



# Development Services Reports

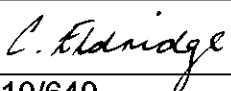
**Committee Consideration – 10 May 2011**  
**Council Resolution – 24 May 2011**

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<b>D35.11</b>	<b>No. 10 (Lot 1) Knutsford Street Swanbourne - Proposed Carport Enclosure</b>
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<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	Lawrie and Karen Tremaine
<b>Owner</b>	As above
<b>Officer</b>	Nick Bakker – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA10/640
<b>Previous Item No's</b>	DA08/66
<b>Disclosure of Interest</b>	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 a proposed carport enclosure to create a garage.

As the officer recommendation is contrary to the applicant's proposal, the application is referred to Council for final determination.

**Recommendation to Committee**

**Council approves the application for enclosing a carport at No. 10 (Lot 1) Knutsford Street Swanbourne, in accordance with the application dated 2 December 2010 subject to the following conditions:**

1. the proposed garage door is to be amended to a gate with a maximum height of 1.8 m from natural ground level and visually permeable in accordance with the Residential Design Codes (RCodes);
2. all proposed walls around the carport forward of the 4.5 m front garage setback (including the store parapet wall) are to be reduced to a maximum height of 1.8 m above the existing ground level and visually permeable in accordance with the Residential Design Codes(RCodes);
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 10 year recurrent

**storm event and the capacity of soakwells shall be a minimum of one (1) cubic metre for every 80 m<sup>2</sup> of paved or roofed surface on the property;**

- 4. 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; and**
- 5. 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.**

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

### **Background**

**Property Address:** No. 10 (Lot 1) Knutsford Street, Swanbourne  
**Zoning MRS:** Urban  
**Zoning TPS2:** Residential – R15  
**Lot Area:** 550 m<sup>2</sup>

**Key Relevant Previous Decisions:** Council refused an application for the same proposal in June 2008.

### **Proposal Detail**

The application proposes enclosing an existing carport located in the north-western front corner of the property to create a garage with a front setback of 1.74 m. The application also proposes a small store as part of the garage which will be built up to the boundary to the west.

### **Consultation**

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

**Consultation type:**  
14 day RCodes advertising 25 January 2011 – 8 February

**Comments received:**

The application was advertised to the affected land owners seeking comment on the front setback variation 1.74 m in lieu of the required 4.5m. No comments were received.

The applicant submitted written statements signed by 11 nearby surrounding land owners, agreeing to the proposed garage.

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**

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

**Discussion**

**Issue: Proposed Front and Setbacks**

<p>Requirement</p>	<p>The property is located within Knutsford/North Street Residential Design Guidelines under Appendix V of the City's Town Planning Scheme No. 2 which require;</p> <p><i>"Setbacks shall be in accordance with the Residential Design Codes"</i>.</p> <p>The Acceptable Development Criteria under Clause 6.2.3 of the RCodes requires garages to be setback 4.5 m from the primary street boundary.</p>
<p>Applicants Proposal</p>	<p>The application proposes enclosing an existing carport to create a garage with a front setback of 1.74 m.</p> <p>The application also proposes a store (with a wall height of 2.5 m) as part of the garage which will be built up to the boundary to the west.</p>
<p>Performance Criteria</p>	<p>The Performance Criteria of the RCodes requires;</p> <p><i>"The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street or vice versa"</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's justification for the proposal under the above mentioned Performance Criteria are summarised as follows;</p> <ul style="list-style-type: none"> <li>• <i>The existing carport already detracts from both the streetscape and the appearance of the dwelling.</i></li> <li>• <i>The existing structure is not aesthetically pleasing and no longer blends with other recent developments in the area.</i></li> <li>• <i>The addition of garage doors would ensure that this property complements the new residences that have been built in the area.</i></li> <li>• <i>The neighbouring residences (to the east), despite having a greater setback, have more of an impact on the streetscape than the proposed development site as there are two (2) double garage doors facing the street.</i></li> <li>• <i>The property is already obstructed by the existing carport and the proposed enclosed carport would not further obstruct view from the dwelling to the street as it is a two storey building.</i></li> <li>• <i>The proposed development would afford additional privacy from the increase in pedestrian activity along Knutsford Street.</i></li> </ul>
<p>Officer technical comment</p>	<p>The proposed 1.74 m garage front setback will not be in keeping with the character of the surrounding area, which consists of an open streetscape with buildings setback an average of 6 m and garages setback a minimum of 4.5m.</p> <p>Therefore, it is considered the proposed 1.74 m front setback would detract from the open streetscape and appearance of the dwelling.</p> <p>Furthermore, it is considered that the proposed store parapet wall on the western boundary does not meet the Performance Criteria of the RCodes. The <i>Knutsford/North Street Design Guidelines</i> allow for parapet walls on the western boundary behind the front setback, the proposed store parapet wall is considered part of the garage and therefore requires a 4.5 m setback.</p>

Issue: Surveillance of the Street

<p>Requirement</p>	<p>The Acceptable Development Criteria under Clause 6.2.4 of the RCodes states:</p> <p><i>"Buildings designed to provide surveillance between dwellings and the street"</i></p>
<p>Applicants Proposal</p>	<p>The application proposes enclosing an existing carport located in the front setback of the property.</p>
<p>Performance Criteria</p>	<p>The Performance Criteria of the RCodes requires:</p> <p><i>"At least one habitable room window of the dwelling has a clear view of the street and the approach to the dwelling."</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's justification for the proposal under the above mentioned RCodes provisions are summarised as follows;</p> <ul style="list-style-type: none"> <li>• <i>The front elevation plan and the photo of the subject property in attachment 9 indicate that the upper bedroom 3 and living/bed room windows have a clear view of the street and the approach to the dwelling, and the enclosure of the carport will not impact on this.</i></li> <li>• <i>Views to the street are already obstructed by the existing carport and solid front boundary wall; therefore this proposal will not further obstruct the views to the street.</i></li> <li>• <i>There are a number of examples of other dwellings along Knutsford Street and in surrounding area which have obstructed views between the dwelling and the street caused by solid fences and enclosed garages as shown in attachment 10.</i></li> </ul>
<p>Officer technical comment</p>	<p>The plans indicate that there are a number of upper floor habitable room windows (i.e. Bed 3 and Living/Bedroom) that provide views to the street. It is therefore considered that the proposal complies with the Acceptable Development and Performance Criteria under Clause 6.2.4.</p>

## **Conclusion**

The proposed enclosure of the carport to create a garage within the front setback area with a 1.5 m from the front boundary is not considered to meet the Performance or Acceptable Development Criteria under Clause 6.2.3 of the RCodes or the City's Amenity Clause. It is therefore recommended that the Council approves the application but only subject to the following conditions which will reduce the impact on the streetscape:

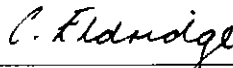
1. The proposed garage door is to be amended to a visually permeable gate with a maximum height of 1.8 m from natural ground level, and completely open above 1.8 m; in accordance with the RCodes (as marked in red on the attached plans).
2. All proposed walls around the carport forward of the 4.5 m front garage setback (including the store parapet wall) are to be reduced to a maximum solid height of 1.8 m above the existing ground level (as marked in red on the attached plans).

## **Attachments**

1. Locality Plan
2. Existing Site Plan
3. Existing Ground Floor Plan
4. Existing Upper Floor Plan
5. Proposed Site Plan
6. Proposed Ground Floor Plan
7. Proposed Elevation Plan
8. Marked up Ground Floor Plan

<b>D36.11</b>	<b>JoJo's Restaurant and Cafe – Retrospective Increased in Seating Capacity</b>
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<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	JoJo's Restaurant – Umberto Tinelli
<b>Owner</b>	Swan River Trust
<b>Officer</b>	Coralie Anderson – Senior Statutory Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	BR2/JETTY-06
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	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 reserved 'Waterways' under the MRS and as such Council is required to provide a recommendation to the Swan River Trust (SRT) who will determine the application.

**Recommendation to Committee**

**Council recommends approval to the Swan River Trust (SRT) for the retrospective increase in seating capacity at JoJo's Restaurant and Café located at Broadway Jetty Nedlands in accordance with the application referred from SRT on 18 November 2010, subject to the following conditions:**

1. **The maximum seating capacity of the restaurant and café shall be limited to:**
  - I. **a maximum of 180 seats on eight (8) occasions per year;**
  - II. **a maximum of 130 seats at all other times;**
  
2. **An Event Management Plan is to be submitted to and approved by the City for functions exceeding the 130 seating capacity (Please refer to Advice Note 1).**



## **Advice Notes**

- a. **With reference to condition 2, the Event Management Plan shall include but not be limited to the following information:**
  - i. **Hours of Operation**
  - ii. **Noise Management Measures**
  - iii. **Code of Conduct**
  - iv. **Transport and Traffic Management**

## **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.

## **Background**

Property Address: Broadway Jetty Nedlands  
(refer attachment 1 for the locality)

Zoning MRS: Waterways

Zoning TPS2: Waterways

JoJo's Restaurant and Café is situated on a lease area over the Swan River, next to Charles Court Reserve, near the junction of Broadway and the Esplanade (refer to locality plan 1).

A restaurant was originally approved on the jetty in 1985 and JoJo's Restaurant and café have owned and operated the restaurant since 1994.

In December 2004 the Swan River Trust approved refurbishments to the JoJo's restaurant and cafe with a condition of approval was to limit the seating capacity to 130 seats, specifically 30 seats for the café and 100 seats for the restaurant. The City advised that a separate application would be required for any increase in the seating capacity.

It is understood that the Department of Transport Jetty Licence refers to 150 seats, and the SRT planning approval refers to 130 seats. As these are different Acts, the applicant is required to comply with both approvals and would therefore has to comply with the lesser seating capacity.

The owner has advised that the seating capacity of 130 is currently exceeded a maximum of eight (8) times per year, usually for corporate functions.

## **Proposal Detail**

The proposal is for the retrospective increase of seating capacity from 130 seats to 180 seats. JoJo's previously exceeded the 130 seating capacity on a number of occasions last year.

Refer to attachment 2 for a floor plan, including seating plan and elevation plan of JoJo's.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

**Advertising**

Comments received: Four (4) 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><b>Issue - Parking</b></p> <p>Potential for extra pressure on parking</p> <p>Parking already congested as it is shared by a few facilities including Jo Jo's, Steve's Hotel and Nedlands Rugby Club.</p> <p>High number of vehicles park in surrounding streets on weekends and Friday night.</p>	<p><b>Condition</b></p> <p>Due to the parking situation, it is recommended as a condition that JoJo's will only be able to operate with the capacity greater than 130 seats up to eight (8) times per year. These times can then be managed with buses etc, as they are generally corporate functions. The restaurant has already been operating with up to 180 seats up to 8 times per year, with no complaints to date.</p>
<p><b>Issue - Noise</b></p> <p>Functions at Jo Jo's creates noise from amplified music;</p> <p>Patrons will potentially to increase noise and anti-social behaviour</p>	<p><b>Condition</b></p> <p>These concerns can be addressed under the Event Management Plan. And operators are required to comply with the <i>Noise Regulations 1997</i></p>

**Legislation**

- Metropolitan Regional Scheme (MRS)
- Town Planning Scheme No. 2 (TPS2)
- Council Policy 6.4 Neighbour Consultation

The subject site is reserved "Waterways" under the MRS and as a result the application is subject to the provisions of the MRS and determined by the Swan River Trust.

