



Planning and Development Services Reports

Committee Consideration – 10 July 2012
Council Resolution – 24 July 2012

Table of Contents

Item No.		Page No.
PD24.12	No. 88 (Lot 578) Archdeacon Street, Nedlands – Retrospective Additions (Garage) to Single House.....	2
PD25.12	Proposed Draft Local Planning Policy - Hollywood Aged Care Retirement Village.....	12
PD26.12	Dedication of portions of land within West Coast Highway reserve between Rochdale Road and Alfred Road as Road Reserve.....	16
PD27.12	Lot 12040 Heritage Lane Mt Claremont - Proposed subdivision into three lots for complex formerly known as Swanbourne Hospital for the Insane – Reconsideration of Conditions	19

PD24.12	No. 88 (Lot 578) Archdeacon Street, Nedlands – Retrospective Additions (Garage) to Single House
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Committee	10 July 2012
Council	24 July 2012

Applicant	Michael Glossop
Owner	As Above
Officer	Laura Sabitzer - Planning Officer
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	DA12/94 : AR1/88
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 the proposal does not meet the provisions in the City of Nedlands Town Planning Scheme No. 2 (TPS2) and Council Policy 6.23 'Carports and Minor Structures Forward of the Primary Street Setback'.

Recommendation to Committee

Council:

1. **refuses an application for retrospective additions (garage) to single house at No. 88 (Lot 578) Archdeacon Street, Nedlands in accordance with the application and plans dated 13 March 2012 for the following reasons:**
 - a. **the application does not comply with Council's Policy 6.23 'Carports and Minor Structures Forward of the Primary Street Setback';**
 - b. **the application does not meet 5.6.2(d) of the City of Nedlands Town Planning Scheme No.2 (TPS2); and**
 - c. **the proposal will not be orderly and proper planning.**
2. **instructs the removal of the garage door within 42 days of the date of this decision.**

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. 88 (Lot 578) Archdeacon Street, Nedlands
(Refer to attachment 1)

Zoning MRS: Urban

Zoning TPS2: Residential, R12.5 coding

Lot Area: 809 m²

The landowner submitted a development application for an extension to upper balcony, retaining walls and decking in July 2011. Upon assessing the application, the plans submitted showed that the existing carport had been converted into a garage. A file check determined that the carport had been converted into a garage without receiving planning approval or a building licence.

The development application for an extension to upper balcony, retaining walls and decking was approved under delegation in December 2011. A compliance letter was subsequently sent to the landowner in January 2012 requiring the owner to either remove the unauthorised additions to the carports, or submit a retrospective application for planning approval. A retrospective planning application was received by the City in March 2012.

This application is for retrospective addition to a previously approved carport. The retrospective addition is the installation of a solid garage door, which has converted the approved carport into a garage (refer to attachments 3 - 7):

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Notification Period: 9 May 2012 – 23 May 2012

The variations identified were advertised by letter to surrounding affected landowners for fourteen days.

Comments received: Two (2) comments – Support / No objection

The comments received from the surrounding landowners are discussed in the Discussion section of this report.

Legislation

- Residential Design Codes (RCodes).
- City of Nedlands Town Planning Scheme No.2 (TPS2)
- Policy 6.23 *Carport and Minor Structures Forward of the Primary Street Setback* (Policy 6.23).
- 'Neighbour Consultation – Development Applications' Policy.

The RCodes define a carport as:

*“a roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being **without a door unless that door is visually permeable** (emphasis added)”* and a garage as *“any roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling”*.

Whilst Policy 6.23 defines a carport as:

*“a roof structure designed to accommodate a motor vehicle and **shall be open on all sides** (emphasis added) unless constructed adjoining a boundary fence or wall of a building”*.

The addition of solid garage door to a carport means that the structure can no longer satisfy the definition of a carport and now fits within the definition of a garage.

The application proposes the following variations to the provisions of TPS2 and Policy 6.23:

1. TPS2 – Clause 5.6.2(d) and Policy 6.23 require carports in the primary street setback to be *“...open on all sides...”* unless constructed adjoining a boundary fence / wall. The addition of the garage door does not allow for the carport to be open on all sides.
2. Policy 6.23 requires that the side of the carport facing the street to be left open. The addition of the garage door does not allow the side of the carport facing the street to be open.

