christ Church Grammar School - Possible Acquisition of Landfill Site
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Committee	4 December 2018
Council	18 December 2018
Applicant	Taylor Burrell Barnett
Landowner	State of WA
Director	Peter Mickleson – Director Planning & Development
Previous Item	Nil.
Attachments	1. Applicants formal request for endorsement

1.0 Executive Summary

The purpose of this report is for Council to consider a request for endorsement for Christ Church Grammar School (CCGS) to acquire the former landfill site in North East Mt Claremont. The parcels of land are currently owned by the State Government and the school is seeking a letter of support for acquisition from the City. The exact land holdings are listed in Table 1 below.

It is recommended that endorsement be given by the Council for the school to purchase the land to be used for recreational purposes.

2.0 Recommendation to Committee

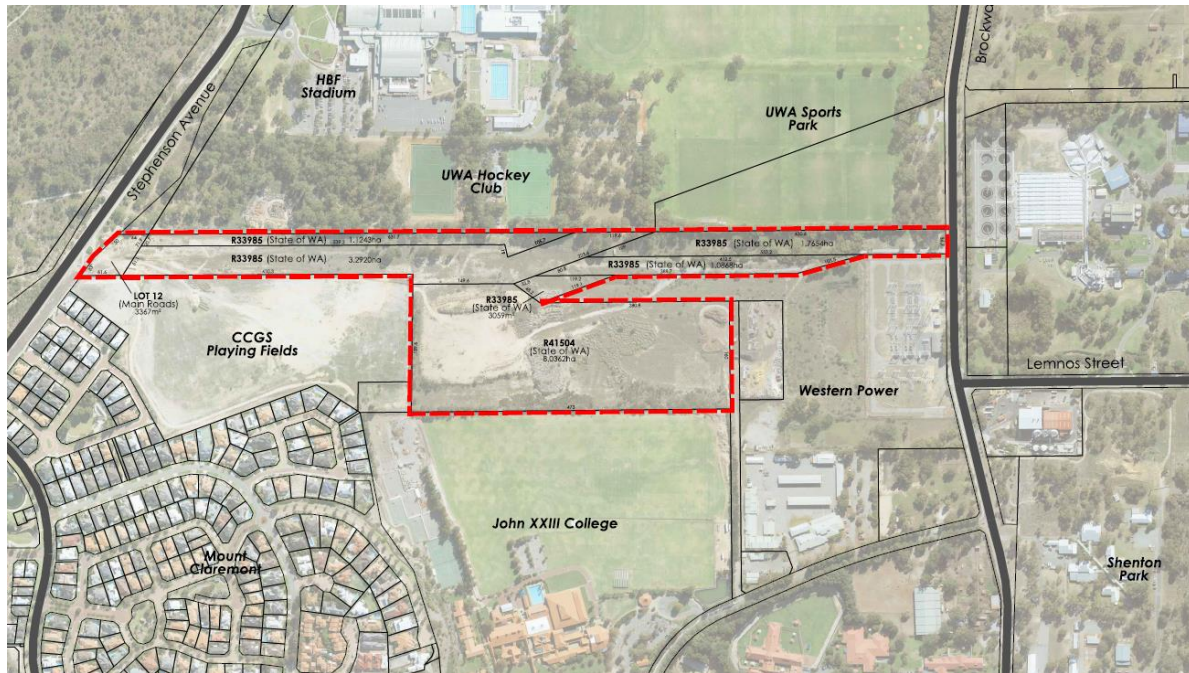
Council instructs Administration to write a letter of endorsement from the City to support Christ Church Grammar Schools endeavours to acquire the former landfill site, lots shown in Table 1.

3.0 Background

3.1 Land Details

Land Area	16.3ha in total
Local Planning Scheme Zone	No Zone with a small parcel of Recreation
Metropolitan Region Scheme Zone	Urban with a small section of Public Purpose - Hospital

3.2 Locality Plan



The subject sites are located within the North Eastern area of Mt Claremont. The parcels ownership and vesting arrangements are shown below in Table 1. The sites are currently unused due to site contamination from the former landfill site.

Reserve No./Lot No./ Plan No.	Volume	Folio	Area	Registered Proprietor(s)
R33985 Lot 10949 on Plan 216951	LR3141	650	1.1243ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 10781 on Plan 216951	LR3141	649	3.2920ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 9206 on Plan 213700	LR3141	646	3059m ²	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 9208 on Plan 213700	LR3141	647	1.0868ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 9209 on Plan 213700	LR3141	648	1.7654ha	STATE OF WA (Minister for Sport and Recreation)
R41504 Lot 12970 on Plan 219939	LR3111	283	8.0362ha	STATE OF WA (Minister for Sport and Recreation)
Lot 12 on Plan 024305	2205	636	3367m ²	COMMISSIONER OF MAIN ROADS

4.0 Application Details

CCGS is seeking endorsement from the City for their potential acquisition of the former landfill site. The school is wanting to use these parcels of land for extension of their current playing fields adjacent to the site.

The school is aware of the site contamination and are willing to undertake works to solve this issue on these sites.