Provision 2.1 a) of the City of Nedlands Town Planning Scheme No. 2 (TPS2) states:

*"...and the reservations of the Metropolitan Regional Scheme are shown in the Scheme in order to comply with the provisions of the Metropolitan Regional Town Planning Scheme Act 1959. Land reserved under the Metropolitan Regional Scheme is not land reserved under this Scheme"*

Therefore the provisions of the TPS2 are not applicable.

Notwithstanding this, the City can refer to the TPS2 as guide to facility appropriate development. The TPS2 parking schedule requires restaurants provide 1 car bay for every 2 seats or 1 bay per 2.6 m<sup>2</sup> of restaurant seating area.

Hence 180 seats would require 90 car bays to be provided. There are no car bays provided for the exclusive use of the restaurant.

No structural modifications to JoJo's are proposed and therefore the current café and restaurant dining area remains unchanged.

#### **Budget/financial implications**

Nil

#### **Risk Management**

If the City does not provide a comment to the determining body the SRT, comments and councils concerns may not be addressed.

#### **Discussion**

The Applicant's justification for the proposal is summarised as follows:  
(Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.)

- *Exceed 130 seating capacity in evening when the car park is not used by many people;*
- *Seating capacity only exceeds 130 seats a maximum of eight (8) times per year, mainly around Christmas period;*
- *Majority of corporate functions arrive by bus or boat;*
- *Larger functions are predominantly corporate and of a shorter duration, usually from 7.30 pm;*
- *Extra guests do not create more noise because the decibel level is the same regardless of guest numbers;*
- *Increased seating will create more jobs and additional security for the area and bring more people to the City of Nedlands;*
- *Will close restaurant and café for Saturday Lunch during the Nedlands Rugby Club season;*
- *Ask staff to catch public transport or drive together.*

The planning issues are discussed below:

### **Parking**

There are no car bays that are provided for the exclusive use of JoJo's Restaurant. The applicant has informed that the patrons to the restaurant generally used the public car park at Charles Court Reserve.

The car park is located in both the City of Nedlands and City of Subiaco land and has 119 car bays. Please refer to attachment 3 for a plan of the car park. There are also other public car bays in the vicinity located along Broadway and The Esplanade.

Apart from JoJo's, the public car bays in the locality are used by Steve's Hotel and apartments, Nedlands Rugby Club, students from University of Western Australia and people using adjoining park facilities. The demand for the car park has also recently increased with the redevelopment of the Steve's Hotel site.

The objections raised concerns that the existing parking situation is insufficient and that the increased number of patrons would create extra pressure on the parking in the locality.

Given the current parking situation, it would be inappropriate to give JoJo's an approval to operate with a maximum of 180 seats at any given time. The applicant has advised that the seating capacity of 130 seats is only exceeded a maximum of eight (8) times per year and this is usually for corporate functions. Therefore it is proposed to recommend to the SRT to limit the seating capacity to greater than 130 seats a maximum of eight (8) times per year.

Further, an Event Management Plan should be prepared for the functions exceeding the 130 seating capacity. The owner has advised that the corporate functions already arrive via bus or boat. The Event Management Plan should include the requirement for the company or person hosting a function to organise a bus or another appropriate form of transport for guests, reducing the number of people driving to the restaurant. The Event Management Plan is recommended as a condition to the SRT.

### **Noise and Anti-social Behaviour**

One objection noted concerns with the existing noise from amplified music and that increase seating capacity would increase noise levels and create anti-social behaviour.

The Events Management Plan could deal with these issues by addressing the following areas:

1. Code of Conduct
  - Responsible service of alcohol
  - Responsibility to nearby residents
2. Trading hours
  - Functions generally held in the evening
  - Restaurant and Café closed for lunch on Saturday during the Nedlands Rugby Club season
3. Noise Controls
  - Compliance with the *Environmental Protection (Noise) Regulations 1997*
  - Amplified music set a compliant decibel level
  - Measures to control noise from patrons exiting the venue
4. Transport and Traffic Management
  - Events to provide alternative non individual vehicular transport for the majority of patrons.
  - Notification to event patrons of non-private vehicular transport available and very limited vehicular parking near site.

### **Conclusion**

Given the current parking situation it is considered appropriate that the seating capacity is restricted to the current approval of 130 seats. However on eight (8) occasions per year a maximum of seating capacity of 180 seats is permitted and an Event Management Plan is to be created and implemented for these occasions.

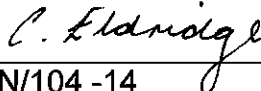
Based on these conditions it is recommended that the Council recommends approved for the application to the Swan River Trust.

### **Attachments**

1. Locality Plan
2. Site Plan and Elevation Plan
3. Car Parking Plan

<b>D37.11</b>	<b>Adoption of Proposed Outline Development Plan for complex formerly known as Swanbourne Hospital for the Insane: Lot 12040 Heritage Lane Mt Claremont</b>
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<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	The Planning Group
<b>Owner</b>	Swanbourne Estate Developments Pty Ltd
<b>Officer</b>	Gabriela Poezyn - Manager Strategic Planning
<b>Director</b>	Carlie Eldridge - Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	TPN/104 -14
<b>Previous Item No's</b>	D99-06 – 12 December 2006 D18.1 – 8 May 2007 D22.08 – 27 May 2008 D58.10 – 10 August 2010
<b>Disclosure of Interest</b>	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 consider adopting the proposed draft Outline Development Plan (ODP) for the Old Swanbourne Hospital Site approved by the WAPC for advertising in February 2011.

**Recommendation to Committee**

**Council**

1. Approves the Outline Development Plan (ODP) approved by the Western Australian Planning Commission (WAPC) for the Old Swanbourne Hospital Site, Lot 12040 Heritage Lane Mt Claremont, pursuant to Clause 3.8.7 of the City's Town Planning Scheme No. 2 (TPS2), subject to the following conditions:
  - i. An additional amount of the 7440 m<sup>2</sup> public open space be provided on site ideally in the location as the shown on the 2005 development plan or in a configuration as agreed with the City, so that the total amount of Public Open Space on the site is 9922 m<sup>2</sup> as shown in the 2005 development plan and required under Town Planning Scheme No. 2 (TPS2).

- ii. **A provision be included in the final ODP to ensure that the City retains a role in the negotiation process to determine public open space on the site.**
- iii. **Provisions are incorporated into the ODP to impose a relationship between the development of the historic buildings following the sale of the vacant blocks in the north and south wing so that the developer is legally bound to link the sale of the north and south wings to the development of the historic building and in this way guarantees are put in place to ensure that the historic buildings will be developed within an agreed timeframe.**
- iv. **The land needed for dual use access purposes through the site be in public ownership so as to ensure that public access through the site is maintained in perpetuity.**
- v. **The ODP addresses the question of a future use for Montgomery Hall and provides for the future parking needs for this use on site or alternatively provides an area on site where future parking needs of Montgomery Hall could be accommodated.**
- vi. **A pedestrian access way along the eastern side of Montgomery Hall be provided so that full public access to the exterior of the building remains.**
- vii. **The following correction are made to the ODP Maps:**
  - a. **The Land Classification Plan is amended so that the area to the north of Charles Lane Extension is shown as open space and not road reserve.**
  - b. **A shared access path is provided to link The Marlows and Heritage Lane.**
- viii. **The following provisions are included in the text of the ODP to provide safeguards for minor changes to the ODP in the future:**
  - a. **There shall be no link between Heritage Lane throughout the site to the North or South Wings which would enable vehicular access to or from Heritage Lane to or from any other existing public road;**
  - b. **An additional vehicle access point can be provided from Heritage Lane south of Circular Dive;**
  - c. **There shall be no vehicle access to and from the site via St John's Wood Boulevard, Abbey Gardens, Charles Lane or Hamilton Gardens unless otherwise provided in this ODP;**

- d. **The curtilage areas are to be retained for the purposes of:**
    - 1) **providing public access throughout the site;**
    - 2) **retaining the conservation values of the buildings;**
    - 3) **providing a visual separation between the heritage buildings and other development; and**
    - 4) **providing limited parking.**
  - e. **No above ground structures of any type including movable furniture and equipment will be permitted in the curtilage areas unless approved as part of the landscape masterplan.**
  - f. **The levels within all curtilage areas shall not be altered by more than 500 mm calculated from the Natural Ground Level shown on the Development Plan.**
  - g. **The full extent of the curtilage area may be given up by the Developer free of cost as a reserve for which the City has care, control and management.**
  - h. **Circular Drive remain accessible to the public at all time and shall not be gated.**
  - i. **The following words *“so that view corridors to and from the historic building from all sides are retained”* are added to the sentence in the ODP *“High quality open space treatments are required, commensurate with the quality of the redevelopment of the heritage buildings”*.**
- 2) **The document text be amended to reflect the following:**
- a. **It is misleading to state that the area is well serviced by public open as there is in fact a shortfall in POS when compared the 10% required by State legislation and policy.**
  - b. **Access to public transport is overstated as in reality exclusive reliance on public transport in Mt Claremont is not practical as the area is poorly serviced with limited bus services.**
  - c. **John XXIII College is not located approximately 1km to the east from the site, but borders onto the subject site**



2. **The City takes notice of the following matters and addressed them appropriately and will:**
  - i. **refer the following proposals to the City's Traffic Management Committee to evaluate implementation feasibility:**
    - a. **Install a manned crosswalk along Heritage Lane to allow pedestrian movement to John 23 College from the subject site via Heritage Lane;**
    - b. **Install traffic management devices in Charles Lane and Abbey Gardens in order to slow the traffic down in these local roads.**
    - c. **Modify the existing hammerhead turnaround alignment of Charles Lane as Charles Lane is no longer a cul-de-sac in consultation with existing residents of Charles Lane.**
  - ii. **ensure that the existing three paper bark trees at the head of the existing Charles Lane are not removed and are protected in the redesign works of Charles Lane.**

### **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.
- 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**

**Zone:** Special use as outlined under Clause 5.15 of the City's Town Planning Scheme No. 2.

**Lot Frontage:** Numerous frontages. Main frontage is to Heritage Lane.

**Date:** The final ODP was approved by the WAPC for advertising - 8 February 2011

**Area:** 2.4819 ha

## History

A full summary of the history of development planning and proposals for the site is attached (attachment 1).

