



Development Services Reports

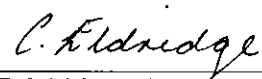
Committee Consideration – 8 March 2011
Council Resolution – 22 March 2011

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D16.11	No. 78 (Lot 12) Brookdale Street, Floreat: Proposed Child Care Centre
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Committee	8 March 2011
Council	22 March 2011

Applicant	Allerding & Associates
Owner	Wesbrel Pty Ltd
Officer	Coralie Anderson – Senior Statutory Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	DA10/80 : BR10/78
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as objections have been received and officers do not have the delegation to refuse a planning application.

Recommendation to Committee

Council refuses the application for Child Care Centre located at No.78 (Lot 12) Brookdale Street, Floreat in accordance with application dated 24 February 2010 and amended plans dated 1 November 2010 for the following reasons:

- 1) **The proposal does not satisfy the conditions and standards of Clause 6.4.2 and Clause 5.5.1 of the Town Planning Scheme No. 2.**
- 2) **The proposal will increase existing traffic and noise impacts.**
- 3) **The proposal will have an overall adverse impact on the amenity of the surrounding residents.**
- 4) **The proposal cannot comply with the Noise Regulations without overheight boundary fencing in a residential area.**

Strategic Plan

- KFA 1: Infrastructure
- 1.2 Design and construct infrastructure in accordance with Australian standards and guidelines.

KFA 3: Built Environment

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

Background

Property Address: No. 78 (Lot 12) Brookdale Street, Floreat
(Refer attachment 1 for Locality Plan)

Zoning MRS: Urban

Zoning TPS2: Residential R12.5

Lot Area: 823.1 m²

In 1994 a Child Care Centre was approved at No. 82 Brookdale Street, Floreat, two lots north of the subject property. The Child Care Centre was for a maximum of 38 children, with eight (8) on site car bays. The Child Care Centre is currently operating.

Proposal Detail

The subject lot is located on the same (east) side of Brookdale Street, two lots southern of the existing child care centre and is surrounded by residential lots on all sides. To the west (across the road) is the Perry Lakes redevelopment site.

The subject lot is 822 m² with a 26.15 m frontage and angles along the southern boundary to a 10 m rear boundary (Refer attachment 2 for site plan).

The existing dwelling is to be demolished and a two storey Child Care Centre is proposed to be constructed on the lot.

Ten (10) on site car bays are proposed at the front of the lot, including one disabled bay. There is one vehicular crossover to access the car park.

The hours of operation are Monday to Friday from 7:00 am to 6:00 pm. The centre will be licenced for 50 children and requires a maximum of seven (7) staff, including full-time and part-time.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Advertising Period 5 November 2010 – 19 November 2010

Four (4) comments (three from the same person) and a petition (signed by 15 people) were submitted prior to the advertising period.

Five (5) objections were submitted during the advertising period, including two (2) objections from people who had objected prior to the advertising.

Comments received: 5 Objections

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

Summary of comments received	Officers technical comment
<p>Issue: Increase Parking and Traffic congestion along Brookdale Street</p>	<p>Support</p> <p>The traffic generated can be accommodated within the existing road network. Although it is considered the traffic generated is not in keeping with the residential nature of the locality.</p> <p>The onsite parking bays could be argued to comply with the current relevant legislation. However over flow parking is expected and therefore it is considered this will adversely impact the adjoining residential properties.</p> <p>Discussed further below.</p>
<p>Issue: Parking from existing child care centre restricts views for resident's entry/exiting driveway.</p>	<p>Support</p> <p>Another Child Care Centre would increase traffic congestion in the area and amplify traffic issues.</p> <p>Discussed further below.</p>
<p>Issue: Excessive Noise Levels, especially combined with the existing child care centre</p>	<p>Support</p> <p>In response to comments raised during the advertising period the applicant has submitted a Noise report. The report indicates compliance with the regulations subject to specific conditions.</p> <p>Notwithstanding this compliance, it is considered that the overall change in noise levels will have an adverse affect on the surrounding residential locality.</p> <p>Discussed further below.</p>

<p>Issue: Two Storey Child Care seems dangerous for children</p>	<p>Noted</p> <p>There is a ramp (not stairs) to the second storey. The development is also required to comply with the <i>Child Care Services Act 2007</i>.</p>
<p>Issue: Visual Privacy/overlooking from second storey</p>	<p>Dismiss</p> <p>The upper storey windows comply with the privacy regulations of the RCodes.</p>

One comprehensive objection was submitted by a solicitor on behalf of a property owner. This submission also included a Parking and Traffic Assessment Report by a Transport Consultant. This submission has been summarised and responded to separately below:

Summary of comments received	Officers technical comment
<p>Issue: Traffic and Parking</p> <p>Carparking layout – ineffective and difficult maneuvering.</p> <p>Brookdale Street – turning issues into subject lot.</p> <p>Perry Lakes Redevelopment will increase traffic volume.</p> <p>Insufficient parking on site.</p> <p>Sight distances – sight line issue to the north along Brookdale Street, exasperated by on street parking.</p> <p>On-street Parking – existing child care relies on on-street parking, cumulative effect with proposed centre.</p> <p>Pedestrian Safety – need to share entrance with vehicles.</p>	<p>Support</p> <p>The traffic generated can be accommodated within the existing road network. Although it is considered the traffic generated is not in keeping with the residential nature of the locality.</p> <p>The onsite parking bays could be argued to comply with the current relevant legislation. However over flow parking is expected, and therefore it is considered this will adversely impact the adjoining residential properties. The design does not facilitate easy drop off and pick up movements of a childcare centre particularly at peak times.</p> <p>There are also concerns the design of the car park and the cumulative effect of the traffic and street parking by both Child Care Centres will have an adverse impact on the residential nature of the area.</p> <p>Discussed further below.</p>

<p>Issue: Noise</p> <p>No attempt to separate the outdoor play area from surrounding residents.</p> <p>Noise Regulations – No assessment has been provided to ensure noise meets the regulations.</p> <p>Even if compliant with the regulations the noise levels can still have an adverse impact on the locality</p>	<p>Support</p> <p>In response to comments raised during the advertising period the applicant has submitted a Noise report. The report indicates compliance with the regulations subject to specific conditions.</p> <p>Notwithstanding this compliance, it is considered that the noise levels will have an adverse affect on the surrounding residential locality.</p> <p>Discussed further below.</p>
<p>Issue: Size and Shape of Lot</p> <p>Does not Comply with Planning Bulletin 72/209 – small sized lot and irregular shape.</p>	<p>Support</p> <p>Not considered to be an appropriate size of shaped lot.</p> <p>Discussed further below.</p>
<p>Issue: Visual Amenity</p> <p>Doesn't comply with the provisions of Clause 6.4.2 of the TPS2</p>	<p>Support</p> <p>Not considered to comply with the provisions.</p> <p>Discussed further below</p>

Legislation

- Town Planning Scheme No.2 (TPS2)
- Residential Design Codes 2008 (RCodes)
- Planning Bulletin 72/2009 Child Care Centres

A Child Care Centre is an 'AA' use in TPS2. Council may approve the use if it is considered desirable, following the application being advertised for 21 days to surrounding residences in accordance with Clause 6.3.

The TPS2 has no specific provisions on Child Care Centre. However all planning applications require the following provisions to be considered:

“5.5 Preservation of Amenity

5.5.1 Without limiting the generality of Clause 6.5 the Council may refuse to approve any development if in the 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 factor inconsistent with the use for which the lot is zoned.”

Clause 6.4.2 states:

"In respect of an application for planning approval made under Clause 6.3 the applicant shall satisfy the Council that the following conditions and standards have been met.

- a) *the nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, emission of any kind and the effect on any use or development within the locality;*
- b) *the plot ratio, site coverage setbacks, height, landscaping and parking provisions are in keeping with the general character of the locality;*
- c) *the form, layout, appearance and material of any building is in keeping with the existing character of the locality;*
- d) *the vehicular and pedestrian access, including on-site circulation and provision for deliveries will not create any danger;*
- e) *the vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns;*
- f) *that any traffic generated must be capable of being accommodated within existing streets;*
- g) *that the development or use will not place excessive loads on existing or projected essential services;*
- h) *the proposed development or use is necessary to service the needs of the district's residential population and is otherwise generally in keeping with the Council's Town Planning intentions for the locality;*
- i) *the desirability of preserving (or replacing) existing trees and other vegetation contributing to the amenity or significant of the locality.*
AMD 116 GG 17/10/97
- j) *any other matter considered relevant by Council."*

Planning Bulletin 72/2009 provides guidance on specific planning considerations and assessment of a Child Care Centre.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

The following issues have been indentified and discussed below:

<p>Requirement</p>	<p>The Bulletin 72/2009 states that the location of Child Care Centres are critical in meeting needs of children and families and reducing the impact of the child care centre may have on surrounding activities.</p> <p>The bulletin outlines aspects which make an appropriate and not appropriate location for a child care centre.</p> <p>According to the bulletin, a child care site should be:</p> <ul style="list-style-type: none"> • <i>Distributed strategically to provide the maximum benefit to the community it serves.</i> • <i>Within easy walking distance or part of appropriate commercial, recreational or community nodes and educational facilities.</i> • <i>Adjoining uses are compatible with child care.</i> • <i>Serviced by public transport (where available).</i> • <i>No traffic issues.</i> • <i>Sufficient size, dimension to accommodate development and not affect amenity of area.</i> <p>Clause 6.4.2 of the TPS2 also states that every application should take into consideration the following:</p> <ul style="list-style-type: none"> • <i>nature and intensity of the proposed use of the development will not have a detrimental affect on the locality.</i> • <i>the proposed use is necessary to service the needs of the district's residential population and is otherwise in keeping with the TPS intentions for the locality.</i>
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<p>Applicant Justification (summarised).</p> <p><i>A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</i></p>	<p><i>Child care centres should be distributed strategically to provide maximum benefit to the community it serves. The current Play's Kool Centre is operating at full capacity and there is an extensive waiting list.</i></p> <p><i>In addition the provision of inner city child care centres is important and acknowledge within the bulletin, accordingly the subject site was chosen due to demand within the locality and strategic location which consists of the proximity the amenities, community services and residential catchments. Additionally the site was chosen to complement the existing centre and provide to the community a full service which caters for all age groups.</i></p> <p><i>Furthermore the population within the immediate area is set to grow with the Landcorp redevelopment of Perry Lakes, which will create approximately 600 dwellings.</i></p>
<p>Officer Comment</p>	<p>The proposed development is located in a residential area with residential dwellings to both sides and to the rear of the subject lot. As mentioned by the applicant, the lot is also adjacent the proposed Perry Lakes Redevelopment Area.</p> <p>It is not considered the child care centre is located strategically given there is an existing child care centre located two (2) lots to the north which accommodates children in the immediate area.</p> <p>Furthermore, the child care will be larger and contain more children than the existing child care centre. The nature and intensity of this child care centre will have a detrimental impact on the surrounding residents. Specifically for the dwelling at No. 80 Brookdale which would have child care centres on both adjoining boundaries.</p> <p>This is also not a suitable location for a child care centre as the lot is not part of or in walking distance of a commercial, recreation facility or community or educational node and located in purely a residential area.</p>

	<p>The traffic, while can be accommodated within the existing road network, when combined with the existing child care centre will cause congestion and be disruptive to the adjoining residents. Traffic is discussed further in this report.</p>
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Site Characteristics & Design of Centre

<p>Requirement</p>	<p>Bulletin 72/3009 states the lot should sufficiently cater for the required building and associated parking, play areas and landscaping. Generally the lot should be a regular shape and greater than 1000 m².</p> <p>Bulletin 72/2009 requires the design of the centre to be in accordance with the points below:</p> <ul style="list-style-type: none"> • <i>Building design, colour, scale, shape and form as per local regulations.</i> • <i>Visual appearance reflects the character of the area and enhance amenity.</i> • <i>Parking area located at front.</i> • <i>On-site parking bays required.</i> • <i>Outdoor play area safe location and away from noise-sensitive premises (i.e. dwellings, nursing homes).</i> • <i>Landscaping along street frontage to a standard equal to that required/provided for an adjacent property.</i> <p>Clause 6.4.2 of TPS2 requires that any development complies with:</p> <ul style="list-style-type: none"> • <i>Plot ratio, site coverage, setbacks, heights landscaping and parking provisions in keeping with the general character of the locality.</i> • <i>The form, layout, appearance and material of the building is in keeping with the existing character of the locality.</i>
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<p>Applicant Justification (summarised).</p> <p><i>A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</i></p>	<p><i>The subject lot is of suitable size, configuration and topography to accommodate the proposed child care centre including structures, play areas, parking and landscaping.</i></p> <p><i>The application involves demolition of the existing building and the construction of a purpose built development. The design of the centre compliments the residential nature of the locality, as it is residential in appearance however functions as a child care centre. Accordingly in the event of the centre ceasing operations, the structure could be converted for residential purposes.</i></p> <p><i>Parking is located at the front of the buildings per guidelines, the provisions of parking bays reflects that of the existing Play's Kool Centre which functions efficiently and has proved adequate during its operation. The availability of extensive off street parking assists in ensuring that traffic and parking related issues will not eventuate from the centre.</i></p>
<p>Officer Comment</p>	<p>The lot is 822 m² and is an irregular form with a wide frontage and a narrower rear. The parking, building and play area occupy the majority of the lot, with no formal landscaping proposed.</p> <p>The centre is proposed as a two storey development and this is an indication the lot cannot sufficiently accommodate the proposed use.</p> <p>The centre complies with regulations in terms of height, setbacks and plot ratio.</p> <p>The two storey building will have a skillon roof and is proposed to have an external appearance of hardies cladding and colourbond cladding.</p> <p>The surrounding residents are generally single storey dwellings constructed in brick and tile, including the existing child care centre. A two storey residence could be approved on this lot, yet the proposed building has been specifically designed for a child care centre and therefore the visual appearance of the</p>