The access and management arrangements are detailed in Attachment 1. CCGS has expressed that their intention is that access to the playing fields and associated facilities would be made available to the general public and community sports clubs for training and competition outside of the times the school is required to use the facilities. The school would require exclusive use of the oval and facilities at the following times, almost exclusively during the school term (38 weeks per annum):

- Monday to Thursday afternoons (3:30 – 5:00pm), for sports training;
- Friday afternoons (1:30 – 5:00pm) – for organised fixtures; and
- Saturday mornings (8am – 12:00pm) – for organised fixtures.

Outside of these times, community groups would have the ability to book the playing fields and facilities including change rooms and toilets, consistent with the arrangements at the existing CCGS playing fields.

Bookings would be advertised and scheduled online with a link placed on the City of Nedlands website. The bookings would be coordinated via an in-house resource, which would be utilised exclusively to book facilities to the general public and community groups. This resource is currently used by CCGS and regularly approached by community groups for access to playing fields, the school pool, gymnasium and boarding facility.

The general public would also have access to use the playing fields for recreation and non-organised sport and passive recreation, such as dog exercising, walking and general kick-to-kick, as is the case at the existing CCGS St John's Wood playing fields.

5.0 Consultation

The applicant has indicated that CCGS has discussed the proposal to acquire this land with the University of WA (UWA) and John XXIII College whereby they may wish to share the acquisition for similar purposes however this has not yet been confirmed or finalised.

CCGS has also approached the DLGSC for a letter of endorsement similar to that requested from the City. The applicant has informed that the DLGSC has verbally confirmed their support of the proposal.

6.0 Assessment of Statutory Provisions

6.1 Metropolitan Region Scheme

Majority of the subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS), with a small portion to the east being zoned Public Purpose – Hospital. It is likely that the applicant will have to undergo an MRS amendment to remove the no longer relevant Public Purpose – Hospital zoning over the eastern positions of the site.

6.2 City of Nedlands Town Planning Scheme No. 2

Under the provisions of the Scheme the subject site is largely unzoned with a small area in the centre, adjacent to the City's depot have a recreation zoning. It is acknowledged by the applicant that a Scheme Amendment will be required to zone the lots so that they are suitably identified in Town Planning Scheme No.2 for the intended development.

6.3 Local Planning Strategy

The City's endorsed Local Planning Strategy sets out the following aims for the Mt Claremont East Precinct:

- Retain and enhance the character and streetscape of the existing residential areas
- Comprehensively plan for the remaining non-residential areas.
 - Land uses and development within this area shall not conflict with the urban character being predominantly of sporting, research and educational facilities.
- Prevent the encroachment of sensitive land uses and residential development within the Subiaco WWTP odour buffer area.
- Consider opportunities to consolidate and improve access throughout the precinct.

The proposal to use these sites for recreation purposes is in line with the City's Local Planning Strategy for the area.

6.4 AK Reserve / UWA Sports Park Master Plan

The AK Reserve / UWA Sports Park Master Plan was adopted by the WAPC in 2006 as a requirement of the PLRA. The Master Plan identifies sporting ovals on the subject land, including a cricket oval and rugby oval. This is shown in Figure 2 of Attachment 1.

6.5 Environmental Considerations

The subject land is located over the former Brockway Landfill site. Initial environmental investigations have been undertaken which indicate that landfill material remains buried across the subject land and asbestos-containing materials are located in some of the surface soils.

The applicant acknowledges that the subject land would be required to be remediated prior to development of playing fields, which may comprise capping with clean fill along with some degree of water and land fill gas management. CCGS are willing to

undertake all required remediation works, understanding remediation works may be similar to those required on the adjacent CCGS St John's Wood ovals which were recently developed.

6.6 Perry Lakes Redevelopment Act 2005

The parcels of land were formerly located within the *Perry Lakes Redevelopment Act 2005* (PLRA) Area. The Governor proclaimed completion of the PLRA on the 25 November 2016, meaning that any applications over this area now received by the City will be assessed under the City's Town Planning Scheme.

6.7 Mount Claremont Sports Precinct structure plan Draft Development Concept (2004)

A study was commissioned by the Department of Sport and Recreation and the Department of Planning and Infrastructure in 2005 to provide a detailed planning framework for a regional sports complex at Mt Claremont. The study provided two possible options for development of the site as a sports precinct. Figure 1 shown in Attachment 1 of this report shows the possible outcome of the structure plan. This study's main emphasis was to allow for future expansion and development of sports facilities, associated infrastructure and other land uses within the study area.

6.8 Mt Claremont North-East Structure Plan Investigation

At the Council Meeting on the 23 October 2018 Council resolved to direct administration to prepare a Project Plan and Community Engagement Strategy for the Mt Claremont North-East area which includes the sites discussed by CCGS. This is required for the City to explore options for future development and planning for the Mt Claremont North-East area. The proposal by CCGS is aligned with this decision by Council as they will be using the central sites which are currently underused and poorly configured. The applicant has also expressed interest to be included in any future planning undertaken by the City for this area.