Budget/financial implications

Nil

Risk Management

This application is considered to contravene the mandatory provisions of Clause 5.6.2 (d) of TPS2. Furthermore, if this application is approved it would likely lead to other applications of a similar nature contrary to Policy 6.23. This would result in the need to amend this policy. It is considered that this would compromise the purpose of the policy which is to ensure the open character and street amenity of the City.

Discussion

The variations to the TPS2 and Policy 6.23 are discussed as follows:

Issue: Addition of Garage Door

<p>Requirement</p>	<p>TPS2 Clause 5.6.2(d) states that <i>“the carport shall be open on all sides unless constructed adjoining a boundary fence or wall of a building, in accordance with Council policy”</i>.</p> <p>Policy 6.23 defines a carport as <i>“a roof structure designed to accommodate a motor vehicle and shall be open on all sides unless constructed adjoining a boundary fence or wall of a building”</i>.</p> <p>Policy 6.23 states <i>“carports may be constructed forward of the required primary street setback, but the side facing the street must be left open”</i>.</p>
<p>Applicants Proposal</p>	<p>The side of the carport facing the street has had a solid garage door installed. (refer to attachments 3 - 7).</p>
<p>Assessment under TPS2</p>	<p>Clause 5.6.2 of TPS2 allows Council to have discretion and impose conditions on the approval of a carport to be constructed in the front setback area. However the conditions must meet the design requirements of Clause 5.6.2 (a)-(d).</p> <p>Therefore it is deemed that Council has no discretion to vary Clause 5.6.2(d) in TPS2.</p>
<p>Assessment under Policy 6.23</p>	<p>Policy 6.23 – where an application does not comply with the policy requirements, then the application is evaluated according to whether the variation will have impact on <i>“either the relevant adjoining property or the streetscape”</i>.</p>

<p>Officer technical comment</p>	<p>In regard to assessment under Policy 6.23, the officers comments are as follows:</p> <p><i>Adjoining property</i> It is considered that the installation of a solid garage door will not impact the adjoining properties.</p> <p><i>Streetscape</i> The solid garage door is considered to impact the surrounding streetscape. The streetscape is of an open nature and properties on the eastern side have a 9 m front setback and properties on the western side have a 7.5 m front setback in accordance with TPS2. The streetscape of Archdeacon Street is predominately of an open and spacious nature.</p> <p>Policy 6.23 allows carports and other minor structures within the primary street setback, whilst ensuring the open character and street amenity of the City is not compromised. The carport with the addition of a solid garage door does not allow this open character and disrupts the existing street amenity.</p> <p>The existing solid front wall already provides a high degree of screening to the front of the property. The addition of the solid garage door results in the entire property being screened from the street. The front setback area is not intended to be a private, screened area. The 9m minimum front setback as required in TPS2 has specifically tried to prevent development (such as this garage) in the front setback area to in order to maintain the streetscape and character of the locality. It is not orderly and proper planning to further disrupt the streetscape by approving the installation of a solid garage door.</p>
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Response to landowner's justification

Summary of landowner's justification	Officers technical comment
<p><i>The carport was constructed with the tilt door in 1995/6..the door was not shown on the plan. I have no idea why as it was always intended to install one. The carport with the tilt-door has been in place for approximately 15 years.</i></p>	<p>The addition of the garage door requires planning approval to be obtained prior to construction.</p> <p>Clause 6.6.1(a) of TPS2 states that:</p> <p><i>"No person shall commence or carry out any development on land zoned or reserved under the Scheme and without limiting the generality of the foregoing including the commencement or changing of the use of any land without first applying for and obtaining planning approval" [emphasis added].</i></p> <p>The addition of the garage door to the approved carport is classed as development. Plans approved in 1996 for two storey additions and carport, show the carport being open on all sides.</p> <p>Any additional development, which is not shown on approved plans requires further approval.</p>
<p><i>The pool in the front setback requires a tilt door because:</i></p> <p><i>a. The pool is not visible from the street which means children will be less tempted to seek entry. There are of course pool fences in place...</i></p> <p><i>b. The tilt-door provides privacy for users of the pool.</i></p>	<p>A pool inspection was carried out at the property in October 2011. The swimming pool barriers were deemed compliant. The inspection did not include the garage door as a 'swimming pool barrier'.</p> <p>A solid pool fence could be installed for privacy reasons and to ensure the swimming pool will not be visible from the street.</p>
<p><i>There have been incidences of vandalism on vehicles and also break-ins seeking keys to cars visible on the street.</i></p>	<p>Under Policy 6.23 for security reasons, the policy notes that Council will consider wrought iron or tube steel gates / fencing along the side facing the street.</p>