	<p>development is not in keeping with the residential character of the area.</p> <p>The parking has been provided at the front of the lot, as per the bulletin requirement. The number of required parking bays is discussed further in this report.</p> <p>Noise impacts of outdoor play area are discussed further in this report.</p> <p>Only 300 mm of landscaping is proposed along the street. Although given the requirement to provide on-site car parking at the front of the lot and the size of the lot, this leaves minimal space to provide landscaping.</p>
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Noise

<p>Requirement</p>	<p>Bulletin 72/2009 provides the following guidance on the noise impact of childcare centres:</p> <ul style="list-style-type: none"> • <i>Suitable hours of operation 7:00am – 7:00pm Monday – Saturday;</i> • <i>Noise-generating activities of the child care centre, such as outdoor play areas, parking areas and plant and equipment be located away from noise-sensitive areas (i.e. houses).</i> • <i>Where noise-generating activities are located close to noise-sensitive areas, appropriate noise mitigation is to be undertaken.</i> • <i>Design and construction of buildings may include noise-mitigation measures to reduce impact on external sources and to achieve acceptable indoor noise limits.</i> <p>Clause 6.4.2 of the TPS2 also states that every application should take into consideration the following:</p> <ul style="list-style-type: none"> • <i>nature and intensity of the proposed use of the development will not have a detrimental affect on the locality.</i> • <i>the proposed use is necessary to service the needs of the district's residential population and is otherwise in keeping with the TPS intentions for the locality.</i>
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<p><i>Applicant Justification (summarised).</i></p> <p><i>A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</i></p>	<p>The applicant has submitted a Noise Impact Assessment which concludes that noise levels have the potential to exceed those prescribed in the <i>Environmental Protection Noise Regulations 1997</i> and to mitigate noise minimum boundary wall heights are required.</p> <p><i>Implementation of the following measures have been undertaken to minimise noise:</i></p> <ul style="list-style-type: none"> • <i>Exhaust fans to be contain with roof space or ceiling (no roof or wall mount exhaust fans).</i> • <i>Air Conditioning System not be located at side or rear of building.</i> • <i>Play area</i> <ul style="list-style-type: none"> ○ <i>Plastic equipment OR metal with filled with expanding foam or sand.</i> ○ <i>Minimal concrete or bricked paved areas and use of synthetic grass carpet.</i> ○ <i>Hours of external play limited to 8:30 am to 5:00 pm minimise disturbance to surrounding residences.</i> • <i>Concentrated play area located at rear of building.</i> • <i>Music will only be played indoors with external windows and doors closed.</i> • <i>Boundary fencing, solid concrete/masonry/brick construction, to be minimum wall height of 1.8 m above finished RL of Child Care centre.</i> <p>The applicant has also explained that the children are only outside for a maximum of three (3) hours a day. Further, not all the children are outside together at any one time.</p>
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<p>Officer Comment</p>	<p>As mentioned by the applicant, the development is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> and measures have been taken to reduce the noise generated by the development on the adjoining properties.</p> <p>The applicant's Noise Assessment Report indicates that minimum solid fence heights are required in order to achieve compliance with the Noise Regulations. Please refer to attachment 8 for indication of the fence height.</p> <p>The majority of fencing would be the standard 1.8 m in height; however some fencing along the southern boundary is required to be 2.3 m in height.</p> <p>This would be considered an overheight fence under the TPS2 and require approval from the adjoining neighbour. Neighbour consent has not been provided at this stage, and in fact, an objection has been received from this adjoining owner.</p> <p>The noise from the child care centre, assessed in isolation, is compliant with the noise regulations if overheight fencing is constructed. Although, even if compliance is met, it is considered that noise generated from the centre, specifically in combination with the existing child care centre, will not be in keeping with existing nature of the residential area.</p> <p>All the surrounding residential properties, specifically the property at No. 80 Brookdale (north of the current proposal), would be subject to noise from the existing and proposed centre.</p> <p>The design of the centre has taken into account the property at No. 80 Brookdale Street (by having the outdoor play area predominately to the southern side and at the rear of the lot. This means the outdoor play area will be located next to this neighbour's rear garage.</p> <p>The residential lots to the east and south will be specifically affected by the location of the play area. These lots all have their outdoor living areas located on this boundary.</p>
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	<p>Given the size, shape and as the lot is surrounded by residential properties, it would be difficult to design a child care in which noise from the outdoor play area that had no adverse affect on the adjoining residences.</p>
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Parking

<p>Requirement</p>	<p>Under TPS2 there is no specific car parking requirement for a Child Care Centre.</p> <p>Under the draft TPS3 a Child Care Centre is required to have 'One bay per 10 children and one bay per staff member'.</p> <p>Bulletin 72/2009 suggests parking should be provided at a rate of 1 bay per five (5) children.</p>
<p><i>Applicant Justification (summarised).</i></p> <p><i>A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</i></p>	<p>There are no specific council requirements in regard to parking; as such standards are at the discretion of Council.</p> <p>The proposed provision of parking bays as well as the design have been based on the previously approved centre at 82 Brookdale Street, which has been proved efficient and capable of dealing with parking and traffic requirements. In addition to the proposed car bays there is significant amount of on-street parking on Brookdale Street adjacent to the proposed centre.</p> <p>The applicant has provided a Transport Statement which discusses parking.</p>
<p>Officer Comment</p>	<p>There are ten (10) proposed car bays on site including 1 disable bay. There is one crossover in the middle of the lot which provides access to the car bays.</p> <p>Under draft TPS3 12 bays would be required, based on 50 children and seven (7) staff. However it should be noted that some staff are part-time. Under the Bulletin 72 ten (10) bays are required.</p> <p>The car park was originally designed with two (2) crossovers, entry and exit, in order to accommodate for easier pick-up and drop off zone. This design was changed to a single crossover to accommodate more car bays. It considered the bays provided will accommodate the proposed development.</p>

	It should be noted that there is street parking available on both sides of Brookdale Street which can be used by staff and parents.
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Traffic

<p>Requirement</p>	<p>Bulletin 72 states that the child care centre should be approved only if it can be demonstrated that it will have a minimal impact on the functionality and amenity of the area and will not create or exacerbate any unsafe conditions for children and families using the centre, or for pedestrians or road users.</p> <p>With regards to traffic Clause 6.4.2 of the TPS2 states:</p> <ul style="list-style-type: none"> • <i>The vehicular flow to and from the subject land will not be disruptive to existing traffic movements or circulation patterns.</i> • <i>That any traffic generated must be capable of being accommodated within existing streets.</i>
<p>Applicant Justification (summarised).</p> <p><i>A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</i></p>	<p>The applicant has provided a Transport Statement which concludes that the development is not expected to have a noticeably increase traffic flows on adjacent road networks.</p> <p>The Transport Statement also concludes that majority of the car bays will be utilised by staff and parents will prefer to use on street parking than the few remaining on site bays.</p>
<p>Officer Comment</p>	<p>As the applicant has noted Brookdale Street is a District Distributor (a) and is designed for an average of 8000 vehicles per day currently using the street.</p> <p>Although the number of vehicles currently using Brookdale Road exceeds this number it is agreed, that the traffic generated by the development could be accommodated with the existing road network.</p> <p>Notwithstanding this, many objections during the advertising period relate to the traffic issues, particularly during the pick-up and drop-off hours.</p>

	<p>Objections note that during these times the number of cars that are parked in the area restricts the vision for residents exiting and entering their driveways. This is often caused from parking on the verge or on the neighbouring property.</p> <p>The Transport Statement concludes that two (2) regular and one (1) universal bay will generally be available for pick-up and drop-off purposes, with the remainder of the bays utilised by staff.</p> <p>In order to provide more onsite car bays the applicant redesigned the car park to a singular vehicle entry. The transport statement specifies that manoeuvring within the car park is at least a three (3) point turn which is acceptable as it is a low use car park.</p> <p>However, given this the statement predicts that most parents will choose to utilise on street car bays and there will be unused bays on site. Given this, it is expected that frequent parking and the street and verge will occur.</p> <p>The cumulative effect of having two child care centres separated by two lots will create traffic congestion and safety issues during this drop off and pick up periods. This traffic will have a detrimental effect and is an unreasonable burden on the surrounding residential properties.</p> <p>Further, there is an existing traffic island located along Brookdale Road which will prevent right turns into and out of the car park. The owners have agreed to relocate the traffic island if the development is approved to accommodate for this turning movement. The City's Engineering Department has agreed to this relocation.</p>
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Conclusion

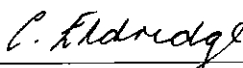
Although a Child Care Centre is an 'AA' use under the TPS2, having two child care centres in close proximity is not desirable and will have a detrimental effect on the residential locality. This is indicated by the strong objections from the surrounding residents and the non-compliance with the TPS2 and the Planning Bulletin 72/2009. Therefore the application is recommended for refusal.

Attachments

1. Locality Plan
2. Site Survey
3. Site Plan
4. Ground Floor Plan
5. Upper Floor Plan
6. Front and Rear Elevation
7. Side Elevations
8. Required Fence Heights

D17.11	No. 101 Monash Ave (Hollywood Hospital) and Reserve 33244 Monash Ave (QEII Medical Centre): Proposed Temporary Child Care Centre at QEII Medical Centre
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Committee	8 March 2011
Council	22 March 2011

Applicant	Aurora Projects
Owner	QEII Medical Trust & Ramsay Hospital Holdings Pty Ltd
Officer	Coralie Anderson – Senior Statutory Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref:	DA10/645 : DA10/646
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

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

The site is located on MRS land and as such Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

Recommendation to Committee

Council:

1) Recommends refusal to the Western Australian Planning Commission (WAPC) for the proposed Temporary Child Care Centre located at No. 101 Monash Ave (Hollywood Hospital) and Reserve 33244 Monash Ave (QEII Medical Centre) in accordance with the application dated 7 December 2010 and plans dated 7 December 2010 and 7 February 2011, for the following reasons:

- i) Inadequate location of reserve car bays.
- ii) Adverse impact on the surrounding residential amenity.

- 2) **Should the WAPC see fit to approve the application, the Council recommends the approval should be subject to the following conditions:**
- i) The Child Care Centre shall operate from a maximum period up until July 2014.**
 - ii) After the operations have ceased in accordance with i) above, the temporary building shall be removed and the area landscaped in accordance with the QEII Structure Plan and Master Plan.**
 - iii) The hours of the operation for the Child Care Centre shall be restricted to the current operating times:**
 - a) Before and After School 6:45am – 6:00 pm (Monday to Friday).**
 - b) Vacation 6.45am – 5.45pm (Monday to Friday).**
 - iv) The Child Care Centre shall accommodate a maximum of 60 children.**
 - v) As shown on the plans, seven (7) car bays shall be reserved for the exclusive use of the Child Care Centre, and appropriate signage installed to reflect this.**
 - vi) The reserved car bays shall be restricted to ten (10) minute maximum time period and appropriate signage shall be installed to indicate this time limit.**
 - vii) Ten (10) bollards, that are 2 m apart, shall be erected on the verge in front of the Child Care Centre.**
 - viii) The appropriate signage shall be installed in consultation and to the satisfaction of the City to prevent left turn movement out from the western exit of the car park onto Verdun Road.**
 - ix) The proposed pedestrian path shall be constructed in consultation with and to the satisfaction of the City and such path shall be:**
 - a) A minimum 2 m in width.**
 - b) Comply with the relevant Australian Standards.**

Strategic Plan

KFA 3: Built Environment

- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.

Background

The Child Care Centre is proposed on two lots. The main building is located on the QEII Medical Centre site. The playground and shed is located on the Hollywood Hospital Site:

QEII Medical Centre Site

Property Address: Reserve 33244 Monash Avenue, Nedlands OR know as 22 Verdun Street Nedlands (refer Locality Plan – attachment 1)

MRS Zoning: Public Purpose- Hospital

TPS Zoning: MRS Public Purpose- Hospital

Hollywood Hospital Site

Property Address: 101 Monash Ave, Nedlands
(refer Locality Plan – attachment 1)

Zoning MRS: Urban

Zoning TPS2: Special Use

History

Date	Action/Comments
June 2007	WAPC approved the QEII Access and Structure Plan (Structure Plan).
November 2008	The City recommends refusal for an application for a new pathology building located on the site as Council did not accept the Travel Plan and was concerned about the lack of parking on and around the site.
July 2009	The City recommends refusal for an application for the proposed Comprehensive Cancer Centre on the QEII site based on parking issues.
April 2010	The City recommended refusal for an application for the proposed new Western Australian Institute for Medical Research (WAIMR) and requested no further development approvals is issued until sufficient parking is provided on site and the objectives of the QEII Travel Plan have been affectively implemented.
December 2010	The City recommended refusal for an application for the proposed new Central Plant Facility.