7.0 Budget / Financial Implications

N/A

8.0 Risk Management

N/A

9.0 Administration Comment

Upon consideration of the abovementioned factors the City supports the endeavours of CCGS seeking to acquire the former landfill site consisting of the lots listed in Table 1 above, for playing fields. The proposal is in line with the City's overall vision for the area as stipulated in the Local Planning Strategy.

The potential amalgamation and decontamination of these sites proposed by the school would allow for these sites to no longer be left unused and would be asset to both the school and the community. The City recommends that Council endorse CCGS's bid to acquire these lands for the purposes of extending their playing fields.

Assuming that the City provides in-principle support for the proposal, CCGS will engage with the Department of Planning, Lands and Heritage (Lands Division) to seek its agreement to remove the vesting of the subject land and sell the land to CCGS. If CCGS proceeds to purchase the land, consultation will be undertaken with the City of Nedlands to progress the necessary planning to facilitate development of the subject land.

Our Ref: 18/071 LB:CB

21 November 2018

Attention: Aron Holbrook

City of Nedlands
Administration Centre
71 Stirling Highway
NEDLANDS WA 6009

Dear Aron

RE CHRIST CHURCH GRAMMAR PLAYING FIELDS – REQUEST FOR IN-PRINCIPLE SUPPORT FOR ACQUISITION OF LANDFILL SITE

I refer to our previous discussions and email correspondence in respect of the above matter. As discussed, Christ Church Grammar School (CCGS) is seeking to acquire the former Brockway Landfill site on Brockway Road, Mount Claremont (subject land) (refer **Attachment 1 – Context Plan**) for the purpose of expanding its existing adjacent sporting facilities. Prior to approaching the Department of Planning, Lands and Heritage to seek its agreement to sell the land, CCGS is seeking an indication of support from the City and the Department of Local Government Sport and Cultural Industries (DLGSC).

The purpose of this letter, therefore, is to request that the City provide written in-principle support for CCGS to acquire the subject land for the purpose of extending their playing fields. This letter provides additional details on the subject land, the proposed development and land use and management arrangements, to enable the City to provide informed in-principle support.

BACKGROUND

Subject Land

The subject land is located on Brockway Road, Mount Claremont. It is bound by the UWA Sports Park and UWA Hockey Club to the north, Stephenson Avenue and existing CCGS St John's Wood Playing Fields to the west, John XXIII College and a Western Power site to the south, and Brockway Road to the east (refer **Attachment 1 – Context Plan**).

The land comprises eight lots and is 15.9473ha in area, and is described in **Table 1** below.

Table 1 Subject Land Lot Details

Reserve No. / Lot No. / Plan No.	Volume	Folio	Area	Registered Proprietor(s)
R33985 Lot 10949 on Plan 216951	LR3141	650	1.1243ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 10781 on Plan 216951	LR3141	649	3.2920ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 9206 on Plan 213700	LR3141	646	3059m ²	STATE OF WA (Minister for Sport and Recreation)



R33985 Lot 9208 on Plan 213700	LR3141	647	1.0868ha	STATE OF WA (Minister for Sport and Recreation)
R33985 Lot 9209 on Plan 213700	LR3141	648	1.7654ha	STATE OF WA (Minister for Sport and Recreation)
R41504 Lot 12970 on Plan 219939	LR3111	283	8.0362ha	STATE OF WA (Minister for Sport and Recreation)
Lot 12 on Plan 024305	2205	636	3367m ²	COMMISSIONER OF MAIN ROADS

PLANNING FRAMEWORK

Perry Lakes Redevelopment Act 2005

The subject land is located within the *Perry Lakes Redevelopment Act 2005 (PLRA)* Area, and as such the City of Nedlands Local Planning Scheme No. 2 (LPS 2) would cease to apply to development on the subject land. However, as the Governor proclaimed completion day over the PLRA Area on 25 November 2016, development applications are now to be determined by the relevant local government, assessed against the applicable Local Planning Scheme.

City of Nedlands Local Planning Scheme No. 2

The City of Nedlands LPS 2 does not designate zoning over the subject land. The City of Nedlands advised the Scheme zoning prior to the Redevelopment Act designation would therefore apply to the subject land. A portion of the subject land was previously zoned Development, with a portion reserved Recreation, and a portion identified as having no zone.

A Scheme Amendment would be required to ensure the land was suitably identified in the LPS 2 for the intended development.

Structure Plan

A Structure Plan was prepared for the Mt Claremont Sports Precinct in 2004 for the non-residential areas of the Mt Claremont north-east area, inclusive of the subject land. Following extensive stakeholder consultation, the Structure Plan was advertised by the WAPC in May 2005 for six weeks, however as the PLRA was introduced in December 2005, the WAPC resolved to simply note the submissions and acknowledge that more detailed future planning would be required. Two development concept plans were produced as part of the structure planning process, both of which indicated sporting ovals and facilities on the subject land (refer **Figure 1 – Development Concept Plan Option 1**).

It is understood, based on the minutes from City of Nedlands Council Meeting on the 23 October 2018, that the City of Nedlands intends to undertake detailed planning and prepare a new structure plan over the Mt Claremont north-east area, following the resolution of the City's new Local Planning Scheme no.3. CCGS would be willing to participate in any future structure planning process.