The summary of the history of this ODP is:

- |                  |  |
|------------------|--|
| 5 May 2009       | Revised Outline Development Plan submitted.  |
| 16 June 2009     | City advises applicant of list of outstanding information.   |
| August 2009      | WAPC approval of subdivision applications for the northern and southern wing (WAPC 131108 and WAPC 131109)   |
| 21 May 2009      | Revised Outline Development Plan submitted which address the queries raised in June 2009 and changed circumstances since the subdivision approvals.  |
| 24 August 2010   | Council considered the revised Outline Development Plan and supports the proposal in principle for consultation purposes subject to amendments to bring the proposal in line with the 2005 Development Plan. |
| 1 September 2010 | Council decision is referred to WAPC for consent to advertise.   |
| 8 February 2011  | WAPC considers the proposal and recommends that a revised proposal which represents a compromise between the applicant's proposal and the City's amendments is advertised for public comment.                |
| March 2011       | Public consultation undertaken by City of Nedlands   |

## Proposal Detail

The proposed draft ODP currently under consideration is the product of a decision that was taken by the WAPC at its meeting of 8 February 2011 when it considered the proposed ODP document submitted by the developer and the City's response to that proposal dated August 2010.

The proposed draft ODP comprises of a 2 part document entitled "Old Swanbourne Hospital WAPC approved Draft Outline Development Plan for Advertising" and includes two plans entitled "ODP Map Approved by WAPC for Advertising in February 2011" and "Land Classification Plan" dated 27 January 2011 (Drawing Number 706-143 PL15A180111.dwg). (Refer attachment 2).

The document provides the statutory planning framework (Part 1) and the Explanatory Notes (Part 2) of the proposed draft ODP.

The purpose of this proposed draft ODP is to provide broad development guidelines for the site rather than extensive development detail. As a guiding document the Outline Development Plan will be supplemented by Detailed Area Plans (DAP's) for various sections of the site.

The draft ODP identifies three character areas on the site. Accordingly three DAPs will supplement the proposed draft ODP, one each for the subdivision wings and one for the central area of the lot which includes the heritage buildings.

The purpose of the DAPs is to incorporate detailed design and development parameters, which will form the basis for the assessment of future development applications.

The DAPs for the subdivision wings have been completed and form part of the proposed draft ODP document. They are essentially the regime of design guidelines for each of the subdivision wings which Council considered at the meeting of 22 June 2010 and which are currently awaiting approval from the WAPC as part of this proposed draft ODP.

No DAP for the central area has been proposed to date, although the proposed draft ODP proposes a suite of guiding principles and development parameters for the site to address proposed land use, built form, heritage, public and private open space, Circular Drive, parking, curtilage area and pedestrian movement. This information is summarized in the plan entitled "ODP Map Approved by WAPC for Advertising in February 2011" and elaborated in part 1 of the text.

The current document represents a compromise between the applicant's proposal and the City's recommendations. The City's recommendation to the WAPC aligned the applicant's proposal with the current development parameters for the site established by the October 2005 development plan and the City's Local Planning Policy 6.13 "Old Swanbourne Hospital Precinct".

The differences between TPS2 requirements, specifically the October 2005 Development Plan and associated Local Planning Policy and proposed draft ODP approved by WAPC for advertising (March 2011) are summarised below with officer comment provided for each variation:

	Summary of comments received	Officer Comment
ODP Map		
1	Proposed ODP plan (2011) shows development proposal for historic building including access ways and parking in greater detail than October 2005 development plan.	Greater certainty has been provided regarding the proposed subdivision of historic building for residential units, parking for the residential component, pedestrian/bicycle movement across the site and ownership of land, which is welcome.

2	A Land Classification Plan has been added showing proposed ownership of land. This plan indicates which portions of land are earmarked to be private, public open space and private open space with public easement.	Under the 2005 plan the proposed ownership of land was not earmarked for areas not occupied by buildings. This proposed ownership of land plan provides additional clarity which represents an improvement on the 2005 development plan.
3	By deleting the sentence in the Development Plan October 2005 " <i>The final amount of Open Space is to be determined through negotiations with the Western Australian Planning Commission, the City of Nedlands and the landowner</i> " the draft ODP (2011) envisages that the amount of open space matter is finalised.	This provision provides the City with a role to be a party to determine the appropriate amount of public open space to be provided. Deletion of this provision represents removal of this role which is not acceptable given that it would leave the residents of Mt Claremont without a voice in this regard.
4	The alignments of the pathways around the historic building varies from the alignment of the pathways as shown on the October 2005 plan	While it would be preferable that the pathways are located along the alignments as shown on the 2005 development plan, the alignment is secondary to the primary role of the permanent public pathways which is to provide public access throughout the site.
<b>Public and Private Open Space</b>		
5	Total area to be dedicated for Public Open Space is proposed to be 2482 m <sup>2</sup> . This is a reduction in the amount of Open Space previously flagged to be provided as part of the October 2005 plan.	The reduction of the Public Open Space is not acceptable. This site historically was intended to provide the shortfall in open space from the St Johns Wood subdivisions and accordingly provisions to that effect were incorporated into the 2005 development plan. Relaxing the open space requirement would have a negative impact on the amenity of the overall Mt Claremont area.
6	As the requirement is for 2482m <sup>2</sup> public open space can be satisfied in the western portion of the lot, there is no longer the requirement that Public Open Space is to be provided in the areas as shown on the October 2005 plan, such as the North East Wing, within Circular Drive and the areas to the east and west of the respective curtilage areas.	The provision of open space within the site other than the 2482 m <sup>2</sup> in the western portion of the lot was intended to contribute to the amenity of the development site by helping to meet objectives such as ensuring that the historic buildings are located within a park like environment, are not being built out and retaining view corridors and remain physically accessible to the public. Accordingly the loss of these public open spaces is not acceptable.

7	<p>Although the proposed draft ODP (2011) requires that a landscaping plan is provided for the private open spaces in the East Wing and a general clause exists requiring "<i>High quality open space treatments are required, commensurate with the quality of the redevelopment of the heritage buildings</i>", the previous specific requirement that development of this area be of such manner as to retain the views of the Administration Building from the east no longer applies.</p>	<p>The proposed provisions for the development of any private open space areas in the east wing are vague and open to not yielding the objective of retaining views from the Administration Building from the east. To strengthen the proposed clause the following words should be added:..."so that view corridors from the east to the Administration building are retained".</p>
8	<p>The requirement that the public open space is to be maintained by the developer for a minimum of two (2) years after completion of landscape works has been deleted.</p>	<p>This has been replaced with a provision that the detailed landscaping is to be implemented by the Developer to the satisfaction of the City. Although this provision is not time based, it has a similar effect as the previous provision and as such is considered to be acceptable.</p>
<p>Access</p>		
9	<p>Access ways are no longer referred to as "<i>dual use path</i>" but as "<i>Shared access path</i>".</p>	<p>This proposed change amounts to semantics and is acceptable.</p>
10	<p>The Specific provision that "<i>There shall be no link between Heritage Lane throughout the site to the North or South Wings which would enable vehicular access to or from Heritage Lane to or from any other existing public road</i>" no longer applies.</p>	<p>Provisions 10-12 and 14-16 are stipulated in the City's Local Planning Policy and were included to safeguard the amenity of the surrounding area. While the draft ODP plans currently do not propose a concept that is contrary to these provisions, these provisions should be remain in force in order to prevent that any future changes not currently envisaged that would have a negative impact on the surrounding area.</p>
11	<p>The requirement for "<i>an additional vehicle access point to be provided from Heritage Lane south of Circular Drive</i>" no longer applies.</p>	<p>See comment for provision 10</p>
12	<p>The requirement that "<i>there shall be no vehicle access to and from the site via St John's Wood Boulevard, Abbey Gardens, Charles Lane or Hamilton Gardens unless otherwise provided in this ODP</i>" no longer applies.</p>	<p>See comment for provision 10</p>

Circular Drive		
13	The requirement that " <i>Circular Drive shall not be less than 725m2 and is to be created as a public road</i> " no longer applies.	Although Circular Drive has been earmarked to be a public road under the City's Local planning policy, the proposed draft ODP wishes to treat it as a driveway. From a practical perspective the status of this portion of road is immaterial and the loss of this provision is therefore insignificant as long as the driveway isn't gated and the public can access the area at all times.
Curtilage		
14	The requirement that the curtilage areas are to be retained for the purposes of: a) <i>providing public access across the site;</i> b) <i>retaining the conservation values of the buildings;</i> c) <i>providing a visual separation between the heritage buildings and other development</i> d) <i>providing limited parking</i> " no longer applies.	See comment for provision 10
15	The requirement that " <i>No above ground structures of any type including movable furniture and equipment will be permitted in the curtilage areas unless approved as part of the landscape masterplan</i> " no longer applies.	See comment for provision 10
16	The requirement to prevent level changes by more than 500 mm within the curtilage area calculated from existing levels no longer applies.	See comment for provision 10
17	The provision that " <i>The full extent of the curtilage area may be given up by the Developer free of cost as a reserve for which the City has care, control and management</i> " no longer applies.	

Public Access		
18	The requirement that "A <i>high level of public access within the site shall be maintained in perpetuity</i> " has been replaced with a proposal that access easements be provided over all dual access paths proposed as part of the ODP plan.	Access easements are only required because the land needed to provide the access is not in public ownership. While an easement system achieves an outcome it is cumbersome to implement and administer, and has implications that may result in the system not being implemented. To secure that public access through the site is maintained in perpetuity it is recommended that the land needed for access purposes be in public ownership.
Heritage Buildings: Montgomery Hall		
19	While the future of Montgomery Hall was also not resolved in the current development parameters, the south wing was reserved to cater for the parking needs of Montgomery Hall. With the approved subdivision of the south wing, this provision has been lost.	With the loss of the south wing to accommodate possible parking needs of Montgomery Hall it is becoming more urgent that a solution for Montgomery Hall is found as part of this ODP, or alternatively, that additional provision is made elsewhere on site to cater for the future parking needs of Montgomery Hall.
20	The requirement for a shared access path along the eastern side of Montgomery Hall has been deleted.	The purpose of this access way is to allow public access around the full extent of Montgomery Hall. By deleting the access way to the east of Montgomery Hall the public will no longer be able to appreciate the full historic value of Montgomery Hall.
Residential Dwellings		
21	The previous restriction that a maximum of 28 residential dwellings may be developed within the historic buildings no longer applies.	As a built form outcome rather than density control is a preferred outcome for this site restricting the number of dwellings permitted on this site is not a desirable form of control and the change is supported.
New Building		
22	A new building in the courtyard area of the historic buildings is proposed at a maximum height of approximately 10 m measured from the existing natural ground level of the courtyard.	The 2005 Development Plan does not envisage a building in the courtyard area. However previous proposals have included such a building and the city is satisfied with the SAT determination that the height of the building is restricted to approximately 10 m measured from the existing natural ground level of the courtyard, as this restriction will ensure that the new building will not protrude beyond the height of the historic buildings.