Proposal Detail

This application is for a temporary Child Care Centre. The existing Child Care Centre is located within a building that is required to be demolished for the constructed of the Central Energy Plant (approved by WAPC in 2010)

This development will act as a temporary child care centre until July 2014, as it is anticipated that a new location for the child care centre will be sourced and constructed by this time. The centre is proposed to be located on the north-west corner of the QEII Medical Site fronting Verdun Street.

The number of children and staff will remain the same as the existing centre with 60 children and four (4) full time staff members.

The Centre will be located within the existing refurbished building and a new temporary building will be constructed forward of this building.

The outdoor play area and a shed will be located on the western adjoining lot at 101 Monash Ave, the Hollywood Hospital Site.

Please refer to attachments 2 – 4 for a copy of the proposed plans.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Community Consultation Period: 19 January 2011 – 9 February 2011

Comments received: 17 Comments (16 Objections & 1 Non-objection)

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

The table below provides a summary of the comments received under 5 issue headings (officers responses with the same headings are located under the discussion section of this report).

General
<ul style="list-style-type: none"> • Council needs to show leadership and address impacts on residents. • This piece of North Hollywood is already imposed upon with the Central Plant – residents need to be allowed to redevelop their lots at higher density. • Not enough information have been provided. • Have ignored residents in the past.

<ul style="list-style-type: none"> • Will reduce value of surrounding residential properties. • Pointless consultation because WAPC doesn't listen to the residents.
<p>Parking/Traffic</p> <ul style="list-style-type: none"> • Already existing traffic and parking issues along Verdun Street and through roads due to the QEII Medical site. • Proposal would increase traffic along Verdun and through roads, particularly during pick up and drop off times. • Vehicles more likely park along Verdun Street and verge and not allocated bays. • Request cul-de-sac of Croydon and Burwood Street. • Six (6) bays is not adequate. • Increase overflow and illegal parking along Verdun and surrounding residential streets which is already an issue.
<p>Setback</p> <ul style="list-style-type: none"> • 1.0 m setback is inadequate. • Setback is not in accordance with the QEII Structure Plan which requires a 10 m setback from Verdun Street. • Setback not in keeping with the residential properties along Verdun and surrounding streets which a 9.0m setback is applicable. • Potentially set a precedent for other buildings.
<p>Amenity</p> <ul style="list-style-type: none"> • Three years is not a 'temporary' building. • Need to preserve quality of life for residents. • Building will require removal of trees this area along and building and proposed pedestrian path is in the "green buffer zone". • Noise – from children play area and increased traffic.

Legislation

- Council Policy 6.4 – Neighbourhood Consultation
- Planning Bulletin 94 (2008) ‘Approval Requirements for Public Works and Development by Public Authorities’
- Planning Bulletin 72/2009 ‘Child Care Centre.’

The QEII Medical Site is located on MRS land and as such Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

The Hollywood Hospital site is zoned ‘Urban’ under the MRS and ‘Special Use’ under the City of Nedlands TPS2. Therefore, generally the City is the determining body for development on this lot.

However, in accordance with Planning Bulletin 94 ‘Approval Requirements for Public Works and Development by Public Authorities’ as the development is categorized as public work and undertaken on zoned land by a public authority, the application is determined by the WAPC.

Discussion

<p>General</p> <p>It is acknowledged that there have been several applications for developments on the QEII Medical Centre site in the recent years. The City is required to assess every application, which includes conducting public consultation, in order to provide recommendations and comments to the WAPC who are the determining authority.</p>
<p>Parking/Traffic</p> <p>Many objections have been submitted in relation to the inadequate parking and increased traffic within the locality.</p> <p>The City of Nedlands does not have a specific car parking requirement for a Child Care Centre.</p> <p>Under the City’s draft TPS3 a Child Care Centre is required to have ‘One bay per ten (10) children and one bay per staff member’. Based on this requirement ten (10) bays are required, which includes four (4) for staff members.</p> <p>Planning Bulletin 72/2009 provides guidance on specific planning considerations and assessment of a Child Care Centre. Bulletin 72/2009 suggests parking should be provided at a rate of one (1) bay per five (5) children. Based on this requirement 12 car bays are required.</p>

Six (6) bays and one universal bay (total of seven (7) bays) are proposed to be reserved on site for the child care centre. These bays will be only utilised as drop off and pick up bays. The parking bays will be signed and branded "designated pick up and drop off QEII Child Care parking only. Maximum ten (10) minutes".

The existing child care centre has four (4) drop off/pick up bays. The applicant has also noted that as per the current child care centre, the child care staff are provided with a permit which provides for "some level of parking" (as with all other employees of the hospital) and this arrangement will continue with the new centre.

The reserved bays are located approximately 70 m east of the Child Care Centre. The applicant has proposed to construct a pedestrian path on the verge connecting the parking bays to the child care centre.

Given the distance of the parking bays from the centre and the short drop off and pick up time periods it is anticipated that the designated parking area may not be utilised. Instead it is more likely that parents will park on the verge in front of the centre and along Verdun Street and surrounding streets.

Objections note that there is already traffic and illegal parking issues in the area created by the QEII Medical Centre.

The applicant has stated that the existing child care centre is located 100 m from the proposed centre and as the child and staff numbers will remain there will be no additional traffic generated.

However, given the location of this new centre, it is expected that during pick up and drop off time the traffic and parking generated from the centre will have an adverse impact on the immediate surrounding residential properties.

If the centre is approved by the WAPC it is recommended that the verge in front of the childcare is landscaped and bollards erected to prevent illegal verge parking.

Another concern with the reserved car bays is that no left hand turn is permitted from the exit. Therefore all traffic from the car park will be directed east along Verdun Rd and will need to do a U-turn or exit via Gairdner Street, increasing traffic along this road.

To avoid illegal left turns onto Verdun Road the City of Nedlands Engineering department has requested appropriate signage is installed at this exit to inform drivers.

Setback

A new building is proposed fronting Verdun Street with a setback of 1.0m. The QEII Medical Centre Structure Plan requires all buildings are setback 10 m from Verdun Street. In the approved and gazetted Structure Plan this 10 m setback area was reserved for grass and landscaping.

The applicant has justified the setback on the basis that the building is temporary and will be removed and the area reinstated as a green landscape strip.

A 1.0 m setback is considered to be out of character with the locality, in which residential properties on the other side of Verdun Street are subject to greater setbacks.

Amenity

Other amenity issues raised included noise, the 'temporary' nature of the development and the loss of green buffer zone. The pedestrian path will be designed to avoid significant trees on the verge.

Noise concerns relate to the outdoor play area of the centre. The outdoor play area will be located on the Hollywood Hospital Site and the play area will adjoin the Verdun Street boundary. The play area is not expected to be an issue given the residents are located on the other side of Verdun Street.

Noise from traffic has also been raised as an issue. It is anticipated that the noise during the traffic during pick up and drop off time will have an adverse impact on the amenity of the surrounding residential properties.

Although it is intended for the centre and the building fronting Verdun Street to be temporary, the centre is still proposed to operate for three (3) years in this location. This is a significant length of time and will affect the surrounding residential properties.

Conclusion

Although the Child Care Centre is only proposed to be temporary, it is considered it will have an adverse affect on the amenity of the surrounding residents, particularly in relation to potential illegal parking and increased traffic.

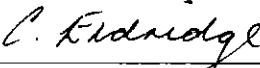
For this reason it is recommended that the Council recommends to the WAPC that the application be refused.

Attachments

1. Locality Plan
2. Site Plan
3. Floor Plan
4. Elevation Plan
5. Pedestrian Path – site plan

D18.11	No. 28 (Lot 158) Waroonga Road, Nedlands: Proposed Carport
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Committee	8 March 2011
Council	22 March 2011

Applicant	Sanath Dayasila De Tissera
Owner	Sanath Dayasila De Tissera
Officer	Elle O'Connor – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	DA10/507 : WA5/28 : M11/03494
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to refuse an application where there is discretion to approve it.

Recommendation to Committee

Council refuses the application for a carport at No. 28 (Lot 158) Waroonga Road, Nedlands in accordance with the application and plans dated 19 October 2010 for the following reasons:

- 1) **The proposed carport does not comply with Council's Policy 6.23 'Carports and Minor Structures Forward of the Primary Street Setback'.**
- 2) **There is an existing two car garage behind the primary street setback.**

Strategic Plan

KFA 3: Built Environment

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

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 28 Waroonga Road, Nedlands
(Refer to attachment 1 – Locality Plan)
Zoning MRS: Urban
Zoning TPS2: Residential R12.5
Lot Area: 932.3 m²

Attachment 1 (Locality Plan) outlines the sites location and orientation.

Proposal Detail

The application is for a double carport at No. 28 Waroonga Road, Nedlands. The carport is proposed to be 36 m² in area and located in the Primary Street Setback, with a front setback of 1.5 m.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Letter sent to adjoining owners allowing 14 days for comment to be received, in accordance with Policy 6.4 'Neighbour Consultation – Planning Application'.

Dates: 18 January 2011 – 1 February 2011

No comments received.

Legislation

- Town Planning Scheme No. 2
- Residential Design Codes 2010
- Council Policy 6.23 Carports and Minor Structures Forward of the Primary Street Setback
- Council Policy 6.4 Neighbour Consultation

The application does not satisfy the relevant criteria of the above legislation.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Issue: Carport

<p>Requirement</p>	<p>Clause 5.3.3 of the City of Nedlands Town Planning Scheme No. 2 requires a 9.0 m front setback in order to retain the open nature and character of the streetscape.</p> <p>Policy 6.23 gives Council discretion to vary the front setback provisions set out in clause 5.3.3 and allows for carports within the 9 m front setback subject to requirements.</p>
<p>Applicants Proposal</p>	<p>The carport is proposed to be 36 m² in area and setback of 1.5 m from the front boundary.</p>
<p>Applicant Justification Summary</p> <p>Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>"Applicant needs space to practice hobbies in carpentry and wood turning and therefore wishes to convert the existing garage into a workshop.</i></p> <ul style="list-style-type: none"> • <i>There are several houses in the neighbourhood with similarly placed carports.</i> • <i>If the garage was converted into a workshop, the approved workshop at the rear of the property will not have to be built.</i> <p><i>The carport would be constructed over the existing driveway and will therefore not impact upon garden space along the front boundary."</i></p>
<p>Policy Requirements</p>	<p>Policy 6.23 'Carports and Minor Structures Forward of the Primary Street setback'.</p> <p><i>"Carports will only be approved forward of the primary street setback under this policy, provided a minimum of five (5) years has elapsed since the issue of a building licence by the City for the existing dwelling on the lot or for significant alterations/additions to the dwelling which has resulted in the need for a carport in this location."</i></p> <p><i>"The following setbacks shall be deemed as standard and measured to the columns of the carport:</i></p> <ul style="list-style-type: none"> • <i>Primary Street Setback - 3.5 m</i> • <i>Side Boundary - 1.0 m"</i>

<p>Officer Comments</p>	<p>Technical</p>	<p>The intent of Policy 6.23 is to allow for the minimum number of covered car parking spaces in the designated front setback, only where there is no adequate space or provision behind the front setback. Under the Residential Design Codes the minimum number of car bays is two (2).</p> <p>The Policy is generally utilised in the case of older homes which traditionally have been built up to the setback and don't allow for space on the sides for the minimum number of covered car spaces. As the existing dwelling was constructed with a two car garage it is considered that the minimum number of car bays have been provided and hence no "need" for a carport in the primary street setback.</p> <p>The applicant has stated the size of the existing garage does not sufficiently accommodate four-wheeled drive motor vehicles. Council records indicate the garage is 5.99 m in length and width, with internal dimensions of 5.65 m and 5.77 m respectively. The RCodes state that minimum internal dimensions should be 5.4 m and therefore the size of the garage is considered to comply with this standard and to accommodate standard vehicles.</p> <p>The owners are proposing to convert the existing garage into a "workshop". The proposed carport would effectively provide the residence with four covered car bays. This is not the intent of Policy 6.23. As stated, the intent of the policy is to maintain an open streetscape and allow a carport in the front setback only where there are no other alternatives available. The owner obtained planning approval for a workshop at the rear of the property in May 2007; this confirms that the garage does not need to be converted into a workshop as the workshop can be located at the rear of the property.</p> <p>Notwithstanding this, the location of the proposed carport would appear to compromise practical vehicular access into the existing garage. Any future conversion of the garage could be viewed as "significant</p>
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	<p><i>additions/alterations</i>” and therefore would require under the policy to have a minimum of five (5) years to elapse before a carport could be considered in the front setback area. If constructed without approval it would become a compliance issue costing council resources.</p> <p>This part of the policy was introduced more recently as applicants had been taking advantage of the policy by converting functional garages and then applying for a carport in the front setback area. The five year waiting period has effectively prevented residents from converting existing garages. In this case the fact the existing garage could potentially be utilised as another room, if the carport was approved, should also be taken into consideration. Hence this is additional reason why this application is recommended for refusal.</p> <p>The carport is proposed to be setback at 1.5m from the front boundary; this is a significant setback reduction from the standard 3.5 m required under Policy 6.23. There are four (4) carports on Waroonga Road (between Jenkins and Barcoo Avenues), three (3) of which were approved and constructed prior to the introduction of Policy 6.23 and another which was approved and complies with Policy 6.23. The area is very open in nature with minimal building bulk. The character of the streetscape will therefore be affected by a carport being setback at 1.5 m, especially as the property is a corner block, contributing to both the Waroonga Road and Barcoo Avenue streetscapes.</p>
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Conclusion

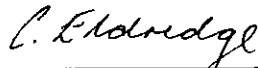
Due to the property having an adequate existing double garage behind the 9 m front setback, the application does not comply with the intent of Policy 6.23 'Carports and Minor structures forward of the Primary Street Setback', and therefore is recommended for refusal.