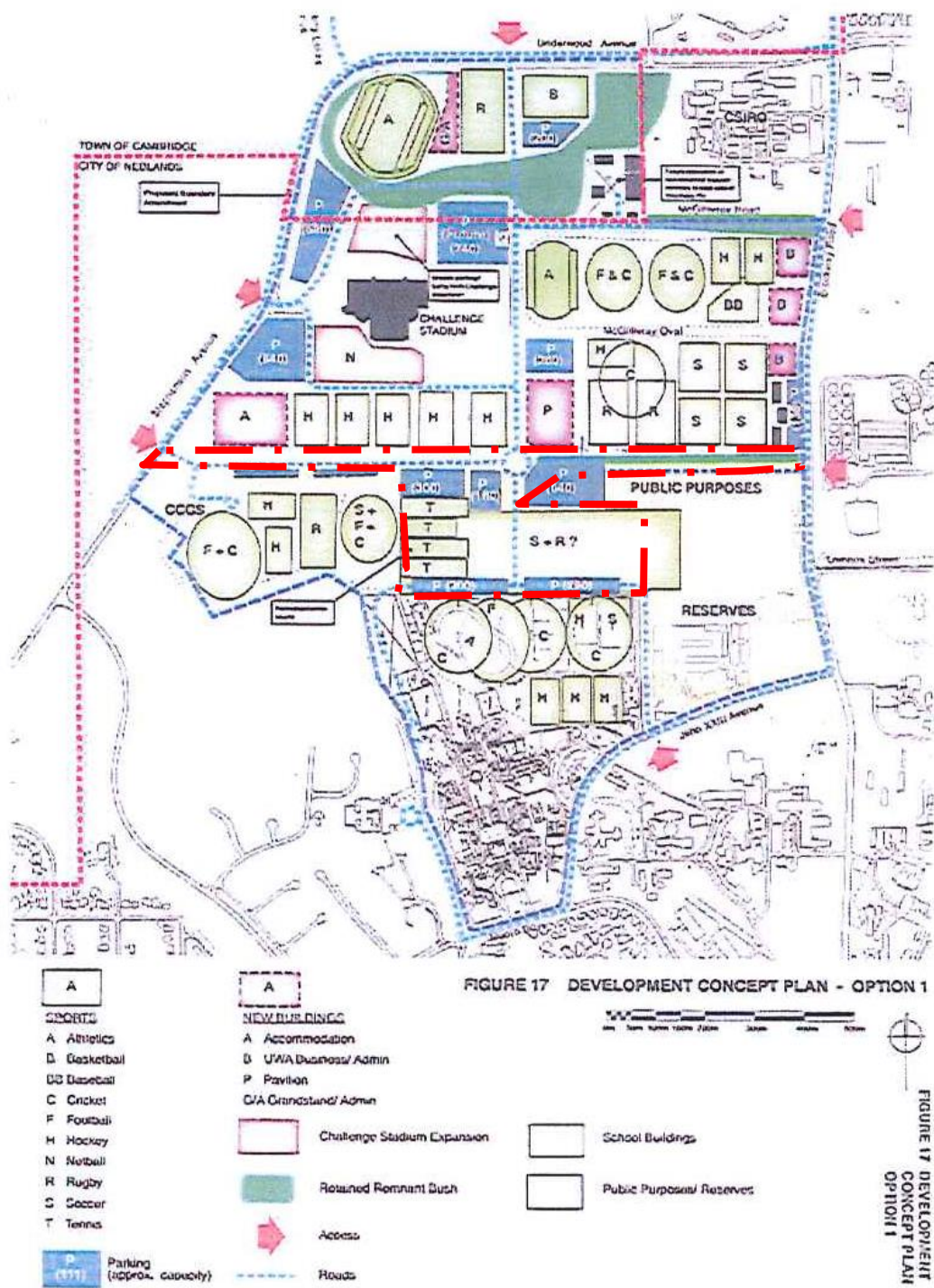


Figure 1 Mt Claremont Sports Precinct Structure Plan Draft Development Concept – Option 1 (approximate location of subject land identified by dashed red line).



AK Reserve / UWA Sports Park Master Plan

The AK Reserve / UWA Sports Park Master Plan was adopted by the WAPC in 2006 as a requirement of the PLRA. The Master Plan identifies sporting ovals on the subject land, including a cricket oval and rugby oval (refer Figure 2).