## Legislation

### 1. Town Planning Scheme

The following clauses of the Town Planning Scheme No 2 are relevant:

Clause 5.15 of the Town Planning Scheme:

“OLD SWANBOURNE HOSPITAL PRECINCT”

- 5.15.1 Prior to Council considering any application for subdivision and/or development on the site, a suitable and sustainable low-key adaptive re-use for Montgomery Hall shall be identified;
- 5.15.2 Council shall require subdivision and development to be generally in accordance with the Development Plan No. 03/16/12A, dated July 2005, annexed to Local Planning Policy: Old Swanbourne Hospital Precinct;
- 5.15.3 Council shall require subdivision and development to have regard to, and be generally consistent with Local Planning Policy: Old Swanbourne Hospital Precinct;
- 5.15.4 Notwithstanding the provisions of Table 1: Use Class Table, and in accordance with the Development Plan referred to in 5.15(a), the following uses are 'AA':
- i. Caretakers Dwelling
  - ii. Carpark
  - iii. Civic Building
  - iv. Club Premises
  - v. Consulting Room(s)
  - vi. Dwelling House – Single
  - vii. Dwelling House – Grouped
  - viii. Dwelling House – Multiple
  - ix. Educational Establishment
  - x. Home Business
  - xi. Home Occupation
  - xii. Medical Centre
  - xiii. Office – General
  - xiv. Office – Professional
  - xv. Recreation – Private
  - xvi. Recreation – Public
  - xvii. Residential Building
  - xviii. Restaurant.

All other uses are 'X' – not permitted.



- 5.15.5 Prior to Council considering any application for subdivision and/or development on the site, in accordance with clause 3.8 of the Scheme, the applicant shall submit an Outline Development Plan for the approval of the Council, in consultation with the Heritage Council of Western Australia;
- 5.15.6 Prior to Council considering any application for subdivision and/or development on the site, a revised Conservation Plan for the site shall be completed to the satisfaction of the Heritage Council of Western Australia in accordance with the Government Heritage Property Disposal Process;
- 5.15.7 Prior to Council considering any application and/or development on the site, a Heritage Agreement shall be completed to the satisfaction of the Heritage Council of Western Australia in accordance with the Government Heritage Property Disposal Process;
- 5.15.8 Any application for subdivision and/or development shall have due regard for the revised Conservation Plan for the site and shall demonstrate the conservation of the existing heritage buildings to the satisfaction of the Heritage Council of Western Australia.”

Under Clause 3.8 of the Scheme the Outline Development Plan is required to include a number of steps as part of the approval process as follows:

1. Council approves the ODP in principle (Clause 3.8.3) and refers to Western Australian Planning Commission (WAPC) for approval (Clause 3.8.3).
2. Once the WAPC has approved the ODP in principle, advertising of the ODP can commence by way of notice for a period of 21 days at weekly intervals for each of the three consecutive weeks in a newspaper circulating in the district. (Clause 3.8.4 and 3.8.5).
3. Council considers submissions to the ODP and may require amendments to the ODP. (Clause 3.8.6).
4. Council may decide not to proceed with the proposal. Once Council agrees to adopt the proposal (in its original or revised form).
5. Council forwards the proposal to the WAPC together with objections to the WAPC for adoption. (Clause 3.8.7).

The purpose of this report is in relation to steps 4 and 5 of this process.

**2. City Policies**

Policy 6.13 Local Planning Policy "Old Swanbourne Hospital Precinct" applies in this instance.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Consultation type:

Community consultation period:

- 8 March 2011 – 29 March 2011.
- 16 March 2011 at the Mt Claremont Community Centre from 4.00 pm - 8.00 pm.

Comments received:

A total of 157 submissions were received of which there were 84 (54%) no objections/support that the area is finally being developed, 10 (0.07%) no objections subject to a number of provisos, 58 (37%) objections and 1 submission was a copy of a letter forwarded to the Post Newspaper.

A further 4 submissions were received that did not indicate either support or objection for the proposal but provided valuable comments which have been included below where relevant. These submissions were received from the Water Corporation, the Mount Claremont Ratepayers Association, John XXIII College, and a ratepayer.

**1. Support for the proposed ODP**

The provisos raised in the 10 non objections are summarised as follows:

	Issues Raised	Officers Comments
1	The proposed ODP reflects a significant shortfall in amount of public open space compared to the requirements in TPS2 through the 2005 development plan. The ODP should reflect the exact amount of public open space and location as shown on the 2005 development plan. This plan went through the full consultation process and was gazetted nu the state government.	Agreed and conditioned. In the SAT decision of 2008 the SAT confirmed that the 2005 Development Plan was not merely indicative. The 2005 Development Plan provides extensive detail in regards to the requirement and location of Public Open Space. It forms part of the City's TPS2 and provides a high quality planning outcome for current and future residents of the area and therefore should be not be varied.

2	Noting that the current ODP does not adequately address the manner in which the public access through the site will be secured it is recommended that the ODP stipulates the manner in which public access to the land surrounding the Heritage building will be legally secured.	Agreed and conditioned.
3	The proposed ODP should specify the proposed use of Montgomery Hall (both public and private) and its associated parking needs, noting that currently already the occasional use of Montgomery Hall raises parking concerns within the residential area.	Agreed and conditioned.
4	No vehicle access/visitor parking from St John's Wood Boulevard.	Agreed and conditioned. While Vehicle access/visitor parking from St Johns Wood Boulevard is currently not proposed including this requirement into a proposed draft ODP would be appropriate to provide assurances into the future.
5	The profile of the Heritage Buildings to remain unspoilt.	Agreed and conditioned. Including a provision into the proposed draft ODP in this regard will provide assurances into the future.
6	That the Charles Lane extension remains blocked off as shown on the ODP Map approved by the WAPC for advertising in February 2011 plan so that vehicle access to the historic buildings cannot be obtained from Charles Lane	Agreed and conditioned. There is a discrepancy between the ODP Map approved by the WAPC for Advertising in February 2011 and the Land Classification Plan and it would be appropriate that the Land Classification Plan is amended to reflect the same information as is shown on the ODP Map.

7	Height of proposed new building in the courtyard is to be more specific and be limited to not exceed the height of the historic buildings.	Do not agree. The height of any new building in the courtyard at approximately 10 m was prescribed by the SAT decision. The current provision regarding height for any central building is therefore deemed to be acceptable.
8	There should be no demolition of any heritage buildings.	Agreed, but a provision to this effect is provided within the proposed draft ODP which states that " <i>Existing Heritage Buildings are to be retained</i> " and the property is listed under the State Heritage List.
9	The importance of the proposed ODP once adopted should be elevated to "dictate" rather than "inform" future development.	Do not agree, because the nature of an ODP is to provide a measure of flexibility and elevating its status as proposed would be contrary to its nature.

**2. Objection to the proposed ODP**

Fundamental to many of the 58 objections are:

	Issues Raised	Officers Comments
1	The ODP's disregard for the views of the community and existing agreed outcomes for the site which underpin the tender document that resulted in the sale of the land and are incorporated into legislation such as the City of Nedlands TPS2 is unacceptable.	Noted
2	That subdivision approval was granted by the WAPC for the north and south wing prior to the ODP over the entire site having been finalized is unacceptable.	Noted

Other specific matters mentioned as reasons for objection are summarised as follows:

	Issues Raised	Officers Comments
3	The proposed ODP reflects a significant shortfall in amount of public open space compared to the requirements in TPS2 through the 2005 development plan which is unacceptable.	Refer to comment above at 1.1

4	<p>The proposal represents the developer's interest at the expense of amenity of the existing residential area.</p>	Noted
5	<p>The proposed ODP lacks essential detail which should have been resolved by this time.</p>	Noted
6	<p>Vehicle access to the site is of concern in particular;</p> <p>Access from Charles Lane for the majority of the newly created lots in the southern subdivision wing is unacceptable. The load should have been spread over Charles Lane and Heritage Lane.</p> <p>Potential negative impact on the traffic flow of the area particularly St John's Wood Boulevard once a use for Montgomery Hall and associated parking needs becomes a reality.</p> <p>The access ways that service the new subdivisions from Charles Street and Abbey Gardens are too narrow to cope with large vehicles such as waste management trucks, construction vehicles or furniture delivery vehicles.</p> <p>Additional traffic along Mooro Drive particularly construction vehicles and trucks over the development period.</p>	<p>As the subdivision has been approved in its current configuration there is no scope to amend the subdivision layout to provide additional access points to the south wing. This issue has been acknowledged by the City and the redesigned of the existing Charles Lane is to be dealt with by Traffic Management Committee (TMC) as conditioned.</p> <p>Refer to comment above at 1.3</p> <p>As the subdivision has been approved in its current configuration there is no scope to amend the subdivision layout to provide wider access ways in the north and south wing subdivisions.</p> <p>Not relevant concern. The impact on Mooro Drive is minimal given its size and alignment and given its location within the residential area it is likely to be affected by any development at the hospital site.</p>

7	The height limit for the courtyard building should be a fixed amount and not an approximate.	Refer to comment above at 1.7
8	Lack of clear use for Montgomery Hall and the other historic buildings and associated visitor parking needs for the development and future use of Montgomery hall needs to be finalized at this stage.	Refer to comment above at 1.3
9	The current ODP does not adequately address public access through the site and to the historic buildings or how such access will be legally secured.	Refer to comment above at 1.2
10	Demolition of any part of the historic buildings is not acceptable. In one of the submission an objection is also to the "demolition of heritage buildings to be replaced by high rise buildings".	Refer to comment above at 1.8  This comment has no merit as the ODP does not propose the demolition of the historic buildings for the construction of high rise buildings.
11	There are no guarantees incorporated within the ODP to oblige the development of the historic buildings.	Agreed and recommended that a provision to this effect be included in the proposed draft ODP to provide assurances for the historic buildings into the future.
12	The pathway linking the existing pedestrian network at the end of the Marlows with a path continuing down Heritage Lane shown on the 2005 Development Plan has been deleted from the proposed ODP	Agreed. Amendment of the proposed draft ODP maps to align with the 2005 Development Plan is required.

3. Further useful comments received from the public consultation period:

	Issues Raised	Officers Comments
1	That a manned crosswalk be created along Heritage Lane to allow pedestrian movement to John XXIII via the subject site	Noted
2	Traffic management to slow traffic down should be placed in Charles Lane and Abbey Gardens.	Noted and conditioned to TMC.