Attachments

1. Locality Plan
2. Aerial Plan
3. Site Plan
4. Floor and Elevation Plan

D19.11	No. 40 (Lot 312) Dalkeith Road, Nedlands: Proposed Carport
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Committee	8 March 2011
Council	22 March 2011

Applicant	Samantha Martin
Owner	Tim Martin
Officer	Elle O'Connor – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	DA10/533 : DA1/40 : M11/03495
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

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

Recommendation to Committee

Council refuses the application for the carport at No. 40 (Lot 312) Dalkeith Road, Nedlands in accordance with the application and plans dated 29 October 2010 for the following reasons:

- 1) **The proposed carport does not comply with Council's Policy 6.23 'Carports and Minor Structures Forward of the Primary Street Setback'.**
- 2) **There is an existing two car garage behind the primary street setback.**
- 3) **There is sufficient area behind the primary setback to accommodate motor vehicles.**

Strategic Plan

KFA 3: Built Environment

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

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 40 Dalkeith Road, Nedlands
 Zoning MRS: Urban
 Zoning TPS2: Residential R10
 Lot Area: 1012.5 m²

Attachment 1 (Locality Plan) outlines the sites location and orientation.

Proposal Detail

The application is for a double carport at No. 40 Dalkeith Road, Nedlands. The carport is proposed to be 36 m² in area and located in the Primary Street Setback Area, with a front setback of 2.4 m.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Letter sent to adjoining owners allowing 14 days for comment to be received, in accordance with Policy 6.4 'Neighbour Consultation – Planning Application'.

Dates: 17 January 2011 – 31 January 2011

Comments received: (1) Objection

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

Summary of comments received	Officers technical comment
<p>Issue: Amenity/Streetscape</p> <p>Objector is concerned that the proposed carport will affect the general amenity of Dalkeith Road.</p>	<p>Support</p> <p>The proposed carport will affect the open nature and streetscape of Dalkeith Road. The minimum front setback of a carport under Policy 6.23 is 3.5 m in order to retain the amenity of a street. The proposed 2.4 m setback of the carport is a breach of this minimum and is contradictory to the streetscape the policy aspires to maintain.</p>

Legislation

- Town Planning Scheme No. 2
- Residential Design Codes 2010
- Council Policy 6.23 Carports and Minor Structures Forward of the Primary Street Setback
- Council Policy 6.4 Neighbour Consultation

The application does not satisfy the relevant criteria of the above legislation.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Issue: Carport

Requirement	<p>Clause 5.3.3 of the City of Nedlands Town Planning Scheme No. 2 requires a 9.0 m front setback in order to retain the open nature and character of the streetscape.</p> <p>Policy 6.23 gives Council discretion to vary the front setback provisions set out in clause 5.3.3 and allows for carports within the 9 m Primary Street Setback subject to requirements.</p>
Applicants Proposal	The carport is proposed to be 36 m ² in area and setback of 2.4 m from the front boundary.
Applicant Justification Summary	No Justification provided.
Assessment Criteria	<p>Policy 6.23 'Carports and Minor Structures Forward of the Primary Street setback'.</p> <p><i>"Carports will only be approved forward of the primary street setback under this policy, provided a minimum of five (5) years has elapsed since the issue of a building licence by the City for the existing dwelling on the lot or for significant alterations/additions to the dwelling which has resulted in the need for a carport in this location."</i></p> <p><i>"The following setbacks shall be deemed as standard and measured to the columns of the carport:</i></p> <ul style="list-style-type: none"> • <i>Primary Street Setback - 3.5 m</i> • <i>Side Boundary - 1.0 m"</i>

Officer Comments	Technical
	<p>Policy 6.23 was introduced in order to restrict the number of covered car parking spaces in the designated front setback. The subject property is 1012.5 m² with the dwelling set to one side and therefore has sufficient space to locate a carport behind the 9 m front setback (see attachment 2 - Aerial Photograph).</p> <p>Under the Residential Design Codes the minimum number of car bays is two (2). As the existing dwelling was constructed with a two car garage behind the 9 m setback, it is considered that the minimum number of car bays has been provided and hence there is no need for a carport in the primary street setback.</p> <p>The owners are not proposing to convert the existing garage and therefore the proposed carport would effectively provide the residence with four covered car bays 2.4 m from the front boundary. This is not the intent of the carport Policy 6.23. As stated, the intent of the policy is to maintain an open streetscape and allow a carport in the front setback only where there are no other alternatives available. There is also considerable additional space to construct a carport or move garaging behind the 9 m setback.</p> <p>There is no justifiable reason for the proposed carport to be setback at 2.4 m. If the applicant needed additional covered parking bays there is sufficient room to extend the existing double carport at the rear (as shown in attachment 2 - Aerial Photograph). Due to size of the lot there is also sufficient room to fit a 36 m² carport between the existing garage and dwelling, resulting in the carport being setback at 9 m.</p> <p>The open nature and character of Dalkeith Road will be affected by the proposed double carport being setback at 2.4 m as there is only one other carport in the setback less than 9 m on Dalkeith Road (between Carrington Street and Stirling Highway). This carport located at No. 38 Dalkeith Road was approved in 1987, before Policy 6.23 was introduced.</p>

Conclusion

As there is an existing double garage and enough space behind the front setback to extend this garage, the application does not comply with the intent of Policy 6.23 'Carports and Minor structures forward of the Primary Street Setback', and therefore is recommended for refusal.

Attachments

1. Locality Plan
2. Aerial Photograph
3. Site Plan
4. Elevation Plan

D20.11	No. 98 (Lot 604) Circe Circle, Dalkeith: Overheight Secondary Street Fence
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Committee	8 March 2011
Council	22 March 2011

Applicant	Lawrence Scanlan Architects
Owner	Mario & Natalie De Felice
Officer	Elle O'Connor – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref	DA10/553 : CI2/98-02 : M11/03496
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This application is referred to Council for determination as officers have no delegation to determine an application once objections have been received.

Recommendation to Committee

Council refuses the application for an over height secondary street fence at No. 98 (Lot 604) Circe Circle, Dalkeith in accordance with the application and plans dated 10 November 2010 for the following reasons:

- 1) **The proposed fence does not comply with the City of Nedlands Town Planning Scheme No. 2 Clause 5.6.4 and Clause 5.5.1.**
- 2) **The proposed fence does not comply with Council's Policy 6.19 'Fill and Fencing'.**
- 3) **The proposed fence would have an adverse affect on the streetscape of Curlew road.**

Strategic Plan

KFA 3: Built Environment

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

KFA 5: Governance

5.6 Ensure compliance with statutory requirements and guidelines.

Background

Property Address: No. 98 Circe Circle, Dalkeith
 Zoning MRS: Urban
 Zoning TPS2: Residential R10
 Lot Area: 1072.5 m²

Attachment 1 (Locality Plan) outlines the site location and orientation.

An application for a two storey dwelling on the subject site was approved in August 2010. A condition of this approval was for the secondary street fence along Curlew Road be reduced to a maximum of height of 1.8 m above natural ground level. The dwelling has not yet been constructed.

Proposal Detail

The applicant has now applied for the fence to be increased in height back to that originally requested. The secondary street fence is in two parts and will face Curlew Road and is proposed to be up to 2.9 m above natural ground level.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Letter sent to adjoining owners allowing 14 days for comment to be received, in accordance with Policy 6.4 'Neighbour Consultation – Planning Application'.

Dates: 20 January 2011 – 3 February 2011

Comments received: (1) Objection

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

Summary of comments received	Officers technical comment
<p>Issue: Amenity/Streetscape</p> <p>Objector is concerned that the proposed secondary street fence will affect the general amenity and streetscape of Curlew Road.</p> <p>The proposed secondary street fence is completely out of character with the whole area.</p>	<p>Support</p> <p>The proposed fence will affect the streetscape of Curlew Road.</p> <p>The maximum height of a secondary street fence under Policy 6.19 is 1.8 m in order to retain the amenity and character of a street.</p>

The Council Policy of 1.8 m must be maintained.	The fence will dominate the streetscape with it being up to 1m above that normally permitted.
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Legislation

- Town Planning Scheme No. 2
- Residential Design Codes 2010
- Council Policy 6.19 'Fill and Fencing'
- Council Policy 6.4 Neighbour Consultation

The application does not satisfy the relevant criteria of the above legislation.

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Issue: Secondary Street Fence

Requirement	Clause 5.6.4 of the City of Nedlands Town Planning Scheme No. 2 and City of Nedlands Policy 6.19 require secondary street fencing to be a maximum height of 1.8 m.
Applicants Proposal	The proposed overheight secondary street fence is 33.5 m in length with a maximum height up to 2.9 m above natural ground level.
Applicant Justification Summary Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.	<p><i>"There is no pedestrian 'right of way' (footpath) located on the street verge along the building's eastern boundary.</i></p> <p><i>The verge along the eastern boundary is 7 m from the curb to the proposed fence.</i></p> <p><i>There are 3 mature street trees located along the eastern boundary which will conceal the structure.</i></p> <p><i>Both the wall and the fence form an important part of the buildings overall architectural language.</i></p> <p><i>The feature wall which is constructed in 'off-form' concrete to compliment the main building, is set back 1.6 m from the eastern boundary and 8.6m from the street curb.</i></p>

	<p><i>The owner is requesting a high level of privacy as the boundary wall will be screening the property's primary outdoor entertaining area. This area will be subjected to loss of privacy from the street verge due to the rise in levels of Curlew Road to the north"</i></p>
<p>Assessment Criteria</p>	<p>Under Policy 6.19, any fencing that does not meet the 1.8 m height requirement shall be assessed in terms of the developments likely impact upon streetscape.</p>
<p>Officer Technical Comments</p>	<p>It is considered the height of the secondary street fence, will have an adverse impact on the streetscape of Curlew Road.</p> <p>The City aims to provide attractive streetscapes which reinforce the functions of a street as important and valuable public places that add value to the amenity of adjacent housing and developments.</p> <p>The over height fence will specifically affect the streetscape along Curlew Road between Circe Circle North and Circe Circle South. This section of road is occupied by four residential properties, including the subject property, that all have Curlew Road as their secondary Street.</p> <p>There are already several solid fences along this streetscape but they are all a maximum height of 1.8 m and step down with the natural ground level which retains the residential streetscape.</p> <p>The proposed fence is 33.2 m in length, up to a maximum height of 2.9 m and as such will not be in keeping with this existing streetscape.</p> <p>The nature and character of Curlew Road will be affected by the proposed fence as it is over 1 m higher than the allowed maximum height of a boundary fence resulting in the fence dominating the streetscape.</p> <p>The height of the fence is that of a normal parapet wall of a dwelling. Walls of this height in the secondary street area and along the street boundary will detrimentally affect the streetscape.</p>

Conclusion

The proposal for the fence is a result of the design of the dwelling with increased floor levels above natural ground level and the location of the outdoor living areas on the corner block. The floor level at the front of the block is up to 1.5 m above natural ground level and approximately 500mm above natural ground level in the area of the games room and decking.

When the dwelling was originally submitted for approval, the applicants were informed that the over height fence was not normally permitted. Instead of amending the plan so that an over height fence would not be necessary (this could be done by reducing the floor levels), another application has been made for the over height fence.

The proposed over height secondary street fence will adversely affect the streetscape of Curlew Road and will be contrary to TPS2 and Policy 6.19, and as such the proposal is recommended for refusal.