<p><i>There are a significant number of houses in the street with a carport with a door or the side facing the street not left open, in some cases both. In addition there are many houses with a solid wall, many of which have solid gates.</i></p>	<p>A streetscape study of Archdeacon Street was conducted between the intersecting streets of Princess Road and Melvista Avenue (refer to attachment 2). The study determined that out of 28 houses only one (1) other property has a carport in the front setback area with a door and the side facing the street not left open.</p> <p>Other properties have open carport structures within the front setback area or garages located behind the front setback line, which is in line with TPS2 and Policy 6.23. In addition, only four (4) properties out of 28 properties have solid front walls.</p> <p>Therefore, it is consider that the streetscape is predominately of an open and spacious nature.</p> <p>It is not upheld that there are a significant number of houses in the street with an enclosed carport in the front setback area or solid front walls.</p>
<p><i>The carport pillars are part of the boundary fence, so it could be considered to be a gate in the boundary fence or a door on a carport.</i></p>	<p>The development has been classed as additions to convert the approved carport into a garage. Refer to the Legislation section for the RCodes definitions of carport and garage.</p>

Note: A full copy of the landowner's justification received by the City has been given to the City's Councillors prior to the meeting.

Response to comments received from surrounding landowners:

Summary of comments received	Officers technical comment
<i>"We consider the garage door is needed because of the pool."</i>	<p>A pool inspection was carried out at the property in October 2011. The swimming pool barriers were deemed compliant. The inspection did not include the garage door as a 'swimming pool barrier'.</p> <p>Therefore, it is considered that the garage door is not required because of the pool.</p>
<i>"Why is the Council taking this issue up 15 or so years after the building was completed?"</i>	<p>When a compliance issue comes to the City's attention, Administration has an obligation to follow up the issue.</p>
<p><i>"If the Council feels it is necessary to assess the compliance of properties, why was it not done at the time of the completion of the structures?"</i></p> <p><i>"If Council is seeking to ensure that building works have been carried out in accordance with plans submitted, then why not conduct full inspections of properties where more significant matters are likely to be discovered"</i></p>	<p>It is not normal practice for the City to conduct full inspections or check compliance of properties following approval.</p> <p>If the City was to make full inspections or check compliance of properties for every approval then significant additional staff and budget would be required.</p>
<i>"If the owners can seek retrospective approval, what is the point of forcing them to go through this process? Is the planning regulation fair and reasonable?"</i>	<p>When a compliance issue is brought to the City's attention, Administration has an obligation to follow up the issue and seek compliance.</p> <p>The City's process when dealing with compliance matters is to allow the landowner/s:</p> <ul style="list-style-type: none"> i. to apply for and be granted retrospective planning approval; or ii. if retrospective planning application is refused, to require the removal of the unauthorised development; or

	<p>iii. proceed to prosecution of the non-compliance.</p> <p>If the Council is of the opinion that the current regulations are not “fair and reasonable”, then Council can initiate changes to Council’s planning regulations.</p>
<p><i>“I have an open carport and as a result have been subject to car break-ins and more recently a home invasion where I was targeted because of the...cars in the carport. If the carport was a garage I may not have suffered these incidents”</i></p>	<p>Under Policy 6.23 for security reasons, the policy notes that Council will consider wrought iron or tube steel gates / fencing along the side facing the street.</p>
<p><i>“There is evidence of new buildings in the near vicinity that do not conform to the 9m setback”.</i></p>	<p>Properties on the eastern side of Archdeacon Street (i.e. 88 Archdeacon Street) have a front setback of 9 m, calculated as per TPS2. Whilst, properties on the western side of Archdeacon Street have a 7.5 m front setback, calculated as per the RCodes.</p> <p>This is because in accordance with TPS2 Clause 5.3.3 (b) and Policy 6.18 <i>Reduction of Front Setbacks</i>, where more than half of the lots on the same side of the street block have a setback less than 9 m, Council shall permit a reduced minimum front setback.</p>

Note: A full copy of the landowner’s justification received by the City has been given to the City’s Councillors prior to the meeting.