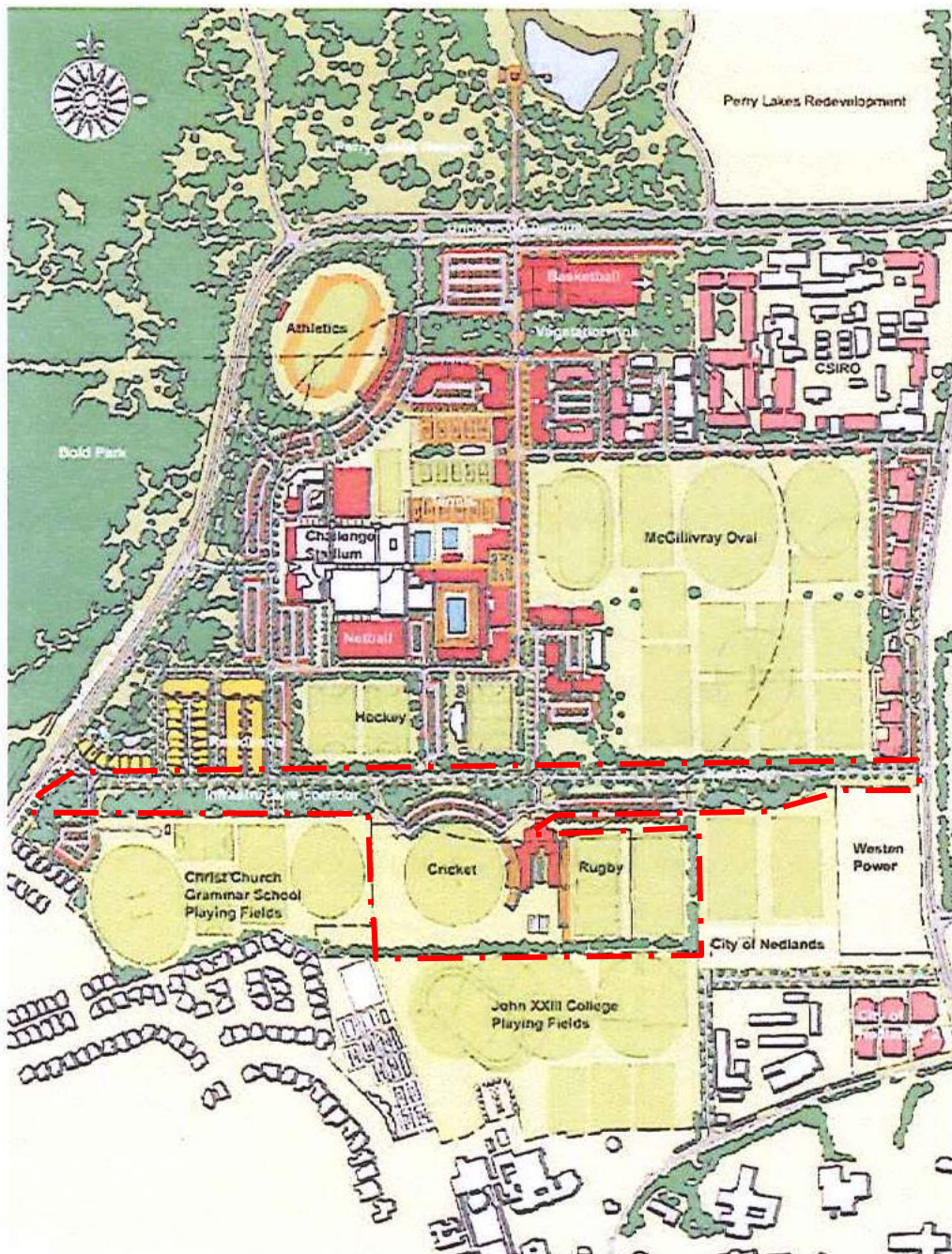


Figure 2 AK Reserve / UWA Sports Park Master Plan (approximate location of subject land identified by dashed red line).



ENVIRONMENTAL CONSIDERATIONS

The subject land is located over the former Brockway Landfill site. Initial environmental investigations have been undertaken which indicate that landfill material remains buried across the subject land and asbestos-containing materials are located in some of the surface soils.

The subject land would be required to be remediated prior to development of playing fields, which may comprise capping with clean fill along with some degree of water and land fill gas management. CCGS are willing to undertake all required remediation works, understanding remediation works may be similar to those required on the adjacent CCGS St John's Wood ovals which were recently developed.

PROPOSED DEVELOPMENT

CCGS intend to develop the subject land for playing fields, forming an extension to the existing CCGS St John's Wood playing fields. The exact detail and layout of the proposed development is yet to be determined, however the intent is to optimise the playing field offering across the broader precinct, in conjunction with UWA.

The land is currently comprised of eight lots, which would be amalgamated to form a consolidated parcel of land prior to development.

ACCESS AND MANAGEMENT ARRANGEMENTS

It is the school's intention that access to the playing fields and associated facilities would be made available to the general public and community sports clubs for training and competition outside of the times the school is required to use the facilities. The school would require exclusive use of the oval and facilities at the following times, almost exclusively during the school term (38 weeks per annum):

- Monday to Thursday afternoons (3:30 – 5:00pm), for sports training;
- Friday afternoons (1:30 – 5:00pm) – for organised fixtures; and
- Saturday mornings (8am – 12:00pm) – for organised fixtures.

Outside of these times, community groups would have the ability to book the playing fields and facilities including change rooms and toilets, consistent with the arrangements at the existing CCGS playing fields.

Bookings would be advertised and scheduled online with a link placed on the City of Nedlands website. The bookings would be coordinated via an in-house resource, which would be utilised exclusively to book facilities to the general public and community groups. This resource is currently used by CCGS and regularly approached by community groups for access to playing fields, the school pool, gymnasium and boarding facility.