Attachments

1. Locality Plan
2. Aerial Photograph
3. Site Plan: Fence shown clouded
4. East Elevation: Fence shown clouded
5. North and South elevations: Fence shown clouded

D21.11	Unit 1, 2 and 3 No. 27 Carrington Street, Nedlands: Incidental Shop Use
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Committee	8 th March 2011
Council	27 March 2011

Applicant	Ron Rutherford
Owner	Attila Holdings, Tarry Superannuation Fund
Officer	Joseph Ravi – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	<i>C. Eldridge</i>
File ref	DA09/542 : CA4/2741 : M11/3076
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

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

Recommendation to Committee

Council approves the application for an Incidental Shop Use at Unit 1, 2 and 3 No.27 (Lot 51) Carrington Street, Nedlands in accordance with the application dated 16 November 2009, report dated 25 November 2010 and amended plans dated 17 January 2011 subject to any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes

- (1) **The use will need to comply with all health regulations. Please contact the City's Health Services for further information.**

Strategic Plan

- KFA 3: Built Environment
- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.
 - 3.7 Provide efficient and integrated approvals systems.

KFA 7: Economic Development
 7.1 Support local businesses in their activities.

Background

Property Address: Units 1, 2 and 3 No.27 Carrington Street, Nedlands
 Zoning MRS: Urban
 Zoning TPS2: Light Industry
 Lot Area: 1394 m²

The current use is food manufacturer. A food Manufacturer is defined as a light industry use under Town Planning Scheme No. 2 (TPS2). A Light Industry is a 'P Use' in a Light Industry zone. Approval was granted by Council on 5 December 1986 and until now the use has not changed. It was approved with ten (10) car parking bays, five (5) of which were tandem bays, all for the exclusive use of the tenancy.

An additional storage facility to the north of Unit 3 was approved on 4 November 1994. The additional storage area proposed to sit over four existing car bays reducing the approved available on site car parking to 6 bays. The overall gross leasable floor area is 460 m². Under TPS2 light industry uses are required to provide 2.2 m on site car bays per 100 m² of gross leasable floor area. The tenancy was required to provide ten (10) bays in lieu of the 6 proposed. Cyclone fencing was also approved surrounding the storage and car parking area.

Proposal Detail

The application is for an incidental shop use. The applicant proposes to convert a small portion (less than 10 percent of their tenancy) into a shop. The proposed shop will be ancillary to the manufacturing of dairy goods which currently is taking place on the premises. The applicant proposes to open a small shop front to make the dairy goods manufactured at the tenancy available to the public for retail sale.

The applicant has proposed to place an additional four (4) car parking bays in front of the property on the Carrington Street road reserve order to provide additional car parking for the facility.

The car parking requirements for the uses is 13 bays. The applicant has provided for 14 bays on the application. Nine (9) of these bays however are located outside the lot boundary in the road reserves, the parking shortfall will be further discussed below.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Special Procedures "AA Use" 24 January 2011 – 14 February 2011

Parking Shortfall

24 January 2011 – 14 February 2011

Comments received: 2 Objections Were Received

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

Summary of comments received	Officers technical comment
Applicant is concerned that the area marked as parking bays are not for the exclusive use of the applicant.	Dismiss According to the Strata plan the bays at the rear of the property are for the exclusive use of the tenancy. The four bays proposed along Carrington Street are situated on the road reserve and not on common strata land
Concerned that the use will further affect parking in the area which is already insufficient.	Dismiss The parking shortfall should not adversely affect the amenity of the light industry area as indicated in the officers discussion section
Objector is concerned with the loss of business will result in a loss of business to their adjacent retail business.	Dismiss This is not a planning concern.

Legislation

- City of Nedlands Town Planning Scheme No. 2

Budget/financial implications

Budget:

Nil

Risk Management

Nil

Discussion

Issue: Car Parking

The City of Nedlands TPS2 car parking requirements for this property are 13 bays in lieu of the five (5) on site car bays provided as calculated below:

Use	Area	TPS2 Calculation	Parking Requirements
Shop	32.5 m ²	2.2 bays per 100 m ²	10 Bays
Warehouse	435.44m ²	8.3 bays per 100 m ²	3 Bays

The applicant proposed five (5) on site car bays behind an existing and approved cyclone fencing to the north of the property at Government Road.

In addition to this the applicant proposed five (5) car bays to be located on the Government Road verge which will be in tandem to the existing on site five (5) car bays. The applicant also proposes four (4) car bays on the Carrington Street verge. Both sites are already paved and are being used for car parking at the moment.

The applicant has stated that the business only employs four (4) staff members and that the additional use will not change the number of staff members required as the shop will be run by one of the business existing office staff members. The four (4) car parks made available on Carrington Street will be adequate to service patrons of the additional shop use.

Conclusion

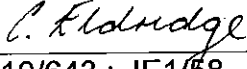
The application should be approved as it is compliant with City of Nedlands TPS2 with the exception of the car parking requirements. This non-compliance however will not adversely affect the amenity of the area as there is sufficient car parking on both the Government Road and Carrington Street verges to cater for the additional amount of parking that is likely to be generated by the incidental use.

Attachments

1. Locality Plan
2. Floor Plan
3. Photo of Existing Carrington Street Verge Parking
4. Photo of Existing Government Road Parking

D22.11	No. 58 (Lot 4) Jenkins Ave, Nedlands: Two Storey Garage/Studio, Deck, and Fencing
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Committee	8 March 2011
Council	22 March 2011

Applicant	Optimum Resource Architects
Owner	Andrew Sproul
Officer	Joseph Ravi – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	DA10/643 : JE1/58
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

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

Recommendation to Committee

Council approves the application for a Two Storey Garage/Studio, Deck, and Fencing at No. 58 (Lot 4) Jenkins Ave, Nedlands in accordance with the application dated 6 December 2010 and plans dated 14 February 2011 subject to the following conditions:

- 1) **The proposed 1.8 m high link mesh fencing shall be visually permeable in accordance with the Residential Design Codes.**
- 2) **The studio shall not be used as ancillary accommodation without a further planning approval.**
- 3) **All storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a ten (10) year recurrent storm event and the capacity of soakwells shall be a minimum of one (1) cubic metre for every 80 m² of paved or roofed surface on the property.**
- 4) **The parapet wall, fencing and footings shall be constructed wholly inside the allotment.**

- 5) The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building/roof to reduce the reflectivity to a level acceptable to Council.
- 6) Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes specific to this approval

- a) Ensure that airconditioner unit(s) comply with relevant Australian Standards and that noise emissions comply with the *Environmental Protection (Noise) Regulations 1997*.
- b) It is strongly advised that consultation is undertaken with the installer and adjoining neighbour(s) prior to installation of airconditioning equipment. In the event of a noise complaint being received by the City, remedial action (including potential relocation or other attenuation measures) may be required or the airconditioner may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document and also the fairair noise calculator online at www.fairair.com.au.

Strategic Plan

- KFA 3: Built Environment
- 3.7 Provide efficient and integrated approvals systems.
 - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: No. 58 (Lot 4) Jenkins Ave
Zoning MRS: Urban
Zoning TPS2: R12.5
Lot Area: 644 m²

Proposal Detail

The application is for:

- 1) A two storey structure, detached from the dwelling. The structure will have a garage and storage rooms on the ground floor and the first floor proposes a studio, bathroom and storeroom;
- 2) a visually permeable mesh fence to a height of 1.8 m within the front setback area along the northern and western boundaries;
- 3) a 1.2 m high solid fence along the lots truncated are to the northeast; and
- 4) a deck.

The application proposes a parapet wall not permitted as of right in an R12.5 zone (refer officers discussion below).

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Two Storey Notification

Dates: 4 February 2011- 18 February 2011

Comments received: 1 Comment Received

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

Summary of comments received	Officers technical comment
The removal of a mature tree is of concern.	Dismiss The City has no control over removal of trees on private property.
The structure is bulky and the materials used will create an eyesore	Dismiss The structure complies with all height requirements and permitted building materials outlined in the City of Nedlands Town Planning Scheme. The impact of the structure on streetscape will be no greater than any other two storey structure which is permitted under Town Planning Scheme No. 2 and the Residential Design Codes.

Legislation

- City of Nedlands Town Planning Scheme No. 2
- Residential Design Codes

Risk Management

Nil

Discussion

The site is located on the corner of Jenkins Avenue and Bulimba Road. For the purpose of calculating the setbacks for the site, the front setback is located along Jenkins Avenue and the secondary street setback along Bulimba Road.

There is a precedent of dwellings in Jenkins Avenue located forward of the normal 9 m front setback required. This front setback required is therefore 7.5 m in this case. The front setback provided is 8 m, which complies with this requirement.

The secondary street setback meets the required 2m secondary street setback under the RCodes.

Issue: Rear Setback Variation

Requirement	Clause 6.3.1 of the RCodes states buildings shall be setback from boundaries in accordance with table 1. In an R12.5 zone buildings shall be setback 6 m from the rear boundary.
Applicants Proposal	The Two Storey Garage/Studio is proposed with a nil ground floor setback and a 1.457 m first floor setback to the southern (rear) boundary.
Performance Criteria	Buildings setback from boundaries other than street boundaries so as to: <ul style="list-style-type: none"> • provide adequate direct sun and ventilation to the building; • ensure adequate and direct sun and ventilation being available to adjoining properties; • provide adequate direct sun to the building and appurtenant open spaces; • assist with protection of access to direct sun for adjoining properties; • assist in ameliorating the impacts of building bulk on adjoining properties; and • assist in protecting privacy between adjoining properties.

<p>Officer technical comment</p>	<p>Although the setback variation is to the southern boundary it is not considered to detrimentally affect the direct access of sun and ventilation to the property to the south as it directly abuts an existing carport. Any loss of sunlight will only affect the carport roof and not any habitable areas.</p> <p>The structure will not overlook any neighbouring property as it complies with the visual privacy requirements of the RCodes and shall not cause any overshadowing issues as it complies with overshadowing requirements of the RCodes.</p> <p>The building is not considered to have an adverse affect on the adjoining property by way of building bulk, as much of the structure is screened from the adjoining owners view by an existing carport. The southern neighbours have also given their consent to the development.</p> <p>In this instance, although the southern boundary is technically the rear setback area, the size and shape of the block has resulted in much of the existing dwelling being already approved in this area. This addition is in keeping with the existing design of the house and it is considered the rear setback variation will not detrimentally impact any adjoining owners.</p>
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Conclusion

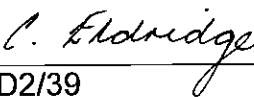
This addition will not detrimentally impact the adjoining property or streetscape, will meet the performance criteria of the Residential Design Codes and as such it is recommended for approval.

Attachments

1. Locality Plan
2. Ground Floor, First Floor and Elevations Plan
3. Photo of Subject Site

D23.11	No. 39 (Lot 58) Adderley Street, Mt Claremont: Proposed Single Storey Dwelling
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Committee	8 March 2011
Council	22 March 2011

Applicant	Austin & Elizabeth Wilson
Owner	As above
Officer	Nick Bakker – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	AD2/39
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to give consideration to an application for a proposed single storey dwelling at No. 39 (Lot 58) Adderley Street, Mt Claremont.

It is considered the proposed dwelling does not comply with all of the Acceptable Development or Performance Criteria of the Residential Design Codes (RCodes) and therefore Council is requested to determine the application.

Recommendation to Committee

Council approves the application for a single storey dwelling on the property at No. 39 (Lot 58) Adderley Street, Mt Claremont in accordance with the application dated 6 October 2010 and amended plans dated 8 February 2011, subject to the following conditions:

- 1) **The single storey dwelling being amended to reduce its overall size to provide 60% open space in accordance with the acceptable development standards of the Residential Design Codes.**
- 2) **All storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a ten (10) year recurrent storm event and the capacity of soakwells shall be a minimum of one (1) cubic metre for every 80 m² of paved or roofed surface on the property.**

- 3) The existing crossover shall be removed and the verge reinstated with grass or landscaping in accordance with Council's Verge Development Policy 4.7.
- 4) The parapet wall and footings shall be constructed wholly inside the allotment.
- 5) The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the building has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building/roof to reduce the reflectivity to a level acceptable to Council.
- 6) The parapet walls shall be finished to a quality finish and to a professional standard to the satisfaction of the City.
- 7) A grated channel strip-drain shall be constructed across the driveway, aligned with and wholly contained within the property boundary and the discharge from this drain to be run to a soakwell situated within the property.
- 8) Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.

Advice Notes specific to this approval

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

Strategic Plan

KFA 3: Built Environment

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

Background

Property Address: No.39 (Lot 58) Adderley Street, Mt Claremont
(refer Locality plan – attachment 1)
Zoning MRS: Urban
Zoning TPS2: R10
Lot Area: 1011.77 m²

Proposal Detail

The application proposes the construction of single storey dwelling to replace the existing dwelling on the subject lot.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Community consultation period 21 Jan 2011 to 4 Feb 2011

Comments received: 2 comments of support were received

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

Legislation

- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes (RCodes)
- Council Policy Manual (Policies 6.23 & 6.4)

The application complies with the above legislation, with the exception of three variations to the acceptable development criteria of the RCodes and a variation to the provisions of Policy 6.23. The variations are listed below:

- 1) The proposed dwelling has a total site cover of 473 m² (47%) allowing for 53% open space. The RCodes require a minimum of 60% open space. A variation of 70 m² (7%).