3	The paper bark trees at the head of the existing Charles Lane should not be removed.	Noted and conditioned to TMC regarding redesign of existing Charles Lane joining extension of Charles Lane
4	The existing hammerhead turnaround alignment of Charles Lane is required to be modified as Charles Lane is no longer a cul-de-sac.	Noted and conditioned to TMC regarding redesign of existing Charles Lane joining extension of Charles Lane.
5	<p>The ODP contains the following factual errors which need to be corrected:</p> <ul style="list-style-type: none"> <li>• It is misleading to state that the area is well serviced by public open as there is in fact a shortfall in POS when compared the norm.</li> <li>• Access to public transport is overstated as in reality exclusive reliance on public transport in Mt Claremont is not practical.</li> <li>• John XXIII college is not located approximately 1 km to the east from the site, but borders onto the subject site.</li> </ul>	Noted and conditioned

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

A number of the fundamental issues were identified by the public. Notably many of these are common to the submitters irrespective of their position to support or oppose the proposed ODP. The issues are summarised as follows:

#### 1. Public Open Space

The amount and location of Public Open Space, with the general view that the proposed draft ODP provides a significant shortfall in public open space compared to the amount of public open space in the 2005 development plan. There is also a growing concern that portions of the proposed POS in the western portion of the site may be used for parking purposes to meet the needs of Montgomery Hall in the long term.

2. Pedestrian Access

Securing public pedestrian access through the site in perpetuity has been identified to be a particular concern and ensuring that Circular Drive remains permanently accessible to the public.

3. Montgomery Hall

The future of Montgomery Hall and catering for its future needs has been flagged as a major concern given that the southern wing has now been subdivided and the land is no longer available to accommodate car parking.

4. Access from St John's Wood Boulevard

The concern in this regard is primarily to prevent that there will be vehicle access from St John's Wood Boulevard to cater for Montgomery Hall the existing road network.

5. Guarantees required for the development of historic buildings

There is a real concern that there is no connection between the sale of the newly created lots in the north and south wing and the restoration of the historic buildings.

6. Amendments to ODP maps

The following additional information is required to be included in the ODP maps:

- a. The Land Classification Plan is amended so that the area to the north of Charles Lane Extension is shown as open space and not road reserve.
- b. A shared access path is to be provided to link The Marlows and Heritage Lane Access.

It is recommended that the comments identified in section C 1-4 are included in the recommendation as appropriate.

**Budget/financial implications**

Budget:

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



## Financial:

The role of the City in this regard is to adopt or reject the proposed draft ODP, which does not budget implications other than normal operating costs.

## Risk Management

The development process for the Old Swanbourne Hospital site has had an exhaustive history, and while it is important that the City of Nedlands represents the interests of its resident that will be affected by the proposal, and remains consistent and transparent in its decision making, it is important that the development of this site is encouraged.

## Discussion

### 1. Should the proposed draft ODP be supported?

From the list and comments provided in the Proposal Detail section of this report it is apparent that the difference between the proposed draft ODP and the existing development parameters is not vast, but centres around a few key issues.

However a number of significant issues have emerged from the above list that need to be addressed. It is notable that many of these aligns with the concerns raised from the public consultation process.

In order to progress the proposed ODP it is therefore considered appropriate that the proposed ODP is supported subject to conditions that issues that have been identified, including those identified as part of the public consultation process, are addressed.

### 2. Issues

#### 2.1. Public Open Space

While the 2005 development plan proposes that 9923 m<sup>2</sup> is provided the proposed draft ODP proposes only 2482 m<sup>2</sup>. This represents a shortfall of 7440 m<sup>2</sup>, which is significant.

It is also significant that the proposed draft ODP removes the City's role in the negotiation process to determine Public Open Space on this site. It is notable that the WAPC supports the developer in this regard without providing any form of justification.

At a very minimum

- additional 7440 m<sup>2</sup> of Public Open Space should be provided ideally in the location as shown on the 2005 development plan, where it would also assist to resolve a number of the additional issues that have been identified and are discussed below. However alternative open space configurations can also be considered if better outcomes can be achieved;

- the City's role in the decision making process in regard to Public Open Space be maintained, so that alternative open space configurations could be considered.

Accordingly it is recommended that support for the proposed draft ODP is conditional on addressing the open space shortfall and ensuring that the City remains involved in any future decision making process in relation to Public Open Space on this site.

## 2.2 Requirement of a guarantee for development of historic buildings.

The concern that there is no connection between the sale of the newly created lots in the north and south wing and the restoration of the historic buildings did not exist prior to the subdivision approvals of the north and south wing, as it was assumed that due process would continue to be followed and that a subdivision would not be approved in the absence of an ODP.

However given the current subdivision approvals that are in place it is necessary that a nexus is created between the sale of the newly created residential lots in the north and south wing and the development of the historic building in order to prevent a situation whereby the assets of the site are stripped and not used to enable the redevelopment of the historic buildings.

Accordingly it is recommended that a provision be included in the proposed draft ODP to impose a relationship between the development of the historic buildings following the sale of the vacant blocks in the north and south wing so that the developer is legally bound to link the sale of the north and south wings to the development of the historic building and is tied to a timeframe within which to complete the restoration of the historic buildings.

## 2.3 Montgomery Hall

The future of Montgomery Hall and catering for its future needs has become a concern with the loss of the south wing for residential purposes.

Accordingly it is recommended that a condition be imposed which requires that the proposed draft ODP addresses the question of a future use for Montgomery Hall and provides for the parking needs for this use on site or alternatively provides an area on site where future parking needs of Montgomery Hall could be accommodated.

## 2.4 Pedestrian Access

Public access through the site for pedestrians and cyclists is considered to be extremely important for the community and is therefore essential that it is retained in perpetuity. While the proposed regime of easements may achieve that objective, easements are cumbersome to implement and enforce. To secure indefinite public access therefore it is recommended that the land

used to provide public access becomes publically owned, and it is therefore recommended that a condition be imposed in this regard.

## 2.5 Access from existing adjoining local roads

While it is not currently proposed in the ODP plans there is concern that vehicle access will be provided to the site from roads other than Heritage Lane, Charles Lane for the south wing subdivision and Abbey Gardens for the north wing subdivision. In order to safeguard such a situation from arising in the future it is recommended that the following provisions be included in the text of the ODP:

- a. There shall be no link between Heritage Lane throughout the site to the North or South Wings which would enable vehicular access to or from Heritage Lane to or from any other existing public road;
- b. There shall be no link between Heritage Lane throughout the site to the North or South Wings which would enable vehicular access to or from Heritage Lane to or from any other existing public road;
- c. An additional vehicle access point can be provided from Heritage Lane south of Circular Drive;
- d. There shall be no vehicle access to and from the site via St John's Wood Boulevard, Abbey Gardens, Charles Lane or Hamilton Gardens unless otherwise provided in this ODP.

## 2.6 Use of Curtilage

Although it is proposed in the draft ODP that courtyards for the proposed dwellings in the north and southern buildings of the historic building complex be provided in the curtilage no greater details in regard to the curtilage areas' uses have been specified. Accordingly it is recommended that the following provisions of the local planning policy are included in the proposed final ODP and the text is amended as follows:

- a. The curtilage areas are to be retained for the purposes of:
  - I. providing public access throughout the site;
  - II. retaining the conservation values of the buildings;
  - III. providing a visual separation between the heritage buildings and other development; and
  - IV. providing limited parking"
- b. No above ground structures of any type including movable furniture and equipment will be permitted in the curtilage areas unless approved as part of the landscape masterplan.

- c. The levels within all curtilage areas shall not be altered by more than 500 mm calculated from the Natural Ground Level shown on the Development Plan.
- d. The full extent of the curtilage area may be given up by the Developer free of cost as a reserve for which the City has care, control and management.

2.7 Protection of view Corridors to and from the historic buildings.

In order to protect the view corridors of and from the historic building from the eastern and western side it is recommended that a provision to this effect be included in the proposed draft ODP.

2.8 Required plan corrections:

The following correction of the ODP maps are required:

- a. The Land Classification Plan is amended so that the area to the north of Charles Lane Extension is shown as open space and not road reserve.
- b. to be provided to link The Marlows and Heritage Lane Access.

**Conclusion**

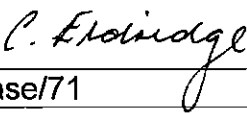
The proposed draft ODP is recommended for approval subject to a number of provisos, which address the concerns with the ODP that have been identified after comparing the proposed ODP to the current development parameters and following public consultation process.

**Attachments**

1. Full Summary history of ODP
2. Outline Development Plan approved by WAPC for advertising February 2011

**D38.11** *Mattie Furphy House, Allen Park Heritage Precinct – Reserve 7804 (Lot 403 on Deposited Plan 36773, Marine Parade, Swanbourne. Proposed twenty-one year lease between the City and the Fellowship of Australian Writers Western Australia Inc.*

<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	Fellowship of Australian Writers Western Australia Inc
<b>Owner</b>	State of WA – Vested to City of Nedlands
<b>Officer</b>	Neil Scanes – Property Management Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	Lease/71
<b>Previous Item No's</b>	Item 17.1 - 26 October 2004
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report recommends that Council approves and endorses an exclusive use twenty-one year lease between the City and the Fellowship of Australian Writers Western Australia Inc for the use of the land that Mattie Furphy House resides on.

**Recommendation to Committee**

**Council approves and endorses an exclusive use lease for a twenty-one year term between the City and the Fellowship of Australian Writers Western Australia Inc for the use of the land that Mattie Furphy House resides on 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 4: Community Wellbeing
  - 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
  - 4.2 Encourage, support and provide for a range of recreation and leisure opportunities, both active and passive.

## Background

Mattie Furphy House is located within the Allen Park Heritage Precinct, Swanbourne. The building is a single-storey iron and timber framed clad Federation Bungalow style house with a corrugated galvanized steel roof that was constructed between 1907 and 1909 by the Furphy family.

The land on which the building currently resides is legally described as Lot 403 on Deposited Plan 36773, Marine Parade, Swanbourne being part of the land contained in Certificate of Title Volume LR3136 Folio 90.

Lot 403 is a Category "A" Crown Reserve (Reserve 7804) and has been vested to the City since 25 September 1936 for the purpose of Park and Recreation by way of Management Order. This grants the City the power to lease Reserve 7804 for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

The building has significant cultural significance as it was built by the famous Australian literary figure Joseph Furphy, who wrote "Such is Life" under the name Tom Collins. It is a rare and good surviving example of an early metropolitan Perth coastal domestic home with hip roof and wide verandahs. The house has a high degree of authenticity and integrity as much of its original fabric is intact. In addition, a number of interior elements were artistically embellished by Furphy's daughter-in-law, Sarah Martha (Mattie) Furphy in the style of the Arts and Crafts Movement. As such, and with its association with Joseph Furphy, the building is considered to be of noteworthy heritage significance and was entered into the City's Municipal Heritage Inventory in 1999.

Mattie Furphy house was originally built in Swan Location 537 and located at house number 74 Clement Street, on the corner of Pine Close, Swanbourne.