The general public would also have access to use the playing fields for recreation and non-organised sport and passive recreation, such as dog exercising, walking and general kick-to-kick, as is the case at the existing CCGS St John's Wood playing fields.

CONSULTATION

CCGS has discussed the proposal with UWA and John XXIII College, with the potential that they may also share the acquisition, essentially for the same purpose; however, they are presently reserving judgement on whether or not to participate.



Given the majority of the subject land is vested in the DLGSC, CCGS has written to the DLGSC similarly requesting their in-principle support for the proposal, and it is understood that the Department has already informally advised of its support.

NEXT STEPS

Assuming that the City provides in-principle support for the proposal, CCGS will engage with the Department of Planning, Lands and Heritage (Lands Division) to seek its agreement to remove the vesting of the subject land and sell the land to CCGS. If CCGS proceeds to purchase the land, consultation will be undertaken with the City of Nedlands to progress the necessary planning to facilitate development of the subject land.

CONCLUSION

We therefore request the City of Nedlands considers this request, and provides written in-principle support for CCGS to acquire the subject land for the purpose of extending their playing fields. We trust the enclosed information provides sufficient detail to enable the City to satisfy this request. Please do not hesitate to contact Lex Barnett should you have any queries or wish to discuss this request further.

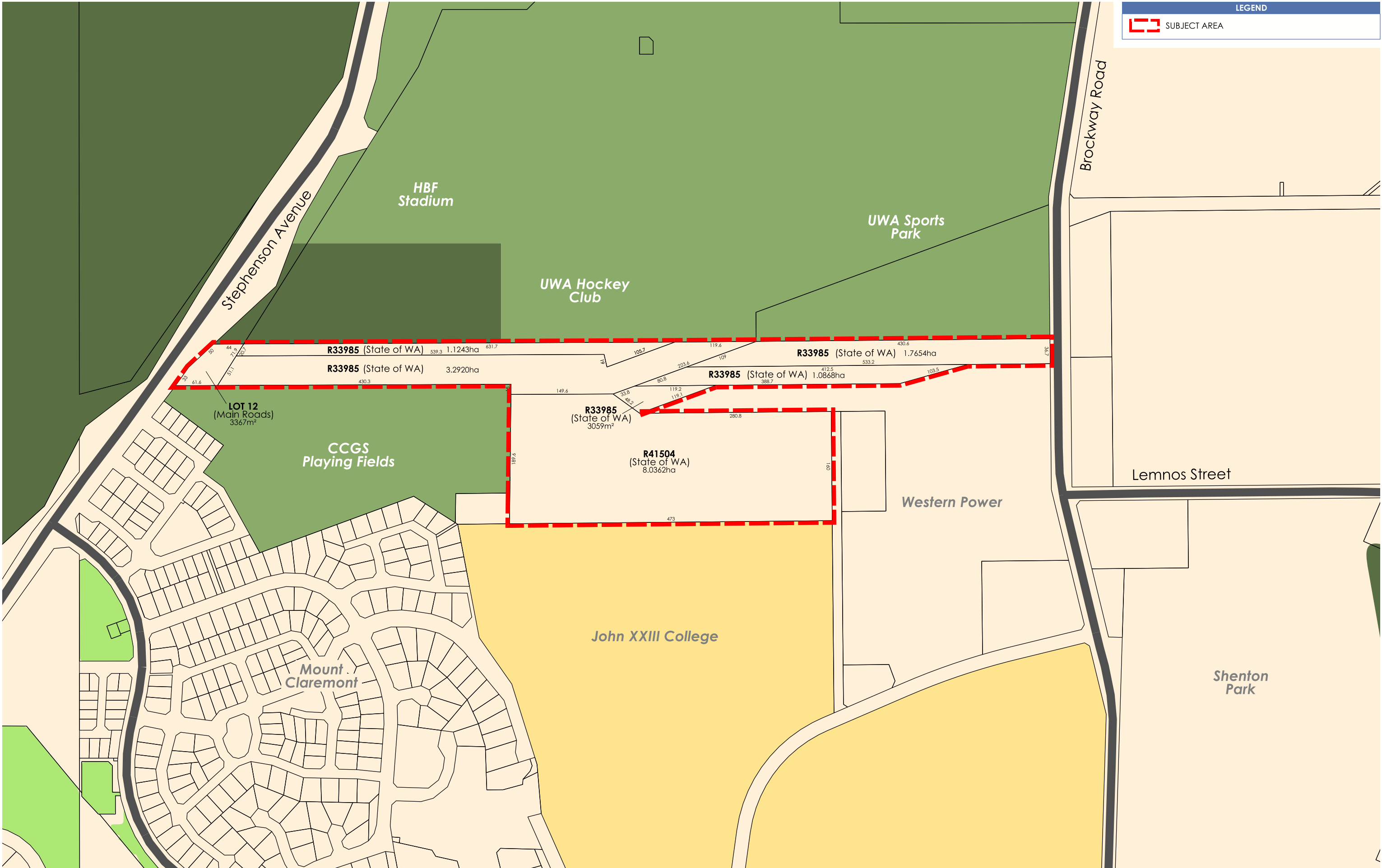
Yours faithfully
TAYLOR BURRELL BARNETT

A handwritten signature in black ink, appearing to read 'Lex Barnett', with a stylized flourish at the end.