Conclusion

Under the City of Nedlands TPS2 at Clause 5.6.2 (d), a carport located within the 9 m front setback area, “...shall be open on all sides unless constructed adjoining a boundary fence or wall of a building...”. In this instance the installation of a solid garage door does not allow the carport to be open on all sides. Therefore, it is deemed that the retrospective addition to convert the approved carport into a garage does not satisfy the above TPS2 provision.

In addition, the variations to the Council’s Policy 6.23 are considered to adversely impact the streetscape. It is noted that the property has an existing solid front wall however the solid garage door results in the

entire property being screened from the street. It is not orderly and proper planning to further disrupt the existing streetscape by approving the additions to covert the carport into a garage.

For the reasons set out above, the application is recommended for refusal.


Please note: in accordance with Policy 6.23, Council can require the removal of the solid garage door and approve 1.8 m high wrought iron or tube steel (visually permeable) gates along the side facing the street for security purposes.

Attachments

1. Locality Plan
2. Streetscape Study Area
3. Photos
4. Approved site plan at Council 1996
5. Approved west elevation plan at Council 1996
6. Site plan
7. Elevation plan

PD25.12	Proposed Draft Local Planning Policy - Hollywood Aged Care Retirement Village
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Committee	12 July 2012
Council	26 July 2012

Applicant	City of Nedlands
Owner	Regis Group
Officer	Gabriela Poezyn - Manager Strategic Planning
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	TPN/146
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to obtain approval in principle for the proposed Draft Local Planning Policy for the Hollywood Aged Care Retirement Village in order to allow public consultation.

Recommendation to Committee

Council:

1. approves the proposed Draft Local Planning Policy - Hollywood Aged Care Retirement Village for public consultation purposes only.
2. instructs Administration to advise the registered property owner in regard to this proposed local planning policy prior to the commencement of the public consultation process.

Strategic Plan

- KFA 5: Governance
 - 5.6 Ensure compliance with statutory requirements and guidelines.
- KFA 6: Community Engagement
 - 6.2 Encourage community participation in thru City's decision making process

Background

Property Address: Lot 2273 (No. 118-120) Monash Avenue
Zoning MRS: Urban
Zoning TPS2: Special Use (Refer to attachment 2 for Special Use provisions)
Lot Area: 74147 m²

Extensive recent demolition, large areas of vacant land and no development proposals have prompted a need to clarify Council's position in regard to the use of the site.

The proposed draft policy was updated following a workshop with elected members in April 2012.

Proposal Detail

The proposed draft Local Planning Policy applies to all land that is or was a part of Lot 2237 (No 118 - 120) Monash Avenue, Nedlands (the land parcel bounded by Monash Avenue, Smyth Road, Karella Street and Williams Road).

The purpose of this policy is to record the City's position in relation to this site.

The policy envisages that:

1. that the site is used to provide accommodation, health and amenity facilities for aged persons;
2. to guide future development on the site; and
3. the City will consult with residents of the site where a planning proposal potentially affects the residential amenity of the site as part of the public consultation process for development applications.

Once adopted this Local Planning Policy will be used in conjunction with the Town Planning Scheme No. 2 (TPS2) and will strengthen the planning framework for this site.

Consultation

Required by legislation: Yes No
Required by City of Nedlands policy: Yes No

Consultation type:

The proposed local planning policy is presented to Council at this stage in order to obtain consent to commence the public consultation.

The public consultation will occur in accordance with the process outline in clause 8.3.2 of TPS2 which requires that:

- a notice is published once a week for three (3) consecutive weeks in the local press;
- all submissions being evaluated once the advertising period has closed; and
- the proposed local planning policy being reviewed in the light of the submission.

Local planning policies are created under Part VIII of TPS2 and once adopted are enforceable in accordance with the scheme.