On 5 June 2002, the City was advised by the Heritage Council of Western Australia that the house at 74 Clement Street was being assessed for heritage significance. Such advice requires that the local government advise the Heritage Council if any development applications are received for the property. Subsequently, the City received a demolition application from the owners of the property on 4 August 2004 and notified the Heritage Council forthwith.

On 2 September 2004, the City received a letter from the Heritage Council of WA requesting that the demolition licence not be issued pending further negotiation with the owners of the property. Further communication was received from the Heritage Council on 8 October 2004 that requested that Council consider in-principle consent to accept the relocation of the building within the Allen Park Heritage Precinct as the owners of the building had agreed to relocate the facility providing it was at no cost to themselves.

A report was put forward to Council as it became apparent that the building would be required to be relocated or demolished as in all likelihood no buyer would be found willing to retain and conserve the building at its original location.

On 26 October 2004, Item 17.1, Council resolved to relocate the building to the Allen Park Heritage Precinct on the provision that this was at no cost to Council and that the City did not have ownership of the dwelling or responsibility for its restoration, conservation, ongoing maintenance or associated utility costs. In addition, Council stated that a suitable lease be entered into. To-date, no lease has ever been negotiated up until this point in time.

In 2005, ownership of Mattie Furphy House was transferred to the Fellowship of Australian Writers Western Australia Inc and on 25 April 2005, the house was relocated to the present site at Allen Park Heritage Precinct.

The Fellowship has remained as the occupier of the facility without any formal agreement in writing with the City.

The Fellowship of Australian Writers WA Inc has written to the City in October 2010 to request a lease in order to provide security of tenure for the organisation and clarify the future roles and responsibilities of both the City and the group for the future management of Mattie Furphy House.

The proposed lease, drafted by McLeod's Barristers and Solicitors is primarily based on the land and not the building as per Council resolution of 26 October 2004, Item 17.1, which stated that "*Council does not have ownership of the dwelling or responsibility for its restoration, conservation, ongoing maintenance or associated utility costs*". However, although the City recognises the Fellowship's ownership of the building, the dwelling is located on land vested to the City and therefore provision has been made within the proposed new lease to ensure that the building is appropriately maintained from a liability and amenity perspective. It would seem reasonable that the Fellowship in exchange for a token annual peppercorn rental have an obligation to keep the building in good repair.

The Fellowship of Australian Writers WA Inc is therefore responsible to pay all associated maintenance (including structural), cleaning, insurance and utility costs of the building at no cost to the City. The organisation retains all ownership rights of the building and is responsible to remove the building at the end of the proposed lease term should a new lease tenure not be negotiated.

Administration received in principal consent to the draft lease from the Minister of Lands pursuant to *Section 18 of the Land Administration Act 1997* on 31 March 2011.

Key Relevant Previous Decisions:

Item 17.1, 26 October 2004 – Relocation of Mattie Furphy House

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

The proposed lease has been prepared in consultation with the Fellowship of Australian Writers Western Australia WA Inc and is presented as attachment 1 of this report.

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

**Legislation**

- *Section 18 of the Land Administration Act 1997*

**Budget/financial implications**

Budget:

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

Financial:

The proposed lease specifies that the Fellowship will be responsible for all maintenance (including structural), cleaning, utility fees and insurance for the building. The organisation in turn will pay only an annual peppercorn rental and retain ownership rights and associated responsibilities in relation to the building.

The Fellowship of Australian Writers WA Inc will be responsible for all costs in relation to the preparation of the proposed new lease.

**Risk Management**

The purpose of entering into formal tenancy agreements with user groups and organisations is to more effectively manage the following risk:

- Lack of clarity regarding the existing tenants and the City's responsibilities. There is currently no legal agreement in place. A lease will clarify both parties' responsibilities.



The lease clearly defines that the Fellowship retains all ownership rights and responsibilities in relation to Mattie Furphy House. However, although the City recognises the Fellowships ownership of the building, the dwelling is located on land vested to the City and therefore provision has been made within the proposed new lease to ensure that the building is appropriately maintained from a liability and amenity perspective.

The building has limited usages due its limited size and location.

The proposed lease will ensure that there is a continued presence at Mattie Furphy House once the building is fully renovated. This would be beneficial to the Allen Park Heritage Precinct as a whole to deter potential vandalism to the buildings contained within the area which are secluded and surrounded by tree lined reserves.

### **Discussion**

The Fellowship of Australian Writers Western Australia Inc is a non-profit organisation dedicated to providing advocacy, training, support and friendship to Western Australia's writing community. The organisation conducts workshops and master-classes in prose, poetry, scriptwriting, memoir, food writing and music writing.

Founded in 1938, the Fellowship is a state-wide membership organisation which welcomes emerging, developing and established writers across all genres along with Individuals interested in the cultural heritage of WA.

The Fellowship has been operating from Mattie Furphy House since the building was relocated to the Allen Park Heritage Precinct in April 2005. There is currently no legal agreement in place between the City and the Fellowship despite Council Item 17.1, 26 October 2004 recommending that a lease be negotiated upon the building being relocated. Both parties agree that a lease is required to define and clarify both the City's and organisations responsibilities in regards the future management of Mattie Furphy House.

Mattie Furphy House is still in the process of being fully restored. A major focus for the Fellowship in 2011 is to source funding beyond that offered by the government and Lotterywest to undertake the necessary works required to complete the Mattie Furphy restoration.

The City has been in lease negotiations with the Fellowship since October 2010. The proposed lease is primarily based on the land and not the building as per Council resolution of 26 October 2004, Item 17.1, which stated that "*Council does not have ownership of the dwelling or responsibility for its restoration, conservation, ongoing maintenance or associated utility costs*". Although the City recognises the Fellowships ownership of the building, the dwelling is located on land vested to the City and therefore provision has been made within the proposed new lease to ensure that the building is appropriately maintained from a

liability and amenity perspective. It would seem reasonable that the Fellowship in exchange for a token peppercorn rental have an obligation to keep the building in good repair.

The Fellowship has written to the City on 29 March 2011 agreeing to the proposed terms of the draft lease.

McLeod's Barristers and Solicitors have prepared the proposed draft twenty-one year lease at attachment 1

### **Conclusion**

It is recommended that Council approve and endorse the proposed twenty-one year lease term between the City of Nedlands and the Fellowship of Australian Writers Western Australia Inc as per attachment 1.

An annual peppercorn rental will be charged by Council for tenancy. The lessee, as owner of the building, will be responsible for all associated maintenance, cleaning, insurance and utility costs and lease the facility at no cost to Council. The Fellowship strongly advocates their ownership of the building, hence the removal of City "standard" lease clauses that the City would normally impose on actual City buildings.

There is no current legal agreement in place between the City and the Fellowship. A legal document will clarify the organisations and City's responsibilities under the terms of the proposed lease for the future management of Mattie Furphy House. This will provide the Fellowship with security of tenure and protect the City from expending monies on maintain a facility that it does not own.

The building has limited usages due its limited size and location. The proposed tenant is compatible within the overall intended scope of the Allen Park Heritage Precinct. The building not only complements existing buildings within the Allen Park Heritage Precinct but enhances the recognition and tourism potential of that specific area.

Mattie Furphy House is an excellent example of the technical and artistic skills of artists and craft practitioners working in Western Australia during the early decades of the twentieth century. The building is valued by the community as demonstrated by the decision to relocate the cottage from its original location in Clement Street to its current location within the Allen Park Heritage Precinct. The building adds to the style and history of the other heritage buildings located there.

The building is important for its representation of the aesthetic styles fashionable in the applied arts during the first decade of the twentieth century. Once fully restored, the Fellowship aims to transform the building into a Creativity Centre which will become home to a wide range of art forms and the cultivation of creativity in general. This will provide consequential benefits to the recreational users of Allen Park and the wider community in general.

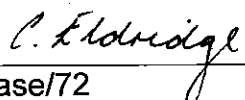
In accordance with the City's Strategic plan, the proposed lease will ensure that the local community will continue to have access to literary and art work that details and preserves a significant aspect of the City's history and heritage.

### **Attachments**

1. Proposed lease between the City and the Fellowship of Australian Writers Western Australia Inc

**D39.11** *Vacant Bowling Green located at Hollywood-Subiaco Bowling Club Inc, Crown Reserve 20838 (Lot 13423 on Deposited Plan 194320), Monash Avenue, Nedlands. Proposed Sub-Lease commencing on the date of signing with the option of an additional five (5) year term between the City, Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc for the use of a vacant Bowling Green.*

<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc
<b>Owner</b>	State of WA – Vested to City of Nedlands
<b>Officer</b>	Neil Scanes – Property Management Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	Lease/72
<b>Previous Item No's</b>	Item C28.03 - 27 May 2003
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report recommends that Council approves and endorses an exclusive use Sub-lease commencing on the date of signing with the option of a further five (5) year term between the City, Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc for the soccer clubs proposed use of the vacant bowling green located within the Hollywood-Subiaco Bowling Club Inc's current lease area.

**Recommendation to Committee**

**Council approves and endorses an exclusive use Sub-lease commencing on the date of signing with the option of a further five (5) year term between the City, Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc for the soccer clubs use of the vacant bowling green located within the Hollywood-Subiaco Bowling Club Inc's current lease area 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.
- 4.2 Encourage, support and provide for a range of recreation and leisure opportunities, both active and passive.

## **Background**

Hollywood-Subiaco Bowling Club Inc operates out of a purpose built clubhouse located off of Smyth Road and Verdun Street, Nedlands.

The land on which the building and associated bowling green's reside is split over two Crown Reserves, namely Reserve 22384 and Reserve 20838.

Crown Reserve 22384 is legally described as Lot 4888 on Deposited Plan 194320, 34 Verdun Street, Nedlands being the whole of the land contained in Certificate of Title Volume LR3044 Folio 825.

Lot 4888 is a Category "A" class Crown Reserve (Reserve 22384) which has been vested to the City since 30 April 1943 for the purpose of Recreation by way of Management Order. This grants the City the power to lease Reserve 22384 for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

Crown Reserve 20838 is legally described as Lot 13423 on Deposited Plan 194320, 13423 Monash Avenue, Nedlands being the whole of the land contained in Certificate of Title Volume LR3114 Folio 613.

Lot 13423 is a Category "A" class Crown Reserve (Reserve 20838) which has been vested to the City since 20 July 1956 for the purpose of Recreation by way of Management Order. This grants the City the power to lease Reserve 20838 for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

Hollywood-Subiaco Bowling Club was formed in 1938 and the club has operated from the current site since that date.

On the 1 August 1981, the City and the club entered into a twenty-one year lease agreement which expired on 31 July 2002.

On the 27 May 2003, Item C28.03, Council approved a ten (10) year lease with the option of a further five (5) year term between the City and Hollywood-Subiaco Bowling Club Inc. This lease is still current and the club is responsible for all maintenance, cleaning, utility fees and insurance for the buildings and land contained within their leased area. This undated lease commenced on 1 June 2003 and provides the club with the ability to sub-lease.