LEX BARNETT
Managing Director




ATTACHMENT 1 CONTEXT PLAN



LEGEND

 SUBJECT AREA

CONTEXT PLAN
Mount Claremont

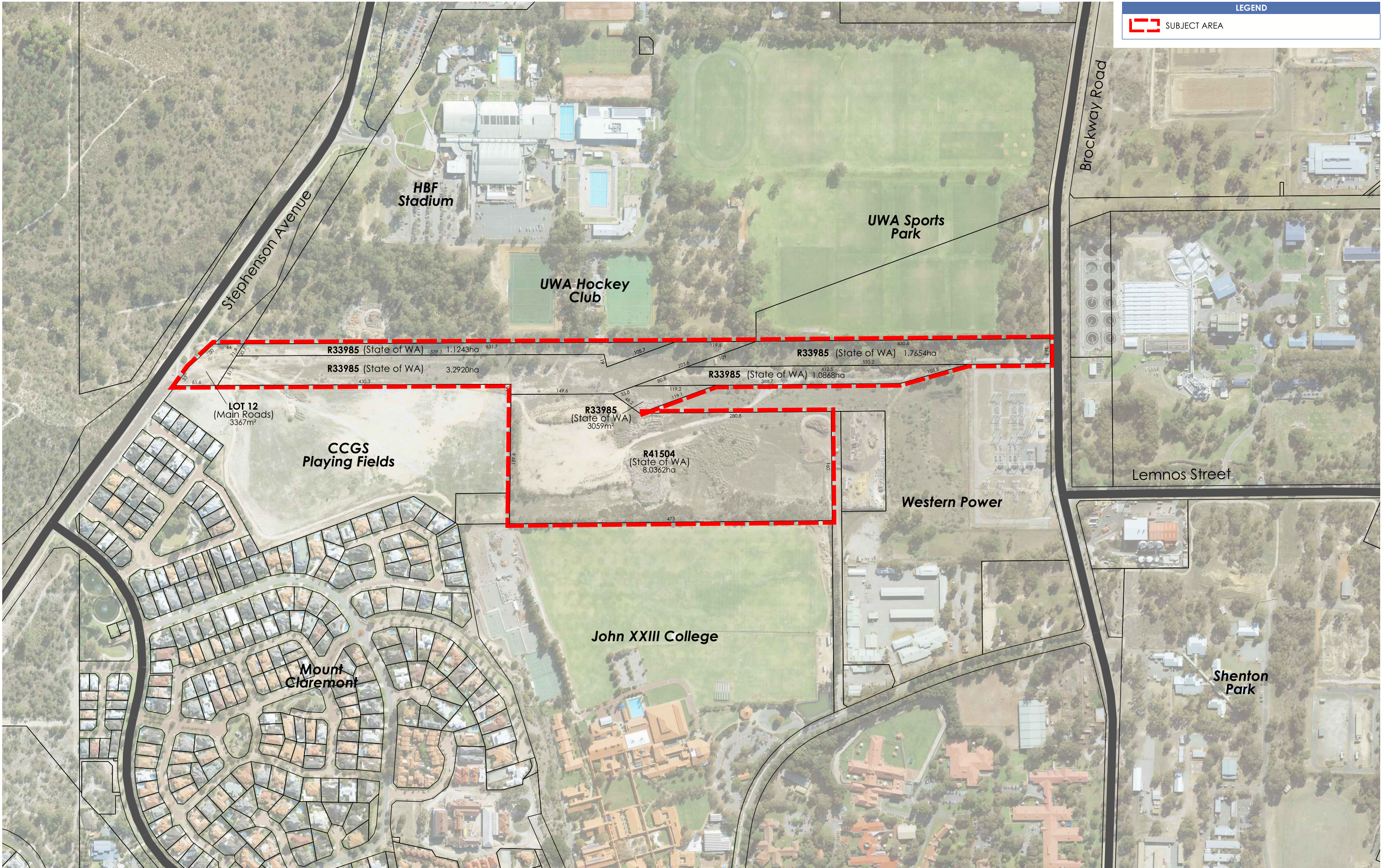
 0m 25 50 75m

s: 1:5000@A3
d: 21 Nov 2018
p: 15/073/159A

Taylor Burrell Barnett

Taylor Burrell Barnett Town Planning and Design
Level 7, 160 St Georges Terrace, Perth WA 6000
p: (08) 9226 4276 f: (08) 9322 7879
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LEGEND

 SUBJECT AREA

CONTEXT PLAN
Mount Claremont

 0m 25 50 75m

s: 1:5000@A3
d: 21 Nov 2018
p: 15/073/159A

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PD75.18	West Australian Bridge Club Inc. at Reserve 7804, Swanbourne – Extension to Lease Term
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Committee	4 December 2018
Council	18 December 2018
Applicant	Western Australia Bridge Club Inc.
Landowner	City of Nedlands
Director	Peter Mickleson – Director Planning & Development
Previous Item	C27.05 on 26 April 2005
Attachments	1. Nil

1.0 Executive Summary

The purpose of this report is to consider a request by the West Australian Bridge Club Inc. (the Club) to extend their lease term for premises located at Allen Park.