Legislation

- City of Nedlands Town Planning Scheme No. 2 (TPS2)

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

Nil

Risk Management

Not progressing a local planning policy in this regard is a lost opportunity to provide the best possible planning framework for this site.

Discussion

The existing available statistics show that in the demographic profile for the City of Nedlands there is currently a higher proportion of older persons compared to the remainder of Perth. This trend is expected to increase in the future as Australia's population continues to age. Accordingly there is a demand within the boundaries of the City to cater for the needs of aged persons.

To cater for this demand includes, protecting existing land that is earmarked to provide for residential age care as a life style choice for aged persons. Such facilities would include accommodation, community facilities to promote social interaction such as a hall, library, chapel, limited retail facilities and facilities to accommodate health care providers to cater for the primary health care needs of residents.

This policy will assist to strengthen the existing planning provisions.

Conclusion

It is recommended that the proposed Draft Local Planning Policy be adopted for public consultation purposes to reinforce the existing planning provisions for this site and allow public consultation to be undertaken in accordance with the provisions of TPS2.


Prior to commencing public consultation it is recommended that Administration advises the registered property owner of the City's intention to progress a Local Planning policy in regard to this site.

Attachments

1. Proposed Local Planning Policy Hollywood Aged Care Retirement Village.
2. Town Planning Scheme provision - Special Use.
3. Master Plan.

PD26.12	Dedication of portions of land within West Coast Highway reserve between Rochdale Road and Alfred Road as Road Reserve
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Committee	10 July 2012
Council	24 July 2012

Applicant	Main Roads Western Australia
Owner	State of Western Australia
Officer	Michael Swanepoel - Senior Strategic Planner
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	WE3
Previous Item No's	N/A
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is for Council to agree to the dedication of certain portions of land within the West Coast Highway road reserve area in the City of Nedlands shown as items 11, 15, 19, and 21 in attachment 2 as 'Road Reserve' under Section 56 of the *Land Administration Act 1997*.

Recommendation to Committee

Council concurs with the dedication of the portions of land as West Coast Highway shown as items 11, 15, 19, and 21 in attachment 2 as 'Road Reserve' under Section 56 of the *Land Administration Act 1997*.

Strategic Plan

- KFA 5: Governance
 - 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.

Background

Property Address: Section of West Coast Highway from Rochdale Road to Alfred Road
 Zoning MRS: Primary Regional Roads
 Zoning TPS2: Public Purpose

Proposal Detail

- There are four (4) portions of land within the West Coast Highway road reserve in the City of Nedlands that are currently held on title to the State of Western Australia and have not been dedicated as 'Road Reserve'.
- These four (4) portions of land are currently being used as a road and Main Roads Western Australia (the State Government agency that manages and controls the road) wants to dedicate this land as 'Road Reserve'.
- The *Land Administration Act 1997* requires the local authority to give its concurrence to the dedication of land as 'Road Reserve'.
- To satisfy the requirements of the Lands Division of the Department of Regional Development & Lands the following needs to occur:
 - Council is required to consider the matter at an Ordinary Meeting and concur with land within the City being dedicated (as per the recommendation in this report).
 - Administration is to send a letter of concurrence (with an accompanying set of minutes of the Council Meeting) to Main Roads Western Australia.
- Main Roads Western Australia has stated that it will indemnify Council against all costs and charges relating to the dedication.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type: Not applicable

Legislation

- *Land Administration Act 1997*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

- This proposal has no financial impact for the City.

Risk Management

- There does not appear to be any risk for Council.

Discussion

The purpose of this proposal is to finalise in an administrative sense what is currently happening on the ground with West Coast Highway. The identified portions of land within the West Coast Highway reserve are currently owned by the State of Western Australia. They have yet to be dedicated as 'Road Reserve'. Dedicating these portions of land as 'Road Reserve' needs to be completed in order to allow Main Roads Western Australia to take control and care for the land.

The *Land Administration Act 1997* outlines the process for dedicating a portion of land as road reserve. To have each section of land dedicated as road reserve, Council concurrence to the dedication is needed.

All costs and charges related to the dedication will be covered by Main Roads Western Australia. There are no other negative impacts related to the dedication that can be applied to the City. It is recommended that Council support the dedication process.