On 18 February 2011, the City was made aware of the bowling clubs desire to Sub-lease the southernmost bowling green that is vacant and not used to West Coast Futsal Association Inc for a five-a-side Soccer programme for both juniors and seniors. The proposed Sub-lease encompasses a portion of Crown Reserve 20838.

Subsequently, the City has been in negotiation with both entities to come to an amicable arrangement that is suitable for all parties in relation to the proposed Sub-lease area.

West Coast Futsal Association Inc and Hollywood-Subiaco Bowling Club Inc have written formally to the City to request a Sub-lease of the vacant bowling green that comprises part of Crown Reserve 20838

West Coast Futsal Association has proposed to undertake the following works at no cost to the City and run some specific courses:

- Supply and install two (2) artificial grass futsal courts;
- Supply and install eight (8) timber posts;
- Supply and install four (4) external lights;
- Supply and install external netting to a height of 7 m to prevent the ball from leaving the playing arena;
- Supply and install their own independent electricity meter;
- Create a webpage for Hollywood-Subiaco futsal;
- Promote Hollywood-Subiaco Bowling Club on the Futsal website;
- Run a free annual Referees course (October);
- Run a free annual Coaches course (October); and
- Professional Coach visit's (football and futsal)

The current disused bowling green will be split to incorporate two futsal courts/pitches to enable two games consisting of four teams to take place simultaneously.

The association has requested that they have sole usage of the playing arena, Monday to Sundays from 8:00 am to 10:00 pm. The daytime is primarily to accommodate school aged children.

A suitable Sub-lease was prepared by McLeod's Barristers and Solicitors and sent to both organisations for review. The tenure of this proposed Sub-lease runs in conjunction with the remaining tenure of the Hollywood-Subiaco Bowling Club Inc lease.

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

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

**Key Relevant Previous Decisions:**

Item C28.03, 27 May 2003. Hollywood-Subiaco Bowling Club: Council resolved a ten (10) year lease with the option of an additional five (5) year lease term.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

The proposed Sub-lease has been prepared in consultation with Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc and is presented as Attachment A of this report.

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

**Legislation**

- *Section 18 of the Land Administration Act 1997.*

**Budget/financial implications**

Budget:

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

Financial:

The proposed Sub-lease specifies that West Coast Futsal Association Inc will be responsible for all maintenance, cleaning, utility fees and insurance for the specified land and its associated facilities. The organisation in turn will pay only an annual peppercorn rental.

The cost implications for the transformation of the current redundant bowling green into two soccer five-a-side pitches/courts will be fully covered by West Coast Futsal Association Inc who have provided a detailed breakdown of their intended works to City administration. Costs in the region of up to \$130,000 will be expended by the association to get the project up and running including the cost of installing power to the site.

In addition, each member of the association will be required to become a social member of the Hollywood-Subiaco Bowling Club Inc and pay the required membership fee, increasing patronage and hopefully an interest into that game.

West Coast Futsal Association Inc will be responsible for all costs in relation to the preparation of the proposed Sub-lease.

### **Risk Management**

The bowling green in question is not used by Hollywood-Subiaco Bowling Club and is therefore underutilised as a community recreation facility. As such, the bowling green has limited usages due to its limited size and location.

Due to the additional recreational use for Highview, parking has been highlighted as a potential problematic issue. However, the club has stated that it will actively encourage car pooling to alleviate this potential problem and the Hollywood-Subiaco Bowling Club Inc has stated that the City's car park located off of Verdun Road is available for use. Informal parking is also available along Smyth Road where in that section, adjoining the bowling green there are no residential properties, only Karrakatta Cemetery. Predominantly games are held in the evening with 20-30 players at a time and generally low spectator numbers.

Due to the proposed turnaround in participating teams and matches and the fact that there is only two soccer courts/pitches, it is intended that there will be a steady stream and influx of cars coming into and departing the site depending on the participants fixtures and scheduled match times.

The proposed Highview Park re-development has been taken into consideration during the negotiating process. The proposed Sub-lease will expire in 2018 (in conjunction with the Hollywood-Subiaco Bowling Club's current lease tenure) which is when the re-development is scheduled to commence. It is intended that the West Coast Futsal Association Inc will become a stakeholder as a sub-lessee and provider of recreation in any future redevelopment at this site and will be consulted for their input into this project in due course.



## Discussion

Futsal is a five-a-side soccer competition which can be played by participants of any age group. The game is played on a playing surface marked out by lines, roughly the size of a basketball court. The teams consist of five players on each team on the court at any one time.

Futsal, derived from the Portuguese word Futebol, meaning "hall football" or "indoor football".

West Coast Futsal Association Inc is affiliated to the national Vikings Futsal Association Inc organisation that was formed in 1992. Vikings Futsal is a national "not-for-profit" organisation that has enjoyed huge success particularly in the eastern states. Vikings Futsal is looking to branch into WA hence the re-branding of the name to "West Coast".

Vikings Futsal is at the forefront of futsal management and development with over 200 clubs and 30 affiliate clubs across Australia and New Zealand. Recently, Vikings has branched out to include affiliate clubs across the world.

The land at Hollywood Subiaco Bowling Club in which Futsal would be set up is currently not being utilised for sport and recreation. By allowing Futsal on this reserve the City is utilising the land vested by the State for Recreation to the best of its ability.

The City's Strategic Recreation Plan 2010 – 2015 endorsed by Council on the 22 February 2011 considers demand in relation to supply of each activity. The current rating for Football (Soccer) is that the needs of the activity are not being met and therefore the City has rated the activity as a high priority. Futsal is a code of Football (Soccer) and therefore the City would be providing an additional avenue for the community to participate in the activity which is in line with the City's Strategic Recreation Plan. The sport caters for all age groups, gender and provides social and competitive activity. The sport would be of great value to the City of Nedlands community by allowing another opportunity of physical activity.

West Coast's vision is to bring futsal to as many communities as possible, providing opportunities for players of all levels. The association is dedicated to delivering a professional and all inclusive product with a friendly and respectful attitude at all times. It strives to develop and administer futsal as a sport in its own right, not just as a skill enhancement mechanism or training game.

The City has been in Sub-lease negotiations with West Coast Futsal Association Inc and Hollywood-Subiaco Bowling club since March 2011.

City administration believes that the futsal concept will bring local participation from the community and enhance the proposed Highview Park redevelopment plan as a key community recreation site for a broad range of the community that aligns with the City's Strategic Recreation

Plan. In addition all futsal players will become members of the Bowling Club which will strengthen this community club now and into the future.

A Sub-lease prepared by McLeod's Barristers and Solicitors was provided to both the futsal and bowling clubs review once negotiations were underway.

The main terms of the proposed Sub-lease include:

- Runs concurrently with the tenure of the current lease between the Hollywood-Subiaco Bowling Club Inc and the City;
- Clause 6.1 ensures that all West Coast Futsal Association Inc members have to become social members of Hollywood-Subiaco Bowling Club Inc;
- Clause 6.2 ensures that West Coast Futsal Association Inc is responsible to undertake the necessary redevelopment works to the vacant bowling green at their cost in accordance with approved plans;
- Item 8 of the Sub-Lease schedule outlines the works that West Coast Futsal is obliged to undertake; and
- Clause 6.21 relates to the proposed future re-development of Highview Park and enables the City to terminate the proposed Sub-lease upon three months written notice to both clubs.

West Coast Futsal Association Inc has written to the City on 15 April 2011 agreeing to the terms of the draft Sub-lease.

Hollywood-Subiaco Bowling Club Inc has written to the City on 18 April 2011 agreeing to the terms of the draft Sub-lease.

### **Conclusion**

It is recommended that Council approves and endorses the proposed Sub-lease commencing on the date of signing with the option of a further five (5) year term between the City, Hollywood-Subiaco Bowling Club Inc and West Coast Futsal Association Inc as per attachment 1.

The Sub-lease tenure will run in conjunction with the remaining tenure of the Hollywood-Subiaco Bowling Club Inc lease.

A peppercorn rental will be charged by Council for tenancy. West Coast Futsal will pay all associated maintenance, cleaning, insurance and utility costs and Sub-lease the facility at no cost to Council. All members of West Coast Futsal Association Inc will be required to become social members of Hollywood-Subiaco Bowling Club Inc in return for this club Sub-leasing the redundant bowling green to the association.

A legal document will clarify both organisations and the City's responsibilities under the terms of the proposed Sub-lease for the future management of that part of Reserve 20838. This will provide West Coast Futsal with security of tenure and add an exciting addition to the proposed re-development of Highview Park which is currently scheduled to take place in 2018.

The vacant bowling green has limited usages due its limited size and location. The proposed tenant is compatible within the overall intended scope of the Highview Park precinct. The West Coast Futsal Association Inc has further displayed its commitment to the future of the reserve by negotiating a separate proposed lease with City administration for the use of the vacant Hollywood After School Care building that is located on Crown Reserve 20838 for the purpose of an office and storage facility. This is to be ratified by Council at their meeting of 24 May 2011.

West Coast Futsal Association Inc believes that the Highview Park precinct provides the ideal opportunity to interact with the local community as well as the current recreational users of Highview Park. The incorporation of Futsal into the area will provide a healthy recreational activity that takes place in a team environment, creating the ability for members to network and socialise with players from other futsal teams and other sporting entities within Highview park.

The club anticipates playing numbers of 40-60 teams playing by mid-September 2011. The club believe that based on similar projects in the eastern states, 60-80 teams will be using the venue by September 2012 and 100 plus teams by 2013.

This is a worthwhile enterprise that has successfully taken off interstate and has a huge potential for growth in the Nedlands area.

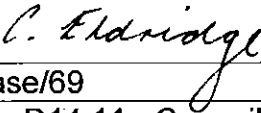
In accordance with the City's Strategic plan, the proposed Sub-lease will ensure that the local community will be able to have access and participate in additional sporting activities that to-date have not been provided in the area.

### **Attachments**

1. Draft Sub-lease inclusive of sketch.

<b>D40.11</b>	<b>Former Hollywood After School Activity Centre, Crown Reserve 20838 (Part Lot 13423 on Deposited Plan 194320), Monash Avenue, Nedlands. Proposed three (3) year lease with the option of an additional four (4) year term between the City and West Coast Futsal Association Inc for the use of the former Hollywood After School Activity Centre building.</b>
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<b>Committee</b>	10 May 2011
<b>Council</b>	24 May 2011

<b>Applicant</b>	West Coast Futsal Association Inc
<b>Owner</b>	State of WA – Vested to City of Nedlands
<b>Officer</b>	Neil Scanes – Property Management Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	Lease/69
<b>Previous Item No's</b>	Item D14.11 - Council 22 February 2011; Item D27.09 - Council 28 April 2009; and Item C54.01 - 21 June 2001
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report recommends that Council approves and endorses an exclusive use three (3) year lease with the option of a further four (4) year term between the City and West Coast Futsal Association Inc for the use of the former Hollywood After School Activity Centre building as an office/storeroom.