- 2) The proposed southern portion of wall (games room) has a setback of 1.16 m in lieu of the required 1.5 m.
- 3) The proposed porch located within the 9 m front setback has a maximum height of 5.8 m from natural ground level. The City's Policy 6.23 permits porches forward of the front setback only where the maximum height does not exceed 3.5 m.

Discussion

Issue: Open Space Variation

Requirement	Table 1 of the RCodes requires a minimum open space of 60% for properties zoned R10.
Applicants Proposal	The application proposes 53% open space.
Performance Criteria	<p>Performance Criteria: Clause 6.4.1;</p> <p><i>"Sufficient open space around buildings:</i></p> <ul style="list-style-type: none"> • <i>To complement the building;</i> • <i>To allow attractive streetscapes;</i> • <i>To suit the future needs of residents, having regard to the type and density of the dwelling.</i> <p>Objectives:</p> <p>6.4 <i>"To ensure that private and communal open space is set aside and landscaped to provide for attractive streetscapes, attractive settings to compliment the buildings, privacy, direct sun, and the recreational needs of the residents."</i></p>
<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p>The applicant provided justification under the Acceptable Development Criteria of Clause 6.4.1 of the RCodes.</p> <p>The applicant believes that:</p> <ol style="list-style-type: none"> 1) <i>As the dwelling meets the required 9 m front building setback, there will be no impact on the streetscape;</i> 2) <i>The dwelling meets the required rear and side building setbacks (with the exception of the garage and games room walls as discussed below), therefore there will be no impact on adjoining properties;</i>

	<p>3) <i>As the dwelling meets all required building setbacks (with the two minor exceptions) there is sufficient open space to complement the dwelling;</i></p> <p>4) <i>The proposed design provides for a large alfresco entertaining area, including a swimming pool, and easily meets the future needs of residents with regard to outdoor living area; and</i></p> <p>5) <i>The subject property is large in size, therefore while the percentage of open space on site has been reduced, the area of open space provided on site is substantial.</i></p>
<p>Officer technical comment</p>	<p>The proposed development is not considered to comply with the performance criteria and objectives of the RCodes as follows:</p> <p>Preferred criteria 6.4.1;</p> <p><i>“Sufficient open space around buildings:</i></p> <ul style="list-style-type: none"> • <i>To complement the building;</i> <p>It is considered that the areas of open space around the dwelling have not been designed to adequately complement the dwelling. For example the narrow four metre (4 m) wide strip of open space located to the rear of the dwelling is not in an ideal location as access to the area from habitable rooms is limited to one doorway. It is also considered that the narrow design of this area limits its functionality.</p> <p>The large covered outdoor areas have increased floor levels of just above 500 mm (540 mm). Although in this case, the level has been rounded down, technically these areas should also be taken into account when calculating the coverage of the site. This would result in a further significant reduction in open space on the site.</p> <ul style="list-style-type: none"> • <i>To allow attractive streetscapes;</i> <p>The City is required to ensure a consistent approach to open space with the view being taken that the minimum amount of</p>

	<p>open space should be provided on all residential developments to ensure protection of residential amenity. If the City was to approve this application it may then be expected that Council would approve other similar proposals to vary the minimum open space requirements.</p> <p>This would lead to an overall decrease in residential amenity of the area taking into account the density zoning of the locality which is R10.</p> <p>The applicants state that they consider because the setbacks are met (with the exception of the southern side), there is sufficient open space to complement the dwelling.</p> <p>In response to this, it is identified that the objectives for setbacks relate to bulk of building and impacts on the adjoining properties, whereas the objectives of the open space requirements strive for attractive streetscapes, attractive settings to complement buildings and the recreational needs of residents.</p> <p>The RCodes require dwellings to meet both elements not just the setbacks criteria. The reduction in open space on this site does not meet the open space objectives.</p> <p>The applicant also considers there is plenty of open space on the lot because it is a large lot. In response to this, it is noted that the lot is 1011 m², which is the standard lot size for R10. This site is no larger than any other lot in the neighbourhood. It is therefore considered necessary that the open space requirements are met to ensure the maintenance of the existing character of the area.</p> <ul style="list-style-type: none">• <i>To suit the future needs of residents, having regard to the type and density of the dwelling.</i>
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	<p>The dwelling is being constructed to the extremes of the permitted setbacks on the front and rear and beyond the permitted setback on the south. This limits the opportunities of the site to provide for “a range of domestic activities: gardening for delight and food; children’s play; outdoor entertaining, and leisure, the pursuit of hobbies.”</p> <p>This over capacity of the site ‘restricts the potential for changes as residents change.</p> <p>Therefore it is considered that the proposed area for open space of 439 m² or 53.25% (70m² less than required under the RCodes) is not adequate given the size and design of the dwelling.</p>
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Issue: Southern Side Setback Variation (Games Room)

Requirement	The proposed games room requires a 1.5 m minimum setback from the southern side boundary as per Clause 6.3.1 of the RCodes.
Applicants Proposal	The proposed wall games room has a setback of 1.16 m from the southern boundary.
Performance Criteria	<p><i>Clause 6.3.1 Performance Criteria</i> <i>P1 Buildings setback from boundaries other than street boundaries so as to :</i></p> <ul style="list-style-type: none"> • <i>Provide adequate direct sun and ventilation to the building;</i> • <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i> • <i>Provide adequate direct sun to the building and appurtenant open spaces;</i> • <i>Assist with protection of access to direct sun for adjoining properties;</i> • <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i> • <i>Assist in protecting privacy between adjoining properties.</i>
Applicant justification summary	The applicant did not provide any justification for this side setback variation.
Officer technical	The proposed development is considered to

comment	<p>comply with the performance criteria mentioned above as the area of the variation is relatively minor and will not detrimentally affect direct sun or ventilation to either building, and is unlikely to be significantly bulky such that it will adversely impact the adjoining property.</p> <p>Notwithstanding this, the reduced side setback contributes to the total site cover of the dwelling on the lot and therefore if the side setback was to comply it would increase the amount of total open space on the site.</p>
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Issue: Overheight Portico in Front Setback Area

Requirement	<p>The proposed porch located within the 9 m front setback has a maximum height of 5.8 m from natural ground level.</p>
Applicants Proposal	<p>The City's Policy 6.23 requires a porch located within the front setback area to have a maximum height of 3.5 m from natural ground level.</p>
<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p>The applicant provided justification for the portico under the relevant provisions of Policy 6.23 which states;</p> <p><i>Minor structures such as lichgates, porticos and gate houses may be constructed forward of the front setback line subject to:</i></p> <ul style="list-style-type: none"> • <i>porticos or similar structures not exceeding 6 m²;</i> • <i>no structure to exceed 3.5 metres in height;</i> • <i>the structures do not detract from the visual amenity of the streetscape;</i> • <i>the structure compliments the residence and uses similar materials and construction methods;</i> <p>The applicant concludes that the proposed variation will not have any significant adverse effect for the following reasons:</p> <ul style="list-style-type: none"> • <i>Only a small area of 2.8 m² is proposed to be located forward of the 9 m setback, whereas clause 6.2.3 permits a maximum area of 6m²;</i> • <i>The portico is an open-sided structure and will therefore not have a significant</i>

	<p><i>adverse effect on the open characteristic of the existing streetscape;</i></p> <ul style="list-style-type: none"> • <i>The portico has been designed to compliment the dwelling and uses identical colours and materials;</i> • <i>The proposed dwelling is of a high design standard, with the proposed portico height considered to be an important and attractive architectural feature, which provides visual interest to the dwelling and assists with the provision of a high level of visual amenity for the site.</i>
<p>Officer technical comment</p>	<p>Policy 6.23 permits minor structures such as porches to be constructed forward of the setback provided they do not exceed a maximum height of 3.5 m and area of 6 m².</p> <p>In this case, the area of porch extending into the front setback is 2.8 m² and therefore relatively small in scale. The additional height of the porch in the setback area is therefore minor and is not expected to significantly impact on the streetscape.</p> <p>Notwithstanding this, because the open space on the site has been reduced, increased height of the porch further impacts on the streetscape as a cumulative effect.</p>

Conclusion

It is considered that the proposed area of open space, 53.25% (70 m² less than that required under the RCodes) does not adequately complement the building given the size and design of the dwelling and the amount of site cover restricts the potential future uses of the site.

The City is required to ensure a consistent administration of planning requirements to ensure overall protection of residential amenity, especially in regard to the larger R10 density coding sites. If the City was to approve this application it may then be expected that Council would approve other similar proposals to vary the minimum open space requirements.

Reduction of open space on these sites will result in an incremental change to the character of the neighbourhood, adversely affecting the amenity of the area.

Given the above, it is recommended the Council approve the application for the dwelling, subject to the size of the dwelling being reduced to

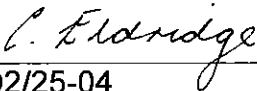
provide 60% open space in accordance with the acceptable development requirements of the RCodes. This reduction could be made by amending specific setbacks and/or reducing internal areas throughout the dwelling.

Attachments

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

D24.11	No. 25 (Lot 10629) John XXIII Avenue Mt Claremont: Proposed Outline Development Plan for John XXIII High School
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Committee	8 March 2011
Council	22 March 2011

Applicant	MGA Town Planners
Owner	Roman Catholic Archbishop of Perth
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	JO2/25-04
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this application is for Council to adopt the Outline Development Plan (ODP) for the lot used by John XXIII High School at No. 25 (Lot 10629) John XXIII Avenue, Mt Claremont to:

- 1) Guide future development on the site; and
- 2) Establish an alternative level for height calculations of buildings as provided for in Clause 5.11 (iv) of Town Planning Scheme No. 2 for proposed buildings over the portion of the site as shown in the Outline Development Plan at the 19 m contour line (Land and Surveys public plans Series B.G.200.34.)

Council

- 1) Approves the Outline Development Plan prepared by MGA Town Planners in the document entitled "Outline Development Plan, John XXIII College, Mooroo Drive, Mt Claremont" dated October 2010 for John XXIII College located at No. 25 (Lot 10629) John XXIII Avenue, Mt Claremont pursuant to Clause 3.8.7 of the City's Town Planning Scheme No. 2; and
- 2) Advises the school that the Department of Health as a neighbour has requested that that they be consulted at the design stage of developments at the school site so that dialogue can occur when necessary.

Strategic Plan

KFA 3: Built Environment

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

Background

Property Address: Lot 10629
Zoning MRS: Urban
Zoning TPS2: Development Zone
Lot Area: 24.6146 ha

The site is used for education purposes as it accommodates the campus of the John XXIII College. The College relocated to this site in 1986.

The campus includes a range of buildings that provide for classrooms and administration. The campus also includes a chapel, gymnasium and the school hall. All buildings are linked together by colonnaded walkways.

The same architectural style has been used throughout the campus being facebrick walls and red tiled roofs with a consistent pitch of 18°.

The campus is extensive with a significant level change of 26 m over the site. Based on the Land and Surveys public plans Series B.G.200.34 contours the sites highest points are along its western boundary abutting Heritage Lane at the 38 contour, to its lowest point along John XXIII Avenue at the contour line 12. The area covered by the buildings that comprise the campus ranges from a contour height of 25 to 13. The main carparking area along John XXIII Avenue is at a contour of 12.

Most of the campus was developed prior to 1986. It includes a number of buildings that exceed the 10 m height limit, which were able to be approved at the time because the current height limits did not apply.

Proposal Detail

Structure of ODP Document

The proposed ODP is contained as section 6 in the ODP document submitted by the applicant (attachment 4). The preceding sections of the document provide background information, while section seven (7) provides the conclusion.

Purpose of ODP

The proposed Outline Development Plan is intended to serve two (2) purposes:

1. To guide the future development of the site over the next ten (10) years which includes extensions to or the refurbishment of the following facilities: (Refer to attachment 2)
 - Gymnasium Extension
 - Performing Arts Classrooms and Hall refurbishment
 - Language upgrade and refurbishment
 - Classroom / Learning years 1-10 refurbishment
 - Faith and Justice Centre refurbishment
 - Learning Enrichment Centre refurbishment
 - B Block refurbishment
 - Health Care / Administration refurbishment
 - Pre-primary / 3 year old kindergarten refurbishment
 - Arts/Language/Music and Multipurpose Assembly refurbishment
 - PS Mary Ward refurbishment
 - Car park and landscaping upgrade
 - New Ground and Maintenance Building

2. To establish a uniform ground floor level at the 19 contour level (Land and Surveys public plans Series B.G.200.34) over the southern portion of the site as shown in figure 10 of the ODP (attachment 3) for purposes of overall building height calculations in order to gain additional height allowances.

In support of the proposal to vary the level the applicant relies on the provision of Clause 5.11(iv) of the TPS2 which provides Council with discretion in relation to the 10m height limit due to its wording:

- iv) *that any point of the building exceeds a height of 10 m, measured from the mean natural ground level around the base of the building or from such other level determined by Council.* (emphasis added).