Conclusion


It is recommended that Council concurs to the dedication of the land shown as items 11, 15, 19, and 21 in attachment 2 as 'Road Reserve' under Section 56 of the *Land Administration Act 1997*.

Attachments

1. Schedule of land to be dedicated as West Coast Highway in the City of Nedlands.
2. Sections of West Coast Highway from Rochdale Road to Alfred Road held on title to the State of Western Australia.

PD27.12	Lot 12040 Heritage Lane Mt Claremont - Proposed subdivision into three lots for the complex formerly known as Swanbourne Hospital for the Insane – Reconsideration of Conditions
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Committee	12 July 2012
Council	26 July 2012

Applicant	The Planning Group
Owner	Swanbourne Estate Developments Pty Ltd
Officer	Gabriela Poczyn - Manager Strategic Planning
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	WAPC/145074
Previous Item No's	D71.11
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to provide Council comments to the WAPC in regard to an application from the applicant to the WAPC for reconsideration of conditions 1, 3 and 13 of subdivision.

Recommendation to Committee

Council provides the Western Australian Planning Commission (WAPC) the following comments to the request of reconsideration to Conditions 1, 3 and 13 of approval WAPC/145074 granted on 10 April 2012.

1. Condition 1:

The purpose of a Detailed Area Plan is to facilitate comprehensive redevelopment. As a minimum the Detailed Area Plan shall show the following:

- a. details of any development proposals including adaptive reuse of the heritage buildings and any proposed new development noting that all development shall respect the existing heritage buildings;**
- b. proposed use of all existing and revamped facilities;**

- c. **total intensity of proposed development (expressed as the number of proposed dwellings for residential uses and development standards as outlined in TPS2 for non-residential uses);**
- d. **location of all proposed parking facilities so all the parking needs from the three proposed lots are met on site;**
- e. **all vehicle access and vehicle movement arrangements for Lots 2 and 3, which shall be provided exclusively from Heritage Lane;**
- f. **all pedestrian/bicycle access ways which will form the basis of access easements throughout the site that are intended to facilitate east/west movement through the site and appreciation of the historic buildings, including access paths to link to existing pedestrian/ bicycle access ways outside the subject site;**
- g. **all areas proposed to be used for public and private open space;**
- h. **landscaping plans that show the retention of all existing vegetation, proposed soft and hard landscaping of all proposed public and private open space, surface treatment of proposed walkways, proposed hedges, post boxes and any proposed street furniture; and**
- i. **time frames for implementation of the Detailed Area Plan.**

2. Condition 3:

In order to assist enforcement it is recommended that the heritage agreement includes mechanisms which:

- a. **commit the property owner to the renovation / redevelopment of the heritage buildings within prescribed time frames; and**
- b. **includes prescribed penalties for non-compliance with the repair/ redevelopment program.**

3. Condition 13:

- a. **in regards to the east/west pedestrian/cycle access ways while it would be impractical to require construction, easements should be imposed along the proposed alignment of the path to secure east/west pedestrian and bicycle movement across the sites in perpetuity.**

- b. **given the location of the proposed pedestrian/cycle link between The Marlows and Heritage Lane it is not expected to be affected by the future development of the site and should therefore be constructed by the developer to the satisfaction of the City as part of the subdivision process.**

Strategic Plan

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

KFA 3: Built Environment

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

Background

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

History

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

Proposal Detail

The WAPC conditionally approved the subdivision of the central portion of land which accommodates the historic buildings of the Old Swanbourne Hospital into three (3) lots subject to conditions (refer to attachment 4) contrary to the City's recommendation.