The Club have requested a 20-year extension for the purpose of security of tenure and to reduce their annual expenses recorded in their financial statements. An increased term will enable the amortisation of their leasehold improvements to be spread over a longer period of lease, thereby reducing the cost annually.

The Club have a healthy financial position with increasing membership numbers, presenting a sound long term tenancy arrangement.

2.0 Recommendation to Committee

1. **Council agrees to extend the term of lease by the West Australian Bridge Club Inc. for premises located at Reserve 7804, Allen Park Swanbourne subject to the following:**
 - a) **The extended term will be for a further 20 years, from the expiration of the current term of lease, being 30 June 2026;**
 - b) **The extension to the term of lease will be recorded in a Deed of Variation of Lease prepared by the City's solicitors;**
 - c) **The Club will pay for all costs associated with the preparation, execution and stamping of documentation to record the variation of the Lease and associated registration fees; and**
 - d) **The Minister for Lands approval is obtained.**
2. **Council delegates authority to the Chief Executive Officer and Mayor to sign the Deed of Variation of Lease and apply the City's common seal.**

3.0 Background

3.2 Locality Plan



The WA Bridge Club is located on a portion of Reserve 7804 - Allen Park.

Discussion/Overview

The City of Nedlands is vested with a management order (the Order) for Reserve 7804, being Allen Park (the Reserve). The Reserve is a class “A” Crown reserve with the purpose “Park and Recreation”. The Order contains a power to lease for any term subject to the Minister for Lands approval.

The Club lease a portion of the Reserve for a term of 15 years and a further term of 5 years (the Lease). The Lease commenced on 1 July 2006. Shortly after the Lease commenced the Club commenced development to build its premises onsite. The value of construction was just over \$1.5 million.

The Club have submitted a request to the City for an extension to their term of Lease. In the Club’s letter of request, they note the basis for this request is:

The majority of our members are retirees with a relatively fixed income. Thus the Club aims to keep annual subscriptions to members as low as possible. One of our major expenses is the amortisation of our leasehold improvements. If the lease was over a longer period the annual cost of this could be proportionally decreased allowing us to keep increases in subscriptions to a minimum. This would also enable us to keep in line with other metropolitan Bridge Clubs, something we are currently unable to do.

In addition the security of a longer lease would give Management and members more confidence in supporting any future proposal for major upgrades to the premises.

In their letter the Club further notes the following:

1. When WABC moved from their Dalkeith premises in January 2008 membership was 550. In the ten years we have been operating in Swanbourne the Club has grown to a membership of nearly 1,100 players, making it the third largest in Australia.
2. Visiting overseas and eastern states officials and players agree that WABC has the best facilities of any Bridge club in Australia.
3. WABC hosts four major National events per year.
4. Approximately one third of our members live within the City of Nedlands boundaries.
5. The Club makes every effort to be a “good neighbour” to the surrounding residents as well as liaising with Associates Rugby Club, Swanbourne Nedlands Surf Life Saving Club, Splashfest among others to ensure events don’t clash or have minimum impact if they do.
6. Successive Management Committees have ensured that the Club continues to go from strength to strength by having implemented a highly regarded Beginners programme combined with a unique Mentoring programme which promotes membership augmentation and retention.
7. We continue in our efforts to change our perceived demographic by running free Youth lessons on Saturday mornings which has resulted in a number of our young players representing WA nationally and Australia at various international youth championships held throughout the world. We also have a large number of people learning and playing Bridge in their 40’s and 50’s.

The Club’s financial statements show a healthy position and indicate an ability to sustain a longer-term tenancy as they now request.

The Club’s request would mean that the term of the Lease would become 15 years with a further term of 5 years and an additional term of 20 years.

Although it has been previously endorsed by Council that the City’s standard term of lease is 10 years with a further term of 5 years, there have been exceptions to this, particularly where significant investment by the lessee Club has occurred. One such example is the Cottesloe Golf Club which has a lease for a term of 21 years with a further term of 21 years. That lease agreement commenced on 1 May 2012.

4.0 Key Relevant Previous Council Decisions:

On 26 April 2005 Council considered item C27.05 and resolved to approve the Club leasing the area that was the former Swanbourne Bowling Club’s lease area. Council agreed to a lease by the Club for 15 years with a five-year option and required the Club to develop a new building onsite; connect the necessary services at no cost to Council; the Club contribute to the costs of developing further carparking facilities onsite. In the same item Council resolved to approve the Associates Rugby Club’s use and Lease of the former Swanbourne Bowling Club’s premises.

5.0 Consultation

The City's Administration have liaised with the Club to understand their requirements. If Council resolve to approve the Club's request to extend the Lease, the City will seek the Minister for Lands consent to the Variation of Lease before executing the documentation.

6.0 Budget/Financial Implications

There are no budget implications for the City relating to this proposal, as the Club will bear the costs of preparing, stamping, executing and registering the documentation to record the variation of the Lease.