Under the current height restrictions and with the aim to maintain the current architectural style, only buildings with a limited footprint can be accommodated. While it is possible to build the majority of the required facilities within these constraints, buildings that require a larger footprint such as a hall or gymnasium cannot be accommodated within the height limit unless the roof pitch is adjusted which in turn will affect the overall architectural style of the campus.

The purpose for introducing a uniform ground level therefore is to rationalize the terrain of the site so that the current architectural style can continue to apply to proposed buildings. The following further justification has been provided in support of the proposed concession:

- The site is extensive.
- There is a significant level variation over the site.
- The ground levels of the buildings along the western boundary, which comprise the highest point of the campus are established at a contour of 19 m.

Consultation

After receiving consent from the Western Australian Planning Commission to advertise the proposed ODP on 9 December 2010, the proposal was advertised for public comment for the period of 18 December 2010 to 4 February 2011. The advertising period was longer than usual because the applicant requested that advertising commenced prior to the four week holiday period during which time no advertising is undertaken.

The City received five (5) submissions, all of which state that there is no objection to the proposed ODP, although some submission address ancillary concerns. The comments are summarised below:

		Submission	Officer Comment
1	Resident	No objection to proposal but raising concerns with traffic safety in John XXIII Drive and Mooroo Drive.	Noted and the concerns regarding traffic safety have been brought to the attention of the Traffic Management Committee.
2	Premier of WA for Minister of Education	No comment made in regard to proposed ODP but advised that provided the buildings comply with the BCA there would be no issue in regard to registration requirements under the <i>School Education Act 1999</i> .	Noted

3	Department of Sports and Recreation	No objection to proposal and is supportive of the development to enhance sport and recreational opportunities for the community.	Noted
4	Dept of Health	No objection to proposal but a request that the department be consulted at the design stage of developments at the school site.	Noted. However with the approval of the ODP there would be no further requirement for the City need to consult on any subsequent development proposal already approved under the ODP, particularly when no variation is sought. However in order to alert the school to their neighbours' request the submission will be brought to the attention of the school so that dialogue can occur when necessary.
5	Resident	No objection	Noted

Legislation

- City of Nedlands Town Planning Scheme No. 2

ODP

In relation to the proposed ODP and the process that is required for its adoption Clause 3.8 of the City's Town Planning Scheme No. 2 applies, which requires that the following steps are taken as part of the approval process:

1. Council approves the ODP in principle (Clause 3.8.3).
2. Council refers the document to the Western Australian Planning Commission (WAPC) for approval for advertising (Clause 3.8.3).
3. Once the WAPC has granted approval in principle, advertising commences by giving notice for a period of 21 days. This notice requires that an advert be placed in a local paper circulating in the district once per week for each of the three consecutive weeks (Clauses 3.8.4) and also includes that a sign is displayed on site and letter are sent to surrounding neighbours (Clause 3.8.5).
4. Once the advertising period has concluded Council considers the submission to the ODP in the light of the submissions. (Clause 3.8.6).

5. Council may decide not to proceed with the proposal. Once Council agrees to adopt the proposal (In its original or revised form), Council forwards the proposal to the WAPC together with the submissions. (Clause 3.8.7).

No appeal rights exist should Council decide not to proceed with the ODP.

The report deals with step 5 of the above process.

Building Height

Clause 5.11 of TPS2 specifies the maximum building height limit for the scheme area as follows:

"MAXIMUM BUILDING HEIGHT AMD 135 GG 2/2/01

No site shall be developed or building constructed:

- i. to contain more than two storeys directly above each other in the case of residential use or three storeys in the case of other uses, excluding areas for plant and equipment, storage, toilets and the parking of wheeled vehicles;*
- ii. with the height of any part of an exterior wall greater than 8.5 m from mean natural ground level at the base of the walls;*
- iii. to exceed 8.5 m in overall height facing the primary street frontage, measured from the mean level of the lot boundary at the primary street frontage; and*
- iv. so that any point of the building exceeds a height of 10 m, measured from the mean natural ground level around the base of the building or from such other level determined by Council." (emphasis added).*

Budget/financial implications

Nil

Risk Management

Nil

Discussion

Proposed Development

Due to its zoning as 'Development' an ODP that shows any future works must be approved before planning approval can be granted for any works.

The proposed works outlined in the proposed ODP align with the educational nature of the campus. They are considered to be appropriate for the site and are therefore supported.

Height Variation

Legal advice was sought in relation to Clause 5.11 iv) and confirmed that this clause provides Council with discretion to vary the 10 m height restriction. However, the discretion can only be exercised if:

- a. The variation bears some relationship to the base of the building; and
- b. There is valid planning justification that provides a rational reason to allow a departure from the mean. The most compelling justification would be that the current provisions result in strange outcomes given the topography of the site.

By proposing to apply the 19 contour line as a base for all future buildings for height calculation purposes from which the 10 m building height is established, the ODP would provide the "**other level determined by Council**" as provided for in Clause 5.11 vi).

To determine whether such a variation would be appropriate in this instance the following is considered on merit:

1. Given the extent of the site and its level differences, there is a valid argument to rationalize ground levels across the site not necessarily because the existing provisions would result in strange outcomes, but more in order to allow more interesting built forms within the same architectural parameters (i.e. pitch of roofs).
2. An argument exists that the structures comprising the campus effectively create one building given that:
 - a. The majority of the buildings are connected by colonnaded walkways; and
 - b. Those buildings that are not part of the colonnaded complex are an integral part of the campus due to the architectural uniformity throughout the campus.

It is therefore considered to be appropriate to average the base level over the total building footprint.

3. The proposed variation is in relation to the overall height restriction of 10 m only i.e. Clause 5.11 vi). It will not affect any of the other restrictions relating to building height such as wall heights. The effect of the variation is that it will allow variations in regard to the roof structures of any proposed buildings on the site, while the wall components of the buildings remain consistent with what is permitted throughout the remainder of the City.

4. The impact on surrounding property owners:

The site is surrounded by John XXIII Avenue and Mooro Drive along its eastern and southern boundaries respectively and abuts privately owned land along its northern and western boundaries. Given the separation provided by John XXIII Avenue and Mooro Drive between the College site and its neighbours, the impact of any variations on the subject site are likely to be minimal.

Similarly will be the impact in relation to its northern boundary neighbour, because the College's playing fields provide a significant buffer of 280 m between the building component of the campus and the site's northern boundary.

The only area potentially directly impacted by any variations to building height at the subject site are the properties abutting the western boundary, which is the Old Swanbourne Hospital for the Insane, Heritage Lane and The Marlows, and the properties to the west of these streets. However the impact of any height variation at the subject site on these properties is likely to be minimal, given that these sites are located at least 19 m above the 19 contour line that forms the base of the western buildings of the campus. At that height these properties overlook the subject site, and would be more negatively impacted if the roofscape at the college is inconsistent than any height variations.

5. While the proposed base line will allow higher buildings, effectively only a triangle portion of roof would to exceed the standard height limit that would otherwise apply in each case. The actual extent of the variation therefore is minimal. (Refer to cross sections attached as attachment 4).

Conclusion

The proposed ODP is welcome because it will ensure that future development on the site can be co-ordinated to provide a comprehensive outcome.

Given the above there is valid planning justification to permit a variation to the building height applicable to the portion of the site as shown in figure 10 by applying a uniform base line from which the overall 10 m height limit is calculated. This argument is strengthened by the fact that no objections to the proposal were which supports the assertion that the variation will not have any negative impact on the surrounding properties.

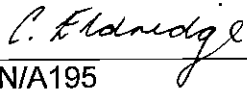
It is therefore recommended that the proposed ODP which shows the building programme for the next ten (10) years as well as the extent to which the height variation applies is adopted.

Attachments

1. Site Plan
2. Building Program: Figure 9 of the ODP
3. Figure 10 of the ODP showing the area where the proposed 19 m contour line would apply
4. Cross sections showing existing and proposed building height in relation to surrounding development

D25.11	Proposed Town Planning Scheme No. 2 amendment to allow increased height restrictions to 12 m for lots 49 to 51 at Nidjalla Loop, Swanbourne (formerly Swanbourne High School)
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Committee	8 March 2011
Council	22 March 2011

Applicant	Halsall & Associates Town Planning Consltants
Owner	Mr. Carlin – No 4 (Lot 50) Nidjalla Loop Mr. and Mrs. Zorzi – No 6 (Lot 49) Nidjalla Loop Mr. and Mrs. Mori – No 2 (Lot 51) Nidjalla Loop
Officer	Michael Swanepoel – Senior Strategic Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref:	TPN/A195
Previous Item No's	D49.07 – 31 July 2007
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The City has received an application requesting that an amendment to the Town Planning Scheme No.2 to permit a maximum building height of 12 m at Lots 49 to 51 at Nidjalla Loop, Swanbourne (formerly Swanbourne High School) be initiated.

Recommendation to Committee

That Council does not initiate the proposed scheme amendment to allow a 12 m height limit on Lots 49, 50 and 51 Ninjalla Loop compiled by Halsall & Associates Town Planning dated January 2011 because the proposal is contrary to orderly and proper planning.

Strategic Plan

- KFA 3: Built Environment
 - 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
 - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

Background

Property Address: Lots 48 to 51
 Zoning MRS: Residential
 Zoning TPS2: R20 (Precinct 5 of Swanbourne Design Guidelines)
 Lot Area: 2 (Lot 51) Nidjalla Loop – 442 m²
 4 (Lot 50) Nidjalla Loop – 442 m²
 6 (Lot 49) Nidjalla Loop – 442 m²
Total Area 1326 m²

Swanbourne High School redevelopment

The redevelopment of the Swanbourne High School began with the Western Australian Planning Commission approving the subdivision of the site subject to a set of conditions, including the preparation of design guidelines.

Two sets of design guidelines (A and B) were prepared by LandCorp and Mirvac. These documents create nine precincts on the site. Each precinct has its own distinctive character based on the difference in their topography and derived from distinctive provisions for each precinct in the design guidelines.

Design outcomes for medium density dwellings are covered by Design Guidelines A (Precincts 1, 2, 3, 4, 5 and 9). Design outcomes for higher density dwellings are covered by Design Guidelines B (Precincts 6, 7 and 8). Each lot was given a residential coding to ensure that they reflected the intended dwelling type and outcome for the precinct.

The table below summarises the nine precincts.

Precinct	TPS 2	Dwelling type	Maximum height	Design Guidelines
1	R25	Single dwellings	10 metres	A
2	R30	Single dwellings	10 metres	A
3	R25	Single dwellings	10 metres	A
4	R20	Single dwellings	10 metres	A
5	R20	Single dwellings	10 metres	A
6	R60	Single dwellings	12 metres (Amd 189)	B
7	R80	Multiple dwellings	21 metres (Amd 189)	B
8	R60	Multiple dwellings	10 metres	B
9	R30	Grouped dwellings	10 metres	A

Maximum height requirements were based on the intended dwelling outcome and the residential coding that was applied to the site.

Lots 49 to 51 are included within Precinct 5 which and are zoned 'Residential R20' with a 10 m maximum building height.

Objectives of Precinct 5

The objectives of Precinct 5 are:

- A detached built form that is in a landscaped setting (including the setbacks of both side boundaries).
- A contemporary architectural built form where the elevations on all sides are consistent in design quality, composition and detailing.
- A response to the surrounding context of the Public Open Spaces and streetscapes.
- That any two-storey portion is located at the front western part of the Lot to promote streetscape consistency and scale, and to minimise overshadowing of any neighbouring southern lot's rear outdoor living area.
- Outdoor living area that receives winter sunlight.

Key Relevant Previous Decisions

12 June 2006	Western Australian Planning Commission grants conditional subdivision approval.
10 April 2007	Council adopts Swanbourne Design Guidelines A (for precincts 1, 2, 3, 4, 5 and 9).
31 July 2007	Council completes Scheme Amendment No. 189 to allow increased height restrictions to 21 m on Lot 60 (precinct 7) and 12 m on Lots 52-59 (precinct 6).
August 2007	Council adopts Swanbourne Design Guidelines B (for precincts 6, 7 and 8).

Proposal Detail

The applicant is requesting Council to initiate an amendment to the Town Planning Scheme No. 2 so as to permit a maximum height of 12 m at Lots 49 to 51 at Nidjalla Loop, Swanbourne (formerly Swanbourne High School).

The proposed changes by the applicant are summarised in the table below:

Lot	Current requirements (TPS 2 and Design Guidelines)	Proposed scheme amendment
49	• 10 m maximum building height.	• 12 m maximum building height.
50	• 10 m maximum building height.	• 12 m maximum building height.
51	• 10 m maximum building height.	• 12 m maximum building height.

Applicant justification for Scheme Amendment

According to the applicant the primary motivation behind the proposal is:

“The owners of Lots 49 to 51 purchased the property from Mirvac/Landcorp and were not provided with information in relation to a scheme amendment that was occurring relevant to Lots 52 to 59 providing a greater height limit up to 12 m. As such, views to the city and suburban vista was envisaged to the east however this could be potentially lost if dwellings are now constructed to a maximum height of 12 m within Lots 52 to 59.”