The WAPC has now been requested to reconsider the following conditions for the following reasons:

Condition	Wording of Condition	Justification for Request (refer to attachment 5)
1	The Detailed Area Plan for the Heritage Buildings character area, as required by the Outline Development Plan, is to be prepared to the satisfaction of the WAPC in consultation with the City of Nedlands and Heritage Council of WA.	To confirm the level of detail required in the Detailed Area Plan.
3	A revised and updated Heritage Agreement shall be finalised and executed. The agreement is to be updated to reflect the current condition of the buildings and provide for a coordinated approach to built form, maintenance and landscape to ensure the integrated precinct qualities of the place are maintained.	To clarify the extent of amendments to the Agreement that is required to be made.
13	A public access plan to be prepared and implemented for use by pedestrians and cyclists to the satisfaction of the WAPC in consultation with the City of Nedlands and Heritage Council of WA.	Request that the condition be removed as there is no need for a public access plan, given that condition 1 requires the preparation of a Detailed Area Plan. The applicant is also opposed to implementing a public access plan on the grounds that such works would be impractical as they would be damaged during construction / renovation of the buildings.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

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

Legislation

- *Planning and Development Act 2005.*
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- *The Heritage Act 1990 (WA).*
- Old Swanbourne Hospital Precinct Local Planning Policy.
- City of Nedlands Municipal Heritage Inventory

Budget/financial implications

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

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial: This proposal has no financial implications for the City.

Risk Management

The WAPC can proceed to determine this proposal without the City's input if the City's comment has not been received by the due date which is 28 July 2012.

Discussion

As can be seen from the City's response to the WAPC in relation to the subdivision proposal (refer to attachment 3) the WAPC did not follow the City's recommendation to refuse the subdivision proposal or take note of the suggested conditions of approval.

Although the City has now adopted the Outline Development Plan for the site, it does not provide for this subdivision proposal.

As there is no new evidence which would require the City to adopt an alternative position, it is recommended that the appropriate previously recommended conditions be reiterated as follows:

Condition 1:

The purpose of a Detailed Area Plan is to facilitate comprehensive redevelopment. As a minimum the Detailed Area Plan shall show the following:

- a. details of any development proposals including adaptive reuse of the heritage buildings and any proposed new development noting that all development shall respect the existing heritage buildings;
- b. proposed use of all existing and revamped facilities;

- c. total intensity of proposed development (expressed as the number of proposed dwellings for residential uses and development standards as outlined in TPS2 for non-residential uses);
- d. location of all proposed parking facilities so all the parking needs from the three proposed lots are met on site;
- e. all vehicle access and vehicle movement arrangements for Lots 2 and 3, which shall be provided exclusively from Heritage Lane;
- f. all pedestrian/bicycle access ways which will form the basis of access easements throughout the site that are intended to facilitate east/west movement through the site and appreciation of the historic buildings, including access paths to link to existing pedestrian/ bicycle access ways outside the subject site;
- g. all areas proposed to be used for public and private open space;
- h. landscaping plans that show the retention of all existing vegetation, proposed soft and hard landscaping of all proposed public and private open space, surface treatment of proposed walkways, proposed hedges, post boxes and any proposed street furniture; and
- i. time frames for implementation of the Detailed Area Plan.

Condition 3:

Heritage Agreements exists between the property owner and the Heritage Council of WA under the *Heritage Act of WA 1990*. In order to assist enforcement it is recommended that the heritage agreement includes mechanisms which:

- a. commit the property owner to the renovation/redevelopment of the heritage buildings within prescribed time frames;
- b. includes prescribed penalties for non-compliance with the repair/redevelopment program.

Condition 13:

While it would be impractical to require construction of the east/west pedestrian/cycle access way it is appropriate that the link from The Marlows to Heritage Lane is constructed prior as part of the conditions of the subdivision. This access way is unlikely to be affected by future development on the site, given its location in relation to areas where development would occur.

Accordingly the following comment would be appropriate:

- a. In regards to the east/west pedestrian/cycle access ways while it would be impractical to require construction, easements should be imposed along the proposed alignment of the path to secure east/west pedestrian and bicycle movement across the sites in perpetuity.
- b. The link between The Marlows and Heritage Lane shall be constructed by the developer to the satisfaction of the City.

Conclusion

The City's recommendation forwarded to the WAPC in January 2012 was very comprehensive.

As there have been no changes to the City's position the above comments, which are based on the earlier recommendation are considered to be appropriate.

Attachments

1. Site Plan
2. History of developments on site
3. City's submission to WAPC regarding the subdivision proposal considered by Council in December 2011
4. Approval of Subdivision granted by WAPC on 10 April 2012
5. Letter from Flint Moharich in support of application for reconsideration.