**Recommendation to Committee**

**Council:**

1. Approves and endorses an exclusive use lease for a three (3) year term with the option of a further four (4) year term between the City and West Coast Futsal Association Inc for the use of the former Hollywood After School Activity Centre building as an office/storeroom as per attachment 1; and
2. Defers the Council's decision to demolish the former Hollywood After School Activity Centre building for the short to medium term.

## **Strategic Plan**

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

**KFA 3: Built Environment**

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

**KFA 4: Community Wellbeing**

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

## **Background**

The former Hollywood After School Activity Centre is a purpose built facility located off of Smyth Road, Nedlands.

The land on which the building resides is legally described as Lot 13423 on Deposited Plan 194320, 13423 Monash Avenue, Nedlands being the whole of the land contained in Certificate of Title Volume LR3114 Folio 613.

Lot 13423 is a Category "A" class Crown Reserve (Reserve 20838) which has been vested to the City since 20 July 1956 for the purpose of Recreation by way of Management Order. This grants the City the power to lease Reserve 20838 for any term not exceeding 21 years, subject to the consent of the Minister for Lands.

The building was originally constructed in 1942 as a clubhouse building by the City for the Hollywood Croquet Club. The Hollywood Croquet club used the building up until it ceased operating in approximately 1981.

The building is timber framed, timber lap and asbestos clad. There has been minimum maintenance completed to the building during the last 20 years. The building contains a hall, an area that includes a sink and oven, as well as an entry room. All fixtures and fittings are outdated and in poor condition. There are no sanitary facilities located in the building although public toilets are located to the east of the building.

Following the cessation by the Hollywood Croquet Club, the City commenced the operation of after school care from the building. The City operated after school care from approximately 1983 to 2001. Following Council resolution Item C54.01 of 12 June 2001, the City assigned the responsibility of providing after school care to the YMCA who consequently signed a ten (10) lease with the option of a further five (5) year option for the building. The lease commenced on 23 July 2001 and was scheduled to expire in 2016.

The YMCA advised the City on 25 October 2010 that due to low utilisation of the centre and the subsequent inability for the service to be financially sustainable, they no longer required the use of the facility and wished to surrender the lease. The City, under delegated authority, allowed the YMCA to surrender the lease on 6 December 2010.

On 22 February 2011, Item D14.11, Council resolved the following:

*Council:*

- 1. Approves the demolition of the former Hollywood After School Activity Centre on Part Lot 13423 on Deposited Plan 194320, Reserve 20838 Monash Avenue, Nedlands; and*
- 2. Agrees to allocate funds of \$14,135 for the demolition of the building from the 2010/11 Budget review process*

On 18 March 2011, West Coast Futsal Association, a five-a-side soccer entity, notified the City in writing of their desire to lease the former Hollywood After School Activity Centre building for the purpose of a storeroom and office.

The club has negotiated with City administration and the Hollywood-Subiaco Bowling Club Inc regarding sub-leasing the bowling club's southernmost bowling green that is vacant and not used. This sub-lease is subject to Council approval.

West Coast Futsal Association Inc aims to transform the redundant bowling green to incorporate two artificial grass futsal courts and provide associated infrastructure.

The club proposes to establish an office/storeroom from the current vacant building in conjunction with the proposed sub-lease of the bowling clubs redundant bowling green in order to encompass their proposed five-a-side Soccer programme.

In order to provide security of tenure for West Coast Futsal Association Inc and clarify the future roles and responsibilities of both the City and the organisation for the former Hollywood After School Activity Centre building, a lease was prepared by McLeod's Barristers and Solicitors and sent to the association for review. This lease is consistent with the standard lease template adopted by Council on 28 April 2009, Item D27.09.

The proposed exclusive lease between the City and West Coast Futsal Association Inc would deem the lessee responsible to pay all associated maintenance, cleaning, insurance and utility costs at no cost to the City. The club will be responsible to upgrade the facility to meet current Australian standards at no cost to the City. The organisation in turn will only be charged an annual peppercorn rental.

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

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

**Key Relevant Previous Decisions:**

Item D14.11 - 22 February 2011: Council approved the demolition of the former Hollywood After School Activity Centre building.

Item D27.09 - 28 April 2009: Council approved the City’s standard lease template.

Item C54.01 - 21 June 2001: Council resolved to transfer after school services to the YMCA.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

The proposed lease has been prepared in consultation with West Coast Futsal Association Inc and is presented as attachment A of this report.

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

**Legislation**

- *Section 18 of the Land Administration Act 1997.*

**Budget/financial implications**

Budget:

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

Financial:

The proposed lease specifies that West Coast Futsal Association Inc will be responsible for all maintenance, cleaning, utility fees and insurance for the footprint of the building and land as defined within the lease’s

sketch. The club will also be responsible to upgrade the facility to meet current Australian standards at no cost to the City. The organisation in turn will pay only an annual peppercorn rental.

West Coast Futsal Association Inc plans to invest upwards of \$130,000 into the proposed development of the redundant Hollywood-Subiaco Bowling Club green and associated facilities. The club will be responsible to re-connect the necessary utilities at the vacant building and install the required hard wired smoke alarms and the residual current devices in accordance with current legislation.

West Coast Futsal Association Inc will be responsible for all costs in relation to the preparation of the proposed new lease.

### **Risk Management**

The current building is vacant and has limited usages due to its size, location and lack of toilet provisions.

The club have been notified that any lease is on a short to medium term basis due to the City's strategic plan for this area and the eventual demolition of the building as agreed by Council.

The proposed Highview Park development has been taken into consideration during the lease negotiating process. The proposed lease will expire in 2018 which is when the re-development of the park is scheduled to commence. It is intended that the West Coast Futsal Association Inc will become a key stakeholder in any future redevelopment at this site and will be consulted for their input into this project in due course.

West Coastal Futsal Association will be required to bring the building up to current Australian standards. It would not normally be viable for a community group to modify such a building to meet with today's requirements. However, when taking the clubs financial commitment to the proposed sub-leasing of the Hollywood-Subiaco Bowling club's southernmost bowling green into account and in conjunction with West Coast Futsal Association's long term commitment to the site and the proposed Highview Park re-development, the use of the building for purely office and storeroom purposes should be considered.

### **Discussion**

Futsal is a five-a-side soccer competition which can be played by participants of any age group. The game is played on a playing surface marked out by lines, roughly the size of a basketball court. The teams consist of five players on each team on the court at any one time.

Futsal, derived from the Portuguese word Futebol, meaning "hall football" or "indoor football".



West Coast Futsal Association Inc is affiliated to the national Vikings Futsal Association Inc organisation that was formed in 1992. Vikings Futsal is a national "not-for-profit" organisation that has enjoyed huge success particularly in the eastern states. Vikings Futsal is looking to branch into WA hence the re-branding of the name to "West Coast".

Vikings Futsal is at the forefront of futsal management and development with over 200 clubs and 30 affiliate clubs across Australia and New Zealand. Recently, Vikings has branched out to include affiliate clubs across the world.

West Coast Futsal Association Inc's vision is to bring futsal to as many communities as possible, providing opportunities for players of all levels. The association is dedicated to delivering a professional and all inclusive product with a friendly and respectful attitude at all times. It strives to develop and administer futsal as a sport in its own right, not just as a skill enhancement mechanism or training game.

The City has been in lease negotiations with West Coast Futsal Association Inc since March 2011 as City administration believes that the futsal concept will bring local participation from the community and enhance the proposed Highview Park redevelopment plan. A lease prepared by McLeod's Barristers and Solicitors was provided for the associations review once negotiations were underway.

Council should note the following:

- Clause 44 relates to the proposed future re-development of Highview Park and enables the City to terminate the proposed lease upon three months written notice to West Coast Futsal Association Inc;
- Clause 45 enables either party to terminate the proposed lease upon six (6) months written notice to either party;
- Clause 14 of the lease states that the Club is responsible, at its cost to ensure that the building and all fixtures and fittings of the building comply with all relevant statutory requirements; and
- Item 7 of the lease schedule states that the lease of the building is in conjunction with the proposed sub-lease of the redundant Bowling Green that is proposed to be put to Council on 24 May 2011. If the sub-lease does not commence or the club terminate the sub-lease at a later date then the lease will automatically terminate.

West Coast Futsal Association Inc has written to the City on 15 April 2011 agreeing to the terms of the proposed lease.

McLeod's Barristers and Solicitors have prepared the proposed draft lease at attachment 1.

## **Conclusion**

It is recommended that Council approve and endorse the proposed three (3) year lease with option of a further four (4) year term between the City and West Coast Futsal Association Inc as per attachment 1.

A peppercorn rental will be charged by Council for tenancy. The lessee will pay all associated maintenance, cleaning, insurance and utility costs and lease the facility at no cost to Council. In addition, the association will be responsible to bring the building up to Australian Standards. This will include the installation of the required hard wired smoke alarms and the residual current devices in accordance with current legislation.

A legal document will clarify the organisations and City's responsibilities under the terms of the proposed lease for the future management of that part of Reserve 20838. This will provide the organisation with security of tenure and add an exciting addition to the proposed re-development of Highview Park which is currently scheduled to take place in 2018.

The vacant building has limited usages due its size, location and lack of toilet facilities. The proposed tenant is compatible within the overall intended scope of the Highview Park precinct. The West Coast Futsal Association Inc has further displayed its commitment to the future of the reserve by negotiating a separate proposed sub-lease with City administration for the use of a vacant bowling green with the Hollywood-Subiaco Bowling Club that is also located on Crown Reserve 20838 for the construction of grassed futbol courts with associated infrastructure.

A report detailing the sub-lease proposal will be put to Council on 24 May 2011.

West Coast Futsal Association Inc believes that the Highview Park precinct provides the ideal opportunity to interact with the local community as well as the current recreational users of Highview Park. The incorporation of Futsal into the area will provide a healthy recreational activity that takes place in a team environment creating the ability for members to network and socialise with players from other futsal teams and other sporting entities within Highview Park.

The club anticipates playing numbers of 40-60 teams playing by mid-September 2011. The club believe that based on similar projects in the eastern states, 60-80 teams will be using the venue by September 2012 and 100 plus teams by 2013.

This is a worthwhile enterprise that has successfully taken off interstate and has a huge potential for growth in the Nedlands area.

In accordance with the City's Strategic plan, the proposed lease will enable the club to operate their operation out of the building as an office/storeroom. This proposed lease, in conjunction with the proposed sub-lease of the Hollywood-Subiaco Bowling Club's redundant bowling green, will enable the local community to have access and participate in additional sporting activities that to-date have not been provided in the area.

**Attachments**

1. Draft lease inclusive of sketch.