The applicant has approached the Minister for Planning, Culture and the Arts and the Senior Development Manager at Mirvac and provided their comments in support of this proposal.

Stakeholder	Summary	Administration response
Senior Development Manager, Mirvac	<ul style="list-style-type: none"> Mirvac has no objection to Lots 49-51 having a maximum building height from natural ground of 12 m. 	There is no evidence that this comment includes the assessment of the Mirvac Design Committee.
Minister for Planning, Culture and the Arts	<ul style="list-style-type: none"> I am unable to provide a definitive response in support (or otherwise) at this time, as the proposal is required to follow due planning process before I am able to make a decision on the matter. In making my decision, I must consider all relevant details of the proposal, the recommendation of the local government, the content of any public submissions and the recommendation of the Western Australian Planning Commission. 	Noted.

Accordingly the applicant also provided planning rationale in support of the proposal which focused on the following:

“This proposal is formulated on the same basis given that current Detailed Area Plans/Design Guideline restrictions result in Lots 49 to 51 probably being able to achieve only a marginally larger sized dwelling to Lots 52 to 59 (Precinct 6). The proposal is therefore so that larger dwellings can be developed on Lots 49 to 51 which is logical given these lots are more than twice the size of Lots 52 to 59.”

To achieve their objective the applicant proposes a Detailed Area Plan (refer to attachment 2) which indicates the potential location and form of a mezzanine level within the additional 2 m.

The applicant notes that this proposal is contingent on specific design guidelines being prepared so that issues of streetscape, access to light and northern sun are addressed and to ensure that no additional storeys are constructed.

The applicant concludes by arguing that the proposal is a minor adjustment to provide additional height opportunities for the subject lots so that additional floor space can be provided.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: N/A

Dates: N/A

If initiated by Council, the proposed scheme amendment is advertised for 42 days following referral to and assessment by the Environmental Protection Authority.

Legislation

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

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

No impact for the City as the applicant pays all fees to cover the costs involved with the scheme amendment process.

Risk Management

Ad-hoc scheme amendments undermine the planning process both long term planning and from a consistency perspective.

Under Section 76 of the *Planning and Development Act 2005* the Minister can initiate scheme amendments that have not been initiated by a Council.

Discussion

Flaw in purchasing process

From the point of view of the lot owners an increase in height restriction will give the properties the city views that they believe have been lost. According to the applicant this loss occurred because the owners were not informed of the scheme amendment that increased the height of the lots to the east of the subject properties at the time of purchase.

The purpose of planning is to achieve good development outcomes. Its role is not to remedy commercial errors. Proceeding with a scheme amendment every time there is a flaw in the purchasing process has implications that extend well beyond the boundaries of these three lots. It undermines Council's ability to maintain a considered, consistent and accountable approach for guiding overall development in the City.

City views

While views from properties are desirable they are not a valid planning consideration. This is acknowledged by the applicant in their submission which states that views are "*not a planning issue*". Ultimately, proceeding with a scheme amendment to facilitate views creates a domino effect that is neither appropriate nor desirable from a planning perspective.

Minimal Impact

The applicant argues that increasing the maximum building height will have a minimal impact on the surrounding properties. It is noted that this is subjective and that no evidence has been provided to substantiate this claim. The City has a 10 metre height limit for most single dwellings across the City.

Design Guidelines

Design guidelines exist for this area which is based on sound planning grounds where properties of similar character and density code are grouped to achieve specific outcomes.

Precinct 5 is part of Design Guidelines A. Its density code dictates the expected outcome of development which aligns with all the other properties included in Design Guidelines A. There is no justification to change this situation unless an assessment of the impacts of this proposal on the overall area can prove otherwise. In this instance proceeding with this scheme amendment would be 'putting the cart before the horse'.

Height is non-negotiable

Since the inclusion of Clause 5.11 'Maximum building height' in 2001, building height within the City has become largely non-negotiable as there is no general variation clause in the scheme. Supporting this scheme amendment contradicts this principle.

Consistent application of residential coding

The rationale behind allocating residential codings to specific sites is that they guide how they are likely to be developed. In general, lower codings equal single detached dwellings on larger blocks whilst higher codings are more likely to equal single detached dwellings on smaller blocks.

In this case, Lots 49 to 51 are zoned as 'Residential R20' in the TPS2, whilst the lots to the east in Precinct 6 are zoned 'Residential R60'. Given these codings, it is reasonable to conclude that the intention for Lots 49 to 51 was for a single detached dwelling to be built on a larger block. This contrasts with the intention of the R60 lots in Precinct 6 being able to facilitate single detached dwellings on smaller blocks. The applicant has not adequately justified why lots coded R20 should be given the same height restriction as those lots coded R60.

Ad-hoc change

Unplanned changes tend to result in unforeseen consequences. This situation is exacerbated when there are already existing mechanisms, such as design guidelines, in place to guide development.

This proposal is ad-hoc in nature. The Design Guidelines do not include a 'review and monitor' section which makes it difficult to recommend making a change on the run.

Conclusion

In conclusion the arguments for and against this proposal can be summarised as follows:

For

- Minimal impact.
- Flaw in purchasing process.
- Achieve a city centre view.

Against

- Height is non-negotiable.
- Consistent application of R-Codes.
- Ad-hoc change.
- Views are not a planning issue.

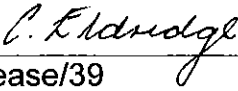
On balance the forces 'against' this change outweigh any advantages that may exist. Supporting this proposal would be contrary to orderly and proper planning because it would have extensive ramifications to the planning process with City – wide implications.

Attachments

1. Locality Plan
2. Swanbourne High School Precinct Plan
3. Precinct 5 Plan
4. Precinct 6 Plan
5. Proposed Detailed Area Plan (extracted from application for scheme amendment)

D26.11	Early Childhood Education Centre (Annie's Playschool): No. 25 Strickland Street, Mt Claremont (Lot 254 on Deposited Plan 3321): Deed of Variation of Lease
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Committee	8 March 2011
Council	22 March 2011

Applicant	Ann Louise O'Hara – Annie's Playgroup
Owner	City of Nedlands
Officer	Neil Scanes – Property Management Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	Lease/39
Previous Item No's	Item D86.10, 23 November 2010: Item D30.06, 25 April 2006: Item D90.05, 13 December 2005: Notice of Motion - Item 15.5, 14 December 2004
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

This report recommends that Council approves and endorses a Deed of Variation of Lease between the City and Ann Louise O'Hara (Annie's Playschool) in relation to a Development Application.

Recommendation to Committee

Council approves and endorses a Deed of Variation of Lease between the City and Ann Louise O'Hara as per attachment 1.

Strategic Plan

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

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

- KFA 4: Community Wellbeing
- 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
 - 4.4 Continue to develop a sense of community through the promotion of cultural events and programs.
- KFA 5: Governance
- 5.6 Ensure compliance with statutory requirements and guidelines.

Background

Annie's Playschool operates out of the Early Childhood Education Centre located at 25 Strickland Street, Mt Claremont on the western side of the road and immediately adjoining the Mt Claremont shops. The proprietor of Annie's Playschool is Ann Louise O'Hara.

The land on which the facility resides is legally described as Lot 254 on Deposited Plan 3321, being the whole of the land comprised in Certificate of Title Volume 593 Folio 87. The City owns this land in fee simple.

On 23 November 2010, Item D86.10 Council resolved the following:

Council:

- 1) ***approves and endorses an exclusive use lease for a two year term with the option of a further two year term (subject to the City's sole discretion) between the City and Ann Louise O'Hara as per Attachment 1;***
- 2) ***that the annual rental be set at \$10,000 per annum plus GST for the two year lease commencing 1 January 2011 and \$10,000 plus GST, indexed to CPI for the further two year lease term (subject to the City's sole discretion) commencing 1 January 2013 to reflect apportioning the market value for the leased portion of the site; and***
- 3) ***no maintenance fee to be charged and rates be charged for the leased portion of the lot only.***

Council were informed on 23 November 2010, Item D86.10 that Ann Louise O'Hara was not operating in conjunction with the initial terms outlined in the original Development Approval that was issued in February 2005 as outlined below:

Development Approval (February 2005)

- Maximum of 12 children per session.

Operating Hours:

- Tuesday 9:00 am to 11.30 am / 12:30 pm to 15:00 pm
- Wednesday 9:00 am to 11.30 am / 12:30 pm to 15:00 pm
- Thursday 9:00 am to 11.30 am / 12:30 pm to 15:00 pm

The details of the original Development Approval were incorporated into the current lease as part of the Expression of Interest proposal. The closing date for submissions by interested parties was 17 September 2010 and only one submission was received, that of the current lessee.

Ann Louise O'Hara submitted a planning application to amend the number of children per session and the operating hours of the facility stated within the current lease on 12 November 2010.

Amended Development Approval

- Maximum of 13 children per session.

Operating Hours:

- Tuesday 9:00 am to 12.00 mid-day
- Wednesday 9:00 am to 12.00 mid-day
- Thursday 9:00 am to 12.00 mid-day
- Friday 9:00 am to 12.00 mid-day

The City's Planning department advertised the proposed change to the hours of operation and numbers of children attending the facility in December 2010. Interested parties were invited to submit any comments to the City by 24 January 2011. No objections were received.

On 3 February 2011, City Planning issued an amended Development Approval to amend the number of children and hours of operation as per Ann Louise O'Hara's request.

Key Relevant Previous Decisions

- Item D86.10, 23 November 2010: Council resolved a two year lease to Ann Louise O'Hara with the option of a further two year term subject to the City's sole discretion;
- Item D30.06, 25 April 2006: Council resolved a nine month lease to Ann Louise O'Hara;

- Item D90.05, 13 December 2005: Council resolved to publicly advertise their intention to lease the property to Ann Louise O'Hara in order to adhere to Section 3.58 of the *Local Government Act 1995*; and
- Notice of Motion Item 15.5, 14 December 2004: Council resolved that Ann Louise O'Hara enter into an exclusive use lease of the building from February 2005.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

No objections were received from interested parties in regards to the proposed amendments to the Development Approval.

The City has consulted with the applicant regarding the amendments to the original Development Approval and the subsequent required amendments to the current lease that are detailed with the proposed Deed of Variation of Lease.

The Deed of Variation of Lease is included as Attachment 1 and is presented to Council for endorsement.

Legislation

- Section 3.58 of the *Local Government Act 1995*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

The City will be responsible for all costs in relation to the preparation of the Deed of Variation of Lease by McLeod's Barristers and Solicitors.

Risk Management

The current lessee has not been operating in conjunction with the terms outlined in the original Development Approval.

The City has been aware that Annie's Playschool has been operating on the amended hours detailed within the amended Development Approval for the past two years.

The Deed of Variation of Lease will amend Clause 13.4(b) and 13.4(c) of the lease. The lessee will now comply with all aspects of the Development Approval as the legal documentation clarifies both parties' responsibilities in regards the future management of the Early Childhood Education Centre.

The lessee is cognisant of the local residents needs and has provided the Centre's telephone number to residents and commercial premises on Strickland Street. All parents are informed that parking is an issue due to the large number of people who use the adjoining shopping centre precinct. Parents are notified and reminded on a regular basis by the proprietor that they need to be mindful of where they park their vehicles. Children attending the centre are primarily dropped off and picked up so parents in general are not utilizing the available parking bays for a great period of time. The impact of additional vehicles to local residents and businesses is minimal.

Discussion

The purpose of the Early Childhood Education Centre is to provide an occasional childcare service for up to a maximum of 12 children between the ages of three and four years of age. The aim of the facility is to provide an environment and a program where young children are both cared for and helped to develop in order to foster their confidence, independence and interaction. This will assist with the Centre's intended role of bringing together local children and parents, creating local relationships and community connections, thereby creating a sense of local community through shared learning.

The amendment to the original Development Approval and subsequent preparation of the Deed of Variation of Lease will bring the current lease into line with the operational hours currently operated by the lessee and also allow the inclusion of an additional child into the educational program. The amendments clarify both parties' responsibilities in regards the future management of the Early Childhood Education Centre.

Ann Louise O'Hara has written to the City on 16 February 2011 agreeing to the proposed terms of the Deed of Variation of Lease.

McLeod's Barristers and Solicitors have prepared the draft Deed of Variation at attachment 1.

Conclusion

It is in the City's interest to be involved with a first class occasional childcare facility that provides the full range of indoor and outdoor activities necessary for the overall social and educational development of children between the ages of 3 – 4 years in order to service the local community.

Ann Louise O'Hara has demonstrated commitment to the Early Learning Centre over a five year period and has entered into a formal new lease of the facility from 1 January 2011. Childcare for children of the specified age is of limited supply within the City of Nedlands and therefore the tenant is providing a positive community service.

It is recommended that the proposed Deed of Variation of Lease be approved in order to bring the current lease into line with the new Development Approval.

Attachments

1. Deed of Variation of Lease